



CITY COUNCIL AGENDA FORM

REQUESTED COUNCIL MEETING DATE: 05/22/07

SUBJECT: AMENDMENT TO LAND DEVELOPMENT CODE
Chapter 17, Section 25.5 – Riverwalk Overlay District

DEPARTMENT: CITY MANAGER/Redevelopment

RECOMMENDED MOTION:

To adopt Ordinance No. 2007 - 26, amending Chapter 17, Section 25.5 of the Land Development Code relating to the Riverwalk Overlay District.

SUMMARY:

Planning Commission Action: October 19, 2006 – Unanimous Recommendation for Approval.

The subject ordinance is an administrative request to amend the City of Port Orange Land Development Code relating to the Riverwalk Overlay District. The proposed ordinance clarifies that developments that were legal conforming uses preceding the creation of the Riverwalk Overlay District may continue as legal conforming uses.

ATTACHMENTS: Ordinance Resolution Budget Resolution
 Other Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT *[Signature]* Donna J. Steinebach Date: 05-11-07
CITY ATTORNEY *[Signature]* Approved: Date: 5.11.07
CITY MANAGER *[Signature]* Approved Agenda Item For: 5/22/07

COUNCIL ACTION: Approved as Recommended Disapproved
 Tabled Indefinitely Continued to Date Certain Approved with Modification

ORDINANCE NO. 2007- 26

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE BY AMENDING CHAPTER 17, SECTION 25.5, RELATING TO RIVERWALK OVERLAY DISTRICT; PROVIDING FOR CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, that certain portion of the Riverwalk lying within and east of Ridgewood Avenue and within and north of Dunlawton Avenue is governed by Ordinance Nos. 2007-10, 2007-11 and 2007-12 and shall not be governed by this ordinance; and

WHEREAS, for purposes of this ordinance words with underline (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The City Council hereby amends Section 25.5 of Chapter 17 of the Land Development Code to read as follows:

Section 25.5: Riverwalk Overlay District (ROD).

(a) *Purpose and intent.* The Riverwalk Overlay District is designed to promote the development and redevelopment of the Riverwalk Special Character District, in accordance with concepts outlined in the Port Orange Town Center Redevelopment Plan (POTCRP). The POTCRP calls for this area to be redeveloped as "an attractive, inviting and economically successful mixed-use environment that promotes a positive image and identify for the community." More specifically, the Riverwalk Special Character District is envisioned as a mixed-use, water-, pedestrian-, and destination-oriented district.

(1) The purpose of the Riverwalk Overlay District is to allow uses that support these goals, while prohibiting uses which, while normally permitted by the underlying zoning, would be contradictory to the stated goals and vision of the Riverwalk Special Character District and the POTCRP. It is also the intent of the Riverwalk Overlay District to continue to promote the modernization and beautification of the Ridgewood Avenue corridor and to protect the integrity of adjoining residential areas. The Riverwalk Overlay District is intended to accommodate a mixture of office, commercial, and residential uses based upon the redevelopment strategy for the Port Orange Town Center. The permitted and special exception uses shown are designed to be developed as a combination of uses on a

single site, as opposed to conventional single-use, single-site development.

(2) It is acknowledged that certain properties lying within a portion of the Riverwalk Overlay District are already developed for uses that are prohibited from being established pursuant to the overlay district. It is the express intent of this provision to foster the continued economic viability of existing businesses in the Riverwalk Overlay District by allowing such existing developments to continue as legal, conforming uses. Therefore, properties that were developed with legal, conforming uses prior to the September 28, 2004 effective date of Ordinance No. 2004-28 establishing the Riverwalk Overlay Ordinance shall continue to be deemed and treated for purposes of zoning as legal conforming uses until such time as the underlying or overlay zoning is changed.

(3) The provision for legal conforming uses described in Section 25.5, Paragraph (a)(2) shall not apply to property within and east of Ridgewood Avenue and within and north of Dunlawton Avenue. Said property shall be governed by Chapter 17, Section 30 and the Land Development Code as otherwise applicable.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this ordinance.

Section 4. This ordinance shall become effective immediately upon adoption.

Mayor Allen Green

Attest:

Kenneth W. Parker, City Manager

Passed on first reading on the _____ day of _____

Passed and adopted on second and final reading on the _____ day of _____

Reviewed and Approved: 
City Attorney



STAFF REPORT

AMENDMENT TO THE LAND DEVELOPMENT CODE
Chapter 17, Section 25.5 - Riverwalk Overlay District
City of Port Orange, applicant
October 5, 2006

INTRODUCTION:

The City of Port Orange is proposing to amend Chapter 17, Section 25.5 of the Port Orange Land Development Code (LDC), relating to the Riverwalk Overlay District (ROD). Specifically, this proposed ordinance clarifies that developments that were legal conforming uses preceding the creation of the ROD may continue as legal conforming uses.

DISCUSSION:

Ordinance No. 2004-28, adopted in September 2004, created the Riverwalk Overlay District (ROD). This new series of zoning regulations was enacted to help ensure that all development within the Riverwalk Special Character District is undertaken in accordance with the goals and objectives of the Port Orange Town Center Redevelopment Plan. The primary focus of the overlay district is to prohibit the creation of specific uses deemed inconsistent with the compact, pedestrian-oriented redevelopment vision for the Riverwalk area. The Riverwalk Special Character area is depicted on Exhibit "A" to this report.

Staff promoted adoption of the Riverwalk Overlay District as an appropriate interim measure until such time that a new Planned Community zoning district could be developed for the Riverwalk area. An overlay district was considered the preferred approach to protect against incompatible development, in lieu of other more dramatic approaches, including a total moratorium on new development. Ultimately, however, the City opted to establish a development moratorium for the Riverwalk Project area, which is the 34.5-acre redevelopment project area depicted on Exhibit "B" to this report. That moratorium, enacted by Ordinance No. 2005-58, went into effect on January 3, 2006 and is due to expire within 365 days or upon enactment of the new PC-2 (Planned Community) zoning for the Riverwalk Project area. All of the remaining properties within the Riverwalk Special Character District are not subject to this moratorium and have been allowed to develop or redevelop in accordance with their underlying zoning and the overlay regulations.

The Riverwalk Special Character area is comprised of properties governed by eight (8) different underlying zoning classifications. These are "RD", Ridgewood Development, "CC", Community Commercial, "PO" Professional Office, "PCD", Planned Commercial Development, "GPU", Government/Public Use, "RMH", Residential Mobile Home, "R3-

H", Residential Multi-Family, and "NP", Neighborhood Preservation. The overlay district applies to all of these properties, but most directly impacts commercial properties. In particular, the ROD expressly prohibits thirty-seven (37) principal uses of property within the Riverwalk Special Character area. Many of these prohibited uses would otherwise be allowed as permitted principal uses by the underlying zoning. A number of existing properties within the Riverwalk Special Character Area are already developed with these now prohibited uses, which include child care centers, convenience stores with fuel operations, fleet based services, funeral homes, and motor vehicle service stations.

Upon enactment, the overlay district created a number of legal nonconforming properties within the Riverwalk Special Character area. These properties are now subject to all of the legal nonconformance provisions of the City's Land Development Code. This includes the provision that in the event of major damage these uses cannot not be reestablished. By City ordinance, major damage is defined as damage estimated at over 60% of the appraised value as recorded in the tax assessor's office at the time of destruction. As we learned during the 2004 hurricane season, even modest damage to a structure can quickly add up to this prescribed threshold.

While some may view this nonconformance situation as a desirable outcome of the overlay district regulations, in practical terms it creates a very undesirable business climate for several longstanding businesses within this older area of the community. The Riverwalk Overlay District was enacted as an interim measure to protect against impending development that would be inconsistent with the City's redevelopment objectives. It was not intended to create an unfavorable business climate for existing businesses that elect to stay in operation until such time that redevelopment activities are initiated on their properties. Until a specific redevelopment plan encompassing these properties is created, proactive measures by the City to extinguish these uses would create a significant disadvantage for properties in the Riverwalk Special Character District. A premature loss of property tax base and economic activity would also create negative financial implications for tax increment financing (TIF) revenues. Arguably then, it would be in the City's interest to allow all legal conforming uses in existence at the time of the overlay ordinance adoption in September 2005 to continue as legal, conforming uses until redevelopment occurs.

The new "Planned Community - Riverwalk" zoning is in the process of being drafted. It will apply only to the 35.4 acre Riverwalk Project Area. Upon rezoning of properties within the project area, the PC zoning will supercede the existing base zoning district and overlay regulations. The residual properties within the Riverwalk Special Character Area, essentially those west of U.S. 1/Ridgewood Avenue and south of S.R. 421/Dunlawton Avenue, will continue with their existing zoning and the ROD overlay until redevelopment occurs.

With the proposed ordinance clarification, the ongoing business concerns in the Riverwalk area, like those elsewhere in the Port Orange Town Center Redevelopment District, can continue with confidence that a major storm, fire or similar event will not prohibit them from operating due to zoning. The overlay district will continue to accomplish its objective by prohibiting any new incompatible development from occurring. At the time a specific redevelopment plan for these properties is approved by the City, these properties will be rezoned, and the overlay district will be completely extinguished.

RECOMMENDATION:

Staff recommends **approval** of the proposed ordinance amending Section 25.5 of Chapter 17 of the Port Orange Land Development Code pertaining to the Riverwalk Overlay District.

Prepared by: Donna J. Steinebach, AICP, Assistant to the City Manager
Office of the City Manager/Port Orange Town Center CRA

(386) 506-5506
(386) 506-5501

PLANNING COMMISSION DATE:
TENTATIVE CITY COUNCIL DATE (1st Reading of Ordinance):

October 19, 2006
November 14, 2006

**PROPOSED AMENDMENT TO THE
CITY OF PORT ORANGE LAND DEVELOPMENT CODE
CHAPTER 17, SECTION 25.5, RIVERWALK OVERLAY DISTRICT**

Section 25.5 Riverwalk Overlay District (ROD).

(a) Purpose and intent. The Riverwalk Overlay District is designed to promote the development and redevelopment of the Riverwalk Special Character District, in accordance with concepts outlined in the Port Orange Town Center Redevelopment Plan (POTCRP). The POTCRP calls for this area to be redeveloped as “an attractive, inviting and economically successful mixed-use environment that promotes a positive image and identity for the community.” More specifically, the Riverwalk special character district is envisioned as a mixed-use, water-, pedestrian- and destination-oriented district.

The purpose of the Riverwalk Overlay District is to encourage uses that support these goals, while prohibiting uses which, while normally permitted by the underlying zoning, would be contradictory to the stated goals and vision of the Riverwalk Special Character District. It is also the intent of the Riverwalk Overlay District, to continue to promote the modernization and beautification of the Ridgewood Avenue corridor and to protect the integrity of adjoining residential areas. The Riverwalk Overlay District is intended to accommodate a mixture of office, commercial, and residential uses based upon the redevelopment strategy for the Port Orange Town Center. The permitted and special exception uses shown are designed to be developed as a combination of uses on a single site, as opposed to conventional single-use, single-site development.

It is acknowledged that certain properties lying within the Riverwalk Overlay District are already developed for uses that are prohibited from being established pursuant to the overlay district. It is the express intent of this provision to foster the continued economic viability of existing businesses in the Riverwalk Overlay District by allowing such existing developments to continue as legal, conforming uses. Therefore, properties that were developed with legal, conforming uses prior to the September 28, 2004 effective date of Ordinance No. 2004-28 establishing the Riverwalk Overlay Ordinance shall continue to be deemed and treated for purposes of zoning as legal conforming uses until such time as the underlying or overlay zoning is changed.

EXHIBIT "A"
MAP OF RIVERWALK SPECIAL CHARACTER DISTRICT

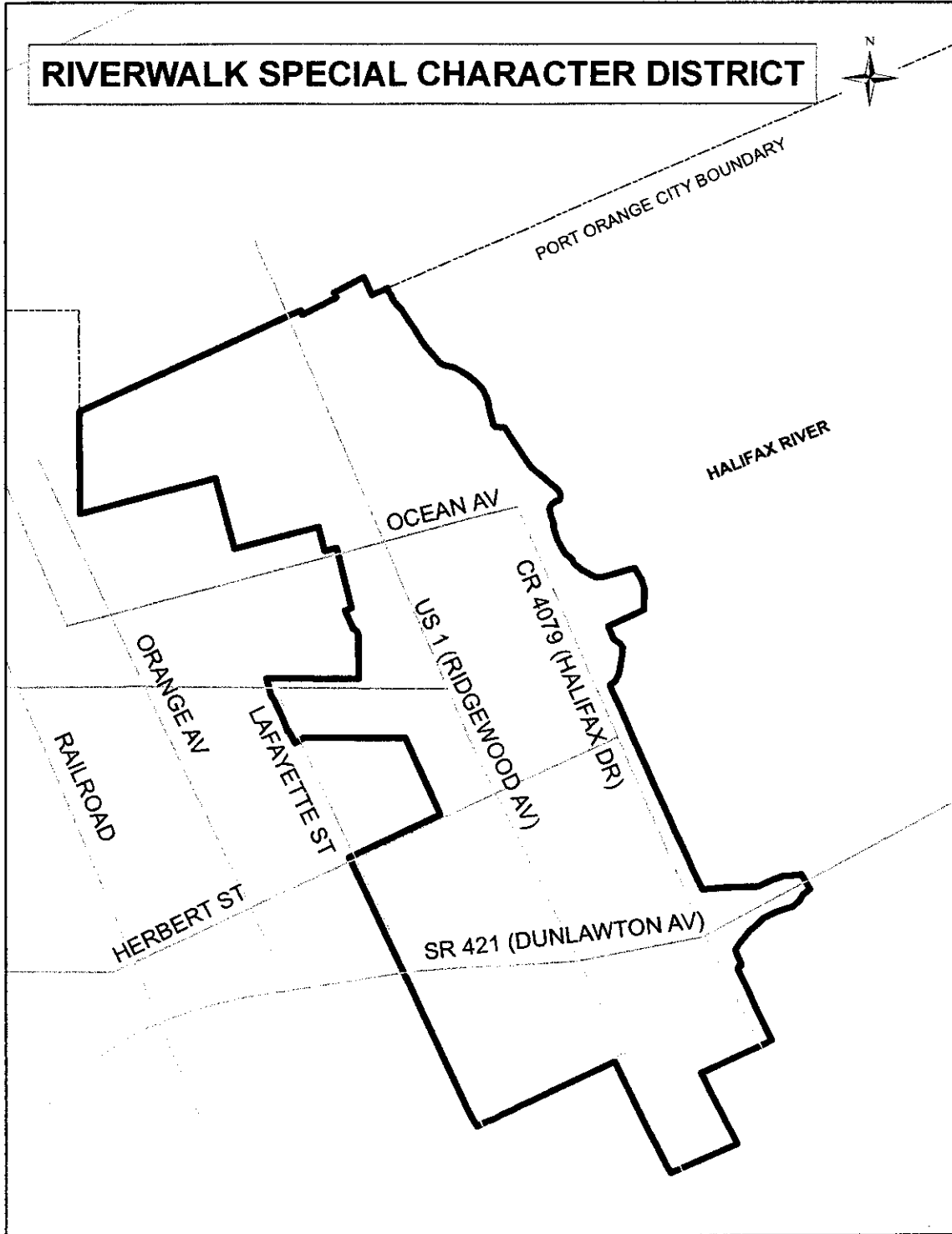
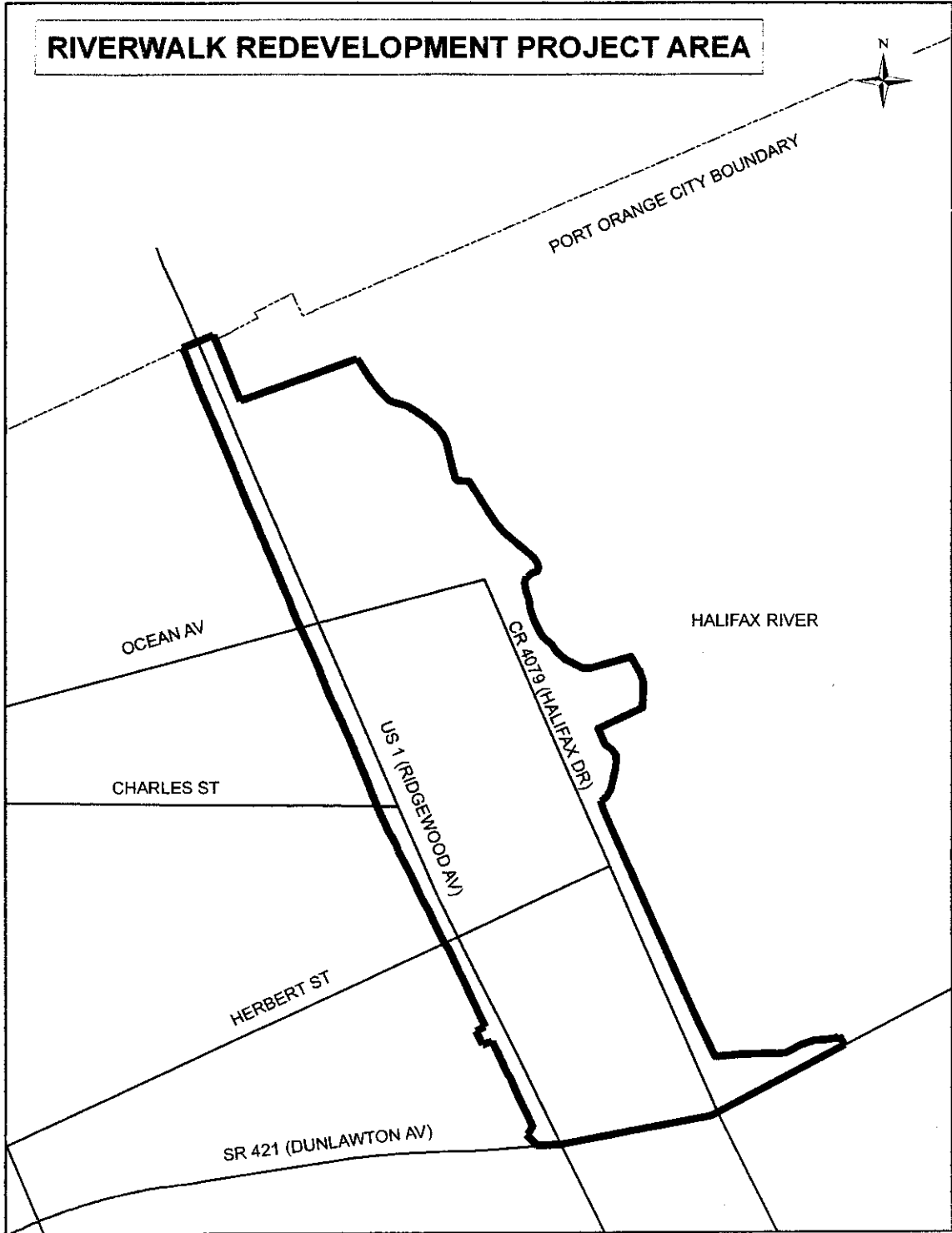


EXHIBIT "B"
MAP OF RIVERWALK REDEVELOPMENT PROJECT AREA



RIVERWALK SPECIAL CHARACTER DISTRICT

PORT ORANGE CITY BOUNDARY

Area Governed by Ordinance 2007-11

HALIFAX RIVER

OCEAN AVE

US 1 (RIDGEMOOD AVE)

CR 4078 (HALIFAX DR)

CHARLES ST

ORANGE AVE

HERBERT ST

SR 421 (DUNLAWTON AVE)

Area Subject to Proposed Overlay Ordinance Amendment

