

**Document Prepared By:**

Michael O. Sznajstajler, Esquire  
Cobb Cole  
149 S. Ridgewood Ave. Suite 700  
Daytona Beach, FL 32114

**Return Recorded Document To:**

Holly Hill City Clerk  
1065 Ridgewood Avenue  
Daytona Beach, FL 32117

**PUD ORDINANCE NO. 3022**  
**CITY OF HOLLY HILL**  
**PLANNED UNIT DEVELOPMENT (PUD)**  
**MASTER DEVELOPMENT AGREEMENT**

**THIS AGREEMENT** ("Agreement") is made and entered into by and between **THE CITY OF HOLLY HILL, FLORIDA**, a Florida municipal corporation located in Volusia County, Florida (the "City"), **BLACKRIVER, LLC**, a Florida limited liability company, located at 2101 John Anderson Drive, Ormond Beach, Florida 32176 ("Owner") and **MADISON BAY, LLC**, a Florida limited liability company, located at 558 West New England Avenue, Suite 250, Winter Park, Florida 32789 ("Developer").

**WITNESSETH**

WHEREAS, Owner warrants that it holds legal title to the property described in Paragraph 1 below and Exhibit "A" attached hereto; and

WHEREAS, Owner/Developer desire to facilitate the orderly development of the Subject Property for planned unit development purposes, including a residential multi-family development within the laws and regulations of the City and other (pertinent governmental authorities, and Owner/Developer also desire to ensure that the development is compatible with other properties in the area and planned traffic patterns; and

WHEREAS, Owner/Developer have sought the City's approval for plans to develop the property, and the City approved a concept site plan for said property on October 8, 2019 ---see Exhibit "B" attached hereto--- subject to the covenants, restrictions, and easements offered by Owner/Developer and contained herein; and

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

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:



1. Ownership. Owner represents that it is the present owner of the subject property (hereinafter referred to as the "Subject Property") described in Exhibit "A" attached hereto. Developer represents that it is the contract purchaser of the Subject Property from Owner.

2. Title Opinion/Certification. The Owner/Developer shall provide to the City, in advance of the City's execution of this Agreement, a title opinion of an attorney licensed in Florida, or a certification by an abstractor or title company authorized to do business in Florida, showing marketable title to the Subject Property to be in the name of Owner and showing all liens, mortgages, and other encumbrances not satisfied or released of record.

3. Development Standards. The Subject Property shall be developed in compliance with the approved conceptual site plan, Exhibit "B", as a Planned Unit Development (PUD).

- (a) Maximum allowable number of dwelling units: 32 Dwelling Units per acre, which includes any granted density bonus.
- (b) Minimum size of dwelling units: Five Hundred and Seventy-Four (574) square feet.
- (c) Compliance with the approved site plan: Substantial compliance with the approved conceptual site plan shown as Exhibit "B" is required.
- (d) Maximum allowable building height: Eighty (80) feet, exclusive of roof-mounted mechanical equipment, antennae, elevator housing, exit stairways, roof parapets, and other non-habitable accessory, decorative or service features. Maximum building height includes that portion of the building where lower-level under-residential-floors parking is located.
- (e) Method of height measurement: The maximum building height shall be measured vertically from finished grade.
- (f) Type of Development: The main element of the development is two (2) multi-story residential dwellings to be used for affordable senior housing for individuals fifty-five years or older.
- (g) Minimum allowable building setbacks: As depicted on approved conceptual site plan.
- (h) Minimum required number of vehicle parking spaces:
  - 1. The first phase of the development shall have a minimum of 72 parking spaces;
  - 2. The second phase of the development shall have a minimum of 70 parking spaces. However, the number of parking spaces in the second phase can be reduced by the Development Code Administrator or his designee as a minor deviation/modification provided that the overall, combined parking for both phases does not fall below 0.8 spaces/dwelling unit.
- (i) Architectural standards: Must comply with City of Holly Hill Redevelopment District Overlay and shall be developed in compliance with the approved architectural elevations included in Exhibit "B" attached hereto.
- (j) Buffering:
  - 1. Type A, Masonry wall or Type B, Hedge screening shall be constructed along any perimeter adjacent to residential single family dwelling lots.
  - 2. The landscape buffering shall comply with the Visual Screen requirements of the City's Land Development Code.

3. The landscape buffer along Ridgewood Avenue shall be enhanced by providing one tree for every 12.5 linear feet of frontage along Ridgewood Avenue (twice the requirement set forth in Sec. 98-33(1)a of the Land Development Code).
  4. The landscape buffer behind the dumpster enclosures located in both phases of the development shall be twice the requirement set forth in the Land Development Code.
  5. The walls of the dumpsters in both phases shall be made of concrete masonry unit black and stucco, match the exterior of the exterior of the buildings, and have gates in the front to screen the dumpsters. The dumpsters shall not permanently remain in the enclosures and shall only be placed in the enclosures on the day of the garbage pick-up/garbage removal for the Subject Property.
- (k) Open Space: 60% of the residential area of the development shall be open space. Further, 30% of the open space shall be designated as "Common Area" meeting the following requirements:
1. It shall be dedicated to and usable by all residents of the PUD. Its location, shape, size and character shall be illustrated on the master development plan.
  2. Maintenance guarantees shall be approved by the city commission.

4. Impact fees. The Owner/Developer shall be responsible for payment of all government impact fees incurred by the project, less any applicable impact fee credit.

5. Utility Lines on the Subject Property. The Owner/Developer shall be responsible for making sure that all utility lines on the Subject Property are placed underground. A minimum 10-foot wide utility easement shall be granted to the City along the Ridgewood Avenue right-of-way.

6. Obligations for Infrastructure Operation and Maintenance. The proposed utility facilities shown on the approved site plan are and shall be privately operated and maintained, with the exception of the 10-foot wide utility easement granted to the City along the Ridgewood Ave. right-of-way. The Owner/Developer hereby acknowledges that the City will not accept the ownership, operation or maintenance of any utilities (including but not limited to sanitary sewer, potable water, reclaimed water, or storm sewer) for a project which was approved as a single ownership development and which is subsequently split into multiple ownership.

7. Landscape maintenance. The Owner/Developer, and their heirs, successors and assigns, at their own cost and expense, shall at all times properly maintain and replace, as necessary, the landscaping installed pursuant to this Agreement.

8. Land Uses Allowed by this Planned Unit Development. The purpose of this Agreement is to allow development of the Subject Property for affordable senior housing for individuals aged fifty-five years and older, , including as a secondary element commercial land uses and customary accessory uses.

9. Environmental Considerations. The Owner/Developer agree to comply with all federal, state, county, and City laws, rules and regulations regarding the protection of wetlands and endangered species.

10. Sewage Disposal and Potable Water. Provision for sewage disposal and potable water needs of the PUD shall be provided in accordance with the City of Holly Hill Comprehensive Plan and Land Development Code, plus the State of Florida Administrative Code, by connection to the City's central water and sewer system. All off-site utility lines and easements for the provision of utility services shall be conveyed and dedicated to the City even if the actual utility services may be provided by others.

11. Stormwater Drainage. Provision for the stormwater management system shall be in accordance with the City's Land Development Code, the requirements of the St. Johns River Water Management District, and the requirements of the Florida Department of Environmental Protection. Any easements that may be required by the City for stormwater transmission, retention or detention shall be provided by the Owner/Developer in a manner acceptable to the City Attorney at no cost or expense to the City.

12. Access and Transportation System Improvements. All access and transportation system improvements shall be provided in accordance with the City of Holly Hill Land Development Code. The Subject Property shall be developed in substantial compliance with the following access and transportation system requirements:

Vehicular access. Subject to approval by the Florida Dept. of Transportation, a minimum of one point of vehicular access from Ridgewood Avenue to the site shall be required.

Sidewalk access: There shall be at least one handicapped-usable sidewalk connecting the public sidewalk on the east side of Ridgewood Avenue with the interior walkway system of the project site.

13. VOTRAN Bus Stop/Bus Shelter. The Developer shall provide a covered bus shelter for the Volusia County Public Transport System bus stop (aka VOTRAN) to be located at or near the existing bus stop location along Ridgewood Avenue, but within the extent of the Subject Property's western boundary. If VOTRAN and/or the City of Holly Hill, reject the proposed Ridgewood Avenue location for the bus shelter, then the Developer may locate the bus stop on the north side of 3<sup>rd</sup> Street and within the extent of the Subject Property's southern boundary (on 3<sup>rd</sup> Street) as a secondary location. If VOTRAN and/or the City of Holly Hill deny the Developer's request for the bus shelter and/or the proposed first and second locations, then the Developer shall not be responsible for the construction and/or installation of the bus shelter. If approved, the bus shelter shall be constructed during construction of the first phase of the development.

14. Phasing. Development of the property may occur in multiple phases consistent with City standards and this Agreement. Each phase shall be required to install all necessary infrastructure, including required easements. Developer may grade and clear the road rights-of-way, easements, fire access, and stormwater management facilities prior to plat approval of the lots, as long as such grading and clearing is done pursuant to a valid permit from the St. Johns River Water Management District and The City of Holly Hill.

- a. Application shall be made for all construction permits for the first phase of the project within three (3) years from the date of approval of this Agreement. Application shall be made for all construction permits for the second phase of the project within five (5) years of approval of this Agreement.
- b. One 12-month extension of the scheduled application dates may be permitted as a minor deviation/modification to this Agreement.
- c. In addition to the 12-month extension, one three (3) year extension of the scheduled application or completion dates may be permitted as a minor deviation/modification to this Agreement provided that the Owner or Developer install a perimeter hedge along the Ridgewood Avenue frontage of the Subject Property.
- d. The filing of an appeal of this Agreement by any person shall toll the time for permitting until final resolution of the appeal.

15. Enforcement. In the event that enforcement of this Agreement by the City becomes necessary, and the City is successful in such enforcement, the Owner/Developer shall be responsible for all costs and expenses, including attorneys' fees whether or not litigation is necessary, and if necessary, both at trial and on appeal, incurred in enforcing or ensuring compliance with the terms and conditions of this Agreement. Should this Agreement require the payment of any monies to the City, the recording of this Agreement shall constitute a lien upon the property for said monies, until they are paid, in addition to such other obligations as this Agreement may impose upon the Subject Property and the Owner/Developer. Interest on unpaid overdue sums shall accrue at the rate of eighteen percent (18%) compounded annually or at the maximum rate allowed by law. This agreement shall be governed by and construed in accordance with the internal laws of the State of Florida without reference to conflicts of laws provisions. The prevailing party in any legal dispute arising out of this agreement shall be entitled to an award of its reasonable attorney's fees and costs from the other party. Venue for any litigation shall be in State Court, Volusia County, Florida.

16. Indemnification. The Owner/Developer shall indemnify and hold harmless the City from and against all claims, demands, disputes, damages, costs and expenses (to include attorneys' fees whether or not litigation is necessary and if necessary, both at trial and on appeal), incurred by the City as a result, directly or indirectly, of the use or development of the Subject Property described in Paragraph 1 above, by the City or by third parties, except those claims or liabilities caused by or arising from the gross negligence of the City, or its employees or agents. It is specifically understood that the City is not guaranteeing the appropriateness, efficiency, or quality of the use or development of the Subject Property, including, but not limited to, drainage or sewer plans, fire safety, or quality of construction, whether or not inspected, approved, or permitted by the City.

17. Conceptual Site Plan Approval. The conceptual site plan approval and Planned Unit Development rezoning, given at the regular meeting of the City Commission on October 8, 2019, is specifically incorporated into this Agreement by reference for the purpose of clarifying boundaries, locations, areas, and improvements described in this Agreement; all future submitted plans and subsequent development shall be in accordance with and subject to the terms of said site plan approval or as officially amended by the City. The referenced conceptual site plan and attached building elevation are labeled as Exhibit "B".



18. Recording and Effective Date. This Development Agreement and all subsequent amendments shall be filed with the Clerk of Court of Volusia County, Florida, and recorded following execution of the document by the City Commission, 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 of Holly Hill. The applicant shall be responsible for and pay all legal and filing costs for recording documents.

19. Compliance. The Owner/Developer agree that they, and their successors and assigns, will abide by the provisions of this Agreement and the City's Land Development Code, including but not limited to, the site plan regulations of the City existing as of the date of this Agreement, which are incorporated herein by reference. Further, all required improvements, including landscaping, shall be continuously maintained by the Owner/Developer, or their successors and assigns, in first class workmanlike fashion so as to present a pleasing appearance and to ensure compliance with the City's Land Development Code. The City may, after forty-five (45) days written notice and period of time to cure deficiencies without prejudice to any other legal or equitable right or remedy it may have, withhold permits, certificates of occupancy or approvals to the Subject Property should the Owner/Developer fail to comply with the terms of this Agreement. Unless otherwise specifically stated in this Agreement, all current and future ordinances and regulations of the City and other applicable regulatory bodies shall apply to this Agreement.

20. Deviations from this Agreement. The Development Code Administrator or his designee is authorized to approve minor deviations from this Agreement. However, major deviations from this Agreement, as determined by the Development Code Administrator, shall require City Commission approval.

21. Utility Easements. So long as utility easements do not materially interfere with the Owner/Developer's use and enjoyment of the Subject Property, the Owner/Developer shall provide to the City such easements and other legal documentation, in form acceptable to the City Attorney, as the City may deem necessary or appropriate for the installation and maintenance of the City's utility services, including but not limited to, drainage sewer, water, and reclaimed water services.

22. Notices. Where notice is herein required to be given, it shall be by certified mail, return receipt requested, addressee only, by hand delivery or courier. Said notice shall be sent to the following, as applicable:

OWNER'S REPRESENTATIVE

Blackriver, LLC  
Attn: John A. Rainey  
2101 John Anderson Drive  
Ormond Beach, FL 32176

DEVELOPER'S REPRESENTATIVE

Madison Bay, LLC



Attn: Stacy Banach  
558 W New England Ave., Ste 250  
Winter Park, FL 32789

With copy to:

Cobb Cole  
Attn: Michael Sznajstajler  
149 S. Ridgewood Avenue, Suite 700  
Daytona Beach, FL 32114

CITY'S REPRESENTATIVE

City of Holly Hill  
Attn: Building and Zoning  
1065 Ridgewood Avenue,  
Holly Hill, FL 32117

Should any party identified above change, it shall be said party's obligation to notify the other parties of the change in the manner required for notices herein. It shall be the Owner's obligation to identify its lender(s) to all parties in the manner required for notices herein.

23. Other City Approvals and Permits. The approval and execution of this Agreement by the City does not exempt the Owner/Developer of the Subject Property from obtaining any and all other approvals and permits necessary to obtain Development Orders and Building Permits for the development of the Subject Property.

24. Captions. The captions used herein are for convenience only and shall not be relied upon in construing this Agreement and Grant-of-Easement.

25. Binding Effect. This Agreement shall run with the land, shall be binding upon and inure to the benefit of the Owner/Developer and their assigns and successors in interest, and the City and its assigns and successor's in interest. The Owner/Developer agree to pay the cost of recording this document in the Public Records of Volusia County, Florida. This Agreement does not, and is not intended to, prevent or impede the City from exercising its legislative authority as the same may affect the Subject Property.

26. Severability. If any part of this Developer's Agreement is found invalid or unenforceable in any court, such invalidity or unenforceability shall not affect the other parts of this Developer's Agreement, if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be affected. To that end, this Developer's Agreement is declared severable.

**[Remainder of Page Intentionally Left Blank]**



IN WITNESS WHEREOF, the parties hereto have set their hands, this 6<sup>th</sup> day of January, 2020.

Signed, sealed and delivered in the presence of:

**THE CITY OF HOLLY HILL, FLORIDA,**  
a Florida municipal corporation

Witness 1

By:

Chris Via, Mayor

Print Name of Witness 1

Attest:

Witness 2

By:

Valerie Manning, City Clerk

Print Name of Witness 2

Date:

1/6/2020

STATE OF FLORIDA  
COUNTY OF VOLUSIA

~~2019~~ 2020 The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of Jan by Chris Via and Valerie Manning, Mayor and City Clerk, respectively, of The City of Holly Hill, Florida, a chartered municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.



Notary Public

Commission No:



Signed, sealed and delivered in the presence of:

Peggy M. Higuera  
 Witness  
Peggy M. Higuera  
 Print Name of Witness 1

**BLACKRIVER, LLC, a Florida limited liability corporation**

By: Jahid Rana  
 Name:  
 Title:

Ariel Flowers  
 Witness 2  
Ariel J. Flowers  
 Print Name of Witness 2

Date: 12/19/2019

[Corporate Seal]

STATE OF FLORIDA  
 COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 19th day of December 2019, by John Q. Rana of Blackriver, LLC referred to in this agreement as "Owner." He or she is ☐ personally known to me or ☐ produced as identification and did not take an oath.

Deborah D. Lacroix  
 Notary Public  
 Commission No. \_\_\_\_\_



Signed, sealed and delivered in the presence of:

**MADISON BAY, LLC, a Florida limited liability corporation**

*Errol Bradley*  
Witness 1  
ERROL BRADLEY  
Print Name of Witness 1

By: *[Signature]*  
Name: STACY BANACH  
Title: AGENT / REPRESENTATIVE

Date: 12/26/19

Witness 2  
*Regina Bradley*  
Print Name of Witness 2

[Corporate Seal]

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 26<sup>TH</sup> day of DECEMBER, 2019, by STACY BANACH of Madison Bay, LLC referred to in this agreement as "Contract Purchaser." He or she is ☒ personally known to me or ☐ produced as identification and did not take an oath.



*Regina I. Bradley*  
Notary Public  
Commission No. March 10, 2023



## EXHIBIT "A"

Legal Descriptions below encompasses the following parcels:

42440123-0150: 0.70 AC +/-  
42440123-0170: 0.97 AC +/-  
42440123-0130: 3.23 AC +/-  
42440123-0220: 0.47 AC +/-  
Total: 5.37 AC +/-

### Legal Descriptions

42440123-0150 (0.70 AC +/-):

W 153 FT OF LOTS 15 & 16 BLK 23 M & C HOLLY HILL MB 2 PG 90 PER OR 4860 PG  
0435 PER OR 5629 PG 2641-2642

AND

42440123-0170 (0.97 AC +/-):

W 245 FT OF LOTS 17 & 18 EXC ST BLK 23 M & C HOLLY HILL PER OR 4860 PG 0435  
PER OR 5629 PG 2641-2642

AND

PID# 42440123-0130 (3.23 AC +/-):

LOTS 13 & 14 EXC RD & LOTS 15 & 16 EXC W 153 FT & E  
85 FT OF LOTS 17 & 18 & W 180 FT OF LOT 20 & OF S 80  
FT OF LOT 21 BLK 23 M & C HOLLY HILL PER OR 3847  
PG 1209 PER OR 5593 PG 4601

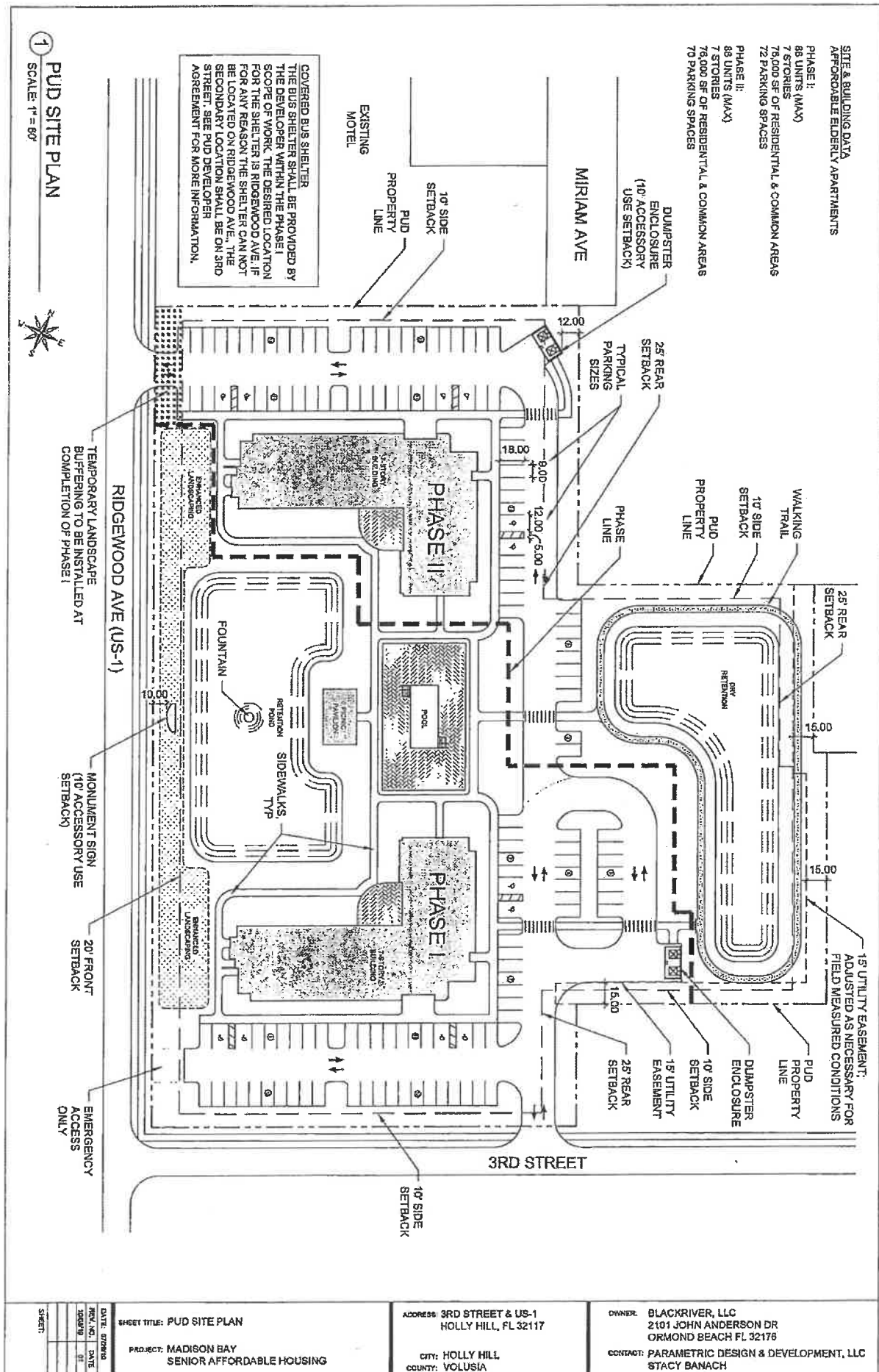
AND

A PORTION OF 42440123-0220 (0.47 AC +/- OF THE TOTAL 0.91 AC +/-):

N 20 FT OF LOT 21 & LOT 22 BLK 23M & C HOLLY HILL PER MB 2 PG 90 PER OR 5601  
PG 2923-2924

Exhibit "B"  
Conceptual Site Plan







**STAFF REPORT  
CITY OF HOLLY HILL, FLORIDA**

**City Commission  
Ordinance**

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**ORDINANCE 3022**

**AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS, BY REZONING THE PARCEL DESCRIBED IN EXHIBIT A FROM MPUD (MIXED-USE DEVELOPMENT DISTRICT) TO MPUD (MIXED-USE DEVELOPMENT DISTRICT); PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Holly Hill, Volusia County, Florida, has adopted a comprehensive plan pursuant to, and in compliance with 163.3161 et. Seq., Florida Statutes; and

**WHEREAS**, the City Commission, as authorized by 163.3202, Florida Statutes, has enacted and does enforce the Land Development Regulations, based on, related to, and as a means to implement its adopted comprehensive plan; and

**WHEREAS**, the Holly Hill Board of Planning and Appeals has recommended that the requested rezoning be granted; and

**WHEREAS**, the City Commission has determined that it is necessary to amend its Land Development Regulations as herein provided in order to more effectively implement and is consistent with its adopted comprehensive plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:**

**SECTION 1.** The Official Zoning Map of the City of Holly Hill is hereby amended to designate the property described in Exhibit A as MPUD (Mixed-Use Development)



Ordinance 2019-3022

Meeting of October 8, 2019

pursuant to the provisions contained in the attached Development Agreement, attached to this Ordinance as Exhibit B and incorporated in this Ordinance by reference.

**SECTION 2.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

**SECTION 3.** That all ordinances made in conflict with this Ordinance are hereby repealed.

**SECTION 4.** That this Ordinance shall become effective upon recording.

**APPROVED AND AUTHENTICATED on this 8<sup>th</sup> day of OCTOBER, 2019**  
**for second reading.**

### **EXHIBIT "A"**

#### **LEGAL DESCRIPTION**

##### **Legal Descriptions**

42440123-0150 (0.70 AC +/-):

W 153 FT OF LOTS 15 & 16 BLK 23 M & C HOLLY HILL MB 2 PG 90 PER OR 4860 PG 0435  
PER OR 5629 PG 2641-2642

AND

42440123-0170 (0.97 AC +/-):

W 245 FT OF LOTS 17 & 18 EXC ST BLK 23 M & C HOLLY HILL PER OR 4860 PG 0435  
PER OR 5629 PG 2641-2642

AND

PID# 42440123-0130 (3.23 AC +/-):

LOTS 13 & 14 EXC RD & LOTS 15 & 16 EXC W 153 FT & E  
85 FT OF LOTS 17 & 18 & W 180 FT OF LOT 20 & OF S 80  
FT OF LOT 21 BLK 23 M & C HOLLY HILL PER OR 3847  
PG 1209 PER OR 5593 PG 4601



Ordinance 2019-3022

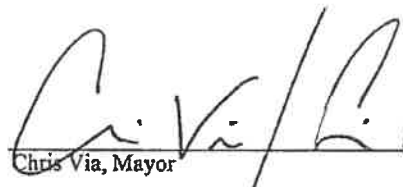
Meeting of October 8, 2019

AND

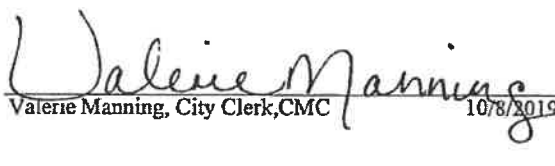
A PORTION OF 42440123-0220 (0.47 AC +/- OF THE TOTAL 0.91 AC +/-):  
N 20 FT OF LOT 21 & LOT 22 BLK 23M & C HOLLY HILL PER MB 2 PG 90 PER OR 5601  
PG 2923-2924

**EXHIBIT "B"**

**DEVELOPMENT AGREEMENT**

  
Chris Via, Mayor

10/8/2019

  
Valerie Manning, City Clerk, CMC

10/8/2019

<b>RESULT:</b>	<b>ADOPTED AT 2ND READING [UNANIMOUS]</b>
<b>MOVER:</b>	John Penny, District 1 - Commissioner
<b>SECONDER:</b>	Penny Currie, District 2 - Commissioner
<b>AYES:</b>	Via, Penny, Currie, Danio, Johnson







