

ORDINANCE NO. 1303

AN ORDINANCE OF THE CITY OF DAVENPORT, FLORIDA; APPROVING A MAJOR AMENDMENT TO THE REEDY ISLE PLANNED UNIT DEVELOPMENT MASTER PLAN; PERMITTING THE USE SUBJECT TO CONDITIONS OF A COMMUNICATIONS TOWER NOT TO EXCEED 110 FEET IN HEIGHT ON A 4.33 ACRE PARCEL WITHIN THE PUD; PROVIDING FINDINGS, CONDITIONS OF APPROVAL, A BUSINESS IMPACT ESTIMATE, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, Andrew Orosz and TLC Reedy Isle, LLC, (collectively the "Owners") are the fee simple owners of the parcel identified in Exhibit "A" attached to and incorporated in this Ordinance (the "Property"); and,

WHEREAS, the City Commission previously rezoned the Property as the Reedy Isle Planned Unit Development (the "Reedy Isle PUD") pursuant to Ordinance No. 1086 on November 7, 2022; and,

WHEREAS, Anthemnet, Inc., is a for profit corporation formed in the State of Delaware and has registered to conduct business in the State of Florida; and,

WHEREAS, Anthemnet, Inc., has applied as an agent and co-applicant (the "Co-Applicant") on behalf of and with the Owners to construct and operate a "Personal Service Wireless Facility" on the Property within the Reedy Isle PUD; and,

WHEREAS, the Owners and the Co-Applicant shall hereafter be referred to collectively as the "Applicants" and shall be equally bound to the terms and conditions of this Ordinance; and,

WHEREAS, the Applicants originally requested a plan amendment and rezoning to the Property (the "Original Applications"); and,

WHEREAS, the Original Applications are inconsistent with the process for reviewing communications tower applications provided in the City's Land Development Regulations (the "LDRs"); and,

WHEREAS, at the City's request, the Applicants have submitted a different application including the same information to request a major amendment to the Reedy Isle Planned Unit Development ("PUD"); and,

WHEREAS, the application proposes to modify the Reedy Isle PUD as set forth in the Amended Master Development Plan ("MDP") attached to and incorporated in this Ordinance as Exhibit "B" and the Amended Special Conditions attached to and incorporated in this Ordinance as Exhibit "C"; and,

WHEREAS, the Applicants have applied to amend the PUD master development plan and special conditions set forth in Ordinance No. 1086 to add a cell tower not to exceed a height of 110' ft. and not to exceed the setbacks of 110 ft. from the center of the cell tower; and,

WHEREAS, the City's LDRs consider the proposed construction and operation of a communications tower requested by Applicants to be a land use "Permitted with Conditions or

Special Approval” subject to Article 4 generally and Section 4.03.05 specifically; and,

WHEREAS, the Planning Commission held a public hearing, received public input and other competent, substantial evidence, determined the proposed amendment to the Reedy Isle PUD consistent with the City of Davenport’s Comprehensive Plan, and recommended that the City Commission amend the PUD accordingly, and,

WHEREAS, the City Commission of the City of Davenport, Florida, conducted the necessary public hearings, received public input, and other competent, substantial evidence, on this Ordinance; and,

WHEREAS, in exercise of its authority, the City Commission of the City of Davenport, Florida finds that the amendment to the Reedy Isle PUD proposed by this Ordinance is consistent with the City of Davenport’s Comprehensive Plan and Land Development Regulations, and promotes the public health, safety and welfare.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF DAVENPORT, FLORIDA, AS FOLLOWS:

SECTION 1. RECITALS. The City Commission hereby adopts and incorporates the above stated Recitals as legislative findings that support and form the basis for the adoption of this ordinance.

SECTION 2. APPROVAL OF AMENDMENTS TO REEDY ISLE PUD PLANNED UNIT DEVELOPMENT, CONDITIONS OF APPROVAL. The Applicants’ request for a major amendment to the Reedy Isle PUD is hereby granted. The Reedy Isle PUD is hereby amended in accordance with Section 9.05.05 of the Davenport Land Development Regulations with respect to the Property as set in the MDP contained in Exhibit “B” and as set forth in the additional amended Special Conditions contained in Exhibit “C.” The MDP and Special Conditions attached to this Ordinance shall supersede and replace prior master development plans and special conditions applicable to the Reedy Isle PUD and shall control and govern the development of the Property.

SECTION 3. BUSINESS IMPACT ESTIMATE. Pursuant to Section 166.041(4), Florida Statutes, the City of Davenport is required to prepare a business impact estimate for certain proposed ordinances. This proposed ordinance rezones property in accordance with the owner’s proposed use related to a voluntarily annexation of land into the City of Davenport. Such an amendment to the City’s Plan (1) serves a public purpose by serving the public health, safety, morals, and welfare of the City, (2) has no direct negative economic impact on private, for-profit businesses in the city, (3) will not result in direct compliance costs by businesses, (4) does not impose any new charge or fee or businesses for which businesses will be financially responsible, and (5) does not create any additional municipal regulatory cost which is not recovered appropriately and lawfully by the City. Thus, it is estimated that neither residents nor any business will incur additional costs. The City does not seek to impose any additional user or regulatory fees or charges, nor are any direct compliance costs expected. The Business Impact Estimate form for this ordinance is on file with the City Clerk.

SECTION 4. SEVERABILITY. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

SECTION 5. COPY OF ORDINANCE ON FILE. A copy of this Ordinance shall be kept on file in the office of the Davenport City Clerk.

SECTION 6. CONFLICTS; RATIFICATION. Except as expressly amended ordinance, Ordinance No. 1086 is hereby ratified and confirmed.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect upon its approval by the City Commission as provided by law.

INTRODUCED, PASSED AND DULY ADOPTED ON FIRST READING by the City Commission of the City of Davenport, Florida, meeting in regular Session this 21st day of October 2024.

CITY OF DAVENPORT, FLORIDA

Brynn Summerlin, Mayor

ATTEST:

Raquel Castillo, City Clerk

INTRODUCED, PASSED AND DULY ADOPTED ON SECOND READING by the City Commission of the City of Davenport, Florida, meeting in regular Session this 4th day of November 2024.

CITY OF DAVENPORT, FLORIDA

Brynn Summerlin, Mayor

ATTEST:

Raquel Castillo, City Clerk

Approved as to form and legality:

Thomas Cloud, City Attorney

EXHIBIT "A"
POLK COUNTY, FLORIDA
LEGAL DESCRIPTION

1. **Parcel ID: 272702-713000-020261**

FLA DEV CO PLAT BOOK 3 PAGES 60 TO 63, TRACT 26 & EAST 130 FEET OF TRACT 27 IN SOUTHEAST 1/4 LESS S 15 FT FOR R/W & LESS THAT PT LYING WITHIN THE FOLL DESC: COMM NE COR OF SAID TRACT 27 RUN S89-44-44W 130 FT S00-45-17E 240 FT TO POB S79-53-11E 275.63 FT S03-25-08E 336.46 FT S89-44-10W 286.34 FT N00-45-17W 385.61 FT TO POB.

DESCRIPTION: PARENT TRACT, INSTRUMENT NUMBER 2022321466, OF THE PUBLIC RECORDS OF POLK

COUNTY, FLORIDA (AS PROVIDED BY CLIENT)

A TRACT OF LAND, BEING TRACT 26 AND THE EAST 130.00 FEET OF TRACT 27, MAP OF FLORIDA DEVELOPMENT CO. TRACT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT

BOOK 3, PAGE 60, OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, LYING IN THE SOUTHEAST

QUARTER OF THE SECTION 2, TOWNSHIP 27 SOUTH, RANGE 27 EAST OF POLK COUNTY, FLORIDA.

LESS AND EXCEPT:

THE SOUTH 15.00 FEET FOR RIGHT-OF-WAY, AND LESS THE FOLLOWING DESCRIBED PARCEL OF LAND.

COMMENCE AT THE NORTHEAST CORNER OF SAID TRACT 27, FOR A POINT OF REFERENCE; THENCE RUN

SOUTH 89°44'44" WEST, ALONG THE NORTH LINE OF SAID LOT 27, A DISTANCE OF 130.00 FEET TO A

POINT LYING ON THE WEST LINE OF THE EAST 130.00 FEET OF PERPENDICULAR MEASURE THE EAST LINE

OF SAID TRACT 27; THENCE RUN SOUTH 00°45'17" EAST, PARALLEL TO SAID EAST LINE OF TRACT 27, A

DISTANCE OF 240.00 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID WEST LINE, RUN

SOUTH 79°53'11" EAST, 275.63 FEET; THENCE RUN SOUTH 03°25'08" EAST, 336.46 FEET TO A POINT

LYING ON THE APPARENT NORTH RIGHT-OF-WAY LINE OF HORSE SHOE CREEK ROAD; THENCE RUN

SOUTH 89°44'10" WEST, ALONG SAID APPARENT NORTH RIGHT-OF-WAY LINE, 286.34 FEET TO A POINT

LYING ON AFORESAID WEST LINE OF THE EAST 130.00 FEET OF SAID TRACT 27; THENCE DEPARTING SAID

APPARENT NORTH RIGHT-OF-WAY LINE, RUN NORTH 00°45'17" WEST, ALONG SAID WEST LINE, 385.61

FEET TO THE POINT OF BEGINNING.

DESCRIPTION: PROPOSED 30'X80' ANTHEMNET LEASE AREA (AS REQUESTED BY CLIENT)

A PARCEL OF LAND LYING WITHIN SECTION 02, TOWNSHIP 27 SOUTH, RANGE 27 EAST, POLK COUNTY,

FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 02, CERTIFIED

CORNER RECORDS NUMBER 108253, BEING MARKED BY A FOUND PARKER KALON NAIL (NO IDENTIFICATION); THENCE S89°44'10"W, ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID

SECTION 02, A DISTANCE OF 410.86 FEET; THENCE N00°15'50"W, DEPARTING THE SOUTH LINE OF THE

SOUTHEAST 1/4 OF SAID SECTION 02, A DISTANCE OF 30.03 FEET TO A POINT ON THE EXISTING NORTH

PUBLIC RIGHT-OF-WAY LINE OF HORSESHOE CREEK ROAD; THENCE S89°44'10"W, ALONG THE EXISTING

NORTH PUBLIC RIGHT-OF-WAY LINE OF SAID HORSESHOE CREEK ROAD, A DISTANCE OF 20.00 FEET;

THENCE N00°35'35"W, DEPARTING THE EXISTING NORTH PUBLIC RIGHT-OF-WAY LINE OF HORSESHOE

CREEK ROAD, A DISTANCE OF 132.73 FEET; THENCE S89°24'25"W, A DISTANCE OF 12.44 FEET; THENCE

S00°35'35"E, A DISTANCE OF 20.00 FEET; THENCE S89°24'25"W, A DISTANCE OF 15.00 FEET; THENCE

S00°35'35"E, A DISTANCE OF 15.00 FEET; THENCE N45°35'35"W, A DISTANCE OF 7.07 FEET TO THE

POINT OF BEGINNING; THENCE S89°24'25"W, A DISTANCE OF 30.00 FEET; THENCE N00°35'35"W, A

DISTANCE OF 80.00 FEET; THENCE N89°24'25"E, A DISTANCE OF 30.00 FEET; THENCE S00°35'35"E, A

DISTANCE OF 80.00 FEET TO POINT OF BEGINNING.

SAID PROPOSED 30'X80' ANTHEMNET LEASE AREA CONTAINING 2,400 SQUARE FEET.

**DESCRIPTION: PROPOSED NON-EXCLUSIVE ANTHEMNET ACCESS & UTILITY EASEMENT
(AS REQUESTED BY CLIENT)**

A STRIP OF LAND LYING WITHIN SECTION 02, TOWNSHIP 27 SOUTH, RANGE 27 EAST, POLK COUNTY,

FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 02, CERTIFIED

CORNER RECORDS NUMBER 108253, BEING MARKED BY A FOUND PARKER KALON NAIL (NO IDENTIFICATION); THENCE S89°44'10"W, ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID

SECTION 02, A DISTANCE OF 410.86 FEET; THENCE N00°15'50"W, DEPARTING THE SOUTH LINE OF THE

SOUTHEAST 1/4 OF SAID SECTION 02, A DISTANCE OF 30.03 FEET TO A POINT ON THE EXISTING NORTH

PUBLIC RIGHT-OF-WAY LINE OF HORSESHOE CREEK ROAD, ALSO BEING THE POINT OF BEGINNING;

THENCE S89°44'10"W, ALONG THE EXISTING NORTH PUBLIC RIGHT-OF-WAY LINE OF SAID HORSESHOE

CREEK ROAD, A DISTANCE OF 20.00 FEET; THENCE N00°35'35"W, DEPARTING THE EXISTING NORTH

PUBLIC RIGHT-OF-WAY LINE OF HORSESHOE CREEK ROAD, A DISTANCE OF 132.73 FEET; THENCE

S89°24'25"W, A DISTANCE OF 12.44 FEET; THENCE S00°35'35"E, A DISTANCE OF 20.00 FEET;

S89°24'25"W, A DISTANCE OF 15.00 FEET; THENCE S00°35'35"E, A DISTANCE OF 15.00 FEET; THENCE

S89°24'25"W, A DISTANCE OF 40.00 FEET; THENCE N00°35'35"W, A DISTANCE OF 90.00 FEET; THENCE

N89°24'25"E, A DISTANCE OF 40.00 FEET; THENCE S00°35'35"E, A DISTANCE OF 15.00 FEET; THENCE

N89°24'25"E, A DISTANCE OF 15.00 FEET; THENCE S00°35'35"E, A DISTANCE OF 20.00 FEET; THENCE

N89°24'25"E, A DISTANCE OF 32.44 FEET; THENCE S00°35'35"E, A DISTANCE OF 152.85 FEET TO THE

POINT OF BEGINNING.

LESS A 30'X80' PROPOSED LEASE AREA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING WITHIN SECTION 02, TOWNSHIP 27 SOUTH, RANGE 27 EAST, POLK COUNTY,

FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 02, CERTIFIED

CORNER RECORDS NUMBER 108253, BEING MARKED BY A FOUND PARKER KALON NAIL (NO IDENTIFICATION); THENCE S89°44'10"W, ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID

SECTION 02, A DISTANCE OF 410.86 FEET; THENCE N00°15'50"W, DEPARTING THE SOUTH LINE OF THE

SOUTHEAST 1/4 OF SAID SECTION 02, A DISTANCE OF 30.03 FEET TO A POINT ON THE EXISTING NORTH

PUBLIC RIGHT-OF-WAY LINE OF HORSESHOE CREEK ROAD; THENCE S89°44'10"W, ALONG THE EXISTING

NORTH PUBLIC RIGHT-OF-WAY LINE OF SAID HORSESHOE CREEK ROAD, A DISTANCE OF 20.00 FEET;

THENCE N00°35'35"W, DEPARTING THE EXISTING NORTH PUBLIC RIGHT-OF-WAY LINE OF HORSESHOE

CREEK ROAD, A DISTANCE OF 132.73 FEET; THENCE S89°24'25"W, A DISTANCE OF 12.44 FEET; THENCE

S00°35'35"E, A DISTANCE OF 20.00 FEET; THENCE S89°24'25"W, A DISTANCE OF 15.00 FEET; THENCE

S00°35'35"E, A DISTANCE OF 15.00 FEET; THENCE N45°35'35"W, A DISTANCE OF 7.07 FEET TO THE

POINT OF BEGINNING; THENCE S89°24'25"W, A DISTANCE OF 30.00 FEET; THENCE N00°35'35"W, A

DISTANCE OF 80.00 FEET; THENCE N89°24'25"E, A DISTANCE OF 30.00 FEET; THENCE S00°35'35"E, A

DISTANCE OF 80.00 FEET TO POINT OF BEGINNING.

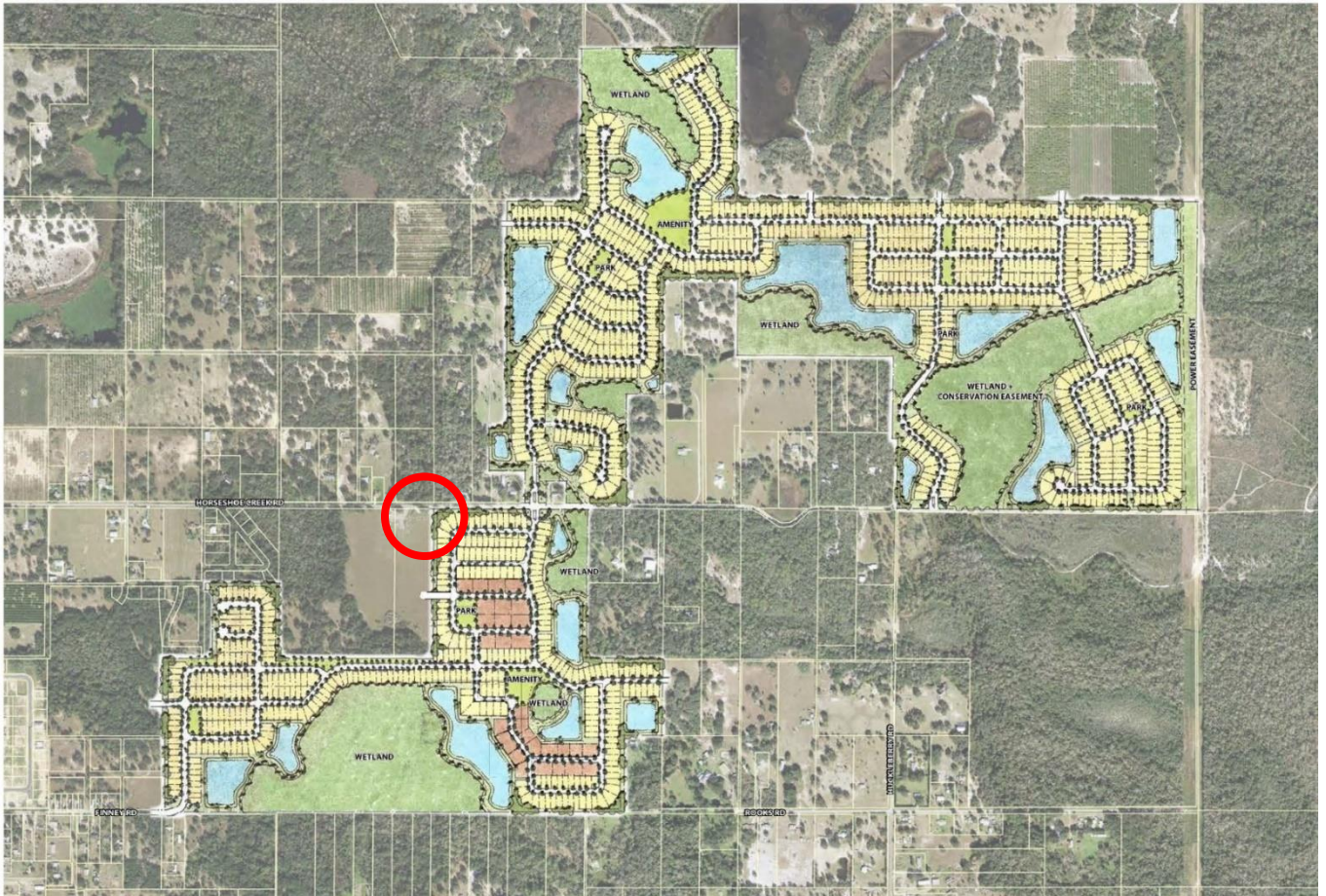
SAID PROPOSED 30'X80' LEASE AREA CONTAINING 2,400 SQUARE FEET.

SAID PROPOSED NON-EXCLUSIVE ANTHEMNET ACCESS & UTILITY EASEMENT CONTAINING 5,405

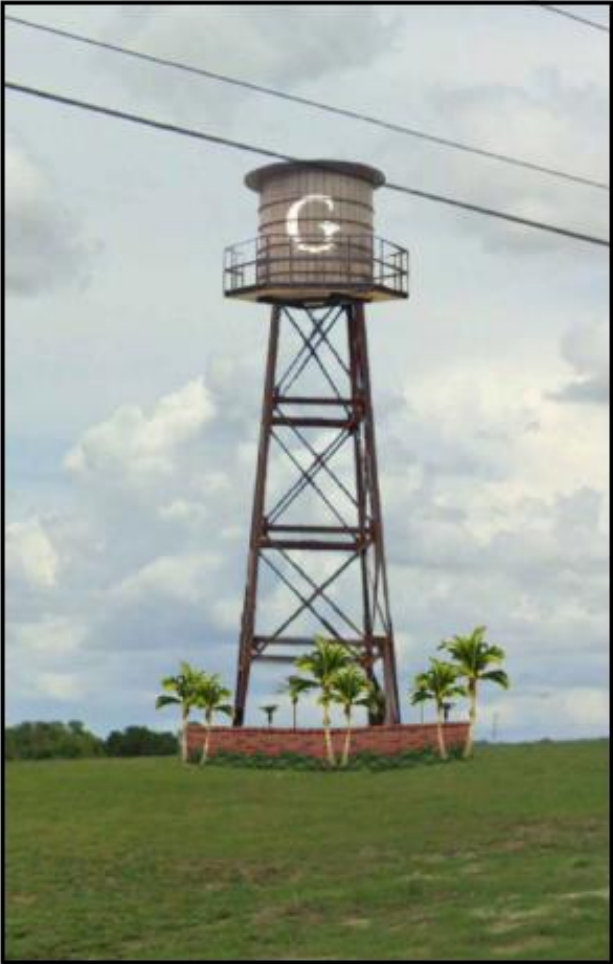
SQUARE FEET, MORE OR LESS.

EXHIBIT "B"

REEDY ISLE PUD MASTER PLAN (from Ordinance 1086)



How Tower is to look like (Picture Below)



“EXHIBIT C”

REEDY ISLE PUD SPECIAL CONDITIONS

SPECIAL CONDITIONS for the following:

PARCEL ID: 272702-713000-020261

SPECIAL CONDITIONS

1. The Applicants covenant and agree and the City requires that the Applicants must comply with all relevant sections from contained in Article 4, Section 4.03.05 Communication Towers (specifically all parts of subsections (B), (D), and (E)) of the City’s Unified Land Development Regulations.
2. The representations contained in the original application filed by the Applicants and any subsequent supplementary filings are hereby incorporated into this Ordinance.
3. The communications tower shall be constructed as depicted and illustrated in Exhibit B hereof as a water tower, and shall not exceed 110 feet in height and shall comply with the setback limit of 110 feet.



Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the City of Davenport's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

AN ORDINANCE OF THE CITY OF DAVENPORT, FLORIDA; CHANGING THE ZONING CLASSIFICATION FOR A PARCEL TOTALING 4.33 ACRES OF PROPERTY GENERALLY LOCATED WEST OF HUCKLEBERRY RD AND NORTH OF HORSESHOE CREEK RD, FROM THE CLASSIFICATION OF CITY PLANNED UNIT DEVELOPMENT (PUD) TO CITY AMENDED PLANNED UNIT DEVELOPMENT (PUD); PROVIDING FOR A BUSINESS IMPACT ESTIMATE, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City of Davenport is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the City of Davenport is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;

¹ See Section 166.041(4)(c), Florida Statutes.

- b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the City of Davenport hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

This proposed ordinance will provide land use reclassification to provide the necessary residential density for the area, thus serving the public health safety, morals and welfare.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City of Davenport, if any:
- (a) An estimate of direct compliance costs that businesses may reasonably incur;
 - (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
 - (c) An estimate of the City of Davenport's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

Land use reclassification does not lessen or remove any private resident or commercial business. Thus, it is estimated that neither residents nor any business will incur additional costs. The city does not seek to impose any additional user or regulatory fees or charges, nor are any direct compliance costs expected.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: *Zero (0)*

4. Additional information the governing body deems useful (if any):

City of Davenport staff solicited comments from businesses and residents in the City of Davenport as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on City of Davenport's website, public workshop, etc. The proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect residents or businesses.

October 4, 2024

Mr. Raymond Perez
City of Davenport
Planning Department
1 South Allapaha Avenue
Davenport, Florida 33837

Re: Substitution of new application to replace previous zoning application change from a rezoning to PUD Major Amendment Application for a 110'ft (foot) Faux Water Tower Wireless Communication Facility placement along the Northside of 0 Horseshoe Creek Road, Davenport, Florida. (Parcel Number: 272702-713000-020261}

Mr. Perez;

The undersigned Stephen Orosz and TLC Reedy Isle, LLC, (collectively the "Owners") and Anthemnet, Inc., (collectively the "Co-applicants") previously applied on behalf of and with the Owners to construct and operate a "Personal Service Wireless Facility" on the Property within the Reedy Isle PUD. We originally requested a plan amendment and rezoning to the Property but understand that the original applications are inconsistent with the process for reviewing communications tower applications provided in the City's Land Development Regulations (the "LDRs"). At the City's request, the Co-Applicants are submitting a different application including the same information to request a major amendment to the Reedy Isle Planned Unit Development ("PUD").

We propose to modify the Reedy Isle PUD as set forth in the Amended Master Development Plan ("MDP") to add a cell tower not to exceed a height of 110' ft. and not to exceed the setbacks of 110 ft. from the center of the cell tower. The Co-applicants hereby acknowledge that the previous zoning application from a PUD to Public Institutional 1 for Parcel Number 27-27-02-713000-020261 (to the City's Planning Department) has been substituted as a Planned Unit Development Major Amendment. This Major Amendment discloses additional conditions and prior application information upon the development of a Water Tower Wireless Communications Facility along the Northside of 0 Horseshoe Creek Road in the Reedy Isle PUD Master Plan of Ordinance 1086 within the city limits of Davenport, Florida.

If you have any questions, or need any assistance, please contact me.

Sincerely,

Co-Applicant signatures

Owner: Stephen Orosz, Authorized Member / TLC Reedy Isle, LLC





Representative Agent: Jennifer C. Frost / Anthemnet, Inc. _____