



REGULAR CITY COUNCIL MEETING

November 06, 2019 at 6:30 PM

City Council Chambers, 16 Colomba Rd.

DeBary, Florida 32713

AGENDA

CALL TO ORDER

Invocation

Flag Salute

ROLL CALL

COMMITTEE REPORTS

PUBLIC PARTICIPATION: For any items **NOT ON THE AGENDA**, citizen comments are limited to three (3) minutes per speaker. For items **ON THE AGENDA**, citizen comments are limited to five (5) minutes per speaker. Speakers will be called when the item is introduced for discussion.

APPROVAL OF MINUTES

ADDITIONS, DELETIONS OR AMENDMENTS TO THE AGENDA

PRESENTATIONS

- Proclamation: Proclaiming November as National Adoption Month

CONSENT AGENDA

1. City Manager is requesting the Mayor and City Council to authorized the City Attorney and City Manager to approved Task Order No. 2015-46 with Pegasus Engineering in order to provide final-design services associated with the 273-284 Valencia Road Drainage Improvements project.
2. City Manager is requesting Council permission to dispose of the artificial Christmas Tree, asset number 630.
3. Approve Locally Funded Agreement Between State of Florida Department of Transportation and The City of DeBary.

PUBLIC HEARINGS

4. To approve the second reading of Ordinance 11-19 for a major amendment to the Crossing on Enterprise (Ayra ALF), Business Planned Unit Development (BPUD).
5. KBC Development (DeBary Commerce Park), is requesting approval of the second reading of Ordinance 09-19, allowing for a Future Land Use Map Amendment from General Office to Industrial/Service.
6. KBC Development (DeBary Commerce Park), is requesting approval of the second reading of Ordinance 10-19, allowing for a rezoning from General Commercial B-4 and General Office B-9 to a Mixed-Use Planned Unit Development.

GROWTH MANAGEMENT AND DEVELOPMENT

7. Jerome Henin of the Henin Group is seeking final plat approval for Springview Woods, Phase 3, which consists of lots 99-147.

OLD BUSINESS

NEW BUSINESS

8. City Manager is requesting City Council approval of Resolution 2019-22 regarding website accessibility.
9. City Manager is requesting City Council to (1) Award Bid No. 12-19, Small Scale Stormwater Improvement Project No. 5, to the lowest responsive and responsible bidder, (2) approve Pegasus Engineering, LLC, Task Order No. 2015-45 for post design engineering services, and (3) approve KHARE Construction Services, LLC, Task Order No. 1119-01 for Construction Management Services.
10. City Manager is requesting approval of Resolution 2019-23, establishing a Charter Review Commission.
11. City Manager is requesting City Council to approve contract amendment extending event services of Community Event Organizers (CEO) for the 2020 July 4th event.
12. City Manager is requesting City Council to approve contract amendment extending fireworks services of Xtreme FX, LLC, for the 2020 July 4th event.

INFORMATIONAL ITEMS

COUNCIL MEMBER REPORTS / COMMUNICATIONS

Board/Committee Appointments

Member Reports/ Communications

- A. Mayor and Council Members
- B. City Manager
- C. City Attorney

DATE OF UPCOMING MEETING / WORKSHOP

- Special City Council Meeting Wednesday, November 20, 2019, at 6:30 p.m.
- Regular City Council Meeting Wednesday, December 4, 2019, at 6:30 p.m.

ADJOURN

If any person decides to appeal any decision made by the City Council with respect to any matter considered at this meeting or hearing he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105).

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk at least three (3) working days in advance of the meeting date and time at (386) 668-2040.



City Council Meeting City of DeBary AGENDA ITEM

Subject: 273-284 Valencia Road Drainage Improvements Final-Design Services	Attachments: <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
From: Carmen Rosamonda, City Manager	
Meeting Hearing Date November 6, 2019	

REQUEST

City Manager is requesting the Mayor and City Council to authorized the City Attorney and City Manager to approved Task Order No. 2015-46 with Pegasus Engineering in order to provide final-design services associated with the 273-284 Valencia Road Drainage Improvements project.

PURPOSE

This agenda item is needed at this time to allow Pegasus Engineering to proceed with final-design services for the City of DeBary through June 30, 2020.

CONSIDERATIONS

The purpose of this Task Order is to allow Pegasus Engineering to provide the professional engineering services as outlined in the attached Task Order.

COST/FUNDING

The cost of the professional engineering services is in the amount of \$49,830.50 which will be paid for by the Stormwater Fund.

RECOMMENDATION

It is recommended that the City Council:

1. Authorize the City Attorney and City Manager to finalize the attached Task Order with Pegasus Engineering, LLC for the 273-284 Valencia Road Drainage Improvements | Final-Design Services in a lump sum amount \$49,830.50 through June 30, 2020.
2. Authorize the cost of the Task Order to be paid from the Stormwater Fund.

IMPLEMENTATION

N/A

ATTACHMENTS

Task Order No. 2015-46.



TASK ORDER NO.: 2015-46

PROJECT NAME: 273-284 Valencia Road Drainage Improvements | Final Design Services

CLIENT: City of DeBary
16 Colomba Road
DeBary, Florida 32713

The vendor, Pegasus Engineering, LLC, located at 301 West State Road 434, Suite 309, Winter Springs, Florida 32708, is a Corporation authorized to do business in the state of Florida. As part of this Task Order, Pegasus Engineering, LLC, and their subconsultants (Southeastern Surveying and Mapping Corp., Geotechnical Engineering Consultants, and GAI Consultants), will perform final design services for the above referenced project as described in the attached proposal.

The total lump sum amount of this Task Order, which includes the subconsultant fees, is Forty Nine Thousand Eight Hundred and Thirty Dollars and Fifty Cents (\$49,830.50). The Client agrees to pay Pegasus Engineering, LLC for its services based on approved monthly invoices.

This Task Order shall be governed by the Continuing Consulting Contract for General Engineering Services agreement dated July 29, 2015.

Client Signature:

Vendor Signature:

CITY OF DEBARY

PEGASUS ENGINEERING, LLC

By: _____
Authorized Signature

By: [Signature]
Authorized Signature

Carmen Rosamonda
Printed Name

Fursan Munjed, P.E.
Printed Name

City Manager
Title

Principal / Project Manager
Title

Date

October 24, 2019
Date



**City Council Meeting
City of DeBary
AGENDA ITEM**

Subject: Christmas Tree Disposal	Attachments: () Ordinance () Resolution () Supporting Documents/ Contracts () Other
From: Carmen Rosamonda, City Manager	
Meeting Hearing Date November 6, 2019	

REQUEST

City Manager is requesting Council permission to dispose of the artificial Christmas Tree, asset number 630.

PURPOSE

The Christmas Tree has met the end of its life cycle and it needs to be disposed of.

CONSIDERATIONS

The Council has previously authorized the purchase of a live tree that was planted at Gateway Park. The old artificial tree needs to be removed from storage and disposed of at the County land fill.

COST/FUNDING

N/A

RECOMMENDATION

It is recommended that the City Council give permission to dispose of asset number 630, artificial Christmas Tree.

IMPLEMENTATION

As soon as authorization is given.

ATTACHMENTS

N/A



City Council Meeting City of DeBary AGENDA ITEM

Subject: Florida Department of Transportation Local Agreement	Attachments: <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution
From: Roger Van Auker TOD & Economic Development Director	<input checked="" type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
Meeting Hearing Date November 6 th 2019	

REQUEST

Approve Locally Funded Agreement Between State of Florida Department of Transportation and The City of DeBary.

PURPOSE

The Locally Funded Agreement Between State of Florida Department of Transportation and The City of DeBary is the mechanism that will provide for the painting of the new traffic signal mast arms that are to be installed by FDOT at the intersection of Fort Florida Road and US Hwy 17&92 in Spring of 2020.

CONSIDERATIONS

- In order to maintain uniformity throughout the City and to provide for the additional improvements (painting) in a cost effective manner by funding the painting of the mast arms so that the FDOT is able to perform the work in unison with the planning and construction of this project.

COST/FUNDING

- Cost of Painting is \$13,600.00.
- \$20,000 was budgeted for this project in 2019/2020 budget, Public Works.
- Payment must be made by February 3rd, 2020.

RECOMMENDATION

It is recommended that the City Council:

IMPLEMENTATION

Execution of the Locally Funded Agreement Between State of Florida Department of Transportation and The City of DeBary and return to FDOT.

ATTACHMENTS

- Locally Funded Agreement Between State of Florida Department of Transportation and The City of DeBary with Resolution 2019-24
- Fort Florida Road Signalization plan

Agency: City of DeBary Vendor No: F593217634005	Fund: LF Contract Amount: \$13,600.00	Financial Management No.: 442467-1-52-01
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**LOCALLY FUNDED AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF DeBARY**

This AGREEMENT, made and entered into this ____ day of _____, 20____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as the “DEPARTMENT”) and the CITY OF DeBARY, a Florida Municipal Corporation (hereinafter referred to as the “LOCAL GOVERNMENT”),

WITNESSETH:

WHEREAS, the Parties have been granted specific legislative authority to enter into this Agreement pursuant to Section 339.12, Florida Statutes; and

WHEREAS, the LOCAL GOVERNMENT, by Resolution, a copy of which is attached hereto as Exhibit “C”, and made apart hereof, has authorized its officers to execute this Agreement on its behalf; and

WHEREAS, the DEPARTMENT is prepared, in accordance with its Adopted Five Year Work Program, to undertake the project described as: “Construction of Traffic Signals on State Road 15/US 17-92 at the Intersection of Fort Florida Road”, said project being known as Financial Management (FM) Number 442467-1-52-01, hereinafter referred to as the “Project”; and

WHEREAS, the Project is not revenue producing and is contained in the Adopted Work Program; and

WHEREAS, the implementation of the Project is in the interests of both the DEPARTMENT and the LOCAL GOVERNMENT and it would be most practical, expeditious, and economical for the LOCAL GOVERNMENT to provide the funds to: Upgrade from standard galvanized mast arm structures to painted galvanized mast arm structures at the Intersection of State Road 15/US 17-92 and Fort Florida Road, in Fiscal Year 2019/2020, said Project being known as FM#442467-1-52-01, and said improvements shall hereinafter be referred to as the “Additional Improvements”; and

WHEREAS, in order to maintain uniformity throughout the Project and to provide for the Additional Improvements in a cost-effective manner, the LOCAL GOVERNMENT desires to have said Additional Improvements made a part of the Project and to provide funding to the DEPARTMENT to be used for the Additional Improvements as described in "Exhibit A";

NOW, THEREFORE, in consideration of the mutual benefits to be derived from the joint participation of this Agreement, the parties agree as follows:

1. The term of this Agreement shall begin upon the date of signature of the last party to sign and shall remain in full force and effect through completion of all services required of the LOCAL GOVERNMENT. The DEPARTMENT may, at any time and at any stage, amend or terminate the Project in whole or in part if the DEPARTMENT determines that such action is in the best interests of the public.

2. The DEPARTMENT shall cause the Additional Improvements described in Exhibit "A" to be incorporated into the DEPARTMENT'S plans for the construction of traffic signals on State Road 15/US 17-92 at the intersection of Fort Florida Road and to be constructed as a part of said Project.

3. The DEPARTMENT shall perform necessary preliminary engineering, prepare any and all design plans, acquire all necessary right-of-way, perform the construction, provide all necessary engineering supervision, and otherwise perform all other necessary work, all as may be applicable for the Project as previously defined. The Project as previously defined may include some or all of the foregoing activities. Nothing herein shall be construed as requiring the DEPARTMENT to perform any activity which is outside the scope of the Project as previously defined. Except as specifically stated otherwise in this Agreement, all such activities shall be performed by such entities, at such times, in such manner, under such conditions, and pursuant to such standards as the DEPARTMENT, in its sole discretion, deems appropriate. The LOCAL GOVERNMENT shall not have any jurisdiction or control over the DEPARTMENT'S activities, except as specifically stated in this Agreement. The LOCAL GOVERNMENT shall be entitled to be advised of the progress of the Project at reasonable intervals upon request.

4. After construction is complete, the LOCAL GOVERNMENT agrees to inspect, maintain, maintain paint, repair and replace the galvanized mast arms in perpetuity in accordance with the terms of the Traffic Signal Maintenance and Compensation Agreement previously signed by the parties hereto and as specified in Exhibit "A", Scope of Services. The parties agree that, upon installation, the galvanized mast arm structures shall be owned by the

DEPARTMENT and the DEPARTMENT shall be entitled to inspect the mast arm structures at all times.

5. Contribution by the LOCAL GOVERNMENT of the funds for the construction phase of the Project shall be made as follows:

(A) The DEPARTMENT'S current estimate of cost for the Additional Improvements is **\$13,600.00 (Thirteen Thousand Six Hundred Dollars and No/100)**. The DEPARTMENT'S performance and obligation to construct the Project is contingent upon an annual appropriation by the Florida Legislature. The parties agree that in the event funds are not appropriated to the DEPARTMENT for the Project, this Agreement may be terminated, which shall be effective upon the DEPARTMENT giving written notice to the LOCAL GOVERNMENT to that effect.

(B) The LOCAL GOVERNMENT agrees that it will, on or before, but no later than February 3, 2020, furnish the DEPARTMENT a lump sum contribution in the amount of **\$13,600.00 (Thirteen Thousand Six Hundred Dollars and No/100)** to be used for the estimated Project cost for locally funded project number 442467-1-52-01. The DEPARTMENT may utilize this contribution for payment of the cost of the Project.

(C) If the actual cost of the Additional Improvements is less than the funds provided, the excess will be applied to other phases on the Project.

(D) Both parties further agree that in the event the Additional Improvements are not constructed or this Agreement is terminated prior to commencement of construction of the Project, the funds provided by the LOCAL GOVERNMENT for construction of the Additional Improvements will be returned to the LOCAL GOVERNMENT. However, in the event the LOCAL GOVERNMENT decides not to participate in the Additional Improvements of the Project prior to construction, the LOCAL GOVERNMENT agrees to furnish the DEPARTMENT 25% (twenty five percent) of the estimated Additional Improvements cost to cover the extra cost associated with design plan revisions. The LOCAL GOVERNMENT will provide the 25% charge to the DEPARTMENT within fourteen (14) calendar days of notification that the LOCAL GOVERNMENT will not participate in this Agreement. If in the event the LOCAL GOVERNMENT has made the advance deposit required herein prior to their decision not to participate, the DEPARTMENT shall be entitled to retain 25% of the advance deposit amount and to remit the 75% balance to the LOCAL GOVERNMENT.

(E) The payment of funds under this Locally Funded Agreement will be made directly to the DEPARTMENT for deposit.

(F) The DEPARTMENT and the LOCAL GOVERNMENT agree that the lump sum contribution shall be an asset of the DEPARTMENT and that it constitutes a full and final payment for the cost of the work, without any requirement for a subsequent accounting for the use of the contribution.

(G) Contact Persons:

DEPARTMENT

District 5 Local Programs
D5-LocalPrograms@dot.state.fl.us
719 South Woodland Boulevard
DeLand, Florida 32720-6834
386-943-5520

LOCAL GOVERNMENT

Roger Van Auker
Transit Oriented Development Marketing Director
16 Colomba Road
DeBary, Florida 32713
386-601-0221
RVanAuker@DeBary.org

6. All tracings, plans, specifications, maps, models, reports, or other work product prepared or obtained under this Agreement shall be considered works made for hire for the DEPARTMENT and shall at all times be and remain the property of the DEPARTMENT without restriction or limitation on their use. The LOCAL GOVERNMENT may, however, inspect and copy those materials upon providing reasonable advance notice to the DEPARTMENT.

7. In the event this Agreement is in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) or has a term for a period of more than one (1) year, the provisions of Chapter 339.135(6)(a), Florida Statutes, are hereby incorporated as follows:

“The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the Department that funds are

available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of \$25,000.00 and which have a term for a period of more than one (1) year.”

8. The DEPARTMENT may unilaterally cancel this Agreement for refusal by the LOCAL GOVERNMENT to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by such party in conjunction with this Agreement.

9. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof, and incorporates and includes all proper negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein. The parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.

10. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. Any provision herein determined by a court of competent jurisdiction, or any other legally constituted body having jurisdiction, to be invalid or unenforceable shall be severable and the remainder of this Agreement shall remain in full force and effect, provided that the invalidated or unenforceable provision is not material to the intended operation of this Agreement.

11. The DEPARTMENT and the LOCAL GOVERNMENT acknowledge and agree to the following:

(A) The LOCAL GOVERNMENT shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the LOCAL GOVERNMENT during the term of the contract; and

(B) The LOCAL GOVERNMENT shall expressly require any contractors and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor/subcontractor during the contract term.

IN WITNESS WHEREOF, the LOCAL GOVERNMENT has executed this Agreement this _____ day of _____, 20____, and the DEPARTMENT has executed this Agreement this _____ day of _____, 20_____.

CITY OF DeBARY

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____

By: _____

Name: _____

Name: Loreen C. Bobo, P.E.

Title: _____

Title: Director of Transportation Development

As approved by the Council on:

Attest:

Attest:

Executive Secretary

Legal Review

Legal Review:

City Attorney

Financial Provisions Approval by
Department of Comptroller on:

Exhibit "A"

SCOPE OF SERVICES Mast Arm Signal Upgrades

FM#: 442467-1-52-01

The LOCAL GOVERNMENT wishes to upgrade from standard galvanized mast arm structures to painted galvanized mast arm structures at the Intersection of State Road 15/US 17-92 and Fort Florida Road.

The DEPARTMENT'S Contractor shall construct the Additional Improvements as part of the traffic signal reconstruction contract at the above referenced intersection.

The LOCAL GOVERNMENT is responsible for the cost of painting the galvanized mast arm structures. The LOCAL GOVERNMENT shall be responsible for preventive and periodic maintenance of the painted mast arm signals, in perpetuity, as stated in the Traffic Signal Maintenance and Compensation Agreement between the LOCAL GOVERNMENT and the DEPARTMENT, contract ARX61, dated December 21, 2016, and as amended from time to time.

Exhibit "B"

Estimate

FM# 442467-1-52-01

SUMMARY OF ESTIMATED BID PRICES FOR MAST ARMS

The estimate is based on Statewide and District Average Bid Price for the following items times an escalation to bring the cost up to the construction fiscal year.

ESTIMATED COST

Pay Item Number	Description	Quantity	Estimated Cost for painting the mast arms
649-21-17	Steel Mast Arm Assembly, Furnish and Install, Double Arm 70'-40'	1	\$ 6,200.00
649-21-25	Steel Mast Arm Assembly, Furnish and Install, Double Arm 78'-60'	1	\$ 7,400.00
TOTAL			\$13,600.00
LFA Estimate			\$13,600.00

Note: This is only an estimate and is subject to change based on actual bid prices.

Exhibit "C"

Resolution

FM# 442467-1-52-01

Exhibit C

RESOLUTION NO. 2019-24

A RESOLUTION OF THE CITY OF DEBARY, FLORIDA, APPROVING AND AUTHORIZING THE EXECUTION OF THE LOCALLY FUNDED AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF DEBARY PROJECT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State of Florida Department of Transportation (“FDOT”) and City of DeBary a Florida Municipal Corporation (hereinafter referred to as the LOCAL GOVERNMENT) desire to enter into a LOCALLY FUNDED AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF DEBARY to facilitate the the painting traffic signal mast arms to be installed at the intersection of Fort Florida Road and US Hwy 17&92, (the “Project”); and

WHEREAS, the FDOT has requested the City of DeBary to execute and deliver to the FDOT The LOCALLY FUNDED AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF DEBARY for the aforementioned Project; and

WHEREAS, the Parties have been granted specific legislative authority to enter into this Agreement pursuant to Section 339.12, Florida Statutes; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DEBARY, FLORIDA, that:

SECTION 1. The City Council hereby approves and authorizes the Mayor or the City Manager of the City of DeBary to execute and deliver to the State of Florida Department of Transportation the LOCALLY FUNDED AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF DEBARY for the aforementioned Project.

SECTION 2. This Resolution shall take effect immediately upon its adoption.

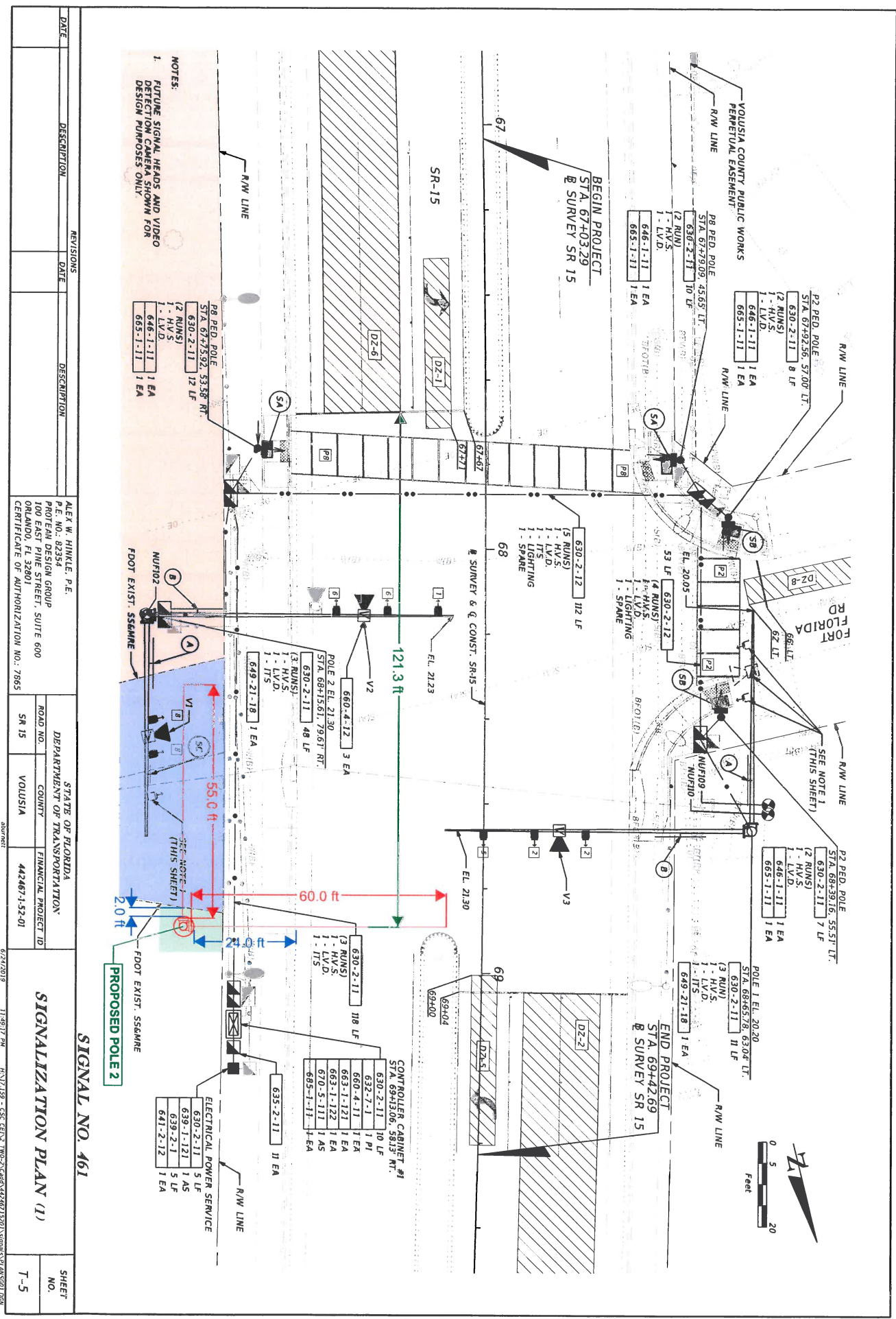
PASSED AND RESOLVED this ___ day of _____, 2019, by the City Council of the City of DeBary, Florida.

APPROVED:
City of DeBary

Karen Chasez, Mayor

ATTEST:

Annette Hatch, City Clerk



DATE	DESCRIPTION	REVISIONS	DATE	DESCRIPTION

ALEX W. HINKLE, P.E.		STATE OF FLORIDA	
P.E. NO. 82354		DEPARTMENT OF TRANSPORTATION	
PROTEAM DESIGN GROUP		FINANCIAL PROJECT ID	
100 EAST PINE STREET, SUITE 600		SR 15	
ORLANDO, FL 32801		COUNTY	
CERTIFICATE OF AUTHORIZATION NO.: 7665		VOLUSIA	
		442467-1-2-01	
		6/24/2019	
		11:48:17 AM	
		H:\N159 - CSC GEN2 - MO2\CAD\4424671201\SIGNALS\PLANS\01509	

ROAD NO.		SR 15	
COUNTY		VOLUSIA	
FINANCIAL PROJECT ID		442467-1-2-01	
SHEET NO.		T-5	

SIGNAL NO. 161

SIGNALIZATION PLAN (1)



**City Council Meeting
City of DeBary
AGENDA ITEM**

Subject: Ayra BPUD Amendment	Attachments: <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
From: Matt Boerger, Growth Management	
Meeting Hearing Date November 6, 2019	

REQUEST

To approve the second reading of Ordinance 11-19 for a major amendment to the Crossing on Enterprise (Ayra ALF), Business Planned Unit Development (BPUD).

PURPOSE

This request is needed at this time in order to permit for the Applicant’s revised master development plan (MDP) and development agreement (DA). The requested major amendment to Crossings BPUD is required for the Applicant to proceed to final site plan review.

CONSIDERATIONS

The property is located approximately 500 feet west of Enterprise road, south and west of Orange City municipal boundary, and north and east of the Glen Abbey subdivision.

The Applicant is requesting to amend the Crossings on Enterprise BPUD in order to reduce the Assisted Living Facility from three stories to two; reduce the overall square footage of the primary Assisted Living Facility from 100,445 square feet to 83,673 square feet; minor changes to building layouts; and to construct the project in a single phase.

General Land Use Assessment

- **Zoning.** The proposed development has an existing zoning of Business Planned Unit Development: Crossings on Enterprise Assisted Living Facility BPUD. As such, the land uses and site specifications are governed by the requirements of a development agreement and LDC Sec. 3-108 Planned Unit Developments.

The development program summary is as follows:

- i. Principal Structure (83,673 sf):
 1. 1 bedroom ALF and MC: 76 units/ 76 beds
 2. 2 bedroom ALF and MC: 14 units/ 28 beds

ii. Independent Living Facility Building (5,007 sf):

1. 1 bedroom ILF: 2 units/ 2 beds
2. 2 bedroom ILF: 2 units/ 4 beds

iii. Independent Living Facility Building (5,000 sf):

1. 1 bedroom ILF: 2 units/ 2 beds
2. 2 bedroom ILF: 2 units/ 4 beds

- **Land Uses.** The Crossings on Enterprise BPUD development agreement currently allows for, assisted living facilities where housing, meals and supportive services to older persons and disabled adults who are unable to live independently and are licensed as such by the state of Florida. While substantially similar to assisted living facilities, the BPUD also allows for independent living facilities.

- **Future Land Use.** The proposed development is under a future land use classification of Commercial/Office (c/o). Per Comprehensive Plan Policy 5.403(a), the C/O FLU classification provides for commercial areas which do not include extensive retail or service uses. Further this classification stipulates a FAR not to exceed 0.50 for non-residential land uses.

- a. The Applicant is proposing a total floor area of 0.45. Therefore, the Applicant’s FAR conforms with the City’s Comprehensive Plan requirements.

The following matrix identifies the impact of the proposed development upon neighboring properties.

DIRECTION	ZONING DESIGNATION	FLU DESIGNATION	USE
North	Orange City: Commercial Recreation (CR) Zoning Designation	Orange City: C/G Commercial General	Medical Centers
South	Glen Abbey, Residential Planned Unit Development (RPUD)	Glen Abbey, RLD Residential Low Density	Water Treatment Facility
East	Orange City: Planned Unit Development (PUD), Hospice	Orange City: C/G Commercial General	Volusia Co. BMV
West	Glen Abbey, Residential Planned Unit Development (RPUD)	Glen Abbey, RLD Residential Low Density	Single Family Residential

Matrix of Compatibility. Land uses within the compatibility matrix relate to one another by providing a visual reference to the character of the surrounding spaces, presently and in the future. The proposed development is compatible with the intended character and classification of space as, (1) the character of the existing BPUD is to provide for medically related uses, (2) it will buffer single family residential housing from more intense commercial facilities within Orange City and the Water Treatment Facility, and (3) the proposed development shall work in conjunction with the existing medical developments and not adversely impact the residential dwellings to the west.

The Applicant held a Community Meeting on August 20, 2019. It was noted by City Staff that two residents appeared at the meeting with questions in which the applicant answered. One comment card was submitted at the meeting and is included as an attachment to this report.

Additional considerations for City Council:

- Utilities: Volusia County Utilities has offered no objection to the proposed major amendment. With regard to future final site plan application, the applicant may be required to remove or relocate the existing water and gravity sewer infrastructure on-site as depicted in the master development plan.
- Transportation: Assisted living facilities have a low traffic generation rate. The previously approved development plans for the subject parcel contemplated approximately 35,000 square feet of commercial development, likely to be medical office. 35k sf of medical office space would generate approximately 1,265 trips per day, while the proposed mixed ALF/ILF is anticipated to generate 264 trips per day. Therefore, the proposed ALF/ILF project would likely generate significantly less trips than what was previously entitled.
- Buffering and Visibility. The property is adjoined by single family residential development to the west and a small portion of the south. There is an existing 8-foot-tall masonry wall that buffers the residential properties from the proposed development. In addition, there is a 35-foot-wide landscape buffer that contains existing mature trees and other vegetation. The proposed ALF building will be set back a minimum of 65 feet from the residential property boundaries.
- Resident Amenities. A summary of some of the proposed amenities and activities planned for the ALF is found below:
 - Courtyards – Outdoor Activities, Live Entertainment
 - Garden – Planting, vegetables, gardening
 - Sitting Area – Rest and Relax, TV viewing

COST/FUNDING

N/A

RECOMMENDATION

It is recommended that the City Council approve the second reading of Ordinance 11-19

IMPLEMENTATION

If City Council approves the second reading of the proposed Ordinance 11-19, then the applicant could submit a final site plan (engineering plans).

ATTACHMENTS

- Ordinance 11-19
- Development Agreement
- Master Development Plan
- Community Meeting Sign-In Sheet
- Community Meeting Comment Card

ORDINANCE NO. 11-19

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, AMENDING ORDINANCE NO. 01-19 AS FURTHER AMENDED BY RESOLUTION NO. 04-12, ORDINANCE NO. 11-03, ORDINANCE NO. 25-06 AND ORDINANCE NO. 12-16, APPROVING A MAJOR AMENDMENT TO THE CROSSINGS ON ENTERPRISE BUSINESS PLANNED UNIT DEVELOPMENT FOR THE REAL PROPERTY HAVING VOLUSIA COUNTY PROPERTY TAX IDENTIFICATION NUMBER 23-18-30-00-00-0100; APPROVING A SECOND AMENDMENT TO THE AMENDED AND RESTATED DEVELOPER'S AGREEMENT AND REPLACING THE MASTER DEVELOPMENT PLAN; PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND RECORDING.

WHEREAS, PARK ORANGE CITY, LLC (herein "Applicant") is the fee simple owner of that certain parcel of land consisting of approximately 4.6 +/- acres located in DeBary, Volusia County, Florida having a Volusia County Tax Parcel Identification Number 23-18-30-00-00-0100 and is more particularly legally described to wit:

THE SOUTH ¼ OF THE EAST ½ OF THE SOUTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 23, TOWNSHIP 18 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THE EAST 50 FEET THEREOF.

(herein the "Property"); and

WHEREAS, the City of DeBary City Council previously rezoned the Property to The Crossings on Enterprise BPUD pursuant to Ordinance No. 01-19, Ordinance No. 11-03 and further amended the BPUD by Resolution No. 04-12, Ordinance No. 25-06 and the Developer's Agreement recorded at Official Records Book 5957, Page 1076, et. seq. of the Public Records of Volusia County, Florida, and as again amended by Ordinance No. 12-16 and the Amended and Restated Developer's Agreement recorded at Official Records Book 7349, Page 592, et seq. of the Public Records of Volusia County, Florida (collectively the "The Crossings on Enterprise BPUD"); and

WHEREAS, the Applicant is requesting a major amendment to The Crossings on Enterprise BPUD to modify the BPUD as set forth in the Second Amendment to the Amended and Restated Development Agreement and incorporated Master Development Plan attached hereto as **Attachment "A"**; and

WHEREAS, the Applicant desires to substantially change the Master Development Plan and make revisions to the Amended and Restated Development Agreement; and

WHEREAS, this Ordinance has been advertised and noticed in accordance with the requirements of state law and Section 1-10 of the City of DeBary Land Development Code; and

WHEREAS, the City Council finds that this Ordinance and the major amendment to the The Crossings on Enterprise BPUD approved herein is consistent with the City of DeBary

Comprehensive Plan and Land Development Code and promotes the public health, safety and welfare; and

WHEREAS, the City of DeBary City Council acting as both the Land Planning Agency and the Governing Body has conducted the necessary public hearings on this Ordinance.

IT IS HEREBY ORDAINED BY THE CITY OF DeBARY AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and accurate and are incorporated herein as findings of the City Council.

SECTION 2. Major Amendment Granted. The Applicant's request for a major amendment of The Crossings on Enterprise BPUD is hereby granted. The Crossings on Enterprise BPUD is hereby amended with respect to the Property as described in the Second Amendment to Amended and Restated Development Agreement and incorporated Master Development Plan attached hereto as **Attachment "A"**. The Mayor and City Clerk are authorized to execute the Second Amendment to Amended and Restated Development Agreement.

SECTION 3. Recording. The City Clerk is hereby directed to record this Ordinance and the Second Amendment to Amended and Restated Development Agreement – The Crossings on Enterprise BPUD and its exhibit in the Public Records of Volusia County, Florida. The Crossings on Enterprise BPUD as amended by this Ordinance and attached Second Amendment to Amended and Restated Development Agreement and Master Development Plan affecting the Property shall run with the land and shall be applicable to and binding on the Applicant and any and all successors and assigns in interest.

SECTION 4. Severability. If any portion of this Ordinance is finally determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable or void, the balance of the Ordinance shall continue in full force and effect.

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

FIRST READING HELD on _____, 2019

ADOPTED AFTER SECOND READING on this ___ day of _____, 2019.

CITY COUNCIL

CITY OF DEBARY, FLORIDA

Karen Chasez, Mayor

ATTEST:

Annette Hatch, City Clerk

Attachment – **Attachment “A”** - Second Amendment to Amended and Restated Development Agreement and incorporated Master Development Plan.

Tuesday, August 20, 2019
5:30PM

Community Meeting
Sign in Sheet

19-03-PUD-Arya

	Name (Please Print)	Email Address	Phone Number
1	MR & Mrs Charles Clement	maryrclement@aol.com	
2	Terry Williams	laca7fish@earthlink.net	
3			
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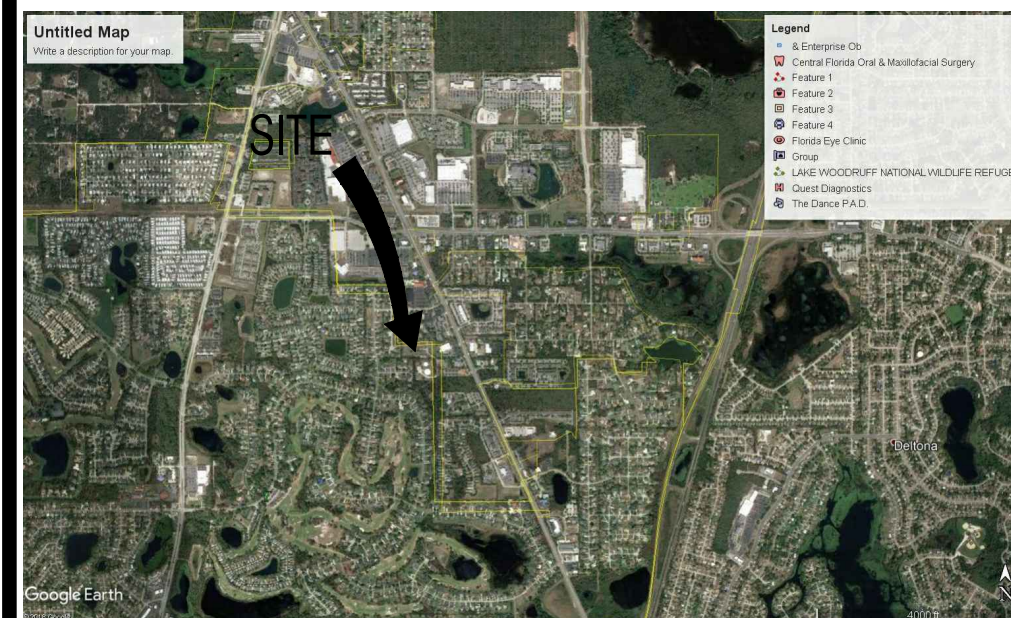
SEAL:

PARK SQUARE HOMES

THE ARYA AT DEBARY ASSISTED LIVING FACILITY

DEBARY, FLORIDA

VICINITY MAP



OWNER & CONSULTANTS

OWNER
PARCEL ID 802300000100
PARK ORANGE CITY LLC
5200 VINELAND RD STE 200
ORLANDO FL 32811

CIVIL ENGINEER
INTERPLAN LLC
604 COURTLAND ST, SUITE 100
ORLANDO, FL 32804
PH: (407) 645-5008
CONTACT: CHRIS BLURTON

REVISION ISSUE LOG

REV #	ISSUE DATE	DESCRIPTION	AFFECTED SHEETS	REMARKS	BY
1	5-3-19	CLIENT REVISIONS	MDP		CDB
2	6-19-19	CITY COMMENTS	MDP		CDB

SHEET INDEX

SHT. NO.	DESCRIPTION
CS	COVER SHEET
CIVIL DRAWINGS	
MDP	MASTER DEVELOPMENT PLAN
1 OF 2	SURVEY
2 OF 2	SURVEY
-	BUILDING ELEVATIONS

LOCATION MAP



LEGAL DESCRIPTION

PARCEL 1:
The South 1/4 of the East 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 23, Township 18 South, Range 30 East, Volusia County, Florida, LESS and EXCEPT the East 50 feet thereof.

PARCEL 2:
The East 50 feet of the South 1/4 of the East 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 23, Township 18 South, Range 30 East, Volusia County, Florida.

PARCEL 3:
Parcel A: The Northerly 181.92 feet of the Northeast 1/4 of Section 26, Township 18 South, Range 30 East, Volusia County, Florida, lying west of the West right-of-way line of Enterprise Road.
Parcel B: The Southerly 161.13 feet of the Northerly 343.05 feet of the Northeast 1/4 of Section 26, Township 18 South, Range 30 East, Volusia County, Florida, lying west of the West right-of-way line of Enterprise Road.

Less the following: Commence at a concrete monument (no identification) marking the Northwest corner of the Northeast 1/4 of Section 26, Township 18 South, Range 30 East, Volusia County, Florida; and run North 89°55'35" East, along the North line of he said Northeast 1/4, a distance of 228.51 feet to the Point of Beginning, thence continue North 89°55'35" East, along said North line, a distance of 306.88 feet to a point on the Southwesterly right-of-way line of Enterprise Road (as monumented); thence run South 24°19'25" East, along said right-of-way line, a distance of 199.53 feet; thence leaving said right-of-way line, run South 89°55'35" West, parallel to the aforesaid North line, a distance of 307.25 feet; thence run North 24°13'38" West, a distance of 199.37 feet to the Point of Beginning.

TOGETHER WITH: Non-Exclusive Easement Rights as set forth and created in that certain Cross Access and Utility Easement to Property recorded in Official Records Book 5230, Page 3766, Public Records of Volusia County, Florida, over, under and across the following described lands:

Commence at the Southwesterly corner of Lot 6, Enterprise Park, as recorded in Map Book 42, Page 126, of the Public Records of Volusia County, Florida, thence North 89°54'43" East, along the Southerly line of said Lot 6, a distance of 73.00 feet to the Point of Beginning; thence run North 00°06'17" West, a distance of 129.44 feet to a point on a curve being the Southeasterly right-of-way line of Rebecca Lane; thence along said curve with a radius of 50 feet and a delta of 41°28'18", run Northeasterly an arc distance of 36.19 feet, said curve having a chord bearing of North 44°48'42" East and a chord distance of 35.41 feet; thence leaving said curve, run South 00°06'17" East, perpendicular to the South line of said Lot 6, a distance of 154.52 feet; thence run South 89°53'43" West, along the South line of Lot 6, a distance of 25.00 feet to the Point of Beginning.

NO DATE REMARKS
REVISIONS

THE ARYA
AT DEBARY

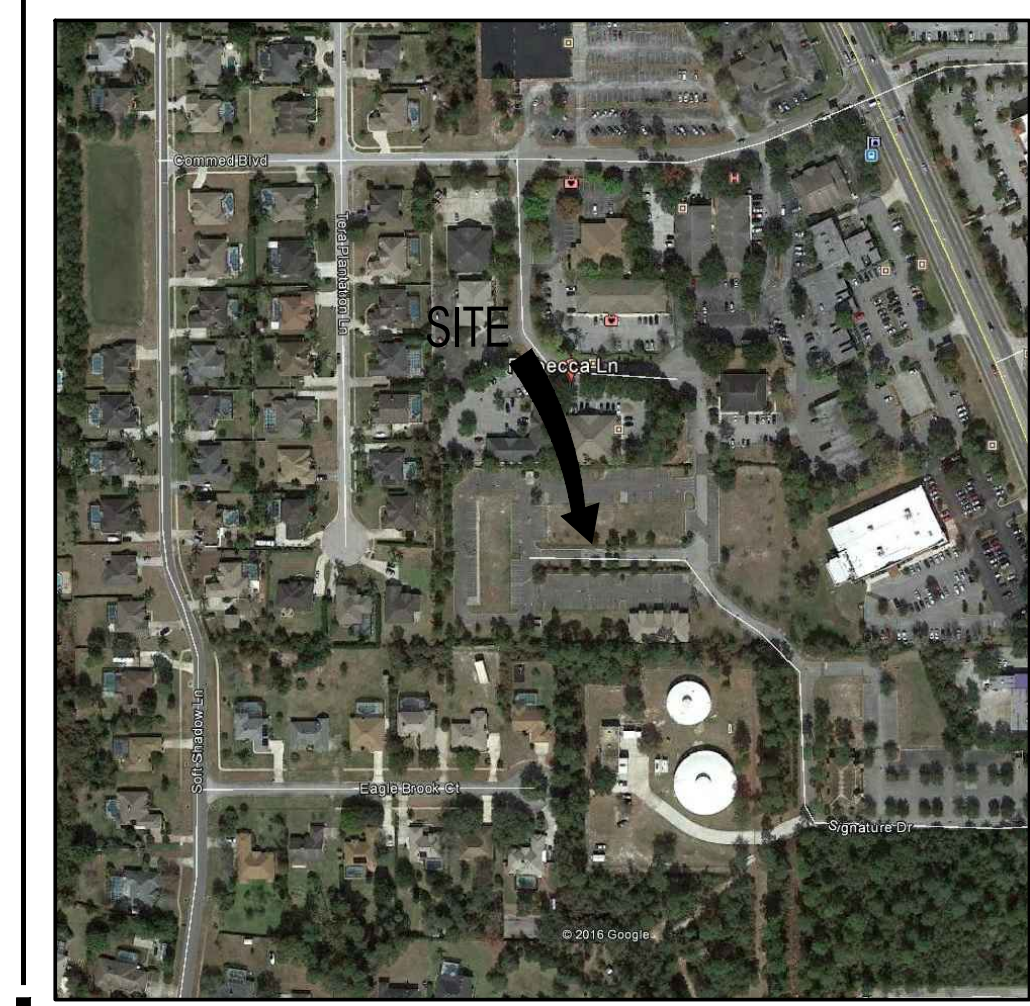
SIGNATURE DR.
DEBARY,
FLORIDA

PROJECT NO: 2018.0539
DATE: 5-3-19

CS
COVER SHEET

CHECKED: CDB DRAWN: MRS

VICINITY MAP



SITE DATA

SITE AREA (OVERALL)	220,969 SF	5.07 AC
SITE AREA (DEBARY BUID)	204,362 SF	4.69 AC
PROPOSED		
IMPERVIOUS { PAVEMENT/SIDEWALKS BUILDING	72,151 SF 56,827 SF	33% 26% } 59%
TOTAL IMPERVIOUS	128,978 SF	
OPEN SPACE (GREEN)	91,991 SF	41%
ZONING		
TOTAL FLOOR AREA	98,695 SF	
FLOOR AREA RATIO	F.A.R. = 0.45	
BUILDING HEIGHT	MAX. ALLOWED 40 FT	PROPOSED 40 FT (2 STORY)
BUILDING SETBACKS		
	REQUIRED	PROVIDED
FRONT (EAST)	10 FT	65 FT
REAR (WEST)	35 FT	65 FT
SIDE (SOUTH)	35 FT	10 FT
SIDE (NORTH)	10 FT	57 FT
MINIMUM INTERNAL BUILDING TO BUILDING SETBACK = 20 FT		
LANDSCAPE BUFFER		
	5 FT	5 FT
FRONT (EAST)	35 FT	35 FT
REAR (WEST)	35 FT	35 FT
SIDE (SOUTH)	35 FT	35 FT
SIDE (NORTH)	5 FT	5 FT

PARKING REQUIRED		REQUIRED
ALF: 1 SP./4BEDS + 1 PER EMPLOYEE/OR VISITING DOCTOR ON THE LARGEST SHIFT, 128 = 32 + 18 EMPLOYEE = 48 SPACES		
ILF (SENIOR HOUSING): 1.25 SPACES/UNIT + 1 GUEST SPACE FOR EVERY 5 UNITS 12 x 1.25 = 15 SPACES + 3 GUEST SPACES = 18 SPACES REQUIRED		
TOTAL		66 SPACES
PARKING PROVIDED		
REGULAR		62
HANDICAP		6
TOTAL		68

LOADING ZONES REQUIRED	
ALF: <100,000 GSF REQUIRES ONE 40' x 12' LOADING ZONE PER LDC SEC. 4-88	
ONE 50' x 20' AND ONE 20'x20' LOADING ZONE IS PROPOSED.	

TRIPS GENERATED	
ALF: 2.60 TRIPS PER DAY/ROOM 106 * 2.60 = 276 TRIPS PER DAY	ILF: 3.70 TRIPS PER DAY/UNIT 12 * 3.70 = 45 TRIPS PER DAY
TOTAL TRIPS PER DAY = 321 TRIPS GENERATED	

NOTES:
ALL MECHANICAL EQUIPMENT SHALL BE SCREENED WITH LANDSCAPING, FENCING OR WALLS.
FINAL CONSTRUCTION PLANS SHALL PROVIDE FOR RETENTION OF THE ENTIRE 100 YEAR STORM.
SITE IS SERVED BY AN EXISTING 8" PVC WATER MAIN.

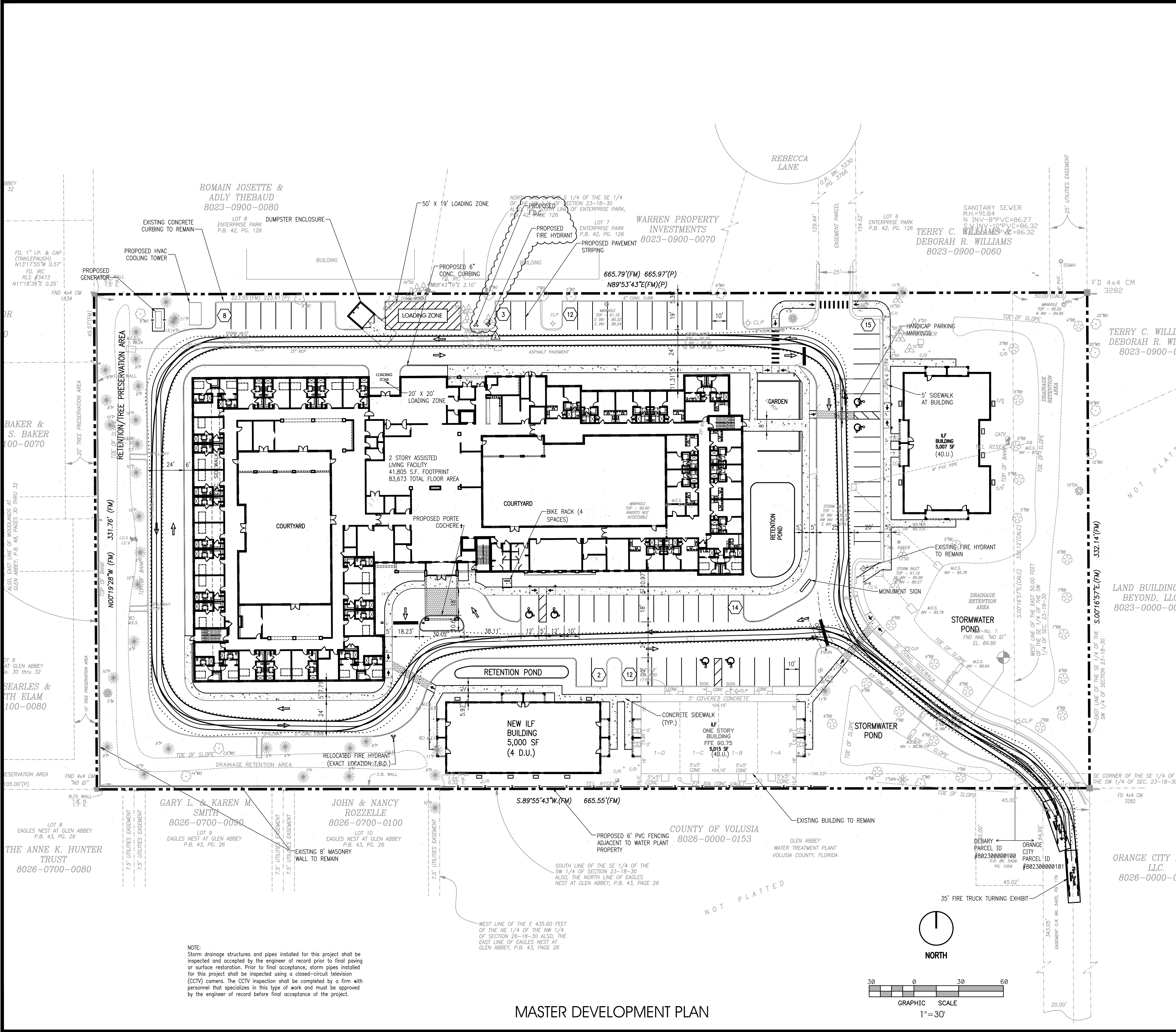
BUILDING FIRE FLOW CALCULATIONS (REF.NFPA FFPC 6TH EDITION, 2015)

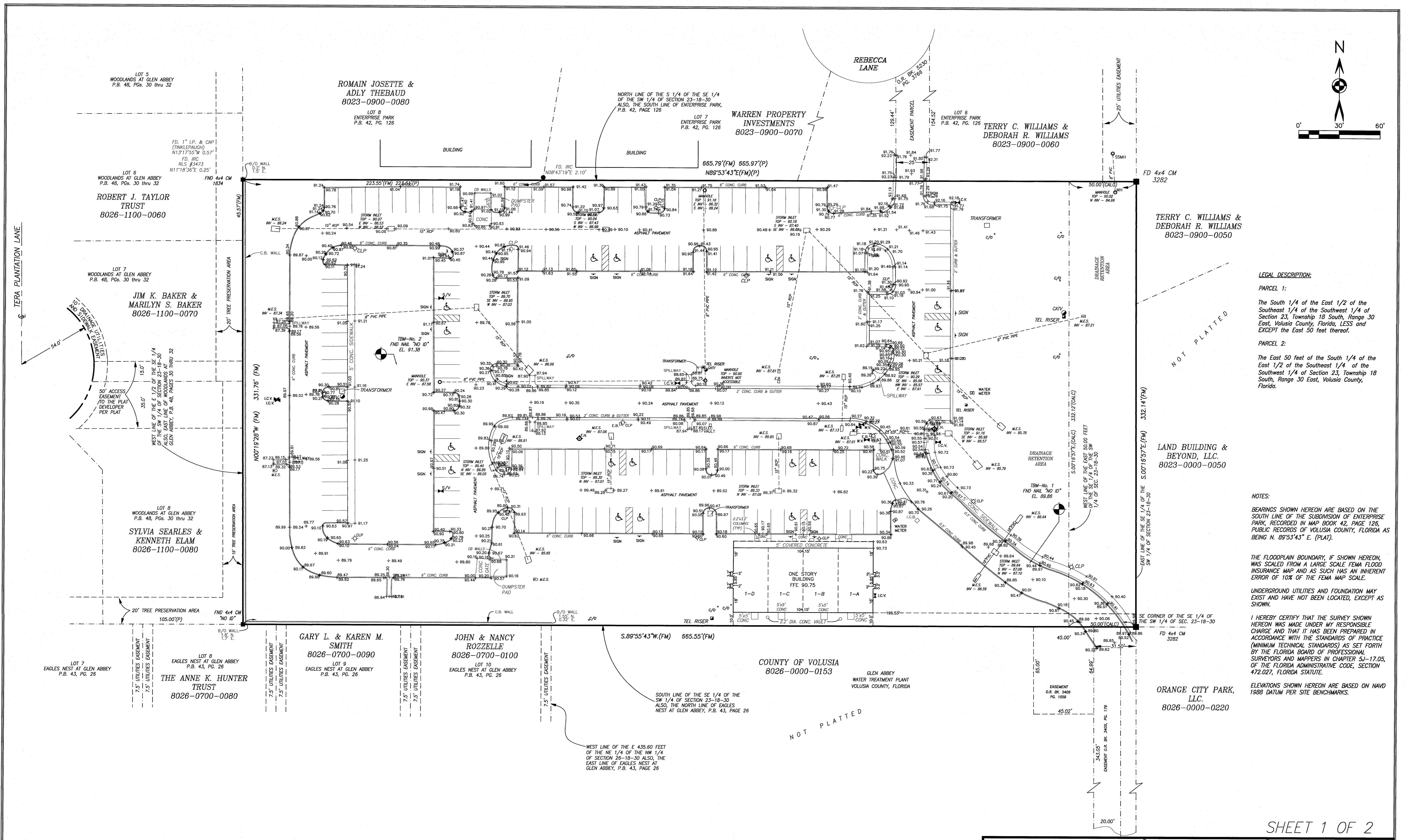
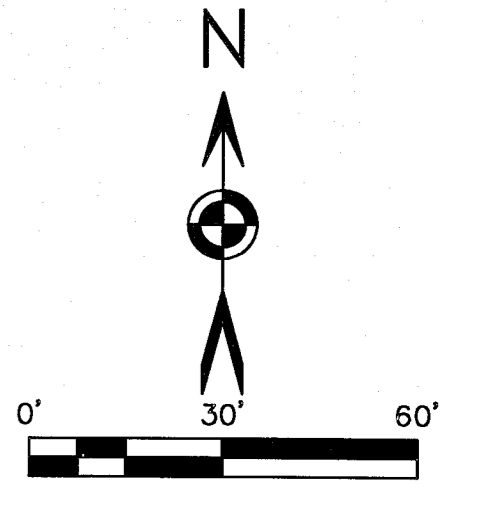
BUILDING TYPE	11B
LARGEST BUILDING AREA	83,673 SF
TABLE 18.4.5.1.2 NFF	6,000 GPM
75% REDUCTION FOR NFPA 13 SPRINKLER = 1,500 GPM NFF	
NUM. OF HYDRANTS PER TABLE E.3.	2

THE ARYA
AT DEBARY
SIGNATURE DR.
DEBARY,
FLORIDA

PROJECT NO: 2018.0539
DATE: 5-3-19

MDP
MASTER DEVELOPMENT
PLAN





LEGAL DESCRIPTION:

PARCEL 1:
The South 1/4 of the East 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 23, Township 18 South, Range 30 East, Volusia County, Florida, LESS and EXCEPT the East 50 feet thereof.

PARCEL 2:
The East 50 feet of the South 1/4 of the East 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 23, Township 18 South, Range 30 East, Volusia County, Florida.

LAND BUILDING & BEYOND, LLC.
8023-0000-0050

NOT PLATTED

NOTES:

BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH LINE OF THE SUBDIVISION OF ENTERPRISE PARK, RECORDED IN MAP BOOK 42, PAGE 126, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AS BEING N. 89°53'43" E. (PLAT).

THE FLOODPLAIN BOUNDARY, IF SHOWN HEREON, WAS SCALED FROM A LARGE SCALE FEMA FLOOD INSURANCE MAP AND AS SUCH HAS AN INHERENT ERROR OF 10% OF THE FEMA MAP SCALE.

UNDERGROUND UTILITIES AND FOUNDATION MAY EXIST AND HAVE NOT BEEN LOCATED, EXCEPT AS SHOWN.

I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON WAS MADE UNDER MY RESPONSIBLE CHARGE AND THAT IT HAS BEEN PREPARED IN ACCORDANCE WITH THE STANDARDS OF PRACTICE (MINIMUM TECHNICAL STANDARDS) AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17.05, OF THE FLORIDA ADMINISTRATIVE CODE, SECTION 472.027, FLORIDA STATUTE.

ELEVATIONS SHOWN HEREON ARE BASED ON NAVD 1988 DATUM PER SITE BENCHMARKS.

ABBREVIATIONS

AC=As-Cross	CONC=Concrete	F/W=Field Wire Fence	H/C=Hand & Cap	PR=Permanent Reference Mark	TB=Target Bearing
AD=Air Conditioning Unit	COR=Corner	GA=Day Anchor	NO=No Identification	PI=Point of Intersection	TL or T=Telephone Service
AS=Asphalt	CU=Concrete Utility Pole	GR=Gravel	OB=Official Record Book	PL=Plat	TR=Township
BP=Back Flow Preventer	D=Drainage	IR=Iron	OC=Overhead	PR=Property	U=Underground
BL=Block	DR=Drainage Retention Area	IS=Iron Stake	IC=In-Construction Control Valve	RD=Radial Line	UP=Utility Pole
BL=Block	ELE=Electric	IS=Iron Stake	IC=In-Construction Control Valve	RC=Reinforced Conc. Pipe	UR=Underground
BL=Block	ESC=Easement	IS=Iron Stake	IC=In-Construction Control Valve	RC=Reinforced Conc. Pipe	UR=Underground
BL=Block	ESC=Easement	IS=Iron Stake	IC=In-Construction Control Valve	RC=Reinforced Conc. Pipe	UR=Underground
BL=Block	ESC=Easement	IS=Iron Stake	IC=In-Construction Control Valve	RC=Reinforced Conc. Pipe	UR=Underground
BL=Block	ESC=Easement	IS=Iron Stake	IC=In-Construction Control Valve	RC=Reinforced Conc. Pipe	UR=Underground
BL=Block	ESC=Easement	IS=Iron Stake	IC=In-Construction Control Valve	RC=Reinforced Conc. Pipe	UR=Underground
BL=Block	ESC=Easement	IS=Iron Stake	IC=In-Construction Control Valve	RC=Reinforced Conc. Pipe	UR=Underground

NOTE:

This Plat of Survey is certified to and prepared for the sole and exclusive benefit of the entities and/or individuals shown hereon, valid on the most current data shown hereon, and shall not be relied upon by any other entity or individual whosever.

This Survey / Sketch has been prepared without benefit of abstract or title search unless otherwise noted hereon.

There may be additional restrictions and/or other matters of record not shown on this Survey / Sketch that may be found in the Public Records of the county or contained within the Title Commitment.

FLOOD CERTIFICATION:

(Per map dated September 29, 2017)

This is to certify that I have consulted the Federal Insurance Flood Hazard Boundary Map and found the ABOVE named Property IS NOT located in a special flood hazard area, according to Community Panel Map No. 12127C-0520-K Map, Panel 620 of 930, Zone "X".

BOUNDARY & TOPOGRAPHIC SURVEY
CERTIFIED TO:

PARK SQUARE HOMES

BLACKWELL & ASSOCIATES
LAND SURVEYORS, INC.

595 W. VOLUSIA AVE. • DELAND, FL • PH: (386)-734-8050
CERTIFICATE OF AUTHORIZATION NUMBER LB 2751

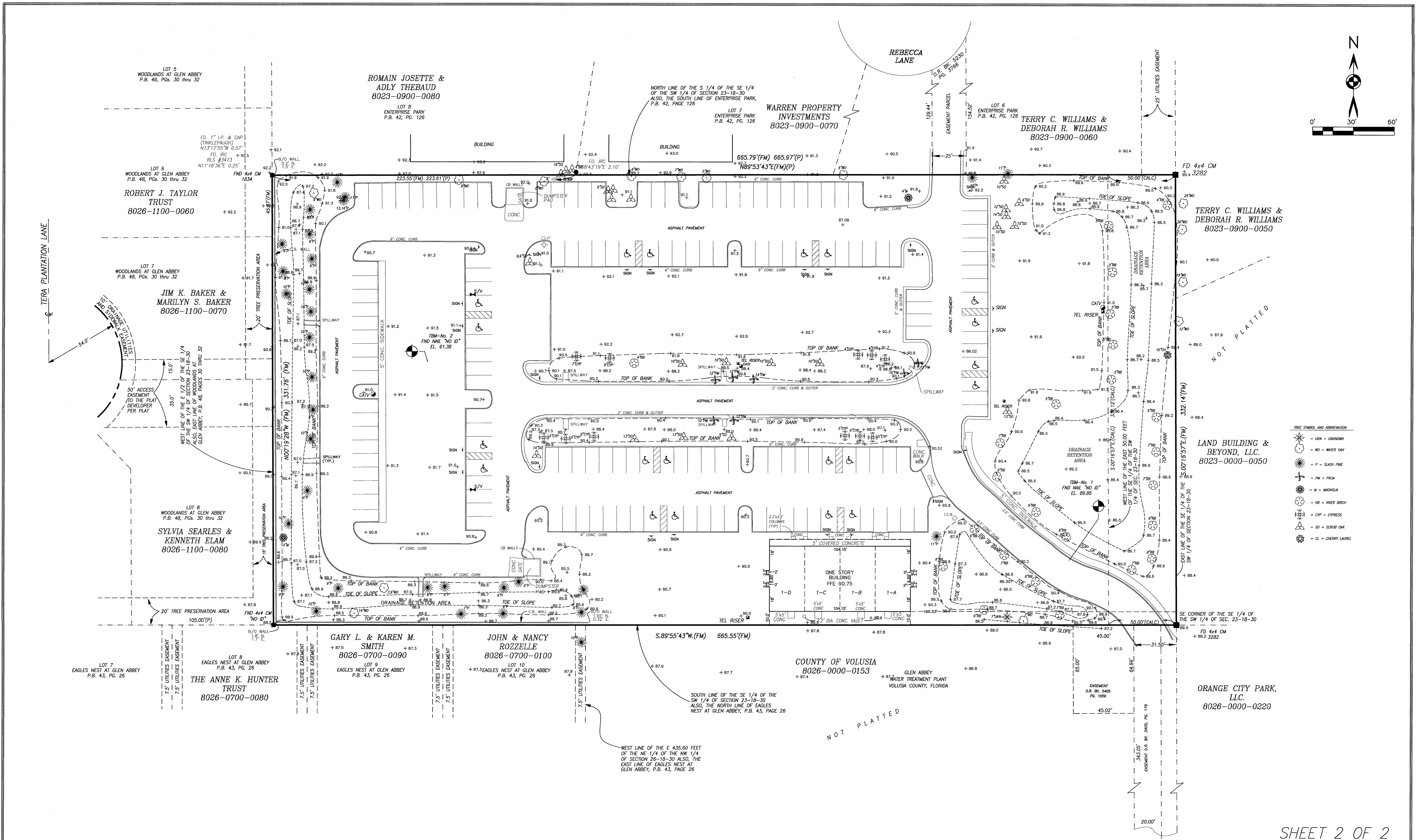
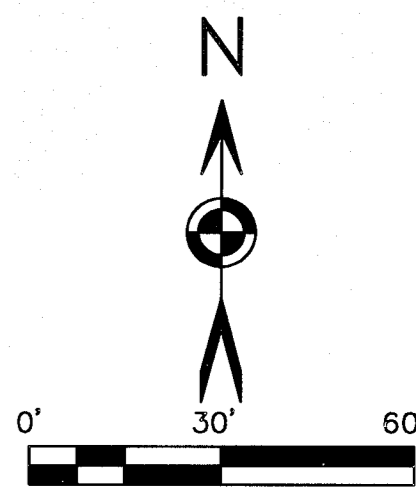
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SYMBOLS:

- = REBAR FOUND (SIZE SHOWN HEREON)
- = 1/2" REBAR & CAP SET
- = 4"x4" CONCRETE MONUMENT & CAP SET
- = CONCRETE MONUMENT FOUND (SIZE SHOWN HEREON)
- = R.L.S. DISC/ANAL SET
- = IRON PIPE FOUND (SIZE SHOWN HEREON)
- = BOLT FOUND (SIZE SHOWN HEREON)
- = P.W. NAIL FOUND

DATE: 6/7/18
DRAWN BY: R.E.
FIELD BOOK: 522-52
GRID FILE / FILE NO.: 4-235-01

BY: Robert R. Evers
ROBERT R. EVERS
FLORIDA CERTIFICATE # LS 5675



ABBREVIATIONS

A=Arc Length	CON=Concrete	F/W=Field Wire Fence	H/C=Held & Cap	PR=Permanent Reference Mon.	T=Target
AC=Area	CP=Corner	GA=Guy Anchor	NO ID=No Identification	PI=Point of Tangency	TEL or T=Telephone Service
AD=Asphalt	CUP=Concrete Utility Pole	GL=General Lot	OL=Official Record Book	PM=Point of Mean Curvature	U=Underground
ADP=Asphalt Paving	D=Drill Hole	IR=Irrigation Return	O=Overhead	PMI=Point of Mean Intersection	U/W=Underdrain
ADP=Asphalt Paving	DR=Drainage Retention Area	IR=Irrigation Return	Q=Quadrant	PMI=Point of Mean Intersection	U/W=Underdrain
ADP=Asphalt Paving	EL=Electric	IR=Irrigation Return	Q=Quadrant	PMI=Point of Mean Intersection	U/W=Underdrain
ADP=Asphalt Paving	EL=Electric	IR=Irrigation Return	Q=Quadrant	PMI=Point of Mean Intersection	U/W=Underdrain
ADP=Asphalt Paving	EL=Electric	IR=Irrigation Return	Q=Quadrant	PMI=Point of Mean Intersection	U/W=Underdrain
ADP=Asphalt Paving	EL=Electric	IR=Irrigation Return	Q=Quadrant	PMI=Point of Mean Intersection	U/W=Underdrain
ADP=Asphalt Paving	EL=Electric	IR=Irrigation Return	Q=Quadrant	PMI=Point of Mean Intersection	U/W=Underdrain
ADP=Asphalt Paving	EL=Electric	IR=Irrigation Return	Q=Quadrant	PMI=Point of Mean Intersection	U/W=Underdrain

NOTE:
This Plat of Survey is certified to and prepared for the sole and exclusive benefit of the parties and individuals shown hereon, valid on the most current date shown hereon, and shall not be relied upon by any other entity or individual who does not appear on this Survey / Sketch that may be found in the Public Records of the county or contained within the Title Commitment.
This Survey / Sketch has been prepared without benefit of abstract or title search unless otherwise noted hereon.

BLACKWELL & ASSOCIATES LAND SURVEYORS, INC.
995 N. VOLUSIA AVE. • DELAND, FL. • PH: (386) 734-8050
CERTIFICATE OF AUTHORIZATION NUMBER LB 2791

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SYMBOLS:

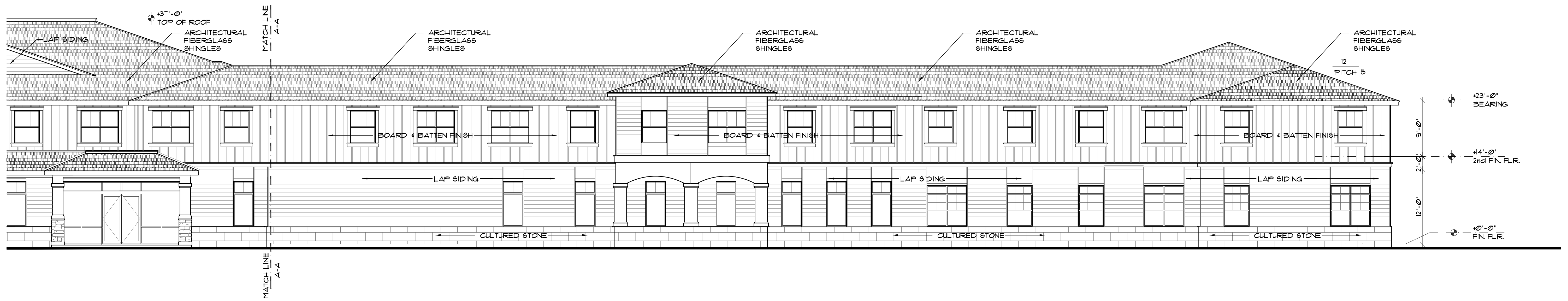
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- = 1/2" REBAR & CAP SET
- = 4" x 4" CONCRETE MONUMENT & CAP SET
- = CONCRETE MONUMENT FOUND (SIZE SHOWN HEREON)
- = R.L.S. DISC/NAI FOUND (SIZE SHOWN HEREON)
- = R.L.S. DISC/NAI SET
- = IRON PIPE FOUND (SIZE SHOWN HEREON)
- = IRON ROD FOUND (SIZE SHOWN HEREON)
- = IRON ROD FOUND (SIZE SHOWN HEREON)
- = IRON ROD FOUND (SIZE SHOWN HEREON)
- = IRON ROD FOUND (SIZE SHOWN HEREON)

DRAWN BY:	8/7/18
CHECKED BY:	4-235-04
DATE:	8/2/18
FIELD BOOK:	322-52
CADD FILE / FILE NO.:	4-235-04



FRONT (EAST) ELEVATION

SCALE: 1/8"=1'-0"



PARTIAL LEFT SIDE (SOUTH) ELEVATION

SCALE: 1/8"=1'-0"



PARTIAL LEFT SIDE (SOUTH) ELEVATION

SCALE: 1/8"=1'-0"

REVISIONS	NO.	DATE
1	4-18-2019	
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8		

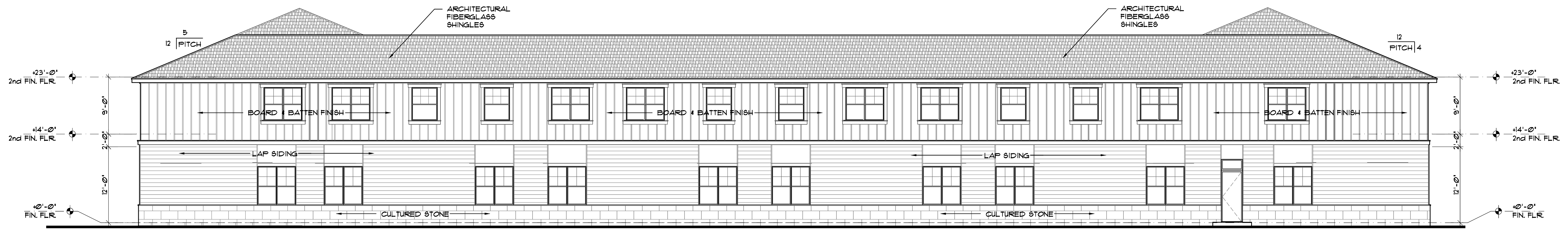
PROJECT NO.	DATE
152C18023-01	1-24-2019

ELEVATIONS

ARYA AT DEBARY FOR:
PARK ORANGE CITY L.L.C.
REBECCA LANE
DEBARY, FLORIDA

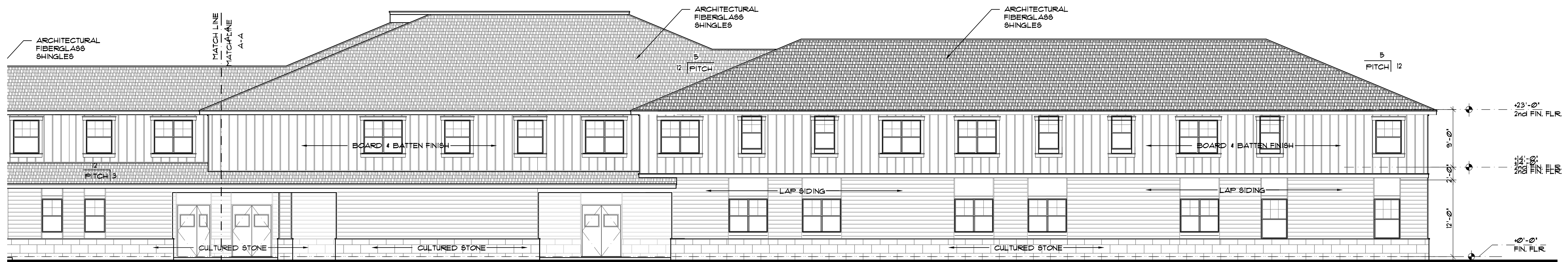
26002490
RABITS & ROMANO
ARCHITECTURE
PLANNING AND DESIGN
3127 SOUTH ORANGE AVE.
SUITE 110 ORLANDO, FL 32809
TEL: 407-490-0350
FAX: 407-252-6000
info@rabits-architect.com
www.rabits-architect.com

SIGN/SEAL
DATE
SHEET A400 OF 2



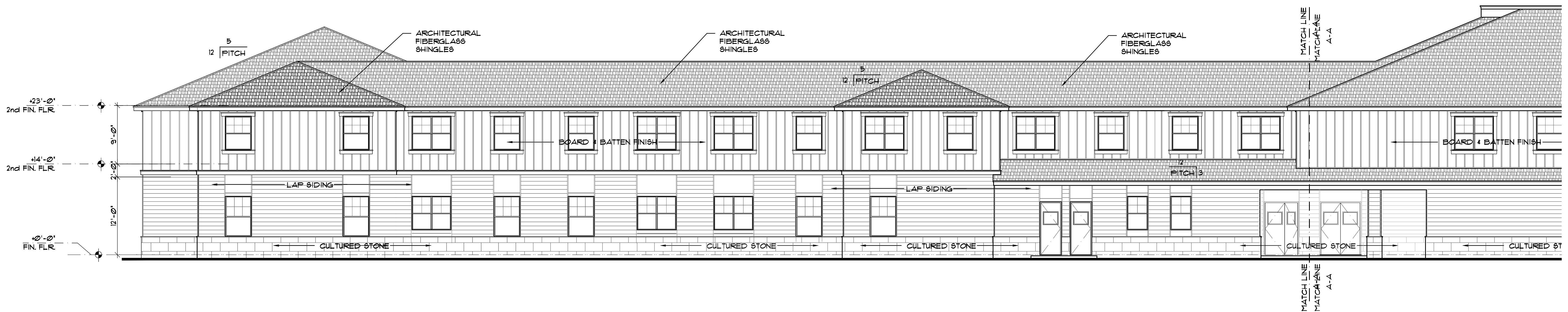
REAR (WEST) ELEVATION

SCALE: 1/8"=1'-0"



PARTIAL RIGHT SIDE (NORTH) ELEVATION

SCALE: 1/8"=1'-0"



PARTIAL RIGHT SIDE (NORTH) ELEVATION

SCALE: 1/8"=1'-0"

REVISIONS	NO.	DATE
1	1	4-15-2019
2	2	
3	3	
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6	6	
7	7	
8	8	

PROJECT NO. 152CH18023-01	DATE 1-24-2019
------------------------------	-------------------

ELEVATIONS

ARYA AT DEBARY FOR:
PARK ORANGE CITY L.L.C.
REBECCA LANE
DEBARY, FLORIDA

26002490
RABITS & ROMANO
PLANNING
AND
DESIGN
ARCHITECTURE
3127 SOUTH ORANGE AVE.
SUITE 110 ORLANDO, FL 32809
TEL - 407-490-0350
FAX - 407-252-6000
info@rabits-architect.com
www.rabits-architect.com

SIGN/SEAL

DATE

SHEET
A401
OF
2

After recording return to
City of DeBary
Attn: City Clerk
16 Colomba Road
DeBary, Florida 32713

Attachment "A" to BPUD Amendment Ordinance

**SECOND AMENDMENT TO AMENDED AND RESTATED DEVELOPER'S
AGREEMENT
"THE CROSSINGS ON ENTERPRISE"
BUSINESS PLANNED UNIT DEVELOPMENT**

THIS SECOND AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT (herein this "First Amendment") entered into and made as of the _____, 2019, by and between the CITY OF DEBARY, a Florida municipal corporation (hereinafter referred to as the "City"), and PARK ORANGE CITY, LLC, a Florida limited liability company (hereinafter referred to as the "Owner/Developer").

WHEREAS, Owner/Developer represents and warrants that it is the current fee simple owner of that certain real property (the "Property") being approximately 4.6 +/- acres in size, having a Volusia County Tax Parcel Identification Number #23-18-30-00-00-0100, and legally described to wit:

**THE SOUTH ¼ OF THE EAST ½ OF THE SOUTHEAST ¼ OF THE
SOUTHWEST ¼ OF SECTION 23, TOWNSHIP 18 SOUTH, RANGE 30
EAST, VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THE EAST
50 FEET THEREOF.**

WHEREAS, further Owner/Developer represents and warrants that it is the current fee simple owner of that certain real property located in Orange City (the "Stormwater Tract") being approximately 0.38 +/- acres in size, having a Volusia County Tax Parcel Identification Number # 802300000101, and legally described to wit:

The East 50 feet of the South ¼ of the East 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 23, Township 18 South, Range 30 East, Volusia County, Florida.

WHEREAS, the City and Owner/Developer's predecessor in interest entered into that certain Amended and Restated Developer's Agreement recorded at Official Records Book 7349, Page 592, et seq. of the Public Records of Volusia County, Florida (the "Development Agreement") along with its corresponding master development plan concerning The Crossings on Enterprise BPUD governing the development of the Property; and

WHEREAS, the Owner/Developer is requesting a major amendment to The Crossings on Enterprise BPUD to modify the Development Agreement and its corresponding master development plan as set forth in this First Amendment and the incorporated replacement Master Development Plan attached hereto as Exhibit "A"; and

WHEREAS, the City Council of the City of DeBary, Florida, finds that this First Amendment is consistent with the City of DeBary Comprehensive Plan and Land Development Code and promotes the public health, safety and welfare and is consistent with its authority under Chapter 166, Florida Statutes, Section 2(b) of the State Constitution, and the City's police powers; and

WHEREAS, the City of DeBary City Council finds that this First Amendment promotes the public health, safety, and welfare and is consistent with and authorized by its authority under Chapter 166, Florida Statutes, Article VIII, Section 2 (b) of the State Constitution, and the City's home rule authority and police powers.

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. **Master Development Plan Amendment**. The Development Agreement is amended to replace the Master Development Plan referenced in the Development Agreement with

The Arya at DeBary Assisted Living Facility plan prepared by Interplan, LLC dated January 16, 2019 which is attached hereto as Exhibit “A.”

Further, the second sentence of Section 2 (Master Development Plan) of the Development Agreement is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

The Master Development Plan shall consist of the terms and conditions of this Development Agreement and the site dimension plan prepared by Interplan LLC entitled Park Square Homes - The Arya at DeBary Assisted Living Facility and dated ~~May 3, 2016~~ January 30, 2019 March 3, 2019 (collectively, the “Master Development Plan”).

2. Development Standards Amendment. Subsections A., C., E., and H of the Section 11 of the Development Agreement are amended to read (subsections not included below remain as written and are not being amended):

A. ~~Maximum~~ Overall lot area: 4.6 acres are included within the BPUD. Additionally, 0.38 acre Stormwater Tract adjacent to the BPUD property shall be used for stormwater treatment and retention for the BPUD development.

C. Maximum Building height: ~~35 feet~~ 40 feet.

E. Parking Requirements: The amount and configuration of off-street parking and loading areas within the PUD shall comply with Articles 3 and 4 of the DeBary Land Development Code, except for one (1) loading space, directly connected to the northern building plane, which shall be permitted to be constructed at approximately 20 feet by 20 feet. Bicycle parking shall be provided per Section 3-129(10), DeBary Land Development Code.

H. Building Exterior Design and Appearance Requirements: The Owner/Developer shall comply with the City of DeBary Land Development Code. The Independent Living Facility (ILF) buildings shall be a similar architectural style to the primary ALF building.

3. **Phases of Development.** Section 9. of the Development Agreement (Phases of Development) is amended to read:

9. Phases of Development. The assisted living facility (ALF) building and all site improvements required for the development shall be developed in its entirety a single phase subject to City of DeBary review and approval as part of a land development application. The buildings labeled “Future ILF” on the Master Development Plan may will be constructed with the first phase, or as part of a future phase two with a separate land development and building permit application.

4. **Defining of the Independent Living Facility Land Use.** The description of the permitted use of Assisted living facilities in Section 10 iii. of the Development Agreement (Land Use Within the PUD) is amended to provide the following clarification (underlined words are additions): Assisted living facilities (ALF) and/or independent living facilities (ILF) where housing, meals and supportive services shall be provided to older persons and disabled adults who are unable to live independently (unless otherwise defined as an independent living facility) and are licensed as such by the State of Florida.

5. Section 14. of the Development Agreement (Stormwater Drainage) is amended to add a new paragraph at the end to read:

STORMWATER TRACT DEED RESTRICTION. The Stormwater Tract (as defined in the Whereas clauses) shall be and is hereby subject to a deed restriction which limits the use and development of the Stormwater Tract solely for stormwater treatment and retention and drainage

improvements to support the use and development of the Property in a manner consistent with this Development Agreement and its corresponding Master Development Plan. The Stormwater Tract and Property shall remain in unified ownership, except if the Stormwater Tract is conveyed to a property owners' association that is responsible for the maintenance and repair of common areas of the Property. Owner/Developer and its successors and assigns in interest shall have no right to develop or improve the Stormwater Tract for any other purpose than as set forth above. This deed restriction shall run with the land and shall be binding upon the Owner/ Developer and its successors and assigns in interest and upon the Stormwater Tract and the Property. This deed restriction upon the Stormwater Tract shall be enforceable at law and in equity by the City of DeBary, St. Johns River Water Management District, Orange City, any tenant or any owner of the Property (or any one of them individually or collectively); such enforcement may include, but is not limited to, withholding permits and approvals for development inconsistent with this deed restriction. Further, a violation of such deed restriction upon the Stormwater Tract shall constitute a violation of this Development Agreement and the BPUD zoning for Property.

6. **Notices.** Section 28 of the Development Agreement is amended to change the designated addresses for written notices to the following:

OWNER/DEVELOPER'S REPRESENTATIVE

Park Orange City LLC
5200 Vineland Road, STE
200
Orlando, FL 32811
Phone: (407) 529-3080
EMAIL:
vgupta@parksquarehomes.com

CITY'S REPRESENTATIVES:

Department of Growth Management
16 Colomba Rd
DeBary, FL 32713 Phone (386) 668-2040 x325, x317

Fax (386) 668-3523
and
City Manager
16 Colomba Rd.
DeBary, FL 32713
Phone (386-668-2040)
Fax (386) 668-4122

7. **Development Review Cost.** The Owner/Developer (and its successors and assigns in interests) shall timely pay the City for any and all development review costs concerning the development and the Property in accordance with Section 1-16, City of DeBary Land Development Code. Owner/Developer acknowledges and agrees that Owner/Developer have read § 1-16, DeBary Land Development Code and understand Owner/Developer's responsibilities and obligations under such code provision and this First Amendment and Development Agreement and acknowledges and agrees that Owner/Developer is bound by such code provision for all development applications and approvals relating to the Property.

8. **Full Force & Effect; Binding.** The Development Agreement shall remain in full force and effect except as expressly modified by this First Amendment. This Amendment shall run with the land and be binding upon, and inure to the benefit of, the parties hereto, their respective heirs, successors, assigns and anyone claiming by, through or under any of them.

9. **Effective Date.** The effective date of this First Amendment shall be the date approved by the City Council.

AGREED to by the City Council of the City of DeBary, Florida and the Owner/Developer on this _____ day of _____ 2019.

[REMAINDER OF PAGE LEFT BLANK]

WITNESSES:

Owner/Developer

Park Orange City LLC, a Florida limited liability company

By: _____

Print Name: _____

Title: _____

Signature

Print

Signature

Print

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____ in the year 2019 by _____ as Managing Member of Park Orange City LLC, a Florida limited liability company, on behalf of said company, who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name _____

Commission No. _____

My Commission Expires: _____

ATTEST:

CITY OF DEBARY CITY COUNCIL

Annette Hatch, City Clerk

Karen Chasez, Mayor

City Council Approved on _____, 2019.

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____ 2019, by Karen Chasez as Mayor, on behalf of the City of DeBary, and who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

Type or print Name: _____

Commission No.: _____

My Commission Expires: _____

Comment Card

Community Meeting
Tuesday, August 20, 2019
19-03-PUD-Arya

Name: Jerry Williams Phone Number: _____

Address: 1111 SAXON Blvd.

Email: _____

jacatfish@earthlink.net

386-801-5592

Traffic pass thru agreement

Concerned about others (applicant site)

Traffic burden wear & tear on his private
parking lot and



City Council Meeting City of DeBary AGENDA ITEM

Subject: DeBary Commerce Park Comprehensive Plan Amendment	Attachments: <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
From: Matt Boerger, Growth Management	
Meeting Hearing Date November 6, 2019	

REQUEST

KBC Development (DeBary Commerce Park), is requesting approval of the second reading of Ordinance 09-19, allowing for a Future Land Use Map Amendment from General Office to Industrial/Service.

PURPOSE

The purpose of this request is to change the existing future land use designation to allow for the construction of an industrial park behind commercial development.

CONSIDERATIONS

The subject property is approximately 24 acres and is located west of US 17-92, south of Spring Vista Drive and east of Shell Road, Parcel number 9004-0000-0016.

The property is currently zoned B-4 General Commercial and B-9 General Office and has a future land use designation of Commercial/Retail (C/R) and Commercial/Office (C/O).

The purpose and intent of the B-4 General Commercial Classification is to encourage the development of intensive commercial areas providing a wide range of goods and services, and located adjoining at least one major collector or arterial road. The purpose and intent of the B-9 General Office is to provide areas for general office use.

The Commercial/Retail classification, Comprehensive Plan Future Land Use Element Policy 5.403(b), provides for commercial retail and service uses, as well as the uses and activities permitted in the C/O classification. The purpose and intent of this land use is to identify locations for a variety of commercial uses including neighborhood and community shopping centers, convenience stores, retail sales, highway oriented commercial and other commercial services.

The Commercial/Office classification, Comprehensive Plan Future Land Use Element Policy 5.403(a), provides for commercial areas which do not include extensive retail or service uses and reserves areas for the expansion of office employment and service uses without the adverse impacts of traffic and congestion commonly associated with retail development.

The proposed Industrial/Service (IS) future land use designation would allow for industrial and commercial activities. Future Land Use Element, Policy 5.404 (c), provides for manufacturing, warehouse and distribution, and other industrial and commercial retail activities.

The subject property is currently wooded, and undeveloped. The applicant is proposing to construct an industrial park with approximately 125,000 square feet of space and two commercial frontage tracts along US 17-92. The Master Development Plan illustrates nine (9) buildings ranging from 9,000 square feet to 15,000 square feet a piece, adding up to roughly 125,000 square feet. The maximum building height would be 45 feet. The two commercial tracts fronting US 17-92 range from roughly 1.5 to 2.5 acres a piece and could accommodate restaurant/retail type commercial uses. The maximum building height would be 40 feet.

Please note: While this agenda item is being considered for an amendment to the City of DeBary Comprehensive Plan Future Land Use Map, a concurrent MPUD has also been submitted to the City. The MPUD application includes a Master Development Plan and Development Agreement which has been attached to this agenda item for context of what will be up for the City Council to consider in the next agenda item.

While the subject site has been undeveloped, the surrounding area generally consists of office parks, public storage, undeveloped tracts of land zoned for office parks and suburban low density developments. The Springview residential subdivision is northwest of the subject site. This community exits onto Spring Vista Drive which runs north of the site. There is a tract of land north of the subject site and south of Spring Vista Drive that is currently undeveloped and zoned as Business Planned Unit Development. Another tract of land north of the subject site is currently developed as public storage.

The area to the south of the subject site is zoned industrial but remains undeveloped likely due to the large power transmission lines and easement that transverse the site. The area west of the subject site is the existing Springview Commerce Industrial Park.

Please see the table below for further description of the surrounding area.

	Property Use	Future Land Use	Zoning
North	Vacant, Public Storage	Commercial/Office (CO); Commercial/Retail (CR)	BPUD
South	Vacant/Power Transmission	Industrial/Service (IS)	Light Industrial (I-1)

	Line		
East	US 17-92, Vacant	Commercial/Retail (CR)	General Commercial (B-4)
West	Shell Road/Springview Commerce Industrial Park	Industrial/Service (IS)	Light Industrial (I-1)

The proposed development would essentially be an eastward expansion of the Springview Commerce Industrial Park with similar development types. Springview Commerce Park similarly has roughly 9,000 square foot to 20,000 square foot buildings. Additionally, the property to the south has similar industrial future land use and zoning designations. The properties to the north between the subject site and Spring Vista Drive are zoned for office or public storage and offer a buffer between the proposed development to the south and existing residential subdivision to the north.

Land Development Code, Sec 3-2a – Zoning/future land use compatibility matrix

Land Use Classifications	Future Land Use	Net Density (Dwelling units per net buildable acre) and Floor Area Ratios (FAR)	Allowable Zoning Classifications
Industrial Classifications	Industrial /Service (IS)	Max FAR 1.0	I-1 (Light Industrial), Planned Unit Development, B-5 (Heavy Commercial)

Transportation: The proposed project will primarily impact US 17-92, with secondary impacts to Shell Road. The proposed use is not anticipated to significantly generate different traffic volumes than the existing zoning and land use designations would generate.

Schools: Not applicable

Water/Sewer: Volusia County Utilities serves water and sewer to the subject site and have stated that adequate capacity exists to serve the site.

Environmental Impacts: The proposed development will meet the requirements of local, state and federal environmental regulations.

Community Meeting: The applicant held a community meeting on May 21, 2019. Seven (7) people signed the community meeting sign-in sheet, although more were likely in attendance. It appeared that the majority of concerns were from the nearby Springview residents who did not want to see an expansion of industrial uses in the area. Some comments were in regards to prohibiting the north access point to Spring Vista Drive. The Developer stated that they would be willing to consider removing this access point leaving access to only Shell Road and US 17-92. Please see the attached comments summary and sign in sheet for additional detail.

Any proposed development of the subject property will be required to undergo the development approval process consistent with the City's Land Development Code. This would include a final site plan (engineering plans) to be reviewed by the City's Development Review Committee.

On July 17, 2019, the City Council approved the transmittal of the proposed Comprehensive Plan Amendment to the State Department of Economic Opportunity and the Volusia Growth Management Commission. Both parties have since responded that there are no issues with the City's proposed comprehensive plan future land use map amendment.

Findings of Fact

- The property's existing future land use of Commercial/Office is adjacent to Industrial/Service to the west and south.
- The subject properties north of the subject site of public storage and BPUD zoning may act as a buffer between the proposed industrial park and the existing residential areas to the north.
- The subject site fronts US 17-92 and the eastern portion of the properties is planned to remain a commercial use.
- The proposed amendment is consistent with Future Land Use Element Policy 5.505 regarding the considerations for amendments for the Comprehensive Plan.
- The proposed MPUD is in compliance with the City's Land Development Code, Sec. 3-108 - PUD Planned Unit Development.
- The proposed MPUD is in compliance with the City's Land Development Code, Sec. 1-6 – Rezoning.
- On February 26, 2019 the DRC reviewed and recommended approval Case #19-02-CPA-CommercePark, where the applicant preferred to wait for public hearing scheduling until the concurrent MPUD was recommended for approval by the DRC as well.

- On July 17, 2019, the City Council approved the transmittal of Ordinance 09-19 to the Volusia Growth Management Commission and the State Department of Economic Opportunity for an amendment to the comprehensive plan.
- On July 17, 2019, the City Council approved the first reading of Ordinance 10-19.

COST/FUNDING

N/A

RECOMMENDATION

Approve the second reading and transmittal of Ordinance #09-19

IMPLEMENTATION

If the City Council approves the second reading of the Comprehensive Plan and associated PUD, then the applicant will be permitted to submit for a Final Site Plan (Engineering Plan).

ATTACHMENTS

- Future Land Use Map
- Community Meeting Comments Compiled
- Community Meeting Sign-in Sheet
- Ordinance 09-19
- MPUD Development Agreement
- Master Development Plan

Tuesday, May 21, 2019
5:30PM

Community Meeting
Sign in Sheet

19-02-PUD-CommercePark

	Name (Please Print)	Email Address	Phone Number
1	David Michaud	flgatorusa@yahoo.com	386-837-9102
2	Bob Gross	nobe@completecommonline.com	407-790-1200
3	Debbie Scotta	Phantomphixerswife@yahoo.com	321-304-7179
4	Tracey Sadiq	TraceySadiq@hotmail.com	386-753-9782
5	Joe Schmidt	JFS.399@cimcast.net	386-837-3129
6	Inaldis Sibillo	Nanoky@bellsouth.net	386-490-2503
7	Jim Munroe	Munroe325@comcast.net	386-668-9231
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Community Meeting Cards
KBC Development & Dewberry

19-02-PUD-CommercePark

Tuesday, May 21, 2019

~Via EMAIL~

1)

We were at tonight's meeting and would appreciate any pertinent information you can send us. As long-time Springview residents, we do not like the idea of an industrial complex literally across the street. When our family moved here in October 2000 we loved how quiet the area was and hoped the city would continue to grow and stay a family oriented community. But this is the wrong type of growth. It will not attract new families to the area and will instead drive them away. We and others we have talked to in our neighborhood will not wish to remain if this re-zoning is approved.

Thank you,
Joe & Marcie Schmidt
399 Oak Springs Court
DeBary, FL 32713
jfs.399@comcast.net
386-837-3129

~Via EMAIL~

2)

I'm a long-time resident of DeBary. Moved in to a newly built house in Springview in 2000. My house was 1 of the first 3 built and we all closed on the same day back then. I'm the longest living resident in Springview so you could say I've seen all the changes since 2000.

When we decided to move in, we were told by the developer and builder for Springview that all the land from 17/92 down Spring Vista into our neighborhood at Shell would only get Office complexes (Commercial businesses) built on it. That this would never change. Now you, the City Council, want to approve a change in zoning so that this developer can build Industrial buildings? No!!

First of all, this guy Chris from KBC Development is not straight forward and is not honest. He repeatedly lied during the meeting, misled us and was very evasive when giving answers to questions.

When I asked him what he was planning to build he said it would be LITE (LIGHT) industrial. Every time he spoke of the zoning throughout the whole meeting, he kept saying lite industrial. This is not lite industrial – it is industrial. Nowhere in the entire MPUD Development Agreement is the word LITE used. In other words – he was being evasive trying to make the proposal seem less industrial than it actually is. Page 6 clearly shows the manufacturing that can be put in there if this is approved. He kept saying “come see our other complex in Sanford and you'll see what it'll look like.” While it MAY look like his Sanford complex it also COULD look a whole lot different based on what the law allows should the zoning be changed. Unless you are going to restrict what can be built, anything listed on Page 6 and 7 can be built in the Industrial area.

When we questioned him on changing the zoning to industrial, he said “well the current zoning allows for a Best Buy or other Big Box store to be built on that land. I doubted that but had no evidence to question him. But then Matt Boerger from the City of DeBary got up and said “no, a Best Buy or other Big Box cannot be built on that land with the current zoning.” So once again Chris was lying trying to make his proposal look better.

When Chris was questioned about the entrance off Spring Vista and why it was there along with 2 other entrances, 1 off Shell and the other off 17/92 he said his plan is to have most traffic enter and exit from the Shell road entrance. Well guess what, if you build it – people will use it however they feel like using it. That Spring Vista entrance will be used the most, by far. And that is the only road, more or less, in and out of our neighborhood – Spring Vista. Having that entrance is a terrible idea, almost

worse that changing the zoning to industrial. We will be competing with trucks to use the road. That road currently says no trucks over 1 ton allowed but no one follows that rule. There are signs at the 17/92 entrance and again at the Shell road entrance to the road. Just this morning I saw an 18 wheeler turn on to Spring Vista from 17/92 to go to the new houses being built in Springview woods behind us. There are never any police there to monitor the traffic and hand out tickets. As I said, if you build it, they will use it. Chris was evasive in saying his “plan” was for traffic to use Shell. Well they will use whatever entrance they feel like. That is what is happening now the city isn’t doing anything about it.

When the president of our HOA asked Chris what percentage would be Industrial and what percentage would be commercial his response was “I don’t know, depends on what companies rent space”. While that answer is technically true it’s incredibly misleading. I pointed this out by asking him if it is safe to say that the area marked on Site Plan C03 as commercial Phase 2 and commercial phase 3 are the only commercial areas and the rest is considered industrial. He said yes that is safe to say. But simply viewing the layout I could tell the answer is about 75% Industrial and 25% commercial. Why Chris was unable/unwilling to state this is unknown. Again, he was being evasive and mislead us in his answer, trying to downplay the amount of industrial space going in.

There were other comments made by him that followed the same pattern but I don’t remember them all.

I am not a fan of someone who is evasive, misleading and outright lying. I don’t know how my city council can take this man’s word on anything. I don’t trust him, neither should the City of DeBary.

Two things I would like to see happen:

1. Deny this zoning change. It wasn’t ever supposed to be industrial The residents don’t want it. Our property values are not going up because of this – they would only go down. The amount of noise, pollution, traffic from this would be enormous in a residential area.
2. Short of number 1 happening, at least remove the entrance from Spring Vista. This is our ONLY way in and out of our neighborhood and we shouldn’t have to fight with trucks and all the traffic it’ll bring. Make the entrance on 17/92 and Shell the primary entrances and exits.

David Michaud, 308 Sabal Springs Ct. DeBary
Cell: 386-837-9102

ORDINANCE 09-19

AN ORDINANCE OF THE CITY COUNCIL OF DEBARY, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN FUTURE LAND USE MAP (FLUM); CHANGING THE FUTURE LAND USE DESIGNATION OF THE WESTERN PORTION OF A PARCEL OF LAND, LOCATED ADJACENT TO AND EAST OF SHELL ROAD, SOUTH OF SPRING VISTA DRIVE AND ADJACENT TO AND WEST OF U.S. HIGHWAY 17/92, HAVING A VOLUSIA COUNTY TAX PARCEL IDENTIFICATION NUMBER 9004-00-00-0016, AMENDING SUCH DESIGNATION FROM COMMERCIAL/OFFICE (C/O) TO INDUSTRIAL/SERVICE (I/S); PROVIDING FOR TRANSMITTAL, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City of DeBary has adopted a Comprehensive Plan (including a Future Land Use Element and Future Land Use Map) in accordance with Chapter 163, Part II, Florida Statutes governing the use, growth and development of property within the City's jurisdiction; and

WHEREAS, KBC Development as the applicant and contract purchaser of that certain real property generally described as approximately 23.72 +/- acres in size and having a Volusia County Tax Parcel Identification Number 9004-00-00-0016, and legally described in **Attachment "A"** (the "Property") has petitioned the City to amend the City of DeBary Comprehensive Plan to change the Future Land Use classification of the western portion of the Property from Commercial/Office (C/O) to Industrial/Service (I/S); and

WHEREAS, the eastern portion of the Property currently designated with the Commercial/Retail (C/R) Future Land Use classification shall remain unchanged; and

WHEREAS, the fee simple owner of the Property has consented to the requested comprehensive plan amendment set forth herein; and

WHEREAS, the comprehensive plan amendment adopted by this Ordinance is internally consistent with the City of DeBary Comprehensive Plan and its goals, policies and objectives and is in compliance as defined by the applicable provisions of Chapter 163, Florida Statutes; and

WHEREAS, the City Council, sitting as the local planning agency and as the local governing body, held the required public hearings after due notice to consider the proposed future land use map amendment set forth herein, and has determined the requested comprehensive plan amendment to be appropriate and in the best interest of the public welfare.

IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1. *FLUM Amendment.* The City of DeBary hereby amends the Future Land Use Map of the City of DeBary Comprehensive Plan by designating the western portion of Property described in Attachment "A" from Commercial/Office (C/O) to Industrial/Service (I/S). See

Attachment "B" to this Ordinance for a graphical depiction of the Property and the area to be amended. The eastern portion of the Property currently designated with the Commercial/Retail (C/R) Future Land Use classification shall remain unchanged.

SECTION 2. *Transmittal.* The City's Growth Management Department is authorized to transmit this Ordinance to appropriate state agencies and take other actions as maybe necessary under State law.

SECTION 3. *Severability.* If any portion of this Ordinance is finally determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable or void, the balance of the Ordinance shall continue in full force and effect.

SECTION 4: *Conflicts.* In the event of a conflict or conflicts between this Ordinance and any other ordinances or part thereof, this Ordinance controls to the extent of the conflict.

SECTION 5. *Effective Date.* This Ordinance shall become effective 31 days after its adoption if no timely challenge is filed. If timely challenged, this Ordinance shall become effective as provided in the applicable provisions of Chapter 163, Part II, Florida Statutes.

FIRST READING AND PUBLIC HEARING: _____, 2019.

SECOND READING AND PUBLIC HEARING: _____, 2019.

ADOPTED BY the City Council of the City of DeBary, Florida this _____day of _____, 2019.

CITY COUNCIL
CITY OF DEBARY, FLORIDA

By: _____
Karen Chasez, Mayor

ATTEST:

By: _____
Annette Hatch, City Clerk

ATTACHMENT "A"

DESCRIPTION:

A western portion of the property, described below, which outlines the entire subject parcel, shall change from Commercial/Office to Industrial/Service as depicted in Attachment "B": .

A portion of Section 4, Township 19 South, Range 30 East, Volusia County, Florida being described as follows:

COMMENCE at the Southeast Corner of RESERVE AT DEBARY, UNIT 1 as recorded in Map Book 45, Pages 114 -118, Public Records of Volusia County, Florida, said point also being on the West right of way line of State Road 15 and 600 (U.S. Highway 17 and 92, a 100 foot right of way); thence South 24°13'55" West, along the aforesaid West right of way line a distance of 927.62 feet to the POINT OF BEGINNING; thence continue along the aforesaid West right of way line South 24°13'55" West a distance of 361.03 feet to an intersection with the South line of the property described in O.R. Book 3358, Page 1454; thence departing the aforesaid West right of way line run South 80°57'53" West along the aforesaid South line of O.R. Book 3358 a distance of 1009.84 feet to an intersection with the West line of the East one-half (1/2) of the Northeast one-quarter (1/4) of the aforesaid Section 4, said point also being the Southeast corner of O.R. Book 3430 at Page 22; thence, departing the aforesaid South line of O.R. Book 3358, run South 80°57'53" West along the South line of the aforesaid O.R. Book 3430 a distance of 786.97 feet to the Southwest corner of the aforesaid O.R. Book 3430; thence departing the aforesaid South line of O.R. Book 3430 run North 13°11'08" East along the West line of the aforesaid O.R. Book 3430 a distance of 848.23 feet to the Southwest corner of Parcel "B" per O.R. Book 4045 at Page 1890-1896; thence departing the aforesaid West line of O.R. Book 3430 run South 76°26'52" East along the South line of the aforesaid Parcel "B" a distance of 585.00 feet to the Southeast corner of the aforesaid Parcel "B"; thence departing the South line of the aforesaid Parcel "B" run North 24°00'54" East along the East line of the aforesaid Parcel "B" a distance of 320.00 feet to the Northeast corner of the aforesaid Parcel "B"; thence departing the aforesaid East line of Parcel "B" run South 68°44'58" East a distance of 81.55 feet; thence South 74°03'17" East a distance of 109.20 feet; thence South 87°16'25" East a distance of 90.12 feet to the Northwest corner of Parcel "A" per the aforesaid O.R. Book 4045; thence run the next four (4) courses along the boundary line of the aforesaid Parcel "A", South 06°52'35" West a distance of 170.00 feet; thence South 10°46'08" East a distance of 135.00; thence South 77°44'22" East a distance of 180.00 feet; thence North 63°51'25" East a distance of 335.00 feet to the Northeast corner of the aforesaid Parcel "A"; thence departing the aforesaid boundary line of Parcel "A" run South 81°21'46" East a distance of 37.92 feet; thence South 65°46'05" East a distance of 263.48 feet to the Point of Beginning.

LESS AND EXCEPT a 20.00 foot wide strip of land for road right of way purposes located in the Northeast 1/4 of Section 4, Township 19 South, Range 30 East Volusia County, Florida, lying East of and adjacent to Shell Road (a 50.00 foot right of way), described in that certain Warranty Deed as recorded in Official Records Book 4934, Page 1918, Public Records of Volusia County, Florida and being more particularly described as follows:

COMMENCE at the Southeast corner of Tract "A" of SPRINGVIEW INDUSTRIAL PARK UNIT 1, according to the plat thereof as recorded in Plat Book 49, Pages 17 and 18 in the Public Records of Volusia County, Florida; thence run North 80°57'38" East, along a line that is the Easterly extension of the South line of said Tract "A", for a distance of 54.06 feet to the East right of way line of Shell Road and the POINT OF BEGINNING; thence run North 13°18'37" East, along the East line of Shell Road, for a distance of 610.00 feet; thence, departing said right of way line, run South 76°41'23" East for a distance of 20.00 feet; thence run South 13°18'37" West for a distance of 601.78 feet; thence run South 80°57'38" West for a distance of 21.62 feet to the POINT OF BEGINNING.

TOGETHER WITH a parcel of land for non-exclusive ingress and egress lying in the East 1/2 of the Northeast 1/4 of Section 4, Township 19 South, Range 30 East, Volusia County, Florida, described in that certain Grant of Easement as recorded in Official Records Book 3913, Page 3234, Public Records of Volusia County, Florida, said parcel being more particularly described as follows:

COMMENCE at the Northeast corner of the Northeast 1/4 of said Section 4; thence run S 00°24'57" W along the East line of said Northeast 1/4 of Section 4 a distance of 1884.71 feet to the Westerly right-of-way line of State Roads 15 and 600 (U.S. Highways 17 and 92) as recorded in State and County Map Book 1, Pages 27 through 37 of the Public Records of Volusia County, Florida; thence run S 24°13'55" W along said Westerly right-of-way line 437.60 feet thence leaving said Westerly right-of-way line run N 65°46'05" W 263.48 feet; thence N 81°21'46" W 79.91 feet; thence S 86°58'17" W 378.53 feet thence N 12°54'47" W 210.32 feet thence N 87°16'25" W 105.12 feet; thence N 74°03'17" W 12.83 feet to the POINT OF BEGINNING; thence continue N 74°03'17" W 75.00 feet; thence N 15°56'43" E 75.00 feet thence S 74°03'17" E 75.00 feet; thence S 15°56'43" W 75.00 feet to the POINT OF BEGINNING.

LESS AND EXCEPT any portion of said easement lying in road right-of-way.

ATTACHMENT "B"
FUTURE LAND USE MAP

After Recording Return to:
City of DeBary
Attn: City Clerk
16 Columba Road
DeBary, Florida 32713

ORDINANCE # 10-19

ATTACHMENT "A"

MPUD DEVELOPMENT AGREEMENT

DEBARY COMMERCE PARK MIXED PLANNED UNIT DEVELOPMENT

THIS MPUD DEVELOPMENT AGREEMENT ("Development Agreement" or this "Agreement") is made and entered into by and between the **CITY OF DEBARY**, a Florida municipal corporation (herein "City"), and F. Myrice Lukas and Paul M. Lukas, Co-Trustees of the Paul M. Lukas Family Trust dated October 31, 2012 and F. Myrice Lukas and Paul M. Lukas, Co-Trustees of the F. Myrice Lukas Family Trust Dated October 31, 2012, the record title property owners whose address is 395 Gobblers Lodge Road, Osteen, Florida 32764 (collectively herein "Owner"), and KBC Development, Inc. (herein "Applicant")..

WHEREAS, the Applicant is the contract purchaser of that certain real property being approximately 23.72 acres in size and having a Volusia County Tax Parcel Identification Number 900400000016, and legally described in **Exhibit "A"** attached hereto and incorporated herein (herein the "Property") and being the same property described in City of DeBary Ordinance No. 10-19; and

WHEREAS, Owner is the fee simple owner of the Property and has given Applicant consent to seek the MPUD zoning and its corresponding Development Agreement and Master Development Plan;

Owner hereby joins in and consents to this Development Agreement and its corresponding Master Development Plan; and

WHEREAS, Applicant is requesting to rezone the Property from B-4 (General Commercial) and B-9 (General Office) to MPUD (Mixed Planned Unit Development); and

WHEREAS, the Property has been recently designated with a Comprehensive Plan Future Land Use Map designation of I/S (Industrial/Service); and

WHEREAS, Applicant's request to rezone the Property to (MPUD) Mixed Planned Unit Development has been granted pursuant to Ordinance _____ and the development and use of Property shall be regulated by this Development Agreement and its corresponding Master Development Plan; and

WHEREAS, Ordinance No. 10-19 approving this Development Agreement has been advertised and noticed in accordance with the requirements of state law and Section 1-10 of the City of DeBary Land Development Code; and

WHEREAS, the City Council acting in its capacity as the City of DeBary Local Planning Agency and Governing Body has conducted the necessary public hearings on Ordinance No. 10-19 approving this Development Agreement; and

WHEREAS, based upon competent, substantial evidence presented in the record, Ordinance No. 10-19 and this Development Agreement have been determined by the City of DeBary City Council to meet the requirements for rezoning pursuant to Section 1-6, City of DeBary Land Development Code and Comprehensive Plan Policy 5.505 and is consistent with the City of DeBary Comprehensive Plan and Land Development Code; and

WHEREAS, the City of DeBary City Council finds that this Development Agreement promotes the public health, safety, and welfare and is consistent with and authorized by its authority under Chapter 166,

Florida Statutes, Article VIII, Section 2 (b) of the State Constitution, and the City's home rule authority and police powers.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

DEVELOPMENT AGREEMENT

A. Development Concept: The property shall be developed as an MPUD substantially in accordance with the Master Development Plan and this Development Agreement. The Master Development Plan shall govern the development of the property as a MPUD and shall regulate the future land use of this parcel.

1. Master Development Plan. The Master Development Plan shall consist of the Preliminary Plan prepared by Dewberry dated 10-19 March 2019 and this Development Agreement. The Preliminary Plan is hereby approved and incorporated in this Development Agreement by reference as **Exhibit "B."** The Master Development Plan shall be filed and retained for public inspection in the office of the City of DeBary and it shall constitute a supplement to the Official Zoning Map of the City of DeBary

1. Amendments. The Master Development Plan is intended to be a conceptual plan to guide development of the Property in compliance with the terms and conditions of this Development Agreement. The parties hereto acknowledge that reductions in density and/or intensity may and do occur; and that minor changes to roadway design, utilities, location and size of structures, and locations and design of stormwater storage, landscape buffers and upland buffers may occur during the plat and/or site plan review and approval processes. Proposed revisions to the Master Development Plan that also necessitate revisions to the substantive terms of this Development Agreement shall require

approval by the City Council as either a major or minor amendment to this MPUD in accordance with the Land Development Code, as may be amended. The DeBary City Manager shall make determinations as to whether requested revisions to the Master Development Plan rise to the level of a minor or major amendment of this MPUD pursuant to the Land Development Code, or is merely a minor deviation of the Master Development Plan. Minor and major amendments to this MPUD shall be processed in accordance with the Land Development Code, as may be amended. Changes determined by the City Manager to be minor deviations to the Master Development Plan may be approved by the City in the issuance of subsequent development orders. A minor deviation shall be a deviation from the Master Development Plan, which has no substantive effect on the overall goals, purpose and objectives of this Development Agreement and the Master Development Plan. Generally, a minor deviation would be a change that does (a) not conflict with the requirements of the Master Development Plan or any exhibit adopted as part of the Master Development Plan, (b) not conflict with any substantive provision of this Development Agreement, any City ordinance or regulation not superseded by the terms of Ordinance No. 10-19 and this Development Agreement, and (c) not trigger the minor or major amendment PUD provisions of the City of DeBary Land Development Code.

3. Final Site Plan/Preliminary Plat. After this Development Agreement and its Master Development Plan is recorded, and prior to issuance of any site permits for construction, including clearing, mass grading and infrastructure improvements, a Site Plan or Preliminary Plat for the Property shall be prepared and submitted to the City for review and approval in the manner required by the City of DeBary Land Development Code and approval for such obtained. Any subdivision of Property shall adhere to the approved Master Development Plan. Conflicts with the Master Development Plan will

be considered in the same manner as a major amendment or, where acceptable within the planned unit development regulation, a minor modification per Land Development Code Section 3-108.

4. Unified Ownership. The Owner or Applicant (if Applicant purchases the Property), their respective successors and assigns shall maintain unified ownership of the Property until after approval and recording of final plat of the Property. The Owner or Applicant (if Applicant purchases the Property) cannot convey portions of the Property without first having obtained a final plat approval(s) creating a legal subdivision of the portion of the Property it intends to convey separately from the remainder of the Property.

B. Phases of Development. Development phasing will be consistent with the phasing shown on Exhibit B – Preliminary Plan. Phase 1 industrial area consists of 15.64 acres, more or less. Phase 2 commercial area consists of 2.54 acres, more or less. Phase 3 commercial area consists of 1.62 acres, more or less. Construction of phases is not required to be sequential. Additional phasing and/or sub-phasing may be allowed at time of Overall Development Plan or final site plan without requiring an amendment to the Master Development Plan or this associated Development Agreement, providing the proposal does not conflict with provisions set out within the approved master development plan. Infrastructure needs such as roadways, sidewalks, crosswalks, stormwater conveyance, landscaping or buffering provisions, and irrigation and dry-line connections will be constructed for each phase, with stub-outs for future phases.

A. Land Uses within the MPUD. The development of the property, as described in Exhibit "A", shall be consistent with the uses prescribed for each area within the proposed MPUD. The following land uses shall be allowed as permitted principal uses and structures along with their customary accessory uses and structures. All other land uses not specifically set forth herein as permitted uses are prohibited.

Within the Industrial Land Use Area:

- Automobile, truck, truck-trailer, motorcycle, mobile home, manufactured dwelling, recreational vehicle and bicycle manufacturers.
- Bakeries.
- Bottling and distribution plants
- Building materials storage and sales
- Cold storage and frozen food lockers
- Contractor's shop, storage and equipment (no outdoor storage permitted)
- Display and sale (retail or wholesale) of products or parts manufactured or assembled on the premises (no outdoor storage permitted)
- Feed and seed processing and storage
- Industrial vocational training school.
- Laundries and linen services.
- Machinery and machine shops.
- Moving and storage companies.
- Pest exterminators.
- Plumbing supply.
- Printing, publishing and engraving.
- Sign and paint shop.
- Testing of materials, equipment and products.
- Truck, automobile, boat, mobile recreational vehicle and shelter, motorcycle and trailer storage.

- Warehouses.
- Welding or soldering shops.
- Wholesale meat and produce distribution with meat cutting but no butchering.
- Manufacturing

Within the Commercial Land Use Area:

- Bars and liquor stores.
- Catering services.
- Financial institutions.
- General offices, medical and professional. (when sufficiently buffered from industrial uses by no less than 20' of vegetation and fence, unless otherwise waived by the City

Development Review Committee)

- Hardware stores.
- Hobby and craft stores.
- Pet grooming.
- Private clubs and lodges.
- Restaurants with outside service of alcoholic beverages. The restaurant must operate under a 4COPSRX license or shall meet similar limitations. Outside service and consumption of alcohol shall be limited to the same hours of operation as interior service and consumption. The establishment's license from Division of Alcoholic Beverages and Tobacco and Bureau of Licensing must include the outside area as part of the licensed premises.
- Restaurants, Types A and B.
- Retail paints and wallpaper stores.

- Retail sales and services.

D. Industrial Development Standards.

1. Minimum lot area: 15.64 acres
2. Minimum lot width: 100 ft.
3. Minimum building setbacks:
 - A . F r o n t y a r d : 2 5 f t .
 - B . R e a r y a r d : 1 5 f t .
 - C . S i d e y a r d : 1 0 f t .
4. Maximum building lot coverage: 35 percent
(The total area covered with principal and accessory buildings)
5. Maximum impervious surface ratio: 85%

(An individual lot may have a maximum ISR of 85%, but the entire PUD must not exceed an average of 75% ISR.)
6. Maximum building height: 45 ft.
7. Minimum building size: 9,000 square feet
8. Minimum spacing between buildings: 10 ft
9. Maximum FAR: 0.5
10. Outdoor Storage Prohibitions: All outdoor storage shall comply with the following conditions. Outdoor storage shall not be visible from Shell Road, Spring Vista Drive, and US 17-92. Staging of machinery, business materials, pipe, lumber and operable vehicles associated with the manufacturing and processes of the premise served, shall be permissible within the loading bay area internal to the site. No staging shall be permissible within the spaces reserved primarily for customer or employee parking. Equipment or vehicles located for the purpose of staging shall not be immobile, nor

constitute waste, trash, rubble, debris, mechanical parts, or materials associated with the internal processes that otherwise should be stored inside the building.

E. Commercial Development Standards.

1. Minimum lot area: 1 acre
2. Minimum lot width: 100 ft.
3. Minimum building setbacks:
D . F r o n t y a r d : 2 5 f t .
D . R e a r y a r d : 1 0 f t .
E . S i d e y a r d : 1 0 f t .
F . B e t w e e n b u i l d i n g s : 1 0 f t .
4. Maximum building lot coverage: 35 percent
(The total area covered with principal and accessory buildings)
5. Maximum impervious surface ratio: 85%
(An individual lot may have a maximum ISR of 85%, but the entire PUD must not exceed an average of 75% ISR.)
6. Maximum building height: 40 ft.
7. Maximum FAR: 0.5

F. Architectural Standards

1. Industrial Uses. Architectural standards for the Industrial portion of the site shall be substantially consistent with the conceptual building elevations included as Exhibit C. All industrial buildings shall contain a façade transition, such as a brick or split-faced block base to contrast the standing seam metal upper. Final colors, materials, and building dimensions shall be reviewed and approved at time of site plan approval.

2. Commercial Uses. Architectural standards for the Commercial portion of the site shall be in accordance with the City's LDC regulations adopted for the Gateway Corridor. Consideration shall be provided to encourage the development of highly visible, pedestrian spaces (such as for sitting and eating) while planning acceptable land uses and site layout. When possible, pedestrian spaces should be oriented closest to the US Highway 17-92 frontage and parking to the rear. Final colors, materials, and building dimensions shall be reviewed and approved at time of site plan approval.

1. Master Development Architectural Requirements and Prohibitions. Wire mesh and barbed wire fencing shall not be permitted. Chain link fence shall only be permitted in the interior of the site where it is not visible from public right of way. Onsite utilities shall be installed underground and, where mechanical equipment is visible from the right of way, it shall be screened from public view by landscaping. A sidewalk system connecting the Commercial and Industrial land use areas shall be provided consistent with Exhibit B. A sidewalk shall also be provided around the proposed stormwater pond. During site plan design, every attempt shall be made to include a parkway strip between the curb and sidewalk in the area of the stormwater pond retaining wall; however, if a parkway strip is not feasible, the sidewalk may be located immediately adjacent to the curb. Where sidewalk construction along the east-west access drive that runs through the project is not feasible due to lack of connection, the Applicant may pay into the Sidewalk Trust Fund per LDC Section 4-26.

G. Landscaping.

1. MPUD Perimeter Landscape buffer requirements -- a minimum 25 foot perimeter landscape area will be provided along boundaries of the MPUD, with the exception of driveway areas. This landscape buffer shall count towards meeting the minimum 15% Tree Area Protection requirement (Section 5-88). A minimum of 15% of the square footage of the development shall be designated for the protection of trees. Said area can include any landscape buffer. A minimum of 50% of the required number of trees shall consist of existing trees within said area. However, due to lack of significant tree canopy resulting from past land clearing events, the minimum 50% tree requirement may not be able to be met with existing trees and new trees may be planted to meet the minimum tree requirements. As required by LDC, the preservation areas shall be met within the boundary of the Development designation. Statistical tree survey covering a minimum of 10% of the property, and located in areas to provide a representative sample of the property, shall be permitted upon approval of methodology by the City Arborist and then subsequently, the City Manager. Street trees shall be a minimum of six (6) feet in height, three (3.0) inch caliper measured six (6) inches above ground level at time of planting. The City shall not be responsible for maintenance of trees in dedicated rights of way.
2. Landscaping Adjacent To Structures – Building perimeter landscaping will be provided in accordance with the requirements of Section 5.7 of the City of DeBary Land Development Code, as amended. Within the Industrial land use area of the development, landscaping along the rear of warehouse buildings is not required, in order to accommodate

garage access. Building perimeters visible from external right-of-way and the “internal core roadway” shall be landscaped. Perimeter buffers identified as preservation space shall remain in their natural condition and shall not be required to have irrigation. Additional landscaping may be added to the perimeter buffers where existing landscaping does not meet City buffer standards per the Land Development Code. The supplemental landscaping will be irrigated. A tree species from the City’s list of Specimen trees, as defined in the City’s land development code Sec 1-3, will be located every 50 linear feet around the proposed stormwater pond, or where a retaining wall does not provide enough space for the location of a tree, the tree may be located within the pond itself. A minimum of one bench will be installed along the sidewalk surrounding the storm pond. Where existing vegetation is inadequate or of undesirable appearance, the buffer will be enhanced through landscaping and/or fencing.

H. Parking – Off-street parking requirements: Meet the minimum requirements of Section 3-129 of the City of DeBary Land Development Code, as amended. On street parking or parking on right of way shall be strictly prohibited.

B. Signage. Except as stated within this agreement, signs shall meet the minimum requirements of Section 5.36 and 5.39 of the City of DeBary Land Development Code, as amended. A maximum of three (3) ground signs are permitted for the development. Each ground sign may have two (2) sign faces, with a maximum of forty-eight (48) square feet of sign area per face. Maximum height of ground signs may not exceed eight (8) feet. Potential locations of proposed ground signs are shown on Exhibit B. For buildings

shared by multiple tenants, each individual tenant within the same building is permitted a wall sign with a maximum sign area of twenty-four (24) square feet.

J. Environmental Considerations. Natural resources will be protected as required by applicable local, state and federal requirements. The Applicant shall meet the minimum environmental standards of the DeBary Land Development Code, as amended.

C. Sewage Disposal, Potable Water and Reclaimed Water. Provision for sewage disposal, potable water and reclaimed water needs of the MPUD shall be provided in accordance with the City of DeBary Comprehensive Plan, as amended, the City of DeBary Land Development Code, as amended, and State of Florida Administrative Code 10-D6.

D. Stormwater Drainage. Provision for stormwater collection, retention and treatment shall be in accordance with the City of DeBary Land Development Code, as amended, the St. Johns River Water Management District (SJRWMD) and any other applicable regulatory agency codes, rules and regulations. Alternative treatment methods deemed acceptable SJRWMD, such as exfiltration, may be used in lieu of or in conjunction with dry/wet retention ponds.

E. Mass Grading. The applicant shall be allowed to mass grade a portion of all of the site prior to construction of the infrastructure and buildings.

F. Access and Transportation System Improvements. All access and transportation system improvements shall be provided in accordance with the City of DeBary Comprehensive Plan, Land Development Code, as amended, unless otherwise provided herein. Upon approval of a site plan, traffic impact

analysis and any associated resulting traffic impacts mitigation agreement, the project will be fully vested for vehicle trips and will be in compliance with required traffic concurrency. The onsite vehicular circulation shall be generally consistent with Exhibit B. However, the Developer shall be permitted to modify the location and configuration of access driveways and internal accessways and walkways so long as the modifications are otherwise consistent with this Agreement and the LDC. Internal accessways are permitted to be 24 feet in pavement width with 6 inch Type D (FDOT) curb on both sides of the pavement. Sidewalks shall be required in parking areas to provide safe pedestrian access between parking areas and buildings. Within the Industrial use area, one (1) crossing shall be provided to the sidewalk around the stormwater pond.

O. Road Maintenance Agreement - Prior to Applicant's construction commencement, Applicant shall be required to enter into separate agreement with the City with terms acceptable to the City, providing for, at Applicant's expense, the monitoring, inspection, testing, repair and restoration of public road improvements arising from damage or distress beyond normal wear and tear occurring during the time period when Applicant is conducting its hauling and construction activities upon and to and from the Property. The City Manager is given the authority to negotiate and execute for the City the road maintenance agreement required by this provision.

G . Right-of-Way Property Conveyance. The Owner or Applicant shall cause the conveyance of a 20-foot wide strip of land from the Property to the City along the Property's northwest frontage of Shell Road ("Right-of-Way Property") in order to even out the width of such right-of-way adjacent to the Property's frontage. The Right-of-Way Property shall be conveyed to the City by special warranty deed free and clear of all liens and encumbrances except for those matters acceptable to the City. The form of the special warranty deed shall be subject to the approval of the City. The Applicant shall, at least ten (10) days prior

to the conveyance of the Right-of-Way Property to the City, provide to the City a boundary survey of the Right-of-Way Property (including a depiction of the existing Shell Road rights-of-way in relation to such property) certified to the City and a current attorney's opinion of title or a current certificate of title, evidencing that fee simple title to the Right-of-Way Property is free and clear of all liens and encumbrances except for those matters acceptable to the City. Real property taxes on the Right-of-Way Property shall be prorated as of the day before the City's acceptance of the conveyance of the same, and the prorated amount of such real property taxes attributable to the Applicant shall be paid and escrowed by the Applicant in accordance with the provisions of Section 196.295, Florida Statutes; provided, however, that if the conveyance occurs between November 1 and December 31 of a given year, then Applicant shall be responsible for real property taxes for the entire year. Applicant shall comply with the disclosure requirements of Section 286.23, Florida Statutes, with respect to the conveyance of the Right-of-Way Property to the City, if applicable. The Right-of-Way Property conveyance shall occur no later than at final plat recording or at earlier such time as the City requests.

Further, the Owner and Developer agree to remise, release and quit-claim unto the City forever any and all right and interest Owner and Developer has or may have in the Shell Road right-of-way along the entire western frontage of the Property. The Shell Road Right-of-Way shall not be part of the Property or the development thereof by Owner or Developer and their successors and assigns in interests. The Owner and Developer shall cause to be prepared, for the City's review and approval, a quit claim deed to the City with legal sketch and description for the full width of Shell Road right-of-way adjacent to the Property. Such quit claim deed must be recorded upon the earlier of: (i) record of the final plat, or (ii) prior to the certificate of occupancy for the 1st building upon the Property, whichever occurs first.

The property shall receive credit for tree preservation and open space in areas of right of way dedication.

Q. Binding Effect of Plans, Recording and Effective Date. The MPUD Ordinance, this Development Agreement and the Master Development Plan, including any and all supplementary amendments thereto, and the Preliminary Plan shall bind and inure to the benefit of the Owner its successor and assigns in title or interest. The MPUD zoning, provisions of the "Development Agreement," and all approved plans shall run with the land and shall be administered in a manner consistent with the City of DeBary's Comprehensive Plan and the City of DeBary Land Development Code, as amended.

The MPUD Ordinance, this Development Agreement and Master Development Plan and all subsequent amendments thereto shall be filed with the Clerk of the Court and recorded within forty-five (45) days following execution of the document by the DeBary City Council, in the Official Records of Volusia County, Florida. One copy of the document, bearing the book and page number of the Official Record in which the document was recorded, shall be submitted to the City Manager. The date of approval of Ordinance # _____ shall constitute the effective date of the MPUD zoning and this Development Agreement. The Applicant shall pay all filing costs for recording documents.

G. Development Regulations. The DeBary Land Development Code, as may be amended from time to time, will control the development of the Property regarding any items not specifically covered by Ordinance No. 10-19 and this Development Agreement. The local development approvals and permits required to be approved or issued by the City for the intended use contemplated by this Development Agreement include, but are not limited to, construction plan approvals, site plans, plats, stormwater drainage, SJRWMD permits, demolition permit, grading, arbor permits, engineering and utility plans, and construction permits for buildings and other structures. These development approvals and permits shall be processed and issued by the City in accordance with procedures with respect to same as otherwise set

forth in the City's Land Development Code and subject to this Development Agreement. Failure of this Development Agreement to address a particular permit, condition, term or restriction shall not relieve the Applicant of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions. This Development 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. Nothing contained in this Agreement nor in any instruments executed pursuant to the terms of this Agreement shall be construed as a waiver or attempted waiver by the City of its sovereign immunity under the Constitution and laws of the State of Florida and federal law or other any other privilege, immunity or defense afforded under the law to the City or any of its elected or appointed officials, employees and agents.

S. Development Review Cost. The Applicant (and its successors and assigns in interests) shall timely pay the City for any and all development review costs concerning the development and the Property in accordance with Section 1-16, City of DeBary Land Development Code. Applicant acknowledges and agrees that Applicant have read § 1-16, DeBary Land Development Code and understand Applicant's responsibilities and obligations under such code provision and this Development Agreement and acknowledges and agrees that Applicant is bound by such code provision for all development applications and approvals relating to the Property.

H. EFFECTIVE DATE/EXPIRATION: This MPUD Agreement shall be effective upon the adoption of Ordinance No. 10-19 All provisions of this PUD Agreement and the Master Development Plan shall expire and terminate 730 days following the effective date of this MPUD Agreement if a subsequent Development Order for any portion of the project has not been secured in writing by the Owner or Applicant within said period of time. In the event of expiration and termination, any subsequent proposed

development of the Property shall be processed in accordance with the City of DeBary Land Development Code as may be amended from time to time. In event of expiration and termination of this Development Agreement and its corresponding Master Development Plan occurs, the Property shall revert back to its previous B-4 (General Commercial) and B-9 (General Office) zoning designations, and the MPUD entitlements under this Development Agreement and its corresponding Master Development Plan become null and void.

U. Authority. Each party represents and warrants to the other that it has all necessary power and authority to enter into and consummate the terms and conditions of this Development Agreement, that all acts, approvals, procedures and similar matters required in order to authorize this Development Agreement have been taken, obtained, or followed, as the case may be, that this Development Agreement and the proposed performance of this Development Agreement by such party is not an *ultra vires* act and that, upon the execution of this Development Agreement by all parties, this Development Agreement shall be valid and binding upon the parties and their successors in interest. Furthermore, Applicant represents and warrants to City that Applicant is the sole owner of the Property, in fee simple, free and clear of any monetary encumbrances, including but not limited to mortgages and liens, in the event such an encumbrance exists, Applicant, Applicant's sole cost, shall obtain the necessary joiners, consents and subordination to this Development Agreement or releases from the appropriate parties with an interest in the property.

I. Recitals. The recitals herein contained are true and correct and are incorporated herein by reference as material terms of this Development Agreement.

Agreed to by the City Council of the City of DeBary, Florida and the Applicant this ____ day of _____, 2019.

ATTEST:

City of DeBary, a Florida municipal corporation

Annette Hatch, City Clerk

Karen Chasez, Mayor

**STATE OF FLORIDA
COUNTY OF VOLUSIA**

The foregoing instrument was acknowledged before me this ___ day of _____, 2019, by Karen Chasez as Mayor of the City of DeBary, and who are personally known to me.

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name: _____

Commission No: _____

My Commission expires:

WITNESSES:

APPLICANT

By:

Chris Tyree, V.P. of Land, KBC Development, Inc.

The foregoing instrument was acknowledged before me this ___ day of _____ 2017, by Chris Tyree, as Vice President of Land of KBC Development, Inc., who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:

Commission No:

_____ My Commission expires:

EXHIBIT A – Legal Description

DESCRIPTION:

A portion of Section 4, Township 19 South, Range 30 East, Volusia County, Florida being described as follows:

COMMENCE at the Southeast Corner of RESERVE AT DEBARY, UNIT 1 as recorded in Map Book 45, Pages 114 -118, Public Records of Volusia County, Florida, said point also being on the West right of way line of State Road 15 and 600 (U.S. Highway 17 and 92, a 100 foot right of way); thence South 24°13'55" West, along the aforesaid West right of way line a distance of 927.62 feet to the POINT OF BEGINNING; thence continue along the aforesaid West right of way line South 24°13'55" West a distance of 361.03 feet to an intersection with the South line of the property described in O.R. Book 3358, Page 1454; thence departing the aforesaid West right of way line run South 80°57'53" West along the aforesaid South line of O.R. Book 3358 a distance of 1009.84 feet to an intersection with the West line of the East one-half (1/2) of the Northeast one-quarter (1/4) of the aforesaid Section 4, said point also being the Southeast corner of O.R. Book 3430 at Page 22; thence, departing the aforesaid South line of O.R. Book 3358, run South 80°57'53" West along the South line of the aforesaid O.R. Book 3430 a distance of 786.97 feet to the Southwest corner of the aforesaid O.R. Book 3430; thence departing the aforesaid South line of O.R. Book 3430 run North 13°11'08" East along the West line of the aforesaid O.R. Book 3430 a distance of 848.23 feet to the Southwest corner of Parcel "B" per O.R. Book 4045 at Page 18901896; thence departing the aforesaid West line of O.R. Book 3430 run South 76°26'52" East along the South line of the aforesaid Parcel "B" a distance of 585.00 feet to the Southeast corner of the aforesaid Parcel "B"; thence departing the South line of the aforesaid Parcel "B" run North 24°00'54" East along the East line of the aforesaid Parcel "B" a distance of 320.00 feet to the Northeast corner of the aforesaid Parcel "B"; thence departing the aforesaid East line of Parcel "B" run South 68°44'58" East a distance of 81.55 feet; thence South 74°03'17" East a distance of 109.20 feet; thence South 87°16'25" East a distance of 90.12 feet to the Northwest corner of Parcel "A" per the aforesaid O.R. Book 4045; thence run the next four (4) courses along the boundary line of the aforesaid Parcel "A", South 06°52'35" West a distance of 170.00 feet; thence South 10°46'08" East a distance of 135.00; thence South 77°44'22" East a distance of 180.00 feet; thence North 63°51'25" East a distance of 335.00 feet to the Northeast corner of the aforesaid Parcel "A"; thence departing the aforesaid boundary line of Parcel "A" run South 81°21'46" East a distance of 37.92 feet; thence South 65°46'05" East a distance of 263.48 feet to the Point of Beginning.

LESS AND EXCEPT a 20.00 foot wide strip of land for road right of way purposes located in the Northeast 1/4 of Section 4, Township 19 South, Range 30 East Volusia County, Florida, lying East of and adjacent to Shell Road (a 50.00 foot right of way), described in that certain Warranty Deed as recorded in Official Records Book 4934, Page 1918, Public Records of Volusia County, Florida and being more particularly described as follows:

COMMENCE at the Southeast corner of Tract "A" of SPRINGVIEW INDUSTRIAL PARK UNIT 1, according to the plat thereof as recorded in Plat Book 49, Pages 17 and 18 in the Public Records of Volusia County, Florida; thence run North 80°57'38" East, along a line that is the Easterly extension of the South line of said Tract "A", for a distance of 54.06 feet to the East right of way line of Shell Road and the POINT OF BEGINNING; thence run North 13°18'37" East, along the East line of Shell Road, for a distance of 610.00 feet; thence, departing said right of way line, run South 76°41'23" East for a distance of 20.00 feet; thence run South 13°18'37" West for a distance of 601.78 feet; thence run South 80°57'38" West for a distance of 21.62 feet to the POINT OF BEGINNING.

TOGETHER WITH a parcel of land for non-exclusive ingress and egress lying in the East 1/2 of the Northeast 1/4 of Section 4, Township 19 South, Range 30 East, Volusia County, Florida, described in that certain Grant of Easement as recorded in Official Records Book 3913, Page 3234, Public Records of Volusia County, Florida, said parcel being more particularly described as follows:

COMMENCE at the Northeast corner of the Northeast 1/4 of said Section 4; thence run S 00°24'57" W along the East line of said Northeast 1/4 of Section 4 a distance of 1884.71 feet to the Westerly right-of-way line of State Roads 15 and 600 (U.S. Highways 17 and 92) as recorded in State and County Map Book 1, Pages 27 through 37 of the Public Records of Volusia County, Florida; thence run S 24°13'55" W along said Westerly right-of-way line 437.60 feet thence leaving said Westerly right-of-way line run N 65°46'05" W 263.48 feet; thence N 81°21'46" W 79.91 feet; thence S 86°58'17" W 378.53 feet thence N 12°54'47" W 210.32 feet thence N 87°16'25" W 105.12 feet; thence N 74°03'17" W 12.83 feet to the POINT OF BEGINNING; thence continue N 74°03'17" W 75.00 feet; thence N 15°56'43" E 75.00 feet thence S 74°03'17" E 75.00 feet; thence S 15°56'43" W 75.00 feet to the POINT OF BEGINNING.

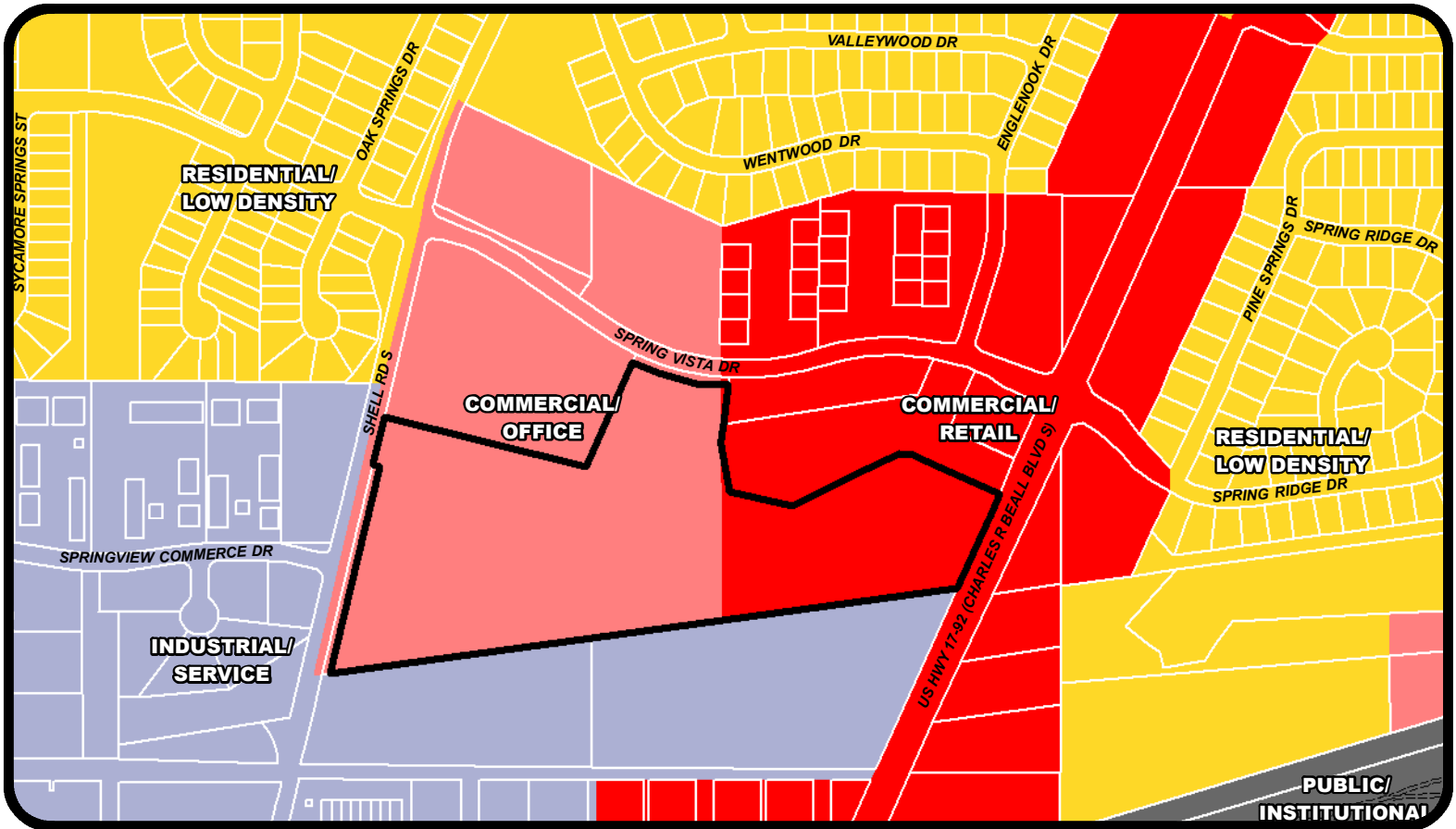
LESS AND EXCEPT any portion of said easement lying in road right-of-way.

EXHIBIT B – Preliminary Plan

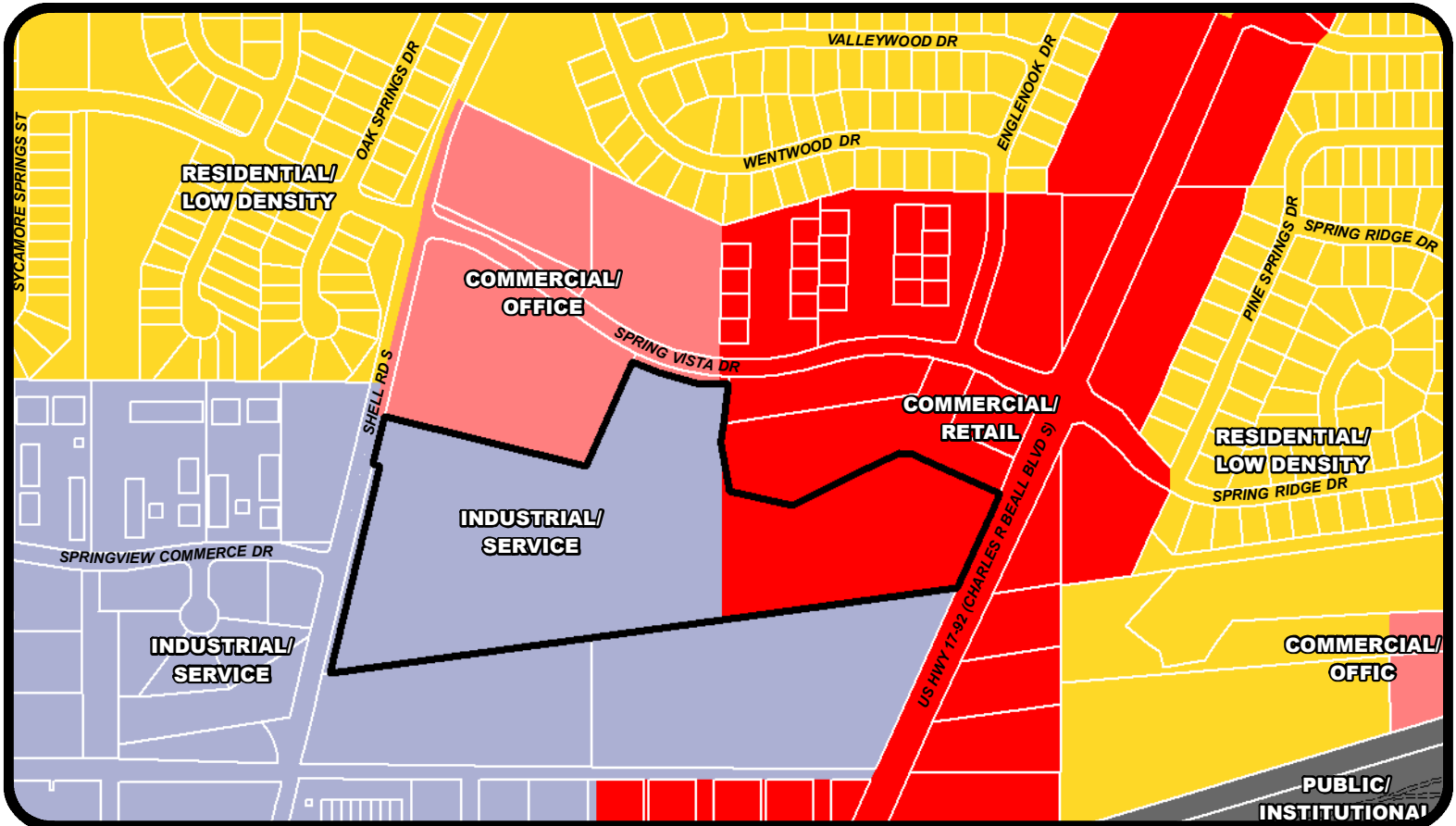
EXHIBIT C – Conceptual Building Elevation for Industrial Uses

COMMERCE PARK

EXISTING FUTURE LANDUSE



PROPOSED FUTURE LANDUSE



Drawing Index

Civil

- C01 COVER SHEET
- C02 EXISTING CONDITIONS
- C03 SITE PLAN

Landscape

- C04 CONCEPTUAL LANDSCAPE PLAN

Legal Description:

A PORTION OF SECTION 4, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF RESERVE AT DEBARY, UNIT 1 AS RECORDED IN MAP BOOK 45, PAGES 114 -118, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID POINT ALSO BEING ON THE WEST RIGHT OF WAY LINE OF STATE ROAD 15 AND 600 (U.S. HIGHWAY 17 AND 92, A 100 FOOT RIGHT OF WAY); THENCE SOUTH 24°13'55" WEST, ALONG THE AFORESAID WEST RIGHT OF WAY LINE A DISTANCE OF 927.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE AFORESAID WEST RIGHT OF WAY LINE SOUTH 24°13'55" WEST A DISTANCE OF 361.03 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE PROPERTY DESCRIBED IN O.R. BOOK 3358, PAGE 1454; THENCE DEPARTING THE AFORESAID WEST RIGHT OF WAY LINE RUN SOUTH 80°57'53" WEST ALONG THE AFORESAID SOUTH LINE OF O.R. BOOK 3358 A DISTANCE OF 1009.84 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST ONE-HALF (1/2) OF THE NORTHEAST ONE-QUARTER (1/4) OF THE AFORESAID SECTION 4, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF O.R. BOOK 3430 AT PAGE 22; THENCE DEPARTING THE AFORESAID SOUTH LINE OF O.R. BOOK 3358, RUN SOUTH 80°57'53" WEST ALONG THE SOUTH LINE OF THE AFORESAID O.R. BOOK 3430 A DISTANCE OF 786.97 FEET TO THE SOUTHWEST CORNER OF THE AFORESAID O.R. BOOK 3430; THENCE DEPARTING THE AFORESAID SOUTH LINE OF O.R. BOOK 3430 RUN NORTH 13°11'08" EAST ALONG THE WEST LINE OF THE AFORESAID O.R. BOOK 3430 A DISTANCE OF 848.23 FEET TO THE SOUTHWEST CORNER OF PARCEL "B" PER O.R. BOOK 4046 AT PAGE 1890-1896; THENCE DEPARTING THE AFORESAID WEST LINE OF O.R. BOOK 3430 RUN SOUTH 76°26'52" EAST ALONG THE SOUTH LINE OF THE AFORESAID PARCEL "B" A DISTANCE OF 585.00 FEET TO THE SOUTHEAST CORNER OF THE AFORESAID PARCEL "B"; THENCE DEPARTING THE SOUTH LINE OF THE AFORESAID PARCEL "B" RUN NORTH 24°00'54" EAST ALONG THE EAST LINE OF THE AFORESAID PARCEL "B" A DISTANCE OF 320.00 FEET TO THE NORTHEAST CORNER OF THE AFORESAID PARCEL "B"; THENCE DEPARTING THE AFORESAID EAST LINE OF PARCEL "B" RUN SOUTH 68°44'58" EAST A DISTANCE OF 81.55 FEET; THENCE SOUTH 74°03'17" EAST A DISTANCE OF 109.20 FEET; THENCE SOUTH 87°16'25" EAST A DISTANCE OF 90.12 FEET TO THE NORTHWEST CORNER OF PARCEL "A" PER THE AFORESAID O.R. BOOK 4046; THENCE RUN THE NEXT FOUR (4) COURSES ALONG THE BOUNDARY LINE OF THE AFORESAID PARCEL "A", SOUTH 08°52'35" WEST A DISTANCE OF 170.00 FEET; THENCE SOUTH 10°46'08" EAST A DISTANCE OF 135.00; THENCE SOUTH 77°44'22" EAST A DISTANCE OF 180.00 FEET; THENCE NORTH 63°51'25" EAST A DISTANCE OF 335.00 FEET TO THE NORTHEAST CORNER OF THE AFORESAID PARCEL "A"; THENCE DEPARTING THE AFORESAID BOUNDARY LINE OF PARCEL "A" RUN SOUTH 81°21'46" EAST A DISTANCE OF 37.92 FEET; THENCE SOUTH 65°46'05" EAST A DISTANCE OF 263.48 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT A 20.00 FOOT WIDE STRIP OF LAND FOR ROAD RIGHT OF WAY PURPOSES LOCATED IN THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 19 SOUTH, RANGE 30 EAST VOLUSIA COUNTY, FLORIDA, LYING EAST OF AND ADJACENT TO SHELL ROAD (A 50.00 FOOT RIGHT OF WAY), DESCRIBED IN THAT CERTAIN WARRANTY DEED AS RECORDED IN OFFICIAL RECORDS BOOK 4934, PAGE 1918, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF TRACT "A" OF SPRINGVIEW INDUSTRIAL PARK UNIT 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 49, PAGES 17 AND 18 IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE RUN NORTH 80°57'38" EAST, ALONG A LINE THAT IS THE EASTERLY EXTENSION OF THE SOUTH LINE OF SAID TRACT "A", FOR A DISTANCE OF 54.06 FEET TO THE EAST RIGHT OF WAY LINE OF SHELL ROAD AND THE POINT OF BEGINNING; THENCE RUN NORTH 13°18'37" EAST, ALONG THE EAST LINE OF SHELL ROAD, FOR A DISTANCE OF 610.00 FEET; THENCE, DEPARTING SAID RIGHT OF WAY LINE, RUN SOUTH 76°41'23" EAST FOR A DISTANCE OF 20.00 FEET; THENCE RUN SOUTH 13°18'37" WEST FOR A DISTANCE OF 601.78 FEET; THENCE RUN SOUTH 80°57'38" WEST FOR A DISTANCE OF 21.62 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH A PARCEL OF LAND FOR NON-EXCLUSIVE INGRESS AND EGRESS LYING IN THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED IN THAT CERTAIN GRANT OF EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 3913, PAGE 3234, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 4; THENCE RUN S 00°24'57" W ALONG THE EAST LINE OF SAID NORTHEAST 1/4 OF SECTION 4 A DISTANCE OF 1884.71 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROADS 15 AND 600 (U.S. HIGHWAYS 17 AND 92) AS RECORDED IN STATE AND COUNTY MAP BOOK 1, PAGES 27 THROUGH 37 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE RUN S 24°13'55" W ALONG SAID WESTERLY RIGHT-OF-WAY LINE 437.60 FEET THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE RUN N 65°46'05" W 263.48 FEET; THENCE N 81°21'46" W 79.91 FEET; THENCE S 86°58'17" W 378.53 FEET THENCE N 12°54'47" W 210.32 FEET THENCE N 87°16'25" W 105.12 FEET; THENCE N 74°03'17" W 12.83 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 74°03'17" W 75.00 FEET; THENCE N 15°56'43" E 75.00 FEET THENCE S 74°03'17" E 75.00 FEET; THENCE S 15°56'43" W 75.00 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT ANY PORTION OF SAID EASEMENT LYING IN ROAD RIGHT-OF-WAY.

COMMERCE PARK

City of DeBary, Florida

MPUD PRELIMINARY PLAN

Submittal

MARCH 2019
Parcel ID. Number
900400000016

Prepared For

KBC DEVELOPMENT
4570 ORANGE BOULEVARD
SANFORD, FL 32771
CONTACT: CHRIS TYREE
PHONE: 407-330-7022

Civil Engineer

DEWBERRY ENGINEERS INC.
800 NORTH MAGNOLIA AVENUE
SUITE 1000
ORLANDO, FLORIDA 32803
CONTACT: CHRISTOPHER J ALLEN, P.E.
PHONE: 321-354-9752

Survey (Boundary)

BENCHMARK SURVEYING & MAPPING, LLC
3110 RED FOX RUN
KISSIMMEE, FLORIDA 34746
CONTACT: BILLY JOE JENKINS, JR., P.S.M.
PHONE: 407-654-6183



SITE LOCATION

THIS IS TO CERTIFY THAT THE ROADWAY CONSTRUCTION PLANS AND SPECIFICATIONS AS CONTAINED HEREIN WERE DESIGNED TO APPLICABLE STANDARDS AS SET FORTH IN THE "MANUAL OF UNIFORM MINIMUM STANDARDS FOR DESIGN, CONSTRUCTION AND MAINTENANCE FOR STREETS AND HIGHWAYS" AS PREPARED BY FLORIDA DEPARTMENT OF TRANSPORTATION.



Dewberry Engineers Inc.
800 NORTH MAGNOLIA AVE
SUITE 1000
ORLANDO, FL 32803
PHONE: 407.843.5120
ENGINEERING BUSINESS-6794

COMMERCE PARK
MPUD PRELIMINARY PLAN
CITY OF DEBARY, FLORIDA

3/8/2019

REVISIONS

No.	DATE	BY	Description

PROJECT # 50106498
DRAWN BY TFS
APPROVED BY CJA
CHECKED BY NPS
DATE MARCH 2019
DATUM
TITLE

COVER

PROJECT: C:\DEBI_50106498\CAD\Civil\PD\Civil Plans\DEBI-PD Cover.dgn
SHEET NO.

C01

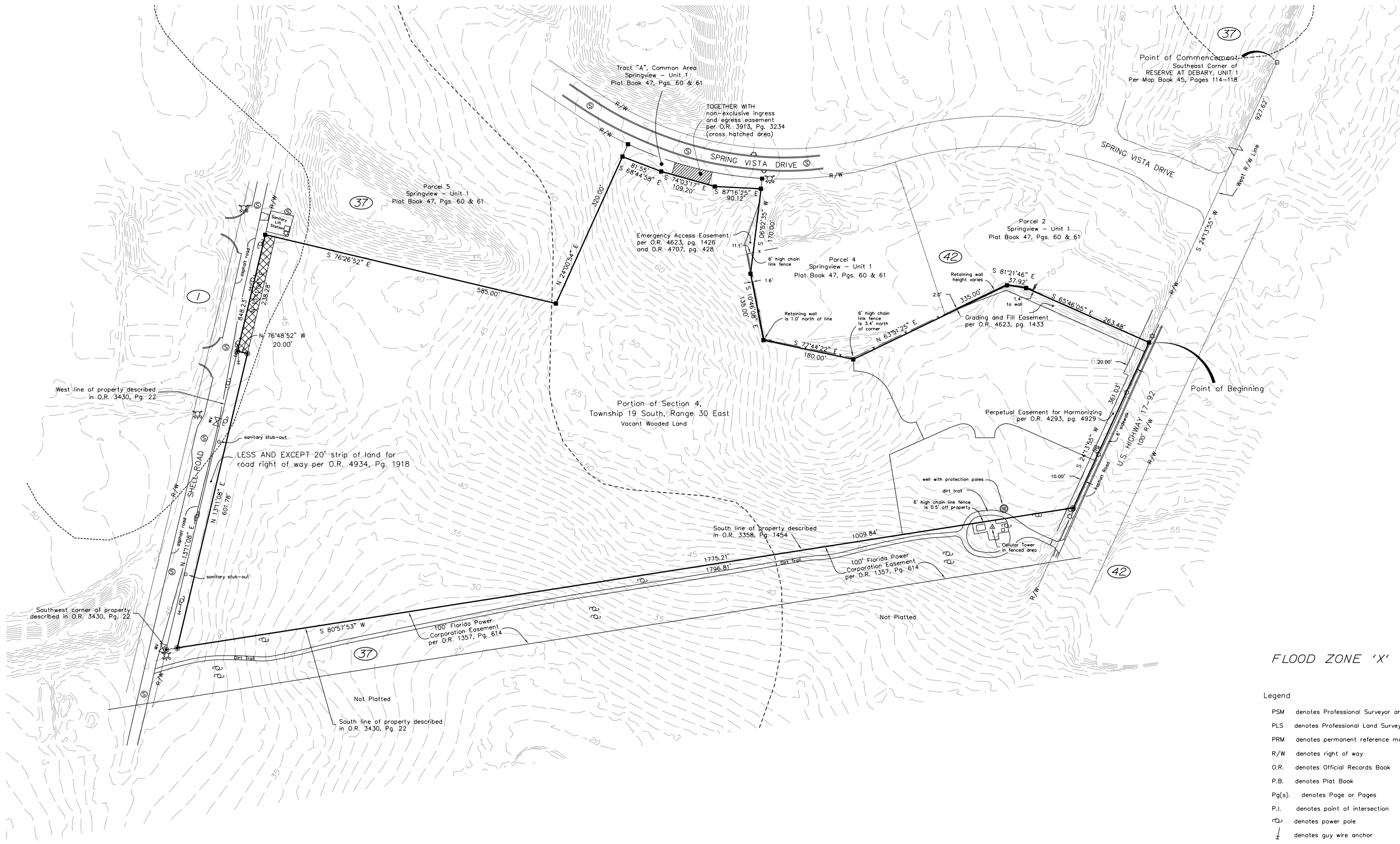
E

D

C

B

A



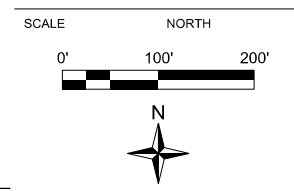
SOILS LEGEND

- 1 APOPKA FINE SAND, 0 TO 5 PERCENT SLOPES; A
37 ORSINO FINE SAND, 0 TO 5 PERCENT SLOPES; A
42 PAOLA FINE SAND, 0 TO 8 PERCENT SLOPES; A

FLOOD ZONE 'X'

Legend

- PSM denotes Professional Surveyor and Mapper
PLS denotes Professional Land Surveyor
PRM denotes permanent reference monument
R/W denotes right of way
O.R. denotes Official Records Book
P.B. denotes Plat Book
Pg(s). denotes Page or Pages
P.I. denotes point of intersection
denotes power pole
denotes guy wire anchor
denotes light pole
denotes water valve
denotes fire hydrant
denotes sanitary manhole
denotes traffic signal box
denotes recovered 4" x 4" Concrete Monument "PRM LB#2232"
denotes recovered 5/8" iron rod and cap "PSM #5205", unless otherwise noted



REVISIONS

Table with columns: No., DATE, BY, Description. Contains one row with empty cells.

PROJECT # 50106498
DRAWN BY TFS
APPROVED BY CJA
CHECKED BY NPS
DATE MARCH 2019
DATUM

EXISTING CONDITIONS

PROJECT: C:\DEBI_50106498\CAD\CIVIL\PD\Civil Plans\DEBI-PD ExistingConditions.dgn
SHEET NO.

C02

LEGEND

- PROPERTY BOUNDARY
- PHASE LINE
- LOT LINE
- BUILDING SETBACK LINE
- RETAINING WALL
- EXISTING EASEMENT
- TREE SAVE AREA/
LANDSCAPE AREAS
- LANDSCAPE AREAS

- NOTES:**
- 1.) PLAN IS CONCEPTUAL AND SUBJECT TO CHANGE WITH FINAL ENGINEERING.
 - 2.) PROJECT MAY BE CONSTRUCTED IN PHASES.
 - 3.) PROJECT IS PERMITTED TO BE MASS GRADED.

Dewberry[®]

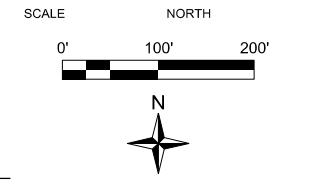
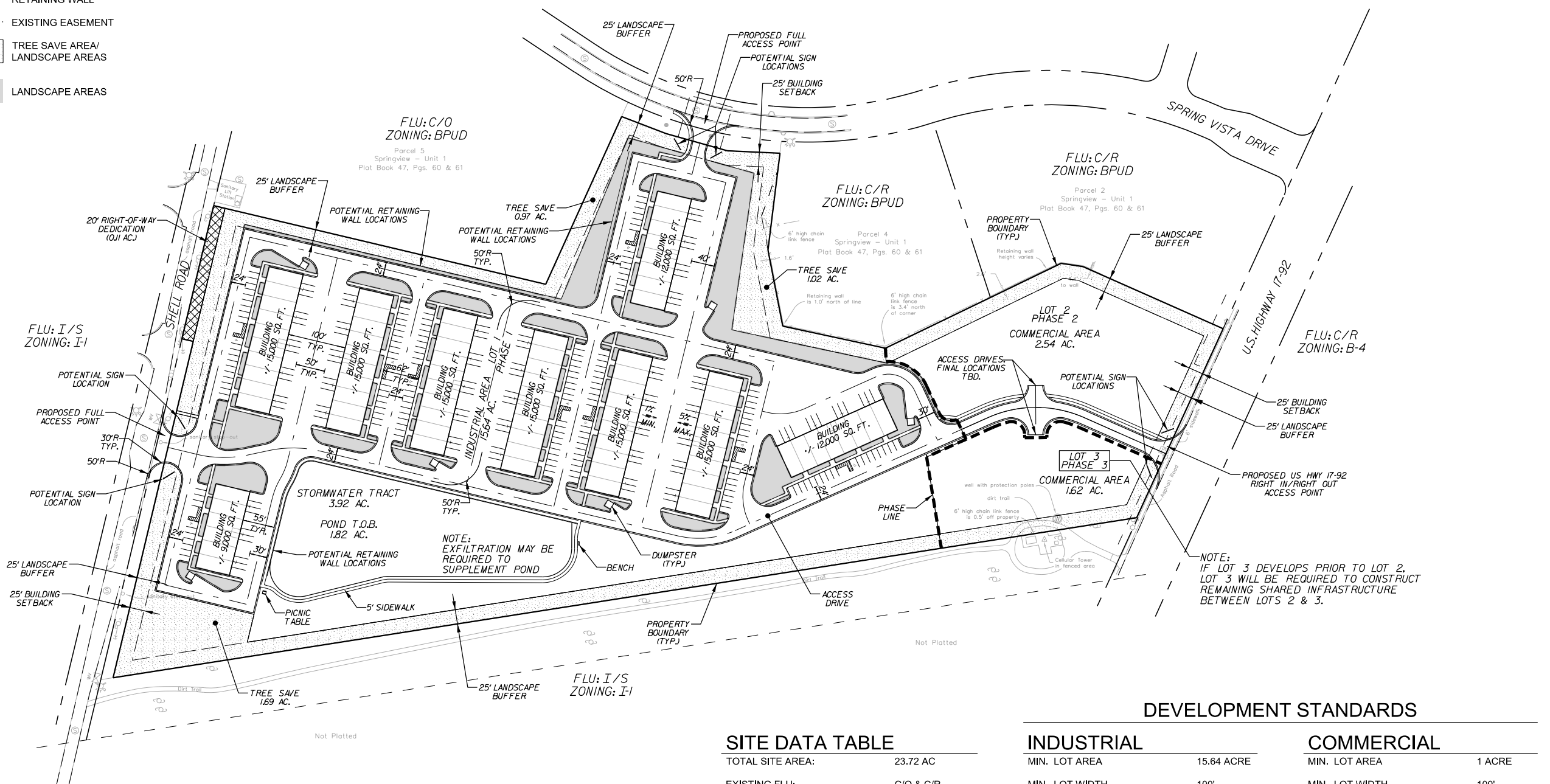
Dewberry Engineers Inc.
800 NORTH MAGNOLIA AVE
SUITE 1000
ORLANDO, FL 32803
PHONE: 407.843.5120
ENGINEERING BUSINESS-8794

COMMERCE PARK

MPUD PRELIMINARY PLAN

CITY OF DEBARY, FLORIDA

3/8/2019



REVISIONS

No.	DATE	BY	Description

DEVELOPMENT STANDARDS

SITE DATA TABLE

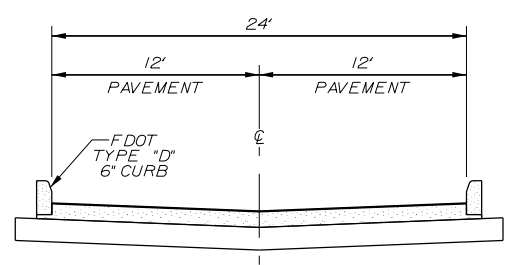
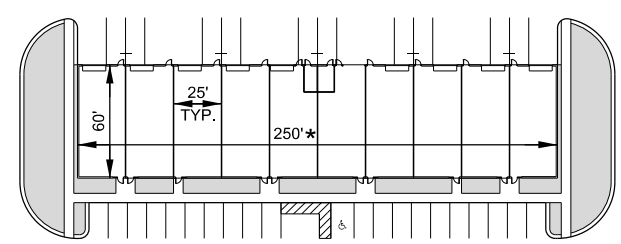
TOTAL SITE AREA:	23.72 AC
EXISTING FLU:	C/O & C/R
PROPOSED FLU:	I / S
EXISTING ZONING:	B-4 & B-9
PROPOSED ZONING:	MPUD
TREE SAVE AREA (15% MIN):	3.68 AC (15.51%)
RIGHT-OF-WAY DEDICATION	0.11 AC.
INDUSTRIAL AREA:	15.64 AC
STORMWATER TRACT:	3.92 AC
COMMERCIAL AREA:	4.16 AC
MIN. PARKING RADIUS:	30'
LANDSCAPE BUFFER:	25'

INDUSTRIAL

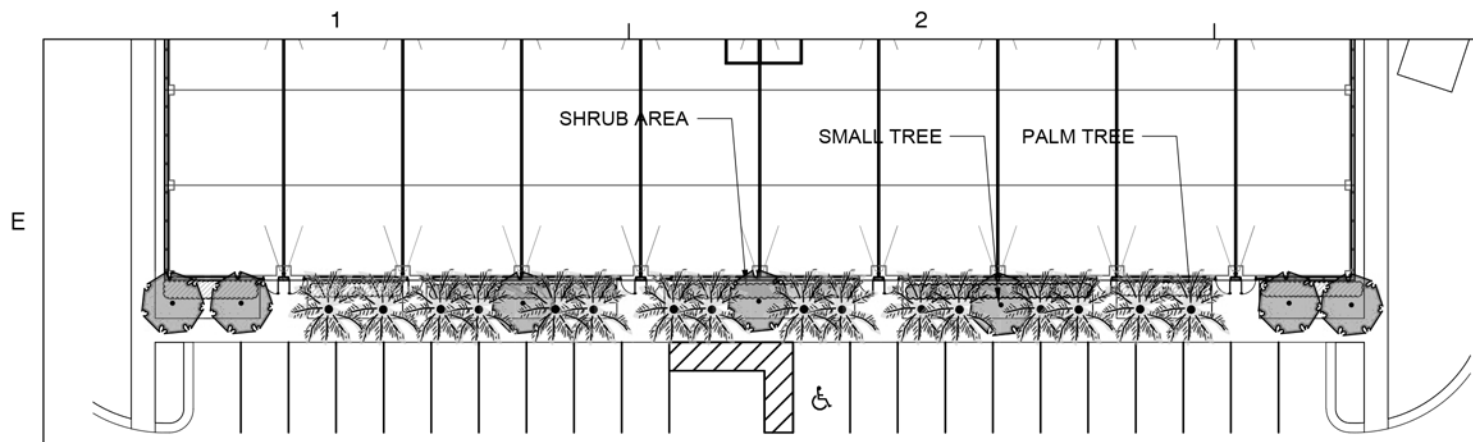
MIN. LOT AREA	15.64 ACRE
MIN. LOT WIDTH	100'
MIN. BLDG. SETBACKS:	
FRONT:	25'
REAR:	15'
SIDE:	10'
MAX. BLDG. LOT COVERAGE	35%
(THE TOTAL AREA COVERED WITH PRINCIPAL & ACCESSORY BUILDINGS.)	
MAX. ISR	85%
(AN INDIVIDUAL LOT MAY HAVE A MAXIMUM ISR OF 85% BUT THE ENTIRE PUD MUST NOT EXCEED AN AVERAGE OF 75% ISR.)	
MAX. BLDG. HEIGHT	45'
MAX. BLDG. SIZE	9,000 S.F.
MIN. BLDG. SEPARATION	10'
MAX. FAR	0.5

COMMERCIAL

MIN. LOT AREA	1 ACRE
MIN. LOT WIDTH	100'
MIN. BLDG. SETBACKS:	
FRONT:	25'
REAR:	10'
SIDE:	10'
MAX. BLDG. LOT COVERAGE	35%
(THE TOTAL AREA COVERED WITH PRINCIPAL & ACCESSORY BUILDINGS.)	
MAX. ISR	85%
(AN INDIVIDUAL LOT MAY HAVE A MAXIMUM ISR OF 85% BUT THE ENTIRE PUD MUST NOT EXCEED AN AVERAGE OF 75% ISR.)	
MAX. BLDG. HEIGHT	40'
MIN. BLDG. SEPARATION	10'
MAX. FAR	0.5

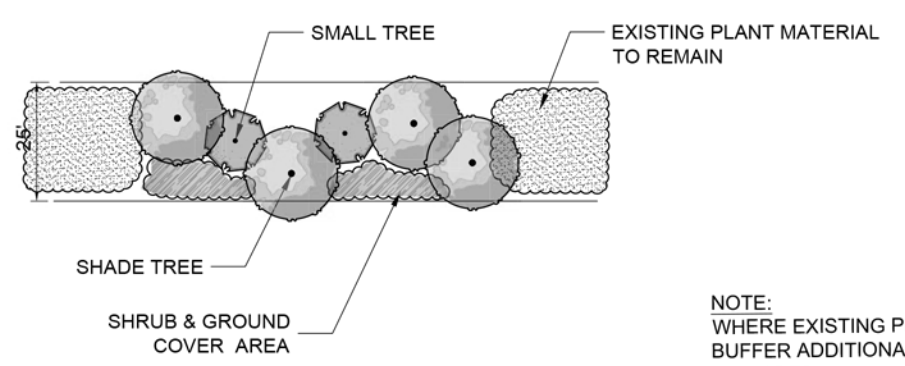


C03



ENLARGED CONCEPTUAL LANDSCAPE PLAN @ BUILDING

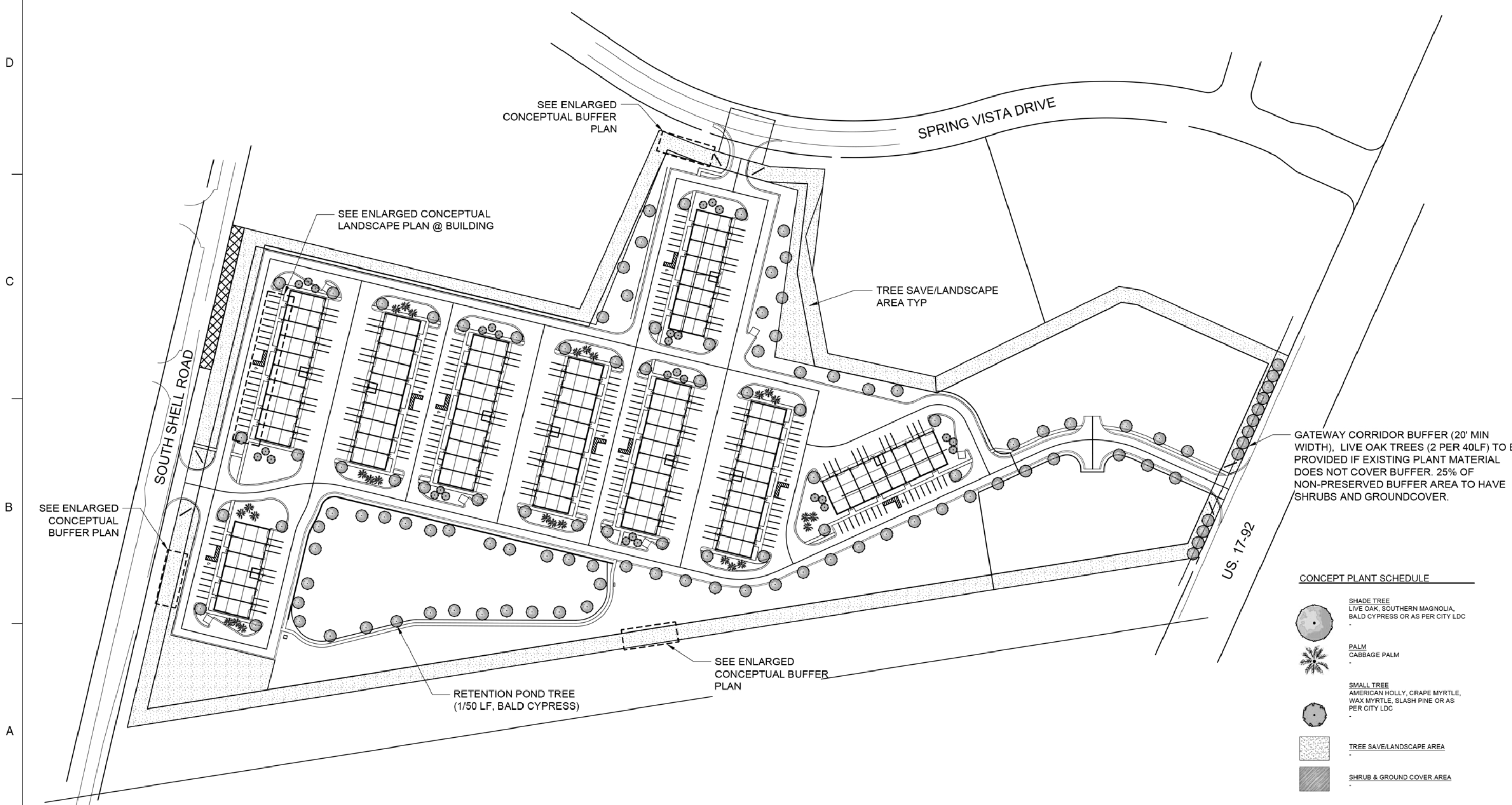
SCALE: 1"=20'-0"



ENLARGED CONCEPTUAL BUFFER PLAN

SCALE: 1"=20'-0"

NOTE:
 WHERE EXISTING PLANT MATERIAL DOES NOT PROVIDE ADEQUATE BUFFER ADDITIONAL PLANTING AS REQUIRED BY CODE WILL BE PROVIDED.








LANDSCAPE PLAN

SCALE: 1"=80'-0"

GATEWAY CORRIDOR BUFFER (20' MIN WIDTH), LIVE OAK TREES (2 PER 40LF) TO BE PROVIDED IF EXISTING PLANT MATERIAL DOES NOT COVER BUFFER. 25% OF NON-PRESERVED BUFFER AREA TO HAVE SHRUBS AND GROUND COVER.

CONCEPT PLANT SCHEDULE

-  SHADE TREE
LIVE OAK, SOUTHERN MAGNOLIA, BALD CYPRESS OR AS PER CITY LDC
-  PALM
CABBAGE PALM
-  SMALL TREE
AMERICAN HOLLY, CRAPE MYRTLE, WAX MYRTLE, SLASH PINE OR AS PER CITY LDC
-  TREE SAVE/LANDSCAPE AREA
-  SHRUB & GROUND COVER AREA

COMMERCE PARK
MPUD PRELIMINARY PLAN
 CITY OF DEBARY, FLORIDA

SEAL

KEY PLAN

SCALE



No.	DATE	BY	Description

REVISIONS

DRAWN BY _____
 APPROVED BY _____
 CHECKED BY _____
 DATE February 06, 2019

CONCEPTUAL LANDSCAPE PLAN

PROJECT NO. 50106498

C04



City Council Meeting City of DeBary AGENDA ITEM

Subject: DeBary Commerce Park MPUD	Attachments: <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
From: Matt Boerger, Growth Management	
Meeting Hearing Date November 6, 2019	

REQUEST

KBC Development (DeBary Commerce Park), is requesting approval of the second reading of Ordinance 10-19, allowing for a rezoning from General Commercial B-4 and General Office B-9 to a Mixed-Use Planned Unit Development.

PURPOSE

The purpose of this request is to change the existing zoning designation to allow for the construction of an industrial park behind commercial development.

CONSIDERATIONS

The subject property is approximately 24 acres and is located west of US 17-92, south of Spring Vista Drive and east of Shell Road, Parcel number 9004-0000-0016.

The property is currently zoned B-4 General Commercial and B-9 General Office and has a future land use designation of Commercial/Retail (C/R) and Commercial/Office (C/O).

The purpose and intent of the B-4 General Commercial Classification is to encourage the development of intensive commercial areas providing a wide range of goods and services, and located adjoining at least one major collector or arterial road. The purpose and intent of the B-9 General Office is to provide areas for general office use.

The Commercial/Retail classification, Comprehensive Plan Future Land Use Element Policy 5.403(b), provides for commercial retail and service uses, as well as the uses and activities permitted in the C/O classification. The purpose and intent of this land use is to identify locations for a variety of commercial uses including neighborhood and community shopping centers, convenience stores, retail sales, highway oriented commercial and other commercial services.

The Commercial/Office classification, Comprehensive Plan Future Land Use Element Policy 5.403(a), provides for commercial areas which do not include extensive retail or service uses and reserves areas

for the expansion of office employment and service uses without the adverse impacts of traffic and congestion commonly associated with retail development.

The proposed Industrial/Service (IS) future land use designation would allow for industrial and commercial activities. Future Land Use Element, Policy 5.404 (c), provides for manufacturing, warehouse and distribution, and other industrial and commercial retail activities.

The subject property is currently wooded, and undeveloped. The applicant is proposing to construct an industrial park with approximately 125,000 square feet of space and two commercial frontage tracts along US 17-92. The Master Development Plan illustrates nine (9) buildings ranging from 9,000 square feet to 15,000 square feet a piece, adding up to roughly 125,000 square feet. The maximum building height would be 45 feet. The two commercial tracts fronting US 17-92 range from roughly 1.5 to 2.5 acres a piece and could accommodate restaurant/retail type commercial uses. The maximum building height would be 40 feet.

While the subject site has been undeveloped, the surrounding area generally consists of office parks, public storage, undeveloped tracts of land zoned for office parks and suburban low density developments. The Springview residential subdivision is northwest of the subject site. This community exits onto Spring Vista Drive which runs north of the site. There is a tract of land north of the subject site and south of Spring Vista Drive that is currently undeveloped and zoned as Business Planned Unit Development. Another tract of land north of the subject site is currently developed as public storage.

The area to the south of the subject site is zoned industrial but remains undeveloped likely due to the large power transmission lines and easement that transverse the site. The area west of the subject site is the existing Springview Commerce Industrial Park.

Please see the table below for further description of the surrounding area.

	Property Use	Future Land Use	Zoning
North	Vacant, Public Storage	Commercial/Office (CO); Commercial/Retail (CR)	BPUD
South	Vacant/Power Transmission Line	Industrial/Service (IS)	Light Industrial (I-1)
East	US 17-92, Vacant	Commercial/Retail (CR)	General Commercial (B-4)

West	Shell Road/Springview Commerce Industrial Park	Industrial/Service (IS)	Light Industrial (I-1)
------	--	-------------------------	------------------------

The proposed development would essentially be an eastward expansion of the Springview Commerce Industrial Park with similar development types. Springview Commerce Park similarly has roughly 9,000 square foot to 20,000 square foot buildings. Additionally, the property to the south has similar industrial future land use and zoning designations. The properties to the north between the subject site and Spring Vista Drive are zoned for office or public storage and offer a buffer between the proposed development to the south and existing residential subdivision to the north.

Land Development Code, Sec 3-2a – Zoning/future land use compatibility matrix

Land Use Classifications	Future Land Use	Net Density (Dwelling units per net buildable acre) and Floor Area Ratios (FAR)	Allowable Zoning Classifications
Industrial Classifications	Industrial/Service (IS)	Max FAR 1.0	I-1 (Light Industrial), Planned Unit Development, B-5 (Heavy Commercial)

Transportation: The proposed project will primarily impact US 17-92, with secondary impacts to Shell Road. The proposed use is not anticipated to significantly generate different traffic volumes than the existing zoning and land use designations would generate.

Schools: Not applicable

Water/Sewer: Volusia County Utilities serves water and sewer to the subject site and have stated that adequate capacity exists to serve the site.

Environmental Impacts: The proposed development will meet the requirements of local, state and federal environmental regulations.

Community Meeting: The applicant held a community meeting on May 21, 2019. Seven (7) people signed the community meeting sign-in sheet, although more were likely in attendance. It appeared that the

majority of concerns were from the nearby Springview residents who did not want to see an expansion of industrial uses in the area. Some comments were in regards to prohibiting the north access point to Spring Vista Drive. The Developer stated that they would be willing to consider removing this access point leaving access to only Shell Road and US 17-92. Please see the attached comments summary and sign in sheet for additional detail.

Any proposed development of the subject property will be required to undergo the development approval process consistent with the City's Land Development Code. This would include a final site plan (engineering plans) to be reviewed by the City's Development Review Committee.

Findings of Fact

- The property's existing future land use of Commercial/Office is adjacent to Industrial/Service to the west and south.
- The subject properties north of the subject site of public storage and BPUD zoning may act as a buffer between the proposed industrial park and the existing residential areas to the north.
- The subject site fronts US 17-92 and the eastern portion of the properties is planned to remain a commercial use.
- The proposed amendment is consistent with Future Land Use Element Policy 5.505 regarding the considerations for amendments for the Comprehensive Plan.
- The proposed MPUD is in compliance with the City's Land Development Code, Sec. 3-108 - PUD Planned Unit Development.
- The proposed MPUD is in compliance with the City's Land Development Code, Sec. 1-6 – Rezoning.
- On April 23, 2019 the DRC reviewed and recommended approval Case #19-02-PUD-CommercePark, offering conditional approval providing for Development Agreement Revisions.
- On July 17, 2019, the City Council approved the transmittal of Ordinance 09-19 to the Volusia Growth Management Commission and the State Department of Economic Opportunity for an amendment to the comprehensive plan.
- On July 17, 2019, the City Council approved the first reading of Ordinance 10-19.

COST/FUNDING

N/A

RECOMMENDATION

Approve the second reading and transmittal of Ordinance #10-19

IMPLEMENTATION

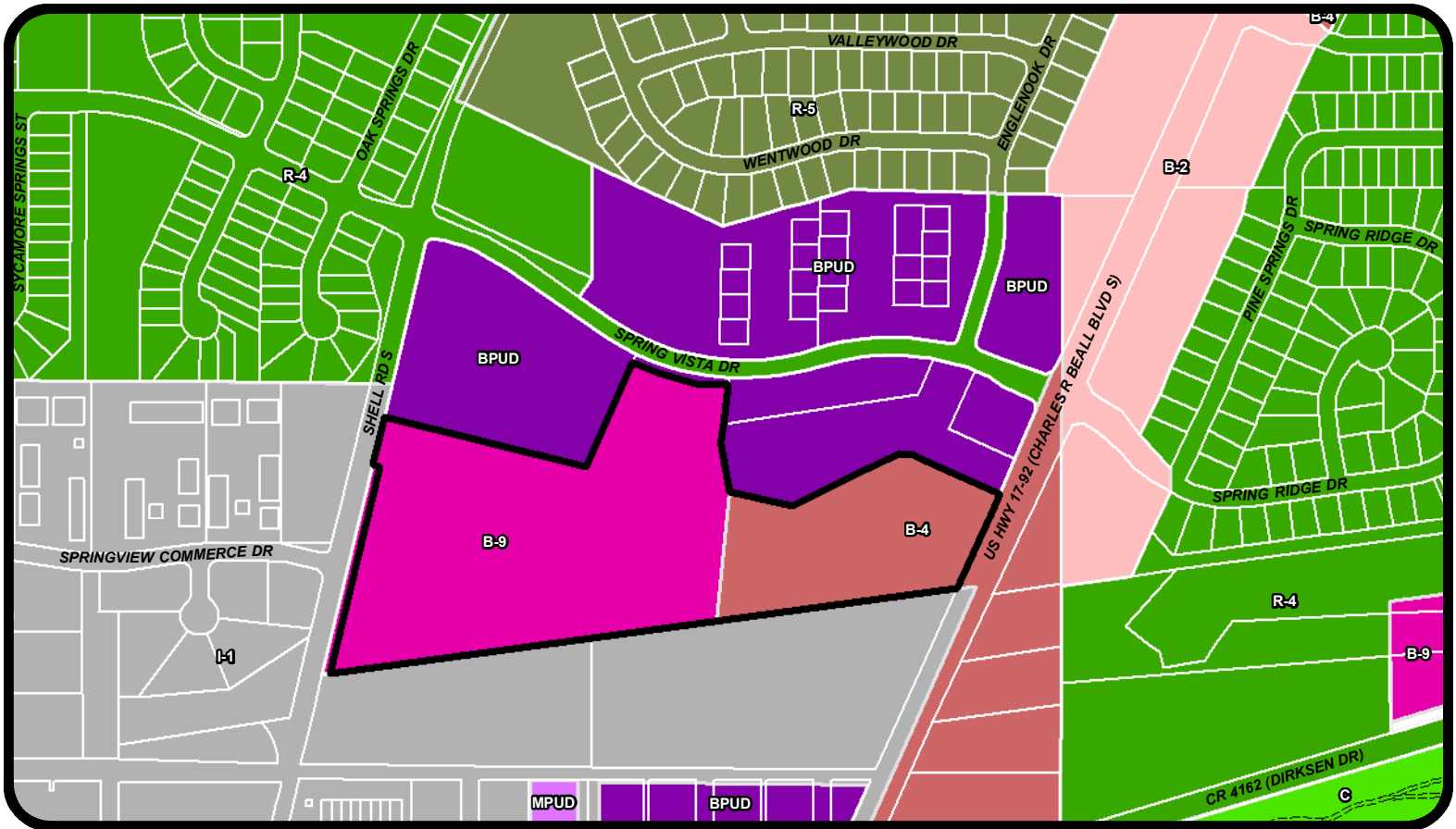
If the City Council approves the second reading of the MPUD and associated Comprehensive Plan Amendment, then the applicant will be permitted to submit for a Final Site Plan (Engineering Plan).

ATTACHMENTS

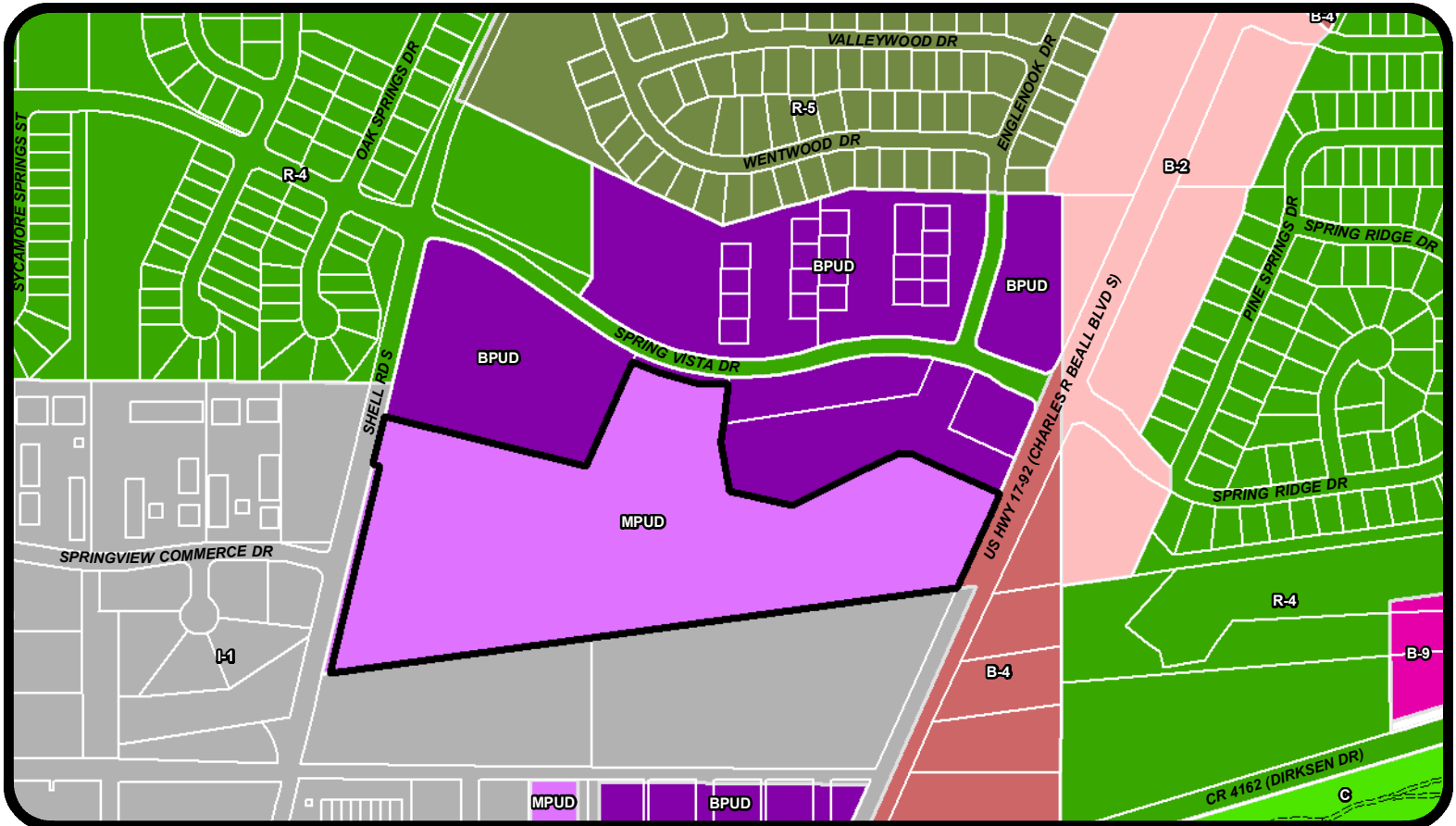
- Zoning Map
- Community Meeting Comments Compiled
- Community Meeting Sign-in Sheet
- Ordinance 10-19
- MPUD Development Agreement
- Master Development Plan

COMMERCE PARK

EXISTING ZONING



PROPOSED ZONING



Community Meeting Cards
KBC Development & Dewberry

19-02-PUD-CommercePark

Tuesday, May 21, 2019

~Via EMAIL~

1)

We were at tonight's meeting and would appreciate any pertinent information you can send us. As long-time Springview residents, we do not like the idea of an industrial complex literally across the street. When our family moved here in October 2000 we loved how quiet the area was and hoped the city would continue to grow and stay a family oriented community. But this is the wrong type of growth. It will not attract new families to the area and will instead drive them away. We and others we have talked to in our neighborhood will not wish to remain if this re-zoning is approved.

Thank you,
Joe & Marcie Schmidt
399 Oak Springs Court
DeBary, FL 32713
jfs.399@comcast.net
386-837-3129

~Via EMAIL~

2)

I'm a long-time resident of DeBary. Moved in to a newly built house in Springview in 2000. My house was 1 of the first 3 built and we all closed on the same day back then. I'm the longest living resident in Springview so you could say I've seen all the changes since 2000.

When we decided to move in, we were told by the developer and builder for Springview that all the land from 17/92 down Spring Vista into our neighborhood at Shell would only get Office complexes (Commercial businesses) built on it. That this would never change. Now you, the City Council, want to approve a change in zoning so that this developer can build Industrial buildings? No!!

First of all, this guy Chris from KBC Development is not straight forward and is not honest. He repeatedly lied during the meeting, misled us and was very evasive when giving answers to questions.

When I asked him what he was planning to build he said it would be LITE (LIGHT) industrial. Every time he spoke of the zoning throughout the whole meeting, he kept saying lite industrial. This is not lite industrial – it is industrial. Nowhere in the entire MPUD Development Agreement is the word LITE used. In other words – he was being evasive trying to make the proposal seem less industrial than it actually is. Page 6 clearly shows the manufacturing that can be put in there if this is approved. He kept saying “come see our other complex in Sanford and you'll see what it'll look like.” While it MAY look like his Sanford complex it also COULD look a whole lot different based on what the law allows should the zoning be changed. Unless you are going to restrict what can be built, anything listed on Page 6 and 7 can be built in the Industrial area.

When we questioned him on changing the zoning to industrial, he said “well the current zoning allows for a Best Buy or other Big Box store to be built on that land. I doubted that but had no evidence to question him. But then Matt Boerger from the City of DeBary got up and said “no, a Best Buy or other Big Box cannot be built on that land with the current zoning.” So once again Chris was lying trying to make his proposal look better.

When Chris was questioned about the entrance off Spring Vista and why it was there along with 2 other entrances, 1 off Shell and the other off 17/92 he said his plan is to have most traffic enter and exit from the Shell road entrance. Well guess what, if you build it – people will use it however they feel like using it. That Spring Vista entrance will be used the most, by far. And that is the only road, more or less, in and out of our neighborhood – Spring Vista. Having that entrance is a terrible idea, almost

worse that changing the zoning to industrial. We will be competing with trucks to use the road. That road currently says no trucks over 1 ton allowed but no one follows that rule. There are signs at the 17/92 entrance and again at the Shell road entrance to the road. Just this morning I saw an 18 wheeler turn on to Spring Vista from 17/92 to go to the new houses being built in Springview woods behind us. There are never any police there to monitor the traffic and hand out tickets. As I said, if you build it, they will use it. Chris was evasive in saying his "plan" was for traffic to use Shell. Well they will use whatever entrance they feel like. That is what is happening now the city isn't doing anything about it.

When the president of our HOA asked Chris what percentage would be Industrial and what percentage would be commercial his response was "I don't know, depends on what companies rent space". While that answer is technically true it's incredibly misleading. I pointed this out by asking him if it is safe to say that the area marked on Site Plan C03 as commercial Phase 2 and commercial phase 3 are the only commercial areas and the rest is considered industrial. He said yes that is safe to say. But simply viewing the layout I could tell the answer is about 75% Industrial and 25% commercial. Why Chris was unable/unwilling to state this is unknown. Again, he was being evasive and mislead us in his answer, trying to downplay the amount of industrial space going in.

There were other comments made by him that followed the same pattern but I don't remember them all.

I am not a fan of someone who is evasive, misleading and outright lying. I don't know how my city council can take this man's word on anything. I don't trust him, neither should the City of DeBary.

Two things I would like to see happen:

1. Deny this zoning change. It wasn't ever supposed to be industrial The residents don't want it. Our property values are not going up because of this – they would only go down. The amount of noise, pollution, traffic from this would be enormous in a residential area.
2. Short of number 1 happening, at least remove the entrance from Spring Vista. This is our ONLY way in and out of our neighborhood and we shouldn't have to fight with trucks and all the traffic it'll bring. Make the entrance on 17/92 and Shell the primary entrances and exits.

David Michaud, 308 Sabal Springs Ct. DeBary
Cell: 386-837-9102

Tuesday, May 21, 2019
5:30PM

Community Meeting
Sign in Sheet

19-02-PUD-CommercePark

	Name (Please Print)	Email Address	Phone Number
1	David Michaud	flgatorusa@yahoo.com	386-837-9102
2	Bob Gross	nobe@completecommonline.com	407-790-1200
3	Debbie Scotta	Phantomphixerswife@yahoo.com	321-304-7179
4	Tracey Sadiq	TraceySadiq@hotmail.com	386-753-9782
5	Joe Schmidt	JFS.399@cimcast.net	386-837-3129
6	Inaldis Sibillo	Nanoky@bellsouth.net	386-490-2503
7	Jim Munroe	Munroe325@comcast.net	386-668-9231
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After Recording Return to:
City of DeBary
Attn: City Clerk
16 Columba Road
DeBary, Florida 32713

ORDINANCE # 10-19

ATTACHMENT "A"

MPUD DEVELOPMENT AGREEMENT

DEBARY COMMERCE PARK MIXED PLANNED UNIT DEVELOPMENT

THIS MPUD DEVELOPMENT AGREEMENT ("Development Agreement" or this "Agreement") is made and entered into by and between the **CITY OF DEBARY**, a Florida municipal corporation (herein "City"), and F. Myrice Lukas and Paul M. Lukas, Co-Trustees of the Paul M. Lukas Family Trust dated October 31, 2012 and F. Myrice Lukas and Paul M. Lukas, Co-Trustees of the F. Myrice Lukas Family Trust Dated October 31, 2012, the record title property owners whose address is 395 Gobblers Lodge Road, Osteen, Florida 32764 (collectively herein "Owner"), and KBC Development, Inc. (herein "Applicant")..

WHEREAS, the Applicant is the contract purchaser of that certain real property being approximately 23.72 acres in size and having a Volusia County Tax Parcel Identification Number 900400000016, and legally described in **Exhibit "A"** attached hereto and incorporated herein (herein the "Property") and being the same property described in City of DeBary Ordinance No. 10-19; and

WHEREAS, Owner is the fee simple owner of the Property and has given Applicant consent to seek the MPUD zoning and its corresponding Development Agreement and Master Development Plan;

Owner hereby joins in and consents to this Development Agreement and its corresponding Master Development Plan; and

WHEREAS, Applicant is requesting to rezone the Property from B-4 (General Commercial) and B-9 (General Office) to MPUD (Mixed Planned Unit Development); and

WHEREAS, the Property has been recently designated with a Comprehensive Plan Future Land Use Map designation of I/S (Industrial/Service); and

WHEREAS, Applicant's request to rezone the Property to (MPUD) Mixed Planned Unit Development has been granted pursuant to Ordinance _____ and the development and use of Property shall be regulated by this Development Agreement and its corresponding Master Development Plan; and

WHEREAS, Ordinance No. 10-19 approving this Development Agreement has been advertised and noticed in accordance with the requirements of state law and Section 1-10 of the City of DeBary Land Development Code; and

WHEREAS, the City Council acting in its capacity as the City of DeBary Local Planning Agency and Governing Body has conducted the necessary public hearings on Ordinance No. 10-19 approving this Development Agreement; and

WHEREAS, based upon competent, substantial evidence presented in the record, Ordinance No. 10-19 and this Development Agreement have been determined by the City of DeBary City Council to meet the requirements for rezoning pursuant to Section 1-6, City of DeBary Land Development Code and Comprehensive Plan Policy 5.505 and is consistent with the City of DeBary Comprehensive Plan and Land Development Code; and

WHEREAS, the City of DeBary City Council finds that this Development Agreement promotes the public health, safety, and welfare and is consistent with and authorized by its authority under Chapter 166,

Florida Statutes, Article VIII, Section 2 (b) of the State Constitution, and the City's home rule authority and police powers.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

DEVELOPMENT AGREEMENT

A. Development Concept: The property shall be developed as an MPUD substantially in accordance with the Master Development Plan and this Development Agreement. The Master Development Plan shall govern the development of the property as a MPUD and shall regulate the future land use of this parcel.

1. Master Development Plan. The Master Development Plan shall consist of the Preliminary Plan prepared by Dewberry dated 10-19 March 2019 and this Development Agreement. The Preliminary Plan is hereby approved and incorporated in this Development Agreement by reference as **Exhibit "B."** The Master Development Plan shall be filed and retained for public inspection in the office of the City of DeBary and it shall constitute a supplement to the Official Zoning Map of the City of DeBary

2. Amendments. The Master Development Plan is intended to be a conceptual plan to guide development of the Property in compliance with the terms and conditions of this Development Agreement. The parties hereto acknowledge that reductions in density and/or intensity may and do occur; and that minor changes to roadway design, utilities, location and size of structures, and locations and design of stormwater storage, landscape buffers and upland buffers may occur during the plat and/or site plan review and approval processes. Proposed revisions to the Master Development Plan that also necessitate revisions to the substantive terms of this Development Agreement shall require

approval by the City Council as either a major or minor amendment to this MPUD in accordance with the Land Development Code, as may be amended. The DeBary City Manager shall make determinations as to whether requested revisions to the Master Development Plan rise to the level of a minor or major amendment of this MPUD pursuant to the Land Development Code, or is merely a minor deviation of the Master Development Plan. Minor and major amendments to this MPUD shall be processed in accordance with the Land Development Code, as may be amended. Changes determined by the City Manager to be minor deviations to the Master Development Plan may be approved by the City in the issuance of subsequent development orders. A minor deviation shall be a deviation from the Master Development Plan, which has no substantive effect on the overall goals, purpose and objectives of this Development Agreement and the Master Development Plan. Generally, a minor deviation would be a change that does (a) not conflict with the requirements of the Master Development Plan or any exhibit adopted as part of the Master Development Plan, (b) not conflict with any substantive provision of this Development Agreement, any City ordinance or regulation not superseded by the terms of Ordinance No. 10-19 and this Development Agreement, and (c) not trigger the minor or major amendment PUD provisions of the City of DeBary Land Development Code.

3. Final Site Plan/Preliminary Plat. After this Development Agreement and its Master Development Plan is recorded, and prior to issuance of any site permits for construction, including clearing, mass grading and infrastructure improvements, a Site Plan or Preliminary Plat for the Property shall be prepared and submitted to the City for review and approval in the manner required by the City of DeBary Land Development Code and approval for such obtained. Any subdivision of Property shall adhere to the approved Master Development Plan. Conflicts with the Master Development Plan will

be considered in the same manner as a major amendment or, where acceptable within the planned unit development regulation, a minor modification per Land Development Code Section 3-108.

4. Unified Ownership. The Owner or Applicant (if Applicant purchases the Property), their respective successors and assigns shall maintain unified ownership of the Property until after approval and recording of final plat of the Property. The Owner or Applicant (if Applicant purchases the Property) cannot convey portions of the Property without first having obtained a final plat approval(s) creating a legal subdivision of the portion of the Property it intends to convey separately from the remainder of the Property.

B. Phases of Development. Development phasing will be consistent with the phasing shown on Exhibit B – Preliminary Plan. Phase 1 industrial area consists of 15.64 acres, more or less. Phase 2 commercial area consists of 2.54 acres, more or less. Phase 3 commercial area consists of 1.62 acres, more or less. Construction of phases is not required to be sequential. Additional phasing and/or sub-phasing may be allowed at time of Overall Development Plan or final site plan without requiring an amendment to the Master Development Plan or this associated Development Agreement, providing the proposal does not conflict with provisions set out within the approved master development plan. Infrastructure needs such as roadways, sidewalks, crosswalks, stormwater conveyance, landscaping or buffering provisions, and irrigation and dry-line connections will be constructed for each phase, with stub-outs for future phases.

C. Land Uses within the MPUD. The development of the property, as described in Exhibit "A", shall be consistent with the uses prescribed for each area within the proposed MPUD. The following land uses shall be allowed as permitted principal uses and structures along with their customary accessory uses and structures. All other land uses not specifically set forth herein as permitted uses are prohibited.

Within the Industrial Land Use Area:

- ▶ Automobile, truck, truck-trailer, motorcycle, mobile home, manufactured dwelling, recreational vehicle and bicycle manufacturers.
- ▶ Bakeries.
- ▶ Bottling and distribution plants
- ▶ Building materials storage and sales
- ▶ Cold storage and frozen food lockers
- ▶ Contractor's shop, storage and equipment (no outdoor storage permitted)
- ▶ Display and sale (retail or wholesale) of products or parts manufactured or assembled on the premises (no outdoor storage permitted)
- ▶ Feed and seed processing and storage
- ▶ Industrial vocational training school.
- ▶ Laundries and linen services.
- ▶ Machinery and machine shops.
- ▶ Moving and storage companies.
- ▶ Pest exterminators.
- ▶ Plumbing supply.
- ▶ Printing, publishing and engraving.
- ▶ Sign and paint shop.
- ▶ Testing of materials, equipment and products.
- ▶ Truck, automobile, boat, mobile recreational vehicle and shelter, motorcycle and trailer storage.

- ▶ Warehouses.
- ▶ Welding or soldering shops.
- ▶ Wholesale meat and produce distribution with meat cutting but no butchering.
- ▶ Manufacturing

Within the Commercial Land Use Area:

- ▶ Bars and liquor stores.
- ▶ Catering services.
- ▶ Financial institutions.
- ▶ General offices, medical and professional. (when sufficiently buffered from industrial uses by no less than 20' of vegetation and fence, unless otherwise waived by the City

Development Review Committee)

- ▶ Hardware stores.
- ▶ Hobby and craft stores.
- ▶ Pet grooming.
- ▶ Private clubs and lodges.
- ▶ Restaurants with outside service of alcoholic beverages. The restaurant must operate under a 4COPSRX license or shall meet similar limitations. Outside service and consumption of alcohol shall be limited to the same hours of operation as interior service and consumption. The establishment's license from Division of Alcoholic Beverages and Tobacco and Bureau of Licensing must include the outside area as part of the licensed premises.

- ▶ Restaurants, Types A and B.
- ▶ Retail paints and wallpaper stores.

- ▶ Retail sales and services.

D. Industrial Development Standards.

1. Minimum lot area: 15.64 acres
2. Minimum lot width: 100 ft.
3. Minimum building setbacks:
 - A. Front yard: 25 ft.
 - B. Rear yard: 15 ft.
 - C. Side yard: 10 ft.
4. Maximum building lot coverage: 35 percent
(The total area covered with principal and accessory buildings)
5. Maximum impervious surface ratio: 85%

(An individual lot may have a maximum ISR of 85%, but the entire PUD must not exceed an average of 75% ISR.)
6. Maximum building height: 45 ft.
7. Minimum building size: 9,000 square feet
8. Minimum spacing between buildings: 10 ft
9. Maximum FAR: 0.5
10. Outdoor Storage Prohibitions: All outdoor storage shall comply with the following conditions. Outdoor storage shall not be visible from Shell Road, Spring Vista Drive, and US 17-92. Staging of machinery, business materials, pipe, lumber and operable vehicles associated with the manufacturing and processes of the premise served, shall be permissible within the loading bay area internal to the site. No staging shall be permissible within the spaces reserved primarily for customer or employee parking. Equipment or vehicles located for the purpose of staging shall not be immobile, nor

constitute waste, trash, rubble, debris, mechanical parts, or materials associated with the internal processes that otherwise should be stored inside the building.

E. Commercial Development Standards.

- 1. Minimum lot area: 1 acre
- 2. Minimum lot width: 100 ft.
- 3. Minimum building setbacks:
 - D. Front yard: 25 ft.
 - E. Rear yard: 10 ft.
 - F. Side yard: 10 ft.
 - G. Between buildings: 10 ft.
- 4. Maximum building lot coverage: 35 percent
(The total area covered with principal and accessory buildings)
- 5. Maximum impervious surface ratio: 85%

(An individual lot may have a maximum ISR of 85%, but the entire PUD must not exceed an average of 75% ISR.)
- 6. Maximum building height: 40 ft.
- 7. Maximum FAR: 0.5

F. Architectural Standards

1. Industrial Uses. Architectural standards for the Industrial portion of the site shall be substantially consistent with the conceptual building elevations included as Exhibit C. All industrial buildings shall contain a façade transition, such as a brick or split-faced block base to contrast the standing seam metal upper. Final colors, materials, and building dimensions shall be reviewed and approved at time of site plan approval.

2. Commercial Uses. Architectural standards for the Commercial portion of the site shall be in accordance with the City's LDC regulations adopted for the Gateway Corridor. Consideration shall be provided to encourage the development of highly visible, pedestrian spaces (such as for sitting and eating) while planning acceptable land uses and site layout. When possible, pedestrian spaces should be oriented closest to the US Highway 17-92 frontage and parking to the rear. Final colors, materials, and building dimensions shall be reviewed and approved at time of site plan approval.

3. Master Development Architectural Requirements and Prohibitions. Wire mesh and barbed wire fencing shall not be permitted. Chain link fence shall only be permitted in the interior of the site where it is not visible from public right of way. Onsite utilities shall be installed underground and, where mechanical equipment is visible from the right of way, it shall be screened from public view by landscaping. A sidewalk system connecting the Commercial and Industrial land use areas shall be provided consistent with Exhibit B. A sidewalk shall also be provided around the proposed stormwater pond. During site plan design, every attempt shall be made to include a parkway strip between the curb and sidewalk in the area of the stormwater pond retaining wall; however, if a parkway strip is not feasible, the sidewalk may be located immediately adjacent to the curb. Where sidewalk construction along the east-west access drive that runs through the project is not feasible due to lack of connection, the Applicant may pay into the Sidewalk Trust Fund per LDC Section 4-26.

G. Landscaping.

1. MPUD Perimeter Landscape buffer requirements -- a minimum 25 foot perimeter landscape area will be provided along boundaries of the MPUD, with the exception of driveway areas. This landscape buffer shall count towards meeting the minimum 15% Tree Area Protection requirement (Section 5-88). A minimum of 15% of the square footage of the development shall be designated for the protection of trees. Said area can include any landscape buffer. A minimum of 50% of the required number of trees shall consist of existing trees within said area. However, due to lack of significant tree canopy resulting from past land clearing events, the minimum 50% tree requirement may not be able to be met with existing trees and new trees may be planted to meet the minimum tree requirements. As required by LDC, the preservation areas shall be met within the boundary of the Development designation. Statistical tree survey covering a minimum of 10% of the property, and located in areas to provide a representative sample of the property, shall be permitted upon approval of methodology by the City Arborist and then subsequently, the City Manager. Street trees shall be a minimum of six (6) feet in height, three (3.0) inch caliper measured six (6) inches above ground level at time of planting. The City shall not be responsible for maintenance of trees in dedicated rights of way.
2. Landscaping Adjacent To Structures – Building perimeter landscaping will be provided in accordance with the requirements of Section 5.7 of the City of DeBary Land Development Code, as amended. Within the Industrial land use area of the development, landscaping along the rear of warehouse buildings is not required, in order to accommodate

garage access. Building perimeters visible from external right-of-way and the “internal core roadway” shall be landscaped. Perimeter buffers identified as preservation space shall remain in their natural condition and shall not be required to have irrigation. Additional landscaping may be added to the perimeter buffers where existing landscaping does not meet City buffer standards per the Land Development Code. The supplemental landscaping will be irrigated. A tree species from the City’s list of Specimen trees, as defined in the City’s land development code Sec 1-3, will be located every 50 linear feet around the proposed stormwater pond, or where a retaining wall does not provide enough space for the location of a tree, the tree may be located within the pond itself. A minimum of one bench will be installed along the sidewalk surrounding the storm pond. Where existing vegetation is inadequate or of undesirable appearance, the buffer will be enhanced through landscaping and/or fencing.

H. Parking – Off-street parking requirements: Meet the minimum requirements of Section 3-129 of the City of DeBary Land Development Code, as amended. On street parking or parking on right of way shall be strictly prohibited.

I. Signage. Except as stated within this agreement, signs shall meet the minimum requirements of Section 5.36 and 5.39 of the City of DeBary Land Development Code, as amended. A maximum of three (3) ground signs are permitted for the development. Each ground sign may have two (2) sign faces, with a maximum of forty-eight (48) square feet of sign area per face. Maximum height of ground signs may not exceed eight (8) feet. Potential locations of proposed ground signs are shown on Exhibit B. For buildings

shared by multiple tenants, each individual tenant within the same building is permitted a wall sign with a maximum sign area of twenty-four (24) square feet.

J. Environmental Considerations. Natural resources will be protected as required by applicable local, state and federal requirements. The Applicant shall meet the minimum environmental standards of the DeBary Land Development Code, as amended.

K. Sewage Disposal, Potable Water and Reclaimed Water. Provision for sewage disposal, potable water and reclaimed water needs of the MPUD shall be provided in accordance with the City of DeBary Comprehensive Plan, as amended, the City of DeBary Land Development Code, as amended, and State of Florida Administrative Code 10-D6.

L. Stormwater Drainage. Provision for stormwater collection, retention and treatment shall be in accordance with the City of DeBary Land Development Code, as amended, the St. Johns River Water Management District (SJRWMD) and any other applicable regulatory agency codes, rules and regulations. Alternative treatment methods deemed acceptable SJRWMD, such as exfiltration, may be used in lieu of or in conjunction with dry/wet retention ponds.

M. Mass Grading. The applicant shall be allowed to mass grade a portion of all of the site prior to construction of the infrastructure and buildings.

N. Access and Transportation System Improvements. All access and transportation system improvements shall be provided in accordance with the City of DeBary Comprehensive Plan, Land Development Code, as amended, unless otherwise provided herein. Upon approval of a site plan, traffic impact

analysis and any associated resulting traffic impacts mitigation agreement, the project will be fully vested for vehicle trips and will be in compliance with required traffic concurrency. The onsite vehicular circulation shall be generally consistent with Exhibit B. However, the Developer shall be permitted to modify the location and configuration of access driveways and internal accessways and walkways so long as the modifications are otherwise consistent with this Agreement and the LDC. Internal accessways are permitted to be 24 feet in pavement width with 6 inch Type D (FDOT) curb on both sides of the pavement. Sidewalks shall be required in parking areas to provide safe pedestrian access between parking areas and buildings. Within the Industrial use area, one (1) crossing shall be provided to the sidewalk around the stormwater pond.

O. Road Maintenance Agreement - Prior to Applicant's construction commencement, Applicant shall be required to enter into separate agreement with the City with terms acceptable to the City, providing for, at Applicant's expense, the monitoring, inspection, testing, repair and restoration of public road improvements arising from damage or distress beyond normal wear and tear occurring during the time period when Applicant is conducting its hauling and construction activities upon and to and from the Property. The City Manager is given the authority to negotiate and execute for the City the road maintenance agreement required by this provision.

P. Right-of-Way Property Conveyance. The Owner or Applicant shall cause the conveyance of a 20-foot wide strip of land from the Property to the City along the Property's northwest frontage of Shell Road ("Right-of-Way Property") in order to even out the width of such right-of-way adjacent to the Property's frontage. The Right-of-Way Property shall be conveyed to the City by special warranty deed free and clear of all liens and encumbrances except for those matters acceptable to the City. The form of the special warranty deed shall be subject to the approval of the City. The Applicant shall, at least ten (10) days prior

to the conveyance of the Right-of-Way Property to the City, provide to the City a boundary survey of the Right-of-Way Property (including a depiction of the existing Shell Road rights-of-way in relation to such property) certified to the City and a current attorney's opinion of title or a current certificate of title, evidencing that fee simple title to the Right-of-Way Property is free and clear of all liens and encumbrances except for those matters acceptable to the City. Real property taxes on the Right-of-Way Property shall be prorated as of the day before the City's acceptance of the conveyance of the same, and the prorated amount of such real property taxes attributable to the Applicant shall be paid and escrowed by the Applicant in accordance with the provisions of Section 196.295, Florida Statutes; provided, however, that if the conveyance occurs between November 1 and December 31 of a given year, then Applicant shall be responsible for real property taxes for the entire year. Applicant shall comply with the disclosure requirements of Section 286.23, Florida Statutes, with respect to the conveyance of the Right-of-Way Property to the City, if applicable. The Right-of-Way Property conveyance shall occur no later than at final plat recording or at earlier such time as the City requests.

Further, the Owner and Developer agree to remise, release and quit-claim unto the City forever any and all right and interest Owner and Developer has or may have in the Shell Road right-of-way along the entire western frontage of the Property. The Shell Road Right-of-Way shall not be part of the Property or the development thereof by Owner or Developer and their successors and assigns in interests. The Owner and Developer shall cause to be prepared, for the City's review and approval, a quit claim deed to the City with legal sketch and description for the full width of Shell Road right-of-way adjacent to the Property. Such quit claim deed must be recorded upon the earlier of: (i) record of the final plat, or (ii) prior to the certificate of occupancy for the 1st building upon the Property, whichever occurs first.

The property shall receive credit for tree preservation and open space in areas of right of way dedication.

Q. Binding Effect of Plans, Recording and Effective Date. The MPUD Ordinance, this Development Agreement and the Master Development Plan, including any and all supplementary amendments thereto, and the Preliminary Plan shall bind and inure to the benefit of the Owner its successor and assigns in title or interest. The MPUD zoning, provisions of the "Development Agreement," and all approved plans shall run with the land and shall be administered in a manner consistent with the City of DeBary's Comprehensive Plan and the City of DeBary Land Development Code, as amended.

The MPUD Ordinance, this Development Agreement and Master Development Plan and all subsequent amendments thereto shall be filed with the Clerk of the Court and recorded within forty-five (45) days following execution of the document by the DeBary City Council, in the Official Records of Volusia County, Florida. One copy of the document, bearing the book and page number of the Official Record in which the document was recorded, shall be submitted to the City Manager. The date of approval of Ordinance #_____ shall constitute the effective date of the MPUD zoning and this Development Agreement. The Applicant shall pay all filing costs for recording documents.

R. Development Regulations. The DeBary Land Development Code, as may be amended from time to time, will control the development of the Property regarding any items not specifically covered by Ordinance No. 10-19 and this Development Agreement. The local development approvals and permits required to be approved or issued by the City for the intended use contemplated by this Development Agreement include, but are not limited to, construction plan approvals, site plans, plats, stormwater drainage, SJRWMD permits, demolition permit, grading, arbor permits, engineering and utility plans, and construction permits for buildings and other structures. These development approvals and permits shall be processed and issued by the City in accordance with procedures with respect to same as otherwise set

forth in the City's Land Development Code and subject to this Development Agreement. Failure of this Development Agreement to address a particular permit, condition, term or restriction shall not relieve the Applicant of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions. This Development 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. Nothing contained in this Agreement nor in any instruments executed pursuant to the terms of this Agreement shall be construed as a waiver or attempted waiver by the City of its sovereign immunity under the Constitution and laws of the State of Florida and federal law or other any other privilege, immunity or defense afforded under the law to the City or any of its elected or appointed officials, employees and agents.

S. Development Review Cost. The Applicant (and its successors and assigns in interests) shall timely pay the City for any and all development review costs concerning the development and the Property in accordance with Section 1-16, City of DeBary Land Development Code. Applicant acknowledges and agrees that Applicant have read § 1-16, DeBary Land Development Code and understand Applicant's responsibilities and obligations under such code provision and this Development Agreement and acknowledges and agrees that Applicant is bound by such code provision for all development applications and approvals relating to the Property.

T. EFFECTIVE DATE/EXPIRATION: This MPUD Agreement shall be effective upon the adoption of Ordinance No. 10-19 All provisions of this PUD Agreement and the Master Development Plan shall expire and terminate 730 days following the effective date of this MPUD Agreement if a subsequent Development Order for any portion of the project has not been secured in writing by the Owner or Applicant within said period of time. In the event of expiration and termination, any subsequent proposed

development of the Property shall be processed in accordance with the City of DeBary Land Development Code as may be amended from time to time. In event of expiration and termination of this Development Agreement and its corresponding Master Development Plan occurs, the Property shall revert back to its previous B-4 (General Commercial) and B-9 (General Office) zoning designations, and the MPUD entitlements under this Development Agreement and its corresponding Master Development Plan become null and void.

U. Authority. Each party represents and warrants to the other that it has all necessary power and authority to enter into and consummate the terms and conditions of this Development Agreement, that all acts, approvals, procedures and similar matters required in order to authorize this Development Agreement have been taken, obtained, or followed, as the case may be, that this Development Agreement and the proposed performance of this Development Agreement by such party is not an *ultra vires* act and that, upon the execution of this Development Agreement by all parties, this Development Agreement shall be valid and binding upon the parties and their successors in interest. Furthermore, Applicant represents and warrants to City that Applicant is the sole owner of the Property, in fee simple, free and clear of any monetary encumbrances, including but not limited to mortgages and liens, in the event such an encumbrance exists, Applicant, Applicant's sole cost, shall obtain the necessary joiners, consents and subordination to this Development Agreement or releases from the appropriate parties with an interest in the property.

V. Recitals. The recitals herein contained are true and correct and are incorporated herein by reference as material terms of this Development Agreement.

Agreed to by the City Council of the City of DeBary, Florida and the Applicant this ____ day of _____, 2019.

ATTEST:

City of DeBary, a Florida municipal corporation

Annette Hatch, City Clerk

Karen Chasez, Mayor

**STATE OF FLORIDA
COUNTY OF VOLUSIA**

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by Karen Chasez as Mayor of the City of DeBary, and who are personally known to me.

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:

Commission No: _____

My Commission expires: _____

WITNESSES:

APPLICANT

By: _____
Chris Tyree, V.P. of Land, KBC Development, Inc.

The foregoing instrument was acknowledged before me this __ day of _____ 2017, by Chris Tyree, as Vice President of Land of KBC Development, Inc., who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:

Commission No: _____

My Commission expires: _____

EXHIBIT A – Legal Description

DESCRIPTION:

A portion of Section 4, Township 19 South, Range 30 East, Volusia County, Florida being described as follows:

COMMENCE at the Southeast Corner of RESERVE AT DEBARY, UNIT 1 as recorded in Map Book 45, Pages 114 -118, Public Records of Volusia County, Florida, said point also being on the West right of way line of State Road 15 and 600 (U.S. Highway 17 and 92, a 100 foot right of way); thence South 24°13'55" West, along the aforesaid West right of way line a distance of 927.62 feet to the POINT OF BEGINNING; thence continue along the aforesaid West right of way line South 24°13'55" West a distance of 361.03 feet to an intersection with the South line of the property described in O.R. Book 3358, Page 1454; thence departing the aforesaid West right of way line run South 80°57'53" West along the aforesaid South line of O.R. Book 3358 a distance of 1009.84 feet to an intersection with the West line of the East one-half (1/2) of the Northeast one-quarter (1/4) of the aforesaid Section 4, said point also being the Southeast corner of O.R. Book 3430 at Page 22; thence, departing the aforesaid South line of O.R. Book 3358, run South 80°57'53" West along the South line of the aforesaid O.R. Book 3430 a distance of 786.97 feet to the Southwest corner of the aforesaid O.R. Book 3430; thence departing the aforesaid South line of O.R. Book 3430 run North 13°11'08" East along the West line of the aforesaid O.R. Book 3430 a distance of 848.23 feet to the Southwest corner of Parcel "B" per O.R. Book 4045 at Page 1890-1896; thence departing the aforesaid West line of O.R. Book 3430 run South 76°26'52" East along the South line of the aforesaid Parcel "B" a distance of 585.00 feet to the Southeast corner of the aforesaid Parcel "B"; thence departing the South line of the aforesaid Parcel "B" run North 24°00'54" East along the East line of the aforesaid Parcel "B" a distance of 320.00 feet to the Northeast corner of the aforesaid Parcel "B"; thence departing the aforesaid East line of Parcel "B" run South 68°44'58" East a distance of 81.55 feet; thence South 74°03'17" East a distance of 109.20 feet; thence South 87°16'25" East a distance of 90.12 feet to the Northwest corner of Parcel "A" per the aforesaid O.R. Book 4045; thence run the next four (4) courses along the boundary line of the aforesaid Parcel "A", South 06°52'35" West a distance of 170.00 feet; thence South 10°46'08" East a distance of 135.00; thence South 77°44'22" East a distance of 180.00 feet; thence North 63°51'25" East a distance of 335.00 feet to the Northeast corner of the aforesaid Parcel "A"; thence departing the aforesaid boundary line of Parcel "A" run South 81°21'46" East a distance of 37.92 feet; thence South 65°46'05" East a distance of 263.48 feet to the Point of Beginning.

LESS AND EXCEPT a 20.00 foot wide strip of land for road right of way purposes located in the Northeast 1/4 of Section 4, Township 19 South, Range 30 East Volusia County, Florida, lying East of and adjacent to Shell Road (a 50.00 foot right of way), described in that certain Warranty Deed as recorded in Official Records Book 4934, Page 1918, Public Records of Volusia County, Florida and being more particularly described as follows:

COMMENCE at the Southeast corner of Tract "A" of SPRINGVIEW INDUSTRIAL PARK UNIT 1, according to the plat thereof as recorded in Plat Book 49, Pages 17 and 18 in the Public Records of Volusia County, Florida; thence run North 80°57'38" East, along a line that is the Easterly extension of the South line of said Tract "A", for a distance of 54.06 feet to the East right of way line of Shell Road and the POINT OF BEGINNING; thence run North 13°18'37" East, along the East line of Shell Road, for a distance of 610.00 feet; thence, departing said right of way line, run South 76°41'23" East for a distance of 20.00 feet; thence run South 13°18'37" West for a distance of 601.78 feet; thence run South 80°57'38" West for a distance of 21.62 feet to the POINT OF BEGINNING.

TOGETHER WITH a parcel of land for non-exclusive ingress and egress lying in the East 1/2 of the Northeast 1/4 of Section 4, Township 19 South, Range 30 East, Volusia County, Florida, described in that certain Grant of Easement as recorded in Official Records Book 3913, Page 3234, Public Records of Volusia County, Florida, said parcel being more particularly described as follows:

COMMENCE at the Northeast corner of the Northeast 1/4 of said Section 4; thence run S 00°24'57" W along the East line of said Northeast 1/4 of Section 4 a distance of 1884.71 feet to the Westerly right-of-way line of State Roads 15 and 600 (U.S. Highways 17 and 92) as recorded in State and County Map Book 1, Pages 27 through 37 of the Public Records of Volusia County, Florida; thence run S 24°13'55" W along said Westerly right-of-way line 437.60 feet thence leaving said Westerly right-of-way line run N 65°46'05" W 263.48 feet; thence N 81°21'46" W 79.91 feet; thence S 86°58'17" W 378.53 feet thence N 12°54'47" W 210.32 feet thence N 87°16'25" W 105.12 feet; thence N 74°03'17" W 12.83 feet to the POINT OF BEGINNING; thence continue N 74°03'17" W 75.00 feet; thence N 15°56'43" E 75.00 feet thence S 74°03'17" E 75.00 feet; thence S 15°56'43" W 75.00 feet to the POINT OF BEGINNING.

LESS AND EXCEPT any portion of said easement lying in road right-of-way.

EXHIBIT B – Preliminary Plan

EXHIBIT C – Conceptual Building Elevation for Industrial Uses

Drawing Index

Civil

- C01 COVER SHEET
- C02 EXISTING CONDITIONS
- C03 SITE PLAN

Landscape

- C04 CONCEPTUAL LANDSCAPE PLAN

Legal Description:

A PORTION OF SECTION 4, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF RESERVE AT DEBARY, UNIT 1 AS RECORDED IN MAP BOOK 45, PAGES 114 -118, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID POINT ALSO BEING ON THE WEST RIGHT OF WAY LINE OF STATE ROAD 15 AND 600 (U.S. HIGHWAY 17 AND 92, A 100 FOOT RIGHT OF WAY); THENCE SOUTH 24°13'55" WEST, ALONG THE AFORESAID WEST RIGHT OF WAY LINE A DISTANCE OF 927.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE AFORESAID WEST RIGHT OF WAY LINE SOUTH 24°13'55" WEST A DISTANCE OF 361.03 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE PROPERTY DESCRIBED IN O.R. BOOK 3358, PAGE 1454; THENCE DEPARTING THE AFORESAID WEST RIGHT OF WAY LINE RUN SOUTH 80°57'53" WEST ALONG THE AFORESAID SOUTH LINE OF O.R. BOOK 3358 A DISTANCE OF 1009.84 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST ONE-HALF (1/2) OF THE NORTHEAST ONE-QUARTER (1/4) OF THE AFORESAID SECTION 4, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF O.R. BOOK 3430 AT PAGE 22; THENCE DEPARTING THE AFORESAID SOUTH LINE OF O.R. BOOK 3358, RUN SOUTH 80°57'53" WEST ALONG THE SOUTH LINE OF THE AFORESAID O.R. BOOK 3430 A DISTANCE OF 786.97 FEET TO THE SOUTHWEST CORNER OF THE AFORESAID O.R. BOOK 3430; THENCE DEPARTING THE AFORESAID SOUTH LINE OF O.R. BOOK 3430 RUN NORTH 13°11'08" EAST ALONG THE WEST LINE OF THE AFORESAID O.R. BOOK 3430 A DISTANCE OF 848.23 FEET TO THE SOUTHWEST CORNER OF PARCEL "B" PER O.R. BOOK 4046 AT PAGE 1896-1899; THENCE DEPARTING THE AFORESAID WEST LINE OF O.R. BOOK 3430 RUN SOUTH 76°26'52" EAST ALONG THE SOUTH LINE OF THE AFORESAID PARCEL "B" A DISTANCE OF 585.00 FEET TO THE SOUTHEAST CORNER OF THE AFORESAID PARCEL "B"; THENCE DEPARTING THE SOUTH LINE OF THE AFORESAID PARCEL "B" RUN NORTH 24°00'54" EAST ALONG THE EAST LINE OF THE AFORESAID PARCEL "B" A DISTANCE OF 320.00 FEET TO THE NORTHEAST CORNER OF THE AFORESAID PARCEL "B"; THENCE DEPARTING THE AFORESAID EAST LINE OF PARCEL "B" RUN SOUTH 68°44'58" EAST A DISTANCE OF 81.55 FEET; THENCE SOUTH 74°03'17" EAST A DISTANCE OF 109.20 FEET; THENCE SOUTH 87°16'25" EAST A DISTANCE OF 90.12 FEET TO THE NORTHWEST CORNER OF PARCEL "A" PER THE AFORESAID O.R. BOOK 4046; THENCE RUN THE NEXT FOUR (4) COURSES ALONG THE BOUNDARY LINE OF THE AFORESAID PARCEL "A", SOUTH 08°52'35" WEST A DISTANCE OF 170.00 FEET; THENCE SOUTH 10°46'08" EAST A DISTANCE OF 135.00 FEET; THENCE SOUTH 77°44'22" EAST A DISTANCE OF 180.00 FEET; THENCE NORTH 63°51'25" EAST A DISTANCE OF 335.00 FEET TO THE NORTHEAST CORNER OF THE AFORESAID PARCEL "A"; THENCE DEPARTING THE AFORESAID BOUNDARY LINE OF PARCEL "A" RUN SOUTH 81°21'46" EAST A DISTANCE OF 37.92 FEET; THENCE SOUTH 65°46'05" EAST A DISTANCE OF 263.48 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT A 20.00 FOOT WIDE STRIP OF LAND FOR ROAD RIGHT OF WAY PURPOSES LOCATED IN THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 19 SOUTH, RANGE 30 EAST VOLUSIA COUNTY, FLORIDA, LYING EAST OF AND ADJACENT TO SHELL ROAD (A 50.00 FOOT RIGHT OF WAY), DESCRIBED IN THAT CERTAIN WARRANTY DEED AS RECORDED IN OFFICIAL RECORDS BOOK 4934, PAGE 1918, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF TRACT "A" OF SPRINGVIEW INDUSTRIAL PARK UNIT 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 49, PAGES 17 AND 18 IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE RUN NORTH 80°57'38" EAST, ALONG A LINE THAT IS THE EASTERLY EXTENSION OF THE SOUTH LINE OF SAID TRACT "A", FOR A DISTANCE OF 54.06 FEET TO THE EAST RIGHT OF WAY LINE OF SHELL ROAD AND THE POINT OF BEGINNING; THENCE RUN NORTH 13°18'37" EAST, ALONG THE EAST LINE OF SHELL ROAD, FOR A DISTANCE OF 610.00 FEET; THENCE, DEPARTING SAID RIGHT OF WAY LINE, RUN SOUTH 76°41'23" EAST FOR A DISTANCE OF 20.00 FEET; THENCE RUN SOUTH 13°18'37" WEST FOR A DISTANCE OF 601.78 FEET; THENCE RUN SOUTH 80°57'38" WEST FOR A DISTANCE OF 21.62 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH A PARCEL OF LAND FOR NON-EXCLUSIVE INGRESS AND EGRESS LYING IN THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 19 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED IN THAT CERTAIN GRANT OF EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 3913, PAGE 3234, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 4; THENCE RUN S 00°24'57" W ALONG THE EAST LINE OF SAID NORTHEAST 1/4 OF SECTION 4 A DISTANCE OF 1884.71 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROADS 15 AND 600 (U.S. HIGHWAYS 17 AND 92) AS RECORDED IN STATE AND COUNTY MAP BOOK 1, PAGES 27 THROUGH 37 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE RUN S 24°13'55" W ALONG SAID WESTERLY RIGHT-OF-WAY LINE 437.60 FEET THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE RUN N 65°46'05" W 263.48 FEET; THENCE N 81°21'46" W 79.91 FEET; THENCE S 86°58'17" W 378.53 FEET THENCE N 12°54'47" W 210.32 FEET THENCE N 87°16'25" W 105.12 FEET; THENCE N 74°03'17" W 12.83 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 74°03'17" W 75.00 FEET; THENCE N 15°56'43" E 75.00 FEET THENCE S 74°03'17" E 75.00 FEET; THENCE S 15°56'43" W 75.00 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT ANY PORTION OF SAID EASEMENT LYING IN ROAD RIGHT-OF-WAY.

COMMERCE PARK

City of DeBary, Florida

MPUD PRELIMINARY PLAN

Submittal

MARCH 2019
Parcel ID. Number
900400000016

Prepared For

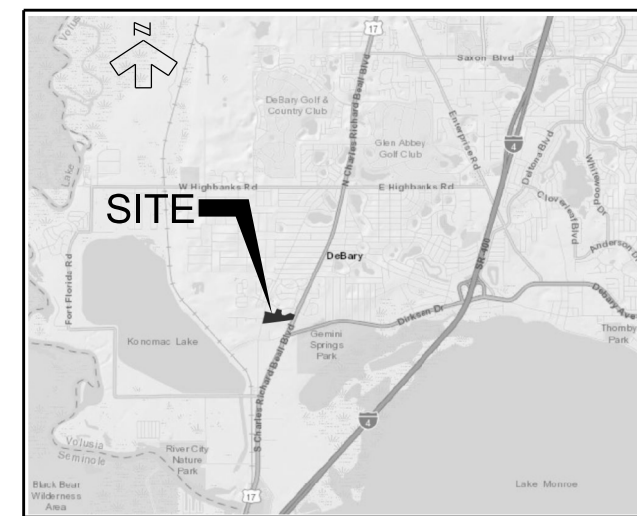
KBC DEVELOPMENT
4570 ORANGE BOULEVARD
SANFORD, FL 32771
CONTACT: CHRIS TYREE
PHONE: 407-330-7022

Civil Engineer

DEWBERRY ENGINEERS INC.
800 NORTH MAGNOLIA AVENUE
SUITE 1000
ORLANDO, FLORIDA 32803
CONTACT: CHRISTOPHER J ALLEN, P.E.
PHONE: 321-354-9752

Survey (Boundary)

BENCHMARK SURVEYING & MAPPING, LLC
3110 RED FOX RUN
KISSIMMEE, FLORIDA 34746
CONTACT: BILLY JOE JENKINS, JR., P.S.M.
PHONE: 407-654-6183



SITE LOCATION

THIS IS TO CERTIFY THAT THE ROADWAY CONSTRUCTION PLANS AND SPECIFICATIONS AS CONTAINED HEREIN WERE DESIGNED TO APPLICABLE STANDARDS AS SET FORTH IN THE "MANUAL OF UNIFORM MINIMUM STANDARDS FOR DESIGN, CONSTRUCTION AND MAINTENANCE FOR STREETS AND HIGHWAYS" AS PREPARED BY FLORIDA DEPARTMENT OF TRANSPORTATION.



Dewberry Engineers Inc.
800 NORTH MAGNOLIA AVE
SUITE 1000
ORLANDO, FL 32803
PHONE: 407.843.5120
ENGINEERING BUSINESS-6794

COMMERCE PARK
MPUD PRELIMINARY PLAN
CITY OF DEBARY, FLORIDA

3/8/2019

REVISIONS

No.	DATE	BY	Description

PROJECT # 50106498
DRAWN BY TFS
APPROVED BY CJA
CHECKED BY NPS
DATE MARCH 2019
DATUM
TITLE

COVER

PROJECT: C:\DEBI_50106498\CAD\Civil\PD\Civil Plans\DEBI-PD Cover.dgn
SHEET NO.

C01

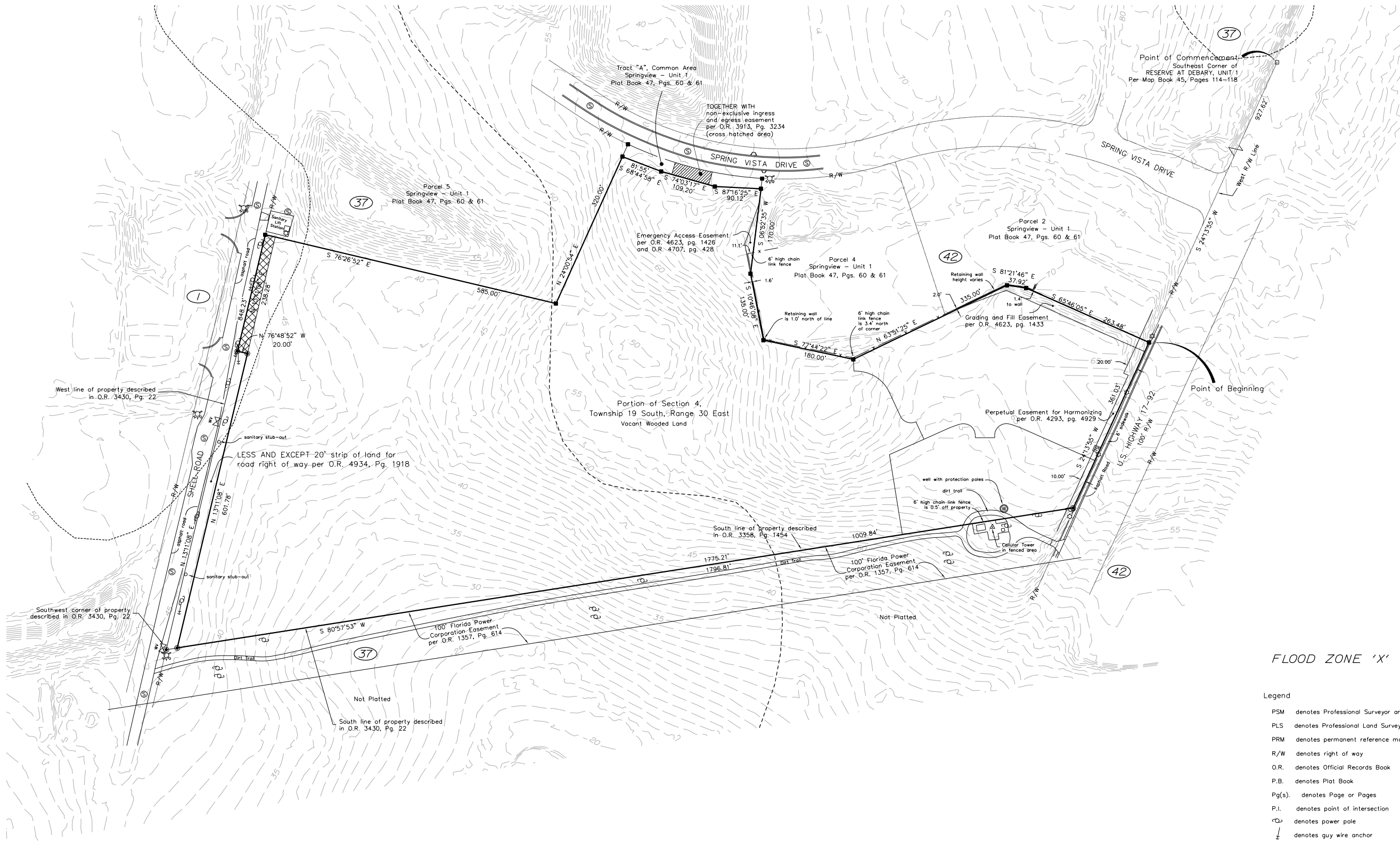
E

D

C

B

A



SOILS LEGEND

- (1) APOPKA FINE SAND, 0 TO 5 PERCENT SLOPES; A
(37) ORSINO FINE SAND, 0 TO 5 PERCENT SLOPES; A
(42) PAOLA FINE SAND, 0 TO 8 PERCENT SLOPES; A

FLOOD ZONE 'X'

Legend

- PSM denotes Professional Surveyor and Mapper
PLS denotes Professional Land Surveyor
PRM denotes permanent reference monument
R/W denotes right of way
O.R. denotes Official Records Book
P.B. denotes Plat Book
Pg(s). denotes Page or Pages
P.I. denotes point of intersection
denotes power pole
denotes guy wire anchor
denotes light pole
denotes water valve
denotes fire hydrant
denotes sanitary manhole
denotes traffic signal box
denotes recovered 4" x 4" Concrete Monument "PRM LB#2232"
denotes recovered 5/8" iron rod and cap "PSM #5205", unless otherwise noted

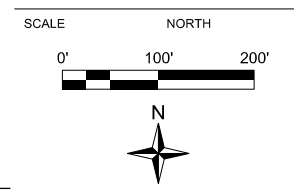


Table with columns: No., DATE, BY, Description. It is currently empty.









PROJECT # 50106498
DRAWN BY TFS
APPROVED BY CJA
CHECKED BY NPS
DATE MARCH 2019
DATUM

EXISTING CONDITIONS

PROJECT: C:\DEBI_50106498\CAD\CIVIL\PD\Civil Plans\DEBI-PD ExistingConditions.dgn
SHEET NO.

C02

LEGEND

-  PROPERTY BOUNDARY
-  PHASE LINE
-  LOT LINE
-  BUILDING SETBACK LINE
-  RETAINING WALL
-  EXISTING EASEMENT
-  TREE SAVE AREA/
LANDSCAPE AREAS
-  LANDSCAPE AREAS

- NOTES:**
- 1.) PLAN IS CONCEPTUAL AND SUBJECT TO CHANGE WITH FINAL ENGINEERING.
 - 2.) PROJECT MAY BE CONSTRUCTED IN PHASES.
 - 3.) PROJECT IS PERMITTED TO BE MASS GRADED.

Dewberry[®]

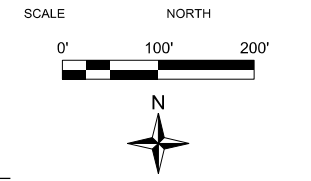
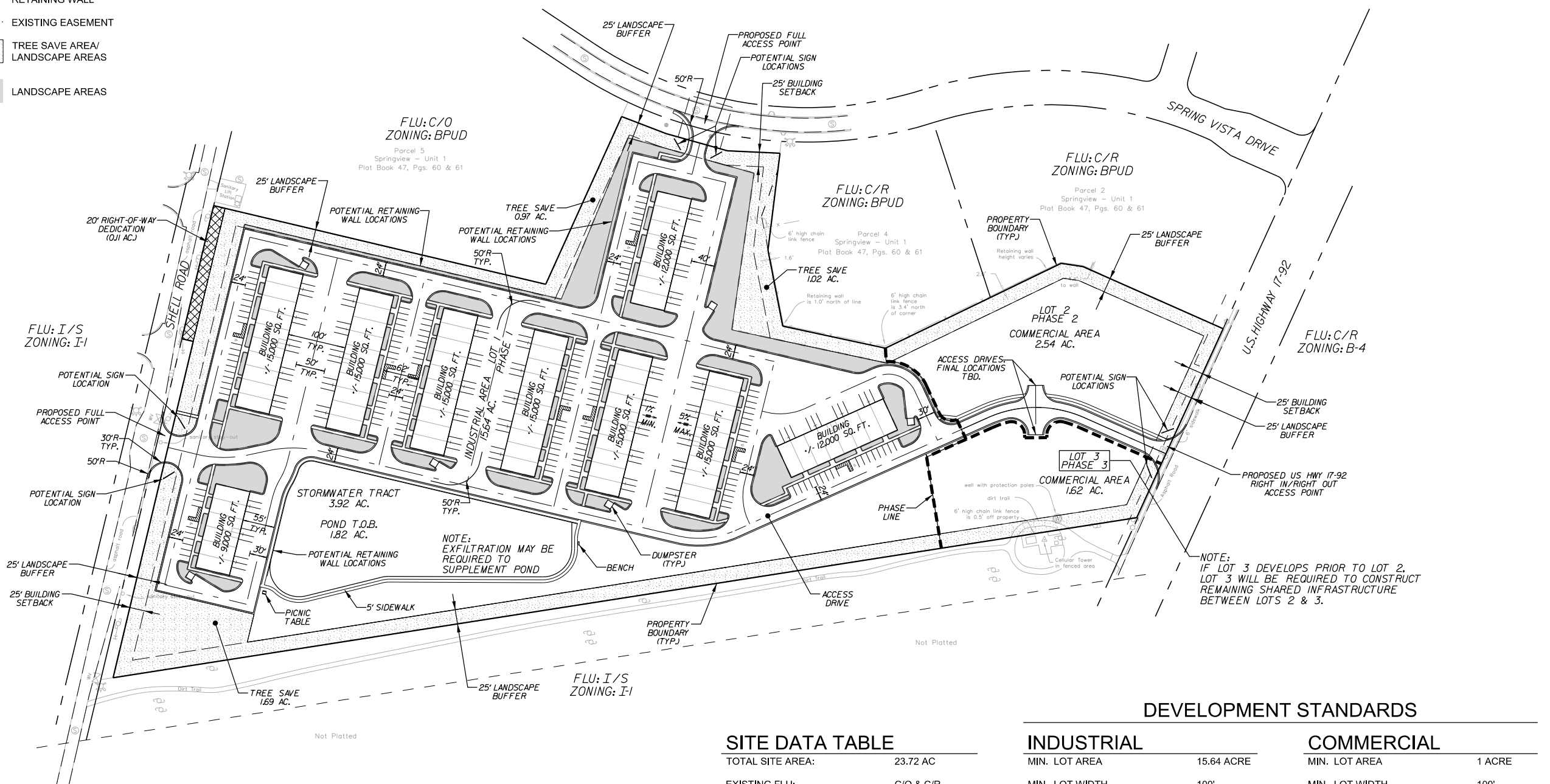
Dewberry Engineers Inc.
800 NORTH MAGNOLIA AVE
SUITE 1000
ORLANDO, FL 32803
PHONE: 407.843.5120
ENGINEERING BUSINESS - 6794

COMMERCE PARK

MPUD PRELIMINARY PLAN

CITY OF DEBARY, FLORIDA

3/8/2019



REVISIONS

No.	DATE	BY	Description

DEVELOPMENT STANDARDS

SITE DATA TABLE

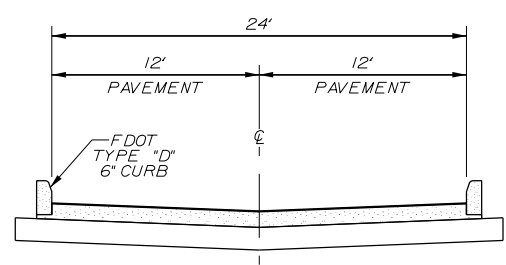
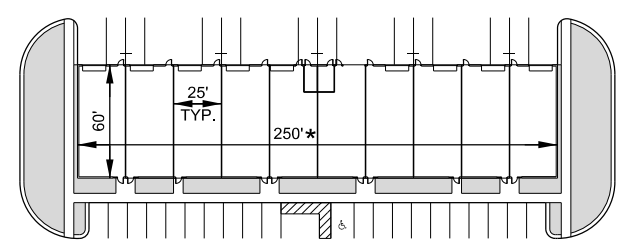
TOTAL SITE AREA:	23.72 AC
EXISTING FLU:	C/O & C/R
PROPOSED FLU:	I / S
EXISTING ZONING:	B-4 & B-9
PROPOSED ZONING:	MPUD
TREE SAVE AREA (15% MIN):	3.68 AC (15.51%)
RIGHT-OF-WAY DEDICATION	0.11 AC.
INDUSTRIAL AREA:	15.64 AC
STORMWATER TRACT:	3.92 AC
COMMERCIAL AREA:	4.16 AC
MIN. PARKING RADIUS:	30'
LANDSCAPE BUFFER:	25'

INDUSTRIAL

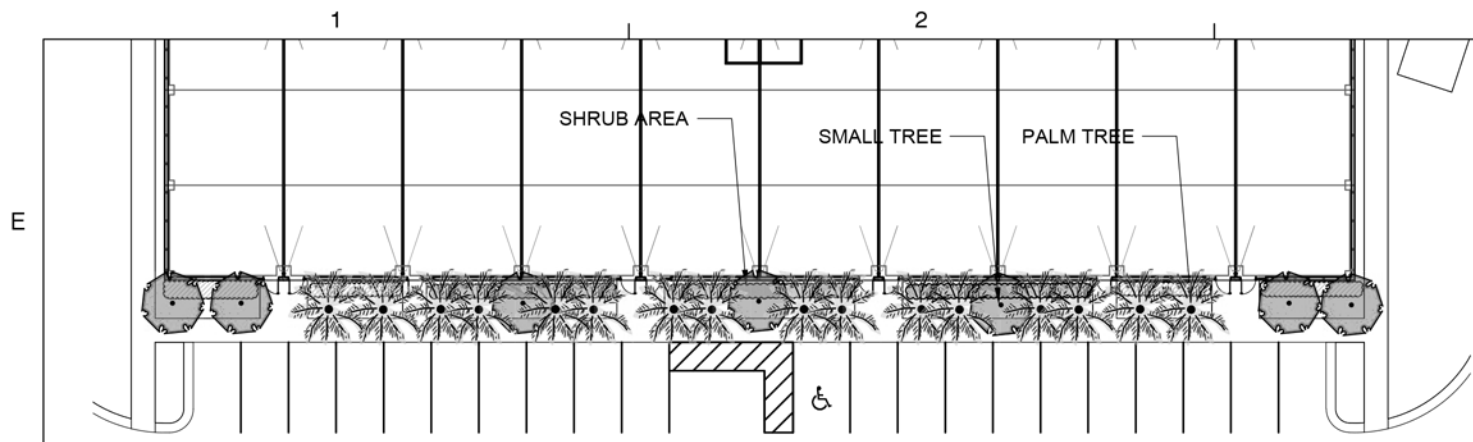
MIN. LOT AREA	15.64 ACRE
MIN. LOT WIDTH	100'
MIN. BLDG. SETBACKS:	
FRONT:	25'
REAR:	15'
SIDE:	10'
MAX. BLDG. LOT COVERAGE	35%
(THE TOTAL AREA COVERED WITH PRINCIPAL & ACCESSORY BUILDINGS.)	
MAX. ISR	85%
(AN INDIVIDUAL LOT MAY HAVE A MAXIMUM ISR OF 85% BUT THE ENTIRE PUD MUST NOT EXCEED AN AVERAGE OF 75% ISR.)	
MAX. BLDG. HEIGHT	45'
MAX. BLDG. SIZE	9,000 S.F.
MIN. BLDG. SEPARATION	10'
MAX. FAR	0.5

COMMERCIAL

MIN. LOT AREA	1 ACRE
MIN. LOT WIDTH	100'
MIN. BLDG. SETBACKS:	
FRONT:	25'
REAR:	10'
SIDE:	10'
MAX. BLDG. LOT COVERAGE	35%
(THE TOTAL AREA COVERED WITH PRINCIPAL & ACCESSORY BUILDINGS.)	
MAX. ISR	85%
(AN INDIVIDUAL LOT MAY HAVE A MAXIMUM ISR OF 85% BUT THE ENTIRE PUD MUST NOT EXCEED AN AVERAGE OF 75% ISR.)	
MAX. BLDG. HEIGHT	40'
MIN. BLDG. SEPARATION	10'
MAX. FAR	0.5

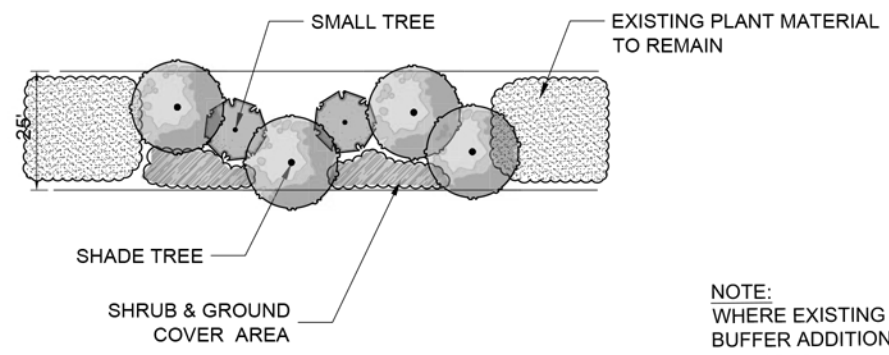


C03



ENLARGED CONCEPTUAL LANDSCAPE PLAN @ BUILDING

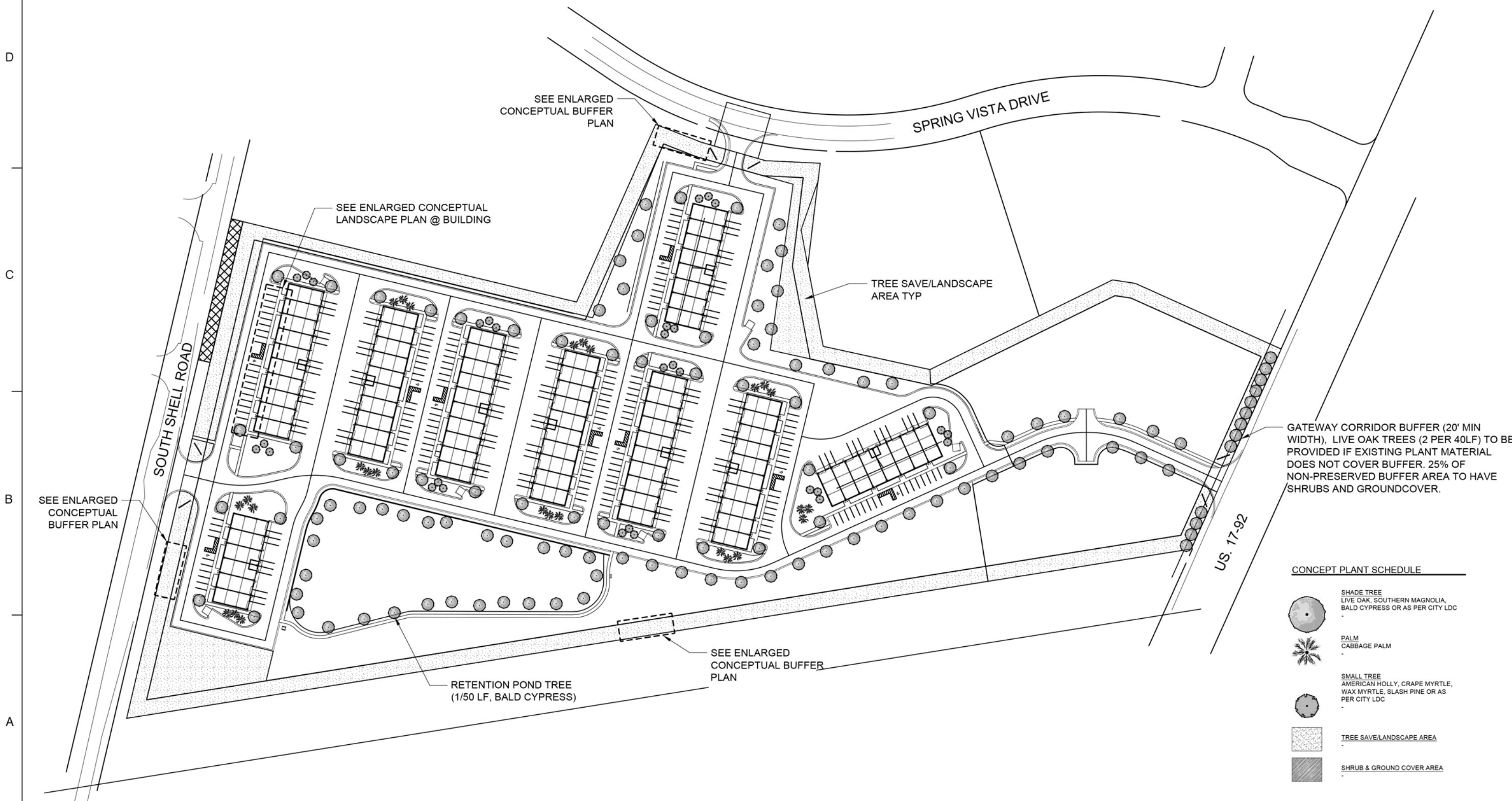
SCALE: 1"=20'-0"



ENLARGED CONCEPTUAL BUFFER PLAN

SCALE: 1"=20'-0"

NOTE:
 WHERE EXISTING PLANT MATERIAL DOES NOT PROVIDE ADEQUATE BUFFER ADDITIONAL PLANTING AS REQUIRED BY CODE WILL BE PROVIDED.








LANDSCAPE PLAN

SCALE: 1"=80'-0"

GATEWAY CORRIDOR BUFFER (20' MIN WIDTH), LIVE OAK TREES (2 PER 40LF) TO BE PROVIDED IF EXISTING PLANT MATERIAL DOES NOT COVER BUFFER. 25% OF NON-PRESERVED BUFFER AREA TO HAVE SHRUBS AND GROUND COVER.

CONCEPT PLANT SCHEDULE

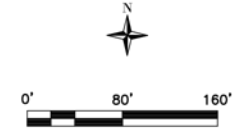
-  SHADE TREE
LIVE OAK, SOUTHERN MAGNOLIA, BALD CYPRESS OR AS PER CITY LDC
-  PALM
CABBAGE PALM
-  SMALL TREE
AMERICAN HOLLY, CRAPE MYRTLE, WAX MYRTLE, SLASH PINE OR AS PER CITY LDC
-  TREE SAVE/LANDSCAPE AREA
-  SHRUB & GROUND COVER AREA

COMMERCE PARK
MPUD PRELIMINARY PLAN
 CITY OF DEBARY, FLORIDA

SEAL

KEY PLAN

SCALE



No.	DATE	BY	Description

REVISIONS

DRAWN BY _____
 APPROVED BY _____
 CHECKED BY _____
 DATE February 06, 2019

TITLE
CONCEPTUAL LANDSCAPE PLAN

PROJECT NO. 50106498

C04

SHEET NO. OF

ORDINANCE NO. 10-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEBARY, FLORIDA, APPROVING A REQUEST TO CHANGE THE ZONING CLASSIFICATION OF APPROXIMATELY 23.72 +/- ACRES OF LAND LOCATED ADJACENT TO AND EAST OF SHELL ROAD, SOUTH OF SPRING VISTA DRIVE AND ADJACENT TO AND WEST OF U.S. HIGHWAY 17/92, HAVING A VOLUSIA COUNTY TAX PARCEL IDENTIFICATION NUMBER 9004-00-00-0016 FROM B-9 (GENERAL OFFICE) AND B-4 (GENERAL COMMERCIAL) ZONING CLASSIFICATION TO DEBARY COMMERCE PARK MPUD (MIXED PLANNED UNIT DEVELOPMENT) ZONING CLASSIFICATION; PROVIDING FOR A DEVELOPMENT AGREEMENT; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, KBC Development (“applicant”), as applicant and contract purchaser of the , submitted a rezoning application to the City requesting the adoption of this Ordinance pertaining to that certain real property being approximately 23.72 +/- acres in size and having a recently consolidated Volusia County Tax Parcel Identification Number 9004-00-00-0016, and legally described collectively as follows (the “Property”):

WHEREAS, the applicant is requesting that the Property be rezoned from B-9 (General Office) and B-4 (General Commercial) zoning classification to a MPUD (Mixed Planned Unit Development) zoning classification; and

WHEREAS, the fee simple owners of the Property have consented to the rezoning set forth herein; and

WHEREAS, the City is concurrently processing a Comprehensive Plan Future Land Use Map amendment by way of separate ordinance redesignating the Property from a Commercial Retail (C/R) and Commercial/Office (C/O) Future Land Use to Industrial/Service (I/S) Future Land Use; and

WHEREAS, the applicant has represented it is in agreement with the provisions of the Development Agreement attached to this Ordinance and intends to execute the same; and

WHEREAS, this Ordinance has been advertised and noticed in accordance with the requirements of state law and Section 1-10 of the City of DeBary Land Development Code; and

WHEREAS, the City Council acting in its capacity as the City of DeBary Local Planning Agency and Governing Body has conducted the necessary public hearings on this Ordinance; and

WHEREAS, based upon competent, substantial evidence presented in the record, this Ordinance meets the requirements for rezoning pursuant to Section 1-6, City of DeBary Land

Development Code and Comprehensive Plan Policy 5.505 and is consistent with the City of DeBary Comprehensive Plan.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1. Recitals. The City Council finds that the above recitals are true and correct.

SECTION 2. Rezoning. The application of KBC Development for the rezoning of the Property is granted subject to the terms and conditions forth herein. The City of DeBary official zoning map is hereby amended from B-9 (General Office) and B-4 (General Commercial) zoning classification to MPUD (Mixed Planned Unit Development) zoning classification. The MPUD approved by this Ordinance shall be referred to as the “DeBary Commerce Park MPUD.” The development of the Property shall be governed by the Development Agreement and Master Development Plan attached hereto as **Attachment “A”** and is incorporated herein by this reference, and the same are hereby approved. With respect to any conflict between the City of DeBary Land Development Code, as amended, and the Development Agreement, the provisions of the Development Agreement shall control to the extent of the conflict. The City of DeBary Land Development Code, as amended, shall govern the development of the Property with respect to any matter not addressed by this Ordinance or the Development Agreement. The City of DeBary Zoning Enforcement Official will ensure overall compliance with this Ordinance and the attached Development Agreement and Master Development Plan. A violation of this Ordinance or any provision of the attached Development Agreement and Master Development Plan is considered a violation of the Land Development Code and zoning of the Property.

SECTION 3. Recording. The City Clerk is hereby directed to record this Ordinance and the attached Development Agreement and Master Development Plan in the Public Records of Volusia County, Florida. This Ordinance and attached Development Agreement and Master Development Plan affecting the Property shall run with the land and shall be applicable to and binding on the applicant and any and all successors and assigns in interest.

SECTION 4. Severability. If any portion of this Ordinance is finally determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable or void, the balance of the Ordinance shall continue in full force and effect.

SECTION 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and other ordinances, this Ordinance shall control to the extent such conflict exists.

SECTION 6. Effective Date. This Ordinance shall take effect after its adoption and upon the effective date of the Comprehensive Plan Future Land Use Map Amendment ordinance redesignating the Property to an Industrial/Service (I/S) Future Land Use, which is being processed concurrently with this Ordinance.

First reading and public hearing occurred on _____, 2019.

Second reading and public hearing, and adoption occurred on _____, 2019.

ADOPTED BY the City Council of the City of DeBary, Florida this _____ day of _____, 2019.

CITY COUNCIL
CITY OF DEBARY, FLORIDA

By: _____
Karen Chasez, Mayor

ATTEST:

By: _____
Annette Hatch, City Clerk

Attachment "A" - Development Agreement and Master Development Plan

\\server\users\aka\clients\debary,city of\commerce park (kbc) d334-25049\pud rezoning ordinance - commerce park kbc.docx



City Council Meeting City of DeBary AGENDA ITEM

Subject: Springview Woods Ph 3 Final Plat	Attachments:
From: Matt Boerger, Growth Management	<input type="checkbox"/> Ordinance
Meeting Hearing Date: November 6, 2019	<input type="checkbox"/> Resolution
	<input type="checkbox"/> Supporting Documents/ Contracts
	<input checked="" type="checkbox"/> Other

REQUEST

Jerome Henin of the Henin Group is seeking final plat approval for Springview Woods, Phase 3, which consists of lots 99-147.

PURPOSE

The Applicant is requesting approval for the purpose of recording the plat and permitting sellable lots.

CONSIDERATIONS

On September 17, 2019 the City of DeBary's Development Review Committee (DRC) recommended approval of the Springview Woods Phase 3 Final Plat.

Pursuant to Section 4-46, Final Plat Review within the LDC, *"after the preliminary plat development order has been issued pursuant to section 4-45, the developer may submit an application for a final plat development order."* The applicant has satisfied preliminary plat review and is now applying for approval for the Final Plat Review including issuance of development order.

The Applicant's request for Final Plat approval for Springview Woods Phase 3, includes lots 99-147 of the total developable 195 units. The Applicant wishes to develop the collective lots into single family homes, as previously permitted in the Preliminary Plat and Construction Plans.

Findings of Fact

The City of DeBary Development Review Committee and City Attorney reviewed the request and provide for the following findings of fact:

- All requirements per local and state codes have been addressed; and
- The City's Surveyor, in conformity with Chapter 177 of the Florida Statutes, has reviewed the final plat and the City Attorney has conducted a legal review of the final plat and the title opinion.
- The required infrastructure improvements for this phase of the project have been verified complete by the City's Construction Management Inspector in conformance to water distribution systems, sanitary sewer, grading and paving/drainage systems as specified by approved construction plans.

- On September 17, 2019, the City's Development Review Committee reviewed and recommended approval of the proposed plat.

COST/FUNDING

N/A

RECOMMENDATION

It is recommended that the City Council approve the Final Plat for Springview Woods Phase 3, subject to staff conditions of approval including the following:

- Payment of all required fees, deposits, and costs may be applicable or required pursuant to the Land Development Code, and other applicable laws, ordinances, and regulations shall be paid to the City prior to final plat approval and recording. The applicant shall be responsible for all recording costs associated with the plat and related documents.
- The original signed plat mylar and all original executed plat related documents are to be promptly recorded in the Public Records of Volusia County, Florida, after final plat approval and only after satisfaction of all conditions of plat approval. Upon recording of the plat and plat related documents, the applicant shall provide the City with a recorded copy of the plat and plat documents to evidence proper recording.
- It is the responsibility of the entity subdividing the land to ensure that all applicable requirements of the Land Development Code and Florida Statutes relative to the subdividing and development of property are met prior to the final plat approval and recording. The lots on the plat shall not be conveyed unless and until the conditions of approval have been satisfied and the plat as well as the plat related documents have been fully executed and recorded in the public records.

IMPLEMENTATION

The Plat will be recorded with the Volusia County Clerk of the Courts.

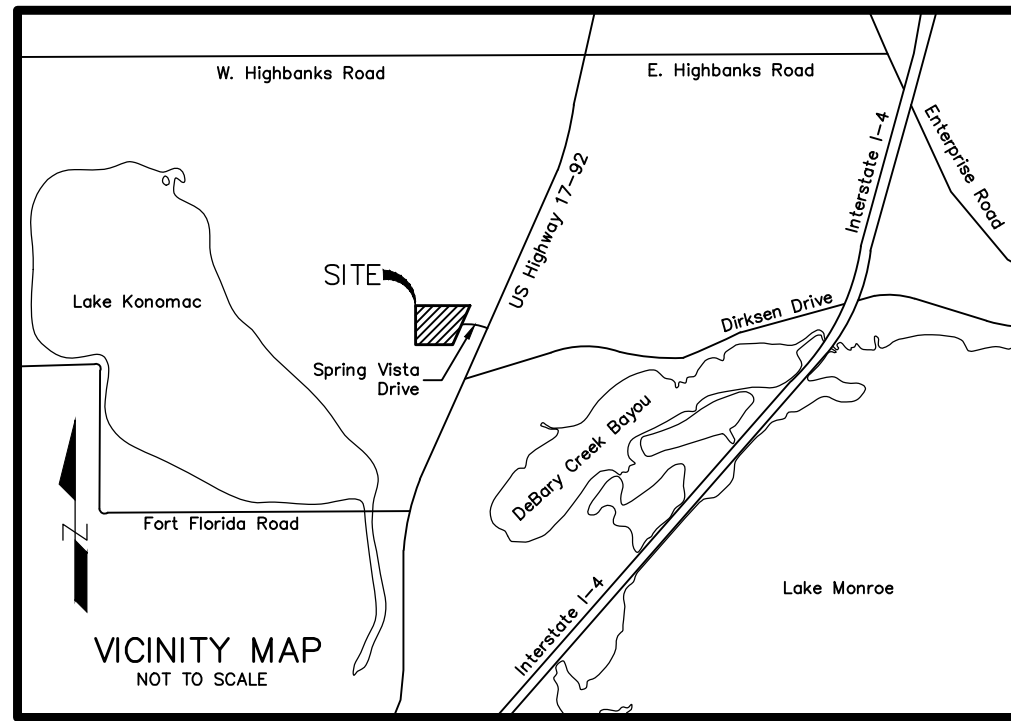
ATTACHMENTS

Springview Woods, Final Plat

SPRINGVIEW WOODS PHASE 3

SHEET 1 OF 5

A portion of Section 4, Township 19 South, Range 30 East
 City of DeBary, Volusia County, Florida
 Also being a Replat of a Portion of the
 Plat of KONOMOC per Plat Book 1, Page 66



Property Description

A parcel of land being a portion of the Northwest 1/4 of Section 4, Township 19 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:

COMMENCE at the Northwest corner of the Northwest 1/4 of Section 4, Township 19 South, Range 30 East, Volusia County, Florida, also being the Northwest corner of Tract F of SPRINGVIEW WOODS PHASE 1, according to the plat thereof as recorded in Plat Book 59, Pages 21 through 27, Public Records of Volusia County, Florida; thence South 01°18'56" West, along the West line of said Section 4 and West line of said Tract F, a distance of 324.61 feet to the Southwest corner of said Tract F; thence South 89°09'13" East, along the South line of said Tract F and South line of Tract C of said SPRINGVIEW WOODS PHASE 1, a distance of 323.90 feet; thence South 52°09'28" East, along the South line of said Tract C, a distance of 90.92 feet to the POINT OF BEGINNING; thence North 60°34'19" East, along the South line of said Tract C, a distance of 100.03 feet; thence South 89°09'13" East, along the South line of said Tract C, a distance of 413.41 feet to a point on the West line of Tract G of said SPRINGVIEW WOODS PHASE 1; thence South 00°50'47" West, along said West line, a distance of 120.00 feet to a point on the North right of way line of Florida Willow Avenue of said SPRINGVIEW WOODS PHASE 1; thence North 89°09'13" West, along said North right of way line, a distance of 114.81 feet; thence South 00°50'47" West, along the Westerly line of said SPRINGVIEW WOODS PHASE 1, a distance of 50.00 feet to a point on the North line of Lot 60 of SPRINGVIEW WOODS PHASE 2, according to the plat thereof as recorded in Plat Book 59, Pages 176 through 180, Public Records of Volusia County, Florida; thence North 89°09'13" West, along the North line of said Lot 60, a distance of 96.00 feet to the Northwest corner of said Lot 60; thence South 00°50'47" West, along the Westerly line of said SPRINGVIEW WOODS PHASE 2, a distance of 297.00 feet to the Southwest corner of Lot 56 of said SPRINGVIEW WOODS PHASE 2; thence South 89°09'13" East, along the South line of said Lot 56, a distance of 121.00 feet to the Southeast corner of said Lot 56 and a point on the West right of way line of Pitch Pine Drive of said SPRINGVIEW WOODS PHASE 1; thence South 00°50'47" West, along the Westerly right of way line of said Pitch Pine Drive, a distance of 245.00 feet to the Northeast corner of Lot 98 of said SPRINGVIEW WOODS PHASE 2; thence North 89°09'13" West, along the North line of said Lot 98, a distance of 120.00 feet to the Northwest corner of said Lot 98; thence South 00°50'47" West, along the Westerly line of said SPRINGVIEW WOODS PHASE 2, a distance of 561.41 feet to the Southwest corner of Tract C of said SPRINGVIEW WOODS PHASE 2 and point being on the Northerly right of way line of Spring Vista Drive of said SPRINGVIEW WOODS PHASE 1, said point also being on a non-tangent curve concave to the North, having a radius of 175.00 feet and a delta angle of 22°43'44"; thence, from a tangent bearing of South 68°07'03" West, run Southwesterly along the arc of said curve and said Northerly right of way line, a distance of 69.42 feet to a point of tangency; thence North 89°09'13" West, along said Northerly right of way line, a distance of 102.38 feet to the Northwest corner of Spring Vista Drive of said SPRINGVIEW WOODS PHASE 1; thence South 00°50'47" West, along the Westerly line of said Spring Vista Drive, a distance of 50.00 feet to a point on the North line of Tract B of said SPRINGVIEW WOODS PHASE 1; thence, along the North and Westerly lines of said Tract B the following courses, North 89°09'13" West a distance of 215.00 feet to a point of curvature of a curve concave to the Southeast, having a radius of 25.00 feet and a delta angle of 90°00'00"; thence run Southwesterly, along the arc of said curve, a distance of 39.27 feet to a point of tangency; thence South 00°50'47" West a distance of 30.56 feet to a point of curvature of a curve concave to the Northeast, having a radius of 25.00 feet and a delta angle of 74°35'03"; thence run Southeasterly, along the arc of said curve, a distance of 32.54 feet to a point of reverse curvature with a curve having a radius of 54.00 feet and a delta angle of 80°09'55"; thence run Southerly, along the arc of said curve, a distance of 75.55 feet to a point on a radial line; thence South 83°34'21" East a distance of 57.34 feet; thence South 00°21'03" West a distance of 162.22 feet to the Southwest corner of Tract B of said SPRINGVIEW WOODS PHASE 1, said point also being on the North line of SPRINGVIEW INDUSTRIAL PARK UNIT 2, according to the plat thereof as recorded in Plat Book 49, Pages 19 and 20, Public Records of Volusia County, Florida; thence North 89°38'57" West, along the North line of said SPRINGVIEW INDUSTRIAL PARK UNIT 2, a distance of 406.25 feet to the Northwest corner of said SPRINGVIEW INDUSTRIAL PARK UNIT 2; thence North 01°18'56" East, along the West line of the Northwest quarter of Section 4, Township 19 South, Range 30 East, Volusia County, Florida, a distance of 292.09 feet; thence, South 89°09'13" East a distance of 237.63 feet; thence North 00°50'47" East a distance of 66.19 feet; thence South 89°09'13" East a distance of 170.00 feet; thence North 00°50'47" East a distance of 1236.57 feet to the POINT OF BEGINNING.

Contains 12.658 acres, more or less.

Surveyor's Notes

- Bearings shown on this plat are based on the West line of the Northwest 1/4 of Section 4, Township 19 South, Range 30 East being assumed as South 01°18'56" West.
- All lot lines contiguous to a curve are radial unless designated otherwise (NR).
- Tract A is a Open Space tract to be owned and maintained by the Springview Woods Homeowners' Association, Inc. There is a utility and drainage easement over, under and across Tract A hereby dedicated to the City of DeBary, Florida. The City of DeBary shall have no obligation to maintain Tract A or any improvement thereon. There is a utility easement over, under and across Tract A hereby dedicated to Volusia County, Florida.
- Tract B is a Tree Preservation tract to be owned and maintained by the Springview Woods Homeowners' Association, Inc. in their natural state without rights of development. A Natural Vegetation Easement over Tract B is hereby dedicated to the City of DeBary with the right to enforce the restrictions upon and purposes of said tracts. The City of DeBary shall not have any obligation to maintain Tract B.
- The 1.0' Non-Vehicular Access Easement on Lots 123 and 141 is hereby dedicated to the City of DeBary, Florida for the purpose of not allowing vehicles to cross the easement to access Lots 123 and 141 from the North right of way of Spring Vista Drive. Said Easement is to be maintained by Springview Woods Homeowners' Association, Inc.
- There is a ten (10) foot wide utility easement along the front and side lot and tract lines that are adjacent to road right of ways.
- All platted utility easements shall also be easements for the construction, installation, maintenance, and operation of cable television services; provided, however, no such construction, installation, maintenance, and operation of cable television services shall interfere with the facilities and services of an electric, telephone, gas, or other public utility. In the event a cable television company damages the facilities of a public utility, it shall be solely responsible for the damages. This paragraph shall not apply to those private easements granted to or obtained by a particular electric, telephone, gas, or other public utility. Further, such construction, installation, maintenance, and operation shall comply with the National Electrical Safety Code as adopted by the Florida Public Service Commission.
- All lot owners shall be subject to and governed by the Declaration of Covenants, Conditions, Easements and Restrictions for Springview Woods as recorded in Official Records Book 7534, Page 125 of the Public Records of Volusia County, Florida.

NOTICE:

This plat, as recorded in its graphic form, is the official depiction of the subdivided lands described herein and will in no circumstances be supplanted in authority by any other graphic or digital form of the plat. There may be additional restrictions that are not recorded on this plat that may be found in the public records of this county.

 **Benchmark Surveying & Mapping, LLC**
 Certificate of Authorization Number - LB-7874
 Post Office Box 771065, Winter Garden, Florida 34777-1065
 3110 Red Fox Run, Kissimmee, Florida 34746
 (407) 654-6183 - www.benchmarksurveyingandmapping.com

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SPRINGVIEW WOODS PHASE 3 CERTIFICATE OF DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That Henin Springview, LLC, a Florida limited liability company being the owner in fee simple of the lands described in the attached plat, entitled Springview Woods Phase 3, located in the City of DeBary, Florida, hereby dedicates said lands and plat for the uses and purposes therein expressed, including as set forth in the surveyor notes and dedicates all Non-Vehicular Access Easements, Utility Easements, Drainage Easements and Rights-Of-Way shown or described thereon to the perpetual use of the Public, for proper purposes and the City of DeBary, Florida. A utility easement over Tract A is hereby dedicated to Volusia County, Florida

IN WITNESS WHEREOF, has caused these presents to be signed and attested to by the officers named below and its corporate seal to be affixed hereto on this _____ day of _____ 2019.

Henin Springview, LLC, a Florida limited liability company

Signature _____

Print Name _____

Signed, sealed and delivered in the presence of:

Signature _____

Print Name _____

Signature _____

Print Name _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ by _____, on behalf of the corporation. He/she is personally known to me or has produced _____ as identification.

Notary Public
Print Name _____
My Commission expires _____
My Commission Number _____

SEAL

CERTIFICATE OF SURVEYOR AND MAPPER

KNOWN ALL MEN BY THESE PRESENTS, That the undersigned, being a professional land surveyor and mapper licensed on the State of Florida, does hereby certify that this plat was prepared under my direction and it complies with all of the survey requirements of Florida Statute Chapter 177.

By _____ Date _____

Billy Joe Jenkins, Jr.
Professional Surveyor and Mapper
Florida Registration # 5205
Benchmark Surveying & Mapping, LLC
Certificate of Authorization Number - LB-7874
3110 Red Fox Run, Kissimmee, Florida 34746

CERTIFICATE OF APPROVAL BY THE LAND DEVELOPMENT MANAGER

THIS IS TO CERTIFY, That on _____ this plat was approved.

By _____
Land Development Manager or His Authorized Representative

REVIEW OF SURVEYOR AND MAPPER FOR THE CITY OF DEBARY

THIS IS TO CERTIFY, That on _____ this plat was approved.

By _____
Registered Surveyor
Timothy O. Mosby, PSM 4732
Southeastern Surveying and Mapping Corp.
6500 All American Blvd., Orlando, Florida 32810

CERTIFICATE OF APPROVAL BY CITY COUNCIL OF THE CITY OF DEBARY, FLORIDA

THIS IS TO CERTIFY, That on _____ this plat was approved by the City Council of the City of DeBary, Florida.

Mayor of the City of DeBary

Attest: _____
City Clerk of the City of DeBary

CERTIFICATE OF CLERK

I HEREBY CERTIFY, That I have examined the foregoing plat and find that it complies in form with all the requirements of Chapter 177, Florida Statutes, and was filed for record on _____ at _____ File No. _____

Clerk of the Circuit Court in and for Volusia County, Florida

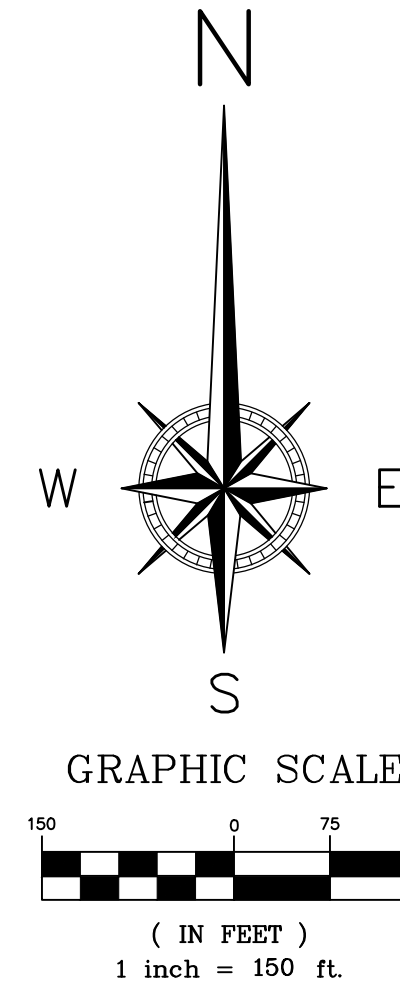
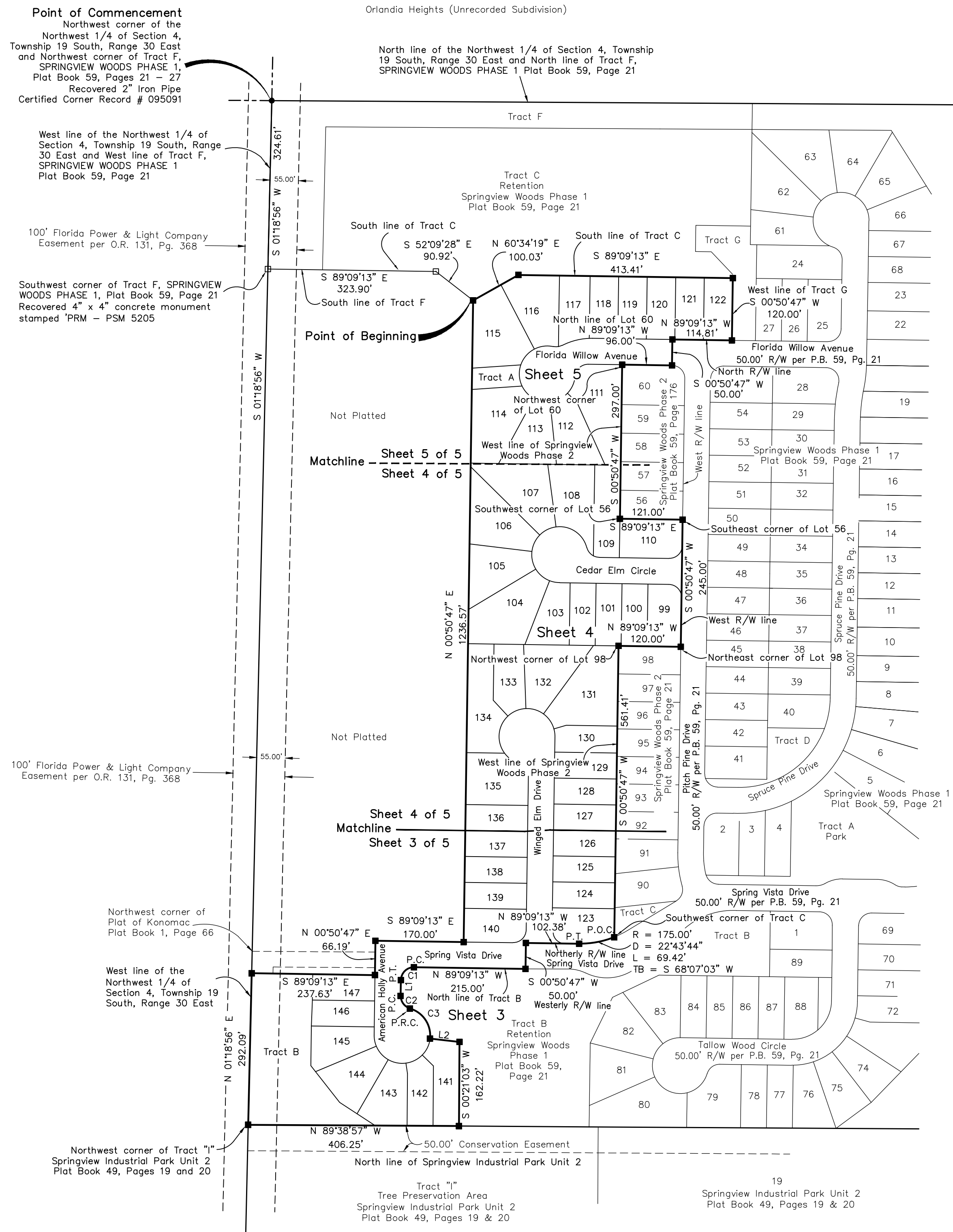
SPRINGVIEW WOODS PHASE 3

SHEET 2 OF 5
Key Map

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A portion of Section 4, Township 19 South, Range 30 East
City of DeBary, Volusia County, Florida
Also being a Replat of a Portion of the
Plat of KONOMOC per Plat Book 1, Page 66




Legend and Abbreviations

- R/W - denotes right of way
- O.R. - denotes official records
- P.B. - denotes Plat Book
- D.E. - denotes drainage easement
- N.V.E. - denotes non-vehicular access easement
- R - denotes radius
- L - denotes length
- D - denotes delta angle
- CB - denotes chord bearing
- TB - denotes tangent bearing
- (NR) - denotes not radial
- P.I. - denotes point of intersection
- P.C. - denotes point of curvature
- P.T. - denotes point of tangency
- P.O.C. - denotes point on curve
- P.R.C. - denotes point of reverse curvature
- - denotes permanent control point (PCP). Set nail and disk "PSM 5205"
- - denotes permanent reference monument (PRM). Set 4" x 4" concrete monument with disk "PSM 5205", unless otherwise noted
- - denotes change of direction of R/W line

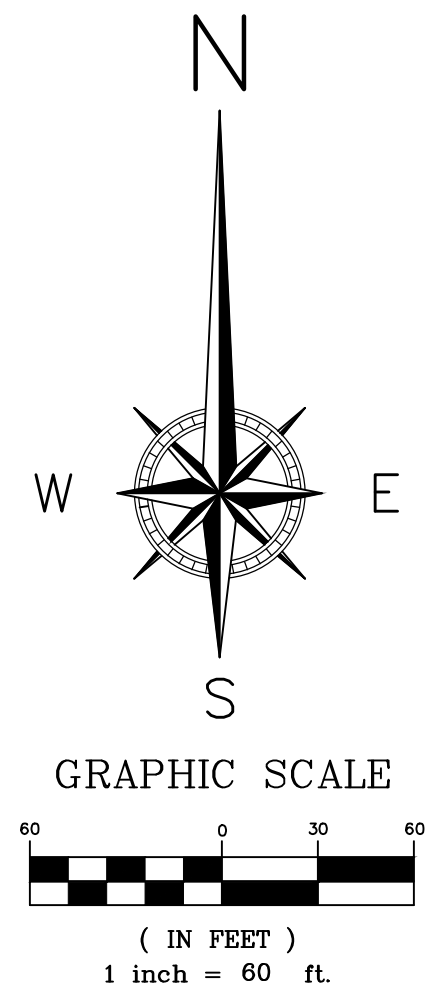
Line Table		
Line	Bearing	Distance
L1	S 00°50'47" W	30.56'
L2	S 83°34'21" E	57.34'

Curve Table					
Number	Radius	Delta	Length	Chord	Chord Bearing
C1	25.00'	90°00'00"	39.27'	35.36'	S 45°50'47" W
C2	25.00'	74°35'03"	32.54'	30.29'	S 36°26'44" E
C3	54.00'	80°09'55"	75.55'	69.54'	S 33°39'18" E

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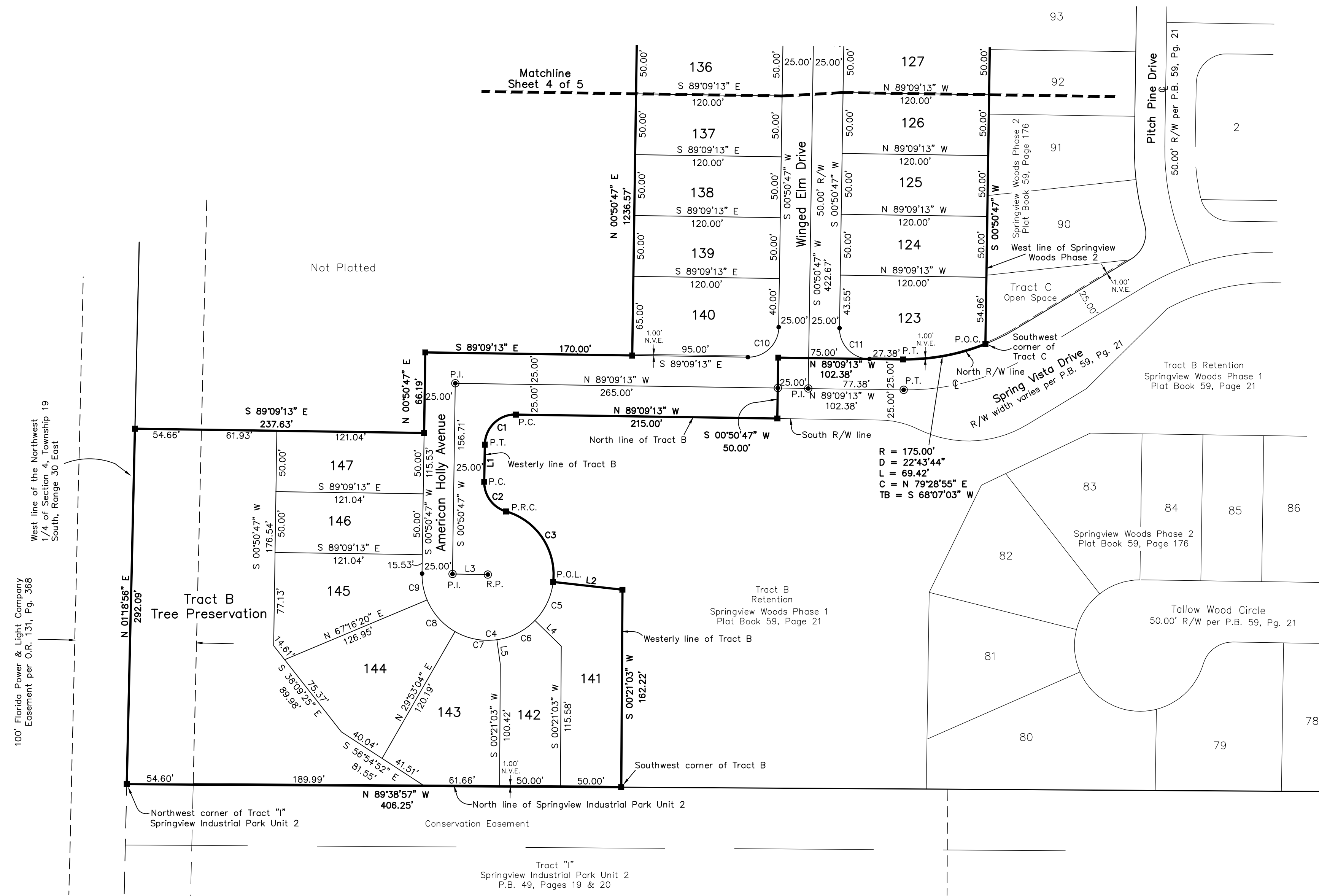
SPRINGVIEW WOODS PHASE 3

A portion of Section 4, Township 19 South, Range 30 East
 City of DeBary, Volusia County, Florida
 Also being a Replat of a Portion of the
 Plat of KONOMOC per Plat Book 1, Page 66



Legend

- ⊙ - denotes centerline
- R/W - denotes right of way
- O.R. - denotes official records
- P.B. - denotes Plat Book
- D.E. - denotes drainage easement
- N.V.E. - denotes non-vehicular access easement
- FPL - denotes Florida Power and Light
- R - denotes radius
- L - denotes length
- D - denotes delta angle
- TB - denotes tangent bearing
- CB - denotes chord bearing
- (R) - denotes radial
- (NR) - denotes not radial
- P.I. - denotes point of intersection
- P.C. - denotes point of curvature
- P.T. - denotes point of tangency
- R.P. - denotes radius point
- P.O.C. - denotes point on curve
- P.R.C. - denotes point of reverse curvature
- - denotes permanent control point (PCP), nail and disk "PSM 5205"
- - denotes permanent reference monument (PRM), 4" X 4" concrete monument with disk "PSM 5205", unless otherwise noted
- - denotes change of direction - no point set

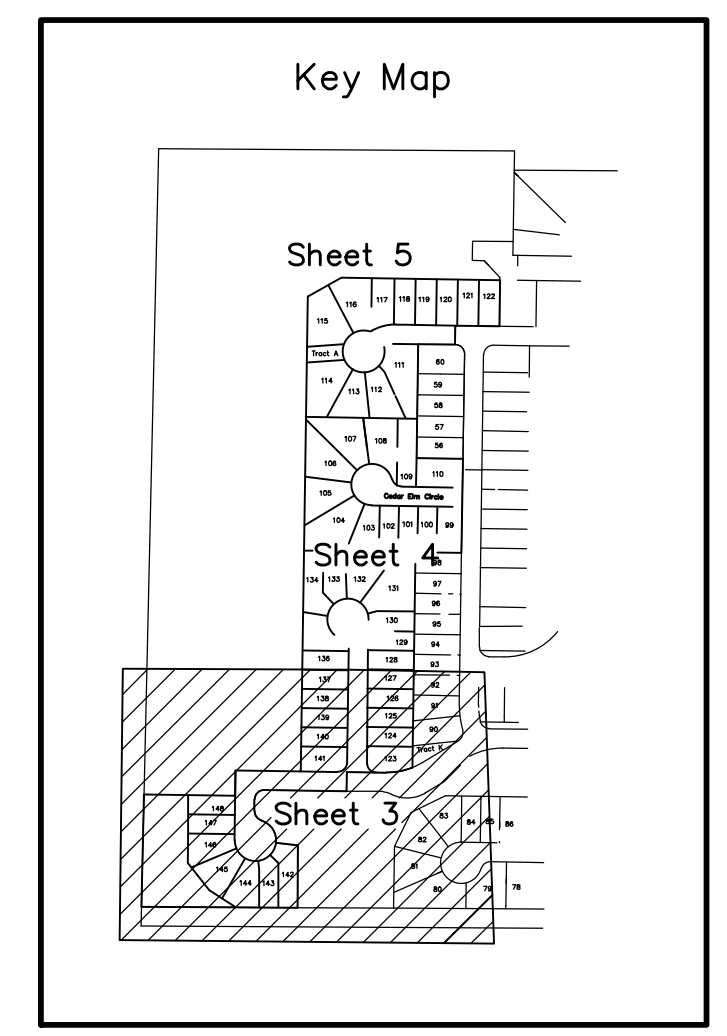


R = 175.00'
 D = 22°43'44"
 L = 69.42'
 C = N 79°28'55" E
 TB = S 68°07'03" W

Line	Bearing	Distance
L1	S 00°50'47" W	30.56'
L2	S 83°34'21" E	57.34'
L3	N 89°09'13" W	29.00'
L4	S 45°45'13" E	30.26'
L5	S 07°56'04" E	20.35'

Number	Radius	Delta	Length	Chord	Chord Bearing
C1	25.00'	90°00'00"	39.27'	35.36'	S 45°50'47" W
C2	25.00'	74°35'03"	32.54'	30.29'	S 36°26'44" E
C3	54.00'	80°09'55"	75.55'	69.54'	N 33°39'18" W
C4	54.00'	174°24'58"	164.38'	107.87'	S 86°21'42" E
C5	54.00'	37°48'59"	35.64'	35.00'	N 25°20'18" E
C6	54.00'	37°49'08"	35.64'	35.00'	N 63°09'22" E
C7	54.00'	37°49'08"	35.64'	35.00'	S 79°01'30" E
C8	54.00'	37°23'16"	35.24'	34.62'	S 41°25'18" E
C9	54.00'	23°34'27"	22.22'	22.06'	S 10°56'26" E
C10	25.00'	90°00'00"	39.27'	35.36'	N 45°50'47" E
C11	25.00'	90°00'00"	39.27'	35.36'	S 44°09'13" E

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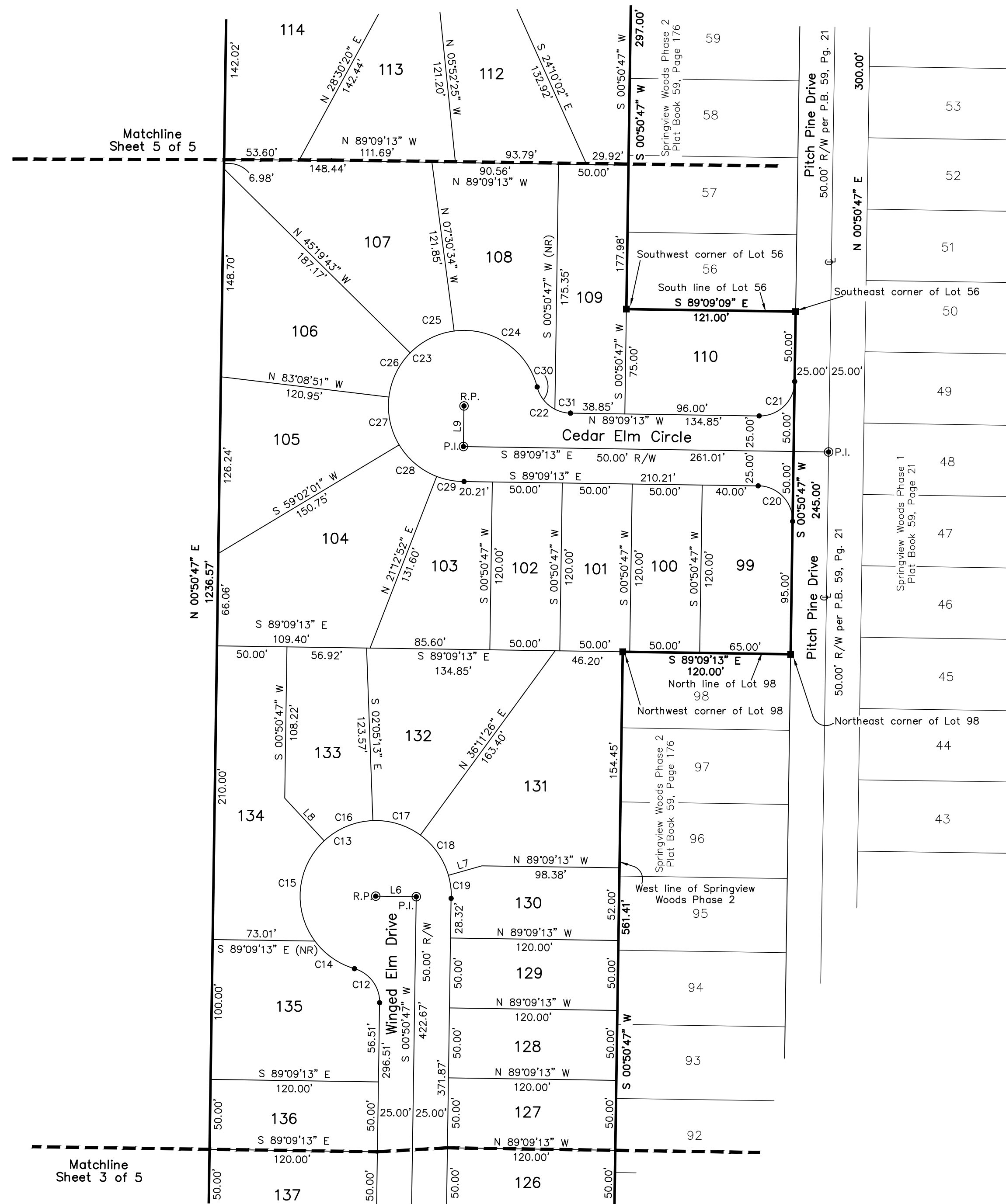
SPRINGVIEW WOODS PHASE 3

SHEET 4 OF 5

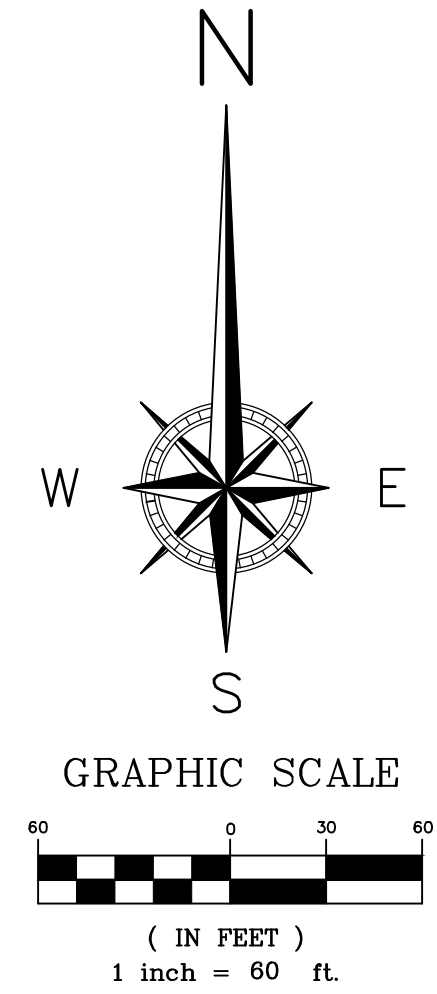
PLAT BOOK

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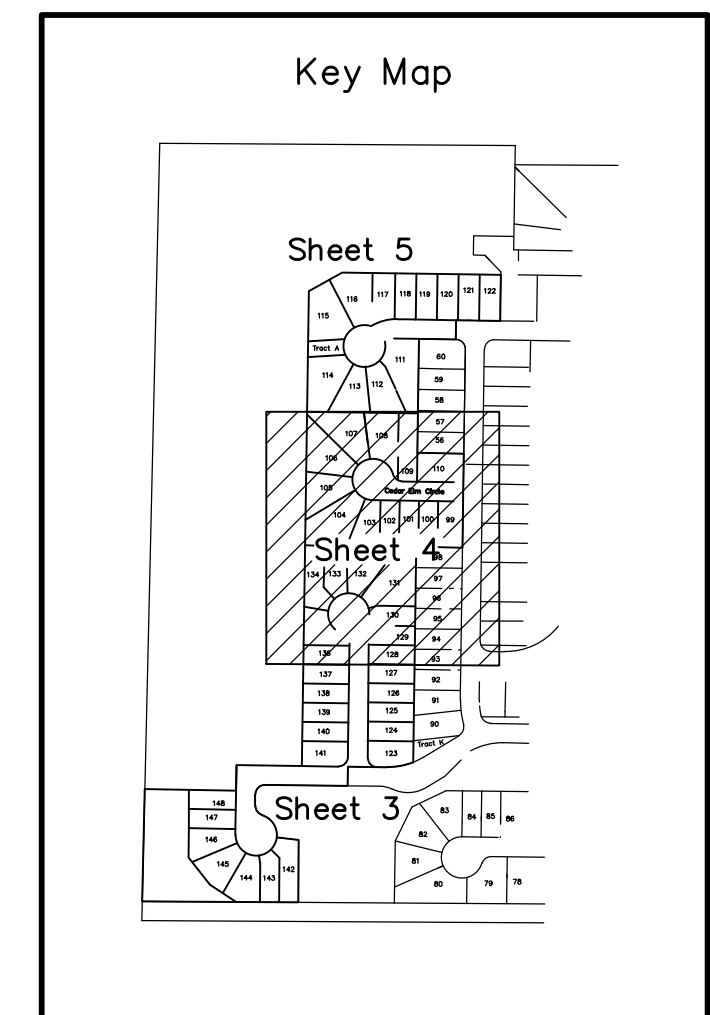
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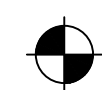


See Sheet 3 of 5 for Abbreviations and Legend



Line	Bearing	Distance
L6	S 89°09'13" E	28.99'
L7	S 74°00'34" W	25.00'
L8	N 42°50'11" W	41.57'
L9	S 00°50'47" W	28.99'

Number	Radius	Delta	Length	Chord	Chord Bearing
C12	25.00'	74°34'47"	32.54'	30.29'	N 36°26'36" W
C13	54.00'	255°25'34"	240.73'	85.44'	S 53°58'48" W
C14	54.00'	37°21'18"	35.21'	34.59'	S 55°03'21" E
C15	54.00'	83°32'30"	78.74'	71.94'	S 05°23'34" W
C16	54.00'	40°44'59"	38.41'	37.60'	S 67°32'18" W
C17	54.00'	38°16'39"	36.08'	35.41'	N 72°56'53" W
C18	54.00'	37°49'08"	35.64'	35.00'	N 34°54'00" W
C19	54.00'	17°41'00"	16.67'	16.60'	N 07°08'55" W
C20	25.00'	90°00'00"	39.27'	35.36'	N 44°09'13" W
C21	25.00'	90°00'00"	39.27'	35.36'	N 45°50'47" E
C22	25.00'	74°34'47"	32.54'	30.29'	S 51°51'49" E
C23	54.00'	255°25'34"	240.73'	85.44'	S 37°42'47" W
C24	54.00'	82°56'09"	78.17'	71.52'	N 56°02'30" W
C25	54.00'	37°49'08"	35.64'	35.00'	S 63°34'52" W
C26	54.00'	37°49'08"	35.64'	35.00'	S 25°45'43" W
C27	54.00'	37°49'08"	35.64'	35.00'	S 12°03'25" E
C28	54.00'	37°49'08"	35.64'	35.00'	S 49°52'33" E
C29	54.00'	21°12'52"	19.99'	19.88'	S 79°23'34" E
C30	25.00'	48°05'31"	20.98'	20.37'	S 38°37'11" E
C31	25.00'	26°29'16"	11.56'	11.45'	S 75°54'34" E



Benchmark Surveying & Mapping, LLC
 Certificate of Authorization Number - LB-7874

Post Office Box 771065, Winter Garden, Florida 34777-1065
 3110 Red Fox Run, Kissimmee, Florida 34746

(407) 654-6183 - www.benchmarksurveyingandmapping.com

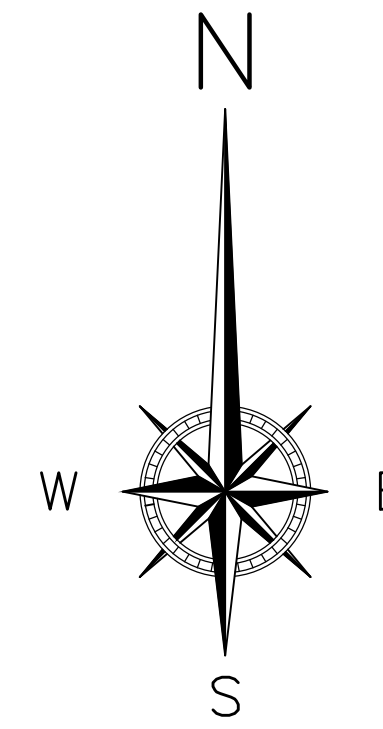
SPRINGVIEW WOODS PHASE 3

A portion of Section 4, Township 19 South, Range 30 East
 City of DeBary, Volusia County, Florida
 Also being a Replat of a Portion of the
 Plat of KONOMOC per Plat Book 1, Page 66

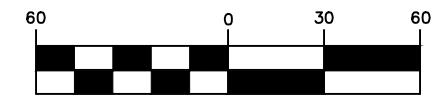
SHEET 5 OF 5

PLAT BOOK

PAGE



GRAPHIC SCALE



(IN FEET)
 1 inch = 60 ft.

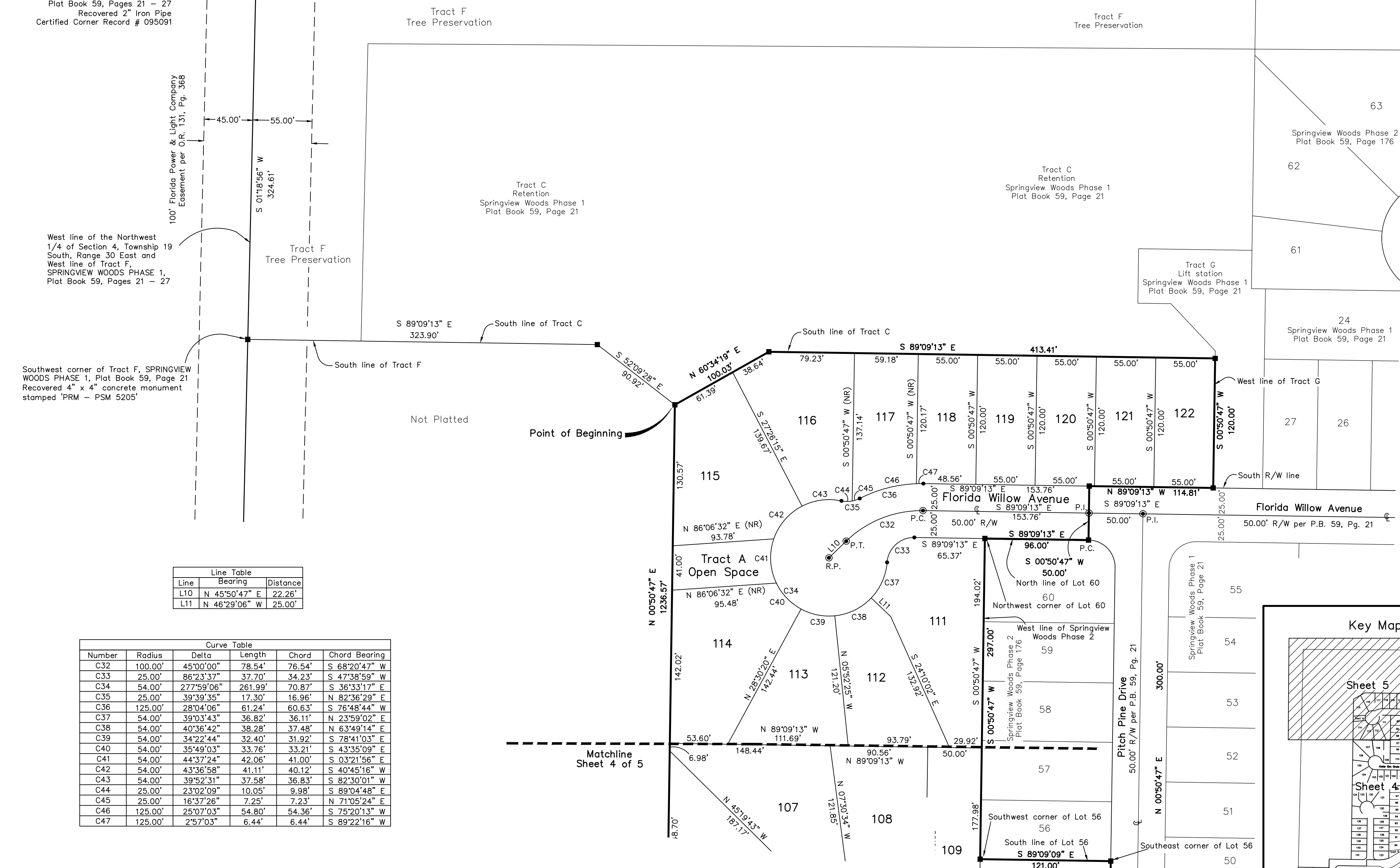
See Sheet 3 of 5 for Abbreviations and Legend

Point of Commencement

Northwest corner of the Northwest 1/4 of Section 4, Township 19 South, Range 30 East and Northwest corner of Tract F, SPRINGVIEW WOODS PHASE 1, Plat Book 59, Pages 21 - 27
 Recovered 2" Iron Pipe
 Certified Corner Record # 095091

Orianda Heights
 (unrecorded subdivision)

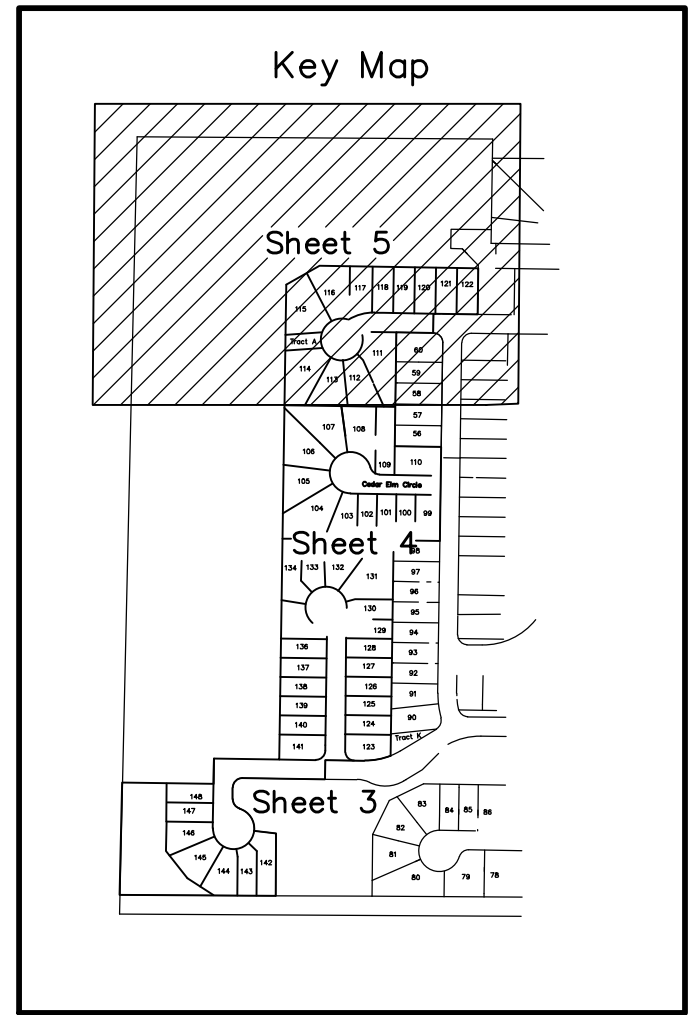
North line of the Northwest 1/4 of Section 4, Township 19 South, Range 30 East



Line	Bearing	Distance
L10	N 45°50'47" E	22.26'
L11	N 46°29'06" W	25.00'

Number	Radius	Delta	Length	Chord	Chord Bearing
C32	100.00'	45°00'00"	78.54'	76.54'	S 68°20'47" W
C33	25.00'	86°23'37"	37.70'	34.23'	S 47°38'59" W
C34	54.00'	277°59'06"	261.99'	70.87'	S 36°33'17" E
C35	25.00'	39°39'35"	17.30'	16.96'	N 82°36'29" E
C36	125.00'	28°04'06"	61.24'	60.63'	S 76°48'44" W
C37	54.00'	39°03'43"	36.82'	36.11'	N 23°59'02" E
C38	54.00'	40°36'42"	38.28'	37.48'	N 63°49'14" E
C39	54.00'	34°22'44"	32.40'	31.92'	S 78°41'03" E
C40	54.00'	35°49'03"	33.76'	33.21'	S 43°35'09" E
C41	54.00'	44°37'24"	42.06'	41.00'	S 03°21'56" E
C42	54.00'	43°36'58"	41.11'	40.12'	S 40°45'16" W
C43	54.00'	39°52'31"	37.58'	36.83'	S 82°30'01" W
C44	25.00'	23°02'09"	10.05'	9.98'	S 89°04'48" E
C45	25.00'	16°37'26"	7.25'	7.23'	N 71°05'24" E
C46	125.00'	25°07'03"	54.80'	54.36'	S 75°20'13" W
C47	125.00'	2°57'03"	6.44'	6.44'	S 89°22'16" W

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**City Council Meeting
City of DeBary
AGENDA ITEM**

Subject: Statement and findings of the City Manager regarding website accessibility From: Carmen Rosamonda, City Manager Meeting Hearing Date November 6, 2019	Attachments: <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
---	---

REQUEST

City Manager is requesting City Council approval of Resolution 2019-22 regarding website accessibility.

PURPOSE

City Council to affirm and adopt the City Manager’s Statement and Findings regarding Website Accessibility under the Americans with Disability Act.

CONSIDERATIONS

- It is the City of DeBary’s policy is not to discriminate due to disability with respect to local government services, programs and activities.
- The City endeavors to make its services, programs and activities available and accessible to citizens, employees visitors, and those conducting business in or with the City.
- In furtherance of this policy, upon request the City has long provided reasonable accommodations to persons with disabilities.
- Despite the Department of Justice’s failure to provide website accessibility regulations, the City of DeBary is undertaking significant and ongoing efforts to enhance website accessibility for persons with disabilities which are provided in the Statement and Findings of the City Manager Regarding Website Accessibility.

COST/FUNDING

N/A

RECOMMENDATION

City Manager is requesting approval of Resolution 2019-22 affirming and adopting the City Manager’s Statement and Findings regarding Website Accessibility.

IMPLEMENTATION

Post Resolution and City Manager’s Statement and Findings regarding Website Accessibility on the City’s website.

ATTACHMENTS

City Manager's Statement and Finding regarding Website Accessibility
Resolution 2019-22

RESOLUTION NO. 2019-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEBARY AFFIRMING THE CITY MANAGER'S STATEMENT AND FINDINGS REGARDING WEBSITE ACCESSIBILITY UNDER THE AMERICANS WITH DISABILITIES ACT.

WHEREAS, Title II of the Americans with Disabilities Act at section 12132 states, “[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity”; and

WHEREAS, 28 C.F.R. § 35.160 states, “A public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others”;

WHEREAS, 28 C.F.R. § 35.164 states, “This subpart does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.”

WHEREAS, 28 C.F.R. § 35.164 further states, “The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion.”

WHEREAS, the City Manager has issued a Statement and Findings Regarding Website Accessibility under the Americans with Disabilities Act, pursuant to his role as “the chief administrative officer of the City,” under section 6.03 of the City of DeBary Charter;

WHEREAS, the Mayor shall sign this Resolution affirming the City Manager’s Statement and Findings Regarding Website Accessibility under the Americans with Disabilities Act, pursuant to the Mayor’s role “as head of the municipal government for the purposes of execution of legal documents as required by ordinance” and as “the ceremonial head of the City,” under section 4.02 of the City of DeBary Charter;

WHEREAS, the City Manager’s written Statement and Findings and the Mayor’s written signature on this Resolution of Affirmation comply with 28 C.F.R. § 35.164’s requirement that the “head of the public entity” determine whether there would be a “fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens”;

WHEREAS, the United States Department of Justice has failed and refused to promulgate regulations to standardize local government website accessibility. Consequently, municipalities

do not have reasonable and fair notice as to what is required to comply with Title II with respect to their websites;

WHEREAS, despite the Department of Justice's failure to provide website accessibility regulations, the City of DeBary is undertaking significant and ongoing efforts to enhance website accessibility for persons with disabilities;

WHEREAS, the City Manager has made the following written findings:

- (1) The removal of most materials from the City of DeBary's website would fundamentally alter the City's service and activity of providing of open and transparent government through the website. The Americans with Disabilities Act does not require such fundamental alteration of the City's activities and services to its citizens. Moreover, removal of most materials from its website could make local government less accessible to persons with physical disabilities.
- (2) The City budgeted \$25,000.00 in fiscal year 2019 to rebuild its website and spent \$8,575.50 to lease captioning hardware to livestream City Council meetings. The City spent additional tax dollars sending its IT Manager to seminars on ADA compliance at conferences of the Florida Records Management Association and the Florida Local Government Information Systems Association.
- (3) The City has budgeted an additional \$24,400 for fiscal year 2020, which includes \$15,000.00 to lease closed captioning hardware, \$3,000.00 to test the City's website for text reader compatibility once a quarter, \$3,000.00 for software and conversion of documents to a text reader-compatible format, and \$3,000.00 for ADA staff training.
- (4) The 2019 and 2020 fiscal year expenditures are significant.
- (5) The legitimate needs of citizens, those doing business in the City, and the City's elected and appointed officials do not require expenditures and staff time in excess of the City's already extraordinary efforts. Considering all resources available to the City for funding its operations, additional funding and staff time would constitute an undue financial and administrative burden.

WHEREAS, the City of DeBary City Mayor and Council wish to affirm the Statement and Findings of the City Manager Regarding Website Accessibility attached to this Resolution as Exhibit "A."

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DEBARY, FLORIDA, AS FOLLOWS:

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

Section 2. The City Council of the City of DeBary hereby affirms the Statement and Findings of the City Manager Regarding Website Accessibility attached to this Resolution as Exhibit “A.”

Section 3. **Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this ____ day of _____, 2019.

Karen Chasez, Mayor

Attest:

Annette Hatch, City Clerk

**STATEMENT AND FINDINGS OF THE CITY MANAGER
REGARDING WEBSITE ACCESSIBILITY**

The City of DeBary's policy is not to discriminate due to disability with respect to local government services, programs, and activities. The City endeavors to make its services, programs, and activities available and accessible to citizens, employees, visitors, and those conducting business in or with the City. In furtherance of this policy, upon request the City has long provided reasonable accommodations to persons with disabilities.

During the last year, a small number of plaintiffs and their lawyers brought dozens of lawsuits against municipalities across Florida alleging the cities' websites violated the Americans with Disabilities Act. In response, many cities removed most materials from their websites. The City of DeBary took a different approach, consistent with the City's deep commitment to open and transparent government. The City of DeBary allocated \$25,000.00 to rebuild its website and began aggressively replacing content to enhance accessibility.

The City, like all municipalities, must operate "in the sunshine," in accordance with Chapter 286 of the Florida Statutes. In that spirit, and even when not required by the statute, the City uses its website, www.DeBary.org to provide open and transparent government, enhancing the ability of citizens to observe, understand, and participate.

The City's website and streaming services provide or improve accessibility to local government that might not otherwise exist for physically disabled persons for whom transportation to City Hall may be difficult.

The United States Department of Justice is the Federal agency tasked with promulgating regulations implementing Title II of the Americans with Disabilities Act, which pertains to local governments. Despite numerous requests from local governments and members of the United States Congress, the Department of Justice has failed and refused to promulgate regulations to

standardize local government website accessibility. Consequently, municipalities do not have reasonable and fair notice as to what is required to comply with Title II with respect to websites.

Absent a regulatory framework, the City is working internally to incorporate accessibility design standards to meet Universal Design concepts supported by the World Wide Web Consortium's (W3C) Web Content Accessibility Guidelines (WCAG) 2.1 Level AA. The W3C is a non-governmental entity. Its guidelines have not gone through any governmental rulemaking process or have the force of administrative law. However, in the absence of regulations from the Department of Justice, the W3C provides the only reasonable guidance available at this time.

In order to achieve compliance with the W3C guidelines:

- The City rebuilt its website to be compatible with assistive technologies and browsers, including the latest versions of Chrome, Microsoft Edge/Internet Explorer, Safari, and Firefox.
- The City has created and posted a dedicated email address, ADA@DeBary.org, for the public to request specific ADA compliant documents or to report concerns.
- The City has posted an Accessibility statement on its website.
- The City has added a Website Accessibility Widget, which allows web users to increase text size, change fonts for better legibility, change the contrast and saturation to assist with certain visual impairments, and have content computer-read by a built-in screen reader. The widget does not preclude one from using another, preferred text reader. The Accessibility Menu to access these features appears on the homepage of the City's website.
- The City is leasing captioning hardware to make new, recent and past videos more accessible to persons with hearing disabilities.

- The City is working to optimize Adobe PDF (Portable Document Format) files on the website. According to Adobe, Acrobat Reader DC, which anyone can download free of charge, contains many capabilities specifically designed to make it easier for people with disabilities to read PDF files, including those not yet optimized for accessibility. Adobe states, “All versions of Adobe Acrobat DC, Adobe Acrobat Reader DC, Acrobat Standard DC and Acrobat Pro DC provide support for the accessible reading of PDF files by persons with disabilities.” Adobe states that the software leverages accessibility functions built into Apple macOS and Microsoft Windows operating systems and allows adjustment of user preferences to optimize the reading experience for a variety of disabilities.

- The City has incorporated ‘alt text’ and ‘hover text’ onto photos on the website to describe photographs for those with site impairments.

- The City has tested materials posted on the website with several different versions of screen readers to confirm functionality.

If, despite the City’s best efforts, a specific document on the website is incompatible with a person’s sight/screen-reader, upon request, the City will provide a version of the requested document in an alternative format to assist in communication. Alternatively, the City will have a member of its staff read or describe a document, upon request. The City’s efforts with respect to website accessibility are significant and ongoing.

As the “head of government,” the City Manager of DeBary makes the following findings:

- (1) The City Manager incorporates the foregoing facts by reference.
- (2) The removal of most materials from the City of DeBary’s website would fundamentally alter the City’s service and activity of providing of open and transparent government through the website. The Americans with Disabilities Act does not require such

fundamental alteration of the City's activities and services to its citizens. Moreover, removal of most materials from its website could make local government less accessible to persons with physical disabilities.

- (3) The City budgeted \$25,000.00 in fiscal year 2019 to rebuild its website and spent \$8,575.50 to lease captioning hardware to livestream City Council meetings. The City spent additional tax dollars sending its IT Manager to seminars on ADA compliance at conferences of the Florida Records Management Association and the Florida Local Government Information Systems Association.
- (4) The City has budgeted an additional \$24,400 for fiscal year 2020, which includes \$15,000.00 to lease closed captioning hardware, \$3,000.00 to test the City's website for text reader compatibility once a quarter, \$3,000.00 for software and conversion of documents to a text reader-compatible format, and \$3,000.00 for ADA staff training.
- (5) The 2019 and 2020 fiscal year expenditures are significant.
- (6) The legitimate needs of citizens, those doing business in the City, and the City's elected and appointed officials do not require expenditures and staff time in excess of the City's already extraordinary efforts. Considering all resources available to the City for funding its operations, additional funding and staff time would constitute an undue financial and administrative burden.

CITY OF DEBARY

By: _____
Carmen Rosamonda, City Manager



**City Council Meeting
City of DeBary
AGENDA ITEM**

<p>Subject: Small Scale Stormwater Improvement Project No. 5 – Bid No. 12-19 134 Floridana Road</p> <p>From: Carmen Rosamonda, City Manager</p> <p>Meeting Hearing Date November 6, 2019</p>	<p>Attachments: () Ordinance</p> <p>() Resolution (X) Supporting Documents/ Contracts () Other</p>
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REQUEST

City Manager is requesting City Council to (1) Award Bid No. 12-19, Small Scale Stormwater Improvement Project No. 5, to the lowest responsive and responsible bidder, (2) approve Pegasus Engineering, LLC, Task Order No. 2015-45 for post design engineering services, and (3) approve KHARE Construction Services, LLC, Task Order No. 1119-01 for Construction Management Services.

PURPOSE

Bid No. 12-19, Small Scale Stormwater improvement Project No. 5 is recommended to alleviate stormwater flooding and drainage issues that affect the residences at 134 Floridana Road and 136 Floridana Road. The residents at 134 Floridana Road and 136 Floridana Road have experienced numerous flooding events at their homes as a result of the area topography and stormwater runoff from Floridana Road.

BACKGROUND

At the direction of City Council and pursuant to the aforementioned issues, on September 25, 2019, the City of DeBary advertised Bid No. 12-19 in the Daytona Beach News-Journal and posted the Bid Documents on the City’s web site and the Vendorlink web portal requesting proposals from Florida Contractors. Potential bidders were notified that a mandatory Pre-Bid Conference would be held at 3:00 PM on September 25, 2019, at DeBary City Hall. Thirteen (13) Contractors were represented at the mandatory pre-bid meeting.

As advertised, on October 22, 2019 at 10:00 AM, the City of DeBary received five (5) sealed bids for Bid No. 12-19 at City Hall. All bids were unsealed and read aloud at the public bid opening with a representative of the bidders and other witnesses present. The results of the bid are;

<u>Contractor</u>	<u>Bid Amount</u>
1. Gregori Construction, Inc.	\$168,432.00
2. Ovation Construction, Inc.	\$176,818.60 – Corrected
3. Lapin Services, Inc.	\$231,921.50
4. GPS Civil Construction, Inc.	\$282,870.00
5. Sanpik, Inc.	\$285,337.00

Engineer's Estimate of Cost - \$153,196.40

Gregori Construction, Inc. is a Florida Licensed General Contractor and Florida Licensed Underground and Utilities Contractor in the Central Florida area. Numerous references have been provided and confirm a history of successful projects for; Volusia County, Seminole County, City of Daytona Beach, Orange County, Central Florida Expressway Authority, and FDOT District 5. Gregori Construction, Inc. was requested to revise its Proposal to correct minor errors that did not affect the Bid Amount.

All bids received have been tabulated and checked for mathematic accuracy and responsiveness with the Instructions to Bidders. All of the Required Documents have been received with the Gregori Construction, Inc. Proposal and is documented on the Bid Review Checklist.

Pegasus Engineering, Task Order 2015-45 is attached for City Council approval. Task Order 2015-45 consists of post design services during the construction associated with the Small Scale Stormwater Improvement Project No. 5 at 134 Floridana Road. The cost of the professional engineering services is in the amount of \$7,500.00.

KHARE Construction Services, LLC, Task Order 1119-01 is attached for City Council approval. Task Order 1119-01 consisted of Construction Management and Inspection Services for the Small Scale Stormwater Improvement Project No. 5 at 134 Floridana Road. Inspection of the Work in progress is required for assurance of quality control of the completed project. Management of the Construction Contract includes confirmation and documentation of Work completed and recommendation of payment by the City to the Contractor. The cost of the Construction Management services is \$19,800.00.

COST/FUNDING - SUMMATION OF COSTS

Gregori Construction, Inc.	\$168,432.00
Contingency Budget 6%	10,106.00
Pegasus Engineering, LLC	\$7,500.00
KHARE Construction Services, LLC	<u>\$19,800.00</u>
TOTAL	\$205,838.00

Funding for the project is budgeted from the Stormwater Fund.

RECOMMENDATION

Recommendation to Award the Contract for Construction of Bid No. 12-19, Small Scale Stormwater Improvement Project No. 5, to the lowest responsive and responsible bidder, Gregori Construction, Inc. for the low bid amount of \$168,432.00 with a contingency budget of 6% or \$10,106.00 and the cost for Pegasus Engineering, LLC, post design services, \$7,500.00, and the cost for KHARE Construction Services, LLC, Construction Management Services, \$19,800.00 for a total budget amount of \$205,838.00.

ATTACHMENTS

- Pegasus Engineering, LLC – Task Order 2015-45
- KHARE Construction Services, LLC – Task Order 1119-01

**Exhibit B
WORK ORDER
FOR
MASTER AGREEMENT FOR PUBLIC WORK PROJECTS
CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES
CONSTRUCTION COSTS LESS THAN \$2,000,000**

WORK ORDER NO.: KHARE - 1119- 01

PROJECT: Bid No.12-19
Small Scale Stormwater Improvement Project No. 5
Construction Management and Inspection Services

CITY: City of DeBary, Florida

COUNTY: Volusia County

CONSTRUCTION MANAGER: KHARE Construction Services, LLC.

CONSULTANT'S ADDRESS: 1457 Mt. Laurel Drive
Winter Springs, Florida 32708

Execution of the Work Order by CITY shall serve as authorization for the CONSTRUCTION MANAGER to provide for the above project, professional services as set out in the Scope of Services attached as Exhibit "A," to that certain Agreement of June 3, 2015 between the CITY and the CONSTRUCTION MANAGER and further delineated in the specifications, conditions and requirements stated in the following listed documents which are attached hereto and made a part hereof.

ATTACHMENTS:

- TIME SHEETS
- TASK ORDER
- PROPOSAL - SCOPE OF SERVICES

The CONSULTANT shall provide said services pursuant to this Work Order, its attachments and the above-referenced Agreement which is incorporated herein by reference as if it had been set out in its entirety. Whenever the Work Order conflicts with said Agreement, the Agreement shall prevail.

TIME FOR COMPLETION: The work authorized by this Work Order shall be commenced and completed as directed by the City Manager.

METHOD OF COMPENSATION:

(a) This Work Order is issued on a:

- FIXED FEE BASIS
- TIME BASIS METHOD WITH A NOT-TO-EXCEED AMOUNT
- TIME BASIS METHOD WITH A LIMITATION OF FUNDS AMOUNT

(b) If the compensation is based on a "Fixed. Fee Basis, then the CONSTRUCTION MANAGER shall perform all work required by this Work Order for the sum of _____ DOLLARS (\$ _____). In no event shall the CONSTRUCTION MANAGER be paid more than the Fixed Fee Amount.

(c) If the compensation is based on a "Time- Basis Method" with a Not-to-Exceed Amount, then the CONSULTANT shall perform all work required by this Work Order for a sum not to exceed **NINETEEN THOUSAND EIGHT HUNDRED DOLLARS and ZERO CENTS. (\$19,800.00)**. The CONSTRUCTION INSPECTION AND MANAGEMENT compensation shall be based on the actual work required by this Work Order as directed by the City Manager.

(d) If the compensation is based on a "Time Basis Method" with a Limitation of Funds Amount, then the CONSULTANT is not authorized to exceed the limitation of Funds amount of _____ DOLLARS (\$ _____) without prior written approval of the CITY. Such approval, if given by the CITY, shall indicate a new Limitation of Funds amount. The CONSTRUCTION MANAGER shall advise the CITY whenever the CONSTRUCTION MANAGER has incurred expenses on this Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount. The City shall compensate the CONSTRUCTION MANAGER for the actual work performed under this Work Order.

Payment to the CONSTRUCTION MANAGER shall be made by the CITY in strict accordance with the payment terms of the above-referenced Agreement.

It is expressly understood by the CONSTRUCTION MANAGER that this Work Order, until executed by the CITY, does not authorize the performance of any services by the CONSTRUCTION MANAGER and that the CITY, prior to its execution of the Work Order, reserves the right to authorize a party other than the CONSTRUCTION MANAGER to perform the services called for under this Work Order if it is determined that to do so is in the best interest of the CITY.

IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order for the purposes stated herein.

KHARE Construction Services, LLC

By: _____

Kevin J Hare, President

Date: _____

10/25/19

CITY OF DEBARY, FLORIDA

By: _____

Date: _____

October 24, 2019

Carmen Rosamonda, City Manager
City of DeBary
16 Colomba Road
DeBary, Florida 32713

Proposal for Construction Management and Inspection Services
City of DeBary
Small Scale Stormwater Improvement Project No. 5 – 134 Floridana Road

Good day Carmen,

Thank you for the opportunity to make this Proposal to the City of DeBary to provide professional Construction Management and Inspection Services for the Small Scale Stormwater Improvement Project No. 5, at 134 Floridana Road. The Scope of Services for Construction Management Services is described below as activities and estimated billable hours of service as necessary to achieve the results as desired by the City.

Summary of Services

The Construction Management Services proposed herein by KHARE Construction Services, LLC for the City of DeBary are limited to the following activities;

Preliminary Services - Funded and Paid in FY2019 - \$2,700.00 from Task Order No. 0419-01.

Site visits to consider Scope of Project and impact on residents and motorists.

Meet with property Owners to discuss site conditions and construction conditions and drainage easements as required.

Correspondence, and meetings with two property Owners to obtain required drainage easement agreements from 132 Floridana Road and 134 Floridana Road. Coordination with Pegasus Engineering to obtain professional engineering services for legal descriptions and survey sketch. Coordination with City Staff for signatures, witnesses and recording of the drainage easement documents.

Meetings with the Engineer of Record for coordination of design and constructability review. Meet as needed to develop conceptual plans and identify all issues and work to address and resolve.

Pre-Construction Phase – FY2020 Funding

Manage and administer the Public Bid process for Bid No. 12-19. Pre-Bid Meeting, Addendum No. 1 – Final Contract Documents, Correspondence with Bidders, Bid Opening, Agenda Item, City Council Meeting, Award of Contract, Review of Bond Documents, Insurance Forms, Executed Contract, Pre-Construction Meeting – 60 hours

KHARE CONSTRUCTION SERVICES, LLC

Construction Phase – Estimate of Duration - 12 weeks – FY2020 Funding

Estimate 12 weeks – Site Inspection- 8 hours per week – 96 hours

Process monthly Pay Application submitted by Contractor – 4 hours per month for 3 months – 12 hours

Project Close-out – Final Inspection – 8 hours

Total FY 2020 Cost –	Preconstruction Phase	60 hours
	Construction Phase – Inspection	96 hours
	Construction Phase –Payment	12 hours
	Construction Phase – Close Out	<u>8 hours</u>
	TOTAL	176 HOURS

FY 2020 - Construction Phase – 176 hours at \$112.50 per hour - \$19,800.00

TOTAL – TASK ORDER 1119-01 - \$19,800.00.

TOTAL FOR KHARE Construction Services FY2019 - \$2,700.00

TOTAL FOR KHARE Construction Services FY 2020 - \$19,800.00

TOTAL \$22,500.00

Summary of Limitations

The following items are not applicable to this proposal and the Construction Manager will not be responsible for the following;

1. Project design documents that are signed and sealed by the City’s Consultant Professional Engineer or Subconsultants.
2. Construction Contractor - “Means and Methods”.
3. Construction Contractor - Safety Requirements.
4. Construction Contractor - Maintenance of Traffic.

If I may assist in your consideration of this proposal in any way, please let me know. Thanks again.



Kevin J Hare
Construction Services Manager



TASK ORDER NO.: 2015-45

PROJECT NAME: **134 Floridana Road Drainage Improvements | Post-Design Services**

CLIENT: City of DeBary
16 Colomba Road
DeBary, Florida 32713

The vendor, Pegasus Engineering, LLC, located at 301 West State Road 434, Suite 309, Winter Springs, Florida 32708, is a Corporation authorized to do business in the state of Florida. As part of this Task Order, Pegasus Engineering, LLC, will perform post-design services for the 134 Floridana Road drainage improvements project.

It is our understanding that the City's Construction Manager (Kevin Hare) will provide professional construction and engineering inspection (CEI) services and Pegasus Engineering will be tasked with the following scope of work:

1. Prepare for and attend one (1) pre-construction meeting.
2. Review and process shop drawings.
3. Address RFIs (Requests for Information) during construction.
4. Prepare for and attend two (2) progress meetings with the City's Construction Manager and the contractor.
5. Prepare for and participate in the substantial completion inspection and provide "punch-list" items to Kevin Hare to submit to the contractor.
6. Prepare for and participate in the final inspection to confirm that the "punch-list" items have been adequately addressed.
7. Review the signed and sealed as-built drawings provided by the contractor's surveyor and issue review comments.



Total LUMP SUM FEE of this Task Order, including reimbursement expenses, is Seven Thousand Five Hundred Dollars (\$7,500.00) (approximately 40 mnahours). The Client agrees to pay Pegasus Engineering, LLC for its services based on approved monthly invoices.

This Task Order shall be governed by the Continuing Consulting Contract for General Engineering Services agreement dated July 29, 2015.

Client Signature:

Vendor Signature:

CITY OF DEBARY

PEGASUS ENGINEERING, LLC

By: _____
Authorized Signature

By: 
Authorized Signature

Carmen Rosamonda
Printed Name

Fursan Munjed, P.E.
Printed Name

City Manager
Title

Principal / Project Manager
Title

Date

October 18, 2019
Date



City Council Meeting City of DeBary AGENDA ITEM

Subject: Establishing a Charter Review Commission	Attachments: <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
From: Carmen Rosamonda, City Manager	
Meeting Hearing Date November 6, 2019	

REQUEST

City Manager is requesting approval of Resolution 2019-23, establishing a Charter Review Commission.

PURPOSE

Pursuant to DeBary City Charter, Section 13.03 provides the City Charter will be reviewed no later than three (3) years after its initial approval, then no later than seven (7) years after the initial Charter Review. The last Charter amendment was approved by referendum on November 5, 2013.

CONSIDERATIONS

- A National Election will occur on November 3, 2020, whereby we anticipated the largest volume of DeBary residents will vote and consider any possible amendments to the City Charter.
- Placing possible Charter amendments on the ballot of a National Election saves the City of DeBary additional costs of conducting a special election.
- A process flowchart and timelines is attached to provide details of key dates and chain of events.
- Approving Resolution 2019-23, establishes the Charter Review Commission. Once approved, City staff will advertise and provide volunteer applications to all DeBary residents who desire to serve on the Charter Review Commission. To be considered for appointment to the Charter Review Commission, completed applications must be received by close of business on November 22, 2019.
- All Council members will receive all submitted applications for their consideration. Pursuant to City Charter, each Council member will select one applicant. This selection will occur at a regular Council meeting on December 4, 2019.

COST/FUNDING

This is a required action under City Charter. Any incidental costs are budgeted in the 2019/20 budget.

RECOMMENDATION

It is recommended that the City Council approve Resolution 2019-23 and the associated process flowchart and timelines.

IMPLEMENTATION

- Upon approval, City staff will advertise and call for volunteer applications to be received no later than close of business on November 22, 2019.

ATTACHMENTS

Resolution 2019-23
Charter Review Commission Flowchart & Timeline

RESOLUTION NO. 2019-23

A RESOLUTION OF THE CITY OF DEBARY, FLORIDA; ESTABLISHING A CHARTER REVIEW COMMISSION; APPOINTING CHARTER REVIEW COMMISSION MEMBERS; DEFINING CHARTER REVIEW COMMISSION'S DUTIES AND DURATION; PROVIDING AUTHORITY FOR EXPENDITURES AND A METHOD FOR ESTABLISHING MEETINGS; PROVIDING FOR PUBLIC MEETINGS AND A METHOD OF PROVIDING LEGAL AND STAFF ASSISTANCE TO THE CHARTER REVIEW COMMISSION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 13.03, Charter Review, of the City Charter of the City of DeBary provides that the City Charter will be reviewed at least every seven (7) years; and

WHEREAS, the last Charter amendment was approved by referendum on November 5, 2013; and

WHEREAS, Section 13.03 of the City Charter also provides that the Charter Review Commission shall be appointed at least six (6) months prior to the next scheduled election and complete its work and present any recommendations for change no later than sixty (60) days before said election; and

WHEREAS, it is appropriate to create a Charter Review Commission for the purpose of review and study of the existing Charter in order to present any written recommendations for changes to the City Charter to the City Council.

IT IS HEREBY RESOLVED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1. A Charter Review Commission is hereby created, consisting of five (5) members appointed by the City Council. The appointments shall occur within sixty (60) days of the adoption of this Resolution.

SECTION 2. The Charter Review Commission shall review and study the existing City Charter and make written recommendations to the City Council as to any amendments, revisions, or changes to the City Charter.

SECTION 3. The written recommendations of the Charter Review Commission shall be submitted to the City Council no later than June 1, 2020.

SECTION 4. Upon receipt of the written recommendations of the Charter Review Commission, the City Council shall review same and determine whether the existing Charter should be amended or revised, in which event, the City Council may cause to be prepared such Ordinance or Ordinances it may deem advisable to amend or revise the existing City Charter in the manner as provided by Chapter 166, Florida Statutes. The City Council shall hold a minimum of two (2) public hearings on the proposed Charter amendments prior to placing the proposed Charter amendments on the scheduled election ballot of November 3, 2020.

SECTION 5. The City Council may from time to time authorize expenditures for the Charter Review Commission in the performance of its duties as provided in this Resolution.

SECTION 6. Since the Charter Review Commission is established for a single purpose, all terms of members will expire nine (9) months after the date on which the City Council appoints the last of the Charter Review Commission members, unless otherwise extended by action taken by the City Council. Charter Review Commission members who are absent from more than three (3) consecutive meetings may be administratively removed from their Charter Review Commission position by majority vote of the remaining members of the Charter Review Commission. The City Council may appoint a new member or members to fill any vacancy or vacancies on the Charter Review Commission. The replacement member(s) shall serve for the remainder of the un-expired term.

SECTION 7. The City Clerk shall give due public notice of all meetings of the Commission in accordance with the City Charter and the laws of the State of Florida. The Charter Review Commission shall, in all matters, be governed by such laws, including, specifically Florida Statutes, Chapters 119 ("Public Records Law") as to its agendas, minutes, correspondence and other documents, and F.S. §286.011 ("Government in the Sunshine Law") as to its meetings and communications. All meetings of the Charter Review Commission shall be held after 5:00 p.m.

SECTION 8. The City Attorney and City staff are hereby directed to assist the Charter Review Commission as needed.

SECTION 9. This Resolution shall become effective immediately upon its adoption.

ADOPTED BY the City Council of the City of DeBary, Florida this _____ day of _____,

2019.

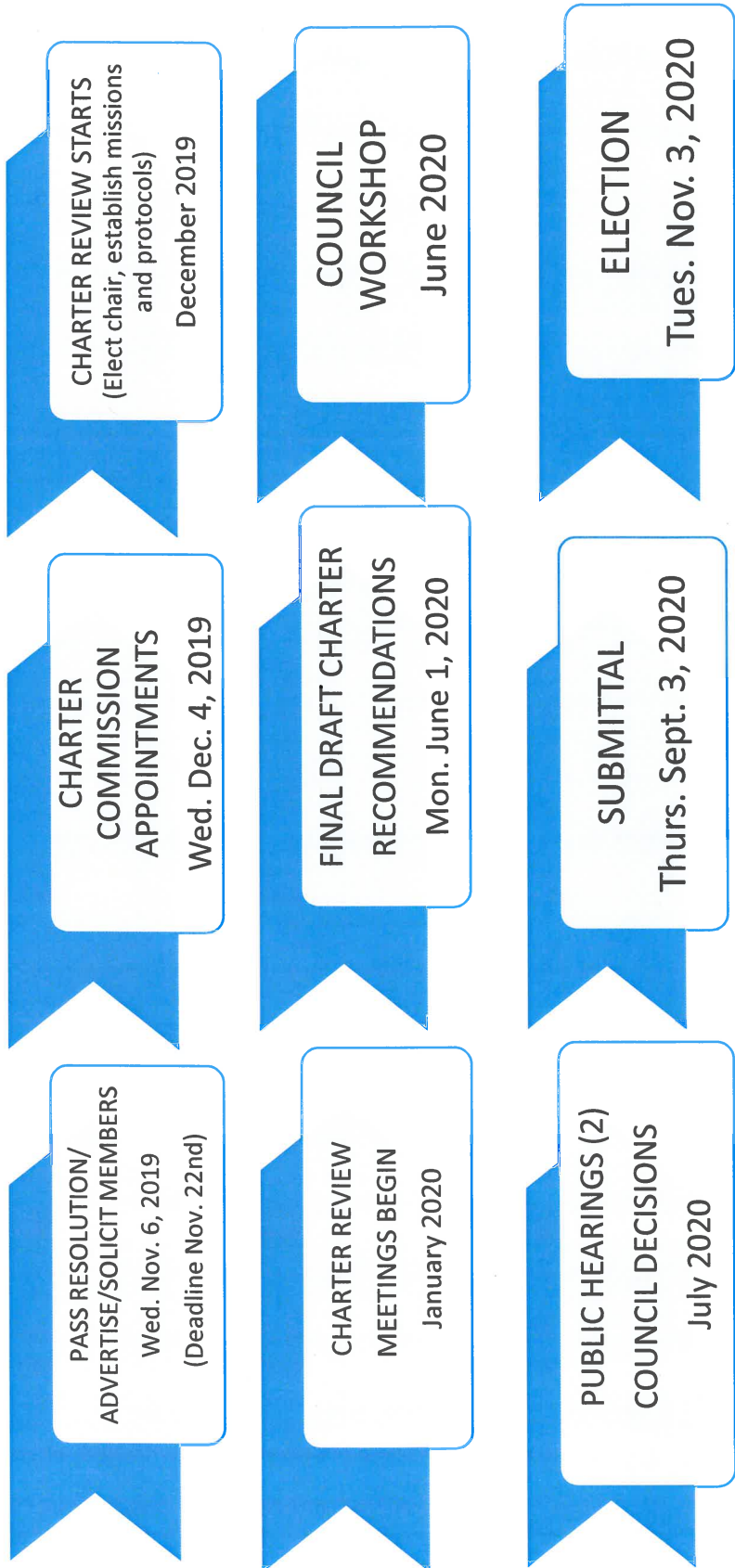
ATTEST:

**CITY COUNCIL
CITY OF DEBARY, FLORIDA**

Annette Hatch, City Clerk

Karen Chasez, Mayor

CHARTER REVIEW COMMISSION 2020





**City Council Meeting
City of DeBary
AGENDA ITEM**

Subject: Contract Amendment of Community Event Organizers (CEO) for July 4 th , 2020 Event.	Attachments: <input type="checkbox"/> Ordinance
From: Carmen Rosamonda, City Manager	<input type="checkbox"/> Resolution
Meeting Hearing Date November 6, 2019	<input checked="" type="checkbox"/> Supporting Documents/ Contracts
	<input type="checkbox"/> Other

REQUEST

City Manager is requesting City Council to approve contract amendment extending event services of Community Event Organizers (CEO) for the 2020 July 4th event.

PURPOSE

This request is needed at this time to get Council direction on how they would like to proceed with this event moving forward.

CONSIDERATIONS

The City went out to bid regarding an event management company to provide such services. In 2019, Community Event Organizers (CEO) was awarded the event management services contract for 3 years with annual renewals. The event experienced rain and the park was closed for a short period of time. The 2019 July 4th event had nearly 3500 attendees with excellent entertainment and fireworks. CEO met all of their obligations despite 1) event cancellation in 2018, 2) short timeframe to promote the event and 3) Volusia County prohibiting bounce houses and requiring crowd control certification 60 days prior to the event. City staff managed the event and had favorable dealings with CEO to provide an awesome event. CEO submitted their budget statement and showed a net loss of \$2,822.74. Overall, CEO was organized and very easy to work with. The post event evaluation has been attached to this agenda item for your viewing.

Given CEO's 2019 performance and their adequate insurance coverage, Staff is recommending no deposit for the 2020 July 4th event.

COST/FUNDING

There will be no cost associated with the CEO Amendment for the 2019/2020 FY.

ATTACHMENTS

Attachment A – Post Evaluation 4th of July Event 2019

Attachment B – CEO Income Statement

Attachment C – CEO Vendor Services Agreement

Attachment D – First Amendment to CEO Vendor Services Agreement

Post-Evaluation 4th of July Event 2019

DATE: Thursday, July 4, 2019

ATTACHMENT "A"

TIME: 4:00pm – 11:00pm

NUMBER OF PARTICIPANTS: Estimated 3200-3500 attendees

COST: FREE

Breakdown of Event

This event was a free event for the local community to enjoy the day at Gemini Springs Park with friends and family. The event had several food and merchant vendors, a beer vendor, a kid zone, and a stage with live entertainment. The event ended with a fireworks show choreographed with music.

Organizations involved in the event and their roles

City of DeBary – The lead agency on the event. Coordinated the event timeline. Provided all the rental equipment needed for event and staffed the event with parks maintenance crew, public works crew, and storm water crew. Set up safety fencing, ribbon, cones and barricades. Provided activities, staff and volunteers for the Kid Zone. Assisted CEO DeBary in promoting the event.

Rental Companies

- Xtreme Special Effects: Firework Show
- Royal Restrooms: 14 stall restroom trailer with two staff members
- Sunbelt Rentals: 12 portable light towers and 2 cooling stations.
- Better Barricades: Message Boards to promote event
- T & S: 2 Port – o – potties for volunteers in parking lots
- Mid Florida Golf Cars – 5 golf carts

CEO DeBary – Provided the event vendors, the event layout, event volunteers, stage and entertainment, event sponsors, and marketing. Staffed parking and front entrance. Provided food for VIP's, staff and volunteers. Assisted with the Kid Zone.

Volusia County Sheriffs Office – Controlled parking, security, and public safety for the event.

DeBary/Orange City Fire Department - On site for public safety and the firework show.

Volusia County Parks and Recreation – Hosted the event at Gemini Springs. Provided staff for trash, park maintenance, and park restrooms.

DeBary Babe Ruth – Provided volunteers to staff the handicap lot. Also a food vendor for the event.

Glitches

- Water line break at event entrance. Limit length of stakes driven into the ground throughout the event to possibly prevent.
- Rain delayed the first hour of the event.
- Volusia County banned all inflatables a couple months prior to the event leaving us scrambling to find suitable kids activities.
- The security firm that was contracted to cover the front and handicap entrance did not show causing us to pull staff last minute to get it covered.
- The kids entertainment on the small stage in the kid zone did not show up. The smaller City stage was never used for the event.
- It was tough to cover the auxiliary gaps in the perimeter fence at the back of the park. Park patrons did not want to go to the front to get the wrist band and entered in the back anyway. Our only option for coverage in these areas was the Fire Cadets but they are not allowed to be in a position of enforcement. In turn, we put them there for informational purpose only but if a patron resisted they were allowed in.
- One cooling station did not work.
- One golf cart did not work.
- Some communication issues with vendors dropping off in the handicap lot.
- Make sure rules are clear on pets and grills and we get the info to the public.
- Day laborers worked great. Recommend we bring them back.
- Additional lighting needed at entrance to oak tree lot – canopy is getting thicker and pedestrian / vehicle traffic is significant.
- Additional light tower needed at pedestrian trail. Going to event from lot was dark.
- Additional lighting required at the handicap event entrance. Was dark in that area. Several other areas of the park were darker than normal. Consider not providing Pyrotechnic staff a light tower this will free up 1 light. Staff can possibly relocate other light towers to remedy other areas.
- Deputy in oak tree should move to 1st curve after this lot is full. This will free up 1 staff member and prevent people heading that are heading to overflow from stopping and trying to park in oak tree. Staff will communicate this with the deputy on the night of the event.
- Additional staff positioned at the exit to oak tree full time. This will help prevent item above.
- Staff was not properly notified that the event was shut down temporarily due to lightning. We heard it from one of the day laborers.
- Staff could not hear countdown for fireworks and missed the mark on turning lights off.
- Need better pedestrian crosswalk from guard shack to event entrance. Cones set in place to form pathway.
- Need safety fence curve towards VIP tying into event entrance fence. This will force pedestrians to walk in desired location and not cross vehicular traffic.
- Parks to handle Overflow instead of Oak Tree lot. This will require less staff since oak tree needs 3 staff members after we switch to Overflow lot. 1-entrance oak tree, 1-mid way to exit, 1 at exit curve heading towards Overflow parking.
- Find a way to leave partial safety fence up until it can get picked up. Having to remove safety fence along handicap front, VIP and entrance puts additional burden on staff.
- One complaint came in to add another handicap entrance on the other end of the handicap lot. After review it was determined the 2nd entrance was not needed.

Improvements for Next Year

- Look into properly securing the back of the park and openings along the trail.
- Get formal contract agreements for any outside groups working the event, such as security, to hold them accountable if they back out of their commitment.
- Look into more kids entertainment on the stage at the Kid Zone.
- Get a pass for vendors that are allowed to drop off in the handicap lot. Have someone monitoring them to ensure they leave.
- Designate a volunteer with CEO to be stationed at the front guard house to communicate with vendors.
- Promote and enforce the following rules: Dogs in the dog park only, not allowed in the main event area. No grills, including park grills.
- Add a pedestrian crossing at Dirksen and at the Oak Tree Lot/Main entrance to the event.
- Use stakes with numbers to identify vendor locations.
- Make a strict deadline for vendor registration and the time when vendors show the day of the event.
- Create a check in tent in the back trail at Gemini to account for those walking to the park.
- Need more trash cans in areas where people were gathering such as the fence line from the vendor area to the main field.
- Locate underground water and electric lines at least 2 weeks prior to the event. Limit stake length when possible.
- Clear out any grass or debris off the launch zone the week of the event and monitor the water runoff.
- Ramp up marketing for next years event by partnering with a radio station and sending out more press released.
- Look into shuttles from the parking lots to be provided by Advent Health or Halifax.
- The County may allow the City to reimburse the County's additional insurance needed for bounce houses. We will make the call on which direction to go for activities at the first meeting to allow for several months of planning.

Income Statement

ATTACHMENT "B"

Citizen Event Organizers Inc.
July 4 2019

Financial Statements in U.S. Dollars

Revenue

Gross Sales	20,325.00	
Less: Sales Returns and Allowances		
Net Sales		20,325.00

Cost of Goods Sold

Beginning Inventory		
Add: Purchases		
Freight-in		
Direct Labor		
Indirect Expenses		
Inventory Available	0.00	
Less: Ending Inventory		
Cost of Goods Sold		0.00

Gross Profit (Loss) 20,325.00

Expenses

Advertising	30.00	
Band	5,000.00	
Bank Charges	4.00	
Beach Balls	119.79	
Beer	500.25	
Caterer	1,340.00	
Contract Labor	787.50	
Donations to Volunteers	500.00	
Generators	0.00	
Ice	532.00	
Insurance	1,096.76	
Security	150.00	
Printing (Graphic Source)	1,027.84	
Stage	4,250.00	
Stage Banners	1,035.00	
Stage Deposit	4,250.00	
Tax for Vendors to be paid	50.10	
Tents	845.75	
Truck	493.04	
Vip Lanyards	164.09	
Vip Lanyards Heavy Duty Cord	28.74	
Water	530.88	
WVAC	412.00	
Total Expenses		23,147.74

Net Operating Income -2,822.74

Other Income

Gain (Loss) on Sale of Assets		
Interest Income		
Total Other Income		0.00

Net Income (Loss) -2,822.74

ATTACHMENT "C" CEO

City of DeBary July 4th Celebration Vendor Services Agreement

THIS July 4th Celebration Vendor Services Agreement ("Agreement") made and entered into this 20th day of February, 2019, by and between the City of DeBary, a Florida municipal corporation whose address is 16 Colomba Road, DeBary, Florida 32713 (the "City") and Citizen Event Organizers Inc whose address is 58 North Charles Richard Beall Blvd, DeBary, Florida 32713 ("Vendor"). Throughout this Agreement the City and Vendor are collectively referred to as the "Parties."

RECITALS

WHEREAS, the City desires to retain a professional community event management, design, and consulting vendor to provide public services and entertainment for the City's annual 4th of July celebration event; and

WHEREAS, the City desires to contract with the Vendor in connection with the coordination, management, and consulting services required for the celebration event, upon the terms and conditions hereinafter set forth, and the Vendor is desirous of obtaining such contract and performing such services upon said terms and conditions;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, it is agreed by and between the Parties as follows:

1. **Vendor Services and Obligations.** At all times material hereto, Vendor shall be responsible for providing the following for the City's annual 4th of July Celebration occurring on July 4, 2019 (sometimes referred to herein as the "event"):

- a. Procurement of and installation and assembly of events stage, including disassembly and removal of stage at conclusion of event;
- b. Procurement of and operational support relating to providing the event with an appropriate audio system and public address system;
- c. Coordination, advertisement and promotion, solicitation for, and management of event sponsors and event vendors, including correspondence with and assignment of booth spaces and parking spaces for accepted vendors. Such duties shall also include working with and coordination with vendors prior to and throughout the event to accommodate various vendor needs and questions as required;
- d. Procurement of appropriate master of ceremonies, mic controller, and professional disc jockey for operation of audio system to provide all-ages appropriate musical entertainment and public address system operation and control, including public announcements;

- e. Procurement, coordination, and management of all-ages appropriate stage entertainment provided throughout the duration of the event. The City shall retain the right to approve or reject the content and subject matter of any entertainment selected or offered by Vendor;
- f. Procurement and coordination of meal and food services for event staff and volunteers, including correspondence with and direction to vendors who will provide such meal and food services for event staff and volunteers;
- g. Procurement, coordination, and installation of all-ages and celebration appropriate July 4th decorations, including removal of all decorations at the conclusion of the event;
- h. Procurement, installation, and coordination of bounce houses and similar recreational activities for children in attendance at City designated "kid zone" celebration activities area;
- i. Coordination and management of volunteers for celebration event zones, including but not limited to, adequate staffing of kids zone, parking areas, and meal distribution areas;
- j. Procurement of an adequate amount of ice for the event;
- k. Coordination and cooperation with fireworks vendor(s) to finalize synchronization of musical and other entertainment with fireworks display;
- l. Completion of a celebration event timeline and schedule, which shall be provided and approved by the City at least thirty (30) days from the date of execution of this Agreement;
- m. Procurement and completion of any and all federal, state, or local permits and licenses, proof of which must be submitted to the City at least five (5) business days prior to the date set for the event;
- n. Procuring and maintaining adequate insurance as set forth herein to cover the event and the negligence of the Vendor and its officers and employees concerning the event. Proof of such insurance must be submitted to the City prior to performance by Vendor of any service required under this Agreement;
- o. Procurement, promotion, and coordination of event marketing, advertisement, and community outreach for the event reasonably directed to inform the public of the event with reasonable notice of the event;
- p. Completion of a post-event final budget report to include all receivables and expenditures, including day of incidentals, to be provided to and approved by the City within five (5) business days from the date set for the event; and

q. Such other work or services beyond the event or in addition to the work or services set forth herein as mutually agreed upon between the Parties in writing.

2. **City Services and Obligations.** At all times material hereto, City shall provide the following for the event:

- a. Additional assistance with event marketing and advertisement is the City's sole discretion;
- b. Staffing for event fencing, barricades, and any maintenance of traffic devices, which shall include installation and set-up and removal of such materials upon conclusion of the event;
- c. Event security and law enforcement personnel for event and public safety;
- d. A twenty (20) yard dumpster and additional trash receptacles for the event;
- e. Shall at all times maintain full control of any and all matters or issues relating to the event that pertain to public safety or may jeopardize or pose a risk to the public safety or property of the City or any other third parties; and
- f. City shall provide direct payment for all expenses relating to:
 - 1. fireworks;
 - 2. light towers;
 - 3. air conditioned Princess Potty Trailers or comparable portable restrooms;
 - 4. portable restrooms for parking areas;
 - 5. mechanical message boards for event advertising;
 - 6. cooling stations;
 - 7. golf cart operational costs; and
 - 8. miscellaneous day of event expenditures (i.e., gas for generators, pumping of portable restrooms).

*All expenditures relating to the services and matters set forth in subsection (f) shall be subject to the sole discretion and approval of the City. The City shall not be liable or otherwise obligated to reimburse or pay Vendor for such services and matters unless otherwise directed or agreed to by the City in writing.

3. **Consideration: Profit Sharing; Escrow.**

- a. *Consideration.* As consideration for this Agreement, Vendor shall pay fifty percent (50%) of all net profits generated from operating the event to the City within five (5) business days after the conclusion of the event to offset the City's current and future costs

of the event. Such net profits shall be comprised of the remainder or excess of any Vendor sells of event sponsorships and event vendor fees as well as any V.I.P. event admissions or similar promotions by Vendor, if any, less all other Vendor expenses related to the event not the responsibility of the City as set forth in this Agreement. Vendor, at cost, shall pay all expenses relating to the promotion, coordination, operation, and management of the event except as provided expressly to the contrary herein. Vendor shall thereafter be entitled to retain fifty percent (50%) of all net profits for itself. In the event Vendor sells of event sponsorship, event vendor fees, and any other City-approved additional V.I.P. or similar promotions by Vendor are insufficient to cover Vendor's costs or expenditures relating to the event or this Agreement, Vendor agrees to solely bear such costs and the risk of such loss shall at all times be with the Vendor.

b. *Escrow.* Immediately upon execution of this Agreement, Vendor shall post cash deposits, which is available to the City in the amount of Ten Thousand Dollars and No Cents (\$10,000.00). Such deposit represents security for the performance of Vendor's work and services under this Agreement. The City will hold the deposit in a non-interest bearing account as security for the Vendor's prompt and adequate completion of this Agreement and services for the event. Vendor unconditionally covenants and agrees that if Vendor, at the City's reasonable discretion, fails to perform any or all of the obligations set forth in this Agreement, then Vendor shall forfeit its rights to the deposit and the City shall have the right, but not the obligation, in addition to and without waiver other remedies the City may have at law or in equity, to use the deposit or any portion thereof to satisfy in whole or in part the obligations of the Vendor, including but not limited to, any and all necessary measures, actions, or payments necessary to continue with the event or otherwise perform all of Vendor's duties and obligations under this Agreement. In the event Vendor promptly and satisfactorily, in the City's reasonable discretion, completes the work and services under this Agreement, then the City will return the Deposit (less any funds owed by the Vendor to the City) upon the later of forty-five (45) days after the event and Vendor's remittance of the City's fifty percent (50%) share of net profits.

4. **Vendor Representations.** Vendor represents and warrants to the City the following:

- a. Vendor has the experience and ability to perform the services required by this Agreement;
- b. Vendor will perform said services in a professional, competent and timely manner;
- c. Vendor has the power to enter into and perform this Agreement;
- d. Vendor's performance of this Agreement shall not infringe upon or violate the rights of any third party or violate any federal, state, or local laws or regulations;
- e. Vendor has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement;

- f. Except as provided otherwise in this Agreement, all services required hereunder shall be performed by Vendor, or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under the state and local laws to perform such services;
- g. Vendor shall be responsible for protection of property within the vicinity of the services provided in accordance with this Agreement and for the protection of its own equipment, supplies, materials, and work or services, against any damage resulting from the elements (such as flooding, by rainstorm, wind damage, vandalism, or other acts of God). Vendor shall be responsible for and repair all damage to property, structures, and improvements that are damaged by the Vendor and its employees and agents during performance of this Agreement;
- h. Vendor shall comply with all rules governing the use of any and all City properties, real and personal, and such other reasonable rules or directions that the City may establish upon the Vendor's operation and services provided under this Agreement;
- i. Vendor agrees that the quality of management and services provided by Vendor pursuant to this Agreement must be acceptable to the City and such determination by the City shall be final. If performance is not acceptable, the event may be cancelled at the City's sole discretion. The City shall not, except as otherwise expressly stated herein, determine or exercise control as to the general procedures or formats necessary to have the services set forth herein meet or exceed the City's satisfaction.
- j. Vendor shall, at its own expense, keep and maintain accurate records of any ticket sales, sponsorship and vendor sells or donations, invoices, ledgers, registers, payment applications, orders, gross/net receipt totals, and all other financial information or data necessary for the City to ensure adequate remittance of payment and profit sharing under this Agreement. Additionally, Vendor shall provide reasonable accountings to the City on a monthly basis as to expenditures for work and services provided under this Agreement;
- k. Vendor agrees to conduct business in such a manner as to advance good relations for the City and its citizens;
- l. Vendor shall not pledge or attempt to pledge the City's credit or make the City a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness; and
- m. Vendor shall attend and make itself available for pre- and post-event meetings as may be required by the City.

5. **Term.** The Parties understand and accept that the term of this Agreement shall be one (1) year running from the effective date of this Agreement, subject to early termination as set forth herein. The City shall have the right to extend the term of this Agreement for up to three (3) successive one (1) year renewals upon the mutual consent of the Parties.

6. **Termination; Availability of City Funds.**

a. *Termination for Cause.* The City shall have the right to terminate this Agreement, with good cause, for any material breaches or defaults of Vendor under or relating to this Agreement upon ten (10) days prior written notice to Vendor. The Vendor may terminate this Agreement, with good cause for the City's material breaches or defaults, upon thirty (30) days prior written notice to the City. In the event of termination by either Party for material breach or default, the Parties are free to seek damages or other relief as may be allowable under Florida law. Notwithstanding the preceding, upon a material breach or default by the Vendor, the City may retain the escrowed amounts referenced herein as an additional damage as against Vendor, which escrow amounts shall be cumulative and additional to any other remedies that the City may have under Florida law.

b. *Termination for Convenience.* City shall have the right to terminate this Agreement for any reason and without cause upon thirty (30) days written notice to Vendor. In the event of such City termination for convenience, Vendor shall only be entitled to retain Vendor sells of event sponsorships and event vendor fees as well as any V.I.P. event admissions or similar promotions by Vendor in amounts equal to the actual expenses incurred by Vendor for services or work under this Agreement incurred as of the date of the Notice of Termination for Convenience. In the event additional Vendor sells of event sponsorships and event vendor fees as well as any V.I.P. event admissions or similar promotions by Vendor exceed the amount of expense incurred by Vendor for services or work under this Agreement incurred as of the date of the Notice of Termination for Convenience, then such amounts shall be remitted to the City within seven (7) days from the date of the Notice of Termination for Convenience.

c. *Availability of City Funds.* Additionally, the obligations of the City under this Agreement are subject to the availability of funds lawfully appropriated for its purpose by the City Council of the City of DeBary. Notwithstanding any other provision of this Agreement to the contrary, the City's performance of obligations under this Agreement for each and every fiscal year when this Agreement is executed shall be subject to discretionary annual appropriation of funds therefore by the City's City Council. When funds are not appropriated or otherwise made available to support the continuation of performance in a subsequent fiscal period, this Agreement shall be terminated on the last day of the fiscal period for which appropriations were made, without further cost, penalty, or obligation to the City.

7. **Force Majeure.** This Agreement shall be excused by acts of God or any other legitimate condition beyond the City's or the Vendor's control. In such event, liability shall be exclusively limited to refunding any fees paid and neither Vendor nor City shall be liable for indirect, special, or consequential damages arising therefrom.

8. City Approval of Additional Vendors, Suppliers, or Service Providers. The City reserves the right to accept the Vendor's use or selection of additional or alternative vendors, suppliers, or service providers relating to this Agreement or to reject the selection at the City's sole discretion.

9. Vendor Insurance Requirements. Vendor shall not commence any work or services under this Agreement until it has obtained all insurance required by this paragraph and such insurance has been approved by the City. All insurance policies shall be issued by companies authorized to do business under the laws of the state of Florida. Vendor shall furnish certificates of insurance to the City prior to commencement of any of the services hereunder. The certificate(s) shall clearly indicate that the Vendor has obtained insurance of the type, amount, and classification as required for strict compliance with this subparagraph and that no material change or cancellation of the insurance shall be effective without thirty (30) calendar days' prior written notice to the City. Compliance with the forgoing requirements shall not relieve the Vendor of its liability obligations under this Agreement.

Workers' Compensation/Employers' Liability

Part One: There shall be no maximum limit (other than as limited by the applicable statute) for liability imposed by the Florida Workers' Compensation Act, the Longshoremen's and Harbor Workers' Compensation act or any other coverage's required by the contract documents which are customarily insured under Part One of the standard Workers' Compensation Policy.

Part Two: The minimum amount of coverage's required by the contract documents which are customarily insured under Part Two of the standard Workers' Compensation Policy shall be:

\$ 1,000,000	(Each Accident)
\$ 2,000,000	(Disease - Policy Limit)
\$ 1,000,000	(Disease - Each Employee)

Commercial General Liability: The limits are to be applicable only to work performed under this contract and shall be those that would be provided with the attachment of the Amendment of Limits of Insurance (Designated Project or Premises) endorsement (ISO Form CG 2501) to a Commercial General Liability Policy with the following minimum limits:

General Aggregate	Three Times the Each Occurrence Limit
Products/Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage (any one fire)	\$1,000,000
Medical Expense (any one person)	\$1,000,000

Business Auto Policy

Each Occurrence Bodily Injury and Property
Damage Liability Combined \$ 1,000,000
Annual Aggregate (if applicable) Three Times the "Each Occurrence Limit"

The Vendor shall maintain, during the life of this Agreement, adequate Workman's Compensation Insurance and Employer's Liability Insurance in at least such amounts as are required by law for all of its employees performing services for the City pursuant to this Agreement. All insurance, other than Workmen's Compensation, to be maintained by the Vendor shall specifically include the City as an "Additional Named Insured."

10. **Indemnification.** Vendor shall indemnify and hold the City and its officials, officers, employees, and agents harmless from all claims, losses, expenses, and damages, including, but not limited to, attorneys' fees and litigation costs at trial and appellate levels, for personal injury, sickness, disease, death and real property damage, and personal property damages that may arise or do arise solely or partially from errors, omissions, negligent acts, recklessness, wrongful acts, or gross negligence of the Vendor or its employees or agents during the performance of services under this Agreement. The maximum monetary limit of indemnification provided by the Vendor under this article and other indemnifications contained within this Agreement is one million dollars (\$1,000,000.00) per occurrence, which the City and the Vendor agree bears a commercially reasonable relationship to the Agreement and the scope of work and services under this Agreement. This indemnification obligation remains separate and apart from Vendor's obligation to obtain and maintain specified insurance coverages throughout the term of this Agreement. This paragraph survives expiration and termination of this Agreement. Additionally, nothing in this Agreement shall be considered or construed as a waiver of the City's sovereign immunity protections, including without limitation, those set forth in Section 768.28, Florida Statutes.

11. **Governing Law; Venue.** The Agreement shall be governed by and interpreted in accordance with the laws of the state of Florida. Any and all legal action necessary to enforce this Agreement will be held in a court of proper jurisdiction in Volusia County, Florida.

12. **Independent Contractor Relationship.** Vendor acknowledges and agrees that Vendor is an independent contractor and not an employee of the City and, as such, Vendor shall not look to the City for workers' compensation insurance coverage or any other employee benefits provided by the City.

13. **Entire Agreement; Amendment; Assignment.** This Agreement contains all equivalent understandings, covenants, and agreements between the Parties and no modification or amendment to this Agreement shall be effective unless embodied in writing executed by both Parties. The Vendor shall not assign or transfer this Agreement or delegate the performance of a service required herein to any other person, without prior written consent of the City.

14. **Public Records; City Audit.**
a. **Public Records:** Vendor agrees that it is subject to chapter 119, Florida Statutes, and the Public Records Law of the State of Florida. Accordingly, while in the possession of Vendor, all public records shall be secured, maintained, preserved, and retained in the manner

specified and pursuant to the Public Records Act. Vendor shall allow inspection and copying of such records in accordance with the Public Records Act. Further, Vendor acknowledges that City is a governmental entity subject to the Public Records Act, and as such, Vendor shall comply with any and all contractor provisions of section 119.0701, Florida Statutes, concerning public records generated or received by or in Vendor's possession. Vendor also expressly agrees to indemnify and hold the City harmless concerning any claims, damages, suits, judgments, losses, expenses and penalties arising out of or concerning Vendor's violation of the Public Records Act or this provision, including for attorneys' fees and costs at all trial and appellate levels. **IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT: ANNETTE HATCH, CITY OF DEBARY CITY CLERK, 16 COLOMBA ROAD, DEBARY, FLORIDA 32713; TELEPHONE NO.: 386-601-0219; E-MAIL: ahatch@debary.org.**

b. *City Audit.* Vendor shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the work and services provided under this Agreement for at least three (3) years following completion of this Agreement. The City or its duly authorized representative shall have access to such books, records, and documents as required in this section or this Agreement for the purpose of inspection, audit, excerpts, and transcription during normal business hours at the City's cost upon five (5) business days written notice.

15. **Headings: Interpretation.** The headings used in this Agreement are solely for the purpose of convenience and should not be construed to interpret the substance of this Agreement. The Parties have thoroughly read and reviewed the terms of this Agreement, acknowledge that it has been prepared after negotiations between the Parties, and agree that if any ambiguity is contained herein, then in resolving such ambiguity, no weight shall be given in favor of or against either Party on account of its drafting of this Agreement.

16. **Severability.** It is the desire and intention of the Parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the law. Accordingly, if any particular provision hereof shall be adjudicated to be invalid or unenforceable, this Agreement shall be deemed amended to delete therefrom the portion thus adjudicated and every other remaining term and provision of this Agreement shall be deemed valid and enforceable to the maximum extent permitted by law.

17. **Non-Waiver.** Any failure by the City to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and the City may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

18. **Execution: Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be a duplicate original, but all of which taken together shall constitute one and the same document.

IN WITNESS WHEREOF, the Parties hereby accept and agree to the terms of this Agreement and have hereunto set their hands on the day and year written above.

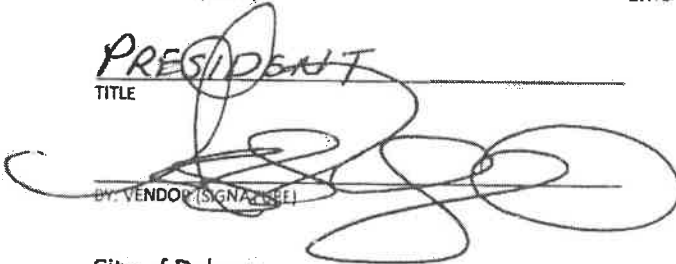
CEO 58 N. RICHARD BEALL BLVD
VENDOR ADDRESS

DEBARY FL 32713
CITY STATE & ZIP

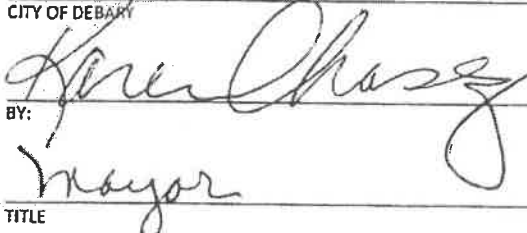
386.601.4006 ceodebary@gmail.com
PHONE EMAIL

GREGORY RUNGE 2/22/19
BY: VENDOR (PRINT) DATE

PRESIDENT
TITLE


BY: VENDOR (SIGNATURE)

City of Debarry 2/20/19
CITY OF DEBARRY DATE


BY:
Mayor
TITLE

ATTACHMENT "D"

**First Amendment to
City of DeBary July 4th Celebration Vendor Services Agreement**

This First Amendment to City of DeBary July 4th Celebration Vendor Services Agreement (the "First Amendment") is made and entered into this ____ day of _____, 2019, by and between the City of DeBary, a Florida municipal corporation whose address is 16 Colomba Road, DeBary, Florida 32713 (the "City") and Citizen Event Organizers Inc., a Florida not for profit corporation whose address is 58 North Charles Richard Beall Blvd., DeBary, Florida 32713 (the "Contractor"). Collectively, the City and Contractor are referred to as "Parties" and may be individually referred to as "Party."

WHEREAS, on February 20th, 2019 the Parties executed that certain City of DeBary July 4th Celebration Vendor Services Agreement (the "Vendor Services Agreement"); and

WHEREAS, the Parties wish to amend the Vendor Services Agreement as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, it is agreed by and between the Parties as follows:

1. **Recitals.** The foregoing recitals and exhibits are hereby verified as true and correct and are incorporated as part of this Agreement.
2. **Amendment to Vendor Services Agreement.** Subsection 3.b. of the Vendor Services Agreement is hereby deleted in its entirety. The final sentence of subsection 6.a. is hereby deleted in its entirety.
3. **Execution; Counterparts.** This First Amendment may be executed in any number of counterparts, each of which shall be a duplicate original, but all of which taken together shall constitute one and the same document.

CITY COUNCIL OF THE
City of DeBary, Florida

Attest: Annette Hatch, City Clerk

Karen Chasez, Mayor

Date: _____

CITIZEN EVENT ORGANIZERS INC.

Signature

Print Name

Position

Date



**City Council Meeting
City of DeBary
AGENDA ITEM**

Subject: Contract Amendment of Xtreme FX, LLC for the 2020 July 4 th Event	Attachments: <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Supporting Documents/ Contracts <input type="checkbox"/> Other
From: Carmen Rosamonda, City Manager	
Meeting Hearing Date November 6, 2019	

REQUEST

City Manager is requesting City Council to approve contract amendment extending fireworks services of Xtreme FX, LLC, for the 2020 July 4th event.

PURPOSE

This request is needed at this time to get Council direction on how they would like to proceed with this event moving forward.

CONSIDERATIONS

The City went out to bid for this event for a pyrotechnic company to provide the fireworks display. In April 2019, Xtreme FX, LLC was awarded the fireworks contract for the 2019 event. The event experienced rain but not to the extent of the previous year. Xtreme FX, LLC was set up early and provided a successful fireworks show. City staff managed the event and had favorable dealings with Xtreme to provide an awesome event. Xtreme was very organized, very easy to work with and managed the fireworks site at Gemini Springs very well. The post event evaluation has been attached to this agenda item for your viewing.

COST/FUNDING

The Xtreme, LLC., Amendment will be \$20,000, which is included in the approved FY 2019/2020 Budget.

RECOMMENDATION

It is recommended that the City Council approve contract amendment and extend Xtreme, FX, LLC agreement for the 2020 4th of July event.

IMPLEMENTATION

July 4, 2020

ATTACHMENTS

- A. 4th of July, 2019 Post Event Evaluation
- B. Xtreme FX, LLC. Agreement
- C. Xtreme FX, LLC. Amendment

Post-Evaluation
4th of July Event 2019

DATE: Thursday, July 4, 2019

ATTACHMENT "A"

TIME: 4:00pm – 11:00pm

NUMBER OF PARTICIPANTS: Estimated 3200-3500 attendees

COST: FREE

Breakdown of Event

This event was a free event for the local community to enjoy the day at Gemini Springs Park with friends and family. The event had several food and merchant vendors, a beer vendor, a kid zone, and a stage with live entertainment. The event ended with a fireworks show choreographed with music.

Organizations involved in the event and their roles

City of DeBary – The lead agency on the event. Coordinated the event timeline. Provided all the rental equipment needed for event and staffed the event with parks maintenance crew, public works crew, and storm water crew. Set up safety fencing, ribbon, cones and barricades. Provided activities, staff and volunteers for the Kid Zone. Assisted CEO DeBary in promoting the event.

Rental Companies

- Xtreme Special Effects: Firework Show
- Royal Restrooms: 14 stall restroom trailer with two staff members
- Sunbelt Rentals: 12 portable light towers and 2 cooling stations.
- Better Barricades: Message Boards to promote event
- T & S: 2 Port – o – potties for volunteers in parking lots
- Mid Florida Golf Cars – 5 golf carts

CEO DeBary – Provided the event vendors, the event layout, event volunteers, stage and entertainment, event sponsors, and marketing. Staffed parking and front entrance. Provided food for VIP's, staff and volunteers. Assisted with the Kid Zone.

Volusia County Sheriffs Office – Controlled parking, security, and public safety for the event.

DeBary/Orange City Fire Department - On site for public safety and the firework show.

Volusia County Parks and Recreation – Hosted the event at Gemini Springs. Provided staff for trash, park maintenance, and park restrooms.

DeBary Babe Ruth – Provided volunteers to staff the handicap lot. Also a food vendor for the event.

Glitches

- Water line break at event entrance. Limit length of stakes driven into the ground throughout the event to possibly prevent.
- Rain delayed the first hour of the event.
- Volusia County banned all inflatables a couple months prior to the event leaving us scrambling to find suitable kids activities.
- The security firm that was contracted to cover the front and handicap entrance did not show causing us to pull staff last minute to get it covered.
- The kids entertainment on the small stage in the kid zone did not show up. The smaller City stage was never used for the event.
- It was tough to cover the auxiliary gaps in the perimeter fence at the back of the park. Park patrons did not want to go to the front to get the wrist band and entered in the back anyway. Our only option for coverage in these areas was the Fire Cadets but they are not allowed to be in a position of enforcement. In turn, we put them there for informational purpose only but if a patron resisted they were allowed in.
- One cooling station did not work.
- One golf cart did not work.
- Some communication issues with vendors dropping off in the handicap lot.
- Make sure rules are clear on pets and grills and we get the info to the public.
- Day laborers worked great. Recommend we bring them back.
- Additional lighting needed at entrance to oak tree lot – canopy is getting thicker and pedestrian / vehicle traffic is significant.
- Additional light tower needed at pedestrian trail. Going to event from lot was dark.
- Additional lighting required at the handicap event entrance. Was dark in that area. Several other areas of the park were darker than normal. Consider not providing Pyrotechnic staff a light tower this will free up 1 light. Staff can possibly relocate other light towers to remedy other areas.
- Deputy in oak tree should move to 1st curve after this lot is full. This will free up 1 staff member and prevent people heading that are heading to overflow from stopping and trying to park in oak tree. Staff will communicate this with the deputy on the night of the event.
- Additional staff positioned at the exit to oak tree full time. This will help prevent item above.
- Staff was not properly notified that the event was shut down temporarily due to lightning. We heard it from one of the day laborers.
- Staff could not hear countdown for fireworks and missed the mark on turning lights off.
- Need better pedestrian crosswalk from guard shack to event entrance. Cones set in place to form pathway.
- Need safety fence curve towards VIP tying into event entrance fence. This will force pedestrians to walk in desired location and not cross vehicular traffic.
- Parks to handle Overflow instead of Oak Tree lot. This will require less staff since oak tree needs 3 staff members after we switch to Overflow lot. 1-entrance oak tree, 1-mid way to exit, 1 at exit curve heading towards Overflow parking.
- Find a way to leave partial safety fence up until it can get picked up. Having to remove safety fence along handicap front, VIP and entrance puts additional burden on staff.
- One complaint came in to add another handicap entrance on the other end of the handicap lot. After review it was determined the 2nd entrance was not needed.

Improvements for Next Year

- Look into properly securing the back of the park and openings along the trail.
- Get formal contract agreements for any outside groups working the event, such as security, to hold them accountable if they back out of their commitment.
- Look into more kids entertainment on the stage at the Kid Zone.
- Get a pass for vendors that are allowed to drop off in the handicap lot. Have someone monitoring them to ensure they leave.
- Designate a volunteer with CEO to be stationed at the front guard house to communicate with vendors.
- Promote and enforce the following rules: Dogs in the dog park only, not allowed in the main event area. No grills, including park grills.
- Add a pedestrian crossing at Dirksen and at the Oak Tree Lot/Main entrance to the event.
- Use stakes with numbers to identify vendor locations.
- Make a strict deadline for vendor registration and the time when vendors show the day of the event.
- Create a check in tent in the back trail at Gemini to account for those walking to the park.
- Need more trash cans in areas where people were gathering such as the fence line from the vendor area to the main field.
- Locate underground water and electric lines at least 2 weeks prior to the event. Limit stake length when possible.
- Clear out any grass or debris off the launch zone the week of the event and monitor the water runoff.
- Ramp up marketing for next years event by partnering with a radio station and sending out more press released.
- Look into shuttles from the parking lots to be provided by Advent Health or Halifax.
- The County may allow the City to reimburse the County's additional insurance needed for bounce houses. We will make the call on which direction to go for activities at the first meeting to allow for several months of planning.

ATTACHMENT "B"

Fireworks Services Agreement

27th This Fireworks Services Agreement (the "Agreement") is made and entered into this day of March, 2019, by and between the City of DeBary, a Florida municipal corporation whose address is 16 Colomba Road, DeBary, Florida 32713 (the "City") and Xtreme FX, LLC, a Florida Limited Liability Company whose address is 1481 Market Circle #4, Port Charlotte, FL 33953 (the "Contractor"). Collectively, the City and Contractor are referred to as "Parties" and may be individually referred to as "Party."

RECITALS

WHEREAS, on or about March 4, 2019, the City issued that certain RFQ #06-19 requesting quotes for fireworks services (the "RFQ"), a copy of which is attached hereto as Exhibit "C"; and

WHEREAS, on or about March 8, 2019, Contractor submitted that certain bid package for fireworks services (the "Bid Package"), a copy of which is attached as Exhibit "D"; and

WHEREAS, the City has selected and wishes to contract with Contractor for the services described in the RFQ and Bid Package, and Contractor wishes to contract with the City to provide such services, all in accordance with the terms and conditions herein provided.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, it is agreed by and between the Parties as follows:

1. Recitals. The foregoing recitals and exhibits are hereby verified as true and correct and are incorporated as part of this Agreement.

2. Contractor Services.

(a) Contractor shall perform all services described in the RFQ, the Bid Package, and this Agreement (the "Services"). In case of a conflict between the description of the services as provided in the RFQ and Bid Package, the description contained in the Bid Package shall control. In case of any conflict between the RFQ or Bid package and this Agreement, the provisions of this Agreement shall control.

(b) Contractor expressly recognizes the possibility that inclement weather could impact or affect its performance of the Services. Contractor shall take all steps reasonably necessary to ensure that its performance of the Services is not prevented or negatively affected by inclement weather, including but not limited to rain, standing water, temperature, wind, or any other weather event. Failure to take such reasonable steps shall constitute a breach of this Agreement.

3. Payment & Refund.

(a) Contractor shall be entitled to a total of \$20,000 subject to successful performance of the Services. The City shall pay to Contractor \$10,000 within seven (7) days of execution of this Agreement, and the other \$10,000 no later than June 26, 2019.

(b) If Contractor fails for any reason to perform the Services in full, the City shall be entitled to a full refund of any and all payments made. If such failure is due to a breach of this Agreement by Contractor or any act or omission that is the fault of the Contractor, the City shall also be entitled to pursue any and all damages and remedies available at law.

4. **Contractor Representations.** Contractor represents and warrants to the City the following:

(a) Contractor has the experience and ability to perform the Services required by this Agreement;

(b) Contractor will perform said Services in a professional, competent and timely matter;

(c) Contractor has the power to enter into and perform this Agreement;

(d) Contractor's performance of this Agreement does not and shall not infringe upon or violate the rights of any third party or violate any federal, state, or local laws or regulations;

(e) Contractor has, or will secure at its own expense, all necessary personnel required to perform the Services under this Agreement;

(f) Except as provided otherwise in this Agreement, all Services required hereunder shall be performed by Contractor, or under its supervision, and all personnel engaged in performing the Services shall be fully qualified and, if required, authorized or permitted under the state and local laws to perform such Services;

(g) Contractor shall be responsible for protection of property within the vicinity of the Services and for the protection of its own equipment, supplies, materials, and work or services, against any damage resulting from the elements (such as but not limited to flooding, by rainstorm, wind damage, vandalism, or other acts of God). Contractor shall be responsible for and repair or pay for all damage to property, structures, and improvements that are damaged by the Contractor and its employees and agents during or as a result of performing the Services and/or by any actions or inactions of Contractor relating to this Agreement;

(h) Contractor shall comply with all rules governing the use of any and all City properties, real and personal, and such other reasonable rules or directions that the City may establish upon the Contractor's operation and services provided under this Agreement;

(i) Contractor agrees that the quality of services provided by Contractor pursuant to this Agreement must be acceptable to the City and such determination by the City shall be final. If performance is not acceptable, the event may be cancelled at the City's sole discretion.

(j) Contractor shall not pledge or attempt to pledge the City's credit or make the City a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness; and

(k) Contractor shall attend and make itself available at City Hall, where the Services are to be performed, or elsewhere as directed by the City, for pre- and post-event meetings as may be required by the City.

5. **Termination.** The City shall have the right to terminate this Agreement at any time and for any reason upon ten (10) days written notice to Contractor. The Contractor may terminate this Agreement for the City's material breach or default upon thirty (30) days prior written notice from Contractor to the City if the City fails to cure the breach or default within such period. In the event of termination by Contractor due to the City's failure to timely cure the City's default or breach or by the City for Contractor's default or breach, the terminating party is free to seek damages and other relief from the other party as may be allowable under Florida law.

6. **Force Majeure.** Contractor's performance under this Agreement shall be excused only to the extent that performance is not possible due to acts of God. In such event, Contractor shall refund any and all fees paid to Contractor by the City and neither Contractor nor City shall be liable for indirect, special, or consequential damages arising therefrom.

7. **City Approval of Additional Contractors, Suppliers, or Service Providers.** The City reserves the right to accept the Contractor's use or selection of additional or alternative Contractors, suppliers, or service providers relating to this Agreement or to reject the selection at the City's sole discretion.

8. **Contractor Insurance Requirements.**

(a) Contractor shall maintain, during the life of this Agreement the following Aggregate Coverages to protect Contractor and the City from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Agreement, whether such operations be by Contractor or by anyone directly employed by or contracting with Contractor:

(i) Comprehensive General Liability Insurance with a combined single limit of \$5,000,000 for each occurrence of bodily injury and property damage.

(ii) Automobile Liability Insurance covering all owned, hired, and non-owned vehicles with a minimum combined single limit of \$5,000,000 each accident for bodily injury and property damage.

(iii) Worker's Compensation Insurance Coverage to the extent required by law.

(b) Contractor shall not commence work under this Agreement until it has obtained all insurance required under this Agreement and proof of such insurance has been furnished to the City.

(c) All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. Contractor shall furnish Certificates of Insurance to the City prior to the Commencement of work under this Agreement. The Certificates shall clearly indicate that the Contractor has obtained insurance of the type, amount, and classification as required for strict compliance with this Agreement, and shall evidence the City's status as an "additional insured" under all such policies except for Worker's Compensation insurance where applicable.

9. **Indemnification.** Contractor hereby indemnifies and holds the City and its elected and appointed officials, employees, and agents harmless from and against any and all claims, disputes, lawsuits, injuries, damages, construction liens, attorneys' fees (including trial and appellate fees), costs and experts' fees, interest and all adverse matters in any way arising out of or relating to Contractor's, its officers', employees', contractors', subcontractors', and agents' acts, omissions, negligence, misrepresentations or defaults related to this Agreement and work and Services performed hereunder. This paragraph nine (9) survives termination, expiration, and completion of this Agreement.

10. **Governing Law; Venue.** The Agreement shall be governed by and interpreted in accordance with the laws of the state of Florida. Any and all legal action necessary to enforce this Agreement will be held in a court of proper jurisdiction in Volusia County, Florida.

11. **Independent Contractor Relationship.** Contractor acknowledges and agrees that Contractor is an independent contractor and not an employee of the City and, as such, Contractor shall not look to the City for workers' compensation insurance coverage or any other employee benefits provided by the City.

12. **Entire Agreement; Amendment; Assignment.** This Agreement contains all understandings, covenants, and agreements between the Parties and no modification or amendment to this Agreement shall be effective unless embodied in writing executed by both Parties. The Contractor shall not assign or transfer this Agreement or delegate the performance of a service required herein to any other person, without prior written consent of the City in the City's sole discretion.

13. **Public Records.** In accordance with Section 119.0701(2), Florida Statutes, Contractor shall:

- (a) Keep and maintain all records related to performance of services under this Agreement.
- (b) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the public agency.
- (d) Upon completion of the Agreement, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records related to the performance of

services under this Agreement. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

- (e) **IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: Annette Hatch, DeBary City Clerk, 16 Colomba Road, DeBary, Florida 32713; Email – ahatch@debary.org; Telephone – (386) 601-0219.**

14. **Headings; Interpretation.** The headings used in this Agreement are solely for the purpose of convenience and should not be construed to interpret the substance of this Agreement. The Parties have thoroughly read and reviewed the terms of this Agreement, acknowledge that it has been prepared after negotiations between the Parties, and agree that if any ambiguity is contained herein, then in resolving such ambiguity, no weight shall be given in favor of or against either Party on account of its drafting of this Agreement.

15. **Severability.** It is the desire and intention of the Parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the law. Accordingly, if any particular provision hereof shall be adjudicated to be invalid or unenforceable, this Agreement shall be deemed amended to delete therefrom the portion thus adjudicated and every other remaining term and provision of this Agreement shall be deemed valid and enforceable to the maximum extent permitted by law.

16. **Non-Waiver and Sovereign Immunity.** Any failure by the City to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and the City may subsequently require strict compliance at any time, notwithstanding any prior failure to do so. Nothing contained in this Agreement and no actions or inactions by the City or its officers, elected and appointed officials, agents and representatives shall be considered or deemed a waiver of the City's sovereign immunity or any other privilege, immunity, or defense available to the City or its officers, elected and appointed officials, agents, and representatives.

17. **Execution; Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be a duplicate original, but all of which taken together shall constitute one and the same document.

18. **Notice.** Each party's address for purposes of written notice under this Agreement shall be the address provided in the introduction paragraph of this Agreement, except that either party may change its address upon notice of such to the other party.

Attest: Annette Hatch, City Clerk
Annette Hatch
Date: 3/27/19

CITY COUNCIL OF THE
City of DeBary, Florida
Karen Chasez
Karen Chasez, Mayor

XTREME FX, LLC;
Nicole Johnson
Signature
Nicole Johnson
Print Name
Show producer
Position
4/1/19
Date

ATTACHMENT "C"

**First Amendment to
Fireworks Services Agreement**

This First Amendment to Fireworks Services Agreement (the "First Amendment") is made and entered into this ____ day of _____, 2019, by and between the City of DeBary, a Florida municipal corporation whose address is 16 Colomba Road, DeBary, Florida 32713 (the "City") and Xtreme FX, LLC, a Florida Limited Liability Company whose address is 1481 Market Circle #4, Port Charlotte, FL 33953 (the "Contractor"). Collectively, the City and Contractor are referred to as "Parties" and may be individually referred to as "Party."

WHEREAS, on or about March 4, 2019, the City issued that certain RFQ #06-19 requesting quotes for fireworks services (the "RFQ"), in response to which Contractor submitted a bid proposal; and

WHEREAS, the City duly selected Contractor to provide the fireworks services and the parties entered into that certain Fireworks Services Agreement on or about April 2, 2019, which is hereby incorporated by reference; and

WHEREAS, Contractor successfully performed the fireworks services for the City's 2019 Fourth of July event as provided in the Fireworks Services Agreement;

WHEREAS, the RFP contemplated that the Fireworks Services Agreement would contain two (2) additional one-year renewals beyond the initial term, subject to the mutual consent of the parties, but such a provision was not included in the Fireworks Services Agreement; and

WHEREAS, the parties wish to amend the Fireworks Services Agreement to provide for two (2) additional one-year renewals as originally contemplated by the RFP.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, it is agreed by and between the Parties as follows:

1. **Recitals**. The foregoing recitals and exhibits are hereby verified as true and correct and are incorporated as part of this Agreement.

2. **Renewal Terms and Payments**.

(a) In addition to the initial one-year term of the Fireworks Services Agreement, the Fireworks Services Agreement shall automatically renew for two additional one-year terms, unless either party provides the other party with written notice of non-renewal by March 1st of the relevant year.

(b) If the Fireworks Services Agreement is renewed for the years 2020 and/or 2021, respectively, Contractor shall perform all fireworks services provided in the Fireworks Services Agreement for the City's July 4th events for the years 2020 and/or 2021, respectively.

(c) For any year in which the Fireworks Services Agreement is renewed, the City shall pay Contractor for the services in the sum of \$20,000 within seven (7) days of successful completion of the City's July 4th event for the relevant year.

3. **Effect on Original Agreement.** Each and every term of the Fire Services Agreement shall remain in full force and effect except where expressly modified by this First Amendment.

4. **Execution; Counterparts.** This First Amendment may be executed in any number of counterparts, each of which shall be a duplicate original, but all of which taken together shall constitute one and the same document.

CITY COUNCIL OF THE
City of DeBary, Florida

Attest: Annette Hatch, City Clerk

Karen Chasez, Mayor

Date: _____

XTREME FX, LLC

Signature

Print Name

Position

Date