THE CITY OF NEW SMYRNA BEACH - DEVELOPMENTAL SERVICES

ORDINANCE NO. 37-26: CONDUCT A FIRST READING OF AN ORDINANCE, WHICH, IF ADOPTED, UPON SECOND READING AND PUBLIC HEARING, WOULD REZONE AND AMEND AN EXISTING PUD, AS REZONING CASE PUD-0005-2025, OCEAN GATE COMMERCE CENTER, AT THE SOUTHWEST QUADRANT OF SR 44 AND INTERSTATE 95 INTERCHANGE, TO ADOPT AN AMENDED AND RESTATED PUD MDA FOR EXISTING CITY ZONING OF PUD PLANNED UNIT DEVELOPMENT.

August 25, 2026

Background:

Applicant/Property Owner: Legacy Acquisitions Group LLC, 103 Commerce St., Suite 160, Lake Mary, FL 32746

Request: Amendment to an existing City Planned Unit Development (PUD) Master Development Agreement (MDA), to allow for proposed revisions as new and stand-alone Amended and Restated MDA and Conceptual Development Plan (CDP) documents, and other accompanying exhibits.

Site Information: The subject property is 181.14 acres that are primarily undeveloped and have historically been used for agriculture and/or silviculture, located on the West side of Interstate 95 and immediately South of State Road 44, as shown on the **Exhibits 1** and **2** Location and Aerial Maps. The site is now a proposed Parent parcel that extends south from SR 44 for about a half-mile (2286' per plan), all on the Western side of and abutting Interstate 95 to the East. The PUD Parent parcel area would be subdivided following this rezoning process, and that subdivision process has already occurred to a minor degree, with the Phase 1 development of the RaceTrac Convenience Store in 2017-2018. That Phase 1 development also included the existing portion of Ocean Gate Boulevard that connects to SR 44 at the existing signalized intersection, opposite the roadway to the north that connects to the Wal-Mart PUD property. Another existing element of this site which affects its future development is the existence of a 170' wide FPL power line easement that runs diagonally through the center of the site from South to North, which is shown on numerous Exhibit sheets, and which significantly restricts development to minor structures and no buildings being permitted within that FPL easement area.

Tax I.D. Numbers:

Currently Developed (two Parcels): 7321-02-00-0010 (existing RaceTrac Parcel) and 7321-02-00-0020 (existing Ocean Gate Blvd. r/w)

Currently Undeveloped (three Parcels): 7321-00-00-0020, 7322-00-00-0050, and 7322-00-00-0054)

Exhibits Provided:

Exhibit 1 - Location Map
Exhibit 2 - Aerial Map
Exhibit 3 - Existing Zoning Map
Exhibit 4 - Existing Future Land Use (FLU) Map
Exhibit 5 - City Activity Center (AC) FLU text
Exhibit 6 - Letter Request from Applicant
Exhibit 7 -Proposed PUD MDA, with all proposed attachments (46 total sheets, Including all internal Exhibits A - H of the complete MDA document)
Exhibit 8 - Proposed Conceptual Development Plan (CDP) package, 9 larger scale sheets total, and containing the following plan sheets (each labeled as they are labeled within the MDA):

- Exhibit B (of the MDA) - Conceptual Development Plan,
- Exhibit C (of the MDA) - Proposed Uses Plan,
- Exhibit D1 (of the MDA) - Landscape Buffer Plan,
- Exhibit D2 (of the MDA) - Landscape Buffer Planting Details,
- Exhibit D3 (of the MDA) - Landscape Buffers & Utility Easements,
- Exhibit E (of the MDA) - Signage Plan and Details
- Exhibit F (of the MDA) - Architectural Character Images,
- Exhibit G (of the MDA) - Access Plan, and
- Exhibit H (of the MDA) - Roadway Typical Sections.

Exhibit 9 (of the Staff Report only, and not an Exhibit proposed within this MDA) - Original/2013 MDA/CDP (37 pages)
Exhibit 10 (of the Staff Report only, and not an Exhibit proposed within this MDA) - 2nd Amendment to MDA/CDP -2021 (9 pages)
Exhibit 11 (of the Staff Report only, and not an Exhibit within the MDA) - Summary of Changes Matrix (6 pages)

Findings:

A. This rezoning application seeks to modify an existing Planned Unit Development (PUD) Master Development Agreement (MDA) and Conceptual Development Plan (CDP) for this 181 acre site, to allow for a number of revisions to the previously approved versions of the current PUD MDA and CDP. That new MDA and CDP version, with all internal exhibits included, is attached as **Exhibit 7**, with the 9 sheet CDP package also attached at an easier to read larger scale, as a separate **Exhibit 8** of this Report. One of the most

significant of those revisions appears to be the allowance for a limited number of Multi-Family Residential Units (496 proposed units), whereas previous PUD versions were strictly for Commercial or Industrial Uses of this site. Another significant element in this requested modification is the removal and relocation from this site of what had been previously planned to be the extension of Williamson Boulevard from SR 44 south to SR 442 in Edgewater. That future Williamson Blvd. 120' wide roadway is instead now confirmed to be at a location to the west and outside of this site, and within the adjacent 1,618 acre Deering Park PUD area immediately to the west. That confirmed Williamson Blvd. location through the Deering Park PUD is now shown on both of the attached **Exhibit 3** Existing Zoning and **Exhibit 4** Future Land Use Maps.

B. The 181 acre site is surrounded by existing large scale parcels and/or Commercial development, along with the two Arterial Roadways of SR 44 at its North Property Line and Interstate 95 along its East Property Line. While not yet developed in any manner, the newly created 1,618 acre Deering Park Mixed Use PUD is immediately adjacent to the West and Southwest. More directly South of the Site is a separate 120 acre wooded parcel that now has both the City Zoning and Future Land Use (FLU) designation of Forestry Resource (FR). North of the site and directly opposite is the 47 acre Regency - Wal-Mart PUD containing virtually all of the existing development in this area of the City and I-95 Interchange, approved for both its existing Retail Uses and also for possible Multi-Family Residential (which was previously proposed but never finalized). The last surrounding Parcel is owned by the NSBU and is immediately West of The Regency PUD area, and Northwest of the subject property. That NSBU parcel comprises 954 acres and is currently designated for both Agricultural and Forestry Resource purposes, although the NSBU has been actively planning to relocate a number of its existing and proposed facilities to within this site, along with possibly selling portions for other Uses it would not develop or operate, including potential Commercial and/or Residential Uses.

Site History

C. This application is considered the 3rd Amendment to the original MDA and CDP, which was first approved and recorded in 2013 for a term of 10 years if no development occurred within the 181 site. That PUD development requirement was met by the 2017 construction of the RaceTrac Convenience store property and the Ocean Gate Boulevard roadway, connecting to SR 44 at the existing signalized intersection opposite the western access roadway to the Wal-Mart Shopping Center. That RaceTrac development was also the subject of the 2017 1st Amendment to the 2013/original PUD MDA and CDP, which dealt solely with the RaceTrac site. While that 1st Amendment document is not attached to this report since it dealt solely with the developed RaceTrac site, the original/2013 version is, and is attached as **Exhibit 9** for reference.

D. The 2nd Amendment to the original/2013 MDA and CDP was requested and approved in 2021 to allow for various minor changes in roadways, proposed internal lot sizes and configurations, setbacks, and Proposed Uses. That 2nd Amendment CDP remains the currently approved version, which this 3rd Amendment seeks to again revise, and is attached for background information purposes as **Exhibit 10**. Both of these previous CDP versions show the full extension of what had been anticipated as the future Williamson Boulevard 120' wide road right-of-way through the site to the south Property Line, with that proposed alignment now revised in this application to remove it from within this site.

E. The Applicant has also compiled and submitted a supplementary **Exhibit 11** that will not be part of the proposed MDA documents to be approved and recorded, but instead serves to document the various MDA and CDP revisions, from the 2013/original version, the following 1st and 2nd Amendments, to this proposed 3rd Amendment. Due to the complex and partial nature of the original/2013 MDA, the two subsequent Amendments modifications, and the additional revisions now proposed by this 3rd Amendment application, the Applicant has chosen to place this proposed MDA in a complete document format, combining the original MDA and all three of these Amendments into an Amended and Restated MDA. The **Exhibit 11** matrix document shows all of the elements of the four MDA versions, and specifies what was added, deleted, and/or revised through time in these various MDA versions, including a number of Uses approved in the original PUD MDA text that this new Applicant group has now deemed unneeded and/or not compatible, such as automobile sales, nightclubs, etc.

Proposal

F. This Amended and Restated MDA now proposes a Mixed Use PUD with Residential Uses included, along with other varied Uses that were previously proposed and approved, for Commercial, Office, Industrial, and Public/Civic Space Uses, all of which are in conformance with the Future Land Use (FLU) designation for the 181.1 acre property. That FLU designation is the Activity Center (AC) FLU, the description of which is attached as **Exhibit 5**. As referenced above, the proposed PUD will be phased, as has already occurred with the 2017 construction of the first Phase for the RaceTrac Convenience store property and adjacent Ocean Gate Boulevard roadway. With that developed Phase 1 area comprising 3.8 acres of the entire 181.1 acre parcel, the remaining undeveloped 177.3 acres is now proposed to be developed into four remaining Phases for the various Uses noted above. As now proposed, these Uses could include a full range from new commercial Shopping Center facilities for both "Anchor" stores and smaller retail space, and five to six "Outparcels" along the common SR 44/Northern Property Line (PL), to be accessed from the proposed internal roadways and within the site only.

G. While the proposed Restated MDA has a wide list of specific Permitted Uses, most of which have already been approved, the MDA allows for flexibility of future choices for those Uses, with the MDA and CDP primarily concerned about where those differing future Uses may be located. The Rezoning Trip Generation Analysis Memorandum submitted with this application provides an idea of what the total 177 acre Phase 2 - 5 area could contemplate for its total development capacity at Final Build Out, with that projection being for the following proposed Uses at full Build Out:

- Multi-Family Dwelling Units - 496 Units
- Hotel - 150 Rooms
- Assisted Living Facility (ALF) - 229.5 KSF (Thousand Square Feet floor area)
- Mini-Warehouse - 101.5 KSF
- Retail Stores and Shopping Center - 290 KSF
- Medical Office - 44 KSF
- Restaurant, Fast Food - 8.15 KSF
- Restaurant, High Turnover - 11 KSF
- Restaurant, Quality - 10.5 KSF

H. Specific Site Development Criteria for the various proposed Uses are found in Section 3. D. of the attached **Exhibit 7** proposed MDA. Some of those specified Criteria which typically are of public interest include those listed below:

- Maximum Building Height - 60'/5 Stories
- Maximum Building Coverage - 50% of the Lot
- Minimum Open Space - 30% of the entire PUD
- Minimum Natural Vegetation - 15% of the entire PUD
- Mini-Warehouse/Self Storage buildings - limited in location to be a minimum 300' from the surrounding arterial roads of SR 44 and I-95
- SR 44 frontage Outparcels - limited to a maximum of three total (3) Drive-Throughs, with those facilities to be screened and all parking to be limited to the rear and/or side of the buildings

I. That same current Rezoning Trip Generation Analysis Memorandum compared the Trip Generation Rates for the total of the above listed Uses and found they were reduced significantly (by more than 12%) from the prior and most recent similar Rezoning Trip Generation Analysis Memorandum Report submitted and approved with the 2nd Amendment application in 2020-21. The recent Memorandum submitted with this current application also includes an Equivalency Matrix for the various Uses listed above, in which these Uses could be revised up to the threshold of what would be considered Minor Modifications under this proposed PUD MDA, to allow for some flexibility in the specifics of future Phased development. That Matrix can also be found on the Exhibit G

Access Plan sheet of the proposed CDP, and in the MDA text of Section 13, Minor Modifications.

J. That same **Exhibit 7** Access Plan sheet, and other plan sheets, of the proposed CDP illustrate how the site would now be developed and shows the remaining access points and internal roads following the removal of the previously included Williamson Boulevard extension. The primary site access point would remain at the existing signalized intersection of Ocean Gate Blvd. with SR 44, with a secondary right-in-and out-only access to SR 44 slightly to the east of that, to allow for more direct and separate access and traffic for the six proposed "outparcels" fronting SR 44 but to be accessed only from internal private roadways at the rear/opposite of that frontage, to minimize turning movements and driveway connections directly onto SR 44. From that northern tier of "Outparcel" Lots, that internal roadway network extends south to the adjacent neighboring property by the proposed Ocean Gate Blvd. public right-of-way that was formerly proposed for the Williamson Blvd. extension, to now instead be narrowed from its full 120' width at SR 44 to a 60' width through the south portion of the site where it and stubs out to the adjacent parcel. Roundabouts are proposed at two internal road locations for traffic calming purposes. It is anticipated this development will also be connected to surrounding proposed ones in the future, such as Deering Park and South Village to the west and south, by connections to the future Williamson Blvd. roadway and others, including a possible Volusia County Overpass to the south within Deering Park that would cross I-95.

K. Among the other PUD and CDP revisions not easily found on these plans, and located more easily within the MDA text instead, is the provision of maximum densities for any proposed Hotel, Assisted Living Facility (ALF), and Multi-Family (MF) Residential Uses, in conformance with the Activity Center specified maximum densities. Those included a maximum of 60 hotel or ALF rooms per acre, and a maximum of 18 units per acre for MF Residential. Also included is a proposed Maximum Floor Area Ratio (FAR) of 0.6 per Lot, which falls well under the AC FLU maximums of 1.0 for low impact uses and 2.0 for higher intensity uses.

L. If this PUD and CDP application is approved, one (or more) City Preliminary Plat application and approval would then be required, which would then entail full plans for engineering, utilities, stormwater management, landscaping, etc., to be reviewed by City Staff for final approval prior to construction. In addition, a Traffic Impact Analysis (TIA) in conformance with City LDR and TPO Guidelines may need to be submitted for review by the City, Volusia County, and FDOT for impacts to the surrounding road network, should the total proposed trips exceed those vested by the existing Proportionate Fair Share Agreement (PFSA) between the Applicant, County and City. That November 2021 PFS Agreement came from the previous 2nd Amendment and associated Phase 2 subdivision

applications, with the Applicant having already paid over $621K toward that PFSA total.

M. This currently proposed Amended and Restated MDA contains a Section 12 for a Completion Schedule, with the first Phase to follow the completed Phase 1 to be substantially complete within 5 years of PUD MDA approval by the City Commission, and for all following Phases to be complete within 10 years of that same approval date. Three (3) one year extensions of those time periods may be permitted as minor modifications.

N. Staff has reviewed the Amended PUD MDA text, CDP development plan, and other supporting documents provided in this application, along with the proposed site location and configuration, and feels the proposed revisions are both appropriate for this site, and consistent with its Activity Center Future Land Use designation. The proposed site is also separated from any possible conflicting neighboring uses and has proposed various methods to screen and buffer its proposed uses, including the sizes and locations of the proposed buildings. Associated and Projected Traffic Impacts will be inventoried and reviewed during the more detailed Subdivision Plan processes to follow, to incorporate existing and proposed City roadways such as Ocean Gate Boulevard, Volusia County roadways such as the future Williamson Blvd., and FDOT roadways such as SR 44 and I-95 immediately to the north and east.

O. The Planning and Zoning Board reviewed this application at their July 6, 2025 meeting, and voted 6-1 (Member Hall Voting No) to recommend approval to the Commission with the following conditions:

1. The currently proposed Floor Area Ratio (FAR) be reduced to a maximum of 0.5 for the entire project rather than the 0.6 now listed in the draft MDA and CDP, except any proposed hotel use may be a maximum 0.6 FAR,
2. The architectural standards of the Activity Center (AC) Design Guidelines be used throughout the entire project, rather than that document being removed as an attachment to the MDA, as now proposed, and
3. What the Board termed a strong further recommendation to the Commission was that the standards of the recent City storm water management Ordinance, which were more stringent than the current LDR but later voided by State law, still be used on this project.

The applicant has voluntarily agreed to all the conditions proposed by the Planning and Zoning Board.

RECOMMENDATION

Based on the Findings listed above, the Planning Department recommends the City Commission **approve the proposed Amended and Restated MDA for City Planned Unit Development (PUD) zoning,** and its associated Master Development Agreement and Conceptual Development Plan.

Fiscal Analysis:
N/A

Strategic Plan Item:
No

Staff Report Created By: Shane Corbin - Developmental Services Director

Attachments:

Ex. 1 - Location Map PUD-5-25.pdf
Ex. 2 -Aerial Map PUD-5-25 .pdf
Ex. 3- Existing Zoning Map PUD-5-25.pdf
Ex. 4 - Existing FLU Map PUD-5-25.pdf
Ex. 5 - City Activity Center Future Land Use FLU text.pdf
Ex. 6 - Letter Outlining Request (REVISED 2026.01.26).pdf
Ex. 7 - Amended and Restated MDA with Exhibits (2026.08.17).pdf
Ex. 8 - Conceptual Development Plan CDP (2026.08.17).pdf
Ex. 9 - Original/2013 MDA/CDP (37 pages)
Ex. 10 - 2nd Amendment to MDA -2021.pdf
Ex. 11 - Summary of Changes Matrix (2026.08.17).pdf
Business Impact Estimate - Ord 37-26 Ocean Gate MDA.pdf
Ord 37-26 Ocean Gate MDA.pdf