



**City of Palm Coast**  
**Agenda**  
**PLANNING AND LAND**  
**DEVELOPMENT**  
**REGULATION BOARD**

City Hall  
160 Lake Avenue  
Palm Coast, FL 32164  
[www.palmcoastgov.com](http://www.palmcoastgov.com)

***Chair James A. Jones***  
***Vice Chair Glenn Davis***  
***Board Member Sybil Dodson-Lucas***  
***Board Member Christopher Dolney***  
***Board Member Pete Lehnertz***  
***Board Member Jake Scully***  
***Board Member Clinton Smith***  
***School Board Rep David Freeman***

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**Wednesday, February 21, 2018**

**5:30 PM**

**COMMUNITY WING OF CITY HALL**

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**RULES OF CONDUCT:**

>Public comment will be allowed consistent with Senate Bill 50, codified at the laws of Florida, 2013 – 227, creating Section 286.0114, Fla. Stat. (with an effective date of October 1, 2013). The public will be given a reasonable opportunity to be heard on a proposition before the City's Planning & Land Development Regulation Board, subject to the exceptions provided in §286.0114(3), Fla. Stat.

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>The City of Palm Coast is not responsible for any mechanical failure of recording equipment

>All pagers and cell phones are to remain OFF while the Planning and Land Development Regulation Board is in session.

**A      Call to Order and Pledge of Allegiance**

**B      Roll Call and Determination of a Quorum**

**C      Approval of Meeting Minutes**

**1   MEETING MINUTES OF THE PLANNING AND LAND DEVELOPMENT REGULATION  
BOARD  
JANUARY 17, 2018 BUSINESS MEETING**

## **JANUARY 17, 2018 WORKSHOP**

### **D Public Hearings**

- 2 ORDINANCE 2018-XX TO ADOPT THE FIRST AMENDMENT TO THE GRAND LANDINGS MASTER DEVELOPMENT PLAN, APPLICATION 3481**
- 3 SAWMILL CREEK AT PALM COAST PARK, A SUBDIVISION MASTER PLAN, APPLICATION #3473**
- 4 ORDINANCE 2018-XX TO REZONE 9.09 +/- ACRES FROM COM-2 AND PSP TO PALM TOWN CENTER MPD, APPLICATION #3448**
- 5 PROPOSED REWRITE OF LAND DEVELOPMENT CODE SECTION 10.02 FLOODPLAIN ORDINANCE**

### **E Board Discussion and Staff Issues**

### **F Adjournment**

## City of Palm Coast, Florida Agenda Item

Agenda Date: 2/21/2018 5:30:00 PM

<b>Department</b>	PLANNING	<b>Amount</b>
<b>Item Key</b>		<b>Account</b>
		<b>#</b>
<b>Subject</b>	MEETING MINUTES OF THE PLANNING AND LAND DEVELOPMENT REGULATION BOARD JANUARY 17, 2018 BUSINESS MEETING JANUARY 17, 2018 WORKSHOP	
<b>Background :</b>		
<b>Recommended Action :</b> Approve the minutes as presented		



**City of Palm Coast  
Minutes  
PLANNING AND LAND  
DEVELOPMENT  
REGULATION BOARD**

City Hall  
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**Wednesday, January 17, 2018**

**5:30 PM**

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**A Call to Order and Pledge of Allegiance**

*Chair Jones called the January 17, 2018 Planning and Land Development Regulation Board (PLDRB) meeting to order @ 5:30PM.*

**B Roll Call and Determination of a Quorum**

*The recording secretary, Irene Schaefer, called the roll. Mrs. Lucas and Mr. Freeman were excused.*



**C Approval of Meeting Minutes**

**1 MEETING MINUTES OF THE DECEMBER 20, 2017 PLANNING AND LAND DEVELOPMENT REGULATIONS BOARD**

**Pass**

**Motion made to approve as presented made by Board Member Smith and seconded by Board Member Dolney**

**Approved - 6 - Vice Chair Glenn Davis, Board Member Christopher Dolney, Chair James Jones, Board Member Pete Lehnertz, Board Member Jake Scully, Board Member Clinton Smith**

**D Public Hearings**

**2 COMPREHENSIVE PLAN AMENDMENTS RELATED TO UPDATING THE WATER SUPPLY FACILITIES WORK PLAN (WSFWP)**

**Pass**

**Motion made to approve as presented made by Board Member Smith and seconded by Board Member Dolney**

**Approved - 6 - Vice Chair Glenn Davis, Board Member Christopher Dolney, Chair James Jones, Board Member Pete Lehnertz, Board Member Jake Scully, Board Member Clinton Smith**

*Mr. Ray Tyner, Planning Manager for the City of Palm Coast, introduced this item along with Mr. Jose Papa, Senior Planner, and Brian Matthews, Environmental Specialist for the Utility Division, who gave a presentation which is attached to these minutes.*

*Chair Jones: So you have 6 million gallons per day of brackish water?*

*ANS: Mr. Matthews: We anticipate an allocation in our permit of 6 million gallons a day of brackish water.*

*Chair Jones: In addition to the 11 million (gallons) you already have?*

*ANS: Mr. Matthews: Yes.*

*Chair Jones: And what will you be doing with that water?*

*ANS: Mr. Matthews: We will treat it to fresh water standards through our Water Treatment Plant #3, a low pressure reverse osmosis plant.*

*Chair Jones: And it will go into the drinking water supply?*

*ANS: Mr. Matthews: Yes, it will become part of the drinking water supply. And when the Water Supply Plan talks about alternative water source that is one of the alternative sources they refer to.*

*Mr. Papa provided the PLDRB members with the next steps if this agenda is approved at this meeting.*

*Mr. Smith: Brian, I know the waste water treatment plant #2 is supposed to open maybe this quarter, do you have a date yet?*

*ANS: Mr. Matthews: We do not have a date yet. We originally thought it would be mid-February but the contractor has asked for an extension. So it might be the beginning of March. But I am quite confident that it will be this quarter (referring to the 2nd quarter of FY'18).*

*Vice Chair Davis: Is the cost of this being transmitted to the citizens? If council approves these projects that you want to do, is the funding coming from an increase in water pricing to the citizens?*

*ANS: Mr. Matthews: It is coming from our revenues, our impact fees and bank loans. We secure bank loans and incur debt to pay for these capital improvements over the course of time. This is how we've always operated the water system for as many years as I've been involved. Council has approved our current 5 year plan, but that doesn't mean that we can spend money willy-nilly. It means that each project has to be brought back to (City) Council for individual project approval to spend the money. But the money has already been determined to be available to spend.*

*Chair Jones: Financing is done from the enterprise fund, not by the City?*

*ANS: Mr. Matthews: That is exactly right, it is an enterprise fund.*

*Vice Chair Davis: Have you given any thought to desalination?*

*ANS: Mr. Matthews: Yes, I mentioned earlier that we were involved in the Coquina Coast Project, we were actually the lead team on that project. Which would have desalinated up to 25 million gallons a day. A regional contingent of 11 players. We studied it, we spend 2 million dollars studying it over 2 years, during 2008, 2009 and finished up in 2010. And that is back in the day when we were growing 22% a year, 600 services per month. We are not there.*

*Chair Jones: The determination was that it wasn't profitable or even economically feasible, right?*

*ANS: Mr. Matthews: It was more or less, but to be honest without the final numbers, we were paying about \$4.00, a little under \$4.00 per 1000 (gallons) at the time. The cost would have more than doubled if we had gone to that process. I don't think anyone would have been happy with that solution.*

*Chair Jones: Can either of you in 25 words or less, tell me what drinking water by-product is?*

*ANS: Mr. Matthews: Absolutely. So when you take water out of the ground, as raw water you introduce it to the membrane plant. The membrane itself is a filter. The water that goes through the filter is the water you want to drink. It is called permeated water or product water. The water that does not go through (the membrane), therefore is concentrated. Because the minerals and other materials*

*that were dissolved into the water as it came out of the ground does not go through that filter. When the water goes through (the filter) and the minerals do not the minerals become concentrated. Not that they are harmful, they just become concentrated. Now, that said, there are organic components, there is iron and aluminum and there are other minor or trace elements. What we do then is to take that concentrate, which is known in the industry as drinking water by-products and we treat it through a different treatment technology. And we can selectively remove those components that are involved in remaining behind, if you will, and then blend that water with the permeated. So it allows us to be much more selective as to what we are leaving in the water or rejecting or taking out of the water.*

*Chair Jones called for any public comment on this agenda item @6:06PM. Seeing no one come forward, Chair Jones closed this meeting item to public comment @6:07PM.*

**3     ORDINANCE 2018-XX REPEALING CHAPTER 54 WIRELESS  
TELECOMMUNICATIONS OF THE CITY CODE OF ORDINANCES AND AMENDING  
CHAPTER 4 WIRELESS COMMUNICATION FACILITIES OF THE UNIFIED LAND  
DEVELOPMENT CODE**

**Pass**

**Motion made to approve as presented made by Vice Chair Davis and  
seconded by Board Member Lehnertz**

**Approved - 6 - Vice Chair Glenn Davis, Board Member Christopher Dolney,  
Chair James Jones, Board Member Pete Lehnertz, Board Member Jake Scully,  
Board Member Clinton Smith**

*Mr. Tyner, Planning Manager for the City of Palm Coast, introduced this item along with Ms. Ida Meehan, Senior Planner, and Debbie Streichsbier, Compensation and Training Manager, who gave a presentation which is attached to these minutes.*

*Mr. Scully: Assuming this gets recommended and then approved, what happens next, recruiting tower builders?*

*ANS: Ms. Streichsbier: We have a partnership with Diamond Communications, we are on a revenue share program. The City already owns towers right now so our primary goal is to get more carriers to lease on those existing (City owned) towers. Then maybe expand as needed. But as it looks, in order to cover all the gaps (in coverage) we are looking at 10 towers. But it is lengthy process. With technology constantly changing, we are going to 5 gig now, we want to make sure we are making the right steps to keep up with what technology is doing.*

*Discussion ensued regarding the approval process for the preferred sites vs. other non-preferred sites and whether or not that creates a barrier to entry into the market for a non-preferred site program.*

*Ms. Reischmann also addressed the Board Members in regard to the required State and Federal Guidelines regarding the time frame for review of wireless site locations.*

*Vice Chair Davis: Can the public object to the "approval" of a wireless tower and bring it to the board?*

*ANS: Ms. Meehan: Most of these sites are pretty remote in terms of visibility and we are going through a public hearing process through City Council.*

*Chair Jones: But if a wireless company comes to the City and wants to place a tower on a site that you already identified under the wireless master plan, would that have to come to us or City Council for approval? It is an allowed use, so it would go up, right?*

*ANS: Mr. Smith: If it is in your master plan, that would be an administrative approval, is the way I understood it.*

*ANS: Ms. Meehan: That is correct.*

*Chair Jones: So in answer to Glenn's question, the answer is no.*

*ANS: Mr. Smith: Well, their chance to object is when it goes before the City Council for the wireless master plan to be adopted.*

*Chair Jones: Would it have to go to City Council to be approved?*

*ANS: Ms. Meehan: Leases do.*

*Ms. Reischmann also clarified for the Board Members that an administrative approval is appealable.*

*Chair Jones: Did you take into account 5 g when you looked at this plan? So this will support the next generation of cell phones?*

*ANS: Ms. Streichsbier: Yes.*

*Chair Jones: How about micro cells?*

*ANS: Ms. Streichsbier: Yes.*

*Chair Jones: And I assume the towers that exist today are grandfathered?*

*ANS: Ms. Meehan: Yes, they are part of the wireless master plan.*

*Chair Jones at 6:35PM opened this agenda item to public comment. Seeing no one approach the podium Chair Jones closed the public comment for this agenda item @ 6:36PM.*

## **E Board Discussion and Staff Issues**

*Irene Schaefer, Recording Secretary informed the PLDRB members that at the next PLDRB meeting on February 21, 2018 the PLDRB members will be receiving IPADS to move the members to a fully electronic agenda system. Training on the use of the IPADS will happen at 4:30PM at City Hall on February 21, 2018.*

*Also Ms. Schaefer reminded the PLDRB members of the upcoming Ethics Training which is scheduled on January 23, 2018 here at City Hall in the Community Wing.*

**F      Adjournment**

*The meeting was adjourned at 6:41PM.*

*Respectfully Submitted by:  
Irene Schaefer, Recording Secretary*

**4      ATTACHMENTS TO MINUTES**



# **City of Palm Coast Minutes PLANNING AND LAND DEVELOPMENT WORKSHOP**

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**Wednesday, January 17, 2018**

**6:00 PM**

**COMMUNITY WING OF CITY HALL**

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## **Call to Order and Pledge of Allegiance**

*Chair Jones, called the workshop meeting of the Planning and Land Development Regulation Board (PLDRB) of January 17, 2018 to order @ 6:42PM. Since this meeting immediately followed the PLDRB Business Meeting the Pledge of Allegiance was not said at this meeting.*

## **Roll Call and Determination of a Quorum**

*The Recording Secretary, Irene Schaefer, called the role. Mrs. Lucas and Mr. Freeman were excused.*

## **Public Hearings**

### **1 PRESENTATION ON PROPOSED REWRITE OF LAND DEVELOPMENT CODE SECTION 10.02 FLOODPLAIN ORDINANCE**

*Mr. Ray Tyner, Planning Manager, gave an introduction to this agenda item including Mr. Smith's involvement in the meetings with FCard (Flagler County Association of Responsible Development) regarding this topic. He also introduced Denise Bevan, City Administration Coordinator, who gave a presentation which is attached to these minutes.*

*Chair Jones: Is that flood insurance rate map the effective rate on the City's website now?*

*ANS: Ms. Bevan: It went on the City's website yesterday. Those maps will become effective June 6, 2018.*

*Chair Jones: But it is on the (City's) website?*

*ANS: Ms. Bevan: Yes, you can look them up.*

*Chair Jones: X is good A is bad (referring to the flood zone designations)?*

*ANS: Ms. Bevan: Perfect.*

*Chair Jones: That floodway that shows running east down to that canal, isn't the yacht club building right in the middle of that?*

*ANS: Mr. Lehnertz: No it is just to the left of it, to the bottom of it.*

*Mr. Scully: Do the FEMA maps take into consideration the amount of the impervious area in the area they are mapping, obviously that area is constantly changing as we develop and grow?*

*ANS: Ms. Bevan: Right! For our community it starts with what happens way off in the ocean and then comes in. Then I'll get to your question, FEMA starts with other storms in our history and tries to understand what would happen to the beach and to the dunes. Where would the water go? How would it react into the Intracoastal (Waterway), work with the water in our salt water canals, ultimately where would it end up? They are looking at elevation data, they are looking at survey data. They are not looking per se at impervious surface, as much. But it is really about how that surge would come in and how it would behave. And how would it work through the low-lying areas and ultimately where would it come to that BFE (base flood elevation), that magic elevation that they say you have to be above it or 1 foot above it in our case of the City of Palm Coast. So impervious surface, it is a factor but I wouldn't say it is at the core of the modeling effort.*

*Mr. Lehnertz: These past storms, I've only been here a couple of years, it opened up that second inlet and they keep closing it off. Does that have a lot to do with this?*

*ANS: Ms. Bevan: It doesn't per se, what can happen in the community is if we had an area and we saw devastating flooding, and we saw concerns at a local level and said we have to do something here with regulations, we can't allow the dunes to be encroached upon, this is a very sensitive area. Then the community has the right, if they have the ability from a study and knowledge that can be proven to FEMA (Federal Emergency Management Agency) to be reputable. We can create areas that are regulatory in nature, we can create our own high-risk areas. So with FEMA's perspective, they actually in their model told us how would a dune be undermined. So you have dunes today, but what if water went over the dunes and eroded the dunes, what would that look like. So our understanding is that they took those scenarios in mind with how water would behave even in the City of Palm Coast, with those new openings. But any repair of that but would be more of a regulatory nature.*

*Mr. Tyner gave a brief historic perspective of how recent storms effect homes based on the homes age.*

*Mr. Scully: Did the surrounding municipalities or unincorporated counties participation or lack thereof in the insurance or CSR program have any impact on our (City's) rating?*

*ANS: Ms. Bevan: Very good question, it does in a positive way because we have a group of certified floodplain managers who coordinate on a regular basis and we work closely with Flagler County Unincorporated and their Emergency Management Staff that oversees the local mitigation strategy. That is a plan for the whole county, that includes all parties, the school system, the hospital, we are all part of that process, working to mitigate for hazards. Because of their efforts at the county and updating the local mitigation strategy just in time for our most recent CRS review we were able to get to that class 4. That was because of the county, I would say that confidently and proudly that we have that coordination. So yes it does make a difference.*

## **Board Discussion and Staff Issues**

### **Adjournment**

*The meeting was adjourned at 7:19PM.*

*Respectfully Submitted by:  
Irene Schaefer, Recording Secretary*

## **ATTACHMENTS TO MEETING MINUTES**



# City of Palm Coast, Florida

## Agenda Item

Agenda Date: 2/21/2018

Department Item Key	PLANNING	Amount Account #
Subject	ORDINANCE 2018-XX TO ADOPT THE FIRST AMENDMENT TO THE GRAND LANDINGS MASTER DEVELOPMENT PLAN, APPLICATION 3481	
<b>Background :</b>		
<p>The Grand Landings MPD was adopted May 6, 2014. The original project was approved by the Flagler County Commission in 2005 and annexed into the City of Palm Coast in 2007. The 2014 Ordinance amended and replaced the Flagler County PUD and incorporated the City's Unified Land Development Code.</p> <p>The residential portion of the Grand Landings allows for a maximum of 749 single family or single family attached units. The portion of the property designated commercial allows up to 150,000 square feet. Any modification to the Master Plan that increases the intensity or types of development uses, reduces the total amount of open space, or decreases the size of any perimeter buffer within the Property shall require the approval of the City Council following the review and recommendation of the Planning Land Development Regulation Board.</p> <p>The proposed amendments to the Master Planned Development Agreement has four parts; none of which change the number of units the #2014-11 Ordinance permits (749 units).</p> <p>1) Amend Section 6 (b) (1) Wetlands and Wetland Buffer to allow the wetland buffer to meet city code standards in lieu of the current MPD language. The City Code allows a 25- foot buffer to be averaged provided it is no less than 15 feet for moderate and minimal wetlands.</p> <p>2) Amend Section 6 (b) (1) Wetlands and Wetland Buffer to allow wildfire mitigation as an allowable use in the wetland buffer. Wildfire mitigation adjacent to wetlands is a tool that supports fire wise practices. This change was recommended by the City and is supported by the applicant.</p> <p>3) Amend Section 7, Site Development Plan, Table of Site Development Requirements, Single Family Detached, reduce lot width minimum to 45'. This proposed change would affect future development on tracts for which there are no pending applications.</p> <p>4) Amend Section 7, Site Development Plan, Table of Site Development Requirements, Single Family Detached, reduce lot size minimum to 5000 SF. This proposed change would affect future development on tracts for which there are no pending applications.</p>		
<b>Recommended Action :</b>		
<p>Planning staff recommends that the Planning and Land Development Regulation Board recommend to City Council approval of the first amendment to Grand Landings Master Planned Development (MPD) Development Agreement, Application No. 3481</p>		

**ORDINANCE NO. 2018-\_\_\_\_\_**  
**AMENDMENT TO THE GRAND LANDINGS MPD &**  
**DEVELOPMENT AGREEMENT**  
**APPLICATION -3481\_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, PROVIDING FOR THE FIRST AMENDED AND RESTATED MASTER PLANNED DEVELOPMENT (MPD) DEVELOPMENT AGREEMENT FOR THE GRAND LANDINGS MPD; PROVIDING FOR AN AMENDMENT TO SECTION 6(b)(1) WETLAND & WETLAND BUFFER AND SECTION 7(a) SITE DEVELOPMENT PLAN; PROVIDING FOR A REDUCTION IN MINIMUM LOT WIDTH FOR SINGLE FAMILY DETACHED TO 45' WIDE; PROVIDING FOR A REDUCTION IN MINIMUM LOT SIZE FOR SINGLE FAMILY DETACHED TO 5,000 SQUARE FEET; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR CONFLICTS PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Grand Landings Master Planned Development (MPD) is a Master Planned Development (MPD) previously rezoned to MPD through Ordinance 2014-11;

**WHEREAS**, two public hearings on the proposed First Amendment to the Grand Landings Master Planned Development (MPD) Development Agreement (the "Development Agreement") have been duly held in the City of Palm Coast, Florida, and at such hearings interested parties and citizens for and against the proposed amendment were heard; and

**WHEREAS**, JTL Grand Landings Development LLC, a Texas Limited Liability Company ("Owner") is the Owner of the property further described in "Attachment A" and has entered into the Development Agreement as recorded in Official Records Book 2004, Pages 1275 through 1305 of the public records of Flagler County, Florida; and

**WHEREAS**, the Owner has requested to amend the Development Agreement in order to 1) revise the wetland buffer to allow consistency with City Code requirements and to allow wildfire mitigation as a use within the said buffer; 2) to reduce the minimum lot width for single family detached to 45' and 3) to decrease the minimum lot size for single family detached to 5,000 square feet; and

**WHEREAS**, this Ordinance is to amend and restate the Grand Landings MPD and Development Agreement as recorded in OR Book 2004, Page 1275; 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 consistent with the City of Palm Coast Comprehensive Plan; and

**WHEREAS**, the City Council has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of City staff, and the recommendation of the Planning and Land Development Regulation; and

**WHEREAS**, the City Council of the City of Palm Coast, as the governing body of the City, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes and the City of Palm Coast Unified Land Development Code, is authorized and empowered to consider applications relating to zoning; 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**, 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 (Ordinance No. 2008-23) have been satisfied; and

**WHEREAS**, the City Council of the City of Palm Coast held duly noticed public hearings on the proposed amendment 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 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) which voted to recommend approval at the regularly scheduled meeting conducted on February 21, 2018, 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 proposed amendment set forth hereunder; and

**WHEREAS**, the Owners have fully complied with the requirements of City of Palm Coast Land Development Code and the Grand Landings MPD Development Agreement for amending the Development Agreement to permit the requested changes; 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, BE IT 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. MPD Amendment.** The Palm Coast City Council, pursuant to the Land Development Code of the City of Palm Coast hereby enacts this Ordinance amending and restating the Grand Landings MPD & Development Agreement, attached hereto as “Attachment B,” for the property generally located west of Seminole Woods Blvd., south of State Road 100, legally described in “Attachment A” attached hereto.

**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 \_\_\_\_\_, 2018.

Adopted on the second reading after due public notice and hearing City of Palm Coast this \_\_\_\_ day of \_\_\_\_\_ 2018.

**CITY OF PALM COAST, FLORIDA**

*ATTEST:*

\_\_\_\_\_  
MILISSA HOLLAND, MAYOR

\_\_\_\_\_  
VIRGINIA SMITH, CITY CLERK

Attachments:

Attachment A – Legal Description, Parcel IDs

Attachment B – Amended MPD Development Agreement

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**ATTACHMENT “A”  
LEGAL DESCRIPTION  
PARCEL IDs**

**ATTACHMENT “B”  
AMENDED MPD DEVELOPMENT AGREEMENT**

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**COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT FOR APPLICATION #3481  
Grand Landings Master Planned Development (MPD)  
February 21, 2018**

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**OVERVIEW**

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**Application Number:** 3481

**Applicant:** Grand Landings JTL

**Location:** Generally located west side of Seminole Woods Parkway, south of SR 100, as shown on Exhibit.

**Property Description:** See attachments

**Property Owner:** JTL Grand Landings Development, LLC.

**Parcel IDs:** Multiple

<b>Current FLUM designation:</b>	Mixed Use and Residential
<b>Current Zoning designation:</b>	Master Planned Development (MPD)
<b>Current Use:</b>	Multi-use
<b>Size of subject property:</b>	774 ± acres

**Requested Action:** Amend the Master Planned Development (MPD) Development Agreement per staff recommendation.

**Recommendation:** Approval of Staff Recommendation

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**ANALYSIS**

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**REQUESTED ACTION**

Amend the Grand Landings Master Planned Development (MPD) Ordinance # 2014-11 and Development agreement per staff report and recommendation.

**BACKGROUND/SITE HISTORY**

The Grand Landings MPD was adopted May 6, 2014. The original project was approved by the Flagler County Commission in 2005 and annexed into the City of Palm Coast in 2007. The 2014 Ordinance amended and replaced the Flagler County PUD and incorporated the requirements of City's Unified Land Development Code.

The residential portion of the Grand Landings allows for a maximum of 749 single family or

single family attached units. The portion of the property designated commercial allows up to 150,000 square feet. Any modification to the Master Plan that increases the intensity or types of development uses, reduces the total amount of open space, or decreases the size of any perimeter buffer within the Property shall require the approval of the City Council following the review and recommendation of the Planning Land Development Regulation Board.

To date there have been three subdivision phases. Currently Phase 3B and 3C are under construction. The proposed change herein would apply to Phase 4 and Phase 5 development.

### **PROPOSED MPD AMENDMENT**

The proposed amendments to the Master Planned Development Agreement has four parts; none of which alter the number of units the #2014-11 Ordinance permits (749 units).

- 1) Amend Section 6 (b) (1) Wetlands and Wetland Buffer to allow the wetland buffer to meet city code standards. The City Code allows a 25- foot buffer to be averaged provided it is no less than 15 feet for moderate and minimal wetlands.
- 2) Amend Section 6 (b) (1) Wetlands and Wetland Buffer to allow wildfire mitigation as an allowable use in the wetland buffer. Wildfire mitigation adjacent to wetlands is a tool that supports fire wise practices. This change was recommended by the City and is supported by the applicant.
- 3) Amend Section 7, Site Development Plan, Table of Site Development Requirements, Single Family Detached, reduce lot width minimum to 45'. This proposed change would affect future development on tracts for which there are no pending applications.
- 4) Amend Section 7, Site Development Plan, Table of Site Development Requirements, Single Family Detached, reduce lot size minimum to 5000 SF. This proposed change would affect future development on tracts for which there are no pending applications.

### **LAND USE AND ZONING INFORMATION**

A use summary table, surrounding uses and comparison of the development standards is shown below:

**USE SUMMARY TABLE**

<b>CATEGORY:</b>	<b>EXISTING:</b>	<b>PROPOSED:</b>
Future Land Use Map (FLUM)	Mixed Use	No change proposed
Zoning District	Master Planned Development (MPD) allowing up to 774 residential units and up to 150,000 SF of commercial	No change in entitlements, units or square footages.
Overlay District	None	None
Uses	Single family detached, community center, common area, vacant	Single family detached, attached and commercial
Overall MPD Acreage	774 +/- acres	774 +/- acres
Access	Seminole Woods Parkway	Seminole Woods Parkway

**SURROUNDING LAND USES:**

<b>LOCATION</b>	<b>FLUM</b>	<b>ZONING</b>
NORTH	Mixed Use & Residential	COM-2, SFR-1, DPX,
SOUTH	Flagler County – Low Density Rural Estate, Recreation & Open Space	Flagler County-PUD
EAST	Institutional	COM-3, MPD, PSP
WEST	Mixed Use & Institutional	MPD

**PROPOSED AMENDMENT DETAIL****Proposed Amendments #1 and #2,**

Two of the proposed amendments relate to Section 6 of the MPD, Wetland and Wetland Buffer.

- 1) Amend Section 6 (b) (1) Wetlands and Wetland Buffer **to allow the wetland buffer to meet city code standards in lieu of current MPD language;**
- 2) Amend Section 6 (b) (1) Wetlands and Wetland Buffer to allow **wildfire mitigation** as an allowable use in the wetland buffer. Please note that the addition of wildfire mitigation is supported by the Applicant and staff as a means to allow for firewise land practices.

**Original MPD Language**

**SECTION 6(b)(1). WETLAND & WETLAND BUFFER.** Subsequent to the issuance of an Environmental Resource Permit by the St. Johns River Water Management District (SJRWMD), a conservation easement in favor of the SJRWMD shall be recorded. Conservation Easements including the upland buffer shall not be included within development lots except those lots approved by preliminary plat prior to the date of this MPD agreement. A minimum 25' upland buffer shall be provided around all wetland areas not being impacted by development. Where wetlands are impacted by the development plan, buffering and mitigation, consistent with the SJRWMD permit, shall be provided. Activities within the upland buffer shall be limited to the removal of invasive vegetation, installation of essential utilities and permitted trail crossings.

**Applicant's Proposed Language (Proposed Amendment #1 with #2 (wildfire mitigation)).**

**SECTION 6(b)(1). WETLAND & WETLAND BUFFER.** Subsequent to the issuance of an Environmental Resource Permit by the St. Johns River Water Management District (SJRWMD), a conservation easement in favor of the SJRWMD shall be recorded. Conservation Easements including the upland buffer shall not be included within development lots except those lots approved by preliminary plat prior to the date of this MPD agreement. An average of twenty - five feet minimum (25') feet but not less than ten (10) feet upland buffer shall be provided around all wetland areas not being impacted by development. However, Wwhere wetlands are impacted by the development plan, buffering and mitigation, consistent with the SJRWMD permit, shall be provided. Activities within the upland buffer shall be limited to the removal of invasive vegetation, wildfire mitigation, installation of essential utilities and permitted trail crossings.



**Staff's Proposed Language (Proposed Amendment #1 with #2 (wildfire mitigation)).**

**SECTION 6(b)(1). WETLAND & WETLAND BUFFER.** Subsequent to the issuance of an Environmental Resource Permit by the St. Johns River Water Management District (SJRWMD), a conservation easement in favor of the SJRWMD shall be recorded. Conservation Easements including the upland buffer shall not be included within development lots except those lots approved by preliminary plat prior to the date of this MPD agreement.

An average minimum of twenty-five (25) feet but not less than fifteen (15) feet natural upland buffer shall be provided around all wetlands areas not being directly impacted by development. However, ~~Where direct wetlands are impacted~~ are impacted created by the development plan, buffering and mitigation requirements, consistent with the SJRWMD permit shall be provided. Activities within the upland buffer shall be limited to the removal of invasive vegetation, wildfire mitigation, installation of essential utilities and permitted trail crossings.

**Analysis**

The current Grand Landings MPD requires a minimum 25- foot upland buffer adjacent to wetlands not impacted by development. Staff's revised recommendation allows for the wetland requirements in Section 10.01.03 of the ULDC to be applied. This revision allows for more flexibility, by allowing an averaging of the buffer, while still maintaining a minimum level of resource protection.

**Proposed Amendments #3 and #4,**

The other two proposed changes relate to **SECTION 7, Site Development Plan, Table of Requirements, Single Family Detached criteria**. Specifically these changes are to:

- 3) Amend Section 7, Site Development Plan, Table of Site Development Requirements, Single Family Detached, **reduce lot width minimum to 45'**.
- 4) Amend Section 7, Site Development Plan, Table of Site Development Requirements, Single Family Detached, **reduce lot size minimum to 5,000 SF.**

<b>Table of Site Development Requirements</b>			
TYPE	SINGLE FAMILY ATTACHED	SINGLE FAMILY DETACHED	COMMERCIAL & AMENITY CENTER
Lot Width Minimum	20' Lots/100' Project	<del>50'</del> <u>45'</u>	100'
Lot Size Minimum	2,000 Sq. Ft./ 3 Acres Project	<del>6,250</del> <u>5,000</u> Sq. Ft.	

**Analysis**

Development entitlements for the Grand Landings MPD were originally granted by Flagler County in 2005. As with most Master Planned Development projects, the Grand Landings MPD is a multiyear, multiphase project. Given the long-term planning horizon, it is quite common and very typical for development program adjustments and site development revisions to be requested over time.

This proposed change does not alter the approved number of units, or the setbacks for single family detached housing relative to the Grand Landings MPD. Instead, it will enable the Developer to offer a more compact lot, and slightly different housing product. The addition of a new unit type promotes housing diversity and resiliency.

#### **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:** This request is not in conflict with, or contrary to, the public interest.

The proposed changes to the wetland buffer ensure that the wetland buffers will still meet City Code. Adding the wildfire mitigation use to the buffer serves a public purpose.

The proposed changes to lot size and width will allow for a slightly more affordable home product while still complying with the City's codes.

*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:

- **Chapter 1 Future Land Use Element:**

*-Objective 1.1.4 - Promote compact and contiguous development, a mixture of land uses, and discourage urban sprawl.*

*-Policy 1.1.4.2 – The Master Planned Development (MPD) zoning district shall allow residential housing types to be mixed with retail, service, office, commercial and other land uses. Potential areas for MPD's are strategically located throughout the City to promote infill development and to maximize vehicular and pedestrian accessibility.*

The Grand Landings MPD already allows for single-family attached uses. These smaller single-family residential lots and widths will create another different, slightly more affordable housing product within the Master Plan.

- **Chapter 2 Transportation Element:**

*-Policy 2.2.2.4 – The City shall continue to enforce requirements for bicycle and pedestrian interconnectivity between residential developments and between residential and adjacent commercial developments as a means of reducing traffic on collector and arterial roadways.*

The MPD Conceptual Master Plan and language in the Development Agreement identify or indicate that internal pedestrian connections to be maintained.

- **Chapter 3 Housing Element:**

*-Objective 3.4.1 – Increase the diversity of the housing types, prices and opportunities*

*-Policy 3.4.1.1 – Through the FLUM and the zoning district regulations of the LDC, the City shall make provisions to supply land that can be developed with various types of residential uses, including single-family homes of various sizes, duplexes, multi-family dwellings and residential units in mixed- use developments.*

A great deal of housing located within Palm Coast is detached single family residential with lots over 7500 SF. The proposed MPD change will allow for a more compact lot, and slightly more affordable housing product.

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

**Staff Findings:** Development of the property can only proceed in accordance with all of the requirements of the Development Agreement as well as the Comprehensive Plan and Land Development Code, which includes the requirement that adequate public facilities be in place and available at the time of development.

*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. It is common for developers to adjust their development program and product mixes over time.

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

**Staff Finding:** Any proposed future development of the site must comply with 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 proposed changes to the wetland buffer allow proposed development to comply with the City's Land Development Code in lieu of the existing language in the MPD.

The proposed changes to reduce the lot width to 5000 SF and reduce the lot minimum to 45 SF allow for more compact development, and maintenance of the Master Plan's designated open space.

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

**Staff Finding:** Impacts to the economy of the affected area are anticipated to be positive. Grand Landings is a robust area for subdivision development. This trend is anticipated to continue. Allowing for an additional housing product is a reasonable adaptation for a project with a long- term development build-out.

*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:** The Development Agreement provides for the maintenance of existing services. These impacts must remain within the adopted Level of Service per requirements of the LDC and Comp Plan.

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

**Staff Finding:** The development trends have continued in a largely predictable manner.

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

**Staff Finding:**

The current MPD already allows single family attached housing. The proposed amendments create an additional housing product within the context of a Master Planned Development. This proposal does NOT change the overall number of entitlements permitted within the MPD.

*G. Whether it accomplishes a legitimate public purpose:*

**Staff Finding:** Yes, the amendment to the MPD accomplishes a legitimate public purpose, which is to support diverse housing styles and provide additional flexibility to the product mix.

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**PUBLIC PARTICIPATION**

Unified Land Development Code Chapter 2, Part II, Section 2.05.02 requires developers (defined as property owners or persons who are improving property within the City) to notify owners within 300' of a subject property to hold a neighborhood meeting for certain types of applications. The applicant held a community meeting on February 12, 2018 at Flagler Palm Coast High School. Approximately 250 notices were mailed and approximately 30 residents attended. Those that attended had questions about the proposed changes to the existing MPD. The Neighborhood Information Meeting (NIM) report is included in the back-up.

The required public notification signs were posted on the property by February 12, 2018. Additionally, the required legal advertisement for the public hearing for the Planning and Land Development Regulation Board meeting was placed in a paper of local circulation and published on February 7, 2018. To date, City staff has received several phone calls that can be described as general inquiries in conjunction with the requested amendment to the MPD.

**RECOMMENDATION**

Staff recommends that the Planning and Land Development Regulation Board (PLDRB) recommend to the City Council staff's recommended amendment #1. Staff is still working with the applicant to reach agreement on this issue.

Staff and the applicant support amendment #2, adding *wildfire mitigation* as an acceptable use in the wetland buffer (consensus wording).

Staff also recommends the other proposed changes the applicants requested changes depicted as #3 and #4 to the Amended and Restated Grand Landings MPD and Development Agreement, Application 3481, to reduce lot size and lot minimums.





## Location Map

 Grand Landings MPD

0 1,000 2,000  
Feet



2017 FDOT Imagery



Map Provided by the GIS Division

Date: 2/16/2018





Chiumento & Associates, PLLC

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Michael D. Chiumento III  
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**MEMORANDUM**

**TO: RAY TYNER**

**FROM: MICHAEL D. CHIUMENTO III, ESQ.**

**RE: JTL GRAND LANDINGS NEIGHBORHOOD MEETING**

**DATE: FEBRUARY 15, 2018**

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On Monday, February 12, 2018 the above applicant held the required Neighborhood Information Meeting. The meeting commenced at 6:07 p.m. and concluded at 7:14 p.m. Attached please find the sign in sheet from the meeting. Below is a list of questions asked at the meeting:

- Are there plans for a new amenity?
- Why are there going to be 45 foot lots?
- What is the minimum square footage for 45 foot lots?
- Will new lot size diminish existing home value?
- Will there be more common area?
- Who were the meeting notices sent to?
- What is happening to the wetlands?
- Are there plans to increase density?
- Is there any change to setbacks?
- Where is Grand Landings?



Ms 2/2/18

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January 31, 2018

To Whom It May Concern:

JTL Grand Landings Development, LLC is the owner of the property described in Exhibit "A" attached hereto. Currently the owner has a rezoning application into the City of Palm Coast to amend the existing MPD Agreement to clarify wetland buffer language existing in the MPD Agreement as well as amend the Site Development Plan to reduce the lot width minimum for single family detached from 50' to 45' and the lot size minimum for single family detached from 6,250 sq ft to 5,000 sq ft.

As required by City Code, we will be having a neighborhood meeting on **Monday, February 12, 2018 at 6:00 p.m.** at Flagler Palm Coast High School Media Room, Palm Coast, Florida to answer any of your questions. It is open to the public.

Sincerely yours,

Michael D. Chiumento III  
MDC/cm  
Encl.







# **SKETCH AND DESCRIPTION**

RESERVED FOR RECORDING INFORMATION

## **LEGAL DESCRIPTION**

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 19, 20, 21, 28, 29 AND 30, TOWNSHIP 12 SOUTH, RANGE 31 EAST, BEING PART OF PARCEL 414, RECORDED IN OFFICIAL RECORDS BOOK 553, PAGES 1639 THROUGH 1840, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A POINT OF REFERENCE BEING THE SOUTHWEST CORNER OF GOVERNMENT SECTION 28, TOWNSHIP 12 SOUTH, RANGE 31 EAST, THENCE NORTH 02°52'38" WEST ALONG THE WESTERLY BOUNDARY LINE OF GOVERNMENT SECTION 29 A DISTANCE OF 3659.32 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID WESTERLY BOUNDARY LINE OF GOVERNMENT SECTION 29 RUN SOUTH 87°34'32" WEST A DISTANCE OF 821.05 FEET; THENCE NORTH 10°50'53" WEST A DISTANCE OF 489.88 FEET; THENCE NORTH 27°46'32" WEST A DISTANCE OF 218.87 FEET; THENCE NORTH 50°12'51" WEST A DISTANCE OF 449.34 FEET; THENCE NORTH 05°08'20" WEST A DISTANCE OF 560.82 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF A PARCEL OF LAND OWNED BY FLORIDA WATER SERVICES, RECORDED IN OFFICIAL RECORDS BOOK 271, PAGES 8-A AND 9-B, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA; THENCE NORTH 06°08'20" WEST ALONG THE EASTERLY BOUNDARY OF SAID FLORIDA WATER SERVICES PARCEL A DISTANCE OF 900.00 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF CITATION BOULEVARD (80% W) THENCE NORTHEASTERLY ALONG SAID SOUTHERLY RIGHT OF WAY LINE A DISTANCE OF 1113.56 FEET ALONG A CURVE TO LEFT (CONCAVE NORTHWESTERLY) HAVING A CENTRAL ANGLE OF 22°26'30", A RADIUS OF 2880.00 FEET, A CHORD DISTANCE OF 1106.54 FEET, AND A CHORD BEARING OF NORTH 64°36'15" EAST TO A POINT OF TANGENCY; THENCE NORTH 53°30'00" EAST ALONG THE SOUTHERLY RIGHT OF WAY LINE OF CITATION PARKWAY AND THE EXTENSION THEREOF A DISTANCE OF 3295.33 FEET; THENCE SOUTH 74°35'44" EAST A DISTANCE OF 2146.27 FEET; THENCE NORTH 28°40'19" EAST A DISTANCE OF 1572.67 FEET; THENCE NORTH 89°01'53" EAST A DISTANCE OF 1264.08 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF SEMINOLE WOODS PARKWAY; THENCE SOUTH 17°03'00" EAST ALONG SAID RIGHT OF WAY A DISTANCE OF 1839.33 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY 62°38'55 FEET ALONG THE ARC OF A CURVE TO THE RIGHT (CONCAVE WESTERLY); HAVING A CENTRAL ANGLE OF 25°44'37", A RADIUS OF 1000.00 FEET; A CHORD BEARING OF SOUTH 00°48'18" WEST AND A CHORD DISTANCE OF 813.70 FEET TO A POINT OF TANGENCY; THENCE SOUTH 16°41'37" WEST ALONG SAID WESTERLY RIGHT OF WAY LINE OF SEMINOLE WOODS PARKWAY A DISTANCE OF 415.16

CONTINUED ON PAGE 4

## **SURVEYOR'S NOTES:**

1. BEARINGS BASED ON THE WEST LINE OF GOVERNMENT SECTION 29, TOWNSHIP 12 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING NORTH 02°52'38" WEST
2. THERE MAY BE ADDITIONAL EASEMENTS, RESTRICTIONS AND/OR OTHER MATTERS NOT SHOWN ON THIS DRAWING WHICH MAY BE FOUND IN THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.
3. THIS IS NOT A BOUNDARY SURVEY.

D=DELT  
R=RADIUS  
L=LENGTH  
CH=CHORD  
CB=CHORD BEARING

MB=MAP BOOK  
PG=PAGE  
R/W=RIGHT OF WAY  
CL=CENTER LINE

## **ABBREVIATIONS**

PC=POINT OF CURVE  
PT=POINT OF TANGENCY  
POB=POINT OF BEGINNING

PCP=PERMANENT CONTROL POINT  
PRR=PERMANENT REFERENCE ALIGNMENT  
ORR=OPTIONAL RECORD BOOK



**TOMOKA ENGINEERING**  
CIVIL ENGINEERING & LAND SURVEYING SINCE 1978  
DAYTONA BEACH  
1000 S. Rte. 1, Daytona Beach, FL 32114  
Phone: 386-257-9100 Fax: 386-257-9101

**SKETCH  
AND  
DESCRIPTION**

PROJECT NO. T30590HD-A  
DRAWING REF NO. 3058A-GL-FH-T-01204  
DATE NOVEMBER 12, 2004  
SHEET NO. 8 OF 4

# SKETCH AND DESCRIPTION

RESERVED FOR RECORDING INFORMATION

## LEGAL DESCRIPTION

FEET; THENCE SOUTH 71°18'23" EAST A DISTANCE OF 22.00 FEET; THENCE SOUTH 18°41'37" WEST ALONG S&D WESTERLY RIGHT OF WAY LINE OF SEMINOLE WOODS BOULEVARD A DISTANCE OF 2814.47 FEET; THENCE DEPARTING SEMINOLE WOODS BOULEVARD RUN NORTH 71°18'23" WEST ALONG THE NORTHERLY BOUNDARY LINE OF A PARCEL OF LAND RECORDED IN OFFICIAL RECORDS BOOK 837, PAGES 889 THROUGH 910; OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, A DISTANCE OF 3313.11 FEET; THENCE SOUTH 18°41'37" WEST A DISTANCE OF 561.11 FEET; THENCE DEPARTING SAID PARCEL RECORDED IN BOOK 837, PAGE 889, RUN SOUTH 76°04'48" WEST A DISTANCE OF 2848.28 FEET; THENCE SOUTH 87°54'32" WEST A DISTANCE OF 648.56 FEET TO THE POINT OF BEGINNING.

SUBJECT TO EASEMENTS RECORDED IN OFFICIAL RECORDS BOOK 253, PAGE 27, BOOK 800, PAGE 679, BOOK 10, PAGE 432, BOOK 841, PAGE 1051, BOOK 832, PAGE 1200, AND BOOK 549, PAGE 991, ALL OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.

LESS AND EXCEPT A 100'x100' CITY OF FLAGLER BEACH WELL SITE No. 8, RECORDED IN OFFICIAL RECORDS BOOK 253, PAGE 25, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, CONTAINING 0.2208 ACRES MORE OR LESS.

LESS AND EXCEPT A 300'x800' PARCEL RECORDED IN OFFICIAL RECORDS BOOK 84, PAGE 217, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, CONTAINING 4.1322 ACRES MORE OR LESS.

PARCEL (LESS EXCEPTIONS) CONTAINING 774.3940 ACRES MORE OR LESS.



## **TOMOKA ENGINEERING**

CIVIL ENGINEERING & LAND SURVEYING SINCE 1976  
DAYTONA BEACH  
FLORIDA  
Main Office: 600 So. Ridgewood Ave., Daytona Beach, FL 32114  
Phone: 386-257-1800 Fax: 386-257-8201

## SKETCH AND DESCRIPTION

PROJECT NO. T3050GND-A

DRAWING REF. NO. 3050A-GL-PH-11-11-2004

DATE NOVEMBER 12, 2004

SHEET NO. 4 OF 4

## City of Palm Coast, Florida Agenda Item

Agenda Date: 2/21/2018

<b>Department</b>	PLANNING	<b>Amount</b>
<b>Item Key</b>		<b>Account</b>
		<b>#</b>
<b>Subject</b>	SAWMILL CREEK AT PALM COAST PARK, A SUBDIVISION MASTER PLAN, APPLICATION #3473	
<b>Background :</b> The Sawmill Creek at Palm Coast Park Subdivision Master Plan is for a 109.643 +/- acre site located on the west side of US Highway 1 about 2/3 mile north of Matanzas Woods Parkway. The project is intended for a single-family residential community that would be developed in a single phase with two access drives onto US Highway 1. The subdivision is proposed for 259 single-family lots at a density of 2.36 units/per acre with a centrally located amenity center plus a small park located in the northeast corner to serve residents and their guests.  The subject property is located within the Palm Coast Park DRI and Palm Coast Park MPD and is designated for Residential Low Density development in that MPD. The project’s lots will be a minimum of 50 feet in width and a minimum of 6,000 square feet in area. However to provide more diversity in lots and home prices, many of the lots are at least 60 feet in width and have lot areas between 7,000 and 9,000 square feet.		
<b>Recommended Action :</b> Staff recommends the PLDRB approve the Subdivision Master Plan for Sawmill Creek at Palm Coast Park, Application No. 3473.		





**Planning and Land Development Regulation Board  
February 15, 2018**

**OVERVIEW**

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Project Name:	Sawmill Creek @ Palm Coast Park
Application Number:	3473
Agent:	Dominion Engineering Group, Inc.
Property Owner:	Palm Coast Florida Holdings, LLC.
Location:	Generally located on the west side of US Highway 1, approximately 2/3 mile north of Matanzas Woods Parkway
Parcel ID #:	21-10-30-0000-01010-0000
Current FLUM designation:	DRI Mixed Use and Conservation
Current Zoning designation:	Palm Coast Park MPD
Current Use:	Silviculture/Vacant
Size of subject property:	109.643 +/- acres

**ANALYSIS**

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**REQUESTED ACTION**

The applicant has submitted for a proposed residential Master Subdivision Plan, consisting of 259 single family residential lots and a recreational tract. Since the project has greater than 100 lots it is considered a "Moderate" (Tier 2) development, which requires approval by the PLDRB.

**SITE DEVELOPMENT PLAN SUMMARY:**

- |  |                     |
|--|---------------------|
| <input type="checkbox"/> TOTAL SITE ACREAGE: | 109.643 +/- acres   |
| <input type="checkbox"/> NUMBER OF LOTS:     | 259 single family   |
| <input type="checkbox"/> DENSITY:            | 2.36 units/per acre |
| <input type="checkbox"/> PHASES:             | One phase           |

**BACKGROUND**

The subject property is located within the Palm Coast Park DRI and Palm Coast Park MPD. Approximately the northern half of the site consists of Tract 6A and approximately the southern consists of Tract 6B on the Palm Coast Park Tract Map. The MPD Uses Map shows Tract 6A as Residential Medium Density and Tract 6B as Residential Low Density. However, single-family development in the Residential Medium Density area shall be developed using the Residential Low Density standards.

## LAND USE AND ZONING INFORMATION

The subject site is designated DRI-Mixed Use on the Future Land Use Map. A fundamental principle of a Mixed Use area is to ensure the compatibility between residential, institutional, and commercial uses, thereby creating a more sustainable and self-supporting neighborhood. The following table summarizes the general existing and proposed land use and zoning information:

### SURROUNDING FLUM AND ZONING CATEGORIES

Direction	FLUM Category	Zoning District
North	Mixed Use	COM-2
South	Conservation	MPD
East	US Highway 1 then Greenbelt	Right-of-way then MPD
West	Conservation	MPD

## SITE DEVELOPMENT REQUIREMENTS

Site development for the property must be in accordance with the requirements of the Palm Coast Park DRI/MPD, the Unified Land Development Code and the Comprehensive Plan. The MPD Uses Map shows Tract 6A as Residential Medium Density and Tract 6B as Residential Low Density. However, single-family development in the Residential Medium Density area shall be developed using the Residential Low Density standards. The following table summarizes the key project and lot development standards:

### SITE DEVELOPMENT REQUIREMENTS

Criteria (per Section 9.B of MPD)	Required	Provided
Minimum Lot Size	4,000 sq. ft.	6,000 sq. ft. minimum
Maximum Impervious Surface Ratio	0.75	0.75 maximum
Maximum Building Height	35 ft.	35 ft. maximum
Minimum Building Setbacks	Front: 20 ft. Interior Side: 5 ft. Street Side: 10 ft. Rear: 10 ft.	Front: 20 ft. Interior Side: 5 ft. Street Side: 10 ft. Rear: 10 ft.
Minimum Landscape Buffers	North: Not required West: Upland buffer South: Upland buffer East: 25' Buffer "G"	North: Not required West: Upland buffer South: Upland buffer East: 25' Buffer "G"

## SUBDIVISION MASTER PLAN PROCESS

The Subdivision Master Plan process is one of three types of Master Plans specified in Section 2.10 of the Unified Land Development Code (LDC). The Master Plan review process is intended to provide a review of the basic development concepts without significant engineering design, prior to the preliminary plat. When the Development Order is issued for the Subdivision Master Plan, the applicant can apply for a Preliminary Plat along with construction drawings.

## **ANALYSIS OF LAND DEVELOPMENT CODE, SECTION 2.10.04 MASTER SUBDIVISION PROCESS**

Prior to approval of a Development Order for a Subdivision Master Plan, the proposed project must be evaluated for compliance with the standards of LDC Section 2.10.04, which provides the following criteria that must be met.

### ***A. Logic of design.***

Planning Staff Finding: The site plan has been conceptually reviewed and found to meet the standards of the Palm Coast Park DRI/MPD and the LDC except those that will be addressed in more detail during the Preliminary Plat for the entire project.

### ***B. Internal consistency.***

Planning Staff Finding: A common architectural theme for homes and signage will be provided.

### ***C. Impact on neighboring sites.***

Planning Staff Finding: This site will be one of the earlier sites to develop within the Palm Coast Park DRI/MPD and is not located nearby any developed sites. However, the common development standards within this large DRI/MPD will allow all sites in the overall neighborhood to develop in a manner that will have minimal impact on other sites.

### ***D. Internal vehicular and pedestrian connectivity.***

Planning Staff Finding: The project is located between US Highway 1 and the Hulett Branch and with Hulett Branch being located adjacent to substantial wetland areas cross-connections across the branch would not be permitted. US Highway 1 has a 10' wide pedestrian/bicycle trail along its west side and internal sidewalks will also be provided to serve pedestrians and bicyclists.

### ***E. Consolidation of utilities and facilities, including stormwater, parking, signage, etc.***

Planning Staff Finding: These will be addressed during the more detailed part of the platting process and the applicant will be required to setup a residential property owners association for management and maintenance of these shared facilities.

### ***F. Public benefit from the project.***

Planning Staff Finding: This development project is within the Palm Coast Park DRI/MPD and much of the base infrastructure to serve the DRI/MPD has already been provided. Essentially, this project should assist in getting this DRI/MPD finally past the planning stage and into the construction stage.

## **ANALYSIS OF LAND DEVELOPMENT CODE, SECTION 2.05.05 DEVELOPMENT ORDER**

Prior to approval of a Development Order for the Subdivision Master Plan, the proposed project must also be evaluated for conformance with the requirements of LDC Section 2.05.05, which provides criteria that must be met to issue approval. The proposed project has been evaluated against the review criteria as described in detail below.

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

Planning Staff Finding: The proposed development is not in conflict with or contrary to the public interest, as the project will meet all applicable development standards within the Unified Land Development Code, the Palm Coast Park DRI, and the Palm Coast Park MPD.

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

Planning Staff Finding: The request is consistent with the Comprehensive Plan which designates the project as almost entirely within the DRI Mixed Use designation. A small portion of the project along the southwest boundary is within the Conservation designation on the FLUM and no development will occur in this area. The following are a selection of goals, policies and objectives that the project supports:

**Chapter 1, Future Land Use Element, Objective 1.3.1 – Ensure Adequate Public Facilities Concurrent with New Development.** Require that public facilities, infrastructure, and services shall be provided concurrent with the impacts of new development. *(Adequate public facilities are already in place to serve this project. Water, sewer, and reuse water lines are available along the west side of US Highway 1 adjacent to the project.)*

**Chapter 2, Transportation Element, Policy 2.2.1.2** Each new residential subdivision and all new residential developments of more than 50 dwelling units, or which use as access a street that is 2,500 feet or more in length shall provide a minimum of two external connections at least one of which connects to a public collector or arterial roadway, but both being directly connected to a public road. *(The project will have two access points onto US Highway 1.)*

**Chapter 3, Housing Element, Goal 3.4 – Diversity in Housing** There shall be a variety of lot sizes and housing types to meet the needs of citizenry. *(The City has an abundance of ¼ acre lots currently available for development while this project will provide lots typically between 1/5 to 1/7 acre (6,000 to 8,500 square feet) in size.)*

**Chapter 4, Public Recreation and Open Space Element, Objective 4.3.1 – Neighborhood Parks** Plan for the adequate provision of neighborhood parks by establishing minimum requirements for on-site acreage and the provision of open space in new residential developments. **Policy 4.3.1.2** – The City shall encourage the development and operation of neighborhood parks and recreation facilities by non-profit groups and private interest groups to help meet local recreational needs. *(The developer will be providing a centrally located on-site amenity center and a small park located in the northeast corner of the development for residents and their guests and later will turn these recreational facilities over to the homeowners association for operation and maintenance.)*

**Chapter 4, Public Recreation and Open Space Element, Objective 4.3.2 – Open Space** Manage, preserve, and protect the natural resources within the City in order to maintain a natural and healthy balance between the environment and development; ensuring that lands are set aside in new developments for open space and that environmentally sensitive lands are protected *(The developer is preserving a large wetland area adjacent to Hulett Branch which is along the project's western and southern boundaries.)*

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

Planning Staff Findings: The public infrastructure needed to support the project is already in place adjacent to the site and is adequate to serve the project.

***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;***

Planning Staff Finding: The proposed development poses no unreasonable hazard, nuisance, nor does it constitute a threat to the general health, welfare, or safety of the City's inhabitants. All improvements will be newly constructed and/or developed in compliance with the relevant Palm Coast Park DRI/MPD, the LDC, Building Code, and other agency requirements.

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

Planning Staff Finding: The applicant has submitted or shall submit plans and permit applications as required to the various agencies having jurisdiction, and shall meet all requirements of applicable local, state and federal laws, statutes, ordinances, regulations and codes.

#### **OTHER REVIEW DATA**

The applicant has submitted a Traffic Impact Study that shows at build-out the project will generate 190 AM Peak Hour Trips, 254 PM Peak Hour Trips, and 2,496 Weekday Daily Trips. The study also showed that all roadway segments and intersections within the study area currently operate at an acceptable Level of Service (LOS) and will continue to do so at build-out with the project's traffic included.

#### **SUMMARY OF FINDINGS**

After review and evaluation of the proposed project for conformance with the requirements of the Palm Coast Park DRI/MPD, the LDC and Comprehensive Plan, staff finds that the proposed Subdivision Master Plan complies with all such requirements. Planning staff wants to emphasize that this is only a conceptual approval of the overall project and that the details of the development will be reviewed and finalized during the balance of the platting process.

#### **RECOMMENDATION**

Staff recommends the PLDRB approve the Subdivision Master Plan for Sawmill Creek at Palm Coast Park, Application No. 3473.

# **Subdivision Master Plan Submittal Sawmill Creek @ Palm Coast Park (Parcel 6) Flagler County, Florida**

## **Overview**

The proposed 109.643-acre development of Parcel 6 will be 259 single family residential homes. The community is intended to be constructed as one phase and will include an amenity center for use by the residents. The final amenity center horizontal plans will be developed along with the civil engineering plans. The amenity center vertical plans will be developed separately and a building permit pulled once the site construction is underway, as allowed under the PUD.

The project will require two separate entrances and during a FDOT meeting on December 5, 2017 we discussed the desire to construct a full median opening at the southern entrance. The design team will present FDOT with some transportation analysis to support the opening. Based upon the meeting we believe FDOT will permit the site access as shown on the plans.

## **Soils**

The attached soils map shows the aerial extent to of the various fine sands on the parcel. Over 80% of the parcel has Mayakka Fine Sand. Immokalee Fine Sand, Tavares Fine Sand and Adamsville Fine Sand make up an additional 10% of the parcel. These fine sands are very satisfactory for construction of site infrastructure, roads, and homes. Approximately 10% of the site is made up of Placid Soils and Samsula Soils which are frequently flooded and hydric soils. These soils are not located on any lots or where any site infrastructure will be constructed.

## **Habitat**

The parcel is Parcel 6 of the Palm Coast Park DRI. In the application for development agreement (ADA), there was extensive environmental and habitat discussions and evaluations. At that time the only concern was the presence of Gopher Turtles. A Gopher Turtle take and relocation permit was issued. No other habitat or species were recognized. Prior to submitting this Subdivision Master Plan Package, the project Environmental Scientist walked Parcel 6 to review and environmental changes with respect to habitat and species.

An overview of the habitat present show there is 89.17 acres of pine plantation and 0.32 acres of hydric pine plantation in the south-east portion of the parcel which will be impacted by the lots. A surveyed 0.53 acres reflect an existing FDOT ditch with nearly bifurcates the parcel. Nearly 17.93 acres of bottomland are along and including the Hulett Branch creek bottom and adjacent slopes. This area will be within a conservation easement including a 50-foot upland buffer. 1.52 acres of herbaceous wetlands (Marsh 641) are in the northern half of the parcel. A little over 1 acres of this will be impacted by the construction of the lots and stormwater pond.



## Stormwater

The predeveloped project area is relatively flat with a gentle slope from east to west. The stormwater from the parcel flows overland to the Hulett Branch and then north to Pellicier Creek which flows east to the ICW. There is a FDOT ditch that flows across the property that drains part of US-1 and some lands directly east of US-1. This ditch also collects some limited site runoff that most likely sheet flowed east prior to the construction of the upland cut drainage ditch.

The post developed condition generally keeps the FDOT intact and does not intend to add any additional site runoff to the ditch. There might be some minor shaping, shrub removal, and grassing of the FDOT ditch as routine maintenance to ensure design flows are maintained. The State of Florida stormwater regulations require that all stormwater running off the lots be captured and routed through the stormwater ponds for removal of oils and grease, as well as, nutrients and suspended solids. The subdivision master plan shows the location and intended shape of four wet stormwater ponds. The stormwater ponds (SWMF) on the north will be connected together using an interconnect pipe and the ponds on the south are also connected together using an interconnect pipe. The interconnect pipe will allow the movement of water from one pond to the other and the ponds will in-turn function as one pond with a single point of outfall. No pond outfall will be introduced into the FDOT ditch.

Collection of the stormwater will occur in the roadway system at the road low points where curb inlets will be placed. The plans show where undisturbed drainage easements (UDE) are planned to allow stormwater piping through the lots and into the stormwater ponds for treatment. Stormwater will also be staged in the ponds prior to release into the Hulett Branch, this is to ensure that the pre-developed peak runoff rates are matched in the post-developed conditions. The run-off from the back of the lots 30 to 56 and from lots 135 to 156 may be treated in the upland buffer as allowed using the "upland buffer treatment rule."

The Sawmill Creek (Parcel 6) is the first of a number of land areas within the Palm Coast Park DRI to be developed by Palm Coast Florida Holdings LLC. The developer purchased 1,015.75 acres as shown in the deed, of which this project is a part of. As the remaining project is master planned and permitted a master stormwater model will be updated by Jim Humphries. This model will compare predeveloped stormwater conditions in Hulett Branch and Pellicier Creek to the post developed conditions. This will occur by incrementally updating the master post developed model during the design stage for each parcel. This will allow us to understand if any adverse stormwater or tailwater impacts occur upstream or downstream of the parcel and the project as a whole.





Image Source: Bing 2017  
Date: 10-7-17

0 250 500  
Feet



# Soil Map Palm Coast Park 6A/6B Flagler County, Florida



WWW.ATLANTICECO.COM  
904-347-9133 | jody@atlanticeco.com  
201 Basque Rd | St. Augustine, FL 32080





Image Source: Bing 2017  
Date: 10-7-17

0 300 600  
Feet

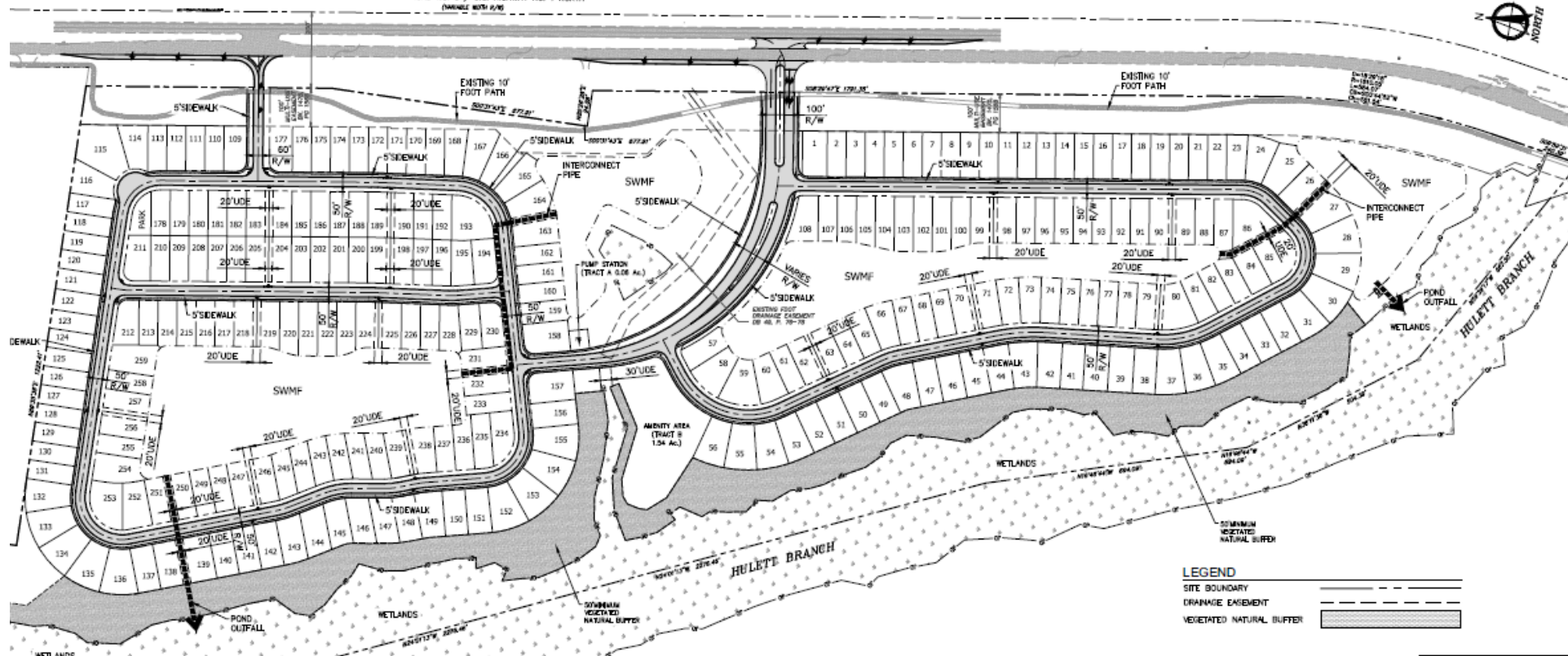


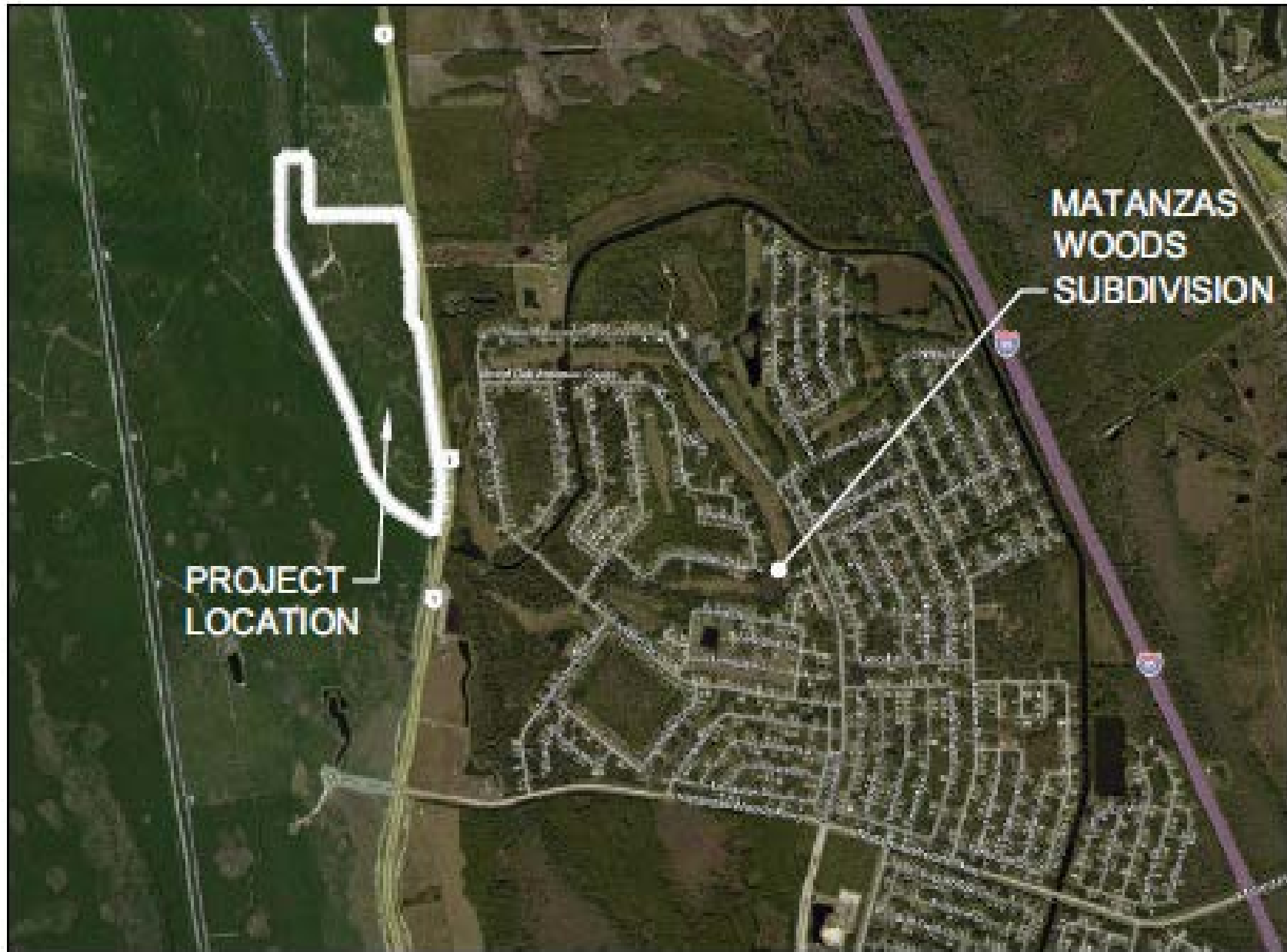
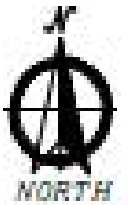
# Habitat Map Palm Coast Park 6A/6B Flagler County, Florida



WWW.ATLANTICECO.COM  
904-347-9133 | jody@atlanticeco.com  
201 Basque Rd | St. Augustine, FL 32080







LOCATION MAP  
N.T.S.

# City of Palm Coast, Florida

## Agenda Item

Agenda Date: 2/21/2018

<b>Department</b>	PLANNING	<b>Amount</b>
<b>Item Key</b>		<b>Account</b>
		<b>#</b>
<b>Subject</b>	ORDINANCE 2018-XX TO REZONE 9.09 +/- ACRES FROM COM-2 AND PSP TO PALM TOWN CENTER MPD, APPLICATION #3448	

**Background :**

The subject site of 9.09 +/- acres comprises most of the land within Midway Park Subdivision and the Midway Park 1<sup>st</sup> Addition. The original subdivision was platted through Flagler County on April 4, 1957 and the first addition was platted shortly thereafter. Midway Park had only minimal infrastructure improvements constructed and Midway Drive was never improved as a paved roadway. However, many of the lots were developed for homes, mobile homes or small businesses during the later portion of the 20<sup>th</sup> Century.

After 2000, some of the properties had fallen into disrepair and the City Council adopted a Gateway Overlay District on the Midway Park Subdivision and Midway Park 1<sup>st</sup> Addition that extended to the east about 1700 feet and included the Whispering Pines Subdivision. City Council also setup the Palm Coast Redevelopment Area (CRA) to assist in the redevelopment of this key area. By 2005, City Council had started purchasing many of the properties in the Midway Park Subdivision with the intent of aggregating the parcels so a larger well planned project could be developed on the site that was a key entryway into the Town Center urban area.

On December 16, 2016, City Council approved a sales contract selling the City owned property within this MPD Rezoning to Palm Town Center, LLC (see Resolution #16-471). This sales contract requires Palm Town Center, LLC to rezone the subject property to an MPD. Staff has been working with the developer on resolving numerous development related issues over the last 14 months so the subject property may be rezoned to a MPD and Phase 1 of the subject property be developed after approval of a Technical Site Plan and applicable platting.

The developers (Palm Wagas IV, LLC and Palm Town Center, LLC) intend to redevelop the subject property into a retail project in two phases. Phase 1 would include the southern portion of the site that is intended for a 6,119 square foot Wawa convenience store with gas pumps located directly at the corner of SR 100 and Bulldog Drive and an over-sized retention stormwater pond located in the NE corner of Phase 1.

Additionally, via a separate application the developers have requested to vacate the westerly 24 feet of the 50-foot wide Midway Drive right-of-way for a depth of about 370 feet from SR 100 so there is sufficient width along SR 100 to develop the Wawa convenience store. The developers propose to construct a new paved public roadway on the remaining 26 feet of Midway Drive right-of-way and then on the north side of the proposed convenience store have the proposed paved roadway make a 90-degree turn to the west in order to connect Midway Drive with Bulldog Drive.

However even with the additional 24 feet of right-of-way proposed for vacation, the Phase 1 convenience store site is still short of necessary lot width along SR 100 to be developed in a

normal manner. In that regard, the developers have requested some deviations from strict Unified Land Development Code (LDC) standards in order to make the project fit on the narrow site. Phase 2 currently has no specific development plan but is rather intended to allow for general retail and commercial uses in likely several buildings with an expected gross floor area of up to 30,000 square feet.

**Recommended Action :**

Planning staff recommends that the Planning and Land Development Regulation Board recommend to City Council approval to rezone 9.09 +/- acres from General Commercial (COM-2) and Public/Semi-Public (PSP) to Palm Town Center Master Planned Development (MPD) for retail and commercial uses, Application No. 3448.

Prepared by:  
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Akerman LLP  
Orlando, FL 32801

and

Catherine D. Reischmann  
Asst. City Attorney  
111 N. Orange Ave., Ste. 2000  
Orlando, FL 32801

Upon recording return to:  
City Clerk  
City Hall  
160 Lake Avenue  
Palm Coast, FL 32164

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## **PALM TOWN CENTER MASTER PLAN DEVELOPMENT AGREEMENT**

**THIS MASTER PLAN DEVELOPMENT AGREEMENT**, (herein referred to as the “Development Agreement”) is made and executed this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the **CITY OF PALM COAST**, a Florida municipal corporation (herein referred to as the “City”), whose address is 160 Lake Avenue, Palm Coast, Florida, 32164, and the future developers of the subject property, **Palm Wagas IV, LLC**, a Florida limited liability company whose address is 7940 Via Dellagio Way, Suite 200, Orlando, FL 32819 and **Palm Town Center, LLC**, a Florida limited liability company whose address is 7940 Via Dellagio Way, Suite 200, Orlando, FL 32819 (herein collectively referred to from time-to-time as the “Developers”).

### ***WITNESSETH:***

**WHEREAS**, Palm Wagas IV, LLC and Palm Town Center, LLC, are contract vendors and have acquired or have rights to acquire and intend to develop a 9.09 +/- acres site, located at the northeast corner of S.R. 100 and Bulldog Drive, and as particularly

described on **Exhibit “A” (“Property” or “Subject Property”)**; and

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

**WHEREAS**, the Subject Property has General Commercial (COM-2) Zoning on its southwest portion and Public/Semi-Public (PSP) Zoning on the balance of the Subject Property; and

**WHEREAS**, the Subject Property is also located within the Gateway Overlay Zone; and

**WHEREAS**, the Developers intend to develop the Subject Property for various retail and commercial uses (the “Project”); and

**WHEREAS**, the Developers request approval for a Master Plan Development (MPD) rezoning on the Subject Property; and

**WHEREAS**, the Developers are in voluntary agreement with the conditions, terms, and restrictions hereinafter recited, and have agreed voluntarily to their imposition as an incident to development of the Subject Property; and

**WHEREAS**, the City of Palm Coast Planning and Land Development Regulation Board (“PLDRB”) finds that this Development Agreement is consistent with the City’s Comprehensive Plan (2035) and 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 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

1 166, *Florida Statutes*; the *City of Palm Coast City Charter*; other controlling law; and the  
 2 City's police powers; and

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

5 **NOW, THEREFORE**, it is hereby resolved and agreed by and between the City and  
 6 the Developers that the Master Plan Development is approved subject to the following  
 7 terms and conditions:

8 **SECTION 1. RECITALS.**

9 The above recitals are true and correct and are incorporated herein by this  
 10 reference and form a material part of this Development Agreement upon which the City  
 11 and the Developers have relied.

12 **SECTION 2. REPRESENTATIONS OF DEVELOPERS.**

13 (a) The Developers hereby represent and warrant to the City they are contract  
 14 vendors with rights to acquire and assemble the parcels within the Subject Property. Prior  
 15 to the development of each phase, the Developers shall provide a title opinion or title  
 16 certification for the relevant property, to be issued by an attorney or title insurance  
 17 company licensed to provide services in the State of Florida with said title opinion or  
 18 certification showing all liens, mortgages, and other encumbrances not satisfied or  
 19 released of record relative to the Subject Property.  
 20

21 (b) The Developers represent and warrant to the City that they have the power  
 22 and authority to enter into and consummate the terms and conditions of this Development  
 23 Agreement; that all acts, approvals, procedures, and similar matters required in order to  
 24 authorize this Development Agreement have been taken, obtained or followed, as the  
 25



case may be; that this Development Agreement and the proposed performance of this Development Agreement by the Developers is not an *ultra vires* act; and that, upon the execution of this Development Agreement by the parties, this Development Agreement shall be valid and binding upon the parties hereto and their successors in interest.

(c) The Developers hereby represent to the City that all required joinders and consents have been obtained and set forth in a properly executed form on this Development 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 Development Agreement and joinders must be executed by any mortgagees. It is the responsibility of the Developers 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 Development Agreement. If the Developers fail to attain the joinder and consent, then the Owners and Developers shall lose all rights and benefits deriving hereunder.

### **SECTION 3. APPROVAL OF MASTER PLAN DEVELOPMENT**

(a) The City Council at its business meeting of \_\_\_\_\_, 2018, approved a Master Plan Development for the Subject Property subject to the terms and conditions of this Development Agreement.

(b) The Developers acknowledge that if this Development Agreement is ever terminated, the approval shall be deemed null and void and the land uses approved for the Subject Property shall no longer be permitted, 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 Development Agreement, and will be subject to enforcement and change under the same criteria as if no Development Agreement were in effect.

#### **SECTION 4. PROJECT DESCRIPTION**

(a) Proposed Development. The Subject Property may be developed in two phases. Phase 1 is expected to include an approximately 6,000 square feet convenience store/gas station and Phase 2 will include up to 36,000 square feet of retail/commercial development (collectively, the "Project"), to include uses permitted (P) or uses only approved by special exception (S) under the City's General Commercial "COM-2" zoning designation. A Special Exception shall be approved in accordance with the standards in Section 2.07 of the LDC. A request for a Special Exception shall not be deemed an amendment to this Development Agreement or a change in zoning, but the Special Exception approval will become part of this Development Agreement. While uses noted with (L) in the tables in Chapter 3 of the LDC have additional limitations specific to that use, not all limited uses are so indicated. The entire LDC must be reviewed in order to determine which uses have additional limitations, not just Chapter 3.

The development plan for Palm Town Center is generally outlined below and depicted on the MPD Master Plan which is attached hereto as **Exhibit "B"** (the "Master Plan"). The Master Plan contains a level of detail satisfactory to permit the Subject Property to proceed directly to Preliminary Plat. Technical Site Plans may be submitted simultaneously with Preliminary Plat(s) subject to review approval as provided for in the LDC.

(b) Temporary Construction Trailers – Temporary construction trailers may be

located within the Subject Property, subject to review and approval at the time of site development plan approval in accordance with the LDC.

(c) Common Areas – Common areas are located throughout the Subject Property and include open space and landscape areas. The Property may be subject to a property owner's association, if the Land Use Administrator (LUA) determines, in their sole discretion, that it would be beneficial for management of the common areas.

## **SECTION 5. DEVELOPMENT PLAN**

(a) The Master Plan depicts the general layout of the entire development. The exact location of structures, lot lines, roadways or access aisles, landscape buffers, drainage facilities and other improvements shown on the Master Plan may be modified during review of the Technical Site Plans and Subdivision Plat/Construction Plans.

(b) Adjustments to the Master Plan are anticipated to occur during the Technical Site Plan and Subdivision Plat/Construction Plan review processes. Revisions which meet the intent and purpose of the City's Comprehensive Plan and LDC shall be approved by the Land Use Administrator (LUA), as long as the substantial integrity of the original Master Plan and the development standards contained herein and in the LDC are maintained. Any modification to the Master Plan that increases the intensity 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 Subject Property shall require the approval of the City Council, following the review and recommendation of the Planning and Land Development Regulation Board (PLDRB).

(c) The MPD will likely be developed in multiple phases. All infrastructure necessary to support each phase of the MPD shall be constructed with that phase as a condition of Technical Site Plan or Preliminary Plat approval.

(d) Vacation of a Portion of Midway Drive. The Developers have applied to vacate a portion of the Midway Drive right of way located within Phase 1, as shown on the Master Plan, which will be processed in conjunction with this MPD review and approval process as a separate application and resolution. The Developers may request additional portions of Midway Drive located in Phase 2 be vacated by the City Council with the development of Phase 2.

## **SECTION 6. PRELIMINARY AND TECHNICAL SITE PLANS**

(a) A Preliminary Site Plan for Phase 1 is attached hereto as **Exhibit “C”** (“Phase 1 Preliminary Site Plan”) and depicts an initial layout for the expected first phase for buildings, parking, landscaping, etc.

(b) Attached hereto as **Exhibit “D”** (“Phase 1 Architectural Elevations”) are preliminary building elevations for the expected convenience store and the canopy over the gas pumps that will be reviewed in detail during the Phase 1 Technical Site Plan review process.

(c) Also attached is **Exhibit “E”** (“Phase 1 Preliminary Landscape Plan”) that depicts an initial layout for the expected convenience store showing required and provided landscaping.

(d) Prior to any site work the Developers shall apply for and receive approval of a Technical Site Plan as outlined in Chapter 2 of the LDC. The Technical Site Plan for the initial phase shall be based on the Phase 1 Preliminary Site Plan, Phase 1

Architectural Elevations, Phase 1 Preliminary Landscape Plan, and the Master Plan, and will undergo a detailed analysis during the Technical Site Plan review and approval process. The Technical Site Plan may vary somewhat from this initial layout. In lieu of the gas/convenience store proposed for Phase 1, an alternative COM-2 permitted use may be proposed, , provided the Technical Site Plan is consistent with this Development Agreement and the LDC. The Developer recognizes that this Development Agreement does not constitute a Technical Site Plan approval, and that all approvals of site conditions are preliminary only, and do not vest Developers for any particular site plan.

## **SECTION 7. LAND DEVELOPMENT CODE APPLICABILITY**

(a) The Land Development Code applies to the Subject Property and all development within it, except as specifically provided in this Development Agreement. The Project shall meet the dimensional standards and other standards for COM-2 zoned property unless stated otherwise in this Development Agreement.

(b) The requirements of this Section supersede any inconsistent provisions of the LDC or other ordinances of the City.

(1) Stormwater. The Subject Property is being developed with privately constructed and maintained accessways, a road located on a public right-of-way, and a privately maintained drainage system. Stormwater runoff from the Project including any road constructed by the Developers on a public right-of-way will be conveyed to on-site private stormwater retention and/or detention systems by means of grassed swales, curb gutters, and an underground drainage pipe system. Stormwater pump stations may only be used if the Developers' designer can adequately demonstrate to the City's stormwater engineer that stormwater attenuation cannot be accomplished by a gravity flow system.

1 Use of stormwater pump stations shall require review and approval of the City's  
 2 stormwater engineer. The onsite stormwater retention and detention systems may be  
 3 interconnected with such systems on adjacent sites, subject to approval of the St. Johns  
 4 River Water Management District, FDOT and the City's stormwater engineer. At time of  
 5 Technical Site Plan or Subdivision Plat/Construction Plans review, the Developers will  
 6 ensure that offsite properties and off site drainage facilities will not be negatively affected  
 7 by the onsite Project improvements, to the satisfaction of the City's stormwater engineer.

8 (2) Setbacks. The minimum building setbacks shall be as shown on the  
 9 Preliminary Site Plan – Phase 1. The minimum interior side setback shall be 10', except  
 10 for the canopy over the gas pumps which shall be setback a minimum of 5', which will be  
 11 measured from the remaining 26' Midway Drive right-of-way line, if the vacation is  
 12 approved by the City. Air pumps are permitted adjacent to or within paved vehicular use  
 13 areas of the convenience store.  
 14

15 (3) Roadways/Rights-of-Way. The Subject Property is being developed with  
 16 privately maintained roads (which may be partly constructed on the Midway Drive right-  
 17 of-way if vacated) or access ways, and a commercial property owners association shall  
 18 be setup for such maintenance. Emergency vehicle access shall be permitted throughout  
 19 the Subject Property at all times.

20 (4) Parking. For the intended convenience store with vehicle fueling pumps in  
 21 Phase 1, the required parking shall be 1 space per of 200 square feet of gross floor area  
 22 of the convenience store, plus 1 parking space per 2 seats for food patrons. Parking for  
 23 all other uses and phases shall meet the standards of Chapter 5 of the LDC. Provided  
 24 parking shall not exceed 120% of the required parking. The minimum standard stall for  
 25

90 degree parking spaces shall be 9' x 18' when parking overhangs a landscaped area or sidewalk. Curb stops shall not be required for parking spaces abutting sidewalks.

(5) Gateway Overlay Zone. Since the Subject Property is located within and is a key component of the Gateway Overlay Zone, the Project shall meet the development standards described in Section 3.04.03 of the LDC. During the submittal and review of the Preliminary Site Plan – Phase 1, the Developers shall include a common theme for the Project that is compatible with the Town Center DRI, and shall include common architectural, landscaping, and lighting standards and amenities for pedestrians.

(6) Landscaping. A standard landscape buffer is not required along the west side of the 26' wide Midway Drive in Phase 1 (if vacated), and standard foundation plantings on the east side of the building adjacent to the loading zone can be modified, with the alternative design to be approved by the Land Use Administrator during the Technical Site Plan review and approval process. In exchange for these variances, Developers will provide two hardscape features and a platform for art work in the green area located north of the retail/gas store, as depicted in Exhibit C. It is possible that Midway Drive will function more as an internal shared driveway rather than a public street as the Project moves into Phase 2; in fact, the Developers may apply to vacate all of Midway Drive at that time.

(7) Signage. All signage shall be regulated per the LDC, except that the monument sign along Bulldog Drive for Phase 1 shall have a revised minimum street setback of 5 feet in lieu of the 10 feet required by Section 12.04.07A.2 of the LDC. The Developers have the option of relocating the larger sign area allowed along the Bulldog Drive frontage where the smaller monument sign area is allowed along the SR 100

frontage as depicted in Exhibit C (see freestanding sign standards in Section 12.05.02.B.1 in LDC). All signage shall be consistent and uniform in design with a common sign program to be established during review of the Technical Site Plan – Phase 1.

(8) Services. All new utilities serving the Project shall be installed underground except irrigation wells and pump stations. Except for power lines located along SR 100 and Bulldog Drive, existing overhead power lines shall be placed underground when the phase of the Project where the utility is located is developed.

(9) Pedestrian Crosswalk/Sidewalk. During Phase 1 construction, the Developers shall construct a pedestrian crosswalk across Bulldog Drive, extending from the sidewalk located just north of the Flagler Palm Coast High School's main Bulldog Road entrance to just north of the Project's most northerly proposed Phase 2 access, as depicted on Exhibit C. A sidewalk shall also be constructed by the Developers during Phase 1 construction, connecting this crosswalk along the eastern Bulldog Drive rights-of-way to the sidewalk located on the north side of SR 100, as shown in Exhibit C. Both the crosswalk and sidewalk shall be completed prior to the issuance of a certificate of occupancy for a Phase 1 building. A sidewalk running adjacent to the Midway Drive 26' wide right-of-way is not required per Section 5.03.02B of the LDC, as the Developers will construct an alternative sidewalk from SR 100 to serve pedestrians, as depicted on Exhibit C, and the Developers will apply to vacate Midway Drive during Phase 2.

(10) Architectural Design. All architectural design shall be regulated per the LDC except as follows:

i. Parapets may extend up to a maximum of 25% above the height of the supporting wall instead of the 15% required by Section 13.04.03C.1 of the LDC, in



order to screen roof mounted air-conditioning units and roof mounted mechanical equipment; and

ii. For clarification purposes, the building cornice as shown on Exhibit D-1 meets the standards for cornices described in Section 13.04.03C.2 of the LDC and

iii. For clarification purposes, the maximum canopy clearance of 15 feet (Section 4.07.03F of the LDC) for the canopy shown in Exhibit D-2 shall be measured based on the height of the white horizontal support bars located beneath the roof, and not the canopy roof height.

## **SECTION 8. PLAT.**

Platting may be required during some phases of the Project, per the LDC and state law. Based on Section 4(a) of this Development Agreement, the Master Plan provides sufficient detail so that this Project may skip the Subdivision Master Plan process and proceed directly to the Preliminary Plat. For any phase where platting is required, the Final Plat shall be recorded prior to the issuance of the first certificate of occupancy in such phase.

## **SECTION 9. 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 Development Agreement, the parties shall attempt to resolve all disputes informally. In the event of a failure to informally resolve all disputes, the City and Developers agree to engage in mediation before a certified Circuit Court mediator selected by the parties. In the event that the parties fail

1 to agree to a mediator, a certified mediator may be selected by mutual consent of the City  
2 and the Developers. The parties shall equally pay all costs of mediation. A party who  
3 unreasonably refuses to submit to mediation may not later object in Circuit Court that the  
4 other party failed to comply with this Section 9(b) by not participating in the mediation  
5 prior to filing suit.

6 (c). Prior to the City filing any action or terminating this Development Agreement  
7 as a result of a default under this Development Agreement, the City shall first provide the  
8 Developers written notice of the said default. Upon receipt of said notice, the Developers  
9 shall be provided a thirty (30) day period in which to cure the default to the reasonable  
10 satisfaction of the City prior to the City filing said action or terminating this Development  
11 Agreement. If thirty (30) days is not a reasonable period of time in which to cure the  
12 default, the length of the cure period shall be extended for a time period acceptable to the  
13 City, but in no case shall the cure period exceed ninety (90) days from the initial  
14 notification of default. Upon proper termination of the Development Agreement, the  
15 Developers shall immediately be divested of all rights and privileges granted hereunder.  
16

17 **SECTION 10. NOTICES.**

18 (a). All notices required or permitted to be given under this Development  
19 Agreement must be in writing and must be delivered to the City or the Developers at their  
20 address set forth below (or such other address as may be hereafter be designated in  
21 writing by such party).

22 (b). All such notices must be personally delivered, sent by certified mail or  
23 overnight courier.  
24  
25

(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 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 Developers: Palm Town Center, LLC  
Attn: Amy Barnard, Director of Legal Affairs  
7940 Via Dellagio Way, Suite 200  
Orlando, FL 32819

Palm Wagas IV, LLC  
Attn: Amy Barnard, Director of Legal Affairs  
7940 Via Dellagio Way, Suite 200  
Orlando, FL 32819

with a copy to:

Akerman LLP  
Attn: Robert M. Poppell, Esq.  
420 S. Orange Avenue, Suite 1200  
Orlando, FL 32801

## **SECTION 11. SEVERABILITY.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Development Agreement are severable, and if any phrase, clause, sentence, paragraph or section of this Development 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 Development Agreement.

## **SECTION 12. SUCCESSORS AND ASSIGNS.**

(a). This Development Agreement and the terms and conditions hereof shall be binding upon and inure to the benefit of the City and Developers and their respective successors-in-interest. The terms and conditions of this Development Agreement similarly shall be binding upon the Subject Property and shall run with the land and the title to the same.

(b). This Development Agreement touches and concerns the Subject Property.

(c). The Developers has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Agreement.

**SECTION 13. GOVERNING LAW/VENUE/COMPLIANCE WITH LAW.**

(a). This Development 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 of Palm Coast.

(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 Developers 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 Developer's potential rights, remedies and protections or the City's defenses pursuant to Chapter 70 of the Florida Statutes, as may be amended, this Development 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 an entire area of the City, such as requiring compliance with the City capital facilities plan; parks master plan, including parks and trail dedications; utility

1 construction and connections; mandating utility capacities; requiring street development  
2 or other such similar land development regulations and requirements.

3 (e). If state or federal laws are enacted after execution of this Development  
4 Agreement which are applicable to and preclude the parties' compliance with this  
5 Development Agreement, this Development Agreement shall be modified or revoked as  
6 necessary to comply with the relevant law.

7 (f). This Development Agreement shall also not be construed to prohibit the  
8 City from adopting lawful impact fees applicable to the Developers and the Master Plan  
9 Development authorized hereunder.

#### 10 **SECTION 14. TERM / EFFECTIVE DATE.**

11 This Development Agreement shall be effective upon adoption by the City Council  
12 of the City of Palm Coast, Florida and execution of this Development Agreement by all  
13 parties.

#### 14 **SECTION 15. RECORDATION.**

15 Upon adoption by the City Council of the City of Palm Coast, Florida and execution  
16 of this Development Agreement by all parties, this Development Agreement and any and  
17 all amendments hereto shall be recorded by the City with the Clerk of the Circuit Court of  
18 Flagler County within thirty (30) days after its execution by the City at Developers' cost,  
19 and the Development Agreement shall run with the land.

#### 20 **SECTION 16. PERMITS.**

21 (a). The failure of this Development Agreement to address any specific City,  
22 County, State, or Federal permit, condition, term, or restriction shall not relieve the  
23 Developers or the City of the requirement of complying with the law governing said  
24  
25

1 permitting requirements, conditions, terms, or restrictions.

2 (b). The terms and conditions of this Development Agreement determine  
3 concurrency for the Project.

4 (c) All development and impact fees charged by the City for construction or  
5 development of subdivisions or site plans shall be paid by the Developers at the time the  
6 City issues a building permit.

7 **SECTION 17. THIRD PARTY RIGHTS.**

8 This Development Agreement is not a third party beneficiary contract, and shall  
9 not in any way whatsoever create any rights on behalf of any third party.

10 **SECTION 18. TIME IS OF THE ESSENCE.**

11 (a). Strict compliance shall be required with each and every provision of this  
12 Development Agreement.

13 (b). Time is of the essence to this Development Agreement and every right or  
14 responsibility required herein shall be performed within the times specified.

15 **SECTION 19. ATTORNEY'S FEES.**

16 In the event of any action to enforce the terms of this Development Agreement, the  
17 prevailing party shall be entitled to recover reasonable attorneys' fees, paralegals' fees,  
18 and all costs incurred, whether the same be incurred in a pre-litigation negotiation, or  
19 litigation at the trial or appellate level.

20 **SECTION 20. FORCE MAJEURE.**

21 The parties agree that in the event that the failure by either party to accomplish  
22 any action required hereunder within a specific time period ("Time Period") constitutes a  
23 default under terms of this Development Agreement and, if any such failure is due to any  
24  
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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 Development Agreement to the contrary, that failure shall not constitute a default under this Development 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 21. CAPTIONS.**

Sections and other captions contained in this Development 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 Development Agreement, or any provision hereof.

#### **SECTION 22. INTERPRETATION.**

(a). The Developers 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 Development Agreement.

(b). This Development 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 Development Agreement.

#### **SECTION 23. 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 Development Agreement.

#### **SECTION 24. COUNTERPARTS.**

This Development 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 25. 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 Development 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 of Palm Coast.

(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 26. ENTIRE AGREEMENT; EFFECT ON PRIOR AGREEMENTS.**

This Development 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 Development Agreement.

**IN WITNESS WHEREOF**, the City, Palm Wagas IV, LLC and Palm Town Center, LLC, have caused this Development Agreement to be duly executed by their duly authorized representative(s) as of the date first above written.

#### **DEVELOPERS' CONSENT AND COVENANT:**



**(SIGNATURES AND NOTARY BLOCKS ON NEXT PAGES)**

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**COME NOW**, the Developers 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 Development Agreement.

WITNESSES:	PALM TOWN CENTER, LLC, a Florida limited liability company
_____	
_____	BY: CW FAMILY, LLLP, a Florida limited liability limited partnership, its Manager
(print)	
_____	BY: CW FAMILY, LLC, a Florida limited liability company, its General Partner
_____	
(print)	
	BY: _____ Charles Whittall, Manager

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by Charles Whittall, as Manager of CW FAMILY, LLC, a Florida limited liability company, as General Partner of CW FAMILY, LLLP, a Florida limited liability limited partnership, as Manager of PALM TOWN CENTER, LLC, a Florida limited liability company (check one) ☐ who is personally known to me or ☐ who produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public – State of Florida  
Print Name: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

WITNESSES:

PALM WAGAS IV, LLC,  
a Florida limited liability company

\_\_\_\_\_  
\_\_\_\_\_  
(print)

BY: CW FAMILY, LLLP,  
a Florida limited liability limited  
partnership, its Manager

\_\_\_\_\_  
\_\_\_\_\_  
(print)

BY: CW FAMILY, LLC,  
a Florida limited liability company,  
its General Partner

BY: \_\_\_\_\_  
Charles Whittall, Manager

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by Charles Whittall, as Manager of CW FAMILY, LLC, a Florida limited liability company, as General Partner of CW FAMILY, LLLP, a Florida limited liability limited partnership, as Manager of PALM WAGAS IV, LLC, a Florida limited liability company (check one) ☐ who is personally known to me or ☐ who produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public – State of Florida  
Print Name: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

CITY OF PALM COAST, FLORIDA

\_\_\_\_\_  
Milissa Holland, Mayor

ATTEST:

\_\_\_\_\_  
Virginia A. Smith, City Clerk

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
William E. Reischmann, Jr., City Attorney

STATE OF FLORIDA  
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by Milissa Holland, Mayor of the City of Palm Coast, Florida, who is personally known to me.

\_\_\_\_\_  
Notary Public – State of Florida  
Print Name:\_\_\_\_\_  
My Commission expires:

## EXHIBIT "A" – LEGAL DESCRIPTION

Palm Town Center, Flagler County, Florida – Phase 1

A portion of land situated Section 5, Township 12 South, Range 31 East, City of Palm Coast, Flagler County, Florida, said tract of land being described as follows:

Lots 6, 7, 8, 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25, Midway Park Subdivision, according to the plat thereof recorded in Map Book 5, Page 25, of the Public Records of Flagler County, Florida, less and except that portion thereof, deeded to the State of Florida Department of Transportation, as recorded in Official Records Book 798, Page 475 of the Public Records of Flagler County, Florida.

Together with:

The West 24 feet of the South 280.15 feet of Midway Drive, Midway Park Subdivision, according to the Plat thereof, as recorded in Map Book 5, Page 25, of the Public Records of Flagler County, Florida, less and except that portion thereof, deeded to the State of Florida Department of Transportation, as recorded in Official Records Book 798, Page 475 of the Public Records of Flagler County, Florida.

Less and except:

Commence at the intersection of the West right of way line of Midway Drive and the North right-of-way line of State Road 100, thence run along said North right-of-way line, South 89°09'34" West, a distance of 119.67 feet to the Point of Beginning; thence run along said right-of-way South 89°09'34" West, a distance of 80.33 feet to the Easterly right-of-way line of Bulldog Drive; thence run along said East right-of-way line, run North 01°12'26" West, a distance of 355.15 feet to the South line of Lot 24, Midway Park, Map Book 5, Page 25, of the Official Records Book of Flagler County; thence departing said right-of-way, run North 89°09'34" East, along the South line of said Lot 24, a distance of 42.95 feet; thence departing said South line Lot 24, run South 01°13'13" East, a distance of 38.16 feet to the point of curvature of a curve concave Westerly; thence run Southerly along said curve having a radius of 468.00 feet, a central angle of 12°10'39", an arc length of 99.47 feet, being subtended by a chord bearing of South 04°52'07" West for a chord distance of 99.28 feet to a point of tangency on a curve concave Easterly; thence run Southerly along said curve having a radius of 732.00 feet, a central angle of 12°07'42", an arc length of 154.95 feet, being subtended by a chord bearing of South 04°53'35" West for a chord distance of 154.66 feet to a point of tangency; thence departing said curve, run South 46°01'46" East, a distance of 91.24 feet to the Point of Beginning.

Phase I Total Acreage: **2.778 acres, more or less.**

## PALM TOWN CENTER – PHASE 2 LEGAL DESCRIPTION:

Parcel 1: DELETED; MOVED TO PHASE 1

Parcel 2: The North sixty (60') feet of the West One Hundred (100) feet of Lot 29 (Lot 36), Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 25, Public Records of Flagler County, Florida, together with Lot 37 and Lot 54, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida.

Parcel #0812314300000000291

**0.276 acres**

Parcel 3: The Westerly 100 feet of the Northerly 135 feet of Lot 29, Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 25, Public Records of Flagler County, Florida, EXCEPT the Westerly 100 feet of the Northerly 60 feet of said lot.

Parcel #0812314300000000290

**0.172 acres**

Parcel 4: Lots 33, 34, 38, 39, 40, 52, 53, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida, being a resubdivision of Lot 28 and part of Lot 29, Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 25, Public Records of Flagler County, Florida.

Parcel #08123143500000000330

**1.216 acres**

Parcel 5: Lots 32 and 42, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida.

Parcel #08123143500000000320

**0.344 acres**

Parcel 6: Lot 42, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida, being a resubdivision of Lot 28 and part of Lot 29, Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 25, Public Records of Flagler County, Florida.

Parcel #08123143500000000420

**0.172 acres**

Parcel 7: Lots 30 and 31, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida.

Parcel #08123143500000000300

**0.344 acres**

Parcel 8: Lot 43, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida.

Parcel #0812314350000000430 **0.172 acres**

Parcel 9: Lots 28, 29, 44 and 45, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida, being a resubdivision of Lot 28 and part of Lot 29, Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 25, Public Records of Flagler County, Florida. Being subject to a public easement for ingress and egress over and through the Northerly 15 feet thereof from County Road to Midway Drive only until Midway Drive, a dedicated recorded county road is opened for traffic.

Parcel #0812314350000000280 **0.689 acres**

Parcel 10: Lots 26 and 27, MIDWAY PARK SUBDIVISION, according to the Plat thereof as recorded in Plat Book 5, Page 25, of the Public Records of Flagler County, Florida.

Parcel #0812314300000000260 **0.344 acres**

Parcel 11: Lots 10, 11 and 12, MIDWAY PARK SUBDIVISION, according to the Plat thereof as recorded in Plat Book 5, Page 25, of the Public Records of Flagler County, Florida.

Parcel #0812314300000000100 **0.517 acres**

Parcel 12: DELETED; MOVED TO PHASE 1

Parcel 13: Lot 54, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida.

Parcel #0812314350000000540 **0.142 acres**

Parcel 14: Lots 33, 34, 38, 39, 40, 52, 53, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida.

Parcel #0812314350000000330 **1.216 acres**

Parcel 15: Lot 51, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida.

Parcel #0812314350000000510 **0.177 acres**



Parcel 16: Lot 48, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida.

Parcel #0812314350000000480 **0.177 acres**

Parcel 17: Lot 47, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida.

Parcel #0812314350000000470 **0.177 acres**

Parcel 18: Lot 46, First Addition to Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 51, Public Records of Flagler County, Florida.

Parcel #0812314350000000460 **0.177 acres**

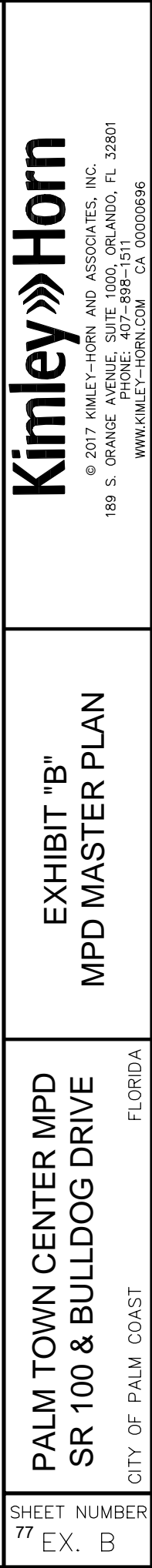
Parcel 19: DELETED; MOVED TO PHASE 1

Parcel 20: DELETED; MOVED TO PHASE 1

Phase II Total Acreage: **6.312 acres, more or less**

Total Acreage (including Phase I and Phase II): **9.09 acres, more or less**

Midway Park Subdivision, according to the plat thereof as recorded in Plat Book 5, Page 25, Public Records of Flagler County, Florida



This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

PHASE I

SITE DATA:

SITE AREA:	2.95 ACRES
ZONING:	MPD
BUILDING AREA	6,119 SF
MAXIMUM BUILDING HEIGHT	45 FT
PROPOSED BUILDING HEIGHT	33 FT 4 IN
MAXIMUM ALLOWABLE F.A.R.	0.40
PROPOSED F.A.R.	0.07
MAXIMUM I.S.R.	0.70
PROPOSED I.S.R.	0.60

BUILDING SETBACKS REQUIRED/PROVIDED

	REQUIRED	PROVIDED
FRONT (SR100):	25 FT	173 FT
STREET SIDE (BULLDOG RD.):	25 FT	78 FT
REAR (NORTH):	10 FT	112 FT
INTERIOR SIDE (EAST):	10 FT	16 FT
CANOPY (EAST):	20 FT	6 FT
CANOPY (SOUTH):	20 FT	56 FT

REQUIRED PARKING\*:

1SP/200 SF BUILDING (6,119 SF):	31 SPACES
1SP/2 SEATS FOR FOOD PATRONS (26 SEATS):	13 SPACES
TOTAL SPACES REQUIRED:	44 SPACES

\*PROVIDED PARKING SHALL NOT EXCEED 120% OF REQUIRED PARKING

PROVIDED PARKING:

STANDARD SPACES (10'x20'):	23 SPACES
STANDARD SPACES (9'x18'):	24 SPACES
ADA SPACES (12'x20'):	3 SPACES
TOTAL SPACES PROVIDED	50 SPACES

NOTE:

1. THIS IS A PRELIMINARY SITE PLAN FOR ILLUSTRATIVE PURPOSES ONLY. AS SUCH, IT IS SUBJECT TO REGULATORY REVIEW AND PERMIT CONSIDERATION DURING THE TECHNICAL SITE PLAN STAGE AND WILL NEED TO BE UPDATED ACCORDINGLY.

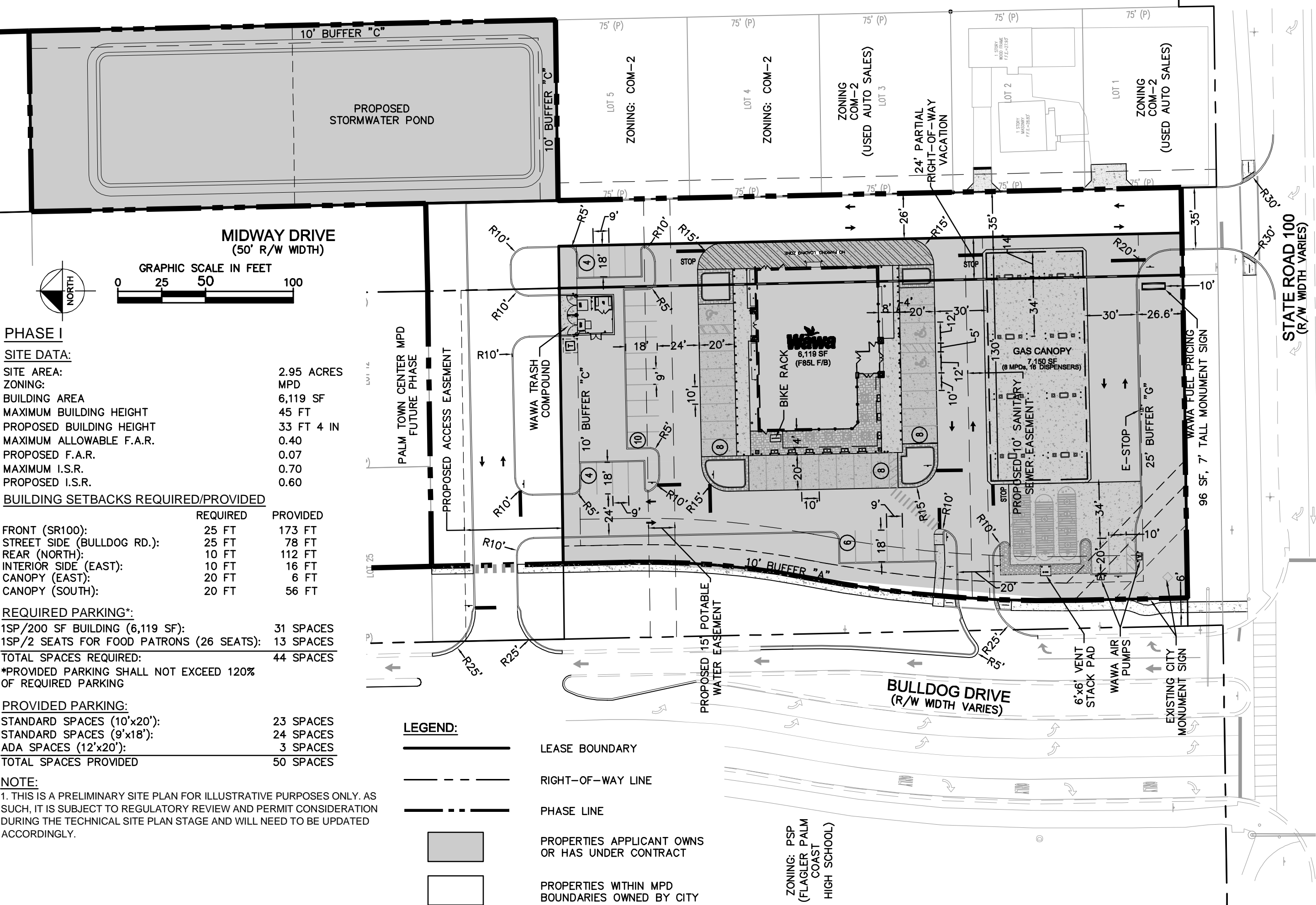


EXHIBIT "C"  
PHASE I PRELIMINARY  
SITE PLAN

PALM TOWN CENTER MPD  
SR 100 & BULLDOG DRIVE

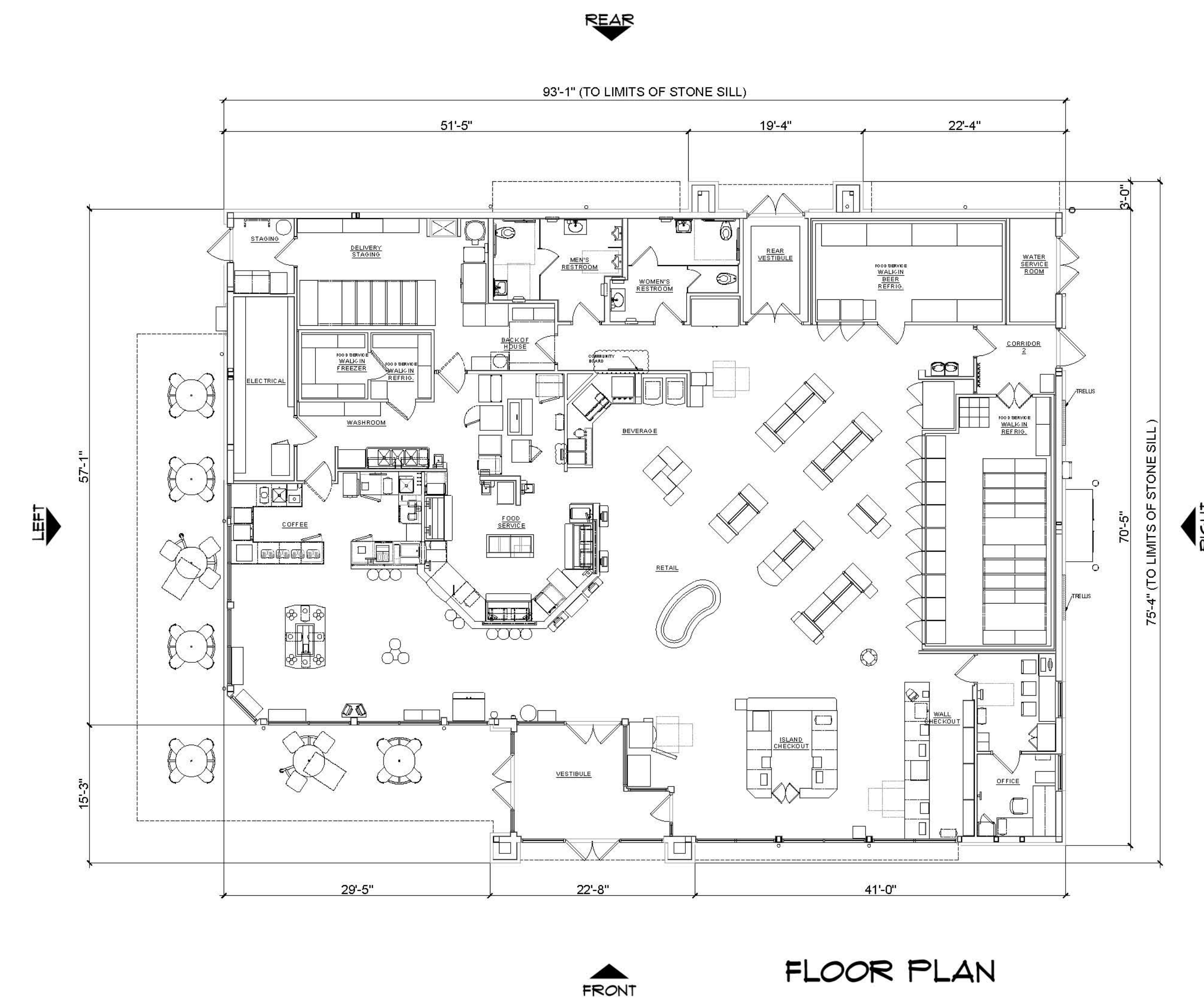
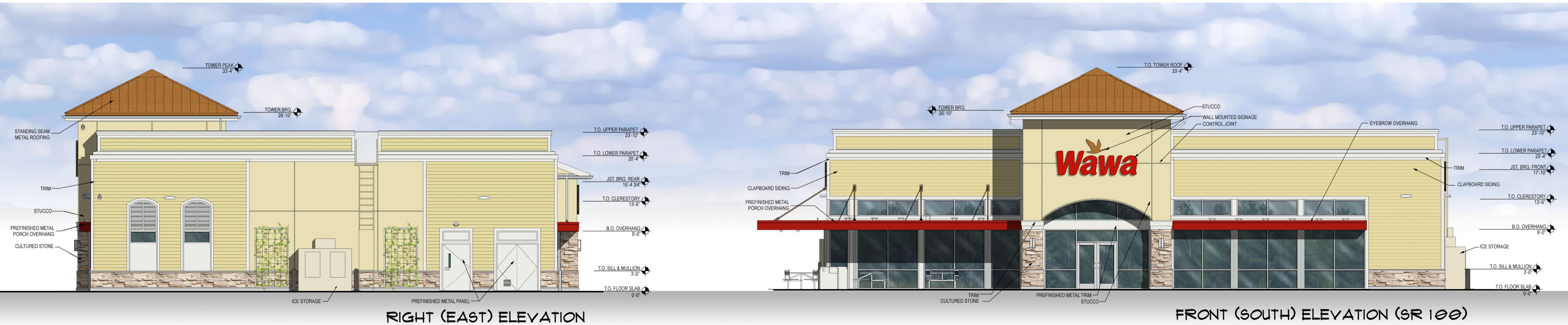
CITY OF PALM COAST FLORIDA

SHEET NUMBER  
78 EX. C

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NOTE:  
SIGNAGE IS SHOWN FOR REFERENCE ONLY  
SEPARATE PERMIT REQUIRED



Plotted By: Perero, Carlos Sheet Set: WAWA - S.R. 100 & BULLDOG DRIVE Layout: EX. F-2 January 29, 2018 09:32:26am  
K:\ORL\_Civil\149581010-Wawa SR100 & Bulldog\CADD\CONCEPT\Master Plan\MPD Exhibit F.DWG



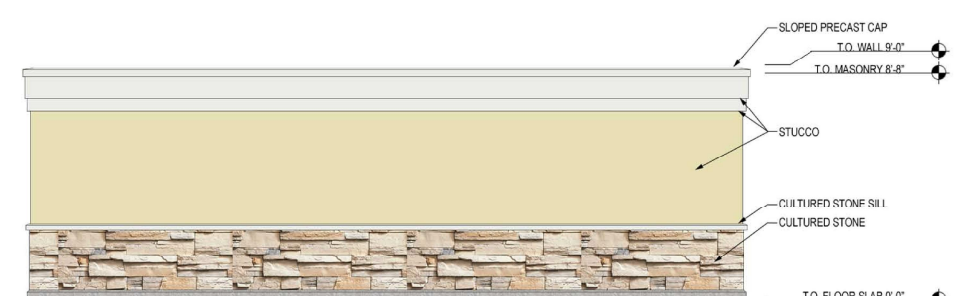
FRONT ELEVATION



RIGHT ELEVATION



LEFT ELEVATION



REAR ELEVATION

Metal Atas International Bone White # 26	Sherwin Williams SW 7048 Urbane Bronze	Metal Roof Atas International Coppertone # 23	Exterior Stone Cultured Stone Southwest Blend
Stucco Senergy Meringue #3085			

EXHIBIT "F"  
PHASE 1 CONCEPTUAL  
BUILDING ELEVATIONS

PALM TOWN CENTER MPD  
SR 100 & BULLDOG DRIVE  
CITY OF PALM COAST  
FLORIDA































# GAS CANOPY STACKED 8 - TRASH COMPOUND FLSQ17-L

SR 100 & Bulldog Dr., - Palm Coast, FL • C&P Project #2170063 • 02-16-2017

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### PLANT SCHEDULE

TREES	QTY	COMMON NAME	SHRUB AREAS	QTY	COMMON NAME
	2	JAPANESE BLUEBERRY TREE		III	SOFT RUSH
	14	TO REMAIN		214	SAND CORD GRASS
	4	TUSKEGEE GRAPE MYRTLE		446	TO REMAIN
	14	SOUTHERN MAGNOLIA		550 SF	PERENNIAL PEANUT
	8	AMERICAN SYCAMORE		64	FLAX LILY
	6	AMERICAN SYCAMORE		58	BLUE PACIFIC JUNIPER
	52	BALD CYPRESS		1,180 SF	BAHIA GRASS
	11	TO REMAIN		5,714 SF	KOREAN GRASS
SHRUBS	QTY	COMMON NAME	GROUND COVERS	QTY	COMMON NAME
	18	CENTURY PLANT		64	FLAX LILY
	175	BURFORD CHINESE HOLLY		58	BLUE PACIFIC JUNIPER
	50	MAX MYRTLE		1,180 SF	BAHIA GRASS
	38	PODOCARPUS		5,714 SF	KOREAN GRASS
	4	WHITE INDIAN HAWTHORN			
	3	DWARF BIRD OF PARADISE			
	50	SWEET VIBURNUM			
	124	COONTIE PALM			

### PALM COAST LANDSCAPE CODE CALCULATIONS - CH. II - TREE PROTECTION, LANDSCAPING, BUFFERS, AND IRRIGATION

#### 11.03.02. LANDSCAPING FOR COMMERCIAL DEVELOPMENTS

- A. COMMERCIAL DEVELOPMENTS  
ALONG SPECIALLY DESIGNATED ROAD SEGMENTS
- 8' MIN. WIDTH
  - TWO DIFFERENT HT PLANT MATERIAL
  - 1 UNDERSTORY TREE/50 LF

#### REQUIRED

728 SF LANDSCAPE AREA  
2 ROWS OF SHRUBS  
2 UNDERSTORY TREES

#### PROVIDED

731 SF LANDSCAPE AREA  
2 ROWS OF SHRUBS  
2 UNDERSTORY TREES

#### 11.03.04. PARKING LOT LANDSCAPING

- A. SCREENING  
ADJACENT TO ROW  
INTERNAL PARKING LOT LANDSCAPING  
10% OF VUA (TOTAL VUA AREA = 36,814 SF)  
LANDSCAPING ISLAND  
> 300 SF - 1 SHADE TREE  
< OR = 150 SF - 1 UNDERSTORY TREE/3 PALMS

#### REQUIRED

3,681 SF LANDSCAPE AREA  
4 SHADE TREES  
4 UNDERSTORY TREES

#### PROVIDED

3,781 SF LANDSCAPE AREA  
4 SHADE TREES  
4 UNDERSTORY TREES

#### 11.03.05 LANDSCAPE BUFFER REQUIREMENTS

NORTH - 157 LF  
"C" BUFFER  
10' WIDTH  
1 SHADE TREE/50 LF  
SHORT SCREEN SHRUBS

#### REQUIRED

1,570 SF LANDSCAPE AREA  
4 SHADE TREES  
SHORT SCREEN SHRUBS

#### PROVIDED

1,611 SF LANDSCAPE AREA  
4 SHADE TREES  
SHORT SCREEN SHRUBS

SOUTH - 120 LF  
"B" BUFFER  
25' WIDTH  
1 SHADE TREE/50 LF  
1 UNDERSTORY TREE/50 LF  
SHORT SCREEN SHRUBS  
30 ACCENT SHRUBS/100 LF

3,000 SF LANDSCAPE AREA  
3 SHADE TREES  
3 UNDERSTORY TREES  
SHORT SCREEN SHRUBS  
36 ACCENT SHRUBS

3,394 SF LANDSCAPE AREA  
3 SHADE TREES  
3 UNDERSTORY TREES  
SHORT SCREEN SHRUBS  
48 ACCENT SHRUBS

EAST - 354 LF  
"C" BUFFER  
10' WIDTH  
1 SHADE TREE/50 LF  
SHORT SCREEN SHRUBS

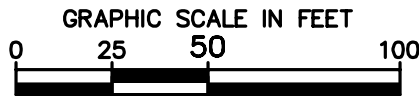
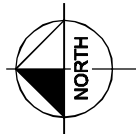
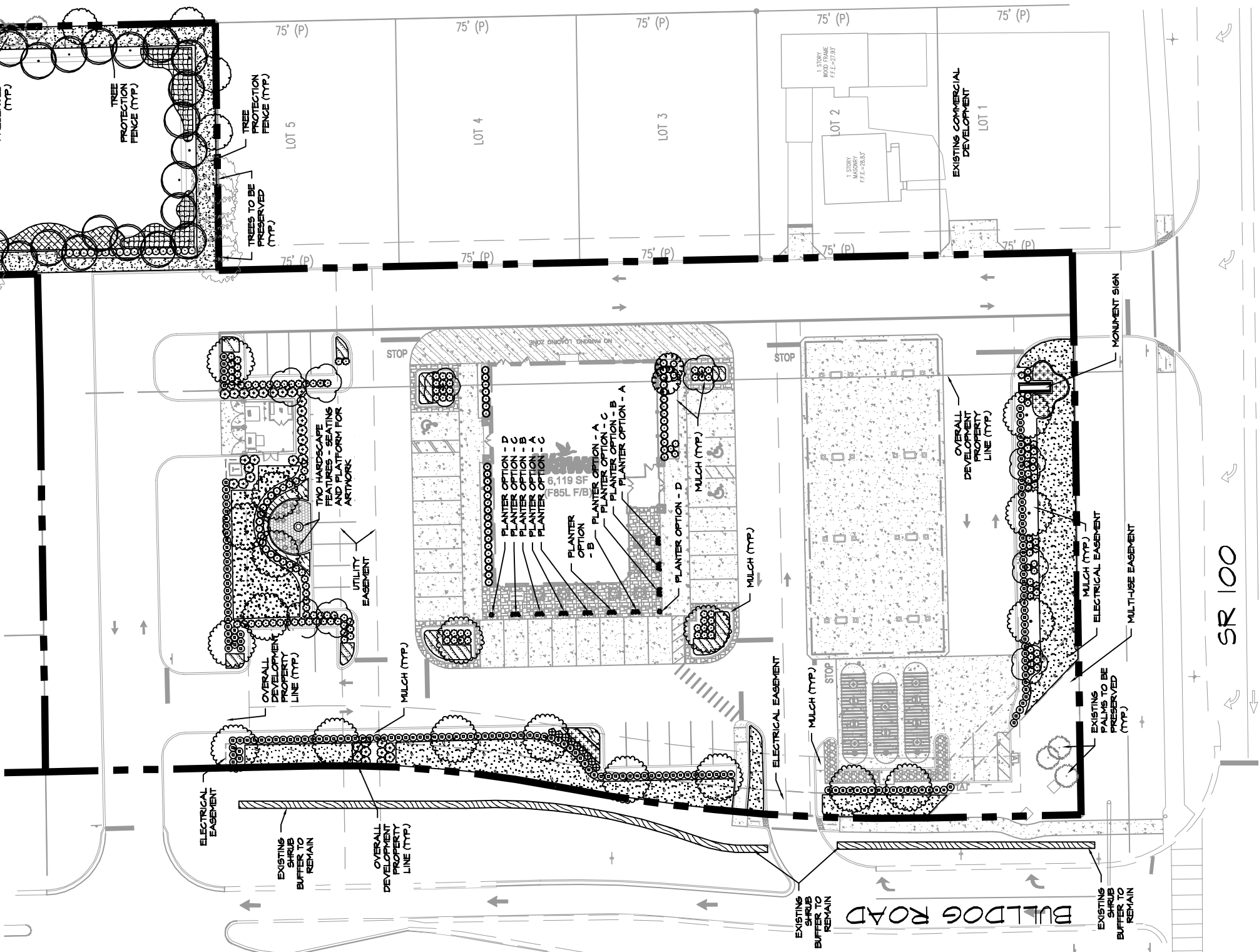
1,570 SF LANDSCAPE AREA  
4 SHADE TREES  
SHORT SCREEN SHRUBS

8 SHADE TREES  
SHORT SCREEN SHRUBS

WEST - 355 LF  
"C" BUFFER  
10' WIDTH  
1 SHADE TREE/50 LF  
SHORT SCREEN SHRUBS

1,570 SF LANDSCAPE AREA  
4 SHADE TREES

EXISTING BUFFER  
8 SHADE TREES



## EXHIBIT "E" PHASE I CONCEPTUAL LANDSCAPE PLAN

PALM TOWN CENTER MPD  
SR 100 & BULLDOG DRIVE

CITY OF PALM COAST FLORIDA

SHEET NUMBER  
81 EXE

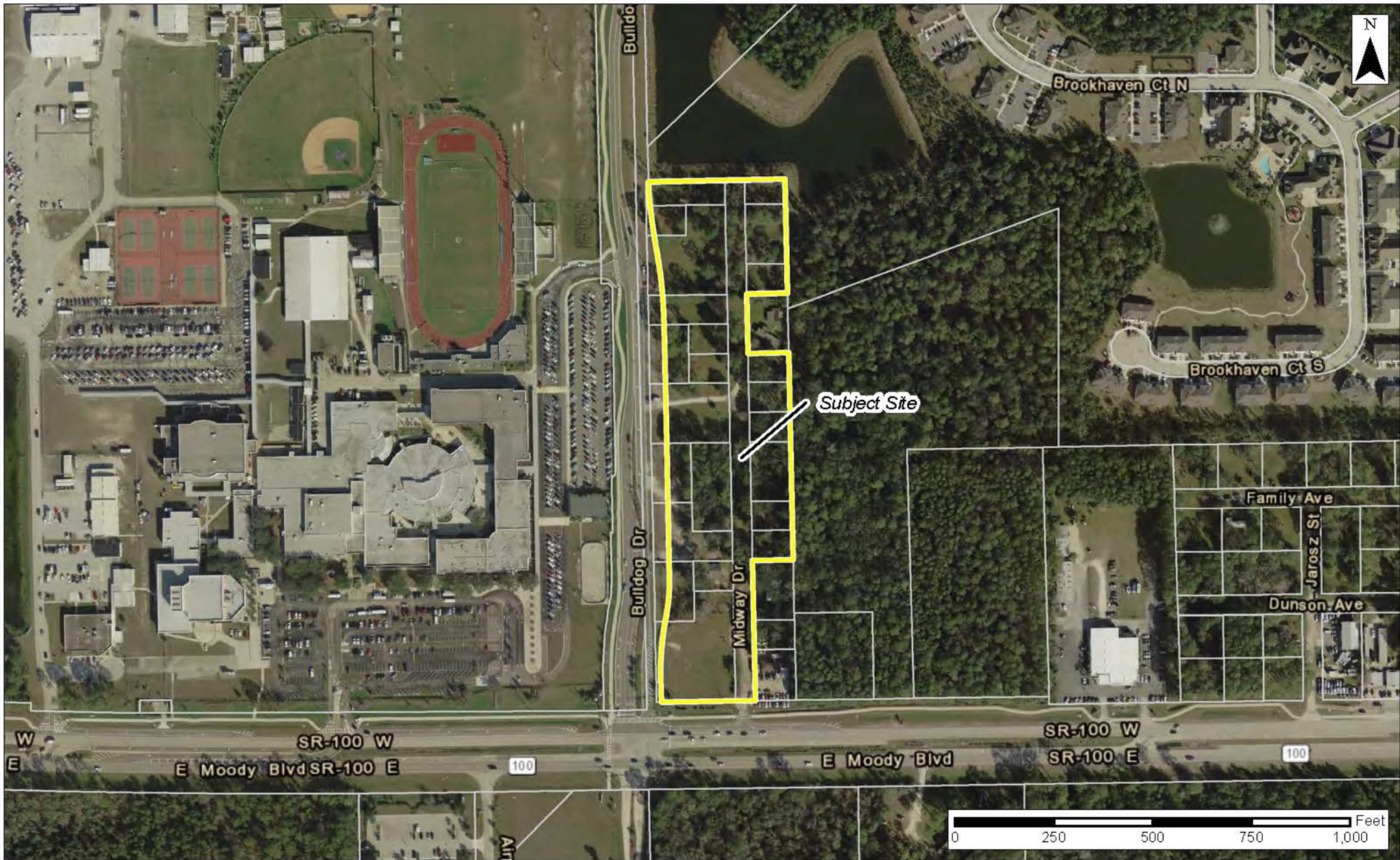
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## Large Scale Location Map

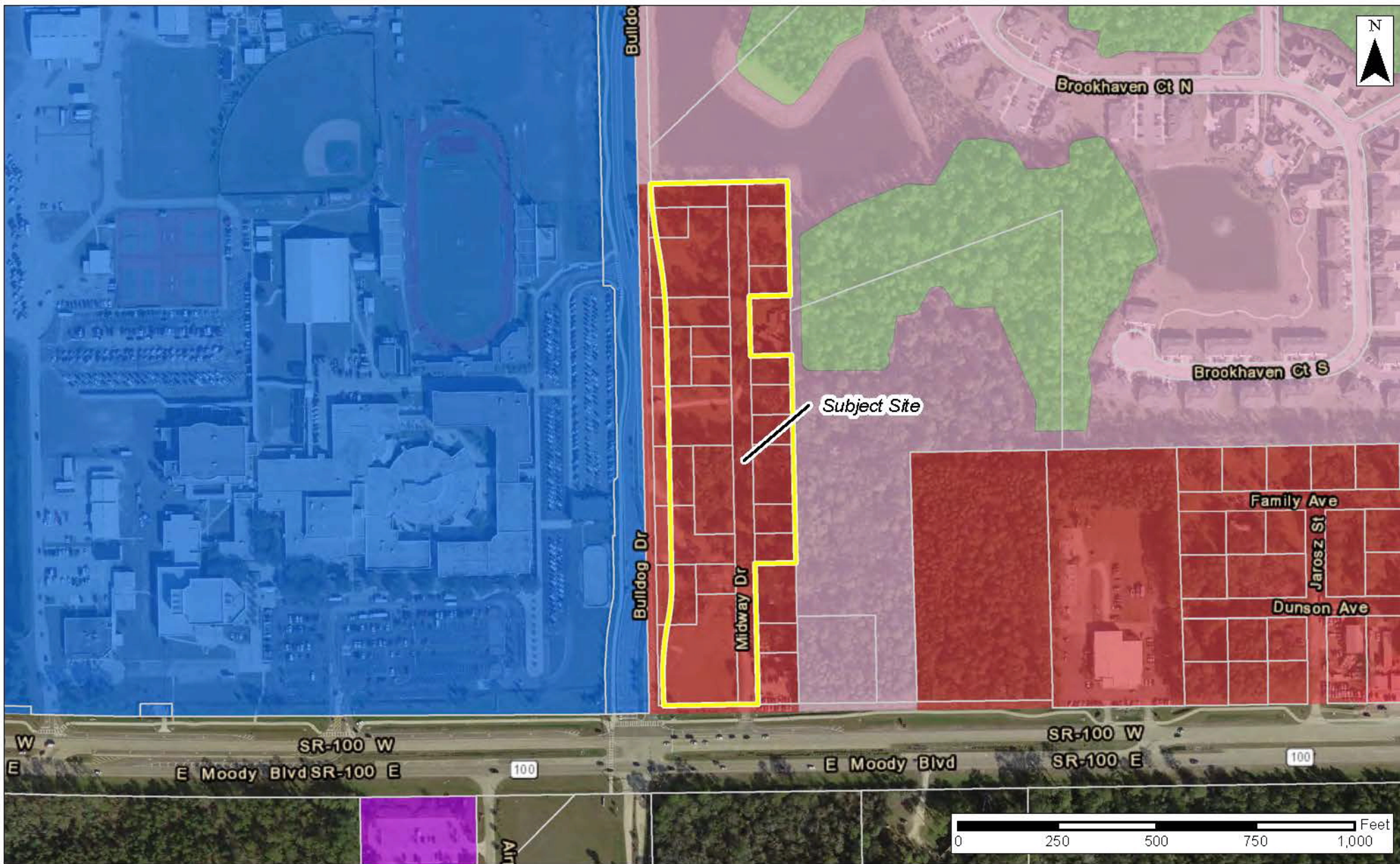
- Subject Site
- Parcel Boundaries



**Map Provided by the GIS Division**

Date: 1/24/2018





## FLUM Classification Map

### Palm Coast FLUM Classifications

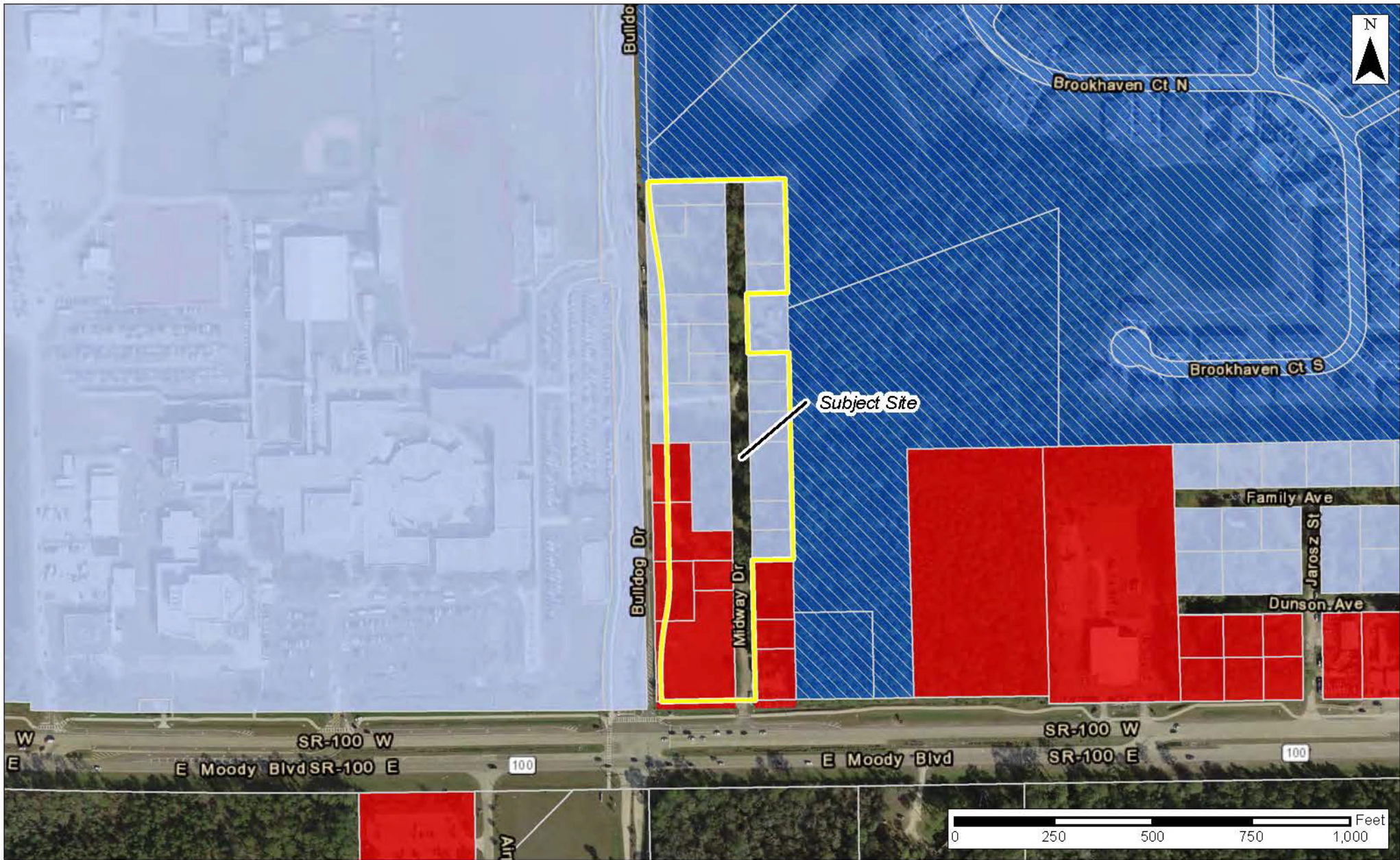
	Subject Site		Industrial		DRI-Urban Core		Mixed Use
	Parcel Boundaries		Conservation		Institutional		



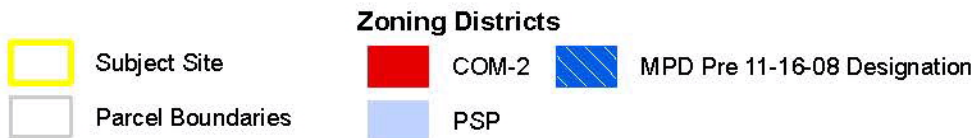
**Map Provided by the GIS Division**

Date: 1/24/2018





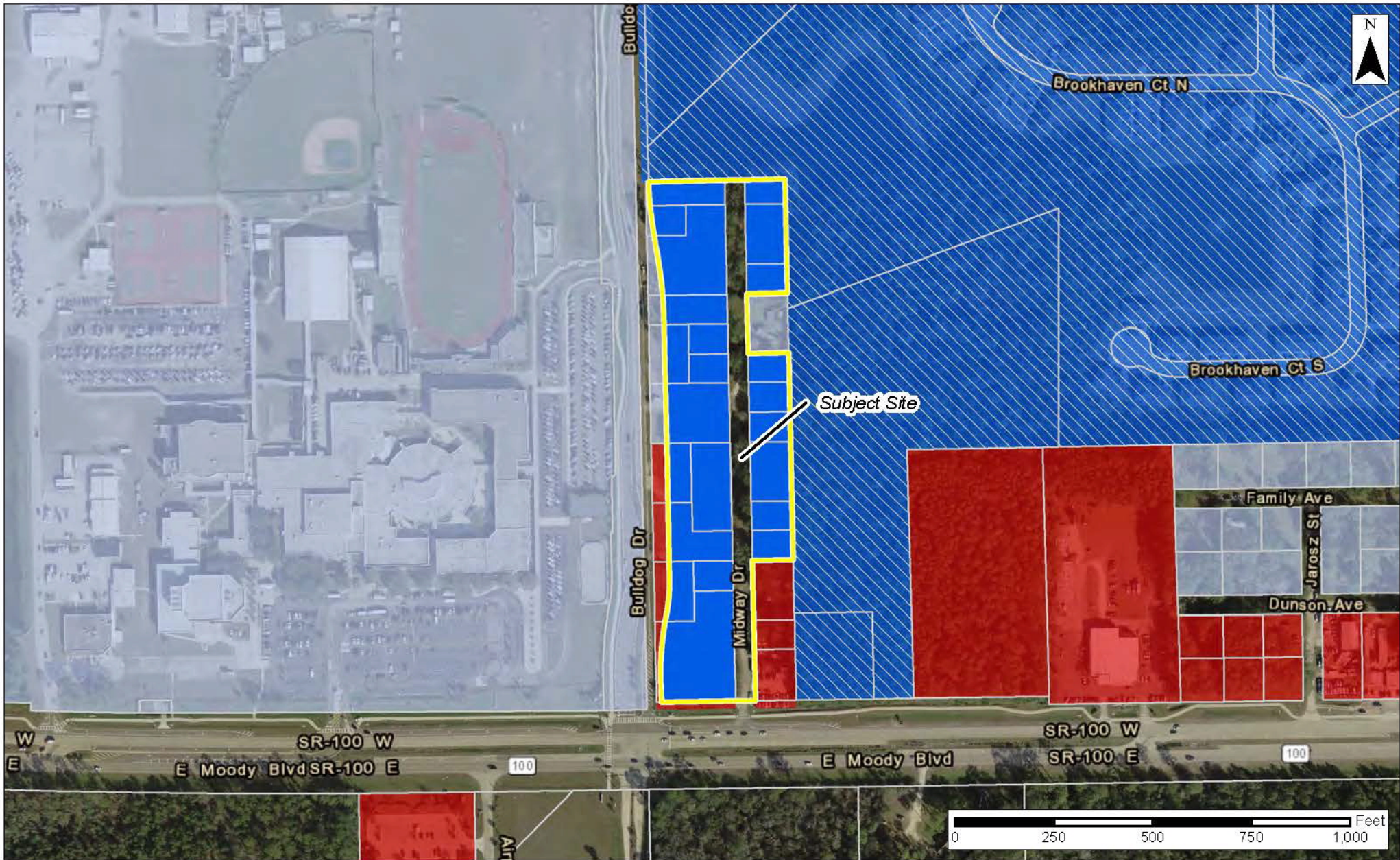
## Existing Zoning Map



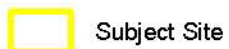
**Map Provided by the GIS Division**

Date: 1/24/2018





## Proposed Zoning Map



Subject Site



Parcel Boundaries

### Zoning Districts



COM-2



PSP



MPD Pre 11-16-08 Designation

### Proposed Zoning



MPD Post 11-16-08 Designation



**Map Provided by the GIS Division**

Date: 1/24/2018





# city of PALM COAST

Community Development Department  
Planning Division

160 Lake Avenue  
Palm Coast, FL 32164  
386-986-3736

January 26, 2018

Neighboring Property Owners

Re: Proposed Rezoning of Properties along Midway Drive and Partial Vacation of Midway Drive -  
Adjacent Property Owner Notification of Neighborhood Information Meeting

Dear Property Owners:

A Neighborhood Information Meeting to discuss the proposed rezoning of some properties along Midway Drive and a partial vacation of Midway Drive is scheduled to be held at 5:00 PM on February 7, 2018, at the City Council Workshop Room, located in the Community Development Wing of City Hall at 160 Lake Avenue, Palm Coast, Florida.

The first proposal is to rezone about 8+/- acres of land, some having General Commercial (COM-2) Zoning with the remainder having Public Semi-Public Zoning (PSP) Zoning to Master Planned Development (MPD) Zoning for general retail and commercial uses. The project name is called "Palm Town Center MPD" and is shown on the attached Master Plan Development (Exhibit "B") to be developed in two phases. (Note that some properties located east of Midway Drive are excluded from the area being rezoned.) A second attachment shows the Phase 1 Preliminary Site Plan (Exhibit "C") that provides details showing a proposed Wawa convenience store with gas pumps.

A second related proposal is to partially vacate the westerly 24 feet of the 50 feet wide Midway Drive right-of-way extending northward 335.15 feet from the northern SR 100 right-of-way line, which is shown as the orange area on Exhibit "C". The remaining 26 feet Midway Drive right-of-way will be paved by the developer of the Wawa site and a new paved access way would also be provided behind the Wawa site connecting Midway Drive to Bulldog Drive. The new access way is shown as the yellow area on Exhibit "C".

Some of the properties being rezoned are owned by the City of Palm Coast while others are owned or under purchase contract by the Phase 1 developers (Palm Town Center, LLC and Palm Wagas IV, LLC who are represented by Brett Mulligan of Unicorp National Development, Inc. If you have any questions you may contact the Palm Coast Planning Department at 386-986-3736 or Brett Mulligan at 407-999-9985 or email through his assistant Christina at [Christina@UNICORPUSA.com](mailto:Christina@UNICORPUSA.com). We look forward to seeing you at the above referenced meeting.

Sincerely,

Bill Hoover, AICP  
Senior Planner

Cc: Brett Mulligan, Unicorp National Development, Inc.

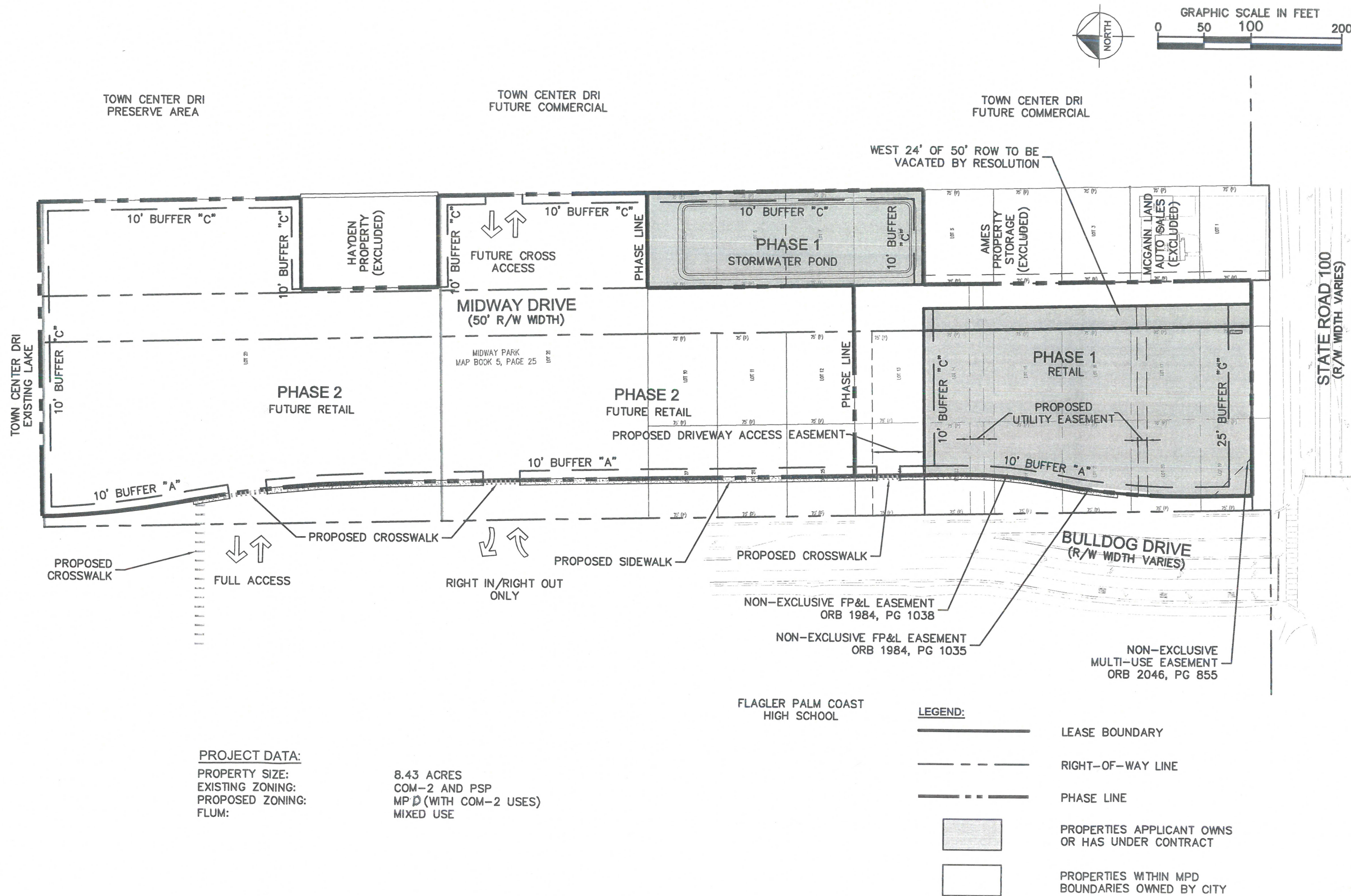


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[palmcoastgov.com](http://palmcoastgov.com)



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PALM TOWN CENTER MPD  
SR 100 & BULLDOG DRIVE

CITY OF PALM COAST  
FLORIDA

EXHIBIT "B"  
MPD MASTER PLAN

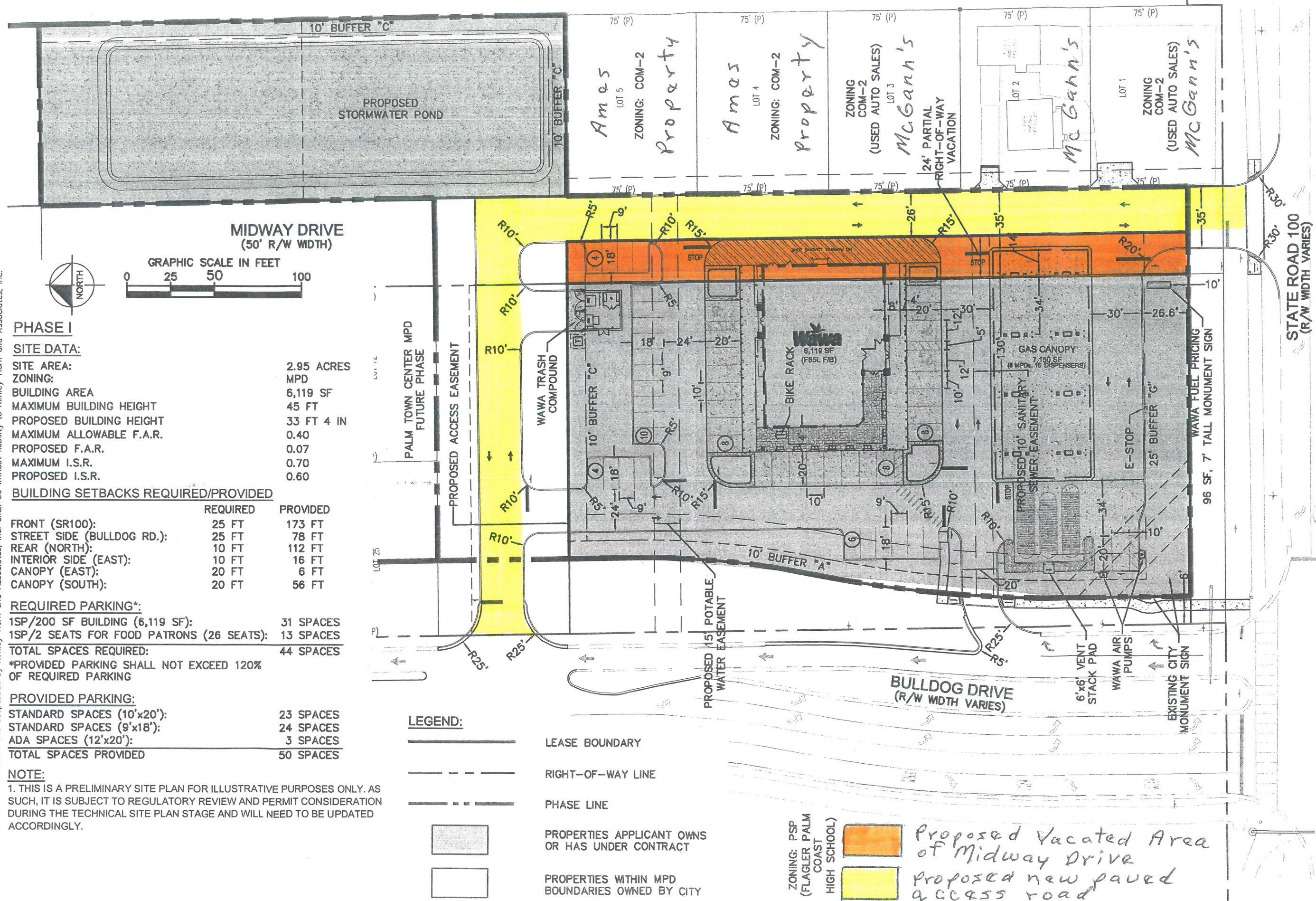
Kimley»Horn

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SHEET NUMBER  
EX. B



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EXHIBIT "C"  
PHASE I PRELIMINARY  
SITE PLAN

PALM TOWN CENTER MPD  
SR 100 & BULLDOG DRIVE

CITY OF PALM COAST  
FLORIDA

SHEET NUMBER  
EX. C  
89





# City of PALM COAST

Community Development Department  
Planning Division

160 Lake Avenue  
Palm Coast, FL 32164  
386-986-3736

February 8, 2018

Re: Summary of Palm Town Center MPD Rezoning and Midway Drive Partial ROW Vacation  
Neighborhood Information Meeting (NIM)

The NIM was held at 5:00 PM on February 7, 2018 at the City Council Workshop Room and was completed approximately at 6:00 PM. A total of nine persons attended the meeting including three neighbors, one neighboring property owner's realtor, the developer, developer's engineer, two representatives from Wawa, and one City Planner.

City Senior Planner Bill Hoover started the meeting off with a brief summary of the proposed MPD Rezoning boundary, showed a graphic displaying the partial vacation of Midway Drive and the new looped paved roadway proposed by the developer, and stated only Phase 1 was intended to be developed at this time for a Wawa convenience store with gas pumps and a large stormwater pond located NE of the Wawa facility.

One neighbor (Kathleen McGann who owns the vacant home at 3 Midway Drive and is part owner of the auto sales business at 2 Midway Drive) mentioned that she had heard the road would be elevated several feet higher than the existing height of Midway Drive (unimproved gravel roadway) and was concerned about flooding and its impact on vehicular access for her properties located at the NE corner of Midway Drive and SR 100, and asked who gave someone the right to develop Midway Drive? Planner Bill Hoover explained Midway Drive was a public right-of-way so the City or a developer could construct such roadway as long as the improvements meet City engineering design standards and all new development has to be designed to City stormwater standards by a civil engineer and then are reviewed by both the City's stormwater engineer and St. Johns River Water Management District. The developer's engineer (Jennifer Stickler, PE) stated in this case the stormwater permit would also be reviewed by FDOT. Jennifer Stickler and Bill Hoover both mentioned that new development projects are not allowed to negatively impact neighboring properties regarding stormwater and that Midway Drive's and Wawa's stormwater runoff would go to the large over-sized stormwater pond located NE of the Wawa site. Bill Hoover suggested the property owners stay in touch with the City and the developer so the paved Midway Drive could work with their existing access drives onto Midway Drive.

Wawa's representatives mentioned they were enthusiastic about entering the Palm Coast market at this location and intended to be a good neighbor.

Another neighboring property (Kathleen Hayden who lives at 178 Midway Drive) and her realtor said they were not aware that this project was moving forward as they had heard it had "died" and were very disappointed to learn they were not invited to join in the MPD Rezoning. Bill Hoover said he was not aware of their desire to include their land within the MPD Rezoning and suggested they should contact Beau Falgout regarding the potential of rezoning their land. He mentioned the City Council had given the developer permission to include the City's property within the proposed MPD Rezoning. Mrs. Hayden said she was concerned that the construction and commercial development would have a negative impact on her home and its quietness, privacy and security.

Prepared by: City Senior Planner Bill Hoover, AICP



# City of Palm Coast, Florida

## Agenda Item

Agenda Date: 2/21/2018

<b>Department</b>	PLANNING	<b>Amount</b>
<b>Item Key</b>		<b>Account</b>
		<b>#</b>
<b>Subject</b> PROPOSED REWRITE OF LAND DEVELOPMENT CODE SECTION 10.02 FLOODPLAIN ORDINANCE		
<p><b>Background :</b></p> <p>Since February 2002, the City of Palm Coast has participated in the National Flood Insurance Program (NFIP) administered by the Federal Emergency Management Agency (FEMA). Participation in the NFIP comes with a requirement to adopt the minimal standards of the program, originally satisfied by Ordinance adoption in 2001. In order for a citizen to buy flood insurance, a community must participate in the NFIP. Beyond the minimal standards of the NFIP, communities are encouraged to participate in the Community Rating System (CRS) program.</p> <p>The CRS program recognizes and encourages communities for floodplain management activities that exceed NFIP standards. The CRS program ranks participants on a scale of 1 (best) to 10 (entry level) based on a points-achieved standard. The City's participation has directly reduced flood insurance rates for most policies written for properties with the City. The following section provides a timeline of the City's efforts to improve floodplain management efforts.</p> <ul style="list-style-type: none"> <li>02/02/2002: Accepted into the NFIP</li> <li>05/01/2004: CRS Class 7 (15% premium reduction)</li> <li>07/17/2006: Effective Date of revised Flood Insurance Rate Maps</li> <li>08/19/2008: Unified Land Development Code adopted</li> <li>05/01/2009: CRS Class 6 (20% premium reduction)</li> <li>11/20/2014: CRS Class 5 (25% premium reduction)</li> <li>05/01/2017: CRS Class 4 (30% premium reduction). At time of 2017 Class change, there were only 12 other communities with a Class 4 or better designation in the entire United States.</li> <li>06/06/2018: Effective Date of revised Flood Insurance Rate Maps. The proposed ordinance references the upcoming effective date for the updated maps.</li> </ul> <p>In the last few years, the Florida Building Code has gradually integrated flood regulations. To ensure ongoing consistency with the NFIP and FBC regulations, the Florida Division of Emergency Management created a "model ordinance" for Florida communities to maintain compliance with the NFIP. In the last year, City staff have worked with FDEM consulting staff to align the model ordinance with the City's existing higher standards associated with the Community Rating System (CRS) program. The draft Ordinance(s) are the product of adapting the model ordinance to existing City regulations and standards with one exception with the addition of a "25-foot Floodway setback".</p> <p>Within the current municipal boundaries, two regulatory floodways associated with Bulow Creek and Big Mulberry Creek wetlands exist.</p> <p>A floodway is defined as "the channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot."</p> <p>With the intent of protecting residents and associated properties, the "25-foot Floodway</p>		

setback” accommodates the potential of dynamic change associated with a watercourse in a natural system.

On January 17, 2018, staff provided a presentation on the proposed Ordinance.

**Recommended Action :**

Recommend to City Council to approve the proposed Ordinance.

**ORDINANCE 2018-\_\_\_\_**  
**AMENDING SECTION 10.02 OF THE**  
**UNIFIED LAND DEVELOPMENT CODE**

**AN ORDINANCE OF THE CITY OF PALM COAST, FLORIDA, AMENDING THE CITY'S UNIFIED LAND DEVELOPMENT CODE; REPEALING SECTION 10.02 FLOODPLAIN DAMAGE PROTECTION AND REPLACING IT WITH SECTION 10.02 FLOODPLAIN MANAGEMENT TO CLARIFY INTENT AND TO REFLECT CURRENT DEVELOPMENT TRENDS; AMENDING SECTION 14.02 GLOSSARY TO ADD, REVISE AND DELETE DEFINITIONS RELATING TO FLOODPLAIN TERMINOLOGY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Legislature of the State of Florida has, in Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote public health, safety, and general welfare of its citizenry; and

**WHEREAS**, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Palm Coast and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

**WHEREAS**, the City of Palm Coast was accepted for participation in the National Flood Insurance Program on February 4, 2002 and the City of Palm Coast desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

**WHEREAS**, the City Council has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the Florida Building Code as adopted by Ordinance XXX; and

**WHEREAS**, the City Council has determined that an amendment to Section 10.02 - Flood Damage Protection and related definitions in Section 14.02 - Glossary is warranted to remain consistent with the National Flood Insurance Program requirements; and

**WHEREAS**, the City's Planning and Land Development Regulation Board (PLDRB) held a public meeting to hear public input and discuss these proposed revisions, and found the revisions to be consistent with the Comprehensive Plan; and

**WHEREAS**, at a meeting on \_\_\_\_\_, 2018 the PLDRB voted \_\_\_\_\_ in favor of the proposed revisions; and

**WHEREAS**, the City Council of Palm Coast has determined to revoke the previous Section 10.02 and replace it with the following text as shown below.

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

**SECTION 1. LEGISLATIVE FINDINGS.** The foregoing whereas clauses are incorporated here as legislative findings by this reference and made a part hereof for all intents and purposes.

**SECTION 2. REPEALING SECTION 10.02 – FLOODPLAIN DAMAGE PROTECTION AND REPLACING IT WITH SECTION 10.02 – FLOODPLAIN MANAGEMENT OF THE UNIFIED LAND DEVELOPMENT CODE.** Section 10.02 – Flood Damage Protection is hereby repealed and replaced by the following:

## **Sec. 10.02 Floodplain Management**

### **10.02.01 Administration**

- A. General.** These regulations shall be known as the Floodplain Management Ordinance of the City of Palm Coast, hereinafter referred to as “this article.”
- B. Scope.** The provisions of this article shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

### **10.02.02 Reserved.**

### **10.02.03 Intent.**

- A.** The purposes of this article and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:
  - 1.** Minimize unnecessary disruption of commerce, access and public service during times of flooding;
  - 2.** Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
  - 3.** Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
  - 4.** Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
  - 5.** Minimize damage to public and private facilities and utilities;



6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
  7. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
  8. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.
- B. **Coordination with the Florida Building Code.** This article is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.
- C. **Warning.** The degree of flood protection required by this article and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guarantee of vested use, existing use, or future use is implied or expressed by compliance with this article.
- D. **Disclaimer of Liability.** This article shall not create liability on the part of City Council of the City of Palm Coast or by any officer or employee thereof for any flood damage that results from reliance on this article or any administrative decision lawfully made thereunder.

#### **10.02.04**

##### **Applicability**

- A. **General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- B. **Areas to which this article applies.** This article shall apply to all flood hazard areas within the City of Palm Coast as established in Section 10.02.04.C of this article.
- C. **Basis for establishing flood hazard areas.** The Flood Insurance Study for Flagler County, Florida and Incorporated Areas dated June 6, 2018 and any subsequent revisions, and the accompanying Flood Insurance Rate Maps (FIRM), are adopted by reference as a part of this article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City of Palm Coast Community Development Department, 160 Lake Avenue, Palm Coast, Florida 32164.
- D. **Submission of additional data to establish flood hazard areas.** To establish flood hazard areas and base flood elevations, pursuant to Section 10.02.07 of this article the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the Floodplain Administrator indicates that ground elevations:
1. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as a flood hazard area and subject to the requirements of this article and, as applicable, the requirements of the Florida Building Code.
  2. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.
- E. **Other Laws.** The provisions of this article shall not be deemed to nullify any provisions of local, state or federal law.

- F. Abrogation and greater restrictions.** This article supersedes any article in effect for management and development in flood hazard areas. However, it is not intended to repeal or abrogate any other provisions of existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between these regulations and any other regulation, the more restrictive shall govern. This article shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this article.
- G. Interpretation.** In the interpretation and application of this article, all provisions shall be:
1. Considered as minimum requirements;
  2. Liberally construed in favor of the governing body; and
  3. Deemed neither to limit nor repeal any other powers granted under state statutes.

#### **10.02.05 Duties and Powers of the Floodplain Administrator**

- A. Designation.** The Land Use Administrator is designated the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.
- B. General.** The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this article. The Floodplain Administrator shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies, and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to Section 10.02.09 of this article.
- C. Applications and permits.** The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:
1. Review applications and plans to determine whether proposed development will be located in flood hazard areas;
  2. Review applications for modifications of any existing development in flood hazard areas for compliance with the requirements of this article;
  3. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
  4. Provide available flood elevation and flood hazard information;
  5. Determine whether additional flood hazard data shall be obtained from other sources which shall be developed by an applicant;
  6. Review applications to determine whether proposed development will be reasonably safe from flooding;
  7. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and
  8. Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.
- D. Substantial improvements and substantial damage determinations.** For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial

improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall;

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before the repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvements or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of “substantial improvement”; for proposed work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of “substantial damage”;
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this article is required.

E. **Modifications of the strict application of the requirements of the Florida Building Code.** The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to Section 10.02.09 of this article.

F. **Notices and orders.** The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this article.

G. **Inspections.** The Floodplain Administrator shall make the required inspections as specified in Section 10.02.08 of this article for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

H. **Other duties of the Floodplain Administrator.** The Floodplain Administrator shall have other duties, including but not limited to:

1. In coordination with the Building Official, review all permits for construction within the Special Flood Hazard Areas to ensure that the proposed project meets the flood resistant construction requirements of the *Florida Building Code*, including elevation requirements;
2. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 10.02.05.D of this article;
3. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
4. Require applicants, who submit hydrologic and hydraulic engineering analyses to support permit applications, to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;

5. Review required design certifications and documentation of elevations specified by this article and the Florida Building Code to determine that such certifications and documentations are complete. Elevation certificates shall be provided at three stages, 1) construction drawings, 2) building under construction, and 3) finished construction;
  6. Notify the Federal Emergency Management Agency (FEMA) when the corporate boundaries of the City of Palm Coast are modified; and
  7. Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as “Coastal Barrier Resource System Areas” and “Otherwise Protected Areas.”
- I. **Floodplain management records.** Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this article and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this article; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this article and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at City of Palm Coast.

#### 10.02.06 Permits

- A. **Permits required.** Any owner or owner’s authorized agent (hereinafter “applicant”) who intends to undertake any development activity within the scope of this article, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this article and all other applicable codes and regulations has been satisfied.
- B. **Floodplain development permits or approvals.** Floodplain development permits or approvals shall be issued pursuant to this article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.
- C. **Buildings, structures and facilities exempt from the *Florida Building Code*.** Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this article:
1. Railroads and ancillary facilities associated with the railroad.
  2. Nonresidential farm buildings on farms, as provided in Section 604.50, F.S.
  3. Temporary buildings or sheds used exclusively for construction purposes.
  4. Mobile or modular structures used as temporary offices.

5. Those structures or facilities of electric utilities, as defined in Section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
  6. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term “chickee” means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
  7. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site, and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
  8. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
  9. Structures identified in Section 553.73(10)(k), F.S., are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.
- D. Application for a permit or approval.** To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the City of Palm Coast. The information provided shall:
1. Identify and describe the development to be covered by the permit or approval.
  2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
  3. Indicate the use and occupancy for which the proposed development is intended.
  4. Be accompanied by a site plan or construction documents as specified in Section 10.04.07.
  5. State the valuation of the proposed work.
  6. Be signed by the applicant or the applicant’s authorized agent.
  7. Give such other data and information as required by the Floodplain Administrator.
- E. Validity of permit or approval.** The issuance of a floodplain development permit or approval pursuant to this article shall not be construed to be a permit for, or approval of, any violation of this article, the Florida Building Codes, or any other ordinance of this community. The issuance shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.
- F. Expiration.** A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.
- G. Suspension or revocation.** The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this article or any other ordinance, regulation or requirement of the City.
- H. Other permits.** Floodplain development permits and building permits shall include a condition or disclaimer that all other applicable state or federal permits be obtained by the applicant before commencement of the permitted development. Such permits may include but not limited to the following:
1. The St. Johns Water Management District; section 373.036, F.S.
  2. Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.

3. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
4. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
5. Federal permits and approvals.

## **10.02.07**

### **Site Plans and Construction Documents**

- A. Information for development in flood hazard areas.** The site plan or construction documents for any development subject to the requirements of this article shall be drawn to scale and shall include, as applicable to the proposed development:
  1. Delineation of flood hazard areas, floodway boundaries, 25-foot floodway setback, flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
  2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 10.02.07.B.2 or Section 10.02.07.B.3 of this article.
  3. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 10.02.07.B.1 of this article.
  4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.
  5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
  6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
  7. Existing and proposed alignment of any proposed alteration of a watercourse.
- B. Information in flood hazard areas without base flood elevations (approximate Zone A).** Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:
  1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
  2. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source, or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
  3. Where base flood elevation data and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
    - a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
    - b. Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.



4. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

**C. Additional analyses and certifications.** As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

1. For development activities proposed to be located in a regulatory floodway or within the 25-foot floodway setback, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analyses to FEMA as specified in Section 10.02.07.D of this article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
2. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone “O” or Zone “AH”.
3. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel’s flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 10.02.07.D of this article.

**D. Submission of additional data.** When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant shall seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

## 10.02.08 Inspections

- A. General.** Development for which a floodplain development permit or approval is required shall be subject to inspection.
- B. Development other than buildings and structures.** The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.
- C. Buildings, structures and facilities exempt from the *Florida Building Code*.** The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.
- D. Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection.** Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner’s authorized agent, shall submit to the Floodplain Administrator:



1. If a design flood elevation was used to determine the required elevation of the lowest floor, certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
  2. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 10.02.07.B.3.b of this article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.
- E. Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection.** As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 10.02.08.D of this article.
- F. Manufactured homes.** The Building Official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Building Official.

#### 10.02.09 Variances and Appeals

- A. General.** The Land Use Administrator and the City of Palm Coast Planning and Land Development Regulation Board shall hear and decide on requests for appeals and the Planning and Land Development Regulation Board shall hear requests for variances from the strict application of this article. Pursuant to Section 553.73(5), F.S., the Planning and Land Development Regulation Board shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.
- B. Appeals.** Same process as set out in Section 2.16, of the Land Development Code.
- C. Limitations on authority to grant variances.** The Planning and Land Development Regulation Board shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 10.02.09.H of this article, the conditions of issuance set forth in Section 10.02.09.I of this article, and the comments and recommendations of the Land Use Administrator, Floodplain Administrator and the Building Official. The Planning and Land Development Regulation Board has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.
- D. Restrictions in floodways.** A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 10.02.07.C of this article.
- E. Historic buildings.** A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.
- F. Functionally dependent uses.** A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this article, provided the variance meets the requirements of Section 10.02.09.D, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

- G. Alteration of sand dunes or mangrove stands in coastal high hazard areas.** A variance shall not be issued for any proposed alteration of sand dunes or mangrove stands in coastal high hazard areas (Zone V) unless the applicant submits, and the City approves, an engineering analysis that demonstrates the proposed alteration will not increase the potential for flood damage or the potential for erosion. Any such variance shall not be issued unless the proposed alteration is approved by the Florida Department of Environmental Protection. This limitation shall not apply to mangrove stands within City canals.
- H. Considerations for issuance of variances.** In reviewing requests for variances, the Planning and Land Development Regulation Board shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, Land Development Code and this article, and the following:
1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
  2. The danger to life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
  4. The importance of the services provided by the proposed development with existing and anticipated development;
  5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
  6. The compatibility of the proposed development with existing and anticipated development;
  7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
  8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
  9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets, and bridges.
- I. Conditions for issuance of variances.** Variances shall be issued only upon:
1. Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this article or the required elevation standards.
  2. Determination by the Planning and Land Development Regulation that:
    - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
    - b. Literal interpretation of the provision of this Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Land Development Code and would result in unnecessary and undue hardship on the applicant;
    - c. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances;
    - d. The variance is the minimum necessary, considering the flood hazard, to afford relief;

- e. The special conditions and circumstances are not self-imposed and do not result from the actions of the applicant; and
- f. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of Court in such a manner that it appears in the chain of title of the affected parcel of land;
- g. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property;
- h. The proposed development must not be in conflict with or contrary to the public interest;
- i. The proposed development must be consistent with the Comprehensive Plan and the provisions of this Land Development Code;
- j. The proposed development must not impose a significant financial liability or hardship for the City;
- k. 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; and
- l. The proposed development must comply with all other applicable local, state, and federal laws, statutes, ordinances, regulators, or codes.

#### **10.02.10 Violations**

- A. Violations.** Any development that is not within the scope of the Florida Building Code but that is regulated by this article that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this article, shall be deemed a violation of this article. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this article or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.
- B. Authority.** For development that is not within the scope of the Florida Building Code but that is regulated by this article and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.
- C. Unlawful continuance.** Any person who shall continue any work after having been served with a notice of violation of a stop work order, except such work as that a person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

#### **10.02.11 Flood Resistant Development Design and construction of buildings, structures and facilities exempt from the Florida Building Code.**

- (i) Pursuant to Section 10.02.06.C of this article, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of Section 10.02.17 of this article.

## 10.02.12 Subdivisions

- A. Minimum requirements.** Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:
1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
  2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
  3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- B. Subdivision plats.** Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:
1. Delineation of flood hazard areas, floodway boundaries, 25-foot floodway setback, flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
  2. All subdivisions where the base flood elevation is not included on the FIRM, the base elevations are determined in accordance with Section 10.02.07.B.1. of this article; and
  3. Compliance with the site improvement and utilities requirements of Section 10.02.13 of this article.
  4. Any reduction in the water-holding capacity of the flood hazard area caused by development, structures, and site improvements shall be compensated such that no increase in water surface elevations, peak discharges, or velocities occurs either upstream, downstream, or in the vicinity of the site during occurrence of flood events up to and including the base flood.
  5. Applicant shall ensure that technical data reflecting base flood elevation changes or flood hazard area boundary changes are submitted to Federal Emergency Management Agency, with the City's endorsement, for a conditional Flood Insurance Rate Map revision. Prior to approval of final plat, an issued Letter of Map Change determination from FEMA is required.

## 10.02.13 Site Improvements, Utilities and Limitations

- A. Minimum requirements.** All proposed new development shall be reviewed to determine that:
1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
  2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
  3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- B. Sanitary sewage facilities.** All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.
- C. Water supply facilities.** All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.
- D. Compensatory storage.** Any reduction in the water-holding capacity of the flood hazard area caused by development, structures, and site improvements shall be compensated such that no increase in water

surface elevations, peak discharges, or velocities occurs either upstream, downstream, or in the vicinity of the site during occurrence of flood events up to and including the base flood.

- E. Limitations on sites in regulatory floodways and 25-foot floodway setback.** No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway or 25-foot floodway setback unless the floodway encroachment analysis required in Section 10.02.07.C.1 of this article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.
- F. Limitations on placement of fill.** Subject to the limitations of this article, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.
- G. Limitations on sites in coastal high hazard areas (Zone V).** In coastal high hazard areas, alteration of sand dunes and mangrove stands shall not be permitted. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Section 10.02.17.I.3 of this article.

#### 10.02.14 Manufactured Homes

- A. General.** Manufactured homes shall not be installed in floodways and 25-foot floodway setback except in an existing manufactured home park or subdivision. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to Section 320.8249, F. S. and shall comply with the requirements of Chapter 15C-1, F. A. C. and the requirements of this article.
- B. Foundations** All manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:
  1. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code Residential Section R322.2 and this article. Foundations for manufactured homes subject to Section 10.02.14.F of this article are permitted to be reinforced piers or other foundation elements of at least equal strength.
  2. In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the *Florida Building Code, Residential* Section R322.3 and this article.
- C. Anchoring.** All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over the top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.
- D. Elevation.** Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 10.02.14.E or Section 10.02.14.F of this article, as applicable.
- E. General elevation requirement.** Unless subject to the requirements of Section 10.02.14.F of this article, all manufactured homes that are placed, replaced, or substantially improved on sites located:
  1. Outside of a manufactured home park or subdivision;
  2. In a new manufactured home park or subdivision;
  3. In an expansion to an existing manufactured home park or subdivision; or
  4. In an existing manufactured home park or subdivision upon which a manufactured home has incurred “substantial damage” as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code Residential Section R322.2 (Zone A) or Section R322.3 (Zone V).

- F. Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to Section 10.02.14.E of this article, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:
  - 1. Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code Residential Section R322.2 (Zone A) or Section R322.3 (Zone V); or
  - 2. Bottom of frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than thirty-six (36) inches in height above grade.
- G. **Enclosures.** Enclosed areas below elevated manufactured shall comply with the requirements of the Florida Building Code Residential Section R322.2 or Section R322.3 for such enclosed areas, as applicable to the flood hazard area.
- H. **Utility equipment.** Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322.

#### 10.02.15 Recreational Vehicles and Trailer Parks

- A. **Temporary placement.** Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:
  - 1. Be prohibited to park or store a recreational vehicle for more than a total of three (3) days, or any part thereof in any consecutive seven (7) day period on a residential driveway; or
  - 2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.
- B. **Permanent placement.** Recreational vehicles and park trailers that do not meet the limitations in Section 10.02.15.A of this article for temporary placement shall meet the requirements of Section 10.02.14 of this article for manufactured homes.

#### 10.02.16 Tanks

- A. **Underground tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.
- B. **Above-ground tanks, not elevated.** Above-ground tanks that do not meet the elevation requirements of Section 10.02.16.C of this article shall:
  - 1. Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy, assuming the tank is empty, and the effects of flood-borne debris.
  - 2. Not be permitted in coastal high hazard areas (Zone V).
- C. **Above-ground tanks, elevated.** Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.
- D. **Tank inlets and vents.** Tank inlets, fill openings, outlets and vents shall be:



1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

#### 10.02.17 Other Development

- A. General requirements for other development.** All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, shall:
1. Be located and constructed to minimize flood damage;
  2. Meet the limitations of Section 10.02.13.E of this article if located in a regulated floodway;
  3. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
  4. Be constructed of flood damage-resistant materials; and
  5. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.
- B. Fences in regulated floodways.** Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 10.02.13.E of this article.
- C. Retaining walls, sidewalks and driveways in regulated floodways.** Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 10.02.13.E of this article.
- D. Roads and watercourse crossings in regulated floodways.** Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways, shall meet the limitations of Section 10.02.13.E of this article. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 10.02.07.C.3 of this article.
- E. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).** In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:
1. Structurally independent of the foundation system of the building or structure;
  2. Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
  3. Have a maximum slab thickness of not more than four (4) inches.
- F. Decks and patios in coastal high hazard areas (Zone V).** In addition to the requirements of the *Florida Building Code*, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:
1. A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads

resulting from the attached deck.

2. A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
3. A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.
4. A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

**G. Other development in coastal high hazard areas (Zone V).** In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
2. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and
3. On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

**H. Nonstructural fill in coastal high hazard areas (Zone V).** In coastal high hazard areas:

1. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
2. Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
3. Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

#### **10.02.18 Critical Facilities**

- A. New critical facilities shall be directed and sited away from special flood hazard areas. A critical facility shall have at least one (1) access road connected to land outside the special flood hazard area that is capable of supporting a 4,000-pound vehicle. The top of the road shall be no lower than six (6) inches below base flood elevation.

- B. New critical facilities constructed within a Special Flood Hazard Area without a determined base flood elevation shall not be constructed unless base flood elevations are determined and certified data is provided from a Florida licensed professional engineer. The technical data shall be submitted to the Federal Emergency Agency with the City's endorsement for a Letter of Map Change to remove the entire project area from the Special Flood Hazard Area. Prior to close out of the permit, a Letter of Map Change determination shall be submitted to the Floodplain Administrator.

### **SECTION 3. REVISING CHAPTER 14 – GLOSSARY OF THE UNIFIED LAND DEVELOPMENT CODE.**

Chapter 14 – Glossary; is hereby amended by the following:

#### **Sec. 14.02. Glossary**

~~*Addition (to an existing building):* Relating to flood damage protection, this term means any walled and roofed expansion to the perimeter of a building in which a common load-bearing wall other than a firewall connects the addition. Any walled and roofed addition connected by a firewall or is separated by independent perimeter load-bearing walls is new construction.~~

*Alteration of a watercourse:* A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

~~*Appeal:* Relating to flood damage protection, means a request for review of the Floodplain Administrator's interpretation of any provision of Section 10.02. this term means any walled and roofed expansion to the perimeter of a building in which a common load-bearing wall other than a firewall connects the addition. Any walled and roofed addition connected by a firewall or is separated by independent perimeter load-bearing walls is new construction.~~

*ASCE 24:* A standard titled Flood Resistant Design and Construction that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

*Base flood:* A flood having a 1-percent chance of being equaled or exceeded in any given year. The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

*Base flood elevation:* The elevation of flood having a one percent chance of being equaled or exceeded in any given year, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map.

*Basement:* That portion of a building having its floor subgrade (below ground level) on all sides.

~~*Breakaway wall:* A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.~~

~~*Coastal high hazard area:* Relating to flood damage protection, this term means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.~~ a special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V.

~~*Coastal velocity hazard area:* An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.~~

*Compensatory storage (floodplain):* An artificially excavated hydraulically equivalent volume of storage used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the floodplain.

~~*Construction, existing:* See Structure, existing.~~

Construction, new: Relating to flood damage protection and the flood resistant requirements of the Florida Building Code, this term means any ~~Any~~ structure for which the "start of construction" commenced after February 5, 1986, or standard based upon specific technical base flood elevation data that establishes the area of special flood hazard. The term also includes any subsequent improvements to such structure.

~~Construction, start of (other than new construction or substantial improvements under the Coastal Barrier Resources Act Title 16, Chapter 55, United States Code):~~ Relating to flood damage protection, this term ~~includes substantial improvement and~~ means the date the building permit was issued for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building including, but not limited to, a manufactured home and mobile home on a site such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home or mobile home on a foundation. Permanent construction does not include land preparation such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units and are not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Critical facilities: Any facility that, if flooded or impacted by a natural disaster, would result in severe consequences to public health and safety. Critical facilities include, but are not limited to, hospitals, nursing homes, police stations, fire stations, emergency operation centers, chemical or hazardous materials storage facilities, and utility facilities. The term includes facilities that are assigned Flood Design Class 3 and Flood Design Class 4 pursuant to the Florida Building Code, Building.

Design flood: The flood associated with the greater of the following two areas:

- (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation: The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two (2) feet.

Development: Relating to flood damage protection, this term means any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, tanks, mining, dredging, filling, grading, paving, excavating, drilling operations, ~~or temporary or permanent storage of materials or equipment or other land disturbing activities.~~

~~Elevated building:~~ A nonbasement building built to have the lowest floor elevated above the ground level by solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

Elevation: The placement of a structure above flood level to minimize or prevent flood damages.

Encroachment: The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

~~Flood control:~~ Keeping floodwaters away from specific developments or populated areas by the construction of flood storage reservoirs, channel alterations, dikes and levees, bypass channels, or other engineering works.



Flood damage-resistant materials: Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

Flood elevation study: See Flood insurance study.

Flood fringe: Relating to flood damage protection, this term means the portion of the floodplain that lies beyond the floodway and serves as a temporary storage area for floodwaters during a flood. This section receives waters that are shallower and of lower velocities than those of the floodway.

Flood hazard area: The greater of the following two areas:

- (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Flood hazard boundary map (FHBM): Relating to flood damage protection, this term means an official map of a community issued by the Federal Emergency Management Agency that defines the boundaries of the areas of special flood hazard as Zone A.

Flood insurance rate map: An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study: The official report provided by the Federal Emergency Management Agency. It is an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, elevation, and determination of mudslide (i.e., mudflow) and/or flood related erosion hazards. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

Floodplain: Any land area susceptible to being inundated by water from any source. Also, see definition of *flood* or *flooding*.

Floodplain Administrator: The office or position designated and charged with the administration and enforcement of this article (may be referred to as the Floodplain Manager).

Floodplain development permit or approval: An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this article.

Floodplain variance: See Variance, floodplain.

Flood prone: See Floodplain.

Floodproofing: Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved property, water, and sanitary facilities, structures and their contents.

Floodwall: Relating to flood damage protection, this term means a constructed barrier of resistant material, such as concrete or masonry block, designed to keep water away from structure.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway encroachment analysis: An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Floor: The top surface of an enclosed area in a building (including basement), i.e. top of slab in concrete slab construction or top of wood flooring in wood frame construction.

Floor, lowest: The lowest floor of the lowest enclosed area (including, but not limited to, basement). An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage in an area other than a basement is not considered a building's lowest floor, provided such enclosure is not built to render the structure in

~~violation of the nonelevation design standards of Chapter 10. In Coastal High Hazard Areas, the lowest floor is considered the horizontal structure member of that floor.~~

*Floor, lowest:* The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24.

*Florida Building Code (FBC):* The family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

~~*Footings:* Relating to flood damage protection, this term means the enlarged base of a foundation wall, pier, or column, designed to spread the load of the structure so that it does not exceed the soil bearing capacity.~~

~~*Foundation walls:* Relating to flood damage protection, this means a support structure that connects the foundation to the main portion of the building or superstructure.~~

~~*Freeboard:* Relating to flood damage protection, this term means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.~~

~~*Functionally dependent use:* A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities. *and/or water dependent facility:* Relating to flood damage protection, this term means a use and/or facility that cannot be used for its intended purpose, unless it is located or carried out in close proximity to water, such as a docking or port use and facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities and uses.~~

~~*Grade, highest adjacent:* The highest natural elevation of the ground surface prior to construction next to the proposed walls of a building.~~

~~*Grade, slab on:* Relating to flood damage protection, this term means a structural design where the first floor sits directly on a poured concrete slab that sits directly on the ground.~~

~~*Historic structure:* Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings. Any structure that is:~~

- ~~(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;~~
- ~~(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;~~
- ~~(3) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or~~
- ~~(4) Individually listed on a local inventory of historic places in communities with historic preservation programs certified either:
 
  - ~~a. By an approved state program as determined by the Secretary of the Interior; or~~
  - ~~b. Directly by the Secretary of the Interior in states without approved programs.~~~~

~~*Improvement, substantial:* Any combination of repairs, reconstruction, rehabilitation, alteration, additions or improvements to a structure taking place ten years from the date of such action in which the cumulative cost equals or exceeds 50 percent of the market value before the start of construction of the improvement of the structure. This term~~

includes structures that have incurred "substantial damage", regardless of the actual repair work performed. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure. However, the term does not include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications identified by the Land Use Administrator and which are solely necessary to assure safe living conditions. This term does not include any alteration of a "historic structure", provided the alteration will not preclude the structure's continued designation as an "historic structure."

*Independent scientific body:* Relating to flood damage protection, this term means a nonfederal technical or scientific organization involved in the study of land use planning, floodplain management, hydrology, geology, geography, or any other related field of study concerned with flooding.

*Letter of Map Change (LOMC):* An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (1) *Letter of Map Amendment (LOMA):* An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (2) *Letter of Map Revision (LOMR):* A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (3) *Letter of Map Revision Based on Fill (LOMR-F):* A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (4) *Conditional Letter of Map Revision (CLOMR):* A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

*Levee:* Relating to flood damage protection, this term means a man-made structure; usually an earthen embankment designed and constructed in accordance with sound engineering practices to contain, control, or diverts the flow of water to provide protection from temporary flooding.

*Level of protection:* Relating to flood damage protection, this term means the greatest flood level against which a protective measure is designed to be fully effective.

*Light-duty truck:* As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of forty-five (45) square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than twelve (12) persons;  
or
- (3) Available with special features enabling off-street or off-highway operation and use.

*Loss, repetitive:* Relating to flood damage protection, this term means two flood-related losses within a ten-year period, when combined, must equal or exceed 50 percent of market value.

*Mangrove stand:* An assemblage of mangrove trees which is mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contain one or more of the following species: black mangrove (*Avicennia nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Longunculariacemosa*); and buttonwood (*Conocarpus erecta*).

*Manufactured home:* A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." A mobile home fabricated on or after June 15, 1976 in an off-site manufacturing facility for installation or assembly at the building site, which each section bears the insignia of the State Department of Community Affairs. A structure that is transportable in one or more sections and built on a permanent chassis designed to be used with a permanent foundation when connected to the required utilities. The term shall not include recreational vehicles. Relating to flood damage protection, the term means a building, transportable in one or more sections, built on a permanent chassis designed for use with or without a permanent foundation when connected to the required utilities. The term also includes park trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

*Manufactured home (mobile home) park/subdivision, existing:* Relating to flood damage protection, this term means a manufactured home (mobile home) park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes (mobile homes) are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before February 5, 1986 or standard based upon specific technical base flood elevation data which established the area of special flood hazard.

*Manufactured home/mobile home/park/subdivision, expansion to an existing:* Relating to flood damage protection, this term means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes (mobile homes) are to be affixed (including the minimum installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before February 5, 1986.

*Manufactured home/mobile home park/subdivision, new:* Relating to flood damage protection, this term is defined as a manufactured (mobile home) park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes (mobile homes) are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after February 5, 1986.

~~*Manufactured home/mobile home park/subdivision, substantially improved existing:* Where the repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equals or exceeds 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.~~

*Market value:* Relating to flood damage protection, this term means the Property Appraiser's 'Just Value' of the structure, excluding the land, or an appraisal of the structure by a qualified independent appraiser certified property appraiser. For the purposes of determining "substantial damage" per incident, the market value is the value prior to the damage occurring. For purposes of determining "substantial improvements", the market value is the value prior to the start of construction of each improvement.

*Market value:* The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

~~*Mean sea level:* The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain. Relating to flood damage protection, this term is synonymous with 'National Geodetic Vertical Datum' (NGVD).~~

~~*Mobile home:* A structure, transportable in one or more sections, which is eight body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. This structure is required to bear the insignia of the U.S. Department of Housing and Urban Development (HUD). Relating to flood damage protection, this term means a building that is transportable in one or more sections and built on a permanent chassis designed for use with or without a permanent foundation when connected to the required utilities. The term also includes~~



~~park trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.~~

~~*National Geodetic Vertical Datum (NGVD):* Relating to flood damage protection, this term means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.~~

~~*One hundred (100)-year flood elevation:* See *Base flood elevation*.~~

~~*Park trailer:* A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in section 320.01, F.S.]~~

~~*Post:* Relating to flood damage protection, this term means long upright support units for a building that are set in pre-dug holes and backfilled with compacted material. Each post usually requires bracing to other units. They are also known as columns, although they are usually made of wood.~~

~~*Primary frontal dune:* Relating to flood damage protection, this term means a continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.~~

~~*Recreational vehicle:* Relating to flood damage protection, this term means a vehicle that is:~~

- ~~(1) Built on a single chassis;~~
- ~~(2) Four hundred square feet or less when measured at the largest horizontal projection;~~
- ~~(3) Designed to be self-propelled or permanently towable by a light duty truck; and~~
- ~~(4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.~~

~~*Relocation:* Relating to flood damage protection, this term means the moving of a structure from a flood area to a new location, normally to one where there is not threat of flooding.~~

~~*Repetitive loss:* See *Loss, repetitive*.~~

~~*Retrofitting:* Relating to flood damage protection, this term means floodproofing measures taken on an existing structure.~~

~~*Riprap:* Relating to flood damage protection, this term means broken stone, cut stone blocks, or rubble placed on slopes to protect them from erosion or scouring caused by floodwaters or wave action.~~

~~*Riverine:* Relating to flood damage protection, this term means relating to, formed by, or resembling a river including, but not limited to, tributaries, stream, brook, etc.~~

~~*Runoff:* Relating to flood damage protection, this term means that portion of precipitation that is not intercepted by vegetation, absorbed by the land surface, or evaporated, and thus flows overland into a depression, stream, lake, or ocean (runoff, called immediate subsurface runoff, also takes place in the upper layers of the soil).~~

~~*Sand Dunes:* Naturally occurring accumulations of sand in ridges or mounds landward of the beach.~~

~~*Setback, 25-foot floodway:* The area between the outer boundary of the regulatory floodway associated with natural named wetland systems including, but not limited to Big Mulberry Branch and Bulow Creek shown on the FIRM and a line parallel thereto at a distance of 25 feet. The purpose of the 25-foot floodway setback is to minimize encroachments to protect floodplain storage and natural floodplain functions.~~

~~*Setback, 30-year:* Relating to flood damage protection, this term means a distance equal to 30 times the average annual long term recession rate at a site measured from the reference feature.~~

~~*Shallow flooding, areas of:* A designated AO, AH, AR/AO, AR/AH or VO Zone on a community's FIRM with a one percent or greater annual chance of flooding to an average depths of one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.~~

~~Sheet flow (area): See shallow flooding, areas of.~~

~~Slab on grade: See Grade, slab on.~~

~~Special flood hazard areas: The land in the flood plain within a community subject to a one percent or greater change of flooding in any given year. An area in the floodplain subject to a one (1) percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.~~

~~Start of construction: See Construction, start of.~~

~~Structure: Anything constructed, installed or portable, the use of which requires a location on a parcel of land, such as buildings, manufactured homes, mobile homes, fences, billboards, swimming pools, poles, pipelines, transmission lines, advertising signs, a gas or liquid storage tank, seawall, bulkhead, revetment, or other man-made facilities or infrastructure. Relating to flood damage protection, this term means a walled and roofed building, including, but not limited to, a gas or liquid storage tank that is principally above ground, including, but not limited to, a manufactured home and mobile home. For the purposes of Subsection 4.01.05—Residential Docking Facilities along Saltwater and Freshwater Canals (and Intracoastal Waterway, as applicable) and Section 4.16—Marinas, this term means anything constructed or otherwise located or operated on or over water, extended over water, or affixed to something that is or will be located on the ground and covered by water, or is located on land and is an essential part of the operation or an integral system of the marina such as, by way of example only, fuel and electrical systems.~~

~~Structure, existing and Building, existing: Relating to flood damage protection, this term means any structure or building for which the "start of construction" commenced before February 5, 1986 or standard based upon specific technical base flood elevation data that establishes the area of special flood hazard.~~

~~Substantial damage: Relating to flood damage protection, this term means damage of any origin including, but not limited to, a gas or liquid storage tank that is principally above ground including, but not limited to, a manufactured home and mobile home.~~

~~Substantial damage: Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.~~

~~Substantial improvement: Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a 10-year period, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the building or structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building is permitted subsequent to August 19, 2008. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:~~

- ~~(1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.~~
- ~~(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.~~

~~Substantial improvement: See Improvement, substantial.~~

~~Thirty (30)-year setback: See Setback, 30-year.~~

~~Variance, floodplain: Relating to flood damage protection, this term means a grant of relief from the requirements of this Section 10.02 or the flood resistant construction requirements of the Florida Building Code that permits construction in a manner otherwise prohibited by this Section 10.02 or the flood resistant construction requirements of the Florida Building Code where specific enforcement would result in unnecessary hardship.~~

~~Venting: Relating to flood damage protection, this term means a system designed to allow floodwaters to enter an enclosure, usually the interior of foundation walls, so that the rising water does not create a dangerous differential in~~

hydrostatic pressure. This is usually achieved through small openings in the wall, such as a missing or rotted brick, or concrete block, or small pipe.

*Violation, remedy a:* Relating to flood damage protection, this term means to bring the structure or other development into compliance with state or local floodplain management regulations or if this is not possible, to reduce the impacts of its noncompliance. Ways to reduce impact include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

*Water dependent facility:* A use and/or facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port use and facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long term storage, manufacture, sales or service facilities and uses.

*Watercourse:* A natural or artificial channel in which a flow of water occurs either continually or intermittently.

*Watershed:* Relating to flood damage protection, this term means an area that drains to a single point. In a natural basin, this is the area contributing flow to a given place or stream.

*Water table:* Relating to flood damage protection, this term means the uppermost zone of water saturation in the ground.

*Water surface elevation:* The height, in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) of 1988, or other datum specified on the Flood Insurance Rate Map (FIRM, of floods of various magnitudes and frequencies in the floodplains of coastal and riverine areas.

*Zone of imminent collapse:* Relating to flood damage protection, this term means an area subject to erosion adjacent to the shoreline of an ocean, bay, or lake and within a distance equal to ten feet plus five times the average annual long-term erosion rate for the site measured from the reference feature.

#### **SECTION 4. APPLICABILITY.**

For the purposes of jurisdictional applicability, this ordinance shall apply in the City of Palm Coast, Florida. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

#### **SECTION 5. INCLUSION INTO THE CODE OF ORDINANCES.**

It is the intent of the City Council of the City of Palm Coast that the provisions of this ordinance shall become and be made a part of the Palm Coast Code of Ordinances, and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

#### **SECTION 6. SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

#### **SECTION 7. EFFECTIVE DATE.**

This Ordinance shall become effective immediately upon its passage and adoption.

Approved on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Adopted on the second reading after due public notice and hearing this \_\_\_\_\_ day of \_\_\_\_\_  
2018.

**CITY OF PALM COAST, FLORIDA**

*ATTEST:*

\_\_\_\_\_  
MILISSA HOLLAND, MAYOR

\_\_\_\_\_  
VIRGINIA SMITH, CITY CLERK



**ORDINANCE 2018- \_\_\_\_\_**  
**AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES**

**AN ORDINANCE OF THE CITY OF PALM COAST, FLORIDA,  
AMENDING THE CITY’S CODE OF ORDINANCES, CHAPTER 15 –  
BUILDINGS AND BUILDING REGULATIONS ADOPTING LOCAL  
TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE;  
PROVIDING A FISCAL IMPACT STATEMENT; PROVIDING FOR  
SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR  
CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Legislature of the State of Florida has, in Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, the City of Palm Coast participates in the National Flood Insurance Program, adopting and administering floodplain management regulations in the Land Development Code; and

**WHEREAS**, Chapter 553, Florida Statutes, allows for local technical amendments to the *Florida Building Code* that provide for more stringent requirements than those specified in the Code and allows adoption of local technical amendments to the Florida Building Code to implement the National Flood Insurance Program and incentives; and

**WHEREAS**, the City Council, previously adopted requirements (1) to increase the minimum elevation requirement in high risk flood hazard areas; (2) to limit partitioning of enclosed areas below elevated buildings and to limit access to enclosed areas; (3) to require buildings that sustain repetitive flood damage over a 10-year period to be included in the definition of “substantial damage;” and (4) to require accumulation of costs of improvements and repairs of buildings, based on issued building permits, over a 10-year period, for the purpose of participating in the National Flood Insurance Program’s Community Rating System, and, pursuant to section 553.73(5), F.S., is formatting those requirement to coordinate with the *Florida Building Code*.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Palm Coast that the following local technical amendments to the *Florida Building Code*, are hereby adopted.

**SECTION 1. Chapter 15 – Buildings and Building Regulations is hereby amended to add local technical amendments to the *Florida Building Code*.**

**Sec. 15-28. – Technical Amendments to the Florida Building Code, Building**

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a 10-year period, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the building or structure before the improvement or repair is started. The period of accumulation begins when

the first improvement or repair of each building is permitted subsequent to August 19, 2008. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 202.]

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

**1612.4.2 Elevation requirements.** The minimum elevation requirements for coastal high hazard areas (Zone V) and Coastal A Zones shall be as specified in ASCE 24 or the base flood elevation plus 2 feet (610 mm), whichever is higher.

**1612.4.3 Additional requirements for enclosed areas.** In addition to the requirements of ASCE 24, enclosed areas below the design flood elevation shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators.

#### **Sec. 15-29. – Technical Amendments to the Florida Building Code, Existing Building**

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a 10-year period, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the building or structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building is permitted subsequent to August 19, 2008. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 202.]

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

#### **Sec. 15-30. – Technical Amendments to the Florida Building Code, Residential**

**R322.2.2 Enclosed areas below design flood elevation.** Enclosed areas, including crawl spaces, that are below the design flood elevation shall:

1. Be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators, unless a partition is required by the fire code. The limitation on partitions does not apply to load bearing walls interior to perimeter wall (crawl space) foundations. Access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance

equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator).

*Remainder unchanged*

### **R322.3.2 Elevation requirements.**

1. Buildings and structures erected within coastal high-hazard areas and Coastal A Zones, shall be elevated so that the bottom of the lowest horizontal structure members supporting the lowest floor, with the exception of pilings, pile caps, columns, grade beams and bracing, is elevated to or above the base flood elevation plus 2 feet ~~plus 1 foot (305 mm)~~ or the design flood elevation, whichever is higher.
2. Basement floors that are below grade on all sides are prohibited.
3. The use of fill for structural support is prohibited.
4. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
5. Walls and partitions enclosing areas below the design flood elevation shall meet the requirements of Sections R322.3.4 and R322.3.5.

**R322.3.4 Walls below design flood elevation.** Walls ~~and partitions~~ are permitted below the elevated floor, provided that such walls ~~and partitions~~ are not part of the structural support of the building or structure and:

1. Electrical, mechanical, and plumbing system components are not to be mounted on or penetrate through walls that are designed to break away under flood loads; and
2. Are constructed with insect screening or open lattice; or
3. Are designed to break away or collapse without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Such walls, framing and connections shall have a design safe loading resistance of not less than 10 (470 Pa) and no more than 20 pounds per square foot (958 Pa); or
4. Where wind loading values of this code exceed 20 pounds per square foot (958 Pa), the construction documents shall include documentation prepared and sealed by a registered design professional that:
  - 4.1. The walls ~~and partitions~~ below the design flood elevation have been designed to collapse from a water load less than that which would occur during the design flood.
  - 4.2. The elevated portion of the building and supporting foundation system have been designed to withstand the effects of wind and flood loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the design flood. Wind loading values used shall be those required by this code.

**R322.3.5 Enclosed areas below the design flood elevation.** Enclosed areas below the design flood elevation shall be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators, unless a partition is required by the fire code. Access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited

storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator).

**SECTION 2. FISCAL IMPACT STATEMENT.**

In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

**SECTION 3. APPLICABILITY.**

For the purposes of jurisdictional applicability, this ordinance shall apply to all applications for building permits in flood hazard areas submitted on or after the effective date.

**SECTION 4. INCLUSION INTO THE CODE OF ORDINANCES.**

It is the intent of the City Council that the provisions of this ordinance shall become and be made a part of the City of Palm Coast Code of Ordinances, and that the sections of this ordinance may be renumbered or relettered and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 5. SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

**SECTION 6. EFFECTIVE DATE.**

This Ordinance shall become effective immediately upon its passage and adoption.

Approved on first reading this \_\_\_\_ day of \_\_\_\_\_, 2018.

Adopted on the second reading after due public notice and hearing this \_\_\_\_ day of \_\_\_\_\_ 2018.

**CITY OF PALM COAST, FLORIDA**

*ATTEST:*

\_\_\_\_\_  
MILISSA HOLLAND, MAYOR

\_\_\_\_\_  
VIRGINIA SMITH, CITY CLERK