



AGENDA

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Regular Meeting 2021-03

February 3, 2021 - 7:00 PM

Tony Rosa Community Center, Rooms A and B, 1502 Port Malabar Boulevard NE

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ADOPTION OF MINUTES:

1. Adoption of Minutes - Special Meeting 2021-02; January 19, 2021

ANNOUNCEMENTS:

OLD/UNFINISHED BUSINESS:

1. **FS-2-2020 – Sabal Palm Square - 2501 LLC (Bruce Moia, P.E., Rep.) - Final plat for a proposed 3-lot commercial development called Sabal Palm Square. Tax Parcel 755, Section 21, Township 28, Range 37, Brevard County, Florida, containing 13.71 acres, more or less. (Located in the vicinity of the southwest corner of Babcock Street NE and Palm Bay Road NE)

NEW BUSINESS:

1. **FD-4-2021 – The Preserves At Stonebriar Phase II - Forestar USA Real Estate Group, Inc. (Jake Wise, P.E., Rep.) - Final Development Plan for a proposed PUD, Planned Unit Development to allow a 171-lot single-family development called The Preserves at Stonebriar Phase II. Tracts L, M, N, P, S, and T of The Preserves at Stonebriar Phase I, Sections 20 and 29, Township 29, Range 37, Brevard County, Florida, containing 28.878 acres, more or less. (Located In the vicinity east of Cogan Drive SE and west of Melbourne Tillman Drainage District Canal No. 41-R)
2. **CU-5-2021 – FAR Research, Inc. (AVID Group, LLC and Akerman, LLP, Reps.) - A conditional use to allow proposed storage of liquified petroleum products; chemicals and similar products in an HI, Heavy Industrial District. Tax Parcel 14, Section 14, Township 28, Range 37, Brevard County, Florida, containing .46 acres, more or less. (Located south of and adjacent to Rowena Drive NE, in the vicinity north of Robert J. Conlan Boulevard NE, and east of the Florida East Coast Railway)
3. T-6-2021 – City of Palm Bay (Growth Management Department – Requested by Councilman Jeff Bailey) - A textual amendment to the Code of Ordinances, Title V, Legislative, Chapter 51: Public Hearings, Sections 51.04 and 51.05, to modify provisions for withdrawal and denial of

public hearing requests; and to amend Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.203 and 185.204, to modify provisions for protest petitions by property owners.

OTHER BUSINESS:

ADJOURNMENT:

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.

Any aggrieved or adversely affected person desiring to become a party in the quasi-judicial proceeding shall provide written notice to the city clerk which notice shall, at a minimum, set forth the aggrieved or affected person's name, address, and telephone number, indicate how the aggrieved or affected person qualifies as an aggrieved or affected person and indicate whether the aggrieved or affected person is in favor of or opposed to the requested quasi-judicial action. The required notice must be received by the clerk no later than five (5) business days at the close of business, which is 5 p.m., before the hearing. (Section 59.03, Palm Bay Code of Ordinances)

In accordance with the Americans with Disabilities Act, persons needing special accommodations for this meeting shall, at least 48 hours prior to the meeting, contact the Land Development Division at (321) 733-3042 or Florida Relay System at 711.

****Quasi-Judicial Proceeding.**



MEMORANDUM

DATE: February 3, 2021

SUBJECT: Adoption of Minutes - Special Meeting 2021-02; January 19, 2021

ATTACHMENTS:

Description

- ▣ **Special Meeting 2021-02; January 19, 2021**

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
SPECIAL MEETING 2021-02

Held on Tuesday, January 19, 2021, in the Tony Rosa Community Center, Rooms A and B, 1502 Port Malabar Road NE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Land Development Division, Palm Bay, Florida. The minutes are not a verbatim transcript but a brief summary of the discussions and actions taken at this meeting.

Mr. Philip Weinberg called the meeting to order at approximately 7:00 p.m.

Mr. Rainer Warner led the Pledge of Allegiance to the Flag.

ROLL CALL:

CHAIRPERSON:	Philip Weinberg	Present	
VICE CHAIRPERSON:	Leeta Jordan	Present	
MEMBER:	Donald Boerema	Present	
MEMBER:	James Boothroyd	Absent	(Excused)
MEMBER:	Richard Hill	Present	
MEMBER:	Khalilah Maragh	Present	
MEMBER:	Rainer Warner	Present	
NON-VOTING MEMBER:	David Karaffa	Absent	
	(School Board Appointee)		

Mr. Boothroyd's absence was excused.

CITY STAFF: Present were Mr. Laurence Bradley, Growth Management Director; Mr. Patrick Murphy, Assistant Growth Management Director; Mr. Christopher Balter, Senior Planner; Ms. Chandra Powell, Recording Secretary; Ms. Jennifer Cockcroft, Deputy City Attorney.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting 2020-14; December 2, 2020. Mr. Weinberg noted for correction that Mr. Donny Felix was not present at the December meeting. Motion by Ms. Jordan, seconded by Mr. Hill to approve the minutes as amended. The motion carried with members voting unanimously.

ANNOUNCEMENTS:

1. Mr. Weinberg addressed the audience on the meeting procedures and explained that the Planning and Zoning Board/Local Planning Agency consists of volunteers who act as an advisory board to City Council.

OLD BUSINESS:

1. ****FS-2-2020 – SABAL PALM SQUARE - 2501 LLC (BRUCE MOIA, P.E., REP.)**
(REQUEST TO CONTINUE TO FEBRUARY 3, 2021)

Mr. Weinberg announced that staff had requested a continuance of Case FS-2-2020 to the February 3, 2021 Planning and Zoning Board meeting.

Motion by Ms. Jordan, seconded by Ms. Maragh to continue Case FS-2-2020 to the February 3, 2021 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

City Council will hear Case FS-2-2020 on March 4, 2021.

2. ****CU-37-2020 – BABCOCK LLC (ROBERT V. SCHWERER, ESQ. AND HASSAN KAMAL, P.E., REPS.)**

Mr. Bradley presented the staff report for Case CU-37-2020. The applicant had requested an amendment to a previously approved conditional use (Resolution 2019-02) to expand the existing mining excavation of a borrow pit in a GU, General Use Holding District. Staff recommended Case CU-37-2020 for approval with conditions.

Ms. Maragh inquired whether there had been any past issues with the mining operation meeting staff guidelines. Mr. Bradley stated that he was not aware of any issues. A letter was received regarding dewatering; however, the applicant had responded that the St. Johns River Water Management District (SJRWMD) would have cited any dewatering issues for enforcement.

Mr. Robert V. Schwerer, Esq. with Hayskar, Walker, Schwerer, Dundas & McCain, P.A. (representative for the applicant) used diagrams to review the request. He stated that the City and the SJRWMD were reviewing the revised site plan for additional permits, and there would be no mining in the wetland area. He explained that the subject request was less than a 20-acre expansion and a minor modification to Phase I. The northern boundary of the site was approximately 4,025 feet west of the Yates mining pit and an additional 2,020 feet from the nearest residential property line. All legal requirements of the code had been met or exceeded, and no additional truck traffic, excavation area, or external access points would occur. The operation was in full compliance with all City and SJRWMD permits and there had been no violations. A Citizen Participation Plan (CPP) meeting was held, and there was no opposition to the request. He had no objections to the staff conditions.

Ms. Maragh asked for clarification that the expansion was needed because a mine had been exhausted. Mr. Schwerer explained that a portion of the mine had been exhausted, and that the operation was approved to progress in phases to ensure safety. Ms. Maragh wanted to know in terms of environmental impact, what would occur with the section of property no longer in use. Mr. Schwerer explained that the property would still be used to excavate sand and different grades of rock.

The floor was opened and closed for public comments; there were no comments from the audience, and there were two items of correspondence in the file in opposition to the request along with the response from Mr. Schwerer.

Motion by Mr. Hill, seconded by Ms. Maragh to submit Case CU-37-2020 to City Council for approval of an amendment to a previously approved conditional use (Resolution 2019-02) to expand the existing mining excavation of a borrow pit in a GU, General Use Holding District, subject to the staff recommendations contained in the staff report. The motion carried with members voting unanimously.

**3. CP-10-2020 – SKA PROPERTIES, LLC
(DEAN MEAD ATTORNEYS AT LAW, REP.)**

Mr. Murphy presented the staff report for Case CP-10-2020. The applicant had requested a large-scale Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Multiple-Family Residential Use. Staff recommended four conditions for consideration should the board approve Case CP-10-2020 and transmit to the Florida Department of Economic Opportunity, pursuant to Chapter 163, Florida Statutes.

Ms. Laura Young, Board Certified Real Estate Lawyer with Dean Mead Attorneys At Law (representative for the applicant) submitted a PowerPoint presentation regarding the land use and zoning amendment proposals for the subject site. The property was purchased by SKA Properties in 2012 but had been in their family ownership for over 60 years. There were no plans for the site or marketing at present, but the applicant was amendable to the conditions recommended by staff to alleviate the concerns in the area. A Citizen Participation Plan meeting would be held at a later stage once a development plan was conceived. She discussed the site's compatibility with the Comprehensive Plan and the recognized need for multiple-family residential housing in the City. In response to the correspondence submitted against the land use and rezoning requests, she noted that the subject property would be capped at ten units per acre and Glenham Drive NE was considered a medium density collector road that could support the development. She informed the board of the environmental, stormwater, school capacity, traffic impact, and utility pressure and flow test requirements that had been preliminarily met or would need to be addressed during the appropriate stages of review of a future project.

Mr. Warner asked if the applicant would develop a single-family project if the multiple-family request was denied. Ms. Young was not sure.

Mr. Jake Wise, P.E. of Construction Engineering Group, Inc. (civil engineer for the project) reiterated that there was no project or site plan for the property. The proposed request was an early step toward developing the site in a manner diverse from the existing RS-1, Single Family Residential product in the vicinity and throughout Palm Bay. A site plan with the related reviews and requirements would

be accomplished once the land use and zoning requests were in effect. He explained that a single-family subdivision under the existing RS-1 district would clear cut the site without buffers. A multiple-family project at ten units per acre allowed clustering for more land preservation in addition to buffering and landscaping requirements. He noted that the property's main access would be adjacent to commercial, industrial, and park land, and that the utilities in the area would need to be reviewed regardless of the type of development.

The floor was opened for public comments.

Mr. Henry Morin (president of the Turkey Creek Homeowners Association) spoke against the request. He said that nothing had occurred in the single-family residential neighborhood to require a land use change. According to the submitted legal opinion in the file from the attorney retained by the homeowners association, Mr. Jack Kirschenbaum, Esq. with GrayRobinson, P.A., the proposed application could be challenged since the request did not qualify for a land use change due to its incompatibility with the character of the area.

Ms. Maragh inquired whether the homeowners association would find duplexes more acceptable than apartments. Mr. Morin indicated that compatibility meant single-family homes.

Mr. Wentworth Carey (resident at Hamlin Street NE) spoke against the request. He believed a plan should be provided before a change was considered. Utilities, mitigation of trees and endangered species, and drainage run off into the Turkey Creek were concerns that should be known beforehand. He felt that the developer would be profiting at the expense of the neighborhood. He commented on how the traffic survey was inaccurate since it was done while schools were closed during COVID-19. Multi-family development should be located with multi-family development.

Mr. Peter Filiberto (resident at Spring Creek Circle NE) spoke against the request. He stated that the matter was brought to his attention as a member of the Brevard County Planning and Zoning Board, District 3. He remarked on how the proposed request did not appear consistent or compatible with the Turkey Creek Subdivision. Namely, the Aqua Apartments on Robert J. Conlan Boulevard NE was a multiple-

family development that sat vacant; area utilities could be affected; the school service area had no capacity; and there were deficiencies with Glenham Road. He questioned whether there would be sufficient police and fire manpower to service multi-family in the area. The applicant appeared to be offering workarounds.

Ms. Christine Marcelle (resident at Glenham Drive NE) spoke against the request. She stated that her automobile was damaged from traveling the neighborhood roads. She commented on the endangered wildlife on the proposed site and the required environmental phasing. She indicated how there was 75 acres on Robert J. Conlan Boulevard to locate the multiple-family project, and that the subject property would be better suited for a single-family development for seniors.

Ms. Lorie Wacaster (resident at River Drive NE) spoke against the request. She stated that she resided in Highland Terrace where there was already diversity in home sizes and the residents. She did not want the inherent quality of the neighborhood to change.

Ms. Kristy Clinton (resident at Limequat Street NE) spoke against the request. She questioned how a multi-family development could be justified when the project was unknown. Online searches had revealed home purchases in Palm Bay with contingents and 700 apartments available for rental. She believed the subject proposal was for making more money and not to meet a need in Palm Bay. The applicant would be a single taxpayer whereas neighborhood residents had paid taxes for decades.

Mr. Gene Collins (resident at Sunswept Road NE) spoke against the request. He stated that traffic on Glenham Drive was horrendous, and that the traffic study that was done would be inaccurate because of COVID-19. He said that busing school children outside the area would increase traffic problems. The property was purchased as a single-family site and should be developed as such. He commented on how Highland Shores Subdivision was four units per acre, so a multiple-family ten-units per acre project would not be compatible, and more information was needed about SKA Properties.

Ms. Alexa Moia (resident at King Street NE) spoke against the request. She stated that the applicant was speculating instead of providing a proper development plan. Finding a single-family home in the established and in-demand area to purchase was difficult. She remarked on how there was multi-family property throughout the City.

Ms. Kathy Brewer (resident at Lemon Street NE) spoke against the request. She questioned how a multi-family project would impact plans to connect 90 homes on Glenham Drive into the existing force main because of their failing septic systems.

Ms. Gina Bardy (resident at School Drive NE) spoke against the request. She stated that multiple-family use was not compatible with the character of the existing neighborhood. There could be a need for multiple-family in Palm Bay, but not within northeast Palm Bay where several multi-family developments were within five square miles of the subject site. She noted that there were threatened species on the property.

Mr. Adam Radwan (resident at Palmdale Circle NE) spoke against the request. He stated that there was crime in the area, and he believed multi-family renters would bring cause a huge increase in crime. The applicant would make a profit while existing property values dropped undeservedly.

Mr. James Finch (resident at Tangerine Street NE) spoke against the request. He stated that the subject request was incompatible with the unique character of the Turkey Creek Subdivision. The neighborhood could not handle the traffic that would cut through the subdivision to get to Port Malabar Boulevard NE, and Mandarin Drive NE also had traffic issues. He noted Aqua Apartments and the Turkey Creek Villas as multiple-family projects already in the area.

Mr. Zachary Bangos (resident at Palmdale Circle NE) spoke against the request. He stated how he wanted to keep the quiet character of the neighborhood to be a safe place for his children one day. Multi-family would change the area and bring more traffic.

Mr. Jeffrey Dean (resident at Pineapple Avenue NE) spoke against the request. He stated how the neighborhood was great for walking and biking. A multi-family use would exacerbate the traffic issues at the intersection of Glenham Drive and Palm Bay Road NE that needed a traffic signal.

Ms. Nalene Taylor (resident at Lemon Street NE) spoke against the request. She described how Palm Bay Elementary School had to reroute their bus access because of heavy traffic, which was still a problem on Glenham Drive. She was concerned about the utilities, septic tanks, and the City's negligence in taking care of current residents.

Ms. Katie Hazzard (resident at Sunswept Road NE) spoke against the request. She stated that she had previous experience with the developer attempting to place multi-family use in the center of an established single-family neighborhood. She commented on the wildlife that existed on the subject property, how spot zoning was ruining communities, and that her small and friendly neighborhood should be maintained.

Ms. Erin Conway (resident at Mandarin Drive NE) spoke against the request. She stated that she loved her community and neighborhood, but speeders used Mandarin Drive as a cut through between Glenham Drive and Port Malabar Boulevard NE. The traffic was outrageous during school drop off and pick up hours. She wanted the community, which the residents had invested in, to remain safe and quiet.

In response to the public comments, Ms. Young explained that SKA properties were three members of a family from the area and not a large developer. The applicant believed the multi-family proposal would act as a transition between the residential neighborhood and the various uses nearby. The applicant was within their right to make the request. She respectfully disagreed with Mr. Kirschenbaum's legal opinion on compatibility. Her expert land use attorney and staff had determined the proposed land use to be a compatible transition. Development of the property would decrease the existing illegal activity on the site; environmental issues would be addressed by required permits, including subsequent environmental phases. She commented on how Mr. Morin and the Turkey Creek Homeowners Association had sought to purchase the property, but the applicant wanted to market the site for multi-family

use at this time. She remarked how the school capacity shortfall would be an issue for both the single-family or multi-family use; a traffic study would determine if a future project required traffic improvements; the location was situated for diverse and transitional housing; and there was no evidence that a medium density multi-family project would alter the character, property value, or crime rate of a neighborhood. Any multi-family project would need to meet the appropriate codes.

In response to comments from the audience, Mr. Wise stated that the utility connections for the site would have to be addressed for single-family or multi-family development. An extension of water and sewer to the property would also offer the neighborhood the benefit of possible hook up. He commented that a standard RS-1 single-family development would require the site to be clear cut and noted that a multi-family development at 25-feet in height would be vastly different from other multi-family developments in the area. Tree mitigation, stormwater retention, and a future traffic study would still need to occur. He noted that 60 years ago there was no land use assigned to the property when the family originally purchased the site. He informed the board that there would be further public hearings and a neighborhood meeting once a plan was proposed. The current request satisfied all elements of the Comprehensive Plan.

The floor was closed for public comments.

Ms. Maragh questioned whether a new property owner would be bound by conditions placed on the request. Mr. Murphy confirmed that this was correct as the conditions ran with the land.

Mr. Warner stated that in considering all aspects of the proposal and most appropriate use of the land, the request did not appear compatible with the existing neighborhood.

Motion by Mr. Warner, seconded by Mr. Hill to submit Case CP-10-2020 to City Council for denial of a large-scale Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Multiple-Family Residential Use.

Ms. Maragh stated how she believed in diversity in housing; however, she had concerns about the project's environmental impact on the Turkey Creek, traffic, and the lack of a development plan to assuage concerns.

Mr. Weinberg noted that there were 91 items of correspondence in the file in opposition to the request. He stated that compatibility was a concern as the Turkey Creek Subdivision was a unique neighborhood that the proposed request would change.

A vote was called on the motion by Mr. Warner, seconded by Mr. Hill to submit Case CP-10-2020 to City Council for denial of a large-scale Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Multiple-Family Residential Use. The motion carried with members voting as follows:

Mr. Weinberg	Aye
Ms. Jordan	Aye
Mr. Boerema	Aye
Mr. Hill	Aye
Ms. Maragh	Aye
Mr. Warner	Aye

City Council will hear Case CP-10-2020 on January 26, 2021.

The meeting resumed following a five-minute recess.

4. ****CPZ-10-2020 – SKA PROPERTIES, LLC**
(DEAN MEAD ATTORNEYS AT LAW, REP.)

Mr. Weinberg stated that Case CP-10-2020, the companion land use request to Case CPZ-10-2020, had been denied by the board.

Mr. Jake Wise, P.E. of Construction Engineering Group, Inc. (civil engineer for the project) asked that the discussion under Case CP-10-2020 be part of the record for Case CPZ-10-2020.

Motion by Mr. Hill, seconded by Mr. Warner to submit Case CPZ-10-2020 to City Council for denial of a zoning amendment from an RS-1, Single Family Residential District to an RM-10, Single-, Two-, Multiple-Family Residential District. The motion carried with members voting as follows:

Mr. Weinberg	Aye
Ms. Jordan	Aye
Mr. Boerema	Aye
Mr. Hill	Aye
Ms. Maragh	Aye
Mr. Warner	Aye

City Council will hear Case CPZ-10-2020 on January 26, 2021.

NEW BUSINESS:

1. **CP-1-2021 - JUPITER BAY - SACHS CAPITAL GROUP, LP**
(BRUCE MOIA, P.E., REP.)
(REQUEST TO CONTINUE TO MARCH 4, 2021)

Mr. Weinberg announced that the applicant for Case CP-1-2021 had requested a continuance to the March 4, 2021 Planning and Zoning Board meeting. A motion was needed to continue the case.

Motion by Mr. Warner, seconded by Ms. Jordan to continue Case CP-1-2021 to the March 4, 2021 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

2. ****PD-1-2021 - JUPITER BAY - SACHS CAPITAL GROUP, LP**
(BRUCE MOIA, P.E., REP.)
(WITHDRAWN)

Mr. Weinberg announced that Case PD-1-2021 had been withdrawn. Board action was not required to withdraw the case.

**3. CP-2-2021 – THE RESERVE AT COUNTRY CLUB LAKE ESTATES –
PALM BAY GREENS, LLC (DAVID BASSFORD, P.E. AND
BRIAN BUSSEN, REPS.)**

Mr. Murphy presented the staff report for Case CP-2-2021. The applicant had requested a small-scale Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Multiple-Family Residential Use. The board must determine the need and justification for the change, the effect of the change, and the relationship of the proposed amendment to furthering the purposes of the Comprehensive Plan. Staff recommended three conditions should the board approve the case.

Mr. Bruce Moia, P.E., president of MBV Engineering, Inc. (representative for the applicant) stated that a recent Citizen Participation Plan (CPP) meeting was held for the subject proposal, but he was not privy to the discussions and agreements from previous CPP meetings. He noted that there was already multi-family projects in the area, and that the subject proposal would mirror what was already present. A Planned Unit Development (PUD) would allow specimen oak trees to be preserved. Multi-family would abut existing multi-family, the larger lots would be located around the perimeter, smaller lots would be on the interior, and as much open space as possible would be preserved. He stated that he was in agreement with staff recommendations.

Ms. Karen Schrimpf (resident at Island Green Drive NE) spoke against the request. She commented that there were six site plan grievances indicated by the Island Green Village Association Board. The site plan showed the Island Green driveway in error and did not depict the easement access or utility easements as conditions of the proposal. Residents of the area remained concerned about the development, but COVID-19 and the holidays had affected the attendance for the Citizen Participation Plan (CPP) meeting. Basic questions were not answered at the CPP meeting, such as the number of stories proposed and minimum unit size. She remarked how the subject request broke prior agreements. City Council had approved the site for RS-1, Single Family Residential District development in 2015; the southern lot density was increased from 1.9 to 2.7 lots per acre; and 800 square-foot duplexes would be located adjacent to the Bimini Bay and Island Green Villas multi-family communities of 1,600 to 2,200 square foot homes. Flooding was a

challenge in the area, so adjacent residents were concerned that they would be forced to purchase flood insurance because of the density increase. She noted that in 2008, Port Malabar Boulevard NE was determined to be a failed capacity road.

Mr. Russell Wood (resident at Waialae Circle NE) spoke against the request. Mr. Wood explained how he had been a part of the Port Malabar Country Club Community Association that had fought for several years against the residential development of the former golf course. The multi-family proposal, however, was a change to the single-family plan that was agreed upon.

Ms. Doreen Kharman-Wittig (resident at Island Green Drive NE) spoke against the request. She stated that the subject request would cause the floodzone certification to require mandatory flood insurance for new and existing residences. Homes that required flood insurance were less desirable and had lower market value. She wanted the proposed phase of development to be built as originally approved.

Ms. Sue Kiley (resident at Champion Drive NE) spoke against the request. She was concerned about the small size of the lots and the change to multi-family. The request would result in diminished waterway, insufficient water retention, mandatory flood insurance, and would change the character of the established neighborhood. Wildlife on the property was now scarce and there was little green space being provided. She said that the proposal would overtax existing roadways, and details about the type of multi-family project had not been defined. She wanted the single-family approval upheld to preserve the character of the neighborhood.

Mr. Edward Mangini (resident at Eleuthera Drive NE) spoke against the request on behalf of Bimini Bay Homeowners Association Board of Directors. He wanted Bimini Bay to be referred to as duplexes in the staff report. He stated that Bimini Bay did not object to adjacent multi-family use but to smaller 800 square-foot duplexes. The adjacent duplexes should not be smaller than Bimini Bay's minimum 1,323 square-foot duplex. The 25-percent open space requirement should also apply to the multi-family density. He commented on how there was not enough information provided at the CPP meeting, and that the floodzone map provided at the meeting was incorrect. He used a PowerPoint presentation to indicate flooding issues in the area and how the subject proposal would increase drainage problems for Bimini Bay.

Mr. Michael Valley (resident at Eleuthera Drive NE) spoke against the request on behalf of Bimini Bay Homeowners Association Board of Directors. He stated that the initial residential proposal for the former golf course site was denied due to arsenic and drainage issues. The current development was approved in 2015 and included several agreements based on CPP meetings. The negotiated agreements were for the RS-1 zoning classification, lot sizes, minimum 1,800 square-foot homes, and that no two-story homes would be built on the perimeter property lines. The recent CPP meeting for the subject request was lacking. He questioned why the staff report had not mentioned Comprehensive Plan regulations relating to the prevention of land overcrowding, avoidance of undue population, and protection of private property rights affecting surrounding neighborhoods. He asked that if the board was not inclined to deny the subject request, that a 90 day postponement of their recommendation be granted so the applicant could meet to discuss and negotiate in good faith neighborhood concerns with representatives of Bimini Bay, Island Green Villas, and the Port Malabar Country Club Association. He wanted the minimum square footage for the duplexes increased to 1,600 square feet based on the average home sizes in Bimini Bay.

Ms. Marilyn Souza (resident at Eleuthera Drive NE) spoke against the request. She described how the drainage in the area affected her property that was adjacent to the swale. The road for the subject phase would be located where the flooding occurred.

Ms. Wendy Bielanos (resident at Eleuthera Drive NE) spoke against the request. She stated that she did not want the property value of her 2,200 square foot duplex to be affected by 800 square-foot duplexes, and she did not want to incur the additional expense of flood insurance. She was in favor of the 90-day postponement.

Ms. Debbie Neiheiser (resident at Waialae Circle NE) spoke against the request. She stated that she had moved into the area to avoid homes that were too close in proximity. The proposed request would increase density, cause flooding, and decrease property values.

Ms. Mauri Baumann (resident at Fairway Court NE) spoke against the request. She stated that flooding was a concern since the subject proposal included plans to fill in half the retention pond behind her property.

Ms. Cheryl Rittenhouse (resident at Eleuthera Drive NE) spoke against the request. She stated how flooding would be an issue with the proposed project, and she was in favor of the 90-day postponement.

In response to public comments, Mr. Moia stated that Floodzone X was the correct classification for the property. He explained that updates to flood elevations could only be done by the Federal Emergency Management Agency (FEMA) and not by a development. Per State law, the project must maintain its drainage and cause no undue flooding to adjacent properties. He agreed that arrangements for the CPP meeting had been constrained due to COVID-19. He stated that there were no changes planned for the Island Green Villas' driveway or their easements. More project details, such as stormwater sufficiency, would be addressed and modified during the design stage. The proposed duplexes would be upscale and would mirror Bimini Bay in lot and unit size. He explained that the 800 square foot duplex size was a code minimum, and that an acceptable minimum size would be provided to City Council. A new traffic study would be done for reduced trips; the open space at 25-percent density was already depicted for the multi-family area; and there was discussion with staff to improve the drainage on the north side of Bimini Bay with a new swale conveyance system. He agreed to not place two-story, single-family homes on the perimeter of the site.

Mr. Hill inquired whether there would be a weir structure for drainage outfall. Mr. Moia described how the proposed swale conveyance system would handle drainage outfall. The property would store more water and discharge less.

Mr. Murphy reminded the board that the land use request was for a maximum density of 4.96 units per acre on 9.99 acres, which was less than the 5.00 units per acre currently allowed by the single-family land use. The land use change was to permit the multi-family use, but the requested density met the current density requirement.

The floor was closed for public comments, and there were 93 items of correspondence in the file in opposition to the request.

Motion by Ms. Maragh, seconded by Ms. Jordan to submit Case CP-2-2021 to City Council for approval of a small-scale Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Multiple-Family Residential Use, subject to the conditions contained in the staff report. The motion carried with members voting unanimously.

4. ****PD-2-2021 – THE RESERVE AT COUNTRY CLUB LAKE ESTATES –
PALM BAY GREENS, LLC (DAVID BASSFORD, P.E. AND
BRIAN BUSSEN, REPS.)**

Mr. Murphy presented the staff report for Case PD-2-2021. The applicant had requested Preliminary Development Plan approval for a PUD to allow a development with 154 single-family homes and 46 duplex units called The Reserve at Country Club Lake Estates. Staff recommended Case PD-2-2021 for approval, subject to the staff comments contained in the staff report.

Mr. Bruce Moia, P.E., president of MBV Engineering, Inc. (representative for the applicant) remarked on the lower density proposed for the project. He noted that the discussion during Case CP-2-2021 also pertained to the subject request.

Ms. Maragh asked if the applicant was in agreement with staff comments. Mr. Moia confirmed that he was in agreement with staff comments. Ms. Maragh commented on the importance of working with the community to avoid misinformation.

The floor was opened for public comments.

Ms. Laura Buterbaugh (resident at Eleuthera Drive NE) spoke against the request. She questioned how compatibility, unknowns, and other issues similarly applied to Case CP-10-2020, SKA Properties, LLC, were not considerations for denying the subject proposal. She was not convinced of the need for more multi-family development. The drainage problems existing in the area affected her property. She remarked on how promises given to the neighborhood should be kept.

In response to the public comment, Mr. Moia explained that the request by SKA Properties was not the same. SKA Properties did not provide a plan. If approved, the subject proposal would be held to the submitted plan. He explained how the subject request was compatible to the area since multi-family would abut multi-family and single-family would abut single-family.

Mr. Warner commented on keeping the community involved and wished it was possible to grant the 90-day postponement the residents requested to allow them to meet with the applicant. Mr. Moia stated that many of their issues were discussed at the Citizen Participation Plan (CPP) meeting but were not resolved.

The floor was closed for public comments, and there were 93 items of correspondence in the file in opposition to the request.

Motion by Ms. Maragh, seconded by Mr. Hill to submit Case PD-2-2021 to City Council for Preliminary Development Plan approval for a PUD to allow a development with 154 single-family homes and 46 duplex units called The Reserve at Country Club Lake Estates, subject to the staff comments contained in the staff report. The motion carried with members voting unanimously.

5. ****PD-3-2021 – CYPRESS BAY WEST PHASE I - WATERSTONE FARMS, LLC
(JAKE WISE, P.E., REP.)**

Mr. Balter presented the staff report for Case PD-3-2021. The applicant had requested Preliminary Development Plan approval for a PUD to allow a 229 single-family home development called Cypress Bay West Phase I. Staff recommended Case PD-3-2021 for approval, subject to the comments contained in the staff report.

Mr. Jake Wise, P.E. of Construction Engineering Group, Inc. (representative for the applicant) stated that the subject development was part of the Waterstone master project. The subject development featured oversized ponds; an expansion of water and wastewater; and lots at 125 square feet deep. Once a certain number of rooftops were established, a grocer in the area would begin procedures to locate within the development. He commented on the expansive green area that between the site and the homes within The Lakes at Waterstone PUD. He stated that he was in agreement with all staff comments.

The floor was opened and closed for public comments; there were no comments from the audience and there was one item of correspondence opposed to the request in the file.

Motion by Ms. Jordan, seconded by Mr. Hill to submit Case PD-3-2021 to City Council for Preliminary Development Plan approval for a PUD to allow a 229 single-family home development called Cypress Bay West Phase I. Staff recommended Case PD-3-2021 for approval, subject to the comments contained in the staff report. The motion carried with members voting unanimously.

6. CP-3-2021 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Bradley presented the staff report for Case CP-3-2021. The applicant, City of Palm Bay, had requested an Evaluation and Appraisal Report (EAR) amendment to the City of Palm Bay Comprehensive Plan Capital Improvements Element, Coastal Management Element, Infrastructure Element, Intergovernmental Coordination Element, and Transportation Element, pursuant to Chapter 163, Florida Statutes. Staff recommended Case CP-3-2021 for approval.

Ms. Maragh inquired whether the purpose of the subject amendment was for Comprehensive Plan compliance. Mr. Bradley confirmed that the amendment would bring the City into compliance by meeting a March 1, 2021 deadline. The majority of the changes were to comply with State statutes, but there were some items that would require action by the City. A full update of the Comprehensive Plan would occur over the next 12 to 18 months.

Ms. Jordan commented on the potential changes to the Comprehensive Plan. Mr. Bradley noted that the board would be reviewing different textual and map amendments, as well as policy changes.

There was no public present in the audience for public comments and there was no correspondence in the file.

Motion by Mr. Hill, seconded by Mr. Boerema to submit Case CP-3-2021 to City Council for approval of an Evaluation and Appraisal Report (EAR) amendment to the City of Palm Bay Comprehensive Plan Capital Improvements Element, Coastal Management Element, Infrastructure Element, Intergovernmental Coordination Element, and Transportation Element, pursuant to Chapter 163, Florida Statutes.

Ms. Maragh asked if there would be workshops to allow more board review and discussion of amendments. Mr. Bradley stated that the board would be given the opportunity for more discussion during the review of major amendments.

A vote was called on the motion by Mr. Hill, seconded by Mr. Boerema to submit Case CP-3-2021 to City Council for approval of an Evaluation and Appraisal Report (EAR) amendment to the City of Palm Bay Comprehensive Plan Capital Improvements Element, Coastal Management Element, Infrastructure Element, Intergovernmental Coordination Element, and Transportation Element, pursuant to Chapter 163, Florida Statutes. The motion carried with members voting unanimously.

OTHER BUSINESS:

There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 10:58 p.m.

Philip Weinberg, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

****Quasi-Judicial Proceeding**



MEMORANDUM

DATE: February 3, 2021

SUBJECT: **FS-2-2020 – Sabal Palm Square - 2501 LLC (Bruce Moia, P.E., Rep.) - Final plat for a proposed 3-lot commercial development called Sabal Palm Square. Tax Parcel 755, Section 21, Township 28, Range 37, Brevard County, Florida, containing 13.71 acres, more or less. (Located in the vicinity of the southwest corner of Babcock Street NE and Palm Bay Road NE)

ATTACHMENTS:

Description

- ☐ Case FS-2-2020
- ☐ Correspondence



STAFF REPORT

LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: 321-733-3042

landdevelopmentweb@palmbayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

FS-2-2020

PLANNING & ZONING BOARD HEARING DATE

February 3, 2021

PROPERTY OWNER & APPLICANT

Sabal Palm – 2501, LLC (Bruce Moia, Civil Engineer from MBV, Representing)

PROPERTY LOCATION/ADDRESS

Located in the vicinity of the southwest corner of Babcock Street NE and Palm Bay Road NE

SUMMARY OF REQUEST

The applicant requests Final Subdivision approval for a proposed development consisting of three (3) commercial lots, to create two additional outparcels.

Existing Zoning

CC, Community Commercial

Existing Land Use

Commercial Use

Site Improvements

Vacant, Undeveloped Land

Site Acreage

14.5 acres, more or less

DENSITY

Not applicable

COMPREHENSIVE PLAN COMPATIBILITY

Yes

BACKGROUND:

The property is located at the southwest corner of Babcock Street NE and Palm Bay Road NE. The site is a developed shopping center with 3 existing outparcels. Specifically, the subject property is Tax Parcel 755 located in Section 21, Township 28 and Range 37. The project is bordered by Palm Bay Road to the north, CC and RS-2 zoning to the south and west and Babcock Street to the east.

The Applicant, Sabal Palm – 2501, LLC, is requesting Final Subdivision approval to create a 3-lot subdivision on approximately 14.5 acres of land. Representing the applicant in this request is Bruce Moia, Civil Engineer from MBV.

ANALYSIS:

In order to be granted Final Subdivision approval, the request must meet the basic design standards of Sections 184.16 through 184.25 of the Code of Ordinances. These design requirements are to be illustrated via construction plans and accompanied by a final subdivision plat. The above subsections include the design of Lots & Blocks; Roadway width, length, and arrangement; Stormwater Treatment; Potable Water and Sewerage Facilities; Sidewalks/Pedestrian Ways; Public Uses; Preservation of Natural or Historic Features; and the buffering of adjacent residentially zoned lands for Nonresidential Subdivisions.

Lots and Blocks: The minimum lot size required within the CC zoning district is 100' wide by 125' deep. All 3 of the commercial lots in this subdivision exceed the minimum requirements. There are no blocks being proposed in this subdivision.

Road Design: The overall property consists of 14.5 acres, and over 400' of frontage on Palm Bay Road, and over 650' on Babcock Street. The proposed-out parcels will all have frontage on Babcock Street.

Stormwater Treatment: The project has a master stormwater treatment system that was built in 1985. A reciprocal easement agreement will ensure the additional outparcels will be allowed the legal right to drain into the master stormwater system.

Potable Water and Sewerage Facilities: The developer/owner, at their expense, is required to extend service from the on-site facilities to the existing water and sewer connection points. The nearest connection point to the water distribution system is a 6" water main located behind the existing outparcel of Papa Johns. The nearest connection point to the wastewater collection system is an 8" gravity sewer main located behind the existing outparcel of Papa Johns.

Sidewalks/Pedestrian Ways: Handicap accessible sidewalks shall be provided throughout the development, providing access to all public buildings from their respective parking areas. Additionally, the sidewalk system of this development must connect to the existing sidewalk running along the west side of Babcock Street.

Public Uses and Easements: This code sections provides the following; “Where deemed essential by the City Council upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale neighborhood unit developments not anticipated in the Comprehensive Plan, the City Council may require the dedication or reservation of such other areas or sites of a character, extent and location suitable to the needs created by such development for parks and other public purposes”. This dedication of land is not applicable to this subdivision.

Preservation of Natural or Historic Features: These parcels have been developed since 1985 and have no existing natural or historical features.

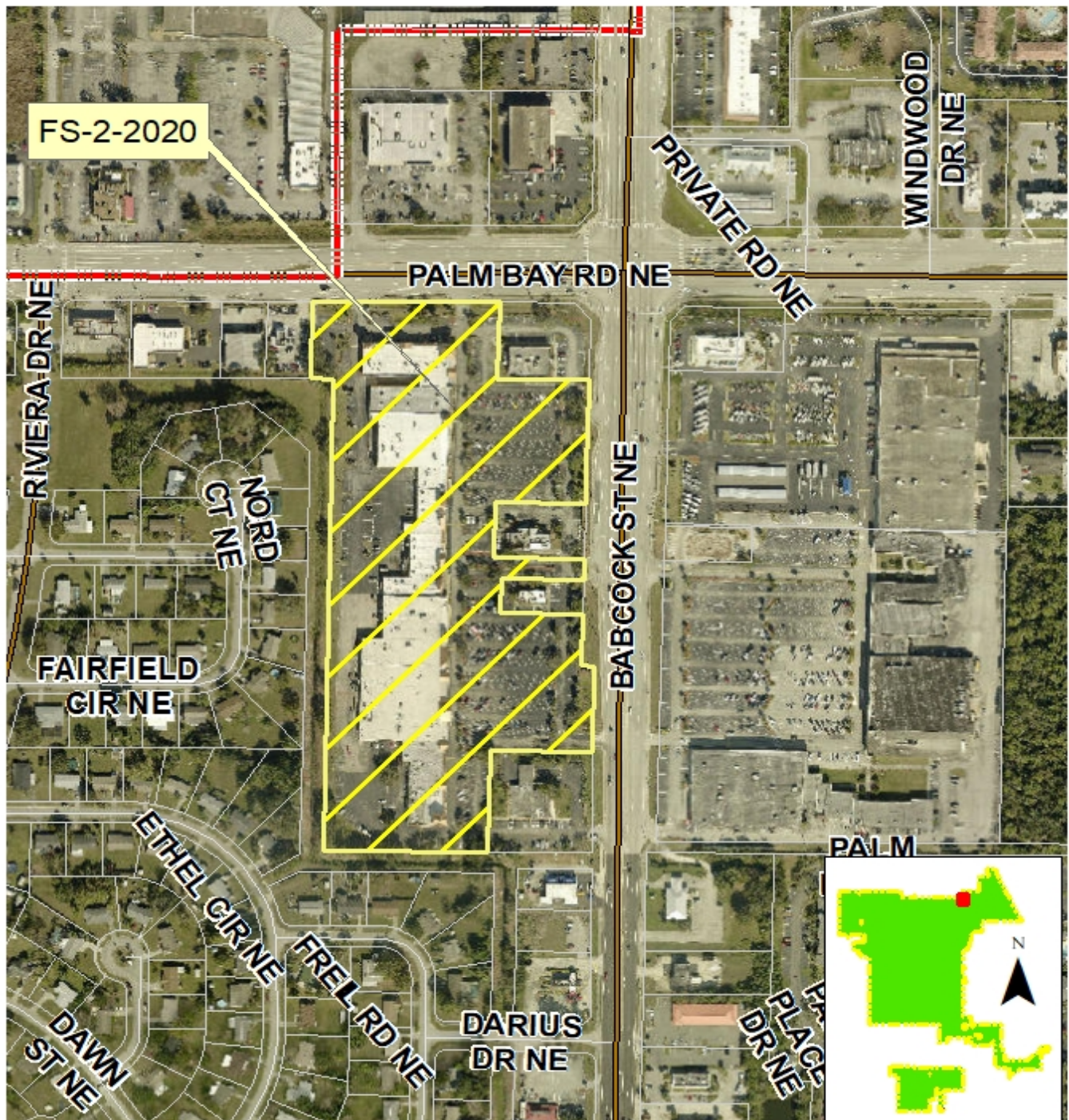
STAFF RECOMMENDATION:

Upon review of the submitted materials, the Final Subdivision request is in substantial conformance with the Final subdivision approval and with the applicable requirements of the Subdivision Code. Therefore, Staff recommends approval of Case FS-2-2020, subject to the following items being completed/approved during the administrative site plan review:

- A. The Reciprocal Easement Agreement shall be executed and recorded into Public Records of Brevard County.
- B. The developer/owner, at their expense, will be required to design, permit, install, inspect, and test water and sewer systems of adequate size to accommodate the development and to connect to the City’s water and sewer system.
- C. When the new outparcels develop a traffic study may be required, in accordance with the Public Works Manual.



Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



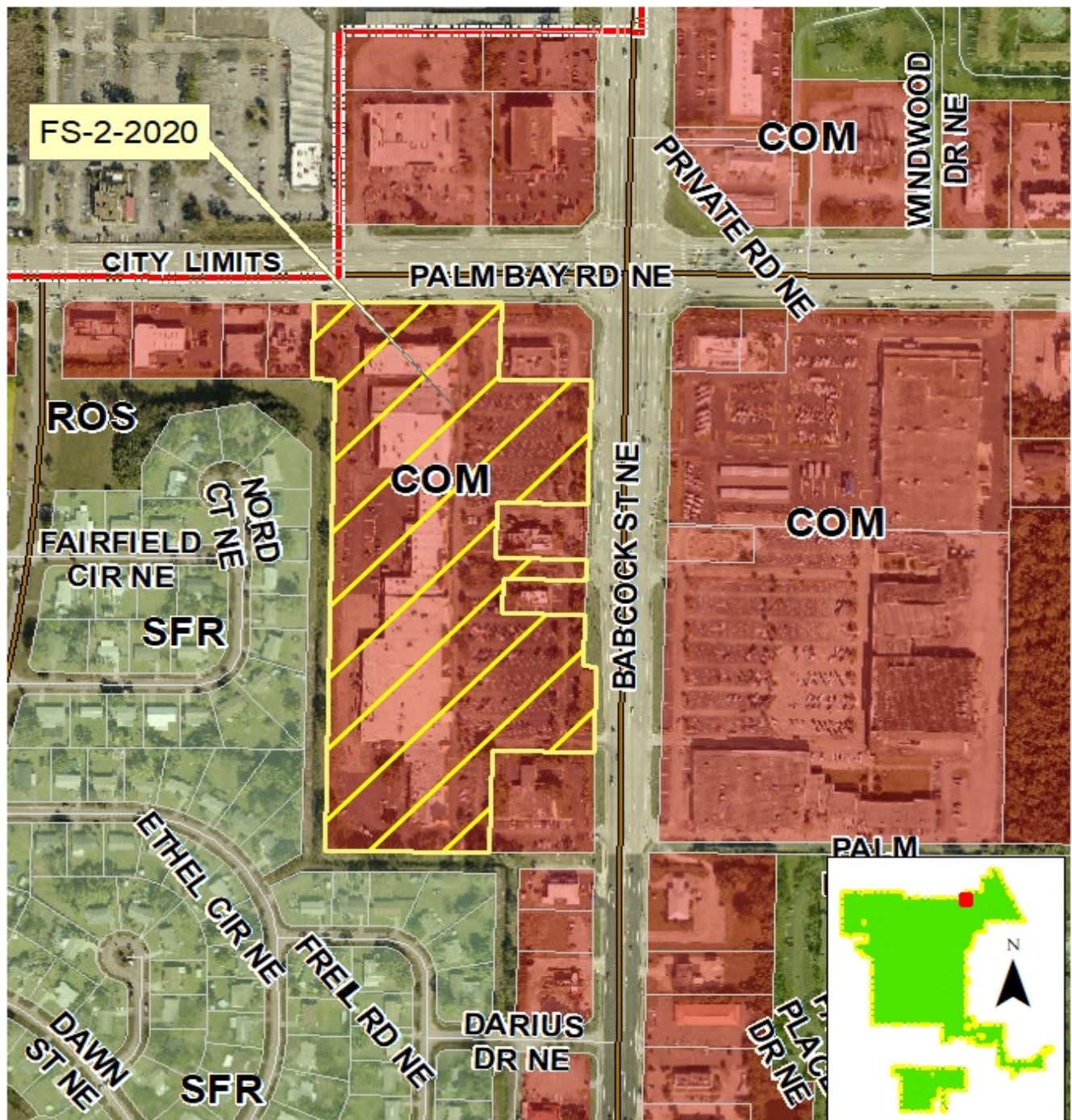
AERIAL LOCATION MAP CASE FS-2-2020

Subject Property

In the vicinity of the southwest corner of Babcock Street NE and Palm Bay Road NE



Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



FUTURE LAND USE MAP

CASE FS-2-2020

Subject Property

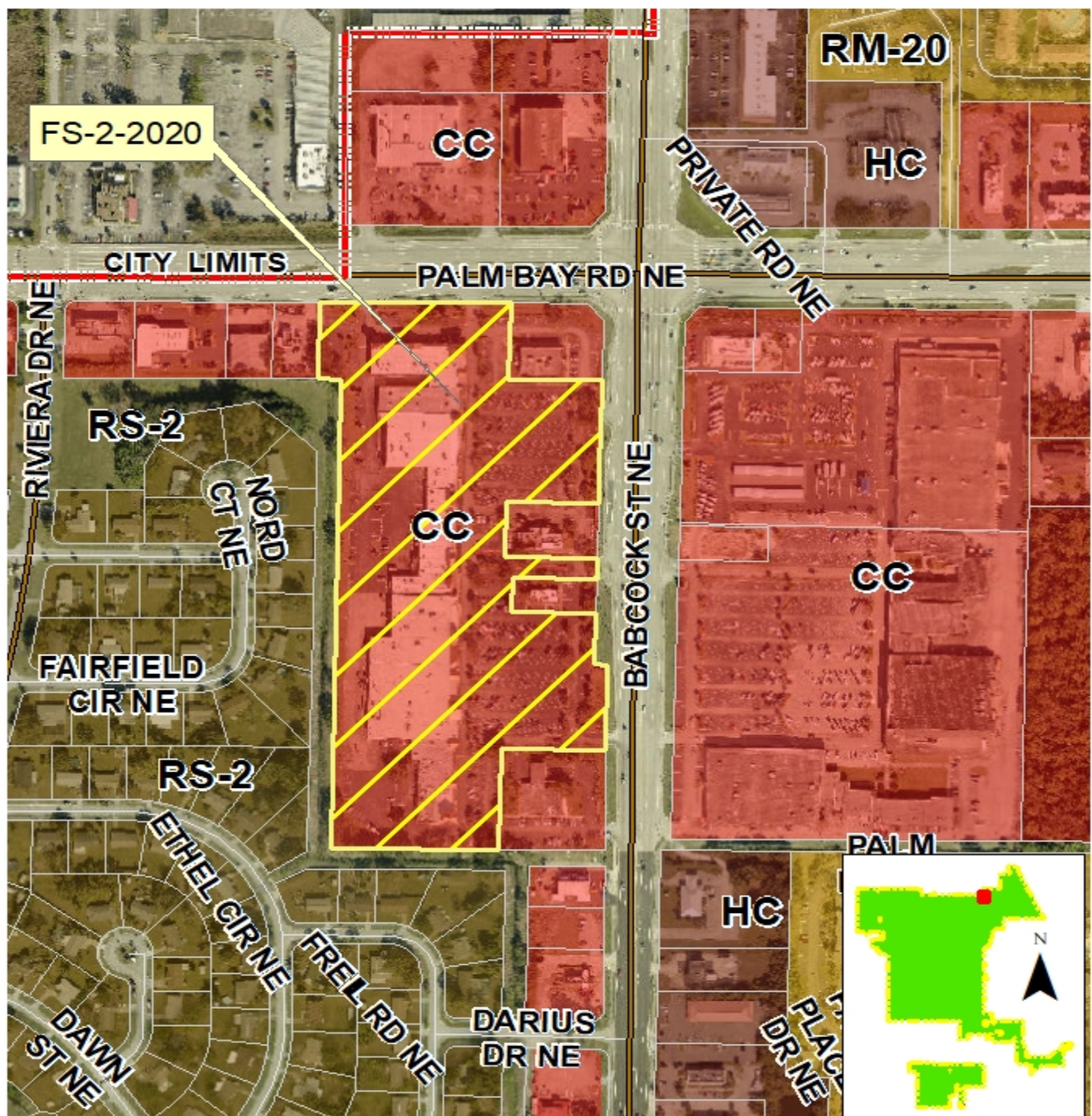
In the vicinity of the southwest corner of Babcock Street NE and Palm Bay Road NE

Future Land Use Classification

COM – Commercial Use



Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



ZONING MAP

CASE FS-2-2020

Subject Property

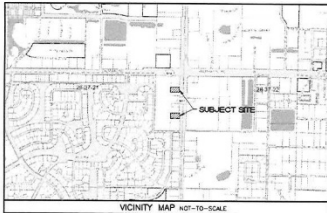
In the vicinity of the southwest corner of Babcock Street NE and Palm Bay Road NE

Current Zoning Classification

CC – Community Commercial District

SURVEYOR'S NOTES

- The state of bearings as shown herein are based on the east line of the Southeast 1/4 of Section 21, Township 28 South, Range 37 East, being S 0°15'33"W.
- All plotted public utility easements shall also be easements for the construction, installation, maintenance and operation for cable television service; provided, however, no such construction, installation, maintenance and/or operation of cable television service will interfere with the facilities and that if a cable television company damages the facilities of a public utility, it shall be solely responsible for the damages. This section shall not apply to those private easements granted to or obtained by a particular electric, telephone, gas or other public utility. Such construction, installation, maintenance, and operation shall comply with the National Electrical Safety Code, as adopted by the Florida Public Service Commission.
- Survey monumentation within the subdivision shall be set in accordance with Florida Statutes Chapter 177.081 (7)-(9).
- Subdivision signs are required by Chapter 178 of the Palm Bay Code of Ordinances.
- Ingress and Egress to and from Parcels 2 and 3 shown herein is provided by the Operation, Restriction and Easement Agreement recorded in DMS 2745, P. 1353, Public Records of Brevard County, Florida, as amended in DMS 2841, P. 352, and DMS 4222, P. 481. These documents are applicable to the adjacent property owned by Sabal Palm Square Shopping Center as described in Tax Account 283,093, Parcel ID 28-37-21-00-750.



SCALE IN FEET
1 INCH = 80 FEET

- LEGEND:**
- P.O.C. = POINT OF COMMENCEMENT
 - S.B. = POINT OF BEGINNING
 - P.T. = POINT OF TANGENCY
 - P.S.M. = PERMANENT REFERENCE MONUMENT
 - P.C.P. = PERMANENT CONTROL POINT
 - S.B. = SURVEYOR'S BOOK
 - P.B. = PLAT BOOK
 - D.B. = DEED BOOK
 - P.C. = PAGE
 - L.B. = LAND SURVEYING BUSINESS
 - P.C.S. = PAGES
 - C. = CORRELATION
 - O. = 5/8" IRON ROD WITH PLASTIC CAP
 - M. = 1/4" ALUMINUM "A" BATH, LB 7425"
 - S. = SET PERMANENT REFERENCE MONUMENT
 - A. = NAIL & DISK MARKED "A" BATH, LB 7425"
 - S. = SET PERMANENT REFERENCE MONUMENT

Notice: This plat, as recorded in its graphic form, is the official depiction of the subdivided lands described herein and will, in no circumstances be superseded or modified by any other graphic or digital form of the plat. There may be additional restrictions that are not recorded on this plat that may be evidenced in the public records of this county.

PREPARED BY:



MAP OF SURVEY
CERTIFICATE OF AUTHORIZATION LB 278

SABAL PALM SQUARE

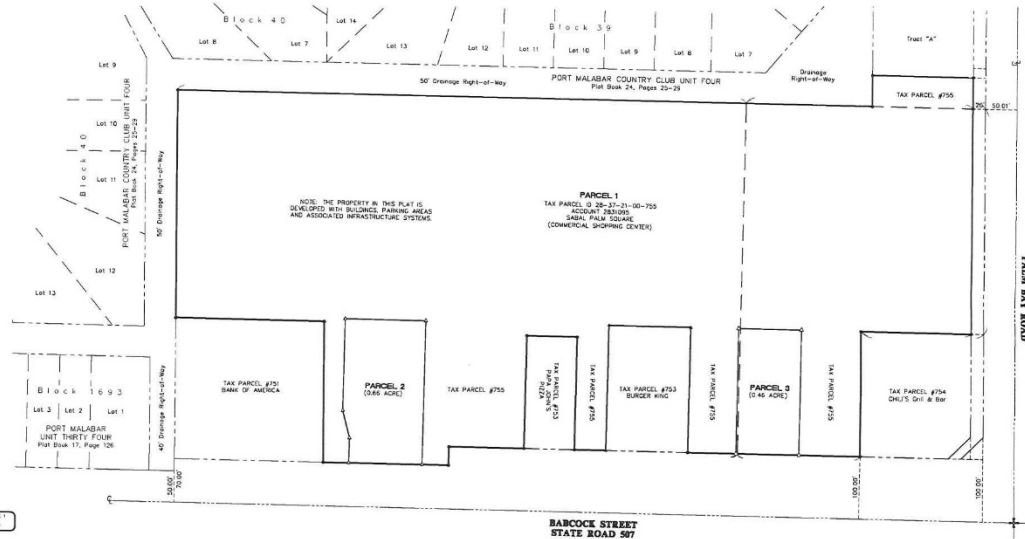
A PLAT LYING IN SOUTHEAST 1/4 OF SECTION 21, TOWNSHIP 28 SOUTH, RANGE 37 EAST BEING A REPLAT OF PART OF LOT 16 SECTION 21, TOWNSHIP 28 SOUTH, RANGE 37 EAST, FLORIDA INDIAN RIVER LAND COMPANY SUBDIVISION, AS RECORDED IN PLAT BOOK 1, PAGE 164, AND A PART OF THE DRAINAGE RIGHT OF WAY IN THE PLAT OF PORT MALABAR COUNTRY CLUB, UNIT FOUR AS RECORDED IN PLAT BOOK 24, PAGE 165, IN THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA.

LEGAL DESCRIPTION:
PARCEL 1: A portion of Lot 16, FLORIDA INDIAN RIVER LAND COMPANY SUBDIVISION, as recorded in Plat Book 1, Page 164, of the Public Records of Brevard County, Florida, more particularly described as follows: Commence at the Northeast corner of the Southeast one-quarter of Section 21, Township 28 South, Range 37 East; thence S11°15'33"W along the East line of said Southeast one-quarter a distance of 246.82 feet; thence N88°44'27"W 100.00 feet to the Point of Beginning, said point also being the West Right-of-Way Line of Babcock Street (State Road 509) as presently occupied; as recorded in Official Records Book 1152, Page 1003 of the Public Records of Brevard County, Florida; thence S11°15'33"W along said West Right-of-Way Line 195.19 feet; thence N88°44'27"W 559.66 feet to the West line of Lot 16, (said line also being the East line of Port Malabar Country Club, as recorded in Plat Book 24, Page 23 through 29, inclusive, of the Public Records of Brevard County, Florida); thence N1°06'31"E along said West line 350.07 feet to the South Right-of-Way Line of Palm Bay Road (State Road 516), as presently occupied, as recorded in Official Records Book 1136, Page 302 of the Public Records of Brevard County, Florida; thence S88°44'32"E along said South Right-of-Way Line 350.58 feet; thence S11°15'33"W 150.00 feet; thence S88°44'32"E 200.00 feet to the Point of Beginning. Bearings based on East line of Southeast one-quarter of Section 21, Township 28 South, Range 37 East, as per Survey Book 5, Page 8, of the Public Records of Brevard County, Florida. Parcel 1 description is diminished by the prescriptive right of way recorded in Survey Book 5, Page 83, public records of Brevard County, Florida.

PARCEL 2: A portion of a Drainage Right-of-Way situated in Section 21, Township 28 South, Range 37 East and being more particularly described as follows: Beginning at a concrete monument marking the Southwest corner of Tract A, Port Malabar Country Club Unit Four, as recorded in Plat Book 24, Pages 25 through 29, inclusive, of the Public Records of Brevard County, Florida; thence run S88°44'32"E along the South line of said Tract A, a distance of 350.08 feet to the Point of Beginning of the herein described parcel; thence run N1°06'31"E along the East line of said Tract A, a distance of 180.02 feet to the South Right-of-Way Line of Palm Bay Road; thence run S88°44'32"E along said South Right-of-Way Line a distance of 50.01 feet; thence run S1°06'31"E a distance of 180.02 feet; thence run N88°46'57"W a distance of 50.00 feet, more or less, to the Point of Beginning.

PARCEL 3: A portion of Lot 16, FLORIDA INDIAN RIVER LAND COMPANY SUBDIVISION, as recorded in Plat Book 1, Page 164, of the Public Records of Brevard County, Florida, more particularly described as follows: Commence at the Northeast corner of the Southeast one-quarter of Section 21, Township 28 South, Range 37 East; thence S11°15'33"W along the East line of said Southeast one-quarter a distance of 133.49 feet to the South line of said Lot 16; thence N88°44'32"W along said South line (said South line also being the North line of Port Malabar, Unit Four, as recorded in Plat Book 24, Pages 24 through 29, inclusive, of the Public Records of Brevard County, Florida); a distance of 295.03 feet to the Point of Beginning; thence continue N88°44'32"W 362.75 feet to the West line of said Lot 16; thence N1°06'31"E along said West line 902.76 feet; thence S88°44'27"E 508.66 feet to the West right of way line of Babcock Street (State Road 509), as recorded in Official Record Book 1152, Page 1003, of the Public Records of Brevard County, Florida; thence S11°15'33"W along said West right of way line 79.00 feet; thence N88°44'27"W 200.00 feet; thence S11°15'33"W 130.00 feet; thence S88°44'27"E 200.00 feet to the said West right of way line; thence S11°15'33"W along said West right of way line 50.00 feet; thence N88°44'27"W 180.00 feet; thence S11°15'33"W 80.00 feet; thence S88°44'27"E 180.00 feet to said West right of way line; thence S11°15'33"W along said West right of way line 119.00 feet; thence S88°44'27"E 30.00 feet; thence S11°15'33"W along said West right of way line 180.00 feet; thence N88°44'32"W 225.00 feet; thence S11°15'33"W 235.35 feet to the Point of Beginning. Bearings based on East line of Southeast one-quarter of Section 21, Township 28 South, Range 37 East, as per Survey Book 5, Page 8, of the Public Records of Brevard County, Florida.

TOGETHER WITH easements as described below:
EASEMENT "A"
 Non-Exclusive Ingress, Egress and Utility Easements for the benefit of Parcel II as created by that certain Easement and Restriction Agreement recorded August 10, 1982 in Official Record Book 2380, Page 2798, of the Public Records of Brevard County, Florida.
EASEMENT "B"
 Non-Exclusive Ingress, Egress and Drainage Easements for the benefit of Parcel I as created by that certain Cross-Easement and Restriction Agreement recorded January 21, 1985 in Official Record Book 2570, Page 2921, of the Public Records of Brevard County, Florida.
EASEMENT "C"
 Non-Exclusive Ingress, Egress, Drainage, Sewer and Water Easements for the benefit of Parcel III, as created by that certain Cross-Easement and Restriction Agreement recorded December 21, 1984, in Official Record Book 2564, Page 776, of the Public Records of Brevard County, Florida.
EASEMENT "D"
 Non-Exclusive Ingress, Egress, Parking, Utility, Drainage, Retention, Signage, Temporary Construction and Maintenance Easements for the benefit of Parcel II as created by that certain Sabal Palm Square Shopping Center Operation, Restriction and Reciprocal Easement Agreement recorded November 5, 1986, in Official Records Book 2745, Page 1353, and as amended in Official Records Book 2841, Page 392, and in Official Records Book 481, all being of the Public Records of Brevard County, Florida.
EASEMENT "E"
 Non-Exclusive Easements for the installation and maintenance of Water Lines and Related Water Structures for the benefit of Parcel II as created by that certain Easement Agreement recorded October 10, 1986, in Official Records Book 2736, Page 1185, of the Public Records of Brevard County, Florida.
EASEMENT "F"
 Non-Exclusive Ingress and Egress Easements for the benefit of Parcel III as created by that certain Agreement Creating Mutual Easements recorded December 12, 1985, in Official Records Book 2656, Page 1697, of the Public Records of Brevard County, Florida.



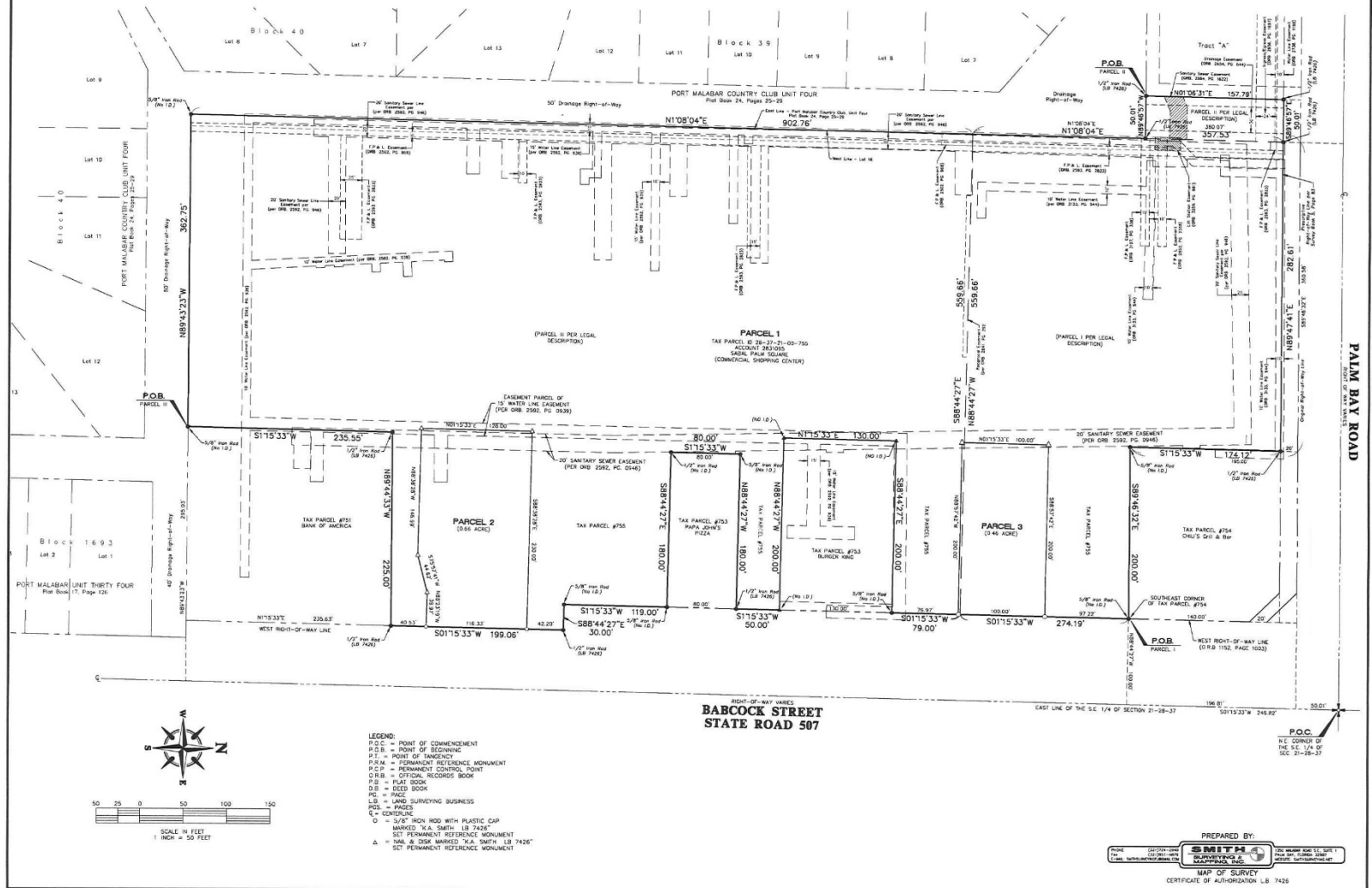
PLAT BOOK _____ PAGE _____	
SHEET 1 OF 2	
SECTION 21 TWP. 28 S. RANGE 37 E.	
DEDICATION SABAL PALM SQUARE	
KNOW ALL MEN BY THESE PRESENTS, that the Corporation named below, being the owner in fee simple of the lands described in hereby dedicates said lands and plat for the uses and purposes therein expressed and dedicates all roads, streets, alleys, thorough-ways, drainage easements, utility easements and rights of way easements shown herein to the perpetual use of the public, and all WITNESSES WHEREOF, has caused these presents to be signed and attested to by the officers named below and its corporate seal to be affixed hereto on this _____ day of _____, 2020.	
SOLAR REALTY MANAGEMENT CORP.	
By _____	President
Attest: _____	
Signed and sealed in the presence of: _____	
STATE OF _____ COUNTY OF _____	
THIS IS TO CERTIFY That on _____ before me, an officer duly authorized to take acknowledgments in the State and County aforesaid, personally appeared _____	
and _____ President and _____	
of the above named corporation, organized under the laws of the State of _____ to me known to be the individuals and officers described in and executing the foregoing Dedication and severally acknowledged the execution thereof to be their free act and deed as such officers of the said corporation, that the official seal of said corporation is affixed hereto, and that the said Dedication is the act and deed of said corporation.	
I, WITNESS WHEREOF, I have hereunto set my hand and seal on the above date.	
NOTARY PUBLIC _____	SEAL
My Commission Expires _____	
CERTIFICATE OF APPROVAL BY CITY OF PALM BAY	
THIS IS TO CERTIFY that _____ the foregoing plat was approved by the City of Palm Bay of Brevard County, Florida.	
ATTEST: _____	
CERTIFICATE OF SURVEYOR AND MAPPER	
KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a Licensed and Registered Land Surveyor and Mapper, does hereby certify that on _____ A.D. 2020, he/she completed the survey of the lands as shown on the foregoing plat; that said plat is a true and correct representation of a survey made under his/her responsible direction and supervision; that said survey is accurate to the best of his/her knowledge and belief; that Permanent Reference Monuments (P.R.M.'s) Permanent Control Points (P.C.P.'s) and Monuments according to Sec. 177.09(1)(b), F.S., have been placed as required by law and further, that the survey also complies with all the requirements of Chapter 177, Part 1, Florida Statutes, as amended.	
Company Name: Smith & Associates Surveying & Mapping, Inc.	
Address: 2350 Malabar Rd. SE, Suite 1, Palm Bay, FL 32909	
Surveyor of record, P.S.M. License No. 4457, State of Florida	
CERTIFICATE OF REVIEWING SURVEYOR FOR THE CITY OF PALM BAY	
I HEREBY CERTIFY That I have reviewed the foregoing plat and find that it is in conformity with Chapter 177, Part 1, Florida Statutes.	
Joseph N. Hale, PSM No. 6365 Reviewing Surveyor for the City of Palm Bay	
CERTIFICATE OF APPROVAL BY MUNICIPALITY	
THIS IS TO CERTIFY, that on _____ the _____ approved the foregoing plat.	
ATTEST: _____ Mayor	
City Clerk	
CERTIFICATE OF CLERK	
I HEREBY CERTIFY That I have examined the foregoing plat and find that it complies in form with all the requirements of Chapter 177, Florida Statutes, and was filed for record on _____	
File No. _____ Clerk of the Circuit Court for Brevard County, FL	
PALM BAY NO. 00-0-2020	

Notice: This plat, as recorded in its graphic form, is the official depiction of the subdivided lands described herein and is in no way to be construed as a warranty or representation by any other person or entity of the plat. There may be additional restrictions that are not recorded on this plat and may be found in the public records of this county.

PLAT OF SABAL PALM SQUARE

A PLAT LYING IN SOUTHEAST 1/4 OF SECTION 21, TOWNSHIP 28 SOUTH, RANGE 37 EAST AND IN THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA.

PLAT BOOK _____ PAGE _____
SHEET 2 OF 2
SECTION 21 TWP. 28 S. RANGE 37 E.





Land Development Division
120 Malabar Road SE
Palm Bay, FL 32907
321-733-3042
Landdevelopmentweb@palmbayflorida.org

FINAL PLAT APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, Monday through Friday, during division office hours, to be processed for consideration by the Planning and Zoning Board. The application will then be referred by the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

PROPOSED SUBDIVISION NAME Sabal Palm - Additional Outparcels

PARCEL ID 28-37-21-00-755

TAX ACCOUNT NO. 2831095

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

Part of Lot 16 of PB 1 PG 164 as described in ORB 2496 PG 156 & Vac Drainge R/W as described in ORB 2656 PG 1703
Exc ORB 2562 PG 1644 PAR 752.

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 13.71

TOTAL LOTS PROPOSED (list by use): 3

HIGHWAY, STREET BOUNDARIES, AND NEAREST CROSSROADS:

Palm Bay Road and Babcock Street, Palm Bay FL

INTENDED USE OF PROPERTY: Commercial

ZONE CLASSIFICATION AT PRESENT (ex.: LI, CC, etc.): CC

THE FOLLOWING PROCEDURES AND ENCLOSURES ARE REQUIRED TO COMPLETE THIS APPLICATION:

- ☒ *\$800.00 Application Fee. Make check payable to "City of Palm Bay."
- ☒ Two (2) copies of the final plat and construction plans as required by Chapter 184.28, Palm Bay Code of Ordinances. The final plat and construction plans shall also be provided on Memory Drive.
- ☒ List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This should be obtained for a fee from the Brevard County Planning and Zoning Department at 321-633-2060.)
- ☒ Citizen Participation Plan. Required when a preliminary subdivision plan application was not submitted. Refer to Section 169.005 of the Land Development Code for guidelines.

CITY OF PALM BAY, FLORIDA
FINAL PLAT APPLICATION
PAGE 2 OF 2

N/A School Board of Brevard County School Impact Analysis Application (if applicable).

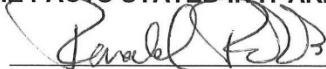
X Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.

N/A **Where property is not owned by the applicant**, a letter must be attached giving the notarized consent of the owner to the applicant to request the final plat approval.

I, THE UNDERSIGNED UNDERSTAND THAT THIS FINAL PLAT APPLICATION MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY AND CERTIFY THAT ALL THE ANSWERS TO THE QUESTIONS IN SAID APPLICATION, AND ALL DATA AND MATTER ATTACHED TO AND MADE A PART OF SAID APPLICATION ARE HONEST AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING FINAL PLAT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant



Date

1/18/21

Printed Name of Applicant

Ron Robbins, Authorized Agent for Owner Saruhan Capin - 2501 LLC

Full Address

36 Maple Place, Suite 303 Manhasset, NY 11030

Telephone

212-633-9985

Email

scapin@solarrealtymanagement.com

*NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY

2501 LLC
Solar Realty Management Inc
36 Maple Place Suite 303
Manhasset, NY 11030
212-727-9550

January 15, 2021

City of Palm Bay
120 Malabar Rd
Palm Bay, FL 32907

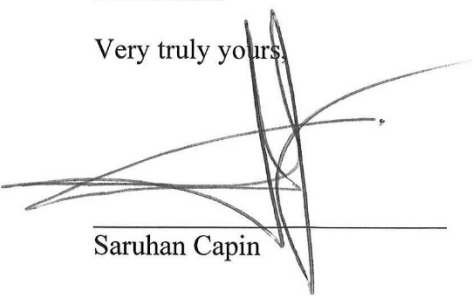
Re: 3rd Party Property Manager Authorization
2501 LLC

Dear City of Palm Bay,

This letter shall serve to authorize our 3rd party Property Manager, Ron Robbins as our local agent for our property commonly known as Sabal Palm Square located at 4700 S Babcock St., Palm Bay, FL to execute and approve documents on our behalf including sign and building permits, zoning and site plan work and changes to utility accounts and to request information or records on our behalf.

Please let me know of any questions or issues. We appreciate your ongoing assistance.

Very truly yours,

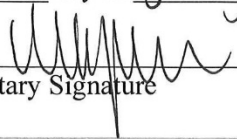


Saruhan Capin

1/15/21

Date

Sworn before me on the
15th day of January, 2021



Notary Signature

MEKKEHAN KOCGAR ULUDAG
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01KO6391452
Qualified in Queens County
My Commission Expires: 5/6/2023

Mailing address: P.O. Box 49993, Los Angeles, CA 90049

CASE FS-2-2020

CORRESPONDENCE: 1

Chandra Powell

From: Marissa Shinn
Sent: Friday, January 29, 2021 8:18 AM
To: Chandra Powell
Cc: Ximena Escobar
Subject: FW: Public Hearing 2/3/2021

*Marissa Shinn
Planning Technician
City of Palm Bay Land Development
Phone: 321-733-3042*

From: webmaster@palmbayflorida.org <webmaster@palmbayflorida.org>
Sent: Thursday, January 28, 2021 6:34 PM
To: Land Development Web <LandDevelopmentWeb@palmbayflorida.org>
Subject: Public Hearing 2/3/2021

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Message submitted from the <City of Palm Bay, FL> website.

Site Visitor Name: JENNIFER HICKS
Site Visitor Email: JENNIFER.HICKS@BRINKER.COM

FS-2-2020

We are the Chili's located in the shopping center of this development. We have told Bruce Moia, the representative, that the planned construction of the outparcel next to Chili's will violate a recorded agreement. Their planned construction will remove the parking spaces afforded to us by this recorded Agreement, and therefore would be in violation of the Cross Easement and Restriction Agreement. Bruce said he would check with the owner but he has not gotten back to us, and they are moving forward with this Final Plat and redevelopment. Therefore, we oppose both the Final Plat and redevelopment.



MEMORANDUM

DATE: February 3, 2021

SUBJECT: **FD-4-2021 – The Preserves At Stonebriar Phase II - Forestar USA Real Estate Group, Inc. (Jake Wise, P.E., Rep.) - Final Development Plan for a proposed PUD, Planned Unit Development to allow a 171-lot single-family development called The Preserves at Stonebriar Phase II. Tracts L, M, N, P, S, and T of The Preserves at Stonebriar Phase I, Sections 20 and 29, Township 29, Range 37, Brevard County, Florida, containing 28.878 acres, more or less. (Located In the vicinity east of Cogan Drive SE and west of Melbourne Tillman Drainage District Canal No. 41-R)

ATTACHMENTS:

Description

- ▣ Case FD-4-2021
- ▣ Correspondence



STAFF REPORT

LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: 321-733-3042

landdevelopmentweb@palmbayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

FD-4-2021

PLANNING & ZONING BOARD HEARING DATE

February 3, 2021

PROPERTY OWNER & APPLICANT

Benjamin E. Jefferies - Waterstone Farms, LLC

PROPERTY LOCATION/ADDRESS

Tracts L, M, N, P, S, and T of The Preserves at Stonebriar Phase I, Sections 20 and 29, Township 29, Range 37, Brevard County, FL

SUMMARY OF REQUEST

Final Planned Unit Development approval for a 171-unit residential subdivision to be known as The Preserves at Stonebriar Phase II.

Existing Zoning

PUD, Planned Unit Development

Existing Land Use

Single-Family Residential Use

Site Improvements

Vacant Unimproved Land

Site Acreage

28.878 acres, more or less

SURROUNDING ZONING & USE OF LAND

North

GU, General Use Holding District; The Majors Golf Course and PUD, Planned Unit Development; Fairway Isles PUD

East

GU, General Use Holding District; The Majors Golf Course and PUD, Planned Unit Development; Summerfield PUD Phase III

South

RS-2, Single Family Residential; Single Family Homes

West

PUD, Planned Unit Development; Stonebriar and Fairway Crossings

COMPREHENSIVE PLAN COMPATIBILITY

Yes

BACKGROUND:

The project will be located in the vicinity east of Cogan Drive SE, amid the southern portion of the Majors Golf Course, in the Bayside Lakes Community. Specifically, the property is Tracts L, M, N, P, S, and T of The Preserves at Stonebriar Phase I Subdivision Plat, Sections 20 and 29, Township 29, Range 37, Brevard County, Florida, containing 28.878 acres.

The subject property was part of a previous PUD approval (PUD-25-2006). That request included lands on both sides of the 110' Florida Power & Light Easement. Preliminary PUD approval was granted for the overall Stonebriar and Fairway Crossings PUD and when the portion west of the FP&L Easement was granted Final PUD approval, it locked in the PUD zoning for the east side. The Preserves at Stonebriar Phase I received Final PUD approval (PUD-36-2017) on September 19, 2017.

ANALYSIS:

The applicant is requesting Final Development Plan (FDP) approval for a Planned Unit Development (PUD), to construct a single-family residential subdivision called The Preserves at Stonebriar Phase II. The planned unit development is a concept which encourages and permits variation in residential developments by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage, setbacks and open space, from those elements required in any singular zoning classification found in the city's Zoning Code.

The purpose of a planned unit development is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types, as well as commercial uses designed to serve the inhabitants of the proposed community. The planned unit development process simplifies the procedure for obtaining approval of these developments through simultaneous review of the proposed land use, site consideration, public needs and requirements, and health and safety factors.

The future land use designation of the subject property is Single-Family Residential Use. The development of a single-family planned unit development is compliant with the Single-Family Residential Use future land use designation. The overall acreage for Phase I is 73.262 acres. The overall acreage for Phase II is 28.878 acres. The proposed density for both phases is 3.20 units per acre, which is below the maximum density defined in the City's Comprehensive Plan for Single-Family Residential Use (up to 5 units per acre).

Specifically, the FDP proposes a 171-unit single-family development that will be constructed in one phase. Per the FDP, typical lots within the residential development are 50' x 125'. The minimum size home will be 800 square feet. Vehicular access to the subdivision will be from two (2) roadways; Remington Green Drive and Glen Eagles Drive.

CONDITIONS:

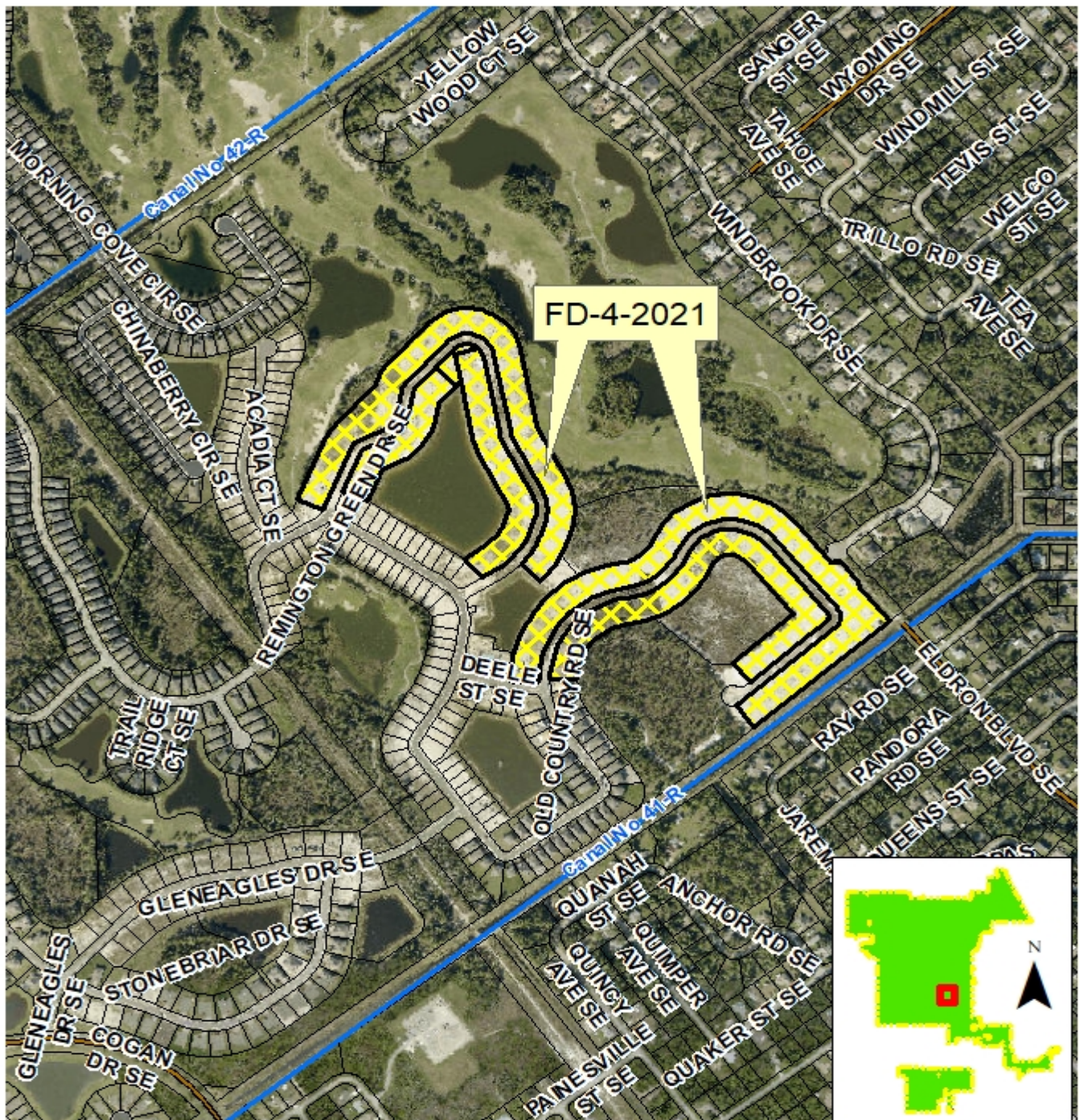
In order to receive FDP approval, the proposal must meet the requirements of Section 185.067 of the City of Palm Bay's Code of Ordinances. Upon review, the request appears to conform with the applicable requirements of this section. The following items shall be addressed upon submission of the administrative construction plan approval:

- A. Fully engineered construction drawings.
- B. A Subdivision Plat meeting all governing requirements.
- C. Opinion of Title.
- D. The Plat shall show the existing rights-of-way as Tracts to denote that they are currently private rights-of-way.
- E. An emergency drainage easement shall be recorded on the Plat affording the City the right but not the obligation to maintain the stormwater management system in emergencies.
- F. Staff recommends that the applicant explore all possible options of connectivity to Eldron Boulevard, which terminates in close proximity to the subject project. This would allow for more efficient traffic circulation, convenient access for the residents of The Preserves, and quicker emergency response.

STAFF RECOMMENDATION:

Case FD-4-2021 is recommended for approval, subject to the staff comments contained in this report.

Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.

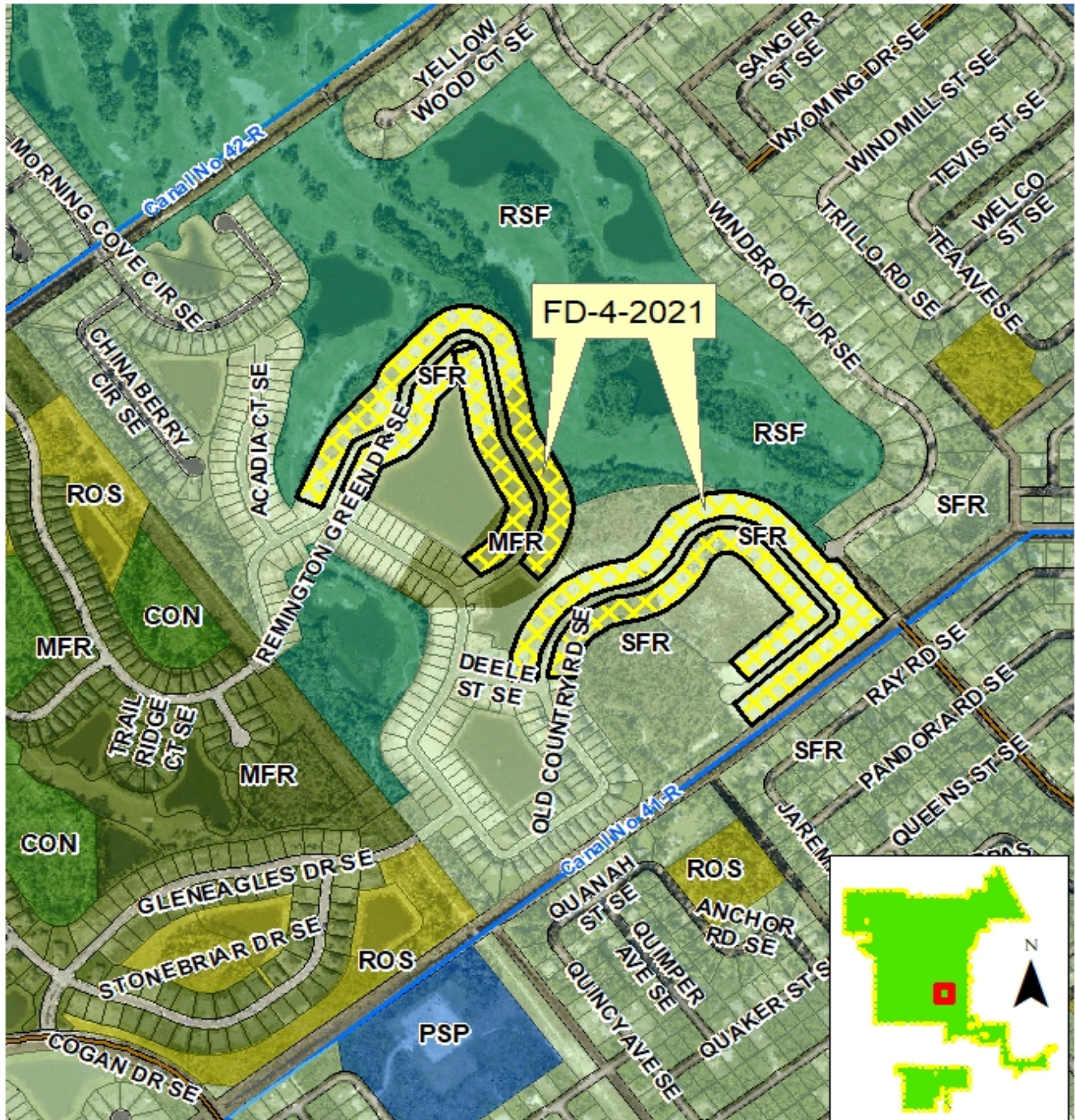


AERIAL LOCATION MAP CASE FD-4-2021

Subject Property

In the vicinity east of Cogan Drive SE and west of Melbourne Tillman Water Control District Canal No. 41-R

Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



FUTURE LAND USE MAP

CASE FD-4-2021

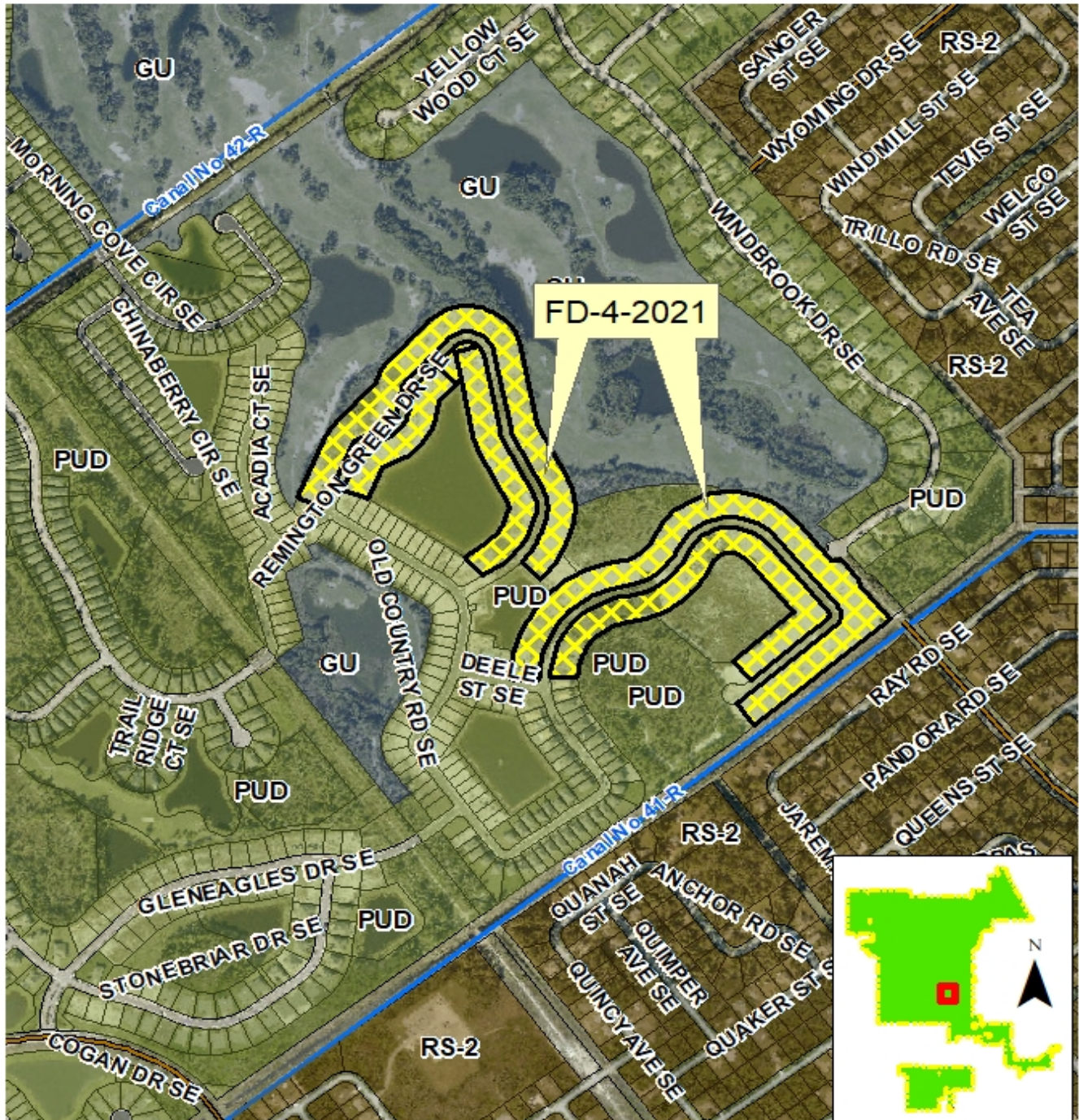
Subject Property

In the vicinity east of Cogon Drive SE and west of Melbourne Tillman Water Control District Canal No. 41-R

Future Land Use Classification

SFR – Single Family Residential Use and MFR – Multi-Family Residential Use

Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



ZONING MAP

CASE FD-4-2021


Subject Property

In the vicinity east of Cogan Drive SE and west of Melbourne Tillman Water Control District Canal No. 41-R

Current Zoning Classification

PUD – Planned Unit Development

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed and attested to by the officer named below and its corporate seal to be affixed hereto on August 19, 2018

BY 
Michael Guinley

FORESTAR (USA)
REAL ESTATE GROUP INC.,
6300 BEE CAVE ROAD
BUILDING TWO, SUITE 500
AUSTIN, TX 78746

STATE OF FLORIDA COUNTY OF BREVARD
THIS IS TO CERTIFY, the foregoing instrument was acknowledged
before me this 15 day of August, 2018 by
Michael Quintanilla

My Commission Expires September 13, 2021

KNOWN ALL MEN BY THESE PRESENTS, That the undersigned being a

RM

CERTIFICATE OF REVIEWING SURVEYOR
FOR THE CITY OF PALM BAY

CERTIFICATE OF APPROVAL
BY MUNICIPALITY

William C. May Jr.

CERTIFICATE OF CLERK
I HEREBY CERTIFY, That I have examined the foregoing
that it complies in form with all the requirements





△ PHASING NOTE CHANGES

△ ADDED STREET NAMES



2' SOD 1' SOD 10' 10' 1' SOD 2' SOD

MATCH EXISTING EL. ±29.0'

EL. 23.5'

RP TAP WCR AT PROPERTY LINE (TOP EL. 24.0' INV. EL. 21.5')

UPSTREAM EL. 23.5' DOWNSTREAM F.L. 22.5'

MATCH EXISTING EL. ±25.1'

SECTION

NTS

DRAWING TITLE
OVERALL SUBDIVISION AND PHASING PLAN

G-3

A SUBDIVISION LYING IN SECTIONS 20 & 29, TOWNSHIP 29 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA.
BEING A REPLAT OF TRACTS L, M, N, P, S & T. THE PRESERVES AT STONEBRIAR PHASE 1, RECORDED IN PLAT BOOK 66, PAGES 26-28

[illegible]

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, THE CORPORATION NAMED BELOW,
BEING THE OWNER IN FEE SIMPLE OF THE LANDS DESCRIBED IN:

THE PRESERVES AT STONEBRIAR – PHASE 2

HEREBY DEDICATES SAID LANDS AND PLAT FOR THE USES AND PURPOSES THEREIN EXPRESSED AND DEDICATES ALL PUBLIC UTILITY EASEMENTS AS DESCRIBED HEREON TO THE CITY OF PALM BEACH FOR THE PERPETUAL USE OF THE PUBLIC; AND HEREBY FURTHER DEDICATES TO THE CITY OF PALM BEACH ALL EASEMENTS AND RIGHTS OF WAY OF RECORD, OF ANY OF THE PRIVATE STRIPS AND ROADS SHOWN HEREON (SUCH PRIVATE STRIPS, STREETS AND ROADS BEING DESCRIBED HEREON AS TRACED "A") FOR THE PROGRESS AND PROGRESS FOR PUBLIC SERVICE AND EMERGENCY VEHICLES, NOTWITHSTANDING ANY OTHER EASEMENTS OR RIGHTS OF WAY OF RECORD, BEING THE INTENTION OF THE UNDERSIGNED THAT ALL PRIVATE STRIPS AND ROADS AND OTHER EASEMENTS AND COMMON AREAS SHOWN HEREON BE DEDICATED TO THE USES AND PURPOSES OF THE PUBLIC AND THE CITY OF PALM BEACH HAVE NO RIGHT OR INTEREST THEREIN.

IN WITNESS WHEREOF, THE UNDERSIGNED HAS CAUSED THESE PRESENTS
TO BE EXECUTED ON THE DATE SET FORTH BELOW

BY: _____ FORESTAR (USA) REAL ESTATE
CHRIS TYREE, PRESIDENT GROUP INC., a Delaware Corporation
FLORIDA EAST REGION 834 HIGHLAND AVENUE
ORLANDO, FLORIDA 32801

Witness 2: _____ Witness 1: _____

Number	Control (%)	Experimental (%)
1	~95	~90
2	~95	~90
3	~95	~90

Print: _____ Print: _____
State of Florida
County of Duval

THIS IS TO CERTIFY, the foregoing instrument was acknowledged before me by
means of physical presence or online notarization, this 10 day

of _____, 2020 by _____ of _____, a
_____ corporation, on behalf of the corporation. He/She is personally
known to me or has produced _____ as identification.

Notary Public

My Commission Expires: _____

CERTIFICATE OF PLATTING SURVEYOR

KNOW ALL MEN BY THESE PRESENTS, THAT THE UNDERSIGNED IS A LICENSED AND REGISTERED LAND SURVEYOR AND MAPPER, DOES HEREBY CERTIFY THAT ON SEPTEMBER 22, 2020 HE COMPLETED THE BOUNDARY SURVEY OF THE LANDS AS SHOWN ON THE FOREGOING PLAT; THAT THE BOUNDARY SURVEY OF THE LANDS AS SHOWN ON THE FOREGOING PLAT WAS CONDUCTED IN ACCORDANCE WITH THE FLORIDA SURVEYING AND MAPPING BOARD'S REGULATION 61A-22.001, F.A.C. AND THE FLORIDA SURVEYING AND MAPPING BOARD'S REGULATION 61A-22.002, F.A.C. UNDER MY RESPONSIBLE DIRECTION AND SUPERVISION; THAT SAID SURVEY IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT PERMANENT REFERENCE POINTS (P.R.P.'S), PERMANENT MONUMENTS, PERMANENT ELEVATION MONUMENTS AND MONUMENTS TO SECTION CORNERS 77.09(1)(S), WILL BE SET UNDER THE GUARANTEES POSTED WITH THE CITY OF PALM BEACH COMMISSIONERS FOR THE REQUIRED IMPROVEMENTS; AND, FURTHER, THAT THE SURVEY DATA COMPLIES WITH ALL THE REQUIREMENTS OF CHAPTER 177, PART 1, FLORIDA STATUTES, AS AMENDED.

DATED: DECEMBER 9, 2020

ROBERT R. DOERRER, JR., P.L.S. NO. 3982
HORIZON SURVEYORS OF CENTRAL FLORIDA, INC.
390 POINCIANA DRIVE MELBOURNE, FLORIDA 32935
CERTIFICATE OF AUTHORIZATION LB 6360

CERTIFICATE OF REVIEWING SURVEYOR

I HEREBY CERTIFY, THAT I HAVE REVIEWED THE FOREGOING PLAT AND FIND THAT IT IS IN CONFORMITY WITH CHAPTER 177, PART 1, FLORIDA STATUTES AND BREVARD COUNTY ORDINANCE 62-2841 (C) D).

JOSEPH N. HALE, PROFESSIONAL SURVEYOR
AND MAPPER NC. 6366
REVIEWING SURVEYOR FOR THE CITY OF PALM BAY

CERTIFICATE OF ACCEPTANCE OF DEDICATION BY
BOARD OF COUNTY COMMISSIONERS

THIS IS TO CERTIFY, THAT THE BOARD OF COMMISSIONERS HEREBY ACCEPTS THE RIGHT OF WAY SHOWN AS TUPELO CIRCLE, TRACT J AND ALL PUBLIC EASEMENTS AS SHOWN OR NOTED IN THE PLAT NOTES OR DEDICATION FOR THE PERPETUAL USE OF THE PUBLIC.

CHAIRMAN OF THE BOARD

CLERK OF THE BOARD

CERTIFICATE OF CLERK

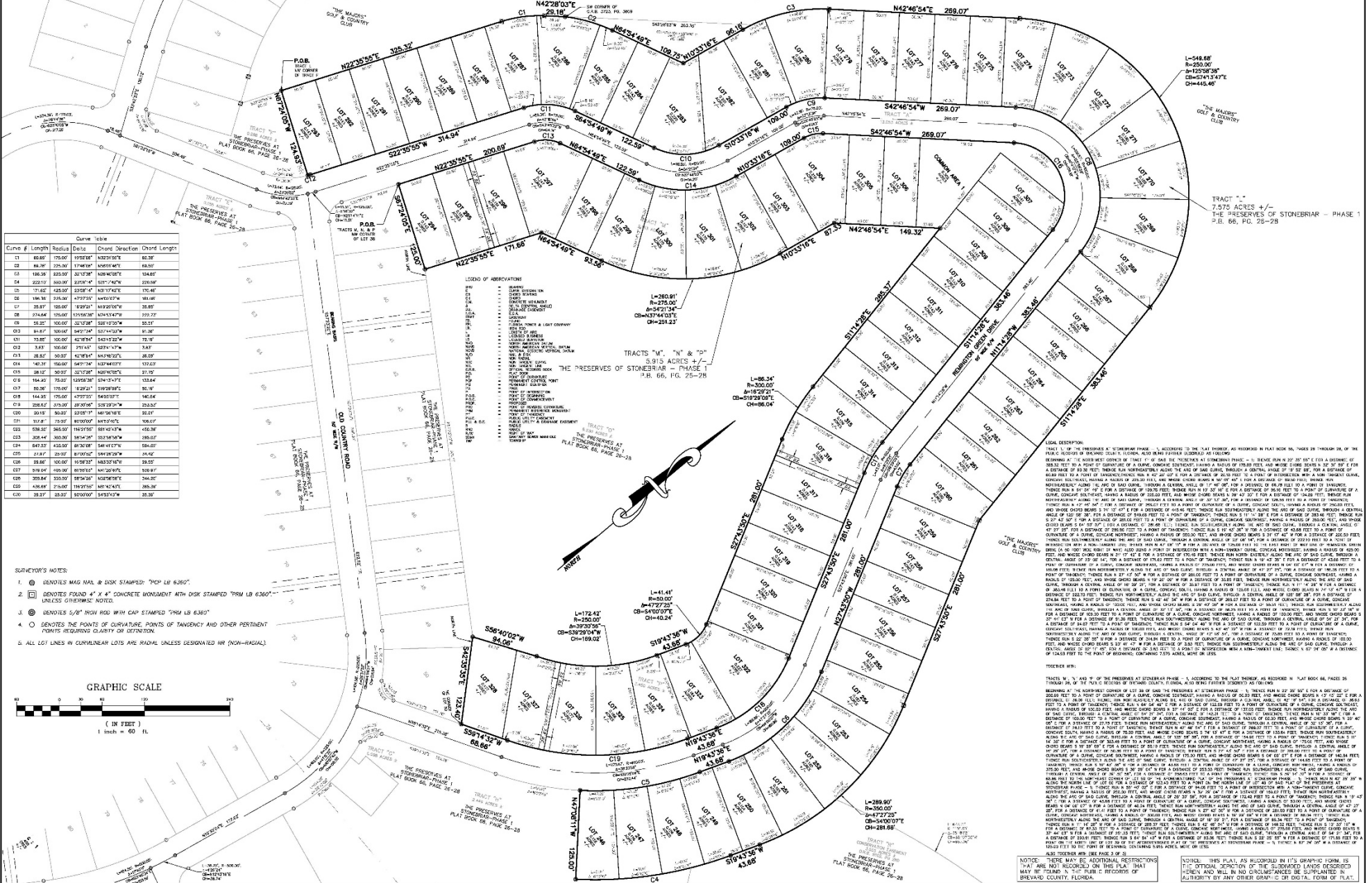
I HEREBY CERTIFY, THAT I HAVE EXAMINED THE FOREGOING PLAT AND
FIND THAT IT COMPLIES, IN FORM, WITH ALL THE REQUIREMENTS OF
CHAPTER 177, FLORIDA STATUTES AND WAS FILED FOR RECORD ON,

FILE #

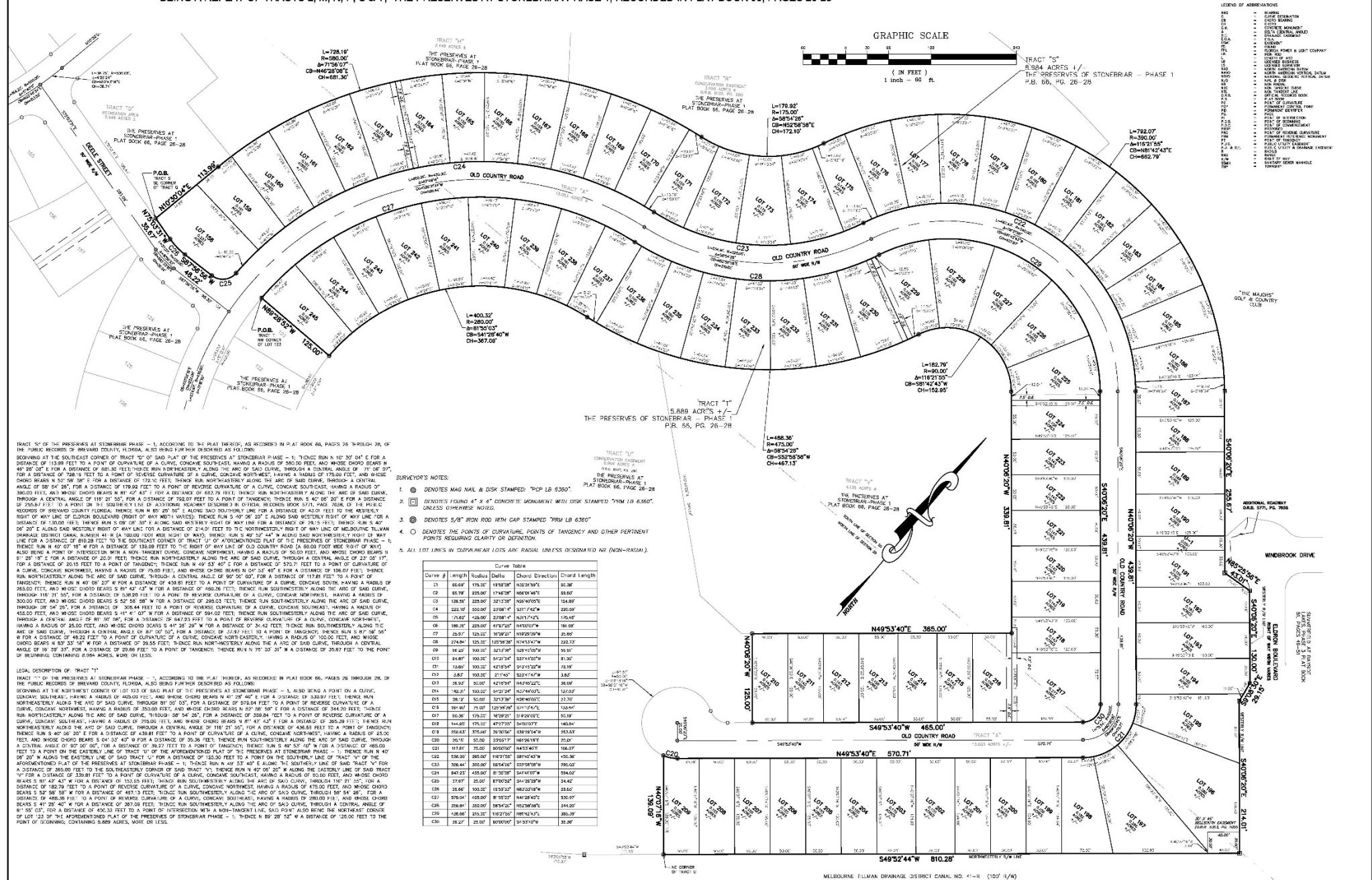
THE PRESERVES AT STONEBRIAR - PHASE 2

A SUBDIVISION LYING IN SECTIONS 20 & 29, TOWNSHIP 29 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA.
BEING A REPLAT OF TRACTS L, M, N, P, S & T, THE PRESERVES AT STONEBRIAR PHASE 1, RECORDED IN PLAT BOOK 66, PAGES 26-28

PLAT BOOK PAGE
SHEET 2 OF 3
SECTION 20 & 29, TWP. 29 S., RANGE 37 E.



A SUBDIVISION LYING IN SECTIONS 20 & 29, TOWNSHIP 29 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA.
BEING A REPLAT OF TRACTS L, M, N, P, S & T, THE PRESERVES AT STONEBRIAR PHASE 1, RECORDED IN PLAT BOOK 66, PAGES 26-28





Land Development Division
120 Malabar Road SE
Palm Bay, FL 32907
321-733-3042
Landdevelopmentweb@palmabayflorida.org

FINAL DEVELOPMENT PLAN APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, Monday through Friday, during division office hours, to be processed for consideration by the Planning and Zoning Board. The application will then be referred by the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

APPLICATION TYPE:

<input checked="" type="checkbox"/> PUD Planned Unit Development (Section 185.067)	<input type="checkbox"/> PMU Parkway Mixed Use District (Final Design Plan) (Section 185.057(C))	<input type="checkbox"/> PCRD Planned Community Redevelopment District (Section 185.055(L))	<input type="checkbox"/> RAC Regional Activity Center District (Section 185.056(C))
---	--	---	--

PROPOSED DEVELOPMENT NAME The Preserves at Stonebriar- Phase 2

PARCEL ID 29-37-20-WW-*T; 29-37-20-WW-*S; 29-37-20-WW-*P; 29-37-20-WW-*N; 29-37-29-WW-*M& 29-37-20-WW-*L

TAX ACCOUNT NO. 3018958; 3018957; 3018954; 3018952; 3018951; 3018950

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

See attached

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): +/- 28.8 acres

TOTAL LOTS PROPOSED (list by use): 171

DEVELOPER Forestar (USA) Real Estate Group, Inc

Full Address 1064 Greenwood Blvd; Suite 200; Lake Mary, FL 32746

Telephone 407-832- 3164 Email christyree@forestargroup.com

ENGINEER Jake Wise, PE- Construction Engineering Group, LLC

Full Address 2651 W Eau Gallie Blvd; Suite A; Melbourne, FL 32935

Telephone 321-610-1760 Email jwise@cegengineering.com

SURVEYOR Horizon Surveyors, Inc

Full Address 390 Poinciana Drive; Melbourne, FL 32935

Telephone 321-254-8133 Email bob@horizonsurveyors.com

FINAL DEVELOPMENT PLAN CRITERIA FOR SUBMITTAL:

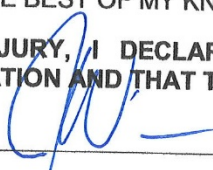
- 1) TWO (2) COPIES OF THE FINAL DEVELOPMENT PLAN AND SUPPORTING DOCUMENTATION SHALL BE ATTACHED TO THE APPLICATION. THE FINAL PLAN AND SUPPORTING DOCUMENTATION MUST ALSO BE PROVIDED ON MEMORY DRIVE.
- 2) LAYOUT OF THE DEVELOPMENT PLAN SHALL BE IN PLAT FORM THAT MEETS THE REQUIREMENTS OF FLORIDA STATUTE CHAPTER 177.
- 3) THE FINAL DEVELOPMENT PLAN SHALL CONTAIN THE INFORMATION REQUIRED PER THE CITY OF PALM BAY LAND DEVELOPMENT CODE SECTION FOR A PUD, PMU, PCRD, OR RAC. **ADDITIONAL CONDITIONS MUST BE MET AND INCORPORATED INTO THE SITE PLAN FOR THE SPECIFIC TYPE OF DEVELOPMENT REQUESTED (PUD, PMU, PCRD, RAC).** THE ADDITIONAL CRITERIA IS LISTED IN THE CODE OF ORDINANCES AND AVAILABLE FROM STAFF.

THE FOLLOWING PROCEDURES AND ENCLOSURES ARE REQUIRED TO COMPLETE THIS FINAL DEVELOPMENT PLAN APPLICATION:

- ☒ *A \$1,500.00 application fee shall accompany the Final Development Plan application for the purposes of administration. Make check payable to "City of Palm Bay."
- ☒ Final Development Plan (see above Final Development Plan Criteria for Submittal).
- ☒ List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This should be obtained for a fee from the Brevard County Planning and Zoning Department at 321-633-2060.)
- ☒ Citizen Participation Plan. Required when a preliminary development plan application was not submitted. Refer to Section 169.005 of the Land Development Code for guidelines.
- ☒ School Board of Brevard County School Impact Analysis Application (if applicable).
- ☒ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.
- ☒ **Where property is not owned by the applicant, a letter** must be attached giving the notarized consent of the owner to the applicant to apply for the final development plan.

I, THE UNDERSIGNED UNDERSTAND THAT THIS FINAL DEVELOPMENT PLAN APPLICATION MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY AND CERTIFY THAT ALL THE ANSWERS TO THE QUESTIONS IN SAID APPLICATION, AND ALL DATA AND MATTER ATTACHED TO AND MADE A PART OF SAID APPLICATION ARE HONEST AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING FINAL DEVELOPMENT PLAN APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant  Date 12-8-20
Printed Name of Applicant Jake Wise, PE- Construction Engineering Group, LLC
Full Address 2651 W Eau Gallie Blvd; Suite A; Melbourne, FL 32935
Telephone 321-610-1760 Email jwise@cegengineering.com

*NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY

January 12, 2021

Re: Letter of Authorization

As the property owner of the site legally described as:

Parcel Ids: 29-37-20-WW-*-T; 29-37-20-WW-*-S; 29-37-20-WW-*-P; 29-37-20-WW-*-N; 29-37-29-WW-*-M & 29-37-20-WW-*-L

I, Owner Name: Forestar (USA) Real Estate Group, Inc

Address: 1064 Greenwood Blvd; Suite 200; Lake Mary, FL 32746

Telephone: 407-832- 3164

Email: christyree@forestargroup.com

hereby authorize:

Representative: Jake Wise, PE- Construction Engineering Group, LLC

Address: 2651 W Eau Gallie Blvd; Suite A; Melbourne, FL 32935

Telephone: 321-610-1760

Email: jwise@cegengineering.com

to represent the request(s) for:

Final Development Plans and any/ all associated submittals

Chris Tyree

(Property Owner Signature)

STATE OF Florida

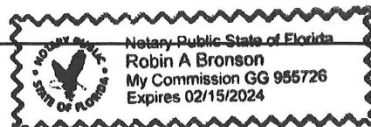
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 12th day of January, 2021 by Chris Tyree, property owner.

R. Bronson

R. Bronson, Notary Public

☒ Personally Known or ☐ Produced the Following Type of Identification:



CASE FD-4-2021

CORRESPONDENCE

Chandra Powell

From: Christopher Balter
Sent: Monday, January 25, 2021 1:35 PM
To: Patrick Murphy
Cc: Chandra Powell
Subject: FW: The Preserves at Stonebriar Phase 2 Project

FYI

Christopher Balter

Christopher Balter
Senior Planner
City of Palm Bay
Land Development Division
P: 321-733-3042
F: 321-953-8920

To see a world in a grain of sand
And a heaven in a wild flower,
Hold infinity in the palm of your hand,
And eternity in an hour.
-William Blake-

From: Christopher Balter
Sent: Monday, January 25, 2021 12:55 PM
To: Yvonne Krempasky <scarletoharatwo@gmail.com>
Subject: RE: The Preserves at Stonebriar Phase 2 Project

Good Afternoon,

The developer is following the same plan that was master-planned in 2006 by Lennar Builders. The plan had always shown the development to access from Cogan at the two entry and exit points. As residents, you can ask the developer at both public hearings to provide another means of egress. Per City code, they would not need an additional egress.

Christopher Balter

Christopher Balter
Senior Planner
City of Palm Bay
Land Development Division
P: 321-733-3042
F: 321-953-8920

To see a world in a grain of sand
And a heaven in a wild flower,
Hold infinity in the palm of your hand,
And eternity in an hour.
-William Blake-

Dear Mr. Balter:

I was given your name when I called your office on Friday regarding Public Notice No. FD-4-2021 and I also left you a voicemail message.

My residence is located on 532 Stonebriar Drive in the sub-division of Stonebriar Estates in Bayside Lakes. Our community was informed that residents in the new section of The Preserves at Stonebriar (Phase 1), and now new homes being built (Phase 2), are to use our two entrance & exit gates. This is a tremendous amount of vehicles coming through of our gates. I modestly calculated with 157 homes in Phase 1 and expected 171 homes in Phase 2, with two cars per home, would be 656 vehicles using both entrances/exits on both Stonebriar Drive & Gleneagles Drive. Our community has three car garages for 229 homes, so that is an additional 687 vehicles. This amount of traffic on our two main streets (Stonebriar Drive & Gleneagles) causes additional wear and tear on our streets and two gates, plus increased inconsiderate speeders.

I would like to understand why there isn't a plan to cut in an additional entrance/exit road for The Preserves at Stonebriar? Is it because the company doesn't want to pay for city permits and associated costs to do so? There is definitely an access point that one could be constructed.

We are not one combined community as we have several HOA companies with separate community rules/guidelines. We were also informed we don't have permission to use their community pool or playground.

Please contact me at (585) 727-4906 or via my email. Thank you for reading.

Sincerely,
Yvonne Krempasky

PS: Our Stonebriar Estates HOA Board of Directors President is Dennis Kelleher.



MEMORANDUM

DATE: February 3, 2021

SUBJECT: **CU-5-2021 – FAR Research, Inc. (AVID Group, LLC and Akerman, LLP, Reps.)
- A conditional use to allow proposed storage of liquified petroleum products; chemicals and similar products in an HI, Heavy Industrial District. Tax Parcel 14, Section 14, Township 28, Range 37, Brevard County, Florida, containing .46 acres, more or less. (Located south of and adjacent to Rowena Drive NE, in the vicinity north of Robert J. Conlan Boulevard NE, and east of the Florida East Coast Railway)

ATTACHMENTS:

Description

- ▣ Case CU-5-2021
- ▣ Correspondence



STAFF REPORT

LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: 321-733-3042

landdevelopmentweb@palmabayflorida.org

Prepared by

Patrick J. Murphy, Assistant Growth Management Director

CASE NUMBER

CU-5-2021

PLANNING & ZONING BOARD HEARING DATE

February 3, 2021

PROPERTY OWNER & APPLICANT

FAR Research, Inc.
Joseph W. Beatty, VP/GM

PROPERTY LOCATION/ADDRESS

2650 Rowena Drive NE 32905; south of and adjacent to Rowena Drive NE, in the vicinity north of Robert J. Conlan Boulevard NE, and east of the Florida East Coast Railway

SUMMARY OF REQUEST

Conditional Use Approval for the Storage of Liquefied Petroleum and Similar Chemical Products

Existing Zoning

HI, Heavy Industrial District

Existing Land Use

Industrial Use

Site Improvements

4,768 sf building, two (2) driveways, and paved areas

Site Acreage

0.46 acres, more or less

SURROUNDING ZONING & USE OF LAND

North

HI, Heavy Industrial District; FAR Research, Inc.

East

HI, Heavy Industrial District; FAR Research, Inc.

South

BMU, Bayfront Mixed Use; Vacant, former Concrete Plant

West

HI, Heavy Industrial District; Boskind Development, Inc. Warehouse

COMPREHENSIVE PLAN

COMPATIBILITY

Yes

BACKGROUND:

The subject property is located at 2650 Rowena Drive NE 32905, which is located west of U.S. Highway 1, north of Robert J. Conlan Boulevard, approximately 200' east of the Florida East Coast Railroad. Specifically, the property is Tax Parcel 14.0, located in Section 14, Township 28 south, Range 37 east, Brevard County, Florida. The property is approximately 0.46 acres.

According to the Brevard County Property Appraiser's website, the property contains a 4,768 square foot warehouse building that was constructed in 1981. The property, along with the parcels to the north and east, are used by FAR Research, Inc. for chemical manufacturing and custom hazardous material packaging.

The applicant is requesting conditional use approval for the storage of liquefied petroleum and similar chemical products, as required by Section 185.046(D)(2) and (4) of the Palm Bay Code of Ordinances. The applicant is represented by Peter Pensa of AVID Group, LLC.

ANALYSIS:

As part of the conditional use application the applicant's representative provided a project narrative. In this report it is stated that FAR Research, Inc. purchased the property in 2019 to expand their existing business operations located on the adjoining property to the east. The applicant's letter indicates that the existing building will be refurbished with a new fire suppression system and explosion proof lighting and wiring. A small office will be created, for 2-4 employees, and the building will be used to store raw materials used in their manufacturing processes. The existing building will not be enlarged, and no other buildings are proposed.

CODE REQUIREMENTS:

To be granted conditional use approval, requests are evaluated upon items (A) through (I) of the General Requirements and Conditions of Section 185.087 of the Code of Ordinances. A review of these items is as follows:

Item (A): Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of emergency.

Sole access to the site is via the existing driveways on Rowena Drive. There are no other driveways proposed, nor would another driveway be permitted. However, this conditional use review criteria (Item A) explores more than just accessing the subject site from the adjacent roadway. Ingress and egress must be considered for the possibility of emergency response.

The City's Fire Marshall has reviewed the application and indicated that increasing the available acreage for hazardous chemical storage would, in turn, create an increase in the

probability of an incident. Rowena is a dead-end street within an Industrial Park that is accessed only from U.S. Highway 1, via Kingswood Drive and Wilhelmina Court. Therefore, access to the site is limited to an approach from the east. If a chemical spill were to occur, causing a hazardous plume in that direction, the Fire Department would not have access. Ingress and egress to and from an incident should be upwind. The west side of this area is physically blocked by the railroad tracks and blocked from the south by property not owned by the applicant. These factors should be considered.

Item (B): Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor or other detrimental effects upon adjoining properties.

Based upon the proposed use of the property (Warehousing), the City's Parking Code requires a minimum of one (1) parking space for each one thousand (1,000) square feet of gross floor area for buildings up to ten thousand (10,000) square feet. A 4,768 square foot building would require five (5) parking spaces. The site survey indicates there are five (5) existing spaces.

The project narrative states that the existing spaces are grassed, located within the front setback, and do not contain a handicap accessible stall. The conceptual site plan included with this application proposes site improvements to the parking area. If parking within the front of the building does not allow for the required amount, additional spaces could be provided on the side(s) of the building or accommodated on the applicant's adjacent property (to the east). This will be evaluated during the administrative site plan review process.

Item (C): Adequate and properly located utilities are available or may be reasonably provided to serve the proposed development.

The existing building has access to the City's water distribution and sewer collection systems. The property has both electric and phone services.

Item (D): Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.

According to the site survey the property is enclosed by a 6' tall chain link fence. Existing industrial uses abut the site to the east and west, and across Rowena Drive to the north. However, located to the south is land zoned BMU, Bayfront Mixed Use. In addition to varying commercial uses, this zoning district allows for multiple-family residential dwellings. Therefore, if the requested use is approved by City Council, staff recommends that a minimum 6-foot tall completely opaque fence or wall be provided along the property lines that abut this BMU-zoned property. This would be required on a future site plan.

Item (E): Signs, if any, and proposed exterior lighting will be so designed and arranged to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties.

Lighting and signage were not indicated on the approved site plans. It shall be noted that City codes require all lighting to be shielded and/or directed downward to avoid creating a nuisance to adjacent properties. Only one (1) detached sign would be allowed and it must meet all applicable location and dimension criteria.

Item (F): Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.

The yards and open space requirements of the Zoning Code are not currently observed as portions of the concrete surrounding the building are within the side yard areas (10'). The front parking also encroaches the front yard area (10'). These encroachments were existing when the applicant purchased the property and no expansions of pavement are proposed. However, the encroachments are not considered "legal" nonconforming as the zoning code in effect at the time of site development did not allow for said encroachments. These nonconformities shall be addressed by the property owner at the time of site plan submittal. In addition, various miscellaneous items are shown in aerial photography that appear to be in the side yard areas. It shall be noted that no outside storage will be allowed in the required yard areas.

Item (G): The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation, or type of physical activity.

Although there are no identified nuisances that would be created by the number of persons that may attend or use the facility, Item A above has identified potential hazards with accessing the property to respond to potential incidents caused by the intended use of the property.

Item (H): The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.

As stated above, the request is a conditional use in the HI zoning district. To improve compatibility with adjacent properties, staff recommended opaque screening. Per review by the Utilities Department, the site must conform to the conditions identified in Title XX, Chapter 200 (Utilities Code) and Chapter 201 (Sewer Use).

Item (I): Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including, but not limited to, a reasonable time limit within which the action for which special approval is requested shall be begun or completed, or both.

The Planning and Zoning Board and City Council have the authority and right to impose any additional and justifiable safeguards, and/or conditions, to ensure that the facility operates safely and harmoniously with its surroundings. Specific conditions provided by the City's Public Works Department are as follows:

1. Detailed construction plans showing all modifications to the site and/or buildings, including locations and types of storage containers, shall be submitted for city staff review.
2. All applicable Material Safety Data Sheets, for each chemical, shall be provided to the City.
3. Prior to transport and/or storage of liquefied petroleum products or other hazardous chemicals, the City shall be provided written assurance that all criteria of OSHA Regulation 29 CFR 1910 are met. Inspections and certifications received from OSHA shall also be provided.
3. All criteria pursuant to Rule 65-761 and/or 65-762 Florida Administrative Code shall be met, with assurance provided in the form of permits or compliance letters from the Florida Department of Environmental Protection (FDEP), authorizing the transport and storage of hazardous chemicals, in compliance with the applicable environmental rules.
4. All continuing certification and inspection requirements for storage tanks from the FDEP and Brevard County Natural Resources Management shall be reported, with compliance documentation provided to the City.
5. All on-site modifications shall meet the requirements of the City's Stormwater Management and Floodplain Ordinance (Chapter 174). This includes a conference with the St. John's River Water Management District Environmental Resource Permit and Consumptive Use Permitting Departments to determine any specific surface or groundwater protection criteria.
6. Upon meeting with all applicable health, safety, and environmental agencies of jurisdiction, the property owner shall schedule a meeting with the Public Works Department to discuss compliance with each of the above agencies' criteria, and any other applicable agencies.

STAFF CONCLUSION:

The Planning and Zoning Board and City Council must determine if the request meets the criteria of Section 185.087 of the Palm Bay Code of Ordinances. The analysis contained within this report, the information submitted by the applicant and/or any affected property owner, and any testimony provided during the public hearing(s), shall be carefully considered.



Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.

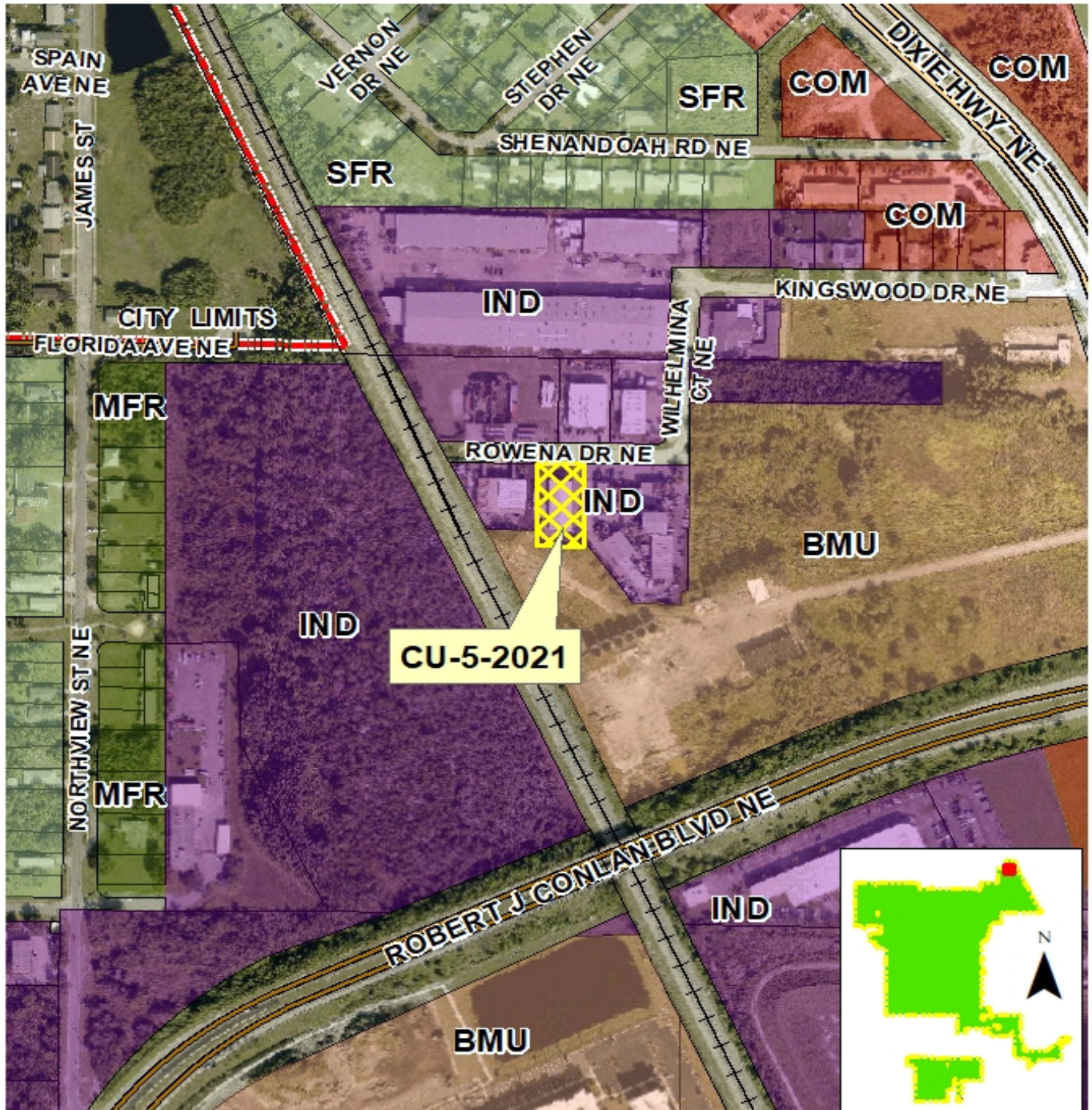


AERIAL LOCATION MAP CASE CU-5-2021

Subject Property

South of and adjacent to Rowena Drive NE, in the vicinity north of Robert J. Conlan Boulevard NE, and east of the Florida East Coast Railway

Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



FUTURE LAND USE MAP

CASE CU-5-2021

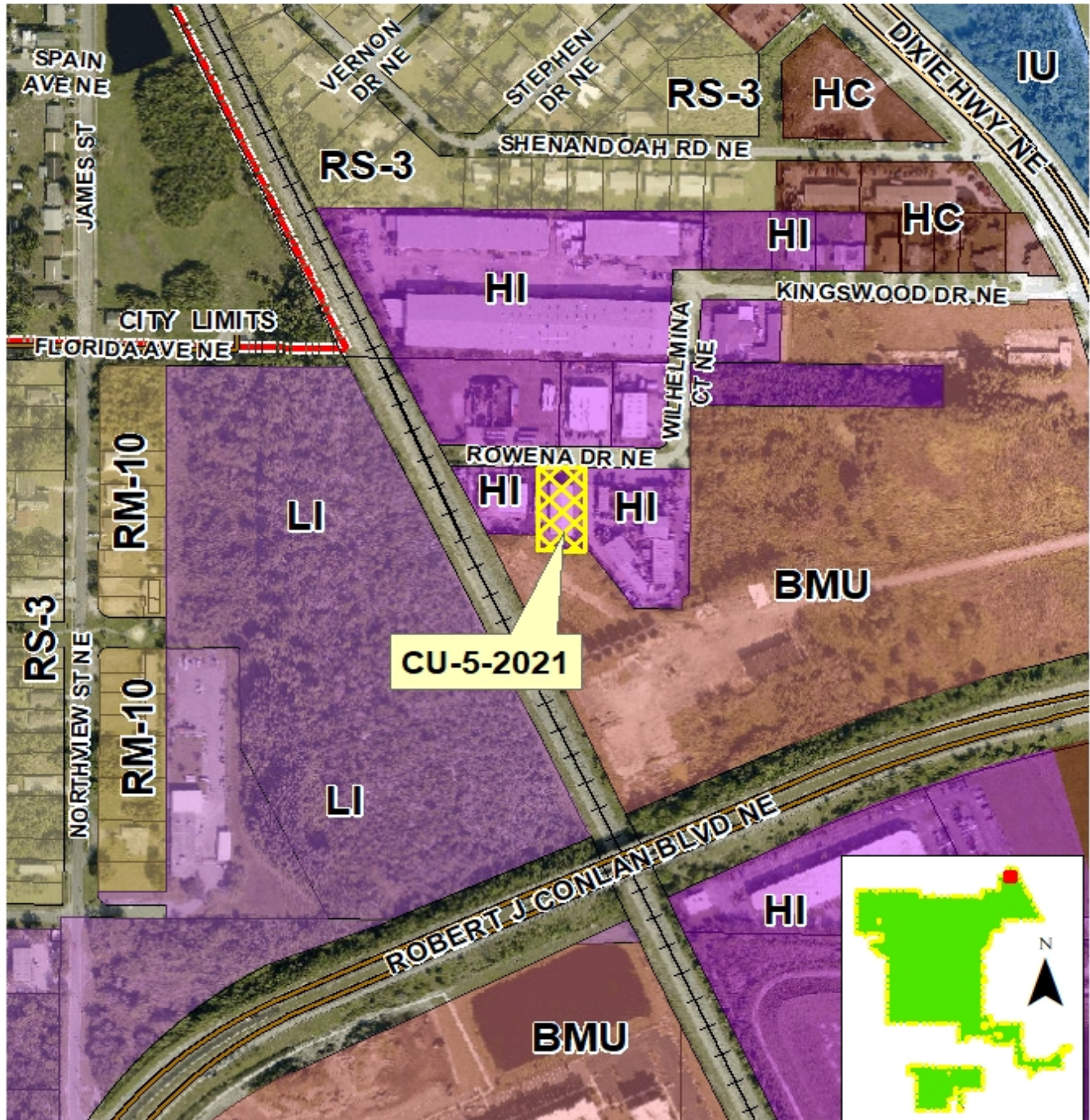
Subject Property

South of and adjacent to Rowena Drive NE, in the vicinity north of Robert J. Conlan Boulevard NE, and east of the Florida East Coast Railway

Future Land Use Classification

IND – Industrial Use

Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



ZONING MAP

CASE CU-5-2021

Subject Property

South of and adjacent to Rowena Drive NE, in the vicinity north of Robert J. Conlan Boulevard NE, and east of the Florida East Coast Railway

Current Zoning Classification

HI – Heavy Industrial District

Brevard County Property Appraiser

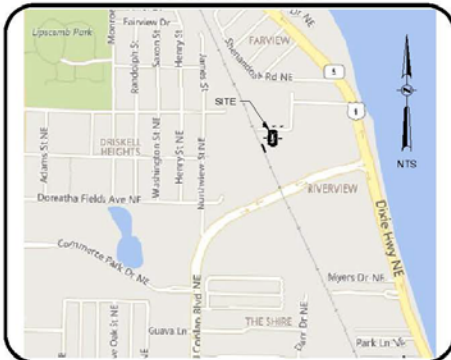


January 27, 2021

2846850

For illustration only. Not a survey. Map layers may not precisely align.
© BCRAO 2015

LOCATION MAP



MAP REFERENCES

BOUNDARY AND TOPOGRAPHIC SURVEY

INFORMATION TAKEN FROM "MAP OF ALTA / NSPS LAND TITLE SURVEY" PREPARED BY ROBERT R. DOBRIER, P.L.S. OF HORIZON SURVEYORS OF CENTRAL FLORIDA, INC., DATED 9/13/06.

LEGAL DESCRIPTION (AS PROVIDED)

BEGIN AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF ROWENA DRIVE, LYING IN FRANK SUBDIVISION, RECORDED IN PLAT BOOK 19, PAGE 129, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND THE EAST RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILROAD; THENCE RUN EAST ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 190 FEET TO THE POINT OF BEGINNING; FROM SAID POINT OF BEGINNING, RUN EAST ALONG THE SOUTH RIGHT OF WAY LINE OF ROWENA DRIVE 100 FEET, THENCE SOUTH 0° 50' 00" EAST 200 FEET, THENCE WEST PARALLEL TO THE SOUTH RIGHT OF WAY LINE OF ROWENA DRIVE 100 FEET, THENCE NORTH 0° 50' 00" EAST 200 FEET TO THE POINT OF BEGINNING, SACS LYING AND BEING IN BREVARD COUNTY, FLORIDA.

ALSO DESCRIBED AS

PROPERTY LOCATED AT 2650 ROWENA DRIVE, N.E., PALMBAY, FL 32901, DESCRIBED AS PART OF EAST 1/2 OF THE NORTHWEST 1/4 OF THE NORTH EAST 1/4, SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 1519, PAGE 46, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

ACCOUNT # 2829099
PARCEL I.D. # 28-37-11-00-17
OWNERS: 950520 DEVELOPMENT INC.

FLU IND (INDUSTRIAL)
ZONING: HI (HEAVY INDUSTRIAL)
USE: INDUSTRIAL

ACCOUNT # 2829094
PARCEL I.D. # 28-37-11-00-31
OWNERS: FAR RESEARCH INC.
ADJACENT PROPERTY FROM ELEVATION OF BUILDING TO = 19.00' OVERSEAS
ADJACENT PROPERTY FROM ELEVATION OF BUILDING TO = 18.34' OVERSEAS

FLU IND (INDUSTRIAL)
ZONING: HI (HEAVY INDUSTRIAL)
USE: INDUSTRIAL

PROFESSIONAL TEAM

CIVIL ENGINEER/PLANNER:

AVID GROUP
2500 GULFVIEW ROAD, SUITE 201
PALM HARBOR, FLORIDA 34683
PHONE: (727) 789-9500

LAND USE ATTORNEY:

OSCEOLA BONIFAY, PARTNER
AKERMAN LLP
400 SOUTH ORANGE AVENUE, SUITE 1200
ORLANDO, FL 32801
PHONE: (407) 428-4000

ARCHITECT:

ROBERT D. DOBRIER ARCHITECT
6205 FINE TERRACE
PLANTATION, FLORIDA 33317
PHONE: (954) 579-7819

SURVEYOR:

HORIZON SURVEYORS OF CENTRAL FLORIDA, INC.
390 PONTIACANA DRIVE
MELBOURNE, FLORIDA 32905
PHONE: (321) 254-1020

THE DESIGN AND IDEAS INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE PROPERTY OF AVID GROUP AND IS NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT WRITTEN AUTHORIZATION FROM AVID GROUP.

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FLORIDA EAST COAST RAILROAD
(100' R/W)

FLU IND (INDUSTRIAL)
ZONING: HI (HEAVY INDUSTRIAL)
USE: INDUSTRIAL

FLU IND (INDUSTRIAL)
ZONING: HI (HEAVY INDUSTRIAL)
USE: INDUSTRIAL

FLU IND (INDUSTRIAL)
ZONING: HI (HEAVY INDUSTRIAL)
USE: INDUSTRIAL

SITE DATA

SCALE: 1" = 20'

PROPERTY OWNER: FAR RESEARCH INC.
2210 WILHELMINA CT NE
PALMBAY FL 32905

PROPERTY LOCATION: 2650 ROWENA DRIVE NE
PALMBAY, FL 32905

PROPERTY PARCEL I.D. NUMBER: 28-37-14-00-14

PROPERTY ZONING: HI (HEAVY INDUSTRIAL DISTRICT)

PROPERTY USE: **EXISTING** **PROPOSED**
WAREHOUSE

LOT 1 USE: WAREHOUSE WITH "STORAGE OF LIQUEFIED PETROLEUM PRODUCTS" & "CHEMICALS AND SIMILAR PRODUCTS"

MINIMUM LOT AREA: **REQUIRED** **EXISTING**
AREA: 30,000 SF 19,991 SF (0.459 ACRES)

MINIMUM LOT WIDTH: **REQUIRED** **EXISTING**
WIDTH: 150 FT 100.00 FT

MINIMUM LOT DEPTH: **REQUIRED** **EXISTING**
DEPTH: 200 FT 200.00 FT

MAXIMUM BUILDING COVERAGE: **ALLOWED** **PROPOSED**
PERCENT: 50% MAX 4,769 SF (23.85%)

MAXIMUM BUILDING HEIGHT: **ALLOWED** **EXISTING**
HEIGHT: 100 FT MAX XX FT (1-STORY)

BUILDING SETBACKS: **REQUIRED** **EXISTING**
FRONT (ROWENA DRIVE): 40 FT MIN 39.7 FT
SIDE (WEST): 30 FT MIN 26.0 FT
SIDE (EAST): 30 FT MIN 30.2 FT
REAR (SOUTH): 25 FT MIN 46.8 FT
PARKING (ALL SIDES): 10 FT MIN 10.0 FT (PROPOSED) / 0 FT (EXIST)

	LOT COVERAGE CALCULATIONS:	
	EXISTING	PROPOSED
BUILDING AREA	4,769 SF 23.85%	4,769 SF 23.85%
VEHICULAR USE AREA (PAVED)	8,780 SF 43.92%	9,103 SF 45.54%
BIDENWALK/MSB CONC AREA	344 SF 1.72%	228 SF 1.14%
TOTAL IMPERVIOUS AREA	13,892 SF 69.49%	14,099 SF 70.53%
TOTAL PERVIOUS AREA	6,099 SF 30.51%	5,892 SF 29.47%
TOTAL SITE AREA	19,991 SF 100.00%	19,991 SF 100.00%

PARKING (REQUIRED):
1 PARKING SPACE PER 1,000 SF X 4,769 SF = 5 SPACES REQUIRED
HC SPACES REQUIRED: 1
STANDARD STALL SIZE = 10' x 19'
HC STALL SIZE = 12' x 19'

PARKING (PROPOSED):
STANDARD PARKING SPACES = 2
HC SPACES = 1
TOTAL PARKING SPACES = 3

FLOOD ZONE:
THE PARCEL DESCRIBED HEREON IS IN ZONE "C" FLOOD PLAIN AS PER THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE MAP #12009C-06123 DATED 9-17-14, COMMUNITY #100404, BREVARD COUNTY.

- NOTES:**
- BUILDING AND SITE IMPROVEMENTS SHOWN ARE EXISTING AND TO REMAIN, EXCEPT AS NOTED.
 - EXISTING BRICK PAVEMENT AREA TO BE REMOVED AND EXISTING GRASS PARKING AREA CURRENTLY'S STANDARD SPACES TO BE MODIFIED IN ORDER TO ACCOMMODATE A PAVED HANDICAP PARKING SPACE AND ACCESSIBLE SIDEWALK TO THE BUILDING.
 - CONDITIONAL USE PERMIT IS REQUIRED FOR CHANGE OF USE FROM WAREHOUSING TO WAREHOUSING INCLUDING THE STORAGE OF LIQUEFIED PETROLEUM PRODUCTS AND "CHEMICALS AND SIMILAR PRODUCTS".
 - OUTDOOR STORAGE AREAS TO COMPLY WITH MINIMUM BUILDING SETBACK REQUIREMENTS. MINIMUM TWENTY (20) FOOT WIDE FIRE LANE TO BE MAINTAINED AROUND THE PERIMETER OF THE STRUCTURE.

FAR RESEARCH, INC.

CIVIL ENGINEERING
2500 GULFVIEW ROAD, SUITE 201
PALM HARBOR, FLORIDA 34683
PHONE: (727) 789-9500
AVID GROUP

FAR CHEMICAL
2650 ROWENA DRIVE
PALMBAY, FLORIDA
CONDITIONAL USE SITE PLAN

1





AVID Group®
2300 Curlew Road, Suite 201
Palm Harbor, Florida 34683
Phone (727) 789-9500
www.avidgroup.com
[AUTH#6139 LB7345]

PROJECT NARRATIVE
Application for Conditional Use
2650 Rowena Drive NE, Palm Bay, FL 32905

Project Description

Subject property is a 0.46 acre +/- parcel located midblock on the south side of Rowena Drive NE, between Wilhelmina Ct NE (to the east) and Florida East Coast Railroad (to the west) in the City of Palm Bay, Brevard County, Florida (Parcel No. 28-37-14-00-14). There is an existing 4,768 sq.ft. warehouse building on the property.

FAR Research, Inc. purchased the property in 2019 in order to expand their existing business operations located on the adjoining property to the east. After purchasing the property, it was brought to their attention that while warehousing is a permitted use, the storage of liquefied petroleum products, chemicals and similar products requires conditional use approval within the HI (Heavy Industrial District). The attached letter from FAR Chemical describes their business operations.

The property owner is herein applying for conditional use approval to store liquefied petroleum products, chemicals and similar products on the property. They will be remodeling the building interior, but no building additions are being proposed. The only site changes proposed are related to parking. The existing grass parking spaces are currently located within the front setback and there is currently no handicap parking space on the property, so modifications are proposed to address these issues as requested by city staff.

As required by the fire department, the business owner shall maintain current a list of chemicals and other products being stored and/or processed on the premises, and they shall promptly provide updates to the fire department whenever the list may change in the future.

Review Criteria

Pursuant to Code Section 185.087, the City Council shall consider the following guidelines and standards when granting a conditional use. In furtherance of this requirement, the applicants' professional land planning and engineering consultant has made the following findings in support of the project:

- (A) Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.**

Applicant's finding: Ingress and egress is adequate for the proposed use. The warehouse building and site access are existing and will remain. The property is located near the dead-end terminus of Rowena Drive NE, which is a local road within an industrial district. The proposed modifications for on-site parking will improve safety because the existing parking spaces are currently located partially within the road right-of-way.

(B) Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor or other detrimental effects upon adjoining properties.

Applicant's finding: There is adequate parking and loading proposed to meet the City's parking and loading standards, as well as to meet the operational needs of the business. This request is for expansion of the property owner's existing business operations, which are already located on the adjoining property to the east. The use will not create undue noise, glare, odor or other detrimental effects upon adjoining properties.

(C) Adequate and properly located utilities are available or may be reasonably provided to serve the proposed development.

Applicant's finding: The existing utilities are adequate and properly located to continue serving the development.

(D) Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.

Applicant's finding: The property is already developed; no changes are proposed to the existing landscaping. The property is surrounded by other industrial uses.

(E) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties.

Applicant's finding: Signs and lighting will comply with City standards so as to promote traffic safety and eliminate or minimize undue glare, incompatibility, or disharmony with adjoining properties.

(F) Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.

Applicant's finding: Yards and open spaces are adequate to serve the development. These areas are existing and only a de minimis increase in impervious area proposed (207 sq.ft. +/-), which is necessary to provide a paved handicap parking space and access to the building, where there is none currently. Almost 30% of the site will remain pervious area and those areas abutting the adjoining industrial uses are not changing.

(G) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation or type, of physical activity. The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.

Applicant's finding: The proposed use is an expansion of the existing business operations already located on the adjoining property. There will be office space for 2-4 persons and no persons from the general public would attend or use this facility. The use is compatible with and will not constitute a nuisance or hazard to adjoining properties.

(H) Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including, but not limited to, reasonable time limit within which the action for which special approval is requested shall be begin or be completed, or both.

Applicant's finding: The applicant does not believe additional conditions or safeguards are necessary.

Prepared by:
AVID Group

A handwritten signature in blue ink, appearing to read 'Peter R. Pensa'.

Peter R. Pensa, AICP
Associate / Director of Planning



FAR Chemical is a leader in meeting customer requirements for unique and challenging chemical manufacturing and custom hazardous material packaging needs. We are known for service, safety, quality, flexibility and problem solving. We have deep experience and expertise in handling and processing complex and hazardous chemistries.

Our U.S. production facility in Palm Bay, Florida, has a 35-year history of safe, responsible operations. In addition to custom and toll manufacturing for others, we produce a propriety line of FARMetl™ acetylacetonate products used in a broad range of applications. We are an ISO9001:2015 certified operation and participating member of SOCMA.

We purchased the warehouse at 2650 Rowena Dr because it is adjacent to our manufacturing facility. Our intention is to completely refurbish the building, installing state of the art fire suppression systems, explosion proof lighting and wiring and diking the building. Once that work is completed, we'll have more interior space to store raw materials safely and responsibly and to provide office space for 2-4 employees. This new warehouse will not only provide us with storage and a small office space but will allow us to continue to contribute substantially to the City's tax base and good paying jobs for the community.

This Document Prepared By and Return to:
Gary B. Frese, Esquire
2200 Front Street, Suite 301
Melbourne, FL 32901

Parcel ID Number: 28-37-14-00-14 / #2826101

Warranty Deed

This Indenture, Made this 15th day of November, 2019 A.D., Between
FREDERICK L. FEIN and RACHELLE FEIN, Individually and as Trustees of The Fein Family
Trust under Trust dated April 25, 2000

of the County of Brevard, State of Florida, grantor, and
FAR RESEARCH, INC., a Delaware corporation

whose address is: 2210 Wilhelmina Court, NE, Palm Bay, FL 32905

of the County of Brevard, State of Florida, grantee.
Witnesseth that the GRANTOR, for and in consideration of the sum of

-----TEN DOLLARS (\$10)----- DOLLARS,
and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has
granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate,
lying and being in the County of Brevard, State of Florida to wit:

Begin at the intersection of the South Right of Way Line of Rowena Drive, lying in Finan
Subdivision, recorded in Plat Book 19, Page 128, Public Records of Brevard County, Florida,
and the East Right of Way line of the Florida East Coast Railroad, thence run East along said
South Right of Way line a distance of 190 feet to the Point of Beginning. From said Point of
Beginning, run East along the South Right of Way line of Rowena Drive 100 feet, thence South
0° 50'30" East 200 feet; thence West parallel to the South Right of Way Line of Rowena Drive
100 feet; thence North 0° 50'30" East 200.00 feet to the Point of Beginning, said lying and being
in Brevard County, Florida.

also described as

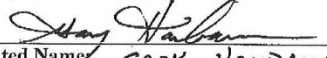
Property located at 2650 Rowena Drive, N.E., Palm Bay, FL 32901, described as Part of East 1/2
of the Northwest 1/4 of the Northeast 1/4, Section 14, Township 28 South, Range 37 East,
Brevard County, Florida, more particularly described in Deed recorded in Official Records
Book 1519, page 46, Public Records of Brevard County, Florida.

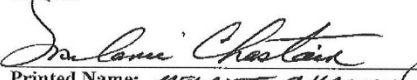
Subject to restrictions, reservations and easements of record, if any, and taxes subsequent to
December 31, 2019.

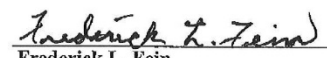
and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

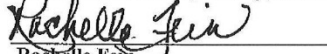
In Witness Whereof, the grantor has herunto set their hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:


Printed Name: GARY HANBAUM
Witness


Printed Name: MELANIE CHASTAIN
Witness

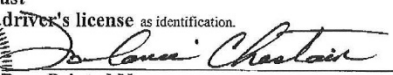

Frederick L. Fein
Individually and as Trustee
P.O. Address: 1085 Woodsmere Pkwy, Rockledge, FL 32955


Rachelle Fein
Individually and as Trustee
P.O. Address: 1085 Woodsmere Pkwy, Rockledge, FL 32955

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 14th day of November, 2019 by
Frederick L. Fein, Individually and as Trustee and Rachelle Fein,
Individually and as Trustee on behalf of said trust
who are personally known to me or who have produced to me a valid Florida driver's license as identification.




Printed Name:
Notary Public
My Commission Expires:

§ 185.046 HI — HEAVY INDUSTRIAL DISTRICT.

(A) *Intent.* The provisions of this district are intended to apply to an area in close proximity to major transportation facilities and which can serve general manufacturing, storage and distribution needs of the city and region. Lot sizes and other restrictions are intended to minimize adverse impacts to adjacent properties.

(B) *Principal uses and structures:*

- (1) Warehousing.
- (2) Wholesaling.
- (3) Dry cleaning and laundry plants, printing plants, welding shops, machine shops, taxidermists and similar service and repair establishments and uses.
- (4) Light manufacturing, processing and assembly including precision manufacturing, electrical machinery, instrumentation, bottling plants, dairy products plants, bakeries, fruit packing, and similar uses.
- (5) Building materials supply and storage, provided that any outside display and/or storage area shall be screened on all sides to avoid any deleterious impact on adjacent properties; includes contractor storage yards.
- (6) Automotive, truck, major recreational equipment and mobile home sales, storage and repair establishment including, body shops, dry docking facilities, paint shops, upholstery shops and similar uses provided that outside storage of vehicles not for sale shall be effectively screened on four (4) sides so as to avoid off-site visual impacts.
- (7) Vocational and trade schools.
- (8) Veterinary hospitals and clinics, including boarding of animals.
- (9) Radio or television transmitter, towers or broadcasting facilities.
- (10) Research and development facilities.
- (11) Public utility equipment and facilities.
- (12) Freight handling and transportation terminals.
- (13) Printing, publishing and similar uses.
- (14) Textile and apparel manufacturing, processing and storage.
- (15) Lumber and wood products manufacturing, processing and storage.
- (16) Public uses.
- (17) Communication towers and facilities.
- (18) Salvage Yards.
- (19) Medical Recycling Facility.

(C) *Accessory uses and structures:*

- (1) Customary accessory uses clearly incidental and subordinate to one (1) or more principal used.
- (2) Retail sales of products manufactured, processed or stored on the premises, provided the sales area constitutes no more than 15% of the total area of the space occupied by the business.

(3) Offices clearly accessory to one (1) or more principal uses.

(D) Conditional uses:

(1) Manufacturing, assembly and processing uses or facilities not specifically provided as a principal use including block and concrete plants, furniture factories, food processing, citrus processing plants, salvage yards, and canneries and similar uses.

(2) Storage of liquefied petroleum products.

(3) Fabricated metal products.

(4) Chemicals and similar products.

(5) Automotive fuel tanks and pumps subject to the following provisions:

(a) Location of facilities. Gasoline/ fuel pumps, storage tanks and other service island equipment shall be at least twenty (20) feet from all property lines, fifteen (15) feet from any building and one hundred (100) feet from the nearest residentially zoned land. No gasoline/fuel pump, storage tank or ether equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well.

(b) The use of fuel pumps shall be strictly limited to the owner of the property. Sales to members of the public in general or to any private individual are hereby strictly prohibited.

(c) The proposed use will not constitute a nuisance or hazard because of vehicular traffic movement, delivery of fuel movement, noise or fume generation.

(d) Development and operation of the fuel pumps and attendant storage tanks shall be in compliance with §§ [176.01](#) et seq.

(6) Planned industrial developments.

(7) Crematoriums.

(8) Corrections facilities subject to the following:

(a) Minimum area required: 20 acres.

(b) Shall not be located within 1,000 feet of any residentially zoned property.

(9) Smoke-producing industries, such as paper mills, rubber mills or regional incinerators, provided the land where such facility is operated shall be located no less than one-half (½) mile from the closest right-of-way line of Interstate 95.

(E) *Prohibited uses and structures:* All uses not specifically or provisionally permitted herein.

(F) Lot and structure requirements:

(1) Minimum lot area — thirty thousand (30,000) square feet.

(2) Minimum lot width — one hundred and fifty (150) feet.

(3) Minimum lot depth — two hundred (200) feet.

(4) Maximum building coverage — fifty percent (50%).

(5) Minimum floor area — None.

(6) Maximum height — one hundred (100) feet.

(7) Minimum yard requirements:

(a) Front — forty (40) feet minimum building setback. Parking areas may be located in the front yard except within ten (10) feet of the front lot line.

(b) Side interior — twenty (20) feet minimum building setback. Parking areas may be located in the side yard except within ten (10) feet of the side lot line.

(c) Side corner — twenty-five (25) feet minimum building setback. Parking areas may be located in the side corner yard except within ten (10) feet of the side corner lot line.

(d) Rear — twenty-five (25) feet.

(8) An eight (8) foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abating property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this chapter.

(G) Lot and structure requirements for Salvage Yards:

(1) Minimum lot area — five (5) acres.

(2) Minimum lot width — two hundred (200) feet.

(3) Minimum lot depth — three hundred (300) feet.

(4) Maximum building coverage — fifty percent (50%).

(5) Minimum floor area — None.

(6) Maximum height — fifty (50) feet.

(7) Minimum yard requirements:

(a) Front — forty (40) feet minimum building setback. Parking areas may be located in the front yard except within ten (10) feet of the front lot line.

(b) Side interior — twenty (20) feet minimum building setback. Parking areas may be located in the side yard except within ten (10) feet of the side lot line.

(c) Side corner — twenty-five (25) feet minimum building setback. Parking areas may be located in the side corner yard except within ten (10) feet of the side corner lot line.

(d) Rear — twenty-five (25) feet.

(8) A six (6) foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abating property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this chapter.

('74 Code, § 25-138) (Ord. 89-08, passed 4-27-89; Ord. 94- 33, passed 6-16-94; Am. Ord. 94- 34, passed 6-16-94; Am. Ord. 94- 51, passed 11-16-94; Am. Ord. 95- 44, passed 11-2-95; Am. Ord. 98- 20, passed 7-16-98; Am. Ord. 98- 31, passed 9-17-98; Am. Ord. 2015-59, passed 12-1-15; Am. Ord. 2016-17, passed 4-21-16)



LAND DEVELOPMENT DIVISION
120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042
Landdevelopment@palmbayflorida.org

CONDITIONAL USE APPLICATION

This application must be deemed complete and legible, and must be returned by the first day of the month during division office hours, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, to be processed for consideration the following month at the earliest by the Planning and Zoning Board. The application will then be referred by the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

PARCEL ID 28-37-14-00-14

TAX ACCOUNT NUMBER 2826101

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

PROPERTY LOCATED AT 2650 ROWENA DRIVE NE, PALM BAY, FL 32901, DESCRIBED AS PART OF EAST ½ OF THE NORTHWEST ¼ OF THE NORTHEAST ¼, SECTION 14 TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 1519, PAGE 46, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 0.46

ZONING CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.) Heavy Industrial

CONDITIONAL USE SOUGHT Storage of liquefied petroleum products and chemicals and similar products.

CONDITIONAL USE REQUIREMENTS FOR SUBMITTAL (Section 185.087):

The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties per Section 185.085.

A SITE SKETCH TO SCALE MUST BE PROVIDED, **AND ALSO PROVIDED ON MEMORY DRIVE**, OF THE FOLLOWING:

- (A) Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.
- (B) Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor, or other detrimental effects upon adjoining properties.

CITY OF PALM BAY, FLORIDA
CONDITIONAL USE APPLICATION
PAGE 2 OF 3

- (C) Adequate and properly located utilities that are available or may be reasonably provided to serve the proposed development.
- (D) Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.
- (E) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties.
- (F) Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.
- (G) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation, or type of physical activity.
- (H) Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including, but not limited to, reasonable time limit within which the action for which special approval is requested shall be begun or completed, or both.

ADDITIONAL CONDITIONS MUST BE MET AND INCORPORATED INTO THE SITE SKETCH FOR THE SPECIFIC CONDITIONAL USE.

Additional criteria is listed in Section 185.088 and available from staff (check all that apply):

- ☐ **Church** (Sec. 185.088(A))
- ☐ **Club or Lodge** (Sec. 185.088(B))
- ☐ **Commercial Dog Kennel** (Sec. 185.088(C))
- ☐ **Planned Industrial Development** (industrially zoned site over 5 acres) (Sec. 185.088(D))
- ☐ **Public or Private School** (Sec. 185.088(E))
- ☐ **Self-Storage Facility** (Sec. 185.088(F))
- ☐ **Communication Tower and Facilities** (Sec. 185.088(G))
- ☐ **Dance Club** (Sec. 185.088(H))
- ☐ **Security Dwelling Unit** (Sec. 185.088(I))
- ☐ **Wedding Venue** (Sec. 185.088(J))
- ☐ **Event Hall** (Sec. 185.088(K))

THE FOLLOWING PROCEDURES AND ENCLOSURES ARE REQUIRED TO COMPLETE THIS APPLICATION:

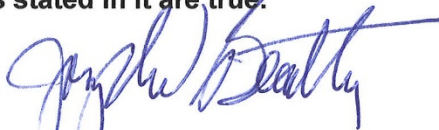
- ☐ *\$650.00 Application Fee. Make Check payable to "City of Palm Bay."
- ☐ List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This should be obtained for a fee from the Brevard County Planning and Zoning Department at (321) 633-2060.)
- ☐ Site Sketch (See page 1 for requirements). Site Sketch must also be provided on Memory Drive.
- ☐ Sign(s) posted on the subject property. Refer to [Section 51.07\(C\)](#) of the Legislative Code for guideline.
- ☐ Citizen Participation Plan. Refer to [Section 169.005](#) of the Land Development Code for guidelines.
- ☐ **Where the property owner is not the representative for the request, a [LETTER](#) must be attached giving the notarized consent of the property owner(s) to a representative.**

Name of Representative AVID Group, LLC (Attn: Peter Pensa, AICP)

I, the undersigned understand that this application must be complete and accurate before consideration by the Planning and Zoning Board/Local Planning Agency and certify that all the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Under penalties of perjury, I declare that I have read the foregoing Conditional Use application and that the facts stated in it are true.

Owner Signature



Date January 15, 2021

Printed Name Joseph W. Beatty, VP/GM, FAR Research Inc.

Full Address 2210 Wilhelmina Ct NE, Palm Bay, FL 32905

Telephone 321-723-6160 **Email** jbeatty@far-chemical.com

***NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY**

January 15, 2021

Re: Letter of Authorization

As the property owner of the site legally described as:

PROPERTY LOCATED AT 2650 ROWENA DRIVE NE, PALM BAY, FL 32901, DESCRIBED AS PART OF EAST ½ OF THE NORTHWEST ¼ OF THE NORTHEAST ¼, SECTION 14 TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 1519, PAGE 46, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

I, Owner Name: Joseph W. Beatty, VP/GM, FAR Research Inc.

Address: 2210 Wilhelmina Ct NE, Palm Bay, FL 32905

Telephone: 321-723-6160

Email: jbeatty@far-chemical.com

hereby authorize:

Representative: AVID Group, LLC (Attn: Peter Pensa, AICP)

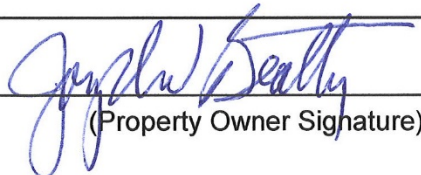
Address: 2300 Curlew Road, Suite 201, Palm Harbor, FL 34683

Telephone: 727-234-8015

Email: peter.pensa@avidgroup.com

to represent the request(s) for:

Conditional Use


(Property Owner Signature)

STATE OF Florida

COUNTY OF Brevard

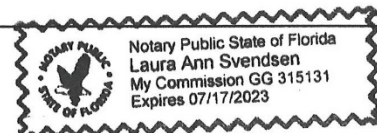
The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 15th day of January, 20 21 by

Joseph W Beatty, property owner.



_____, Notary Public

☒ Personally Known or ☐ Produced the Following Type of Identification:

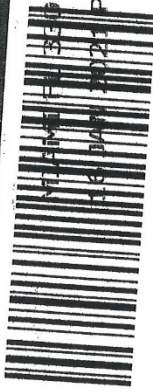


CASE CU-5-2021

CORRESPONDENCE

**SAUL EWING
ARNSTEIN
& LEHR** ^{LLP}

701 Brickell Avenue, 17th F
Miami | Florida 33131



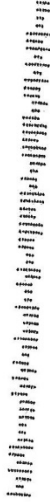
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U.S. POSTAGE PITNEY BOWES
ZIP 33131 \$007.05⁰
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City of Palm Bay Planning and Zoning
Board
120 Malabar Road SE
Palm Bay, FL 32907

32907-509999



**SAUL EWING
ARNSTEIN
& LEHR^{LLP}**

Keith M. Poliakoff
Phone: 954.713.7644
Fax: 954.208.8204
keith.poliakoff@saull.com
www.saul.com

January 14, 2021

VIA CERTIFIED MAIL

City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907

**City of Palm Bay Planning and Zoning
Board**
120 Malabar Road SE
Palm Bay, FL 32907

**Bayfront Community Redevelopment
Agency**
120 Malabar Road SE
Palm Bay, FL 32907

City Council for the City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907

**RE: FAR Research Inc.'s ("FAR") Conditional Use Application (CU-5-2021) for
2650 Rowena Dr NE, Palm Bay, FL 32905 (Parcel ID 28-37-14-00-14
("FAR Property"))**

Dear City Palm of Bay:

The undersigned represents MLEF2-1, LLC, an adjacent property owner to FAR Property located at 3370 and 3420 Dixie Highway, Palm Bay. We write to express our client's objection to FAR's Conditional Use Application ("Application") submitted for the "storage of liquefied petroleum products and chemicals and similar products." FAR has a history of safety violations on the local, state and federal level which cannot be ignored. **MLEF urges the City to deny the Application.**

As you are undoubtedly aware, FAR experienced a significant explosion on September 8, 2020 in which it endangered the City of Palm Bay and its residents with its negligent storage and handling of the hazardous and otherwise dangerous chemicals on its property and significantly damaged MLEF Property. In addition to the numerous state and federal violations which FAR has and continues to accrue, FAR has long exceeded the scope of this City's approvals for its own operations and the City can no longer take FAR at its word that it is a safe and trustworthy to manufacture and store chemicals.

Only thirteen days before the Incident, Palm Bay Fire Rescue inspected FAR and found four (4) violations related to its improper storage of hazardous materials, including the lack of protection for "high hazard contents," storage of hazardous chemicals in buildings not permitted

200 E. Las Olas Blvd. ♦ Suite 1000 ♦ Fort Lauderdale, FL 33301
Phone: (954) 713-7600 ♦ Fax: (954) 713-7700

DELAWARE FLORIDA ILLINOIS MARYLAND MASSACHUSETTS MINNESOTA NEW JERSEY NEW YORK PENNSYLVANIA WASHINGTON, DC

A DELAWARE LIMITED LIABILITY PARTNERSHIP

37956822.1

January 14, 2021
Page 2

for the same, and ordered certain buildings shut entirely because these storage issue and warning labels on these not matching the chemicals found on the exterior placard. On December 11, 2020, Michael Shervington, your City Fire Marshall reported that the explosion was caused by the “improper storage of hazardous/flammable chemicals” of the barrels of chemicals near the property line—the exact violations which FAR was warned about just before the explosion. In the aftermath of the explosion, FAR has admitted to having lost thousands of gallons of chemicals as a result of the Explosion notwithstanding that it is only approved for small scale chemical production in the City (maximum of 300 gallons of materials) pursuant to a 1983 site plan.

MLEF hereby notifies the City of its affected landowner/party status for any and all proceedings related to the Applications and requests notice of any meetings or hearings on the same as MLEF intends to vigorously oppose the same.

Sincerely,

Keith M. Poliakoff

Keith M. Poliakoff

KMP/DS



PALM BAY FIRE RESCUE

899 Carlyle Ave. SE

Palm Bay, FL 32909

Fire Marshal's Office

Tel (321) 953-8929 Fax (321) 409-6382

www.palmbayflorida.org

email - fdinspections@palmbayflorida.org

Occupant Name:	FAR Research	Inspection Date:	8/26/2020
Address:	2650 Rowena Drive Northeast	InspectionType:	Complaint, High Hazard (H-1 - H-5), Industrial Occupancies (F-1 & F-2)
Suite:		Inspected By:	Mike Shervington
Occupant Number:	3952323	Complex Name:	FAR Research

#	Insp. Result	Location	Code Set	Code
1	Fail		FL NFPA 101 2015 Chapter 4 General	4.6.9.1 - No new construction or existing building shall be occupied in whole or in part in violation of the provisions of this Code, unless the following conditions exist: (see photo 1.01)
Inspector Comments: Structure is not classified for hazardous material storage				
Action Required: No occupancy until the building contents are brought to those complying with the building classification.				
2	Fail		FL NFPA 101 2015 Chapter 40 Industrial Occupancies	40.1.2.1.3 - High-Hazard Industrial Occupancy.
Inspector Comments: High hazard contents are not protected.				
Action required - Remove the hazards chemicals				
	N/A		FL NFPA 01 2015 Chapter 10 General Safety Requirements	10.11.1.4 - Address numerals shall be not less than six inches in height
3	Fail		FL NFPA 01 2015 Chapter 1 Administration	1.7.16.1 - Excerpt: When, in the opinion of the AHJ, an imminent... (see photo 2.01)
Inspector Comments: When, in the opinion of the AHJ, an imminent danger exists, the AHJ shall be authorized to order the occupants to vacate, or temporarily close for use or occupancy, a building, the right-of-way, sidewalks, streets, or adjacent buildings or nearby areas.				
The NFPA 704 placard placed on the building lists the chemicals inside as being a Health of 4 - Could be lethal and a an Instability of 2 - Materials that can undergo violent chemical change. Also, flammable chemicals were found in the building not listed on the exterior 704 placard.				
Action required - The employees / occupants are ordered out of the building until the hazardous chemicals are removed and the building has been cleared by the city officials.				
4	Fail		FL NFPA 01 2015 Chapter 10 General Safety Requirements	10.3.4.1 - Excerpt: In any building or structure, whether or not a... (see photo 3.01)
Inspector Comments: In any building or structure, whether or not a physical alteration is needed, a change from one use or occupancy classification to another shall comply with 4.6.7 of NFPA 101. [101: 4.6.11]				

Action required - The occupancy for this building does not allow for hazardous chemical storage. The employees / occupants are ordered out of the building until the hazardous chemicals are removed and the building has been cleared by the city officials.

ALL VIOLATIONS MUST BE ABATED FORTHWITH.

Notice of Violation:

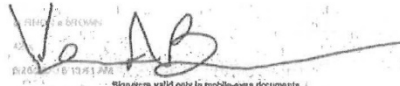
Should the violation(s) continue beyond the correction date of **8/31/2020**., a hearing before the City of Palm Bay Code Enforcement Board /Special Magistrate will be requested. Pursuant to F.S. 162.06, if the violation is corrected and then recurs, or if the violation is not corrected by the date specified herein, the case may be presented to the City Code Enforcement Board /Special Magistrate, even if the violation has been corrected before your hearing date before the Code Enforcement Board or Special Magistrate.

Contact the Palm Bay Fire Marshal's Office for a re-inspection to verify correction of the violation. To schedule an inspection, or should you require additional information regarding this notice,

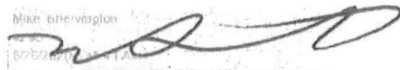
Please contact the Palm Bay Fire Marshal's Office at (321) 953-8929 or via fax at (321) 733-3073.

Thank you for keeping your business and our community safe!

**Company
Representative:**


Signature valid only in mobile-eye documents
vERNON a bROWN
8/26/2020

Inspector:


Signature valid only in mobile-eye documents
Mike Shervington
8/26/2020

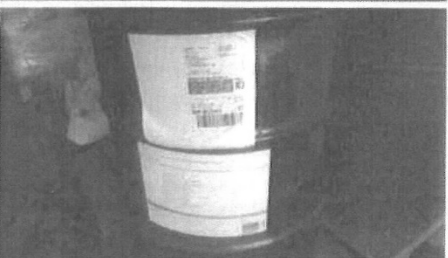
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4.6.9.1.



3.1 -
10.3.4.1.



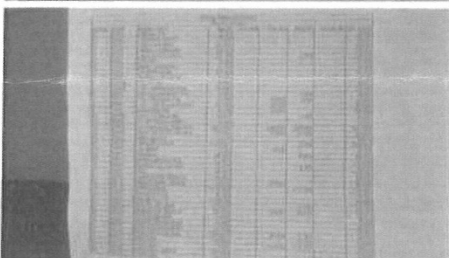
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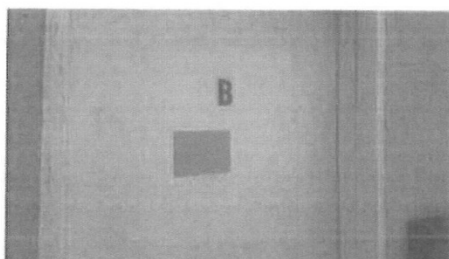
3.5 -
10.3.4.1.



3.7 -
10.3.4.1.



2.1 -
1.7.16.1.



3.2 -
10.3.4.1.



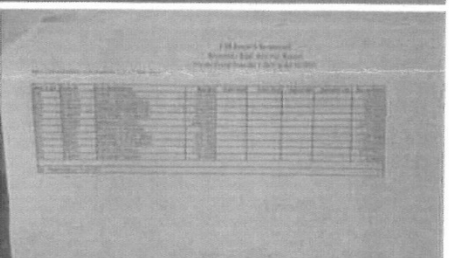
3.4 -
10.3.4.1.



3.6 -
10.3.4.1.



3.8 -
10.3.4.1.



Dickstein, Steven

Subject: FW: FAR

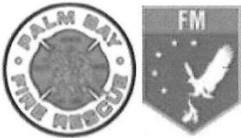
From: Mike Shervington <Mike.Shervington@palmbayflorida.org>
Sent: Friday, December 11, 2020 8:28 AM
To: Kipnis, Alan G. <alan.kipnis@saul.com>
Cc: Patricia D. Smith <Patricia.Smith@palmbayflorida.org>
Subject: RE: FAR

****EXTERNAL EMAIL**** - This message originates from outside our Firm. Please consider carefully before responding or clicking links/attachments.

Good morning Mr. Kipnis,

The cause of the explosion/fire was improper storage of the hazardous/flammable chemicals. The incident is still under investigation from OSHA. As for the barrels along the parameter, all flammable chemicals were moved away from the property line 50 feet and all other hazardous chemicals were moved away from the property line 20 feet when I reinspected the property on November 20th. The remaining chemical containers were empty upon inspection.

Michael Shervington
Fire Marshal
Palm Bay Fire Rescue
321-409-6375 - Office
321-558-4012 - Cell



Sent from [Mail](#) for Windows 10

From: [Patricia D. Smith](#)
Sent: Wednesday, December 9, 2020 5:33 AM
To: [Mike Shervington](#)
Subject: Fwd: FAR

Mike,

See below request for your findings regarding the cause of the explosion and inquiry regarding whether there were any subsequent inspections of the property.

Thank you,

Patricia D. Smith

Get [Outlook for iOS](#)

From: Kipnis, Alan G. <alan.kipnis@saul.com>
Sent: Tuesday, December 8, 2020 8:57 AM
To: Patricia D. Smith
Cc: Dickstein, Steven
Subject: FAR

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Patricia,

Hope all is well. If you had a chance to look at the new Petition for Writ of Cert., I thought you Steve and I could speak to discuss how we want to respond. Let me know if that works and when you are available.

Also, has the Fire Marshall determined the cause of the explosion? The FDEP advises that that function belongs to the City and we would like to know the results. Finally, I need to know if the Fire Marshall inspected the Far property to confirm that the barrels remaining are not storing chemicals in violation. Please advise.

Regards,
Alan

**SAUL EWING
ARNSTEIN
& LEHR^{LLP}**

Alan G. Kipnis | Attorney at Law
200 E. Las Olas Blvd., Suite 1000 | Fort Lauderdale, FL 33301
Tel: 954.713.7612 | Fax: 954.713.7712
Alan.Kipnis@saul.com | www.saul.com

DELAWARE FLORIDA ILLINOIS MARYLAND MASSACHUSETTS MINNESOTA NEW JERSEY NEW YORK PENNSYLVANIA WASHINGTON, DC

"Saul Ewing Arnstein & Lehr LLP (saul.com)" has made the following annotations:

+~~~~~+

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BREAKING NEWS

NEWS

FAR Chemical, site of Palm Bay explosion, has history of safety violations

No one injured in blast

Jim Waymer, Florida Today

Published: **September 9, 2020, 6:12 pm**

Tags: **FAR Chemical, Brevard County**



PALM BAY, Fla. – [Tuesday's blast at FAR Chemical Inc.](#) is the second time an explosion at the site has rocked the neighborhood, and comes after a litany of safety violations in recent years, News 6 partner [Florida Today reported](#).

Palm Bay Fire Rescue Assistant Chief Gaius Hall said no injuries were reported from Tuesday's explosions at the company's 220 Wilhelmina Court location off U.S. 1, when witnesses reported hearing several large booms that generated a large cloud of black smoke visible for miles.

On May 21, 2008, a similar explosion at FAR killed 60-year-old plant worker, Harl "Buck" Brown, a 13-year employee.

Brown, a shift leader, was overseeing the proper disposal of chemical wastewater when 1 ½ inch glass piping leading to a 500-gallon tank ruptured, according to police. No fire was reported at the site, officials said.

The cause of Tuesday's explosion remains under investigation, fire officials said, but Palm Bay spokeswoman Keely Leggett said it originated from an industrial storage area containing 30 to 40 50-gallon barrels of an isopropyl alcohol-based solution.

The **materials safety data sheet** on isopropyl alcohol says it is highly flammable, may form explosive peroxides, can irritate the eyes and respiratory tract, and that the vapors can cause drowsiness and dizziness.

"The fire occurred at a material storage pad where flammable materials were stored and then spread to an adjacent building," Joe Beatty, vice president/general manager of FAR, said via email.

FAR is a bulk chemical manufacturer that specializes in "custom synthesis of chemicals used by the pharmaceutical, photographic, electronic, polymer, cosmetic, fragrance and chemical industry, including small volume chemical mixtures for the local electronics sector," according to U.S. Environmental Protection Agency documents.

The company has been in Palm Bay since 1983.

Florida Department of Environmental Protection workers responded to the explosions Tuesday.

"Response staff are currently on-site and will be assessing whether environmental impacts occurred as a result of today's incident," Ashley Gardner, spokeswoman for the Florida Department of Environmental Protection in Orlando, said via email. "Following first response efforts to today's incident, the Department will be conducting a regulatory review of FAR Chemical to ensure they are operating in accordance with environmental laws and adhering to permit conditions. Any non-compliance will be addressed through appropriate enforcement."

Prior to the 2008 fatality, the company a month earlier settled \$8,727 in civil penalties from the state DEP for hazardous waste labeling and other safety violations, DEP documents show.

In a September 2009 warning letter in response to the incident, DEP said that the May 2008 explosion in a reactor that caused Brown's death was "potentially the result of the failure of facility personnel to follow standard operating procedures."

Ultimately, the company and DEP would settle on FAR paying a \$4,369 fine for violations having to do with the company's waste analysis plan that were spelled out in the warning letter.

Since the 2008 incident, state and federal environmental regulators have cited the company for safety violations.

As a result of a Dec. 18, 2013 inspection, EPA in September 2015 fined FAR \$53,253 in civil penalties for improperly storing waste containers in a laboratory area, including acetone, sodium cyanide and other chemicals.

Other violations included:

- failing to make hazardous waste determinations on chemicals;
- storing hazardous waste without a permit;
- storing ignitable and/or reactive hazardous wastes at a location within one of its buildings that was less than 50 feet from the property line;
- failing to conduct weekly inspections of stored hazardous waste; and other chemical safety violations.

DEP had inspected the facility on May 14, 2013, finding it not in compliance.

The state agency found violations including proper cleaning and storage of containers. The violations were resolved and the case was closed without formal enforcement, according to DEP documents.

In 2000, DEP issued \$77,226 in civil penalties for hazardous waste releases, \$38,613 of which the agency allowed the company to offset by pollution prevention projects.

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City of Palm Bay Planning and Zoning Board
120 Malabar Road SE
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3290783099 R04B

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January 22, 2021

VIA CERTIFIED MAIL

City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907

**City of Palm Bay Planning and Zoning
Board**
120 Malabar Road SE
Palm Bay, FL 32907

**Bayfront Community Redevelopment
Agency**
120 Malabar Road SE
Palm Bay, FL 32907

City Council for the City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907

**RE: FAR Research Inc.'s ("FAR") Conditional Use Application (CU-5-2021) for
2650 Rowena Dr NE, Palm Bay, FL 32905 (Parcel ID 28-37-14-00-14
("FAR Property"))**

Dear City of Palm of Bay:

The undersigned represents MLEF2-1, LLC, an adjacent property owner to FAR Property located at 3370 and 3420 Dixie Highway, Palm Bay. We write to express our client's extreme concern with FAR's Conditional Use Application ("Application") submitted for the "storage of liquefied petroleum products and chemicals and similar products." FAR has a history of safety violations on the local, state and federal level which cannot be ignored. **MLEF urges the City to deny the Application.**

This correspondence shall serve as a supplement to our prior letter dated January 14, 2021. In response to the significant explosion on September 8, 2020 at the FAR facility, the Florida Department of Environmental Protection ("FDEP") issued a new Warning Letter to FAR following an inspection on January 15th, 2021. The Warning Letter is part of the FDEP's investigation of the aftermath of the explosion at the FAR facility. The investigation identified the following violations:

- Firefighting wastewater generated as a result of the fire has been stored on site since September 8, 2020. The wastewater is contaminated with hazardous wastes listed in 40 CFR Part 261 Subpart D.

200 E. Las Olas Blvd. ♦ Suite 1000 ♦ Fort Lauderdale, FL 33301
Phone: (954) 713-7600 ♦ Fax: (954) 713-7700

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January 22, 2021

Page 2

- The 90-day accumulation period for storage of this hazardous waste without a RCRA storage permit ended on December 7, 2020.

- Soils contaminated with hazardous wastes listed in 40 CFR Part 261 Subpart D have been stored in uncontained waste piles and have not been labeled with the words "Hazardous Waste" or marked with the hazards of the waste.

- Storage of the waste has exceeded the 90-day accumulation period for storage of hazardous waste without a RCRA storage permit.

As part of FDEP's investigation, several photographs were taken of the contaminated soils, and an investigation report was prepared by the FDEP's principal inspector, John E. White.

MLEF hereby notifies the City that it requests that the Warning Letter, Inspection Report, and photographs be made a part of the record. As previously indicated, MLEF intends to vigorously oppose FAR's application.

Sincerely,

Keith M. Poliakoff

Keith M. Poliakoff



FLORIDA DEPARTMENT OF Environmental Protection

CENTRAL DISTRICT OFFICE
3319 MAGUIRE BLVD., SUITE 232
ORLANDO, FLORIDA 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

January 14, 2021

Joseph W. Beatty, CEO
FAR Research Inc.
2210 Wilhelmina Court, NE
Palm Bay, FL 32905
jbeatty@far-chemical.com

Re: Warning Letter
FAR Chemical Inc.
FLD980838569
Brevard County

Dear Mr. Beatty:

On September 8, 2020, a fire occurred at your facility causing the release of chemicals to ground surfaces resulting in hazardous waste contamination of soils. Firefighting water was contained, and soils were excavated beginning on September 15, 2020. One uncontained soil pile was placed on the concrete pad located on the west side of Building 15. Five uncontained soil piles were placed on the ground on the west side of Building 12. The storage of hazardous waste on-site generated as a result of the September 8, 2020 fire has resulted in possible violations of Chapters 403, Florida Statutes (F.S.) and Chapter 62-730, Florida Administrative Code (F.A.C.). The following potential violations have been noted:

- Firefighting wastewater generated as a result of the fire has been stored on site since September 8, 2020. The wastewater is contaminated with hazardous wastes listed in 40 CFR Part 261 Subpart D. The 90-day accumulation period for storage of this hazardous waste without a RCRA storage permit ended on December 7, 2020.
- Soils contaminated with hazardous wastes listed in 40 CFR Part 261 Subpart D have been stored in uncontained waste piles and have not been labeled with the words "Hazardous Waste" or marked with the hazards of the waste. Also, storage of the waste has exceeded the 90-day accumulation period for storage of hazardous waste without a RCRA storage permit.

FAR Chemical Inc.; FLD980838569
Warning Letter
Page 2 of 2
January 14, 2021

Violations of Florida Statutes or administrative rules may result in liability for damages and restoration, and the judicial imposition of civil penalties, pursuant to Sections 403.141, 403.161, 403.413, and 403.727, Florida Statutes.

Please contact John White at 407-897-4305 within 3 days of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in receiving any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), Florida Statutes. We look forward to your cooperation in completing the investigation and resolving this matter.

Sincerely,



Aaron Watkins, Director
Central District
Florida Department of Environmental Protection

AW/dkh/jw

cc: Daniel Hall: Daniel.k.Hall@floridadep.gov
John White: John.White@floridadep.gov
Vernon Brown Far Chemical: Vbrown@FAR-chemical.com
Robyn Neely, Akerman LLP: Robyn.Neely@akerman.com



**Florida Department of
Environmental Protection
Hazardous Waste Inspection Report**

FACILITY INFORMATION:

Facility Name: Far Chemical Inc
On-Site Inspection Start Date: 01/15/2021 **On-Site Inspection End Date:** 01/15/2021
ME ID#: 54696 **EPA ID#:** FLD980838569
Facility Street Address: 2210 Wilhelmina Ct NE, Palm Bay, Florida 32905-2548
Contact Mailing Address: 2210 Wilhelmina Ct NE, Palm Bay, Florida 32905-2548
County Name: Brevard **Contact Phone:** (321) 723-6160

NOTIFIED AS:

LQG (>1000 kg/month)

WASTE ACTIVITIES:

Generator: LQG

INSPECTION TYPE:

Case Development Inspection Inspection for LQG (>1000 kg/month) Facility

INSPECTION PARTICIPANTS:

Principal Inspector: John E. White, Inspector
Other Participants: Vernon Brown, Safety, Security & Environmental Manager

LATITUDE / LONGITUDE: Lat 28° 3' 21.408" / Long 80° 35' 35.8529"

NAIC: 325199 - All Other Basic Organic Chemical Manufacturing

TYPE OF OWNERSHIP: Private

Introduction:

On January 11, 2021, John White, Florida Department of Environmental Protection (FDEP), conducted a site visit at Far Chemical, 2210 Wilhelmina Court NE, Palm Bay, Florida, to observe sampling of excavated soil piles generated following a fire at the facility on September 8, 2020. Far Chemical was represented by Vernon Brown, Safety, Security & Regulatory Manager.

FAR Chemical is located on a 2 acre parcel at 2210 Wilhelmina Court, NE, Palm Bay, Brevard County, Florida. Its administrative offices, maintenance, and quality control laboratories are located across the street at 2685 Rowena Drive, Palm Bay, Florida. Far Chemical has been at this location since 1983. The facility has approximately 30 employees and operating hours are 24 hours a day, five days a week, in three shifts.

FAR Chemical originally notified of its hazardous waste activity on January 25, 1984. The Department issued FAR Chemical EPA identification number FLD980838569 on February 1, 1984. FAR Chemical changed its status to a large quantity generator on June 14, 1990 and has maintained large quantity generator status since that time.

Far Chemical was last inspected on September 9 and 29, 2020 in response to the fire and sudden release of hazardous waste on site. The facility was not in compliance at that time. Potential violations identified included the fire and sudden release of hazardous waste and hazardous waste constituents to the environment, failure to mark one drum of hazardous waste with an accumulation start date, failure to mark all hazardous waste containers with the hazard of the contents, failure to properly contain and label universal waste lamps and batteries, and failure to develop a quick reference guide for the contingency plan. The release of hazardous waste will be addressed through a site assessment and all other potential violations identified during the September 2020 inspections have been corrected.

Process Description:

Inspection Date: 01/15/2021

On September 8, 2020, Far Chemical had a fire in a refrigerated unit located on the south side of the facility used for storage of finished products. Following the fire, interim remedial measures included containment of wastewater generated by fire fighting operations and excavation of contaminated soils. Excavation of contaminated soil began on September 15, 2020.

Five of the soil piles are staged on the bare ground in an open area on the west side of Building 12. This is the building without a roof located on the north side of Rowena Drive NE. The sixth soil pile is located on the west side of Building 15, the newest building in use on the south side of Rowena Drive NE. Each area with soil piles is secured by fencing with locked gates. All soil piles were found to be stored on plastic sheeting and covered with plastic sheeting. The excavation date for each pile was spray painted on the plastic sheeting [Figures 2-6]. The soil piles are not stored in either a container or a tank as required by 40 CFR 262.17(a). The hazardous waste should have been placed in a container as required by 40 CFR 262.17(a)(1), labeled "Hazardous Waste" as required by 40 CFR 262.17(a)(5)(i)(A), and marked with an indication of the hazard of the contents as required by 40 CFR 262.17(a)(5)(ii)(B). Also, the soil has been stored on site for greater than 90 days in violation of 40 CFR 262.17(b). The 90 day limit for soil pile 1, excavated on 9/15/2020, was exceeded on December 14, 2020. The 90 day limit was exceeded for the last soil pile, excavated 9/30/2020, on December 29, 2020.

The point of generation for spills of P or U-listed chemicals is the date the waste was excavated and the cleanup residue must carry the same listed waste codes as the chemicals that were spilled. In this case three chemicals in the list of commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products are listed in 40 CFR 261.33(f). These include o-Toluidine, EPA waste code U328, Pyridine, EPA waste codes U196 and D038, and Toluene, EPA waste code U220. Each of these wastes was listed for toxicity.

Soil piles west of Building 12 are numbered 2-6 moving west from the building. The soil pile west of Building 15 is identified as soil pile number 1. Excavation dates associated with each soil pile are as follows: pile 1 is dated 9/15; pile 2 is dated 9/24-25; pile 3 is dated 9/22-23; pile 4 is dated 9/18; pile 5 is dated 9/18; and, pile 6 is dated 9/30.

Far Chemical hired GHD to conduct sampling of the soil piles. Representatives of Cliff Berry Environmental were on site to recover the soil piles with plastic sheeting following the sampling event.

Vernon Brown, Far Chemical Safety, Security & Regulatory Manager, used a measuring wheel to measure the length of the soil piles and the locations where sampling points were marked on each pile by a GHD representative with input from myself, John White, FDEP. The soil piles vary in length and height and are comprised of soil humps from each container dumped along the length of each pile. The information collected regarding the length of each soil pile and the location along each pile where samples were taken will be included in a report to the Department along with the analytical results.

An auger was used to bore the sampling hole and take the initial sample from the top of each soil pile. A separate auger was then used to obtain the sample from near the bottom of each soil pile. The augers were decontaminated between each sampling event. The sampling began at approximately 1:30 pm and was completed at 5:10 pm.

Wastewater generated by fire fighting operations on September 8, 2020 are contained in 17 totes stored on site. According to information provided by the facility, the wastewater is labeled "Hazardous Waste" and marked with an accumulation start date of October 23, 2020. The hazardous waste is scheduled to be shipped off site on January 21, 2021, exceeding the 90 day storage limit. The wastewater exceeded the 90 day storage limit for hazardous waste on December 8, 2020 [40 CFR 262.17(b)].

New Potential Violations and Areas of Concern:

Violations

Type:	Violation
Rule:	262.17(a)(1)
Explanation:	Hazardous waste must be stored in containers that comply with the container management standards identified in 40 CFR 262.17(a)(1). Specifically, soil contaminated with U-Listed hazardous wastes has been stored in waste piles and is currently

Far Chemical Inc Inspection Report

Page 3 of 6

Inspection Date: 01/15/2021

Corrective Action: uncontained.
Far Chemical must place all hazardous waste in tanks or containers and meet the appropriate tank or container standards identified in 40 CFR 262.17(a).

Type: Violation

Rule: 262.17(a)(5)(i)(A)

Explanation: A large quantity generator must mark or label hazardous waste containers with the words "Hazardous Waste." Specifically, Far Chemical has not labeled six uncontained piles of hazardous waste with the words "Hazardous Waste."

Corrective Action: Far Chemical must properly contain hazardous waste soils and mark the containers of hazardous waste with the words "Hazardous Waste."

Type: Violation

Rule: 262.17(a)(5)(ii)(B)

Explanation: A large quantity generator must mark or label hazardous waste containers with an indication of the hazards of the waste. Specifically, Far Chemical has not labeled six uncontained piles of hazardous waste with an indication of the hazards of the waste, in this case toxicity.

Corrective Action: Far Chemical must properly contain hazardous waste soils and mark the containers with the hazards of the contents.

Type: Violation

Rule: 262.17(b)

Explanation: A large quantity generator who accumulates hazardous waste for more than 90 days is a RCRA storage facility, unless granted an extension. Specifically, Far Chemical has stored hazardous waste wastewater and contaminated soils for greater than 90 days.

Corrective Action: Far Chemical must immediately make arrangements for off-site shipment of all hazardous waste unless an extension is requested and granted.

PHOTO ATTACHMENTS:

1. Soil Pile 1 adjacent to Building 15



2. Soil Pile 2



Far Chemical Inc Inspection Report

Inspection Date: 01/15/2021

3. Soil Pile 3



4. Soil Pile 4



5. Soil Pile 5



6. Soil Pile 6



7. View of soil piles 2-6



Conclusion:

Far Chemical is a large quantity generator of hazardous waste and potential violations have been identified as a result of continuing interim remedial actions associated with the response to a fire and sudden release of hazardous waste and hazardous waste constituents on September 8, 2020.

Inspection Date: 01/15/2021

1.0: Pre-Inspection Checklist

Requirements:

The requirements listed in this section provide an opportunity for the Department's inspector to indicate the conditions found at the time of the inspection. A "Not Ok" response to a requirement indicates either a potential violation of the corresponding rule or an area of concern that requires more attention. Both potential violations and areas of concern are discussed further at the end of this inspection report.

Note: Checklist items with shaded boxes are for informational purposes only.

Item No.	Pre-Inspection Review	Yes	No	N/A
1.1	Has the facility notified with correct status? 262.18(a)	✓		
1.2	Has the facility notified of change of status? 62-730.150(2)(b)	✓		
1.3	Did the facility conduct a waste determination on all wastes generated? 262.11	✓		

Far Chemical Inc Inspection Report

Page 6 of 6

Inspection Date: 01/15/2021

Signed:

A hazardous waste compliance inspection was conducted on this date, to determine your facility's compliance with applicable portions of Chapters 403 & 376, F.S., and Chapters 62-710, 62-730, 62-737 & 62 -740 Florida Administrative Code (F.A.C.). Portions of the United States Environmental Protection Agency's Title 40 Code of Federal Regulations (C.F.R.) 260 - 279 have been adopted by reference in the state rules under Chapters 62-730 and 62-710, F.A.C

John E. White**Principal Investigator Name**Inspector**Principal Investigator Title**JW**Principal Investigator Signature**DEP01/19/2021**Organization****Date**Vernon Brown**Representative Name**Safety, Security & Environmental Manager**Representative Title**Far Chemical**Organization**

NOTE: By signing this document, the Site Representative only acknowledges receipt of this Inspection Report and is not admitting to the accuracy of any of the items identified by the Department as "Potential Violations" or areas of concern.

Report Approvers:**Approver:** Daniel K. Hall**Inspection Approval Date:**01/19/2021



56143146;1



56143146;1

56143146:1



ORIGIN ID: HWOA (954) 713-7600
KEITH POLIAKOFF
SAUL EWING ARNSTEIN & LEHR LLP
200 E LAS OLAS BLVD
SUITE 1000
FORT LAUDERDALE, FL 33301
UNITED STATES US

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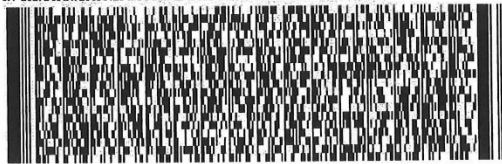
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PLANNING AND ZONING BOARD
120 MALABAR RD SE

PALM BAY FL 32907

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PO:

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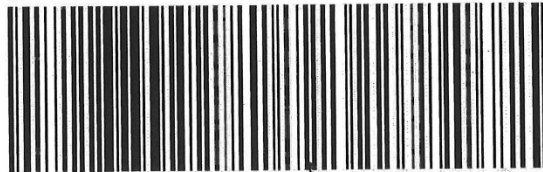
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1/28/2021

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Keith M. Poliakoff
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January 28, 2021

VIA CERTIFIED MAIL AND FEDERAL EXPRESS

City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907

**City of Palm Bay Planning and Zoning
Board**
120 Malabar Road SE
Palm Bay, FL 32907

**Bayfront Community Redevelopment
Agency**
120 Malabar Road SE
Palm Bay, FL 32907

City Council for the City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907

**RE: FAR Research Inc.'s ("FAR") Conditional Use Application (CU-5-2021) for
2650 Rowena Dr NE, Palm Bay, FL 32905 (Parcel ID 28-37-14-00-14
("FAR Property"))**

Dear City of Palm of Bay:

The undersigned represents MLEF2-1, LLC, an adjacent property owner to FAR Property located at 3370 and 3420 Dixie Highway, Palm Bay. We write to express our client's objection to FAR's Conditional Use Application ("Application") submitted for the "storage of liquefied petroleum products and chemicals and similar products." FAR has a history of safety violations at the local, state and federal level which cannot be ignored. In addition, FAR continues to violate governmental regulations, and it has been cited for its repeated violations and for its failure to remediate contamination. FAR's blatant disregard of safety standards resulted in a serious explosion that could be seen and felt by the surrounding community. It is unfathomable to think what that explosion would have done had this request been previously granted. **MLEF urges the City to deny the Application.**

In addition to MLEF's opposition to the Application, MLEF is aware that FAR has failed to comply with substantive requirements of the Application. Specifically, the Application requires FAR to comply with Section 169.005- Citizen Participation Plan of the City's Land Development Code. As part of the Citizen Participation Plan, FAR is required to have at least (1) citizens informational meeting, in order to provide citizens with an opportunity to discuss the applicant's proposal with the applicant and express any concerns, issues, or problems they may have with the

200 E. Las Olas Blvd. ♦ Suite 1000 ♦ Fort Lauderdale, FL 33301
Phone: (954) 713-7600 ♦ Fax: (954) 713-7700

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proposal in advance of the public hearing or public review and comment period. Section 169.005 provides that the informational meeting be held on a Monday, Tuesday or Wednesday evening after 6:00 p.m. at least seven (7) days before the first scheduled city public hearing or administrative review.

On January 15, 2021, FAR sent out a Public Notice informing residents that a Citizen Participation Meeting was scheduled for January 26, 2021, at 6:00 pm at the Lipscomb Community Center located at 3316 Monroe Street, in the City of Melbourne. The letter further stated that if you have questions, would like further information, or would like to review the petition, then you should attend the Citizen Participation Hearing.

On January 26, 2021, at 6:00 pm, a representative of MLEF went to the scheduled meeting at the Lipscomb Center and was informed by the Center's Administrator, Deborah Edwards, that while the meeting was scheduled and on the books, that no representatives of FAR were present, and she believed the meeting was canceled because it was supposed to be held within the City of Palm Bay. In an attempt to find additional information, Ms. Edwards contacted the Tony Rosa Community Center, in order to determine if the meeting was moved there. However, staff at Tony Rosa indicated that no meetings were scheduled.

On January 27, 2021, at 1:20 pm, City Attorney Smith emailed counsel for MLEF that "FAR sent mailers prior to having them approved by the City. As a result the meeting was cancelled. The citizen participation meeting and the hearing before Planning and Zoning will both be reset." On January 27, 2021, at 5:22 pm, City Attorney Smith emailed counsel for MLEF that "Apparently there was some confusion regarding how the letter issue was going to be handled." Indicating that the citizen participation meeting in fact was held on January 26, 2020 at a different location (Peace Lutheran Church) within the City of Palm Bay. However, MLEF never received any notification of the revised location.

On January 27, 2021, at 5:06 pm, FAR's representative Peter Pansa, conceded that the revised notices were not mailed out to neighbors within the 500' radius until January 19, 2021 for a meeting to be held on January 26, 2021. Not surprisingly, only 7 (seven) residents attended, and all were outside of the 500' mailing radius.

At this point, not only did FAR not provide MLEF with timely notice of the venue change, FAR has completely failed to adhere to the mandates of the Conditional Use Application, including the requirements of Section 169.005, Citizen Participation Plan. Once again, the spirit and goal of 169.005 is to allow the citizens of Palm Bay the opportunity to discuss FAR's proposal with FAR and express any concerns, issues, or problems they may have with the proposal in advance of the public hearing. The last minute change of venue, and scurried mailing, clearly did not provide the affected residents the opportunity to meaningfully discuss FAR's application.

January 28, 2021
Page 3

Accordingly, the FAR application should be denied, or rescheduled to allow the Citizens of Palm Bay the opportunity to voice their concerns.

Sincerely,

Keith M. Poliakoff

Keith M. Poliakoff



MEMORANDUM

DATE: February 3, 2021

SUBJECT: T-6-2021 – City of Palm Bay (Growth Management Department – Requested by Councilman Jeff Bailey) - A textual amendment to the Code of Ordinances, Title V, Legislative, Chapter 51: Public Hearings, Sections 51.04 and 51.05, to modify provisions for withdrawal and denial of public hearing requests; and to amend Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.203 and 185.204, to modify provisions for protest petitions by property owners.

ATTACHMENTS:

Description

▣ **Case T-6-2021**



STAFF REPORT

LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: 321-733-3042

landdevelopmentweb@palmbayflorida.org

Prepared by

Laurence Bradley, AICP, Growth Management Director

CASE NUMBER

T-6-2021

PLANNING & ZONING BOARD HEARING DATE

February 3, 2021

PROPERTY OWNER & APPLICANT

City of Palm Bay, Growth Management
Department

PROPERTY LOCATION/ADDRESS

Not applicable

SUMMARY OF REQUEST

Change to Section 51.04 "Withdrawals" to replace previously deleted language to require a 6-month waiting period for a new application when an application has been withdrawn. Change to Section 51.05 "Denial of Request by Council or Board" to include language that a 12-month waiting period after the denial of a request shall not apply if the original request was initiated by the City, Addition of Section 185.203 "Protest by Property Owners" to insert language previously deleted to allow "affected" property owners to petition and request a 4/5 vote by the City Council to approve a Future Land Use change or Zoning District Change, Section 185.203 "Modification of District Boundary Changes" to add the word "zoning" and to delete Section 185.204 "Reconsideration of District Boundary Changes." This request was initiated by Councilman Bailey, with input from Growth Management staff.

**COMPREHENSIVE PLAN
COMPATIBILITY**

Not specifically addressed.

BACKGROUND:

Textual amendments to the Code of Ordinances, Title V, Legislative, Chapter 51 Public Hearings Section 51.04 "Withdrawals" to replace previously deleted language to require a 6-month waiting period for a new application when an application has been withdrawn. Change to Section 51.05 "Denial of Request by Council or Board" to include language that a 12-month waiting period after the denial of a request shall not apply if the original request was initiated by the City.

Also, textual amendments to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, addition of Section 185.203 "Protest by Property Owners" to insert language previously deleted to allow "affected" property owners to petition and request a 4/5 vote by the City Council to approve a Future Land Use change or Zoning District Change, to modify Section 185.203 "Modification of District Boundary Changes" to add the word "zoning" and to delete Section 185.204 "Reconsideration of District Boundary Changes."

The Growth Management Department, acting upon a request from a member of the City Council, (Councilman Bailey), has submitted this proposed text amendment.

The rationale provided for this amendment is replace certain sections of the Code of Ordinances that address Public Hearings and Future Land Use and Zoning District changes in 2016 and 2017, which modified the Code of Ordinances. Additional changes have been added to clarify language and remove redundant requirements.

Proposed language for this amendment is attached in legislative style with additions between >>arrow<< symbols and deletions in ~~strikethrough~~ format.

ANALYSIS:

In 2016, Section 51.04 "Withdrawals" was modified to delete language which required a 6-month waiting period for a new application when an application has been withdrawn. The deletion of this language allows an applicant to take an item all the way to a public hearing before City Council and then withdraw the item after the hearing has commenced, but before Council action is taken. The proposed change would reconstitute a 6-month waiting period for withdrawn applications. New language is being added to trigger the waiting period only after the commencement of a public hearing before City Council. The new language allows applicants more flexibility than the old regulation, as the waiting period is only triggered once Council opens the hearing.

The proposed change to Section 51.05 "Denial of Request by Council or Board" includes new wording which would not require an applicant to wait 12 months for the denial of an application if the original request was initiated by the City and not the property owner.

In 2016, Section 51.04 “Withdrawals” was modified to delete language which required a 6-month waiting period for a new application when an application has been withdrawn. The deletion of this language allows an applicant to take an item all the way to a public hearing before City Council and then withdraw the item after the hearing has commenced, but before Council action is taken. The proposed change would reconstitute a 6-month waiting period for withdrawn applications. New language is being added to trigger the waiting period only after the commencement of a public hearing before City Council. The new language allows applicants more flexibility than the old regulation, as the waiting period is only triggered once Council opens the hearing.

The proposed change to Section 51.05 “Denial of Request by Council or Board” includes new wording which would not require an applicant to wait 12 months for the denial of an application if the original request was initiated by the City and not the property owner.

Section 185.203 “Protest by Property Owners” proposes to re-insert language previously deleted which allows property owners to petition and request a 4/5 vote by the City Council to approve a Future Land Use change or Zoning District change. This section was modified in 2016 by raising the threshold for a petition from 20% to 60%. One month after the change to 60% was approved, the same applicant proposed, and the Council approved, to strike the entire section from the Land Development Code.

Protest petitions can be found in several other zoning ordinances including Melbourne and West Melbourne. Both jurisdictions only require 20% of the owners within 500’ of the subject property sign the petition.

This latest proposal would require 67% (greater than 2/3) of property owners to sign the petition triggering a 4/5 vote by the City Council.

The new wording now clearly specifies the petition can address a Future Land Use change or a Zoning District boundary change.

Additional language is now proposed that the petition must be filed no later than 10 days prior to the first regular City Council meeting where the item will be heard; that ownership shall be determined based upon the ad valorem tax rolls; that a majority of owners for each property must sign the petition; and that the petition will only be valid for 12 months from the original date that it is presented to City Council.

Section 185.203 “Modification of District Boundary Changes” is being changed simply to add the word “zoning” which should help clarify this section.

The final change is to delete Section 185.204 “Reconsideration of District Boundary Changes.” This section is not needed as it is redundant. Section 51.05 (B) currently requires a 12-month waiting period for an application that has been denied.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed changes as they will help to further protect the public interest by allowing a majority of property owners to raise the standards for a Council approval, and to also allow more time for applications to be heard, by creating a waiting period between repeat or redundant applications. These requirements would put Palm Bay's regulations in line with those of other, nearby communities.

TITLE V: LEGISLATIVE

CHAPTER 51: PUBLIC HEARINGS

§ 51.04 WITHDRAWALS.

In the event an applicant withdraws a matter >>after the commencement of a public hearing before the City Council<< ~~that has been advertised for a public hearing~~, any re-application for such matter or a matter with similar issues shall >>not be filed again with the City Council or a board for a period of six (6) months from the date of the public hearing from which it was withdrawn. All withdrawn matters shall<< be required to meet all public notification requirements, including but not limited to: re-advertisement, courtesy notices, and posting of the property.

§ 51.05 DENIAL OF REQUEST BY COUNCIL OR BOARD.

(A) Should either the City Council or any board vote to deny the request made by an applicant and presented at a public hearing, the same or similar issue presented at such public hearing cannot be refiled with the City Council or any board for the minimum period of twelve (12) months after the date of such denial. >>Such restriction shall not apply to the owner of real property if the original request was initiated by the City Council, Planning and Zoning Board, or any department or agency of the City.<<

(B) However, the City Council or any board may reconsider the same or similar issue within the twelve (12) month period if a mistake, inadvertence, surprise or excusable neglect has occurred as a result of the actions of the applicant or the city, provided that the event directly or indirectly formed a basis for the City Council's or any board's decision to deny the request at the public hearing.

TITLE XVII: LAND DEVELOPMENT CODE

CHAPTER 185: ZONING CODE

>>§ 185.203 PROTEST BY PROPERTY OWNERS

In the case of a protest petition against a change in a Future Land Use designation or zoning district classification of a particular property signed by the owners of sixty-seven percent (67%) or more of either the lots included in the proposed change or of those lots immediately adjacent thereto, defined as five hundred (500) feet as the crow flies, said petition shall be required to be filed no later than ten (10) days prior to the first regular City Council meeting at which such ordinance codifying the Future Land Use designation or zoning district change is first heard, such amendment shall not become effective except by a favorable vote of four (4) members of the City Council.

If a parcel of land is owned by two or more persons or legal entities, a majority of said owners must endorse the protest petition. In determining whether or not a protestor executing a petition is a fee simple owner of real property able to protest as provided herein, the City shall use the most current ad valorem tax rolls maintained by Brevard County or more current evidence of ownership may be provided in the form of a fully executed and recorded deed submitted to the City by the protestor.

Any such signed and submitted protest petition shall remain in full force and effect for such requested Future Land Use designation or zoning district change whether or not the petition for such requested change is withdrawn or postponed to future date whether certain or unspecified for a period not to exceed twelve (12) months from the original date from when such petition is presented to the City Council.<<

§ 185.203>>4<< MODIFICATION OF >>ZONING<< DISTRICT BOUNDARY CHANGES.

If a request for a >>zoning<< district boundary change is for a >>zoning<< district more liberal than the existing >>zoning<< district, and the Planning and Zoning Board or the City Council determines that the request should be denied, the Planning and Zoning Board may recommend, and/or the City Council may change the >>zoning<< district classification for the property to any >>zoning<< district classification that is less restrictive than the requested zoning classification consistent with the Future Land Use Map.

~~§ 185.204 RECONSIDERATION OF DISTRICT BOUNDARY CHANGES.~~

~~When a proposed change in district boundaries has been acted upon by the City Council and disapproved or failed to pass, such proposed change, in the same or substantially similar form, shall not be reconsidered by the City Council, for a period of six (6) months. Such restriction shall not apply to the owner if the original request was initiated by the City Council, Planning and Zoning Board, or any department or agency of the city.~~



LAND DEVELOPMENT DIVISION

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CODE TEXTUAL AMENDMENT APPLICATION

This application must be deemed complete and legible, and must be returned by the first day of the month during division office hours, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, to be processed for consideration the following month at the earliest by the Planning and Zoning Board. The application will then be referred by the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

ORDINANCE SECTION(S) PROPOSED TO BE CHANGED:

Section 51.04 Withdrawals
Section 51.05 Denial of Request by Council or Board
Section 185.203 (New) Protest by Property Owners
Section 185.203 (Revised) Modification of District Boundary
Section 185.204 Reconsideration of District Boundary Changes

PROPOSED LANGUAGE (attach addendum if necessary):

See Attached

JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary)

Request by a member of City Council (Councilman Bailey) to reinstate Protest Petitions by Property Owners (previously removed) to require a Super Majority if a significant number of property owners object to a Future Land Use or zoning change.

CITY OF PALM BAY, FLORIDA
CODE TEXTUAL AMENDMENT APPLICATION
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THE APPLICATION FEE MUST BE SUBMITTED WITH APPLICATION TO PROCESS THIS REQUEST:

☐

***\$1,500.00 Application Fee. Make Check payable to "City of Palm Bay."**

I, the undersigned understand that this application must be complete and accurate before consideration by the Planning and Zoning Board/Local Planning Agency and certify that all the answers the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Under penalties of perjury, I declare that I have read the foregoing code textual amendment application and that the facts stated in it are true.

Signature of Applicant Laurence Bradley Digitally signed by Laurence Bradley
Date: 2021.01.13 09:33:27 -05'00' Date 1/13/2021

Printed Name of Applicant Laurence Bradley, AICP, Growth Management Director

Full Address 120 Malabar Road SE, Palm Bay, FL 32905

Telephone (321) 733-3041 Email laurence.bradley@palmbayflorida.org

PERSON TO BE NOTIFIED (If different from above):

Printed Name _____

Full Address _____

Telephone _____ Email _____

***NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY**