



Ocala

Legislation Text

110 SE Watula Avenue
Ocala, FL 34471

www.ocalafl.gov

File #: 2024-0900

Agenda Item #: b.

Lee Ray Bergman, LLC / PD23-45260

Petitioner: Lee Ray Bergman, LLC

Agent: W. James Gooding III, Gooding & Batsel, PLLC

Planner: Endira Madraveren 352-629-8440

emadraveren@ocalafl.gov

A request to rezone from no zoning to PD, Planned Development and approval of PD Plan with Design Standards, property located at the Northeast and Southeast corners of SW 60th Avenue and SW 43rd Street Road (Parcel 23833-000-01 and 23833-000-02), approximately 10.02 acres.

Recommended Action: Approval

City Council Tentative Schedule: Upon recommendation of approval or denial by the P & Z Commission, this item will be presented to City Council for introduction at the **Tuesday, April 2, 2024**, City Council meeting and second and final hearing at the **Tuesday, April 16, 2024** City Council meeting.

CITY OF OCALA**Meeting Date: March 11, 2024****PLANNING AND ZONING COMMISSION REPORT**

Subject: PD Rezoning & Plan with Design Standards

Submitted By: Endira Madraveren

Department: Growth Management

Ordinance Reading Date: April 2, 2024 (1st City Council reading)
April 16, 2024 (2nd & final City Council meeting)

Resolution Reading Date: April 16, 2024

STAFF RECOMMENDATION (Motion Ready): Approval of a rezoning to PD, Planned Development, and approval of PD Plan with Design Standards for approximately 10.02 acres of property located at the northeast and southeast corners of SW 60th Avenue and SW 43rd Street Road (Parcel 23833-000-01 and 23833-000-02) (Case PD23-45260).

OCALA'S RELEVANT STRATEGIC GOALS: Quality of Place

BACKGROUND:

- **Applicant:** Lee Ray Bergman, LLC
- **Property Owner:** Lee Ray Bergman, LLC
- **Agent:** W. James Gooding III, Gooding & Batsel, PLLC
- Originally part of the Hunt Club at Fox Point Westwood Planned Unit Development which was approved for 168 units; Phase I allowed for 42 single-family dwellings while Phase II was allotted for the future development of 126 multi-family dwelling units.
- Upon annexation and receiving land use, the City required the Agreement Limiting Development requiring the limitation of 96 maximum dwelling units, to develop the property as a PUD, and requiring the owner to perform a traffic study prior to commencing development.
- The PD proposes 96 multi-family dwellings, over 100-feet of aggregate open space to the east, abutting the existing single-family neighborhood, with existing trees to remain.
- Although the projected PM peak hour trips are only 62, (not triggering the current 100 PM peak hour trips required for a traffic study) the developer will be required to submit a traffic study as part of the site plan review.
- The PD plan includes a 96 multi-family apartment complex, with maximum height not to exceed 50-feet. The developer is including enhanced design features, including natural enhanced buffers, pedestrian walking trails, and amenities for residents.

FINDINGS/CONCLUSIONS: The PD plan is consistent with the land development regulations, as well as the Agreement Limiting Development and it is compatible with the surrounding area.

FISCAL IMPACT: N/A

ALTERNATIVES:

- Approve

PD23-45260

- Deny
- Table

SUPPORT MATERIALS:

- Staff Report
- Case Map
- Aerial Map
- PD Standards
- Planned Development Plan
- Agreement Limiting Development



Petitioner: Lee Ray Bergman, LLC
Property Owner: Lee Ray Bergman, LLC
Agent: W. James Gooding III, Gooding & Batsel, PLLC
Project Planner: Endira Madraveren
Applicant Request: to: PD, Planned Development
Rezone the subject property to PD, Planned Development.

Future Land Use: Low Intensity

Parcel Information

Acres: ±10.02 acres
Parcel(s)#: 23833-000-01 and 23833-000-02
Location: Northeast and Southeast corners of SW 60th Avenue and SW 43rd Street Road
Existing use: Vacant/Undeveloped
Overlay(s): N/A

Adjacent Property Information

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning District</u>	<u>Current Use</u>
North	Low Intensity	No Zoning	City WRA and Vacant/Undeveloped
East	Neighborhood	No Zoning	The Hunt Club at Fox Point
South	Low Intensity	GU, Governmental Use	US Post Office
West	EC, Employment Center	PUD, Planned Unit Development	Calesa Township

Background:

In July 2002 Hunt Club at Fox Point Westwood Planned Unit Development zoning designation was approved by Marion County. This PUD permitted the development of 168 units; Phase I allowed for 42 single-family dwellings, while Phase II was allotted for 126 multi-family dwelling units. A plat was approved for the same property by Marion County in June 2003; recorded in Plat Book 7, Page 139, Marion County Public Records. In May 2003, the property owner (Westwood Partnership, LLP) applied for an annexation agreement in order to connect to City services; in September 2004 the properties became contiguous to City Limits. The property owner was notified as such, and the subject properties were subsequently annexed into the City in January 2005.

An Agreement Limiting Development was also approved by City Council in December 2005 placing the following limitations on the development of the subject properties:

- The total number of residential units to be developed on the Property will not exceed 96. Such number is the maximum number of units and the City may approve a lower number as part of an approved Planned Unit Development; and
- Owner will develop the Property only as a Planned Unit Development approved by City under the City's Code of Ordinances.
- Prior to commencing development, Owner will perform a traffic study and comply with the Concurrency Management System provisions of the City Code.

It was not until December 2005 that Ordinance 5464 was approved by City Council, amending the future land use designation from Medium Density Residential in the County to Low Density Residential and Medium Density Residential in the City. The citywide comprehensive plan amendment, adopted on January 22, 2013 (Ordinance 2013-13), changed the future land use designation of the subject properties from Medium Density Residential to Low Intensity. The existing Hunt Club PUD future land use designation was changed from Low Density Residential to Neighborhood.

The PD plan and Standards Book, propose a 96-dwelling unit apartment complex with a density of 9.6 units per acre for the 10.02-acre site. The maximum density in the Low Intensity future land use is 18 dwelling units per acre. The maximum height of the development will be 50-feet. The developer is proposing a natural-enhanced buffer located between the existing single-family residences to the east and the apartment buildings. A 25-foot landscape buffer is proposed along the perimeters of both parcels with a drainage retention area expansion to the north.

The PD Standards book provides for enhanced features including Florida-Friendly plant species within the buffers and open space, pedestrian walking trails, and landscaped entrances.

Planned Development Required Standards (Section 122-942)

- (a) In reaching recommendations and decisions as to rezoning land to a PD district and approving a conceptual site development plan, the planning and zoning commission and city council shall apply the following standards, in addition to the requirements of this chapter applicable to the rezoning of land generally:

1. *Access.* Every permitted use in a PD shall have access to a public street directly or via an approved private road, pedestrian way, court or other area dedicated to public or private use, or common element guaranteeing access.

Staff Response: The proposed development has access onto SW 60th Avenue via SW 43rd Street Road.

2. *Buffers.* When a PD abuts a less intensive use, it will be required to adhere to section 122-260, pertaining to buffer specifications, at a minimum. City council may require additional buffering based on individual circumstances.

Staff Response: The development will provide an enhanced 25-foot landscaped buffer to the east, abutting the Hunt Club at Fox Point single-family residences. Additionally, the developer is proposing at least 102-feet (parcel 23833-000-02) and at least 149-feet (parcel 23833-000-01) of aggregate open space to the east of each parcel, with existing trees to remain.

3. *Underground utilities.* Within a PD, all utilities, including telephone, television cable and electrical systems, shall be installed underground in accordance with current city policies and standards. Appurtenances to these systems which require above ground installation must be effectively screened, and thereby may be excluded from this requirement.

Staff Response: Utilities are proposed to be located underground such that tree installations are possible without conflict.

4. *Open space.* Open space requirements for a PD are as follows:
 - a. Open space shall include active and passive recreation areas such as courtyards, streetscapes/sidewalks, playgrounds, golf courses, waterways, landscaped yards and patios, lagoons, floodplains, nature trails, roof areas, and other similar open spaces. Water retention areas that are designed as aesthetic lakes or ponds for passive or active recreational use may also be counted as open space, as long as these areas are designed to retain a minimum of three feet of water at all times.

Staff Response: There is a proposed minimum 40% open space. These areas will include enhanced landscaping, picnic and play areas, as well as a nature walking trail.

- b. Fenced water retention areas, open water areas beyond the perimeter of the site, street right-of-way, driveways, off-street parking areas and off-street loading areas shall not be counted in determining open space. Side yards less than six feet wide shall not be counted as open space.

Staff Response: Aggregate open space will be provided per Section 122-924(4). Gross open space is calculated at 174,615 square-feet, with proposed aggregate open space calculated at 17,462 square-feet.

- c. Open space shall be clustered into larger tracts/areas. Buildings and structures should be clustered so that the open space is usable to the occupants/residents rather than merely providing spacing between buildings or structures. Zero lot line and clustered design is encouraged. Front, side and rear yards in single-family residential areas shall not be counted as aggregate open space.

Staff Response: Open space is clustered into usable recreation areas for residents.

- d. There shall be a minimum open space requirement of 25 percent of the total gross acreage for all development in any PD project. For single-use residential PD projects, the minimum open space requirement shall be 40 percent. At least ten percent of the total required open space shall be in usable aggregate form. Aggregate open space is defined as common open space areas that are designed and intended for use by all occupants/residents of a PD.

Staff Response: There is a proposed minimum 40% open space. These areas will include enhanced landscaping with walking trails.

5. *Unified control.* The applicant shall furnish the city with sufficient evidence to the satisfaction of the city attorney that the applicant is in the complete, unified and otherwise-unencumbered control of the entire area of the proposed planned development, whether the applicant be an individual, partnership, corporation, other entity, group or agency. The applicant shall provide the city all necessary documents and information that may be required by the city attorney to assure the city that the development project may be lawfully completed according to the plans sought to be approved.

Staff Response: The application includes a Letter of Authorization signed by the property owner – Leah Bergman. The Ordinance and supplemental information will be reviewed by the City Attorney prior to City Council approval.

6. *Phasing.* City council may allow or require phasing of the proposed development. All phasing must be related to previous development, surrounding properties, and available public facilities and services, where a failure to proceed with subsequent phases of development will have no adverse impact on the completed phase(s) or surrounding properties.

Staff Response: Phasing has not been indicated at the time of writing the Staff Report.

7. *Platting.* All uses/parcels meeting the definition of a subdivision shall meet chapter 114 (subdivisions) requirements.

Staff Response: A subdivision process is not required for this development.

8. *Site plan review.* Development requiring site plan review shall comply with Chapter 122, Article IV. A final site plan shall be consistent with a final development plan.

Staff Response: Subsequent to PD approval by City Council, the site plan may be submitted for staff review by the applicant.

9. *Development.* A development meeting the criteria for a shopping center shall comply with all regulations as set forth in division 29 of chapter 122 (shopping centers) except for: subsections 122-908(7),(8) and (9) and 122-918(a)(1).

Staff Response: N/A.

10. *Access to utility systems and public services.* A PD shall be located in relation to sanitary sewer lines, water lines, storm/surface drainage systems, and other utility systems.

Staff Response: Utility services are outlined in detail in the Level of Service Impact Analysis below. All utility services are located in proximity to the development.

Level of Service Impact Analysis:

Transportation: Pursuant to the Agreement Limiting Development approved by City Council in December 2005 “prior to commencing development, Owner will perform a traffic study and comply with the Concurrency Management System provisions of the City Code.” A traffic assessment was

provided for the development which states the anticipated PM peak hour trips are 62 (53 AM peak hour). New standards for traffic analysis were implemented in 2008 in which developments proposing to generate 100 or more peak hour trips are required to submit a traffic study as part of the site plan review.

“The minimal trip generation for the site will not have a significant impact on the surrounding transportation network. The existing left-turn lanes on SW 60th Avenue at SW 43rd Street Road and SW 42nd Street have sufficient length to accommodate the additional traffic from the project. The intersections are projected to operate with LOS D or better. No off-site transportation improvements are necessary to support traffic from the proposed development.”

However, a traffic study will be required to be performed prior to site plan approval.

Potable Water: Water service is available. An existing 8-inch water distribution main runs along SW 43rd Street Road, while a 16” water distribution main runs along SW 60th Avenue.

Sanitary Sewer: Sewer service is available. An 8” gravity main runs along SW 42nd Street and existing force mains run along SW 60th Avenue.

Stormwater: This property is not located within a flood zone. Facilities must be designed to provide flood protection for a 100 year 24-hour storm event. For any future development, runoff must be retained on-site to match pre-development conditions. The developer is proposing to expand upon the existing City water retention area to the north to retain water on-site.

Solid Waste: Service is available. Dumpster locations will be determined during site plan approval.

Fire Service: City Fire Station #7 is located within a 1.4-mile radius.

Schools: The impacted schools are currently experiencing localized overcrowding for Saddlewood Elementary, Liberty Middle, and West Port High. Student generation rates were provided by Marion County Public Schools in June 2023.

STUDENTS PER UNIT				
	E	M	H	TOT
MF (Apt/Condo)	0.139	0.056	0.067	0.262
Proposed MF Dev	13.34	5.38	6.43	27

Based on the data provided by the school board, this development will generate an anticipated additional 27 new students in this zoning district.

Zoning Classification

Proposed:

A planned development (PD) zoning district is intended to provide a process for the evaluation of unique, individually planned developments, which may not be otherwise permitted in zoning districts established by this chapter. Standards and procedures of this district are intended to promote flexibility of design and permit planned diversification and integration of uses and structures, while at the same time retaining the absolute authority of city council to establish such conditions, stipulations, limitations and restrictions as it deems necessary to protect the public health, safety and

general welfare.

Factual Support:

1. Consistent with the following Objective and Policies of the City of Ocala Future Land Use Element:
 - a. Objective 12: The Future Land Use Element shall require efficient use of existing services, facilities and infrastructure to discourage urban sprawl and promote a clustered urban development pattern.
 - b. Policy 12.1: The City shall require that all development have adequate services and facilities including water, roads, sewage collection and treatment, stormwater drainage, recreation and solid waste disposal, to the extent required by state law, other provisions of this Comprehensive Plan, or the City's Land Development Code.
2. The requested zoning designation of PD, Planned Development, is eligible to implement the land use designation of Low Intensity and the PD plan is consistent with chapter 122, article V, division 30 of the City's land development regulations.
3. Approval of this request will not adversely affect the health, safety, convenience, prosperity or general welfare of the community.

Staff Recommendation: Approval of PD23-45260
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Basis for Approval:

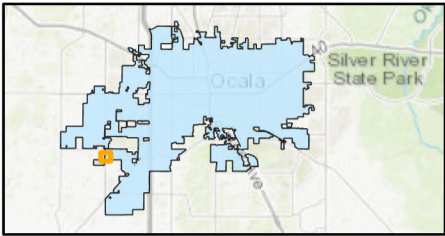
The PD plan is consistent with the originally approved PUD, the Agreement Limiting Development, land use category, and land development regulations of the Code of Ordinances Planned Development Required Standards (Section 122-942). Staff recommends approval.

CASE MAP

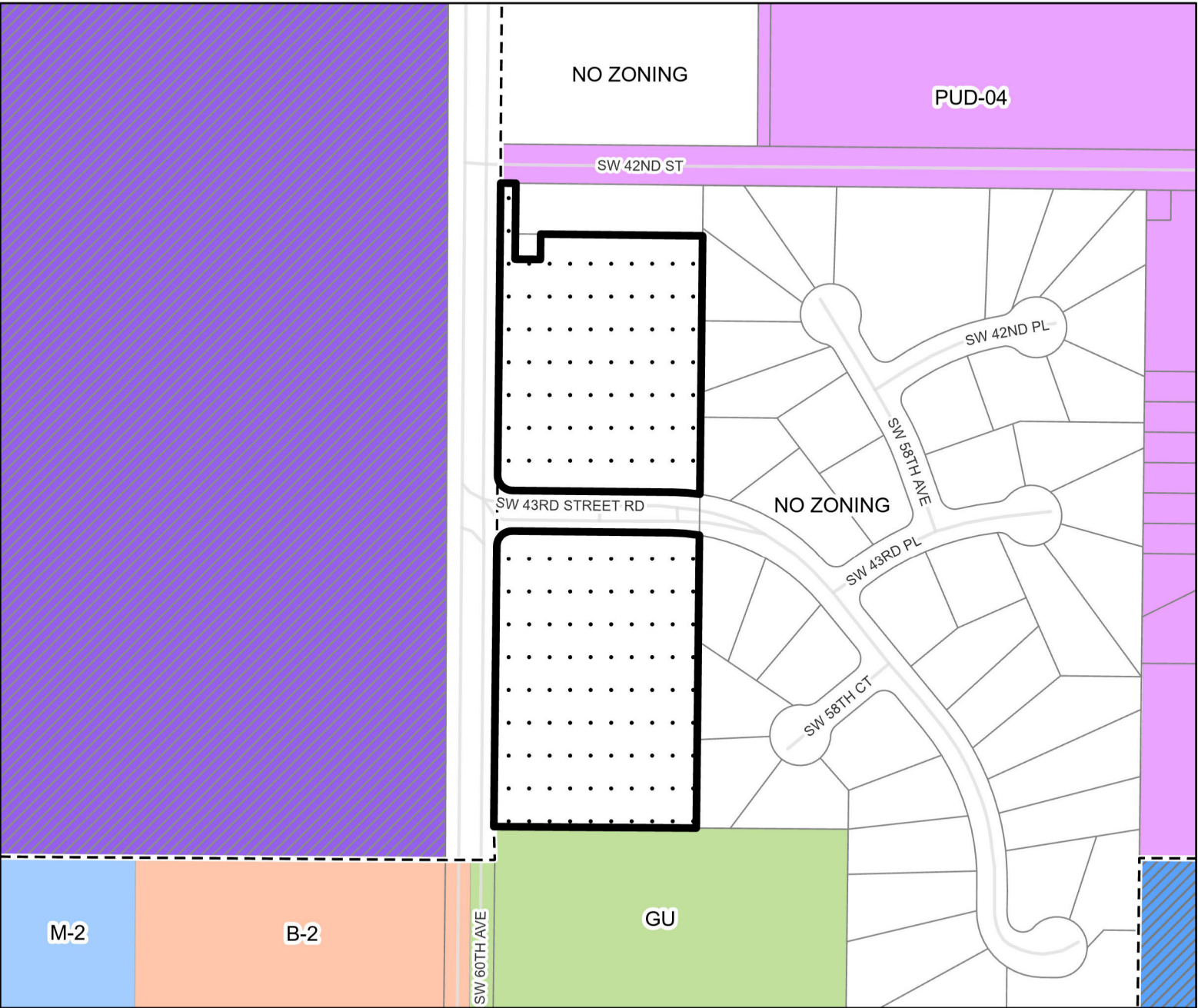
P&Z Meeting: March 11, 2024

Case Number: PD23-45260
Parcel: 23833-000-01, 23833-000-02

Location Map



Property Size: Approximately 10.02 acres
Land Use Designation: Low Intensity
Zoning: No Zoning
Proposal: A request to rezone from no zoning to PD, Planned Development and approval of PD Plan with Design Standards



Subject Property

Parcels

City Limits

B-2:Community Business

GU:Governmental Use

M-2:Medium Industrial

PUD-04:Planned Unit Development-4 Units

NO ZONING

A-1, General Agricu (county)

PUD, Planned Unit Development (county)

0800 Feet

AERIAL MAP

P&Z Meeting: March 11, 2024

Case Number:

Parcel:

Property Size:

Land Use Designation:

Zoning:

Proposal:

PD23-45260

23833-000-01, 23833-000-02

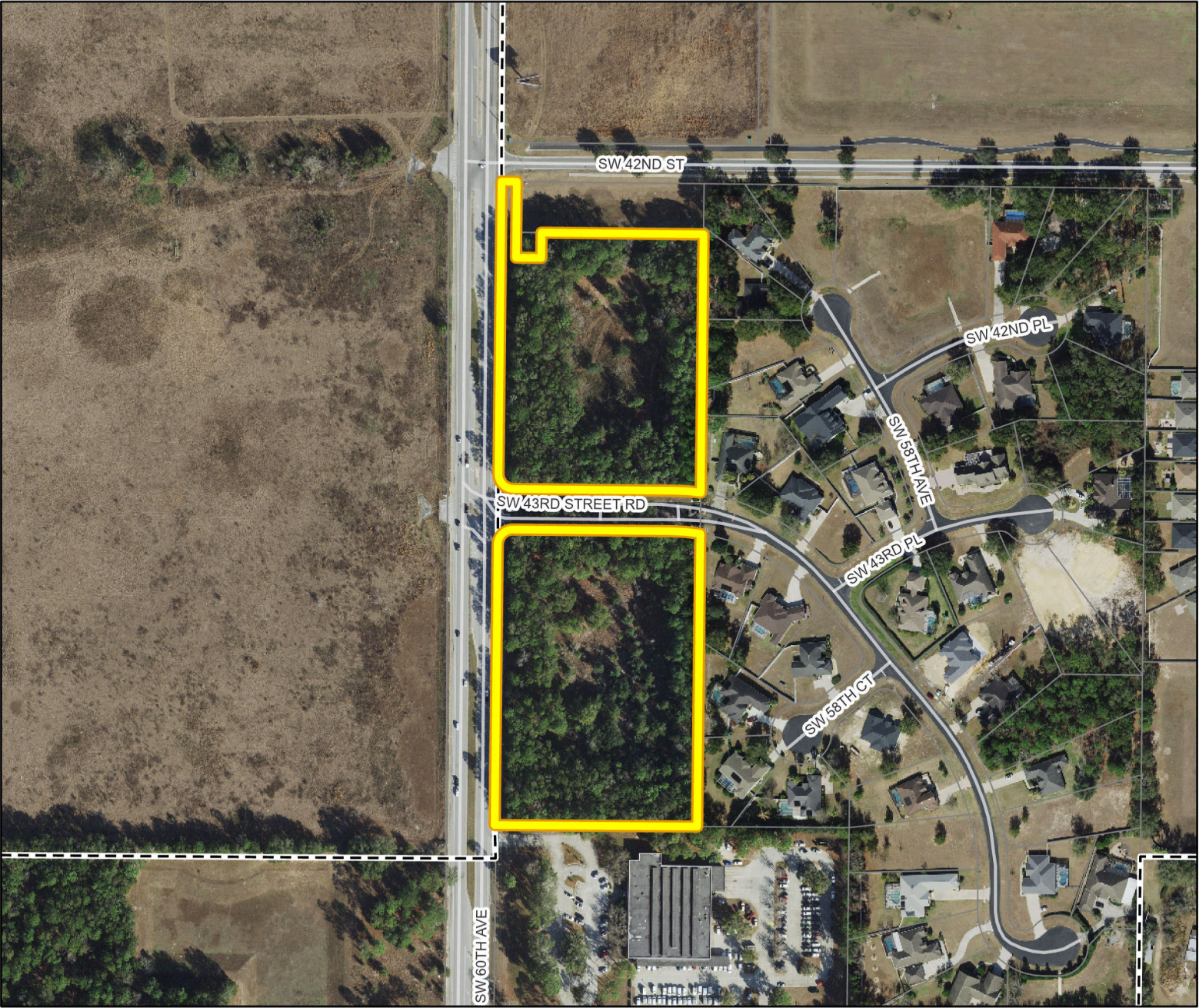
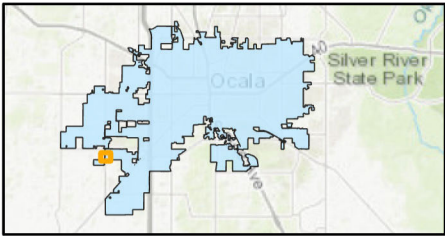
Approximately 10.02 acres

Low Intensity

No Zoning

A request to rezone from no zoning to PD, Planned Development and approval of PD Plan with Design Standards

Location Map



- Subject Property
- Parcels
- City Limits

0 800 Feet





MASTROSERIO

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FOX VIEW APARTMENTS

(F.K.A. HUNT CLUB APARTMENTS)

OCALA, FLORIDA

PD STANDARDS BOOK

PD 23-45260

PREPARED: JULY 2023

REVISED: DECEMBER 2023

PREPARED FOR:

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DURHAM, NC, 27702

PREPARED BY:

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TABLE OF CONTENTS

CONCEPTUAL PD SITE PLAN	3
INTRODUCTION	4
OVERALL GUIDING PRINCIPLES	5
DEVELOPMENT STANDARDS	8
ARCHITECTURAL STYLES & EXAMPLES	10

INTRODUCTION

The FOX VIEW Apartments Planned Development (PD) comprises 10.02+/- acres within the City of Ocala located along the east side of SW 60th Avenue, north and south of SW 43rd street road. The property is located within the City of Ocala Limits that includes existing land use that supports the goals defined in the City's Comprehensive Plan.

The PD Plan for FOX VIEW Apartments provides a conceptual template/guideline for the development patterns, design elements, and vehicular and pedestrian mobility systems for this project.

These Standards serve as the foundation for the planning development efforts of the plan, consistent with the provisions of the City's Planned Development district and Low Intensity District Future Land Use classification. In compliance with the City's PD requirements, the FOX VIEW Apartments PD Plan is comprised of several components intended to provide assurance that the development of the property complies with the standards and requirements of the City's Comprehensive Plan and Chapter 122 of the Code of Ordinances. The PD Plan and Design Standards are the culmination of a comprehensive and collaborative planning process designed to provide the framework for the development within this area.

The PD Plan and standards identify and graphically depict the planning of the proposed multi-family residential use of the property. The proposed PD Plan and Standards will provide a guideline for development which includes, building design, site plan design, landscape design, and pedestrian and vehicular traffic mobility. The PD plan identifies the proposed planning areas, the land use, and density of the property and the Standards for the proposed development.

With any substantial changes going through a PD Amendment process, the Development Standards may be amended by the Applicant and/or their designee, from time to time, to reflect changes in market conditions and development processes. The PD Plan includes Standards that have been developed based on existing site features, available infrastructure, the City's overall vision for the area and similarly situated activity and employment centers. The PD Plan provides sustainable land use which is compatible internally and with adjacent properties. The Standards provide flexibility to best respond to current and future market forces, changes in building and development patterns and community demographics. The project's proposed densities and intensities are consistent with the Low Intensity District Future Land Use classification of the city's adopted Comprehensive Plan.

OVERALL GUIDING PRINCIPLES

The FOX VIEW Apartments PD Plan consists of an apartment complex, associated infrastructure, and open space. The following standards are intended to provide a framework for development and provide for implementation of the overall vision.

Architecture

- Architecture shall be of a similar style to the surrounding area and level of quality as the examples shown in this Standards Book.
- Buildings shall include architectural features that provide visual interest, break up aesthetically similar areas, and recognize local character.
- Façade colors shall be low reflectance, subtle, or neutral tone colors. Building trim and accent areas may feature brighter colors, including primary colors.
- Buildings should be organized and arranged to reinforce the primary street edges, to provide for transit opportunities (when appropriate), and to complement the topography, vegetation, or other natural features of the site.
- The overall site design intent shall be to strengthen building-to-street relationships and to reinforce a balance between pedestrian and vehicular movements. The location of a building entrance is a key design element that can enhance or detract from a strong building/pedestrian connection. Emphasis shall be placed on logical and rational building entrances and the connection to the primary road frontage of the building.
- The location and design of surface parking is important in establishing the character of the project. Surface parking shall generally be designed as described in the City of Ocala Comprehensive Plan Low Intensity Future Land Use category.
- The project architecture shall promote and enhance a pedestrian scale and orientation on any façade facing a street, through building articulation, transparency, or other design treatments.
- The building form should articulate site access points and other points of interest to assist in pedestrian and vehicular wayfinding.
- Buildings should be articulated to highlight access to building entrances and public/common spaces. Design elements may include but are not limited to, canopies, overhangs, recesses, projections, arcades, arches, or display windows.
- The street network should be safe and interconnected, and should support multiple modes of travel including vehicular, bicycling, pedestrian, and transit where applicable.

- Streets and the roadway network should promote pedestrian activity in a safe and comfortable environment.
- Buildings shall be organized to group the utilitarian functions away from the public view from public streets. Delivery and loading operations, HVAC equipment, dumpster locations, backflow preventers and other utility and service functions shall be screened and incorporated into the overall design of the building and landscaping.
- Dumpsters shall be screened; designs and construction materials should complement the primary building.
- Full access driveways should be designed to minimize congestion on streets using shared use entry drives at predetermined median openings.
- Pedestrian and automobile traffic should be separated to the extent possible. Where such traffic conflicts occur, consideration should be given to special paving or similar techniques to clearly mark such crossings.
- Large parking areas should contain clearly defined pedestrian corridors to provide safe access to adjacent buildings.
- Crosswalks may use enhanced paving materials that are complementary to adjacent development.
- Public space may be coordinated with water management facilities to provide amenities, such as water feature overlooks, or paths.
- Driveway and parking lot areas should be illuminated for safe maneuvering of motor vehicles. Lighting assemblies along driveways shall be consistent in type and color, with those used in the common areas and should generally not exceed 20 feet in height; pedestrian level lighting should generally not exceed 15 feet in height. Light fixtures may allow for additional elements such as noncommercial banners or hanging planters. Lighting must include cut-off fixtures to minimize light pollution on adjacent properties.

Site Lighting

- Light fixtures shall be appropriately designed and not impede the vision of pedestrians and motorists.
- Streetlights shall have uniform motif and finish to provide continuity throughout the site.
- Light fixtures shall not exceed the following heights:
 - Parking lots - 20 feet
 - Pedestrians -15 feet
- The design of site and street lighting shall include existing and future tree locations to maintain appropriate levels of illumination.
- Promote use of LED lighting.
- Light fixtures and security lighting shall be cut-off fixtures.

- Promote use of “dark sky” principles and practices.

Signage

- Entrance monuments / signs shall be located to create an arrival threshold.
- Sign construction and placement shall comply with Florida Department of Transportation regulations, e.g., line-of-sight safety requirements.
- Signs shall complement the building architecture through style, material, and color.
- Signs shall not adversely impact the vision of pedestrians and motorists.
- Signs shall comply with City of Ocala Ordinance Chapter 110, Article III, Division 2 and Sec. 110-58(1)(c).

Amenities

- Usable aggregate open space as required Sec. 122-942(a)(4)(d) will comprise amenities comparable to those shown in this document or amenities of equivalent value to future residents.

Landscape

- Plants shall be Florida No. 1. and must comply with current City of Ocala Regulations.
- Landscape plantings should include a diverse combination of deciduous and evergreen trees, shrubs, grasses, and ground covers.
- Drought tolerant plants are encouraged.
- Promote low-use irrigation.
- Landscape materials that are problematic invasive are prohibited.
- Shade trees shall be 10' away from underground utilities.
- Shade trees shall be 4' away from edge of pavement, curb, or sidewalk.
- Shade trees shall not conflict with buildings.
- Use good faith effort to maintain existing vegetation in buffers.

DEVELOPMENT STANDARDS:

The FOX VIEW Apartments PD is intended to provide for flexibility in design while meeting the City's intent for the development of the area. The FOX VIEW Apartments PD Standards and supporting application materials provide for a high standard of development and minimize impacts to and from adjoining land uses. The proposed use is intended to provide convenient access for walking and bicycling for residents of the area. The overall site layout & design may be adjusted as necessary upon further site analysis, any substantial changes to the PD will be required to go through a PD plan amendment. However, total densities and intensities as provided may not be exceeded. The FOX VIEW Apartments PD Plan provides appropriate buffers, setbacks, and development standards to mitigate impacts to existing adjoining land uses.

Land uses shall be in accordance with the Standards contained within the FOX VIEW Apartments PD Plan.

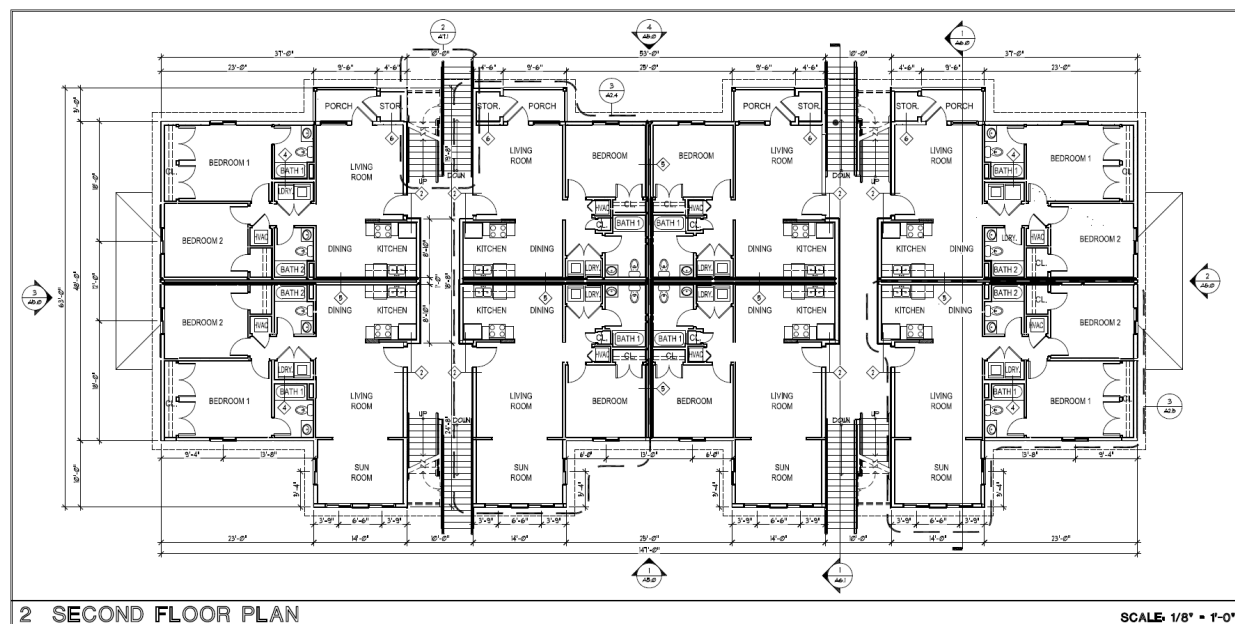
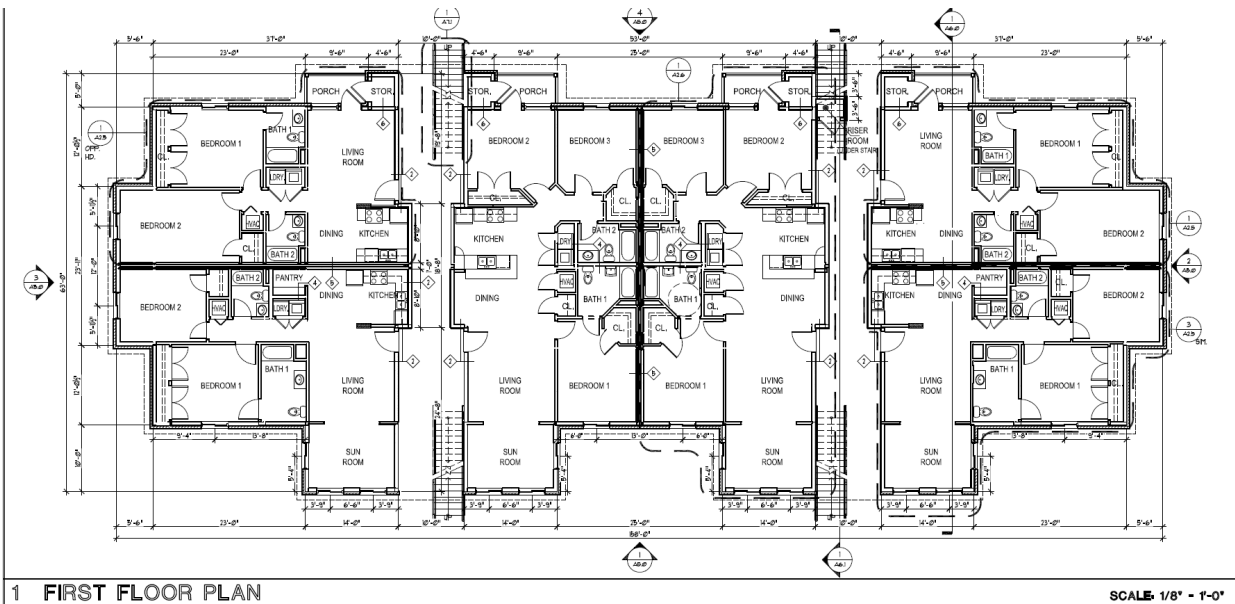
*These standards apply in addition to the City of Ocala Land Development Regulations. In cases where these standards do not conflict with the requirements of the Land Development Regulations, then normal code requirements will apply.

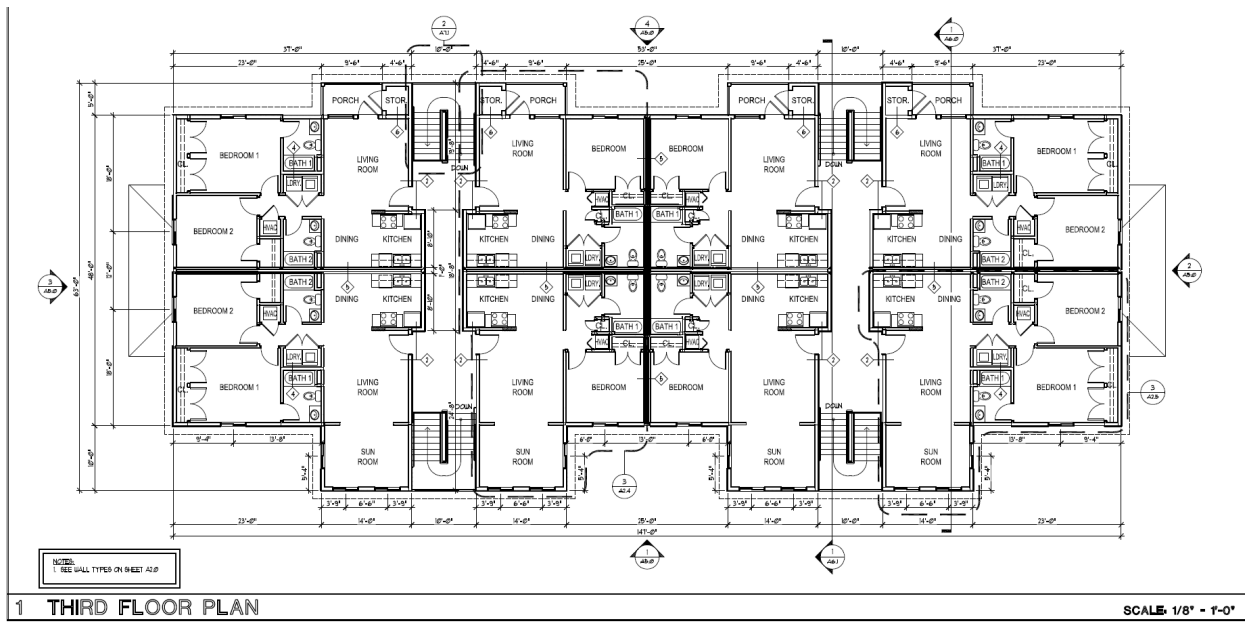
TABLE 2: DEVELOPMENT STANDARDS

Proposed Uses	
Category	Uses
APT	Market Rate Apartments are proposed in this development.

Standard	Description
Total Site Area (Acres)	10.02
Intensity (Min and Max FAR) Density Allowed	0.0 (Min.); 0.75 (Max.) 96 units maximum allowed per agreement #2006012127, O.R. BOOK 04316 PAGES 1738 - 1742
Minimum Front Setback	25 feet
Minimum Building Setback	25 feet on all sides of the property.
Minimum Lot Size	N/A
Maximum Building Height	Buildings shall not exceed 3 stories or 50 feet.
Parking	Parking shall be pursuant to Section 122, Article VI, Division 2 of the Code of Ordinance. Developments may provide shared parking facilities as permitted by City Code or detailed parking study.
Signage	Signage shall be based on the proposed use and shall be determined at the Site Plan or Subdivision Plan development stage. Pedestrian & Internal Wayfinding Signage may be provided and shall not be included in the overall site signage calculation. Signage shall be in accordance with the approved PD Plan and subject to the requirements of Chapter 110 of the Code of Ordinances. The tree motif shown in the PD Plan will be consistent throughout the PD area.
Buffers	Landscaped buffers ten feet in width shall be provided along all property boundaries.
Open Space	There shall be a minimum open space requirement of 45 percent of the total gross acreage for all development in any PD project. At least 15 percent of the total required open space shall be in usable aggregate form. Aggregate open space is defined as common open space areas that are designed and intended for use by all occupants/residents of a PD. (Sec. 122-942(a)(4)(d))
Building Materials	Building materials shall be determined and reviewed at the time of Site Plan & Architectural review for development of tracts or sub-tracts. Developer will coordinate with City staff regarding building materials and color schemes.
Accent Material	Accent features shall be provided to ensure an aesthetically pleasing development and may include elements reflected in the illustrative graphics and photographs included in the PD Plan including but not limited to pavers, landscape islands with vertical plantings, accent building materials, and other architectural features.
Access	Adequate vehicular and pedestrian access shall be provided as depicted on the PD Plan.
Apartment Unit Breakdown	This PD proposes 48 one-bedroom & 48 two-bedroom apartment units.

SAMPLES OF TYPICAL BUILDING ELEVATIONS, ARTICULATION, & ACCENT MATERIALS







COLOR RENDERINGS







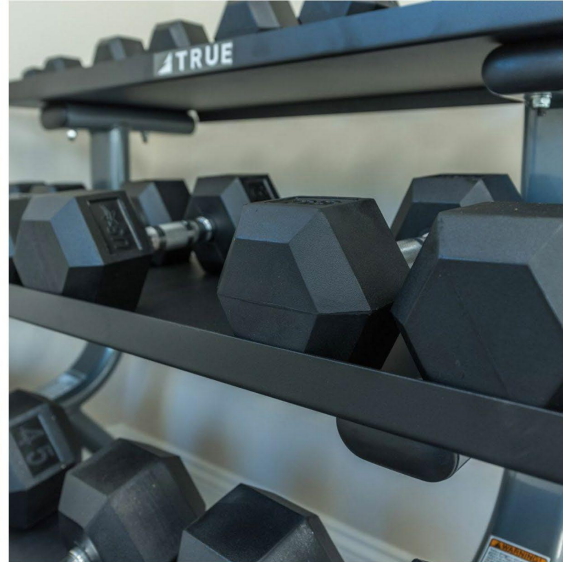
ACTUAL DEVELOPMENT BUILT BY DEVELOPER
(OCALA PROJECT WILL BE SIMILAR)



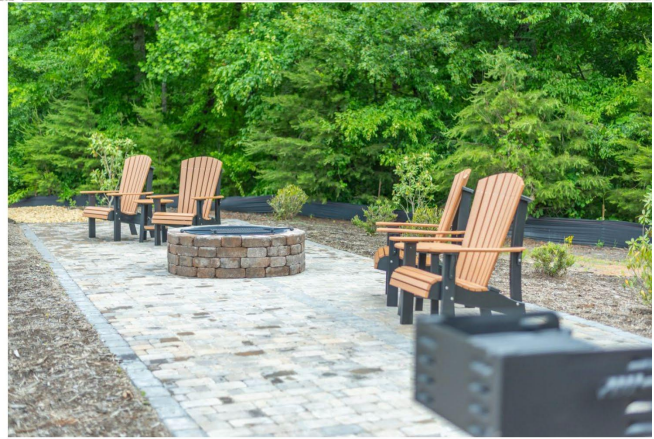




CLUBHOUSE INTERIOR



POOL & OUTDOOR AMENITY



MAINTENANCE BUILDING/CAR WASH



GROUND MOUNTED MOUMENT SIGN EXAMPLES
(FINAL COLOR AND ARCHITECTURAL ELEMENTS TO BE REVIEWED BY CITY)



DATE: 01/24/2006 11:50:45 AM

FILE #: 2006012127 OR BK 04316 PGS 1738-1742

This Instrument Prepared by and Return To:
David L. MacKay
David L. MacKay Attorney, P.A.
P.O. Box 206
Ocala, FL. 34478

RECORDING FEES 44.00

Record and Return To:
City of Ocala
PO Box 1270
Ocala, FL 34478
Attention: Planning Director

Recording costs - \$ 44⁰⁰

AGREEMENT LIMITING DEVELOPMENT

THIS AGREEMENT made this 21st day of December, 2005 by and between Westwood Partnership, LLP hereinafter called the "Owner", and the City of Ocala, a Florida municipal corporation ("City").

WITNESSETH:

WHEREAS:

- A. Owner is the owner of record of the Property described in Exhibit "A" (the "Property"), being a portion of the land that is the subject of City of Ocala Ordinance #5464 (the "Ordinance") authorizing the change of a portion of the Property's designated land use to Medium Density Residential and the remainder of the Property's designated land use to Low Density Residential;
- B. Owner has represented that no more than 96 residential units will be developed on the Property, and that Owner will develop the Property as a Planned Unit Development under the City's Code of Ordinances (the "City Code").
- C. Owner has agreed, prior to commencing development, to perform a traffic study and comply with the Concurrency Management System provisions of the City Code.
- D. The parties desire that said representations be formalized by instrument in recordable form.

NOW THEREFORE, in consideration of the matters set forth above (which are incorporated herein by reference), the exchange of the mutual promises set forth herein, and other good and valuable consideration, the parties hereto agree as follows:

- 1. **Limitation on Development.** Owner for itself and any heirs, successors or assigns, agrees by and with the City that:
 - 1.1. The total number of residential units to be developed on the Property will not exceed 96. Such number is the maximum number of units and the City may approve a lower number as part of an approved Planned Unit Development; and

- 1.2. Owner will develop the Property only as a Planned Unit Development approved by City under the City's Code of Ordinances.
 - 1.3. Prior to commencing development, Owner will perform a traffic study and comply with the Concurrency Management System provisions of the City Code.
2. **Amendment to Limitations.** Any amendment, change or modification in the limitations provided in this Agreement purporting to permit an increase in the number of residential units permitted to be developed on the Property beyond those set forth in, or to otherwise develop the Property contrary to the provisions of, paragraph 1 above, shall be effective only if adopted by further amendment to the City of Ocala Comprehensive Plan in accordance with the formalities then required for amendments to the Comprehensive Plan.
3. **Effectiveness of Agreement.**
 - 3.1 This Agreement has been recommended to the parties by the Florida Department of Community Affairs as an effective method of limiting density of real property that is the subject of a proposed comprehensive plan amendment.
 - 3.2 The parties agree not to contend, in any dispute or litigation between them, that this Agreement is invalid or unenforceable as "contract zoning" or otherwise.
 - 3.3 Owner acknowledges and agrees that:
 - 3.3.1 City is relying upon the effectiveness of this Agreement in adopting the Ordinance.
 - 3.3.2 City's approval of the ordinance is conditioned upon the effectiveness of this Agreement.
 - 3.3.3 If this agreement is found, by a Court of competent jurisdiction, to be contrary to, prohibited by or invalid under applicable laws or regulations, Owner's use of the Property shall be limited to uses permitted under the Property's land use classification prior to the adoption of the Ordinance, and Owner shall not develop the Property:
 - (a) until the City adopts another amendment to the City's Comprehensive Plan further changing the Property's land use classification under the City's Comprehensive Plan; or
 - (b) Unless the owner voluntarily complies with this agreement.
- 4 **Successors and Assigns.** All covenants, agreements, warranties, representations, and conditions contained in this Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of the parties to this Agreement.
- 5 **Construction of Agreement.** Each party acknowledges that all parties to this Agreement participated equally in the drafting of this Agreement and that it was negotiated at arm's

length. Accordingly, no court construing this Agreement shall construe it more strongly against one party than another.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first written above.

ATTEST:

Valerie J. Forster
Valerie J. Forster
City Clerk

Approved as to form and legality

Patrick C. Gilligan W. James Gooding III
City Attorney Assistant City Attorney

David L. Mackay
Witness

DAVID L. MACKAY
Print Witness Name

Jeanette Frantz
Witness
Jeanette Frantz
Print Witness Name

CITY OF OCALA, a Florida municipal corporation

By: Daniel Owen
Daniel Owen, President
Ocala City Council

ACCEPTED BY CITY COUNCIL
December 21, 2005
DATE

OFFICE OF THE CITY CLERK

WESTWOOD PARTNERSHIP, LLP, a Florida limited liability partnership

By: Fox Pointe Properties, Ltd. Co., a Partner

By: Greg Lawroski
Greg Lawroski (print name)
Manager (print title)

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me this 21st day of December, 2005 by Daniel Owen as President of the City Council of the City of Ocala, a Florida municipal corporation, on behalf of the City of Ocala.

Vicky L. Ramsey
Notary Public, State of Florida
Name: Vicky L. Ramsey
(Please print or type)

Commission Number:
Commission Expires:



Vicky L. Ramsey
My Commission DD282307
Expires January 20, 2008

Notary: Check one of the following:

☒ Personally known OR
☐ Produced Identification (if this box is checked, fill in blank below).
Type of Identification Produced: _____

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me this 11th day of January, 2006, by Greg Lawroski, Manager of Fox Pointe Properties Ltd. Co., a partner of Westwood Partnership, LLP, a Florida limited liability partnership.

David L. Mackay
Notary Public, State of Florida
Name: DAVID L. MACKAY
(Please print or type)

Commission Number:
Commission Expires:



David L. Mackay
Commission # DD351010
Expires October 24, 2008
Bonded Troy Pain - Insurance, Inc. 800-366-7019

Notary: Check one of the following:

☒ Personally known OR
☐ Produced Identification (if this box is checked, fill in blank below).
Type of Identification Produced: _____

EXHIBIT "A"

Tract A and Tract B, THE HUNT CLUB AT FOX POINT, as per plat thereof recorded in Plat Book 7, Pages 139 and 140, Public Records of Marion County, Florida,

TOGETHER WITH Easement for ingress, egress and utilities over portion of Tract F of The Hunt Club at Fox Point, as follows:

A portion of Tract "F" of Hunt Club at Fox Point, a subdivision, as per plat thereof recorded in Plat Book 7, Pages 139 and 140, of the Public Records of Marion County, Florida; thence S. 89°23'35" E. along the North line of said subdivision, 399.99'; thence S. 00°37'02" W., along the East line of Tract "A" of said subdivision, 510.17' to the Point of Beginning (POP), said point being on the arc of a curve concave Southerly and having a radius of 400.00' and central angle of 07°19'33" and a chord bearing and distance of N. 85°43'12" W., 51.11'; thence Northwesterly along the arc of said curve, 51.14' to the point of tangency of said curve; thence N. 89°22'58", 318.98' to the point of curvature of a curve concave Northeasterly and having a radius of 30.00' and central angle of 90°00'00" and a chord bearing and distance of N. 44°22'58" W. 42.43'; thence Northwesterly along the arc of said curve 47.12' to the Easterly right-of-way line of SW 60th Avenue (100' R/W); thence S.00°37'02" W. along the said Easterly right-of-way line 140.00' to the point of curvature of a curve concave Southeasterly and having a radius of 30.00' and central angle of 90°00'00" and a chord bearing and distance of N. 45°37'52" E. 42.43'; thence Northeasterly along the arc of said curve, 47.12' to the point of tangency of said curve; thence S. 89°22'58" E. 312.41' to the point of curvature of a curve concave Southerly and having a radius of 390.00' and central angle of 08°29'23" and a chord bearing and distance of N. 85°08'17" E. 57.73'; thence Northeasterly along the arc of said curve, 57.79'; thence N. 00°37'02" E., 81.01' to the Point of Beginning (POB).