



AGENDA

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Regular Meeting 2021-14
December 1, 2021 - 7:00 PM

City Hall Council Chambers, 120 Malabar Road SE

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ADOPTION OF MINUTES:

1. **Regular Meeting 2021-12; November 3, 2021**
2. **Special Meeting 2021-13; November 15, 2021**

ANNOUNCEMENTS:

OLD/UNFINISHED BUSINESS:

1. **CP-11-2021 - Eastshore - Andrew Steel, NSD Palm Bay IV, LLC (Ana Saunders, P.E. and Miguel Reynaldos, Reps.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Industrial Use to Bayfront Mixed Use. Tax Parcels 250 and 254, Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 7.11 acres. Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Drive NE**
2. ****CPZ-11-2021 - Eastshore - Andrew Steel, NSD Palm Bay IV, LLC (Ana Saunders, P.E. and Miguel Reynaldos, Reps.) - A zoning amendment from an LI, Light Industrial and Warehousing District to a BMU, Bayfront Mixed Use District. Tax Parcels 250 and 254, Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 7.11 acres. Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Drive NE**

NEW BUSINESS:

1. ****V-51-2021 - Michael and Jeanne Cullen - A Variance to allow a proposed swimming pool and deck to encroach 7 feet into the 10-foot rear accessory structure setback, as established by Section 185.118(A)(4) of the Palm Bay Code of Ordinances. Lot 4, Monterey Cove at Bayside Lakes, Section 19, Township 29, Range 37, Brevard County, Florida, containing approximately .17 acres. North of and adjacent to Gardendale Circle SE, in the vicinity east of Bramblewood Drive SE, specifically at 331 Gardendale Circle SE**

2. **T-52-2021 - Michael Piazzola (Barbara Davis, Rep.) - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.045(B), to create provisions within the LI, Light Industrial and Warehousing District to allow for dog training clubs and similar uses**
3. ****CU-53-2021 - Scott Macfarlane - A Conditional Use to allow a proposed security dwelling unit in a GC, General Commercial District. Lot 14, Block 1985, Port Malabar Unit 40, Section 3, Township 29, Range 37, Brevard County, Florida, containing approximately .56 acres. East of and adjacent to Thor Avenue SE, in the vicinity south of Agora Circle SE, specifically at 261 Thor Avenue SE**
4. **CP-19-2021 - Steffany and Victor Lopez - A small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use. Part of Tract A, Port Malabar Unit 12, Section 7, Township 29, Range 37, Brevard County, Florida, containing approximately 1.46 acres. South of and adjacent to Arabia Road SE, in the vicinity west of Cleaves Street SE**
5. **CP-20-2021 - Bibi and Gurudeo Chand - A small-scale Comprehensive Plan Future Land Use Map amendment from Commercial Use to Multiple-Family Residential Use. Tract A, Port Malabar Unit 39, Section 34, Township 28, Range 36, Brevard County, Florida, containing approximately 6.52 acres. East of and adjacent to Krassner Drive NW, in the vicinity north of Hayworth Circle NW**
6. ****CPZ-20-2021 - Bibi and Gurudeo Chand - A Zoning amendment from an NC, Neighborhood Commercial District to an RM-15, Single-, Two-, Multiple-Family Residential District. Tract A, Port Malabar Unit 39, Section 34, Township 28, Range 36, Brevard County, Florida, containing approximately 6.52 acres. East of and adjacent to Krassner Drive NW, in the vicinity north of Hayworth Circle NW**
7. ****Z-54-2021 - Alfred and M. Agarie - A Zoning change from an HC, Highway Commercial District to a BMUV, Bayfront Mixed Use Village District. Tract 11, Hopsons Subdivision, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately .34 acres. East of and adjacent to Dixie Highway NE, and west of and adjacent to Ridge Road NE, specifically at 4371 Dixie Highway NE**
8. **T-55-2021 – 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 185.134, to modify provisions of the architectural ordinance**

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.

If you use assistive technology (such as a Braille reader, a screen reader, or TTY) and the format of any material on this website or documents contained therein interferes with your ability to access information, please contact us. To enable us to respond in a manner most helpful to you, please indicate the nature of your accessibility problem, the preferred format in which to receive the material, the web address of the requested material, and your contact information. Users who need accessibility assistance can also contact us by phone through the Federal Information Relay Service at 1-800-877-8339 for TTY/Voice communication.

****Quasi-Judicial Proceeding.**



MEMORANDUM

DATE: December 1, 2021

SUBJECT: Regular Meeting 2021-12; November 3, 2021

ATTACHMENTS:

Description

- ▣ **P&Z/LPA Minutes - Regular Meeting 2021-12; November 3, 2021**

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2021-12

Held on Wednesday, November 3, 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.

Ms. Leeta Jordan 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	Present
MEMBER:	Rainer Warner	Present
NON-VOTING MEMBER:	David Karaffa	Present
	(School Board Appointee)	

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

ADOPTION OF MINUTES:

1. **Regular Planning and Zoning Board/Local Planning Agency Meeting 2021-11 October 6, 2021.**

Motion to approve the minutes as presented.

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

Aye: Weinberg, Jordan, Boerema, Boothroyd, Hill, Maragh, 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 Items 5 and 6 under Old/Unfinished Business, Cases CP-11-2021 and CPZ-11-2021 (Andrew Steel, NSD Palm Bay IV, LLC - Ana Saunders, P.E. and Miguel Reynaldos, Reps.) were continued to the December 1, 2021 Planning and Zoning Board meeting to meet public notification requirements. Board action was not required to continue the cases. The cases will be heard by City Council on December 16, 2021.
3. Mr. Weinberg announced that Items 1 and 2 under New Business, Cases CP-14-2021 and PD-49-2021 (Greg Pettibon, Lennar Homes, LLC - Scott Glaubitz, P.E., P.L.S. or assignee, BSE Consultants, Inc, Rep.) were continued to the November 15, 2021 Planning and Zoning Board meeting at 6:00 p.m. Board action was not required to continue Case CP-14-2021. Board action was required to continue Case PD-49-2021 to meet public notification requirements.

Motion to continue Case PD-49-2021 to the November 15, 2021 Planning and Zoning Board meeting at 6:00 p.m.

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

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

Cases CP-14-2021 and PD-49-2021 will be heard by City Council on December 16, 2021

OLD/UNFINISHED BUSINESS:

1. **CP-9-2021 - Medley at Everlands - Greg Pettibon, Lennar Homes LLC (Scott Glaubitz, P.E., P.L.S., Rep.) - A large-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use and Single-Family Residential Use to Multiple-Family Residential Use. Part of Tax Parcel 1, Section 21, Township 28, Range 36 and Part of Tax Parcel 3, Section 28, Township 28, Range 36, Brevard County, Florida, containing approximately 96.66 acres. Northeast corner of Pace Drive NW and St. Johns Heritage Parkway NW**

Mr. Murphy presented the staff report for Case CP-9-2021. Staff recommended Case CP-9-2021 for approval.

Ms. Ana Saunders, P.E. with BSE Consultants, Inc. (representative for the applicant) stated that the north end of the subject site was being slightly modified to allow for villas and townhomes adjacent to Emerson Drive NW. She would work with staff to clarify in the City traffic calculations that the maximum residential units were for 840 proposed units.

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 CP-9-2021 to City Council for approval.

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

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

Case CP-9-2021 will be heard by City Council on November 18, 2021.

2. **PD-21-2021 - Medley at Everlands - Greg Pettibon, Lennar Homes LLC (Scott Glaubitz, P.E., P.L.S., Rep.) - A Preliminary Development Plan for a PUD to allow a development with a mixture of townhomes and single-family lots called Medley at Everlands. Part of Tax Parcel 1, Section 21, Township 28, Range 36 and Part of Tax Parcel 3, Section 28, Township 28, Range 36, Brevard County, Florida, containing approximately 291.11 acres. Northeast corner of Pace Drive NW and St. Johns Heritage Parkway NW**

Mr. Balter presented the staff report for Case PD-21-2021. Staff recommended Case PD-21-2021 for approval, subject to the staff comments contained in the staff report.

Ms. Ana Saunders, P.E. with BSE Consultants, Inc. (representative for the applicant) stated that the applicant did not have any problems with the conditions of the staff report. She would work with staff to reconcile the stormwater calculations in the technical comments by the Public Works Department.

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 PD-21-2021 to City Council for approval, subject to the staff comments 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, Maragh, Warner.

Case PD-21-2021 will be heard by City Council on November 18, 2021.

3. **CP-10-2021 - FP&L IBIS Solar Energy Center - Michael Sole, Florida Power & Light (Jake Wise, P.E., Rep.) - A large-scale Comprehensive Plan Future Land Use Map amendment from Agricultural (Brevard County), R1:2.5 (Brevard County), and Centerlane Use (City) to Utilities Use. Tax Parcel 250 of Section 29, Township 30, Range 37, Tax Parcels 1 and 3 of Section 30, Township 30, Range 37, and Tax Parcel 1 of Section 31, Township 30, Range 37, Brevard**

County, Florida, containing approximately 3,266.49 acres. Two miles west of Babcock Street, in the vicinity north of the Indian River County line

Mr. Murphy presented the staff report for Case CP-10-2021. Staff recommended Case CP-10-2021 for approval.

Mr. Boothroyd questioned whether the subject 3,266.49-acre site would only be servicing 15,000 homes.

Mr. Bart Gaetjens, external affairs manager with Florida Power & Light Company (FP&L) (applicant) introduced the Ibis Solar Energy Center as a solar facility project that would generate clean emission-free energy while keeping reliability high and customer bills well below the national average. The project would advance sustainability with a reduced carbon footprint.

Mr. Geoffrey West (project director for Florida Power & Light Company and project manager for the proposal) gave a presentation on the subject request and how FP&L was making Florida a leader in clean energy and sustainability. FP&L currently operated four solar energy centers in Brevard County, including an existing facility in Palm Bay. The proposed solar energy center would be similar to their existing Palm Bay facility located east of the subject site. The new facility would not take up the entire property, and the remaining land would be held for future solar energy use. The project would create local jobs, training, and educational opportunities. It would provide approximately \$7 million in tax revenue, and power 15,000 homes. Construction was anticipated late 2023 or early 2024.

Ms. Maragh was pleased that the Audubon Society would be working with the applicant regarding vegetation. She inquired about the 500 acres to be developed on the 3,266.49-acre site. Mr. West explained that the proposed facility would be located on approximately 500 acres and reiterated that the remaining land would be developed in the future.

Mr. Boothroyd asked if the 500 acres would be servicing the 15,000 homes. Mr. West confirmed that this was correct. Development on the remaining portion of land would require administrative site plan approval, and each future 74.50-megawatt project would service 15,000 homes.

The floor was opened for public comments.

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke in favor of the request. He stated that solar energy fields had demonstrated their capabilities. However, the City had not received tax revenue from the property since 2014, the land use change would result in a loss of conservation land, and there would be a loss of potential tax revenue in the future. He stated that the applicant was accomplishing something positive and should also make their presentation to the Sustainability Advisory Board.

In response to public comments, Mr. West stated that solar energy sites paid taxes. Even with the tax exemption on the solar infrastructure, approximately \$250,000 was paid a year in taxes, equating to \$7 million in tangible property taxes over the life of the project. He was willing to make a presentation to the Sustainability Advisory Board. Mr. Gaetjens added his agreement regarding a presentation to the Sustainability Advisory Board. Mr. Weinberg suggested that the applicant make arrangements through the City Manager.

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

Motion to submit Case CP-10-2021 to City Council for approval.

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

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

Case CP-10-2021 will be heard by City Council on November 18, 2021.

4. **CPZ-10-2021 - FP&L IBIS Solar Energy Center - Michael Sole, Florida Power & Light (Jake Wise, P.E., Rep.) - A zoning amendment from General Use (Brevard County) to a GU, General Use Holding District. Tax Parcel 250 of Section 29, Township 30, Range 37, Tax Parcels 1 and 3 of Section 30, Township 30, Range 37, and Tax Parcel 1 of Section 31, Township 30, Range 37, Brevard County,**

Florida, containing approximately 3,266.49 acres. Two miles west of Babcock Street, in the vicinity north of the Indian River County line

Mr. Murphy presented the staff report for Case CPZ-10-2021. Staff recommended Case CPZ-10-2021 for approval, pursuant to all applicable City ordinances.

Mr. Weinberg noted that the site was located two miles west of Babcock Street.

Mr. Bart Gaetjens, external affairs manager with Florida Power & Light Company (FP&L) (applicant) and Mr. Geoffrey West (project director for Florida Power & Light Company and project manager for the subject proposal) were present.

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-10-2021 to City Council for approval, pursuant to all applicable City ordinances.

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

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

Case CPZ-10-2021 will be heard by City Council on November 18, 2021.

5. **CP-11-2021 - CONTINUED TO 12/01 P&Z - Eastshore - Andrew Steel, NSD Palm Bay IV, LLC (Ana Saunders, P.E. and Miguel Reynaldos, Reps.) - A small- scale Comprehensive Plan Future Land Use Map amendment from Industrial Use to Bayfront Mixed Use. Tax Parcels 250 and 254, Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 7.11 acres. Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Drive NE**

Case CP-11-2021 was discussed under Announcements, Item 2.

6. **CPZ-11-2021 - CONTINUED TO 12/01 P&Z - Eastshore - Andrew Steel, NSD Palm Bay IV, LLC (Ana Saunders, P.E. and Miguel Reynaldos, Reps.) - A zoning amendment from an LI, Light Industrial and Warehousing District to a BMU, Bayfront Mixed Use District. Tax Parcels 250 and 254, Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 7.11 acres. Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Drive NE**

Case CPZ-11-2021 was discussed under Announcements, Item 2.

NEW BUSINESS:

1. **CP-14-2021 - Palm Vista at Everlands Phase II - Greg Pettibon, Lennar Homes, LLC (Scott Glaubitz, P.E., P.L.S. or assignee, BSE Consultants, Inc., Rep.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use and Single-Family Residential Use to Multiple-Family Residential Use and Single-Family Residential Use. Part of Tax Parcel 1 and Tax Parcel 252, Section 21, Township 28, Range 36, Brevard County, Florida, containing approximately 26.67 acres. In the vicinity east of St. Johns Heritage Parkway NW and north of Emerson Drive NW**

Case CP-14-2021 was discussed under Announcements, Item 3.

2. **PD-49-2021 - Palm Vista at Everlands Phase II - Greg Pettibon, Lennar Homes, LLC (Scott Glaubitz, P.E., P.L.S. or assignee, BSE Consultants, Inc., Rep.) - Preliminary Development Plan for a PUD to allow a 638-unit residential development called Palm Vista at Everlands Phase II. Part of Tax Parcel 1 and Tax Parcel 252, Section 21, Township 28, Range 36, Brevard County, Florida, containing approximately 26.67 acres. In the vicinity east of St. Johns Heritage Parkway NW and north of Emerson Drive NW**

Case PD-49-2021 was discussed under Announcements, Item 3.

3. **CP-16-2021 - Hossein Rezvani (Alexander M. Fundora, Rep.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Public/Semi-Public Use to Single-Family Residential Use. Tract A, Port Malabar Unit 11,**

Section 8, Township 29, Range 37, Brevard County, Florida, containing approximately 11.91 acres. South of and adjacent to Coconut Street SE, in the vicinity west of Emerson Drive SE

Mr. Murphy presented the staff report for Case CP-16-2021. Staff recommended Case CP-16-2021 for approval subject to staff comments.

Mr. Alexander Fundora, chief operating officer with Black Stallion Enterprises, Inc. (representative for the applicant) stated that he was currently under contract to purchase the subject property. His plan was to develop a maximum 40-unit residential subdivision based on the RS-2, Single-Family Residential zoning district. An initial environmental study had been done, sewer would be brought from Emerson Drive to the site, and all other requirements would be met. The project was previously approved for Single-Family Residential Use but was never submitted to the State.

Mr. Boerema asked if the development would be a fenced and gated community. Mr. Fundora stated that he had not anticipated the one-loop road subdivision as a fenced and gated community. He planned to give the road back to the City.

Ms. Maragh asked whether a Citizen Participation Plan (CPP) meeting had been required. Mr. Murphy stated that a CPP meeting would be required if a Planned Unit Development was proposed, but a conventional subdivision under the RS-2 designation would not require a CPP meeting. However, a future plan submittal would be discussed with staff.

The floor was opened for public comments.

Ms. Donna O'Connor (resident at Coconut Street SE) spoke against the request. She stated that there was already a drainage problem in the area. The sole access onto Coconut Street, which was a single lane, was a concern as there was also a traffic problem in the area.

Ms. Sheryl Smith (resident at Coconut Street SE) spoke against the request. There was too much traffic on Coconut Street and a problem with speeders. The proposed lots would be smaller than the current lots in the surrounding area, scrub jay and

tortoise habitat would likely be affected, and 59 more homes would impact school capacity. She was concerned about emergency responses with the single access.

Mr. Benny Woodley (resident at Campina Avenue SE) spoke against the request. He was concerned about a single-access development generating approximately 150 cars. He did not want smaller lots in the area.

In response to public comments, Mr. Fundora stated that a traffic study would be done for the project. Sewer would be brought to the site and the pump station to be installed should help with area drainage. He explained that approximately 38 units would likely be approved under the RS-2 district. There was also a back access to the site off Starland Street SE. He noted that an additional environmental study was required; however, no endangered species had been determined by the initial environmental analysis.

Mr. Murphy explained that the requested land use category allowed for a maximum 5 units per acre for a higher density planned unit development; however, with acreage set aside for roads and stormwater, development would typically be 3 to 3.5 units per acre. The surrounding area was zoned RS-2 with quarter-acre lots at 4 units per acre. New developments must also meet onsite retention requirements.

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

Mr. Warner wanted to know if the land use request would have to be submitted to the State. Mr. Murphy stated that the case was now considered a small-scale amendment under new State regulations and would not have to go through State review.

Motion to submit Case CP-16-2021 to City Council for approval subject to staff comments.

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

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

Case CP-16-2021 will be heard by City Council on December 2, 2021.

OTHER BUSINESS:

1. The board was reminded that a special Planning and Zoning Board meeting was scheduled for Monday, November 15, 2021, at 6:00 p.m.

ADJOURNMENT:

The meeting was adjourned at approximately 8:04 p.m.

Philip Weinberg, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

****Quasi-Judicial Proceeding**



MEMORANDUM

DATE: December 1, 2021

SUBJECT: Special Meeting 2021-13; November 15, 2021

ATTACHMENTS:

Description

- ▣ **P&Z/LPA Minutes - Special Meeting 2021-13; November 15, 2021**

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
SPECIAL MEETING 2021-13

Held on Monday, November 15, 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 6:00 p.m.

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

ROLL CALL:

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

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

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. Balter announced the various City Council hearing dates for the cases on the agenda.

Ms. Maragh joined the meeting at 6:04 p.m.

3. Mr. Weinberg announced that New Business Items 9 and 10, Cases CP-18-2021 and CPZ-18-2021 (Willard Palmer, represented by Scott M. Glaubitz, P.E., P.L.S., or assignee, BSE Consultants, Inc.), would be heard prior to Item 1 under New Business.

OLD/UNFINISHED BUSINESS:

1. **CP-14-2021 - Palm Vista at Everlands Phase II - Greg Pettibon, Lennar Homes, LLC (Scott Glaubitz, P.E., P.L.S. or assignee, BSE Consultants, Inc., Rep.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use and Single-Family Residential Use to Multiple-Family Residential Use and Single-Family Residential Use. Part of Tax Parcel 1 and Tax Parcel 252, Section 21, Township 28, Range 36, Brevard County, Florida, containing approximately 26.67 acres. In the vicinity east of St. Johns Heritage Parkway NW and north of Emerson Drive NW**

Mr. Balter presented the staff report for Case CP-14-2021. Staff recommended Case CP-14-2021 for approval.

Ms. Ana Saunders, P.E. with BSE Consultants, Inc. (representative for the applicant) stated that the subject proposal was an extension of the Palm Vista Medley development that was recently approved by the board.

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 CP-14-2021 to City Council for approval.

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

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

Case CP-14-2021 would be heard by City Council on November 18, 2021.

2. ****PD-49-2021 - Palm Vista at Everlands Phase II - Greg Pettibon, Lennar Homes, LLC (Scott Glaubitz, P.E., P.L.S. or assignee, BSE Consultants, Inc., Rep.) - Preliminary Development Plan for a PUD to allow a 638-unit residential development called Palm Vista at Everlands Phase II. Part of Tax Parcel 1 and all of Tax Parcel 252, Section 21, Township 28, Range 36, Brevard County, Florida, containing approximately 158.69 acres. East of and adjacent to St. Johns Heritage Parkway NW, and north of Emerson Drive NW**

Mr. Balter presented the staff report for Case PD-49-2021. Staff recommended Case PD-49-2021 for approval, subject to the staff comments contained in the staff report.

Ms. Ana Saunders, P.E. with BSE Consultants, Inc. (representative for the applicant) stated that during the Citizen Participation Plan (CPP) meeting for the project, area residents voiced an issue with drainage near the northeast corner of the property. She wanted to facilitate discussions between the residents and the Public Works Department.

Ms. Maragh asked if there were further concerns raised at the CPP meeting. She inquired whether the development would be a 55-plus community, and if the applicant was in agreement with all staff comments. Ms. Saunders indicated that there were no other concerns discussed at the CPP meeting. Mr. Greg Pettibon (applicant) stated that the subject phase would not be age restricted. He indicated his agreement with all staff comments.

Mr. Balter informed the applicant that a new School Board Determination Letter was required since the applicant had submitted the project as an age-restricted development.

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 PD-49-2021 to City Council for approval, subject to the staff comments contained in the staff report and a new Brevard County School Board Concurrency Letter submittal.

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

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

Case PD-49-2021 would be heard by City Council on November 18, 2021.

NEW BUSINESS:

New Business Item 9, Case CP-18-2021, and Item 10, Case CPZ-18-2021, were heard at this time.

9. **CP-18-2021 - Malabar Storage - Willard Palmer (Scott M. Glaubitz, P.E., P.L.S. or assignee, BSE Consultants, Inc., Rep.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Parkway Flex Use to Commercial Use. Tax Parcel 750, Section 32, Township 28, Range 36, Brevard County, Florida, containing approximately 9.75 acres. North of and adjacent to Malabar Road SW, in the vicinity west of St. Johns Heritage Parkway NW**

Mr. Balter presented the staff report for Case CP-18-2021. Staff recommended Case CP-18-2021 for approval, subject to conditions.

Ms. Ana Saunders, P.E. with BSE Consultants, Inc. (representative for the applicant) stated the applicant was in agreement with all staff comments. The subject site was being readdressed as it was not geographically part of the St. Johns Heritage Parkway.

Mr. Warner inquired whether the land use was being changed in anticipation of future apartments. Ms. Saunders stated that the requested change was to correct the land use since the property was not on the Parkway.

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 CP-18-2021 to City Council for approval, subject to the staff comments contained in the staff report.

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

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

Case CP-18-2021 would be heard by City Council on December 16, 2021.

10. ****CPZ-18-2021 - Malabar Storage - Willard Palmer (Scott M. Glaubitz, P.E., P.L.S. or assignee, BSE Consultants, Inc., Rep.) - Zoning amendment from a PMU, Parkway Mixed Use District to a CC, Community Commercial District. Tax Parcel 750, Section 32, Township 28, Range 36, Brevard County, Florida, containing approximately 9.75 acres. North of and adjacent to Malabar Road SW, in the vicinity west of St. Johns Heritage Parkway NW**

Mr. Balter presented the staff report for Case CPZ-18-2021. Staff recommended Case CPZ-18-2021 for approval.

Mr. Warner questioned if the property could be resubmitted for a rezoning if the storage facility planned for the site was not built. Mr. Balter stated that a rezoning could be requested if the storage facility was not constructed, but the CC district allowed for a variety of commercial uses, so another rezoning would be unlikely.

Ms. Ana Saunders, P.E. with BSE Consultants, Inc. (representative for the applicant) stated that the applicant desired the CC zoning designation; another rezoning was not anticipated.

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-18-2021 to City Council for approval.

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

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

Case CPZ-18-2021 would be heard by City Council on December 16, 2021.

The board resumed consideration of items in the order that was set by the agenda.

1. ****CU-42-2021 - Wal-Mart MFC Warehouse Extension - Wal-Mart Stores East LP (Andrew J. Petersen, Rep.) - Amendment to an existing Conditional Use to allow an automated warehouse facility. Lot 1, Wal-Mart at Palm Bay, Section 5, Township 29, Range 37, Brevard County, Florida, containing approximately 28.97 acres. South of and adjacent to Malabar Road SE, in the vicinity east of Corporate Way SE, specifically at 1040 Malabar Road SE**

Mr. Balter presented the staff report for Case CU-42-2021. Staff recommended Case CU-42-2021 for approval, subject to the staff comments contained in the staff report.

Ms. Maragh asked about the architectural requirements for the proposed building. Mr. Balter stated that per City code, the proposed building must match the existing building.

Mr. Andrew Petersen, P.E. with Bowman Consulting Group (representative for the applicant) stated that the applicant was in agreement with the staff recommendation.

Mr. Warner asked about the location of the expansion. Mr. Petersen indicated the proposed location at the east side of the existing building. The expansion would allow for an online pick-up service.

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-42-2021 to City Council for approval, subject to the staff comments contained in the staff report.

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

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

Case CU-42-2021 would be heard by City Council on December 2, 2021

2. ****Z-45-2021 - Palm Bay Storage - Roth Freedom 2010 LLC and Linda N. Shah (Nathan Lee, Kimley-Horn, Rep.) - Zoning change from a CC, Community Commercial District to a GC, General Commercial District. Tax Parcel 12, Section 9, Township 29, Range 37, Brevard County, Florida, containing approximately 6.28 acres. West of and adjacent to Babcock Street SE, in the vicinity south of Foundation Park Boulevard SE**

Mr. Murphy presented the staff report for Case Z-45-2021. Staff recommended Case Z-45-2021 for approval.

Ms. Kristina Belt, civil engineer with Kimley-Horn (representative for the applicant) stated that the subject request was a minor change to allow the site to be developed with a self-storage facility.

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 Z-45-2021 to City Council for approval.

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

Mr. Warner inquired whether a traffic study was required for the subject request. Ms. Belt stated that a traffic study would be required during the administrative site plan review. Mr. Murphy added that this was correct and that the analysis would be based on the amount of peak hour trips the submitted proposal would generate.

Ms. Maragh inquired whether the project would come before the board and City Council. Mr. Murphy stated that a self-storage facility on less than ten acres would be a permitted use in the GC district and would not require board and City Council review.

A vote was called on the motion to submit Case Z-45-2021 to City Council for approval.

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

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

Case Z-45-2021 would be heard by City Council on December 2, 2021.

3. ****CU-46-2021 - Giant Recreation World - Joe McNamara, Recreation World, Inc. (David Tom, P.E, Construction Engineering Group, LLC, Rep.) - Amendment to an existing Conditional Use to allow a proposed RV detail shop and customer delivery building. Part of Tract A, Port Malabar Unit 21 Second Replat, Section 19, Township 28, Range 37, Brevard County, Florida, containing approximately 4.06 acres. East of and adjacent to Culver Drive NE, in the vicinity north and south of Centre Lake Drive NE, specifically at 1355 Culver Drive NE**

Mr. Murphy presented the staff report for Case CU-46-2021. Staff recommended Case CU-46-2021 for approval, subject to the staff conditions.

Mr. Murphy noted that employee bathrooms had been added to the proposal; the revision would be submitted to City Council.

Mr. Jake Wise, P.E. with Construction Engineering Group (civil engineer and representative for the applicant) stated the intent to develop the remaining four acres of the Giant Recreation World site to provide a larger area for RV detailing prior to sales. The facility was not for public access so no additional traffic trips would be generated and no additional driveways or driveway modifications were required. A resident's request during the Citizen Participation Plan (CPP) meeting to increase the buffer area along the southern boundary had been agreed to. Since employee bathrooms were now proposed by the applicant, potable water and sewer would be extended to the building. A fire sprinkler system would also be installed inside the building. He noted that if the City still desired, the applicant would work with the Engineering Division to establish a drainage easement along the southern property line.

Ms. Maragh asked if there was an actual number of trees on the site to be saved. Mr. Murphy explained that there were exceptional specimen trees indicated on the submitted conceptual plan that must be preserved. Mr. Wise indicated some large oak trees on the property that the development was being designed around.

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-46-2021 to City Council for approval, subject to the staff conditions.

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

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

Case CU-46-2021 would be heard by City Council on December 2, 2021.

4. ****FD-47-2021 - Gardens at Waterstone Phase III - Benjamin E. Jefferies, Waterstone Farms, LLC (Jake Wise, P.E., P. Michael Evans, Rochelle W. Lawandales, FAICP, Reps.) - Final Development Plan to allow a proposed PUD for a 171-unit residential development called Gardens at Waterstone Phase III. Part of Tract 1, San Sebastian Farms, Section 5, Township 30, Range 37, Brevard County, Florida, containing approximately 47.99 acres. In the vicinity west of Mara Loma Boulevard SE and south of Melbourne Tillman Water Control District Canal 38**

Mr. Balter presented the staff report for Case FD-47-2021. Staff recommended Case FD-47-2021 for approval, subject to the staff comments contained in the staff report.

Mr. Jake Wise, P.E. with Construction Engineering Group (civil engineer and representative for the applicant) stated that the subject request was the last phase of the residential portion of Cypress Bay East and Waterstone developments. Each of the phases stood on its

own, but the different amenities would be shared. He informed the board that there were no attendees at the Citizen Participation Plan (CPP) meeting, and that the applicant was in agreement with the staff conditions. The subject phase would be gated, and the roads would be built to City standards but privately maintained. The proposed development would also utilize the lift station located in Phase I for sewer. The multiple phases were master planned for both utilities and stormwater.

The floor was opened for public comments.

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke against the City taking over roads for the development in the future since the public would be unable to access the gated community.

In response to public comments, Mr. Balter explained that the staff condition regarding Chapter 182 ensured that the applicant understood that if any phase of the multi-phase development requested roads to be taken over by the City in the future, the process would occur through Chapter 182. The roads were currently slated to be private.

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

Motion to submit Case FD-47-2021 to City Council for approval, subject to the staff comments contained in the staff report.

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

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

Case FD-47-2021 would be heard by City Council on December 2, 2021.

5. **CP-13-2021 - Jupiter Bay - Gregory Sachs, Sachs Capital Group, LP and Gerald Lakin, Identical Investments, LLC (Bruce Moia, P.E. and David Bassford, P.E., MBV Engineering, Inc. / Kim Rezanka, Lacey Lyon Rezanka Attorneys at Law, Reps.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Single-Family Residential Use to Mixed Use. Tax Parcels 750 and 751, along with Tract K of Port Malabar Unit 10, Section 6, Township 29, Range 37, Brevard County, Florida, containing approximately 23.86 acres. Southwest corner of Jupiter Boulevard SE and Brevard Avenue SE**

Mr. Murphy presented the staff report for Case CP-13-2021. Staff concluded that should the board and City Council approve Case CP-13-2021, certain conditions should apply.

Ms. Kim Rezanka with Lacey Lyon Rezanka Attorneys at Law (representative for the applicant) stated that the subject site was before the board in March under a different procedural mechanism, and she provided the board with a conceptual site rendering and information regarding Jo Daddy's, the golf course that was once on the property. The intent of the subject request was to construct townhomes in the residential area and include three commercial lots on the west end of the site. The property was near two schools. However, the former golf course was a lighted course that had operated from 7:00 a.m. to 11:00 p.m. and served beer and food in their clubhouse. Although the property was currently zoned RR, the site was in the middle of single-family homes of different sizes. She stated that each of the proposed townhomes would be privately owned and a minimum of 1,400 square feet. A preliminary traffic analysis had indicated 81 traffic trips for morning peak hours during school hours and 169 traffic trips for evening peak hours. The evening peak hours should not affect or coincide with the after-school traffic. A Citizen Participation Plan (CPP) meeting was held and attended by 13 residents. The residents were assured that the townhomes would not be rentals, a vegetative buffer would be located on the north and east property lines, and an 8-foot-high fence would be erected along the east side of the property. Traffic was also a concern.

Mr. Warner asked if the Jupiter Boulevard access would be the only access for the project. Ms. Rezanka stated that this was correct and that the area residents did not want an access onto Brevard Avenue.

Ms. Maragh asked if there were other issues discussed at the CPP meeting. Ms. Rezanka stated that lighting was also discussed, which would be addressed during the site plan stage.

Mr. Warner wanted to know the difference between the initial and subject applications. Mr. Bruce Moia with MBV Engineering, Inc. (representative for the applicant) explained that the first submittal was a straight rezoning without a development plan. The current submission had a companion development plan to alleviate City Council concerns.

The floor was opened for public comments.

Mr. Scott Wall DeSousa (resident at Hatcher Street SE) spoke in favor of the request. He stated that the project would be a huge benefit to the area as it would bring in sewer lines that residents could connect into.

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke against the request. He stated that only two percent of vacant RR land remained in the City, and the subject proposal would eliminate one of those few sites. He questioned why the applicant was allowed to resubmit a same request that City Council had recently denied. The denial should require a one-year wait as there was no major change to the request. He commented that regardless of peak hours, traffic was a safety hazard when vehicles had to cross the double yellow lines to maneuver around traffic, and additional commercial business would add to the complication.

In response to public comments. Mr. Moia stated that the subject site was not truly rural property, and Jupiter Boulevard was a major collector road that was compatible with commercial use. He said that school traffic was an issue that would be addressed as best as possible.

The floor was closed for public comments, and two items of correspondence were in the file from a resident in opposition to the request.

Motion to submit Case CP-13-2021 to City Council for approval, subject to the staff conditions contained in the staff report.

Motion by Mr. Jordan, seconded by Mr. Hill.

Mr. Warner was not in favor of residential development of the property with a single access onto a busy collector road. The project did not seem right for the site.

Ms. Maragh asked why the previously denied request could be resubmitted in less than a year. Mr. Murphy stated that the former Growth Management Director had ruled that applications for the request could be resubmitted since the subject proposal was for a different land use and zoning, and there was now a site-specific plan. Ms. Cockcroft added that the City Attorney had also ruled that the initial and present submittals were not the same.

Mr. Weinberg commented on how traffic was a concern that would have to be addressed. It was unlikely that the subject location would be considered for RR use, and Palm Bay was in need of variety in housing.

Motion amended to submit Case CP-13-2021 to City Council for approval, subject to the staff conditions contained in the staff report, an additional vegetative buffer on the north and east property lines, and an 8-foot-high fence on the east property line.

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

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

Case CP-13-2021 would be heard by City Council on January 6, 2022.

6. ****PD-48-2021 - Jupiter Bay - Gregory Sachs, Sachs Capital Group, LP and Gerald Lakin, Identical Investments, LLC (Bruce Moia, P.E. and David Bassford, P.E., MBV Engineering, Inc. / Kim Rezanka, Lacey Lyon Rezanka Attorneys at Law, Reps.) - Preliminary Development Plan to allow a proposed PUD for a 179-unit mixed use development called Jupiter Bay. Tax Parcels 750 and 751, along with Tract K of Port Malabar Unit 10, Section 6, Township 29, Range 37, Brevard County, Florida, containing approximately 23.86 acres. Southwest corner of Jupiter Boulevard SE and Brevard Avenue SE**

Mr. Murphy presented the staff report for Case PD-48-2021. Staff recommended Case PD-48-2021 for approval, subject to the staff comments.

Ms. Kim Rezanka of Lacey Lyon Rezanka Attorneys at Law (representative for the applicant) stated that one-acre lots and the rural uses permitted under the RR, Rural Residential zoning district did not make sense for the subject property. The proposed recreation tract and stormwater tracts were required by the PUD, and amenities included a clubhouse, swimming pool, pavilion, and walking path. The project offered a different housing product for the City, and the commercial acreage was appropriate for the area. The applicant had agreed to provide a vegetative buffer on the north and east property lines and an 8-foot-high fence along the east side of the

property. She stated that Parcel 752 was not owned by the applicant, so the access condition by staff could not be met.

Mr. Murphy stated that providing an access for Parcel 752 was a condition of the Public Works Department to prevent Parcel 752 from being landlocked. Ms. Rezanka was opposed to making the access a condition of approval since the owner of Parcel 752 might legally be obligated to compensate the applicant for access. Mr. Weinberg commented that the owner of Parcel 752 would have to negotiate with the applicant.

Ms. Cockcroft advised the board that the access condition could be eliminated. Ms. Rezanka and Mr. Murphy stated their agreement.

Mr. Murphy stated that the site exhibit showed a secondary access to the commercial parcel; however, the applicant had stated during the land use case that the project would have one access. Ms. Rezanka confirmed that there would be a secondary access as shown on the exhibit. The colored rendering provided during the land use request was for concept.

Mr. Boerema inquired whether a turn lane into the school could be constructed in front of the commercial parcels to help with the school traffic back up. Ms. Rezanka agreed to discuss the suggestion with the traffic engineer. Mr. Murphy added that there was an undesignated green area that could be utilized for a turn lane. The applicant and the City traffic engineer could work on the matter prior to submitting for Final Development Plan review.

Mr. Warner commented that there were potential homeowners that still desired to build on RR land, although not at the subject location.

The floor was opened for public comments.

Mr. Bill Battin (resident at Ocean Spray Street SW) was pleased about the walking trail for the project; however, calculating recreation for developments based on total park land in the City would reduce community parks and could eventually result in just Fred Poppe Regional Park to support the population. He was also concerned about the privately-owned townhomes being rented out by the owners.

The floor was closed for public comments, and two items of correspondence were in the file from a resident in opposition to the request.

Motion to submit Case PD-48-2021 to City Council for approval, subject to the staff comments, and elimination of the condition to provide access for Parcel 752.

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

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

Case PD-48-2021 would be heard by City Council on January 6, 2022.

7. **CP-17-2021 - The Landings at Bayside - John G. Noonan, Bishop, Signatory Diocese of Orlando (David Bassford, MBV Engineering, Inc. and Chip Bryan, Condev Properties, LLC, Reps.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Public/Semi-Public Use to Multiple Family Residential Use. Tract I-1, Bayside Lakes Commercial Center Phase 4, Section 30, Township 29, Range 37, Brevard County, Florida, containing approximately 21.00 acres. Southwest corner of Cogan Drive SE and Osmosis Drive SE**

Mr. Murphy presented the staff report for Case CP-17-2021. Staff recommended Case CP-17-2021 for approval, subject to conditions.

Mr. David Bassford, P.E. with MBV Engineering, Inc. (representative for the applicant) stated that a Citizen Participation Plan (CPP) meeting was held with approximately ten people in attendance. He also met with a couple who could not make the CPP meeting.

Ms. Maragh asked for an overview of the CPP meeting and the issues that were resolved. Mr. Bassford explained how area concerns would be addressed by relocating the recreation facilities away from the tract near Cogan Drive and the existing rear yards. A drainage pipe would be installed between Lots 19 through 21 of the Amberwood at Bayside Lakes development to convey drainage and leave green space, and matched fencing would be installed adjacent to existing fencing.

Mr. Boerema asked if the development would connect to Osmosis Drive. Mr. Murphy stated that the project would not connect to Osmosis Drive.

The floor was opened for public comments.

Mr. Steven Burkett (resident at Abernathy Circle SE) spoke against the request. He stated that he purchased his property in July specifically because of the environmental benefit of wooded areas and lakes in proximity. Video of a possible Florida panther was captured on his trail camera and submitted to the Florida Fish and Wildlife Conservation Commission in October for evaluation. Deer and eagles were also in the area.

Mr. Richard Hope (resident at Dillard Drive SE) spoke against the layout of the development. He was one of the original Amblerwood homeowners and had chosen his location with the understanding that the subject property would remain undeveloped. He stated that the development would affect 18 homes that would no longer have the benefit of the wildlife and trees, and his view would now be of a plastic fence. His home resale value would be affected by the proposed layout, smaller homes, and townhomes, which would lower other home values in the area. An additional 500 people in the area would increase traffic problems on Cogan Drive, and there was already a lack of commercial businesses to service the community.

Mr. Alan Jurison (resident at Dillard Drive SE) spoke against the request. He stated that he purchased his property because of the rear green space. There were 20 long needle pine trees on the subject site near his property that ranged from 10 feet to 60 feet. The wooded site had wildlife, including an eagle and hawks. He indicated Lots 19 through 21 of Amberwood on a revised site plan for the proposed project and reviewed the changes that the applicant had agreed to regarding green space, drainage, and fencing. The green space would alleviate drainage on Lots 19 through 21 and keeping existing trees in a widened green area could reduce the amount of replacement trees. He noted that an original drawing of Amberwood had shown 5-foot drainage easements on either side of Lots 20 and 21 that likely flowed into the storm sewer on the subject property and back into the Amberwood pond.

Ms. Maragh asked for clarification on the fence placement. Mr. Jurison believed the applicant planned to erect a fence line ten feet inside the subject property line to allow space for rear utility access.

Ms. Kimberly Jurison (resident at Dillard Drive SE) spoke against the request. She wanted clarification on the height and type of fence the applicant planned to erect. She purchased her home because of the privacy, peace, and beauty of the rear green space.

Mr. Gary Chaney (resident at Abernathy Circle SE) spoke against the request. He stated that Bayside Lakes was a well laid out community that Palm Bay had been proud of, and he was the first homeowner to build within the Holy Trace Subdivision. He was told that the subject property would be a church site. The community needed more public services and commercial land and not residential homes. The Majors Golf course was no longer an Arnold Palmer golf course and the vision for Bayside Lakes would continue to change if the subject development was allowed.

Mr. Bill Battin (resident at Ocean Spray Street SW) stated how Bayside Lakes was designed as a fully planned community, but landowners had a right to develop their property within reason. His concern was that zero taxes were currently paid on the subject site under the church designation. He did not want future site development to be exempt from taxes under a religious exemption.

Ms. Kim Chaney (resident at Abernathy Circle SE) spoke against the request. She commented on how development in the area had left wildlife with practically nowhere to reside. The wildlife, trees, and the environment were important to preserve.

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

In response to public comments, Mr. Weinberg clarified that the Diocese of Orlando was selling the property, so the site would be taxable.

Mr. Bassford submitted to the board the revised site plan that would address the concerns raised by the residents. Green area was set aside adjacent to Lots 19 through 21 of Amberwood. If a Florida panther was on the site, the issue would be

addressed during the environmental assessment. Eagles were federally tracked, and the closest eagle to the site was in the Town of Grant-Valkaria. The townhomes were proposed for the project at staff's recommendation. He stated that a ten-foot buffer was planned adjacent to the Amberwood lots, but some trees within the buffer would need to be removed if a drainage pipe was installed. The fence would actually be placed against the Amberwood boundary to allow access for maintenance. The applicant was willing to provide the type of fencing desired by the adjacent property owners.

Mr. Boothroyd asked if the trees and shrubs on Tract C would remain untouched. Mr. Bassford remarked that to the greatest extent possible, the trees on Tract C would be preserved. However, shrubs would likely be removed to maintain the onsite drainage structure.

Ms. Maragh asked if the applicant planned to place fencing adjacent to existing fences. Mr. Bassford clarified that fencing would not be installed where there was existing fencing.

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

Motion to submit Case CP-17-2021 to City Council for approval, subject to staff conditions.

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

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

Case CP-17-2021 would be heard by City Council on December 16, 2021.

8. ****PD-50-2021 - The Landings at Bayside - John G. Noonan, Bishop, Signatory Diocese of Orlando (David Bassford, MBV Engineering, Inc. and Chip Bryan, Condev Properties, LLC, Reps.) - Preliminary Development Plan to allow a proposed PUD for a 123-unit residential development called The Landings at Bayside. Tract I-1, Bayside Lakes Commercial Center Phase 4, Section 30,**

Township 29, Range 37, Brevard County, Florida, containing approximately 21.00 acres. Southwest corner of Cogan Drive SE and Osmosis Drive SE

Mr. Murphy presented the staff report for Case PD-50-2021. Staff recommended Case PD-50-2021 for approval, subject to the staff comments.

Mr. David Bassford, P.E. with MBV Engineering, Inc. (representative for the applicant) was present.

Ms. Jordan asked if the board was to review the revised site plan. Mr. Bassford stated that the revised site plan would be submitted with the Final Development Plan, and that the revisions alleviated adjacent neighboring concerns.

Mr. Warner inquired about the Bayside Lakes Commercial Center referenced on the submitted plan. Mr. Murphy explained that the subject site was a tract within a phase of the Bayside Lakes Commercial Center. The subject site was originally an Institutional Use tract designated for potential church use. The property was deemed surplus by the church and was now being sold.

Mr. Murphy stated that if the applicant was proposing a six-foot high fence along the Amberwood at Bayside Lakes boundary, the fence should be a consistent homogeneous structure in opacity and type. Mr. Bassford was in agreement but stated that the abutting property owners must also agree since the fence would be located on the boundary line to allow for maintenance. The rear sections of the abutting fences would be replaced by the applicant for uniformity.

Mr. Warner addressed the residents in the audience regarding the decisions made by the board.

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 PD-50-2021 to City Council for approval, subject to the staff comments.

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

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

Case PD-50-2021 would be heard by City Council on December 16, 2021.

9. **CP-18-2021 - Malabar Storage - Willard Palmer (Scott M. Glaubitz, P.E., P.L.S. or assignee, BSE Consultants, Inc., Rep.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Parkway Flex Use to Commercial Use. Tax Parcel 750, Section 32, Township 28, Range 36, Brevard County, Florida, containing approximately 9.75 acres. North of and adjacent to Malabar Road SW, in the vicinity west of St. Johns Heritage Parkway NW**

Case CP-18-2021 was discussed as the first item under New Business.

10. ****CPZ-18-2021 - Malabar Storage - Willard Palmer (Scott M. Glaubitz, P.E., P.L.S. or assignee, BSE Consultants, Inc., Rep.) - Zoning amendment from a PMU, Parkway Mixed Use District to a CC, Community Commercial District. Tax Parcel 750, Section 32, Township 28, Range 36, Brevard County, Florida, containing approximately 9.75 acres. North of and adjacent to Malabar Road SW, in the vicinity west of St. Johns Heritage Parkway NW**

Case CPZ-18-2021 was discussed as the second item under New Business.

OTHER BUSINESS:

There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 8:52 p.m.

City of Palm Bay
Planning and Zoning Board/
Local Planning Agency
Special Meeting 2021-13
Minutes – November 15, 2021
Page 21 of 21

Philip Weinberg, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

**Quasi-Judicial Proceeding



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Christopher Balter, Senior Planner

DATE: December 1, 2021

SUBJECT: CP-11-2021 - Eastshore - Andrew Steel, NSD Palm Bay IV, LLC (Ana Saunders, P.E. and Miguel Reynaldos, Reps.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Industrial Use to Bayfront Mixed Use. Tax Parcels 250 and 254, Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 7.11 acres. Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Drive NE

ATTACHMENTS:

Description

- ▣ Case CP-11-2021 - Staff Report
- ▣ Case CP-11-2021 - Survey
- ▣ Case CP-11-2021 - Application



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmbayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

CP-11-2021

PLANNING & ZONING BOARD HEARING DATE

July 7, 2021

PROPERTY OWNER & APPLICANT

NSD Palm Bay IV, LLC

PROPERTY LOCATION/ADDRESS

Tax Parcels 250 and 254, Section 14, Township 28,
Range 37, Brevard County, Florida

SUMMARY OF REQUEST

The applicant is requesting a rezoning of the subject parcels from LI, Light Industrial and Warehousing District, to the BMU, Bayfront Mixed Use District.

Existing Zoning

LI, Light Industrial and Warehousing District

Existing Land Use

Industrial Use

Site Improvements

Undeveloped Land

Site Acreage

7.11 acres

SURROUNDING ZONING & USE OF LAND

North

LI, Light Industrial and Warehousing District Use; Vacant Land

East

Robert J. Conlan Boulevard NE

South

Commerce Park Drive NE

West

LI Zoning – 50' wide drainage ditch and RM-20, Multiple Family Residential District; Current under construction for an apartment complex

BACKGROUND:

The subject properties are located at the northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Drive NE. The parcels are undeveloped land since their creation.

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 (FLU)

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

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

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

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

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

The subject parcels are located within an existing multiple-family residential, industrial, and commercial area. The intended use for the 7.11-acre property is a mix of a Multi-Family Residential development and commercial uses. The proposed land use amendment would be considered compatible with the surrounding land uses and by providing a transition between the Commercial and Industrial land uses by providing a high-quality, diversified living environment. The development will further these goals by providing a mix of allowable uses on a property that has been unused and blighted for many years.

2. COASTAL MANAGEMENT ELEMENT

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

3. CONSERVATION ELEMENT

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

The subject property is not located within any of the Florida scrub-jay polygons identified in the City's Habitat Conservation Plan (HCP). No other protected species are known to inhabit the subject property. Any protected species that would be found on the subject property would need to be mitigated as required by State and Federal regulations and per Comprehensive Plan Policy CON-1.7B.

Recreation: The proposed FLU amendment would increase the demand for recreation services as compared to the existing Industrial Use. However, the requested use would not exceed the existing parkland or recreational level of service standards for the planning area. It shall be noted that the Recreation and Open Space Element of the City's Comprehensive Plan sets a LOS Standard of 2 acres per 1,000 residents. The city maintains public ownership of park-designated lands that far exceed this requirement.

4. HOUSING ELEMENT

The proposed FLU amendment does not adversely impact the supply and variety of safe, decent, attractive, and affordable housing within the City. Instead, it will serve to create additional multi-family housing opportunities needed in Palm Bay.

5. INFRASTRUCTURE ELEMENT

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

Utilities: The FLU change will not cause the level of service to fall below the standards adopted in the Comprehensive Plan for these services for the current planning period. Public water and sewerage facilities are available at the site. If developed, the owner/developer will be responsible for extending service to the site in accordance with current City regulations.

Drainage: If developed, a drainage plan must be prepared in accordance with current regulations and approved by the City, along with appropriate outside agencies, including the St. Johns River Water Management District. Any proposed stormwater management system will be reviewed and approved by the City during the site plan review process

6. INTERGOVERNMENTAL COORDINATION ELEMENT

Public Schools: The proposed FLU amendment to Bayfront Mixed Use will add housing units. Some impacts to the public-school system area are anticipated; however, considering the adjacent concurrency service areas, there is sufficient capacity.

7. RECREATION AND OPEN SPACE ELEMENT

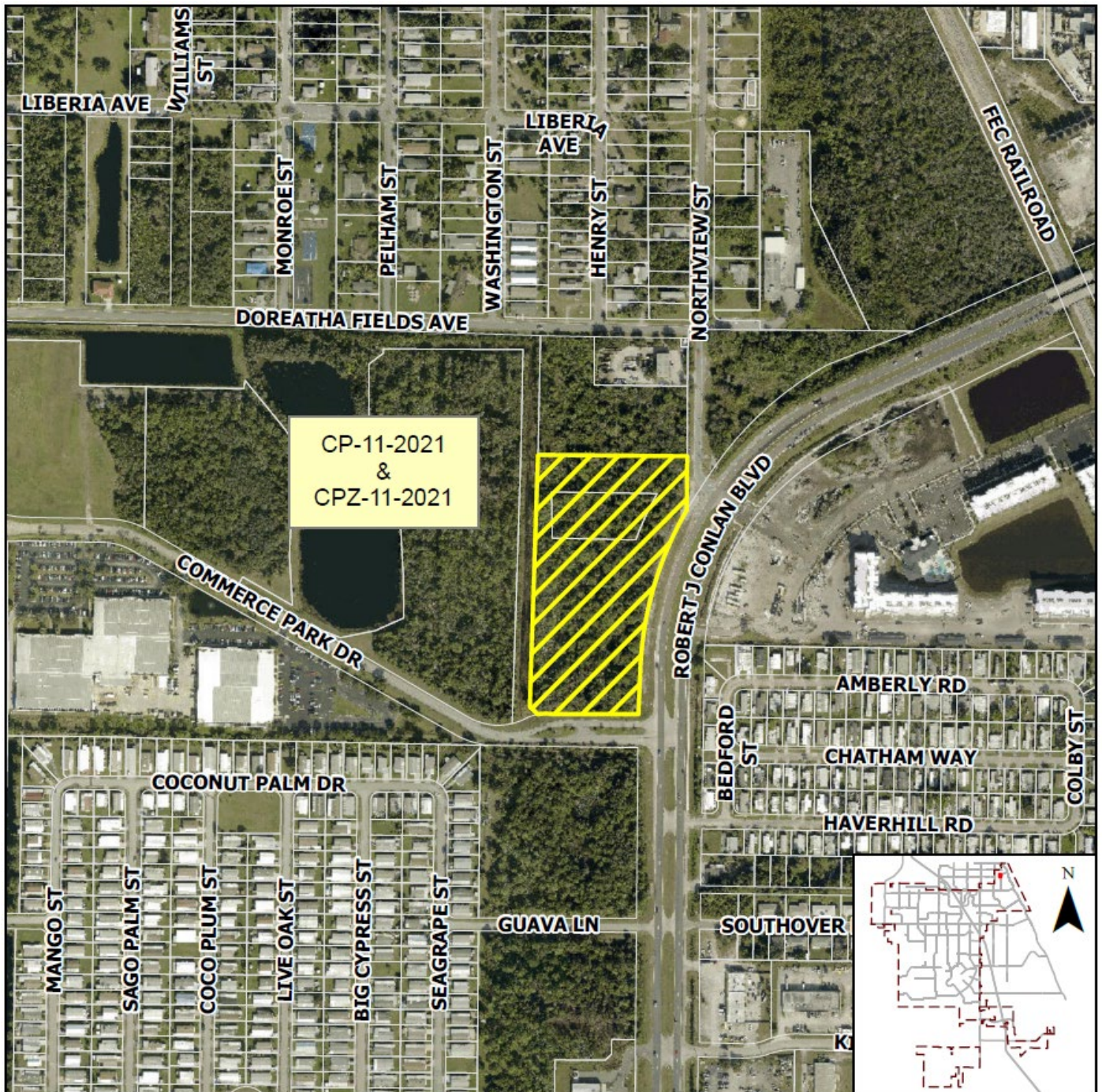
The objectives of the Comprehensive Plan's Transportation Element are to provide a safe, balanced, efficient transportation system that maintains roadway level of service and adequately serves the needs of the community. If developed, a traffic impact analysis will be required to determine any negative impacts on the existing transportation system along with any suggested improvements, which will be taken under consideration during the Site Plan review/approval process.

STAFF RECOMMENDATION:

Case CP-11-2021 is recommended for approval.



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



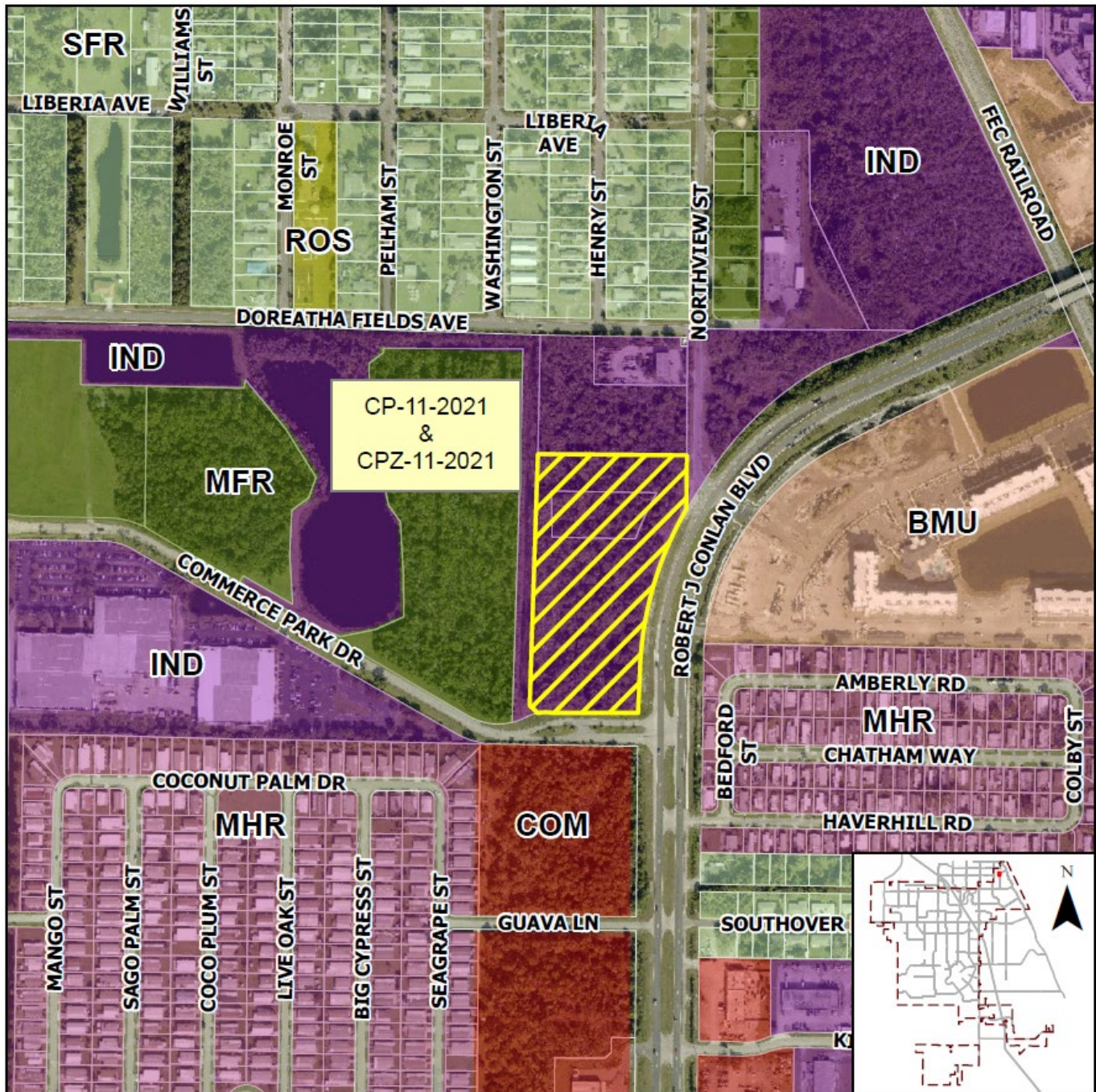
AERIAL LOCATION MAP CASE: CP-11-2021 & CPZ-11-2021

Subject Property

Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Road NE



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



FUTURE LAND USE MAP CASE: CP-11-2021 & CPZ-11-2021

Subject Property

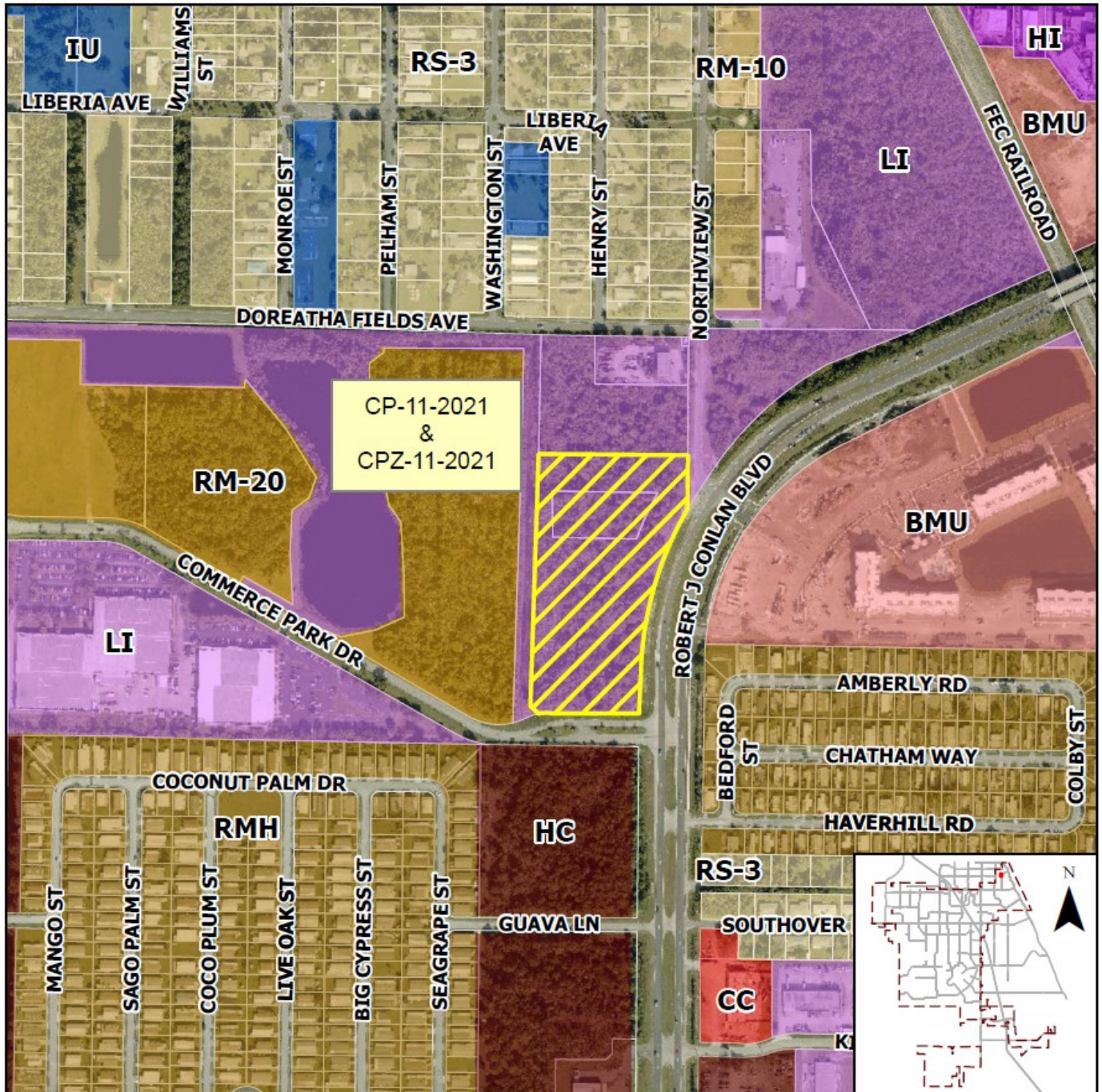
Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Road NE

Future Land Use Classification

IND – Industrial Use



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



ZONING MAP

CASE: CP-11-2021 & CPZ-11-2021

Subject Property

Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Road NE

Current Zoning Classification

LI – Light Industrial and Warehousing District



SCOTT M. GLAUBITZ
PROFESSIONAL LAND SURVEYOR
FLORIDA LICENSE NUMBER 4151

PART OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 2792, PAGE 2180, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL LYING AND BEING IN SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA

TO : WOODLAKE COMMERCE CENTER, WOODLAKE SOUTH-WEST NO. 2, LTD., NSD PALM BAY II, LLC, NSD PALM BAY III, LLC, NSD PALM BAY IV, LLC, COMMONWEALTH LAND TITLE INSURANCE COMPANY, SANFORD N. REINHARD, P.A. SHUTTS & BOWEN LLP, WEST SHORE VENTURE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, CAPITAL PARTNERS WEST SHORE INVESTOR, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND CENTENNIAL BANK, ITS SUCCESSORS AND/OR ASSIGNS

LESLIE E. HOWARD
PROFESSIONAL SURVEYOR & MAPPER
FLORIDA LICENSE NUMBER 5611

A/C AIR CONDITIONER

0729	WATER AVAILABLE TO WATER USE
0730	WATER, ON SIDE OF STREET
NTL	WATER MAIN LINE
NTL	WATER MAIN LINE
NTL	WATER MAIN LINE
0731	WATER MAIN LINE
0732	WATER MAIN LINE
0733	WATER MAIN LINE
0734	WATER MAIN LINE
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0798	WATER MAIN LINE
0799	WATER MAIN LINE
0800	WATER MAIN LINE

PAGE(S): 39-42

[illegible]

PROJECT TITLE

ALTA/NSPS SURVEY

11491

11491_100_005

1 of 2

THIS PROPERTY IS LOCATED IN FLOOD ZONE "X" (UNSHADED), ACCORDING TO THE FIRM FLOOD INSURANCE RATE MAP, MAP NUMBER 12008C0511G, MAP REVISED MARCH 17, 2014

THIS PROPERTY IS ZONED LIGHT INDUSTRIAL PER INFORMATION DETERMINED FROM THE CITY OF PALM BAY ZONING MAP AVAILABLE ON THE INTERNET AT THE FOLLOWING WEBSITE:
<https://gis.palmbayflorida.org/>

SURVEY OF A PARCEL OF LAND IN SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA.

SURVEY FOR BOUNDARY AND LOCATION OF VISIBLE ABOVEGROUND IMPROVEMENTS

UNDERGROUND IMPROVEMENTS AND/OR UTILITIES ARE NOT LOCATED OR SHOWN ON THIS SURVEY.

BEARING REFERENCE: ASSUMED BEARING OF N88°38'20"W ON THE NORTH RIGHT-OF-WAY LINE OF COMMERCE PARK DRIVE

THIS SURVEY IS SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

SURVEYOR RELIED SOLELY ON THE INFORMATION CONTAINED WITHIN THAT CERTAIN COMMONWEALTH LAND TITLE INSURANCE COMPANY, AMERICAN LAND TITLE ASSOCIATION COMMITMENT, ISSUING OFFICE FILE NUMBER: 41200012616, CUSTOMER'S FILE NUMBER: C200003332/ND PALM BAY IV TWR007063, COMMITMENT DATE: JULY 23, 2020 AT 5:00 AM FOR EASEMENT INFORMATION. NO OTHER INFORMATION REGARDING EASEMENTS WAS RESEARCHED BY, NOR PROVIDED TO, THE SURVEYOR DURING THE PERFORMANCE OF THIS SURVEY.

THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED PROFESSIONAL SURVEYOR AND MAPPER UNLESS ELECTRONICALLY SIGNED AND SEALED IN ACCORDANCE WITH FLORIDA STATUTES CHAPTER 472.025.

THIS SURVEY MEETS THE STANDARDS OF PRACTICE FOR SURVEYS AS REQUIRED BY FLORIDA STATUTES CHAPTER 472 AND THE MINIMUM TECHNICAL STANDARDS FOR SURVEYS AS REQUIRED BY CHAPTER 5A-17, FLORIDA ADMINISTRATIVE CODE.

THE LANDS SURVEYED AND DESCRIBED HEREON ARE CONTIGUOUS ALONG THEIR RESPECTIVE SOUTHERN BOUNDARIES WITH THE NORTHERN BOUNDARY OF COMMERCE PARK DRIVE WITH NO GAPS, GORES, OVERLAPS OR HIATUSES.

THE LANDS SURVEYED AND DESCRIBED HEREON ARE CONTIGUOUS ALONG THEIR EASTERN BOUNDARY WITH THE WESTERN BOUNDARY OF ROBERT J. CONNAN BOULEVARD, (ALSO KNOWN AS APOLLO II BOULEVARD), WITH NO GAPS, GORES, OVERLAPS OR HIATUSES.

THE LANDS SURVEYED AND DESCRIBED HEREON, (IDENTIFIED AS PARCEL ID: 28-37-14-00-250 PER BREVARD COUNTY PROPERTY APPRAISER AND PARCEL ID: 28-37-00-254, AS PER BREVARD COUNTY PROPERTY APPRAISER), ARE CONTIGUOUS ALONG THEIR RESPECTIVE COMMON BOUNDARY LINES WITH NO GAPS, GORES, OVERLAPS OR HIATUSES.

THE LANDS SURVEYED AND DESCRIBED HEREON ARE PART OF THAT CERTAIN 47.38 ACRE PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 2792, PAGE 2180, LESS AND EXCEPT THOSE CERTAIN LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 5478, PAGE 1513 AND ALSO LESS AND EXCEPT THOSE CERTAIN LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 7557, PAGE 476.

DATE OF LAST FIELD WORK: 09/22/2020

PROPERTY ADDRESS: 2351 COMMERCE PARK DRIVE NE, PALM BAY, FLORIDA 32905

ALTA TABLE ITEM 16: NO EVIDENCE OF EVIDENCE OF RECENT EARTH MOVING WORK, BUILDING CONSTRUCTION, OR BUILDING ADDITIONS OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK

ALTA TABLE A ITEM 17: NO INFORMATION REGARDING PROPOSED CHANGES IN STREET RIGHT OF WAY LINES WAS MADE AVAILABLE TO THE SURVEYOR BY THE CONTROLLING JURISDICTION. NO EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK

ALTA TABLE ITEM 18: WETLAND INFORMATION AND LOCATION SHOWN WAS TAKEN FROM A TOPOGRAPHIC SURVEY PREPARED BY THIS COMPANY, DRAWING NUMBER 1149102_100_002, PROJECT NUMBER: 11491.02, DATED 11/15/19

ALTA TABLE ITEM 19: NO PERTINENT IMPROVEMENTS WITHIN PLOTTABLE OFFSITE EASEMENTS AFFECTING THE LANDS SURVEYED HEREON WERE OBSERVED DURING THE PERFORMANCE OF THIS SURVEY



LAND DEVELOPMENT DIVISION

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

Landdevelopmentweb@palmbayflorida.org

**COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT
APPLICATION**

This application must be deemed complete and legible, and must be returned by the first day of the month during division office hours, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, to be processed for consideration the following month at the earliest by the Planning and Zoning Board. **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):

28-37-14-00-250 AND 28-37-14-00-254

TAX ACCOUNT NUMBER(S):

2826106 AND 2826109

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

EXHIBIT "A" - LEGAL DESCRIPTION

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

7.11 ACRES

**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.):

INDUSTRIAL (LI)

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

BAYFRONT MIXED USE (BMU)

PRESENT USE OF PROPERTY:

VACANT

STRUCTURES LOCATED ON THE PROPERTY: NONE

REZONING FILED IN CONJUNCTION WITH THIS APPLICATION: YES. LI TO BMU

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

REQUEST TO MODIFY FUTURE LAND USE MAP FROM LI TO REFLEX CURRENT FLUM BMU UPGRADES AS NOTED ACROSS ROBERT J CONLAN BLVD, NE

SPECIFIC USE INTENDED FOR PROPERTY:

FUTURE DEVELOPMENT TO ALIGN WITH BMU REQUIREMENTS

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 ANA SAUNDERS, P.E. AND MIGUEL REYNALDOS

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

3/11/21

Printed Name

ANDREW STEEL NSD PALM BAY IV, LLC

Full Address

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

Telephone

561-635-6663 OR 407-735-9100

Email

ANDREW@NSDPARTNERS.COM

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

Re: Letter of Authorization

As the property owner of the site legally described as:

EXHIBIT "A" - LEGAL DESCRIPTION

I, Owner Name: ANDREW STEEL, NSD PALM BAY IV, LLC

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

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

Email: ANDREW@NSDPARTNERS.COM

hereby authorize:

Representative: ANA SAUNDERS, P.E. B.S.E. CONSULTANTS, INC.

Address: 312 SOUTH HARBOR CITY BLVD., SUITE 4, MELBOURNE, FL 32901

Telephone: 321-725-3674

Email: ASAUNDERS@BSECONSULT.COM

to represent the request(s) for:

FUTURE LAND USE MAP AMENDMENT AND REZONING APPLICATIONS


(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 10 day of March, 2021 by

Andrew R. Steel

, property owner.


James Shulterbrondt, Notary Public

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

Re: Letter of Authorization

As the property owner of the site legally described as:

EXHIBIT "A" - LEGAL DESCRIPTION

I, Owner Name: ANDREW STEEL, NSD PALM BAY IV, LLC

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

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

Email: ANDREW@NSDPARTNERS.COM

hereby authorize:

Representative: MIGUEL REYNALDOS NORTHSHORE DEVELOPMENT, LLC

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:

FUTURE LAND USE MAP AMENDMENT AND REZONING APPLICATIONS


(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 10 day of March, 2021 by

Andrew R. Steel

, property owner.


Notary Public

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

EXHIBIT "A" – LEGAL DESCRIPTION:

DESCRIPTION FROM EXHIBIT "A", OF THAT CERTAIN COMMONWEALTH LAND TITLE INSURANCE COMPANY, AMERICAN LAND TITLE ASSOCIATION COMMITMENT, ISSUING OFFICE FILE NUMBER: 412000126TS, CUSTOMER'S FILE NUMBER: C20000332/NSD PALM BAY IV TW8660763, COMMITMENT DATE: JULY 23, 2020 AT: 5:00 AM:

PART OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 2792, PAGE 2180, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE WEST ONE-QUARTER CORNER OF SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST AND RUN 88°38'20"E A DISTANCE OF 48.00 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF LIPSCOMB STREET; THENCE N00°58'25"E ALONG SAID RIGHT OF WAY DISTANCE OF 691.12 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL DESCRIBED IN SAID OFFICIAL RECORDS BOOK 3001, PAGE 1536, (SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 5478, PAGE 1513); THENCE CONTINUE N00°58'25"E A DISTANCE OF 551.12 FEET TO THE SOUTHWEST CORNER OF THAT CERTAIN "OUTFALL DITCH" AS DESCRIBED IN OFFICIAL RECORDS BOOK 7557, PAGE 476, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S88°35'02"E, ALONG THE SOUTH LINE OF SAID "OUTFALL DITCH", A DISTANCE OF 325.20 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE, S88°35'02"E A DISTANCE OF 325.20 FEET TO THE SOUTHEAST CORNER OF SAID "OUTFALL DITCH", (SAID POINT ALSO BEING A POINT OF THE BOUNDARY OF THAT CERTAIN "RETENTION BASIN" AS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 7557, PAGE 476; THENCE S00°58'25"W, ALONG SAID BOUNDARY LINE, A DISTANCE OF 140.01 FEET TO THE SOUTHWEST CORNER OF SAID "RETENTION BASIN"; THENCE S89°35'02"E, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 208.98 FEET; THENCE S00°58'25"W A DISTANCE OF 446.86 FEET TO A NON-TANGENT INTERSECTION WITH THE CURVED NORTH RIGHT-OF-WAY LINE OF COMMERCE PARK DRIVE; THENCE ALONG THE ARC OF SAID CURVED RIGHT-OF-WAY LINE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 280.00 FEET, A CENTRAL ANGLE OF 02°50'40", A CHORD LENGTH OF 13.90 FEET AND A CHORD BEARING OF S62°03'08"E), A DISTANCE OF 13.90 FEET TO THE END OF SAID CURVE; THENCE S60°37'48"E, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 349.58 FEET TO THE SOUTHWESTERLY CORNER OF THAT CERTAIN "CHANNEL 2" AS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 7557, PAGE 476; THENCE S60°37'48"E, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 274.57; THENCE S60°37'48"E, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 573.77 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTH AND HAVING A RADIUS OF 220.00 FEET, A CENTRAL ANGLE OF 28°00'32", A CHORD LENGTH OF 106.48 FEET AND A CHORD BEARING OF S74°38'04"E), A DISTANCE OF 107.55 FEET TO A POINT OF COMPOUND CURVATURE; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTH AND HAVING A RADIUS OF 199.60 FEET, A CENTRAL ANGLE OF 25°52'00", A CHORD LENGTH OF 89.35 FEET AND A CHORD BEARING OF N78°25'40"E), A DISTANCE OF 90.11 FEET TO A POINT OF REVERSE CURVATURE; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 199.60 FEET, A CENTRAL ANGLE OF 09°28'17", A CHORD LENGTH OF 32.96 FEET AND A CHORD BEARING OF N70°13'48"E), A DISTANCE OF 33.00 FEET TO THE SOUTHEAST CORNER OF THAT CERTAIN "CHANNEL 1" AS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 7557, PAGE 476 AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE N46°38'20"W ALONG THE EAST LINE OF SAID "CHANNEL 1" A DISTANCE OF 49.83 FEET; THENCE N01°21'40"E, CONTINUING ALONG THE EAST LINE OF SAID "CHANNEL 1", A DISTANCE OF 800.00 FEET TO THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 6753, PAGE 706, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE N88°35'02"E, ALONG THE SOUTH LINE OF SAID PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 6753, PAGE 706, A DISTANCE OF 468.48 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 6753, PAGE 706 AND THE WEST RIGHT-OF-WAY LINE OF NORTHVIEW STREET; THENCE S00°40'28"W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 110.72 FEET TO A NON-TANGENT INTERSECTION WITH THE CURVED WESTERLY RIGHT-OF-WAY LINE OF ROBERT J CONLAN BOULEVARD; THENCE ALONG THE ARC OF SAID CURVED RIGHT-OF-WAY LINE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 1054.93 FEET, A CENTRAL ANGLE OF 30°55'37", A CHORD LENGTH OF 562.54 FEET AND A CHORD BEARING OF S16°08'16"W), A DISTANCE OF 569.43 FEET TO THE END OF SAID CURVE; THENCE S00°40'28"W, CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 170.14 FEET TO THE NORTH RIGHT-OF-WAY LINE OF SAID COMMERCE PARK DRIVE; THENCE N88°38'20"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 235.00 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 199.60 FEET, A CENTRAL ANGLE OF 16°23'43", A CHORD LENGTH OF 56.92 FEET AND A CHORD BEARING OF S83°09'48"W), A DISTANCE OF 57.12 FEET TO THE POINT OF BEGINNING.

ALL LYING AND BEING IN SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Christopher Balter, Senior Planner

DATE: December 1, 2021

SUBJECT: **CPZ-11-2021 - Eastshore - Andrew Steel, NSD Palm Bay IV, LLC (Ana Saunders, P.E. and Miguel Reynaldos, Reps.) - A zoning amendment from an LI, Light Industrial and Warehousing District to a BMU, Bayfront Mixed Use District. Tax Parcels 250 and 254, Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 7.11 acres. Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Drive NE

**Quasi-Judicial Proceeding.

ATTACHMENTS:

Description

- ▣ Case CPZ-11-2021 - Staff Report
- ▣ Case CPZ-11-2021 - Survey
- ▣ Case CPZ-11-2021 - Application



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmbayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

CPZ-11-2021

PLANNING & ZONING BOARD HEARING DATE

July 7, 2021

PROPERTY OWNER & APPLICANT

NSD Palm Bay IV, LLC

PROPERTY LOCATION/ADDRESS

Tax Parcels 250 and 254, Section 14, Township 28,
Range 37, Brevard County, Florida

SUMMARY OF REQUEST

The applicant is requesting a rezoning of the subject parcels from LI, Light Industrial and Warehousing District, to the BMU, Bayfront Mixed Use District.

Existing Zoning

LI, Light Industrial and Warehousing District

Existing Land Use

Industrial Use

Site Improvements

Undeveloped Land

Site Acreage

7.11 acres

SURROUNDING ZONING & USE OF LAND

North

LI, Light Industrial and Warehousing District Use; Vacant Land

East

Robert J. Conlan Boulevard NE

South

Commerce Park Drive NE

West

LI Zoning – 50' wide drainage ditch and RM-20, Multiple Family Residential District; Current under construction for an apartment complex

BACKGROUND:

The subject properties are located at the northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Drive NE. The parcels have remained undeveloped land since their creation.

ANALYSIS:

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

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

The applicant states the justification for change is “to change the zoning district to reflect the current zoning upgrades to Bayfront Mixed Use as noted across Robert J. Conlan.” The Bayfront Mixed Zoning District will allow for a mix of commercial and multifamily uses. The change in zoning will allow for a transition between the existing single-family homes in the Powell Subdivision and the existing businesses and help to revitalize the area.

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

The designation of BMU zoning district for the subject properties is compatible with the surrounding area, and is consistent with the City’s desire and plan for redevelopment in the area.

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

Approximately 50.29 acres of BMU, Bayfront Mixed Use zoned land is within the City limits.

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

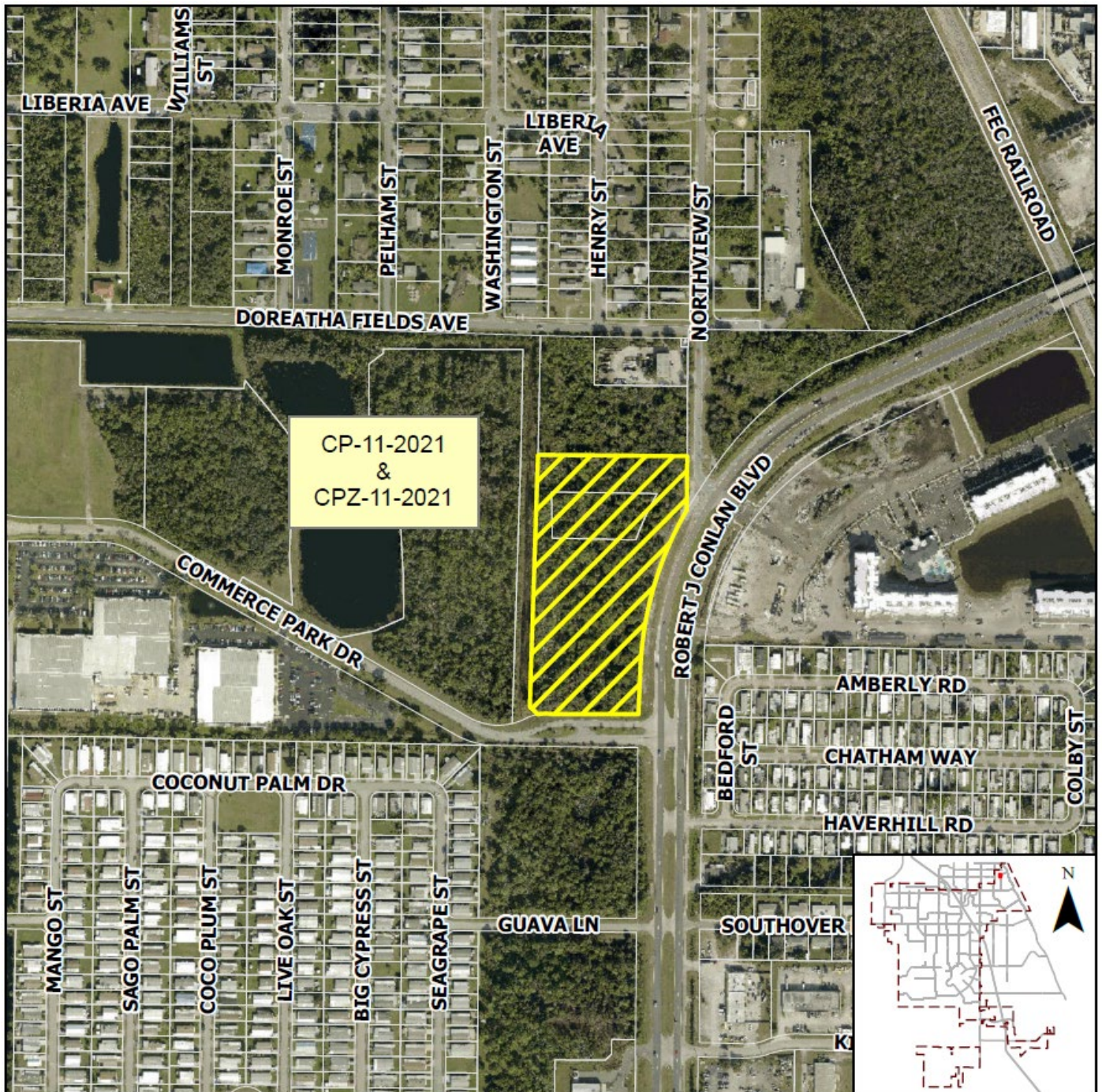
The proposed amendment will further the purposes of Chapter 185, the Comprehensive Plan.

STAFF RECOMMENDATION:

Case CPZ-11-2021 is recommended for approval.



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



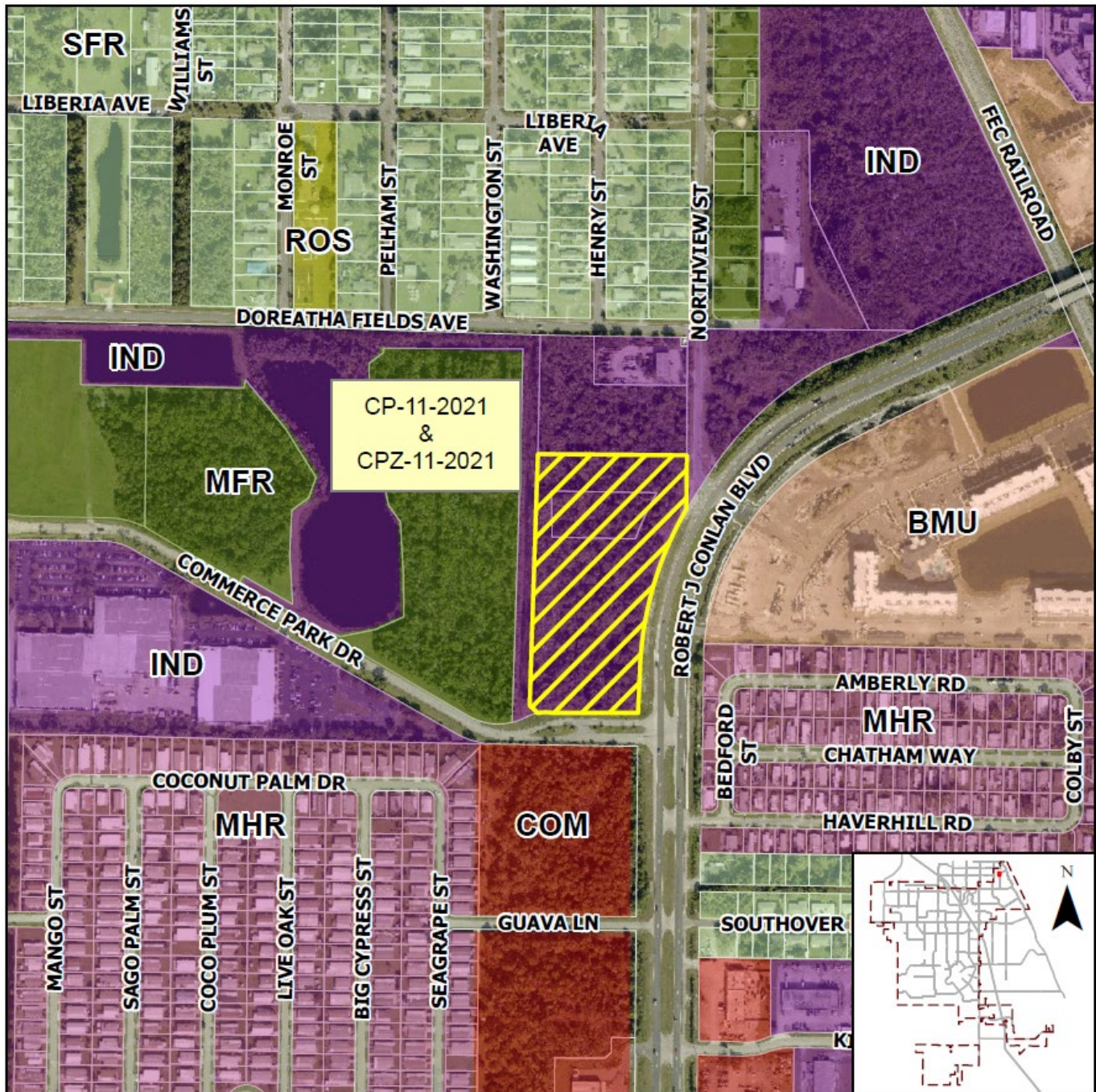
AERIAL LOCATION MAP CASE: CP-11-2021 & CPZ-11-2021

Subject Property

Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Road NE



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



FUTURE LAND USE MAP CASE: CP-11-2021 & CPZ-11-2021

Subject Property

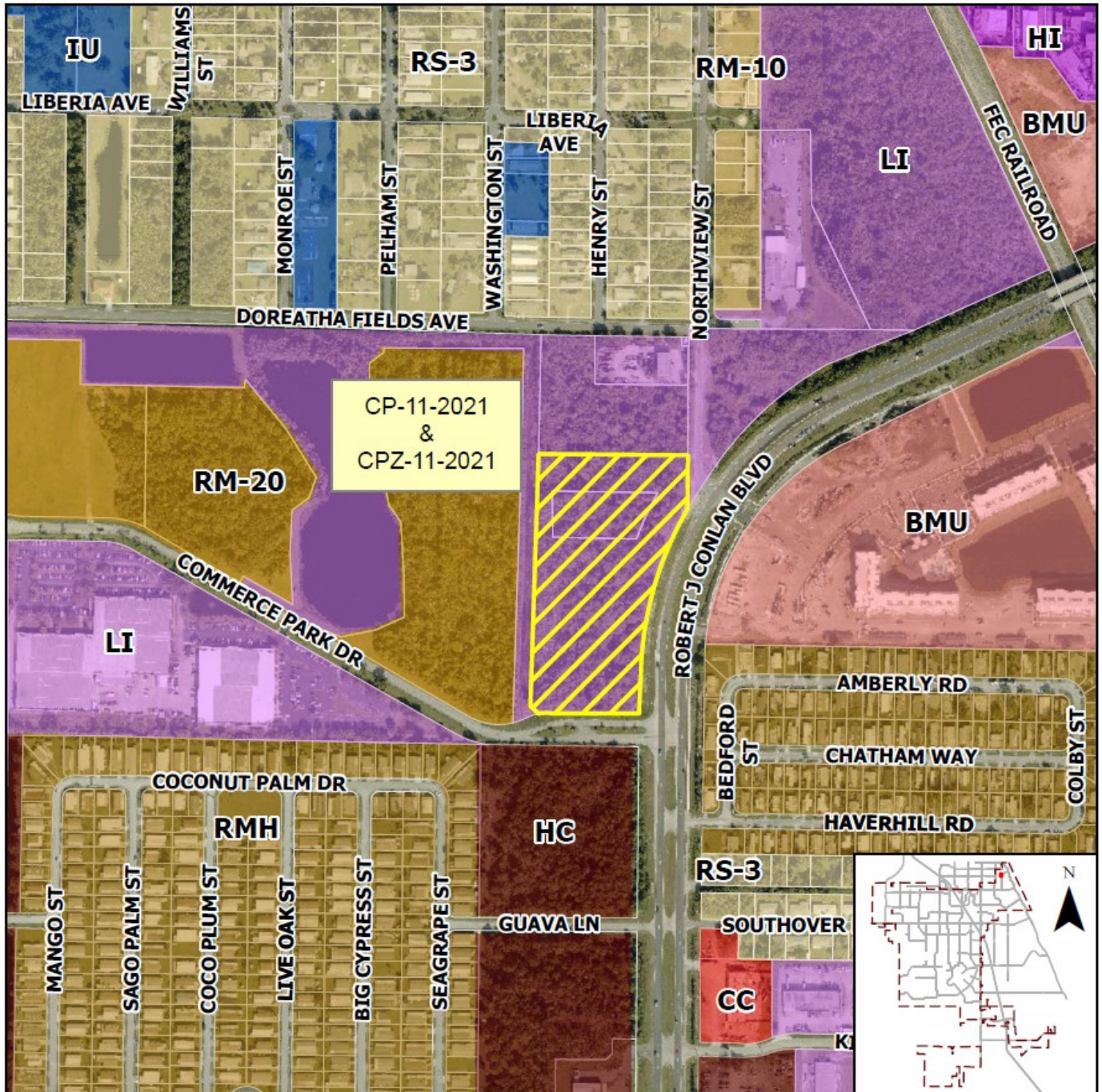
Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Road NE

Future Land Use Classification

IND – Industrial Use



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



ZONING MAP

CASE: CP-11-2021 & CPZ-11-2021

Subject Property

Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Road NE

Current Zoning Classification

LI – Light Industrial and Warehousing District



312 SOUTH HARBOR CITY BOULEVARD SUITE 4
MELBOURNE FLORIDA 32901
PHONE (321) 725-1874 FAX (321) 723-1159

CERTIFICATE OF PROFESSIONAL ENGINEER
BUSINESS AUTHORIZATION: 4905
CERTIFICATE OF LAND SURVEYING
BUSINESS AUTHORIZATION: L80004005

SCOTT M. GLAUBITZ
PROFESSIONAL LAND SURVEYOR
FLORIDA LICENSE NUMBER 4151

DESCRIPTION FROM EXHIBIT "A", OF THAT CERTAIN COMMONWEALTH LAND TITLE INSURANCE COMPANY, AMERICAN LAND TITLE ASSOCIATION COMMITMENT. ISSUING OFFICE FILE NUMBER 41200012675. CUSTOMER'S FILE NUMBER C20000332/NSD PALM BAY IV TW8660763. COMMITMENT DATE: JULY 23, 2020 AT 5:00 AM.

PART OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 2792, PAGE 2180, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

[illegible]

ALL LYING AND BEING IN SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA

ITEMS NUMBERED BELOW ARE IN DIRECT RELATIONSHIP TO THOSE CONTAINED IN SCHEDULE B, SECTION II, EXCEPTIONS IN THAT CERTAIN COMMONWEALTH LAND TITLE INSURANCE COMPANY, AMERICAN LAND TITLE ASSOCIATION COMMITMENT, ISSUING OFFICE FILE NUMBER 4120001261S, CUSTOMER'S FILE NUMBER C200009332/NSD PALM BAY IV TW8860763, COMMITMENT DATE: JULY 23, 2020 AT 5:00 AM.

1. SURVEYOR KNOWS OF NO DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS, IF ANY, CREATED, FIRST APPEARING IN THE PUBLIC RECORDS ON ATTACHING SUBSEQUENT TO THE EFFECTIVE DATE HEREOF, BUT PRIOR TO THE DATE THE PROPOSED INSURED ACQUIRES FOR VALUE OF RECORD THE ESTATE OR INTEREST OR MORTGAGE THEREON COVERED BY THIS FORM.
2. TAXES AND ASSESSMENTS FOR THE YEAR 2018 AND SUBSEQUENT YEARS, WHICH ARE NOT YET DUE AND PAYABLE. NOT A SURVEY MATTER
3. STANDARD EXCEPTIONS:
- a OTHER THAN AS MAY BE SHOWN AND/OR NOTED HEREON, SURVEYOR HAS NO KNOWLEDGE OF ANY ENCROACHMENT, ENCUMBRANCE, VIOLATION, VARIATION, OR ADVERSE CIRCUMSTANCE AFFECTING THE TITLE THAT WOULD BE DISCLOSED BY AN ACCURATE AND COMPLETE LAND SURVEY OF THE LAND.
- b SURVEYOR HAS NO KNOWLEDGE OF ANY RIGHTS OR CLAIMS OF PARTIES IN POSSESSION NOT SHOWN BY THE PUBLIC RECORDS.
- c SURVEYOR HAS NO KNOWLEDGE OF ANY LIEN, OR RIGHT TO A LIEN, FOR SERVICES, LABOR, OR MATERIALS HERETOFORE OR HEREAFTER FURNISHED, IMPOSED BY LAW AND NOT SHOWN BY THE PUBLIC RECORDS.
- d TAXES OR ASSESSMENTS WHICH ARE NOT SHOWN AS EXISTING LIENS IN THE PUBLIC RECORDS. NOT A SURVEY MATTER
4. ITEM 4 HAS BEEN INTENTIONALLY DELETED
5. TERMS AND PROVISIONS SET FORTH IN EASEMENT DEDICATION RECORDED IN OFFICIAL RECORDS BOOK 2656, PAGE 811 AND RE-RECORDED IN OFFICIAL RECORDS BOOK 2682, PAGE 1198. AFFECTS PROPERTY. EASEMENTS ARE NOT PLOTTABLE FROM INFORMATION CONTAINED WITHIN REFERENCED DOCUMENTS
6. COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS, INCLUDING, BUT NOT LIMITED TO, PROVISIONS FOR PRIVATE CHARGES OR ASSESSMENTS (DELETING THEREFROM ANY COVENANTS OR RESTRICTIONS, IF ANY, INDICATING ANY PREference, LIMITATION OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILY STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SUCH COVENANTS OR RESTRICTIONS BE PERMITTED BY APPLICABLE LAW AS SET FORTH IN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WOODLAKE COMMERCE CENTER RECORDED JUNE 13, 1999 IN OFFICIAL RECORDS BOOK 9001, PAGE 1541, AS AFFECTED BY MODIFICATION RECORDED IN OFFICIAL RECORDS BOOK 3093, PAGE 3883, ASSIGNMENT OF DECLARANT'S RIGHTS RECORDED DECEMBER 18, 2014 IN OFFICIAL RECORDS BOOK 7268, PAGE 1242 AND TOGETHER WITH BY-LAWS OF WOODLAKE COMMERCE CENTER PROPERTY OWNERS ASSOCIATION, INC. RECORDED DECEMBER 18, 2014 IN OFFICIAL RECORDS BOOK 7289, PAGE 1247. AFFECTS PROPERTY, NO EASEMENT INFORMATION FOUND IN DOCUMENTS, NOT A SURVEY MATTER
7. TERMS, PROVISIONS AND OBLIGATIONS SET FORTH IN THAT CERTAIN EASEMENT AND CROSS ACCESS AGREEMENT RECORDED JUNE 6, 2005 IN OFFICIAL RECORDS BOOK 5478, PAGE 1518. PLOTTED AND SHOWN HEREOF
8. TERMS AND PROVISIONS SET FORTH IN CITY OF PALM BAY WATER AND WASTEWATER SYSTEM AGREEMENT RECORDED SEPTEMBER 2, 2008 IN OFFICIAL RECORDS BOOK 5885, PAGE 3514. AFFECTS PROPERTY, NO PLOTTABLE EASEMENTS FOUND IN DOCUMENT, BLANKET TYPE
9. EASEMENT BY AND BETWEEN WOODLAKE COMMERCE CENTER PROPERTY OWNERS ASSOCIATION, INC., A FLORIDA NON PROFIT CORPORATION, GRANTOR, AND NED PALM BAY III, LLC, A FLORIDA LIMITED LIABILITY COMPANY AND NSD PALM BAY, IV, LLC, A FLORIDA LIMITED LIABILITY COMPANY, GRANTEE, RECORDED MAY 20, 2019, IN OFFICIAL RECORDS BOOK 8443, PAGE 1400. PLOTTED AND SHOWN HEREOF.
10. ASSIGNMENT RECORDED MAY 20, 2019, IN OFFICIAL RECORDS BOOK 8443, PAGE 1426. NOT A SURVEY MATTER

ALTA CERTIFICATION:

TO : WOODLAKE COMMERCE CENTER, WOODLAKE SOUTH-WEST NO. 2, LTD., NSD PALM BAY II, LLC, NSD PALM BAY III, LLC, NSD PALM BAY IV, LLC, COMMONWEALTH LAND TITLE INSURANCE COMPANY, SANFORD N. REINHARD, P.A. SHUTTS & BOWEN LLP, WEST SHORE VENTURE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, CAPITAL PARTNERS WEST SHORE INVESTOR, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND CENTENNIAL BANK, ITS SUCCESSORS AND/OR ASSIGNS

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 8, 9, 11, 13, 14, 16, 17, 18, 19 & 20 OF TABLE A THEREOF. THE FIELDWORK WAS COMPLETED ON 09/22/2020.

ABBREVIATIONS

[illegible]

FIELD BOOK: PALM BAY BK 4

PAGE(S): 39-42

[illegible]

DATE: 11/13/2020

DESIGN/DRAWN: LEH

PROJECT TITLE

NSD PALM BAY IV

SHEET TITLE

ALTA/NSPS SURVEY

PROJECT NO.

11491

DRAWING NO.

11491_100_005

SHEET

1 of 2

NATIONAL FLOOD INSURANCE PROGRAM INFORMATION

THIS PROPERTY IS LOCATED IN FLOOD ZONE "X" (UNSHADED), ACCORDING TO THE FIRM FLOOD INSURANCE RATE MAP, MAP NUMBER 12009C0611G, MAP REVISED MARCH 17, 2014.

ZONING INFORMATION

THIS PROPERTY IS ZONED LIGHT INDUSTRIAL PER INFORMATION DETERMINED FROM THE CITY OF PALM BAY ZONING MAP AVAILABLE ON THE INTERNET AT THE FOLLOWING WEBSITE:
<https://gis.palmabayflorida.org/>



LAND DEVELOPMENT DIVISION

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

Landdevelopment@palmbayflorida.org

REZONING APPLICATION

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

PARCEL ID 28-37-14-00-250 AND 28-37-14-00-254

TAX ACCOUNT NUMBER 2826106 AND 2826109

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

EXHIBIT "A" - LEGAL DESCRIPTION

PROPERTY ADDRESS 2351 COMMERCE PARK DRIVE, NE PALM BAY, FL 32905

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 7.11 ACRES

ZONING CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.) LI - LIGHT INDUSTRIAL

ZONING CLASSIFICATION DESIRED (ex.: IU, LI, etc.) BMU - BAYFRONT MIXED USE

STRUCTURES LOCATED ON THE PROPERTY NONE. VACANT PARCEL

PRESENT USE OF THE PROPERTY:

VACANT PARCEL

INTENDED USE OF THE PROPERTY AND JUSTIFICATION FOR THE CHANGE:

REQUEST TO MODIFY ZONING DESIGNATION FROM LIGHT INDUSTRIAL (LI) TO REFLECT CURRENT ZONING UPGRADES TO BAYFRONT MIXED USE (BMU) AS NOTED ACROSS ROBERT J CONLAN, BLVD.

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.)
- ☐ School Board of Brevard County School Impact Analysis Application (if applicable).
- ☐ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guideline.
- ☐ **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 ANA SAUNDERS, P.E. AND MIGUEL REYNALDOS

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.

**CITY OF PALM BAY, FLORIDA
REZONING APPLICATION
PAGE 3 OF 3**

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

Owner Signature  **Date** 3/11/21

Printed Name ANDREW STEEL NSD PALM BAY IV, LLC

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

Telephone 561-635-6663 **Email** ANDREW@NSDPARTNERS.COM

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

Re: Letter of Authorization

As the property owner of the site legally described as:

EXHIBIT "A" - LEGAL DESCRIPTION

I, Owner Name: ANDREW STEEL, NSD PALM BAY IV, LLC

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

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

Email: ANDREW@NSDPARTNERS.COM

hereby authorize:

Representative: ANA SAUNDERS, P.E. B.S.E. CONSULTANTS, INC.

Address: 312 SOUTH HARBOR CITY BLVD., SUITE 4, MELBOURNE, FL 32901

Telephone: 321-725-3674

Email: ASAUNDERS@BSECONSULT.COM

to represent the request(s) for:

FUTURE LAND USE MAP AMENDMENT AND REZONING APPLICATIONS

(Property Owner Signature)



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

STATE OF

Florida

COUNTY OF

Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 10 day of March, 2021 by

Andrew R. Steel

, property owner.

James Shulterbrondt

, Notary Public

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

Re: Letter of Authorization

As the property owner of the site legally described as:

EXHIBIT "A" - LEGAL DESCRIPTION

I, Owner Name: ANDREW STEEL, NSD PALM BAY IV, LLC

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

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

Email: ANDREW@NSDPARTNERS.COM

hereby authorize:

Representative: MIGUEL REYNALDOS NORTHSHORE DEVELOPMENT, LLC

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:

FUTURE LAND USE MAP AMENDMENT AND REZONING APPLICATIONS

(Property Owner Signature)

STATE OF Florida

COUNTY OF Orange



James Shuterbrondt
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 10 day of March, 2021 by

Andrew R. Steel

, property owner.

James Shuterbrondt

, Notary Public

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

EXHIBIT "A" – LEGAL DESCRIPTION:

DESCRIPTION FROM EXHIBIT "A", OF THAT CERTAIN COMMONWEALTH LAND TITLE INSURANCE COMPANY, AMERICAN LAND TITLE ASSOCIATION COMMITMENT, ISSUING OFFICE FILE NUMBER: 412000126TS, CUSTOMER'S FILE NUMBER: C20000332/NSD PALM BAY IV TW8660763, COMMITMENT DATE: JULY 23, 2020 AT: 5:00 AM:

PART OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 2792, PAGE 2180, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE WEST ONE-QUARTER CORNER OF SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST AND RUN 88°38'20"E A DISTANCE OF 48.00 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF LIPSCOMB STREET; THENCE N00°58'25"E ALONG SAID RIGHT OF WAY DISTANCE OF 691.12 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL DESCRIBED IN SAID OFFICIAL RECORDS BOOK 3001, PAGE 1536, (SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 5478, PAGE 1513); THENCE CONTINUE N00°58'25"E A DISTANCE OF 551.12 FEET TO THE SOUTHWEST CORNER OF THAT CERTAIN "OUTFALL DITCH" AS DESCRIBED IN OFFICIAL RECORDS BOOK 7557, PAGE 476, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S88°35'02"E, ALONG THE SOUTH LINE OF SAID "OUTFALL DITCH", A DISTANCE OF 325.20 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE, S88°35'02"E A DISTANCE OF 325.20 FEET TO THE SOUTHEAST CORNER OF SAID "OUTFALL DITCH", (SAID POINT ALSO BEING A POINT OF THE BOUNDARY OF THAT CERTAIN "RETENTION BASIN" AS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 7557, PAGE 476; THENCE S00°58'25"W, ALONG SAID BOUNDARY LINE, A DISTANCE OF 140.01 FEET TO THE SOUTHWEST CORNER OF SAID "RETENTION BASIN"; THENCE S89°35'02"E, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 208.98 FEET; THENCE S00°58'25"W A DISTANCE OF 446.86 FEET TO A NON-TANGENT INTERSECTION WITH THE CURVED NORTH RIGHT-OF-WAY LINE OF COMMERCE PARK DRIVE; THENCE ALONG THE ARC OF SAID CURVED RIGHT-OF-WAY LINE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 280.00 FEET, A CENTRAL ANGLE OF 02°50'40", A CHORD LENGTH OF 13.90 FEET AND A CHORD BEARING OF S62°03'08"E), A DISTANCE OF 13.90 FEET TO THE END OF SAID CURVE; THENCE S60°37'48"E, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 349.58 FEET TO THE SOUTHWESTERLY CORNER OF THAT CERTAIN "CHANNEL 2" AS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 7557, PAGE 476; THENCE S60°37'48"E, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 274.57; THENCE S60°37'48"E, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 573.77 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTH AND HAVING A RADIUS OF 220.00 FEET, A CENTRAL ANGLE OF 28°00'32", A CHORD LENGTH OF 106.48 FEET AND A CHORD BEARING OF S74°38'04"E), A DISTANCE OF 107.55 FEET TO A POINT OF COMPOUND CURVATURE; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTH AND HAVING A RADIUS OF 199.60 FEET, A CENTRAL ANGLE OF 25°52'00", A CHORD LENGTH OF 89.35 FEET AND A CHORD BEARING OF N78°25'40"E), A DISTANCE OF 90.11 FEET TO A POINT OF REVERSE CURVATURE; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 199.60 FEET, A CENTRAL ANGLE OF 09°28'17", A CHORD LENGTH OF 32.96 FEET AND A CHORD BEARING OF N70°13'48"E), A DISTANCE OF 33.00 FEET TO THE SOUTHEAST CORNER OF THAT CERTAIN "CHANNEL 1" AS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 7557, PAGE 476 AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE N46°38'20"W ALONG THE EAST LINE OF SAID "CHANNEL 1" A DISTANCE OF 49.83 FEET; THENCE N01°21'40"E, CONTINUING ALONG THE EAST LINE OF SAID "CHANNEL 1", A DISTANCE OF 800.00 FEET TO THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 6753, PAGE 706, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE N88°35'02"E, ALONG THE SOUTH LINE OF SAID PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 6753, PAGE 706, A DISTANCE OF 468.48 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 6753, PAGE 706 AND THE WEST RIGHT-OF-WAY LINE OF NORTHVIEW STREET; THENCE S00°40'28"W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 110.72 FEET TO A NON-TANGENT INTERSECTION WITH THE CURVED WESTERLY RIGHT-OF-WAY LINE OF ROBERT J CONLAN BOULEVARD; THENCE ALONG THE ARC OF SAID CURVED RIGHT-OF-WAY LINE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 1054.93 FEET, A CENTRAL ANGLE OF 30°55'37", A CHORD LENGTH OF 562.54 FEET AND A CHORD BEARING OF S16°08'16"W), A DISTANCE OF 569.43 FEET TO THE END OF SAID CURVE; THENCE S00°40'28"W, CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 170.14 FEET TO THE NORTH RIGHT-OF-WAY LINE OF SAID COMMERCE PARK DRIVE; THENCE N88°38'20"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 235.00 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 199.60 FEET, A CENTRAL ANGLE OF 16°23'43", A CHORD LENGTH OF 56.92 FEET AND A CHORD BEARING OF S83°09'48"W), A DISTANCE OF 57.12 FEET TO THE POINT OF BEGINNING.

ALL LYING AND BEING IN SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Christopher Balter, Senior Planner

DATE: December 1, 2021

SUBJECT: **V-51-2021 - Michael and Jeanne Cullen - A Variance to allow a proposed swimming pool and deck to encroach 7 feet into the 10-foot rear accessory structure setback, as established by Section 185.118(A)(4) of the Palm Bay Code of Ordinances. Lot 4, Monterey Cove at Bayside Lakes, Section 19, Township 29, Range 37, Brevard County, Florida, containing approximately .17 acres. North of and adjacent to Gardendale Circle SE, in the vicinity east of Bramblewood Drive SE, specifically at 331 Gardendale Circle SE

**Quasi-Judicial Proceeding.

ATTACHMENTS:

Description

- ☐ Case V-51-2021 - Staff Report
- ☐ Case V-51-2021 - Surveys
- ☐ Case V-51-2021 - Application
- ☐ Case V-51-2021 - HOA Approval



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmabayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

V-51-2021

PLANNING & ZONING BOARD HEARING DATE

December 1, 2021

PROPERTY OWNER & APPLICANT

Michael and Jeanne Cullen

PROPERTY LOCATION/ADDRESS

Lot 4, Monterey Cove at Bayside Lakes, Section 19,
Township 29, Range 37, Brevard County, Florida,
specifically at 331 Gardendale Circle SE

SUMMARY OF REQUEST

A variance to allow a proposed swimming pool and deck to encroach 7' into the 10' rear accessory structure setback, as established by Section 185.118(A)(4) of the Palm Bay Code of Ordinances.

Existing Zoning

PUD, Planned Unit Development

Existing Land Use

Single-Family Residential Use

Site Improvements

Single-Family Home

Site Acreage

0.17 acres

SURROUNDING ZONING & USE OF LAND

North

PUD, Planned Unit Development, Bayside Lakes Clubhouse

East

PUD, Planned Unit Development, Single-Family Home

South

PUD, Planned Unit Development, Single-Family Home

West

PUD, Planned Unit Development, Single-Family Home

BACKGROUND:

The property consists of one standard lot in the Monterey Cove at Bayside Lakes Subdivision. The home was constructed in 2004, and the property has been sold four times. The applicant bought the property in June of 2020.

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 "that they have asked for a 'safe zone' from the home to the proposed pool of approximately 9' to 10' due to the fact that they have a visually impaired grandchild as well as a relative who is wheelchair-bound and feel that the minimum 5' from the house is not far enough away from the house". These may be special conditions or circumstances peculiar to the land, structure, or buildings involved.

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

The special conditions and circumstances identified above, and the need for a variance are not a result of the actions of the applicant.

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 an 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 accessory structure requirement. Building within the required accessory structure allowance would require the applicant to reduce the pool and decking by 7'.

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 7' of relief from the 10' rear accessory structure setback for the proposed pool and deck 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 proposed pool and deck, as the same development standards apply to other properties in this community. This excess, 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 on 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.

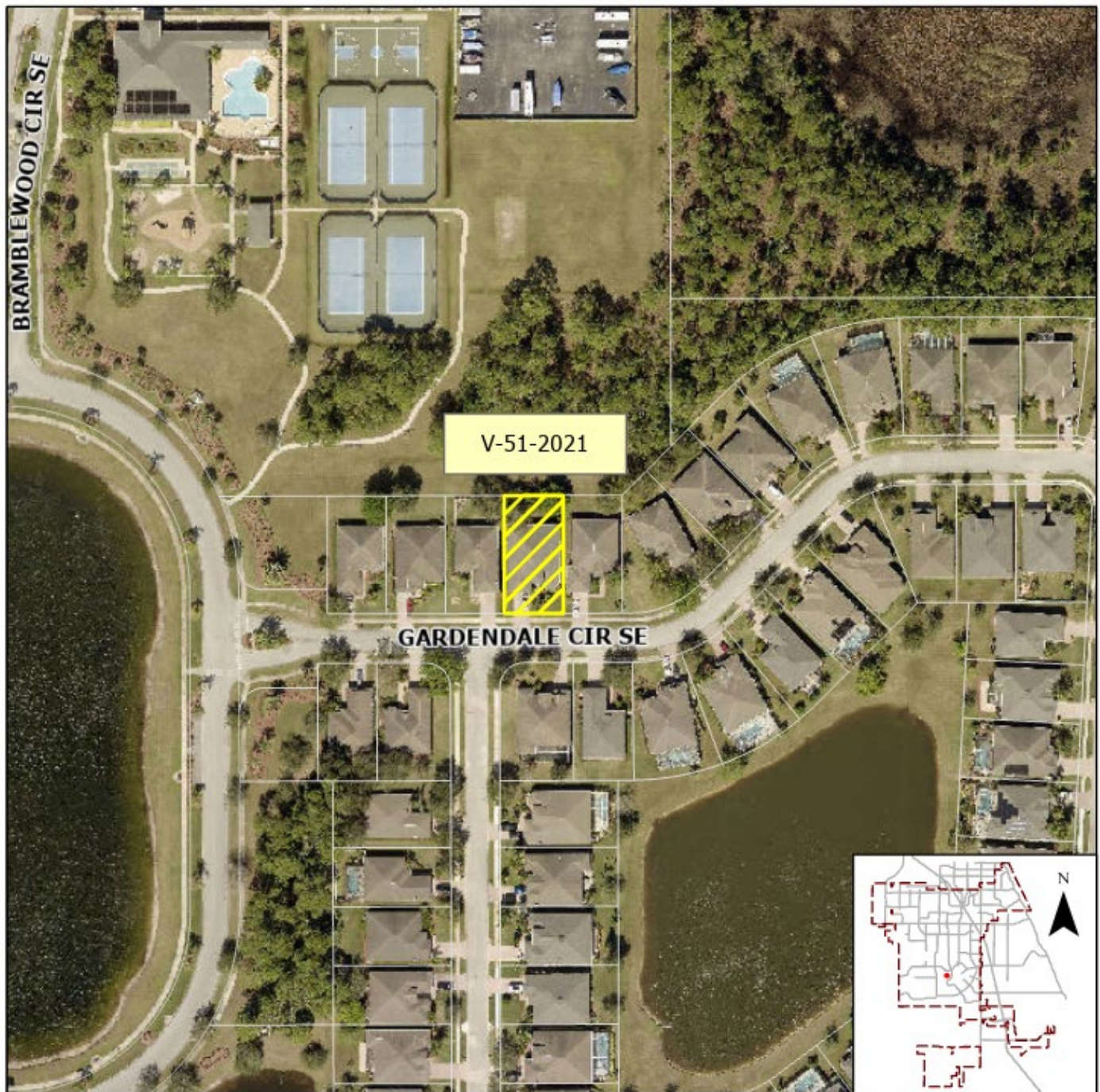


SITE LOCATION MAP CASE: V-51-2021

Subject Property

North of and adjacent to Gardendale Circle SE, in the vicinity east of Bramblewood Drive SE, specifically at 331 Gardendale Circle SE

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

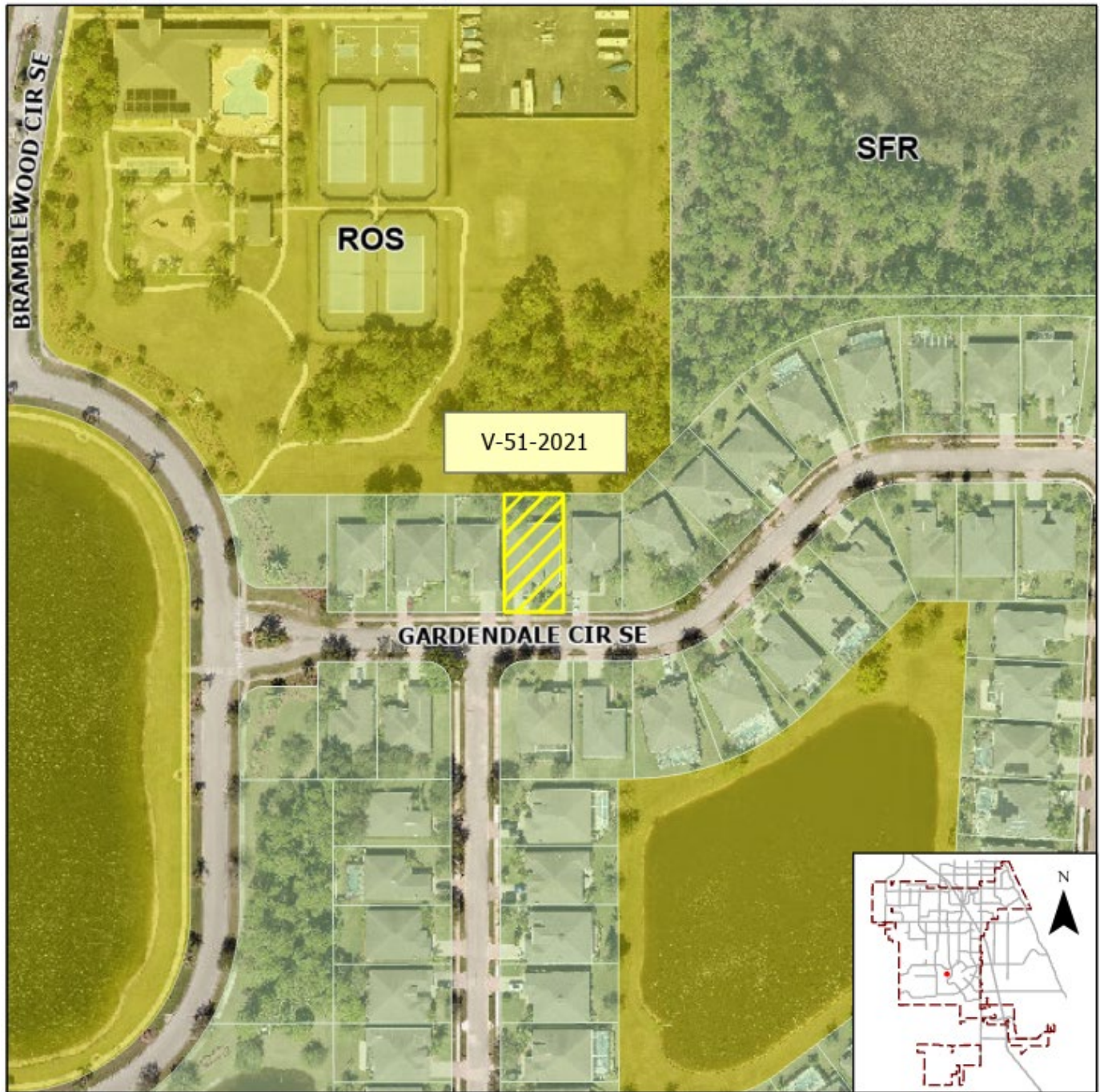


AERIAL LOCATION MAP CASE: V-51-2021

Subject Property

North of and adjacent to Gardendale Circle SE, in the vicinity east of Bramblewood Drive SE, specifically at 331 Gardendale Circle 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-51-2021

Subject Property

North of and adjacent to Gardendale Circle SE, in the vicinity east of Bramblewood Drive SE, specifically at 331 Gardendale Circle 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-51-2021

Subject Property

North of and adjacent to Gardendale Circle SE, in the vicinity east of Bramblewood Drive SE, specifically at 331 Gardendale Circle SE

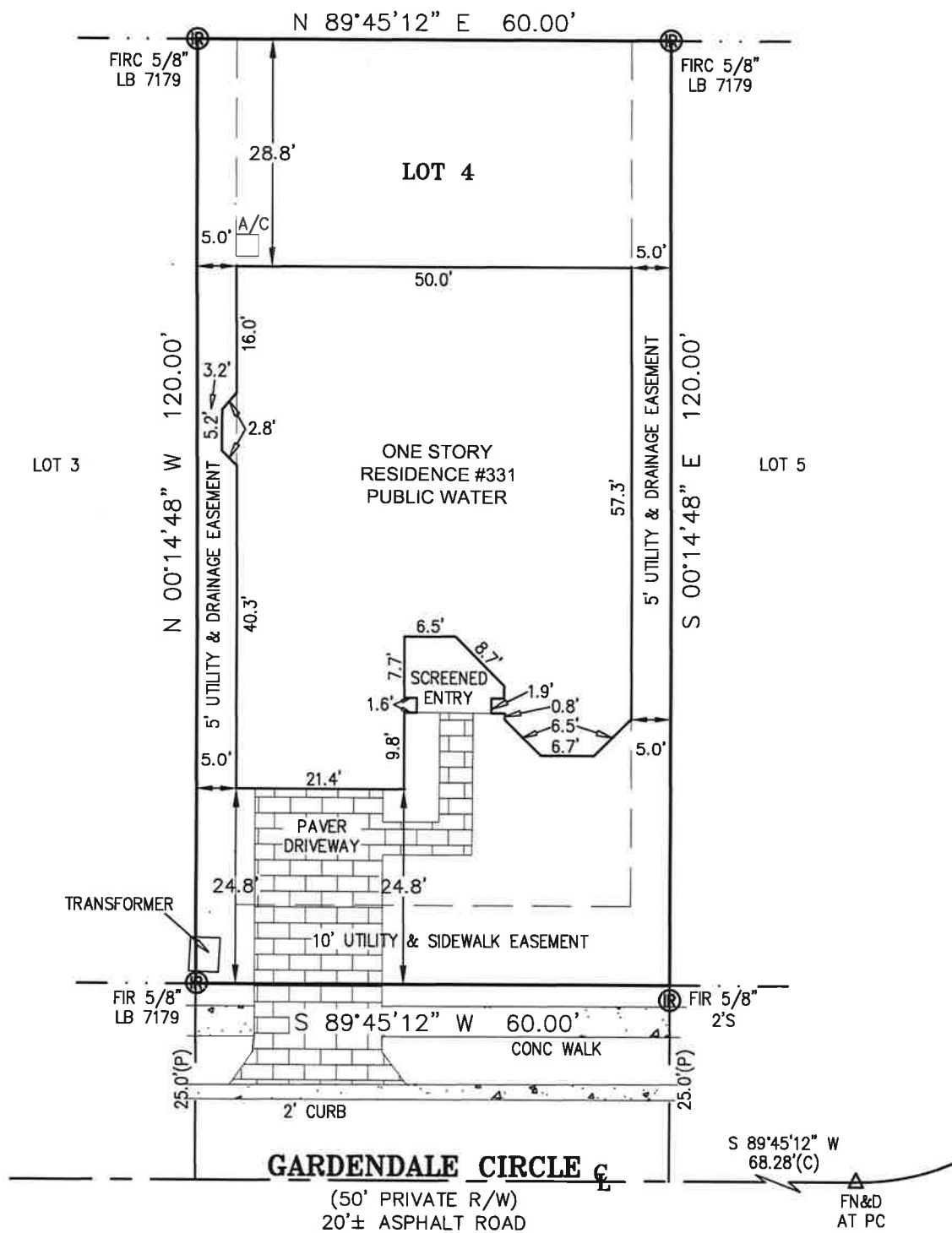
Current Zoning Classification

PUD – Planned Unit Development

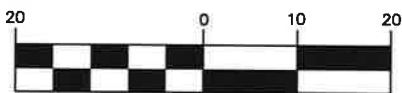
MAP OF SURVEY
BOUNDARY SURVEY

OF
LOT 4, MONTEREY COVE AT BAYSIDE LAKES, according to the plat thereof as recorded in Plat Book 49,
Page(s) 80-81, of the Public Records of Brevard County, Florida. (Contains 0.17 acres)

TRACT "R-1"



GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

CERTIFIED TO:

MICHAEL CULLEN
JEANNE CULLEN

GSS SURVEYING & MAPPING, LLC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 8006

Date: 2021.06.14
15:55:24 -04'00'



PROFESSIONAL SURVEYOR AND MAPPER IN RESPONSIBLE CHARGE

TERRY H. DRUM PROFESSIONAL SURVEYOR AND MAPPER NO. 5597
OR
HENRY A. KILBURN, PROFESSIONAL SURVEYOR AND MAPPER NO. 6661

NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND RAISED SEAL OR DIGITAL SIGNATURE
AND DIGITAL SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SURVEYORS NOTES:

- LEGAL DESCRIPTION PROVIDED BY CLIENT. ADJOINERS SHOWN HAVE NOT BEEN SURVEYED.
- NO UNDERGROUND FOUNDATIONS HAVE BEEN LOCATED.
- LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHT-OF-WAY AND/OR EASEMENTS OF RECORD.
- SEPTIC TANKS AND WELLS IF SHOWN ARE APPROXIMATE LOCATIONS AND SHOULD BE FIELD VERIFIED BY A LICENSED CONTRACTOR FOR CORRECT POSITION AND SEPARATION. UNDERGROUND UTILITIES OR FOOTERS HAVE NOT BEEN LOCATED.
- THE NORTHERLY R/W LINE OF GARDENDALE CIRCLE IS ASSUMED TO BEAR S 89°45'12" W AND ALL OTHER BEARINGS ARE RELATIVE THERETO.
- ALL RIGHTS-OF-WAY SHOWN HEREON ARE OPEN TO TRAVEL UNLESS OTHERWISE NOTED.
- ACCORDING TO THE NATIONAL FLOOD INSURANCE RATE MAP NUMBER 12009C0660G, HAVING AN EFFECTIVE DATE OF MARCH 17, 2014, THIS PROPERTY APPEARS TO LIE WITHIN ZONE X, OUTSIDE SPECIAL FLOOD HAZARD AREA.
- ALL DISTANCES SHOWN HEREON ARE HORIZONTAL GROUND DISTANCES AND ARE REFERENCED TO U.S. SURVEY FEET.
- THE BOUNDARY DETERMINATION AND DELINEATION SHOWN ON THIS MAP OF SURVEY WAS BASED UPON THE PROFESSIONAL OPINION OF THE REGISTERED SURVEYOR PURSUANT TO NORMAL PRINCIPALS AND PRACTICES OF LAND SURVEYING AND IS NOT INTENDED TO IMPLY OR DETERMINE OWNERSHIP. THIS SURVEY DOES NOT INTEND TO DELINEATE LOCAL AREAS OF CONCERN OR ANY OTHER JURISDICTIONAL DETERMINATION.
- THIS SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE BENEFIT AND USE OF THE PERSONS AND/OR ENTITIES NAMED HEREON FOR THE PURPOSES IDENTIFIED HEREON ONLY. UNLESS OTHERWISE STATED, CERTIFICATION OF THIS SURVEY MAP APPLIES ONLY TO THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J17 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. THE CERTIFICATION IN NO WAY CONSTITUTES NEITHER GUARANTY NOR WARRANTY TO ANY OTHER INFORMATION NOT SHOWN HEREON. ADDITIONS, DELETIONS OR REVISIONS TO THIS DRAWING BY OTHERS ARE NOT PERMITTED AND THIS SURVEY MAY NOT BE TRANSFERRED WITHOUT THE EXPRESSED WRITTEN PERMISSION OF THE SIGNING SURVEYOR. THIS SURVEY IS NOT VALID FOR ANY OTHER PURPOSE OTHER THAN INTENDED BY THE SIGNING SURVEYOR.
- NONE OF THE DIMENSIONS TO STRUCTURES SHOWN SHOULD BE USED FOR CONSTRUCTION OF FENCES. ONLY THE PHYSICAL PROPERTY CORNERS SHOWN ON THIS MAP SHOULD BE USED.

ADDRESS: 331 GARDENDALE CIRCLE SE, PALM BAY, FL 32909

LEGEND

EL = ELEVATION BM = SITE BENCHMARK P.O.C. = POINT OF COMMENCEMENT P.O.B. = POINT OF BEGINNING CB = CHORD BEARING / CH = CHORD PCP = PERMANENT CONTROL POINT PC = POINT OF CURVATURE PT = POINT OF TANGENCY R/W = RIGHT OF WAY FIR = FOUND IRON ROD "NO IDENTIFICATION" FIRC = FOUND IRON ROD WITH CAP	FIP = FOUND IRON PIPE "NO IDENTIFICATION" SIRC = SET 1/2" IRON ROD WITH CAP "LB 8006" CONC = CONCRETE FN&D = FOUND NAIL AND DISK SN&D = SET NAIL AND DISK FF EL = FINISHED FLOOR ELEVATION S/T = SEPTIC TANK SF = SQUARE FOOT (P) = PLAT (D) = DEED (M) = MEASURE C/L = CENTERLINE EOP = EDGE OF PAVEMENT CMP = CORRUGATED METAL PIPE	WM = WATER METER FH = FIRE HYDRANT WV = WATER VALVE EW = EXISTING WELL SM = SANITARY MANHOLE IR = IRON ROD IP = IRON PIPE	CP = CABLE PEDESTAL WUP = WOOD UTILITY POLE GA = GUY ANCHOR ET = ELECTRIC TRANSFORMER CB = CATCH BASIN LP = LIGHT POLE	C = CALCULATED FND = FOUND C# = CURVE NUMBER & = AND A/C = AIR CONDITIONER ID = IDENTIFICATION CM = CONCRETE MONUMENT PI = POINT OF INTERSECTION	CLF = CHAIN LINK FENCE WF = WOOD FENCE TB = TOP OF BANK TS = TOE OF SLOPE OW = OVERHEAD WIRES BSL = BUILDING SETBACK LINE
---	---	---	---	---	--

UPDATES and/or REVISIONS	BY	DATE	JOB # 21-0670
			DRAWN BY: EAD
			CHECKED BY: HAK
			FIELD BOOK: FILE
			PAGE:
			FIELD DATE: 06-10-2020

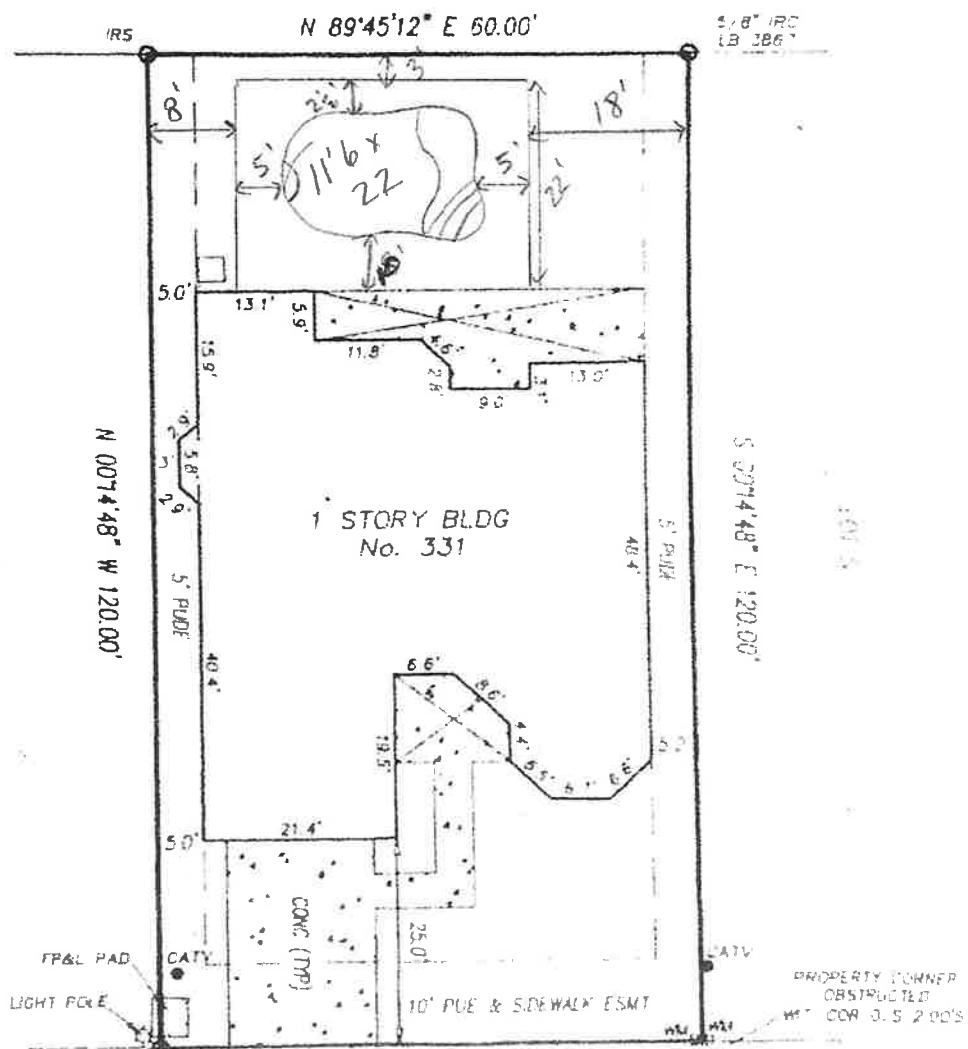
GSS Surveying and Mapping, LLC
700 22nd Place
Suite D-2
Vero Beach, FL 32960
772-696-5300



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

MAP OF BOUNDARY SURVEY

TRACT "R-1"



→ Pleasant Cove
11'6" x 22'
3'6" to 5'6"

→ Sapphire Blue GZ



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 29-37-19-76-* - 4

TAX ACCOUNT NUMBER 2962128

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

Monterey Cove at Bayside Lakes Lot 4

STREET ADDRESS OF PROPERTY COVERED BY APPLICATION:

331 GARDENDALE CIR. S.E. PALM BAY, FL 32909

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): .17

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

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:

W/A

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):

to allow a ~~pool deck~~ swimming pool and deck encroach 7' into the 10' rear accessory setback

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

185.118 (A)(4)

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.

see attached

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 M. J. Cullen. Date OCT. 28. 2021

Printed Name MICHAEL J. CULLEN

Full Address 331 GARDENDALE CIR. S.E. PALM BAY, FL 32909

Telephone 404) 973-4904 Email MJFCULLEN@YAHOO.COM

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

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 Jeanne Fisher Cullen Date Oct 3, 2021

Printed Name JEANNE FISHER CULLEN

Full Address 331 GARDENDALE CIRCLE SE. 32909

Telephone 678-663-9595 Email jeannefisherCullen@YAHOO.COM

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

October 27, 2021

Re: Request for Variance
Pool Installation
331 Gardendale Circle SE
Palm Bay, FL 32909

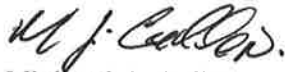
Michael and Jeanne Cullen

Please consider our request for a variance for the installation of a pool due to the following circumstances:

We have asked for a 'safe zone' from our home to the pool of approximately 9'-10' due to the fact that we have a visually impaired grandchild as well as a relative who is wheelchair bound, both of whom frequently visit us. We feel that five feet is not far enough away from our residence. Safety is the only concern for which we are applying for the variance. Under the circumstances, we sincerely request that our variance is approved.

Thank you for your attention to this appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "M. J. Cullen".

Michael J. Cullen
(404) 973.4904

Reference # _____ Date Received _____

Monterey Cove at Bayside Lakes HOA, Inc.

c/o Fairway Management, 1331 Bedford Drive, #103, Melbourne, Florida 32940

Application for Architectural Review

Property Owner: MICHAEL & JEANNE CULLEN

Address and Lot #: 331 GARDENDALE CIR

Phone #: 678-663-9595

Email Address: JEANNEFISHERCULLEN@YAHOO.COM

As owner of the above-described property, I/We submit the following for consideration and approval of the Architectural Review Committee. It is my/our desire to add or change the following:

____ Exterior Paint Colors (**Requires color sample for house , garage door and front door**; trim must be white.)

____ Landscaping Plans / Changes to Existing Footprint (Include plot plan, labeled diagrams, photographs, etc.)

____ Screen Room or Addition (Attach copy of plot plan with improvement sketch; must show colors and materials.)

☒ Fence Plan and Detail (Include diagram and detailed descriptions.)

☒ Pool Plan and Detail (Note the setback, type, with pool location sketch and pool contract indicating colors and safety barrier. Attach detailed copy of plot plan including all measurements.)

☒ Tree removal and/or replanting (include detailed diagram of property, indicating the location and type of trees to be removed, ensure stumps are removed, identify whether the tree removal area will be sodded with grass or other plants/flowers will be replanted. Note: Any tree work must be completed within 90 days of the approval date).

____ Roof replacement; Monterey Cove approved shingle color is Weathered Wood

____ Other (Include all necessary diagrams and documentation)

If this application is approved, I accept full responsibility for any actions of the vendor or contractor or their employees for any damage or alteration which may occur to Monterey Cove common areas or any other property in Monterey Cove as a result of this project and agree to replace or restore such

damaged property to its original condition. I further agree that I will be responsible to obtain all appropriate permits, licenses or insurance as may be required by City, County or State agencies prior to commencement of this project. All work (with the exception of trees) will be completed within 9 months from the date of the written approval.

Date: 3-16-21 Owner's Signature: *K. J. Cullen* Project Start Date: *Pending approval*
Jeanne Fisher Cullen *Hopefully by mid to late May 2021*

Note: Plans are reviewed for the limited purpose of determining aesthetic compatibility with the community in general in the subject opinion of the approving authority and whether the plan is in compliance with the declaration of covenants and restrictions. Plans are approved or disapproved on a limited basis. No review has been made with respect to functionality, safety, compliance with governmental regulations, or otherwise, and no reliance on approval should be made by any party with respect to such matters. The approving authority disclaims liability of any kind with respect to submitted plans, the review of, or any structure built, including but not limited to, liability for negligence or breach of express or implied warrant.

Date: 4-20-2021 Approved: ☒ *[Signature]* Disapproved: _____

For office use:

- ☒ Application completed and signed
- ☒ Supporting documentation attached
- ☒ Plot plans included (if necessary)
- ☒ Color swatches attached (if necessary)



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Patrick Murphy, Acting Growth Management Director

DATE: December 1, 2021

SUBJECT: T-52-2021 - Michael Piazzola (Barbara Davis, Rep.) - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.045(B), to create provisions within the LI, Light Industrial and Warehousing District to allow for dog training clubs and similar uses

ATTACHMENTS:

Description

- ▢ Case T-52-2021 - Staff Re[prt
- ▢ Case T-52-2021 - Application



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, Acting Growth Management Director

CASE NUMBER

T-52-2021

PLANNING & ZONING BOARD HEARING DATE

December 1, 2021

APPLICANT

Michael Piazzola

PROPERTY LOCATION/ADDRESS

Not Applicable

SUMMARY OF REQUEST

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to allow for Canine Training and similar uses, as a Permitted Use in the LI – Light Industrial and Warehousing District.

Existing Zoning

Not Applicable

Existing Land Use

Not Applicable

Site Improvements

Not Applicable

Site Acreage

Not Applicable

SURROUNDING ZONING & USE OF LAND

North

Not Applicable

East

Not Applicable

South

Not Applicable

West

Not Applicable

BACKGROUND:

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.045 LI – Light Industrial and Warehousing District, creating 185.045(B)(15).

The applicant for this amendment is Michael Piazzola of the Indian River Dog Training Club, Inc. The applicant is looking to move the club into a building at 1651 Robert J. Conlan Blvd NE. The intended site is zoned LI – which does not allow for the proposed facility.

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

ANALYSIS:

The zoning code is based on and has been adopted to effectuate and implement the policies of the city comprehensive plan to protect, preserve and improve the public health, safety, order, appearance, convenience, and welfare of the inhabitants of the city.

The provisions of the Light Industrial and Warehousing district are intended to apply to an area which can serve light manufacturing, warehousing, distribution, wholesaling and other light industrial functions for the city and the region. Lot sizes and other restrictions are intended to ensure sufficient open space and minimize adverse impacts of industrial uses off site and to nonindustrial uses.

While the applicant has proposed the text amendment for Canine Training and similar uses, as a Permitted Use the Light Industrial District, staff has drafted this amendment to be best suited for this proposed use, with consideration of the purpose of the zoning ordinance and the intent of the Light Industrial District.

The amendment would create the ability to locate a Canine Training Facility on a property with LI zoning, subject to the following: (1) The business cannot operate within a multi-tenant building; and (2) There may be no overnight boarding of animals. These provisions are included for the health and safety of the occupants of such a facility, as well as the occupants of adjacent businesses. It should be noted that any permitted use on a property zoned LI that includes five (5) or more acres, would require conditional use approval.

The applicant's proposed location is a "stand-alone" building on less than one (1) acre.

STAFF RECOMMENDATION:

Case T-52-2021 is recommended for approval.

TITLE XVII: LAND DEVELOPMENT CODE

CHAPTER 185: ZONING CODE

§ 185.045 LI — LIGHT INDUSTRIAL AND WAREHOUSING DISTRICT.

(A) *Intent.* The provisions of this district are intended to apply to an area which can serve light manufacturing, warehousing, distribution, wholesaling and other light industrial functions for the city and the region. Lot sizes and other restrictions are intended to ensure sufficient open space and minimize adverse impacts of industrial uses off site and to nonindustrial uses.

(B) *Principal uses and structures:*

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

(13) Communication towers and facilities.

(14) Medical Recycling Facility.

>>(15) Canine training and similar uses, subject to the following:

(a) The business cannot operate within a multi-tenant building; and

(b) There may be no overnight boarding of animals.<<

(C) *Accessory uses and structures:*

(1) Customary accessory uses clearly incidental and subordinate to one (1) or more principal uses.

(2) Retail sales of products manufactured, processed or stored on the premises, provided the sales area constitutes no more than 15% of the total area of the space occupied by the business.

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

(D) *Conditional uses.*

(1) Automotive fuel, propane, and natural gas dispensaries and refueling stations subject to the following provisions:

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

(b) Liquid gasoline, liquid kerosene, or liquid diesel fuels may be stored onsite for use by the operator of the property and stored onsite for offsite delivery to the general public, and stored, dispensed, and sold onsite to the general public for onsite sales of such substances.

(c) Liquid and non-liquid propane, and liquid and non-liquid natural gas and other petroleum-based fuel products (including liquid gasoline, liquid kerosene, or liquid diesel fuel) may be stored onsite for the use of the operator of the property, stored and sold onsite for offsite delivery to the general public, and stored, dispensed, and sold onsite to the general property.

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

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

(2) Freight handling and transportation terminals.

(3) Planned industrial developments including office and business parks.

(4) Corrections facilities subject to the following:

(a) Minimum area required: 20 acres.

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

(5) Public and private schools.

(6) Tree and Landscape Recycling, subject to the following:

(a) A minimum lot size of 5 acres;

(b) An 8-foot opaque fence or wall surrounding the site on all sides;

(c) A 100-foot setback between any property line and any operation of tree or landscape recycling machinery (with the exception of vehicle or product storage);

(d) A 250-foot buffer between any residentially zoned land and any operation of tree or landscape recycling machinery (with the exception of vehicle or product storage);

(e) Tree and Landscape Recycling operations restricted to 8:00 a.m. to 6:00 p.m.;

(f) Strict adherence to Maximum Permissible Sound Levels for Industrial Land, as set forth in Table 1 of Section 92.06 of the Palm Bay Code of Ordinances.

(E) *Prohibited uses and structures:*

(1) All uses not specifically or provisionally permitted herein.

(F) *Lot and structure requirements:*

(1) Minimum lot area — twenty thousand (20,000) square feet.

(2) Minimum lot width — one hundred (100) feet.

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

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

(5) Minimum floor area — None.

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

(7) Minimum yard requirements:

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

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

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

(d) Rear — twenty-five (25) feet.

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



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:

185.045(B)(15)

PROPOSED LANGUAGE (attach addendum if necessary):

see attached
or

JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary)

A Dog Training club, the objectives of this club is to Promote the training of Dogs, Conduct classes for the training of Dogs and their handlers, Encourage training of Judges, Hold and support trials, test, exhibitions, and matches under the rules and regulations of the American Kennel Club. This type of Warehouse Facility will benefit the club greatly in fulfilling its mission and vision of the future.

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 Michael Piazzola Date 10-18-2021

Printed Name of Applicant MICHAEL PIAZZOLA

Full Address 1574 Nebraska St, NE. Palm Bay FL 32907

Cell Telephone 321-543-3451 Email LittleLuvbucket@Gmail.Com

PERSON TO BE NOTIFIED (If different from above):

Printed Name Barbara Davis

Full Address 1480 Meadowbrook Rd NE P.B. 32905

Telephone 407-719-1219 Email dillardbed@aol.com

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

RECEIVED

OCT 18 2021

City of Palm Bay
LAND DEVELOPMENT

GT
185.014(B)

(15) Canine Training and similar uses, subject to the following:

- (a) The business cannot operate within a multi-tenant building;
- (b) No overnight boarding of animals.



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Patrick Murphy, Acting Growth Management Director

DATE: December 1, 2021

SUBJECT: **CU-53-2021 - Scott Macfarlane - A Conditional Use to allow a proposed security dwelling unit in a GC, General Commercial District. Lot 14, Block 1985, Port Malabar Unit 40, Section 3, Township 29, Range 37, Brevard County, Florida, containing approximately .56 acres. East of and adjacent to Thor Avenue SE, in the vicinity south of Agora Circle SE, specifically at 261 Thor Avenue SE

**Quasi-Judicial Proceeding.

ATTACHMENTS:

Description

- ▣ Case CU-53-2021 - Staff Report
- ▣ Case CU-53-2021 - Survey and Floor Plan
- ▣ Case CU-53-2021 - Application



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, Acting Growth Management Director

CASE NUMBER

CU-53-2021

PLANNING & ZONING BOARD HEARING DATE

December 1, 2021

PROPERTY OWNER & APPLICANT

Scott Macfarlane

PROPERTY LOCATION/ADDRESS

Parcel ID 29-37-03-26-1985-14
Located at 261 Thor Avenue SE

SUMMARY OF REQUEST

Conditional Use approval for a Security Dwelling Unit in the GC, General Commercial zoning district

Existing Zoning

GC, General Commercial

Existing Land Use

Commercial Use

Site Improvements

Existing warehouse building

Site Acreage

0.56 acres

SURROUNDING ZONING & USE OF LAND

North

GC, General Commercial; Flex-Space Warehouse

East

GC, General Commercial; City Drainage Ditch

South

GC, General Commercial; Commercial Electric

West

GC, General Commercial; Thor Avenue SE

COMPREHENSIVE PLAN

COMPATIBILITY

Yes

BACKGROUND:

The subject property is located on the east side of Thor Avenue SE, between Agora Circle and Convoir Street, in Port Malabar Unit (PMU) 40. PMU 40 is a commercial and multi-family subdivision generally located SE of the intersection of Malabar Road and Babcock Street.

Specifically, the property is Lot 14, Block 1985; located in Section 3, Township 29 south, Range 37 east, Brevard County, Florida. The lot is approximately 0.56 acres. The property contains a warehouse building and was constructed in 2002. It includes approximately 4,170 square feet of warehouse space with three (3) units.

The applicant is requesting conditional use approval for a Security Dwelling Unit in the GC, General Commercial zoning district, as required by Section 185.054(D)(3) of the Palm Bay Code of Ordinances. The applicant for this request is Scott Macfarlane.

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 reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of emergency.*

According to the approved site plan, the property has one (1) driveway access onto Thor Avenue, which is sufficient for the size of the existing facility. No new driveways or access points are proposed.

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.*

The existing building contains three (3) units. Unit A has a commercial space with an attached warehouse (west side of building), and so does Unit C (east side of building). Unit B is located in the center of the building, and this is where the dwelling unit will be located.

Based on the size of the building and their present uses, a total of five (5) parking spaces are required, with at least one of those spaces being handicapped accessible. According to the survey the site contains 11 regular spaces and one handicapped space.

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

The property has city water & sewer, electric, phone and cable services available to it.

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

The site plan provides the required buffering. No screening of the dwelling unit is needed.

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.*

One (1) detached sign exists just north of the Thor Avenue driveway. There are existing wall lights on the face of the building. The plans do not propose additional signs or lighting.

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

The property meets the required yard and open space requirements.

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.*

Per the GC District requirements, only a maximum of two (2) persons may occupy the unit. Therefore, the use covered by this request will not create a traffic nuisance.

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

The project itself includes a flex-space warehouse building that is consistent with existing development of Port Malabar Unit 40. Since residential uses already exist within Unit 40, the security dwelling unit will not have an adverse impact.

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

The Planning and Zoning Board and City Council have the authority and right to impose any additional and justifiable safeguards, and/or conditions, to ensure that the facility operates safely and harmoniously with its surroundings.

In addition to the above General Requirements and Conditions, this request shall adhere to the **Special Requirements and Conditions** listed in Section 185.088 (I). They are:

(1) The unit will only be permitted in conjunction with a site that has wholesale trade, warehousing, storage, contractor offices with storage, assembly, machine shops, commercial flex-space and/or similar uses.

(2) No one under the age of eighteen (18) may reside within the unit, and at no time may the unit be occupied by more than two (2) persons.

(3) The unit resident must be the owner of the property or an employee of the property owner. If the resident is not the owner, a signed and notarized contract between the property owner and the employee shall be provided to staff that addresses provisions for security.

(4) The unit may contain no more than one thousand (1,000) square feet of gross floor area and may not be located in a free-standing structure.

(5) There may be only one (1) security dwelling unit per property.

(6) There shall be at least one (1) parking space designated on-site for the resident of the unit.

(7) Applicants must demonstrate that approval of an onsite security dwelling minimizes the need for other security measures including but not limited to chain link fencing, strands of barbed wire atop fencing or walls and excessive security lighting thereby promoting a more aesthetically acceptable site development pattern.

STAFF CONCLUSION:

Staff recommends approval of Case No. CU-53-2021, subject to the special requirements and conditions listed in this report.

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



SITE LOCATION MAP CASE: CU-53-2021

Subject Property

East of and adjacent to Thor Avenue SE, in the vicinity south of Agora Circle SE, specifically at 261 Thor Avenue SE

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

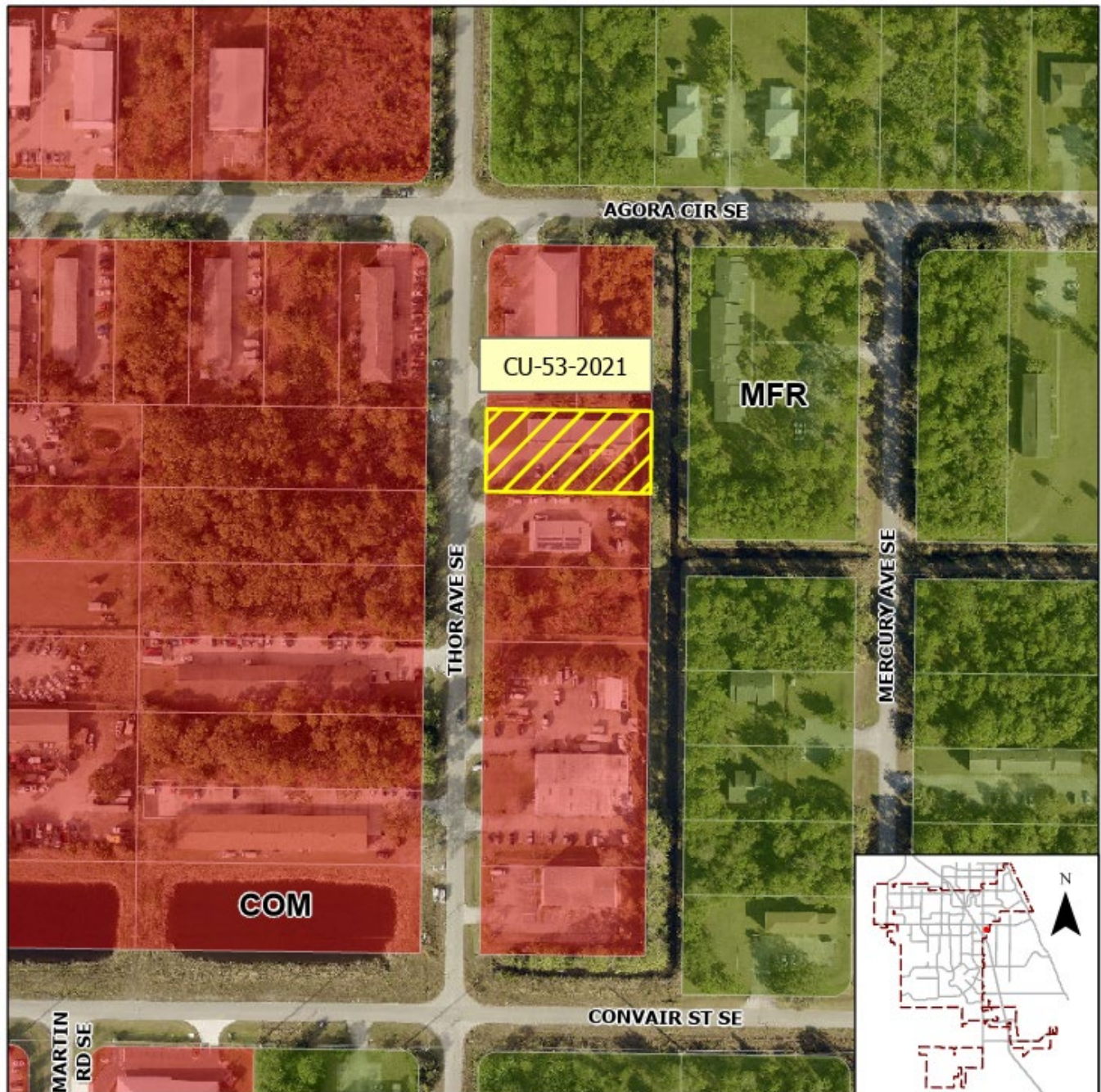


AERIAL LOCATION MAP CASE: CU-53-2021

Subject Property

East of and adjacent to Thor Avenue SE, in the vicinity south of Agora Circle SE, specifically at 261 Thor Avenue SE

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



FUTURE LAND USE MAP

CASE: CU-53-2021

Subject Property

East of and adjacent to Thor Avenue SE, in the vicinity south of Agora Circle SE, specifically at 261 Thor Avenue SE

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

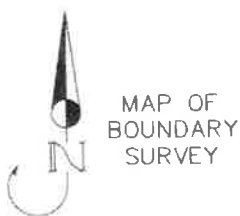
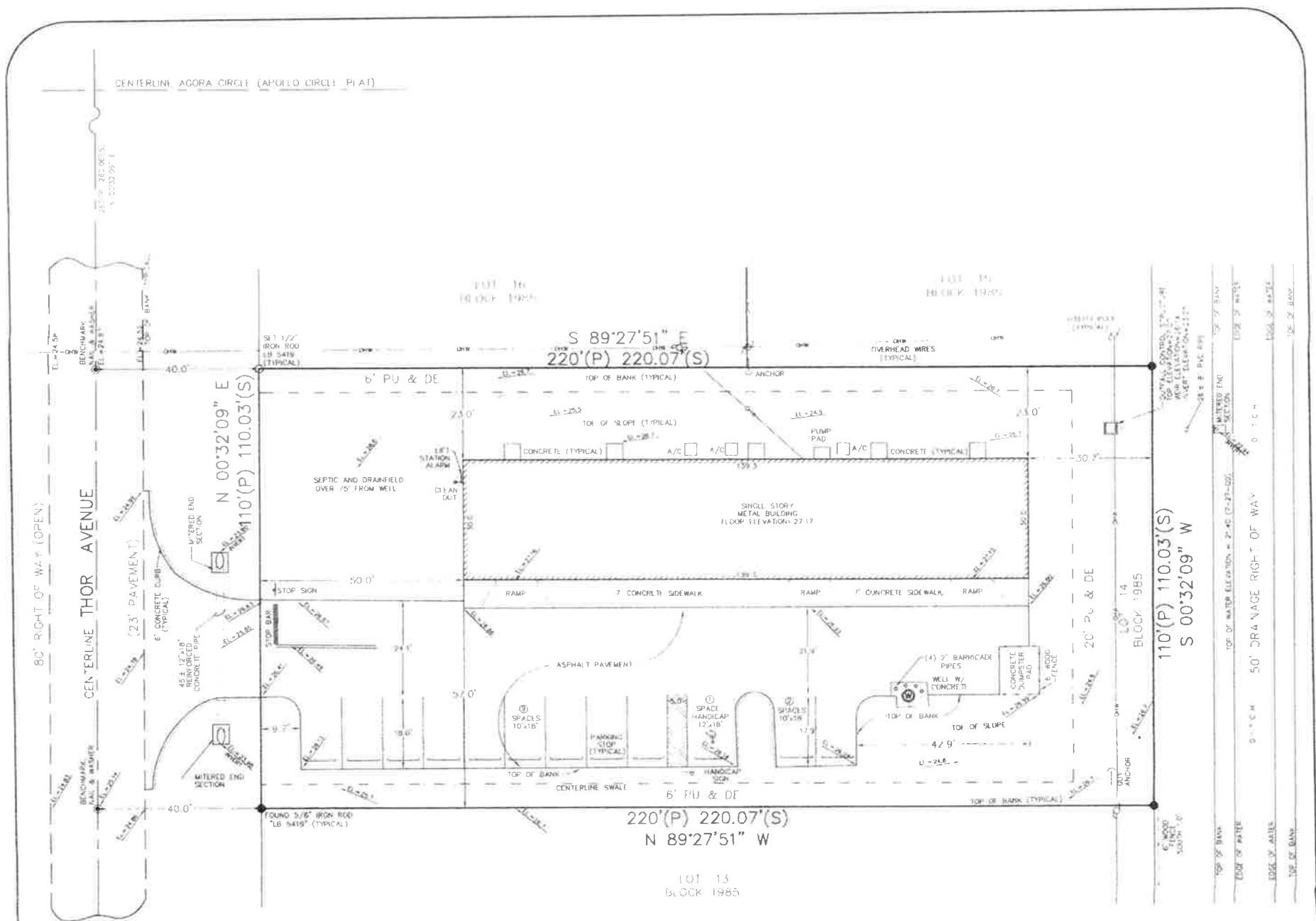
CASE: CU-53-2021

Subject Property

East of and adjacent to Thor Avenue SE, in the vicinity south of Agora Circle SE, specifically at 261 Thor Avenue SE

Current Zoning Classification

GC – General Commercial District



CERTIFIED TO:
 PAULINE V. & WINSTON BORLAND
 TESFA BORLAND
 MONIQUE BORLAND
 ANCO STRUCTURES, INC.(ASI)

DESCRIPTION

LOT 14, BLOCK 1985 PORT MALABAR UNIT FORTY ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 21, PAGES 29 THRU 33 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

- NOTES:
- 1.) BEARINGS BASED ON THE ASSUMPTION THAT THE CENTERLINE OF THOR AVENUE BEARS N 00°32'09" E PER PLAT OF PORT MALABAR UNIT FORTY.
 - 2.) LOT DIMENSIONS ARE AS PLATTED(P) AND SURVEYED(S) UNLESS OTHERWISE NOTED.
 - 3.) ELEVATIONS "EL.=25.14" BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929.
 - 4.) PROPERTY LIES WITHIN SECTION 3, TOWNSHIP 29 SOUTH, RANGE 37 EAST.
 - 5.) PU & DE DENOTES PUBLIC UTILITIES AND DRAINAGE FACILITIES EASEMENT.
 - 6.) PROPERTY LIES WITHIN FLOOD ZONE "X" PER FLOOD INSURANCE RATE MAP NUMBER 12009C0605E.
 - 7.) AS-BUILT SURVEY 05-30-02

SURVEY DATE: MAY 30, 2002	JOB NO: 00-422
SCALE: 1" = 20'	FIELD BOOK: R10
	PAGE: 49

WJS WILLIAM J. SUITER
LAND SURVEYING, INC.

1849 CANOVA STREET SE
 PALM BAY, FLORIDA 32909

(407) 728-0553
 FAX (407) 729-6773

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

PROFESSIONAL SURVEYOR AND MAPPER IN RESPONSIBLE CHARGE
 WILLIAM J. SUITER FLORIDA CERTIFICATE NO. 4210
 JEFFREY S. HATTENDORF FLORIDA CERTIFICATE NO. 6193
 CERTIFICATE OF AUTHORIZATION #LB 5419

DATE OF SIGNATURE

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JUN 13 2007

974



LAND DEVELOPMENT DIVISION

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

CONDITIONAL USE APPLICATION

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

PARCEL ID 29-37-03-26-1985-14

TAX ACCOUNT NUMBER 2923022

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

LT 14, BLOCK 1985, PORT MALABAR UNIT FORTY, ACCORDING TO THE
PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGE 29, OF THE
PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

261 Thor Ave SE

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): .56

ZONING CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.) 4830 WAREHOUSE/FLEX GC

CONDITIONAL USE SOUGHT security dwelling unit

General Commercial

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 10/17/21

Printed Name

SCOTT MACENTZLANE

Full Address

261 THOR AVE PALM BAY FL 32909

Telephone

8609167538

Email

MACENT10@YAHOO.COM

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

10/12/21

Scott Macfarlane
261 Thor Avenue SE
Palm Bay, FL 32909

I, Scott Macfarlane, Owner of 261 Thor Avenue SE, Palm Bay, FL 32909 seek approval to install a Security Dwelling Unit at 261 Thor Avenue SE, Unit B that will be occupied by myself.

Scott Macfarlane

A handwritten signature in blue ink, appearing to read 'Scott Macfarlane', with a long horizontal flourish extending to the right.



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Christopher Balter, Senior Planner

DATE: December 1, 2021

SUBJECT: CP-19-2021 - Steffany and Victor Lopez - A small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use. Part of Tract A, Port Malabar Unit 12, Section 7, Township 29, Range 37, Brevard County, Florida, containing approximately 1.46 acres. South of and adjacent to Arabia Road SE, in the vicinity west of Cleaves Street SE

ATTACHMENTS:

Description

- ▣ Case CP-19-2021 - Staff Report
- ▣ Case CP-19-2021 - Plat
- ▣ Case CP-19-2021 - Parcel
- ▣ Case CP-19-2021 - Application
- ▣ Case CP-19-2021 - Correspondence



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmabayflorida.org

Prepared by

Patrick J. Murphy, Acting Growth Management Director

CASE NUMBER

CP-19-2021

PLANNING & ZONING BOARD HEARING DATE

December 1, 2021

PROPERTY OWNER & APPLICANT

Steffany Lopez

PROPERTY LOCATION/ADDRESS

The property is located south of and adjacent to Arabia Road SE, in Port Malabar Unit 12

SUMMARY OF REQUEST

The applicant is requesting a small-scale Comprehensive Plan Future Land Use (FLU) Map amendment to change 1.46 acres of land from Recreation and Open Space Use to Single Family Residential Use.

Existing Zoning

RS-2, Single-Family Residential

Existing Land Use

Recreation and Open Space Use

Site Improvements

Undeveloped Land

Site Acreage

1.46 acres

SURROUNDING ZONING & USE OF LAND

North

RS-2, Single-Family Residential; Arabia Road SE

East

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

South

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

West

RS-2, Single-Family Residential; Undeveloped Land

BACKGROUND:

The property is located south of and adjacent to Arabia Road SE. Specifically, the subject property is Tract A.01 of Port Malabar Unit 12, located in Section 7, Township 29 south, Range 37 east, Brevard County, Florida. The Tract is approximately 1.46 acres of undeveloped land.

The applicant is requesting a small-scale Comprehensive Plan Future Land Use (FLU) Map amendment to change the above-described property from Recreation and Open Space Use to Single Family Residential Use. The applicant is Steffany Lopez.

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.”

The applicant stated that the desired future land use is needed to allow for homes to be built upon the property. The Single Family Residential (SFR) Use FLU category allows for a maximum residential density of 5 units per acre, with a range of 0-5 units per acre. Typical uses permitted include single-family homes, recreational uses, and institutional uses such as schools, churches, and utilities.

It shall be noted that the parcel may only be split one time (to create two properties) without having to follow the City’s subdivision ordinance. Any further splits will require compliance and administrative review for a minor subdivision (184.34). The land is currently zoned RS-2, Single-Family Residential and the requested FLU category is consistent with this zoning.

2. 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 for, 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.

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

3. HOUSING ELEMENT

The proposed Mixed Use 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.

4. 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. The property currently has city water available to it, but not sewer. Connection to city sewer would be determined upon submission of a minor subdivision application if the property were to be split more than one time.

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 building permit review process (if just 2 homes) and/or the subdivision 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.

5. INTERGOVERNMENTAL COORDINATION ELEMENT

Public Schools: Based on the relatively small size of this parcel, the FLU amendment requested will have no adverse effects on the public school system.

6. RECREATION AND OPEN SPACE ELEMENT

The Recreation and Open Space Element addresses the current and future recreational needs of the city. Single-Family Residential Use does have more of a demand upon the parks & recreation level of service (LOS) standards than Recreation and Open Space Use. However, the number of homes that could be constructed upon the property would have a De minimis effect on the recreation LOS.

7. TRANSPORTATION ELEMENT

The objectives of the Transportation Element are to provide a safe, balanced, efficient transportation system that maintains roadway LOS and adequately serves the needs of the

community. The adjacent roadway segments must 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 if the applicant submits for minor subdivision approval. However, no impacts to adjacent roadways are anticipated.

8. PROPERTY RIGHTS ELEMENT

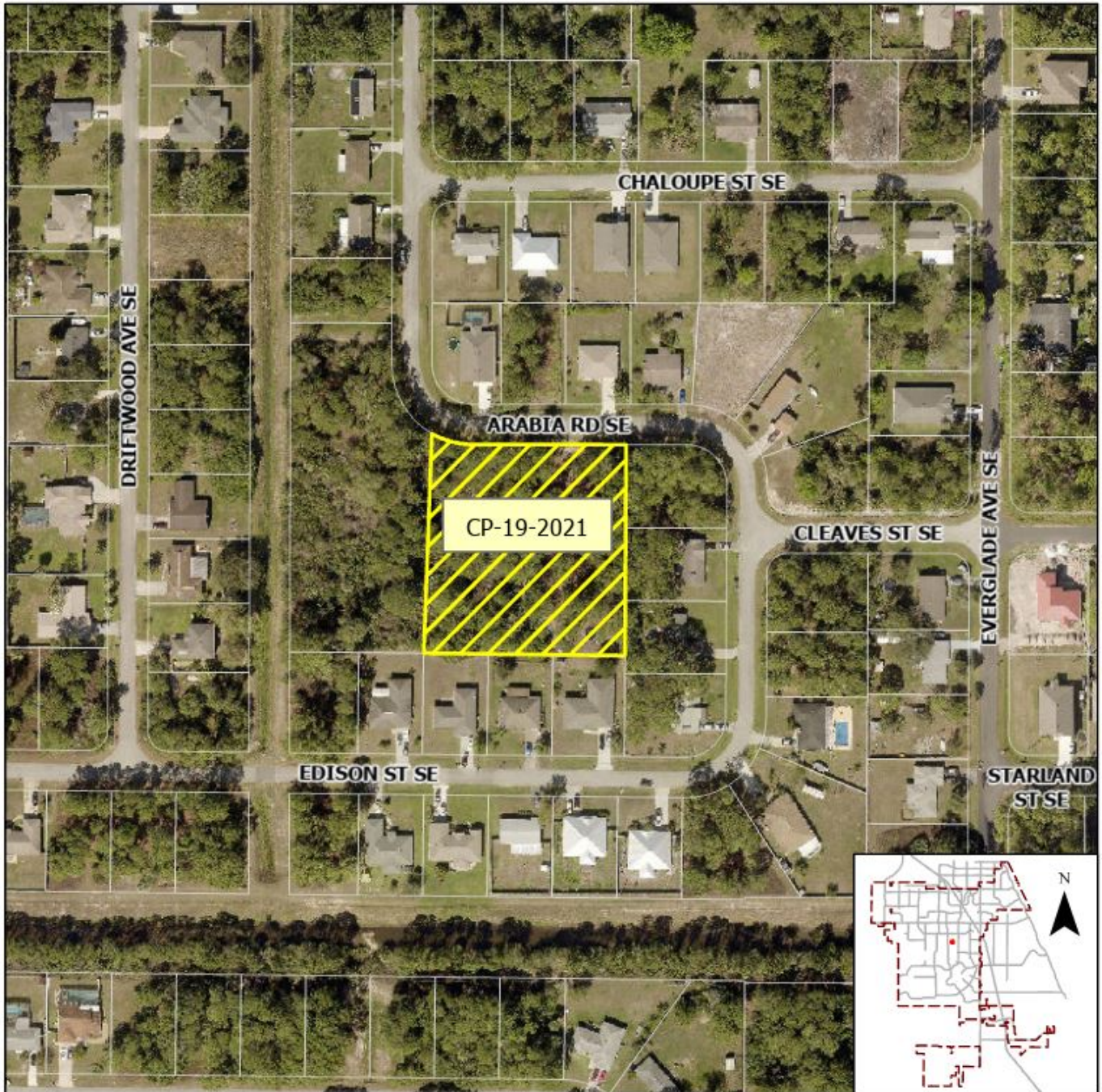
The goal of the Comprehensive Plan's Property Rights Element is for the City to respect judicially acknowledged and constitutionally protected private property rights. This proposed land use change does not appear to infringe upon the property rights of the applicant.

STAFF RECOMMENDATION:

Case CP-19-2021 is recommended for approval subject to the staff comments.



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



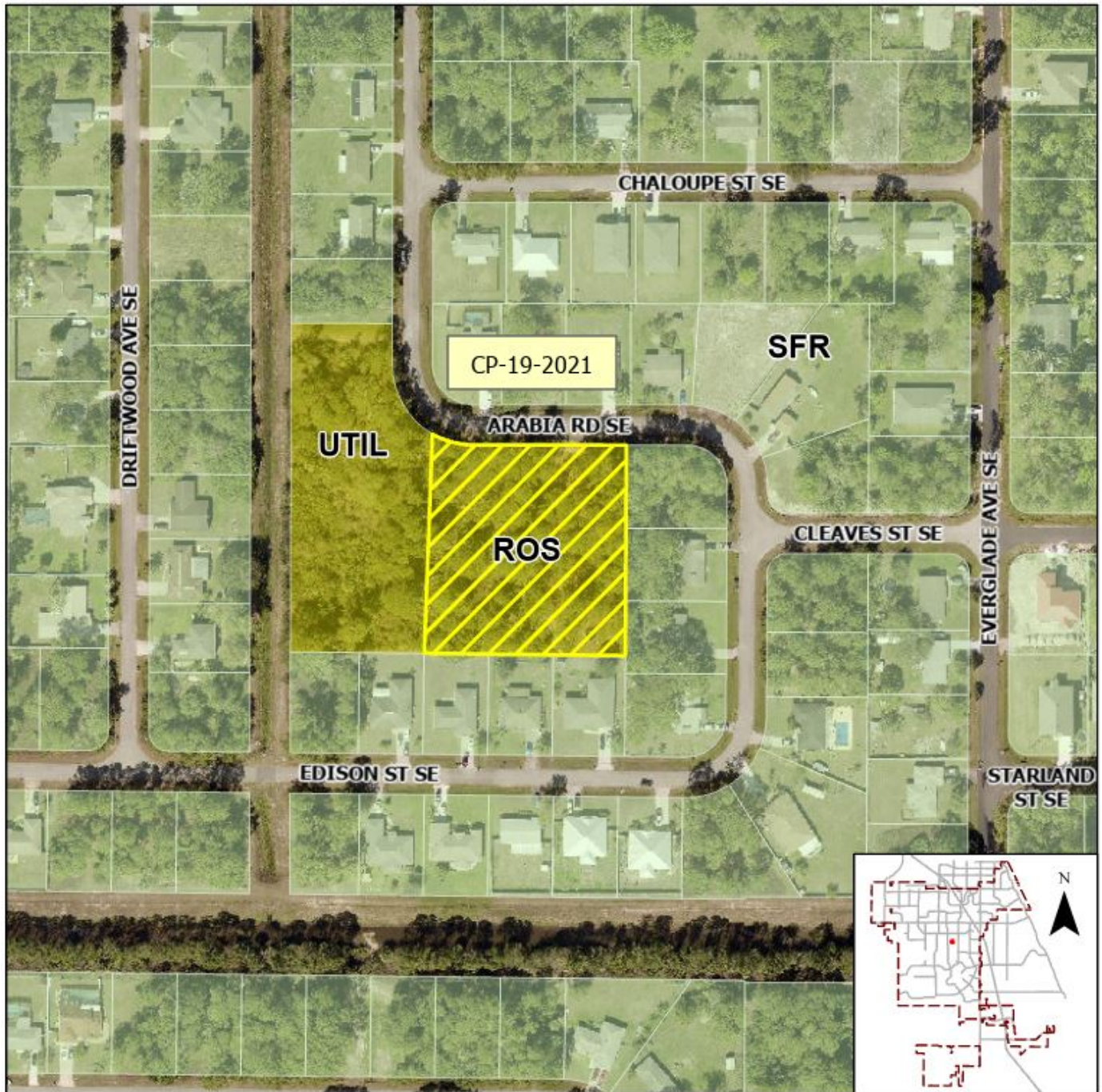
AERIAL LOCATION MAP CASE: CP-19-2021

Subject Property

South of and adjacent to Arabia Road SE, in the vicinity west of Cleaves 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: CP-19-2021

Subject Property

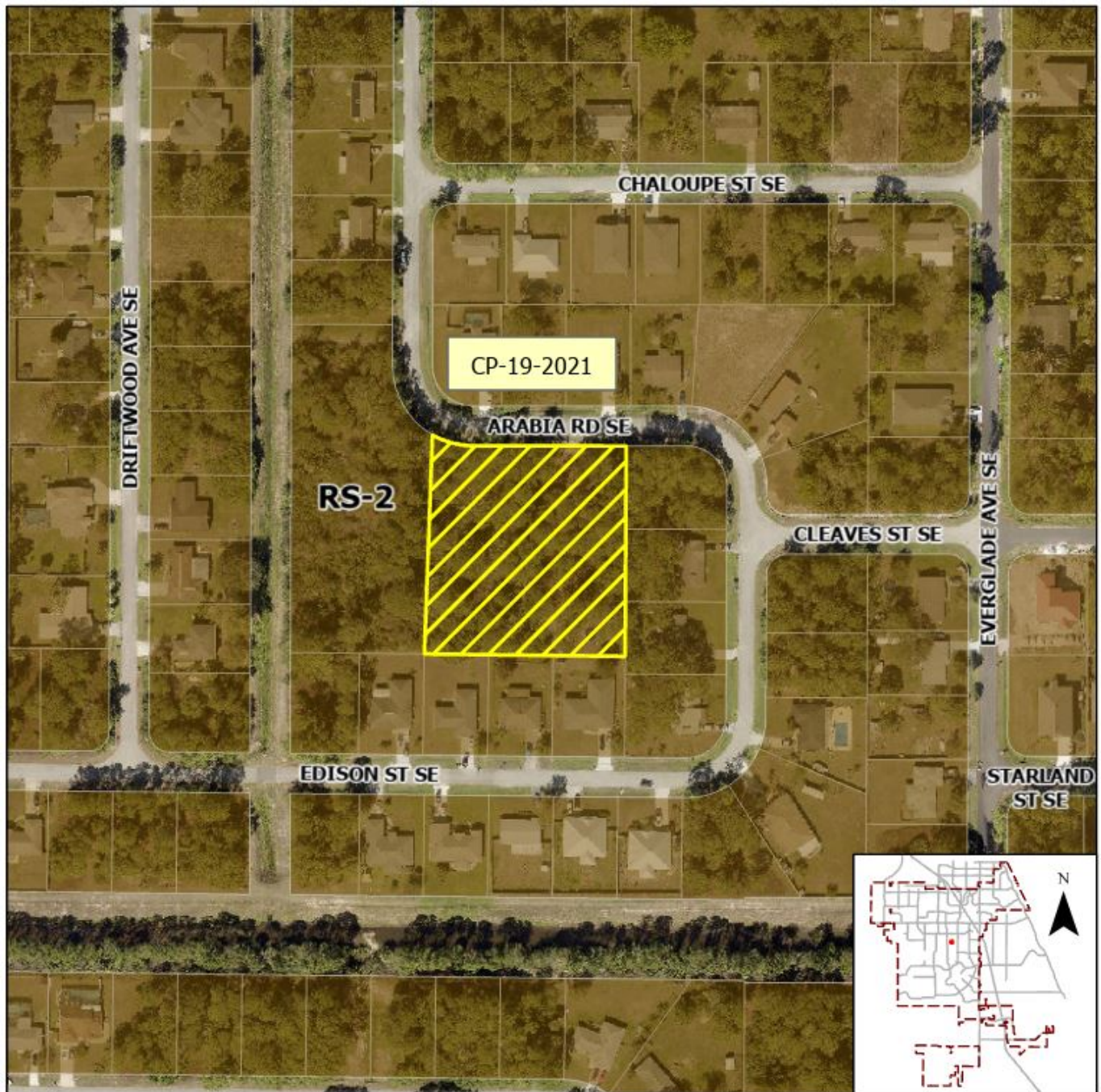
South of and adjacent to Arabia Road SE, in the vicinity west of Cleaves Street SE

Future Land Use Classification

ROS – Recreation and Open Space Use



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



ZONING MAP

CASE: CP-19-2021

Subject Property

South of and adjacent to Arabia Road SE, in the vicinity west of Cleaves Street SE

Current Zoning Classification

RS-2 – Single Family Residential District

PORT MALABAR

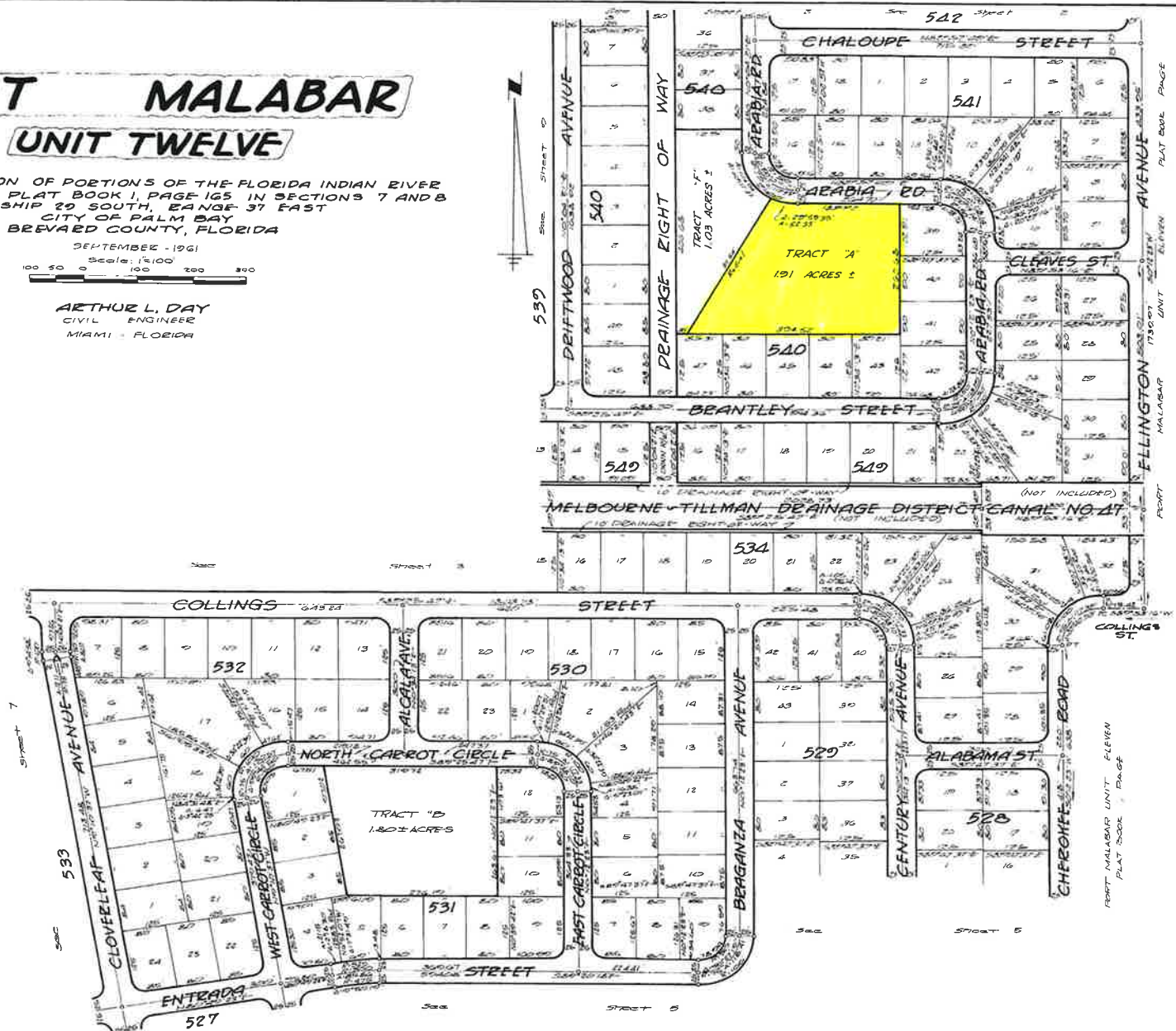
UNIT TWELVE

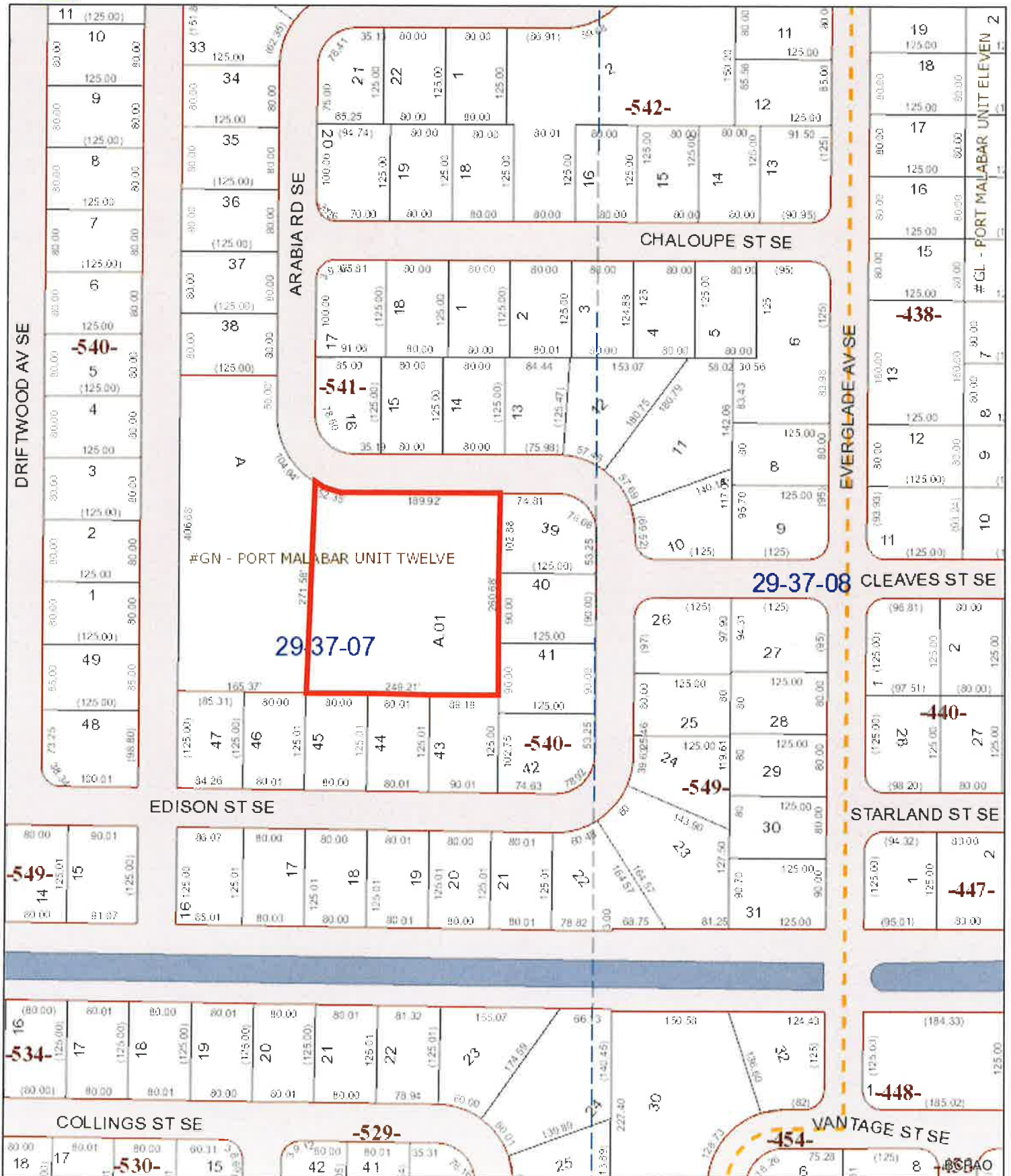
A RESUBDIVISION OF PORTIONS OF THE FLORIDA INDIAN RIVER
LAND COMPANY, PLAT BOOK 1, PAGE 165, IN SECTIONS 7 AND 8
TOWNSHIP 29 SOUTH, RANGE 37 EAST
CITY OF PALM BAY
BREVARD COUNTY, FLORIDA

SEPTEMBER - 1961

Scale: 1"=100'

ARTHUR L. DAY
CIVIL ENGINEER
MIAMI - FLORIDA





All BCPAO maps and/or map applications are maintained for assessment and illustrative purposes only and do not represent surveys, plats, or any other legal instrument. Likewise, measurement and location tools are for assessment and illustrative purposes only and do not necessarily reflect real-world conditions. Due to the nature of Geographic Information Systems (GIS) and cadastral mapping, map layers may not precisely align and may not represent precise location, shape, and/or legal boundaries. Only a Florida-licensed surveyor can determine legally-relevant property boundaries, elevation, distance, area, and/or location in Florida.

Map created November 19, 2021 (map data dates may vary)



LAND DEVELOPMENT DIVISION

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

Landdevelopment@palmbayflorida.org

COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION

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

APPLICATION AMENDMENT TYPE:



Small Scale (Less than 10 acres)



Text Amendment (Comp. Plan)



Large Scale (10 acres or more)

PARCEL ID 29-37-07-GN-*-A.01

TAX ACCOUNT NUMBER 3022 374

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

PORT MALABAR Unit 12 PART OF TRACT A AS DESC
in ORB 8881 PG 213

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 1.46

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

RECREATION OR OPEN SPACE

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

Single family Residential

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

PRESENT USE OF PROPERTY VACANT Land

STRUCTURES LOCATED ON THE PROPERTY NONE

REZONING FILED IN CONJUNCTION WITH THIS APPLICATION

N/A

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

TO Build single family home

SPECIFIC USE INTENDED FOR PROPERTY

Build Homes (HOUSES)

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

☒ *Application Fee. Make Check payable to "City of Palm Bay."

☒ \$1,200.00 - Small Scale (Less than 10 acres)

☐ \$2,000.00 - Large Scale (10 acres or more)

☐ \$2,000.00 - Text Amendment (Comp. Plan)

☒ Boundary Survey for land use amendments.

☒ List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This should be obtained for a fee from the Brevard County Planning and Zoning Department at (321) 633-2060.)

☒ School Board of Brevard County [School Impact Analysis Application](#) (if applicable).

☐ Sign(s) posted on the subject property. Refer to [Section 51.07\(C\)](#) of the Legislative Code for guideline.

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

☐ Where the property owner is not the representative for the request, a LETTER must be attached giving the notarized consent of the property owner(s) to a representative.

Name of Representative _____

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 Steffany Lopez Date 9/21/21
Printed Name Steffany Lopez
Full Address 583 EDISON ST SE PALM BAY FL 32909
Telephone 321-848-4849 Email IamSteffanylopez@gmail.com

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

RECEIVED

OCT 21 2021

City of Palm Bay
LAND DEVELOPMENT

CITY OF PALM BAY, FLORIDA

COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION


PAGE 3 OF 3

- ☐ Legal description of the subject property with a sketch of the legal. **Also provide the site sketch 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.)
- ☐ 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 _____

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 11/3/21

Printed Name Victor Lopez

Full Address 583 Edison St SE Palm Bay FL 32909

Telephone 321 848 2865 Email VluisLopez24@gmail.com

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

CASE CP-19-2021

CORRESPONDENCE

City of Palm Bay
120 Malabar Road SE
Palm Bay Florida 32907
ATTN: Planning and Zoning Board

11/23/2021

Good day,
In Reference to Case CP-19-2021

I am a property owner that is within a 500-foot radius of the land in question (see attached letter).

I am opposed to this Comprehensive Plan future land use map amendment from Recreation and Open Space use to Single Family Residential Use.

I will attend the public hearing on December 1, 2021 at 7pm to state my reasons.

Please add my name to speak at the hearing.

Sharon Lopez
821 Arabia Road SE.
Palm Bay FL 32909

As Attached 1



November 9, 2021

NOTICE TO INTERESTED PROPERTY OWNERS*
PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY
CITY COUNCIL
CITY OF PALM BAY, FLORIDA

Refer to Case CP-19-2021:

An application for a Comprehensive Plan amendment has been filed with the Planning and Zoning Board/Local Planning Agency and the City Council. The applicant requests the property described as follows:

Part of Tract A, Port Malabar Unit 12, Section 7, Township 29, Range 37, Brevard County, Florida, containing approximately 1.46 acres. South of and adjacent to Arabia Road SE, in the vicinity west of Cleaves Street SE

be granted a small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use.

The applicant for the request is Steffany and Victor Lopez.

A public hearing will be held by the Planning and Zoning Board/Local Planning Agency on December 1, 2021, and by the City Council on January 6, 2022, both to be held at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida. You may present your views on the matter in person, in writing, or through a representative.

Planning and Zoning Board
City Council
c/o Land Development Division
City of Palm Bay
120 Malabar Road SE
Palm Bay, Florida 32907

*Refers to applicant and property owners within a 500-foot radius.



SECTION 59.03 - NOTICE PROCEDURES FOR AGGRIEVED OR ADVERSELY AFFECTED PERSONS.

(A) Any aggrieved or affected person desiring to become a party in the quasi-judicial proceeding shall provide written notice to the 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 filing of notice with the clerk shall serve as notice to the parties of the aggrieved or affected person's intent to appear at the proceeding to testify, present evidence, bring forth witnesses, and cross-examine witnesses. The required notice must be received by the clerk at least five (5) calendar days before the hearing.

(B) The written notice in subsection (A) above, filed with the clerk of a board for a quasi-judicial matter that will procedurally be forwarded to the City Council for consideration shall also serve as the notice for the aggrieved or affected person to appear at the proceeding held by the City Council on the same quasi-judicial matter.

(Ord. 2015-22, passed 5-7-2015)

BE ADVISED: Regardless of whether or not you qualify as an aggrieved or affected person, per the provisions of Section 59.03 of the Palm Bay Code of Ordinances, any person may speak on any item that is scheduled to appear before the Planning and Zoning Board and/or City Council without having to provide written notice to the clerk. You may fill out a speaker comment/oath card provided by the clerk at the night of the meeting and verbally (or in written form) provide any comments you may have to the Board and/or City Council.



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Christopher Balter, Senior Planner

DATE: December 1, 2021

SUBJECT: CP-20-2021 - Bibi and Gurudeo Chand - A small-scale Comprehensive Plan Future Land Use Map amendment from Commercial Use to Multiple-Family Residential Use. Tract A, Port Malabar Unit 39, Section 34, Township 28, Range 36, Brevard County, Florida, containing approximately 6.52 acres. East of and adjacent to Krassner Drive NW, in the vicinity north of Hayworth Circle NW

ATTACHMENTS:

Description

- ▣ Case CP-20-2021 - Staff Report
- ▣ Case CP-20-2021 - Plat
- ▣ Case CP-20-2021 - Boundary Survey
- ▣ Case CP-20-2021 - Application



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmbayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

CP-20-2021

PLANNING & ZONING BOARD HEARING DATE

December 1, 2021

PROPERTY OWNER & APPLICANT

Bibi and Gurudeo Chand

PROPERTY LOCATION/ADDRESS

Tract A, Port Malabar Unit 39, Section 34, Township 28, Range 36, of Brevard, County Florida

SUMMARY OF REQUEST

The applicant is requesting a small-scale Comprehensive Plan Future Land Use (FLU) Map amendment to change 6.52 acres of land from Commercial Use to Multiple Family Residential Use.

Existing Zoning

NC, Neighborhood Commercial

Existing Land Use

Commercial Use

Site Improvements

Vacant, undeveloped land

Site Acreage

6.52 acres

SURROUNDING ZONING & USE OF LAND

North

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

East

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

South

Krassner Drive NW

West

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

BACKGROUND:

The property is located east of and adjacent to Krassner Drive NW, in the vicinity north of Hayworth Circle NW. Specifically, the subject property is Tract A, of Port Malabar Unit 39, Section 34, Township 28, Range 36. This property is vacant, undeveloped land.

The applicant purchased the property in September of 2003 and is requesting a small-scale Comprehensive Plan Future Land Use Map amendment to change 6.52 acres of land from Commercial Use to Multiple Family Residential Use.

ANALYSIS:

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

1. FUTURE LAND USE ELEMENT

Included with the application is a Statement of Justification for Comprehensive Plan Map Amendment. The statement indicates that the applicant desires the property to be developed in the future as a multi-family project of either townhomes or condos.

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.”

Recent studies have shown that there is a lack of multi-family housing in Palm Bay and that existing multi-family developments have an extremely low vacancy rate, thus driving this need. This amendment will help to further strike the balance of diversified living environments sought by the above goals.

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

This established density limit would yield a maximum of 130 units. However, as indicated in the companion rezoning request (CPZ-20-2021), the applicant is requesting the RM-15 zoning district to be applied to the parcel. Provisions of the RM-15 district only permit a maximum of

15 UPA. This would result in no more than 97 units. A development of this size would be considered medium density residential development; and if approved, this density should be the maximum permitted by this amendment request.

2. 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.

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

3. HOUSING ELEMENT

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

4. 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 change will not cause the level of service to fall below the standards adopted in the Comprehensive Plan for these services for the current planning period. Public water and sewerage facilities are not readily available at the site. If developed, the owner/developer will be responsible for extending service to the site in accordance with current City regulations.

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.

5. INTERGOVERNMENTAL COORDINATION ELEMENT

Public Schools: The proposed FLU amendment to Multiple Family Use will add housing units. Some impacts to the public-school system area are anticipated; however, considering the adjacent concurrency service areas, there is sufficient capacity.

6. 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, this Element sets a LOS standard of 2 acres per 1,000 residents. The City maintains public ownership of park-designated lands that far exceed this requirement. Therefore, the density increase would have a De minimis effect on the recreation LOS.

7. TRANSPORTATION ELEMENT

The objectives of the Comprehensive Plan's Transportation Element are to provide a safe, balanced, efficient transportation system that maintains the roadway level of service and adequately serves the needs of the community. If developed, a traffic impact analysis will be required to determine any negative impacts on the existing transportation system along with any suggested improvements, which will be taken under consideration during the Site Plan review/approval process.

8. PROPERTY RIGHTS ELEMENT

The goal of the Comprehensive Plan's Property Rights Element is for the City to respect judicially acknowledged and constitutionally protected private property rights.

This proposed land-use change does not appear to infringe upon the property rights of the applicant.

STAFF CONCLUSION:

The analysis contained in this report should provide the Planning and Zoning Board and City Council with information to determine the need and justification for the change, the effect of the change, and the relationship of the proposed amendment to furthering the purposes of the Comprehensive Plan.

Conditions:

Should the Board and Council approve Case CP-20-2021, then staff recommends the following item to be a condition of that approval:

- The maximum density shall be capped at 15 units per acre.



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



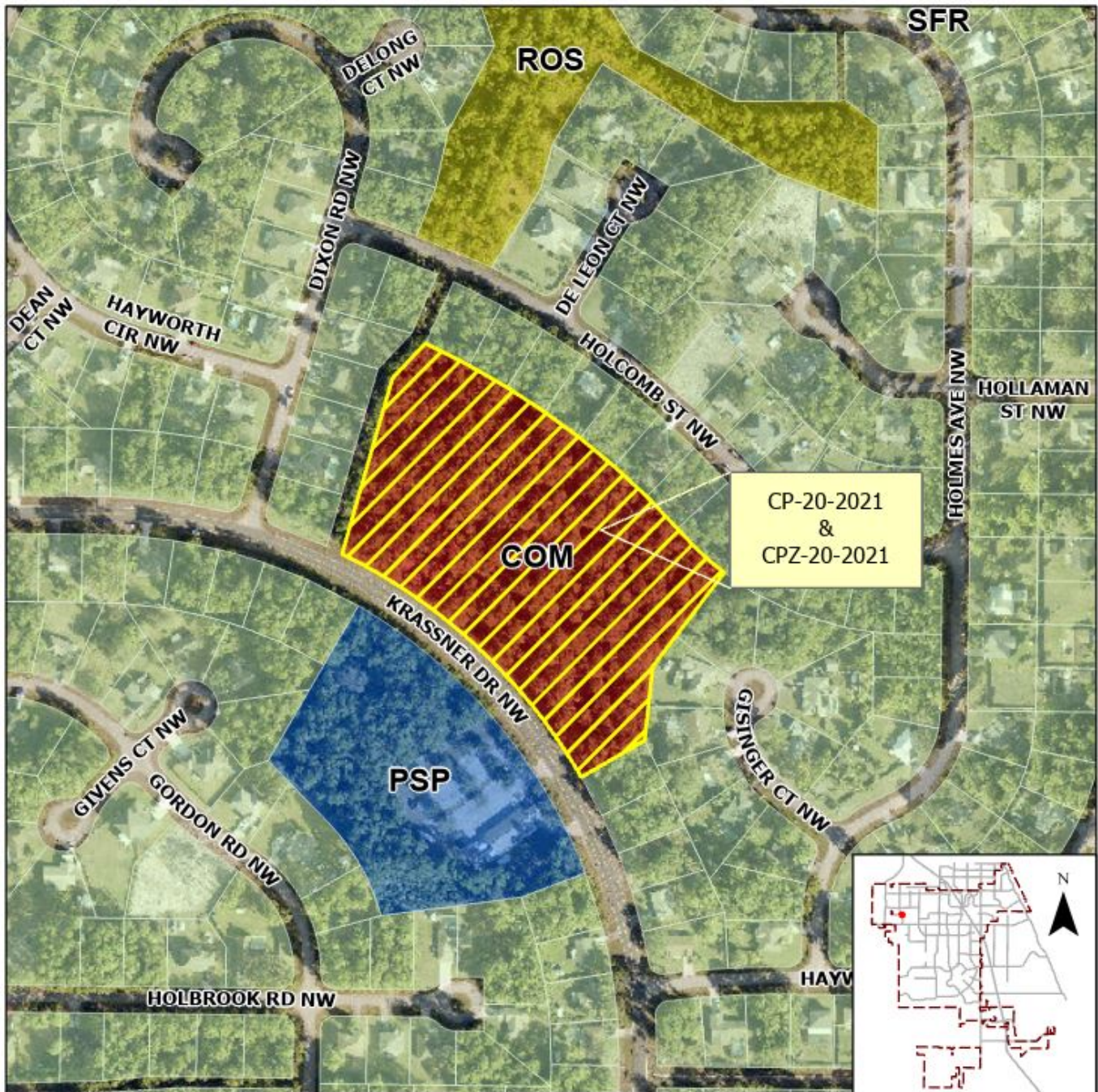
AERIAL LOCATION MAP CASE: CP-20-2021 & CPZ-20-2021

Subject Property

East of and adjacent to Krassner Drive NW, in the vicinity north of Hayworth Circle NW



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



FUTURE LAND USE MAP CASE: CP-20-2021 & CPZ-20-2021

Subject Property

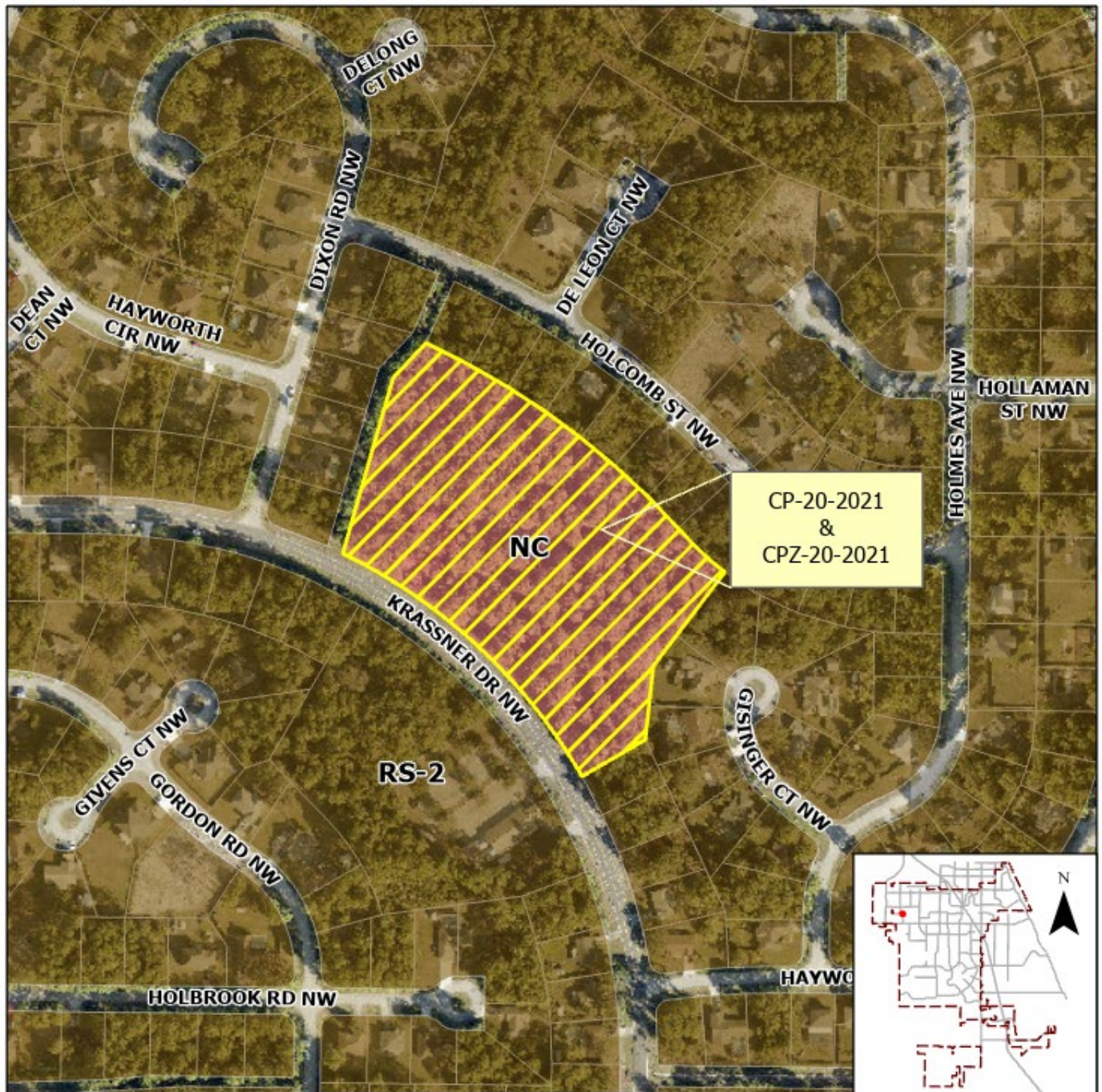
East of and adjacent to Krassner Drive NW, in the vicinity north of Hayworth Circle NW

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: CP-20-2021 & CPZ-20-2021

Subject Property

East of and adjacent to Krassner Drive NW, in the vicinity north of Hayworth Circle NW

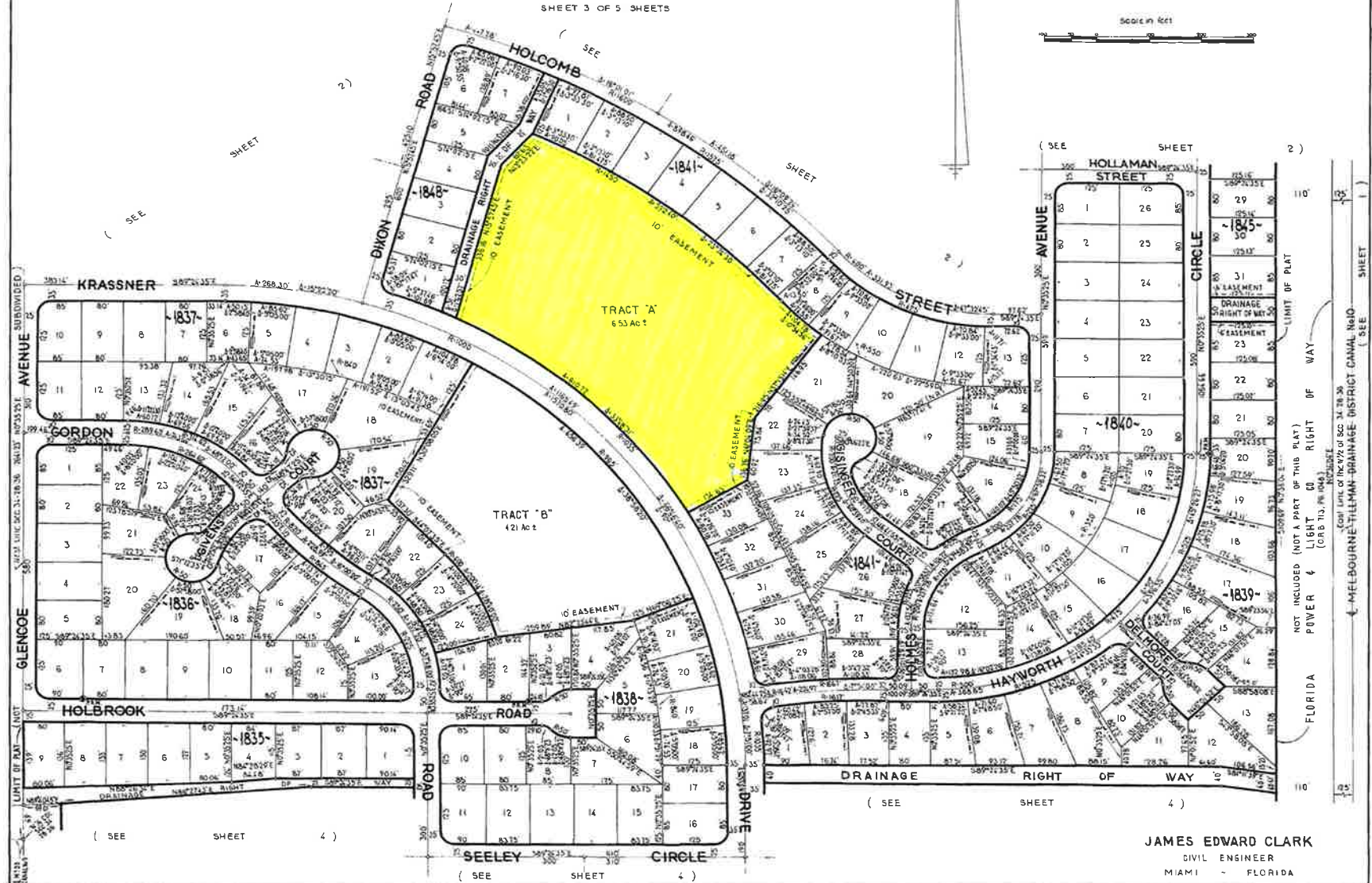
Current Zoning Classification

NC – Neighborhood Commercial District

PORT MALABAR UNIT THIRTY - NINE

A SUBDIVISION OF A PORTION OF SECTION 34
TOWNSHIP 28 SOUTH, RANGE 36 EAST
AND
A RESUBDIVISION OF A PORTION OF PORT MALABAR UNIT TWENTY SIX
CITY OF PALM BAY, BREVARD COUNTY, FLORIDA
SHEET 3 OF 5 SHEETS

PLAT BOOK 21
AND PAGE 26



CALC.
DRAWN
CHECKED
APPROVED



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

COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION

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

APPLICATION AMENDMENT TYPE:

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

PARCEL ID 28 3634 25 A

TAX ACCOUNT NUMBER 2813011

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

PORT MALABAR Unit 39 TRACT A

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 6.52 Acres

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

1000 - Vacant Commercial Land

Com

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

Multifamily for Town Homes or Condos.

MFR

α

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

PRESENT USE OF PROPERTY Vacant Neighbourhood Commercial
STRUCTURES LOCATED ON THE PROPERTY Trees

REZONING FILED IN CONJUNCTION WITH THIS APPLICATION

yes

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

We Owned this Property for the Past 18 years paying Commercial FOR Land TAXES. We tried Selling this Property several times. The Response was traffic count is low, No stop sign, Dead end ST, Not Feasible to Pay For Water

SPECIFIC USE INTENDED FOR PROPERTY

Sewer Conversion.

Residential Multi family for Town Homes or Condos. RM 15

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

- ☒ *Application Fee. Make Check payable to "City of Palm Bay."
- ☒ \$1,200.00 - Small Scale (Less than 10 acres)
- ☐ \$2,000.00 - Large Scale (10 acres or more)
- ☐ \$2,000.00 - Text Amendment (Comp. Plan)
- ☒ Boundary Survey for land use amendments.
- ☐ List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This should be obtained for a fee from the Brevard County Planning and Zoning Department at (321) 633-2060.)
- ☐ School Board of Brevard County (if applicable).
- ☐ Sign(s) posted on the subject property. Refer to of the Legislative Code for guideline.

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

☐ Where the property owner is not the representative for the request, a _____ 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 COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Owner Signature Bibi N Chand Gurudeo Chand Date 10-19-21
Printed Name BIBI N CHAND GURUDEO CHAND
Full Address 6670 NW 101 TERRACE, PARKLAND, FL 33076
Telephone 954 907 0880 Email Gurudeo@comcast.net

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



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Christopher Balter, Senior Planner

DATE: December 1, 2021

SUBJECT: **CPZ-20-2021 - Bibi and Gurudeo Chand - A Zoning amendment from an NC, Neighborhood Commercial District to an RM-15, Single-, Two-, Multiple-Family Residential District. Tract A, Port Malabar Unit 39, Section 34, Township 28, Range 36, Brevard County, Florida, containing approximately 6.52 acres. East of and adjacent to Krassner Drive NW, in the vicinity north of Hayworth Circle NW

**Quasi-Judicial Proceeding.

ATTACHMENTS:

Description

- ☐ Case CPZ-20-2021 - Staff Report
- ☐ Case CPZ-20-2021 - Plat
- ☐ Case CPZ-20-2021 - Boundary Survey
- ☐ Case CPZ-20-2021 - Application



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmabayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

CPZ-20-2021

PLANNING & ZONING BOARD HEARING DATE

December 1, 2021

PROPERTY OWNER & APPLICANT

Bibi and Gurudeo Chand

PROPERTY LOCATION/ADDRESS

The property is located west of and adjacent to Glenham Drive NE, approximately 1,400 feet south of Palm Bay Road

SUMMARY OF REQUEST

The applicant is requesting a rezoning from the NC, Neighborhood Commercial District, to the RM-15, Single-, Two-, and Multiple-Family Residential District.

Existing Zoning

NC, Neighborhood Commercial

Existing Land Use

Single Family Residential Use

Site Improvements

Vacant, undeveloped land

Site Acreage

15.52 acres

SURROUNDING ZONING & USE OF LAND

North

RS-1, Single-Family Residential; Vacant Land

East

RS-1, Single-Family Residential; Single-Family Homes

South

RS-1, Single-Family Residential; 1st French Adventist Church

West

LI, Light Industrial and Warehousing; Stormwater Pond

COMPREHENSIVE PLAN

COMPATIBILITY

Yes, subject to Case CP-20-2021

BACKGROUND:

The property is located west of and adjacent to Glenham Drive NE, approximately 1,400 feet south of Palm Bay Road. Specifically, the subject property is Tax Parcel 761, Section 23, Township 28 south, Range 37 east. This property is vacant, undeveloped land.

A 50' wide strip of city-owned land separates the parcel from Knecht Park, located to the north. Abutting the site to the west is a City-owned parcel that contains a stormwater pond. Located across Glenham Drive to the east is the "built-out" Palmdale subdivision. The First French Adventist Church of Palm Bay is immediately south of the subject parcel.

The applicant purchased the property in June of 2012 and is requesting a rezoning to change 15.52 acres of land from the RS-1, Single-Family Residential Zoning District to the RM-10, Single-, Two- and Multiple-Family Residential Zoning District. The applicant is SKA Properties, LLC.

ANALYSIS:

The following analysis is conducted per Chapter 185: Zoning Code, Section 185.201(C); which utilizes four (4) criteria for the evaluation of rezoning amendments:

Criteria 1: *The need and justification for the change;*

The Applicant has provided the following:

"Brevard County continues to experience significant job growth – spurring new families to move to our market. Significant demand, as a result, exists for both apartments and attached or detached single-family residences. Rezoning this property will contribute to offsetting that demand, by permitting a project of increased density. This proves especially important for this site, given its proximity to one of the largest and fastest-hiring employers – L3 Harris."

Criteria 2: *The effect of the change, if any, on the particular property and on surrounding properties;*

Located directly to the north of the subject property is the Knecht Park with baseball fields, a basketball court, and open-air pavilions. North of the Park is industrial and commercially zoned properties supporting L3 Harris and various commercial establishments along Palm Bay Road. The property abuts LI zoning to the west with land that contains a stormwater retention pond. To the south is a residentially zoned parcel with a church. The single-family residential zoning to the east (across Glenham) and further south contain established neighborhoods with low-density development. The development of Palm Bay has proven that single- and multi-family residential communities may operate harmoniously with one another when careful thought and planning are given to the development and provisions of services.

Criteria 3: *The amount of undeveloped land in the general area and in the city having the same classification as that requested;*

Within a one-mile radius of the property there is only one (1) parcel of undeveloped multi-family residential land (a 3.52-acre parcel on Clearmont Street; zoned RM-20). Within a 2-mile radius there are two undeveloped parcels zoned RM-15 (on Forest Knoll Drive and Club Gardens Drive, west of Babcock Street); five undeveloped parcels to the northwest zoned RM-20 (3 on Sun Lake Road, and two on Lakewood Drive), and there are three undeveloped parcels zoned RM-20 to the southeast, along U.S. Highway 1.

Criteria 4: *The relationship of the proposed amendment to the purpose of the city plan for development, with appropriate consideration as to whether the proposed change will further the purposes of this chapter and the plan;*

The provisions of the RM-10 zoning district are intended to apply to an area of medium density residential development with a variety of housing types. Lot sizes and other restrictions are intended to promote medium density residential development, maintaining an adequate amount of open space for such development.

Rezoning the parcel to RM-10 would provide for a “step-down” effect that transitions zoning designations from the more intense classifications of Light Industrial and Highway Commercial to the north and west, to the lower density classification of RS-1 to the south and east. Therefore, staff believes the rezoning request would be compatible with the immediate area and in-keeping the development pattern of the surrounding area.

STAFF RECOMMENDATION:

Staff recommends approval of this rezoning request, to be consistent and compatible with the Future Land Use designation of Case CP-10-2020.



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



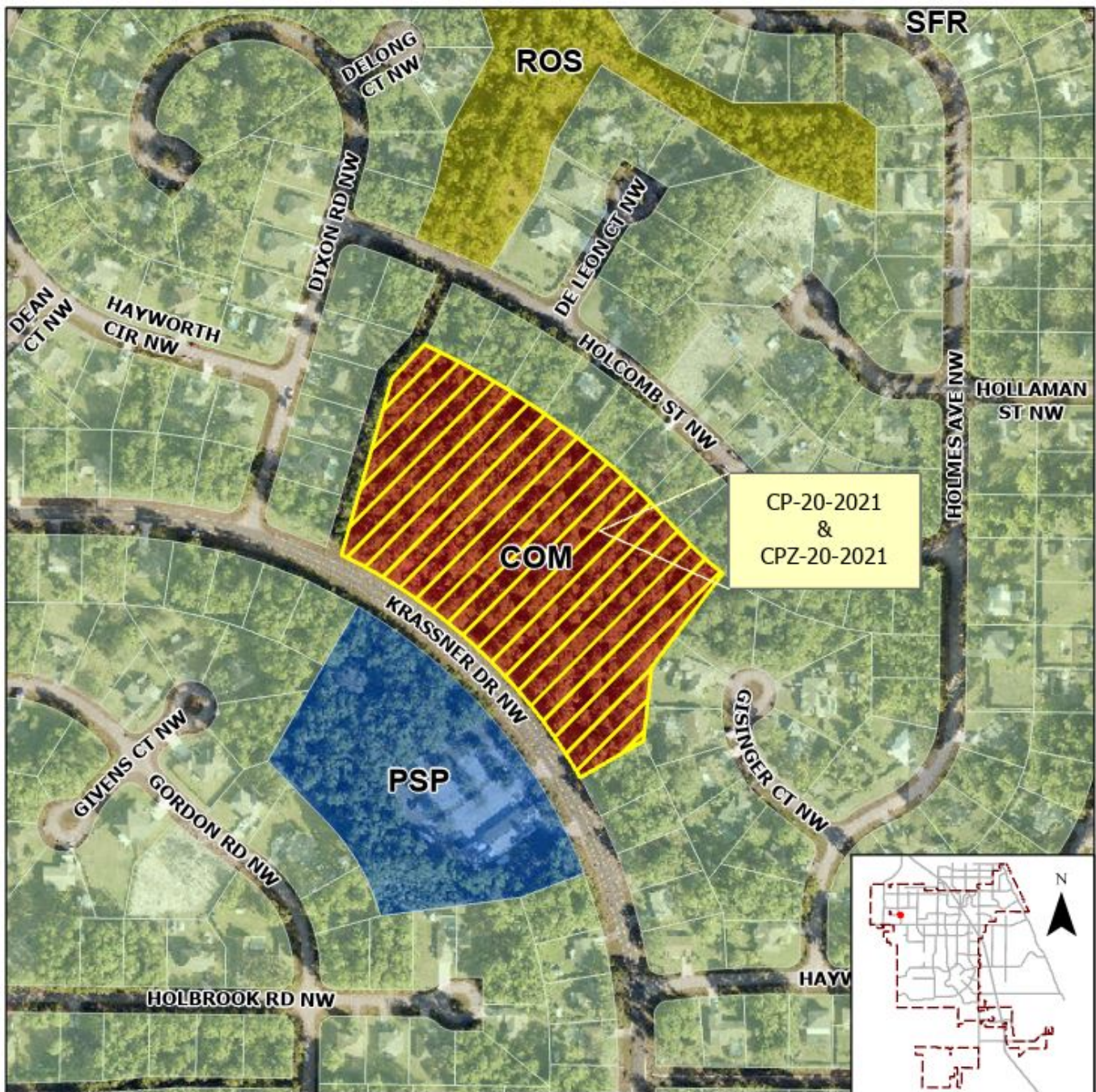
AERIAL LOCATION MAP CASE: CP-20-2021 & CPZ-20-2021

Subject Property

East of and adjacent to Krassner Drive NW, in the vicinity north of Hayworth Circle NW



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



FUTURE LAND USE MAP CASE: CP-20-2021 & CPZ-20-2021

Subject Property

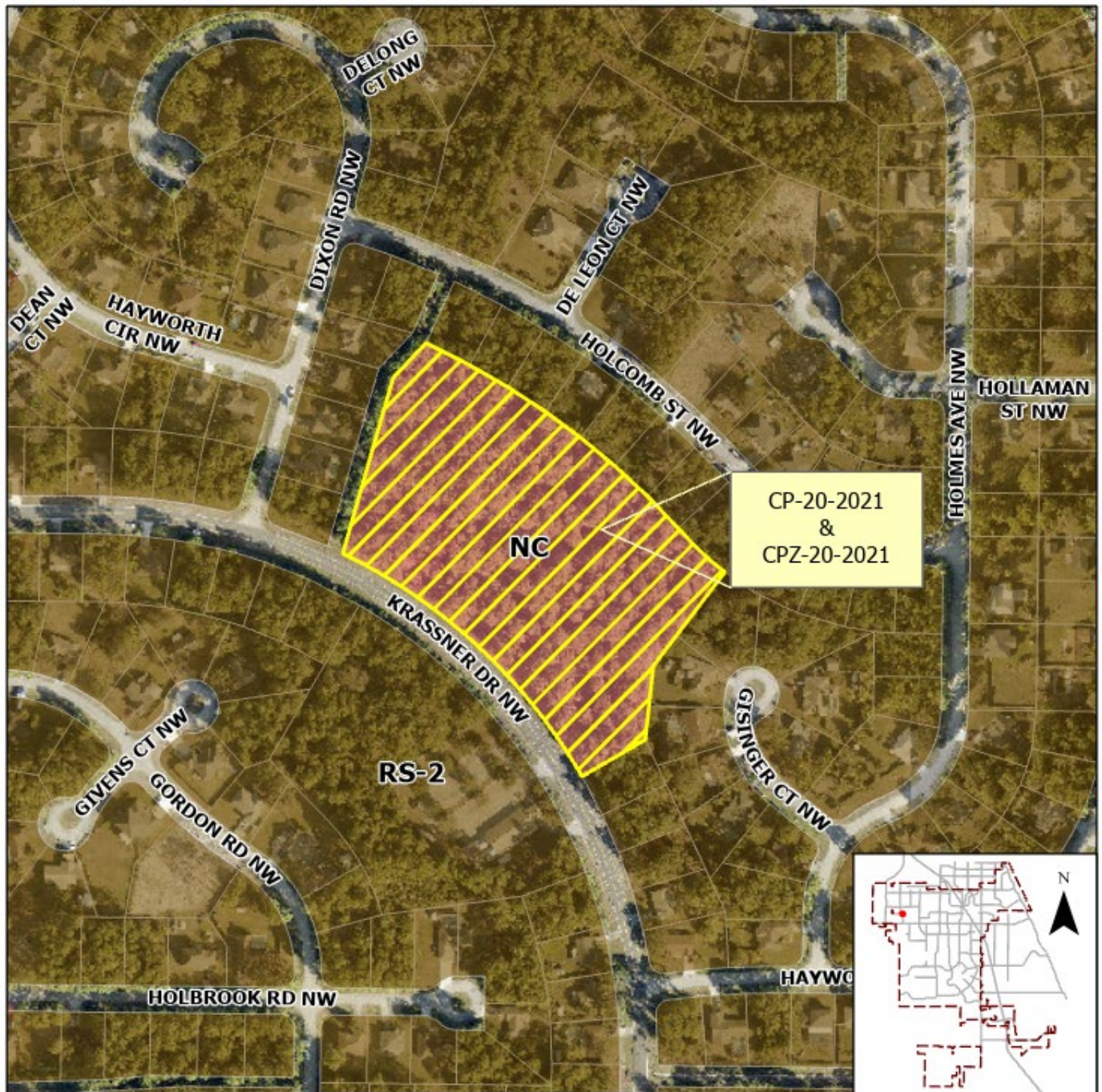
East of and adjacent to Krassner Drive NW, in the vicinity north of Hayworth Circle NW

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: CP-20-2021 & CPZ-20-2021

Subject Property

East of and adjacent to Krassner Drive NW, in the vicinity north of Hayworth Circle NW

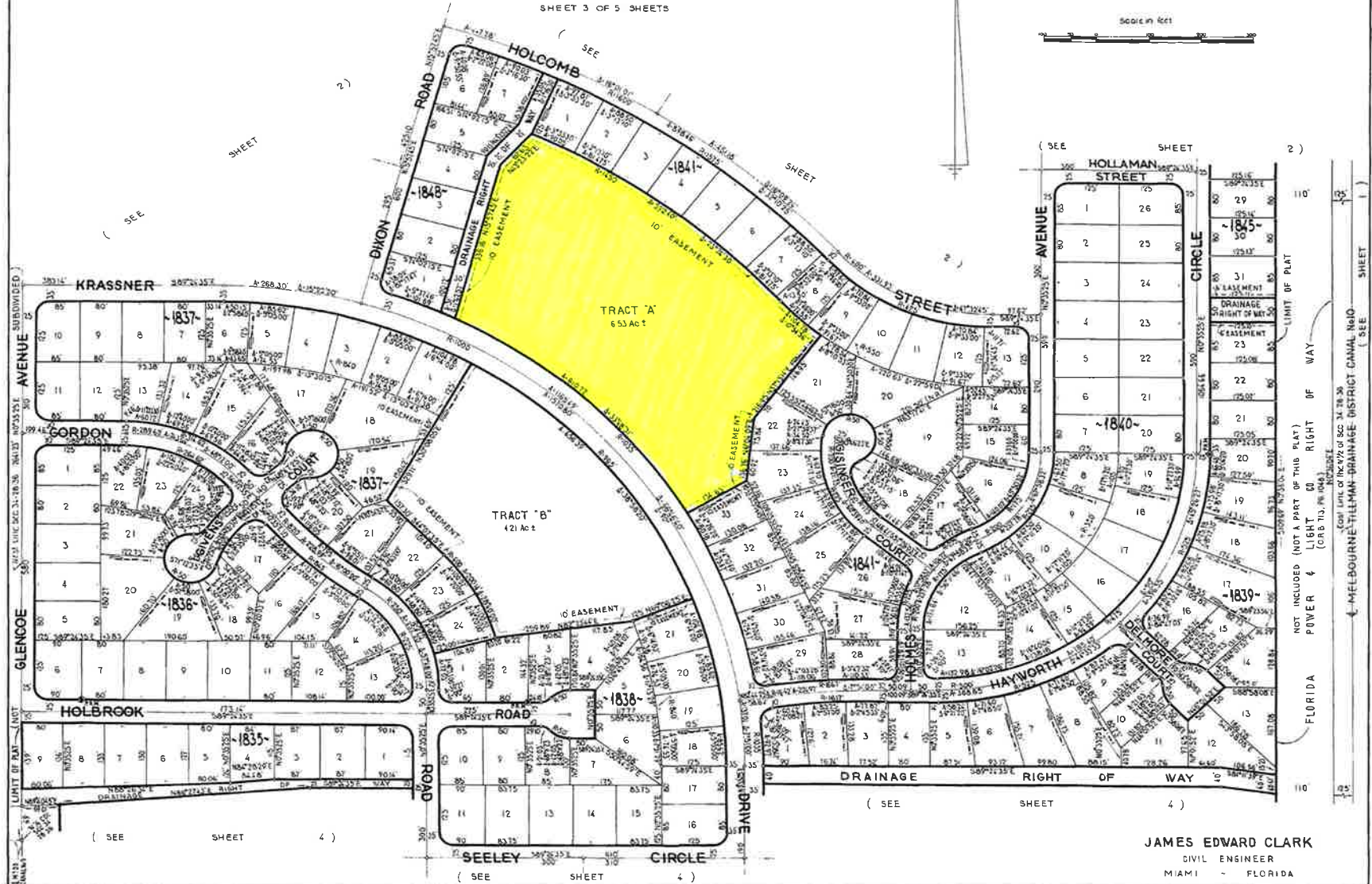
Current Zoning Classification

NC – Neighborhood Commercial District

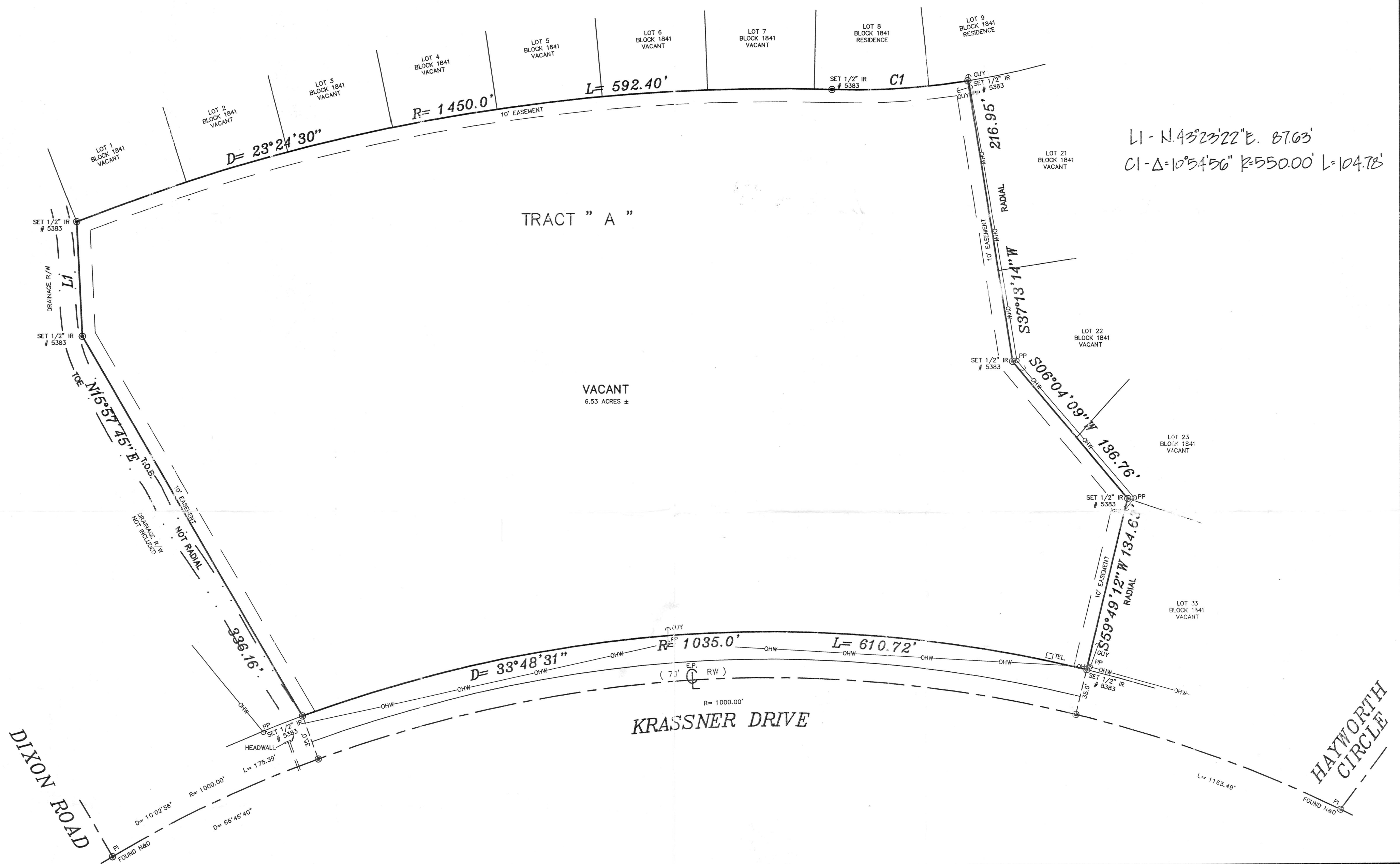
PORT MALABAR UNIT THIRTY - NINE

A SUBDIVISION OF A PORTION OF SECTION 34
TOWNSHIP 28 SOUTH, RANGE 36 EAST
AND
A RESUBDIVISION OF A PORTION OF PORT MALABAR UNIT TWENTY SIX SIX
CITY OF PALM BAY, BREVARD COUNTY, FLORIDA
SHEET 3 OF 5 SHEETS

PLAT BOOK 21
AND PAGE 26



CALC.
DRAWN
CHECKED
APPROVED



BOUNDARY SURVEY PREPARED FOR:
GURUDEO CHAND AND BIBI CHAND
REITANO ENTERPRISES, INC.
COHEN, NORRIS, SCHERER, WEINBERGER & WOLMER
AMERICAN PIONEER TITLE INSURANCE COMPANY

DESCRIPTION: TRACT A, PORT MALABAR UNIT THIRTY NINE, ACCORDING TO
THE PLAT THEREOF AS RECORDED IN PLAT BOOK 21, PAGES 24-28, OF
THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

AAL LAND SURVEYING SERVICES, INC.

ACCORDING TO F.L.R.M. #12099C 315 E. DATED APRIL 3, 1989, THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE X.		GENERAL NOTES: 1. THIS SURVEY AND DRAWING HAVE BEEN PREPARED TO CONFORM WITH APPLICABLE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES. 2. THIS SURVEY 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 PROHIBITED. 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 ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS. 7. NO UNDISCLOSED IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN. 8. ELEVATIONS, IF SHOWN, ARE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM OF 1929, UNLESS OTHERWISE NOTED.	
BOUNDARY SURVEY		LEGEND:	
SCALE: 1"=50'		BB - BEARING BASE BM - MEASURED C - CURVE D - DRAINAGE E - ELEVATION F - FENCE G - GUY H - HOLE I - IRON J - JACK K - KICK L - LINE M - MARK N - NAIL O - OIL P - PILE Q - QUAIL R - RAIL S - SIGN T - TIE U - UG V - VALVE W - WALL X - CROSS Y - YARD Z - ZONE	
JOB # 11403		P.O.B. - POINT OF BEGINNING P.C. - POINT OF CURVATURE P.T. - POINT OF TANGENCY P.V. - POINT OF VERTICALITY R/W - RIGHT OF WAY S/W - SIDE OF WATER T.M. - TEMPORARY BENCHMARK T.S. - TIE T.V. - TIE T.W. - TIE T.X. - TIE T.Y. - TIE T.Z. - TIE	
REVISION: REVISION: FIELD SURVEY DATE: 07-14-03 SECTION 34, TOWNSHIP 28S, RANGE 36E		ANDREW W. POWSHOK P.L.S. NO. 5383 1103 W. HIBISCUS BLVD SUITE 403 VENT MELBOURNE, FL 32901 (321) 788-8110	
L.B. # 6623			



LAND DEVELOPMENT DIVISION

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

REZONING 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(S):

28 3634 25 A

TAX ACCOUNT NUMBER(S):

2813011

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

PORT MALABAR Unit 39 TRACT A

PROPERTY ADDRESS:

375 Krassner Drive NW, Palm Bay, FL 32907

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

6.52 Acres

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

Neighborhood Commercial - NC 1000

ZONING CLASSIFICATION DESIRED (ex.: IU, LI, etc.):

CONDOS
TOWN HOMES Multi Family Residential RM-15 units
PR ACRE

STRUCTURES LOCATED ON THE PROPERTY:

NO Building TREES on PROPERTY

PRESENT USE OF THE PROPERTY:

1000 Vacant Commercial Land

INTENDED USE OF THE PROPERTY AND JUSTIFICATION FOR THE CHANGE:

Multi Family Residential RM10 - Town Homes or Condos. We Owned this Property for 18 years, Paying Taxes For Commercial Land. We tried Selling this Property Several times. The Response was Traffic Count Very low, Dead End Street, No Stop sign as such not feasible to pay for Connection of Sewer & Water. etc

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

- ☒ *A \$650.00 application fee. Make Check payable to "City of Palm Bay."
- ☒ A Boundary Survey or Sketch with legal descriptions of properties covered by this application.
- ☐ 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 _____ of the Legislative Code for guideline. Staff will provide a sign template.
- ☐ Where the property owner is not the representative for the request, a _____ must be attached giving the notarized consent of the property owner(s) to a representative.

Name of Representative _____

**CITY OF PALM BAY, FLORIDA
REZONING 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 rezoning application and that the facts stated in it are true.

Owner Signature Bibi N Chaud Gurudeo Chaud Date 10-19-21
Printed Name BIBI N CHAUD Gurudeo Chaud
Full Address 6670 NW 101 TER, PARKLAND, FL 33076
Telephone 954 901 0880 Email GURUDEO@Comcast.net

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

RECEIVED

OCT 28 2021

City of Palm Bay
LAND DEVELOPMENT



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Patrick Murphy, Acting Growth Management Director

DATE: December 1, 2021

SUBJECT: **Z-54-2021 - Alfred and M. Agarie - A Zoning change from an HC, Highway Commercial District to a BMUV, Bayfront Mixed Use Village District. Tract 11, Hopsons Subdivision, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately .34 acres. East of and adjacent to Dixie Highway NE, and west of and adjacent to Ridge Road NE, specifically at 4371 Dixie Highway NE

**Quasi-Judicial Proceeding.

ATTACHMENTS:

Description

- ▣ Case Z-54-2021 - Staff Report
- ▣ Case Z-54-2021 - Survey
- ▣ Case Z-54-2021 - Application



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, Acting Growth Management Director

CASE NUMBER

Z-54-2021

PLANNING & ZONING BOARD HEARING DATE

December 1, 2021

PROPERTY OWNER & APPLICANT

Alfred R. Agarie and Murine N. Agarie

PROPERTY LOCATION/ADDRESS

4371 Dixie Highway NE 32905

SUMMARY OF REQUEST

The applicant is requesting a rezoning of the subject parcel from HC, Highway Commercial to the BMUV, Bayfront Mixed Use Village zoning district

Existing Zoning

HC, Highway Commercial

Existing Land Use

Bayfront Mixed Use Village

Site Improvements

Former Gas Station

Site Acreage

0.34 acres

SURROUNDING ZONING & USE OF LAND

North

HC, Highway Commercial; Angles Drive NE

East

HC, Highway Commercial; Ridge Road NE

South

BMUV, Bayfront Mixed Use Village; Ozzie's Crab House

West

HC, Highway Commercial; U.S. Highway No. 1

COMPREHENSIVE PLAN

COMPATIBILITY

Yes

BACKGROUND:

The subject property is located at the SE corner of Dixie Highway and Anglers Drive, approximately 700' south of the Turkey Creek. Specifically, the property is Lots 10 & 11 of the Hopson's Subdivision, located in Section 24, Township 28 south, Range 37 east, of Brevard County, Florida. The subject parcel is approximately 0.34 acres.

The property owner received approval from City Council to amend the future land use designation from Commercial Use to Bayfront Mixed Use Village, via Ordinance 2015-50. However, the companion rezoning application was withdrawn. The applicants, Alfred and Murine Agarie, are now seeking to rezone the property from HC, Highway Commercial to the Bayfront Mixed Use Village (BMUV) zoning district.

ANALYSIS:

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

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

The applicant states that the justification for change is "to allow for the possible, future use of residential on the property."

The BMUV zoning district permits a range of lower intensity commercial uses, as well as single- and multi-family development with a maximum density of 10 units per acre. This district also allows for reduced setbacks which provide for more flexibility in developing a small parcel.

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

The rezoning of this parcel to BMUV would have minimal effect to the surrounding area as the subject property is bordered by roads on three sides, and the property abutting to the south is currently zoned BMUV. Any development to occur onsite must be approved via administrative site plan review to ensure that development adheres to the Palm Bay Code of Ordinances and all other applicable regulations.

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

BMUV zoning exists from the north side of Turkey Creek to Kirkland Road NE, mostly between the F.E.C.R.R. and U.S. Highway 1. A handful of BMUV-zoned parcels exist east of U.S. 1, adjacent to Kirkland. Roughly 75% of the land zoned BMUV is developed.

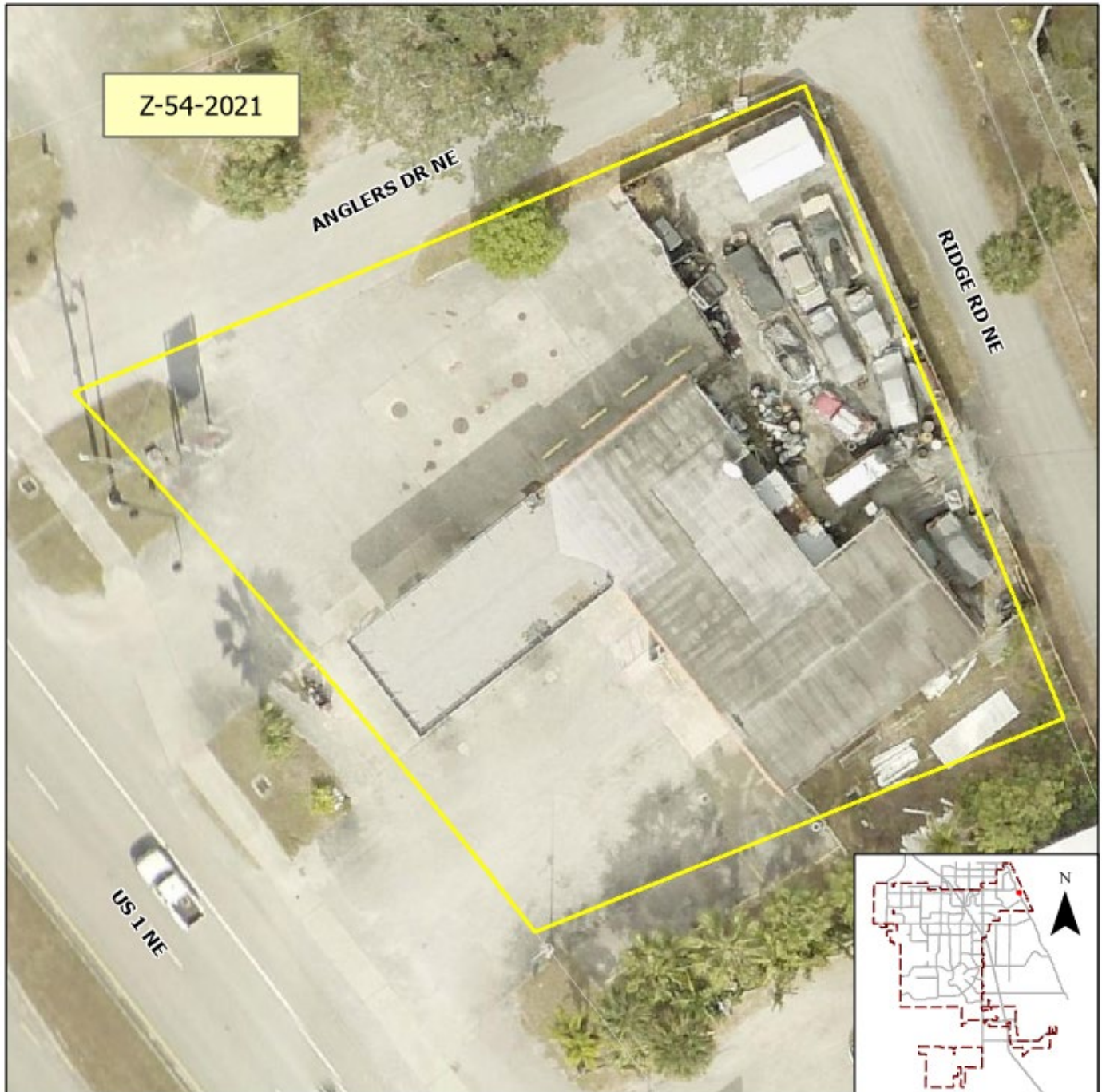
Item 4 - *The relationship of the proposed amendment to the purpose of the city plan for development, with appropriate consideration as to whether the proposed change will further the purposes of this chapter and the Comprehensive Plan (Plan).*

The property already has a future land use designation of Bayfront Mixed Use Village. Thus, the rezoning of this parcel is not only consistent with the existing land use but furthers the compatibility goals the Comprehensive Plan.

STAFF RECOMMENDATION:

Case Z-54-2021 is recommended for approval.

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



SITE LOCATION MAP CASE: Z-54-2021

Subject Property

East of and adjacent to Dixie Highway NE, and west of and adjacent to Ridge Road NE, specifically at 4371 Dixie Highway NE

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

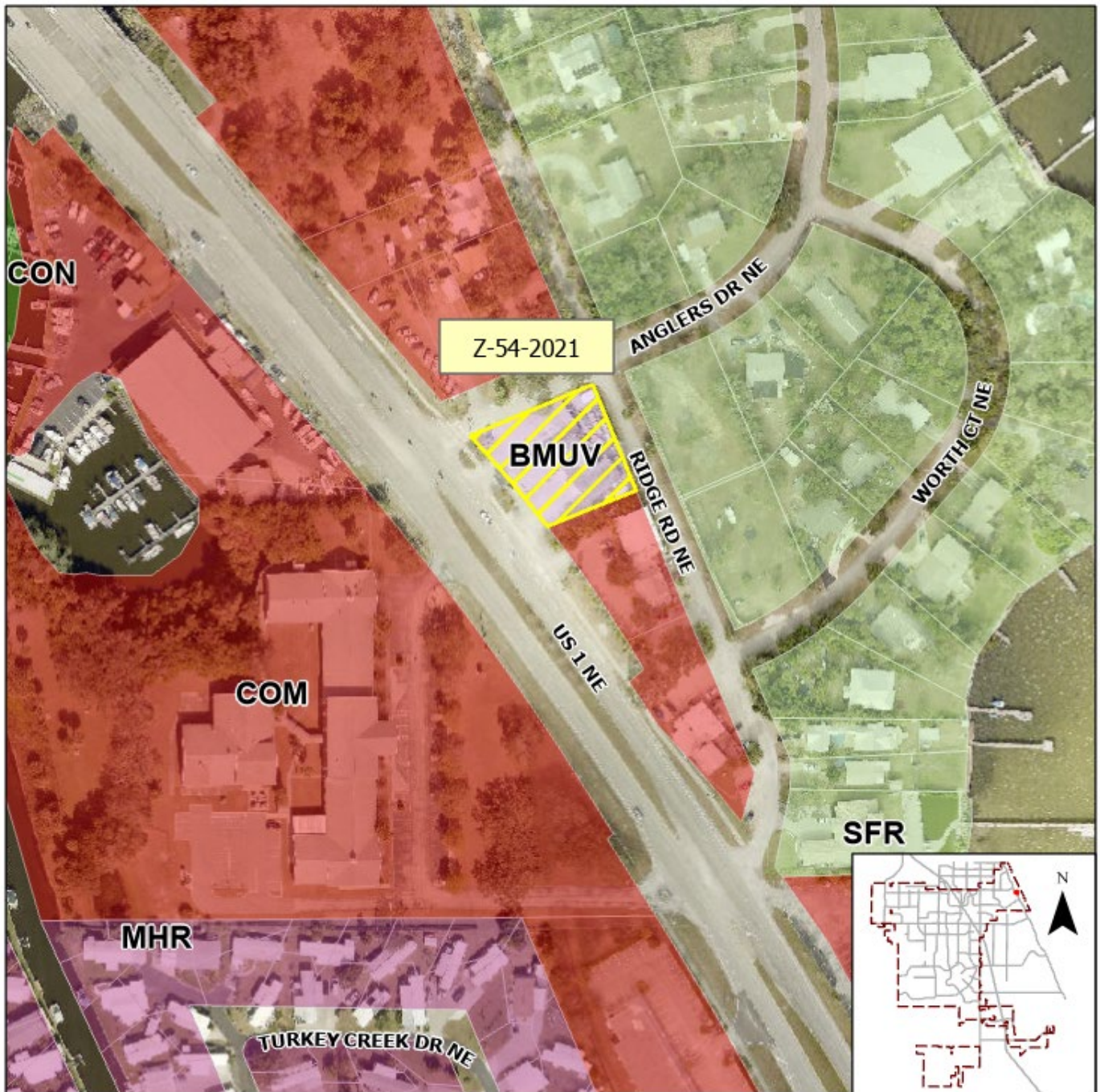


AERIAL LOCATION MAP CASE: Z-54-2021

Subject Property

East of and adjacent to Dixie Highway NE, and west of and adjacent to Ridge Road NE, specifically at 4371 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: Z-54-2021

Subject Property

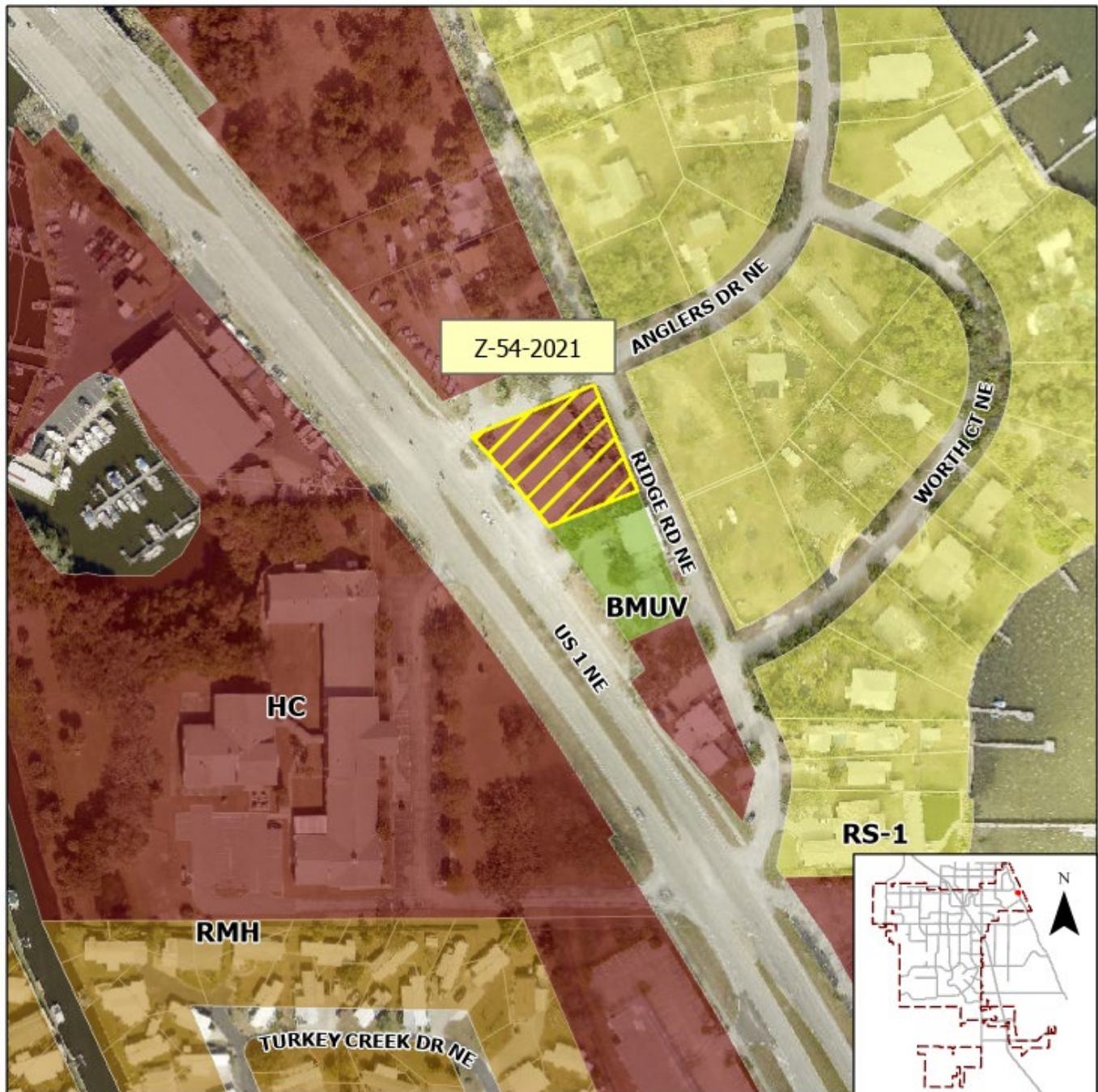
East of and adjacent to Dixie Highway NE, and west of and adjacent to Ridge Road NE, specifically at 4371 Dixie Highway NE

Future Land Use Classification

BMUV – Bayfront Mixed Use Village Use



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



ZONING MAP

CASE: Z-54-2021

Subject Property

East of and adjacent to Dixie Highway NE, and west of and adjacent to Ridge Road NE, specifically at 4371 Dixie Highway NE

Current Zoning Classification

HC – Highway Commercial District

1. LANDS SHOWN HEREON WERE NOT ABSTRACTED BY THE SURVEYOR FOR RIGHTS-OF-WAY AND/OR EASEMENTS OF RECORD OR OWNERSHIP.
2. THE LAND DESCRIPTION AND EASEMENTS SHOWN HEREON ARE IN ACCORD WITH THE DESCRIPTION PROVIDED BY THE CLIENT.
3. BEARINGS REFER TO THE PLAT UNLESS OTHERWISE NOTED.
4. ALL DISTANCES/ANGLES ARE PER PLAT UNLESS OTHERWISE SHOWN.
5. FLOOD ZONE:

CERTIFIED TO: RELIANCE PETROLEUM

LEGAL DESCRIPTION:

BEGIN AT A POINT WHERE THE LINE DIVIDING LOTS 10 AND 11, JOPSON'S SUBDIVISION, IN SECTION 24, TOWNSHIP 28 SOUTH, RANGE 37 EAST, INTERSECTS THE WEST LINE OF OLD COUNTY ROAD (OR MONTECALA TO MIAMI HIGHWAY) RUN NORTH 22°28' WEST, ALONG THE WEST LINE OF OLD COUNTY ROAD, A DISTANCE OF 153.14' TO THE NORTH LINE OF PROPERTY DESCRIBED IN DEED BOOK 296, PAGE 472; THENCE SOUTH 63°40' WEST, ALONG SAID NORTH LINE, A DISTANCE OF 152.11', TO THE EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1, BEING A POINT ON A CURVE CONCAVE TO THE RIGHT AND HAVING A RADIUS OF 5342.92'; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, AN ARC DISTANCE OF 141.15' TO THE SOUTH LINE OF PROPERTY DESCRIBED IN DEED BOOK 250, PAGE 101; THENCE NORTH 70°35' EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 116.70' TO THE POINT OF BEGINNING.

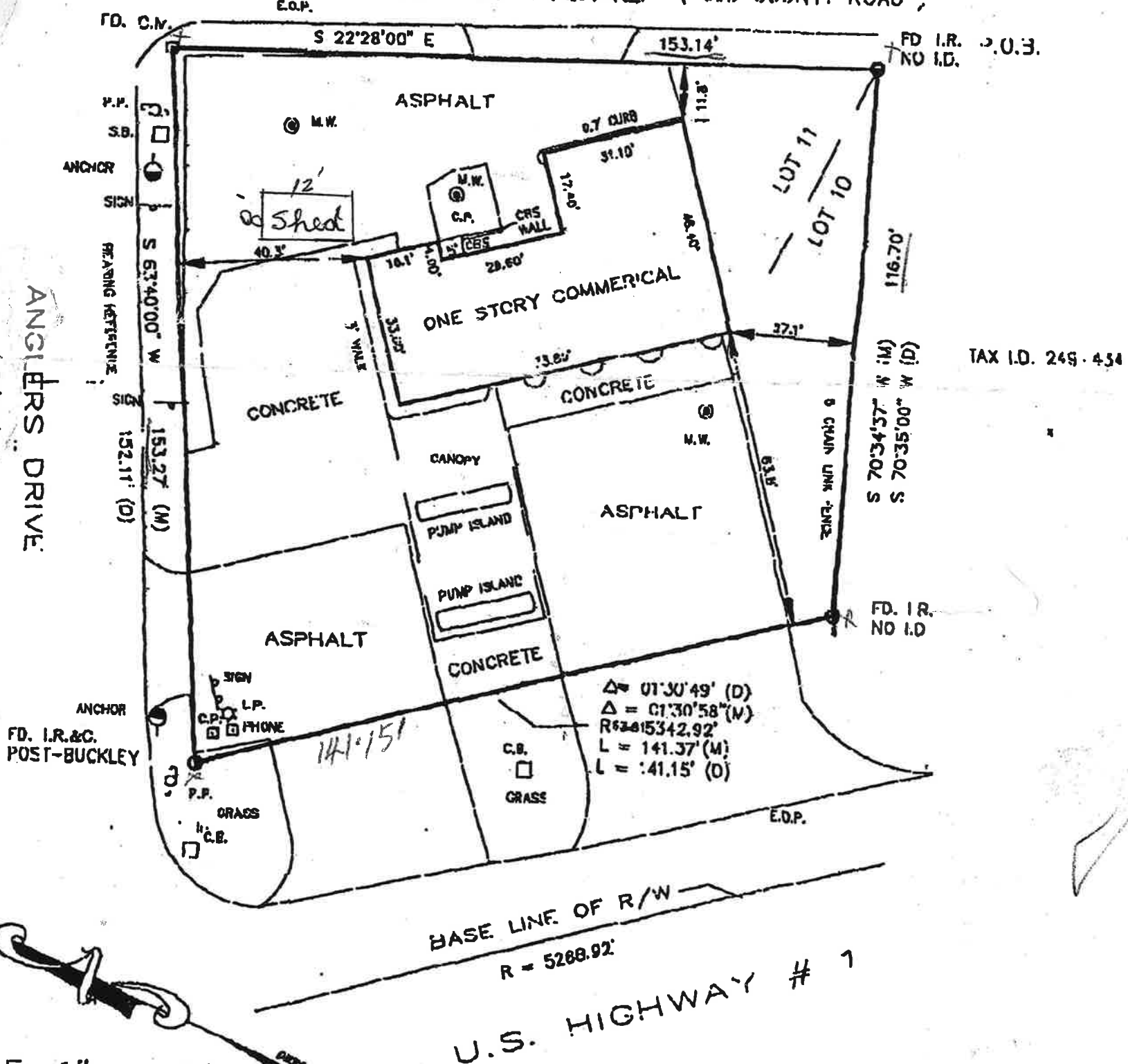
BREVARD COUNTY, FLORIDA.

LEGEND:	Δ - DELTA	CP - CONCRETE PAB	DP - FOR PLAT	PRC - POINT OF REVERSE	F.F. - FINISH FLOOR
FD - FOUND	R - RADIUS	CM - CONCRETE MONUMENT	AS - AS MEASURED	PC - POINT OF CURVATURE	ELEVATION
M - MON ROD	L - ARC LENGTH	PCP - PERMANENT CONTROL	AS - AS CALCULATED	PCP - POINT OF COMPOUND	PRM - PERMANENT REFERENCE
IP - IRON PIPE	SR - BEARING MONUMENT	PCP - PERMANENT CONTROL	DE - FOR DEED	PCP - POINT OF COMPOUND	MONUMENT
PRC - PAB & CAP	UE - UTILITY EASEMENT	PCP - POINT OF CURVATURE	PP - POWER POLE	RF - RADIUS POINT	P.O.B. - POINT OF BEGINNING
PRC - PIPE & CAP	UE - UTILITY EASEMENT	PCP - POINT OF CURVATURE	OR - OFFICIAL RECORDS	OW - OVER HEAD WIRES	C - CENTER LINE OF ROAD
NAD - NAIL AND DISC	PE - PLAT BOOK	PCP - POINT OF CURVATURE	BOOK	PP - EDGE OF PAVEMENT	N - NUMBER

M.W. = MONITORING WELL

(25' R/W)

RIDGE ROAD (OLD COUNTY ROAD)



STATE:

BY CERTIFY THAT THE SKETCH OF SURVEY HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS SURVEYED UNDER MY DIRECTION, I HEREBY CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH IN RULE 61G17-6 ADOPTED BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO FLORIDA STATUTE 472.027. THERE ARE NO ABOVE GROUND ENCROACHMENTS OTHER THAN THOSE SHOWN HEREON. SUBJECT TO THE QUALIFICATIONS HEREON, NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYORS SEAL.

ATLANTIC LAND DESIGN, INC.
PROFESSIONAL LAND SURVEYING

Lucien Way, Suite 402
and, Ft. 32751
(407) 898-7788

201 S.W. Port St. Lucie Blvd., Suite 104
Port St. Lucie, FL 34984
Tel. (407) 871-1183

BY: Richard D. Adams Jr.
FLORIDA REGISTRATION NO. 3386
BOUNDARY SURVEY 5-24-95
TIE-IN SURVEY
AS-BUILT SURVEY

DATE: 5-24-95

JOB NUMBER
95-86



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

REZONING APPLICATION

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

PARCEL ID _____

TAX ACCOUNT NO. 2832843

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

PROPERTY ADDRESS (If assigned): 4371 Dixie Hwy NE Palm Bay FL 32905

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

ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.): H.W.C.

ZONE CLASSIFICATION DESIRED (ex.: IU, LI, etc.): MIX use

STRUCTURES NOW LOCATED ON THE PROPERTY: yes

PRESENT USE OF THE PROPERTY:

C-Store
Service Station and gas sale.

INTENDED USE OF THE PROPERTY AND JUSTIFICATION FOR THE CHANGE:

Same with office space.

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

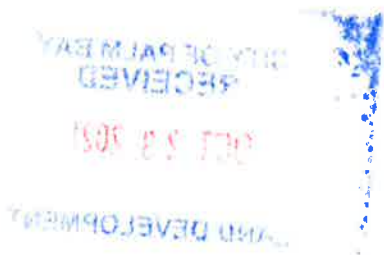
- _____ *\$650.00 Application Fee. Make check payable to "City of Palm Bay."
- _____ List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective 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.)
- _____ School Board of Brevard County School Impact Analysis Application (if applicable).
- _____ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.
- _____ **Where property is not owned by the applicant**, a letter must be attached giving the notarized consent of the owner to the applicant to request the rezoning.

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 REZONING APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant A. Agorrie M. Agorie Date 10-4-2021
Printed Name of Applicant ALFRED R. AGARIE, Murine W Agorie
Full Address 4371 Dixie Hwy NE Palm Bay FL 32905
Telephone 321-508-9624 Email ALFYA@AGARIE@gmail.com

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





MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Christopher Balter, Senior Planner

DATE: December 1, 2021

SUBJECT: T-55-2021 – 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 185.134, to modify provisions of the architectural ordinance

ATTACHMENTS:

Description

- ▣ Case T-55-2021 - Staff Report
- ▣ Case T-55-2021 - Application



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmbayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

T-55-2021

PLANNING & ZONING BOARD HEARING DATE

December 1, 2021

APPLICANT

City of Palm Bay

PROPERTY LOCATION/ADDRESS

Not Applicable

SUMMARY OF REQUEST

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to streamline the architectural appeal process and facilitate commercial development.

Existing Zoning

Not Applicable

Existing Land Use

Not Applicable

Site Improvements

Not Applicable

Site Acreage

Not Applicable

SURROUNDING ZONING & USE OF LAND

North

Not Applicable

East

Not Applicable

South

Not Applicable

West

Not Applicable

BACKGROUND:

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.134 Architectural Style Requirements.

The Growth Management Department, acting upon a request by City Management, has submitted this proposed text amendment.

The City adopted language in 2001 to require a regional architectural style a.k.a Florida Vernacular for all new commercial construction along all commercial corridors. The intent of the original language was to enhance the commercial corridors and “brand” the city with an architectural theme that recognized Florida’s historic structures.

Since the original adoption of the architectural requirements, the City has expanded the design criteria for other types of historic structures that per-dominated the Florida cityscape prior to the modern architectural movement.

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

ANALYSIS:

The City proposes to modify Section 185.134 in order to provide a more streamlined and more efficient process for anyone seeking architectural relief as well

STAFF RECOMMENDATION:

Case T-55-2021 is recommended for approval.

TITLE XVII: LAND DEVELOPMENT CODE

CHAPTER 185: ZONING CODE

§ 185.134 ARCHITECTURAL STYLE REQUIREMENTS.

~~(A) The Bayfront Architectural Style shall include the following architectural elevations facing public rights-of-way within the NC, CC, HC, GC, RC and OP zoning districts located in the Bayfront Community Redevelopment District.~~

~~———— (1) A metal panel, 5-seam or metal shake roof is acceptable. A 5-tab twenty-five (25) year dimensional shingle roof or manufactured equivalent of a wood shake roof is acceptable. 3-tab shingles, barrel vaulted tiles, or corrugated roof systems are not permissible.~~

~~———— (2) Pitch of main roof, hipped or gable, shall be no greater than 5:12; mansard roof shall be no greater than 9:12; porch roof shall be a lower pitch than the main roof. A minimum 6" overhang is required for any roof structure. All structures must have a minimum 3:12 slope roof. Multiple roof systems with matching roof slopes are permissible. Low slopes ("Flat") roof systems are permissible when screened by a mansard roof or parapet wall meeting the design requirements.~~

~~———— (3) The predominant exterior color shall be pastel shades or white; earth tones are not acceptable except in brick.~~

~~———— (4) Manufactured brick or materials that have the appearance of brick are acceptable. Horizontally struck stucco, exterior insulated finish system stucco panels, board and batten, wood or vinyl siding, and stained hardwood panels shall also be considered acceptable finishes.~~

~~———— (5) Front porch. The front porch must encompass an area greater than fifty percent (50%) of the front facade. The porch must be a minimum of 60" in depth.~~

~~———— (6) Gingerbread trim and/or porch railings, columns or posts shall have the appearance of light frame wood construction.~~

~~———— (7) Trim colors shall be white or light pastels. (Trim shall be considered railings, columns, door and window surrounds, soffits, shutters, gutters and downspouts, and other decorative elements). Trim finishes shall be of a contrasting lighter color than that of the primary building color except for white as a primary building color.~~

~~———— (8) There shall be no area greater than 400 square feet of contiguous blank wall area on any front facade that remains unadorned by architectural features that include, but are not limited to, windows, doors, lights, banding trim or porch elements.~~

~~———— (9) There shall not be any singular facade that has greater than 100 lineal feet of run without a minimum 16" break, by using a directional or material change.~~

~~———— (10) Metal clad structures are permissible. Internal bracing must be certified to accept additional finishes or structures applied to the exterior metal panels. No external "X" bracing is to be visible on any front facade. Finish panels must be able to accept a painted finish. All exterior wall finishes must match the primary building color. The use of corrugated, synthetic or fiberglass panels is prohibited on any front wall or any front roof surface. All design requirements must be met for metal clad structures as for any other new structure.~~

(B) >>(A)<< Structures must adhere to one (1) of the following Architectural Styles for architectural elevations facing public rights-of-way within the NC, CC, HC, RC, and OP zoning districts, and for structures constructed on a lot fronting any arterial or collector roadways in the GC zoning district, ~~located outside of the Bayfront Community Redevelopment District.~~ All structures that are in excess of five thousand (5,000) square feet of area on the main floor shall provide an area on the site equivalent to five percent (5%) for the purpose of creating an outdoor public space. These areas are inclusive of benches, sitting areas, bicycle racks, display fountains and/or landscaping. ~~Structures in excess of fifty thousand (50,000) square feet of area on the main floor shall provide an area on the site equivalent to three percent (3%) dedicated for an outdoor public space.~~

(1) Florida Vernacular Architectural Style.

- (a) Masonry or frame construction.
- (b) Stuck stucco or lap siding finish.
- (c) Brick wainscot.
- (d) Architectural shingles or galvalume metal roof acceptable.
- (e) Exposed lookouts at truss ends, dentil molding, operable shutters that match the window width, period style lighting.
- (f) Limited color palette to pastel colors or white.
- (g) A front porch or overhang that has a minimum of sixty inches (60") width and encompasses a minimum of fifty percent (50%) of the main building façade.
- (h) No blank wall area to exceed four hundred (400) square feet of area.
- (i) No singular façade shall exceed one hundred (100) lineal feet of run without a minimum sixteen-inch (16") break, by utilizing a directional or material change.

(j) Pre-engineered metal buildings or metal buildings that utilize a fastened metal horizontal girder by which an exterior wall is attached to is not permitted. No part of the exterior finish shall utilize metal cladding.

(k) All structures in excess of five thousand (5,000) square feet of area on the main floor shall provide an area on the site ~~equivalent to five percent (5%)~~ of the main floor shall be utilized for the creation of an outdoor public space — these areas are inclusive of benches, sitting areas, bicycle racks, bus stops, display fountains and/or landscaping. ~~Structures that exceed fifty thousand (50,000) square feet of the area on the main floor shall provide an area on the site equivalent to three percent (3%) of the main floor area for an outdoor public space.~~

(2) Mediterranean/Spanish Colonial.

(a) Masonry or frame construction.

(b) Heavy stucco or concrete finish.

(c) Barrel vaulted elements over windows and doors.

(d) Flat or low hip roof lines with interlocking terra-cotta roof tile.

(e) Terra cotta detailing, quoins, metalwork around windows and doors, relief around cornices, parapets, balconies and balustrades.

(f) Limited color palette of white, parchment and coral colors.

(g) Pre-engineered metal buildings or metal buildings that utilize a fastened metal horizontal girder by which an exterior wall is attached to is not permitted. No part of the exterior finish shall utilize metal cladding.

(h) All structures that are in excess of five thousand (5,000) square feet of area on the main floor shall provide an area on the site ~~equivalent to five percent (5%)~~ for the purpose of creating an outdoor public space. These areas are inclusive of benches, sitting areas, bicycle racks, display fountains and/or landscaping. ~~Structures in excess of fifty thousand (50,000) square feet of area on the main floor shall provide an area on the site equivalent to three percent (3%) dedicated for an outdoor public space.~~

(3) Spanish Revival.

(a) Masonry or frame construction.

(b) Heavy stucco or masonry finish.

(c) Barrel arch over windows and doors.

- (d) Flat, gable and/or hip roof lines with interlocking barrel style roof tile.
- (e) Iron work around windows.
- (f) Trim work around doors, parapets, windows and entryways.
- (g) Color palette of white or the patina of the masonry.

(h) Pre-engineered metal buildings or metal buildings that utilize a fastened metal horizontal girder by which an exterior wall is attached to is not permitted. No part of the exterior finish shall utilize metal cladding.

(i) All structures that are in excess of five thousand (5,000) square feet of area on the main floor shall provide an area on the site ~~equivalent to five percent (5%)~~ for the purpose of creating an outdoor public space. These areas are inclusive of benches, sitting areas, bicycle racks, display fountains and/or landscaping. ~~Structures in excess of fifty thousand (50,000) square feet of area on the main floor shall provide an area on the site equivalent to three percent (3%) dedicated for an outdoor public space.~~

(4) Commercial American.

- (a) Traversable arcade of fabric awning or structural roof.
- (b) Recessed entryway and string course over storefront.
- (c) Flat or low slope roof.
- (d) Parapet with minor course banding and/or cornice.
- (e) Concrete or brick construction.
- (f) Large, fixed plate glass storefront windows.
- (g) Minor trim or fretwork.
- (h) Color palette typically reflects the base material (brick) or lighter colors.

(i) Pre-engineered metal buildings or metal buildings that utilize a fastened metal horizontal girder by which an exterior wall is attached to is not permitted. No part of the exterior finish shall utilize metal cladding.

(j) All structures that are in excess of five thousand (5,000) square feet of area on the main floor shall provide an area on the site ~~equivalent to five percent (5%)~~ for the purpose of creating an outdoor public space. These areas are inclusive of benches, sitting areas, bicycle racks, display fountains and/or landscaping. ~~Structures in excess of fifty thousand (50,000) square feet of area on the main floor shall provide an area on the site equivalent to three percent (3%) dedicated for an outdoor public space.~~

(5) Bungalow.

- (a) Brick or concrete wainscot or base.
- (b) Gable roof line with exposed rafters and secondary rooflines.
- (c) Decorative shake or shingle roof or metal roof.
- (d) Horizontal siding.
- (e) Tapered columns.
- (f) Exposed structural elements for detailing such as beams, ridge vents, rafters and purlins.
- (g) Useable front porch.
- (h) Color palette may vary.
- (i) Pre-engineered metal buildings or metal buildings that utilize a fastened metal horizontal girder by which an exterior wall is attached to is not permitted. No part of the exterior finish shall utilize metal cladding.
- (j) All structures that are in excess of five thousand (5,000) square feet of area on the main floor shall provide an area on the site ~~equivalent to five percent (5%)~~ for the purpose of creating an outdoor public space. These areas are inclusive of benches, sitting areas, bicycle racks, display fountains and/or landscaping. ~~Structures in excess of fifty thousand (50,000) square feet of area on the main floor shall provide an area on the site equivalent to three percent (3%) dedicated for an outdoor public space.~~

(C) >>(B)<< The predominant exterior color shall be applied to all sides of the structure.

(D) >>(C)<< The design requirements listed in subsections (A) and (B) above shall be applicable to all new construction in the district, and in the case of additions or renovations to, or development of, an existing building or project, where the renovation or redevelopment exceeds fifty percent (50%) of the square footage of the existing structure(s). A mirror building, defined as a building meant to compliment a pre-existing structure by use of identical material finishes, scale and form, shall be exempt from the design requirements. New buildings that are part of an overall campus plan that has an established architectural theme shall also be exempt from the design requirements herein.

(E) >>(D)<< The design requirements listed in subsections (A) and (B) above shall be applicable to all accessory buildings also. Any accessory structure not meeting this requirement shall be screened so as to not be visible from the public right-of-way. Mechanical equipment such as gasoline pumps, air and vacuum machines, drive-through menu boards

and speaker stations, drive-through teller stations, ATM's, and similar appliances which require direct access by the public shall be exempt from the design review requirements of this subsection. All HVAC, wireless communication devices, Fire Suppression, Solar Panels, wind generation devices and similar equipment placed on any roof or above the roof line of any commercial structure shall be effectively screened as to not be seen by the public.

(F) >>(E)<< Compliance with the requirements set forth in this subsection shall be demonstrated by submittal of building front elevations and color and material samples at the time of site plan review.

(G) >>(F)<< Structures in the following use categories are exempt from the design review requirements of this subsection: public utility equipment, hospitals, churches, model home centers and buildings having federal, state or locally designated historical status.

(H) >>(G)<< The Sign Code shall be adhered to with the following exceptions:

(1) Materials: The color, construction, and material of each sign shall be compatible with the architecture on the site.

(2) Design: Every sign frame or support shall be designed as a sympathetic architectural element of the building(s) to which it is principally related.

(3) Freestanding signs shall have landscaping at the base that is a minimum width of the sign above.

(4) Freestanding signs over twenty-five (25) feet in height shall be exempt from the design review requirements of this subsection but will require landscaping at the base of each sign that is a minimum width of the sign above.

(I) Appeals.

(1) The intent of City Council is that commercial structures adhere to the Architectural Style Requirements as described above during the administrative site plan review process for the city. The appeals process described below is intended to provide relief from those provisions only in unusual and unique circumstances. Subsection (J) describes an alternative process for Architectural Styles that do not conform to the style requirements of subsections (B) >>(A)<< through (H) >>(G)<<above.

(a) >>Alternative Architectural Styles<< Appeals. When an applicant >>proposes an architectural style that does not conform to subsections (A) through (G) above, the applicant may pursue an Architectural Style Exception through<<, ~~they may appeal that decision to the~~ Growth Management Director for a final administrative decision. The ~~appeal~~ >>Exception<< shall be in the form of a letter indicating the reasons for the ~~appeal~~ >>request<< and the applicant's opinion of their adherence to the requirements. In rendering ~~that~~ >>the<< final decision, the Growth Management Director shall take into account the

overall level to which the architectural design complies with the requirements. If the applicant is not satisfied with the Final Administrative Decision, they may appeal that decision pursuant to § 59.04(6).

(J) ~~Alternative Architectural Styles~~ >>Appeals<<.

(1) Applicants who desire to >>appeal the decision of the Growth Management Director,<< ~~construct a building in the NC, CC, HC, GC, RC and OP zoning districts located outside of the Bayfront Community Redevelopment District and propose an architectural style that does not conform to subsections (B) through (H) above may opt to pursue an Architectural Style Exception~~ >>shall file a written appeal to<< ~~before~~ the Palm Bay City Council pursuant to this subsection.

(2) The City Council shall hold a minimum of one (1) public hearing in accordance with Chapter 59 to consider the ~~requested Exception~~ >>Appeal<<. The decision of Council shall be based upon the following:

(a) ~~— The quality of the architectural plans.~~

(b) ~~— The quality of the site plans.~~

(c) >>(a)<< The level to which the plans exceed the minimum requirements of the Palm Bay Code of Ordinances.

(d) >>(b)<< The economic >>impact to the local tax base of the City<< ~~or quality of life benefits expected to be received.~~

(e) >>(c)<< The impact of the project on other properties within the City.

(f) ~~— The architectural and site features described in subsection (J)(3) below.~~

(g) >>(d)<< Adherence to corporate >>or franchise<< branding.

The City Council's decision shall be considered the final City action on the matter.

(3) Prior to the public hearing required above, city staff shall prepare a report to Council that describes how the submitted site and architectural plans >>adhere to the Code, the request Exception, and the justification for the Final Administrative Decision.<<~~address the following issues:~~

~~— (a) Provisions for public gathering space including benches, tables, fountains, shade and weather coverings, landscaping treatments and similar features.~~

~~— (b) Scale in reference to nearby structures.~~

~~— (c) Exposure of roof-top or other equipment on the site.~~

~~_____ (d) _____ Proposed color palette.~~

~~_____ (e) _____ The extent to which the structure provides variation in roof lines.~~

~~_____ (f) _____ The extent to which the structure provides variation along the facade.~~

~~_____ (g) _____ The extent to which the site provides landscaping in excess of the minimum standards in the Code of Ordinances and the extent to which the landscaping compliments the building.~~

~~_____ (h) _____ The extent to which the lighting plan minimizes impact to adjacent properties, accentuates the positive features of the building and site and adherence to all requirements contained in the Code of Ordinances.~~

~~_____ (i) _____ The extent to which the signage on both the site and the building compliment the style proposed.~~

~~_____ (j) _____ The extent to which the building materials compliment the proposed architectural style and the extent to which the finish represents a final appearance. Exposed concrete block, prefabricated metal panels, smooth faced concrete panels or block and similar treatments are not considered appropriate.~~

~~_____ (k) _____ The appropriateness of the roofing material and color for the architectural style proposed.~~

~~_____ (l) _____ The extent to which the site and building enhance pedestrian and alternate transportation systems such as provisions of transit stops, bicycle racks and onsite walkways.~~

~~_____ (m) _____ The extent to which the architectural features chosen by the applicant enhance the overall quality of the neighborhood and the city and are appropriately designed for the specific building and site under construction.~~

~~_____ (K) _____ The City Council may, by resolution, adopt such administrative policies, applications, manuals and/or fees as necessary to implement the design requirements identified above.~~



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:

Section 185.134

PROPOSED LANGUAGE (attach addendum if necessary):

See Attached

JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary)

Streamline the architectural appeal process and facilitate commercial development

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 Patrick J. Murphy Date 11/17/2021

Printed Name of Applicant Patrick J. Murphy, Acting Growth Management Director

Full Address 120 Malabar Road SE, Palm Bay, FL 32907

Telephone 321-733-3041 Email patrick.murphy@palmbayflorida.org

PERSON TO BE NOTIFIED (If different from above):

Printed Name _____

Full Address _____

Telephone _____ Email _____

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