



City of Palm Coast

Agenda

Planning and Land Development Regulation Board

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

Chair Glenn Davis
Vice Chair Clinton Smith
Board Member Robert J. DeMaria
Board Member Sybil Dodson-Lucas
Board Member Christopher Dolney
Board Member Jake Scully
Board Member Charles Lemon
***Alternate Board Member Suzanne
Nicholson***
School Board Rep David Freeman

Wednesday, February 19, 2020

5:30 PM

City Hall

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.

>Public comment on issues on the agenda or public participation shall be limited to 3 minutes.

> All public comments shall be directed through the podium. All parties shall be respectful of other persons' ideas and opinions. Clapping, cheering, jeering, booing, catcalls, and other forms of disruptive behavior from the audience are not permitted.

>If any person decides to appeal a decision made by the Planning and Land Development Regulation Board with respect to any matter considered at such meeting or hearing, he/she may want a record of the proceedings, including all testimony and evidence upon which the appeal is to be based. To that end, such person will want to ensure that a verbatim record of the proceedings is made.

>If you wish to obtain more information regarding Planning and Land Development Regulation's Agenda, please contact the Community Development Department at 386-986-3736.

>In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's Office at 386-986-3713 at least 48 hours prior to the meeting.

>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.

Call to Order and Pledge of Allegiance

Roll Call and Determination of a Quorum

Approval of Meeting Minutes

1 MEETING MINUTES OF THE JANUARY 15, 2020 PLANNING AND LAND DEVELOPMENT REGULATION BOARD MEETING

Public Hearings

- 2 ORDINANCE 2020-XX, A ZONING MAP AMENDMENT FOR A 786+/- ACRE SUBJECT PROPERTY FROM FLAGLER COUNTY DESIGNATION OF AGRICULTURE TO CITY OF PALM COAST DESIGNATION OF MASTER PLANNED DEVELOPMENT ALONG WITH A DEVELOPMENT AGREEMENT**
- 3 ORDINANCE 2020-XX ESTABLISHING A TEMPORARY MORATORIUM ON REVIEW AND CONSIDERATION OF APPLICATIONS FOR APPROVAL OF SMALL BOX DISCOUNT STORES**

Board Discussion and Staff Issues

Adjournment

City of Palm Coast, Florida Agenda Item

Agenda Date: 2/19/2020

Department	PLANNING	Amount
Item Key	7716	Account
		#
Subject	MEETING MINUTES OF THE JANUARY 15, 2020 PLANNING AND LAND DEVELOPMENT REGULATION BOARD MEETING	
Background:		
Recommended Action:		
Approve the meeting minutes as presented.		



**City of Palm Coast
Minutes
Planning and Land
Development Regulation
Board**

City Hall
160 Lake Avenue
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www.palmcoastgov.com

***Chair Glenn Davis
Vice Chair Clinton Smith
Board Member Robert J. DeMaria
Board Member Sybil Dodson-
Lucas
Board Member Christopher Dolney
Board Member Jake Scully
Board Member Charles Lemon
Alternate Board Member Suzanne
Nicholson
Alternate Board Member Thomas
Oelsner
School Board Rep David Freeman***

Wednesday, January 15, 2020

5:30 PM

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A Call to Order and Pledge of Allegiance

Chair Davis called the January 15, 2020 meeting of the Planning and Land Development Regulation Board (PLDRB) to order at 5:30PM.

B Roll Call and Determination of a Quorum

Present and responding to roll call were:

*Vice Chair Smith
Mrs. Lucas
Mr. DeMaria
Mr. Scully
Chair Davis
Mr. Lemon
Mr. Oelsner
Ms. Nicholson*

*Excused were:
Mr. Dolney
Mr. Freeman*

C Approval of Meeting Minutes

1 MEETING MINUTES OF THE DECEMBER 4, 2019 PLANNING AND LAND DEVELOPMENT REGULATION BOARD MEETING

Pass

Motion made to approve as presented by Board Member DeMaria and seconded by Vice Chair Smith

Approved - 7 - Chair Glenn Davis, Board Member Robert DeMaria, Board Member Jake Scully, Vice Chair Clinton Smith, Board Member Sybil Dodson-Lucas, Alternate Board Member Thomas Oelsner, Board Member Charles Lemon

D Public Hearings

2 PRESENTATION - CLIMATE CHANGE AND SEA LEVEL RISE

Mr. Ray Tyner, Deputy Chief Development Officer, gave an introduction of this item to the PLDRB members and the public explaining the creation of the Beautification and Environmental Advisory Committee (BEAC) and their mission. He introduced Ms. Beth Dawson, Landscape Architect (liaison to the BEAC), who introduced the chair of the BEAC, Jeffrey Seib, who gave a presentation which is attached to these minutes.

Mr. Scully questioned Mr. Seib on the solutions presented for protection to the roads. Mr. Seib indicated that the studies suggest that raising the road base up higher in flood prone areas (known as road hardening) would minimize the effects of rising waters.

Mr. Oelsner indicated that he felt the 10 year time frame to implement solar is too far out. He recommended high use City owned buildings like City Hall and the waste water facilities move to solar as soon as feasible.

Mr. Lemon questioned the current City Council agenda regarding the recommended waste water plant upgrade and whether that plan includes any of the recommendation included in Mr. Seib's presentation. Mr. Tyner clarified that when it comes to waste water the City is regulated by the Department of Environment Protection (EPA), and by working with St. Johns River Water Managment District (SJRWMD) and the EPA on the City's consumptive use we are very agreeesive with our reuse program (used for rrigation).

Mrs. Lucas questioned the recommended "retrofitting" for home owners. Ms. Denise Bevan, City Administrator Coordinator, referenced the City's Green Incentives including Green Building Incentives and PACE (property accessed clean energy - through the County). Ms. Bevan also clarified that the City Hall building is Ledership in Energy and Enviromental Design (LEED) certified by the US Green Building Council. In addition the City of Palm Coast is certified at the Gold Level by the Florida Green Building Coalition.

Chair Davis mentioned that these issues involve building code, drainage systems, utilities, and wetland mitigation, therefore he recommended stringent policy changes for the City to enact.

Mrs. Lucas questioned what public education is happening within the City of Palm Coast.

Chair Davis opened this agenda item to public comment at 6:01PM.

Mr. Beier (member of the BEAC) addressed the PLDRB members and is in favor of implementing the recommendations as outlined by this presentation. He recommended the City implement more educational programs about what programs the City offers to address these concerns and he recommends that the City lead on these measures not just follow other (cities).

Chair Davis closed the public comment on this agenda item at 6:03PM.

Ms. Bevan addressed the PLDRB members about the Governor's recommendation for sea level rise introduced to the Florida Senate on the 13th, her understanding of the bill includes a concept of forming a task force as well as appointing a Resilience Office to address Sea Level Rise research. Mr. Tyner also added that Ms. Bevan has been involved with the Northeast Florida Planning Council on this same issue.

Mr. Tyner addressed the PLDRB members with the measures taken within the City of Palm Coast to modify our floodplain regulations (Ordinance) which looks to protect our floodplans. He futher mentioned that the City of Palm Coast has one of the highest ISO standards within the State of Florida for our floodplain program which results in significant flood insurance savings for our residents. He also commented on the City's Land Development Code (LDC) regulations that prevent a "critical facility" (i.e. fire station) being located in a floodplain. He also

referenced that the City's Comprehensive Plan also looks to protect our conservation areas which includes floodplain areas. Mr. Tyner also commented on the recent implementation of the State's stormwater regulations referred to as MS4.

Mr. Tyner asked the BEAC members to look into specific recommendations to address Climate Change and Sea Level rise within the City with regard to the LDC and the Comprehensive plan. He further asked them to look into educational opportunities about existing and proposed initiatives.

Mr. Scully questioned the City's involvement in aggressively pursuing grant monies. Mr. Tyner, explained historically the City had hired a Grant writing person unfortunately they did not have expertise in each City department (i.e. stormwater) so what the City now does is that the experts within each division now writes their own grant requests. Mr. Scully suggested that the City publicise that the City does aggressively pursues grant funding.

Chair Davis thanked the BEAC members for their presentation and welcomed them back in the future.

Received and Filed

E Board Discussion and Staff Issues

*Chair Davis welcomed and thanked the new PLDRB members:
Board Member Mr. Charles Lemon and Alternate Board Member Ms. Suzanne Nicholson.*

F Adjournment

Motion made that the meeting be adjourned by Mr. DeMaria and the motion was seconded by Mrs. Lucas. The meeting was adjourned at 6:15 PM.

*Respectfully Submitted by:
Irene Schaefer, Recording Secretary*

City of Palm Coast, Florida

Agenda Item

Agenda Date: 2/19/2020

Department	PLANNING	Amount
Item Key	7806	Account
		#
Subject	ORDINANCE 2020-XX, A ZONING MAP AMENDMENT FOR A 786+/- ACRE SUBJECT PROPERTY FROM FLAGLER COUNTY DESIGNATION OF AGRICULTURE TO CITY OF PALM COAST DESIGNATION OF MASTER PLANNED DEVELOPMENT ALONG WITH A DEVELOPMENT AGREEMENT	
<p>Background: This item is a request to rezone the subject property from Flagler County designation of Agriculture to City of Palm Coast zoning designation of Master Planned Development (MPD).The 786+/- acre subject is generally located about ½ mile south of State Road 100 on the east and west side of Old Kings Rd. Approximately 448+/- acres of the property is situated on the westside of Old Kings Rd. and 338+/- on the eastside of Old Kings Rd.</p> <p>The subject property was annexed into the City on June 2, 2009 (Ordinance 2009-13) along with an adjacent parcel. After annexation, the property owners applied for a Future Land Use Map (FLUM) amendment.</p> <p>The FLUM amendment designating the subject property as Mixed Use (591+/- acres), Greenbelt (74+/- acres), and Conservation (121+/- acres) was approved on July 6, 2010 (Ordinance #2010-08). In addition to the change in FLUM designation, the comprehensive plan amendment included a series of policies related to the subject property now called the South Old Kings Rd. (SOKR) Planning Area. The objective of these policies were to encourage responsible development of the planning area by requiring reasonable protection of the Area's natural, cultural, and environmental resources, the City residents quality of life, and the City's infrastructure.</p> <p>Some of the site specific policies for the property include a maximum development of 2,500 dwelling units and 2,500,000 sq. ft. of non-residential uses for the entire subject area, limiting development east of Old Kings Rd. to low-medium density, and policies to protect unique habitat, historical and cultural resources, and wetlands that serve the ecological function of Bulow Creek, an area identified as part of the Flagler County Blueway Project associated with the Florida Forever land acquisition initiative.</p> <p>Subsequently on July 2014, the property owners applied for a Development of Regional Impact (DRI) approval. The application proceeded through the statutory process for review including the drafting of a development order. Consistent with the DRI review process, the South Old Kings Rd. DRI review provided an opportunity for various review agencies to identify items of concern and an opportunity to resolve outstanding issues with the applicant. Major topics covered as part of the review included:</p> <ul style="list-style-type: none">• environmental impacts (wetland protection, habitat protection, water quality, air quality),• floodplains,		

- infrastructure (water supply, wastewater treatment, stormwater treatment, roads),
- governmental services (police/fire, education, recreation/open space) and
- protection of historical, cultural and archaeological sites.

The following agencies reviewed and provided comments during the DRI review process:

- Northeast Florida Regional Council (NEFRC),
- Florida Department of Transportation (FDOT),
- St. Johns River Water Management District (SJRWMD),
- Florida Department of Environmental Protection (FDEP),
- Bureau of Historic Preservation within the Florida Department of State (DOS),
- Flagler County,
- Flagler County School District,
- Flagler County Sheriff's Office, and
- Department of Economic Opportunity (FDEO).

As provided in the DRI process, the Northeast Florida Regional Council (NEFRC) prepared a Regional Recommendation Report which was approved by the NEFRC Board on August 6, 2015. At the conclusion of the review, a DO was drafted which included special conditions which outline major topics and provide for the orderly implementation of the DRI.

During the process of finalizing the DRI-Development Order, Florida Statutes governing DRIs were amended. The applicant subsequently withdrew the DRI application but proceeded with the rezoning application. Although the DRI application was withdrawn it is important to note that the contents of the DRI-DO including the approval conditions have been incorporated into the proposed Master Planned Development – Development Agreement (MPD-DA) associated with the proposed zoning designation. As part of the analysis the City reviewed the proposed Development Agreement for consistency with the Comprehensive Plan.

The proposed MPD-DA proposes a development program of 2,246 residential dwelling units, and 1,721,834 sq. ft. of commerce/non-residential use. In addition to the development program above, the proposed MPD-DA includes a Conceptual Master Plan (this mirrors the Development Plan Map provided with the DRI). The Conceptual Master Plan reflects the expected development pattern for the project.

Note that the original size of the subject property was 794+/- acres, in 2019 the property owner sold a 7+/- acre parcel to Flagler Palms Cemetery reducing the size of the subject area to 786+/- acre.

Analysis:

The proposed zoning map amendment along with its accompanying development agreement was reviewed for consistency with the Comprehensive Plan and the criteria established in the Land Development Code for a zoning map amendment.

- Consistency with the Comprehensive Plan – The amendment provides for consistency with various policies within the Comprehensive Plan such as addressing impacts to infrastructure, creating employment centers and jobs, promoting opportunities to provide housing opportunities near services; and promoting diversity in housing opportunities. Staff's

analysis does highlight an inconsistency with the Comprehensive Plan based on the following:

Policy 1.1.9.3, "To promote onsite ecological enhancements, biodiversity, and ensure appropriate lands east of Old Kings Road designated as Greenbelt are protected in perpetuity, preservation areas shall include: (1) unique habitat (unique topographical reliefs, hardwood hammocks, xeric or sandhill communities), (2) historical and cultural resources, and (3) wetlands that serve the ecological function of Bulow Creek. The Master Planned Development (MPD) process shall be utilized to facilitate this requirement".

The Applicant has taken significant strides to protect numerous resources within this policy; however, "unique topographical reliefs", "xeric or sandhill communities" and three cultural sites have not been sufficiently addressed. As depicted in Exhibit D of the Development Agreement, the proposed preservation areas set forth primarily focuses on wetland mitigation but does incorporate elements of the policy.

- **Hardwood hammocks:**
Within past DRI Sufficiency response(s), planning area E-15 measuring approximately 16.17 acres has been referenced as the largest concentration of specimen and historic trees; this area has been proposed as preservation for 11.05 acres. Further, the "Sandhill Assessment" completed by Carter Environmental Services, Inc. dated August 15, 2019 details that 66.11 acres of Temperate Hardwood vegetative community type exists onsite. To ensure that additional lands associated with hardwood hammocks are identified, Section 13(g) of the Development Agreement states that "prior to obtaining Preliminary Plat Approval or Site Plan Approval on a given tract or parcel, the Owner shall submit an acceptable tree survey for that tract or parcel".
- **Wetlands serving Bulow Creek:**
Section 13(f) of the Development Agreement states that the applicant shall preserve up to 263.17 acres, designated as Environmental on the Preliminary Master Plan (Exhibit "B"), to be protected by perpetual conservation easements granted to the appropriate regulatory agency. During project permitting, and prior to development activities, a Greenway Management Plan, or its functional equivalent, shall be in place, that, at a minimum, addresses: 1) wildlife habitat and hydrological assurances via conservation easements or other viable long-term management agreements with appropriate entities as approved by the St. Johns River Water Management District and/or the Army Corps of Engineers; 3) recreation activities and cultural resource protection.

Section 14(b) of the Development Agreement states that all onsite preserved wetlands will have 50' wide undisturbed upland buffers.

Section 19 of the Development Agreement requires that the project shall meet all water quality and stormwater management standards as regulated by the St. Johns River Water Management District. Higher performance standards are required pursuant to Bulow Creek being designated an Outstanding Florida Water.

- **Historical and cultural resources:**
Section 28 of the Development Agreement provides the protection of the "Kings Road Mound" site located in Tract E16; however, additional resources (8FL155 The Old Dixie Highway and 8FL920 Cassey Hammock) were identified in Dr. Dana Ste. Claire's

report that may be eligible for the National Register of Historic Places. Through DRI sufficiency response(s), the Applicant committed to the increase awareness for the four cultural resources sites, 8FL001 The Kings Mound, 8FL155 The Old Dixie Highway, 8FL920 Cassey Hammock, 8FL921 Quarry House, by installing a commemorative sign that includes a map of the four sites.

- Unique topographical reliefs:

The Kings Mound historical site that measures approximately 2.69 acres, is situated at the southern terminus of a sandhill ridge. At this location, the elevation change ranges from 41' to 7' contiguous with wetlands associated with Bulow Creek. The referenced ridge is considered a unique feature to Flagler County as noted in the August 15, 2019 "Sandhill Assessment" Carter Environmental Services. In the report, the ridge is estimated at 17.38 acres. The City of Palm Coast estimate is approximately 25 acres without interruption of the feature along its entire extent. The report states that insufficient habitat to support the function of a sandhill habitat type will exist in a post-development setting. However, the findings do not consider adding additional sandhill area to the preservation extent. As noted in staff analysis, the ridge, contiguous sandhill habitat, and land management would in fact provide sufficient function to support various protected species. Through the Applicant's proposed Mitigation Plan (Exhibit D to the Development Agreement), land management including prescription burning has been recognized as activities to be conducted with the proposed 263.17 protection area detailed as Environmental on the Preliminary Master Plan (Exhibit "B").

- Xeric or Sandhill communities:

Sandhill and scrub habitats are considered imperiled and vulnerable to numerous threats including land conversion, habitat fragmentation, and fire suppression that could create heavy fuel loads and suppress flora and fauna recruitment. The area between Old Kings Road to the Bulow Creek tributary wetlands is a combination of sandhill to a scrub community that coincides with the ridge. As a result of past timbering activities, the ridge now supports the natural generation of plants that align with a scrub habitat type. These conditions were observed during a March 2018 site visit conducted by City staff and Ryan Carter, project environmental consultant. As reflected in the unique undulating landscape form, the ridge is also a reminder of the historical retreat of ocean waters; the ridge is a relic beach dune and served as a supporting resource to early inhabitants and settlers of the area. Within the August 15, 2019 "Sandhill Assessment" report, the overall preservation of sandhill is estimated at 15% (2.69 acres) and clearly not sustainable per the consultant's argument. By staff's analysis, a total of 40 acres would be sufficient area combined with land management to support listed species that include, but not limited to gopher tortoise, eastern indigo snake, Florida pine snake, and Florida scrub-jay. (An analysis of the Sandhill Ridge is provided as an attachment in the agenda package).

Staff finds the application to be consistent with criteria established in the Land Development Code (LDC) based on the following:

- The proposed MPD-DA includes conditions to mitigate the proposed development's impacts on the City's infrastructure (water/sewer, and parks), as well as schools and roads, additionally, the MPD-DA includes conditions to address impacts to police/fire service.
- The proposed MPD-DA includes conditions that mitigate the development's impacts on the

environmental resources (wetlands, floodplains) and the archaeological and historical resource within the subject property, however, staff has also identified an inconsistency between the subject property's development area and the Comprehensive Plan. This inconsistency is discussed further below.

- The proposed development pattern within the MPD-DA takes into the account the existing conditions adjacent to the subject property. Located between Interstate-95 to the west and Bulow Creek area to the east, the proposed development plan proposes to mitigate its development impacts by directing more intense uses to the west (adjacent to I-95) and less intense uses (low to medium density uses) including mitigation activities to the east (adjacent to Bulow Creek), however, as previously stated the proposed development area on the eastside of Old Kings Rd. is inconsistent with the Comprehensive Plan as discussed below.

Recommended Action: Staff is recommending the following amendments to the South Old Kings Rd. MPD-Development Agreement:

1. Amend Exhibit B - Master Plan Development Map to designate the sandhill ridge as "Environmental", designation as "Environmental" will limit its uses to those permitted by the City's Land Development Code zoning designation of Parks and Greenways, Preservation, and Public/Semipublic.
2. Delete Public/Semipublic, and Parks & Greenway Uses from areas identified as "Environmental" on the Master Development Plan map.
3. Amend Section 28 to recognize the applicant's commitment to increase awareness of the four cultural resources sites, 8FL001 The Kings Mound, 8FL155 The Old Dixie Highway, 8FL920 Cassey Hammock, 8FL921 Quarry House, by installing a commemorative sign that includes a map of the four sites. Additionally, resources, 8FL155 The Old Dixie Highway and 8FL920 Cassey Hammock were identified in Dr. Dana Ste. Claire's report and may be eligible for the National Register of Historic Places. Section 26(b) to be amended to include cultural resources in a trail plan as practicable. Additionally, Section 29 is amended to restrict timbering in vicinity of cultural resources.
4. Based on comments from the Flagler County School District amend Section 27. Education as follows:
 - (a) *Developer to donate approximately 15 acres of buildable property adjacent to the south north/northeast of Old Kings Elementary School prior to the first residential Final Plat approval or Site Plan approval 9 months after final approval of the MPD Development Agreement.*
 -
 - (e) *Developer to provide a two-way access roadway directly to State Road 100 from the parcel conveyed to FCSD.*
 - i. *Location and alignment of roadway to be finalized during future discussions prior to acceptance of parcel.*
5. Amending Section 3(b) to note that "The maximum height in the MPD shall be restricted to the height limit established for the zoning designation in the LDC or 60' whichever is less".

6. Amend Section 22(d) as follows: ~~In the event Developer fails to commence development activities (including but not limited to, filing a site plan or preliminary plat application), Developer shall revise the existing DRI Traffic analysis. The Developer shall provide an updated Traffic analysis as part of the first project submittal for Phase 1.~~



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
STAFF REPORT FOR APPLICATION NO. 3289
PLANNING AND LAND DEVELOPMENT REGULATION BOARD
Feb. 19, 2020**

OVERVIEW

Application Number: 3289

Applicant/Property Owner: Bulow Creek, LLC

Site Location: The property is generally located Old 3,000' south of State Road 100 and extends southward along both sides of Old Kings Road for approximately 2.0 miles.

Real Estate ID #: Attached

Project Name: South Old Kings Road Master Planned Development

Current FLUM designation: Mixed Use, Greenbelt, and Conservation

Current Zoning designations: Agriculture (Flagler County Designation)

Current Use: Vacant, Silvicultural uses

Prior Approvals: Future Land Use Map Amendment (FLUM): Adopted July 6, 2010 (Ordinance # 2010-08)

Total Acreage: 786 +/- acres

Staff Recommendation: Staff is recommending the following amendments to the proposed MPD-Development Agreement

1. Amend Exhibit B - Master Plan Development Map to designate the sandhill ridge as "Environmental", designation as "Environmental" will limit its uses to those permitted by the City's Land Development Code zoning designation of Parks and Greenways, Preservation, and Public/Semipublic.
2. Delete Public/Semipublic, and Parks & Greenway Uses from areas identified as "Environmental" on the Master Development Plan map.
3. Amend Section 28 to recognize the applicant's commitment to increase awareness of the four cultural resources sites, 8FL001 The Kings Mound, 8FL155 The Old Dixie Highway, 8FL920 Cassey Hammock, 8FL921 Quarry House, by installing a commemorative sign that includes a map of the four sites. Additionally, resources, 8FL155 The Old Dixie Highway and 8FL920 Cassey Hammock were identified in Dr. Dana Ste. Claire's report and may be eligible for the National Register of Historic Places. Section 26(b) to be amended

to include cultural resources in a trail plan as practicable. Additionally, Section 29 is amended to restrict timbering in vicinity of cultural resources.

4. Based on comments from the Flagler County School District amend Section 27. Education as follows:

(a) Developer to donate approximately 15 acres of buildable property adjacent to the south north/northeast of Old Kings Elementary School prior to the first residential Final Plat approval or Site Plan approval 9 months after final approval of the MPD Development Agreement.

.....

(e) Developer to provide a two-way access roadway directly to State Road 100 from the parcel conveyed to FCSD.

i. Location and alignment of roadway to be finalized during future discussions. prior to acceptance of parcel.

5. Amending Section 3(b) to note that "The maximum height in the MPD shall be restricted to the height limit established for the zoning designation in the LDC or 60' whichever is less".
6. Amend Section 22(d) as follows: In the event Developer fails to commence development activities (including but not limited to, filing a site plan or preliminary plat application), Developer shall revise the existing DRI Traffic analysis. The Developer shall provide an updated Traffic analysis as part of the first project submittal for Phase 1.

REQUESTED ACTION

Application Type: Rezone 786+/- acres of land designated Agriculture (Flagler County designation) to Master Planned Development (MPD) District with an associated Development Agreement consistent with the approved residential and non-residential entitlements and distribution of land uses previously identified as part of the Development of Regional Impact (DRI) Review for the subject parcel.

Requested Action: Planning and Land Development Regulation Board recommendation to City Council regarding request to amend zoning designation along with companion Master Plan Development Agreement for subject property.

PUBLIC PARTICIPATION

Land Development Code (LDC) Section 2.05.02 Neighborhood Meeting Requirements

The applicant hosted a Neighborhood Informational Meeting on February 12, 2020 regarding the proposed application.

Land Development Code (LDC) Section 2.05.03. Public Hearing Notice Requirements

As required by the LDC, the applicant has posted signs on the subject property with a notification of the PLDRB public hearing as well as the upcoming City Council public hearings.

BACKGROUND /SITE HISTORY

The 786+/- acre subject property known as the South Old Kings Road Master Planned Development (SOKR-MPD) is generally located about ½ mile south of State Road 100 on the east and west sides of Old Kings Rd. Approximately 448+/- acres of the property is situated on the west side of Old Kings Rd. and 338+/- on the east side of Old Kings Rd.

The subject property was annexed into the City on June 2, 2009 (Ordinance 2009-13). After annexation, the property owners applied for a Future Land Use Map (FLUM) amendment.

A FLUM amendment designating the subject property Mixed Use (591+/- acres), Greenbelt (74+/- acres), and Conservation (121+/- acres) was approved on July 6, 2010 (Ordinance #2010-08). In addition to the change in FLUM designation, the comprehensive plan amendment included a series of policies related to the South Old Kings Rd. (SOKR) Planning Area. The objective of these policies was to encourage responsible development of the Planning Area by requiring reasonable protection of the Planning Area's natural, cultural, and environmental resources, City residents' quality of life, and the City's infrastructure.

Some of the site specific policies for the property include a maximum development of 2,500 dwelling units and 2,500,000 sq. ft. of non-residential uses for the entire subject area, limiting development east of Old Kings Rd. to low-medium density, and policies to protect unique habitat, historical and cultural resources, and wetlands; that serve the ecological function of Bulow Creek, an area identified as part of the Flagler County Blueway Project associated with the Florida Forever land acquisition initiative.

In July 2014, the property owners applied for a Development of Regional Impact (DRI) approval. The application proceeded through the statutory process for review including the drafting of a development order. Consistent with the DRI review process, the South Old Kings Rd. DRI review provided an opportunity for the developer and review agencies to resolve any outstanding issues with the DRI project. Major topics covered as part of the review included:

- environmental impacts (wetland protection, habitat protection, water quality, and air quality),
- floodplains,
- infrastructure (water supply, wastewater treatment, stormwater treatment, and roads),
- governmental services (police/fire, education, and recreation/open space), and
- protection of historical, cultural and archaeological sites.

The following agencies reviewed and provided comments during the DRI review process:

- Northeast Florida Regional Council (NEFRC),
- Florida Department of Transportation (FDOT),
- St. Johns River Water Management District (SJRWMD),
- Florida Department of Environmental Protection (FDEP),
- Bureau of Historic Preservation within the Florida Department of State (DOS),
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- Flagler County School District,
- Flagler County Sheriff's Office, and
- Department of Economic Opportunity (FDEO).

The Northeast Florida Regional Council (NEFRC) prepared a Regional Recommendation Report which was approved by the NEFRC Board on August 6, 2015. At the conclusion of the review, a DO was drafted which included special conditions which outlined major topics and provided for the orderly implementation of the DRI.

During the process of finalizing the DRI-Development Order, the Florida Statutes governing DRIs were amended. The applicant subsequently withdrew the DRI application, although the DRI application was withdrawn it is important to note that the contents of the DRI-DO including the approval conditions have been incorporated into the proposed Master Planned Development – Development Agreement (MPD-DA) associated with the proposed zoning designation. As part of the analysis the City reviewed the proposed Development Agreement for consistency with the Comprehensive Plan.

Consistent with the DRI proposal, the proposed MPD-DA proposes a development program of 2,246 residential dwelling units, and 1,721,834 sq. ft. of commerce/non-residential use. In addition to the development program above, the proposed MPD-DA includes a Master Development Plan Map which mirrors the Development Plan Map provided with the DRI. The Master Development Plan Map reflects the expected development pattern for the project.

Note that the original size of the subject property was 794+/- acres and in 2019, the property owner sold a 7+/- acre parcel to Flagler Palms Cemetery reducing the size of the subject area to 786+/- acres.

ANALYSIS

FUTURE LAND USE AND ZONING INFORMATION

The following table summarizes the general existing and proposed land use and zoning information:

USE SUMMARY TABLE:

CATEGORY:	EXISTING:	PROPOSED:
Future Land Use Map (FLUM)	Mixed Use, Greenbelt, Conservation	No proposed change
Zoning District	Agriculture (Flagler County Designation)	Master Planned Development (MPD)
Use	Vacant, silviculture uses	Mixed use residential, non-residential, open space and preservation
Acreage	786 +/-	786 +/-

SURROUNDING LAND USES AND COMPATIBILITY:

North: FLUM: Institutional and Mixed Use

Zoning: General Commercial (COM-2), Public/Semi-Public & Multi-family Residential (MFR-2)

South: FLUM: Agriculture & Timberlands, Low-Density Residential (Flagler County designation)

Zoning: Agriculture (Flagler County designation)

East: FLUM: Agriculture & Timberlands, and Conservation (Flagler County designation)

Zoning: Agriculture (Flagler County designation)

West: FLUM & Zoning: Interstate - 95

INFRASTRUCTURE AND CONCURRENCY EVALUATION

Water and Wastewater

Pursuant to prior written agreement, the City will construct a potable water supply line along Old Kings Road (OKR) to serve the property. Additional improvements for distribution lines will be subject to a utility agreement which shall be executed prior to the first preliminary plat or site plan approval. The utility agreement shall cover

the provision of central sewer service to the project area. When the Comprehensive Plan was updated in 2010 the expected impact of potential development in the subject area was taken into account as part of the Water Supply Facilities Work Plan (WSFWP) which is developed in coordination with the St. Johns River Water Management District (SJRWMD). The City updated its WSFWP most recently in 2018, the plan provides an outlook on the expected water demand and includes an identification of water supply source and needed capital improvements to serve the demand.

Transportation

The project is proposed to be developed in phases. The applicant will dedicate right-of-way, construct improvements, and/or make cash payments to mitigate for regional transportation impacts. In Phase 1, the developer shall be required to construct intersection improvements at SR100 and Old Kings Rd. Such improvement shall be completed prior to Phase II.

Additionally, staff is recommending that an updated traffic impact study be completed as part of the commencement of Phase 1. As required in the Development Agreement, the applicant will be required to provide a traffic impact study prior to each subsequent Phase.

It is important to note that this MPD is subject to concurrency and that development may only continue if adequate transportation facilities are available or that provisions are made to address deficiencies in the transportation facilities.

Recreation and Open Space

The developer will contribute a minimum of 43.12 acres of recreation and open space.

Education

Based on negotiations between the Flagler County School District and the applicant. The applicant will be required to provide a combination of land and other concessions to fulfill their concurrency requirements.

ANALYSIS BASED ON UNIFIED LAND DEVELOPMENT CODE CHAPTER 2, SECTION 2.05.05 (Development Order)

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

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

Staff Finding: The subject property has been reviewed by various state agencies through the Comprehensive Plan Amendment process and the DRI review process as cited in the **Background/Site History** section. The proposed MPD rezoning and companion "Conceptual Master Plan Development Agreement" (Development Agreement) is consistent with the established development parameters reviewed during the DRI process wherein comprehensive measures are outlined to insure that the development is not in conflict with or contrary to the public interest. The MPD and Development Agreement is consistent with the development conditions identified during the process and will not be contrary to public interest.

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

Staff Finding: The proposed development agreement is not consistent with Comprehensive Plan Policy 1.1.9.3, "To promote onsite ecological enhancements, biodiversity, and ensure appropriate lands east of Old Kings Road designated as Greenbelt are protected in perpetuity, preservation areas shall include: (1) unique habitat (unique topographical reliefs, hardwood hammocks, xeric or sandhill communities), (2) historical and cultural resources,

and (3) wetlands that serve the ecological function of Bulow Creek. The Master Planned Development (MPD) process shall be utilized to facilitate this requirement”.

As referenced in Ordinance 2010-08, “The Planning Area is in a unique location that has both environmentally and culturally significant resources as well as including parcels that are conducive for economic development due to their proximity to the airport. Environmentally, portions of the Planning Area are located within the headwaters of Bulow Creek and is identified as part of the Flagler County Blueway Project, managed by the Florida Department of Environmental Protection (FDEP). The Flagler County Blueway is listed in the Florida Forever land acquisition program as Group A priority acquisition. The Group A list are projects with the highest priority for acquisition under the Florida Forever Program.”

Since adoption of the site specific policies in 2010, numerous assessments and site inspections have been conducted to further define the nature and extent of onsite resources. Through these efforts, the applicant has delineated the development footprint and onsite preservation areas. By applying Policy 1.1.9.3, the preservation areas do provide significant protection and enhancement of ecological function but do not encompass all resources of critical concern. As currently proposed, the development area encroaches into a sandhill community located along Tracts E1, E2, and E5. Also, cultural resources that have potential to be listed on the National Register of Historic Places are not addressed within the Development Agreement.

The proposed development is generally consistent with the Comprehensive Plan and the provision of the Land Development Code, but is inconsistent with Policy 1.1.9.3. A matrix is provided as an attachment to provide additional information regarding the proposed zoning change’s consistency/inconsistency with the Comprehensive Plan.

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

Staff Finding: All impacts and Level of Service (LOS) Standards related to utilities, schools, parks, recreation facilities, transportation, stormwater, police and fire protection are specifically addressed and accounted for in the MPD-DA. The proposed MPD-DA outlines developer commitments for contributions such as land for parks, school and fire/police substation and in certain instances, proportionate share contributions and obligations (e.g. transportation, water and sewer).

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 SOKR MPD-DA which will govern the development within the project boundaries provides for conditions and development standards to protect the health, welfare and safety of the community. These include conditions and development standards to mitigate impacts on wildlife, wetlands, water quality, cultural resources, and infrastructure (roads, water, sewer, parks, stormwater, etc.).

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

Staff Finding: As previously stated, the proposed rezoning was previously reviewed by various state agencies through the Comprehensive Plan Amendment process and the DRI review process. The proposed development contemplated within the MPD-DA is not exempt from all other applicable local, state, and federal laws, statutes, ordinances, regulations, or codes.

ANALYSIS BASED ON UNIFIED LAND DEVELOPMENT CODE CHAPTER 2, SECTION 2.06.03 (Official Zoning Map Amendment: Review Findings)

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

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

Staff Finding: The rezoning request to Master Planned Development (MPD) includes a “Conceptual Master Plan Development Agreement” and “Conceptual MPD Site Plan” which are generally consistent with the Comprehensive Plan and are subject to the conditions developed as part of the DRI process for the subject property.

As noted in previous sections, policies were adopted to encourage responsible development of the Planning Area by requiring reasonable protection of the Planning Area’s natural, cultural, and environmental resources, City residents’ quality of life, and the City’s infrastructure. Staff conducted a review of submittal documentation over the course of the project while cross-referencing the standards detailed in the Development Agreement. The goal of the analysis was to ensure that all of the twenty-one policies (applicable to the South Old Kings Road MPD) have been adequately addressed at this time.

Based on this analysis, the rezoning is not consistent with the following policy.

Policy 1.1.9.3, "To promote onsite ecological enhancements, biodiversity, and ensure appropriate lands east of Old Kings Road designated as Greenbelt are protected in perpetuity, preservation areas shall include: (1) unique habitat (unique topographical reliefs, hardwood hammocks, xeric or sandhill communities), (2) historical and cultural resources, and (3) wetlands that serve the ecological function of Bulow Creek. The Master Planned Development (MPD) process shall be utilized to facilitate this requirement”.

The Applicant has taken significant strides to protect numerous resources within this policy; however, “unique topographical reliefs”, “xeric or sandhill communities” and three cultural sites have not been sufficiently addressed. As depicted in Exhibit D of the Development Agreement, the proposed preservation areas set forth primarily focus on wetland mitigation and does not incorporate all elements of the policy.

- **Hardwood hammocks:**
Within past DRI Sufficiency response(s), planning area E-15 measuring approximately 16.17 acres has been referenced as the largest concentration of specimen and historic trees; this area has been proposed as preservation for 11.05 acres. Further, the “Sandhill Assessment” completed by Carter Environmental Services, Inc. dated August 15, 2019, details that 66.11 acres of Temperate Hardwood vegetative community type exists onsite. To ensure that additional lands associated with hardwood hammocks are identified, Section 13(g) of the Development Agreement states that “prior to obtaining Preliminary Plat Approval or Site Plan Approval on a given tract or parcel, the Owner shall submit an acceptable tree survey for that tract or parcel.
- **Wetlands serving Bulow Creek:**
Section 13(f) of the Development Agreement states that the applicant shall preserve up to 263.17 acres, designated as Environmental on the Preliminary Master Plan (Exhibit “B”), to be protected by perpetual conservation easements granted to the appropriate regulatory agency. During project permitting, and prior to development activities, a Greenway Management Plan, or its functional equivalent, shall be in place, that, at a minimum, addresses: 1) wildlife habitat and hydrological assurances via conservation easements or other viable long-term management agreements with appropriate entities as approved by the St. Johns River Water Management District and/or the Army Corps of Engineers; 3) recreation activities and cultural resource protection.

Section 14(b) of the Development Agreement states that all onsite preserved wetlands will have 50’ wide undisturbed upland buffers.

Section 19 of the Development Agreement requires that the project shall meet all water quality and stormwater management standards as regulated by the St. Johns River Water Management District. Higher performance standards are required pursuant to Bulow Creek being designated an Outstanding Florida Water.

- **Historical and cultural resources:**
Section 28 of the Development Agreement provides the protection of the “Kings Road Mound” site located in Tract E16; however, additional resources (8FL155 The Old Dixie Highway and 8FL920 Cassey Hammock) were identified in Dr. Dana Ste. Claire’s report that may be eligible for the National Register of Historic Places. Through DRI sufficiency response(s), the Applicant committed to the increase awareness for the four cultural resources sites, 8FL001 The Kings Mound, 8FL155 The Old Dixie Highway, 8FL920 Cassey Hammock, 8FL921 Quarry House, by installing a commemorative sign that includes a map of the four sites.
- **Unique topographical reliefs:**
The Kings Mound historical site that measures approximately 2.69 acres, is situated at the southern terminus of a sandhill ridge. At this location, the elevation change ranges from 41’ to 7’ contiguous with wetlands associated with Bulow Creek. The referenced ridge is considered a unique feature to Flagler County as noted in the August 15, 2019 “Sandhill Assessment” Carter Environmental Services. In the report, the ridge is estimated at 17.38 acres. The City of Palm Coast estimate is approximately 25 acres without interruption of the feature along its entire extent. The report states that insufficient habitat to support the function of a sandhill habitat type will exist in a post-development setting. However, the findings do not consider adding additional sandhill area to the preservation extent. As noted in staff analysis, the ridge, contiguous sandhill habitat, and land management would in fact provide sufficient function to support various protected species. Through the Applicant’s proposed Mitigation Plan (Exhibit D to the Development Agreement), land management including prescription burning has been recognized as activities to be conducted with the proposed 263.17 protection area detailed as Environmental on the Preliminary Master Plan (Exhibit “B”).
- **Xeric or Sandhill communities:**
Sandhill and scrub habitats are considered imperiled and vulnerable to numerous threats including land conversion, habitat fragmentation, and fire suppression that could create heavy fuel loads and suppress flora and fauna recruitment. The area between Old Kings Road to the Bulow Creek tributary wetlands is a combination sandhill and scrub community that coincides with the ridge. As a result of past timbering activities, the ridge now supports the natural generation of plants that align with a scrub habitat type. These conditions were observed during a March 2018 site visit conducted by City staff and Ryan Carter, project environmental consultant. As reflected in the unique undulating landscape form, the ridge is also a reminder of the historical retreat of ocean waters; the ridge is a relic beach dune and served as a supporting resource to early inhabitants and settlers of the area. Within the August 15, 2019 “Sandhill Assessment” report, the overall preservation of sandhill is estimated at 15% (2.69 acres) and clearly not sustainable per the consultant’s argument. By staff’s analysis, a total of 40 acres would be sufficient area combined with land management to support listed species that include, but are not limited to gopher tortoise, eastern indigo snake, Florida pine snake, and Florida scrub-jay.

Recommendation: Staff is recommending the following conditions to bring consistency between the Comprehensive Plan and the MPD:

1. Protection of the sandhill ridge through designation as “Environmental” on the Master Development Plan Map, designation as “Environmental” will limit its uses to those permitted by the City’s Land Development Code zoning designation of Parks and Greenways, Preservation, and Public/Semipublic.
2. Amend Section 28 to recognize the applicant’s commitment to increase awareness of the four cultural resources sites, 8FL001 The Kings Mound, 8FL155 The Old Dixie Highway, 8FL920 Cassey

Hammock, 8FL921 Quarry House, by installing a commemorative sign that includes a map of the four sites. Additionally, resources, 8FL155 The Old Dixie Highway and 8FL920 Cassey Hammock were identified in Dr. Dana Ste. Claire's report and may be eligible for the National Register of Historic Places

B. Its impact upon the environment or natural resources.

Staff Finding: The impact upon the environment and natural resources were reviewed in depth during the SOKR DRI review process. The outcome provided specific DRI-DO conditions which are summarized as follows:

Vegetation and Wildlife:

- (a) **Conserved Areas.** 263+/- acres will be protected by perpetual conservation easements to be granted to the appropriate regulatory agency. Prior to development activities, a Greenway Management Plan or its functional equivalent will be completed. The Greenway Management Plan at a minimum will address: 1) wildlife habitat and hydrological actions that result in improved habitat quality; 2) long-term conservation assurances via conservation easements, and 3) recreation activities and cultural resource protection.
- (b) **Wetlands.** 50 foot upland buffer adjacent to onsite preserved wetlands.
- (c) **Gopher Tortoise.** A 100% gopher tortoise survey shall be conducted prior to any clearing or development activities within each phase or Tract.
- (d) **Incorporation of Bear Smart Community Principles.** Development within the MPD shall be undertaken in accordance with the Black Bear Management Plan to Minimize Human/Bear Conflicts.

Floodplains:

- (a) The master stormwater management system will be designed so that project shall not increase the base flood elevation of the flood way within the property.
- (b) For areas east of Old Kings Rd. a Conditional Letter of Map Revision application to FEMA is required to confirm the elevation and limit of the Special Flood Hazard Area.
- (c) No direct impacts shall take place within the associated regulatory flood way or within the undisturbed 50' buffer. If pedestrian pathway is required over Bulow Creek, the improvement shall consist of a span bridge to ensure that debris or hazards do not adversely affect the floodway.

Stormwater Management/Stormwater Pollution Prevention:

- (a) The stormwater management system that provides treatment and pre-treatment as required by SJRWMD, FDEP and FAC Chapter 40C-42. Attenuation shall be provided for the 25-year, 24-hr and 100-year, 24-hr storms, and all discharges in Bulow Creek shall adhere to the SJRWMD and FDEP water quality standards for stormwater discharge to an Outstanding Florida Water.

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

Staff Finding: The rezoning will result in a favorable economic impact on the City of Palm Coast. The approved MPD will expand the opportunities/availability of employment centers, retail centers, and housing diversity in the region.

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

Staff Finding: The impact of the subject property to essential services and levels of service was reviewed by various City departments and numerous outside agencies during the SOKR DRI review process. The initial DRI application and subsequent “sufficiency responses” provided by the developer addressed and resolved outstanding issues provided by each of the reviewing agencies. Ultimately, the MPD-DA addresses and delineates the manner in which each service shall be developed and maintained. The following Conditions in the DRI-DO are related to governmental services and public infrastructure:

Special Condition 16. Water Supply. Prior to first Preliminary Plat or Site Plan approval, a Utility Agreement must be executed between City and Developer. Developer shall construct a reclaimed water distribution system. Irrigation system shall use stormwater or surface water until such time that reclaimed water is available. No shallow wells shall be permitted within residential lots.

Special Condition 18. Wastewater Management. Prior to first Preliminary Plat or Site Plan approval, a Utility Agreement must be executed between City and Developer.

Special Condition 19. Stormwater Management/Stormwater Pollution Prevention. The stormwater management system that provides treatment and pre-treatment as required by SJRWMD, FDEP and FAC Chapter 40C-42. Attenuation shall be provided for the 25-year, 24-hr and 100-year, 24-hr storms, and all discharges in Bulow Creek shall adhere to the SJRWMD and FDEP water quality standards for stormwater discharge to an Outstanding Florida Water.

Special Condition 21. Solid Waste. Development shall not occur until adequate permitted capacity is verified from an identified service provider.

Special Condition 22. Transportation. Developer will dedicate right-of-way, construct improvements, and/or make cash payments to mitigate for regional transportation impacts. For Phase I of the MPD, the developer shall provide intersection improvements at SR100 and Old Kings Rd. Additionally, staff is recommending that an updated Traffic Impact Study will be provided as part of the development of first project in Phase 1.

Special Condition 25. Police and Fire Protection. No later than the end of Phase 2, the developer will provide one site for the Flagler County Sheriff’s Office sub-station as a rent or lease free store front. The developer shall pre-pay approximately \$114,000 to FCSO (adjusted for inflation) no later than end of Phase 2.

The developer shall complete station capacity and response time analysis to determine need for fire station. The developer shall reserve one (1) Fire Station site of up to 4 upland acres or 2.5 upland acres if stormwater is accommodated elsewhere within the project area.

Special Condition 26. Recreation and Open Space. The Developer will provide a minimum of 43+/- acres for recreation purposes. Conveyance shall occur prior to first to approval of first residential plat or site plan approval.

Developer will provide a connection to existing multi use path along Old Kings Rd (north of SR 100).

Special Condition 27. Education. The developer shall satisfy the following to mitigate impacts to Flagler County Public Schools:

- 1) Donate approximately 15 acres of buildable property adjacent to the south of Old Kings Elementary School prior to approval of first residential plat or site plan approval,
- 2) Developer will properly mitigate wetlands with FCSD support,
- 3) Developer to provide and place adequate fill on the property to be conveyed, and
- 4) Developer to provide two-way access roadway directly to State Road 100 (right turn only, left in/right out, fully signalized, etc.) to be finalized during future discussions.

Recommendation: Staff has received comments from the Flagler County School District (FCSD) regarding proposed changes to the conditions in the MPD-DA. The changes cover the location of the potential donation property and the timing of conveyance.

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

Staff Finding: The City of Palm Coast was originally designed as a suburban retirement community with commercial areas available to serve the residential population. As the City has transitioned from a retirement community to a more traditional full-service community with a varied population of retirees, and younger working families, opportunities for creating employment opportunities and housing variety became more important to ensure the City's viability.

The South Old Kings Rd. MPD is designed as a multi-use development that promotes employment centers, neighborhood services, and a variety of housing types.

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

Staff Finding: The proposed development pattern takes into the account the existing conditions adjacent to the subject property. Located between Interstate-95 to the west and Bulow Creek area to the east, the proposed development plan proposes to mitigate its development impacts by directing more intense uses to the west (adjacent to I-95) and less intense uses (low to medium density uses) including mitigation activities to the east (adjacent to Bulow Creek).

As part of the rezoning to Master Planned Development (MPD) an accompanying development agreement includes conditions (development requirements) which were developed as part of a review process which included various state and local agencies and which covered a number of different attributes including environmental impacts, floodplains, infrastructure, governmental services and protection of historical and archaeological sites.

Recommendation: Staff recognizes that the areas south of the subject property are mainly developed or slated for single-family development with maximum heights of 40'. Staff proposes Amending Section 3(b) to note that "The maximum height in the MPD shall be restricted to the height limit established for the zoning designation in the LDC or 60' whichever is less".

G. Whether it accomplishes a legitimate public purpose.

Staff Finding: The rezoning to MPD, and the companion "Conceptual Master Plan Development Agreement" and "Conceptual MPD Site Plan" provides a framework to ensure that future development of the subject property will be consistent with the conditions created during the regional/statewide review of the subject property.

ANALYSIS BASED ON UNIFIED LAND DEVELOPMENT CODE CHAPTER 2, SECTION 2.09.04 – Review Findings (Master Planned Developments)

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

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

Staff Finding: See response for 2.05.05(B) and 2.06.03(A).

B. Consistency with the general intent of the LDC.

Staff Finding: The City developed the LDC to implement the Comprehensive Plan and to streamline the development review process. The LDC's intent is to set the regulations, requirements, and procedures governing the use and development of land for the purpose of protecting the health, safety, and welfare of the residents of the City and to improve the overall quality of life within the community.

The rezoning request to Master Planned Development and companion "Conceptual Master Plan Development Agreement" and "Conceptual MPD Site Plan" is consistent with the general intent of the LDC as indicated by the following:

- Establishes overall project land uses, intensities and densities, subject to further refinements as additional site development planning and incremental Master Plan Development approvals are requested by the developer;
- Provides for concurrency and maintaining Level of Service standards for public infrastructure,
- Development areas are created after consideration and analysis of environmental features on site (wetlands, upland habitat, etc.).

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

Staff Finding: The City of Palm Coast was originally planned as a suburban retirement community with mainly quarter-acre residential lots with limited supporting non-residential uses along major transportation corridors. As the City matured and the City demographics became more diverse with a greater number of younger, working families, it became clear that the existing land use pattern did not provide the desirable variety of growth and development opportunities to ensure long-term success for the community.

One of the strategies employed by the City was to annex lands that can provide the opportunity to create strategically planned mixed-use neighborhoods and economic opportunities within employment centers.

Although different in character from existing land use patterns within the existing developed areas of the City, the proposed land use patterns in the South Old Kings Rd. MPD seek to complement the existing land use pattern and provide opportunities and market choices to diversify the City's economic opportunity and housing supply.

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

Staff Finding: See response to criteria 2.06.03 F.

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

Staff Finding: See response to criteria 2.06.03 D.

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

Staff Finding: The rezoning of the property to MPD, along with the companion "Conceptual Master Plan Development Agreement", will allow the Owner to develop the Subject Property consistent with the comprehensive plan. Development of specific parcels or "pods" within the subject property will require and update of analysis documents (Listed Species Study, Tree Survey, Traffic Study) to capture changes in conditions during the multi-phase development of this project.

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

Staff Finding: The conditions of the MPD-DA require the developer to mitigate a proportionate share of their transportation impacts for Phase 1. Prior to progressing to subsequent phases of development, a traffic study will need to be completed.

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

Staff Finding: The Master Planned Development use category and accompanying Development Agreement is recommended to accomplish the following private/public benefit:

1. To recognize the flexibility required to implement the mix of land use and design contemplated on the subject property.
2. To implement the Special Conditions developed during the review of the subject property as a DRI.

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

Staff Finding: See response for 2.05.05(B) and 2.06.03(A).

J. Impact upon the environment or natural resources.

Staff Finding: See Response to Criteria 2.06.03 B.

K. Impact on the economy of any affected area.

Staff Finding: See Response to Criteria 2.06.03 C.

RECOMMENDATION:

Based on staff's analysis of the South Old Kings Rd. Master Planned Development –Development Agreement and Conceptual Master Plan, staff is recommending the following amendments to the South Old Kings Rd. MPD-Development Agreement:

1. Amend Exhibit B - Master Plan Development Map to designate the sandhill ridge as "Environmental", designation as "Environmental" will limit its uses to those permitted by the City's Land Development Code zoning designation of Parks and Greenways, Preservation, and Public/Semipublic.
2. Delete Public/Semipublic, and Parks & Greenway Uses from areas identified as "Environmental" on the Master Development Plan map.
3. Amend Section 28 to recognize the applicant's commitment to increase awareness of the four cultural resources sites, 8FL001 The Kings Mound, 8FL155 The Old Dixie Highway, 8FL920 Cassey Hammock, 8FL921 Quarry House, by installing a commemorative sign that includes a map of the four sites. Additionally, resources, 8FL155 The Old Dixie Highway and 8FL920 Cassey Hammock were identified in Dr. Dana Ste. Claire's report and may be eligible for the National Register of Historic Places. Section 26(b) to be amended to include cultural resources in a trail plan as practicable. Additionally, Section 29 is amended to restrict timbering in vicinity of cultural resources.
4. Based on comments from the Flagler County School District amend Section 27. Education as follows:

(a) Developer to donate approximately 15 acres of buildable property adjacent to the south north/northeast of Old Kings Elementary School prior to the first residential Final Plat approval or Site Plan approval 9 months after final approval of the MPD Development Agreement.

.....

(e) Developer to provide a two-way access roadway directly to State Road 100 from the parcel conveyed to FCSD.

i. Location and alignment of roadway to be finalized during future discussions. prior to acceptance of parcel.

5. Amending Section 3(b) to note that "The maximum height in the MPD shall be restricted to the height limit established for the zoning designation in the LDC or 60' whichever is less".
6. Amend Section 22(d) as follows: In the event Developer fails to commence development activities (including but not limited to, filing a site plan or preliminary plat application), Developer shall revise the existing DRI Traffic analysis. The Developer shall provide an updated Traffic analysis as part of the first project submittal for Phase 1.

City of Palm Coast Analysis Overview:

The South Old Kings Road Development of Regional Impact (DRI) project area annexed into the City of Palm Coast in 2009. In the next year, City Council approved Ordinance 2010-08 that adopted site specific policies in conjunction with a Future Land Use Amendment for the area. These policies were proposed by the Applicant with input from City staff and Flagler Audubon; the intent was and continues to serve to guide innovative approaches to ensure quality development that works in harmony with natural and cultural resources. Over the course of the years, the Applicant has worked diligently on creating a Conceptual Master Plan that strives to meet these standards. As required in numerous policies, additional assessments, studies and surveys have been conducted to further define the condition of onsite resources. Pursuant to the Master Plan Development Plan Development Agreement process, this analysis serves to address outstanding policy conditions while providing background information on the planning efforts applied to date.

Background to South Old Kings Road Planning Area Comprehensive Plan Policies:

On July 21, 2010, City Council approved Ordinance 2010-08 (LU-MAJ-09-01) that adopted site-specific policies in conjunction with Future Land Use Map Amendment for the project area. As noted in staff's analysis associated with the agenda item, the "The Planning Area is in a unique location that has both environmentally and culturally significant resources as well as including parcels that are conducive for economic development due to their proximity to the airport. Environmentally, portions of the Planning Area are located within the headwaters of Bulow Creek and is identified as part of the Flagler County Blueway Project, managed by the Florida Department of Environmental Protection (FDEP). The Flagler County Blueway Project is listed in the Florida Forever land acquisition program as Group A priority acquisition. The Group A list are projects with the highest priority for acquisition under the Florida Forever Program."

Staff's analysis continues to note the following.

"Environmental/Cultural Resource Analysis

The proposed FLUM amendment will elevate the current level of development potential, which will affect the existing ecology of the planning area. As noted in the applicant's environmental assessment, the planning area. As noted in the applicant's environmental assessment, the planning area consists of ten different vegetative communities, which dually serve as habitat for listed and common wildlife species. Staff's analysis from the preliminary data provided by the applicant as well as state and local acquisition strategies, additional vegetative communities may be present onsite that warrant a "Conservation" land use beyond what the applicant is proposing.

To address staff's concern that additional information is needed to identify additional areas that may be appropriate for preservation, the applicant has proposed text policies that will require additional studies prior to any development order, or rezoning approval. Staff generally supports these policies and recommends additional changes and additions to the policies proposed by the applicant. Staff's proposed policies seek to address the protection of environmentally and culturally significant resources as appropriate based on quality, impacts to the adjacent conservation and open spaces areas, as well as the current policies of the Comprehensive Plan."

Note that the following applicable policies to this discussion involved input from Flagler Audubon Society and the set of policies with proposed came from both the applicant and the Audubon Society. The complete attachment of all policies have been attached to this assessment. The policies are realized in Chapter 1 of the Comprehensive Plan through Objective 1.1.9 – South Old Kings Road Planning Area. A consistency crosswalk table has been attached that provides a snapshot analysis of all twenty-one planning area policies. See attached Table 3. As noted, the MPD agreement is not consistent with Policy 1.1.9.3 when considering resources proposed for protection. The following section provides supporting information to staff's determination while considering past assessments, project review materials, and the "Sandhill Assessment" conducted by Carter Environmental Services dated August 15, 2019.

Policy 1.1.9.3 – To promote onsite ecological enhancements, biodiversity, and ensure appropriate lands east of Old Kings Road designated as Greenbelt are protected in perpetuity, preservation areas shall include: (1) unique habitat (unique topographical reliefs, hardwood hammocks, xeric or sandhill communities), (2) historical and cultural resources, and (3) wetlands that serve the ecological function of Bulow Creek. The Master Planned Development (MPD) process shall be utilized to facilitate this requirement.

Staff Research and Analysis:

As required by policy 1.1.9.5, the project area has been assessed in great detail since the original Land Use Change Amendment (LUCA) in 2010; onsite natural resources have been evaluated further (Table 1). Dually, the Master Concept Plan has been routinely revisited to adjust to such findings and other project considerations.

Policy 1.1.9.5 - To ensure that valuable natural resources are protected, no development order or rezoning requests shall be adopted for that portion of the Area lying East of Old Kings Road until (1) a survey identifying gopher tortoise, scrub jay, jurisdictional wetlands, and other natural resources is completed for that portion of the Area lying east of Old Kings Road; (2) a cultural resource field survey and assessment report is prepared for that portion of the Area lying east of Old Kings Road; and (3) a tree survey is completed assessing lands lying east of the Conservation lands for that portion of the Area lying east of Old Kings Road.

2010	2019
Sand Pine (FLUCFCS 413) +/- 89 acres	Sand Pine (FLUCFCS 413) +/- 84.46 acres
Mixed Pine (FLUCFCS 415) +/- 82 acres	Mixed Pine (FLUCFCS 415) +/- 57.09 acres
Temperate Hardwood (FLUCFCS 413) +/-37 acres	Temperate Hardwood (FLUCFCS 413) +/- 66.11 acres
Pine Plantation (FLUCFCS 441) +/- 330 acres	Pine Plantation (FLUCFCS 441) +/- 328.74 acres
Wet Pine Plantation (FLUCFCS 441w) +/- 28 acres	Wet Pine Plantation (FLUCFCS 441w) +/- 16.24 acres
Wetland Hardwood Forest (FLUCFCS 610) +/- 85 acres	Wetland Hardwood Forest (FLUCFCS 610) +/- 71.43 acres
Cypress (FLUCFCS 621) +/- 74 acres	Cypress (FLUCFCS 621) +/- 88.78 acres
Cypress-Cabbage Palm (FLUCFCS 624) +/- 34 acres	Existing Conservation Easement - Cypress (FLUCFCS 621) +/- 16.56 acres
Vegetated Non-Forested (FLUCFCS 640) +/- 5 acres	Cypress-Cabbage Palm (FLUCFCS 624) +/- 14.96 acres
Burrow Areas (FLUCFCS 742) +/- 30 acres	Vegetated Non-Forested (FLUCFCS 640) +/- 4.65 acres
	Burrow Areas (FLUCFCS 742) +/- 30.38 acres
	Ditch (FLUCFCS 510) +/- 4.77 acres
	Coquina Stockpile Area (FLUCFCS 730) +/- 11.15 acres

Table 1. Comparison of 2010 (Ordinance 2010-08) vs. 2019 vegetative community determinations (2019 Sandhill Assessment completed by Carter Environmental Services, Inc.)

At the time of the LUCA, Natural Resource Consultants (NRC) submitted an Environmental Assessment – Eastern Property Development and Protection Plan in support of the following change of designations and extent.

	Land Use Designation(s)	# of Acres
Adopted FLUM:	Mixed Use	603
	Greenbelt	71
	Conservation	122
Flagler County FLUM:	Agriculture & Timberlands	643
	Conservation	154

Table 2: Ordinance 2010-08 Land Use Conversion Summary

Site visits were conducted that included regulatory staff and City staff to inspect areas proposed for amendment as noted below (May 25, 2010 NRC EA Assessment).

"The result of this work was the discovery and delineation of an upland sandhill ridge adjacent to the Bulow Creek headwaters wetland system east of Old Kings Road. This sandhill ridge and adjacent wetlands (123 acres in size) can be considered unique, and thus environmentally sensitive."... "With the discovery of this environmentally sensitive area (sandhill ridge and adjacent wetlands), 123 acres has been removed from this eastern portion of the site for the purposes of the FLUM amendment. The revised acreage for the FLUM amendment is 671 acres, of this 230 acres of the applicant ownership lies east of Old Kings Road. No environmentally sensitive uplands remain within the area east of Old Kings Road."... "The surrounding landscape has elevations ranging from +10 to +25 (NGVD 1929). Adding to the significance of this sandhill range and two prehistoric archaeological sites (as noted on the Division of Historical Resources Florida Master Site File Map, a midden and burial mound. This is further evidence that this area has had significance in the landscape for hundreds of years. The combination of this upland ridge and adjacent wetland provide numerous benefits to wildlife downstream and provides a unique habitat that is not commonly found in this part of Florida. The wetlands are contiguous with Graham Swamp and eventually lead to Bulow Creek providing direct access to a large corridor allowing wildlife to move north and south."

The result of these findings were applied to a portion of the adopted Greenbelt designation and encompassed approximately 2.69 acres of the sand ridge measuring approximately 25.0 acres in total area. As noted in the above-referenced exert, "no environmentally sensitive uplands remain within the area east of Old Kings Road"; however, the referenced "sandhill ridge" extends beyond the previously identified area. See Figure 1. Old Kings Ridge Protection Plan.

Over the course of the project review process, City staff provided feedback and comments on the potential of additional unique resources occupying the site. See Table 4. The Applicant has routinely denied that the referenced "ridge" is unique; however, the August 15, 2019 Carter Environmental Assessment notes that "The 17.38 acres of sandhill located within the project area is a unique habitat to Flagler County, however, the size of the habitat limits its function in the landscape."

In the following section, staff evaluated the habitat needs for species that occupy the site and/or may be recruited to the area with the application of land management to improve habitat values.

Value of the Ridge, Sandhill and Scrub Communities:

The Florida Fish and Wildlife Conservation Commission (FWC) has published the [2019 Florida's State Wildlife Action Plan \(WAP\)](#). As noted on the FWC website, "the Plan is a comprehensive, statewide plan for conserving the state's wildlife and vital natural areas for future generations. It outlines native wildlife and habitats in need, why they are in need and, most importantly, conservation actions for protecting them."

The [WAP](#) highlights these communities as "High Pine and Scrub" with Sandhill and Scrub communities defined as:

"Sandhill in Florida only occurs in the north and central areas with deep, sandy substrate, typically on rolling hills, hence the name of "sandhill." It is a xeric community dominated by scattered longleaf pine with a midstory of oaks, most commonly turkey oak, and an herbaceous understory, dominated by wiregrass. "The herbaceous groundcover is very diverse and provides food for a large number of species found in this habitat. Sandhill is generally the same statewide with only slight differences in vegetation between northwest and peninsular Florida (the southern extent of its range)."

"Scrub habitats are restricted to Florida and are found mainly in the central peninsula on upland dune relics of deep, sandy substrate, through coastal scrub occurs on the dune systems of the state's coastlines (FNAI 2010). Several types of scrub are recognized (oak scrub, rosemary scrub, sand pine scrub, and coastal scrub). All are xeric, occupying well-drained sandy soils with open to dense shrubs with or without pine canopy. Vegetation varies, hence the different types of scrub, but midstory shrub component is typically a variety of evergreen shrubby oaks and/or Florida rosemary (Myers and Ewel 1990). If there is a canopy component it is usually sand pine."

According to the Florida Natural Areas Inventory (FNAI) Community Guide (FNAI 2010), the communities are imperiled and vulnerable.

"Sandhill (G3/S2) – upland with deep sand substrate; xeric; Panhandle to central peninsula; frequent fire (1-3 years); savanna of widely spaced longleaf pine and/or turkey oak with wiregrass understory."

"Scrub (G2/S2) – upland with deep sand substrate; xeric; statewide except extreme southern peninsula and Keys, mainly coastal in Panhandle; occasional or rare fire (usually 5-20 years); open or dense shrubs with or without pine canopy; sand pine and/or scrub oaks and/or Florida rosemary."

Both of these communities are vulnerable to numerous threats including land conversion, habitat fragmentation, and fire suppression that could create heavy fuel loads. The area between Old Kings Road to the Bulow Creek tributary wetlands is a combination of sandhill to a scrub community coinciding with the ridge. Scrub is a community unique to Florida and can be argued to support biodiversity within the resource range of xeric habitat; many species including invertebrates are known to be restricted to scrub with others only needing xeric conditions. Timbering activities that removed sand pine from the property encouraged the natural recruitment of plants that align with the descriptions provided above and were observed during a March 2018 site visit conducted by City staff and Ryan Carter, project environmental consultant. After the visit, City staff developed and released a proposal to avoid sand ridge impacts while transferring density and uses to other tracts. No response was received.

The ridge and the supporting scrub community are also a reminder of the historical retreat of ocean waters; the ridge is a relic beach dune and served as a supporting resource to early inhabitants along Flagler County's unique history. See attached Map H Archaeological Site Location Map.

SPECIES, HABITAT NEEDS AND CONSERVATION STRATEGIES:

In the August 15, 2019 Carter Environmental Services (CES) "Sandhill Assessment", attention was given to the amount of habitat to remain (17.38 acres) in a post-development scenario being limited and not sufficient to support a viable population of the following species. However, staff further notes the project area east of Old Kings Road is comprised of xeric conditions when combined with land management would be suitable habitat. Staff evaluated each referenced species and details of the findings are below.

Gopher Tortoise (*Gopherus polyphemus*) In May 2013, the Applicant provided a 2nd DRI Sufficiency response. At that time, five active gopher tortoise burrows were observed on the east side of Old Kings Road, and an onsite recipient site was actively being managed.

"The onsite gopher tortoise recipient site has been thinned to a basal area of 30, mimicking natural conditions. This area will be managed using prescribed fire, mechanical treatments, and/or chemical treatments on a 3 to 5 year disturbance cycle. Wetland 1 and its associated upland buffers will provide a visual barrier from prescribed burning activities, and smoke management practices will be utilized to keep smoke out of all smoke sensitive areas. In addition, a brief description of the mandatory prescribed burning to take place will be included in the covenants and restrictions for the parcel."

Gopher tortoise burrows provide habitat for over 360 commensal species including the endangered Eastern indigo snake, Florida pine snake, gopher frog, gopher tortoise burrow fly and many others. Some of these species rely solely on gopher tortoise burrows for habitat. The habitat needs for gopher tortoise are minimal, but the species and commensals can flourish in managed sandhill and scrub communities. Based on staff research, the ridge and contiguous lands could qualify as either a short-term recipient site or a long-term recipient site. Either designation would be able to receive permitted relocations and would be paid to allow the gopher tortoises to come to their site. The long-term recipient site would need a minimum of 40 acres of habitat while the short-term site would need a minimum of 25 acres.

Eastern indigo snake (*Drymarchon couperi*) This species requires a variety of habitat ranging from pine/scrubby flatwoods to the edges of freshwater marshes. Eastern indigo snakes use gopher tortoise burrows to lay their eggs and for a cool place to regulate their temperature. These snakes need between 40 to 200 acres of varying habitat to complete their annual cycle.

Florida pine snake (*Pituophis melanoleucus mugitus*) The supporting habitats can be found in upland pine forests, sandhills, scrubby flatwoods, and oak scrub. The sandhill and its surrounding conservation area would provide ample habitat for the pine snake who also uses gopher tortoise burrows as sanctuaries.

Florida Scrub-Jay (*Aphelocoma coerulescens*) These birds are endemic to Florida and require sandy, scrubby habitat. The species is listed as a threatened species due principally to habitat loss from development and agriculture and habitat degradation from fire exclusion. Scrub-jays usually have a permanent territory of 22 to 24 acres, which the sandhill provides. Currently scrub-jays do not inhabit

Flagler County; however, translocation is a targeted conservation approach by the US Fish and Wildlife Service (USFWS) and Florida Fish and Wildlife Conservation Commission (FWC) to other areas to reduce risks to populations. USFWS has released "[Draft Revised Recovery Plan for the Florida Scrub-Jay \(*Aphelocoma coerulescens*\) February, 2019](#)" and companion "Focal Landscapes" that could support scrub jay. See attached Maps of the Seven (7) Focal Landscapes Identified. The project area has been targeted in the plan with a goal of "maintaining and improving connectivity to facilitate dispersal among local populations within their respective genetic unit." The plan identifies "landscapes within genetic units that still have potential networks of connected habitat patches capable of supporting large Florida Scrub-Jay populations. "These areas, referred to as 'focal landscapes.'" This conservation approach is consistent to the City's position of protecting scrub habitat to protect the future potential of species occupation.

Summary of Findings:

Consistency with the Comprehensive Plan "The Planning Area is in a unique location that has both environmentally and culturally significant resources as well as including parcels that are conducive for economic development due to their proximity to the airport. Environmentally, portions of the Planning Area are located within the headwaters of Bulow Creek and is identified as part of the Flagler County Blueway Project, managed by the Florida Department of Environmental Protection (FDEP)." As part of a Land Use Amendment Ordinance 2010-08, site-specific policies were adopted to ensure the protection of unique cultural, historical and natural resources.

City staff inventoried all 21 Comprehensive Plan Policies that are specific to the project area. Table 3. With the exception of Policy 1.1.9.3, the remaining policies are consistent and will be implemented through the draft Master Plan Development Agreement.

Policy 1.1.9.3 – To promote onsite ecological enhancements, biodiversity, and ensure appropriate lands east of Old Kings Road designated as Greenbelt are protected in perpetuity, preservation areas shall include: (1) unique habitat (unique topographical reliefs, hardwood hammocks, xeric or sandhill communities), (2) historical and cultural resources, and (3) wetlands that serve the ecological function of Bulow Creek. The Master Planned Development (MPD) process shall be utilized to facilitate this requirement.

The outstanding element that remains deficient is the preservation of (1) unique habitat (unique topographical reliefs, hardwood hammocks, xeric or sandhill communities). Significant strides have been taken by the Applicant to protect and enhance the Bulow Creek tributary wetlands and contiguous uplands. Through long-term land management activities, wetland resources will be enhanced in function and will contribute to offsetting wetland impact in the project area. As noted in May 2010 assessment, a portion of the ridge in conjunction with these efforts would be a huge natural and cultural asset.

"The combination of this upland ridge and adjacent wetland provide numerous benefits to wildlife downstream and provides a unique habitat that is not commonly found in this part of Florida."

In response to City staff's request to further evaluate the sandhill ridge, Carter Environmental Services (CES) provided an analysis dated August 15, 2019. The summary of findings are detailed below.

*“Based on the criteria established by Policy 1.1.9.3 and the comments and concerns expressed by city staff, the preservation of the sandhill in its entirety is not justifiable. The ridge in and of itself **does not** increase biodiversity, create a unique habitat, preserve cultural resources, improve water quality, or protect area from coastal flooding.”*

What is failed to be recognized by this conclusion is the compounding strategy behind the policy, to ensure protection and enhancement of unique resources. As noted in the CES report, “the sandhill ridge is a “unique habitat to Flagler County.” As noted above, the merits of the resource was acknowledged in previous studies also provided by CES. City staff findings and research partially contained herein further reinforces the need to protect unique topographic reliefs, xeric and sandhill communities. The significance not only rests with the uniqueness to the County but also to the State of Florida. Based on a site inspection conducted in 2018, the ridge is supporting a scrub community that is only found in Florida and in rapid decline. Consistent with community descriptions, the topography and overall formation is a relic dune that reflects where seas once inundated the land. The ridge along with Bulow Creek was a magnet to inhabitation with prehistoric sites documented, which speaks to the value beyond habitat for endangered and threatened species. See Table 3. As detailed in staff findings, the ridge along with surrounding lands do have the potential of supporting viable populations. The argument that 17.38 acres comprised in the ridge in a post-development scenario is not sufficient can be countered with looking at all resources east of Old Kings Road. As detailed in the “Species, Habitat Needs and Conservation Strategies” section, scrub and sandhill communities measuring 40 acres or more of managed area will support viable populations and align with larger conservation strategies of endangered / threatened species.

Conclusions and Recommendations:

After a thorough review of assessments, staff retains its position that consistency with Policy 1.1.9.3 has not been achieved. The ridge and contiguous lands should be protected and managed in perpetuity to ensure that cultural, historical and natural resources are retained and honor the uniqueness it brings to the County. After the 2018 inspection, staff started the dialogue with the project representatives to target solutions to offset the removal of the resources from the development footprint. It included the exchange of recreation tracts to transfer or develop elsewhere within the project area. No response was received.

Staff recommends the further evaluation of the potential mitigating options that includes, but not limited to the exchange proposal (attached), gopher tortoise recipient site, fostering long-term scrub-jay habitat, and retaining the coinciding lands associated with historical resources for the benefit of future residents through passive recreation and preservation.

Table 3 Comprehensive Plan Consistency Crosswalk

Policy ID	Policy Narrative	Focused Topic	Status to Date	Consistent with Comprehensive Plan (Yes/No)	Staff Comments
1.1.9.1	Development in the Area shall not exceed 2,500 residential dwelling units and 2,500,000 square feet of commercial or industrial use.	Density	Draft MPD Exhibit C: "Land Use Conversion Table - No conversion from non-residential to residential may occur that increases residential units greater than 2,500 and 2,500,00 square feet of non-residential."	Y	
1.1.9.2	To promote compact and contiguous development and to discourage urban sprawl, the Area shall be designated Mixed Use, Greenbelt, and Conservation on the City's FLUM Map.	FLUM	Ordinance 2010-08 amended the Future Land Use Designations. At time of adoption, the Planning Area consisted of 643 acres of Agriculture & Timberlands and 154 acres of Conservation (Flagler County designation). The changes was approximately 678 acres of land from Agriculture & Timberlands, and Conservation (Flagler County designation) to Mixed Use (City of Palm Coast designation) and approximately 119 acres of Conservation (Flagler County designation) to Conservation (City of Palm Coast designation). The 119 acres of Conservation is primarily composed of wetlands, a floodplain, and Special Flood Hazard Area on the eastside of Old Kings Road and two pockets of high quality wetlands on the westside of Old Kings Road.	Y	
1.1.9.3	To promote onsite ecological enhancements, biodiversity, and ensure appropriate lands east of Old Kings Road designated as Greenbelt are protected in perpetuity, preservation areas shall include: (1) unique habitat (unique topographical reliefs, hardwood hammocks, xeric or sandhill communities), (2) historical and cultural resources, and (3) wetlands that serve the ecological function of Bulow Creek. The Master Planned Development (MPD) process shall be utilized to facilitate this requirement.	Wetlands	Draft MPD Section 13(f): The applicant shall preserve up to 299.73 acres, designated as Environmental on the Preliminary Master Plan (Exhibit B)." "During project permitting, and prior to development activities, A Greenway Management Plan, or its functional equivalent, shall be in place,"	Y	The referenced wetland and upland preservation serves the project as wetland mitigation for the future impact of approximately 56.19 acres of wetlands located within the property. The enhancements will improve the ecological function of the Bulow watershed and dually address restorations of past coquina mining activities. Per SJRWMD CON-035-134750-1 56.19 acres of wetland impacts proposed; 161.9 acres wetland and 138.3 uplands proposed for mitigation
			Carter Environmental Assessment 08-15-19: "As part of the permitting process with the St. Johns River Water Management District (SJRWMD), CES worked with the property owner to establish a suitable mitigation plan that incorporates the preservation of over 287 acres (33.5% of site) including the enhancement of 98.8 acres of both upland and wetland communities (Figure 2). "Development activities were concentrated within areas of pine plantation and sand pine, avoiding habitats with greater habitat and biodiversity."	Y	
		Cultural Historical	Carter Environmental Assessment 08-15-19: "A 2.69 acre remnant burial mound exists on the site and is located at the southern end of the sandhill community type. This area has been looted and no evidence of the mound remains, however 100% of this area will be left undisturbed and is to be left under conservation easement."	Y	
			Dana St. Claire Assessment February 2013: "Prehistoric site - 8FL37. Davis (1986) noted that the site was 'located on a high sand ridge (on same ridge as 8FL001) just south of Good Hope Cemetery or Old Kings Road. Shovel tests were dug over the entire length of the ridge. The midden is spotty and hard to find. It appears to be only about 10 centimeters below the surface. Small pockets of coquina shells were found in the extreme southern portion of the ridge; Douglass excavated 8FL001 at this southern tip of the ridge."	Y	
			Dana St. Claire Assessment February 2013: "It is the opinion of Heritage Services that site 8FL155, as represented by the .2-mile road corridor, meets the eligibility requirements for listing on the National Register of Historic Places. Preservation is strongly recommended." - Old Dixie Highway"	Y	The remains of Old Dixie Highway appear to be outside the development extent according to the Preliminary Master Plan and coincide with conservation area of uplands and wetlands.
			Draft MPD Section 28: "...the Kings Road Mound site, an area with no archaeological significance, is located in Tract "E16". Nonetheless, the Developer will not disturb the area in any way."... "The Developer shall submit a Historic Resource Management Plan for the area proposed to be preserved through the Environmental parcel designation shown on the Preliminary Master Plan. Regardless, the Developer's construction personnel shall be notified by the Developer, through posted advisories and other methods, of the potential for artifact discovery and to report and discoveries to the Construction Project Manager."	Y	The remains of Old Dixie Highway appear to be outside the development extent according to the Preliminary Master Plan and coincide with conservation area of uplands and wetlands. Of the identified cultural and historic resources, 8FL155 (.2-mile road corridor) meets the eligibility requirements for listing on the National Register of Historic Places. Casey Hammock, 8FL920 is located within the proposed preservation areas. Preservation is strongly recommended.
			Dana St. Claire Assessment February 2013: "Quarry House - 8FL921 While it is likely the structure is indeed an enclosure used for hunting purposes, and while it is probable the structure is recent based on the presence of the adjacent and contemporary coquina quarry, it remains possible that the site dates to a much earlier time and was used for an entirely different purpose. For this reason, additional archaeological testing, specialized structural analysis and historical research are recommended to determine if 8FL921 is eligible for inclusion on the National Register of Historic Places. "	N	This site appears to be in the development footprint. It will need to be addressed with MPD or technical site plan restrictions. See reference to PC-01 DRI First Sufficiency Response.

Table 3 Comprehensive Plan Consistency Crosswalk

Policy ID	Policy Narrative	Focused Topic	Status to Date	Consistent with Comprehensive Plan (Yes/No)	Staff Comments
1.1.9.3	To promote onsite ecological enhancements, biodiversity, and ensure appropriate lands east of Old Kings Road designated as Greenbelt are protected in perpetuity, preservation areas shall include: (1) unique habitat (unique topographical reliefs, hardwood hammocks, xeric or sandhill communities), (2) historical and cultural resources, and (3) wetlands that serve the ecological function of Bulow Creek. The Master Planned Development (MPD) process shall be utilized to facilitate this requirement.	Cultural Historical	Dana St. Claire Assessment February 2013: "While all cultural materials collected at the site were found during surface investigations, and while focused subsurface testing across the site produced no artifacts, Casey Hammock clearly retains intact cultural deposition with the potential to contribute to a better understanding of the prehistoric settlement model of Flagler County, particularly in regard to interior occupation." "It is the opinion of Heritage Services that 8FL920 is potentially eligible for inclusion on the National Register of Historic Places and site preservation is recommended."	Y	The remains of Old Dixie Highway appear to be outside the development extent according to the Preliminary Master Plan and coincide with conservation area of uplands and wetlands. Of the identified cultural and historic resources, 8FL155 (.2-mile road corridor) meets the eligibility requirements for listing on the National Register of Historic Places. Casey Hammock, 8FL920 is located within the proposed preservation areas. Preservation is strongly recommended.
			DRI First Sufficiency 02-25-15 (PC-01): "All sites recommended for preservation are located within Preservation, Environmental or Recreational zoning in the MDP. The applicant will advance and increase awareness of the four cultural resource sites, 8FL001 The Kings Road Mound, 8FL155 The Old Dixie Highway, 8FL 920 Cassey Hammock, 8FL921 - Quarry House, by installing a commemorative sign that includes a map of the four sites and provides cultural/historical significanxe caption for each."	N	Need to include this in MPD Agreement. Further Note PC-90 response, "The remnant of Old Dixie Highway is situated within the upland preservation area, and will be avoided by the development.
		Sandhill	Carter Environmental Assessment 08-15-19: "Development activities were concentrated within areas of pine plantation and sand pine, avoiding habitats with greater habitat and biodiversity."	N	
			Carter Environmental Assessment 08-15-19: "The post development landscape will include the preservation of 9 of the original 12 habitat types, including the preservation of 2.69 acres of the sandhill community (15%)."	Y	
			Carter Environmental Assessment 08-15-19: "The 17.38 acres of sandhill located within the project area is a unique habitat to Flagler County, however, the size of the habitat limits its function in the landscape." ... "17.38 acres will not support a minimum viable population for any of the species mentioned." (Florida scrub-jay, eastern indigo snake, gopher tortoise, and Florida pine snake)	N	
			Carter Environmental Assessment 08-15-19: "While the sandhill is a unique feature, the preservation of the entire sandhill will not provide sufficient habitat..."	N	
			DRI First Sufficiency 02-25-15 (Section 5.7 of Mitigation Plan): "A burn plan will be established including regular burns on three to five year intervals to maintain quality species composition throughout the areas."	Y	
			Carter Environmental Assessment 08-15-19: "Sandhill is a fire dependent community type and is far less productive in settings which do not experience disturbance."..."In absense of disturbance, the sandhill will succumb to oak (Quercus spp.) and/or sand pine (Pinus clausa) encroachment,..... preservation of a fire dependent but fire suppressed natural community could create heavy fuel loads that are hazardous to nearby structures."	N	Management of the sandhill community is noted, and staff agrees that maintenance along with monitoring are required companions to preservation of xeric communities. As noted in Section 5.2 of the Lyonia Preserve Management Plan (LPMP), a combination of prescribed fire and/or mechanical techniques are applied. Mechanical applications include timber harvest, roller chopping, strip chopping, root raking and mowing are included among the proposed mechanical techniques. Section 5.2.3 of the LPMP notes that prescription fire were a challenge and occurs within a 10 to 20 year interval. https://www.volusia.org/core/fileparse.php/4196/urlt/Lyonia-Mgt-Plan-Phase-II.pdf
			Carter Environmental FLUM Assessment January 14, 2010: "The result of this work was the discovery and delineation of an upland sandhill ridge adjacent to the Bulow Creek headwaters wetland system east of Old Kings Road. This sandhill ridge and adjacent wetlands (123 acres in size) can be considered unique, and thus environmentally sensitive."... " With the discovery of this environmentally sensitive area (sandhill ridge and adjacent wetlands), 123 acres has been removed from this eastern portion of the site for the purposes of the FLUM amendment. The revised acreage for the FLUM amendment is 671 acres, of this 230 acres of the applicant ownership lies east of Old Kings Road. No environmentally sensitive uplands remains within the area east of Old Kings Road."..."The surrounding landscape has elevations ranging from +10 to +25 (NGVD 1929). Adding to the significance of this sandhill range and two prehistoric archaeological sites (as noted on the Division of Historical Resources Florida Master Site File Map, a midden and burial mound. This is further evidence that this area has had significance in the landscape for hundreds of years. The combination of this upland ridge and adjacent wetland provide numerous benefits to wildlife downstream and provides a unique habitat that is not commonly found in this part of Florida. The wetlands are contiguous with Graham Swamp and eventually lead to Bulow Creek providing direct access to a large corridor allowing wildlife to move north and south."	Y	Within the FLUM change, it appears that approximately 8.2 acres of sandhill ridge was incorporated into the Greenbelt designation; however, it is currently not protected. The value was clearly detailed in the 2010 analysis.
			1st DRI Sufficiency (PC-15): "Parcel E-15 is our largest concentration of specimen and historic trees."	Y	
		Hardwood Hammocks		Y	Temperate Hardwood Community type exists onsite primarily within the E15, E14 and E1 development parcels. According to August 15, 2019 Carter Assessment 11.05 acres associated with E15 is going to be preserved which was a passive recreation site on Map H.
			1st DRI Sufficiency (Map F.a): Temperate Hardwood (FLUCFCS 425) +/- 66.11 acres exist onsite.		

Table 3 Comprehensive Plan Consistency Crosswalk

Policy ID	Policy Narrative	Focused Topic	Status to Date	Consistent with Comprehensive Plan (Yes/No)	Staff Comments
1.1.9.4	The Area shall be developed as Mixed Use in such a fashion that shortens vehicular trip lengths, promotes internal trip capture and provides employment opportunities for residents living with the Area.	Mixed Use	Draft MPD Exhibit B: Master Development Plan provided.	Y	
1.1.9.5	To ensure that valuable natural resources are protected, no development order or rezoning requests shall be adopted for that portion of the Area lying East of Old Kings Road until (1) a survey identifying gopher tortoise, scrub jay, jurisdictional wetlands, and other natural resources is completed for that portion of the Area lying east of Old Kings Road; (2) a cultural resource field survey and assessment report is prepared for that portion of the Area lying east of Old Kings Road; and (3) a tree survey is completed assessing lands lying east of the Conservation lands for that portion of the Area lying east of Old Kings Road.	Gopher tortoise	Draft MPD Section 13: "A wildlife survey was performed on the Property on December 9-11, 2013... The gopher tortoise, listed as Threatened by the State of Florida, was observed during the survey." "No other State or Federally listed animals or plant species that are known to occur in Flagler County were observed during the Wildlife Survey."	Y	
			Draft MPD Section 13(e): "No construction shall commence within areas of the Property which are occupied by gopher tortoise permit(s) from the FFWCC and complies with applicable permit conditions. Moreover, a 100% gopher tortoise survey shall be conducted prior to any clearing or development activities within each tract, excluding existing silviculture activities."	Y	
		Scrub Jay	Draft MPD Section 13(e): "The Developer shall comply with the requirements of City's Comprehensive Plan regarding wildlife species classified as endangered, threatened, or a species of special concern.	Y	
			May 2013 Preapplication Conference: Florida Scrub-jay (aphelocoma coerulescens) A large area of the portion of the property east of Old Kings Road has the potential to be suitable habitat for the Florida Scrub-jay, a state- and federally-listed Threatened species. FNAI has listed the existence of Scrub-jays as "potential" due to the presence of sand pine communities, which are listed as habitat for scrub-jays. Upon further coordination with FWS staff regarding the likelihood of scrub-jays on the site, it is unlikely that they would require surveys to determine if scrub-jay populations truly exist. Per Ms. Paula Sisson of FWS, there are "no records of any scrub-jays in Flagler (County) in the last ten years but there were all coastal birds. They have since abandoned those areas." Additionally, none have been observed by CES biologists during an site visits.	Y	Scrub jay do not currently exist in the project area; however, the expansion of sandhill and scrub habitats may provide a lily pad community if habitat needs change to expand the species.
		Bear	Draft MPD Section 21(d): "Bear Smart Community principles shall be integrated into design and operations."	Y	
		Wetlands	Draft MPD Section 14(g): Prior to commencement of clearing, earth movement and construction or other development within any jurisdictional wetlands, the wetland boundaries shall be approved by SJRWMD and ACOE, as applicable Development activities, may only occur in jurisdictional wetlands after the Developer, its successors or assigns, obtains required permits from the SJRWMD or ACOE, as applicable.	Y	The wetland boundaries were reviewed through the Conceptual Site Plan application (4-035-134750-1) permit. The boundaries will be further evaluated as the project progresses through the platting and site plan processes.
		Tree Survey	Draft MPD Section 13(g): Prior to obtaining Preliminary Plat Approval or Site Plan Approval on a given tract or parcel, the Owner shall (i) comply with Section 10.04, LDC; and submit an acceptable tree survey for that tract or parcel to the City with the scope of such being agreed to by the parties or their designees.	Y	Temperate Hardwood Community type exists onsite primarily within the E15, E14 and E1 development parcels. According to August 15, 2019 Carter Assessment 11.05 acres associated with E15 is going to be preserved which was a passive recreation site on Map H.
1.1.9.6	Prior to any development the property owners shall request a binding letter from the Florida Department of Economic Opportunity (FDEO) at the City's request to determine whether the development must undergo development of regional impact review.	FDEO	No longer applicable	Y	
1.1.9.7	No development order or rezoning request shall be adopted for any of the property in the Area until a Conceptual Master Plan for the Area is completed.	Conceptual Master Plan	Draft MPD Exhibit B: Master Development Plan provided.	Y	
1.1.9.8	In an effort to protect that portion of the Area lying East of Old Kings Road, low to medium density development shall be required.	Density	Draft MPD Exhibit B: Master Development Plan provided that low and medium residential, commercial, preservation, passive and active recreation is proposed.	Y	
1.1.9.9	Gopher Tortoise, commensal species, and associated habitats shall be preserved as per Florida Fish and Wildlife Conservation Commission (FWC) guidelines.	Gopher Tortoise	See above.	Y	

Table 3 Comprehensive Plan Consistency Crosswalk

Policy ID	Policy Narrative	Focused Topic	Status to Date	Consistent with Comprehensive Plan (Yes/No)	Staff Comments
1.1.9.10	Cultural and historic resources shall be referred to the Division of Historical Resources, State Historic Preservation Office (SHPO) for their recommendations to preserve the cultural and historic resource in the Planning Area.	DHR	August 2013 SHPO letter: "Based on the information provided, it is the opinion of this office that the proposed undertaking is not likely to have an effect on historic properties, provided that the applicant makes contingency plans in the case of fortuitous finds or unexpected discoveries during ground disturbing activities with the project area. If prehistoric or historic artifacts,,,,,, the permitted project shall cease all activities involving subsurface disturbance in the immediate vicinity of the discovery. The applicant shall contact the Florida Department of State... Project activities shall not resume without verbal and/or written authorization."	Y	See 1.1.9.3
1.1.9.11	For property located east of Old Kings Road, development standards for the Planning Area shall include design practices and standards to protect environmental and cultural resources. Such standards may include but not be limited to: clustering, Florida Green Building Coalition, Low-Impact Development (LID), and Conservation Subdivision Design.	LID	Draft MPD Section 24. Low Impact Development Practices	Y	
1.1.9.12	To sustain hammock communities, areas within the site with the greatest concentration of specimen and historic trees, shall be considered in the design process to minimize impacts and removal of the trees through avoidance of such areas. If this is not physically possible, other techniques and development practices identified in the City's Land Development Code, including green development may be utilized to reduce impacts.	Tree Survey	Draft MPD Section 13(g): Prior to obtaining Preliminary Plat Approval or Site Plan Approval on a given tract or parcel, the Owner shall (i) comply with Section 10.04, LDC; and submit an acceptable tree survey for that tract or parcel to the City with the scope of such being agreed to by the parties or their designees.	Y	Temperate Hardwood Community type exists onsite primarily within the E15, E14 and E1 development parcels. According to August 15, 2019 Carter Assessment 11.05 acres associated with E15 is going to be preserved which was a passive recreation site on Map H.
1.1.9.13	Road crossing designed to minimize the impact to natural and cultural resources shall be permitted in areas designated as Conservation on the City's FLUM.	Road crossing over FLUM	Draft MPD Section 15(f): The Property encompasses a regulatory floodway associated with Bulow Creek, an Outstanding Florida Waterway. According to the Preliminary Master Plan, the entire extent of the system is comprised within proposed conservation area. As part of the requirements of subsection 15(f), this should be reaffirmed prior to Final Plat submittal of the first phase. No direct impacts shall take place within the associated regulatory floodway or within the associated undisturbed 50-foot buffer. In the event a connecting pedestrian pathway is proposed, the improvement shall consist of a span bridge to ensure that debris or hazards do not adversely affect the floodway maintenance schedule shall be required to ensure that any debris or other hazards adversely affecting the floodway are timely removed. Moreover, the Developer shall grant the City a maintenance easement over the floodway."	Y	Crossings will not affect conservation areas.
1.1.9.14	Road crossing in Conservation areas, special flood hazard areas, and wildlife corridors shall be designed to avoid compromising the functions and quality of the environmental resources. Such designs may include but not be limited to grade separations and wildlife crossings.	Conservation areas crossings	Draft MPD Section 15(f): Above	Y	
1.1.9.15	Any development plan in the Planning Area shall take into consideration the potential extension of Citation Parkway as a potential east-west connector in the City of Palm Coast and as a parallel facility to State Road 100.	Citation Extension	Section 22c includes a condition to reserve necessary right of way for Citation Parkway Extension		
1.1.9.16	Development of transportation network in the Planning Area shall include an overall pedestrian/bicycle facility system to facilitate alternative mode of transportation within and into the Planning Area.	Trails	See Policy 1.1.9.17 and Section 26(b) of MPD.	Y	
1.1.9.17	Recognizing the acquisition by Flagler County through the Environmentally Sensitive Lands (ESL) program of adjacent lands to the south, additional planning shall include facilitating and design for public access and connectivity to these lands.	Access and connectivity to ESL lands	In 2013, Flagler County acquired parcel 38-12-31-0000-00020-0030, a 4.230 acre parcel that extends east of Old Kings Road to adjacent County conservation lands. It provides management access for County staff. Additional connectivity from the Planning Area to recreational lands are noted in Section 26. Recreation and Open Space that will facilitate the convenience of 43.12 acres of land to serve as a Community Park site to the City of Palm Coast, which is contiguous with offsite connections to ESL lands. Further, the proposed MPD requires the construction of a multi-purpose trail system connecting commercial areas with residential areas and recreational amenities within the Property and to adjacent sidewalks and trails.	Y	
1.1.9.18	The City shall coordinate with land acquisition entities and public agencies to acquire environmentally and culturally significant lands in the Planning Area east of Old Kings Road.	ESL Acquisition	In May 2009, the Flagler County Board of County Commissioners authorized acquisition of Sweetbottom Plantation, approximately 97.0 acres within the Blueway project area and in immediate vicinity to the Planning Area. Through the County's Environmentally Sensitive Lands program, the acquisition expanded the conservation lands beyond 1000 acres and facilitated water access to Bulow Creek. The project area has not been placed on the real estate market since policy adoption.	Y	The subject property is not for sale, which inhibits the pursuit of appraisals along with applying to the County ESL program. However, the LAC Committee is considering the acquisition of a portion of the Iroquis property (south of the project area) to expand access and offsite conservation lands.
1.1.9.19	In the event that the Owner places conservation easements over any wetlands within the Area, the City may at its own expense and at its sole discretion, change the comprehensive plan designation of said wetland to a FLUM designation of Conservation. Such lands may be required to be dedicated to a public entity.	Wetland CE	At this time, staff is only aware of 16.56 acres of cypress community currently in conservation easement.	Y	Through subdivision and site planning processes, the limits of the preservation lands will be further refined and conservation easements recorded. This policy will be applied as the project matures.
1.1.9.20	Development of the Planning Area identified as Economic Development Area #3 in the Airport Area Master Plan shall consider the recommendations of the Airport Area Master Plan in order to ensure the long-term development of the Flagler County Airport.	Airport Area Master Plan	Incentives provided by the Airport Area Master Plan are incorporated in the LDC. These incentives may be implemented and reviewed during the development plan approval process (incentives may include greater height and/or FAR, reduced parking requirements).	Y	
1.1.9.21	Prior to any development in the South Old Kings Road Planning Area, the developer will coordinate with the School District to have a binding commitment that ensures adequate school capacity is available to accommodate the impacts of new development, as appropriate any capital improvement needed to increase school capacity will be included in the Capital Improvements Schedule.	School District	Section 27 outlines negotiated terms between school district and developer to mitigate impacts or school facilities		

Option 1

Staff has reviewed Tracts E1, E2, & E5 and the potential impact of protecting the Sand Ridge within these tracts. As provided in the table below, protecting the Sand Ridge at the 24' elevation will result in the protection of 5.03 acres in Tract E1, 10.57 acres in Tract E2, and 9.8 acres in Tract E5, for a total of 25+/- acres.

Based on the allowable densities within the proposed DRI this translates to a total of 173 dwelling units that may be transferred or developed elsewhere within the developable areas of the DRI.

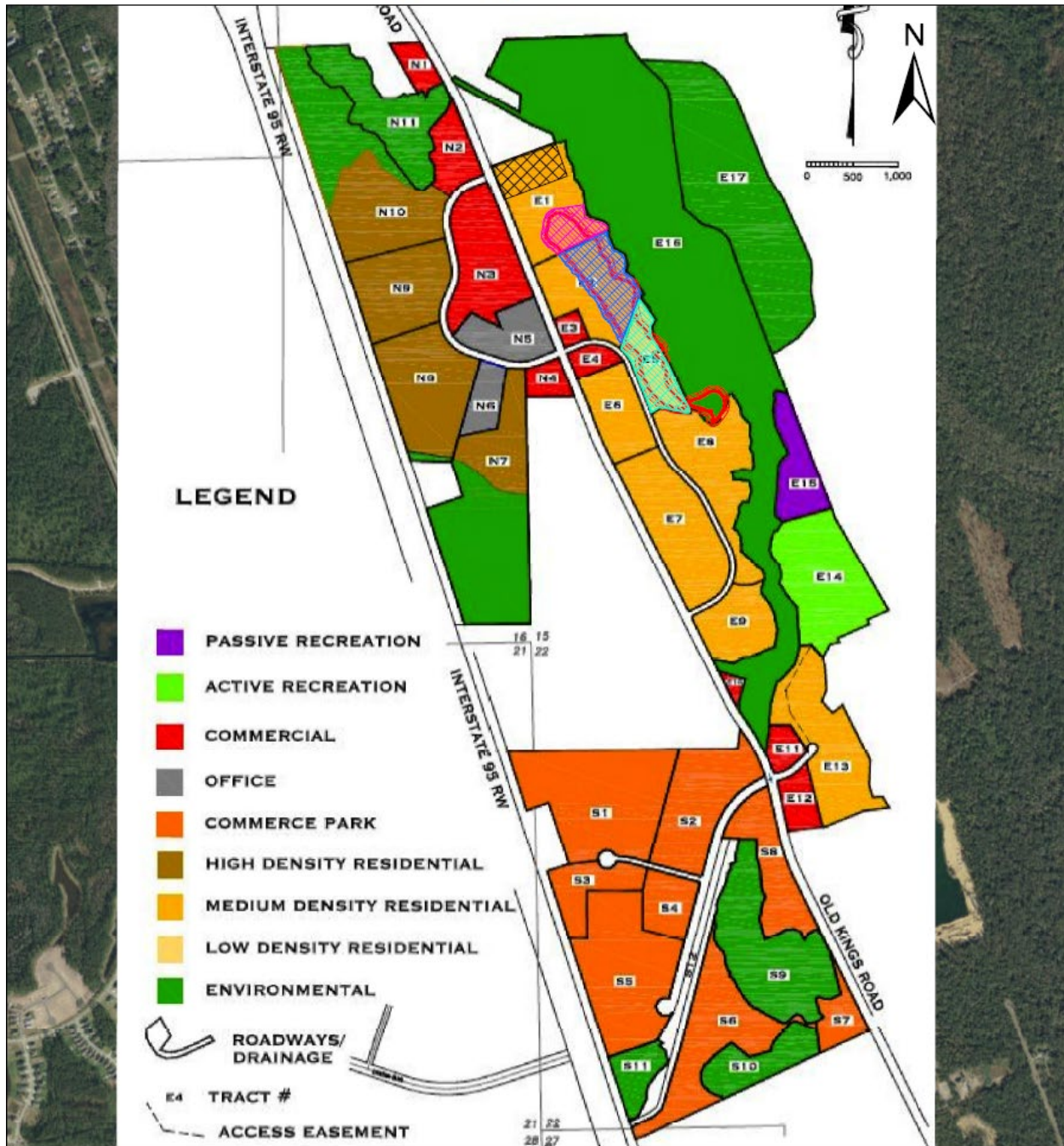
Tract #	Land Use	Max Density/acre	Acreage	Potential # of units	Acreage to Sand Ridge	Potential # of units within Sand Ridge Protection	Remainder (Acres)	Remainder Potential # of units
E1	Medium Density	8	21.33	170.64	5.03	40.24	16.3	130.4
E2	Medium Density	8	20.13	161.04	10.57	84.56	9.56	76.48
E5	Low Density	5	9.8	49	9.8	49	0	0
TOTAL			51.26	380.68	25.4	173.8	25.86	206.88
E14	Active Recreation		26.95					
E15	Passive Recreation		16.17					

As part of the exchange, the City will support the expansion of allowable uses in Tract E13 into adjacent Tract E14. This expansion will be of an acreage of equal amount to the proposed protection areas in Tracts E1, E2, and E5.

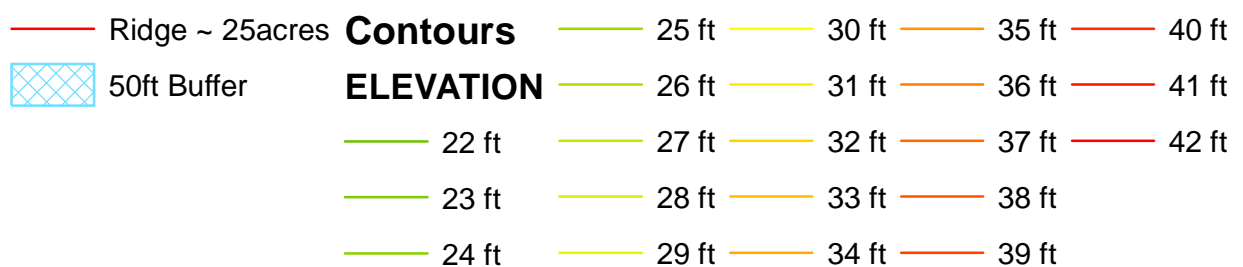
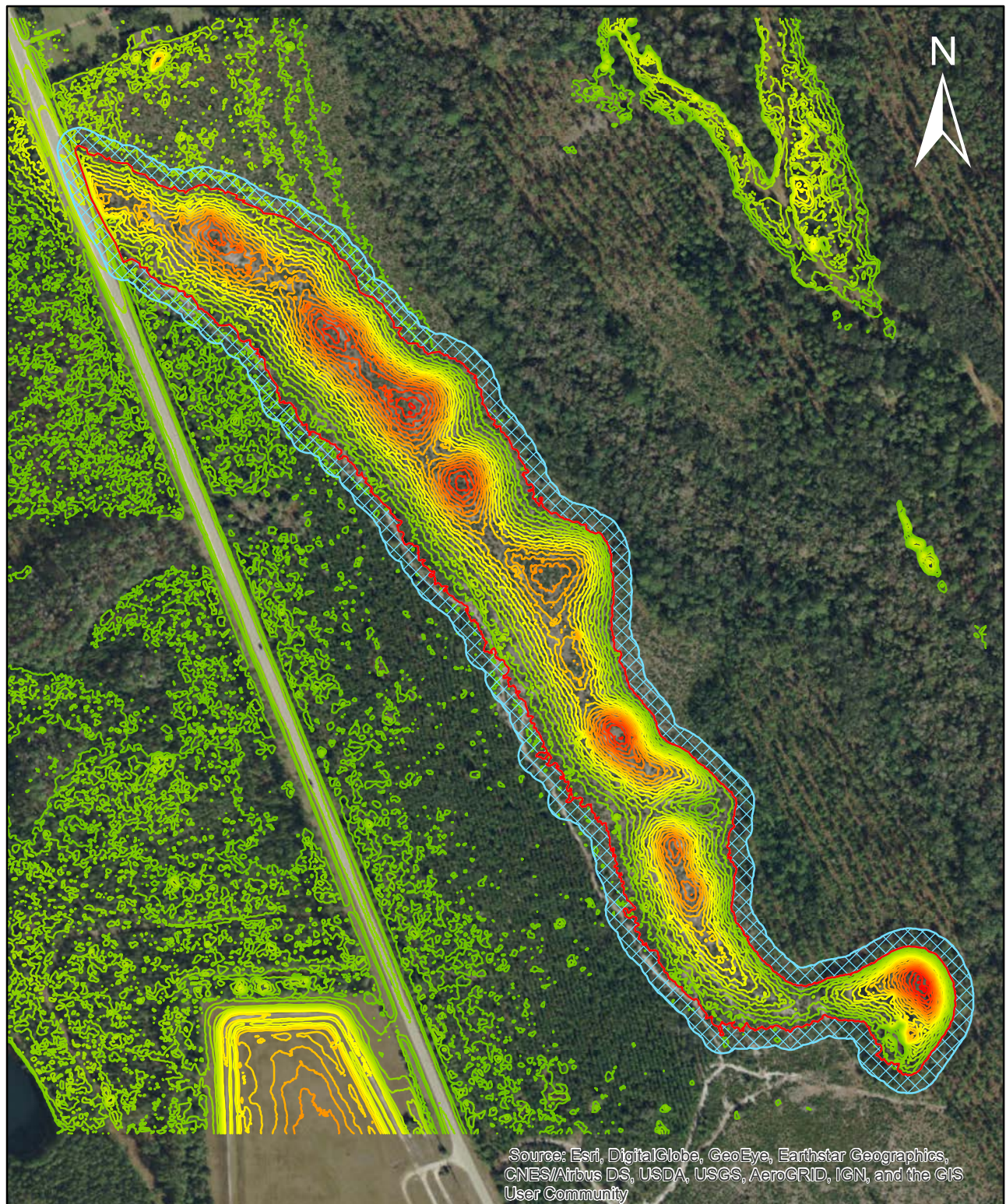
Option 2

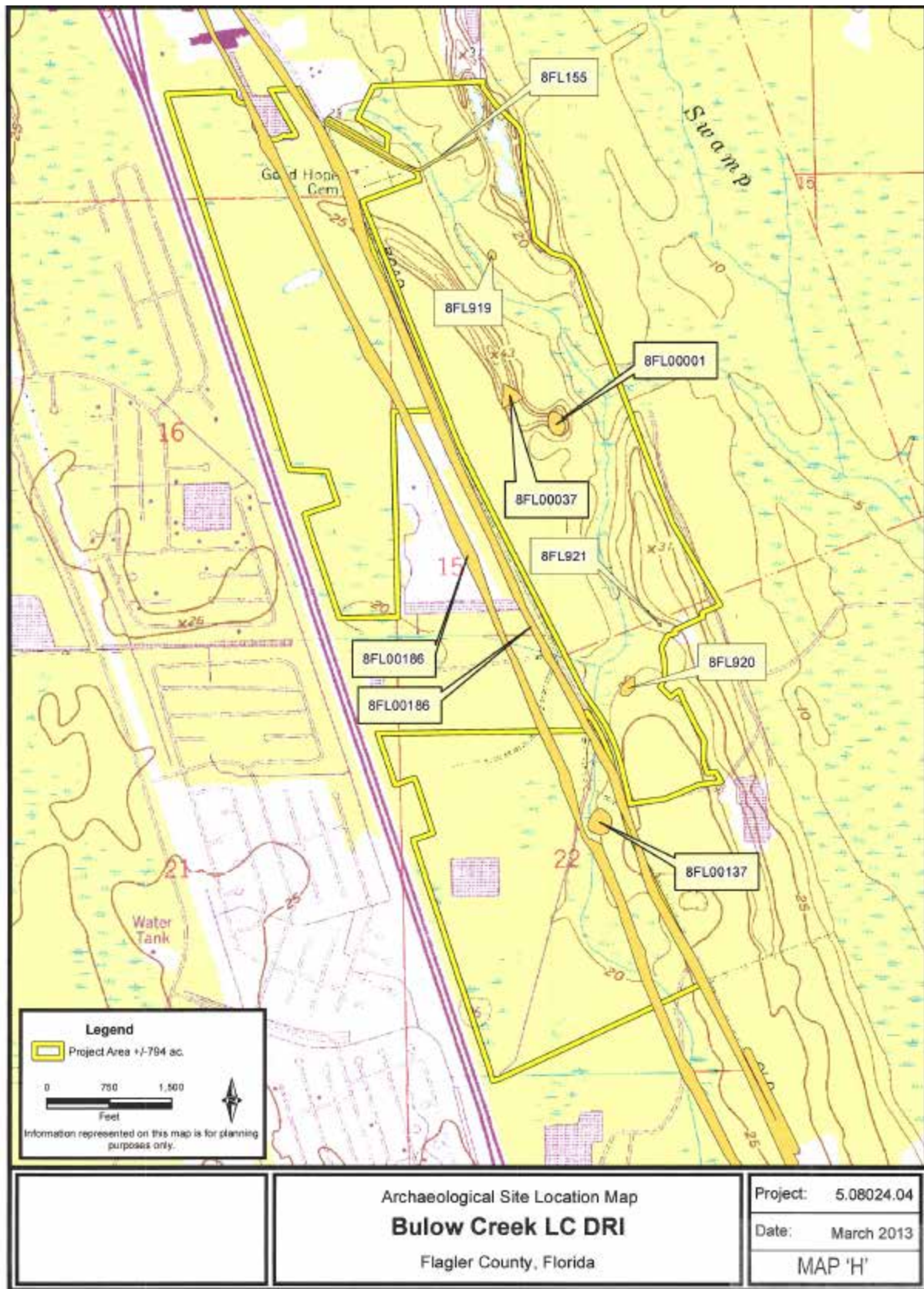
Based on the map below, the protecting the Sand Ridge at the 24' elevation will result in 25.4 acres of protection area (5.03 acres in Tract E1, 10.57 acres in Tract E2, and 8.42 acres in Tract E5). In exchange staff proposes to expand Tract E13 (identified for Medium Density) into the adjacent Tract E14 (identified for Active Recreation) in an amount equal to the Sand Ridge protection area.

Old Kings Ridge Protection Plan



Old Kings Ridge Protection Plan



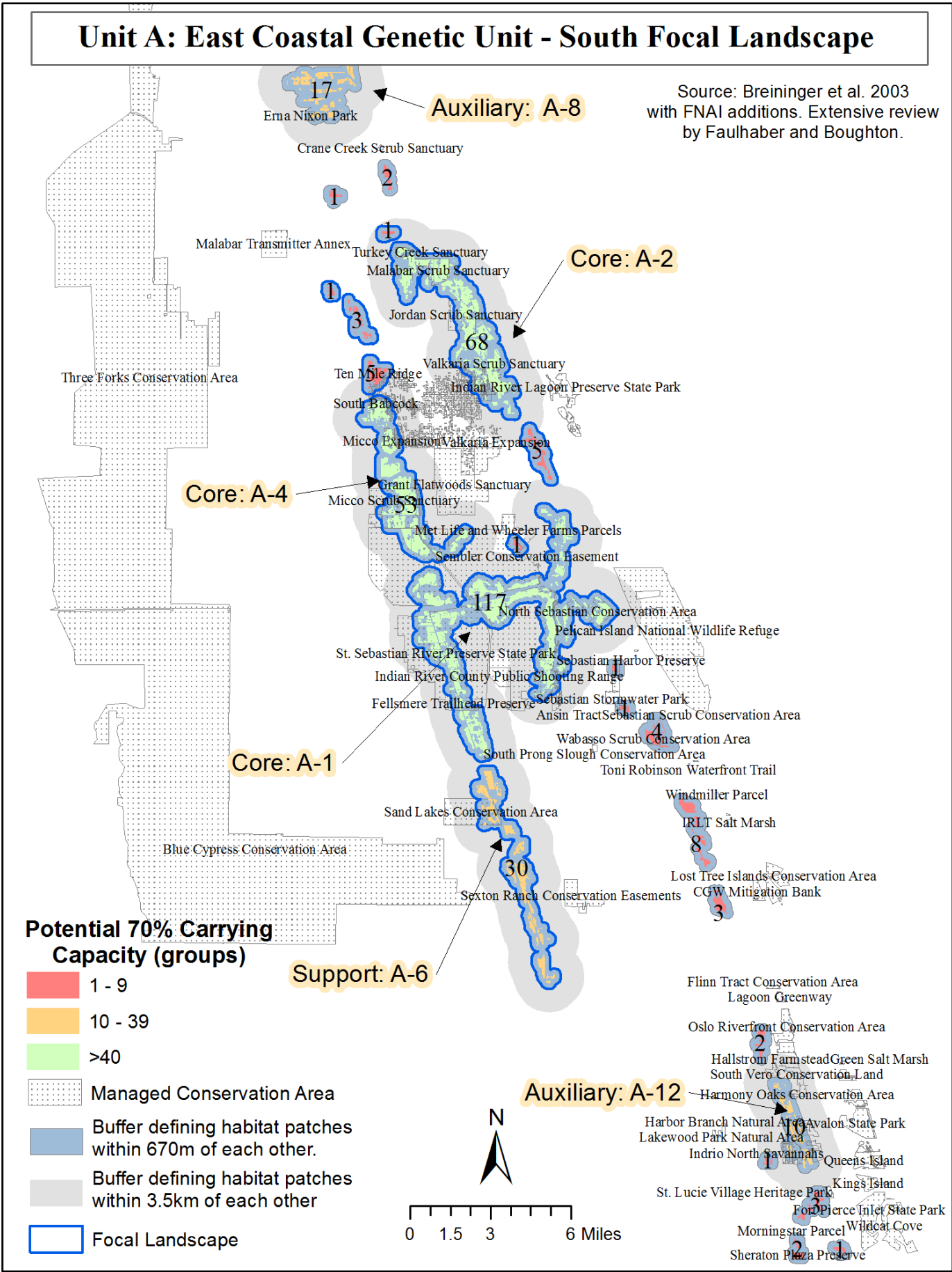


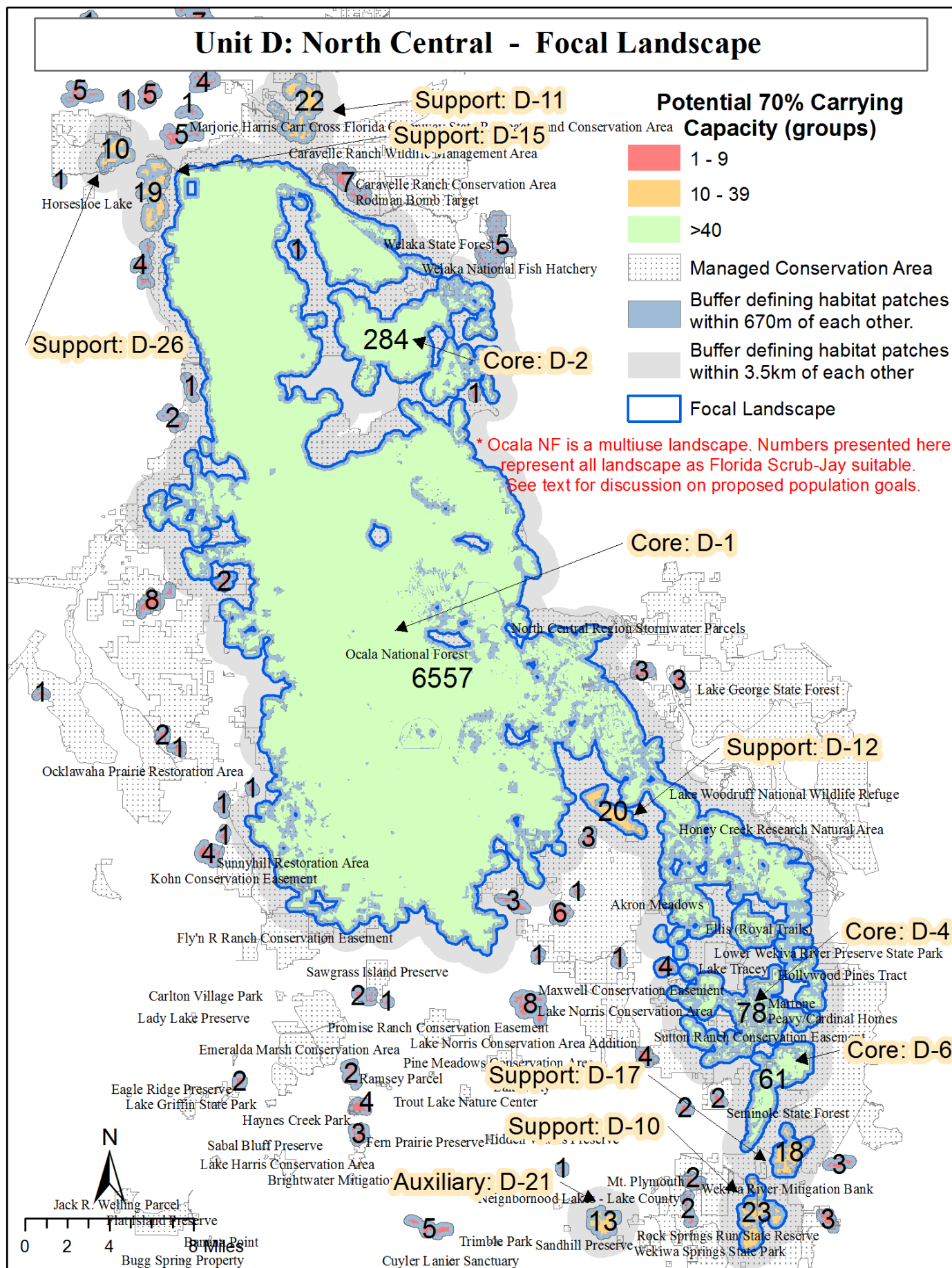
Maps of the Seven (7) Focal Landscapes Identified in the 2019 Draft Florida Scrub jay Recovery Plan Amendment

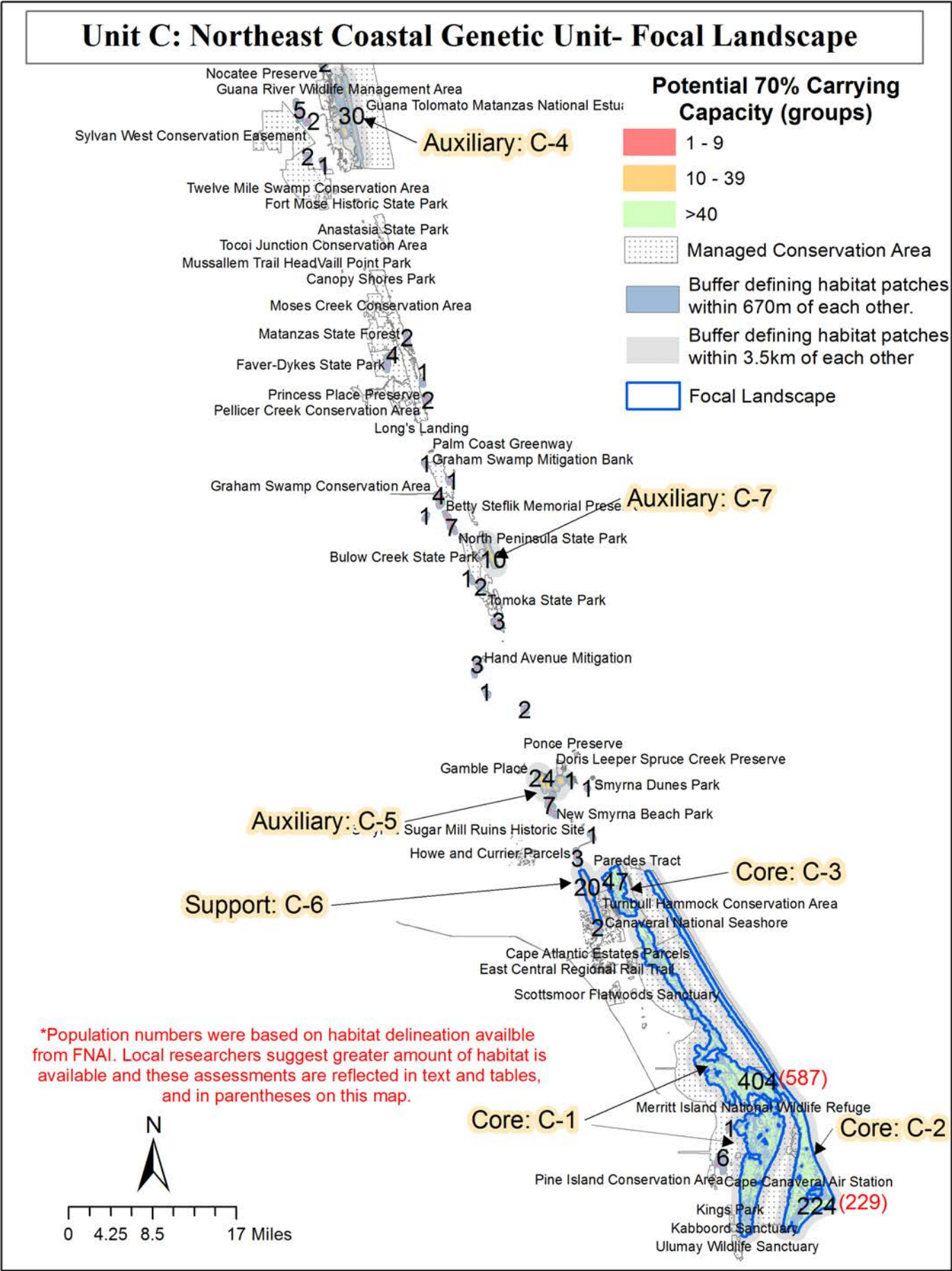
Page 5 – in part:

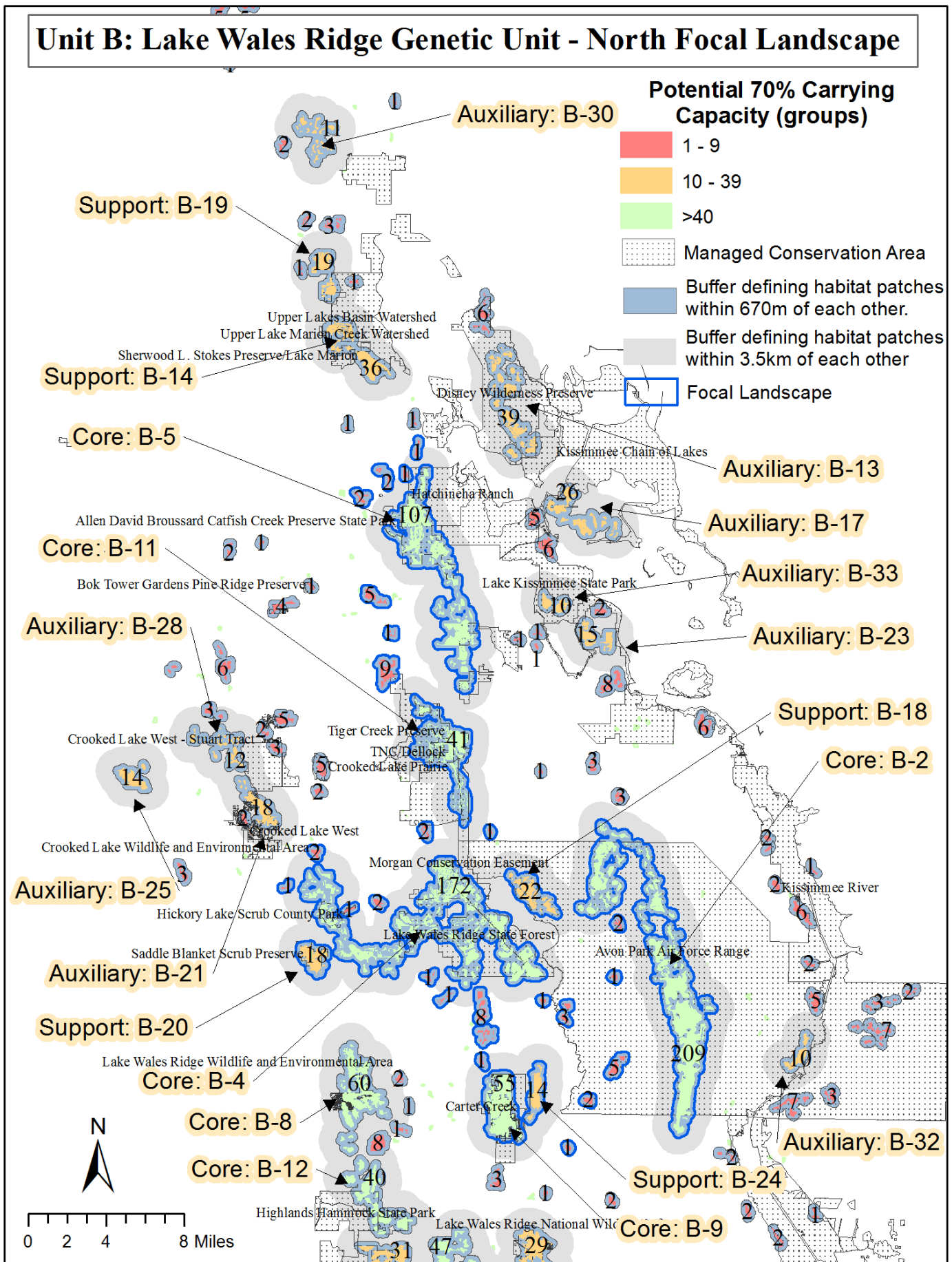
“ ...

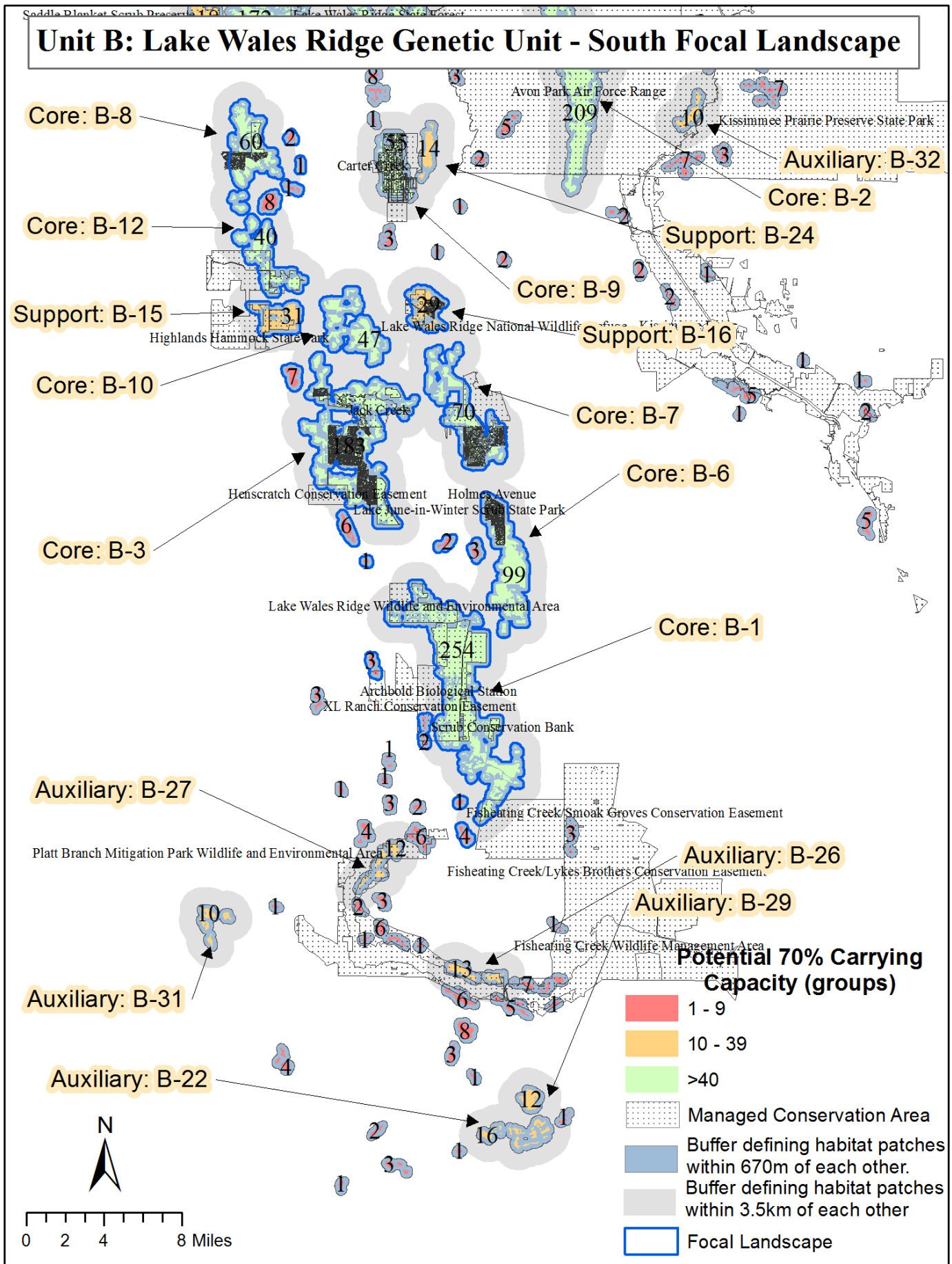
Criterion 1: Each of the seven (7) focal landscapes (East Coastal, North Central, Northeast Coastal, Lake Wales Ridge North, Lake Wales Ridge South, Southwest Inland, and Southeast Coastal)...

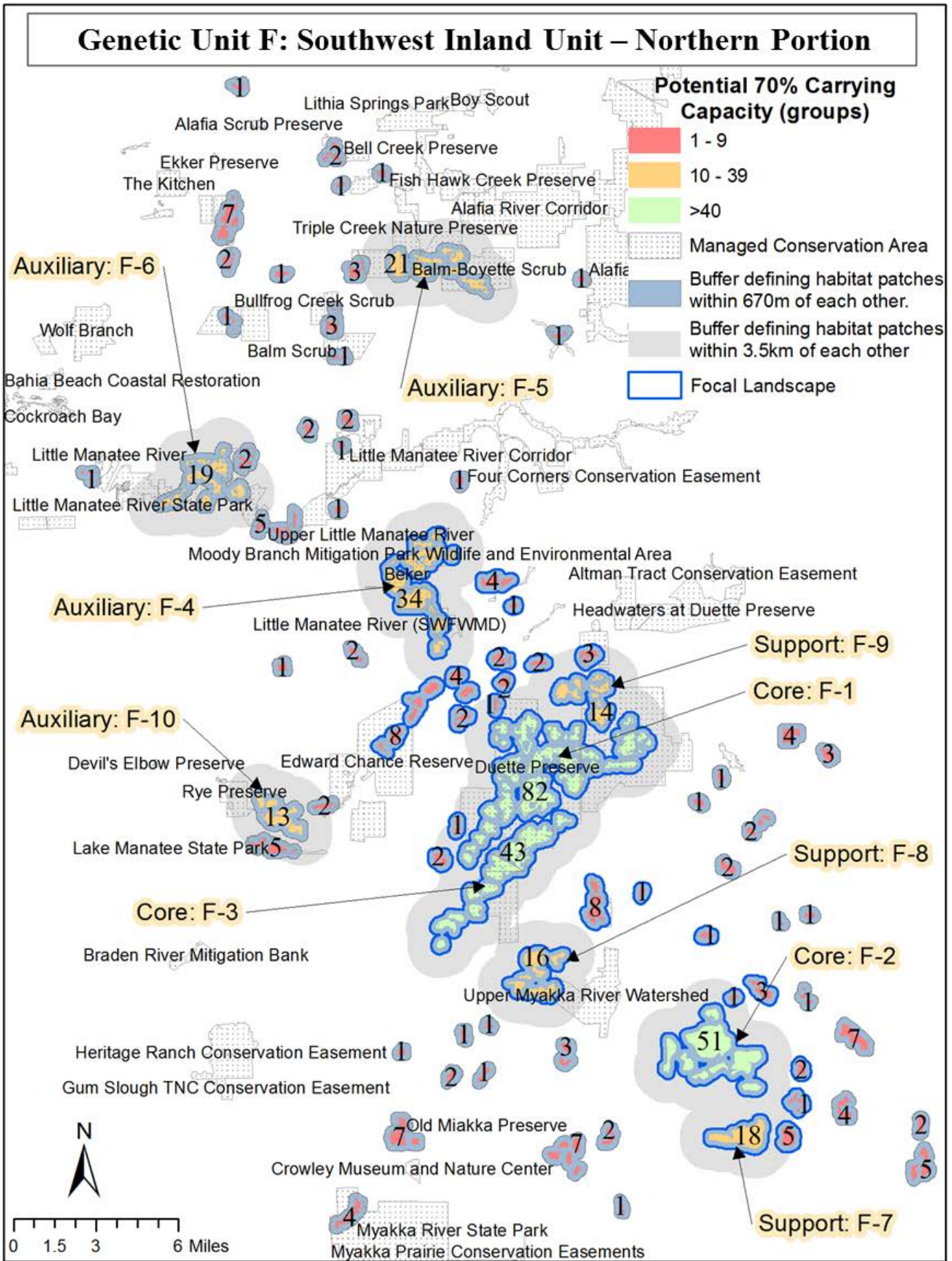


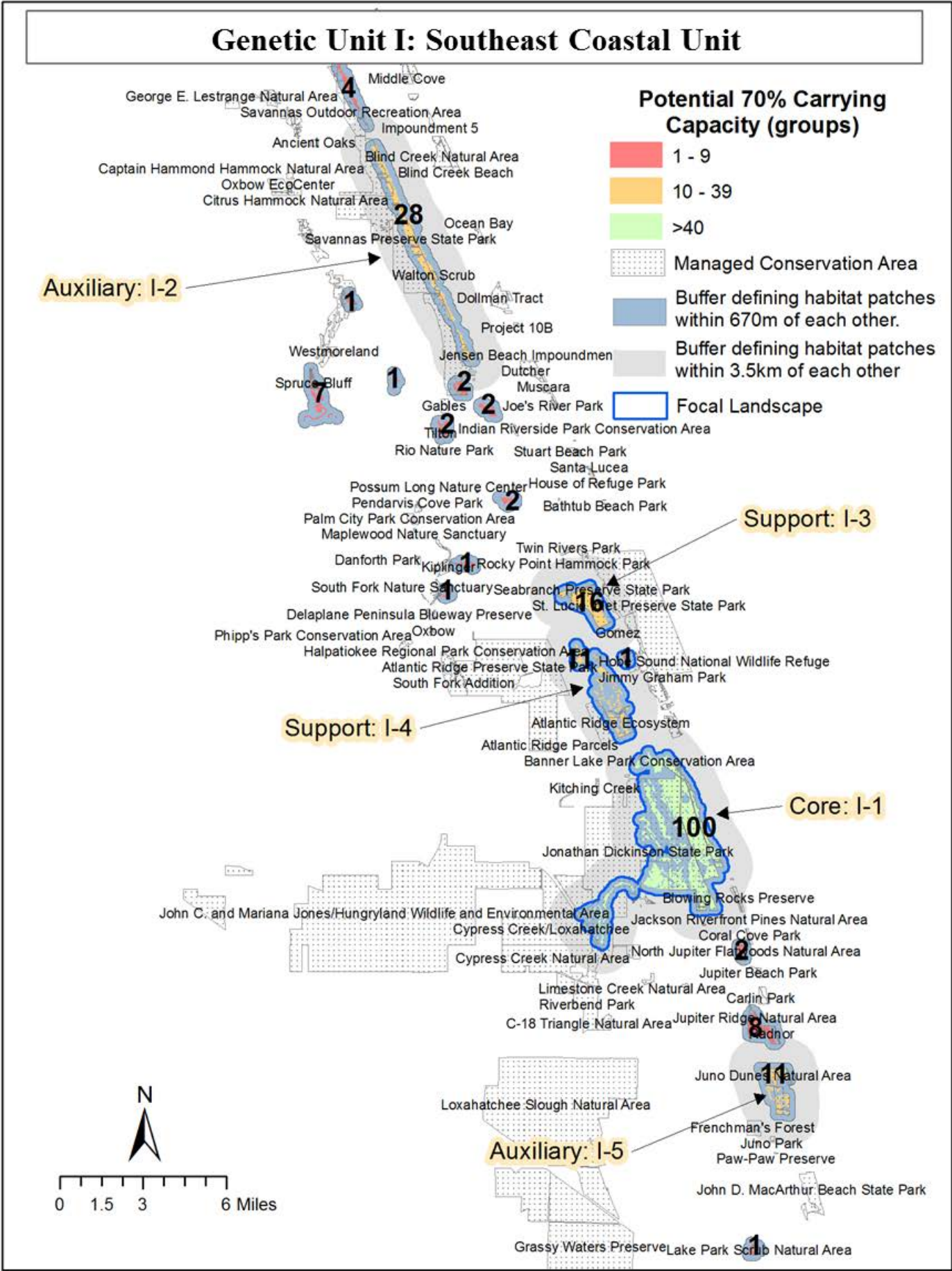












**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

THIS Master Plan Development Agreement (the “DA”)

effective this ____ day of _____ 2020 by and between

Bulow Creek, LLC, a Florida limited liability company (the
"Developer") and the **City of Palm Coast**, a municipal
corporation organized and existing under the laws of the
State of Florida (the "City").

WHEREAS, Developer filed an Application for Development Approval ("ADA")
dated July 30, 2014, as amended by ADA First Sufficiency Response dated February 27,
2015, and ADA Second Sufficiency Response dated May 28, 2015, South Old Kings Road
Development of Regional Impact ("South Old Kings Road DRI") located on certain real
property as more specifically described on **Exhibit "A"** hereto (the "Property"); and

WHEREAS, on March 6, 2017, the Developer withdrew the DRI application and
elected to obtain only rezoning approval from the City for a Master Planned Development
("MPD"); and

WHEREAS, the South Old Kings Road MPD ("Project") is a proposed mixed-use
development on the Property, consisting of approximately 786 acres located along Old
Kings Road south of SR 100 and consistent with the Master Planned Development
Agreement (the "DA"); and

WHEREAS, pursuant to Chapter 163, *Florida Statutes*, the Planning and Land
Development Regulation Board, held at a public meeting on _____
and the City Council of the City ("City Council") held public hearings on

**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

_____ and _____, for the South Old Kings Road MPD and afforded the public and all affected parties an opportunity to be heard and to present evidence; and

WHEREAS, after such public hearing and in consideration of the recommendations made and submitted to the City Council, the City Council has made certain findings and determinations; as more specifically set forth hereinafter;

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

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

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

WHEREAS, all covenants and conditions set forth herein are agreed to by the Developer and represent covenants which touch and concern the Property and run with the land and are thereby binding upon the transferees, successors and assigns of the Developer; and

WHEREAS, whenever an action or approval of the City is referred to herein, except for actions relating to the City Council, the action shall be taken by the City

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Manager, or designee; and whenever an action or approval by the Developer is referred to herein, the action may be taken by, or the right or eligibility may belong to Old Kings Road Community Development District ("CDD"), if said CDD is properly created and approved by the City under the statutes, but all conditions, covenants and agreements set forth in this DA are the obligation of the Developer; and

WHEREAS, the Developer and the City Council desire that this DA act as an agreement to provide zoning, and the City finds that this DA is consistent with the City's Comprehensive Plan (2035) (the "Comp Plan") and Unified Land Development Code (the "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

NOW, THEREFORE, BE IT HEREBY ORDERED AND RESOLVED by the City Council, that based upon the following Findings of Fact and Conclusions of Law, and the consent and agreement of the Developer, and subject to the following terms and conditions, the City Council hereby approves this DA, pursuant to applicable State laws, and the codes and ordinances of the City:

PART I

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The above Recitals/Whereas clauses are hereby adopted and incorporated into this DA.
2. The Property is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, *Florida Statutes*.

**SOUTH OLD KINGS ROAD
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3. The South Old Kings Road MPD and the DA are consistent with the State's Comprehensive Plan as set forth at Chapter 187, *Florida Statutes*.
4. The South Old Kings Road MPD is consistent with the City's Comprehensive Plan, and will be consistent with the City's Land Development Code.
5. The Developer's authorized representative is Michael Chiumento whose principal place of business is 145 City Place, Ste. 301, Palm Coast, FL, 32176; and whose telephone number is (386) 445-8900.
6. This DA constitutes final approval for the mixed-use Project as more particularly detailed in Part II of the General Conditions, subject to the terms and conditions of this DA; provided, however, that any and all approvals not specifically made or provided for herein are subject to development review.

PART II

GENERAL CONDITIONS

1. **Land Use Totals.** Pursuant to the South Old Kings Road MPD – Application for Development Approval, the Project is anticipated to be developed up to the following:

<u>Land Use Category</u>	<u>Gross Bldg./Units or Area</u>
Residential	2,246 DUs
Commerce	1,721,834 SF

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MASTER PLAN DEVELOPMENT AGREEMENT**

The South Old Kings Road MPD (the “Project”) is planned as an integrated mixed-use development as generally depicted on the Preliminary Master Plan, **Exhibit “B”**. As a result, land uses will be integrated, rather than specifically assigned to designated areas. The development rights contained above may be utilized only within the Property. The Developer may elect to accelerate the beginning date of a phase or phases provided that all mitigation requirements for the particular phase are met. The Project may include amenities and ancillary uses and facilities.

2. Land Use Conversion Table.

- (a) Developer may increase certain land uses and simultaneously decrease other land uses (“Land Use Conversion”) without filing an application to amend the DA, so long as any change is consistent with Table 1 attached as **Exhibit “C”** hereto (the “Conversion Table”), and provided that such changes do not have a substantial adverse effect or impact on public infrastructure facilities, as determined by the Land Use Administrator (the “LUA”). No conversion from non-residential to residential may occur that increases residential units greater than 2500 units or 2,500,000 square feet of Commerce uses (See also, Ex. “C”). No conversion shall take place without demonstration of adequate potable water and related facilities to support the projected water demand associated with the conversion.
- (b) So long as the conversion is consistent with the criteria contained in the Conversion Table and the City Comprehensive Plan, and no substantial

**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

change, as determined by the LUA, is made to the Preliminary Master Plan, no additional approvals shall be required for any land use conversion.

3. Zoning. This DA shall grant and bind the Developer and the Property with zoning approvals, entitlements and obligations. In addition to the above, the Property shall incorporate by reference the City’s LDC provisions, including, but not limited to, its zoning classifications, and in the event of any conflicts between the LDC and this DA, the DA shall govern to the extent it is not inconsistent with the City’s Comprehensive Plan.

(a) Classifications: Within each Land Use Designation provided in the DA, the following Zoning Classifications shall be a permitted use. The Developer may elect to develop any tract or area consistent with the permitted Zoning Classification as provided by Chapter 3 of the LDC (2018), so long as the Zoning Classification is permitted in the Land Use designation, which are as follows:

LAND USE DESIGNATION (Exhibit “B”)	PERMITTED ZONING CLASSIFICATIONS*
Commercial	COM-1; COM-2; COM-3; OFC-1; and OFC-2
Commerce Park	IND-1; IND-2; PSP; COM-2; and COM-3;
<p>¹ Per City Comp Plan Policy 1.1.1.2 and 1.1.1.3, a maximum of 20% of the total land area within this FLUM designation (citywide) may be developed for residential use with a maximum of 15 residential units occurring at a density equal to or greater than 15 units per acre. Therefore, any portion of the property developed consistent with MFR-2 may be developed at a density equal to or greater than 15 units per acre.</p>	SFR-1; SFR-2; SFR-3; SFR-4; SFR-5; DPX; MFD; MFR-1; MFR-2; and

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	MHD
Office	OFC-1; and OFC-2
Recreation	PSP; P&G; and PRS.
Environmental	PSP; P&G; and PRS

*Maximum height in COM-2, COM-3, OFC-1, OFC-2, PSP, IND-1, and IND-2 shall be 60'

- (b) Limitations: Notwithstanding the above Land Use Designation and Zoning Classification limitation, the Developer may develop the Property consistent with the Conversion Table.
- (c) Dimensional Standards: All dimensional standards for each zoning classification as provided in Chapter 3, LDC shall apply, or in the case of a variance, the PLDRB shall resolve, unless otherwise specified in this document.
4. **Phasing, Buildout and Expiration.** The Project is anticipated to be developed in four (4) phases as shown in Section 22. Given the duration of the Project, the Developer shall not be obligated to develop the Project consistent with the following schedule, but shall instead use the following as a guideline which may change at the Developer's discretion so long as it is consistent with the Conversion Table. During Phase I, the Developer may develop any uses so long as it is consistent with the DA, including the flexibility provided for in the Conversion Table.
5. **Effective Date** "Effective Date" of this DA shall mean the date the Developer and City execute the DA.

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6. **Downzoning Protection** The Project, as approved in this DA, shall not be subject to downzoning or reduction of land uses before December 31, 2038, unless Developer consents to such change, or the City demonstrates that substantial changes in the conditions underlying the approval of this DA have occurred or that this DA was based on substantially inaccurate information provided by Developer or that the changes are essential to public health, safety and welfare.
7. **Consistency with the Comprehensive Plan, Local Regulations, Concurrency, and Level of Service Standards.** Development shall be consistent with the City's Comprehensive Plan, Local Regulations, and Land Development Code. The development described in this DA is determined to be consistent with the *Florida Statutes*, the City's Comprehensive Plan and all City Ordinances and Land Development Codes in effect on the date this DA is adopted. Any future amendment to this DA must be consistent with the City's Comprehensive Plan and Land Development Codes in effect on the date the amendment is adopted. In light of Developer obligations provided herein including, but not limited to, cash contributions and donations of lands, the rights of the Developer, or its successors or assigns, to complete the development described in this DA are hereby vested pursuant to Section 163.3167(8), *Florida Statutes*, and Florida's common law.
- ~~Nothing in Florida Statutes or the City's ordinances or regulations, including Florida Statutes, ordinances, or regulations currently in effect, or as amended in the future, or later adopted Florida Statutes, ordinances, or regulations, shall be construed to restrict, alter, amend, modify or abridge the rights of the Developer or~~

~~its successors or assigns to complete the development authorized herein, or as amended in the future.~~

8. **Limitations of Approval** The approvals granted by this DA shall not be construed to obviate the duty of the Developer to comply with all other applicable federal, local or state permitting requirements.
9. **Impact Fee Credits** This DA shall not preclude the City from requiring the payment of impact fees for development or construction of the Project, provided that such fees are assessed in accordance with a duly adopted ordinance and are charged to all other similarly situated developers for the same activities within all other areas of the City. The City shall grant to the Developer or a CDD impact fee credits towards any present or future impact fees that may be adopted by the City for any contribution of land, the construction (including design) of improvements, money (including, but not limited to, “pipelining” or “proportionate share” or “fair share contributions”) made by or on behalf of the Developer or a CDD, as the case may be from time to time, if in accordance with City Code in effect at the time payment is due, unless the Developer elects to proceed under any new or revised Code provisions. In the event that any contributions of land, construction (including design) of improvements, money (including, but not limited to, “pipelining” or “proportionate share” or “fair share contributions”) made by the Developer, or improvements funded or constructed with funds from a CDD are required by then current law to give rise to impact fee credits to the CDD, then such

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impact fee credit shall be established in the name of either. In addition, the City shall hold all Transportation Impact Fees paid by the Developer (or its assigns) for development within the Project in an interest bearing escrow account (the "Traffic Impact Fees"). The Traffic Impact Fees shall be used by the City or Developer for transportation improvements necessitated by development occurring within the Project. Use of the Traffic Impact Fees on any improvement shall be governed by written agreement executed by the City and Developer.

- 10. Notices.** Any and all notices required, or allowed to be given: in accordance with this Development Agreement shall be mailed or delivered as follows:

To Developer: Bulow Creek, LLC
800 North Highland Ave., Suite 200
Orlando, Florida 32803
Attn: Lee Chira
Telephone: (407) 297-1600

With a Copy to: Chiumento Dwyer Hertel Grant & Kistemaker, P.L.
145 City Place, Ste 301
Palm Coast, Florida 32164
Attn: Michael Chiumento III
Telephone: (386) 445-8900

To the City: City of Palm Coast
160 Lake Avenue
Palm Coast, Florida 32164
Attn: City Manager
Telephone: (386) 986-3702

With a Copy to: Garganese, Weiss D'Agresta & Salzman, P.A.
111 N. Orange Ave., Suite 2000
P.O. Box 2873
Orlando, FL 32802-2873
Attn: Palm Coast City Attorney
Telephone: (407) 425-9566

11. Severability. In the event any portion of any Section of this DA shall be declared invalid, illegal, or unconstitutional by a court of competent jurisdiction, such adjudication shall in no manner affect the approval granted herein, and other provisions of the affected DA, which shall remain in full force and effect as if the portion or Section thereof so declared invalid, illegal, or unconstitutional, were not originally a part hereof; provided, however, that if the result of the severance of the portion or Section results in harm to the public health, safety or welfare; results in a public harm; or substantially negates a public benefit or imposes a public burden; then the provisions of this DA shall be deemed not severable and this DA shall be reformulated and reconstituted by the City to address said matters.

12. Other General Conditions.

(a) Notwithstanding any provision contained in this DA or other agreement, the City shall have no obligation to contribute to or participate in the funding, design, engineering, permitting, and/or construction of improvements to State roads, County roads, or City roads constructed or to be constructed within the Property.

(b) Development of the Property based upon this DA shall comply with all applicable Federal, State and local laws, codes, ordinances, rules and regulations which are hereby incorporated herein by this reference.

(c) The Developer acknowledges that the requirements and conditions of this DA as set forth herein result from the impacts of development of the Property on public facilities and systems, are reasonably attributable to the development of

the Property, are based upon comparable requirements and commitments that the City or other agencies of government would reasonably expect to require a developer to expend or provide, and are consistent with sound and generally accepted land use planning and development practices and principles.

(d) The City has no obligation to fund any public facilities or infrastructure necessitated by the development of the Property, unless specifically agreed to herein, by other agreements or through the City's Comprehensive Plan and Land Development Code.

(e) This DA and its terms and conditions, and all of the promises, commitments, obligations, covenants, liabilities, and responsibilities of the Developer, touch and concern the Property and shall continue to run with, follow and burden the Property. To this end, the promises, commitments, obligations, covenants, liabilities, and responsibilities provided for herein shall inure to the benefit of the City and shall operate as a perpetual burden and servitude upon the Property unless released by the City by means of an appropriate recordable instrument approved and executed by the City. The promises, commitments, obligations, covenants, liabilities, and responsibilities provided for herein shall be binding upon the Developer and the Developer's heirs, transferees, assigns and successors in interest (specifically including, but not by way of limitation, building permit applicants and any person or entity developing any part of the Property) and shall inure to the benefit of the City and its assigns and successors in interest as to all parts and each part of the Property. The Developer shall pay any and all costs of recording instruments in the public records of the County.

In addition to the foregoing general conditions, the following specific conditions are included in this DA to mitigate identified impacts.

PART III

SPECIFIC CONDITIONS

13. Vegetation and Wildlife.

A wildlife survey (methodology approved by the Florida Fish and Wildlife Conservation Commission) was performed on the Property on December 9-11, 2013 (the “Wildlife Survey”). The Wildlife Survey documented direct observations of wildlife as well as observations of wildlife signs (e.g., tracks and sheds). Forty percent (40%) of the site is intensively managed pine plantation. The gopher tortoise, listed as Threatened by the State of Florida, was observed during the survey. A 100% gopher tortoise survey shall be conducted prior to any clearing or development activities within each phase or Tract, except not before any silviculture activities, as this is not required by FWC or Forestry BMP’s. No other State or Federally listed animals or plant species that are known to occur in Flagler County were observed during the Wildlife Survey.

(a) Impacts to habitats used by wading bird species will be offset by wetland mitigation associated with SJRWMD and USACOE administered wetland regulatory programs. The wetland mitigation will include offsite wetland preservation, onsite wetland enhancement, onsite wetland restoration, onsite and offsite upland preservation and onsite upland buffer enhancement. The upland and

wetland preservation areas will be protected by perpetual conservation easements granted to the appropriate regulatory agencies.

(b) The Property shall be developed in full compliance with all applicable laws, rules and regulations. Development related activities on the Property shall not result in a take of wildlife species classified as endangered, threatened, or a species of special concern by either the State (68A-27.003 to 27.005, Florida Administrative Code) or Federal (16 USC 1531-1544) governments. Development related activity shall not pursue, hunt, or harass state and federally listed species without the appropriate permit(s). Development related activities will not result in the capture, possession, sale or transport of listed wildlife species without the appropriate permit(s).

(c) No construction shall commence within areas of the Property which are occupied by gopher tortoises until the Developer has obtained the necessary gopher tortoise permit(s) from the FFWCC and complies with applicable permit conditions. Moreover, a 100% gopher tortoise survey shall be conducted prior to any clearing or development activities within each Tract, excluding existing silviculture activities.

(d) The Developer shall comply with the requirements of City's Comprehensive Plan regarding wildlife species classified as endangered, threatened, or a species of special concern.

(e) Much of the Property has been used for agricultural and silvicultural purposes. Agricultural and silvicultural activities within a sub parcel re-zoned for development may continue until the commencement of construction,

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as further described in Specific Condition 29 below. No logging or other similar silvicultural operations shall be conducted within the wetland areas to be conserved or within the required upland buffer areas adjacent to the wetlands to be conserved, except for wetland and upland enhancement purposes or consistent with a mitigation plan. Silvicultural practices must be limited to those areas of the Project where such practices have occurred or are occurring.

(f) The applicant shall preserve up to 263.17 acres, designated as Environmental on the Preliminary Master Plan (**Exhibit "B"**), to be protected by perpetual conservation easements granted to the appropriate regulatory agency. During project permitting, and prior to development activities, a Greenway Management Plan, or its functional equivalent, shall be in place, that, at a minimum, addresses: 1) wildlife habitat and hydrological actions that result in improved habitat quality; 2) long-term conservation assurances via conservation easements or other viable long-term management agreements with appropriate entities as approved by the St. Johns River Water Management District and/or the Army Corps of Engineers; 3) recreation activities and cultural resource protection. A copy of the Greenway Plan shall be provided to the City Staff for review prior to the first project application.

(g) Prior to obtaining Preliminary Plat Approval or Site Plan Approval on a given tract or parcel, the Owner shall (i) comply with Section 10.04 L.D.C; and submit an acceptable tree survey for that tract or parcel to the City with the scope of such being agreed to by the parties or their designees.

(h) All activities in areas designated as Greenbelt shall be managed according to all state and federal approvals.

14. Wetlands.

(a) The Developer obtained full approval and permits from the State and Federal agencies responsible for regulating/permitting wetland impacts on the Property. Specifically, the St. Johns Water Management District (SJRWMD) and the Army Corps of Engineers (ACOE), determined that the proposed Project, as modified by the Developer, meets their permit issuance criteria.

(b) All onsite preserved wetlands will have 50' wide undisturbed upland buffers. All development shall comply with SJRWMD environmental resource permit requirements and Palm Coast Land Development Regulations.

(c) Consistent with the proposed Mitigation Plan (**Exhibit "D"**), proposed development within and adjacent to wetlands and water bodies must comply with the City's Comprehensive Plan as well as other applicable federal, state, and local laws and regulations. The following permits have been issued for the Project:

(i) SJRWMD Permit # CON-035-134750-1

(ii) ACOE Permit # SAJ-2011-02925

The Developer shall promptly provide to the City a copy of all Federal and State environmental permits prior to construction activities being undertaken. The Developer, or its assigns, shall be required to comply with all terms and conditions of all such permits.

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(d) Subject to permits from the SJRWMD, ACOE, the City, and other applicable agencies, the Developer shall record conservation easements in favor of the SJRWMD and/or the City, or their respective designees, over the proposed preserved wetlands and upland areas within the Property.

(e) As depicted by the proposed Mitigation Plan (**Exhibit "D"**) the Wetland impacts are approximately 56.19 acres of wetlands located within the Property pursuant to the permit issued by the SJRWMD and ACOE, as may be amended.

(f) Development of the Project within and adjacent to wetlands and water bodies complies with the Palm Coast Comprehensive Plan as well as applicable Federal, State, and local laws and regulations.

(g) Prior to commencement of clearing, earth movement and construction or other development within any jurisdictional wetlands, the wetland boundaries shall be approved by the SJRWMD or ACOE, as applicable. Development activities, may only occur in jurisdictional wetlands after the Developer, its successors or assigns, obtains required permits from the SJRWMD or ACOE, as applicable.

(h) Wetland impacts will be mitigated through the regulatory permitting processes of SJRWMD or ACOE, as provided for by permits issued by each. Elimination and reduction of wetland impacts will be implemented pursuant to said permits. No development activities as defined in Section 380.04, F.S., except for activities permitted by the appropriate environmental permitting agencies, shall be allowed in any wetlands areas within the Property.

(i) The Developer shall promptly provide to the City a copy of all Federal and State environmental permits prior to construction activities being undertaken. The Developer, or its assigns, shall be required to comply with all terms and conditions of all such permits.

(j) Mitigating for ecological functional losses, if any, which may be associated with the permitted impacts, the Developer shall develop an enforceable Mitigation Proposal developed in consultation with the City of Palm Coast, the Army Corps of Engineers, the St. Johns River Water Management District, and the Florida Department of Environmental Protection, as applicable.

15. Floodplains.

(a) A master stormwater management system will be designed and constructed based on pre-development and post-development evaluations of the 100-year floodplain elevations and extents and will be designed to prevent increases to the floodplain elevation for off-site lands or parcels resulting from the design storm event. The project shall not increase the base flood elevation of the floodway within the property. Prior to the commencement of Phase II, an engineering analysis prepared with standard engineering practices shall be provided to the City Engineer for review and approval

(b) The stormwater management system will be designed to accommodate the 100-year interval, 24 hour duration design storm event to prevent the increase of elevations of off-site properties. Residential structures shall have

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their finished floor elevation set at a minimum of one foot above the established applicable base flood elevation.

(c) All major collector and arterial roadways shall be constructed such that the centerline is at or above the 100-year floodplain.

(d) All construction within the 100-year floodplain shall comply with the City of Palm Coast's Comprehensive Plan, as well as with Federal, State, and local laws and regulations. Elevations will be determined based on the most recent and best available datum. Residential and non-residential structures shall have their finished floor elevation set a minimum of one foot above the established applicable base flood elevation. All major collector and arterial roadways shall be constructed such that the centerline is at or above the 100-year floodplain.

(e) Prior to approval of a Preliminary Plat or Site Plan for any area east of Old Kings Road (in whole or part), the Developer will submit a Conditional Letter of Map Revision application with City endorsement to FEMA, to confirm the elevation and limit of the Special Flood Hazard Area. FEMA documentation verifying the data will be required prior to recording the Final Plat.

(f) The Property encompasses a regulatory floodway associated with Bulow Creek, an Outstanding Florida Waterway. According to the Preliminary Master Plan, the entire extent of the system is comprised within proposed conservation area. As part of the requirements of subsection 13(f), this should be reaffirmed prior to Final Plat submittal of the first phase. No direct impacts shall take place within the associated regulatory floodway or within the associated undisturbed 50-foot buffer. In the event a connecting pedestrian pathway is

proposed, the improvement shall consist of a span bridge to ensure that debris or hazards do not adversely affect the floodway maintenance schedule shall be required to ensure that any debris or other hazards adversely affecting the floodway are timely removed. Moreover, the Developer shall grant the City a maintenance easement over the floodway.

- 16. Water Supply.** Pursuant to a prior written agreement, the City shall construct a potable water supply line along OKR (the “Water Line”) sufficient to meet all water supply needs for the Project. Pursuant to an approved Utility Agreement which shall be executed before the first Preliminary Plat approval or Site Plan approval, the Developer shall cause to be constructed a distribution system for reclaimed water concurrent with development of the Project for both residential and non-residential uses. The nonpotable distribution system may be developed parallel to and concurrently with the potable water system for utilization when sufficient quantities of reclaimed or surface water are available from the City for irrigation. Additionally, the Developer shall adhere to the following requirements:

(a) All available lower-quality sources of water, including reclaimed water, storm water, and surface water, must be distributed for use or used throughout the Property in place of higher-quality water sources, when deemed feasible under District rules and applicable State law. Stormwater, surface water, and reclaimed water shall be maximized as nonpotable water sources for irrigation. Irrigation systems shall be designed to accept nonpotable water.

(b) No Floridian aquifer wells or confined surficial aquifer wells shall be used for irrigation, except as authorized by the St. Johns River Water Management District. Until reclaimed water is available, landscaped areas within common areas shall be irrigated with available stormwater as the primary (first) source. Surface water will serve as backup (secondary) source for irrigation. Only lower quality water sources defined in (a) above shall be utilized for surface level maintenance or decorative uses, except as authorized by the St. Johns River Water Management District. Shallow wells shall be prohibited within residential lots.

17. Groundwater Protection.

(a) A 500 ft radius buffer zone shall be established around each existing and proposed wellhead where no construction activities involving hazardous materials shall be conducted and no hazardous material and/or waste generation facilities may be constructed. Direct stormwater runoff shall be diverted away from these buffer areas to stormwater treatment ponds which shall be located outside of the protection zone, consistent with City Code.

(b) Any abandoned wells discovered prior to or during development shall be properly plugged and abandoned in accordance with SJRWMD's rules and regulations.

(c) The following best management practices shall apply to geotechnical borings:

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(i) All borings deeper than 20 feet shall be neat cement grouted to the surface to prevent downward migration of surface and subsurface contaminants along the borehole to the shallow intermediate or Floridan Aquifer.

(ii) All borings less than 20 feet deep shall be backfilled with the original drilled soil to the surface to prevent the creation of a sump. Where the boring is advanced through asphalt or concrete it shall be patched at the surface with a similar impervious material.

(iii) If contamination is detected in any geotechnical boring, the contaminated soil shall not be used as replacement material and the horizontal and vertical extent of the contamination shall be assessed and reported to the City and the appropriate regulatory authority.

(d) Any discharge of a hazardous substance at regulatory reporting thresholds shall be reported immediately by the facility owner, operator, or responsible party to the City. Such notification shall in no way alleviate the owner, operator, or responsible party from other City, State, and Federal reporting obligations as required by law. All facilities with discharges of any quantity of a hazardous substance shall be remediated so that contamination of soil, surface water, or groundwater is brought into compliance with State, local, and/or Federal standards. Clean-up activities shall begin concurrent with or immediately following emergency response activities.

(e) Whenever it is determined by the City or authorized regulatory agency that a discharge of hazardous substances is resulting in imminent threat of contamination of groundwater or danger to life or property from the contamination

of groundwater within the Property, or portion thereof, the Developer or its successors and assigns, shall take immediate corrective action as required by the City. In the event the Developer, or its successors or assigns, as an owner of that portion of the Property contaminated with regulated substances, fails to comply with applicable Federal, State, and Local regulations, the City may enter the affected portion of the Property and conduct clean-up activities that are required by Federal, State, and Local regulations, and pass on the cost of clean up activities to the responsible party. Initiation of any required clean-up activities as directed by the City shall commence within 24 hours and shall be completed within the time specified by the City or other regulatory authority. If immediate corrective measures are not taken and there is immediate threat to the City's potable water resources, danger or hardship to the public, the City may enter upon lands, take corrective actions, and place a lien on the real property of such person(s) to recover the costs of the corrective measures. This prohibition, as with all other provisions of this DA, shall act as a deed restriction within the Property.

- 18. Wastewater Management.** Development within the Project shall occur concurrent with the provision of adequate central sewer service meeting the adopted level of service of the City's Comprehensive Plan. Prior to site plan on preliminary plat, the Developer and the City shall enter into a Utilities Agreement, which addresses the City's provision of central sewer service to the Project.

- 19. Stormwater Management/Stormwater Pollution Prevention.** The surface water management system for the Property shall be designed in accordance with applicable City and SJRWMD requirements and will provide for the effective removal of stormwater from the development areas through a series of stormwater management facilities. A CDD, POA, or its functional equivalent shall be established to maintain the drainage system upon completion of each parcel within the Property. The Developer will be responsible for the maintenance of the drainage system until the CDD, POA, or its functional equivalent is formed and the individual parcels are sold or developed. Development within the Property shall use Best Management Practices for Erosion Control as required by the applicable National Pollutant Discharge Elimination System (“NPDES”) permit. Construction activity within the Property shall be conducted in accordance with a stormwater pollution prevention plan developed pursuant to the NPDES permitting program, and consistent with the City Land Development Code. Discharge from stormwater ponds will meet all local, State and Federal surface water quality standards.

The Project will include “bio-swales” as pre-treatment systems to reduce the rate of post development discharge. Drainage ways constructed by the Developer shall be vegetated or sodded. Sod shall not incorporate non-biodegradable materials, such as netting. The inside detention slopes for stormwater ponds shall be sodded. The berm and outside slopes for stormwater ponds shall be hydroseeded. All slopes steeper than 4:1 (horizontal:vertical) shall be sodded. Only those areas needed for development may be cleared. All cleared

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development areas shall be hydro-seeded or seeded and mulched once construction activities in such areas cease. All areas which are covered with vegetation or sod or which are seeded and mulched or hydro-seeded shall be maintained after construction consistent with City Code.

The applicant shall construct a stormwater management system that provides treatment and pre-treatment as required by SJRWMD, the FDEP and FAC Chapter 40C-42. Attenuation shall be provided for the 25-year, 24-hr and the 100yr, 24-hr storms, and all discharges in Bulow Creek shall adhere to the SJRWMD and FDEP water quality standards for stormwater discharge to an Outstanding Florida Water.

The stormwater management system shall be designed as a stormwater reuse system to maximize the amount of surface water that will be available as a backup source for irrigation needs through the development.

Prior to commencement of any construction which will be adjacent to a conserved wetland, the Developer's contractor (the "Contractor") shall be required to install and maintain silt fencing on the landward edge of the natural vegetated upland buffer, or landward of the natural vegetated upland buffer at the physical limits of construction, to protect the conserved wetlands. The Contractor shall be responsible for inspection of the silt fencing at least once a week or within 24 hours after each rainfall event in excess of one half (1/2) inch, and must repair fallen or damaged sections immediately upon discovery. All contractors working within the Property shall be notified of the requirement for a stormwater pollution plan developed pursuant to the NPDES permit program and shall be advised of the

requirements for silt fencing set forth in this section. Copies of the stormwater pollution prevention plans shall be provided to the City and other required regulatory agencies. In addition, the Developer agrees to incorporate into its property management contract practices the use of slow release fertilizer and other Best Management Practices to further improve surface water quality. Stormwater management system, including regulatory floodways within the property, shall be operated and maintained in accordance with FAC 42-42.027, .028, and .029. Perpetual access easement shall be provided allowing reasonable access for City inspection personnel to all stormwater management facilities, including regulatory floodways.

20. Surface Water/Water Quality Monitoring. No monitoring program is required.

21. Solid Waste.

(a) Development of the Project shall occur concurrent with provisions of adequate solid waste service meeting the adopted level of service in the City's Comprehensive Plan. The Project shall participate in the City's recycling program.

(b) Development within the Project or individual phases shall not occur until adequate permitted capacity is verified from the identified service provider or a substitute.

(c) All users, generators and operators within the Property shall be required to adhere to all Federal, State and local laws, codes, ordinances, rules and regulations with respect to the use, management and disposal of hazardous waste.

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(d) Bear Smart Community principles
(<http://myfwc.com/media/2612908/bear-management-plan.pdf>) shall be integrated into design and operations. The intent is to minimize human-animal conflicts from black bear and other species that may be drawn to area attractants. The Developer and City shall cooperate on grant opportunities to supplement cost(s) that the Developer may incur to implement these principles. At no cost to the City, the Developer will allow Project community recreational facilities to be utilized to conduct Florida Black Bear protection educational events for the benefit of the Project residents.

All residential and commercial properties will also be required to utilize bear proof dumpsters and trash cans.

- 22. Transportation.** The Developer will dedicate right-of-way (“ROW”), construct improvements, and/or make cash payments to mitigate for regional transportation impacts and meet local concurrency requirements, pursuant to Section 163.3180(12), *Florida Statutes*. The Developer acknowledges that the terms of this DA and the City’s Comprehensive Plan require the Developer to provide its proportionate fair-share of costs for improvements needed for traffic impact mitigation. The Developer shall be obligated to make all transportation improvements consistent with the Traffic Impact Report performed by Lassiter Transportation Group previously submitted to the City (the “DRI Traffic Analysis”). The Developer shall coordinate with Flagler County on the location of

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the eight (8) foot wide multi-use path that is planned along Old Kings Road. Pursuant to the DRI Traffic Analysis, external trip generations impact the adjacent roadways are as follows:

TABLE 22.A

Internal/External Split – Vehicle Trips
South Old Kings Road DRI

Phasing	Daily Trips		P.M. Peak-Hour Trips	
	Internal	External	Internal	External
Phase 1 (2020)	368	6,805	59	1,111
Phase 2 (2026)	4,443	16,296	622	2,357
(Cumulative)	(4,811)	(23,101)	(681)	(3,468)
Phase 3 (2032)	8,755	23,377	1,135	3,144
(Cumulative)	(13,566)	(46,478)	(1,815)	(6,611)
Phase 4 (2038)	15,744	32,341	1,954	4,166
(Cumulative)	(29,310)	(78,819)	(3,770)	(10,777)

(a) Phase I: Development in Phase I shall not exceed the P.M. Peak-Hour Trips (External) displayed in table above. The Phase 1 impacts will be deemed mitigated when:

- i. The Developer constructs or causes to be constructed to FDOT standards the intersection improvements at SR100 and Old Kings Road (“Intersection Improvements”). Construction of the Intersection Improvements shall commence prior to approval of the four hundred (400) residential units or its equivalent as provided in the Conversion Table. Moreover, construction of the Intersection Improvements shall be completed prior to the commencement of Phase II unless otherwise agreed to by the Developer and the City or their designees; and

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~~ii. The Developer pays their proportionate share payment of \$21,480 (inflated to 2015 dollars) for the intersection improvements at SR100 and Belle Terre Parkway. The payment shall be made to the FDOT at the time of the first plat approval for residential uses and/or equivalent for non-residential uses. Upon completion of the Intersection Improvements the Developer shall be entitled to Impact Fee credits in an amount equivalent to the actual cost of design and construction of the Intersection Improvements, and in accordance with City Code.~~

~~iii.ii.~~ In light of the aforementioned obligations, Phase I of the Project is vested for traffic concurrency not to exceed those vehicle trips identified in Table 22.A.

- (b) Phase II-IV: The Developer, its successor or assigns shall conduct a Traffic Study before proceeding with Phase 2 development but no later than construction of 60% of the development program of Phase I which shall ascertain the Level of Service (LOS) on facilities where the Project is estimated to contribute an amount of traffic greater than or equal to 5% of the adopted LOS service volume. The methodology shall be similar to that required within the ADA but shall be consistent with the requirements of the Palm Coast Concurrency Management System, unless otherwise agreed to by the parties. In the event that the parties cannot come to an agreement on the methodology, FDOT, Flagler County and Palm Coast shall be the

final arbiters. City of Palm Coast's decision shall be final as it relates to City Facilities; Flagler County's decision shall be final as it relates to County facilities, FDOT's decision shall be final as it relates to state facilities. The Project shall not commence beyond Phase 1 into Phases 2-4 (based on the Phase or threshold) when service levels are below the adopted level of service and the Project is projected to contribute 5% of the adopted service volume to the roadway, unless mitigation measures and/or improvements are secured.

- (c) The Developer, its successors or assigns shall reserve the necessary right of way within Parcel S5 for the potential connection from Old Kings Road via the Commerce Park to Citation Parkway extension over Interstate 95.
- (d) ~~In the event Developer fails to commence development activities (including but not limited to, filing a site plan or preliminary plat application), the Developer shall revise the existing DRI Traffic analysis.~~ The Developer shall provide an updated Traffic analysis as part of the first project submittal for Phase 1.

23. **Air Quality.** Developer will be responsible for the work of all Contractors. Developer will ensure that Contractors will utilize the best operating practices for dust control, including the following measures, as necessary, during all construction activities throughout build-out of the MPD:

- (a) Contractors will moisten soil or use resinous adhesives on barren areas, which shall include, at a minimum, all roads, parking lots, and material stockpiles;
- (b) Contractors will use mulch, liquid resinous adhesives with hydro-seeding or sod on all landscape areas;
- (c) Contractors will remove soil and other dust-generating material deposited on paved streets by vehicular traffic, earth moving equipment, or soil erosion; and
- (d) Open burning is prohibited, unless otherwise agreed to by the City.

24. Low Impact Development Practices.

1. Site Planning. The Developer will coordinate with the City to implement planning and design practices for the Property through the identification and prioritization of the following ecological site characteristics: wetlands, uplands, wildlife corridors, cultural resources, landscape and soils.

The Developer and the City will coordinate and identify requirements to minimize land disturbance through the following practices: limit topsoil removal and soil compaction on throughout the Property and where practicable stockpile topsoil within the Property for reuse; limit impervious areas through narrow streets and/or higher density home layouts. Limiting of impervious area via the use of narrower streets must comply with minimum traffic engineering and fire safety requirements. Additionally, higher density housing layouts must conform with Comprehensive Plan and Land Development Code requirements pertaining to maximum density.

2. Water conservation. Water conservation strategies, including native, drought-tolerant landscape techniques and low-flow plumbing fixtures shall be incorporated into the construction, operation, and maintenance phases of the Project, and shall be included in the covenants and deed restrictions. The water conservation strategies shall include the following conditions:

(a) All project related construction and development shall meet, at a minimum, Florida WaterStar Design standards, in accordance with the Northeast Florida Regional Council's policy approved on February 7, 2008, unless amended. The covenants, codes, and deed restrictions shall require that only U.S. Environmental Protection Agency WaterSense®-labeled water conserving fixtures or equivalent performing fixtures shall be installed in all residential structures and, as appropriate, in nonresidential buildings and structures. The covenants, codes, and deed restrictions shall require that only U.S. Department of Energy and U.S. Environmental Protection Agency ENERGY STAR-labeled appliances or equivalent performing appliances shall be installed in all residential structures and, as appropriate, in nonresidential buildings and structures.

(b) Best management practices cited by the University of Florida in the Institute of Food and Agricultural Sciences' A Guide to Florida-Friendly Landscaping shall be followed for landscape installation, irrigation, and fertilizer and pesticide applications. These best management practices include:

- Landscape design that minimizes the impacts of fertilizer applications
- Preferred plant materials

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- Appropriate type of fertilizer to avoid the release of excess nutrients
- Rate and frequency of fertilizer and pesticide applications
- Watering schedules consistent with the District's landscape irrigation rule
- Design and maintenance of drainage control systems

(c) A water-wise approach shall be used throughout the landscaped areas of the Project. Irrigated turf grass shall not exceed 50% of the landscaped area (except for active play areas and parks) and site-appropriate plant species shall be used in landscaped areas. Landscaped area is defined as any pervious area within the proposed Project that will be altered due to the development, exclusive of pervious areas within wetlands, wetland buffers, vegetative buffers between land uses, stormwater systems, and required preservation areas. Refer to the SJRWMD's Waterwise Florida Landscapes, available online at floridaswater.com/waterwise-landscapes, or other comparable guides.

(d) The Developer shall display information on the use of native vegetation and/or drought tolerant vegetation, water conservation guides and IFAS Cooperative Extension Services' "Florida Yards and Neighborhoods" in a prominent location in the Project sales offices. Low-flow plumbing fixtures shall be incorporated into the construction, operation, and maintenance phases of the Project and shall be included in the covenant and deed restrictions.

(e) Except when Bahia Grass is used, separate irrigation zones shall be required for turf and non-turf areas throughout all land uses (residential and non-

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residential) to avoid irrigation of landscaped areas when irrigating turf zone(s). Landscaped areas shall not be irrigated using a high-volume irrigation system. All irrigation systems shall use a rain shut-off device such as a rain sensor or soil moisture sensor (per Florida Statutes) to override unnecessary irrigation events.

(f) Both the common areas and individual properties within the Project shall be developed and maintained in conformance with the Florida Water Star program, which shall be enforced through covenant or deed restriction. Additionally, both the common areas and individual properties shall adhere to Waterwise Florida Landscapes principles.

(g) The Developer shall implement a customer and employee water conservation education program as specified in Section 12.2.5.1(e) of the SJRWMD Applicant's Handbook: Consumptive Use of Water. This condition may be satisfied by the water utility provider with approval of the SJRWMD.

(h) Before the end of Phase 2, at least one non-residential demonstration site and one model home shall be landscaped in accordance with the landscape principles described above.

(i) Only high-efficiency or U.S. Environmental Protection Agency Water Sense labeled water conserving devices, fixtures, and appliances shall be installed in all residential and nonresidential buildings and structures.

(j) Water Star literature shall be distributed to all to residents and tenants.

(k) Septic tanks shall be prohibited.

3. Energy Conservation. The Developer will seek to obtain certification from the Florida Green Building Coalition, the U.S. Green Building Council or similar recognized program for two (2) development parcels with the Property.

The Developer shall use traditional energy conservation methods in construction of residential and non-residential facilities. This will include increased insulation, high efficiency mechanical devices, cross ventilation, solar heating and cooling, and low pressure sodium lamps for external lighting. Landscaping will be recommended wherever possible to reduce irrigation and energy needs by relying on plants most suitable to the climate and conditions of central Florida. The Developer shall use reasonable efforts to incorporate these standards at minimum:

- a. Provision of a bicycle/pedestrian system connecting all land uses
- b. Provision of bicycle racks in recreation, commercial, and residential areas
- c. Cooperation in locating bus stop shelters and other passenger and system accommodations for transit system to serve area
- d. Use of energy-efficient windows
- e. Use of operable windows and ceiling fans (non residential)
- f. Installation of energy-efficient appliances and equipment
- g. Use of low-flush volume water closets and shower heads and faucets with lowered maximum flow rate
- h. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months, consistent with generally acceptable Fire Wise principles.

- i. Orientation of structures, where possible, to reduce solar heat gain by walls and cooling effects of the wind utilize the natural
- j. Provision of structural shading wherever practical when natural shading cannot be used effectively
- k. Inclusion of porch/patio areas in residential units.

The Developer shall endeavor to reserve land for Compressed Natural Gas (CNG) fueling of fleet vehicles within the Commerce Park (Industrial) areas of the project area. The Developer shall endeavor to encourage the construction of a CNG fueling station, unless otherwise agreed to by the City or its designee.

25. Police and Fire Protection.

(a) No later than the end of Phase 2, the Developer shall provide one on site Flagler County Sheriff's Office sub- station as a rent or lease free store front. The City and Sheriff's Office shall use its best efforts to co-locate the Sheriff's substation request within its fire station facility constructed by the City. The Developer shall pre-pay \$113,364.88 (in 2014 dollars), adjusted for inflation as provided by the Consumer Price Index (CPI), no later than the end of Phase Two. The Developer shall receive impact fee credits against the prepayment, in accordance with City Code.

(b) The Developer shall reserve one (1) Fire Station Site acceptable to the City and County, containing up to four (4) upland acres in total, or 2.5 acres if the Developer provides for stormwater treatment, which shall be located within the Project. Prior to the commencement of Phase 2, the Developer shall work with the

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City and County to complete a station capacity and response time analysis. If the study determines a station is needed, the Developer shall then deed the reserved Fire Station Site to the City free of charge in a form acceptable to the City, and shall be free and clear of liens or encumbrances, following a request by the City. The Developer shall receive impact fee credit against Fire and Rescue Impact Fees for the donation of land as described herein, calculated in accordance with City Code.

(c) The Developer, County and City shall use their best efforts to co-locate the Flagler County Sheriff's Office sub-station and City of Palm Coast Fire Services.

26. **Recreation and Open Space.** Based on the City's Comprehensive Plan, the Developer shall provide a minimum of **43.12** acres of recreation and park space, calculated at eight (8) acres per 1,000 persons (i.e., 5 acres/1,000 for activity-based and 3 acres/1,000 for passive-based recreation). Lands dedicated for recreation shall not be encumbered by a conservation easement, which may prohibit the lands' use for recreation purposes. The Developer agrees to exceed its minimum requirement and provide the following:

(a) Upon the Developer's removal of the existing coquina rock stockpiles but no later than the expiration of Phase I, the Developer shall deed marketable title to the City through a warranty deed acceptable to the City, to a total of 43.12 acres of land to serve as a Community Park site, as identified on the Master Development Plan (**Exhibit "B"**) ~~and generally shown in Exhibit I ("Community Park site")~~ "Active Recreation and Passive Recreation",; ~~as activity-based~~

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~~recreation to serve the population of the Project.~~ The conveyance will be at no cost to the City. The acreage shall consist of at least 26.2 acres of uplands which can be used by the City as an active park. Prior to the first Residential Final Plat or Site Plan approval, the Developer shall convey title to the Community Park site to the City. The conveyance will be free from all encumbrances except easements, reservations, and restrictions acceptable to the City, together with all appurtenances pertaining to the conveyance. Developer will prepay taxes for the year of closing pursuant to Fla. Stat. 196.295, and all special assessments which have been levied or certified prior to closing. One hundred and twenty days before Closing, the Developer will cause the title company of its choice to issue and deliver to City an ALTA title commitment to issue a policy in the amount of the assessed value of the Community Park site, accompanied by one copy of each document supporting any exceptions to the title commitment. Developer will execute a standard form owner's affidavit and such other affidavits as may be reasonably required by the City, the Title Company, or the Closing Agent. The Developer will also execute an Affidavit of interest in Real Property pursuant to Fla. Stat. 286.23. Developer warrants to City that to the knowledge of the Developer, the Community Park site does not currently contain any Hazardous Substances in violation of any applicable environmental laws or regulations, including but not limited to Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., any "superlien" laws, any superfund laws, or similar federal or state laws, or any successor statutes ("Environmental Laws"), nor to Developer's knowledge has any clean-up of the Community Park site occurred

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pursuant to the Environmental Laws which could give rise to liability to reimburse any governmental authority for the costs of such clean-up or result in a lien or encumbrance on the Community Park site. Developer shall maintain hazard and liability insurance on the Community Park site until closing.

(b) The Developer shall endeavor to construct a multi-purpose trail system connecting commercial areas with residential areas and recreational amenities within the Property and to adjacent sidewalks and trails. The Project's internal sidewalk system may be used as connections between trail segments where appropriate. The multi-purpose pathway/trail system shall be identified in future Master Planned Development (MPD) or equivalent zoning district and/or site plans submitted to the City, and shall be consistent with the City's trail plan as provided in the City's Comprehensive Plan. The Developer shall provide a connection to the existing multi use path along Old Kings Road to complete the northern extension to and over SR100, which may be constructed by others. The trail plan shall integrate the historical sites referenced in Section 28 where practicable.

(c) The Developer shall receive an impact fee credit against the Park System Impact Fees pursuant to City Code Chapter 29, Article III for donated land, recreational facilities, equipment and other capital improvements made by the Developer as described herein.

(d) The Developer shall provide the City access to the park facility at the time it is conveyed to the City through an acceptable easement.

(e) In the event the Developer exceed 2,246 residential units, it shall be required to provide additional recreational facilities as required by the City

**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

Comprehensive Plan. In addition, it will be required to obtain Flagler County School Board approval for the additional impacts.

(f) Prior to the Developer's conveyance of Community Park Site to the City the Developer shall remove the existing coquina rock stockpile from such property to the satisfaction of the City.

27. Education. The Developer shall be responsible for mitigating impacts to Flagler County Public Schools for the 2,246 units that could be developed within the Property. The Developer and the Flagler County School District (FCSD) have agreed to the following commitments in order to satisfy their Proportionate Share:

(a) Developer to donate approximately 15 acres of buildable property adjacent to the ~~south-north/northeast~~ of Old Kings Elementary School ~~prior to the first residential Final Plat approval or Site Plan approval~~ 9 months after final approval of the MPD Development Agreement.

(b) Developer to properly mitigate wetlands with FCSD support.

(c) FCSD to accept this property in exchange for impact fee credit and/or guaranteed school capacity reservations, to be agreed upon by both the Developer and FCSD during future discussions.

(d) Developer to provide and place adequate fill on the property conveyed to FCSD (filling may be staged or delayed, as agreed upon by both the Developer and FCSD during future discussions).

(e) Developer to provide a two-way access roadway directly to State Road 100 from the parcel conveyed to FCSD.

**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

- i. Location and alignment of roadway to be finalized ~~during future discussions~~prior to acceptance of parcel.
- ii. Configuration of intersection at State Road 100 (right turn only, left in/right out, fully signalized, etc.) to be finalized during future discussions.

Such Proportionate Share Mitigates and satisfies school concurrency requirements under Section 163.3180(13)(e), Florida Statutes.

28. Historical and Archaeological Sites. Pursuant to Dr. Dana Ste.Claire's report dated February 2013 (the "Ste.Claire Report") and incorporated herein by reference, there are no known historical or archeological sites within the areas of the property to be developed. The Ste.Claire Report, however, provides that the Kings Road Mound site, an area with no archaeological significance, is located in Tract "E16". Nonetheless, the Developer will not disturb the area in any way. Regardless, the Developer's construction personnel shall be notified by the Developer, through posted advisories and other methods, of the potential for artifact discovery and to report any discoveries to the Construction Project Manager.

Should any regionally significant historical and archaeological resources be discovered in the course of development, the Developer shall immediately stop construction and notify the Florida Division of Historical Resources ("DHR") and the City. From the date of notification, construction shall be suspended within a 100' radius of the site of discovery for a period of up to 120 days to allow for evaluation of the site. No disruption of the findings shall be permitted until the

**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

investigation is complete, the DHR has rendered a recommendation, and a mitigation plan has been agreed upon by the Developer and DHR.

The Developer shall submit an Historic Resource Management Plan for the area proposed to be preserved through the Environmental parcel designation shown on the Preliminary Master Plan. The plan may include preservation techniques, signage and cultural interpretation monuments/placards. The Developer may help the City and State Historic Preservation Officer (SHPO) with information to achieve national registration.

Recognize the following cultural sites, 8FL001 The Kings Mound, 8FL155 The Old Dixie Highway, 8FL920 Cassey Hammock, and 8FL921 Quarry House, by installing a commemorative sign that includes a map of the four sites.

- 29. Silviculture.** The City recognizes that the development of the Property will occur over time and in phases, and that various portions of the Property, which are not required by Developer for active development in accordance with an approved Rezoning, may continue in agricultural use; such as, but not limited to, silviculture, including timber production. The City has no objection to a continued agricultural exemption for ad valorem tax purposes for any portion of the Property used for agricultural purposes prior to non-agricultural development. Moreover, nothing contained herein shall prohibit or preclude the use of the Property or any portion thereof for agricultural/silvicultural or agricultural/silvicultural related purposes, whether prior to or after approval of the Property as master planned community, or vertical development of portions of the Property in accordance with any land use

approvals that may be granted relative to the Property. The City has no objection to such agricultural/silvicultural uses or the undeveloped portions of the Property being classified by the Flagler County Property Appraiser as agricultural lands under the provisions of Section 193.461, *Florida Statutes*, during the period when the Property is being used for such agricultural/silvicultural purposes. Nothing in this Agreement requires Developer to develop the Property, and the parties recognize that Developer may determine to continue its existing agricultural/silvicultural uses on all or part of the Property for an extended period of time. The City agrees that Developer may conduct construction and operation activities within the Property associated with wetland mitigation and/or a wetland mitigation bank, if Developer obtains necessary authorizations from the SJRWMD, ACOE, and other applicable state and federal agencies.

Silviculture shall be prohibited in that portion of the Property which consists of wetland areas to be preserved and in vicinity of cultural resources, and those areas immediately adjacent to wetlands which will be used as buffers to the wetland areas, except for wetland and upland enhancement purposes and mitigation approved by the SJRWMD.

- 30. Community Development District.** The Developer may request that one or more CDDs be formed over the Property in order to facilitate the implementation of the Project. The City agrees to expeditiously process a request to establish one or more CDDs to provide services to any portion of the Property subject to meeting the statutory prerequisites of Chapter 190, *Florida Statutes*, and the City's final

**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

approval of an ordinance establishing a CDD. Upon an application for a CDD being submitted to the City, the City will engage in the appropriate statutory review and analysis of the proposal. Any such CDD established by Developer may plan, finance, acquire, construct, and operate community infrastructure that may benefit all or portions of the Property, in accordance with statute. The City further agrees that it is appropriate to grant any CDD that may hereafter be established with respect to the Property the right to exercise the powers granted to it by Chapter 190, *Florida Statutes*, with the exception of the establishment of wastewater treatment or potable water plants; unless the City is unable to provide such services when the services are needed, in which case the CDD would be accorded the right to do so. Pursuant to Specific Conditions 16 and 18 of this DA, the City will be the provider of the Sewer and Water Service to the Property. The City retains the right to purchase any and all utility treatment systems from the CDD, in accordance with the requirements of Chapter 190. Further, no CDD established hereunder shall be in the business of resale of bulk potable water or bulk wastewater services. If Developer elects or is required to apply for CDD approval from the Florida Land and Water Adjudicatory Commission, City agrees to support the application if the City has previously agreed to the formation of the CDD, as set forth in this subparagraph.

If the Developer is required by this DA to provide, pay for or otherwise cause to be provided, infrastructure, projects, systems or facilities set forth in Chapter 190 *Florida Statutes*; including, without limitation, those in Section 190.012(1) and (2), *Florida Statutes*; then a CDD, if properly formed and approved

**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

under the statutes, may independently satisfy such obligations. To the extent provided by law, when any such obligation under this DA is met or performed by the CDD, then the Developer shall no longer be subject to the obligation. The Developer proposes and the City agrees that, in the event that any contributions of land, money (including contributions or construction pursuant to “pipelining” responsibilities), or improvements funded or constructed with funds from a CDD are required by law to be credited to the CDD, then such impact fee credits shall be credited to the CDD, if City Code requirements are met.

Additionally, the CDD shall be responsible for the long-term land management associated with on and off-site habitat, land management activities, and any additional activities associated with the Greenway Plan and/or Wetland Mitigation Plan.

**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

WHEREFORE, the parties hereto have caused these presents to be signed all as of the date and year first above written.

ATTEST:

CITY OF PALM COAST

City Clerk

By: Milissa Holland
Its Mayor

DEVELOPER'S COVENANT AND AGREEMENT

COMES NOW, the undersigned, and covenant and agree to the foregoing.

WITNESS my hand and official seal this _____ day of _____ 20__.

WITNESSES:

**Bulow Creek, LLC., a
Florida Limited Liability Company**

Signature

Lee Chira
Its Manager

Signature

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by Lee Chira of Bulow Creek LLC, a Florida limited liability company, who is personally known to me and who did not take an oath.

WITNESS my hand and official seal this _____ day of _____ 20__.

**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

NOTARY PUBLIC

(SEAL)

Staff Recommendation

**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

COMES NOW, the undersigned, and covenant and agree to the foregoing.

WITNESS my hand and official seal this _____ day of _____ 20__.

WITNESSES:

**Bulow Creek, LLC., a
Florida Limited Liability Company**

Signature
Print Name:

Mary Demetree
Its

Signature
Print Name:

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by Mary Demetree of Bulow Creek LLC, a Florida limited liability company, who is personally known to me and who did not take an oath.

WITNESS my hand and official seal this _____ day of _____ 20__.

NOTARY PUBLIC
(SEAL)

Exhibit “A”

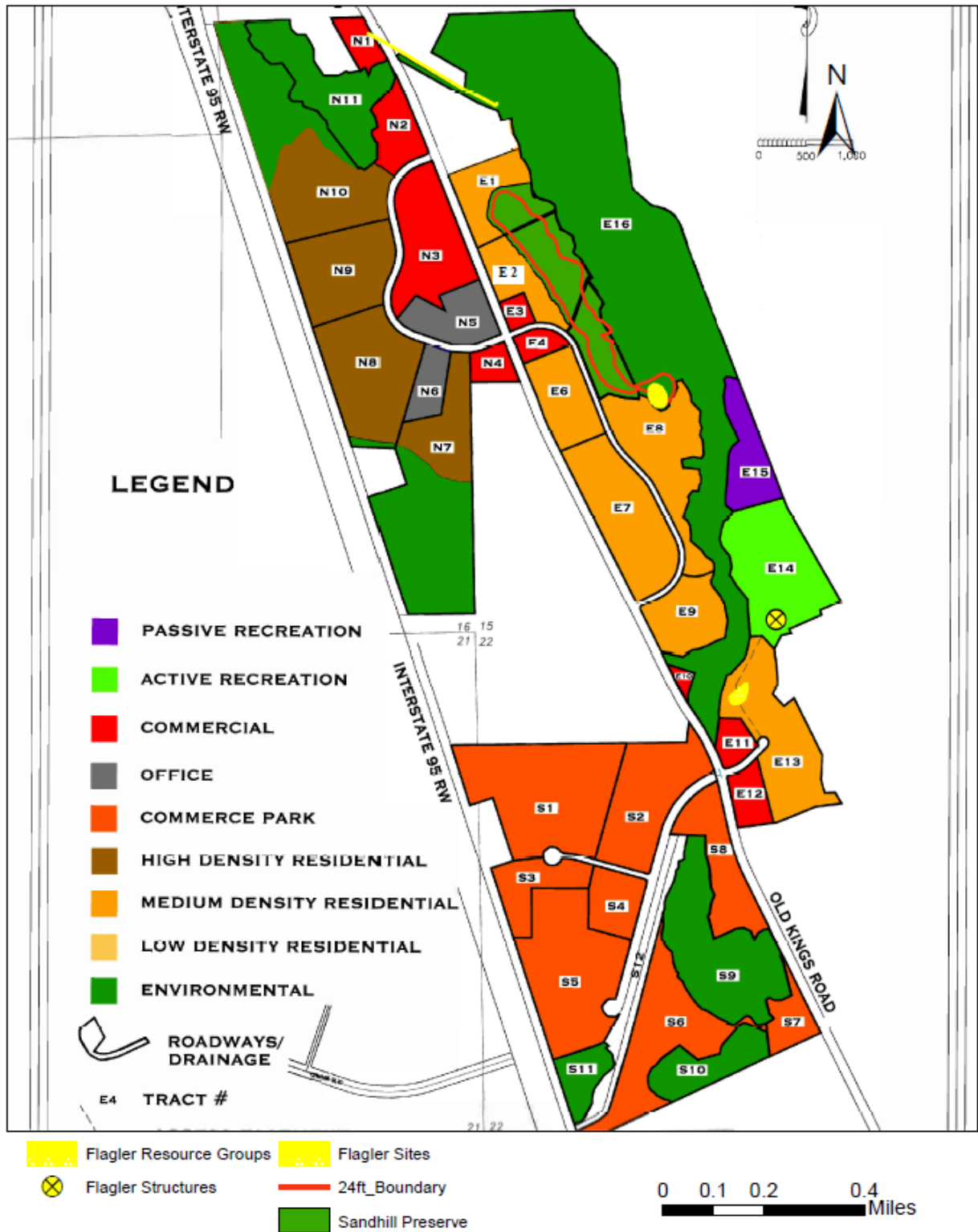
Legal Description of Property

(see attached)

Staff Recommendation

**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

**Exhibit "B"
Master Development Plan Map**



**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

Exhibit “C”

Land Use Conversion Table

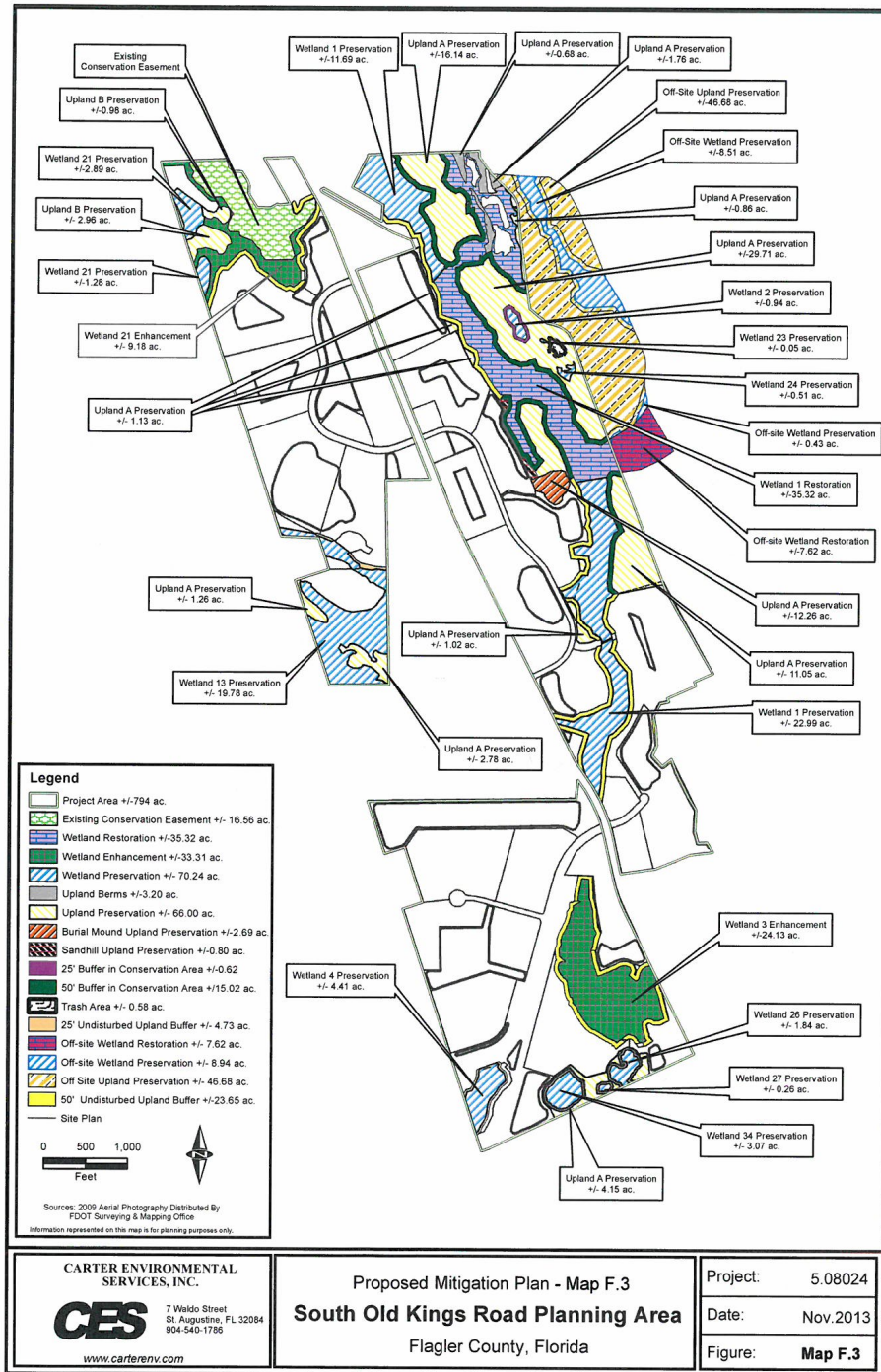
This exhibit may be used to convert one land use to another within the DA as defined in Development Order General Condition. No conversion from non-residential to residential may occur that increases residential units greater than 2,500 and 2,500,000 square feet of non-residential. No conversion shall take place without demonstration of adequate potable water and related facilities to support the projected water demand associated with the conversion. In no case shall the combined total between single family and multi-family units exceed 2,500 without adequate demonstration of education and recreation facilities.

LAND USE CONVERSION TABLE

	TO		SF Detach DU	Senior Ad DU	MF DU	TH DU	Shop Cent SF	Gen Off SF	Indust SF
			1	0.27	0.62	0.52	0.00371	0.00149	0.00097
F R O M	SF Detach DU	1	1	3.703703704	1.612903226	1.923076923	269.541779	671.1409396	1030.927835
	Senior Ad DU	0.27	0.27	1	0.435483871	0.519230769	72.77628032	181.2080537	278.3505155
	MF DU	0.62	0.62	2.296296296	1	1.192307692	167.115903	416.1073826	639.1752577
	TH DU	0.52	0.52	1.925925926	0.838709677	1	140.1617251	348.9932886	536.0824742
	Shop Cent SF	0.00371	0.00371	0.013740741	0.005983871	0.007134615	1	2.489932886	3.824742268
	Gen Off SF	0.00149	0.00149	0.005518519	0.002403226	0.002865385	0.401617251	1	1.536082474
	Indust SF	0.00097	0.00097	0.003592593	0.001564516	0.001865385	0.261455526	0.651006711	1
Example 1 How many MF units can be built instead of 19,200sf of Shop Cent									
From Shop Center to MF Units							19200 X	0.005983871 =	114.8903226
Example 2 How many SF Detach units can be built instead of 890,092sf of Industrial									
From Industrial to SF Detached Units							890,092 X	0.00097 =	863.38924

SOUTH OLD KINGS ROAD MASTER PLAN DEVELOPMENT AGREEMENT

Exhibit "D"



**SOUTH OLD KINGS ROAD
MASTER PLAN DEVELOPMENT AGREEMENT**

Exhibits “E”

Transportation Exhibits

Table 21.F.1 - Revised - Second Sufficiency
Phase 1 (2020) Projected Intersection Improvements and Estimated Costs
South Old Kings Road DRI

Intersection	Improvements	Total Intersection Project Trips	Capacity Before Improvement	Capacity After Improvement	Change (After - Before)	PFS %	Cost (\$1,000s)	PFS (\$1,000)
SR100 at Belle Terre Pkwy	2nd Eastbound Left-Turn Lane	135	5622	6766	1144	11.8%	\$ 255	\$ 30.09
	Separate Northbound Right-Turn Lane						\$ 170	\$ 20.06
	Signal Modifications (add heads)						\$ 10	\$ 1.18
	Timing Modification (add overlap)						\$ 2	\$ 0.24
Total							\$ 437	\$ 51.57
SR 100 at S. Old Kings Rd	2nd Northbound Left-Turn Lane	727	14419	6182	-8237	100%	\$ 255	\$ 255
	Signal Modifications						\$ 10	\$ 10
	Timing Modifications (add overlap)						\$ 2	\$ 2
Total							\$ 267	\$ 267
GRAND TOTAL							\$	318.57

ORDINANCE 2020 - ____
Application 3289 - Rezoning for South Old Kings Road MPD

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP AS ESTABLISHED IN SECTIONS 2.05 AND 2.06 OF THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE; AMENDING THE OFFICIAL ZONING MAP FOR A PROJECT KNOWN AS SOUTH OLD KINGS ROAD MASTER PLANNED DEVELOPMENT (MPD) AS DESCRIBED IN EXHIBIT “A”, CONTAINING 786+/- ACRES FROM AGRICULTURE (FLAGLER COUNTY DESIGNATION) TO MASTER PLANNED DEVELOPMENT ZONING DISTRICT (MPD); PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Bulow Creek, LLC, is the owner of fee simple title to certain real property consisting of approximately 786 acres located generally to the east of Interstate 95 and 3000 feet south of State Road 100 for a distance of 2.0 miles along Old Kings Rd. in the City of Palm Coast, Florida, described in the legal description attached to **Exhibit “A”** (the “Development Agreement”) with those Tax Parcel Identification Numbers set forth on **Exhibit “B”** (the “Property”) and intends to classify and develop the Property as a Master Planned Development (“MPD”) as set forth in a MPD Development Agreement (“MPD DA”); and

WHEREAS, the 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 Board which recommended approval at the regularly scheduled meeting conducted on _____; and

WHEREAS, the City Council of the City of Palm Coast held duly noticed public hearings on _____ and _____ on the proposed zoning change set forth hereunder and considered findings and advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and after complete deliberation, hereby finds the requested change consistent with the City of Palm Coast Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder, and

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

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

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

SECTION 2. Zoning Map Amendment. That the Official Zoning Map of the City of Palm Coast as described in City of Palm Coast Unified Land Development Code Section 3.01.02. is hereby amended to include a change of classification from Agriculture (Flagler County designation) to Master Planned Development District (MPD) for the Property legally described in **Exhibit “A,”** (the “Development Agreement”) with Tax Parcel Identification Numbers as set forth in **Exhibit “B,”** which Exhibits are attached and incorporated herein by this reference, and that the Development Agreement is hereby approved. City Staff is hereby directed to promptly amend the Official Zoning Map upon the effective date of this Ordinance.

SECTION 3. Rezoning Action Conditioned on Master Planned Development Agreement. This rezoning action is subject to the conditions provided for and agreed to in the MPD Agreement attached hereto as Exhibit “A” and incorporated herein.

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

SECTION 5. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

SECTION 5. Effective Date. This Ordinance shall take effect immediately upon passage and adoption.

APPROVED on first reading the ____ day of _____ 2020, at a public hearing.

ADOPTED on the second reading the ____ day of _____ 2020, at a public hearing.

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

EXHIBIT “A”
DEVELOPMENT AGREEMENT

EXHIBIT “B”
TAX PARCEL IDENTIFICATION NUMBERS

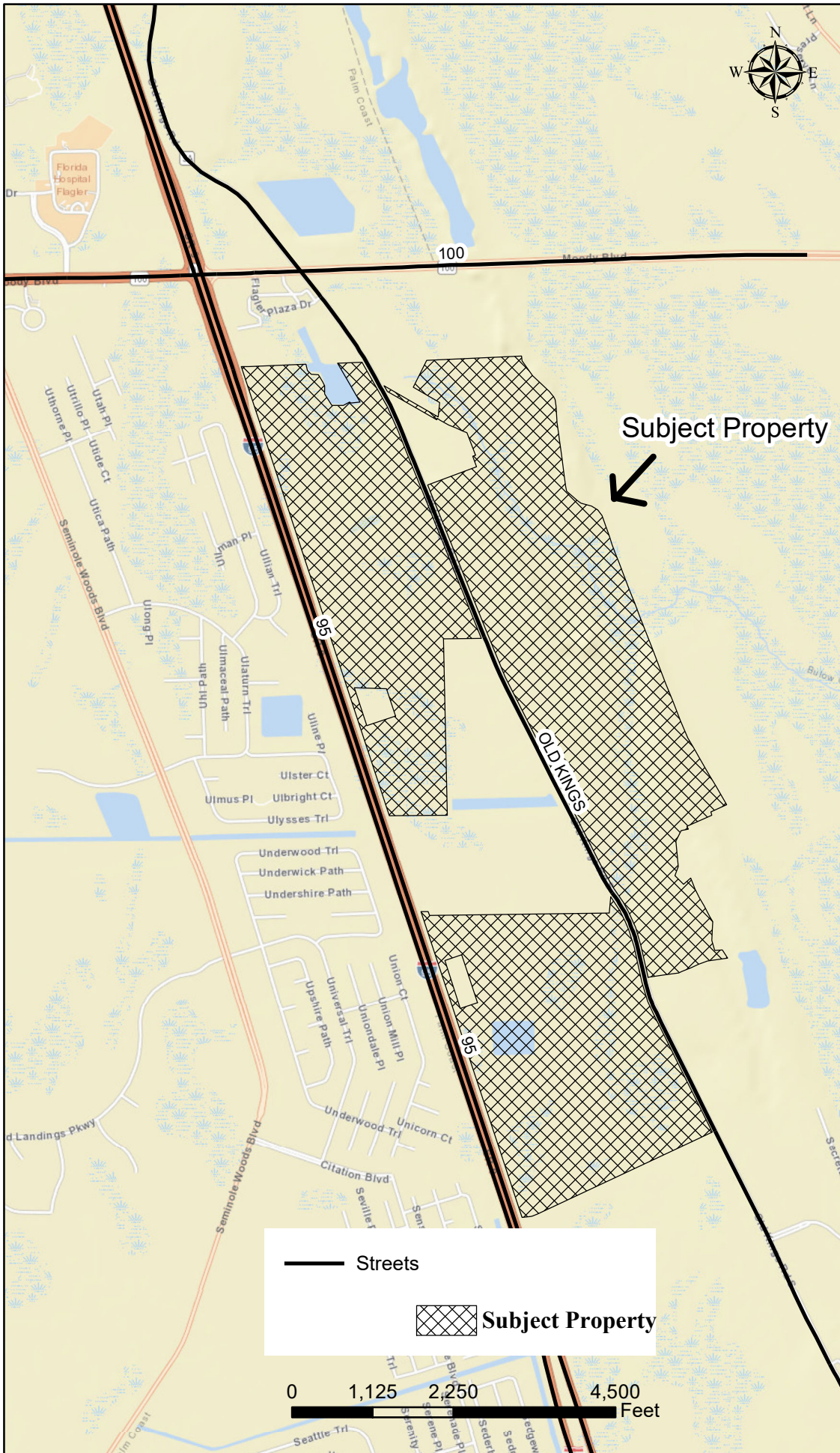
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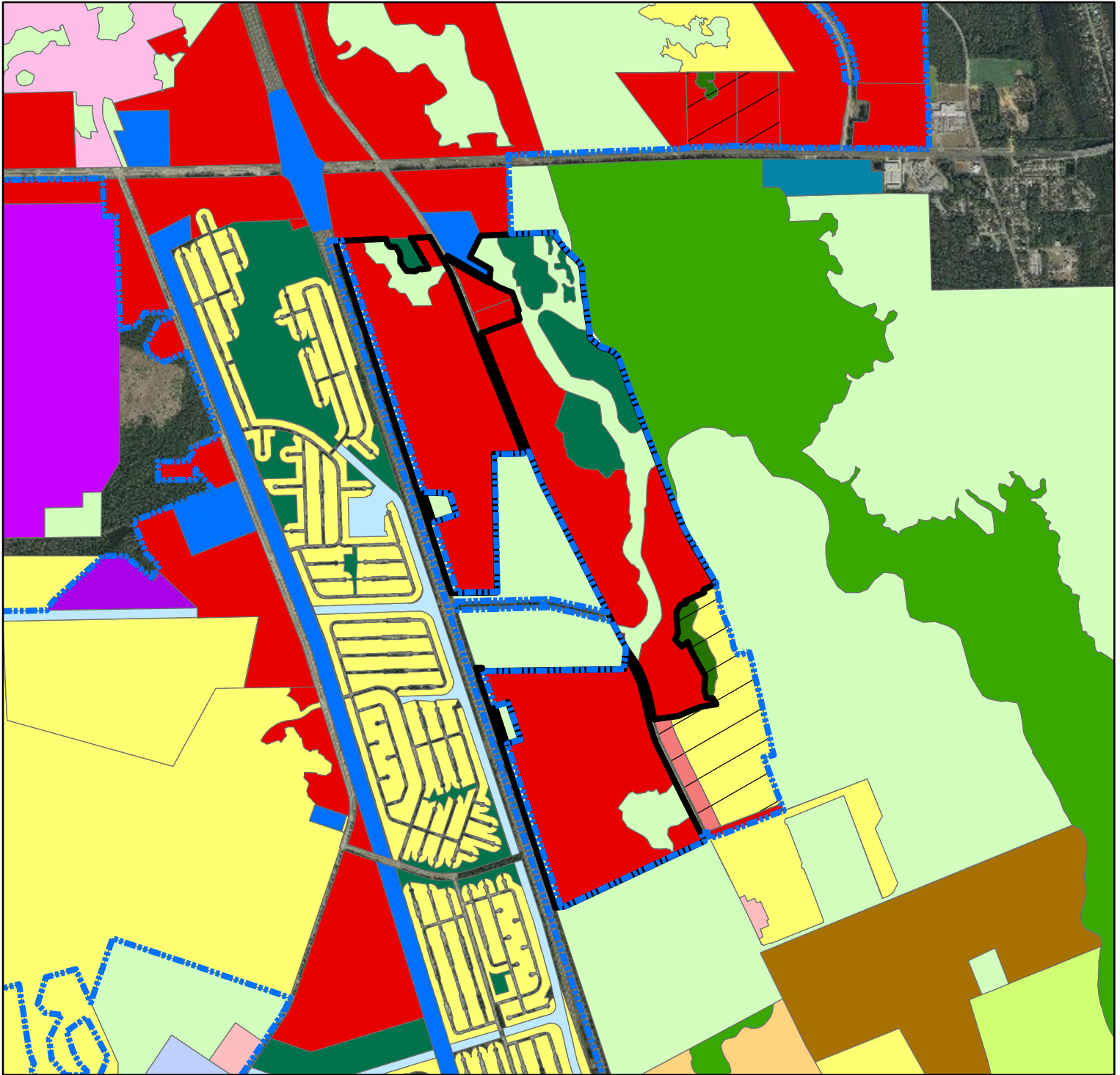
10-12-31-0000-00020-0010

15-12-31-0000-01010-0020

S Old Kings Road MPD



S Old Kings Road MPD-FLUM



Legend



Palm Coast City Limits

Developments



S Old Kings Road MPD

Palm Coast FLUM



COMMERCIAL:HIGH INTENSITY



COMMERCIAL:LOW INTENSITY



CONSERVATION



Canals



Conservation



DRI-Urban Core



Greenbelt



INDUSTRIAL



Industrial



Institutional



Mixed Use



RESIDENTIAL:LOW DENSITY/RURAL ESTATE



Residential

Flagler County FLUM



AGRICULTURE & TIMBERLANDS



COMMERCIAL:HIGH INTENSITY



COMMERCIAL:LOW INTENSITY



CONSERVATION



EDUCATIONAL USES



INDUSTRIAL



MIXED USE:LOW INTENSITY



MIXED USE:HIGH INTENSITY



RECREATION & OPEN SPACE



RESIDENTIAL:LOW DENSITY/RURAL ESTATE



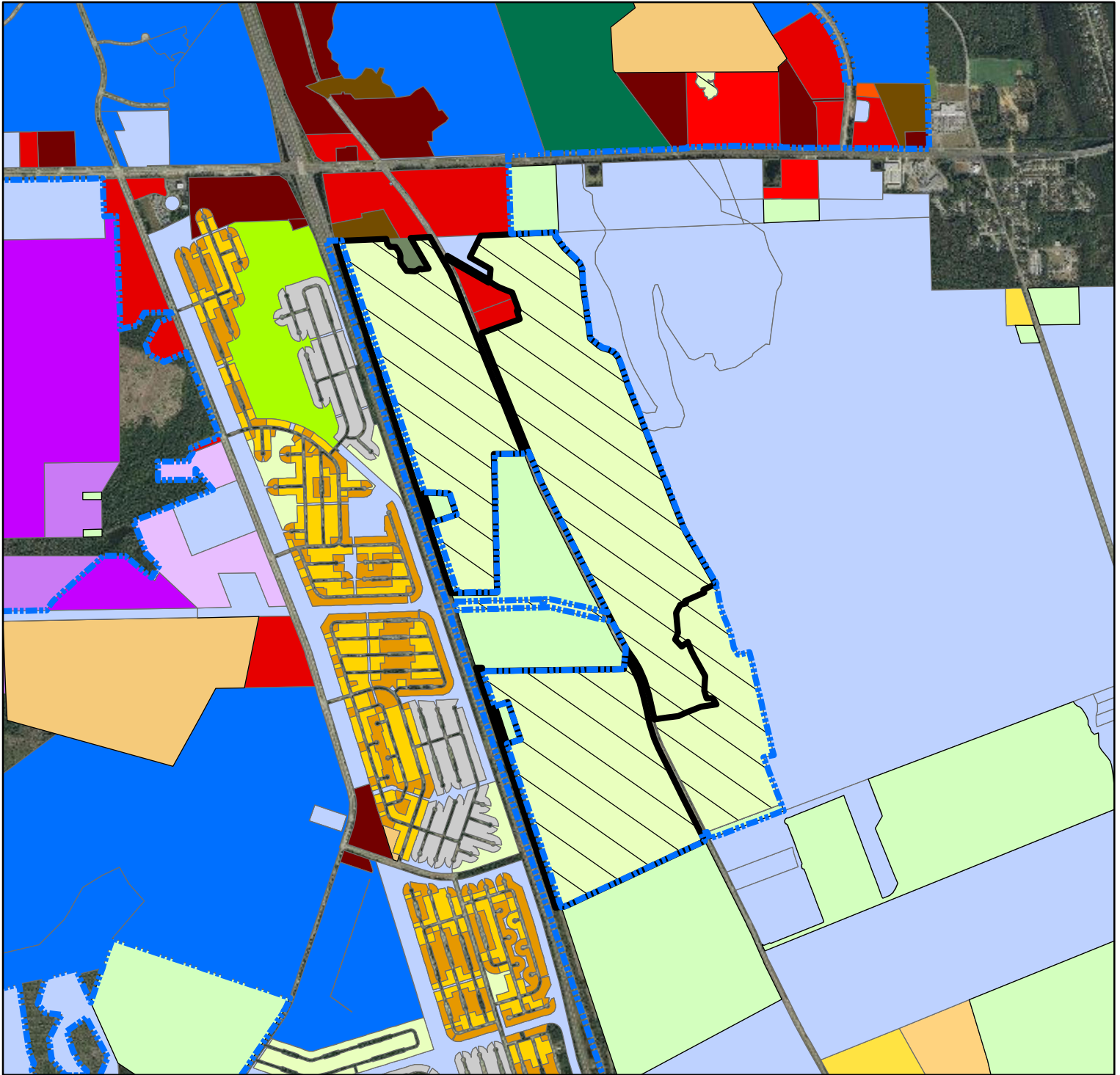
RESIDENTIAL:LOW DENSITY/SINGLE FAMILY



RESIDENTIAL: MEDIUM DENSITY



S Old Kings Road MPD-Zoning



Legend



Palm Coast City Limits

Developments



S Old Kings Road MPD

Palm Coast Zoning



AC



AGR



COM-1



COM-2



COM-3



DPX



EST-1



IND-1



IND-2



MFR-2



MPD



P&G



PRS



PSP



SFR-1



SFR-2



SFR-3

Flagler Zoning



C-2



I-PUD



R-1



MH-3



PUD



I

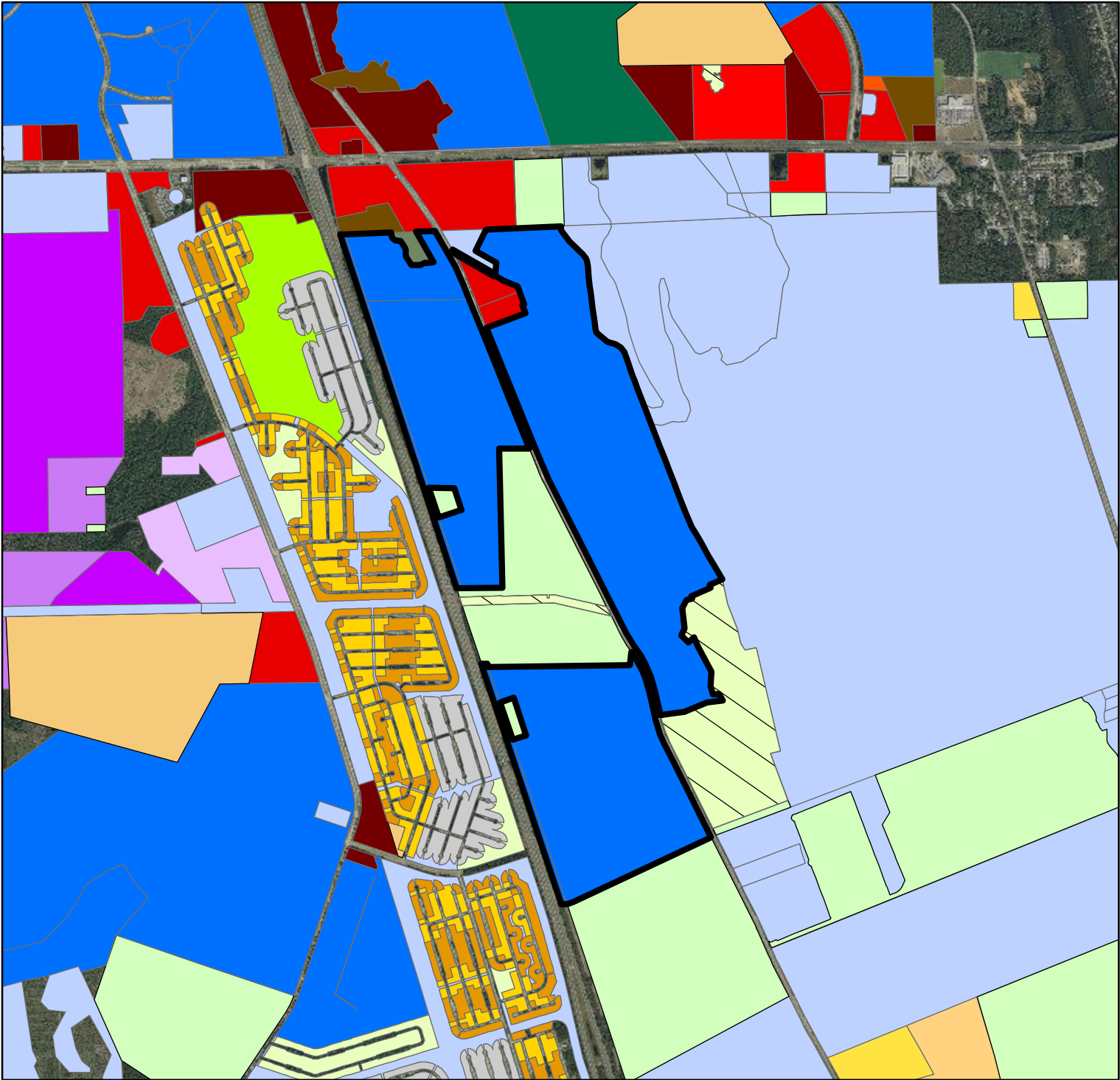


AC



0 0.25 0.5 111 1 Miles

S Old Kings Road MPD-Proposed Zoning





Legend

Developments

 S Old Kings Road MPD




Palm Coast Zoning





-  AC
-  AGR
-  COM-1
-  COM-2

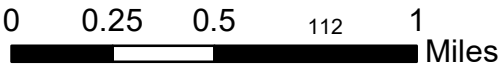
-  COM-3
-  DPX
-  EST-1
-  IND-1
-  IND-2
-  MFR-2
-  MPD

-  P&G
-  PRS
-  PSP
-  SFR-1
-  SFR-2
-  SFR-3

Flagler Zoning

-  C-2
-  I-PUD
-  R-1

-  MH-3
-  PUD
-  I
-  AC



City of Palm Coast, Florida

Agenda Item

Agenda Date: 2/19/2020

Department	PLANNING	Amount
Item Key	7739	Account
		#
Subject	ORDINANCE 2020-XX ESTABLISHING A TEMPORARY MORATORIUM ON REVIEW AND CONSIDERATION OF APPLICATIONS FOR APPROVAL OF SMALL BOX DISCOUNT STORES	
<p>Background: At their January 7, 2020 business meeting, City Council requested staff look into regulating small box stores in the City of Palm Coast. There have been numerous concerns from residents regarding the influx of small box stores. These uses may not be appropriate in all nonresidential zoning districts and may negatively impact the public health, safety and welfare.</p> <p>These types of uses in other locations in Florida have been known to contribute to a lower food environment index and may contribute to other harmful secondary impacts on the surrounding properties. They may also contribute to so-called “food deserts” as defined by the Centers for Disease Control and Prevention (CDC). Although there is no standard definition, food deserts are generally considered to be “places where residents don’t have access to affordable nutritious foods like fruits, vegetables, and whole grains”.</p> <p>At a City Council special business meeting on January 14, 2020, the City Council passed Resolution # 2020-16, “legislation in progress” to inform the public of potential changes to the City of Palm Coast Land Development Code regarding regulation of small box discount stores. The resolution established a 120 day period for the City to complete a study and adopt regulations as appropriate and necessary to regulate small box discount stores.</p> <p>This proposed ordinance establishes the 120-day moratorium on small box discount stores, which are defined for the purpose of the ordinance only, as:</p> <p><i>A retail store that is 16,000 sq. ft. or less in size, which offers for sale a variety of convenience shopping goods and continuously offers the majority of the items in their inventory for sale at a price lower than traditional retail stores. Small box discount store does not include a pharmacy, does not sell gasoline or diesel fuel, or specialty items and food items as a primary product (i.e., greeting cards, consignment, meats, seafood, cheese, or oils and vinegars).</i></p> <p>Also included in the ordinance are the following:</p> <ul style="list-style-type: none">• The PLDRB shall review the need for amendments to the Comprehensive Plan and/or Land Development Code prior to the end of the moratorium.• One time extension of the moratorium for 30-days,• Exemptions for development of small box discount store which have a building permit, an approved site plans, have submitted building permit applications before effective date of the proposed ordinance, or redevelopment/remodeling of existing store at less than fifty (50%) of its assessed value.		

Recommended Action: Staff recommends that the PLDRB recommend Approval to City Council

ORDINANCE 2020-____
MORATORIUM SMALL BOX DISCOUNT STORES

AN ORDINANCE OF THE CITY OF PALM COAST, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE REVIEW AND CONSIDERATION OF APPLICATIONS FOR APPROVAL OF SMALL BOX DISCOUNT STORES THROUGHOUT ALL OF PALM COAST; REQUIRING THE PLANNING AND LAND DEVELOPMENT REGULATION BOARD TO INITIATE A REVIEW OF THE CITY'S COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS REGARDING SMALL BOX DISCOUNT STORE AND TO REPORT TO THE CITY COUNCIL REGARDING ITS RECOMMENDATIONS; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR EXCEPTED DEVELOPMENT; PROVIDING FOR THE DURATION OF THE MORATORIUM; PROVIDING FOR ONE (1) POSSIBLE TIME EXTENSION; PROVIDING AN ADMINISTRATIVE REMEDY TO ASSERT VESTED RIGHTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-CODIFICATION AND PROVIDING FOR EFFECTIVE DATE

WHEREAS, the development of certain commercial land uses within certain areas of the City of Palm Coast have a particularly significant economic and social impact upon the residents of the City of Palm Coast; and

WHEREAS, the character and development pattern of the City of Palm Coast could be significantly and adversely altered by the approval of small box discount stores, generally defined, for the purposes of this Ordinance only, as a retail store that is 16,000 square feet or less in size, which offers for sale a variety of convenience shopping goods and continuously offers the majority of the items in their inventory for sale at a price lower than traditional retail stores. Small box discount store does not include a pharmacy, does not sell gasoline or diesel fuel, or specialty items and food items as a primary product (i.e., greeting cards, consignment, meats, seafood, cheese, or

oils and vinegars). These stores have been proliferating throughout the City, and may contribute to “food deserts” in some areas; and

WHEREAS, the City of Palm Coast is considering the enactment of certain regulations regarding small box discount stores to implement the goals and objectives of the City’s Comprehensive Plan and Land Development Regulations; and

WHEREAS, the City of Palm Coast is concerned that the development of more small box discount stores would adversely impact the sound economic growth of the City, and the land use trends that are necessary to support that sound economic growth; and

WHEREAS, future growth and land development, and proper planning and zoning, to address that compatible and sustainable growth, are vital to the health, safety, and welfare of the residents of the City of Palm Coast; and

WHEREAS, the City Council, based upon the foregoing, and the contents of the various documents prepared for and by the Planning and Land Development Regulation Board, finds that adopting a temporary moratorium upon small box discount stores will create a more stable environment during the moratorium period to allow the City to prevent unsound development and inadequate growth management while potential revisions to the City’s Comprehensive Plan are considered, and while the necessary City land development regulations are being drafted, considered and adopted in an orderly and thorough manner, based on application of normal and generally accepted land use and planning principles;

WHEREAS, the City Council and the Planning and Land Development Regulation Board find that adopting a temporary moratorium upon small box discount stores and services as set forth herein is consistent with and furthers the City’s Comprehensive Plan and other applicable law relating to land use planning and development and growth management.

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

SECTION 1. Legislative and Administrative Findings. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Council.

SECTION 2. Temporary Moratorium upon Small Box Discount Stores.

- (a) **Purpose and Intent of the Imposition of Temporary Moratorium.** The above recitals are hereby adopted as legislative findings.
- (b) **Moratorium on Small Box Discount Stores.** All activity relating to the acceptance, review and action upon small box discount stores is hereby temporarily suspended in order for the City to have sufficient time to analyze the adequacy of locational criteria, design standards and criteria, land use compatibility requirements, and development review and approval procedures related to small box discount stores. Accordingly, based upon the foregoing, there is hereby imposed a temporary moratorium on all land use approvals relating to these applications. During the time that this moratorium is in effect, no applications for development approvals for small box discount stores shall be considered.
- (c) **Geographic Area Covered.** All applications for development within the City shall be subject to the provisions of this Ordinance.
- (d) **Exemptions.** The following applications for development approval are exempted from the provisions of this Ordinance:
 - (1) Projects that have approved building permits issued prior to the effective date of this Ordinance.

- (2) Site plans with an approved development order before the effective date of this Ordinance.
- (3) Projects for which building permit applications have been submitted to the City before the effective date of this Ordinance, and for which all other necessary land development approvals that are prerequisite to the issuance of a building permit have been issued, such as: platting, rezoning, amendments to the Future Land Use Map of the City Comprehensive Plan, variances, site plan approvals and the like.
- (4) Developed property on which lawfully existing buildings are located, which buildings are planned to be remodeled or redeveloped at less than fifty percent (50%) of the assessed value of the building. This determination will be made by the City by making a comparison between the records of the Flagler County Property Appraiser and any contract that may exist relative to the proposed improvements. A valid appraisal from a qualified appraiser may be substituted for the data provided by the Flagler County Property Appraiser.

- (e) **Duties of Planning and Land Development Regulation Board (PLDRB).** The Planning and Land Development Regulation Board shall review the possible need for amendments to the City's Comprehensive Plan and the needed revisions to the City's land development regulations and report to the City Council relative to recommended actions to be taken, prior

to the termination of the temporary moratorium provided for in this Ordinance.

(f) **Duration of Moratorium.** The temporary moratorium set forth in this Ordinance shall take effect immediately upon the effective date of this Ordinance and shall terminate one hundred and twenty days after the said effective date. No applications subject to the provisions of this Ordinance will be accepted by the City until the moratorium has expired. The temporary moratorium set forth in this Ordinance shall expire prior to the termination date set forth herein if the City Council adopts Comprehensive Plan amendments or land development regulations that protect the health, safety, and welfare of the residents of the City of Palm Coast and are compatible with the City's stated intentions as set forth in this Ordinance, and if the ordinance that enacts such Comprehensive Plan amendments or land development regulations also provides for the termination of this temporary moratorium.

(g) **Time Extension of Moratorium.** The City Council may extend the moratorium one time for a period not to exceed thirty days by enactment of an ordinance upon a finding by the Council set forth in the ordinance extending the effective period of this Ordinance as follows: (1) that the problems giving rise to the need for a temporary moratorium still exist, and (2) that reasonable progress is being made in carrying out the specific goals of the City set forth herein, and (3) that the extension is needed to adequately address the land use issues facing the City.

SECTION 3. Administrative/Quasi-Judicial Review Procedure.

The owner or owners of real property or their expressly authorized agent may request a determination of vested rights by applying and filing a technically complete application with the Land Use Administrator and in accordance with the City's Unified Land Development Code.

SECTION 4. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance 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 Ordinance.

SECTION 5. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

Approved on first reading this _____ day of _____, 20____.

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

**CITY OF PALM COAST,
FLORIDA**

ATTEST:

MILISSA HOLLAND, MAYOR

VIRGINIA SMITH, CITY CLERK

APPROVED AS TO FORM AND LEGALITY

WILLIAM E. REISCHMANN, JR., ESQ.
CITY ATTORNEY