

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: January 9, 2023

Agenda Item: 6G	Prepared by: Chris Noury, City Attorney
Agenda Section: Unfinished Business: Ordinance. Second Reading	Date: January 3, 2023
Subject: Creating the Third Amendment to the Master Development Agreement for the Remaining Sandridge Track	Division: Legal

NOTE: The Developer has agreed to pay the Public Safety Fee of \$400 per residential unit and the density has been increased from 550 units to 650 units. In addition, 50% of the developable acres within the remaining Sandridge Property, shall be limited to a building height of 35', and the remaining 50% of the developable acres shall be limited to a building height of 50'.

The main elements of the Third Amendment to the Master Development Agreement regarding the Sandridge Track are as follows:

1. **Term:** The Parkway Group Planned Development District (PDD) Development Agreement was executed on June 23, 2011 and expires on June 23, 2031.
2. **Trailhead Conveyance:** Within 120 days of the effective date of the agreement, the Developer shall convey to the City a parcel containing approximately 1 acre $\pm$ to form the basis of a pedestrian connection to the trail system within the Grand Strand Water and Sewer complex which will connect to the proposed route for the East Coast Greenway.
3. **Enhancement Fees:**
Beachfront Parking Enhancement Fee: \$1,100 per residential unit (due at issuance of building permit for each RDU).
Park Enhancement Fee: \$300 per RDU (due at issuance of building permit for each RDU).
Public Safety Fee: \$400 per RDU (due at issuance of building permit for each RDU).
4. **Open Space:** The project shall contain not less than 20% open space which shall include protected wetlands, required buffers, ponds, green space or other undeveloped acreage within the project.
5. **Maintenance and Mowing:** After the City issues a permit for grading, Developer will mow the undeveloped property no less than eight times a year until the project is fully developed. Mowing shall occur between March 1 and November 30 of each year. Removal of any fallen trees on the undeveloped property will occur during the above referenced schedule.
6. **Prohibition Against Conservation Easements:** The Developer agrees not to subject the property to a conservation easement or other restrictive covenant regarding any portion of the property unless submitted to the City and approved by the City.

7. **Prohibition Against Short-Term Rentals:** The minimum term of any rental agreement shall be 6 months. Leases can be extended to the same tenant for less than 6 months, but no extension term shall be for less than 30 days.
8. **Restriction on Building Permits and Certificates of Occupancy:** For 18 months after the Effective Date of the DA, City has no obligation to issue building permits. To the extent that building permits are issued after the 18-month time period, the City has no obligation to issue certificates of occupancy on such units. Developer and City shall work together regarding road improvements, construction traffic and public/special events traffic in this area until such applicable projects by both the City and Developer are completed and open to the public as also addressed in the Second Amendment (e.g., Champions Boulevard improvements and City sponsored special event traffic such as The Great Christmas Light Show, etc.).

Recommended Action:

Approve or deny the proposed ordinance on second reading

Reviewed by City Manager

Reviewed by City Attorney

Council Action:

Motion By _____ 2nd By _____ To _____

AN ORDINANCE

**AN ORDINANCE TO APPROVE THE THIRD AMENDMENT TO THE MASTER DEVELOPMENT
AGREEMENT FOR THE SANDRIDGE SITE AND TO AUTHORIZE THE CITY MANAGER TO SIGN
THE DOCUMENT ON BEHALF OF THE CITY OF NORTH MYRTLE BEACH.**

WHEREAS, the City of North Myrtle Beach and SLF IV/SBI Sandridge, LLC, desire to enter into the Third Amendment to the Sandridge Development Agreement regarding the Remaining Sandridge Property; and

WHEREAS, that certain document identified as the Third Amendment to the Master Development Agreement for the Sandridge Tract, as agreed upon by the Parties, has been prepared and is presented to City Council for approval.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA:

Section 1: The document identified as the Third Amendment to the Master Development Agreement for the Sandridge Tract is hereby approved.

Section 2: The City Manager is authorized to sign the above referenced document on behalf of the City of North Myrtle Beach.

Section 3: This ordinance shall become effective upon the date of passage.

DONE, RATIFIED AND PASSED, THIS _____ DAY OF _____, 2023.

ATTEST:

Mayor Marilyn Hatley

City Clerk

APPROVED AS TO FORM:

City Attorney

FIRST READING: 10.17.2022

SECOND READING: 1.9.2023

REVIEWED:

City Manager

ORDINANCE: 23-16

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

**THIRD AMENDMENT TO MASTER
DEVELOPMENT AGREEMENT
(Sandridge Tract)**

THIS THIRD AMENDMENT TO MASTER DEVELOPMENT AGREEMENT (this "**Third Amendment**") is entered into and effective as of this ____ day of _____, 2023 by and between the **CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA** (the "**City**") and **SANDRIDGE INVESTMENT, LLC**, a South Carolina limited liability company ("**Sandridge**"), successor in title to SLF IV/SBI Sandridge, LLC, a Texas limited liability company.

RECITALS:

WHEREAS, the City, Sandridge, SLF IV / SBI Bay Landing, LLC, a Texas Limited Liability Company ("**Bay Landing**"); SLF IV / SBI Spice Hill, LLC, a Texas Limited Liability Company ("**Spice Hill**"); and Main Street Commercial Partners, LLC, a South Carolina Limited Liability Company ("**Main Street**") (collectively referred to as "**Landowners**") entered into a Master Development Agreement ("**Development Agreement**") dated June 23, 2011, and recorded in the Office of the Registrar of Deeds for Horry County that same day in Deed Book 3526 at Page 1764;

WHEREAS, Bay Landing and Spice Hill have merged into Sandridge;

WHEREAS, the Development Agreement was previously amended by Amendment (the "**First Amendment to Development Agreement**") dated August 20, 2019, recorded August 22, 2019 in Deed Book 4236 at page 372, records of Horry County, South Carolina;

WHEREAS, the Development Agreement was further amended by Amendment (the "**Second Amendment to Development Agreement**") dated April 27, 2022, recorded May 4, 2022 in Deed Book 4546 at Page 1219, records of Horry County, South Carolina;

WHEREAS, Sandridge is the current owner of the real property described on **Exhibit "A"** attached to this Agreement (the "**Remaining Sandridge Property**");

WHEREAS, the Development Agreement provides that the City of North Myrtle Beach Zoning Ordinance in effect as of the Effective Date of the Development Agreement governs;

WHEREAS, the City has recently amended Sections 23-117 and 23-119.1 of its Zoning Ordinance by text amendment to allow for "In Common" development within the R-2A Zoning District;

WHEREAS, the City and Sandridge desire to further amend the Development Agreement as it pertains to the Remaining Sandridge Property, by this Third Amendment, to allow for "In Common" two-family (duplex) and multiplex (triplex and quadplex) developments as provided in Sections 23-117 and 23-119.1 of the Code of Ordinances of the City of North Myrtle Beach, South

Carolina within any portions of the Remaining Sandridge Property that are within the R2-A Zoning District;

WHEREAS, as a condition of final approval by the City of this Third Amendment, Sandridge has agreed to reduce the allowable density on the Remaining Sandridge Property, as set forth below;

WHEREAS, it is not the intent of the Parties to otherwise amend the provisions of the Development Agreement;

WHEREAS, Section 6.7 of the Development Agreement provides that the same may be amended by mutual consent of the parties;

WHEREAS, the City and Sandridge agree to this Third Amendment to the Development Agreement as further described below.

NOW, THEREFORE, in return for the mutual promises herein and other valuable consideration, the City and Sandridge agree to, and do hereby amend, the Development Agreement as follows:

1. **Capitalized Terms.** All capitalized terms in this Third Amendment that are defined terms in the Development Agreement have the same meaning as set forth in the Development Agreement. Other capitalized terms that are defined terms shall have the meaning described herein.

2. **Recitals.** The recitals herein are incorporated into this Third Amendment.

3. **Term.** The Development Agreement, unless deemed extended by executive order of the Governor of South Carolina, was executed on June 23, 2011, and expires on June 23, 2031 (the “**Term**”). For purposes of this Third Amendment, the “**Effective Date**” shall be the date on which the last of the parties has executed this Third Amendment.

4. **Current Zoning.** All of the Remaining Sandridge Property is currently zoned R2-A, Mid-Rise Multifamily Residential District, subject to the standards of the R2-A zoning district as more particularly provided in the Development Agreement, the First Amendment to Development Agreement, and the Second Amendment to Development Agreement.

5. **Continuing Encumbrance.** Despite any change in ownership and/or the configuration and boundaries of the various tracts subjected to the Development Agreement, as amended, and the Exhibits to the Development Agreement, previously subjected to the Development Agreement, as amended, by this Third Amendment, except as hereby expressly amended or supplemented, shall remain in full force and effect. Notwithstanding any change in ownership and/or the configuration or boundaries of the real property owned by Sandridge which is subject to the Development Agreement, as amended, and the Exhibits attached to the Development Agreement, whether previously and currently encumbered by the Development Agreement, as amended by this Third Amendment, except as hereby expressly amended or supplemented, all terms and provisions of

the Development Agreement relating to the real property owned by Sandridge which is included in the Remaining Sandridge Property, shall remain in full force and effect (the “**Continuing Encumbrance**”).

6. **Party Obligations Run with the Land/Cross Default by Owner of Multiple Parcels.** For purposes of this Third Amendment, the obligations hereunder shall run with the land, such that the owner of the portion of the real property which is subject to any particular provisions hereof shall be obligated to fulfill such obligations. Further to the extent that any owner of real property which is subject to the terms and conditions of this Third Amendment owns more than One (1) parcel of real property which is subject to the terms and conditions of this Third Amendment, a default under the obligations with regards to any one of such parcels of real property shall also constitute a default with regards to any of the other parcels of real property also owned by such owner. Provided, however, that no owner of any portion of the real property which is subject to this Third Amendment shall be responsible for the obligations of any other owner, or accountable to the City or the other owners for the obligations of any other owner.

7. **Wetland/Wetland Buffer Maintenance.** Sandridge acknowledges and agrees that the Remaining Sandridge Property includes those areas identified by the United States Army Corps of Engineers (“**Corps**”) and/or the South Carolina Department of Health and Environmental Control (“**DHEC**”) or any other applicable governmental authority as wetland areas subject to the regulation of the Corps and/or DHEC (“**Jurisdictional and Non-Jurisdictional Waters of the State of South Carolina and the United States**”) which are located adjacent to Champions Boulevard. Such areas are shown on the attached **Exhibit “A-1”**. Unless and until such Jurisdictional and Non-Jurisdictional Waters of the State of South Carolina and the United States are filled or otherwise mitigated to no longer remain classified as Jurisdictional and Non-Jurisdictional Waters of the State of South Carolina and the United States, Sandridge agrees that all on-site Jurisdictional and Non-Jurisdictional Waters of the State of South Carolina and the United States shall be surrounded with a minimum 20-foot wide water quality buffer within which no building shall occur. The buffering requirements contained herein may be satisfied by buffers that may be required by the Corps, DHEC or other applicable governmental authority as long as the total width of all such buffers in the aggregate is not less than twenty (20) feet in width. These buffer areas and the Jurisdictional and Non-Jurisdictional Waters of the State of South Carolina and the United States they surround shall be maintained in common ownership and shall remain natural except to the extent vegetation is mulched in accordance with applicable permits or as otherwise allowed pursuant to applicable State and Federal laws and regulations.

8. **Other Obligations, Fees and Benefits.** Sandridge agrees that the following shall constitute additional obligations, fees and public benefits to be provided by Sandridge for the Remaining Sandridge Property:

(A) **Trailhead Conveyance.** As a public benefit, Sandridge shall convey to the City, within One Hundred Twenty (120) days of the Effective Date of this Third Amendment, in fee simple, a portion of the Remaining Sandridge Property, a parcel of approximately 1 acre +/-, not less than 80% of which shall be upland acres at the time of conveyance, which shall include a “flag” within the boundary of the parcel, to form the basis of a pedestrian connection to the trail system within the Grand Strand Water and Sewer complex (the “**Trailhead Site**”), in order to assure connectivity of the

paths within the Grand Strand Water and Sewer complex to the proposed route of the East Coast Greenway, the configuration of the Trailhead Site being shown on **Exhibit “B-1”** attached hereto, the preliminary plat of such Trailhead Site being subject to the approval of the City, not to be unreasonably withheld. Notwithstanding such conveyance, Sandridge shall reserve an easement over a portion of the Trailhead Site, for ingress, egress and improvement by Sandridge or any portion thereof as a public roadway, the City agreeing to join in any such conveyance. In addition, Sandridge reserves the right to provide alternative access to the Trailhead Site, by way of a public roadway, the conceptual configuration of which is shown on **Exhibit “B-2”** attached hereto (the “**Reconfigured Trailhead Site**”), and upon Sandridge providing such alternative access, the City will promptly and without delay, reconvey the portion of the Reconfigured Trailhead Site shown as “Reconveyed Portion of Trailhead Parcel, 22,435 Sq. Ft., 0.51 AC +/-” on **Exhibit “B-2”** to Sandridge, pursuant to a combination plat approved by the City pursuant to the City’s subdivision ordinance. Further the costs of surveying, platting, recording and conveying the, Trailhead Site, any portion of the Reconfigured Trailhead Site, , or any portion of the Trailhead Site to be reconveyed by the City to Sandridge, at any time in the future, shall be the sole expense of Sandridge, the City bearing no expense in such conveyance.

(B) **Indexing of Fees.** As a public benefit, Sandridge, and its successors and assigns agree that the then current owner of the Remaining Sandridge Property, or any portion thereof, shall pay to the City, the enhancement fees, as set forth below (collectively the “**Enhancement Fees**”). Sandridge further agrees that the Enhancement Fees shall be subject to annual increase, beginning January 1, 2024, in an amount equal to the lesser of (i) the increase in the Consumer Price Index, published by the U.S. Bureau of Labor Statistics (“**CPI**”) between the beginning and end of the most recent calendar year; or (ii) Two (2%) percent per annum, which increase is intended to ensure that the Enhancement Fees continue to reflect the City’s on-going increases in the costs of services provided. Sandridge will provide the Enhancement Fees, together with any additional public benefits, as follows:

(C) **Park Enhancement Fee.** As a public benefit, for the Remaining Sandridge Property, Sandridge, or the then current owner, shall pay to the City, as to each residential unit, which includes, single family attached, single family detached and multi-family units (each a “**Residential Unit**”) within the Remaining Sandridge Property, a park enhancement fee (the “**Park Enhancement Fee**”) in an amount equal to \$300.00 for each Residential Unit, paid at the time of issuance of each respective building permit.

(D) **Beachfront Parking Enhancement Fee.** As a public benefit, for the Remaining Sandridge Property, Sandridge, or the then current owner, shall pay to the City, as to each Residential Unit within the Remaining Sandridge Property, a beach parking enhancement fee (the “**Beachfront Parking Enhancement Fee**”) in an amount equal to \$1,100.00 for each Residential Unit, paid at the time of issuance of each respective building permit.

(E) **Public Safety Enhancement Fee.** As a public benefit, the Remaining Sandridge Property, Sandridge, or the then current owner, shall pay to the City, as to each Residential Unit within the Remaining Sandridge Property, a public safety enhancement fee (the “**Public Safety Enhancement Fee**”) in an amount equal to \$400.00 for each Residential Unit, paid at the time of issuance of each respective building permit.

(F) **Maximum Density.** As a public benefit, notwithstanding any provision within the City's Code of Ordinances, as a condition to the above referenced change in the respective version of the City's prior and current R2-A Zoning Districts, Sandridge agrees that the maximum density for the Remaining Sandridge Property shall not exceed Six Hundred Fifty (650) Residential Units, within the Remaining Sandridge Property. In addition, 50% of the developable acres within the Remaining Sandridge Property, shall be limited to a building height of 35', and the remaining 50% of the developable acres shall be limited to a building height of 50'.

(G) **Streetlights.** As an obligation, Sandridge shall install or cause to be installed, streetlights within the Remaining Sandridge Property, in accordance with the Code of Ordinances. To the extent such streetlights are located within a public right-of-way, following the installation of such streetlights at the expense of Sandridge or the then current owner of the Remaining Sandridge Property, the City shall thereafter contribute toward the monthly cost for each streetlight in an amount equal to the costs for the base streetlight fixture offered by the utility provider. The remaining monthly cost for each streetlight, including additional charges associated with an enhancement streetlight fixture, if any, shall be borne by Sandridge and/or a property owners association established by Sandridge for the Remaining Sandridge Property.

(H) **Conservation Easement Restriction.** As a public benefit, Sandridge specifically covenants and agrees not to subject the Remaining Sandridge Property to a conservation easement or other restrictive covenant, whereby any portion of the Remaining Sandridge Property is restricted for future development, the same shall also constitute a default by Sandridge hereunder. Notwithstanding the above restriction, the parties agree that, for purposes of this Agreement any conveyance by Sandridge of a portion of the Remaining Sandridge Property which has been shown or depicted as common area, buffer, ponds, lakes, open spaces or the like to any Owners Association shall not be deemed such an easement or restriction, and shall not constitute a default by Sandridge, provided that such portion of the Remaining Sandridge Property so conveyed, prior to the date of such conveyance to any Owners Association, has been clearly designated on a map or site plan submitted to the City, and approved by the City, as not being a portion of the Remaining Sandridge Property to be developed for any residential or commercial use as a part of the development anticipated by this Third Amendment.

(I) **Mowing and Maintenance.** As an obligation, Sandridge must maintain the Remaining Sandridge Property consistent with the Code of Ordinances of the City. Notwithstanding the above requirement, beginning on the date on which the City issues a permit for grading the Remaining Sandridge Property, thereafter Sandridge must continue to maintain the Remaining Sandridge Property consistent with the Code of Ordinances of the City, provided that, at a minimum, Sandridge will mow the undeveloped Remaining Sandridge Property for which a grading permit has been issued by the City no less than eight times per year until the Project is fully developed. The mowing shall occur in the periods between March 1 and November 30 of each calendar year. In addition, until the Project is fully developed, the Sandridge shall remove any fallen trees on the Remaining Sandridge Property, such tree removal to occur during the same periods set out for mowing above. The Sandridge shall be given a reasonable period of time to be determined by the City Manager or his designee, to mow the Remaining Sandridge Property and remove fallen trees on the Remaining Sandridge Property in the event of a hurricane, rain event or

other force majeure that prevents the Sandridge from complying with the mowing/maintenance schedule referenced above.

If the Sandridge fails to comply with the scheduled time frames for mowing and removal of fallen trees, as determined by the City Manager or his designee, then the City shall have the right to enter the Property for the purpose of mowing and removing any fallen trees, and the Sandridge shall reimburse the City for the costs of such mowing and/or tree removal in an amount equal to One Hundred (100%) percent of such the costs incurred by the City for mowing and/or tree removal. In the event Sandridge should fail to reimburse the City within Thirty (30) days of the date an invoice is delivery by the City to the Sandridge, the City may place a lien upon the Remaining Sandridge Property, which lien shall be enforceable in the same manner as a property tax lien, which may only be satisfied by payment thereof. In addition to placing a lien upon the Remaining Sandridge Property, the City may withhold building permits and certificates of occupancy for the Remaining Sandridge Property until such time as the lien is paid in full.

(J) **Restriction on Building Permits and Certificates of Occupancy.** As a public benefit, and in recognition of the City's efforts to accelerate the improvement of Champions Boulevard to Water Lily Road, the City and Sandridge agree to the following limitations and timelines:

(i) For the period beginning on the Effective Date of this Third Amendment and ending on the date that is Eighteen (18) months following the Effective Date, Sandridge and the City agree that the City shall have no obligation to issue building permits for any Residential Unit within the Remaining Sandridge Property. In addition, to the extent building permits are issued for Residential Units within the Remaining Sandridge Property on or after the date which is Eighteen (18) months following the Effective Date, Sandridge and the City agree that the City shall have no obligation to issue certificates of occupancy for Residential Units within the Remaining Sandridge Property prior to the date which is Twenty-Four (24) months following the Effective Date; and

(ii) Notwithstanding the above restriction on the issuance of building permits and certificates of occupancy for Residential Units within the Remaining Sandridge Property, the City and Sandridge agree that (a) Sandridge may apply for, and the City will issue, upon receipt of a complete approvable application, permits required for land disturbance, clearing, grubbing, grading and sitework improvements upon the Remaining Sandridge Property, and (b) to the extent construction activities are occurring on the Remaining Sandridge Property prior to the date which is Twenty-Four (24) months following the Effective Date of this Third Amendment, Sandridge, upon receipt of any required encroachment permits from Horry County for roadways outside of the corporate limits of the City, shall limit access to the Remaining Sandridge Property by way of Champions Boulevard, and instead direct its contractors, subcontractors, consultants, agents and employees of Sandridge to alternative routes over existing roadways (both improved and unimproved) other than Champions Boulevard so as to minimize any interference with the City's improvement of Champions Boulevard, including, to the extent necessary, the installation of "construction entrance" signage along such construction route at Sandridge's expense. Additionally the City may also access such existing roadways (both improved and unimproved), including those roadways upon the Remaining Sandridge Property, during the Twenty-Four (24)

month period prior to the completion of Champions Boulevard for public safety, special events and emergency vehicle access, so long as such use upon the Remaining Sandridge Property does not unreasonably interfere with Sandridge's improvement of the Remaining Sandridge Property. The City agrees that, subject to the above limitations, from the date which is Twenty-Four (24) months following the Effective Date, Sandridge's application for any such permits shall not be unreasonably withheld or delayed.

(K) **Development Regulations.** As an obligation, the Remaining Sandridge Property shall be developed in accordance with this Third Amendment, the Code of Ordinances and other applicable land development regulations required by the City, State and/or Federal Government. The City shall, throughout the Term, maintain or cause to be maintained a procedure for processing of reviews as contemplated by this Agreement and the Code of Ordinances. The City shall review applications for development approval based on the development standards adopted as part of the Code of Ordinances, unless such standards are superseded by the terms of this Third Amendment, in which case the terms of this Third Amendment shall govern.

(L) **Assignment of Development Rights.** Sandridge shall be entitled to assign and delegate the development rights and obligations set forth in this Third Amendment to a subsequent purchaser of all or any portion of the Remaining Sandridge Property with the consent of the City, provided such consent shall not be unreasonably withheld or delayed. Upon the assignment or transfer by Sandridge of the development rights and obligations under this Third Amendment, then the assigning Sandridge shall not have any responsibility or liability under this Third Amendment.

(M) **Development Schedule.** As an obligation, the Remaining Sandridge Property shall be developed in accordance with the following development schedule (the "**Development Schedule**"): development of the Remaining Sandridge Property shall commence upon the issuance of all permits and approvals, and development of the Remaining Sandridge Property is anticipated to be complete within Ten (10) years of the date of the Effective Date of this Third Amendment.

(N) **Code of Ordinances.** As an obligation, Development of the Remaining Sandridge Property shall be determined in accordance with the Code of Ordinances, as the same may be amended from time to time, pursuant to this Third Amendment.

(O) **Stormwater and Drainage.** As an obligation, all stormwater runoff, drainage, retention and treatment improvements within the Remaining Sandridge Property shall be designated in accordance with the Code of Ordinances. All stormwater runoff and drainage system structural improvements, including culverts and piped infrastructure, will be constructed by the Sandridge and dedicated to the City. Upon final inspection and acceptance by the City, the Sandridge shall provide a one-year warranty period for all drainage system structural improvements within the Remaining Sandridge Property. Retention ponds, ditches and other stormwater retention and treatment areas will be constructed and maintained by the Sandridge and/or an Owners Association, as appropriate, and will not be accepted or maintained by the City.

(P) **Solid Waste and Recycling.** The City shall provide solid waste and

recycling collection services to the Remaining Sandridge Property on the same basis as is provided to other residents and businesses within the City. Payment for such services to the City by Sandridge, an Owners Association or each individual purchaser or owner of any portion of the Remaining Sandridge Property is required in return for such service for each owner of any portion of the Remaining Sandridge Property, and the City reserves the right to terminate or discontinue such service(s) to any owner of any portion of the Remaining Sandridge Property until such payment(s) have been made.

(Q) **Police Protection.** The City shall provide police protection services to the Remaining Sandridge Property on the same basis as provided to other residents and businesses within the City.

(R) **Fire Protection.** The City shall provide fire services to the Remaining Sandridge Property on the same basis as is provided to other residents and businesses within the City.

(S) **Emergency Medical Services.** The City shall provide emergency medical services to the Remaining Sandridge Property on the same basis as is provided to other residents and businesses within the City.

(T) **No Education Services.** The City neither provides nor is authorized by law to provide public education facilities or services. Such facilities and services are now provided by the Horry County School District. The person or entity, whether

(U) **Open Space Requirement.** As a public benefit, Sandridge agrees that the development of the Remaining Sandridge Property shall incorporate not less than Twenty (20%) percent open space, which for purposes of this Third Amendment shall include protected wetlands, required buffers, ponds, lakes, open spaces, green space or other undeveloped acreage which is within the Remaining Sandridge Property.

(V) **Minimum Rental Period.** As a public benefit, Sandridge, or the then current owner of the Remaining Sandridge Property agree that the minimum term of any rental agreement for Residential Units constructed upon the Remaining Sandridge Property shall be Six (6) months, provided that following any such initial Six (6) month period, residential leases may be extended for periods of less than Six (6) months to the same tenant, provided such extensions are for successive periods of not less than Thirty (30) days. No sub-lease or assignment shall be permitted which would result in a party occupying a Residential Unit for a period of less than Six (6) months, the express intent of this provision being to prohibit short-term and/or overnight rentals.

(W) **Easements.** As an obligation, Sandridge shall be responsible for obtaining, at Sandridge's cost, all easement, access rights and other instruments that will enable the Sandridge to tie into current or future water and sewer infrastructure on adjacent properties.

(X) **Ponds and Lakes.** As an obligation, Sandridge shall install pond(s) or lake(s) as reflected on the approved site plan for the Remaining Sandridge Property. The City agrees to cooperate with the Sandridge in the permitting process for such pond(s) and lake(s), it

being understood that the City will not accept maintenance responsibility or any other liability for such pond(s) and lake(s), and that such pond(s) and lake(s) shall either be maintained by Sandridge, or conveyed to an Owners Association for on-going maintenance following completion of the development on the Remaining Sandridge Property.

(X) **Recording.** Pursuant to Title 6, Chapter 31, Section 120 of the Code of Laws for the State of South Carolina, this Third Amendment shall be recorded in the public records of Horry County, South Carolina, on or before the date which is Fourteen (14) days following the date on which the City enters into this Third Amendment. The burdens of the development agreement are binding upon, and benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

9. Although Section 2.8 of the Development Agreement provides, in part, that the Zoning Ordinances in effect at the time of the original Effective Date of the Development Agreement govern the Project, the parties hereby agree that the provisions of Section 23-117(14) and Section 23-119.1 of the Code of Ordinances of the City of North Myrtle Beach (with the amendments thereto passed by Ordinance #21-15 ratified and passed on May 3, 2021) as the same exists as of the date of this Third Amendment, a copy of which is attached hereto as **Exhibit "C"** shall govern as to any development of the Remaining Sandridge Property continuing to be subject to the Code of Ordinances of the City of North Myrtle Beach prior to the date of this Third Amendment. The intended effect of this provision is to provide that for purposes of the Development Agreement, as amended, the R2-A Zoning District applicable to the Remaining Sandridge Property shall be the R2-A Zoning District which is in effect and applicable within the City of North Myrtle Beach as a result of the above referenced amendments, as of the date of this Third Amendment.

10. The provisions of this Third Amendment are intended to amend the Development Agreement with respect to only those parcels of real property identified by Parcel Identification Numbers: 348-00-00-0036, 358-03-03-0001 and 358-02-02-0004. All other terms, conditions, and provisions of the Development Agreement shall remain in full force and effect.

11. **Restrictive Covenants.** The obligations and public benefits agreed to and accepted by Sandridge set forth in this Third Amendment (collectively the "**Restrictive Covenants**") shall survive and continue in full force and effect without regard to the termination of this Third Amendment for a period ending on the earlier of (i) Fifty (50) years after the Term of this Third Amendment; or (ii) such time as the parties hereto, or their respective successors and assigns, have recorded a fully executed and effective termination of the Restrictive Covenants in the Office of the Register of Deeds for Horry County. Sandridge further covenants and agrees that, to the extent the Remaining Sandridge Property is encumbered by covenants, conditions and restrictions (the "**CCRs**"), whether administered by an owners association or not, such CCRs shall include the Restrictive Covenants, the effect of which shall be to extend the term of the Restrictive Covenants, the same thereafter running with the Remaining Sandridge Property as continuing obligations, public benefits and restrictions.

12. This Third Amendment shall be binding upon and inure to the benefit of Sandridge and the City and their respective heirs, successors and assigns. References herein to Sandridge shall mean and include Sandridge and its successors and assigns.

13. The City and Sandridge shall cooperate with one another in good faith to fulfill the covenants and obligations of the Parties hereunder, as well as with regard to any development pursuant to this Third Amendment. Furthermore, The City and Sandridge agree to execute and/or deliver to each other or to Escrow Agent, as appropriate, such other instruments and documents as may be reasonably necessary to fulfill the covenants and obligations to be performed by such party pursuant to this Third Amendment.

IN WITNESS WHEREOF, this Third Amendment to the Agreement has been entered and enacted this _____ day of _____, 2023.

[Signature pages to follow]

SIGNED, SEALED, AND DELIVERED
IN THE PRESENCE OF:

CITY OF NORTH MYRTLE BEACH
(SEAL)

By: _____
Its City Manager

Attest: _____
Its Clerk of Council

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

ACKNOWLEDGMENT
(CITY)

THE FOREGOING INSTRUMENT was acknowledged before me by the CITY OF NORTH MYRTLE BEACH, by _____, its City Manager, and _____, its Clerk of Council, this _____ day of _____, 2023.

_____(SEAL)
Notary Public for South Carolina
My Commission Expires: _____

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

SANDRIDGE:
SANDRIDGE INVESTMENT, LLC
a South Carolina limited liability company

By: _____
H. Gilford Edwards, its Manager

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

ACKNOWLEDGMENT
(SANDRIDGE INVESTMENTS, LLC)

THE FOREGOING INSTRUMENT was acknowledged before me by Sandridge Investment, LLC, a South Carolina limited liability company, by H. Gilford Edwards, its Manager, this ____ day of _____, 2023.

_____(SEAL)
Notary Public for South Carolina
Printed Name of Notary: _____
My Commission Expires: _____

Description of Parcel C, Parcel B, Parcel C-2
(PIN No.: 348-00-00-0036, 358-03-03-0001 and 358-02-02-0004)



Map of Jurisdictional and Non-Jurisdictional Waters



EXHIBIT "B-1"

Trailhead Site Exhibit

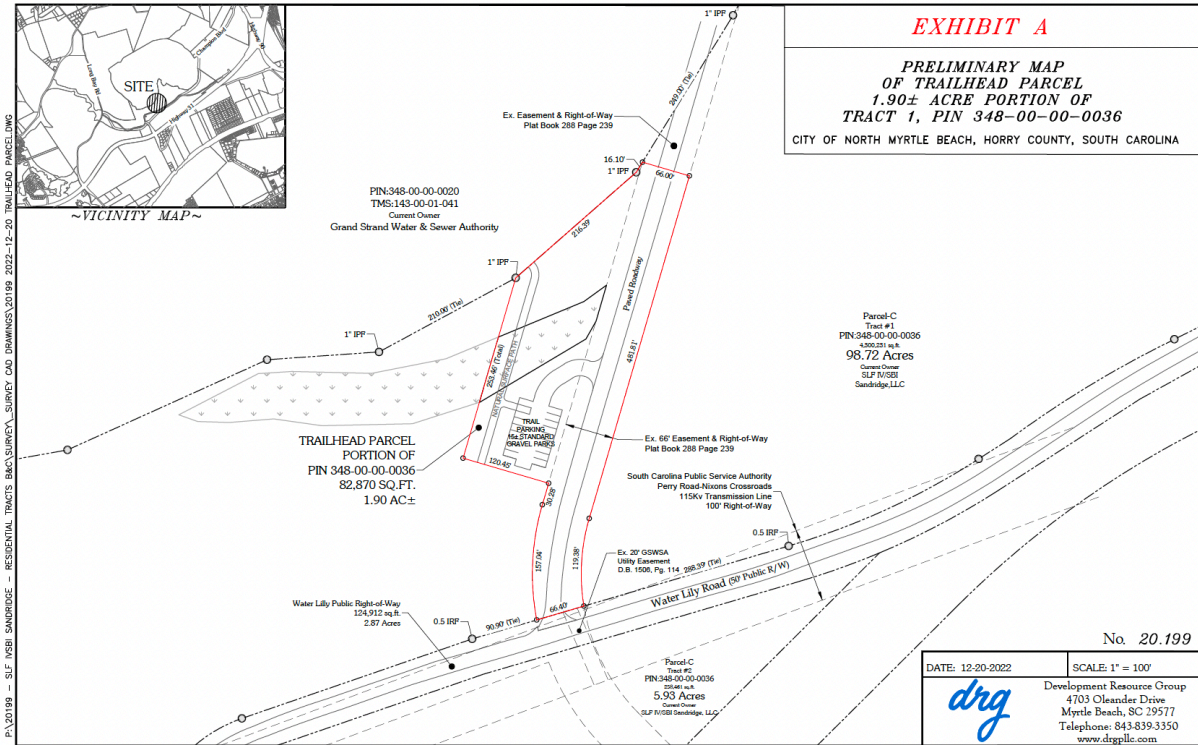


EXHIBIT "B-2"

Reconfigured Trailhead Site Exhibit

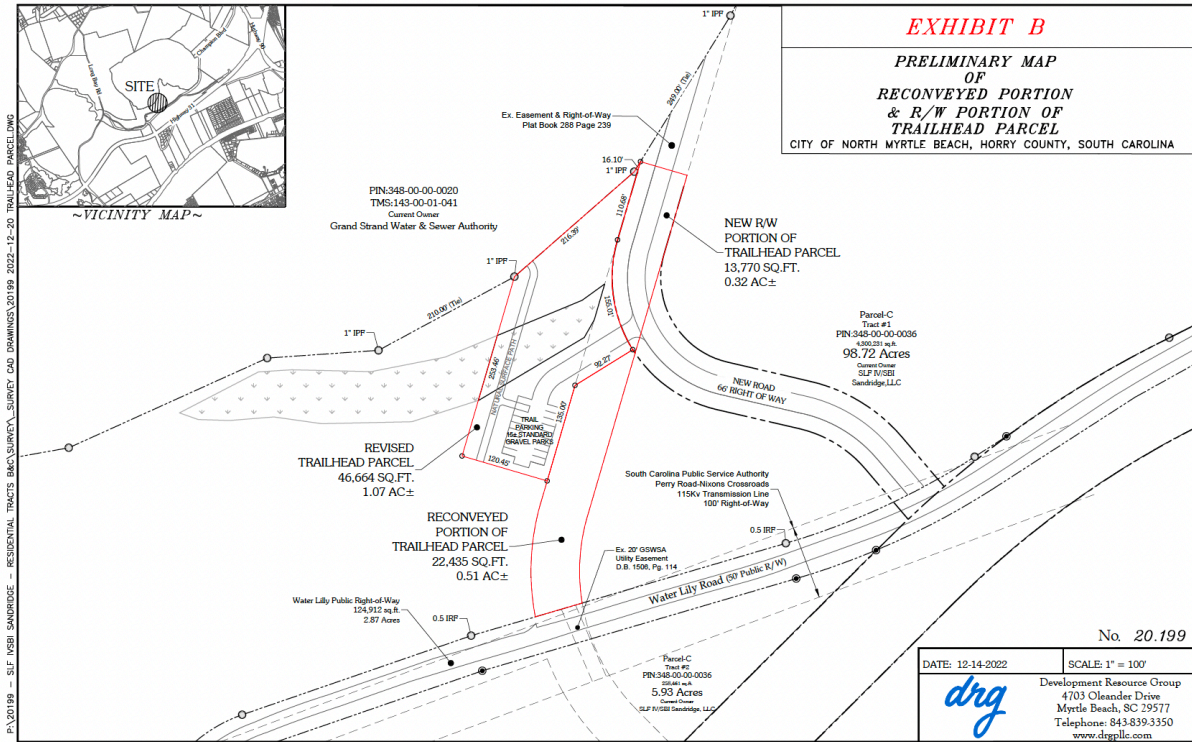


EXHIBIT “C”

Section 23-117(14) and Section 23-119.1 of the Code of Ordinances of the City of North Myrtle Beach (with the amendments thereto passed by Ordinance #21-15 ratified and passed on May 3, 2021)

(See attached)

ORDINANCE

**AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH
PROVIDING THAT THE CODE OF ORDINANCES, CITY OF
NORTH MYRTLE BEACH, SOUTH CAROLINA, BE AMENDED
BY REVISING CHAPTER 23, ZONING, ARTICLE VII, GENERAL
AND SUPPLEMENTAL REGULATIONS, § 23-117 AND § 23-119.1
OF SAID CODE.**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE
CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, IN
COUNCIL DULY ASSEMBLED, THAT:**

Section 1:

That *Section 23-117. – Number of principal buildings on a lot.*, be amended to read as follows (*new matter underlined, deleted matter struck-through*):

Sec. 23-117. - Number of principal buildings on a lot.

Except for the following types of buildings and developments, no more than one (1) principal building may be located upon a tract or lot:

- (1) Institutional buildings.
- (2) Public and semipublic buildings.
- (3) Multifamily dwellings.
- (4) Buildings in a commercial center.
- (5) Industrial buildings.
- (6) Homes for the aged.
- (7) Planned Development District (PDD).
- (8) Mobile home and RV parks.
- (9) Hotels, motels and resort accommodations.
- (10) Townhouse buildings on land owned "in common."
- (11) Single-family in common projects.
- (12) Mixed-use buildings.
- (13) Duplexes.
- (14) Multiplex buildings on land owned "in common."

Section 2:

That *Section 23-119.1. - Detached single-family and duplex in common developments.*, be amended to read as follows (*new matter underlined, deleted matter struck-through*):

Sec. 23-119.1. - Detached single-family and duplex in common developments.

It is the intent of this section to provide an alternative development type where multiple dwellings are located on commonly owned property and ownership of the land is held in common by all owners of the dwellings. Such developments shall be permitted in the R-2, R-2A and R-3 districts subject to their respective development standards pertaining to single-family and duplex construction and the following pertaining specifically to in common development:

1. Minimum site size—Five (5) acres.
2. Minimum building setback from exterior project property lines—Twenty (20) feet.

3. Minimum building setback from the right-of-way—Fourteen (14) feet from public right-of-way, six and one-half (6.5) feet from edge of private street easement.
4. Minimum distance between homes back to back—Twenty (20) feet.
5. Density—One (1) single-family unit for each five thousand (5,000) square feet of buildable land and one (1) duplex building for each seven thousand (7,000) square feet of buildable land, excluding streets and jurisdictional wetlands, but not excluding amenity areas, manmade ponds and open space.
6. Street right-of-way shall meet all standards of the city's Complete Street Designs Guidelines of Appendix A of the city's land development regulations.
7. Driveways shall meet all engineering standards as per the city engineer, fire apparatus access road requirements as defined in the latest edition of the South Carolina Fire Code shall be met.
8. Minimum separation between single-family buildings—Ten (10) feet. Minimum separation between duplex buildings—Fifteen (15) feet.
9. Direct access to all structures from the street or driveway.
10. All structures must front the approved street or driveway.
11. Ownership and maintenance of common areas shall be regulated by section 23-119(4).
12. A minimum of twenty-five (25) percent of the total project site shall be devoted to common open space as defined in section 23-109.

Section 3:

That the North Myrtle Beach Planning Commission has provided the required public notice of this request and has held the necessary public hearings in accordance with applicable State Statutes and City Ordinances.

DONE, RATIFIED AND PASSED, THIS 3 DAY OF May, 2021.

ATTEST:

Allison K. Spelmeester
City Clerk

Marilyn Hatley
Mayor Marilyn Hatley

APPROVED AS TO FORM:

City Attorney

FIRST READING: 4-19-2021
SECOND READING: 5-3-2021

REVIEWED: [Signature]
City Manager A. Horney
City Manager

ORDINANCE: 21-15