



AGENDA

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Regular Meeting 2021-04

March 3, 2021 - 7:00 PM

City Hall Council Chambers - 120 Malabar Road SE

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ADOPTION OF MINUTES:

1. Adoption of Minutes - Regular Meeting 2021-03; February 3, 2021

ANNOUNCEMENTS:

OLD/UNFINISHED BUSINESS:

1. **CU-5-2021 – FAR Research, Inc. (AVID Group, LLC and Akerman, LLP, Reps.) (WITHDRAWN) - A conditional use to allow proposed storage of liquified petroleum products; chemicals and similar products in an HI, Heavy Industrial District.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)
2. CP-1-2021 - Jupiter Bay - Sachs Capital Group, LP (Bruce Moia, P.E. and David Bassford, P.E., Reps.) - A large-scale Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Multiple-Family Residential Use and Commercial Use. Tax Parcels 750 and 751, along with Tract K of Port Malabar Unit 10, Section 6, Township 29, Range 37, Brevard County, Florida, containing 23.862 acres, more or less. (Located at the northwest corner of Jupiter Boulevard SE and Brevard Avenue SE)

NEW BUSINESS:

1. **CPZ-1-2021 - Jupiter Bay - Sachs Capital Group, LP (Bruce Moia, P.E. and David Bassford, P.E., Reps.) - A zoning amendment from an RR, Rural Residential District to an RM-10, Single-, Two-, Multiple-Family Residential District and an NC, Neighborhood Commercial District. Tax Parcels 750 and 751, along with Tract K of Port Malabar Unit 10, Section 6, Township 29, Range 37, Brevard County, Florida, containing 23.862 acres, more or less. (Located at the northwest corner of Jupiter Boulevard SE and Brevard Avenue SE)
2. **V-7-2021 - Richard J. DeFay (Cool Pools of Brevard, Rep.) - A variance to allow a proposed swimming pool and screen room enclosure to encroach 6 feet into the 10-foot rear accessory

structure setback as established by Section 185.118(D) of the Palm Bay Code of Ordinances. Lots 33 and 34, Block 1842, Port Malabar Unit 39, Section 34, Township 28, Range 36, Brevard County, Florida, containing .48 acres, more or less. (Located at the northwest corner of De Leon Court NW and Holcomb Street NW, specifically at 526 De Leon Court NW)

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: March 3, 2021

SUBJECT: Adoption of Minutes - Regular Meeting 2021-03; February 3, 2021

ATTACHMENTS:

Description

- ▣ **P&Z/LPA Minutes - Regular Meeting 2021-03; February 3, 2021**

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2021-03

Held on Wednesday, February 3, 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.

Ms. Khalilah Maragh led the Pledge of Allegiance to the Flag.

ROLL CALL:

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

Ms. Jordan'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. Special Planning and Zoning Board/Local Planning Agency Meeting 2021-02; January 19, 2021. Motion by Ms. Maragh, seconded by Mr. Hill to approve the minutes as presented. 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.

For the benefit of the audience, the board addressed Item 2 under New Business at this time.

NEW BUSINESS:

2. ****CU-5-2021 - FAR RESEARCH, INC. (AVID GROUP, LLC AND AKERMAN, LLP, REPS.)**

Mr. Weinberg announced that the applicant for Case CU-5-2021, FAR Research, Inc. (AVID Group, LLC and Akerman, LLP, Reps.), had requested a continuance to the March 3, 2021 Planning and Zoning Board meeting. Board action was required to continue the case.

Motion by Mr. Warner, seconded by Mr. Hill to continue Case CU-5-2021 to the March 3, 2021 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

Ms. Cockcroft asked the board to allow the public to speak on the case as advertised.

The floor was opened for public comments.

Ms. Margaret De Hart (secretary of the Powell Subdivision Neighborhood Watch Association) spoke against the request. She stated that chemicals were not in the best interest of the neighborhood.

There were no further comments from the audience, and there was correspondence in opposition to the request in the file from Saul Ewing Arnstein & Lehr, LLP on behalf of MLEF2-1, LLC.

City Council will hear Case CU-5-2021 on April 1, 2021.

The board resumed consideration of items in the order shown on the agenda.

OLD BUSINESS:

1. ****FS-2-2020 – SABAL PALM SQUARE - 2501 LLC (BRUCE MOIA, P.E., REP.)**

Mr. Balter presented the staff report for Case FS-2-2020. The applicant had requested Final Plat approval of a proposed 3-lot commercial development called Sabal Palm Square. Staff recommended Case FS-2-2020 for approval with conditions.

Mr. Bruce Moia, P.E. of MBV Engineering, Inc. (representative for the applicant) stated that the subject shopping center had existed for many years with several outparcels. Changes in parking requirements over time had resulted in extra parking spaces that could now be used to create two more commercial outparcels.

Mr. Boerema inquired whether the dispute between the applicant and Chili's Restaurant had been resolved regarding the Cross Easement and Restriction Agreement. Mr. Moia explained that the legal issue would have to be worked out when a site plan for a specific project was submitted.

Mr. Weinberg wanted to know how many parking spaces would be removed. Mr. Moia indicated that there was an abundance of parking spaces, and the property would be reconfigured to meet parking requirements. Mr. Balter stated that the shopping center was over parked by 70 parking spaces.

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

Motion by Mr. Hill, seconded by Mr. Boerema to submit Case FS-2-2020 to City Council for Final Plat approval of a proposed 3-lot commercial development called Sabal Palm Square, subject to the staff recommendations contained in the staff report. The motion carried with members voting unanimously.

NEW BUSINESS:

1. ****FD-4-2021 - THE PRESERVES AT STONEBRIAR PHASE II -
FORESTAR USA REAL ESTATE GROUP, INC.
(JAKE WISE, P.E., REP.)**

Mr. Balter presented the staff report for Case FD-4-2021. The applicant had requested Final Development Plan approval of a proposed PUD, Planned Unit Development to allow a 171-lot single-family development called The Preserves at Stonebriar Phase II. Staff recommended Case FD-4-2021 for approval, subject to the staff comments contained in the staff report.

Ms. Maragh asked for clarification on whether exploring connectivity options to Eldron Boulevard SE was a staff recommendation or a requirement. Mr. Balter explained that a connection to Eldron Boulevard was a viable staff recommendation that could be considered during the administrative review construction phase. However, a nonpublic right-of-way could not be forced into a connection.

Mr. Jake Wise, P.E. of Construction Engineering Group, Inc. (representative for the applicant) stated that the subject request was the last residential phase of the Bayside Lakes development. The townhomes that were originally part of the gated subdivision had been eliminated. The development would have two access points, City utilities had been extended by the project, and privately maintained roads would be built to City standards. He stated that a suggestion during the Citizen Participation Plan (CPP) meeting to place a fountain in the storm pond would be looked into; a light would be installed at the mailbox location; and construction debris would be removed from a couple of lots. The development was designed around golf course holes and wetland preservation areas. He explained that the recommendation for an Eldron Boulevard connection was under discussion; however, the Summerfield Homeowners Association owned the existing right-of-way for the connection, so there was no public right-of-way to tie into. The Summerfield Homeowners Association had been opposed to a connection between the two developments in the past.

The floor was opened for public comments.

Ms. Betty Arnold (resident at Remington Green Drive SE) spoke against the request. She commented on how Fairway Crossings at Bayside Lakes was no longer a gated community because of the daily construction traffic through the gates and onto their roads. There was an easement agreement for partial access; however, the homes in the proposed development would bring more traffic through Fairway Crossings to reach Cogan Drive SE. She suggested the removal of Fairway Crossings from the easement agreement and gating Remington Green Drive to close the area. She purchased her property in Fairway Crossings because she wanted to live in a gated community.

Mr. Bill Coomber (resident at Trail Ridge Court SE) spoke against the request. He stated that Fairway Crossings was no longer treated as a gated community, and how residents had been told that Fairway Crossings would not be opened to the subject development. He suggested an additional access as a safety measure against pinning the 171 homes into the back area. He commented on how directional signage to keep outside traffic from entering Remington Green Drive had been ignored and should not be necessary. He believed that more thought should have been given to the layout and access points of the development than to filling the space.

In response to public comments, Mr. Wise stated that Fairway Crossings currently had two gated entrances, and that the subject development had always been a part of the Bayside Lakes Master Plan. He noted that Cogan Drive served as the sole access to other developments in the vicinity, and that larger subdivisions existed in the City on a single access. He described how Fairway Crossings had winding roads throughout for traffic calming.

Mr. Boothroyd inquired about the construction entrances. Mr. Wise indicated how the majority of the construction traffic used a second Cogan Drive entrance located closer to the subject site.

Mr. Hill asked if the infrastructure for the subject phase was in place. Mr. Wise stated that all infrastructure was in place, which included utilities, roads, sidewalks, drainage, stormwater bonds, and fenced wetlands.

Mr. Boerema questioned how Fairway Crossings, a gated community, had become open. He inquired about the private entrance off of Eldron Boulevard. Mr. Wise stated that Fairway Crossings was still gated. A code was needed to enter the community, but the gates might be left open due to repairs, vehicles might tailgate their way in, and codes may have been shared. He confirmed that the entrance off of Eldron Boulevard was privately owned by the Summerfield Homeowners Association and could not be accessed without their agreement. Ms. Maragh remarked that an Eldron Boulevard connection should be explored.

The floor was closed for public comments and there was one item of correspondence against the request in the file.

Motion by Ms. Maragh, seconded by Mr. Hill to submit Case FD-4-2021 to City Council for Final Development Plan approval of a proposed PUD, Planned Unit Development to allow a 171-lot single-family development called The Preserves at Stonebriar Phase II, subject to the staff comments contained in the staff report. The motion carried with members voting as follows:

Mr. Weinberg	Aye
Mr. Boerema	Nay
Mr. Boothroyd	Aye
Mr. Hill	Aye
Ms. Maragh	Aye
Mr. Warner	Aye

2. ****CU-5-2021 - FAR RESEARCH, INC. (AVID GROUP, LLC AND AKERMAN, LLP, REPS.)**

Case CU-5-2021 was discussed following Announcements.

3. **T-6-2021 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT – REQUESTED BY COUNCILMAN JEFF BAILEY)**

Mr. Bradley presented the staff report for Case T-6-2021. The City of Palm Bay had requested 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. Staff recommended Case T-6-2021 for approval.

Ms. Maragh wanted to know how the amendment would affect residents petitioning against requests. Mr. Bradley explained that protest petitions would have to be signed by 67 percent or two-thirds of property owners within a 500-foot radius of a subject site submitted for a land use and/or zoning change.

The floor was opened for public comments.

Mr. Ken Smith (resident at Plantation Circle SE) spoke in favor of the request. He commented that many Palm Bay residents researched their neighborhoods prior to purchasing their properties. However, land use and zoning requests would later occur, so re-establishing petitions would give residential neighborhoods a voice and put Palm Bay back in line with surrounding municipalities.

The floor was closed for public comments, and there were seven items of correspondence in the file in favor of the request.

Mr. Warner asked how the board's authority would be affected by the amendment. Mr. Bradley explained that protest petitions would only affect City Council. The board would be affected by applicant withdrawn cases and cases denied by City Council. Mr. Weinberg noted that the board would also be allowed to recommend zoning classifications other than requested by the applicant. Mr. Bradley stated that the board currently had the ability to modify zoning requests, but the amendment clarified the language.

Motion by Ms. Maragh, seconded by Mr. Hill to submit Case T-6-2021 to City Council for approval of a textual amendment to the Code of Ordinances, Title V, Legislative, Chapter 51: Public Hearings, Sections 51.04 and 51.05, to modify pro 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.

Mr. Weinberg commented that Section 51.05 to prohibit same or similar requests previously denied from being resubmitted for 12 months was too vague in defining what was considered similar. He stated in regard to Section 185.203, that property owners already had a voice before the board and City Council, and that requiring a super majority vote by City Council was unnecessary. The only City Council action to require a super majority vote was per City Charter to exceed the ad valorem cap.

Mr. Boothroyd asked for clarification on what would permit the resubmittal of a denied project prior to 12 months. Mr. Bradley stated that the project could not be the same or similar. Ms. Maragh asked if the wording could be adjusted for further clarification. Mr. Bradley explained that staff currently made the determinations on whether denied requests could be resubmitted. The language currently existed in the code and was not part of the proposed amendment.

Ms. Maragh wanted to know the relevance of the super majority vote requirement versus a majority vote. Mr. Bradley stated that the super majority vote was a higher threshold based on the protest petition. The Cities of Melbourne, West Melbourne, and Brevard County had comparable language, and the Florida Supreme Court had determined super majority votes based on protest petitions were legally permissible within codes of ordinances. Mr. Weinberg believed a super majority vote would handcuff the majority of City Council.

A vote was called on the motion by Ms. Maragh, seconded by Mr. Hill to submit Case T-6-2021 to City Council for approval of a textual amendment to the Code of Ordinances, Title V, Legislative, Chapter 51: Public Hearings, Sections 51.04 and 51.05, to modify pro 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. The motion failed with members voting as follows:

Mr. Weinberg	Nay
Mr. Boerema	Nay
Mr. Boothroyd	Aye
Mr. Hill	Nay
Ms. Maragh	Nay
Mr. Warner	Nay

Mr. Boothroyd commented that if 67 percent of property owners petitioned against a request, City Council should support the protest.

OTHER BUSINESS:

There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 8:03 p.m.

Philip Weinberg, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

****Quasi-Judicial Proceeding**



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Patrick J. Murphy, Assistant Growth Management Director

DATE: March 3, 2021

SUBJECT: **CU-5-2021 – FAR Research, Inc. (AVID Group, LLC and Akerman, LLP, Reps.) (WITHDRAWN) - 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)

Case CU-5-2021 has been withdrawn by the applicant, FAR Research, Inc. (AVID Group, LLC and Akerman, LLP, Reps.). No board action is required to withdraw the case.

**Quasi-Judicial Proceeding.



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Patrick J. Murphy, Assistant Growth Management Director

DATE: March 3, 2021

SUBJECT: CP-1-2021 - Jupiter Bay - Sachs Capital Group, LP (Bruce Moia, P.E. and David Bassford, P.E., Reps.) - A large-scale Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Multiple-Family Residential Use and Commercial Use. Tax Parcels 750 and 751, along with Tract K of Port Malabar Unit 10, Section 6, Township 29, Range 37, Brevard County, Florida, containing 23.862 acres, more or less. (Located at the northwest corner of Jupiter Boulevard SE and Brevard Avenue SE)

ATTACHMENTS:

Description

- ▣ Case CP-1-2021



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmabayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

CP-1-2021

PLANNING & ZONING BOARD HEARING DATE

March 3, 2021

PROPERTY OWNER & APPLICANT

Sachs Capital Group, LP
(Bruce Moia, P.E. Representative)

PROPERTY LOCATION/ADDRESS

Tax Parcels 750 and 751, along with Tract K of Port
Malabar Unit 10, Section 6, Township 29, Range 37,
Brevard County, Florida

SUMMARY OF REQUEST

The applicant is requesting a large-scale comprehensive future land use amendment of the subject parcels from SFR, Single Family Residential Use to MFR, Multiple-Family Residential Use and COM, Commercial Use.

Existing Zoning

RR, Rural Residential

Existing Land Use

Single Family Residential Use

Site Improvements

Abandoned Golf Course

Site Acreage

23.862 acres, more or less

SURROUNDING ZONING & USE OF LAND

North

RS-2, Single-Family Residential and IU, Institutional Use; Turner Elementary School; Melbourne Tillman Canal No. 49

East

RS-2, Single-Family Residential; Single Family Homes

South

Jupiter Boulevard SE

West

IU, Institutional Use; Turner Elementary School and South West Middle School

BACKGROUND:

The property is located at the northwest corner of Jupiter Boulevard SE and Brevard Avenue SE. The property was originally constructed as a golf course in 1996. The applicant is requesting to change 2.95 acres to the Commercial Use and 20.91 acres to Multiple-Family Use.

ANALYSIS:

Per Chapter 183: Comprehensive Plan Regulations; Section 183.01(B), the purpose and intent of the Comprehensive Plan is to encourage the most appropriate use of land and resources to promote the health, safety, and welfare of the community:

1. FUTURE LAND USE ELEMENT

The Comprehensive Plan (Plan) FLU Element Goal FLU-1 is to ensure a high quality, diversified living environment through the efficient distribution of compatible land uses.

The Comprehensive Plan (Plan) FLU Element Goal FLU-2 is to provide for and maintain viable neighborhoods and residential development to meet the existing and future needs of the residents of Palm Bay.

The Comprehensive Plan (Plan) FLU Element Goal FLU-3 is to provide for economically viable commercial areas which promote a sound and diversified local economy and serve the retail and service needs of the City's residents.

The Comprehensive Plan (Plan) FLU Element Goal FLU-8 is to provide for a diverse and self-sustaining pattern of land uses which support the present and future population of the City of Palm Bay.

The Comprehensive Plan (Plan) FLU Element Goal FLU-9 is to create large scale, sustainable mixed-use communities.

The Multiple Family Residential (MFR) Use future land use category allows for a maximum residential density of 20 units per acre (UPA), with a range of 0-20 UPA. Typical uses allowed include single-family homes, duplexes, multi-family units, congregate living units, recreational uses, and institutional uses such as schools, churches, and utilities.

This established density limit would yield a maximum of 418 units. However, as indicated in the companion rezoning request (CPZ-1-2021), the applicant is requesting the RM-10 zoning district be applied to the parcel. Provisions of the RM-10 district only permit a maximum of 10 UPA. This would result in no more than 209 units.

2. COASTAL MANAGEMENT ELEMENT

The subject property is not located within the Coastal Management Area.

3. CONSERVATION ELEMENT

The environmental character of the City is maintained through conservation, appropriate use, and protection of natural resources.

The subject parcel is not located within any of the Florida scrub-jay polygons identified on the City's Habitat Conservation Plan (HCP). No additional listed species are known to inhabit the subject property as the property is developed.

Recreation: Multiple Family Use does have more of a demand upon the parks & recreation level of service (LOS) standards than Single Family Use. However, the number of units that could be constructed upon the property would have a De minimis effect on the recreation LOS. It shall be noted that the Recreation and Open Space Element of the City's Comprehensive Plan sets a LOS Standard of 2 acres per 1,000 residents. The City maintains public ownership of park-designated lands that far exceed this requirement.

4. HOUSING ELEMENT

The proposed FLU amendment does not adversely impact the supply and variety of safe, decent, attractive and affordable housing within the City. The amendment will allow the site to be used for additional housing and allow for a type of housing (multi-family) that is needed throughout Palm Bay.

5. INFRASTRUCTURE ELEMENT

The City evaluates present and future water, sewer, drainage, and solid waste, and assesses the ability of infrastructure needed to support development.

Utilities: The FLU amendment will not cause level of service (LOS) to fall below the standards adopted in the Comprehensive Plan for these services for the current planning period. However, this does not guarantee capacity in the water or sewer system and the LOS is subject to change should any other substantial development occur in the vicinity of the proposed location. The water main adjacent to the property is 12". The nearest 8" force main connection point is location at the corner of Charlotta Avenue SE and Jupiter Boulevard SE.

Drainage: Any development of the site shall meet all criteria of the City's Stormwater Management Ordinance (Chapter 174) and all criteria of Rule 62-330 of the Florida Administrative Code. Compliance with these provisions will be reviewed and enforced during the administrative site plan review process.

Solid Waste: Solid waste collection is provided to the area by Republic Services Inc. Sufficient capacity exists within the Brevard County landfills to service the property.

6. INTERGOVERNMENTAL COORDINATION ELEMENT

Public Schools: The proposed FLU amendment requested will allow the site to be used for a 176 Townhome community and will have an impact on the public-school system. At this time, Turner Elementary School, Southwest Middle School, and Heritage High School are not projected to have enough capacity for the total of projected and potential students from this development. Because there is a shortfall of available capacity in the concurrency service areas of the development, the capacity of adjacent service areas must be considered.

7. TRANSPORTATION ELEMENT

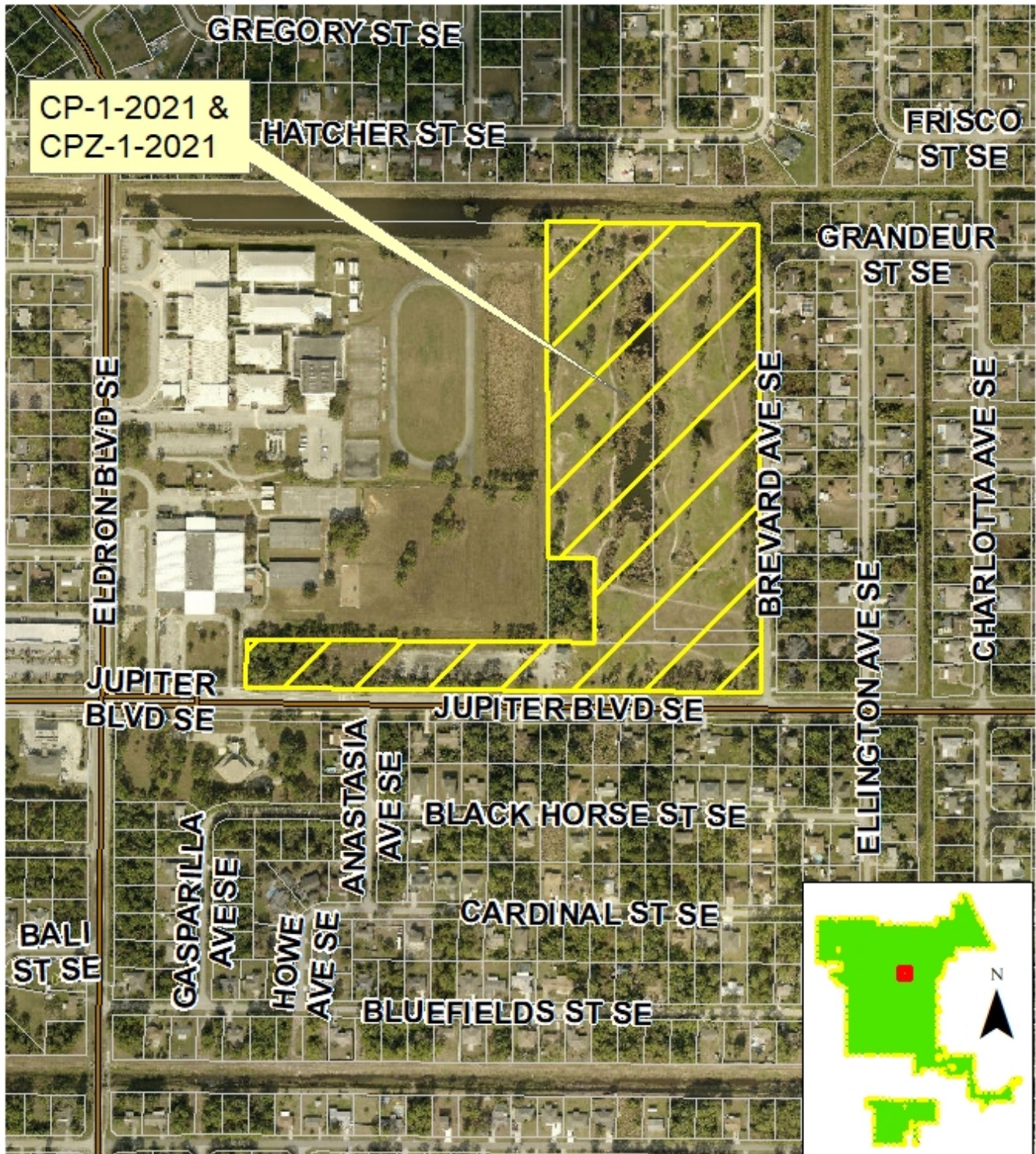
The objectives of the Transportation Element are to provide a safe, balanced, efficient transportation system that maintains roadway LOS and adequately serves the needs of the community. All local street segments shall meet a LOS C, per the City's adopted Comprehensive Plan. The latest FDOT 2020 Quality and Level of Service Handbook, with the Generalized Annual Average Daily volume for urbanized areas, will be used for the analysis. Any deficient LOS segments shall require the project to pay their proportionate fair share cost to bring the roadway segment to LOS C, or better. Attached to this staff report is a preliminary traffic analysis conducted by the City Traffic Engineer.

STAFF RECOMMENDATION:

Case CP-1-2020 is recommended for approval based upon the following conditions:

1. At the time of any development plan submittal, the property owner shall submit a traffic impact analysis and Phase One and Two Environmental Study;
2. At the time of site development, a traffic impact analysis will be required, and extensive access management related to the School and Jupiter Boulevard;
3. A School Capacity Determination Letter shall be obtained from the Brevard County School Board; and
4. The maximum density shall be capped at 10 units per acre.

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



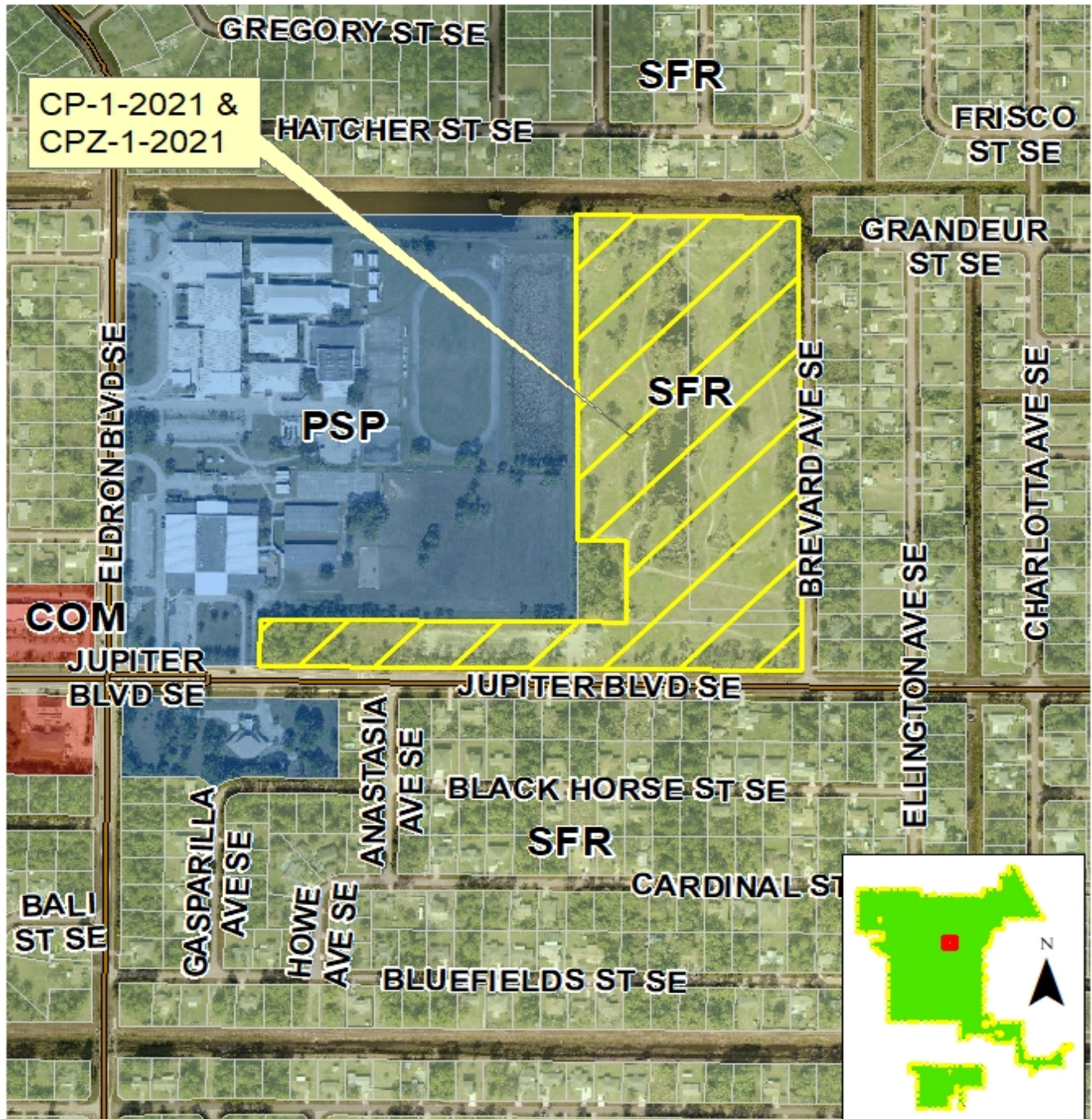
AERIAL LOCATION MAP CASE CP-1-2021 & CPZ-1-2021

Subject Property

Northwest corner of Jupiter Boulevard SE and Brevard Avenue SE



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



FUTURE LAND USE MAP CASE CP-1-2021 & CPZ-1-2021

Subject Property

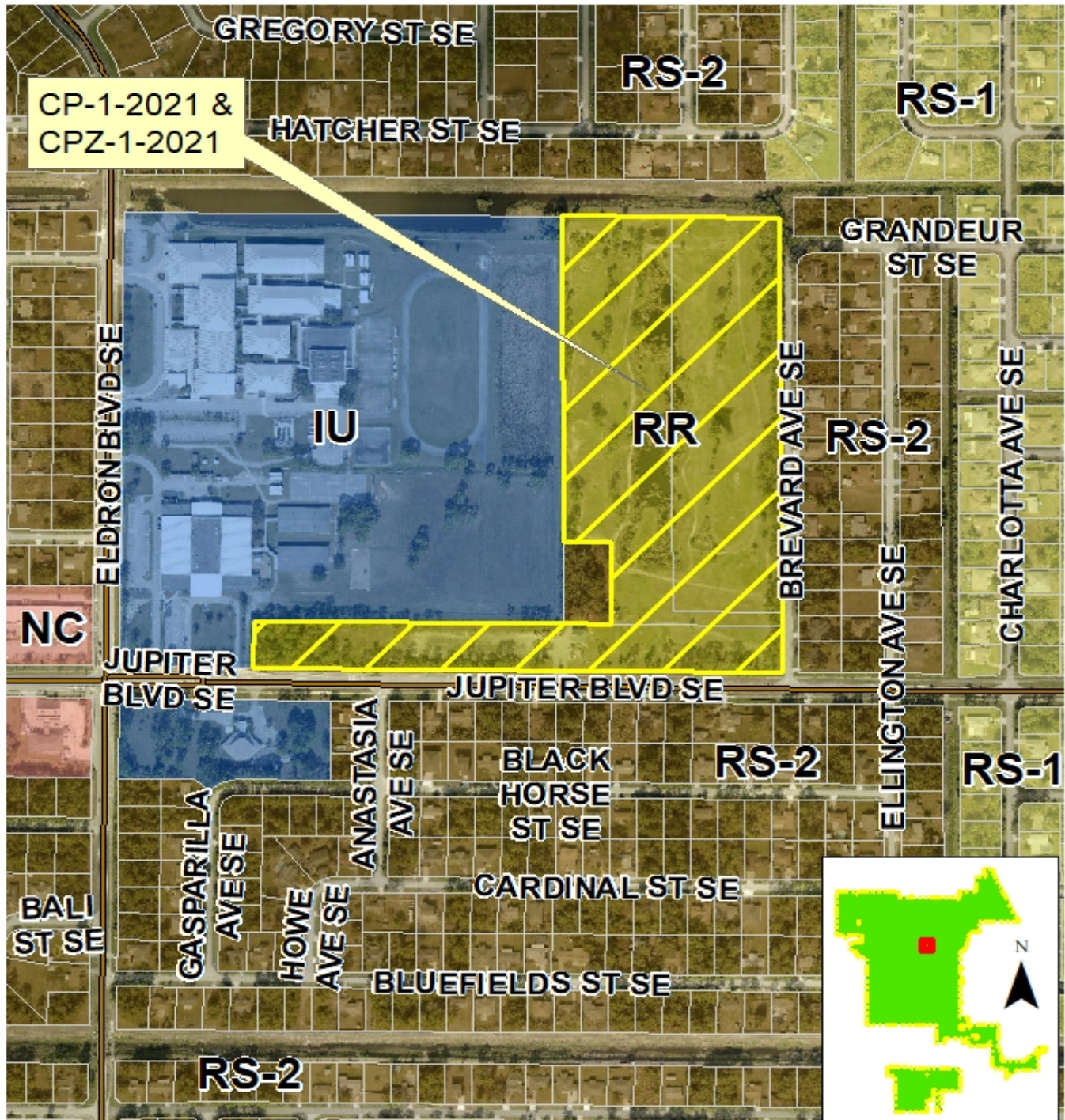
Northwest corner of Jupiter Boulevard SE and Brevard Avenue SE

Future Land Use Classification

SFR – Single Family Residential Use



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



ZONING MAP

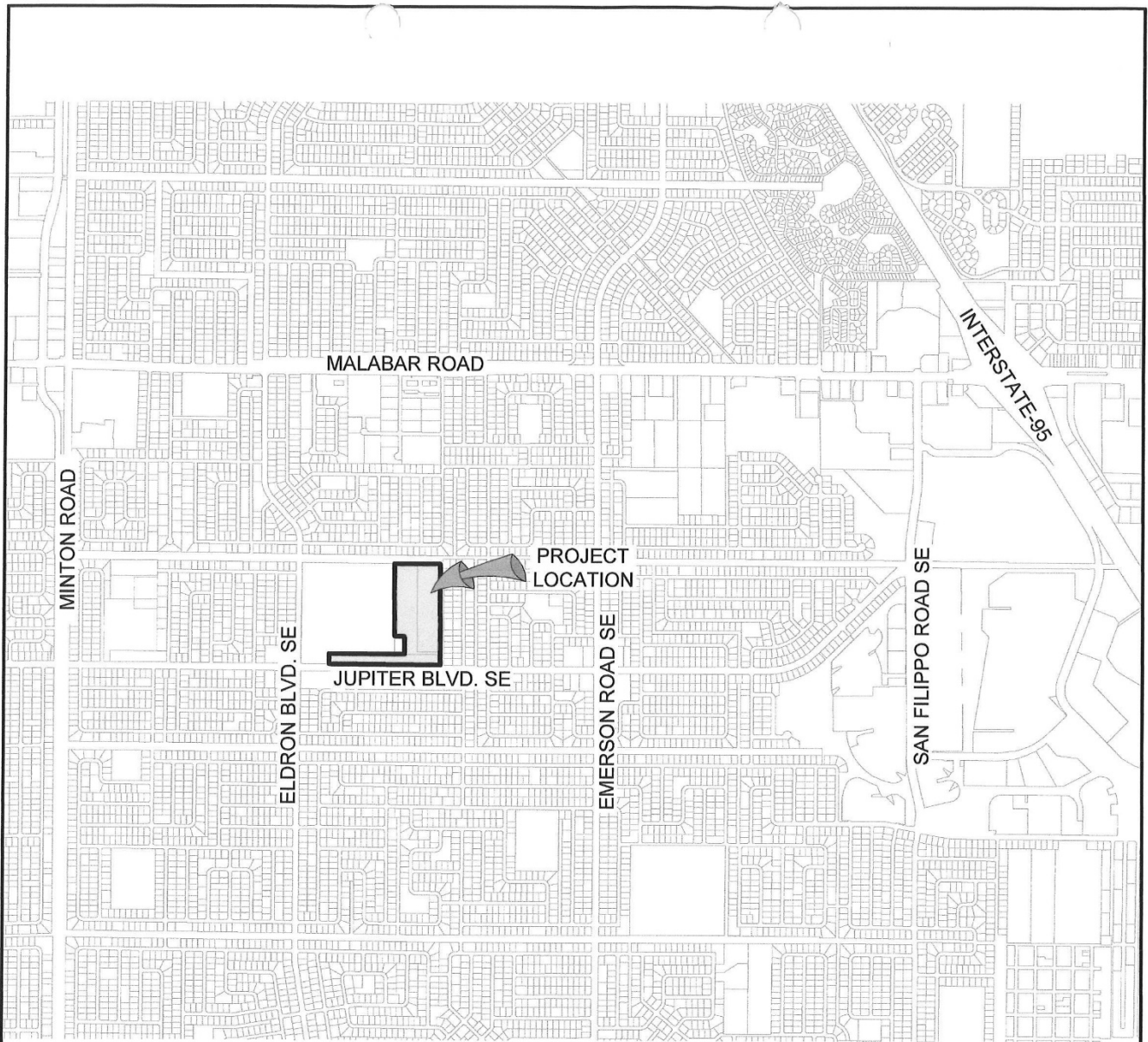
CASE CP-1-2021 & CPZ-1-2021

Subject Property

Northwest corner of Jupiter Boulevard SE and Brevard Avenue SE

Current Zoning Classification

RR – Rural Residential District



SCALE 1" = 2000'

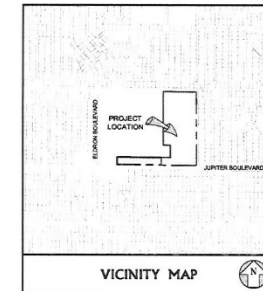
MBV
ENGINEERING, INC.
MOIA BOWLES VILLAMIZAR & ASSOCIATES

CIVIL • STRUCTURAL • SURVEYING • ENVIRONMENTAL

VICINITY MAP

JUPITER BAY

JOB NO.	20-1013
DESIGNED	DWB
DRAWN	DCM
CHECKED	DWB
DATE	2/8/2021



LEGEND

 LAND USE: COMMERCIAL

 LAND USE: MULTIFAMILY RESIDENTIAL

SITE INFORMATION

APPLICANT/OWNER
SACHS CAPITAL GROUP
2132 DEEP WATER LANE
SUITE 232, NAPERVILLE, IL 60563

SITE ADDRESS
JUPITER BOULEVARD
PALM BAY, FLORIDA

CURRENT FUTURE LAND USE
SFR - SINGLE FAMILY RESIDENTIAL

PROPOSED FUTURE LAND USE
SFR - MULTI-FAMILY RESIDENTIAL,
COM - COMMERCIAL

TAX PARCEL ID. NUMBER(S)
29-37-06-00-4
29-37-06-00-751

LEGAL DESCRIPTION

PARCEL 1:
THE WEST 1/2 OF LOT 16, SECTION 6, TOWNSHIP 29 SOUTH, RANGE 37 EAST, ACCORDING TO THE SUBDIVISION OF SAID SECTION BY THE FLORIDA INDIAN RIVER LAND COMPANY, ACCORDING TO PLAT 186, THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 186, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LESS AND EXCEPT, BEING A PART OF THE WEST 1/2 OF LOT 16, SECTION 6, TOWNSHIP 29 SOUTH, RANGE 37 EAST, AS RECORDED IN PLAT BOOK 1, PAGE 186, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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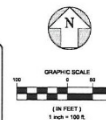
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72 HOURS BEFORE ENGAGING
CALL TOLL FREE
811
Know what's below.
Call before you dig.

[illegible]

LEGAL DESCRIPTION:

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LESS THE WESTERLY 876.49 FEET OF TRACT 'K' AS DESCRIBED ABOVE.

PARCEL 2: (COMMERCIAL)

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

**COMPREHENSIVE PLAN OR FUTURE LAND USE MAP 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.

APPLICATION AMENDMENT TYPE:

☐

Small Scale (Less than 10 acres)

☐

Text Amendment (Comp. Plan)

☒

Large Scale (10 acres or more)

PARCEL ID 29-37-06-00-750, 29-37-06-00-751, 29-37-06-GK-K

TAX ACCOUNT NUMBER 2926316, 2926317, 2925050

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

See attached.

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 23.86 acres

LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.):

Single Family Residential

LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE (attach additional sheets if necessary):

Multi Family Residential and Commercial



ORIGINAL

Revision A: 03/2020

CITY OF PALM BAY, FLORIDA
COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION
PAGE 2 OF 3

PRESENT USE OF PROPERTY vacant (abandoned golf course)

STRUCTURES LOCATED ON THE PROPERTY one small building

REZONING FILED IN CONJUNCTION WITH THIS APPLICATION

Rezoning to RM-10 for 20.91 acres MFR / Rezoning to NC for 2.95 acres Commercial

JUSTIFICATION FOR CHANGE (attach additional sheets containing supporting documents and evidence if necessary)

Current land use does not support the proposed development. In order to be constant with the proposed development, it is necessary to change the land use.

SPECIFIC USE INTENDED FOR PROPERTY

Multi Family - 176 lot Town Homes Attached (20.91 acres)
Commercial - 3 lots (2.95 acres)

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

- ☒ *Application Fee. Make Check payable to "City of Palm Bay."
 - ☐ \$1,200.00 - Small Scale (Less than 10 acres)
 - ☒ \$2,000.00 - Large Scale (10 acres or more)
 - ☐ \$2,000.00 - Text Amendment (Comp. Plan)
- ☒ Boundary Survey for land use amendments.
- ☒ 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.)
- ☐ 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 guideline.



ORIGINAL

Revision A: 03/2020

CITY OF PALM BAY, FLORIDA
COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION
PAGE 3 OF 3

- ☒ 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 Bruce Moia, P.E., MBV Engineering, Inc.

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 COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Owner Signature  Date 2/8/2021

Printed Name Gregory Sachs, Sachs Capital Group LP - Manager

Full Address 2132 Deep Water Lane, Suite 232, Naperville IL, 60564

Telephone 312-543-4440 Email gsachs@sachscapitalgroup.com

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

 **ORIGINAL**

February 8, 2021, 20 21

Re: Letter of Authorization

As the property owner of the site legally described as:

Port Malabar, Unit 10, Tract K, PB 15 Pg 10 also Lot 16 of FL Indian River Land Company
Subdivision per Pb 1 Pg 165. Parcel ID's 29-37-06-00-750, 29-37-06-00-751, and
29-37-06-GK-K.

I, Owner Name: Gregory Sachs - Sachs Capital Group, LB

Address: 2132 Deep Water Lane, Suite 232 Naperville, IL 60564

Telephone: 312-543-4440

Email: gsachs@achscapitalgroup.com

hereby authorize:

Representative: Bruce Moia and David Bassford, MBV Engineering Inc.

Address: 1250 W Eau Gallie Blvd, Unit H, Melbourne FL 32935

Telephone: 321-253-1510

Email: brucem@mbveng.com / davidb@mbveng.com

to represent the request(s) for:

Rezoning and Future Land Use Amendment

(Property Owner Signature)

STATE OF Tennessee

COUNTY OF Marshall

The foregoing instrument was acknowledged before me by means of ☒ physical
presence or ☐ online notarization, this 8th day of February, 20 21 by
Gregory Sachs, property owner.

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



February 8, 2021

Re: Letter of Authorization

As the property owner of the site legally described as:

Port Malabar, Unit 10, Tract K, PB 15 Pg 10 also Lot 16 of FL Indian River Land Company
Sub.per Pb 1 Pg 165. Parcel ID's 29-37-06-00-750, 29-37-06-00-751, 29-37-06-GK-K

I, Owner Name: Gerald M Lakin - Identical Investments LLC

Address: 2687 NW 84th Way, Cooper City, FL 33024

Telephone: 312-493-2020

Email: geraldakin@gmail.com

hereby authorize:

Representative: Bruce Moia and David Bassford - MBV Engineering Inc.

Address: 1250 W. Eau Gallie Blvd, Unit H, Melbourne, FL 32935

Telephone: 321-253-1510

Email: brucem@mbveng.com, davidb@mbveng.com

to represent the request(s) for:

Rezoning And Future Land Use

Gerald Lakin

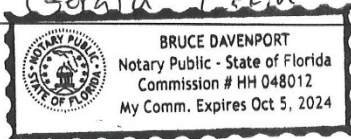
(Property Owner Signature)

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 8th day of February, 2021 by

Gerald Lakin, property owner.



Bruce Davenport, Notary Public

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

Driver License

CASES CP-1-2021 & CPZ-1-2021

CORRESPONDENCE

OHIO
UNIVERSITY
LTC Raymond J. Asik, USAF Ret
4112 Ford Lane
Vermilion, OH 44089

CLEVELAND OH 440

16 FEB 2021 PM 3 L



PLANNING & ZONING BOARD, City Council
c/o LAND DEVELOPMENT DIVISION
CITY OF PALM BAY
120 MALABAR ROAD SE
PALM BAY, FL 32907

32907-309999

32907-309999

**Raymond J. Asik
4112 Ford Lane
Vermilion, OH 44089**

**Feb 16, 2021
PH: 440-967-77613**

**Subject: Palm Bay Planning and Zoning Board
Cases: CP-1-2021 and PD-1-2021**

I am a property owner greatly impacted by the proposed Preliminary Development plan to allow rezoning of Tax Parcels 750 and 751.

**The address for my property is
473 Ellington Ave SE Palm Bay, 32909
Property ID: 29 3705-GK-397-12**

I am totally against the Cases CP-1-2021 and CPZ-1-2021 to rezone Tax Parcels 750 and 751 for multiple family residential use and commercial use. Allowing single family residential use is fine with me.

In the Feb 2021 Sunbelt Landowners Association listed are 14 under construction projects for SINGLE FAMILY Residential Units and 6 under review projects also for SINGLE FAMILY Residential units. None for multiple Family Residential uses. So does Palm Bay appear to want to destroy the original goal of General Development for single family residential use?

The impact of multiple units (still not defined to me how many units, how high, how large square feet, number of parking spaces, number and location of entry and exit points to the streets, unnecessary extra lighting in a residential area, runoff of rain water into sewers and above all safety. More housing will impact the safety of the local school students. Not sure what type of commercial use and number and size of units will be allowed?

To me the Palm Bay Planning, Zoning and City Council have more responsibility to all property owners than allowing this proposal to move forward. Single Family Residential use is what Tax Parcels 750 and 751 is and should continue to be allowed. I hope Palm Bay planners and City will realize approving these cases is a big negative on the local community.

As I stated I AM TOTALLY against this preliminary proposal. I cannot attend the meetings but hope my one voice will be heard. I can be contacted at the above address / phone or at my email; asik@roadrunner.com

**Thank You,
Ray Asik**



PLEASE KEEP ME INFORMED OF THESE CASES.



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Laurence Bradley, AICP, Growth Management Director

DATE: March 3, 2021

SUBJECT: **CPZ-1-2021 - Jupiter Bay - Sachs Capital Group, LP (Bruce Moia, P.E. and David Bassford, P.E., Reps.) - A zoning amendment from an RR, Rural Residential District to an RM-10, Single-, Two-, Multiple-Family Residential District and an NC, Neighborhood Commercial District. Tax Parcels 750 and 751, along with Tract K of Port Malabar Unit 10, Section 6, Township 29, Range 37, Brevard County, Florida, containing 23.862 acres, more or less. (Located at the northwest corner of Jupiter Boulevard SE and Brevard Avenue SE)

**Quasi-Judicial Proceeding.

ATTACHMENTS:

Description

☐ Case CPZ-1-2021



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

CPZ-1-2021

PLANNING & ZONING BOARD HEARING DATE

March 3, 2021

PROPERTY OWNER & APPLICANT

Sachs Capital Group, LP
(Bruce Moia, P.E. Representative)

PROPERTY LOCATION/ADDRESS

Tax Parcels 750 and 751, along with Tract K of Port Malabar Unit 10, Section 6, Township 29, Range 37, Brevard County, Florida

SUMMARY OF REQUEST

The applicant is requesting a rezoning of the subject parcels from RR, Rural Residential to RM-10, Single-, Two-, Multiple-Family Residential District and NC, Neighborhood Commercial District.

Existing Zoning

RR, Rural Residential

Existing Land Use

Single Family Residential Use

Site Improvements

Abandoned Golf Course

Site Acreage

23.862 acres, more or less

SURROUNDING ZONING & USE OF LAND

North

RS-2, Single-Family Residential and IU, Institutional Use; Turner Elementary School; Melbourne Tillman Canal No. 49

East

RS-2, Single-Family Residential; Single Family Homes

South

Jupiter Boulevard SE

West

IU, Institutional Use; Turner Elementary School and South West Middle School

COMPREHENSIVE PLAN COMPATIBILITY

The future land use designations surrounding the subject parcels are Single Family Residential Use and Public Semi-Public Use. A companion application proposing a land-use amendment of the subject parcels from SFR, Single Family Residential Use to MFR, Multiple Family Residential Use and COM, Commercial Use was also submitted. (CP-1-2021).

BACKGROUND:

The property is located at the northwest corner of Jupiter Boulevard SE and Brevard Avenue SE. The property was originally constructed as a golf course in 1996. The applicant is requesting to change 2.95 acres to the NC, Neighborhood Commercial District and 20.91 acres to the RM-10, Single-, Two-, Multiple-Family Residential District.

ANALYSIS:

The following analysis is per Chapter 185: Zoning Code, Section 185.201(C), which states that all proposed amendments shall be submitted to the Planning and Zoning Board, which shall study such proposals in accordance with items 1 through 4 of Section 185.201(C).

Item 1 - *The need and justification for the change.*

The applicant failed to provide a justification for this change. The applicant states the intended use of the property is 176 lot two story attached townhomes with garages for each unit and 3 commercial parcels.

Item 2 - *When pertaining to the rezoning of land, the effect of the change, if any, on the particular property and on surrounding properties.*

The designations of the NC, Neighborhood Commercial District and the RM-10, Single-, Two-, Multiple-Family Residential District for the subject parcels would be compatible with the surrounding area and is consistent with the City's desire and plan.

Item 3 - *When pertaining to the rezoning of land, the amount of undeveloped land in the general area and in the City having the same classification as that requested.*

Approximately 11.33 acres of vacant Multiple Family zoned land is within 1.83 miles of the subject parcel. There is no vacant Commercial zoned land on Jupiter Boulevard SE.

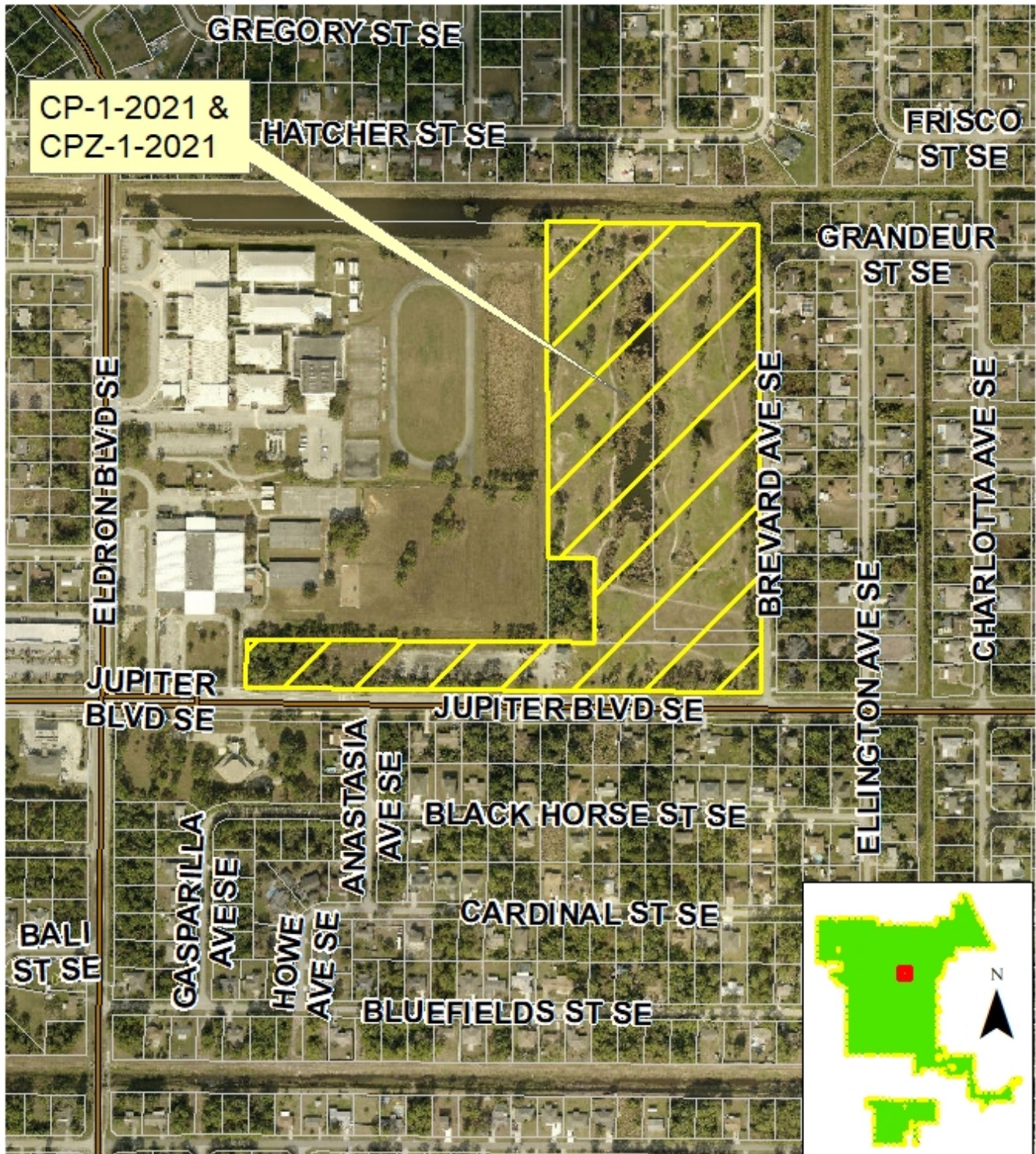
Item 4 - *The relationship of the proposed amendment to the purpose of the city plan for development, with appropriate consideration as to whether the proposed change will further the purposes of this chapter and the Comprehensive Plan (Plan).*

The proposed amendment will further the purposes of Chapter 185, the Comprehensive Plan. The provisions of the RM-10 district are intended to apply to an area of medium density residential development. The purpose of the NC district is to provide for limited commercial activities offering convenience and goods to residents of the surrounding neighborhood area.

STAFF RECOMMENDATION:

Case CPZ-1-2021 is recommended for approval based on the analysis contained in this report.

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



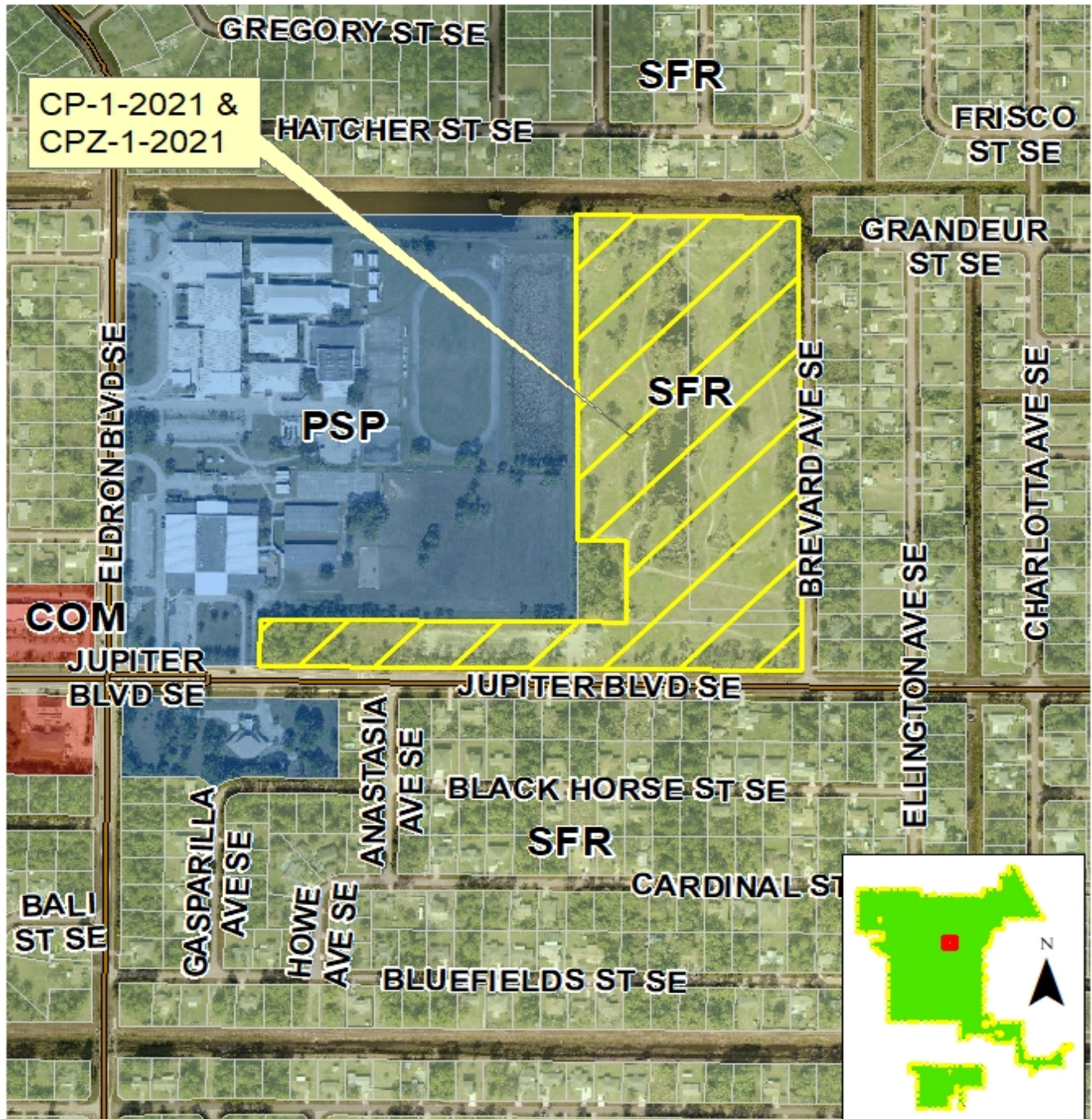
AERIAL LOCATION MAP CASE CP-1-2021 & CPZ-1-2021

Subject Property

Northwest corner of Jupiter Boulevard SE and Brevard Avenue SE



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FUTURE LAND USE MAP CASE CP-1-2021 & CPZ-1-2021

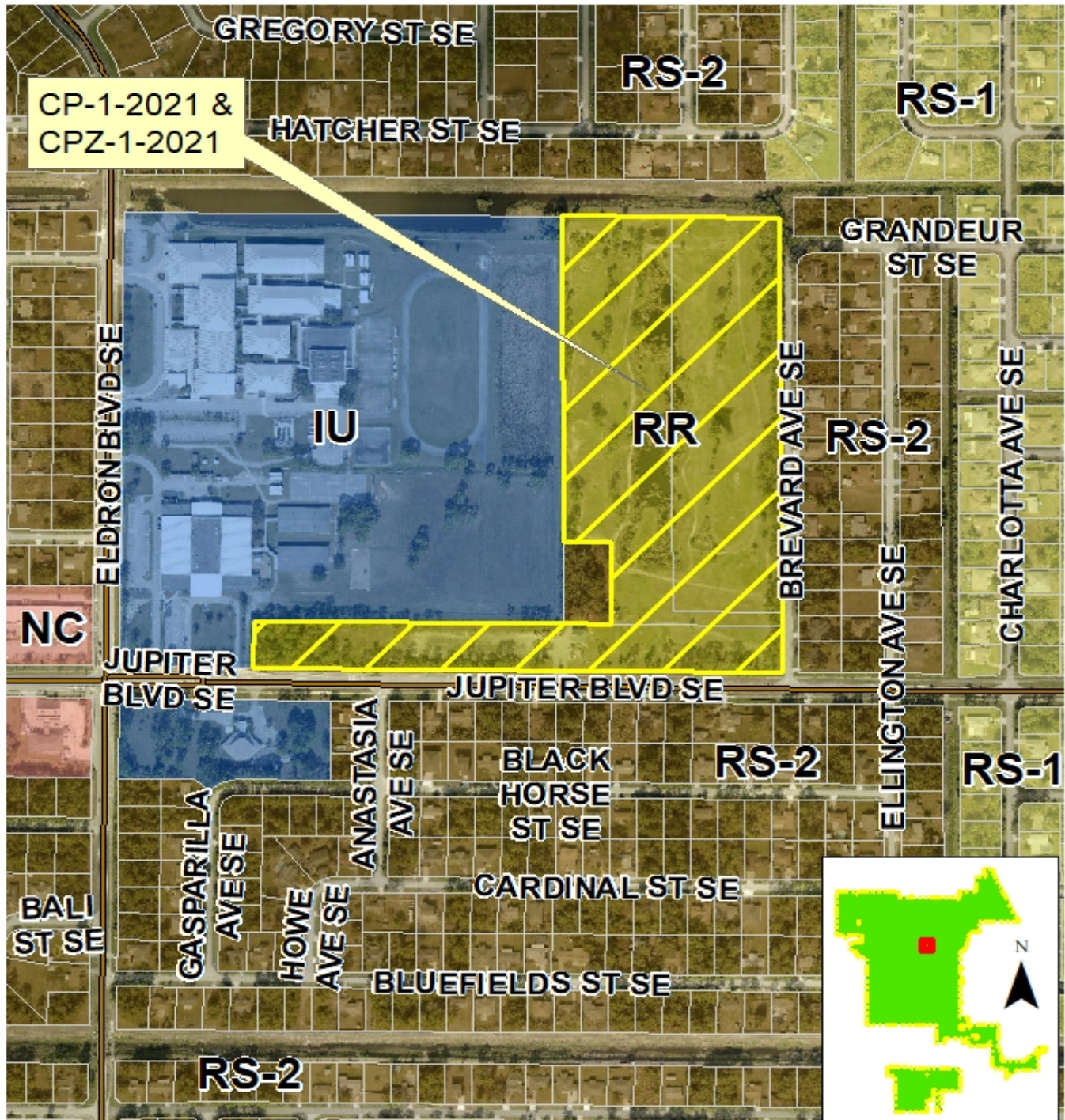
Subject Property

Northwest corner of Jupiter Boulevard SE and Brevard Avenue SE

Future Land Use Classification

SFR – Single Family Residential Use

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ZONING MAP

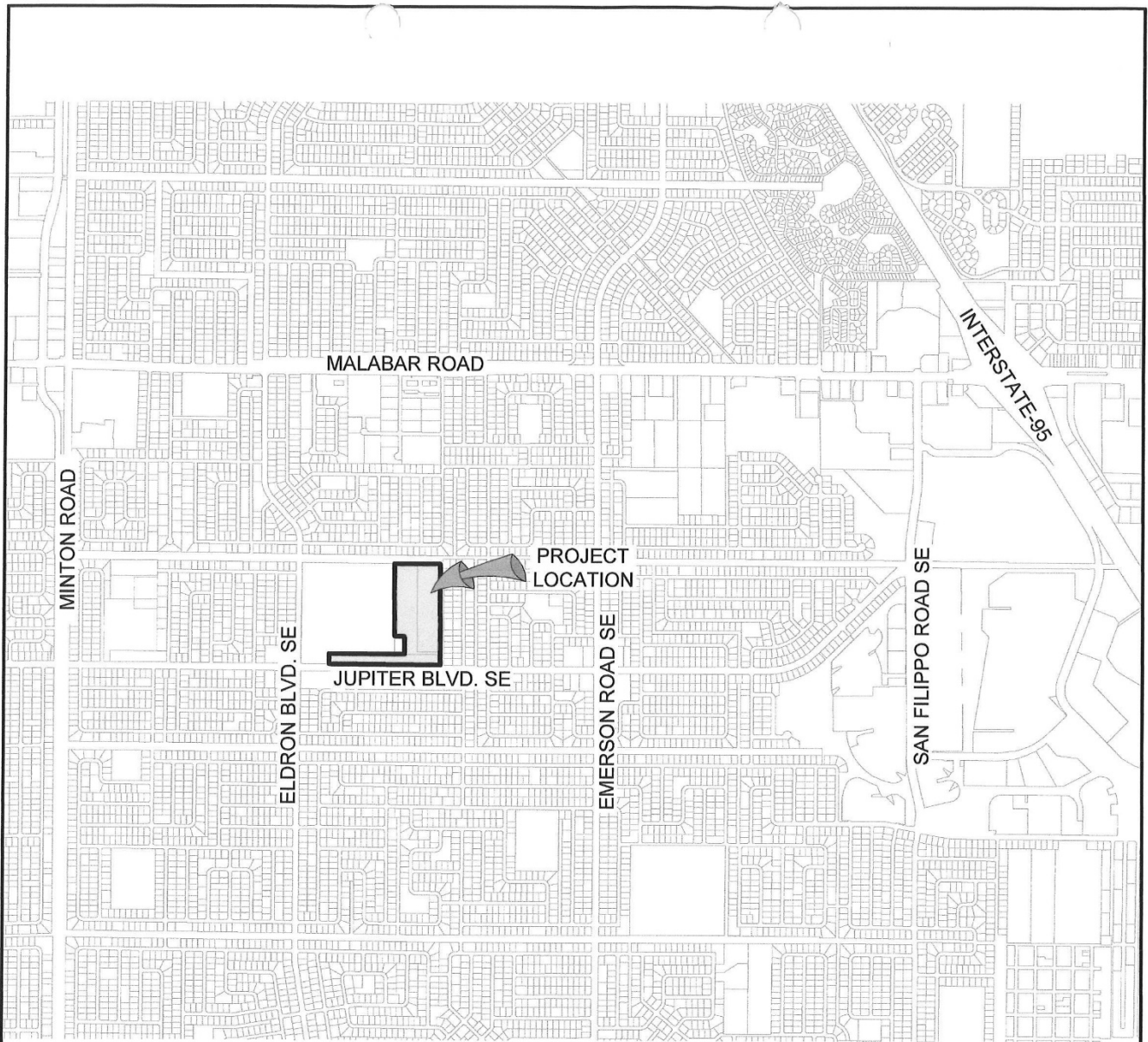
CASE CP-1-2021 & CPZ-1-2021

Subject Property

Northwest corner of Jupiter Boulevard SE and Brevard Avenue SE

Current Zoning Classification

RR – Rural Residential District



SCALE 1" = 2000'

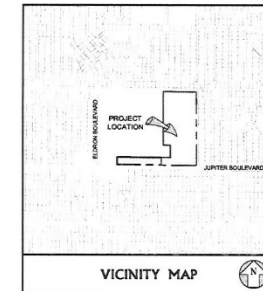
MBV
ENGINEERING, INC.
MOIA BOWLES VILLAMIZAR & ASSOCIATES

CIVIL • STRUCTURAL • SURVEYING • ENVIRONMENTAL

VICINITY MAP

JUPITER BAY

JOB NO.	20-1013
DESIGNED	DWB
DRAWN	DCM
CHECKED	DWB
DATE	2/8/2021



LEGEND

 LAND USE: COMMERCIAL

 LAND USE: MULTIFAMILY RESIDENTIAL

SITE INFORMATION

APPLICANT/OWNER
SACHS CAPITAL GROUP
2132 DEEP WATER LANE
SUITE 232, NAPERVILLE, IL 60563

SITE ADDRESS
JUPITER BOULEVARD
PALM BAY, FLORIDA

CURRENT FUTURE LAND USE
SFR - SINGLE FAMILY RESIDENTIAL

PROPOSED FUTURE LAND USE
SFR - MULTI-FAMILY RESIDENTIAL,
COM - COMMERCIAL

TAX PARCEL ID. NUMBER(S)
29-37-06-00-K
29-37-06-00-751

LEGAL DESCRIPTION

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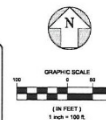
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72 HOURS BEFORE ENGAGING
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811
Know what's below.
Call before you dig.

[illegible]

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**COMPREHENSIVE PLAN OR FUTURE LAND USE MAP 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.

APPLICATION AMENDMENT TYPE:

- ☐ **Small Scale** (Less than 10 acres) ☐ **Text Amendment** (Comp. Plan)
☒ **Large Scale** (10 acres or more)

PARCEL ID 29-37-06-00-750, 29-37-06-00-751, 29-37-06-GK-K

TAX ACCOUNT NUMBER 2926316, 2926317, 2925050

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

See attached.

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 23.86 acres

LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.):

Single Family Residential

LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE (attach additional sheets if necessary):

Multi Family Residential and Commercial



ORIGINAL

Revision A: 03/2020

CITY OF PALM BAY, FLORIDA
COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION
PAGE 2 OF 3

PRESENT USE OF PROPERTY vacant (abandoned golf course)

STRUCTURES LOCATED ON THE PROPERTY one small building

REZONING FILED IN CONJUNCTION WITH THIS APPLICATION

Rezoning to RM-10 for 20.91 acres MFR / Rezoning to NC for 2.95 acres Commercial

JUSTIFICATION FOR CHANGE (attach additional sheets containing supporting documents and evidence if necessary)

Current land use does not support the proposed development. In order to be constant with the proposed development, it is necessary to change the land use.

SPECIFIC USE INTENDED FOR PROPERTY

Multi Family - 176 lot Town Homes Attached (20.91 acres) Commercial - 3 lots (2.95 acres)

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

- ☒ *Application Fee. Make Check payable to "City of Palm Bay."
 - ☐ \$1,200.00 - Small Scale (Less than 10 acres)
 - ☒ \$2,000.00 - Large Scale (10 acres or more)
 - ☐ \$2,000.00 - Text Amendment (Comp. Plan)
- ☒ Boundary Survey for land use amendments.
- ☒ 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.)
- ☐ 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 guideline.



ORIGINAL

Revision A: 03/2020

CITY OF PALM BAY, FLORIDA
COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION
PAGE 3 OF 3

- ☒ 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 Bruce Moia, P.E., MBV Engineering, Inc.

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 COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Owner Signature  Date 2/8/2021

Printed Name Gregory Sachs, Sachs Capital Group LP - Manager

Full Address 2132 Deep Water Lane, Suite 232, Naperville IL, 60564

Telephone 312-543-4440 Email gsachs@sachscapitalgroup.com

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

 **ORIGINAL**

February 8, 2021, 20 21

Re: Letter of Authorization

As the property owner of the site legally described as:

Port Malabar, Unit 10, Tract K, PB 15 Pg 10 also Lot 16 of FL Indian River Land Company
Subdivision per Pb 1 Pg 165. Parcel ID's 29-37-06-00-750, 29-37-06-00-751, and
29-37-06-GK-K.

I, Owner Name: Gregory Sachs - Sachs Capital Group, LB

Address: 2132 Deep Water Lane, Suite 232 Naperville, IL 60564

Telephone: 312-543-4440

Email: gsachs@achscapitalgroup.com

hereby authorize:

Representative: Bruce Moia and David Bassford, MBV Engineering Inc.

Address: 1250 W Eau Gallie Blvd, Unit H, Melbourne FL 32935

Telephone: 321-253-1510

Email: brucem@mbveng.com / davidb@mbveng.com

to represent the request(s) for:

Rezoning and Future Land Use Amendment

(Property Owner Signature)

STATE OF Tennessee

COUNTY OF Marshall

The foregoing instrument was acknowledged before me by means of ☒ physical
presence or ☐ online notarization, this 8th day of February, 20 21 by
Gregory Sachs, property owner.

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



February 8, 2021

Re: Letter of Authorization

As the property owner of the site legally described as:

Port Malabar, Unit 10, Tract K, PB 15 Pg 10 also Lot 16 of FL Indian River Land Company
Sub.per Pb 1 Pg 165. Parcel ID's 29-37-06-00-750, 29-37-06-00-751, 29-37-06-GK-K

I, Owner Name: Gerald M Lakin - Identical Investments LLC

Address: 2687 NW 84th Way, Cooper City, FL 33024

Telephone: 312-493-2020

Email: geraldakin@gmail.com

hereby authorize:

Representative: Bruce Moia and David Bassford - MBV Engineering Inc.

Address: 1250 W. Eau Gallie Blvd, Unit H, Melbourne, FL 32935

Telephone: 321-253-1510

Email: brucem@mbveng.com, davidb@mbveng.com

to represent the request(s) for:

Rezoning And Future Land Use

Gerald Lakin

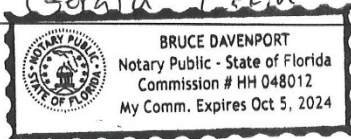
(Property Owner Signature)

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 8th day of February, 2021 by

Gerald Lakin, property owner.



Bruce Davenport, Notary Public

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

Driver License

CASES CP-1-2021 & CPZ-1-2021

CORRESPONDENCE

OHIO
UNIVERSITY
LTC Raymond J. Asik, USAF Ret
4112 Ford Lane
Vermilion, OH 44089

CLEVELAND OH 440

16 FEB 2021 PM 3 L



PLANNING & ZONING BOARD, City Council
c/o LAND DEVELOPMENT DIVISION
CITY OF PALM BAY
120 MALABAR ROAD SE
PALM BAY, FL 32907

32907-309999

32907-309999

**Raymond J. Asik
4112 Ford Lane
Vermilion, OH 44089**

**Feb 16, 2021
PH: 440-967-77613**

**Subject: Palm Bay Planning and Zoning Board
Cases: CP-1-2021 and PD-1-2021**

I am a property owner greatly impacted by the proposed Preliminary Development plan to allow rezoning of Tax Parcels 750 and 751.

**The address for my property is
473 Ellington Ave SE Palm Bay, 32909
Property ID: 29 3705-GK-397-12**

I am totally against the Cases CP-1-2021 and CPZ-1-2021 to rezone Tax Parcels 750 and 751 for multiple family residential use and commercial use. Allowing single family residential use is fine with me.

In the Feb 2021 Sunbelt Landowners Association listed are 14 under construction projects for SINGLE FAMILY Residential Units and 6 under review projects also for SINGLE FAMILY Residential units. None for multiple Family Residential uses. So does Palm Bay appear to want to destroy the original goal of General Development for single family residential use?

The impact of multiple units (still not defined to me how many units, how high, how large square feet, number of parking spaces, number and location of entry and exit points to the streets, unnecessary extra lighting in a residential area, runoff of rain water into sewers and above all safety. More housing will impact the safety of the local school students. Not sure what type of commercial use and number and size of units will be allowed?

To me the Palm Bay Planning, Zoning and City Council have more responsibility to all property owners than allowing this proposal to move forward. Single Family Residential use is what Tax Parcels 750 and 751 is and should continue to be allowed. I hope Palm Bay planners and City will realize approving these cases is a big negative on the local community.

As I stated I AM TOTALLY against this preliminary proposal. I cannot attend the meetings but hope my one voice will be heard. I can be contacted at the above address / phone or at my email; asik@roadrunner.com

**Thank You,
Ray Asik**



PLEASE KEEP ME INFORMED OF THESE CASES.



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Laurence Bradley, AICP, Growth Management Director

DATE: March 3, 2021

SUBJECT: **V-7-2021 - Richard J. DeFay (Cool Pools of Brevard, Rep.) - A variance to allow a proposed swimming pool and screen room enclosure to encroach 6 feet into the 10-foot rear accessory structure setback as established by Section 185.118(D) of the Palm Bay Code of Ordinances. Lots 33 and 34, Block 1842, Port Malabar Unit 39, Section 34, Township 28, Range 36, Brevard County, Florida, containing .48 acres, more or less. (Located at the northwest corner of De Leon Court NW and Holcomb Street NW, specifically at 526 De Leon Court NW)

**Quasi-Judicial Proceeding.

ATTACHMENTS:

Description

☐ Case V-7-2021



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmbayflorida.org

Prepared by

Grayson Taylor, Planner

CASE NUMBER

V-7-2021

PLANNING & ZONING BOARD HEARING DATE

March 3, 2021

PROPERTY OWNER & APPLICANT

Richard J. Defay, Represented by Cool
Pools of Brevard

PROPERTY LOCATION/ADDRESS

Lots 33 and 34, Port Malabar Unit 39, Section 34,
Township 28, Range 36, Brevard County, Florida

SUMMARY OF REQUEST

A variance to allow a proposed swimming pool and screen enclosure to encroach 6' into the 10' rear accessory structure setback, as established by Section 185.118(A)(4) of the Palm Bay Code of Ordinances.

Existing Zoning

RS-2, Single-Family Residential District

Existing Land Use

Single-Family Residential Use

Site Improvements

Single-Family Home

Site Acreage

0.48 acres, more or less

SURROUNDING ZONING & USE OF LAND**North**

RS-2, Single-Family Residential, Single-Family Home

East

RS-2, Single-Family Residential, Single-Family Home

South

RS-2, Single-Family Residential, Vacant Land

West

RS-2, Single-Family Residential, Recreation & Open Space Tract

BACKGROUND:

The subject property was constructed and received a Certificate of Occupancy in 2019. The property consists of one corner and one interior standard General Development Corporation lot, now combined. The property has a width of 171.18' and a depth of 125'. The property owner has applied for a vacate of easement via VE-1-2021, to vacate 991.08 square feet of the 1,711.8 square feet of the existing Public Utility and Drainage easement.

ANALYSIS:

Variances from the terms of the Land Development Code may be granted when special conditions exist that would result in unnecessary hardship if the provisions of the Land Development Code were enforced. However, a variance may not be granted when the public health and safety would be compromised as a result of the variance. An application must demonstrate that items 1 through 7 of Section 169.009 of the Code of Ordinances have been met. A review of these items is as follows:

Item 1 - *"Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, buildings or structures in the same land use category, zoning district, or situation."*

The applicant states, "the variance will meet the following condition due to the fact that the property behind 526 De Leon Court is owned by the City and the property butts up to a canal." The applicant is correct in that this parcel, Tract C, Port Malabar Unit 39 is owned by the City, and it has a future land use designation of Recreation & Open Space. A 30' easement runs through the center of this parcel. However, two separately owned lots on Hayworth Circle NE also abut Tract C and were able to install swimming pools without requiring a variance. Staff is unable to determine any special circumstances in regard to the applicant's property.

Item 2 - *"The special conditions and circumstances identified in Item 1 above are not the result of the actions of the applicant."*

There do not appear to be any identifiable special circumstances.

Item 3 - *"Literal interpretation and enforcement of the Land Development Code regulations would deprive the applicant of rights commonly enjoyed by other properties in the same land use category, zoning district or situation under the terms of the Land Development Code, and would work unnecessary and undue hardship on the applicant."*

Literal interpretation and enforcement of the Land Development Code would require the applicant to build within the applicable setbacks. Building within the required setbacks would not allow for the proposed swimming pool and screen enclosure in the desired location.

Item 4 - *"The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building, or structure."*

A maximum of 6 feet into the 10-foot rear accessory building setback would be needed to meet the applicant's request.

Item 5 - *"Granting of the variance request will not confer on the applicant any special privilege that is denied by the development code to other lands, buildings or structures in the same land use category, zoning district or situation."*

Granting of the variance would confer upon the applicant a special privilege for the setback relief, as the same development standards apply to other properties in this community.

Item 6 - *"The granting of the variance will be in harmony with the general intent and purpose of this code and will not be injurious to the surrounding properties or detrimental to the public welfare."*

Staff has not identified any detrimental effect to public welfare.

Item 7 - *"The variance represents a reasonable disposition of a claim brought under the Bert J. Harris Private Property Rights Protection Act, chapter 95-181, Laws of Florida, that a development order of the city has reasonably burdened the applicant's property, based on the recommendations of the special master appointed in accordance with the act, or the order of a court as described in the act."*

Staff has not received a claim made upon this property, with respect to the "Bert J. Harris Act," or any development order, as indicated above. Therefore, Item 7 is not applicable to the variance request.

STAFF RECOMMENDATION:

The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief, is required to meet the needs of the variance being requested, as required under Section 169.009 of the City of Palm Bay Code of Ordinances and make recommendations to City Council for a final review. Under 59.05(A)(14) of the City of Palm Bay Code of Ordinances, "The quasi-judicial body shall direct the clerk or [city] attorney acting as the body's legal counsel to prepare the necessary and appropriate written order in accordance with the purpose of the hearing and findings of the quasi-judicial body. Pursuant to Florida Statutes, in the event relief is denied to the applicant, the specific provision of statute or code that was deficient shall be stated for record."

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

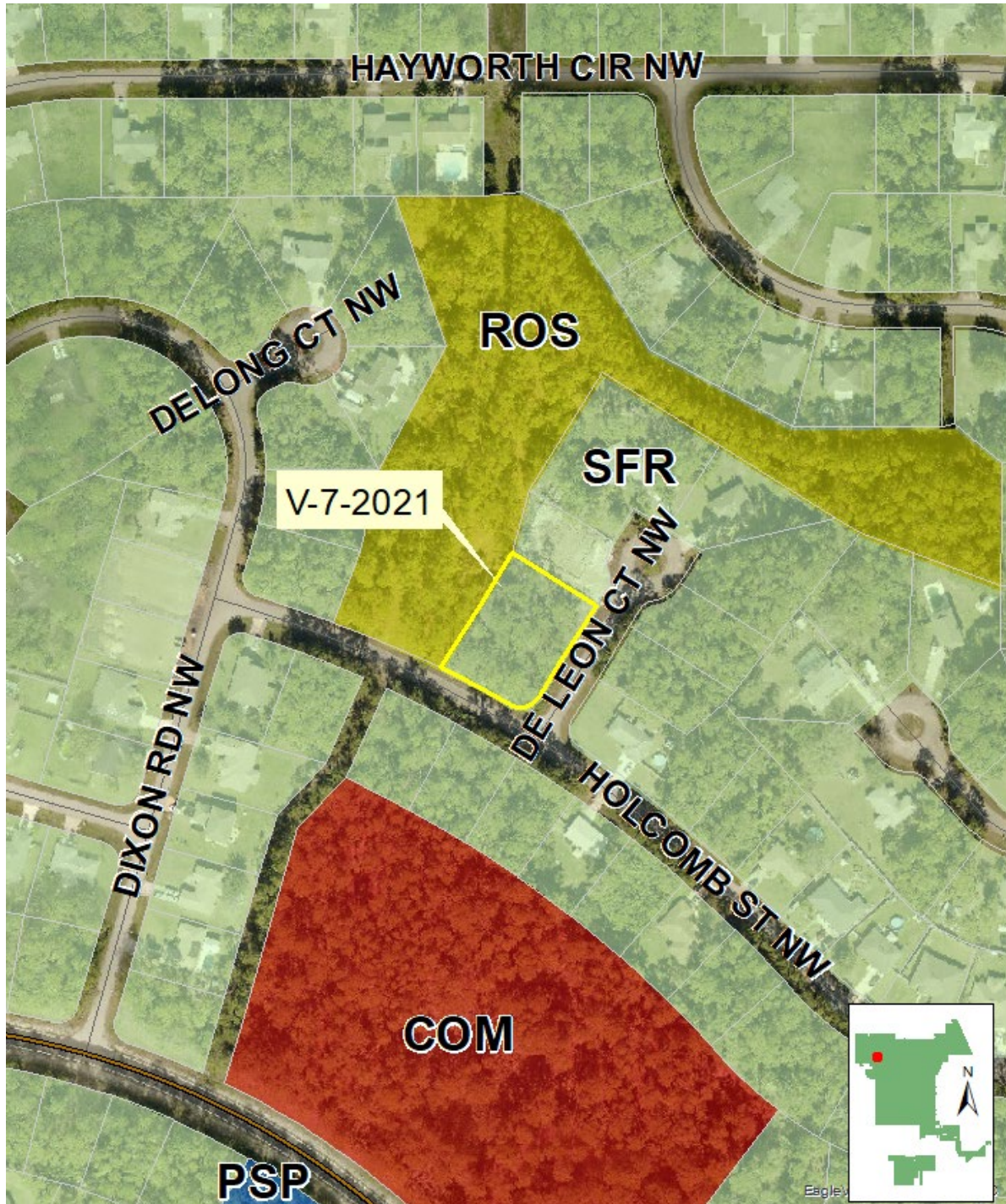


AERIAL LOCATION MAP CASE V-7-2021

Subject Property

Northwest corner of De Leon Court NW and Holcomb Street NW, specifically at 526 De Leon Court NW

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



FUTURE LAND USE MAP CASE V-7-2021

Subject Property

Northwest corner of De Leon Court NW and Holcomb Street NW, specifically at 526 De Leon Court NW

Future Land Use Classification

SFR - Single 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 V-7-2021

Subject Property

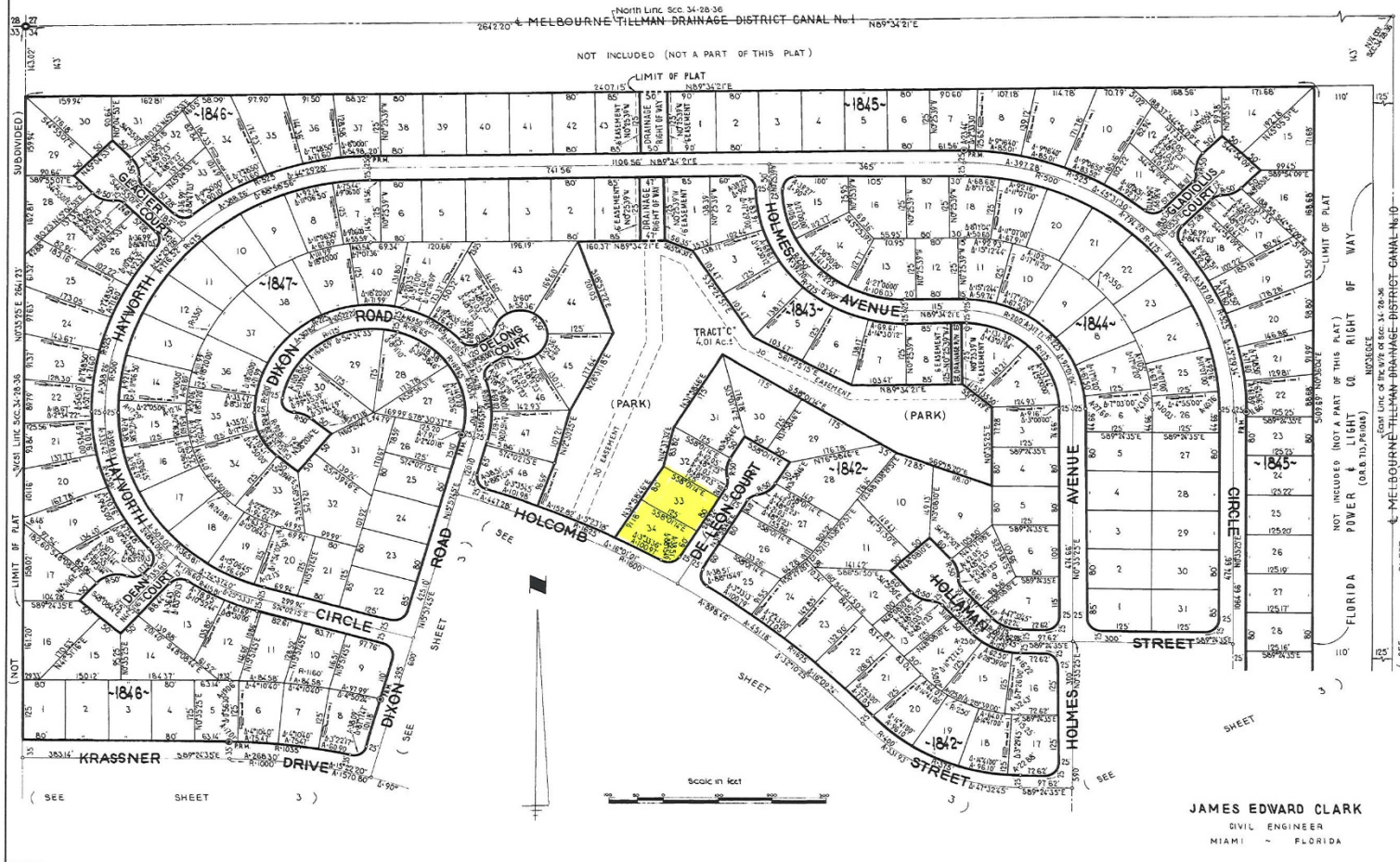
Northwest corner of De Leon Court NW and Holcomb Street NW, specifically at 526 De Leon Court NW

Current Zoning Classification

RS-2, Single Family Residential District

A SUBDIVISION OF A PORTION OF SECTION 34
TOWNSHIP 28 SOUTH, RANGE 36 EAST
AND
A RESUBDIVISION OF A PORTION OF PORT MALABAR UNIT TWENTY SIX
CITY OF PALM BEACH, BREVARD COUNTY, FLORIDA
SHEET 2 OF 5 SHEETS

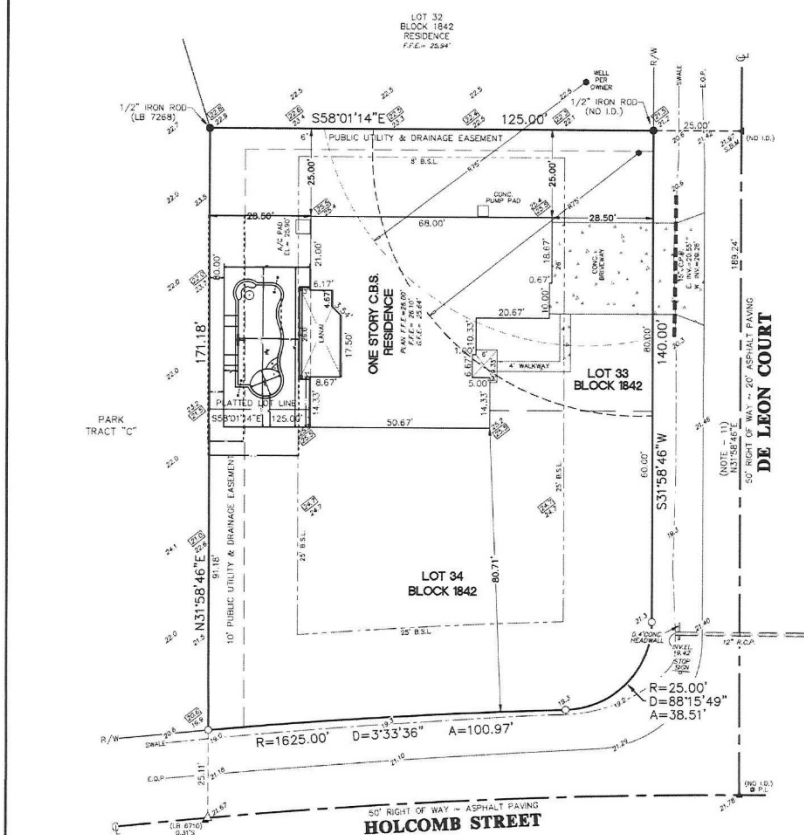
NOT INCLUDED (NOT A PART OF THIS PLAT)



JAMES EDWARD CLARK
CIVIL ENGINEER
MIAMI ~ FLORIDA

SHEET 2 OF 5 SHEETS
192 LOTS THIS SHEET

MAP OF SURVEY
CERTIFICATE OF AUTHORIZATION L.B. 7426





* NO CITY OF PALM BAY UTILITIES SERVICES AVAILABLE.

PROPERTY ADDRESS: 502/528 DE LEON COURT NW
PALM BAY, FLORIDA 32907



Category	No	Yes	Don't know	No	Yes
Percentage	20	10	0	20	40

 - EXISTING ELEVATIONS
 - PROPOSED FINISHED ELEVATIONS

SET BACK REQUIREMENTS PER
CITY OF PALM BEACH
FRONT: 25.0'
SIDE (INTERIOR): 8.0'
SIDE (CORNER): 25.0'
REAR: 25.0'
REAR ALLEY: N/A

Digitally signed
by Kevin A. Smith
Date: 2020.09.01
08:58:38 -04'00'

CERTIFIED TO: PALLADIO DEVELOPMENT, LLC

SURVEYORS NOTES:

- [illegible]

LEGEND:

- LEGEND:**
- 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836.

LOTS 33 & 34, BLOCK 1842.

"PORT MALABAR UNIT THIRTY NINE"

| TYPE | SURVEY DATE | JOB NUMBER | AC | BS |
|------|-------------|------------|----|----|
|------|-------------|------------|----|----|

| FILE | SURVEY DATE | JOB NUMBER | CR. BY |
|-------------|-------------------|------------|--------|
| STAKE OUT | NOVEMBER 18, 2019 | 19-7615 | |
| POUCH STAKE | CONCORD, MA 03306 | 10 36.41 | |

| | | | |
|-------------------|------------------|---------|--|
| ROUGH STAKE | OCTOBER 31, 2019 | 19-7544 | |
| REVISED PLOT PLAN | AUG. 20, 2019 | 19-7103 | |

| | | |
|-----------------|---------------|------------------|
| PLOT PLAN | JUNE 17, 2019 | 19-0873 |
| BOUNDARY SURVEY | JUNE 7, 2019 | 19-0769 ~ 511/48 |

DRAWN BY: P.A.D. SCALE: 1" = 20'
 FLOOD ZONE: 1 FLOOD INSURANCE RATE: 100%

FLOOD ZONE: FLOOD INSURANCE RATE MAP NUMBER:

*KEVIN A. SMITH - FLORIDA CERTIFICATE NO. 4457
ANDREW J. SMITH - FLORIDA CERTIFICATE NO. 5680

Page 10

SKETCH & DESCRIPTION

SECTION 34, TOWNSHIP 28 SOUTH, RANGE 36 EAST
(NOT A BOUNDARY SURVEY)

SHEET 1 OF 2
NOT VALID WITHOUT THE
SKETCH ON SHEET 2 OF 2

LEGAL DESCRIPTION:

A PORTION OF A 10 FEET WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT LYING WITHIN LOTS 33 AND 34, BLOCK 1842, PORT MALABAR UNIT THIRTY NINE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGES 24-48, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWESTERLY CORNER OF SAID LOT 33, BLOCK 1842; THENCE SOUTH 58°01'14" EAST ALONG THE NORTHERLY LINE OF SAID LOT 33, A DISTANCE OF 4.00 FEET; THENCE SOUTH 31°58'46" WEST, A DISTANCE OF 6.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 58°01'14" EAST, A DISTANCE OF 6.00 FEET; THENCE SOUTH 31°58'46" WEST, A DISTANCE OF 164.28 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF HOLCOMB STREET, SAID POINT BEING ON A CURVE WHICH IS CONCAVE SOUTHERLY, HAVING A RADIUS OF 1625.00 FEET AND A CENTRAL ANGLE OF 0°12'45"; THENCE WESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 6.02 FEET; THENCE NORTH 31°58'46" EAST, A DISTANCE OF 164.81 FEET TO THE POINT OF BEGINNING.

PREPARED BY:



1350 MALABAR ROAD S.E., SUITE 1, PALM BAY, FLORIDA 32907
Phone (321)724-2940 Fax(321)951-4879
E-MAIL: SMITHSURVEYINGFL @ GMAIL.COM



Kevin A. Smith
KEVIN A. SMITH — FLORIDA CERTIFICATE NO. 4457
(NOT VALID UNLESS SIGNED AND SEALED)

PREPARED FOR: RICHARD J. DEFAY; COOL POOLS

DRAWN BY: A. TEJADA

CHECKED BY: KAS

DRAWING NO. 20-2146

SECTION 34

DATE: DEC. 21, 2020

SHEET 1 OF 2

REVISIONS

TOWNSHIP 28 SOUTH
RANGE 36 EAST

(NOT A BOUNDARY SURVEY)

NOT VALID WITHOUT THE LEGAL
DESCRIPTION ON SHEET 1 OF 2



1350 MALABAR ROAD S.E., SUITE 1 , PALM BAY, FLORIDA 32907
Phone (321)724-2940 Fax(321)951-4879
E-MAIL: SMITHSURVEYINGFL @ GMAIL.COM

SECTION 34, TOWNSHIP 28 SOUTH, RANGE 36 EAST
(NOT A BOUNDARY SURVEY)

LOT 32, BLOCK 1842
RESIDENCE



SCALE: 1" = 30'.

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LAND DEVELOPMENT DIVISION

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

VARIANCE 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 28-36-34-25-1842-33

TAX ACCOUNT NUMBER 2813628

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

LOTS 33 AND 34, BLOCK 1842, PORT MALABAR UNIT THIRTY-NINE PLAT BOOK 21, PAGES 24 THROUGH 28 PUBLIC RECORDS OF BREVARD COUNTY FL

STREET ADDRESS OF PROPERTY COVERED BY APPLICATION:

526 DE LEON COURT NW PALM BAY FL 32907

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): .5 ACRE

EXISTING ZONING CLASSIFICATION OF PROPERTY (ex.: RS-2, CC, etc.) _____

ARE THERE ANY STRUCTURES ON THE PROPERTY NOW? ☒ YES ☐ NO

HAS A VARIANCE APPLICATION PREVIOUSLY BEEN FILED FOR THIS PROPERTY?
☐ YES ☒ NO

IF SO, STATE THE NATURE OF THE PREVIOUS APPLICATION, WHETHER THE REQUEST WAS APPROVED OR DENIED, AND DATE OF ACTION:

DESCRIBE THE EXTENT OF THE VARIANCE REQUESTED AND THE INTENDED USE OF THE PROPERTY IF THE VARIANCE IS GRANTED (SPECIFY NUMBER OF INCHES/FEET ENCROACHING INTO SPECIFIC REQUIRED YARD SETBACK OR HEIGHT RESTRICTIONS):

6' ENCROACHING INTO SPECIFIC REQUIRED YARD SETBACK LINE TO INSTALL INGROUND SWIMMING POOL AND SCREEN ENCLOSURE

CITE THE APPLICABLE SECTION(S) OF THE ZONING ORDINANCE AND ITS REQUIREMENT FROM WHICH VARIANCE IS REQUESTED (ex.: 185.034(f)(7)):

GIVE WRITTEN EXPLANATION(S) DEMONSTRATING HOW THE VARIANCE MEETS THE FOLLOWING CONDITIONS PER SECTION 169.009:

- (a) That special conditions and circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same land use category, zoning district, or situation.
- (b) That special conditions and circumstances referred to above do not result from the actions of the applicant.
- (c) That literal interpretation and enforcement of the development code regulations would deprive the applicant of rights commonly enjoyed by other properties in the same land use category, zoning district, or situation under the terms of the development code, and would work unnecessary and undue hardship on the applicant.
- (d) That if granted, the variance is the minimum variance necessary to make possible the reasonable use of the land, building or structure.
- (e) That granting the variance requested will not confer on the applicant any special privilege that is denied by the development code to other lands, buildings, or structures in the same land use category, zoning district, or situation.
- (f) That granting the requested variance will be in harmony with the general intent and purpose of this code and will not be injurious to the surrounding properties or detrimental to the public welfare.

THE VARIANCE WILL MEET THE FOLLOWING CONDITION DUE TO THE FACT THAT THE PROPERTY BEHIND 526 DE LEON COURT IS OWNED BY THE CITY AND THE PROPERTY BUTS UP TO A CANAL

**CITY OF PALM BAY, FLORIDA
VARIANCE APPLICATION
PAGE 3 OF 4**

EVIDENCE MUST BE PROVIDED TO CONSIDER VARIANCES BASED ON THE FOLLOWING CLAIMS:

- ☐ **BERT J. HARRIS PRIVATE PROPERTY RIGHTS PROTECTION ACT**, Chapter 95-181, Laws of Florida. Provide a copy of one of the following:
- ☐ Special master appointed in accordance with the act.
 - ☐ Court order as described in the act.
- ☐ **AMERICANS WITH DISABILITIES ACT**. Cite the section of the act from which the variance request will provide relief: _____

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

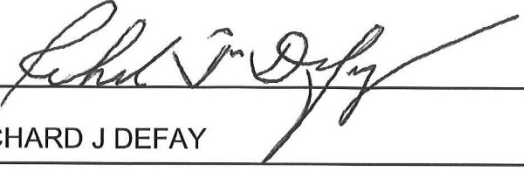
- ☒ *\$350.00 Application Fee. Make Check payable to "City of Palm Bay."
- ☒ List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property 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.)
- ☒ A site plan drawn to scale which shows all property and yard dimensions, its structures (if any) and the variance desired, including abutting highway or road boundaries. The site plan shall also be provided on Memory Drive.
- ☒ Site plan data may be shown on a copy of the survey and must also be provided on Memory Drive.
- ☒ A survey prepared by a registered surveyor showing all property lines and structures. The survey shall 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.
- ☒ **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 COOL POOLS

**CITY OF PALM BAY, FLORIDA
VARIANCE APPLICATION
PAGE 4 OF 4**

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 Variance application and that the facts stated in it are true.

Owner Signature  Date 1/19/2021
Printed Name RICHARD J DEFAY
Full Address 526 DE LEON COURT NW PALM BAY FL 32907
Telephone 954 290 8025 Email RICHARD1DEFAY@GMAIL.COM

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

JANUARY 19, 20 21

Re: Letter of Authorization

As the property owner of the site legally described as:

LOTS 33 AND 34, BLOCK 1842, PORT MALABAR UNIT THIRTY-NINE PLAT BOOK 21,
PAGES 24 THROUGH 28 PUBLIC RECORDS OF BREVARD COUNTY FL

I, Owner Name: RICHARD J DEFAY

Address: 526 DE LEON COURT NW PALM BAY FL 32907

Telephone: 954 290 8025

Email: RICHARD1DEFAY@GMAIL.COM

hereby authorize:

Representative: COOL POOLS


Address: 2860 KIRBY CIRCLE NE PALM BAY FL 32905

Telephone: 321 848 5302

Email: COOLPOOLS2007@GMAIL.COM

to represent the request(s) for:

VARIANCE APPLICATION


(Property Owner Signature)

STATE OF FLORIDA

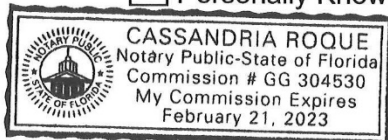
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of ☒ physical
presence or ☐ online notarization, this 19 day of JANUARY, 20 21 by
RICHARD J DEFAY, property owner.


CASSANDRIA ROQUE, Notary Public

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

DRIVERS LICENSE



CASE V-7-2021

CORRESPONDENCE

Chandra Powell

From: Phillipa Bell <phillipa_bell@hotmail.com>
Sent: Wednesday, February 24, 2021 9:44 AM
To: Chandra Powell
Subject: V-7-2021
Attachments: City of Palm Bay Letter.pdf

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.

Please send me a quick confirmation that you received this email. Thanks.

Sincerely,

Phillipa Bell

Sent from Mail for Windows 10

Joyce Blackett Pennant
947 Bloomington Ct
Ocoee, Florida 34761

February 24, 2021

City of Palm Bay Planning and zoning board
City Council
City of Palm Bay Planning and zoning board c/o Land Development Division
120 Malabar RD SE
Palm Bay, Florida 32907

Refer to case V-7-2021

Dear Sir or Madam:

I am not willing to grant or agree to grant any exception to allow any type of structure or construction of any type to be closer to the property lines of subject property other than the standard requirement by the planning and zoning department at the City of Palm Bay. Thank you.

Please contact me if you have any questions or need additional information. I can be contacted by phone at 321-695-6246. An e-mail can be sent to whiteorchids74@gmail.com.

Sincerely,

Joyce Blackett Pennant

Joyce Blackett Pennant