

**REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT FOR  
AN APPLICATION FOR A SECOND AMENDMENT TO THE DEVELOPMENT**

**AGREEMENT FOR ORDINANCE 2015-661**

**NOVEMBER 3, 2015**

The Planning and Development Department hereby forwards to the Land Use and Zoning Committee and City Council its comments and recommendation regarding Application for a Second Amendment to the Development Agreement for **Ordinance 2015-661**.

***Name of Development:*** Rolling River Estates Mixed Use: 2nd Amendment

***Concurrency Number:*** 28996

***Location:*** Dunn Avenue between U.S. Highway 1 and Braddock Road.

***Real Estate Number(s):*** 003809-0020 and 003809-0040

***Current Zoning District:*** Planned Unit Development (PUD)

***Current Land Use Category:*** Community/General Commercial (CGC)

***Planning District:*** North, District 6

***City Council District:*** The Honorable Reggie Gaffney, District 7

***Project Description:*** Development of the remaining 207,254 enclosed square feet of shopping center uses.

***Applicant/Agent:*** Terry A. Moore, Esquire  
Gray-Robinson, P.A.  
50 North Laura Street, Suite 1100  
Jacksonville, Florida 32202

***Owner:*** Dunn Village, LLC.

***Staff Recommendation:*** **APPROVE**

### GENERAL INFORMATION

Application for a Second Amendment to the Development Agreement for **Ordinance 2015-661** seeks to extend the duration of the Development Agreement for five (5) years until September 25, 2020. The remaining undeveloped property subject to this amendment consists of approximately 28.45± acres. The Development Agreement was originally approved in 2003 as a mixed use development on approximately 174.0 acres for a residential subdivision for 419 units and a shopping center for 280,000 enclosed square feet. To date, the residential subdivision has been completed (approximately 306 lots), and approximately 72,746 enclosed square feet of the shopping center has been constructed.

The First Amendment to the Development Agreement was approved in 2010 (Ordinance 2010-525-E. It provided for a 5-year extension of the agreement.

### CRITERIA FOR REVIEW

Pursuant to the provisions of Section 655.205(h)(1) of the Concurrency and Mobility Management System, a request to amend or cancel a development agreement must state the basis for the request and must include facts sufficient to indicate why there is justification for the amendment or cancellation.

- (i) *Conditions that require the owner or developer to mitigate the impacts of all existing and proposed development, including mitigation of any impacts resulting in changes in the original or amended development agreement due to the cancellation or amendment of same;*

According to the application, there are no additional impacts due to the proposed amendment to extend the Duration of Agreement.

- (ii) *Conditions that require the owner or developer to request and receive a rescission of or amendment to all development permits or other approvals which authorize development beyond that which is authorized under an amended or cancelled development agreement;*

According to the application, no development permits or other approvals have been issued which authorize development beyond that which is authorized under the Development Agreement, as amended herein.

- (iii) *Conditions that require the owner or developer to satisfy all applicable conditions of the existing development agreement with regard to existing and proposed development.*

As stated in the application, the Developer shall continue to satisfy all applicable conditions of the Development Agreement (as amended by the First Amendment) in connection with the proposed development.

The development agreement is subject to a performance schedule and an annual renewal fee (calculated at \$10,608 for 2015) each year that the agreement is in effect for the remaining undeveloped enclosed area for the purpose of reserving traffic circulation capacity. To date, approximately \$104,856 has been paid in annual fees.

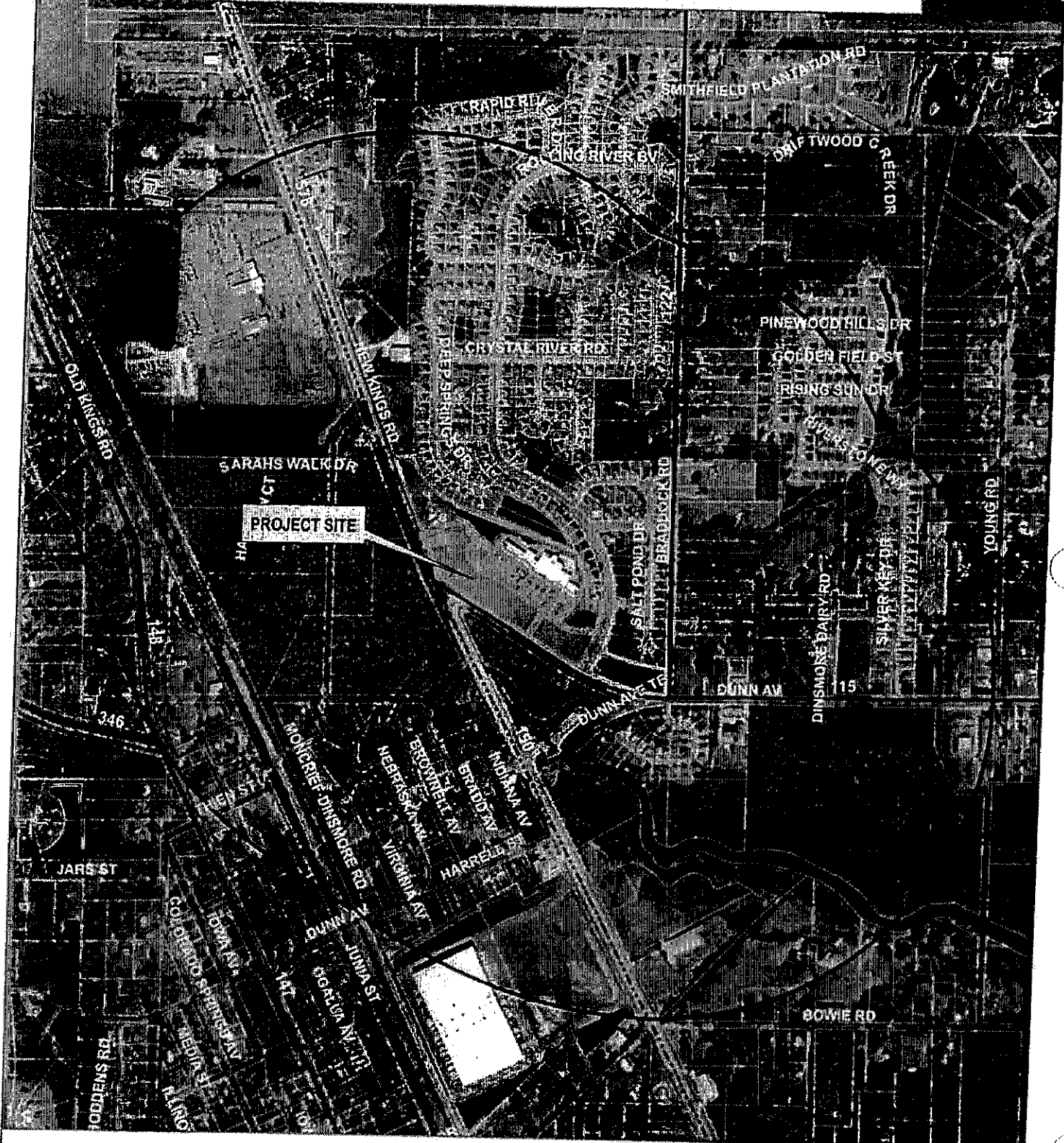
#### SUPPLEMENTAL INFORMATION

Although the development rights held under the Development Agreement are not subject to a mobility fee, staff completed a mobility fee calculation for the same amount of remaining development rights held under the development agreement. The mobility fee was calculated to be \$976,136. A copy of the mobility fee calculation summary sheet is attached.

#### RECOMMENDATION

Based on the foregoing, it is the recommendation of the Planning and Development Department that Application for a Second Amendment to Development Agreement 2015-661 be **APPROVED.**

**HALF-MILE RADIUS VICINITY MAP  
 ROLLING RIVER ESTATES MIXED USE DEVELOPMENT - DA 28996  
 MOBILITY ZONE 4 / SUBURBAN AREA**



Developed by City of Jacksonville  
 Planning and Development Department  
 Transportation Section



APPLICATION FOR AMENDMENT TO THE DEVELOPMENT AGREEMENT

**THIS APPLICATION FOR 2nd AMENDMENT TO THE DEVELOPMENT AGREEMENT** (this "Request for Amendment") is submitted by Dunn Village, LLC, a Florida limited liability company (hereinafter the "Owner").

1. The Development Agreement (No. 28996) for the project known as Rolling River Estates-Mixed Use Development (the "Project") was entered into between the then owner of the Project Property, Dunn Avenue Partnership ("DALP") and the City of Jacksonville, dated July 21, 2003 and recorded August 25, 2003, in Official Records Book 11312, beginning at page 1794, Public Records of Duval County, Florida. Subsequent to the completion of the residential subdivision, in 2008 DALP conveyed and transferred all of the Project's undeveloped commercially zoned property consisting of approximately 28.45 ± acres, together with all development rights then existing under the Development Agreement, to Dunn Village, LLC (the "Owner") by Warranty Deed dated November 25, 2008, and recorded in Official Records Book 14707, beginning at page 2226, Public Records of Duval County, Florida.

Owner obtained approval from the City to amend the Development Agreement under Ordinance 2010-0525 enacted by City Council on June 22, 2010. On September 27, 2010, the City and Owner entered into a First Amendment to the Rolling River Estates Mixed Use Development Agreement (the "First Amendment") as recorded November 2, 2010, in Official Records Book 15416, beginning at page 1090, of the Public Records of Duval County, Florida (the 1<sup>st</sup> Amendment and the Development Agreement are hereinafter collectively referred to as the "Development Agreement"). The First Amendment to the Development Agreement expires on September 25, 2015 (the "Expiration Date"). The upcoming Expiration Date is the subject of this request to amend the Development Agreement. The Development Agreement and First Amendment are attached as Exhibit "APP-1".

2. This Application for Amendment to the Development Agreement is submitted in accordance with the requirement of Section 655.205(g), Ordinance Code.
3. Any terms not specifically defined herein shall have the meanings as set forth in the Development Agreement.
4. No specific conditions are imposed as referenced in subsection 655.205 (g)(1), except as specifically set forth in the proposed Amendment to Development Agreement attached hereto as Exhibit "APP-2".
5. This Application is submitted in accordance with the requirements of Section 655.205, City of Jacksonville Ordinance Code.
6. Pursuant to Section 655.205(g) and (h), this Application includes the following information:

Attachment for the mutual consent to amendment to the Development Agreement by the authorized party.

(see Certificate of Concurrence attached hereto as Exhibit "D")

Additionally, Section 655.205(h)(1) (requirements appear in *italics*; responses appear in bold type):

- (i) *Conditions that require the owner to mitigate the impacts of all existing and proposed development, including mitigation of any impacts resulting in changes in the original or amended development agreement due to the amendment of same;*

**There are no additional impacts due to the proposed amendment to extend the duration of Development Agreement.**

- (ii) *Conditions that require the owner or developer to request and receive a rescission of or amendment to all development permits or other approvals which authorize development beyond that which is authorized under an amended development agreement;*

**No development permits or other approvals have been issued which authorize development beyond that which is authorized under the Development Agreement, as amended herein.**

- (iii) *Conditions that require the owner or developer to satisfy all applicable conditions of the existing development agreement with regard to existing and proposed development.*

**Developer shall continue to satisfy all applicable conditions of the Development Agreement (as amended by the First Amendment) in connection with the proposed development.**

Section 655.205(h)(2) (requirements appear in *italics*; responses appear in normal type):

- (i) *A description of the actual amount of development completed, the size and scope of the resulting plan of development (after amendment), and a description of the extent to which existing permits or approvals authorize development which would exceed that allowed under the resulting plan of development (after amendment).*

**Of the 28.54 ± acres of commercial/retail property approved for commercial/retail development under the Development Agreement, approximately 15.45 ± acres has been developed as a neighborhood shopping center with grocery store anchor and related commercial uses for the Rolling River Estates multi-use project. No request is being made to expand the size and scope of the contemplated development.**

**All horizontal infrastructure accommodating the 28.54 acres of commercial property has been completed as permitted under SJRWMD ERP General Permit No. 40-031-17813-7.**

**A copy of the horizontal infrastructure As-Built Plans for the commercial property, as prepared by Vallencourt Construction Co., Inc. on behalf of Dunn Village, LLC, as approved by the City and received by SJRWMD on March 26, 2010, is attached hereto as Exhibit "A".**

There are no additional impacts due to the proposed amendment to extend the duration of the Development Agreement (as amended) to date.

- (ii) *A description of the actual amount of existing development, as defined under Section 655.105(k), Ordinance Code, which has occurred on site, including the amount of existing vertical development by land use in gross square feet, dwelling units, or other applicable units of measure; the amount of infrastructure completed at the site; etc. A copy of the approved site development plan, if applicable, shall be attached to the Application.*

The Development Agreement authorized 280,000 square feet of enclosed commercial/retail uses to be developed on approximately 28.45 ± acres of commercial property (the "Commercial Tract"). Approximately 15.40 ± acres of the Commercial Tract has been constructed with horizontal infrastructure (including, without limitation, in excess of 3 acres of stormwater treatment areas) and vertical improvements consisting of a supporting Neighborhood Shopping Center anchored by a Roses Grocery Store, together with supplemental retail uses and related parking to be shared by the entire Commercial Tract.

Of the 280,000 square feet of enclosed commercial/retail space approved by the Development Agreement, approximately 72,746 square feet of enclosed retail/commercial space has been constructed as the existing Shopping Center.

All horizontal infrastructure accommodating the 28.54 Commercial Tract has been completed

- (iii) *An identification of the amount of development that is planned (after amendment), including the amount of vertical development by land use in gross square feet, dwelling units, or other applicable units of measure; the amount of infrastructure to be completed at the site; etc.*

All horizontal infrastructure has been completed on the Commercial Tract. There remains approximately 13.01 acres of retail/commercial tract to be developed on ten (10) integrated outparcels. Approximately 207,254 square feet of enclosed retail/commercial space remains available for development under the Development Agreement.

- (iv) *An identification of all state and federal permits applied for or obtained to date. Specify the agency, type of permit and function of each permit. A copy of each permit or permit application (if no permit has been issued) shall be attached to the Application.*

Permits applied for or obtained for the Property on behalf of Applicant to date, if any, are listed in Exhibit "B" attached to this Application.

- (v) *An identification of all undeveloped tracts of land (other than individual single-family lots) sold to separate entities or developers. Specify the size and buyer of*

each tract or parcel. A map identifying the undeveloped tracts shall be attached to the Application.

Attached as **Exhibit "C"** is a map identifying the undeveloped commercial outparcels (Parcels A thru J). It is contemplated that Parcel C may be purchased by an interested party; however, without retaining the existing development rights under the Development Agreement such purchase will not occur.

<u>Parcel</u>	<u>Size</u>	<u>Buyer</u>
A	1.23 acres	available
B	.98 acres	available
C	1.70 acres	available*
D	.98 acres	available
E	.89 acres	available
F	1.15 acres	available
G	1.02 acres	available
H	.86 acres	available
I	1.52 acres	available
J	<u>2.68</u> acres	available
Total	13.01 acres	

\* **contract to sell under negotiation**

(vi) A certification of concurrence with amendment from all parties to the development agreement or their successors in interest, if any, shall be attached to the Application.

Attached as **Exhibit "D"** is a Certificate of Concurrence with Amendment signed by all parties to the Development Agreement or their successors in interest.

(vii) An explanation of the reasons for seeking amendment of the Development Agreement shall be attached to the Application.

An explanation of the reasons for seeking amendment to the Development Agreement, as amended by the 1st Amendment, is attached as **Exhibit "E"**.

(viii) A discussion of any material adverse impacts of the development subject to the development agreement, and/or its amendments, on any existing resources, or existing planned facilities, and the mitigation for these impacts shall be attached to the Application.

There are no material adverse impacts of the Project subject to the Development Agreement or existing resources or existing planned facilities and there is no mitigation required for such impacts, if any.



(ix) A list of each of the conditions in the development agreement, and/or amendment thereto, included to protect or mitigate the development's impact to resources or facilities, including an explanation and documentation that each condition to existing development was satisfied by the developer, or will be satisfied as to the level of proposed development after amendment, shall be attached to the Application.


There are no conditions in the Development Agreement which are included, to protect or mitigate the Projects impacts to resources or facilities.

IN WITNESS WHEREOF, the undersigned have executed this Request for Amendment as of the 10th day of August, 2015.

Signed, Sealed and delivered  
in the presence of:

  
Print name: Carol N. Bordley

DUNN VILLAGE, LLC,  
a Florida limited liability company

  
Print name: Paula Mortensen

By: **US REAL ESTATE LIMITED  
PARTNERSHIP**, a Texas limited  
partnership, Its Managing Member

By: **USAA REAL ESTATE COMPANY**,  
a Delaware corporation,  
Its General Partner

By:   
STANLEY R. ALTERMAN  
Title: Executive Managing Director

EXHIBIT "B"

ISSUED PERMITS

1. Permit #40C-031-17813-7 – ERP Standard General Permit for Rolling Hills Estates Retail Center

- This Permit was issued for the construction of a proposed stormwater management system to serve a 28+/- acre retail center project. Construction includes stormwater management facilities, the modification of an existing stormwater management facility, parking, and all other associated infrastructure to serve the retail center.

Date Issued: 11/21/2008  
Expiration date: 11/21/2013  
Status: completed

2. Permit #3-031-122323-1 – Water Well Construction

- This permit is for the abandonment of an open annulus between a plugged 6- inch plugged well casing and an outer, 8- inch well casing. The open annulus is estimated to be 140 feet deep. The well is located within a wet detention pond, and the open annulus between the casings was discovered during pond construction

Issue Date: 9/21/2009  
Expiration Date: 12/16/2009  
Status: completed

3. Permit #400-031-129325-1 – Noticed General Permit for Dunn Village Access Safety Improvements

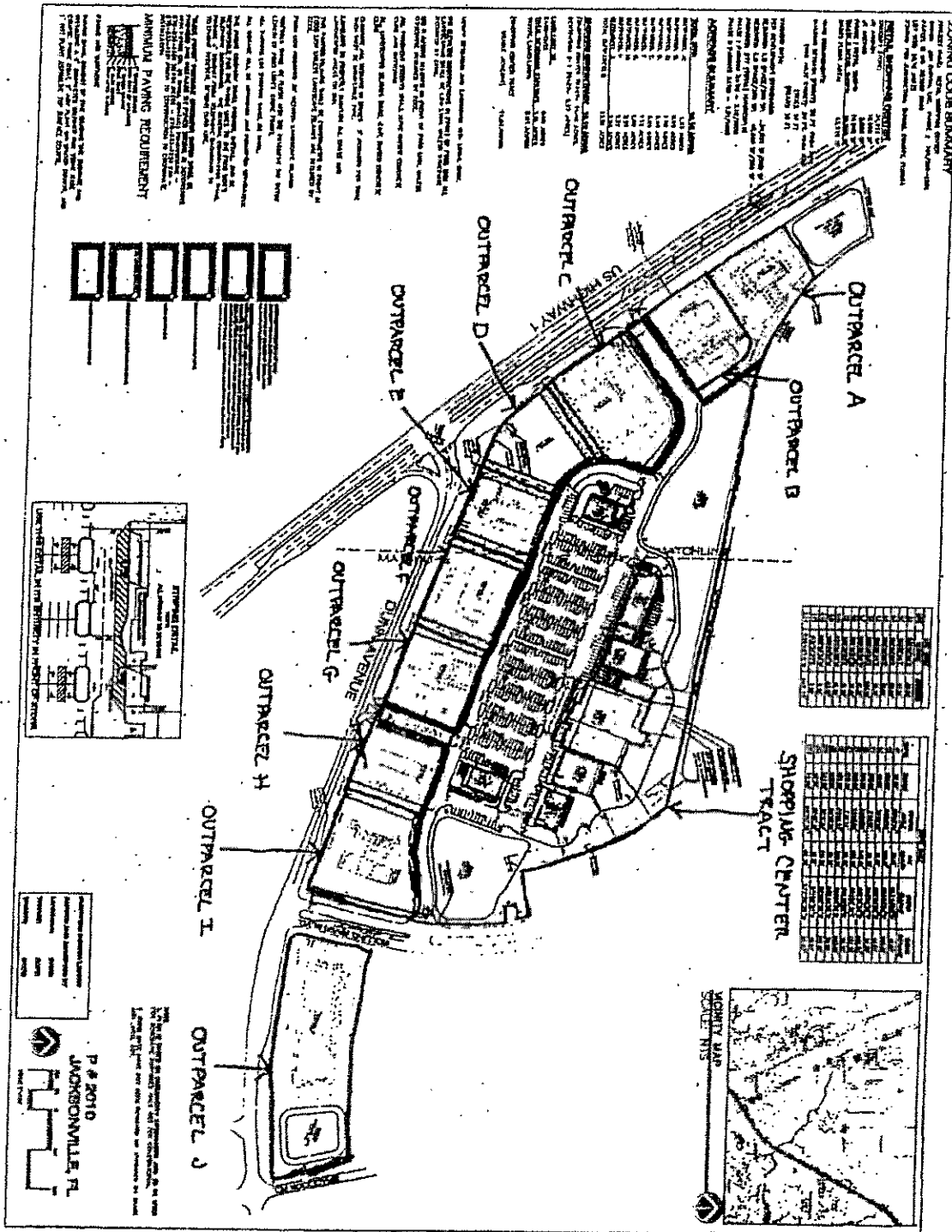
- This permit authorizes improvements to the access of Dunn Village Shopping Center on US1. Improvements include addition of median with turn lane in US1, directional medians and shoulder taper at driveway entrance. The existing ditch bottom inlet top will be removed and replaced with FDOT Inlet Type 7.

Issued: 11/29/2011  
Expires: 11/29/2016  
Status: completed

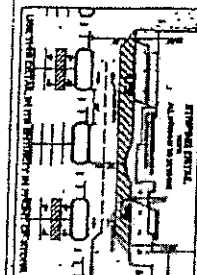
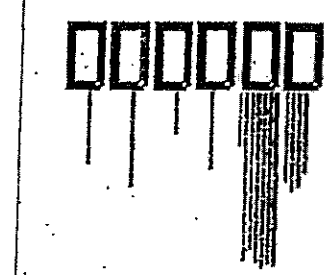
EXHIBIT "C"

MAP IDENTIFYING  
UNDEVELOPED OUTPACELS

[attached hereto]



**ZONING CODE SUMMARY**  
 The zoning code for this site is...  
**MINIMUM REQUIREMENTS**  
 The minimum requirements for this site are...  
**APPROVED REQUIREMENTS**  
 The approved requirements for this site are...  
**ANNUAL PARKING REQUIREMENT**  
 The annual parking requirement for this site is...



Area	Area (sq ft)	Volume (cu ft)
Outparcel A	10,000	100,000
Outparcel B	10,000	100,000
Outparcel C	10,000	100,000
Outparcel D	10,000	100,000
Outparcel E	10,000	100,000
Outparcel F	10,000	100,000
Outparcel G	10,000	100,000
Outparcel H	10,000	100,000
Outparcel I	10,000	100,000
Outparcel J	10,000	100,000
Outparcel K	10,000	100,000
Outparcel L	10,000	100,000
Outparcel M	10,000	100,000
Outparcel N	10,000	100,000
Shopping Center Tract	100,000	1,000,000

Area	Area (sq ft)	Volume (cu ft)
Outparcel A	10,000	100,000
Outparcel B	10,000	100,000
Outparcel C	10,000	100,000
Outparcel D	10,000	100,000
Outparcel E	10,000	100,000
Outparcel F	10,000	100,000
Outparcel G	10,000	100,000
Outparcel H	10,000	100,000
Outparcel I	10,000	100,000
Outparcel J	10,000	100,000
Outparcel K	10,000	100,000
Outparcel L	10,000	100,000
Outparcel M	10,000	100,000
Outparcel N	10,000	100,000
Shopping Center Tract	100,000	1,000,000



**P # 2010**  
**JACKSONVILLE, FL**

NO.	DATE	DESCRIPTION
1	10/10/10	Initial Design
2	11/15/10	Revised Design
3	12/01/10	Final Design

An original full size (24 in. x 36 in.) copy of this site plan Exhibit ("Original") is available at the office of Declarant for review during normal business hours. Due to the reduction of size and scale of the site plan attached to this Declaration, the Original shall control for purposes of resolving any questions or issues related to this Exhibit. A copy of the Original will be made available at the expense of the requesting party. Please call 704-357-1220 to arrange to receive...

DA 28996

## Exhibit D

### Reason for Second Amendment

From the period commencing September 25, 2010, the effective date of the First Amendment to Development Agreement #28996, up through and including the date of its expiration on September 25, 2015 (the "Expiration Date"), Applicant has diligently pursued the completion of the commercial development consisting of approximately 28 ± acres (the "Commercial Parcel") which is located within the Rolling River Estates Multi-Use Development. Applicant has expended significant time, energy and resources in complying with the intended commercial/retail development and has completed all horizontal infrastructure serving the entire Commercial Parcel, as well as the vertical construction of the existing neighborhood retail/commercial shopping center anchored by a grocery store currently serving the surrounding Rolling River Estates residential community (the "Dunn Village Shopping Center"). Completed development costs incurred include, without limitation, the installation of stormwater management facilities, modifications to an existing stormwater management facility, vertical construction of the Dunn Village Shopping Center, parking lots and infrastructure, internal roadways and sidewalks, and all associated vertical and horizontal improvements serving the entire Commercial Parcel. The remaining undeveloped 13.01 ± acres within the Commercial Parcel consist of ten (10) undeveloped coterminous outparcels with supporting horizontal infrastructure.

During the development process, Applicant has continued to diligently market the outparcels to prospective purchasers without success. The lack of marketing success has been largely due to the real estate market climate generally and more particularly its impact on the north Jacksonville area. While the real estate market has been slowly improving recently, north Jacksonville has been particularly hard hit.

Should Applicant lose the reserved rights granted under the Development Agreement, it would only serve to further adversely impact the marketability of the property. While Applicant currently has an interested buyer for Outparcel C, the contract is on hold pending the outcome of Applicant's request for an extension of the reserved rights afforded under the Development Agreement.

To date, the City has received in excess of seven hundred fifty thousand dollars (\$750,000.00) in the payment of (i) annual fees required to be paid under the Development Agreement (not including the \$10,608 annual fee due September 25, 2015); and (ii) annual real estate property taxes.

If the Development is allowed to expire, Applicant will lose the reserved capacity benefitting the property even though it has built all necessary infrastructure in reliance that its development right would continue. As well, the expiration of the Development Agreement would negatively affect the potential sale of Outparcel "C". In light of such an event and a weakened economy, Applicant is requesting the City to extend the duration of the Development Agreement for an additional 5-year period in order to continue its good faith efforts to develop the remaining capacity held under the Development Agreement.

**Exhibit E**

**Material Adverse Impacts**

There are no adverse impacts contemplated by obtaining a 5-year extension to complete development of the property as all horizontal infrastructure has been completed for the site and the transportation capacity has already been reserved under the existing Development Agreement through the duration of the Development Agreement which is set to expire September 25, 2015 unless extended.



CITY OF JACKSONVILLE  
URBEMIS MOBILITY FEE CALCULATION

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PROJECT NAME:	ROLLING RIVER ESTATES -MIXED USE DEVELOPMENT
CMMSO #:	DA 28996
DATE:	October 9, 2015
PLANNING DISTRICT:	6
COUNCIL DISTRICT:	8
MOBILITY ZONE:	4
DEVELOPMENT AREA:	SUBURBAN

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**MOBILITY FEE CALCULATION:  $A \times B \times (C - \text{Trip Reduction Adjustments} - \text{Existing Use Trips})$**

A = COST PER VMT (COUNTYWIDE):	\$24.31
B = AVERAGE VMT PER DEVELOPMENT AREA:	10.28
C = DEVELOPMENT DAILY VEHICLE TRIPS (NET NEW TRIPS):	3,906
URBEMIS TRIPS REDUCTION (%):	11.09%
EXISTING USE TRIPS REDUCTION:	0
MOBILITY FEE:	<u>\$976,136</u>

