



## SECTION 2.0 OFFICIAL ZONING MAP AMENDMENT (REZONING)

### Section 2.01 Purpose

This section describes the process to [amend the City's Official Zoning Map](#) through a recommendation to City Council by the Planning and Land Development Regulation Board and a final action by City Council. An application to rezone a parcel of land may be filed by the Land Use Administrator, the City Council, the Planning and Land Development Regulation Board, the property owner(s), or agent of the property owner(s) representing fifty-one percent (51%) or more of the property involved.

### Section 2.02 Neighborhood Meeting

Prior to the first hearing, it is the responsibility of the Applicant to hold a neighborhood meeting. Refer to [subsection 2.05.02](#) of the [Unified Land Development Code \(LDC\)](#).

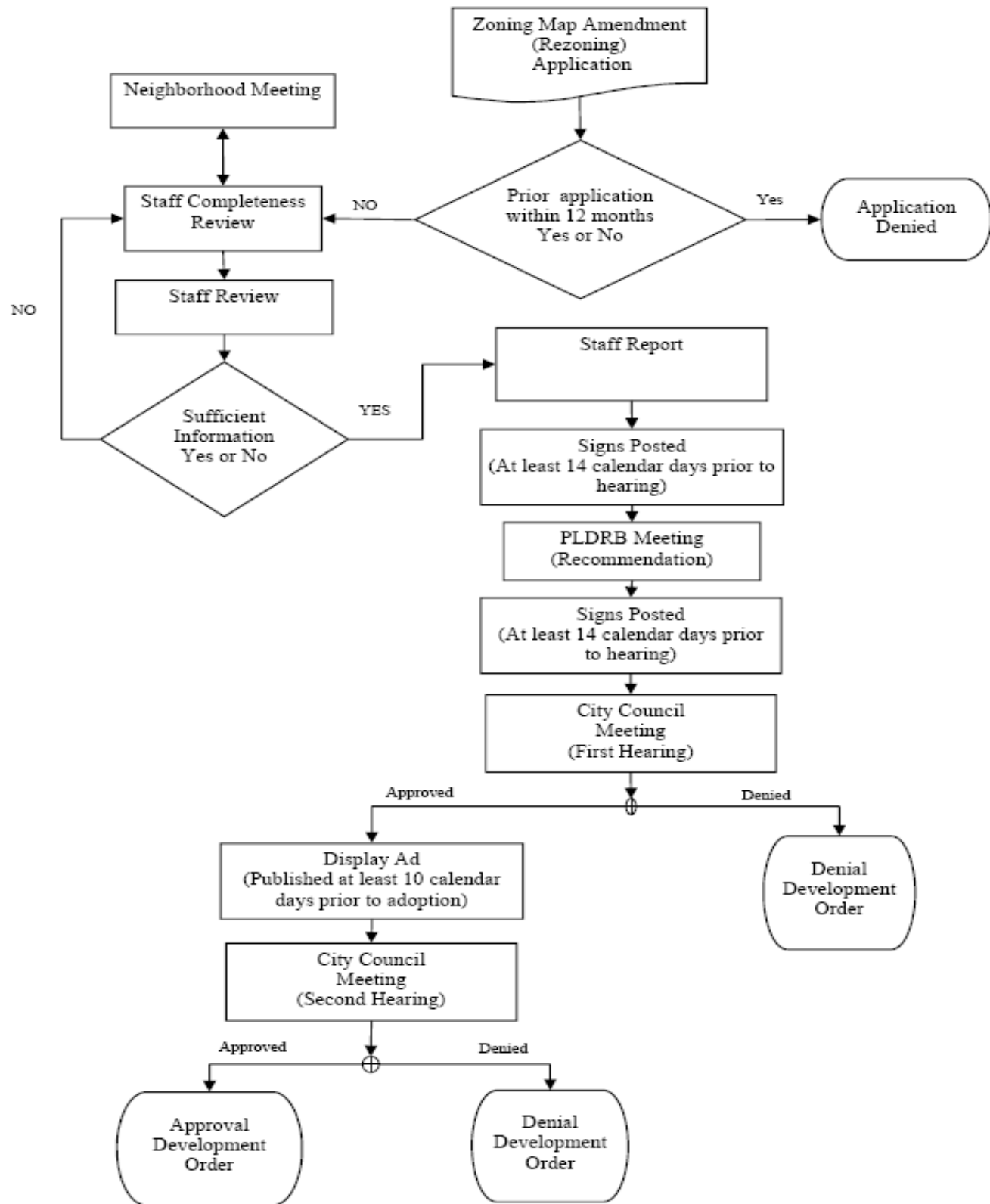
### Section 2.03 Application Process

- A. The Applicant shall submit a complete [application package](#) to the City. A meeting with City Staff is recommended for submittal of the application package. If rezoning to a [Master Planned Development \(MPD\) District](#), include a hard copy of a draft development agreement as part of the application (refer to [Section 2.14](#) of the [LDC](#)). Additionally, the agreement shall be in WORD format, provided on a disk or e-mailed to the City. (A sample [MPD Development Agreement](#) may be found in this *Technical Manual* under '[Forms](#)').
- B. Per [subsection 2.05.04](#) of the [LDC](#), the application package will undergo a completeness review by the City.
- C. Upon acceptance, the application package shall be reviewed for compliance.
- D. The City will schedule the application on the next available Planning and Land Development Regulation Board agenda for a recommendation to City Council upon satisfying compliance review.
- E. Following the recommendation of the Planning and Land Development Regulation Board, the City will place the application on the next available City Council agenda. Because a rezoning requires approval by Ordinance, the City Council shall hold two (2) public hearings regarding the rezoning application.

### Section 2.04 Notification Requirement

Refer to [subsection 2.05.03](#) and [Table 2-2](#) of the [LDC](#). The Applicant shall submit an [affidavit](#) to the City, on a form provided by the City, as a measure of compliance.

# Zoning Map Amendment





- GENERAL APPLICATION:**
- |                                                                            |                                                                      |
|----------------------------------------------------------------------------|----------------------------------------------------------------------|
| <input type="checkbox"/> Rezoning                                          | <input type="checkbox"/> Special Exception                           |
| <input type="checkbox"/> Nonstatutory Land Division/Parcel Reconfiguration | <input type="checkbox"/> Vacating Plat                               |
| <input type="checkbox"/> Subdivision Master Plan                           | <input type="checkbox"/> Preliminary Plat                            |
| <input type="checkbox"/> Master Site Plan                                  | <input type="checkbox"/> Final Plat                                  |
| <input type="checkbox"/> Technical Site Plan                               | <input type="checkbox"/> Nonresidential Controlling Master Site Plan |
| <input type="checkbox"/> Variance                                          | <input type="checkbox"/> Site Plan Addition                          |
| <input type="checkbox"/> Wireless Communication Facility (new structure)   | <input type="checkbox"/> Parking Flexibility                         |
|                                                                            | <input type="checkbox"/> Development Order Modification              |

CD Plus Application #: \_\_\_\_\_ Application Submittal Date: \_\_\_\_\_  
 Fee Paid: \$ \_\_\_\_\_ Date of Acceptance: \_\_\_\_\_  
 Employee Name Accepting Application (print name): \_\_\_\_\_  
 Rejected on \_\_\_\_\_ Rejected by: \_\_\_\_\_  
 Reason for Rejection: \_\_\_\_\_

**A. PROJECT NAME:** \_\_\_\_\_

**B. LOCATION OF SUBJECT PROPERTY (PHYSICAL ADDRESS):** \_\_\_\_\_  
 \_\_\_\_\_

**C. PROPERTY APPRAISER'S PARCEL NUMBER(s):** \_\_\_\_\_  
 \_\_\_\_\_

**D. LEGAL DESCRIPTION:** \_\_\_\_\_ Subdivision Name; \_\_\_ Section; \_\_\_ Block; \_\_\_ Lot  
 \_\_\_\_\_  
 \_\_\_\_\_

**E. SUBJECT PROPERTY ACRES / SQUARE FOOTAGE:** \_\_\_\_\_

**F. FUTURE LAND USE MAP DESIGNATION:** \_\_\_\_\_ **EXISTING ZONING DISTRICT:** \_\_\_\_\_  
**OVERLAY DISTRICT:** \_\_\_\_\_

**G. FLOOD ZONE:** \_\_\_\_\_ **COMMUNITY PANEL NUMBER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**H. PRESENT USE OF PROPERTY:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**I. DESCRIPTION OF REQUEST / PROPOSED DEVELOPMENT (MAY ATTACH ADDITIONAL SHEETS):** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**J. PROPOSED NUMBER OF LOTS:** \_\_\_\_\_

**K. CHECK APPROPRIATE BOX FOR SITE PLAN:**

- Tier 1 (up to 40,000 sq. ft. / 40 units)  
 Tier 2 (up to 100,000 sq. ft. / 100 units)  
 Tier 3 (exceeding 100,000 sq. ft. / 100 units)

**L. LIST BELOW ANY APPLICATIONS CURRENTLY UNDER REVIEW OR RECENTLY APPROVED ASSOCIATED WITH THIS APPLICATION:**  
 \_\_\_\_\_  
 \_\_\_\_\_

**M. WATER/SEWER PROVIDER:** \_\_\_\_\_

**N. IS THERE AN EXISTING MORTGAGE?**  Yes  No



**OWNER:**

**APPLICANT / AGENT:**

Name:	Name:
Mailing Address:	Mailing Address:
Phone Number:	Phone Number:
E-mail Address:	E-mail Address:

**MORTGAGE HOLDER:**

**ENGINEER OR PROFESSIONAL:**

Name:	Name:
Mailing Address:	Mailing Address:
Phone Number:	Phone Number:
E-mail Address:	E-mail Address:

**PLANNER:**

**TRAFFIC ENGINEER:**

Name:	Name:
Mailing Address:	Mailing Address:
Phone Number:	Phone Number:
E-mail Address:	E-mail Address:

**SURVEYOR:**

**LANDSCAPE ARCHITECT:**

Name:	Name:
Mailing Address:	Mailing Address:
Phone Number:	Phone Number:
E-mail Address:	E-mail Address:

**ATTORNEY:**

**DEVELOPER OR DOCKMASTER:**

Name:	Name:
Mailing Address:	Mailing Address:
Phone Number:	Phone Number:
E-mail Address:	E-mail Address:

**I HEREBY CERTIFY THAT ALL INFORMATION ON THIS APPLICATION IS CORRECT:**

Signature of owner OR person authorized to represent this application

Signature(s) \_\_\_\_\_

Printed or typed name(s): \_\_\_\_\_

NOTARY: This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by

\_\_\_\_\_ who is/are personally known to me, or who has/have produced

\_\_\_\_\_ as identification. (SEAL)

\_\_\_\_\_  
Signature of Notary Public, State of Florida

General Application (sheet 2 of 2)



## OFFICIAL ZONING MAP AMENDMENT (REZONING) APPLICATION SUBMITTAL CHECKLIST

= Mandatory     = As applicable      = sub items

The following checklist is a tool to facilitate compliance for the submittal package. Place a check in each symbol below to indicate that the item has been addressed. As indicated in the above key legend, an item with a square indicates the item is mandatory, while the triangle indicates it may or may not be applicable. If applicable, then the item is mandatory.

At a minimum, the documents listed below are required to process a request for a rezoning. This checklist **must** be completed by the Applicant and included in the application submittal package in order for the application to be accepted. If a required document is not provided then a statement justifying the action is to be submitted, which will be taken into consideration.

It is recommended to schedule an appointment for submittal of the application package by contacting a Land Development Technician at (386) 986-3736.

- A. Completed [application form](#) filed by property owner or property owner's representative (refer to [subsection 2.05.04.A](#) of the [Unified Land Development Code \(LDC\)](#).
1. Application notarized.
- B. For an owner's representative, submit [letter of authorization](#). Include an [affidavit of Corporate Identity](#) for any company that is the owner of the property, in which only those registered as authorized agents with the State of Florida Division of Corporations may sign for any documents.
- C. Current (within 1 year of application submittal) boundary survey:
1. Prepared by a registered land surveyor licensed to practice in the State of Florida
2. Includes the legal description and size of the property.
3. Reflective of a current Opinion of Title less than 1 year old.
4. Depicts flood zones and provides FIRM information.
- D. For a boundary survey dated greater than six (6) months prior to application submittal, the property owner shall submit a notarized affidavit stating that no changes have been made to the property since the date of the survey analysis based upon the review findings as outlined in [subsection 2.06.03](#) of the [LDC](#).
- E. Current Opinion of Title (within one (1) year of application submittal):
1. Prepared by an attorney at law licensed to practice in the State of Florida or a certification by an abstractor or a Title Company.
2. Lists all mortgage holders and encumbrances on the property.
3. Copies of all documents referenced in the title opinion are in this application package.
- F. Submit analysis based upon the review findings as outlined in [subsection 2.05.05 and subsection 2.06.03](#) of the [LDC](#).
- G. List of names, mailing addresses, and parcel identification numbers of all property owners within 300 feet of the boundaries of the property to be rezoned. Property ownership information should be obtained from the Flagler County Property Appraiser's Office.
- H. For a request to rezone property to the Master Planned Development (MPD) District, a hard copy of the draft development agreement is required as well as via e-mail or on disk in WORD format.
1. Draft MPD Agreement:
- a. on disk; **OR**
- b. sent via e-mail (provide copy of sent e-mail in application package)
2. Hard copy of draft Agreement in WORD format



- I. Neighborhood meeting documentation as required in [Subsection 2.05.02](#) of the [Unified LDC](#).
- J. If residential component proposed, recommend obtaining School Capacity Availability Letter of Determination (see [FORMS](#) in Section 8 of this manual) and submit as part of the application package.
- K. Optional exhibits may be submitted that is intended to support the Applicant's position.
- L. Other materials and documents as required by the Planning Manager shall accompany such application.
- M. Nonrefundable filing fee established by resolution:
  - Straight zoning: \$400 for one (1) acre or fewer, plus \$25 for each additional acre or any fraction thereof.
  - MPD zoning: \$800 plus \$25 per acre or fraction thereof.
  - Amendments to an existing MPD: \$400 plus \$25 per acre or any fraction thereof impacted by the proposed change
- Payable to 'City of Palm Coast'.



Property Owner Letter of Authorization  
\*\*\*\*\*IF APPLICANT IS NOT THE PROPERTY OWNER\*\*\*\*\*

Dear Planning Manager,

I / We,

\_\_\_\_\_

\_\_\_\_\_ (All property owners)  
being the current property owner(s) of the property legally described as Parcel Number(s)

\_\_\_\_\_

and also described as Subdivision \_\_\_\_\_,

Section \_\_\_\_\_, Block \_\_\_\_\_, Lot \_\_\_\_\_, OR

\_\_\_\_\_

Street Address or Physical Location:

\_\_\_\_\_

Do hereby designate and authorize

\_\_\_\_\_

(name of agent / applicant)

representing \_\_\_\_\_

(Individual or Corporate Name)

to sign on my/our behalf, as my/our agent to submit an application for a

\_\_\_\_\_

(type of application)

for the property described above.

\_\_\_\_\_

Signature of property owner

\_\_\_\_\_

Signature of property owner

\_\_\_\_\_

Print name

\_\_\_\_\_

Print name

NOTARY: This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_ by \_\_\_\_\_ who is/are personally known to me, or

who has/have produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Signature of Notary Public, State of Florida



**AFFIDAVIT OF CORPORATE IDENTITY / AUTHORITY**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

COMES NOW, \_\_\_\_\_, being first duly sworn, who deposes and says:

(1) That he/she is the \_\_\_\_\_, an officer of \_\_\_\_\_ corporation existing under the laws of the State of \_\_\_\_\_.

(2) That he/she is authorized to execute the following deeds or instruments on behalf of the above named corporation: \_\_\_\_\_ relating to the following described real property:

(3) That this affidavit is made to induce the City of Palm Coast to accept the above described property.

**Signature of owner OR person authorized to represent this application**

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Print name

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Print name

**NOTARY:** This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ who is/are personally known to me, or who has/have produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
**Signature of Notary Public, State of Florida**





**JOINDER AND CONSENT AFFIDAVIT**

**JOINDER AND CONSENT BY** \_\_\_\_\_  
Name of Lending Institution / Mortgage Holder

**COME NOW,** \_\_\_\_\_ and Joins and Consents to the  
covenants and conditions set forth herein and hereunto sets his hand and seal this \_\_\_ day  
of \_\_\_\_\_, 20\_\_.

**ATTEST:** \_\_\_\_\_  
Name of Lending Institution

\_\_\_\_\_  
Corporate Secretary

\_\_\_\_\_  
Corporate President

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

**ACKNOWLEDGEMENT**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by  
\_\_\_\_\_, who is/are personally known to me or who  
has produced \_\_\_\_\_ as identification and who did execute said  
instrument for the purpose therein expressed.

**WITNESS** my hand and official seal the day month and year aforesaid.

**NOTARY PUBLIC (SEAL)**

\_\_\_\_\_  
NOTARY PUBLIC SIGNATURE



**NOTIFICATION AFFIDAVIT FOR OFFICIAL ZONING MAP AMENDMENT (REZONING)**

COUNTY OF FLAGLER     X  
STATE OF FLORIDA     X

Before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ personally appeared \_\_\_\_\_ who after providing \_\_\_\_\_ as identification and who \_\_\_\_ **did**, \_\_\_\_ **did not** take an oath, and who being duly sworn, deposes and says as follows: "I have read and fully understand the provisions of this instrument".

\_\_\_\_\_ signs have been posted on the subject property subject to a rezoning as described (# of signs) with **Application #** \_\_\_\_\_

\_\_\_\_\_ At least fourteen (14) calendar days before the hearing date advertising the date, time, and location of the Planning & Land Development Regulation Board (PLDRB)

**AND/OR**

\_\_\_\_\_ At least fourteen (14) calendar days before the hearing date advertising the date, time, and location of the City Council 1st public hearing.

**AND/OR**

\_\_\_\_\_ At least ten (10) calendar days before the hearing date advertising the date, time, and location of the City Council 2nd public hearing.

\_\_\_\_\_  
Signature of Responsible Party

\_\_\_\_\_  
PrintName & MailingAddress

\_\_\_\_\_  
Signature of Person Taking Acknowledgement

SEAL

\_\_\_\_\_  
Name of Acknowledger (Typed, Printed or Stamped)

**This document, once executed, must be returned to a Land Development Technician in the City of Palm Coast Community Development Department prior to the hearing date. Failure to provide document by that time will result in the application not being placed on the agenda for a public hearing.**

**Please attach a photo of posted sign(s).**



# MASTER PLAN DEVELOPMENT AGREEMENT

Prepared by and Return to:

First and Last Name

Address

City, State, zip code

----- [SPACE ABOVE THIS LINE FOR RECORDING DATA] -----

## MASTER PLAN DEVELOPMENT AGREEMENT BETWEEN THE CITY OF PALM COAST AND \_\_\_\_\_

**THIS MASTER PLAN DEVELOPMENT AGREEMENT**, (herein referred to as the “Development Agreement”) is made and executed this (day) day of (month), 20\_\_, by and between the **CITY OF PALM COAST**, a Florida municipal corporation (herein referred to as the “City”), whose address is 160 Cypress Point Parkway, Suite B-106, Florida, 32164, and the owner of the subject property, (Owner’s name), (herein referred to from time-to-time as the “Owner” regardless of whether singular or plural ownership status) whose address is (Owner’s address).

*WITNESSETH:*

**WHEREAS**, the Owner is the owner of fee simple title to certain real property consisting of approximately (#) acres located at (subject property’s address or location) \_\_\_\_\_ in the City of Palm Coast, Flagler County, Florida, as more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference (herein referred to as the “Subject Property”) [*Add map, if possible. Also, if a contract purchaser or developer is included, need to recite owner’s agency and exact relationship to the property*]; and

**WHEREAS**, the Owner requests approval for a Master Plan Development to allow \_\_\_\_\_ to be developed



and located on the Subject Property subject to the conditions set forth in this Development Agreement; and

**WHEREAS**, the Owner is in voluntary agreement with the conditions, terms, and restrictions hereinafter recited, and have agreed voluntarily to their imposition as an incident to development of the subject properties; and

**WHEREAS**, the City of Palm Coast City Council finds that this Development Agreement is consistent with the City's Comprehensive Plan and Unified Land Development Code (herein referred to as the "LDC") and that the conditions, terms, restrictions, and requirements set forth herein are necessary for the protection of the public health, safety, and welfare of the citizens of the City; and

**WHEREAS**, the City of Palm Coast City Council further finds that this Agreement is consistent with and an exercise of the City's powers under the *Municipal Home Rule Powers Act*; Article VIII, Section 2(b) of the *Constitution of the State of Florida*; Chapter 166, *Florida Statutes*; the *City of Palm Coast City Charter*, other controlling law; and the City's police powers; and

**WHEREAS**, this is a non-statutory Development Agreement which is not subject to or enacted pursuant to the provisions of Sections 163.3220 -163.3243, *Florida Statutes*.

**NOW, THEREFORE**, it is hereby resolved and agreed by and between the City and the Owner that the Owner's application for a Master Plan Development is approved subject to the following terms and conditions:

**SECTION 1. RECITALS.**

The above recitals are true and correct and are incorporated herein by this reference and form a material part of this Development Agreement upon which the City and the Owner have relied.



## **SECTION 2. REPRESENTATIONS OF OWNER.**

(a). The Owner hereby represents and warrants to the City that he/she/it/they is/are the Owner(s) of the Subject Property in accordance with the title opinion or title certification provided by the Owner to the City issued by an attorney or title insurance company licensed to provide services in the State of Florida with said title opinion or certification showing all liens, mortgages, and other encumbrances not satisfied or released of record relative to the Subject Property.

(b). The Owner represents and warrants to the City that he/she/it/they has/have the power and authority to enter into and consummate the terms and conditions of this Development Agreement; that all acts, approvals, procedures and similar matters required in order to authorize this Development Agreement have been taken, obtained or followed, as the case may be; that this Development Agreement and the proposed performance of this Development Agreement by the Owner is not an *ultra vires* act; and that, upon the execution of this Development Agreement by the parties, this Development Agreement shall be valid and binding upon the parties hereto and their successors in interest.

(c). The Owner hereby represents to the City that all required joinders and consents have been obtained and set forth in a properly executed form on this Development Agreement. Unless otherwise agreed to by the City, all liens, mortgages, and encumbrances not satisfied or released of record must be subordinated to the terms of this Development Agreement and joinders must be executed by any mortgagees. It is the responsibility of the Owner to ensure that said subordinations and joinders occur in a form and substance acceptable to the City Attorney prior to the City's execution of this Development Agreement. If the Owner fails to attain the joinder and consent, then the Owner shall lose all rights and benefits deriving hereunder.



### **SECTION 3. APPROVAL OF MASTER PLAN DEVELOPMENT.**

(a). The City Council at its regular meeting on \_\_\_\_\_ *(date)* \_\_\_\_\_ 20\_\_\_, approved a Master Plan Development for the Subject Property subject to the terms and conditions of this Development Agreement.

(b). The Owner acknowledges that if this Development Agreement is ever terminated, the approval shall be deemed null and void and the land uses approved for the Subject Property shall no longer be permitted, unless otherwise approved by the City Council.

(c). The current provisions of the *LDC*, as may be amended from time-to-time, shall be applicable to the Subject Property unless otherwise specifically stated herein. Any City Code provision not specifically so identified will not be affected by the terms of this Agreement, and will be subject to enforcement and change under the same criteria as if no Agreement were in effect.

(d). Additional conditions of approval may be included in the relevant minutes of the Planning and Land Development Regulation Board and City Council. Any representations and promises made by the Owner during the zoning review and approval process (whether oral or in writing) shall also be additional conditions of approval, if the City deems that to be appropriate.

### **SECTION 4. PERMITTED USES.**

The Owner agrees to fully comply with the following use restrictions on the Subject Property. The following uses are permitted on the Subject Property: *[List uses. Include density and intensity of uses.]*

### **SECTION 5. PROHIBITED USES.**

The Owner agrees to fully comply with the following use restrictions on the Subject Property. The following uses are prohibited on the Subject Property: (List uses):



## **SECTION 6. CONDITIONAL USES.**

The Owner agrees to fully comply with the following use restrictions on the Subject Property. The following uses are permitted on the Subject Property only if a special exception is granted by the City in accordance with the provisions of the *LDC*: (List uses):

## **SECTION 7. LAND DEVELOPMENT CODE NON-APPLICABILITY.**

(a). The requirements of this Section supersede any inconsistent provisions of the *LDC* of the City to the extent of any inconsistency.

- (1). Wetlands: *(Insert only requirements that deviate from the LDC).*
- (2). Wetland buffer: *(Insert only requirements that deviate from the LDC).*
- (3). Stormwater: *(Insert only requirements that deviate from the LDC).*
- (4). Roadways / Rights-of-Way: *(Insert only requirements that deviate from the LDC).*
- (5). Landscaping: *(Insert only requirements that deviate from the LDC). [Attach Landscaping Plan.]*
- (6). Signage: *(Insert only requirements that deviate from the LDC).*
- (7). Site Development Requirements: *(Insert only requirements that deviate from the LDC).*
- (8). Entry Features: *(Insert only requirements that deviate from the LDC).*
- (9). Roads, Streets, and Alleys: *(Insert only requirements that deviate from the LDC).*
- (10). Stormwater Management System: *(Insert only requirements that deviate from the LDC).*
- (11). Recreation: *(Insert only requirements that deviate from the LDC).*
- (12). Pedestrian Access: *(Insert only requirements that deviate from the LDC).*



- (13). Lighting: *(Insert only requirements that deviate from the LDC).*
- (14). Habitat: *(Insert only requirements that deviate from the LDC).*
- (15). Utilities: *(Insert only requirements that deviate from the LDC). [Attach Utility Agreement.]*
- (16). Fire Protection: *(Insert only requirements that deviate from the LDC).*
- (17). Solid Waste: *(Insert only requirements that deviate from the LDC).*
- (18). Utility Lines/Telephone/Electricity: *(Insert only requirements that deviate from the LDC).*
- (19). Police Protection: *(Insert only requirements that deviate from the LDC).*
- (20). Hurricane Evacuation: *(Insert only requirements that deviate from the LDC).*
- (21). Water Conservation: *(Insert only requirements that deviate from the LDC).*
- (22). Fencing/Walls: *(Insert only requirements that deviate from the LDC).*
- (23). Building: *(Include information related to the maximum height of structure, location of the building, setbacks, limitation on type of use, painting of the building, compliance with architectural standards, etc. Insert only requirements that deviate from the LDC).*
- (24). Hours of Operation: *(Can be used to limit hours of operations for the approval of a use. Insert only requirements that deviate from the LDC).*
- (25). Pollution and Environmental Concerns: *(Include information about minimizing the impact of use on surrounding property owner. Insert only requirements that deviate from the LDC).*
- (26). Parking: *(Include information about minimizing the impact of use on surrounding property owners. Insert only requirements that deviate from the LDC).*
- (b). The following table of uses summarizes the permitted development under the provisions of this Development Agreement:





(TABLE HERE AS NEEDED).

**SECTION 8. PHASING OF DEVELOPMENT**

(PROVIDE PHASING SCHEDULE HERE AS NEEDED).

**SECTION 9. FACILITY COMMITMENTS.**

(a). The Owner agrees that the City is not responsible for the construction or creation of public facilities or capacity in order to facilitate the development of the Subject Property. No building permits or development permits shall be issued for the subject property unless adequate capacity of concurrency monitored facilities is available concurrent with the impact on said facilities by the development.

(b). The Owner agrees to accomplish and complete, at a minimum, the following facility/infrastructure and to grant the following rights, at the Owner's sole and exclusive expense, as a condition of this development approval and in addition to the payment of all impact fees relating to the development of the Subject Property:

**(LIST OF COMMITMENTS AND HOW TITLE WILL BE CONVEYED TO CITY, IF RELEVANT AND SCHEDULES OF CONSTRUCTION COMPLETION, COST ALLOCATION AND HOOKUP OR CONNECTION SCHEDULES).**

(c). The Owner agrees to the granting of any and all utility easements to the City which the City deems necessary to serve the Subject Property with public utilities.

(d). The Owner hereby agrees that the City has shown an essential nexus between a legitimate City interest and the conditions imposed herein. Further, the Owner agrees that the City has established that all proposed conditions are roughly proportional to the impact the development upon the public problems addressed herein based upon an individualized determination that the required dedication/commitment is related in both nature and extent to the impacts of the proposed development.



## **SECTION 10. LIST OF OUTSTANDING PERMITS/APPROVALS, AND PROPER SEQUENCING.**

(a). The failure of the Development Agreement to address any specific City, County, State, or Federal permit, condition, term, or restriction shall not relieve the Owner or the City of the requirement of complying with the law governing said permitting requirements, conditions, terms, or restrictions.

(b). All required City, County, State, or Federal permits shall be obtained prior to commencement of construction.

## **SECTION 11. DEVELOPMENT FEES.**

The Owner acknowledges and agrees that the City has enacted and may in the future increase the amount of citywide impact fees or similar exactions. The Owner acknowledges that the Subject Property shall be subject to all fees in effect at the time of permitting.

## **SECTION 12. COMMON AREAS AND MAINTENANCE.**

If the development on the Subject Property is to include any common areas, to ensure the long-term ownership, maintenance, and control of those areas, prior to the issuance of any building permits, the Owner shall establish an association, in accordance with Florida law, comprised of the owners of lots or parcels with the development (the "Association"). The Association documentation shall be subject to the prior reasonable review and approval of the City to ensure adequate provisions for the on-going care and maintenance of the common areas. The documentation, whether contained in a deed restriction or otherwise, shall provide for the permanent maintenance of the Common Areas by the Association, minimum insurance requirements for the Association, adequate mechanisms to force financial participation by members of the Association and restrictions on the ability to amend these requirements without the City's approval.



### **SECTION 13. BREACH; ENFORCEMENT; ALTERNATIVE DISPUTE RESOLUTION.**

(a). In the event of a breach hereof by either party hereto, the other party hereto shall have all rights and remedies allowed by law, including the right to specific performance of the provisions hereof. In the event that the City seeks enforcement of the terms or conditions of this Development Agreement, the Owner shall be responsible for any and all costs, attorney fees, and expenses borne by the City in such enforcement action, regardless of whether litigation commences, and, if litigation does commence, both at the trial level and on appeal to include, but not be limited to, attorney fees, paralegal fees, and all assessable costs of litigation.

(b). In the event that a dispute arises under this Development Agreement, and if the City and Owner are unable to resolve the issues, the parties shall attempt to resolve all disputes informally. In the event of a failure to informally resolve all disputes, the City and Owner agree to engage in mediation before a certified Circuit Court mediator selected by the parties. In the event that the parties fail to agree to a mediator, a mediator with the Florida Conflict Resolution Consortium or, if unavailable, a certified mediator, may be selected solely by the City. The parties shall equally pay all costs of mediation.

### **SECTION 14. NOTICES.**

(a). All notices required or permitted to be given under this Agreement must be in writing and must be delivered to the City or the Owner at its address set forth below (or such other address as may be hereafter be designated in writing by such party).

(b). Any such notice must be personally delivered or sent by registered or certified mail, overnight courier, facsimile, or telecopy.



(c). Any such notice will be deemed effective when received (if sent by hand delivery, overnight courier, telecopy, or facsimile) or on that date which is three (3) days after such notice is deposited in the United States mail (if sent by registered or certified mail).

(d). The party's addresses for the delivery of all such notices are as follows:

As to the City: Jim Landon, City Manager  
160 Cypress Point Pkwy, Suite B-106  
Palm Coast, Florida, 32164

As to the Owner: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SECTION 15. SEVERABILITY.**

The terms and provisions of this Development Agreement are not severable and in the event any portion of this Development Agreement shall be found to be invalid or illegal, then the entire Development Agreement shall be null and void.

**SECTION 16. SUCCESSORS AND ASSIGNS.**

(a). This Development Agreement and the terms and conditions hereof shall be binding upon and inure to the benefit of the City and Owner and their respective successors-in-interest. The terms and conditions of this Development Agreement similarly shall be binding upon the property and shall run with the land and the title to the same.

(b). This Development Agreement touches and concerns the Subject Property.

(c). The Owner has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Agreement.



**SECTION 17. GOVERNING LAW/VENUE/COMPLIANCE WITH LAW.**

(a). This Development Agreement shall be governed by and construed in accordance with the laws of the State of Florida and the Code of Ordinances of the City Of Palm Coast.

(b). Venue for any dispute shall be in the Seventh Judicial Circuit Court in and for Flagler County, Florida.

(c). The Owner shall fully comply with all applicable local, State, and Federal environmental regulations and all other laws of similar type or nature.

(d). This Development Agreement shall not limit the future exercise of the police powers of the City to enact ordinances, standards, or rules regulating development generally applicable to the entire area of the City, such as requiring compliance with the City capital facilities plan; parks master plan, including parks and trail dedications; utility construction and connections; mandating utility capacities; requiring street development or other such similar land development regulations and requirements.

(e). If state or federal laws are enacted after execution of this Agreement, which are applicable to and preclude the parties' compliance with this Agreement, this Agreement shall be modified or revoked as necessary to comply with the relevant law.

(f). This Development Agreement shall also not be construed to prohibit the City from adopting lawfully imposed impact fees applicable to the Owner and the Master Plan Development authorized hereunder.

**SECTION 18. TERM / EFFECTIVE DATE.**

(a). This Development Agreement shall be effective upon approval by the City Council of the City of Palm Coast, Florida and execution of this Development Agreement by all



parties. This Agreement shall terminate five (5) years from its effective date or be phased to ensure that development under this Development Agreement proceeds in good faith and the development of the master planned development is not abandoned and is not suspended in a manner that is adverse to the public interest, unless extended by mutual agreement of the parties.

(b). If construction of the \_\_\_\_\_ (*type of structure*) is not substantially completed within five (5) years from the date that this Development Agreement is executed, as evidenced by \_\_\_\_\_ (*Certificate of Occupancy, final inspection, etc.*), or a phase of the Master Planned Development is not being developed in accordance with the phasing schedule set forth in this Development Agreement, or is abandoned, or is suspended in a manner that is adverse to the public interest, this Development Agreement shall expire. Progress reports regarding construction shall be provided to the City at yearly intervals.

(c). The five (5) year period may be extended by action of the City Council, after obtaining a recommendation from the Planning and Land Development Regulation Board, if, due to difficulties beyond the Owner's control and despite a good faith effort by the Owner, construction as scheduled herein is delayed. The property owner may initiate a request for an extension prior to expiration. In the interim, no development may be continued or permitted relative to the Master Plan Development.

#### **SECTION 19. RECORDATION.**

Upon approval by the City Council of the City of Palm Coast, Florida and execution of this Development Agreement by all parties, this Development Agreement and any and all amendments hereto shall be recorded by the City with the Clerk of the Circuit Court of Flagler County within fourteen (14) days after its execution by the City and the Development Agreement shall run with the land. The Owner shall pay the costs to record this Development Agreement.



## **SECTION 20. PERMITS.**

(a). The failure of this Development Agreement to address any specific City, County, State, or Federal permit, condition, term, or restriction shall not relieve the Owner or the City of the requirement of complying with the law governing said permitting requirements, conditions, terms, or restrictions.

(b). The terms and conditions of this Development Agreement do not determine concurrency for the subject development or the Subject Property.

## **SECTION 21. THIRD PARTY RIGHTS.**

This Development Agreement is not a third party beneficiary contract, and shall not in any way whatsoever create any rights on behalf of any third party.

## **SECTION 22. SPECIFIC PERFORMANCE/TIME IS OF THE ESSENCE.**

(a). Strict compliance shall be required with each and every provision of this Development Agreement.

(b). The parties agree that failure to perform the obligations established in this Development Agreement shall result in irreparable damage, and that specific performance of these obligations may be obtained by suit in equity.

(c). Time is of the essence to this Development Agreement and every right or responsibility required herein shall be performed within the times specified.

## **SECTION 23. ATTORNEY'S FEES.**

In the event of any action to enforce the terms of this Development Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, paralegals' fees, and all costs incurred, whether the same be incurred in a pre-litigation negotiation, litigation at the trial, or appellate level.



#### **SECTION 24. FORCE MAJEURE.**

The parties agree that in the event that the failure by either party to accomplish any action required hereunder within a specific time period (“Time Period”) constitutes a default under terms of this Development Agreement and, if any such failure is due to any unforeseeable or unpredictable event or condition beyond the control of such party including, but not limited to, acts of God, acts of government authority (other than the City’s own acts), acts of public enemy or war, terrorism, riots, civil disturbances, power failure, shortages of labor or materials, injunction or other court proceedings beyond the control of such party, or severe adverse weather conditions (“Uncontrollable Event”), then notwithstanding any provision of this Development Agreement to the contrary, that failure shall not constitute a default under this Development Agreement and any Time Period prescribed hereunder shall be extended by the amount of time that such party was unable to perform solely due to the Uncontrollable Event.

#### **SECTION 25. INDEMNIFICATION.**

The Owner shall indemnify for and save the City harmless from and against any and all liability, claims for damages, and suits for any injury to any person or persons, or damages to any property of any kind whatsoever arising out of or in any way connected with the development of the Subject Property as provided for in this Development Agreement, or in any other way and for any and all acts or omissions in any manner related to the development of the Subject Property irrespective of negligence, actual or claimed, upon the part of the City, or its officers, agents or employees. This agreement by the Owner to indemnify and hold the City harmless shall include, but not be limited to, all charges, expenses and costs, including reasonable attorneys’ fees, both at trial and on appeal, incurred by the City on account of or by





reason of such injuries, damages, liability, claims, suits, or losses and all damages arising there from.

**SECTION 26. ENFORCEMENT; CITY'S RIGHT TO TERMINATE DEVELOPMENT AGREEMENT.**

(a). This Agreement shall continue to be enforceable, unless lawfully terminated, notwithstanding any subsequent changes in any applicable law that may amend any laws or ordinances frozen by this Agreement.

(b). The failure by the Owner to perform each and every one of its obligations hereunder shall constitute a default, entitling the City to pursue whatever remedies are available to it under Florida law or equity, including, without limitation, an action for specific performance and/or injunctive relief, or alternatively, the termination of this Development Agreement. Prior to the City filing any action or terminating this Development Agreement as a result of a default under this Development Agreement, the City shall first provide the Owner written notice of said default. Upon receipt of said notice, the Owner shall be provided a thirty (30) day period in which to cure the default to the reasonable satisfaction of the City prior to the City filing an action or terminating this Development Agreement. If thirty (30) days is not considered by the parties to be a reasonable period in which to cure the default, the cure period shall be extended to such cure period acceptable to the City, but in no case shall that cure period exceed ninety (90) days from initial notification of default. Upon termination of the Development Agreement, the Owner shall immediately be divested of all rights and privileges granted hereunder.



## **SECTION 27. CAPTIONS.**

Sections and other captions contained in this Development Agreement are for reference purposes only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Development Agreement, or any provision hereof.

## **SECTION 28. STAFF/CITY REPORTS; EXHIBITS.**

(a). The Staff reports and other City reports promulgated with regard to this Development Agreement and the development approval relating to the Subject Property are hereby incorporated into this Development Agreement as if fully set forth herein verbatim; provided, however, that the provisions of this Development Agreement shall prevail to the extent of any conflict, and said reports and documents shall be used by the City for its purposes and in its discretion to interpret the provisions of this Development Agreement, and its interpretation relative to such matters shall be conclusive and final.

(b). Each exhibit referred to and attached to this Development Agreement is an essential part of this Development Agreement. The exhibits and any amendments or revisions thereto, even if not physically attached hereto, shall be treated as if they are part of this Development Agreement.

## **SECTION 29. INTERPRETATION.**

(a). The Owner and the City agree that all words, terms and conditions contained herein are to be read in concert, each with the other, and that a provision contained under one (1) heading may be considered to be equally applicable under another in the interpretation of this Development Agreement.

(b). This Development Agreement shall not be construed more strictly against either party on the basis of being the drafter thereof, and both parties have contributed to the drafting of this Development Agreement subject, however, to the provisions of Section 24.



**SECTION 30. FURTHER ASSURANCES.**

Each party agrees to sign any other and further instruments and documents consistent herewith, as may be necessary and proper to give complete effect to the terms of this Agreement.

**SECTION 31. COUNTERPARTS.**

This Development Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one (1) and the same document.

**SECTION 32. MODIFICATIONS / AMENDMENTS/NON-WAIVER.**

(a). Amendments to and waivers of the provisions herein shall be made by the parties only in writing by formal amendment. This Development Agreement shall not be modified or amended except by written agreement executed by all parties hereto and upon approval of the City Council of the City of Palm Coast.

(b). Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

**SECTION 33. ENTIRE AGREEMENT; EFFECT ON PRIOR AGREEMENTS.**

This Development Agreement constitutes the entire agreement between the parties and supersedes all previous oral discussions, understandings, and agreements of any kind and nature as between the parties relating to the subject matter of this Development Agreement.

**(SIGNATURE AND NOTARY BLOCKS ON NEXT PAGE)**



**IN WITNESS WHEREOF**, the City and (Owner's name) has/have caused this Development Agreement to be duly executed by his/her/its/their duly authorized representative(s) as of the date first above written.

**OWNER'S/APPLICANT'S CONSENT AND COVENANT:**

**COMES NOW**, the Owner on behalf of itself and its successors, assigns and transferees of any nature whatsoever, and consents to and agrees with the covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Agreement.

XXXXXXXXXXXXXXXXXXXX

**APPROPRIATE CORPORATE OR INDIVIDUAL SIGNATURES HERE**

**CITY OF PALM COAST, FLORIDA**

\_\_\_\_\_  
Clare M. Hoeni, City Clerk

\_\_\_\_\_  
Jon Netts, Mayor

For use and reliance of the  
Palm Coast City Council only.  
Approved as to form and legality.

/s/ \_\_\_\_\_  
William Reischmann, City Attorney



**SCHOOL PLANNING AND CONCURRENCY APPLICATION / SCHOOL IMPACT ANALYSIS FLAGLER COUNTY PUBLIC SCHOOLS, FACILITIES PLANNING DEPARTMENT 1769 EAST MOODY BLVD - BUILDING # 2 BUNNELL, FLORIDA 32110**

Instructions: Please submit two copies of completed application, location map and fee for each new residential project to the appropriate local government.

**I. Application Type**

Check one only:

- School Capacity Determination (Land Use & Zoning)   
  Letter of No Impact   
  Letter of Exemption  
 Time Extension   
  Project Amendment / Re-evaluation   
  Non Binding Determination

School Capacity Availability Letter of Determination (Site Plan & Subdivision) See attached Fee Schedule. Make check payable to your local Government. In the event that a Mitigation Agreement is necessary, an additional fee may be required.

**II: Project Information:**

Project Name: \_\_\_\_\_ Local Government: \_\_\_\_\_  
 Parcel ID#: \_\_\_\_\_ (attach separate sheet for multiple parcels):  
 Location/Address of Subject property: \_\_\_\_\_ (attach location map)  
 Closest Major Intersection: \_\_\_\_\_

**III: Ownership/Agent Information:**

Owner/Contract Purchaser Name(s): \_\_\_\_\_  
 Agent/Contact Person: \_\_\_\_\_  
 Mailing address: \_\_\_\_\_  
 Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_ E-mail: \_\_\_\_\_

**IV: Development Information:**

Project Data			
Current		Proposed	
Future Land Use:		Future Land Use:	
Zoning:		Zoning:	
Residential Units Proposed			
Single Family Detached:	Single Family Attached:	Apartments:	Mobile Homes:
Total Units:	Total Acres:	Phased Project: Yes <input type="checkbox"/> No <input type="checkbox"/>	



**SCHOOL PLANNING AND CONCURRENCY APPLICATION / SCHOOL IMPACT ANALYSIS FLAGLER COUNTY PUBLIC SCHOOLS, FACILITIES PLANNING DEPARTMENT**

Applicant shall provide the information above to the Flagler County School District to calculate student generation, evaluate school capacity and address any potential mitigation. The applicant is responsible for obtaining any additional information required to complete the review process. For further information regarding this application process, please contact the local government with jurisdiction.

**I hereby certify the statements and/or information contained in this application with any attachments submitted herewith are true and correct to the best of my knowledge.**

**Disclaimers:**

By my signature hereto, I do hereby certify that the information contained in the application is true and correct to the best of my knowledge and understand that deliberate misrepresentation of such information may be grounds for denial or reversal of this application and/or revocation of any approval based upon this application.

**I further acknowledge** that the School Board of Flagler County may not defend any challenge to my proposed application and that it may be my sole obligation to defend any and all action and approvals of this application. Submission of this application initiates a process and does not imply approval by the School Board of Flagler County and any of its staff.

**I further acknowledge** that I have read the information contained in this application and have had sufficient opportunity to inquire with regard to matters set forth therein and accordingly, fully understand all applicable procedures and matters relating to this application. I hereby represent that I have the lawful right and authority to file this application.

**Signature:** \_\_\_\_\_

**Owner: Agent:** \_\_\_\_\_

**Date:** \_\_\_\_\_

If applicant is not the owner of record, a letter of authorization from the property owner(s) must be included with this form at the time of application submittal. If owner is a company/corporation, please submit documentation that signatory is registered agent of the company.

<b>Official Use Only</b>	
<b>Application Received</b>	
<b>Date:</b>	<b>Time:</b>
<b>By:</b>	



**SCHOOL PLANNING AND CONCURRENCY APPLICATION / SCHOOL IMPACT  
ANALYSIS FLAGLER COUNTY PUBLIC SCHOOLS, FACILITIES PLANNING DEPARTMENT**

**FLAGLER COUNTY PUBLIC SCHOOLS  
PLANNING SERVICES FEE SCHEDULE**

**School Capacity Availability Reports/Letters**

School Capacity Determination Nonbinding Review – FLU/Rezone)	\$200.00
School Capacity Availability Letter of Determination (SCALD) (Issued Prior to Final Plat/Site Plan or equivalent approval)	
3-10 Units	\$150.00
11-49 Units	\$300.00
50+ Units	\$500.00
Letter of No Impact	\$100.00
Letter of Exemption	\$100.00
Time Extension	\$100.00
Concurrency Determination Re-evaluation	\$150.00

**Proportionate Share Mitigation**

3-10 Units	\$500.00
11-49 Units	\$1,000.00
50+ Units	\$2,500.00

**Appeals**

Application Fee	\$1,000.00
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**Make check payable.....to City of Palm Coast, Flagler County or City of Bunnell.**