

CITY OF HOLLY HILL, FLORIDA

BOARD OF PLANNING AND APPEALS

AGENDA • JUNE 1, 2020

City Commission Chamber

BOPA Regular Meeting

6:00 PM

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448



City Commission Chamber
City Hall
1065 Ridgewood Avenue
Holly Hill, FL 32117

PLANNING & APPEALS BOARD MEMBERS

Chairman
Mike Myer

Board Member
Arthur J. Byrnes

Board Member
Dennis Smith

Board Member
Robin D. Hanger

Board Member
Tony Cassata

CITY PLANNER
Brian Walker

Building & Zoning
Liz Nelson

1. **CALL TO ORDER**
2. **INVOCATION**
3. **PLEDGE OF ALLEGIANCE**
4. **BOPA MINUTES APPROVAL**
 1. Minutes - May 4, 2020
(Requested by Brian Walker, City Planner)
5. **AGENDA ITEM(S)**
 1. An Amendment Request to the Waiver Granted on June 3, 2019, with Regard to the Type “A” Visual Screening Requirement in Section 98-67(A) of the LDR for Property Located at 1171 S. Nova Road
(Requested by Brian Walker, City Planner)
 2. An Ordinance of the City of Holly Hill, Florida, Approving the Seventh Amendment to Marina Grande Residential Based Mixed Use Planned Unit Development (Mpud) Development
(Requested by Brian Walker, City Planner)
6. **OLD BUSINESS**
7. **BOARD/STAFF COMMUNICATIONS**
8. **ADJOURNMENT**

Website Address – www.hollyhillfl.org (City Clerk)

NOTICE – If any person decides to appeal any decision of the City Commission at this meeting, he/she will need a record of the proceedings and, for that 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. The City does not prepare or provide such a record.



For special accommodations, please notify the City Clerk's Office at least 72 hours in advance. (386) 248-9441



Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the City Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Commission proceedings should contact the City Clerk's Office no later than three (3) days prior to the proceedings.



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

**Board of Planning and Appeals
Agenda Item**

4.1

MEETING DATE: June 1, 2020
FROM: Brian Walker
SUBJECT: Minutes - May 4, 2020
NUMBER: (ID # 2918)
APPLICANT:
PLANNER: Brian Walker

DISCUSSION: Approve May 4, 2020 BOPA Meeting Minutes

FISCAL ANALYSIS: N/A

STAFF RECOMMENDATION: Approve May 4, 2020 Meeting Minutes

COMMISSION GOAL: N/A

MOTION: As determined by the BOPA

- May 4, 2020 Minutes (PDF)



CITY OF HOLLY HILL, FLORIDA

BOARD OF PLANNING AND APPEALS

MINUTES • MAY 4, 2020

City Commission Chamber

BOPA Regular Meeting

6:00 PM

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448

1. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Arthur J. Byrnes	Board Member	Present	
Mike Myer	Chairman	Present	
Robin D. Hanger	Board Member	Present	
Dennis Smith	Board Member	Present	
Tony Cassata	Board Member	Present	

2. INVOCATION

Invocation was given by Chairman Mike Myer.

3. PLEDGE OF ALLEGIANCE

Pledge of Allegiance was led by Robin Hanger.

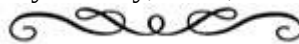
4. BOPA MINUTES APPROVAL

1. Minutes of January 6, 2020 Meeting

(Requested by Brian Walker, City Planner)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Robin D. Hanger, Board Member
SECONDER:	Tony Cassata, Board Member
AYES:	Byrnes, Myer, Hanger, Smith, Cassata

Enacted and approved this 4th day of May, 2020, in Holly Hill



5. AGENDA ITEM(S)

- 1730 Birmingham Avenue - Request for a Side Yard (North) Setback Variance from Eight (8) Feet to Zero (0) Feet, a Rear Yard Setback Variance from Twenty (20) Feet to Eight (8) Feet, and a Front Yard Setback Variance from Thirty (30) Feet to Twenty (20) Feet, in Order to Build a Two Car Garage, an Attached Carport Structure, and a Covered Porch.

(Requested by Brian Walker, City Planner)

Brian Walker, City Planner summarized his staff report by stating that this request is for three variances from the Land Development Regulations of Holly Hill, Sec 114-765, in order to build a two car garage, an attached carport structure, and a covered porch. The requested variances are as follows: (1) a side yard (north) setback variance from eight (8) feet to zero (0) feet, (2) a rear yard setback variance from twenty (20) feet to eight (8) feet, and (3) a front yard setback variance from thirty (30) feet to twenty (20) feet. The home was built on the property in 1980 and currently contains a 2,765 square foot house. The applicant purchased the home in 2017. The property abuts an 18 hole golf course known as the Riviera County Club. The home has no protective separation from the golf course, and because of its location relative to the golf course, the home and automobiles have been hit several times by golf balls. In order to rectify this situation, the applicant is proposing to build an attached carport on the north side of their home, and a two car garage and covered porch to the west, in back of the home, this is to give the property owners some protection from the golf balls.

Staff finds that the applicant has met all of the criteria for a variance to be granted and recommends approval of the three (3) variance requests.

The City received a letter from Shirley B Bartley, 1719 Montgomery Avenue, Holly Hill, property owner abutting the west side of the applicants, stating that she was not in favor of the variance requests. She spoke with Mr. Walker by phone and did not mention that she had any concerns with the variance requests and felt there was enough vegetation between the two properties and that he is very surprised by the contents of her letter.

Burl Rodgers, 1730 Birmingham Avenue, stepped to the podium stating that the only issue his neighbor (Ms. Bartley) had when he spoke with her was about one of the trees in the yard.

Mike Wise, Wise Custom Builders, stepped to the podium to answer any questions and summarize what is being constructed. The carport would be on the north side property line and the garage would be a few feet in from the property line.

Brian Walker, read Ms. Shirley B Bartley's, 1719 Montgomery Avenue, letter in to the record.

Mike Myer questioned if this was 2 front yards or a corner lot and the setback would be different than what is being presented. Mr. Walker informed the Board that the road was never platted and therefore not considered a road.

Arthur Brynes questioned giving the applicant a variance for a front yard setback for a carport to extend beyond the front of the residence.

The applicant, Burl Rodgers stated that reasoning for the extension of the carport into the front yard setback is for protection from golf balls coming from above and horizontally, it gives the residents some covered and side protection going into the house.

Dennis Smith asked why not build a 6' fence along the north property line for protection. Mr. Rodgers stating that the plans for the carport also include a 36" solid bottom plate and above that a mesh wall.

After several minutes of discussion the Board concluded that the front yard setback variance request should not be included with the request.

Arthur Byrnes moved, seconded by Tony Cassata to approve the side and rear setback requests, but NOT the front setback request.

RESULT:	RECOMMEND APPROVAL TO CITY COMMISSION [4 TO 1]
MOVER:	Arthur J. Byrnes, Board Member
SECONDER:	Tony Cassata, Board Member
AYES:	Byrnes, Myer, Hanger, Cassata
NAYS:	Smith

Enacted and approved this 4th day of May, 2020, in Holly Hill



2. 1541 Garden Avenue - an Ordinance of the City of Holly Hill, Florida Amending, the Land Development Regulations, by Amending the Official Zoning Map to Designate the Property Described in Exhibit a from R-3 (Medium Density Single Family Residential) to Cc-1 (Commercial Corridor District); Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

(Requested by Brian Walker, City Planner)

Brian Walker, Planning Director summarized his staff report stating the applicant is requesting a rezone from R-3 (Medium Density Single-Family Residential) to CC-1 (Commercial Corridor District) for the property located on the southeast corner of Garden Avenue and Eleanor Street. The CC-1 zoning district is a commercial district allowing a wide variety of commercial, retail and light industrial uses. The applicant is requesting the rezoning in order to utilize the subject property for light industrial activities related to an existing sign manufacture operation that abuts the property. The future land use designation of the land is Wholesale Commercial and Industrial and the requested zoning district is compatible with the existing future land use. He further summarized that the rezoning request is consistent with both the Land Development Code and the Comprehensive Plan. Staff recommends that the City Commission adopt the Ordinance enacting a Rezone from R-3 (Medium Density Single-Family Residential) to CC-1 (Commercial Corridor District).

Arthur Brynes asked why not rezone to I-1 or I-2. Mr. Walker explained that there are fifteen (15) properties within this area that are already zoned CC-1. None of the properties within this area have a I-1 or I-2 zoning designation and he does not think that would be in the best interest of the City.

Robin Hanger wanted to know what could be done within the area to diminish the blighted look. He was informed that Code Enforcement action is the only way at this time.

Scott Simpson, City Attorney reminded the Board that this is a request for a rezone and has nothing to do with the conditions of the properties. That would be a Code Enforcement issue.

RESULT:	RECOMMEND APPROVAL TO CITY COMMISSION [UNANIMOUS]
MOVER:	Robin D. Hanger, Board Member
SECONDER:	Arthur J. Byrnes, Board Member
AYES:	Byrnes, Myer, Hanger, Smith, Cassata



3. Waiver Request - Requesting a Waiver of the Landscaping Requirements Stated in Section 98-33, the Visual Screening Requirement and a Reduction to Ten (10) Feet in the Setback Requirement, Stated in Sections 98-67 and 98-68 of the Land Development Regulations

(Requested by Brian Walker, City Planner)

Brian Walker, City Planner, summarized the staff report stating the applicant is requesting a waiver of the landscaping requirements stated in Section 98-33, the visual screening requirement and a reduction to ten (10) feet in the setback requirements, stated in Sections 98-67 and 98-68 of the Land Development regulations, for property and areas located at 560 Flomich Street. The applicant is expanding upon an existing church and school. Light commercial neighborhood uses have occurred on the site since at least the 1970's. Because the light commercial use pre-dated the Land Development regulations, the site does not meet current landscaping, screening or setback regulations. However, since the applicant is proposing significant new construction (a new gymnasium) on the site, they are required to bring the entire site into conformity with current regulations. This requires that the site meet current landscaping, screening and setback requirements. He exhibited a slide that shows the site of landscaping that they want waived. Mr. Walker summarized the different types of required landscaping, screening and setback requirements for the property. Staff recommends approval with the conditions and provisions as stated within Mr. Walker's staff report in the meeting packet.

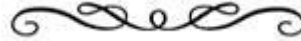
A small discussion ensued regarding special exception and waivers. Mr. Walker stated that if the Special Exception is denied, the waiver would be moot.

John Zemball, PE with Zahn Engineering, Inc., stepped to the podium to state that this request serves as a recommendation that would accompany the Special Exception for this project. As far as the concern for the three (3) homes adjacent to the church, those homes are owned by the Church and houses people that work for the Church. The existing buffer along the northwest property boundary includes a 6-foot wooden privacy fence and the applicant is proposing to retain and maintain the 6 foot wooden fence.

Robin Hanger moved, seconded by Dennis Smith to recommend approval to the City Commission with the staff recommended conditions and provisions at stated in the staff report.

RESULT:	RECOMMEND APPROVAL TO CITY COMMISSION [UNANIMOUS]
MOVER:	Robin D. Hanger, Board Member
SECONDER:	Dennis Smith, Board Member
AYES:	Byrnes, Myer, Hanger, Smith, Cassata

Enacted and approved this 4th day of May, 2020, in Holly Hill



6. OLD BUSINESS

None

7. BOARD/STAFF COMMUNICATIONS

1. Discuss Zoning - 224 Riverside Drive

(Requested by Brian Walker, City Planner)

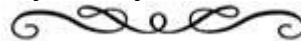
Brian Walker, City Planner, stated that the property at 224 Riverside Drive is owned by the City and is for sale at this time. The zoning on the property is CC-1 (Commercial Corridor). The CC-1 zoning district is very broad and allows a wide variety of uses that range from low intensity uses such as a coffee shop to more intense uses such as light industrial. Given the property's location on Riverside Drive, staff has been instructed to bring the current uses before the BOPA to consider whether a change in zoning might be appropriate. The question tonight to the Board is.....should the City leave the current zoning in place; or consider rezoning the property to a less broad zoning district such as to one of the B zoning districts; or rezone to a BPUD (Business Planned Unit Development) where specific allowed uses can be listed?

Mr Walker proceeded to list the different B zoning districts in our City and what is allowed in each of those districts.

After a brief discussion, the Board reached a consensus that the BPUD would be most beneficial for the City.

RESULT:	RECOMMENDATION [UNANIMOUS]
MOVER:	Robin D. Hanger, Board Member
SECONDER:	Tony Cassata, Board Member
AYES:	Byrnes, Myer, Hanger, Smith, Cassata

Enacted and approved this 4th day of May, 2020, in Holly Hill



8. ADJOURNMENT

This meeting adjourned at 7:35 PM



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

**Board of Planning and Appeals
Agenda Item**

MEETING DATE: June 1, 2020
FROM: Brian Walker
SUBJECT: An Amendment Request to the Waiver Granted on June 3, 2019,
with Regard to the Type “A” Visual Screening Requirement in
Section 98-67(A) of the LDR for Property Located at 1171 S.
Nova Road
NUMBER: (ID # 2921)
APPLICANT: Schwarmann Holdings LLC
PLANNER: Brian Walker

INTRODUCTION:

The applicant is requesting an amendment to the waiver granted on June 3, 2019, with regard to the Type “A” visual screening requirement in Section 98-67(a) of the LDR for property located at 1171 S. Nova Road.

BACKGROUND:

The applicant is in the process of building a 29,150 square foot building that abuts residential property on the east. Commercial and residential property abutting one another are considered incompatible uses. Article III of the land development regulations require that a visual screen be placed between incompatible uses.

The building is 35 feet away from the residential properties on the east, therefore a Type A visual screen consisting of a brick masonry wall and a tree every 25 feet along the wall was required.

Pursuant to Section 98-69(a) of the LDR, “Waiver or reduction of requirements” for visual screens,” the Board of Planning and Appeals may, upon appeal by an applicant, waive or reduce the required visual screen where such visual screen would be unreasonable and excessive due to the size of the parcel in question or the fact that the required visual screen is not necessary due to the unique location or natural topographical or other physical character of the specific parcel in question, and provided such reduction would not be detrimental to the adjacent parcels.

On June 3, 2019, the applicant petitioned the Board of Planning and Appeals to waive the visual screen requirements. The applicant maintained that a masonry wall was not necessary due to the natural existing vegetation and tree line on the property which screens the homes from the commercial site. Additionally, a 35’ buffer in the rear contains a retention pond. The back of the building, would also be used as a visual screen, since no access or parking is provided to the back of the buildings.

The BOPA granted the waiver request with the following conditions:

- That the existing tree line and vegetation on the east be left undisturbed.
- That if gaps or thinning are evident, the vegetated buffer shall be supplemented with additional City approved canopy and understory trees and vegetation; and that such obligation to provide additional trees and vegetation will be determined at the City's sole discretion.
- That the applicant will maintain the visual screen by replacing vegetation that dies or is destroyed or damaged.
- That the exterior of the building be aesthetically pleasing by facing the rear of the building with stucco or some other decorative embellishment.
- That this waiver be valid conditioned upon the site being developed as proposed on the date of the waiver's approval, and that if modifications occur in the future such as parking in the rear of the building, the waiver is nullified.

Once construction of the building got underway, it became evident that the site would need to be modified in such a way that the east property line would be affected. Per the conditions of approval for granting the waiver on June 3, 2019, because the site is being modified, the waiver request must come back to the BOPA.

WHAT HAS CHANGED:

1. One of the lots to the east was purchased by the applicant for use as part of the drainage system. This means that a continuous screen of landscaping and trees along the entire eastern property line as required by the previously granted waiver is not possible. However, since the lot is now owned by the applicant and is part of their development, it is not required to be screened from the commercial site.
2. Once construction began, it became evident that because of the grading and topography of the land, it made little sense to supplement the areas where gaps and thinning were present along the existing tree line, with additional trees and vegetation. There is a significant drop in grade between the rear of the building and the residential homes. When the occupants of the homes look through the existing vegetation, they see an 8 foot painted brick wall that is part of the building. The applicant feels that this offers the same, if not more, of a visual screen, than the 6 foot wall and tree every 25 feet that the code requires.
3. The applicant states that the property owner on the northern end of the property line, has requested that in lieu of additional trees, the applicant install hedges and purchase a privacy fence for them. The applicant states that they agree to this request.

THE REQUEST:

The applicant requests that based upon the evidence presented at this meeting, the waiver to Section 98-67(a) of the LDR approved on June 3, 2019, be amended in that the 8 foot back wall of the building, along with the existing vegetation serve entirely as

the required visual screen between the commercial property and residential homes.

Staff has no objection to the applicant's requested waiver amendment. Staff does recommend that should the Board of Planning and Appeals approve the requested amendment, the following conditions be imposed:

- That the applicant maintain the existing visual screen by replacing vegetation that dies or is destroyed or damaged on their property.
- That this waiver be valid conditioned upon the site being generally developed as proposed per the approved site plan, and that if significant modifications occur in the future such as proposed parking in the rear of the building, the waiver and amendment be nullified, and that all conditions as required by code must be met. Whether or not a modification is significant shall be determined solely by the City.
- That the applicant purchase ten 6 foot wooden privacy panels for an approximate total cost of \$400, for placement along the rear property line of property identified as 1716 Palm Road, Ormond Beach, Florida, parcel ID # 4242-35-01-0090, and supplement the existing vegetation with shrubs, at a time agreed upon by both parties. Should this condition not be met, the applicant will be considered in violation of the waiver amendment and face code enforcement action.

- Aerial (PDF)
- Applicant's Request and Justification (PDF)
- Layout (PDF)
- Rear of Building 1 (PDF)
- Rear of Building 2 (PDF)
- View of Lot 5 (1) (PDF)
- View of Lot 5 (2) (PDF)
- View 1 (PDF)
- View 2 (PDF)
- Screening Regulations (PDF)

Aerial



Hi Brian and City of Holly Hill,

I am writing to request a waiver to the visual screen requirements stated in Section 98-67-68. The original plan was to supplement the existing vegetation to fill in any holes. However due to the topography of the land, and the state requirements for us to turn part of the back of the land into a slopped stormwater dry pond that is no longer possible. Further to meet the 100 year flood requirement I was forced to purchase the additional parcel of land in the back to be also be used as a dry stormwater slopped pond that connects to my property, so I can not plant additional vegetation blocking this connecting point.

However, we can actually provide something better. Our building construction required us to build an 8 foot concrete retaining wall in the back of the property. This will serve as a visual screen far better than vegetation or even what the original code requires. Further I have gone ahead and painted the wall a nice aesthetic grey to match the building, so it doesn't stand out. The building has also been built so that the rear of the building has no doors or windows. Given that this part of the site/building will only be used for the dry storm water pond, there will never be any activity back there. I am attaching pictures to show everything and describing the view points from the 5 lots starting from the North end.

Lot 1. **(See Attached)** Owned by Leon Consolatore. His lot extends slightly past the visual screen provided by our retaining wall. We have spoken with him in person and have agreed to pay for the wood panels for a new fence for him. He is very happy with this arrangement. This part of the land has existing large trees already and is slopped high enough to allow us to plant additional vegetation. This along with the fence will create 100 opacity.

Lot 2. This is an abandoned lot that has not had anyone on it for at least 6 years. It has a dilapidated structure on it. Our retaining concrete wall provides an 8 foot 100% opacity along the entire property line.

Lot 3. This is owned by me and is being used as our dry storm water drainage pond to fulfil state requirements.

Lot 4. Our retaining concrete wall provides an 8 foot 100% opacity along the entire property line. Again since there are no doors or windows in the back of the building there will also never be any activity here.

Lot 5. Most of Lot 5 is screened by our 8 foot concrete wall. The remaining part that is south of our retaining wall has existing vegetation on my property line that provides 100% opacity. (See attached photos).

Thank you very much.

LOTS 1 through 5



Building

Retention : Buffer



Rear of Building



Attachment: Rear of Building 1 (2921 : Waiver - 1171 S Nova Rd Waiver Amendment Request)

Rear of Building











The requirements of Chapter 98, article III, include three parts: setback, buffer and visual screen. The setback and buffer requirements are as follows:

Proposed Use	Abutting Use	Setback (feet)	Buffer (feet)	Visual Screen
Multifamily	Single-family	<u>35</u>	10	A or B
		<u>50</u>	25	C
Commercial	Residential	<u>35</u>	10	A
		<u>50</u>	25	A or B
		75	50	C
Industrial	Residential	<u>50</u>	25	A
		75	50	A or B
		100	75	C

The three types of visual screens are as follows:

Sec. 98-69. Waiver or reduction of requirements.

- (a) *Visual screen in front yard.* The board of planning and appeals may, upon request by an applicant, waive or reduce the side or rear yard visual screen requirements that apply within the required front yard building setback when the application of such requirements would result in an arbitrary and undesirable view obstruction from a major thoroughfare and when the reduction of such requirements would not be detrimental to the adjacent parcels.
- (b) *Visual screens generally.* The board of planning and appeals may, upon appeal by an applicant, waive or reduce the required visual screen where such visual screen would be unreasonable and excessive due to the size of the parcel in question or the fact that the required visual screen is not necessary due to the unique location or natural topographical or other physical character of the specific parcel in question, and provided such reduction would not be detrimental to the adjacent parcels. The applicable setback and buffer provisions along all parcel lines in question shall not, however, be waived.
- (c) *Setback.* The board of planning and appeals may, upon appeal by an applicant, waive or reduce the required setback where such setback would be unreasonable and excessive due to the size of the parcel in question or the fact that the required setback is not necessary due to the unique location or natural topographical or other physical character of the specific parcel in question, and provided such reduction would not be detrimental to the adjacent parcels. The applicable buffer and visual screen provisions along all parcel lines in question shall not, however, be waived.
- (d) *Parcels abutting railroad sidings.* The board of planning and appeals, upon appeal by an applicant, may waive or reduce the required buffer where such buffer would prevent structures from locating adjacent to railroad sidings, provided such reduction would not be detrimental to surrounding areas.



STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

Board of Planning and Appeals
Agenda Item

MEETING DATE: June 1, 2020
FROM: Brian Walker
SUBJECT: An Ordinance of the City of Holly Hill, Florida, Approving the
Seventh Amendment to Marina Grande Residential Based
Mixed Use Planned Unit Development (Mpud) Development
NUMBER: (ID # 2920)
APPLICANT: Robert Merrell III with Cobb Cole
PLANNER: Brian Walker

INTRODUCTION:

Marina Grande Mixed Use Planned Unit Development (MPUD) 7th Major Amendment - Consider a major amendment to the Marina Grande MPUD, reapproving and extending the display time, for temporary signage as approved on March 28th, 2017, and shown in Exhibit A.

BACKGROUND: On November 23rd, 2004, the City Commission approved Ordinance # 2714, which approved a mixed use planned unit development agreement for the property which has become known as Marina Grande. Over the years the initial MPUD agreement has been amended several times, to address modifications to the plan and address some procedural issues.

The original agreement, provided a plan for signage, including project identification signs and signage for retail spaces. However, the agreement did not address real estate signage to be used for the sale and rental of residential and commercial units.

Over time, the applicant found that standard city codes for real estate signage were limiting their efforts to complete sales of the residential units, and lease the commercial space. Therefore, in 2016, the applicant submitted a request to the City to amend the MPUD agreement. This was the 6th request to amend the MPUD. The request consisted of a plan for real estate signage that was more specifically tailored to the applicant's needs, and that would replace the standard real estate signage as regulated by the City code.

The applicant proposed a signage plan that included the following elements (also see Exhibit A which shows photographs, signage details, and locations that were submitted as part of the 6th amendment):

1. Three two-panel signs located along the Riverside Drive frontage north of the park entrance, at the main project entrance, and across from Third Street.
2. Three flutter flag signs located on the dock.

3. One banner sign located on the south tower, south side approximately 100 feet long

The requested sign sizes are as follows:

South Panel Sign	4' 8" x 15'
Central Panel Sign	4' x 5'
North Panel Sign	3' x 18'
Seawall Signs	3' x 48'
Flutter Flags	33" x 152"
Banner Sign	3' 6" x 60'

On March 28th, 2017, the City Commission approved the applicant's plan for real estate signage by approving the 6th Amendment to the Marina Grande MPUD. However, the approval was limited to a 3 year term that expired on March 27th, 2020.

On May 6th, 2020, the applicant submitted an application to amend the MPUD, by requesting that the City Commission reapprove and extend the display time, for the temporary real estate signage plan that expired on March 27th, 2020. The applicant requests that the plan be reapproved for an additional three (3) years from the date of the approval of this requested 7th amendment or until such time that the owners no longer own or control greater than 3% of the total residential units, whichever occurs sooner. The applicant has provided a detailed explanation for their request attached as Exhibit B.

In considering whether or not to approve the applicant's request, the Commission must consider whether or not the request is consistent with the policies of the City's comprehensive plan. The comprehensive plan's Future Land Use Element, includes one policy which addresses signage. The policy reads as follows:

Policy 1.2.8 - *Such regulations shall ensure that new and replacement signs shall adhere to the community standard for aesthetics and minimize confusion that results from visual disarray, while allowing reasonable identification and promotion of businesses.*

This policy references the city's land development regulations, but does not include specific measurable standards that can be applied to the proposed banner sign or to any of the proposed signage. The Board of Planning and Appeals and the City Commission is left to its judgment as to whether or not the proposed signage program adheres to community standards for aesthetics; minimizes confusion from visual disarray; and allows reasonable identification and promotion of business.

RECOMMENDATION: The City Commission can approve the proposed amendment to the MPUD agreement if the Commission, in its opinion, finds the proposed signage

program consistent with Policy 1.2.8 of the Future Land Use Element.

- 6th Amendment to the MPUD (PDF)
- Application (PDF)
- Exhibit A - Sign Plan (PDF)
- Exhibit B - Applicant Request and Justification Statement (PDF)
- Minutes to 1st Reading of 6th Amendment (PDF)
- Minutes to 2nd Reading of 6th Amendment (PDF)
- PROPOSED - 7th Amendment to PD Proposed Amendment (PDF)

Prepared by:
Cobb Cole
Robert A. Merrell III, Esquire
149 S. Ridgewood Avenue, Suite 700
Daytona Beach, FL 32114

**SIXTH AMENDMENT TO
MARINA GRANDE RESIDENTIAL BASED MIXED USE
PLANNED UNIT DEVELOPMENT (MPUD)
DEVELOPMENT AGREEMENT**

THIS SIXTH AMENDMENT TO MARINA GRANDE RESIDENTIAL BASED MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) DEVELOPMENT AGREEMENT (the "Sixth Amendment") is made this 28th day of March, 2017, by and between **HHA BORROWER, LLC**, a Delaware limited liability company, and **HH BLUE TIDES, LLC**, a Delaware limited liability company (the "Owners") and the **CITY OF HOLLY HILL**, a Florida municipal corporation (the "City").

WHEREAS, Riverside Holly Hill, LLC, a Florida limited liability company, and Holly Hill I Associates, Ltd., a Florida limited partnership (collectively, the "Developer") and City entered into that certain Development Agreement dated January 25, 2005, for the development of certain real property as described in said Agreement, as modified by that certain First Amendment to Agreement dated October 31, 2005 (the "First Amendment"); as further modified by that certain Second Amendment to Agreement dated November 15, 2005 (the "Second Amendment"); as further modified by that certain Third Amendment to Agreement dated November 14, 2006 (the "Third Amendment"); as further modified by that certain Fourth Amendment to Agreement dated February 13, 2007 (the "Fourth Amendment"); and as further modified by that Fifth Amendment to Agreement dated March 27, 2011 (the "Fifth Amendment") (collectively the "Agreement");

WHEREAS, Owners acquired ownership of the Property as a bulk assignee; and

WHEREAS, Owners and City wish to further modify certain provisions of the Agreement as detailed below.

NOW, THEREFORE, in consideration of the mutual covenants and promises made herein, the parties hereto covenant and agree to bind themselves as follows:

1. The above recitations are true and correct and incorporated herein by reference.
2. Owners and City mutually agree to amend Exhibit "E" attached to the Development Agreement to add pages depicting the Sign Plan for Marina Grande. There are currently temporary and permanent signs that will be removed and temporary and permanent signs incorporated into the development as depicted on Exhibit "E" attached hereto. Exhibit "E" is amended in its entirety as depicted and attached hereto.



3. The parties hereto agree that the number and size of the proposed temporary signs are as follows:

Three two-panel signs located along Riverside Drive frontage north of the park entrance, at the main project entrance, and across from Third Street;

Three flutter flag signs located on the dock;

One banner sign located on the south tower, south side of the building;

Removal of two non-conforming signs at the Third Street entrance;

South Panel Sign 4'8" x 15'

Central Panel Sign 4' x 5'

North Panel Sign 3' x 18'

Flutter Flags 33" x 152"

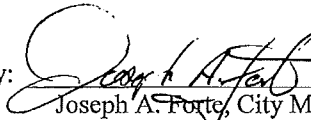
Banner Sign 12' x 100'

4. The parties hereto agree that the language of the proposed signs shall address only sales with no advertising for leasing.
5. The parties hereto agree that the duration of the proposed temporary sign package shall be three (3) years from the date of the approval of this Agreement.
6. The parties hereto agree that this Sixth Amendment constitutes a major amendment to the Agreement.
7. In the event there are unresolved complaints from the condominium unit owner(s) about the unreasonable noise cause by wind blowing on or through the banner on the South Tower, the City Commission has the right to conduct a public hearing, with reasonable notice to the complainants and the Developer, to review the continued use of a banner for advertising purposes. The City Commissioner specifically reserves the right to amend or repeal this Amendment at the noticed public hearing.
8. Except as specifically modified herein, the Agreement shall remain in full force and effect as first made.
9. Signatures on copies of this Sixth Amendment which are transmitted by facsimile or by electronic mail are counterparts and shall be deemed originals for all purposes.

NOW THEREFORE, the undersigned parties hereby agree to the above terms and conditions of the Sixth Amendment.



CITY OF HOLLY HILL,
a Florida municipal corporation

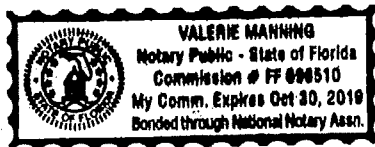
By: 
Joseph A. Forte, City Manager



STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 29th day of March, 2017, by JOSEPH A. FORTE, City Manager, City of Holly Hill, who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC



Sign: Valerie Manning

Print: Valerie Manning
State of Florida at Large
(Seal)

My Commission Expires: Oct. 30, 2019

Title/Rank: City Clerk, CMC

Commission Number: FF898510



Instrument # 2017091748 #4 Book: 7395 Page: 3971

WITNESSES:

Michael D. Hall
Michael D. Hall
 (Name Printed or Typed)

Eva Garcia
 (Name Printed or Typed)

STATE OF Florida
 COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 8th day of May, 2017, by Brett Dill, as Managing Partner of **HHA BORROWER, LLC**, a Delaware limited liability company, who is personally known to me or has produced _____ as identification.

HHA BORROWER, LLC

A Delaware limited liability company

By: Brett DillName: Brett DillTitle: Managing Partner

NOTARY PUBLIC

Sign: Deborah D. Lacroix

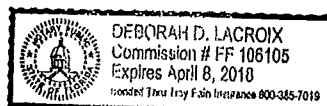
Print: _____

State of Florida at Large
 (Seal)

My Commission Expires: _____

Title/Rank: _____

Commission Number: _____



WITNESSES:

Michael R. Hall
Michael D. Hall
 (Name Printed or Typed)
[Signature]

Eva Garcia
 (Name Printed or Typed)

STATE OF Florida
 COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 8th day of May, 2017, by Brett M. Tidd, as Managing Partner of **HH BLUE TIDES, LLC**, a Delaware limited liability company, who is personally known to me or has produced _____ as identification.

HH BLUE TIDES, LLC

A Delaware limited liability company

By: [Signature]
 Name: Brett M. Tidd
 Title: Managing Partner

NOTARY PUBLIC

Sign: [Signature]

Print: _____
 State of Florida at Large
 (Seal)



My Commission Expires: _____

Title/Rank: _____

Commission Number: _____



Instrument # 2017091748 #6 Book: 7395 Page: 3973

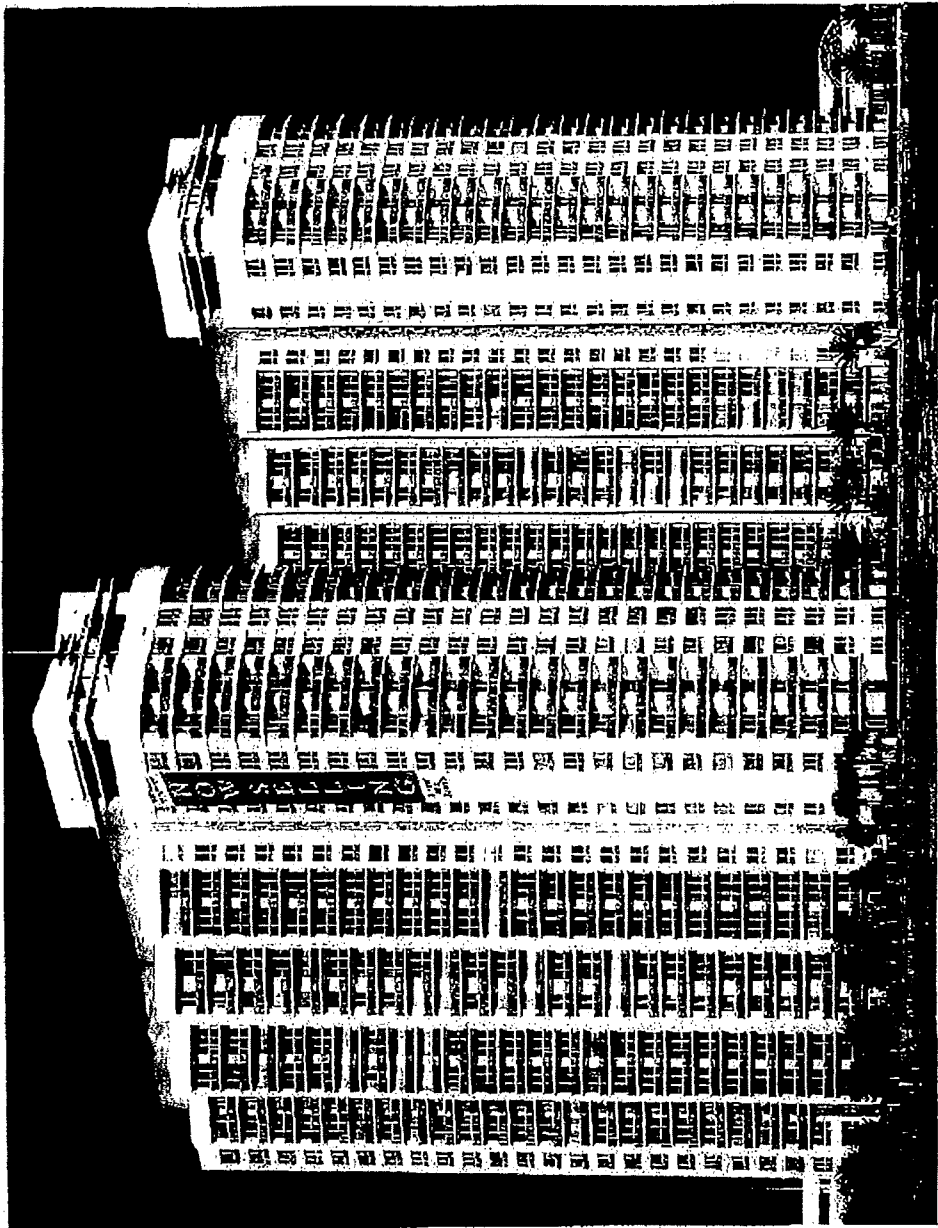
EXHIBIT "E"
SIGN PLAN

{040688-293 : RMERR/DLACR : 02042730.DOCX; 4}



Attachment: 6th Amendment to the MPUD (2920 : Marina Grande MPUD 7Th Amendment)

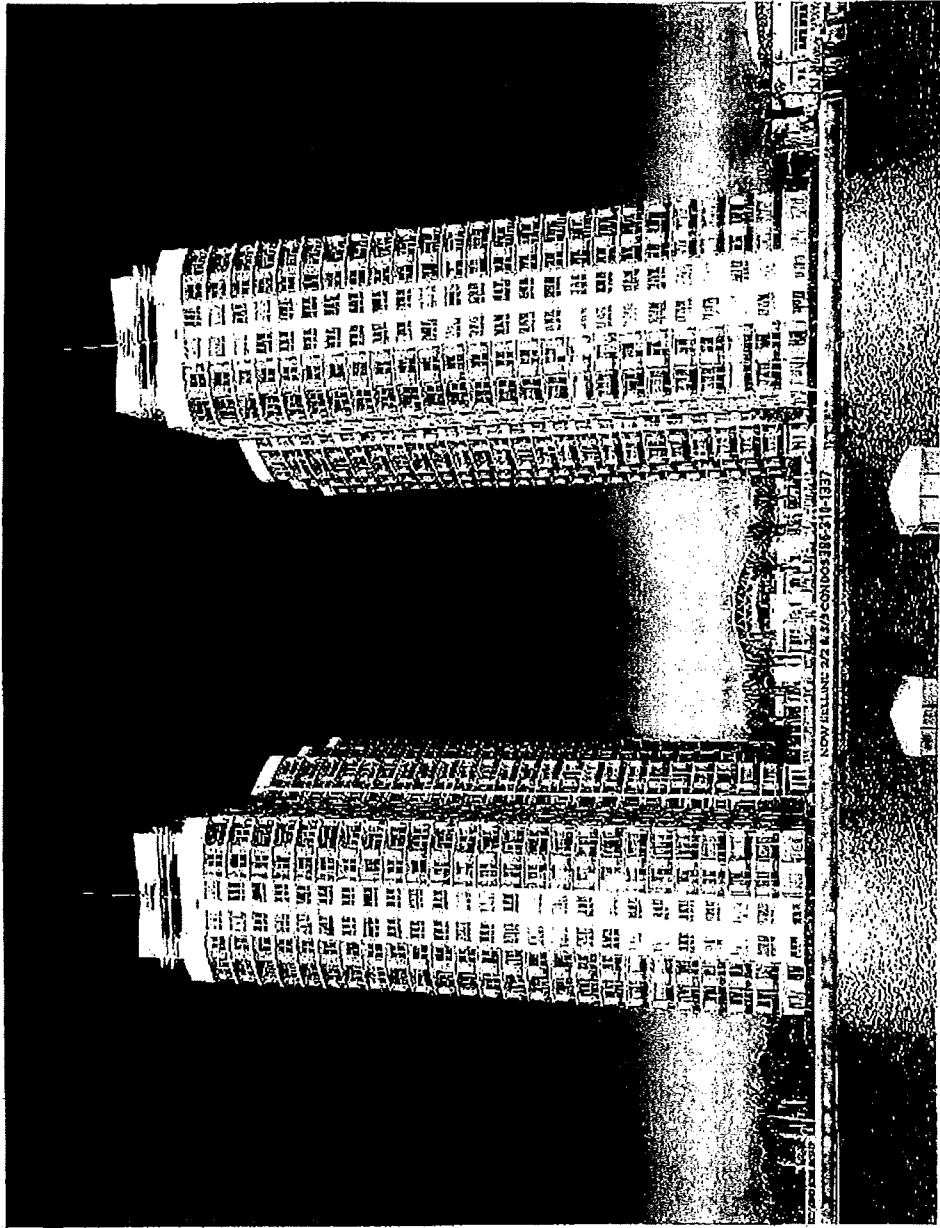


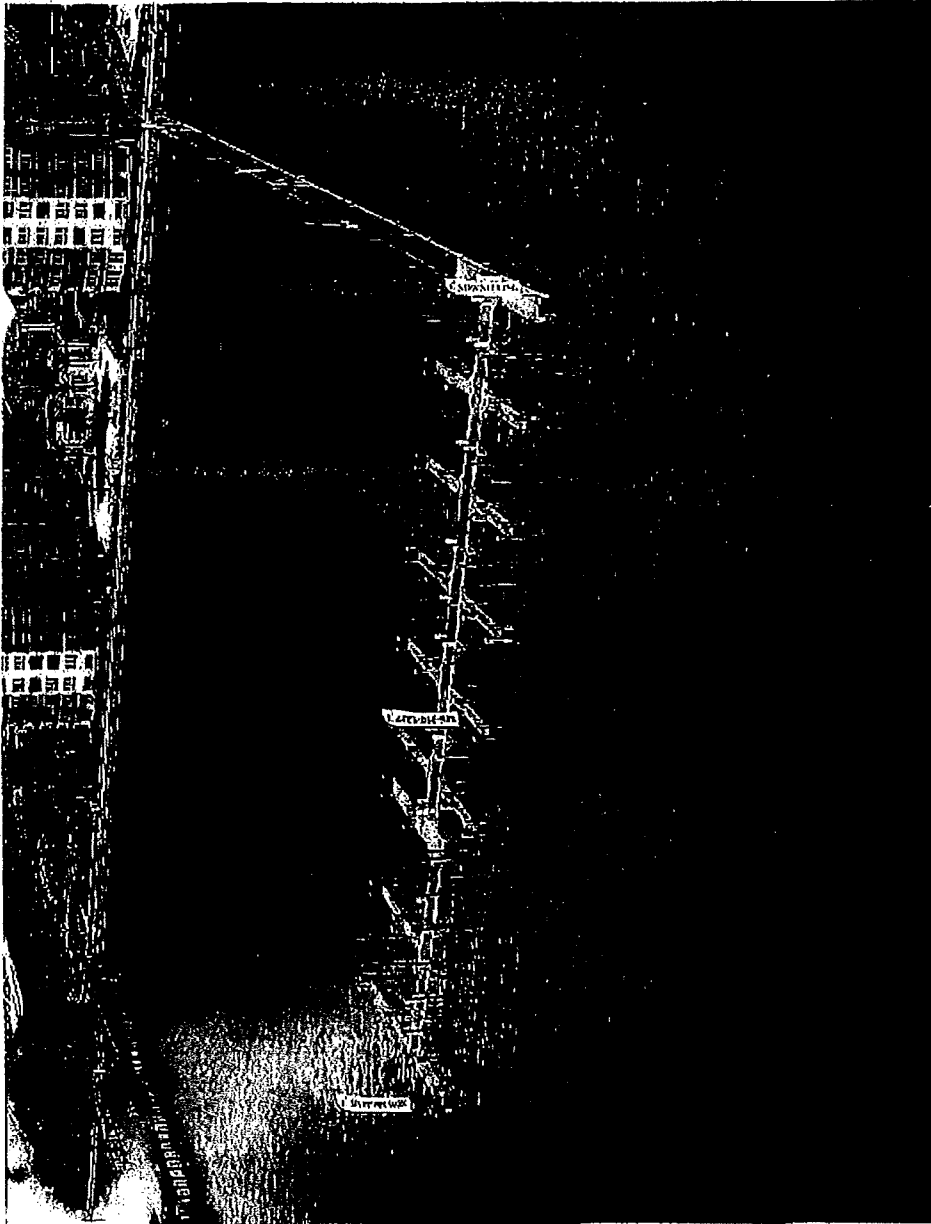




Not
Permitted
or
approved
for sea wall
original ORIGINAL
3-29-2017









HOLLY HILL FLORIDA

1065 Ridgewood Avenue, Holly Hill, FL 32117

Phone: (386) 248-9442 Fax: (386) 248-9498 Permitdesk@hollyhillfl.org

REZONE/ FUTURE LAND USE AMENDMENT

Date Received: _____ Application ID: _____ Submitted By: _____

PROJECT INFORMATION:

PROJECT NAME: Seventh Amendment to Marina Grande Residential Based Mixed Use PUD
 PARCEL ID #(S): See Attached List
 LOCATION: 231 Riverside Drive, Holly Hill, FL 32117
 EXISTING USE(S): Residential Based Mixed Use
 PROPOSED USE(S): Add Signage
 TOTAL ACREAGE: 17.28+/- Acres
 WATER PROVIDER: _____ SEWER PROVIDER: _____
 PRIVATE WELL _____ PRIVATE SEPTIC _____
 CURRENT ZONING: MPUD PROPOSED ZONING: N/C
 CURRENT FUTURE LAND USE: Residential Based Mixed Use PROPOSED FUTURE LAND USE: N/C

APPLICANT INFORMATION:

Name: Cobb Cole by Robert A. Merrell III, Esquire E-Mail: Rob.Merrell@CobbCole.com
 Address: 149 S. Ridgewood Avenue, Suite 700, D.B., FL 32114 Phone: 386/323-9263
 Company: Cobb Cole Fax: 386/323-9207
☐ Owner ☐ Agent for Owner ☒ Attorney for Owner

OWNER INFORMATION:

Name: Daytona Grande, LLC/Jonathan Manocherian E-Mail: manocherianjon@gmail.com
 Address: 18 E. 50th Street, Ste. 10, New York, NY 10022 Phone: _____
 Fax: _____

CONSULTANT INFORMATION:

Name: _____ E-Mail: _____
 Address: _____ Phone: _____
 Company: _____ Fax: _____

Attachment: Application (2920 : Marina Grande MPUD 7Th Amendment)



1065 Ridgewood Avenue, Holly Hill, FL 32117

Phone: (386) 248-9442 Fax: (386) 248-9498 Permitdesk@hollyhillfl.org

WHO SHOULD ALL COMMUNICATION BE DIRECTED TO?

☒ APPLICANT ☐ OWNER ☐ CONSULTANT

APPLICATION TYPE(S)/FEE(S)*

LAND USE AMENDMENT

- ☐ LARGE SCALE FUTURE LAND USE AMENDMENT (>10 ACRES) \$3,000.00
- ☐ SMALL SCALE FUTURE LAND USE AMENDMENT (≤10 ACRES) \$2,000.00

REZONE (NON-PD)

- ☐ STRAIGHT REZONE / LDR TEXT AMENDMENT \$1,200

REZONE (PD)

- ☐ PD REZONE \$2,000
- ☒ PD AMENDMENT \$1,250 (This does not mean changes in items such as uses or density but means minor changes in items such as layout and landscaping.)

*THERE MAY BE ADDITIONAL PASS-THROUGH FEES FOR REVIEWS DONE BY REVIEWERS OUTSIDE OF THIS AGENCY. ALL FEES ARE DUE AT THE TIME OF APPLICATION SUBMITTAL.

ATTACHMENT CHECKLIST

REQUIRED SUBMITTALS

- ☐ COPY OF PRE-APPLICATION COMMENTS. IF YOU HAVE NOT HAD A PRE-APPLICATION MEETING TO DISCUSS THIS PROJECT PLEASE CONTACT THE CITY PLANNER TO ARRANGE AN APPOINTMENT AT 386-248-9492.
- ☒ A CD / JUMP DRIVE OF ALL ITEMS SUBMITTED
- ☒ APPLICATION AND FEE
- ☒ PROOF THAT TAXES ARE CURRENT
- ☒ PROPERTY APPRAISER'S PROPERTY INFORMATION PRINTOUT
- ☒ OWNERSHIP DISCLOSURE FORM (ADD'L DOCUMENTATION MAY REQUIRED IF OWNER IS A TRUST OR CORPORATION)
- ☒ OWNER'S AUTHORIZATION FORM, IF APPLICABLE (ADD'L DOCUMENTATION REQUIRED IF OWNER IS A TRUST OR CORPORATION)
- ☒ 2 CURRENT SIGNED AND SEALED BOUNDARY SURVEYS
- ☒ LEGAL DESCRIPTION IN MS WORD FORMAT (EMAIL THIS TO THE CITY PLANNER)

Attachment: Application (2920 : Marina Grande MPUD 7Th Amendment)

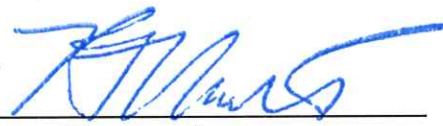


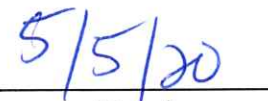
1065 Ridgewood Avenue, Holly Hill, FL 32117

Phone: (386) 248-9442 Fax: (386) 248-9498 Permitdesk@hollyhillfl.org

- ☐ SCHOOL CAPACITY REVIEW – IF PROPOSING OVER 10 RESIDENTIAL UNITS (CONTACT SCHOOL BOARD PLANNING & BUSINESS SERVICES AT 386-734-7190 FOR APPLICATION)
- ☐ TRAFFIC IMPACT ANALYSIS FOR PROJECTS GENERATING OVER 1000 TRIPS PER DAY ACCORDING TO RATES PUBLISHED BY THE INSTITUTE OF TRANSPORTATION ENGINEERS "TRIP GENERATION MANUAL" (LATEST EDITION)
- ☐ DRAFT DEVELOPMENT ORDER IN MS WORD FORMAT (PD REZONE ONLY – CONTACT THE CITY PLANNER)
- ☐ PRELIMINARY DEVELOPMENT PLAN (PD REZONE ONLY - SEE CODE SEC. 114-771)
- ☐ COMPREHENSIVE PLAN AMENDMENTS: Provide a **Facility Demand Comparison**. For example, for the existing Future Land Use designation, show the demands on the city's infrastructure at the highest intensity, and for the proposed Future Land Use, show what the demands would be at the highest intensity. Show this information for the following facilities:
 Potable Water
 Sanitary Sewer
 Stormwater
 Transportation (Use current year ITE Trip Generation Rates)
 Solid Waste Collection
 School (Residential Only)
 Also show the net increases.
- ☐ COMPREHENSIVE PLAN AMENDMENTS: Provide a **Demonstration of Capacity**: Show that there is capacity and ability to meet increased demands on facilities. The city's public works department can assist in providing information regarding potable water, sanitary sewer and solid waste.

Applicant's Signature: _____


 (Signature)

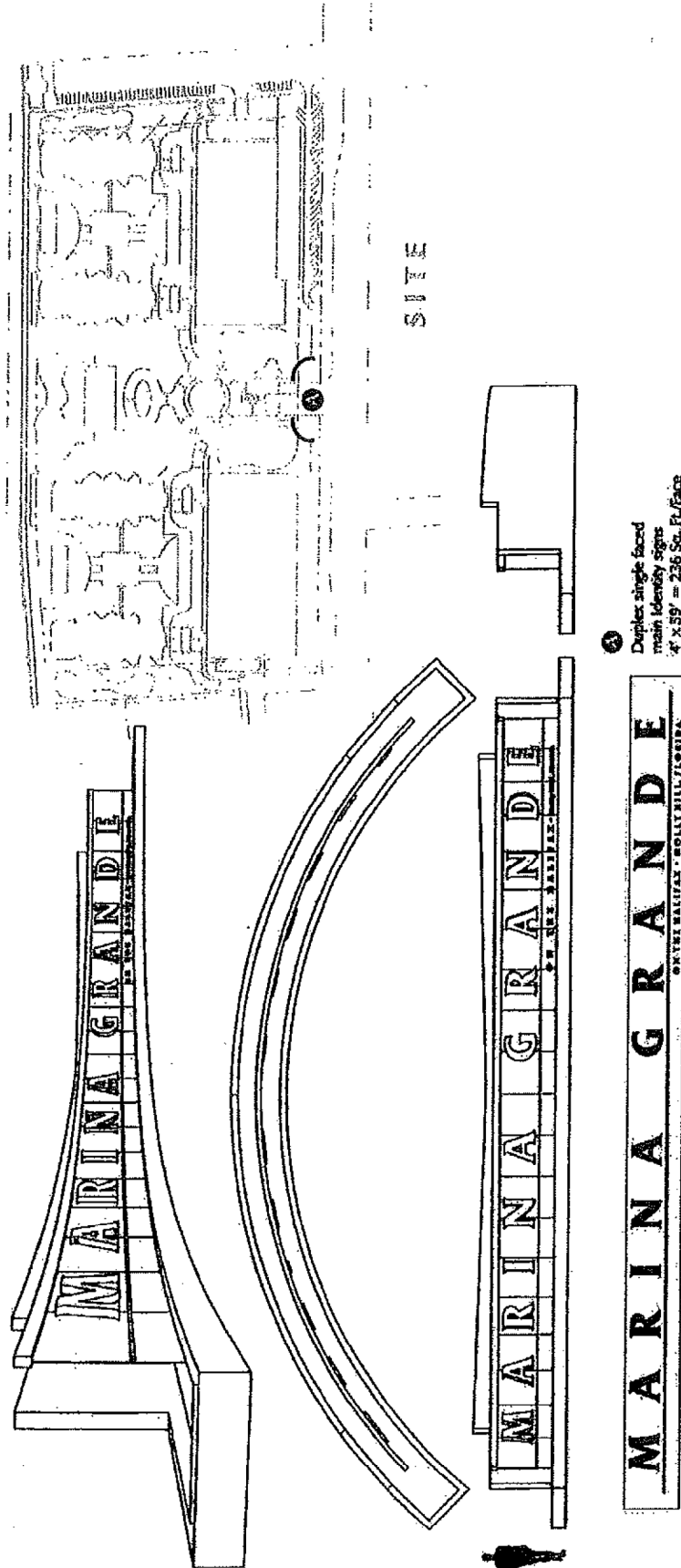

 (Date)

Robert A. Merrell III, Esquire
 (Print)

Applications must be complete to initiate the preview process. For questions please contact the City Planner at (386) 248-9424, fax (386) 248-9498 or email at bwalker@hollyhillfl.org

Attachment: Application (2920 : Marina Grande MPUD 7Th Amendment)

Instrument# 2011-013275 # 32
Book: 6557
Page: 4291



EDSA
Edward D. Stone, Jr. and Associates
Planning
Landscape Architecture
Civil Design
Graphic Design
3532 East Broadway Blvd., Suite 110
Fort Lauderdale, FL 33301
Phone: 954.571.1320 • Fax: 954.571.1177

Prepared for: Marina Grande Project Name: Signage Area Studies Project Number: 104206	Sign Description: Sign Area Main ID Sign Notes: ☒ 1st Draft ☐ 2nd Draft ☐ 3rd Draft ☐ Bid Documents New for Construction Sign Area Date: 11/15/04	Production Title: Design Director: Design: Production Management: Checked by: 	1
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Exhibit "E" page 1

Instrument# 2011-013275 # 33
Book: 6557
Page: 4292

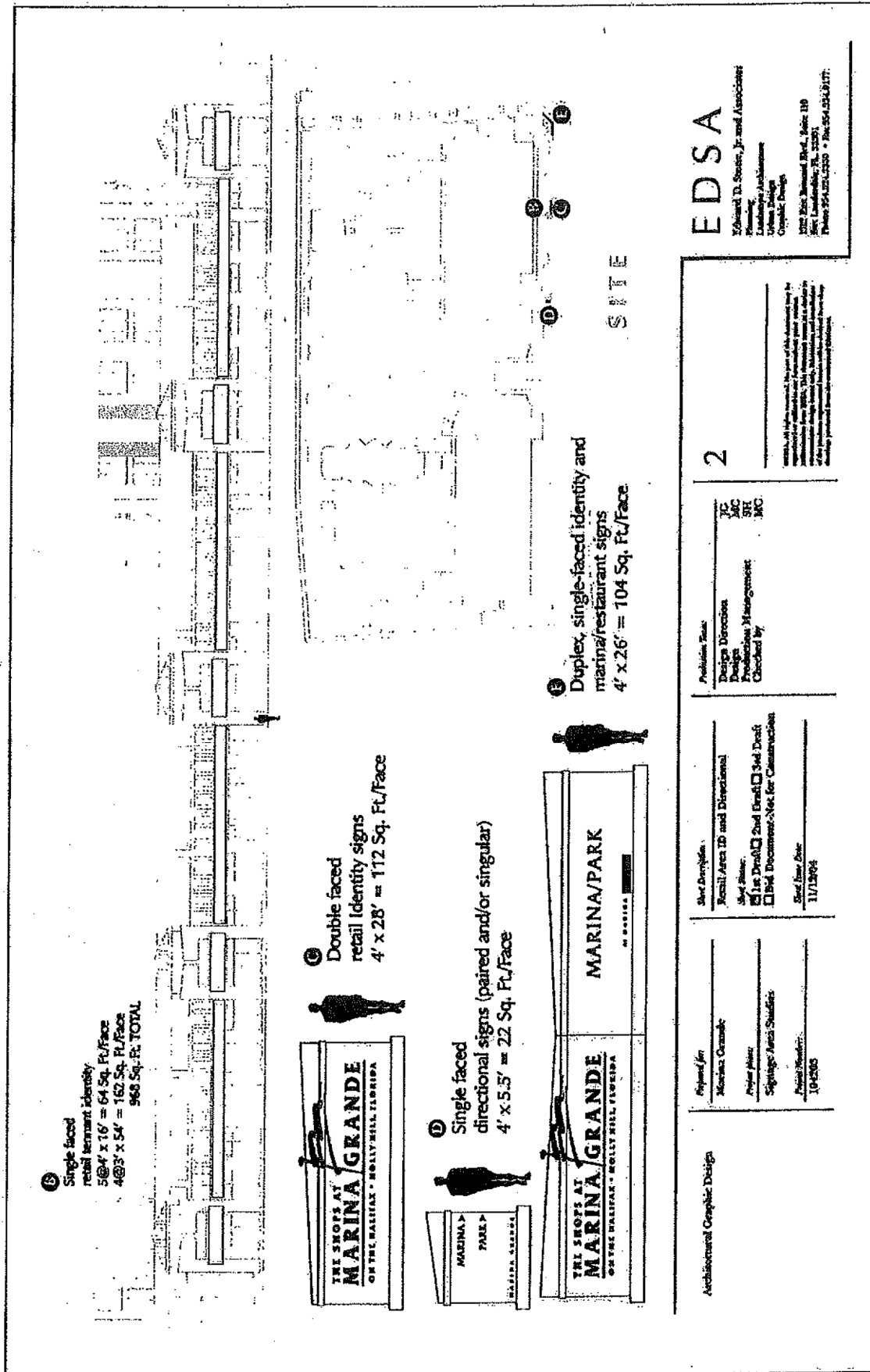
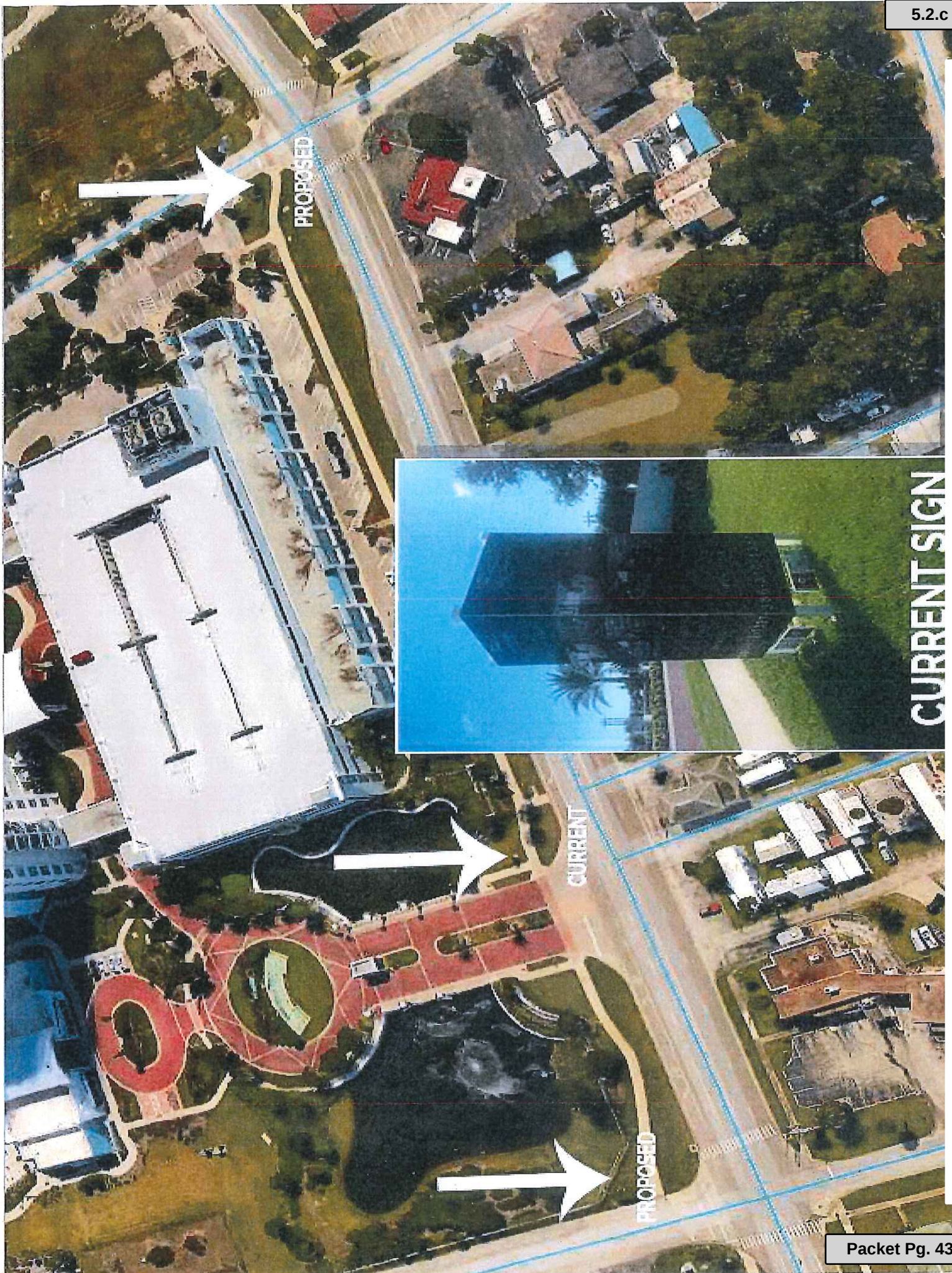
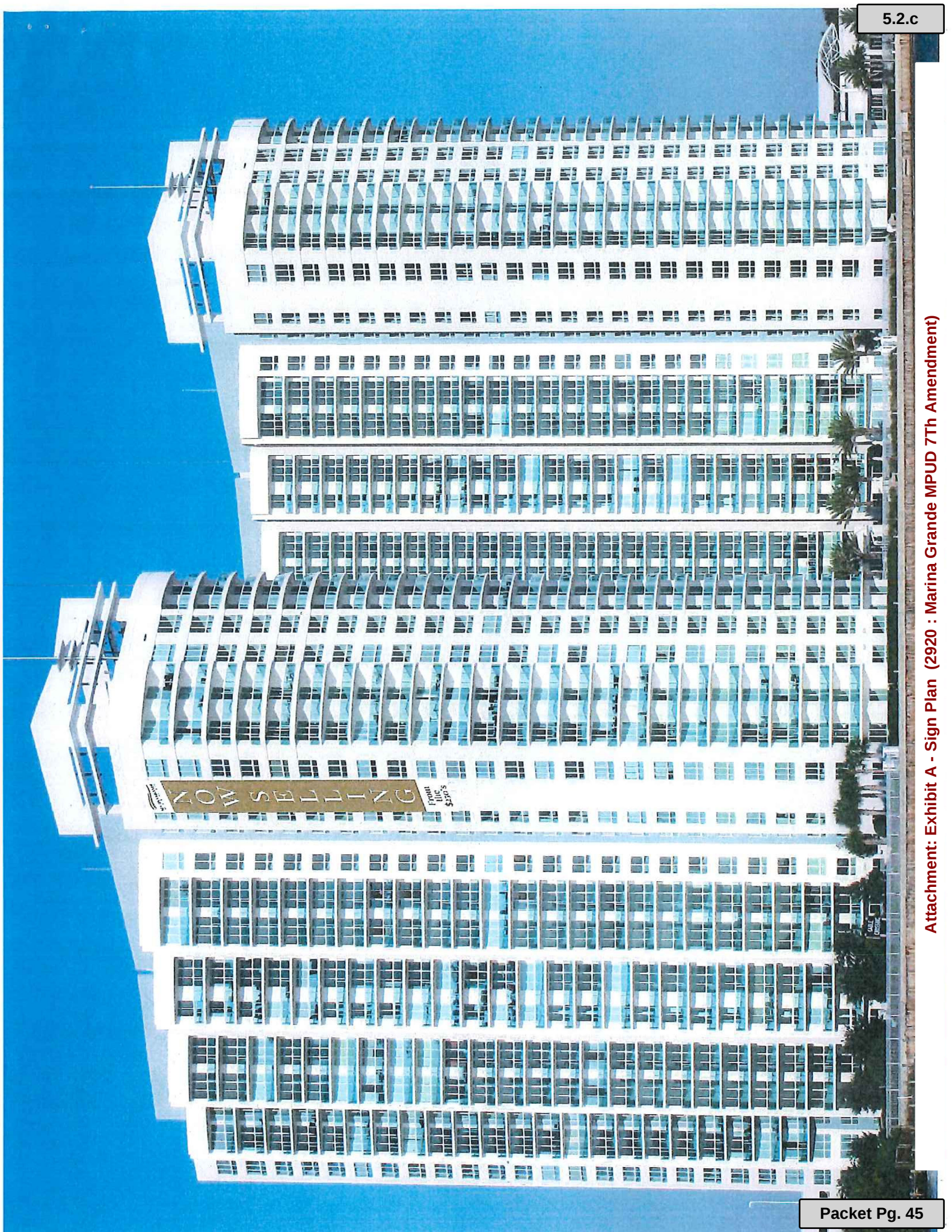


Exhibit "E" page 2







Attachment: Exhibit A - Sign Plan (2920 : Marina Grande MPUD 7Th Amendment)

Daytona Grande, LLC

To Whom It May Concern:

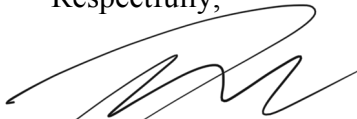
Since purchasing the remaining units at the Marina Grande on November 2018, our on-site signage has proven to be our most effective marketing tool - contributing to over 30% of our site visits since purchasing the units. Our sales representatives constantly tell us how important these signs are in generating curiosity and making it clear to the public that we have an inventory of luxury condominiums available for purchase. Losing this signage would be detrimental to our sales efforts. This was demonstrated in April 2019 when the sign had to be taken down for repairs and our foot traffic decreased 43% until we had it back in place causing a ripple effect on the following months' sales.

It would significantly increase the cost of marketing, staffing and general operating expenses, while most certainly prolonging the time needed to sell out the current inventory. Given the amount of inventory we still hold and the high costs of holding this inventory, it would be difficult to increase our marketing efforts on other unproven or less effective strategies. Our only options would be to

- 1) lower prices to sell units at a higher pace - which would effectively result in lower assessment / tax dollars for the city, or
- 2) to lease our remaining units - which the current residents would not prefer as they would much rather see other long term residents occupying the building.

Thus we see this sign as a benefit to all parties involved.

Respectfully,



Jonathan Manocherian
Daytona Grande LLC

Mr. Forte stated this is the budget transfer. Moving money from the Solid Waste department into the General Fund so that the city can pay the balance of the debris removal and monitoring services as a result of Hurricane Matthew. This is a \$700,000 transfer. This should close out what the city is paying for the debris removal and monitoring and now staff is going forward with the reimbursements from FEMA.

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John C. Danio, District 3 - Commissioner
SECONDER:	Penny Currie, District 2 - Commissioner
AYES:	Byrnes, Currie, Danio, Via, Penny

RESOLUTION

Enacted and approved this 14th day of February, 2017, in Holly Hill



4.

Marina Grande MPUD 6Th Amendment SIXTH AMENDMENT TO MARINA GRANDE RESIDENTIAL BASED MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) DEVELOPMENT AGREEMENT

(Requested by Thomas Harowski, Board of Planning and Appeals)

Tom Harowski, City Planner, stated this is an item that's been before the Commission several times. He will quickly summarize the request as he thinks they have it constituted now so they all understand where they're going. The subject property, Marina Grande is regulated by a Planned Unit Development Agreement and as they know the PUD gives the city substantial latitude in terms of developing regulations that are appropriate to the project and appropriate to the site. The applicants in this case are asking the Commission for an amendment to the PUD Agreement to provide some advertising signage on a temporary basis. They are looking for a three year time frame for approval. The request includes three, two panel signs located along Riverside Drive, the Riverside Drive frontage from one north of the park entrance, one at the main entrance, and one across the street at the intersection. They are looking for three flutter flags located on the dock, they are looking for a banner sign located on the south tower that would be approximately 100 feet long and that agreement also includes the removal to nonconforming signs are actually left over from the days when the shopping center was there. That's the program that's been asked of the Commission. When considering provisions under a PUD the process allows the city and the Commission to identify and adopt regulations that may not be appropriate in all areas of the community but are appropriate for the site because of specific character of the site or the specific character of the project. In looking at the city's code or looking at the Comprehensive Plan there is only one policy that gives the staff any guidance in terms of a standard for making a decision and that's Policy 1.2.8 for the Comprehensive Plan, which states, "Such regulations shall ensure that new and replacement signs shall adhere to the community standard for aesthetics and minimize

confusion that results from visual disarray, while allowing reasonable identification and promotion of businesses." That's the policy and they can interpret and apply that standard as they see best to the particular project. Essentially, that's the situation at the request before the Commission is for that package of signage that he referenced in opening and as he indicated, the Commission certainly has a latitude to approve that amendment to the development agreement so long as they find it to be consistent with the Comprehensive Plan policy. It's really a community standards issue. It's not a right or wrong. There's not a particular right answer or a wrong answer as far as a specific planning principle or something like that as a concern.

Mayor Penny stated a couple things have come to his attention Mr. Harowski and he thinks there might be misinformation or some misunderstanding. He had several phone calls and several people were under the impression that this is a variance. This is not a variance, correct?

Mr. Harowski stated, correct.

Mayor Penny stated this is an amendment to a PUD.

Mr. Harowski stated, that's correct. This is essentially a regulation that we are adopting into the PUD.

Mayor Penny stated and some mention about signs and banners being scattered about the property but Mr. Harowski has described that there's seven signs that will be in place including the three which are flutter flags and then, did you say two or three are actually going to be removed?

Mr. Harowski stated, two.

Mayor Penny stated two will be removed. The last thing was that there seems to be some confusion about the verbiage on the proposed banner that there's some impressions that it might be highlighting rentals and it's his understanding that there will be no mention of rental, that it's only to promote the sales of the units, is that correct?

Mr. Harowski stated when you start talking about the city regulating content on the signs, it's a challenging and dangerous area.

Mr. Forte stated he's not regulating, he's asking what the request is.

Mayor Penny stated but the MPUD allows the city to negotiate this.

Mr. Harowski stated the applicant can restrict the language and he believes they have proposed to do that.

Mayor Penny stated because the material he has it just says "now selling units from 180's."

Mr. Harowski stated right and believes in previous meetings MG has indicated that all of

the signs would emphasize sales, which states sales.

Mayor Penny asked approximately, how tall is that building?

Brett Dill, Marina Grande on the Halifax stated, 260 feet.

Mayor Penny stated, 260 feet. And then approximately, how long is that southern façade of that building? Two hundred? His questions were approximately how tall is that building and how long is that one side?

Brett Dill, President of Swerdlow Group stated the buildings are 260 feet to the roof. That probably doesn't include the decorative stuff on the top so maybe it's 270 or 280 and they would probably only deduct 30 or 40 feet off of that so they are somewhere in the 230, 240 feet would be that façade between the windows.

Mayor Penny stated 240 tall and about how long is that side of the building? Two-hundred feet? If they went from the edge...

Mr. Dill stated probably not. That's probably more like 160 maybe.

Mayor Penny stated he's trying to find out the square footage of that building. Two hundred and forty times one hundred and sixty is 38,400 square feet, approximately. For the Commission, the method to the madness is why do we care that it's 38,400 square feet on that side of the building and my question to Mr. Harowski, which is going to be, we can't apply it to this because a PUD is a special zoning but if you had the capability, in John's world, to just imagine, they pick this building up and they put it on US1 in the CC-1 corridor, it's my understanding that signs on the side of buildings can be up to 10% of the square footage of the façade of that building. Is that correct?

Mr. Harowski stated, that is correct.

Mayor Penny stated so that the long way around for the Commission why he's trying to get there. Ten percent would be 3,840 square feet would be if this were in the math world, 3,840 square feet would be the allowable square footage of a sign located on US1.

Mr. Harowski stated if it were a commercial. Each side would be calculated independently.

Mayor Penny stated if it were a commercial. His question is, there was some reference to the sign being 60 feet long, 100 feet long, as he understands it, this proposed banner is 100 feet x 3.5 feet.

Mr. Harowski stated that's what he understands. Yes.

Mayor Penny stated 100 x 3.5 is 350 square feet or less than 10% of the allowable size if this were on US1.

Commissioner Currie stated one of the main questions she needs to know is that she has seen documentation that shows a blue sign and documentation that shows a gold sign. She would prefer the gold sign because that looks more classy.

Rob Merrill, Cobb Cole, 149 S. Ridgewood Avenue, Daytona Beach, stated it's not just about these few signs they're talking about. He thinks most of the Commission is probably aware of the project. It's pretty hard to miss it. About 12 years ago he was here on behalf of Marina Grande, Brett Dill was here with him and there were a lot of doubts raised. It was a very active meeting, which lasted into the night and there were a lot of questions and concerns raised about whether this project would become what it actually is now. The good news for them is, he can stand here and have a 12 year track record with this facility, at least half of it is built or maybe a little bit more. That gives him a lot of help in trying to bring forward a request like they have tonight. He thinks all of the Commissioners understand what the country and the world went through when this bubble burst and certainly delayed the sales that they had hoped for with this project but it's still an unbelievable project. What it's done for Holly Hill within terms of tax base, opportunity for new residents, etc. It goes without saying. He thinks the Commissioners know where they are about the project. These signs that they are bringing forward, as Mr. Harowski has characterized in his written report to the Commission, he thinks to squarely lineup with the Comprehensive Plan policy that Mr. Harowski read to the Commission earlier, in terms of things like the appropriate scale for the signage, the way that it won't confuse people, the way that actually informs as its intended to, the tastefulness of it, but these are all things that they look at when they are talking about signage. He thinks the picture in front of the Commission speaks a thousand words. To answer Commissioner Currie's question, the sign will be gold. Colors is one of those things that, like what Mr. Harowski was saying, when you're talking about content they have to be careful with.

Commissioner Currie stated she understands that but it's very important to her at this point. The blue one looks tacky but the gold one looks classier. She doesn't want to offend anyone but these buildings are very classy looking so the sign should be classy.

Mr. Dill stated he wanted to tell everybody and he's told the residents as well, nobody cares more about the appearance to that place than he does. That's why with a lot of things that residents want as it relates to security and stuff, he can see but it always hurts him just a little bit if he thinks somehow it has changed the look. He doesn't like these signs. He wishes they weren't there. It will be the happiest day when MG pulls them down but the reality from others, they track every visitor that comes and how they came in, probably second only to advertising, which is extremely expensive that they are doing in the local publications and things, he thinks probably their second biggest source of traffic is that sign and when buildings have been there as long as those buildings are, so many times people tell him and when he talks to customers they will say they had no idea. They saw those buildings six years ago. They can't imagine that there still a developer in there that's selling units. That's why these things are fairly essential. The building is in a great location for visibility when people cross the Seabreeze Bridge and he considers it the gateway to Holly Hill. They will pull those signs down as soon as they can get rid of these units and hopefully, start on next door.

Mayor Penny asked how many purchasing opportunities does MG still have?

Mr. Dill stated, 180. It's somewhere between 180 and 190. Hopefully, they sold some units today but there's 486 units so they are 2/3 of the way now and excited about that.

Hopefully, their projection or their hope is that they could get this done in two years, it might be three but they hope they get it done sooner.

Commissioner Currie stated I, personally, like the idea of a two-year agreement with you coming back to us and showing us that these signs have been a critical part to your being able to sell units and us, at that time, seeing that data, give you another year if you've been able to show us that data and then extending it another year instead of just flat out giving you three years.

Mr. Dill stated that doesn't bother him in the slightest.

Commissioner Currie stated, okay.

Mr. Dill stated he thinks it's actually, he doesn't mind like coming here, it's kind of like a little bit like report card day, "How have you been doing"? He may not be able to show them straight "A's" but he guesses he was coming here with Attorney Merrell all these twelve years as well and he has always been treated fairly here and he doesn't mind seeing the Commission.

Commissioner Currie stated so two years...

Mr. Dill stated two years is fine.

Attorney Merrell stated he wanted to remind the Commissioners that there are two more of these buildings approved to be built so Mr. Dill's (inaudible) and his time frames may change in the future. Attorney Merrell stated he is very hopeful that future, actually. With that, he has several pages that he wanted to go through that Mr. Dill blazed right through....

Commissioner Byrnes stated he wanted to clarify something Commissioner Currie said. He wanted ask because she was talking about the two year part, are we talking about the two years for just the side sign or for the entire sign package because we are talking about more than just that sign tonight if I understand it correctly.

Mayor Penny stated they're talking about the entire signage.

Attorney Merrell stated they are okay with all of them for that two years. At this time Attorney Merrell went through the handouts and PowerPoint presentation pertaining to the signs and the banner on the side of the building that will be promotions for the selling of the units only and not for leasing with the Mayor and Commissioners.

Mayor Penny opened public participation.

The following individuals spoke to the Mayor and Commissioners about the signage request for Marina Grande: William Conley, 241 Riverside Drive and just purchased 231 Riverside Drive, Holly Hill; Jeff Hurd, 231 Riverside Drive, Holly Hill; Mr. Sandy Smith, 231 Riverside Drive, Holly Hill; Cheryl Covito, 241 Riverside Drive, Holly Hill.

Mayor Penny closed public participation.

Mayor Penny stated he thinks everyone in this room has the same goal. They want to see all those units sold as soon as possible. The overwhelming concern that he has heard is the concern over the flapping of the large wall sign. The flutter flags the Commissioners were talking about are at the end of the dock. They are not by the sales office. Attorney Simpson, what could we do, Commissioner Currie already brought up let us do this for two years and extend it for a third year if that works, what recourse would these residents have if the engineer blows it? If they approve this tonight, what recourse do these residents have because they are now going to come to the Commission. What recourse do these residents have? Is there a decibel level that everyone can agree on? He wants to protect the residents, somehow.

Attorney Simpson stated if that blows down or breaks off, the city's recourse is Code Enforcement. They would go out there and they would site it for being in a dilapidated shape as they have done in other things with sign situations. The contractual relationship is between Marina Grande and the engineer. Whether or not there can be some type of a third party beneficiary to that, he is not really sure but the engineer is Marina Grande's engineer and if Marina Grande has to go in and redo the sign because it broke then they would have an issue with their engineer for designing it.

Mayor Penny stated his concern is not so much if it's going to break, he thinks it's going to stay there. His concern is when you go to Marina Grande, you hear the sound of the flutter sale signs. He believes there is going to be so much tension on this thing that it's not going to flutter but if Marina Grande, if the HOA calls the developer and says, "you got it wrong Mr. Dill, it's flapping, what are you going to do?" Mr. Dill said tonight not to worry, they will take care of it but if the Commission approves this, Mr. Dill can say he's not going to fix it. How does the Commission make everybody happy?

Attorney Simpson stated noise is a tough thing to regulate in any situation but that particular situation would almost be impossible regulate. This is not something they can measure with decibels or that sort of thing.

Mr. Dill stated what he will tell the Commission, if Marina Grande starts getting complaints and he thinks the representative from Don Bell Signs will tell them they will be up there trying to figure the thing out.

Mayor Penny stated he heard an alternative. Someone proposed painting it on the building, which absolutely would make no flutter but does it make economic sense to get a sign painter to paint this thing and paint it white in two years from now.

Mr. Dill stated he is sure that there is some kind of thing they can paint or some giant sticker that they could put on there. It's probably a cheaper alternative, he has no idea.

Attorney Merrell stated the idea that he had was, kind of following what Attorney Simpson was saying, there is going to be a separate permit issued for this sign for the city's benefit and that engineer's seal will certify the 140 mile an hour wind resistance. Flapping will happen after 140 at some point. If the engineer is wrong about that, the city

absolutely can rely on it. The city is going to issue a building permit based on that engineer's certification.

Attorney Simpson stated the city can rely on it but the city won't go back and sue them and say, "you damaged this".

Attorney Merrell stated no, his point is, the city would be issuing a building permit based on the engineer's certification and his seal and that's what's coming forward today.

Commissioner Byrnes stated his thought was that, Commissioner Currie was fairly generous, he would have seen this that the city would give Marina Grande a six month permit, if the sign is all flappy and noisy after six months then the people could come in and say that sign is all flappy and noisy, they don't want the city to approve for the next year and then Marina Grande would have to take it down.

Attorney Simpson stated the other option is the city can always make this subject to review. The city can always have this amendment but it is subject to termination by the city if they find that there is excessive noise.

Attorney Merrell stated it won't flap against the building until it breaks and hits. Commissioner Currie stated but she thinks that's what the concern is because the last banner did.

Attorney Merrell stated, sure. Don Bell signs is giving the Commission the certification on the banner for 140 mile per hour wind resistance. He knows the engineer. He knows that not only is the engineer well-educated, he's well-qualified and has done work in very windy places because he did work in Maui for years. The city has somebody here who is going to certify this and that's what you rely on.

Commissioner Currie stated Attorney Merrell, quite frankly, he could be the best engineer in the State of Florida, however, he can't necessarily predict if it's going to flap and make noise against the building next to the bedrooms of some of these people that I've heard from. So, I have to have a little more guarantee for these people that that's not going to happen and if it has to do with something along the lines of Commissioner Byrnes train of thought then that's what it's got to be. There just has to be something there to give me a little more guarantee about that flapping.

Attorney Simpson asked you don't have a comfort level that if they put language in there that in the event there are complaints from the residents and the city's staff, Code Enforcement, goes out and validates and documents excessive noise, that will then have a public hearing on terminating the addendum?

Mayor Penny stated, yes.

Mr. Forte stated first of all, he doesn't think it's going to flap. They are talking about tension, twelve feet apart.

Mayor Penny stated it's going to be tight.

Mr. Forte stated he thinks that if there is a flapping issue, the first phone call goes to the building's facility people. He doesn't want to field calls at City Hall. If they call the facilities people and they can resolve the issue instead of trying to get the government involved, with what could be very easy solution.

Attorney Simpson stated he was talking about if the residents go to Mr. Dill and he doesn't do anything...

Mr. Forte stated so if after a certain number of official notices to the facilities people that it's not fixed then they come to the city and say, "we've notified them three times, it still flapping and their facilities person came up and identified it's flapping and they're not fixing it", then the city will issue a Code Enforcement notice. The process would be the residents have so many days, seven days, ten days to fix the problem and if not MG goes to the Special Master and the Special Master will issue a fine. That's what is going to happen.

Mayor Penny stated he wants to make sure that any complaints are verified by the Code Enforcement. He doesn't want seven people to get into a room and say, "let's get the developer", and they all call Mr. Dill.

Mr. Forte stated Code Enforcement will have to be up there to witness it and MG's facilities inspector should also be involved. That's the first step. That the facilities gets involved.

Attorney Simpson stated there is a Code Enforcement process that the City has now but Mr. Dill can make the decision he'd rather pay the fine, let it flap. It cost more to fix it than flap.

Commissioner Currie stated that's what she doesn't like.

Attorney Simpson stated that's a business decision. Attorney Simpson stated what he is suggesting is once they go through Code Enforcement and that doesn't work, this body has the ability...and it's not going to go straight to the city to terminate this agreement and make them take down the sign, if the residents can't work it out, Mr. Forte will call Mr. Dill and ask him to get down there and fix it or it's going to keep escalating. Eventually, though, if all else fails and they don't respond to Code Enforcement, they don't respond to the residents, then it's, let's have a hearing here at City Hall before the Commission and the Commission decides whether or not this is making excessive noise and if it is the Commission has the right to cancel this agreement and they have to take the sign down. That gives the Commission a review. But let's not have an automatic we're going to have them come back and look at it in six months. If it's fine, why would the Commission look at it?

Mayor Penny and Commissioner Via agreed.

Attorney Simpson stated let's just create a conflict resolution process because if they come back and have a meeting here, they may find someone to complain about

something about Marina Grande who is going to come here and complain about it.

Commissioner Currie stated she likes that much better than just depending on it going to the Special Master because fines could be paid all day long.

Attorney Simpson stated and it would add up.

Commissioner Currie stated she understands that but in some cases as the city has seen, they're not paid.

Attorney Simpson stated it's a tough thing for Code Enforcement because they don't have a measure, they don't have a decibel level. What's excessive? What's excessive to one person may not be to the next person. He thinks Code Enforcement is a good start but ultimately, he thinks if there is a problem with this particular sign or any of the other signs, the Commission just needs the ability to say they can terminate this addendum.

Mayor Penny stated it's either going to work or it's not. They will know really quick whether it's working or it's not working.

Attorney Simpson stated he can work on some language with Attorney Merrell on an addendum to say if there's...after exhausting communication and dialogue and Code Enforcement, if it's not resolved to the reasonable satisfaction of all the parties, the city has the option to have a public hearing to decide whether it needs to come down.

Commissioner Currie stated that's what she would feel comfortable with.

Attorney Merrell stated what he wanted to add to what Attorney Simpson is saying is they are talking about zoning law here when they are talking about this contract that they are talking about because a PUD agreement is a contract and all of the exhibits the Commission are seeing are exhibits to that contract and it's based on nuisance law and if the Commission finds that this is a nuisance, it's an illegal zoning. So, that's the city's handle.

Attorney Simpson stated, yes.

Attorney Merrell stated so if they have a nuisance here, a legal nuisance, it that thing is flapping and it's waking somebody up in one of the two bedrooms they were just talking about, it's a nuisance by definition, legally, under zoning laws. It is something that is easily back in the Commission's court and be able to say it's an illegal zoning, it's a nuisance.

Commissioner Currie stated she likes that the city gives Mr. Dill the chance to resolve the issue.

Attorney Simpson stated trust me, even if that...

Attorney Merrell stated they won't come back here. It won't ever come back here. The sign will come down before they come back here. That's what will happen.

Attorney Simpson stated it would only come back to the Commission as a last ditch effort.

Commissioner Byrnes stated but the Commission will still have the applicant agree to the process of the Commission being able to...

Attorney Simpson stated, absolutely.

Commissioner Currie stated that's what she feels comfortable with.

Attorney Simpson stated it will be in the amendment.

Commissioner Byrnes stated because as much as the Commissioners know there are legal ways to do everything, there are many fabulous attorneys who can keep the city in court for a long time and things don't get fixed.

Attorney Simpson stated he wants it in writing because a week from now Mr. Dill may sell it to somebody and then you have a totally different developer.

Attorney Merrell stated and they will stipulate the fact that the Commission will be the judge and jury as opposed to a Code Enforcement officer or a Magistrate because this is something that the city has already invested in by saying...

Attorney Simpson stated they will come up with something.

Attorney Merrell stated, yes. They will be able to do that. He is giving that to the Commission for the record tonight.

Mayor Penny allowed one more person to speak to this item.

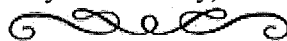
John Covito, 241 Riverside Drive, Holly Hill, President of the Homeowners Association spoke to the Mayor and City Commissioners.

*Commissioner Via made a motion to **APPROVE** with the added language that Attorney Simpson spoke about earlier and to include reference to selling units only and no leasing, seconded by Commissioner Currie.*

PASSED, 5-0, unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	Penny Currie, District 2 - Commissioner
AYES:	Byrnes, Currie, Danio, Via, Penny

Enacted and approved this 14th day of February, 2017, in Holly Hill



Enacted and approved this 28th day of March, 2017, in Holly Hill



10. PUBLIC HEARINGS

1. Ordinance

Ordinance 2992 An Ordinance of the City of Holly Hill, Florida, Approving the Sixth Amendment to Marina Grande Residential Based Mixed Use Planned Unit Development (MPUD) Agreement; Providing for Conflicting Ordinances; Providing for Severability; and Providing for an Effective Date.

(Requested by Thomas Harowski, Board of Planning and Appeals)

Mr. Harowski stated this is the program the Commission considered, he thinks, it was three meetings ago and then they had to come back and do it in an Ordinance form. He was advised that one of the graphics might still show the signs on the seawall, they are NOT part of the program. Those were excluded and if they got it on the graphic, they will fix that and take that out.

Mayor Penny opened public participation.

The following individual spoke to the Mayor and Commissioners: John Caveto, resident at MG on the Halifax, Holly Hill.

Mayor Penny closed public participation.

Commissioner Byrnes stated he thinks it's important, this Commission did talk about possibly relating it to sales and found that the logistics was just a little bit hard to work with, at least from his gathering of the discussion because of the variabilities involved. So, that's why the city went with a time certain that it's going to come down and if there are any mechanical problems with it then it would be brought down by order of Code Enforcement.

Mayor Penny stated any problems will be addressed by the property manager.

Commissioner Byrnes stated, yes and the city.

RESULT:	ADOPTED AT 2ND READING [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill



Prepared by:
Cobb Cole
Robert A. Merrell III, Esquire
149 S. Ridgewood Avenue, Suite 700
Daytona Beach, FL 32114

**SEVENTH AMENDMENT TO
MARINA GRANDE RESIDENTIAL BASED MIXED USE
PLANNED UNIT DEVELOPMENT (MPUD)
DEVELOPMENT AGREEMENT**

THIS SEVENTH AMENDMENT TO MARINA GRANDE RESIDENTIAL BASED MIXED USE PLANNED UNIT DEVELOPMENT (MPUD) DEVELOPMENT AGREEMENT (the "Seventh Amendment") is made this _____ day of _____, 2020, by and between **DAYTONA GRANDE, LLC, HHA BORROWER, LLC**, a Delaware limited liability company, and **HH BLUE TIDES, LLC**, a Delaware limited liability company (the "Owners") and the **CITY OF HOLLY HILL**, a Florida municipal corporation (the "City").

WHEREAS, Riverside Holly Hill, LLC, a Florida limited liability company, and Holly Hill I Associates, Ltd., a Florida limited partnership (collectively, the "Developer") and City entered into that certain Development Agreement dated January 25, 2005, for the development of certain real property as described in said Agreement, as modified by that certain First Amendment to Agreement dated October 31, 2005 (the "First Amendment"); as further modified by that certain Second Amendment to Agreement dated November 15, 2005 (the "Second Amendment"); as further modified by that certain Third Amendment to Agreement dated November 14, 2006 (the "Third Amendment"); as further modified by that certain Fourth Amendment to Agreement dated February 13, 2007 (the "Fourth Amendment"); and as further modified by that Fifth Amendment to Agreement dated March 27, 2011 (the "Fifth Amendment"); as further modified by that certain Sixth Amendment to Agreement dated March 28, 2017 (the "Sixth Amendment") (collectively the "Agreement") ;

WHEREAS, Owners acquired ownership of the Property as a bulk assignee; and

WHEREAS, Owners and City wish to further modify certain provisions of the Agreement as detailed below.

NOW, THEREFORE, in consideration of the mutual covenants and promises made herein, the parties hereto covenant and agree to bind themselves as follows:

1. The above recitations are true and correct and incorporated herein by reference.
2. Owners and City mutually agree to extend the time for the duration of the approved temporary sign package (Exhibit E of the Sixth Amendment) for an additional three (3) years from the date of the approval of this Agreement or until such time that

Owners no longer own or control greater than three percent (3%) of the total residential units, whichever occurs sooner.

3. The parties hereto agree that this Seventh Amendment constitutes a major amendment to the Agreement.
4. In the event there are unresolved complaints from the condominium unit owner(s) about the unreasonable noise cause by wind blowing on or through the banner on the South Tower, the City Commission has the right to conduct a public hearing, with reasonable notice to the complainants and the Developer, to review the continued use of a banner for advertising purposes. The City Commission specifically reserves the right to amend or repeal this Amendment at the noticed public hearing.
5. Except as specifically modified herein, the Agreement shall remain in full force and effect as first made.
6. Signatures on copies of this Seventh Amendment which are transmitted by facsimile or by electronic mail are counterparts and shall be deemed originals for all purposes.

NOW THEREFORE, the undersigned parties hereby agree to the above terms and conditions of the Seventh Amendment.

(Remainder of Page Intentionally Left Blank)

CITY OF HOLLY HILL,
a Florida municipal corporation

By: _____
Joseph A. Forte, City Manager

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by JOSEPH A. FORTE, City Manager, City of Holly Hill, who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC

Sign: _____

Print: _____
State of Florida at Large
(Seal)

My Commission Expires: _____

Title/Rank: _____

Commission Number: _____

Attachment: PROPOSED - 7th Amendment to PD Proposed Amendment (2020 : Marina Grande MPUD 7Th Amendment)

WITNESSES:

DAYTONA GRANDE, LLC

A Florida limited liability company

(Name Printed or Typed)

(Name Printed or Typed)

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by _____, as _____ of **DAYTONA GRANDE, LLC**, a Florida limited liability company, who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC

Sign: _____

Print: _____

State of Florida at Large
(Seal)

My Commission Expires: _____

Title/Rank: _____

Commission Number: _____

Attachment: PROPOSED - 7th Amendment to PD Proposed Amendment (2020 : Marina Grande MPUD 7Th Amendment)

WITNESSES:

(Name Printed or Typed)

(Name Printed or Typed)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, as _____ of **HHA BORROWER, LLC**, a Delaware limited liability company, who is personally known to me or has produced _____ as identification.

HHA BORROWER, LLC

A Delaware limited liability company

By: _____

Name: _____

Title: _____

NOTARY PUBLIC

Sign: _____

Print: _____

State of Florida at Large
(Seal)

My Commission Expires: _____

Title/Rank: _____

Commission Number: _____

Attachment: PROPOSED - 7th Amendment to PD Proposed Amendment (2020 : Marina Grande MPUD 7Th Amendment)

WITNESSES:

 (Name Printed or Typed)

 (Name Printed or Typed)

STATE OF _____
 COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, as _____ of **HH BLUE TIDES, LLC**, a Delaware limited liability company, who is personally known to me or has produced _____ as identification.

HH BLUE TIDES, LLC
 A Delaware limited liability company

By: _____
 Name: _____
 Title: _____

NOTARY PUBLIC

Sign: _____

Print: _____
 State of Florida at Large
 (Seal)

My Commission Expires: _____

Title/Rank: _____

Commission Number: _____

Attachment: PROPOSED - 7th Amendment to PD Proposed Amendment (2020 : Marina Grande MPUD 7Th Amendment)