



AGENDA

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Regular Meeting 2021-07

June 2, 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 2021-06; May 5, 2021**

ANNOUNCEMENTS:

OLD/UNFINISHED BUSINESS:

1. ****V-9-2021 - Rene Derosin - A variance to allow a proposed screen enclosure with a solid roof to encroach 8 feet into the 25-foot rear yard setback as established by Section 185.034(F)(7)(d) of the Palm Bay Code of Ordinances. Lot 8, Block 298, Port Malabar Unit 8, Section 32, Township 28, Range 37, Brevard County, Florida, containing approximately .31 acres. (Southwest corner of Haverford Lane NE and Holiday Park Boulevard NE, specifically at 200 Haverford Lane NE)**
2. ****CU-18-2021 - Palm Bay Marina – Kenyon Palm Bay, LLC (Brad Kenyon) - A conditional use to allow proposed retail automotive fuel sales in an HC, Highway Commercial District. Tax Parcel 11.04, Hopsons Subdivision, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately 1.76 acres. (West of and adjacent to Dixie Highway NE, in the vicinity between Pospisil Avenue NE and Deer Run Drive NE, specifically at 4350 Dixie Highway NE)**
3. **T-19-2021 - Golf Carts - Paul Paluzzi, Emerald Investment Holdings, LLC (Jake Wise, P.E., Rep.) - A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 179: Streets and Other Rights-of-Way, Right-of-Way and Easement Use, to establish provisions for Golf Cart communities.**

NEW BUSINESS:

1. ****V-22-2021 - Hector L. Rivera (Jesus Quintero, Rep.) - A variance to allow a proposed aluminum screen room enclosure to encroach 3 feet into the 25-foot rear building setback as established by Section 185.034(F)(7)(d) of the Palm Bay Code of Ordinances. Lot 4, Block 418, Port Malabar Unit 11, Section 8, Township 29, Range 37, Brevard County, Florida, containing approximately .23 acres. (South of and adjacent to**

Mustang Street NE, in the vicinity west of Charcoal Avenue SE, specifically at 1056 Mustang Street SE)

2. **CP-8-2021 - CONTINUED TO 07/07/2021 P&Z - Las Palmas PUD - Anthony Ware, DSG LLC and Gregory Solis, Gus & Sons LLC (Bruce Moia, P.E. and Richard Fadil, Reps.) - A large-scale Comprehensive Plan Future Land Use Map amendment from Public/Semi-Public Use to Single-Family Residential Use. Tax Parcel 2, Section 18, Township 29, Range 37, Brevard County, Florida, containing approximately 12.90 acres. (In the vicinity between Ruffin Circle SE and Buffing Circle SE)**
3. ****PD-20-2021 - CONTINUED TO 07/07/2021 P&Z - Las Palmas PUD - Anthony Ware, DSG LLC and Gregory Solis, Gus & Sons LLC (Bruce Moia, P.E. and Richard Fadil, Reps.) - Preliminary Development Plan to allow for a 47-lot single-family development called Las Palmas PUD. Tax Parcel 2, Section 18, Township 29, Range 37, Brevard County, Florida, containing approximately 12.90 acres. (In the vicinity between Ruffin Circle SE and Buffing Circle SE)**
4. **CP-6-2021 - Benjamin E. Jefferies, Waterstone Farms, LLC (Rochelle Lawandales, FAICP and Jake Wise, P.E., Reps.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Single-Family Residential Use to Multiple Family Residential Use. A portion of Tax Parcel 500, Section 4, Township 30, Range 37, Brevard County, Florida, containing approximately 9.51 acres. (In the vicinity south of Mara Loma Boulevard SE and north of Davis Lane)**
5. ****FS-2-2021 - Northshore at Palm Bay - Andrew R. Steel, NSD Partners (Miguel Reynaldos and Henry A. Kilburn, PSM, Reps.) - Final Plat to allow a proposed 7-lot mixed-use subdivision called Northshore at Palm Bay. Tract 1.01 of Valentine Estate Subdivision and Tax Parcel 5, Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 24.60 acres. (Southwest corner of Robert J. Conlan Boulevard and the Florida East Coast Railway)**
6. **T-23-2021 - REQUEST TO CONTINUE TO 07/07/2021 P&Z - Finished Floor Elevations - City of Palm Bay (Growth Management Department) - A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 174: Floodplain and Stormwater Management, Section 174.073 Single-Family Residential Construction, to modify the provisions and criteria for finished floor elevations**

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: June 2, 2021

SUBJECT: Adoption of Minutes - Regular Meeting 2021-06; May 5, 2021

ATTACHMENTS:

Description

- ▣ **P&Z/LPA Minutes - Regular Meeting 2021-06; May 5, 2021**

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2021-06

Held on Wednesday, May 5, 2021, in the City Hall Council Chambers, 120 Malabar Road SE, 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. Donald Boerema 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 | Present |
| MEMBER: | Richard Hill | Present |
| MEMBER: | Khalilah Maragh | Absent (Excused) |
| MEMBER: | Rainer Warner | Present |
| NON-VOTING MEMBER: | David Karaffa | Present |
| | (School Board Appointee) | |

Ms. Maragh's absence was excused.

CITY STAFF: Present were Mr. Laurence Bradley, Growth Management Director; Mr. Patrick Murphy, Assistant Growth Management Director; Mr. Grayson Taylor, 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 2021-05; April 7, 2021.**

Motion to approve the minutes as presented.

Motion by Mr. Boerema, seconded by Mr. Warner. Motion carried with members voting as follows:

Aye: Weinberg, Jordan, Boerema, Boothroyd, Hill, Warner.

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.
2. Mr. Weinberg announced that Item 1, Case V-9-2021 (Rene Derosin) under Old Business; Item 6, Case CU-18-2021 (Brad Kenyon, Kenyon Palm Bay LLC) under New Business; and Item 11, Case T-19-2021 (Paul Paluzzi, Emerald Investment Holdings, LLC) under New Business were continued to the June 2, 2021 Planning and Zoning Board meeting. Board action was not required to continue the cases.

OLD/UNFINISHED BUSINESS:

1. ****V-9-2021 - Rene Derosin - CONTINUED TO 6/2/2021 P&Z - A variance to allow a proposed screen enclosure with a solid roof to encroach 8 feet into the 25-foot rear yard setback as established by Section 185.034(F)(7)(d) of the Palm Bay Code of Ordinances. Lot 8, Block 298, Port Malabar Unit 8, Section 32, Township 28, Range 37, Brevard County, Florida, containing approximately .31 acres. (Southwest corner of Haverford Lane NE and Holiday Park Boulevard NE, specifically at 200 Haverford Lane NE)**

Case V-9-2021 was discussed under Announcements, Item 2.

NEW BUSINESS:

1. **CP-4-2021 – Advantis on the Bay - Jeffrey Unnerstall, Manager, Eztopeliz, LLC (Bruce Moia, P.E. and Michele Zahn, Reps.) - A large-scale Comprehensive Plan Future Land Use Map amendment from MU, Mixed Use to BMU, Bayfront Mixed Use. Tracts AA, BB, and CC, Replat of Part of Port Malabar Unit 1, Section 25, Township 28, Range 37, Brevard County, Florida, containing**

approximately 10.3 acres. (Northwest corner of Dixie Highway NE and Port Malabar Boulevard NE)

Mr. Murphy presented the staff report for Case CP-4-2021. Staff recommended Case CP-4-2021 for approval, subject to the staff conditions, and for transmission to the Department of Economic Opportunity, pursuant to Chapter 163, Florida Statutes.

Mr. Bruce Moia, P.E., president of MBV Engineering, Inc., stated that as a member of the development community, he was in full support of Item 12 under New Business, Case T-8-2021 (City of Palm Bay, Growth Management Department), to amend the BMU, Bayfront Mixed Use District.

Mr. Moia (representative for the applicant) stated that a Winn Dixie Shopping Center built in 1971 was once located on the subject site. The land use and zoning change in 2007 to build 161 residential units and 61,000 square-feet for commercial use had not been feasible and was never constructed. The property currently sat as a vacant eyesore. He stated that the subject proposal was the first step in bringing a viable project to the site. A conditional use and site plan for an actual project would be submitted for board and City Council review once the proposed land use and zoning amendments were in place. The proposed BMU amendment and the future mixed-use project would be exciting catalysts for the Bayfront District. He stated that he was in full agreement with the recommendations in the staff report.

The floor was opened for public comments.

Ms. Mary Fritz (resident at Cable Lane NE) was concerned with how the project would impact her property.

In response to public comments, Mr. Moia informed the board that during the conditional use application process, a Citizen Participation Plan (CPP) meeting would be required to present to the community the project and its site plan and renderings.

The floor was closed for public comments, and there was no correspondence in the file.

Motion to submit Case CP-4-2021 to City Council for approval, subject to the staff conditions, and for transmission to the Department of Economic Opportunity, pursuant to Chapter 163, Florida Statutes.

Motion by Mr. Boerema, seconded by Ms. Jordan. Motion carried with members voting as follows:

Aye: Weinberg, Jordan, Boerema, Boothroyd, Hill, Warner.

City Council will hear Case CP-4-2021 on June 10, 2021.

2. ****CPZ-4-2021 – Advantis on the Bay - Jeffrey Unnerstall, Manager, Eztopeliz, LLC (Bruce Moia, P.E. and Michele Zahn, Reps.) - A zoning amendment from a PCRD, Planned Community Redevelopment District to a BMU, Bayfront Mixed Use District. Tracts AA, BB, and CC, Replat of Part of Port Malabar Unit 1, Section 25, Township 28, Range 37, Brevard County, Florida, containing approximately 10.3 acres. (Northwest corner of Dixie Highway NE and Port Malabar Boulevard NE)**

Mr. Murphy presented the staff report for Case CPZ-4-2021. Staff recommended Case CPZ-4-2021 for approval, to be consistent and compatible with the Future Land Use designation of Case CP-4-2021.

Mr. Boerema inquired whether the 70-foot building height currently allowed at the subject site was compatible with the surrounding area and if there were other 70-foot-high buildings in the area. Mr. Murphy stated that both the Venetian Bay Condominiums and the Riverview Senior Resort located off Dixie Highway NE had 70-foot-high buildings and were within the general area of the subject site.

Mr. Bruce Moia, P.E., president of MBV Engineering, Inc. (representative for the applicant) stated that he was in agreement with all staff recommendations and that the zoning change would eliminate many undesired uses currently allowed at the location. He assured the board that the project planned for the site would not reach 70-feet in height and would be less of an impact on the neighborhood surroundings than the existing vacant and treeless parking lot.

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

Motion to submit Case CPZ-4-2021 to City Council for approval as recommended by staff.

Motion by Ms. Jordan, seconded by Mr. Hill. Motion carried with members voting as follows:

Aye: Weinberg, Jordan, Boerema, Boothroyd, Hill, Warner.

City Council will hear Case CPZ-4-2021 on June 10, 2021.

3. ****V-15-2021 - Timothy and Karen Durnin - A variance to allow a proposed detached garage to encroach 10 feet into the 25-foot side building setback as established by Section 185.034(F)(7) (c) of the Palm Bay Code of Ordinances. Lots 2 and 3, Block 740, Port Malabar Unit 16, Section 17, Township 29, Range 37, Brevard County, Florida, containing approximately .47 acres. (South of and east of the intersection of Wabash Road SE and Targee Street SE, specifically 1015 Wabash Road SE)**

Mr. Taylor presented the staff report for Case V-15-2021. The board had to determine, based on the facts presented, the degree of minimal relief, if any, to meet the needs of the variance request, as required by Section 169.009 of the City of Palm Bay Code of Ordinances.

Mr. Boothroyd inquired whether the applicant had originally applied for a permit to build a garage, or just to pour the slab. Mr. Taylor indicated that the intent was unclear; however, the building permit stated that anything built on the slab must be approved and comply with required setbacks.

Ms. Karen Durnin (applicant) stated that a permit was issued for the detached garage on January 19, 2021. She could have relocated the garage, but the poured concrete had improvements for drainage.

Mr. Weinberg asked how the garage would be accessed. Ms. Durnin explained how the garage would have a driveway at both ends for street access.

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

Motion to submit Case V-15-2021 to City Council for approval.

Motion by Ms. Jordan, seconded by Mr. Boerema.

In support of the request, Ms. Jordan noted that the issued permit indicated that the concrete slab was for a metal building. Mr. Weinberg added that staff had not identified any detrimental effect of the variance on the area.

Motion carried with members voting as follows:

Aye: Weinberg, Jordan, Boerema, Boothroyd, Hill, Warner.

City Council will hear Case V-15-2021 on June 10, 2021.

4. ****V-16-2021 - Tania and Alvaro Gonzalez - A variance to allow a proposed screened patio to encroach 5 feet into the 25-foot rear building setback as established by Section 185.034(F)(7) (d) of the Palm Bay Code of Ordinances. Lot 13, Block 2289, Port Malabar Unit 44, Section 21, Township 28, Range 36, Brevard County, Florida, containing approximately .23 acres. (East of and adjacent to Dallam Avenue NW, in the vicinity between Lacombe Street NW and Kamsack Street NW, specifically at 1239 Dallam Ave NW)**

Mr. Taylor presented the staff report for Case V-16-2021. The board had to determine, based on the facts presented, the degree of minimal relief, if any, to meet the needs of the variance request, as required by Section 169.009 of the City of Palm Bay Code of Ordinances.

Ms. Tania Gonzalez (applicant) explained how her concrete patio floor had been poured when she was informed that the 12-foot-deep screened patio she desired would require a variance. The 7.6-foot-deep patio that would be allowed without the variance would be difficult to accommodate her family member who was confined to a wheelchair. She stated that her yard was big enough for the larger patio.

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

Motion to submit Case V-16-2021 to City Council for approval.

Motion by Mr. Hill, seconded by Mr. Boerema. Motion carried with members voting as follows:

Aye: Weinberg, Jordan, Boerema, Boothroyd, Hill, Warner.

City Council will hear Case V-16-2021 on June 10, 2021.

5. ****CU-17-2021 - Martin Kravet, Palm Bay Shopping Center at Babcock – Palm Bay Partners LLC (Jake Wise, P.E., Rep.) - A conditional use to allow for proposed retail sales on a parcel of land greater than 10 acres. Tax Parcel 503, Section 22, Township 28, Range 37, Brevard County, Florida, containing approximately 12.32 acres. (East of and adjacent to Babcock Street NE, in the vicinity south of Palm Bay Road NE, specifically at 4711 Babcock Street NE)**

Mr. Murphy presented the staff report for Case CU-17-2021. Staff recommended Case CU-17-2021 for approval, subject to the recommendations contained in the staff report and compliance with all City Codes and other governmental regulations.

Mr. David Tom with Construction Engineering Group (representative for the applicant) stated that the subject plaza had existed for decades. He described how the 135,000 square feet of commercial buildings would be reduced by approximately 56,533 square feet; onsite drainage would be added for additional stormwater treatment; all existing buildings would be demolished for the new construction; and the property owner was in agreement with all staff comments. He noted that the three attendees at the Citizen Participation Plan (CPP) meeting were pleased about the proposed demolition. Traffic counts for the project had been received, and the reduced number of buildings for the new plaza would decrease the daily traffic trips by almost 3,000 trips per day. All architectural standards would be met.

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

Motion to submit Case CU-17-2021 to City Council for approval, subject to the staff recommendations contained in the staff report.

Motion by Mr. Boerema, seconded by Mr. Hill. Motion carried with members voting as follows:

Aye: Weinberg, Jordan, Boerema, Boothroyd, Hill, Warner.

General discussion ensued among staff and the board regarding the future project.

City Council will hear Case CU-17-2021 on June 10, 2021.

6. ****CU-18-2021 - Palm Bay Marina – Kenyon Palm Bay, LLC (Brad Kenyon) - CONTINUED TO 6/2/2021 P&Z - A conditional use to allow proposed retail automotive fuel sales in an HC, Highway Commercial District. Tax Parcel 11.04, Hopsons Subdivision, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately 1.76 acres. (West of and adjacent to Dixie Highway NE, in the vicinity between Pospisil Avenue NE and Deer Run Drive NE, specifically at 4350 Dixie Highway NE)**

Case CU-18-2021 was discussed under Announcements, Item 2.

7. ****FS-1-2021 - Country Club Lakes Estates 4 - Palm Bay Greens, LLC (Mario Oliveira, Rep.) – Final Plat approval of a proposed 68-lot single-family subdivision called Country Club Lakes Estates Phase 4. Tax Parcels 508 and 758, Section 28, Township 28, Range 37, Brevard County, Florida, containing approximately 32.31 acres. (In the vicinity of the southeast corner of Riviera Drive NE and Country Club Drive NE)**

Mr. Murphy presented the staff report for Case FS-1-2021. Staff recommended Case FS-1-2021 for approval, subject to the conditions contained the staff report.

Mr. Jack Spira of Spira, Beadle & McGarrell PA (representative for the applicant) stated how the preliminary approval of the subject request had occurred in 2020. He

stated that he was in agreement with all staff comments. He noted how the developer for the project had made a concerted effort to preserve the specimen trees on the property and had omitted various lots from the development to preserve the trees. A park area would also be continued throughout the subdivision.

The floor was opened for public comments.

Ms. Maria Waller (resident at Seymour Road NE) was concerned with how the project would impact her property.

In response to public comments, Mr. Spira indicated to the board the buffering drainage tract that would be located behind Ms. Waller's property.

The floor was closed for public comments, and there was no correspondence in the file.

Motion to submit Case FS-1-2021 to City Council for approval, subject to the conditions contained in the staff report.

Motion by Mr. Hill, seconded by Ms. Jordan. Motion carried with members voting as follows:

Aye: Weinberg, Jordan, Boerema, Boothroyd, Hill, Warner.

City Council will hear Case CU-17-2021 on June 10, 2021.

8. **CP-5-2021 - Richard Pribell – A small-scale Comprehensive Plan Future Land Use Map amendment from Public/Semi-Public Use to Single-Family Residential Use. Tax Parcel 755, Section 26, Township 28, Range 37, Brevard County, Florida, containing approximately .3 acres. (North of and adjacent to Port Malabar Boulevard NE, in the vicinity between Clearmont Street NE and Sadnet Circle NE, specifically at 1803 Port Malabar Boulevard NE)**

Mr. Taylor presented the staff report for Case CP-5-2021. Staff recommended Case CP-5-2021 for approval, subject to the staff comments.

Mr. Richard Pribell (applicant) stated how he considered the subject property to be blighted. He planned to refurbish the existing home and lot by adding new windows, landscaping, an irrigation system, and grass. The upgrade would enhance the view of the property from Port Malabar Boulevard.

The floor was opened for public comments.

Ms. Rosita Cotton (resident at Sadnet Circle NE) indicated that she was in favor of the request.

The floor was closed for public comments, and there was no correspondence in the file.

Motion to submit Case CP-5-2021 to City Council for approval, subject to the staff report comments.

Motion by Mr. Hill, seconded by Mr. Boerema. Motion carried with members voting as follows:

Aye: Weinberg, Jordan, Boerema, Boothroyd, Hill, Warner.

City Council will hear Case CP-5-2021 on June 10, 2021.

9. ****CPZ-5-2021 - Richard Pribell - A zoning amendment from an IU, Institutional Use District to an RS-2, Single-Family Residential District - Tax Parcel 755, Section 26, Township 28, Range 37, Brevard County, Florida, containing approximately .3 acres. (North of and adjacent to Port Malabar Boulevard NE, in the vicinity between Clearmont Street NE and Sadnet Circle NE, specifically at 1803 Port Malabar Boulevard NE)**

Mr. Taylor presented the staff report for Case CPZ-5-2021. Staff recommended Case CPZ-5-2021 for approval, based upon the analysis contained in the staff report.

Mr. Richard Pribell (applicant) stated that his comments for Case CP-5-2021 also pertained to the subject request.

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

Motion to submit Case CPZ-5-2021 to City Council for approval, based upon the analysis contained in the staff report.

Motion by Ms. Jordan, seconded by Mr. Hill. Motion carried with members voting as follows:

Aye: Weinberg, Jordan, Boerema, Boothroyd, Hill, Warner.

City Council will hear Case CPZ-5-2021 on June 10, 2021.

10. **CP-7-2021 - MRJV, LLC (Chris Duff, Rep.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Utilities Use and Recreation and Open Space Use to Single-Family Residential Use. Tracts G and H, Port Malabar Unit 18, Section 21, Township 29, Range 37, Brevard County, Florida, containing approximately 2.83 acres. (West of Tripoli Road SW and Walsh Avenue SW, in the vicinity south of Tiffiny Avenue SE)**

Mr. Murphy presented the staff report for Case CP-7-2021. Staff recommended Case CP-7-2021 for approval, subject to the staff comments.

Mr. Boerema inquired about the subject proposal and multiple-family development. Mr. Murphy stated that the applicant was requesting a single-family development of one home for each tract. The properties were already zoned RS-2, Single-Family Residential. The subject request would make the land use and the zoning designations consistent and would allow for the single-family homes.

Ms. Ashley Walford (representative for the applicant) stated that the two properties were purchased with the intent to potentially build homes that would fit within the neighborhood and community. She stated that the City currently had a requisite amount of park designated land; the proposed land use change should not impact the supply and variety of affordable housing in the City; utilities and solid waste standards would not be adversely affected, nor would the public school system. She

acknowledged the need to work with staff on a drainage plan for potential construction.

Mr. Weinberg asked for confirmation that one home would be built on Tract H and one home would be built on Tract G. Ms. Walford stated that this was correct.

The floor was opened for public comments.

Mr. Steven Haugen (resident at Tripoli Road SE) commented on the request. He clarified that the surrounding area was on well and septic and noted how there had been a bald eagle's nest nearby on Tiffany Avenue. He indicated that he was not opposed to one home on each of the properties.

The floor was closed for public comments, and there was no correspondence in the file.

Motion to submit Case CP-7-2021 to City Council for approval, subject to the staff comments.

Motion by Mr. Boerema, seconded by Mr. Hill. Motion carried with members voting as follows:

Aye: Weinberg, Jordan, Boerema, Boothroyd, Hill, Warner.

City Council will hear Case CP-7-2021 on June 10, 2021.

11. **T-19-2021 - Paul Paluzzi, Emerald Investment Holdings, LLC (Jake Wise, P.E., Rep.) - CONTINUED TO 6/2/2021 P&Z - A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 179: Streets and Other Rights-of-Way, Right-of-Way and Easement Use, to establish provisions for Golf Cart communities.**

Case T-19-2021 was discussed under Announcements, Item 2.

12. **T-8-2021 - City of Palm Bay (Growth Management Department) - A textual amendment to the Code of Ordinances, Title XVII, Land Development**

Code, Chapter 185: Zoning Code, Section 185.058, to modify provisions of the BMU, Bayfront Mixed Use District.

Mr. Bradley presented the staff report for Case T-8-2021. Staff recommended Case T-8-2021 for approval as written, to enhance development within the BMU District.

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

Motion to submit Case T-8-2021 to City Council for approval as written.

Motion by Mr. Boerema, seconded by Ms. Jordan. Motion carried with members voting as follows:

Aye: Weinberg, Jordan, Boerema, Boothroyd, Hill, Warner.

City Council will hear Case T-8-2021 on June 10, 2021.

OTHER BUSINESS:

There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 8:33 p.m.

Philip Weinberg, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

****Quasi-Judicial Proceeding**



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Grayson Taylor, Planner

DATE: June 2, 2021

SUBJECT: **V-9-2021 - Rene Derosin - A variance to allow a proposed screen enclosure with a solid roof to encroach 8 feet into the 25-foot rear yard setback as established by Section 185.034(F)(7)(d) of the Palm Bay Code of Ordinances. Lot 8, Block 298, Port Malabar Unit 8, Section 32, Township 28, Range 37, Brevard County, Florida, containing approximately .31 acres. (Southwest corner of Haverford Lane NE and Holiday Park Boulevard NE, specifically at 200 Haverford Lane NE)

**Quasi-Judicial Proceeding.

ATTACHMENTS:

Description

☐ Case V-9-2021



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-9-2021

PLANNING & ZONING BOARD HEARING DATE

June 2, 2021

PROPERTY OWNER & APPLICANT

Rene Derosin

PROPERTY LOCATION/ADDRESS

Lot 8, Block 298, Port Malabar Unit 8, Section 32,
Township 28, Range 37, Brevard County, Florida,
specifically at 200 Haverford Lane NE

SUMMARY OF REQUEST

A variance to allow a proposed screen patio to encroach 8' into the 25' rear building setback, as established by Section 185.034(F)(7)(d) 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

0.31 acres

SURROUNDING ZONING & USE OF LAND**North**

RS-2, Single-Family Residential, Vacant Land

East

RMH, Residential Mobile Home, Holiday Park Mobile Home Community

South

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

West

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

BACKGROUND:

The subject property was constructed and received a Certificate of Occupancy in 2006. The property consists of one irregular shaped "wedge lot", platted by General Development Corporation (GDC) in 1961. The property has a width of 152.46' and a depth of 125'. Currently there is a 16' x 12' covered porch at the rear of the house. The applicant has applied for a new screen patio via permit number 20-12519.

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, "Basically I need [an] 8' variance space according to the map survey to build the patio." This proposed structure would extend from the existing covered porch to the side of the home, squaring off the house and encroaching into the rear setback. The Board and Council may consider the irregular shape of the lot as a special circumstance 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."*

The irregular shaped lot identified in Item 1 was created by the land developer (GDC) and may be considered a special circumstance.

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 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 8 feet into the 25-foot rear 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. Building within the required setbacks would allow for an expansion of the existing porch, just not to the desired shape and size.

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.

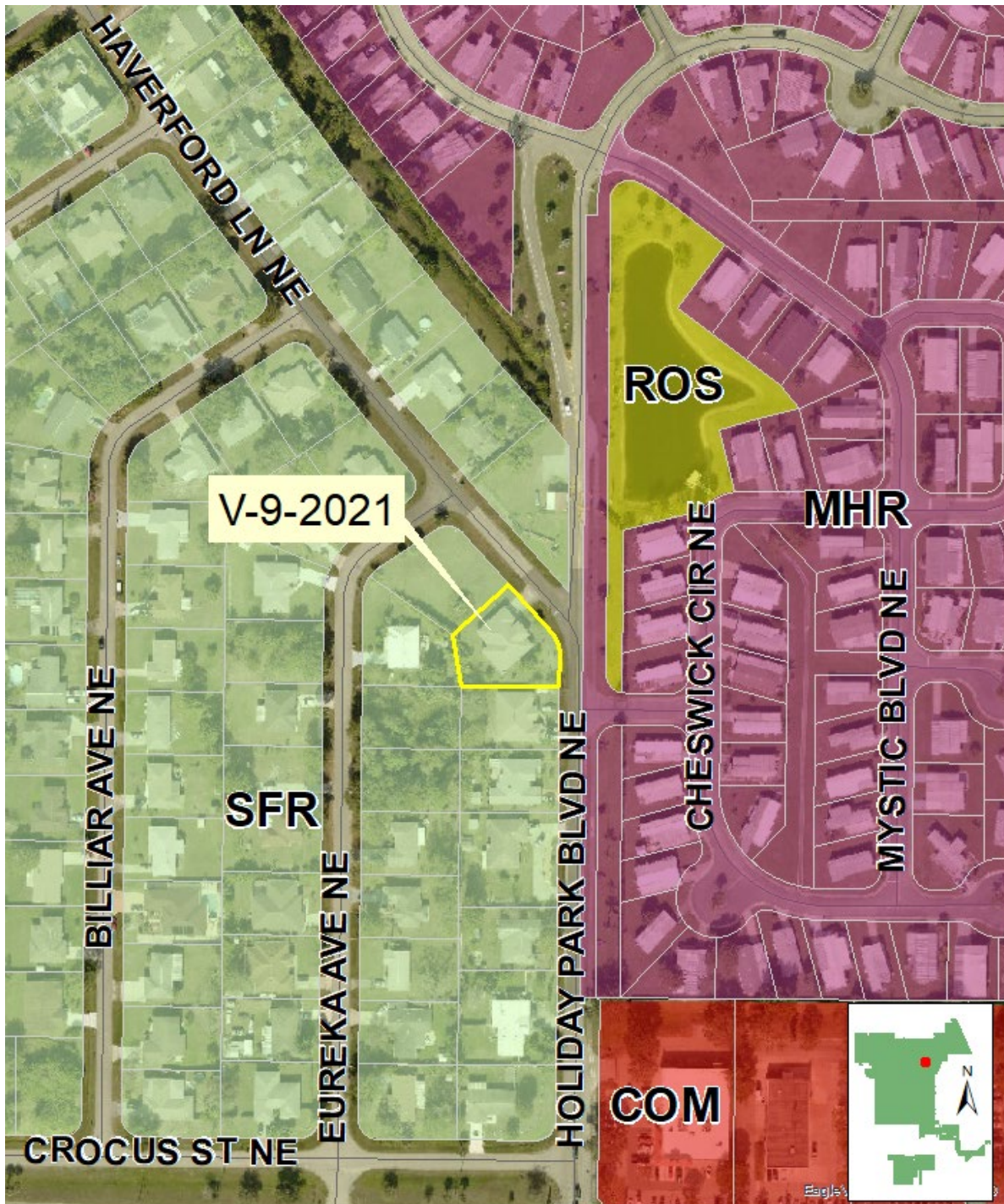


AERIAL LOCATION MAP CASE V-9-2021

Subject Property

Southwest corner of Haverford Lane NE and Holiday Park Boulevard NE, specifically at 200 Haverford Lane 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 V-9-2021

Subject Property

Southwest corner of Haverford Lane NE and Holiday Park Boulevard NE, specifically at 200 Haverford Lane NE

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-9-2021

Subject Property

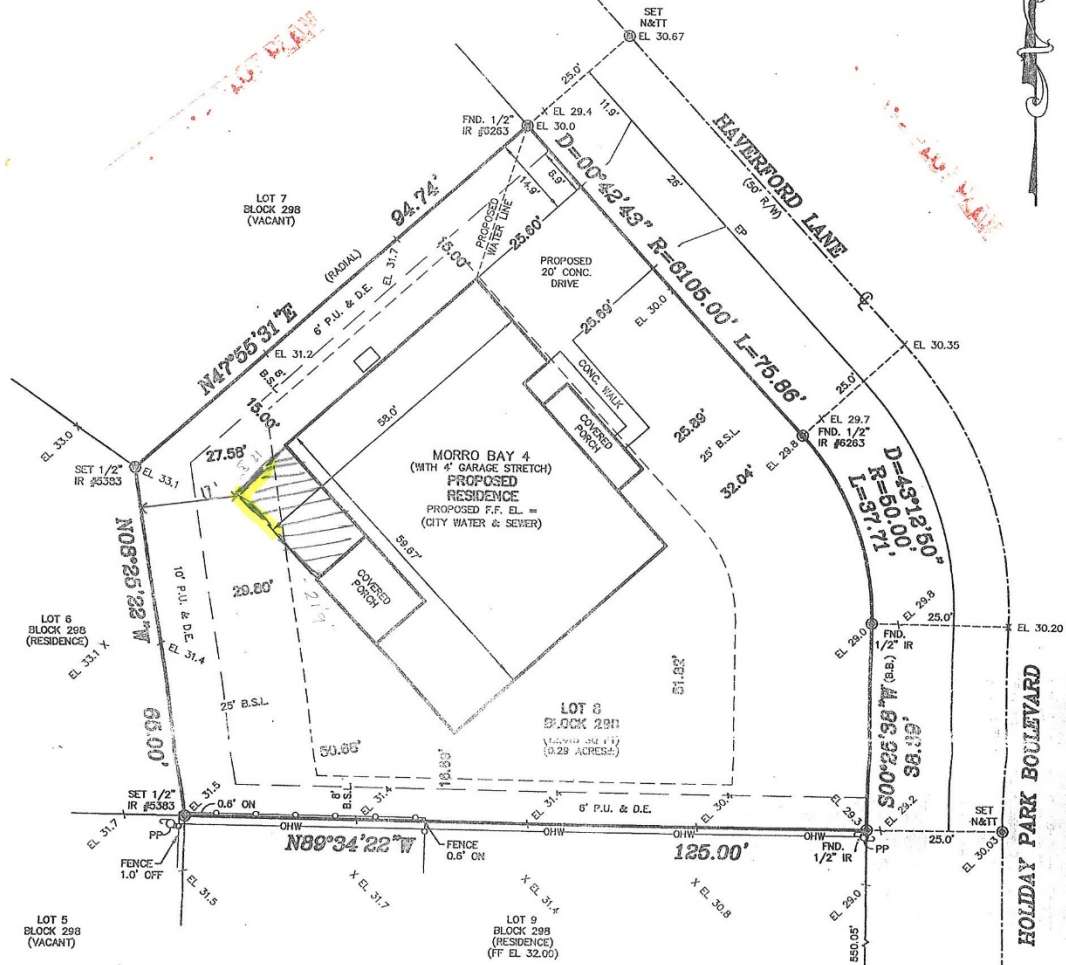
Southwest corner of Haverford Lane NE and Holiday Park Boulevard NE, specifically at 200 Haverford Lane NE

Current Zoning Classification

RS-2, Single Family Residential District

NOTE:

DRAINFIELD ELEVATIONS TO BE DETERMINED BY HEALTH DEPARTMENT.
PROPOSED GRADES AND FINISH FLOOR ELEVATION TO BE DETERMINED BY BUILDER.
THIS PLOT PLAN WAS PREPARED BASED ON INFORMATION PROVIDED BY CLIENT.



BOUNDARY SURVEY PREPARED FOR:
HOLIDAY BUILDERS, INC.
RENE DEROSIN
BANK OF AMERICA, N.A.
HBI TITLE COMPANY
CHICAGO TITLE INSURANCE COMPANY
COMMONWEALTH LAND TITLE INSURANCE COMPANY

TENTATIVE PLOT PLAN

CUSTOMER COPY

DESCRIPTION: LOT 8, BLOCK 298, PORT MALABAR UNIT EIGHT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 14, PAGES 142-150, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

AAL LAND SURVEYING SERVICES, INC.

ACCORDING TO F.I.R.M.
#12009C 0520 E,
DATED APRIL 3, 1989
THIS PROPERTY IS
LOCATED WITHIN FLOOD
ZONE X

TYPE OF SURVEY:
BOUNDARY

SCALE: 1" = 20'

PLOT PLAN: 02-10-06

FIELD DATE: 01-31-06

SECTION 32,
TOWNSHIP 28 SOUTH,
RANGE 37 EAST

PROJECT #17927

GENERAL NOTES:

1. THIS SURVEY AND DRAWING HAS BEEN PREPARED TO CONFORM WITH APPLICABLE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS IN CHAPTER 61C17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES.
2. THIS SURVEY AND DRAWING IS FOR THE SOLE USE AND BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE AS NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
3. THIS SURVEY IS NOT VALID WITHOUT THE EMBOSSED SEAL OF THE SURVEYOR, AND ANY REPRODUCTION OF THIS DRAWING WITHOUT WRITTEN PERMISSION OF THE SURVEYOR IS HEREBY FORBIDDEN.
4. NO OPINION OF TITLE OR OWNERSHIP IS HEREBY EXPRESSED OR IMPLIED BY THE SURVEYOR.
5. THIS SURVEY WAS PREPARED FROM INFORMATION FURNISHED TO THE SURVEYOR BY THE CLIENT, AND MAY BE SUBJECT TO EASEMENTS OR LIMITATIONS EITHER RECORDED OR IMPLIED.
6. BEARINGS ARE BASED ON AN ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.
7. NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
8. ELEVATIONS, IF SHOWN, ARE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM OF 1929, UNLESS OTHERWISE NOTED.
9. "NO WELLS" AND "NO SEPTICS" ARE DECLARATIONS TO SHOW AN ATTEMPT BY THE SURVEYOR TO LOCATE POSSIBLE EXISTING WELLS AND SEPTICS. HOWEVER, NONE WERE FOUND USING STANDARD SURVEY LOCATING EQUIPMENT.

1103 W. HIBISCUS BOULEVARD, SUITE 403, WEST MELBOURNE, FL 32901 L.B.#6623
PHONE: (321)768-6110 FAX: (321)652-8771 E-MAIL: aalsurvey@aalsurvey.com

ANDREW W. POWSHOK
P.L.S. No. 5383

WILLIAM A. LANE
P.L.S. No. 3913

MARVIN L. MARDOCK
P.L.S. No. 5007

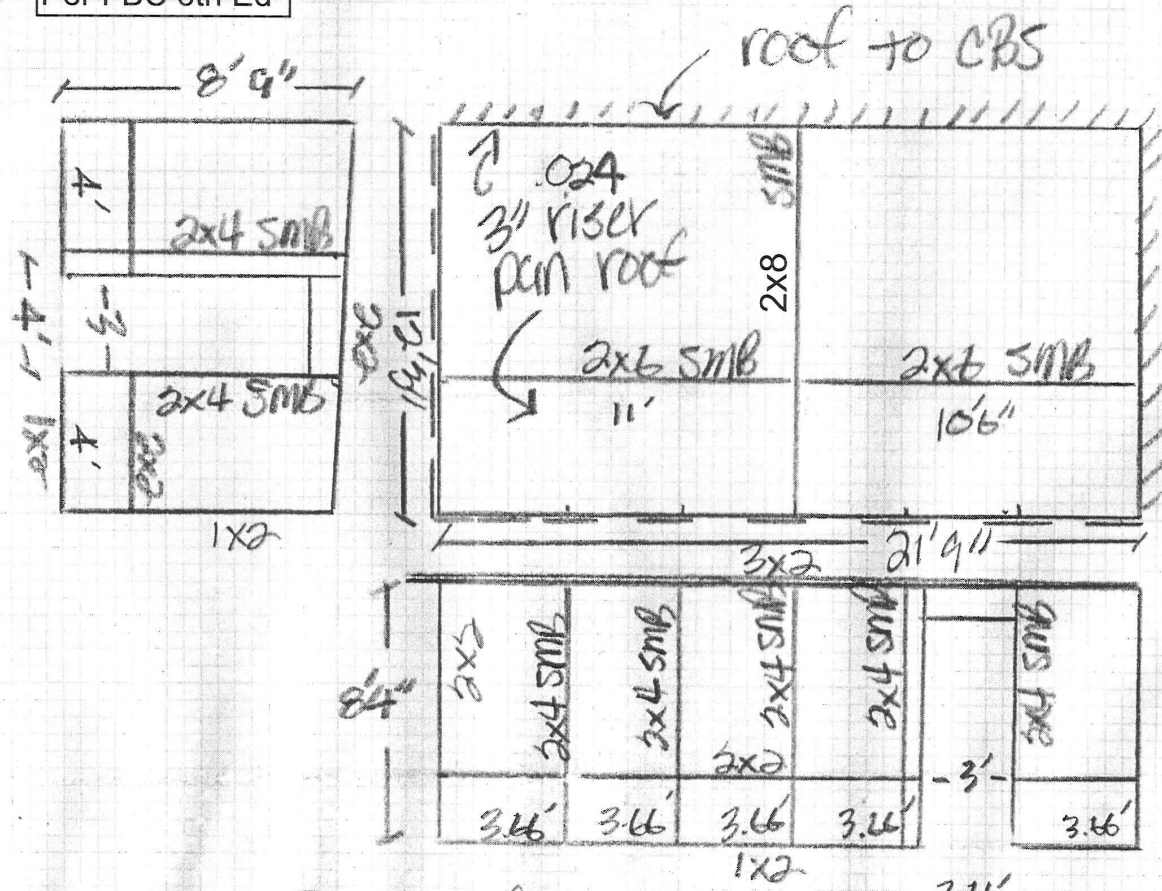
| LEGEND | |
|--------|----------------------------|
| BB | BEARING BASE |
| (M) | MEASURED |
| (P) | PLAT |
| (D) | DEED |
| IR | IRON ROD |
| IP | IRON PIPE |
| N&D | NAIL AND DISC |
| N&TT | NAIL AND TIN TAB |
| C.M. | CONCRETE MONUMENT |
| PRM | PERMANENT REFERENCE MARKER |
| EW | EDGE OF WATER |
| TBM | TEMPORARY BENCHMARK |
| Δ | DELTA |
| R | RADIUS |
| L | ARC LENGTH |
| FND | FOUND |
| CH | CHORD LENGTH |
| P.O.B. | POINT OF BEGINNING |
| PC | POINT OF CURVATURE |
| PT | POINT OF TANGENCY |
| PP | POWER POLE |
| P.O.L | POINT ON LINE |
| R/W | RIGHT OF WAY |
| B.S.L | BUILDING SETBACK LINE |
| OHW | OVERHEAD WIRE |
| E.P. | EDGE OF PAVEMENT |
| D.E. | DRAINAGE EASEMENT |
| EL | ELEVATION |
| FF | FINISHED FLOOR |
| CONC. | CONCRETE |
| R.C.P. | REINFORCED CONCRETE PIPE |
| C.M.P. | CORRUGATED METAL PIPE |
| ± | CENTERLINE |

© JAE

200 Haverford Lane NE
Palm Beach

160 mph, Exp C
Per FBC 6th Ed

DRILL & EPOXY #3x8" DOWELS W/ 4" EMBED INTO EXIST SLAB @24" O/C (OPTION TO USE #5 DOWELS @ 48" O/C). USE #3x20" DOWEL(S) W/ 4" EMBED INTO EXIST FOUNDATION FOR NEW STEEL TIE OFF.
NEW SLAB: 2500 PSI. USE FIBERMESH IN LIEU OF WWF. 8" THKND EDGE W/ (2)#3 CONT. TERMITE TREATED. 36" MIN STOOP @ DOOR



NOV 23 2020
STEPHEN E. KASTNER, P.E.
FLORIDA PROFESSIONAL ENGINEER
LICENSE # PE 39528
5320 FLORIDA PALM AVE.
COCOA, FL 32927

Palm roof screen room & 8" x 8" concrete footer
2-3/8" rebar

rcderosinh@gmail.com



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 28-37-32-FS-298-8

TAX ACCOUNT NUMBER 2842555

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

STREET ADDRESS OF PROPERTY COVERED BY APPLICATION:

200 Haverford Ln N.E Palm Bay FL 32907

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

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

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):

8 ft into the 25 ft building setback.

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

185.034 (F)(~~4~~)(7)(d) -G 3/9/21

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.

BASICALLY I need 8ft. variance space according to the map survey to build the patio.

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 _____

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

Rene Derosin

Date

2-11-21

Printed Name

Rene Derosin

Full Address

200 Haverford Ln N.E. Palm Bay FL 32907

Telephone

321) 305-1074

Email

rcderosin@gmail.com

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

01st April 2021

Re: Letter of Authorization

As the property owner of the site legally described as:

200 Haverford Lane NE. Palm Bay Florida.

I, Owner Name: Nathalie Derosin
Address: 10 Beverly Drive Healesville, 3777 VIC
Telephone: 0421 734386 Australia.
Email: nhoir@live.com.au

hereby authorize:

Representative: Rene Derosin
Address: 200 Haverford Lane NE Palm Bay
Telephone: (321) 305-1074
Email: rcderosin@gmail.com.

to represent the request(s) for:

Construction of a porch.

Nathalie Derosin
(Property Owner Signature)

STATE OF Victoria, Australia.

COUNTY OF Yarra Ranges.

The foregoing instrument was acknowledged before me by means of ☒ physical
presence or ☐ online notarization, this 1st day of April, 20 21 by

Nathalie Derosin, property owner.

R. Ruddick (Rose Ruddick-B-Pharm)

_____, Notary Public

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

Birth Certificate.

Healesville Walk Pharmacy
Shop 3, Healesville Walk S/C
251 Maroondah Hwy, Healesville 3777
Proprietor - Con Gentis BPharm
Approval No. 24027N
Tel: 03 5962 4165 Fax: 03 5962 4299



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Grayson Taylor, Planner

DATE: June 2, 2021

SUBJECT: **CU-18-2021 - Palm Bay Marina – Kenyon Palm Bay, LLC (Brad Kenyon) - A conditional use to allow proposed retail automotive fuel sales in an HC, Highway Commercial District. Tax Parcel 11.04, Hopsons Subdivision, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately 1.76 acres. (West of and adjacent to Dixie Highway NE, in the vicinity between Pospisil Avenue NE and Deer Run Drive NE, specifically at 4350 Dixie Highway NE)

**Quasi-Judicial Proceeding.

ATTACHMENTS:

Description

☐ Case CU-18-2021



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

CU-18-2021

PLANNING & ZONING BOARD HEARING DATE

June 2, 2021

PROPERTY OWNER & APPLICANT

Kenyon Palm Bay, LLC
(Brad Kenyon, Managing Member)

PROPERTY LOCATION/ADDRESS

Part of Lot 11 of Hopsons Subdivision, in the vicinity SW of U.S.1 and to Turkey Creek, specifically 4350 Dixie Highway NE

SUMMARY OF REQUEST

Conditional Use Approval for Automotive (Watercraft) Fuel Sales

Existing Zoning

HC, Highway Commercial

Existing Land Use

Commercial Use

Site Improvements

Palm Bay Marina

Site Acreage

1.76 acres

SURROUNDING ZONING & USE OF LAND**North**

Turkey Creek and U.S. Highway 1 (Dixie Highway NE)

East

HC, Highway Commercial, U.S. Highway 1

South

HC, Highway Commercial, Florida Tech River's Edge Building

West

Turkey Creek

**COMPREHENSIVE PLAN
COMPATIBILITY**

Yes

BACKGROUND:

The subject property, currently known as Palm Bay Marina, is located at 4350 Dixie Highway NE (U.S. 1). The property was purchased by the current owners, Kenyon Palm Bay LLC, in 2018.

Palm Bay Marina operates as a business that rents, sells, services, and stores boats, as well as a bait shop. Its operating hours for the shop and rentals are 8:30 a.m. to 5:00 p.m. every day of the week, and its parts and service hours are the same except closed on Sundays.

In 2008, an underground fuel tank was removed from the site and patched over with asphalt. The applicant is now seeking to install a new tank on the property, which requires conditional use approval for automotive fuel sales, as required by Sections 185.006 and 185.044(D)(2) of the Palm Bay Code of Ordinances.

ANALYSIS:

Kenyon Palm Bay, LLC seeks to install a 2,000 gallon, double-wall, above-ground fuel tank that will store and distribute fuel to boats at the marina.

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.

Access to the site exists by automobile via U.S. Highway 1, or by boat via Turkey Creek. Both options appear possible for distributing fuel to boats at the site. Staff does not anticipate any negative effects on pedestrian safety, however, there appears to be potential for vehicles to collide with the tank. Staff recommends there should be additional protection placed around the tank to prevent impacts with the tank.

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.

Sufficient off-street parking and loading areas were provided at the time of Site Plan approval in 1989.

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

Palm Bay Marina is connected 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.

The proposed fuel tank is being located upon the same location as the previous fuel tank, except above ground. The proposed tank is located near the center of the property, and has adequate buffering from the sole adjoining property.

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.

The plans for the proposed fuel tank indicate necessary signage for safety upon the tank itself. There are no other signs or lighting proposed for the property. As there will be no new lighting, staff recommends limiting the hours of operation to daylight hours for public safety.

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 have been met.

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.

The applicant has not provided information regarding staff's request as to how Palm Bay Marina will operate the fuel tank, including whether there will be an attendant, or if there will be any measures to ensure boater safety from the water when approaching for fuel. As there is an existing marina at the site, staff does not anticipate an additional nuisance or hazard upon the property due to the use of the site.

Proposed retail fuel sales must also meet the additional requirements of Section 185.044(D)(2). This includes no more than two (2) corner lots at any one intersection to be used for automotive fuel sales, a minimum of 150' of street frontage for each abutting street; the tank(s) must be located at least 40' from all property lines, 15' from any building, 100' from the nearest residentially zoned land, and at least 1,000' from any municipal supply well. The code also requires any receptacle for combustible materials in excess of 200 gallons to be located underground.

The subject property is not on a corner lot at an intersection and contains over 550' of road frontage on U.S. 1. The tank is located 51.77' from the nearest building on site, 64.76' from

the nearest lease line, and there are no residences within 100' of the proposed tank. The nearest municipal supply well is approximately 3,400' due west of the proposed storage tank. The proposed 2,000 gallon above-ground tank does not meet the requirement of 185.044(D)(2)(d), where a tank over 200 gallons is to be underground. However due to the potential environmental impacts of a below-ground fuel tank immediately adjacent to Turkey Creek, staff requests the Board and Council exempt the applicant from this provision.

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

The proposed fuel sales are permitted via conditional use in the HC zoning district. To ensure compatibility with adjacent properties, staff recommends that the project is supplied with the latest safety protocols which include protection bollards on all sides of the tank that are adjacent to vehicular areas, employment of a leak detection system, use of a double-walled steel tank, and the hours of fuel tank use limited to Palm Bay Marina's current hours of operation of 8:30 a.m. to 5:00 p.m. on any given day. The applicant must also comply with the additional staff comments listed below.

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 Board and 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.

Additional Staff Comments:

The Public Works Department (PWD) has identified the Brevard County Natural Resources Management Department as the responsible party for ensuring compliance with Chapter 62-762 of the Florida Administrative Code, which regulates petroleum storage facilities. The tank must be registered with the Storage Tank program at Brevard County Natural Resources Management. The tank and associated piping must also be approved by the Florida Department of Environmental Protection. The PWD has requested copies of the compliance documentation, once provided by the County and State, and that all inspection records be kept on-site.

STAFF RECOMMENDATION:

Motion to approve Case CU-18-2021, subject to the following conditions:

- The installation and use of protective bollards around the tank.

- The installation and use of a leak-detection system.
- The installation and use of a double-walled tank.
- Hours of operation limited to 8:30 a.m. to 5:00 p.m. on any given day.
- Applicable permit(s) from Brevard County Natural Resources Management.
- City Site Plan Approval.

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



AERIAL LOCATION MAP CASE: CU-18-2021

Subject Property

West of and adjacent to Dixie Highway NE, in the vicinity between Pospisil Avenue NE and Deer Run Drive NE, specifically at 4350 Dixie Highway 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: CU-18-2021

Subject Property

West of and adjacent to Dixie Highway NE, in the vicinity between Pospisil Avenue NE and Deer Run Drive NE, specifically at 4350 Dixie Highway 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

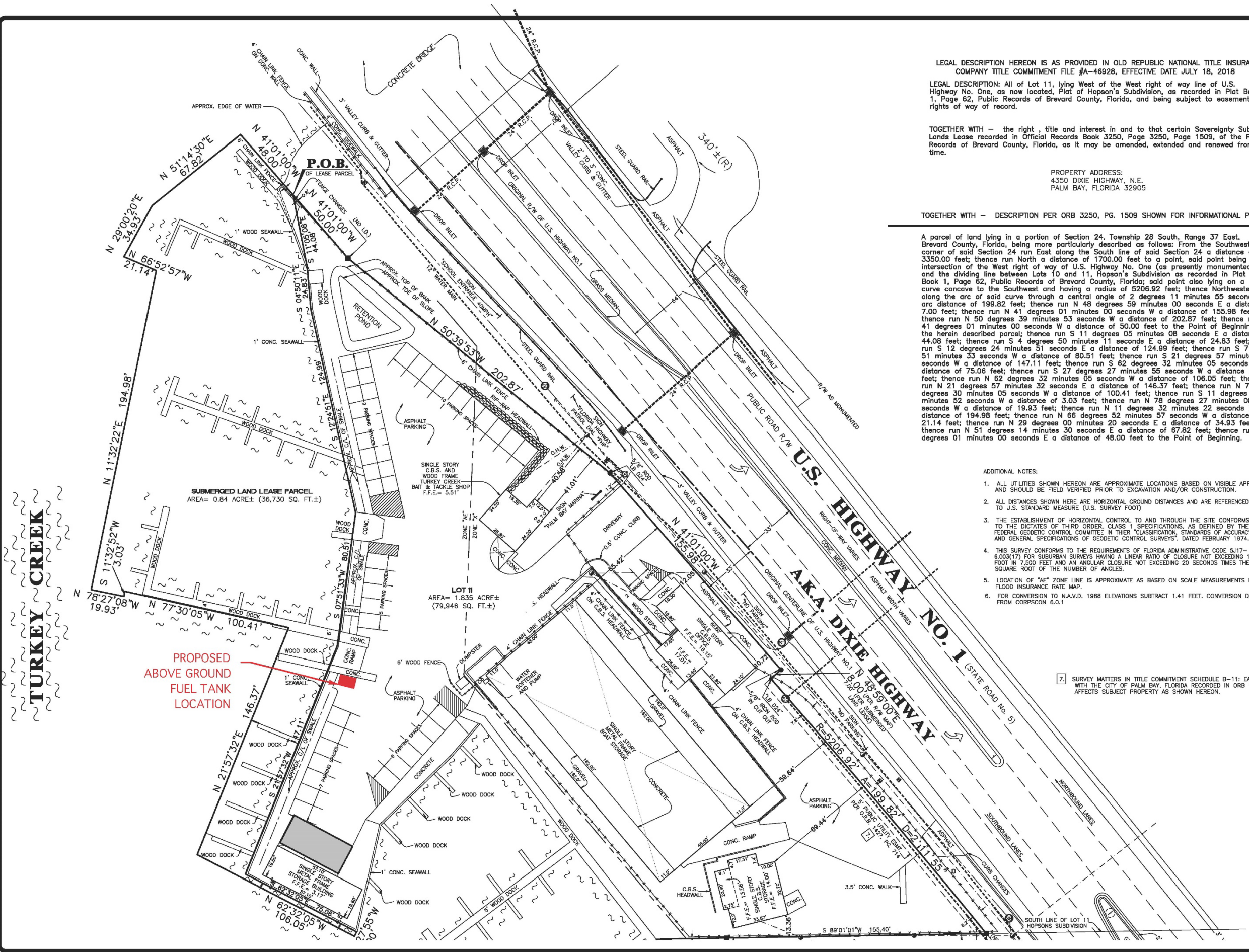
CASE: CU-18-2021

Subject Property

West of and adjacent to Dixie Highway NE, in the vicinity between Pospisil Avenue NE and Deer Run Drive NE, specifically at 4350 Dixie Highway NE

Current Zoning Classification

HC – Highway Commercial District



LEGAL DESCRIPTION HEREON IS AS PROVIDED IN OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY TITLE COMMITMENT FILE #A-46928, EFFECTIVE DATE JULY 18, 2018

LEGAL DESCRIPTION: All of Lot 11, lying West of the West right of way line of U.S. Highway No. One, as now located, Plat of Hopson's Subdivision, as recorded in Plat Book 1, Page 62, Public Records of Brevard County, Florida, and being subject to easements and rights of way of record.

TOGETHER WITH — the right, title and interest in and to that certain Sovereignty Submerged Lands Lease recorded in Official Records Book 3250, Page 3250, Page 1509, of the Public Records of Brevard County, Florida, as it may be amended, extended and renewed from time to time.

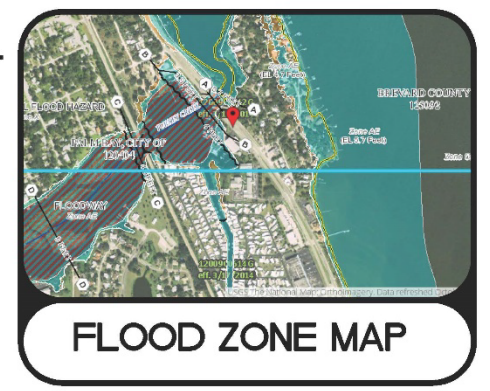
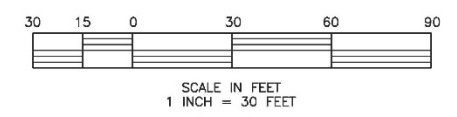
PROPERTY ADDRESS:
4350 DIXIE HIGHWAY, N.E.
PALM BAY, FLORIDA 32905

TOGETHER WITH — DESCRIPTION PER ORB 3250, PG. 1509 SHOWN FOR INFORMATIONAL PURPOSES

A parcel of land lying in a portion of Section 24, Township 28 South, Range 37 East, Brevard County, Florida, being more particularly described as follows: From the Southwest corner of said Section 24 run East along the South line of said Section 24 a distance of 3350.00 feet; thence run North a distance of 1700.00 feet to a point, said point being the intersection of the West right of way of U.S. Highway No. One (as presently monumented) and the dividing line between Lots 10 and 11, Hopson's Subdivision as recorded in Plat Book 1, Page 62, Public Records of Brevard County, Florida; said point also lying on a curve concave to the Southwest and having a radius of 5206.92 feet; thence Northwest along the arc of said curve through a central angle of 2 degrees 11 minutes 55 seconds, an arc distance of 199.82 feet; thence run N 48 degrees 59 minutes 00 seconds E a distance of 7.00 feet; thence run N 41 degrees 01 minutes 00 seconds W a distance of 155.98 feet; thence run N 50 degrees 39 minutes 53 seconds W a distance of 202.87 feet; thence run N 41 degrees 01 minutes 00 seconds W a distance of 50.00 feet to the Point of Beginning of the herein described parcel; thence run S 11 degrees 05 minutes 08 seconds E a distance of 44.08 feet; thence run S 4 degrees 50 minutes 11 seconds E a distance of 24.83 feet; thence run S 12 degrees 24 minutes 51 seconds E a distance of 124.99 feet; thence run S 7 degrees 51 minutes 33 seconds W a distance of 80.51 feet; thence run S 21 degrees 57 minutes 32 seconds W a distance of 147.11 feet; thence run S 62 degrees 32 minutes 05 seconds E a distance of 75.06 feet; thence run S 27 degrees 27 minutes 55 seconds W a distance of 3.00 feet; thence run N 62 degrees 32 minutes 05 seconds W a distance of 106.05 feet; thence run N 21 degrees 57 minutes 32 seconds E a distance of 146.37 feet; thence run N 77 degrees 30 minutes 05 seconds W a distance of 100.41 feet; thence run S 11 degrees 32 minutes 52 seconds W a distance of 3.03 feet; thence run N 11 degrees 32 minutes 22 seconds E a distance of 194.98 feet; thence run N 66 degrees 52 minutes 57 seconds W a distance of 21.14 feet; thence run N 29 degrees 00 minutes 20 seconds E a distance of 34.93 feet; thence run N 51 degrees 14 minutes 30 seconds E a distance of 67.82 feet; thence run S 41 degrees 01 minutes 00 seconds E a distance of 48.00 feet to the Point of Beginning.

- ADDITIONAL NOTES:
1. ALL UTILITIES SHOWN HEREON ARE APPROXIMATE LOCATIONS BASED ON VISIBLE APPURTENANCES AND SHOULD BE FIELD VERIFIED PRIOR TO EXCAVATION AND/OR CONSTRUCTION.
 2. ALL DISTANCES SHOWN HERE ARE HORIZONTAL GROUND DISTANCES AND ARE REFERENCED TO U.S. STANDARD MEASURE (U.S. SURVEY FOOT).
 3. THE ESTABLISHMENT OF HORIZONTAL CONTROL TO AND THROUGH THE SITE CONFORMS TO THE DICTATES OF THIRD ORDER, CLASS 1 SPECIFICATIONS, AS DEFINED BY THE FEDERAL GEODETIC CONTROL COMMITTEE IN THEIR "CLASSIFICATION, STANDARDS OF ACCURACY, AND GENERAL SPECIFICATIONS OF GEODETIC CONTROL SURVEYS", DATED FEBRUARY 1974.
 4. THIS SURVEY CONFORMS TO THE REQUIREMENTS OF FLORIDA ADMINISTRATIVE CODE 517-6.003(17) FOR SUBURBAN SURVEYS HAVING A LINEAR RATIO OF CLOSURE NOT EXCEEDING 1 FOOT IN 7,500 FEET AND AN ANGULAR CLOSURE NOT EXCEEDING 20 SECONDS TIMES THE SQUARE ROOT OF THE NUMBER OF ANGLES.
 5. LOCATION OF "AE" ZONE LINE IS APPROXIMATE AS BASED ON SCALE MEASUREMENTS FROM FLOOD INSURANCE RATE MAP.
 6. FOR CONVERSION TO N.A.S.D. 1988 ELEVATIONS SUBTRACT 1.41 FEET. CONVERSION DERIVED FROM CORPSCON 6.0.1

7. SURVEY MATTERS IN TITLE COMMITMENT SCHEDULE B-11: EASEMENT DEED WITH THE CITY OF PALM BAY, FLORIDA, RECORDED IN ORB 1427, PAGE 714, AFFECTS SUBJECT PROPERTY AS SHOWN HEREON.



- SURVEYORS NOTES:
1. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR ADJOINING DEEDS, RIGHT-OF-WAY, RESERVATION, AGREEMENTS AND/OR EASEMENTS OF RECORD. SUCH INFORMATION, IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY OTHERS THROUGH APPROPRIATE TITLE VERIFICATION.
 2. ADJOINERS SHOWN HAVE NOT BEEN SURVEYED.
 3. DRAWINGS ARE NOT TO BE RELIED UPON FOR SCALE PURPOSES.
 4. ALL MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF AND ARE IN ACCORDANCE WITH THE STANDARDS OF THE UNITED STATES (CHAPTER 517-6.003(1)(9) F.A.C.)
 5. PURSUANT TO FLORIDA LAW (F.A.C. 517-6.003(17)) THIS SURVEY IS BASED ON A CLOSED TRAPCLOSE.
 6. USE ONLY PROPERTY CORNERS FOR CONSTRUCTION OF FENCES AND OTHER IMPROVEMENTS.
 7. ONLY OPEN AND NOTORIOUS EVIDENCE OF EASEMENTS AND RIGHT-OF-WAYS ARE LOCATED AND SHOWN HEREON. THE SURVEYOR HAS NOT LOCATED ANY UNDERGROUND UTILITIES OR FOUNDATIONS WHICH MAY ENCROACH.
 8. LEGAL DESCRIPTION AS SHOWN WAS PROVIDED PER TITLE COMMITMENT.
 9. ELEVATIONS BASED ON 50.00' ASSUMED AT _____
 10. ELEVATIONS BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929 (PRESENT SEA LEVEL) AND ARE EXPRESSED IN FEET AND DECIMAL THEREOF.
 11. BEARINGS BASED ON THE SOUTH LINE OF SECTION 24/28/37 BEING EAST (ASSUMED).
 12. PLOT PLANS ARE NOT TO BE USED FOR CONSTRUCTION LAYOUT PURPOSES.
 13. LOT DIMENSIONS AND BEARINGS ARE RECORDED AND MEASURED UNLESS OTHERWISE NOTED.
 14. SEPTIC TANKS AND WELLS IF SHOWN ARE APPROXIMATE LOCATIONS AND SHOULD BE FIELD VERIFIED BY CONTRACTOR FOR CORRECT POSITION AND SEPARATION.
 15. NORTH ARROW AS SHOWN DOES NOT REPRESENT TRUE NORTH OR GRID NORTH, IT IS FOR APPROXIMATE POSITION ONLY.
 16. ALL RIGHT-OF-WAYS, ALLEYS, DIRT ROADS, AND ASPHALT ROADS IF SHOWN ARE "DEED TO TRAVEL", BOTH BY FOOT AND VEHICLE UNLESS OTHERWISE NOTED BY (CLOSED TO TRAVEL).
 17. SETBACKS AS SHOWN ON PLOT PLANS WERE PROVIDED BY CONTRACTOR.
 18. HORIZONTAL FEATURE ACCURACY: TOPOGRAPHIC LAND FEATURES (SIGNS, INLETS, VALVES, MAILBOXES, POWER POLES, SHEDS, GATEWAYS, AND SIMILAR FEATURES) HAD A HORIZONTAL FEATURE ACCURACY OF PLUS OR MINUS 0.25 FEET.
 19. VERTICAL FEATURE ACCURACY: ELEVATIONS ON THE SITE (GROUND, FENCEMENT, INLETS, ETC.) HAVE A VERTICAL FEATURE ACCURACY OF PLUS OR MINUS 0.10 FEET.
 20. THIS SURVEY IS FOR THE SOLE BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
 21. THE EXPECTED USE OF THE LAND IS COMMERCIAL. THE MINIMUM RELATIVE DISTANCE ACCURACY FOR THIS TYPE OF BOUNDARY SURVEY IS 1 FOOT IN 10,000 FEET WHICH WAS MET IN THE CASE OF THIS SURVEY.

SURVEY AND LOCATION FOR PALM BAY MARINA
4350 DIXIE HIGHWAY NE
PALM BAY, FLORIDA

SURVEY AND LOCATION MAP FOR FUEL TANK

SDC
Shoreline Development Consultants LLC
307 Anclote Rd, Tarpon Springs, FL 34689
(727) 243-1493

SCALE: AS NOTED
DATE: 2/5/2021
DRAWN BY: MJS
SHEET: 1 OF 1

PALM BAY MARINA

PETROLEUM STORAGE AND DISTRIBUTION SYSTEM INSTALLATION PLANS

4350 Dixie Highway Northeast Palm Bay, Florida 32905

PARCEL ACCOUNT #2832847 FDEP Facility ID: 8841462

BUILDING CODES:

THE SYSTEM SHALL BE DESIGNED IN FULL COMPLIANCE WITH THE LATEST EDITION OF THE APPLICABLE SECTIONS OF THE FOLLOWING CODES, STANDARDS, AND GUIDELINES. WHERE CONFLICT EXISTS, CONTRACTOR SHALL FOLLOW THE MOST STRINGENT REQUIREMENTS. IN CASE OF A CONFLICT BETWEEN THE UNIFORM FIRE CODE AND THE NATIONAL FIRE PREVENTION ASSOCIATION STANDARDS, THE MOST STRINGENT CONDITION SHALL APPLY:

UNDERWRITERS LABORATORY (UL)

FACTORY MUTUAL (FM)

STATE OF FLORIDA FIRE PREVENTION CODE 6TH EDITION

NFPA 70-NATIONAL ELECTRIC CODE 2014 EDITION

FLORIDA BUILDING CODE 2017 ADDITION

FLORIDA PLUMBING CODE 2017 EDITION

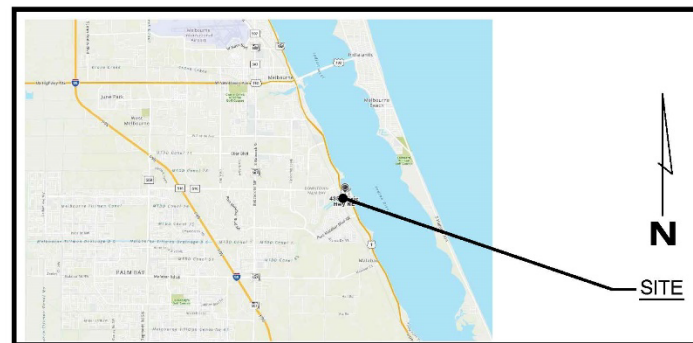
FLORIDA MECHANICAL CODE 2017 EDITION

FLORIDA FUEL GAS CODE 2017 EDITION

NFPA 30 2018 EDITION

NFPA 30A 2018 EDITION

OTHER STATE OR LOCAL CODES AS APPLICABLE



VICINITY SKETCH

GENERAL WORK SCOPE STATEMENT:

THE PROPOSED WORK WILL CONSIST OF THE INSTALLATION OF ONE (1) UL-2085 CONCRETE VAULTED ABOVEGROUND FUEL STORAGE TANK ASSEMBLY AND ASSOCIATED FITTINGS. FILL CONTAINMENT IS PART OF THE TANK ASSEMBLY. A SUCTION PUMP WILL BE INSTALLED ON A PLATFORM THAT IS PART OF THE TANK ASSEMBLY.

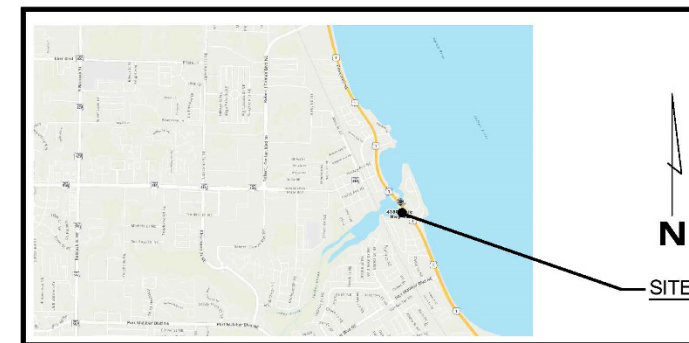


Know what's below.
Call before you dig.
callsunshine.com

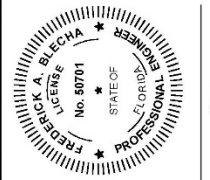
| INDEX OF DRAWINGS | | | | | INCL. |
|-------------------|---|---|--|--|-------------------------------------|
| PETROLEUM | | | | | |
| G01 | 1 | COVER SHEET | | | <input checked="" type="checkbox"/> |
| PE01 | 2 | OVERALL SITE, WORK AREA PLAN AND SCOPE | | | <input checked="" type="checkbox"/> |
| PE02 | 3 | SYSTEM DEMOLITION AND INSTALLATION | | | <input checked="" type="checkbox"/> |
| PE03 | 4 | SYSTEM DIMENSION PLAN | | | <input checked="" type="checkbox"/> |
| PE04 | 5 | TANK RISERS, WIND LOAD, SLAB, ANCHORING & DETAILS | | | <input checked="" type="checkbox"/> |

GENERAL NOTES:

- CONTRACTOR SHALL CONDUCT ALL WORK IN ACCORDANCE WITH APPLICABLE CITY AND COUNTY CODES AND REGULATIONS.
- CONTRACTOR SHALL BE RESPONSIBLE FOR SECURING ALL NECESSARY PERMITS FOR COMPLETION OF THE PROPOSED WORK.
- CONTRACTOR SHALL BE RESPONSIBLE FOR ALL APPLICABLE UTILITY CLEARANCES USING PROPER NOTIFICATION PERIODS PRIOR TO CONDUCTING TRENCHING OR EXCAVATION ACTIVITIES.
- SITE PLAN ELEMENTS SHOWN HEREIN ARE FOR INFORMATION PURPOSES ONLY AND HAVE BEEN BASED ON A SITE PLAN PROVIDED BY CONTRACTOR. CONTRACTOR SHALL VERIFY EXISTING SITE CONDITIONS, PROPERTY BOUNDARIES, SITE GEOMETRY AND EASEMENTS PRIOR TO CONSTRUCTION.
- OWNER SHALL INSTALL ALL ELECTRICAL IN ACCORDANCE WITH NFPA 70 "NATIONAL ELECTRICAL CODE" AND SPECIFICALLY CHAPTER 5 ARTICLE 514 (LATEST EDITION).



LOCATION SKETCH

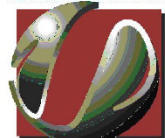


PREPARED FOR:
JSR ENTERPRISES LLC
201 Bougainvillea Street
Palm Bay, Florida 32907
(321) 403-4646

COVER SHEET

PALM BAY MARINA
4350 Dixie Highway Northeast
Palm Bay, Florida 32905

stillwater
TECHNOLOGIES
700 North Orange Avenue
Suite 100A
Orlando, Florida 32804
(407) 206-7222
(407) 206-7223 fax
FL Cert. of Auth. #8326



| REV | DATE | BY | COMMENTS |
|-----|----------|-----|------------------|
| 0 | 11/15/20 | RMH | ISSUE FOR PERMIT |

| | |
|-------------|----------|
| PROJECT #: | 555-012 |
| DRAWN: | RMH |
| APPROVED: | FAB |
| DATE: | 11/15/20 |
| SCALE: | NO SCALE |
| SHEET NAME: | G01 |
| SHEET: | 1 |

SCOPE OF WORK (PETROLEUM CONTRACTOR):

1. REMOVE PAVING AND OTHER MATERIALS AS NECESSARY TO FACILITATE THE PROJECT.
2. INSTALL NEW TANK SUPPORTS PER PLANS.
3. INSTALL ONE 2,000 GALLON UL-2085 FUEL TANK ASSEMBLY PER PLANS.
4. PROVIDE START-UP AND TRAINING ON USE OF THE SYSTEM.
5. CLEAN THE SITE OF DEBRIS CAUSED BY PETROLEUM CONTRACTOR.

GENERAL NOTES:

1. CONTRACTOR SHALL CONDUCT ALL WORK IN ACCORDANCE WITH APPLICABLE CITY AND COUNTY CODES AND REGULATIONS.
2. CONTRACTOR SHALL BE RESPONSIBLE FOR SECURING ALL NECESSARY PERMITS FOR COMPLETION OF THE PROPOSED WORK.
3. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL APPLICABLE UTILITY CLEARANCES USING PROPER NOTIFICATION PERIODS PRIOR TO CONDUCTING TRENCHING OR EXCAVATION ACTIVITIES.
4. NON PETROLEUM SITE PLAN ELEMENTS SHOWN HEREIN HAVE BEEN BASED ON MATERIALS SUPPLIED BY CLIENT, AERIAL PHOTOGRAPHY, PUBLIC RECORDS AND PHOTOGRAPHS. CONTRACTOR SHALL VERIFY EXISTING SITE CONDITIONS, PROPERTY BOUNDARIES, SITE GEOMETRY AND EASEMENTS PRIOR TO CONSTRUCTION.
5. CONTRACTOR SHALL VERIFY PROPOSED TANK AND PIPING LAYOUT WITH OWNER PRIOR TO CONSTRUCTION. EXACT LAYOUT MAY VARY BASED ON OWNER CRITERIA.

2

GENERAL NOTES AND WORK SCOPE

REGULATORY NOTES:

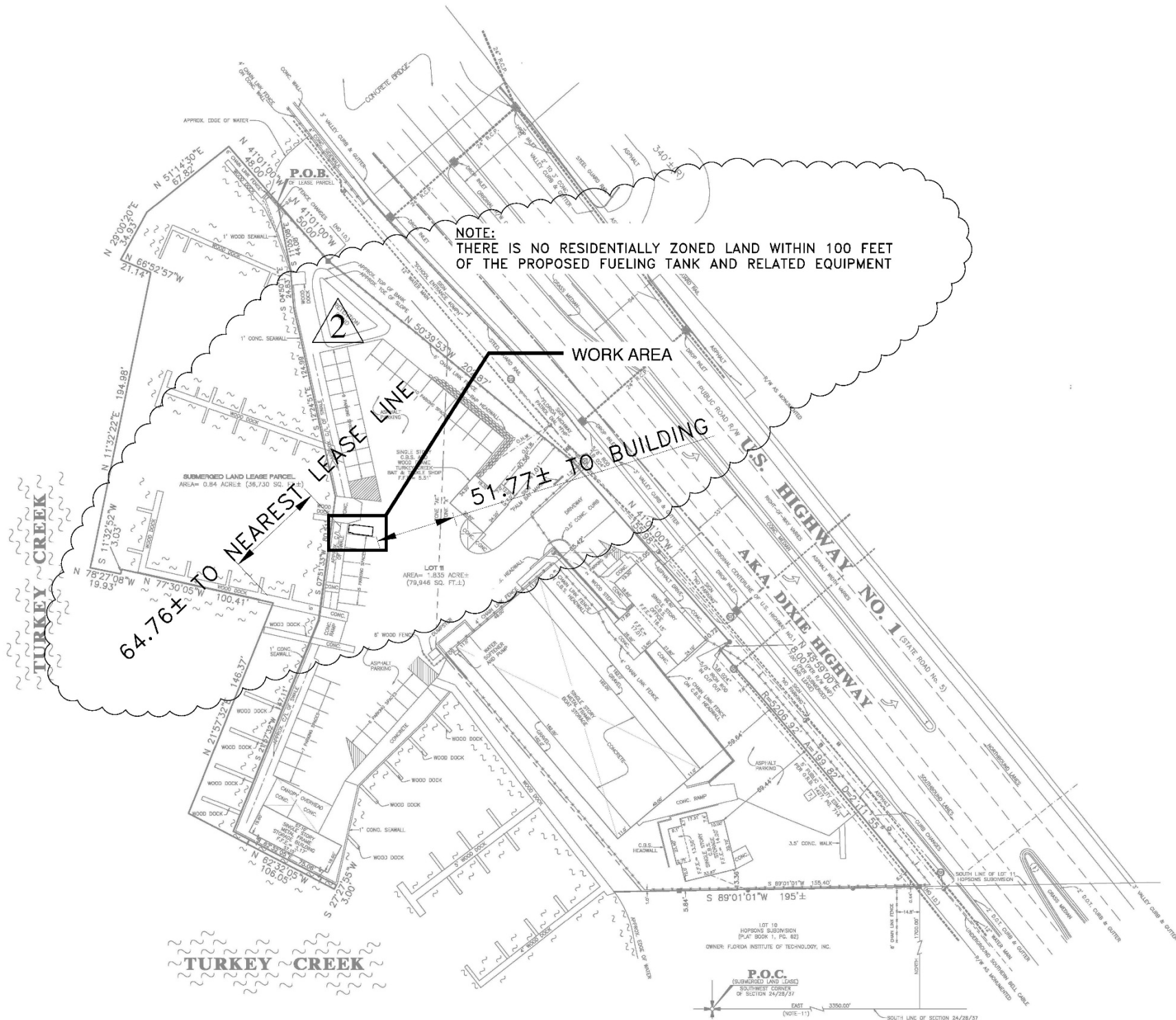
1. CONTRACTOR SHALL PROVIDE AT LEAST ONE 40BC FIRE EXTINGUISHER NO MORE THAN 30 FEET FROM THE FUELING AREA. (FIELD VERIFY LOCATION AND MOUNTING PROVISIONS WITH OWNER PRIOR TO INSTALLATION.)
2. CONTRACTOR SHALL PROVIDE SIGNAGE AT THE EMERGENCY STOP IN ACCORDANCE WITH NFPA 30A-11.5.3 AS FOLLOWS: AN APPROVED SIGN STATING "EMERGENCY PUMP SHUTOFF" IN 50 MM (2 IN.) RED CAPITAL LETTERS.
3. CONTRACTOR SHALL PROVIDE SIGNAGE IN ACCORDANCE WITH NFPA 30A-11.5.5 AS FOLLOWS: CONSPICUOUS NO SMOKING SIGNS SHALL BE POSTED WITHIN SIGHT OF THE CUSTOMER BEING SERVED.
4. CONTRACTOR SHALL PROVIDE A SIGN IN ACCORDANCE WITH NFPA 30A-11.10.8 CONSPICUOUSLY POSTED AT THE DISPENSING AREA WITH THE FOLLOWING LEGENDS PRINTED IN 50 MM (2 IN.) RED LETTERS ON A WHITE BACKGROUND:

BEFORE FUELING:

- (1) STOP ALL ENGINES AND AUXILIARIES.
 - (2) SHUT OFF ALL ELECTRICITY, OPEN FLAMES, AND HEAT SOURCES.
 - (3) CHECK ALL BILGES FOR FUEL VAPORS.
 - (4) EXTINGUISH ALL SMOKING MATERIALS.
 - (5) CLOSE ACCESS FITTINGS AND OPENINGS THAT COULD ALLOW FUEL VAPORS TO ENTER ENCLOSED SPACES OF THE VESSEL.
- DURING FUELING:
- (1) MAINTAIN NOZZLE CONTACT WITH FILL PIPE.
 - (2) WIPE UP SPILLS IMMEDIATELY.
 - (3) AVOID OVERFILLING.
 - (4) FUEL FILLING NOZZLE MUST BE ATTENDED AT ALL TIMES.
- AFTER FUELING:
- (1) INSPECT BILGES FOR LEAKAGE AND FUEL ODORS.
 - (2) VENTILATE UNTIL ODORS ARE REMOVED.

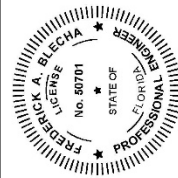
3

REGULATORY NOTES



1

OVERALL SITE AND WORK AREA PLAN



Date

PREPARED FOR:

JSR ENTERPRISES LLC

261 Bougainvillea Street
Palm Bay, Florida 32907
(321) 403-4646

OVERALL SITE, WORK AREA
PLAN AND SCOPE

PALM BAY MARINA
4350 Dixie Highway Northeast
Palm Bay, Florida 32905

stillwater
TECHNOLOGIES



700 North Orange Avenue
Suite 100A
Orlando, Florida 32804
(407) 206-7222
FL. Cert. of Auth. #8326

| REV. | DATE | BY | COMMENTS |
|------|----------|-----|-----------------------|
| 0 | 11/16/20 | RMH | ISSUE FOR PERMIT |
| 1 | 08/11/21 | RMH | RESPONSE TO COMMENTS |
| 2 | 08/21/21 | RMH | REISSUE FOR CU REVIEW |
| | | | |
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PROJECT #: 555-012

DRAWN: RMH

APPROVED: FAB

DATE: 11/15/20

SCALE: AS NOTED

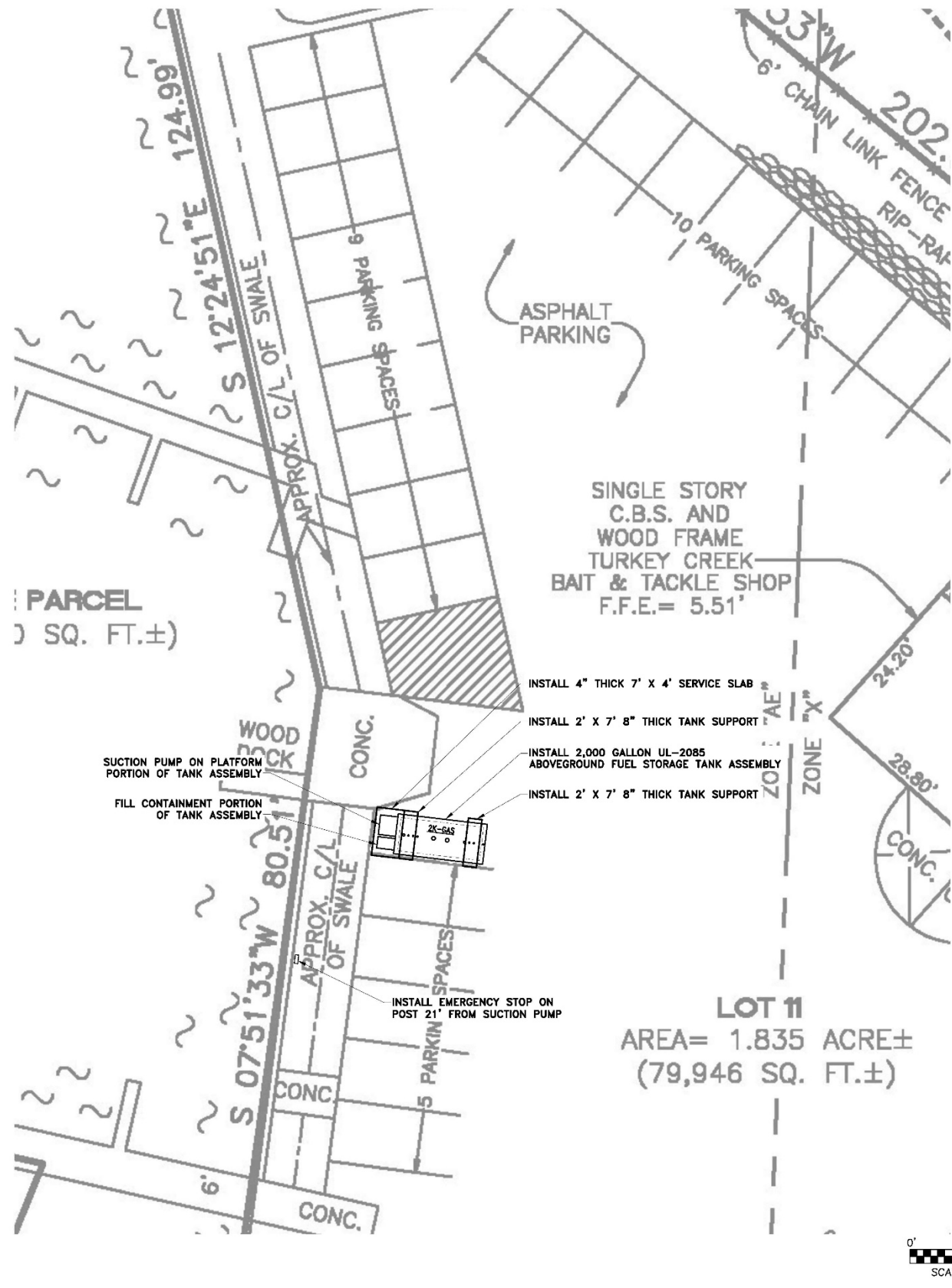
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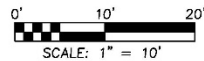
PE01

SHEET:

2

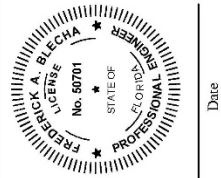
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[illegible]



| | |
|----------|-------------------------------------|
| 1 | NEW PETROLEUM SYSTEM DIMENSION PLAN |
| | 1" = 10' |

| | |
|----------|----------|
| 3 | NOT USED |
| NO SCALE | |



PREPARED FOR:
**JSR
ENTERPRISES
LLC**

261 Bongainvillea Street
Palm Bay, Florida 32907
(321) 403-4646

**PETROLEUM SYSTEM
DIMENSION PLAN**

PALM BAY MARINA
4350 Dixie Highway Northeast
Palm Bay, Florida 32905



| REV | DATE | BY | COMMENTS |
|-----|----------|-----|------------------|
| 0 | 11/15/20 | RHH | ISSUE FOR PERMIT |
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| PROJECT #: | 555-012 |
| DRAWN: | RMH |
| APPROVED: | FAB |
| DATE: | 11/15/20 |
| SCALE: | AS NOTED |

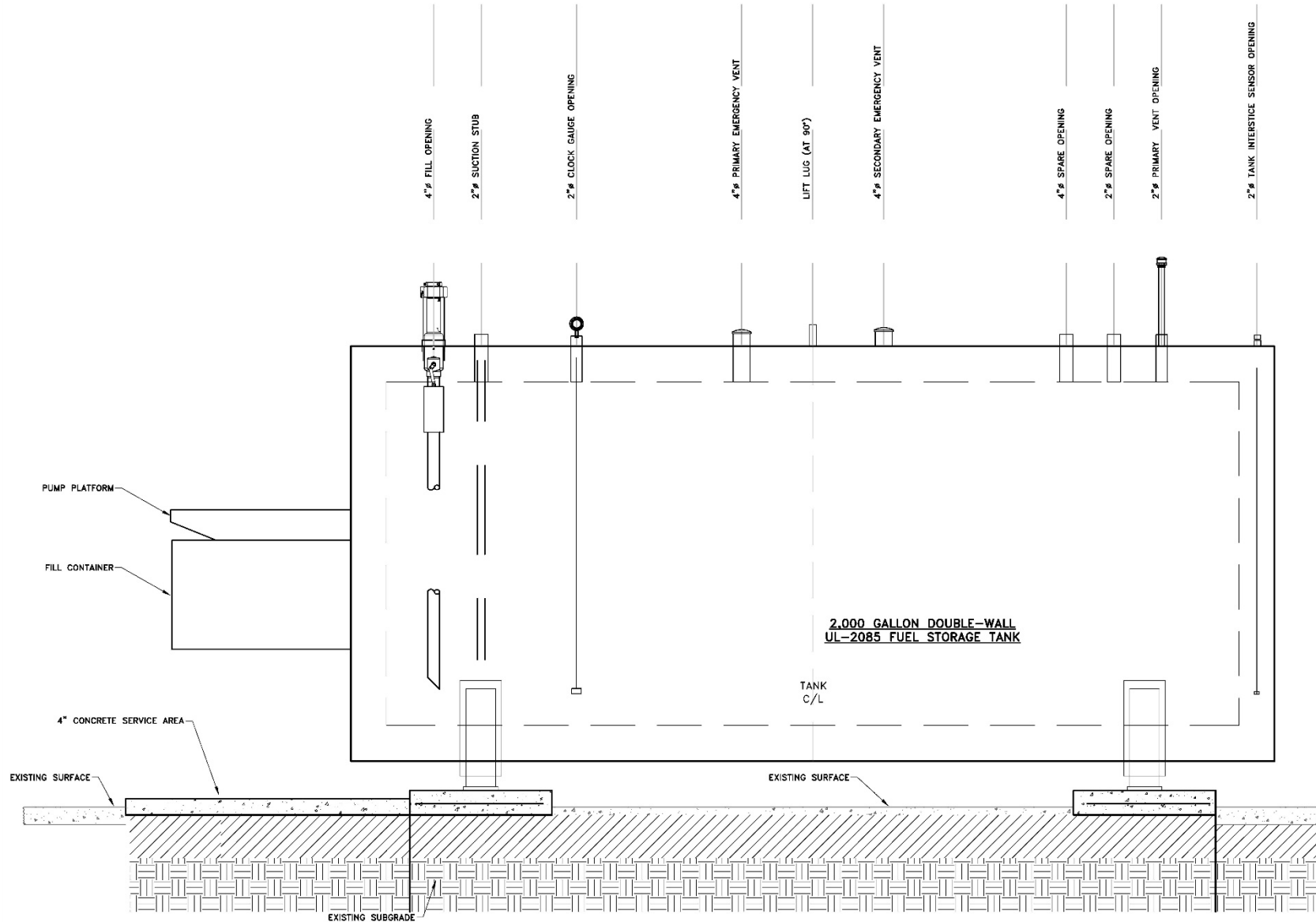
SHEET NAME:
PE03

SHEET:
4

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NOTES:

1. CONTRACTOR SHALL USE COMPONENTS THAT SHALL COMPLY WITH ALL (INCLUDING THROUGHPUT VOLUMES) REQUIREMENTS OF (NESHAP) EPA REGULATION 40 CFR PART 63 AS APPLICABLE TO THIS PROJECT.
2. SOME COMPONENTS ARE ROTATED FOR CLARITY.
3. REFER TO TANK MANUFACTURER'S DETAILS AND SPECIFICATIONS FOR ADDITIONAL ASST INFORMATION.
4. TANK OPENINGS SHALL BE SIZED AS PER DRAWING.
5. EMERGENCY VENTS SHALL BE SIZED AS PER TANK MANUFACTURER'S STANDARDS.



1

ABOVEGROUND TANK RISER DETAILS (TYPICAL)

1" = 1'±

2

NO SCALE

TANK SUPPORT CONCRETE SECTION (TYPICAL OF TWO)

Force, $F=A \times P \times C_d$

A
P
Cd

Fastest Wind Velocity
Factor Assumed to get to 3-Second Gust
Therefore 3-Second Gust Is

Wind Speed Used For Calculation

Length of Object

Height of Object

Area of Object

Wind Pressure

Drag Coefficient Applied

Force

Weight Of Object

Shear Force of Each Anchor (4000 psi conc)

Pull Out Force of Each Anchor (4000 psi con

Number of Anchors

Resistance to Lateral Movement

Resistance to Uplift

Safety Factor to Sliding

Safety Factor to Uplift

2,000 GALLON TANK

Area of Item

Design Wind Pressure (psf) .00256xVelocity Squared

Drag Coefficient

2.0 for flat plates, 1.2 for long cylinders

160

1.214

194.24

195

15.25

6.25

95.31

97.344

2.00

18556.20

7,200

14,920

11,900

4

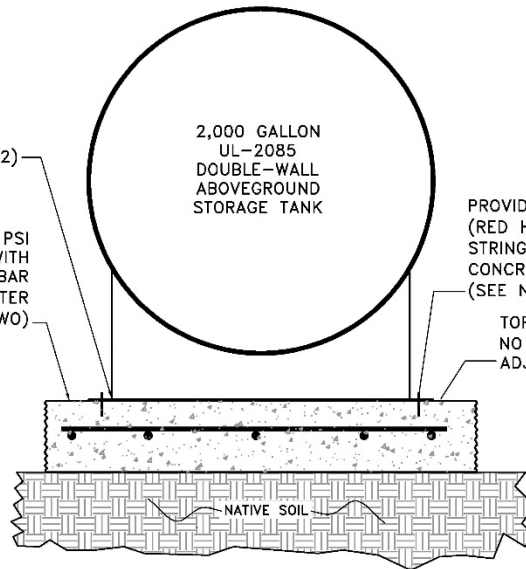
59680

54800

3.22

2.95

TANK SADDLE
(TYPICAL OF 2)
NEW 8" THICK 4,000 PSI
CONCRETE SUPPORT WITH
ONE MAT OF #5 REBAR
AT 12" ON CENTER
(TYPICAL OF TWO)



WIND LOAD:

1. FLORIDA BUILDING CODE 2017 AND ASCE 7-10
2. ROOF LIVE LOAD - N.A.
3. WIND - 160 MPH.
4. RISK CATEGORY - II
5. INTERNAL PRESSURE COEFFICIENT - N.A.
6. COMPONENTS AND CLADDING - ASSUME 81 PSF.
7. SOIL CAPACITY 2000 PSF ASSUMED.
8. TANK WEIGHS APPROXIMATELY 7,200 LBS.
9. TANK IS STABLE WITH A FACTOR OF SAFETY >1.1 WITH ANCHORAGE.

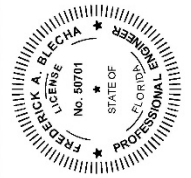
NOTES:

1. TANK AND APPURTENANCES WEIGHS APPROXIMATELY 7,200 LBS. BASED ON WIND LOAD FOR BREVARD COUNTY AT 160 MPH PER ASCE 7-10 TANK IS STABLE WITH A FACTOR OF SAFETY IN EXCESS OF 1.1

3

NO SCALE

TANK WIND LOAD AND ANCHORING



Date

PREPARED FOR:

JSR
ENTERPRISES
LLC

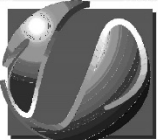
261 Bougainvillea Street
Palm Bay, Florida 32907
(321) 403-4646

TANK RISERS, WIND LOAD,
ANCHORING AND DETAILS

PALM BAY MARINA
4350 Dixie Highway Northeast
Palm Bay, Florida 32905

stillwater
TECHNOLOGIES

1700 North Orange Avenue
Suite 100A
Orlando, Florida 32804
(407) 206-7222
(407) 206-7223 fax
FL Cert. of Auth. #6326



COMMENTS

BY

DATE

REV

0

11/15/20

RMH

ISSUE FOR PERMIT

PROJECT #: 555-012

DRAWN: RMH

APPROVED: FAB

DATE: 11/15/20

SCALE: AS NOTED

SHEET NAME:

PE04

SHEET:

5

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LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042
Landdevelopment@palmabayflorida.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 ORB 2695 PG 1392 PARS 11.05, 11.06

TAX ACCOUNT NUMBER _____

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

All of lot 11, lying West of the West ROW line US Highway #one, as now located, Plat of Hopson's Subdivision, as recorded in plat book 1, Page 62, Public Records of Brevard County, FL and being subject to easements and rights of way of record.

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 1.835

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

CONDITIONAL USE SOUGHT To install above ground fuel tank

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))

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

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 _____

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** 02/08/2021

Printed Name Brad Kenyon 

Full Address 4350 Dixie Hwy NE, Palm Bay, FL 34684 1233

Telephone 727 639 0643 **Email** bwkgrouper@aol.com

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



MEMORANDUM

DATE: June 2, 2021

SUBJECT: T-19-2021 - Golf Carts - Paul Paluzzi, Emerald Investment Holdings, LLC (Jake Wise, P.E., Rep.) - A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 179: Streets and Other Rights-of-Way, Right-of-Way and Easement Use, to establish provisions for Golf Cart communities.

ATTACHMENTS:

Description

▣ **Case T-19-2021**



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-19-2021

PLANNING & ZONING BOARD HEARING DATE

June 2, 2021

PROPERTY OWNER & APPLICANT

Emerald Investment Holdings, LLC (Paul Paluzzi), Represented by the Construction Engineering Group, LLC (Jake Wise, P.E.)

PROPERTY LOCATION/ADDRESS

Not Applicable

SUMMARY OF REQUEST

Creation of a new Ordinance to authorize Golf Carts upon roads, streets, and sidewalks within the City of Palm Bay (Sections 179.108 through 179.117 inclusive).

Existing Zoning

Not Applicable

Existing Land Use

Not Applicable

Site Improvements

Not Applicable

Site Acreage

Not Applicable

APPLICABILITY

Not Applicable

COMPREHENSIVE PLAN COMPATIBILITY

Not Specifically Addressed

BACKGROUND:

Textual amendments to the Code of Ordinances, Title XVII, Land Development Code, Chapter 179 Streets and Other Rights-of-Way, Sections 179.108 through 179.117 inclusive also known as the City of Palm Bay Golf Cart Ordinance.

The applicant with assistance from the City has created a proposed Golf Cart Ordinance to support a proposed future development known as Emerald Lakes, which is located in South East Palm Bay adjacent to Interstate I-95, in the vicinity of Exit 166 and the St. John's Heritage Parkway (the Parkway). The applicant, Emerald Investment Holdings, LLC. desires to have golf carts allowed within their development, and to travel along extra-wide (12 feet) multi-use paths on the north and south sides of the Parkway, and to be allowed to cross the Parkway at signalized intersections.

In order to operate golf carts on the multi-use paths and to cross the Parkway, an ordinance is necessary to establish how the golf carts will be permitted with the City's rights-of-way. The areas within the City right-of-way for golf cart operation shall be approved by the City Engineer. Enforcement of the ordinance within the City's rights-of-way will be by the Police Department. The operation of golf carts along the private streets within Emerald Lakes will be governed in the future by the Declaration of Restrictions, Property Owner and Home Owner Association documents to be prepared by the applicant and approved by the City. The POA/HOA will be responsible for enforcement on the private streets and properties.

The ordinance at present does not authorize the use of golf carts to travel on or cross over any streets or roadways which are within the jurisdiction of Brevard County or the State of Florida. Thus, the golf carts may not enter into or cross over the I-95 interchange. On May 10, 2021, the City of Palm staff, and the Florida Department of Transportation (FDOT) discussed via an on-line meeting that the ordinance may not authorize entering or crossing I-95 unless the ordinance is reviewed and approved by FDOT and the Federal Highway Administration (FHWA). Signs should be installed to alert golf cart operators of the area where golf carts are prohibited to enter.

Further, during the discussion on May 10, it was established that the ordinance does not authorize Emerald Lakes or any other community to be approved as a "Golf Cart Community" until such time as a written request, along with a map of the Golf Cart Community, is presented to City Council and subsequently approved to be operated under this ordinance.

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

ANALYSIS:

The proposed Golf Cart Ordinance includes ten (10) subsections which are summarized below:

Section 179.108 Legislative Intent

This section articulates reasons and applicability of the ordinance. It also references enabling legislation in state statutes.

Section 179.109 Applicability

Indicates that the ordinance can only be applied in approved Golf Cart Communities and approved State Highway Crossings.

Section 179.110 Definitions

Provides for definitions of the terms used within the ordinance. Includes a number of references to state statutes.

Section 179.111 Operation of golf carts

This section provides the specific rules and conditions for the operation of golf carts. This section includes specific design standards and requirements. It should be noted that these can only be applied on roads with a speed limit of 35 miles per hour (MPH) or less.

Section 179.112 Golf cart crossings proposed for designated City streets or roads with a posted speed limit of greater than 35 MPH

Provides for design criteria and restrictions for the crossing of roadways with speed limits in excess of 35 MPH. It should be noted that the Parkway has a posted speed limit of 45 MPH. Based upon the criteria in this section the Parkway may only be crossed by golf carts at Fully Signalized Intersections.

Section 179.113 Golf cart crossings proposed at a location on the State Highway System.

This section provides the specifications for State Highway crossings. Based upon the May 10th discussion between the City and FDOT there cannot be any crossings of the State Highway System unless the applicant specifically applies for and is granted permission by FDOT and FHWA.

Section 179.114 Other prohibited conduct

Two additional provisions are included in this section, including that violators can be ticketed in a manner similar to other motor vehicles.

Section 179.115 Signage

Authorizes the City Manager and staff to post signage related to the operation of golf carts.

Section 179.116 Inapplicable to NEVs

This section excludes Neighborhood Electric Vehicles (NEVs) from the ordinance. Golf Carts are defined in State Statute (Section 320.01 (22)) as having a maximum speed of 20 MPH. Golf Carts are exempt from registration and licensing requirements per FS 320.105. NEVs also known as Low-Speed Vehicles (Section 320.01 (41)) have a maximum speed above 20 MPH and must be licensed and plated as motor vehicles. NEV must also be operated by people with valid drivers licenses.

Section 179.117 Penalty and Enforcement

Provides for enforcement by the Police Department of the ordinance within the City's right-of-way with penalties similar to those of motor vehicles. The operation of golf carts along the private streets will be governed in the future by the Declaration of Restrictions, Property Owner and Home Owner Associations.

STAFF RECOMMENDATION:

Staff recommends approval of the Golf Cart Ordinance. It should be noted that any development that seeks to be considered a Golf Cart Community must obtain approval from the City Engineer and City Council.

TITLE XVII: LAND DEVELOPMENT CODE

CHAPTER 179: STREETS AND OTHER RIGHTS-OF-WAY

>>GOLF CARTS

SEC.179.108 LEGISLATIVE INTENT.

It is the intent of this article to permit and regulate the use of golf carts upon roads, streets, and sidewalks within the City of Palm Bay. To maintain and protect the safety of residents of the City of Palm Bay. To abide by the restrictions of Florida Statutes §§316.008, 316.212 and §316.1995 (2020), as amended from time to time. To provide guidelines to be considered by the Florida Department of Transportation FDOT for the approval of State Highway crossings from City streets.

SEC.179.109 APPLICABILITY.

This Ordinance shall only be effective on streets and roads in a Golf Cart Community within the City of Palm Bay, Florida and approved State Highway crossings intersecting Palm Bay roads or streets only.

SEC. 179.110 DEFINITIONS.

ALL-TERRAIN VEHICLES/OFF-ROAD VEHICLES (ATVS) means any motorized off-highway vehicle 55 inches or less in width which has a dry weight of 1,500 pounds or less, is designed to travel on three or more nonhighway tires, and is manufactured for recreational use by one or more persons. For the purposes of this section, "all-terrain vehicle" also includes a "two-rider ATV" as defined in § [317.0003](#). F.S. 316.2074 (2020).

CONTROLLED INTERSECTION shall mean an intersection where pedestrian and/or vehicular traffic are controlled by any standard uniform traffic control device, as determined by the Florida Department of Transportation (FDOT).

DESIGNATED PEDESTRIAN CROSSING shall mean that portion of a roadway at a controlled intersection distinctly indicated as a crosswalk for pedestrian crossing by striping or signage or other markings on the road surface or along the roadway.

DESIGNATED STREET OR DESIGNATED ROADS shall mean all streets or roads or portions of roads or streets upon which golf carts shall be allowed to operate, under the conditions as provided for herein.

GOLF CART shall mean a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour (reference §320.010(22) F.S. (2020)). "Golf cart" shall not be construed to mean low-speed or neighborhood electric vehicle.

GOLF CART COMMUNITY shall mean a residential, commercial, and/ or mixed-use subdivision or community within the City deemed safe and appropriate for the regulated use of Golf Carts as defined by the State of Florida Statutes. The application of this designation shall be reviewed by the City Engineer, and approved by the City Manager, and City Council. The Community shall regulate and enforce safe operation of golf carts within the community.

GRADE SEPARATED CROSSING shall mean a tunnel or overpass designed and constructed for the purpose of crossing a street or highway.

LOW-SPEED VEHICLE means any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles. Low-speed vehicles must be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers §316.2122 F.S. (2020).

SIDEWALK shall mean that portion of a street between the curb line, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians §316.003 F.S. (2020).

STATE ROADWAY shall mean any roadway of the State Highway System under the jurisdiction of the State except limited access facilities.

SEC. 179.111 OPERATION OF GOLF CARTS.

(A) The operation of any golf cart on roads or streets outside a Golf Cart Community within the City of Palm Bay is prohibited under the following conditions:

(1) In violation of State, County, or City traffic regulations.

(2) On streets or roads with speed limits greater than 35 miles per hour unless the street or road is approved by the City Engineer for crossing only, and the golf cart crossing is located at an approved controlled intersection.

(3) Golf cart use on sidewalks, and bicycle paths within a Golf Cart Community is prohibited unless:

(a) The City Engineer or designee reviews the character, condition, and current use of the surrounding community, speed of roadway(s) being crossed, location(s) of golf cart crossings, and that golf carts, bicycles, disabled, and able-bodied pedestrians can safely share the sidewalk. The Florida Department of Transportation shall review the Ordinance before adoption.

(b) A minimum un-obstructed sidewalk width of 8 feet is required and separated from back of curb, or edge of shoulder by at least 5 feet is recommended, less may be considered on a case-by-case basis.

(c) A minimum width of 4 foot grassed or stabilized, relatively flat area should be provided beyond the outside edge of sidewalks for recovery or stalled golf carts.

(d) Sidewalks with existing adjacent drainage features or fencing shall not be considered.

(4) Golf cart use on streets or roadways without appropriate golf cart crossing signage (MUTCD W11-11) posted by the City of Palm Bay or within a Designated Golf Cart Community.

(5) Operation of golf carts that are not equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.

(6) Operation between the hours of sunset and sunrise unless the Florida Division of Motor Vehicles (DMV) certifies the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.

(7) By minors, unless accompanied by an adult, and the golf cart is equipped with an operational horn.

(8) Transporting more passengers than the number of passengers for which the golf cart was designed to carry or transporting any passenger who is not seated in a position intended by the golf cart manufacturer to carry a passenger.

(B) Golf carts operated in compliance with subsection (A) above, shall be allowed to operate upon the streets, roads, State Highway System and sidewalks designated for operation as follows:

(1) Within Golf Cart Communities. Which are defined within Section 179.110. Definitions above, and on roads, and streets designated therein for golf cart usage. Each Golf Cart Community shall provide signage and regulations for the use of golf carts on designating streets within Golf Cart Communities where golf carts may be operated.

(2) To cross designated City roadways with a posted speed limit greater than 35 miles per hour.

(3) Speed modified or 'hybrid' golf carts not conforming to the definition set forth above in Sec. 179.110 Definitions above, are not authorized for streets within golf cart communities.

SEC.179.112 GOLF CART CROSSINGS PROPOSED FOR DESIGNATED CITY STREETS OR ROADS WITH A POSTED SPEED LIMIT GREATER THAN 35 MILES PER HOUR.

(A) Golf cart crossings shall be approved by the City Engineer or designee if each of the following criteria are met for each type of crossing:

(1) Mid-Block Crossings: To be considered for a golf cart crossing at a mid-block location along any state road where a golf course or a single mobile home park is constructed or located on both sides of the roadway, the proposed location and roadway characteristics shall meet the following criteria:

(a) Maximum vehicular volume of 15,000 Average Daily Traffic (ADT) or less along the roadway segment.

(b) Maximum Posted Speed Limit of 40 miles per hour or less.

(c) Maximum number of lanes is three (3) with or without bike lanes.

(d) Maximum allowable median width is 15 feet or less.

(e) Minimum distance to the nearest driveway, access point, or pedestrian crosswalk is 350 feet in each direction.

(f) Crossing along roadway tangents only with the nearest point of curvature at least 350 feet in each direction.

(g) A clear and unobstructed view of the roadside on the approach to the crossing.

(h) Mid-block crossing signing and pavement markings should be installed as shown in Figure 5.1-2.

(i) Golf carts are the only vehicle permitted to use the designated crossing or to traverse State right-of-way. Other vehicles such as Low Speed Vehicles are strictly prohibited. See 320.01(42) F.S.

(2) The crossing is a side street-controlled intersection meeting the following criteria

(a) Side street maximum vehicular volume 1,200 ADT and AM/PM Peak Hour not to exceed 110 vehicles per hour single direction.

(b) Main Street posted speed limit or 85th percentile intersection approach speed is 35 miles per hour or less.

(c) Maximum crossing distance for undivided roadways shall be equal to three (3) lanes or less not including any right turn lanes, bike lanes, and crosswalks. For divided roadways of four (4) lanes, a minimum of twenty-two feet median width is required.

(d) Side street approaches should have an exclusive left turn lane and a shared through-right turn lane. Other lane approach configurations will be considered on a case-by-case basis.

(e) Side street intersection alignment shall be at a 90-degree (not more than 105 degrees) angle to the mainline tangent. Skewed or offset intersections are not permitted for golf cart crossings.

(f) Approach stop signs and pavement marking shall be in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and FDOT Standard Plans Index No. 711-001.

(3) Full Signalized Intersections: To be considered for a golf cart crossing at a roadway intersection with full signal control, the location along any City road shall meet the following criteria:

(a) Side street maximum vehicular volume 1,500 ADT and AM/PM Peak Hour not to exceed 200 vehicles per hour single direction.

(b) Side street posted speed limit or 85th percentile intersection approach speed is 35 miles per hour or less.

(c) Maximum crossing distance equal to five (5) lanes or less not including any right turn lanes, bike lanes and crosswalks.

(d) Side street approaches should have at least one (1) exclusive left turn lane and at least one (1) exclusive through or shared through-right turn lane. Other lane approach configurations will be considered on case-by-case basis.

(e) Side street intersection alignment shall be a 90-degree (not more than 105 degrees) angle to the mainline tangent. Skewed or offset intersections are not permitted for golf cart crossings.

SEC. 179.113 GOLF CART CROSSINGS PROPOSED AT A LOCATION ON THE STATE HIGHWAY SYSTEM.

(A) All requests for State Highway golf cart crossings shall be submitted to the City's Growth Management Department and reviewed by the City Engineer or designee for submission to the appropriate Florida Department of Transportation (FDOT) District Traffic Operations Engineer (DTOE).

(1) Only grade separated facilities shall be considered.

(B) Shall meet each of the following mandatory criteria for the following types of crossings:

(1) Mid-Block Crossings: To be considered for a golf cart crossing at a mid-block location along any state road where a golf course or a single mobile home park is constructed or located on both sides of the roadway, the proposed location and roadway characteristics shall meet the following criteria:

(a) Maximum vehicular volume of 15,000 Average Daily Traffic (ADT) or less along the roadway segment.

(b) Maximum Posted Speed Limit of 40 miles per hour or less.

(c) Maximum number of lanes is three (3) with or without bike lanes.

(d) Maximum allowable median width is 15 feet or less.

(e) Minimum distance to the nearest driveway, access point, or pedestrian crosswalk is 350 feet in each direction.

(f) Crossing along roadway tangents only with the nearest point of curvature at least 350 feet in each direction.

(g) A clear and unobstructed view of the roadside on the approach to the crossing.

(h) Mid-block crossing signing and pavement markings should be installed as shown in Figure 5.1-2.

(i) Golf carts are the only vehicle permitted to use the designated crossing or to traverse State right-of-way. Other vehicles such as Low Speed Vehicles are strictly prohibited. See 320.01(42) F.S.

(2) Side Street Stop Controlled Intersections: To be considered for a golf cart crossing at a roadway intersection with side street stop control, the location along any state road shall meet the following criteria:

(a) Side street maximum vehicular volume 1,200 ADT and AM/PM Peak Hour not to exceed 110 vehicles per hour single direction.

(b) Main street posted speed limit or 85th percentile intersection approach speed is 35 miles per hour or less.

(c) Maximum crossing distance for undivided roadways shall be equal to three (3) lanes or less not including any right turn lanes, bike lanes and crosswalks. For divided roadways of four (4) lanes or less, a minimum of twenty-two (22) feet median width is required. See Figure 5.1-4.

(d) Side street approaches should have an exclusive left turn lane and a shared through-right turn lane. Other lane approach configurations will be considered on case-by-case basis.

(e) Side street intersection alignment shall be 90-degree (not more than 105 degrees) angle to the mainline tangent. Skewed or offset intersections are not permitted for golf cart crossings.

(f) Approach stop signs and pavement markings shall be in accordance with MUTCD and Department's Standard Plans, Index No.711-001.

(g) Golf Cart signs (W11-11) should be placed on the mainline approach.

(3) Full Signalized Intersections: To be considered for a golf cart crossing at a roadway intersection with full signal control, the location along any state road shall meet the following criteria:

(a) Side street maximum vehicular volume 1,500 ADT and AM/PM Peak Hour not to exceed 200 vehicles per hour single direction.

(b) Side street posted speed limit or 85th percentile intersection approach speed is 35 miles per hour or less.

(c) Maximum crossing distance equal to five (5) lanes or less not including any right turn lanes, bike lanes, and crosswalks.

(d) Side street approaches should have at least one (1) exclusive left turn lane and at least one (1) exclusive through or shared through-right turn lane. Other lane approach configurations will be considered on case-by-case basis.

(e) Side street intersection alignment shall be a 90-degree (not more than 105 degrees) angle to the mainline tangent. Skewed or offset intersections are not permitted for golf cart crossings.

(4) If available information reviewed by the FDOT supports a golf cart crossing. The FDOT would then require a full engineering study prepared by a State of Florida licensed engineer representing the requestor. The engineering study shall contain the following information:

(a) Document the need for a golf cart crossing based on conditions set forth in §316.212, F.S., i.e., verifying the following:

(i) The intersecting City road has been designated for use by golf carts.

(ii) A golf course or single mobile home park is constructed on both sides of a State road.

(b) Document all safety considerations with respect to intersecting sight distances, proximity to intersection and driveway conflict areas, number and configuration of approach lanes to signalized intersections and roadway speed and volume thresholds as described in the above criteria.

(c) Document the proposed golf cart crossing and /or roadway segment location (Roadway ID and Ile Post) and corresponding signing, marking, and signal treatments (if applicable). A schematic layout should be provided over aerial photography or survey to show locations of signs, markings and other treatments in proximity to existing traffic control devices.

(d) Document all crash history within the vicinity of the proposed golf cart crossing based on a minimum of three years data.

SEC. 179.114 OTHER PROHIBITED CONDUCT.

(A) ATV's' nor 'Low Speed Vehicles' as defined in Sec. 179.110 Definitions may not be operated on designated roads, streets, sidewalks, or bicycle paths.

(B) Golf carts shall comply with all applicable local and State traffic laws and may be ticketed for traffic violations in the same manner as motor vehicles.

SEC. 179.115 SIGNAGE.

The City Manager shall designate the department which shall post appropriate signs to indicate that operation of golf carts is allowed.

SEC. 179.116 INAPPLICABLE TO NEVS.

This article shall not apply to neighborhood electric vehicles (NEVs) which have been sanctioned for on the road use by any state or federal law or rule which may be effective in the future.

SEC. 179.117 PENALTY AND ENFORCEMENT.

Any person who violates any provision of this article shall, upon conviction, be guilty of an infraction pursuant to F.S. § 316.655, all as may be amended from time to time. Enforcement of this article shall be pursuant to F.S. § 316.072 (2020), as may be amended from time to time. The City's Police Department shall have the authority to enforce the provisions set forth herein and applicable traffic laws, provided. However, that the enforcement of rules and regulations established by golf cart communities shall be the sole responsibility of each community if the community remains private.<<



LAND DEVELOPMENT DIVISION

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

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:

Chapter 179.108, 109, 110, 111, 112 & 113

PROPOSED LANGUAGE (attach addendum if necessary):

See Attached

JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary)

Adopt an ordinance to allow a golf cart community

CITY OF PALM BAY, FLORIDA
CODE TEXTUAL AMENDMENT APPLICATION
PAGE 2 OF 2

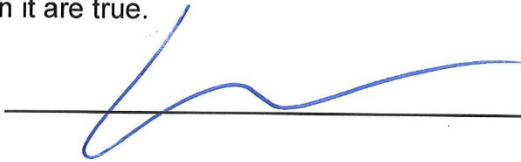
THE APPLICATION FEE MUST BE SUBMITTED WITH APPLICATION TO PROCESS THIS REQUEST:

☒ *\$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



Date

3/31/2021

Printed Name of Applicant Paul Paluzzi- Emerald Investment Holdings, LLC

Full Address 605 S Fremont Ave; Suite B; Tampa, FL 33606

Telephone 813- 514- 1776

Email paul@zonsdevelopment.com

PERSON TO BE NOTIFIED (If different from above):

Printed Name 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**



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Grayson Taylor, Planner

DATE: June 2, 2021

SUBJECT: **V-22-2021 - Hector L. Rivera (Jesus Quintero, Rep.) - A variance to allow a proposed aluminum screen room enclosure to encroach 3 feet into the 25-foot rear building setback as established by Section 185.034(F)(7)(d) of the Palm Bay Code of Ordinances. Lot 4, Block 418, Port Malabar Unit 11, Section 8, Township 29, Range 37, Brevard County, Florida, containing approximately .23 acres. (South of and adjacent to Mustang Street NE, in the vicinity west of Charcoal Avenue SE, specifically at 1056 Mustang Street SE)

**Quasi-Judicial Proceeding.

ATTACHMENTS:

Description

☐ Case V-22-2021



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-22-2021

PLANNING & ZONING BOARD HEARING DATE

June 2, 2021

PROPERTY OWNER & APPLICANT

Hector Rivera, represented by Jesus Quintero

PROPERTY LOCATION/ADDRESS

Lot 4, Block 418, Port Malabar Unit 11, Section 8, Township 29, Range 37, Brevard County, Florida, specifically, 1056 Mustang Street SE

SUMMARY OF REQUEST

A variance to allow a proposed screened porch to encroach 3' into the 25' rear building setback, as established by Section 185.034(F)(7)(d) 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

0.23 acres

SURROUNDING ZONING & USE OF LAND**North**

Intersection of Clifton Road SE and Mustang Street SE

East

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

South

Melbourne-Tillman Canal No. 47

West

RS-2, Single-Family Residential, Vacant Land

BACKGROUND:

The property consists of one standard General Development Corporation lot, with a width of 80', and a depth of 125'. The property was constructed in 2016 and purchased by the current applicant/owner this year. Also this year, the applicant received a building permit for a 10' x 27' concrete slab via permit 21-2981. The applicant now seeks to construct a rear porch over the slab, utilizing an aluminum roof that would extend into the required rear building setback.

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's representative states, "When we applied for the concrete slab permit we were always thinking of putting an aluminum screened porch and the City never informed us that an aluminum roof could not be built." When concrete slab permits are issued, the Building Department stamps the permit indicating that the approval of the permit does not mean the building setbacks can be encroached. This stamp was never given on the permit.

Furthermore, the house was constructed under a previous owner, and placed 38' back from the front property line. This is 13' more than required by the minimum 25' front setback requirements of the RS-2, Single-Family Residential zoning district. This effectively reduces the depth of the backyard and limits any building additions or accessory structures that can be placed in the rear yard. Had the home been placed at the 25' front setback line, then the applicant would not have needed to apply for the variance. The Board and Council may consider the failure to notify the applicant of the separate provisions for the placement of open concrete slabs versus principal structure enlargements, and the placement of the home on the property as special conditions and circumstances.

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

The conditions and circumstances identified in Item 1 are not the result of the actions of the applicant, as the applicant was not sufficiently informed by the City, nor were they the original owner of the home that built the structure so far back from the typical building setback.

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 only allow for an aluminum roof with a depth of 7', which is smaller than the standard porch.

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 3' feet into the 25-foot rear 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. The encroachment, however, does not appear to create any health or safety hazards to adjacent properties.

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. It should be noted that rear porches are common in single-family home construction. The encroachment of the porch is into the rear yard, which is separated from other homes to the south by a 110' wide canal row.

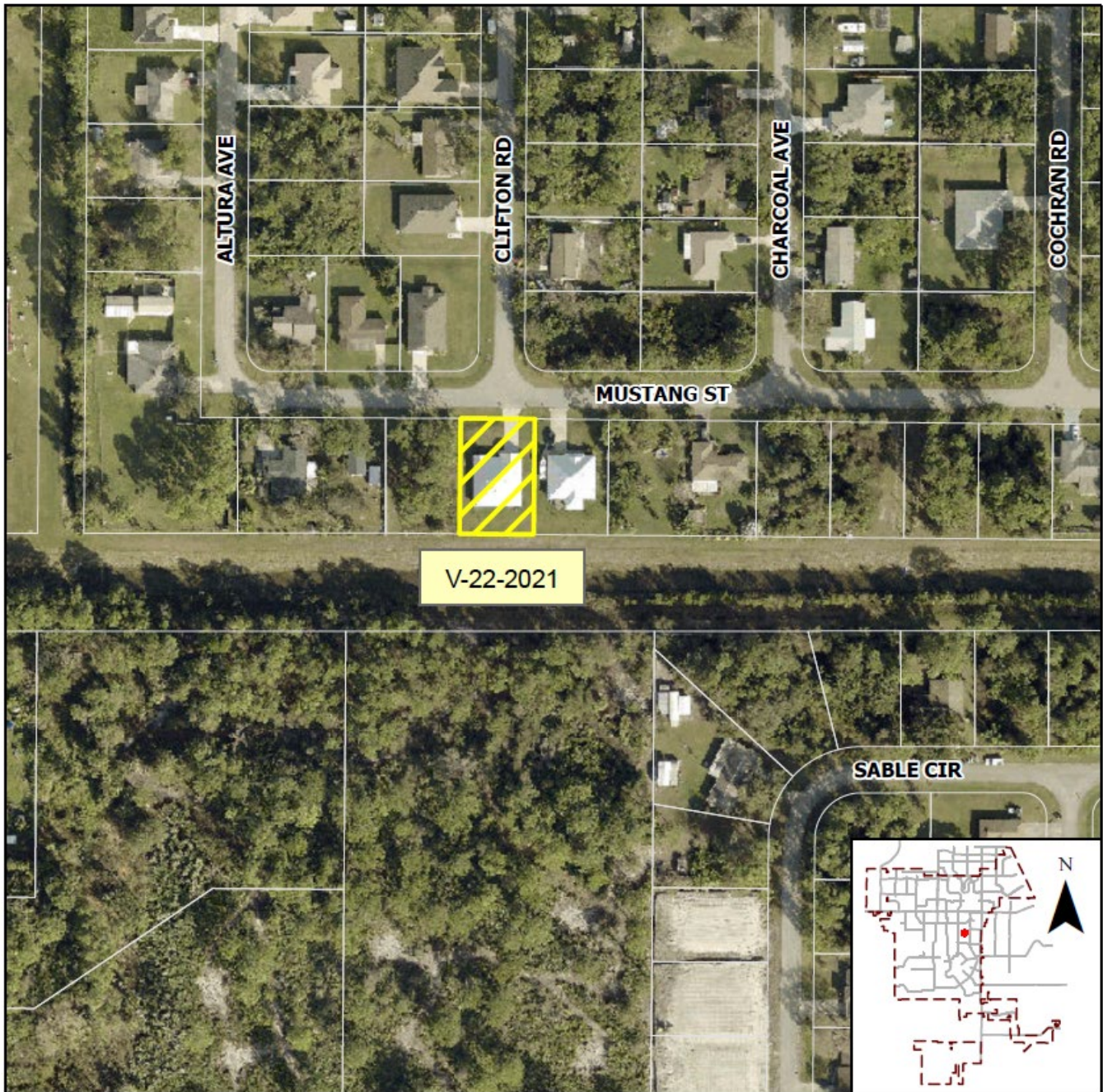
Item 7 - *"The variance represents a reasonable disposition of a claim brought under the Bert J. Harris Private Property Rights Protection Act, chapter 95-181, Laws of Florida, that a development order of the city has reasonably burdened the applicant's property, based on the recommendations of the special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



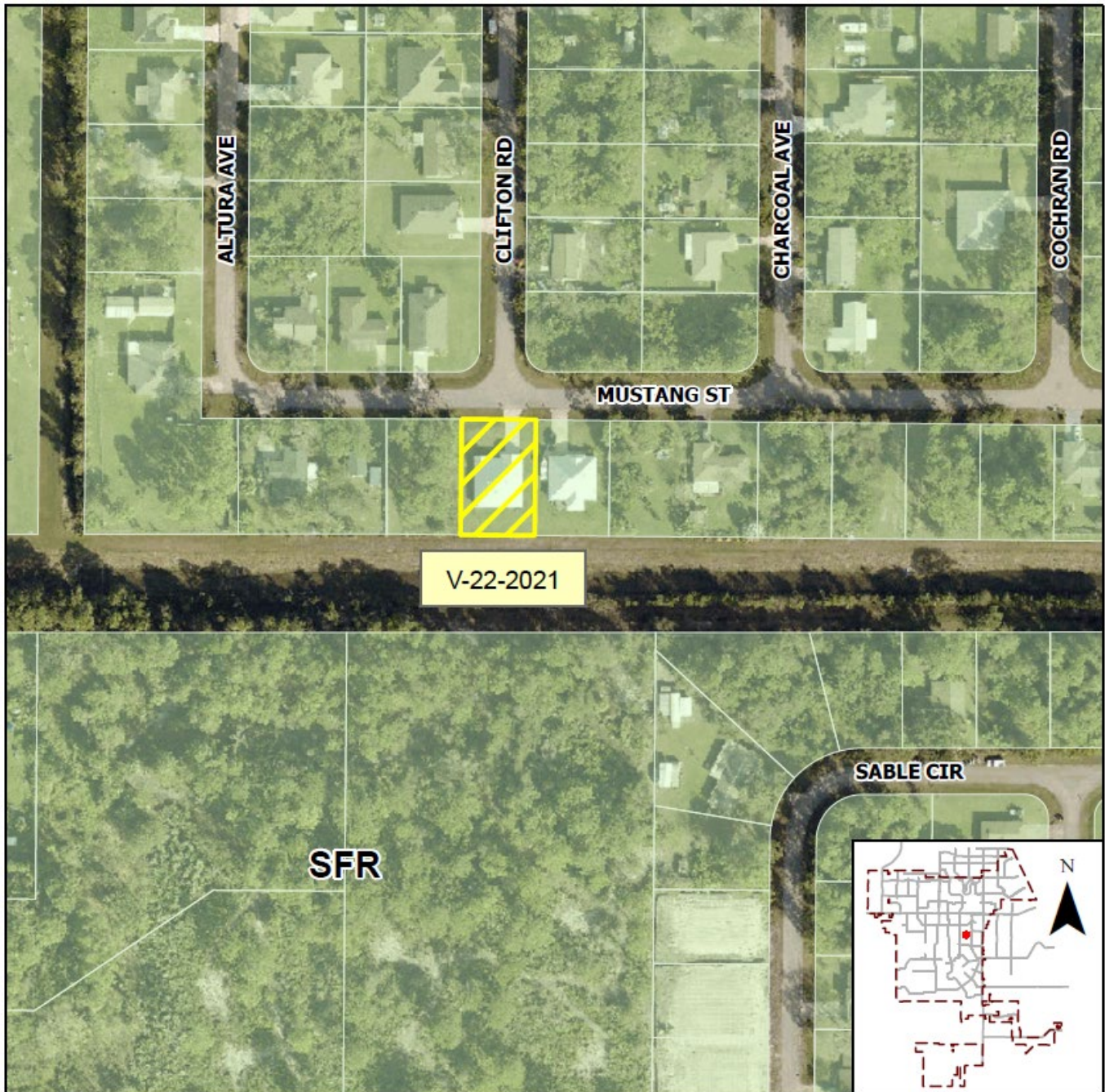
AERIAL LOCATION MAP CASE: V-22-2021

Subject Property

South of and adjacent to Mustang Street NE, in the vicinity west of Charcoal Avenue SE, specifically at 1056 Mustang Street 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: V-22-2021

Subject Property

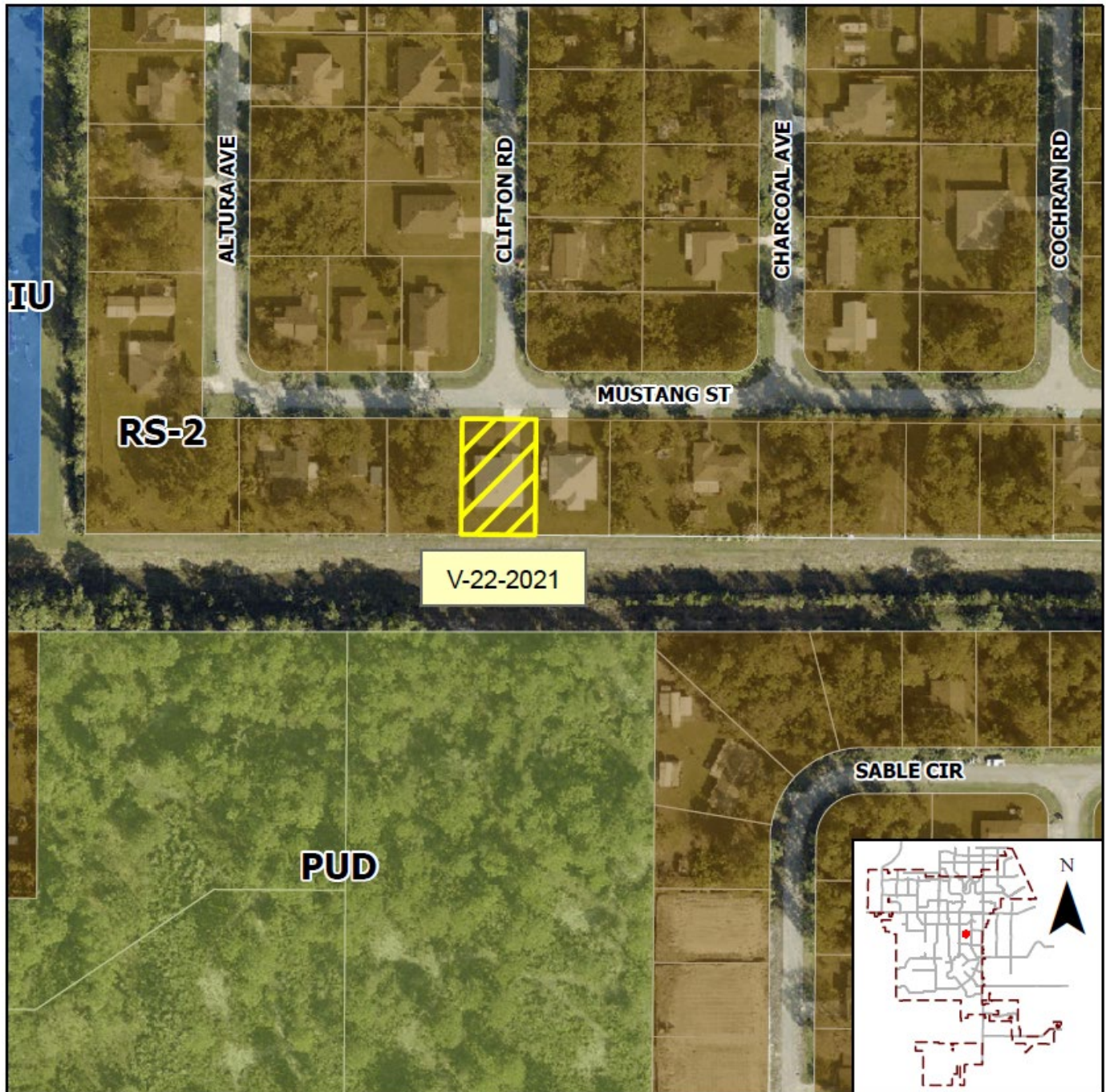
South of and adjacent to Mustang Street NE, in the vicinity west of Charcoal Avenue SE, specifically at 1056 Mustang Street SE

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: V-22-2021

Subject Property

South of and adjacent to Mustang Street NE, in the vicinity west of Charcoal Avenue SE, specifically at 1056 Mustang Street SE

Current Zoning Classification

RS-2 – Single Family Residential

REVIEWED FOR CODE COMPLIANCE
03/11/2021 7:53:50 AM

NO OBJECTION FROM EHS
Date 3-8-21 Initial [Signature]
8709-91
40913345

APPROVED FOR ZONING 2/16/16
[Signature]

THIS PERMIT DOES NOT AUTHORIZE THE USE OF ANY PUBLIC EASEMENT OR RIGHT-OF-WAY LINES
PATIO SLAB & DRIVEWAY EXTEND 3/11/2021
APPROVED FOR ZONING

L.CODY

Ensure tank lot 13 not obstructed

LOT 3 BLOCK 418 (VACANT)

LOT 3 BLOCK 418 (VACANT)

*Palm bay city.
*Extended the existing Driveway in the following Measures.
11'5" w x 38 FL
4" thick concrete
3000 PST fiber glass.

Back Patio

* Make Back patio concrete in the following Measures.
10 FL X 27 FW.
* Footer- 12" w x 12" D.
+ Rebars 2 #5.
* 3000 PST fiber glass.

SURVEY PREPARED FOR:
KENDALL ENTERPRISES OF BREVARD, INC.
GEORGE CONSTRUCTION

DESCRIPTION: LOT 4, BLOCK 418, PORT MALABAR UNIT ELEVEN, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 15, PAGES 34-42, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

AAL LAND SURVEYING SERVICES, INC.

ACCORDING TO F.I.R.M. #12009C 0660 G, DATED MARCH 17, 2014 THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE X.

TYPE OF SURVEY:
BOUNDARY

SCALE: 1" = 20'

PLOT PLAN: 10-26-16

FIELD DATE: 10-05-16

SECTION 8, TOWNSHIP 29 SOUTH, RANGE 37 EAST

PROJECT #36463

GENERAL NOTES:

1. THIS SURVEY AND DRAWING HAS BEEN PREPARED TO CONFORM WITH APPLICABLE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES.
2. THIS SURVEY AND DRAWING IS FOR THE SOLE USE AND BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE AS NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
3. THIS SURVEY IS NOT VALID WITHOUT THE EMBOSSED SEAL OF THE SURVEYOR, AND ANY REPRODUCTION OF THIS DRAWING WITHOUT WRITTEN PERMISSION OF THE SURVEYOR IS HEREBY FORBIDDEN.
4. NO OPINION OF TITLE OR OWNERSHIP IS HEREBY EXPRESSED OR IMPLIED BY THE SURVEYOR.
5. THIS SURVEY WAS PREPARED FROM INFORMATION FURNISHED TO THE SURVEYOR BY THE CLIENT, AND MAY BE SUBJECT TO EASEMENTS OR LIMITATIONS EITHER RECORDED OR IMPLIED.
6. BEARINGS ARE BASED ON AN ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.
7. NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
8. ELEVATIONS, IF SHOWN, ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988, UNLESS OTHERWISE NOTED.
9. "NO WELLS" AND "NO SEPTICS" ARE DEFINITIONS TO SHOW AN ATTEMPT BY THE SURVEYOR TO LOCATE POSSIBLE EXISTING WELLS AND SEPTICS, HOWEVER NONE WERE FOUND USING STANDARD SURVEY LOCATING EQUIPMENT.

3970 MINTON ROAD, WEST MELBOURNE, FL 32904 L.B. #6623
PHONE: (321)768-8110 FAX: (321)952-9771 EMAIL: frontdesk@aalsurvey.com

ANDREW W. POWSHOK
P.L.S. No. 5383

DANIEL D. GARNER
P.L.S. No. 6189

| LEGEND | |
|--------|----------------------------|
| BB | BEARING BASE |
| (M) | MEASURED |
| (P) | PLAT |
| (D) | DEED |
| IR | IRON ROD |
| IP | IRON PIPE |
| N&D | NAIL AND DIM. |
| N&TT | NAIL AND TIN TAB. |
| C.M. | CONCRETE MONUMENT |
| L.B. | LICENSE BUSINESS |
| PLS | PROFESSIONAL LAND SURVEYOR |
| TBM | TEMPORARY BENCHMARK |
| R | RADIUS |
| L | ARC LENGTH |
| FND | FOUND |
| CH | CHORD LENGTH |
| P.O.B. | POINT OF BEGINNING |
| PC | POINT OF CURVATURE |
| PT | POINT OF TANGENCY |
| PP | POWER POLE |
| P.O.L. | POINT ON LINE |
| R/W | RIGHT OF WAY |
| B.S.L. | BUILDING SETBACK LINE |
| O.H.W. | OVERHEAD WIRE |
| E.P. | EDGE OF EASEMENT |
| P.U. | PUBLIC UTILITY EASEMENT |
| D.E. | DRAINAGE |
| EL | ELEVATION |
| FF | FINISHED FLOOR |
| CONC. | CONCRETE |
| R.C.P. | REINFORCED CONCRETE PIPE |
| C.M.P. | CORRUGATED METAL PIPE |
| C | CENTERLINE |

REVIEWED FOR CODE COMPLIANCE
03/11/2021 7:53:50 AM

CITY OF PALM BAY BUILDING/FIRE PERMIT

120 MALABAR ROAD, SE

PALM BAY, FL 32907

321-953-8924 (PHONE) * 953-8925 (FAX) * 952-3484 (INSPECTIONS)

| | | | |
|------------------------------|---------------------------|------|---------|
| Application Number | 21-00002981 | Date | 3/11/21 |
| Property Address | 1056 MUSTANG ST SE | | |
| Parcel ID | 293708GL 418 | 4 | 293708 |
| Application type description | SLAB (RESIDENTIAL) | | |
| Subdivision Name | PORT MALABAR UNIT 11 | | |
| Property Use | R-SINGLE FAMILY RESIDENCE | | |
| Application valuation | 7850 | | |

Owner

RIVERA, HECTOR
1056 SE MUSTANG ST
PALM BAY FL 32909
(786) 413-5410

Contractor

MAGIC CONCRETE SOLUTIONS INC
1689 ARTHUR AVE
MELBOURNE FL 32935
(321) 480-3960

--- Structure Information 000 000 EXTEND D/W RR PATIO SLAB 3000PSI

| | | | |
|-------------------|---------|-----------|------|
| Permit | SLAB | | |
| Additional desc | | | |
| Phone Access Code | 1490267 | | |
| Permit Fee | 72.00 | | |
| Issue Date | 3/11/21 | Valuation | 7850 |
| Expiration Date | 9/07/21 | | |

Special Notes and Comments

All disturbed areas within the City of Palm Bay's Right-of-Way (ROW) and public easements must be restored to an EQUAL or BETTER condition than prior to construction. The sod to be installed must match the existing sod. Any damage to the existing infrastructure, including sidewalks and adjacent structures, caused by the contractor(s) or their employees must be replaced.

*

A permit is required by Melbourne Tillman to access any canal ROW for construction. Please call 321 723-7233.

| | | |
|------------|----------------------------|-------|
| Other Fees | ADMIN FEE | 30.00 |
| | RES-PLAN CHECK FEE | 36.00 |
| | C&D SURCHARGE (SF & MH) | 19.63 |
| | FL SURCHARGE 2.5% (7/1/17) | 4.00 |

| Fee summary | Charged | Paid | Credited | Due |
|-------------|---------|------|----------|-----|
|-------------|---------|------|----------|-----|

WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR ANY ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.



ZONING DEFICIENCY LETTER


April 19, 2021

Quintero's Construction
Ref: 1056 Mustang
Permit # 21-5048

Following is a list of deficiencies you will need to address prior to Zoning approval of this permit. Please note these are Zoning issues only. Your permit is still in the plan review process which requires additional approval from a Plans Examiner before your permit will be issued.

1. The proposed rear screen room with composite roof is encroaching into the 25' minimum rear setback.

If you have any questions, please contact me Monday - Friday between 7:30 – 4:00. My office number is 953-8907 or email (sue.chandler@pbfl.org). Thank you.

Reviewed by: 
Sue Chandler, Planning Technician



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 29-37-08-GL-418-4

TAX ACCOUNT NUMBER 2928286

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

Port Malabar Unit 11 Lot 4 BIK 418

STREET ADDRESS OF PROPERTY COVERED BY APPLICATION:

1056 Mustang St SE Palm Bay, FL 32909

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): .23

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

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):

3' into the 25' Rear Building Setback

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

185.034(F)(7)(d)

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.

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 Jesus Quintero

**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 Hector L. Rivera Date 4/20/2021
Printed Name HECTOR L. RIVERA
Full Address 1056 MUSTANG ST. SE. PALM BAY FL. 32909
Telephone 786-413-5410 Email HECTOR59RIVERA@HOTMAIL.COM

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

Quintero's Construction LLC
Jesús Quintero
Residential Contractor
State Lic. #RR282811660

April 26, 2021

City of Palm Bay
Land Development Division
c/o Christopher Balter

This letter is on behalf of homeowner Hector Rivera, 1056 Mustang St., Palm Bay, FL to explain that when we applied for the concrete slab permit we were always thinking of putting an aluminum screened porch and the city never informed us that an aluminum roof could not be built the whole ten feet length of the concrete slab.

- b) The special conditions above is not a direct action of the applicant
- c) The interpretation of the development code regulations deprived the applicant of rights and enjoyment of the homeowner's property and is going to result in unnecessary hardship to the applicant
- d) If granted the minimum variance of three feet for the aluminum structure it will make possible the reasonable use of the land
- e) Granting the variance will not confer of any special privilege that is denied by the development code to all the lands, buildings or structure
- f) Granting the variance will not be injurious to the surrounding properties or detrimental to the public welfare

Yours Truly,

Jesus Quintero
Quintero's Construction

April 20th, 20 21

Re: Letter of Authorization

As the property owner of the site legally described as:

Port malabar Unit H Lot 4 Blk 418

I, Owner Name: Hector L. Rivera

Address: 1056-MUSTANG ST. SE. PALM Bay FL. 32909

Telephone: 321-327-3330 cell- 786-413-5410

Email: HECTOR59RIVERA@hotmail.com

hereby authorize:

Representative: Jesus Quintana

Address: 1420 Amador AV Palm Bay FL. 32907

Telephone: 321 271 6124

Email: quinterosconstructionbrevard@gmail.com

to represent the request(s) for:

Variance Request

Hector L. Rivera

(Property Owner Signature)

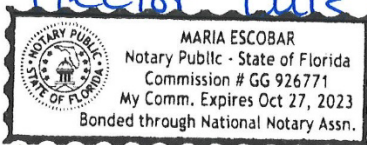
STATE OF Florida

COUNTY OF Brevard

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

Hector Luis Rivera

, property owner.



Maria Escobar

, Notary Public

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

Drivers License



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Patrick J. Murphy, Assistant Growth Management Director

DATE: June 2, 2021

SUBJECT: CP-8-2021 - CONTINUED TO 07/07/2021 P&Z - Las Palmas PUD - Anthony Ware, DSG LLC and Gregory Solis, Gus & Sons LLC (Bruce Moia, P.E. and Richard Fadil, Reps.) - A large-scale Comprehensive Plan Future Land Use Map amendment from Public/Semi-Public Use to Single-Family Residential Use. Tax Parcel 2, Section 18, Township 29, Range 37, Brevard County, Florida, containing approximately 12.90 acres. (In the vicinity between Ruffin Circle SE and Buffing Circle SE)

Case CP-8-2021 has been continued to the July 7, 2021 Planning and Zoning Board meeting to allow the Public Hearing Notices requirement to be met. City Council will hear the request on July 15, 2021. Board action is not required to continue the case.



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Patrick J. Murphy, Assistant Growth Management Director

DATE: June 2, 2021

SUBJECT: **PD-20-2021 - CONTINUED TO 07/07/2021 P&Z - Las Palmas PUD - Anthony Ware, DSG LLC and Gregory Solis, Gus & Sons LLC (Bruce Moia, P.E. and Richard Fadil, Reps.) - Preliminary Development Plan to allow for a 47-lot single-family development called Las Palmas PUD. Tax Parcel 2, Section 18, Township 29, Range 37, Brevard County, Florida, containing approximately 12.90 acres. (In the vicinity between Ruffin Circle SE and Buffing Circle SE)

Case PD-20-2021 has been continued to the July 7, 2021 Planning and Zoning Board meeting to allow the Public Hearing Notices requirement to be met. City Council will hear the request on July 15, 2021. Board action is not required to continue the case.

**Quasi-Judicial Proceeding.



MEMORANDUM

DATE: June 2, 2021

SUBJECT: CP-6-2021 - Benjamin E. Jefferies, Waterstone Farms, LLC (Rochelle Lawandales, FAICP and Jake Wise, P.E., Reps.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Single-Family Residential Use to Multiple Family Residential Use. A portion of Tax Parcel 500, Section 4, Township 30, Range 37, Brevard County, Florida, containing approximately 9.51 acres. (In the vicinity south of Mara Loma Boulevard SE and north of Davis Lane)

ATTACHMENTS:

Description

▣ **Case CP-6-2021**



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmbayflorida.org

Prepared by

Patrick J. Murphy, Assistant Growth Management Director

CASE NUMBER

CP-6-2021

PLANNING & ZONING BOARD HEARING DATE

June 2, 2021

PROPERTY OWNER & APPLICANT

Waterstone Farms, LLC (Benjamin E. Jefferies, as Managing Member),
Represented by Rochelle Lawandales and
Jake T. Wise

PROPERTY LOCATION/ADDRESS

The property is in the vicinity SW of the terminus of
Mara Loma Drive; north of Davis Lane and one mile
west of Babcock Street SE

SUMMARY OF REQUEST

The applicant is requesting a small-scale Comprehensive Plan
Future Land Use (FLU) Map amendment to change 9.53 acres of
land from Single Family Residential Use to Multiple Family
Residential Use.

Existing Zoning

PUD, Planned Unit Development

Existing Land Use

Single Family Residential Use

Site Improvements

Vacant, former Orange Grove

Site Acreage

9.53 acres

SURROUNDING ZONING & USE OF LAND

North

PUD, Planned Unit Development; Undeveloped Land

East

PUD, Planned Unit Development; Undeveloped Land

South

PUD, Planned Unit Development; Undeveloped Land Estates

West

PUD, Planned Unit Development; Undeveloped Land

BACKGROUND:

The property is in the vicinity southwest of the terminus of Mara Loma Drive; north of Davis Lane and one mile west of Babcock Street SE. Specifically, the subject property is a portion of Tax Parcel 500, Section 4, Township 30 south, Range 37 east. This property is vacant, undeveloped land and is part of a former orange grove (Wheeler Groves).

The applicant has owned the overall tax parcel since December of 2008 and is requesting a small-scale Comprehensive Plan Future Land Use Map amendment to change 9.53 acres of land from Single Family Residential Use to Multiple Family Residential Use. The applicant is Benjamin E. Jefferies, Managing Member of Waterstone Farms, LLC.

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 (CP) FLU Element Goal FLU-1 is to “Ensure a high quality, diversified living environment through the efficient distribution of compatible land uses.”

CP 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.”

CP Goal FLU-8 is to “Provide a diverse and self-sustaining pattern of land uses which support the present and future population of the City of Palm Bay.”

The Multiple Family Residential (MFR) Use future land use (FLU) 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 190 units (9.53 acres x 20UPA). However, the applicant has informed staff that the purpose of the amendment is to create a mix of housing styles and types within the Cypress Bay West residential community. It is anticipated that no more than 65 townhomes would be constructed upon the subject property. This results in a density of 6.82 units per acre for the land covered by this application. The maximum density permitted by the single-family residential FLU category is 5 UPA. Therefore, the request for the MFR FLU category is being made to allow a multiple-family residential “use” and to slightly exceed the existing maximum residential density.

2. COASTAL MANAGEMENT ELEMENT

The subject property is not located within the Coastal High Hazard Area.

3. CONSERVATION ELEMENT

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

The 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. However, any listed species identified on the subject parcel would need to be mitigated, as required by State and Federal regulations, and per Comprehensive Plan Policy CON-1.7B. This will be vetted through the administrative site plan review process.

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 (townhomes) 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. Technical comments from the Utilities Department are attached to this report.

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: Due to the requested change to Multiple Family Residential Use, a school capacity determination will be required prior to final adoption of this amendment. The application has been submitted to the School Board.

7. RECREATION AND OPEN SPACE ELEMENT

The Recreation and Open Space Element addresses the current and future recreational needs of the City. Multiple Family Residential Use does have more of a demand upon the parks & recreational level of service (LOS) standards than Single Family Residential Use. However, the potential impact from this request would have a De minimis effect on the recreation LOS.

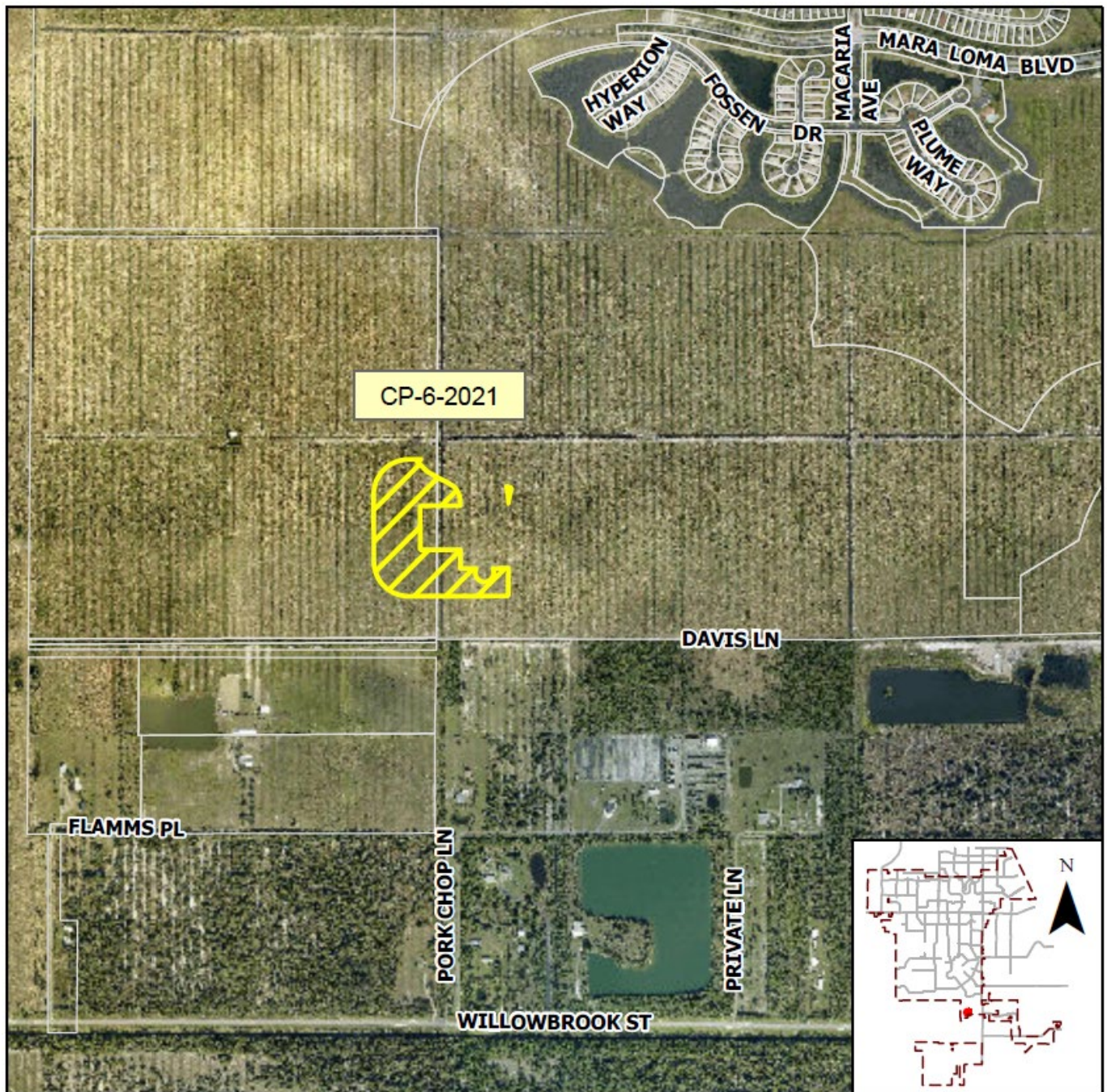
8. TRANSPORTATION ELEMENT

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. At the time of site development review for Cypress Bay West Phase 2, a traffic impact analysis will be required.

STAFF RECOMMENDATION:

Case CP-6-2021 is recommended for approval.

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

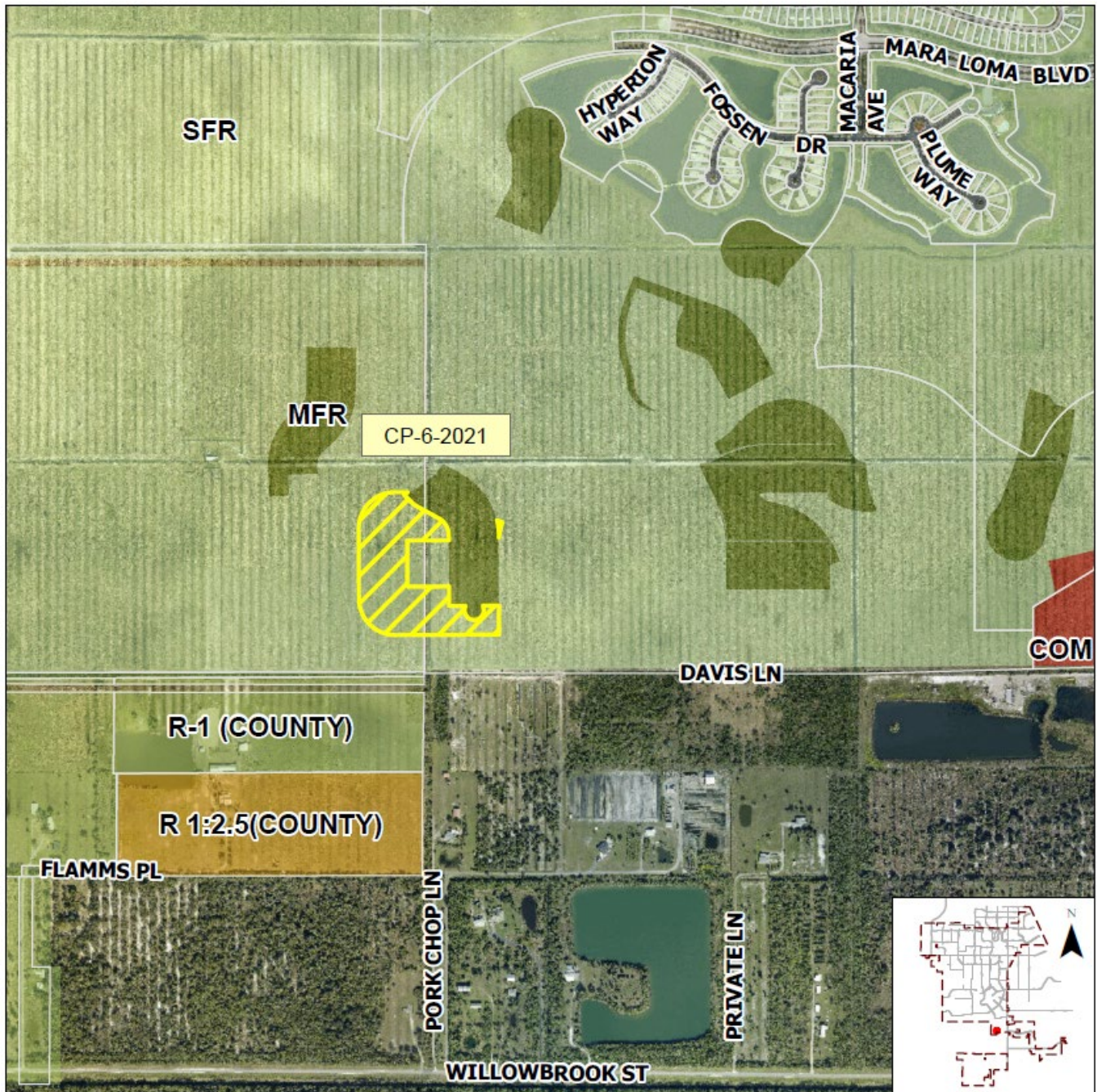


AERIAL LOCATION MAP CASE: CP-6-2021

Subject Property

In the vicinity south of Mara Loma Boulevard SE and north of Davis Lane

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-6-2021

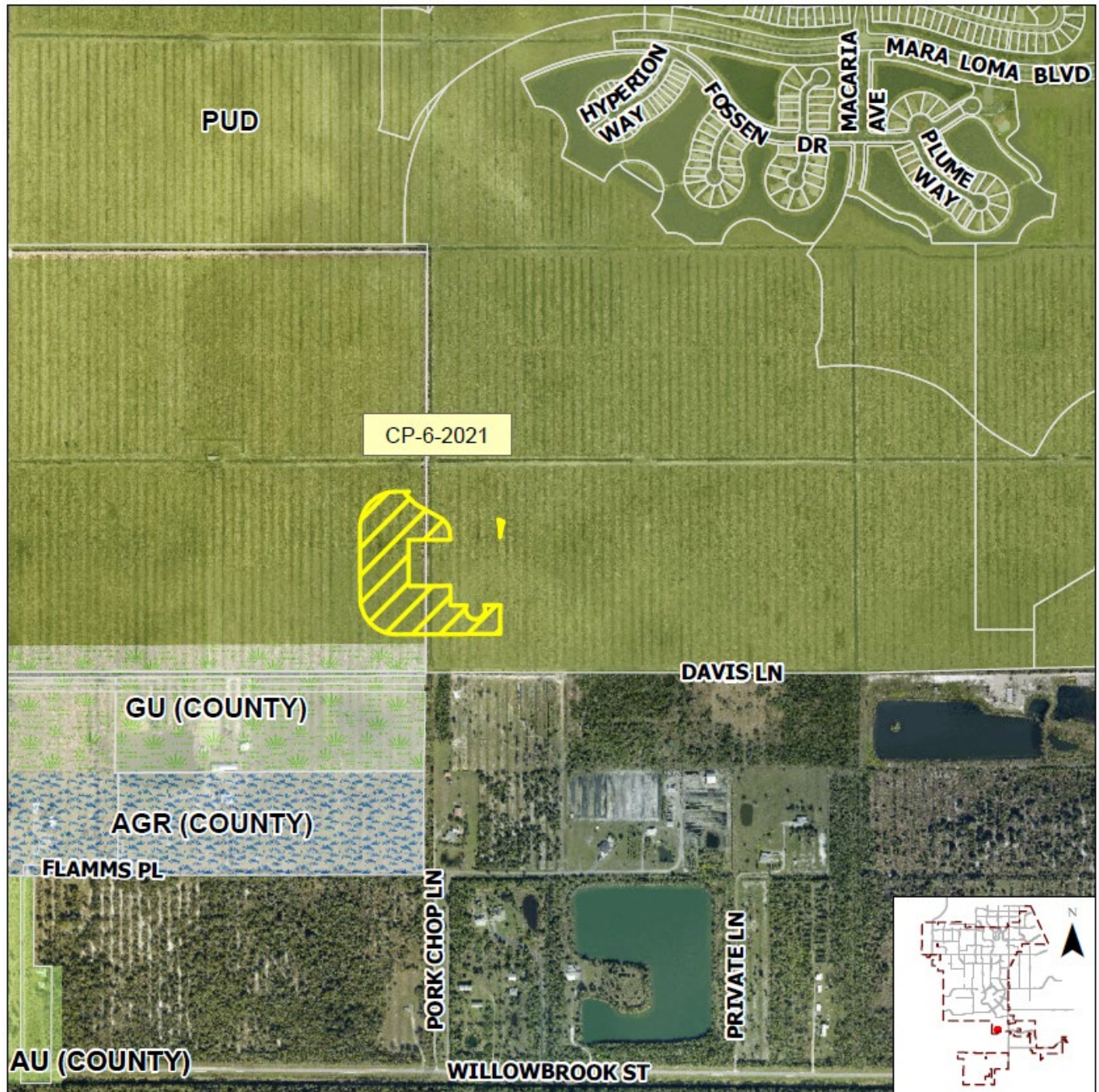
Subject Property

In the vicinity south of Mara Loma Boulevard SE and north of Davis Lane

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-6-2021

Subject Property

In the vicinity south of Mara Loma Boulevard SE and north of Davis Lane

Current Zoning Classification

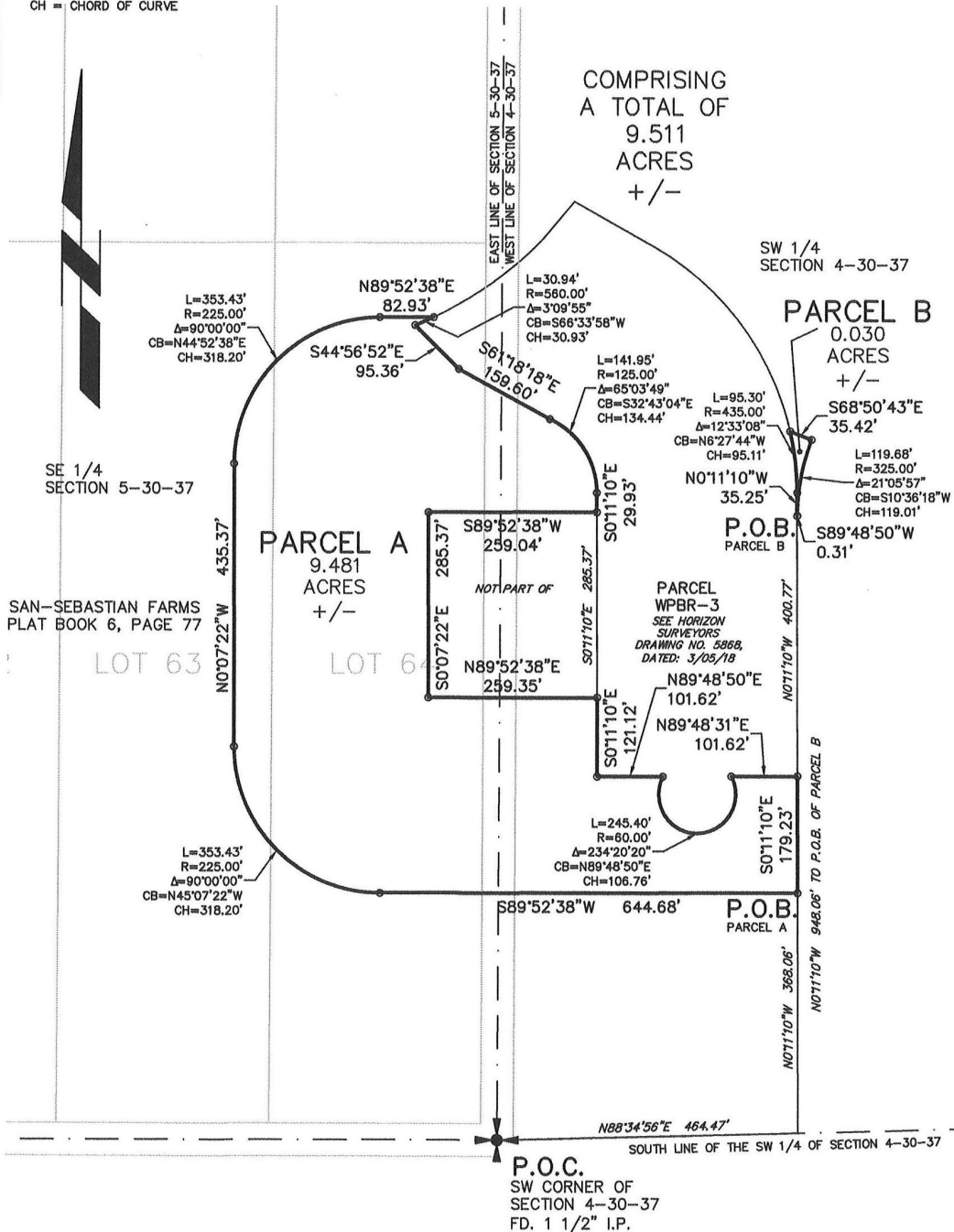
PUD – Planned Unit Development

SKETCH OF DESCRIPTION
"THIS IS NOT A BOUNDARY SURVEY"

FOR: WATERSTONE FARMS, LLC
SCALE: 1"=200'

LEGEND

ESMNT = EASEMENT
FD. = FOUND
NTS = NOT TO SCALE
O.R.B. = OFFICIAL RECORDS BOOK
P.C. = POINT OF CURVATURE
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
P.T. = POINT OF TANGENCY
R/W = RIGHT OF WAY
D = "DELTA" OR CENTRAL ANGLE
R = RADIUS OF CURVE
L = LENGTH OF CURVE
CH = CHORD OF CURVE



OF CENTRAL FLORIDA, INC. LB 6360
390 POINCIANA DR., MELBOURNE, FL 32935
E-MAIL: INFO@HORIZONSURVEYORS.COM
PHONE: (321) 254-8133



LAND DEVELOPMENT DIVISION

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

Landdevelopmentweb@palmabayflorida.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. **Large Scale Amendments will require 60 days of review prior to a scheduled Planning and Zoning Board meeting.** 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(S):

Portion of Parcel ID:30-37-04-00-500 located in the SW corner of the property

TAX ACCOUNT NUMBER(S):

Portion of Account:3000216 located in the SW corner of the property

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION: (attach additional sheets if necessary):

See attached

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

9.53 acres or less

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

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

Single Family Residential land use

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

Multi-family Residential to pair with adjacent Multi-family designated lands

PRESENT USE OF PROPERTY:

Vacant

STRUCTURES LOCATED ON THE PROPERTY: None

REZONING FILED IN CONJUNCTION WITH THIS APPLICATION: Property is zoned PUD

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

Applicant desires to create a mix of housing styles and types within the Cypress Bay West residential community west of Babcock Street to include single family and townhome products to attract a range of buyers. This is consistent with other Multi-family areas within the Waterstone PUD: Lakes of Waterstone (duplexes) and other MF lands with the PUD as shown on the City's FLUM.

SPECIFIC USE INTENDED FOR PROPERTY:

Townhomes

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)

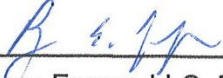
CITY OF PALM BAY, FLORIDA
COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION
PAGE 3 OF 3

- ☐ Boundary Survey for land use amendments.
- ☐ Sketch with legal descriptions of properties covered by this application 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). The application is obtained from the Planning and Project Management Department of the School Board of Brevard County at (321) 633-1000, extension 11418.
- ☐ Sign(s) posted on the subject property. Refer to [Section 51.07\(C\)](#) of the Legislative Code for guideline. Staff will provide a sign template.
- ☐ 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 Jake Wise, PE

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 April 28, 2021
Printed Name Waterstone Farms, LLC, Benjamin E. Jefferies, as Managing Member
Full Address 2040 Hwy A1A Ste 207, Indian Harbour Beach, FL 32937
Telephone C: 321-258-7984 Email ben@waterstonefla.com

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

April 28, 2021

Re: Letter of Authorization

As the property owner of the site legally described as:

Portion of Parcel ID:30-37-04-00-500 located in the SW corner of the property

I, Owner Name: Waterstone Farms, LLC, Benjamin E. Jefferies, as Managing Member

Address: 2040 AIA#201, Indian Harbour Beach, FL 32937

Telephone: 321 (428-3878)

Email: ben@waterstonefla.com

hereby authorize:

Representative: Rochelle W. Lawandales, FAICP

Address: 335 Sherwood Avenue, Satellite Beach, FL 32937

Telephone: 321-223-4664

Email: rochelle.lawandales@gmail.com

to represent the request(s) for:

Future Land Use amendments or other actions regarding Waterstone Farms' lands

Ben E. Jefferies

(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 28 day of April, 2021 by

Ben Jefferies

, property owner.

Cami Crupi

Notary Public



Personally Known or ☐ Produced the Following Type of Identification:



Cami Crupi

NOTARY PUBLIC

STATE OF FLORIDA

Comm# GG117304

Expires 6/21/2021

April 28, 2021

Re: Letter of Authorization

As the property owner of the site legally described as:

Portion of Parcel ID:30-37-04-00-500 located in the SW corner of the property

I, Owner Name: Waterstone Farms, LLC, Benjamin E. Jefferies, as Managing Member

Address: 2040 Highway AIA#201, Indian Harbour Beach, FL 32937

Telephone: 321 (428-3878)

Email: ben@waterstonefla.com

hereby authorize:

Representative: Jake Wise, PE

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:

Future Land Use amendments or other actions regarding Waterstone Farms' lands


(Property Owner Signature)

STATE OF Florida

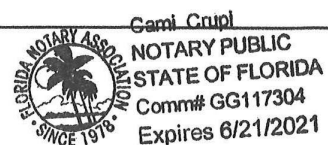
COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 28 day of April, 2021 by

Ben Jefferies, property owner.


Notary Public

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





MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Patrick J. Murphy, Assistant Growth Management Director

DATE: June 2, 2021

SUBJECT: **FS-2-2021 - Northshore at Palm Bay - Andrew R. Steel, NSD Partners (Miguel Reynaldos and Henry A. Kilburn, PSM, Reps.) - Final Plat to allow a proposed 7-lot mixed-use subdivision called Northshore at Palm Bay. Tract 1.01 of Valentine Estate Subdivision and Tax Parcel 5, Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 24.60 acres. (Southwest corner of Robert J. Conlan Boulevard and the Florida East Coast Railway)

**Quasi-Judicial Proceeding.

ATTACHMENTS:

Description

▣ Case FS-2-2021



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

FS-2-2021

PLANNING & ZONING BOARD HEARING DATE

June 2, 2021

PROPERTY OWNER & APPLICANT

NSD Partners, LLC. (Andrew R. Steel),
Miguel Reynaldos, PE, and Henry Kilburn,
PSM, Representing

PROPERTY LOCATION/ADDRESS

Located in the vicinity south of the intersection of Robert
J. Conlan Boulevard NE and the Florida East Coast
Railroad

SUMMARY OF REQUEST

The applicant requests Final Subdivision approval for a mixed-use development called "Northshore at Palm Bay".

Existing Zoning

BMU, Bayfront Mixed Use District

Existing Land Use

Bayfront Mixed Use

Site Improvements

Northshore Aqua (320-unit Apartment Complex)

Site Acreage

24.60 acres

DENSITY

Maximum 40 Units per Acre (UPA) Allowed – 13 UPA Developed

COMPREHENSIVE PLAN COMPATIBILITY

Yes

BACKGROUND:

The property is located immediately south of the intersection of Robert J. Conlan Boulevard and the Florida East Coast Railroad. Specifically, the subject property is Tax Parcels 5 and 1.01, Section 14, Township 28 south, and Range 37 east. Combined, they total 24.60 acres.

The current zoning of the property is BMU, Bayfront Mixed Use District and the property is bordered by the Florida East Coast Railroad to the east and by Robert J. Conlan Boulevard to the north and west. Existing to the south is the Shire Mobile Home Park, zoned RMH, Residential Mobile Home. Also, to the south, is the Deonna Ice Cream Distribution Facility, which is zoned LI, Light Industrial and Warehousing District.

On August 2016, the subject property was rezoned from LI, Light Industrial and Warehousing Zoning and HI, Heavy Industrial Zoning to the BMU, Bayfront Mixed Use Zoning District. The Applicant received Conditional Use approval from City Council (Resolution 2017-35) to develop a multiuse project known as 'Northshore at Palm Bay'. The commencement period for this resolution was extended via Resolution 2018-28.

Conditional Use approval was required as the site contained more than one (1) acre of land and the project proposed specific uses identified in the BMU District for additional review and scrutiny [on-premises alcohol consumption and outdoor table service]. On September 6, 2019, the applicant received Site Plan approval to construct 320 market rate apartments and five (5) commercial lease parcels totaling 49,000 square feet of commercial space.

The Applicant, NSD Partners, LLC. now seeks to create a subdivision plat to create six (6) legally defined parcels of land, for the purpose of selling the five (5) commercial lots. Representing the applicant in this endeavor is Miguel Reynaldos and Henry Kilburn.

ANALYSIS:

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 and 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 BMU zoning district is one (1) acre. The five (5) commercial lots range in size from 1.04 to 1.63 acres. The 6th lot, containing the apartment buildings, is approximately 16.18 acres. There are no blocks being proposed in this subdivision.

Road Design: No public or private roadways are proposed by this subdivision request. Rather, the site is accessed via two (2) existing driveway connections to Robert Conlan Blvd. (Conlan). The main entrance is controlled via a 4-way stop traffic signal at the intersection of Conlan and Northview Street. An internal driveway exists between the residential lot and all 5 of the commercial lots.

Stormwater Treatment: The Northshore project includes a master stormwater treatment system that is designed to transfer stormwater runoff from the impervious development to three (3) separate, but inter-connected wet ponds. Discharge from the system, during excessive rain events, is in the far SE portion of the site which then travels along the F.E.C.R.R. in an open swale system. Each lot shall maintain the pipes and inlets upon their respective properties, but the common area structures (and outfall) shall be maintained by the Property Owners Association.

Potable Water and Sewerage Facilities: The Aqua Apartments, located on Lot 1, is already connected to the City's water and sewer systems. All buildings have been constructed and certificates of occupancy previously issued. The five (5) commercial lots shall provide their designed connection to the existing utility system and be reviewed/approved administratively, during the site plan review process.

Sidewalks/Pedestrian Ways: All approved sidewalks and pedestrian ways for the Aqua Apartments have been installed. Handicap accessible sidewalks shall be provided upon each commercial lot, as it develops.

Public Uses and Easements: This code section 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: There are no areas of the site that are deemed to be of natural or historic benefit, thus no areas shall be dedicated for such preservation.

Association: Although this subdivision plat will create six (6) separate, legally defined parcels of land, none of the lots will be required to maintain a mix of uses specific to each lot. Rather, the overall project known as 'Northshore at Palm Bay', with an existing multi-family use and future commercial uses, qualify as a multi-use project. Tying these lots together, in addition to common access and drainage, will be a Master Association to govern the use and maintenance of common areas and the design standards of commercial development. This document must be fully reviewed/approved during the administrative subdivision plat review

process. Of particular note is the title of this document – currently written as the “Declaration of Covenants, Conditions, and Restrictions for **Aqua** at Palm Bay”. The name “Aqua” refers to the apartments, while the document (and the subdivision plat) includes the entire 26-acre property. Staff believes this document should be re-titled to the “Declaration of Covenants, Conditions, and Restrictions for **Northshore** at Palm Bay”, to avoid any future confusion.

This document will need to include a section that is specific to shared parking and cross access for, and within, the commercial lots, as well as the perpetual maintenance of on-site improvements. Exhibits shall be added to the Declaration that graphically display all common areas, easements, and joint-use improvements described or encumbered by this Declaration.

A cursory review of the subdivision plat finds multiple references to a ‘Homeowners’ Association. Staff believes this should be revised to a ‘Property’ Owners Association. There are also instances where an incorrect department or named signatory is included. It shall be noted that a more in-depth review, including compliance with Chapter 177 of the Florida Statutes, shall take place during the administrative subdivision plat review process.

Lastly, technical staff review comments are attached to this report and shall be addressed accordingly.

STAFF RECOMMENDATION:

Upon review of the submitted materials, the Final Subdivision request is in substantial conformance with the applicable requirements of the Subdivision Code. Therefore, Staff recommends approval of Case FS-2-2021, subject to successful completion of the administrative subdivision plat review/approval process.

TECHNICAL COMMENTS

CASE FS-2-2021 – NORTHSORE AT PALM BAY

PUBILC WORKS (Natalie Shaber, Engineer II; Joe Hale, City Surveyor):

Engineering: A POA shall be formed with Articles of Incorporation and Declaration of Covenants Conditions and Restrictions provided to the City for review. The DCCR shall contain all cross-access, cross-drainage and shared utility easements.

R/W and D/W Comments: Sidewalk connectivity.

Survey Comments Boundary: 1) The FIRM Panel number and date for the East side of the property needs to be revised. 2) Be advised Surveyors Note #10 is in a different font than the rest of the notes. 3) Revision Box lists an update of 6-11-21, is this correct?

Survey Comments Plat: 1) Change order of Dedication blocks to 1] Dedication, 2] Certificate of Surveyor, 3] Certificate of Reviewing Surveyor, 4] Certificate of Approval by Municipality, 5] Certificate of Clerk. 2) The FIRM Panel number and date for the East side of the property needs to be revised. 3) Final mylar will require the embossed seal of the SOR, a stamp will not be accepted. 4) Please provide Final Plat Review check of \$620.

UTILITIES (Christopher Little, Utilities Director):

1. The applicant/owner, at their expense, will be required to design, permit, install, inspect and test water & sewer systems of adequate size to accommodate the development and to connect to the City's water and sewer system [Section 200.11(D)(1) - On-site Facilities].

2. The applicant/owner will be required to extend service from the On-site Facilities to the existing water, sewer, and reclaimed water connection points. [Section 200.11(D)(2) - Off-site Facilities].

3. A City of Palm Bay "Utility Agreement" shall be executed between the Property Owner and the City. All Utility impact/connection charges noted in the "Utility Agreement" must be paid as outlined in the terms and conditions of the Utility Agreement. All fees are subject to change annually on October 1. The Property Owner shall submit a certified copy of the property deed as verification of ownership as part of the Utility Agreement.

4. All Utility construction, materials, and testing shall be in accordance with the latest revision of the Palm Bay Utilities Department Policies, Procedures, and Standards Handbook and the Standard Detail Drawings.

5. Prior to any construction, all required FDEP Permit applications for the Water and Sanitary Sewer Construction shall be processed through and copies of the Permits filed with the Utilities Department. If it is determined by the Engineer of Record (EOR) that an FDEP permit is not needed, the Utilities Department will need documentation from FDEP stating that the permit is not needed, the Utilities Department will need documentation from the

FDEP stating that the permit is not required prior to construction. The FDEP verification is not needed if the design is for a water service and/or sewer lateral connection only.

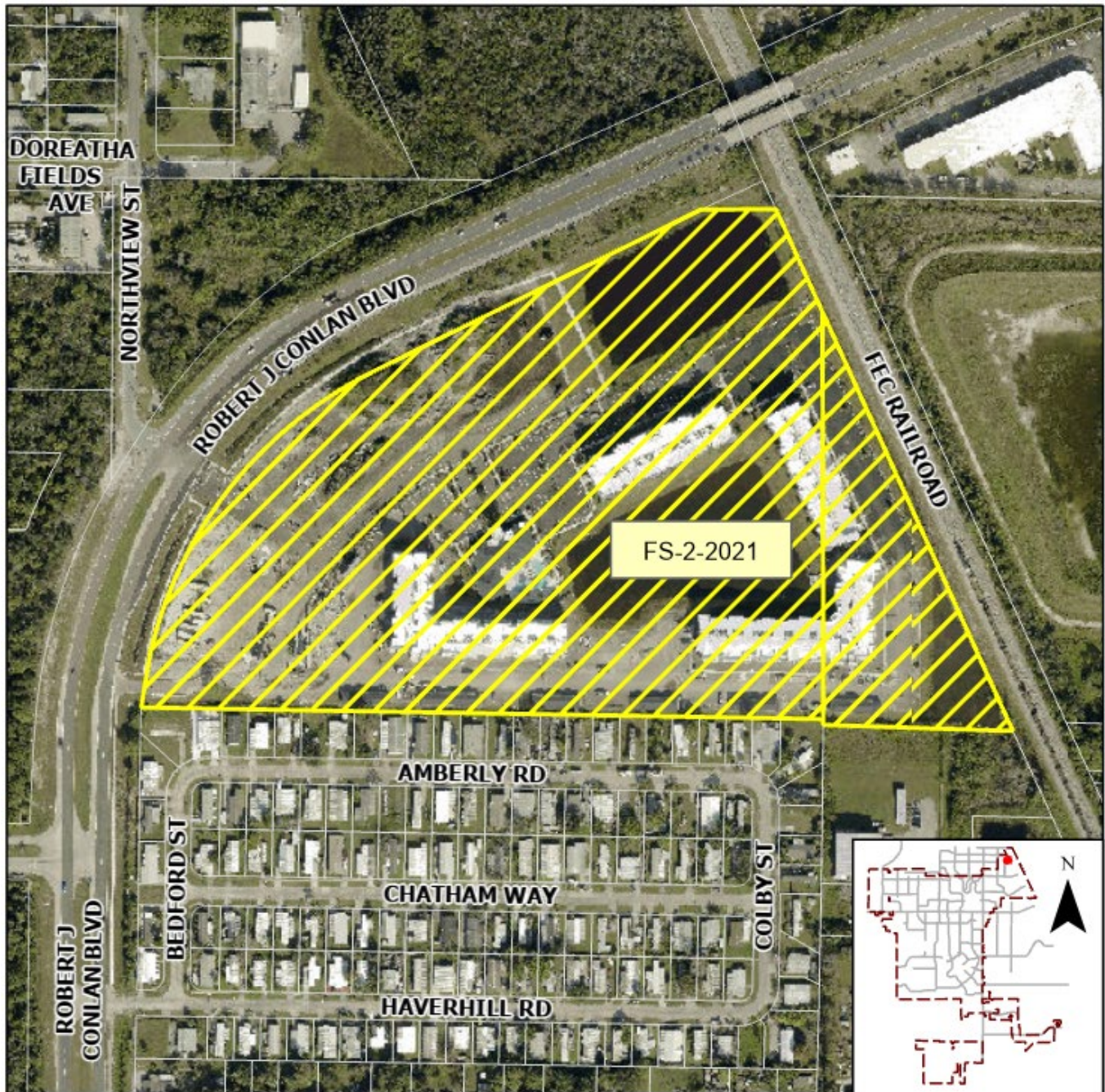
FIRE (Mark Whorton, Fire Consultant):

No comments.

BUILDING (James Williams, Flood Plain Administrator):

No comments.

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



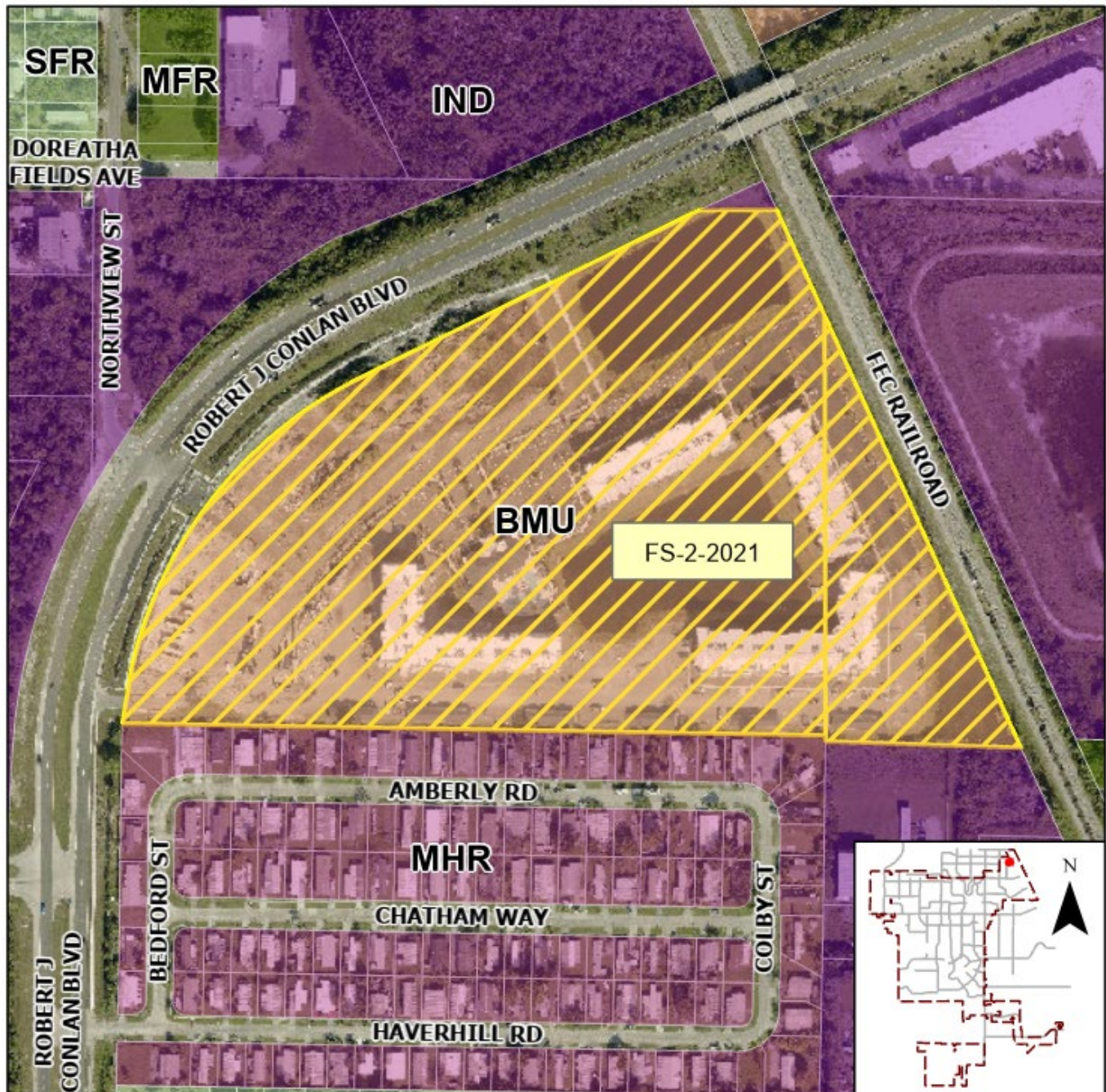
AERIAL LOCATION MAP CASE: FS-2-2021

Subject Property

In the vicinity of the southwest corner of Robert J. Conlan Boulevard NE and 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: FS-2-2021

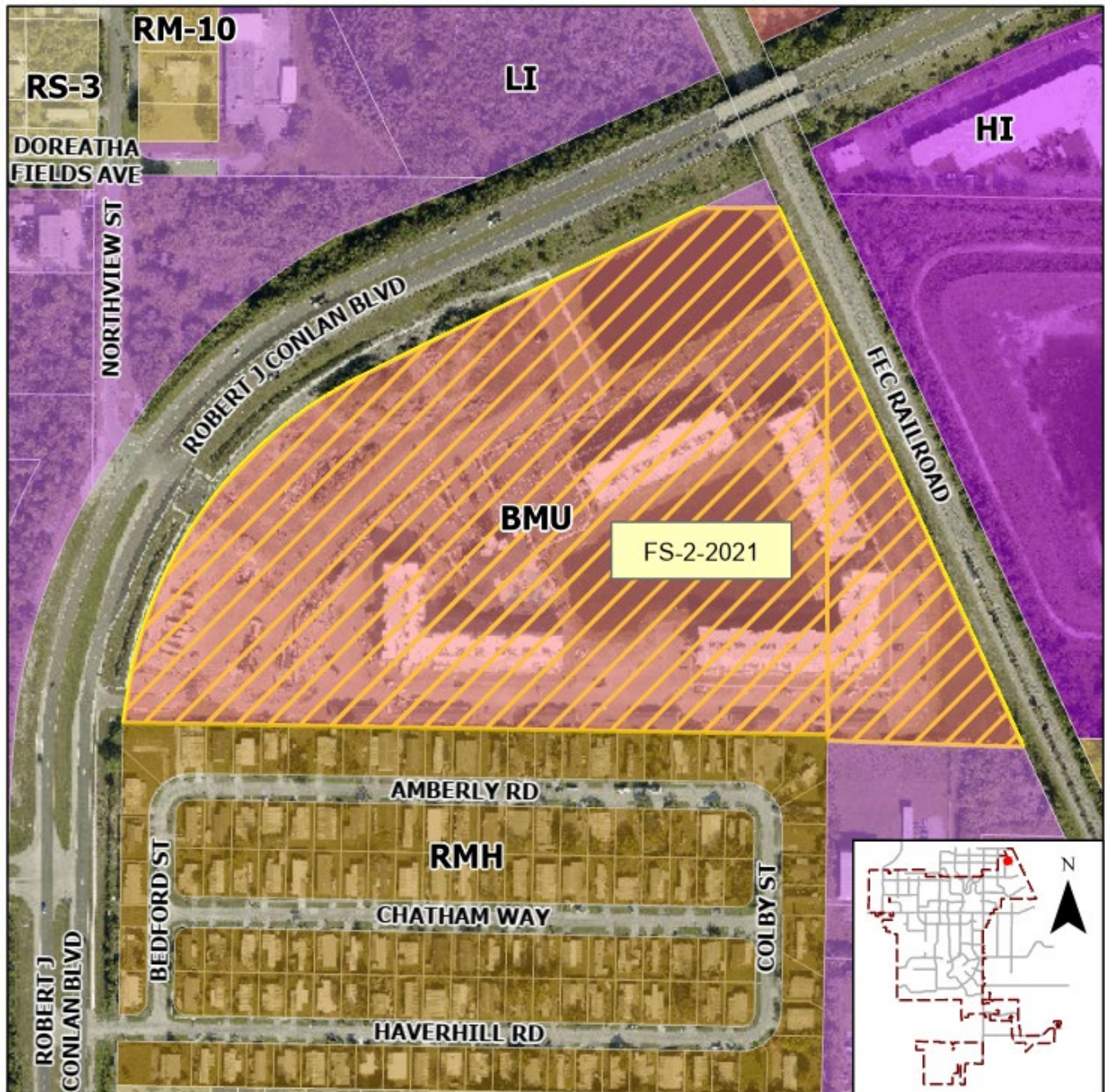
Subject Property

In the vicinity of the southwest corner of Robert J. Conlan Boulevard NE and the Florida East Coast Railway

Future Land Use Classification

BMU – Bayfront Mixed Use

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



ZONING MAP

CASE: FS-2-2021

Subject Property

In the vicinity of the southwest corner of Robert J. Conlan Boulevard NE and the Florida East Coast Railway

Current Zoning Classification

BMU – Bayfront Mixed Use District

PLAT DESCRIPTION:

PARCEL IX:
LOT 1 AND THE NORTH 120 FEET OF LOT 2, LYING WEST OF FLORIDA EAST COAST RAILWAY, VALENTINE ESTATES SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 67, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

PARCEL X:
THE NORTH THREE–QUARTERS (3/4'S) OF THE SOUTHWEST ONE–QUARTER (1/4) OF THE NORTHEAST ONE–QUARTER (1/4) EXCEPT FLORIDA EAST COAST RAILWAY AND ROAD RIGHT–OF–WAY FOR ROBERT J. CONLAN BOULEVARD, LOCATED IN SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST. ALSO LESS AND EXCEPT LAND DESCRIBED IN WARRANTY DEED FILED IN OFFICIAL RECORDS BOOK 4087, PAGE 323, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

THE ABOVE PARCELS ALSO DESCRIBED AS FOLLOWS:

THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 7691, PAGE 2825, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LYING IN SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF THE SHIRE, FIRST ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 24, PAGE 116, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND RUN NORTHEASTERLY, ALONG THE ARC OF THE CURVED RIGHT–OF–WAY LINE OF ROBERT J CONLAN BOULEVARD, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 854.93 FEET, A CENTRAL ANGLE OF 60°32'06", A CHORD LENGTH OF 861.83 FEET AND A CHORD BEARING OF N35°06'53"E), A DISTANCE OF 903.26 FEET TO THE END OF SAID CURVE; THENCE N65°23'24"E, CONTINUING ALONG SAID RIGHT–OF–WAY LINE, A DISTANCE OF 643.04 FEET TO THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 5918, PAGE 7785, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S88°45'21"E, ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 5918, PAGE 7785, A DISTANCE OF 97.97 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 5918, PAGE 7785 AND A POINT OF THE WESTERLY RIGHT–OF–WAY LINE OF THE FLORIDA EAST COAST RAILROAD; THENCE S24°38'25"E, ALONG SAID RIGHT–OF–WAY LINE, A DISTANCE OF 1111.83 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 7691, PAGE 2825; THENCE N89°06'31"W, ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 7691, PAGE 2825, A DISTANCE OF 356.31 FEET TO THE EAST LINE OF THE SHIRE, FIRST ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN SAID PLAT BOOK 24, PAGE 116; THENCE N00°54' 19"E, ALONG SAID EAST LINE, A DISTANCE OF 11.39 FEET TO THE NORTHEAST CORNER OF THE SHIRE, FIRST ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN SAID PLAT BOOK 24, PAGE 116; THENCE N88°58'29"W, ALONG THE NORTH LINE OF THE SHIRE, FIRST ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN SAID PLAT BOOK 24, PAGE 116, A DISTANCE OF 1285.97 FEET TO THE POINT OF BEGINNING.

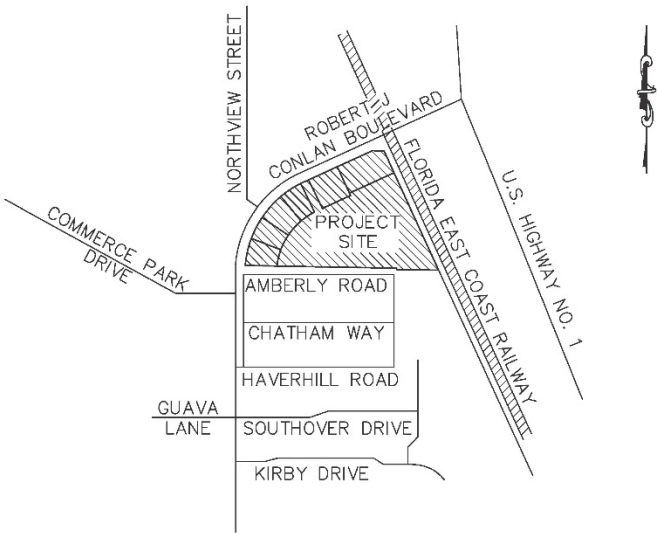
NOTES

- NO CONSTRUCTION, TREES OR SHRUBS WILL BE PLACED IN EASEMENTS WITHOUT HOME OWNERS' ASSOCIATION'S APPROVAL.
- ROUTINE MAINTENANCE (E.G. MOWING, ETC.) OF EASEMENTS SHALL BE THE RESPONSIBILITY OF THE HOME OWNERS' ASSOCIATION.
- THIS PLAT, AS RECORDED IN ITS GRAPHICAL FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY 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 FOUND IN THE PUBLIC RECORDS OF BREVARD COUNTY.
- PROPERTY OWNERS ARE PROHIBITED FROM PLANTING ANY CARIBBEAN FRUIT FLY AND ASIAN CITRUS PHYLLID (CITRUS GREENING) HOST PLANTS AS SPECIFIED HEREIN AND ARE REQUIRED TO REMOVE THE SAME IF ANY EXISTS: CATTLEY GUAVA, COMMON GUAVA, LOQUAT, ROSE APPLE, SURINAM CHERRY, CHINESE BOX ORANGE AND ORANGE JASMINE.
- COVENANTS, RESTRICTIONS OR RESERVATIONS AFFECTING THE OWNERSHIP OR USE OF THE PROPERTY SHOWN IN THIS PLAT ARE FILED IN OFFICIAL RECORDS BOOK _____ PAGE _____ OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
- UTILITY EASEMENTS
THE UTILITY EASEMENTS AND THE LIFT STATION EASEMENT ARE DEDICATED IN PERPETUITY TO NORTHSHORE OF PALM BAY HOMEOWNERS' ASSOCIATION FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION OF UTILITIES BY ANY PROVIDER, INCLUDING CABLE TELEVISION SERVICES.
- DRAINAGE EASEMENTS
THE DRAINAGE EASEMENTS AS SHOWN ON THIS PLAT ARE DEDICATED IN PERPETUITY TO THE NORTHSHORE OF PALM BAY HOME OWNERS' ASSOCIATION, INC., FOR CONSTRUCTION AND MAINTENANCE OF DRAINAGE FACILITIES AND SHALL BE THE PERPETUAL MAINTENANCE OBLIGATION OF THE NORTHSHORE AT PALM BAY HOME OWNERS' ASSOCIATION, INC. THE CITY OF PALM BAY IS GRANTED THE RIGHT, BUT NOT THE OBLIGATION, TO PERFORM EMERGENCY MAINTENANCE ON THE DRAINAGE EASEMENTS.
- STORM WATER TRACT A
TRACT A AS SHOWN ON THIS PLAT IS DEDICATED IN PERPETUITY TO NORTHSHORE OF PALM BAY HOME OWNERS' ASSOCIATION, INC. FOR CONSTRUCTION AND MAINTENANCE OF STORM WATER MANAGEMENT FACILITIES AND SHALL BE THE PERPETUAL MAINTENANCE OBLIGATION OF THE NORTHSHORE OF PALM BAY HOME OWNERS' ASSOCIATION, INC. THE CITY OF PALM BAY IS GRANTED THE RIGHT, BUT NOT THE OBLIGATION, TO PERFORM EMERGENCY MAINTENANCE ON THE TRACT. THE BREVARD COUNTY MOSQUITO CONTROL DISTRICT HAS THE RIGHT OF ENTRY UPON THE TRACT FOR THE LIMITED PURPOSE OF INSPECTION, PREVENTION, OR TREATMENT OF MOSQUITO CONTROL INFESTATIONS, AS ALLOWED BY LAW.
- EASEMENT TO FLORIDA POWER AND LIGHT COMPANY RECORDED IN OFFICIAL RECORDS BOOK 8482, PAGE 2106.
- WASTEWATER SYSTEM AGREEMENT WITH THE CITY OF PALM BAY RECORDED IN OFFICIAL RECORDS BOOK 8569, PAGE 428.
- MORTGAGE, BY AND BETWEEN PALM CITY INVESTMENTS F.H., LLC, A FLORIDA LIMITED LIABILITY COMPANY, MORTGAGOR, AND BSPRT CRE FINANCE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, MORTGAGEE, DATED JUNE 26, 2020 AND RECORDED JULY 2, 2020, IN OFFICIAL RECORDS BOOK 8784, PAGE 1941; TOGETHER WITH ASSIGNMENT OF LEASES AND RENTS RECORDED IN OFFICIAL RECORDS BOOK 8784, PAGE 1961 AND UCC-1 (FINANCING STATEMENT) RECORDED IN OFFICIAL RECORDS BOOK 8784, PAGE 1974, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
- EASEMENT SET OUT IN AMENDED EASEMENT DEED BY COURT ORDER RECORDED FEBRUARY 6, 2013, IN OFFICIAL RECORDS BOOK 6794, PAGE 1234, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
- EASEMENT SET OUT IN AMENDED EASEMENT DEED BY COURT ORDER RECORDED JUNE 18, 2013, IN OFFICIAL RECORDS BOOK 6901, PAGE 2361, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
- EASEMENT SET OUT IN AMENDED EASEMENT DEED BY COURT ORDER RECORDED OCTOBER 15, 2013, IN OFFICIAL RECORDS BOOK 6990, PAGE 225, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
- RESOLUTION NO. 2017–35 RECORDED DECEMBER 20, 2017, IN OFFICIAL RECORDS BOOK 8052, PAGE 2147, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
- RESOLUTION NO 2018–28 RECORDED SEPTEMBER 4, 2018, IN OFFICIAL RECORDS BOOK 8254, PAGE 476, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
- COMPREHENSIVE DEVELOPMENT AGREEMENT NORTHSHORE PALM BAY MIXED USE DEVELOPMENT AGREEMENT RECORDED JANUARY 30, 2020, IN OFFICIAL RECORDS BOOK 8651, PAGE 94, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
- MAINTENANCE/WARRANTY BOND RECORDED FEBRUARY 24, 2020, IN OFFICIAL RECORDS BOOK 8672, PAGE 745, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

NORTHSHORE AT PALM BAY

SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST
CITY OF PALM BAY, BREVARD COUNTY, FLORIDA
BEING A REPLAT OF A PORTION OF LOTS 1 & 2, OF VALENTINE ESTATES SUBDIVISION, AS RECORDED IN PLAT BOOK 1, PAGE 67, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LYING WEST OF THE FLORIDA EAST COAST RAILROAD AS PRESENT.

VICINITY MAP – NOT TO SCALE



ACCEPTANCE OF DEDICATIONS HOME OWNERS' ASSOCIATION




THE NORTHSHORE OF PALM BAY HOME OWNERS' ASSOCIATION, INC. HEREBY ACCEPTS THE DEDICATION OF STREETS AND INGRESS AND EGRESS EASEMENTS, DRAINAGE EASEMENTS, STORM WATER MANAGEMENT TRACT A, AND ALL UTILITIES, I.E., WATER, SEWER, ETC.

THE NORTHSHORE OF PALM BAY HOME OWNERS' ASSOCIATION, INC.

NAME _____ WITNESS _____
PRINTED NAME: _____, PRESIDENT
THIS _____, DAY OF _____, 2017
PRINTED NAME _____
WITNESS _____
PRINTED NAME _____

LEGEND

FN&D = FOUND NAIL AND DISK
SN&D = SET NAIL AND DISK
NGS = NATIONAL GEODETIC SURVEY
SF = SQUARE FOOT
(P) = PLAT (D) = DEED (M) = MEASURE
BM = SITE BENCHMARK
CB = CHORD BEARING
PCP = PERMANENT CONTROL POINT
PC = POINT OF CURVATURE
PT = POINT OF TANGENCY
R/W = RIGHT OF WAY
PRM = PERMANENT REFERENCE MONUMENT
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
ORB= OFFICIAL RECORD BOOK

-  = SET 4"x4" CONCRETE MONUMENT WITH BRASS DISK GSS PRM LB 8006
-  = SET PK NAIL WITH BRASS DISK GSS PCP LB 8006
-  = SET 1/2" IRON WITH WITH YELLOW CAP GSS LB 8006

STATE PLANE COORDINATES ARE BASED UPON NATIONAL GEODETIC SURVEY CONTROL POINT NUMBER DG8762 FLORIDA STATE PLANE EAST ZONE NAD 83 2011. STATE PLANE COORDINATES WERE DERIVED BY CLOSED STATIC NETWORK. VECTOR LINES AND RAW DATA WAS PROCESSED USING PROGRAM HECTOR TO VECTOR. NETWORK ACCURACY AFTER PROCESSING ACHIEVED A 95% CONFIDENCE LEVEL.

NOTE:
BUILDING SETBACKS MUST BE VERIFIED WITH THE CITY OF PALM BAY ZONING DEPARTMENT PRIOR TO COMMENCEMENT OF CONSTRUCTION

SURVEYORS NOTES

- ACCORDING TO THE NATIONAL FLOOD INSURANCE RATE MAP NUMBER 12009C0611G & 12009C0612G, HAVING AN EFFECTIVE DATE OF MARCH 17, 2014. THIS PROPERTY APPEARS TO LIE WITHIN ZONES X & A, BOTH INSIDE AND OUTSIDE SPECIAL FLOOD HAZARD AREA.
- TIES TO THE RECORD CORNERS AND THE PLAT CORNERS, AS SHOWN ON SHEET 2 OF THIS PLAT, CONFORM TO FGCC MINIMUM THIRD ORDER CLASS 1 STANDARDS.
- PERMANENT REFERENCE MONUMENTS SET ARE 4"x4" CONCRETE MONUMENTS WITH BRASS DISKS STAMPED GSS PRM LB 8006.
- LOT CORNERS MARKERS SHOWN ARE PROPOSED TO BE SET IN CONFORMANCE WITH CHAPTER 177.091 (9), FLORIDA STATUTES. CORNER MARKERS SET BY GSS SURVEYING & MAPPING, LLC ARE 1/2" IRON RODS WITH YELLOW CAP STAMPED GSS LB 8006.
- THE SOUTH RIGHT–OF–WAY LINE OF ROBERT J. CONLAN BOULEVARD IS ASSUMED TO BEAR N 65° 23' 24" E AND ALL OTHER BEARINGS ARE RELATIVE THERETO.

PLAT BOOK _____ PAGE _____

SHEET 1 OF 3 SECTION 14, TOWNSHIP 28 S., RANGE 37 E.

CERTIFICATE OF DEDICATION

KNOW ALL MEN BY THESE PRESENTS, THAT PALM CITY INVESTMENTS, FH, LLC THE OWNERS AND FEE SIMPLE OF THE LANDS DESCRIBED IN

NORTHSHORE AT PALM BAY

BEING A REPLAT OF A PORTION OF LOTS 1 & 2, OF VALENTINE ESTATES SUBDIVISION, AS RECORDED IN PLAT BOOK 1, PAGE 67, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LYING WEST OF THE FLORIDA EAST COAST RAILROAD AS PRESENT.

HEREBY DEDICATES SAID LANDS AND PLAT FOR THE USES AND PURPOSES HEREIN, EXPRESSED AND DEDICATES ALL EASEMENTS AS SHOWN HEREIN, TO THE PERPETUAL USE OF NORTHSHORE OF PALM BAY HOME OWNERS' ASSOCIATION, INC..

IN WITNESS WHEREOF, THE UNDERSIGNED OWNERS HEREUNTO SET THEIR HAND AND SEALS ON _____

WITNESS _____

PRINTED NAME _____

WITNESS _____

PRINTED NAME _____

STATE OF FLORIDA
COUNTY OF BREVARD RIVER

THIS IS TO CERTIFY: THAT ON _____, BEFORE ME, AN OFFICER DULY AUTHORIZED TO TAKE ACTION

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME, AN OFFICER DULY AUTHORIZED TO TAKE ACKNOWLEDGEMENTS IN THE STATE AND COUNTY AFORESAID, PERSONALLY APPEARED _____ OF THE NAMES CORPORATION INCORPORATED UNDER THE LAWS OF THE STATE OF FLORIDA, TO ME KNOWN TO BE THE INDIVIDUALS AND OFFICERS DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEDICATION AND SEVERALLY ACKNOWLEDGED THE EXECUTION THEREOF TO BE KNOWN TO BE THEIR FREE ACT AND DEED AS SUCH CORPORATION IS DULY AFFIXED THERETO; AND THAT THE SAID DEDICATION IS IN ACT AND DEED OF SAID CORPORATION;
IN WITNESS WHEREOF, I HAVE HERETO SET MY HAND AND SEAL ON THE ABOVE DATE

NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES _____

CERTIFICATE OF SURVEYOR

KNOW ALL MEN BY THESE PRESENTS, THAT THE UNDERSIGNED, BEING A PROFESSIONAL SURVEYOR AND MAPPER, LICENSED BY THE STATE OF FLORIDA, DOES HEREBY CERTIFY THAT ON JUNE 11, 2020 I COMPLETED THE SURVEY OF THE LANDS AS SHOWN ON THE FOREGOING PLAT; THAT SAID PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID SURVEY AND THIS PLAT WAS MADE UNDER MY RESPONSIBLE DIRECTION AND SUPERVISION; THAT SAID SURVEY IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT PERMANENT REFERENCE MONUMENTS HAVE BEEN PLACED AND SHOWN HEREON AND SAID PLAT COMPLIES WITH ALL SURVEY REQUIREMENTS OF CHAPTER 177, PART 1 AND CHAPTER 472, FLORIDA STATUE.

Date: 2021.04.26 11:23:03

-04'00"

HENRY A. KILBURN, PSM
REGISTERED FLORIDA SURVEYOR & MAPPER LS–6661
FOR: GSS SURVEYING & MAPPING, LLC
4620 LIPSCOMB STREET NE, SUITE 2
PALM BAY, FLORIDA 32905
TEL: 321–914–3978
FLORIDA BUSINESS LICENSE LB8006



CERTIFICATE OF APPROVAL BY MUNICIPALITY

THIS IS TO CERTIFY THAT ON: _____
THE CITY COUNCIL OF THE CITY OF PALM BAY, FLORIDA APPROVED THE FOREGOING PLAT.

MAYOR: _____
ROB MEDINA

ATTEST: _____

CITY CLERK: _____
TERESA M. JONES

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
REGISTERED FLORIDA SURVEYOR & MAPPER LS–6366

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, PART 1, FLORIDA STATUTES AND WAS FILED FOR RECORDED ON:

AT: _____ FILE NO. _____

RACHEL M. SADOFF
CLERK OF THE CIRCUIT COURT
IN AND FOR BREVARD COUNTY, FLORIDA

(REVISION BOX TO BE REMOVED UPON FINAL APPROVAL)

| REVISION | DATE | DESCRIPTION |
|----------|------|-------------|
| | | |
| | | |
| | | |

GSS Surveying and Mapping, LLC
700 22nd Place
Suite D-2
Vero Beach, FL 32960
772-696-5300

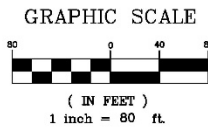


GSS Surveying and Mapping, LLC
4620 Lipscomb St NE
Suite 2
Palm Bay, FL 32905
321-914-3978

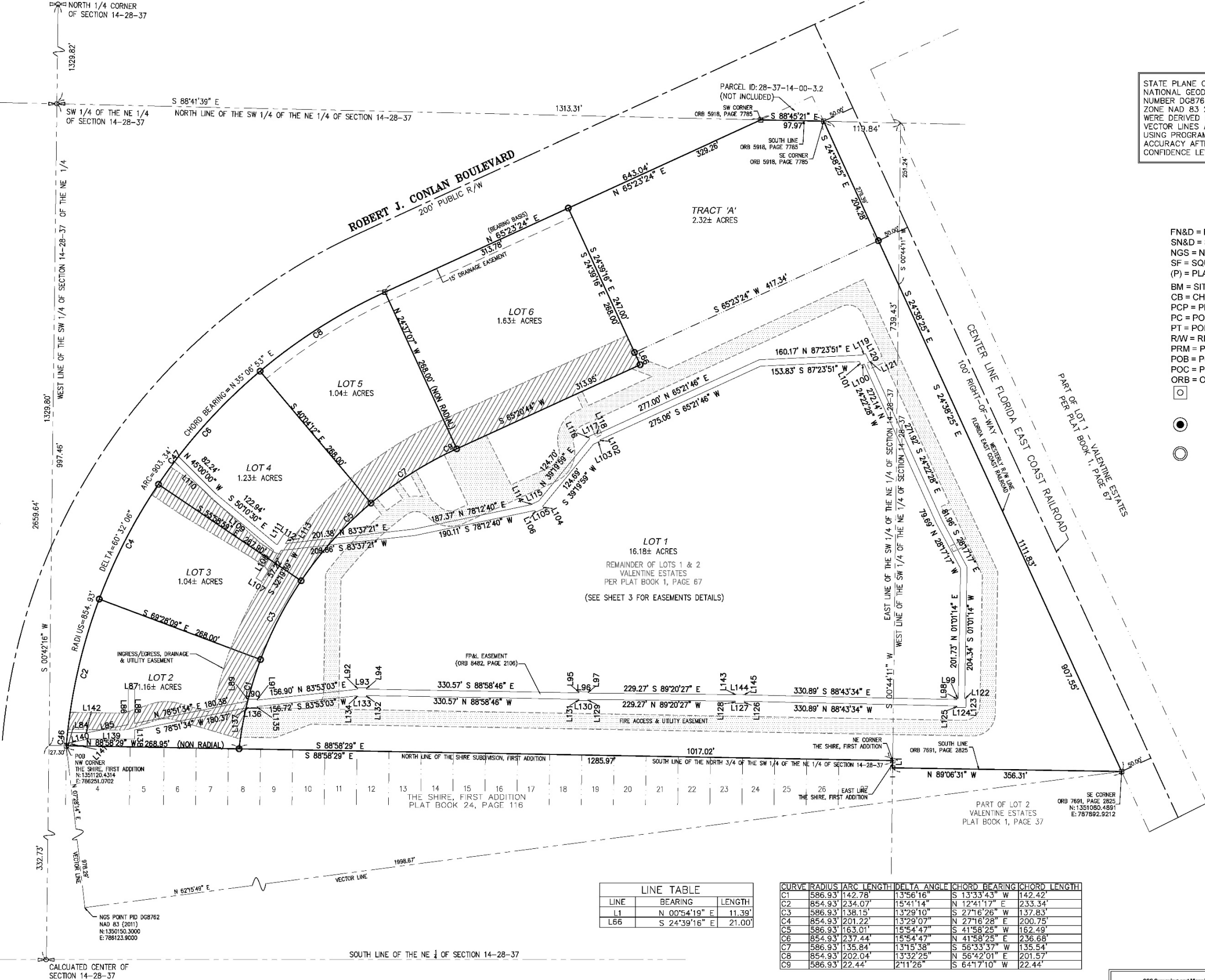
NORTHSHORE AT PALM BAY

SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST
CITY OF PALM BAY, BREVARD COUNTY, FLORIDA
BEING A REPLAT OF A PORTION OF LOTS 1 & 2, OF VALENTINE ESTATES
SUBDIVISION, AS RECORDED IN PLAT BOOK 1, PAGE 67, PUBLIC RECORDS
OF BREVARD COUNTY, FLORIDA, LYING WEST OF THE FLORIDA EAST COAST
RAILROAD AS PRESENT.

PLAT BOOK _____ PAGE _____
SHEET 2 OF 3
SECTION 14, TOWNSHIP 28 S., RANGE 37 E.



| LINE TABLE | | |
|------------|---------------|---------|
| LINE | BEARING | LENGTH |
| L84 | S 89°56'48" W | 31.78' |
| L85 | S 78°51'34" W | 63.56' |
| L86 | S 00°03'12" E | 54.96' |
| L87 | N 89°56'48" E | 10.00' |
| L88 | N 00°03'12" W | 53.00' |
| L89 | N 00°00'00" W | 2.89' |
| L90 | N 90°00'00" W | 14.00' |
| L91 | S 00°00'00" E | 1.44' |
| L92 | N 01°01'14" E | 2.59' |
| L93 | N 88°58'46" W | 14.00' |
| L94 | N 01°01'14" E | 2.00' |
| L95 | N 01°01'14" E | 2.00' |
| L96 | S 88°58'46" W | 14.00' |
| L97 | N 01°01'14" E | 1.97' |
| L98 | N 01°01'14" E | 2.02' |
| L99 | S 88°58'46" W | 2.00' |
| L100 | S 64°56'45" W | 5.06' |
| L101 | N 25°03'15" W | 6.44' |
| L102 | S 24°38'14" E | 2.00' |
| L103 | N 65°21'46" E | 11.94' |
| L104 | S 24°31'35" E | 3.88' |
| L105 | S 25°28'25" E | 14.00' |
| L106 | S 24°31'35" E | 3.00' |
| L107 | S 57°40'21" E | 10.00' |
| L108 | S 32°19'39" W | 51.12' |
| L109 | S 50°10'30" E | 125.58' |
| L110 | S 45°00'00" E | 81.34' |
| L111 | N 32°19'39" E | 19.18' |
| L112 | N 57°40'21" W | 10.00' |
| L113 | N 32°19'39" E | 11.16' |
| L114 | S 24°31'35" E | 0.74' |
| L115 | S 65°28'25" W | 11.91' |
| L116 | N 24°38'14" W | 3.88' |
| L117 | S 65°21'46" W | 14.00' |
| L118 | S 24°38'14" E | 2.00' |
| L119 | S 64°56'45" W | 6.11' |
| L120 | N 25°03'15" W | 14.00' |
| L121 | N 64°56'45" E | 1.07' |
| L122 | S 88°58'46" W | 2.00' |
| L123 | S 01°01'14" W | 14.00' |
| L124 | N 88°58'46" W | 14.00' |
| L125 | N 01°01'14" E | 2.02' |
| L126 | S 01°01'14" W | 3.48' |
| L127 | N 88°58'46" W | 14.00' |
| L128 | S 01°01'14" W | 3.48' |
| L129 | N 01°01'14" E | 2.03' |
| L130 | N 88°58'46" W | 14.00' |
| L131 | S 01°01'14" W | 2.00' |
| L132 | S 01°01'14" W | 2.00' |
| L133 | S 88°58'46" W | 14.00' |
| L134 | N 01°01'14" E | 1.33' |
| L135 | N 00°00'00" W | 2.51' |
| L136 | N 90°00'00" W | 14.00' |
| L137 | S 00°00'00" E | 0.92' |
| L138 | S 00°03'12" E | 13.99' |
| L139 | S 89°56'48" W | 71.41' |
| L140 | S 78°51'34" W | 24.43' |
| L141 | S 44°57'17" W | 8.03' |
| L142 | S 88°58'29" E | 5.08' |
| L143 | S 01°01'14" W | 0.52' |
| L144 | N 88°58'46" W | 14.00' |
| L145 | S 01°01'14" W | 0.52' |



STATE PLANE COORDINATES ARE BASED UPON
NATIONAL GEODETIC SURVEY CONTROL POINT
NUMBER DG8762 FLORIDA STATE PLANE EAST
ZONE NAD 83 2011. STATE PLANE COORDINATES
WERE DERIVED BY CLOSED STATIC NETWORK.
VECTOR LINES AND RAW DATA WAS PROCESSED
USING PROGRAM HECTOR TO VECTOR. NETWORK
ACCURACY AFTER PROCESSING ACHIEVED A 95%
CONFIDENCE LEVEL.

LEGEND

- FN&D = FOUND NAIL AND DISK
- SN&D = SET NAIL AND DISK
- NGS = NATIONAL GEODETIC SURVEY
- SF = SQUARE FOOT
- (P) = PLAT (D) = DEED (M) = MEASURE
- BM = SITE BENCHMARK
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- PC = POINT OF CURVATURE
- PT = POINT OF TANGENCY
- R/W = RIGHT OF WAY
- PRM = PERMANENT REFERENCE MONUMENT
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- ORB = OFFICIAL RECORD BOOK
- = SET 4"x4" CONCRETE MONUMENT WITH
BRASS DISK GSS PRM LB 8006
- = SET PK NAIL WITH BRASS DISK
GSS PCP LB 8006
- = SET 1/2" IRON WITH WITH YELLOW CAP
GSS LB 8006

| LINE TABLE | | |
|------------|---------------|--------|
| LINE | BEARING | LENGTH |
| L1 | N 00°54'19" E | 11.39' |
| L66 | S 24°39'16" E | 21.00' |

| CURVE | RADIUS | ARC LENGTH | DELTA ANGLE | CHORD BEARING | CHORD LENGTH |
|-------|---------|------------|-------------|---------------|--------------|
| C1 | 586.93' | 142.78' | 13°56'16" | S 13°33'43" W | 142.42' |
| C2 | 854.93' | 234.07' | 15°41'14" | N 12°41'17" E | 233.34' |
| C3 | 586.93' | 138.15' | 13°29'10" | S 27°16'26" W | 137.83' |
| C4 | 854.93' | 201.22' | 13°29'07" | N 27°16'28" E | 200.75' |
| C5 | 586.93' | 163.01' | 15°54'47" | S 41°58'25" W | 162.49' |
| C6 | 854.93' | 237.44' | 15°54'47" | N 41°58'25" E | 236.68' |
| C7 | 586.93' | 135.84' | 13°15'38" | S 56°33'37" W | 135.54' |
| C8 | 854.93' | 202.04' | 13°32'25" | N 56°42'01" E | 201.57' |
| C9 | 586.93' | 122.44' | 21°11'26" | S 64°17'10" W | 122.44' |

| CURVE | RADIUS | ARC LENGTH | DELTA ANGLE | CHORD BEARING | CHORD LENGTH |
|-------|---------|------------|-------------|---------------|--------------|
| C46 | 854.93' | 20.38' | 1°21'57" | N 05°31'48" E | 20.38' |
| C47 | 854.93' | 10.09' | 0°40'34" | S 37°16'10" W | 10.09' |

NORTHSHORE AT PALM BAY

SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST
CITY OF PALM BAY, BREVARD COUNTY, FLORIDA

BEING A REPLAT OF A PORTION OF LOTS 1 & 2, OF VALENTINE ESTATES
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PLAT BOOK _____ PAGE _____
SHEET 3 OF 3
SECTION 14, TOWNSHIP 28 S., RANGE 37 E.

LEGEND

FN&D = FOUND NAIL AND DISK
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BRASS DISK GSS PRM LB 8006
- = SET PK NAIL WITH BRASS DISK
GSS PCP LB 8006
- = SET 1/2" IRON WITH WITH YELLOW CAP
GSS LB 8006

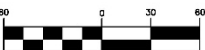
STATE PLANE COORDINATES ARE BASED UPON
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NUMBER 068762 FLORIDA STATE PLANE EAST
ZONE NAD 83 2011. STATE PLANE COORDINATES
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VECTOR LINES AND RAW DATA WAS PROCESSED
USING PROGRAM HECTOR TO VECTOR. NETWORK
ACCURACY AFTER PROCESSING ACHIEVED A 95%
CONFIDENCE LEVEL.



| CURVE TABLE | | | | | |
|-------------|---------|---------|-----------|---------|---------------|
| CURVE | LENGTH | RADIUS | DELTA | CHORD | DIRECTION |
| C5 | 163.01' | 586.93' | 15°54'47" | 162.49' | S 41°58'25" W |
| C10 | 28.52' | 854.93' | 1°54'40" | 28.51' | N 64°25'33" E |
| C11 | 9.94' | 26.17' | 21°45'18" | 9.88' | N 80°05'57" E |
| C12 | 54.98' | 35.00' | 90°00'00" | 49.50' | N 46°01'14" E |
| C13 | 68.99' | 49.00' | 80°39'54" | 63.43' | S 25°01'47" W |
| C14 | 35.20' | 25.00' | 80°39'56" | 32.36' | N 25°01'48" E |
| C15 | 31.02' | 25.00' | 71°05'49" | 29.07' | S 79°05'20" E |
| C16 | 13.70' | 49.00' | 16°01'29" | 13.66' | N 51°33'10" W |
| C17 | 10.02' | 586.93' | 0°58'43" | 10.02' | S 57°51'31" W |
| C18 | 20.63' | 49.00' | 24°07'32" | 20.48' | N 89°44'29" W |
| C19 | 10.00' | 586.93' | 0°58'34" | 10.00' | S 54°46'41" W |
| C20 | 31.25' | 586.92' | 3°03'02" | 31.25' | S 54°42'19" W |
| C21 | 16.44' | 10.00' | 94°12'47" | 14.65' | N 59°12'39" E |
| C22 | 10.00' | 586.93' | 0°58'34" | 10.00' | S 50°34'53" W |
| C23 | 126.58' | 562.93' | 12°53'01" | 126.32' | S 43°37'35" W |
| C24 | 39.27' | 25.00' | 90°00'00" | 35.36' | N 46°01'14" E |
| C25 | 39.27' | 25.00' | 90°00'00" | 35.36' | N 46°01'14" E |
| C26 | 142.54' | 538.93' | 15°09'16" | 142.13' | S 45°35'12" W |
| C27 | 36.34' | 25.00' | 83°16'43" | 33.22' | N 85°11'48" W |
| C28 | 60.69' | 49.00' | 70°57'58" | 56.89' | S 79°02'26" E |
| C29 | 39.27' | 25.00' | 90°00'01" | 35.36' | N 69°38'15" W |
| C30 | 35.20' | 25.00' | 80°39'54" | 32.36' | S 25°01'47" W |
| C31 | 68.99' | 49.00' | 80°39'56" | 63.43' | N 25°01'48" E |
| C32 | 21.44' | 863.93' | 2°05'34" | 21.44' | S 64°20'06" W |
| C33 | 45.87' | 75.31' | 34°54'04" | 45.17' | S 88°52'09" W |
| C34 | 16.60' | 48.67' | 19°32'26" | 16.52' | N 81°11'20" E |
| C35 | 26.67' | 854.93' | 1°47'15" | 26.67' | S 07°27'33" W |
| C36 | 25.64' | 75.17' | 19°32'26" | 25.51' | N 81°11'20" E |
| C37 | 29.73' | 48.81' | 34°54'04" | 29.27' | S 88°52'09" W |
| C38 | 565.59' | 586.93' | 55°12'47" | 543.96' | S 35°40'56" W |
| C39 | 636.93' | 226.45' | 20°22'15" | 225.26' | N 22°15'57" E |
| C40 | 23.83' | 14.29' | 34°21'18" | 14.08' | S 38°47'27" E |
| C41 | 854.93' | 19.20' | 117°11'2" | 19.20' | S 33°22'25" W |
| C42 | 854.93' | 33.15' | 2°13'17" | 33.14' | S 35°07'40" W |
| C43 | 23.83' | 14.28' | 34°20'20" | 14.07' | S 73°08'16" E |
| C44 | 636.93' | 331.50' | 29°49'14" | 327.77' | N 50°28'16" E |
| C45 | 854.93' | 10.03' | 0°40'19" | 10.03' | S 05°10'50" W |

| LINE TABLE | | |
|------------|---------------|----------|
| LINE | BEARING | LENGTH |
| L2 | S 89°01'24" E | 48.49' |
| L3 | N 69°31'18" E | 54.64' |
| L4 | S 88°58'46" E | 1029.26' |
| L5 | N 01°01'14" E | 220.53' |
| L6 | N 24°38'14" W | 500.88' |
| L7 | S 65°21'44" W | 333.81' |
| L8 | N 68°38'14" W | 53.35' |
| L9 | S 24°39'16" E | 13.85' |
| L10 | S 65°20'44" W | 14.44' |
| L11 | S 69°39'14" E | 53.76' |
| L12 | S 65°21'44" W | 108.69' |
| L13 | N 24°38'14" W | 23.85' |
| L14 | S 65°20'44" W | 10.00' |
| L15 | S 24°38'14" W | 23.85' |
| L16 | S 65°21'44" W | 11.65' |
| L17 | S 65°21'46" W | 66.44' |
| L18 | N 26°39'11" W | 85.85' |
| L19 | S 65°20'44" W | 50.60' |
| L20 | S 25°14'43" E | 85.25' |
| L21 | S 65°21'46" W | 18.33' |
| L22 | N 28°12'46" W | 62.26' |
| L23 | S 28°12'46" E | 39.82' |
| L24 | N 35°13'19" W | 68.42' |
| L25 | S 38°13'19" E | 28.11' |
| L26 | N 38°19'27" W | 24.00' |
| L27 | S 38°19'27" E | 24.00' |
| L28 | S 01°01'14" W | 189.71' |
| L29 | N 88°58'46" W | 94.75' |
| L30 | S 24°38'14" E | 52.03' |
| L31 | S 01°01'14" W | 201.07' |
| L32 | N 88°58'46" W | 972.57' |
| L33 | N 01°01'14" E | 202.78' |
| L34 | N 65°28'35" E | 161.52' |
| L35 | N 65°22'04" E | 26.00' |
| L36 | N 24°38'14" W | 10.00' |
| L37 | S 65°22'04" W | 26.00' |
| L38 | N 24°38'14" W | 10.00' |
| L39 | S 65°21'46" W | 13.66' |
| L40 | S 24°38'14" E | 51.68' |
| L41 | N 65°21'46" E | 13.66' |
| L42 | S 24°38'14" E | 240.67' |
| L43 | N 65°21'46" E | 26.00' |
| L44 | S 24°38'14" E | 10.00' |
| L45 | S 65°21'46" W | 26.00' |
| L46 | S 24°38'14" E | 71.83' |
| L47 | N 65°21'44" E | 421.78' |
| L48 | N 24°38'14" W | 26.00' |
| L49 | N 65°21'46" E | 10.00' |
| L50 | S 24°38'14" E | 26.00' |
| L51 | N 65°21'44" E | 11.65' |
| L52 | S 71°25'07" W | 36.10' |
| L53 | N 89°02'27" W | 74.57' |
| L54 | S 89°02'27" E | 77.59' |
| L55 | N 71°25'07" E | 36.10' |
| L56 | S 73°40'49" E | 106.29' |
| L57 | N 65°20'44" E | 263.38' |
| L58 | N 24°39'16" W | 50.00' |
| L59 | S 65°20'44" W | 313.92' |
| L60 | S 58°42'39" E | 125.09' |
| L61 | S 55°58'01" E | 23.95' |
| L62 | S 55°58'08" E | 55.70' |
| L63 | S 55°58'06" E | 55.28' |
| L64 | S 46°55'41" E | 128.51' |
| L65 | S 55°58'08" E | 23.91' |
| L66 | N 88°58'29" W | 1285.67' |
| L67 | S 00°54'19" W | 11.39' |
| L68 | S 88°58'29" E | 155.31' |
| L69 | S 24°38'25" E | 1111.83' |
| L70 | S 88°45'21" E | 97.97' |
| L71 | N 65°23'24" E | 843.04' |
| L72 | N 65°23'24" E | 1307.02' |
| L73 | N 24°37'50" W | 239.39' |
| L74 | S 69°38'03" E | 11.31' |
| L75 | N 65°21'45" E | 401.21' |
| L76 | N 24°38'25" W | 539.35' |
| L77 | S 22°01'01" W | 25.35' |
| L78 | S 01°01'14" W | 235.02' |
| L79 | N 47°07'52" E | 52.68' |
| L80 | S 88°58'29" E | 56.02' |
| L81 | S 77°23'34" E | 20.44' |
| L82 | S 88°58'29" E | 1352.11' |
| L83 | N 68°52'14" W | 120.13' |

GRAPHIC SCALE



(IN FEET)
1 inch = 60 ft.

EASEMENT DETAIL SHEET

GSS Surveying and Mapping, LLC
700 22nd Place
Suite D-2
Vero Beach, FL 32960
772-696-5300



GSS Surveying and Mapping, LLC
4620 Upscomb St NE
Suite 2
Palm Bay, FL 32905
321-914-3978

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR AQUA AT PALM BAY

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AQUA AT PALM BAY (the "Declaration") made this ____ day of _____, 2021, by PALM CITY INVESTMENTS, F.H., LLC, a Florida limited liability company (the "Declarant") whose address is 2295 Hiawasse Road, Suite 306, Orlando, Florida 32835.

I. RECITALS.

A. The Declarant is the present record title holder of certain real property situated in the City of Palm Bay, County of Brevard, State of Florida, more particularly described on Exhibit "1" attached hereto and made a part hereof, which land is referred to herein as the "Property".

B. The Declarant is desirous of subjecting the Property to the conditions, covenants, restrictions and reservations hereinafter set forth (the "Covenants") to ensure proper use and appropriate development and improvement of said Property

C. This Declaration is a covenant running with all of the Property, and each present and future Owner of interests therein and their heirs, successors and assigns are hereby subject to this Declaration and the Covenants as same may subsequently be amended and modified.

NOW THEREFORE, in consideration of the premises and mutual covenants contained in this Declaration, Declarant hereby declares that every portion of the Property is to be held, transferred, sold, conveyed, used and occupied subject to the Covenants set forth in this Declaration.

II. DEFINITIONS.

Unless the context otherwise specifies or requires, the following words or phrases when used in these Covenants shall have the following specific meanings:

A. "**Access Improvements**" shall mean the entrance facilities, roadways, curbs, sidewalks landscaping, irrigation, signage, lighting and related facilities installed within the ADU Easement Area to provide vehicular and pedestrian ingress and egress to the Lots.

B. "**ADU Easement Area**" shall mean portion of the Property that is depicted and described as "Ingress/Easement, Drainage & Utility Easement" on the Plat.

C. "**Architectural Review Committee**" or the "**Committee**" shall mean the Committee established pursuant to Article V, hereof.

D. "**Articles**" shall mean the Articles of Incorporation of the Association filed with the Florida Secretary of State in the form attached hereto as Exhibit 2 and made a part hereof, as amended from time to time.

E. "**Assessments**" shall mean any assessments made in accordance.

F. **"Association"** shall mean AQUA AT PALM BAY PROPERTY OWNERS ASSOCIATION, INC., a Florida not for profit corporation, its successors and assigns.

G. **"Board"** shall mean the Board of Directors of the Association.

H. **"Bylaws"** shall mean the Bylaws of the Association in the form attached hereto as Exhibit "3" and made a part hereof as amended from time to time.

I. **"City"** shall mean the City of Palm Bay, Florida.

J. **"Common Property"** shall mean all real property interests and personality within AQUA AT PALM BAY designated as Common Property from time to time by the Declarant, by this Declaration, by the Plat or by recorded amendment to this Declaration and provided for, owned, leased by, or dedicated to, the common use and enjoyment of the Owners within AQUA AT PALM BAY. The Common Property shall include the Surface Water Management System, Access Improvements, Access Easement Area, Private Drainage Easements, Private Utility Facilities ADU Easement, FAU Easements, and may include, without limitation, entrance features and signs, fountains in ponds, buffer or landscaped areas, open space areas, public rights of way, irrigation facilities, sidewalks and other commonly used facilities.

K. **"County"** shall mean Brevard County, Florida.

L. **"Covenants"** shall mean the covenants, conditions, restrictions, easements, reservations, regulations, charges and liens contained in this Declaration to which the Property has been subjected by the Declarant to ensure proper use and appropriate development and improvement of said Property.

M. **"Declarant"** shall mean PALM CITY INVESTMENTS, F.H., LLC, a Florida limited liability company, or any successor or assign who has or takes title to any portion of the Property for development and/or sale and who is designated as Declarant in a recorded instrument which the immediately preceding Declarant executes.

N. **"Development Agreement"**, shall mean that certain Northshore Palm Bay Mixed Use Development Agreement entered into by Declarant and the City dated January 21, 2020 and recorded January 30, 2020 in Official Records Book 8651, Page 94 of the Public Records, including all exhibit thereto and as same may be hereinbefore or hereinafter supplemented or modified.

O. **"FAU Easement Area"** shall mean portion of the Property that is depicted and described as "Fire Access & Utility Easement" on the Plat.

P. **"Improvements"** shall mean and include, but not be limited to, the buildings, parking areas, loading areas, fences, walls, hedges, landscaping, mass plantings, poles, signs, water lines, sewer lines, and electric facilities, any structures of any type or kind, or any other change in the Property from its natural state.

Q. **"Lot"** shall mean any platted lot that is within AQUA AT PALM BAY shown on the Plat. The term "Lot" also includes any Improvements located on the Lot, except any that

constitute Common Property, and any interest in land, or other property appurtenant to the Lot, including without limitation all Improvements constructed and installed by the Owner of the Lot.

R. **"Operating Expenses"** shall mean all costs and expenses of the Association. Operating Expenses may include, without limitation, all costs of Ownership, operation, and administration of the Common Property, including the Surface Water Management System, Access Improvements, Private Utilities; utilities; taxes; insurance; bonds; salaries; management fees; professional fees; service costs; supplies; maintenance; repairs; replacements; refurbishments; and any and all costs relating to the discharge of the obligations of the Association hereunder, or as determined to be part of the Operating Expenses by the Association. Operating Expenses shall not include the cost of operation and maintenance of the Shared Entrance Sign, which shall be allocated to the Lots advertised on same as an Individual Assessment. By way of example, and not of limitation, Operating Expenses shall include all of the Association's legal expenses and costs relating to or arising from the enforcement and/or interpretation of this Declaration. Notwithstanding anything to the contrary herein, Operating Expenses shall not include Reserves.

S. **"Owner"** shall mean the record title Owner (whether one or more persons or entities) of fee simple title to any Lot.

T. **"Permit"** shall collectively mean Permit No. _____, as amended or modified, issued by SJRWMD, a copy of which is attached hereto as Exhibit 4, as amended from time to time.

U. **"Permittees"** shall mean and refer to all tenants and occupants of Lots, visitors, invitees, licensees and subtenants thereof (excluding Owners).

V. **"Plat"** shall mean any plat of any portion of AQUA AT PALM BAY filed in the Public Records, from time to time, including, without limitation NORTHSORE AT PALM BAY, according to the plat thereof as recorded in Plat Book _____, Pages _____ of the Public Records. This definition shall be automatically amended to include the plat of any additional phase of AQUA AT PALM BAY, if any, as such phase is added to this Declaration, or any replat of any portion of AQUA AT PALM BAY.

W. **"Private Drainage Easements"** shall have the meaning set forth in Article VI, Section K(2) hereof.

X. **"Private Utility Systems"** shall mean the utility lines and facilities located within the ADU Easement Area and FAU Easement Area extending utility service to the Property which are to be owned, operated, maintained, repaired and replaced by the Association as an Operating Expense, including, without limitation, water, reclaimed water (if applicable) and sewer lines and facilities, including a lift station. Private Utility Systems shall not include any connections, stub-outs or lines extending utility service from the Private Utility Systems to Improvements located on Lots or any meters or submeters for utility service to such Improvements.

Y. **"Pro Rata Portion"** shall mean and refer to a fraction, the numerator of which is the amount of acreage of an Owner's Lot as set forth on the Plat (or as otherwise calculated if not set forth on the Plat) and the denominator of which is the total acreage of all Lots located on the Property. The acreage used to calculate the Pro Rata Portion of each Lot shall be the gross acreage

of the Lot and shall not be reduced by excluding any portion of the Lot which is encumbered by any easements or is otherwise not suitable for Improvements.

Z. **"Property"** or **"AQUA AT PALM BAY"** shall mean the real property subject to this Declaration as more particularly described on Exhibit "1" subject to additions and deletions thereto, if any, as permitted pursuant to the terms of this Declaration.

AA. **"Public Records"** shall mean the Public Records of Brevard County, Florida.

BB. **"Reserves"** shall have the meaning set forth in Article VI, Section K(2) hereof.

CC. **"Shared Entrance Sign"** shall be the shared monument sign and any related lighting constructed at or near the main entrance into the Property from Robert J. Conlan Boulevard, which advertises the business operations of the Improvements on one or more of the Lots.

DD. **"SJRWMD"** shall mean the St. Johns River Water Management District.

EE. **"Surface Water Management System"** or **"SWMS"** shall mean a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapter 62-330, F.A.C. The SWMS is comprised of a collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term includes exfiltration trenches, mitigation areas, lakes, Retention Areas, water management areas, ditches, culverts, structures, dams, impoundments, reservoirs, canals, drainage maintenance easements and those works defined in Section 373.403, Florida Statutes. The AQUA AT PALM BAY Surface Water Management System includes those works authorized by SJRWMD pursuant to the Permit. The Surface Water Management System, excluding those areas (if any) maintained by the City or another governmental agency, is Common Property.

FF. **"Tract"** shall mean and refer to any parcel, tract, unit or other subdivision of real property within AQUA AT PALM BAY that is not a Lot.

III. PURPOSE.

A. The Property is hereby made subject to the Covenants, all of which shall be deemed to run with the Property and each and every Lot and Tract to ensure proper use, appropriate development and improvement of said premises so as to:

1. Protect the Owners and tenants of Lots against such improper development and use of surrounding Lots as will depreciate the value and use of their Lots and Improvements;
2. Prevent the erection on the Property of structures constructed using improper and unsuitable materials or with improper quality and methods of construction;
3. Ensure adequate and reasonably consistent development of the Property;

4. Ensure that the Property is developed and improved in compliance with the Development Agreement and all other requirements of the City.

5. Ensure that the Common Property is operated and maintained for the benefit of the Owners of Lots and their Permittees.

6. Encourage and ensure the erection of attractively designed Improvements appropriately located within the Property in order to achieve harmonious appearance and function;

7. Generally promote the welfare and safety of the occupants, tenants and Owners of Lots.

IV. PERMITTED USES AND PERFORMANCE STANDARDS.

A. All Lots shall be developed, and all Improvements shall be designed, constructed, maintained, occupied and used in compliance with the Development Agreement and all requirements of the City. No amendment to the Development Agreement, other change in the land use or zoning for any Lot or subdivision of any Lot may be requested or obtained by any Owner without the written consent of Declarant prior to Turnover and the Association after Turnover, which consent may be withheld or conditioned in the sole discretion of Declarant or the Association, as applicable.

B. No noxious or offensive trades, services or activities shall be conducted on any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the Owner, tenant or occupant of other Lots within the Property by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, glides, radiation, duet, liquid waste, smoke or noise.

C. Lots shall be improved and utilized only for uses permitted for such Lots under the Development Agreement and the zoning codes and requirements of the City and such other uses as the Architectural Review Committee shall permit in its sole discretion, consistent with the Development Agreement and the zoning regulations of the City.

D. All Lots shall be owned, maintained and operated in accordance with and subject to all applicable codes, ordinances and rules and regulations of the City and all other governmental or quasi-governmental authority having jurisdiction thereover.

V. APPROVAL OF PLANS BY ARCHITECTURAL REVIEW COMMITTEE.

A. There is hereby established an Architectural Review Committee consisting of three club members who shall be appointed by the Declarant prior to Turnover and by the Board after Turnover. Members of the Architectural Review Committee shall serve at the pleasure of the Declarant or Board, as applicable. The vote of two members shall constitute the action of the Architectural Review Committee.

B. No Improvements shall be constructed, erected, placed, removed, altered, maintained or permitted on any Lot until plans and specifications with respect thereto in manner and form satisfactory to the Architectural Review Committee showing proposed improvements,

plot layout and all exterior elevations, materials, colors, signs, landscaping, exterior lighting, traffic engineering, number, size and layout of parking spaces, grading, easements and utilities, proposed building use, number of employees and such other information as may be requested by said Committee. Such plans and specifications shall be submitted in writing over the signature of the Owner of the Lot or the Owner's authorized agent. A fee may be charged by the Committee for such review which shall include the charges of any architect, engineer or other consultant engaged by the Committee to assist in evaluating the proposed Improvements or modifications thereto.

C. Approval shall be based, among other things, on compliance with the Development Agreement and all other requirements of the City, adequacy of Lot dimensions, conformity and harmony of external design, colors and materials with neighboring structures; effect of location and use of Improvements on neighboring buildings, operations and uses; relation of the proposed Improvements to the topography, grade and finished ground elevation of the Lot being improved and to that of the neighboring Lots, Improvements and the natural features; proper facing of main elevation with respect to nearby streets; conformity of the plans and specifications to the purpose and general plan and intent of these Covenants and such other matters and considerations as deemed relevant by the Committee in its sole and absolute discretion. In addition, all plans shall conform with applicable building, development and zoning codes and regulations which are currently in effect. The Architectural Review Committee may withhold or condition its approval of such plans and specifications in its sole discretion.

D. If the Architectural Review Committee fails either to approve or to disapprove such plans and specifications (including resubmission of disapproved plans and specifications which have been revised) within 30 days after the same have been submitted, it shall be conclusively presumed that said plans and specifications have been disapproved. The Architectural Review Committee shall notify the Owner in writing upon receipt of all required plans and specifications and the aforesaid 30-day period shall commence on the date of such notification.

E. The Architectural Review Committee, Association, Board and Declarant or their successors or assigns shall not be liable in damages to anyone submitting plans and specifications for Improvements to the ARC for approval, or to any Owner of land affected by this Declaration, by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any such plans and specifications. Every person who submits plans and specifications to the Architectural Review Committee for approval agrees, by submission of such plans and specifications, and every Owner or tenant of any said Lot agrees, by acquiring title thereto or an interest therein, that they will not bring any action or suit against the Architectural Review Committee, Association, Board or the Declarant to recover any such damages. Approval by the Architectural Review Committee shall not be deemed to constitute compliance with the requirements of any applicable building or zoning codes or regulations and it shall be the responsibility of the Owner or Owner's agent submitting plans to the Architectural Review Committee to comply therewith. Approval in writing of all plans and specifications and amendments thereto must be obtained from the Architectural Review Committee prior to the issuance of any building permits. No plans which have not received the prior approval of the Architectural Review Committee shall be submitted to any governmental agency for approval or for the issuance of any permits. If plans are submitted without such prior approval, the Owner shall be subject to a fine of \$500.00 per day which fine is subject to the rights and penalties set forth in Section VII hereof.

F. Any approved plans shall expire six months from and after the date of approval unless the Owner has obtained a building permit and commenced construction pursuant to said plans during said six-month period. In the event that any plan approval has expired, the Owner shall resubmit such plans to the Architectural Review Committee and obtain a new approval of such plans before commencing the construction of any Improvements.

G. In the event any Improvements are destroyed by casualty, hazard or other loss, then the Owner shall, within three months after the incident, either commence to rebuild or repair the damaged Improvements in compliance with the plans for those improvements which were previously approved by the Architectural Review Committee and diligently continue such rebuilding or repairing activities to completion, or (upon a determination by the Owner thereof that the Improvements will not be repaired or replaced) promptly remove the damaged Improvements and landscape the Lot in a sightly manner. Any reconstruction or repair or landscaping must be completed within nine months after the occurrence of the incident unless the Owner is prevented from completing much reconstruction or repair or landscaping due to causes beyond the Owner's reasonable control. In the event the Owner wishes to deviate from the prior plans as approved, application must be made to the Architectural Review Committee for the approval of new plans.

VI. REGULATION OF IMPROVEMENTS.

A. GENERAL

No improvements shall be constructed, erected, placed, altered, maintained or permitted on any Lot until plans and specifications therefor have been approved by the Architectural Review Committee as more fully set forth in Article V, Paragraph B, of these Covenants. Notwithstanding, however any Improvements constructed prior to the date of recording of this Declarations shall be deemed to have complied with all building and approval requirements set forth herein.

B. SITE COVERAGE AND SETBACKS.

On each Lot, the ratio of the building coverage area to the Lot area shall not exceed that permitted by law.

C. ACCESS AND OFF-STREET PARKING.

All parking facilities and access drives must be approved by the Architectural Review Committee. All parking facilities, access drives and loading areas shall conform with applicable zoning and building laws and regulations. Adequate off-street parking in compliance with all requirements of the City shall be provided by each Owner and tenant for their respective Permittees. The location, number and size of parking spaces shall be subject to approval by the Architectural Review Committee and such requirements may be greater than those imposed by governing authorities. If parking needs increase as a result of a change in use or number of employees, additional off-street parking shall be provided to meet standards provided in the development criteria. All off-street parking, access drives and loading areas shall be paved and properly graded to assure proper drainage. Proper visual screening approved by the Architectural Review Committee must be provided between any parking lot and any street. No parking shall be permitted on any street or at any place other than on the paved parking spaces provided for and

described herein, except with the approval of the Committee. Parking shall not be permitted between street pavement and property line of any Lot. Areas designated for automobile use shall not be used for trucks, commercial vehicles and/or material storage. Each Owner and tenant shall be responsible for compliance with the foregoing by his Permittees.

D. LOADING AREAS.

Truck loading and receiving areas shall not be permitted in the front yard of a building nor, unless expressly permitted by the Architectural Review Committee, in the set-back areas. Proper visual screening approved by the Architectural Review Committee must be provided between any truck loading and receiving area and any street or adjoining Lots or other property.

E. OUTSIDE STORAGE.

No materials, supplies, equipment, including all vehicles except for passenger automobiles, finished or semi-finished products or articles of any nature shall be stored or permitted to remain on any Lot installed, constructed or utilized without prior written consent of the Architectural Review Committee and, if approved, shall be properly screened.

F. LANDSCAPING.

1. All Lots shall be landscaped only in accordance with a plan submitted to and approved in writing by the Committee prior to any development of the Lot. Further, it shall be the responsibility of the Owner of a Lot to landscape and maintain the area between the lot lines of said Owner's Lot and the curbs of any Access Improvements within such Lot or roadways adjacent to such Lot. All landscaping shall be undertaken and completed in accordance with such approved plan and said plan may not be altered, amended, or revised without the prior written approval by the Architectural Review Committee.

2. All landscaping plans shall include an underground lawn sprinkling system. In addition, the plans shall provide water hose bibs and maintenance facilities in the vicinity of landscaped areas. All water for irrigation shall be provided by individual wells located on the site or from the Lake. All wells shall have a purification system.

3. All landscaping required hereunder or otherwise provided on any Lot shall be completed (completion for such purposes shall include payment therefor) simultaneously with completion of construction of any buildings to be constructed on the Lot; provided, however, if weather conditions do not at such time permit, then such landscaping shall be completed as soon thereafter as weather conditions permit. If an Owner fails to undertake and complete his landscaping within the time limit previously set forth herein, the Declarant or Association may, at its option, after giving the Owner 10 days written notice forwarded to Owner (unless within said 10 day period the Owner of the Lot shall proceed and thereafter pursue with diligence the completion of such landscaping), undertake and complete the landscaping of the Lot in accordance with the landscaping plan. If the Declarant or Association undertakes and completes such landscaping because of the failure of the Owner to complete same, the costs of such landscaping shall be assessed against the Owner, and, if said assessment is not paid within 30 days after written notice of such assessment from Declarant, said assessment will constitute a lien on the Lot and may be enforced as set forth in Article VII, Paragraph C, hereof.

4. It is the intent of the Declarant that all Lots, including the landscaping thereon, be maintained in a uniform, high quality, first-class manner. The Owner, tenant or occupant of a Lot shall be responsible for the landscape maintenance of its Lot, and any contract to have such work performed by an independent landscape maintenance contractor. However, in the event that the landscape maintenance performed by such Owner, tenant or occupant or its contractor is not properly maintained, the Declarant or its designee or the Association may, in its sole discretion, enter upon the Lot and undertake such landscape maintenance. All costs of such landscape maintenance undertaken by the Declarant or its designee or Association under such circumstances shall be assessed against the Lot upon which said landscape maintenance is performed and failure to pay such assessment shall constitute a lien against the Property enforceable pursuant to Article VII, Paragraph C, hereof.

G. LIGHTING.

All exterior lighting shall be arranged so as not to shine directly upon or cause glare upon adjacent lots or other property. Plans and specifications for the construction, installation or alteration of exterior lighting shall be first submitted to and have the written approval of the Architectural Review Committee.

H. SIGNAGE.

No signs shall be permitted anywhere within the Property without prior written approval of the Architectural Review Committee.

I. UTILITY CONNECTIONS.

1. All utility connections, including all electrical and telephone connections and installations of wires to buildings, shall be made underground from the nearest available power source. No transformer, electric, gas or other meter or any type of other apparatus shall be located on any power pole nor hung on the outside of any building, but the same shall be placed on or below the surface of the Property and where placed on the surface shall be adequately screened and fenced and all such installations shall be subject to prior written approval of the Committee. The Architectural Review Committee shall have the right to grant on any Lot, easements for utilities within the setback of any Lot (as defined in Article VI, Paragraph B, hereof). Notwithstanding the provisions of this paragraph, the preexisting utility lines which are above ground on the date of the execution of these Covenants shall not be deemed to be in violation hereof provided they are transmission lines not presently serving the Property.

2. Each Lot Owner will be required to connect to the lines of and satisfy all water and sewerage treatment requirements, including connection and tap fees of the City, unless otherwise authorized by the prior written approval of the Architectural Review Committee and in accordance with all applicable ordinances and regulations.

3. The Association shall maintain, repair and replace the Private Utility Systems. No Owner or tenant shall have any right to excavate or alter any portion of the ADU Easement Area or FAU Easement Area to access, connect to or repair any such Private Utility Systems without the prior written consent of the Declarant prior to Turnover and the Association thereafter.

J. HEIGHT RESTRICTIONS.

No building or appurtenance including, but not limited to, water towers, standpipes, penthouses, elevators or elevator equipment, stairways, ventilating fans or similar equipment required to operate and maintain any building, fire or parapet walls, skylights, tanks, cooling or other towers, wireless radio or television masts, communication antennae or dishes, or flagpoles shall exceed the height limits established by the Architectural Review Committee.

K. DRAINAGE.

1. Drainage systems and drainage facilities may be part of the Common Property, including Private Drainage Easements, and may be located within Lots or part of the SWMS dedicated to the Association by Plat. Once drainage systems or drainage facilities are installed by Declarant, the maintenance of such systems and/or facilities thereafter shall be the responsibility of the Association; however, the Association shall not have any responsibility for landscape maintenance within any Lot, and the Owner of any such Lot shall be required to maintain such Lot and all landscaping in such Lot in accordance with the provisions of this Declaration. In the event that such drainage system or facilities (whether comprised of swales, pipes, pumps, water body slopes, or other improvements) is adversely affected by landscaping, fences, structures (including, without limitation, pavers) or additions installed by an Owner on a Lot, the cost of the Association to correct, repair, or maintain such drainage system and/or facilities shall be the responsibility of the Owner of such Lot containing all or a part of such drainage system and/or facilities and shall be an Individual Assessment against such Owner's Lot pursuant to this Declaration.

2. The Association shall have a perpetual non-exclusive easement over all areas of the Surface Water Management System for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the Surface Water Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water Management System as required by the Permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire Surface Water Management System. No person shall alter the drainage flow of the Surface Water Management System, including buffer areas or swales, without the prior written approval of the SJRWMD. A non-exclusive easement shall exist in favor of Declarant, Association, SJRWMD and the City over, across and upon AQUA AT PALM BAY, including all Private Drainage Easements and all other areas containing the SWMS or drainage or stormwater management easements created on the Plat or by separate instrument for drainage and water management purposes. Any such drainage easement shall not contain permanent improvements, except for (i) improvements installed by Declarant, (ii) landscaping of the Surface Water Management System, (iii) as required by the City or the Permit, and/or (iv) improvements approved by the Architectural Review Committee. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage of AQUA AT PALM BAY or which may obstruct or retard the flow of water through AQUA AT PALM BAY and/or water management areas and facilities or otherwise interfere with any drainage and/or Private Drainage Easement provided for in this Declaration.

3. The Association shall be responsible for maintenance, operation and repair of the SWMS in AQUA AT PALM BAY. Maintenance of the SWMS shall mean the exercise of practices which allow the SWMS to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the SJRWMD. The Association shall be responsible for such maintenance and for operation of the SWMS. Any repair or reconstruction of the SWMS shall be as permitted, or if modified as approved by the SJRWMD. Operation and maintenance and any required reinspection of the SWMS shall be performed in accordance with the terms and conditions of the Permit. All portions of the SWMS within AQUA AT PALM BAY, excluding those areas (if any) normally maintained by the City or another governmental agency, will be the ultimate responsibility of the Association, whose agents, employees, contractors and subcontractors may enter any portion of the Common Property and make whatever alterations, improvements or repairs that are deemed necessary to provide or restore property water management. All private drainage easements specifically granted or dedicated to the Association on the Plat or by separate instrument (the "**Private Drainage Easements**") shall be Common Property. Such Private Drainage Easements will be regulated by the Association and maintained by the Owner of such Lot (except to the extent same is the Association's responsibility as part of the ADU Easement Area), including regular mowing, maintenance, replacement and irrigation of sod and landscaping to prevent erosion of slopes or swales. In the event any Owner fails to maintain any Private Drainage Easement on such Owner's Lot, the Association may maintain or restore same and the costs incurred in connection with such maintenance and restoration shall be an Individual Assessment against such Owner's Lot. The Declarant hereby grants the Association an easement of ingress and egress across all Lots containing Private Drainage Easements for the purpose of regulating and maintaining same.

4. SJRWMD and the City have the right to take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel them to correct any outstanding problems with the SWMS.

5. Any amendment of the Declaration affecting the SWMS or the operation and maintenance of the SWMS and any proposed conveyance or abandonment of any Common Property containing or affecting the SWMS shall have the prior written approval of SJRWMD and the County. Notwithstanding any other provision in this Declaration, no amendment of this Declaration will be effective to change the Association's responsibilities for the SWMS unless the amendment has been consented to in writing by SJRWMD. Any proposed amendment which would affect the SWMS must be submitted to SJRWMD for approval and for a determination of whether the amendment necessitates a modification of the Permit. Any amendment affecting the SWMS will not be finalized until any necessary modification of the Permit is approved by SJRWMD or the Association (or other permittee named in the Permit) is advised that a modification is not necessary.

6. Each Lot Owner shall be required to provide adequate drainage facilities to connect to the SWMS in accordance with the requirements of the City and any other applicable governmental agency or authority, and the development criteria established by the Architectural Review Committee. Plans for adequate method of drainage shall be submitted by the Owner to the Architectural Review Committee for approval at the same time as submission of the plans and specifications for any building as herein provided.

L. MAINTENANCE.

1. Each Owner of any Lot shall keep his buildings, improvements and appurtenances thereon in a safe, clean, maintained, neat, wholesome condition and shall comply in all respects with all governmental statutes, ordinances, regulations, health, police and fire requirements. Each such Owner, tenant or occupant shall remove at his own expense any rubbish or trash of any character which may accumulate on its Lot. Rubbish, trash, garbage or other waste shall be kept only in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Rubbish and trash shall not be disposed of on the premises by burning.

2. Each Owner shall pay his Pro Rata Portion of the Operating Expenses of the Association, including all operation, maintenance, repairs, replacements and services required in connection with the Common Property. Such expenses shall include but not be limited to lighting, utilities, landscaping, street cleaning, legal and accounting fees, supplies, security service, drainage maintenance, maintenance of off-site medians and rights of way adjacent to AQUA AT PALM BAY, being Robert J. Conlon Boulevard medians and rights of way, liability insurance premiums attributable to the Common Property, management fees, if any, costs of attendants, if any, and all real and personal property taxes. In addition, at the discretion of the Declarant, such expenses may include a reasonable reserve for replacement ("Reserves") of and repairs to the Common Property.

3. All costs of maintenance, repairs, replacements and services required for the Common Property as set forth in Paragraph B of this Article shall be assessed in the Pro Rata Portion of each respective Lot and failure to pay such assessment shall constitute a lien against the Lot enforceable as set forth in Article VII, Paragraph C, hereof. Said annual costs shall be payable in advance in equal monthly installments. If the amount of assessments paid by each Lot Owner for any year is less than the actual cost, each Lot Owner shall pay his Pro Rata Portion of the difference between the amount paid and the actual amount due, within ten (10) days after notice from Declarant or the Association.

For each twelve (12) month period from January 1st of each year through December 31st of the such year (or portion thereof for the first year in which Declarant sells a Lot to an Owner), the Declarant or Association shall establish a budget reflecting the estimated costs for maintaining the Common Property as provided for herein. The Owner of each Lot shall be given notice thereof as herein provided which such notice shall also indicate each such Owner's Pro Rata Portion of the costs for maintenance of the Common Property. The notice shall be furnished on or before December 15th in each year to each Owner who shall pay the amount of the assessment due for each such Lot in advance in equal monthly installments beginning on January 1st of each year.

VII. ENFORCEMENTS.

A. ABATEMENT AND SUIT.

The Covenants contained shall run with the land and be binding upon and inure to the benefit of the Declarant and all Owners and Permittees. These Covenants may be enforced as provided hereinafter by the Declarant acting for itself, the Association or the Architectural Review

Committee. If a Lot Owner notifies the Declarant or Association of a claimed violation of the Covenants, and the Declarant or Association fails to act within 30 days after receipt of such notification then, and in that event only, an Owner may separately, at his own cost and expense, enforce the Covenants herein contained.

Violation of any Covenant herein contained shall give to the Declarant or the Association the right to enter upon the portion of the Property wherein said violation or breach exists and to summarily abate and remove at the expense of the Owner any structure, thing or condition that may be or exists thereon contrary to the extent and meaning of the provisions hereof, or to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these Covenants to enjoin or prevent them from doing so, to cause said violation to be remedied or to recover damages for said violation.

Notwithstanding the above, prior to the enforcement as provided by the Declarant, Association, the Architectural Review Committee, or any Lot Owner, the holder of any institutional Mortgage shall be given notice of the claimed violation and opportunity for a period of thirty (30) days to cure same. If the act or omission is one not capable of being cured within said 30 days then no enforcement proceeding shall commence provided such institutional Mortgagee is diligently attempting to cure same."

B. DEEMED TO CONSTITUTE A NUISANCE.

Every violation of these Covenants or any part thereof to hereby declared to be and to constitute a nuisance, and every public or private remedy allowed therefor by law or equity against an Owner, tenant or occupant shall be applicable against every such violation and may be exercised by the Declarant or Association.

1. In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provisions hereof, the losing party or parties shall pay the reasonable attorneys' and paralegal fees and the court costs of the prevailing party or parties in the amount as may be fixed by the court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

2. The failure of the Declarant or Association to enforce any of the conditions, Covenants, restrictions or reservations herein contained shall in no event be deemed to be a waiver of the right to do so for subsequent violations or of the right to enforce any other conditions, Covenants, restrictions or reservations and the Declarant shall not be liable therefor.

C. ENFORCEMENT OF ASSESSMENTS.

The Owner of each Lot shall, within 30 days after the date upon which notice of Assessment is made or delivered to such Owner, remit the amount of such Assessment to the Association.

Any assessment not paid within aforesaid 30-day period from the date of such notice shall bear interest after said 30-day period at the highest rate permissible by law.

All assessments not paid as set forth herein, plus accrued interest, shall constitute a lien on the Lot superior and prior to all other items and encumbrances, except those liens for general taxes and special assessment liens, and all liens unpaid on any mortgage of record. To evidence such lien, the Association shall prepare a written notice (the "Notice") setting forth the amount of such unpaid assessment, the name of the Owner or the reputed Owner of the Lot and a legal description of such Lot. The notice shall be signed by the duly authorized agent of the Association and shall be recorded in the office of the Clerk of the Circuit Court of Brevard County, Florida, after having been mailed not less than 30 days prior to such recording to the Owner or reputed Owner of the Lot in default. The lien for the unpaid assessment shall attach from the date of the recording by the Association. Any mortgagee holding a lien on the Lot may, but shall not be required to, pay any unpaid assessment and upon such payment, such encumbrance shall have a lien on the area or tract for the amount paid of the same rank as the lien of the Association. The lien for any such unpaid assessments shall include interest as aforesaid together with reasonable attorneys' fees and costs incurred by the Association, incident to the collection of the Assessments of the enforcement of the lien. The lien shall be in effect until all sums secured by it have been fully paid. The Association may bring an action in its name to foreclose a lien for unpaid assessments in the same manner a mortgage of real Property is foreclosed.

The amount of the Assessment assessed against each Lot shall also be the personal and individual debt of the Owner thereof at the time the assessment is made and suit to recover money judgment (together with reasonable attorneys' fees and costs as aforesaid) for unpaid assessments may be maintainable without foreclosing or waiving the liens securing the same.

Notwithstanding anything to the contrary the lien of any assessments provided for in this Article VII shall be subordinate to tax liens and the lien of any mortgage recorded prior to the recordation of the Claim of Lien, which mortgage encumbers any Lot to any institutional mortgagee (defined as a bank, savings and loan association, insurance company, an Agency of the United States Government, or a lender generally recognized in the community as an institutional-type lender), and which is now or hereafter placed on any Property subject to assessment; provided however, that in the event of a foreclosure, any purchaser or mortgagee at a foreclosure sale, and any mortgagee acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgagee shall hold title subject to the liability and lien of any assessment accruing and becoming due after such foreclosure (or conveyance in lieu of foreclosure).

D. LIQUIDATED DAMAGES.

Notwithstanding any other provision of this Declaration to the contrary, upon violation of any provision of this Declaration or the Development Agreement, which violation is of a kind and nature that the damages resulting therefrom are not easily determinable or ascertainable, the Owner who commits such violation or whose Permittees commit such violation shall be liable to the Declarant for an amount equal to \$500.00 as liquidated damages for each day during which such violation continues to occur. (such fines shall be increased every five years based upon the rise in the Consumer Price Index or such comparable index then available). All damages incurred by the Declarant which are in the form of liquidated damages shall constitute a lien on the Lot of such Owner and may be enforced as set forth herein.

E. CERTIFICATE OF COMPLIANCE.

Upon payment of a reasonable fee as established from time to time, and upon written request of any Owner, mortgagee, prospective Owner, tenant or prospective tenant of a Lot, the Association shall issue an acknowledged certificate in recordable form setting forth the amounts of any unpaid assessments, if any, and setting forth generally whether or not said Owner is in violation of any of the terms and conditions of these Covenants. Said written statement shall be conclusive upon the Association in favor of the persons who rely thereon in good faith. Such statements shall be furnished by the Association within a reasonable time but not to exceed 20 days from the receipt of a written request for much written statement.

VIII. TERM, TERMINATION AND MODIFICATION, AND ASSIGNMENTS.

A. TERM.

This Declaration, every provision hereof and every Covenant, contained herein shall continue in full force and effect for a period of 25 years from the date hereof and shall thereafter be renewed automatically from year to year unless and until terminated as provided in Paragraph B, below.

B. TERMINATION AND MODIFICATION.

This Declaration or any provision hereof, or any covenant, condition, restriction or reservation contained herein may be terminated, extended, modified or amended as to the whole of said Property or any portion thereof, with the written consent of the Owners of 80% of the voting interests of the Property (other than Property used in common) subject to these restrictions; provided, however, that during the initial 25-year term of these Covenants, no such termination, extension, modification or amendment shall be effective without the written approval of the Declarant. Provided, further, that during the initial 25-year term of these Covenants, the Declarant by itself may extend, modify or amend these Covenants. Such termination, extension modification or amendment shall be immediately effective upon recording a proper instrument in writing, executed and acknowledged by such Owners (and by the Declarant as required herein) in the Office of the Clerk of the Circuit Court of Brevard County, Florida.

C. ASSIGNMENTS OF THE DECLARANT'S RIGHTS AN DUTIES.

Any and all of the rights, powers and reservations of the Declarant herein contained may be assigned by the Declarant to any person, corporation or association which will assume any or all of the duties of the Declarant hereunder and upon any such person's corporation's or association's evidencing its consent in writing to accept such assignment, said assignee shall, to the extent of such assignment, assume the Declarant's duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by the Declarant herein. This right of assignment shall include the Declarant's right to cause to be formed a Property Owner's association, to administer all of Declarant's rights hereunder. Upon the formation of such Association and an assignment by Declarant of its rights hereunder all Owners of Lots shall automatically become members thereof. Upon such assignment and to the extent thereof, the Declarant shall be relieved from all liabilities, obligations and duties hereunder. The term "Declarant" as used herein includes all such assignees and their heirs, successors and assigns.

IX. GENERAL PROVISION.

A. NO WAIVER.

All of the Covenants contained in this Declaration shall be construed together but if it shall, at any time, be held that any one of said Covenants or any part thereof, is invalid or for any reason becomes unenforceable, no other conditions, covenants, restrictions and reservations or any part thereof shall thereby be affected or impaired.

B. OWNER'S LIABILITY SUBSEQUENT TO SALE.

Upon sale of a Lot, the Owner so selling shall not have any further liability for the obligations thereon which accrue against the Lot sold after the date of the conveyance; provided, however, that nothing herein shall be construed so as to relieve an Owner of any Lot from any liabilities or obligations incurred prior to such sale pursuant to this Declaration or the Covenants set forth herein.

C. LEASING - OTHER AGREEMENTS.

All leases or any other agreements transferring any Ownership interest in any Lot, shall contain a covenant which expressly incorporates into such instrument all the Covenants imposed pursuant to this Declaration. Such agreements shall provide that the lessee or transferee if accepts his estate leasehold or otherwise subject to these Covenants and agrees to conform and comply with all provisions contained herein or to allow the lessor, transferor or the Declarant to fulfill all obligations imposed pursuant thereto. Such Covenants shall additionally provide that any failure by any such lessee or transferee to comply with these Covenants shall constitute a default under any such lease agreement.

D. BENEFIT AND BURDENS.

The terms and provisions contained in this Declaration shall bind and inure to the benefit of the Declarant, the Owners of all Lots located within the Property, the Owners of additional Property made subject to this Declaration and their respective heirs, successors, personal representatives and assigns.

E. NOTICE.

Any notices required or permitted herein shall be in writing and mailed, postage prepaid by registered or certified mail, return receipt requested and shall be directed as follows:

1. If intended for a Lot Owners;
 - (a) To the address of the Lot if improved;
 - (b) If the Lot is not improved, to the address set forth in the purchase contract or purchase contract application; or

- (c) Or to such other addressee designated in writing and sent by Certified Mail to Declarant.
- (d) Institutional Mortgagees should be provided any notice sent to the Lot Owner, provided such Mortgagee, in writing to Declarant requests to be provided with such notice and designates the place to where such notices should be addressed.

2. If intended for the Declarant, to the address previously set forth herein or such other place as the Declarant may from time to time designate in writing.

F. SINGULAR AND PLURAL.

Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

G. MORTGAGE.

The terms "mortgage" as used herein shall include deeds of trust and trust deeds.

H. MORTGAGEE.

The terms mortgagee shall be defined as a bank, savings and loan association, insurance company, agency of the U.S. government or a lender generally recognized in the community as an institutional type lender.

I. NO REPRESENTATIONS.

Except as expressly set forth herein, the Declarant makes no representations regarding use of the Property and the restrictions placed thereon by these Covenants, by Brevard County, including the Development Agreement or by other governmental authorities. The Declarant makes no representations as to the existence, preservation or permanence of any view from any Lot. Further, nothing contained herein shall be construed to constitute an obligation to the Declarant to complete the development of all of the Property covered by these Covenants or any assurance that the Declarant shall develop any other properties other than as specifically set forth in this Declaration.

[Signatures on next page.]

IN WITNESS WHEREOF, Declarant has executed this instrument the day and year first above written.

WITNESSES:

| | |
|-------------|--|
| _____ | PALM CITY INVESTMENTS, F.F., LLC, a |
| Name: _____ | Florida limited liability company, a Florida |
| _____ | General Partnership |
| Name: _____ | By: _____ |
| | Name: _____ |
| | Its: _____ |

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2021, by _____, as _____ of PALM CITY INVESTMENTS, F.H., LLC, a Florida limited liability company, on behalf of the company. He [is personally known to me] [has produced _____ as identification].

[NOTARY SEAL]

NOTARY PUBLIC, State of Florida at Large
Print Name: _____
My commission expires:

EXHIBIT “1”

THE PROPERTY

[Insert Legal]

Also described as NORTSHORE AT PALM BAY, according to the plat thereof, as recorded in Plat Book _____, Page _____, Public Records of Brevard County, Florida



LAND DEVELOPMENT DIVISION

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

Landdevelopmentweb@palmbayflorida.org

FINAL PLAT 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.

PROPOSED SUBDIVISION NAME:

NORTHSHORE AT PALM BAY

PARCEL ID(S):

28-37-14-005 AND 28-37-14-FK-*-1.01

TAX ACCOUNT NUMBER(S):

2826096 AND 2852961

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION: (attach additional sheets if necessary):

SEE EXHIBIT "A"

HIGHWAY, STREET BOUNDARIES, AND NEAREST CROSSROADS:

ROBERT J. CONLAN BOULEVARD AND NORTHVIEW

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

24.60 ACRES

CITY OF PALM BAY, FLORIDA
FINAL PLAT APPLICATION
PAGE 2 OF 3

TOTAL LOTS PROPOSED (list by use):

7

INTENDED USE OF PROPERTY:

MIXED USE

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

BAYFRONT MIXED USE (BMU)

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


- ☐ *A \$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 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). The application is obtained from the Planning and Project Management Department of the School Board of Brevard County at (321) 633-1000, extension 11418.
- ☐ Sign(s) posted on the subject property. Refer to [Section 51.07\(C\)](#) of the Legislative Code for guidelines. Staff will provide a sign template.
- ☐ **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 to request the final plat approval.**

Name of Representative MIGUEL REYNALDOS

CITY OF PALM BAY, FLORIDA
FINAL PLAT APPLICATION
PAGE 3 OF 3

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 FINAL PLAT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Owner Signature  Date 5.4.2021
Printed Name ANDREW R. STEEL
Full Address 2295 S. Hiwassee Rd. Suite, 306
Telephone 561-635-6663 Email ~~asteele@akua-capital~~
andrew@nsdpartners.com

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

EXHIBIT "A"
LEGAL DESCRIPTION

PLAT DESCRIPTION:

PARCEL IX
LOT 1 AND THE NORTH 120 FEET OF LOT 2, LYING WEST OF FLORIDA EAST COAST RAILWAY VALENTINE ESTATES SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 6 / PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

PARCEL X:
THE NORTH THREE-QUARTERS (3/4S) OF THE SOUTHWEST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) EXCEPT FLORIDA EAST COAST RAILWAY AND ROAD RIGHT-OF-WAY FOR ROBERT J. CONLAN BOULEVARD, LOCATED IN SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST. ALSO LESS AND EXCEPT LAND DESCRIBED IN WARRANTY DEED FILED IN OFFICIAL RECORDS BOOK 4087, PAGE 323, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

THE ABOVE PARCELS ALSO DESCRIBED AS FOLLOWS:

THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 7691, PAGE 2825, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LYING IN SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGN AT THE NORTHWEST CORNER OF THE SHIRE, FIRST ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 24, PAGE 116, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND RUN NORTHEASTERLY, ALONG THE ARC OF THE CURVED RIGHT-OF-WAY LINE OF ROBERT J CONLAN BOULEVARD, (SAD CURVE BEING CURVED CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 854.93 FEET, A CENTRAL ANGLE OF 60°32'06", A CHORD LENGTH OF 861.83 FEET AND A CHORD BEARING OF N35°06'53"E, A DISTANCE OF 903.26 FEET TO THE END OF SAD CURVE; THENCE N65°23'24"E, CONTINUING ALONG SAD RIGHT-OF-WAY LINE, A DISTANCE OF 643.04 FEET TO THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 5918, PAGE 7785, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S88°45'21"E, ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 5918 PAGE 7785, A DISTANCE OF 97.97 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 5918, PAGE 7785 AND A POINT OF THE WESTERLY RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILROAD; THENCE S24°38'25"E, ALONG SAD RIGHT-OF-WAY LINE, A DISTANCE OF 1111.83 FEET TO THE SOUTHEAST CORNER OF SAD PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 7691, PAGE 2825; THENCE N89°06'31"W, ALONG THE SOUTH LINE OF SAD PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 7691, PAGE 2825, A DISTANCE OF 356.31 FEET TO THE EAST LINE OF THE SHIRE, FIRST ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN SAID PLAT BOOK 24, PAGE 116; THENCE N00°54'19"E, ALONG SAD EAST LINE, A DISTANCE OF 11.39 FEET TO THE NORTHEAST CORNER OF THE SHIRE, FIRST ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN SAID PLAT BOOK 24, PAGE 116; THENCE N88°58'29"W, ALONG THE NORTH LINE OF THE SHIRE, FIRST ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN SAID PLAT BOOK 24, PAGE 116, A DISTANCE OF 1285.97 FEET TO THE POINT OF BEGINNING.

PARCEL IDENTIFICATION NUMBERS: 28-37-14-005 AND 28-37-14-FK-*-1.01

ACCOUNT NUMBERS: 2826096 AND 2852961

ACRES:

MULTI-FAMILY (LOT 01): 16.18 ACRES

COMMERCIAL (LOTS 02 TO 06): 6.10 ACRES

LAKE (TRACT "A"): 2.32 ACRES

COMBINED TOTAL: 24.60 ACRES

MAY 4TH, 2021

Re: Letter of Authorization

As the property owner of the site legally described as:

SEE EXHIBIT "A"

I, Owner Name: ANDREW STEEL

Address: 2295 SOUTH HIAWASSEE ROAD, SUITE 306, ORLANDO, FL 32835

Telephone: 407-735-9100 OR 561-635-6663

Email: ANDREW@NSDPARTNERS.COM

hereby authorize:

Representative: MIGUEL REYNALDOS

Address: 2295 SOUTH HIAWASSEE ROAD, SUITE 306, ORLANDO, FL 32835

Telephone: 305-986-0110 OR 407-735-9100

Email: MIGUEL@NSDPARTNERS.COM

to represent the request(s) for:

PLAT REVIEW APPLICATION AND FINAL PLAT APPLICATION


(Property Owner Signature)

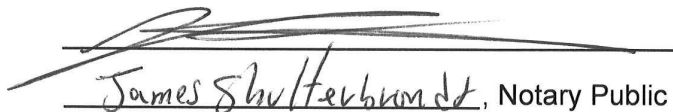
STATE OF Florida

COUNTY OF Orange



James Shulterbrondt
Comm. #GG916223
Expires: Sept. 24, 2023
Bonded Thru Aaron Notary

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 4 day of May, 20 21 by Andrew Steel, property owner.


James Shulterbrondt, Notary Public

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

MAY 4TH, 2021

Re: Letter of Authorization

As the property owner of the site legally described as:

SEE EXHIBIT "A"

I, Owner Name: ANDREW STEEL

Address: 2295 SOUTH HIAWASSEE ROAD, SUITE 306, ORLANDO, FL 32835

Telephone: 407-735-9100 OR 561-635-6663

Email: ANDREW@NSDPARTNERS.COM

hereby authorize:

Representative: HENRY A. KILBURN, PSM

Address: 4620 LIPSCOMB STREET, NE, SUITE 2, PALM BAY, FL 32905

Telephone: 321-914-3978

Email: AKILBURN@GSSSURVEYS.COM

to represent the request(s) for:

PLAT REVIEW APPLICATION AND FINAL PLAT APPLICATION


(Property Owner Signature)

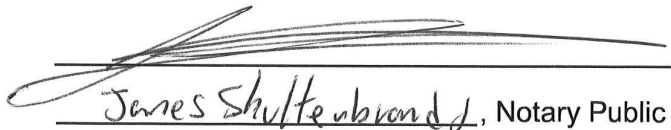
STATE OF Florida

COUNTY OF Orange



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James Shulterbrondt, Notary Public

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



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Laurence Bradley, AICP, Growth Management Director

DATE: June 2, 2021

SUBJECT: T-23-2021 - REQUEST TO CONTINUE TO 07/07/2021 P&Z - Finished Floor Elevations - City of Palm Bay (Growth Management Department) - A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 174: Floodplain and Stormwater Management, Section 174.073 Single-Family Residential Construction, to modify the provisions and criteria for finished floor elevations

City staff has requested a continuance of Case T-23-2021 (City of Palm Bay, Growth Management Department) to the July 7, 2021 Planning and Zoning Board Meeting to allow for further review. The request will be heard by City Council on August 5, 2021. Board action is required to continue the case.