



# A G E N D A

## SOUTH DAYTONA PLANNING AND APPEALS BOARD Regular Meeting

February 8, 2023

6:00 P.M.

**Piggotte Community Center  
504 Big Tree Road  
South Daytona, FL**

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PURSUANT TO SECTION 286.0105 FLORIDA STATUTES, if an individual decides to appeal any decisions made with respect to any matter considered at a meeting or hearing, that individual will need a record of the proceeding and will need to ensure that a verbatim record of the proceeding is made. The City does not prepare or provide a verbatim record of the proceedings. In accordance with the American Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in the proceedings should contact the City of South Daytona's Deputy City Clerk at (386) 322-3011 for assistance at least 48 hours before the date of the meeting.

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. PLEDGE OF ALLEGIANCE**
- IV. ADMINISTRATIVE ITEMS:**
  - A.** Approval of the Planning and Appeals Board Rules and Procedures
  - B.** Acceptance of the Planning Board Calendar
  - C.** Approval of the August 17, 2022 meeting minutes
- V. DISCLOSURE OF EXPARTE COMMUNICATION**
- VI. PUBLIC HEARINGS**

**A. RZ 2022-32: 1921 and 1923 South Palmetto Avenue Rezoning**

This is a request by Ralph Etienne and Felicia Erdman, property owners for a rezoning map amendment from PUD (Planned Unit Development) to R1-A (Single Family Residential) for 1921 South Palmetto Avenue (±0.7 acres) and for 1923 South Palmetto Avenue (±0.2 acres) for a total of 0.9 acres. **No new construction is proposed as part of this rezoning application.**

**B. PUD 2022-33: 2701-2739 South Ridgewood Avenue**

This is a request by Steve Buswell, Parker Mynchenberg and Associates, Inc., authorized agent on behalf of the property owner seeking to amend the existing Planned Unit Development (PUD) by proposing a luxury apartment complex with a restaurant, and marina requiring a new Master Development Agreement. The amendment seeks to allow 440 luxury multi-family units on +/-7.63 acres along with associated amenities.

**C. LDC 2023-01: Land Development Code Amendment to amend Article VII. – Engineering/Environmental Standards, Section 7.5 entitled “Traffic/parking management”.**

This is an administrative request to approve a Land Development Code amendment to establish a time limit of 30 minutes for parking, loading, unloading, towing, and fueling of oversized vehicles and equipment within the US 1 Overlay District.

**VII. OTHER BUSINESS AND DISCUSSION ITEMS**

**A. Sunshine Law and Ethics Training - Wade Vose, Esq., Vose Law Firm LLP**

**VIII. MEMBER COMMENTS**

**IX. ADJOURNMENT**

**RULES OF PROCEDURE  
OF THE  
PLANNING AND APPEALS BOARD  
FOR THE  
CITY OF SOUTH DAYTONA**

The Planning and Appeals Board of the City of South Daytona, Florida (“PAB”) shall be governed by Florida law, the City of South Daytona’s Charter, Code of Ordinances, and its Land Development Code and the Rules of Procedure (“Rules”) set forth herein and adopted by the Board.

**SECTION 1. OFFICERS, MEMBERS AND DUTIES**

1.1 Chairman. A Chairman shall be elected by the Board, in accordance with Subsection 3.2(D) of the Land Development Code. At the first meeting of the PAB the current Chairman will ask for nominations of a member to serve as the Chairman for the upcoming year. Thereafter, the newly elected Chairman shall preside at meetings of the Board and decide upon all points of order and procedure subject to these Rules, unless a motion is made by a member and approved by a majority vote to override the Chairman’s decision on a point of order. The Chairman shall appoint members to serve on a subcommittee found necessary to investigate specific matters before the Board. The Chairman shall sign documents related to official action by the Board, including but not limited to Board minutes, variances, recommendations, determinations for accommodation under the Fair Housing Act and all pertinent correspondence.

1.2 Vice-Chairman. A Vice-Chairman shall be elected by the Board, in accordance with Section 3.2(D) of the Land Development Code. At the first meeting of the Board, the newly elected Chairman shall ask for nominations of a member to serve as the Vice-Chairman of the Board. The Vice-Chairman shall serve as Chairman in the absence or other inability of the Chairman to serve and, at such times, shall have the same powers and duties as the Chairman.

1.3 Secretary. The Secretary shall be the Community Development Director or designee. The Secretary shall be responsible for keeping all Board records, preparing and providing the required legal notice of each public hearing, and provide all administrative support to the Board. The Secretary shall take, or cause to be taken, the minutes of every meeting of the Board as required by Florida law. The Secretary shall endeavor to present a copy of draft minutes to the Board with the agenda at the next regularly scheduled meeting for approval. The Secretary shall make available all Board records for viewing by the public at all times during normal business hours (8:00 AM-4:30 PM) and respond to public record requests as required by Florida law.

1.4 Members. As required by the Land Development Code Subsection 3.2(C), members of the Board shall be appointed by the City Council for overlapping three-year terms and subject to the qualifications contained in Subsection 3.2(C). Members shall provide the Secretary with their current home address and home and/or office telephone number, unless such information is made confidential by law and kept current. In the event that a member

of the Board shall be unable to attend a regularly scheduled meeting, the member shall notify the Secretary of the member's expected absence no later than five (5) days before that meeting. The five (5) days-notice of absence shall not apply to absences due to emergencies or situations beyond the member's control, nor to special meetings described in Subsection 2.2 below.

1.5 Schedule of Meetings. The Board shall approve a yearly calendar of meetings at its inaugural meeting each year.

## **SECTION 2. MEETINGS**

2.1 Regular Meetings. Regular meetings of the Planning and Appeals Board shall be held on the third Wednesday of each month, at 6:00 PM, in the City Hall Council Chambers. If the Chambers are not available, an alternate location shall be noted on the agenda, in public notices, and posted at City Hall. The time and place of the regular monthly meeting may be permanently changed by a majority vote of the Board.

2.2 Special Meetings/Workshops. Special meetings or workshops of the Board may be called at any time by the Chairman, or by a majority vote of the members during a public meeting. . At least twenty-four (24) hours advance notice of the time and place of special meetings shall be given. No official action shall be taken at a Board workshop.

2.3 Cancellation of Meetings. Whenever there is no business for the Board, or whenever so many members notify the Secretary of inability to attend that a quorum will not be available, the Chairman may cancel the meeting and the Secretary shall provide notice to the public and all members.

2.4 Quorum. In accordance with Section 3.2(H) of the Land Development Code, a quorum shall consist of four (4) members for the transaction of business. A member who is ineligible to vote under Florida law may be counted for purposes of determining whether a quorum is present.

2.5 Conduct of Meeting. All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

- a. Call to Order and Roll Call
- b. Pledge of Allegiance
- c. Acceptance of Agenda as published
- d. Approval of the Minutes
- e. Disclosure of Ex-parte Communication and Conflict of Interest
- f. Public Hearings
- g. Other Business and Discussion Items
- h. Member Comments
- i. Adjournment

2.6 Continued Meetings. The Board may continue a regular or special meeting if all business cannot be disposed of on the day set, and no further public notice shall be necessary for resuming such a meeting if the time and place of its resumption is stated at



the time of continuance and is not thereafter changed. New items will not be heard by the Board after 10:00 PM unless authorized by a majority vote of the Board members present. Items which have not been heard before 10:00 PM may be continued to a date and time certain, or to the next regular meeting, as determined by affirmative vote of the majority of the Board members present.

### **SECTION 3. VOTING**

3.1 Vote. All Board members are required to vote on all items unless prohibited under Florida Statute 286.012. All Board members shall comply with all applicable state laws regulating conflict of interest.

3.2 Policy. It shall be the policy of the Board to provide sufficient findings of fact in making a recommendation for denial, approval or approval with conditions. All findings of fact shall be based on the applicable criteria, standards and regulations contained in the Land Development Code, the information provided by the applicant, Community Development Department staff's review of the application and appropriate information or evidence and testimony presented at the public hearing.

### **SECTION 4. ATTENDANCE**

Attendance of the Planning and Appeals Board members shall be subject to the standards contained in the Land Development Code, Article III, Generally Section 3.2(C)(4), Appointment and Terms, as amended. In its discretion, the Board may vote to excuse a member's absence due to extenuating circumstances.

### **SECTION 5. RESIDENCY REQUIREMENTS**

Residency requirements shall be in accordance with Section 3.2(B), as stated in the Land Development Code.

### **SECTION 6. APPLICATIONS**

All applications for Board action shall be complete and filed in the manner provided for in Subsection 3.2(J) of the Land Development Code.

### **SECTION 7. CONDUCT OF PUBLIC HEARINGS (QUASI-JUDICIAL)**

The applicant may appear in person, by agent or by attorney at the hearing. The order of procedure for each hearing shall be as follows:

7.1 The Chairman shall announce the item. Any individual intending to present testimony to the Board should stand and be sworn in by the Recording Secretary. The Chairman shall ask members present if any member has had ex-parte communications regarding the matter or has a conflict of interest. If a member has received ex-parte communication regarding a matter, disclosure should be made of who made the ex-parte communication, the content of the communication and whether the communication has made the member unable to render a fair and impartial decision.

7.2 The staff shall present its analysis and recommendations regarding the application and ask that staff is accepted as an expert on land use matters in the City of South Daytona and that its report be admitted into the record of the hearing;

7.3 The applicant or the applicant's agent shall be afforded the opportunity to speak in support of the application;

7.4 Any Board member, with permission of the Chairman, may request additional staff input or question the applicant or the applicant's agent;

7.5 The Chairman shall direct members of the public wishing to speak in favor of, or in opposition to, the application to do so after signing in and stating their name and address at the podium. The Chairman shall ensure that there is sufficient time allocated to the staff, applicant and the public to provide comments and to address questions, comments and recommendations raised by the Planning and Appeals Board members in their discussion of the application;

7.6 In order to allow the meeting to proceed in an orderly fashion, the Board, by motion, may limit the time allowed for remarks concerning a specific agenda item to a maximum of five (5) minutes for members of the public. Additional time shall be allowed to respond to questions from the Board. The Chairman may also direct speakers to limit their comments to issues which have not been previously stated;

7.7 Arguments between the parties shall not be permitted. All remarks shall be addressed thru the Chairman;

7.8 Members and the public shall at all times speak directly into the microphones to facilitate the recording of the hearing; and

7.9 Copies of any and all letters, exhibits, or any information not otherwise provided prior to the hearing are required to be presented to the recording secretary for inclusion in the Board minutes.

## **SECTION 8. DECISIONS**

8.1 Time. Decisions by the Board shall be made in the form of a motion upon completion of the hearing.

8.2 Notification. The Secretary shall send a copy of the Board's recommendations to the City Council and to the applicant within fifteen (15) days of the date of decision by the Board. A copy of the Board's recommendation shall be inserted in the applicant's file.

## **SECTION 9. AGENDA**

The agenda deadline shall be 10 days prior to a scheduled meeting. The Secretary shall place all agenda items by the deadline date on the next agenda in the order stated in Section 2.5. The order of matters requiring a public hearing shall be listed in the agenda in the order

received from the applicants. A copy of the agenda shall be emailed, mailed or hand delivered to each Board member and the applicant at least five (5) days before the regular meeting. A copy of the agenda shall also be posted on the City's website.

#### **SECTION 10. RECONSIDERATION**

Once a motion has been adopted, the Board may reconsider that matter at the same meeting, provided a motion to reconsider is made by a member who voted with the prevailing side and the applicant is notified of the motion to reconsider prior to the Board taking further action.

#### **SECTION 11. AMENDMENTS**

These Rules may be amended or modified by an affirmative vote of not less than four (4) members of the Board, provided that such amendment is presented in writing at a regular meeting for action to be taken at a subsequent regular meeting.

#### **SECTION 12. MOTIONS**

Every motion shall require an affirmative vote of the majority of the Board members present and eligible to vote. Prior to calling for a vote, the Chairman shall announce the maker of the motion and the member who seconded the motion.

#### **SECTION 13. ROBERT'S RULES OF ORDER**

Any point of procedure not otherwise addressed by these Rules shall be governed by the current edition of Robert's Rules of Order, Newly Revised unless inconsistent with Florida law.

**PRESENTED AND LAST ADOPTED** at a regular meeting of the Board on February 08, 2023.

**CITY OF SOUTH DAYTONA**

**PLANNING AND APPEALS BOARD**

**2023 MEETING SCHEDULE**

<u>APPLICATION DEADLINE DATE</u>	<u>MEETING DATE</u>
12-19-2022 .....	01-18-2023
01-16-2023 .....	02-15-2023
02-13-2023 .....	03-15-2023
03-20-2023 .....	04-19-2023
04-17-2023 .....	05-17-2023
05-22-2023 .....	06-21-2023
06-19-2023 .....	07-19-2023
07-17-2023 .....	08-16-2023
08-21-2023 .....	09-20-2023
09-18-2023 .....	10-18-2023
10-16-2023 .....	11-15-2023
No Meeting in December.....	No Meeting in December
12-18-2023 .....	01-17-2024

THE PLANNING AND APPEALS BOARD REGULARLY MEETS THE THIRD WEDNESDAY OF THE MONTH AS NEEDED.

APPLICATION INFORMATION IS DUE 30 DAYS BEFORE HEARING DATE.

**MINUTES  
SOUTH DAYTONA  
PLANNING AND APPEALS BOARD  
Regular Meeting**

August 17, 2022,

6:00 P.M.

South Daytona Piggotte Community Center  
504 Big Tree Road  
South Daytona, FL

PURSUANT TO SECTION 286.0105 FLORIDA STATUTES, if an individual decides to appeal any decisions made with respect to any matter considered at a meeting or hearing, that individual will need a record of the proceeding and will need to ensure that a verbatim record of the proceeding is made. The City does not prepare or provide a verbatim record of the proceedings.

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**I. CALL TO ORDER AND ROLL CALL**

Members Present

Abe Agront, Chairman  
Phil Trimarchi, Vice-chair  
Eric Dickens  
Petra Masci  
Renee Holland

Staff Present

Les Gillis, City Manager  
Amber Kraft, Recording Secretary  
S. Laureen Kornel, Comm. Dev. Director  
Patty Rippey, ReDev. Director  
Becky Witte, Deputy City Clerk  
Wade Vose, City Attorney

**II. PLEDGE OF ALLEGIANCE**

**III. APPROVAL OF THE MINUTES:** April 28<sup>th</sup>, 2022

**Mr. Trimarchi made a motion to approve the April 28<sup>th</sup>, 2022, meeting minutes. Mr. Dickens seconded the motion. Hearing no objections, the minutes were unanimously approved (5-0).**

**IV. DISCLOSURE OF EXPARTE COMMUNICATION**

None disclosed.

## **V. PUBLIC HEARINGS**

### **A. Foster Way – Recommendation for future project on parcel 5344-16-00-1133.**

Ms. Witte presented the above case. This is a discussion item regarding City owned property located on Foster Way. There are two offers for purchase of this property, one commercial and one residential. Staff is looking for the Planning and Appeals Board to make a recommendation to the City Council on which property will be most appropriate for surrounding land uses. Each of the developers presented their projects. Ursula Amon with Villa Richey LLC for the Villa Magnolia Townhome Project and David Ogle Hall & Ogle Architects, Inc. representative for Beach Track, LLC for the Luxury Storage Suites Project. General inquiries were made by the following individuals from the public, Susan Werthem, 47 Silk Moss Court, Elena Tioutiareva, 1714 Magnolia Avenue, George and Martha Locke, 1883 Magnolia Avenue, and Cindy Merlo, 19 Silk Moss Court. The public testimony included general questions regarding proper drainage on property within a flood zone, privacy fencing, heavy traffic flow, fire safety, property taxes, entrance location, pricing and if the units would be rented or leased for business. There was further discussion by the Planning and Appeals Board member Ms. Holland asked if the Luxury Storage units were to be individually owned and if business would be operated, to which Ursula Amon with Villa Richey LLC and David Ogle Architects, Inc. provided clarification.

**Ms. Holland motioned for a recommendation of approval, and Mr. Dickens seconded the motion. Hearing no objections, the motion passed with unanimously vote for approval (5-0).**

## **VI. OTHER BUSINESS AND DISCUSSION ITEMS**

City Attorney Wade Vose provided training on the Sunshine Law, Public Records & conflicts of interest for Local Government Board Members.

## **VII. MEMBER COMMENTS**

Chairman Agront welcomed new Planning and Appeals Board Members Petra Masci and Renee Holland

## **VIII. ADJOURNMENT**

**Chairman Agront asked for a motion to adjourn. A motion to adjourn was made by Mr. Trimarchi, and Mr. Dickens seconded the motion. The meeting was adjourned at 7:43 PM.**

Respectfully submitted,

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Amber Kraft, Planning Technician

ATTEST:

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Abe Agront, Chairman

*Minutes transcribed by Amber Kraft*

# STAFF REPORT



Community Development Department  
City of South Daytona  
1672 South Ridgewood Ave, South Daytona, FL 32119  
(386) 233-3020

**PUBLIC HEARING:** February 8, 2023 – Planning & Appeals Board

**CASE NUMBER:** RZ 2022-32

**SUBJECT:** Rezoning of 1921 and 1923 South Palmetto Avenue, Parcels 5344-16-00-0400 and 5344-16-00-0401 from PUD (Planned Unit Development) to R1-A (Single Family Residential)

**LOCATION:** 1921 and 1923 South Palmetto Avenue

**APPLICANT(S):** Ralph Etienne and Felicia Erdman

**OWNER(S):** Same as above

**PROJECT PLANNER:** S. Laureen Kornel, Community Development Director

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## I. SUMMARY OF REQUEST

The applicant is requesting a rezoning map amendment from PUD (Planned Unit Development) to R1-A (Single Family Residential) for 1921 South Palmetto Avenue ( $\pm 0.7$  acres) and for 1923 South Palmetto Avenue ( $\pm 0.2$  acres) for a total of 0.9 acres. **No new construction is proposed as part of this rezoning application.**

### **Staff Recommendation:**

Find the rezoning map amendment as presented consistent with the Comprehensive Plan and Land Development Code and forward the application, case number RZ 2022-23, to City Council with a recommendation of approval.

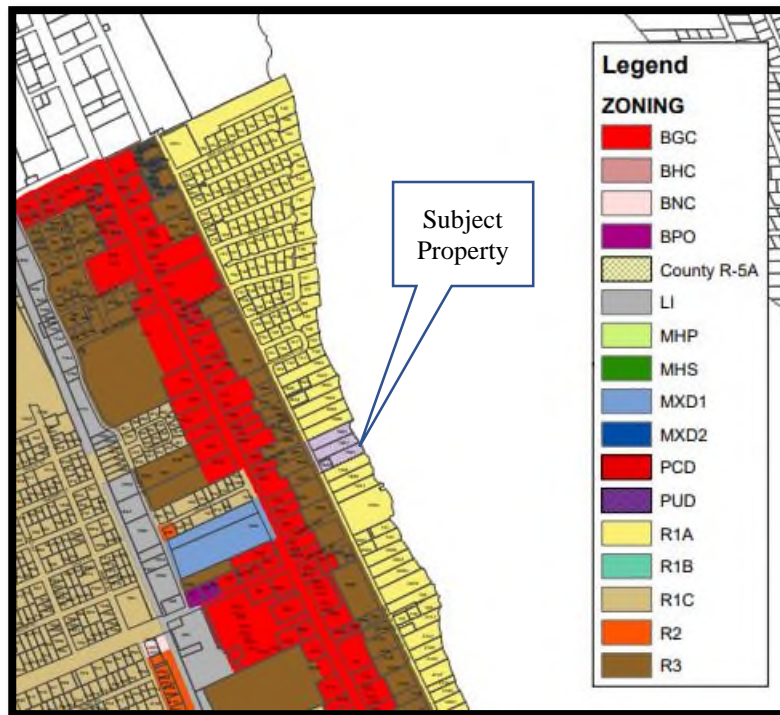


## II. SITE INFORMATION

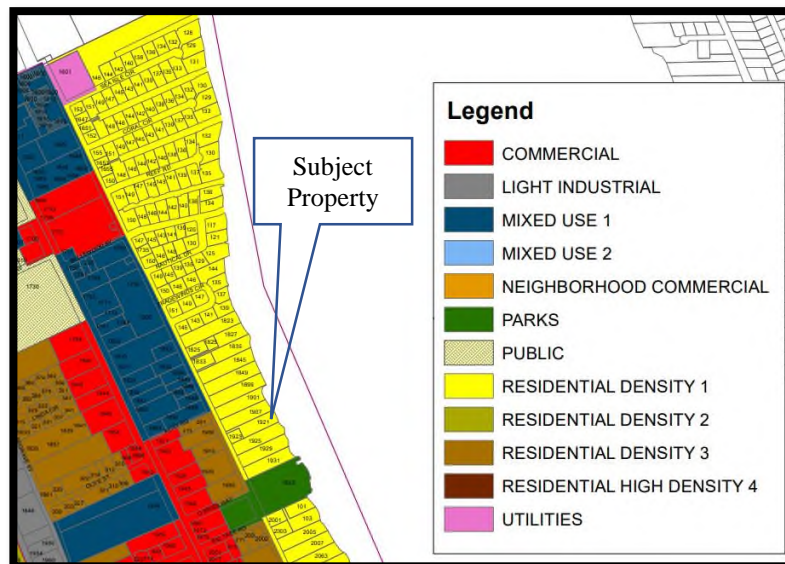
1. Location: East side of South Palmetto Avenue, approximately 200 feet south of its intersection with Kost Road.



2. Short Parcel Number(s): 5344-16-00-0400 and 5344-16-00-0401
3. Property Size:  $\pm 0.7$  acres and  $\pm 0.2$  acres respectively
4. Zoning: Current – Planned Unit Development (PUD)  
Proposed - R1-A (Single Family Residential)



5. FLU Designation: Residential Density 1



6. Overlay District: Community Redevelopment Area

## 7. Adjacent Zoning and Land Use:

Direction	Current Use	Future Land Use	Zoning
North	Single Family	Residential Density 1	R1-A (Single Family Residential)
East	Halifax River	N/A	N/A
South	Single Family	Residential Density 1	R1-A (Single Family Residential)
West	Multi Family	Residential Density 3	R3 (Multiple Family Residential)

### III. BACKGROUND

The subject properties are currently zoned Planned Unit Development (PUD) and are part of a larger failed PUD known as Diamond Reef, a 16-unit subdivision established in 2006. The properties were never developed as part of Diamond Reef. The properties are currently developed with residential homes with 1921 South Palmetto having a building footprint of ±2,400 square feet, built in 1960 and 1923 South Palmetto having a building footprint of ±1,360 square feet with an unknown construction date.

The properties recently changed ownership and the current property owner does not wish to participate in the Planned Unit development and requests that the R1-A zoning classification be reinstated on the two parcels. The property owner intends to redevelop 1921 South Palmetto as a single-family home, consistent with the existing use as a single family home and neighboring properties. There are no plans for 1923 South Palmetto Avenue at this time. Rezoning the subject properties to R1-A would be consistent with their underlying Residential classifications as shown on the Future Land Use Map (FLUM) of the Comprehensive Plan. The proposed R1-A zoning would allow the property to be redeveloped in the future with single-family homes in accordance with the Land Development Code dimensional standards facilitating the continued utilization and productivity of the property, which is in the best interest of both the property-owner and the City.

In 2012, 1899 South Palmetto in proximity to the subject properties was rezoned in a similar manner from PUD to R1-A (Ordinance 12-02). Aside from this instance, the zoning classifications and Future Land Use designations north and south of the subject properties are generally homogeneous (R1-A). The rezoning in 2012 provides precedent for the applicant's request and provides appropriate dimensional standards to redevelop the properties as single family homes in the future consistent with dimensional standards in the area. Any future redevelopment of the subject properties will require site plan review.

#### IV. ANALYSIS

The South Daytona Future Land Use Map (FLUM) identifies the subject parcels as Residential Density 1. The Residential Density 1 future land use designation is four units per acre and each parcel will not exceed the maximum density. The requested zoning change to R1-A is consistent with the City's future land use designation for the subject properties. The properties are existing lots of record and were previously zoned R1-A prior to the previous rezoning to PUD and are consistent with the other lots along the Halifax River in South Daytona.

The properties are already developed with single family homes. The requested zoning change will not represent a nuisance as there is no proposed change of use other than the single-family homes that exist there today. Since the R1-A zoning classification is allowed under the Residential Density 1 land use designation, the rezoning back to the R1-A is consistent with the City's adopted future land use map and adopted elements of the Comprehensive Plan. The requested rezoning will have no impact on the environmental and natural resources of the area. The rezoning will have no negative impact to the economy and represents an opportunity for reinvestment through redevelopment of the properties consistent with the goals of the Community Redevelopment Area policies. The purpose of the request is to rezone the properties to assign the R1-A zoning classification consistent with neighboring zoning along the South Palmetto Avenue corridor abutting the Halifax River.

#### V. CONCLUSION

In accordance with Section 3.2(J)(1) of the Land Development Code, there are certain criteria that must be evaluated before adoption of a Rezoning. The Planning & Appeals Board must consider the following criteria when making their recommendation:

**1. The use(s) of property is (are) consistent with the land development regulations and comprehensive plan.**

The proposed rezoning map amendment from PUD to R1-A is consistent with the Comprehensive Plan and the Land Development Code as described in the above analysis.

**2. The use(s) is (are) compatible with the adjacent existing or planned uses.**

The applicant proposes to maintain the subject properties in their current single-family use which is compatible with adjacent uses along South Palmetto Avenue.

**3. The use provides adequate ingress/egress, parking, open space, and other amenities for the benefit of uses.**

The single-family use is intended to remain the same with ingress/egress on South Palmetto Avenue and adequate parking, and open space.

**4. The use does not impair rights of other properties to light, air, sunlight, or other natural phenomena.**

The single-family use is intended to remain the same. The proposed use will not

substantially or permanently depreciate the value of the surrounding property, create a nuisance, or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare or visual impacts on the neighborhood and adjoining properties.

**5. The project meets or exceeds tests for concurrency management.**

**Transportation:** The rezoning will reduce the maximum development potential, and consequently reduce associated traffic impacts that were otherwise approved through the failed PUD. The city is a designated Transportation Concurrency Area and the site is already developed with single family homes. There will be no adverse impacts on transportation as a result of the rezoning and there will be less traffic generated than was otherwise approved with the previous failed PUD.

**Water and Sewer:** The properties are already developed as single-family homes and are being served with water and sewer. The proposed impact on water and sewer for two dwelling units would be a reduction of the potential impacts if the subject property were developed under the current PUD zoning classification. There will be no additional impacts as a result of the proposed rezoning.

**Stormwater drainage:** There will be no additional impact as a result of the rezoning other than what was originally allowed under the R1-A zoning. The properties are already developed with single family homes. Any redevelopment will require that the applicant meet today's standards for development including stormwater requirements.

**Solid Waste:** The City's contracted waste hauler, Waste Pro, delivers solid waste to Volusia County's Tomoka Farms Landfill. This is a 3,400-acre Class 1 facility and is estimated to have excess capacity through 2052. There will be no increase in solid waste since the properties are already developed. Furthermore, solid waste generated by the two parcels will be less than with the current PUD zoning classification.

**Parks and Recreation:** The proposed rezoning map amendment will not impact the level of service for park facilities. The level of service is based on acres per capita population. There is not a park acreage level of service deficiency.

**Schools:** Volusia County Schools Facilities does not consider the impact for concurrency to be significant if the density is less than 10 lots. This rezoning map amendment will yield a maximum of two lots which are already developed as single-family homes. Since the proposed re-zoning will eliminate the possibility of developing a previously approved 16 lot PUD, the proposed rezoning will have no direct impact on the schools in South Daytona.

The requested rezoning map amendment meets or exceeds the test for concurrency management. Any additional site development will be required to meet the development standards of the Land Development Code which requires

review by the Development Review Committee.

It is expected that the proposed rezoning will be reviewed by the City Council on February 14, 2023 (1<sup>st</sup> Reading) and March 14, 2023 (2<sup>nd</sup> and final reading).

## **VI. RECOMMENDATION**

Based on the above analysis and conclusion as presented, find the rezoning map amendment consistent with the Comprehensive Plan and the Land Development Code and forward the application, Case number RZ 2022-32 to City Council with a recommendation of approval.

Attachment 1 – Proposed Ordinance including zoning map and legal descriptions.

# ATTACHMENT 1

## Draft Ordinance with Zoning Map and Legal Descriptions

## **ORDINANCE NO. 2023-XX**

**AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING THE OFFICIAL ZONING MAP BY CHANGING THE ZONING OF 1921 SOUTH PALMETTO AVENUE, PARCEL 5344-16-00-0400, AND 1923 SOUTH PALMETTO, PARCEL 5344-16-00-0401 FROM PLANNED UNIT DEVELOPMENT (PUD) TO SINGLE FAMILY RESIDENTIAL (R1-A); PROVIDING FOR CONFLICTS, SEVERABILITY, APPLICABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the properties at 1921 South Palmetto Avenue, specifically parcel 5344-16-00-0400 (+/- 0.7 acres), and at 1923 South Palmetto Avenue, specifically parcel 5344-16-00-0401 (+/- 0.2 acres), are currently zoned Planned Unit Development (PUD); and

**WHEREAS**, the subject properties are a part of an approved PUD; and

**WHEREAS**, the subject properties recently changed ownership; and

**WHEREAS**, the current owner does not wish to participate in the Planned Unit Development and requests that the Single Family Residential (R1-A) zoning be reinstated on the parcels; and

**WHEREAS**, rezoning the subject properties to a Single Family Residential (R1-A) zoning, would be consistent with its underlying Residential classifications as shown on the Future Land Use Map (FLUM) of the Comprehensive Plan; and

**WHEREAS**, the properties are located within the City of South Daytona Community Redevelopment Area (CRA), that was established to address blighted properties and to redevelop the U.S.1 corridor; and

**WHEREAS**, the proposed R1-A zoning would allow the properties to be redeveloped for single-family homes facilitating the continued utilization and productivity of the property, which is in the best interest of both the property-owner and the City; and

**WHEREAS**, the City of South Daytona Planning and Appeals Board, serving as the local planning agency, held a public hearing on the 8<sup>th</sup> day of February 2023, and recommended approval of the proposed rezoning; and

**WHEREAS**, the City of South Daytona City Council finds the rezoning of the property in the best interest and welfare of the citizens of the City.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA THAT:**

**SECTION 1. Identification of Property Rezoned to Single Family Residential (R1-A).**

The following properties are hereby rezoned to Single Family Residential (R1-A): 1921 and 1923 South Palmetto Avenue (Volusia-County tax parcel #5344-16-00-0400 and #5344-16-00-0401)

**SECTION 2. Legal Descriptions of Properties Rezoned to Single Family Residential:**



The legal descriptions of the subject properties are attached hereto as Attachment "A".

**SECTION 3. Location Map of Property Rezoned to Single Family Residential (R1-A).**

"Attachment B", attached hereto and considered an integral part of this Ordinance, shows the location of the property to be rezoned to Single Family Residential (R1-A).

**SECTION 5. Conflicts.** All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 6. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 7. Effective Date.** This Ordinance shall take effect immediately upon enactment.

**APPROVED** upon first reading on the 14<sup>th</sup> day of February 2023 at a regular meeting of the City Council of the City of South Daytona.

**APPROVED AND ADOPTED** upon second and final reading on the 14<sup>th</sup> day of March 2023 at the regular meeting of the City of South Daytona City Council.

CITY OF SOUTH DAYTONA:

ATTEST:

\_\_\_\_\_  
William C. Hall, Mayor

\_\_\_\_\_  
James L. Gillis, Jr., City Manager

CERTIFIED AS TO FORM:

\_\_\_\_\_  
Wade C. Vose, City Attorney

Attachment "A"  
Legal Descriptions

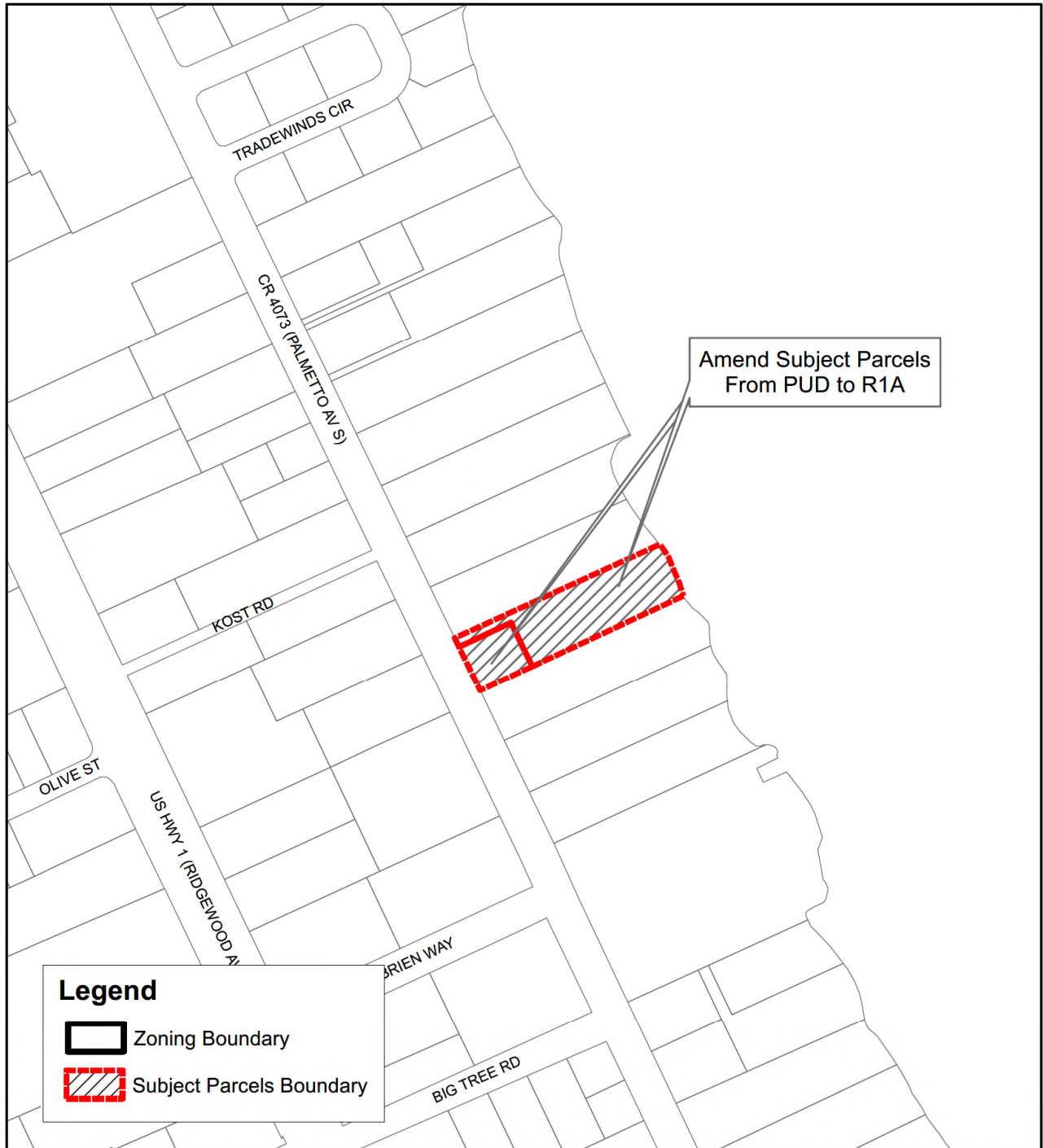
1921 South Palmetto Avenue – 5344-16-00-0400

LOT 40 EXC S 85 FT OF W 100 FT BLAKE MB 1 PG 38 PER OR 2400 PG 1260 PER UNREC  
AG FOR DEED PER OR 3858 PGS 3646-3647 PER OR 6730 PG 2208 PER OR 8287 PG 3797

1923 South Palmetto Avenue – 5344-16-00-0401

S 85 FT OF W 100 FT OF LOT 40 BLAKE DB E PG 150 MB 1 PG 38 PER OR 4348 PG 0775  
PER OR 6421 PGS 0122-0123 PER OR 6421 PGS 0124-0125 PER OR 6735 PG 1983 PER OR  
8336 PG 1175

Attachment "B"



**Zoning Map**  
**1921 & 1923 S. Palmetto**  
**(5344-16-00-0400), (5344-16-00-0401)**



City of South Daytona - Community Development Department

# STAFF REPORT



Community Development Department  
City of South Daytona  
1672 South Ridgewood Ave, South Daytona, FL 32119  
(386) 233-3020

**PUBLIC HEARING:** February 8, 2023 – Planning & Appeals Board

**CASE NUMBER:** PUD Amendment 2022-33

**SUBJECT:** Seaview Apartments Planned Unit Development Amendment

**LOCATION:** 2701, 2737 and 2739 South Ridgewood Avenue (Tax Parcel ID Nos.: 5333-06-00-0015, 5333-06-0010, and 5333-06-00-0012)

**APPLICANT(S):** Steve Buswell, Parker Mynchenberg and Associates, Inc., authorized agent on behalf of the property owner

**OWNER(S):** Verso Sub III LLC

**PROJECT PLANNER:** S. Laureen Kornel, Community Development Director

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## INTRODUCTION

The applicant is seeking to amend the existing Planned Unit Development (PUD) by proposing a luxury apartment complex with a restaurant, and marina requiring a new Master Development Agreement. The amendment seeks to allow 440 luxury multi-family units on +/-7.63 acres along with associated amenities.

## BACKGROUND

**Location:** The site lies within the U.S. 1 Corridor Overlay District and consists of three parcels as noted in the subject of this report. As shown on Exhibit 1. Location Aerial below, the project extends approximately 1,000 feet along the east side of South Ridgewood Avenue north of Reed Canal Road and abuts the Halifax River with river frontage of approximately 610 feet. The land is vacant and has been for many years.

## Exhibit 1. Location Aerial



**Land Use and Zoning:** The properties have a land use designation of “Mixed Use 1” and a zoning classification of Planned Unit Development. The uses surrounding the site are stated below in Exhibit 2. The land use (Exhibit 3) and zoning (Exhibit 4) maps for the subject properties are provided subsequent to Exhibit 2.:

### Exhibit 2: Land Uses and Zoning

	Business/Use	Future Land Use	Zoning
<b>North</b>	Vacant Single Family Residential	Commercial Mixed Use 1	Business General Commercial (BGC) Planned Commercial Development (PCD)
<b>South</b>	Commercial Single-Family Residential	Mixed Use 1	Business General Commercial (BGC) Single Family Residential (R-1B)
<b>East</b>	Residential Halifax River	Mixed Use 1	Planned Commercial Development (PCD)
<b>West</b>	Commercial School (International Academy)	Mixed Use 2 Mixed Use 2	Business General Mixed Use 2



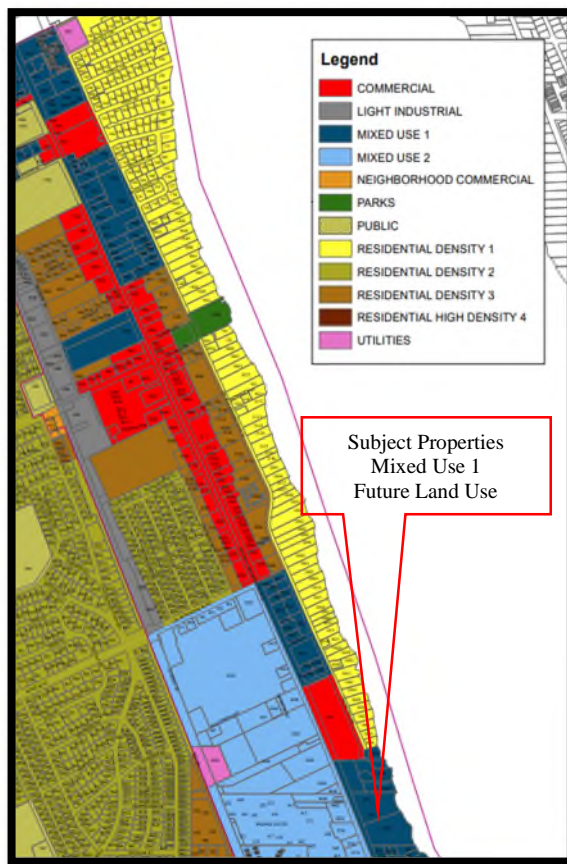


Exhibit 3. Future Land Use Map

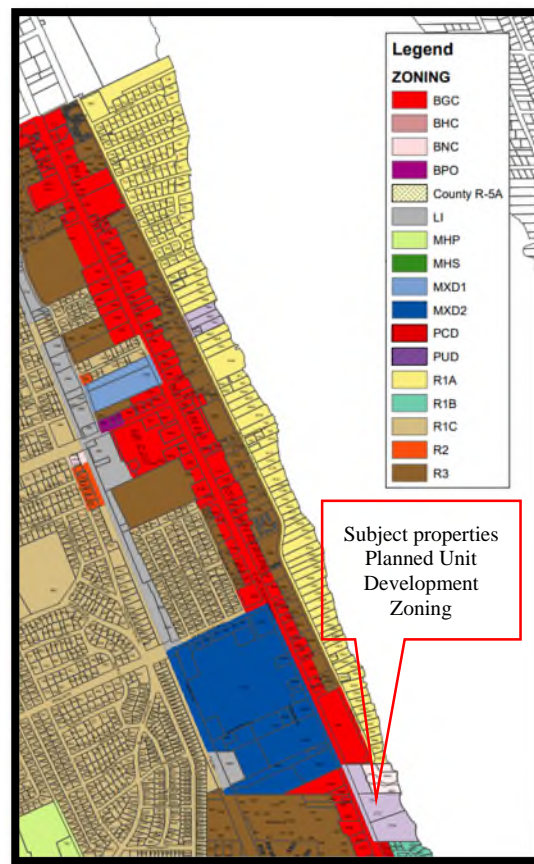


Exhibit 4. Zoning Map

**Site History:** Below is a summary of the past development review and approval for the +/-7.63 site:

- On July 13, 2004, via Ordinance No. 04-15, the site was approved for a Future Land Use Map Amendment from Commercial to Residential High- Density – Range 4 as the subject properties had been determined to be economically "under-performing" and thus "ripe" for redevelopment into a more productive and valuable use.
- On July 13, 2004, subsequent to the approval of the land use map amendment, the City Council approved Ordinance No. 04-16, to rezone the property to Planned Unit Development (PUD) and approved a Master Development Agreement to consist of two, 420-unit 16 story high rise residential towers with lower-level under residential-floors parking.
- In August 2005, the Master Development Agreement was amended from 420 units to 522 units.
- In 2006, by Ordinance No. 05-46, the City Council approved a PUD amendment to change the north tower height to 18 stories (instead of the 16 stories) and approved the river setback to be decreased to 62 feet from the bulkhead line provided that the project would provide a public easement element.

- In July 2022, Verso Sub III, LLC purchased the property and began working with the City on a concept plan design for a luxury multi-family development with modern elements that are compatible with the current land use and zoning and consistent with the high-quality development intended for the redevelopment area in South Daytona.

**Proposed Project:** The applicant is proposing to develop, as its principal use, a 6-story 440-unit luxury apartment community, with amenities to include a clubhouse, pool, restaurant and marina. The total height of the building is 70' with a first floor ceiling height of 14' made of concrete and the upper floors with a ceiling height of 9' constructed of wood frame with a cementitious sheath to reduce weight and meet wind load requirements similar to projects being constructed throughout this area. In addition, there will be a parking structure integrated within the residential development. The residential area will total ±558,000 square feet.

The mix of units is as follows:

- One Bed, One Bath: up to 246 units, 900 – 1,000 sq. ft.
- Two Bed, Two Bath: up to 172 units, 1,350 – 1,500 sq. ft.
- Three Bed, Two Bath: up to 22 units, 1,600 – 2,000 sq. ft.
- Total unit Count: 440 units

In accordance with the Community Redevelopment Area standards, the architectural style is Florida Vernacular with balconies. The development is proposed to be phased as follows:

- Phase 1 – Parking Structure
- Phase 2 - Principle building including all units and amenities
- Phase 3 – Marina

The amenity area will consist of ±6,500 square feet of space including a resident clubhouse/meeting rooms, gym/recreational facilities, pool deck, pool, irrigated landscaping and associated fixtures to include fire pits and fountains along with a river boardwalk to connect to a transient marina to the restaurant and parking. Approximately 70 boat slips are planned for the marina. The project includes leasing and maintenance offices. A restaurant is proposed along with an exterior covered patio.

There will be three access points from South Ridgewood Avenue. The project buffering will be in accordance with the minimum landscaping and buffer yard requirements of the Land Development Code and the requirements of the South Ridgewood Corridor Design Guidelines. In addition, the applicant will provide for the undergrounding of utilities and the construction of decorative sidewalks along South Ridgewood Avenue. A detailed itemized list of all performance standards along with Concept Plan renderings can be found in the attached Master Development Agreement.

It should be noted that the egress into La Paloma Plaza currently lies along the southern portion of the project site. The applicant has advised a portion of their property shall be deeded to the owner of La Paloma Plaza to allow continued access.

As part of the solution to maintain access to La Paloma Plaza, the applicant has requested a reduced side yard setback from the proposed 25' to 5' to accommodate the deeding of a small portion of land located at the south west corner of the principle building to ensure continued access to the Plaza to the south. Since this small area abuts a commercial parking lot, no impacts are expected as a result of the reduced side yard setback.

## **ANALYSIS**

In accordance with Section 3.2(K) of the Land Development Code, there are certain criteria that must be evaluated before adoption of an amendment. The Planning & Appeals Board must consider the following criteria when making their recommendation:

### **1. The use(s) of property (are) consistent with the land development regulations and Comprehensive Plan.**

#### Consistency with the PUD Regulations

Section 5.5 (O), Article V of the Land Development Code lists the requirements of a Planned Unit Development. The property already maintains the PUD zoning classification and the development will be regulated through the Master Development Agreement for final site plan approval. The process of development begins with the approval of the amendment to the Planned Unit Development followed by site plan review by the City's Development Review Committee, followed by detailed construction plans.

As was previously stated, the Master Development Agreement provides the performance standards in accordance with the PUD criteria. The project meets the purpose and intent of the PUD to promote efficient land use, housing and usable open space. The applicant will be required to acquire all necessary permits in accordance with the Land Development Code and State agencies prior to construction. The Planned Unit Development process is designed to allow site design flexibility while ensuring open space, recreation and minimalization of environmental impacts. The site was previously developed and currently proposes infill development to replace a blighted condition in accordance with the City's guiding polies. The PUD proposes site amenities above that normally found for permitted uses with regard to innovative site and architectural design, parcel aggregation, enhanced landscaping, on-site recreational amenities and open space, redevelopment and rehabilitation of an under-performing site, and a minimum five-story building. It is staff's determination that the proposed plan meets the land development regulations.

#### Consistency with the Comprehensive Plan

The proposed project is consistent with the following referenced Comprehensive Plan policies:



### ***Future Land Use Element - Planning Issues and Opportunities***

*Item 1. High Density Development in the CRA – supports residential development as integral to the overall redevelopment strategy.*

*Item 3. Revitalization and Redevelopment along the U.S. 1 (Ridgewood Avenue) Corridor – high density residential project in the southeast quadrant of the City is a key element of the redevelopment program.*

*Item 6. Limited access to Halifax River – community vision supports the expansion of other access to the Halifax River. The best opportunities to accomplish this will come from future modification and implementation of plans for approved high-density residential projects, including the introduction of mixed-use options that will create opportunities via private sites such as shops and restaurants. (marinas)*

***Goal: Provide for a land use pattern which will create a quality, well-rounded community and reinforce the City's commitment to development and redevelopment.***

*Objective 1: Provide for a land use pattern which will create a quality, well-rounded community and reinforce the City's commitment to development and redevelopment.*

*Policy 1-4: High Density Range 4 through PCD/PUD in Ridgewood corridor.*

*Policy 1-9: Mixed Use land use classifications provide for integration of residential, commercial, office, lodging, civic and public uses.*

*Mixed Use 1: Areas east of Ridgewood Avenue that have river and U.S.1 frontage, minimum of 3 acres are permitted a minimum of 25 units/acre and maximum of 40 units/acre but are allowed a density bonus of up to 20 units/acre for a total of 60 units/acre.*

***Goal: Provide for the maintenance of existing properties and neighborhoods and for the redevelopment of those areas of the City in need of significant public and private reinvestment.***

*Objective 8: The City shall implement its community design standards for streetscaping, exterior architecture, and appearance, commercial signage, etc. particularly as they apply to the Ridgewood Corridor Redevelopment District.*

*Policy 8-2: Continue to enforce the community design standards that have been adopted in the Consolidated Land Development Regulations.*

*Objective 10: Ensure that public facilities are adequate to meet existing and anticipated needs.*

*Policy 10-1: Require public facilities meeting the adopted levels of service to be available concurrent with or prior to the impact of new development.*

*Policy 10-4: With the intent of increasing public waterfront access, evaluate development proposals for all riverfront parcels of over two acres, and before project approval or the issuance of a development order, determine the feasibility and need for requiring incorporation of a public waterfront access component.*

***Goal: Establish and designate the entire City as a Transportation Concurrency Exception Area to facilitate urban infill and redevelopment, reduce the possible adverse impact of transportation concurrency on urban infill, provide strategies for mobility, urban design, mixed uses, and network connectivity, and create a vibrant community that improves the quality of life for existing and future residents by achieving a balanced mix of sustainable and functional land uses.***

*Objective 13: Transportation Concurrency Exception Area (TCEA) is hereby established for the City of South Daytona city limits. The City shall affect the objectives and policies contained in this Plan by implementing and funding strategies that will promote infill development within the TCEA consistent with sound urban design principles and mixed-use development with the Ridgewood Corridor Redevelopment Area.*

*Policy 13-2: Within the Ridgewood Corridor Redevelopment Area the City shall encourage developments with slightly higher densities and intensities in order to achieve the type of compact development that can justify increased transit service.*

*Policy 13-11: Through amendments to its land development regulations, the City shall adopt slightly higher density and intensity standards for development located in the Ridgewood Corridor Redevelopment Area along major transportation and transit corridors in order to more fully utilize the available infrastructure.*

*Policy 13-12: The City shall encourage opportunities for economic development by promoting commercial and recreational projects that will generate an increased flow of people and spending within the Ridgewood Corridor Redevelopment Area.*

The properties are already zoned PUD and the amendment is consistent with the Comprehensive Plan which allows for a PUD under the Mixed Use 1 land use designation. The guiding policies of the Comprehensive Plan support parcel aggregation with higher density infill development within the Redevelopment Overlay District. The Comprehensive Plan allows areas east of Ridgewood Avenue that have U.S. 1 frontage and are also contained within a project tract of three acres or more which includes shoreline land or land that is otherwise entitled to high density land use based on the redevelopment plan and other comprehensive plan goals, objectives and policies.

The subject tract of land is greater than 3 acres and lying east of Ridgewood Avenue with US 1 and shoreline frontage. The requested density for the project is 60 units per acre which meets the density bonus criteria which provides for a maximum density of 60 units per acre. There will be a reduction in residential units from 522 units to 440 units and impacts to public facilities will be less than what was previously approved. It is staff's determination that the proposed amendment meets the goals, objectives and policies of the Comprehensive Plan as well as the redevelopment objectives of the City's Redevelopment Master Plan.

**2. The use(s) is (are) compatible with the adjacent existing or planned uses.**

There are a mix of uses abutting the subject property. The proposed development is consistent with the development patterns in this corridor and the uses fall within the permitted uses in the PUD zoning classification. The City of South Daytona is in need of additional multi-family housing as is evidenced by the wait list at the recently completed Enclave at 3230 South Ridgewood Avenue, a 256-unit apartment complex completed in 2022.

**3. That the use provides adequate ingress/egress, parking, open space, and other amenities for the benefit of the users.**

As provided with the Conceptual site plan included with the Draft Amended Master Development Agreement attached to this report, the application provides adequate ingress/egress, parking, open space and other amenities above that normally found for permitted uses such as a clubhouse, pool, fitness facility, restaurant and fountain. The applicant has advised as a condition of this amendment, a portion of their property located at the south west corner of the project shall be deeded to the owner of La Paloma Plaza to allow continued access to the Plaza.

**4. The use does not impair rights of other properties to light, air, sunlight, or other natural phenomena.**

The subject property has a land use and zoning that allow multi-family residential as a permitted use. The proposed amendment provides an opportunity to an otherwise economically “under-performing” site for infill redevelopment that will provide much needed multi-family residential in accordance with the City’s Comprehensive Plan and Community Redevelopment Area guidelines. It is the opinion of the Development Review Committee that the project complies with or exceeds the City’s development regulations. The project will be regulated through the Master Development Agreement and will not impart the rights of other properties to light, air, sunlight or other natural phenomena.

**5. The project meets or exceeds tests for concurrency management.**

There are adequate public facilities to serve the forthcoming project. The City of South Daytona is a designated Transportation Concurrency Exception Area (TCEA) to promote urban infill and redevelopment by reducing the adverse impact of transportation concurrency and developing a coordinated transportation system for pedestrians, bicyclists, transit riders and motorists. The City currently meets its adopted level of service. With the TCEA designation, a traffic study is not required, though staff requested a traffic study to determine impacts the development may have on the surrounding road network. U.S. 1 has capacity for additional daily traffic. While there will be an increase in traffic at build out, the traffic study verifies U.S. 1 and other local roadways will continue to operate within the adopted Level of Service standards and under capacity.

By the terms of the proposed Master Development Agreement, the Owner/Developer is responsible for all transportation improvements within the property and any off-site transportation requirements, that may be deemed necessary by appropriate agencies such as the Florida Department of

Transportation as a result of the proposed development, for site function, that maintains or improves the level of service for area roadways, and ensures the public health, safety, and welfare for the community. All signalized intersections and roadway segments are expected to continue operating within the adopted levels of service after the project is completed. While the project will create additional trips, the increase in trips will be less than was previously vested.

The City receives water from the City of Daytona Beach which has sufficient capacity (24.0 MGD) to accommodate the project at buildout. The current maximum daily flow is 14.47 MGD with 1.74 MGD of outstanding flow commitments. While the maximum development potential shows an increase in potable water/sewer, there is adequate water and sewer capacity to serve the project demand.

The City's contracted waste hauler, Waste Pro, is estimated to have excess capacity through 2052. There are adequate solid waste services to accommodate the proposed development.

The proposed development will include a commercial marina and restaurant that will add to the community's public access to the waterfront. The project will provide on-site recreational amenities including, but not limited to, a pool, clubhouse, gym, and other open space for residents. The City is currently exceeding its Parks and Recreation level of service standard by 7.2 acres.

The proposed development will include an on-site stormwater retention facility in accordance with the requirements of the Land Development Code and required permitting from St. Johns River Water Management District. The site was previously developed and proposes infill redevelopment that will not negatively impact environmentally sensitive lands or natural resources. There are no wetlands on the site.

The applicant has provided a School Adequate Capacity Determination Finding of Adequate Capacity Letter dated January 19, 2023 advising they have no objection to the proposed development plan.

The project meets or exceeds the tests for concurrency management. Since the request proposes a reduction in residential units from 522 units to 440 units, impacts to public facilities will be less than what was previously approved. It is expected that the proposed amendment will be reviewed by the City Council on February 14, 2023 (1<sup>st</sup> Reading) and March 14, 2023 (2<sup>nd</sup> reading).

## **RECOMMENDATION**

It is recommended the Planning & Appeals Board recommend **APPROVAL** to the City Council of Case # 2022-33, a PUD amendment to amend the Master Development Agreement as presented.

## **ATTACHMENTS**

Attachment 1: Applicant Provided Information

Attachment 2: Draft Ordinance and Amended Master Development Agreement

# ATTACHMENT I

Applicant Provided Information

**ORDINANCE NO. 2023-03**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA, ADOPTING AN AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT FOR THE PROPERTIES LOCATED AT 2701, 2737, 2739 SOUTH RIDGEWOOD AVENUE, PARCELS 5333-06-00-0015, 5333-06-00-0012 AND 5333-06-00-0010 RESPECTIVELY TO PROVIDE FOR MAJOR SITE PLAN CHANGES; ESTABLISHING PRINCIPAL USES AS LUXURY MULTI-FAMILY APARTMENTS WITH RELATED ACCESSORY USES INCLUDING RESTAURANT WITH VALET PARKING AND MARINA; PROVIDING FOR CONFLICTS, SEVERABILITY, APPLICABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the parcels of real property located at 2701, 2737, and 2739 South Ridgewood Avenue, South Daytona, Florida, Parcels 5333-06-00-0015, 5333-06-00-0012 and 5333-06-00-0010 respectively (the “Property”, are subject to that certain master development agreement as originally approved by Ordinance No. 04-16 on July 13, 2004, and as subsequently amended, most recently by an Amendment No. 2, as approved by Ordinance 05-46 on January 10, 2006 (the “Original Master Development Agreement as Amended”); and

**WHEREAS**, the current owner of the Property, Verso Sub III, LLC, has requested an amendment to the master development agreement amending, restating, and replacing the Original Master Development Agreement as Amended; and

**WHEREAS**, attached hereto as Exhibit A is an amended and restated Master Development Agreement (“Amended and Restated Master Development Agreement”) for the multi-family residential development with related accessory uses and to include a Restaurant with Valet Parking and Marina: and

**WHEREAS**, the mixed use site is located within the City of South Daytona’s Community Redevelopment Area (CRA), that was established to address blighted properties and to redevelop the U.S.1 corridor; and

**WHEREAS**, the Amended and Restated Master Development Agreement provides for the orderly development of the property in compliance with the laws and regulations of the City and other governmental authorities; and

**WHEREAS**, City staff have determined that the Property is suitable in size, location, and character for the principal uses and accessory uses listed in the Amended and Restated Master Development Agreement are consistent with the City’s Comprehensive Plan, Land Development

Code, and the Community Redevelopment Master Plan; and

**WHEREAS**, City staff have determined that the principal and accessory uses, design, landscaping, and site improvements are consistent with the City's Comprehensive Plan, Land Development Code, and the Community Redevelopment Master Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA:**

**Section 1.** The City Council of the City of South Daytona hereby approves the Amended and Restated Master Development Agreement attached hereto marked as Exhibit A, which shall amend, restate, and replace the Original Master Development Agreement as Amended.

**Section 2. Conflicts.** All ordinances made in conflict with this Ordinance are hereby repealed.

**Section 3. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

**Section 4. Effective Date.** That this Ordinance shall become effective immediately upon its adoption.

**PASSED** upon first reading at a regular meeting of the City Council of the City of South Daytona held in the City of South Daytona, Florida, on the 14<sup>th</sup> day of February, 2023.

**PASSED AND ADOPTED** upon second and final reading at a regular meeting of the City Council of the City of South Daytona held in the City of South Daytona, Florida, on the \_\_\_\_<sup>th</sup> day of \_\_\_\_.

CITY OF SOUTH DAYTONA:

ATTEST:

\_\_\_\_\_  
William C. Hall, Mayor

\_\_\_\_\_  
James L. Gillis, Jr., City Manager

CERTIFIED AS TO FORM:

\_\_\_\_\_  
Wade C. Vose, City Attorney

# ATTACHMENT 2

Draft Ordinance and  
Master Development Agreement



**SEAVIEW APARTMENTS  
MASTER DEVELOPMENT AGREEMENT**

**THIS DEVELOPMENT AGREEMENT** ("Agreement") is entered into and made as of the \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the CITY OF SOUTH DAYTONA, a Florida municipal corporation, with an address of 1672 South Ridgewood Avenue, South Daytona, Florida 32119, (hereinafter referred to as the "City"), and Verso Sub III, a Delaware limited liability company, the record title property owner, with an address of 2701, 2737 and 2739 South Ridgewood Avenue (Parcel ID 5333-06-00-0010), 2737 South Ridgewood Avenue (Parcel ID 5333-06-00-0012), and unnumbered Parcel (Parcel ID 5333-06-00-0015) ("Owner/Developer").

**W I T N E S E T H**

**WHEREAS**, the Owner/Developer warrants that it holds legal title to the lands located in Volusia County, Florida, and within the corporate limits of the City of South Daytona, said lands being more particularly described in **Exhibit A. Legal Description** for the subject property ("Property"), attached hereto and by this reference made a part hereof; and

**WHEREAS**, the Owner/Developer desires to facilitate the orderly development of the Property in compliance with the laws and regulations of the City and of other governmental authorities; and

**WHEREAS**, the City has determined that the Property is suitable in size, location and character for the uses and accessory uses listed in this Agreement as proposed by the Owner/Developer, and that the uses and accessory uses listed in this Agreement are consistent with the City's comprehensive plan; and

**WHEREAS**, it is the purpose of this Agreement to clearly set forth the understanding and agreement of the parties concerning the matters contained herein; and

**WHEREAS**, the Owner/Developer seeks the City's approval to develop the Property and to use the Property for Owner/Developer's intended uses and accessory uses as listed in this Agreement; and

**WHEREAS**, the City previously rezoned the Property to a form of Planned Unit Development (PUD), as defined under the City's Land Development Code;

**WHEREAS**, going forward, the PUD shall consist of (a) this Agreement as the written agreement of the PUD and (b) **Exhibit B. Architectural Plans and Renderings** attached hereto and by this reference made a part hereof.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Recitals and Definitions.** The recitals herein contained are true and correct and are incorporated herein by reference. All capitalized terms not otherwise defined herein shall be as defined or described in the City's Land Development Code as it may be amended from time to time, unless otherwise indicated.
2. **Ownership.** The legal and equitable owner of the Property is Verso Sub III. The Owner/Developer will legally combine multiple parcels into one (1) tax parcel for the development of the Property.
3. **Non-Statutory Development Agreement.** This Agreement is a non-statutory agreement which is not subject to or enacted pursuant to the provisions of Sections 163.3220-163.3243, Florida Statutes.
4. **Duration.** This Agreement is binding and runs with the land in perpetuity, unless amended.
5. **Title Opinion/Certification.** The Owner/Developer will provide to the City, in advance of the City's execution of this Agreement, a title opinion of an attorney licensed in Florida, or a certification by an abstractor or title company authorized to do business in Florida, showing marketable title to the Property to be in the name of the Owner/Developer and showing all liens, mortgages and other encumbrances not satisfied or released of record.
6. **Subordination/Joinder.** Unless otherwise agreed to by the City, all liens, mortgages, and other encumbrances not satisfied or released of record (except for the statutory priority lien for ad valorem real estate taxes), must be subordinated to the terms of this Agreement or the Lienholder join in this Agreement. It shall be the responsibility of Owner/Developer to promptly obtain such subordination or joinder, in form and substance that is reasonably acceptable to the City Attorney.
7. **Development of the Property.** Development of the Property shall be subject to the performance standards listed below:
  - A. Permitted principal uses allowable on the Property:
    1. Multi-Family Dwelling Units. Units shall include luxury vinyl plank flooring in common spaces, carpet in bedrooms and walk-in closets, stainless steel kitchen appliances, granite, quartz (or equally upgraded

material) for countertops with tile backsplash, 9-foot-high or higher ceilings, and in-unit laundry connections. Unit type and average square footage as listed:

- a. One Bed, One Bath: up to 246 units, 900 – 1,000 square feet
- b. Two Bed, Two Bath: up to 172 units, 1,350 – 1,500 square feet
- c. Three Bed, Two Bath: up to 22 units, 1,600 – 2,000 square feet
- d. Total Unit Count: up to 440 units

B. Permitted Accessory uses on the Property include the following uses, or uses substantially similar thereto:

1. Resident Clubhouse with Resident Office Space with Internet Connection, and a Resident Common Area with amenities
2. High Speed Wi-Fi throughout Property
3. Gym/Recreation Facilities/Pool
4. Bike Racks or Bike Storage Area
5. Leasing Office
6. Maintenance office/storage
7. Restaurant and valet parking
8. Marina

C. Required Amenities are to include:

1. Gated restricted access
2. pool and amenities
3. Outdoor grilling or kitchen facilities
4. Car charging station(s)
5. Lighted, well-maintained green spaces
6. Lighted fountain or similar feature
7. Internal common areas with fire pits

D. Maximum Residential Density: 60 units per acre with density bonus.

Multi-family in the density range of 25 units or more per gross acres: The maximum density shall be 40 units per gross acre, except when the project design is eligible for density bonuses of up to 60 units per acre based on criteria selected by City Council and provided in the *Land Development Code, Section 5.5 Zoning Regulations, O. Planned Unit Development (PUD)*,

11. *Supplemental standards* for high-density residential development. The density bonus of additional 20 units per acres are met by the following criteria being fulfilled by the Owner/Developer.

- [a] Innovative and high-quality design.
- [b] Parcel aggregation.
- [c] Enhanced landscaping along public right-of-way.
- [d] Reduced impervious surface.
- [e] On-site recreational amenities and open space.
- [f] Redevelopment of under-performing site.
- [g] Innovative imagery and architecture.
- [h] Replacement of deteriorating or dilapidated structures.
- [i] Rehabilitation of deteriorating structures.

- E. Maximum Non-Residential Gross Floor Area: 14,398 square feet
- F. Impervious surface ratio is not to exceed 70% of the gross square footage for the Property.
- G. Maximum Building Coverage: 35%
- H. Minimum Open space: 30%
- I. Minimum Common space: 20%
- J. Minimum landscaping and buffer yard requirements are per the City's Land Development Code and the South Ridgewood Avenue Corridor Design Guidelines. Stormwater management facilities shall not be placed within buffer yards. Buffering shall include:
  - 1. A six (6) foot high stucco masonry wall with pilasters/columns, shall be constructed along the length of the north, and south side of the property as well as the east side of Parcel 5333-06-00-0015 . The wall shall be noted on the site plans including a description of the building materials and design of the wall.
  - 2. Along the north and south property lines, a four (4) foot high stucco masonry wall shall be constructed out towards the Halifax River from the extended plane of the riverside wall of the principal building to a point approximately ten (10) feet from the shoreline of the river. The

wall shall be noted on the site plans including a description of the building materials and design of the wall.

3. A commercial grade six (6) foot black aluminum fence with pilasters/columns shall be installed along the west side of the property, connecting with the walls on the north and south sides of the property. The fence shall be noted on the site plans including specifications of the fence.
  4. Landscaping shall be installed along the exterior of the wall and aluminum fence. Interior landscaping shall also be required.
- K. Minimum Building Setbacks:
1. South Ridgewood Avenue: 30 feet
  2. Halifax River Bulkhead Line: 60 feet
  3. North Property Line: 20 feet
  4. South Property Line: 20 feet
  5. Southern 62.8 feet adjacent to Parcel 5333-13-00-0010: 5 feet
- L. Maximum building height: the maximum building height shall be the maximum height permitted for a Residential PUD in the location of the Property, as determined by the City's Land Development Code, as amended from time to time.
- M. Minimum required parking spaces:
1. Multi-family dwellings: 1.75 spaces per dwelling unit
  2. Clubhouse/Leasing Office: 5 spaces and 1 handicap space
  3. Employee spaces: 1 space per every 3 employees
  4. Restaurant: 1 space/four seats, plus one space each 3 employees
- N. Decorative street light poles consistent with the City's decorative street light pole specifications as attached in **Exhibit C. Decorative Street Light Poles and Decorative Sidewalks Specifications** shall be installed within the right-of-way along the Property's frontage.
- O. Decorative sidewalks consistent with the City's sidewalk specifications shall be installed within the right-of-way along the Property's frontage. Connected to this decorative sidewalk shall be a pedestrian walkway that leads to the entrance of the principal structure.

P. Architectural Design Standards: All buildings and accessory structures shall generally be consistent with the **Exhibit B. Architectural Plans and Renderings** unless, prior to issuance of the initial building permit, Owner/Developer submits, and City staff approves a different conceptual elevation. The City shall have the right to reject any proposed elevation which does not meet the requirements herein, or which involves the use of fewer architectural details and ornamentation than are set forth in **Exhibit B**. Any modifications to the approved architectural elevations shall include:

1. Florida Vernacular Architecture as provided in **Exhibit B** and noted in the City of South Daytona South Ridgewood Avenue Corridor Design Guidelines. Building construction shall be mixed construction with concrete block construction for the parking structure and lower floors and wood frame wrap on higher levels.
2. Standing seam metal-or metal shingle roofs consistent with the City of South Daytona Ridgewood Avenue Corridor Design Guidelines for Florida Vernacular Architecture.
3. Appropriate architectural delineation at all facades will be incorporated into the design to provide greater visual interest and appeal.
4. Protruding porches instead of being flush or recessed porches in order to provide greater visual interest and appeal.
5. The construction materials will meet or exceed all the current Florida Building Code as well as the South Ridgewood Avenue Corridor Design Guidelines.
6. Decorative elements, such as water features with a fountain and decorative pavers, where able to include within the project boundaries to be visible from US Highway 1 or other common space.
7. All architectural details shall meet or exceed the City of South Daytona South Ridgewood Avenue Corridor Design Guidelines.
8. A Sign Site Plan will be provided to the City at time of Site Plan review or at such time deemed appropriate by the City. All signs in the City's Community Redevelopment Area (CRA) require a permit and shall meet or exceed the City of South Daytona South Ridgewood Avenue Corridor Design Guidelines.

Q. Minimum Landscape buffers:

1. South Ridgewood Avenue / East Property Line: minimum 30 feet wide with 7 shade trees, 8 understory trees and 60 shrubs per 100 lineal feet. Extensive landscaping that exceeds the minimum requirements will be installed along the South Ridgewood Avenue frontage to meet the bonus density criteria.
2. North, South, East Property Line: minimum 10 feet wide with 3 shade trees, 3 understory trees and 30 shrubs per 100 lineal feet except for the southern 62.8 feet adjacent to Parcel 5333-13-00-0010 where the side yard setback narrows to 5 feet, the landscape buffer shall be 5'.

R. Utility provision and dedication: The Owner/Developer shall connect to the City of South Daytona's central utility systems. A minimum 10-foot-wide utility easement shall be granted to the City along the Ridgewood Avenue Right- of-way.

S. Utility Lines on Subject Property: The Owner/Developer shall be responsible for all costs associated with "undergrounding" any overhead utility lines along the east side of Ridgewood Avenue right-of-way frontage of the Subject Property, including the removal of poles or posts used for support of overhead lines. **Exhibit C. Decorative Street Light Poles and Decorative Sidewalk Specifications.** Pursuant to a separate agreement between the Owner/Developer and the City of South Daytona Community Redevelopment Agency, construction costs eligible for reimbursement, i.e., decorative streetlights and decorative sidewalks shall be identified and a procedure for the Owner/Developer to be reimbursed shall be described.

T. Stormwater and environmental: The existing on-site stormwater retention pond will be improved and maintained in conjunction with the development. The stormwater retention facility will be maintained at a level consistent with the standards of the St. Johns River Water Management District and The City of South Daytona. The onsite stormwater system shall not become the responsibility of the City. All environmental permitting, mitigation, and/or soil and erosion control for the property shall conform to all federal, state, and local permits/requirements, shall be the sole responsibility of the Owner/Developer, and shall be maintained in good condition/standing with the applicable permitting authorities. Best Management Practices

and conformance to National Pollutant Discharge Elimination System (NPDES) criteria are required.

- U. Transportation, site access, and traffic devices: The Owner/Developer is responsible for all transportation improvements within the Property and any off-site transportation requirements as may be identified in the traffic study required herein, as a result of the proposed development, for site function, that maintains or improves the adopted level of service for area roadways, and ensures the public health, safety, and welfare for the community. All permits shall be obtained from appropriate permitting agencies prior to development and the City shall determine the appropriate level of service per the City Comprehensive Plan and current traffic counts. A traffic study will be completed and provided to the City. In the event that the traffic study identifies a diminution in the adopted level of service for South Ridgewood Avenue, the Owner/Developer will mitigate the impacts that may be required by the City's concurrency management system either by making any needed capacity improvements to any impacted roadway segments or by paying a pro rata share of the total anticipated costs of improvements to any impacted segments based on the future vehicle trips from the project on the impacted segment.
- 8. **Development Permits/Fees.** The Owner/Developer is responsible for obtaining and paying for all building permits and other required permits and approvals, and for the payment of all fees for facilities and services to ensure compliance with all federal, state, and local requirements for the Property. Any site permits shall be kept current with the respective permitting agency and shall ensure the protection of the public health, safety and welfare of the community and the development. Impact fees as required by the City shall be paid at the time of the issuance of the building permit.
- 9. **Site Plan Approval. Exhibit B. Architectural Plans and Renderings** are the Preliminary Plan of the PUD and this Agreement. A site plan approved by the city, complying with all codes shall be required prior to the issuance of a Building Permit. The Master Development Agreement shall not replace, supersede, or absolve the Owner/Developer from approvals for any site plan and its respective regulations. Where more detailed criteria for City required submittals exceed the criteria required for a Master Development Plan, the more detailed criteria apply.
- 10. **No Guarantee by City.** It is specifically understood that the City is not guaranteeing the appropriateness, efficiency, quality or legality of the use or development of the



Property, including but not limited to, drainage or water/sewer plans, fire safety, or quality of construction, whether or not inspected, approved, or permitted by the City.

11. **Indemnification.** The Owner/Developer shall indemnify and hold the City harmless from any and all third-party claims, demands, disputes, costs, expenses, (to include reasonable attorney's fees whether or not litigation is necessary and if necessary, both at trial and on appeal), incurred by the City as a result of the use or development of the Property, except those claims or liabilities by or arising from the negligence or acts of the City, or its employees, contractors or agents.

12. **Compliance; Minor Amendments; Defaults; Enforcement.**

- A. The Owner/Developer agrees that it, and their successors and assigns, will abide by the provisions of this Agreement, the City's Comprehensive Plan, the City's Land Development Code, and the City's Code of Ordinances, including but not limited to, the site plan regulations of the City, and all other laws, rules or regulations applicable to the subject matter of this Agreement, as amended from time to time, which are incorporated herein by reference and such subsequent amendments hereto as may be applicable, subject to the vesting of any rights of Owner/Developer or its successor and assigns (collectively, "Applicable Law"). Further, all required improvements, including landscaping, shall be continuously maintained by the Owner/Developer, or their successors and assigns, in accordance with the City's Code of Ordinances. The City may, without prejudice to any other legal or equitable right or remedy it may have, withhold permits, Certificates of Occupancy, or plan/plat approvals to the Property, should the Owner/Developer breach this Agreement and such breach continues beyond any applicable notice and cure period set forth herein. In the event of a conflict between this Agreement and the City's Land Development Code, the more restrictive regulations shall govern the development of the Property, unless specific specifications are set forth herein, in which case the provisions of this Agreement shall prevail.
- B. **Minor Amendments.** Consistent with Section 5.5(O)(13) of the City's Land Development Code, the City Manager shall have the right to approve requests by the Owner/Developer for Minor Amendments to this Agreement. A Minor Amendment may include, without limitation: (1) a reduction in the maximum building height; (2) a reduction in the number of units; and (3) a modification to the number of unit types, provided that such modification does not result in a Total Unit Count in excess of Section 7(A)(1)(d) of this Agreement.

- C. **Default.** Failure by a party to perform any of its obligations hereunder after notice and a reasonable opportunity to cure as provided herein shall constitute a default hereunder, entitling the non-defaulting party to terminate this Agreement, or to pursue the remedies of injunctive relief, and/or damages. Prior to termination of this Agreement or any party filing any action as a result of a default by the other party under this Agreement, the non-defaulting party exercising such right shall first provide the defaulting party with written notice specifying such default and the actions needed to cure same, in reasonable detail. Upon receipt of said notice, the defaulting party shall be provided a thirty (30) day opportunity within which to cure such default. If thirty (30) days is not a reasonably sufficient period in which to cure the default, the cure period shall be extended for a reasonable time, provided cure is diligently pursued. Upon termination of the Agreement, the Owner/Developer shall immediately be divested of all rights and privileges granted hereunder.
- D. **Enforcement.** In the event of a violation of this Agreement, the City's Land Development Code or Code of Ordinances by the Owner/Developer, the City Commission may after notice and a reasonable opportunity to cure as provided in Section 12.C above suspend construction activity and revoke any building permit or development order issued to Owner/Developer and take all actions necessary to halt construction until such time as the provisions herein are brought into compliance. In the event legal action is necessary due to a breach of this Agreement that continues beyond any applicable notice and cure period, and attorney's fees and costs are incurred by the City enforcing compliance with this Agreement, the Land Development Code or Code of Ordinances, these reasonable expenses shall be borne by the Owner/Developer. These methods of enforcement are in addition to any other methods of enforcement provided by law. In the event of a default by the City which is not cured after receipt of notice and expiration of the cure period, then Owner/Developer shall be entitled to recover all reasonable attorney's fees and costs incurred, whether at the trial or appellate level. The Owner/Developer agrees that it will abide by the Applicable Law as specified in Section 12(A).

13. **Obligations for Improvements.** The groundbreaking for the construction of improvements to the Property shall take place by the end of 2023, and construction shall be complete by the end of 2026. Should the Owner/Developer fail to undertake and complete its obligations as described in this Agreement, then the City shall give

the Owner/Developer forty (40) days written notice to commence and ninety (90) days to complete said required obligation at the sole expense of the Owner/Developer. If such work cannot be completed within such ninety (90) days, then Owner/Developer shall have an additional reasonable time period to complete same, provided it diligently pursues same. If the Owner/Developer fails to complete the obligations within the ninety (90) day period (as it may be extended), then the City, or its assignee, without further notice to the Owner/Developer and their successors and assigns in interest, may, but shall not be required to, perform such obligations at the expense of the Owner/Developer or their successors and assigns in interest, without prejudice to any other rights or remedies the City may have under this Agreement. Further, the City is hereby authorized to seek the recovery of the actual and verified cost reasonably incurred by the City of completing the obligations required under this Agreement and any reasonable legal fees from the Owner/Developer in an action at law for damages, as well as record a lien against the Property in that amount. Notice to the Owner/Developer and their successors and assigns in interest shall be deemed to have been given upon the mailing of notice as provided in paragraph (16) of this Agreement.

14. **Concurrency and Vested Rights.** The Owner/Developer acknowledges and agrees that prior to the issuance of any development orders for the Property, the Owner/Developer must have received and be in the possession of a valid unexpired certificate of capacity/concurrency management system approval consistent with the City's Land Development Code. The capacity certificate/approval verifies the availability of infrastructure and service capacity sufficient to permit the proposed development of the Property without causing a reduction in the levels of service adopted in the City's Comprehensive Plan. The certificate of capacity/approval shall be effective for a term, as defined in the City's Code of Ordinances. Neither this Agreement nor the approved Master Development Plan shall create or result in a vested right or rights to develop the Property beyond the rights that already exist as of the date of this Agreement.
15. **Periodic Review.** The City reserves the right to review the Property in relation to this Agreement periodically to determine if there has been compliance with the terms of this Agreement. Subject to the notice and cure provisions in this Agreement, if the City finds that on the basis of substantial competent evidence that there has been a failure to comply with the terms of this Agreement, the City may withhold development orders or permits until compliance with this Agreement has been established and Owner/Developer has taken all other actions as provided in this Agreement and under applicable law.

16. **Notices.** All notices with respect to this Agreement shall be in writing and shall be by certified mail return receipt requested, hand delivery or nationally recognized courier, such as Federal Express or UPS. E-mail delivery of documents shall be followed up with service by one of the other methods. Notices shall be sent to the following, as applicable:

**OWNER/DEVELOPER'S REPRESENTATIVE:**

Name: David Stockman  
Verso Sub III, LLC  
42809 Southern Drive  
Centreville, Virginia 20120  
Tel. 352-895-8853  
E-mail: dstockman@conceptcompanies.net

**CITY'S REPRESENTATIVE:**

Mr. James L. Gillis, Jr.  
City of South Daytona  
1672 South Ridgewood Avenue  
South Daytona, Florida 32119  
Tel. (386) 322-3014  
E-mail: lgillis@southdaytona.org

Should any party identified above change, it shall be said party's obligation to notify the remaining parties of the change in a fashion as is required for notices herein.

17. **Compliance with the Law.** The failure of this Agreement to address a particular permit, condition, term, or restriction shall not relieve the Owner/Developer from the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions.
18. **Captions.** The captions used herein are for convenience only and shall not be relied upon in construing this Agreement.
19. **Binding Effect.** This Agreement shall run with the land, shall be binding upon and inure to the benefit of the Owner/Developer and their successors and assigns in interest, and the City and their successor and assigns in interest. This Agreement shall become effective upon its execution and recordation with the Public Records of Volusia County, Florida. This Agreement does not, and is not intended to, prevent, or impede the City from exercising its legislative authority as the same may affect the Property.

20. **Subsequently Enacted State or Federal Law.** If either state or federal law is enacted after the effective date of this Agreement that is applicable to and precludes the parties' compliance with the terms of this Agreement, this Agreement and correlating zoning amendment shall be modified or revoked, as is necessary, to comply with the relevant state or federal law.
21. **Severability.** If any part of this Agreement is found invalid or unenforceable in any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be affected. To that end, this Agreement is declared severable.
22. **Recordation of Agreement.** The parties hereto agree that an executed original of this Agreement shall be recorded by the City, at the Developer's expense, in the Public Records of Volusia County, Florida.
23. **Applicable Law/Venue.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida. Venue for any litigation relating to this Agreement shall lie exclusively with the Circuit Court of the Seventh Judicial Circuit of Florida, in and for Volusia County, Florida.
24. **Time of the Essence.** Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Agreement. The Owner/Developer shall execute this Agreement prior to this Agreement being placed on the agenda for final approval by the City Council of the City of South Daytona.
25. **Agreement; Amendment.** This Agreement constitutes the entire agreement between the parties, and supersedes all previous discussions, understandings, and agreements, with respect to the subject matter hereof; provided, however, that it is agreed that this Agreement is supplemental to the City's Comprehensive Plan and does not in any way rescind or modify any provisions of the City's Comprehensive Plan. Amendments to and waivers of the provisions of this Agreement shall be made by the parties only in writing by formal amendment.
26. **Effective Date.** The Effective Date of this Agreement shall be the day this Agreement is recorded in the Public Records of Volusia County, Florida.
27. **Force Majeure / Governmental Delay.**
- A. Extension of Time for Performance. If the Owner/Developer is delayed in performing any obligation hereunder due to an Event of Force Majeure (defined

below) or due to Governmental Delay (defined below), then within 30 days after Owner/Developer's discovery of the Event of Force Majeure or Governmental Delay, Owner/Developer shall provide to the City notice and documentary evidence of the Event of Force Majeure or Governmental Delay. Except as more specifically provided in Sections 3.6.F.2. and 3.6.I. of the City's Land Development Code, the City Council shall thereafter consider the notice and documentary evidence of the Event of Force Majeure or Governmental Delay and determine in its sole discretion an appropriate period of time by which time for performance shall be extended. The procedures set forth in Section 3.6.F.2. of the City's Land Development Code shall apply to the circumstances described therein, and documented evidence of an Event of Force Majeure or Governmental Delay shall be a basis for a finding of justifiable cause for a construction delay under such Code section. The procedures set forth in Section 3.6.I. of the City's Land Development Code shall apply to the circumstances described therein, and documented evidence of an Event of Force Majeure or Governmental Delay shall be a basis for a City Manager or City Council approval of an extension of time to complete a project under such Code section.

- B. Causes of Force Majeure Event. Such causes that are beyond the reasonable control of the Owner/Developer (an "Event of Force Majeure ") shall include but shall not be limited to: (1) any act of God; (2) fire; (3) earthquake, flood, explosion or other casualty event; (4) war, invasion, act of public enemy, terrorism, insurrection, riot, mob violence or sabotage; (5) inability to procure, or a general shortage of, labor, equipment, facilities, materials or supplies in the open market; (6) epidemic or pandemic; (7) failure, unavailability or shortage of transportation; (8) strikes, lockout or actions of labor unions; (9) taking by eminent domain, requisition, laws or orders of governmental or quasi-governmental bodies or of civil, military or naval authority; (10) adverse weather of greater frequency, duration or severity than is common for the month in question; or other cause, whether similar or dissimilar to any of the foregoing; or (11) moratorium by a governmental entity that prevents or delays the development of the Project. The Owner/Developer agrees, however, to the extent reasonably within its ability, to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its agreements and covenants, provided that the settlement of strikes, lockouts and other disturbances shall be entirely within the discretion of the Owner/Developer and the Owner/Developer shall not be required to make settlement of strikes, lockouts and other disturbances by acceding to the demands of the opposing party or parties when such course is, in the judgment of the

Owner/Developer, unfavorable to it. The Owner/Developer shall provide prompt notice to the City of any Event of Force Majeure.

- C. Governmental Delay. Governmental Delay means a delay in performance by the Owner/Developer caused by either: (i) with respect to any matter that requires the approval of any governmental authority, where the Owner/Developer, has provided such governmental authority with sufficient information to respond to such request for approval, the governmental authority fails to specify in reasonable detail the reason for its disapproval or rejection of such matter and the changes that would be required for approval and (ii) with respect to any matter that requires the review or consent of any governmental authority, where the Owner/Developer has provided such governmental authority sufficient information to respond to such request for approval, delays caused by such governmental authority not completing its review within the customary response period for the matter in question, imposing conditions that are not customary for the matter in question, or acting outside of such government authority's powers contained in any applicable laws.

(The remainder of this page is intentionally blank)

**IN WITNESS WHEREOF**, the Owner, the Developer and the City have executed this Agreement.

Verso Sub III, LLC

\_\_\_\_\_  
Signature of Witness # 1

By: \_\_\_\_\_  
\_\_\_\_\_, Authorized Person

\_\_\_\_\_  
Print or type name

\_\_\_\_\_  
Signature of Witness # 2

\_\_\_\_\_  
Print or type name

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, as Authorized Person of Verso Sub III, LLC, who [ ] is/are personally known to me or [ ] who has/have produced \_\_\_\_\_ as identification and who did not take an oath.

\_\_\_\_\_  
Signature of Notary

(NOTARY SEAL)



**CITY OF SOUTH DAYTONA:**

\_\_\_\_\_  
William C. Hall, Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
James L. Gillis, Jr., City Manager

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of physical presence this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by William C. Hall, as Mayor, and James L. Gillis, Jr., as City Manager who are personally known to me and acknowledge executing the same freely and voluntarily under authority vested in them by the City of South Daytona.

\_\_\_\_\_  
*Signature of Notary*

(NOTARY SEAL)

\_\_\_\_\_  
*Print or type name*

Approved as to form and legality for use and  
reliance by the City of South Daytona, Florida

\_\_\_\_\_  
Wade C. Vose, City Attorney

12713974

LEGAL DESCRIPTION:

(ACCORDING TO OFFICIAL RECORDS BOOK 6280, PAGE 4669-4672)

## PARCEL A:

PART OF LOT 1, HALIFAX RIVERSIDE PARK, AS RECORDED IN MAP BOOK 6, PAGE 212, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM THE INTERSECTION OF THE SOUTHERLY LINE OF LOT 1, WITH THE EASTERLY LINE OF RIDGEWOOD AVENUE U.S. HIGHWAY NO. 1, A 66 FOOT STREET; RUN THENCE NORTH 21° 44' 21" WEST, ALONG SAID EASTERLY LINE, A DISTANCE OF 138.34 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 21° 44' 21" WEST, ALONG SAID EASTERLY LINE, A DISTANCE OF 107.00 FEET TO A POINT; THENCE NORTH 71° 51' 30" EAST, A DISTANCE OF 431 FEET MORE OR LESS TO THE WESTERLY SHORE OF THE HALIFAX RIVER; THENCE MEANDER SOUTHERLY ALONG SAID WESTERLY SHORE, A DISTANCE OF 130 FEET MORE OR LESS TO A POINT BEARING NORTH 71° 51' 30" EAST, FROM THE POINT OF BEGINNING; THENCE SOUTH 71° 51' 30" WEST, A DISTANCE OF 485 FEET MORE OR LESS TO THE POINT OF BEGINNING, EXCEPTING THEREFROM THAT PORTION TAKEN FOR WIDENING OF RIDGEWOOD AVENUE U.S. HIGHWAY NO. 1.

## PARCEL B:

THAT PART OF LOT 1, HALIFAX RIVERSIDE PARK, AS RECORDED IN MAP BOOK 6, PAGE 212, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF LOT 1, WITH THE EASTERLY LINE OF RIDGEWOOD AVENUE U.S. HIGHWAY NO. 1, A 66 FOOT STREET; RUN THENCE NORTH 21° 44' 21" WEST, ALONG SAID EASTERLY LINE, A DISTANCE OF 138.34 FEET TO A POINT, THENCE NORTH 71° 51' 30" EAST, A DISTANCE OF 485 FEET MORE OR LESS TO THE WESTERLY SHORE OF THE HALIFAX RIVER; THENCE SOUTHERLY ALONG SAID MEANDERING WESTERLY SHORE, A DISTANCE OF 305 FEET MORE OR LESS TO THE SOUTHERLY LINE OF LOT 1; THENCE WESTERLY ALONG SAID SOUTHERLY LINE, A DISTANCE OF 519 FEET MORE OR LESS TO THE POINT OF BEGINNING, ALL RECORDED IN PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, EXCEPTING THEREFROM THAT PORTION TAKEN FOR THE WIDENING OF RIDGEWOOD AVENUE U.S. HIGHWAY NO. 1.

## PARCEL 1:

THAT PART OF LOT 1, HALIFAX RIVERSIDE PARK OF RECORD IN MAP BOOK 6, PAGE 212, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE INTERSECTION OF THE SOUTHERLY LINE OF LOT 1, HALIFAX RIVERSIDE PARK, OF RECORD IN MAP BOOK 6, AT PAGE 212, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, WITH THE EASTERLY LINE OF RIDGEWOOD AVENUE (U.S. HIGHWAY NO. 1) A 66 FOOT ROAD AS ORIGINALLY DESCRIBED; THENCE RUN NORTH 21° 44' WEST, A DISTANCE OF 245.34 FEET ALONG THE EASTERLY LINE OF SAID RIDGEWOOD AVENUE FROM THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTHERLY LINE OF A 50 FOOT CANAL EXTENDED, A DISTANCE OF 436.7 FEET MORE OR LESS; THENCE NORTH ALONG THE BANK OF THE HALIFAX RIVER WHERE THE SOUTHERLY LINE OF THE NORTHERLY 400 FEET OF LOT 1 INTERSECTS THE WEST BANK OF THE HALIFAX RIVER; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF THE NORTHERLY 400 FEET OF LOT 1 TO A POINT WHERE SAID LINE INTERSECTS THE EASTERLY BOUNDARY OF SAID RIDGEWOOD AVENUE (U.S. HIGHWAY NO. 1) TO THE POINT AND PLACE OF BEGINNING, A DISTANCE OF 373.40 FEET. EXCEPTING THEREFROM THAT PORTION TAKEN FOR THE WIDENING OF U.S. HIGHWAY NO. 1.

THIS PARCEL OF PROPERTY IS NOW ALSO DESCRIBED AS:

PART OF LOT 1, HALIFAX RIVERSIDE PARK, AS RECORDED IN MAP BOOK 6, PAGE 212, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE INTERSECTION OF THE SOUTHERLY LINE OF LOT 1, HALIFAX RIVERSIDE PARK, AS RECORDED IN MAP BOOK 6, PAGE 212, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, WITH THE EASTERLY LINE OF RIDGEWOOD AVENUE (U.S. HIGHWAY NO. 1) A 100 FOOT RIGHT OF WAY AS PRESENTLY OCCUPIED; THENCE NORTH 21° 44' 21" WEST, A DISTANCE OF 251.04 FEET TO THE POINT OF BEGINNING; THENCE NORTH 71° 51' 30" EAST, 429 FEET MORE OR LESS TO THE SHORE OF THE HALIFAX RIVER; THENCE NORTHERLY ALONG THE SAID SHORE TO A PAINT ON THE SOUTHERLY LINE OF THE NORTHERLY 400 FEET OF LOT 1 AFORESAID; THENCE SOUTH 89°59'09" WEST AND PARALLEL TO THE SAID NORTH LINE OF LOT 1, 531 FEET MORE OR LESS TO THE EASTERLY RIGHT OF WAY LINE; THENCE SOUTH 21° 44' 21" EAST, A DISTANCE OF 367.754 FEET TO THE POINT OF BEGINNING.

## PARCEL 2:

THE WESTERLY 163 FEET OF THE NORTHERLY 400 FEET OF LOT 1, EXCEPT THE WEST 13 FEET THEREOF, HERETOFORE DEEDED FOR HIGHWAY-PURPOSES, PLAT OF HALIFAX RIVERSIDE PARK, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN MAP BOOK 6, PAGE 212, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

January 6, 2023

## Exhibit B, Ordinance No. 2023-03

**RE:    SOUTH DAYTONA  
      SEA VIEW PROJECT NARRATIVE**

### **PROJECT SUMMARY**

The project will consist of the design of a 440-unit, market-rate apartment community for Concept Companies on South Ridgewood Avenue in South Daytona, Florida. The 6-story project shall be approximately 70' in height and consist of (2) upper 5-story buildings of Type III-A wood frame construction and be separated from Type IA construction below by an elevated post-tension concrete slab. Integral amenities and additional units will be located at street level. The demising concrete horizontal assembly will vary in elevation to provide double height spaces at the amenities.

The 7.5-story parking structure is assumed to be a separate, free-standing pre-cast concrete structure designed by others. Portions of the residential building adjoining the parking structure shall be separated by a double, 2-hour rated firewall comprised of precast panels (by others) at the garage and a wood wall of fire-retardant treated (FRT) studs sheathed with FRT plywood at the apartment buildings, and shall comply with NFPA 221. All buildings, residential, podium and precast garage, shall be fully sprinklered per NFPA 13.

Per the programmatic design requirements, the unit mix shall be comprised of studios, one, two, and three-bedroom units and shall be designed in eight basic unit designs. Some unit designs may vary based on their location within the building. The residential area shall be approximately 558,000 square feet.

The amenity area shall consist of approximately 6,500 square feet of space and include a one-story leasing office which may include a lobby, offices, work/file room, break room, employee restroom; and double story volume resident amenities which may include clubroom, gaming area(s), lounge/café, theater, study center, fitness center and yoga classroom, all adjacent to a pool courtyard. The double-volume portion of the podium shall also provide 5,000 square feet of interior space designated for a restaurant, to be designed as a gray-box for future outfitting, with an additional 3,000 square feet of exterior covered patio area.

The exterior areas will include a pool deck, pool, landscaping, irrigation, and associated fixtures, to include fire pits and fountains along with a river boardwalk to connect the transient marina to the restaurant and parking.

### **PRIMARY CONSTRUCTION**

Per Type III-A construction as established by the Florida Building Code, 7<sup>th</sup> edition (FBC), exterior load-bearing walls shall be 2-hour fire-rated, non-combustible construction, for which wood construction shall be fire-retardant treated (FRT) studs sheathed with FRT plywood on the exterior and two layers of 5/8" thick, fire-rated gypsum wallboard on the interior. The 1-hour fire-rated floor assembly shall consist of pre-engineered, pre-fabricated wood trusses bearing on hangers attached to the exterior wall in perpendicular conditions and atop interior bearing walls to the extent practicable. The perimeter subfloor which penetrates the exterior, load-bearing wall assembly, shall be FRT plywood for a minimum of four (4) feet. The 1-hour fire-rated roof system shall consist of low-slope pre-engineered pre-fabricated wood trusses, be sheathed per structural requirements, sloped to center drains with interior vertical leaders located in the corridors and tied to underground storm system.

Per Type I-A construction as established by the Florida Building Code, 7<sup>th</sup> edition (FBC), the podium construction at the first-floor separation shall be 3-hour fire-rated, elevated post-tension concrete slab

supported with cast-in-place columns of the same rating, with cold-formed light gauge infill exterior and interior walls and 2-hour fire-rated infill masonry walls at the double firewall separation to the parking structure. The point at which the podium steps shall maintain the minimum 3-hour separation with infill masonry. The assembly occupancy portions of the building, amenities and restaurant, shall be separated from the residential occupancy as required by the Florida Building Code, 7<sup>th</sup> edition (FBC).

Per Type II-A construction as established by the Florida Building Code, 7<sup>th</sup> edition (FBC), the precast parking garage shall be designed by others. The garage is currently assumed to be naturally ventilated, designed over storm vault(s), and have shared foundation and vault walls where feasible. The precast manufacturer shall design and provide the design and engineering for all systems. The architect will coordinate shared foundations, and underground systems with the precast manufacturer, structural and civil engineers.

## **EXTERIOR ENVELOPE**

All exterior envelope systems and materials shall meet component and cladding wind pressure requirements specified within the structural engineering documents. Exterior finishes are assumed to consist primarily of, fiber cement lap siding and fiber cement panels and an EIFS system at areas depicted as plaster. The roofing material shall be 60-mil single-ply TPO roofing. Balconies shall be constructed with elastomeric membrane and lightweight concrete. Railings shall be pre-engineered and anchored directly to the structure and appropriately waterproofed. Exterior canopies and awnings shall be pre-engineered, design-build systems provided by the contractor and sub-contractor.

## **COMMON AREAS**

Elevators shall be 2500 lb., MRL (machine roomless) type with integral controller, and located within a concrete masonry shaft within the apartment building. Stairs shall be steel with precast or pan treads and located within concrete masonry enclosures. Building corridors shall be air-conditioned and finished per owner specifications and interior design drawings. Interior and outdoor common area lighting shall be primarily LED.

## **UNIT INTERIORS**

Unit floor system shall provide an Impact Isolation Class (IIC) rating of at least 50 and walls separating units from other units and from other interior common spaces shall meet a minimum Sound Transmission Coefficient (STC) of 50 as required by FBC. HVAC systems shall be split system with condensers mounted on roof racks. Water heaters shall be electric tank type individually located in each unit. Water service is assumed to be horizontally distributed at the first floor with vertical risers for the upper floors located at each unit water heater.

## **PHASING PLAN**

The phasing plan is as follows. During the site plan approval time period we will submit construction drawings for the parking structure. Shortly after receiving site plan approval, we will proceed to construct the garage. During the time of garage construction, we will be permitting the balance to the main structure for construction to start immediately following the completion of the garage. The marina component permitting, and construction will follow during the permitting for the main structure.



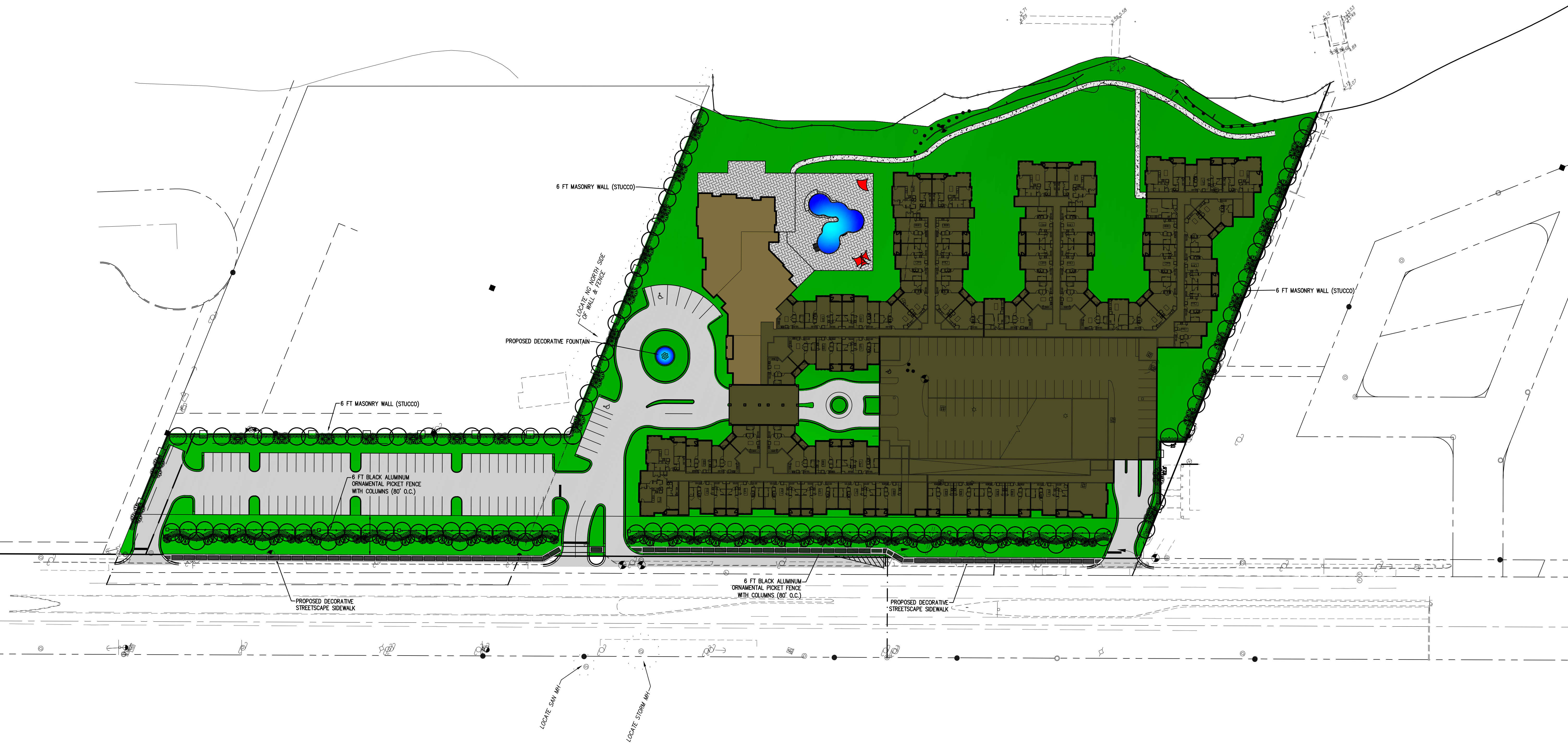
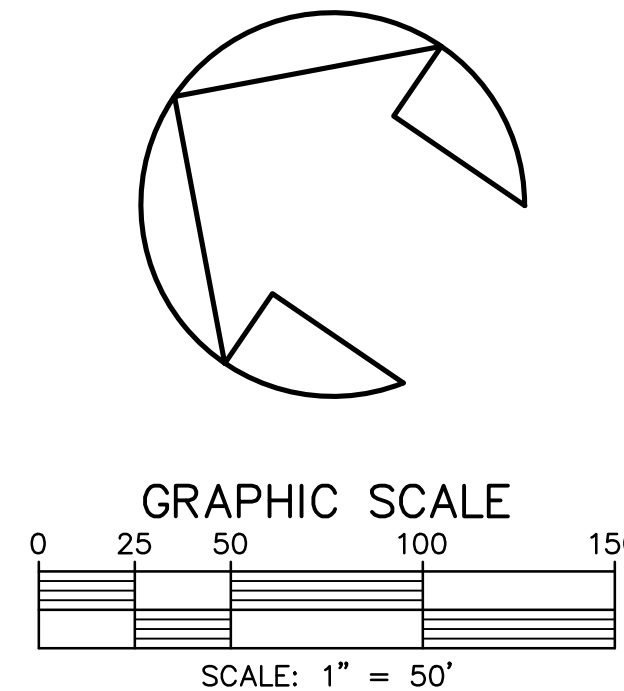






SEA VIEW APARTMENTS SOUTH DAYTONA • FLORIDA		RENDERING ON AERIAL		PARKER MYNCHENBERG & ASSOCIATES, INC.		PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS		1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117		NO.		DATE		DESCRIPTION		REVISIONS	
				CERTIFICATE OF AUTHORIZATION NUMBER 00003910		E-MAIL: <a href="mailto:info@pmyncnberg.com">info@pmyncnberg.com</a>		FAX (386) 677-6891		TEL (386) 677-6891							
1		SHEET NO.		Drawn By: MRB		Date: 08/05/2021		JOB # 21-33		SCALE: 1"=50'							
SEAL																	





**PARKER MYNCHENBERG  
& ASSOCIATES, INC.**  
PROFESSIONAL ENGINEERS \* LANDSCAPE ARCHITECTS  
1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117  
(386) 677-6891 FAX (386) 677-2114 E-MAIL: info@parkermynchenberg.com  
CERTIFICATE OF AUTHORIZATION NUMBER 00003910

# SEA VIEW APARTMENTS

SOUTH DAYTONA \* FLORIDA

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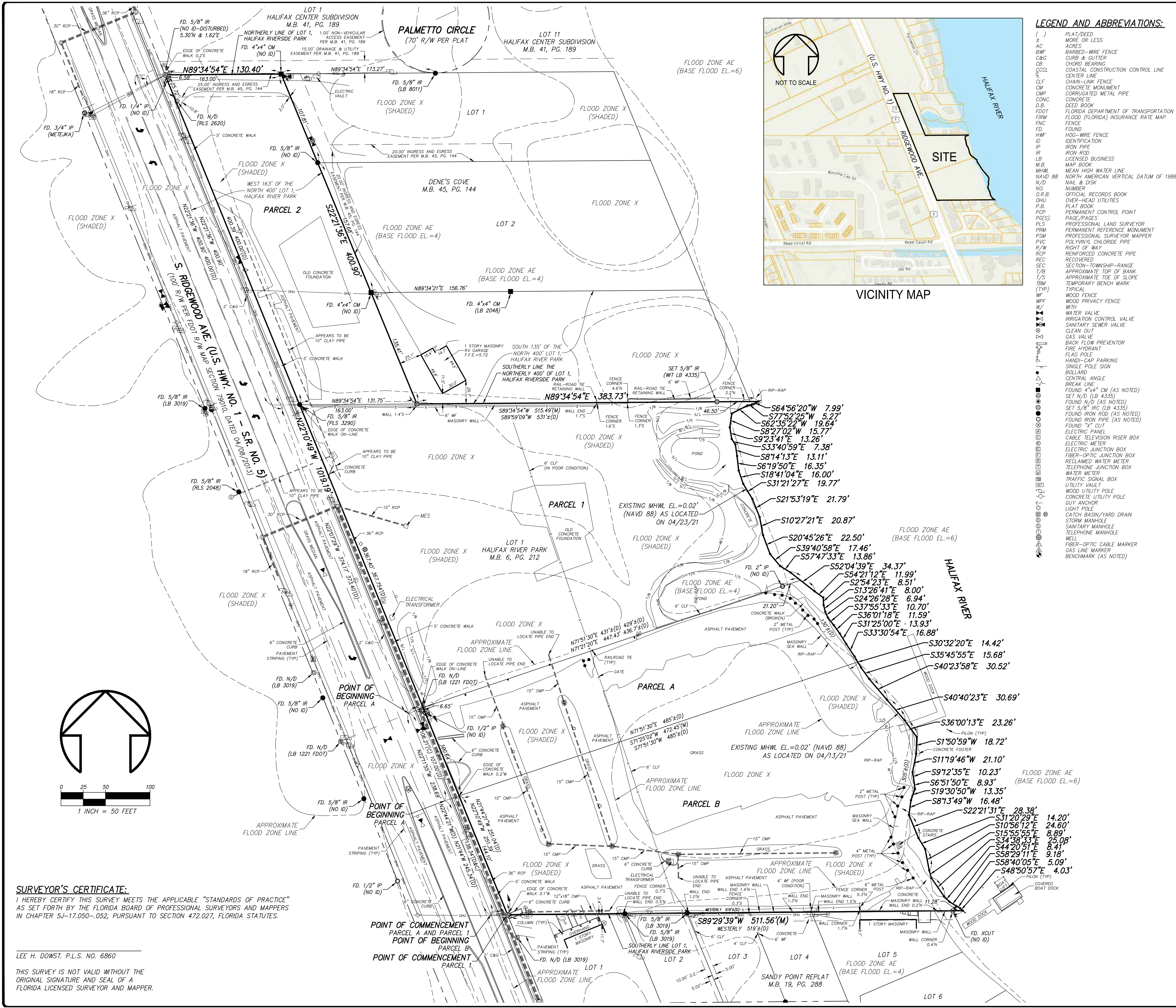
## RENDERING

<b>1</b>
SHEET NO.
Drawn By: MRB
Date: 08/05/2021
JOB # 21-33
SCALE: 1"=50'

[illegible]

SEAL





**SURVEYOR'S CERTIFICATE:**

I HEREBY CERTIFY THIS SURVEY MEETS THE APPLICABLE "STANDARDS OF PRACTICE" AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17.050-.052, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

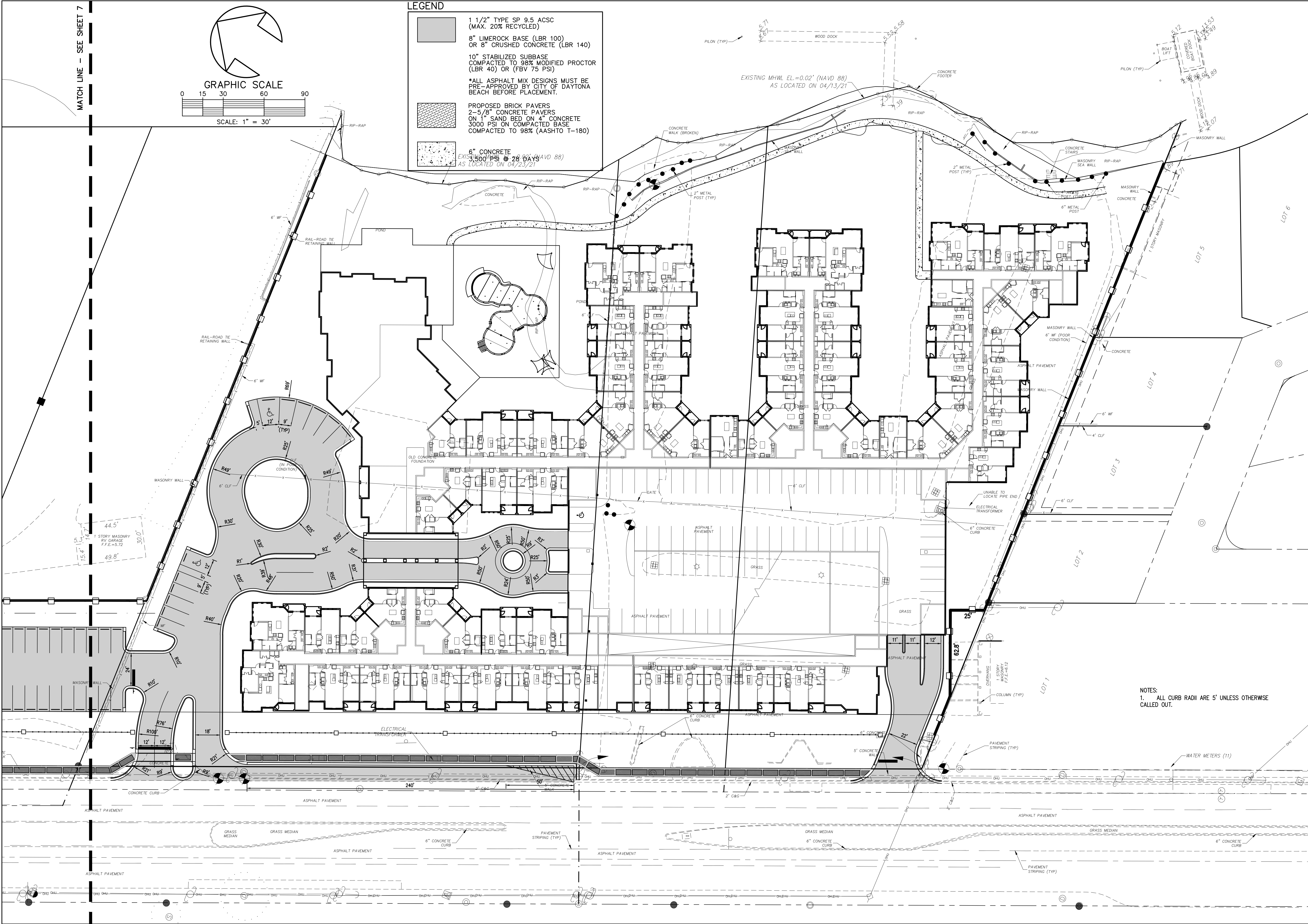
LEE H. DOWST, P.L.S. NO. 6860

THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

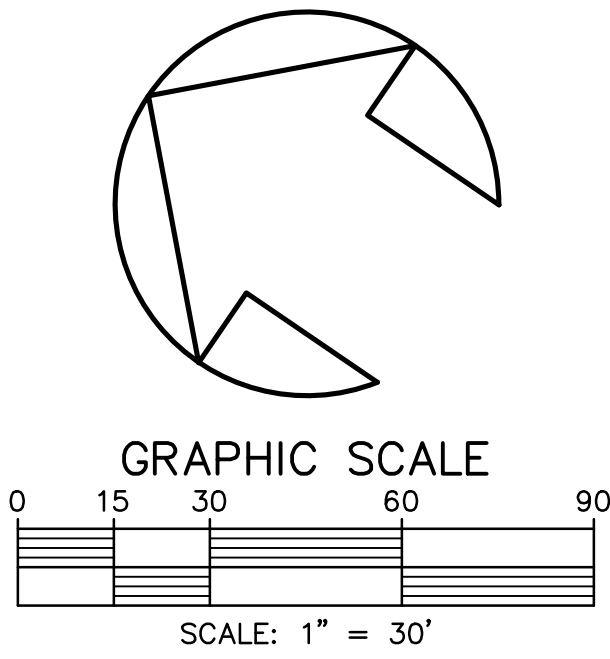
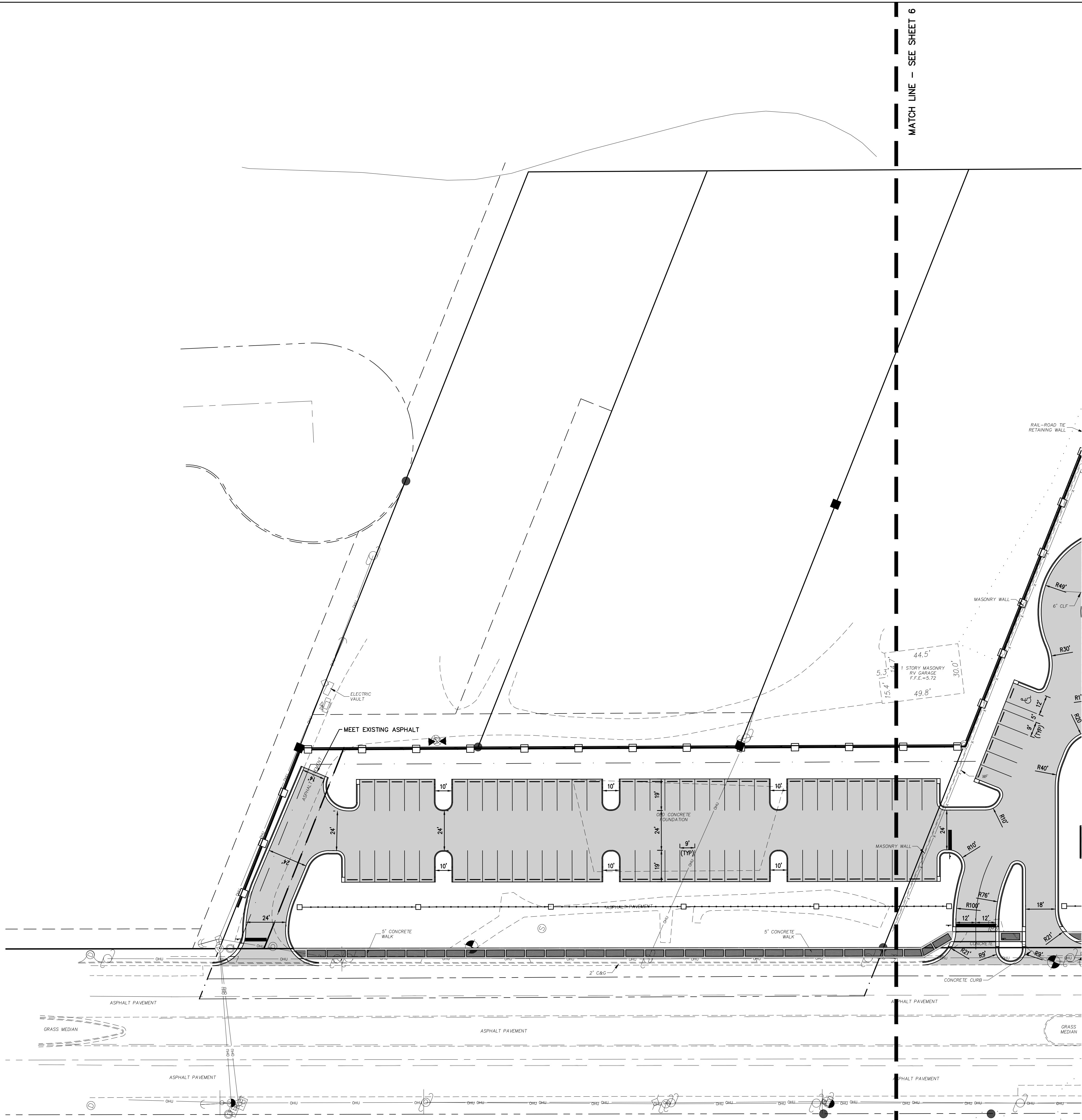
REVISIONS				
F.B. / PG.	DATE	BY	DESCRIPTION	CHKD

<b>MARK DOWST &amp; ASSOCIATES, INC.</b> ENGINEERS PLANNERS SURVEYORS LB#4335 536 NORTH HALIFAX AVENUE, SUITE 100, DAYTONA BEACH, FLORIDA 32118 PH: 386-258-7999				
BOUNDARY AND TIDAL WATER SURVEY			PROJECT # 1533	
DRAWN BY: LAT	DRAW DATE: 5/05/21	CHECKED BY: LHD	SCALE: 1" = 50'	FILE NAME: 1533_surbase.dwg
CREW: WC,BM,ZM	FIELD DATE: 05/05/21	F.B./PG.: 227/30-31,38-40; 229/1-27	SHEET 1 OF 3	





SEA VIEW APARTMENTS		PARKER MYNCHENBERG & ASSOCIATES, INC.	
SOUTH DAYTONA * FLORIDA		PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS	
SITE PLAN		1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117	
6		NO.	
SHEET NO.		DATE	
Drawn By: MRB		DESCRIPTION	
Date: 08/05/2021		REVISIONS	
JOB # 21-33		BY	
SCALE: 1"=30'			
SEAL			

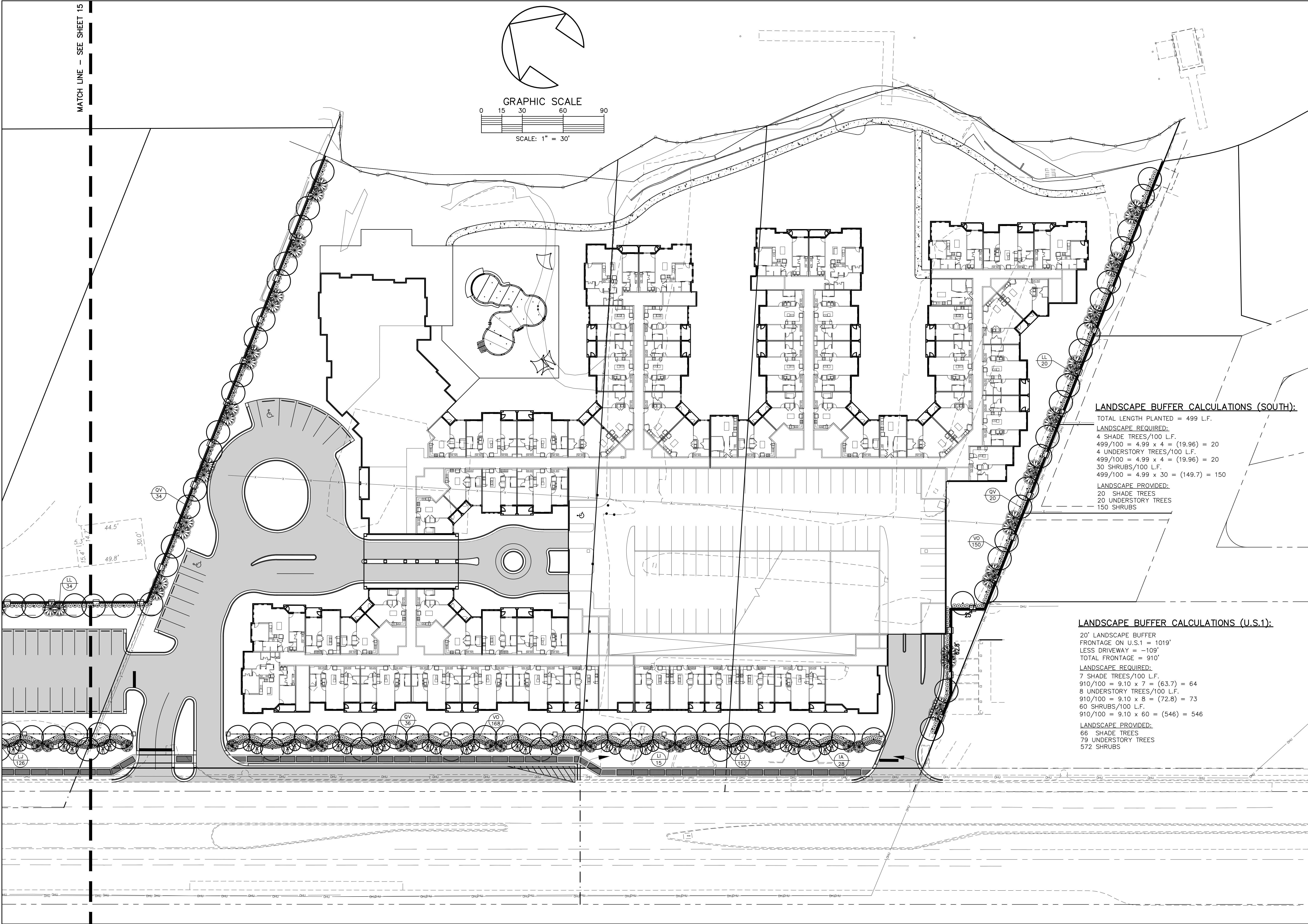


LEGEND	
	1 1/2" TYPE SP 9.5 ACSC (MAX. 20% RECYCLED)
	8" LIMEROCK BASE (LBR 100) OR 8" CRUSHED CONCRETE (LBR 140)
	10" STABILIZED SUBBASE COMPACTED TO 98% MODIFIED PROCTOR (LBR 40) OR (FBV 75 PSI)
	*ALL ASPHALT MIX DESIGNS MUST BE PRE-APPROVED BY CITY OF DAYTONA BEACH BEFORE PLACEMENT.
	PROPOSED BRICK PAVERS 2-5/8" CONCRETE PAVERS ON 1" SAND BED ON 4" CONCRETE 3000 PSI ON COMPACTED BASE COMPACTED TO 98% (AASHTO T-180)
	6" CONCRETE 3,500 PSI @ 28 DAYS

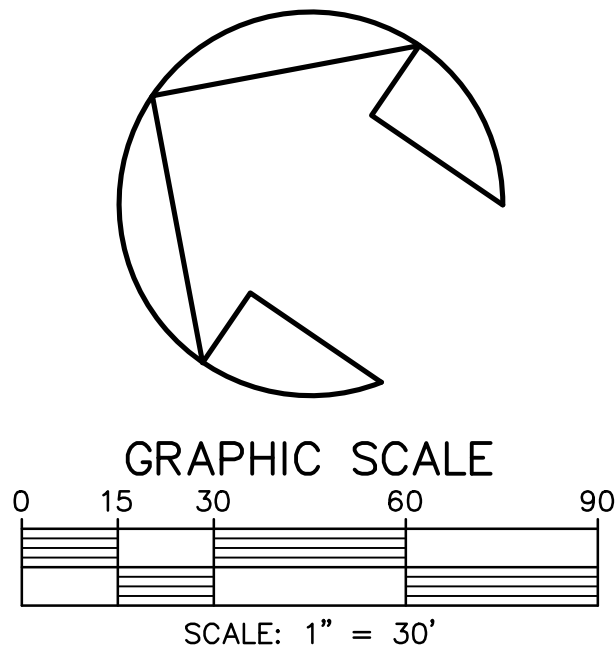
NOTES:  
1. ALL CURB RADII ARE 5' UNLESS OTHERWISE CALLED OUT.

SEA VIEW APARTMENTS SOUTH DAYTONA * FLORIDA		<b>PARKER MYNCHENBERG &amp; ASSOCIATES, INC.</b> PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS 1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117 (386) 677-6891 FAX (386) 677-2114 E-MAIL: info@parkermynchenberg.com CERTIFICATE OF AUTHORIZATION NUMBER 00003910	
7 SHEET NO.		NO.	
Drawn By: MRB		DATE	
Date: 08/05/2021		DESCRIPTION	
JOB # 21-33		REVISIONS	
SCALE: 1"=30'		BY	
SEAL			





MATCH LINE - SEE SHEET 15



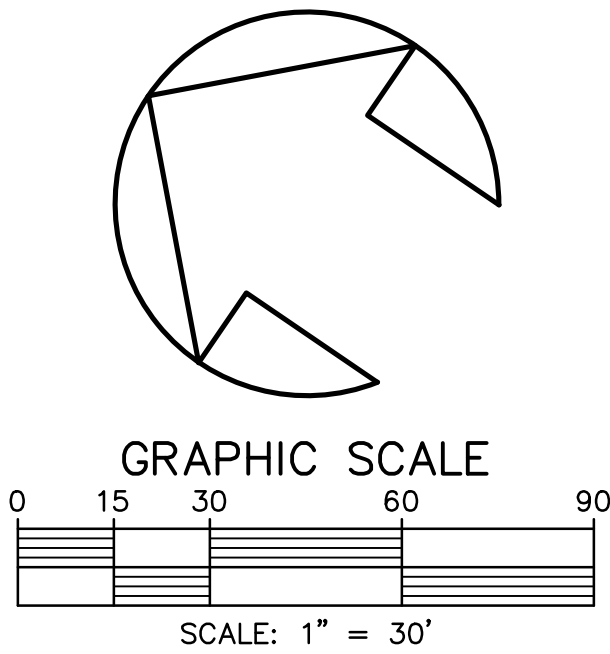
LANDSCAPE BUFFER CALCULATIONS (SOUTH):

TOTAL LENGTH PLANTED = 499 L.F.  
LANDSCAPE REQUIRED:  
4 SHADE TREES/100 L.F.  
 $499/100 = 4.99 \times 4 = (19.96) = 20$   
4 UNDERSTORY TREES/100 L.F.  
 $499/100 = 4.99 \times 4 = (19.96) = 20$   
30 SHRUBS/100 L.F.  
 $499/100 = 4.99 \times 30 = (149.7) = 150$   
LANDSCAPE PROVIDED:  
20 SHADE TREES  
20 UNDERSTORY TREES  
150 SHRUBS

LANDSCAPE BUFFER CALCULATIONS (U.S.1):

20' LANDSCAPE BUFFER  
FRONTAGE ON U.S.1 = 1019'  
LESS DRIVEWAY = -109'  
TOTAL FRONTAGE = 910'  
LANDSCAPE REQUIRED:  
7 SHADE TREES/100 L.F.  
 $910/100 = 9.10 \times 7 = (63.7) = 64$   
8 UNDERSTORY TREES/100 L.F.  
 $910/100 = 9.10 \times 8 = (72.8) = 73$   
60 SHRUBS/100 L.F.  
 $910/100 = 9.10 \times 60 = (546) = 546$   
LANDSCAPE PROVIDED:  
66 SHADE TREES  
79 UNDERSTORY TREES  
572 SHRUBS

SEA VIEW APARTMENTS SOUTH DAYTONA * FLORIDA		PARKER MYNCHENBERG & ASSOCIATES, INC. PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS 1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117 (386) 677-6891 FAX (386) 677-2114 E-MAIL: info@parkermychenberg.com CERTIFICATE OF AUTHORIZATION NUMBER 00003910		NO. DATE DESCRIPTION REVISIONS	
LANDSCAPE PLAN				BY	
14 SHEET NO.					
Drawn By: MRB					
Date: 08/05/2021					
JOB # 21-33					
SCALE: 1"=30'					
SEAL					



**LANDSCAPE BUFFER CALCULATIONS (NORTH):**

TOTAL LENGTH REQUIRED = 884 L.F.

LANDSCAPE REQUIRED:

4 SHADE TREES/100 L.F.  
 $884/100 = 8.84 \times 4 = (33.76) = 34$

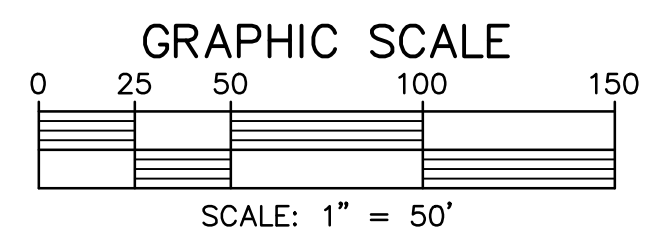
8 UNDERSTORY TREES/100 L.F.  
 $884/100 = 8.84 \times 8 = (33.76) = 34$

30 SHRUBS/100 L.F.  
 $884/100 = 8.84 \times 30 = (253.2) = 254$

LANDSCAPE PROVIDED:

34 SHADE TREES  
34 UNDERSTORY TREES  
259 SHRUBS

SEA VIEW APARTMENTS		<b>PARKER MYNCHENBERG &amp; ASSOCIATES, INC.</b> PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS 1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117 (386) 677-6891 FAX (386) 677-2114 E-MAIL: info@parkermynchenberg.com CERTIFICATE OF AUTHORIZATION NUMBER 00003910	
SOUTH DAYTONA * FLORIDA			
LANDSCAPE PLAN			
<div>15</div> SHEET NO.			
Drawn By: MRB			
Date: 08/05/2021			
JOB # 21-33			
SCALE: 1"=30'			
SEAL			



SCALE: 1" = 50'

## MARINA

INCLUDES ALL REMAINING  
SITE IMPROVEMENTS

## PARKING GARAGE

LOCATE SAN M

LOCATE STORY

**PARKER MYNCHENBERG  
& ASSOCIATES, INC.**  
PROFESSIONAL ENGINEERS \* LANDSCAPE ARCHITECTS  
729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117  
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CERTIFICATE OF AUTHORIZATION NUMBER 00003910

SEA VIEW APARTMENTS  
SOUTH DAYTONA \* FLORIDA

## PHASING PLAN

1  
SHEET NO.

Drawn By: MRB

Date: 08/05/2021

JOB # 21-33

SCALE: 1"=50'

SEAL

DESCRIPTION	BY
REVISIONS	









237 S Westmonte Drive • Suite 220 • Altamonte Springs FL 32714  
407-830-1400 • [www.ForumArchitecture.com](http://www.ForumArchitecture.com) • AR0011224

Halifax River Conceptual Perspective

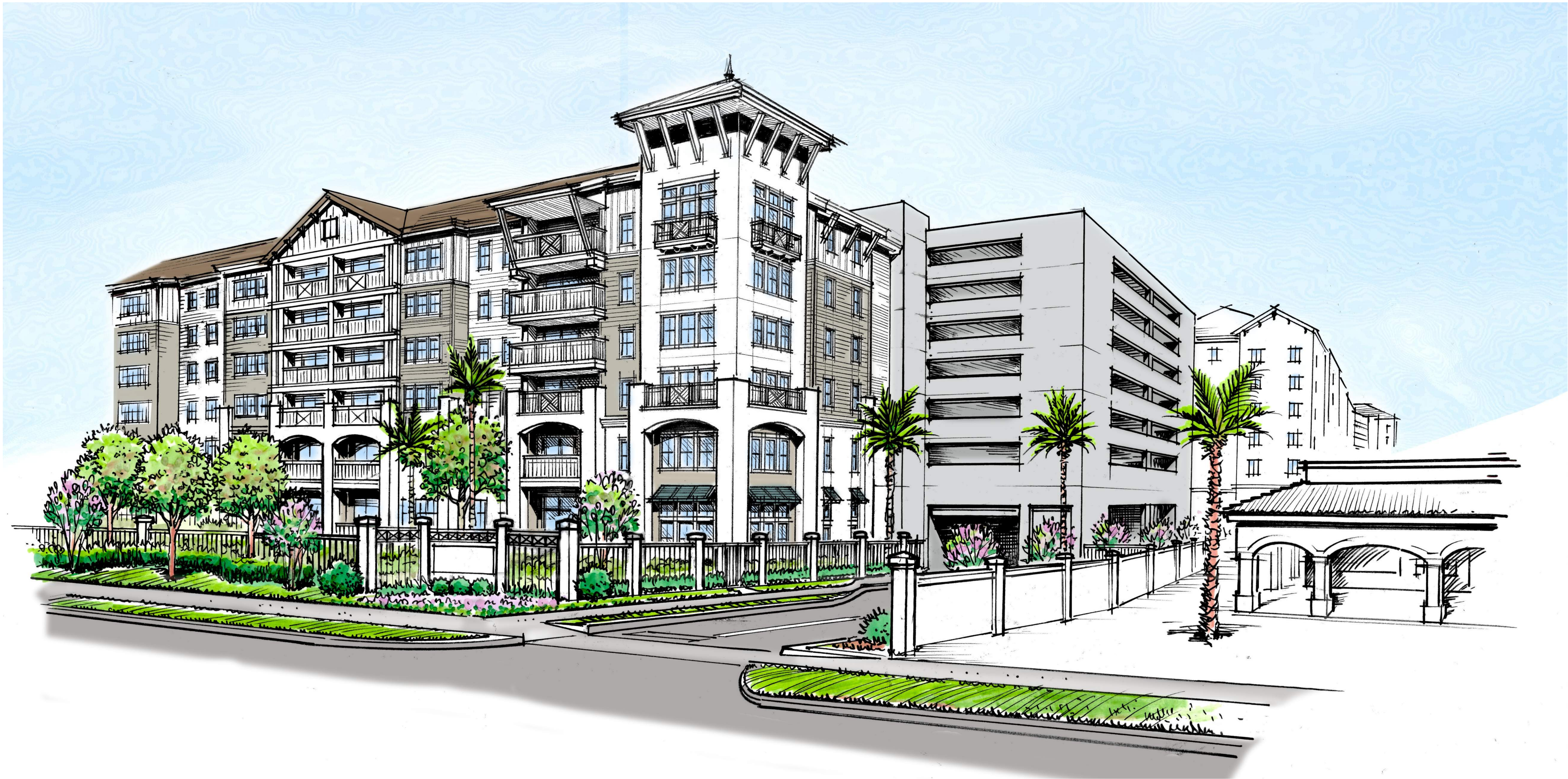
# SOUTH DAYTONA APARTMENTS

19 DEC 2022 ▪ South Daytona, FL



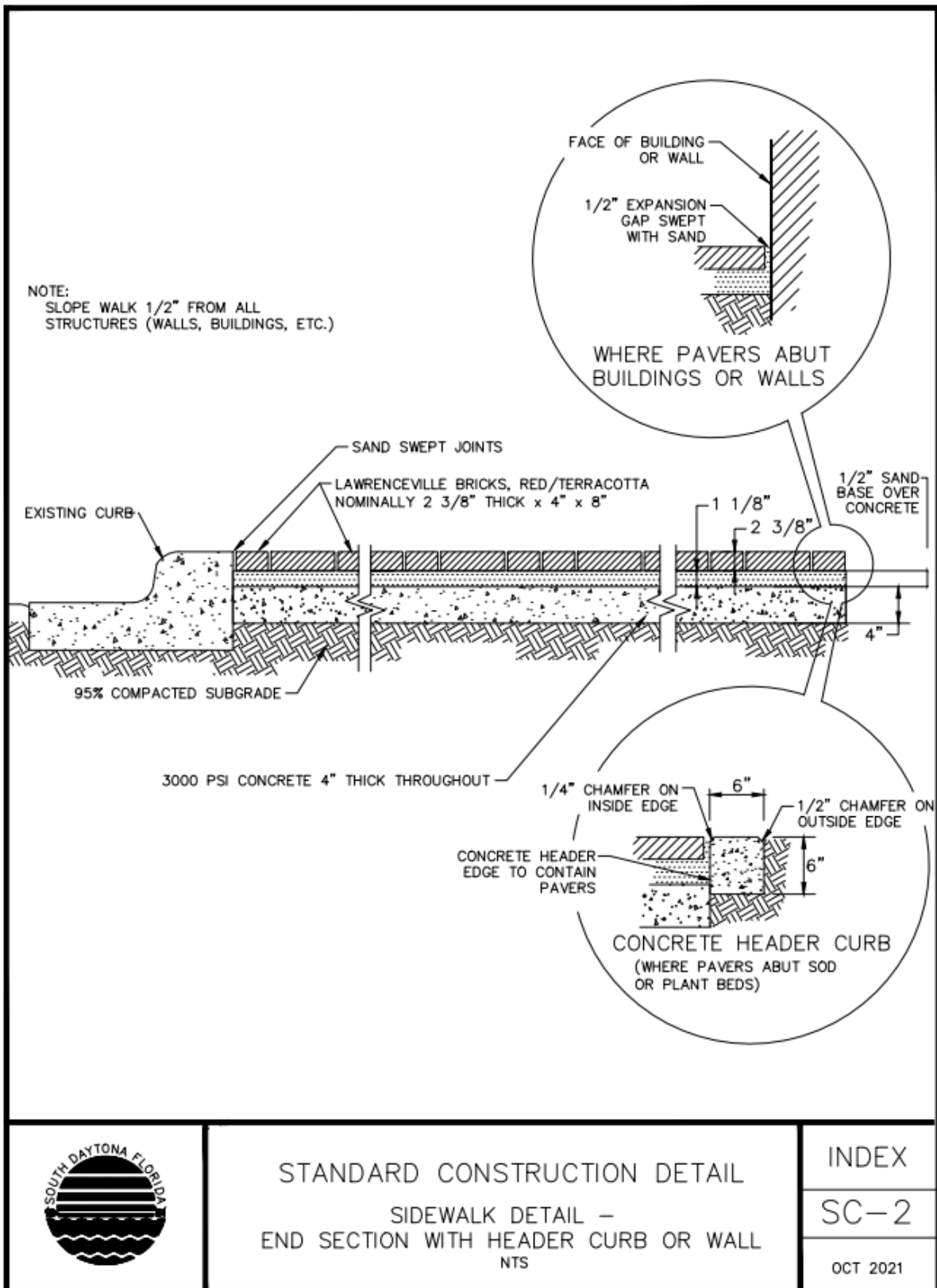


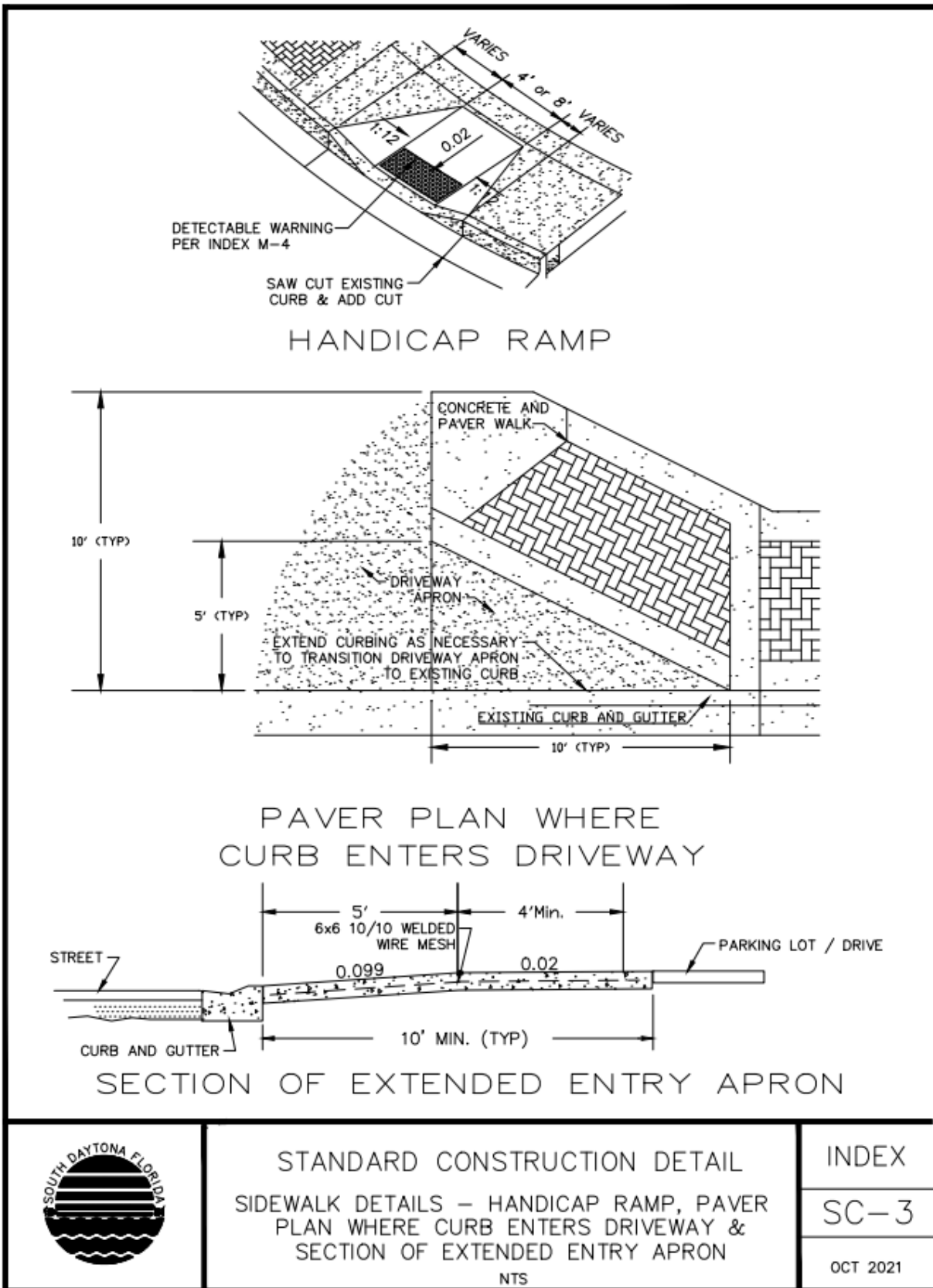






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## Exhibit C: Decorative Street Light Poles and Decorative Sidewalk Specifications



Poles shall be Ameron CEOK-9.5-51' tall, 31" o.d., direct embed large octagonal exposed aggregate concrete, black in color, with single set star inserts (models), with Amerishield anti graffiti acrylic coating, with A/G hand hole and conduit entrance. Arms shall be Holophane WLC721CA BK West Liberty Arm, 6' black with Holophane W11F/200-CA/BK West Liberty Leveling splitfitter for standard mast arms, splitfit 2 inches (2-3/8 inch OD) nominal pipe, swivel, cast aluminum and black finish. Light fixtures shall be Holophane ESU400HP48B4SS Esplanade with short skirt, 400W equivalent LED light fixture, black in color.

Payment shall be made at the contract unit cost for each light pole, arm and fixture assembly completely installed including hand locate/exposure of existing utilities within 3 feet of pole location, excavation/augering, crushed concrete/limerock backfill, compaction, sidewalk removal/replacement as necessary, grading and other necessary work to complete the installation.

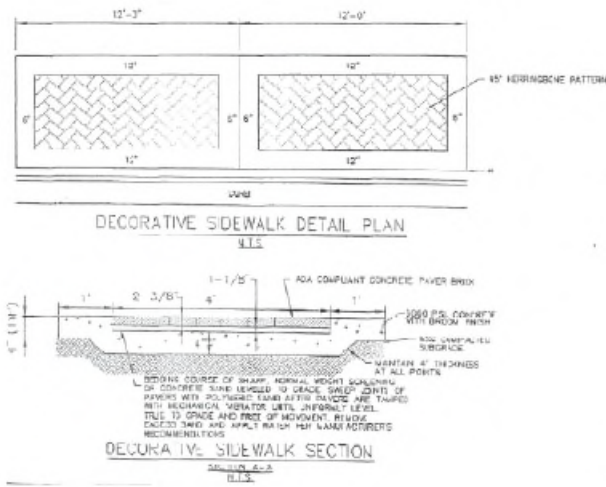
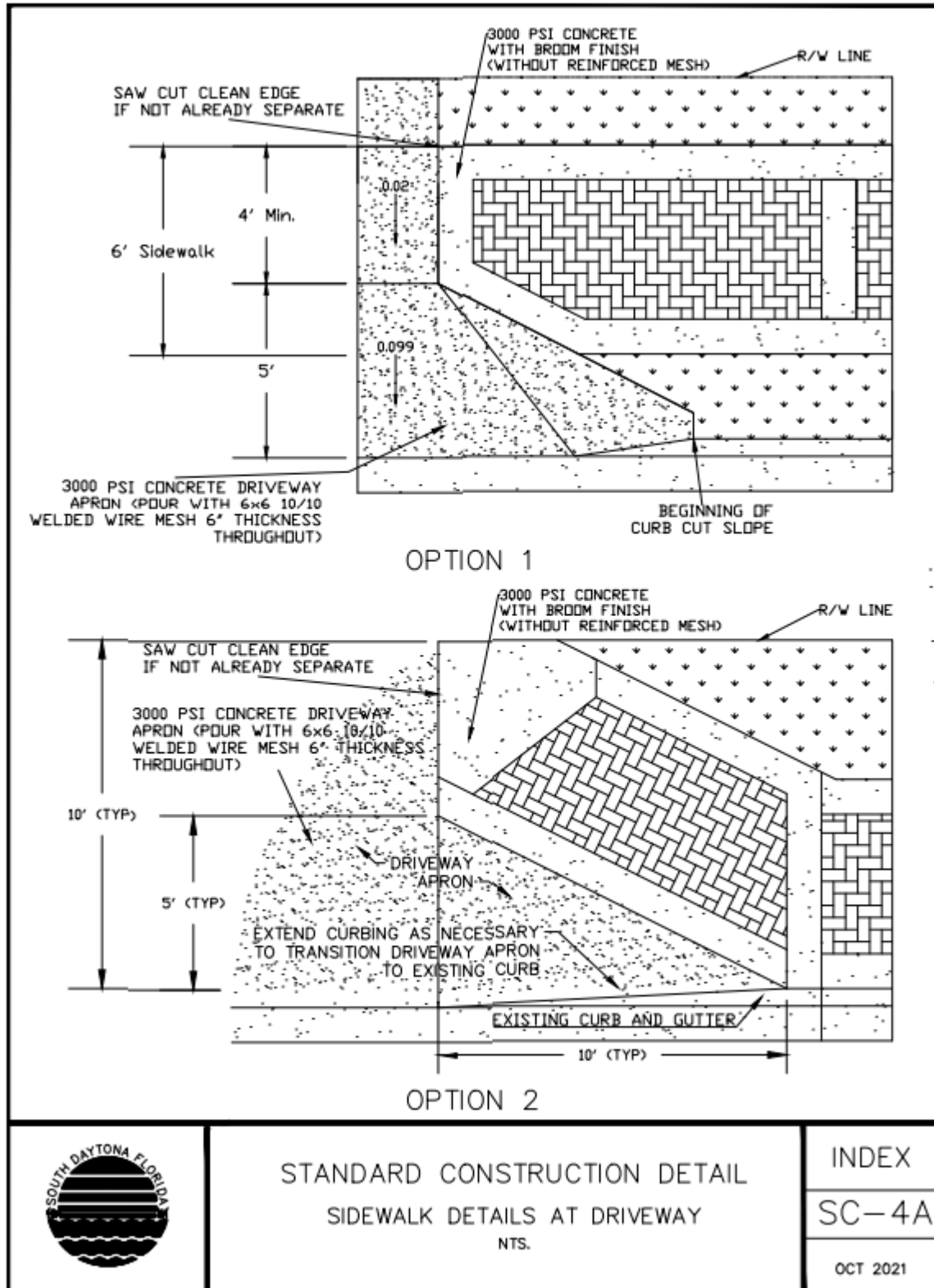
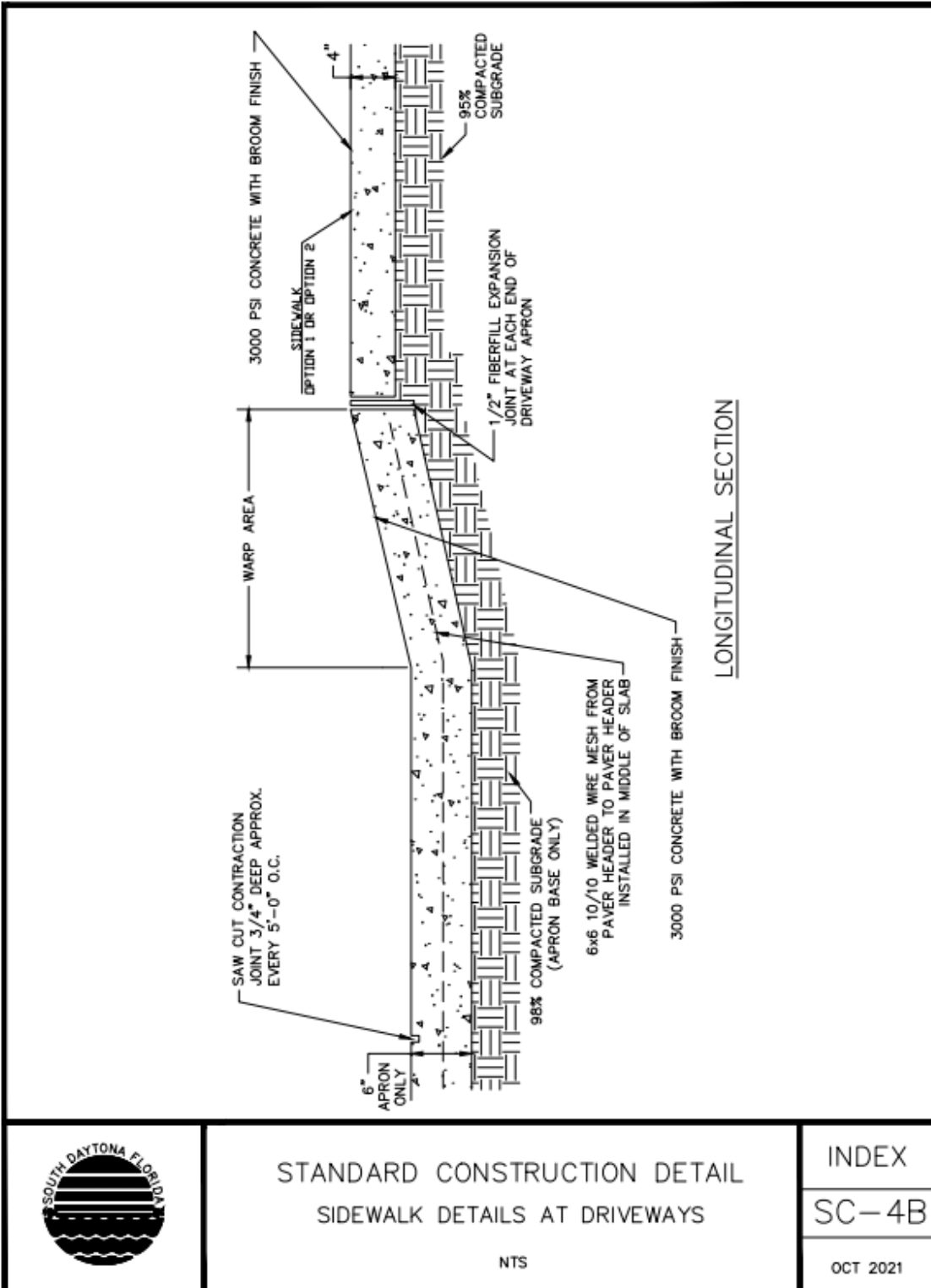
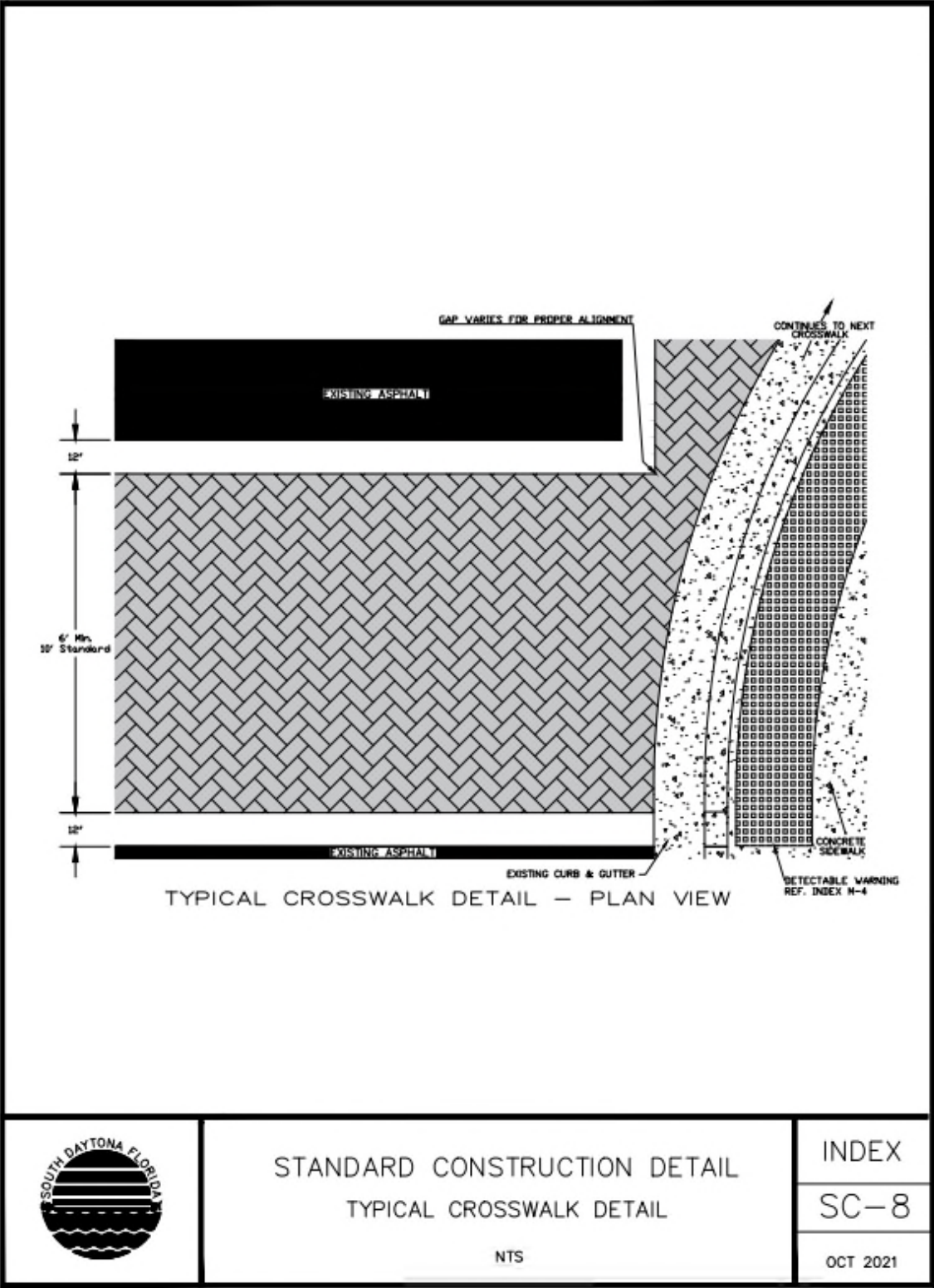


Exhibit C: Decorative Street Light Poles and Decorative Sidewalk Specifications







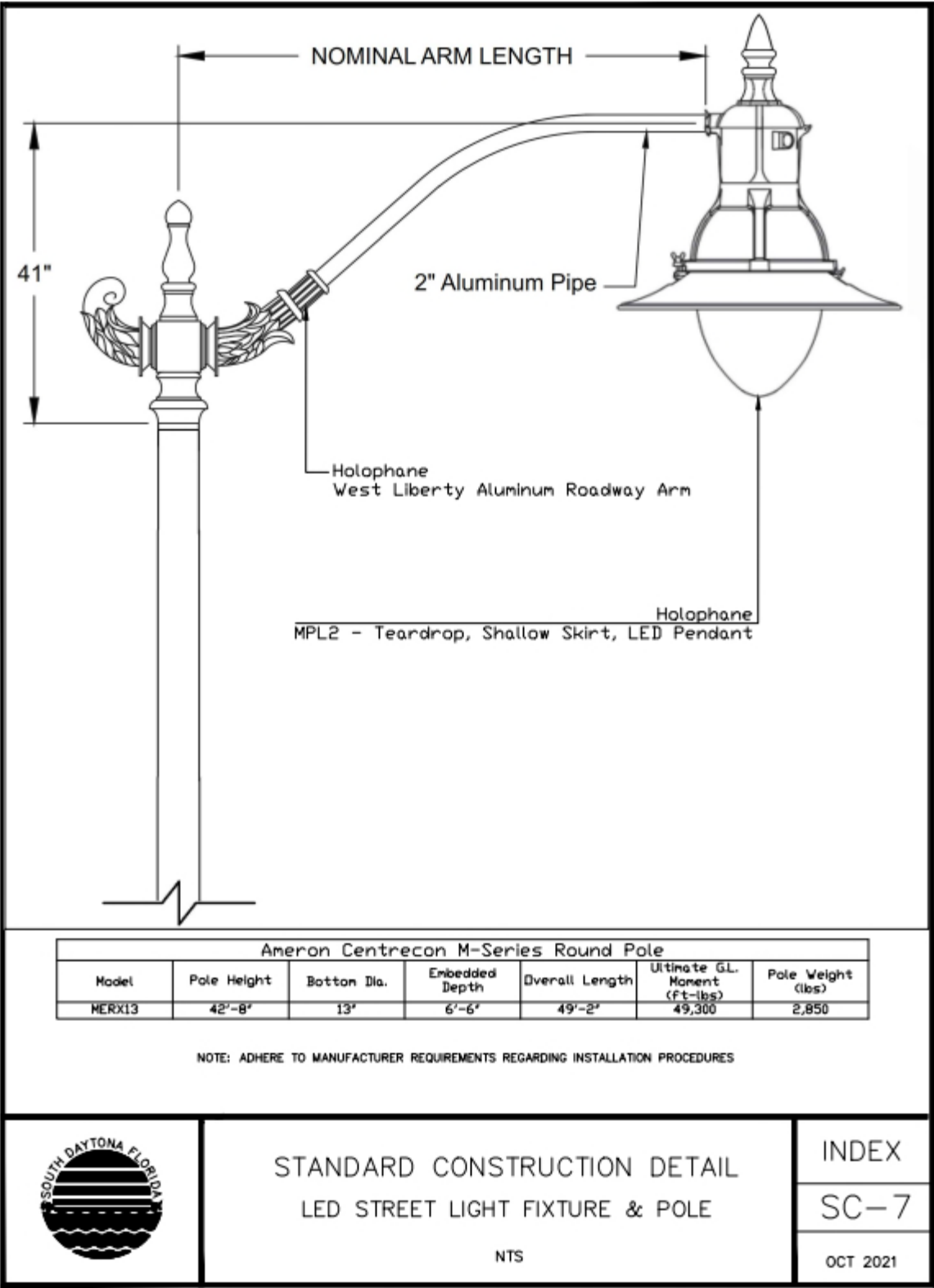


**EXAMPLE OF COMPLETED DECORATIVE STREET LIGHT POLES & DECORATIVE SIDEWALK INSTALLATION  
AND UNDERGROUNDING OF UTILITY LINES**



*PICTURED: DECORATIVE LIGHT POLE AND SIDEWALKS INSTALLED AT  
3230 RIDGEWOOD AVENUE – ENCLAVE AT 3230 APARTMENTS*

Exhibit C: Decorative Street Light Poles and Decorative Sidewalk Specifications





## Exhibit C: Page 11 of 11

# City of South Daytona

## Code Compliance

1672 S. Ridgewood Avenue • South Daytona, FL 32121 • 386/322-3025



### MEMORANDUM

To: Planning and Appeals Board Members

From: Josh McEnany, Code Compliance Manager

Re: **LDC 2023-02 - Recommendation for Ordinance establishing a time limit of 30 minutes for parking, loading, unloading, towing, and fueling of oversized vehicles and equipment within the US 1 Overlay District.**

Date: January 26, 2023

---

**Introduction:** The attached proposed Ordinance establishes a time limit of 30 minutes for parking, loading, unloading, towing, and fueling of oversized vehicles and equipment within the US 1 Overlay District.

**Background and Analysis:** The City Council adopted a redevelopment plan in 1997 creating a Community Redevelopment Area (CRA) to improve the appearance and quality of commercial activity in the CRA. Furthermore, the Community Redevelopment District Overlay established in 2008 provides for the application of specific regulations modifying the underlying zoning regulations to enhance the quality and improve property values in the CRA/ US 1 Overlay District.

The appearance of oversized vehicles and equipment for an extended period of time can contribute to blight and unsightly property conditions, depreciate the value of surrounding properties, and impede redevelopment efforts. Limiting the time oversized vehicles and equipment can park, load, unload, tow, or fuel within our US 1 Overlay District promotes the vision of the City Council.

**Conclusion:** In accordance with *Section 3.2(J)(1)* of the LDC, there are certain criteria that must be evaluated before adoption of a LDC amendment. The Planning & Appeals Board must consider the following criteria when making their recommendation to amend the LDC:

**1. Identifies any provision of the LDC, Comprehensive Plan or other law relating to the proposed change and describes how the proposal relates to them.**

The proposed amendment is consistent with the Comprehensive Plan and the LDC. Objective 5 of the Future Land Use Element of the Comprehensive Plan supports reviewing and updating the LDC as needed.

**2. States factual and policy considerations pertaining to the recommendation.**

The purpose of the amendment is to limit the time oversized vehicles and equipment can park, load, unload, tow, or fuel within our US 1 Overlay District to promote the vision of the Redevelopment Master Plan for an aesthetically pleasing community with a small-town character.

# City of South Daytona

## Code Compliance

1672 S. Ridgewood Avenue • South Daytona, FL 32121 • 386/322-3025



### 3. Includes the written comments, if any, received from the Development Review Committee.

Comments from the Development Review Committee have been incorporated into the proposed amendments.

**Recommendation:** Staff advises that the Planning & Appeals Board **recommend as presented** that the City Council approve an Ordinance to amend Article VII. – Engineering/Environmental Standards of the Land Development Code of the City of South Daytona, Section 7.5. entitled “Traffic/parking management” as follows:

\*\*\*

*B. Parking control.*

\*\*\*

6. *Location of parking spaces.*

f. Parking standards for commercial zoning districts.

[3] Oversized vehicles and equipment shall be limited to 30 minutes for parking, loading, unloading, towing, and fueling within the Community Redevelopment Area.

a. Oversized Vehicles or equipment shall be classified as those with a size which exceeds any of the following:

1. 96 inches in height, measured from the road surface to the highest top point, excluding any antennas.
2. 22 feet in length, measured from the most extreme front point to the most extreme rear point, including any bumpers, hitches, or towing devices, etc.
3. 80 inches in body width, excluding any mirrors, fenders, or wheel axle assemblies.
4. Trailers which: exceed 96 inches in height, measured from the road surface to the highest top point; or exceed 16 feet in length, measured from the most extreme front point to the most extreme rear point, including any bumpers, hitches, or towing devices, etc.; or exceed 80 inches in body width, excluding any mirrors, fenders, or wheel axle assemblies.

Attachment: Proposed Ordinance 2023-xx



## **ORDINANCE NO. 2023-xx**

**AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING THE CITY OF SOUTH DAYTONA LAND DEVELOPMENT REGULATIONS SECTION 7.5 TO PROVIDE A TIME LIMIT ON OVERSIZED VEHICLES AND EQUIPMENT FOR PARKING, LOADING, UNLOADING, TOWING, AND FUELING OF OVERSIZED VEHICLES AND EQUIPMENT WITHIN THE COMMUNITY REDEVELOPMENT DISTRICT OVERLAY, AND PROVIDING FOR CONFLICTS, SEVERABILITY, APPLICABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, Chapters 166 and 163, *Florida Statutes*, include authority to enact regulations to protect the health, safety, and welfare, and in the interest of the citizens of the City; and

**WHEREAS**, the City Council adopted a redevelopment plan in 1997 creating a Community Redevelopment Area (CRA) and programs for selected areas of the City that have been designated as needing redevelopment under State Statute; and

**WHEREAS**, the City Council desires continued improvement of the appearance and quality of commercial activity throughout the City including the CRA; and

**WHEREAS**, the Community Redevelopment District Overlay established in 2008 provides for the application of specific regulations modifying the underlying zoning regulations within the CRA; and

**WHEREAS**, the Community Redevelopment District Overlay was established to enhance the quality and improve property values in the CRA; and

**WHEREAS**, the permitted uses within the Community Redevelopment District Overlay shall be the same as the underling zoning classification except for prohibited uses established by this and previous ordinances; and

**WHEREAS**, adding prohibited uses to the Community Redevelopment District Overlay is essential to a rational and continued improvement of the commercial corridors in the CRA; and

**WHEREAS**, the appearance of oversized vehicles and equipment for an extended period of time can contribute to blight and unsightly property conditions, depreciate the value of surrounding properties, and impede redevelopment efforts; and

**WHEREAS**, limiting the time oversized vehicles and equipment can park, load, unload, tow, or fuel within the CRA promotes the vision of the City Council and the guiding policy documents of the City, including the Comprehensive Plan and the Redevelopment Master Plan; and

**WHEREAS**, the desire of the Council is to encourage and incentivize targeted businesses in the CRA, such as professional offices, sit-down restaurants and quality, high-end residential development that highlights our riverfront location; and

**WHEREAS**, the City of South Daytona Planning and Appeals Board, held a public hearing

on the \_\_\_\_\_ day of \_\_\_\_\_ 2022, on this proposed amendment and recommended to the City Council adoption of the proposed amendment; and

**WHEREAS**, the City of South Daytona City Council finds the proposed amendment to the *Land Development Code* to be consistent with the provisions of the *Comprehensive Plan* of the City of South Daytona, and that it is in the best interest and welfare of the citizens of the City to enact this Ordinance; and

**WHEREAS**, the City of South Daytona has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance including, but not limited to, Section 166.041(3)(c)(2), *Florida Statutes*; and

**WHEREAS**, for purposes of this Ordinance, underlined type shall constitute additions to the original text, \*\*\* shall constitute ellipses to the original text and ~~striketrough~~ shall constitute deletions to the original text.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA THAT:**

**SECTION 1. Recitals.** The above recitals are true and correct and are incorporated herein by reference.

**SECTION 2. Adoption.** The City Council of the City of South Daytona hereby amends Article VII. – Engineering/Environmental Standards of the Land Development Code of the City of South Daytona, Section 7.5. entitled “Traffic/parking management” as follows:

\*\*\*

B. *Parking control.*

\*\*\*

6. *Location of parking spaces.*

f. Parking standards for commercial zoning districts.

[3] Oversized vehicles and equipment shall be limited to 30 minutes for parking, loading, unloading, towing, and fueling within the Community Redevelopment Area.

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3. 80 inches in body width, excluding any mirrors, fenders, or wheel axle assemblies.
4. Trailers which: exceed 96 inches in height, measured from the road surface to the highest top point; or exceed 16 feet in length, measured from the most extreme front point to



the most extreme rear point, including any bumpers, hitches, or towing devices, etc.; or exceed 80 inches in body width, excluding any mirrors, fenders, or wheel axle assemblies.

**SECTION 3. Administrative Actions.** The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes, and rules.

**SECTION 4. Codification.** The provisions of this Ordinance, including its recitals, shall become and be made a part of the City of South Daytona Land Development Code and the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**SECTION 5. Conflicts.** All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 6. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 7. Effective Date.** This Ordinance shall take effect immediately upon enactment.

**APPROVED** upon first reading on the \_\_\_\_ day of \_\_\_\_\_ at a regular meeting of the City Council of the City of South Daytona.

**APPROVED AND ADOPTED** upon second and final reading on the \_\_\_\_ day of \_\_\_\_\_ at the regular meeting of the City of South Daytona City Council.

CITY OF SOUTH DAYTONA:

ATTEST:

\_\_\_\_\_  
William C. Hall, Mayor

\_\_\_\_\_  
James L. Gillis, Jr., City Manager

CERTIFIED AS TO FORM:



\_\_\_\_\_  
Wade C. Vose, City Attorney

# Sunshine Law, Public Records & Voting Conflicts Training for Local Government Board Members

Presented by:

Wade C. Vose, Esq.  
Managing Partner, Vose Law Firm LLP

February 8, 2023



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## Presentation Overview

Today, we'll be covering:

- **Government in the Sunshine (Open Meetings) Law**
- Public Records Law
- Voting Conflicts

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## Government in the Sunshine (Open Meetings) Law

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Scope of the Sunshine Law

- Provides right of access to governmental proceedings
- Applies to both elected and appointed boards
- General Rule – All meetings at which official acts are taken or public business is transacted or discussed shall be open and noticed to the public

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Scope of the Sunshine Law

**Sunshine Law applies to:**

- Any meeting
- Between two or more members of the same board
- When discussing matters that may foreseeably come before that board

**“Meeting” includes:**

- City Commission meetings and workshops
- Telephone calls and text messages
- Emails and other written correspondence
- Informal discussions or deliberations

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Scope of the Sunshine Law

**There are three basic requirements :**

(1) Meetings of public boards or commissions must be open to the public

(2) Reasonable notice of such meetings must be given

(3) Minutes of the meetings must be taken, promptly recorded and open to public inspection

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### Scope of the Sunshine Law

- Advisory boards created pursuant to law or ordinance or otherwise established by public agencies are subject to the Sunshine Law, even though their recommendations are not binding upon the agencies that create them.

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### Scope of the Sunshine Law

- While a board member is not prohibited from discussing board business with staff or a nonboard member, these individuals cannot be used as a liaison to communicate information between board members.
- For example, a board member cannot ask staff to poll the other board members to determine their views on a board issue.

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### Meetings

Meetings must be open to public:

- Location accessible to the public
- Adequate size
- May not discriminate against or restrict access to public

So, meetings subject to the Sunshine Law generally should not be held in private homes, or restaurants where an attendee may feel compelled to order a meal.

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### Meetings

- While boards may adopt reasonable rules and policies to ensure orderly conduct of meetings, the Sunshine Law does not allow boards to ban non-disruptive videotaping, tape recording, or photography at public meetings.

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### Meetings – Right to Public Comment

New section of Sunshine Law enacted in 2013 - Sec. 286.0114, Fla. Stat.:

- Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission.

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### Meetings – Right to Public Comment

New section of Sunshine Law enacted in 2013 - Sec. 286.0114, Fla. Stat.:

- The opportunity to be heard need not occur at the same meeting at which the board or commission takes official action on the proposition if:
  - The opportunity occurs at a meeting that is during the decisionmaking process, and
  - is within reasonable proximity in time before the meeting at which the board or commission takes the official action.

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### Meetings – Right to Public Comment

New section of Sunshine Law enacted in 2013 - Sec. 286.0114, Fla. Stat.:

- This section does not prohibit a board or commission from maintaining orderly conduct or proper decorum in a public meeting.

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### Meetings – Right to Public Comment

Rules or policies of a board or commission which govern the opportunity to be heard are limited to those that:

- Provide time limits for individuals to address the board.
- Prescribe procedures for allowing representatives of groups or factions to address the board, rather than all members of such groups, at meetings in which a large number of individuals wish to be heard.
- Prescribe procedures or forms for an individual to use to inform the board of a desire to be heard.
- Designate a specified period of time for public comment.

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### Penalties

- Any member of a board or commission or of any state agency or authority of a county, municipal corporation, or political subdivision who knowingly violates the Sunshine Law is guilty of a misdemeanor of the second degree.
- An unintentional violation may be prosecuted as a noncriminal infraction resulting in a civil penalty up to \$500.

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Penalties

- The Sunshine Law provides that no resolution, rule, regulation or formal action shall be considered binding except as taken or made at an open meeting.

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Penalties

- Recognizing that the Sunshine Law should be construed so as to frustrate all evasive devices, the courts have held that action taken in violation of the law was void *ab initio*.

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## Public Records Law

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## Scope of the Public Records Act

- Florida's Public Records Act provides a right of access to records of state and local governments as well as to private entities acting on their behalf.
- A right of access is also recognized in Article I, section 24 of the Florida Constitution, which applies to virtually all state and governmental entities including the legislative, executive, and judicial branches of government. The only exceptions are those established by law or by the Constitution.

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## Scope of the Public Records Act

- Section 119.011(12), Florida Statutes, defines "public records" to include:  
  
all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

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### Scope of the Public Records Act

- The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge.

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### Scope of the Public Records Act

- All such materials, **regardless of whether they are in final form**, are open for public inspection **unless the Legislature has exempted them from disclosure**.
- There is no **"This is Really Embarrassing!"** exemption from the Public Records Act.

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### Electronic Records

- Email messages made or received by public officers or employees in connection with official business are public records and subject to disclosure in the absence of a statutory exemption.
- The Attorney General has advised that materials placed on an agency's Facebook page presumably would be in connection with official business and thus subject to Chapter 119, Florida Statutes.

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### Providing Public Records

- Section 119.07(1)(a), Florida Statutes, provides that “[e]very person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of public records or the custodian’s designee.”

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### Penalties

- A person who has been denied the right to inspect and/or copy public records under the Public Records Act may bring a civil action against the agency to enforce the terms of Ch. 119.

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### Penalties

- In addition to judicial remedies, Section 119.10(1)(b), Florida Statutes, provides that a public officer who knowingly violates the provisions of section 119.07(1), Florida Statutes, is subject to suspension and removal or impeachment and is guilty of a misdemeanor of the first degree, punishable by possible criminal penalties of one year in prison, or \$1,000 fine, or both.

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Voting Conflicts

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Voting Conflicts

- Voting Conflicts Law codified in Section 112.3143

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### To Whom Does This Apply?

- “Public Officers,” that is, persons elected or appointed to hold office in an agency, including persons serving on an advisory body
- If you are a member of a collegial body, it applies to you.

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### What is a Voting Conflict?

Local elected or appointed officers may not vote on:

- Any measure which would inure to his or her special private gain or loss, or
- Any measure which a public officer *knows* would inure to the special private gain or loss of:
  - A principal by whom he/she is retained
  - A parent organization or subsidiary of a corporate principal by whom the officer is retained
  - A relative
  - A business associate

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### Who is a “Principal?”

- An employer
- A client of a legal, accounting, insurance, or other professional practice
- A corporation for which officer serves as a compensated director

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### Who is a “Relative?”

- Father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law
- Note: This definition is different than the similar definitions of “relative” in the anti-nepotism and gift laws

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### What is a “Business Associate?”

- A person or entity who is carrying on a business enterprise with the public officer, regardless of the form of the business
- Key Question #1– Are they engaging in a common commercial or entrepreneurial pursuit?
- Key Question #2 – Is this a current, ongoing business relationship?

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### “Special” Private Gain (or Loss)

- The voting conflicts law does not apply to all situations that might result in gain or loss to the official—the gain or loss must be “special”
- Requires an *economic* benefit or harm that will inure to the officer, his or her relative, business associate, or principal
- What should be considered?

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### Special Private Gain or Loss - Considerations

1. What is the size of the affected class?
2. What is the relative benefit or harm when compared to other members of affected class?
3. Is the gain or loss remote or speculative?
4. Is this merely a preliminary or procedural measure?

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### Size of the Affected Class

- “Special” gain will depend on size of class of persons who are similarly affected by measure
- ↓ class, ↑ chance of “special gain”
- ↑ class, ↓ chance of “special gain”



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### Remote or Speculative

- Is gain or loss so remote or speculative that the measure cannot be said to inure to officer's gain or loss?
- Will hinge on the facts of each individual case



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### Preliminary or Procedural

- Some measures are simply procedural or preliminary (to later actions that would result in actual gain or loss)
- Other measures, while procedural in nature, are substantive in effect and will inure to officer's gain or loss



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### If You Have a Voting Conflict, What Should You Do?

The officer must:

- (1) abstain from voting;
- (2) disclose conflict orally prior to the vote; and
- (3) file a memorandum (Form 8B) within 15 days.
- In addition, appointed local officers must publicly disclose the conflict before participating in discussion of the matter.

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### Exceptions

- If the "principal by whom you are retained" is a public agency, you may vote.
- If you are a commissioner of a community redevelopment agency or a one-acre, one-vote officer, you may vote.
- If measure affects your expenses and compensation *as provided by law*, you may vote.

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### Related Issues – Voting Requirement

- Section 286.012 requires members of a collegial body to vote when present at a meeting and prohibits abstaining, except when “there is, or appears to be, a possible conflict of interest . . .”
- “If the official decision, ruling, or act occurs in the context of a quasi-judicial proceeding, a member may abstain from voting on such matter if the abstention is to assure a fair proceeding free from potential bias or prejudice.”

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