



Staff Report to the St. Petersburg Community Planning & Preservation Commission

Prepared by the Economic & Workforce Development Department,

For Public Hearing and Executive Action on August 11, 2020
at **2:00 p.m.**, in the City Council Chambers, City Hall,
175 Fifth Street North, St. Petersburg, Florida.

According to Economic & Workforce Development Department records, no Commission members reside or have a place of business located within 2,000 feet of the subject property. All other possible conflicts should be declared upon announcement of the item.

SUBJECT: Amended and restated Development Agreement for 8.98 acres (mol) of land generally located on the southeast corner of 34th Street South and 30th Avenue South.

APPLICANT/

PROPERTY OWNER: Skyway Marina, LLC
142 West Platt Street
Tampa, FL 33606

DEVELOPER: Phillips Development and Realty, LLC
142 West Platt Street
Tampa, FL 33606

REPRESENTATIVE: Don Phillips
Phillips Development and Realty, LLC

REQUEST: To approve an amended and restated Development Agreement for a mixed-use project with a minimum of the following: 4,500 sq. ft. restaurant, 3,500 sq. ft. of additional commercial use, 296 multi-family residential units; and a maximum of 100,000 sq. ft. of self-storage, all at a maximum height of 72 feet.

BACKGROUND: The subject property is located within the Skyway Marina District, and adjacent to the Clam Bayou, Perry Bayview and Lakewood Estates Neighborhood Associations. Before the property was purchased by Phillips Development and Realty, LLC, this nine (9) acre site had been vacant since 2007. Phillips Development purchased the property in 2016, and the City approved a Development Agreement in April 2017 that expired in April 2020. The apartment project within this development has been under construction since September 2019.

The Skyway Marina District Plan was adopted in May 2014 to create more redevelopment opportunities, improve the retail experience, and increase the population and buying power of the area. This parcel was identified as a prime redevelopment opportunity within the Plan, and promoted as such. Activity Center designation was approved in 2015 as recommended in the Plan to provide developers additional density and intensity of development District-wide. The Plan also had a recommendation to provide a \$1 million incentive to the first mixed-use development to be constructed within the District since historically there has been a lack of private investment in this area and the southern St. Petersburg market. This large project has served as a catalyst for significant other investment in the Skyway Marina District as intended.

ANALYSIS: On January 4, 2017, the Development Review Commission (DRC) approved a site plan (16-31000014) to allow a mixed-use development of 316 multi-family units, up to 13,000 sq. ft. commercial, and a 100,000 sq. ft. self-storage facility with variances to setbacks and green yards. The parking garage and self-storage building have been or will be constructed at the far east of the property and adjacent to Interstate 275, and will serve as a buffer to the apartment buildings immediately to the west. The commercial/retail buildings will be located adjacent to 34th Street South. Phillips Development has estimated the construction costs for the entire project at approximately \$70 million.

The Skyway Marina District Plan emphasizes the need for additional restaurants, retail, residents, employees and tourists within the District. The City has based the provision of this incentive on the developer providing one full service sit-down restaurant having a minimum 4,500 square feet, 3,500 square feet minimum of additional restaurant, retail and commercial use, and a minimum of 296 multi-family residential units. The developer is building 11 additional apartments over the minimum of the previous development agreement.

The agreement specifically provides the City's obligation to fund the following public improvements:

1. City Trail Extension. The City Trail will be extended from 34th Avenue South to 30th Avenue along 37th Street South, following 30th Avenue South easterly to the project site at an estimated cost of \$250,000. The City will construct and complete these improvements to coincide with the completion of the apartments. Funding has previously been appropriated. The primary change from the previous Development Agreement is that the City will sync the trail completion with the completion of only the apartments, rather than both the apartments and retail buildings.

2. Traffic Signal and Intersection Improvements. A new traffic mast arm signal, crosswalk and sidewalk improvements will be constructed at 34th Street and 30th Avenue South, subject to the Florida Department of Transportation (FDOT) approval, at an estimated cost of \$400,000. The City will coordinate these improvements with FDOT, and contribute \$400,000 as previously appropriated. Any cost exceeding this amount will be funded by FDOT.

3. 32nd Avenue South Improvements. 32nd Avenue South will be reconfigured and improved through the reduction of vehicle travel lanes from four to two, the removal of medians, the installation of new lights, the construction of new sidewalks and the addition of angled parking, at an estimated cost of \$250,000 (not including resurfacing that is currently in the City's budget). The

Developer will construct these improvements once vertical construction commences for the retail buildings. Funding for this project has been appropriated.

4. Art. The developer has completed a mural for the self-storage building, and plans on installing art on the exterior face of the parking deck which is currently under construction. All of the art on these structures is or will be visible from I-275, and be funded with a \$100,000 City contribution that has been appropriated in the City’s budget. The Developer will be responsible for the design and construction of these art components.

The agreement and incentives will expire in three years, and requires the Developer to complete the entire project within three years of the agreement’s effective date of September 2023. The City will have the right to review and approve all plans and contracts entered into by Developer in connection with the 32nd Avenue South improvements. The City will reimburse the Developer for all actual costs, fees and expenses incurred in connection with these improvements[MD1], except for management or overhead charges.

CONSISTENCY WITH COMPREHENSIVE PLAN:

The proposed Development Agreement is consistent with the following policies set forth in the St. Petersburg Comprehensive Plan:

- LU2.2 The City shall concentrate growth in the designated Activity Centers and prioritize infrastructure improvements to service demand in those areas.

- LU2.3 To attract large scale quality development and assure the proper coordination, programming and timing of City services in the activity centers the City shall continue to develop, evaluate and implement appropriate activity center development incentives.

- LU3.5 The tax base will be maintained and improved by encouraging the appropriate use of properties based on their locational characteristics and the goals, objectives and policies within this Comprehensive Plan.

- T1.6 The City shall support high-density mixed-use developments and redevelopments in and adjacent to Activity Centers, redevelopment areas and locations that are supported by mass transit to reduce the number and length of automobile trips and encourage transit usage, bicycling and walking.

RECOMMENDATION: City staff recommends APPROVAL of the proposed development agreement, based on consistency with the Comprehensive Plan.

Attachments: Development Agreement and Location Map

AMENDED AND RESTATED DEVELOPMENT AGREEMENT

THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this ____ day of September, 2020 ("Effective Date"), by and between Skyway Marina, LLC, a Florida limited liability company, whose mailing address is 142 W. Platt Street, Tampa, Florida 33606 (hereinafter the "Developer"), and the CITY OF ST. PETERSBURG, FLORIDA, a Florida municipal corporation, whose mailing address is City Attorney's Office, P.O. Box 2842, St. Petersburg, Florida 33731 (hereinafter the "City") (Developer and the City shall hereinafter collectively be referred to as the "Parties").

WITNESSETH:

WHEREAS, Developer is the fee simple title owner of approximately 8.98 acres of land located within the boundaries of the City, the legal description of which is attached hereto as Exhibit "A" (hereinafter the "Property"); and

WHEREAS, the Developer proposes to construct and operate on the Property a residential apartment complex comprising two hundred and ninety six (296) dwelling units with parking deck, in addition to one full service sit-down restaurant having a minimum of 4,500 square feet, a minimum of 3,500 square feet of additional restaurant/retail/commercial use, and in addition to a completed climate controlled vertical self-storage building of up to one hundred thousand (100,000) square feet (comprehensively, the "Project"), a site plan of which is attached hereto as Exhibit "B"; and

WHEREAS, the City, in order to further induce the Developer to construct the Project, has obligated itself to provide and finance infrastructure improvements in and around the Project Site; and

WHEREAS, on January 4, 2017, the City's Development Review Commission ("DRC") approved a site plan (Case No.16-31000014) ("Approved Site Plan") presented by the Developer for development of the Project, and

WHEREAS, on April 20, 2017, the City Council approved the original development agreement for the Project by adopting Ordinance 266-H; and

WHEREAS, the Parties desire to establish certain terms and conditions relating to the proposed development of the Property in accordance with Sections 163.3220-163.3243, Florida Statutes, the Florida Local Government Development Agreement Act (hereinafter the "Act") and Section 16.05 of the City's Land Development Regulations ("LDRs"); and

WHEREAS, the City is authorized by the Act and the City's LDRs to enter into this Agreement; and

WHEREAS, the Developer acknowledges that the requirements and conditions of this Agreement result from the impacts of the Project on public facilities and systems, are reasonably attributable to the development of the Project, are based upon comparable requirements and commitments that the City or other agencies of government would reasonably expect to require a developer to expend or provide, and are consistent with sound and generally accepted land use planning and development practices and principles; and

WHEREAS, the first properly noticed public hearing on this Agreement was held by the City's Community Planning and Preservation Commission ("CPPC") on August 11, 2020; and

WHEREAS, the first properly noticed reading of this Agreement was held by the City Council on August 20, 2020; and

WHEREAS, the second properly noticed reading and public hearing of this Agreement was held by the City Council on September 3, 2020; and

WHEREAS, the Developer desires to develop the Property in accordance with the conditions and limitations set forth in this Agreement.

DEFINITIONS

The terms used in this Agreement shall have the following meanings, except as herein otherwise expressly provided:

"Agreement" means this Development Agreement, including any Exhibits, and any amendments hereto or thereto.

"Authorized Representative" means the person or persons designated and appointed from time to time as such by the Developer or the City.

"City Council" means the governing body of the City, by whatever name known or however constituted from time to time.

"City's Comprehensive Plan" means the City of St. Petersburg Comprehensive Plan, as most recently amended prior to the date hereof.

"Construction Documents" means any applications, including all supporting documents, plans, and drawings, for building permits for the development of land, filed with the City and deemed complete by City staff.

"Development" means all improvements to real property, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved real property.

"Development Permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

"Exhibits" means those agreements, diagrams, drawings, specifications, instruments, forms of instruments, and other documents attached hereto and designated as exhibits to, and incorporated in and made a part of, this Agreement.

"Florida Statutes" means all references herein to "Florida Statutes" are to Florida Statutes (2016), as amended from time to time.

"Governmental Authority" means the City, the County or any other governmental entity having regulatory authority over the Project and that issues a Development Permit for the Project to be constructed and opened for business.

"Land Development Regulations" means Chapter 16 of the City of St. Petersburg City Code.

"Project" means the proposed development to be known as "Phillips Skyway Development" to be located on the Property as contemplated by this Agreement.

"Property" means the real property more particularly described in the legal description in Exhibit "A".

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals, Definitions and Exhibits. The foregoing recitations are true and correct and are hereby incorporated herein by reference. The foregoing Definitions are hereby incorporated herein by reference. All exhibits to this Agreement are essential to this Agreement and are hereby deemed a part hereof.

2. Intent. It is the intent of the Parties that this Agreement shall be adopted in conformity with the Act and that this Agreement should be construed and implemented so as to effectuate the purposes and intent of the Act. This Agreement shall not be executed by or binding upon any Party until adopted in conformity with the Act.

3. Recording and Effective Date. After the Agreement has been executed by the Parties, the City shall record the Agreement in the Public Records of Pinellas County, Florida, at the Developer's expense and shall forward a copy of the recorded Agreement to the Florida Department of Economic Opportunity ("DEO"). Thirty (30) days after receipt of the recorded Agreement by the DEO, this Agreement shall become effective (the "Effective Date").

4. Duration. The initial term of this Agreement shall be for three (3) years from the Effective Date. The Parties agree that this Agreement may be extended by mutual consent at the end of the this extended term for an additional renewal term, subject to all necessary requirements in accordance with the Florida Statutes and the City's then-existing LDRs.

5. Permitted Development Uses, Building Intensities, and Height.

a. Permitted Development Uses and Height. The Property is zoned "RC-1" and has a future land use map designation of PR-C. The Property may be used for the purposes permitted in the applicable zoning districts, subject to all height limitations in the City's LDRs and to the additional limitations and conditions set forth in this Agreement.

b. Proposed Development Uses and Permitted Intensity. The permitted intensity of the development uses on the Property shall be a residential apartment complex comprising two hundred and ninety six (296) dwelling units, one full service sit-down restaurant having a minimum of 4,500 square feet, a minimum of 3,500 square feet of additional restaurant/retail/commercial use, and a climate controlled vertical self-storage building of up to one hundred thousand (100,000) square feet. Under no circumstance shall the square footage of the climate controlled vertical self-storage building exceed twenty-five percent

(25%) of the total built square footage, excluding the parking garage, of the Project upon its completion. The self-storage building construction is completed with a Certificate of Occupancy issued by the City, construction is underway on the Apartments/Parking deck, and a site plan had been submitted by Developer for review by the City for construction of the Restaurant/Retail/Commercial components of the Project.

- c. Approved Site Plan. The Project shall be developed in accordance with the Approved Site Plan (Case No.16-31000014), which is attached hereto as Exhibit "B." Any proposed site plan to develop the Property beyond the limitations and conditions set forth in this Agreement and the Approved Site Plan, or modification of the Approved Site Plan thereto, is subject to site plan review in accordance with then-existing procedures and requirements established by the City's LDRs.

6. Public Facilities: Concurrency. The Project shall be required to meet all level of service standards in the City's Comprehensive Plan and all requirements of the City's concurrency management system. The following existing and needed public facilities are identified as serving the Project:

- a. Potable Water: There currently exists City potable water service to the property line of the Project site. The Developer will be responsible for any and all improvements necessary to provide potable water to a structure on the Project site. Sufficient supply capacity is available to service the Project, consistent with the requirements of the City's concurrency management regulations.
- b. Sanitary Sewer: There currently exists City sanitary sewer service to the property line of the Project site. The Developer will be responsible for any and all improvements necessary to provide sanitary sewer service to a structure on the Project site. Sufficient treatment capacity is available to service the Project, consistent with the requirements of the City's concurrency management regulations.
- c. Stormwater Management: Stormwater management level of service is project-dependent rather than based on the provision and use of public facilities and is not directly provided by the City. The design and construction of the proposed stormwater facilities on the Project site shall be in compliance with the requirements of the City of St. Petersburg City Code and the Southwest Florida Water Management District, shall meet concurrency requirements for stormwater, and shall not result in degradation of the level of service below City's adopted level of service. A stormwater utility fee shall be assessed to the owner or owners of the Property or any portion thereof.
- d. Solid Waste: Solid waste collection services will be provided by the City using facilities, equipment and service capacity already in place, while waste disposal services will be handled by Pinellas County. The cost of such solid waste collection services will be billed by the City to the owner or owners of the Property or any portion thereof. Capacity is sufficient to allow the Project to meet the applicable level of service requirements, and no new public facilities will be needed to service the Project.
- e. Transportation: Transportation facilities will be provided by the City using available facilities and service capacity already in place. Such capacity is sufficient to allow the Project to meet the applicable level of service requirements and no new transportation facilities will be needed to service the Project. A multimodal impact fee shall be assessed to the owner or owners of the Property or any portion thereof, unless substitute projects that meet the Pinellas County Multimodal Impact Fee Ordinance and regulations are approved and provided.

- f. Utility Improvements: Utility improvements on the Project site necessary to provide service to a structure shall be constructed by Developer at Developer's expense prior to issuance of the Certificate of Occupancy for the structure.

7. Funding of Public Improvements. The City shall complete and/or reimburse the Developer for all costs incurred by the Developer, not to exceed \$1,000,000 ("City Reimbursement"), in completing the following public improvements to the Project:

- a. The City shall extend the current walking/biking trail to the Project Site, which the Parties estimate will cost approximately \$250,000. The City shall endeavor to complete such improvements no later than the date that the final Certificate of Occupancy is issued for the Residential component of the Project;
- b. The City shall work with the FDOT to install a new traffic signal/intersection and crosswalk, subject to FDOT approval, which the Parties estimate will cost approximately \$400,000.00;
- c. The Developer shall revise the current configuration of 32nd Avenue South to reduce the vehicle traffic lanes to two, remove medians, and add sidewalks, lighting and angled parking, which the Parties estimate will cost approximately \$250,000.00, which does not include resurfacing funds that are currently in the City's budget. Any resurfacing and restriping tasks will be accomplished with funds that are currently in the City's budget, and such funds do not apply to the aforementioned City Reimbursement set forth in this Paragraph. In the event that Developer elects to resurface the 32nd Avenue South roadway, in lieu of the City performing this work, the City agrees to pay Developer an amount not to exceed \$70,000, which is the estimated amount it would have cost the City to resurface the roadway through its annual resurfacing program. Additionally, due to phasing requirements in implementing this portion of the Project, the revised configuration of 32nd Ave South outlined herein shall be at the election (not the requirement) of the Developer at the time of the construction of the Restaurant/Retail/Commercial components of the Project. However, in conjunction with the Apartments/Parking deck project, and prior to issuance of the first Certificate of Occupancy for the Apartments, the City agrees to restripe the roadway at 32nd Ave to add parallel parking spaces as an interim measure until the full buildout is commenced by Developer. Additionally, with this restriping, the Developer will complete the construction of the north-side sidewalk along 32nd Ave South and curb cut for the Apartments prior to issuance of the first Certificate of Occupancy for the Apartments/Parking deck project. The City shall have the right to review and approve all contracts and construction documents entered into by Developer in connection with such improvements. The City shall reimburse Developer for all costs, fees and expenses incurred in connection with such improvements (including, without limitation, for the relocation of any utility lines or pipes) after the start of vertical construction for the Restaurant/Retail/Commercial component of the Project, following the acceptance of such improvements by the City, and within sixty (60) days following the submittal of all necessary reimbursement documents to the City by the Developer;
- d. The City shall reimburse the Developer for up to \$100,000.00 for mutually acceptable art along the self-storage building's and parking deck's facades after completion, which includes lighting and design. Such reimbursement to be made within sixty (60) days following the submittal of project completion documentation including invoices. The City will reimburse for each structure's completed artwork separately or in its totality; and

- e. The City reimbursement for public improvement costs shall be only for the actual engineering, design and construction costs, including a proportionate share of insurance, bonding, and other "soft" costs for the project's public improvements, and shall not be for any management or overhead charges of the Developer.
- f. All public improvements must be completed (or eligible fees paid), and requests for payment therefore must be received by the City, within three (3) years after the effective date of this Agreement or within ninety (90) days after the entire development has received a certificate of occupancy, whichever occurs sooner.
- g. The City and Developer will work in cooperation to phase and build the public and private improvements.

8. Conditions Precedent to Reimbursement of Developer. Prior to the reimbursement of any portion of the public improvement costs by the City, the Developer and City staff agree that the following conditions shall be satisfied for each Public Improvement, as set forth in Paragraph 7 of this Agreement, so long as each condition complies with this Agreement and with applicable City Codes and state laws:

- a. A budget (including but not limited to an estimate and description of intended reimbursable costs) and a method and sequence of payment by the City for the engineering plans and specifications and required permits for the work, including documentation required for each payment, withholding payment until completion, and satisfaction of normal City conditions to final payment, including but not limited to, acceptance of work by the City and affidavit of payment of all laborers, suppliers, and subcontractors.
 - i. Developer may submit requests for payment draws as any Public Improvement achieves completion milestones, which are at the 50%, 75%, and 100% complete stages. A 10% minimum retainage will be held by the City until all final inspections and closeouts are complete, and the Public Improvement is deemed to be in compliance with this Paragraph 8 by the City in its sole and absolute discretion. Artwork is not eligible for payment draws until 100% completion is achieved and the artwork is accepted by the City.
- b. Adequate insurance to protect the City from liability in connection with the work, including but not limited to, public liability insurance and builder's risk insurance.
- c. Performance and payment bonds as required by law for construction on public property, as per Section 255.05, Florida Statutes, and performance and financial guarantees required by City Code for public infrastructure improvements.
- d. Assurance that the work will meet all construction standards and requirements of the City and other appropriate public agencies at the federal, state, county, and municipal levels.
- e. Inspection and acceptance of the work by the City.
- f. The City will pay only the actual engineering, design, and construction costs for any public improvements funded under this Agreement, and shall not pay for any management or overhead charges of the Developer.
- g. The Developer shall comply with Section 255.05, Florida Statutes, to the extent that the work is done on public lands or facilities or lands and facilities.

- h. The Developer shall comply with Section 287.055, Florida Statutes (the Consultants' Competitive Negotiation Act (CCNA)), to the extent deemed necessary by the City in its sole and absolute discretion.
- i. All references to the Florida Statutes in this Agreement refer to the 2019 edition of the Florida Statutes, as the same may be subsequently amended from time to time.

9. Reservation or Dedication of Land. Developer shall not be required to reserve or dedicate land within the Property for municipal purposes other than: (a) public utility easements for utilities servicing the Property; (b) as applicable for roadways and other transportation facilities; and (c) subject to reasonable reservation and dedications during site plan review and approval.

10. Local Development Permits. Local development approvals, including the following, will be required to develop the Property:

- Final site plan and, if applicable, special exception approval; Water, sewer, paving and drainage permits;
- Building permits; Certificates of Occupancy; Certificates of Concurrency;
- Subdivision approvals, if applicable; Right-of-way utilization permits;
- Any other development permits that may be required by City ordinances and regulations; and
- Such other City, County, State or Federal permits as may be required by law.

11. Consistency with Comprehensive Plan. Development of the Property shall be consistent with the City's Comprehensive Plan.

12. Necessity of Complying with Local Regulations Relative to Permits. The Parties agree that the failure of this Agreement to address a particular permit, condition, fee, term or restriction shall not relieve Developer of the necessity of complying with regulations governing said permitting requirements, conditions, fees, terms or restrictions. Development of the Project shall comply with all applicable federal, state, and local laws, codes, ordinances, rules and regulations, including the City's Comprehensive Plan and its LDRs, which are hereby incorporated herein by reference.

13. Compliance with State and Federal Law. If state or federal laws are enacted after the execution of this Agreement that are applicable to and preclude the Parties' compliance with this Agreement, this Agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws, with mutual consent.

14. Binding Effect. The obligations imposed pursuant to this Agreement upon the Parties and upon the Property shall run with and bind the Property as covenants running with the Property. This Agreement shall be binding upon and enforceable by and against the Parties hereto, their personal representatives, heirs, successors, grantees and assigns.

15. Concurrency and Comprehensive Plan Findings. The City has determined that the concurrency requirements of Sections 16.03.050 and 16.03.060 of the City's LDRs and the City's Comprehensive Plan will be met for the Project, as per the Approved Site Plan (Case No.16- 31000014). The City has found that the Project and this Agreement are consistent with and further the goals, objectives, policies and action strategies of the City's Comprehensive Plan and with the City's LDRs.

16. Disclaimer of Joint Venture. The Parties represent that by the execution of this Agreement it is not the intent of the Parties that this Agreement be construed or deemed to represent a joint venture or common undertaking between the Parties, or between any Party and any third party. While engaged in carrying out and complying with the terms of this Agreement, Developer is an independent principal and not a contractor for or officer, agent, or employee of the City. Developer shall not at any time or in any manner represent that it or any of its agents or employees are employees of the City.

17. Amendments. The Parties acknowledge that this Agreement may be amended by mutual consent of the Parties subsequent to execution in accordance with Section 163.3237, Florida Statutes and Section 16.05 of the City's LDRs. All amendments to this Agreement shall be ineffective unless reduced to writing and executed by the Parties in accordance with the City's LDRs.

18. Notices. All notices, demands, requests for approvals or other communications given by any Party to another shall be in writing and shall be sent by registered or certified mail, postage prepaid, return receipt requested, by a recognized national overnight courier service, or by facsimile transmission to the office for each Party indicated below and addressed as follows:

- (a) To the Developer:
Skyway Marina, LLC
142 W. Platt Street Tampa, Florida 33606
Attention: Glen Stygar

With a copy to: The Law Office of William Collins, P.A.
503 E. Jackson Street #332
Tampa, Florida 33602
Attention: William Collins

- (b) To the City:
City of St. Petersburg
Economic and Workforce Development Department
Attention: Gary Jones
(Physical Address) Municipal Services Center One 4th Street North
St. Petersburg, Florida 33701

(Mailing Address)
P.O. Box 2842
St. Petersburg, Florida 33731

With a copy to: City of St. Petersburg Legal Department
Attention: Michael Dema, Esq.

(Physical Address)
Municipal Services Center One 4th Street North
St. Petersburg, Florida 33701

(Mailing Address)
P.O. Box 2842
St. Petersburg, Florida 33731

19. Effectiveness of Notice. Notices given by courier service or by hand delivery shall be effective upon delivery and notices given by mail shall be effective on the fifth (5th) business day after mailing. Refusal by any person to accept delivery of any notice delivered to the office at the address indicated above (or as it may be changed) shall be deemed to have been an effective delivery as provided in this Paragraph. The addresses to which notices are to be sent may be changed from time to time by written notice delivered to the other Parties and such notices shall be effective upon receipt. Until notice of change of address is received as to any particular Party hereto, all other Parties may rely upon the last address given. Notices given by facsimile transmission shall be effective on the date sent.

20. Default. In the event any Party is in default of any provision hereof, any non-defaulting Party, as a condition precedent to the exercise of its remedies, shall be required to give the defaulting Party written notice of the same pursuant to this Agreement. The defaulting Party shall have thirty(30) business days from the receipt of such notice to cure the default. If the defaulting Party timely cures the default, this Agreement shall continue in full force and effect. If the defaulting Party does not timely cure such default, the non-defaulting Party shall be entitled to pursue its remedies available at law or equity.

21. Non-Action or Failure to Observe Provisions of this Agreement. The failure of any Party to promptly or continually insist upon strict performance of any term, covenant, condition or provision of this Agreement, or any Exhibit hereto, or any other agreement, instrument or document of whatever form or nature contemplated hereby shall not be deemed a waiver of any right or remedy that the Party may have, and shall not be deemed a waiver of a subsequent default or nonperformance of such term, covenant, condition or provision.

22. Applicable Law and Venue. The laws of the State of Florida shall govern the validity, performance and enforcement of this Agreement. Venue for any proceeding arising under this Agreement shall be in the Sixth Judicial Circuit, in and for Pinellas County, Florida, for State actions and in the United States District Court for the Middle District of Florida for federal actions, to the exclusion of any other venue.

23. Construction. This Agreement has been negotiated by the Parties, and the Agreement, including, without limitation, the Exhibits, shall not be deemed to have been prepared by any Party, but by all equally.

24. Entire Agreement. This Agreement, and all the terms and provisions contained herein, including without limitation the Exhibits hereto, constitute the full and complete agreement between the Parties hereto to the date hereof, and supersedes and controls over any and all prior agreements, understandings, representations, correspondence and statements whether written or oral. With the exception of conditions that may be imposed by the City in approving any Development Permit, no Party shall be bound by any agreement, condition, warranty or representation other than as expressly stated in this Agreement, and this Agreement may not be amended or modified except by written instrument signed by the Parties hereto, in accordance with this Agreement, Florida Statutes Section 163.3237, and Section 16.05 of the City's LDRs.

25. Holidays. It is hereby agreed and declared that whenever a notice or performance under the terms of this Agreement is to be made or given on a Saturday or Sunday or on a legal holiday observed by the City, it shall be postponed to the next following business day.

26. Certification. The Parties shall at any time and from time to time, upon not less than ten (10) days prior notice by the other Party execute, acknowledge and deliver to the other Party (and, in the case of the City, to a Project Lender) a statement in recordable form certifying that this Agreement has not been modified and is in full force and effect (or if there have been modifications that this Agreement as modified

is in full force and effect and setting forth a notation of such modifications), and that to the knowledge of such Party, neither it nor any other Party is then in default hereof (or if another Party is then in default hereof, stating the nature and details of such default), it being intended that any such statement delivered pursuant to this Paragraph may be conclusively relied upon by any prospective purchaser, mortgagee, successor, assignee of any mortgage or assignee of the respective interest in the Project, if any, of any Party made in accordance with the provisions of this Agreement.

27. Termination. This Agreement shall automatically terminate and expire upon the occurrence of the first of the following:

(a) The expiration of three (3) years from the Effective Date of this Agreement, as defined herein, unless the Parties mutually agree to extend the initial term for an additional renewal term pursuant to the terms of this Agreement and subject to all necessary requirements in accordance with the Florida Statutes and the City's then- existing LDRs; or

(b) The revocation of this Agreement by the City Council in accordance with the Act and the City's LDRs; or

(c) The execution of a written agreement by all Parties, or by their successors in interest, providing for the cancellation and termination of this Agreement.

28. Deadline for Execution. The Developer shall execute this Agreement prior to the date on which the City Council considers this Agreement for final approval.

29. Covenant of Cooperation. The Parties shall cooperate with and deal with each other in good faith and assist each other in the performance of the provisions of this Agreement and in achieving the completion of development of the Project site, including processing amendments to this Agreement.

30. Approvals.

(a) For the purposes of this Agreement any required written permission, consent, approval or agreement ("Approval") by the City means the Approval of the Mayor or his designee unless otherwise set forth herein and such approval shall be in addition to any and all permits and other licenses required by law or this Agreement.

(b) For the purposes of this Agreement any right of the City to take any action permitted, allowed or required by this Agreement, may be exercised by the Mayor or his designee, unless otherwise set forth herein.

31. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance is declared invalid or unenforceable, the remainder of this Agreement, including any valid portion of the_ invalid term or provision and the application of such invalid term or provision to circumstances other than those as to which it is held invalid or unenforceable by a court of competent jurisdiction, shall not be affected thereby and shall, with the remainder of this Agreement, continue unmodified and in full force and effect. If, however, the result of the severance of the provision results in harm to the public health, safety or welfare, results in a public harm, or substantially negates a public benefit or imposes a public burden, then the provisions of this Agreement shall be deemed not severable and this Agreement shall be reformulated and reconstituted to avoid that consequence.

32. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute a single instrument.

33. Third Party Beneficiaries. The rights and obligations of the Parties set forth in this Agreement are personal to the Parties, and no third parties are entitled to rely on or have an interest in any such rights and obligations.

34. Caption or Section Headings. Captions and section headings contained in this Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

35. Force Majeure. All time periods or deadlines provided in this Agreement shall be automatically extended for delays caused by Acts of God, strikes, riots, hurricanes or other causes beyond the reasonable control of the affected party.

36. Changes in City Code and LDRs Specifically Anticipated. It is specifically anticipated that the City Code and LDRs will change during the duration of this Agreement, and, in accordance with Florida Statutes Section 163.3233(2), the City may apply such subsequently adopted laws and policies to the Project. However, the permitted intensity of the development uses on the Property shall be a minimum of two hundred and eighty five (285) dwelling units, in addition to one full service sit-down restaurant having a minimum of 4,500 square feet, a minimum of 3,500 square feet of additional restaurant/retail/commercial use, and in addition to a climate controlled vertical self-storage building of up to one hundred thousand (100,000) square feet. This permitted intensity of development and permitted uses specifically shall not be affected by subsequent changes to the City Code or the LDRs.

[REMAINDER OF PAGE INTENTIONALLY BLANK-SIGNATURE PAGES AND EXHIBITS FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

ATTEST:

“CITY”
CITY OF ST. PETERSBURG, FL

CITY CLERK

By: _____

As Its: _____

_____ day of _____, 2020

Approved as to form and content
By Office of City Attorney

STATE OF FLORIDA
COUNTY OF PINELLAS

The forgoing instrument was acknowledged before me this ____ day of _____, 2020 by _____ and _____, to me known as the _____ and St. Petersburg City Clerk, respectfully, who acknowledged before me that they have executed the foregoing instrument for the purposes therein expressed and that they were duly authorized to do so.

NOTARY PUBLIC:

Sign: _____

Print: _____

State of Florida at Large
My Commission Expires: _____ (SEAL)

WITNESSES:

Sign: Eryn Romeis
Print: Eryn Romeis
Sign: Jackie K. Cooper
Print: Jackie K. Cooper

“DEVELOPER”
SKYWAY MARINA, LLC

By: [Signature]
Print: Donald Phillips
Title: Manager
Date: 7-14-20

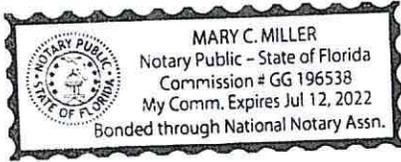
STATE OF FLORIDA
COUNTY OF PINELLAS

The forgoing instrument was acknowledged before me this 14th day of July, 2020 by Donald Phillips on behalf of Skyway Marina, LLC, who is personally known to me or produced as identification.

NOTARY PUBLIC:

Sign: [Signature]
Print: Mary C. Miller

State of Florida at Large
My Commission Expires: 7/12/22



(SEAL)

EXHIBIT A
Legal Description of Property

LEGAL DESCRIPTION

LAKESWOOD OFFICE PARK BLK A, THAT PART OF LOT 1 DESC AS COM NW COR OF SW 1/4 OF SEC 35-31-16 TH S89D51'09"E 127.49FT TH S00D08'51"W 49.74FT FOR POB TH S89D51'10"E 144.19FT TH S00D07'57"W 507.71FT TH N74D49'48"W 157.54FT TH CUR RT RAD 30FT ARC 39.13FT CB N37D12'25"W 36.42FT TH N00D07'57"E 407.87FT TH CUR RT RAD 30FT ARC 47.2FT CB N45D07'45"E 42.48FT TO POB

LAKESWOOD OFFICE PARK BLK A, THAT PART OF LOTS 1, 2 & 3 ALL DESC AS COM NW COR OF SW 1/4 OF SEC 35-31-16 TH S89D51'09"E 127.49FT TH S00D08'51"W 49.74FT TH S89D51'10"E 144.19FT FOR POB TH S89D51'10"E 533.05FT TH S00D01'49"W 53.47FT TH S00D01'49"W 288.55FT TH N89D58'11"W 166.03FT TH S00D01'49"W 264.14FT TH N74D49'48"W 381.17FT TH N00D07'57"E 507.71FT TO POB

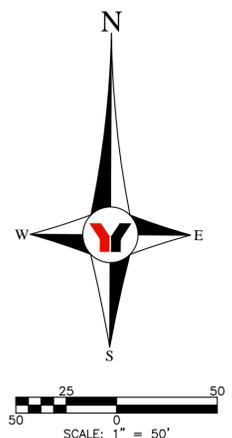
LAKESWOOD OFFICE PARK BLK A, THAT PART OF LOT 3 DESC AS COM NW COR OF SW 1/4 OF SEC 35-31-16 TH S89D51'09"E 127.49FT TH S00D08'51"W 49.74FT TH S89D51'10"E 228.86FT TH S89D51'10"E 448.38FT TH S00D01'49"W 53.47FT TH S00D01'49"W 288.55FT FOR POB TH S00D01'49"W 264.3FT TH S78D23'18"W 71.56FT TH CUR RT RAD 100FT ARC 47.04FT CB N88D26'34"W 46.61FT TH N74D49'18"W 51.13FT TH N00D01'49"E 264.14FT TH S89D58'11"E 166.03FT TO POB

EXHIBIT B
Approved Site Plan



SITE LOCATION

VICINITY MAP
N.T.S.



SITE DATA TABLE
(THE NUMBERS SHOWN BELOW ARE FROM DRC APPLICATION DATA SHEET)

1. ZONE: RC-1
2. EXISTING USE (CURRENTLY EXISTING ON SITE): VACANT - COMMERCIAL
3. PROPOSED USE (EXISTING + PROPOSED, IF DIFFERENT): MIXED USE
4. SITE AREA: 391,604 S.F. 8.99 ACRES
5. VARIANCE REQUESTED (LIST): SETBACK REQUIREMENTS ON 30TH. AVE. SETBACK REQUIREMENTS ON 32ND. AVE. REAR SETBACK 34TH. ST. GREENYARD MIN. SPECIMEN TREES TO BE PRESERVED
6. GROSS FLOOR AREA (TOTAL S.F. BUILDING):
EXISTING: 145,335 S.F.
PROPOSED: 452,589 S.F.
MAX PERMITTED: 438,589 S.F.
7. FLOOR AREA RATIO (TOTAL S.F. BUILDING / BY TOTAL S.F. OF SITE):
EXISTING: 0.37
PROPOSED: 1.12
MAX PERMITTED: 1.12
8. BUILDING COVERAGE (1st FLOOR S.F. OF BUILDING):*
EXISTING: 55,159 S.F. (14% OF SITE)
PROPOSED: 168,644 S.F. (43% OF SITE)
MAX PERMITTED: 293,703 S.F. (75% OF SITE)
*BUILDING COVERAGE + PAVING + GREEN SPACE = 100% OF SITE
9. OPEN GREEN SPACE (INCLUDE ALL GREEN SPACE ON SITE):
EXISTING: 121,845 S.F. (31% OF SITE)
PROPOSED: 117,449 S.F. (30% OF SITE)
10. INTERIOR OPEN GREEN SPACE OF THE VEHICULAR AREA (GREEN SPACE WITHIN PARKING LOT AND INTERIOR OF SITE; DO NOT INCLUDE PERIMETER LANDSCAPING):
EXISTING: 4%
PROPOSED: 10% MIN.
11. PAVING COVERAGE (INCLUDING SIDEWALKS; DO NOT INCLUDE BUILDINGS; PLUS BUILDING COVERAGE):
EXISTING: 214,600 S.F. (55% OF SITE)
PROPOSED: 105,511 S.F. (27% OF SITE)
12. IMPERVIOUS SURFACE (TOTAL S.F. PAVING, WALKS, AND OTHER HARD SURFACED AREAS, PLUS BUILDING COVERAGE):
EXISTING: 269,759 S.F. (69% OF SITE)
PROPOSED: 274,155 S.F. (70% OF SITE)
MAX PERMITTED: 293,703 S.F. (75% OF SITE)
13. DENSITY 45 UNITS PER ACRE X 9.00 ACRES = 405 UNITS
EXISTING: 0
PROPOSED: 35
MAX PERMITTED: 45
14. PARKING SPACES:
EXISTING: 403 (INCLUDES 10 HANDICAPPED)
PROPOSED: 600 (INCLUDES 15 HANDICAPPED)
MIN. REQ.: 555 (INCLUDES 11 HANDICAPPED)
15. BUILDING HEIGHT:
USE CATEGORY:
EXISTING: 0 (0% OF VEHICULAR PARKING)
PROPOSED: 20 (3.0% OF VEHICULAR PARKING)
MIN. REQ.: 20 (3.0% OF VEHICULAR PARKING)
16. HOW MUCH OF THE SITE IS THE PROPOSAL ALTERING/CHANGING? 100%

PL. PART OF TRAILS WITH PROPERTY ADJACENT TO 11200 N. MOONLEY DR. PARCEL ID: 35-31-16-49734-001-0041 USE: 8913 (CITY GOVT - NON-RESIDENTIAL (COMMERCIAL) ONLY)

ST PETERSBURG JR COLLEGE BOARD OF TRUSTEE PO BOX 13489 ST PETERSBURG FL 33733-3489 PHONE (727) 822-4317 FAX (727) 822-2919 PARCEL ID: 35-31-16-49734-002-0031 USE: 8913 (CITY GOVT - NON-RESIDENTIAL (COMMERCIAL))

ST PETERSBURG JR COLLEGE BOARD OF TRUSTEE PO BOX 13489 ST PETERSBURG FL 33733-3489 PHONE (727) 822-4317 FAX (727) 822-2919 PARCEL ID: 35-31-16-49734-004-0010 USE: 8414 (PUBLIC COLLEGES, SPC, USF)

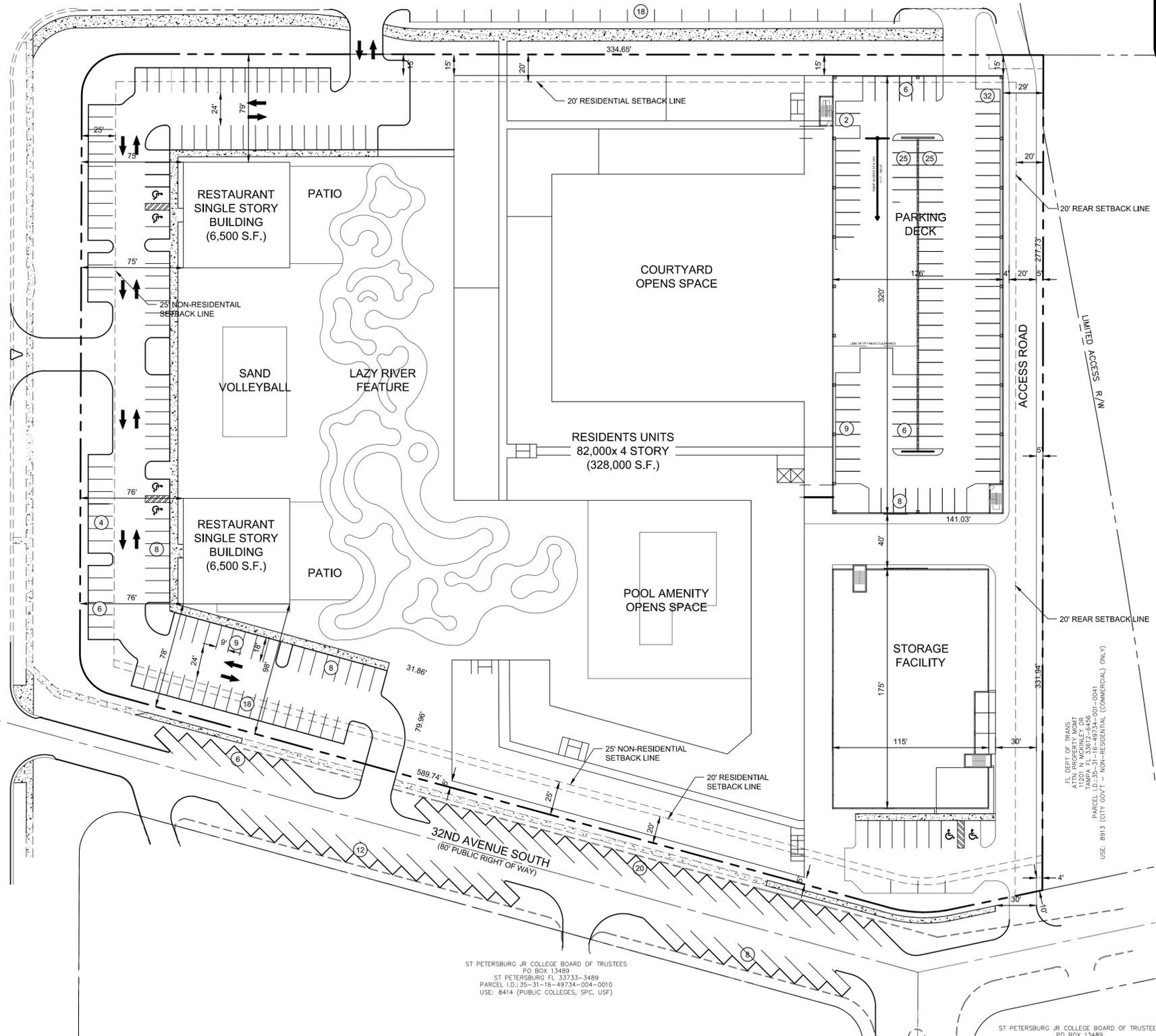
LOT 1
BLOCK D

LEGAL DESCRIPTION
LAKEWOOD OFFICE PARK LOTS 1, 2, AND 3 BLOCK A, PLAT BOOK 57, PAGE 40, PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

34TH STREET-U.S. HIGHWAY NO. 19
(200' PUBLIC RIGHT OF WAY)

30TH AVENUE SOUTH
(100' PUBLIC RIGHT OF WAY)

32ND STREET SOUTH
(60' PUBLIC RIGHT OF WAY)



DESCRIPTION	INITIALS	DATE	PREPARED FOR: PDHR, LLC 142 West Platt Street (813) 868-3100	 George F. Young, Inc. 299 DR. MARTIN LUTHER KING JR. STREET, N. ST. PETERSBURG, FLORIDA 33701 PHONE (727) 822-4317 FAX (727) 822-2919 ENGINEERING CERTIFICATE OF AUTHORIZATION NUMBER 21 CIVIL & TRANSPORTATION ENGINEERING ECOLOGY GIS LANDSCAPE ARCHITECTURE PLANNING SURVEYING SUBSURFACE UTILITY ENGINEERING GAINESVILLE • LAKEWOOD RANCH • ORLANDO • PALM BEACH • ST. PETERSBURG • TAMPA	No. _____ DATE _____	SKYWAY MARINA DRC SITE PLAN SECTION 35, TOWNSHIP 31S., RANGE 16E.	JOB NO. 16001700TC SHEET NO. 3
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"NOT FOR CONSTRUCTION"

FILE: \\PROJECTS\2016\16001700TC\Map\Preliminary\16001700TC-PD.dwg PLOTTED: 12/9/2016 2:02 PM LOGIN: Bowers, William

Location – Proposed Development Agreement

