THE CITY OF NEW SMYRNA BEACH - PLANNING & ZONING

ORDINANCE NO. 06-22: CONDUCT THE FIRST READING OF AN ORDINANCE, WHICH IF ADOPTED UPON THE SECOND READING AND PUBLIC HEARING, WOULD ADOPT THE 2ND AMENDMENT TO THE EXISTING HOG EYE CAMP PUD MASTER DEVELOPMENT AGREEMENT.

January 25, 2022

Background:

Applicant: Justin R. Sand, Epoch Residential, 359 Carolina Ave., Winter Park, FL 32789

Property Owner: Hog Eye Camp Road, LLC, 39 Oakleigh Dr., Maitland, FL 32751

Request: 2nd Amendment to the existing Hog Eye Camp Road Square Planned Unit Development (PUD) Master Development Agreement (MDA) & Conceptual Development Plan (CDP), for the purpose of revising the currently permitted use in the sole remaining undeveloped portion & last PUD phase:

- **From:** its currently approved mixed use complex with 150 Multi-Family apartment units and 16,420 SF of Office/Retail space
- **To:** instead allow for a Townhouse development with no mixed use/Office-Retail space, and a maximum of Multi-Family 83 townhouse units.

A concurrent application (CPA-2-21) has also been submitted for this same 6.9 acre remaining undeveloped portion of the PUD to amend its current City Comprehensive Plan Future Land Use (FLU) Map designation, from the existing Commercial FLU to a proposed City FLU designation of High Density Residential (HDR).

Site Information:

- **Size:** Approximately 7 ± acres

- **Location:** East side of Saxon Drive (Volusia County Road # 4133), between SRA1A/3rd Avenue and 7th Avenue, immediately south of the Publix supermarket. (See Exhibits A & B for location & aerial maps).

- **Current Zoning:** PUD, per the Hog Eye Camp Road Square PUD original MDA (recorded 2011), & 1st Amendment (recorded 2014)

Tax I.D. Number: 7416-00-00-0310.

Findings:
Exhibits used in this report:

Exhibit A: Location Map

Exhibit B: Aerial Map

Exhibit C: Zoning Map

Exhibit D: Original PUD MDA (recorded 2011)

Exhibit E: Original PUD CDP ("Ex. B" of above 2011 recorded MDA, clean copy due to recorded version being illegible)

Exhibit F: 1st Amendment to PUD MDA (recorded 2014)

Exhibit G: Proposed 2nd Amendment to PUD MDA (as of 1/10/22, revised following 12/7/21 P & Z Board meeting)

Exhibit H: Proposed CDP for Subject 7 acre PUD area (as of 1/6/22, revised following 12/7/21 P & Z Board meeting)

Background

The subject property is now an undeveloped 6.9 acre area within a 17.6 acre existing Planned Unit Development (PUD) known as Hog Eye Camp Road Square. That entire PUD area is now designated as Commercial on the City Future Land Use (FLU) Map, and the existing PUD zoning and its Master Development Agreement (MDA) was approved under that prior and still current Commercial FLU designation. As noted above, a concurrent application (CPA-2-21) has also been submitted for this same remaining undeveloped

portion of the PUD to amend that current City FLU Map designation to a City FLU designation of High Density Residential (HDR). Both the existing Commercial FLU and the request for the proposed HDR FLU would allow for the same maximum density of 12 units/acre.

A map showing the surrounding zoning designations is attached as Exhibit C. All other areas within the Hog Eye Camp Road Square PUD boundaries (to the south & west) are currently developed as Single Family lots/residences, within the 30 subdivided lots previously platted as Callalisa Creek Vistas and in accordance with the PUD MDA and CDP approved in 2011. The undeveloped 6.9 acre subject property was then shown on the original PUD CDP (Report Exhibit E) for future use as a mixed use complex with 150 Multi-Family apartment units and 16,420 SF of Office/Retail space.

The other surrounding areas and their zonings outside of the PUD area include adjacent properties to the north & east, which are used for these differing purposes:

North: Publix supermarket/Indian River Shopping Center (extending further north to SR A1A/3rd Avenue), & zoned B-5 Planned Shopping Center, with this adjacent area being the rear/loading area for Publix operations.

East: Single Family (SF) residences (rear yards adjacent & fronting Southard Avenue), & zoned R-2 Single Family Residential; a Utility Alley (of undefined width, but appearing to be approx. 10' wide) is also shown along this same east property line (PL) on the Boundary Survey within the Report Exhibit G proposed MDA, which separates the seven SF lots from the east PL.

Original Request & Differences from current PUD MDA & CDP

The primary MDA revisions & issues included with this proposed MDA Amendment, when it was presented to the Planning & Zoning Board in December 2021, included the following:

1. The above noted change in Permitted Uses, to totally eliminate the currently permitted Retail/Office Uses and add the proposed Townhouse Use in place of the currently permitted Multi-Family (MF) Residential apartments.

2. Along with that Use revision, the maximum number of those residential units would be significantly decreased, from the current 150 MF apartment units to instead be a maximum of 83 Townhouse units. While the proposed new CDP-2 (Report Exhibit H) indicates a maximum of 77 Townhouse units, the 83 residential units stated in the MDA Amendment text would be the maximum possible per the proposed FLU revision. **Following the Planning & Zoning Board meeting, the applicants have since revised the current MDA to now specifically state a maximum of 77 Townhouse units, as shown on the current CDP Exhibit. Additionally, they have agreed to place a deed restriction on the property to restrict the future development of the property. Draft language is included, but may be revised between First and Second Reading.**

3. The Maximum Building Height is also proposed to be reduced, from the currently permitted 60' to the roof deck to a new maximum of 45' to the roof deck. Both the currently permitted 60' and the proposed reduction to 45' would allow for an additional 12' of decorative roof structure for the purpose of screening rooftop mechanical equipment and/or adding architectural details to the building. While the currently permitted mixed use Multi-Family apartments and Retail/Office are shown on that Report Exhibit E original CDP as being within one building footprint, the proposed Townhouse buildings shown on the new CDP-2 (Report Exhibit H) are within 15 different and separate townhouse buildings that are primarily 3-story (13 total) with the other 2 buildings limited to a 2-story height, and these 15 total buildings containing a mix of 4, 5, or 6 Townhouse units per building.

4. A currently existing Minimum Perimeter Setback is proposed to be reduced for the Townhouse structures, from its current 50' setback for the front/Saxon/west property boundary, initially proposed to instead be a minimum of 40', and now proposed to be a minimum 42' (or 28' if frontage area is required to be added to the Saxon Drive as public right-of-way area). The applicant's rationale for this Front yard setback reduction is that the current 50' setback was related to the commercial uses they are now proposing to eliminate, and that the proposed lesser setback can be justified due to that, the proposed reduction in maximum building height, and the reduction in residential density. The Report Exhibit H/CDP-2 now indicates the minimum proposed building setback from that same front/Saxon/west property boundary is 42.7', which would obviously be less than the current 50' setback. **Following the Planning & Zoning Board meeting, the applicants revised the current MDA to now require a minimum 42' Front/west/Saxon Drive setback from the current property line now shown on their survey, and to also be a minimum of 28' from any new right of way line "if additional right of way is determined to be required for auxiliary lanes", with that determination to be made by Volusia County during any future site plan permitting to follow. Staff believes the currently required minimum 50' building setback from the front/Saxon/west property**

boundary should be retained rather than revised as proposed.

b. The currently existing Minimum Perimeter Landscape Buffers are not defined within the current MDA text, but rather are indicated on the Report Exhibit E original CDP, to be a minimum of 20' wide along all property lines except the south PL, where a 25' wide Buffer area was shown adjacent to the existing five Callalisa Vistas platted single family lots/residences also within the same Hog Eye Camp Road Square PUD area. This 2nd Amendment now proposes a greater buffer width of 40' along the front/Saxon/west property line, instead of the 20' buffer width that was shown on the original CDP. However, a 20' wide Perimeter Buffer width is also now proposed along the south property line in place of the 25' buffer width now shown on the current CDP (Report Exhibit E). Staff believes the owners of those lots adjacent to that south property line (and residents of this same PUD area) were promised that existing 25' adjacent buffer width shown on the current CDP. Given that, **staff believes the currently required minimum 25' buffer width along the south property boundary should be retained rather than revised as proposed. The current MDA & CDP provides for a minimum 25' buffer width, but with an exception for a 60' wide area in the southeast corner of the site to have a reduced setback of 15' rather than 25'.**

6. The Minimum Building Separation distance is proposed to be reduced to a minimum 20', regardless of proposed building height. Currently the MDA text requires all buildings over 20' in height to add an additional 1.5' to that minimum 20' separation distance for each additional 5' of building height. While all of the proposed Townhouse buildings appear to be 2 & 3 story, no proposed building plans are included in this application to be able to determine exact proposed heights, beyond the above noted proposed reduction in maximum Height to 45'.

7. The Minimum Floor Areas for each proposed multi-family unit is proposed to be increased significantly, from the current minimum of 450 SF of livable area for one bedroom units and 550 SF of livable area for two bedroom units to instead be 1000 SF of livable area for all proposed Townhouse units.

8. The required % of various Coverages & Open Space are proposed to be reduced from the currently required amounts. The Maximum Building Coverage of 65% is proposed to be reduced to a new Maximum of 30%. The Maximum Impervious Coverage of 70% is proposed to be reduced to a new Maximum of 65%. The Minimum Open Space

Percentage of 35% is proposed to remain the same.

9.The proposed MDA now notes parking for the Townhouse complex would include 15 Visitor parking spaces be provided in addition to those spaces required for the residents per the LDR, whereas the currently permitted 150 apartment complex to be eliminated had no MDA commitment to providing any additional parking for Visitors.

Site Access

Regarding Site Access, the proposed CDP indicates only one driveway access connection to Saxon Drive (along its west property line), as opposed to the two driveway connections to Saxon now shown on the original MDA CDP (Report Exhibit E). That is one design aspect the applicant has been advised to change on the proposed CDP at the direction of Volusia County, the entity that maintains and permits all activities within the Saxon Drive roadway and right-of-way. There are other aspects of that future permitting and connection to Saxon Drive that may be included by Volusia County during site planning and construction as part of its Use Permit process, such as possible roadway improvements of turn lanes, dedication of additional right-of-way, etc. Those discussions between the applicant, County, & City have begun to a limited degree, but will not be fully determined until the City & County Site Plan process that would be required to follow this PUD MDA Amendment request, if approved.

Traffic Impacts

A Traffic Impact Analysis (TIA) will also need to be part of that ongoing Volusia County Use Permit process, and that effort has begun to a limited degree per the current County requirements. This TIA is not needed at this PUD MDA Amendment stage as the currently proposed Amendment would significantly reduce the traffic impacts from what is currently approved, with the proposed reduction of residential units from its current maximum 150 units to a proposed maximum of 83 units, along with the elimination of all currently permitted Retail/Office uses. In addition, the Volusia County School Board (VCSB) has reviewed an application for the proposed Townhouse 77 unit number and determined there to be Adequate Capacity available for those units as of July 12, 2021.

Environmental Information

Topographic information provided for the 6.9 acre subject site indicates significant variation for this location and site size, from its lowest elevations of between 3-4', to the highest elevations in various locations of 14'-15', and an elevation peak of 19.2'. The site appears to be a series of remnant dunes and troughs, with the sandy soils underlying being very useful for site drainage. The townhouse site plan as now proposed could work with that existing topography to some limited degree but would appear to need to largely flatten these site elevation changes to a more consistent middle elevation.

The available tree information that has been provided indicates there are a number of existing trees within this 6.9 acre site. Those include 3 Historic Trees that are proposed to be preserved in place, and a total of 117 Specimen Trees existing within this site, as noted on the Site Plan Exhibit. Other information provided indicates the total number of trees now within the site is over 1,100. Per the existing & proposed MDA text and the Report Exhibit H Site Plan notes, any future Site Plan that would result from this request upon its approval would comply with all City tree requirements within the City LDR.

Comprehensive Plan

Staff finds the request compliant with the City Comprehensive Plan (upon approval of the concurrent CPA-2-21 request) and the City LDR.

Staff Recommendation to P & Z Board

The staff recommendation at the 12/7/21 P & Z meeting was for approval of the requested PUD MDA 2nd Amendment, subject to above noted suggested conditions/revisions (also listed below), and any others the Board then might feel appropriate to add.

1. The currently required minimum 50' building setback from the front/Saxon/west property boundary should be retained rather than revised as proposed.
2. The currently required minimum 25' landscape buffer width along the south property boundary should be retained rather than revised as proposed.

Planning & Zoning Board Review & Results

At its regular scheduled meeting on December 6, 2021, the Planning and Zoning Board

voted, 6-0, to recommend the City Commission approve the requested 2nd amendment to the Hog Eye Camp PUD Master Development Agreement, with the following Stipulations (as added by the Board), Conditions (as suggested by Staff), and Considerations (for the future Site Plan application process to follow). The current status of staff recommendations following that vote, and any revisions, etc. made by the applicant are noted following each listed item (***in bold italics***):

Stipulations (as added by the Board):

1. No Short Term Rentals permitted within the complex. ***This has now been addressed by a Footnote added to MDA Page 5.***
2. No access permitted to the neighboring E 7th Avenue to the south and/or associated construction on the adjacent Lot 30. ***The construction access issue has now been specifically addressed by a text note added to MDA Page 11, Section # 10, with all other MDA references and the CDP indicating site access would be from Saxon Drive only.***
3. The minimum 20 foot building separation will also apply to the Clubhouse building. ***This has now been specifically addressed by both text added to MDA Pages 5 & 6, and by revision to the CDP.***
4. The MDA should state the maximum number of townhomes units will not exceed the 77 units now shown on the CDP plan exhibit. ***This has now been specifically addressed by text added to MDA Page 5.***

Conditions of approval

(as proposed by Staff, some of which the applicants are contesting, and are appealing to the Commission to be retained as they have proposed):

1. The currently required minimum 50’ building setback from the front/Saxon/west property boundary should be retained rather than revised as proposed. ***The applicants are requesting (as now noted on MDA Page 6) to provide a front setback of 42' instead, and as now shown on the CDP, with the provision that any future right-of-way area dedication needed for Saxon Drive improvements could be 14’ of that 42’, for a possible new allowable total front setback and landscape buffer area of 28'.***
2. The currently required minimum 25’ (+ more based on building height) building setback from the Rear/east property boundary should be retained rather than revised as proposed. ***This has now been provided by the applicants and is now in***

place in all current MDA documents.

3. The currently required minimum 25' landscape buffer width along the South property boundary should be retained rather than revised as proposed. ***The current MDA & CDP provides for a minimum 25' buffer width for most of the South property boundary, as was shown in the previous/original PUD MDA those adjacent single family lot owners also are part of, but now with an exception for a 60' wide area in the southeastern-most corner of the site to instead have a reduced building setback and landscape buffer of 15' rather than 25'. Staff believes the currently required minimum 25' buffer width along the south property boundary should be retained rather than revised as proposed.***
4. The currently required Minimum 35% Open Space for the entire 6.9 acre subject site should be retained rather than revised as originally proposed. ***This 35% Minimum Open Space has now been provided by the applicants and is now in place in all current MDA documents.***

<u>Site Plan Considerations requested by Planning & Zoning Board</u>:

1. Green building requirements. ***This is currently addressed within the existing MDA text, on Pg. 10. # 7, concerning NGBS standards.***
2. Sidewalk and bike path requirement. ***This is currently addressed within the existing MDA text, on Pg. 8. # 5, concerning future construction, if needed, following Saxon Drive right-of-way permitting with Volusia County.***
3. TIA Study. ***While preliminary documents have been prepared and submitted. no such study is needed at this time, as the proposed MDA Amendment would reduce traffic impacts considerably, by half or more, from what is currently approved, by the proposed reduction of residential units from the approved 150 units to now be 77 units, and the complete elimination of any currently approved retail/commercial building square footage.***
4. Environmental Study. ***This will be addressed as part of the typical process of any future site plan permitting with the City, for tree preservation, endangered species such as gopher tortoises, etc.***
5. Relocation of 2 story building from north side of property to east side of property. ***The applicants have indicated they will consider this in their final design to be submitted for future site plan review and approval (which as a Class III Site Plan would require final approval by the Planning & Zoning Board), but did relay that any three story buildings proposed along that east PL would be comparable to the maximum 3 story single family buildings now permitted by the adjacent R-2 zoning of those adjacent neighboring properties.***
6. Working in good faith to resolve the issues of high density in the event that the PUD expires without the project being completed. ***This has been addressed via a deed***

restriction and will be included on page 5 of the Second Amendment.

Revisions to application since P & Z Board meeting

As noted above, the applicants have already responded to the Board's vote by revising certain items to include many of those Board recommendations, and are requesting the Commission review and approve other specific items above they wish to present as alternatives, to meet their preferred site design format. Those items remaining for Commission discussion and/or decision are listed below, as to how they were revised to comply or to be discussed and alternative versions approved.

1. Staff believes the currently required minimum 50' building setback from the front/Saxon/west property boundary should be retained rather than revised as proposed. ***The applicants are instead requesting to provide a front setback of 42', with the additional provision that any future right-of-way area dedication needed for Saxon Drive improvements could be 14' of that 42', for a new allowable total front setback and landscape buffer area of 28'.***
2. Staff believes the minimum 25' landscape buffer width along the South property boundary currently required within the existing PUD MDA should be retained rather than revised as proposed. ***The applicants are proposing a minimum 25' building setback and landscape buffer width along most of the South property boundary, but with an exception for a 60' wide area in the southeastern-most corner of the site to instead have a reduced building setback and landscape buffer of 15' rather than 25'.***
3. ***The applicants have also recently inquired about the feasibility of possibly extending the current PUD MDA Expiration Date, from its current Expiration in 2026. While any proposed extension of that date is not included within this currently proposed MDA 2nd Amendment document, this aspect could be part of these discussions with the Commission concerning this application and its possible approval.***

Recommendation

Staff recommends the City Commission **approve** the 2nd Amendment to the Hog Eye Camp Road Square PUD as proposed, with the **two listed areas of difference** described above, and listed again below:

1. A minimum building setback of 50’ be required along the Saxon Drive front/west property line, from whatever the current and/or future right-of-way line may be finally determined to be during the required Site Plan application and review process to follow. *This condition differs from the applicant’s current request to instead provide a minimum front setback of 42', with the additional provision that any future right-of-way area dedication needed for Saxon Drive improvements may require 14’ of that 42’, with the result providing for a new requested maximum combined total front setback & landscape buffer area width of 28'.*

2. Staff believes the minimum 25’ landscape buffer width along the South property boundary currently required within the existing PUD MDA should be retained rather than revised as proposed. *The applicants are instead proposing a minimum 25’ building setback and landscape buffer width for most of the South property boundary, but with an exception for a 60’ wide area in the southeastern-most corner of the site to instead have a reduced building setback and landscape buffer of 15’ rather than 25’.*

Fiscal Analysis:
N/A

Strategic Plan Item:
No

Staff Report Created By: Robert Mathen - Planner II

Attachments:

Exhibit A - Location Map.pdf
Exhibit B - Aerial Map.pdf
Exhibit C - Zoning Map.pdf
Exhibit D original MDA 2011 recording.pdf
Exhibit E original CDP clean copy 2011 recording.pdf
Exhibit F 1st Amendment to MDA- 2014 Recording.pdf
Exhibit G - 2nd Amendment to MDA - 01-10-2022 Hog Eye Camp EPOCH_UPD 2022-01-10Rev2.pdf
Exhibit H - CDP 2nd Amendment proposed Development Plan 01-06-2022.pdf
Ord 06-22 MDA 2nd Amendment Hog Eye Camp.pdf