

6:30 P.M., HOLIDAY MERRIMENT, HERITAGE HIGH CHOIR



Mayor
ROB MEDINA
Deputy Mayor
KENNY JOHNSON
Councilmembers
RANDY FOSTER
DONNY FELIX

AGENDA

Regular Council Meeting 2021-33 Thursday

**December 16, 2021 - 7:00 PM
Council Chambers, 120 Malabar Road SE, Palm Bay FL 32907**

CALL TO ORDER:

INVOCATION:

1. Pastor Jim Campbell - Bay West Church, Palm Bay.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

1. One (1) vacancy on the Youth Advisory Board (represents 'at-large student' member position).++
2. Four (4) terms expiring on the Disaster Relief Committee.++

AGENDA REVISIONS:

1. Item 1, Presentations (Overview of FIND): A presentation has been provided regarding the Atlantic Intracoastal Waterway/FIND.
2. Item 10, Consent Agenda (Victims of Crime Act Grant): The Legislative Memorandum has been revised by removing the request to apply for the Victims of Crime Act grant as funding has been awarded to the Police Department.
3. Item 3, New Business (Undesignated Fund Balance – Potential Funding): A presentation has been provided regarding the General Fund and Fund Balance overview.

PROCLAMATIONS AND RECOGNITIONS:

1. Proclamation: Mayor's Business Spotlight Recipient - Myers Landscape Supply.

PRESENTATIONS:

1. Commissioner Jerry Sansom, Florida Inland Navigation District - overview of FIND. (AGENDA REVISION)
2. Nancy Peltonen, President and CEO, Greater Palm Bay Chamber of Commerce – quarterly update.

PUBLIC COMMENTS/RESPONSES:

Public comments will be heard by the City Council on non-agenda issues. Speakers must complete 'Public Comment Cards' (orange) and are limited to three (3) minutes each.

PUBLIC HEARINGS:

1. Ordinance 2021-78, rezoning property located west of and adjacent to Babcock Street, in the vicinity south of Foundation Park Boulevard, from CC (Community Commercial District) to GC (General Commercial District) (6.28 acres) (Case Z-45-2021, Roth Freedom 2010 LLC and Linda N. Shah), final reading. (Quasi-Judicial Proceeding)
2. Ordinance 2021-79, granting approval of a Final Development Plant for a PUD (Planned Unit Development) zoning residential subdivision to be known as 'Gardens at Waterstone Phase III' on property located in the vicinity west of Mara Loma Boulevard and south of Melbourne Tillman Water Control District Canal 38 (47.99 acres) (Case FD-47-2021, Waterstone Farms, LLC), final reading. (Quasi-Judicial Proceeding)
3. Ordinance 2021-80, amending the Code of Ordinances, Chapter 64, Business Improvement District, by repealing the Chapter in its entirety, final reading.
4. Ordinance 2021-81, amending the Code of Ordinances, Chapter 35, Finance Department, by repealing the Chapter in its entirety, final reading.
5. Ordinance 2021-82, amending the Code of Ordinances by creating Chapter 35, to be titled 'Finance Department', final reading.
6. Ordinance 2021-83, vacating a portion of the road right-of-way known as Mercury Avenue SE located within Port Malabar Unit 40 (0.722 acres) (Case VRW-3-2021, Mercury Avenue LLC and Mercury Avenue Too LLC), first reading. (Quasi-Judicial Proceeding)
7. Ordinance 2021-84, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located at the northwest corner of Robert J. Conlan Boulevard and Commerce Park Drive, from Industrial Use to Bayfront Mixed Use (7.11 acres) (Case CP-11-2021, NSD Palm Bay IV, LLC), only one reading required.
8. Ordinance 2021-85, rezoning property located at the northwest corner of Robert J. Conlan Boulevard and Commerce Park Drive, from LI (Light Industrial and Warehousing District) to BMU (Bayfront Mixed Use District) (7.11 acres) (Case CPZ-11-2021, NSD Palm Bay IV, LLC), first reading. (Quasi-Judicial Proceeding)
9. Ordinance 2021-86, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located at the southwest corner of Cogan and Osmosis Drives, from Single Family Residential Use to Multiple Family Residential Use (21.00 acres) (Case CP-17-2021, Diocese of Orlando), only one reading required.
10. Resolution 2021-71, granting approval of a Planned Unit Development (PUD) Preliminary Development Plan for a residential subdivision to be known as 'The Landings at Bayside PUD', which property is located at the southwest corner of Cogan and Osmosis Drives (21.00 acres) (Case PD-50-2021, Diocese of Orlando). (Quasi-Judicial Proceeding)
11. Ordinance 2021-87, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located north of and adjacent to Malabar Road, in the

vicinity west of St. Johns Heritage Parkway, from Parkway Flex Use to Commercial Use (9.75 acres) (Case CP-18-2021, Willard Palmer), only one reading required.

12. Ordinance 2021-88, rezoning property located north of and adjacent to Malabar Road, in the vicinity west of St. Johns Heritage Parkway, from PMU (Parkway Mixed Use District) to CC (Community Commercial District) (9.75 acres) (Case CPZ-18-2021, Willard Palmer), first reading. (Quasi-Judicial Proceeding)

CONSENT AGENDA:

There will be no separate discussion on those items listed under Consent Agenda (indicated with asterisks(*)). They will be enacted by the City Council on one motion. If discussion is desired by the City Council, that item will be removed from the Consent Agenda by Council and will be considered in the order that it appears on the agenda.

1. Adoption of Minutes: Regular Council Meeting 2021-30; November 18, 2021.
2. Ordinance 2021-89, amending the Code of Ordinances, Chapter 37, Growth Management Department, by removing the Code Compliance Division from the department's composition, first reading.
3. Ordinance 2021-90, amending the Code of Ordinances, Chapter 40, Building Department, by including the Code Compliance Division under the department's duties and responsibilities, first reading.
4. Ordinance 2021-91, amending the Code of Ordinances, Chapter 55, Police and Firefighters Retirement Pension Plan, by increasing the supplemental benefit amount for police officers separating with vested service or retiring on or after October 1, 2021, first reading.
5. Ordinance 2021-92, amending the Code of Ordinances, Chapter 117, Alarm Systems, by repealing provisions which provide for civil penalties for false alarms, first reading.
6. Consideration of Emergency Water Supply Interlocal Agreement with the City of Melbourne.
7. Consideration of Emergency Water Supply Interlocal Agreement with the City of West Melbourne.
8. Consideration of the installation of a westbound restriction on Colorado Street as a traffic calming measure.
9. Consideration of accepting the Florida Department of Transportation's "Know Your Limits" Aggressive Driving and Speed Initiative grant contract (\$44,000).
10. Consideration of accepting the Victims of Crime Act Grant Award for 2021-2022. (AGENDA REVISION)
11. Consideration of certain City-owned real estate on Northview Street to be designated as surplus property.
12. Consideration of the Stormwater Utility tax exemption list revision, per Resolution 2020-35.
13. Consideration of utilizing Police Impact Fees to purchase a police outreach vehicle (\$60,000).
14. Consideration of a salary increase (11%) for the Chief Building Official.
15. Consideration of a budget amendment for NSP, HOME, CDBG, and SHIP Programs as part of ongoing housing programs cleanup.
16. Consideration of a budget amendment for payment of property taxes for 648 Osmosis Drive SE and 2741 Rhapsody Street NE.
17. Acknowledgement of Budget Monitoring Report – Fiscal Year 2021 Quarter Four (Unaudited).

18. Consideration of submitting an application for FEMA's Assistance to Firefighter's Grant for the purchase a quint fire apparatus (\$950,000) and air bottles (\$60,000).

UNFINISHED AND OLD BUSINESS:

1. Appointment of one (1) member to the Bayfront Community Redevelopment Agency (represents 'at-large' position).
2. Appointment of one (1) adult member to the Youth Advisory Board.

NEW BUSINESS:

1. Consideration of Councilmembers attending the Florida League of Cities' Legislative Action Days in Tallahassee, February 8-9, 2022.
2. Discussion of residential development along unimproved roads and request by resident Vernon Densler to develop at 1185 Deerfield Street.
3. Discussion of General Fund Undesignated Fund Balance and potential funding items for Fiscal Year 2021-2022. (AGENDA REVISION)

COMMITTEE AND COUNCIL REPORTS:

1. Committee/Council Reports

ADMINISTRATIVE AND LEGAL REPORTS:

PUBLIC COMMENTS/RESPONSES: Speakers are limited to 3 minutes.

ADJOURNMENT:

Councilmembers who are members of the Space Coast Transportation Planning Organization (TPO) may discuss TPO issues which may subsequently be addressed by the TPO.

If an individual decides to appeal any decision made by the City Council 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 Office of the City Clerk at (321) 952-3414 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.

Pursuant to Council Policies and Procedures, members of the public wishing to use electronic media when addressing City Council must provide the electronic file to staff for screening no later than 2:00 P.M. on the day of the meeting; audio presentations must be submitted to the City Clerk at least twenty-four (24) hours prior to the meeting.

THIS MEETING IS BROADCAST LIVE ON THE CITY'S WEBSITE AND TELEVISED ON THE SPACE COAST GOVERNMENT TV CHANNEL.



LEGISLATIVE MEMORANDUM

DATE: 12/16/2021

RE: Commissioner Jerry Sansom, Florida Inland Navigation District - overview of FIND.
(AGENDA REVISION)

ATTACHMENTS:

Description

Presentation



**Florida
Inland
Navigation
District**



Quick Facts about the Intracoastal Waterway

(Atlantic) Intracoastal Waterway also known as **Marine Highway M-95**

Florida AIWW & IWW (sometimes collectively referred to as the ICW):

- 450 miles in length, (374 miles within FIND 12- County District), from Georgia border to Crossbank in the Florida Keys

Design depth is:

- -12 feet from the state border to Fort Pierce
- -10 feet from Fort Pierce to Miami
- -7 feet from Miami to Crossbank in the Florida Keys
- Approximately 500,000 cubic yards (average) dredged each year. Estimated annual budget of \$12 to \$15 million to maintain at optimum functionality

Okeechobee Waterway (OWW) :

- 97 miles w/n FIND from Crossroads to Palm Beach County line
 - Design depth is -8 feet for Route 1 and -5 feet for Route 2,
 - Issue Lake Okeechobee water levels (12.56 feet)

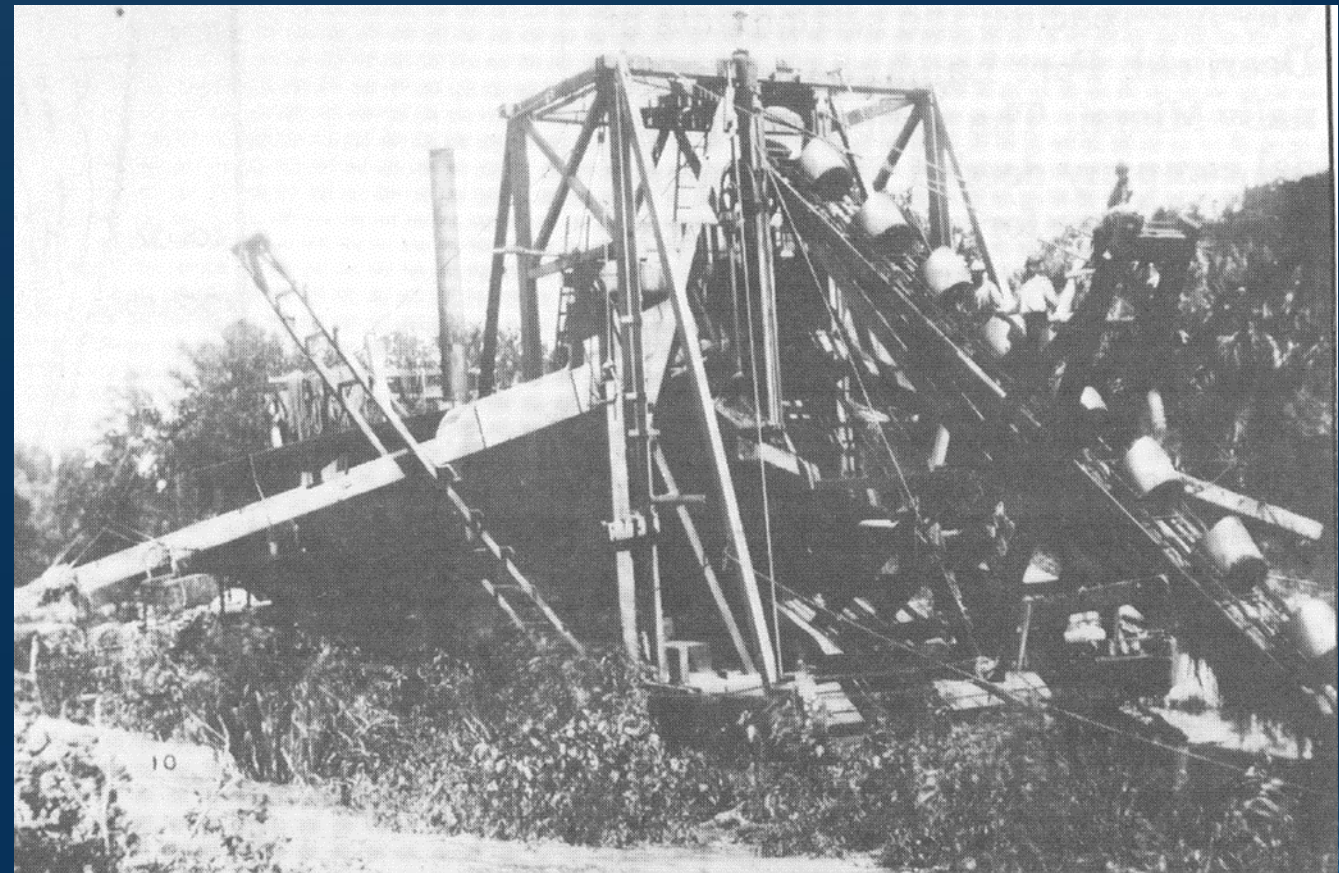


History of the Inland Waterway

As early as the 1820's, the Florida Territorial Council chartered private companies to build canals along Florida's east coast.

Completion of the waterway from Jacksonville to Miami wasn't until 1912.

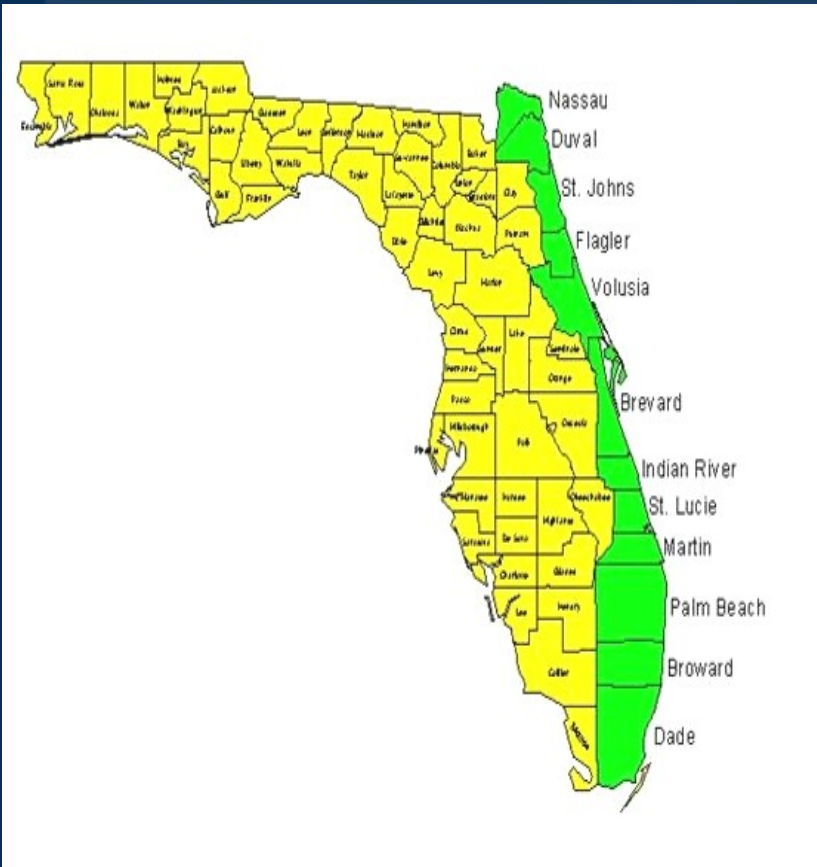
When it opened, it was a toll canal where vessels were stopped by a chain along the narrow man-made sections and paid their toll.



Example of an early ladder dredge



About the Florida Inland Navigation District



■ Find Member Counties

FIND was created by the Florida Legislature in 1927 to be Florida's sponsor for the Atlantic Intracoastal Waterway.

12 East Coast Counties

The FIND Board levies a tax on all real property within its boundaries to generate the funds necessary to fulfill the District's responsibilities.



FIND Commissioners



J. Carl Blow
Vice Chair
St. Johns County



Michael O'Steen
Duval County



Frank Gernert
Treasurer
Broward County



Donald Cuozzo
Martin County



T.Spencer Crowley, III
Secretary
Miami-Dade County



Donald Donaldson
Chair
St. Lucie County



Randy Stapleford
Flagler County



Charles C. Isiminger
Palm Beach County



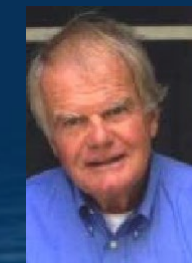
Jerry H. Sansom
Brevard County



Buddy Davenport
Volusia County



Steve Boehning
Indian River County



Lynn Williams
Nassau County





**Typical Dredged Material
Management Plan
(ex. Flagler County)**

Dredged Material Management Area (DMMA)



FIND Assistance Programs



Waterway Assistance Program (WAP)

- Partnership with local governments

Cooperative Assistance Programs (CAP)

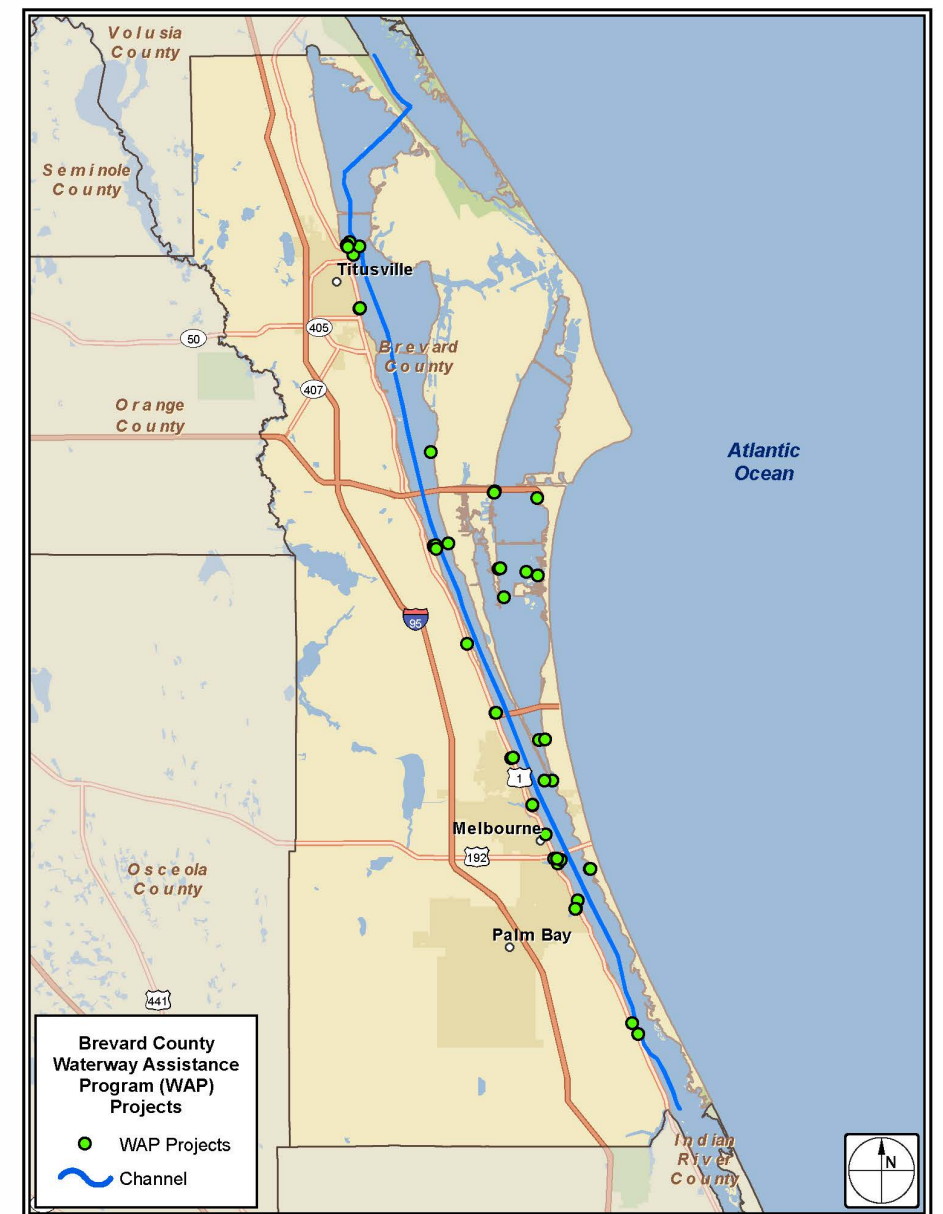
- Partnership with eligible federal and state government agencies
- 50/50% funding assistance for waterway access projects.
- Approximately \$14-\$17 million dollars available annually
- Resulting s in \$28-\$40 million in annual infrastructure improvements



FIND Assistance Programs

Since 1986, the District has provided Brevard County municipalities **\$14.1 million** in WAP funding to **147 projects** in Brevard County having a total constructed value of **\$38 million**.

The County, the City of Cocoa, the City of Cocoa Beach, the City of Melbourne, the City of Palm Bay, the City of Satellite Beach, the City of Titusville, the Town of Melbourne Beach, the Sebastian Inlet District, and the Town of Palm Shores have participated in the program.





City of Cocoa Lee Wenner Park



Brevard County Fisherman's Pier

Satellite Beach Desoto Kayak Launch



Melbourne Beach Town Pier



Derelict Vessel Removal Grants



Derelict vessels in our waterways can cause navigation safety and environmental problems.

The District provides assistance funding up to \$75,000 per county per year to assist other governments with derelict vessel removal projects.

In Brevard County: 69 Vessels removed since 2008



Spoil Island Restoration and Enhancement Grants

Spoil islands were created by FIND from dredged material.

Grant offers \$7,500 per project, requires 10% match

One of the best examples in the District is Peanut Island in Palm Beach County. Wildlife habitat and recreational uses surround the dredged material management areas.



Waterway Clean-Up Program



FIND partners
with Keep Brevard
Beautiful to fund
its annual
waterway cleanup



FIND sponsors up
to \$10,000
annually the
waterway clean-
ups in each of the
12 counties



RECENTLY COMPLETED PROJECTS:

- Construction of DMMA O-7, Martin County and DMMA M-8, St. Lucie County
- Dredging of Crossroads and Jupiter Inlet areas of IWW
- Maintenance Dredging of OWW, Martin County

CURRENT PROJECTS:

- Construction of DMMA O-23, Martin County
- Shoreline stabilization of DMMAs DU-2 and SJ-1
- Construction of Brevard County DMMAs BV-11, BV-4B and BV24-A
- Maintenance Dredging Palm Valley North, St Johns County



Contact Us

Info@AICW.org

Florida Inland Navigation District
1314 Marcinski Road
Jupiter FL 33477

(561) 627-3386

www.aicw.org

Mark Crosley, Executive Director
Janet Zimmerman, Assistant Executive Director
Glenn Scambler, CPA, Finance Director
Carly Cahur, Staff Assistant
Ian Eyeington, Project Manager



Economic Benefits of the District Waterways

BREVARD COUNTY



TOTAL ANNUAL ECONOMIC IMPACT

Annual value created by the ICW and ICW activities

\$1.4 BILLION

\$1 Billion¹

Generated annually by
tourism spending from
455,000 tourists



\$123 Million²

Generated annually by
local **boater spending**
from Brevard County
registered vessels



\$132 Million³

Portion of annual
property sales value
attributable to ICW
proximity.



Port Canaveral and the ICW in Brevard County are both critical
to the shipment of **fuel on barges** throughout the state of
Florida as well as shipments related to the **space center**.



The Intracoastal Waterway (Marine I-95) currently supports **14,967 jobs** in Brevard County.

FIND INVESTMENT

In the ICW of **\$111,816**⁴ annually avoids lost revenue of **\$63 Million**⁵
and **735** lost jobs.

ADDITIONAL TAX BENEFITS



Federal Tax Revenue

\$113 Million



State and Local Tax Revenue

\$102 Million

**Registered Vessels
Utilizing the ICW:
26,057**⁵



⇒ Pleasure Boating: 11,726



⇒ Fishing: 7,557



⇒ Sailing and other activities: 4,690



⇒ Watersports: 2,085

¹ Includes both in-state and out-of-state tourists. Out-of-state tourist number based on a national survey; respondents who reported ICW in Brevard County as a primary activity. In-state tourists reported visiting from outside Brevard County; based on survey results, respondents who reported ICW in Brevard County as a primary activity

² Based on survey of locally registered boaters, adjusted for boaters spending 3 or more days on the ICW

³ Based on hedonic modelling of premium associated with frontage or proximity to ICW; Brevard County property values total about \$63.6 billion. Details for all calculations can be found in Final Report.

⁴ The average annual investment from FIND to dredging projects. Does not reflect the total average annual cost of dredging projects.

⁵ Based on actual 2017 registration data and survey results. This number is an estimate of the number of registered vessels that utilize the ICW annually.





LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Patrick J. Murphy, Acting Growth Management Director

DATE: 12/16/2021

RE: Ordinance 2021-78, rezoning property located west of and adjacent to Babcock Street, in the vicinity south of Foundation Park Boulevard, from CC (Community Commercial District) to GC (General Commercial District) (6.28 acres) (Case Z-45-2021, Roth Freedom 2010 LLC and Linda N. Shah), final reading. (Quasi-Judicial Proceeding)

A public hearing is to be held on the above subject ordinance and the caption read for the second and final time at tonight's Council meeting.

Roth Freedom 2010, LLC and Ms. Linda N. Shah (represented by Nathan Lee, Kimley-Horn) have submitted for a rezoning of the subject parcel from CC, Community Commercial to GC, General Commercial. The property is located west of and adjacent to Babcock Street SE, in the vicinity south of Foundation Park Boulevard SE. A self-storage facility is intended for the site.

Under the requested GC designation, a proposed self-storage facility will be allowed "by right". Development of the site will be by administrative site plan review and approval to ensure that any development adheres to the Palm Bay Code of Ordinances and all other applicable regulations.

REQUESTING DEPARTMENT:

Growth Management

RECOMMENDATION:

Motion to approve Case Z-45-2021.

Planning and Zoning Board Recommendation:

Planning and Zoning Board minutes are not fully transcribed at this time; the following is an excerpt:

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.

ATTACHMENTS:**Description**

Case Z-45-2021 - Staff Report

Case Z-45-2021 - Boundary and Topographic Survey

Case Z-45-2021 - Application

Ordinance 2021-78



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

Z-45-2021

PLANNING & ZONING BOARD HEARING DATE

November 15, 2021

PROPERTY OWNER & APPLICANT

Roth Freedom 2010, LLC and Linda N. Shah (Represented by Nathan Lee, Kimley-Horn)

PROPERTY LOCATION/ADDRESS

Tax Parcel 12, Section 9, Township 29 south, Range 37 east, Brevard County, Florida

SUMMARY OF REQUEST

The applicant is requesting a rezoning of the subject parcel from CC, Community Commercial to GC, General Commercial.

Existing Zoning

CC, Community Commercial

Existing Land Use

Commercial Use

Site Improvements

Former Single-Family Home

Site Acreage

6.28 acres

SURROUNDING ZONING & USE OF LAND

North

RR, Rural Residential; Single-Family Home

East

CC, Community Commercial; Babcock Street SE

South

RR, Rural Residential; Single-Family Homes

West

LI, Light Industrial and Warehousing; Undeveloped Land

COMPREHENSIVE PLAN COMPATIBILITY

The land is designated Commercial Use on the City's Comprehensive Plan Future Land Use Map. The proposed commercial zoning designation is consistent with this land use category.

BACKGROUND:

The subject property is located west of and adjacent to Babcock Street SE, in the vicinity south of Foundation Park Boulevard SE. Specifically, the property is Tax Parcel 12, located in Section 9, Township 29 south, Range 37east, of Brevard County, Florida. The property was rezoned from RR, Rural Residential to CC, Community Commercial in 2007, just before a downturn in the economy. As a result, the property was not commercially developed.

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 “for a proposed self-storage facility, which will be restricted by current zoning, Community Commercial. The property is located along Babcock St SE, a corridor that has been transitioning to General Commercial over the years.”

The applicant is correct in that several parcels have already been zoned to General Commercial along this corridor. Three (3) other parcels south of the subject property have General Commercial zoning and Commercial Use as a future land use designation.

Within the Community Commercial zoning district, self-storage facilities are allowed via conditional use, with built-in conditions that must be met. In the GC zoning district, a self-storage facility is permitted “by right”.

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 General Commercial would have minimal changes compared to what is currently allowed under Community Commercial zoning. 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.*

Out of the three (3) nearby parcels with General Commercial zoning, only one is vacant land, and it is owned by Brevard County. Additional GC-zoned lands are located a half mile north, in Port Malabar Unit 40 (east side of Babcock Street, north of Interstate 95).

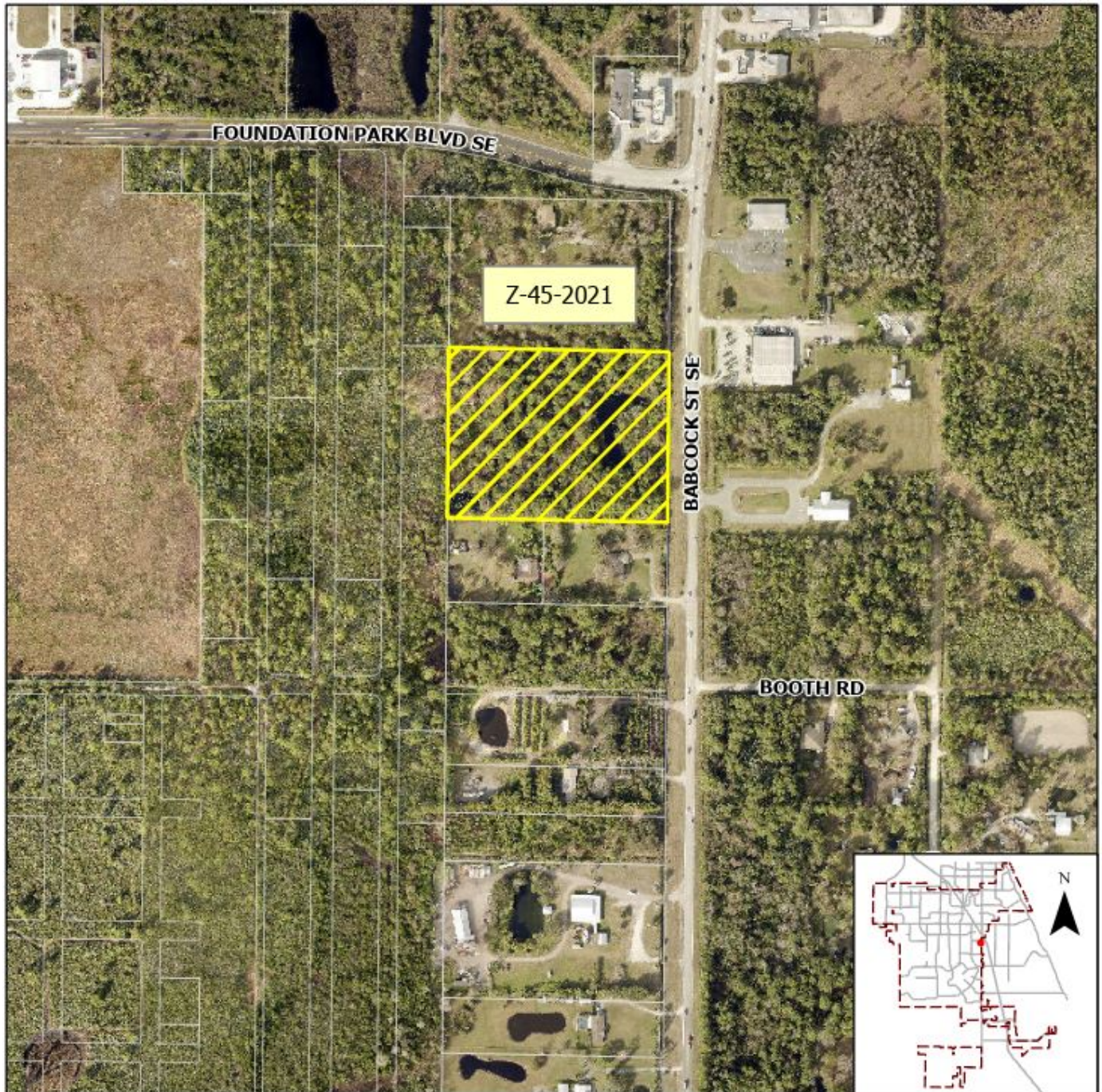
Item 4 - *The relationship of the proposed amendment to the purpose of the city plan for development, with appropriate consideration as to whether the proposed change will further the purposes of this chapter and the Comprehensive Plan (Plan).*

The proposed amendment does not impede the purposes of Chapter 185 or the Comprehensive Plan. The proposed zoning district is consistent with the property's future land use designation of commercial use.

STAFF RECOMMENDATION:

Case Z-45-2021 is recommended for approval.

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



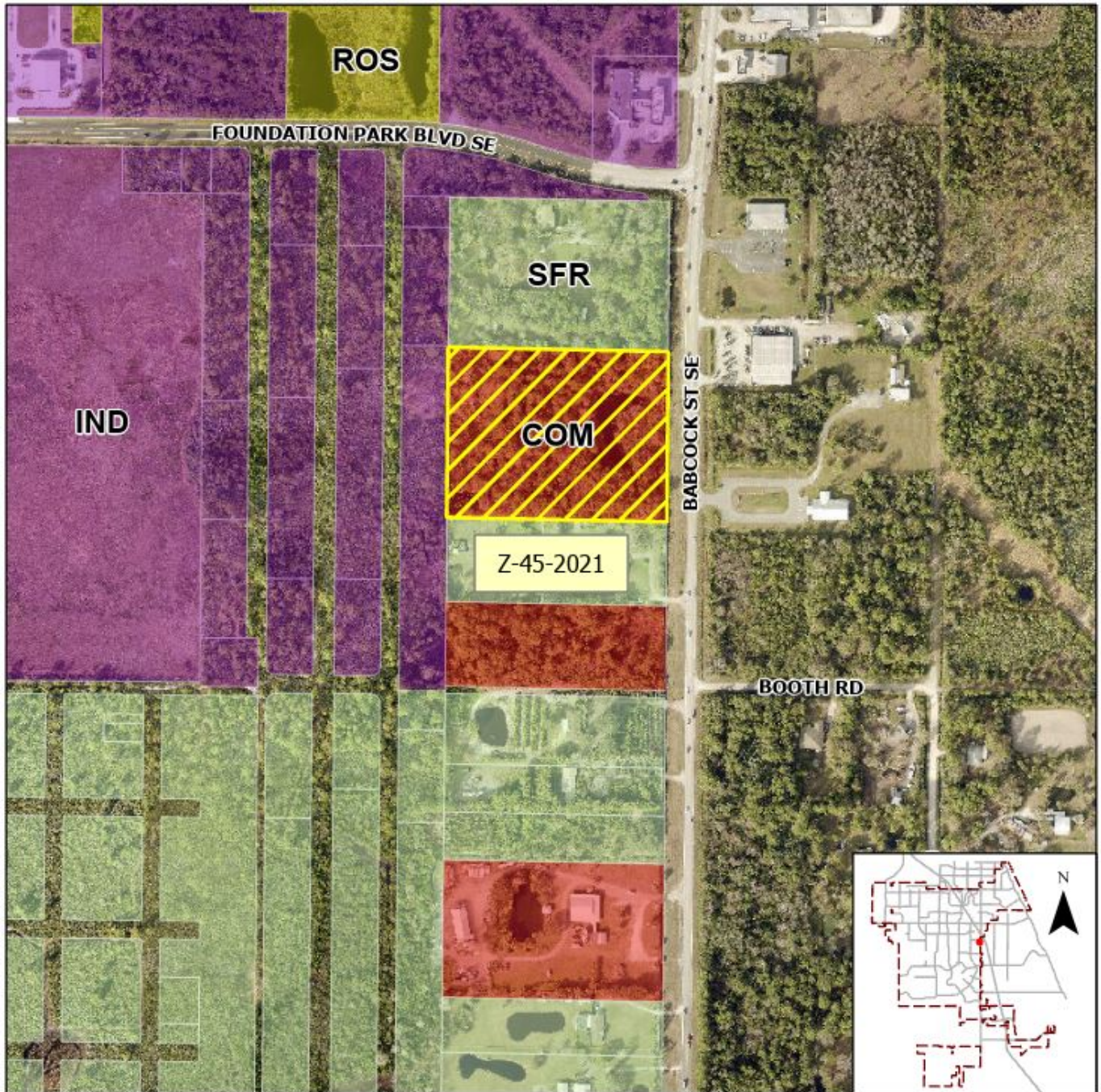
AERIAL LOCATION MAP CASE: Z-45-2021

Subject Property

West of and adjacent to Babcock Street SE, in the vicinity south of Foundation Park Boulevard 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: Z-45-2021

Subject Property

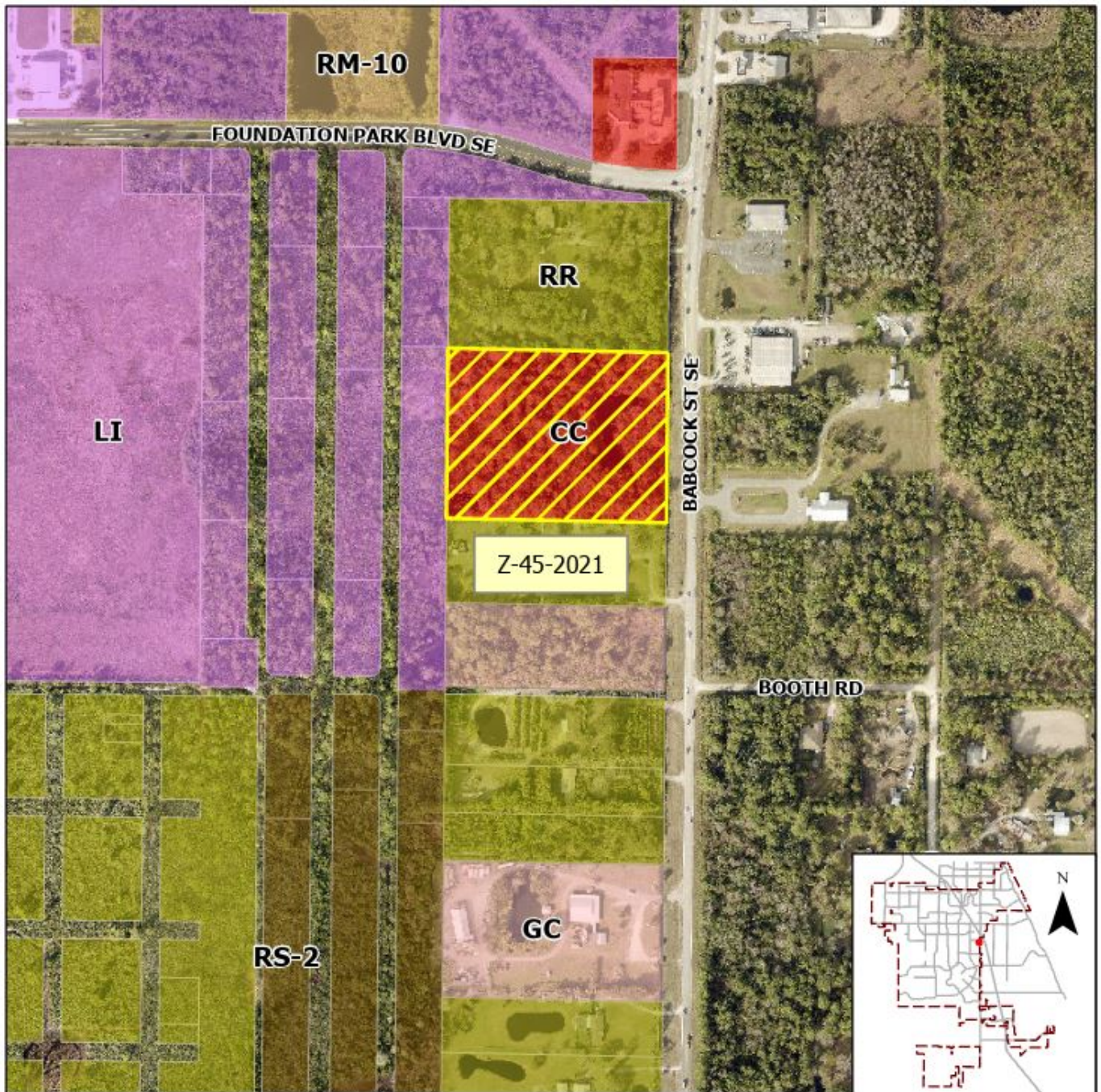
West of and adjacent to Babcock Street SE, in the vicinity south of Foundation Park Boulevard SE

Future Land Use Classification

COM – Commercial Use District



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



ZONING MAP

CASE: Z-45-2021

Subject Property

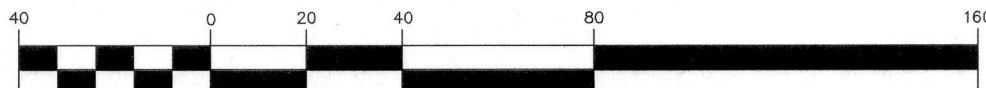
West of and adjacent to Babcock Street SE, in the vicinity south of Foundation Park Boulevard SE

Current Zoning Classification

CC – Community Commercial Use

MAP OF BOUNDARY & TOPOGRAPHIC SURVEY

GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.

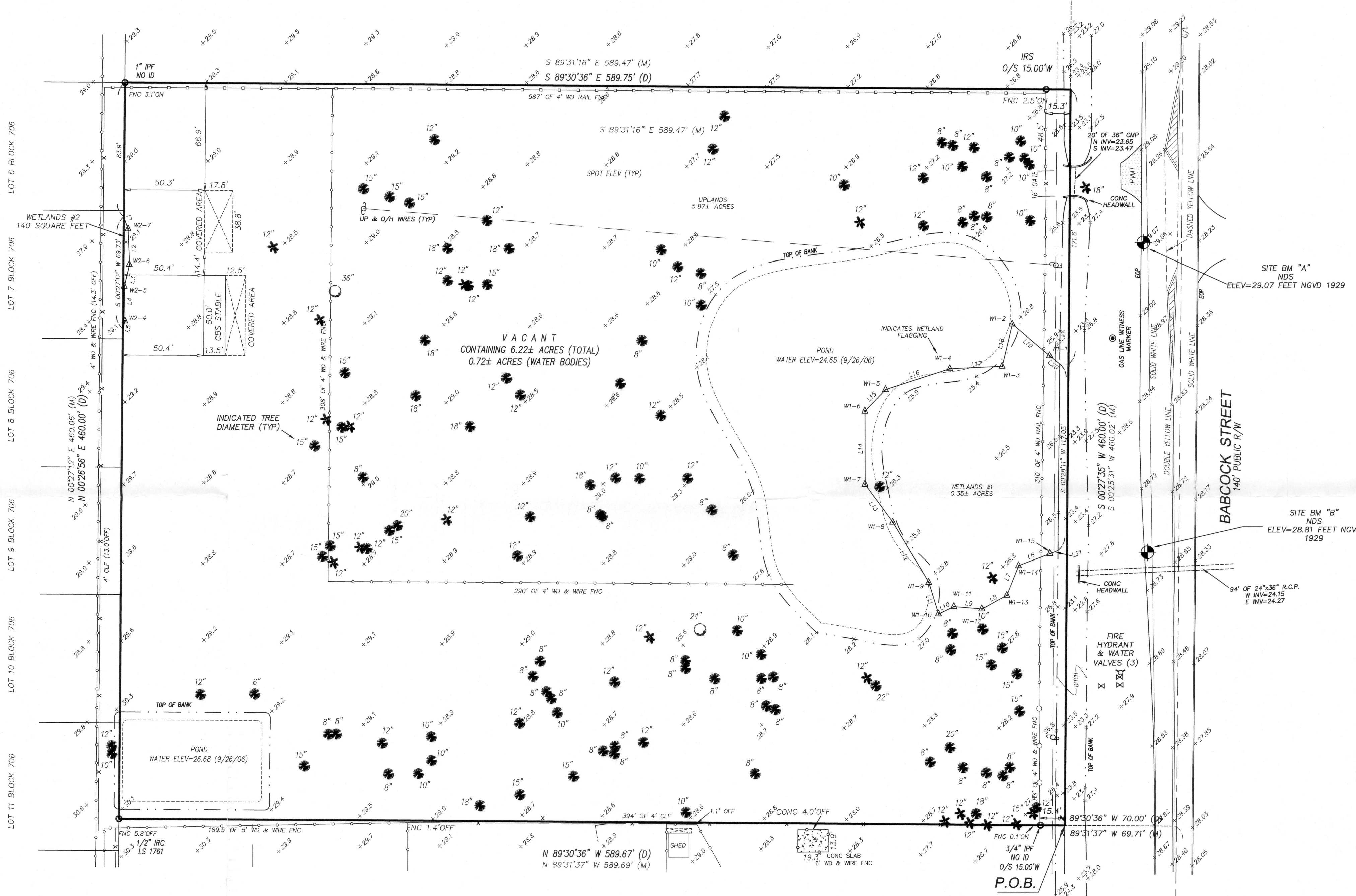
ORB 4211 PAGE 1968
FF=30.7

APPROXIMATE
DRAINFIELD LOCATION

PORT CANALAS UNIT FIFTEEN
PG 15 PAGES 12-19

TREE LEGEND

- OAK TREE
- PINE TREE
- * PALM TREE



ORB 5144 PAGE 2829
FF=33.2

ORB 4594 PAGE 1028
FF=32.0

LEGAL DESCRIPTION: (FURNISHED BY CLIENT)

COMMENCE AT THE EAST 1/4 CORNER OF SECTION 9, TOWNSHIP 29 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, THENCE NORTH 02°35' EAST, ALONG THE EAST LINE OF SAID SECTION 9, A DISTANCE OF 455.0 FEET; THENCE NORTH 89°30'36" WEST A DISTANCE OF 70 FEET TO THE POINT OF BEGINNING, FROM POINT OF BEGINNING RUN NORTH 89°30'36" WEST A DISTANCE OF 589.67 FEET, THENCE NORTH 02°35' EAST A DISTANCE OF 460.0 FEET, THENCE SOUTH 89°30'36" EAST A DISTANCE OF 589.75 FEET TO THE WEST RIGHT-OF-WAY OF BABCOCK STREET, THENCE SOUTH 02°35' WEST ALONG WEST RIGHT-OF-WAY OF BABCOCK STREET A DISTANCE OF 460.0 FEET TO THE POINT OF BEGINNING.

CERTIFICATION:

I HEREBY CERTIFY: THAT THE ATTACHED SURVEY WAS DONE UNDER MY DIRECTION AND MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-6 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

DATE: 1/8/06

MICHAEL J. KANE PROFESSIONAL LAND SURVEYOR AND MAPPER
STATE OF FLORIDA No. 4029

C

DRAWN BY: MDS/JED

SCALE 1 INCH = 40 FEET

LEGEND

- A = ARC
- A/C = AIR CONDITIONER
- BFE = BASE FLOOD ELEVATION
- BNG = BEARING
- BM = BENCHMARK
- BLK = BLOCK
- BLDG = BUILDING
- (C) = CALCULATED
- CATV = CABLE TELEVISION
- CHD = CHORD
- CBS = CONCRETE BLOCK STRUCTURE
- C/L = CENTERLINE
- CLF = CHAIN LINK FENCE
- CMP = CORRUGATED METAL PIPE
- CONC = CONCRETE
- CMF = CONCRETE MONUMENT FOUND
- COR = CORNER
- (D) = DEED
- DB = DEED BOOK
- DA = DELTA ANGLE
- ESMT = EASEMENT
- ELEC = ELECTRIC
- ENC = ENCROACHMENT
- ELEV = ELEVATION
- EOP = EDGE OF PAVEMENT
- FB = FIELD BOOK
- FF = FINISHED FLOOR
- FNC = FENCE
- FND = FOUND
- FP&L = FLORIDA POWER & LIGHT COMPANY
- GOV'T = GOVERNMENT
- ID = IDENTIFICATION
- INV = INVERT
- IPF = IRON PIPE FOUND
- IRC = IRON ROD & CAP FOUND
- IRF = IRON ROD FOUND
- IRS = 5/8" IRON ROD SET WITH CAP "KANE LB 7179"
- LB = LICENSED BUSINESS NUMBER
- (RLS) or (PLS) REGISTERED OR PROFESSIONAL LAND SURVEYOR
- (M) = MEASURED
- No. = NUMBER
- NDF = NAIL & DISK FOUND
- NDS = 1 1/4" NAIL & DISK SET "KANE LB 7179"
- NGVD = NATIONAL GEODETIC VERTICAL DATUM
- O/H = OVERHEAD
- ORB = OFFICIAL RECORDS BOOK
- O/S = OFFSET
- (P) = PLAT
- PB = PLAT BOOK
- PCP = PERMANENT CONTROL POINT
- PC = POINT OF CURVATURE
- PCC = POINT OF COMPOUND CURVATURE
- PI = POINT OF INTERSECTION
- PT = POINT OF TANGENCY
- PRC = POINT OF REVERSE CURVATURE
- PRM = PERMANENT REFERENCE MONUMENT
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- POL = POINT ON LINE
- PUE = PUBLIC UTILITY EASEMENT
- PUDE = PUBLIC UTILITY & DRAINAGE EASEMENT
- PMT = PAVEMENT
- R = RADIUS
- RCP = REINFORCED CONCRETE PIPE
- REF = REFERENCE
- RNG = RANGE
- R/W = RIGHT OF WAY
- SEC = SECTION
- (SB) = SURVEY BOOK
- TEL = TELEPHONE RISER
- TWP = TOWNSHIP
- TYP = TYPICAL
- UP = UTILITY POLE
- WD = WOOD
- WT-COR = 5/8" IRON ROD SET WITH CAP "WITNESS LB 7179"
- WM = WATER METER
- XCF = CROSS CUT FOUND

NOTES:

- BEARINGS BASED ON FURNISHED LEGAL DESCRIPTION (SEE SKETCH)
- ELEVATIONS BASED ON 1929 NGVD & 2" NDF AT THE INTERSECTION OF FOUNDATION PARK BOULEVARD AND UNDERHILL AVENUE BEING AT AN ELEV OF 31.05 FEET NGVD 1929 AS PER THE CITY OF PALM BAY PUBLIC WORKS DEPARTMENT.
- FLOOD ZONE "A", MAP NO. 12009C0605E COMMUNITY NO. 120404 NOVEMBER 19, 1997
- HORIZONTAL CLOSURE MEETS OR EXCEEDS THE ACCURACY FOR SUBURBAN LAND AS PER FLORIDA STATUTE 61G17-6.003.
- BEARINGS, DISTANCES OR ANGLES SHOWN ARE THE SAME AS PLAT, DEED OR RECORD UNLESS SHOWN OTHERWISE.
- NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- THE SURVEYOR HAS NOT LOCATED NOR ATTEMPTED TO LOCATE ANY UNDERGROUND UTILITIES, FOUNDATIONS, OR STRUCTURES OTHER THAN THOSE THAT MAY BE SHOWN HEREON.
- ONLY BOUNDARY CORNER MONUMENTS AS SHOWN HEREON ARE TO BE USED FOR THE LOCATION AND CONSTRUCTION OF IMPROVEMENTS.
- UNLESS OTHERWISE INDICATED THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A TITLE SEARCH OR ATTORNEY'S TITLE OPINION.
- THE SURVEYOR DID NOT HAVE THE BENEFIT OF A UTILITY LOCATION SERVICE AT THE TIME OF THIS SURVEY. ONLY VISUAL INDICATIONS OF SUBTERRANEAN UTILITIES HAVE BEEN LOCATED. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION.

CERTIFIED TO:

RAVI SHAH

| | | |
|------------------|----------------|---------------------|
| BOUNDARY | DATE: 2/5/04 | JOB No. 16485 |
| TOPOGRAPHIC | DATE: 9/29/06 | FB 4-3-27 |
| REVISED | DATE: 10/25/06 | 9-29-37/TAXPARCEL12 |
| LOCATED WETLANDS | DATE: 12/21/06 | |

KANE SURVEYING

FLORIDA LICENSED BUSINESS No. LB 7179
505 DISTRIBUTION DRIVE
MELBOURNE, FLORIDA 32904
(321) 676-0427
FAX (321) 984-1448

| LINE | LENGTH | BEARING |
|------|--------|--------------|
| L1 | 8.02' | S19°52'19"E |
| L2 | 22.28' | S02°10'15"E |
| L3 | 13.87' | S13°16'11"W |
| L4 | 21.66' | S01°10'29"E |
| L5 | 4.96' | S16°09'36"W |
| L6 | 20.98' | S69°13'50"W |
| L7 | 19.93' | S21°41'06"W |
| L8 | 17.63' | S61°08'46"W |
| L9 | 17.61' | N85°22'18"W |
| L10 | 10.60' | S64°39'28"W |
| L11 | 20.69' | N17°13'25"W |
| L12 | 43.69' | N30°45'21"W |
| L13 | 29.76' | N35°47'47"W |
| L14 | 45.88' | N02°01'07"E |
| L15 | 18.50' | N44°03'46"E |
| L16 | 42.04' | N72°06'03"E |
| L17 | 32.64' | N87°16'15"E |
| L18 | 27.04' | N132°05'59"E |
| L19 | 30.59' | S49°50'59"E |
| L20 | 8.06' | S49°50'59"E |
| L21 | 5.22' | S69°13'50"W |

P.O.C.

1" IPF
NO ID
EAST 1/4 COR
SEC 9 TWP 29S RNG 37 E



LAND DEVELOPMENT DIVISION

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

Landdevelopmentweb@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(S):

29-37-09-00-12

TAX ACCOUNT NUMBER(S):

2931099

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

PART OF LOT 17 OF PB 1 PG 165 AS DES IN ORB 1880 PG 1004

PROPERTY ADDRESS:

unassigned

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

6.28

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

CC

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

GC

STRUCTURES LOCATED ON THE PROPERTY:

old shed

PRESENT USE OF THE PROPERTY:

vacant

INTENDED USE OF THE PROPERTY AND JUSTIFICATION FOR THE CHANGE:

Proposed is a Self Storage facility with Climate controlled and non climate controlled units in accordance with Palm Bay guidelines.

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

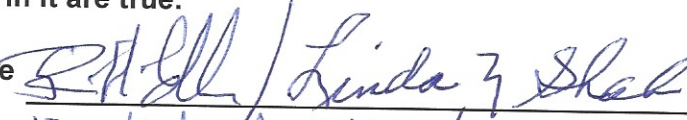
- ☐ *A \$650.00 application fee. Make Check payable to "City of Palm Bay."
- ☐ A Boundary Survey or Sketch with legal descriptions of properties covered by this application.
- ☐ List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, 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 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 Nathan Lee, Kimley Horn Civil Engineer

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  Date 10/12/2021
Printed Name RAVINDRA SHAH / LINDA N. SHAH
Full Address 501 MALEARD LANE INDIAN LANTIC, FL 32903
Telephone 321-431-1820 Email RAVI3145@BELL SOUTH.NET

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

10/12, 20 21

Re: Letter of Authorization

As the property owner of the site legally described as:

Parcel ID 29-37-09-00-12, 6.28 acres vacant land
PART OF LOT 17 OF PB 1 PG 165 AS DES IN ORB 1880 PG 1004

I, Owner Name: ROTH FREEDOM 2010 LLC; NUVIEW IRA INC F/B/O LINDA N SHAH IF

Address: 501 MALLARD LN INDIALANTIC FL 32903

Telephone: 321-431-1820

Email: ravi3145@bellsouth.net

hereby authorize:

Representative: Nathan Lee (Kimley-Horn)

Address: 655 N Franklin Street, Suite 150, Tampa, FL 33602

Telephone: 813-620-1460

Email: nathan.lee@kimley-horn.com

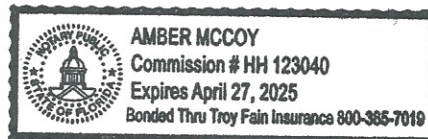
to represent the request(s) for:

Rezoning application

Linda N Shah
(Property Owner Signature)

STATE OF Florida

COUNTY OF Brevard



The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 12th day of October, 20 21 by

Ravindra Hiralal Shah, property owner.

Amber McCoy, Notary Public

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

FL Drivers license

ORDINANCE 2021-78

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE ZONING ORDINANCE OF THE CITY OF PALM BAY BY CHANGING THE ZONING OF PROPERTY FROM CC (COMMUNITY COMMERCIAL DISTRICT) TO GC (GENERAL COMMERCIAL DISTRICT); WHICH PROPERTY IS LOCATED WEST OF AND ADJACENT TO BABCOCK STREET, IN THE VICINITY SOUTH OF FOUNDATION PARK BOULEVARD, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR A CHANGE OF THE ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The Zoning Ordinance of the City of Palm Bay, Brevard County, Florida, is hereby amended to provide for the rezoning of property from CC (Community Commercial District) to GC (General Commercial District), being legally described as follows:

Tax Parcel 12, of the Public Records of Brevard County, Florida; Section 9, Township 29S, Range 37E; containing 6.28 acres, more or less.

SECTION 2. The Zoning Map of the City of Palm Bay is hereby revised to reflect this amendment.

SECTION 3. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2021-_____, held on _____, 2021; and read in title only and duly enacted at Meeting 2021-_____, held on _____, 2021.

ATTEST:

Terese M. Jones, CITY CLERK

Robert Medina, MAYOR

City of Palm Bay, Florida
Ordinance 2021-78

Reviewed by CAO: _____

Applicant: Roth Freedom 2010 LLC and Linda N. Shah
Case: Z-45-2021

cc: (date) Applicant
Case File



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Patrick J. Murphy, Acting Growth Management Director

DATE: 12/16/2021

RE: Ordinance 2021-79, granting approval of a Final Development Plant for a PUD (Planned Unit Development) zoning residential subdivision to be known as 'Gardens at Waterstone Phase III' on property located in the vicinity west of Mara Loma Boulevard and south of Melbourne Tillman Water Control District Canal 38 (47.99 acres) (Case FD-47-2021, Waterstone Farms, LLC), final reading. (Quasi-Judicial Proceeding)

A public hearing is to be held on the above subject ordinance and the caption read for the second and final time at tonight's Council meeting.

Mr. Benjamin E. Jefferies, Waterstone Farms, LLC (represented by Jake Wise, P.E., Construction Engineering Group, LLC; P. Michael Evans, PB & J Gardens Investment, LLC, and Rochelle W. Lawandales, FAICP) has submitted for Final Development Plan PUD approval for a 171-unit residential subdivision to be known as Gardens at Waterstone Phase III. The vacant, undeveloped site is located in the vicinity west of Mara Loma Boulevard SE and south of Melbourne-Tillman Water Control District Canal 38.

This phase of the Gardens at Waterstone PUD proposes a single-family development to be constructed in one phase. The proposed density is 3.56 units per acre, which is below the maximum density allowed for Single-Family Residential Use. The development will consist of 1,350 square-foot minimum sized homes, passive recreation areas, and meandering walking trails connecting the subdivision to Mara Loma Boulevard and other future sections of the overall PUD. The recreation areas will be available to the residents of Phases I, II, and III. All roads within the development will be private, and there will be one access point off the newly created Granger Circle SE, which will connect to the newly extended Mara Loma Boulevard.

The developer for the PUD should request a cost-share analysis from the Public Works Department to ensure that each project (Waterstone and Cypress Bay) will only pay the cost of their Proportionate Fair Share of the traffic signal warranted prior to the issuance of a Certificate of Completion for this phase of Gardens at Waterstone, since each project will generate traffic for the Mara Loma Boulevard and Babcock Street intersection.

Upon review, the proposed request appears to conform with the applicable requirements for Final Development Plan approval.

REQUESTING DEPARTMENT:

Growth Management

RECOMMENDATION:

Motion to approve Case FD-47-2021, subject to the staff comments contained in the staff report being addressed upon submission of the administrative construction plans as follows:

- Fully engineered construction drawings.
- A Subdivision Plat meeting Ch.177 of Florida State Statute requirements and a title opinion.
- The technical comments generated by the Development Review Staff (attached) shall be observed and incorporated into the engineered construction drawings.
- No roads shall be accepted by the City of Palm Bay for operation and maintenance until and unless the Developer requests acceptance through the process promulgated in Chapter 182 of the City of Palm Bay's Code of Ordinances. Upon commencement of said process, staff will determine if acceptance of any roads would provide a public benefit and that current City of Palm Bay construction standards are met.

Planning and Zoning Board Recommendation:

Planning and Zoning Board minutes are not fully transcribed at this time; the following is an excerpt:

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.

ATTACHMENTS:**Description**

Case FD-47-2021 - Staff Report

Case FD-47-2021 - Final Development Plan

Case FD-47-2021 - Plat

Case FD-47-2021 - Application

Case FD-47-2021 - Narrative

Ordinance 2021-79

Ordinance 2021-79, Exhibit A

Ordinance 2021-79, Exhibit B

Ordinance 2021-79, Exhibit C

Ordinance 2021-79, Exhibit D



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmbayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

FD-47-2021

PLANNING & ZONING BOARD HEARING DATE

November 15, 2021

PROPERTY OWNER & APPLICANT

Benjamin E. Jefferies - Waterstone Farms, LLC. Represented by Jake T. Wise P.E. of CEG, P. Michael Evans of PB&J Investments, and Rochelle Lawandales

PROPERTY LOCATION/ADDRESS

Part of Tract 1 of San Sebastian Farms, Section 5, Township 30, Range 37, Brevard County, Florida

SUMMARY OF REQUEST

Final Planned Unit Development approval for a 171-unit residential subdivision to be known as Gardens at Waterstone Phase 3 PUD.

Existing Zoning

PUD, Planned Unit Development

Existing Land Use

Single-Family Residential Use

Site Improvements

Vacant Unimproved Land (Former Orange Groves)

Site Acreage

47.99 acres

SURROUNDING ZONING & USE OF LAND

North

Melbourne-Tillman Drainage Canal No. 38

East

PUD; Gardens at Waterstone Phase 2; Undeveloped Land

South

PUD; Proposed Cypress Bay West Phase 3; Undeveloped Land

West

PUD; Rolling Meadow Lakes; Undeveloped Land (Brevard County)

COMPREHENSIVE PLAN COMPATIBILITY

The future land use designation of the subject property is Single-Family Residential Use. The development of a single-family planned unit development is compliant with the Single-Family Residential Use future land use designation. The proposed density is 3.56 units per acre, which is below the maximum density defined in the City's Comprehensive Plan for Single-Family Residential Use (up to 5 units per acre).

BACKGROUND:

The subject property is located in the vicinity west of Mara Loma Boulevard SE and south of Melbourne-Tillman Water Control District Canal No. 38. Specifically, a portion of Tract 1 of San Sebastian Farms Subdivision, Section 5, Township 30, Range 37, of Brevard County Florida. This Final PUD request includes approximately 47.99 acres of land.

In 2004 the subject property was annexed into the City via Ordinance 2004-35 as part of a larger property totaling 1,167 acres. The original Future Land Use amendment designated all of the lands as Single-Family Residential Use via Ordinance 2004-52, which stated that 1,800 units could be placed on the lands of Waterstone or Cypress Bay Preserve. Site-specific conditions were placed on the amendment via Ordinance 2004-48. Between 2005 and 2018, a series of 37 future land use map amendments were made bringing the total units entitled to 2,596.

The total encumbered remaining units (received Final Development Plan Approval) without this current application being counted are as follows: 1,866 units on the west side of Babcock Street and 362 units on the east side of Babcock Street.

ANALYSIS:

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

Specifically, this FDP proposes a 171-unit single-family development that will be constructed in one phase. Per the FDP, average lots within the residential development are 50' x 125'. The proposed minimum sized home is 1,350 square feet. There will be 1 access point off of the newly created Granger Circle, which connects to the newly extended Mara Loma Boulevard. All roads within the subdivision will be private. The Gardens at Waterstone Phase III will have passive recreation areas, and meandering walking trails connecting the subdivision to Mara Loma, and other future sections of the larger community, all under control of the Gardens at Waterstone Homeowners Association, Inc. The recreation areas will be used by all homes in the Gardens at Waterstone Phases 1, 2, and 3. There are 3 neighborhood parks within Gardens Phase 2, totaling 1.8 acres more or less. These will be primarily passive parks, used for multi-purpose playing fields, a dog park, and other outdoor activities. All the residents will have access to the Phase 1 pool and cabana.

Lastly, technical staff review comments are attached to this report.

CONDITIONS:

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

- Fully engineered construction drawings.
- A Subdivision Plat meeting Ch.177 of Florida State Statute requirements and a title opinion.
- The technical comments generated by the Development Review Staff (attached) shall be observed and incorporated into the engineered construction drawings.
- No roads shall be accepted by the City of Palm Bay for operation and maintenance until and unless the Developer requests acceptance through the process promulgated in Chapter 182 of the City of Palm Bay's Code of Ordinances. Upon commencement of said process, staff will determine if acceptance of any roads would provide a public benefit and that current City of Palm Bay construction standards are met.

STAFF RECOMMENDATION:

Case FD-47-2021 is recommended for approval, subject to the staff comments contained in this report.

TECHNICAL COMMENTS

CASE FD-47-2021 – GARDENS AT WATERSTONE PHASE 3 PUD

PUBLIC WORKS (Mehul Parekh, PE, Public Works Director):

Engineering:

The intersection of Babcock Street at Mara Loma Boulevard will be constructed/installed by others at the time of build out Cypress Bay West Phase III.

Calculations shall be provided for review of intersections outside the scope of the 2017 traffic study that have been identified by staff as faili

LOS upon build out of Gardens at Waterstone Ph 1,2 and 3 and CB West 1 and 2 or before build out of these subdivisions.

Proportionate fair share calculations shall be provided for all intersection improvements as discussed above that are warranted prior to build out of CBWest 3. These calculations shall be approved by staff prior to Certificate of Completion issuance.

All stormwater management requirements shall be met in accordance with Ch. 373 F.S. and Ch 62-330 F.A.C. as required. Meeting the SWM Ordinance Ch 174.071 would presume State Code and Law and local agency rules are met.

D/W and Right of way utilities:

1. Drainage easement dedicated to the City of Palm Bay for emergency maintenance but not responsibility to maintain the system. The easement shall be provided to the point of discharge of project.
2. Verify off-site drainage condition at canal connection and update and upgrade for proposed use.

Survey:

1. All roads to be private. No dedication to the public.
2. Due to the site being part of a large Master Drainage Plan, Cross Development Drainage Agreements will need to be shown on the plat.
3. As stated in Surveyor's Note #11, City will be granted emergency access to Drainage Facilities, if necessary. Additionally, text to the effect that if repairs are done the HOA will be charged.
4. Surveyor's Note #1. Please separate the two statements. They are not related.
5. Please list the exception before the nominal situation. i.e. Unless otherwise noted, all lines are radial.

6. Surveyor's Note #2. Please list the exception before the nominal situation. "Unless otherwise noted, all PRM monuments..."
7. All PRMs, except those landing on impermeable surface are to be 4X4 monuments. Per F.S. Chapter 177. 177.031 (15) (a) "Consist of a metal rod having a minimum length of 18 inches and a minimum cross-section area of material of 0.2 square inches. In certain materials, encasement in concrete is optional for stability of the rod. When used, the concrete shall have a minimum cross-section area of 12.25 square inches and be a minimum of 24 inches long." The City is requiring the optional encasement due to the sandy and loose nature of the soil (sand).
8. Please use the legal names of the Mayor and City Clerk in the Certificate of Approval.
9. \$620 Check will be required prior to final plat review.
10. Further comments to follow at final plat review.

UTILITIES (Christopher Little, PE, Utilities Director):

1. The applicant/owner, at their expense, will be required to design, permit, install, inspect and test water & sewer systems of adequate size to accommodate the development and to connect to the City's water and sewer system [§ 200.11(d)(1) - On-site Facilities]. At this time the nearest point of connection to the mainline water distribution system is a 16" PVC pipe on the South side of Mara Loma Blvd. The nearest point of connection to the mainline wastewater collection system force main is a 8" PVC pipe on the North side of Mara Loma Blvd Intersection.
2. The applicant/owner will be responsible for the property's hydraulic share for the new utilities. Oversizing of utilities at the request of the Utilities Department will be subject to a refunding agreement or refundable advance [§ 200.11(D) &(E)]. The City of Palm Bay's 2017 Wastewater Master Plan & 2017 Water Master Plan, both of which are available upon request, identify proposed mainline extensions with the current piping size requirements.
3. The City's sanitary sewer system is currently at maximum capacity at this location. Sewer service will be readily available to the development once the following conditions are met.

(1) A sanitary force main extension must be completed from the point of connection to the CITY'S existing 16" force main, located on the east side of Cogan Drive near Paigo Street SE and Canal C-41R, to the Emerald Lakes West Development. The pipe size and alignment will be coordinated with the CITY. The installer of the force main extension is currently unknown. Oversizing obligations and reimbursements, if any, will be coordinated with the installer.

(2) The construction of the 1.0 MGD South Regional Water Reclamation Facility, located at the South Regional Utilities Campus and being constructed at the expense of the CITY, must be substantially complete and accepting raw sewage for treatment. It is anticipated that this date will occur during the 3rd quarter of 2022. Note that the timing for acceptance of raw sewage for treatment is subject to change due to extenuating

circumstances, including but not limited to contractor delays, availability of construction materials, other COVID-related delays, etc.

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

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

6. Prior to any construction, all required FDEP Permit applications for the Water and Sanitary Sewer Construction shall be processed through and copies of the Permits filed with the Utilities Department.

BUILDING-FIRE (Michael Bloom, CFPS, Fire Plans Examiner):

1. Subdivisions shall meet all requirements of the currently adopted Florida Fire Prevention Code (FFPC) 7th edition, Florida Administrative Code (FAC) Florida State Statute (FSS) and City of Palm Bay Ordinances (COPBO).

2. (FFPC 1:18.4.5.1.1) The minimum fire flow and flow duration requirements for one- and two-family dwellings having a fire flow area that does not exceed 5000 ft²(464.5 m²) shall be 1000 gpm (3785 L/min) for 1 hour.

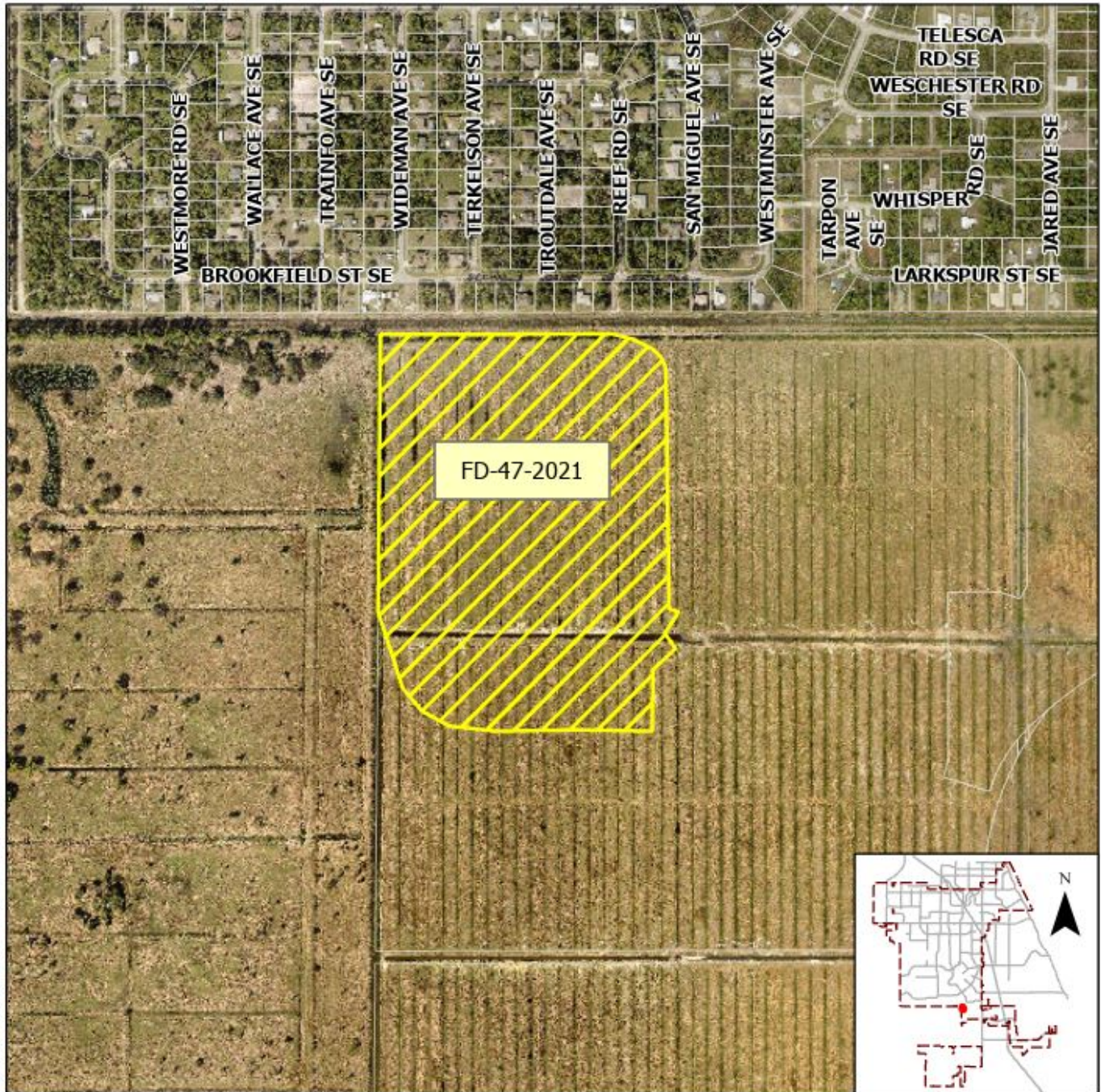
3. (FFPC 1-18.4.5.2.1) Fire flow and flow duration for one- and two-family dwellings having a fire flow area in excess of 5000 ft² (334.5 m²) shall not be less than that specified in Table 18-4.5.1.2.

BUILDING-FLOODZONE (James Williams, CFM, Floodplain Coordinator):

Floodzone X, No FEMA CLOMR/LOMR application required.



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



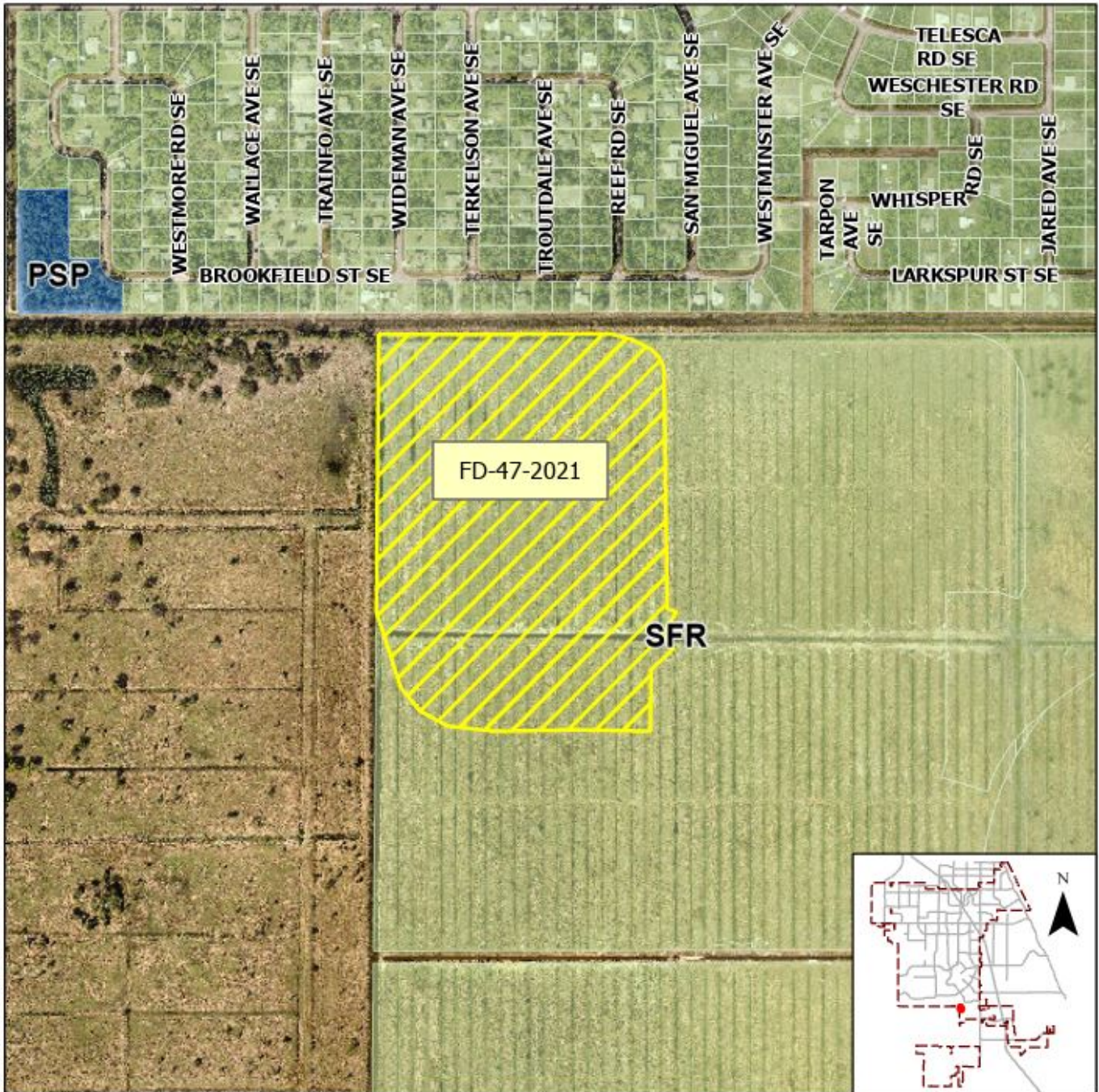
AERIAL LOCATION MAP CASE: FD-47-2021

Subject Property

In the vicinity west of Mara Loma Boulevard SE and south of Melbourne Tillman Water Control District Canal 38



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



FUTURE LAND USE MAP

CASE: FD-47-2021

Subject Property

In the vicinity west of Mara Loma Boulevard SE and south of Melbourne Tillman Water Control District Canal 38

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: FD-47-2021

Subject Property

In the vicinity west of Mara Loma Boulevard SE and south of Melbourne Tillman Water Control District Canal 38

Current Zoning Classification

PUD – Planned Unit Development

GARDENS AT WATERSTONE PHASE III

FINAL DEVELOPMENT PLAN

PALM BAY, FL

DATE:

SEPTEMBER 27, 2021

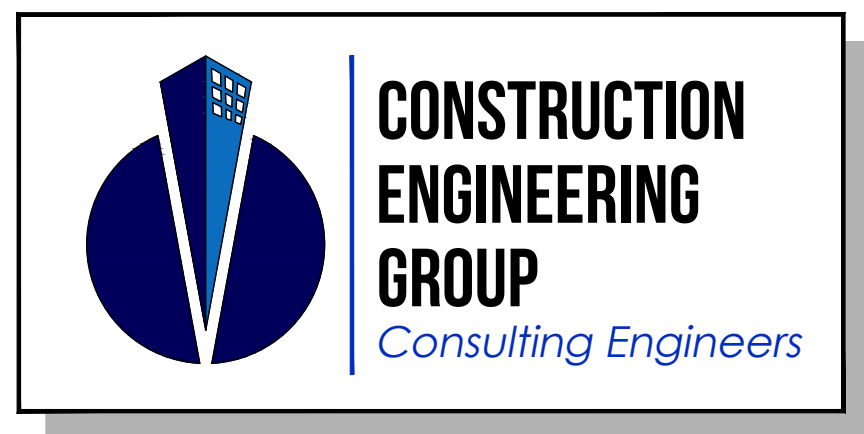
PREPARED FOR:

PB&J GARDENS INVESTMENT, LLC

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF SECTION 5, TOWNSHIP 30 SOUTH, RANGE 37 EAST, ALL OF LOTS 5, 6, 7 AND A PORTION OF LOTS 4, 8, 9, 25, 26, 27, 28, AND 29 OF SAN SEBASTIAN FARMS, SECTION 5, TOWNSHIP 30 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 6, PAGE 77 OF PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF THE NORTHEAST $\frac{1}{4}$ OF SAID SECTION 5; THENCE RUN N89°52'37"E, ALONG THE NORTH LINE OF SAID SECTION 5, FOR A DISTANCE OF 1,172.67 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 225.00 FEET AND A CHORD WHICH BEARS S44°49'10"E, FOR A DISTANCE OF 319.88 FEET; THENCE RUN SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°36'29" FOR A DISTANCE OF 355.81 FEET TO A POINT OF TANGENCY; THENCE RUN S0°29'04"W FOR A DISTANCE OF 886.48 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE CONCAVE SOUTHWEST, HAVING A RADIUS 325.00 FEET AND A CHORD WHICH BEARS S64°54'00"E, FOR A DISTANCE OF 10.36 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN S26°00'48"W FOR A DISTANCE OF 175.00 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN S26°00'48"W FOR A DISTANCE OF 175.00 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE SOUTHWEST, HAVING A RADIUS OF 150.00 FEET AND A CHORD WHICH BEARS S57°42'21"E, FOR A DISTANCE OF 32.82 FEET; THENCE RUN SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°33'43" FOR A DISTANCE OF 32.89 FEET TO A POINT OF TANGENCY; THENCE RUN S51°25'29"E FOR A DISTANCE OF 16.31 FEET; THENCE RUN S38°34'31"W FOR A DISTANCE OF 125.00 FEET; THENCE RUN S01°07'37"E FOR A DISTANCE OF 195.75 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE SOUTHWEST, HAVING A RADIUS OF 225.00 FEET AND A CHORD WHICH BEARS N72°27'52"W, FOR A DISTANCE OF 136.50 FEET; THENCE RUN NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°19'02" FOR A DISTANCE OF 138.69 FEET TO A POINT OF TANGENCY; THENCE RUN S89°52'37"W FOR A DISTANCE OF 700.03 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 461.28 FEET AND A CHORD WHICH BEARS N56°07'45"W, FOR A DISTANCE OF 515.79 FEET; THENCE RUN NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 67°59'16" FOR A DISTANCE OF 547.34 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN N13°40'29"W FOR A DISTANCE OF 171.45 FEET; THENCE RUN N00°29'04"E A DISTANCE OF 1100.00 FEET TO THE POINT OF BEGINNING; CONTAINING 47.99 ACRES, MORE OR LESS.



LOCATION MAP 
NTS

PROJECT DATA:

| GENERAL STATEMENT: | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|---------------------------------|---------|
| THE PROPOSED PROJECT CONSISTS OF INFRASTRUCTURE AND SITE IMPROVEMENTS TO ACCOMMODATE A 171 LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION INCLUDING RECREATION/OPEN SPACE, ROADWAYS, SIDEWALKS, LANDSCAPING, WATER, SEWER AND STORMWATER SYSTEMS. | | | |
| DEVELOPER: | | CIVIL ENGINEER: | |
| PB&J GARDENS INVESTMENT, LLC | | JAKE T. WISE, P.E. | |
| P. MICHAEL EVANS | | 2651 EAU GALLIE BLVD, SUITE A | |
| 1698 W. HIBISCUS BLVD. SUITE A | | MELBOURNE, FL 32935 | |
| MELBOURNE, FL 32901 | | TEL: (321) 610-1760 | |
| TEL: (321) 953-3300 | | E-MAIL: JWISE@CEENGINEERING.COM | |
| SURVEYOR: | | LOCATION: | |
| AAL LAND SURVEYING SERVICES, INC. | | SECTION: 35 | |
| 3970 MINTON ROAD | | TOWNSHIP: 25 | |
| WEST MELBOURNE, FL 32904 | | RANGE: 36E | |
| TEL: (321) 768-8110 | | PARCEL ID: 30-37-05-HF-1 | |
| | | TAX ACCOUNT NUMBER: 3000217 | |
| SETBACKS | | LOT COUNT: | |
| FRONT: 25 FT | | 50'x125' = 171 LOTS | |
| SIDE: 5 FT | | | |
| REAR: 20 FT | | | |
| SIDE CORNER: 15 FT | | | |
| MAXIMUM BUILDING HEIGHT: | | | |
| 2 STORY: 25 FT | | | |
| MINIMUM WIDTHS: | | | |
| SIDEWALKS: 5 FT | | | |
| RIGHT-OF-WAY WIDTH: 50 FT | | | |
| CALCULATED STORMWATER BASIN COVERAGE: | | | |
| IMPERVIOUS: | SF | ACRE | PERCENT |
| RESIDENTIAL (60%): | 714,475 | 16.40 | 34 |
| RIGHT-OF-WAY | 204,552 | 4.70 | 10 |
| RECREATIONAL AREA: | 98,117 | 2.25 | 5 |
| TOTAL IMPERVIOUS: | 1,017,144 | 23.35 | 49 |
| PERVIOUS: | 734,458 | 16.86 | 35 |
| POND: | 338,657 | 7.77 | 16 |
| TOTAL: | 2,276,560 | 47.99 | 100 |
| OPEN SPACE REQUIREMENTS: | | | |
| OVERALL AREA (47.99 ACRES): | | | |
| ON-SITE PONDS | | 9.00 AC | (75%) |
| OPEN SPACE: | | 1.70 AC | (9%) |
| RECREATION AREA: | | 2.81 AC | (14%) |
| PROVIDED: | | 13.51 AC | (100%) |
| REQUIRED (25% OF OVERALL AREAS): | | 12.00 AC | |

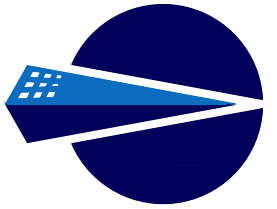
REVISION

DATE

REV#

2651 Eau Gallie Blvd, Suite A
Melbourne, FL 32935
www.ceengineering.com
Tel: 321.253.1221
COA #008697

CONSTRUCTION
ENGINEERING
GROUP
Consulting Engineers



GARDENS AT WATERSTONE
PHASE III
PB & J GARDENS INVESTMENT, LLC
MARIA LOMA BOULEVARD, PALM BAY, FLORIDA
DRAWING TITLE
FINAL DEVELOPMENT PLAN

DATE
9/27/21

SCALE
NTS

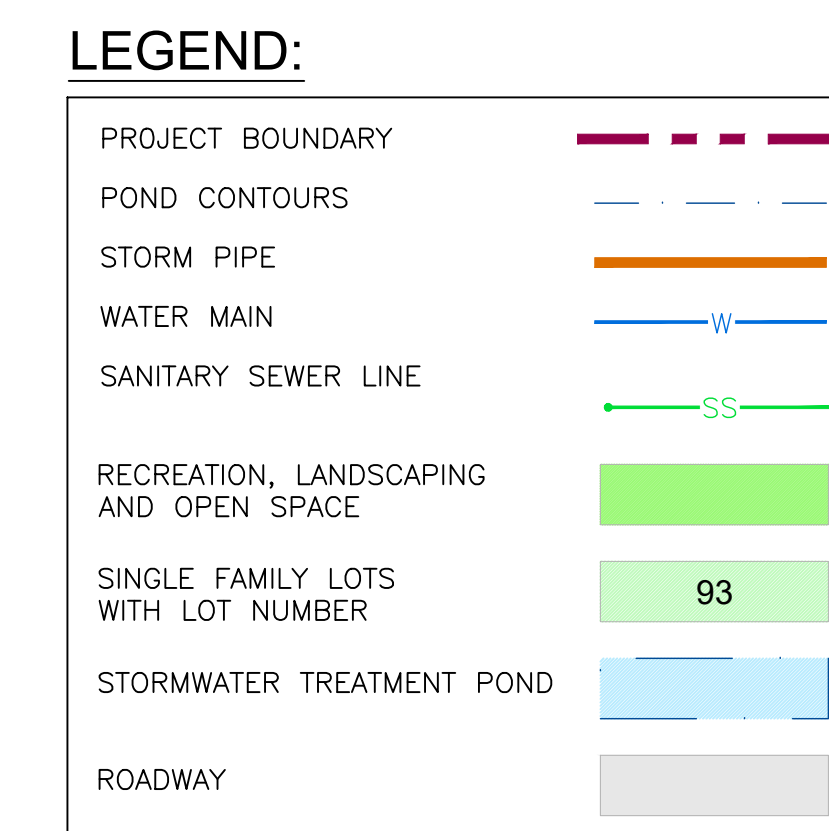
PROJ. NO. :
210192

DESIGNED BY:
CCM

DRAWN BY:
SMB

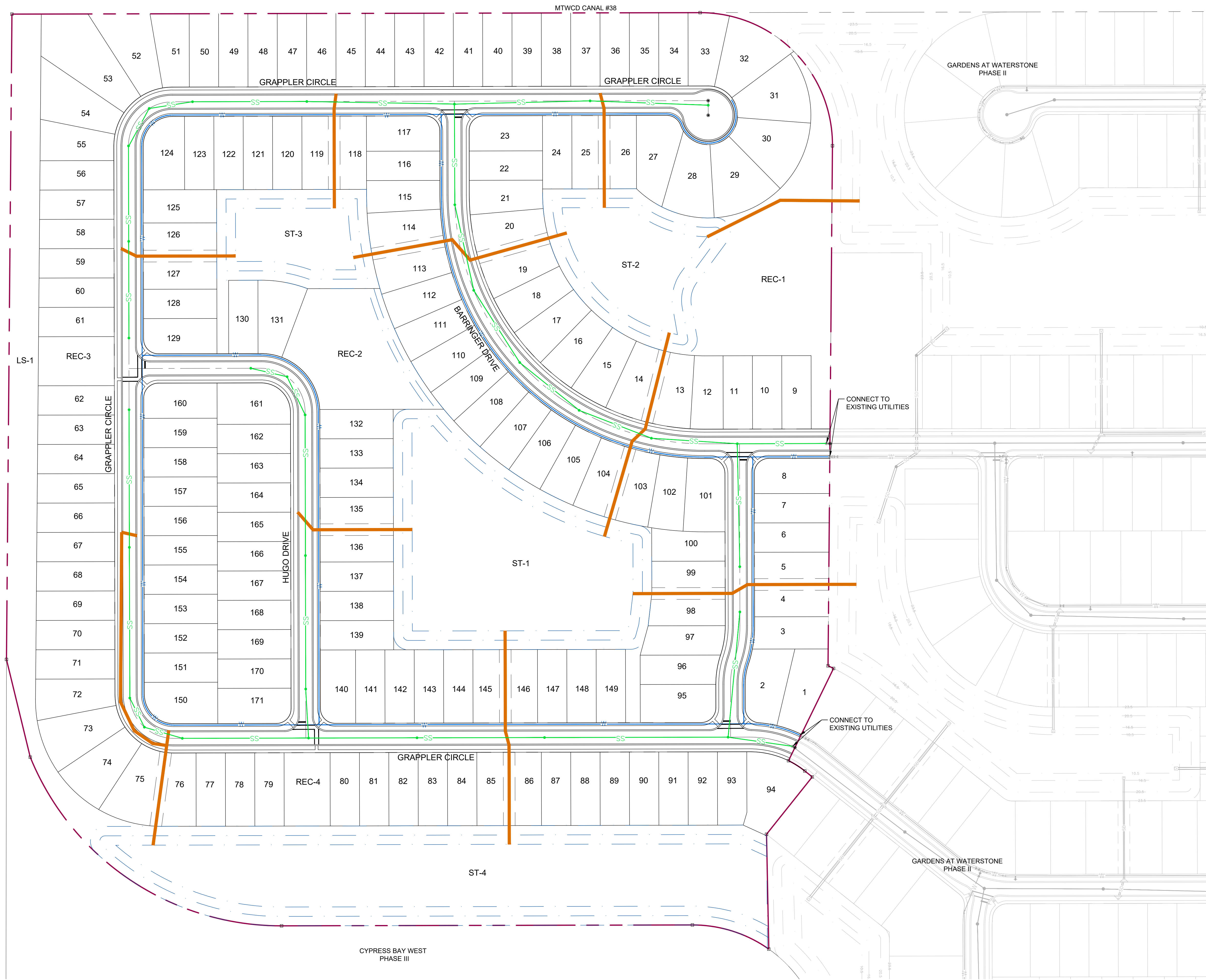
CHECKED BY:
JTW

DRAWING NO.
GW3-1



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A graphic scale bar with four segments. The first segment is 80 feet long and is divided into four equal parts, each 20 feet long. The second segment is 0 feet long. The third segment is 80 feet long and is divided into four equal parts, each 20 feet long. The fourth segment is 160 feet long and is divided into four equal parts, each 40 feet long.



LEGEND:

- PROJECT BOUNDARY
- POND CONTOURS
- STORM PIPE
- WATER MAIN
- SANITARY SEWER LINE

NOTE: LIFT STATION IN PREVIOUS PHASE.

FINAL DEVELOPMENT UTILITY PLAN

1"=80'



CONSTRUCTION
ENGINEERING
GROUP
Consulting Engineers

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COA #000697

GARDENS AT WATERSTONE
PHASE III
PB & J GARDENS INVESTMENT, LLC
MARLA LOMA BOULEVARD, PALM BAY, FLORIDA
DRAWING TITLE
FINAL DEVELOPMENT UTILITY PLAN

DATE
9/27/21

SCALE
1"=80'

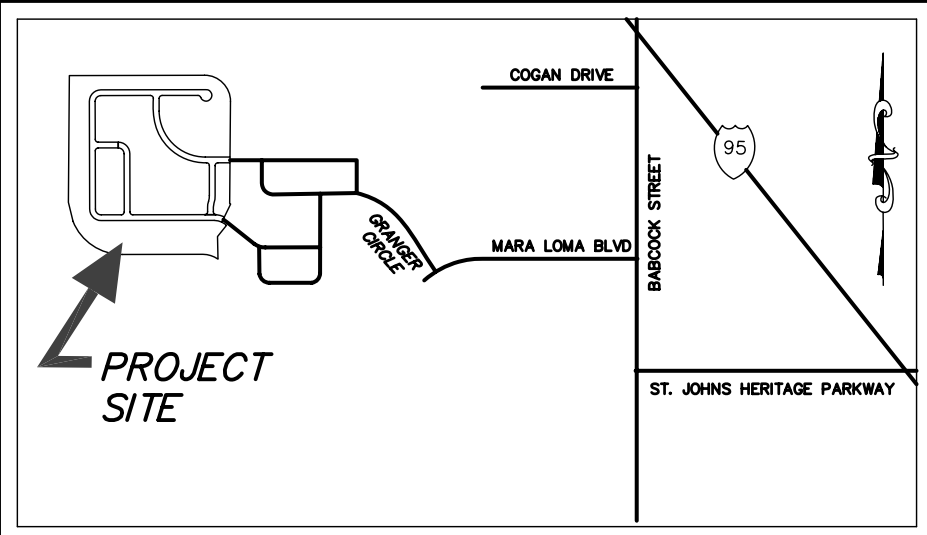
PROJ. NO. :
210192

DESIGNED BY:
CCM

DRAWN BY:
SMB

CHECKED BY:
JTW

DRAWING NO.
GW3-3



VICINITY MAP
NOT TO SCALE

DESCRIPTION: GARDENS OF WATERSTONE PHASE 3

A PARCEL OF LAND BEING A PORTION OF SECTION 5, TOWNSHIP 30 SOUTH, RANGE 37 EAST, ALL OF LOTS 5, 6 AND 7 AND A PORTION OF LOTS 4, 8, 9, 25, 26, 27, 28 AND 29 OF SAN SEBASTIAN FARMS, SECTION 5, TOWNSHIP 30 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 6, PAGE 77 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE RUN N89°52'37"E, ALONG THE NORTH LINE OF SAID SECTION 5, FOR A DISTANCE OF 1172.67 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 225.00 FEET AND A CHORD WHICH BEARS S44°49'10"E, FOR A DISTANCE OF 319.88 FEET; THENCE RUN SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°36'29" FOR A DISTANCE OF 355.81 FEET TO A POINT OF TANGENCY; THENCE RUN S00°29'04"W FOR A DISTANCE OF 886.48 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 325.00 FEET AND A CHORD WHICH BEARS S64°54'00"E, FOR A DISTANCE OF 10.36 FEET; THENCE RUN SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 1°49'36" FOR A DISTANCE OF 10.36 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN S26°00'48"W FOR A DISTANCE OF 175.00 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE SOUTHWEST, HAVING A RADIUS OF 150.00 FEET AND A CHORD WHICH BEARS S57°42'21"E, FOR A DISTANCE OF 32.82 FEET; THENCE RUN SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°33'43" FOR A DISTANCE OF 32.89 FEET TO A POINT OF TANGENCY; THENCE RUN S51°25'29"E FOR A DISTANCE OF 16.31 FEET; THENCE RUN S38°34'31"W FOR A DISTANCE OF 125.00 FEET; THENCE RUN S01°07'37"E FOR A DISTANCE OF 195.75 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE SOUTHWEST, HAVING A RADIUS OF 225.00 FEET AND A CHORD WHICH BEARS N72°27'52"W, FOR A DISTANCE OF 136.50 FEET; THENCE RUN NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°19'02" FOR A DISTANCE OF 138.69 FEET TO A POINT OF TANGENCY; THENCE RUN S89°52'37"W FOR A DISTANCE OF 700.03 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 461.27 FEET AND A CHORD WHICH BEARS N56°07'45"W, FOR A DISTANCE OF 515.79 FEET; THENCE RUN NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 67°59'16" FOR A DISTANCE OF 547.34 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN N13°40'29"W FOR A DISTANCE OF 171.45 FEET; THENCE N00°29'04"E A DISTANCE OF 1100.00 FEET TO THE POINT OF BEGINNING; CONTAINING 47.99 ACRES, MORE OR LESS.

SURVEYOR'S NOTES:

- THE BASIS OF BEARINGS IS THE NORTH LINE OF SECTION 5-30-37 AS BEING N89°52'37"E, ASSUMED. ALL LINES ARE RADIAL UNLESS OTHWISE NOTED.
- ALL FOUND PRM MONUMENTS ARE A 5/8" IRON ROD AND CAP STAMPED "POWSHOK PRM PLS 5383" UNLESS OTHERWISE NOTED. SYMBOL SHOWN AS ⊕.
- ALL SET PCP MONUMENTS ARE A NAIL AND DISK STAMPED "POWSHOK PCP PLS 5383". SYMBOL SHOWN AS ⊙.
- ALL SET LOT CORNERS ARE A 1/2" IRON ROD AND CAP STAMPED "POWSHOK PLS 5383".
- AN EASEMENT 10 FEET IN WIDTH IS HEREBY RESERVED ALONG ALL LOTS AND TRACTS CREATED BY THIS PLAT ADJACENT TO TRACT RD-1 FOR THE CONSTRUCTION, INSTALLATION AND MAINTENANCE OF PUBLIC UTILITIES AND PRIVATE DRAINAGE FACILITIES.
- UNLESS OTHERWISE NOTED, AN EASEMENT 5 FEET IN WIDTH IS HEREBY RESERVED ALONG ALL SIDE AND REAR LOT AND TRACT LINES CREATED BY THIS PLAT (EXCEPT TRACT RD-1) FOR THE CONSTRUCTION, INSTALLATION AND MAINTENANCE OF PUBLIC UTILITIES AND PRIVATE DRAINAGE FACILITIES.
- TRACTS LS-1IS FOR THE PURPOSE OF OPEN SPACE, LANDSCAPING, PRIVATE DRAINAGE, PUBLIC AND PRIVATE UTILITIES AND IS HEREBY DEDICATED TO AND TO BE MAINTAINED BY PB&J GARDENS HOMEOWNERS ASSOCIATION, INC., ITS SUCCESSORS AND/OR ASSIGNS.
- TRACT RD-1 IS FOR THE PURPOSE OF PRIVATE ROADWAY, PRIVATE DRAINAGE, PUBLIC AND PRIVATE UTILITIES AND IS HEREBY DEDICATED TO AND TO BE MAINTAINED BY THE GARDENS AT WATERSTONE HOMEOWNER'S ASSOCIATION, INC.
- TRACTS REC-1, REC-2, REC-3 AND REC-4 ARE FOR THE PURPOSE OF RECREATION, OPEN SPACE, LANDSCAPING, PRIVATE DRAINAGE AND PRIVATE UTILITIES AND ARE HEREBY DEDICATED TO AND TO BE MAINTAINED BY PB&J GARDENS HOMEOWNERS ASSOCIATION, INC., ITS SUCCESSORS AND/OR ASSIGNS.
- TRACTS ST-1, ST-2, ST-3, ST-4 AND ST-5 ARE FOR THE PURPOSE OF OPEN SPACE, LANDSCAPING, PRIVATE DRAINAGE AND PRIVATE UTILITIES AND ARE HEREBY DEDICATED TO AND TO BE MAINTAINED BY PB&J GARDENS HOMEOWNERS ASSOCIATION, INC., ITS SUCCESSORS AND/OR ASSIGNS.
- AN EASEMENT IS HEREBY DEDICATED TO THE CITY OF PALM BAY, ACROSS, OVER, INTO AND THROUGH TRACTS RD-1, LS-1, ST-1, ST-2, ST-3, ST-4 AND ST-5 FOR EMERGENCY ACCESS AND STORMWATER DRAINAGE INSPECTION AND REPAIR.
- THE OWNER PB&J INVESTMENTS OF BREVARD, A FLORIDA LIMITED LIABILITY COMPANY HAS THE RIGHT TO ASSIGN ITS RIGHTS AND RESPONSIBILITIES THEREUNDER TO HOMEOWNERS AND/OR OTHER PROPERTY OWNERS ASSOCIATION OR ASSOCIATIONS, AND/OR TO CONVEY ANY OR ALL OF THE TRACTS SET FORTH ON THE PLAT, AND IN SUCH EVENT, PREVIOUS OWNER SHALL BE RELEASED FROM SUCH ASSIGNED OBLIGATIONS.

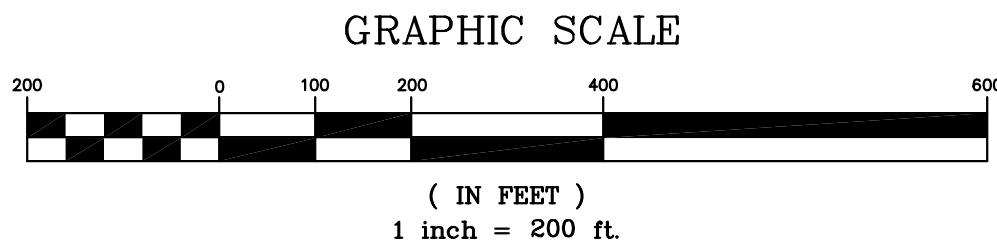
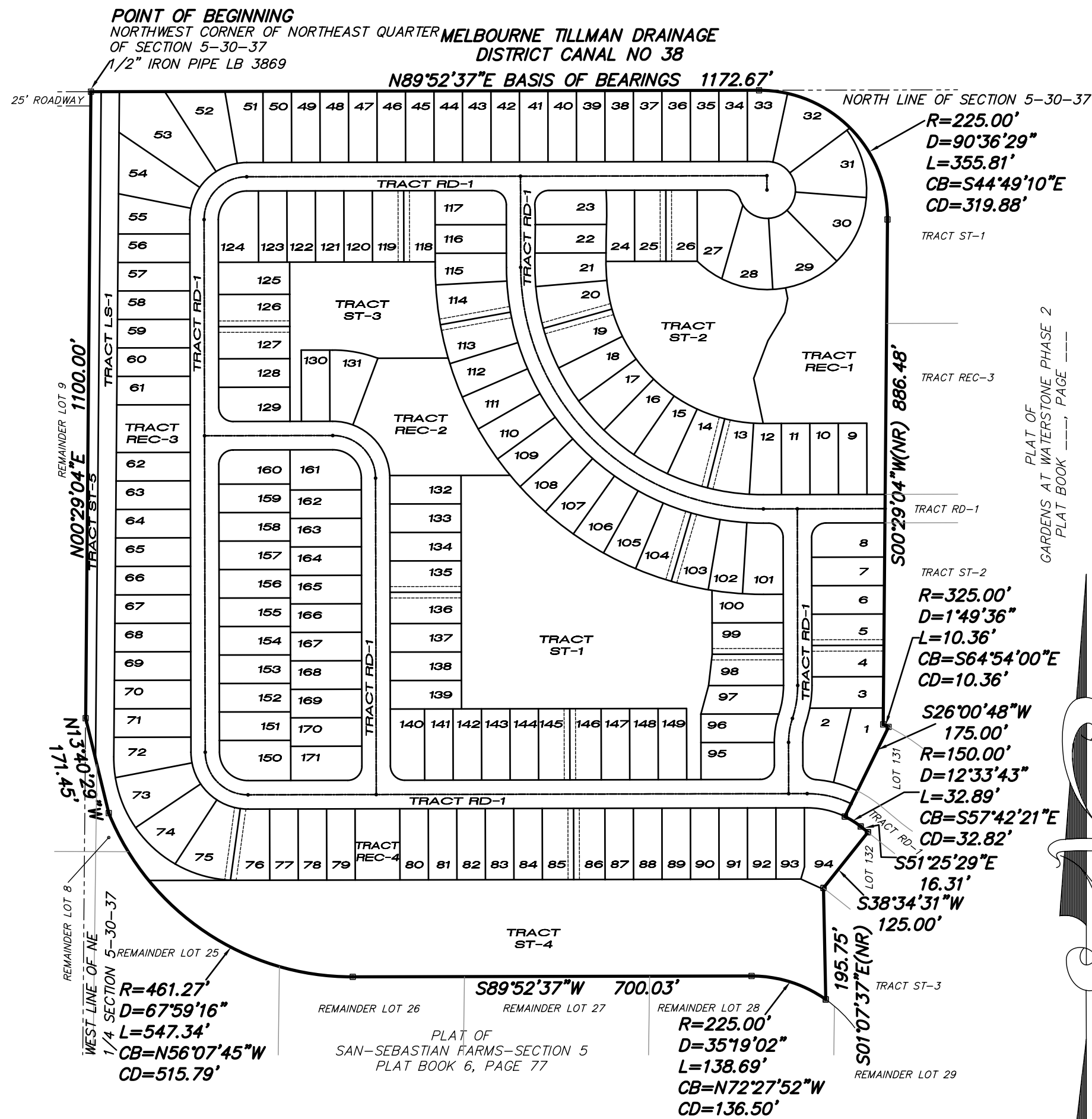
ALL PLATTED PUBLIC UTILITY EASEMENTS SHALL ALSO BE EASEMENTS FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION OF CABLE TELEVISION SERVICE; PROVIDED, HOWEVER, NO SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE AND/OR OPERATION OF CABLE TELEVISION SERVICE WILL INTERFERE WITH THE FACILITIES AND SERVICES OF THE ELECTRICAL, TELEPHONE, GAS, WATER, OR OTHER PUBLIC UTILITY. IN THE EVENT THAT A CABLE TELEVISION COMPANY DAMAGES THE FACILITIES OF A PUBLIC UTILITY, IT SHALL BE SOLELY RESPONSIBLE FOR THE DAMAGES. THIS SECTION SHALL NOT APPLY TO THOSE PRIVATE EASEMENTS GRANTED TO OR OBTAINED BY A PARTICULAR ELECTRIC, TELEPHONE, GAS OR OTHER PUBLIC UTILITY. SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION SHALL COMPLY WITH THE NATIONAL ELECTRICAL SAFETY CODE AS ADOPTED BY THE FLORIDA PUBLIC SERVICE COMMISSION.

NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

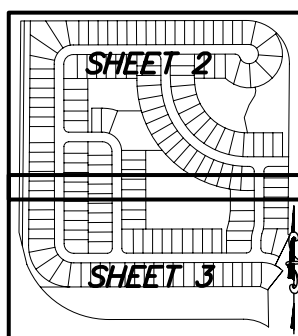
— PLAT PREPARED BY —
AAL LAND SURVEYING SERVICES, INC.
3970 MINTON ROAD
WEST MELBOURNE, FLORIDA 32904
(321) 768-8110

GARDENS AT WATERSTONE PHASE 3

BEING A REPLAT OF A PORTION OF LOTS 4-9, 25-29
SECTION 5, SAN-SEBASTIAN FARMS
AS RECORDED IN PLAT BOOK 6, PAGE 77,
LYING IN SECTION 5, TOWNSHIP 30 SOUTH, RANGE 37 EAST, CITY OF
PALM BAY, BREVARD COUNTY, FLORIDA



LEGEND
⊙ SET PERMANENT CONTROL POINT (PCP)
⊕ FOUND PERMANENT REFERENCE MONUMENT (PRM)
R/W RIGHT-OF-WAY
LS LICENSED SURVEYOR
PLS PROFESSIONAL LAND SURVEYOR
LB LICENSED BUSINESS
D CURVE DELTA
R CURVE RADIUS
L CURVE LENGTH
CB CHORD BEARING
CD CHORD DISTANCE
NR NON-RADIAL



INDEX MAP
NOT TO SCALE

PLAT BOOK _____ PAGE _____

SHEET 1 OF 3
SECTION 5 TWP. 30 S., RANGE 37 E.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That the company named below, being the owner in fee simple of the lands described in

GARDENS AT WATERSTONE PHASE 3

Hereby dedicates said lands and plat for the uses and purposes therein expressed and the public drainage easements and public utility easements as graphically shown and described in the notes to the City of Palm Bay and the perpetual use of the public.

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed and attested to by the officer named below.

BY _____ PB&J Gardens Investment, LLC
P. Michael Evans 1698 W. Hibiscus Boulevard
As Authorized Representative Suite A,
and Manager Melbourne, Florida 32901
(321)-953-3300

Signed and sealed in the presence of: _____

(Print name)

(Print name)

STATE OF FLORIDA, COUNTY OF BREVARD

THIS IS TO CERTIFY, that on _____, 2021 before me, by means of ☒ physical presence or ☐ online notarization, an officer duly authorized to take acknowledgments in the State and County aforesaid, personally appeared P. Michael Evans, Authorized Representative and Manager of the above named company, to me known to be the individual who executed the foregoing Dedication and severally acknowledged the execution thereof to be their free act and deed as such person authorized.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the above date.

(Print name)
NOTARY PUBLIC
County and State aforesaid

My Commission Expires _____
My Commission Number _____

CERTIFICATE OF SURVEYOR

KNOW ALL MEN BY THESE PRESENTS, That the undersigned, being a licensed professional surveyor and mapper, does hereby certify that on August 10, 2021 he completed the boundary survey of the lands shown in the foregoing plat; and that said plat was prepared under his direction and supervision and that said plat complies with all of the survey requirements of Chapter 177, part 1, Florida Statutes, and that said land is located in Brevard County, Florida.

Registration No. 5383

Andrew W. Powshok
AAL Land Surveying Services, Inc.
3970 Minton Road
W. Melbourne, Florida 32904
Licensed Business
Certificate of Authorization Number No.6623

CERTIFICATE OF REVIEWING SURVEYOR

FOR CITY OF PALM BAY

I HEREBY CERTIFY, That I have examined the foregoing plat and find that it is in conformity with Chapter 177, part 1, Florida Statutes.

Joseph N. Hale, Professional Surveyor and Mapper Number 6366
Reviewing Surveyor for the City of Palm Bay

CERTIFICATE OF APPROVAL

BY CITY OF PALM BAY

THIS IS TO CERTIFY That on _____ the

_____ approved the foregoing plat

Mayor:

ATTEST:

City Clerk:

CERTIFICATE OF CLERK

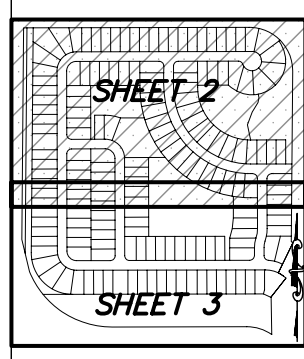
I HEREBY CERTIFY, That I have examined the foregoing plat and find that it complies in form with all the requirements of Chapter 177, part 1, Florida Statutes, and was filed for record on _____ at _____, File No. _____

Clerk of the Circuit Court
in and for Brevard County, Florida.

PROJECT # 45656
DATED 9/20/2021

| TRACT TABLE | | | |
|-------------|----------|----------------------------------------|---------------------------------------------------------|
| TRACT | AREA | ALL USE PRIVATE | OWNER AND MAINTENANCE RESPONSIBILITY |
| LS-1 | 1.07 Ac. | OPEN SPACE/LANDSCAPE/DRAINAGE/UTILITY | PB&J GARDENS HOMEOWNERS ASSOCIATION, INC. |
| RD-1 | 6.44 Ac. | PRIVATE R/W/DRAINAGE/UTILITY | THE GARDENS AT WATERSTONE HOMEOWNER'S ASSOCIATION, INC. |
| REC-1 | 1.56 Ac. | RECREATION/DRAINAGE/STORMWATER/UTILITY | PB&J GARDENS HOMEOWNERS ASSOCIATION, INC. |
| REC-2 | 0.85 Ac. | RECREATION/DRAINAGE/STORMWATER/UTILITY | PB&J GARDENS HOMEOWNERS ASSOCIATION, INC. |
| REC-3 | 0.25 Ac. | RECREATION/DRAINAGE/STORMWATER/UTILITY | PB&J GARDENS HOMEOWNERS ASSOCIATION, INC. |
| REC-4 | 0.23 Ac. | RECREATION/DRAINAGE/STORMWATER/UTILITY | PB&J GARDENS HOMEOWNERS ASSOCIATION, INC. |
| ST-1 | 3.14 Ac. | OPEN SPACE/DRAINAGE/STORMWATER/UTILITY | PB&J GARDENS HOMEOWNERS ASSOCIATION, INC. |
| ST-2 | 1.38 Ac. | OPEN SPACE/DRAINAGE/STORMWATER/UTILITY | PB&J GARDENS HOMEOWNERS ASSOCIATION, INC. |
| ST-3 | 1.03 Ac. | OPEN SPACE/DRAINAGE/STORMWATER/UTILITY | PB&J GARDENS HOMEOWNERS ASSOCIATION, INC. |
| ST-4 | 4.23 Ac. | OPEN SPACE/DRAINAGE/STORMWATER/UTILITY | PB&J GARDENS HOMEOWNERS ASSOCIATION, INC. |
| ST-5 | 0.47 Ac. | OPEN SPACE/DRAINAGE/STORMWATER/UTILITY | PB&J GARDENS HOMEOWNERS ASSOCIATION, INC. |

THIS TABLE IS FOR GENERAL INFORMATION ONLY! SEE SURVEYOR'S NOTES AND PLAT DEDICATION FOR OFFICIAL INFORMATION!

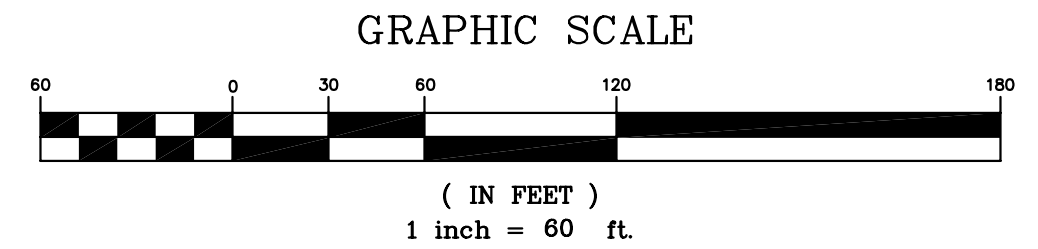


INDEX MAP
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GARDENS AT WATERSTONE PHASE 3

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PALM BAY, BREVARD COUNTY, FLORIDA

PLAT BOOK _____ PAGE _____
SHEET 2 OF 3
SECTIONS 5 TWP. 30 S., RANGE 37 E.



MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL NO 38

| CURVE | LENGTH | RADIUS | CURVE BEARING | CHORD | CENTRAL ANGLE |
|-------|---------|---------|---------------|---------|---------------|
| C12 | 39.27' | 25.00' | S44°52'37"W | 35.36' | 90°00'00" |
| C13 | 39.27' | 25.00' | N45°07'23"W | 35.36' | 90°00'00" |
| C14 | 28.98' | 450.00' | S88°16'42"E | 28.97' | 3°41'21" |
| C15 | 47.38' | 450.00' | S83°25'03"E | 47.36' | 6°01'57" |
| C16 | 52.12' | 450.00' | S77°05'00"E | 52.09' | 6°38'09" |
| C17 | 52.12' | 450.00' | S70°26'52"E | 52.09' | 6°38'09" |
| C18 | 49.02' | 450.00' | S64°00'32"E | 49.00' | 6°14'31" |
| C19 | 49.02' | 450.00' | S57°46'01"E | 49.00' | 6°14'31" |
| C20 | 49.02' | 450.00' | S51°31'30"E | 49.00' | 6°14'31" |
| C21 | 49.02' | 450.00' | S45°16'59"E | 49.00' | 6°14'31" |
| C22 | 49.02' | 450.00' | S39°02'28"E | 49.00' | 6°14'31" |
| C23 | 49.02' | 450.00' | S32°47'56"E | 49.00' | 6°14'31" |
| C24 | 49.02' | 450.00' | S26°33'25"E | 49.00' | 6°14'31" |
| C25 | 49.02' | 450.00' | S20°18'54"E | 49.00' | 6°14'31" |
| C26 | 55.03' | 450.00' | S13°41'26"E | 55.00' | 7°00'26" |
| C27 | 55.03' | 450.00' | S06°41'00"E | 55.00' | 7°00'26" |
| C28 | 24.01' | 450.00' | S01°39'05"E | 24.00' | 3°03'24" |
| C29 | 30.68' | 575.00' | S01°39'05"E | 30.67' | 3°03'24" |
| C30 | 70.32' | 575.00' | S06°41'00"E | 70.28' | 7°00'26" |
| C31 | 70.32' | 575.00' | S13°41'26"E | 70.28' | 7°00'26" |
| C32 | 62.64' | 575.00' | S20°18'54"E | 62.61' | 6°14'31" |
| C33 | 62.64' | 575.00' | S26°33'25"E | 62.61' | 6°14'31" |
| C34 | 62.64' | 575.00' | S32°47'56"E | 62.61' | 6°14'31" |
| C35 | 62.64' | 575.00' | S39°02'28"E | 62.61' | 6°14'31" |
| C36 | 62.64' | 575.00' | S45°16'59"E | 62.61' | 6°14'31" |
| C37 | 62.64' | 575.00' | S51°31'30"E | 62.61' | 6°14'31" |
| C38 | 62.64' | 575.00' | S57°46'01"E | 62.61' | 6°14'31" |
| C39 | 62.64' | 575.00' | S64°00'32"E | 62.61' | 6°14'31" |
| C40 | 66.59' | 575.00' | S70°26'52"E | 66.56' | 6°38'09" |
| C41 | 66.59' | 575.00' | S77°05'00"E | 66.56' | 6°38'09" |
| C42 | 60.54' | 575.00' | S83°25'03"E | 60.51' | 6°01'57" |
| C43 | 37.02' | 575.00' | S88°16'42"E | 37.02' | 3°41'21" |
| C44 | 90.77' | 575.00' | S85°36'03"E | 90.67' | 8°02'40" |
| C45 | 412.00' | 575.00' | S60°18'10"E | 407.92' | 4°13'06" |
| C46 | 234.31' | 575.00' | S23°05'11"E | 232.61' | 2°30'52" |
| C47 | 161.13' | 575.00' | S08°09'04"E | 160.61' | 1°03'22" |
| C48 | 24.58' | 400.00' | S88°21'45"E | 24.58' | 3°31'16" |
| C49 | 74.62' | 400.00' | S81°15'28"E | 74.51' | 10°41'18" |
| C50 | 74.62' | 400.00' | S70°34'10"E | 74.51' | 10°41'18" |
| C51 | 67.84' | 400.00' | S60°22'00"E | 67.76' | 9°43'02" |
| C52 | 67.84' | 400.00' | S50°38'58"E | 67.76' | 9°43'02" |
| C53 | 67.84' | 400.00' | S40°55'58"E | 67.76' | 9°43'02" |
| C54 | 67.84' | 400.00' | S31°12'58"E | 67.76' | 9°43'02" |
| C55 | 74.62' | 400.00' | S21°00'48"E | 74.51' | 10°41'19" |
| C56 | 74.62' | 400.00' | S10°19'29"E | 74.51' | 10°41'18" |
| C57 | 33.91' | 400.00' | S02°33'06"E | 33.90' | 4°51'27" |
| C58 | 23.31' | 275.00' | S02°33'06"E | 23.31' | 4°51'27" |
| C59 | 51.30' | 275.00' | S101°9'29"E | 51.23' | 10°41'18" |
| C60 | 51.30' | 275.00' | S21°00'48"E | 51.23' | 10°41'19" |
| C61 | 46.64' | 275.00' | S31°12'58"E | 46.58' | 9°43'02" |
| C62 | 46.64' | 275.00' | S40°55'58"E | 46.58' | 9°43'02" |
| C63 | 46.64' | 275.00' | S50°38'58"E | 46.58' | 9°43'02" |
| C64 | 46.64' | 275.00' | S60°22'00"E | 46.58' | 9°43'02" |
| C65 | 51.30' | 275.00' | S70°34'10"E | 51.23' | 10°41'18" |
| C66 | 51.30' | 275.00' | S81°15'28"E | 51.23' | 10°41'18" |
| C67 | 16.90' | 275.00' | S88°21'45"E | 16.90' | 3°31'16" |
| C68 | 53.10' | 175.00' | S54°24'04"E | 52.90' | 17°23'12" |
| C69 | 92.38' | 175.00' | S78°13'04"E | 91.31' | 30°14'47" |
| C70 | 125.67' | 175.00' | N66°05'10"E | 122.99' | 41°08'45" |
| C71 | 125.67' | 175.00' | N24°56'25"E | 122.99' | 41°08'45" |
| C72 | 125.67' | 175.00' | N16°12'20"W | 122.99' | 41°08'45" |
| C73 | 125.67' | 175.00' | N61°02'19"W | 125.14' | 32°17'29" |
| C74 | 50.48' | 225.00' | N83°41'44"W | 50.38' | 12°51'21" |
| C75 | 10.65' | 50.00' | N84°01'26"W | 10.63' | 12°11'55" |
| C76 | 35.91' | 50.00' | N57°21'06"W | 35.14' | 41°08'45" |
| C77 | 35.91' | 50.00' | N16°12'20"W | 35.14' | 41°08'45" |
| C78 | 35.91' | 50.00' | N24°56'25"E | 35.14' | 41°08'45" |
| C79 | 35.91' | 50.00' | N66°05'10"E | 35.14' | 41°08'45" |
| C80 | 53.24' | 50.00' | S82°50'04"E | 50.78' | 61°02'46" |
| C81 | 11.11' | 50.00' | S25°57'41"E | 11.09' | 12°44'03" |
| C82 | 30.77' | 25.00' | N54°51'31"W | 28.87' | 70°31'44" |
| C83 | 168.30' | 175.00' | S73°15'30"E | 161.89' | 55°06'04" |
| C84 | 354.21' | 175.00' | N21°12'23"E | 296.77' | 115°58'11" |
| C85 | 178.52' | 225.00' | N22°14'45"W | 173.88' | 45°27'39" |
| C86 | 39.27' | 25.00' | S44°52'37"W | 35.36' | 90°00'00" |
| C87 | 39.27' | 25.00' | N45°07'23"W | 35.36' | 90°00'00" |
| C88 | 78.54' | 50.00' | S44°52'37"W | 70.71' | 90°00'00" |
| C89 | 20.04' | 100.00' | S05°37'08"W | 20.01' | 11°29'01" |
| C90 | 40.06' | 100.00' | S22°50'08"W | 39.79' | 22°57'00" |
| C91 | 40.14' | 100.00' | S45°48'35"W | 39.87' | 22°59'52" |
| C92 | 40.14' | 100.00' | S68°48'27"W | 39.87' | 22°59'52" |
| C93 | 16.70' | 100.00' | S85°05'30"W | 16.68' | 8°34'44" |
| C94 | 39.27' | 25.00' | S45°07'23"E | 35.36' | 90°00'00" |
| C95 | 39.27' | 25.00' | S44°52'37"W | 35.36' | 90°00'00" |
| C96 | 78.54' | 50.00' | N45°07'23"W | 70.71' | 90°00'00" |
| C97 | 36.14' | 100.00' | N79°46'12"W | 35.94' | 20°42'22" |
| C98 | 116.44' | 100.00' | N36°03'35"W | 109.97' | 66°42'53" |
| C99 | 4.50' | 100.00' | N01°24'46"W | 4.50' | 2°34'45" |
| C100 | 81.31' | 225.00' | N79°46'12"W | 80.87' | 20°42'22" |
| C101 | 431.97' | 275.00' | S45°07'23"E | 388.91' | 90°00'00" |

LEGEND
● SET PERMANENT CONTROL POINT (PCP)
□ FOUND PERMANENT REFERENCE MONUMENT (PRM)
R/W RIGHT-OF-WAY
LS LICENSED SURVEYOR
LB LICENSED BUSINESS
D CURVE DATA
R CURVE RADIUS
L CURVE LENGTH
CB CHORD BEARING
CD CHORD DISTANCE
NR NON-RADIAL

NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

- PLAT PREPARED BY -
AAL LAND SURVEYING SERVICES, INC.
3870 WILSON ROAD
WEST MELBOURNE, FLORIDA 32904
(321) 768-8110

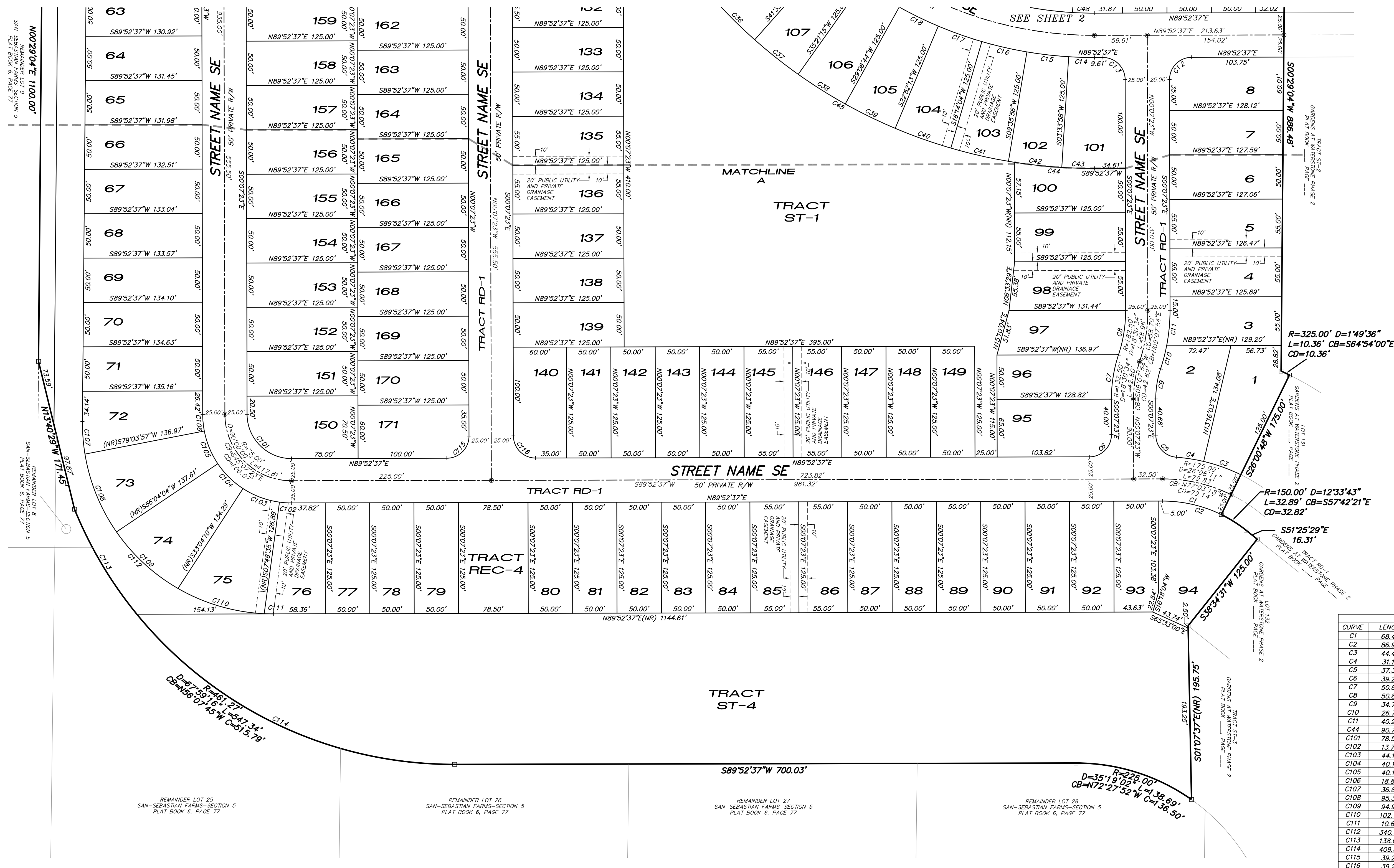
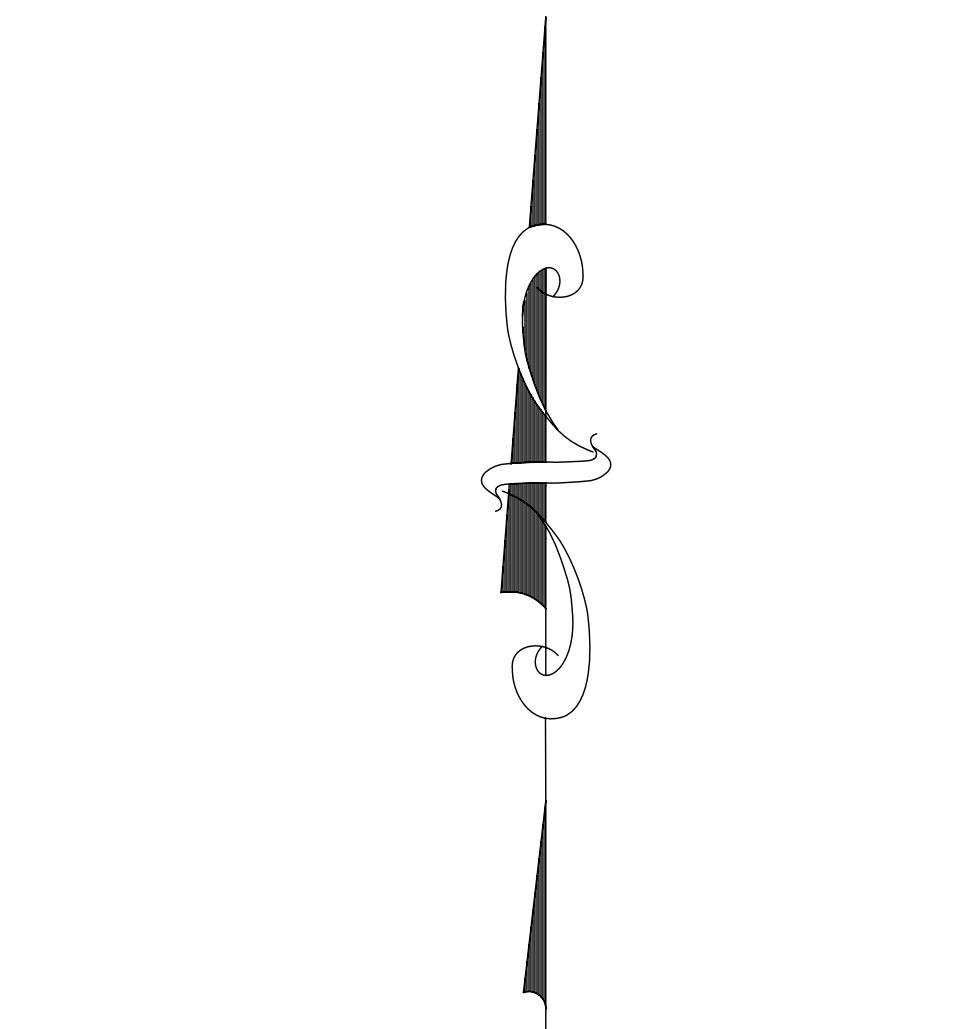
PROJECT # 45656
DATED 9/20/2021



BEING A REPLAT OF A PORTION OF LOTS 4-9, 25-29
SECTION 5, SAN-SEBASTIAN FARMS
AS RECORDED IN PLAT BOOK 6, PAGE 77,
LYING IN SECTION 5, TOWNSHIP 30 SOUTH, RANGE 37 EAST, CITY OF
PALM BAY, BREVARD COUNTY, FLORIDA

GRAPHIC SCALE

(IN FEET)
1 inch = 60 ft.



| CURVE | | CURVE TABLE | | | CHORD | CENTRAL ANGLE |
|-------|---------|-------------|---------------|---------|-----------|---------------|
| CURVE | LENGTH | RADIUS | CHORD BEARING | CHORD | | |
| C1 | 68.42' | 150.00' | N77°03'18"W | 67.83' | 26°08'11" | |
| C2 | 86.97' | 150.00' | N73°30'46"W | 85.76' | 33°13'15" | |
| C3 | 44.49' | 200.00' | N02°11'35"W | 44.40' | 12°44'45" | |
| C4 | 31.17' | 200.00' | N08°11'52"W | 31.14' | 8°55'49" | |
| C5 | 37.32' | 25.00' | S42°53'35"E | 33.95' | 85°32'23" | |
| C6 | 25.927' | 150.00' | N45°36'36"E | 35.36' | 90°00'00" | |
| C7 | 50.88' | 157.50' | S09°07'54"W | 50.66' | 18°30'34" | |
| C8 | 50.88' | 157.50' | N09°07'54"E | 50.66' | 18°30'34" | |
| C9 | 34.73' | 107.50' | S09°07'54"W | 34.58' | 18°30'34" | |
| C10 | 26.78' | 207.50' | N14°41'20"E | 26.76' | 7°23'41" | |
| C11 | 40.25' | 207.50' | N05°26'03"E | 40.19' | 11°06'52" | |
| C12 | 93.77' | 975.00' | S85°36'30"E | 90.67' | 9°02'40" | |
| C13 | 50.854' | 100.00' | S45°15'36"E | 70.71' | 90°00'00" | |
| C101 | 10.79' | 100.00' | S86°10'24"E | 13.78' | 2°53'58" | |
| C103 | 43.14' | 100.00' | S69°34'37"E | 43.79' | 251°73'4" | |
| C104 | 40.14' | 100.00' | S45°25'53"E | 39.87' | 22°59'54" | |
| C105 | 40.14' | 100.00' | S22°26'00"E | 39.87' | 22°59'53" | |
| C106 | 18.87' | 100.00' | S05°31'43"E | 18.84' | 10°49'40" | |
| C107 | 36.88' | 215.00' | S04°25'45"E | 36.83' | 9°49'39" | |
| C108 | 95.39' | 215.00' | S20°25'15"E | 94.61' | 25°25'14" | |
| C109 | 94.90' | 215.00' | S44°24'31"E | 94.13' | 25°17'23" | |
| C110 | 102.19' | 215.00' | S73°40'09"E | 101.23' | 27°15'34" | |
| C111 | 10.65' | 215.00' | S88°42'15"E | 10.65' | 25°01'17" | |
| C112 | 340.00' | 215.00' | S44°49'10"E | 305.66' | 90°36'27" | |
| C113 | 138.03' | 461.27' | S30°42'28"E | 137.51' | 17°08'42" | |
| C114 | 409.32' | 461.27' | S84°40'26"E | 396.02' | 50°50'34" | |
| C115 | 25.927' | 150.00' | N45°36'36"E | 35.36' | 90°00'00" | |
| C116 | 39.92' | 25.00' | S45°02'23"E | 35.36' | 90°00'00" | |

LEGEND

| | |
|-----|------------------------------------------|
| ● | SET PERMANENT CONTROL POINT (PCP) |
| □ | FOUND PERMANENT REFERENCE MONUMENT (PRM) |
| R/W | RIGHT-OF-WAY |
| LS | LICENSED SURVEYOR |
| LB | LICENSED BUSINESS |
| D | CURVE DELTA |
| R | CURVE RADIUS |
| L | CURVE LENGTH |
| CB | CHORD BEARING |
| CD | CHORD DISTANCE |
| NR | NON-RADIAL |

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- PLAT PREPARED BY -
AAL LAND SURVEYING SERVICES, INC.
3970 MINTON ROAD
WEST MELBOURNE, FLORIDA 32904
(321) 768-8110

PROJECT # 45188
DATED 7/20/2021



LAND DEVELOPMENT DIVISION

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

Landdevelopmentweb@palmabayflorida.org

FINAL DEVELOPMENT PLAN 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:

- ☒ **PUD** - Planned Unit Development ([Section 185.067](#))
- ☐ **PMU** - Parkway Mixed Use District (Final Design Plan) ([Section 185.057\(C\)](#))
- ☐ **PCRD** - Planned Community Redevelopment District ([Section 185.055\(L\)](#))
- ☐ **RAC** - Regional Activity Center District ([Section 185.056\(C\)](#))

PROPOSED DEVELOPMENT NAME:

Gardens at Waterstone Phase III

PARCEL ID(S):

30-37-05-HF-1

TAX ACCOUNT NUMBER(S):

3000217

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

See attached

CITY OF PALM BAY, FLORIDA
FINAL DEVELOPMENT PLAN APPLICATION
PAGE 2 OF 4

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

+/- 47.99 acres

TOTAL LOTS PROPOSED (list by use):

171 lots

DEVELOPER P. Michael Evans- PB & J Gardens Investment, LLC

Full Address 1698 W Hibiscus Blvd; Suite A; Melbourne, FL 32901

Telephone 321- 258-7984 Email mike.fmdc@gmail.com

ENGINEER Jake Wise, PE- Construction Engineering Group, LLC

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

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

SURVEYOR AAL Land Surveying Services, Inc

Full Address 3970 Minton Road; West Melbourne, FL 32904

Telephone 321-768-8110 Email aalsurvey@aalsurvey.com

FINAL DEVELOPMENT PLAN CRITERIA FOR SUBMITTAL:

- 1) Two (2) copies of the Final Development Plan and supporting documentation shall be attached to the application. The final plan and supporting documentation **must also be provided on memory drive.**
- 2) Layout of the development plan shall be in plat form that meets the requirements of Florida Statute Chapter 177.
- 3) The Final Development Plan shall contain the information required per the City of Palm Bay Land Development Code section for a PUD, PMU, PCRD, or RAC. **Additional conditions must be met and incorporated into the site plan for the specific type of development requested (PUD, PMU, PCRD, RAC).** The additional criteria is listed in the Code of Ordinances and available from staff.

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

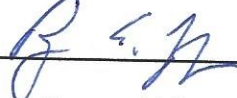
- ☐ *A \$1,500.00 application fee shall accompany the Final Development Plan application for the purposes of administration. Make Check payable to "City of Palm Bay."
- ☐ Final Development Plan (see aforementioned Final Development Plan Criteria for Submittal).
- ☐ Boundary Survey.
- ☐ Site Sketch to scale 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.)
- ☐ Citizen Participation Plan. Required when a Preliminary Development Plan application was not submitted. Refer to Section 169.005 of the Land Development Code for guidelines.
- ☐ School Board of Brevard County School Impact Analysis Application (if applicable). The application is obtained from the Planning and Project Management Department of the School Board of Brevard County at (321) 633-1000, extension 11418.
- ☐ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines. Staff will provide a sign template.
- ☐ **Where the property owner is not the representative for the request**, a LETTER must be attached giving the notarized consent of the property owner(s) to a representative.

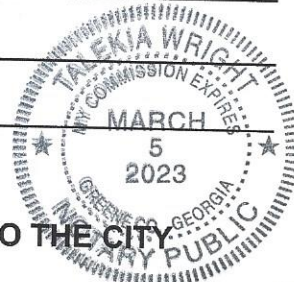
Name of Representative Jake Wise, PE- Construction Engineering Group, LLC

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
FINAL DEVELOPMENT PLAN APPLICATION
PAGE 4 OF 4

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

Owner Signature  Date 9/29/21
Printed Name Waterstone Farms, LLC - Benjamin E. Jefferies as Managing Member
Full Address 2040 Highway A1A; Suite 207; Indian Harbour Beach, FL 32937
Telephone 321-258-7984 Email ben@waterstonefla.com



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



September 28

, 20 21

Re: Letter of Authorization

As the property owner of the site legally described as:

30-37-05-HF-1

I, Owner Name: Waterstone Farms, LLC

Address: 2040 Highway A1A; Suite 207; Indian Harbour Beach, FL 32937

Telephone: 321- 258-7984

Email: ben@waterstonefla.com

hereby authorize:

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

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

Telephone: 321-610-1760

Email: jwise@cegengineering.com

to represent the request(s) for:

FDP and any associated submittals

B. L. Jr.
(Property Owner Signature)

STATE OF

Georgia

COUNTY OF

Putnam

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 28 day of Sept., 20 21 by

Benjamin E. Jeffries, Managing Member

, property owner.



Kelvin Rhodes

, Notary Public

☐ Personally Known ☒ Produced the Following Type of Identification:

Drivers License

September 28

, 20 21

Re: Letter of Authorization

As the property owner of the site legally described as:

30-37-05-HF-1

I, Owner Name: Waterstone Farms, LLC

Address: 2040 Highway A1A; Suite 207; Indian Harbour Beach, FL 32937

Telephone: 321-258-7984

Email: ben@waterstonefla.com

hereby authorize:

Representative: P. Michael Evans- PB & J Gardens Investment, LLC

Address: 1698 W Hibiscus Blvd; Suite A; Melbourne, FL 32901

Telephone: 321-953-3300

Email: mike.fmdc@gmail.com

to represent the request(s) for:

FDP and any associated submittals

B. E. M.
(Property Owner Signature)

STATE OF

Georgia

COUNTY OF

Putnam

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

Benjamin E. Jefferies, Managing Member, property owner.



Kelvin Rhodes
Benjamin E. Jefferies Notary Public

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

Drivers License

September 28

, 20 21

Re: Letter of Authorization

As the property owner of the site legally described as:

30-37-05-HF-1

I, Owner Name: Waterstone Farms, LLC

Address: 2040 Highway A1A; Suite 207; Indian Harbour Beach, FL 32937

Telephone: 321- 258-7984

Email: ben@waterstonefla.com

hereby authorize:

Representative: Rochelle W. Lawandales, FAICP

Address: 335 Sherwood Ave. Satellite Beach, FL 32937

Telephone: 321-223-4664

Email: rochelle.lawandales@gmail.com

to represent the request(s) for:

FDP and any associated submittals

R. L.
(Property Owner Signature)

STATE OF

Georgia

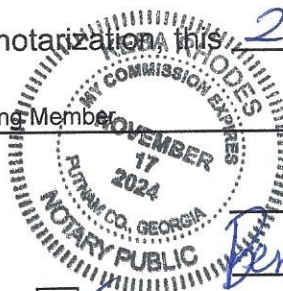
COUNTY OF

Putnam

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this 28 day of Sept., 20 21 by

Benjamin E. Jefferies, Managing Member

property owner.



Kuba Rhodes

Benjamin E. Jefferies, Notary Public

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

Drivers License

**Gardens at Waterstone Phase 3
Final Development Plan
Compliance and Justification Report**

**Prepared by:
Rochelle W. Lawandales, FAICP
Waterstone Development Company, LLC
Applicant: PB&J Gardens Investment, LLC
Owner: Waterstone Farms, LLC**

September 29, 2021

PROJECT: GARDENS AT WATERSTONE

Gardens 3 is a 171 lot single family subdivision on 48 acres +/- with supporting infrastructure and site improvements including roadways, sidewalks, pedestrian/exercise trails, landscaping, water, sewer and stormwater systems. It includes signalization and other intersection improvements at Babcock Street and Mara Loma Boulevard.

Note: The Developer, PB &J Gardens Investment, LLC and the City have agreed to 2 conditions as part of the prior Gardens at Waterstone Phase 2:

1. The developer shall install the traffic signal and intersection improvements at Babcock Street and Mara Loma Boulevard as part of this project; and,
2. The City shall provide impact fee credits for all costs associated with these improvements. Map A shows the project location.

PROPERTY OWNER: Waterstone Farms, LLC, Managing Member, Benjamin E. Jefferies.

APPLICANT: PB&J Gardens Investment, LLC

EXISTING ZONING: Planned Unit Development

LAND USE: Single Family Residential

REQUEST:

The applicant seeks approval for a new Final Development Plan in an existing PUD zoning district for a project to be called “Gardens at Waterstone Phase 3”, which is a portion of the prior approved Master development plan located west of Heron Bay.

EXECUTIVE SUMMARY

Property owned by Wheeler Farms was annexed into the City in 2004 via Ordinance 2004-35 totaling 1167 acres. The original Future Land Use amendment designating all the lands single family residential was accomplished in 2004 via Ordinance 2004-52 and 1800 residential units could be placed on either Waterstone (west of Babcock Street) or the original acres owned by Wheeler on lands currently known as Cypress Bay Preserve (east of Babcock Street). Site specific conditions were placed on the amendment in Ordinance 2004-48, in Policy FU 8.3 (G), adopted the same date as Ordinance 2004-52. Between 2005 and 2018, a series of 37 future land use map amendments have been made bringing the total units entitled for construction to be over 2,500. The Table 1 below shows the current entitlements:

PB&J GARDENS INVESTMENT, LLC
FINAL DEVELOPMENT PLAN NARRATIVE FOR GARDENS AT WATERSTONE PHASE 3

Table 1
Current Residential Entitlements

| WATERSTONE AND CYPRESS BAY a/o July, 2021 | | | | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|--|--|-----------|------------|------|------|
| 2018-2021 STARTING TOTALS: | | | | 1538 | | | 1058 |
| | | | | ADDITIONS | REDUCTIONS | | |
| Cypress Bay Farms Residential PUD | (FD 18-2018/ Ord 2019-02 APPROVED JANUARY, 2019) | | | | | | -396 |
| Courtyards PD | (FD-19-2019/Ord 2019-69 APPROVED JANUARY 2, 2020) | | | | -201 | -201 | |
| Waterstone Small Scale Amendments from SF to MF totalling 16.487 @ 10 units/ac | (CP-6-7-8 2018 approved by Ordinances 2018-20, 21, 22) | | | 165 | | 165 | |
| Transfer of 300 to West Side per Original approval and David Watkins letter | | | | 300 | | 300 | -300 |
| Gardens at Waterstone Phase 1 | Resolution 2020-58 December 3, 2020/Ordinance 2021-02 Adopted January 21, 2021 | | | | -154 | -154 | |
| Cypress Bay West Phase 1 | Ordinance 2021-27 May 21, 2021 | | | | -229 | -229 | |
| Cypress Bay West FLUM Amendment for Townhomes 9.5 acres at 20 units/ac | Completed July, 2021 | | | 190 | | 95 | |
| Cypress Bay West Phase 2 | Pending Hearings August/September 2021 | | | | -566 | -566 | |
| Gardens at Waterstone Phase 2 | Pending Hearings October/November 2021 | | | | -172 | | |
| Cypress Bay West Phase 3 | Pending Hearings October/November 2021 | | | | -544 | | |
| Gardens at Waterstone 3 | Current Submittal | | | | -171 | | |
| Sub-total: | | | | 2193 | -2037 | 156 | 362 |
| GRAND TOTAL UNIT COUNTS AS OF OCTOBER, 2021: | | | | | | 156 | 362 |
| *WESTSIDE refers to the area on the west side of Babcock Street known as Waterstone (including Waterstone Farms, LLC and Waterstone Holdings, LLC) | | | | | | | |
| *EASTSIDE refers to the lands on the east side of Babcock Street referred to Cypress Bay owned by Cypress Bay Farms, LLC | | | | | | | |
| **300 original units were able to go to west side. Total includes 454 multi--family units from CP 7-09 | | | | | | | |

PB&J GARDENS INVESTMENT, LLC
FINAL DEVELOPMENT PLAN NARRATIVE FOR GARDENS AT WATERSTONE PHASE 3

The Project underwent an ownership change and Pulte (Divosta Division) brought forth a Preliminary Development Plan for the 1167 acres and obtained Final Development Plan approval and PUD zoning in 2005 (See Map B) and began to permit, develop and complete several phases, including Heron Bay and the Lakes of Waterstone, which included 296 units, an elementary school site, and recreational amenities which are built and sold out today. The approval also included concurrency for 900 units, water and sewer, and other infrastructure. Map C shows the original development plan, and the area now proposed for the Gardens.

Waterstone revised the project lay-out in 2017 and submitted a new Preliminary Development Plan for the lands on the west side of Babcock Street to amend the 2005 development plan. The City Council granted Preliminary Development Plan approval on January 18, 2018. Final Development Plan/Preliminary Plat approval was granted by City Council action on June 7, 2018 for the 'Gardens at Waterstone', a phase of Waterstone in the northwest segment. That project was not adopted properly by the City and became void, rendering the 2018 revised Preliminary Development Plan void and maintaining the 2005 adopted plan.

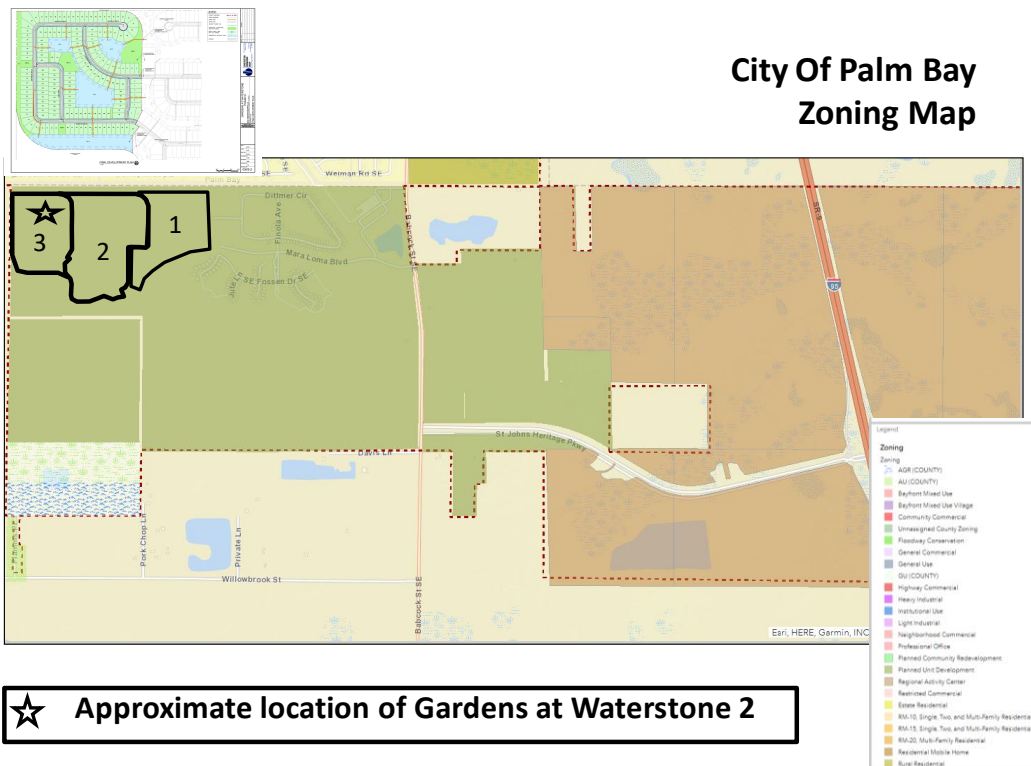
With this new application, the applicant, PB&J, as authorized by the owner, Waterstone Farms, LLC, is petitioning the City for approval of a Final Development Plan for the Gardens Phase 2. Construction would begin after approval of a Final Development Plan, Preliminary Plat and construction plans and the developer obtaining all permits. Map D shows the design, layout, vehicular and pedestrian circulation, open space, utilities, and stormwater system to meet the code requirements.

PB&J GARDENS INVESTMENT, LLC
FINAL DEVELOPMENT PLAN NARRATIVE FOR GARDENS AT WATERSTONE PHASE 3

MAP A
LOCATION MAP



MAP B
CITY ZONING MAP



HISTORY OF WATERSTONE

During the period from 2006 to 2010, Pulte Homes and their subsidiary, DiVosta Homes, completed a wide variety of permits, agency approvals, traffic and engineering studies, environmental studies, comprehensive land use and zoning approvals for Waterstone. Pulte constructed a .6 mile long connector roadway off of Babcock Street called Mara Loma Boulevard, obtained County and City traffic concurrency for 900 units and provided for lands for an elementary school. Regional water and sewer mains were extended from just north of Valkaria Road to the western terminus of Mara Loma Boulevard. 296 Single family homes were constructed in the communities of Heron Bay and The Lakes at Waterstone. The Brevard County School Board constructed Sunrise Elementary School. Pulte Homes left the City of Palm Bay as a result of the financial crash in 2008. Pulte closed out Heron Bay and The Lakes at Waterstone communities by the end of 2010. The remaining PUD property was acquired by the applicants.

As required by the original land use approvals, Waterstone provides a mix of uses with the Waterstone Commercial Center with its significant frontage on the west side of Babcock Street. It will contain 133 acres, more or less, broken into lots and tracts sufficient in size for a variety of retail, office and related commercial uses to support the region. FDOT has completed the I-95 Interchange and the City has completed construction of the St. Johns Heritage Parkway (SJHP) from Babcock Street east to I-95. Numerous commercial developers and commercial project owners are ready to come into the City of Palm Bay, and with the roadway network now available and more residential units being planned and constructed, the demand for and support of commercial ventures will rise.

A three mile water and sewer main running along Babcock Street from Valkaria Road south to Mara Loma Boulevard was installed completely at the developer's expense for the Waterstone project. In addition, when Mara Loma Boulevard was extended west from Babcock Street approximately 2,600 feet, large force mains, water mains, and three sewer lift stations were installed. All totaled, over \$10 million has been spent over the course of time on infrastructure improvements, including Mara Loma Blvd., 3 lift stations and utilities, permits, traffic/planning/environmental studies, stormwater management, environmental mitigation, and dedication of Rights-of-Way for the Parkway, among other items for the Waterstone project. The City has made commitments to assure future capacity through wastewater plant expansions.

Additionally, over the last 3 years, numerous meetings regarding the Waterstone/Cypress Bay master plans, transportation and infrastructure requirements and improvements, utility needs and extensions, have been held not only with Palm Bay officials and staff, but also with Brevard County, FDOT, Florida Power and Light, environmental regulatory agencies, and others to assure not only the highest quality product, but one that also will be a signature project for the City of Palm Bay.

The remaining land outside of the first phases developed by Pulte Homes(Heron Bay and Lakes of Waterstone) is under the ownership of Waterstone Farms, LLC, and Waterstone Holdings, LLC; Forestar;

PB&J GARDENS INVESTMENT, LLC
FINAL DEVELOPMENT PLAN NARRATIVE FOR GARDENS AT WATERSTONE PHASE 3

and PB&J, LLC. Actions by the owners, predominately Waterstone Farms and Waterstone Holdings, over the last 10 years have included, but are not limited to the following:

1. Obtained environmental permits from the Army Corps of Engineers and conceptual SJRWMD for the proposed residential areas of Waterstone;
2. Submitted traffic studies to the City and County for the developments planned for Waterstone;
3. Performed a signal warrant study for the Babcock/St. Johns Heritage Parkway (SJHP) intersection; and submitted requests for County permits for driveways and an access management plan for Babcock Street;
4. Obtained Final SJRWMD permits for the Waterstone Commercial Center;
5. Obtained Final PUD approval for Waterstone (lands west of Babcock) in January, 2018;
6. Obtained Conceptual SJRWMD permits for 803 acres under a master stormwater system (on file with SJRWMD;)
7. Obtained Final PUD approval for a 283 lot subdivision called the Gardens Phase 1 at Waterstone on June 7, 2018;
8. Obtained Final SJRWMD permit for 101 acres, covering the Gardens Phase 1 at Waterstone, for a the stormwater system to serve the subdivision;
9. Obtained Final PUD approval for 201 lot subdivision called 'Courtyards at Waterstone' in January, 2020. That project is under construction.
10. Obtained Final Development Plan approval for Gardens Phase 1 at Waterstone' in December, 2020.
11. Obtained Final Development Plan approval for Cypress Bay West Phase 1, May, 2021.
12. Obtained approval for a Future Land Use Map amendment on July, 2021 to convert 7 acres +/- from single family to multi-family residential to allow for townhomes within the CBW 2 project under the City's Comprehensive Plan.
13. Submitted a request for Final Development Plan approval of a 172 lot single family subdivision on 52.21 acres +/- known as Gardens of Waterstone 2.
14. Submitted a Final Development Plan application for approval of Cypress Bay West 2, for 566 units on 185 acres +/-.
15. Submitted a Final Development Plan application for approval of Cypress Bay West 3, for 544 units on 190 acres.

On January 18, 2018, Waterstone Holdings, LLC, Waterstone Farms, LLC and DR Horton, as co applicants, obtained approval of a revised Preliminary Development Plan amending the 2005 Master Plan for the undeveloped property on the west side of Babcock Street for a 1770 unit residential development. This approval included the Waterstone Commercial Center containing 133 acres fronting Babcock Street and Waterstone at Palm Bay consisting of 604 acres west of the commercial center, south and west of The Lakes at Waterstone and Heron Bay communities for a series of residential subdivisions.

Final Development Plan/Preliminary Plat approval was granted by City Council action on June 7, 2018 for the 'Gardens at Waterstone', a phase of Waterstone in the northwest segment. That project was not

PB&J GARDENS INVESTMENT, LLC
FINAL DEVELOPMENT PLAN NARRATIVE FOR GARDENS AT WATERSTONE PHASE 3

adopted properly by the City and became void, rendering the 2018 revised Preliminary Development Plan void and maintaining the 2005 adopted plan.

Map C shows the new proposed Gardens at Waterstone overlaid on the existing approved Preliminary Development Plan.

Table 2
PROJECT DATA

PROJECT DATA:

GENERAL STATEMENT:

THE PROPOSED PROJECT CONSISTS OF INFRASTRUCTURE AND SITE IMPROVEMENTS TO ACCOMMODATE A 171 LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION INCLUDING RECREATION/OPEN SPACE, ROADWAYS, SIDEWALKS, LANDSCAPING, WATER, SEWER AND STORMWATER SYSTEMS.

DEVELOPER:

PB&J GARDENS INVESTMENT, LLC
P. MICHAEL EVANS
1698 W. HIBISCUS BLVD. SUITE A
MELBOURNE, FL 32901
TEL: (321) 953-3300

CIVIL ENGINEER:

JAKE T. WISE, P.E.
2651 EAU GALLIE BLVD, SUITE A
MELBOURNE, FLORIDA 32935
TEL: (321) 610-1760
E-MAIL: JWIS@CEENGINEERING.COM

SURVEYOR:

AAL LAND SURVEYING SERVICES, INC.
3970 MINTON ROAD
WEST MELBOURNE, FL 32904
TEL: (321) 768-8110

LOCATION:

SECTION: 35
TOWNSHIP: 25
RANGE: 36E
PARCEL ID: 30-37-05-HF-1
TAX ACCOUNT NUMBER: 3000217

SETBACKS

FRONT: 25 FT
SIDE: 5 FT
REAR: 20 FT
SIDE CORNER: 15 FT

PROPOSED:

LOT COUNT:

50'x125' = 171 LOTS

MAXIMUM BUILDING HEIGHT:

2 STORY: 25 FT

MINIMUM WIDTHS:

SIDEWALKS: 5 FT
RIGHT-OF-WAY WIDTH: 50 FT

CALCULATED STORMWATER BASIN COVERAGE:

| IMPERVIOUS: | SF | ACRE | PERCENT |
|--------------------|-----------|-------|---------|
| RESIDENTIAL (80%): | 714,475 | 16.40 | 34 |
| RIGHT-OF-WAY | 204,552 | 4.70 | 10 |
| RECREATIONAL AREA: | 88,117 | 2.25 | 5 |
| TOTAL IMPERVIOUS: | 1,017,144 | 23.35 | 49 |
| PERVIOUS: | 734,458 | 16.86 | 35 |
| POND: | 338,657 | 7.77 | 16 |
| TOTAL: | 2,276,560 | 47.99 | 100 |

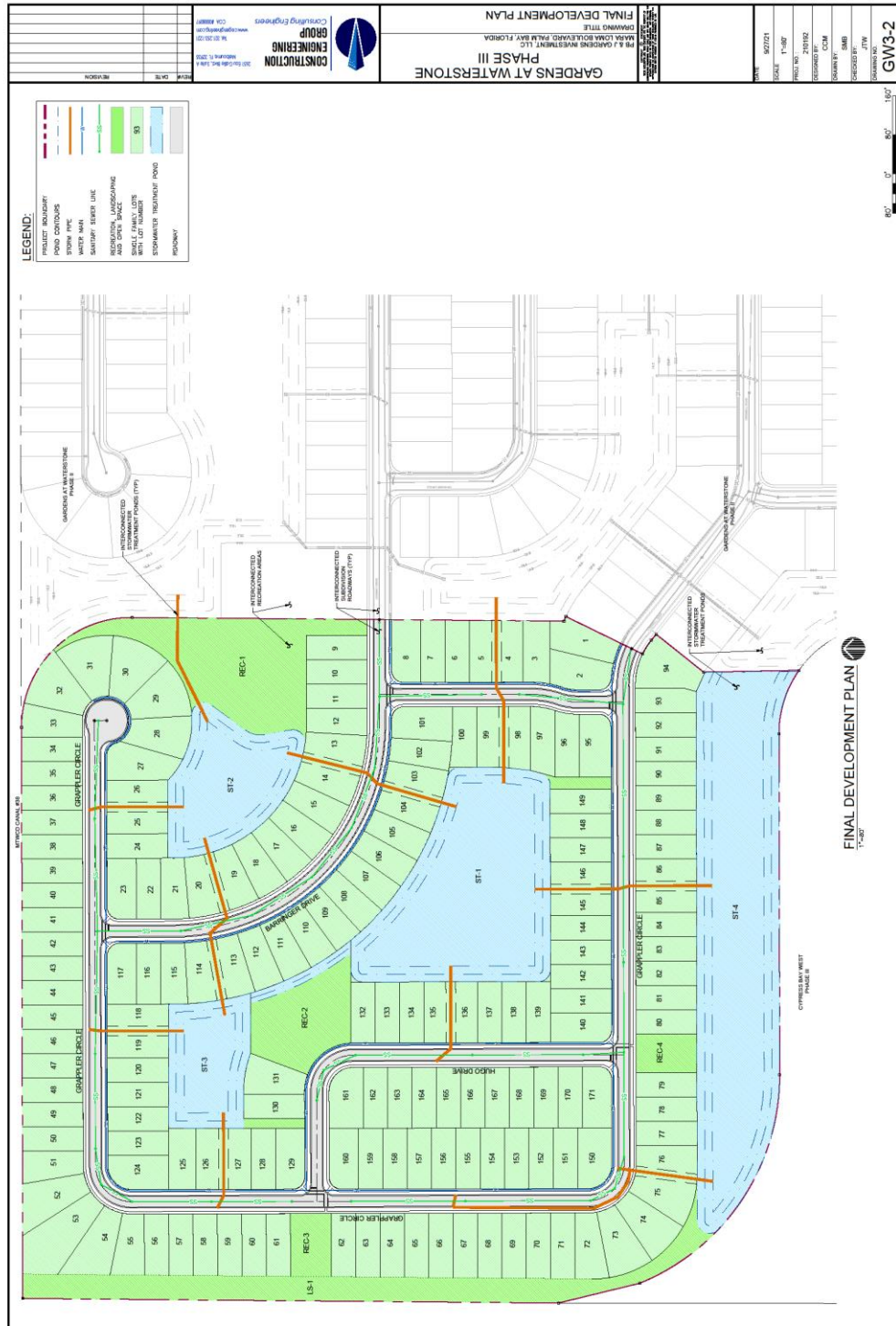
OPEN SPACE REQUIREMENTS:

OVERALL AREA (47.99 ACRES):

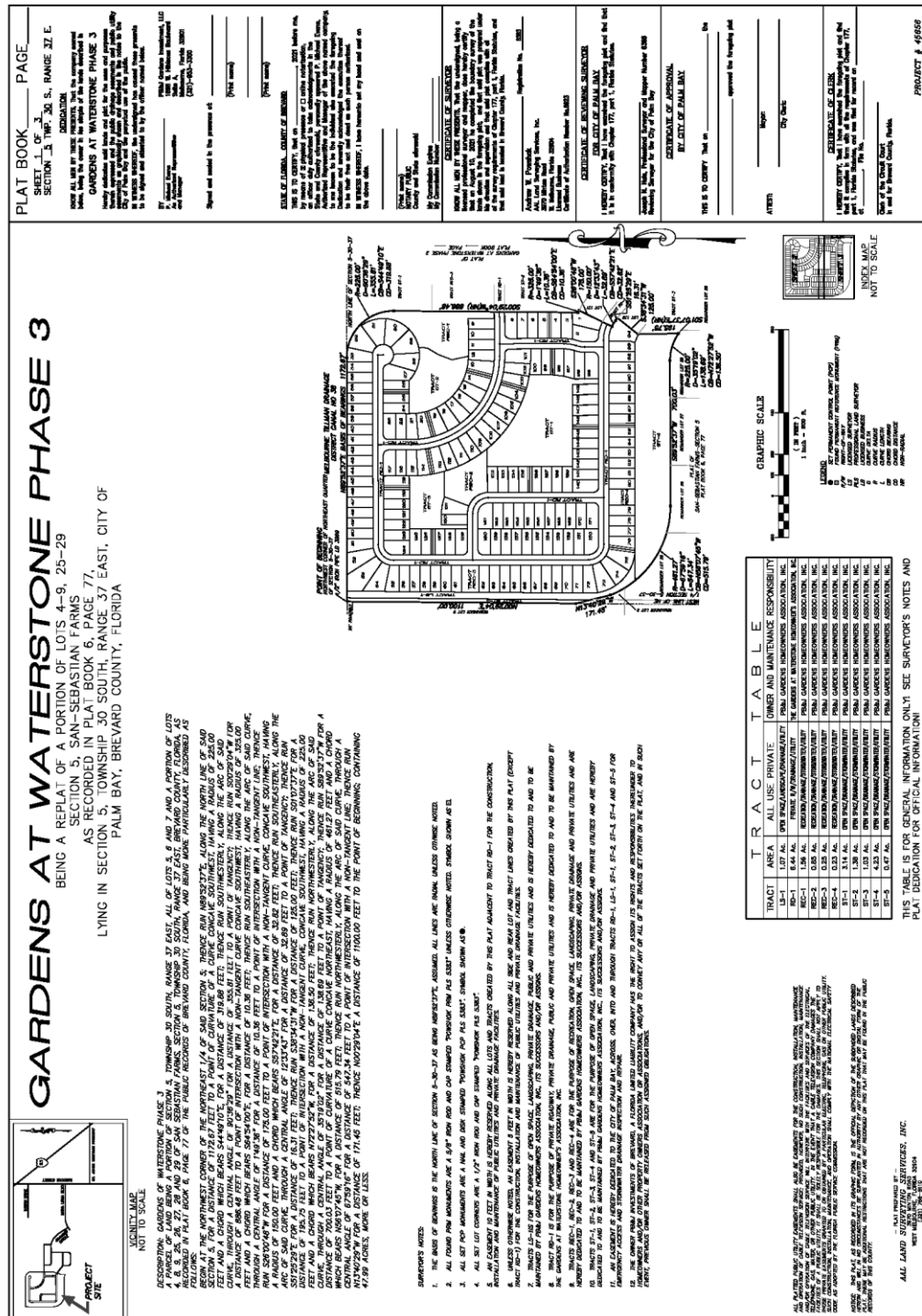
| | | |
|----------------------------------|----------|--------|
| ON-SITE PONDS | 9.00 AC | (75%) |
| OPEN SPACE: | 1.70 AC | (9%) |
| RECREATION AREA: | 2.81 AC | (14%) |
| PROVIDED: | 13.51 AC | (100%) |
| REQUIRED (25% OF OVERALL AREAS): | 12.00 AC | |

Source: Final Development Plan, Construction Engineering Group, September 27, 2021. Note: Maximum building height is changed to 35'.

MAP D-1
PROPOSED FINAL DEVELOPMENT PLAN FOR GARDENS AT WATERSTONE 3 SUBDIVISION
(Large version provided by CEG to the City under separate Cover)



MAP D-2 PRELIMINARY PLAT
(Large version provided under separate cover by CEG)



DEVELOPMENT PHASING

Phase 3 will be built in one phase, building off of the Phase 1 and 2 extension of Mara Loma. Utilities, stormwater, and other needed infrastructure will commence first, followed by home construction.

DEVELOPMENT SCHEDULE

The project will commence upon receipt of construction plan approval as early as 2nd or 3rd quarter of 2022. Anticipated build out is estimated to be in 1 year, with approximately 18 per month. Primary open space and recreational amenities will be completed in Phase 1, followed by neighborhood 'pocket' passive parks in the Phase 2 and 3 (subject project). There is a planned 2.8 +/- acre neighborhood park in this phase.

CONSISTENCY WITH THE COMPREHENSIVE PLAN and FUTURE LAND USE MAP

Based upon my knowledge of the City's Comprehensive Plan and its contents, Gardens Final development plans are consistent with the Goals, Objectives and Policies of the Comprehensive Plan and the Future Land Use Map. The City received a compliance determination for the initial approved land uses and subsequent amendments on the property. Those documents are on public record with the City and State Department of Economic Opportunity.

LAND USE

Map E uses the City's GIS system to depict the future land uses for the project which is all Single Family Residential (SFR). Gardens 3 is a single-family subdivision and continuation from Gardens Phase 1 and 2, including ancillary infrastructure, stormwater management, open space and recreational amenities. Stormwater or lands devoted to infrastructure can be done in any category. No land use changes are necessary. The Zoning is Planned Unit Development "PUD" awarded in 2005. Therefore, the project site and single family uses are in conformance with the City's Comprehensive Plan, Future Land Use Map and Existing Zoning Map.

MAP E
FUTURE LAND USE MAP FROM CITY WEBSITE

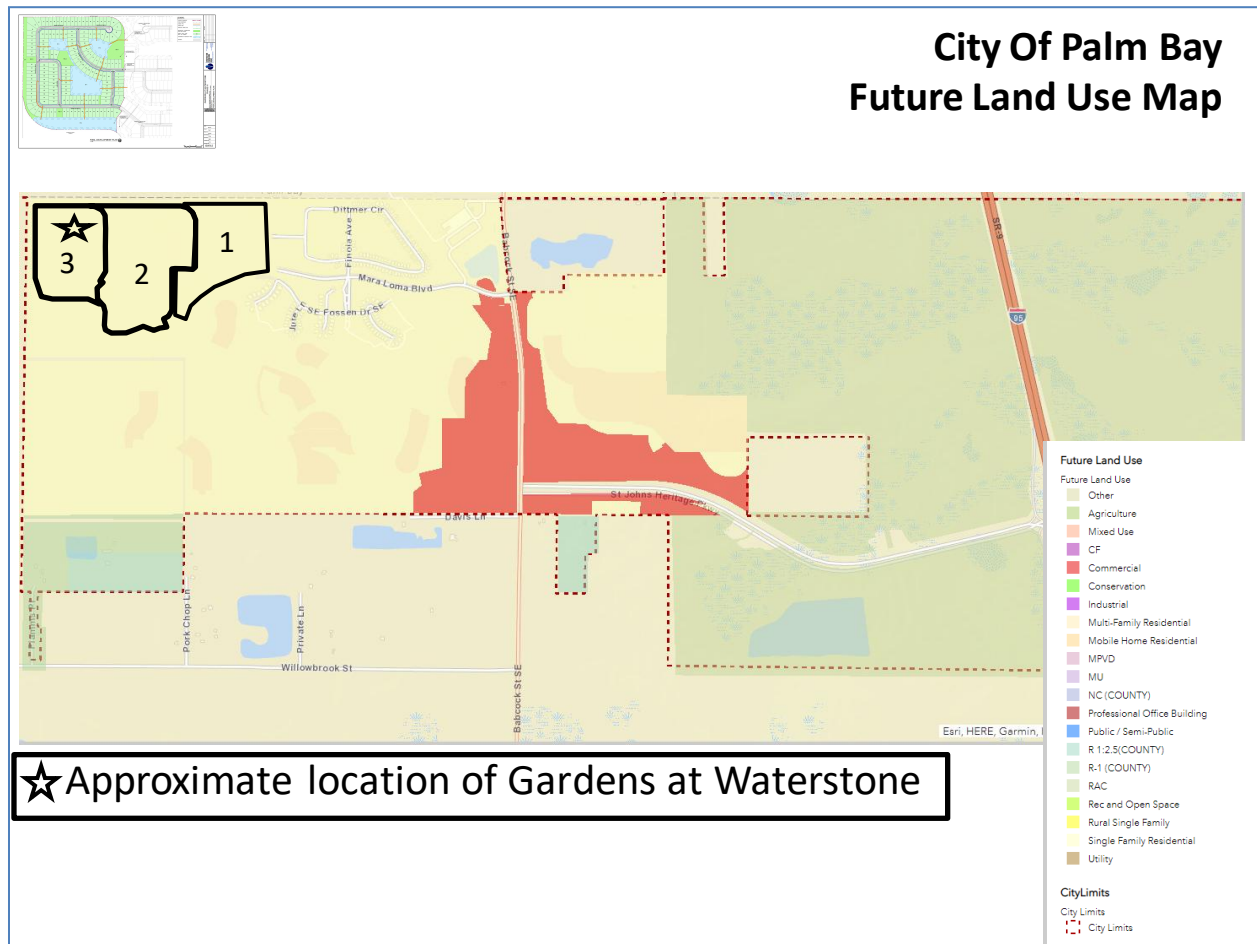


Figure 1 below also shows the land uses within the City's Study Area Boundary taken from the Comprehensive Plan in the City's website. Figure 2 shows the project is contained within the urban service boundary and also shows the historic location of the western St. Johns Heritage Parkway.

PB&J GARDENS INVESTMENT, LLC
FINAL DEVELOPMENT PLAN NARRATIVE FOR GARDENS AT WATERSTONE PHASE 3

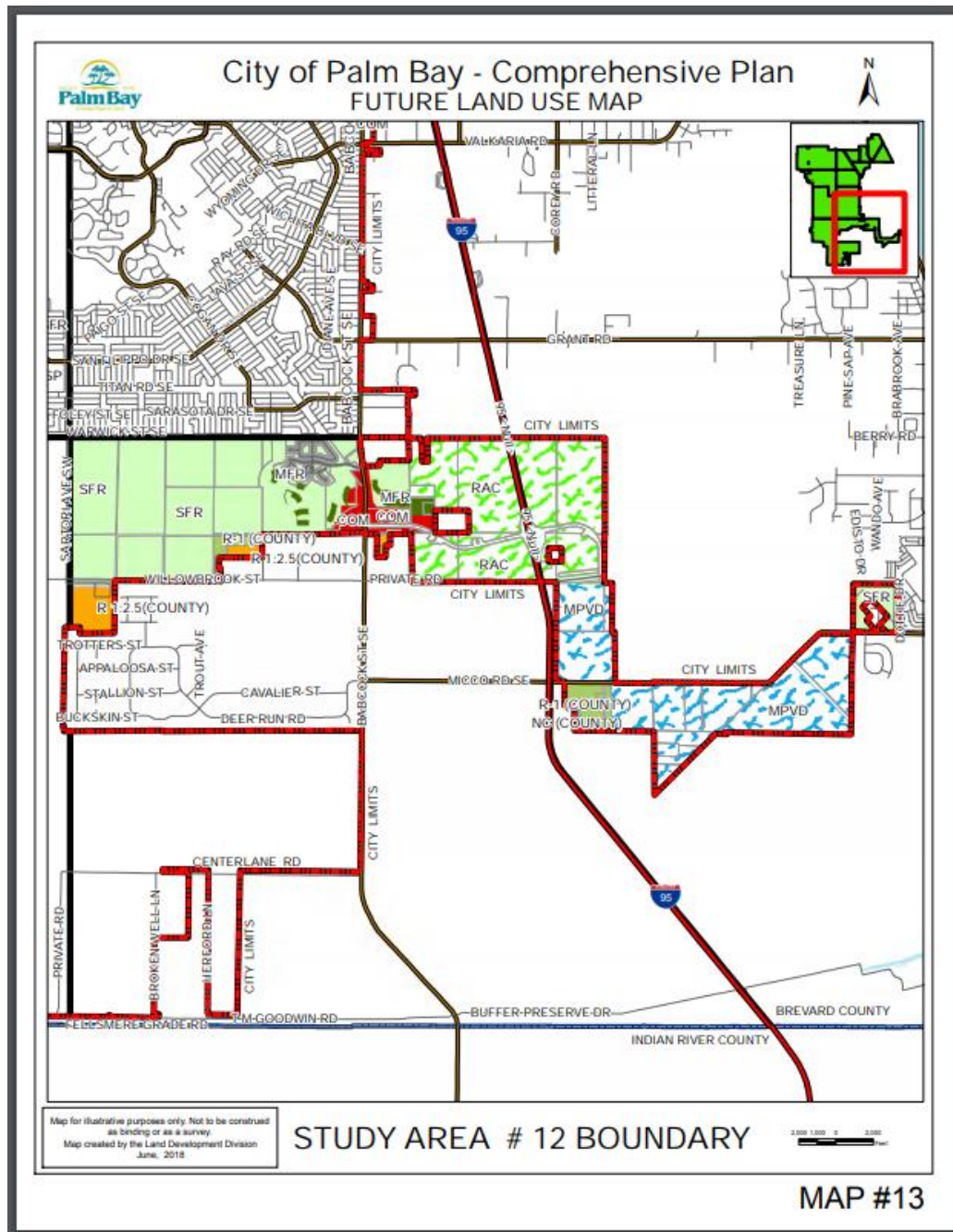


Figure 1: Future Land Use Map taken from the City's Comprehensive Plan on the City of Palm Bay Website, April, 2019

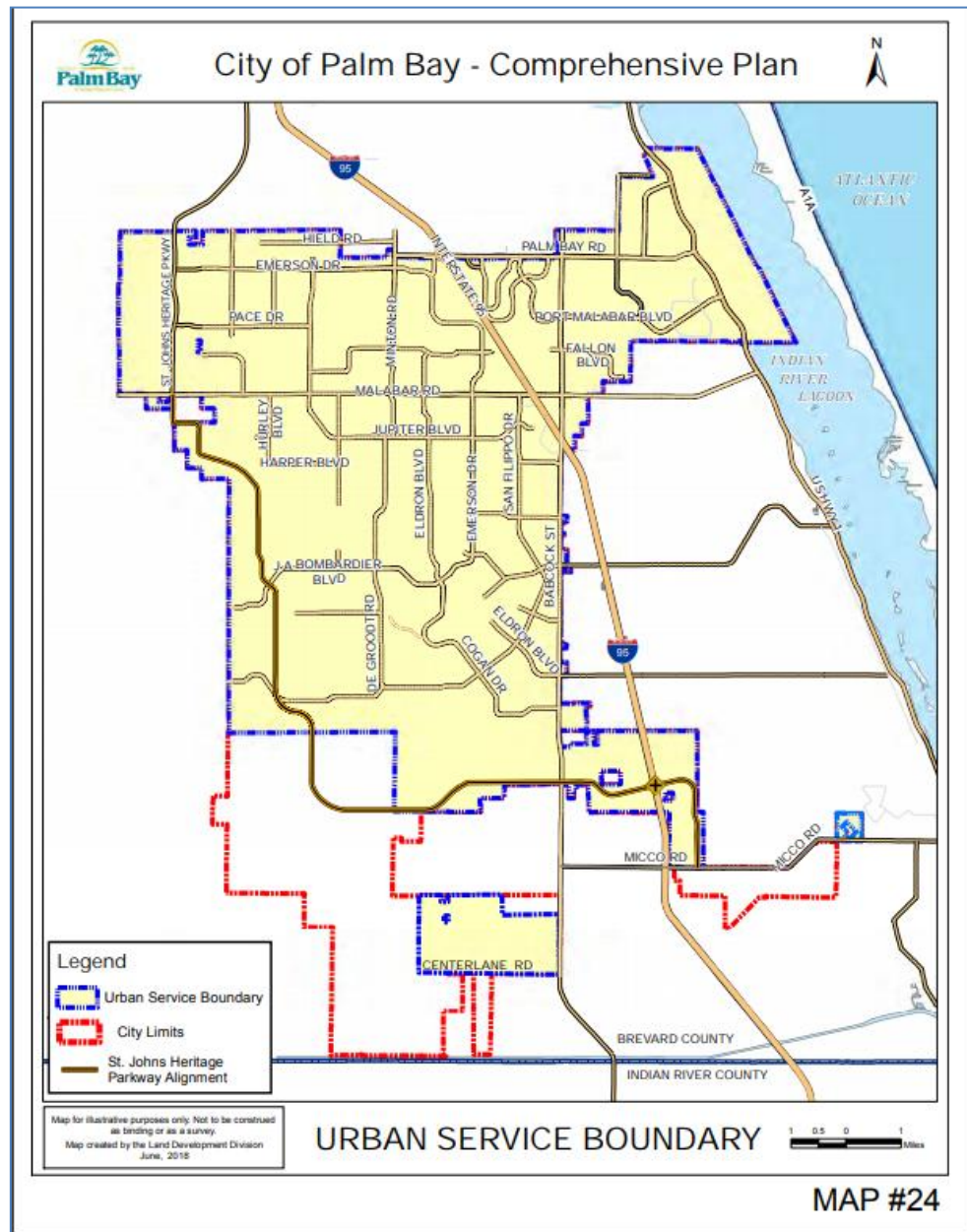


Figure 2 Urban Services Boundary Map adopted by the City in the EAR, October 2017; as shown on the City of Palm Bay website, April, 2019.

The following Objectives or Policies are implemented via this proposed development plan:

- OBJECTIVE FLU-1.3 Land Development Regulations shall provide for planned unit developments, planned commercial developments, planned industrial developments, planned residential developments, and mixed-use developments.

- POLICIES FLU-1.3A The City shall continue to implement Land Development Regulations for Planned Unit Developments.
- OBJECTIVE FLU-1.4 Establish an Urban Service Area to control urban sprawl.
 - POLICIES FLU-1.4A The Urban Service Area maps shall be adopted for the ten-year time frame of the Comprehensive Plan as depicted in the adopted Urban Service Boundary Map.
- OBJECTIVE FLU-2.1 By 2001, adopt land development regulations which create a full range of types and styles, including planned unit developments, multi- family housing, ranges of single family densities, and mixed use with residential/nonresidential consistent with the needs of all age groups, incomes and lifestyles.
 - POLICIES FLU-2.1A The Zoning Code shall be amended to provide for a variety of types and densities of residential development in conformance with this Element and the Future Land Use Map.
 - POLICIES FLU-2.1B Continue to utilize Planned Unit Development (PUD) techniques to protect environmentally sensitive areas, protect amenities, and mitigate flood hazards.
- OBJECTIVE FLU-2.2 Residential development which can be served by public and community services meeting all LOS standards.
 - POLICIES FLU-2.2A Base residential development decisions on the adopted LOS standards for community facilities and services, the Future Land Use Map, and the policies of the Comprehensive Plan.
 - (Original Wheeler) FLU-8.3G The following special conditions shall be applicable to Case No. CP-12-2003 adopted by City Council as Ordinance No. 2004-52.
 1. Maximum residential density is capped at 1,800 residential units. **(THIS HAS INCREASED OVER TIME DUE TO 37 LAND USE AMENDMENTS)**
 2. A future school site be designated on the property at a suitable location and of suitable size as determined by negotiation between the developer and the Brevard County School Board. **(SCHOOL SITE CONSTRUCTED-SUNRISE ELEMENTARY)**
 3. The developer is required to identify and apply for the necessary Future Land Use Map amendment to provide commercial and public/semipublic uses necessary to service the proposed development within 5 years or prior to development of 600 units, whichever occurs first. **(133+/- ACRES HAVE BEEN DESIGNATED FOR COMMERCIAL LAND USE)**

CITIZEN PARTICIPATION/COUNTY COORDINATION

A Citizen Participation Plan is provided with the application for Final Development Plan. Labels for notifying everyone within 500' are provided to the City for mailing the courtesy notice.

JOINT PLANNING AGREEMENT

The City's Growth Management staff regularly distributes the required courtesy copies of documents to the County planning staff pursuant to a 2016 Joint Planning Agreement.

UTILITIES

The development will connect to City water and wastewater. One additional lift station is proposed to be extended into the development from Mara Loma Boulevard to provide utility services for all the Gardens development. The City has long planned for an expansion to its wastewater plant and has made expansions to the water plant. The City recently approved the staff to proceed with planning/design/permitting of the expansion.

STORMWATER/DRAINAGE

Permit #96251-24 is shown as Figure 3. It is for a larger area than the 54 acres currently being applied for, which includes all phases of Gardens subdivision. All retention areas shall be owned and maintained by the residential homeowners association and shall be permitted through the Water Management District. The project will be designed to meet all pre and post development stormwater management as currently regulated by the various agencies and the City by obtaining all required permits.

ENVIRONMENTAL ISSUES

The property was originally a citrus grove. It was later converted into the existing cattle pasture. The proposed project is designed to and will be consistent with the following Goals, Objectives and Policies of the City's Comprehensive Plan.

GOAL FLU-6 Wise and efficient use of the City's natural resources.


| ST. JOHNS RIVER WATER MANAGEMENT DISTRICT | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| Post Office Box 1429 Palatka, Florida 32178-1429 | |
| PERMIT NO: 96251-24 | DATE ISSUED: April 26, 2018 |
| PROJECT NAME: Waterstone at Palm Bay - Phase I | |
| A PERMIT AUTHORIZING: Authorization of a Stormwater Management System for Waterstone at Palm Bay - Phase I, a 101.37 - acre project to be constructed and operated as per plans received by the District on April 4, 2018. | |
| LOCATION: Section(s): 4 Brevard County | Township(s): 30S Range(s): 37E |
| Receiving Water Body: | |
| Name Sottle Canal | Class III Fresh |
| ISSUED TO: Waterstone Farms, LLC 235 West Dr Melbourne, FL 32904-1043 | |
| The permittee agrees to hold and save the St. Johns River Water Management District and its successors harmless from any and all damages, claims, or liabilities which may arise from permit issuance. Said application, including all plans and specifications attached thereto, is by reference made a part hereof. | |
| This permit does not convey to the permittee any property rights nor any rights or privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation or requirement affecting the rights of other bodies or agencies. All structures and works installed by permittee hereunder shall remain the property of the permittee. | |
| This permit may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes. | |
| PERMIT IS CONDITIONED UPON: See conditions on attached "Exhibit A", dated April 26, 2018 | |
| AUTHORIZED BY: St. Johns River Water Management District Division of Regulatory Services | |
| By:  | |
| John Julianna Regulatory Coordinator | |

Figure 3 SJRWMD Permit covering the proposed 44 acre project

- OBJECTIVE FLU-6.1 An intensity and distribution of land use and development which minimizes the impact on the natural environment.
 - POLICIES FLU-6.1A Land use decisions shall be based upon the support capability of the natural environment as determined by conformance to the Floodplain Management Ordinance, the Stormwater Management and Conservation Ordinance, the Trees and Shrubbery Ordinance, and the Zoning Ordinance.

An environmental assessment and feasibility study was conducted by Jon Shepherd, Atlantic Environmental Services (AES) for Gardens Phase 1, 2, and 3 and their resulting report is attached to this narrative. In addition, a Caracara assessment was conducted and that report is included as well. Both of the reports noted are included by reference, and are on file with the City.

Their summary and recommendations from the environmental assessment states:

"Atlantic Environmental determined that the Property contains +143.72 acres of uplands, approximately 0.22 acres of SJRWMD wetlands (all contained within Phase III), and +1.86 acre of surface waters (in addition to the acreage of the on-site furrows that are included in the upland acreage above for the purposes of this report). The Property also has the potential to support protected wildlife. These natural resources must be addressed in the development process, through permitting, avoidance, mitigation, or some combination thereof.

As the next step in the development process as it relates to environmental issues, Atlantic Environmental recommends delineating the on-site wetland within Phase III. As development of this phase is not planned for quite some time, this task should be postponed until development of Phase III is imminent. In addition to the above task, Atlantic Environmental recommends conducting formal crested caracara survey on the Property to demonstrate that no caracara is nesting on the Property or within 985 feet of the Property. As you are aware, Atlantic Environmental is scheduled to initiate this survey in January 2021."

Map F-1 shows the location of the .22 acre wetland and overall conditions of the site.

The results of their Cara Cara study states:

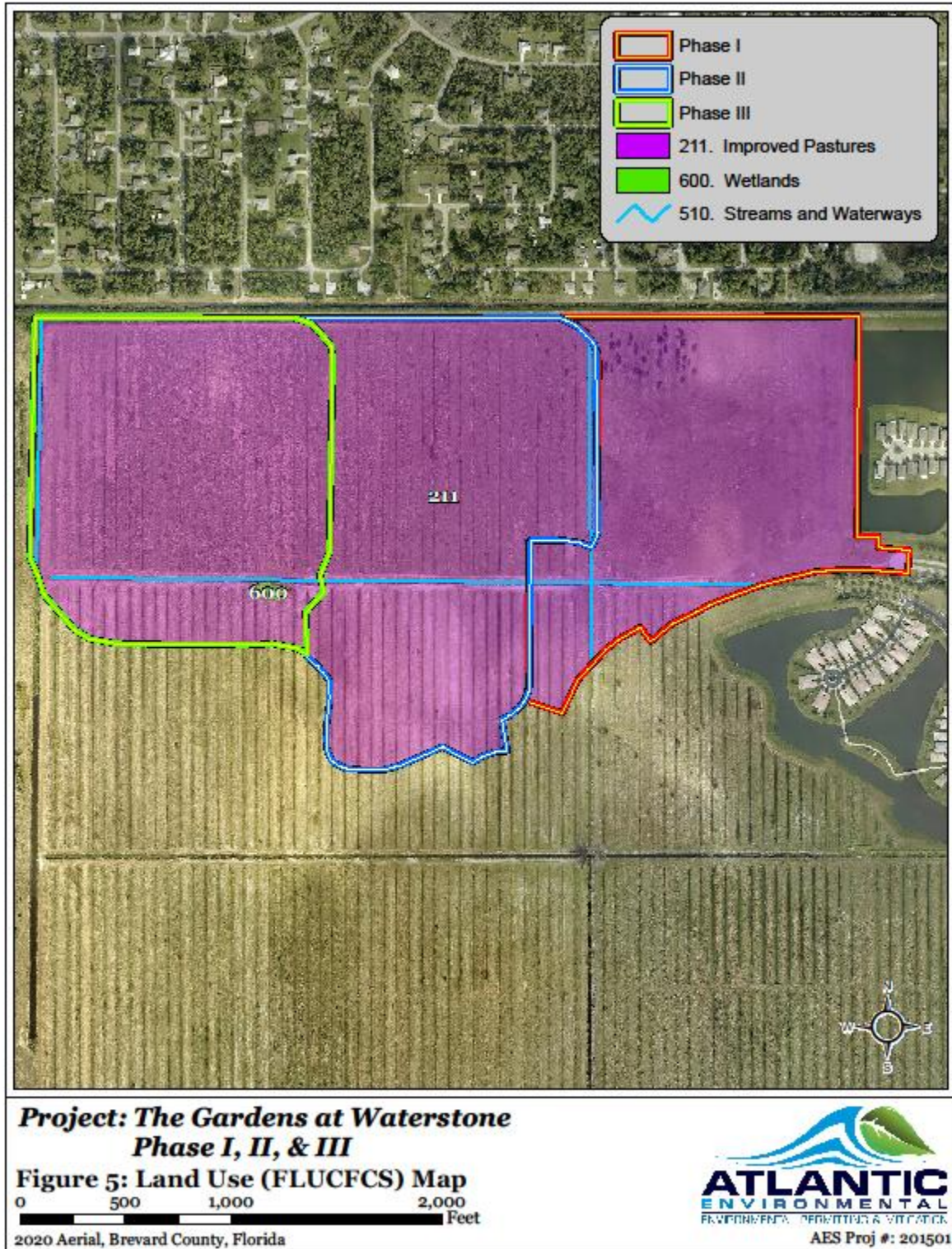
"Atlantic Environmental has conducted a formal Crested Caracara survey of The Gardens @ Waterstone Phase I, II, and III project site (as well as visual surveys of surrounding lands) according to the parameters approved by the FWC and FWS guidelines. Our survey identified consistent nesting behavior, sustained nesting, and one successful immature Crested Caracara. The survey data suggests that a small portion of The Gardens @ Waterstone Phase III will occur within an occupied Caracara nesting Primary zone, while the remaining portion of Phase III and

all of Phases I and II are located within the Secondary buffer zone. Crested Caracara activity occurred almost exclusively off-site to the west of Phase III of this project, on lands on the west side of a canal that is owned by others. This survey should be submitted to the regulatory agencies upon submittal of any development plan applications."

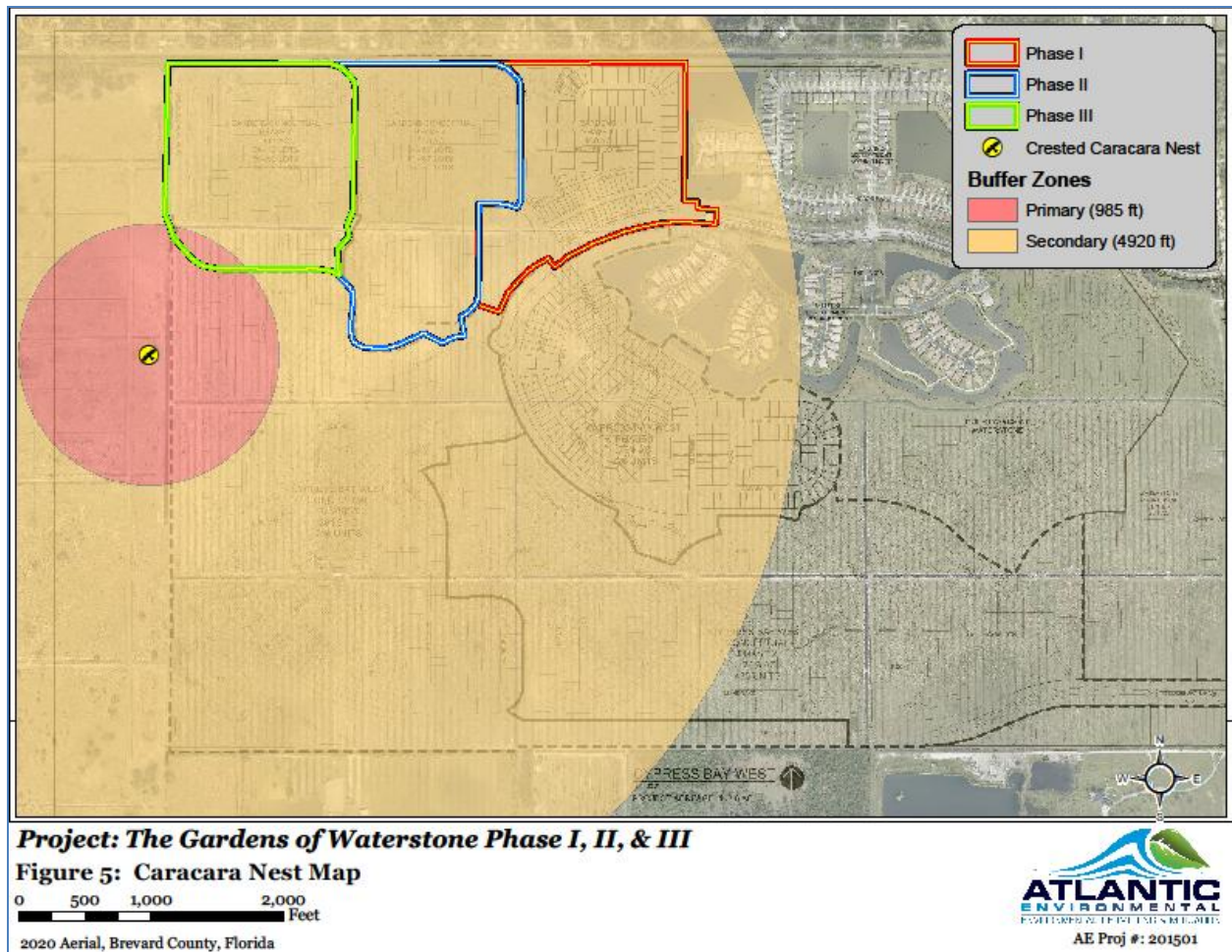
Map F-2 shows the location and impact/buffer areas for the Caracara.

Map F-1

Environmental Assessment Map from AES Report for Gardens at Waterstone



Map F-2
Caracara Nest Map



PB&J GARDENS INVESTMENT, LLC
FINAL DEVELOPMENT PLAN NARRATIVE FOR GARDENS AT WATERSTONE PHASE 3

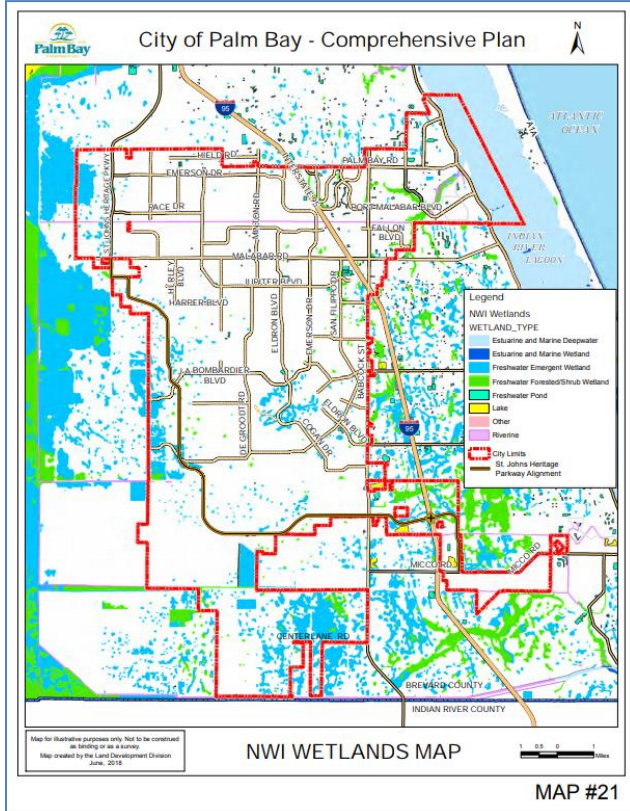


Figure 4 Comprehensive Plan Wetlands Map, dated June, 2018, taken from the City of Palm Bay's website, April, 2019

TRANSPORTATION CONCURRENCY AND MOBILITY

In 2005, traffic concurrency was approved by the City and County for 900 residential units, Sunrise Elementary School, and the current intersection of Mara Loma and Babcock St.

To meet concurrency requirements, developers have agreed to design and install a traffic signal at Mara Loma and Babcock Street as a condition of approval of their Final Development Plan, based upon a recent warrant analysis done by Lassiter Transportation Group(LTG). The signal is scheduled to be in place prior to the final Certificate of Occupancy of Phase 2.

Street names have been approved by the Brevard County Address assignment office and are on file with the City's Planning Department.

The PD application requires a vehicular circulation plan, which is shown as part of the development plan. All of Gardens will be served by extending the existing Mara Loma Boulevard to the intersection of the new subdivision on Granger Circle. Mara Loma, as a 2 lane collector, has capacity and meets concurrency requirements to serve the new subdivision. The existing section of Mara Loma has been dedicated to the City and the Mara Loma extension is intended to be dedicated the City. All streets within the project are to be private and amenities will be maintained by the Gardens at Waterstone Homeowners Association, Inc.

Figures 4 and 5 are taken from the City's Comprehensive Plan as found on the City's website. If the project is found to be in a Flood Zone, the applicant will comply with FEMA requirements and obtain requisite permits.

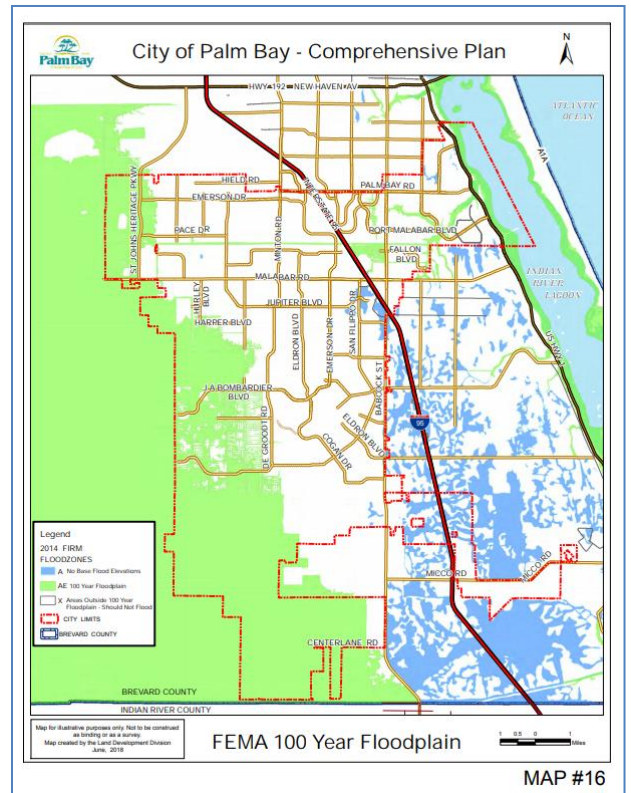


Figure 5 Comprehensive Plan FEMA 100 Year Floodplain Map,

SCHOOL CONCURRENCY

The owners worked with the School Board on land for an elementary school, and Sunrise Elementary is now open and serving the public. There are no other schools to be provided by Waterstone as a result of the proposed project. School Capacity and Concurrency applications have been completed by the applicant. The City is responsible for submitting the application and required Local Determination form to the School Board.

OPEN SPACE/RECREATION/AMENITIES

Gardens will have a neighborhood park, passive recreation areas, and interconnected meandering walking trails connecting the subdivision to Mara Loma and other future sections of the larger community all under control of the Gardens at Waterstone Homeowners Association, Inc. The recreation areas will be used by all homes in the Gardens at Waterstone Phases 1, 2, and 3. The neighborhood park within Gardens Phase 3 is 2.8 +/- acres, plus other open space, provides over 13 acres of total open space and recreation. The project contains almost 17 acres of pervious area. The park will be primarily passive, used for multi-purpose playing field, a dog park and other outdoor activities. All the residents will be using the Phase 1 pool and Cabana.

DEVELOPMENT STANDARDS AND GOVERNANCE

Section 185.061 (A) The planned unit development is a concept which encourages and permits variation in residential developments by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage, setbacks, open space, and other Land Development Regulations and open space from than required in any one (1) residential land use classification under the zoning regulations of the city. The purpose of a planned unit development is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types as well as commercial uses designed to serve the inhabitants of the planned unit development. It is recognized that only through ingenuity, imagination and flexibility can residential developments be produced which are in keeping with the intent of this subchapter, while departing from the strict application of conventional use and dimension requirements of other zoning districts and subdivision regulations.” (Source: City Code, American Legal Publishing)

The project’s zoning of Planned Unit Development gives the applicant the ability to establish and restrict the allowable uses within the project and set the development standards. This will be done through Declaration of Covenants, Bylaws and Articles of Incorporation for the Homeowners Association provided in the Final Development Plan application package submittal. There will also be areas that are dedicated to the public and governed by either a regulatory agency or local government (streets and utilities). Subdivisions will be governed by the City and Chapter 177 Florida Statutes. Building permits and construction plan approval will be required by the City.

Therefore, this entire PUD has been creatively designed to assure a diverse mix of residential units and styles with non-residential and commercial uses that serve the community and region. The Gardens

Deed restrictions will provide for specific uses, development standards, architectural and site design features, required landscaping/lighting/signage/materials, architectural review boards, maintenance, and the like. Draft Covenants are provided in the application package. The project has been designed to be consistent with the Comprehensive Plan and Land Development Codes, and compatible with the surrounding area.

The following is a general overview of the proposed uses, as well as dimensional information.

GENERAL RESIDENTIAL USES

The proposed project is a subdivision within a planned unit development zoning district consisting solely of 171 single family homes on 50' (on average) by 125' lots, ancillary recreation, utilities, and infrastructure. Residential uses will be controlled by the Deed Restrictions submitted with the application for final development plan approval. A Homeowner's Association will provide for maintenance.

Single Family Minimum Yard requirements (Setbacks):

All single family:

| | |
|---------------|---------|
| Front Yard: | 25 feet |
| Rear Yard: | 20 feet |
| Side yard: | 5 feet |
| Side Corner: | 15 feet |
| Pool Setback: | 5 feet |

Single Family Height: 2 stories (35 feet)

Minimum Square Footage: Ground floor 1-story: 1,350 sf

Ground floor 2-story: 800 sf

Overall minimum square footage: 1,350

COMPATIBILITY WITH SURROUNDING AREA

The project is being placed on former groves and is a phase of a Master Planned community started in 2005. Heron Bay and the Lakes of Waterstone are 2 subdivisions that have been constructed containing 296 units. Homes on the Gardens lots will range from 1300 square feet minimum with values from \$225,000 to over \$350,000 depending on size and amenity packages. This project will be compatible in style, type, value, and amenities with its surrounding area, including the large scale planned Regional Activity Center Emerald Lakes (approved in 2011 and 2016) and Cypress Bay PUD (2018) to the east. With over 1500 units remaining to be developed in the Waterstone project, the developers will not build any product that will destroy the future potential of various planned subdivisions. Therefore, the Gardens will be comparable to and compatible with the remaining subdivisions with the planned development in size, scale, character, intensity, and design as well.

COMFORMANCE WITH LAND DEVELOPMENT CODE (REVIEW CRITERIA)

All of the lands in Waterstone are zoned Planned Unit Development. The applications submitted for the Gardens project recognizes the expiration of the Waterstone at Palm Bay preliminary development plan as approved January 2018 and seeks to amend the 2005 Master Development Plan by obtaining approval of a new Final Development Plan for the specific area of the Gardens at Waterstone.

This document and narrative demonstrates how the Gardens project is consistent with the Comprehensive Plan, compliant with Land Development Code, and meets the review criteria in Chapter 185.066 of the City's Code, warranting approval. Since the project is zoned Planned Unit Development Zoning, therefore, a rezoning is not required.

FINAL DEVELOPMENT PLAN COMFORMANCE WITH LAND DEVELOPMENT CODE (REVIEW CRITERIA)

The procedure for approval of the Final PUD is found in the City's Land Development Code section 185.067:

§ 185.067 PROCEDURE FOR SECURING APPROVAL OF A FINAL DEVELOPMENT PLAN. The developer shall have one (1) year from the approval of the preliminary development plan for a planned unit development zone in which to file a final development plan application. At the request of the developer, and for good cause shown, the City Council may extend the period required for the filing of the application for a time certain not to exceed one (1) year. The final development plan application may request approval for the entire planned unit development plan or any stage. If approval is not requested for the entire planned unit development, the developer shall have one (1) year from approval of the final development plan application to file another final development plan application for approval of any or all of the remaining stages specified in the preliminary development plan. At the request of the developer, and for good cause shown, the City Council may extend for a time certain not to exceed one (1) year, the period for the filing of the application.

(A) *Required exhibits.* The exhibits identified in § [185.066](#)(B)(2)(a) shall be attached to the final development plan application.

Response: The application was determined to be complete by the Growth Management Department.

(1) In addition to the requirements of (A) above, a boundary and topographic map shall be submitted and shall include the location, size and type of all trees (per the standards identified in [Chapter 180](#)).

(2) Development schedule. The development schedule shall contain the following information:

(a) The order of construction of the proposed stages delineated in the development plan.

Response: Gardens Phase 3 will be constructed as all one phase starting with the site development and infrastructure.

(b) The proposed date for the beginning of construction of such stages.

Response: Gardens Phase 3 is desired to start by the 4th quarter of 2022, but that may not be until the 1st quarter of 2023 depending on permits and City approval.

(c) The proposed date for the completion of construction on such stages.

Response: Build out is anticipated to be in 1 year.

(d) The proposed schedule for the construction and improvement of common open space within such stages, including any complementary buildings.

Response: Open space will be provided during the site development work.

(3) Deed restrictions. Deed restriction proposals to preserve the character of the common open space as set forth in § [185.064](#). The deed restrictions shall include a prohibition against partition by any residential property owner.

Response: Draft Deed restrictions are included with this submittal.

(4) Instruments dedicating all rights-of-way, easements and other public lands shown on the final development plan from all persons having any interest in the land.

NOTE: THESE ARE SHOWN ON THE PRELIMINARY PLAT ATTACHED TO THIS APPLICATION

(5) Title opinion. A title opinion from an attorney showing the status of the title to the site encompassed by the final development plan and all liens, encumbrances and defects, if any.

Response: The application was determined to be complete.

(B) *Procedure.*

(1) A fee as established by resolution pursuant to § 169.004 shall accompany the final development plan application for the purpose of administration, additionally, engineering, plat filing, necessary copies and travel fees will be incurred.

Response: The application included the required fee.

(2) The Planning and Zoning Board shall recommend the approval, approval subject to conditions, or disapproval of the final development plan with the preliminary development plan, **the sufficiency and accurateness of the required exhibits, and the requirements and purposes of this subchapter and any other applicable provision of this code of ordinances and any other regulation of the city.** The Planning and Zoning Board shall recommend the approval, approval subject to change, or denial of the final development plan.

Response: The Planning and Zoning Board will hear and recommend approval, approval with conditions, or denial of the project after a duly noticed public hearing. Their action will be forwarded to the City Council with the Staff Report.

A reiteration of the justification statement with the Planning Board Review criteria follows.

CHAPTER 185.066 PRELIMINARY DEVELOPMENT PLAN PROJECT JUSTIFICATION: COMPLIANCE WITH REVIEW CRITERIA TAKEN FROM THE CITY'S LAND DEVELOPMENT CODE ON AMERICAN LEGAL'S WEB-SITE.

This applications for Gardens at Waterstone Phase 3 Final PUD submittal included all the required documents and exhibits requested under the code. The Gardens at Waterstone is almost completely the same configuration as it was in 2005 and in 2018 when approved by the City Council.

185.066 (B) (5) Review criteria. The decision of the Planning and Zoning Board on the preliminary development plan application shall include the findings of fact that serve as a basis for its recommendation. In making its recommendation, the Planning and Zoning Board shall consider the following facts:

(a) Degree of departure of proposed planned unit development from surrounding residential areas in terms of character and density.

JUSTIFICATION: Gardens at Waterstone is part of an approved project and plan that was given Planned Unit Development Zoning in 2005. The project is west of the built subdivisions of Heron Bay and Lakes of Waterstone, which were begun by Pulte/Divosta around 2006. Completed with 296 homes and an elementary school, utilities are permitted, sized and installed to serve the entire planned development in lines running from Valkaria Road to Mara Loma Blvd, and 2600' feet of Mara Loma Blvd is constructed and dedicated. The Courtyards at Waterstone, approved in 2020, will be owned by the same developers and contain the same amenities and design features. Therefore, there is complete compatibility with the existing, approved, and planned future developments.

Land use entitlements exist on 1200+/- acres straddling both sides of south Babcock Street. The proposed project is one of several large scale developments stimulated and supported by the new I-95 interchange and Parkway. Therefore, there is little departure from the current or proposed residential areas by the proposed project, which is in complete conformance with the character, density, and intensity of development approved by the State and City for this area.

(b) Compatibility within the planned unit development and relationship with surrounding neighborhoods.

JUSTIFICATION: Projects on adjacent lands have received City and/or State approval for similar mixed use, large scale developments with commensurate land use and zoning. As an extension of the original planned development, Gardens is compatible in size, scale, character, intensity, and design with both built subdivisions and future planned subdivisions.

(c) Prevention of erosion and degrading of surrounding area.

JUSTIFICATION: Gardens will meet all required agency permitting processes and procedures and create no off-site drainage issues. Preliminary St. John's River Water Management District Permits have been received and are on file with the City. The other phases of the project by this and other developers have met all SJRWMD permitting requirements and are under construction.

(d) Provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation as shown in the preliminary development plan.

JUSTIFICATION: The original Waterstone Development donated land for an elementary school, Sunrise Elementary, which is open and serving the public. There are no other schools to be provided by Waterstone. Gardens will have on site recreation amenities for use by its residents. All utilities will be planned for and installed by the developer(s), approved by the City, served by the City and permitted by the required Agencies. All required environmental permits will be obtained through the respective agencies. Currently, ST. JOHN'S RIVER WATER MANAGEMENT DISTRICT PERMIT #96251-24 gives conceptual approval to the master planned drainage system for the Gardens multiple phases on 101 acres. That permit is on public record and filed with the City. New permits will be obtained from all required agencies.

(e) The nature, intent and compatibility of common open space, including the proposed method for the maintenance and conservation of the common open space.

JUSTIFICATION: The overall Waterstone project's residential areas will ultimately provide approximately 180 acres of recreational and open space amenities in both active and passive recreational areas. The Gardens will have its own smaller localized recreation areas that may include such elements as tot-lots and other active or passive play amenities, and may contain fountains, gazebos, and trails. A 'Gardens at Waterstone Homeowners Owner's Association, Inc.' (HOA) will be responsible for operation and maintenance of the amenities within the residential areas.

(f) The feasibility and compatibility of the development plan to function as an independent development.

JUSTIFICATION: Each neighborhood within the Waterstone project will function on its own. Utilities installed by the owner to serve the existing Waterstone community will serve this project. The Gardens will have its own deed restrictions, HOA/POA, articles of incorporation and by-laws, permits, and plat.

(g) The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development.

JUSTIFICATION: Numerous Traffic Studies by Lassiter Transportation Group analyzing the roadway impacts and what improvements are necessary have been submitted over the years and are on file with the City and County. A Technical Memorandum was prepared for the Courtyards submittal with the 2020 application and is on file with the City. It shows that when the Cypress Bay Residential

project of 400 is complete and the Gardens Phase 1 is complete, a traffic signal warrant study will be needed for the Mara Loma intersection with Babcock Street. In anticipation and advance of that, LTG was hired to conduct a warrant study to validate the need and timing of the signal. It has been approved and is under design and permitting. It is to be constructed prior to the last CO for a house in Phase 2. Brevard County is conducting a PDE for widening of Babcock Street. The new interchange and Parkway are open. There are adequate roadways to support the project.

(h) The availability and adequacy of water and sewer service to support the proposed planned unit development.

JUSTIFICATION: Gardens will utilize the lines provided for the existing Waterstone Communities and tie into the City's water and wastewater system. The City began long range planning in 2012 with its consultants Wade-Trim for the utility needs for the new communities planned for Northwest and Southern Palm Bay. The City has begun the long planned expansion to its wastewater plant and has made expansions to the water plant. The City will be the provider of the requisite services. The owner/applicant's engineer, CEG, working in concert with the City's Utilities department, has been advised that there is capacity available to serve this project.

(i) The benefits within the proposed development and to the general public to justify the requested departure from standard land use requirements inherent in a planned unit development classification.

JUSTIFICATION: Unlike using singular zoning districts and subdivision practices, Gardens is planned to be a quality, integrated, creative development similar in style and value to the existing Waterstone and Bayside Lakes Subdivisions. Landscaped roads, themed signage, entry features, underground utilities, specialty lighting, and deed restrictions will dictate and govern the uses, standards, character and quality of the development. In most cases, the requirements will be stricter than the City code. Because it's within the PUD district, there is greater control and quality than in a single development zone.

(j) The conformity and compatibility of the planned unit development within any adopted development plan of the city.

JUSTIFICATION: This project is in compliance with the Comprehensive Plan of the City.

(k) The conformity and compatibility of the proposed common open space, primary residential and secondary nonresidential uses within the proposed planned unit development.

JUSTIFICATION: This project includes active and passive recreational uses for common enjoyment by the residents. There are no commercial uses within the Gardens.

CONCLUSION

Several supporting documents are included in the Appendices. Exhibits required by the applications are under separate cover. Based upon my review of the documents, in my opinion, as a Fellow of the American Institute of Certified Planners, with 40 years of professional planning practice in the state of Florida, the proposed Gardens Final Development Plan is:

- **consistent with the Planned Unit Development Zoning Classification currently on the property,**

PB&J GARDENS INVESTMENT, LLC
FINAL DEVELOPMENT PLAN NARRATIVE FOR GARDENS AT WATERSTONE PHASE 3

- **consistent with the Comprehensive Plan,**
- **compliant with the City's land development code, and,**
- **compatible with the surrounding community.**

This narrative report, required by the application, is intended to serve as substantial competent evidence and testimony in all public hearings or proceedings related to the Gardens at Waterstone projects.

Respectfully submitted,



Rochelle W. Lawandales, FAICP
Waterstone Development Company, LLC

MAPS AND FIGURES

MAPS

| | |
|-----------------|------------------------------------------------------------------------------------------------------------------|
| MAP A: | GARDENS LOCATION MAP |
| MAP B: | CITY ZONING MAP |
| MAP C: | ORIGINAL PRELIMINARY DEVELOPMENT PLAN FOR WATERSTONE AT PALM BAY WITH APPROXIMATE LOCATION OF GARDENS |
| MAP D-1: | PROPOSED FINAL DEVELOPMENT PLAN |
| MAP D-2: | PRELIMINARY PLAT |
| MAP E: | CITY FUTURE LAND USE MAP |
| MAP F-1: | ENVIRONMENTAL ASSESSMENT MAP |
| MAP F-2: | CARACARA NEST MAP |

FIGURES

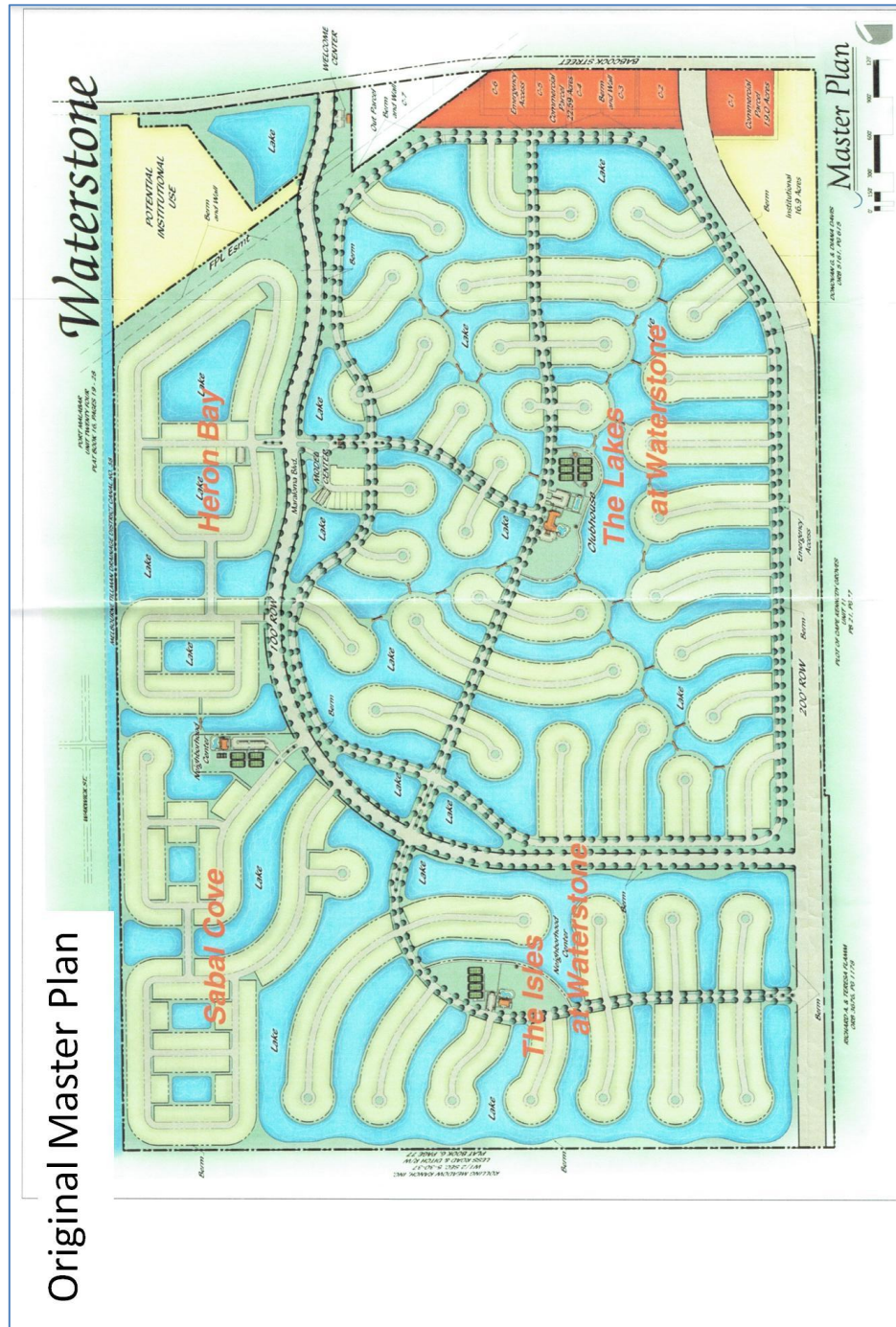
| | |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| FIGURE 1 | Future Land Use Map taken from the City's Comprehensive Plan on the City of Palm Bay Website, April, 2019 |
| FIGURE 2 | Urban Services Boundary Map adopted by the City in the EAR, October 2017; as shown on the City of Palm Bay website, April, 2019. |
| FIGURE 3 | SJRWMD Permit covering the proposed 44 acre project |
| FIGURE 4 | Comprehensive Plan Wetlands Map, dated June, 2018, taken from the City of Palm Bay's website, April, 2019 |
| FIGURE 5 | Comprehensive Plan FEMA 100 Year Floodplain Map, taken from the City of Palm Bay's website, April, 2019 |

APPENDICES

- 1. APPROVED PRELIMINARY DEVELOPMENT PLAN 2005 ESTABLISHING ZONING**
- 2. RESUME OF ROCHELLE W. LAWANDALES, FAICP**
- 3. ENVIRONMENTAL ASSESSMENT BY JON SHEPHERD, Atlantic Environmental of Florida, LLC, dated December 13, 2020 by reference, as it's on file with the City.**
- 4. CRESTED CARACARA SURVEY REPORT, BY JON SHEPHERD, Atlantic Environmental of Florida, LLC, dated May 5, 2021, by reference, as it's on file with the City.**

APPENDICES

1. APPROVED ORIGINAL MASTER PLAN

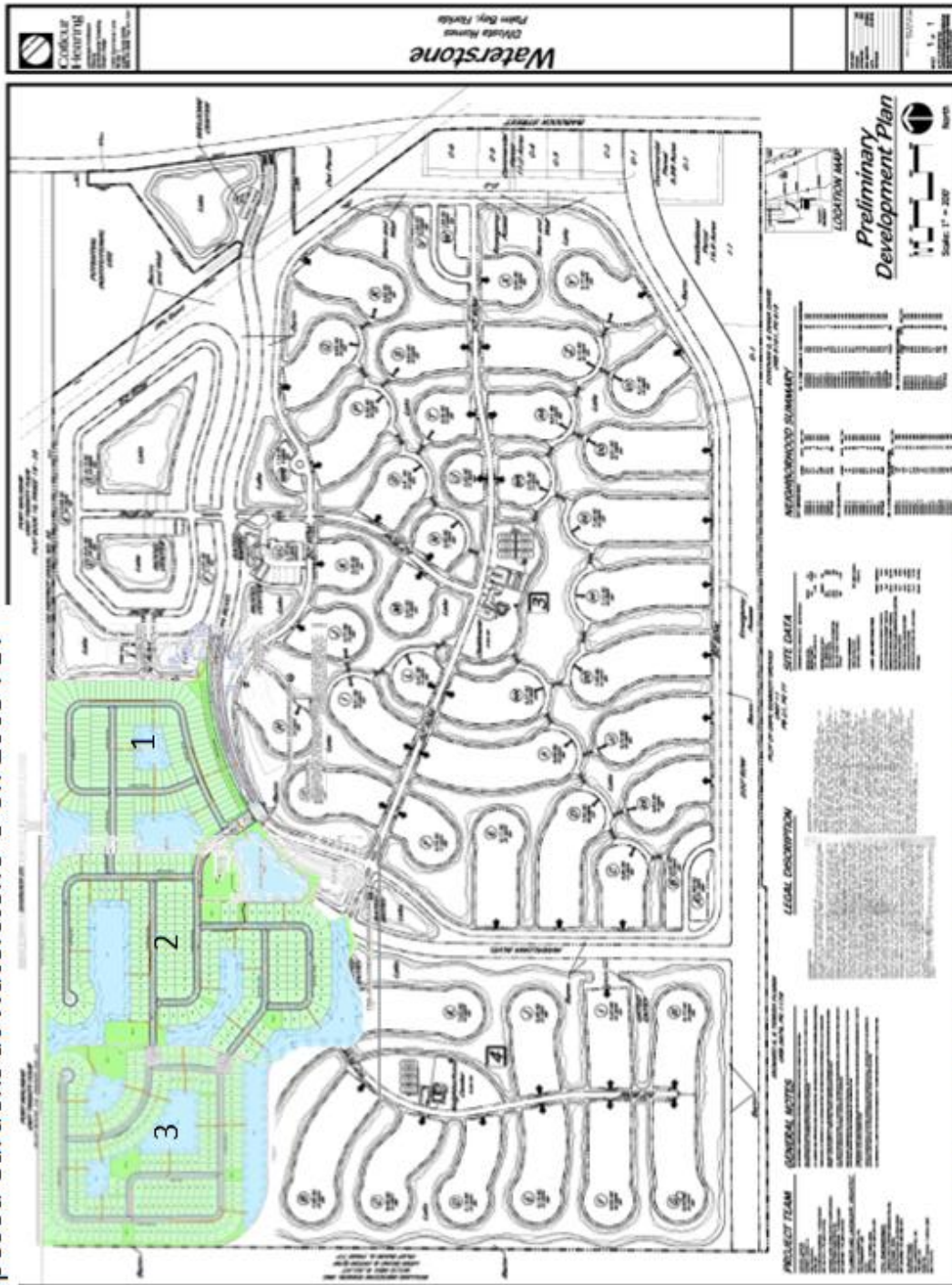


May 15, 2005 FINAL PUD Approval

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| <p>May 18, 2005</p> <p>Mr. Ben Jefferson City of Palm Bay 3301 Bayview Lakes Boulevard, SE Palm Bay, FL 32909</p> <p>Dear Mr. Jefferson:</p> <p>This letter is to officially notify you that the City Council of the City of Palm Bay, at its regular meeting on May 17, 2005, approved the final Planned Unit Development application for Waterstone Phase 3.</p> <p>The approval by Council is subject to all staff comments being addressed prior to the recording of the plat.</p> <p>If you should have any questions or desire additional information, please contact Mr. Dave Winkler, Growth Management Director, at 735-3042.</p> <p>Sincerely,</p> <p><i>[Signature]</i> CITY OF PALM BAY Erikson, Land Development Division Staff Report City Clerk</p> <p>Case No. PUD-20-2005</p> | <p>DATE: May 4, 2005 CASE: PUD-20-2005</p> <p>Palm Bay CITY OF PALM BAY</p> <p>LAND DEVELOPMENT DIVISION</p> <p>STAFF REPORT</p> <p>APPLICATION PROPOSAL: Planned Unit Development for Phase 3 of Waterstone Phase One and Waterstone Commercial Center, Phase One PUD LOCATION: West of and adjacent to Railroad Street SE, south of and adjacent to Mulberry Street West Control District No. 18 APPLICANT: DIVONA HOMES, L.P. and Bayville Land Development Corporation</p> <p>SITE DATA PRESENT ZONING: AU, Agricultural Use and PUD, Planned Unit Development ACREAGE: 924.93 acres ± DENSITY: Maximum of 2 units per acre (overall)</p> <p>ADJACENT ZONING & LAND USE N → B-2, Single Family Residential District, home and vacant land S → AU, Agricultural Use and GP, General Use District, rural W → GU, General Use District, rural E → GU, General Use District, rural</p> <p>WATER & SEWER Required to be provided</p> <p>FLOOD ZONING Flood Zone X, outside of 100-year flood zone, Flood Zone A and Flood Zone AE, coastal residential</p> <p>PAGE 3</p> | <p>CASE NO. PUD-20-2005 May 4, 2005</p> <p>PAGE 2</p> <p>BACKGROUND</p> <ol style="list-style-type: none">1. Preliminary Planned Unit Development is requested for Waterstone PUD.2. The property is located west of and adjacent to Railroad Street SE, south of and adjacent to Mulberry Street West Control District No. 18. The parcel contains 924.93 acres.3. The current zoning is PUD, Planned Unit Development District and AU, Agricultural Use (Brevard County). Surrounding zoning is as follows: North: B-2, Single Family Residential District East: GU, General Use District and AU, Agricultural Use (Brevard) South: GU, General Use District and AU, Agricultural Use (Brevard) West: GU, General Use District (Brevard)3. The applicant is DIVONA HOMES, L.P. and Bayville Land Development Corporation. <p>ANALYSIS</p> <ol style="list-style-type: none">1. The proposed development consists of 1,700 total units, with 1,014 single family lots and 686 townhomes. The development is located on the east side of the property and is bounded by Railroad Street to the west, Mulberry Street to the south, and Bayview Lakes Boulevard to the north. The development is bounded by Bayview Lakes Boulevard to the north, Bayview Lakes Boulevard to the south, and Bayview Lakes Boulevard to the east. The development is bounded by Bayview Lakes Boulevard to the north, Bayview Lakes Boulevard to the south, and Bayview Lakes Boulevard to the east.2. The natural stream, drainage and the contour area are to be maintained by the private owner. The development is located on the east side of the property and is bounded by Railroad Street to the west, Mulberry Street to the south, and Bayview Lakes Boulevard to the north. The development is bounded by Bayview Lakes Boulevard to the north, Bayview Lakes Boulevard to the south, and Bayview Lakes Boulevard to the east. The development is bounded by Bayview Lakes Boulevard to the north, Bayview Lakes Boulevard to the south, and Bayview Lakes Boulevard to the east.3. In order to receive Preliminary Planned Unit Development approval, the proposal must be reviewed by the City of Palm Bay. The City of Palm Bay is required to review the proposal and determine if it meets the requirements of the City of Palm Bay. The City of Palm Bay is required to review the proposal and determine if it meets the requirements of the City of Palm Bay. <p>A. Additional information is required during final PUD approval for all residential subdivisions proposed.</p> <p>B. All lots must be divided with minimum width and area.</p> <p>C. Final deed restrictions must be submitted prior to record.</p> <p>D. Street names must be provided on the final PUD plat to record.</p> <p>E. Title opinion must be provided prior to recording.</p> | <p>Zoning Map</p> <p>CASE NO. PUD-20-2005 Waterstone at Palm Bay</p> |
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Resulted in PUD Zoning
Shown on City's GIS today

Proposed Gardens at Waterstone 3 on 2005 PDP



3. RESUME OF ROCHELLE W. LAWANDALES, FAICP

EDUCATION

- Graduate Degree:** MASTER OF CITY AND REGIONAL PLANNING
CLEMSON UNIVERSITY, CLEMSON, S.C. 1979
- Bachelor of Arts:** SOCIOLOGY/PSYCHOLOGY
CLEMSON UNIVERSITY, CLEMSON, S.C. 1977
- Other Studies:** ALLIANCE FRANÇAISE, PARIS, FRANCE (1976)
- Certifications:** American Institute of Certified Planners
- Honors:** Inducted into the College of Fellows by the American Planning Association/American Institute of Certified Planners, 2018

EXPERIENCE

Private Consultation Service: Lawandales Planning Affiliates, Inc.,(LPA), owned by Rochelle W. Lawandales, AICP, has been serving communities and individuals with planning services since 1989, including, but not limited to:

- Local governments including, Palm Bay, Palm Shores, Melbourne Beach, Malabar, Melbourne, Fellsmere, Cocoa Beach, Satellite Beach, New Smyrna Beach, Tampa, Savannah, Georgia, South Daytona, Rockledge, Cocoa, Port Orange
- National and Local developers, including, but not limited to: American Tower Systems, a subsidiary of CBS, Inc.(site selection for telecommunication towers across Florida), Lennar Homes(zoning, land development), Mercedes Homes(zoning/land development approvals), Heritage Properties, St. Mary's Catholic Community Church(zoning/conditional use), Mattress Barn(comp plan and zoning), Boozer Properties, Plymel Realty, Charlie Boyd (zoning), FBC of Brevard(zoning), Richard Stottler d/b/a Cape Kennedy Shores, Inc., Ben Jefferies d/b/a Bayside Lakes Development Corporation, Waterstone Development Company, LLC; Mike Erdman, d/b/a as KEW, Inc., Roy Pence, Coy Clark, Centex Homes (zoning/land development), among others.
- Many noted Land Use/Real Estate Lawyers, individuals or developers who have needed expert planning services for development reviews and approvals, eminent domain, or expert witness testimony for quasi-judicial or legislative hearings. Ms. Lawandales has been certified as an expert witness in local government hearings, Circuit and District Courts in Florida, and Chapter 120 Administrative hearings.

Comprehensive and Neighborhood Planning experience includes:

- West Melbourne, Malabar, and Cocoa Comprehensive Plans
- Amendments for Melbourne Beach, Brevard County, Fellsmere, Palm Shores, South Daytona, Indian Harbor Beach, Cocoa, Palm Bay
- South Daytona Evaluation and Appraisal Report
- Neighborhood Strategic Plan for the City of Melbourne's North CDBG Target Area "Booker T. Washington Neighborhood
- Former City of Fellsmere Consulting Planner, Comprehensive Plan 2003 completion and several large scale Updates

Redevelopment, Urban Design and Historic Preservation experience includes:

- City of Titusville: Land Development Codes and Urban Design Manual with Kimley-Horn and Associates
- City of Port Orange: TDM/TSM Strategic Plan with Kimley-Horn and Associates

- City of Rockledge: Community Redevelopment Area consulting Director, 2003-2010; CRA Plan Update 2009; Redevelopment Mixed Use District-Comprehensive Plan amendment, Land Development Code amendment, and Design Manual; Barton Boulevard Streetscape design;
- City of Fellsmere: Mixed-Use District Code and Urban Design/Streetscape Concepts; Findings of Necessity and established district with the Community Redevelopment Area Plan, 2005; City Hall Master Plan; Preparing Design Manual and Streetscape Plan for downtown;
- City of Palm Bay: Bayfront Redevelopment Area projects; Waterstreet Development Master Plan, Waterstreet Strategic Funding Plan, with Brad Smith Associates; Award winning Powell Subdivision Visioning, streetscape design; Palm Bay Road streetscape; Indian River Scenic By-ways establishment and Corridor Management Plan; Design Manual/Pattern Book for urban design in CRA district
- City of Cocoa: Redevelopment Area Streetscape/Urban Design Project; Heart of Cocoa, Delannoy Avenue, and Whitley Bay; in association with Baskerville-Donovan, Inc.
- City of Melbourne: Booker T. Washington Neighborhood Strategic Plan. Redevelopment, Urban Design and Streetscape concepts; *Eau Gallie Urban Infill and Community Redevelopment Plan, Streetscape, and Urban Design Concepts; CRA Expansion-Blight Study. This project won the 2003 National APA Community Initiative Award*; Blight Study for Downtown Melbourne Area Expansion; Downtown Blight Study and Evaluation/Audit of the CRA Redevelopment Plan; Babcock Street Blight Study and first Community Redevelopment Plan, with HDR, Inc and Brad Smith Associates.
- Town of Melbourne Beach: Ocean Avenue Redevelopment, Streetscape and Design Guidelines; Ocean Avenue Traffic Light, Pavers, Colors, and Lighting Design; TEA-21 Enhancement Project Design/Streetscape Elements; Melbourne Beach Municipal Complex with Rood and Zwick, Architects in Association and Brad Smith Associates;
- City of South Daytona: Assisted in creation of redevelopment district, Redevelopment Plan and Urban Design Concepts
- City of Indian Harbor Beach: Mixed Use District Code and Urban Design/Streetscape Concepts
- City of Satellite Beach: Blight Study, creation of redevelopment district, Community Redevelopment Plan and Urban design recommendation
- Town of Palm Shores: Community Redevelopment Blight Study and Urban Design recommendations
- Harris Corporation Master Plan-a micro-"urban design" project, with Brad Smith Associates
- Cocoa Beach Redevelopment Area-SR 520 Urban Design/Beautification Project, with Brad Smith Associates
- Blight Study, Redevelopment Plan, Comprehensive Plan amendment and Land Development Code amendments for the Merritt Island Redevelopment Agency area expansion
- Conceptual redevelopment plan for the Max Brewer Causeway, part of the Titusville Redevelopment Area
- Conceptual Master Plan, Sandpoint Park, Honeycutt and Associates, part of Titusville Redevelopment Area

Historic Preservation and Main Street

- Eau Gallie Arts District (EGAD) Economic Restructuring Plan, 2012
- Henegar Center for the Arts, Building Feasibility Study for use of 1920's High School, 2008
- Melbourne Main Street Strategic Plan
- Hamilton County Main Street Historic District Survey and Recommendations, Hamilton County, Florida
- Established an Historic District for the downtown area in Cocoa (Cocoa Village) and wrote Preservation and Development Guidelines
- Secured funding, assisted in the planning and supervised the \$500,000 rehabilitation of the E.P. Porcher House, a National Register Property in Cocoa
- Drafted a Model Historic Preservation Ordinance for graduate school

Public Participation Workshop Facilitation and Visioning Processes

South Daytona, Melbourne, Melbourne Beach, Fellsmere, Zion Christian Church, Florida Air Academy, Eau Gallie, Satellite Beach, Cocoa, Palm Shores, Indian River Scenic Highway Coalition, Cocoa Beach, Rockledge,

ROCHELLE W. LAWANDALES, FAICP

Palm Bay, Melbourne Main Street, Interstate Business Park, Le Centre, Savannah, Tampa Downtown Development Authority; New Smyrna Beach Redevelopment Agency

Land Development Regulations include:

Complete Land Development Regulations for West Melbourne, Malabar, South Daytona, Fellsmere and Cocoa; and updates or changes to LDR's for Titusville(Form Based Code), Rockledge, Palm Shores, Fellsmere, Melbourne, Cocoa, Melbourne Beach, Indian Harbor Beach, and Satellite Beach. Performance Standards Zoning Code for Cocoa Redevelopment Agency, with Frielich-Leitner, Esq. Architectural and Site Design Guidelines; Recreation Impact Fee Ordinances; Performance Standards Zoning Codes; Historic Preservation Districts and Historic Preservation Land Development Code; Downtown Redevelopment Codes; Mixed-Use District Codes

Grants experience:

Successes have included Historic Preservation, Florida Communities Trust, FRDAP, FIND, FCMP, Brownfields, Enterprise Zones/Foreign Trade zone designations, for a variety of programs, services and facilities; and overall obtaining over \$5M for a variety of local or county public improvements.

Recreation projects:

Recreation master planning services have included Wabasso Causeway Park and Round Island Park with Brad Smith Associates for Indian River County; Melbourne Community Park Location and Design Study, Front Street Park, Sherwood Park and Carver Park for the City of Melbourne; City of Fellsmere Senior League, Little League Community Parks, and Grant Ave. Neighborhood Park; Waterstreet Redevelopment Plan with several Park Components for the City of Palm Bay; Westbrook Community Park for Lennar Homes; Indian River Lagoon Scenic Highway Program; Ryckman and Loggerhead Parks for the Town of Melbourne Beach; Palm Shores Shoreside Park; Sandpoint Park and Max Brewer Causeway, (Brevard County) with Honeycutt and Associates, Inc.

Public Service:

Ms. Lawandales' first 10 years of practice were spent serving the public sector:

- West Melbourne, Florida: Planning Director, 1979-1980
- Melbourne, Florida: Special Projects and Grants Administrator, 1980-1983
- Cocoa, Florida: Redevelopment Director 1986; Community Improvement Administrator, 1986-1989.

Other Employment

Since 2011, Ms. Lawandales has continued to serve as a sole proprietor planning consultant to the public and private sectors to provide expert testimony, planning consultation, code changes, and sustainability programs for various clients. In 2014, she was hired as the Professional Planner for Waterstone Development Company, LLC in Melbourne, FL.

Miscellaneous talents and experience:

- Designing, Implementing, and Directing the We Care Program for the Brevard County Medical Society, Brevard County Health Unit, and area Hospitals, which brought private medical care to the indigent of Brevard County
- Counseling for troubled youth and their families as a caseworker for Devereux Outpatient Services
- Principal for religious schools for 4 years/teacher for 13
- Adjunct Professor, Planning and Urban Design, University of Central Florida, Fall, 2004
- Coldwater Creek, Retail Sales Associate, Part time, 2005-present

Prior Affiliations:

- Florida Redevelopment Association, President, 2009-2010; Legislative Policy Committee; Board member 2006-2011; Treasurer, 2007-2008
- Florida Chapter American Planning Association: Legislative Policy Committee (almost 20 years and currently)
- American Institute of Certified Planners/American Planning Association (current)
- Florida League of Cities: Legislative Policy Committee

ROCHELLE W. LAWANDALES, FAICP

- Florida Chambers, Six Pillars Committee
- Florida League of Cities: Keys to the Cities Task Force, 2010
- Brevard Tomorrow

Previous Community Service:

- Past Chair(13 years) and Member (16 years), Satellite Beach Planning and Zoning Board
- Past Chair (4 years), Satellite Beach Community Redevelopment Agency Advisory Board,
- Past service on Melbourne's Planning and Zoning Board and Architectural Review Board
- Junior League of South Brevard, Various Executive Board, Board positions and member 19 years
- Former Chair, State Public Affairs Committee for the Junior Leagues of Florida; established the Growth Management Task Force
- Former Committee Member, Land Use and Growth Management Subcommittee, Brevard Tomorrow, Tourist Development Council Signage Committee; Landscape and Tree Preservation Ordinance, Brevard County
- Leadership Brevard 1994 Graduate

ORDINANCE 2021-79

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, APPROVING A FINAL DEVELOPMENT PLAN TO BE KNOWN AS 'GARDENS AT WATERSTONE PHASE III' IN PUD (PLANNED UNIT DEVELOPMENT) ZONING; WHICH PROPERTY IS LOCATED IN THE VICINITY WEST OF MARA LOMA BOULEVARD AND SOUTH OF MELBOURNE TILLMAN WATER CONTROL DISTRICT CANAL 38, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR A COMMENCEMENT PERIOD; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, application for Final Development Plan approval in PUD (Planned Unit Development) zoning to permit a 171-unit residential subdivision to be known as 'Gardens at Waterstone Phase III' on property legally described herein as Exhibit 'A', has been made by Waterstone Farms, LLC, and

WHEREAS, the request was duly considered by the Planning and Zoning Board of the City of Palm Bay on November 15, 2021, which voted to recommend to the City Council approval of the application, and

WHEREAS, all provisions applicable to the Planned Unit Development (PUD) under Chapter 185, Zoning, of the Palm Bay Code of Ordinances, have been satisfied by the applicant, and

WHEREAS, the City Council of the City of Palm Bay, after due deliberation and consideration, reviewed and considered the reports, documents, testimony, and other materials presented, and has determined that such development plan will neither be injurious to the neighborhood nor otherwise detrimental to the public welfare.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City Council of the City of Palm Bay hereby grants Final Development Plan approval for 'Gardens at Waterstone Phase III' on property zoned PUD (Planned Unit Development), which property is legally described herein as Exhibit 'A'.

SECTION 2. The Final Development Plan is granted subject to the staff comments contained in the Staff Report, incorporated herein as Exhibit 'B', being addressed upon submission of the administrative construction plans as follows:

- A. Fully engineered construction drawings;
- B. A Subdivision Plat meeting Chapter 177 of Florida State Statute requirements and a title opinion;
- C. The technical comments generated by the Development Review Staff, incorporated herein as Exhibit 'C', shall be observed and incorporated into the engineered construction drawings; and
- D. No roads shall be accepted by the City of Palm Bay for operation and maintenance until and unless the Developer requests acceptance through the process promulgated in Chapter 182 of the City of Palm Bay's Code of Ordinances. Upon commencement of said process, staff will determine if acceptance of any roads would provide a public benefit and that current City of Palm Bay construction standards are met.

SECTION 3. The property shall be developed in substantial conformance with the Final Development Plan, which is, by reference, incorporated herein as Exhibit 'D', except as may be modified by the conditions of approval. The applicant shall comply with all provisions of the Code of Ordinances of the City of Palm Bay and all other state and federal rules, regulations, and statutes.

SECTION 4. This ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2021- , held on , 2021; and
read in title only and duly enacted at Meeting 2021- , held on , 2021.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Applicant: Waterstone Farms, LLC
Case: FD-47-2021

cc: (date) Brevard County Recording
Applicant
Case File

DESCRIPTION: GARDENS OF WATERSTONE PHASE 3

A PARCEL OF LAND BEING A PORTION OF SECTION 5, TOWNSHIP 30 SOUTH, RANGE 37 EAST, ALL OF LOTS 5, 6 AND 7 AND A PORTION OF LOTS 4, 8, 9, 25, 26, 27, 28 AND 29 OF SAN SEBASTIAN FARMS, SECTION 5, TOWNSHIP 30 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 6, PAGE 77 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE RUN N89°52'37"E, ALONG THE NORTH LINE OF SAID SECTION 5, FOR A DISTANCE OF 1172.67 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 225.00 FEET AND A CHORD WHICH BEARS S44°49'10"E, FOR A DISTANCE OF 319.88 FEET; THENCE RUN SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°36'29" FOR A DISTANCE OF 355.81 FEET TO A POINT OF TANGENCY; THENCE RUN S00°29'04"W FOR A DISTANCE OF 886.48 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 325.00 FEET AND A CHORD WHICH BEARS S64°54'00"E, FOR A DISTANCE OF 10.36 FEET; THENCE RUN SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 1°49'36" FOR A DISTANCE OF 10.36 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN S26°00'48"W FOR A DISTANCE OF 175.00 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE SOUTHWEST, HAVING A RADIUS OF 150.00 FEET AND A CHORD WHICH BEARS S57°42'21"E, FOR A DISTANCE OF 32.82 FEET; THENCE RUN SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°33'43" FOR A DISTANCE OF 32.89 FEET TO A POINT OF TANGENCY; THENCE RUN S51°25'29"E FOR A DISTANCE OF 16.31 FEET; THENCE RUN S38°34'31"W FOR A DISTANCE OF 125.00 FEET; THENCE RUN S01°07'37"E FOR A DISTANCE OF 195.75 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE SOUTHWEST, HAVING A RADIUS OF 225.00 FEET AND A CHORD WHICH BEARS N72°27'52"W, FOR A DISTANCE OF 136.50 FEET; THENCE RUN NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°19'02" FOR A DISTANCE OF 138.69 FEET TO A POINT OF TANGENCY; THENCE RUN S89°52'37"W FOR A DISTANCE OF 700.03 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 461.27 FEET AND A CHORD WHICH BEARS N56°07'45"W, FOR A DISTANCE OF 515.79 FEET; THENCE RUN NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 67°59'16" FOR A DISTANCE OF 547.34 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN N13°40'29"W FOR A DISTANCE OF 171.45 FEET; THENCE N00°29'04"E A DISTANCE OF 1100.00 FEET TO THE POINT OF BEGINNING; CONTAINING 47.99 ACRES, MORE OR LESS.



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmbayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

FD-47-2021

PLANNING & ZONING BOARD HEARING DATE

November 15, 2021

PROPERTY OWNER & APPLICANT

Benjamin E. Jefferies - Waterstone Farms, LLC. Represented by Jake T. Wise P.E. of CEG, P. Michael Evans of PB&J Investments, and Rochelle Lawandales

PROPERTY LOCATION/ADDRESS

Part of Tract 1 of San Sebastian Farms, Section 5, Township 30, Range 37, Brevard County, Florida

SUMMARY OF REQUEST

Final Planned Unit Development approval for a 171-unit residential subdivision to be known as Gardens at Waterstone Phase 3 PUD.

Existing Zoning

PUD, Planned Unit Development

Existing Land Use

Single-Family Residential Use

Site Improvements

Vacant Unimproved Land (Former Orange Groves)

Site Acreage

47.99 acres

SURROUNDING ZONING & USE OF LAND

North

Melbourne-Tillman Drainage Canal No. 38

East

PUD; Gardens at Waterstone Phase 2; Undeveloped Land

South

PUD; Proposed Cypress Bay West Phase 3; Undeveloped Land

West

PUD; Rolling Meadow Lakes; Undeveloped Land (Brevard County)

COMPREHENSIVE PLAN COMPATIBILITY

The future land use designation of the subject property is Single-Family Residential Use. The development of a single-family planned unit development is compliant with the Single-Family Residential Use future land use designation. The proposed density is 3.56 units per acre, which is below the maximum density defined in the City's Comprehensive Plan for Single-Family Residential Use (up to 5 units per acre).

BACKGROUND:

The subject property is located in the vicinity west of Mara Loma Boulevard SE and south of Melbourne-Tillman Water Control District Canal No. 38. Specifically, a portion of Tract 1 of San Sebastian Farms Subdivision, Section 5, Township 30, Range 37, of Brevard County Florida. This Final PUD request includes approximately 47.99 acres of land.

In 2004 the subject property was annexed into the City via Ordinance 2004-35 as part of a larger property totaling 1,167 acres. The original Future Land Use amendment designated all of the lands as Single-Family Residential Use via Ordinance 2004-52, which stated that 1,800 units could be placed on the lands of Waterstone or Cypress Bay Preserve. Site-specific conditions were placed on the amendment via Ordinance 2004-48. Between 2005 and 2018, a series of 37 future land use map amendments were made bringing the total units entitled to 2,596.

The total encumbered remaining units (received Final Development Plan Approval) without this current application being counted are as follows: 1,866 units on the west side of Babcock Street and 362 units on the east side of Babcock Street.

ANALYSIS:

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

Specifically, this FDP proposes a 171-unit single-family development that will be constructed in one phase. Per the FDP, average lots within the residential development are 50' x 125'. The proposed minimum sized home is 1,350 square feet. There will be 1 access point off of the newly created Granger Circle, which connects to the newly extended Mara Loma Boulevard. All roads within the subdivision will be private. The Gardens at Waterstone Phase III will have passive recreation areas, and meandering walking trails connecting the subdivision to Mara Loma, and other future sections of the larger community, all under control of the Gardens at Waterstone Homeowners Association, Inc. The recreation areas will be used by all homes in the Gardens at Waterstone Phases 1, 2, and 3. There are 3 neighborhood parks within Gardens Phase 2, totaling 1.8 acres more or less. These will be primarily passive parks, used for multi-purpose playing fields, a dog park, and other outdoor activities. All the residents will have access to the Phase 1 pool and cabana.

Lastly, technical staff review comments are attached to this report.

CONDITIONS:

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

- Fully engineered construction drawings.
- A Subdivision Plat meeting Ch.177 of Florida State Statute requirements and a title opinion.
- The technical comments generated by the Development Review Staff (attached) shall be observed and incorporated into the engineered construction drawings.
- No roads shall be accepted by the City of Palm Bay for operation and maintenance until and unless the Developer requests acceptance through the process promulgated in Chapter 182 of the City of Palm Bay's Code of Ordinances. Upon commencement of said process, staff will determine if acceptance of any roads would provide a public benefit and that current City of Palm Bay construction standards are met.

STAFF RECOMMENDATION:

Case FD-47-2021 is recommended for approval, subject to the staff comments contained in this report.

TECHNICAL COMMENTS

CASE FD-47-2021 – GARDENS AT WATERSTONE PHASE 3 PUD

PUBILC WORKS (Mehul Parekh, PE, Public Works Director):

Engineering:

The intersection of Babcock Street at Mara Loma Boulevard will be constructed/installed by others at the time of build out Cypress Bay West Phase III.

Calculations shall be provided for review of intersections outside the scope of the 2017 traffic study that have been identified by staff as faili

LOS upon build out of Gardens at Waterstone Ph 1,2 and 3 and CB West 1 and 2 or before build out of these subdivisions.

Proportionate fair share calculations shall be provided for all intersection improvements as discussed above that are warranted prior to build out of CBWest 3. These calculations shall be approved by staff prior to Certificate of Completion issuance.

All stormwater management requirements shall be met in accordance with Ch. 373 F.S. and Ch 62-330 F.A.C. as required. Meeting the SWM Ordinance Ch 174.071 would presume State Code and Law and local agency rules are met.

D/W and Right of way utilities:

1. Drainage easement dedicated to the City of Palm Bay for emergency maintenance but not responsibility to maintain the system. The easement shall be provided to the point of discharge of project.
2. Verify off-site drainage condition at canal connection and update and upgrade for proposed use.

Survey:

1. All roads to be private. No dedication to the public.
2. Due to the site being part of a large Master Drainage Plan, Cross Development Drainage Agreements will need to be shown on the plat.
3. As stated in Surveyor's Note #11, City will be granted emergency access to Drainage Facilities, if necessary. Additionally, text to the effect that if repairs are done the HOA will be charged.
4. Surveyor's Note #1. Please separate the two statements. They are not related.
5. Please list the exception before the nominal situation. i.e. Unless otherwise noted, all lines are radial.

6. Surveyor's Note #2. Please list the exception before the nominal situation. "Unless otherwise noted, all PRM monuments..."
7. All PRMs, except those landing on impermeable surface are to be 4X4 monuments. Per F.S. Chapter 177. 177.031 (15) (a) "Consist of a metal rod having a minimum length of 18 inches and a minimum cross-section area of material of 0.2 square inches. In certain materials, encasement in concrete is optional for stability of the rod. When used, the concrete shall have a minimum cross-section area of 12.25 square inches and be a minimum of 24 inches long." The City is requiring the optional encasement due to the sandy and loose nature of the soil (sand).
8. Please use the legal names of the Mayor and City Clerk in the Certificate of Approval.
9. \$620 Check will be required prior to final plat review.
10. Further comments to follow at final plat review.

UTILITIES (Christopher Little, PE, Utilities Director):

1. The applicant/owner, at their expense, will be required to design, permit, install, inspect and test water & sewer systems of adequate size to accommodate the development and to connect to the City's water and sewer system [§ 200.11(d)(1) - On-site Facilities]. At this time the nearest point of connection to the mainline water distribution system is a 16" PVC pipe on the South side of Mara Loma Blvd. The nearest point of connection to the mainline wastewater collection system force main is a 8" PVC pipe on the North side of Mara Loma Blvd Intersection.
2. The applicant/owner will be responsible for the property's hydraulic share for the new utilities. Oversizing of utilities at the request of the Utilities Department will be subject to a refunding agreement or refundable advance [§ 200.11(D) &(E)]. The City of Palm Bay's 2017 Wastewater Master Plan & 2017 Water Master Plan, both of which are available upon request, identify proposed mainline extensions with the current piping size requirements.
3. The City's sanitary sewer system is currently at maximum capacity at this location. Sewer service will be readily available to the development once the following conditions are met.

(1) A sanitary force main extension must be completed from the point of connection to the CITY'S existing 16" force main, located on the east side of Cogan Drive near Paigo Street SE and Canal C-41R, to the Emerald Lakes West Development. The pipe size and alignment will be coordinated with the CITY. The installer of the force main extension is currently unknown. Oversizing obligations and reimbursements, if any, will be coordinated with the installer.

(2) The construction of the 1.0 MGD South Regional Water Reclamation Facility, located at the South Regional Utilities Campus and being constructed at the expense of the CITY, must be substantially complete and accepting raw sewage for treatment. It is anticipated that this date will occur during the 3rd quarter of 2022. Note that the timing for acceptance of raw sewage for treatment is subject to change due to extenuating

circumstances, including but not limited to contractor delays, availability of construction materials, other COVID-related delays, etc.

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

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

6. Prior to any construction, all required FDEP Permit applications for the Water and Sanitary Sewer Construction shall be processed through and copies of the Permits filed with the Utilities Department.

BUILDING-FIRE (Michael Bloom, CFPS, Fire Plans Examiner):

1. Subdivisions shall meet all requirements of the currently adopted Florida Fire Prevention Code (FFPC) 7th edition, Florida Administrative Code (FAC) Florida State Statute (FSS) and City of Palm Bay Ordinances (COPBO).

2. (FFPC 1:18.4.5.1.1) The minimum fire flow and flow duration requirements for one- and two-family dwellings having a fire flow area that does not exceed 5000 ft²(464.5 m²) shall be 1000 gpm (3785 L/min) for 1 hour.

3. (FFPC 1-18.4.5.2.1) Fire flow and flow duration for one- and two-family dwellings having a fire flow area in excess of 5000 ft² (334.5 m²) shall not be less than that specified in Table 18-4.5.1.2.

BUILDING-FLOODZONE (James Williams, CFM, Floodplain Coordinator):

Floodzone X, No FEMA CLOMR/LOMR application required.

GARDENS AT WATERSTONE PHASE III

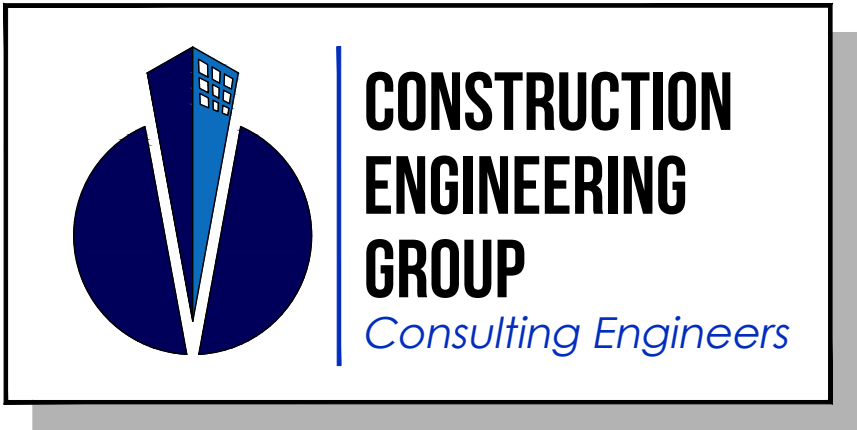
FINAL DEVELOPMENT PLAN

PALM BAY, FL

DATE:
SEPTEMBER 27, 2021
PREPARED FOR:
PB&J GARDENS INVESTMENT, LLC

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF SECTION 5, TOWNSHIP 30 SOUTH, RANGE 37 EAST, ALL OF LOTS 5, 6, 7 AND A PORTION OF LOTS 4, 8, 9, 25, 26, 27, 28, AND 29 OF SAN SEBASTIAN FARMS, SECTION 5, TOWNSHIP 30 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 6, PAGE 77 OF PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGIN AT THE NORTHWEST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 5; THENCE RUN N89°52'37"E, ALONG THE NORTH LINE OF SAID SECTION 5, FOR A DISTANCE OF 1,172.67 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 225.00 FEET AND A CHORD WHICH BEARS S44°49'10"E, FOR A DISTANCE OF 319.88 FEET; THENCE RUN SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°36'29" FOR A DISTANCE OF 355.81 FEET TO A POINT OF TANGENCY; THENCE RUN S0°29'04"W FOR A DISTANCE OF 886.48 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE CONCAVE SOUTHWEST, HAVING A RADIUS 325.00 FEET AND A CHORD WHICH BEARS S64°54'00"E, FOR A DISTANCE OF 10.36 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN S26°00'48"W FOR A DISTANCE OF 175.00 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN S26°00'48"W FOR A DISTANCE OF 175.00 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE SOUTHWEST, HAVING A RADIUS OF 150.00 FEET AND A CHORD WHICH BEARS S57°42'21"E, FOR A DISTANCE OF 32.82 FEET; THENCE RUN SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°33'43" FOR A DISTANCE OF 32.89 FEET TO A POINT OF TANGENCY; THENCE RUN S51°25'29"E FOR A DISTANCE OF 16.31 FEET; THENCE RUN S38°34'31"W FOR A DISTANCE OF 125.00 FEET; THENCE RUN S01°07'37"E FOR A DISTANCE OF 195.75 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE SOUTHWEST, HAVING A RADIUS OF 225.00 FEET AND A CHORD WHICH BEARS N72°27'52"W, FOR A DISTANCE OF 136.50 FEET; THENCE RUN NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°19'02" FOR A DISTANCE OF 138.69 FEET TO A POINT OF TANGENCY; THENCE RUN S89°52'37"W FOR A DISTANCE OF 700.03 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHEAST, HAVING A RADIUS OF 461.28 FEET AND A CHORD WHICH BEARS N56°07'45"W, FOR A DISTANCE OF 515.79 FEET; THENCE RUN NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 67°59'16" FOR A DISTANCE OF 547.34 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN N13°40'29"W FOR A DISTANCE OF 171.45 FEET; THENCE RUN N00°29'04"E A DISTANCE OF 1100.00 FEET TO THE POINT OF BEGINNING; CONTAINING 47.99 ACRES, MORE OR LESS.



LOCATION MAP
NTS

PROJECT DATA:

| | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| GENERAL STATEMENT: THE PROPOSED PROJECT CONSISTS OF INFRASTRUCTURE AND SITE IMPROVEMENTS TO ACCOMMODATE A 171 LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION INCLUDING RECREATION/OPEN SPACE, ROADWAYS, SIDEWALKS, LANDSCAPING, WATER, SEWER AND STORMWATER SYSTEMS. | | | |
| DEVELOPER: PB&J GARDENS INVESTMENT, LLC P. MICHAEL EVANS 1698 W. HIBISCUS BLVD. SUITE A MELBOURNE, FL 32901 TEL: (321) 953-3300 | | CIVIL ENGINEER: JAKE T. WISE, P.E. 2651 EAU GALLIE BLVD, SUITE A MELBOURNE, FLORIDA 32935 TEL: (321) 610-1760 E-MAIL: JWISE@CEGENGINEERING.COM | |
| SURVEYOR: AAL LAND SURVEYING SERVICES, INC. 3970 MINTON ROAD WEST MELBOURNE, FL 32904 TEL: (321) 768-8110 | | LOCATION: SECTION: 35 TOWNSHIP: 25 RANGE: 36E PARCEL ID: 30-37-05-HF-1 TAX ACCOUNT NUMBER: 3000217 | |
| SETBACKS | PROPOSED: | LOT COUNT: 50'x125' = 171 LOTS | |
| FRONT: | 25 FT | MAXIMUM BUILDING HEIGHT: 2 STORY: 25 FT MINIMUM WIDTHS: SIDEWALKS: 5 FT RIGHT-OF-WAY WIDTH: 50 FT | |
| SIDE: | 5 FT | | |
| REAR: | 20 FT | | |
| SIDE CORNER: | 15 FT | | |
| CALCULATED STORMWATER BASIN COVERAGE: | | | |
| IMPERVIOUS: | <u>SE</u> | <u>ACRE</u> | <u>PERCENT</u> |
| RESIDENTIAL (60%): | 714,475 | 16.40 | 34 |
| RIGHT-OF-WAY | 204,552 | 4.70 | 10 |
| RECREATIONAL AREA: | 98,117 | 2.25 | 5 |
| TOTAL IMPERVIOUS: | 1,017,144 | 23.35 | 49 |
| PERVIOUS: | 734,458 | 16.86 | 35 |
| POND: | 338,657 | 7.77 | 16 |
| TOTAL: | 2,276,560 | 47.99 | 100 |
| OPEN SPACE REQUIREMENTS: | | | |
| <u>OVERALL AREA (47.99 ACRES):</u> | | | |
| ON-SITE PONDS | | 9.00 AC | (75%) |
| OPEN SPACE: | | 1.70 AC | (9%) |
| RECREATION AREA: | | 2.81 AC | (14%) |
| PROVIDED: | | 13.51 AC | (100%) |
| REQUIRED (25% OF OVERALL AREAS): | | 12.00 AC | |

REVISION

DATE

REV#

2651 Eau Gallie Blvd, Suite A
Melbourne, FL 32935
www.cegenengineering.com
Tel: 321.253.1221
COA #008697

CONSTRUCTION
ENGINEERING
GROUP
Consulting Engineers

GARDENS AT WATERSTONE
PHASE III

PB & J GARDENS INVESTMENT, LLC
MARIA LOMA BOULEVARD, PALM BAY, FLORIDA
DRAWING TITLE

FINAL DEVELOPMENT PLAN

DATE

9/27/21

SCALE

NTS

PROJ. NO. :

210192

DESIGNED BY:

CCM

DRAWN BY:

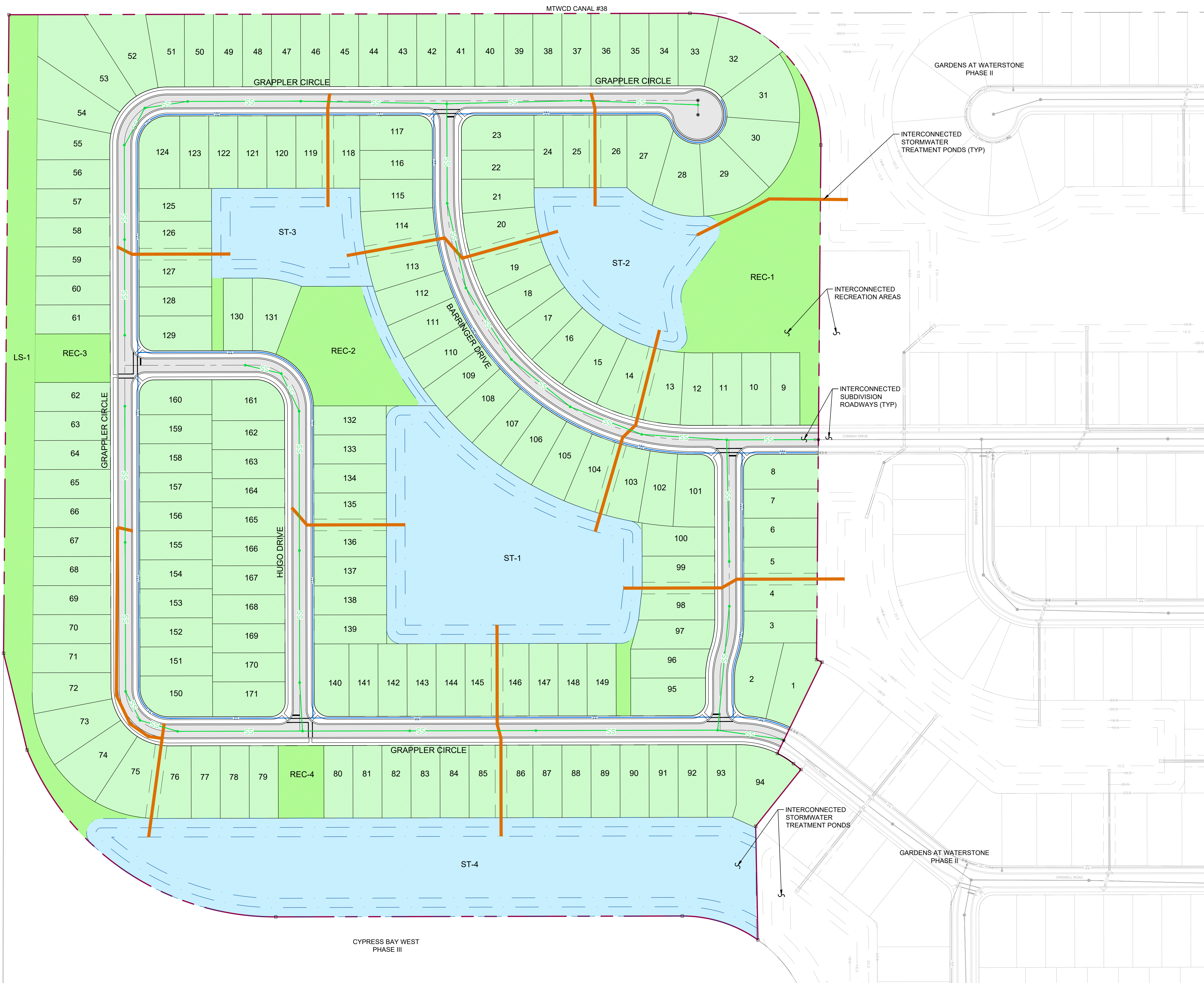
SMB

CHECKED BY:

JTW

DRAWING NO.

GW3-1

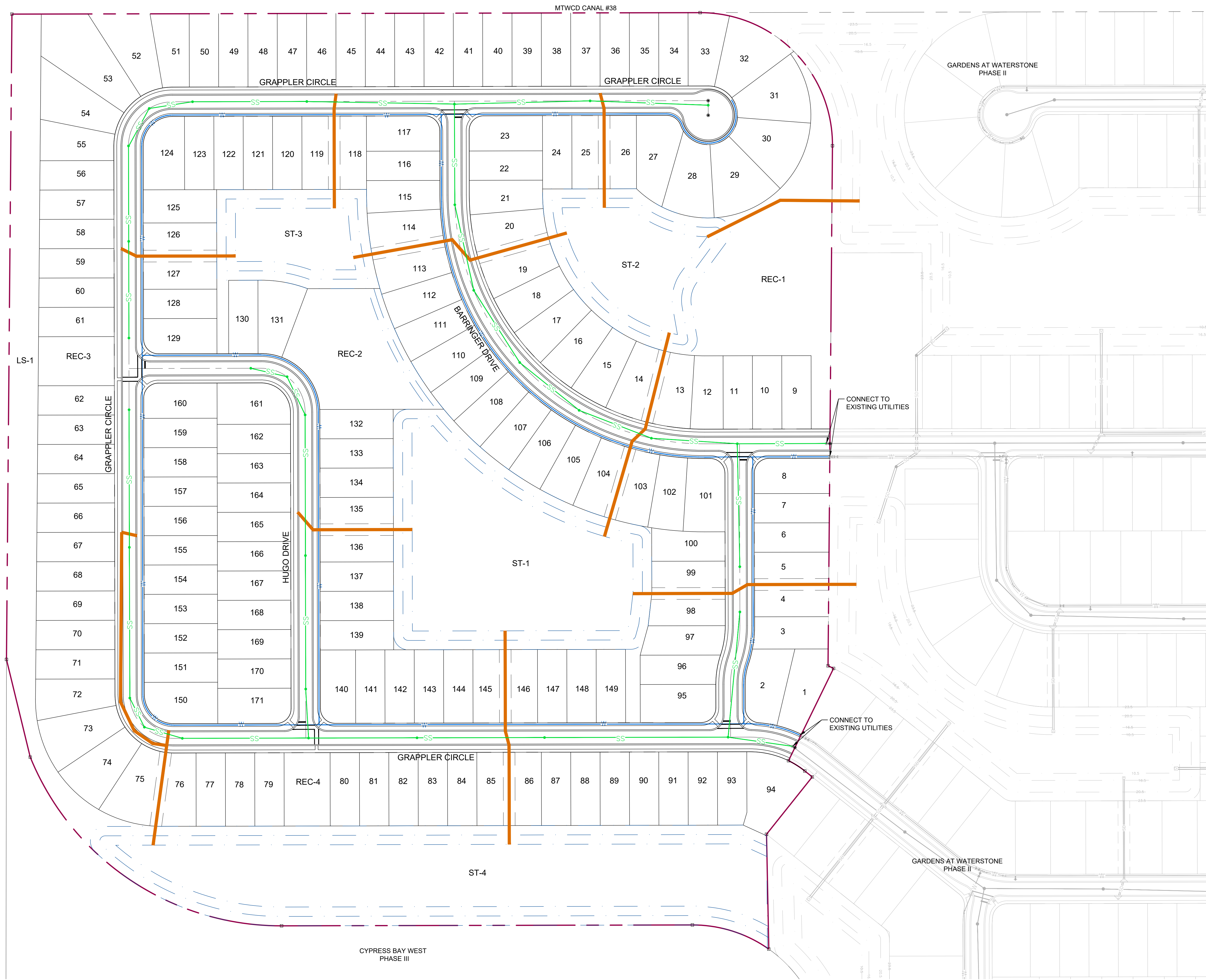


LEGEND:

| | |
|----------------------------------------|------------------|
| PROJECT BOUNDARY | --- |
| POND CONTOURS | - - - |
| STORM PIPE | — |
| WATER MAIN | —W— |
| SANITARY SEWER LINE | —SS— |
| RECREATION, LANDSCAPING AND OPEN SPACE | Light Green Fill |
| SINGLE FAMILY LOTS WITH LOT NUMBER | 93 |
| STORMWATER TREATMENT POND | Blue Fill |
| ROADWAY | Grey Fill |

FINAL DEVELOPMENT PLAN
1"=80'

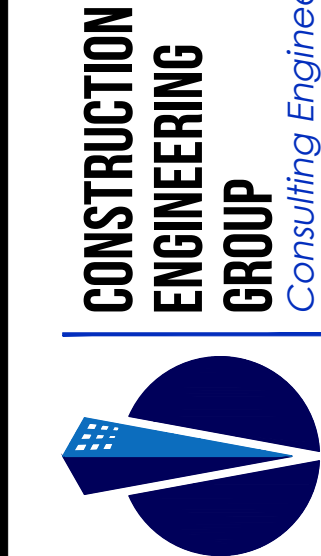
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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| REVISION | |
| REV# | DATE |
| | |
| 261 E. Gulf Blvd., Suite A Mableton, FL 32055 Tel: 321.253.1221 www.cegeengineering.com COA #008697 | |
| CONSTRUCTION ENGINEERING GROUP Consulting Engineers | |
| GARDENS AT WATERSTONE PHASE III PB & J GARDENS INVESTMENT, LLC MARIA LOMA BOULEVARD, PALM BAY, FLORIDA DRAWING TITLE FINAL DEVELOPMENT PLAN | |
| THESE DOCUMENTS ARE THE PROPERTY OF CONSTRUCTION ENGINEERING GROUP, LLC AND ARE TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFIC TO THESE DOCUMENTS. ANY REUSE, REPRODUCTION OR MODIFICATION OF THESE DOCUMENTS WITHOUT THE WRITTEN CONSENT OF CEG IS PROHIBITED BY LAW. | |
| DATE | 9/27/21 |
| SCALE | 1"=80' |
| PROJ. NO. : | 210192 |
| DESIGNED BY: | CCM |
| DRAWN BY: | SMB |
| CHECKED BY: | JTW |
| DRAWING NO. | GW3-2 |



LEGEND:

- PROJECT BOUNDARY
- POND CONTOURS
- STORM PIPE
- WATER MAIN
- SANITARY SEWER LINE

NOTE: LIFT STATION IN PREVIOUS PHASE.



261 E. Gulf Blvd., Suite A
Melbourne, FL 32935
www.cegroup.com
Tel: 321.253.1221
COA #000697

GARDENS AT WATERSTONE
PHASE III
PB & J GARDENS INVESTMENT, LLC
MARIA LOMA BOULEVARD, PALM BAY, FLORIDA
DRAWING TITLE
FINAL DEVELOPMENT UTILITY PLAN

CONSTRUCTION ENGINEERING GROUP, INC. STATEMENT OF PROFESSIONAL ENGINEERING DESIGN AND SEALING FOR THE PROJECT. THESE DOCUMENTS ARE THE PROPERTY OF CONSTRUCTION ENGINEERING GROUP, INC. AND ARE TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFIC TO THESE DOCUMENTS. ANY REUSE OR MODIFICATION OF THESE DOCUMENTS WITHOUT THE WRITTEN CONSENT OF CEG IS PROHIBITED BY LAW.

| | |
|--------------|---------|
| DATE | 9/27/21 |
| SCALE | 1"=80' |
| PROJ. NO. : | 210192 |
| DESIGNED BY: | CCM |
| DRAWN BY: | SMB |
| CHECKED BY: | JTW |
| DRAWING NO. | GW3-3 |

FINAL DEVELOPMENT UTILITY PLAN

1"=80'





LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Nancy A. Bunt, Community & Economic Development Director

DATE: 12/16/2021

RE: Ordinance 2021-80, amending the Code of Ordinances, Chapter 64, Business Improvement District, by repealing the Chapter in its entirety, final reading.

A public hearing is to be held on the above subject ordinance and the caption read for the second and final time at tonight's Council meeting.

On December 6, 2018, City Council approved Ordinance 2018-66 creating the Business Improvement District (BID), a special district meeting the requirements Chapter 189, F.S., providing for a legal description and boundaries of the District. The BID was created to provide for capital improvements, services, programs, opportunities, and initiatives that generate business development and redevelopment and that foster conditions conducive to job creation, business growth and expansion, and the creation of a vibrant economy within the District.

On March 21, 2019, City Council approved Ordinance 2019-20 amending the composition of the governing board. Due to difficulties appointing members to the board, City Council subsequently approved Ordinance 2019-50 on September 5, 2019 modifying the composition of the governing board again, removing City Council as members of the Board and reducing the number of board members from 11 to seven (7), requiring that members be stakeholders of the District as defined within the Ordinance.

On August 6, 2020, Council adopted Resolution 2020-34, appointing members to the governing board of the BID, which would be responsible for commissioning and implementing a Business Improvement Corridor Plan (Plan) as adopted by City Council. Per Chapter 64, Palm Bay Code of Ordinances, the Board was to transmit the Business Corridor Improvement Plan to the City Council for approval on or before January 1, 2020; however, due to challenges obtaining a full governing board and constraints surrounding funding required to prepare and implement the Plan, staff is seeking Council's consideration to dissolve the BID.

At the November 18, 2021 Regular Council Meeting, City Council authorized staff to bring forth an ordinance dissolve the City of Palm Bay's Business Improvement District (BID). As per Florida Statutes 189.072, the City Council can dissolve a special district by a majority vote plus one.

REQUESTING DEPARTMENT:

Community & Economic Development

FISCAL IMPACT:

The City is currently paying the annual fee to the Florida Department of Economic Opportunity's Special District Office of \$175. If the BID is dissolved, the City would not be required to remit this payment for 2022, which is currently budgeted in account 001-3410-559-5401.

RECOMMENDATION:

Motion to approve Ordinance 2021-80 dissolving the City of Palm Bay's Business Improvement District (BID).

ATTACHMENTS:

Description

Ordinance 2021-80

ORDINANCE 2021-80

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE V, LEGISLATIVE, CHAPTER 64, BUSINESS IMPROVEMENT DISTRICT, BY REPEALING THE CHAPTER IN ITS ENTIRETY; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR DELETION FROM THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title V, Legislative, Chapter 64, Business Improvement District, is hereby repealed in its entirety:

~~“GENERAL PROVISIONS~~

~~§ 64.01 FINDINGS.~~

It is hereby ascertained, determined and declared that:

(A) ~~The City desires to provide for capital improvements, services, programs, opportunities, and initiatives that generate business development and redevelopment and that foster conditions conducive to job creation, business growth and expansion, and the creation of a vibrant economy within a discrete geographic area of the City comprising the City of Palm Bay Business Improvement District. It is the intent of the City that such business development and redevelopment be accomplished pursuant to a Business Corridor Improvement Plan to be adopted and revised by the City.~~

(B) ~~The creation of a dependent special district meeting the requirements of Fla. Stat. Ch. 189 represents the best alternative for developing and implementing the Business Corridor Improvement Plan, as it would provide for a dedicated entity consisting of stakeholders including property owners, representatives from the business community, and interested citizens who possess unique knowledge and expertise as to the District and the requirements for the development, expansion, and revitalization of the area. This entity will be responsible for preparing and implementing the Business Corridor Improvement Plan, subject to approval and oversight by the City Council.~~

~~§ 64.02 DEFINITIONS.~~

~~As used in this chapter, the following words and terms have the following meanings, unless the context otherwise requires a different definition:~~

~~BOARD. The governing body of the City of Palm Bay Business Improvement District, the membership of which shall be as provided in § 64.12.~~

~~BUSINESS CORRIDOR IMPROVEMENT PLAN or PLAN. The Business Corridor Improvement Plan referred to in § 64.13, designed to provide for economic development and redevelopment, to create, provide, and retain jobs and business or industrial development and redevelopment opportunities or initiatives, and to provide for the creation of a vibrant downtown area within the boundaries of the Business Improvement District.~~

~~CITY. The City of Palm Bay, Florida.~~

~~CITY COUNCIL. The City Council of the City of Palm Bay.~~

~~CITY OF PALM BAY BUSINESS IMPROVEMENT DISTRICT or DISTRICT. The dependent special district created and described in §§ 64.10 et seq.~~

~~CODE. The City of Palm Bay Code of Ordinances.~~

~~MEMBER. A member of the Board, as provided pursuant to § 64.12.~~

~~CREATION OF CITY OF PALM BAY BUSINESS IMPROVEMENT DISTRICT~~

~~§ 64.10 CREATION AND PURPOSE OF THE CITY OF PALM BAY BUSINESS IMPROVEMENT DISTRICT.~~

~~There is hereby created a dependent special district, as defined in Fla. Stat. § 189.012(2), to be known and referred to as the "City of Palm Bay Business Improvement District." The purpose of the District is to develop, adopt, and modify, as needed, the Business Corridor Improvement Plan, which shall be submitted to the City Council for approval.~~

~~§ 64.11 DISTRICT BOUNDARIES.~~

~~The boundaries of the District shall be as described in Exhibit "A" of Ordinance 2018-66, passed December 20, 2018.~~

~~§ 64.12 GOVERNING BODY; MEETINGS; RECORDS.~~

~~(A) The Board shall be the governing body of the District. The Board shall be composed of seven (7) voting members appointed by the City Council. On~~

~~or before October 1, 2019, seven (7) appointed members shall be appointed by the City Council by subsequent resolution.~~

~~(B) — The term of office of each appointed member shall be four (4) years. There shall be no limitations on the ability of any appointed member to serve consecutive or multiple terms.~~

~~(C) — The composition of the appointed members shall be as follows:~~

~~(1) — One (1) appointed member shall represent an institution of higher education (college or university) located within the District.~~

~~(2) — One (1) appointed member shall represent a bank or financial institution located within the District.~~

~~(3) — One (1) appointed member shall represent a major employer located within the District.~~

~~(4) — Two (2) appointed members shall represent businesses located within the District. At least one such member shall represent a small business (fewer than fifty (50) employees) located within the District.~~

~~(5) — Two (2) at-large appointed members owning a commercial property or operating a business within the District.~~

~~(D) — At any meeting of the Board, the presence of four (4) members shall constitute a quorum. After a quorum has been established, a simple majority of the quorum may transact any official business of the District. Members attending a meeting telephonically, by video, or by any means other than being physically present shall not count toward the quorum.~~

~~(E) — Any vacancy occurring in any office of an appointed member shall be filled for the remainder of the unexpired term in the manner established in this section for regular appointments.~~

~~(F) — Any appointed member may be removed or suspended from office for the unexpired portion of the term of such appointed member in accordance with the process established in Chapter 61 of the Code.~~

~~(G) — Members shall receive no compensation. However, members shall be entitled to receive such reimbursement of per diem expenses in such amounts as are authorized by law provided those expenses are pre-authorized by the Board and reasonably incurred in the performance of duties as a member of the Board.~~

~~(H) — Members shall file all such financial disclosure forms required by law for persons serving on the governing body of a dependent special district.~~

~~(I) — Notice for and the conduct of the Board's meetings shall be pursuant to and in accordance with Fla. Stat. §189.015 and Ch. 286, and any other law or ordinance relating to open meetings that applies to meetings of the City Council.~~

~~(J) — Not later than ninety (90) days after the effective date of this chapter, and annually thereafter during January of each year, the Board shall hold an organizational meeting at which the Board shall elect a Chair, Vice Chair, and a Secretary-Treasurer, the duties and functions of which shall be fixed pursuant to bylaws adopted by the Board.~~

~~(K) — The Board shall keep the permanent records of the District, which shall include but not be limited to the recorded minutes of all meetings, resolutions, proceedings, certificates, and any and all written documentation of official actions of the District. The District records shall at reasonable times be open to inspection in the same manner as municipal records pursuant to Fla. Stat. Ch. 119. The District records shall be kept at the office or other regular place of business maintained by the Board in a designated location in the City.~~

~~(L) — All appointed members shall complete the same annual ethics training requirements as are required by law for elected municipal officers.~~

~~§ 64.13 BUSINESS CORRIDOR IMPROVEMENT PLAN.~~

~~(A) — The initial task of the District shall be the creation of a proposed Business Corridor Improvement Plan, a planning-level document designed to identify capital improvements, services, programs, opportunities and initiatives that generate development and redevelopment and that foster conditions conducive to job creation, business growth and expansion, and the creation of a vibrant downtown community within the boundaries of the District. At a minimum, the Business Corridor Improvement Plan shall provide for:~~

~~(1) — Goals and objectives for the District consistent with the purpose for which the District was created as provided herein, including a proposed timeline for achievement of same.~~

~~(2) — The identification of specific capital improvements, services, utilities, programs, initiatives, and activities within the District that will further the District's goals and objectives, as well as potential funding mechanisms for each.~~

~~(3) The identification of metrics and criteria to gauge the performance of the District over time.~~

~~(4) Such other matters or activities that may create, promote, expand, or improve economic development and redevelopment initiatives within the District.~~

~~(B) The District shall transmit the proposed Business Corridor Improvement Plan to the City Council for approval on or before January 1, 2020. The City Council may adopt the Plan as is, may recommend modifications to the Plan for further consideration by the Board, or may make any such amendments or modifications to the Plan without further action from the Board. The City Council shall have final approval authority over the Business Corridor Improvement Plan and any subsequent amendments thereto.~~

~~§ 64.14 POWERS OF THE DISTRICT.~~

~~All official acts of the District shall be by resolution or other action of the Board. The District, through the Board, shall have all express and implied powers for the government, management, and operation of the District in furtherance of the purposes for which the District was created, including but not limited to the following:~~

~~(A) Establish bylaws and rules of procedure regarding the operation of the Board and the conduct of Board meetings.~~

~~(B) Enter into interlocal agreements or join with any other general or special purpose local governments, public agencies, or authorities in the exercise of common powers.~~

~~(C) Sue and be sued in the name of the District and participate as a party in any civil, administrative, or other action.~~

~~(D) Hire and employ such attorneys, accountants, engineers, consultants, employees, firms, and/or corporations as shall be necessary, in the discretion of the Board, to carry out the purposes for which the District was created, subject to the availability of funding. The District, through the Board, may also utilize employees of the City of Palm Bay to carry out the purposes for which the District was created and the Board may authorize reimbursement of the City for same.~~

~~(E) Adopt a proposed budget each fiscal year for the operation of the District, and consistent with the approved Business Corridor Improvement Plan, to~~

~~satisfy statutory and contractual obligations of the District including covenants contractually provided in any outstanding bonds, revenue certificates, or other certificates of indebtedness. The proposed budget shall be subject to annual approval by the City Council. The City Council may adopt the proposed budget as is, may recommend modifications to the proposed budget for further consideration by the Board, or may make any such amendments or modifications to the proposed budget without further action from the Board.~~

~~(F) Recommend to the City Council the imposition of special assessments to fund capital improvements and/or services within the District that provide a special benefit to real property. All special assessments shall be levied by the City Council pursuant to the procedures set forth in Ch. 56 of the Code.~~

~~(G) Impose user fees, regulatory fees, and other charges for products and services made available by the District.~~

~~(H) Expend revenues from fees, special assessments, transfers from the general fund of the City, and such other funds as are made available to the District in accordance with an annual budget approved by the City Council, in furtherance of the purposes for which the District was created.~~

~~(I) Apply for and receive grants from federal and state agencies and other entities in furtherance of the purposes for which the District was created.~~

~~(J) Issue by resolution bonds, revenue certificates, and other certificates of indebtedness payable from special assessments and other revenue made available by the City and any tax increment trust fund created from a tax increment created by the City as contemplated in § 64.20, subject to approval by the City Council. The terms of any bonds, certificates or debt obligations including, but not limited to, the maturity, interest rate, and method of sale shall be set by resolution of the Board. Bonds, notes, or other obligations issued under this paragraph may be validated as provided in Fla. Stat. Ch. 75. The bonds, notes, and other obligations of the District, their transfer, and the income therefrom, including any profits made on the sale thereof, are at all times free from taxation of any kind by the state or by any political subdivision or other agency or instrumentality thereof. This power shall be exercised in such manner and subject to such limitations as are provided by law for the authorization of debt by an incorporated municipality.~~

~~(K) Lease, as lessor or lessee, to or from any person, corporation, association, or body, public or private, facilities or property of any nature to carry out the purposes for which the District was created.~~

~~(L) Recommend to the City Council financial incentives, as to matters for which the City has jurisdiction, for businesses seeking to locate, relocate, expand, or invest in the Business Improvement District, including impact fee credits or refunds, ad valorem or other tax exemptions and/or abatements, assessment reductions, conveyances of county real property, and such other innovative incentives as may be available.~~

~~(M) Acquire by purchase, gift, devise, or otherwise, and to dispose of, real or personal property or any estate therein.~~

~~(N) Enter in to such contracts as are necessary to fulfill the purposes for which the District was created.~~

~~(O) Market and advertise the advantages of the District in furtherance of the Business Corridor Improvement Plan.~~

~~(P) Exercise such other powers and functions as are reasonably necessary to effectuate the purpose for which the District was created and in furtherance of the Business Corridor Improvement Plan, subject to the limitations contained in this chapter.~~

MISCELLANEOUS

~~§ 64.20 TAX INCREMENT.~~

~~By subsequent resolution, the City Council may provide for the annual calculation of a tax increment within the District and for the transfer of funds calculated pursuant to such tax increment into a trust fund to be used for the purposes for which the District was created.~~

~~§ 64.21 REPORTING REQUIREMENTS.~~

~~The District shall adhere to all reporting requirements for dependent special districts, including those contained in Fla. Stat. Ch. 11, 189, and 218, and other applicable provisions of law.~~

~~§ 64.22 CONSISTENCY WITH THE COMPREHENSIVE PLAN.~~

~~The City Council hereby declares that the creation of the District is consistent with the City's approved comprehensive plan and elements thereof.~~

~~§ 64.23 SUNSET AND DISSOLUTION OF DISTRICT.~~

~~(A) — The District shall automatically sunset and dissolve, without further action by the City Council, twenty (20) years after the effective date of this chapter, at which time this chapter shall be deemed repealed and of no further force and effect.~~

~~(B) — Upon sunset of the District as provided in subsection (A) above or upon repeal of this chapter at an earlier date, all assets and revenues of the District, including any funds on deposit in any trust fund created by the City pursuant to a tax increment as contemplated on § 64.20, shall be distributed to the City."~~

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3. It is the intention of the City Council of the City of Palm Bay that the City of Palm Bay Code of Ordinances be revised to delete the language as specified above.

SECTION 4. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 5. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2021-XX, held on _____, 2021; and read in title only and duly enacted at Meeting 2021-XX, held on _____, 2021.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Strikethrough words shall be deleted; highlighted words that will be included will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Larry Wojciechowski, Finance Director

DATE: 12/16/2021

RE: Ordinance 2021-81, amending the Code of Ordinances, Chapter 35, Finance Department, by repealing the Chapter in its entirety, final reading.

A public hearing is to be held on the above subject ordinance and the caption read for the second and final time at tonight's Council meeting.

Repeal Finance Chapter 35

REQUESTING DEPARTMENT:

Finance

FISCAL IMPACT:

None

RECOMMENDATION:

Motion to approve repealing Finance Chapter 35

ATTACHMENTS:

Description

Ordinance 2021-81

ORDINANCE 2021-81

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE III, ADMINISTRATION, CHAPTER 35, FINANCE DEPARTMENT, BY REPEALING THE CHAPTER IN ITS ENTIRETY; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR DELETION FROM THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title III, Administration, Chapter 35, Finance Department, is hereby repealed in its entirety:

~~“CHAPTER 35: FINANCE DEPARTMENT~~

~~*Department of Finance*~~

~~§ 35.001 DIRECTOR OF FINANCE.~~

~~(A) — Appointment. There shall be a Department of Finance, the head of which shall be the Director of Finance, who shall be appointed by the City Manager.~~

~~(B) — Qualifications. The Director of Finance shall have knowledge of municipal accounting and taxation and have had experience in budgeting and financial control.~~

~~(C) — Salary. The Director of Finance shall receive an annual salary, the amount of which shall be fixed by the budget.~~

~~(D) — Surety bond. The Director of Finance shall provide a bond with such surety and in such amount as the Council may require and be paid for by the city.~~

~~(E) — Powers and duties. The Director of Finance shall have charge of the administration of the financial affairs of the city and to that end he shall have authority and shall be required to:~~

~~(1) — Compile the current expense estimates for the budget for the City Manager;~~

~~(2) — Compile the capital estimates for the budget for the City Manager;~~

~~(3) — Supervise and be responsible for and have authority of the disbursement of all monies and have control over all expenditures to insure that budget appropriations are not exceeded;~~

~~(4) — Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department, and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient;~~

~~(5) — Submit to the council through the City Manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city;~~

~~(6) — Prepare for the City Manager, as of the end of each fiscal year, a complete financial statement and report;~~

~~(7) — Supervise and be responsible for collection of municipal special assessments and the making of municipal special assessments;~~

~~(8) — To collect all license fees and other revenue of the city or for whose collection the city is responsible, and receive all money receivable by the city from the state or federal government, or from any court, or from any office, department or agency of the city;~~

~~(9) — Have custody of all public funds belonging to or under the control of the city, or any office, department, or agency of the city government, and deposit all funds coming into his hands in such depositories as may be designated by resolution of the Council, or, if no such resolution be adopted, by the City Manager, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the city and shall be accounted for and credited to the proper account;~~

~~(10) — Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safe keeping of all bonds and notes of the city and the receipt and delivery of city bonds for transfer, registration, or exchange;~~

~~(11) Approve all proposed expenditures; unless he shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made.~~

~~**§ 35.002 (RESERVED).**~~

~~**§ 35.003 (RESERVED).**~~

~~**§ 35.004 TRANSFERS OF APPROPRIATIONS.**~~

~~The City Manager or his/her designee may at any time transfer any unencumbered appropriation balance or portion thereof between any expenditure line items, within one division, or between divisions within one department in the same fund, providing that such transfer does not exceed the total appropriation for that department in that fund.~~

~~**§ 35.005 ACCOUNTING SUPERVISION AND CONTROL.**~~

~~The Director of Finance shall have power and shall be required to:~~

~~(A) Prescribe the forms of receipts, vouchers, bill, or claims to be used by all the offices, departments, and agencies of the city government;~~

~~(B) Examine and approve all contracts, orders, and other documents by which the city government incurs financial obligations, having previously ascertained that monies have been appropriated and allotted and will be available when the obligations shall become due and payable;~~

~~(C) Audit and approve before payment, all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the city government and with the advice of the Department of Law determine the regularity, legality, and correctness of such claims, demands, or charges;~~

~~(D) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department, or agency of the city government apart from or subsidiary to the accounts kept in his office.~~

~~**§ 35.006 WHEN CONTRACTS AND EXPENDITURES PROHIBITED.**~~

~~No officer, department, or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditures of money, for any purpose, in excess of the amounts appropriated for the general classification of expenditure pursuant to this subchapter. Any contract, verbal or written made in violation of this subchapter shall be null and void. Any officer or employee of the city who shall violate this section shall be guilty of a misdemeanor and upon conviction thereof, shall cease~~

~~to hold his office or employment. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.~~

~~§ 35.007 FEES TO BE PAID TO CITY GOVERNMENT.~~

~~All fees received by any officer or employee on behalf of the city government shall belong to the city and shall be paid daily to the Department of Finance.~~

~~§ 35.008 NO CONTRACT EXECUTED UNTIL BOND ORDINANCE EFFECTIVE.~~

~~No contract shall be executed for the acquisition of any property or the construction of any improvement or betterment to be financed by the issuance of bonds until the ordinance authorizing the issuance of such bonds shall have taken effect, and any contract executed before such day shall be unenforceable in any court of law.~~

~~§ 35.009 EMERGENCY APPROPRIATIONS; AUTHORIZED.~~

~~At any time in any budget year, the Council may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditure, for other than a regular or recurring requirement, to protect the public health, safety, or welfare. Such appropriation shall be by resolution adopted by the favorable vote of at least four fifths (4/5) of the members of the Council, and shall be made only upon recommendation of the City Manager. The total amount of all emergency appropriations made in any budget year shall not exceed three percent (3%) of the total operating appropriations made in the budget for that year.~~

~~§ 35.010 INVESTMENT OF MUNICIPAL FUNDS.~~

~~(A) — Guidelines and procedures related to investment of municipal funds.~~

~~(1) — When a sufficient amount of money has accumulated in the accounts or funds of the city or when the city has accumulated monies by reason of the sale of its own securities, which, in either case, in the judgment of the Finance Director warrant (consistent with the written investment policy approved by the City Council) purchase of investment securities, the Finance Director may then purchase investment securities at prevailing market rates on behalf of and in the name of the city, in an appropriate amount thereof, as set forth in the city's investment policy.~~

~~(2) — The Finance Director, consistent with the policy approved by the City Council, is hereby authorized to sell such obligations or securities~~

~~purchased pursuant to this section at the prevailing market price and to pay the proceeds of such sale into the property accounts or funds of the city.~~

~~(3) — (a) — The Finance Director shall develop and present to the City Council for approval an investment policy addressing, at a minimum, the issues of investment objectives, maturity, risk and diversification, and instruments used.~~

~~(b) — The Finance Director will also establish appropriate internal control and investment procedures addressing at a minimum master clearing account(s), separation of functions, delegation of authority, performance evaluation and operations review and reporting, both interim and annual. Such procedures shall be reviewed periodically by the City Manager.~~

~~(4) — All securities purchased by the city under this section shall be properly designated as an asset of the city and held in safekeeping by a third party custodial bank or other third party custodial institution, chartered by the United States Government of the State of Florida and no withdrawal of such securities, in whole or in part, shall be made from safekeeping except by the Finance Director as authorized herein.~~

~~(5) — All securities purchased or sold will be transferred only under the 'delivery versus payment' (DVP) method (or 'payment versus delivery' method) to insure that funds or securities are not released until all criteria relating to the specific transaction are met. Only after approval by the City Manager shall the Finance Director be authorized to deliver securities free of payment.~~

~~(6) — The Finance Director is authorized to accept, on the behalf of and in the name of the city, bank safekeeping receipts or confirmations from a third party custodian (which might be the trust department of the bank) in return for investment of temporarily idle funds as evidence of actual delivery of the obligations or securities. Safekeeping of non-negotiable Certificates of Deposit will be handled through detailed written procedures. Any such safekeeping receipt or confirmation shall fully describe the various obligation or security held. The actual obligations or securities, whether in book entry or physical form, on which safekeeping receipts or confirmations are issued may be held by any bank/depository chartered by the United States Government or the State of Florida.~~

~~(7) — The Finance Director shall develop and maintain lists of authorized institutions, issuers and dealers through whom investments can be purchased or sold. All securities purchased shall be only those securities of~~

~~authorized issuers of the various security types. Securities shall be purchased only from institutions which provide the services of securities dealer as 'primary securities dealers' as designated by the Federal Reserve Bank, and through 'secondary government securities dealers' with a business present in Florida. Certificates of Deposit shall be purchased only from financial institutions which qualify under Florida Public Depository Law.~~

~~(8) — The Finance Director shall insure that quarterly investment reports, which shall provide current information on the status of the investment portfolio, are prepared at least quarterly for review by the City Manager and provided to City Council.~~

~~(B) — (1) — This section shall constitute authorization for investment of surplus funds in investment vehicles in addition to those enumerated in Fla. Stat. § 218.415. However, all such investments shall be governed by the 'prudent person rule' which states:~~

~~Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be desired.~~

~~(2) — Permitted investments are as follows:~~

~~(a) — The State Board of Administration's Local Government Surplus Funds Trust Fund (SBA Pool);~~

~~(b) — United States Government securities;~~

~~(c) — United States Government agencies;~~

~~(d) — Federal instrumentalities;~~

~~(e) — Interest bearing time certificates of deposits and savings accounts;~~

~~(f) — Repurchase agreements;~~

~~(g) — Commercial paper issued from corporations organized in the United States and rated Prime 1 by Moody's and A-1 by Standard & Poor's or the equivalent by another nationally recognized rating agency;~~

~~(h) — Corporate notes issued from corporations organized in the United States and rated Aa by Moody's and AA by Standard & Poor's or the equivalent by another nationally recognized rating agency;~~

~~(i) Bankers' acceptances rated P-1 by Moody's Investors Services and A-1 by Standard & Poor's or the equivalent by another nationally recognized rating agency;~~

~~(j) State and/or local government taxable and/or tax-exempt debt;~~

~~(k) Registered investment companies (money market mutual funds) rated AAm or AAm-G or better by Standard & Poor's or the equivalent by another nationally recognized rating agency; and/or~~

~~(l) Intergovernmental Investment Pool.~~

~~(C) The city shall comply with all requirements of law, including, without limitation, Fla. Stat. Chapter 280, 'Florida Security for Public Deposits Act'.~~

~~(D) The current city investment policy is set forth in Resolution No. 2001-19, and may be modified by the City Council.~~

~~(E) In the event of any conflict between this section and Resolution No. 2001-19, this section shall govern.~~

~~(F) Bond issues. Nothing herein contained shall be interpreted or construed to abrogate any specific provision contained in any bond resolution or ordinance of the city related to the investment of bond proceeds available in specific funds or accounts.~~

~~(G) Supplemental effect. The provisions of this section are supplemental to any and all other laws and ordinances relating to the subject matter of this section.~~

~~(H) Liberal construction. Inasmuch as the provisions of this section are for the public welfare, this section shall be liberally construed to achieve its purposes and intent.~~

Budget

~~§ 35.020 DEFINITIONS.~~

~~For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~BUDGET YEAR. The fiscal year for which any particular budget is adopted and in which it is administered.~~

~~TRIM. Truth in Millage, as set out in Fla. Stat. § 200.065, and Compliance of, § 200.068.~~

~~§ 35.021 PROPOSED BUDGET.~~

~~The City Manager shall, no later than August 10th, submit a detailed proposed budget for the upcoming fiscal year to the City Council for consideration. The proposed budget shall contain, for comparative purposes, the current budget, current year estimated actuals, and prior fiscal years' actuals. The proposed budget shall be submitted to the Council and made available for public inspection upon receipt of said budget by Council. If for any reason, the City Manager cannot deliver the budget on August 10th, he or she shall notify the City Council and request an extension for a period of time not to exceed fifteen (15) days.~~

~~§ 35.022 BUDGET A PUBLIC RECORD.~~

~~The budget and Capital Improvements Program Plan shall be available for public inspection at City Hall. The City Manager shall cause sufficient copies of a summary of the proposed annual budget to be prepared for distribution to any interested person.~~

~~§ 35.023 PUBLIC HEARINGS.~~

~~All timetables, type of public notifications, number of public hearings, hearing dates, conduct and contents, advertisements, and such are set through TRIM and shall be strictly adhered to.~~

~~§ 35.024 (RESERVED).~~

~~§ 35.025 (RESERVED).~~

~~§ 35.026 ADOPTION.~~

~~(A) All timetables, advertisements, public notifications, and procedures relating to the adoption of the tentative budget and final budget are set through TRIM and shall be strictly adhered to.~~

~~(B) Vote required. The budget shall be adopted by the favorable votes of a simple majority of the members of the Council present at the public meeting.~~

~~(C) Date of final adoption. The budget shall be finally adopted not later than the 27th day of the last month of the fiscal year.~~

~~§ 35.027 EFFECTIVE DATE, CERTIFICATION.~~

~~Upon final adoption, the budget shall be in effect for the budget year. A copy of the budget, as finally adopted, shall be certified.~~

~~§ 35.028 BUDGET ESTABLISHES APPROPRIATIONS.~~

~~From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.~~

~~§ 35.029 PROPERTY TAX.~~

~~All timetables, limitations, public notifications, public hearings, advertisements, and such, as related to the setting and adoption of a tentative and final millage rate for the purpose of raising property taxes within the municipality are set through TRIM and shall be strictly adhered to.~~

~~§ 35.030 (RESERVED).~~

~~§ 35.031 (RESERVED)~~

~~§ 35.032 (RESERVED)~~

~~§ 35.033 (RESERVED).~~

~~§ 35.034 (RESERVED).~~

~~§ 35.035 TRANSFER OF FUNDS; BUDGET AMENDMENTS.~~

~~(A) The Council, by resolution, shall have the authority to transfer any unencumbered appropriation balance or portion thereof to any lawful purpose between departments within the same fund providing that such transfer does not exceed the total appropriation for that fund.~~

~~(B) The City Manager shall cause to be submitted to the City Council ordinances to amend the budget on a quarterly basis, as necessary, and the City Council shall have the authority to increase and decrease budget appropriations in any department, division, or fund, by appropriating previously unappropriated fund balances, recognizing new or additional revenues, or decreasing revenue estimates, or by transferring unencumbered appropriation balances between funds, to any lawful purpose, providing that such appropriation, decrease, or transfer of expenditures and revenues must be equal, and providing that such use does not conflict with any uses for which such revenue specifically accrued.~~

~~§ 35.036 LIMITATION OF APPROPRIATION.~~

~~At the close of each fiscal year the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriation. However, funds previously approved by the City Council and appropriated for Capital Improvements Projects, whether or not encumbered, shall continue to be considered a reappropriation in the ensuing fiscal year only for the original purpose, or as amended by the City Council, for~~

~~which such appropriation was approved and until such time as the project is completed. At the close of each fiscal year, the balance of each appropriation encumbered by a legal obligation, such as a formal contract or purchase order, shall be carried over, along with equal fund balances to cover payment, and considered an automatic reappropriation into the ensuing budget year. No monies shall be drawn from the treasury of the city nor shall any obligation for the expenditure of money be incurred, except pursuant to appropriation heretofore described.~~

Ad Valorem Tax

~~§ 35.050 AD VALOREM TAX.~~

~~(A) Collection. The assessed valuation of all property located within the city, and the collection of all taxes on all property shall be done by the County Tax Assessor and the County Tax Collector in the manner provided by the general laws of the state.~~

~~(B) Exclusions. The levy made is subject to all exclusions and exemptions provided by law.~~

Utilities Purchase Tax

~~§ 35.060 DEFINITIONS.~~

~~For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~FUEL OIL. Include fuel oil grade numbers 1, 2, 3, 4, 5, and 6, kerosene and coal oil. "Fuel oil" is declared to be a competitive utility service.~~

~~WATER SERVICES. Those quantity charges plus those flat rate/meter charges related to the monthly distractions of metered rates.~~

~~TELECOMMUNICATION SERVICES. Those services included in Fla. Stat. Ch. 203.~~

~~§ 35.061 LEVY; PAYMENT BY PURCHASERS.~~

~~(A) (1) There is levied by the city on each and every purchase of fuel oil, electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), water and telegraph service within the city, a tax of ten percent (10%), which tax in every case shall be paid by the purchaser to the seller of such goods and services upon which tax is levied at the time of paying the charge therefor.~~

~~(2) — The taxes imposed by this division (A) shall not be applied against any fuel adjustment charge.~~

~~(3) — (a) — There shall also be a tax of seven percent (7%) on each and every purchase of telecommunication service, as defined in Fla. Stat. Ch. 203, that originates and terminates in this state. This telecommunications tax shall be on the total charge for such service excluding public telephone charges collected on site, access charges and any customer access line charges paid to a local telephone company. Purchases of telecommunications services as defined in Fla. Stat. Ch. 203, shall be taxed only on the monthly recurring customer service charges, excluding variable usage charges. If the communication originates or terminates within the city and is billed to a purchaser or telecommunication number or device within the city, it will be considered as a purchase within the city.~~

~~(b) — For the purpose of compensating the seller of telecommunication services, the seller shall be allowed one percent (1%) of the amount of tax collected in the form of a deduction from the amount collected.~~

~~(B) — There is levied by the city on each and every purchase of fuel oil within the city, a tax of four cents (\$.04) per gallon, which tax, in every case shall be paid by the purchaser for the use of the city to the seller of such goods and services upon which a tax is levied at the time of paying the charge therefor. If the city levies less than a ten percent (10%) tax on the services and utilities in division (A) above, the tax on fuel oil shall bear the same proportion to four cents (\$.04) that the tax rate levied in division (A) above bears to ten percent (10%).~~

~~§ 35.062 DUTIES OF SELLER; PAYMENT TO CITY; FAILURE TO COLLECT TAX.~~

~~(A) — It shall be the duty of every seller of electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), fuel oil, water, telegraph services and telecommunication services to collect from the purchaser, for the use of the city, the tax levied at the time of collecting the selling price charged for each transaction and to report and pay over on or before the 15th day of each calendar month unto the Finance Director of the city all such taxes levied and collected during the preceding calendar month. It shall be unlawful for any seller to collect the price of purchase of electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), fuel oil, water, telegraph services and telecommunication services without, at the same time, collecting the tax levied in respect to such purchase or purchases unless such seller shall elect to assume and pay such tax without collecting such tax from the purchaser.~~

~~(B) — Any seller failing to collect such tax at the time of collecting the price of any purchase where the seller has not elected to assume and pay such tax shall be liable to the city for the amount of such tax in like manner as if the same has been actually paid to the seller, and the city take any action in the name of the city as it deems necessary for the recovery of the tax; provided, however, that the seller shall not be liable for the payment of such tax upon uncollected charges. Should the seller elect to pay such taxes to the city on the basis of bills rendered to purchasers or consumers in advance of collecting them from the purchaser or consumer, then in that event, the seller shall report and pay over to the City Finance Director on the 25th day of each calendar month all such taxes billed to the purchasers and consumers during the preceding calendar month.~~

~~§ 35.063 RECORDS; INSPECTION BY CITY.~~

~~Each and every seller of electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), fuel oil, water, telegraph services and telecommunication services shall keep complete records showing all such purchases within the city, which records shall show the price charged upon such purchase, the date thereof and the date of payment thereof. The records required to be maintained under this subchapter shall be kept for inspection by the duly authorized agent of the city during business hours on all business days, and such duly authorized agents of the city shall have the right, power and authority to make such transcripts thereof during such times as they may desire.~~

~~§ 35.064 CHARGES TO WHICH TAX APPLIES.~~

~~(A) — The tax levied on purchases of all telecommunication services shall apply to all charges made for such services.~~

~~(B) — Each metered or measured service of electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), water and fuel oil shall constitute a separate purchase.~~

~~§ 35.065 TAX COMPUTED MONTHLY; EACH METER SEPARATE ACCOUNT.~~

~~In all cases where services are supplied to a customer, the seller of electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), fuel oil, water, telecommunication services and telegraph services, shall compute the tax levied on the aggregate amount of sales made to the customer during each and every one (1) month period. Where services are provided to one (1) person or corporation at two (2) or more locations or through two (2) or more meters, each location or meter shall be deemed to be a separate account for the purpose of computing the tax herein levied.~~

~~§ 35.066 DISPOSITION OF TAX; UTILITIES TAX FUND.~~

~~Any and all money derived from the tax imposed shall first be deposited in a fund to be known as the “utilities tax fund,” to be used as required for the payment of any obligations of the city payable therefrom and then, to the extent not so required, shall be applied as required by the current city budget.~~

~~§ 35.067 EXEMPTIONS.~~

~~There is exempted from the tax levied and imposed by this subchapter:~~

~~(A) Purchases by the state and all “political subdivisions” thereof, as defined in Fla. Stat. § 1.01(8), and the United States of America, and any agencies, boards, commissions and authorities thereof.~~

~~(B) Purchases by any recognized church in this state for use exclusively for church purposes.~~

~~(C) Purchases of special fuels as provided in Fla. Stat. Ch. 206.~~

~~(D) Purchases of fuel oil by any public or private utility, either for resale or for use as fuel in the generation of electricity, including municipal corporations and rural electric cooperative associations, if they are deemed “dealers” or “political subdivisions” pursuant to general law.~~

~~§ 35.068 VIOLATIONS.~~

~~Any purchaser willfully violating or refusing to pay the tax imposed in this subchapter where the seller has not elected to assume and pay such tax, and any seller willfully violating the provisions hereof, or any officer, agent or employee of any seller willfully violating the provisions hereof, shall upon conviction thereof, be guilty of a misdemeanor of the second degree, punishable as provided in Fla. Stat. Ch. 775.~~

Local Communications Services Tax

~~§ 35.110 INTENT.~~

~~(A) It is the intent of the city to increase its local communications services tax rate as provided in Section 13, Enrolled CS/CS/SB 1878, by the 2001 Florida Legislature. Section 13, Enrolled CS/CS/SB 1878, provides that notwithstanding any provision of Fla. Stat. Chapter 202, to the contrary, any municipality that has a local communications services tax conversion rate established under Fla. Stat. § 202.20, which is less than the maximum rate established under Fla. Stat. § 202.19, may by ordinance increase its rate up to the maximum rate established~~

~~under Fla. Stat. § 202.19, with such increased rate to be effective October 1, 2001. For the period beginning on October 1, 2001, and ending September 30, 2002, the maximum rate established under Fla. Stat. § 202.19, is deemed to be the sum of such maximum rate plus the difference between the conversion rates set forth in Fla. Stat. § 202.20(1)(a) and (b). The municipality must notify the Department of Revenue of such increased rate by certified mail postmarked on or before July 16, 2001.~~

~~(B) — It is the further intent of the city to increase its local communications services tax rate effective October 1, 2002, as provided in Fla. Stat. § 202.19(2)(a), to the maximum tax rate of up to five and one-tenths percent (5.1%) for municipalities that choose not to levy permit fees.~~

~~§ 35.111 ELECTION NOT TO REQUIRE AND COLLECT PERMIT FEES.~~

~~The city elects not to require and collect permit fees from any provider of communications services that uses or occupies municipal roads or rights-of-way for the provision of communications services. As provided in Fla. Stat. § 337.401(3)(c), 1 (2000), this election shall take effect October 1, 2001.~~

~~§ 35.112 ELECTION TO INCREASE LOCAL COMMUNICATIONS SERVICES TAX.~~

~~(A) — The local communications services tax conversion rate established under Fla. Stat. § 202.20(1)(a), for the city is five and four tenths percent (5.4%) which is less than the maximum rate of five and five tenths percent (5.5%) as determined under the provisions of Section 13, Enrolled CS/CS/SB 1878. The local communications services tax rate for the city is increased to five and five tenths percent (5.5%) during the period beginning on October 1, 2001, and ending September 30, 2002. As provided in Section 13, Enrolled CS/CS/SB 1878, this increased rate is to be effective October 1, 2001.~~

~~(B) — The local communications services tax conversion rate established under Fla. Stat. § 202.20(1)(b), for the city is five percent (5.0%) which is less than the maximum rate of five and one tenths percent (5.1%) as established in Fla. Stat. § 202.19(2)(a). The local communications services tax rate for the city is increased to five and one tenths percent (5.1%). This increased rate is to be effective October 1, 2002.~~

~~§ 35.113 NOTICE TO THE DEPARTMENT OF REVENUE.~~

~~The city directs that notice of the increased local communications services tax rate be provided to the Department of Revenue by certified mail postmarked on or before July 16, 2001, as provided in Section 13, Enrolled CS/CS/SB 1878.~~

~~§ 35.114 PROCEDURE FOR RATE ADJUSTMENT.~~

~~If, for the periods ending December 31, 2001, March 31, 2002, June 30, 2002, or September 30, 2002, the revenues received by the city from the local communications services tax adopted herein are less than the revenues received from the replaced revenue sources, adjusted for growth, the city may, by resolution, adjust the rate of the local communications services tax upward to the extent necessary to generate the entire shortfall in revenues within one (1) year after the rate adjustment and by an amount necessary to generate the expected amount of revenue on an ongoing basis."~~

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3. It is the intention of the City Council of the City of Palm Bay that the City of Palm Bay Code of Ordinances be revised to delete the language as specified above.

SECTION 4. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 5. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2021- , held on , 2021; and read in
title only and duly enacted at Meeting 2021- , held on , 2021.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

~~Strikethrough~~ words shall be deleted; highlighted words that will be included will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Larry Wojciechowski, Finance Director

DATE: 12/16/2021

RE: Ordinance 2021-82, amending the Code of Ordinances by creating Chapter 35, to be titled 'Finance Department', final reading.

A public hearing is to be held on the above subject ordinance and the caption read for the second and final time at tonight's Council meeting.

The Finance Department is requesting an amendment to Chapter 35 'Finance Department' of the City of Palm Bay Code of Ordinances to abbreviate the responsibilities of the department overseeing the administrative and financial affairs of the City to include Budget, Accounting and Revenue. A separate agenda item is also presented to eliminate the original Chapter 35 and replace with this amendment.

REQUESTING DEPARTMENT:

Finance

FISCAL IMPACT:

None

RECOMMENDATION:

Motion to approve the Ordinance.

ATTACHMENTS:

Description

Ordinance 2021-82

ORDINANCE 2021-82

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE III, ADMINISTRATION, BY CREATING CHAPTER 35, TO BE TITLED 'FINANCE DEPARTMENT; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title III, Administration, is hereby amended by recreating a new Chapter 35, to be titled 'Finance Department', which shall read as follows:

"CHAPTER 35: FINANCE DEPARTMENT

Section 35.01 AUTHORITY

The provisions of this ordinance are based upon the authority granted to the City Council of the City of Palm Bay, Florida (the City), by the Florida Constitution, Florida Statutes, and the Charter of the City of Palm Bay, Florida.

Section 35.02 COMPOSITION

The Finance department shall consist of the Department Head who is the Finance Director and such employees as shall be necessary and provided for in the budget.

Section 35.03 DUTIES AND RESPONSIBILITIES

The Finance Department shall have the powers and responsibilities to:

- A. Compile the current expense estimates for the budget for the City Manager;
- B. Compile the capital estimates for the budget for the City Manager;
- C. Supervise and be responsible for the disbursement of all monies;
- D. Maintain a general accounting system for the City Government and each of its offices, departments and agencies; be in charge of all

books for each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amount paid therefrom, the unpaid obligations against it and the unencumbered balance;

E. Submit to the City Council through the City Manager a monthly statement of all receipts and disbursements in sufficient detail showing the financial condition of the city;

F. Prepare for the City Manager, as of the end of each fiscal year, a complete financial statement and report;

G. Other than monies collected by the tax collector, collect all other revenues of the city or for whose collection the city is responsible, and receive all monies receivable by the city from the state or federal government, or from any court, or from any office, department or agency of the city;

H. Have custody of all public funds belonging to or under the control of the city, or any office, department, or agency of the city government, and deposit all funds coming into such depositories, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the city and shall be accounted for and credited to the proper accounts;

I. Have custody of all investments and invested funds of the City Government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and revenue certificates for transfer, registration or exchange;

J. Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that monies have been appropriated and allotted and will be available when the obligations shall become due and payable;

K. Approve as within the budget all proposed expenditures; unless he shall certify that there is unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made;

L. Examine all invoices, payrolls and other evidences of obligations due by the city before their payment;

M. Require reports of receipts and disbursements from each receiving and spending agency of the city government to be made at such intervals as may deem expedient;

N. Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the City Government;

O. Maintain an accurate and complete inventory of all personal property owned by the city and to promulgate rules and regulations for the control and protection of such city property;

P. Perform such other duties and responsibilities as assigned by the City Manager or by ordinance.”

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3. It is the intention of the City Council of the City of Palm Bay that the provisions of this Ordinance shall be made a part of the City of Palm Bay Code of ordinances and the sections may be renumbered to accomplish such intention.

SECTION 4. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 5. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2021- , held on , 2021; and read in title only and duly enacted at Meeting 2021- , held on , 2021.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Mehul Parekh, Public Works Director; Christopher Littles, P.E.

DATE: 12/16/2021

RE: Ordinance 2021-83, vacating a portion of the road right-of-way known as Mercury Avenue SE located within Port Malabar Unit 40 (0.722 acres) (Case VRW-3-2021, Mercury Avenue LLC and Mercury Avenue Too LLC), first reading. (Quasi-Judicial Proceeding)

Vacation of Street/Right of Way is requested to vacate all of Mercury Avenue SE Right-of-Way lying South of the South Right-of-Way of Lockheed Street SE extended Easterly, as recorded in Port Malabar Unit Forty, in Plat Book 21, Pages 29- 33, of the Public Records of Brevard County, Florida.

Staff recommends the approval of this request with the following conditions of the Palm Bay Utilities and Public Works departments.

The Palm Bay Utilities Department will not object to this request upon the following conditions:

1. The Utility Agreement(s) must be modified for the properties immediately adjacent to the right of way to be vacated. Note that the Utilities Department will make all document adjustments and submit to the applicant/owner for review, approval, and payment (if necessary).
2. Any design, permitting and/or construction required to modify the water/sewer utilities will be performed at the full expense of the applicant.
3. All water meters within the vacated portion must be replaced with a master meter that will be located at the City's right-of-way. The Applicant will be required to accept ownership of all water main located on private property. Plans must be submitted to the City for review and approval.
4. The Applicant will be required to accept ownership of all gravity sewer located on private property. The Utilities Department must be granted ingress/egress access to this gravity sewer for inspection purposes and to ensure compliance with Title XX of the Code of Ordinances.

Public Works Department will not object to this request upon the following conditions:

1. Utility easement for existing utilities within the vacated areas.
2. Any storage lost from filling Mercury Avenue R/W drainage shall be considered and incorporated in the site plan drainage calculations
3. Pre post conditions; historical drainage to this right-of-way shall not be blocked
4. Appropriate signage on the north end for City road new T- intersection and right of way.

5. Vacating and easements contingent on Site plan approval and permitting.

Additionally, AT&T has facilities within the right-of-way and will agree to the vacate if a utility easement encompassing AT&T facilities is documented with Brevard County by the requestor of the vacate prior to, or in conjunction with, the vacate, so that AT&T facilities can remain in place without interruption. The Public Works Department supports this condition.

REQUESTING DEPARTMENT:

Utilities, Public Works

FISCAL IMPACT:

None

RECOMMENDATION:

Motion to authorize the vacation of certain right-of-way with the following conditions of the Palm Bay Utilities Department and Public Works Department.

ATTACHMENTS:

Description

LEGISLATIVE MEMORANDUM - VRW-3-2021

Ordinance 2021-83

Ordinance 2021-83, Exhibit A

PUBLIC WORKS DEPARTMENT STAFF REPORT

REQUEST TO VACATE EASEMENT

PROPOSAL: Vacation of Street/Right of Way is requested to vacate all of Mercury Avenue SE Right-of-Way lying South of the South Right-of-Way of Lockheed Street SE extended Easterly, as recorded in Port Malabar Unit Forty, in Plat Book 21, Pages 29- 33, of the Public Records of Brevard County, Florida.

LOCATION: Parcel ID's: 29-37-03-26-1987-7; 29-37-03-26-1987-8; 29-37-03-26-1987-9; 29-37-03-26-1987-10; 29-37-03-26-1987-11; and 29-37-03-26-1987-12.

APPLICANT: Mercury Ave. LLC and Mercury Ave. Too LLC (Steven Bresnick).

SITE DATA

PRESENT ZONING: RM-20, Multiple-Family Residential zoning district

AREA OF VACATING: 0.722 Acres +/-

**ADJACENT ZONING
& LAND USE:** N RM-20, Multiple-Family Residential zoning district
E RM-20, Multiple-Family Residential zoning district
S RM-20, Multiple-Family Residential zoning district
W RM-20, Multiple-Family Residential zoning district

STAFF ANALYSIS:

The purpose of requesting vacating of the road right of way is to allow the owner of the property to build a proposed multi-family residential complex. It is unlikely that a third-party user remains for this road and/or right-of-way.

Vacating of the road right-of-way will not necessitate changes to any traffic circulation system for the development along Mercury Ave. or Lockheed St.

The Palm Bay Utilities Department will not object to this request upon the following conditions:

1. The Utility Agreement(s) must be modified for the properties immediately adjacent to the right of way to be vacated. Note that the Utilities Department will make all document adjustments and submit to the applicant/owner for review, approval, and payment (if necessary).
2. Any design, permitting and/or construction required to modify the water/sewer utilities will be performed at the full expense of the applicant.
3. All water meters within the vacated portion must be replaced with a master meter that will be located at the City's right-of-way. The Applicant will be required to accept ownership of all water main located on private property. Plans must be submitted to the City for review and approval.
4. The Applicant will be required to accept ownership of all gravity sewer located on private property. The Utilities Department must be granted ingress/egress access to this gravity sewer for inspection purposes and to ensure compliance with Title XX of the Code of Ordinances.

Public Works Department will not object to this request upon the following conditions:

1. Utility easement for existing utilities within the vacated areas.
2. Any storage lost from filling Mercury Avenue R/W drainage shall be considered and incorporated in the site plan drainage calculations
3. Pre post conditions; historical drainage to this right-of-way shall not be blocked
4. Appropriate signage on the north end for City road new T- intersection and right of way.
5. Vacating and easements contingent on Site plan approval and permitting.

Spectrum, and Florida Power & Light have no objections to the request.

AT&T has facilities within the right-of-way and will agree to the vacate if a utility easement encompassing AT&T facilities is documented with Brevard County by the requestor of the vacate prior to or in conjunction with the vacate so AT&T facilities can remain in place without interruption.

STAFF RECOMMENDATION:

Staff recommends approval of the request with the following conditions:

The Palm Bay Utilities Department will not object to this request upon the following conditions:

1. The Utility Agreement(s) must be modified for the properties immediately adjacent to the right of way to be vacated. Note that the Utilities Department will make all document adjustments and submit to the applicant/owner for review, approval, and payment (if necessary).
2. Any design, permitting and/or construction required to modify the water/sewer utilities will be performed at the full expense of the applicant.
3. All water meters within the vacated portion must be replaced with a master meter that will be located at the City's right-of-way. The Applicant will be required to accept ownership of all water main located on private property. Plans must be submitted to the City for review and approval.
4. The Applicant will be required to accept ownership of all gravity sewer located on private property. The Utilities Department must be granted ingress/egress access to this gravity sewer for inspection purposes and to ensure compliance with Title XX of the Code of Ordinances.

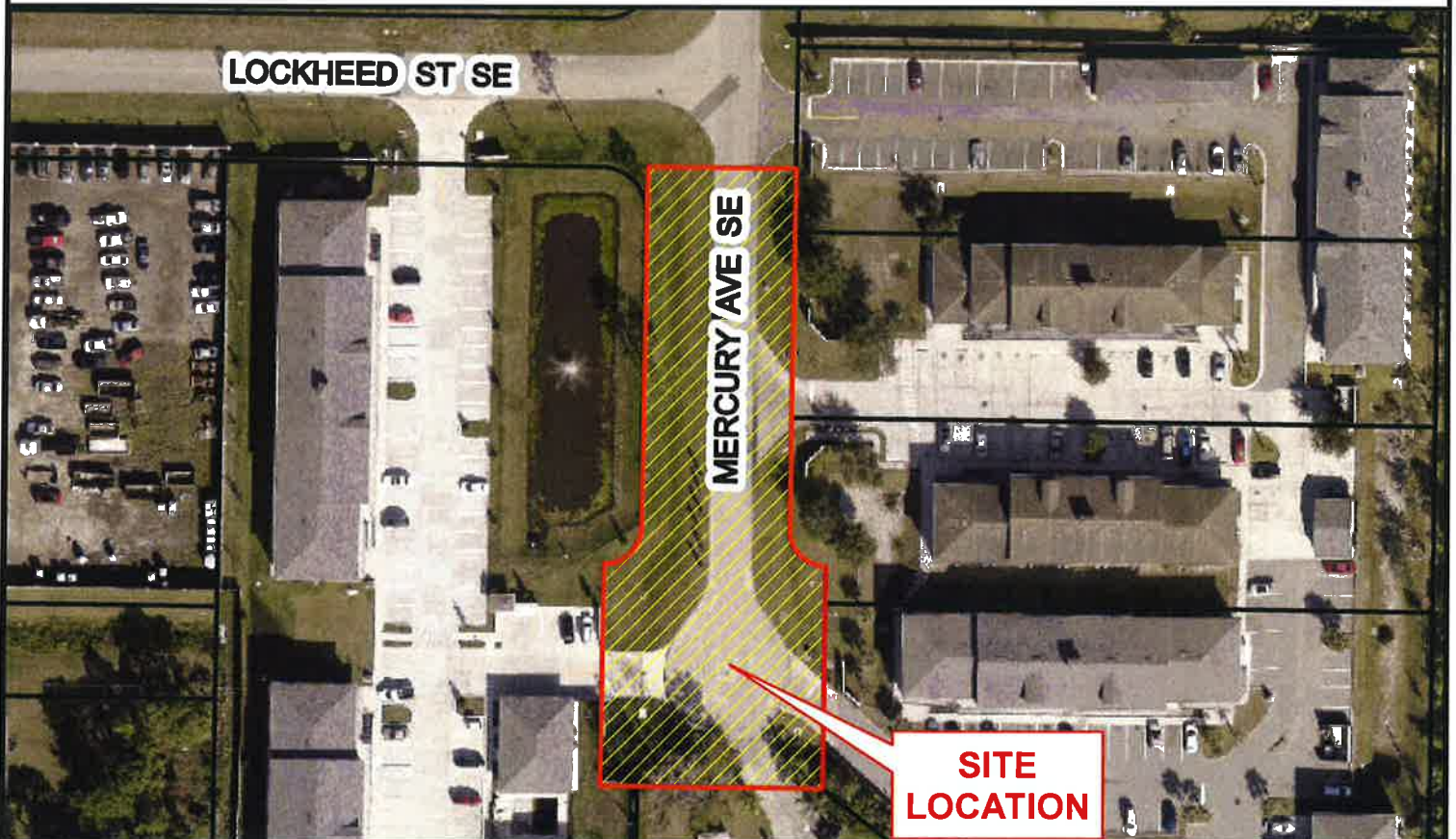
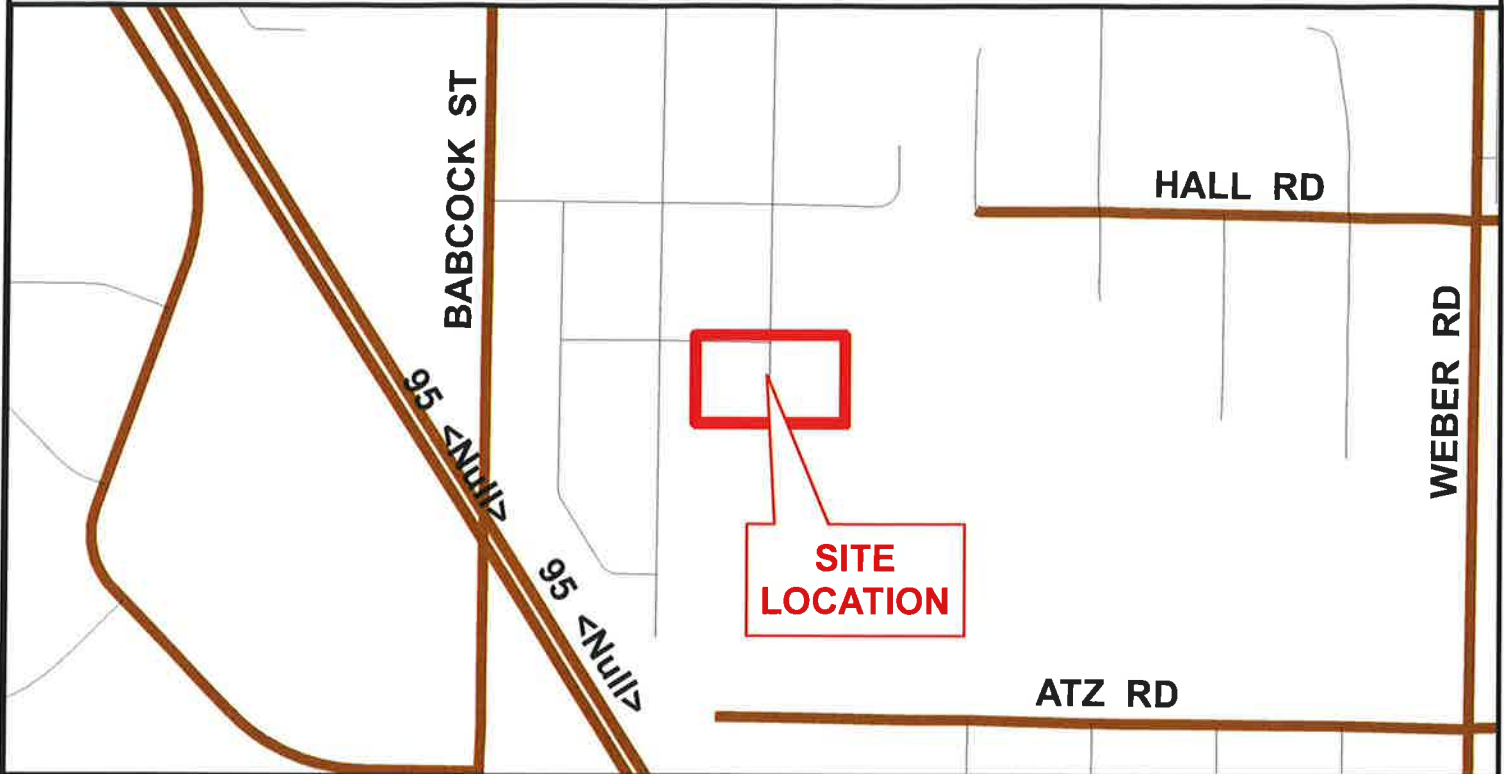
Public Works Department will not object to this request upon the following conditions:

1. Utility easement for existing utilities within the vacated areas.
2. Any storage lost from filling Mercury Avenue R/W drainage shall be considered and incorporated in the site plan drainage calculations
3. Pre post conditions; historical drainage to this right-of-way shall not be blocked
4. Appropriate signage on the north end for City road new T- intersection and right of way.
5. Vacating and easements contingent on Site plan approval and permitting.

AT&T has facilities within the right-of-way and will agree to the vacate if a utility easement encompassing AT&T facilities is documented with Brevard County by the requestor of the vacate prior to or in conjunction with the vacate so AT&T facilities can remain in place without interruption.

[illegible]

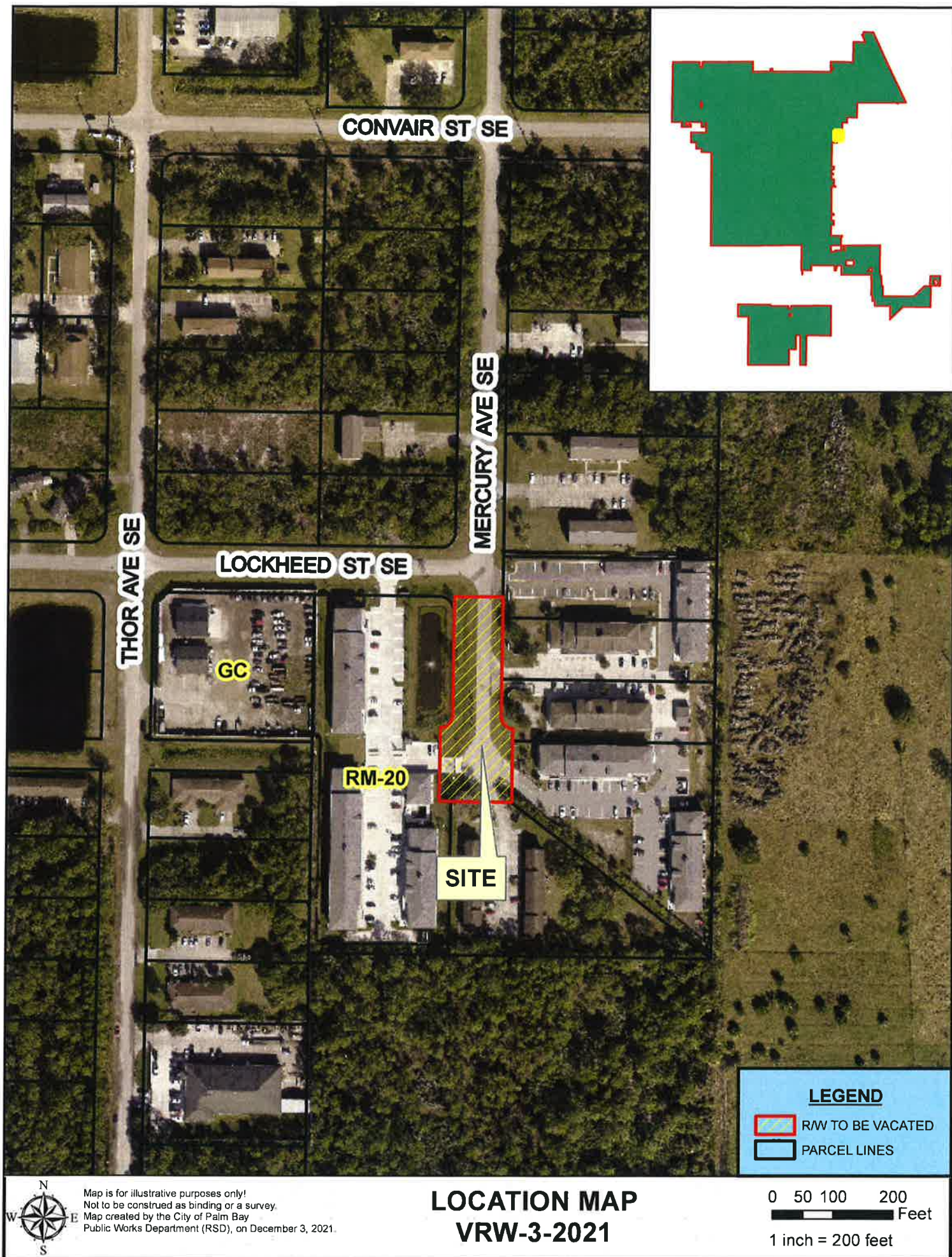
LOCATION MAP



Map is for illustrative purposes only!
Not to be construed as binding or a survey.
Map created by the City of Palm Bay
Public Works Department (RSD), on December 3, 2021.

VRW-3-2021

0 25 50 100
Feet
1 inch = 100 feet





PUBLIC WORKS DEPARTMENT

1050 MALABAR ROAD SW PALM BAY, FLORIDA 32907

PHONE: (321) 952-3403

EMAIL: pwpermitting@palmbayflorida.org

VRW-3-2021

**CREATING, IMPROVING, ALTERING, AND VACATING OF
STREETS/RIGHT-OF-WAY APPLICATION**

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Public Works Department, Palm Bay, Florida. The request will then be reviewed by City staff and scheduled for a public hearing before the City Council. You and/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). Meeting(s) will be held beginning at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road, SE, Palm Bay, Florida, unless otherwise stated.

1. Name of Applicant (Please print): Mercury Avenue LLC and Mercury Avenue Too LLC - Steven Bresnick
Address: 6671 W. Indiantown Road, # 56383
City: Jupiter, FL Zip Code: 33458
Phone Number: 561-827-2828 Fax Number: _____
Email: bresnick.steven@gmail.com

2. Certified surveyor's legal description of property covered by this application:

Lots 7 through Lot 13, Block 1987, Port Malabar, Unit Forty, Plat Book 21 Pages 29 through 33.

Section: 03 Township: 29 Range: 37

3. Size of area covered by this application (calculate acreage): .72
4. Which action applying for (Creating, Improving, Altering, or Vacating): Vacate Road ROW
5. Intended use of the property: Vacate Road ROW and replace with easement for utilities and drainage rights of way. Partial ROW Vacate will allow for the creation of a unified gated apartment complex and an additional 32 apartment units.

6. The following enclosures are needed to complete this application:

- ☒ *\$312.00 Application Fee. Make check payable to "City of Palm Bay."
- ☒ Two (2) copies of the plat or site plan exhibit drawn to scale shall be attached to the application. The exhibit shall also be provided by CD or Memory Drive and illustrate the following:
 - a) (Proposed) street location within the City (vicinity map);
 - b) Location of utility easements adjacent or pertinent thereto the property;
 - c) Construction plans showing typical street profiles and materials;
 - d) Tree and vegetation survey and/or permit;
 - e) Location of traffic control devices (signs and street markings);
 - f) Location of sidewalks and bikeways.
- ☒ Original notarized letters from the following utility and service companies are required stating that the companies have no objections to the requested action:
 - a) Florida Power & Light Company;
 - b) AT&T Telecommunications;
 - c) Spectrum Cable;
 - d) Melbourne-Tillman Water Control District (if applicable);
 - e) Florida City Gas (if applicable);
 - f) Holiday Park, Board of Directors (if applicable).
- ☒ List of all property owners, addresses, and legal descriptions for all properties abutting the (proposed) street. Such information shall be obtained from the most recent County tax rolls. (This can be obtained from the most recent County tax rolls. (This can be obtained from the Brevard County Planning and Zoning Department at 321-633-2060, or on the internet at <https://bcpao.us/>) List shall be legible and the source of that information stated here:

Ordered from Brevard County

7. Where property is not owned by the applicant, a letter must be attached giving the notarized consent of the owner for the applicant to request the creating, improving, altering, or vacating of streets/right of way.

I, the undersigned understand that this application must be complete and accurate before consideration by city council, 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 penalty of perjury, I declare that I have read the foregoing Creating, Improving, Altering, and Vacating of Streets/Right of Way Application and that the facts stated in it are true.

Signature of Applicant: _____ Date: 9/14/21

Printed Name of Applicant: Steven Bresnick, Manager Mercury Avenue LLC

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

**CREATING, IMPROVING, ALTERING, AND VACATING OF STREETS/RIGHT-OF-WAY
APPLICATION | Rev052020**

September 13, 20 21

Re: Letter of Authorization

As the property owner of the site legally described as:

Lots 7 through Lot 13, Block 1987, Port Malabar, Unit Forty, according to the plat thereof, as recorded in Plat Book 21, Pages 29 through 33, Public Records of Brevard County, Florida

I, Owner Name: Steven Bresnick, Manager, Mercury Avenue and Mercury Ave Too, LLC

Address: 471 Mercury Avenue, SE, Palm Bay 32909

Telephone: 561-827-2828

Email: bresnick.steven@gmail.com

hereby authorize:

Representative: David Bassford, P.E., MBV Engineering, Inc.

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

Telephone: 321-253-1510

Email: davidb@mbveng.com

to represent the request(s) for:

Road ROW Vacate

(Property Owner Signature)

STATE OF

Florida

COUNTY OF

Brevard

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 14th day of September, 20 21 by

Steven Bresnick

, property owner.



Notary Public State of Florida
Melissa Weaver
My Commission GG 205131
Expires 04/09/2022

Melissa Weaver

, Notary Public

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

ORDINANCE 2021-83

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, VACATING AND ABANDONING A PORTION OF THE ROAD RIGHT-OF-WAY KNOWN AS MERCURY AVENUE SE, AS RECORDED IN PLAT BOOK 21, PAGE 32, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Mercury Avenue LLC and Mercury Avenue Too LLC, has requested the City of Palm Bay, Florida, to vacate a portion of the road right-of-way known as Mercury Avenue SE, which portion is legally described herein, and

WHEREAS, the vacating and abandonment of said road right-of-way will neither adversely affect nor benefit the public.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay hereby vacates and abandons a portion of the road right-of-way known as Mercury Avenue SE, being more particularly described herein as Exhibit 'A'.

SECTION 2. The vacating of the road right-of-way is subject to compliance with the following conditions:

- A. The Utility Agreement(s) shall be modified for the properties immediately adjacent to the right-of-way to be vacated. Note that the Utilities Department will make all document adjustments and submit to the applicant/owner for review, approval, and payment (if necessary);
- B. Any design, permitting and/or construction required to modify the water/sewer utilities will be performed at the full expense of the applicant;
- C. All water meters within the vacated portion shall be replaced with a master meter that will be located at the City's right-of-way. The applicant will be required to accept ownership of all water mains located on private property. Plans shall be submitted to the City for review and approval;

- D. The applicant will be required to accept ownership of all gravity sewer located on private property. The Utilities Department must be granted ingress/egress access to this gravity sewer for inspection purposes and to ensure compliance with Title XX of the Code of Ordinances;
- E. Utility easement for existing utilities within the vacated areas;
- F. Any storage lost from filling Mercury Avenue right-of-way drainage shall be considered and incorporated in the site plan drainage calculations;
- G. Pre post conditions; historical drainage to this right-of-way shall not be blocked;
- H. Appropriate signage on the north end for City road new T- intersection and right-of-way;
- I. Vacating and easements contingent on site plan approval and permitting; and
- J. A utility easement encompassing AT&T facilities, documented with Brevard County by the requestor of the vacate prior to, or in conjunction with, the vacate, so that AT&T facilities can remain in place without interruption.

SECTION 3. This ordinance shall be recorded at the expense of the applicant following receipt of all documentation required as a condition of the approval. Failure to meet the conditions within one (1) year from the date of approval for the request shall render the ordinance null and void.

SECTION 4. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2021- , held on , 2021; and
read in title only and duly enacted at Meeting 2021- , held on , 2021.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

City of Palm Bay, Florida

Ordinance 2021-83

Page 3 of 3

Reviewed by CAO: _____

Applicant: Mercury Avenue LLC and Mercury Avenue Too LLC

Case: VRW-3-2021

cc: (date) Brevard County Recording
Applicant
Case File

LEGAL

A PORTION OF MERCURY AVENUE BEING 80 FEET WIDE AND BEING A PORTION OF PORT MALABAR UNIT FORTY, AS DESCRIBED IN PLAT BOOK 21, PAGES 29-33 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF LOT 13 BLOCK 1987 AND THE WEST RIGHT OF WAY OF MERCURY AVENUE; THENCE RUN S0°32'09"W ALONG THE WEST RIGHT OF WAY OF MERCURY AVENUE A DISTANCE OF 193.64 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE RIGHT; THENCE ALONG SAID CURVE AN ARC DISTANCE OF 31.42 FEET, A CENTRAL ANGLE OF 90°00'00" AND A RADIUS OF 20.00 FEET TO THE NORTHEAST CORNER OF A 50.00 FOOT DRAINAGE RIGHT OF WAY; THENCE S 0°32'09"W ALONG THE EASTERLY LINE OF THE 50.00 FOOT DRAINAGE RIGHT OF WAY AND THE EASTERLY LINE OF LOT 12, BLOCK 1987 AND BEING THE WESTERLY RIGHT OF WAY OF MERCURY AVENUE A DISTANCE OF 120.00 FEET TO THE SOUTHWEST CORNER OF MERCURY AVENUE; THENCE S 89°27'51"E ALONG THE SOUTH LINE OF MERCURY AVENUE AND ALSO THE NORTH LINE OF LOT 11 AND 12, BLOCK 1987, A DISTANCE OF 120.00 FEET TO THE SOUTHEAST CORNER OF MERCURY AVENUE AND ALSO THE NORTHEAST CORNER OF LOT 11, BLOCK 1987 AND ALSO BEING THE SOUTHWEST CORNER OF LOT 10, BLOCK 1987; THENCE N 0°32'09"E ALONG THE EASTERLY RIGHT OF WAY OF MERCURY AVENUE A DISTANCE OF 120.00 FEET TO A CURVE CONCAVE TO THE RIGHT; THENCE ALONG SAID CURVE AN ARC DISTANCE OF 31.42 FEET, A CENTRAL ANGLE OF 90°00'00" AND A RADIUS OF 20.00 FEET TO THE EASTERLY RIGHT OF WAY OF MERCURY AVENUE, THENCE N 0°32'09"E ALONG THE EASTERLY RIGHT OF WAY OF MERCURY AVENUE AND ALSO THE WESTERLY LINE OF LOTS 9,8 AND A PORTION OF LOT 7, BLOCK 1987 A DISTANCE 193.64 FEET; THENCE N 89°27'51"W A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Patrick J. Murphy, Assistant Growth Management Director

DATE: 12/16/2021

RE: Ordinance 2021-84, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located at the northwest corner of Robert J. Conlan Boulevard and Commerce Park Drive, from Industrial Use to Bayfront Mixed Use (7.11 acres) (Case CP-11-2021, NSD Palm Bay IV, LLC), only one reading required.

Mr. Andrew Steel, NSD Palm Bay IV, LLC (Ana Saunders, P.E. and Miguel Reynaldos, Reps.) has submitted for a small-scale Comprehensive Plan Future Land Use Map Amendment to change 7.11 acres from Industrial Use to Bayfront Mixed Use. The undeveloped property is located at the northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Drive NE within an existing multiple-family residential, industrial, and commercial area.

The proposed land use amendment provides a transition between Commercial and Industrial land uses by allowing for a high-quality, diversified living environment, and a mix of allowable uses on a property that has sat vacant and undeveloped for many years. The property is not within any of the Florida scrub-jay polygons identified in the City's Habitat Conservation Plan (HCP), and no other protected species are known to inhabit the site.

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, and a drainage plan must also be prepared in accordance with current regulations and approved by the City and appropriate agencies.

REQUESTING DEPARTMENT:

Growth Management

RECOMMENDATION:

Motion to approve Case CP-11-2021 subject to staff comments.

Planning and Zoning Board Recommendation:

Planning and Zoning Board minutes are not fully transcribed at this time; the following is an excerpt:

Motion to submit Case CP-11-2021 to City Council for approval.

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

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

ATTACHMENTS:

Description

Case CP-11-2021 - Staff Report - Revised

Case CP-11-2021 - Survey

Case CP-11-2021 - Application

Ordinance 2021-84



REVISED

STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmabayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

CP-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 >>small-scale Comprehensive Plan Future Land Use (FLU) Map amendment<< rezoning of the subject parcels from >>Industrial Use to Bayfront Mixed Use<< 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.

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

6. INTERGOVERNMENTAL COORDINATION ELEMENT

Public Schools: The proposed FLU amendment 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. >>TRANSPORTATION ELEMENT<< ~~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.

>>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.

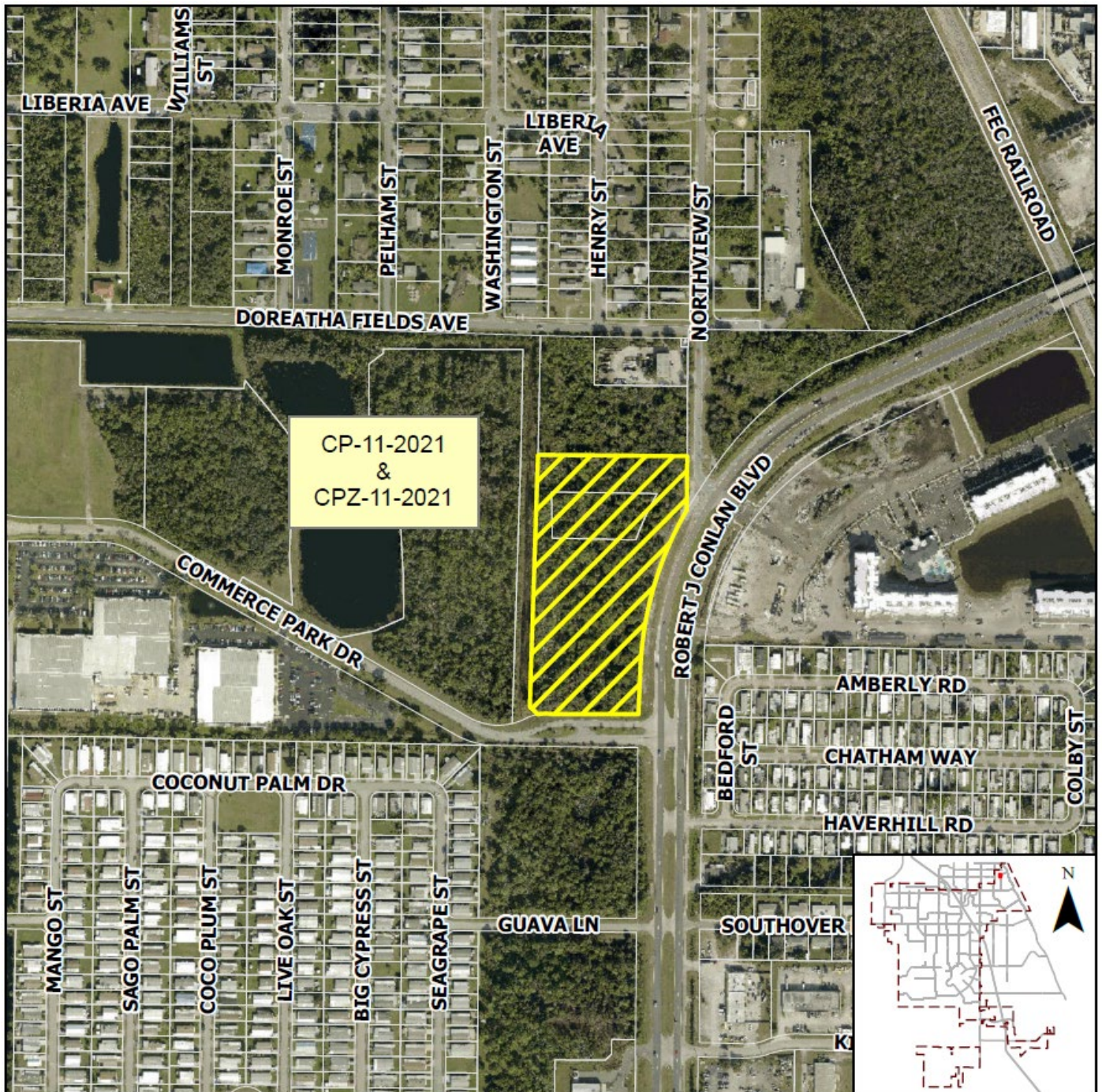
This proposed land-use change does not appear to infringe upon the property rights of the applicant. <<

STAFF RECOMMENDATION:

Case CP-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.



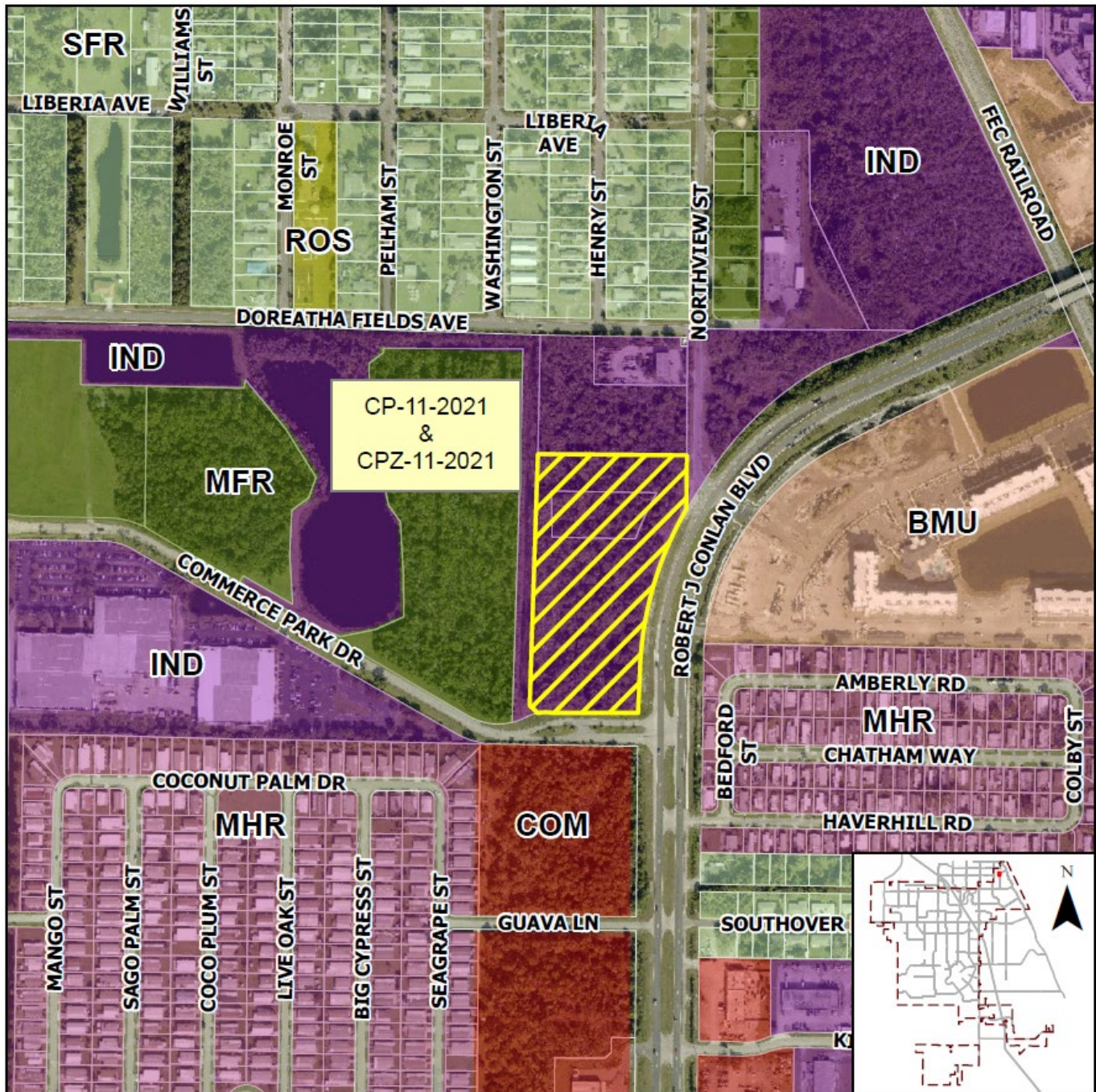
AERIAL LOCATION MAP CASE: CP-11-2021 & CPZ-11-2021

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

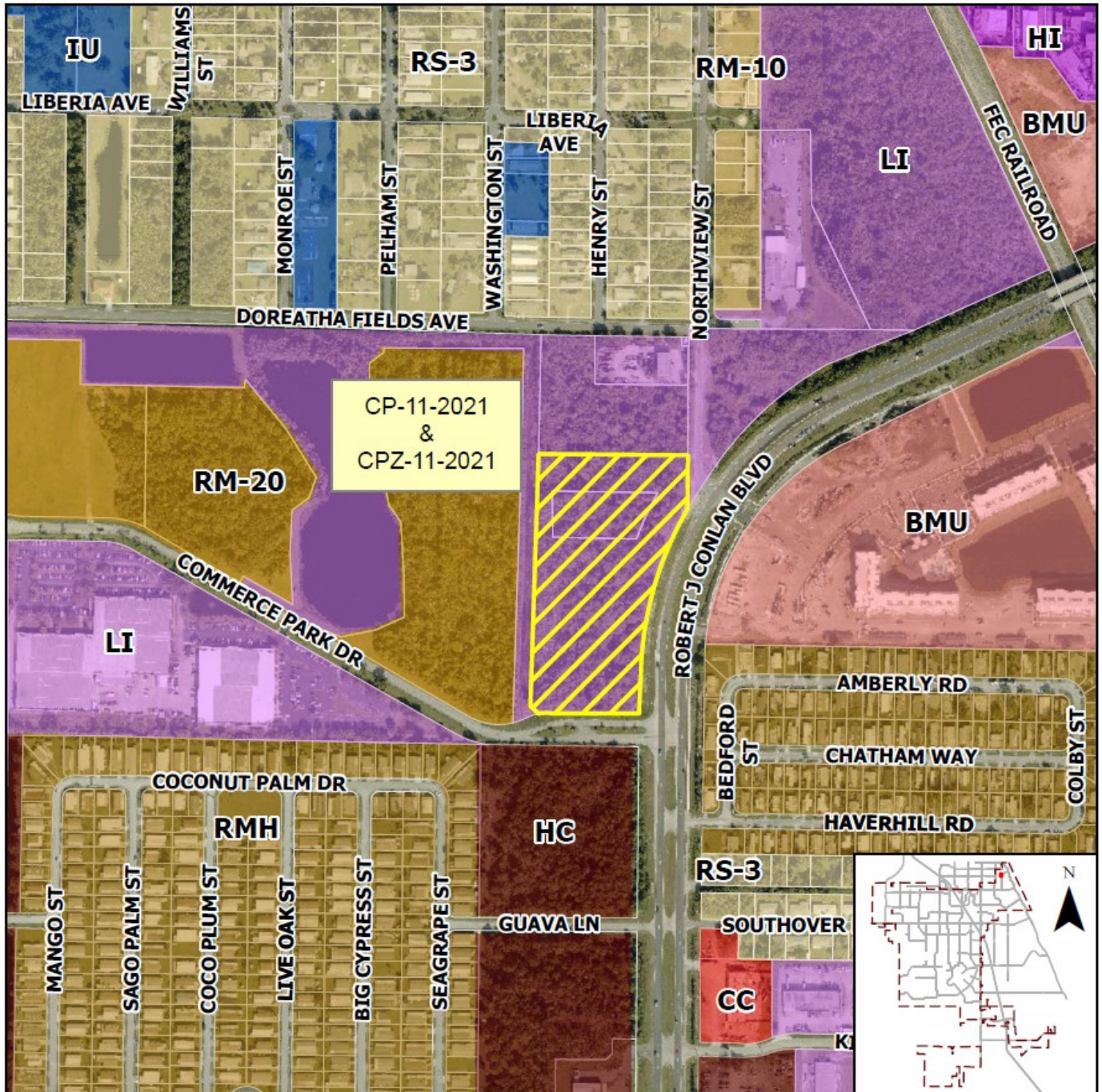
Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Road NE

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



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

ASA

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
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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

ORDINANCE 2021-84

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XVII, LAND DEVELOPMENT CODE, CHAPTER 183, COMPREHENSIVE PLAN REGULATIONS, SECTION 183.01, COMPREHENSIVE PLAN, SUBSECTION (D), ADOPTION OF FUTURE LAND USE MAP, BY AMENDING THE FUTURE LAND USE MAP; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Palm Bay has designated the Planning and Zoning Board as its Local Planning Agency and said Local Planning Agency held an adoption hearing on an amendment to the Comprehensive Plan on December 1, 2021, after public notice, and

WHEREAS, the City Council of the City of Palm Bay, pursuant to Chapter 163, Florida Statutes, held an adoption hearing on an amendment to the Comprehensive Plan on December 16, 2021, after public notice, and

WHEREAS, the City Council of the City of Palm Bay desires to adopt said small scale amendment to the Comprehensive Plan of the City of Palm Bay.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The Comprehensive Plan of the City of Palm Bay, Brevard County, Florida, is hereby amended to provide for the change in land use of property from Industrial Use to Bayfront Mixed Use, which property is legally described as follows:

Tax Parcels 250 and 254, of the Public Records of Brevard County, Florida; Section 14, Township 28S, Range 37E; containing 7.11 acres, more or less.

SECTION 2. The Future Land Use Map is hereby changed to reflect this

amendment.

SECTION 3. All staff report conditions and limitations shall be met and those conditions and limitations shall be made a part of the Comprehensive Plan.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 5. The provisions within this ordinance shall take effect thirty-one (31) days from the enactment date.

Read in title only and duly enacted at Meeting 2021- , held on , 2021.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

*Only one reading required pursuant to Chapter 163, Florida Statutes.

Reviewed by CAO: _____

Applicant: NSD Palm Bay IV, LLC

Case: CP-11-2021

cc: (date) Brevard County Property Appraiser
Applicant
Case File



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Patrick J. Murphy, Assistant Growth Management Director

DATE: 12/16/2021

RE: Ordinance 2021-85, rezoning property located at the northwest corner of Robert J. Conlan Boulevard and Commerce Park Drive, from LI (Light Industrial and Warehousing District) to BMU (Bayfront Mixed Use District) (7.11 acres) (Case CPZ-11-2021, NSD Palm Bay IV, LLC), first reading. (Quasi-Judicial Proceeding)

Mr. Andrew Steel, NSD Palm Bay IV, LLC (Ana Saunders, P.E. and Miguel Reynaldos, Reps.) has submitted a rezoning of the subject parcel from LI, Light Industrial and Warehousing District, to the BMU, Bayfront Mixed Use District. The subject properties have remained undeveloped since their creation and are located at the northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Drive NE.

The applicant has indicated that the proposed change will reflect the current zoning upgrades to the Bayfront Mixed Use district as noted across Robert J. Conlan Boulevard. The zoning change will allow for a transition between the existing single-family homes in the Powell Subdivision and the existing businesses. It will also help to revitalize the area.

REQUESTING DEPARTMENT:

Growth Management

RECOMMENDATION:

Motion to approve Case CPZ-11-2021.

Planning and Zoning Board Recommendation:

Planning and Zoning Board minutes are not fully transcribed at this time; the following is an excerpt:

Motion to submit Case CPZ-11-2021 to City Council for approval.

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

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

ATTACHMENTS:**Description**

Case CPZ-11-2021 - Staff Report

Case CPZ-11-2021 - Survey

Case CPZ-11-2021 - Application

Ordinance 2021-85



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).*

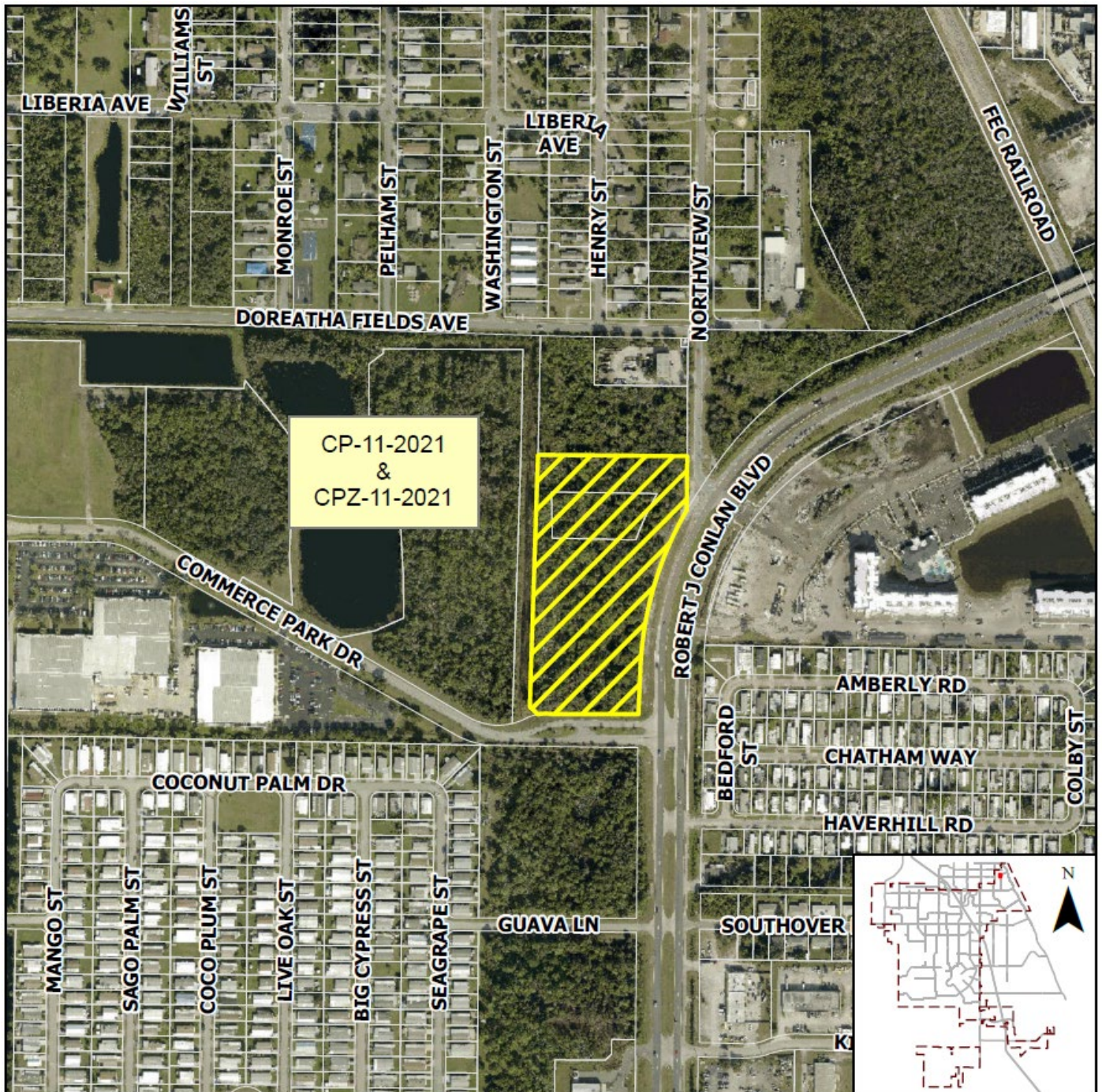
The proposed amendment will further the purposes of Chapter 185, the Comprehensive Plan.

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.



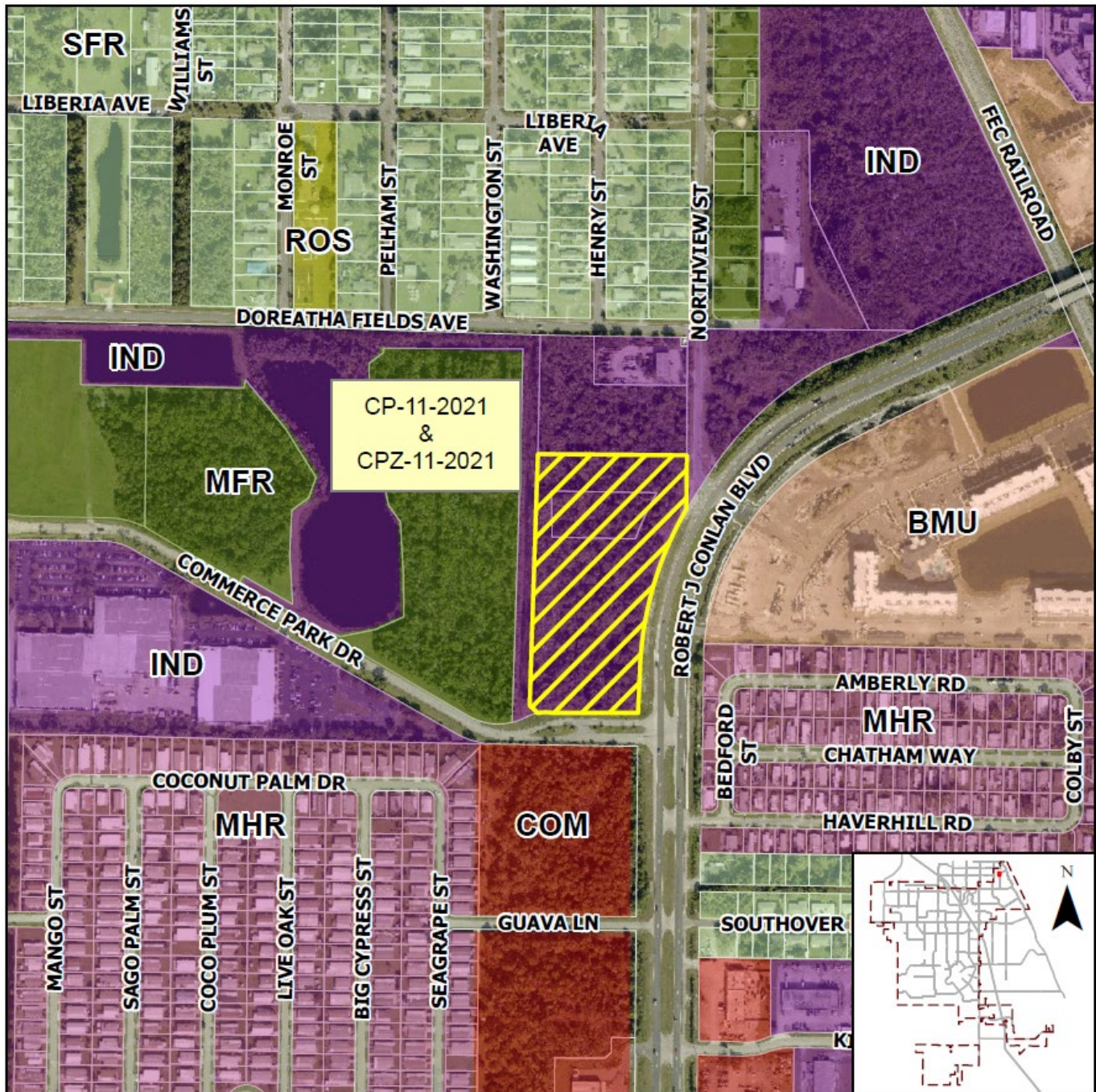
AERIAL LOCATION MAP CASE: CP-11-2021 & CPZ-11-2021

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

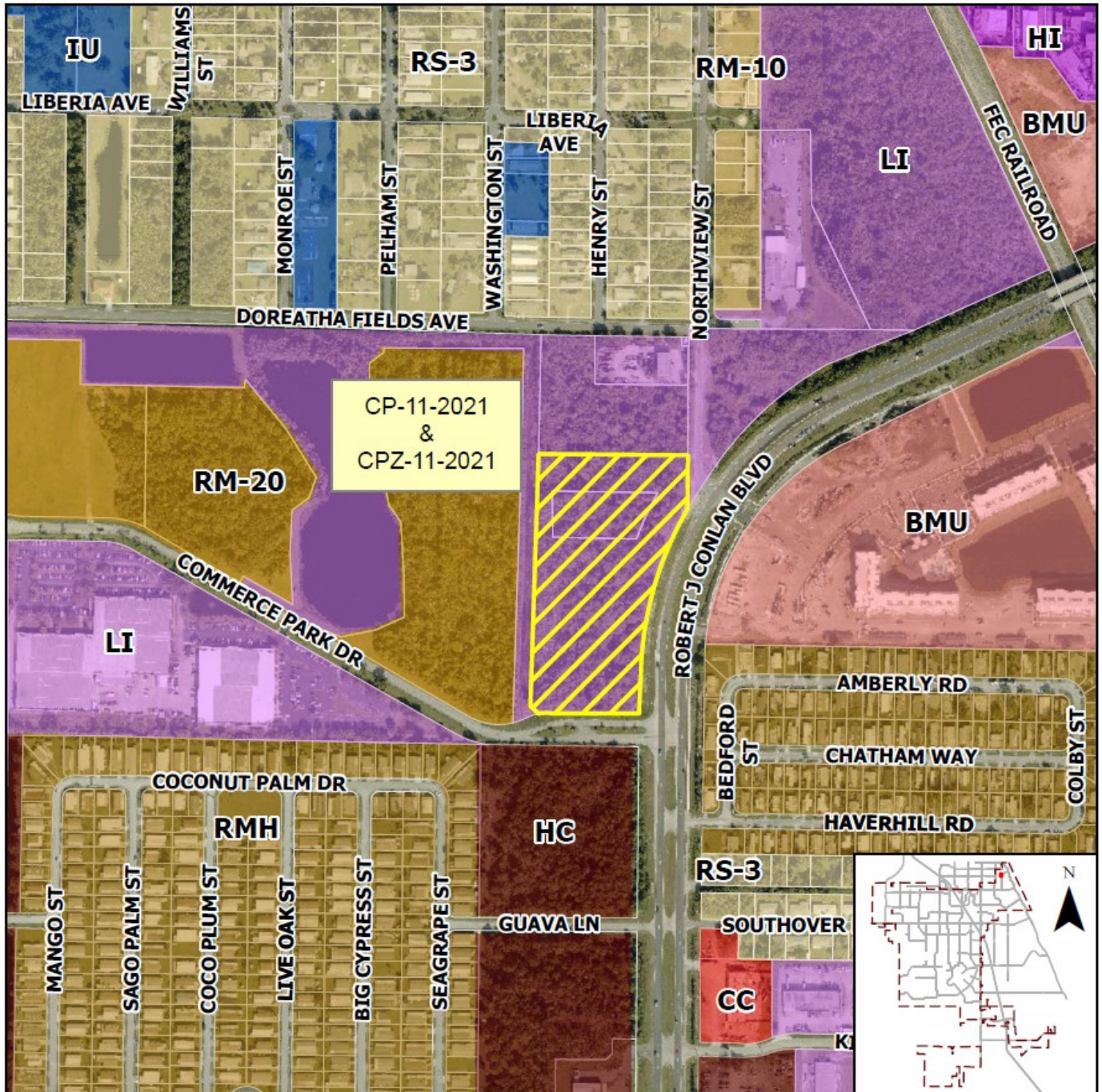
Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Road NE

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



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/>



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

ORDINANCE 2021-85

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE ZONING ORDINANCE OF THE CITY OF PALM BAY BY CHANGING THE ZONING OF PROPERTY FROM LI (LIGHT INDUSTRIAL AND WAREHOUSING DISTRICT) TO BMU (BAYFRONT MIXED USE DISTRICT); WHICH PROPERTY IS LOCATED AT THE NORTHWEST CORNER OF ROBERT J. CONLAN BOULEVARD AND COMMERCE PARK DRIVE, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR A CHANGE OF THE ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The Zoning Ordinance of the City of Palm Bay, Brevard County, Florida, is hereby amended to provide for the rezoning of property from LI (Light Industrial and Warehousing District) to BMU (Bayfront Mixed Use District), being legally described as follows:

Tax Parcels 250 and 254, of the Public Records of Brevard County, Florida; Section 14, Township 28S, Range 37E; containing 7.11 acres, more or less.

SECTION 2. The Zoning Map of the City of Palm Bay is hereby revised to reflect this amendment.

SECTION 3. The provisions within this ordinance shall take effect immediately upon the enactment of Ordinance 2021-84.

Read in title only at Meeting 2021- , held on , 2021; and
read in title only and duly enacted at Meeting 2021- , held on , 2021.

ATTEST:

Rob Medina, MAYOR

Terese M. Jones, CITY CLERK

City of Palm Bay, Florida
Ordinance 2021-85

Reviewed by CAO: _____

Applicant: NSD Palm Bay IV, LLC
Case: CPZ-11-2021

cc: (date) Applicant
Case File



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Patrick J. Murphy, Assistant Growth Management Director

DATE: 12/16/2021

RE: Ordinance 2021-86, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located at the southwest corner of Cogan and Osmosis Drives, from Single Family Residential Use to Multiple Family Residential Use (21.00 acres) (Case CP-17-2021, Diocese of Orlando), only one reading required.

Bishop John G. Noonan, Signatory for the Diocese of Orlando (David Bassford, MBV Engineering, Inc. and Chip Bryan, Condev Properties, LLC, Reps.) has submitted a small-scale Comprehensive Plan Future Land Use (FLU) Map amendment to change 21 acres of land from Single Family Residential Use to Multiple Family Residential Use. The undeveloped property is in the southern portion of Bayside Lakes, at the intersection of Cogan Drive SE and Osmosis Drive SE.

The property was intended as a potential church and/or school site for the Diocese of Orlando. However, the Diocese has determined the property as surplus and is in the process of conveying the land. This request will allow for the construction of a mixed housing development consisting of townhomes and single-family homes. The Preliminary Development Plan will be discussed in the companion zoning request, Case PD-50-2021. The property is not within any of the Florida scrub-jay polygons identified in the City's Habitat Conservation Plan (HCP), and no other protected species are known to inhabit the site.

The proposed land use amendment appears consistent with the Future Land Use Element goal to develop projects that includes both single-family and multiple-family uses, and the amendment is continuing this existing development pattern within the Bayside Lakes community.

REQUESTING DEPARTMENT:

Growth Management

RECOMMENDATION:

Motion to approve Case CP-17-2021, subject to the following conditions:

- At the time of development plan submittal, the property owner shall submit a traffic impact analysis and Phase One Environmental Study.
- The applicant/owner, at their expense, will be required to design, permit, install, inspect, and test water systems

of adequate size to accommodate the development and to connect to the City's water and sewer system.

- For the purposes of compatibility and consistency with the Bayside Lakes Community, the land shall have a maximum density of ten (10) units per acre.

Planning and Zoning Board Recommendation:

Unanimous approval of the request, subject to the staff conditions.

ATTACHMENTS:

Description

Case CP-17-2021 - Staff Report - Revised

Case CP-17-2021 - Plat

Case CP-17-2021 - Boundary Survey

Case CP-17-2021 - Application

Case CP-17-2021 - Board Minutes

Ordinance 2021-86



REVISED

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-17-2021

PLANNING & ZONING BOARD HEARING DATE

November 15, 2021

PROPERTY OWNER & APPLICANT

Diocese of Orlando (Bishop John G. Noonan) Represented by Chip Bryan, VP of Condev Properties, LLC. and David Bassford, P.E. of MBV Engineering

PROPERTY LOCATION/ADDRESS

The property is in the southern portion of Bayside Lakes, at the intersection of Cogan Drive SE and Osmosis Drive SE. Specifically, the property is Tract I-1, of the Bayside Lakes Commercial Center Phase 4

SUMMARY OF REQUEST

The applicant is requesting a small-scale Comprehensive Plan Future Land Use (FLU) Map amendment to change 21 acres of land from Single Family Residential to Multiple Family Residential Use.

Existing Zoning

PUD, Planned Unit Development

Existing Land Use

Single Family Residential Use

Site Improvements

Undeveloped Land

Site Acreage

21 acres

SURROUNDING ZONING & USE OF LAND

North

PUD, Planned Unit Development; Osmosis Drive SE

East

PUD, Planned Unit Development; Cogan Drive SE

South

PUD, Planned Unit Development; Amberwood at Bayside Lakes [single-family homes]

West

GU, General Use; Palm Bay Water Treatment Facility

BACKGROUND:

The property is in the southern portion of Bayside Lakes, at the intersection of Cogan Drive SE and Osmosis Drive SE. Specifically, the property is Tract I-1, of the Bayside Lakes Commercial Center Phase 4, located in, Section 30, Township 29 south, and Range 37 east, Brevard County, FL. The subject property is 21 acres of undeveloped land.

The property is part of a subdivision that was recorded in 2006 (PB 54, Page 48) and was intended as a potential church and/or school site for the Diocese of Orlando. However, the Diocese has determined the property as surplus and is in the process of conveying said land.

The applicant is currently to amend the future land use map to change the entire 21 acres of land from Single Family Residential Use to Multiple Family Residential Use. The purpose of this request is to allow for the construction of a mixed housing development consisting of townhomes and single-family homes. The Preliminary Development Plan will be discussed in the companion zoning request identified as Case No. PD-50-2021.

The applicant for this request is Bishop John G. Noonan, from the Diocese of Orlando. He is being represented by Chip Bryan, Vice President of Condev Properties, LLC. and David Bassford, P.E. of MBV Engineering, Inc.

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 Future Land Use (FLU) Element, of the Comprehensive Plan, provides both a policy guide to govern future land use decisions and a map detailing the location of future land uses throughout the City of Palm Bay.

The primary goal of the FLU Element is Goal FLU-1: *“Ensure a high quality, diversified living environment through the efficient distribution of compatible land uses.”*

Another critical goal within the FLU Element is Goal FLU-2: *“Provide for and maintain viable neighborhoods and residential development to meet the existing and future needs of the residents of Palm Bay.”*

The existing Single-Family Residential Use category allows for a maximum residential density of 5 units per acre. Typical uses permitted include single-family homes, accessory dwelling units, recreational uses, and institutional uses such as school, churches, and utilities.

The proposed Multiple-Family Residential Use category allows for a maximum residential density of twenty (20) units per acre. Typical uses permitted include single-family homes, duplexes, multiple family units, congregate living units, recreational uses, and institutional uses such as school, churches, and utilities. Therefore, the major difference between the two categories is the type of housing (SF to MFR), the allowed density of residential uses (5 to 20 UPA), and the possible use of said lands for an assisted living facility.

The Bayside Lakes Community has been constructed over the past 20 years as a Planned Unit Development, to incorporate multiple types of uses, in the hope of creating a vibrant and self-sustaining area. The community consists of several single-family and multiple-family residential developments of various size and densities. At its core, and along its major roadways, are commercial and institutional uses needed to serve the residents within the community, and beyond.

The proposed FLU amendment is being requested to develop a project that will include both single-family and multiple family uses. The property is located between an existing single-family neighborhood and a water treatment facility owned by the City of Palm Bay. This request appears consistent with the above-stated goals of the FLU Element by continuing the existing development pattern within the Bayside Lakes community.

2. COASTAL MANAGEMENT ELEMENT

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

3. CONSERVATION ELEMENT

The environmental character of the City is maintained through conservation, appropriate use, and protection of natural resources. The parcel is not located within any of the Florida scrub jay polygons identified on the City's Habitat Conservation Plan (HCP). No listed species are known to inhabit the property. However, if any listed species are discovered on the property they 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 in the future via the administrative subdivision review process.

4. HOUSING ELEMENT

The primary goal of the Housing Element is HSG-1: *"Provide for sufficient supply and variety of safe, decent, attractive, and affordable housing, at locations which provide for convenient access to municipal facilities and services."* The proposed FLU amendment does not adversely impact the supply and variety of housing within the City. In fact, the request will further the goal of the Housing Element.

5. INFRASTRUCTURE ELEMENT

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

Utilities: The FLU amendment will not cause level of service (LOS) to fall below the standards adopted in the Comprehensive Plan for these services for the current planning period. Upon development of the site, the applicant/owner shall design, permit, install, inspect, and test water and sewer systems of adequate size to accommodate the future project.

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 subdivision plan review process.

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

6. INTERGOVERNMENTAL COORDINATION ELEMENT

Public Schools: Due to the requested change to Multiple Family Residential Use, which would allow for an increase in residential units, a further demand may be placed upon the school system. Therefore, a school capacity determination was applied for and obtained. Included in the project file for this amendment is the letter (CD-2021-27) from the Brevard County School Board indicating there is sufficient capacity in the adjacent school concurrency service areas.

7. RECREATION AND OPEN SPACE ELEMENT

The Recreation and Open Space Element addresses the current and future recreational needs of the City. The MFR FLU category does not have more of a demand upon the parks & recreational LOS than the existing SFR FLU category. Regardless, the City maintains public ownership of park-designated lands that far exceed the minimum threshold adopted in the Comprehensive Plan of 2 acres per 1,000 residents.

8. TRANSPORTATION ELEMENT

The objectives of the Transportation Element are to provide a safe, balanced, efficient transportation system that maintains roadway LOS and adequately serves the needs of the community. ~~Direct access to the property will be from Pilgrim Lane, which is only a short distance (420') from Eldron Boulevard. Since Eldron is the main distributor of traffic to and from the site, this roadway has been examined.~~

Cogan Drive is classified as a Collector Roadway on the City's Comprehensive Plan, and the adjacent segment of Osmosis Drive is classified as Local Street. Once Osmosis is extended to De Groodt Road, it will also be classified as a Collector Roadway. Future development that would exceed the AM/PM peak hour 100-trip threshold would require a traffic study.

9. 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.

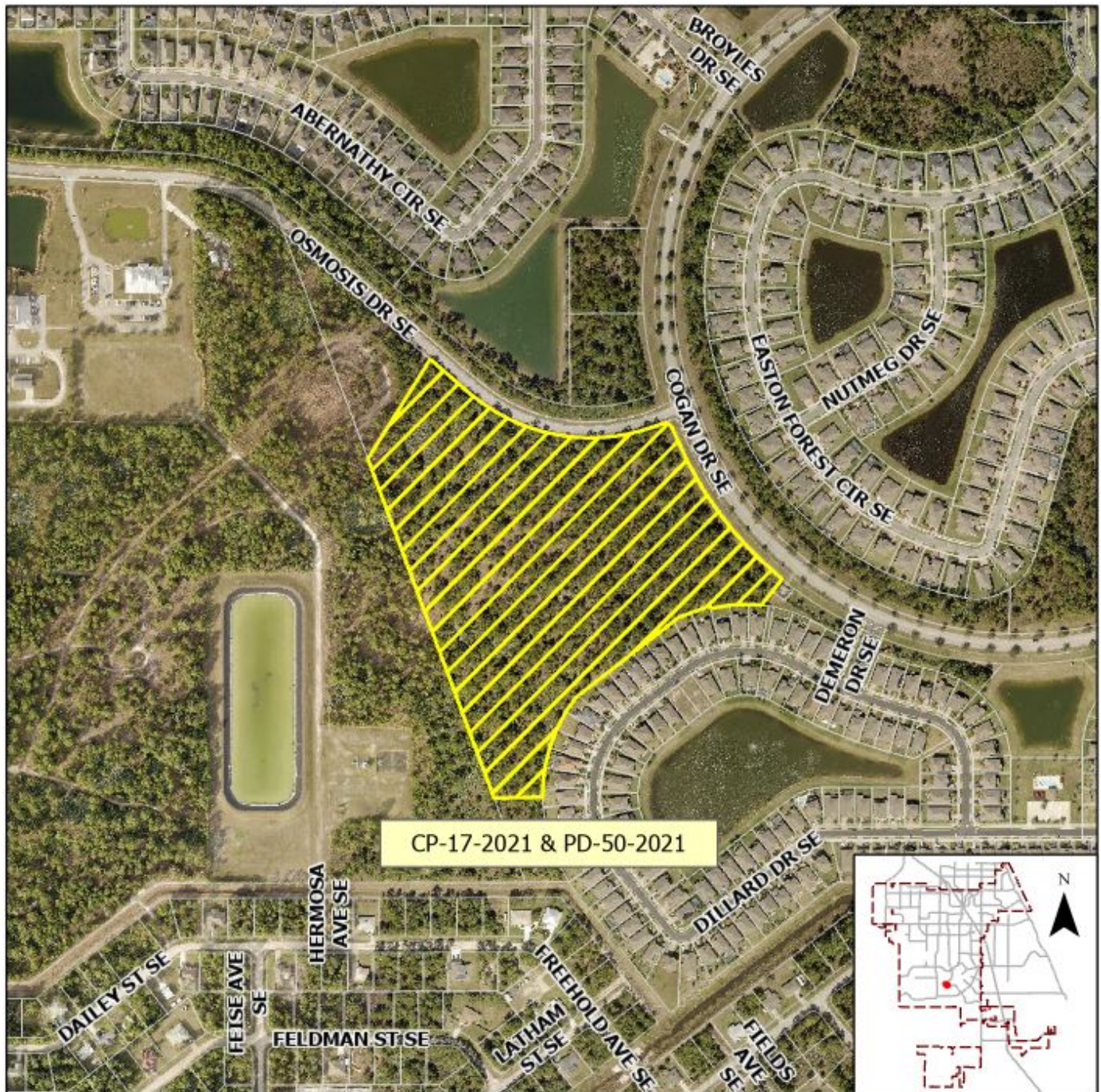
This proposed land use change does not appear to infringe upon the property rights of the applicant.

STAFF RECOMMENDATION:

Staff recommends approval of Case CP-17-2021, subject to the following conditions:

- At the time of development plan submittal, the property owner shall submit a traffic impact analysis and Phase One Environmental Study.
- The applicant/owner, at their expense, will be required to design, permit, install, inspect, and test water systems of adequate size to accommodate the development and to connect to the City's water and sewer system.
- For the purposes of compatibility and consistency with the Bayside Lakes Community, the land shall have a maximum density of ten (10) units per acre.

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

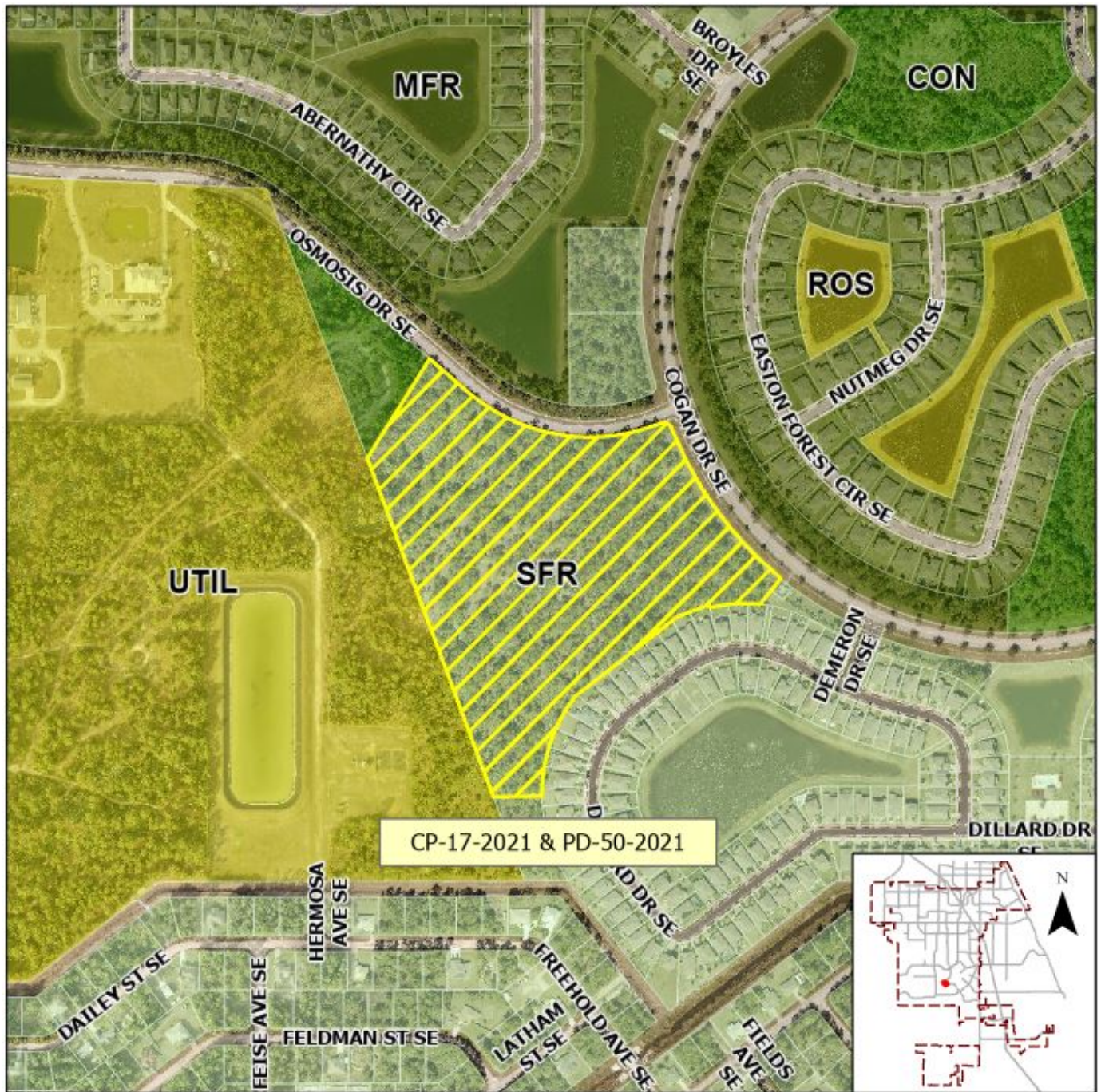


AERIAL LOCATION MAP CASE: CP-17-2021 & PD-50-2021

Subject Property

Southwest corner of Cogan Drive SE and Osmosis Drive 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-17-2021 & PD-50-2021

Subject Property

Southwest corner of Cogan Drive SE and Osmosis Drive SE

Future Land Use Classification

SFR – Single Family Residential Use

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



ZONING MAP

CASE: CP-17-2021 & PD-50-2021

Subject Property

Southwest corner of Cogan Drive SE and Osmosis Drive SE

Current Zoning Classification

PUD – Planned Unit Development



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 the original application with original signature(s) 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 (50 acres or Less)

☐

Text Amendment (Comp. Plan)

☐

Large Scale (More than 50 acres)

PARCEL ID(S):

29-37-30-01-I1

TAX ACCOUNT NUMBER(S):

2963453

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

Bayside Lakes Commercial Center Phase 4, Tract I-1 (Institutional)

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

21 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.):

Public / Semi Public

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

Multi Family Residential

PRESENT USE OF PROPERTY:

Vacant

STRUCTURES LOCATED ON THE PROPERTY: 0

REZONING FILED IN CONJUNCTION WITH THIS APPLICATION: No

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

Existing FLU of Public / Semi Public will not allow the development of a SFR subdivision

SPECIFIC USE INTENDED FOR PROPERTY:

35 SFR Lots and 88 Townhomes (Total of 123 Units)

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 (50 acres or Less)

☐ \$2,000.00 - Large Scale (More than 50 acres)

☐ \$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

- ☒ 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 Chip Bryan, Condev Inc. and David Bassford, MBV Eng., Inc.

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

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Owner Signature *John G. Noonan* ^{*Chancellor/COO*} Date *9/14/2021*

Printed Name John G. Noonan, Bishop - Signatory Diocese of Orlando

Full Address 50 E. Robinson Street, Orlando, FL 32801

Telephone 407-679-1748 Email jnoonan@orlandodiocese.org

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

October 7, 2021

Re: Letter of Authorization

As the property owner of the site legally described as:

Parcel ID 29-37-30-01-I1 - Bayside Lakes Commercial Center, Phase 4, Tract I-1
(Institutional)

I, Owner Name: John G Noonan, Bishop - Signatory for Diocese of Orlando

Address: 50 E. Robinson Street, Orlando, FL 32801

Telephone: 407-679-1748

Email: jnoonan@orlandodiocese.org

hereby authorize:

Representative: Chip Bryan - VP, Condev Properties LLC

Address: 921 N. Peninsula Avenue, Winter Park, FL 21789

Telephone: 407-679-1748

Email: chipb@condevfl.com

to represent the request(s) for:

Comprehensive Plan Amendment / Preliminary Development Plan

(Property Owner Signature)

STATE OF Florida

COUNTY OF Orange

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

John Noonan, property owner.

Notary Public

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



October 7, 2021

Re: Letter of Authorization

As the property owner of the site legally described as:

Parcel ID 29-37-30-01-11 - Bayside Lakes Commercial Center, Phase 4, Tract I-1
(Institutional)

I, Owner Name: John G Noonan, Bishop - Signatory for Diocese of Orlando

Address: 50 E. Robinson Street, Orlando, FL 32801

Telephone: 407-679-1748

Email: jnoonan@orlandodiocese.org

hereby authorize:

Representative: David Bassford, P.E., MBV Engineering, Inc.

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

Telephone: 321-253-1510

Email: davidb@mbveng.com

to represent the request(s) for:

Comprehensive Plan Amendment / Preliminary Development Plan

(Property Owner Signature)

STATE OF Florida

COUNTY OF Orange

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

John Noonan

, property owner.

, Notary Public

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



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.

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,**

ORDINANCE 2021-86

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XVII, LAND DEVELOPMENT CODE, CHAPTER 183, COMPREHENSIVE PLAN REGULATIONS, SECTION 183.01, COMPREHENSIVE PLAN, SUBSECTION (D), ADOPTION OF FUTURE LAND USE MAP, BY AMENDING THE FUTURE LAND USE MAP; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Palm Bay has designated the Planning and Zoning Board as its Local Planning Agency and said Local Planning Agency held an adoption hearing on an amendment to the Comprehensive Plan on November 15, 2021, after public notice, and

WHEREAS, the City Council of the City of Palm Bay, pursuant to Chapter 163, Florida Statutes, held an adoption hearing on an amendment to the Comprehensive Plan on December 16, 2021, after public notice, and

WHEREAS, the City Council of the City of Palm Bay desires to adopt said small scale amendment to the Comprehensive Plan of the City of Palm Bay.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The Comprehensive Plan of the City of Palm Bay, Brevard County, Florida, is hereby amended to provide for the change in land use of property from Single Family Residential Use to Multiple Family Residential Use, which property is legally described as follows:

Tract "I-1", Bayside Lakes Commercial Center Phase 4, according to the plat thereof as recorded in Plat Book 54, Page 48, of the Public Records of Brevard County, Florida; Section 30, Township 29S, Range 37E; containing 21.00 acres, more or less.

SECTION 2. The Future Land Use Map is hereby changed to reflect this amendment.

SECTION 3. All staff report conditions and limitations shall be met and those conditions and limitations shall be made a part of the Comprehensive Plan. Specifically:

- A) At the time of development plan submittal, the property owner shall submit a traffic impact analysis and Phase One Environmental Study;
- B) The applicant/owner, at their expense, will be required to design, permit, install, inspect, and test water systems of adequate size to accommodate the development and to connect to the City's water and sewer system; and
- C) For the purposes of compatibility and consistency with the Bayside Lakes Community, the land shall have a maximum density of ten (10) units per acre.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 5. The provisions within this ordinance shall take effect thirty-one (31) days from the enactment date.

Read in title only and duly enacted at Meeting 2021- , held on , 2021.

ATTEST:

Rob Medina, MAYOR

Terese M. Jones, CITY CLERK

*Only one reading required pursuant to Chapter 163, Florida Statutes.

Reviewed by CAO: _____

Applicant: Diocese of Orlando

Case: CP-17-2021

cc: (date) Brevard County Property Appraiser
Applicant
Case File



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Patrick J. Murphy, Assistant Growth Management Director

DATE: 12/16/2021

RE: Resolution 2021-71, granting approval of a Planned Unit Development (PUD) Preliminary Development Plan for a residential subdivision to be known as 'The Landings at Bayside PUD', which property is located at the southwest corner of Cogan and Osmosis Drives (21.00 acres) (Case PD-50-2021, Diocese of Orlando). (Quasi-Judicial Proceeding)

Bishop John G. Noonan, Signatory for the Diocese of Orlando (David Bassford, MBV Engineering, Inc. and Chip Bryan, Condev Properties, LLC, Reps.) has submitted a Preliminary Development Plan (PDP) for Planned Unit Development approval of a 123-unit mixed residential subdivision to be called The Landings at Bayside PUD. The undeveloped property is located in the southern portion of Bayside Lakes, at the intersection of Cogan Drive SE and Osmosis Drive SE.

This request will allow for the construction of a mixed housing development consisting of 88 townhomes and 35 single-family homes. Prior to commencement of construction, the stormwater design shall be approved by both the City's Public Works Department and the St. Johns River Water Management District. The internal roads must meet City standards, but will be maintained by the homeowner's association, and an access management plan must be provided.

Upon review, the proposed request appears to conform with the applicable requirements for Preliminary Development Plan approval subject to conditions.

REQUESTING DEPARTMENT:

Growth Management

RECOMMENDATION:

Motion to submit Case PD-50-2021 to City Council for approval, subject to the staff comments and the following items for submittal with a Final PUD application:

- A preliminary subdivision plat and Opinion of Title,
- Declaration of Covenants & Restrictions establishing development standards, Construction drawings,
- A Concurrency Determination letter from the School Board of Brevard County,
- Submission of an Endangered Species Assessment,

- Identification of lighting within the neighborhood, and
- Compliance with the conditions of CP-17-2021.

The technical staff review comments shall also be incorporated.

Planning and Zoning Board Recommendation:

Unanimous approval of the request, subject to the staff comments.

ATTACHMENTS:

Description

Case PD-50-2021 - Staff Report

Case PD-50-2021 - Preliminary Development Plan

Case PD-50-2021 - Narrative

Case PD-50-2021 - Application

Case PD-50-2021 - Board Minutes

Resolution 2021-71

Resolution 2021-71, Exhibit A

Resolution 2021-71, Exhibit B

Resolution 2021-71, Exhibit C



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

PD-50-2021

PLANNING & ZONING BOARD HEARING DATE

November 15, 2021

PROPERTY OWNER & APPLICANT

Diocese of Orlando (Bishop John G. Noonan) Represented by Chip Bryan, VP of Condev Properties, LLC. and David Bassford, P.E. of MBV Engineering

PROPERTY LOCATION/ADDRESS

The property is in the southern portion of Bayside Lakes, at the intersection of Cogan Drive SE and Osmosis Drive SE. Specifically, the property is Tract I-1, of the Bayside Lakes Commercial Center Phase 4

SUMMARY OF REQUEST

Preliminary Development Plan (PDP) approval for a 123-unit mixed residential subdivision to be called **The Landings at Bayside PUD**.

Existing Zoning

PUD, Planned Unit Development

Existing Land Use

Single Family Residential Use

Site Improvements

Undeveloped Land

Site Acreage

21 acres

SURROUNDING ZONING & USE OF LAND

North

PUD, Planned Unit Development; Osmosis Drive SE

East

PUD, Planned Unit Development; Cogan Drive SE

South

PUD, Planned Unit Development; Amberwood at Bayside Lakes [single-family homes]

West

GU, General Use; Palm Bay Water Treatment Facility

COMPREHENSIVE PLAN

COMPATIBILITY

Yes, subject to approval of Case No. CP-17-2021

BACKGROUND:

The property is in the southern portion of Bayside Lakes, at the intersection of Cogan Drive SE and Osmosis Drive SE. Specifically, the property is Tract I-1, of the Bayside Lakes Commercial Center Phase 4, located in, Section 30, Township 29 south, and Range 37 east, Brevard County, FL. The subject property is 21 acres of undeveloped land.

The property is part of a subdivision that was recorded in 2006 (PB 54, Page 48) and was intended as a potential church and/or school site for the Diocese of Orlando. However, the Diocese has determined the property as surplus and is in the process of conveying said land.

The applicant is currently seeking Preliminary Development Plan (PDP) approval. The purpose of this request is to allow for the development of a single-family and multiple-family residential subdivision to be called The Landings at Bayside. This project includes an overall density of 5.86 units per acre. The applicant for this request is Bishop John G. Noonan, from the Diocese of Orlando. He is being represented by Chip Bryan, Vice President of Condev Properties, LLC. and David Bassford, P.E. of MBV Engineering, Inc.

ANALYSIS:

The planned unit development (PUD) is a concept which encourages variation in residential developments by allowing deviation in lot size, type of dwellings, density, lot coverage, setbacks, and open space, from those elements required in any singular zoning classification. The purpose of a planned unit development is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types, as well as commercial uses designed to serve the inhabitants of the proposed community.

Specifically, the development plan (PUD-1) proposes 123 units to be named "The Landings PUD". This total unit count is comprised of 88 townhome units and 35 single-family homes. There are no commercial uses included in this project. According to the exhibit, the single-family homes will be constructed along the eastern portion of the site, adjacent to the existing Amberwood neighborhood. The lot sizes are identical to those in Amberwood (50' x 120').

The townhome buildings/units will be constructed within the center and western portions of the site. Although minimum home sizes have not been provided, they will be required to meet the minimum established in the PUD zoning district (800 square feet of living area).

Interconnected dry retention and wet detention ponds located in the middle of the parcel will serve as the stormwater treatment system for this project. Engineered stormwater designs will be required for the Final Development Plan submittal and a legal positive outfall shall be established. Prior to commencement of construction, the design shall be approved by both the City's Public Works Department and the St. Johns River Water Management District.

The internal road network must be designed to meet city standards, which includes a minimum 50' wide right-of-way (ROW), with closed drainage, for all roadways. Unless formally requested for city acceptance, the roads shall be maintained by the Homeowner's Association. A traffic study is not required, as the proposed development would not necessitate such a study. However, the developer shall provide an access management plan that examines the driveway configurations and identifies any necessary roadway improvements.

City water & sewer are located within the adjacent road rights-of-way and shall be extended to all residential units. Identification of the sewer mains and water distribution lines, and their extensions into the project's internal roadway, shall be provided at the time of FDP submittal. A Utility Agreement shall be executed prior to construction plan approval.

Section 185.065 of the City's Code of Ordinances requires a Planned Unit Development to permanently set aside and designate on the site plan recreational and/or open space for use by residents of the PUD, equaling 25% of the project site acreage. At 21 acres, this minimum set aside shall be 5.25 acres. Such useable space shall in the form of active or passive recreation areas. Common open space shall be improved to the extent necessary to complement the residential uses and may contain compatible and complimentary structures for the benefit and enjoyment of the residents of the PUD.

The Preliminary Development Plan (PUD-1) provides a breakdown stating that the minimum set aside has been met via recreation the tracts and the upland areas within the stormwater tracts. As part of the FDP submittal the specific use of any recreational area shall be identified. Additionally, all internal roadways shall be provided with a sidewalk, on both sides of the road, with connections to off-site sidewalks. Entrance lighting shall also be provided.

The City's Subdivision Code (Section 184.24) requires the Applicant to make a concerted effort to preserve as many of these trees as possible. During the subdivision plan review process a tree survey identifying all specimen trees shall be provided to determine the exact location and type, for possible preservation. All other standards of the subdivision code, including road materials, sidewalks, utility construction, and similar items, shall be met.

CONDITIONS:

To receive Preliminary Planned Unit Development approval, the proposal must meet the requirements of Section 185.066 of the City of Palm Bay's Code of Ordinances. Upon review, it appears that the request is in conformance with the applicable requirements of this section, subject to the following items being *submitted with* a Final PUD application:

- A preliminary subdivision plat and Opinion of Title,
- Declaration of Covenants & Restrictions establishing development standards,
- Construction drawings,

- A Concurrency Determination letter from the School Board of Brevard County,
- Submission of an Endangered Species Assessment,
- Identification of lighting within the neighborhood, and
- Compliance with the conditions of CP-17-2021.

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

STAFF RECOMMENDATION:

Case PD-50-2021 is recommended for approval, subject to the staff comments.

TECHNICAL COMMENTS

CASE PD-50-2021 – THE LANDINGS AT BAYSIDE PUD

PUBILC WORKS (Mehul Parekh, PE, Public Works Director):

Driveway and R-of-Way Utilities:

1. Sidewalk from off site to on site; both sides of streets.
2. PU&DE along rear of residential properties adjacent to existing residential
3. Pre-condition Vs post conditions drainage outfall.

Survey:

Boundary

1. Please revise adjacent Plat Book and Page (Amberwood) as PB 57, Pages 21 - 22.
2. Please revise Plat curve information along Cogan Drive to match plat information. Existing labeling varies from plat.
3. Please revise Plat curve information along Lots 19 - 21, Amberwood subdivision. Existing labeling varies from plat.
4. Please provide site benchmarks based on City of Palm Bay vertical datum.
5. All roads shown on future plat to be private.

Engineering:

Please meet the requirements of the City's Ordinance Ch 174.071. If this Ordinance is satisfied then a presumption can be made that the City of Palm Bay's Stormwater management Ordinances are met as well as Florida Statute Ch 373; Florida Administrative Code Ch 62-330.

An environmental assessment shall be provided to identify endangered species, wetland and wetland communities that may not be identified.

All roadways, including private roadways shall meet the minimum standards required by the City of Palm Bay's Code of Ordinances and Public Works Manual.

Results of the report shall be provided to the City and all agencies having jurisdiction, including the FFWC, and SJRWMD as a part of a permit determination or ERP permit application.

A traffic impact study shall not be required as the AM /PM peak hour 100 trip threshold has not been met.

Right in, right out only would be required at the Cogan Dr. intersection.

A signal warrant may be required as the City has plans to extend Osmosis Dr. to DeGroodt which would significantly impact traffic volume.

UTILITIES (Christopher Little, PE, 6Utilities Director):

The Utilities Department has no objection to the proposed 35 single-family and 78 multi-family residential units PUD.

Upon development of the site, the following shall apply for connection to the City's water and sewer utilities system:

1. The applicant/owner, at their expense, will be required to design, permit, install, inspect and test water & sewer systems of adequate size to accommodate the development and to connect to the City's water & sewer system. [§ 200.11(D)(1) - On-Site Facilities].
2. The applicant/owner may be required to extend and/or loop service from the existing water and sewer connection points [§ 200.11(D)(2) -Off-Site Facilities].
3. The applicant/owner will be responsible for the property's hydraulic share for the utilities. Oversizing of utilities at the request of the Utilities Department will be subject to a refunding agreement or refundable advance [§ 200.1(D) & (E)]. The City of Palm Bay's 2017 Wastewater Master Plan & 2017 Water Master Plan, both of which are available upon request, identify proposed mainline extensions with the City's current pipe sizing requirements.
4. A City of Palm Bay "Utility Agreement" shall be executed between the Property Owner and the City. All Utility impact/connection charges noted in the "Utility Agreement" must be paid as outlined in the terms and conditions of the Utility Agreement. All fees are subject to change annually on October 1. The Property Owner shall submit a certified copy of the property deed as verification of ownership as part of the Utility Agreement.
5. All utility construction, materials, and testing shall be in accordance with the latest revision of the Palm Bay Utility Department Policies, Procedures and Standards Handbook and the Standard Detail Drawings. Prior to any construction, all required FDEP Permit applications for the Water and Sanitary Sewer Construction shall be processed through and copied of the Permits filled with the Utilities Department.

BUILDING-FIRE (Michael Bloom, CFPS, Fire Plans Examiner):

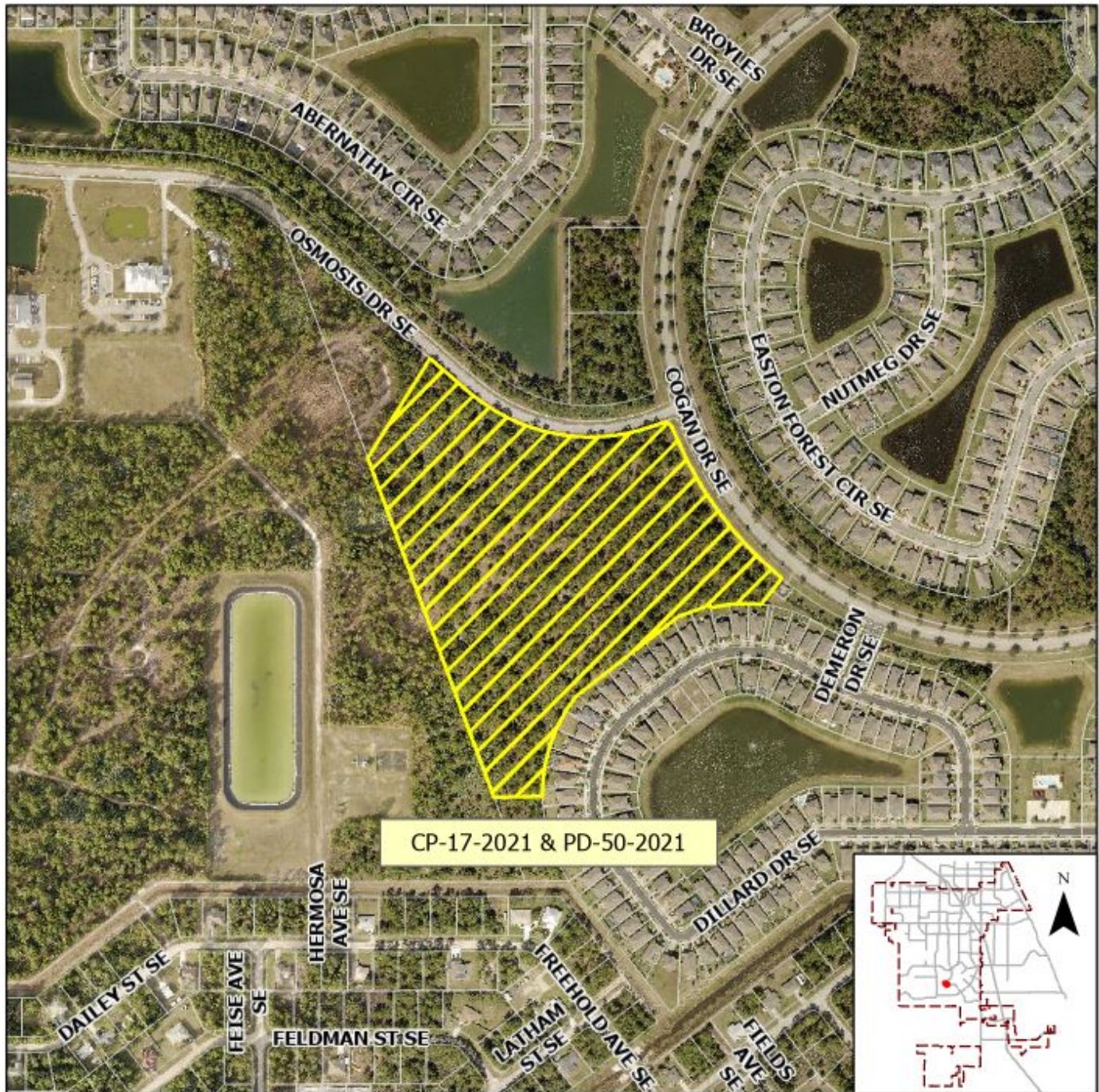
1. Subdivisions shall meet all requirements of the currently adopted Florida Fire Prevention Code (FFPC) 7th edition, Florida Administrative Code (FAC) Florida State Statute (FSS) and City of Palm Bay Ordinances (COPBO).

2. (FFPC 1:18.4.5.1.1) The minimum fire flow and flow duration requirements for one- and two-family dwellings having a fire flow area that does not exceed 5000 ft²(464.5 m²) shall be 1000 gpm (3785 L/min) for 1 hour.
3. (FFPC 1-18.4.5.2.1) Fire flow and flow duration for one- and two-family dwellings having a fire flow area in excess of 5000 ft² (334.5 m²) shall not be less than that specified in Table 18-4.5.1.2.
4. Townhouses shall meet all requirements of (FSS 481.203(16)) or they shall be protected by a fire sprinkler system per FFPC and COPBO.

BUILDING-FLOODZONE (James Williams, CFM, Floodplain Coordinator):

Floodzone X, No FEMA CLOMR/LOMR application required.

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



AERIAL LOCATION MAP CASE: CP-17-2021 & PD-50-2021

Subject Property

Southwest corner of Cogan Drive SE and Osmosis Drive 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-17-2021 & PD-50-2021

Subject Property

Southwest corner of Cogan Drive SE and Osmosis Drive SE

Future Land Use Classification

SFR – Single Family Residential Use

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



ZONING MAP

CASE: CP-17-2021 & PD-50-2021

Subject Property

Southwest corner of Cogan Drive SE and Osmosis Drive SE

Current Zoning Classification

PUD – Planned Unit Development

NOTED: LAND THE LANDINGS AT BAYSIDE LAKES COMMUNITY. THIS PDP PLAN WAS SUBMITTED TO THE CITY OF PALM BAY.



SITE INFORMATION

GENERAL STATEMENT

THIS PROPOSED PROJECT INVOLVES CONSTRUCTION AND DEVELOPMENT A SINGLE-FAMILY RESIDENTIAL SUBDIVISION WITHIN AN UNDEVELOPED PARCEL WITHIN THE CITY OF PALM BAY. THE PROPOSED SITE IS GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF COGAN DRIVE AND OSMOSIS DRIVE. INFRASTRUCTURE IMPROVEMENTS CONSIST OF DRAINAGE PIPES AND STRUCTURES, PROPOSED ROADS, WATER AND SEWER MAIN EXTENSIONS, CONSTRUCTION OF THE FACILITIES WILL INVOLVE CLEARING, GRUBBING, FILLING, EXCAVATION, GRADING AND STABILIZATION. POTENTIAL POLLUTION SOURCES INCLUDE SOIL EROSION AND SILTATION, AND DISCHARGES FROM CONSTRUCTION EQUIPMENT (I.E. OIL, GAS).

OWNER

DIOCESE OF ORLANDO
BISHOP JOHN G. NOONON
50 E. ROBINSON STREET
ORLANDO, FLORIDA 32801
PHONE: (321) 773-7776

ENGINEER

MBV ENGINEERING, INC.
1250 W.EAU GALLIE BLVD. UNIT H
MELBOURNE, FL 32935
PHONE: (321) 253-1510

APPLICANT

CONDEV
CHIP BRYAN, V.P.
321 N. PENNSYLVANIA AVE.
WINTER PARK, FL 32789
PHONE: (407) 679-1748

SITE ADDRESS

COGAN DRIVE & OSMOSIS DRIVE
PALM BAY, FL 32926

SURVEYOR

AAL LAND SURVEYING SERVICES, INC.
3970 MINTON ROAD
WEST MELBOURNE, FLORIDA 32904
PHONE: (321) 768-8110

FUTURE LAND USE

EXISTING: PUBLIC/SEMI-PUBLIC
PROPOSED: MULTI-FAMILY RESIDENTIAL

ZONING

EXISTING: PUD
PROPOSED: PUD

TAX PARCEL ID. NUMBER(S)

29-37-30-01-11

TAX ACCOUNT NO.

2963453

PLANNED UNIT DEVELOPMENT NOTES:

- NO BUILDINGS, PARKING LOTS OR OTHER STRUCTURES MAY BE LOCATED WITHIN THE PERIMETER SETBACK AREA, HOWEVER, SWIMMING POOLS AND POOL DECKS MAY BE PERMITTED SUBJECT TO THE NORMAL RESIDENTIAL SETBACK REQUIREMENTS.
- WITHIN THE PUD, ALL UTILITIES INCLUDING, BUT NOT LIMITED TO, TELEPHONE, TELEVISION CABLE AND ELECTRICAL SYSTEMS SHALL BE INSTALLED UNDERGROUND.
- THE MINIMUM REQUIREMENTS FOR STREETS OR ROADS, SIDEWALKS, SEWER FACILITIES, UTILITIES AND DRAINAGE SHALL BE IN COMPLIANCE WITH THE REQUIREMENTS OF THE CITY OF PALM BAY SUBDIVISION REGULATIONS.
- SUBDIVISION SIGNS SHALL BE IN ACCORDANCE WITH CHAPTER 178 OF THE LAND DEVELOPMENT REGULATIONS.
- WALLS AND FENCES SHALL MEET ALL THE REQUIREMENTS OF CHAPTER 170 OF THE LAND DEVELOPMENT REGULATIONS.
- PARKING SHALL MEET ALL THE REQUIREMENTS OF CHAPTER 185 OF THE LAND DEVELOPMENT REGULATIONS.
- LANDSCAPING SHALL MEET ALL THE REQUIREMENTS OF CHAPTER 180 OF THE LAND DEVELOPMENT REGULATIONS.

PROJECT INFORMATION

| | | | |
|--------------------------|------------|-----------|----------|
| SITE AREA | 915,036 SF | 21.00 AC. | 100.00 % |
| LOTS (SFR) | 228,549 SF | 5.25 AC. | 25.00 % |
| LOTS (TWH) | 234,134 SF | 5.37 AC. | 25.60 % |
| ROADS | 72,736 SF | 1.67 AC. | 7.94 % |
| SIDEWALK | 27,008 SF | 0.62 AC. | 2.94 % |
| PROPOSED IMPERVIOUS | 402,519 SF | 9.24 AC. | 44.00 % |
| PROPOSED PERVIOUS | 412,645 SF | 9.47 AC. | 45.10 % |
| WET PONDS (NWL) | 99,872 SF | 2.29 AC. | 10.90 % |
| TOTAL UNITS | 123 UNITS | 100.00 % | |
| TOWNHOMES (24x90) | 88 UNITS | 71.54 % | |
| SINGLE-FAMILY (50'x120') | 35 UNITS | 28.46 % | |

NOTE: ASSUMES 50'x70' PAD ON ALL SINGLE-FAMILY HOUSES AND 25'x25' DRIVEWAY FOR IMPERVIOUS AREA. ALSO ASSUMES 110'x80' SF OF IMPERVIOUS FOR THE TEN (10) 6-UNIT TOWNHOMES AND 7,200 SF OF IMPERVIOUS FOR THE SEVEN (7) 4-UNIT TOWNHOMES.

ON-SITE SIDEWALKS SHALL BE 5 FEET IN WIDTH ON BOTH SIDES OF THE RIGHT-OF-WAY.

MINIMUM DISTANCE BETWEEN STRUCTURES SHALL BE 10 FEET FOR 2-STORY OR BELOW.

MINIMUM LIVING AREA SHALL BE 800 SF FOR UNITS.

| | | |
|------------------------|-------------|----------|
| MINIMUM (SFR) LOT AREA | REQUIRED | PROVIDED |
| | 4,050 SF | 5,500 SF |
| DENSITY | 5.86 U.P.A. | |

BUILDING SETBACKS

| | | |
|---------------|----------|------------------------|
| | REQUIRED | PROVIDED |
| FRONT | 0' | 25' (20' FOR TOWNHOME) |
| REAR | 10' | 10' |
| SIDE | 5' | 5' |
| SIDE INTERIOR | 10' | 10' |

FLOOD ZONE

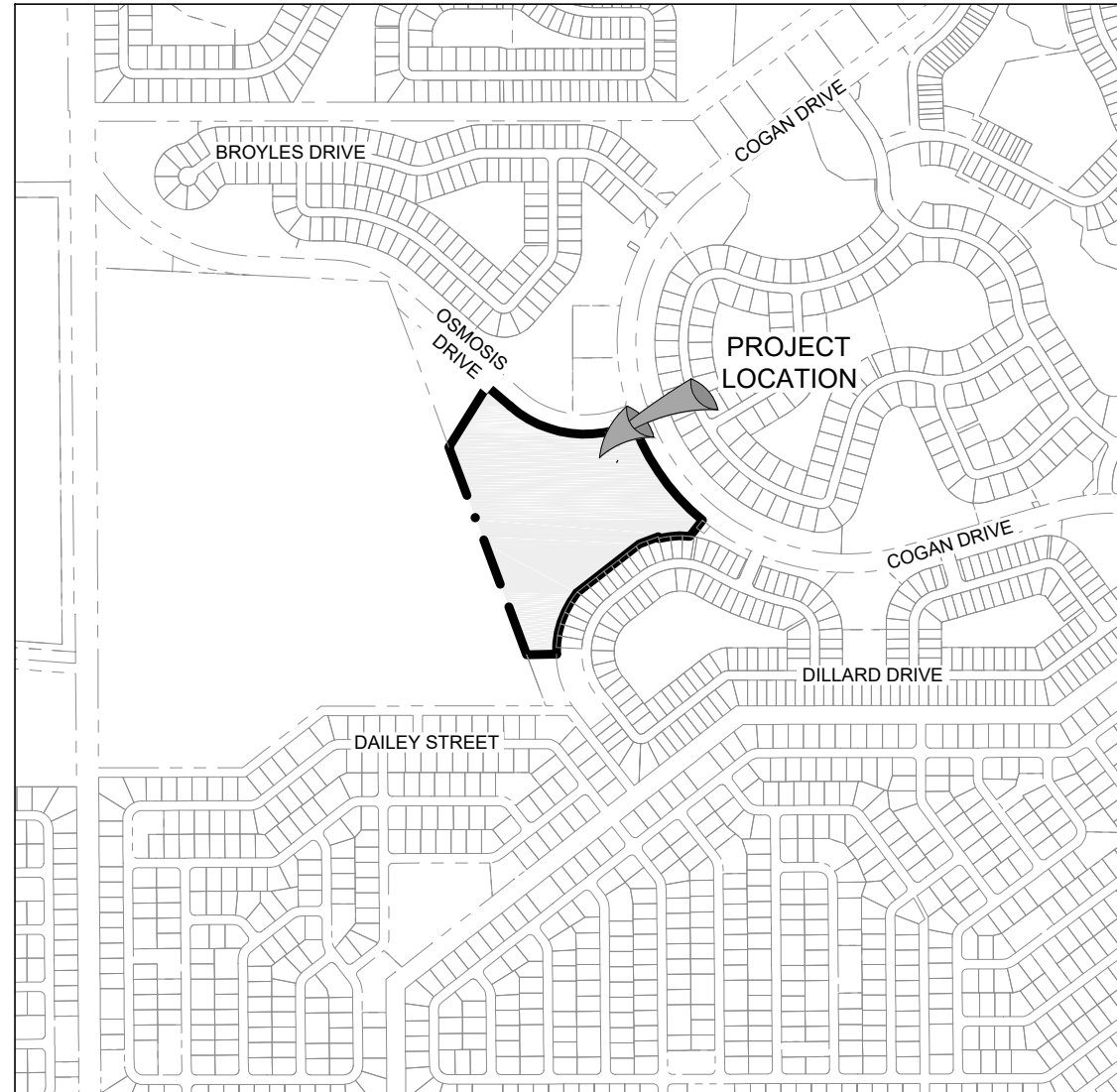
THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE 'X' PER F.I.R.M. PANEL No. 12009C 0670 G, DATED MARCH 17, 2014.

SANITARY SEWER SOURCE

PALM BAY SANITARY SEWER SYSTEM

POTABLE WATER SOURCE

PALM BAY WATER SYSTEM



LOCATION MAP

SCALE: 1" = 1000'

| TRACT | USE | TRACT AREA | AREA AT N.W.L. | OPEN SPACE CREDIT | MAINTENANCE RESPONSIBILITY |
|-------|-------------------------|------------|----------------|-------------------|----------------------------|
| A | OPEN SPACE & RECREATION | 0.40 | 0.00 | 0.40 | H.O.A. |
| B | STORMWATER & RECREATION | 4.87 | 2.82 | 3.76 | H.O.A. |
| C | OPEN SPACE & RECREATION | 0.73 | 0.00 | 0.73 | H.O.A. |
| D | OPEN SPACE & RECREATION | 1.07 | 0.00 | 1.07 | H.O.A. |
| | TOTAL | | | 5.96 | |

NOTE: TOTAL USABLE COMMON RECREATION & OPEN SPACE REQUIRED IS 5.25 ACRES (25%). OPEN SPACE CREDIT LISTED ABOVE IS CALCULATED AS THE TRACT ACREAGE LESS 25% OF THE ACREAGE OF THE STORMWATER PONDS AND SHALL BE IMPROVED WITH EITHER DOCKS OR PIERS.

CITY OF PALM BAY
ZONING: GU (GENERAL USE)
LAND USE: UTIL (UTILITIES)

MBV
ENGINEERING, INC.
MOA BOWLES VILLARREAL & ASSOCIATES
Civil • Structural • Surveying • Environmental
1250 W. EAU GALLIE BLVD. SUITE H
MELBOURNE, FLORIDA 32935
P: 321-253-1510
F: 321-253-1511
ALSO WITH OFFICES IN:
VERO: 772-999-0035, FT. PIERCE: 772-468-8065, PALM CITY: 772-498-9959

PDP SITE DATA PLAN

THE LANDINGS AT BAYSIDE

NOT FOR CONSTRUCTION
PLAN SHEETS ARE PRELIMINARY AND FOR INFORMATION ONLY. PLANS SHOULD NOT BE USED AS A BASIS FOR BIDS.
CONTRACTOR SHOULD ORDER THE OFFICIAL PLANS FROM THE ENGINEER OF RECORD TO ENSURE THAT ANY ACCORDANCE ARE PROPERLY DISTRIBUTED. PLANS ARE INVALID WITHOUT ENGINEER OF RECORDS SEAL AND SIGNATURE.

PUD-1

SHEET

21-1048

PRELIMINARY SET

VERO: 772-999-0035, FT. PIERCE: 772-468-8065, PALM CITY: 772-498-9959

FLORIDA

BREVARD COUNTY

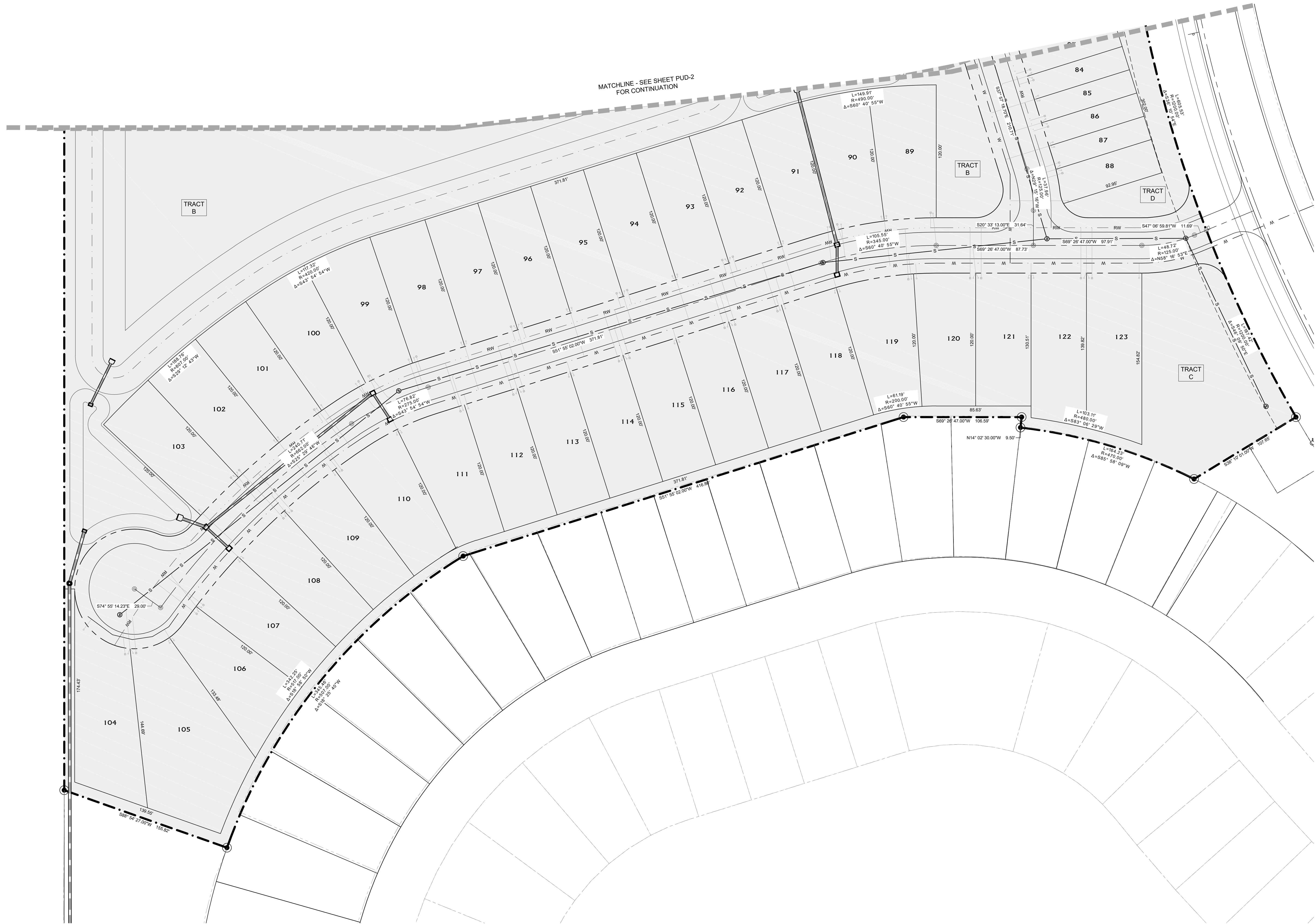
REVISIONS

COMMENTS

DATE

| JOB NO. | DESIGNED | DRAWN | DATE | CHECKED | DATE ISSUED |
|---------|----------|-------|----------|---------|-------------|
| 21-1048 | DWB | DWB | 6/1/2021 | DWB | 9/29/2021 |

NOTES: 1. THE LANDINGS AT BAYSIDE CASINOS 2. 040 PDP PLAN 3. 05/20/2017 12:27 AM DAVIS



NOT FOR CONSTRUCTION
PLAN SHEETS ARE PRELIMINARY AND FOR INFORMATION ONLY. PLANS SHOULD NOT BE USED AS A BASIS FOR BIDS.
CONTRACTOR SHOULD ORDER THE OFFICIAL PLANS FROM THE ENGINEER OF RECORD TO ENSURE THAT ANY AMENDMENTS ARE PROPERLY DISTRIBUTED. PLANS ARE INVALID WITHOUT ENGINEER OF RECORDS SEAL AND SIGNATURE.

THE LANDINGS AT BAYSIDE

FLORIDA

BREVARD COUNTY

PDP SITE PLAN
(SHEET 02)

MBV
ENGINEERING, INC.
MOA BOWLES VILLALBA & ASSOCIATES
CIVIL • STRUCTURAL • SURVEYING • ENVIRONMENTAL
1250 W. EAU GALIE BLVD, SUITE H
MELBOURNE, FLORIDA 32935
P: 321.255.1111
F: 321.255.1111
ALSO WITH OFFICES IN:
VERO 772.598.0035, FT. PIERCE 772.486.8005, PALM CITY 772.486.9959

21-104B

DESIGNED
DWB

DRAWN
DWB

DATE
6/1/2021

CHECKED
DWB

DATE ISSUED
9/29/2021

COMMENTS

REVISIONS

DATE

PUD-3

SHEET
21-104B

PRELIMINARY SET

September 22, 2021

Ms. Chandra Powell,
City of Palm Bay, Land Development Division
120 Malabar Road, S.E.
Palm Bay FL, 32909

Via Hand Delivery

RE: Landings at Bayside
Parcel ID: 29-37-30-01-I1
MBV Project #: 21-1048

Dear Ms. Powell:

Please allow this letter to serve as a narrative for the planned unit development that MBV Engineering is initiating at this time. The development is approximately 21 acres. It will consist of 35 Single Family Lots (50 x 120) and 78 Townhomes (24 x 90 to 24 x 120) . It is located off Cognan Drive SE at the corner of Osmosis Drive.

The property is currently under contract between the Diocese of Orlando (seller) and Condev Properties LLC (buyer).

The property is currently zoned PUD, and we are not requesting changes for this. The FLU for the parcel is currently Public / Semi Public and we are requesting a change to Single Family Residential. The application for change will make the proposed development comply with the permitted use requirements for a PUD. In addition, the proposed development meets the LDR and Comprehensive Plan requirements as follows:

| | Required | Provided |
|-----------------------------|-------------|-------------------------|
| Minimum (SFR) Lot Area | 4,050 SF | 5,050 SF |
| Density | 5.86 U.P.A. | 5.6 U.P.A. |
| Front Bldg. Setback | 0 | 25" (20" for Townhomes) |
| Rear Bldg. Setback | 10' | 10' |
| Side Bldg. Setback | 5' | 5' |
| Side Interior Bldg. Setback | 10' | 10' |



Ms. Chandra Powell
The Landing at Bayside
MBV # 21-1048

Applications brought forward to the City of Palm at this time consist of:

- Preliminary Development Plan with no zoning change request.
- Comprehensive Plan Amendment changing the Land Use from Public / Semi Public to SFR.
- Brevard County School Board Concurrency Application

MBV will initiate the Citizen's Participation Plan / Report for review when the meeting location and date have been established.

Contacts for the project are as follows:

Developer / Owner: Condev Development LLC
Chip Bryan, V.P.
407-679-1748
chipb@condevfl.com

EOR: MBV Engineering Inc.
David Bassford P.E., V.P.
321-253-1510
davidb@mbveng.com

Surveyor: AAL Land Surveying
321-768-8110

Sincerely,

Wanda Walker, Permitting Coordinator



LAND DEVELOPMENT DIVISION

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

Landdevelopmentweb@palmbayflorida.org

PRELIMINARY DEVELOPMENT PLAN 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:

- ☒ **PUD** - Planned Unit Development ([Section 185.066](#))
- ☐ **PMU** - Parkway Mixed Use District (Preliminary Design Plan) ([Section 185.057](#))
- ☐ **PCRD** - Planned Community Redevelopment District ([Section 185.055](#))
- ☐ **RAC** - Regional Activity Center District (Preliminary Concept Plan) ([Section 185.056](#))

PROPOSED DEVELOPMENT NAME:

The Landings at Bayside

PARCEL ID(S):

29-37-30-01-11

TAX ACCOUNT NUMBER(S):

2963453

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

Bayside Lakes Commercial Center Phase 4 Tract I-1 (Institutional)

CITY OF PALM BAY, FLORIDA
PRELIMINARY DEVELOPMENT PLAN APPLICATION
PAGE 2 OF 5

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

21 acres

TOTAL LOTS PROPOSED (list by use):

35 SFR Lots and 8 Townhomes (total of 123 Lots)

| | | | |
|---------------------|-------------------------------------------------------|--------------|-------------------------|
| DEVELOPER | Chip Bryan - Condev Properties, LLC | | |
| Full Address | 921 N Peninsula Avenue, Winter Park, FL 21789 | | |
| Telephone | 407-679-1748 | Email | chipbcondevfl.com |
| ENGINEER | MBV Engineering, Inc. - David Bassford P.E. | | |
| Full Address | 1250 W. Eau Gallie Blvd, Suite H, Melbourne, FL 32935 | | |
| Telephone | 321-253-1510 | Email | davidb@mbveng.com |
| SURVEYOR | AAL Land Surveying Services, Inc. | | |
| Full Address | 3970 Minton Road, West Melbourne, FL 32904 | | |
| Telephone | 321-768-8110 | Email | aalsurvey@allsurvey.com |

PRELIMINARY DEVELOPMENT PLAN CRITERIA FOR SUBMITTAL:

Two (2) copies of the following exhibits shall be attached to the Preliminary Development Plan application. The preliminary plan and supporting documentation **must also be provided on memory drive.**

- A) Vicinity map clearly outlining subject property and showing the relationship between the site and its surrounding area including adjacent streets and thoroughfares.
- B) Preliminary Development Plan that shall contain maps, drawings and narrative, as appropriate, providing the following information:
 - 1) A general plan for the use of all lands within the proposed development. Such plans shall indicate the general location of residential areas (including maximum density and unit types), open space, parks, passive or scenic areas, and nonresidential areas (including maximum building square footage or other intensity maximums).

CITY OF PALM BAY, FLORIDA
PRELIMINARY DEVELOPMENT PLAN APPLICATION
PAGE 3 OF 5

- 2) Proposed name or title of project, the name of the engineer, architect, and developer.
 - 3) North arrow, scale (1 inch = 200 feet or larger), date and legal description of the proposed site.
 - 4) Boundaries of tract shown with bearings, distances, closures, and bulkhead liner. All existing easements, section lines, and all existing streets and physical features in and adjoining the project, and the existing zoning.
 - 5) Proposed parks, school sites, or other public or private open space.
 - 6) Off-street parking, loading areas, driveways and access points.
 - 7) Site data including tabulation of the total number of gross acres in the project, the acreage to be devoted to each of the several types of primary residential and secondary non-residential uses, and the total number of dwelling units, the maximum height of all structures, the minimum setbacks of all structures (and parking areas) and the total area of pervious and impervious surfaces.
 - 8) Delineation of phased development, if applicable.
 - 9) Proposed means of drainage for the site.
- C) A plan of vehicular and pedestrian circulation showing the general locations and right-of-way widths of roads, sidewalks, the capacity of the system and major access points to the external and internal thoroughfare network.
- D) Schematic drawing of the elevation and architectural construction of the proposed primary and secondary nonresidential structures.
- E) A Traffic Study meeting generally accepted engineering practices examining the impact of the proposed development on the surrounding roadway network. (If applicable)
- F) Narrative describing in detail how the proposed Preliminary Development Plan meets the requirements of the Land Development Code and the Palm Bay Comprehensive Plan.

Additional conditions must be met and incorporated into the site plan for the specific type of development requested (PUD, PMU, PCRD, RAC). The additional criteria are listed in the Code of Ordinances and available from staff.

CITY OF PALM BAY, FLORIDA
PRELIMINARY DEVELOPMENT PLAN APPLICATION
PAGE 4 OF 5

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

- ☒ *A \$1,000.00 application fee shall accompany the Preliminary Development Plan application for the purposes of administration. Make Check payable to "City of Palm Bay."
- ☒ Vicinity Map (see Item A).
- ☒ Preliminary Development Plan (see Item B).
- ☐ Vehicular and Pedestrian Circulation Plan (see Item C).
- ☐ Schematic Drawing (see Item D).
- ☐ Traffic Study (see Item E).
- ☒ Narrative (see Item F).
- ☒ List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This should be obtained for a fee from the Brevard County Planning and Zoning Department at (321) 633-2060.)
- ☒ Citizen Participation Plan. Required when a Preliminary Development Plan application was not submitted. Refer to Section 169.005 of the Land Development Code for guidelines.
- ☒ School Board of Brevard County School Impact Analysis Application (if applicable). The application is obtained from the Planning and Project Management Department of the School Board of Brevard County at (321) 633-1000, extension 11418.
- ☐ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines. Staff will provide a sign template.
- ☒ Where the property owner is not the representative for the request, a LETTER must be attached giving the notarized consent of the property owner(s) to a representative.

Name of Representative Chip Bryan (Condev) and David Bassford P.E.(MBV)

CITY OF PALM BAY, FLORIDA
PRELIMINARY DEVELOPMENT PLAN APPLICATION
PAGE 5 OF 5

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 PRELIMINARY DEVELOPMENT PLAN APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Owner Signature *John G. Noonan* ^{Chancellor/100} Date September 14, 2021
Printed Name John G. Noonan, Bishop - Signatory for Diocese of Orlando
Full Address 50 E. Robinson Street, Orlando, FL 32801
Telephone 407-679-1748 Email jnoonan@orlandodiocese.org

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

October 7, 20 21

Re: Letter of Authorization

As the property owner of the site legally described as:

Parcel ID 29-37-30-01-I1 - Bayside Lakes Commercial Center, Phase 4, Tract I-1
(Institutional)

I, Owner Name: John G Noonan, Bishop - Signatory for Diocese of Orlando

Address: 50 E. Robinson Street, Orlando, FL 32801

Telephone: 407-679-1748

Email: jnoonan@orlandodiocese.org

hereby authorize:

Representative: Chip Bryan - VP, Condev Properties LLC

Address: 921 N. Peninsula Avenue, Winter Park, FL 21789

Telephone: 407-679-1748

Email: chipb@condevfl.com

to represent the request(s) for:

Comprehensive Plan Amendment / Preliminary Development Plan

(Property Owner Signature)

STATE OF Florida

COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 8 day of October, 20 21 by

John Noonan

, property owner.

, Notary Public



Personally Known or



Produced the Following Type of Identification:



Roberto Diaz

October 7, 20 21

Re: Letter of Authorization

As the property owner of the site legally described as:

Parcel ID 29-37-30-01-I1 - Bayside Lakes Commercial Center, Phase 4, Tract I-1
(Institutional)

I, Owner Name: John G Noonan, Bishop - Signatory for Diocese of Orlando

Address: 50 E. Robinson Street, Orlando, FL 32801

Telephone: 407-679-1748

Email: jnoonan@orlandodiocese.org

hereby authorize:

Representative: David Bassford, P.E., MBV Engineering, Inc.

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

Telephone: 321-253-1510

Email: davidb@mbveng.com

to represent the request(s) for:

Comprehensive Plan Amendment / Preliminary Development Plan

(Property Owner Signature)

STATE OF Florida

COUNTY OF Orange

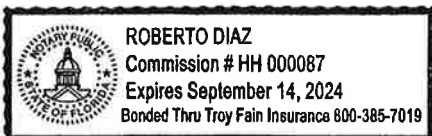
The foregoing instrument was acknowledged before me by means of ☒ physical
presence or ☐ online notarization, this 8 day of October, 20 21 by

John Noonan

, property owner.

, Notary Public

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



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.

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.

RESOLUTION 2021-71

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, GRANTING APPROVAL FOR A PLANNED UNIT DEVELOPMENT (PUD) PRELIMINARY DEVELOPMENT PLAN OF A RESIDENTIAL SUBDIVISION TO BE KNOWN AS 'THE LANDINGS AT BAYSIDE PUD' IN PUD (PLANNED UNIT DEVELOPMENT) ZONING; WHICH PROPERTY IS LOCATED AT THE SOUTHWEST CORNER OF COGAN AND OSMOSIS DRIVES, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR FILING OF THE FINAL PLANNED UNIT DEVELOPMENT APPLICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, application for Planned Unit Development (PUD) Preliminary Development Plan in PUD (Planned Unit Development) zoning to permit a 123-unit mixed residential subdivision to be known as 'The Landings at Bayside PUD' has been made by Diocese of Orlando, and

WHEREAS, the request was duly considered by the Planning and Zoning Board of the City of Palm Bay on November 15, 2021, which voted to recommend to the City Council approval of the application, and

WHEREAS, all provisions applicable to the Preliminary PUD under Chapter 185, Zoning, of the Palm Bay Code of Ordinances, have been satisfied by the applicant, and

WHEREAS, the City Council of the City of Palm Bay has determined that such Preliminary PUD will neither be injurious to adjacent lands nor otherwise detrimental to the public welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City Council of the City of Palm Bay hereby grants PUD Preliminary Development Plan approval for 'The Landings at Bayside PUD' on property zoned PUD (Planned Unit Development), which property is legally described herein as follows:

Tract "I-1", Bayside Lakes Commercial Center Phase 4, according to the plat thereof as recorded in Plat Book 54, Page 48, of the Public Records of Brevard County, Florida; Section 30, Township 29S, Range 37E; containing 21.00 acres, more or less.

SECTION 2. The PUD Preliminary Development Plan, incorporated herein as Exhibit 'A', is granted subject to the staff comments contained in the Staff Report, complying with and submitting the following items with a Final PUD application:

- A. The Land Development Division Staff Report which is, by reference, incorporated herein as Exhibit 'B';
- B. A preliminary subdivision plat and Opinion of Title;
- C. Declaration of Covenants and Restrictions establishing development standards and construction drawings;
- D. A Concurrency Determination letter from the School Board of Brevard County;
- E. Submission of an Endangered Species Assessment;
- F. Identification of lighting within the neighborhood;
- G. Compliance with the conditions of CP-17-2021;
- H. The technical comments generated by the Development Review Staff, incorporated herein as Exhibit 'C', shall be observed and incorporated into the Final Development Plan; and
- I. All provisions of the Code of Ordinances of the City of Palm Bay and all other state and federal rules, regulations, and statutes.

SECTION 3. The developer shall have one (1) year from the date of this resolution in which to file a Final PUD application. Failure to file said application within one (1) year shall void the PUD Preliminary Development Plan approval unless an extension for filing the Final PUD application has been granted by the City Council.

SECTION 4. This resolution shall take effect immediately upon the enactment date.

This resolution was duly enacted at Meeting 2021- , of the City Council of the City of Palm Bay, Brevard County, Florida, held on , 2021.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Applicant: Diocese of Orlando
Case: PD-50-2021

cc: (date) Brevard County Recording
Applicant
Case File

NOTED: LAND THE LANDINGS AT BAYSIDE LAKES COMMUNITY. THIS PDP PLAN AND SITE PLAN IS FOR THE LANDINGS AT BAYSIDE LAKES COMMUNITY. THIS PDP PLAN AND SITE PLAN IS FOR THE LANDINGS AT BAYSIDE LAKES COMMUNITY.



BAYSIDE LAKES COMMERCIAL CENTER
ZONING: PUD (PLANNED UNIT DEVELOPMENT)
LAND USE: CON (CONSERVATION)

HOLLY TRACE AT BAYSIDE LAKES HOA
ZONING: PUD (PLANNED UNIT DEVELOPMENT)
LAND USE: MFR (MULTI-FAMILY RESIDENTIAL)

BAYSIDE LAKES COMMERCIAL CENTER
ZONING: PUD (PLANNED UNIT DEVELOPMENT)
LAND USE: SFR (SINGLE-FAMILY RESIDENTIAL)

STONEBRIAR AT BAYSIDE LAKES
ZONING: PUD (PLANNED UNIT DEVELOPMENT)
LAND USE: MFR (MULTI-FAMILY RESIDENTIAL)

CITY OF PALM BAY
ZONING: GU (GENERAL USE)
LAND USE: UTIL (UTILITIES)

| TRACT | USE | TRACT AREA | AREA AT N.W.L. | OPEN SPACE CREDIT | MAINTENANCE RESPONSIBILITY |
|-------|-------------------------|------------|----------------|-------------------|----------------------------|
| A | OPEN SPACE & RECREATION | 0.40 | 0.00 | 0.40 | H.O.A. |
| B | STORMWATER & RECREATION | 4.87 | 2.82 | 3.76 | H.O.A. |
| C | OPEN SPACE & RECREATION | 0.73 | 0.00 | 0.73 | H.O.A. |
| D | OPEN SPACE & RECREATION | 1.07 | 0.00 | 1.07 | H.O.A. |
| TOTAL | | | | 5.96 | |

NOTE: TOTAL USABLE COMMON RECREATION & OPEN SPACE REQUIRED IS 5.25 ACRES (25%). OPEN SPACE CREDIT LISTED ABOVE IS CALCULATED AS THE TRACT ACREAGE LESS 25% OF THE ACREAGE OF THE STORMWATER PONDS AND SHALL BE IMPROVED WITH EITHER DOCKS OR PIERS.

SITE INFORMATION

GENERAL STATEMENT

THIS PROPOSED PROJECT INVOLVES CONSTRUCTION AND DEVELOPMENT A SINGLE-FAMILY RESIDENTIAL SUBDIVISION WITHIN AN UNDEVELOPED PARCEL WITHIN THE CITY OF PALM BAY. THE PROPOSED SITE IS GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF COGAN DRIVE AND OSMOSIS DRIVE. INFRASTRUCTURE IMPROVEMENTS CONSIST OF DRAINAGE PIPES AND STRUCTURES, PROPOSED ROADS, WATER AND SEWER MAIN EXTENSIONS, CONSTRUCTION OF THE FACILITIES WILL INVOLVE CLEARING, GRUBBING, FILLING, EXCAVATION, GRADING AND STABILIZATION. POTENTIAL POLLUTION SOURCES INCLUDE SOIL EROSION AND SILTATION, AND DISCHARGES FROM CONSTRUCTION EQUIPMENT (I.E. OIL, GAS).

OWNER

DIOCESE OF ORLANDO
BISHOP JOHN G. NOONON
50 E. ROBINSON STREET
ORLANDO, FLORIDA 32801
PHONE: (321) 773-7776

ENGINEER

MBV ENGINEERING, INC.
1250 W.EAU GALIE BLVD. UNIT H
MELBOURNE, FL 32935
PHONE: (321) 253-1510

APPLICANT

CONDEV
CHIP BRYAN, V.P.
321 N. PENNSYLVANIA AVE.
WINTER PARK, FL 32789
PHONE: (407) 679-1748

SITE ADDRESS

COGAN DRIVE & OSMOSIS DRIVE
PALM BAY, FL 32926

SURVEYOR

AAL LAND SURVEYING SERVICES, INC.
3970 MINTON ROAD
WEST MELBOURNE, FLORIDA 32904
PHONE: (321) 768-8110

FUTURE LAND USE

EXISTING: PUBLIC/SEMI-PUBLIC
PROPOSED: MULTI-FAMILY RESIDENTIAL

ZONING

EXISTING: PUD
PROPOSED: PUD

TAX PARCEL ID. NUMBER(S)

29-37-30-01-11

TAX ACCOUNT NO.

2963453

PLANNED UNIT DEVELOPMENT NOTES:

- NO BUILDINGS, PARKING LOTS OR OTHER STRUCTURES MAY BE LOCATED WITHIN THE PERIMETER SETBACK AREA, HOWEVER, SWIMMING POOLS AND POOL DECKS MAY BE PERMITTED SUBJECT TO THE NORMAL RESIDENTIAL SETBACK REQUIREMENTS.
- WITHIN THE PUD, ALL UTILITIES INCLUDING, BUT NOT LIMITED TO, TELEPHONE, TELEVISION CABLE AND ELECTRICAL SYSTEMS SHALL BE INSTALLED UNDERGROUND.
- THE MINIMUM REQUIREMENTS FOR STREETS OR ROADS, SIDEWALKS, SEWER FACILITIES, UTILITIES AND DRAINAGE SHALL BE IN COMPLIANCE WITH THE REQUIREMENTS OF THE CITY OF PALM BAY SUBDIVISION REGULATIONS.
- SUBDIVISION SIGNS SHALL BE IN ACCORDANCE WITH CHAPTER 178 OF THE LAND DEVELOPMENT REGULATIONS.
- WALLS AND FENCES SHALL MEET ALL THE REQUIREMENTS OF CHAPTER 170 OF THE LAND DEVELOPMENT REGULATIONS.
- PARKING SHALL MEET ALL THE REQUIREMENTS OF CHAPTER 185 OF THE LAND DEVELOPMENT REGULATIONS.
- LANDSCAPING SHALL MEET ALL THE REQUIREMENTS OF CHAPTER 180 OF THE LAND DEVELOPMENT REGULATIONS.

PROJECT INFORMATION

| | | | |
|--------------------------|------------|----------|----------|
| SITE AREA | 915,036 SF | 21.00 AC | 100.00 % |
| LOTS (SFR) | 228,549 SF | 5.25 AC | 25.00 % |
| LOTS (TWH) | 234,134 SF | 5.37 AC | 25.60 % |
| ROADS | 72,736 SF | 1.67 AC | 7.94 % |
| SIDEWALK | 27,008 SF | 0.62 AC | 2.94 % |
| PROPOSED IMPERVIOUS | 402,519 SF | 9.24 AC | 44.00 % |
| PROPOSED PERVIOUS | 412,645 SF | 9.47 AC | 45.10 % |
| WET PONDS (NWL) | 99,872 SF | 2.29 AC | 10.90 % |
| TOTAL UNITS | 123 UNITS | 100.00 % | |
| TOWNHOMES (24x90') | 88 UNITS | 71.54 % | |
| SINGLE-FAMILY (50'x120') | 35 UNITS | 28.46 % | |

NOTE: ASSUMES 50'x70' PAD ON ALL SINGLE-FAMILY HOUSES AND 25'x25' DRIVEWAY FOR IMPERVIOUS AREA. ALSO ASSUMES 10'x10' SF OF IMPERVIOUS FOR THE TEN (10) 6-UNIT TOWNHOMES AND 7,200 SF OF IMPERVIOUS FOR THE SEVEN (7) 4-UNIT TOWNHOMES.

ON-SITE SIDEWALKS SHALL BE 5 FEET IN WIDTH ON BOTH SIDES OF THE RIGHT-OF-WAY.

MINIMUM DISTANCE BETWEEN STRUCTURES SHALL BE 10 FEET FOR 2-STORY OR BELOW.

MINIMUM LIVING AREA SHALL BE 800 SF FOR UNITS.

| | | |
|------------------------|-------------|----------|
| MINIMUM (SFR) LOT AREA | REQUIRED | PROVIDED |
| | 4,050 SF | 5,500 SF |
| DENSITY | 5.86 U.P.A. | |

BUILDING SETBACKS

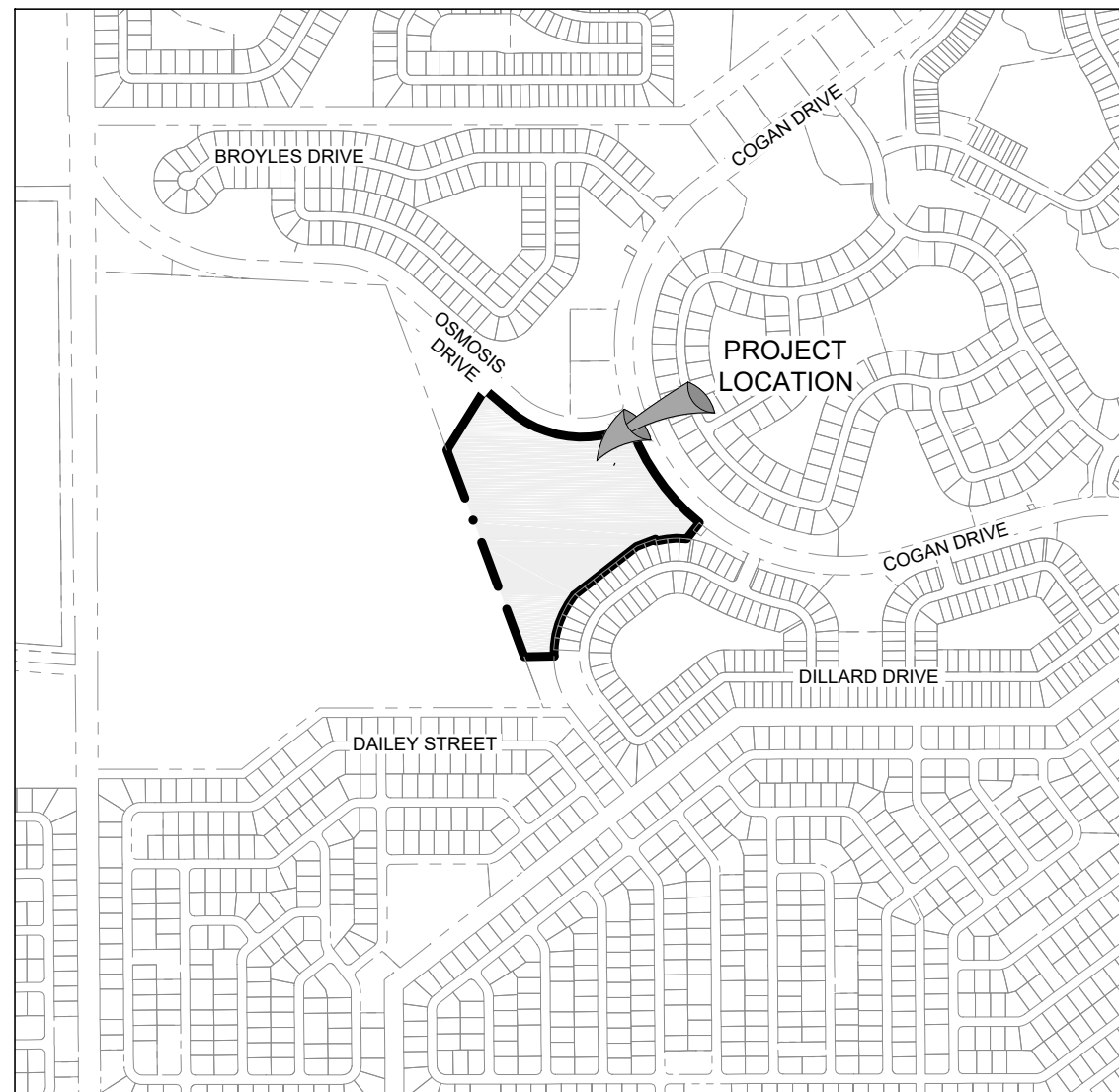
| | | |
|---------------|----------|------------------------|
| FRONT | REQUIRED | PROVIDED |
| | 0' | 25' (20' FOR TOWNHOME) |
| REAR | 10' | 10' |
| SIDE | 5' | 5' |
| SIDE INTERIOR | 10' | 10' |

FLOOD ZONE

THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE 'X' PER F.I.R.M. PANEL No. 12009C 0670 G, DATED MARCH 17, 2014.

SANITARY SEWER SOURCE
PALM BAY SANITARY SEWER SYSTEM

POTABLE WATER SOURCE
PALM BAY WATER SYSTEM



LOCATION MAP

SCALE: 1" = 1000'

MBV
ENGINEERING, INC.
MOA BOWLES VILLARREAL & ASSOCIATES
Civil • Structural • Surveying • Environmental
1250 W. EAU GALIE BLVD. SUITE H
MELBOURNE, FLORIDA 32935
P: 321-253-1510
F: 321-253-1511
ALSO WITH OFFICES IN:
VERO: 772-999-0035, FT. PIERCE: 772-468-8065, PALM CITY: 772-498-9959

PDP SITE DATA PLAN

THE LANDINGS AT BAYSIDE

NOT FOR CONSTRUCTION
PLAN SHEETS ARE PRELIMINARY AND FOR INFORMATION ONLY. PLANS SHOULD NOT BE USED AS A BASIS FOR BIDS.
CONTRACTOR SHOULD ORDER THE OFFICIAL PLANS FROM THE ENGINEER OF RECORD TO ENSURE THAT ANY ACCORDANCE ARE PROPERLY DISTRIBUTED. PLANS ARE INVALID WITHOUT ENGINEER OF RECORDS SEAL AND SIGNATURE.

PUD-1

SHEET

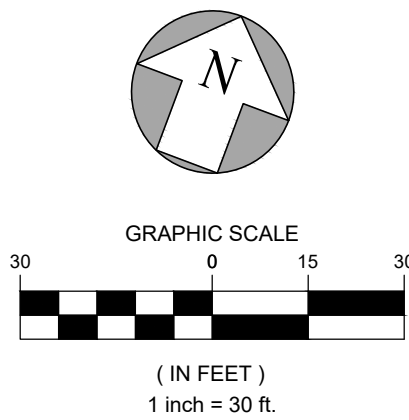
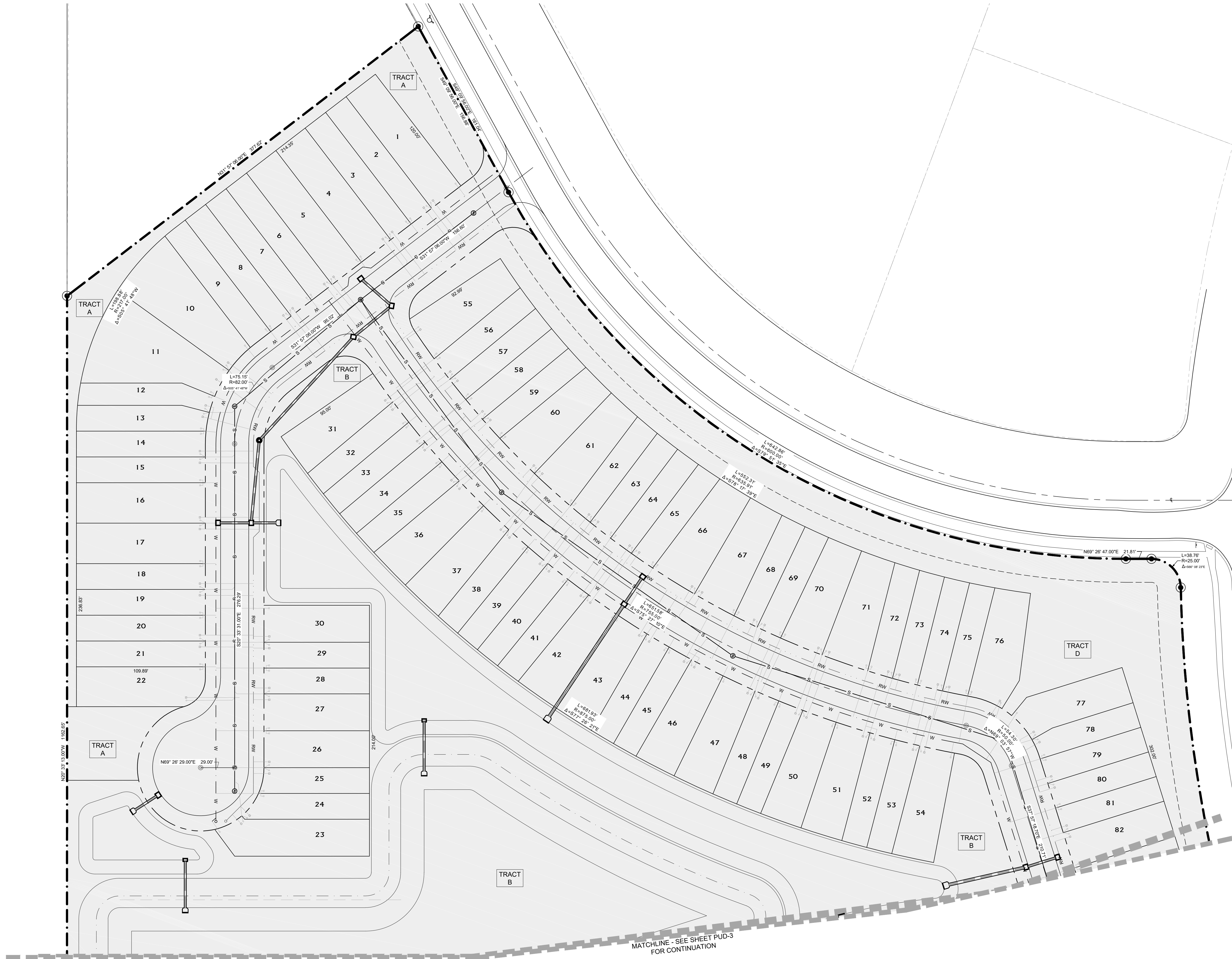
21-1048

PRELIMINARY SET

| JOB NO. | DESIGNED | DRAWN | DATE | CHECKED | DATE ISSUED |
|---------|----------|-------|----------|---------|-------------|
| 21-1048 | DWB | DWB | 6/1/2021 | DWB | 9/29/2021 |

| REVISIONS | DATE |
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| 8 | |

W:\21-1048 THE LANDINGS AT BAYSIDE\CD\Sheet1-048 PUD-2 Plan.dwg 9/29/2021 12:27 AUC:VBS



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OFFICIAL PLANS FROM THE ENGINEER OF
RECORD TO ENSURE THAT ANY
AMENDMENTS ARE PROPERLY DISTRIBUTED.
PLANS ARE INVALID WITHOUT ENGINEER
OF RECORDS SEAL AND SIGNATURE.

PUD-2

SHEET
21-1048

PRELIMINARY SET

THE LANDINGS AT BAYSIDE

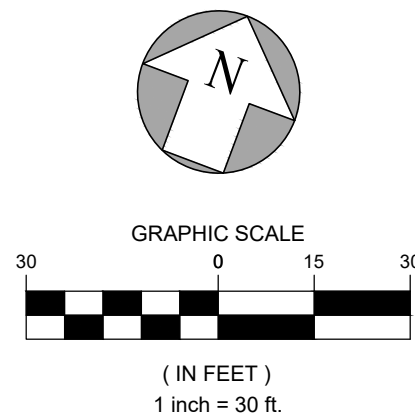
PDP SITE PLAN
(SHEET 01)

BREVARD COUNTY FLORIDA

MBV
ENGINEERING, INC.
MOA BOWLES VILLALBA & ASSOCIATES
CIVIL • STRUCTURAL • SURVEYING • ENVIRONMENTAL
1250 W. EAU GALIE BLVD. SUITE H
MELBOURNE, FLORIDA 32935
P: 321-255-1111 FAX: 321-255-1111
VERO: 772-595-0035, FT PIERCE: 772-466-8005, PALM CITY: 772-466-9959

| | |
|-------------|-----------|
| JOB NO. | 21-1048 |
| DESIGNED | DWB |
| DRAWN | DWB |
| DATE | 6/1/2021 |
| CHECKED | DWB |
| DATE ISSUED | 9/29/2021 |

| REVISIONS | COMMENTS | DATE |
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| <div><div><div></div><div></div><div></div></div><div><div>MBV</div><div>ENGINEERING, INC.</div><div>MOYA BOWLES VILLAMIZAR & ASSOCIATES</div><div>CIVIL & STRUCTURAL • SURVEYING • ENVIRONMENTAL</div><div>1250 W. FAU GALLE BLVD, SUITE 400</div><div>MELBOURNE, FLORIDA 32935</div><div>P: 321-255-1510 F: 321-255-0911</div><div>www.mbveng.com</div></div></div> | THE LANDINGS AT BAYSIDE | | FLORIDA | | PDP SITE PLAN (SHEET 02) | | JOB NO. 21-1048 | | 8 | |
| | NOT FOR CONSTRUCTION | | BREVARD COUNTY | | | | DESIGNED | DWB | 5 | |
| | PLAN SHEETS ARE THE PRIMARY AND FOR INFORMATION ONLY. PLANS SHOULD NOT BE USED TO OBTAIN PERMITS FOR WORK. | | | | | | DRAWN | DWB | 6 | |
| | CONTRACTOR SHOULD ORDER THE OFFICIAL PLANS FROM THE ENGINEER OF RECORD TO ENSURE THAT ANY AMENDMENTS ARE PROPERLY DISTRIBUTED. | | | | | | DATE | 6/1/2021 | 4 | |
| | PLANS ARE INVALID WITHOUT ENGINEER OF RECORD SEAL AND SIGNATURE. | | | | | | CHECKED | | 3 | |
| | | | | | | | | DWB | 2 | |
| | | | | | | | | | 1 | |
| | | | | | | | COMMENTS | | | |
| | | | | | | | DATE ISSUED | | | |
| | | | | | | | 9/29/2021 | | | DATE |



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

PD-50-2021

PLANNING & ZONING BOARD HEARING DATE

November 15, 2021

PROPERTY OWNER & APPLICANT

Diocese of Orlando (Bishop John G. Noonan) Represented by Chip Bryan, VP of Condev Properties, LLC. and David Bassford, P.E. of MBV Engineering

PROPERTY LOCATION/ADDRESS

The property is in the southern portion of Bayside Lakes, at the intersection of Cogan Drive SE and Osmosis Drive SE. Specifically, the property is Tract I-1, of the Bayside Lakes Commercial Center Phase 4

SUMMARY OF REQUEST

Preliminary Development Plan (PDP) approval for a 123-unit mixed residential subdivision to be called **The Landings at Bayside PUD**.

Existing Zoning

PUD, Planned Unit Development

Existing Land Use

Single Family Residential Use

Site Improvements

Undeveloped Land

Site Acreage

21 acres

SURROUNDING ZONING & USE OF LAND

North

PUD, Planned Unit Development; Osmosis Drive SE

East

PUD, Planned Unit Development; Cogan Drive SE

South

PUD, Planned Unit Development; Amberwood at Bayside Lakes [single-family homes]

West

GU, General Use; Palm Bay Water Treatment Facility

COMPREHENSIVE PLAN COMPATIBILITY

Yes, subject to approval of Case No. CP-17-2021

BACKGROUND:

The property is in the southern portion of Bayside Lakes, at the intersection of Cogan Drive SE and Osmosis Drive SE. Specifically, the property is Tract I-1, of the Bayside Lakes Commercial Center Phase 4, located in, Section 30, Township 29 south, and Range 37 east, Brevard County, FL. The subject property is 21 acres of undeveloped land.

The property is part of a subdivision that was recorded in 2006 (PB 54, Page 48) and was intended as a potential church and/or school site for the Diocese of Orlando. However, the Diocese has determined the property as surplus and is in the process of conveying said land.

The applicant is currently seeking Preliminary Development Plan (PDP) approval. The purpose of this request is to allow for the development of a single-family and multiple-family residential subdivision to be called The Landings at Bayside. This project includes an overall density of 5.86 units per acre. The applicant for this request is Bishop John G. Noonan, from the Diocese of Orlando. He is being represented by Chip Bryan, Vice President of Condev Properties, LLC. and David Bassford, P.E. of MBV Engineering, Inc.

ANALYSIS:

The planned unit development (PUD) is a concept which encourages variation in residential developments by allowing deviation in lot size, type of dwellings, density, lot coverage, setbacks, and open space, from those elements required in any singular zoning classification. The purpose of a planned unit development is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types, as well as commercial uses designed to serve the inhabitants of the proposed community.

Specifically, the development plan (PUD-1) proposes 123 units to be named "The Landings PUD". This total unit count is comprised of 88 townhome units and 35 single-family homes. There are no commercial uses included in this project. According to the exhibit, the single-family homes will be constructed along the eastern portion of the site, adjacent to the existing Amberwood neighborhood. The lot sizes are identical to those in Amberwood (50' x 120').

The townhome buildings/units will be constructed within the center and western portions of the site. Although minimum home sizes have not been provided, they will be required to meet the minimum established in the PUD zoning district (800 square feet of living area).

Interconnected dry retention and wet detention ponds located in the middle of the parcel will serve as the stormwater treatment system for this project. Engineered stormwater designs will be required for the Final Development Plan submittal and a legal positive outfall shall be established. Prior to commencement of construction, the design shall be approved by both the City's Public Works Department and the St. Johns River Water Management District.

The internal road network must be designed to meet city standards, which includes a minimum 50' wide right-of-way (ROW), with closed drainage, for all roadways. Unless formally requested for city acceptance, the roads shall be maintained by the Homeowner's Association. A traffic study is not required, as the proposed development would not necessitate such a study. However, the developer shall provide an access management plan that examines the driveway configurations and identifies any necessary roadway improvements.

City water & sewer are located within the adjacent road rights-of-way and shall be extended to all residential units. Identification of the sewer mains and water distribution lines, and their extensions into the project's internal roadway, shall be provided at the time of FDP submittal. A Utility Agreement shall be executed prior to construction plan approval.

Section 185.065 of the City's Code of Ordinances requires a Planned Unit Development to permanently set aside and designate on the site plan recreational and/or open space for use by residents of the PUD, equaling 25% of the project site acreage. At 21 acres, this minimum set aside shall be 5.25 acres. Such useable space shall in the form of active or passive recreation areas. Common open space shall be improved to the extent necessary to complement the residential uses and may contain compatible and complimentary structures for the benefit and enjoyment of the residents of the PUD.

The Preliminary Development Plan (PUD-1) provides a breakdown stating that the minimum set aside has been met via recreation the tracts and the upland areas within the stormwater tracts. As part of the FDP submittal the specific use of any recreational area shall be identified. Additionally, all internal roadways shall be provided with a sidewalk, on both sides of the road, with connections to off-site sidewalks. Entrance lighting shall also be provided.

The City's Subdivision Code (Section 184.24) requires the Applicant to make a concerted effort to preserve as many of these trees as possible. During the subdivision plan review process a tree survey identifying all specimen trees shall be provided to determine the exact location and type, for possible preservation. All other standards of the subdivision code, including road materials, sidewalks, utility construction, and similar items, shall be met.

CONDITIONS:

To receive Preliminary Planned Unit Development approval, the proposal must meet the requirements of Section 185.066 of the City of Palm Bay's Code of Ordinances. Upon review, it appears that the request is in conformance with the applicable requirements of this section, subject to the following items being *submitted with* a Final PUD application:

- A preliminary subdivision plat and Opinion of Title,
- Declaration of Covenants & Restrictions establishing development standards,
- Construction drawings,

- A Concurrency Determination letter from the School Board of Brevard County,
- Submission of an Endangered Species Assessment,
- Identification of lighting within the neighborhood, and
- Compliance with the conditions of CP-17-2021.

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

STAFF RECOMMENDATION:

Case PD-50-2021 is recommended for approval, subject to the staff comments.

TECHNICAL COMMENTS

CASE PD-50-2021 – THE LANDINGS AT BAYSIDE PUD

PUBILC WORKS (Mehul Parekh, PE, Public Works Director):

Driveway and R-of-Way Utilities:

1. Sidewalk from off site to on site; both sides of streets.
2. PU&DE along rear of residential properties adjacent to existing residential
3. Pre-condition Vs post conditions drainage outfall.

Survey:

Boundary

1. Please revise adjacent Plat Book and Page (Amberwood) as PB 57, Pages 21 - 22.
2. Please revise Plat curve information along Cogan Drive to match plat information. Existing labeling varies from plat.
3. Please revise Plat curve information along Lots 19 - 21, Amberwood subdivision. Existing labeling varies from plat.
4. Please provide site benchmarks based on City of Palm Bay vertical datum.
5. All roads shown on future plat to be private.

Engineering:

Please meet the requirements of the City's Ordinance Ch 174.071. If this Ordinance is satisfied then a presumption can be made that the City of Palm Bay's Stormwater management Ordinances are met as well as Florida Statute Ch 373; Florida Administrative Code Ch 62-330.

An environmental assessment shall be provided to identify endangered species, wetland and wetland communities that may not be identified.

All roadways, including private roadways shall meet the minimum standards required by the City of Palm Bay's Code of Ordinances and Public Works Manual.

Results of the report shall be provided to the City and all agencies having jurisdiction, including the FFWC, and SJRWMD as a part of a permit determination or ERP permit application.

A traffic impact study shall not be required as the AM /PM peak hour 100 trip threshold has not been met.

Right in, right out only would be required at the Cogan Dr. intersection.

A signal warrant may be required as the City has plans to extend Osmosis Dr. to DeGroodt which would significantly impact traffic volume.

UTILITIES (Christopher Little, PE, 6Utilities Director):

The Utilities Department has no objection to the proposed 35 single-family and 78 multi-family residential units PUD.

Upon development of the site, the following shall apply for connection to the City's water and sewer utilities system:

1. The applicant/owner, at their expense, will be required to design, permit, install, inspect and test water & sewer systems of adequate size to accommodate the development and to connect to the City's water & sewer system. [§ 200.11(D)(1) - On-Site Facilities].
2. The applicant/owner may be required to extend and/or loop service from the existing water and sewer connection points [§ 200.11(D)(2) -Off-Site Facilities].
3. The applicant/owner will be responsible for the property's hydraulic share for the utilities. Oversizing of utilities at the request of the Utilities Department will be subject to a refunding agreement or refundable advance [§ 200.1(D) & (E)]. The City of Palm Bay's 2017 Wastewater Master Plan & 2017 Water Master Plan, both of which are available upon request, identify proposed mainline extensions with the City's current pipe sizing requirements.
4. A City of Palm Bay "Utility Agreement" shall be executed between the Property Owner and the City. All Utility impact/connection charges noted in the "Utility Agreement" must be paid as outlined in the terms and conditions of the Utility Agreement. All fees are subject to change annually on October 1. The Property Owner shall submit a certified copy of the property deed as verification of ownership as part of the Utility Agreement.
5. All utility construction, materials, and testing shall be in accordance with the latest revision of the Palm Bay Utility Department Policies, Procedures and Standards Handbook and the Standard Detail Drawings. Prior to any construction, all required FDEP Permit applications for the Water and Sanitary Sewer Construction shall be processed through and copied of the Permits filled with the Utilities Department.

BUILDING-FIRE (Michael Bloom, CFPS, Fire Plans Examiner):

1. Subdivisions shall meet all requirements of the currently adopted Florida Fire Prevention Code (FFPC) 7th edition, Florida Administrative Code (FAC) Florida State Statute (FSS) and City of Palm Bay Ordinances (COPBO).

2. (FFPC 1:18.4.5.1.1) The minimum fire flow and flow duration requirements for one- and two-family dwellings having a fire flow area that does not exceed 5000 ft²(464.5 m²) shall be 1000 gpm (3785 L/min) for 1 hour.
3. (FFPC 1-18.4.5.2.1) Fire flow and flow duration for one- and two-family dwellings having a fire flow area in excess of 5000 ft² (334.5 m²) shall not be less than that specified in Table 18-4.5.1.2.
4. Townhouses shall meet all requirements of (FSS 481.203(16)) or they shall be protected by a fire sprinkler system per FFPC and COPBO.

BUILDING-FLOODZONE (James Williams, CFM, Floodplain Coordinator):

Floodzone X, No FEMA CLOMR/LOMR application required.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Patrick J. Murphy, Assistant Growth Management Director

DATE: 12/16/2021

RE: Ordinance 2021-87, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located north of and adjacent to Malabar Road, in the vicinity west of St. Johns Heritage Parkway, from Parkway Flex Use to Commercial Use (9.75 acres) (Case CP-18-2021, Willard Palmer), only one reading required.

Mr. Willard Palmer (Scott M. Glaubitz, P.E., P.L.S. or assignee, BSE Consultants, Inc., Rep.) has submitted a small-scale Comprehensive Plan Future Land Use (FLU) Map amendment to change 9.75 acres of Parkway Flex Use (PFU) to Commercial Use (COM). The property is located at the far west end of Malabar Road, directly south of Heritage High School. The land was formerly used for agricultural purposes, and an old cattle shelter is currently on the site.

The applicant intends to convey the property to another party for future commercial development that will serve the needs of both existing and future residents of the area. The property is not within any of the Florida scrub-jay polygons identified in the City's Habitat Conservation Plan (HCP), and no other protected species are known to inhabit the site. A traffic analysis and access management plan considering present and future roadway conditions will be required when the site is being designed for commercial development.

REQUESTING DEPARTMENT:

Growth Management

RECOMMENDATION:

Motion to approve Case CP-18-2021 subject to the following staff conditions:

- Dedication of additional right-of-way needed for future widening of Malabar Road.
 - The provision of a 6' high wall or opaque fence on all sides abutting school property.
 - A sidewalk shall be provided along the parcel frontage to continue and connect the existing sidewalk system.
- This shall be designed and shown on the commercial site plan.

Planning and Zoning Board Recommendation:

Unanimous approval of the request, subject to the staff conditions.

ATTACHMENTS:**Description**

Case CP-18-2021 - Staff Report

Case CP-18-2021 - Legal-Sketch

Case CP-18-2021 - Application

Case CP-18-2021 - Board Minutes

Ordinance 2021-87



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

landdevelopmentweb@palmbayflorida.org

Prepared by

Patrick Murphy, Acting Growth Management Director

CASE NUMBER

CP-18-2021

PLANNING & ZONING BOARD HEARING DATE

November 15, 2021

PROPERTY OWNER & APPLICANT

Willard Palmer

PROPERTY LOCATION/ADDRESS

Tax Parcel 750, Section 32, Township 28, Range 36,
located south of and adjacent to Heritage High School,
Brevard County, Florida

SUMMARY OF REQUEST

The applicant is requesting a small-scale Comprehensive Plan Future Land Use Map Amendment to change 9.75 acres of Parkway Flex Use (PFU) to Commercial Use (COM).

Existing Zoning

PMU - Parkway Mixed Use

Existing Land Use

PFU - Parkway Flex Use

Site Improvements

Old, Cattle Shelter/Feeder

Site Acreage

9.75 acres

SURROUNDING ZONING & USE OF LAND

North

GU – General Use; Heritage High School

East

GU – General Use; Heritage High School

South

AU – Agricultural Residential (Brevard County); Undeveloped Land

West

GU – General Use; Heritage High School

BACKGROUND:

The subject property is located south of and adjacent to Heritage High School, north of and adjacent to Malabar Road NW. Specifically Tax Parcel 750, Section 32, Township 28 south, Range 36 east, of Brevard County, Florida.

The property was formerly used for agricultural purposes and contains an old, cattle shelter. The applicant purchased the parcel in 2007, but now intends to convey the property to another party. The intended use of the property is for future commercial development.

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

The Commercial FLU category allows such uses as office (medical, professional, general), retail businesses, personal service businesses, day care centers, restaurants, financial institutions, hotels and motels, institutional uses, and similar uses.

The surrounding land uses include a High School immediately north and the St. Johns Preserve community to the east. This community will include 740 residential units, at build-out. Lands lying west of the subject property propose a mixed residential project with a total of 879 units. To the south, is undeveloped rural land. A significant amount of residential use exists just east of St. Johns Preserve, along both sides of Malabar Road.

The parcel is requesting a Commercial FLU designation to serve the needs of both existing and future residents.

2. COASTAL MANAGEMENT ELEMENT

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

3. CONSERVATION ELEMENT

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

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

4. HOUSING ELEMENT

The proposed FLU amendment does not adversely impact the housing supply within the city, as the commercial FLU category does not permit residential use. In fact, commercial land uses are greatly needed in this area of Palm Bay to maintain quality housing, which cannot be sustained without access to jobs, services, and goods.

5. INFRASTRUCTURE ELEMENT

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

Utilities: The FLU 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. There is direct access to City water and sewer, which lie adjacent to the property.

Drainage: Any development on the property must meet the drainage standards set by the City and St. Johns Water Management District.

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

6. INTERGOVERNMENTAL COORDINATION ELEMENT

Public Schools: The proposed FLU amendment requested is to allow the site to be used for commercial land uses. Although the commercial FLU category does not affect school capacity (since residential use is not permitted), future development of this parcel will need to work closely with the Brevard County School Board as the adjacent high school has a driveway on either side of the subject parcel.

7. TRANSPORTATION ELEMENT

The goal of the Comprehensive Plan's Transportation Element is to provide a safe, balanced, efficient transportation system that maintains the roadway level of service and adequately serves the needs of the community. When the site is being designed for commercial development, the property owner shall have a traffic analysis and access management plan created, considering the present and future roadway conditions.

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.

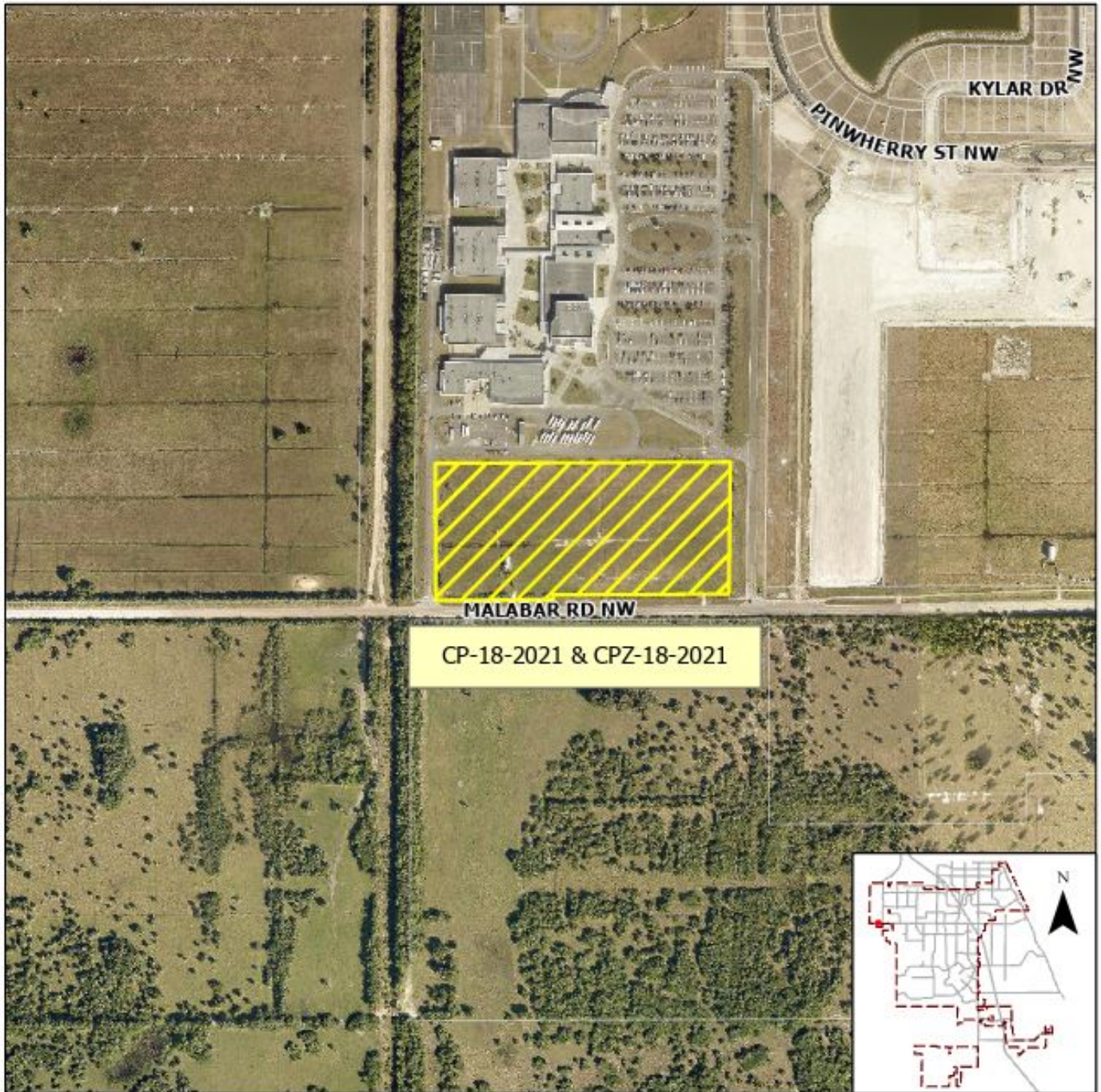
This proposed land use change does not appear to infringe upon the property rights of the applicant.

STAFF RECOMMENDATION:

Case CP-18-2021 is recommended for approval, subject to the following staff conditions:

- Submission of a traffic analysis and access management plan with site plan submittal.
- Dedication of additional right-of-way needed for future widening of Malabar Road.
- The provision of a 6' high wall or opaque fence on all sides abutting school property.
- A sidewalk shall be provided along the parcel frontage to continue and connect the existing sidewalk system. This shall be designed and shown on the commercial site plan.

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



AERIAL LOCATION MAP CASE: CP-18-2021 & CPZ-18-2021

Subject Property

North of and adjacent to Malabar Road NW, in the vicinity west of St. Johns Heritage Parkway 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-18-2021 & CPZ-18-2021

Subject Property

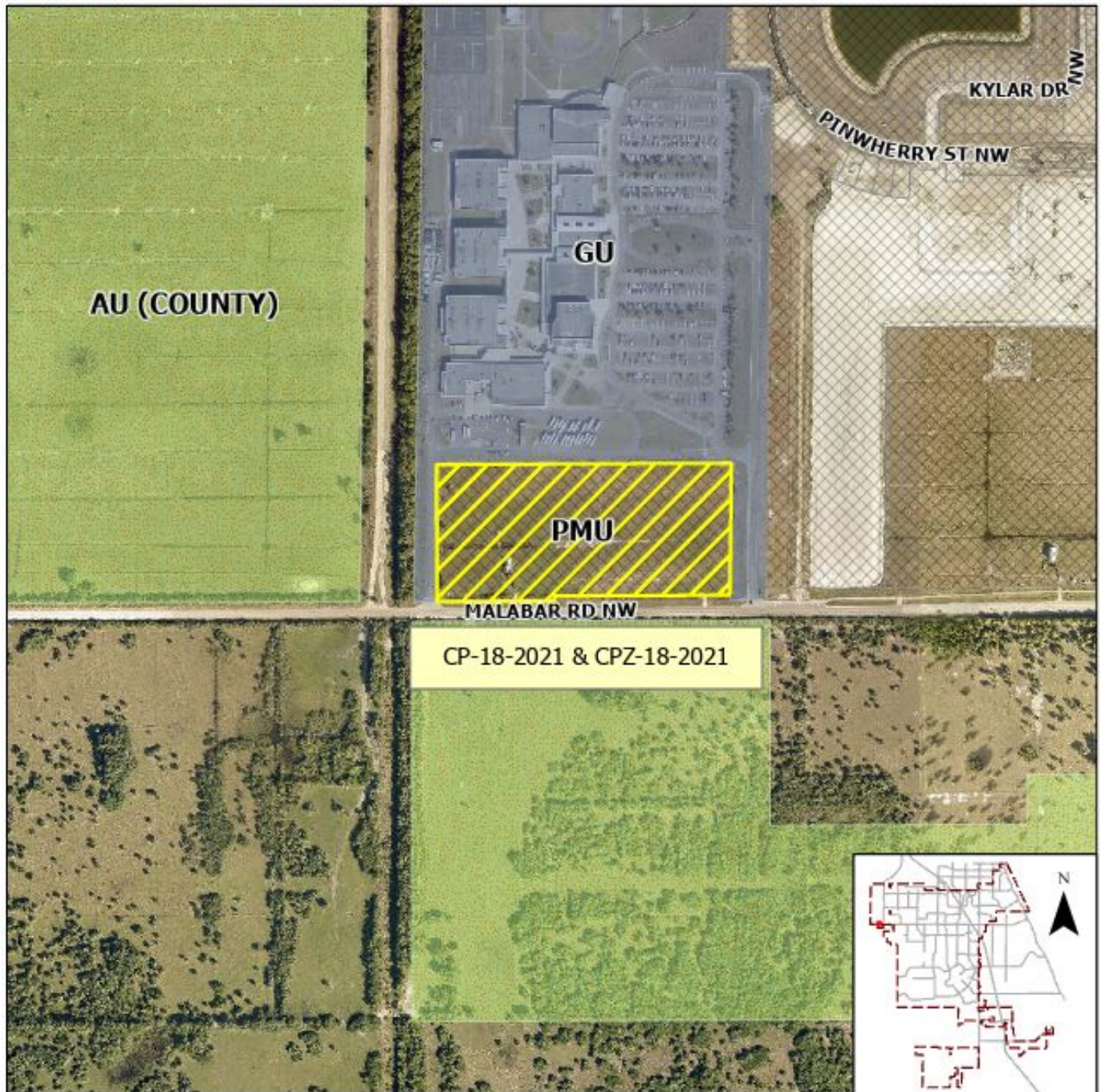
North of and adjacent to Malabar Road NW, in the vicinity west of St. Johns Heritage Parkway NW

Future Land Use Classification

PFU – Parkway Flex Use



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



ZONING MAP

CASE: CP-18-2021 & CPZ-18-2021

Subject Property

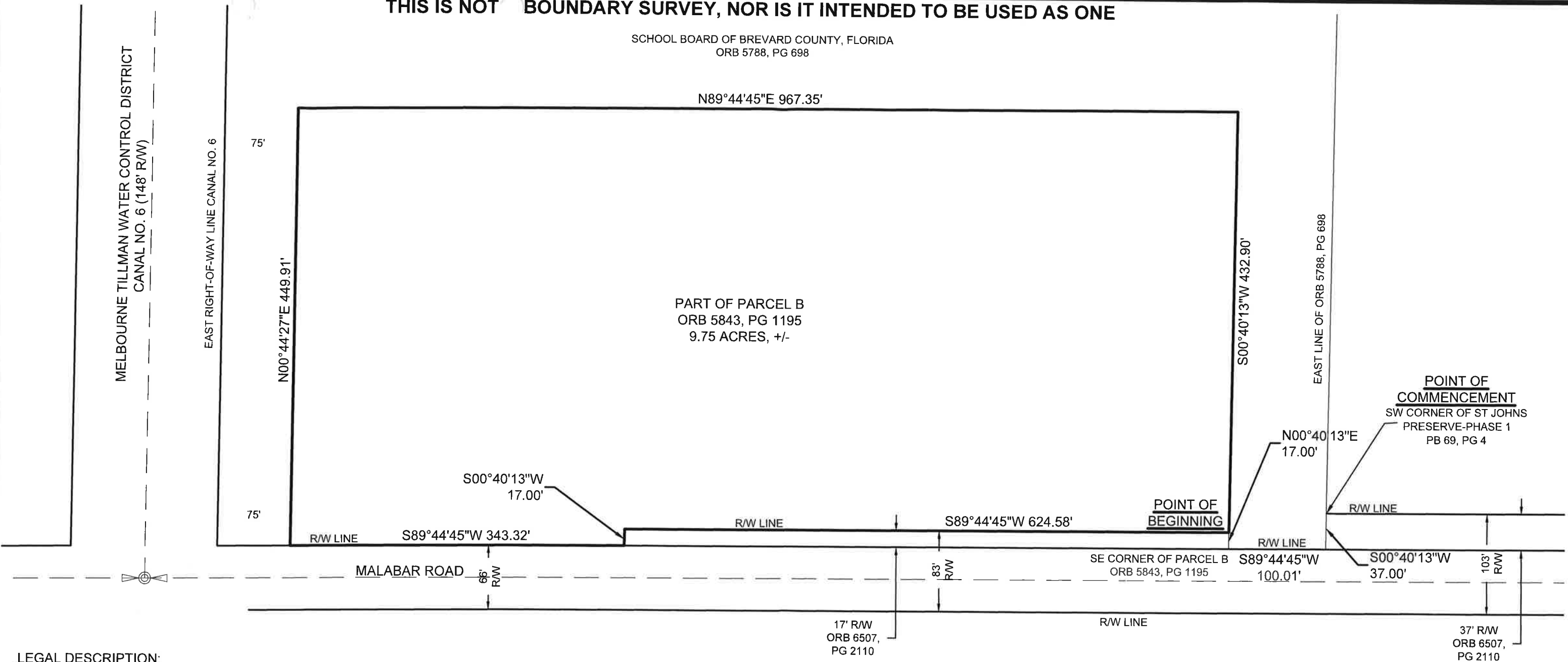
North of and adjacent to Malabar Road NW, in the vicinity west of St. Johns Heritage Parkway NW

Current Zoning Classification

PMU – Parkway Mixed Use District

THIS IS NOT BOUNDARY SURVEY, NOR IS IT INTENDED TO BE USED AS ONE

SCHOOL BOARD OF BREVARD COUNTY, FLORIDA
ORB 5788, PG 698



LEGAL DESCRIPTION:

PART OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL B, AS RECORDED IN OFFICIAL RECORDS BOOK 5843, PAGE 1195, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA LYING IN SECTION 32, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF ST JOHNS PRESERVE-PHASE 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 69, PAGE 4, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND RUN S00°40'13"W, ALONG THE EAST LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 5788, PAGE 698, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 37.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF MALABAR ROAD, A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY; THENCE S89°44'45"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 100.01 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL B; THENCE N00°40'13"E, ALONG THE EAST LINE OF SAID PARCEL B AND CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 17.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE S89°44'45"W, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 624.58 FEET; THENCE S00°40'13"W, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 17.00 FEET; THENCE S89°44'45"W, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 343.32 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL B; THENCE N00°44'27"E, PARALLEL TO AND 75.00 FEET EAST OF, (AS MEASURED PERPENDICULARLY), THE EAST RIGHT-OF-WAY LINE OF MELBOURNE-TILLMAN WATER CONTROL DISTRICT CANAL NUMBER 6, A DISTANCE OF 449.91 FEET TO THE NORTHWEST CORNER OF SAID PARCEL B; THENCE N89°44'45"E, PARALLEL TO THE NORTH RIGHT-OF-WAY LINE OF SAID MALABAR ROAD AND ALONG THE NORTH LINE OF SAID PARCEL B, A DISTANCE OF 967.35 FEET TO THE NORTHEAST CORNER OF SAID PARCEL B; THENCE S00°40'13"W, ALONG THE EAST LINE OF SAID PARCEL B, A DISTANCE OF 432.90 FEET TO THE POINT OF BEGINNING. CONTAINING 9.75 ACRES, MORE OR LESS.

**MALABAR STORAGE
SKETCH & DESCRIPTION**



| | | |
|--|-----------------------------------------------------------------|--------------------------|
| | B.S.E. CONSULTANTS, INC. | DATE: 09/08/2021 |
| | CONSULTING - ENGINEERING - LAND SURVEYING | DESIGN/DRAWN: LEH |
| | 312 SOUTH HARBOR CITY BOULEVARD, SUITE 4 MELBOURNE, FL 32901 | DRAWING# 1161901_100_001 |
| | PHONE: (321) 725-3874 FAX: (321) 723-1159 | PROJECT# 11619.01 |
| | CERTIFICATE OF BUSINESS AUTHORIZATION: 4905 | SHEET 1 OF 1 |
| | CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: LB0004905 | |



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):

28-36-32-00-750

TAX ACCOUNT NUMBER(S):

2865684

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

PART OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL B, AS RECORDED IN OFFICIAL RECORDS BOOK 5843, PAGE 1195, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA LYING IN SECTION 32, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA

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

9.75 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.):

PFU - Parkway Flex Use

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

Commercial

PRESENT USE OF PROPERTY:

Grazing

STRUCTURES LOCATED ON THE PROPERTY: ±30'x25' Cattle Shelter/Feeder

REZONING FILED IN CONJUNCTION WITH THIS APPLICATION: CC

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

Site is too small to adequately apply PMU zoning and PFU land use.

SPECIFIC USE INTENDED FOR PROPERTY:

Commercial

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

- ☒ Legal description of the subject property with a sketch of the legal.
- ☒ 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

Scott M. Glaubitz, P.E., P.L.S./ Ken Ludwa or BSE 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 Willard Palmer Date 9/9/21
Printed Name Willard Palmer
Full Address 4540 Elena way Melbourne, FL 32934
Telephone 321-288-7373 Email thomascurler@yahoo.com

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

AUTHORIZATION TO ACT AS AGENT

I, **Mr. Willard Palmer**, owner of the property, hereby authorize Scott M. Glaubitz, P.E., P.L.S., President; Hassan Kamal, P.E., Vice President; Ana Saunders, P.E., Project Engineer; or Ken A. Ludwa, P.E., Project Engineer, of B.S.E. Consultants, Inc., to act as agent in all permitting and certification matters for **Malabar Storage Rezoning and Land Use Parcel #: 28-36-32-00-750** in the City of Palm Bay, Brevard County, Florida. This authorization shall include all public hearing, engineering and permitting services for this subdivision/site.

Willard Palmer
Signature
Willard Palmer

STATE OF FLORIDA COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 7th day of OCT., 2021, by
(name of person acknowledging).



Lisa Ann Ketner
(Signature of Notary Public-State of Florida)

LISA ANN KETNER
(Name of Notary Typed, Printed, or Stamped)

Personally Known ☒ OR Produced Identification _____
Type of Identification Produced _____

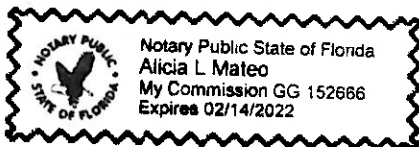
STATE OF FLORIDA, COUNTY OF BREVARD

On this 7th day of OCTOBER, 2021, I attest that the preceding document is a true, exact, complete, and unaltered photocopy made by me of the AUTHORIZATION TO ACT AS AGENT presented to me by the document's custodian, B.S.E. Consultants, Inc. and, to the best of my knowledge, that the photocopied document is neither a public record nor a publicly recordable document, certified copies of which are not available from an official source other than a notary public.

Alicia L. Mateo
(Signature of Notary Public-State of Florida)

(NOTARY SEAL)

ALICIA L. MATEO
(Name of Notary Typed, Printed, or Stamped)



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.

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.

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.

ORDINANCE 2021-87

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XVII, LAND DEVELOPMENT CODE, CHAPTER 183, COMPREHENSIVE PLAN REGULATIONS, SECTION 183.01, COMPREHENSIVE PLAN, SUBSECTION (D), ADOPTION OF FUTURE LAND USE MAP, BY AMENDING THE FUTURE LAND USE MAP; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Palm Bay has designated the Planning and Zoning Board as its Local Planning Agency and said Local Planning Agency held an adoption hearing on an amendment to the Comprehensive Plan on November 15, 2021, after public notice, and

WHEREAS, the City Council of the City of Palm Bay, pursuant to Chapter 163, Florida Statutes, held an adoption hearing on an amendment to the Comprehensive Plan on December 16, 2021, after public notice, and

WHEREAS, the City Council of the City of Palm Bay desires to adopt said small scale amendment to the Comprehensive Plan of the City of Palm Bay.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The Comprehensive Plan of the City of Palm Bay, Brevard County, Florida, is hereby amended to provide for the change in land use of property from Parkway Flex Use to Commercial Use, which property is legally described as follows:

Tax Parcel 750, of the Public Records of Brevard County, Florida; Section 32, Township 28S, Range 36E; containing 9.75 acres, more or less.

SECTION 2. The Future Land Use Map is hereby changed to reflect this amendment.

SECTION 3. All staff report conditions and limitations shall be met and those conditions and limitations shall be made a part of the Comprehensive Plan. Specifically:

- A) Dedication of additional right-of-way needed for future widening of Malabar Road;
- B) The provision of a six foot (6') high wall or opaque fence on all sides abutting school property; and
- C) A sidewalk shall be provided along the parcel frontage to continue and connect the existing sidewalk system. This shall be designed and shown on the commercial site plan.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 5. The provisions within this ordinance shall take effect thirty-one (31) days from the enactment date.

Read in title only and duly enacted at Meeting 2021- , held on , 2021.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

*Only one reading required pursuant to Chapter 163, Florida Statutes.

Reviewed by CAO: _____

Applicant: Willard Palmer
Case: CP-18-2021

cc: (date) Brevard County Property Appraiser
Applicant
Case File



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Patrick J. Murphy, Assistant Growth Management Director

DATE: 12/16/2021

RE: Ordinance 2021-88, rezoning property located north of and adjacent to Malabar Road, in the vicinity west of St. Johns Heritage Parkway, from PMU (Parkway Mixed Use District) to CC (Community Commercial District) (9.75 acres) (Case CPZ-18-2021, Willard Palmer), first reading. (Quasi-Judicial Proceeding)

Mr. Willard Palmer (Scott M. Glaubitz, P.E., P.L.S. or assignee, BSE Consultants, Inc., Rep.) has submitted a rezoning of the subject parcel from PMU, Parkway Mixed Use District to CC, Community Commercial District. The property is located at the far west end of Malabar Road, directly south of Heritage High School. The land was formerly used for agricultural purposes, and an old cattle shelter is currently on the site.

The applicant intends to convey the property to another party for future commercial development that will serve the needs of both existing and future residents of the area. The western end of Palm Bay currently has no active commercial uses, and this zoning change allows for a needed use. There is, however, approximately 32.8 acres of undeveloped Community Commercial land approximately 0.75 miles east of the subject parcel, on the south side of Malabar Road.

REQUESTING DEPARTMENT:

Growth Management

RECOMMENDATION:

Motion to approve Case CPZ-18-2021.

Planning and Zoning Board Recommendation:

Unanimous approval of the request.

ATTACHMENTS:**Description**

Case CPZ-18-2021 - Staff Report

Case CPZ-18-2021 - Legal-Sketch

Case CPZ-18-2021 - Application

Case CPZ-18-2021 - Board Minutes

Ordinance 2021-88



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

CPZ-18-2021

PLANNING & ZONING BOARD HEARING DATE

November 15, 2021

PROPERTY OWNER & APPLICANT

Willard Palmer

PROPERTY LOCATION/ADDRESS

Tax Parcel 750, Section 32, Township 28, Range 36,
located south of and adjacent to Heritage High School,
Brevard County, Florida

SUMMARY OF REQUEST

The applicant is requesting a rezoning of the subject parcel from PMU, Parkway Mixed Use to CC, Community Commercial.

Existing Zoning

PMU, Parkway Mixed Use

Existing Land Use

PFU, Parkway Flex Use

Site Improvements

Old, Cattle Shelter/Feeder

Site Acreage

9.75 acres

SURROUNDING ZONING & USE OF LAND

North

GU – General Use; Heritage High School

East

GU – General Use; Heritage High School

South

AU – Agricultural Residential (Brevard County); Undeveloped Land

West

GU – General Use; Heritage High School

COMPREHENSIVE PLAN

COMPATIBILITY

Yes, subject to approval of Case No. CP-18-2021

BACKGROUND:

The subject property is located south of and adjacent to Heritage High School, north of and adjacent to Malabar Road NW. Specifically Tax Parcel 750, Section 32, Township 28 south, Range 36 east, of Brevard County, Florida.

The property was formerly used for agricultural purposes and contains an old, cattle shelter. The applicant purchased the parcel in 2007, but now intends to convey the property to another party. The intended use of the property is for future commercial development.

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 has not provided any written justification for the change, other than a desire for future commercial use. The current zoning designation of PMU requires a mix of residential and commercial uses. This western end of Palm Bay currently has no active commercial uses and this change in zoning will allow for a needed use.

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 to Community Commercial has the increased potential to provide jobs, goods, and services to residents in this area of Palm Bay. The most immediate effects to occur would be to Heritage High School, as this property lies directly in front of the school. Any effects would be dependent on the specific development and its design.

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 32.8 acres of undeveloped Community Commercial zoned land are located approximately 0.75 miles east of the subject parcel, on the south side of Malabar Road.

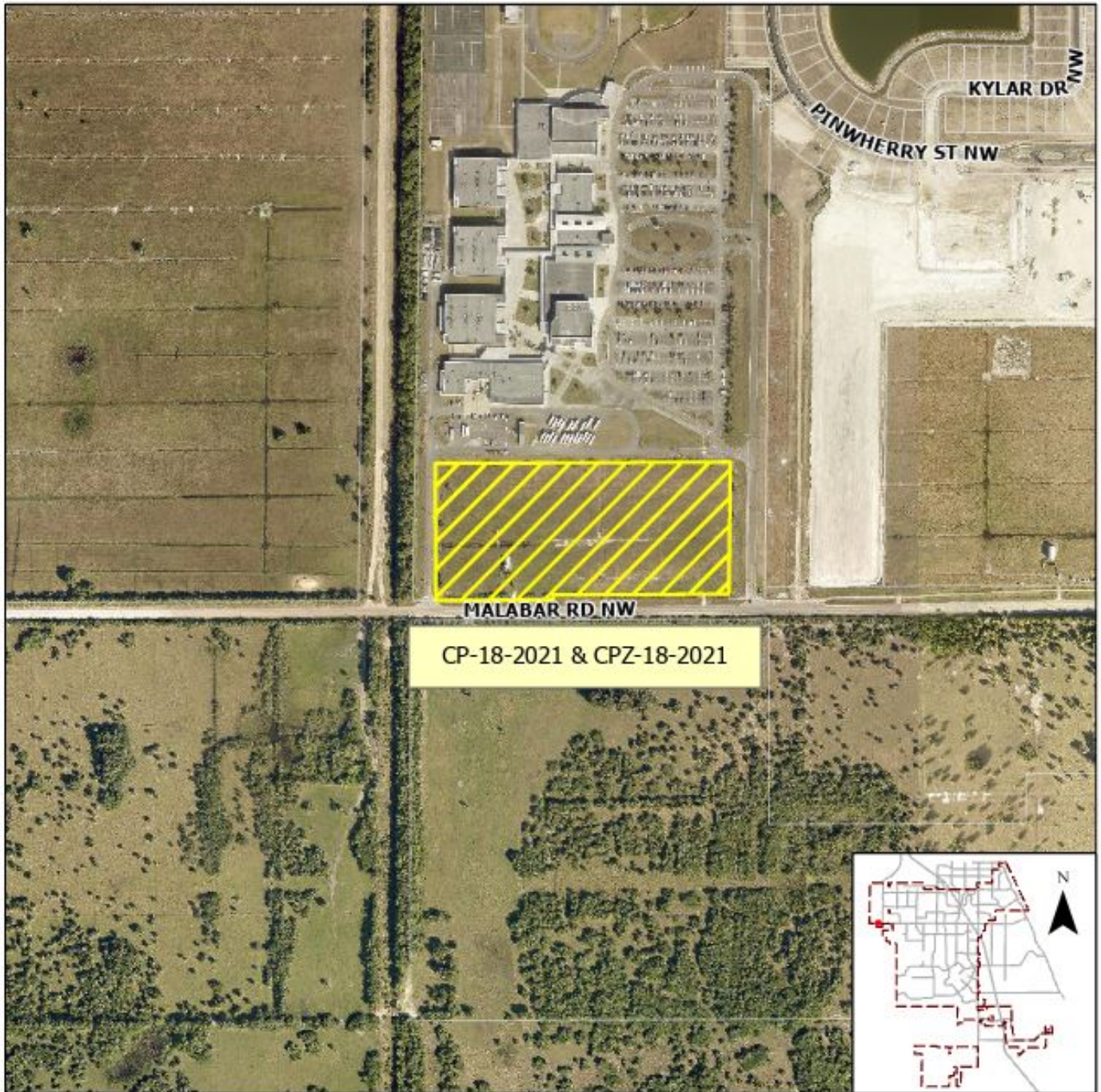
Item 4 - *The relationship of the proposed amendment to the purpose of the city plan for development, with appropriate consideration as to whether the proposed change will further the purposes of this chapter and the Comprehensive Plan (Plan).*

The proposed rezoning will further the purposes of Chapter 185 and the Comprehensive Plan, by attempting to strike a balance in commercial versus residential uses.

STAFF RECOMMENDATION:

Case CPZ-18-2021 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-18-2021 & CPZ-18-2021

Subject Property

North of and adjacent to Malabar Road NW, in the vicinity west of St. Johns Heritage Parkway 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-18-2021 & CPZ-18-2021

Subject Property

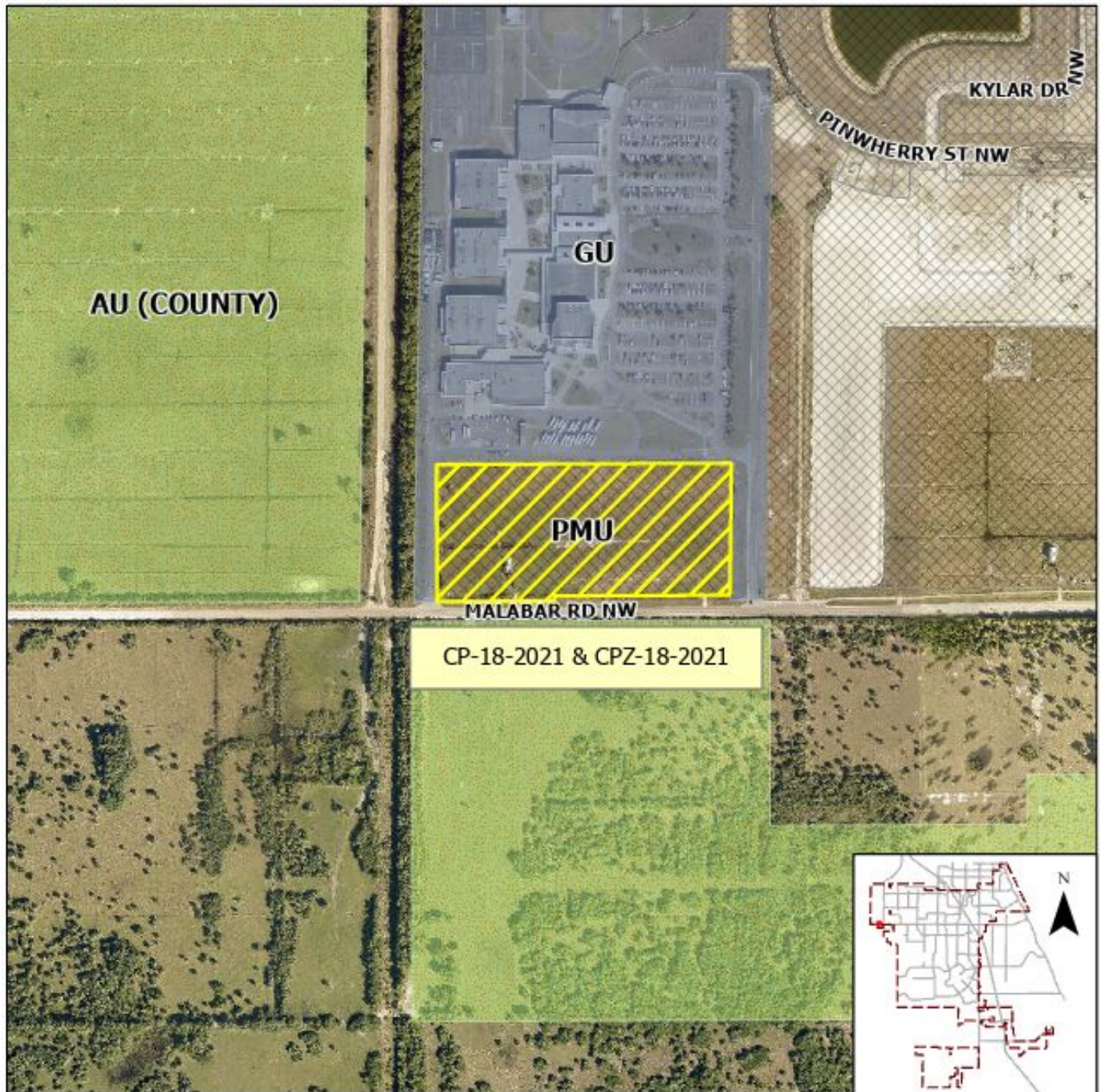
North of and adjacent to Malabar Road NW, in the vicinity west of St. Johns Heritage Parkway NW

Future Land Use Classification

PFU – Parkway Flex Use



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



ZONING MAP

CASE: CP-18-2021 & CPZ-18-2021

Subject Property

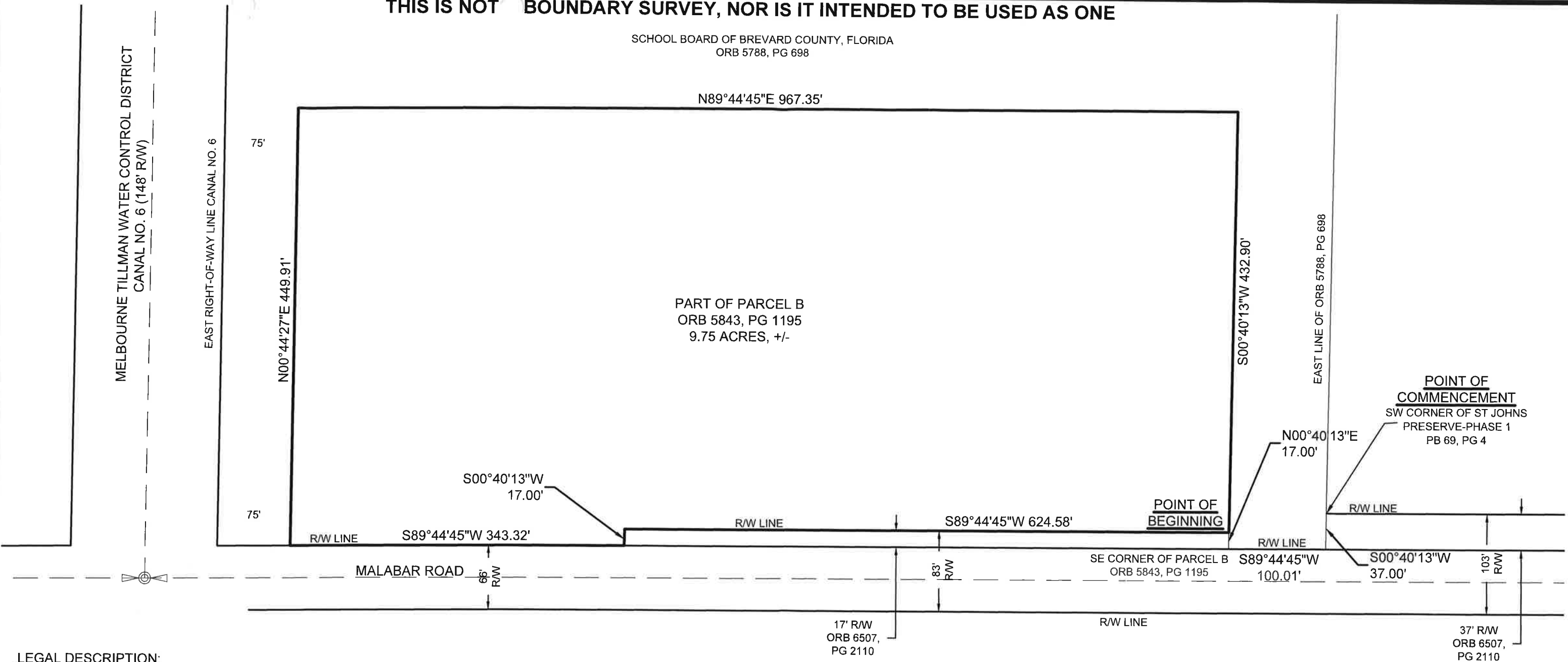
North of and adjacent to Malabar Road NW, in the vicinity west of St. Johns Heritage Parkway NW

Current Zoning Classification

PMU – Parkway Mixed Use District

THIS IS NOT BOUNDARY SURVEY, NOR IS IT INTENDED TO BE USED AS ONE

SCHOOL BOARD OF BREVARD COUNTY, FLORIDA
ORB 5788, PG 698



LEGAL DESCRIPTION:

PART OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL B, AS RECORDED IN OFFICIAL RECORDS BOOK 5843, PAGE 1195, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA LYING IN SECTION 32, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF ST JOHNS PRESERVE-PHASE 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 69, PAGE 4, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND RUN S00°40'13"W, ALONG THE EAST LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 5788, PAGE 698, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 37.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF MALABAR ROAD, A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY; THENCE S89°44'45"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 100.01 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL B; THENCE N00°40'13"E, ALONG THE EAST LINE OF SAID PARCEL B AND CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 17.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE S89°44'45"W, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 624.58 FEET; THENCE S00°40'13"W, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 17.00 FEET; THENCE S89°44'45"W, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 343.32 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL B; THENCE N00°44'27"E, PARALLEL TO AND 75.00 FEET EAST OF, (AS MEASURED PERPENDICULARLY), THE EAST RIGHT-OF-WAY LINE OF MELBOURNE-TILLMAN WATER CONTROL DISTRICT CANAL NUMBER 6, A DISTANCE OF 449.91 FEET TO THE NORTHWEST CORNER OF SAID PARCEL B; THENCE N89°44'45"E, PARALLEL TO THE NORTH RIGHT-OF-WAY LINE OF SAID MALABAR ROAD AND ALONG THE NORTH LINE OF SAID PARCEL B, A DISTANCE OF 967.35 FEET TO THE NORTHEAST CORNER OF SAID PARCEL B; THENCE S00°40'13"W, ALONG THE EAST LINE OF SAID PARCEL B, A DISTANCE OF 432.90 FEET TO THE POINT OF BEGINNING. CONTAINING 9.75 ACRES, MORE OR LESS.

MALABAR STORAGE
SKETCH & DESCRIPTION





B.S.E. CONSULTANTS, INC.
CONSULTING - ENGINEERING - LAND SURVEYING
312 SOUTH HARBOR CITY BOULEVARD, SUITE 4 MELBOURNE, FL 32901
PHONE: (321) 725-3874 FAX: (321) 723-1159
CERTIFICATE OF BUSINESS AUTHORIZATION: 4905
CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: LB0004905

DATE: 09/08/2021
DESIGN/DRAWN: LEH
DRAWING# 1161901_100_001
PROJECT# 11619.01
SHEET 1 OF 1



LAND DEVELOPMENT DIVISION

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

Landdevelopmentweb@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(S):

28-36-32-00-750

TAX ACCOUNT NUMBER(S):

2865684

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

PART OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL B, AS RECORDED IN OFFICIAL RECORDS BOOK 5843, PAGE 1195, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA LYING IN SECTION 32, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA

PROPERTY ADDRESS:

2865684

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

9.75 acres

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

PMU

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

CC

CITY OF PALM BAY, FLORIDA
REZONING APPLICATION
PAGE 2 OF 3

STRUCTURES LOCATED ON THE PROPERTY:

±30'x25' Cattle Shelter/Feeder

PRESENT USE OF THE PROPERTY:

Grazing

INTENDED USE OF THE PROPERTY AND JUSTIFICATION FOR THE CHANGE:

Commercial

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 [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 Scott M. Glaubitz, P.E., P.L.S./ Ken Ludwa or BSE 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 Willard Palmer Date 9/9/21
Printed Name Willard Palmer
Full Address 4540 Elena Way Melbourne, FL 32934
Telephone 321-288-7373 Email thomascurler@yahoo.com

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

AUTHORIZATION TO ACT AS AGENT

I, **Mr. Willard Palmer**, owner of the property, hereby authorize Scott M. Glaubitz, P.E., P.L.S., President; Hassan Kamal, P.E., Vice President; Ana Saunders, P.E., Project Engineer; or Ken A. Ludwa, P.E., Project Engineer, of B.S.E. Consultants, Inc., to act as agent in all permitting and certification matters for **Malabar Storage Rezoning and Land Use Parcel #: 28-36-32-00-750** in the City of Palm Bay, Brevard County, Florida. This authorization shall include all public hearing, engineering and permitting services for this subdivision/site.

Willard Palmer
Signature

Willard Palmer

STATE OF FLORIDA COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 7th day of OCT., 2021, by
(name of person acknowledging).



Lisa Ann Ketner
(Signature of Notary Public-State of Florida)

LISA ANN KETNER
(Name of Notary Typed, Printed, or Stamped)

Personally Known ☒ OR Produced Identification _____
Type of Identification Produced

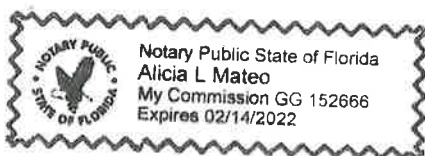
STATE OF FLORIDA, COUNTY OF BREVARD

On this 7th day of OCTOBER, 2021, I attest that the preceding document is a true, exact, complete, and unaltered photocopy made by me of the AUTHORIZATION TO ACT AS AGENT presented to me by the document's custodian, B.S.E. Consultants, Inc. and, to the best of my knowledge, that the photocopied document is neither a public record nor a publicly recordable document, certified copies of which are not available from an official source other than a notary public.

Alicia L. Mateo
(Signature of Notary Public-State of Florida)

(NOTARY SEAL)

ALICIA L. MATEO
(Name of Notary Typed, Printed, or Stamped)



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:

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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.

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

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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.

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.

ORDINANCE 2021-88

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE ZONING ORDINANCE OF THE CITY OF PALM BAY BY CHANGING THE ZONING OF PROPERTY FROM PMU (PARKWAY MIXED USE DISTRICT) TO CC (COMMUNITY COMMERCIAL DISTRICT); WHICH PROPERTY IS LOCATED NORTH OF AND ADJACENT TO MALABAR ROAD, IN THE VICINITY WEST OF ST. JOHNS HERITAGE PARKWAY, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR A CHANGE OF THE ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The Zoning Ordinance of the City of Palm Bay, Brevard County, Florida, is hereby amended to provide for the rezoning of property from PMU (Parkway Mixed Use District) to CC (Community Commercial District), being legally described as follows:

Tax Parcel 750, of the Public Records of Brevard County, Florida; Section 32, Township 28S, Range 36E; containing 9.75 acres, more or less.

SECTION 2. The Zoning Map of the City of Palm Bay is hereby revised to reflect this amendment.

SECTION 3. The provisions within this ordinance shall take effect immediately upon the enactment of Ordinance 2021-87.

Read in title only at Meeting 2021- , held on , 2021; and
read in title only and duly enacted at Meeting 2021- , held on , 2021.

ATTEST:

Rob Medina, MAYOR

Terese M. Jones, CITY CLERK

City of Palm Bay, Florida
Ordinance 2021-88

Reviewed by CAO: _____

Applicant: Willard Palmer
Case: CPZ-18-2021

cc: (date) Applicant
Case File



LEGISLATIVE MEMORANDUM

DATE: 12/16/2021

RE: Adoption of Minutes: Regular Council Meeting 2021-30; November 18, 2021.

ATTACHMENTS:

Description

Minutes - RCM 2021-30

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2021-30

Held on Thursday, the 18th day of November 2021, at 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 Office of the City Clerk, City Hall, Palm Bay, Florida.

The meeting was called to order at the hour of 7:01 P.M.

Assistant Pastor Tony Avila, Iglesia El Sinai, Palm Bay, gave the invocation which was followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

| | | |
|-----------------------|-----------------|---------|
| MAYOR: | Rob Medina | Present |
| DEPUTY MAYOR: | Kenny Johnson | Present |
| COUNCILMEMBER: | Randy Foster | Present |
| COUNCILMEMBER: | Donny Felix | Present |
| CITY MANAGER: | Suzanne Sherman | Present |
| CITY ATTORNEY: | Patricia Smith | Present |
| CITY CLERK: | Terese Jones | Present |

CITY STAFF: Nancy Bunt, Director of Community and Economic Development; Valentino Perez, Chief Building Official.

ANNOUNCEMENTS:

Deputy Mayor Johnson announced the following vacancies and term expiring, and solicited applications for same:

- 1. Two (2) vacancies on the Charter Review Commission (represents 'at-large' positions).++**
- 2. One (1) vacancy on the Youth Advisory Board (represents 'at-large student' member position).++**
- 3. One (1) vacancy on the Youth Advisory Board (represents 'adult member, 30 years and older' position).++**
- 4. One (1) term expiring on the Bayfront Community Redevelopment Agency (represents 'at-large' position).+**

AGENDA REVISION(S):

There were no agenda revisions.

PROCLAMATIONS AND RECOGNITIONS:

The proclamations were read, and the individuals were recognized.

- 1. Recognition: One (1) year of service as a City boardmember on the Community Development Advisory Board - Alvin Payne; Henry Morin.**
- 2. Recognition: One (1) year of service as a City boardmember on the Citizens' Budget Advisory Board - Chris Seibert.**
- 3. Recognition: One (1) year of service as a City boardmember on the Disaster Relief Committee and the Code Enforcement Board - Susan Walberg.**
- 4. Proclamation: Barbados Day - November 21, 2021. (Councilman Felix)**
- 5. Proclamation: National Community Planning Month - November 2021.**

Council concurred to hear Public Comments at this time.

PUBLIC COMMENT(S)/RESPONSE(S): (Non-agenda Items Only)

1. Ed Geier, former Palm Bay Mayor, requested that the entrance roadway to the City Hall Complex be named in honor of Samuel Lopez. Council concurred.

PRESENTATIONS:

- 1. Mehul J. Parekh, Public Works Director - American with Disabilities Act (ADA) Transition Plan.**

Mr. Parekh explained the federal guidelines for qualified individuals with disabilities. He said that as the city developed decades ago, many curb ramps were not in compliance with current ADA standards. He said the Transition Plan would identify existing obstacles that limited access for persons with disabilities to public services, policies, procedures, facilities, etc.; describe methods, in detail, to be used to correct deficiencies; specify a schedule for improving existing facilities by prioritizing needs of persons with disabilities; and indicate the official responsible for implementation of the Plan. Mr. Parekh said the city had two ADA officials: Human Resources Director and City Engineer. He explained the step-by-step process to implement the Transition Plan and said funding for a consultant would be included in a future budget.

Mr. Felix asked if there was a master plan for the sidewalks. Mr. Parekh confirmed same and said it would be part of the inventory and assessment program. Mr. Felix questioned why some areas would have a strip of sidewalk, then a gap, then the sidewalks would start again. Mr. Parekh said that sidewalks were required in front of developed properties and if there was a vacant property in between two developed properties, there would be no sidewalk connection.

PUBLIC COMMENT(S)/RESPONSE(S): (Non-agenda Items Only)

Public comments were heard prior to Presentations.

PUBLIC HEARING(S):

1. Ordinance 2021-68, granting approval of a Final Development Plan for a PMU (Parkway Mixed Use District) zoning residential development to be known as ‘St. Johns Preserve Townhomes’ on property located north of and adjacent to Malabar Road, in the vicinity west of St. Johns Heritage Parkway (19.12 acres) (Case FD-35-2021, St. Johns Preserve Investment Group, LLC), final reading. (Quasi-Judicial Proceeding)

The City Attorney read the ordinance in caption only. The public hearing was opened. Ana Saunders, BSE Consultants and representative for the applicant, presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-68, subject to the staff comments contained in the Staff Report being addressed during the construction plan review process. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

2. Ordinance 2021-69, granting approval of a Final Development Plan for a PUD (Planned Unit Development) zoning residential subdivision to be known as ‘The Reserve at Country Club Lakes Estates’ on property located north of Country Club Drive, in the vicinity between Riviera Drive and Port Malabar Boulevard (74.24 acres) (Case FD-40-2021, Palm Bay Greens, LLC), final reading. (Quasi-Judicial Proceeding)

The City Attorney read the ordinance in caption only. The public hearing was opened. Bruce Moia, MBV Engineering and representative for the applicant, presented the request

to Council. Mr. Moia said he had met with the residents and submitted a list of agreed compromises as conditions for approval, which were as follows:

- Increase minimum floor area square footage for the single-family homes from 800 square feet to 1,600 square feet.
- Increase minimum floor area square footage for the duplex/multi-family units from 800 square feet to 1,300 square feet.
- Restrict any proposed single-family home along the perimeter where it abuts existing single-family homes to one-story.
- Relocate the mail kiosk to the interior of the project, if relocation was approved by the Postmaster.
- Provide a six-foot (6') fence along the west boundary of Island Green Villas (IGV) from the proposed north water level to the south property boundary of the main property (not including the roadway stem).
- Provide a twenty-foot (20') minimum building setback from the west property boundary of the IGV main property (not including the roadway stem).

Residents of IGV spoke against the request, expressing concern about the canal located at the northern property line as it was now shallower and narrower at the eastern end to accommodate new development lots. It was requested that a condition be included to resolve the issue prior to approval of the site plan. Another resident asked that Lots 168-171 be removed from the plan to allow for greenspace.

Mr. Moia addressed the comments from the residents. He said that the canal width would be reduced in one area, but would increase significantly in every other direction, even wider than what currently existed.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-69, subject to the staff comments contained in the Staff Report being addressed during the construction plan review process, and to include the six (6) conditions as submitted by MBV Engineering. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

3. Ordinance 2021-70, granting approval of a Final Development Plan for a PUD (Planned Unit Development) zoning residential subdivision to be known as 'Cypress Bay West Phase III' on property located in the vicinity west of Mara Loma

Boulevard and Babcock Street, in the vicinity between Willowbrook Street and Cogan Drive (190.28 acres) (Case FD-41-2021, Waterstone Farms, LLC), final reading. (Quasi-Judicial Proceeding)

The City Attorney read the ordinance in caption only. The public hearing was opened. Jake Wise, CEG Engineering and representative for the applicant, presented the request to Council.

Bill Battin, resident, commented on the difference in the taxes on the property which had reduced by \$5,000 from 2018 to 2021.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to adopt Ordinance 2021-70, subject to the staff comments contained in the Staff Report being addressed upon submission of the administrative construction plans. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

4. Ordinance 2021-71, amending the Fiscal Year 2020-2021 budget by appropriating and allocating certain monies (fifth/final budget amendment), final reading.

The City Attorney read the ordinance in caption only. The public hearing was opened and closed as there were no comments.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-71. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

5. Ordinance 2021-72, vacating a portion of the rear public utility and drainage easement located within Lots 38 and 39, Block 509, Port Malabar Unit 12 (Case VE-10-2021, Luis Sanchez), first reading.

The City Attorney read the ordinance in caption only. The public hearing was opened. The applicant presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2021-72. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

6. Ordinance 2021-73, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located in south Palm Bay, in the vicinities west of Babcock Street and north of the Indian River County line, from Agricultural Use (Brevard County) and R1:2.5 Use (Brevard County) and City Centerlane Use to Utilities Use (3,266.49 acres) (CP-10-2021, Florida Power & Light Company), first reading.

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the ordinance in caption only. The public hearing was opened. Representatives for the applicant, Jake Wise, CEG Engineering, and Geoff West, Florida Power and Light, presented the request to Council.

Mr. West answered questions posed by councilmembers. Mr. Foster asked how quickly power would be restored to customers due to an outage. Mr. West responded that there would be several panels that sent electricity to a combiner box which then goes to the inverter. He said there could be 25-30 inverters on a site, so if one inverter went down, it would only affect the string of panels related to it.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2021-73. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

7. Ordinance 2021-74, rezoning property located in south Palm Bay, in the vicinities west of Babcock Street and north of the Indian River County line, from General Use (Brevard County) to GU (General Use Holding District) (3,266.49 acres) (Case CPZ-10-2021, Florida Power & Light Company), first reading. (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the ordinance in caption only. The public hearing was opened. The applicant presented the request to Council. The public hearing was closed.

Mr. Foster left the meeting at approximately 8:48 P.M.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2021-74. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Felix, Yea.

8. Ordinance 2021-75, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located at the northeast corner of Pace Drive and St. Johns Heritage Parkway, from Recreation and Open Space Use and Single-Family Residential Use to Multiple-Family Residential Use (96.66 acres) (Case CP-9-2021, Heritage Parkway East Holdings, LLC aka Lennar Homes, LLC), first reading.

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the ordinance in caption only. The public hearing was opened. Ana Saunders, BSE Consultants and representative for the applicant, presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2021-75. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Felix, Yea.

Mr. Foster rejoined the meeting at approximately 8:51 P.M.

9. Resolution 2021-65, granting approval of a Planned Unit Development (PUD) Preliminary Development Plan for a residential subdivision to be known as 'Medley at Everlands', which property is located at the northeast corner of Pace Drive and St. Johns Heritage Parkway (291.11 acres) (Case PD-21-2021, Heritage Parkway East Holdings, LLC aka Lennar Homes, LLC). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended approval of the request, subject to staff comments contained in the Staff Report, and with the following items for submittal with a Final PUD application:

- A preliminary subdivision plat and a boundary and title opinion;
- Deed restrictions establishing development standards;
- The amenities shall be shown on the Final Development Plan;
- A School Capacity Determination Letter from Brevard County Schools;
- This project shall be required to pay its Proportionate Fair Share costs to offset the impacts of this development on the surrounding road network; and
- The technical comments generated by the Development Review Staff shall be observed and incorporated into the Final Development Plan and construction drawings.

The City Attorney read the resolution in caption only. The public hearing was opened. Ana Saunders, BSE Consultants and representative for the applicant, presented the request to Council.

Mr. Felix asked if each townhome would have its own garage. Ms. Saunders confirmed same. Mr. Felix asked if there had been any discussions of including charging stations for electric vehicles on the site. Ms. Saunders said there may be an effort to include a charging station around the amenity center, but as this was not a rental community, homeowners would have the ability to install charging ports in their garages. Mr. Felix suggested pre-wiring the garages as it would be a good investment for future homeowners.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Resolution 2021-65, subject to the staff comments contained in the Staff Report. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

10. Ordinance 2021-76, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located in the vicinity north of Emerson Drive, between St. Johns Heritage Parkway and Amador Avenue, from Recreation and Open Space Use and Single-Family Residential Use to Multiple-Family Residential Use and Single-Family Residential Use (26.67 acres) (Case CP-14-2021, Heritage Parkway East Holdings, LLC aka Lennar Homes, LLC), only one reading required.

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the ordinance in caption only. The public hearing was opened. Ana Saunders, BSE Consultants and representative for the applicant, presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve Ordinance 2021-76. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

11. Resolution 2021-66, granting approval of a Planned Unit Development (PUD) Preliminary Development Plan for a residential subdivision to be known as 'Palm Vista at Everlands PUD Phase II', which property is located in the vicinity north of

Emerson Drive, between St. Johns Heritage Parkway and Amador Avenue (158.69 acres) (Case PD-49-2021, Heritage Parkway East Holding, LLC aka Lennar Homes, LLC). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended approval of the request, subject to staff comments contained in the Staff Report, and subject to a new Brevard County School Board Concurrency submittal. Staff recommended the following items be submitted with the Final PUD application:

- A preliminary subdivision plat and a boundary and title opinion;
- Deed restrictions establishing development standards;
- The amenities shall be shown on the Final Development Plan;
- A School Capacity Determination Letter from Brevard County Schools;
- This project shall be required to pay its Proportionate Fair Share costs to offset the impacts of this development on the surrounding road network; and
- The technical comments generated by the Development Review Staff shall be observed and incorporated into the Final Development Plan and construction drawings.

The City Attorney read the resolution in caption only. The public hearing was opened. Ana Saunders, BSE Consultants and representative for the applicant, presented the request to Council. She stated there was a particular property to which this project surrounded it, and the owners were having drainage issues from adjacent canals. Ms. Saunders answered questions posed by councilmembers.

Ms. Sherman advised that the Staff Report had been revised to remove the language stating the development would be “all age restricted” and modified the fourth condition proposed by staff from a School “Capacity” Determination Letter to School “Concurrency” Determination Letter. The resolution was also revised to reflect the necessary changes.

Greg Harris, resident, owned the property that was experiencing problems with drainage. He said the current relief for drainage was through the old farm canals which were currently being developed through this project. Drainage from neighboring properties to the north flowed onto his property. Mr. Harris also requested installation of a hedge or fence between his property and the development.

Ms. Saunders said she had not visited the site but assumed that when the canals were cleaned, the dirt was dumped along the canal and created a berm. She added that there were regulations and statutes that prohibited development of properties that would dam off other properties. Ms. Saunders addressed the request for a fence and said the buffers were delineated on the preliminary development plan.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Resolution 2021-66, subject to the staff comments contained in the Staff Report. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

12. Request by NSD Palm Bay IV, LLC to amend the City's Comprehensive Plan Future Land Use Map to change the designated use of property located at the northwest corner of Robert J. Conlan Boulevard and Commerce Park Drive, from Industrial Use to Bayfront Mixed Use (7.11 acres) (Case CP-11-2021). (CONTINUED to 12/01/21 P&Z and 12/16/21 RCM)

13. Request by NSD Palm Bay IV, LLC to rezone property located at the northwest corner of Robert J. Conlan Boulevard and Commerce Park Drive, from LI (Light Industrial and Warehousing District) to BMU (Bayfront Mixed Use District) (7.11 acres) (Case CPZ-11-2021). (CONTINUED to 12/01/21 P&Z and 12/16/21 RCM)

CONSENT AGENDA:

All items of business under the 'Consent Agenda' heading were enacted by the following motion:

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, that the Consent Agenda be approved as presented with the removal of Item 2, from consent. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

1. Adoption of Minutes: Regular Council Meeting 2021-29; November 4, 2021.

The minutes, considered under Consent Agenda, were approved as presented.

2. Resolution 2021-67, amending Resolution 98-55, as amended, by revising the City's Economic Development Ad Valorem Tax (AVT) Exemption Program.

The City Attorney read the resolution in caption only.

Bill Battin, resident, asked if individual business exemptions would still require approval by Council and how those revenue monies were recuperated once it was gone.

Ms. Bunt confirmed that the applications for exemption would be presented to Council for consideration and approved via resolution. The exemption was a performance-based incentive in the form of tax exemptions for eligible businesses that provided high quality jobs and generated new private capital investment, such as the construction of a new commercial facility, expansion of an existing facility or the acquisition of machinery and equipment. Businesses that already existed, currently had a lease or have already purchased property for their business would not be eligible. Mrs. Bunt said it was not a matter of losing revenue, but getting jobs in the city, along with capital investment and taxes from the business.

Mr. Foster asked how the word was getting out there to the community. Mrs. Bunt responded that staff worked closely with the Brevard County Economic Development Council as they had the larger leads and brought businesses to the City.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to adopt Resolution 2021-67. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

3. Contract: Selectron Technologies Interactive Voice Response (IVR) Solution for e-Permit Applications - Building Department (Selectron Technologies, Inc. - \$144,625 (sole source)).

Staff Recommendation: Approve the sole source purchase to upgrade the Building Department Interactive Voice Response (IVR) Solution for e-Permit applications from Selectron Technologies, Inc. (Portland, Oregon), in the amount of \$144,625 for a five-year contract period.

The item, considered under Consent Agenda, was approved as recommended by City staff.

4. Consideration of a purchase offer for City-owned surplus real estate located at 171 Holiday Park Boulevard, NE with buyer Tommy E. Ratcliffe (\$20,990).

Staff Recommendation: Authorize the City Manager to execute the purchase contract for City-owned surplus real estate located at 171 Holiday Park Boulevard, NE with buyer

Tommy E. Ratcliffe in the amount of \$20,990 and bring forth a Resolution at a future Council meeting.

The item, considered under Consent Agenda, was approved as recommended by City staff.

NEW BUSINESS:

1. Consideration of dissolving the City of Palm Bay Business Improvement District.

Staff Recommendation: Authorize staff to prepare and bring forth an ordinance to the December 2, 2021, regular Council meeting, dissolving the City of Palm Bay's Business Improvement District (BID).

Ms. Sherman presented the request to Council.

Motion by Deputy Mayor Johnson, seconded by Mayor Medina, to bring forth an ordinance to the December 2, 2021, regular Council meeting, dissolving the BID. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

2. Consideration of designating City-owned property generally located in the 2300 block of Malabar Road W (Tax Account: 2961562) as surplus real estate.

Staff Recommendation: Approve City-owned property generally located in the 2300 block of Malabar Road W (Tax Account: 2961562) to be designated as surplus and authorize staff to bring forth a voluntary annexation request at a future Council meeting.

Ms. Sherman presented the request to Council.

Bill Battin, resident, supported the request and asked that Council sell the property for no less than \$1.9 million appraised value.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve City-owned property to be designated as surplus and bring forth a voluntary annexation request at a future Council meeting. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

3. Consideration of establishing a Building Permit Fee Rebate Program.

Staff Recommendation: Authorize the Building Permit Fee Rebate Program and direct staff to bring forth a resolution to the December 2, 2021, regular Council Meeting.

Mr. Perez and Mrs. Bunt presented the request to Council. Mr. Felix asked if the rebate meant they would pay up front and then get something back if they met all the requirements. Mr. Perez said it was more of a savings once the criteria was met.

Bill Battin, resident, was not in favor of a fee rebate because the staff and services still had to be provided. He liked the idea that businesses would not receive the rebate until after the project was completed and individuals were hired. He questioned why the building fees were just increased but now the city could afford to give rebates.

Motion by Deputy Mayor Johnson, seconded by Mayor Medina, to authorize the Building Permit Fee Rebate Program and bring forth a resolution to the December 2, 2021, regular Council Meeting.

Mrs. Bunt said there was a job creation component to the program. The business would have to create ten (10) full-time jobs and the program was limited to certain zoning districts. The program also only addressed the building permit fee, and did not include other fees such as plan reviews, fire inspections, etc.

Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

4. Consideration of Collective Bargaining Agreements with the Fraternal Order of Police (FOP) for Police Officer's, Sergeant's, and Lieutenant's Units; and pay adjustments for Commander and Deputy Chief positions.

Staff Recommendation: Authorize the City Manager to sign the Collective Bargaining Agreements with the Fraternal Order of Police (FOP) for Police Officer's, Sergeant's, and Lieutenant's Units; and authorize pay and benefit increases for Commander and Deputy Chief positions, including changing the grade of those positions.

Ms. Sherman presented the request to Council.

Motion by Deputy Mayor Johnson, seconded by Mayor Medina, to authorize the City Manager to sign the Collective Bargaining Agreements with the Fraternal Order of Police (FOP) for Police Officer's, Sergeant's, and Lieutenant's Units; and authorize pay and benefit increases for Commander and Deputy Chief positions, including changing the grade of those positions. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

5. Consideration of Collective Bargaining Agreements with the Palm Bay International Association of Fire Fighters (IAFF), Local 2446, Rank and File and Supervisors Units.

Staff Recommendation: Authorize the City Manager to sign the Collective Bargaining Agreements with the Palm Bay Internal Association of Fire Fighters (IAFF), Local 2446, Rank and File and Supervisors Units.

Ms. Sherman presented the request to Council.

Motion by Deputy Mayor Johnson, seconded by Mayor Medina, to authorize the City Manager to sign the Collective Bargaining Agreements with the Palm Bay Internal Association of Fire Fighters (IAFF), Local 2446, Rank and File and Supervisors Units. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

6. Consideration of councilmembers serving as representatives to other agencies/organizations/committees.

Councilmembers announced on which agencies/organizations/committees they wished to serve.

- 1) Space Coast League of Cities
Kenny Johnson, Delegate
Rob Medina, Alternate
- 2) Space Coast Transportation Planning Organization
Rob Medina
Randy Foster
Donny Felix
Kenny Johnson, Alternate
- 3) Ad Valorem Tax Abatement Council
Joan Junkala-Brown
Donny Felix, Alternate
- 4) Risk Management Committee
Randy Foster
- 5) Palm Bay Municipal Foundation Disaster Relief Committee
Donny Felix

COMMITTEE AND COUNCIL REPORTS:

Councilmembers addressed various subject matters and provided updates on activities of agencies and boards on which they served as members.

1. Deputy Mayor Johnson suggested that regular Council meetings be changed from 7:00 P.M. to 6:00 P.M. Mayor Medina said that due to his current schedule, he could not agree to the change, but would like to discuss it again at the beginning of 2022.

ADMINISTRATIVE AND LEGAL REPORTS:

1. Ms. Sherman advised of upcoming events throughout the city.
2. Ms. Smith advised that a settlement agreement related to the opioid litigation would be presented at the next meeting. Mayor Medina asked for an update on the special magistrate. Ms. Smith said an ordinance had been drafted and she was working with the Chief Procurement Officer as far as the process to hire a special magistrate through either a Request for Proposals or Request for Qualifications.
3. Deputy Mayor Johnson appointed Mary Jane Russell to the Recreation Advisory Board.

PUBLIC COMMENTS/RESPONSES:

1. Anton Evans, resident, said there was a vacant lot on the north side of Wichita Boulevard with very tall grass. He said it was very dangerous for children as the school bus picked them up at the intersection of Wichita Boulevard and Babcock Street. He said he would periodically cut a path along the roadway so that the children would have an area to walk instead of the street.
2. Bill Battin, resident, commented on the time change for the Council meetings. He felt for staff but said that residents needed to be able to attend the meetings as well.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 10:04 P.M.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Joan Junkala-Brown, Deputy City Manager

DATE: 12/16/2021

RE: Ordinance 2021-89, amending the Code of Ordinances, Chapter 37, Growth Management Department, by removing the Code Compliance Division from the department's composition, first reading.

In accordance with the City Code of Ordinances, Title III entitled Administration, Chapter 30: Authority, Responsibility, Powers and duties of the Manager, Section 30.03(K), the City Manager may consolidate or combine offices, positions, departments, or units under his jurisdiction with the approval of the council. The City Manager's Office recommends the re-organization of the Code Compliance Division from the Growth Management Department to the Building Department, a department which already oversees compliance with the Florida Building Code. The Code Compliance Division consists of eight (8) FTEs and one (1) part-time employee, to include one (1) Code Compliance Supervisor, five (5) Code Compliance Officers, two (2) secretaries and one (1) part-time secretary. As the City continues to attract favorable development, staff has identified an opportunity to make unify code compliance efforts and make the city more attractive for developers. The Ordinance proposes an amendment to Chapter 37 of the City's Code of Ordinances, specifically eliminating section 37.03(B), Code Compliance Division, in its entirety.

The Code Compliance Division is responsible for ensuring compliance with the Palm Bay Code of Ordinances. As the activities are not regulated by the Florida Building Code, funds associated with Code Compliance activities shall not be co-mingled with the Building Enterprise Funds. All funds related to Code Compliance shall be in a separate fund and shall not be supplemented by the City's Building Enterprise Fund to be legally compliant. Therefore, the Building and Finance Departments will prepare the necessary budget amendments to move the Code Compliance Division accounts from Growth Management's general fund account to a newly created Building Department general fund account following final approval.

Also for Council's consideration under a separate agenda memo, the City Manager's Office is seeking approval for a salary increase for the Chief Building Official (CBO) related to the supervision of the Code Compliance Division. The supervision of the Code Compliance Division by the Chief Building Official will require that the salary increase, and associated benefits, related to the additional responsibilities be split between the Building Fund and General Fund according to a percentage split of 90.083 percent from the Fund 451 (Building Enterprise Fund) and 9.917 percent from Fund 001 (General Fund).

REQUESTING DEPARTMENT:

City Manager's Office, Growth Management, Building Department

FISCAL IMPACT:

The fiscal impact of this Ordinance includes a total of \$16,731, to include the increase in salary and associated benefits (Retirement and FICA) between the Building Fund and General Fund. The Building Fund will realize a savings of \$1,232; these funds will be returned to the Building Fund Undesignated Fund Balance (451-0000-392.30-06). The General Fund will realize an increase in personnel costs totaling \$17,962; these funds will be appropriated from General Fund Undesignated Fund Balance (001-0000-392.10-01).

RECOMMENDATION:

Motion to approve Ordinance amending Chapter 37 of the City's Code of Ordinances.

ATTACHMENTS:**Description**

Ordinance 2021-89

ORDINANCE 2021-89

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE III, ADMINISTRATION, CHAPTER 37, GROWTH MANAGEMENT DEPARTMENT, BY REMOVING THE CODE COMPLIANCE DIVISION FROM THE DEPARTMENTAL COMPOSITION; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title III, Administration, Chapter 37, Growth Management Department, Section 37.03, Departmental Composition, is hereby amended and shall henceforth read as follows:

“SECTION 37.03 ~~DEPARTMENTAL COMPOSITION~~ >>DUTIES AND RESPONSIBILITIES<<.

(A) *Land Development Division.*

(1) Maintains the City of Palm Bay's Comprehensive Plan, revisions to the Land Development Code, administrative review of site plans, tracks Census data, and provide data and analysis. Staff members of the Division serve as liaison to the Planning and Zoning Board/Local Planning Agency.

~~(B) Code Compliance Division.~~

~~(1) Effectively upholds the Palm Bay Code of Ordinances, while making every effort to bring about voluntary compliance of code violations. Staff members of the Division serve as liaison to the Code Enforcement Board.”~~

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3. It is the intention of the City Council of the City of Palm Bay that the provisions of this Ordinance shall be made a part of the City of Palm Bay Code of ordinances and the sections may be renumbered to accomplish such intention.

SECTION 4. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 5. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2021-XX, held on _____, 2021; and read in title only and duly enacted at Meeting 2021-XX, held on _____, 2021.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Strikethrough words shall be deleted; highlighted words that will be included will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Valentino Perez, Chief Building Official

DATE: 12/16/2021

RE: Ordinance 2021-90, amending the Code of Ordinances, Chapter 40, Building Department, by including the Code Compliance Division under the department's duties and responsibilities, first reading.

In accordance with the City Code of Ordinances, Title III entitled Administration, Chapter 30: Authority, Responsibility, Powers and duties of the Manager, Section 30.03(K), the City Manager may consolidate or combine offices, positions, departments, or units with the approval of the City Council. The City Manager's Office recommends the re-organization of the Code Compliance Division from the Growth Management Department to the Building Department, a department which already oversees compliance with the Florida Building Code. The Code Compliance Division consists of eight (8) FTEs and one (1) part-time employee, to include one (1) Code Compliance Supervisor, five (5) Code Compliance Officers, two (2) secretaries and one (1) part-time secretary. As the City continues to attract favorable development, staff has identified an opportunity to unify code compliance efforts and make the city more attractive for developers. The Ordinance proposes an amendment to Chapter 40 of the City's Code of Ordinances, specifically section 40.03 providing for Building and Code Compliance Divisions within the Building Department.

The Code Compliance Division is responsible for ensuring compliance with the Palm Bay Code of Ordinances. As the activities are not regulated by the Florida Building Code, funds associated with Code Compliance activities shall not be co-mingled with the Building Enterprise Funds. All funds related to Code Compliance shall be in a separate fund and shall not be supplemented by the City's Building Enterprise Fund to be legally compliant. Therefore, the Building and Finance Departments will prepare the necessary budget amendments to move the Code Compliance Division accounts from Growth Management's general fund account to a newly created Building Department general fund account following final approval.

Also for Council's consideration under a separate agenda memo, the City Manager's Office is seeking approval for a salary increase for the Chief Building Official (CBO) related to the supervision of the Code Compliance Division. The supervision of the Code Compliance Division by the Chief Building Official will require that the salary increase, and associated benefits, related to the additional responsibilities be split between the Building Fund and General Fund according to a percentage split of 90.083 percent from the Fund 451 (Building Enterprise Fund) and 9.917 percent from Fund 001 (General Fund).

REQUESTING DEPARTMENT:

City Manager's Office, Building Department

FISCAL IMPACT:

The fiscal impact of this Ordinance includes a total of \$16,731, to include the increase in salary and associated benefits (Retirement and FICA) between the Building Fund and General Fund. The Building Fund will realize a savings of \$1,232; these funds will be returned to the Building Fund Undesignated Fund Balance (451-0000-392.30-06). The General Fund will realize an increase in personnel costs totaling \$17,962; these funds will be appropriated from General Fund Undesignated Fund Balance (001-0000-392.10-01).

RECOMMENDATION:

Motion to approve Ordinance amending Chapter 40 of the City's Code of Ordinances.

ATTACHMENTS:**Description**

Ordinance 2021-90

ORDINANCE 2021-90

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE III, ADMINISTRATION, CHAPTER 40, BUILDING DEPARTMENT, BY INCLUDING THE CODE COMPLIANCE DIVISION UNDER THE DUTIES AND RESPONSIBILITIES; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title III, Administration, Chapter 40, Building Department, by amending Section 40.03, Duties and Responsibilities, which shall henceforth read as follows:

“Section 40.03 DUTIES AND RESPONSIBILITIES.

>>(A)<< The Building Department is responsible for the review and issuance of permits for new and existing buildings in accordance with the Florida Building Code to ensure construction meets the requirements of all state, city and fire prevention codes for the safety and welfare of the citizens. The Floodplain Administrator within the department oversees the FEMA CRS program.

>>(B) Code Compliance Division.

(1) Effectively upholds the Palm Bay Code of Ordinances, while making every effort to bring about voluntary compliance of code violations. Staff members of the Division serve as liaison to the Code Enforcement Board.”<<

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3. It is the intention of the City Council of the City of Palm Bay that the provisions of this Ordinance shall be made a part of the City of Palm Bay Code of ordinances and the sections may be renumbered to accomplish such intention.

SECTION 4. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 5. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2021-XX, held on _____, 2021; and read in title only and duly enacted at Meeting 2021-XX, held on _____, 2021.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Strikethrough words shall be deleted; highlighted words that will be included will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Charleena Cox, Human Resources Director, Larry Wojciechowski, Finance Director

DATE: 12/16/2021

RE: Ordinance 2021-91, amending the Code of Ordinances, Chapter 55, Police and Firefighters Retirement Pension Plan, by increasing the supplemental benefit amount for police officers separating with vested service or retiring on or after October 1, 2021, first reading.

At the November 18, 2021 Regular Council Meeting, City Council approved new Collective Bargaining Agreements with the Fraternal Order of Police (FOP). Included in the negotiated agreements was an adjustment to the retirement supplemental benefit, which was increased from \$25/month to \$35/month for each complete year of credited service.

The purpose of this agenda item is to adopt changes to Section 55.07 (C) of the Palm Bay Code of Ordinances, to reflect this change to the supplemental benefit amount, effective October 1, 2021.

REQUESTING DEPARTMENT:

FISCAL IMPACT:

No additional fiscal impact is requested, beyond what was previously presented at the November 18, 2021 Regular Council meeting.

RECOMMENDATION:

Motion to

approve amendment to Chapter 55, Code of Ordinances, Police and Firefighter Retirement Pension Plan, to reflect negotiated changes to supplemental benefit.

ATTACHMENTS:

Description

Ordinance 2021-91

ORDINANCE 2021-91

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE V, LEGISLATIVE, CHAPTER 55, POLICE AND FIREFIGHTERS RETIREMENT PENSION PLAN, BY INCREASING THE SUPPLEMENTAL BENEFIT AMOUNT FOR POLICE OFFICERS SEPARATING WITH VESTED SERVICE OR RETIRING ON OR AFTER OCTOBER 1, 2021; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Palm Bay Police Officers' and Firefighters' Retirement System ("Pension Plan") is governed by Chapters 175 and 185, Florida Statutes, and

WHEREAS, the City of Palm Bay has a Police Officers' and Firefighters' Retirement System for the benefit of City police officers and firefighters, and

WHEREAS, the City and the Fraternal Order of Police, Florida State Lodge have negotiated an increase to the supplemental benefit, and

WHEREAS, the Palm Bay City Council has determined that the passage of this ordinance is in the best interest of the citizens of the City of Palm Bay.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title V, Legislative, Chapter 55, Police and Firefighters Retirement Pension Plan, Section 55.07, Retirement Dates and Benefits, is hereby amended and shall henceforth read as follows:

"SECTION 55.07 RETIREMENT DATES AND BENEFITS.

* * *

(C) Supplemental Benefit for Police Officer Members. Effective October 1, 2006, police officer members who either terminate while vested or reach normal retirement or early retirement shall receive a supplemental benefit of twenty-five

dollars (\$25.00) per month for each complete year of credited service. This benefit shall only be paid for the life of the member, and will not be paid to disabled members. The benefit shall commence upon receipt of a retirement benefit and separation from the city and shall cease when the member attains the age of sixty-five (65). >>Effective October 1, 2021, police officer members who thereafter either terminate while vested or reach normal retirement or early retirement shall receive a supplemental benefit of thirty-five dollars (\$35.00) per month for each complete year of credited service. This benefit shall only be paid for the life of the member and will not be paid to disabled members. The benefit shall commence upon receipt of a retirement benefit and separation from the city and shall cease when the member attains eligibility for Medicare/Medicaid in accordance with federal standards.<<

* * *

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3. It is the intention of the City Council of the City of Palm Bay that the provisions of this Ordinance shall be made a part of the City of Palm Bay Code of ordinances and the sections may be renumbered to accomplish such intention.

SECTION 4. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 5. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2021-XX, held on _____, 2021; and read in title only and duly enacted at Meeting 2021-XX, held on _____, 2021.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Strikethrough words shall be deleted; highlighted words that will be included will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Nelson Moya, Chief of Police

DATE: 12/16/2021

RE: Ordinance 2021-92, amending the Code of Ordinances, Chapter 117, Alarm Systems, by repealing provisions which provide for civil penalties for false alarms, first reading.

The Palm Bay Police Department (hereinafter "police department") seeks to modify the Palm Bay City Ordinance entitled "Chapter 117: Alarm Systems" by repealing portions that provide for civil penalties for false alarms.

The Ordinance permits the collection of civil fines by the police department for excessive false alarms. Unfortunately, the only enforcement mechanism for the collection of these civil penalties is the threat of discontinuing police service to the address causing the excessive false alarms. Additionally, the civil penalties are to be paid by the citizen directly to the police department, which the police departments finds to be an unsustainable and unwelcome arrangement.

In the 2020 fiscal year, \$68,065 in alarm fines were received from this ordinance. There are three individuals in the Finance Department who administer the program, the administration of which costs \$44,891.71. The net income of the program for fiscal year 2020 therefore was only approximately \$23,000. Furthermore, there are \$87,910.54 worth of delinquent fines that cannot be collected as there is no collection mechanism aside from suspending police services to those locations, a step the police department does not want to take.

Proposed repeals:

§117.01 Definitions:

Cancellation: The process where response is terminated when the alarm company (designated by the Alarm User) notifies the Police Department that there is not an existing situation at the alarm site requiring police response after an alarm dispatch request. ~~If cancellation occurs prior to police arriving at the scene, this is not a false alarm for the purpose of civil penalty, and no penalty will be assessed.~~

Runaway Alarm. An alarm system that produces repeated alarm signals that do not appear to be caused by separate human action. The Police Department may in its discretion discontinue police responses to alarm signals from what appears to be a runaway alarm. ~~The Alarm Administrator may consider all false alarm dispatches within a twenty-four (24) hour period as one (1) false alarm and invoice the Alarm User accordingly.~~

§117.05 Alarm Fees and Fines. (Entire Section to be repealed)
§117.07 Enforcement of Provisions. (Entire Section to be repealed)
§117.08 Alarm User Awareness Class. (Entire Section to be repealed)
§117.09 Appeals. (Entire Section to be repealed)

REQUESTING DEPARTMENT:

Police Department, City Attorney's Office

FISCAL IMPACT:

The net loss of approximately \$23,000 per year, the reassignment of duties of three program administrators in the Finance Department.

RECOMMENDATION:

Motion to approve Ordinance 2021-XXXX.

ATTACHMENTS:

Description

Ordinance 2021-92

ORDINANCE 2021-92

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XI, BUSINESS REGULATIONS, CHAPTER 117, ALARM SYSTEMS, BY REPEALING PROVISIONS WHICH PROVIDE FOR CIVIL PENALTIES FOR FALSE ALARMS; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title XI, Business Regulations, Chapter 117, Alarm Systems, is hereby amended and shall henceforth read as follows:

“CHAPTER 117: ALARM SYSTEMS

~~§ 117.01 DEFINITIONS.~~

* * *

CANCELLATION. The process where response is terminated when the alarm company (designated by the Alarm User) notifies the Police Department that there is not an existing situation at the alarm site requiring police response after an alarm dispatch request. ~~If cancellation occurs prior to police arriving at the scene, this is not a false alarm for the purpose of civil penalty, and no penalty will be assessed.~~

* * *

RUNAWAY ALARM. An alarm system that produces repeated alarm signals that do not appear to be caused by separate human action. The Police Department may in its discretion discontinue police responses to alarm signals from what appears to be a runaway alarm. ~~The Alarm Administrator may consider all false alarm dispatches within a twenty four (24) hour period as one (1) false alarm and invoice the Alarm User accordingly.~~

* * *

~~§ 117.05 ALARM FEES AND FINES.~~

~~The Police Department shall charge and collect fees and fines based upon a schedule established by resolution.~~

~~* * *~~

~~§ 117.07 ENFORCEMENT OF PROVISIONS.~~

~~(A) Excessive false alarms or failure to register alarm or failure to renew registration annually. It is hereby found and determined that three (3) or more false alarms within a permit year is excessive, constitutes a public nuisance, and shall be unlawful. It is also unlawful for an Alarm User to fail to register an alarm system or renew registration annually. Civil penalties, established through a resolution, shall be assessed. An Alarm User, in lieu of paying the fine for failure to register an alarm system, may pay instead the initial registration fee if he/she registers the system within thirty (30) days of the invoice.~~

~~(B) Discontinuance of Law Enforcement Response. The failure of an Alarm User to make payment of any fees or civil penalty(ies) assessed under this Ordinance within thirty (30) days from the date of the invoice shall result in suspension of law enforcement response to alarm signals that may occur at the premises described in the Alarm User's permit until payment is received. In addition, failure to register and obtain or renew a permit may result in no law enforcement response to an unregistered alarm site.~~

~~(C) A written notice of suspension of law enforcement response shall be mailed via U.S. mail to the Alarm User, suspending service effective five (5) days after payment was due.~~

~~(D) Civil Non-criminal violation. A violation of any of the provisions of this Ordinance shall be a civil violation and shall not constitute a misdemeanor.~~

~~(E) Police response will be reinstated if the Alarm User:~~

~~(1) Pays or otherwise resolves to the satisfaction of the Alarm Administrator all fees and fines, and;~~

~~(2) Reinstatement of police response will be effective immediately upon Alarm Administrator's receipt of payment and certification.~~

~~(3) The alarm company shall be assessed a fine, pursuant to the fee schedule, if the officer responding to the false alarm determines that an on-site employee of the alarm company directly caused a false alarm. In this situation, the false alarm will not be counted against the Alarm User.~~

~~§ 117.08 ALARM USER AWARENESS CLASS.~~

~~A class shall be offered to Alarm Users that will inform them of the problems caused by false alarm dispatches and teach them how to operate their systems without generating false alarms. There shall be no charge to attend this class. The Alarm Administrator shall waive one (1) false alarm dispatch fee for Alarm Users who successfully complete the class up to One Hundred Dollars (\$100.00). There shall be only one (1) waiver per alarm permit in a twenty-four (24) month period.~~

~~§ 117.09 APPEALS.~~

~~(A) *Appeals process.* Assessments of civil penalty(ies) and other enforcement decisions made under this Ordinance may be appealed by filing a written notice of appeal with the Alarm Administrator within ten (10) days after the date of notification of the assessment of civil penalty(ies) or other enforcement decision. The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalty(ies) or other enforcement decision.~~

~~(B) The Alarm Administrator shall review the evidence, make a decision to resolve the issue on appeal, and provide the Alarm User with a written decision within ten (10) days after receiving the appeal.~~

~~(C) The Alarm User may appeal that decision to the Chief of Police, or his designee, by filing a written request for review setting forth the reasons for appeal within ten (10) days of receiving notice of the Alarm Administrator's decision. The Chief of Police, or his designee, shall review the facts and circumstances and shall provide the Alarm User with a written decision. The decision of the Chief of Police, or his designee, is final as to available administrative remedies of the City.~~

~~(D) *Appeal standard.* The Chief of Police, or his designee, shall review an appeal from the assessment of civil penalty(ies) or other enforcement decisions using a preponderance of the evidence standard and notwithstanding a determination that the preponderance of the evidence supports the assessment of civil penalty(ies) or other enforcement decision, the Chief of Police, or his designee, shall have the discretion to dismiss or reduce civil penalty(ies), or reverse any other enforcement decision where warranted.~~

* * *

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3. It is the intention of the City Council of the City of Palm Bay that the provisions of this Ordinance shall be made a part of the City of Palm Bay Code of ordinances and the sections may be renumbered to accomplish such intention.

SECTION 4. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 5. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2021-XX, held on _____, 2021; and read in title only and duly enacted at Meeting 2021-XX, held on _____, 2021.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Strikethrough words shall be deleted; highlighted words that will be included will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Christopher A. Little, P.E.

DATE: 12/16/2021

RE: Consideration of Emergency Water Supply Interlocal Agreement with the City of Melbourne.

This is an Interlocal agreement between the Cities of Palm Bay and Melbourne that defines how each city would provide potable water to the other city in the event of a loss of pressure or other water shortage emergency. The previous agreement was approved by council December 1, 2011. The rate for water under this agreement was \$5.00 per thousand gallons. The current agreement expires January 1, 2022.

The key points of this agreement are summarized as follows:

1. A water emergency is defined as a water system condition that requires a supplemental water supply to maintain a pressure of 35 psi in the distribution system.
2. The City Manager or the Utilities Director of either city may determine that a water emergency exists.
3. The Receiving City agrees to pay the Supplying City the rate of \$5.00 per one thousand gallons of water received. The amount of water provided will not exceed two million gallons per day, for up to ten days within a thirty-day period. Additional water may be provided upon mutual agreement in writing.
4. There are two points of interconnection between the City's water systems. Each City maintains one supply meter in a common vault. Each City is responsible for their supply point. Costs to repair or replace the connection point that exceeds one thousand dollars shall be equally shared by the Cities.
5. The City Manager of each city is responsible for administration of the agreement and for resolving issues.
6. Both parties agree to the resolution of any conflict per the conflict resolution process defined in Section 164 of Florida Statutes.
7. The attached Agreement will expire January 1, 2032, but may be terminated by either party upon 180 days written notice.

The Agreement is scheduled for consideration by the Melbourne City Council on December 14, 2021.

The City is requesting a similar agreement with the City of West Melbourne under a separate agenda memorandum.

REQUESTING DEPARTMENT:

Utilities

FISCAL IMPACT:

No fiscal impact unless water is received due to a water emergency. The emergency rate is \$5.00 per 1,000 gallons.

RECOMMENDATION:

Motion to approve and authorize the City Manager to execute the Emergency Water Supply Interlocal Agreement with the City of Melbourne.

ATTACHMENTS:

Description

Emergency Water Supply Interlocal Agreement (NEW)

Emergency Water Supply Interlocal Agreement December 2011

Prepared by and Return to:
City Attorney
City of Melbourne
900 East Strawbridge Avenue
Melbourne, Florida 32901

EMERGENCY WATER SUPPLY **INTERLOCAL AGREEMENT**

THIS AGREEMENT made and entered into this _____ day _____, 2021 by and between the CITY OF MELBOURNE, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "MELBOURNE" and the CITY OF PALM BAY, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "PALM BAY."

Recitals:

WHEREAS, the parties deem it to be in the public interest to provide a mechanism by which the water supply system of either city may be interconnected and receive an emergency supply of potable water from the other city;

WHEREAS, this Agreement was approved by the PALM BAY City Council at a regular City Council meeting on the ____ day of _____, 2021; and

WHEREAS, this Agreement was approved by the MELBOURNE City Council at a regular City Council meeting on the ____ day of _____, 2021.

NOW, in consideration of the mutual covenants herein contained, it is agreed between the parties as follows:

1. **Definitions.** For purposes of this Agreement, the following terms shall be defined as set forth below:

(a) "Agreement" means and refers to this Emergency Water Supply Interlocal Agreement, as amended from time to time.

(b) "Connection Point" means and refers to a location where there is a connection between the City of Palm Bay potable Water distribution system and the City of Melbourne potable Water distribution systems for the supply of Water by one of the two cities to the other city when an Emergency Water Shortage occurs. A Connection Point is a location where there is connection of the two water distribution systems by pipes or lines, valves, and meters where each party maintains one supply meter in a common vault.

(c) "Emergency Water Shortage" means a sudden, urgent, usually unexpected occurrence or occasion requiring immediate action, including, without

limitation, prolonged power failures or a break in a water main, any of which events causes a drop in pressure or the imminent danger of potential depressurization of the water distribution network to a pressure of thirty-five (35) pounds per square inch ("psi") that could be alleviated by either city receiving water flow from the other city's distribution system, and which Emergency is the result of natural disasters, acts of terrorism, acts of God, an accidental and unexpected break in a water pipeline, or a major power failure affecting pumping systems, or other *bona fide* emergencies, which break in the water pipeline or power failure affecting the pumping systems are time-limited to the duration of the *bona fide* Emergency.

(d) "Receiving City" means either PALM BAY or MELBOURNE when either receives Water from the other city.

(e) "Supplying City" means either PALM BAY or MELBOURNE when either supplies Water to the other city.

(f) "Water" shall mean and refer to potable Water, or Water that has received treatment in accordance with state and federal regulations and is suitable for drinking purposes and other such purposes requiring a similar level of treatment. The term "Water" does not include reclaimed water.

2. Supply of Water.

(a) Subject to the terms, conditions, and limitations hereinafter set forth, both PALM BAY and MELBOURNE agree to sell, deliver, purchase and receive Water from each other when an Emergency Water Shortage exists. All Water delivered by either party pursuant to this Agreement shall be of like quality and purity as the water furnished to customers being serviced by either party. All Water delivered by either party pursuant to this Agreement will be produced and distributed in accordance with all applicable regulations of governmental agencies having jurisdiction thereof.

(b) For the purpose of this agreement, the determination that an Emergency Water Shortage exists shall be made by the city manager or the utility director (or similar official) of the Receiving City. The quantity of Water delivered to the Receiving City pursuant to this Agreement will not exceed two million gallons per day, nor shall the duration for which it is required to be delivered within any 365-day period exceed ten (10) days within any thirty-day period; provided, that the city manager of the Supplying City and the city manager of the Receiving City may agree in writing to extend the duration of the supply of Water to a Receiving City.

(c) All Water delivered by either party pursuant to this shall be of like quality and purity as the Water furnished to customers being serviced by either party. All Water delivered by either party pursuant to this Agreement shall be produced and distributed in accordance with all applicable regulations of governmental agencies having jurisdiction thereof.

3. Water Supply Rates. The Receiving City agrees to pay to the Supplying City, and the receiving party agrees to accept Water for an Emergency Water Shortage

at a rate of \$5.00 per thousand gallons of Water purchased pursuant to this Agreement. The parties agree that the rate per thousand gallons of water shall be reviewed five years after the effective date of this Agreement, and every five years thereafter and upon mutual agreement of the parties may be revised to a new rate.

4. Points of Supply and Delivery. The Water shall be delivered at the following two points (the "Connection Points") where each party maintains one supply meter in a common vault:

- (a) Florida Avenue and Monroe Street; and
- (b) Babcock Street and Palm Bay City Limits.

The location of the Connection Points is as depicted on Exhibit A, attached hereto and made a part hereof. Other Connection Points may be agreed to by the parties from time to time by amendment to this Agreement. All costs of any such additional Connection Point shall be equally shared by MELBOURNE and PALM BAY as mutually agreed.

5. Time of Payment. Charges for Water supplied pursuant to this Agreement as computed pursuant to the terms of this Agreement shall become due and payable fifteen (15) days after the billing statement has been mailed or presented by the Supplying City to the Receiving City. Upon failure or refusal to pay the amounts due on statements as rendered within forty-five (45) days after the date that the billing statement has been mailed or presented by the Supplying City to the Receiving City, either party may at any time thereafter, in its sole discretion, terminate this Agreement.

6. Quantity of Water Delivered. The quantity of Water delivered by either party shall be determined by Water meter readings made by the Supplying City or by estimating flows if there are meter malfunctions and/or manually operated emergency connection. Either party shall have the right, upon written notices to the other party, to have the meters from which they may be supplied Water tested for accuracy. If any meters are found to be registering within the acceptable accuracy limits as recommended by the American Water Works Association, such meters shall be considered satisfactory and the cost of testing shall be borne by initiating party. If the meter is found to be registering outside of the acceptable accuracy limits of true reading as recommended by the American Water Works Association, the meter shall be repaired or replaced by the Supplying City, and the cost of the testing shall be borne by the Supplying City. If there is no Supplying City at the time, the cost shall be subject to the provisions of Section 7 of this Agreement. If any such repair or replacement of a water meter is required for reasons of inaccuracy after Water has been recently supplied, the billed party shall be entitled to a corrected billing for the billing period immediately preceding such repair or replacement.

7. Maintenance of the Connection Point System. PALM BAY and MELBOURNE shall be jointly responsible for the maintenance, regulatory compliance and oversight of the Connection Point. Each party shall provide routine maintenance of the meters used to supply the other party. Any labor and material cost incurred to repair

or replace components of the Connection Point that exceeds one thousand dollars (\$1,000.00) shall be equally shared (50/50) between PALM BAY and MELBOURNE.

8. Care and Diligence Required. Each party shall use reasonable diligence and care to provide an emergency supply of Water to the other party.

9. Term of Agreement. This Agreement shall remain in full force and effect until January 1, 2032, except as modified by written mutual agreement of the parties.

10. Administrators of Agreement. MELBOURNE and PALM BAY respectively designate their respective City Managers as the person responsible for the administration of this agreement and authorize them on behalf of each city to negotiate and settle any controversy or question of interpretation which might arise in regard thereto.

11. Notices. With the exception of billings for Water service pursuant to this Agreement, any notices, elections, requests and other communications required or allowed to be delivered hereunder shall be in writing and shall be deemed to have been given: (1) when hand-delivered to and received by the official hereinafter designated; (2) when sent by express overnight receipted mail generally recognized throughout the United States (such as FedEx, United States Parcel Service, or United Parcel Service); or (3) when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed as follows (or to such other person or at such other address, of which any party hereto shall give written notice as provided herein):

If to Melbourne:

City Manager
City of Melbourne
900 East Strawbridge Avenue
Melbourne, Florida 32901

With a copy to:

City Attorney
City of Melbourne
900 East Strawbridge Avenue
Melbourne, Florida 32901

If to Palm Bay:

City Manager
City of Palm Bay
120 Malabar Road, SE
Palm Bay, Florida 32907

With a copy to:

City Attorney
City of Palm Bay
120 Malabar Road, SE
Palm Bay, Florida 32907

In all cases, notices shall be deemed delivered to a party only upon delivery to the persons indicated above in the same manner as for the party being notified. A party may unilaterally change its address or officer for notice purposes by giving the other party notice of same as provided herein.

12. Breach of Agreement; Disputes. In the event of a lawsuit, other than an administrative proceeding pursuant to Chapter 120, Florida Statutes, or proceedings pursuant to Section 164.1041(2), Florida Statutes, the parties agree to initiate a conflict resolution process under Chapter 164, Florida Statutes.

13. Severability. If any part of this Agreement is found to be invalid or unenforceable by any court such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

14. Termination of Agreement. This Agreement may be terminated by either party upon one hundred eighty (180) days written notice. Termination of this Agreement shall not relieve either party from any obligations it has pursuant to other agreements between the parties nor from any statutory obligations that either party may have with regard to the subject matter hereof.

15. Effective Date. This Agreement is entered into by the parties pursuant to Section 163.01, Florida Statutes. This Agreement shall take effect on the date this Agreement is filed with the Clerk of the Circuit Court for Brevard County, Florida. Any amendment to this Agreement shall take effect on the date that the amendment is filed with the Clerk of the Circuit Court for Brevard County, Florida.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

CITY OF MELBOURNE, a Florida
Municipal Corporation

By: _____
Shannon M. Lewis
City Manager

ATTEST:

Kevin McKeown, City Clerk

(CITY SEAL)

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me, by means of physical presence this _____ day of _____, 2021 by Shannon M. Lewis as City Manager. Said person is personally known to me.

Notary Public - State of Florida
Print Name: _____

CITY OF PALM BAY, a Florida
Municipal Corporation

By: _____
Suzanne Sherman
City Manager

ATTEST:

Terese Jones, City Clerk

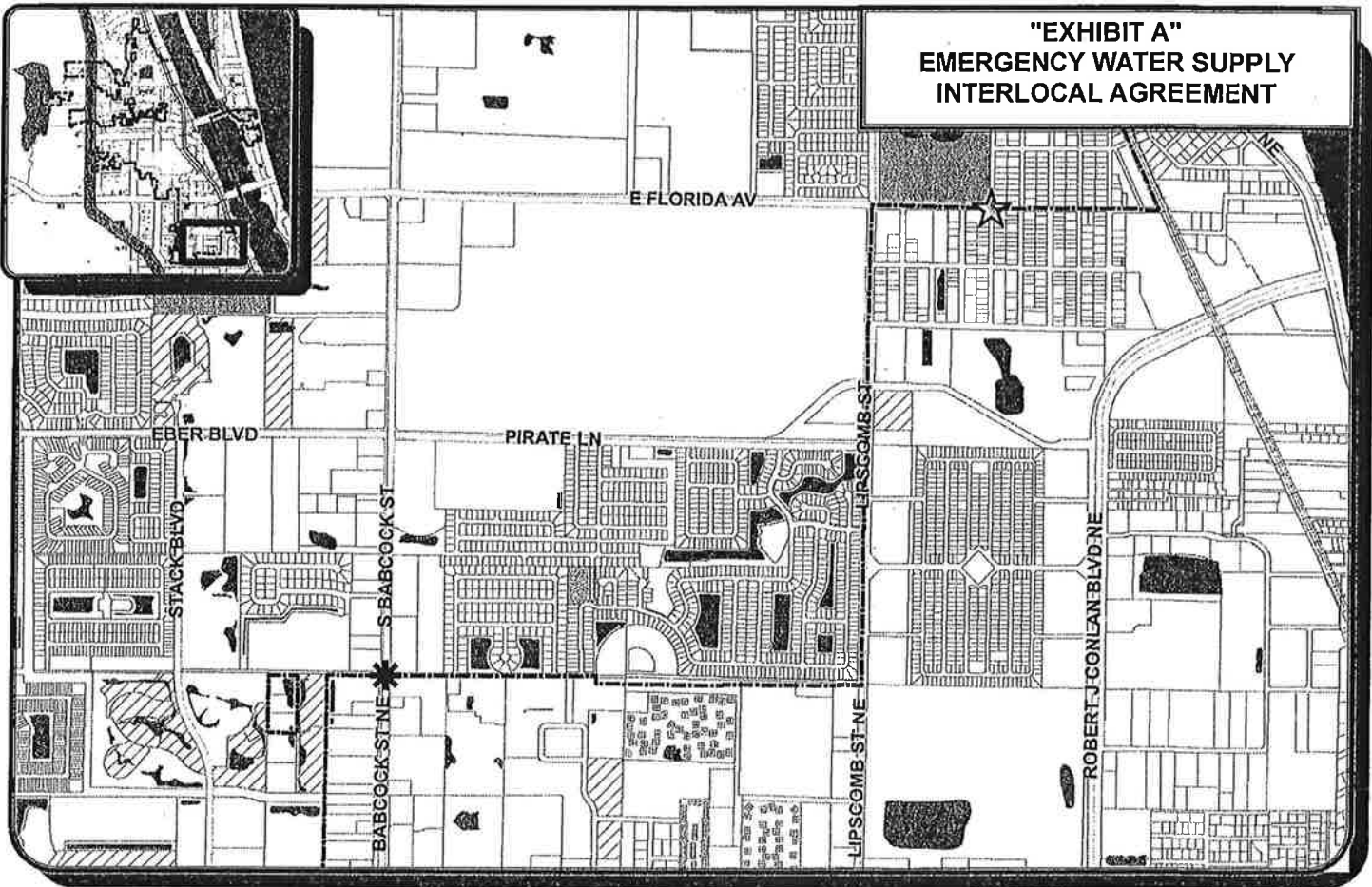
(CITY SEAL)

STATE OF FLORIDA
COUNTY OF BREVARD




The foregoing instrument was acknowledged before me, by means of physical presence this _____ day of _____, 2021 by Suzanne Sherman as City Manager. Said person is personally known to me.

Notary Public - State of Florida
Print Name: _____

"EXHIBIT A" EMERGENCY WATER SUPPLY INTERLOCAL AGREEMENT



Legend

-  City Boundary
-  Babcock & Palm Bay Rd
-  Florida Ave - Monroe St

File: PEC_View
 Department: City of Melbourne GIS Team
 Prepared By: City of Melbourne GIS Team
 Last Updated: Monday, February 08, 2010 1:44:28 PM
 Map Location: I:\GIS\Common\Mapa\PEC_View.mxd
 for illustrative purposes only.
 No warranties, expressed or implied, are provided for the property records and mapping data herein,
 or for their use or interpretation by the User. The City of Melbourne assumes no liability
 for any damages, losses, costs or expenses, including but not limited
 to attorney's fees, arising from any User's use or misuse
 of the property records or mapping data provided herein.



OFFICE OF CITY CLERK
CITY OF MELBOURNE
900 E. STRAWBRIDGE AVENUE
MELBOURNE, FLORIDA 32901

EMERGENCY WATER SUPPLY INTERLOCAL AGREEMENT

DEC 12 2011

THIS AGREEMENT made and entered into this _____ day _____, 20____
by and between the CITY OF MELBOURNE, a municipal corporation organized and
existing under the laws of the State of Florida, hereinafter referred to as "MELBOURNE"
and the CITY OF PALM BAY, a municipal corporation organized and existing under the
laws of the State of Florida, hereinafter referred to as "PALM BAY".

Recitals:

WHEREAS, the parties deem it to be in the public interest to provide a
mechanism by which the water supply system of either city may be interconnected and
receive an emergency supply of potable water from the other city;

WHEREAS, this Agreement was approved by the Palm Bay City Council at a
regular City Council meeting on the 1st day of December, 2011; and

WHEREAS, this Agreement was approved by the Melbourne City Council at a
regular City Council meeting on the 22nd day of November, 2011.

NOW, in consideration of the mutual covenants herein contained, it is agreed
between the parties as follows:

1. Definitions. For purposes of this Agreement, the following terms
shall be defined as set forth below:

(a) "Agreement" means and refers to this Emergency Water
Supply Interlocal Agreement, as amended from time to time.

(b) "Connection Point" means and refers to a location where
there is a connection between the City of Palm Bay potable Water distribution
system and the City of Melbourne potable Water distribution systems for the
supply of Water by one of the two cities to the other city when an Emergency
Water Shortage occurs. A Connection Point is a location where there is
connection of the two water distribution systems by pipes or lines, valves, and
meters where each party maintains one supply meter in a common vault .

(c) "Emergency water shortage" means a sudden, urgent,
usually unexpected occurrence or occasion requiring immediate action, including,
without limitation, prolonged power failures or a break in a water main, any of
which events causes a drop in pressure or the imminent danger of potential
depressurization of the water distribution network to a pressure of thirty-five (35)
pounds per square inch ("psi") that could be alleviated by either city receiving
water flow from the other city's distribution system, and which Emergency is the
result of natural disasters, acts of terrorism, acts of God, an accidental and

unexpected break in a water pipeline, or a major power failure affecting pumping systems, or other *bona fide* emergencies, which break in the water pipeline or power failure affecting the pumping systems are time-limited to the duration of the *bona fide* Emergency.

(d) "Receiving City" means either the City of Palm Bay or the City of Melbourne when it receives Water from the other city.

(e) "Supplying City" means either the City of Palm Bay or the City of Melbourne when it receives Water from the other city.

(f) "Water" shall mean and refer to potable Water, or Water that has received treatment in accordance with state and federal regulations and is suitable for drinking purposes and other such purposes requiring a similar level of treatment. The term "Water" does not include reclaimed water.

2. Supply of Water.

(a) Subject to the terms, conditions, and limitations hereinafter set forth, both PALM BAY and MELBOURNE agree to sell, deliver, purchase and receive Water from each other when an Emergency Water Shortage exists. All Water delivered by either party pursuant to this Agreement shall be of like quality and purity as the water furnished to customers being serviced by either party. All Water delivered by either party pursuant to this Agreement will be produced and distributed in accordance with all applicable regulations of governmental agencies having jurisdiction thereof.

(b) For the purpose of this agreement, the determination that an Emergency Water Shortage exists shall be made by the City Manager or the Utility Director (or similar official) of the Receiving City. The quantity of Water delivered to the Receiving City pursuant to this Agreement will not exceed two million gallons per day, nor shall the duration for which it is required to be delivered within any 365-day period exceed ten (10) days within any thirty-day period; provided, that the city manager of the Supplying City and the city manager of the Receiving City may agree in writing to extend the duration of the supply of Water to a Receiving City.

(c) All Water delivered by either party pursuant to this shall be of like quality and purity as the Water furnished to customers being serviced by either party. All Water delivered by either party pursuant to this Agreement shall be produced and distributed in accordance with all applicable regulations of governmental agencies having jurisdiction thereof.

3. Water Supply Rates. The Receiving City agrees to pay to the Supplying City, and the receiving party agrees to accept Water for an Emergency Water Shortage at a rate of \$5.00 per thousand gallons of Water purchased pursuant to this Agreement. The parties agree that the rate per thousand gallons of water shall be

reviewed five years after the effective date of this Agreement, and every five years thereafter and upon mutual agreement of the parties may be revised to a new rate.

4. Points of Supply and Delivery. The Water shall be delivered at the following two points (the "Connection Points") where each party maintains one supply meter in a common vault:

- a) Florida Avenue and Monroe Street; and
- b) Babcock Street and Palm Bay City Limits.

The location of the Connection Points is as depicted on Exhibit A, attached hereto and made a part hereof. Other Connection Points may be agreed to by the parties from time to time by amendment to this Agreement. All costs of any such additional Connection Point shall be equally shared by the cities of the MELBOURNE and PALM BAY as mutually agreed.

5. Time of Payment. Charges for Water supplied pursuant to this Agreement as computed pursuant to the terms of this Agreement shall become due and payable fifteen (15) days after the billing statement has been mailed or presented by the Supplying City to the Receiving City. Upon failure or refusal to pay the amounts due on statements as rendered within forty-five (45) days after the date that the billing statement has been mailed or presented by the Supplying City to the Receiving City, either party may at any time thereafter, in its sole discretion, terminate this Agreement.

6. Quantity of Water Delivered. The quantity of Water delivered by either party shall be determined by Water meter readings made by the Supplying City or by estimating flows if there are meter malfunctions and/or manually operated emergency connection. Either party shall have the right, upon written notices to the other party, to have the meters from which they may be supplied Water tested for accuracy. If any meters are found to be registering within the acceptable accuracy limits as recommended by the American Water Works Association, such meters shall be considered satisfactory and the cost of testing shall be borne by initiating party. If the meter is found to be registering outside of the acceptable accuracy limits of true reading as recommended by the American Water Works Association, the meter shall be repaired or replaced by the Supplying City, and the cost of the testing shall be borne by the Supplying City. If there is no Supplying City at the time, the cost shall be subject to the provisions of Section 7 of this Agreement. If any such repair or replacement of a water meter is required for reasons of inaccuracy after Water has been recently supplied, the billed party shall be entitled to a corrected billing for the billing period immediately preceding such repair or replacement.

7. Maintenance of the Connection Point System. PALM BAY and MELBOURNE shall be jointly responsible for the maintenance, regulatory compliance and oversight of the Connection Point. Each party shall provide routine maintenance of the meters used to supply the other party. Any labor and material cost incurred to repair

or replace components of the Connection Point that exceeds one thousand dollars (\$1,000.00) shall be equally shared (50:50) between PALM BAY and MELBOURNE.

8. Care and Diligence Required. Each party shall use reasonable diligence and care to provide an emergency supply of Water to the other party.

9. Term of Agreement. This Agreement shall remain in full force and effect until January 1, 2022, except as modified by written mutual agreement of the parties.

10. Administrators of Agreement. MELBOURNE and PALM BAY respectively designate their respective City Managers as the person responsible for the administration of this agreement and authorize them on behalf of each city to negotiate and settle any controversy or question of interpretation which might arise in regard thereto.

11. Notices. With the exception of billings for water service pursuant to this Agreement, any notices, elections, requests and other communications required or allowed to be delivered hereunder shall be in writing and shall be deemed to have been given: (1) when hand-delivered to and received by the official hereinafter designated; (2) when sent by express overnight receipted mail generally recognized throughout the United States (such as FedEx, United States Parcel Service, or United Parcel Service); or (3) when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed as follows (or to such other person or at such other address, of which any party hereto shall give written notice as provided herein):

If to Melbourne:

City Manager
City of Melbourne
900 East Strawbridge Avenue
Melbourne, Florida 32901

With a copy to:

City Attorney
City of Melbourne
900 East Strawbridge Avenue
Melbourne, Florida 32901

If to Palm Bay:

City Manager
City of Palm Bay
120 Malabar Road, SE
Palm Bay, Florida 32907

With a copy to:

City Attorney
City of Palm Bay
120 Malabar Road SE
Palm Bay, Florida 32907

In all cases, notices shall be deemed delivered to a party only upon delivery to the persons indicated above in the same manner as for the party being notified. A party may unilaterally change its address or officer for notice purposes by giving the other party notice of same as provided herein.

12. Breach of Agreement; Disputes. In the event of a lawsuit, other than an administrative proceeding pursuant to Chapter 120, Florida Statutes, or proceedings pursuant to Section 164.1041(2), Florida Statutes, the parties agree to initiate a conflict resolution process under Chapter 164, Florida Statutes.

13. Severability. If any part of this Agreement is found to be invalid or unenforceable by any court such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

14. Termination of Agreement. This Agreement may be terminated by either party upon one hundred eighty (180) days written notice. Termination of this Agreement shall not relieve either party from any obligations it has pursuant to other agreements between the parties nor from any statutory obligations that either party may have with regard to the subject matter hereof.

15. Effective Date. This Agreement is entered into by the parties pursuant to Section 163.01, Florida Statutes. This Agreement shall take effect on the date this Agreement is filed with the Clerk of the Circuit Court for Brevard County, Florida. Any amendment to this Agreement shall take effect on the date that the amendment is filed with the Clerk of the Circuit Court for Brevard County, Florida.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written

CITY OF MELBOURNE, a Florida
Municipal Corporation

By: 

Jack M. Schluckebier, Ph.D,
City Manager

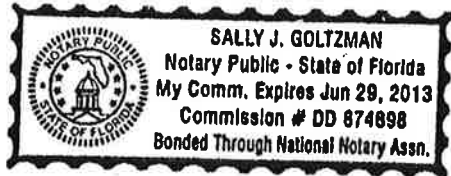


Cathleen A. Wysor, City Clerk

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 12th day of December, 2011, by Jack M. Schluckebier, Ph.D, as City Manager, of the City of Melbourne, Florida, a Florida Municipal Corporation, on behalf of the municipal

corporation. ^{He} ~~She~~ is personally known to me or has produced
N/A as identification.



Sally J. Goltzman
Notary Public
State of Florida at Large
My Commission Expires:

CITY OF PALM BAY, a Florida
Municipal Corporation

By: [Signature]
Susan Hann, City Manager

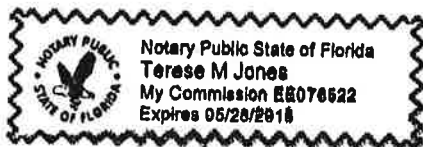
ATTEST:

[Signature]
Alice Passmore, City Clerk

STATE OF FLORIDA
COUNTY OF BREVARD

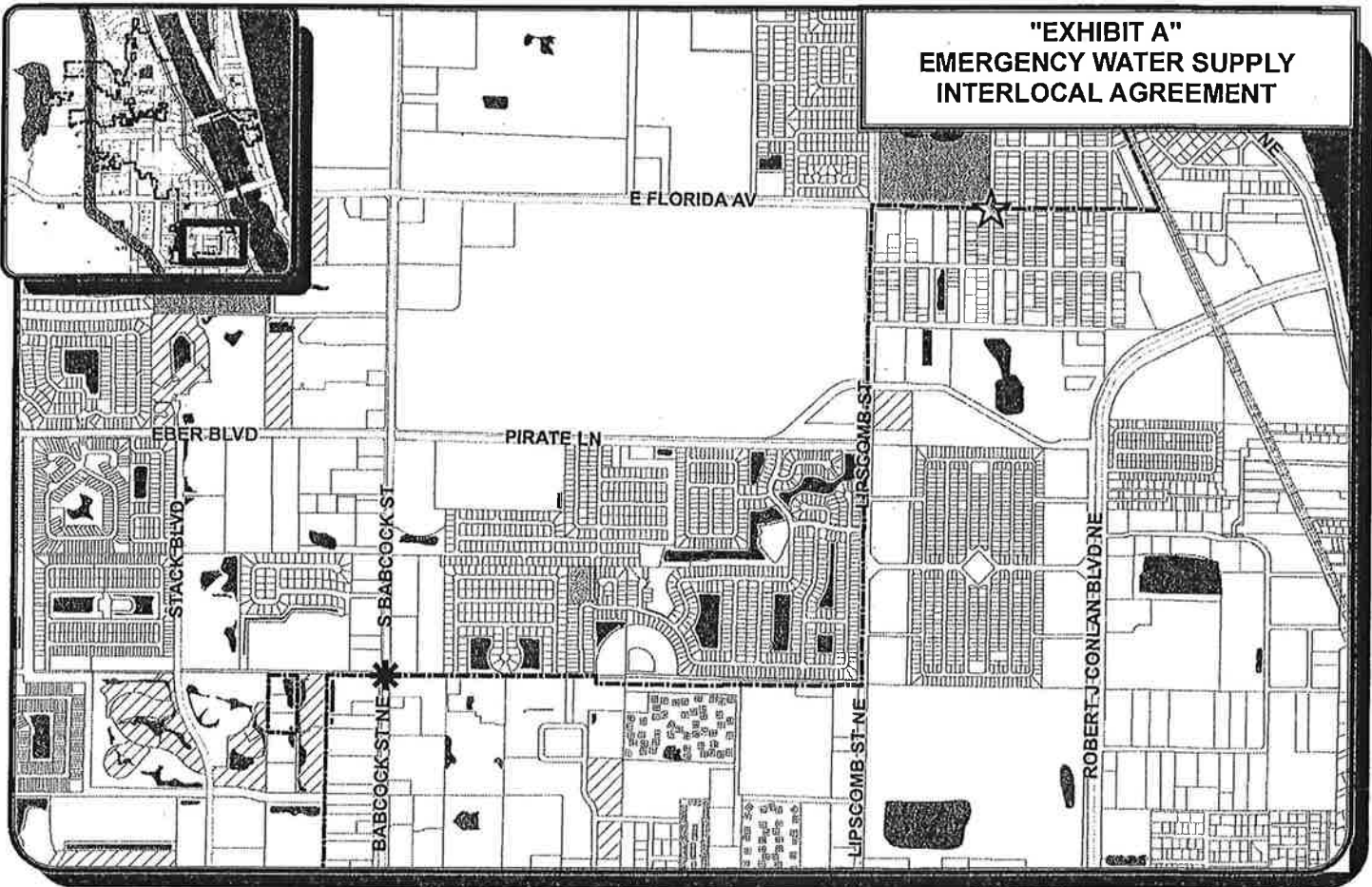


The foregoing instrument was acknowledged before me this 10th day of
DECEMBER, 2011, by Susan Hann, as City Manager, of the City of Palm
Bay, Florida, a Florida Municipal Corporation, on behalf of the municipal corporation.
She is personally known to me or has produced _____ as
identification.






[Signature]
Notary Public TERESE M. JONES
State of Florida at Large
My Commission Expires:

"EXHIBIT A" EMERGENCY WATER SUPPLY INTERLOCAL AGREEMENT



Legend

-  City Boundary
-  Babcock & Palm Bay Rd
-  Florida Ave - Monroe St

File: PEC_View
Department: City of Melbourne GIS Team
Prepared By: City of Melbourne GIS Team
Last Updated: Monday, February 08, 2010 1:44:20 PM
Map Location: I:\GIS\Common\Mapa\PEC_View.mxd
For illustrative purposes only.
No warranties, expressed or implied, are provided for the property records and mapping data herein,
or for their use or interpretation by the User. The City of Melbourne assumes no liability
for any damages, losses, costs or expenses, including but not limited
to attorney's fees, arising from any User's use or misuse
of the property records or mapping data provided herein.





LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Christopher A. Little, P.E.

DATE: 12/16/2021

RE: Consideration of Emergency Water Supply Interlocal Agreement with the City of West Melbourne.

This is an Interlocal agreement between the Cities of Palm Bay and West Melbourne that defines how each city would provide potable water to the other city in the event of a loss of pressure or other water shortage emergency. The previous agreement was approved by City Council on October 3, 2013. The rate for water under the agreement is \$6.59 per thousand gallons and expires January 1, 2022.

The key points of this Agreement are summarized as follows:

1. A water emergency is defined as a water system condition that requires a supplemental water supply to maintain a pressure of 35 psi in the distribution system.
2. The City Manager or the Utilities Director of either City may determine that a water emergency exists.
3. The Receiving City agrees to pay the Supplying City the rate of \$6.59 per one thousand gallons of water received. The amount of water provided will not exceed two million gallons per day, for up to ten days within a thirty-day period. Additional water may be provided upon mutual agreement in writing.
4. There is one point of interconnection between the City's water systems. The City of Palm Bay is the owner and operator of the connection point and responsible for regulatory compliance and oversight. The City of Palm Bay will perform needed maintenance and maintenance costs will be shared equally with the City of Palm Bay invoicing the City of West Melbourne.
5. The City Manager of each city is responsible for administration of the agreement and for resolving issues.
6. Both parties agree to the resolution of any conflict per the conflict resolution process defined in Section 164 of Florida Statutes.
7. The Agreement will expire December 31, 2026, but may be terminated by either party upon 180 days written notice.

The Agreement is scheduled for consideration by the West Melbourne City Council on December 14, 2021.

The City is requesting a similar agreement with the City of Melbourne under a separate agenda memorandum.

REQUESTING DEPARTMENT:

Utilities

FISCAL IMPACT:

No fiscal impact unless water is received due to a water emergency. The emergency rate is \$6.59 per 1,000 gallons.

RECOMMENDATION:

Motion to approve and authorize the City Manager to execute the Emergency Water Supply Interlocal Agreement with the City of West Melbourne.

ATTACHMENTS:

Description

Emergency Water Supply Interlocal Agreement (NEW)

Emergency Water Supply Interlocal Agreement October 2013

Prepared by and Return to:
City Attorney
City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907

EMERGENCY WATER SUPPLY **INTERLOCAL AGREEMENT**

THIS AGREEMENT made and entered into this _____ day _____, 2021 by and between the CITY OF WEST MELBOURNE, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "WEST MELBOURNE" and the CITY OF PALM BAY, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "PALM BAY."

Recitals:

WHEREAS, the parties deem it to be in the public interest to provide a mechanism by which the water supply system of either city may be interconnected and receive an emergency supply of potable water from the other city;

WHEREAS, West Melbourne and Palm Bay recognize that West Melbourne and the City of Melbourne, a municipal corporation organized and existing under the laws of the State of Florida, have entered into an Interlocal Agreement for the Sale and Purchase of Water dated May 16, 2013, that restricts West Melbourne's ability to purchase water from Palm Bay to bona fide emergency purposes; and

WHEREAS, this Agreement was approved by the PALM BAY City Council at a regular City Council meeting on the ____ day of _____, 2021; and

WHEREAS, this Agreement was approved by the WEST MELBOURNE City Council at a regular City Council meeting on the ____ day of _____, 2021.

NOW, in consideration of the mutual covenants herein contained, it is agreed between the parties as follows:

1. Definitions. For purposes of this Agreement, the following terms shall be defined as set forth below:

(a) "Agreement" means and refers to this Emergency Water Supply Interlocal Agreement, as amended from time to time.

(b) "Connection Point" means and refers to a location where there is a connection between the City of Palm Bay potable Water distribution system and the City of West Melbourne potable Water distribution systems for the supply of Water by one of

the two cities to the other city when an Emergency Water Shortage occurs. A Connection Point is a location where there is connection of the two water distribution systems by pipes or lines, valves, and meters.

(c) “Emergency Water Shortage” means a sudden, urgent, usually unexpected occurrence or occasion requiring immediate action, including, without limitation, prolonged power failures or a break in a water main, any of which events causes a drop in pressure or the imminent danger of potential depressurization of the water distribution network to a pressure of thirty-five (35) pounds per square inch (“psi”) that could be alleviated by either city receiving water flow from the other city’s distribution system, and which Emergency is the result of natural disasters, acts of terrorism, acts of God, an accidental and unexpected break in a water pipeline, or a major power failure affecting pumping systems, or other *bona fide* emergencies, which break in the water pipeline or power failure affecting the pumping systems are time-limited to the duration of the *bona fide* Emergency.

(d) “Receiving City” means either PALM BAY or WEST MELBOURNE when either receives Water from the other city.

(e) “Supplying City” means either PALM BAY or WEST MELBOURNE when either supplies Water to the other city.

(f) “Water” shall mean and refer to potable Water, or Water that has received treatment in accordance with state and federal regulations and is suitable for drinking purposes and other such purposes requiring a similar level of treatment. The term “Water” does not include reclaimed water.

2. Supply of Water.

(a) Subject to the terms, conditions, and limitations hereinafter set forth, both PALM BAY and WEST MELBOURNE agree to sell, deliver, purchase and receive Water from each other when an Emergency Water Shortage exists. All Water delivered by either party pursuant to this Agreement shall be of like quality and purity as the water furnished to customers being serviced by either party. All Water delivered by either party pursuant to this Agreement will be produced and distributed in accordance with all applicable regulations of governmental agencies having jurisdiction thereof.

(b) For the purpose of this agreement, the determination that an Emergency Water Shortage exists shall be made by the City Manager or the Utility Director (or similar official) of the Receiving City. The quantity of Water delivered to the Receiving City pursuant to this Agreement will not exceed two million gallons per day, nor shall the duration for which it is required to be delivered within any 365-day period exceed ten (10) days within any thirty-day period; provided, that the City Manager of the Supplying City and the City Manager of the Receiving City may agree in writing to extend the duration of the supply of Water to a Receiving City.

(c) All Water delivered by either party pursuant to this shall be of like quality and purity as the Water furnished to customers being serviced by either party. All

Water delivered by either party pursuant to this Agreement shall be produced and distributed in accordance with all applicable regulations of governmental agencies having jurisdiction thereof.

3. Water Supply Rates. The Receiving City agrees to pay to the Supplying City, and the receiving party agrees to accept Water for an Emergency Water Shortage at a rate of \$6.59 per thousand gallons of Water purchased pursuant to this Agreement. The parties agree that the rate per thousand gallons of water shall be reviewed five years after the effective date of this Agreement, and every five years thereafter and upon mutual agreement of the parties may be revised to a new rate.

4. Points of Supply and Delivery. The Water shall be delivered at the following point (the "Connection Point") where the City of Palm Bay maintains supply meter assembly and related appurtenances:

(a) North side of Palm Bay Road between Hollywood Boulevard and Interstate 95.; and

The location of the Connection Point is as depicted on Exhibit A, attached hereto and made a part hereof.

5. In accordance with the Interlocal Agreement for the Sale and Purchase of Water dated May 16, 2013, between West Melbourne and the City of Melbourne, Palm Bay acknowledges and agrees that West Melbourne cannot accept emergency water from Palm Bay for more than thirty (30) days within any calendar year without West Melbourne having received Melbourne's written consent, the same which may not be unreasonably withheld if public safety requires.

6. Time of Payment. Charges for Water supplied pursuant to this Agreement as computed pursuant to the terms of this Agreement shall be become due and payable fifteen (15) days after the billing statement has been mailed or presented by the Supplying City to the Receiving City. Upon failure or refusal to pay the amounts due on statements as rendered within forty-five (45) days after the date that the billing statement has been mailed or presented by the Supplying City to the Receiving City, either party may at any time thereafter, in its sole discretion, terminate this Agreement.

7. Quantity of Water Delivered. The quantity of water delivered under this agreement shall be determined by water meter readings or by estimating flows in the event of a meter malfunction. Either party shall have the right, upon written notice to the other party, to have the meter tested for accuracy. If a meter is found to be registering within the acceptable accuracy limits established by the American Water Works Association, such meter shall be considered satisfactory and the cost of testing shall be borne by the initiating party. If the meter is found to be registering outside the acceptable limits of accuracy, the billed party shall be entitled to a corrected billing for the billing period immediately preceding, the cost of the testing shall be borne by the non-initiating party, and the meter shall be repaired or replaced at a cost shared equally by West Melbourne and Palm Bay.

8. Maintenance of the Connection Point System. Palm Bay is the owner and operator of the connection point depicted in Exhibit A. Palm Bay shall be responsible for the maintenance, regulatory compliance, and oversight of the connection point. Any labor and material cost incurred by Palm Bay to repair or replace components of the connection point shall be shared equally by West Melbourne and Palm Bay, and Palm Bay shall invoice West Melbourne for the West Melbourne share of shared repair or replacement costs.

9. Care and Diligence Required. Each party shall use reasonable diligence and care to provide an emergency supply of Water to the other party.

10. Term of Agreement. This Agreement shall remain in full force and effect until December 31, 2026, except as modified by written mutual agreement of the parties.

11. Administrators of Agreement. WEST MELBOURNE and PALM BAY respectively designate their respective City Managers as the person responsible for the administration of this agreement and authorize them on behalf of each city to negotiate and settle any controversy or question of interpretation which might arise in regard thereto.

12. Notices. With the exception of billings for Water service pursuant to this Agreement, any notices, elections, requests and other communications required or allowed to be delivered hereunder shall be in writing and shall be deemed to have been given: (1) when hand-delivered to and received by the official hereinafter designated; (2) when sent by express overnight receipted mail generally recognized throughout the United States (such as FedEx, United States Parcel Service, or United Parcel Service); or (3) when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed as follows (or to such other person or at such other address, of which any party hereto shall give written notice as provided herein):

If to West Melbourne:

City Manager
City of West Melbourne
2240 Minton Road
West Melbourne, Florida 32904

With a copy to:

City Attorney
City of West Melbourne
2240 Minton Road
West Melbourne, Florida 32904

If to Palm Bay:

City Manager
City of Palm Bay
120 Malabar Road, SE
Palm Bay, Florida 32907

With a copy to:

City Attorney
City of Palm Bay
120 Malabar Road, SE
Palm Bay, Florida 32907

In all cases, notices shall be deemed delivered to a party only upon delivery to the persons indicated above in the same manner as for the party being notified. A party may unilaterally change its address or officer for notice purposes by giving the other party notice of same as provided herein.

13. Breach of Agreement; Disputes. In the event of a lawsuit, other than an administrative proceeding pursuant to Chapter 120, Florida Statutes, or proceedings pursuant to Section 164.1041(2), Florida Statutes, the parties agree to initiate a conflict resolution process under Chapter 164, Florida Statutes.

14. Severability. If any part of this Agreement is found to be invalid or unenforceable by any court such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

15. Termination of Agreement. This Agreement may be terminated by either party upon one hundred eighty (180) days written notice. Termination of this Agreement shall not relieve either party from any obligations it has pursuant to other agreements between the parties nor from any statutory obligations that either party may have with regard to the subject matter hereof.

16. Effective Date. This Agreement is entered into by the parties pursuant to Section 163.01, Florida Statutes. This Agreement shall take effect on the date this Agreement is filed with the Clerk of the Circuit Court for Brevard County, Florida. Any amendment to this Agreement shall take effect on the date that the amendment is filed with the Clerk of the Circuit Court for Brevard County, Florida.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

CITY OF WEST MELBOURNE, a Florida
Municipal Corporation

By: _____
Scott Morgan
City Manager

ATTEST:

Cynthia Hanscom, City Clerk

(CITY SEAL)

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me, by means of physical presence this _____ day of _____, 2021 by Scott Morgan as City Manager. Said person is personally known to me.

Notary Public - State of Florida
Print Name: _____

CITY OF PALM BAY, a Florida
Municipal Corporation

By: _____
Suzanne Sherman
City Manager

ATTEST:

Terese Jones, City Clerk

(CITY SEAL)

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me, by means of physical
presence this _____ day of _____, 2021 by Suzanne Sherman as City Manager.
Said person is personally known to me.

Notary Public - State of Florida
Print Name: _____

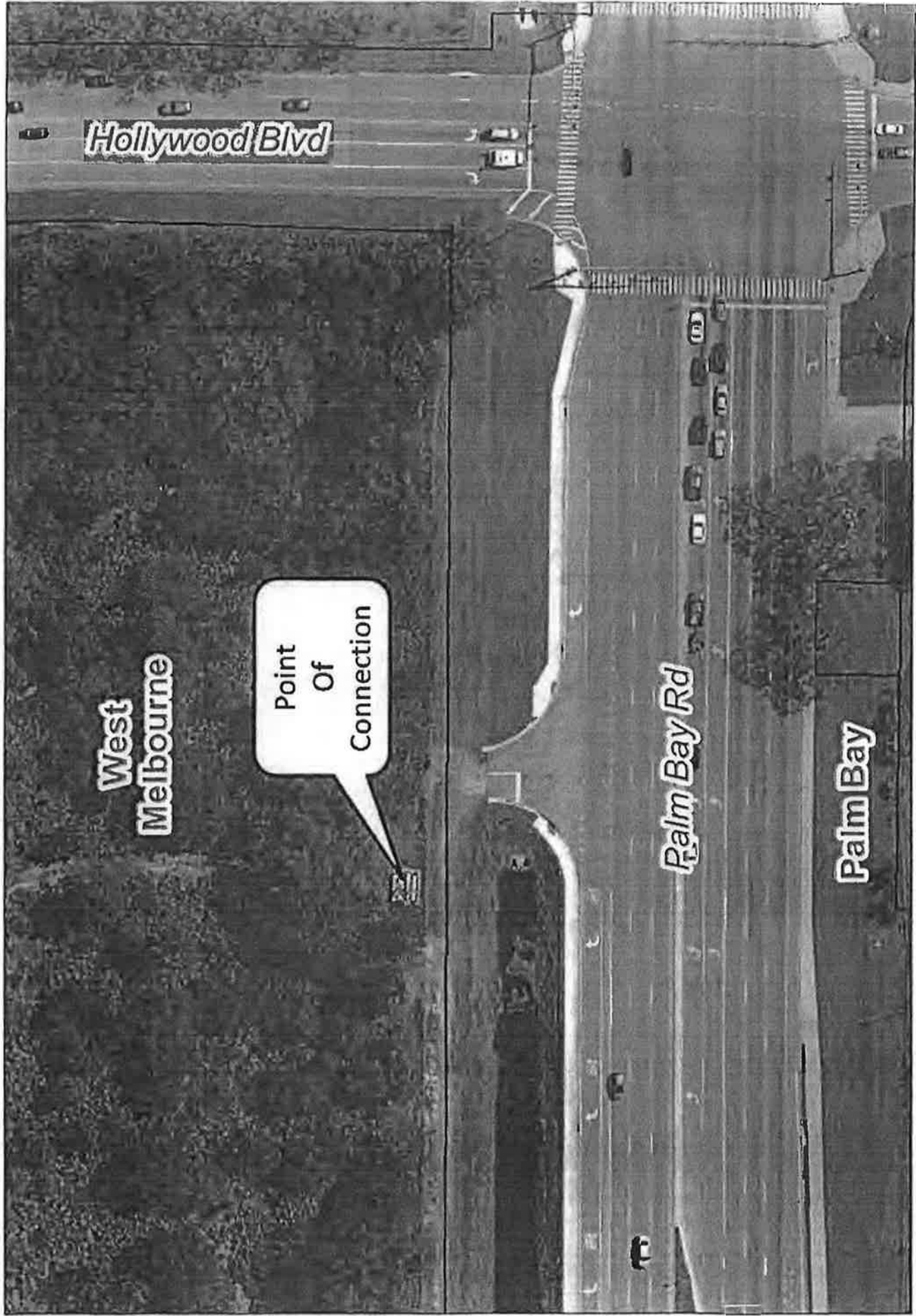


Exhibit A

MAYOR
Hal J. Rose

DEPUTY MAYOR
John "Coach" Tice

COUNCIL MEMBERS
Pat Bentley
Stephany Eley
Bill Mettrick
Barbara A. Smith
Andrea Young



Christine D. Pennington
Acting City Clerk
City Hall
2240 Minton Road
West Melbourne, FL 32904
Phone: (321) 837-7774
Fax: (321) 768-2390
www.westmelbourne.org

October 29, 2013

Office of The
NOV - 1 2013
City Clerk

Alice Passmore, City Clerk
City of Palm Bay
120 Malabar Road
Palm Bay, Florida 32905

Re: Emergency Water Supply Interlocal Agreement by and between the City of West Melbourne and the City of Palm Bay

Dear Ms. Passmore:

I am enclosing the original Emergency Water Supply Interlocal Agreement between the cities of West Melbourne and Palm Bay which has been fully executed.

If you have any questions or need anything further, please let me know.

Sincerely,

Christine D. Pennington
Christine D. Pennington
Acting City Clerk

/cdp
Enclosures

cc: Scott Morgan, City Manager (w/encls.)
Keith Mills, Deputy City Manager/Public Works Director (w/encls.)
Margi Starkey, Finance Director (w/encls.)

EMERGENCY WATER SUPPLY INTERLOCAL AGREEMENT

THIS AGREEMENT made and entered into this 28th day October, 2013 by and between the CITY OF WEST MELBOURNE, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "WEST MELBOURNE" and the CITY OF PALM BAY, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "PALM BAY".

Recitals:

WHEREAS, the parties deem it to be in the public interest to provide a mechanism by which the water supply system of either city may be interconnected and receive an emergency supply of potable water from the other city;

WHEREAS, West Melbourne and Palm Bay recognize that West Melbourne and the City of Melbourne, a municipal corporation organized and existing under the laws of the State of Florida, have entered into an Interlocal Agreement for the Sale and Purchase of Water dated May 16, 2013, that restricts West Melbourne's ability to purchase water from Palm Bay to bona fide emergency purposes; and

WHEREAS, this Agreement was approved by the Palm Bay City Council at a regular City Council meeting on the 3RD day of OCTOBER, 2013.; and

WHEREAS, this Agreement was approved by the West Melbourne City Council at a regular City Council meeting on the 15th day of October, 2013.;

NOW, In consideration of the mutual covenants herein contained, it is agreed between the parties as follows:

1. **Definitions.** For purposes of this Agreement, the following terms shall be defined as set forth below:

(a) "Agreement" means and refers to this Emergency Water Supply Interlocal Agreement, as amended from time to time.

(b) "Connection Point" means and refers to a location where there is a connection between the City of Palm Bay potable Water distribution system and the City of West Melbourne potable Water distribution systems for the supply of Water by one of the two cities to the other city when an Emergency Water Shortage occurs. A

Connection Point is a location where there is connection of the two water distribution systems by pipes or lines, valves, and meters.

(c) "Emergency water shortage" means a sudden, urgent, usually unexpected occurrence or occasion requiring Immediate action, Including, without limitation, prolonged power failures or a break in a water main, any of which events causes a drop In pressure or the imminent danger of potential depressurization of the water distribution network to a pressure of thirty-five (35) pounds per square Inch ("psi") that could be alleviated by either city receiving water flow from the other city's distribution system, and which Emergency is the result of natural disasters, acts of terrorism, acts of God, an accidental and unexpected break In a water pipeline, or a major power failure affecting pumping systems, or other *bona fide* emergencies, which break in the water pipeline or power failure affecting the pumping systems are time-limited to the duration of the *bona fide* Emergency.

(d) "Receiving City" means either the City of Palm Bay or the City of West Melbourne when it receives Water from the other city.

(e) "Supplying City" means either the City of Palm Bay or the City of West Melbourne when it receives Water from the other city.

(f) "Water" shall mean and refer to potable Water, or Water that has received treatment in accordance with state and federal regulations and is suitable for drinking purposes and other such purposes requiring a similar level of treatment. The term "Water" does not include reclaimed water.

2. Supply of Water.

(a) Subject to the terms, conditions, and limitations hereinafter set forth, both PALM BAY and WEST MELBOURNE agree to sell, deliver, purchase and receive Water from each other when an Emergency Water Shortage exists. All Water delivered by either party pursuant to this Agreement shall be of like quality and purity as the water furnished to customers being serviced by either party. All Water delivered by either party pursuant to this Agreement will be produced and distributed in accordance with all applicable regulations of governmental agencies having jurisdiction thereof.

b) For the purpose of this agreement, the determination that an Emergency Water Shortage exists shall be made by the City Manager or the Utility Director (or similar official) of the Receiving City. The quantity of Water delivered to the Receiving City pursuant to this Agreement will not exceed two million gallons per day, nor shall the duration for which It Is required to be delivered within any 365-day period exceed

ten (10) days within any thirty-day period; provided, that the city manager of the Supplying City and the city manager of the Receiving City may agree in writing to extend the duration of the supply of Water to a Receiving City.

(c) All Water delivered by either party pursuant to this shall be of like quality and purity as the Water furnished to customers being serviced by either party. All Water delivered by either party pursuant to this Agreement shall be produced and distributed in accordance with all applicable regulations of governmental agencies having jurisdiction thereof.

3. **Water Supply Rates.** The Receiving City agrees to pay to the Supplying City, and the receiving party agrees to accept Water for an Emergency Water Shortage at a rate of \$6.59 per thousand gallons of Water purchased pursuant to this Agreement. The parties agree that the rate per thousand gallons of water shall be reviewed five years after the effective date of this Agreement, and every five years thereafter and upon mutual agreement of the parties may be revised to a new rate.

4. **Point of Supply and Delivery.** The Water shall be delivered at the following point (the "Connection Point") where the City of Palm Bay maintains one supply meter:

(a) North side of Palm Bay Road between Hollywood Boulevard and Interstate

95.

The location of the Connection Point is as depicted on Exhibit A, attached hereto and made a part hereof.

5. In accordance with the Interlocal Agreement for the Sale and Purchase of Water dated May 16, 2013, between West Melbourne and the City of Melbourne, Palm Bay acknowledges and agrees that West Melbourne cannot accept emergency water from Palm Bay for more than thirty (30) days within any calendar year without West Melbourne having received Melbourne's written consent, the same which may not be unreasonably withheld if public safety requires.

6. **Time of Payment.** Charges for Water supplied pursuant to this Agreement as computed pursuant to the terms of this Agreement shall become due and payable fifteen (15) days after the billing statement has been mailed or presented by the Supplying City to the Receiving City. Upon failure or refusal to pay the amounts due on statements as rendered within forty-five (45) days after the date that the billing statement has been mailed or presented by the Supplying City to the Receiving City, either party may at any time thereafter, in its sole discretion, terminate this Agreement.

7. **Quantity of Water Delivered.** The quantity of water delivered under this agreement shall be determined by water meter readings or by estimating flows in the event of a meter malfunction. Either party shall have the right, upon written notice to the other party, to have the meter tested for accuracy. If a meter is found to be registering within the acceptable accuracy limits established by the American Water Works Association, such meter shall be considered satisfactory and the cost of testing shall be borne by the initiating party. If the meter is found to be registering outside the acceptable limits of accuracy, the billed party shall be entitled to a corrected billing for the billing period immediately preceding, the cost of the testing shall be borne by the non-initiating party, and the meter shall be repaired or replaced at a cost shared equally by West Melbourne and Palm Bay.

8. **Maintenance of the Connection Point System.** Palm Bay is the owner and operator of the connection point depicted in Exhibit A. Palm Bay shall be responsible for the maintenance, regulatory compliance, and oversight of the connection point. Any labor and material cost incurred by Palm Bay to repair or replace components of the connection point shall be shared equally by West Melbourne and Palm Bay, and Palm Bay shall invoice West Melbourne for the West Melbourne share of shared repair or replacement costs.

9. **Care and Diligence Required.** Each party shall use reasonable diligence and care to provide an emergency supply of Water to the other party.

10. **Term of Agreement.** This Agreement shall remain in full force and effect until January 1, 2022, except as modified by written mutual agreement of the parties.

11. **Administrators of Agreement.** WEST MELBOURNE and PALM BAY respectively designate their respective City Managers as the person responsible for the administration of this agreement and authorize them on behalf of each city to negotiate and settle any controversy or question of Interpretation which might arise in regard thereto.

12. **Notices.** With the exception of billings for water service pursuant to this Agreement, any notices, elections, requests and other communications required or allowed to be delivered hereunder shall be in writing and shall be deemed to have been given: (1) when hand-delivered to and received by the official hereinafter designated; (2) when sent by express overnight receipted mail generally recognized throughout the United States (such as FedEx, United States Parcel Service, or United Parcel Service); or (3) when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed as follows (or to such other person or at such other address, of which any party hereto shall give written notice as provided herein):

If to West Melbourne:

City Manager
City of West Melbourne

West Melbourne, Florida

If to Palm Bay:

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

With a copy to:

City Attorney
City of West Melbourne

West Melbourne, Florida

With a copy to:

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

In all cases, notices shall be deemed delivered to a party only upon delivery to the persons indicated above in the same manner as for the party being notified. A party may unilaterally change its address or officer for notice purposes by giving the other party notice of same as provided herein.

13. **Breach of Agreement.** Disputes. In the event of a lawsuit, other than an administrative proceeding pursuant to Chapter 120, Florida Statutes, or proceedings pursuant to Section 164.1041(2), Florida Statutes, the parties agree to initiate a conflict resolution process under Chapter 164, Florida Statutes.

14. **Severability.** If any part of this Agreement is found to be invalid or unenforceable by any court such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

15. **Termination of Agreement.** This Agreement may be terminated by either party upon one hundred eighty (180) days written notice. Termination of this Agreement shall not relieve either party from any obligations it has pursuant to other agreements between the parties nor from any statutory obligations that either party may have with regard to the subject matter hereof.

16. **Effective Date.** This Agreement is entered into by the parties pursuant to Section 163.01, Florida Statutes. This Agreement shall take effect on the date this Agreement is filed with the Clerk of the Circuit Court for Brevard County, Florida. Any amendment to this

Agreement shall take effect on the date that the amendment is filed with the Clerk of the Circuit Court for Brevard County, Florida.

In witness whereof, the parties hereto have executed this agreement the day and year first above written.

CITY OF WEST MELBOURNE, a
Florida municipal corporation

By: Scott Morgan

Scott Morgan, City Manager

ATTEST:

Christine D. Pennington
Cynthia S. Hanscom, City Clerk
Christine D. Pennington, Acting

(CITY SEAL)

STATE OF FLORIDA

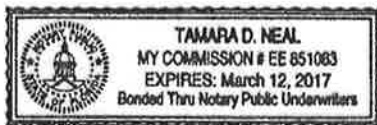
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me on this 20th day of October, 2013 by Scott Morgan who is City Manager of the City of West Melbourne, who is personally known to me or who produced 2 as identification and who did not take an oath.

WITNESS my hand and official seal at West Melbourne, Brevard County, Florida this 20th day of October, 2013.

Tamara D. Neal

Notary Public



CITY OF PALM BAY, a Florida
municipal corporation

By _____

Susan Hann, City Manager

ATTEST:



Alice I. Passmore, City Clerk

10.16.13

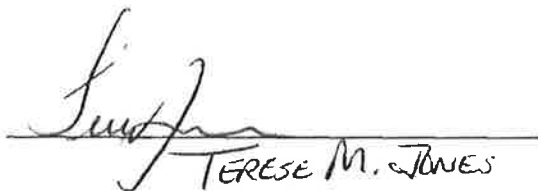
(CITY SEAL)

STATE OF FLORIDA

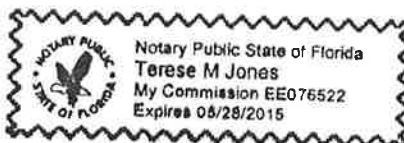
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me on this 16th day
of OCTOBER, 2013 by Susan Hann who is City Manager of the City of Palm
Bay, who is personally known to me or who produced
_____ as identification and who did not take an
oath.

WITNESS my hand and official seal at Palm Bay, Brevard County, Florida
this 16th day of
OCTOBER, 2013.


TERESE M. JONES

Notary Public



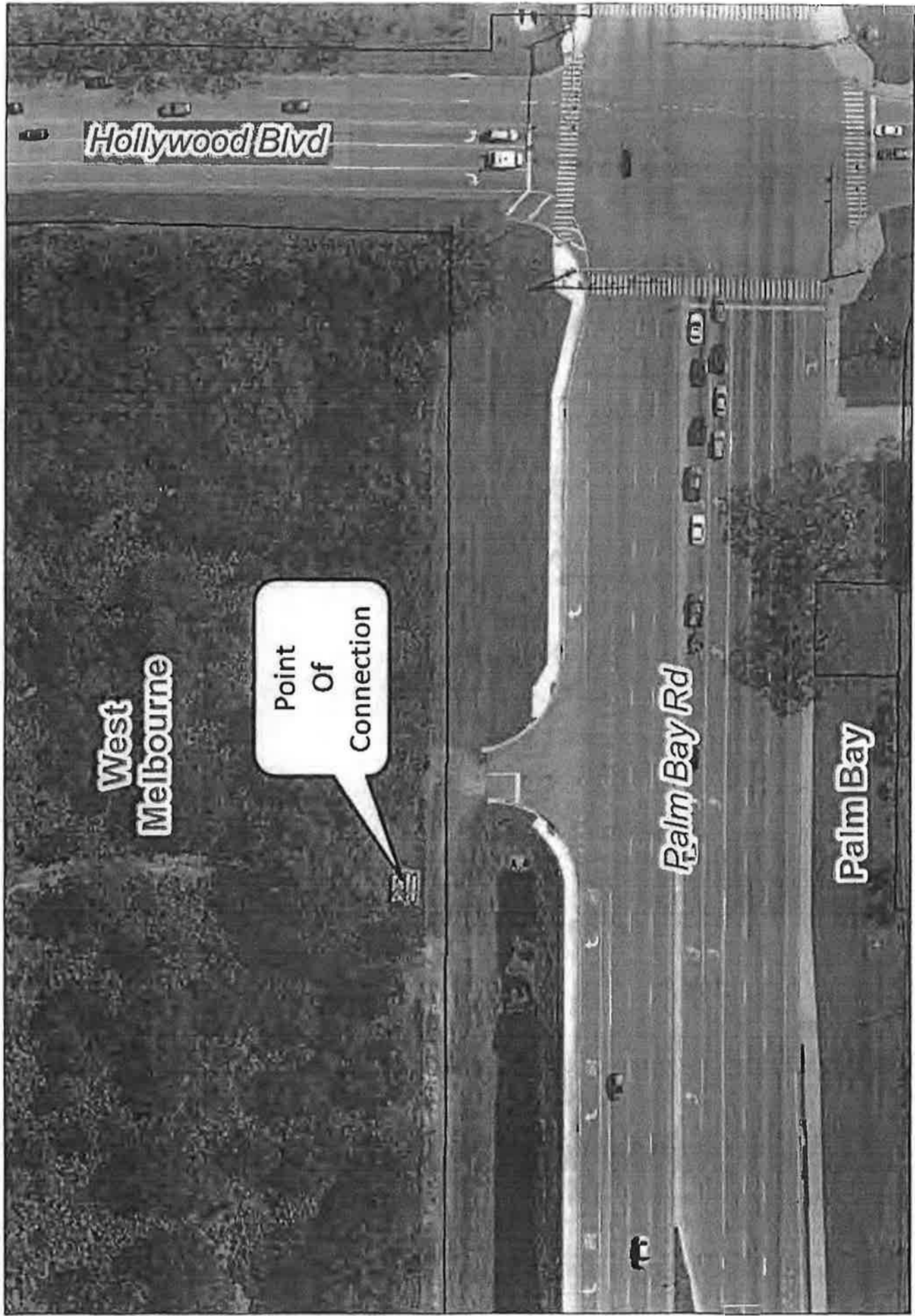


Exhibit A



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Mehul J. Parekh, P.E., Public Works Director

DATE: 12/16/2021

RE: Consideration of the installation of a westbound restriction on Colorado Street as a traffic calming measure.

In May of 2021 and then in August of 2021, the city received citizen requests regarding concerns of cut-through traffic on Colorado Street. Based on these requests, a traffic engineering study was performed to determine if any cut-through traffic on Colorado Street. The traffic investigation included field monitoring, collecting traffic volumes, and conducting speed radar surveys. The field data was collected during the month of September 2021 and based on the traffic counts, the Average Daily Traffic (ADT) on Colorado Street is only 687 vehicles which is low volume for a local residential street. The speed radar surveys identified the average or 85Th percentile speed at 32.4 MPH which is also within the posted speed of 30 MPH. The alarming data was 95% of the traffic using Colorado Street was cut-through traffic. The cut-through traffic was using Colorado Street to avoid the congested intersection at Wyoming Street and San Filippo. In addition, the eastbound cut-through traffic would disregard the posted left turn restriction on Colorado at Babcock and almost every vehicle made the left turns onto Babcock Street.

On September 24, 2021, City Manager, City Engineer, Public Works, and Police met in the field with residents of Colorado Street to share the study findings and to identify a traffic calming measure, starting with the least restrictive measure to be implemented. It was agreed by all to restrict westbound traffic from using Colorado Street at Windsor Avenue and forcing traffic to turn right onto Windsor Ave and then back onto Wyoming which would eliminate the cut-through traffic. Residents attending the meeting supported this measure and a petition was circulated with 84% of the residents on Colorado Street signing the petition in support of the traffic restriction. Attached is the petition and a conceptual drawing of the westbound traffic restriction as a traffic calming measure.

REQUESTING DEPARTMENT:

Public Works

FISCAL IMPACT:

None. Public Works Traffic Operations will install the signs and delineators.

RECOMMENDATION:

Motion to approve the installation of the westbound restriction on Colorado Street as a traffic calming measure to

improve public safety.

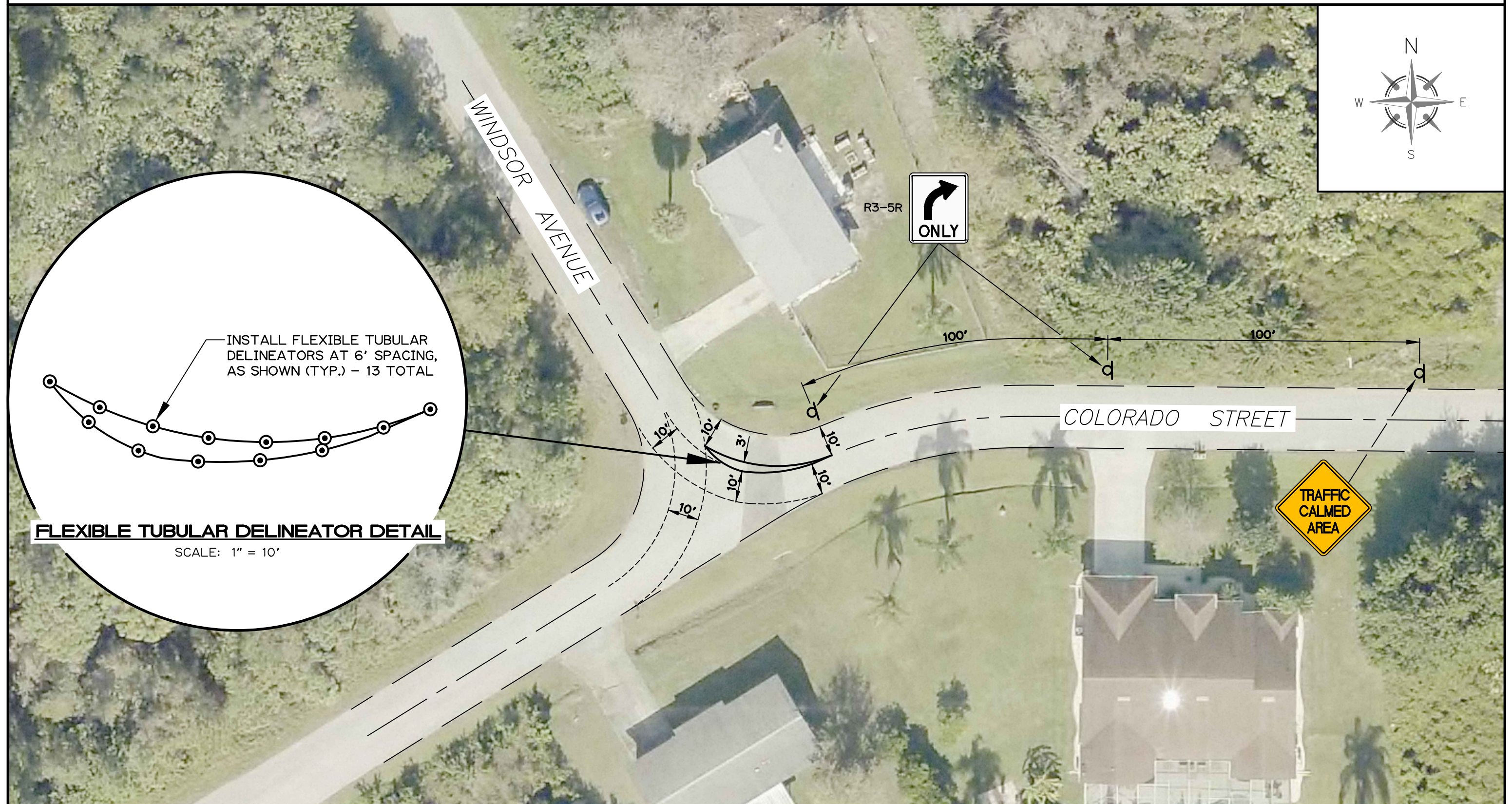
ATTACHMENTS:

Description

Conceptual Traffic Calming Plan

Traffic Calming Petition

LOCATION MAP



COLORADO STREET AT WINDSOR AVENUE TRAFFIC CALMING

CITY OF PALM BAY
PUBLIC WORKS DEPARTMENT

DATE: SEP 2021

SCALE: 1" = 30'

DRAWN BY: MH



Traffic Calming Petition Colorado Street

The petition must be signed by at least 80% of residents on the affected street(s) to initiate the traffic calming program. Only one signature per resident is counted. By signing this petition, residents acknowledge that there is a traffic concern of excessive traffic volumes using Colorado Street as a "cut-through" to get to Babcock Street and San Filippo in the City of Palm Bay. This petition is requesting for the temporary restriction of westbound traffic on Colorado Street at Windsor Avenue and forcing vehicles to take Windsor Avenue.

| Signature | Printed Name | Address |
|-----------|-------------------|------------------------|
| | P.J. Lynch | 1633 COLORADO ST. S.E |
| | Stacey Burke | 1633 Colorado St. S.E. |
| | Tricia Buckalew | 1665 Colorado St SE |
| | MARK. A. Rollins | 1690 Colorado St. SE. |
| | Beryl Hardy | 1645 Colorado St SE |
| | George J Hardy Jr | 1618 Colorado St SE |
| | Jordan Beam | 1799 Windsor AV SE |
| | Kyle Beam | 1799 Windsor Ave SE |
| | Darryl Branham | 1658 Colorado St SE |
| | Eric Brewster | 1650 Colorado St SE |
| | Leah Famiglietti | 1657 Colorado St. SE |
| | | |
| | | |
| | | |
| | | |
| | | |



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Nelson Moya, Chief of Police

DATE: 12/16/2021

RE: Consideration of accepting the Florida Department of Transportation's "Know Your Limits" Aggressive Driving and Speed Initiative grant contract (\$44,000).

On August 24, 2021, The Florida Department of Transportation (FDOT) State Safety Office accepted the Palm Bay Police Department's grant application for our "Know Your Limits" Aggressive Driving and Speed Initiative. The original grant requested budget of \$50,000 has been amended to \$44,000 with no match funds required. These grant funds will be allocated as follows:

\$25,600 towards overtime salary and benefits for a detail specifically targeting problem areas in the city where accidents are a direct result of excessive speeding and aggressive driving.

\$1,500 for printing tip cards

\$16,900 to purchase speed measurement devices which includes 3 directional radars and 4 LIDARs for program implementation.

REQUESTING DEPARTMENT:

Police Department

FISCAL IMPACT:

The fiscal impact is a revenue of \$44,000 in General Fund Account #01-0000-331-2005 during the City of Palm Bay's FY2022 for the reimbursement of overtime totaling \$25,600 between all divisions (G/L Accounts #001-5010-521-1410, #001-5011-521-1410, #001-5012-521-1410, and #001-5013-521-1410), equipment out of G/L #001-5012-521-5206 (\$16,900), and printing services out of G/L Account# 001-5012-4701 (\$1,500)

RECOMMENDATION:

Motion to accept the FDOT Speeding and Aggressive Driving Grant and authorize the City Manager to sign the agreement.

ATTACHMENTS:

Description

Grant Agreement Contract

500-065-01
SAFETY
8/21

| | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Project Number: SC-2022-00113 | | FDOT Contract Number: G2346 | |
| Federal Funds Awarded: \$44,000 | | FDOT DUNS Number: 80-939-7102 | |
| Subgrant Award (Start) Date: | | Subgrant End Date: 09/30/2022 | |
| Part I: GENERAL ADMINISTRATIVE INFORMATION | | | |
| Project Title: "Know Your Limits" Aggressive Driving and Speed Initiative | | | |
| Federal Funding: \$44,000 | | Match: \$ | |
| | | Total Cost: \$44,000 | |
| 1. Subrecipient Agency: Agency Name: Palm Bay Police Department Address Line 1: 130 Malabar Rd SE Address Line 2: City: Palm Bay State: Florida Zip: 32907 | | 2. Implementing Agency: Agency Name: Palm Bay Police Department Address Line 1: 130 Malabar Rd SE Address Line 2: City: Palm Bay State: Florida Zip: 32907 | |
| 3. Federal ID Number: 596018984 | | | |
| 4. DUNS Number: 060236262 | | | |
| 5. Chief Financial Officer: Name: Larry Wojciechowski Address Line 1: 120 Malabar Rd Address Line 2: City: Palm Bay State: Florida Zip: 32907 Telephone No: (321) 953-8937 ext. 7047 E-Mail Address: Larry.Wojciechowski@pbfl.org | | 6. Project Director: Name: Officer Andrew Pidgeon Address Line 1: 130 Malabar Rd SE Address Line 2: City: Palm Bay State: Florida Zip: 32907 Telephone No: (321) 952-3456 ext. 1462 E-Mail Address: andrew.pidgeon@pbfl.org | |
| 7. Financial Reimbursement Contact: Name: Jessica Hinchman Title: Budget Officer Telephone Number: (321) 953-8954 ext. 1154 E-Mail Address: | | 8. Project Activity Contact: Name: Alyssa Bermudez Title: Project Specialist Telephone Number: (321) 952-3493 ext. 1493 E-Mail Address: alyssa.bermudez@pbfl.org | |
| 9. Payment Remittance Address: Name: Palm Bay Police Department Address Line 1: 120 Malabar Rd SE Address Line 2: City: Palm Bay State: Florida Zip: 32907 | | | |

Part II: PROJECT PLAN AND SUPPORTING DATA

State clearly and in detail the aims of the project, precisely what will be done, who will be involved, and what is expected to result. Use the following major headings:

1. Statement of the Problem:

The City of Palm Bay is in southern Brevard County, over the past few years, we have seen the rate of traffic crashes increase steadily. The City of Palm Bay is rapidly expanding with the addition of the St. Johns Heritage Parkway and our city's 3rd I-95 interchange connection aiding in expanding to the west and developing the southernmost areas of the city. The city is predominately residential and, as a result, our corridor roadways are consistently congested. Often, people are rushing to get to and from work or home, and they resort to unnecessary speeding and aggressive driving behavior. This increase is evident in the number of traffic citations and traffic crash investigations done by the Palm Bay Police Department.

According to the 2016 Strategic Highway Safety Plan, between 2011 and 2015, 12,665 people died on Florida roadways and, an additional 102,759 people were seriously injured. Chances of dying in a crash doubles for every 10 miles per hour (mph) a car travels above 50 mph. Speeding reduces the time a driver must react to a dangerous situation and increases the impact of energy and risk of death in the event of a crash. According to the National Safety Council, if a car is traveling at 30 mph and accelerates to 60 mph, the amount of energy upon impact is four times greater. The City of Palm Bay is ranked in the Top 25% of the Group 1 criteria (populations of 75,000+) of the Florida Department of Transportation (FDOT) Fiscal Year (FY)2022 Highway Safety Matrix for Florida Cities for Speeding or Aggressive Driving of which we are currently ranked #8.

The City of Palm Bay is trending 2,863 traffic accidents, 753 crashes with injuries, 10 traffic fatalities on average over the past 3 years which are a combination of speeding, aggressive driving behavior, and distracted driving. Due to staffing shortages and budget constraints, this subgrant will assist in purchasing the necessary equipment to replace outdated and failing equipment, allow increase targeted enforcement with overtime off-duty details, and allow the production of educational materials. It is the agency's goal to increase safety awareness through enforcement and education and reduce traffic-related injuries and fatalities overall.

2. Proposed Solution:

Our solution to the problem stated before is to aim at reducing traffic crashes with injuries and traffic fatalities by implementing a series of enforcement campaigns. The Palm Bay Police Department will utilize available resources to conduct high-visibility, zero-tolerance enforcement overtime operations in locations determined by the Project Director through traffic data collection measures, as having a high frequency of traffic crashes, speeding problems, and fatalities to supplement existing traffic operations. The Project Coordinator will also collect and retain this data quarterly to report to the FDOT State Safety Office on the campaign's successes in reducing speeding and reckless/aggressive driving.

The existing speed display trailer will be utilized to discourage drivers from speeding and will be placed in areas with a high crash rate. Subgrant funds will be used to purchase at least 3 directional radars and 4 lidars to be used as speed measurement devices and distributed to officers working on this project to help with enforcement.

The educational component of the campaign will consist of a series of Facebook and other social media posts regarding the purpose and goals of the campaign and how it will affect the community. We will also be working with a video production company that will help create educational videos for the public on the dangers of speeding and aggressive driving. The Project Director will coordinate the enforcement campaign along with the community educational messages to encourage feedback from the public on the impact of the campaign and any comments they may have to better serve the community through social media engagements and online

Amendment Number: Original

surveys. Tip cards will be created and submitted to FDOT for prior approval before disbursement to the public at traffic stops to help aid in our project goals.

The Program Director will be responsible for the allocation of personnel to achieve the greatest impact on speeding and aggressive driving within our jurisdictional limits. The Project Director will coordinate these enforcement and educational campaigns at least twice a month and ensure daytime/nighttime enforcement is alternated from week to week. This will prevent motorists from predicting times and locations of enforcement activities to adjust their driving behaviors to only those of known enforcement periods. Also, the Project Director will ensure that funds from this program are used prudently and conservatively to ensure that the funds will extend the entire subgrant cycle. Every officer that performs under this subgrant will complete any mandated training and will complete the FDOT State Safety Office Daily Activity Log for each day of enforcement during the subgrant cycle. Those logs will be submitted and maintained by the Project Coordinator, who will ensure that copies are attached to each reimbursement invoice.

3. Project Objectives:

- a. Start enforcement activities within 60 days of subgrant award, unless otherwise approved by the FDOT State Safety Office.
- b. Strive to decrease speed and/or aggressive driving crashes and fatalities citywide by 3% when compared to the previous three-year average.
- c. Conduct at least 2 speed and/or aggressive driving high visibility overtime enforcement operations per month.
- d. Participate in the state Southern Shield campaign through speed and/or aggressive driving overtime enforcement operations and educational/community activities.
- e. Conduct and or participate in 3 educational/community outreach events to increase speed and/or aggressive driving awareness during the project period.
- f. Provide speed and/or aggressive driving information and education to the public through the use of message boards/local media outlets/social media/press releases at least 3 times during the project period.

4. Evaluation:

- a. Enforcement activity start date.
- b. Speed and/or aggressive driving crashes and fatalities are reduced by 5% citywide, compared to the previous three-year average.
- c. The number of speed and/or aggressive driving high visibility overtime enforcement operations conducted per month.
- d. The number of speed and/or aggressive driving overtime enforcement operations conducted, and education/community activities conducted/participated in during the Southern Shield campaign.
- e. The number of educational/community outreach events conducted or participated in to increase speed and/or aggressive driving awareness during the project period.
- f. The number of instances that speed and/or aggressive driving information and education is provided to the public through the use of message boards/local media outlets/social media/press releases during the project period.

Part III: PROJECT DETAIL BUDGET

| Each budget category subtotal and individual line item costs listed below cannot be exceeded. The FDOT State Safety Office may approve shifts between budget categories and line items via an amendment. | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------------|-------------------|
| BUDGET CATEGORY | FEDERAL FUNDS | MATCH | TOTAL COST | INDIRECT ELIGIBLE |
| A. Personnel Services | | | | |
| Overtime Salary and Benefits | \$25,600 | \$ | \$25,600 | No |
| | Overtime Salary and Benefits for law enforcement officers, benefits to include FICA (Social Security and Medicare), Retirement, and Workers Compensation. | | | |
| Subtotal: | \$25,600 | \$ | \$25,600 | |
| B. Contractual Services | | | | |
| Subtotal: | \$ | \$ | \$ | |
| C. Expenses | | | | |
| Printing-Tip Cards | \$1,500 | \$ | \$1,500 | No |
| | Printing and duplication costs of program-related materials to include applicable shipping and handling charges and other related charges. Does not include the printing of Public Information and Education Items. Materials must have written approval from the FDOT State Safety Office prior to purchasing. | | | |
| Speed Measurement Devices- 3 Directional Radars | \$8,100 | \$ | \$8,100 | No |
| | Purchase of speed measurement devices for program implementation. | | | |
| Speed Measurement Devices- 4 LIDARs | \$8,800 | \$ | \$8,800 | No |
| | Purchase of speed measurement devices for program implementation. | | | |
| Subtotal: | \$18,400 | \$ | \$18,400 | |
| D. Equipment Costing \$5,000 or More | | | | |
| Subtotal: | \$ | \$ | \$ | |
| E. Indirect Cost | | | | |
| Subtotal: | \$ | | \$ | |
| | | | | |
| Total Cost of Project: | \$44,000 | \$ | \$44,000 | |

PART IV: PERFORMANCE REPORT

Minimum Performance Standards

The following are the minimum performance standards required in this subgrant agreement. The status of these standards will be reported using FDOT form number 500-065-19 Performance Report and shall be included with each request for reimbursement.

1. Submit request(s) for financial reimbursement.
2. Provide performance report(s).
3. Collect and analyze crash data to determine focus areas for targeted speed and aggressive driving enforcement.
4. Conduct speed and aggressive driving high visibility enforcement operations.
5. Conduct outreach/educational activities for speed and aggressive driving.

National Highway Traffic Safety Administration (NHTSA) Required Activity Reporting

The following statistics are required reporting for any traffic safety enforcement grant . (enforcement grants only)

1. Number of seat belt citations issued during subgrant-funded enforcement activities.
2. Number of impaired driving arrests made during subgrant-funded enforcement activities.
3. Number of speeding citations issued during subgrant-funded enforcement activities.

Part V: Acceptance and Agreement

Conditions of Subgrant Agreement. Upon approval of this subgrant agreement for highway safety funds, the following terms and conditions shall become binding. The term "Subrecipient" referred to herein, will reference both the Subrecipient and its Implementing Agency. This agreement is line item specific and an amendment to the subgrant agreement is required for any reallocation of funds provided under this subgrant agreement.

FEDERAL REGULATIONS

1. Access to Public Records and Monitoring. The Florida Department of Transportation (FDOT), National Highway Traffic Safety Administration (NHTSA), Federal Highway Administration (FHWA), Chief Financial Officer (CFO), and Auditor General (AG) of the State of Florida, or any of their duly authorized representatives, shall have access for the purpose of audit and examination of books, documents, papers, and records of the Subrecipient and to relevant books and records of the Subrecipient which are not protected from disclosure by State or Federal law, and its consultants and contractors under this subgrant agreement, as provided under applicable State or Federal law.

In addition to review of audits conducted in accordance with 2 CFR Part 200, herein incorporated by reference, monitoring procedures will include on-site visits by Department staff, limited scope audits as defined by 2 CFR Part 200, and status checks of subgrant activity via telephone calls from FDOT State Safety Office staff to Subrecipients. By entering into this subgrant agreement, Subrecipients agree to comply and cooperate with monitoring procedures. In the event that a limited scope audit of the Subrecipient is performed, the Subrecipient agrees to bring the project into compliance with this subgrant agreement. The Subrecipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the CFO or AG to the extent allowed by State or Federal law.

2. Audit. The administration of resources awarded through the Department to the Subrecipient by this subgrant agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or limit the authority of any State agency inspector general, the State of Florida Auditor General or any other State official. With the exception of documents protected by State law, the Subrecipient shall comply with all audit and audit reporting requirements as specified below.

- (a) In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F - Audit Requirements, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this subgrant agreement. By entering into this subgrant agreement, the Subrecipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Subrecipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO) or State of Florida Auditor General.
- (b) The Subrecipient, a non-Federal entity as defined by 2 CFR Part 200, Subpart F - Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this subgrant agreement is subject to the following requirements:
 - i. In the event the Subrecipient expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F - Audit Requirements, the Subrecipient must have a Federal single or program-specific audit for such fiscal year conducted in accordance with the provisions of 2 CFR Part 200, Subpart F - Audit Requirements. Part VI to this subgrant agreement provides the required Federal award identification information needed by the Subrecipient to further comply with the requirements of 2 CFR Part 200, Subpart F - Audit Requirements. In determining

Federal awards expended in a fiscal year, the Subrecipient must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this subgrant agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F - Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F - Audit Requirements, will meet the requirements of this part.

- ii. In connection with the audit requirements, the Subrecipient shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F - Audit Requirements.
- iii. In the event the Subrecipient expends less than the threshold established by 2 CFR Part 200, Subpart F - Audit Requirements, in Federal awards, the Subrecipient is exempt from Federal audit requirements for that fiscal year. However, the Subrecipient must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Subrecipient's audit period for each applicable audit year. In the event the Subrecipient expends less than the threshold established by 2 CFR Part 200, Subpart F - Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F - Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Subrecipient's resources obtained from other than Federal entities).
- iv. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F - Audit Requirements, and required by this section, shall be submitted, when required by 2 CFR §200.512, by or on behalf of the Subrecipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.36 and §200.512. The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F - Audit Requirements, and this Agreement. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F - Audit Requirements.
- v. Within six months of acceptance of the audit report by the FAC, the Department will review the Subrecipient's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this subgrant agreement. If the Subrecipient fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F - Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:
 - 1. Temporarily withhold cash payments pending correction of the deficiency by the Subrecipient or more severe enforcement action by the Department
 - 2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance
 - 3. Wholly or partly suspend or terminate the Federal award
 - 4. Initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency)

5. Withhold further Federal awards for the Project or program
6. Take other remedies that may be legally available
- vi. As a condition of receiving this Federal award, the Subrecipient shall permit the Department, or its designee, the CFO or State of Florida Auditor General access to the Subrecipient's records including financial statements, the independent auditor's working papers and project records as necessary . Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. Copies of financial reporting packages required by this section shall be submitted by or on behalf of the Subrecipient directly to each of the following:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<https://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

- viii. Any reports or other information required to be submitted to the Department pursuant to this Agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, Florida Statutes, and Chapters 10.550 (local government entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
 - ix. The Subrecipient, when submitted financial reporting packages to the Department for audits done in accordance with 2 CFR Part 200, Subpart F - Audit Requirements, or Chapters 10.550 (local government entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Subrecipient in correspondence accompanying the reporting package.
- (c) The Subrecipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of five years from the date the audit report is issued and shall allow the Department , or its designee, the CFO or State of Florida Auditor General access to such records upon request . The Subrecipient shall ensure that the audit working papers are made available to the Department, or its designee, the CFO, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by the Department. The Subrecipient shall further permit access to all Project records by the Secretary and Inspector General of the United States Department of Transportation and the Comptroller General of the United States, or their designees.
- (d) The Subrecipient shall permit, and shall require its contractors to permit, the Department's and NHTSA's authorized representatives to access the Project site; inspect all work, materials, payrolls, and records; and to audit the books, records and accounts pertaining to the financing and development of the Project.

3. Offsets. If, after subgrant completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset the amount claimed from payments due for work or services under any other agreement it has with the Subrecipient if, upon demand, payment of the claimed amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

4. Buy America Act. The Subrecipient agrees to comply and require consultants and contractors to comply with all applicable standards, orders, and regulations issued pursuant to the Buy America Act, Buy America Act Waiver (Docket No. NHTSA-2015-0065) and NHTSA Guidance Buy American Act Procedure for Highway Safety Grant Programs (revised 11-20-2015) herein incorporated by reference. The Subrecipient shall include the following Buy America provisions in all subcontract awards:

The Buy America Act prohibits the use of Federal highway safety grant funds to purchase any manufactured product or software/information technology systems whose unit purchase price is \$5,000 or more, including motor vehicles, that is not produced in the United States. NHTSA may waive those requirements if (1) their application would be inconsistent with the public interest; (2) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

Each manufactured end product must comply with the provisions of the Buy America Act. Additionally, any manufactured add-on to an end product is, itself, an end product that must comply with the Act.

To be reimbursed with Federal highway safety grant funds for a purchase, a State must comply with the requirements of the Buy America Act. Non-compliance will result in denial of reimbursement.

5. Clean Air Act and Federal Water Pollution Control Act. Subgrant agreements for amounts in excess of \$150,000 must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). The Subrecipient shall include this provision in all subcontract awards in excess of \$150,000.

6. Code of Conduct. The Subrecipient has established, and will maintain, a written code or standard of conduct applicable to its officers, employees, board members or agents, and those individuals' relatives, that prohibits their involvement in the selection, award, or administration of any contract in connection with the Project if they have a present or potential financial or other significant interest therein and prohibits the acceptance of any gratuity, favor, or other thing of monetary value from any person interested or involved in the performance of work on the Project.

7. Conferences and Inspection of Work. Conferences may be held at the request of any party to this subgrant agreement. Representatives of the Department or the U.S. Department of Transportation (USDOT), or both, shall be privileged to visit the site for the purpose of inspection and assessment of work being performed at any time.

8. Contract Work Hours and Safety Standards Act. Where applicable, all subcontracts under this subgrant agreement in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

9. Debarment and Suspension. No subcontract issued under this subgrant agreement, will be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in

accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

10. Disadvantaged Business Enterprises (DBE).

- (a) The Subrecipient agrees to the following assurance:

The Subrecipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program required by 49 CFR, Part 26, herein incorporated by reference. The Subrecipient shall take all necessary and reasonable steps under 49 CFR, Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this subgrant agreement. Upon notification to the Subrecipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.), herein incorporated by reference.

- (b) The Subrecipient agrees to include the following assurance in each contract with a consultant or contractor and to require the consultant or contractor to include this assurance in all subcontract agreements:

The consultant or contractor and subconsultant or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The consultant or contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of USDOT-assisted contracts. Failure by the consultant or contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Subrecipient or the Department deems appropriate.

11. Methods of procurement. Subrecipients must follow the procurement standards in 2 CFR 200 sections 200.318 through 200.327.

12. Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

- (a) The Subrecipient must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

- (b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

13. Domestic Preference for Procurements. As appropriate and to the extent consistent with law, the Subrecipient should, to the greatest extent practicable under this Subgrant, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts including all purchase orders for work or products under this subgrant.

For purposes of this section:

- (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

14. Equal Employment Opportunity. No person shall, on the grounds of race, color, religion, sex, handicap, or national origin, be excluded from participation in, be refused the benefits of, or be otherwise subjected to discrimination under this Agreement, or any project, program, or activity that receives or benefits from this Agreement. The Subrecipient agrees to comply with Executive Order (E.O.) 11246, as amended by E.O. 11375, and as supplemented by 41 CFR, Part 60, herein incorporated by reference. The Equal Opportunity Clause contained in 41 CFR section 60-1.4 is included in this Agreement by reference.

In connection with the carrying out of the Project, the Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, creed, color, sex or national origin and will comply with all Federal statutes and implementing regulations relating to nondiscrimination. The Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, creed, color, sex, or national origin. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subrecipient shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development or operation of the Project, except contracts for standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Subrecipient shall post, in conspicuous places available to employees and applicants for employment for Project work, notices.

15. No Federal Obligation. This agreement is financed by federal funds. However, payments to the subrecipient will be made by the Department. The United States is not a party to this Agreement and no reference in this Agreement, to the United States, USDOT, NHTSA, or any representatives of the federal government makes the United States a party to this Agreement.

16. Nondiscrimination. Subrecipients will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21

- (b) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects)
- (c) Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex)
- (d) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27
- (e) The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age)
- (f) The Civil Rights Restoration Act of 1987, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, Subrecipient's and contractors, whether such programs or activities are Federally-funded or not)
- (g) Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38
- (h) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations)
- (i) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100))
- (j) Nondiscrimination Clause.

During the performance of this subgrant, the Subrecipient agrees:

- (a) To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time
- (b) Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein
- (c) To permit access to its books, records, accounts, other sources of information, and its facilities as required by the FDOT State Safety Office, USDOT or NHTSA
- (d) That, in event a Subrecipient fails to comply with any nondiscrimination provisions in this subgrant, the FDOT State Safety Office will have the right to impose such subgrant sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the Subrecipient under the contract/agreement until the Subrecipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part.
- (e) To insert this clause, including paragraphs (a) through (e), in every subcontract and sub-agreement and

in every solicitation for a subcontract or sub-agreement, which receives Federal funds under this program

17. Ownership of Data and Creative Material. The ownership of material, discoveries, inventions and results developed, produced, or discovered by this subgrant agreement are governed by the terms of 2 CFR, Section 200.315, Intangible Property, herein incorporated by reference.

The Subrecipient may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under this Subgrant. The Federal and State awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal and State purposes, and to authorize others to do so.

The Federal Government has the right to:

- (1) Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and
- (2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal and State purposes.

18. Political Activity. The Subrecipient will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

19. Prohibition on certain telecommunications and video surveillance services or equipment. subrecipients are prohibited from obligating or expending loan or subgrant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

20. Property Accountability. The Subrecipient shall establish and administer a system to control, protect, preserve, use, and maintain and dispose of any property furnished by the Department, or purchased pursuant to this subgrant agreement in accordance with Federal Property Management Standards as set forth in 49 CFR, Section 18.32, 49 CFR 19, Section 19.34, or 2 CFR, 200.33, herein incorporated by reference. This obligation continues as long as the property is retained by the Subrecipient notwithstanding the ending of this subgrant agreement.

21. Restrictions on Lobbying. The Subrecipient agrees to comply and require consultants and contractors to comply with 49 CFR, Part 20, New Restrictions on Lobbying, herein incorporated by reference, for filing of certification and disclosure forms.

(a) **Certification Regarding Federal Lobbying.** The Subrecipient certifies, to the best of his or her knowledge and belief, that:

- i. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal,

amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- iii. The Subrecipient shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly.
- iv. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- (b) **Restriction on State Lobbying.** None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.
- (c) **Restriction of Use for Federal Civilian and Military Employees.** Subgrant funding is not allowable for the cost of training federal civilian and military employees. Indian Nations may be supported with written approval from the FDOT Traffic Safety Administrator and NHTSA.

22. Termination and Suspension.

- (a) **Generally.** If: (i) the Subrecipient abandons or, before the end of the state fiscal year for which financial assistance for the Project is provided under this Agreement, finally discontinues the Project; (ii) the Subrecipient fails to comply with applicable law or the terms of this Agreement; or (iii) for any other reason, the commencement, prosecution, or timely completion of the Project by the Subrecipient is rendered improbable, infeasible, impossible, or illegal, the Department may, by written notice to the Subrecipient, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected, or the Department may terminate any or all of its obligations under this Agreement. Termination of this Agreement shall be governed by the provisions of 2 CFR Part 200.
- (b) **Actions Upon Termination or Suspension.** Upon receipt of any final termination or suspension notice from the Department, the Subrecipient shall proceed promptly to carry out the actions required in such notice, which may include any or all of the following: (1) necessary action to terminate or suspend, as the case may be, Project activities and contracts and such other action as may be required or desirable to keep to the minimum the costs upon the basis of which the financing is to be computed; (2) furnish a statement of the Project activities and contracts, and other undertakings the cost of which are otherwise includable as Project costs; and, (3) remit to the Department such portion of the financing and any advance payment previously received as is determined by the Department to be due under the provisions of the Agreement. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and budget as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Subrecipient to furnish the schedule, plan, and budget within a reasonable time. The approval of a remittance by the Subrecipient shall not constitute a waiver of any claim which the Department may otherwise have arising out

of this Agreement.

- (c) **Termination for Convenience.** In accordance with Appendix II to 2 CFR Part 200-Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, either Party may terminate this Agreement for convenience upon thirty (30) days' advance written notice to the other Party. Termination of this Agreement, as such, will not affect payment for services satisfactorily furnished prior to the termination.

23. Human Trafficking. The Subrecipient shall include a provision in each contract it enters into with a private entity in connection with the Project by which the Subrecipient's contractor agrees that it and its employees that perform any work on the Project shall not, during the term of this Agreement, engage in trafficking in persons, procure a commercial sex act, or use forced labor in the performance of work on the Project.

24. Unauthorized Aliens. The Department shall consider the employment by the Subrecipient of unauthorized aliens a violation of Section 274A of the Immigration and Nationality Act. If the Subrecipient knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.

25. Title VII - Civil Rights Act of 1964. Execution of this Agreement constitutes a certification that the Subrecipient will comply with all the requirements imposed by Title VII of the Civil Rights Act of 1964 (42 U.S.C. 1981, et seq.), which among other things, prohibits discrimination in employment on the basis of race, color, national origin, creed, sex, and age.

26. Americans with Disabilities Act of 1990 (ADA). Execution of this Agreement constitutes a certification that the Subrecipient will comply with all the requirements imposed by the ADA (42 U.S.C. 12101, et seq.), the regulations of the federal government issued thereunder, and the assurance by the Subrecipient pursuant thereto.

27. Integrity Certification. By signing this Subgrant Agreement, the Subrecipient certifies that neither it nor its contractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency. This certification is a material representation of fact upon which the Department is relying in entering this Agreement. If it is later determined that the Subrecipient knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. The Subrecipient shall provide to the Department immediate written notice if at any time the Subrecipient learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

28. Federal Encouragements.

- (a) **Vehicle Pursuits.** Pursuant to 23 U.S.C. 402(j), all law enforcement agencies are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect.
- (b) **Policy on Seat Belt Use.** In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, subrecipients are encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles.
- (c) **Policy on Banning Text Messaging While Driving.** In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, subrecipients are encouraged to:
- i. Adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official business or when performing any work on behalf of the subrecipient agency and/or the Government.

- ii. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting and driving.
- iii. Insert the substance of this section, including this sentence, in all sub-agreement/subcontracts funded with the subaward provided under this Agreement that are \$15,000 or more.

29. Reversion of Unexpended Subgrant Funds. All funds granted by the Department under this Agreement that have not been expended during the term of this Agreement shall revert to the Department .

STATE REGULATIONS

30. Compliance with State Procurement of Personal Property and Services Laws. The Subrecipient agrees to comply with all applicable provisions of Chapter 287, Florida Statutes (F.S.). The following provisions are stated in this subgrant agreement pursuant to sections 287.133(2)(a) and 287.134(2)(a), F.S.

- (a) **Section 287.133 (2)(a), F.S.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in section 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
- (b) **Section 287.134 (2)(a), F.S.** An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- (c) The convicted vendor list and discriminatory vendor list can be found on the Florida Department of Management Services (DMS) website.

31. Compliance with State Public Records Laws. The Subrecipient agrees to comply with all provisions provided in Chapter 119 F.S. If the Subrecipient receives a public records request concerning its work undertaken pursuant to this Department subgrant agreement, the Subrecipient must take appropriate action as required by Chapter 119, F.S. If the Subrecipient is unable to ascertain how best to comply with its obligations, it should seek the advice of counsel and/or FDOT State Safety Office.

The Department shall unilaterally cancel this subgrant agreement if the Subrecipient refuses to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S., and made or received by the Subrecipient in conjunction with this subgrant agreement.

32. Cooperation with Inspector General. It is the duty of every Subrecipient to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this subgrant agreement. Section 20.055(5), F.S. The Subrecipient agrees to comply with Section 20.055(5), F.S., and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), F.S.

33. E-Verify. Subrecipients:

- (a) Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Vendor/Contractor during the term of the contract; and
- (b) Shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

34. Indemnification and Insurance.

- (a) **Indemnification.** To the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28, Florida Statutes, the Subrecipient shall indemnify and hold harmless the Department, including the Department's officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Subrecipient and persons employed or utilized by the Subrecipient in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Subrecipient's sovereign immunity.
- (b) **Subrecipient Contracts.** Subrecipient agrees to include the following indemnification clause in all contracts with contractors, subcontractors, consultants, or subconsultants who perform work in connection with this Agreement (modified to appropriately identify the parties):

"To the fullest extent permitted by law, the Subrecipient's contractor/consultant shall indemnify and hold harmless the Subrecipient and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Subrecipient's sovereign immunity."

- (c) **Workers' Compensation.** The Subrecipient shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If contracting for any of the work, the Subrecipient shall ensure that its contractors have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), the Subrecipient shall ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.

35. Reimbursement Obligation. The State of Florida's performance and obligation to reimburse the Subrecipient shall be subject to the availability of Federal highway safety funds and an annual appropriation by the Legislature.

36. Responsibility for Claims and Liability. Subject to the limitations of Section 768.28, F.S., the Subrecipient shall be required to defend, hold harmless and indemnify the Department, NHTSA, FHWA, and USDOT, from all claims and liability, or both, due to negligence, recklessness, or intentional wrongful misconduct of Subrecipient, and its contractor, consultant, agents and employees. The Subrecipient shall be liable for any loss of, or damage to, any material purchased or developed under this subgrant agreement which is caused by the Subrecipient's failure to exercise such care in regard to said material as a reasonable careful owner of similar materials would exercise.

The parties executing this subgrant agreement specifically agree that no provision in this subgrant agreement is intended

to create in the public or any member thereof, a third-party beneficiary, or to authorize anyone not a party to this subgrant agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this subgrant agreement.

37. Restrictions on Lobbying. No funds subgranted hereunder shall be used for the purpose of lobbying the legislature, judicial branch, or state agencies, per Section 216.347, F.S.

38. Retention of Records. The Subrecipient shall retain sufficient records demonstrating its compliance with the terms of this subgrant agreement for a period of five years from the date the audit report is issued, and shall allow the Department, or its designee, the state CFO, or AG access to such records, which are not protected by State law, upon request. The Subrecipient shall ensure that the independent audit working papers are made available to the Department, or its designee, the state CFO, or AG upon request for a period of at least five years from the date the audit report is issued, unless extended in writing by the Department.

39. Tangible Property. Property purchased under this subcontract does not qualify as Tangible Personal Property as defined by Chapter 273, F.S.

MISCELLANEOUS PROVISIONS

40. Prohibited Interests. The Subrecipient shall not enter into a contract or arrangement in connection with the Project or any property included or planned to be included in the Project, with any officer, director or employee of the Subrecipient, or any business entity of which the officer, director or employee or the officer's, director's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer, director or employee or the officer's, director's or employee's spouse or child, or any combination of them, has a material interest.

- i. "Material Interest" means direct or indirect ownership of more than 5% of the total assets or capital stock of any business entity.
- ii. The Subrecipient shall not enter into any contract or arrangement in connection with the Project or any property included or planned to be included in the Project, with any person or entity who was represented before the Subrecipient by any person who at any time during the immediately preceding two (2) years was an officer, director or employee of the Subrecipient.
- iii. The provisions of this subsection shall not be applicable to any agreement between the Subrecipient and its fiscal depositories, any agreement for utility services the rates for which are fixed or controlled by the government, or any agreement between the Subrecipient and an agency of state government.

41. Interest of Members of, or Delegates to, Congress or Legislature. No member or delegate to the Congress of the United States, or the State of Florida legislature, shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

42. Department Not Obligated to Third Parties. The Department shall not be obligated or liable under this Agreement to any party other than the Subrecipient. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

43. Relationship of Parties. The Subrecipient, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.

44. When Rights and Remedies Not Waived. In no event shall the making by the Department of any payment to the Subrecipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist, on the part of the Subrecipient, and the making of such payment by the Department while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

45. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

46. Sovereign Immunity. Nothing in this Agreement shall constitute a waiver by either party of its sovereign immunity for any damages claimed by third parties.

47. Bonus or Commission. By execution of the Agreement the Subrecipient represents that it has not paid and , also, agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

48. Notices. Any notice, demand, or request which is required to be given under this Agreement in writing shall be delivered to the following address:

Florida Department of Transportation
Attn: Traffic Safety Administrator
State Safety Office, MS 53
605 Suwannee Street
Tallahassee, Florida 32399-0450

49. Agreement Format. All words used in this Agreement in the singular form shall extend to and include the plural . All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

50. JURY TRIAL WAIVER. The Subrecipient and the Department hereby irrevocably and unconditionally waive trial by jury in any legal action or proceeding relating to this agreement and for any counterclaim therein.

51. Execution of Agreement. This Agreement may be simultaneously executed in a minimum of two counterparts , each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one in the same instrument.

52. Agreement not Assignable. The Subrecipient may not assign any of its rights or obligations under this Agreement .

53. IRS Form 990 Annual Report and Executive Compensation Reporting. Pursuant to Governor's Executive Order 20-44, if the Subrecipient/Contractor/Vendor/Agency/Other Party is required by the Internal Revenue Code to file **IRS Form 990** and is named in statute with which the Department must form a sole-source, public-private agreement; or through contract or other agreement with the State, annually receives 50% or more of its budget from the State or from a combination of State and Federal funds, Subrecipient/Contractor/Vendor/Agency/Other Party shall submit an Annual Report to the Department, including the most recent **IRS Form 990**, detailing the total compensation for each member of the Subrecipient/Contractor/Vendor/Agency/Other Party executive leadership team. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. Recipient shall inform the Department of any changes in total executive compensation during the period between the filing of Annual Reports required by this Amendment within 60 days of any change taking effect. All compensation reports shall detail the percentage of executive leadership compensation received directly from all State and/or Federal allocations to the Subrecipient/Contractor/Vendor/Agency/Other Party. Annual Reports shall be in the form approved by the Department and shall be submitted to the Department at fdotsingleaudit@dot.state.fl.us within 180 days following the end of each tax year of the Subrecipient/Contractor/Vendor/Agency/Other Party receiving Department funding.

GRANT MANAGEMENT

54. Amendments. The Subrecipient shall obtain prior written approval from the FDOT State Safety Office for changes to this subgrant agreement. Amendments to this subgrant agreement will be approved if the modification(s) to be made will

achieve or improve upon the outcome of this subgrant agreement's scope of work, or where factors beyond the control of the Subrecipient require the change. Requested amendments to this subgrant agreement shall be in the form of a written request signed by the one of the original signatories of this subgrant agreement. Specific delegation(s) for amendments must be provided in writing from the original signatory of the Subrecipient.

55. Disputes and Appeals. Any dispute, disagreement, or question of fact arising under this subgrant agreement may be addressed to the Traffic Safety Administrator of the FDOT State Safety Office in writing. The Traffic Safety Administrator's decision may be appealed in writing within 30 calendar days from the notification to the Governor's Highway Safety Representative, whose decision is final. Addresses are:

Florida Department of Transportation
Attn: Traffic Safety Administrator
State Safety Office, MS 53
605 Suwannee Street
Tallahassee, Florida 32399-0450

Florida Department of Transportation
Attn: Governor's Highway Safety Representative
State Safety Office, MS 53
605 Suwannee Street
Tallahassee, Florida 32399-0450

The Subrecipient shall proceed diligently with the performance of this subgrant agreement and in accordance with Department's decision(s).

56. Equipment. Any equipment purchased under this subgrant agreement with highway safety funds shall not replace previously purchased equipment that is damaged, stolen, lost, or that wears out as a result of misuse, whether the equipment was purchased with federal, state, or local funds.

- (a) **Use of Equipment.** All equipment shall be used for the originally authorized subgrant agreement purpose(s) for as long as needed for those purposes. Subrecipients must maintain an inventory control system that has adequate safeguards in place to prevent loss, damage, or theft.
- (b) **Equipment Costing \$5,000 or more.** Equipment with a useful life of more than one year and an acquisition cost of \$5,000 or more per unit shall be subject to the following requirements:
 - i. Purchases shall receive prior written approval from the FDOT Safety Office.
 - ii. Biannual certification of appropriate use and condition of equipment shall be provided to the FDOT Safety Office.
 - iii. Dispositions must be requested and shall receive prior written approval from the FDOT Safety Office.
- (c) **Disposition of Equipment Costing \$5,000 or more.** In the event the equipment is no longer needed for the originally authorized subgrant agreement purpose(s) or has reached the end of its useful life, Subrecipients should use the Equipment Disposition Request Form 500-065-026 to coordinate with the FDOT State Safety Office to obtain required approvals to dispose of the equipment or transfer the equipment to another agency for use.
- (d) **Disposition of Equipment Costing Less than \$5,000.** Equipment that does not meet the unit purchase price threshold of \$5,000 should be disposed of in accordance with the agencies own procurement and disposition policies. Documentation of this disposition should be noted in the Subrecipient files.
- (e) **Equipment Replacement or Repair.** The Subrecipient is responsible, at their own cost, for replacing or repairing any equipment purchased with Federal highway safety funds that is damaged, stolen, or lost, or that wears out as a result of misuse. The FDOT State Safety Office retains the right to replace or repair any equipment for statewide programs based on exceptional individual circumstances.

Amendment Number: Original

- (f) **Equipment Repossession.** Ownership of all equipment purchased with Federal highway safety funds rests with the Subrecipient; however, the USDOT maintains an interest in the equipment and title vests in the Subrecipient subject to several conditions and obligations under 2 CFR Section 200.313. The Subrecipient must use the equipment for the authorized purposes of the project, whether or not the project continues to be supported by the Federal award, unless the FDOT State Safety Office, on behalf of USDOT, provides written authorization for another use of the equipment that is permissible under 2 CFR Section 200.313. Any equipment purchased with Federal highway safety funds that is not being used by the Subrecipient for the purposes described in the project or in accordance with other authorized uses under 2 CFR Section 200.313, is subject to repossession by the FDOT State Safety Office, on behalf of the USDOT. Items that are repossessed shall be disbursed to agencies that agree to use the equipment for the activity described in this project or for other uses authorized by USDOT.

57. Expense Purchases for \$200 or more: Any office, training, communication, or computer supplies (including computers) with a per item unit cost of \$200 or more within the Expense Category, excluding software, must have FDOT State Safety Office written approval, prior to purchase.

58. Excusable Delays. Except with respect to the defaults of Subrecipient's consultants and contractors which shall be attributed to the Subrecipient, the Subrecipient shall not be in default by reason of any failure in performance of this subgrant agreement in accordance with its terms if such failure arises out of causes beyond the control and without the fault or negligence of the Subrecipient. Such causes are acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Subrecipient. If the failure to perform is caused by the failure of the Subrecipient's consultant or contractor to perform or make progress, and if such failure arises out of causes beyond the control of the Subrecipient and its consultant or contractor, and without the fault or negligence of any of them, the Subrecipient shall not be deemed to be in default, unless (1) the supplies or services to be furnished by the consultant or contractor were obtainable from other sources, (2) the FDOT State Safety Office shall have ordered the Subrecipient in writing to procure such supplies or services from other sources, and (3) the Subrecipient shall have failed to comply reasonably with such order.

Upon request of the Subrecipient, the FDOT State Safety Office shall ascertain the facts and extent of such failure and, if it shall be determined that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly.

If the Subrecipient is unable to fulfill the activities stated in the Proposed Solution or Project Objectives in this agreement (Part II: PROJECT PLAN AND SUPPORTING DATA) due to the COVID-19 pandemic, the Subrecipient must contact the FDOT State Safety Office immediately to discuss potential amendments and/or alternate plans.

59. How this Subgrant Agreement is Affected by Provisions Being Held Invalid. If any provision of this subgrant agreement is held invalid, the remainder of this subgrant agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law. The Subrecipient acknowledges that federal grant requirements are subject to change and agrees that the most recent requirements shall govern its obligations under this Agreement at all times.

60. Ineligibility for Future Funding. The Subrecipient agrees that the Department shall find the Subrecipient ineligible for future funding for any of the following reasons:

- (a) Failure to provide the required audits
- (b) Failure to continue funding positions created with highway safety funds after the Federal funding cycle ends
- (c) Failure to provide required performance and final narrative reports in the required time frame
- (d) Failure to perform work described in Part II of this subgrant agreement

- (e) Failure to provide reimbursement requests and performance reports in a timely manner
- (f) Providing fraudulent performance reports or reimbursement requests
- (g) Misuse of equipment purchased with Federal highway safety funds

61. Performance. In the event of default, noncompliance, or violation of any provision of this subgrant agreement by the Subrecipient, the Subrecipient's consultant(s) or contractor(s) and supplier(s), the Subrecipient agrees that the Department will impose sanctions. Such sanctions include withholding of reimbursements, retainage, cancellation, termination, or suspension of this subgrant agreement in whole or in part. In such an event, the Department shall notify the Subrecipient of such decision 30 days in advance of the effective date of such sanction. The sanctions imposed by the Department will be based upon the severity of the violation, the ability to remedy, and the effect on the project. The Subrecipient shall be paid only for those services satisfactorily performed prior to the effective date of such sanction.

62. Personnel Hired or Paid Under this Subgrant Agreement.

- (a) **Project Director.** Persons holding the position of Project Director for this subgrant agreement shall not receive reimbursement for personnel hours nor receive any other benefit under this subgrant agreement.
- (b) **Employer Responsibility.** Any and all employees of the Subrecipient whose positions are funded, in whole or in part through this subgrant agreement, shall be the employee of the Subrecipient only, and any and all claims that may arise from said employment relationship shall be the sole obligation and responsibility of the Subrecipient. Personnel hours will only be reimbursed based on actual hours worked on this subgrant agreement. No other allocation method is allowable for reimbursement.
- (c) **Bonuses or stipends.** Bonuses or one-time stipends issued to Subrecipient employees will not be eligible for subgrant reimbursement, as they are not considered salary and are an addition to the salary amounts approved for Subgrant execution. Increases in Subgrant employee salary must be approved by the FDOT State Safety Office. Annual fluctuations in benefits approved in the Subgrant are allowable and eligible for reimbursement.
- (d) **Overtime.**
 - i. **Overtime Hours.** Subgrant funds cannot be used to supplant standard activity hours; therefore, only hours qualifying as "overtime", per the Subrecipient policies will be eligible for reimbursement by this subgrant agreement. In the event a Subrecipient is awarded more than one subgrant agreement within a federal fiscal year, overtime hours for each traffic safety effort must be tracked, reported, and billed based on hours worked for each subgrant agreement type.
 - ii. **Overtime Rate.** Overtime hours are intended for enhanced/increased traffic safety activities. The overtime pay rate for personnel is based on actual cost per employee in accordance with the Subrecipient's payroll policy. Each Subrecipient shall comply with Fair Labor Standards Act (FLSA) requirements and thresholds for overtime accrual and payment and its own policies and procedures, insofar as those policies apply uniformly to both federally-financed and other activities of the Subrecipient, as required by 2 CFR 200.403(c). Additional hours may be called overtime, off duty, extra, additional, etc., as long as it enhances/increases traffic safety activities. A copy of the policy shall be maintained by the Subrecipient and made available for review if requested.

63. Reports. The following reports are required for reimbursement of subgrant funding:

- (a) **Performance Reports.** (FDOT Form No. 500-065-19). A performance report shall be provided with each request for financial reimbursement, providing the status of the subgrant minimum performance standards, as described in Part IV of this subgrant agreement.
- (b) **Final Narrative Report.** (FDOT Form No. 500-065-20). A Final Narrative Report giving a chronological history of the subgrant activities, problems encountered, major accomplishments, and NHTSA Required Activity Reporting shall be submitted by October 31. Requests for reimbursement will not be processed and will be returned to the Subrecipient as unpaid if the required reports are not provided, following notification.
- (c) **Enforcement Activity Reports.** Enforcement Activity Report(s) for each type of enforcement shall be provided with each request for financial reimbursement for overtime worked. Agency specific activity reports may be used, if those reports include all information detailed in each FDOT Activity Form.
- (d) **Other Reports.** The FDOT State Safety Office reserves the right to require other reports not specified above, as necessary, for subgrant agreement monitoring.

64. Term of this Subgrant Agreement. Each subgrant agreement shall begin on the date the last party signs this subgrant agreement and shall end on September 30, unless otherwise stipulated by the FDOT State Safety Office on the first page of this respective subgrant agreement. In the event this subgrant agreement is for services in excess of \$25,000.00 and a term for a period of more than 1 year, the provisions of Section 339.135(6)(a), F.S., are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than 1 year."

65. Travel.

- (a) **Required Forms.** Travel costs for approved travel shall be submitted on the FDOT Contractor Travel Form (FDOT Form No. 300-000-06) or other approved Florida Department of Financial Services form and will be reimbursed in accordance with Section 112.061, F.S. and the most current version of the *Disbursement Handbook for Employees and Managers*.
- (b) **Authorization and Restriction.** All travel authorized under this subgrant shall be subject to any additional authorization requirements or restrictions imposed by: the Governor's Executive Order or other guidance; any requirements or forms for travel cost reimbursement imposed by the Subrecipient that do not violate FDOT travel cost reimbursement requirements; and/or FDOT during the subgrant period.
- (c) **Prerequisite Approvals.** Travel meeting any of the following criteria shall require a written request for approval from the FDOT State Safety Office prior to the incurring of actual travel costs. Request should include sufficient justification to prove that the travel will have significant benefits to the outcome of the subgrant activities and is within the travel budget of the project and relevant to the project:

- i. Purchase of Air fare

- ii. Travel to conference
- iii. Travel which includes a registration fee
- iv. Out-of-subgrant-specified work area travel
- v. Out-of-state travel

Failure to receive prior written approval will deem the entire travel cost ineligible for payment, regardless of available funding in travel budget.

- (d) **Lodging Reimbursement Limit.** The FDOT State Safety Office shall not pay for overnight lodging/hotel room rates that exceed \$175.00 per night (before taxes and fees). A Subrecipient and/or traveler will be required to expend his or her own funds for paying the overnight lodging/hotel room rate in excess of \$175.00 plus the applicable percentage of fees (other than flat fees). If multiple travelers share a room and the individual cost of the lodging/hotel exceeds the \$175 per night limit, the Subrecipient and/or travelers will be required to expend his or her own funds for paying the excess amount. If another entity is covering the cost of the overnight lodging/hotel then this paragraph does not apply.
- (e) **Lodging for Subgrant Funded Statewide Coalition Meetings and Conferences.** Lodging contracts may be funded to accommodate attendance of subgrant funded statewide coalition meetings, conferences, and programs. If lodging a lodging contract is executed to cover lodging cost, all travelers shall be expected to use the contract, and any attendees choosing alternate lodging accommodations based on preference, shall do so at their own out of pocket costs. Cost for these lodging contracts will be reviewed and approved for program appropriateness and costs savings to the State, as determined and approved by the FDOT State Safety Office.

66. Vehicles. Any Subrecipient receiving subgrant funds to purchase a vehicle (excluding law enforcement vehicles) shall maintain a travel log that contains the beginning and ending mileage, location, and purpose of travel. All agencies must report any vehicle use (excluding law enforcement vehicles) and maintenance with each request for reimbursement using the Safety Grant Vehicle Use Form (FDOT Form No. 500-065-21) and the Safety Grant Equipment Maintenance Form (FDOT Form No. 500-065-22).

Vehicles purchased with federal highway safety funds shall be used for program use only and in accordance with Rule 60B-1.004 F.A.C. Subrecipients who are responsible for the operation and use vehicles for official state business are allowed to permit persons other than state officials or employees to travel in the vehicle provided these persons are conducting official state business or only on special occasions if the purpose of the travel can be more usefully served by including such persons and no additional expense is involved.

It is permissible to transport persons other than state officials and employees during disasters and emergency situations where the state must protect life and property. Providing assistance to motorists whose vehicles are disabled may be considered as an emergency when there is a need to protect life and property.

Any vehicles used for personal reasons or not being used by the Subrecipient for the purposes described in this subgrant agreement shall be subject to repossession by the FDOT State Safety Office.

FINANCIAL/FISCAL

67. Allowable Costs. The allowability of costs incurred under this subgrant agreement shall be determined in accordance with the general principles of allowability and standards for selected cost items set forth in the Applicable Federal Law, state law, and the FDOT Disbursement Handbook for Employees and Managers, to be eligible for reimbursement. All funds not spent in accordance with the Applicable Federal Law will be subject to repayment by the Subrecipient. Only costs directly related to this subgrant agreement shall be allowable.

68. Subcontract Agreements.

- (a) **Requirement for Pre- Approval.** All subcontract agreements must be submitted to the FDOT Safety Office in

draft form for review and approval. Approval of this subgrant agreement does not constitute approval of subcontract agreements.

(b) **Minimum Mandatory Subcontract Language.** All subcontract agreements shall include as a minimum the following information:

- i. Beginning and end dates of the subcontract agreement (not to exceed this subgrant agreement period)
- ii. Total contract amount
- iii. Scope of work/Services to be provided
- iv. Quantifiable, measurable, and verifiable units of deliverables
- v. Minimum level of service to be performed and criteria for evaluating successful completion
- vi. Budget/Cost Analysis
- vii. Method of compensation/Payment Schedule

(c) **Additional Required Clauses.**

- i. **All subcontract agreements shall contain the following statement:** "The parties to this contract shall be bound by all applicable sections of Part V: Acceptance and Agreement of Project # (insert project number), A final invoice must be received by (insert date)"
- ii. **Buy American Act clause** (see Section 4 of Part V)
- iii. **Certification Regarding Federal Lobbying** (see Section 21 of Part V)
- iv. **Cooperation with Inspector General** (see Section 32 of Part V)
- v. **DBE Clause** (see Section 10(b) of Part V)
- vi. **E-Verify clause** (see Section 33 of Part V)
- vii. **Nondiscrimination clause** (see Section 16 of Part V)
- viii. **Clean Air Act and Federal Water Pollution Control Act clause** (subcontracts in excess of \$150,000) (see Section 5 of Part V)
- ix. **Integrity Certification Clause** (see Section 27 of Part V)
- x. **Contract Work Hours and Safety Standards Act** (subcontracts in excess of \$100,000) (see Section 8 of Part V)
- xi. **Indemnification and Insurance** (see Section 34 of Part V)
- xii. **Policy on Banning Text Messaging While Driving Act** (subcontracts in excess of \$15,000) (see Section 28 of Part V)
- xiii. **Human Trafficking Clause** (see Section 23 of Part V)
- xiv. **Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms** (see Section 12 of Part V)
- xv. **Termination for Convenience** (see Section 22 of Part V)

69. Indirect Costs. Indirect costs included in this subgrant agreement in Part III, under the indirect line item are based on the indirect costs rate the Subrecipient used in the competitive concept paper application process. The rate will be applied in accordance with 2 CFR 200 and the Subrecipients federally approved rate agreement. If the Subrecipient does not have a federally approved costs rate agreement, a de minimis rate of 10% of modified total direct costs in the manner described in 2 CFR 200.414 will be used. [The de minimis rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimis rate must be used consistently for all federal awards until such time the Subrecipient chooses to negotiate a rate. A de minimis certification form must be submitted to the Department for review and approval.] All subgrant awards are based on cost benefit, available funding, and if the indirect costs rate requested significantly affects the proposed project's ability to adequately address the traffic safety need .

70. Obligation of Subgrant Funds. Subgrant funds shall not be obligated prior to the effective date or subsequent to the end date of this subgrant agreement period. Only project costs incurred on or after the effective date and on or prior to the end date of this subgrant agreement are eligible for reimbursement. A cost is incurred when the Subrecipient's

employee or approved contractor or consultant performs the service required or when goods are received by the Subrecipient, notwithstanding the date of order.

71. Procedures for Reimbursement.

- (a) **Required Forms.** All requests for reimbursement of subgrant costs must be submitted on forms provided by the Department (FDOT Form Numbers 500-065-04 through 09 and 19) unless otherwise approved. Forms must be completed in detail sufficient for a proper pre-audit and post audit based on the quantifiable, measurable, and verifiable units of deliverables and costs, including supportive documentation. **ALL requests for reimbursement shall include FDOT Form 500-065-019 Performance Report for the period of reimbursement.**
- (b) **Supporting Documentation.** Invoices for cost reimbursement subgrants must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved subgrant budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided. **Contracts between state agencies may submit alternative documentation to substantiate the reimbursement request, which may be in the form of FLAIR reports or other detailed reports.**

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address

<https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

Listed below are types and examples of supporting documentation:

i. Personnel Services.

- a. **Salaries:** Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions, and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.
 - b. **Fringe Benefits:** Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.
- ii. **Contractual Services.** Should be supported by a copy of the approved subcontract agreement, invoice showing payment request and dates of service from the vendor, and proof of payment by the Subrecipient.
 - iii. **Expenses.** Should be supported by a copy of any required pre-approvals, invoice showing payment request from the vendor, and proof of payment by the Subrecipient.
 - iv. **Travel.** Reimbursement for travel must be in accordance with s. 112.061, F.S. and the most recent version of the FDOT Disbursement Handbook, which includes submission of the travel costs on an approved state travel form along with supporting receipts and invoices.
 - v. **Equipment Costing Over \$5,000.** Should be supported by a copy of any required pre-approvals, invoice showing payment request from the vendor, and proof of payment by the Subrecipient.

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- vi. **Indirect Cost.** If the subgrant stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

All documentation should be readable and include the necessary calculations to support the amounts being requested. Illegible documents or documents for the wrong time-period or calculation amounts will require resubmittal by the Subrecipient. If documents provided do not equal totals requested, additional documentation may be requested, or amounts reimbursed will be reduced to totals supported by documentation.

Subgrant agreements between state agencies, and/or subgrant agreements between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports and do not have to include check numbers.

(c) **Frequency and Deadlines for Submission.**

- i. **Partial Claims.** Subrecipients should submit all costs for reimbursement monthly unless no costs were incurred within a month. Reimbursement for personnel costs may be submitted after each pay period, if desired. Failure to submit reimbursement requests in a timely manner may result in this subgrant agreement being terminated.
- ii. **Final Claim.** A final financial request for reimbursement shall be submitted and/or postmarked no later than October 31 following the end of this subgrant agreement period. Such request should be distinctly identified as **Final**.

The Subrecipient agrees to forfeit reimbursement of any amount incurred or expended if the final request is not submitted and/or postmarked by October 31 following the end of this subgrant agreement period.

- (d) **Travel Reimbursement.** Bills for travel expenses specifically authorized in this subgrant agreement shall be submitted on the FDOT Contractor Travel Form (300-000-06) and will be paid in accordance with Section 112.061, F.S. and the most current version of the FDOT Disbursement Handbook for Employees and Managers.
- (e) **Equipment Reimbursement.** All requests for reimbursement of equipment having a unit cost of \$5,000 or more and a useful life of one year or more shall be accompanied by a Non-Expendable Property Accountability Record (FDOT Form No. 500-065-09). Reimbursement of these equipment costs shall not be made before receipt of this form.
- (f) **Media Purchase Reimbursement.** Proof of performance (e.g., copies and/or images of posters, air schedules, etc.) of all paid media purchased with subgrant funds shall be attached to reimbursement requests.
- (g) **Signature Requirements.** All requests for reimbursement shall be signed by an Authorized Representative of the Subrecipient, or their delegate. Delegation letters must be provided for each subgrant agreement.
- (h) **Reimbursement Timeline.** Subrecipients providing goods and services to the Department should be aware of the following time frames. The FDOT State Safety Office has a 30-day review process to approve goods and services that starts on the date of receipt of financial reimbursement request. After that review and approval, the Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved. Financial reimbursement requests may be returned if not completed properly. If a payment is not available within 40 days from the FDOT State Safety Office approval, a separate interest penalty

at a rate as established pursuant to Section 55.03(1), F.S., will be due and payable, in addition to the financial reimbursement request amount, to the Subrecipient. Interest penalties of less than one (1) dollar will not be enforced unless the Subrecipient requests payment. Financial reimbursement requests that have to be returned to a Subrecipient because of Subrecipient preparation errors will result in a delay in the payment. The financial reimbursement request payment requirements do not start until a properly completed financial reimbursement request is provided to the Department.

- (i) **Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred. If the Department determines that the performance of the Subrecipient is unsatisfactory, the Department shall notify the Subrecipient of the deficiency to be corrected, which correction shall be made within a timeframe to be specified by the Department. The Subrecipient shall, within five days after notice from the Department, provide the Department with a corrective action plan describing how the Subrecipient will address all issues of subgrant agreement non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or subgrant agreement noncompliance. If the corrective action plan is unacceptable to the Department, the Subrecipient will not be reimbursed to the extent of the non-performance. The Subrecipient will not be reimbursed until the Subrecipient resolves the deficiency. If the deficiency is subsequently resolved, the Subrecipient may bill the Department for the unpaid reimbursement request(s) during the next billing period. If the Subrecipient is unable to resolve the deficiency, the funds shall be forfeited at the end of this subgrant agreement term.
- (j) **Vendor Ombudsman.** A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Subrecipients who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

72. Tracking and Retention of Financial Records. The Subrecipient shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this subgrant agreement shall be maintained and made available upon request to the Department at all times during the period of this subgrant agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Subrecipients general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work.

73. Program Income. Program income means gross income earned by Subrecipient that is directly generated by a supported activity or earned as a result of the subgrant award during the subgrant period of performance. Program income must be deducted from total allowable costs to determine the net allowable costs. Program income must be used for current costs and any remaining program income must be offset against the final request for reimbursement. Program income that the Subrecipient did not anticipate at the time of the subgrant award must be used to reduce the Federal award and Subrecipient contributions rather than to increase the funds committed to the project.

74. Registration for Attendance. No activities funded under this subgrant agreement shall charge a registration fee for attendance.

75. Responsibility of Subrecipient. The Subrecipient shall establish fiscal control and fund accounting procedures that assure proper disbursement and accounting of subgrant funds and required non-federal expenditures. All monies spent on this project shall be disbursed in accordance with provisions of the Project Detail Budget as approved by the FDOT State Safety Office. All expenditures and cost accounting of funds shall conform to 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards, herein incorporated by reference, (hereinafter referred to as Applicable Federal Law).

REQUIREMENTS

76. Child Safety Seats. Any agency that receives child safety seats must have at least one staff member who is a

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current Certified Child Passenger Safety Technician.

77. Enforcement.

- (a) **Automated Traffic Enforcement.** No subgrant funds will be awarded or expended to carry out a program to purchase, operate, or maintain an automated traffic enforcement system. (23 U.S.C. 402(c)(4)). The term "automated traffic enforcement system" includes any camera that captures an image of a vehicle for the purposes only of red light and speed enforcement, and does not include hand held radar and other devices operated by law enforcement officers to make an on-the-scene traffic stop, issue a citation, or other enforcement action at the time of violation. Subgrant funding will not be utilized or reimbursed for continuing priorly initiated investigations, court or Administrative Hearings, and enforcement from aircraft.
- (b) **Data Driven.** Selection of enforcement activity locations should be based on current data that identifies high-risk areas with the greatest number of crashes, serious injuries, fatalities, and/or traffic violations (citations). Data should be reviewed periodically to ensure that the most current high-risk areas are continually addressed throughout this subgrant agreement period.
- (c) **High Visibility Enforcement.** All law enforcement agencies shall conduct High Visibility Enforcement while conducting enforcement under this subgrant agreement.

High Visibility Enforcement is defined as:

Intense: Enforcement activities are over and above what normally takes place.

Frequent: Enforcement occurs often enough to create general deterrence.

Visible: A majority of the public sees or hears about the enforcement.

Strategic: Enforcement targets high-risk locations during high-risk times.

- (d) **Impaired Driving Enforcement.**

- i. **Hours of Emphasis.** A strong emphasis of enforcement operations should be during the hours of 6:00 pm to 6:00 am. Expansion of enforcement operation hours can be adjusted based on supporting data and prior approval by the FDOT State Safety Office. Agencies should ensure that enforcement saturation/wolfpack/roving patrols are conducted in periods of no fewer than 3 consecutive hours. The FDOT State Safety Office reserves the right to request a copy of any subgrant funded checkpoint After Action Report.
- ii. **Mobilization Participation.** All law enforcement agencies that receive impaired driving subgrant funding should participate in all NHTSA impaired driving mobilizations for the following holidays and events: New Year's Day, NFL Super Bowl, St. Patrick's Day, Cinco de Mayo, Independence Day, Labor Day, Halloween, and the end of year holiday season.
- iii. **Required Credentials for Impaired Driving Enforcement.** Any law enforcement officer who takes enforcement action and receives compensation under an impaired driving subgrant must have successfully completed at least one of the following within the last five years:
 - a. NHTSA/IACP 24 hour DWI Detection and Standardized Field Sobriety Testing (SFST) course
 - b. NHTSA/IACP 4 hour DWI Detection and Standardized Field Sobriety Testing (SFST) refresher course
 - c. NHTSA/IACP DWI Detection and Standardized Field Sobriety Testing (SFST) Instructor Development course
 - d. NHTSA/IACP 8-hour DWI Detection and Standardized Field Sobriety Testing (SFST) Instructor Update course
 - e. NHTSA/IACP Advanced Roadside Impaired Driving Enforcement (ARIDE) course

- f. Be an active certified Drug Recognition Expert (DRE)
- (e) **Motorcycle Enforcement.** No subgrant funds will be used for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.
- (f) **Occupant Protection Enforcement.** All law enforcement agencies that receive occupant protection subgrant funding should participate in all NHTSA occupant protection mobilizations for Click It or Ticket and are encouraged to participate in Child Passenger Safety Week and National Seat Check Saturday . Safety belt enforcement is encouraged for both day and nighttime.
- (g) **Speed and Aggressive Driving Enforcement.** All law enforcement agencies that receive speed and aggressive driving subgrant funding should participate in the NHTSA Regional speed and aggressive driving mobilization for Operation Southern Shield.
 - i. **Required Credentials for Speed Enforcement.** Any law enforcement officer who is using a radar or laser speed detection system, must be certified in the use of that piece of equipment.

78. Public Service Announcements, Marketing, and Advertisements.

- (a) **Closed Caption Requirement.** All public service announcements produced with Federal highway safety funds shall be closed captioned for the hearing impaired.
- (b) **Media Plan.** All paid media reimbursed with subgrant funds shall contain a traffic safety message . In order to maximize the effectiveness of the paid media , when marketing or advertising is included in subgrant activities, it shall be done only in conjunction with proven, effective countermeasures, and when the message of the media is designed to call attention to those countermeasures. Before incurring costs related to the paid media, a final draft of the media and media plan shall be submitted to the FDOT State Safety Office for review .

Media plans should include the following:

- i. What program/policy the paid media is supporting
 - ii. How the paid media will be implemented to support an operational enforcement program whether it be a periodic crackdown/mobilization or an on-going saturation or roving patrol
 - iii. The amount allocated for paid media
 - iv. Anticipated creative costs associated with the paid media
 - v. The measures that will be used to assess message recognition and penetration of the target audience.
- (c) **Tagging.** All subgrant funded public service announcements, marketing, and advertisements shall be tagged "Funding provided by the Florida Department of Transportation , or Funded by FDOT", or FDOT logo, "Brought to you by" or "Provided by ..." may also be used for this requirement. Television commercials must include a statement as set forth above. The name of the Subrecipient and its logo can appear on the paid media, if approved by the FDOT State Safety Office, but the names of individuals connected with the Subrecipient shall not appear when paid for with Federal highway safety funds, unless otherwise approved by the FDOT State Safety Office.
- (d) **Prohibition of Gifts.** Contractual agreements for marketing and advertising which include communications, public information, and paid media expenditures shall not include gifts as defined by Section 112.312, F.S., which includes items such as tickets, seats, food, travel, apparel, memorabilia, etc., to any representative of this subgrant agreement or any of their traffic safety partners unless the item or service is regularly made available to the general public at no cost.

79. Public Information and Education Items. Public Information and Education Items are defined as materials whose purpose is to convey substantive information about highway safety. Paper, pamphlets, flash drives, CD-ROMs, and similar media that contain educational materials are all allowable because their purpose is to contain and convey educational information. In order to be considered educational, distributed material must provide substantial informational and educational content to the public (not merely a slogan) and have the sole purpose of conveying that information. If a Subrecipient chooses to provide educational content on a flash drive, CD-ROM, or similar device, that device must be an economical method of conveying the information.

Before printing or ordering any public information and education items, a final draft or drawing of the items shall be submitted to the FDOT State Safety Office for review and approval.

Requests should include the following:

- (a) What public information or educational item is being requested
- (b) What program/policy is the item supporting
- (c) Who the target audience is
- (d) How the item will be distributed
- (e) Estimated unit cost(s) for the item

The FDOT State Safety Office shall provide written approval for reimbursement if the items are appropriate for purchase under this subgrant agreement. Copies and/or images of all public information and education items purchased with highway safety funds shall be attached to the forms requesting reimbursement for the items.

Printed materials (tip cards, brochures, safety pledges, surveys, activity books, booklets, guides, etc.) can be freely distributed, however tangible items (helmets, DVDs, CD-ROMs, flash or thumb drives, reflective tape, etc.) require the person receiving the item to interact with the Subrecipient in some manner related to the goal of the project in order to receive the item. Interaction includes attending a presentation, having a discussion with a program representative, signing a pledge sheet, filling out a survey form, answering a traffic safety question, etc. The results of this interaction must be reported in the performance report.

Where feasible, either the Florida Department of Transportation logo or the words "Funding provided by the Florida Department of Transportation or Funded by FDOT" shall appear on or in all items. "Brought to you by" or "Provided by" may also be used for this requirement. The name of the Subrecipient and its logo can appear on any of the public information and education items. The names of individuals connected with the Subrecipient shall not appear on any printed materials, and advertisements paid for with highway safety funds.

Per 2 CFR 200 and NHTSA Memo "Use of NHTSA Highway Safety Grant Funds for Certain Purchases" (dated May 18, 2016), Use of NHTSA grant funds to purchase promotional items or memorabilia (backpacks, cups, flashlights, key chains, magnets, shirts, stickers, sunglasses, umbrellas, etc.) is prohibited and therefore unallowable under this subgrant agreement.

80. Publication and Printing of Observational Surveys and Other Reports.

- (a) **Review and Publication.** During this subgrant agreement period, but before publication or printing, the final draft of any report or reports required under this subgrant agreement or pertaining to this subgrant agreement shall be submitted to the FDOT State Safety Office for review and concurrence. After this subgrant agreement period has concluded, Subrecipients may publish after providing the FDOT State Safety Office with at least a 15-day prior written notice.
- (b) **Discussion.** Both written and oral releases are considered to be within the context of publication. However, there is no intention to limit discussion of the study with small technical groups or lectures to employees or students. Lectures that describe plans but discuss neither data nor results may be given to other groups without

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advance approval.

(c) **Required Language.** Each publication or other printed report covered by Paragraph 80(a) above shall include the following statement on the cover page:

- i. This report was prepared for the FDOT State Safety Office, Department of Transportation, State of Florida, in cooperation with the National Highway Traffic Safety Administration, U.S. Department of Transportation and/or Federal Highway Administration, U.S. Department of Transportation.
- ii. The conclusions and opinions expressed in these reports are those of the Subrecipient and do not necessarily represent those of the FDOT State Safety Office, Department of Transportation, State of Florida, and/or the National Highway Traffic Safety Administration, U.S. Department of Transportation and/or Federal Highway Administration, or any other agency of the State or Federal Government.

81. Safety Belt Policy. Each Subrecipient shall have a written safety belt policy, which is enforced for all employees. A copy of the policy shall be maintained by the Subrecipient and made available for review if requested.

82. Special Conditions.

Part VI: Federal Financial Assistance (Single Audit Act)

Federal resources awarded pursuant to this subgrant are as follows:

CFDA Number and Title:

- ☒ 20.600 - State and Community Highway Traffic Safety Program (NHTSA 402 Funds)
- ☐ 20.614 - National Highway Traffic Safety Administration Discretionary Safety Grants (NHTSA 403 funds)
- ☐ 20.616 - National Priority Safety Program (NHTSA 405 Funds)

*Federal Funds Awarded: \$44,000
Awarding Agency: Florida Department of Transportation
Indirect Cost Rate:
**Award is for R&D: No

Federal resources awarded pursuant to this subgrant are subject to the following audit requirements:

- (a) 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards
www.ecfr.gov

Federal resources awarded pursuant to this subgrant may also be subject to the following:

- (a) Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS)
www.fsrc.gov

| | |
|----------------------------------------------------|-------------------------|
| <u>Federal Award Identification Number (FAIN):</u> | <u>FAIN Award Date:</u> |
| 69A37520300004020FL0 | 02/03/2020 |

IN WITNESS WHEREOF, the parties affirm that they have each read and agree to the conditions set forth in Part V of this Agreement that each have read and understand the Agreement in its entirety. Now, therefore, in consideration of the mutual covenants, promises and representations herein have executed this Agreement by their undersigned officials on the day, month, and year set out below.

(For FDOT Use Only)

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____
Authorized FDOT State Safety Office Representative

Date: _____
Date Signed

SUBRECIPIENT

By: _____
Signature of Authorized Representative

Name: _____
Authorized Representative's Name Printed

Title: _____
Authorized Representative's Title Printed

Date: _____
Date Signed

Reviewed for the Florida Department of Transportation:

By: _____
Authorized FDOT Attorney

Date: _____
Date Signed

IMPLEMENTING AGENCY

By: _____
Signature of Authorized Representative

Name: _____
Authorized Representative's Name Printed

Title: _____
Authorized Representative's Title Printed

Date: _____
Date Signed

NOTE: These signatures are the only recognized authorized representatives for this agreement, unless delegation is granted in writing.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Nelson Moya, Chief of Police

DATE: 12/16/2021

RE: Consideration of accepting the Victims of Crime Act Grant Award for 2021-2022. (AGENDA REVISION)

REVISED

On January 4, 2021, the Office of the Attorney General for the State of Florida opened the application process for the Victims of Crime Act (VOCA) funding from the U.S. Department of Justice. The purpose of the VOCA grant is to support the availability of services to victims of crimes through a reimbursement program. Services are defined as those efforts that respond to the emotional and physical needs of crime victims, assist victims of crime to stabilize their lives after victimization, assist victims to understand and participate in the criminal justice system, and provide victims of crime with a measure of safety and security. Eligibility to apply for VOCA funds is limited to victim assistance programs administered by state or local government agencies or not-for-profit corporations registered in Florida. For over 20 years, the Palm Bay Police Department has been a recipient of VOCA funding for the Victim Service Unit.

For the 2021-2022 grant cycle, the Police Department has been awarded a total of \$65,259 to cover salary, taxes, and retirement costs for two Victim Advocates as well as continued education training.

The funding cycle for this VOCA grant funding is October 1, 2021 through September 30, 2022.

REQUESTING DEPARTMENT:

Police Department

FISCAL IMPACT:

~~If awarded,~~ The fiscal impact is an increased revenue of \$65,259 in General Fund Account #001-0000-331-2005 for partial reimbursement of annually budgeted salaries (001-5025-521-1210), taxes (001-5025-521-2110), retirement (010-5025-521-2210), and training/travel (001-5025-521-5510 and 001-5025-521-4001).

RECOMMENDATION:

Motion to

~~authorize the City to apply for Victims of Crime Act grant and~~ authorize the City Manager and Chief of Police to execute the Victims of Crime Act grant agreement for 2021-2022 and any future grant modifications related to this award.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Nancy A. Bunt, Community & Economic Development Director

DATE: 12/16/2021

RE: Consideration of certain City-owned real estate on Northview Street to be designated as surplus property.

The City of Palm Bay owns vacant land throughout the city, some of which is required to be retained for future infrastructure as determined by the Utilities, Public Works, Parks & Recreation, Police and Fire Departments. Of the remaining properties, the attached list of additional properties has been identified as available for sale and without development restrictions such as deeds and wetlands.

On January 29, 2021, the City executed a Master Listing Agreement with the City's residential real estate broker, Ellingson Properties, for the sale of residentially-zoned properties designated by City Council as surplus. Since that time, 12 of the 19 residential surplus properties have sold with the sales proceeds of \$533,312.61.

Staff is seeking Council's consideration to declare six City-owned properties zoned RM-10 located on Northview Street as surplus with the sole intention of publishing a Request for Proposals (RFP) to solicit the development of affordable housing for elderly and veterans. The six parcels include 2171, 2173, 2181, 2185, 2189 and 2193 Northview Street NE. Collectively, these parcels historically consisted of several duplex buildings, of which only two currently exist. The existing buildings remain vacant. The City continues to ensure that the buildings remain boarded; however, the buildings continue to deteriorate. Staff has met with several residents of Driskell Heights who have expressed their desire for elderly and veteran housing.

REQUESTING DEPARTMENT:
Community & Economic Development

FISCAL IMPACT:
There is no fiscal impact at this time. The sale of real estate would result in increased revenues to the Sales Proceeds account (001-0000-388-1001).

RECOMMENDATION:
Motion to declare City-owned parcels located at 2171, 2173, 2181, 2185, 2189 and 2193 Northview Street NE as surplus and authorize staff to solicit affordable housing development opportunities for elderly and veterans.

ATTACHMENTS:

Description

Surplus Properties

**City of Palm Bay
Surplus Real Estate**

| Tax ID | Address | FLU | Zoning | Acreage |
|---------------|----------------------|------------|---------------|----------------|
| 2926371 | 170 COCOA STREET | PSP | RS-2 | 12.26 |
| 2861557 | 2171 NORTHVIEW ST NE | MFR | RM-10 | 0.1 |
| 2861556 | 2173 NORTHVIEW ST NE | MFR | RM-10 | 0.1 |
| 2826141 | 2181 NORTHVIEW ST NE | MFR | RM-10 | 0.13 |
| 2826140 | 2185 NORTHVIEW ST NE | MFR | RM-10 | 0.12 |
| 2866115 | 2189 NORTHVIEW ST NE | MFR | RM-10 | 0.12 |
| 2866116 | 2193 NORTHVIEW ST NE | MFR | RM-10 | 0.12 |
| | | | | |
| | | | | |



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Mehul J. Parekh, P.E., Public Works Director

DATE: 12/16/2021

RE: Consideration of the Stormwater Utility tax exemption list revision, per Resolution 2020-35.

Government Services Group, Inc. (GSG) utilizes the previous year's stormwater assessment roll, most updated Brevard County Property Appraiser (PA) parcel data, and impervious area measurements provided by AECOM to generate the annual stormwater assessment roll. The updated stormwater assessment roll is provided annually to the City in August/September to be incorporated into the City's utility billing system for the upcoming fiscal year.

The Assessment Roll Worksheet for Institutional Tax-Exempt Parcels was originally created with the above methodology and below findings – this revenue represents a buy-down and was not populated in the stormwater roll provided since it was the City's policy decision to exempt institutional tax-exempt parcels.

- 185 parcels
- 2,138.66 net ERUs
- \$280,164.46 stormwater revenue buy-down since these parcels are not charged

At the request of City Council during the Fiscal Year 2022 budget workshop, Public Works conducted an in-depth review of the institutional tax-exempt parcels. The Institutional Tax-Exemption Parcel analysis below is the new findings, the new buy-down for the stormwater assessment program exemptions for these parcels is now \$242,423.36; after removing 80 parcels from the institutional tax exemption list based on Resolution 2020-35.

INSTITUTIONAL TAX-EXEMPT PARCEL ANALYSIS

When determining the parcels that qualify for the institutional tax exemption, GSG utilized the Property Appraiser's exemption codes and the parcel's taxable value. However, a review of the City's Resolution 2020-35, it appears that the codes identified in the resolution do not always match the types of parcels that the Property Appraiser provides exemptions. Below is a list of the property uses associated with the Property Appraiser's Exempt parcels that are no longer exempt:

0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED)
0110 - SINGLE FAMILY RESIDENCE

0135 – TOWNHOUSE
0354 - LOW RISE APARTMENTS - 2 OR 3 STORIES - 50 UNITS A
0414 - CONDOMINIUM UNIT
0840 - QUADRUPLEX
1100 - RETAIL STORE - 1 UNIT
1210 - MIXED USE - COMMERCIAL PROPERTY
1222 - COMMERCIAL RELATED AMENITIES
1704 - CONDOMINIUM OFFICE UNIT
1710 - OFFICE BUILDING - MULTI TENANT - 1 STORY
1900 - PROFESSIONAL BUILDING - SINGLE TENANT - 1 STORY
1950 - DAY CARE CENTER
3220 - RECREATION HALL
9140 - UTILITY (TELEPHONE/TELEGRAPH) - IMPROVED
9909 - VACANT RESIDENTIAL LAND (SINGLE-FAMILY, UNPLATTED)

Based on Resolution 2020-35, the institutional tax parcel uses above should not be exempt from the City's stormwater assessment program.

As a result, 80 parcels, 288.10 net ERUs, and \$37,741.10 in revenue can be captured into the Stormwater Utility in this year's budget not originally forecasted. The property owners associated with the change of status from exemption to contributing will be notified via letter.

REQUESTING DEPARTMENT:

Public Works

FISCAL IMPACT:

Increase Storm Water Utility program revenue budget by \$37,741.10 to be placed in account 461-0000-343-7002.

RECOMMENDATION:

Motion to approve the revised Tax Exempt list per Resolution 2020-35 for the institutional tax parcel accounts account.

ATTACHMENTS:

Description

Palm Bay Stormwater Assessment Program Roll Development Overview
Resolution 2020-35

Palm Bay Stormwater Assessment Program

STORMWATER ASSESSMENT ROLL DEVELOPMENT

Government Services Group, Inc. (GSG) utilizes the previous year's stormwater assessment roll, most updated Brevard County Property Appraiser (PA) parcel data, and impervious area measurements provided by AECOM to generate the annual stormwater assessment roll. The updated stormwater assessment roll is provided to the City in August/September to be incorporated into the City's utility billing system for the upcoming fiscal year.

Throughout the year, as mitigation credits are processed, the City provides GSG with the pertinent mitigation credit information including:

- Parcel(s)/neighborhood to receive the mitigation credit
- Percentage of mitigation credit provided (i.e., 30%, 100%, etc.)
- Etc.

GSG incorporates the mitigation credit information into the stormwater assessment roll database and recalculates the parcel(s)' net ERUs. GSG also documents the effective date of the mitigation credit since the City's mitigation credit policy requires property owners to reapply every 5 years (effective March 2018).

GSG also provides support throughout the year to assist the City with customer inquiries. These inquiries include:

- How a property's ERUs were calculated?
- Review of ERUs assigned?
- Review of wetland/submerged areas?
- Etc.

If it is determined that an adjustment is required, GSG will make the adjustment in the stormwater assessment database (known as an override) which gets carried forward until such time as another adjustment is required.

FISCAL YEAR 2021-22 ROLL DEVELOPMENT

- GSG obtained updated parcel data from the PA on June 16, 2021.
- GSG compared the updated data with the FY 2020-21 final stormwater assessment roll to determine changes at the parcel level including:
 - DOR Code Changes – changes in the use of the property
 - Building information changes
 - Land area changes
 - PA Exemption Codes – used by the PA to determine tax exemption status including
 - EXCB – Fraternal Organization Clubhouse
 - EXED – Educationally Exempt Property
 - EXFR – Fraternity/Sorority
 - EXHA – Homes for the Aged
 - EXHS – Hospital
 - EXNP – Non-profit
 - EXRL – Religious
 - GSG utilizes these codes to identify the institutional tax-exempt parcels
 - New/dropped parcels
 - Etc.
- Based on the updated PA data, GSG then develops the Preliminary FY 2021-22 stormwater assessment roll and assigns ERUs as follows:
 - Single Family Residential Parcels
 - Determine ERUs based on the building footprint in the PA data.
 - Condo Parcels
 - AECOM measures all new condo complexes
 - GSG assigns ERUs to each condo parcel based on their proportionate share of the condo complex ERUs
 - General Parcels
 - AECOM measures all new general parcels
 - GSG calculates the total ERUs for each general parcels based on 100% of the impervious area and 15% of the pervious area minus submerged/wetlands.

The FY 2021-22 final stormwater assessment roll provided to the City included the following:

Assessment Roll Worksheet

- 77,261 parcels, 77,629.25 net ERUs and a total of \$9,772,044.56 stormwater assessment revenue (includes non-exempt and government parcels revenue only; does not include the exemption buy-down revenue amounts).
 - Non-Exempt Parcels
 - 76,392 parcels
 - 69,622.56 net ERUs
 - \$9,120,555.36 stormwater revenue
 - Government Parcels
 - 649 parcels
 - 4,973.20 Net ERUs
 - \$651,489.20 stormwater revenue
 - Institutional Tax-Exempt Parcels – this revenue represents a buy-down and was not populated in the stormwater roll provided since it was the City's policy decision to exempt institutional tax-exempt parcels
 - 185 parcels
 - 2,138.66 net ERUs
 - \$0.00 since these parcels are not charged

- Agricultural Exempt Parcels – this revenue represents a buy-down and was not populated in the stormwater roll provided since Statutorily these parcels cannot be charged.
 - 33 parcels
 - 894.83 net ERUs
 - \$0.00 since these parcels are not charged

Government Only Worksheet

- 649 parcels
- 4,973.20 net ERUs
- \$651,489.20 stormwater revenue

Original Institutional Tax Exempt Only Worksheet

- 185 parcels
- 2,138.66 net ERUs
- \$280,164.46 stormwater revenue buy-down

Agricultural Exempt Only Worksheet

- 33 parcels
- 894.83 net ERUs
- \$117,222.73 stormwater revenue buy-down

Adjustments Only Worksheet

- This worksheet represents the parcels whose stormwater assessment charge has changed since FY 2020-21.
 - 2,051 parcels

However, based on the Institutional Tax-Exemption Parcel Analysis below, the new buy-down for the stormwater assessment program exemptions is \$359,646.09.

- \$242,423.36 for institutional tax-exempt parcels
 - After removing the 80 parcels from the institutional tax exemption list based on Resolution 2020-35.
- \$117,222.73 for agricultural exempt parcels

INSTITUTIONAL TAX-EXEMPT PARCEL ANALYSIS

When determining the parcels that qualify for the institutional tax exemption, GSG utilized the PA's exemption codes and the parcel's taxable value. However, a review of the City's Resolution 2020-35, it appears that the codes identified in the resolution do not always match the types of parcels that the Property Appraiser provides exemptions. Below is a comparative list of the property uses associated with the PA's Exempt parcels and Resolution 2020-35.

| Resolution 2020-35 Defined Institutional Property | Property Uses Associated with PA Exemption Codes ¹ |
|---------------------------------------------------|---------------------------------------------------------------|
| | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) |
| | 0110 - SINGLE FAMILY RESIDENCE |
| | 0135 - TOWNHOUSE |
| | 0354 - LOW RISE APARTMENTS - 2 OR 3 STORIES - 50 UNITS A |
| | 0414 - CONDOMINIUM UNIT |
| | 0840 - QUADRUPLEX |
| 1000 - VACANT COMMERCIAL LAND | 1000 - VACANT COMMERCIAL LAND |
| | 1100 - RETAIL STORE - 1 UNIT |
| | 1210 - MIXED USE - COMMERCIAL PROPERTY |
| | 1222 - COMMERCIAL RELATED AMENITIES |
| | 1704 - CONDOMINIUM OFFICE UNIT |
| | 1710 - OFFICE BUILDING - MULTI TENANT - 1 STORY |
| | 1900 - PROFESSIONAL BUILDING - SINGLE TENANT - 1 STORY |
| | 1950 - DAY CARE CENTER |
| 2810 - PARKING LOT - PATRON | 2810 - PARKING LOT - PATRON |
| | 3220 - RECREATION HALL |
| 4000 - VACANT INDUSTRIAL LAND | 4000 - VACANT INDUSTRIAL LAND |
| 7000 - VACANT LAND - INSTITUTIONAL | 7000 - VACANT LAND - INSTITUTIONAL |
| 7100 - CHURCH | 7100 - CHURCH |
| 7200 - SCHOOL (PRIVATELY OWNED) | 7200 - SCHOOL (PRIVATELY OWNED) |
| 7210 - SCHOOL PRIVATE - CHURCH OWNED | |
| 7211 - CHURCH-OWNED EDUCATIONAL BUILDING | |
| 7220 - COLLEGE (PRIVATELY OWNED) | 7220 - COLLEGE (PRIVATELY OWNED) |
| 7230 - FRATERNITY OR SORORITY HOME | 7230 - FRATERNITY OR SORORITY HOME |
| 7300 - HOSPITAL-GENERAL (PRIVATELY OWNED) | 7300 - HOSPITAL-GENERAL (PRIVATELY OWNED) |
| 7310 - CLINIC | 7310 - CLINIC |
| 7400 - HOME FOR THE AGED | 7400 - HOME FOR THE AGED |
| 7500 - ASSISTED-CARE LIVING FACILITY | 7500 - ASSISTED-CARE LIVING FACILITY |
| 7510 - CHILDREN'S HOME | |
| 7515 - NON-PROFIT OR CHARITABLE SERVICES | |
| 7600 - MORTUARY | |
| 7610 - CEMETERY | 7610 - CEMETERY |
| 7620 CREMATORIUM | |
| 7700 - CLUBS, LODGES, AND UNION HALLS | 7700 - CLUBS, LODGES, AND UNION HALLS |
| 7800 - GYMNASIUM | |
| 7810 - FIRE STATION | |
| 7820 - LIBRARY | |
| 7841 - CONVALESCENT NURSING HOME | |
| 8400 - COLLEGE | 8400 - COLLEGE |
| 8500 - HOSPITAL | |
| | 9140 - UTILITY (TELEPHONE/TELEGRAPH) - IMPROVED |
| | 9909 - VACANT RESIDENTIAL LAND (SINGLE-FAMILY, UNPLATTED) |

¹ Yellow highlighting denotes non-qualifying codes based on Resolution 2020-35.

Based on Resolution 2020-35, the parcels with the yellow highlighted property uses should not be exempt from the City’s stormwater assessment program. This includes:

- 80 parcels
- 288.10 net ERUs
- \$37,741.10 revenue

Palm Bay Stormwater Non-Exempt Parcels That Are Tax Exempt²

| Account | Owner Name | Situs | Taxable Value | PA Exemption Code | DOR | Category | Mit Credit | Net ERU | Asmt |
|---------|-----------------------------------------------------------|-----------------------------------------|---------------|--------------------------------------|-----------------------------------------------------------|----------------|------------|---------|------------|
| 2832160 | 1436 TROUTMAN BLVD NE LLC | 1436 TROUTMAN BLVD NE PALM BAY FL 32905 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 1950 - DAY CARE CENTER | General Parcel | 0.00% | 4.48 | \$586.88 |
| 2826431 | APOSTOLIC REVIVAL CENTER | 2189 WASHINGTON ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.22 | \$28.82 |
| 2826270 | APOSTOLIC REVIVAL CENTER INC | 2214 WASHINGTON ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.22 | \$28.82 |
| 2826429 | APOSTOLIC REVIVAL CENTER INC | 2155 WASHINGTON ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.67 | \$87.77 |
| 2833513 | BOARD OF TRUSTEES OF THE FLORIDA ANNUAL CONFERENCE OF THE | 2796 RODEO DR NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.40 | \$183.40 |
| 2923459 | CENTERPOINTE CHURCH INC | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 8.88 | \$1,163.28 |
| 2923714 | CENTERPOINTE CHURCH INC | 871 COPLY ST SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 0.70 | \$91.70 |
| 2925030 | CENTERPOINTE CHURCH INC | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 9909 - VACANT RESIDENTIAL LAND (SINGLE-FAMILY, UNPLATTED) | General Parcel | 0.00% | 6.96 | \$911.76 |
| 2925031 | CENTERPOINTE CHURCH INC | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 9909 - VACANT RESIDENTIAL LAND (SINGLE-FAMILY, UNPLATTED) | General Parcel | 0.00% | 6.96 | \$911.76 |
| 2832829 | CENTRAL BREVARD HUMANE SOCIETY | 2890 PALM BAY RD NE PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 1710 - OFFICE BUILDING - MULTI TENANT - 1 STORY | General Parcel | 0.00% | 2.62 | \$343.22 |
| 2852299 | CENTRAL FLORIDA KIDNEY CENTERS INC | 240 MEDPLEX PKWY NE PALM BAY FL 32907 | \$0 | EXNP - NON-PROFIT | 1900 - PROFESSIONAL BUILDING - SINGLE TENANT - 1 STORY | General Parcel | 0.00% | 9.94 | \$1,302.14 |
| 2825848 | COMMUNITY OF HOPE INC | 2781 PARK LN NE PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 0.70 | \$91.70 |
| 2913306 | DEVEREUX FOUNDATION INC, THE | 442 GALLAGHER ST SW PALM BAY FL 32908 | \$0 | EXNP - NON-PROFIT | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.00 | \$131.00 |
| 2925516 | DEVEREUX FOUNDATION INC, THE | 212 AQUARIUS AVE SE PALM BAY FL 32909 | \$0 | EXNP - NON-PROFIT | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.00 | \$131.00 |
| 2832523 | DIOCESE OF ORLANDO | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.11 | \$14.41 |
| 2832688 | DIOCESE OF ORLANDO | 2821 POLLAK AVE NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 1.31 | \$171.61 |
| 2832689 | DIOCESE OF ORLANDO | 2801 POLLAK AVE NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.32 | \$41.92 |
| 2963453 | DIOCESE OF ORLANDO | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 30.00% | 20.47 | \$2,681.57 |
| 2838798 | DIOCESE OF ORLANDO | 949 HAAS AVE NE PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.40 | \$183.40 |
| 2925128 | DIOCESE OF ORLANDO | 251 ANTIQUERA ST SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.00 | \$131.00 |
| 2837464 | DIOCESE OF ORLANDO | 804 TETLOW CT NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0135 - TOWNHOUSE | Single Family | 0.00% | 0.70 | \$91.70 |
| 2837465 | DIOCESE OF ORLANDO | 834 TETLOW CT NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0135 - TOWNHOUSE | Single Family | 0.00% | 0.70 | \$91.70 |
| 2832693 | DIOCESE OF ORLANDO | 2824 PALM BAY RD NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 1210 - MIXED USE - COMMERCIAL PROPERTY | General Parcel | 0.00% | 0.99 | \$129.69 |

² These parcels should be incorporated into the City’s utility billing system and billed for the stormwater assessment charge.

| Account | Owner Name | Situs | Taxable Value | PA Exemption Code | DOR | Category | Mit Credit | Net ERU | Asmt |
|---------|---------------------------------------------------------|----------------------------------------------------|---------------|--------------------------------------|----------------------------------------------------------|----------------|------------|---------|------------|
| 2841240 | DOORWAY TO LEARNING ENRICHMENT | 1070 EMERSON DR NE PALM BAY FL 32907 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 1950 - DAY CARE CENTER | General Parcel | 0.00% | 4.07 | \$533.17 |
| 2923420 | EASTERN FLORIDA STATE COLLEGE | 57 SAN FILIPPO DR SE PALM BAY FL 32909 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 1222 - COMMERCIAL RELATED AMENITIES | General Parcel | 0.00% | 42.28 | \$5,538.68 |
| 2844718 | ELYON SCHOOL & CHILD CARE INC | 1516 NORMAN ST NE PALM BAY FL 32907 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 1950 - DAY CARE CENTER | General Parcel | 0.00% | 2.90 | \$379.90 |
| 2826278 | EVANS CENTER INC | 2263 PELHAM ST NE PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.22 | \$28.82 |
| 2826279 | EVANS CENTER INC | 2271 PELHAM ST NE PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.22 | \$28.82 |
| 2826280 | EVANS CENTER INC | 2279 PELHAM ST NE PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.22 | \$28.82 |
| 2826281 | EVANS CENTER INC | 1361 FLORIDA AVE NE PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 3220 - RECREATION HALL | General Parcel | 0.00% | 1.84 | \$241.04 |
| 2806285 | FAITH BAPTIST CHURCH OF PALM BAY INC | 491 ORLOV RD NW PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.00 | \$131.00 |
| 2826453 | FIRST CHURCH OF CHRIST OF | 2184 HENRY ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.22 | \$28.82 |
| 2826433 | FIRST CHURCH OF CHRIST OF FLA INC | 2196 NORTHVIEW ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.45 | \$58.95 |
| 2826454 | FIRST CHURCH OF CHRIST OF FLORIDA | 2197 HENRY ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.22 | \$28.82 |
| 2826452 | FIRST CHURCH OF CHRIST OF FLORIDA | 2179 HENRY ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.00 | \$131.00 |
| 2961159 | FIRST PENTECOSTAL CHURCH OF | 301 BRIGHTWATER DR SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 30.00% | 0.98 | \$128.38 |
| 2815657 | FIRST PENTECOSTAL CHURCH OF SOUTH | 173 AMERICANA BLVD NW PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.00 | \$131.00 |
| 2962140 | FIRST PENTECOSTAL CHURCH OF SOUTH | 403 GARDENDALE CIR SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 30.00% | 0.98 | \$128.38 |
| 2961091 | FLORIDA AID TO ANIMALS SPAY/NEUTER MEDICAL FACILITY INC | 3585 BAYSIDE LAKES BLVD SE PALM BAY FL 32909 | \$0 | EXNP - NON-PROFIT | 1100 - RETAIL STORE - 1 UNIT | General Parcel | 30.00% | 6.36 | \$833.16 |
| 2834917 | FLORIDA AUDUBON SOCIETY INC | UNKNOWN FL | \$0 | EXNP - NON-PROFIT | 1222 - COMMERCIAL RELATED AMENITIES | General Parcel | 0.00% | 2.48 | \$324.88 |
| 2831678 | FLORIDA INSTITUTE OF TECHNOLOGY | 1540 SKIPPERS WAY NE UNIT CLUBHS PALM BAY FL 32905 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 0354 - LOW RISE APARTMENTS - 2 OR 3 STORIES - 50 UNITS A | General Parcel | 0.00% | 51.32 | \$6,722.92 |
| 2851596 | GRACE BIBLE SANCTUARY CORPORATION | 786 JAMES CIR NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.00 | \$131.00 |
| 2813342 | HABITAT FOR HUMANITY OF BREVARD | 234 KRASSNER DR NW PALM BAY FL 32907 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.32 | \$41.92 |
| 2814592 | HABITAT FOR HUMANITY OF BREVARD | 1327 JUPITER BLVD NW PALM BAY FL 32907 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.32 | \$41.92 |
| 2833058 | HABITAT FOR HUMANITY OF BREVARD | 968 VANGI LN NE PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.26 | \$34.06 |
| 2834566 | HABITAT FOR HUMANITY OF BREVARD | 848 ABETO ST NE PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.24 | \$31.44 |
| 2900895 | HABITAT FOR HUMANITY OF BREVARD | 411 SAN PEDRO AVE SW PALM BAY FL 32908 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.33 | \$43.23 |
| 2929436 | HABITAT FOR HUMANITY OF BREVARD | 1128 JOHNSTON RD SE PALM BAY FL 32909 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.32 | \$41.92 |
| 2946124 | HABITAT FOR HUMANITY OF BREVARD | 2697 FIELDS AVE SE PALM BAY FL 32909 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.32 | \$41.92 |
| 2831685 | HABITAT FOR HUMANITY OF BREVARD | 4515 BABCOCK ST NE PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 1100 - RETAIL STORE - 1 UNIT | General Parcel | 0.00% | 15.50 | \$2,030.50 |
| 2803942 | HABITAT FOR HUMANITY OF BREVARD COUNTY INC | 1175 HOMER ST NW PALM BAY FL 32907 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.32 | \$41.92 |
| 2933579 | HABITAT FOR HUMANITY OF BREVARD COUNTY INC | 1327 PACKER RD SE PALM BAY FL 32909 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.45 | \$58.95 |

| Account | Owner Name | Situs | Taxable Value | PA Exemption Code | DOR | Category | Mit Credit | Net ERU | Asmt |
|--------------|--------------------------------------------|----------------------------------------------------|---------------|--------------------------------------|---------------------------------------------------------|-------------------|------------|---------------|--------------------|
| 2933580 | HABITAT FOR HUMANITY OF BREVARD COUNTY INC | 1339 PACKER RD SE PALM BAY FL 32909 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.38 | \$49.78 |
| 2944670 | HABITAT FOR HUMANITY OF BREVARD COUNTY INC | UNKNOWN FL | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.36 | \$47.16 |
| 2946550 | HABITAT FOR HUMANITY OF BREVARD COUNTY INC | 349 DAILEY ST SE PALM BAY FL 32909 | \$0 | EXNP - NON-PROFIT | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.33 | \$43.23 |
| 2829736 | HOMES FOR INDEPENDENCE SPACE COAST INC | 1400 SHEAFE AVE NE UNIT 104 PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 0135 - TOWNHOUSE | Single Family | 0.00% | 0.70 | \$91.70 |
| 2836962 | HOMES FOR INDEPENDENCE SPACE COAST INC | 1698 SUNNY BROOK LN NE UNIT G204 PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 0414 - CONDOMINIUM UNIT | Residential Condo | 0.00% | 0.35 | \$45.85 |
| 2845544 | JW CONGREGATION SUPPORT INC | 491 HEATHER AVE NE PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.32 | \$41.92 |
| 2845545 | JW CONGREGATION SUPPORT INC | 500 HEATHER AVE NE PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.32 | \$41.92 |
| 2831244 | KOREAN PRESBYTERIAN CHURCH OF | 2115 PALM BAY RD NE UNIT 7-E PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 1704 - CONDOMINIUM OFFICE UNIT | Commercial Condo | 0.00% | 0.87 | \$113.97 |
| 2831187 | LA PETITE ACADEMY INC | 2111 FRANKLIN DR NE PALM BAY FL 32905 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 1950 - DAY CARE CENTER | General Parcel | 0.00% | 3.34 | \$437.54 |
| 2805244 | LEARNING TREE ACADEMY OF PALM BAY INC | 207 EMERSON DR NW PALM BAY FL 32907 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 1950 - DAY CARE CENTER | General Parcel | 0.00% | 4.59 | \$601.29 |
| 2931090 | MRIGLOBAL | 1470 TREELAND BLVD SE UNIT LAB PALM BAY FL 32909 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 1900 - PROFESSIONAL BUILDING - SINGLE TENANT - 1 STORY | General Parcel | 0.00% | 23.13 | \$3,030.03 |
| 2826326 | MT MORIAH MISSIONARY BAPTIST | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 3.16 | \$413.96 |
| 2937384 | NEW TESTAMENT BETHEL MINISTRY INC | 469 GODFREY RD SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.00 | \$131.00 |
| 2936740 | ODYSSEY CHARTER SCHOOL INC | UNKNOWN FL | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 1.39 | \$182.09 |
| 2960804 | ODYSSEY CHARTER SCHOOL INC | UNKNOWN FL | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 1.95 | \$255.45 |
| 3020292 | ODYSSEY CHARTER SCHOOL INC | UNKNOWN FL | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 0010 - VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED) | General Parcel | 0.00% | 0.74 | \$96.94 |
| 2962949 | PINEAPPLE COVE REAL ESTATE LLC | 1795 ELDRON BLVD SE PALM BAY FL 32909 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 1950 - DAY CARE CENTER | General Parcel | 0.00% | 3.94 | \$516.14 |
| 2962950 | PINEAPPLE COVE REAL ESTATE LLC | 1785 ELDRON BLVD SE PALM BAY FL 32909 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 1950 - DAY CARE CENTER | General Parcel | 0.00% | 9.98 | \$1,307.38 |
| 2844658 | PLAYSMART LEARNING CENTER LLC | 111 TANGO AVE NE PALM BAY FL 32907 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 1950 - DAY CARE CENTER | General Parcel | 0.00% | 3.45 | \$451.95 |
| 2831795 | PREVENT OF BREVARD INC | 2061 HARBOR AVE NE PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.40 | \$183.40 |
| 2834924 | PRIBELL, RICHARD | 1803 PORT MALABAR BLVD NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.00 | \$131.00 |
| 2831198 | PUZZLE BOX ACADEMY PROPERTY HOLDING LLC | 2180 JULIAN AVE NE PALM BAY FL 32905 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 1950 - DAY CARE CENTER | General Parcel | 0.00% | 5.78 | \$757.18 |
| 2929916 | RELIGIOUS ORDER OF JEHOVAH'S WITNESS | 994 SABLE CIR SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 0.70 | \$91.70 |
| 2923012 | SOUTH BREVARD WOMEN'S CENTER INC | 320 MERCURY AVE SE PALM BAY FL 32909 | \$0 | EXNP - NON-PROFIT | 0840 - QUADRUPLEX | General Parcel | 0.00% | 1.65 | \$216.15 |
| 2923013 | SOUTH BREVARD WOMEN'S CENTER INC | 340 MERCURY AVE SE PALM BAY FL 32909 | \$0 | EXNP - NON-PROFIT | 0840 - QUADRUPLEX | General Parcel | 0.00% | 1.08 | \$141.48 |
| 2842267 | THE VILLAGE FOR FRIENDS PROPERTIES INC | 1311 EMERSON DR NE PALM BAY FL 32907 | \$0 | EXNP - NON-PROFIT | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.40 | \$183.40 |
| 2832694 | TRINITY BAPTIST CHURCH OF PALM BAY INC | 2821 PALM BAY RD NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 0110 - SINGLE FAMILY RESIDENCE | Single Family | 0.00% | 1.00 | \$131.00 |
| 2804059 | VICTORY MINISTRIES INC | 1345 GLENDALE AVE NW UNIT CELLTW PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 9140 - UTILITY (TELEPHONE/TELEGRAPH) - IMPROVED | General Parcel | 0.00% | 3.90 | \$510.90 |
| Total | | | | | | | | 288.10 | \$37,741.10 |

The following parcels will continue to be exempt from the stormwater assessment program based on Resolution 2020-35.

- 105 parcels
- 1,850.56 net ERUs
- \$242,423.36 stormwater institutional tax-exempt buy-down

Palm Bay Stormwater Institutional Tax-Exempt Parcels

| Account | Owner Name | Situs | Taxable Value | PA Exemption Code | DOR | Category | Mit Credit | Net ERU | Asmt |
|---------|-----------------------------------------------------------|----------------------------------------------|---------------|-----------------------------------------|---------------------------------------|----------------|------------|---------|------------|
| 2835676 | 1ST PRESBYTERIAN CHURCH OF PALM | 1080 PORT MALABAR BLVD NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 19.47 | \$2,550.57 |
| 2826430 | APOSTOLIC REVIVAL CENTER INC | 2179 WASHINGTON ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 0.72 | \$94.32 |
| 2835586 | BETHEL ABUNDANT LIFE MINISTRIES | 1851 MARKET CIR NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 20.59 | \$2,697.29 |
| 2835668 | BETHEL ABUNDANT LIFE MINISTRIES INC | 1081 PORT MALABAR BLVD NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 8.19 | \$1,072.89 |
| 2943334 | BETHESDA EVANGELICAL BAPTIST CHURCH INC | 1949 SAN FILIPPO DR SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 5.19 | \$679.89 |
| 2833018 | BOARD OF TRUSTEES OF THE FLORIDA ANNUAL CONFERENCE OF THE | 2100 PORT MALABAR BLVD NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 12.73 | \$1,667.63 |
| 2923458 | CENTERPOINTE CHURCH INC | 891 COPLY ST SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 26.29 | \$3,443.99 |
| 2832674 | CENTRAL BREVARD HUMANE SOCIETY | 2885 POLLAK AVE NE PALM BAY FL 32905 | \$0 | EXNP - NON-PROFIT | 1000 - VACANT COMMERCIAL LAND | General Parcel | 0.00% | 0.40 | \$52.40 |
| 2925028 | CHARLES F THOMAS IV POST 117 INC | 189 VETERANS DR SE PALM BAY FL 32909 | \$0 | EXCB - FRATERNAL ORGANIZATION CLUBHOUSE | 7700 - CLUBS, LODGES, AND UNION HALLS | General Parcel | 0.00% | 15.19 | \$1,989.89 |
| 2829445 | CHRISTIAN DEV CENTER A CHURCH | 343 NAIL ST NE PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 6.82 | \$893.42 |
| 2900045 | CHURCH OF GOD AT PALM BAY | 2270 JUPITER BLVD SW PALM BAY FL 32908 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 10.43 | \$1,366.33 |
| 2826346 | CHURCH OF GOD BY THE FAITH IN CHRIST INC | 2154 DR HARVEY RILEY ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 2.96 | \$387.76 |
| 2833631 | CHURCH OF OUR SAVIOR OF PALM BAY INC | 1000 JERSEY LN NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 17.18 | \$2,250.58 |
| 2804051 | COMMUNITY BIBLE CHURCH OF BREVARD | 91 EMERSON DR NW PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 9.00 | \$1,179.00 |
| 2923469 | COMMUNITY OF CHRIST | 1901 EMERSON DR SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 7.38 | \$966.78 |
| 2934968 | CORNERSTONE ASSEMBLY OF GOD | 901 TALPLIN ST SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 17.02 | \$2,229.62 |
| 2838324 | COVENANT PRESBYTERIAN | 720 EMERSON DR NE PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 26.90 | \$3,523.90 |
| 2838322 | COVENANT PRESBYTERIAN CHURCH OF | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 7000 - VACANT LAND - INSTITUTIONAL | General Parcel | 0.00% | 8.44 | \$1,105.64 |
| 2838323 | COVENANT PRESBYTERIAN CHURCH OF | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 7000 - VACANT LAND - INSTITUTIONAL | General Parcel | 0.00% | 3.22 | \$421.82 |
| 2852659 | COVENANT PRESBYTERIAN CHURCH OF | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 5.17 | \$677.27 |
| 2832691 | DIOCESE OF ORLANDO | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 1000 - VACANT COMMERCIAL LAND | General Parcel | 0.00% | 0.49 | \$64.19 |
| 2832692 | DIOCESE OF ORLANDO | 2820 PALM BAY RD NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 1000 - VACANT COMMERCIAL LAND | General Parcel | 0.00% | 0.32 | \$41.92 |
| 2925126 | DIOCESE OF ORLANDO | 121 BATTERSEA AVE SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 1000 - VACANT COMMERCIAL LAND | General Parcel | 0.00% | 0.32 | \$41.92 |
| 2925127 | DIOCESE OF ORLANDO | 127 BATTERSEA AVE SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 1000 - VACANT COMMERCIAL LAND | General Parcel | 0.00% | 0.32 | \$41.92 |

| Account | Owner Name | Situs | Taxable Value | PA Exemption Code | DOR | Category | Mit Credit | Net ERU | Asmt |
|---------|--------------------------------------------------|-------------------------------------------------------------|---------------|-----------------------------------------|---------------------------------------|----------------|------------|---------|-------------|
| 2836590 | DIOCESE OF ORLANDO | 5320 BABCOCK ST NE UNIT SCHOOL PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 62.73 | \$8,217.63 |
| 2925039 | DIOCESE OF ORLANDO | 300 MALABAR RD SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 35.17 | \$4,607.27 |
| 2832653 | DIOCESE OF ORLANDO | 1402 MILLER ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7610 - CEMETERY | General Parcel | 0.00% | 8.74 | \$1,144.94 |
| 2832685 | DIOCESE OF ORLANDO | 2851 POLLAK AVE NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7610 - CEMETERY | General Parcel | 0.00% | 4.58 | \$599.98 |
| 2844740 | EAST PALM BAY FL CONGREGATION | 1951 FALLON BLVD NE UNIT PARSON PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 7.61 | \$996.91 |
| 2924984 | EASTERN FLORIDA STATE COLLEGE | UNKNOWN FL | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 4000 - VACANT INDUSTRIAL LAND | General Parcel | 0.00% | 8.02 | \$1,050.62 |
| 2930868 | EASTERN FLORIDA STATE COLLEGE | UNKNOWN FL | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 4000 - VACANT INDUSTRIAL LAND | General Parcel | 0.00% | 16.58 | \$2,171.98 |
| 2931086 | EASTERN FLORIDA STATE COLLEGE | UNKNOWN FL | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 4000 - VACANT INDUSTRIAL LAND | General Parcel | 0.00% | 6.72 | \$880.32 |
| 2964938 | EASTERN FLORIDA STATE COLLEGE | UNKNOWN FL | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 4000 - VACANT INDUSTRIAL LAND | General Parcel | 0.00% | 0.40 | \$52.40 |
| 2964940 | EASTERN FLORIDA STATE COLLEGE | UNKNOWN FL | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 4000 - VACANT INDUSTRIAL LAND | General Parcel | 0.00% | 11.58 | \$1,516.98 |
| 2923329 | EASTERN FLORIDA STATE COLLEGE | 250 COMMUNITY COLLEGE PKWY SE UNIT COLLEG PALM BAY FL 32909 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 8400 - COLLEGE | General Parcel | 0.00% | 206.67 | \$27,073.77 |
| 2962739 | EASTERN FLORIDA STATE COLLEGE | 420 COMMUNITY COLLEGE PKWY SE PALM BAY FL 32909 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 8400 - COLLEGE | General Parcel | 0.00% | 164.19 | \$21,508.89 |
| 2964941 | EASTERN FLORIDA STATE COLLEGE FOUNDATION INC | UNKNOWN FL | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 4000 - VACANT INDUSTRIAL LAND | General Parcel | 0.00% | 4.18 | \$547.58 |
| 2806141 | FAITH BAPTIST CHURCH OF MELBOURNE | 341 EMERSON DR NW UNIT CHURCH PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 26.31 | \$3,446.61 |
| 2829541 | FIRST BAPTIST CHURCH OF PALM BAY | 1420 SPORTSMAN LN NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 42.11 | \$5,516.41 |
| 2826451 | FIRST CHURCH OF CHRIST OF | 2163 HENRY ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 1.04 | \$136.24 |
| 2832294 | FIRST FRENCH ADVENTIST CHURCH OF | 1200 GLENHAM DR NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 18.11 | \$2,372.41 |
| 2865682 | FIRST HAITIAN EVANGELICAL CHURCH OF PALM BAY INC | 90 EMERSON DR NW PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 10.56 | \$1,383.36 |
| 2841235 | FIRST PENTECOASTAL CHURCH OF | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 1000 - VACANT COMMERCIAL LAND | General Parcel | 0.00% | 5.64 | \$738.84 |
| 2959853 | FIRST PENTECOSTAL CHURCH OF | 2865 JUPITER BLVD SE UNIT O PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 10.12 | \$1,325.72 |
| 2841234 | FIRST PENTECOSTAL CHURCH OF SOUTH | 1021 EMERSON DR NE PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 40.15 | \$5,259.65 |
| 2826301 | FLORIDA AVENUE CHURCH OF CHRIST | 1281 FLORIDA AVE NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 3.05 | \$399.55 |
| 2832833 | FLORIDA INSTITUTE OF TECHNOLOGY | 4400 DIXIE HWY NE PALM BAY FL 32905 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 7220 - COLLEGE (PRIVATELY OWNED) | General Parcel | 0.00% | 22.79 | \$2,985.49 |
| 2866213 | FLORIDA INSTITUTE OF TECHNOLOGY INC | 2495 PALM BAY RD NE PALM BAY FL 32905 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 7220 - COLLEGE (PRIVATELY OWNED) | General Parcel | 0.00% | 36.06 | \$4,723.86 |
| 2832315 | FRATERNAL ORDER OF EAGLES PALM | 2570 PALM BAY RD NE PALM BAY FL 32905 | \$0 | EXCB - FRATERNAL ORGANIZATION CLUBHOUSE | 7700 - CLUBS, LODGES, AND UNION HALLS | General Parcel | 0.00% | 4.12 | \$539.72 |
| 2926311 | GLORY BOUND CHURCH OF GOD INC | 2855 JUPITER BLVD SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 20.96 | \$2,745.76 |
| 2962313 | GRACE BIBLE CHURCH OF PALM BAY | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 7000 - VACANT LAND - INSTITUTIONAL | General Parcel | 30.00% | 1.73 | \$226.63 |
| 2962314 | GRACE BIBLE CHURCH OF PALM BAY | 3620 BAYSIDE LAKES BLVD SE UNIT CHURCH PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 30.00% | 7.12 | \$932.72 |
| 2833017 | GRACE BIBLE SANCTUARY CORP | 726 JAMES CIR NE UNIT CHURCH PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 5.35 | \$700.85 |
| 2835615 | HOLMES REGIONAL MEDICAL CENTER | UNKNOWN FL | \$0 | EXHS - HOSPITAL | 1000 - VACANT COMMERCIAL LAND | General Parcel | 0.00% | 1.11 | \$145.41 |
| 2845876 | HOLMES REGIONAL MEDICAL CENTER | UNKNOWN FL | \$0 | EXHS - HOSPITAL | 1000 - VACANT COMMERCIAL LAND | General Parcel | 0.00% | 12.43 | \$1,628.33 |
| 2835613 | HOLMES REGIONAL MEDICAL CENTER | 5191 BABCOCK ST NE PALM BAY FL 32905 | \$0 | EXHS - HOSPITAL | 7310 - CLINIC | General Parcel | 0.00% | 8.05 | \$1,054.55 |

| Account | Owner Name | Situs | Taxable Value | PA Exemption Code | DOR | Category | Mit Credit | Net ERU | Asmt |
|---------|---------------------------------------|-----------------------------------------------------|-----------------------|-----------------------------------------|-------------------------------------------|----------------|------------|---------|-------------|
| 2852306 | HOLMES REGIONAL MEDICAL CENTER | 381 MEDPLEX PKWY NE PALM BAY FL 32907 | \$0 | EXHS - HOSPITAL | 7500 - ASSISTED-CARE LIVING FACILITY | General Parcel | 0.00% | 15.17 | \$1,987.27 |
| 2852440 | HOLMES REGIONAL MEDICAL CENTER INC | UNKNOWN FL | \$0 | EXHS - HOSPITAL | 7000 - VACANT LAND - INSTITUTIONAL | General Parcel | 0.00% | 1.56 | \$204.36 |
| 2845875 | HOLMES REGIONAL MEDICAL CENTER INC | 1421 MALABAR RD NE PALM BAY FL 32907 | \$0 | EXHS - HOSPITAL | 7300 - HOSPITAL-GENERAL (PRIVATELY OWNED) | General Parcel | 0.00% | 96.73 | \$12,671.63 |
| 2826399 | HOUSE OF GOD CHURCH OF THE LIVING | 2186 WASHINGTON ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 0.90 | \$117.90 |
| 2923016 | IGLESIA DE DIOS PENTECOSTAL | 381 THOR AVE SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 3.38 | \$442.78 |
| 2815424 | IGLESIA EL SINAI | 351 AMERICANA BLVD NW PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 12.83 | \$1,680.73 |
| 2841242 | JESUS CHRIST OF LATTER DAY SAINTS | 1065 EMERSON DR NE PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 22.12 | \$2,897.72 |
| 2925054 | JOY LUTHERAN CHURCH | 3174 JUPITER BLVD SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 10.22 | \$1,338.82 |
| 2844739 | JW CONGREGATION SUPPORT INC | 1990 FALLON BLVD NE PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 8.98 | \$1,176.38 |
| 2838319 | LOCKMAR BAPTIST CHURCH INC | 700 EMERSON DR NE PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 13.91 | \$1,822.21 |
| 2832162 | LONGANI, HANS R | 1450 TROUTMAN BLVD NE UNIT BLDG.B PALM BAY FL 32905 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 7200 - SCHOOL (PRIVATELY OWNED) | General Parcel | 0.00% | 9.75 | \$1,277.25 |
| 2832839 | LYMAN, JOHN S JR | 4401 DIXIE HWY NE PALM BAY FL 32905 | \$0 | EXCB - FRATERNAL ORGANIZATION CLUBHOUSE | 7700 - CLUBS, LODGES, AND UNION HALLS | General Parcel | 0.00% | 1.86 | \$243.66 |
| 2832411 | MINISTERIO EVANGELISTICO AUGA DE | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 1.68 | \$220.08 |
| 2826336 | MOUNT MORIAH MISSIONARY BAPTIST | 2294 DR HARVEY RILEY ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7000 - VACANT LAND - INSTITUTIONAL | General Parcel | 0.00% | 3.41 | \$446.71 |
| 2826328 | MOUNT MORIAH MISSIONARY BAPTIST | 2295 DR HARVEY RILEY ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 11.00 | \$1,441.00 |
| 2939469 | NEW BIRTH F BAPTIST CHURCH INC | 1180 SAN FILIPPO DR SE PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 6.66 | \$872.46 |
| 2939471 | ODYSSEY CHARTER SCHOOL INC | 1350 WYOMING DR SE UNIT SCHOOL PALM BAY FL 32909 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 7200 - SCHOOL (PRIVATELY OWNED) | General Parcel | 0.00% | 76.09 | \$9,967.79 |
| 2962316 | ODYSSEY CHARTER SCHOOL INC | 1755 ELDRON BLVD SE UNIT SCHOOL PALM BAY FL 32909 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 7200 - SCHOOL (PRIVATELY OWNED) | General Parcel | 30.00% | 24.15 | \$3,163.65 |
| 2805240 | OVERCOMER CHURCH OF GOD OF | 215 EMERSON DR NW PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 1000 - VACANT COMMERCIAL LAND | General Parcel | 0.00% | 1.86 | \$243.66 |
| 2964933 | PALM BAY ACADEMY INC | UNKNOWN FL | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 4000 - VACANT INDUSTRIAL LAND | General Parcel | 0.00% | 4.42 | \$579.02 |
| 2831876 | PALM BAY ACADEMY INC | 2112 PALM BAY RD NE PALM BAY FL 32905 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 7200 - SCHOOL (PRIVATELY OWNED) | General Parcel | 0.00% | 14.80 | \$1,938.80 |
| 2964935 | PALM BAY ACADEMY INC | 635 COMMUNITY COLLEGE PKWY SE PALM BAY FL 32909 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 7200 - SCHOOL (PRIVATELY OWNED) | General Parcel | 0.00% | 48.90 | \$6,405.90 |
| 2834912 | PEACE LUTHERAN CHURCH OF PALM BAY INC | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 22.65 | \$2,967.15 |
| 2826228 | PENTACOSTAL CHURCH OF THE LIVING | 2246 NORTHVIEW ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 2.20 | \$288.20 |
| 2825144 | PI KAPPA ALPHA HOUSE FOUNDATION | 2401 RIVERVIEW DR NE PALM BAY FL 32905 | \$0 | EXFR - FRATERNITY/SORORITY | 7230 - FRATERNITY OR SORORITY HOME | General Parcel | 0.00% | 6.87 | \$899.97 |
| 2862266 | PINEAPPLE COVE CLASSICAL ACADEMY INC | UNKNOWN FL | \$17,290 ³ | EXED - EDUCATIONALLY EXEMPT PROPERTY | 7200 - SCHOOL (PRIVATELY OWNED) | General Parcel | 0.00% | 0.22 | \$28.82 |
| 3011392 | PINEAPPLE COVE CLASSICAL ACADEMY INC | 6162 MINTON RD NW PALM BAY FL 32907 | \$6,314,790 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 7200 - SCHOOL (PRIVATELY OWNED) | General Parcel | 0.00% | 37.70 | \$4,938.70 |
| 3019427 | PINEAPPLE COVE CLASSICAL ACADEMY INC | UNKNOWN FL | \$11,030,040 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 7200 - SCHOOL (PRIVATELY OWNED) | General Parcel | 0.00% | 47.27 | \$6,192.37 |
| 2838320 | PRESBYTERIAN COVENANT CHURCH OF | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 5.85 | \$766.35 |

³ The taxable values for the Pineapple Cove parcels are from 2020. As of 2021 they show no taxable value on the PA's website. The difference is due to the date in which GSG obtained the PA data and the date the PA updated the taxable values for 2021. Also, the three Pineapple Cove parcels have merged into Account 3011392 for 2021 on the PA's website.

| Account | Owner Name | Situs | Taxable Value | PA Exemption Code | DOR | Category | Mit Credit | Net ERU | Asmt |
|--------------|-----------------------------------------------|--------------------------------------------------|---------------|--------------------------------------|---------------------------------|----------------|------------|-----------------|---------------------|
| 2813012 | PRIMERA IGLESIA BAUTISTA HISPANA | 350 KRASSNER DR NW PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 11.44 | \$1,498.64 |
| 2831197 | PUZZLE BOX ACADEMY PROPERTY HOLDING LLC | UNKNOWN FL | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 1000 - VACANT COMMERCIAL LAND | General Parcel | 0.00% | 0.64 | \$83.84 |
| 2861177 | RISEN SAVIOR LUTHERAN CHURCH | UNKNOWN FL | \$0 | EXRL - RELIGIOUS | 2810 - PARKING LOT - PATRON | General Parcel | 0.00% | 2.43 | \$318.33 |
| 2833024 | RISEN SAVIOR LUTHERN CHURCH | 2220 PORT MALABAR BLVD NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 7.18 | \$940.58 |
| 2934967 | RIVER OF LIFE CHRISTIAN CENTER OF ORLANDO INC | 2601 EMERSON DR SE UNIT CHURCH PALM BAY FL 32909 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 11.81 | \$1,547.11 |
| 2838307 | RIVIERA UNITED CHURCH OF CHRIST INC | 451 RIVIERA DR NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 31.91 | \$4,180.21 |
| 2841243 | SOUTHEASTERN CONFERENCE ASSOC OF | 1000 AMERICANA BLVD NE PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 14.62 | \$1,915.22 |
| 2831697 | SOUTHLAKE TOWERS LLLP | 5501 PINWOOD DR NE PALM BAY FL 32905 | \$0 | EXHA - HOMES FOR THE AGED | 7400 - HOME FOR THE AGED | General Parcel | 0.00% | 20.00 | \$2,620.00 |
| 2906950 | THE DIOCESE OF CENTRAL FLORIDA | 1225 DE GROODT RD SW PALM BAY FL 32908 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 15.87 | \$2,078.97 |
| 2852829 | THE HOUSE FAMILY MINISTRIES INC | 1510 BOTTLEBRUSH DR NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 19.58 | \$2,564.98 |
| 2806143 | TOMOKA CHRISTIAN CHURCH INC | 344 EMERSON DR NW PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 27.88 | \$3,652.28 |
| 2832695 | TRINITY BAPTIST CHURCH | 2809 PALM BAY RD NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 1.16 | \$151.96 |
| 2831234 | TRINITY HAITIAN BAPTISH CHURCH OF | 2145 PALM BAY RD NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7200 - SCHOOL (PRIVATELY OWNED) | General Parcel | 0.00% | 15.18 | \$1,988.58 |
| 2832698 | TRUTH REVEALED INTERNATIONAL MINISTRIES INC | 2833 PALM BAY RD NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 8.42 | \$1,103.02 |
| 2832686 | TRUTH REVEALED MINISTRIES INC | 2838 PALM BAY RD NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 7.97 | \$1,044.07 |
| 2835620 | VICTORY ASSEMBLY OF GOD OF | 1800 BLAINE ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 19.12 | \$2,504.72 |
| 2804058 | VICTORY MINISTRIES INC | 100 EMERSON DR NW PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 22.67 | \$2,969.77 |
| 2826404 | WALTON TEMPLE BREAD OF LIFE | 2138 WASHINGTON ST NE PALM BAY FL 32905 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 1.04 | \$136.24 |
| 2835673 | WISH UPON A STAR PRESCHOOL & | 5305 BABCOCK ST NE PALM BAY FL 32905 | \$0 | EXED - EDUCATIONALLY EXEMPT PROPERTY | 7200 - SCHOOL (PRIVATELY OWNED) | General Parcel | 0.00% | 30.25 | \$3,962.75 |
| 2805051 | YOGA SHAKTI MISSION INC | 3895 HIELD RD NW PALM BAY FL 32907 | \$0 | EXRL - RELIGIOUS | 7100 - CHURCH | General Parcel | 0.00% | 29.53 | \$3,868.43 |
| Total | | | | | | | | 1,850.56 | \$242,423.36 |

RESOLUTION 2020-35

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, RELATING TO THE PROVISION OF STORMWATER MANAGEMENT SERVICES; PROVIDING LEGISLATIVE FINDINGS; ESTABLISHING A STORMWATER MANAGEMENT AREA; PROVIDING FOR THE COMPUTATION AND IMPOSITION OF STORMWATER UTILITY FEES TO FUND THE CITY'S PROVISION OF STORMWATER MANAGEMENT SERVICES WITHIN THE STORMWATER MANAGEMENT AREA; ESTABLISHING THE METHODOLOGY PURSUANT TO WHICH STORMWATER UTILITY FEES WILL BE IMPOSED AGAINST TAX PARCELS OF BENEFITED PROPERTY; ESTABLISHING A MITIGATION POLICY; PROVIDING FOR NO STORMWATER UTILITY FEES TO BE IMPOSED AGAINST INSTITUTIONAL PROPERTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires:

"Agricultural Property" means a Tax Parcel containing a bona fide Farm Operation on land classified as agricultural pursuant to section 193.461, Florida Statutes.

"Benefited Property" means all parcels of real property that is located within the Stormwater Management Area that contains Impervious Area, Pervious Area (including vacant and undeveloped properties), or any combination thereof, and receives a benefit from the Stormwater Management Services.

"Building" means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a building.

"Building Footprint" means the actual square footage of a Building as reflected on the Tax Roll, divided by the number of levels or floors within the Building.

"Comprehensive Plan" means the most recent version of the comprehensive plan adopted by the Board pursuant to Chapter 163, Part II, Florida Statutes.

"Condominium Complex" means a condominium community created by a declaration of condominium pursuant to Chapter 718, Florida Statutes.

"Condominium Common Area Parcel" means a Tax Parcel of Benefited Property including one or more "common elements," as defined in section 718.103, Florida Statutes of a Condominium, the taxable value of which has been attributed to either Condominium Residential Unit Parcels or Condominium Non-Residential Unit Parcels by the Property Appraiser.

"Condominium Residential Unit Parcel" means a Tax Parcel of Benefited Property constituting a Condominium "unit," as defined in section 718.103, Florida Statutes, which contains a Dwelling Unit and is assigned a DOR Code 04 in the DOR Codes.

"Condominium Non-Residential Unit Parcel" means a Tax Parcel of Benefited Property constituting a Condominium "unit," as defined in section 718.103, Florida Statutes, which does not contain a Dwelling Unit and is assigned a DOR Code ending in 04 in the DOR Codes.

"DOR Code" means a property use code established in Rule 12D-8.008, Florida Administrative Code, as applied by the Property Appraiser.

"Drainage Basin" means a part of the earth's surface that contributes Stormwater runoff to a drainage system, which consists of diffuse surface waters, together with all natural or artificial tributary surface streams and/or bodies of impounded surface water.

"Dwelling Unit" means a Building, or a portion thereof, available to be used for residential purposes, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family only.

"Effective Impervious Area" means 100% of the Impervious Area attributable to a Benefited Property plus 15% of the Pervious Area attributable to such Benefited Property.

"ERU" means **"equivalent residential unit,"** the standard unit used to express the Stormwater burden expected to be generated by each parcel of property.

"ERU Value" means the Effective Impervious Area for a typical Single Family Parcel within the Stormwater Management Area, which the City has computed is equal to 4,693 square feet of Effective Impervious Area.

"Farm Operation" is as defined in section 163.3162(2), Florida Statutes.

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the Fiscal Year for the City.

"General Parcel" means a Tax Parcel of Benefited Property that is not a Single Family Parcel, a Condominium Common Area Parcel, a Condominium Residential Unit Parcel, or a Condominium Non-Residential Unit Parcel.

"Impervious Area" means hard surfaced areas which either prevent or severely restrict the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas and other surfaces which similarly affect the natural infiltration or runoff patterns which existed prior to development.

"Institutional Property" means a Tax Parcel assigned any of the following Property Use Codes: 1000 – Vacant Commercial Land; 2810 – Parking Lot - Patron; 4000 – Vacant Industrial Land; 7000 – Vacant Land - Institutional; 7100 – Church; 7200 – School Privately Owned; 7210 – School Private - Church Owned; 7211 – Church-owned Educational Building; 7220 – College Privately Owned; 7230 – Fraternity Or Sorority Home; 7300 – Hospital-general Privately Owned; 7310 – Clinic; 7400 – Home for the Aged; 7500 – Assisted-care Living Facility; 7510 – Children's Home; 7515 – Non-profit Or Charitable Services; 7600 – Mortuary; 7610 – Cemetery; 7620 – Crematorium; 7700 – Clubs, Lodges, and Union Halls; 7800 – Gymnasium; 7810 – Fire Station; 7820 – Library; 7841 – Convalescent Nursing Home; 8400 – College; 8500 – Hospital.

"Large Single Family Parcel" means a Single Family Parcel with a Building Footprint between 2,701 and 4,600 (inclusive) square feet.

"Medium Single Family Parcel" means a Single Family Parcel with a Building Footprint between 1,501 and 2,700 (inclusive) square feet.

"Mitigation Credit" means, for any Parcel of Benefited Property, a number between 0.0 and 1.00 representing a reduction in the Stormwater burden expected to be generated by such Parcel attributable to privately maintained Stormwater management facilities and other factors affecting the quantity or quality of Stormwater runoff.

"Mitigation Credit Factor" means the figure computed by subtracting the Mitigation Credit from 1.00.

"Mitigation Credit Policy" means the City of Palm Bay Stormwater Utility Mitigation Credit Policy attached hereto as Appendix B.

"Mitigation Facility" means a manmade facility or structure on the site of a Benefited Property which, by its design and function, retains or detains Stormwater on-site and thus generates less volume of Stormwater from the site or produces Stormwater runoff at a lower rate and/or with less pollutants than would be the case in the absence of such facilities or structure.

"Net ERU" means the standard unit used to express the Stormwater burden expected to be generated by each parcel of property, after taking into consideration any mitigation of the Stormwater burden that results from privately maintained Stormwater management facilities and other factors affecting the quantity, quality, or rate of Stormwater runoff.

"Ordinance" means the subchapter of chapter 174 of the City of Palm Bay Code of Ordinances entitled "Stormwater Management Utility."

"Pervious Area" means permeable areas which admit or more freely allow passage of water into the soil mantle. The Pervious Area of a Tax Parcel includes those areas which are not Impervious Area, Submerged Lands, and/or Wetlands.

"Property Use Codes" mean the property use codes assigned by the Brevard County Property Appraiser to properties within Brevard County.

"Single Family Parcel" means a Tax Parcel of Benefited Property assigned a DOR Code of 01, 02, or 0819 in the DOR Codes.

"Small Single Family Parcel" means a Single Family Parcel with a Building Footprint between 100 and 1,500 (inclusive) square feet.

"Stormwater" means any surface runoff and drainage of water from land surfaces, including both Impervious and Pervious Areas.

"Stormwater Improvement" means land, capital facilities and improvements acquired or provided to detain, retain, convey or treat Stormwater within the City.

"Stormwater Management Facilities" means the systems, facilities, lands, and water bodies utilized in collecting, conveying, storing, managing, and treating Stormwater generated within the Stormwater Management Area. The term includes but is not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components as well as natural waterways.

"Stormwater Management Service" means (A) management and administration of the City's Stormwater Management Utility, including administration, planning, and permitting requirements; (B) Stormwater program engineering; (C) Drainage Basin planning; (D) Stormwater Improvements to be acquired or constructed, including through

the issuance of debt or borrowing; (E) operating and maintaining the City's capital facilities for Stormwater management, including extraordinary maintenance; (F) billing and collection of Stormwater Utility Fees, including customer information and educational services and reserves for statutory discounts; and (G) legal, engineering and other consultant services.

"Stormwater Management System" or "System" means the network of facilities, both natural and man-made, utilized in collecting, conveying, storing, managing, and treating Stormwater, including but not limited to lakes, canals, rivers, streams, swales, culverts, pipes, wetlands, detention and retention basins, manholes, channels, drainage easements, and infiltration facilities which convey stormwater from the point of first impact with the surface of land to the receiving water.

"Stormwater Management Utility" means the entity established by the Ordinance to operate and administer the City's Stormwater Management System.

"Stormwater Management Utility Director" means the person designated by the City Public Works Department Director or City Manager to oversee and administer the City's Stormwater Management Utility.

"Stormwater Management Area" means the geographic area described in Appendix A attached hereto that encompasses all Tax Parcels within the City that specially benefit from the Stormwater Management Service.

"Stormwater Utility Fee" means a fee reasonably related to service provided by the City to fund all or any portion of the cost of providing Stormwater Management Services and/or Stormwater Management Facilities to Benefited Property, based upon such

property's Stormwater burden, the reasonable relationship to benefits received, and the reasonable cost of providing Stormwater Management Services to such property.

"Submerged Lands" means all lands permanently, or under ordinary circumstances nearly permanently, covered by water, including all waters on the surface of the Earth, contained in bounds created naturally or artificially, including bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, and other watercourses.

"Tax Parcel" means a parcel of property which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

"Very Large Single Family Parcel" means a Single Family Parcel with a Building Footprint greater than 4,600 square feet.

"Wetlands" means those areas as classified by the U.S. Fish and Wildlife Service that are inundated or saturated by Stormwater or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils.

SECTION 1.02. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this resolution; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this resolution. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

SECTION 1.03. GENERAL FINDINGS. It is hereby ascertained, determined and declared that:

(A) Pursuant to Article VIII, section 2(b), Florida Constitution, sections 166.021 and 166.041, Florida Statutes, and the Palm Bay Home Rule Charter, the City has all powers of local self-government to perform municipal functions and render municipal services except when prohibited by law.

(B) Section 403.0893, Florida Statutes, specifically authorizes and encourages the City to provide Stormwater Management Services and create Stormwater programs and adopt Stormwater charges sufficient to plan, construct, operate and maintain the Stormwater management systems.

(C) The City is responsible for the management and maintenance of the City's Stormwater Management System which has been developed for the purpose of collection, storage, treatment, and conveyance of Stormwater.

(D) The Stormwater Utility Fees authorized herein are consistent with the authority granted in section 403.0893, Florida Statutes. That statutory provision is additional and supplemental authority to the constitutional and statutory power of self-government granted to the City.

(E) The City maintains a system of Stormwater management facilities, including but not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components as well as natural waterways. Those elements of the Stormwater Management System that provide

for the collection, storage, treatment, and conveyance of Stormwater are of benefit and provide services to all Benefited Property within the Stormwater Management Area.

(F) As further described in the Ordinance, the public health, safety, and welfare are adversely affected by poor water quality and flooding resulting from inadequate Stormwater management practices.

(G) All Benefited Property either uses the Stormwater Management System or benefits from the provision and operation of the Stormwater Management Services provided by the City.

(H) The cost of operating and maintaining the Stormwater Management System and providing Stormwater Management Services in accordance with existing permits and the financing of existing and future repairs, replacements, improvements, and extensions thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed, services received, or burden caused therefrom.

(I) Property owners within the City are eligible for flood insurance through the National Flood Insurance Program (NFIP), which enables these property owners to acquire federally backed flood insurance protection. To ensure that this coverage is available, the City is required to meet the minimum FEMA requirements for participation in the NFIP and failure to meet these requirements could result in flood insurance being either unavailable or prohibitively expensive to property owners within the City.

(J) New and dedicated funding for the Stormwater management program of the City is needed to maintain compliance with state and federal requirements, for participation

in the NFIP, and the imposition of Stormwater Utility Fees is the most equitable method of providing this funding.

(K) Upon the adoption of this Stormwater Utility Fee Rate Resolution those certain reports entitled "City of Palm Bay, Florida, Stormwater Services Assessment Report," dated as of June, 2017 and prepared by Government Services Group, Inc., and "Revised Technical Memorandum dated August 10, 2017," prepared by AECOM (hereinafter collectively referred to as the "Stormwater Report"), are hereby adopted and incorporated herein by reference, including the assumptions, conclusions, and findings in such Stormwater Report as to the determination of the Stormwater Utility Fees and the costs of operating and maintaining the Stormwater Management System.

(L) The Stormwater Utility Fees authorized by this Stormwater Utility Fee Rate Resolution provide an equitable method of funding the Stormwater Management System by fairly and reasonably allocating the cost of providing Stormwater Management Services and Stormwater Management Facilities such to properties classified on the basis of the Stormwater burden expected to be generated by the physical characteristics and use of such property.

(M) The Stormwater Management Services provided by the City are necessitated by the existence of both Impervious Area and Pervious Area because both types of surfaces contribute Stormwater runoff to the City's Stormwater Management Facilities, which must be managed and treated by the City. Additionally, the City is required to undertake certain federally mandated permit activities for all properties within the Stormwater Management Area, including Pervious and Impervious Areas.

(N) The existence of both Impervious Area and Pervious Area contributes to the City's burden of managing Stormwater within the Stormwater Management Area. The Effective Impervious Area methodology utilized to calculate the Stormwater Utility Fees more accurately measures the expected Stormwater runoff from all Impervious Area and Pervious Area located on such properties and, as explained herein, provides an equitable method of calculating each property's proportionate share of the burden of providing Stormwater Management Services.

(O) If rainfall were applied at a constant rate to an Impervious Area, the Stormwater runoff from such Impervious Area would eventually reach a rate equal to the rate of the rainfall. As a result, absent specific Mitigation Facilities, 100% of the Stormwater from an Impervious Area would eventually reach the City's Stormwater Management Facilities. It is thus fair and reasonable to include 100% of the Impervious Area in determining such property's Stormwater contribution to the Stormwater Management Services.

(P) Pervious Areas also contribute to the amount of Stormwater runoff that is generated by property. However, the expected Stormwater generated by Pervious Area is less than that generated by Impervious Area due to the porous nature of Pervious Area and its ability to absorb some amount of water before it escapes the property. The absorbent potential of Pervious Areas is dictated by soil type as well as the slope of land, with sloped areas of a steeper grade generating more Stormwater runoff. Pursuant to the Stormwater Report, the Council finds that the City consists of mainly poorly drained soil types. Furthermore, the degree of slope found throughout the City varies. Thus, utilizing

engineering reference materials which categorize runoff by surface, slope, and soil type, as further described in the Stormwater Report, it is fair and reasonable to utilize a coefficient associated with poorly drained soil types with an intermediate level of slope to measure the expected Stormwater runoff generated by Pervious Area that will reach the City's Stormwater Management Facilities. Such coefficient is 15% and is a fair and reasonable factor to utilize in determining a property's Pervious Area's overall Stormwater contribution to the Stormwater Management Facilities.

(Q) Accordingly, it is fair and reasonable and consistent with the foregoing analysis to calculate the Effective Impervious Area of a Benefited Property as 100% of the Impervious Area plus 15% of the Pervious Area attributable to such property.

(R) Submerged Lands and Wetlands, which contain rather than contribute Stormwater, do not contribute to the burden of providing Stormwater Management Services and are not included in the calculation of the Effective Impervious Area attributable to a Benefited Property.

(S) Data representing the actual Effective Impervious Area of Single Family Parcels is not readily available or easily ascertainable. Furthermore, considering the comparatively large number of Single Family Parcels within the Stormwater Management Area, it would be administratively burdensome and costly to measure the Effective Impervious Area of all Single Family Parcels, and would not constitute an effective use of limited City resources.

(T) As further described in the Stormwater Report and in Article III hereof, utilizing a statistically valid sample of Single Family Parcels for which the Effective Impervious Area

was actually measured, the City determined that the Building Footprint of a Single Family Parcel correlates with the Effective Impervious Area of a Single Family Parcel and thus represents a reasonable method of estimating the Effective Impervious Area of a Single Family Parcel.

(U) Some Tax Parcels within the Stormwater Management Area may contain certain Mitigation Facilities, which are manmade facilities or structures on site that by their design and function retain and/or detain Stormwater on-site and thus generate less volume of Stormwater from the site or produces Stormwater runoff at a lower rate and/or with less pollutants than would be the case in the absence of such facilities or structure. It is fair and reasonable to reduce the Stormwater Utility Fees imposed upon such Tax Parcels by permitting them to apply for Mitigation Credits through the process described herein.

(V) In accordance with section 163.3162(3)(c), Florida Statutes, the City is prohibited from charging a Stormwater Utility Fee on certain Agricultural Property, if such Farm Operation has a National Pollution Discharge Elimination System Permit, an environmental resource permit, a works-of-the-district permit, or if it has implemented best management practices adopted as rules by the Florida Department of Environmental Protection, the Department of Agricultural and Consumer Services, or an appropriate water management district. Accordingly, any Owner of Agricultural Property demonstrating that they meet the outlined requirements shall be granted a Mitigation Credit from the Stormwater Utility Fee.

(W) Any shortfall in the expected proceeds from the Stormwater Utility Fee due to any reduction or exemption from payment thereof required by law or authorized by the

Council shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Stormwater Utility Fee. In the event a court of competent jurisdiction determines any exemption or reduction by the Council is improper or otherwise adversely affects the validity of the Stormwater Utility Fee, the sole and exclusive remedy shall be the imposition of a Stormwater Utility Fee, as applicable, upon each affected Tax Parcel in the amount that would have been otherwise imposed save for such reduction or exemption afforded to such Tax Parcel.

(X) Institutional Property whose use is exempt from ad valorem taxation under Florida law provides facilities and uses to the ownership, occupants, membership as well as the public in general that otherwise might be requested or required to be provided by the City and such uses thereof serve a public purpose and provide a public benefit. Therefore, it is fair and reasonable not to impose Stormwater Utility Fees upon Tax Parcels of Institutional Property whose use is wholly exempt from ad valorem taxation under Florida law.

ARTICLE II

STORMWATER UTILITY FEES

SECTION 2.01. STORMWATER MANAGEMENT AREA.

(A) The Stormwater Management Area shall include the property shown in Appendix A attached hereto and incorporated by reference, which includes all areas of the City that are presently equipped with Stormwater Management Facilities and are provided Stormwater Management Services by the City.

(B) The Stormwater Management Utility shall provide Stormwater Management Services to all Benefited Property within the Stormwater Management Area. All or any portion of the cost of providing Stormwater Management Services and Stormwater Management Facilities may be funded from the proceeds of the Stormwater Utility Fees.

(C) The Stormwater Management Utility may also acquire and construct capital facilities to assist and facilitate the provision of Stormwater Management Services within the Stormwater Management Area.

SECTION 2.02. IMPOSITION AND COMPUTATION.

(A) Beginning on October 1, 2020 and continuing each Fiscal Year thereafter until discontinued by appropriate action of the City Council, a Stormwater Utility Fee shall be imposed against all Benefitted Property within the Stormwater Management Area. The Stormwater Utility Fees shall be based upon the properties' demands for service from the Stormwater Utility and the Stormwater burden created by such properties, measured by the number of Net ERUs attributable to each Parcel of Benefited Property.

(B) The annual Stormwater Utility Fee will be computed for each Tax Parcel of Benefited Property located within the Stormwater Management Area by multiplying the number of Net ERUs attributable thereto by the per Net ERU rate of \$153.13131.00.

(C) Beginning on October 1, 2021, and annually on October 1 of each year thereafter, the Stormwater Utility Fee shall be automatically adjusted by the percent change for the latest twelve-month period as of the previous May 1 of the Consumer Price Index for all Urban Consumers for the U.S. City Average for all Services as published monthly by the U.S. Department of Commerce, Bureau of Labor Statistics.

SECTION 2.03. METHOD OF COLLECTION.

The Stormwater Utility Fees shall be billed and collected in monthly installments through the City's existing utility billing system, by separate bill (in installments or in full), or by any other method authorized in the Ordinance. At the discretion of the City, the Stormwater Utility Fees associated with multiple Tax Parcels may be merged on to one or more utility bills in the event such utility bill or bills are in the name of the same person or entity.

ARTICLE III

DETERMINATION OF NET ERUs

SECTION 3.01. CLASSIFICATION OF TAX PARCELS. Each Tax Parcel located within the Stormwater Management Area shall be assigned to one of the following classifications: Small Single Family Parcels, Medium Single Family Parcels, Large Single Family Parcels, Very Large Single Family Parcels, Condominium Residential Unit Parcels, Condominium Non-Residential Unit Parcels, Condominium Common Area Parcels, or General Parcels.

SECTION 3.02. SINGLE FAMILY PARCELS.

(A) The Council hereby finds and determines as follows:

(1) Single Family Parcels constitute approximately 53% of the approximate 76,531 Benefited Properties located within the Stormwater Management Area.

(2) The Pervious Area and Building Footprint information on the Tax Roll is the most comprehensive and recent data available for Single Family Parcels within the Stormwater Management Area. The cost of measuring or verifying the Effective Impervious

Area for each individual Single Family Parcel greatly exceeds any benefit to be derived from individual measurement and verification.

(3) Through a statistically valid sampling procedure of all Single Family Parcels within the Stormwater Management Area, it has been determined that the typical Single Family Parcel within the Stormwater Management Area contains 4,693 square feet of Effective Impervious Area and that a Single Family Parcel with 4,693 square feet of Effective Impervious Area equates to an average Building Footprint of 2,076 square feet.

(4) The Building Footprint of each Single Family Parcel as reflected on the Tax Roll constitutes a reasonable proxy for Effective Impervious Area.

(B) The City has estimated 4,693 square feet of Effective Impervious Area for a typical Medium Single Family Parcel within the Stormwater Management Area. Accordingly, the number of Net ERUs attributable to each Medium Single Family Parcel shall be computed by multiplying one (1) ERU by the appropriate Mitigation Credit Factor.

(C) The City has estimated 3,285 square feet of Effective Impervious Area for a typical Small Single Family Parcel within the Stormwater Management Area. Accordingly, the number of Net ERUs attributable to each Small Single Family Parcel shall be computed by multiplying 0.7 ERUs by the appropriate Mitigation Credit Factor.

(D) The City has estimated 6,526 square feet of Effective Impervious Area for a typical Large Single Family Parcel within the Stormwater Management Area. Accordingly, the number of Net ERUs attributable to each Large Single Family Parcel shall be computed by multiplying 1.4 ERUs by the appropriate Mitigation Credit Factor.

(E) The City has estimated 13,113 square feet of Effective Impervious Area for a typical Very Large Single Family Parcel within the Stormwater Service Area. Accordingly, the number of Net ERUs attributable to each Very Large Single Family Parcel shall be computed by multiplying 2.79 ERUs by the appropriate Mitigation Credit Factor.

SECTION 3.03. RESIDENTIAL CONDOMINIUM PARCELS.

(A) The Council hereby finds and determines as follows:

(1) A residential condominium constitutes a unique form of real property ownership comprised of Condominium Residential Unit Parcels, to which there may be an appurtenant undivided share in Condominium Common Area Parcels.

(2) It is fair and reasonable and in accordance with section 718.120, Florida Statutes, to attribute the Impervious Area of Condominium Common Area Parcels to the Condominium Residential Unit Parcels to which such Condominium Common Area Parcels are appurtenant.

(B) The number of Net ERUs attributable to each Condominium Residential Unit Parcel in a Condominium Complex shall be the amount computed by multiplying (a) the amount calculated by (i) dividing the Effective Impervious Area of the Condominium Complex in which the Condominium Residential Unit Parcel is located, including any Condominium Common Area Parcels, by the ERU Value, and (ii) dividing the result by the total number of Condominium Residential Unit Parcels located within such Condominium Complex, by (b) the appropriate Mitigation Credit Factor.

SECTION 3.04. NON-RESIDENTIAL CONDOMINIUM PARCELS.

(A) The Council hereby finds and determines as follows:

(1) A non-residential condominium constitutes a unique form of real property ownership comprised of Condominium Non-Residential Unit Parcels, to which there may be an appurtenant undivided share in Condominium Common Area Parcels.

(2) It is fair and reasonable and in accordance with Section 718.120, Florida Statutes, to attribute the Effective Impervious Area of Condominium Common Area Parcels to the Condominium Non-Residential Unit Parcels to which such Condominium Common Area Parcels are appurtenant.

(B) The number of Net ERUs attributable to each Condominium Non-Residential Unit Parcel in a Condominium Complex shall be the amount calculated by (a) dividing the Effective Impervious Area of the Condominium Complex in which the Condominium Non-Residential Unit Parcel is located, including any Condominium Common Area Parcels, by the ERU Value, and then (b) multiplying the total number of ERUs assigned to the Condominium Complex by the percentage of Building square footage allocated to all Condominium Non-Residential Unit Parcels to arrive at the total ERUs for all Condominium Non-Residential Unit Parcels, and then (c) dividing the total ERUs for all Condominium Non-Residential Unit Parcels by the amount determined by (i) dividing the square footage of each Condominium Non-Residential Unit Parcel by (ii) the total non-residential square footage in the Condominium Complex, and then (c) multiplying that figure by the appropriate Mitigation Credit Factor.

SECTION 3.05. GENERAL PARCELS. The number of Net ERUs attributable to each General Parcel shall be determined by (1) dividing the Effective Impervious Area of

the General Parcel by the ERU Value, and (2) multiplying the result by the appropriate Mitigation Credit Factor.

SECTION 3.06. APPROVAL OF MITIGATION POLICY.

(A) The Council hereby finds that the Mitigation Credit Policy is fair and reasonable and, therefore, approves the Mitigation Credit Policy attached hereto as Appendix B.

(B) The Council recognizes the benefits provided by privately maintained Mitigation Facilities. Properties supporting private Stormwater management facilities should be credited for the public benefits they provide. Accordingly, the number of ERUs otherwise attributable to such property shall be adjusted by a Mitigation Credit determined in accordance with the Mitigation Credit Policy.

(C) In order to receive a Mitigation Credit for which property is eligible, prior to September 1, 2020, and, thereafter, prior to the June 1 preceding the Fiscal Year for which reapplication is required, the property owner shall file a Mitigation Credit application with the Stormwater Management Utility Director on a form approved by the Stormwater Management Utility Director. The property owner may be required to provide the Stormwater Management Utility Director with "as built" drawings of the Stormwater management facility sealed by a Florida registered professional engineer, a certification from a Florida registered professional engineer as to the standards of retention and detention achieved by the facility, evidence of compliance with any exemptions mandated under state law, or such other reasonable requirements as may be necessary to effectuate the purposes of this Section.

(D) The Stormwater Management Utility Director, with the assistance of other members of the administrative staff of the City, shall, within forty-five (45) days after the filing of such application, review the application and such other supporting data that may be filed therewith and make such further investigation as may be reasonably required in order to determine if the applicant is qualified for a Mitigation Credit pursuant to this Section.

(E) The Stormwater Management Utility Director shall furnish his or her written decision to such applicant by United States mail, postage prepaid, addressed to the applicant at the address stated on the application.

(F) No Mitigation Credit shall be applied for service provided to property by a Mitigation Facility constructed or maintained with City funds. However, a Mitigation Credit shall be applied for service provided to property by a regional Mitigation Facility if the developer of the property provided a capital contribution to the regional facility in lieu of constructing on-site facilities.

(G) Upon approval, Mitigation Credits shall be valid and applicable for five (5) Fiscal Years, commencing with the Fiscal Year beginning October 1 subsequent to the date upon which the Mitigation Credits are approved. Provided, approved Mitigation Credits shall automatically terminate in the event a change of use or more intensive use occurs on the property subject to the Mitigation Credits. Mitigation Credits previously granted to a property may also be revoked at any time by the City upon notice to the property owners. Upon expiration, revocation, or termination of the Mitigation Credits as provided herein, property owners must reapply in accordance with paragraph (C) of this Section.

(H) Any Mitigation Credits previously granted by the City that are in full force and effect as of the effective date of this Resolution shall remain valid and applicable to the

Stormwater Utility Fee for five Fiscal Years (5) years, commencing with Fiscal Year 2020-21. All such previously approved Mitigation Credits shall otherwise be subject to the provisions of this Section 3.06 concerning expiration, revocation, and termination of Mitigation Credits.

SECTION 3.07. INSTITUTIONAL PROPERTIES.

No Stormwater Utility Fee shall be imposed upon a Tax Parcel of Institutional Property whose use is wholly exempt from ad valorem taxation under Florida law.

ARTICLE IV

GENERAL PROVISIONS

SECTION 4.01. ADJUSTMENT OF NET ERUs.

(A) Petitions for review of the number of Net ERUs attributed to any Tax Parcel shall be submitted to the Stormwater Management Utility Director, who shall have authority to correct any errors made in applying the provisions of Article III hereof to the Tax Parcel. The following procedures shall apply to all petitions.

(1) Each petition shall be made to the Stormwater Management Utility Director by the owner of the Tax Parcel or such owner's authorized agent.

(2) The petition shall be in writing and set forth, in detail, the grounds upon which adjustment is sought.

(3) The petition must be filed with the Stormwater Management Utility Director between October 1 and October 31 of the Fiscal Year for which adjustment is sought and shall be reviewed within 30 days of the filing date. Filing of a petition shall not extend the time for payment of any Stormwater Utility Fee. If the Stormwater Management Utility Director determines that the number of Net ERUs should be adjusted for any Tax

Parcel, the Stormwater Utility Fee for such Fiscal Year shall be corrected and the City shall refund the amount by which the Stormwater Utility Fee has been reduced or such amount shall be applied as a credit.

(4) The petitioner may be required, at petitioner's own cost, to provide supplemental information to the Stormwater Management Utility Director including, but not limited to, survey data approved by a professional land surveyor and/or engineering reports approved by a professional engineer. Failure to provide such information may result in the denial of the petition.

(5) The Stormwater Management Utility Director shall respond to each petition in writing.

(B) The Stormwater Management Utility Director may initiate adjustments to the number of Net ERUs attributed to any Tax Parcel. If the number of Net ERUs is reduced for any Tax Parcel, the Stormwater Utility Fee shall be corrected, and the City shall refund the amount by which the Stormwater Utility Fee has been reduced or such amount shall be applied as a credit.

SECTION 4.02 SEVERABILITY. If any clause, section or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 4.03 LIBERAL CONSTRUCTION. The terms and provisions of this Resolution shall be liberally construed to affect the purpose for which it is adopted.

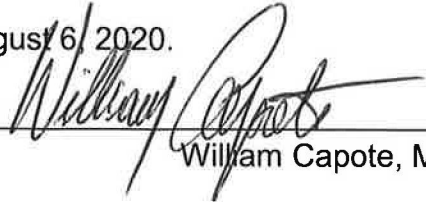
SECTION 4.04. EFFECTIVE DATE. This resolution shall take effect immediately upon its adoption, provided the Stormwater Utility Fees shall become effective as provided in Article II hereof.

This resolution was duly enacted at Meeting 2020-25, of the City Council of the City of Palm Bay, Brevard County, Florida, held on August 6, 2020.

ATTEST:


Terese M. Jones





William Capote, MAYOR

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: 

Patricia D. Smith, CITY ATTORNEY

APPENDIX A

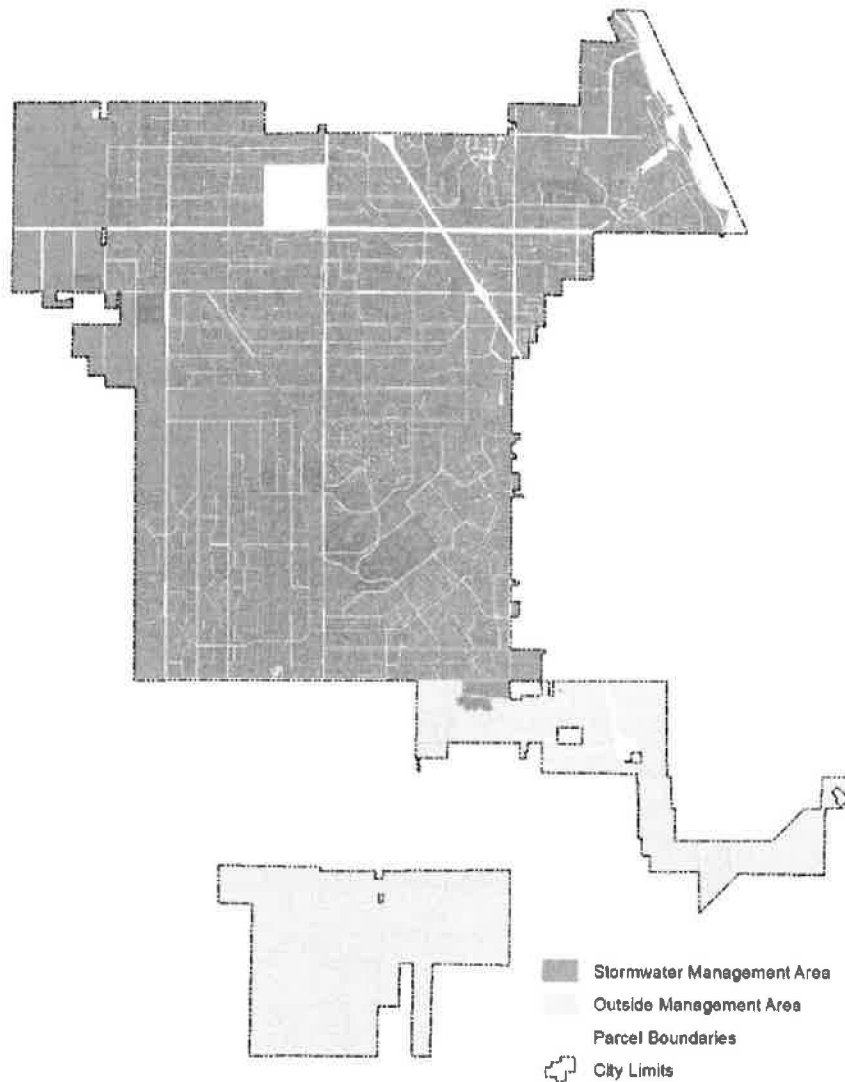
DESCRIPTION OF THE STORMWATER MANAGEMENT AREA

APPENDIX A

DESCRIPTION OF THE STORMWATER MANAGEMENT AREA

The Stormwater Management Area includes the following area:

Property located north of the Melbourne Tillman Drainage Canal #38
and the Waterstone Subdivision located southeast of Canal #38.



APPENDIX B

**CITY OF PALM BAY
STORMWATER MANAGEMENT UTILITY MITIGATION CREDIT POLICY**

APPENDIX B:

CITY OF PALM BAY

STORMWATER UTILITY MITIGATION CREDIT POLICY

CREDIT AND ADJUSTMENT POLICY

Stormwater Mitigation Credit Policy

The City recognizes that some developed properties subject to the stormwater utility fees have constructed and currently operate and maintain stormwater facilities that can reduce stormwater runoff impacts from the subject property and thus reduce the burden on the City to maintain, operate and provide capital improvements to the stormwater management system. An important feature of the stormwater utility fee process is the determination of mitigation credits in these situations. The proposed policy addresses mitigation credits as they apply to parcels that have participated in the private development and maintenance of man-made stormwater facilities, thus reducing the amount of runoff to be collected, conveyed or treated by the City's stormwater management program.

Mitigation Credit Application

Parcels subject to a stormwater charge may be granted a mitigation credit based on one of the following factors:

1. No stormwater discharges from any portion of the parcel, or no drainage to road right-of-way or any part of a stormwater system over which the City has maintenance responsibility.
2. Owner of parcel contributes monetarily to a Community Development District, Civic Association (Homeowners Association or Property Owners Association), or Special District which provides maintenance to non-City owned stormwater management facilities which accept drainage from the parcel; or the parcel has a properly permitted, maintained and functional onsite stormwater management system which treats and/or attenuates stormwater prior to discharge to the road right-of-way or stormwater system over which the City has maintenance responsibility.

Facilities must be in compliance with a valid Water Management District permit. Proof of compliance with Water Management District permit requirements and certification of proper operation and maintenance of the facility will be required on a periodic basis.

Rationale

Mitigation credits may be granted to parcels whose offsite stormwater impacts on the City system are non-existent, are mitigated by a properly functioning and permitted stormwater system, or the parcel owner contributes to the maintenance of a private system which provides stormwater treatment and attenuation for runoff to public right-of-way. The basis for these credits is as follows:

1. Parcels which do not discharge stormwater impose no direct stormwater maintenance burdens on the City's system. This provides a savings to the City on the cost of maintaining the City owned and operated stormwater facilities.
2. Parcel owners which contribute to the maintenance of privately held stormwater management facilities that treat runoff to reduce the pollutant load to receiving waters reduce the financial burden on the operation and maintenance of the City's stormwater treatment facilities and are eligible for a partial mitigation credit.
3. The City and the receiving waters receive benefits from privately-owned and properly maintained stormwater management facilities.
4. It is in the City's interest to encourage the proper operation and maintenance and continued existence of onsite stormwater management facilities.

Mitigation Credits

A property with functioning on-site drainage facilities may receive a stormwater management system user fee credit upon the following conditions:

| Condition | Credit |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| 1. Detention Systems – A parcel is eligible for a thirty percent (30%) credit from the user fee confirmed by the Director when the owner demonstrates that stormwater discharge rate (flow) from a detention system after development is less than or equal to the before development rate (flow) of the parcel for a 25-year, 24-hours storm event as defined by the appropriate Water Management District. The property owner must provide certification by a Florida licensed professional engineer that these requirements are met. | 30% |
| 2. Extended Detention System – A parcel is eligible for an additional credit up to twenty percent (20%) when the owner demonstrates that stormwater discharge rate (flow) from a detention system after development is less than the before development rate (flow) of the parcel for a 25-year, 24-hours storm event as defined by the appropriate Water Management District. (Credit is proportional to the percentage of runoff rate reduction achieved with a minimum fifty percent (50%) reduction in runoff rate needed to achieve a ten percent (10%) credit.) | Up to 20% |
| 3. Retention Systems – A parcel is eligible for a fifty percent (50%) credit from the user fee confirmed by the Director when the owner demonstrates that stormwater runoff is retained from a 25-year, 24-hour storm as defined by the appropriate Water Management District. The property owner must provide certification by a Florida licensed professional engineer that these requirements are met. | 50% |
| 4. Retention Systems – A parcel is eligible for a credit of up to one hundred percent (100%) of the amount of the user fee confirmed by the Director to be the percentage of stormwater runoff from a 100-year, 24-hour stormwater event which is retained on the property (credit is directly proportional to volume of runoff retained. Credit would be given after retention for the 25-year, 24-hour storm is achieved). | 100% |

| | | |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| 5. | A property that does not contribute stormwater to the utility and is not otherwise benefited by the utility shall be allowed a credit of one hundred percent (100%). | 100% |
| 6. | Property which is designated and delineated as wetlands, wetlands under conservation easements, or designated conservation lands shall be allowed a credit of one hundred percent (100%) effective October 1, 2011. Credits that are granted shall only be retroactive to the effective date of October 1, 2011, but retroactive credit shall not exceed one (1) year. Submittal of wetlands delineation report is required to receive credit. | 100% |

The above mitigation credits are not cumulative. Requests for mitigation credits with supporting documentation must be submitted to the City of Palm Bay to obtain the credit.

Right of Entry

In order to be eligible for a Mitigation Credit, the owner of the parcel must agree to allow the City to inspect the stormwater drainage facilities to ensure that they are maintained and functioning properly.

Agricultural Property

Agricultural Property meeting the requirements of Section 193.461, Florida Statutes, shall be exempt from the stormwater utility fee if the property owner provides appropriate documentation to the City that it has an active National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit or implements best management practices adopted as rules under Chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, Acting City Manager

THRU: Frank Watanabe, Public Works Director/City Engineer

DATE: 8/6/2020

RE: Resolution 2020-35, providing for the computation and imposition of stormwater utility fees to fund the City's provision of stormwater management services within the stormwater management area.

On Thursday July 2, 2020, Council adopted Ordinance No. 2020-29, amending Chapter 174 (Floodplain and Stormwater Management) of the Code of Ordinances; providing the foundation of the resolution brought forth today.

The Public Works Department is requesting the adoption of the Stormwater Utility Fee Rate Resolution which:

- establishes a Stormwater Management Area
- provides for the computation and imposition of Stormwater Utility Fees to fund the City's provision of Stormwater Management Services within the Stormwater Management Area
- establishes the annual Stormwater Utility Fee ERU rate of \$131.00
- establishes method of collection through the City's existing utility billing system
- establishes the methodology by which Stormwater Utility Fees will be calculated and applied to property within the Stormwater Management Area
- establishes a mitigation policy with a five (5) year renewal
- provides exemption of Stormwater Utility Fees for Institutional Properties.

Comparison of Stormwater Utility Rate Resolution Topics for years 2018 – 2021:

| Topic | Reference | 2018 – 2020 | 2021 |
|----------------------------|-------------------------|-------------|----------------|
| Stormwater Management Area | Appendix A | Same | Same |
| Computation and Imposition | Resolution Section 2.02 | Same | Same |
| Annual Rate | Resolution Section 2.02 | ≥ \$148.13 | \$131.00 |
| Method of Collection | Resolution Section 2.03 | Assessment | Utility Fee |
| Methodology | Resolution Article 3 | Same | Same |
| Mitigation Credit | Resolution Section 3.06 | No Renewal | 5-Year Renewal |
| Exemption | Resolution Section 3.07 | Same | Same |

If approved, the revenues collected will fund the administration, maintenance and construction of the City's stormwater system for the collection, storage, treatment and conveyance of stormwater and the City's NPDES permit.

REQUESTING DEPARTMENT:

City Manager's Office, Public Works, City Attorney's Office

FISCAL IMPACT:

Approval of the Stormwater Utility Rate Resolution at the \$131.00 ERU rate will result in an estimated \$8,973,884 in billed fees for the Stormwater Utility Fund from benefited properties and an estimated \$273,856 transfer from General Fund for institutional exemptions which is a total of \$9,247,740. To accomplish the rate reduction, an estimated \$1,000,000 will be absorbed by General Fund for Stormwater personnel, mowing and street sweeping activities.

RECOMMENDATION:

Motion to to approve the Stormwater Utility Fee Rate Resolution at the proposed rate of \$131.00 per ERU.

ATTACHMENTS:

Description

Resolution 2020-35



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Nelson Moya, Chief of Police

DATE: 12/16/2021

RE: Consideration of utilizing Police Impact Fees to purchase a police outreach vehicle (\$60,000).

It is the desire of the Palm Bay Police Department to utilize Police Impact fees for the purchase of a Police Outreach Vehicle. Launched in July 2021, the Community Services Section within the Uniform Services Division was created to provide a focus on community engagement between law enforcement and citizens. The new section will be primarily housed out of Northeast Palm Bay at the Police Substation. Working in coordination with the programmatic goals of the Department of Justice Cops Hiring Program grant awarded to the department in 2020, the Community Services section has several areas within 32905 identified for working towards improving relations between law enforcement and residents of all ages with the goal reducing violent firearm related incidents. One approach to achieve positive relations is through non-enforcement related police events and several agencies have seen success through the use of Police Outreach vehicles. The Palm Bay Police Department Police Outreach Vehicle will be outfitted as an ice cream truck to be utilized at special events and during the normal community policing efforts of the unit.

Due to purchasing and delivery delays, as well as pricing increases, related to COVID-19, the Palm Bay Police Department is requesting to utilize funds from the Police Impact Fees 32905 Nexus in the amount of \$60,000 to build out an operationally ready Police Outreach Vehicle. The requested amount provides a buffer to cover any pricing increases that may occur when the new vehicle costs are released for the 2023 models (next model year available for purchasing).

REQUESTING DEPARTMENT:
Police Department

FISCAL IMPACT:
Funding for the base vehicle and additional specialty equipment needed for the Police Outreach Vehicle utilizing Impact Fees from the 32905 Nexus will be allocated on a future Budget Amendment from Police Impact Fees Undesignated Fund Balance/Nexus 32905 G/L# 180-0000-392-1001 (\$60,000) to Police Impact Fees Nexus 32905 – Light Vehicles G/L# 180-5050-521-6403 (\$59,970) and Tags/Titles G/L# 180-5050-521-4904 (\$130). The available balance as of today for Police Impact Fees 32905 Nexus is \$171,772.69.

RECOMMENDATION:

Motion to approve the appropriation of Police Impact Fees from the 32905 Nexus on the next budget amendment for the purchase of a Police Outreach Vehicle.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Joan Junkala-Brown, Deputy City Manager

DATE: 12/16/2021

RE: Consideration of a salary increase (11%) for the Chief Building Official.

The City Manager's Office is requesting Council's consideration of an increase to Chief Building Official's annual salary, contingent and effective upon City Council approval of the re-organization of the Code Compliance Division from the Growth Management Department to the Building Department, for which the amendments to the City's Code of Ordinances (CoO), Chapters 37 (Growth Management Department) and 40 (Building Department) are included under a separate agenda item for first reading at the December 16, 2021 Regular Council Meeting (RCM) with second and final reading to occur on January 6, 2022.

The request to increase the salary of the Chief Building Official (CBO), Mr. Valentino Perez, is justified by the additional responsibilities assigned with the re-organization and oversight of the Code Compliance Division. The Code Compliance Division consists of eight (8) FTEs and one (1) part-time employee, to include one (1) Code Compliance Supervisor, five (5) Code Compliance Officers, two (2) secretaries and one (1) part-time secretary. The Division is also responsible for preparing agendas, cases, and meeting minutes for the Code Enforcement Board.

Mr. Perez was hired on June 1, 2020 to serve as the CBO/Building Division Manager, formerly a division of the Growth Management Department. In mid-2020, the City established a standalone Building Department, charged with overseeing a staff of approximately 35 and the building construction for both residential and commercial development processes, to include issuing building permits and certificates of occupancy. Since establishing the Department, Mr. Perez has identified multiple opportunities for process improvements, streamlined permitting, implemented an expedited permitting process and drone roof and high-rise inspections. Valentino is currently leading the Department towards obtaining the International Accreditation Services (IAS) recognition as well as implementing software for electronic plan review submittals.

As well as being a Certified Chief Building Official, Valentino holds specialized certificates as Electrical Inspector, Electrical Plans Examiner, Building Inspector, Building Plans Examiner and is a Florida licensed Electrical Contractor. Valentino is currently working towards becoming a Florida licensed Fire Inspector 1. Mr. Perez's annual performance evaluation conducted in June 2021 notes strong leadership skills, dependability, serving as a team-player by providing assistance with implementing process improvements in other departments, and fostering stronger relationships between the Department and building contractors.

In addition to the re-organization of the Code Compliance Division, Valentino Perez submitted a request for a one-time salary increase on June 17, 2021. A recent inquiry to the City of Port St. Lucie, a city of comparable size and history recently implemented a new master pay plan which provides a salary range for position of Building Official of \$101,229.25 - 156,905.33 with a mid-range salary of \$129,067.28. The City of Palm Bay's salary range for the position of Chief Building Official is \$80,364 - 121,017. The Chief Building Official position is a G1-AN pay grade with a salary range of \$80,364 - \$121,017. Mr. Perez currently makes an annual salary of \$109,015. The City Manager's Office is requesting to increase Mr. Perez's salary to the maximum of the paygrade, \$121,017, an 11 percent increase.

The Code Compliance Division is responsible for ensuring compliance with the Palm Bay Code of Ordinances. As the activities are not regulated by the Florida Building Code, funds associated with Code Compliance activities shall not be co-mingled with the Building Enterprise Funds. All funds related to Code Compliance shall be in a separate fund and shall not be supplemented by the City's Building Enterprise Fund to be legally compliant. Therefore, the Building and Finance Departments will prepare the necessary budget amendments to move the Code Compliance Division accounts from Growth Management's general fund account to a newly created Building Department general fund account.

Similarly, the supervision of the Code Compliance Division by the Chief Building Official will require that the salary increase, and associated benefits, related to the additional responsibilities be split between the Building Fund and General Fund according to a percentage split of 90.083 percent from the Fund 451 (Building Enterprise Fund) and 9.917 percent from Fund 001 (General Fund). Benefits include retirement, FICA, health insurance, OED, Benefits Credit, Workers Comp, and Auto Allowance. If approved, the increase for FY 2022 will be funded initially by undesignated fund balance and budgeted according to the percentage split in the appropriate accounts each fiscal year starting FY 2023.

REQUESTING DEPARTMENT:

City Manager's Office, Building Department

FISCAL IMPACT:

The current salary and all benefits of the Chief Building Official (CBO) is included in the FY 2022 adopted budget, Fund 452 (Building Enterprise Fund).

The full year fiscal impact of this salary change includes a total of \$16,731, to include the increase in salary and associated benefits (Retirement and FICA) between the Building Fund and General Fund. The Building Fund will realize a savings of \$1,232; these funds will be returned to the Building Fund Undesignated Fund Balance (451-0000-392.30-06). For a full fiscal year, the General Fund would realize an increase in personnel costs totaling \$17,962; these funds will be appropriated from General Fund Undesignated Fund Balance (001-0000-392.10-01). Refer to the attached FY 2022 Fiscal Impact. If approved, staff will bring forth a budget amendment to reflect the salary increase and move of Code Compliance Division accounts with the next schedule budget amendment. The actual amount budgeted will be less than above due to funding being needed for the remaining portion of the fiscal year.

RECOMMENDATION:

Motion to approve an 11 percent salary increase for the Chief Building Official to be funded by General Fund undesignated fund balance for FY 2022.

ATTACHMENTS:

Description

FY 2022 Fiscal Impact (Chief Building Official)

| FTE TITLE | FTE NAME | ANNUAL SALARY FY 22 | RETIREMENT | FICA | HEALTH INSURANCE | OEB | BENEFITS CREDIT | WORKERS COMP | AUTO ALLOWANCE | TOTAL |
|------------------------------------------------|------------------|------------------------|------------|-------|---------------------|-----|--------------------|-----------------|-------------------|---------|
| Chief Building Official | PEREZ, Valentino | 109,015 | 8,176 | 8,152 | 30,931 | 696 | 797 | 1,770 | 4,860 | 164,397 |
| Chief Building Official | PEREZ, Valentino | 121,017 | 11,799 | 9,258 | 30,931 | 696 | 797 | 1,770 | 4,860 | 181,128 |
| CURRENT FY 2022 SET-UP | | | | | | | | | | |
| CHIEF BUILDING OFFICIAL | 100.000% | 0.000% | 100.00% | | | | | | | |
| PEREZ, Valentino | 451/BUILDING | 001/GENERAL | TOTAL | | | | | | | |
| ANNUAL SALARY/1110 | 109,015.14 | 0.00 | 109,015.14 | 0.00 | | | | | | |
| RETIREMENT/2210 | 8,175.96 | 0.00 | 8,175.96 | 0.00 | | | | | | |
| FICA/2110 | 8,152.04 | 0.00 | 8,152.04 | 0.00 | | | | | | |
| HEALTH INSURANCE/2320 | 30,931.00 | 0.00 | 30,931.00 | 0.00 | | | | | | |
| OEB/2330 | 696.00 | 0.00 | 696.00 | 0.00 | | | | | | |
| BENEFITS CREDIT/1512 | 797.16 | 0.00 | 797.16 | 0.00 | | | | | | |
| WORKERS COMP/2410 | 1,770.00 | 0.00 | 1,770.00 | 0.00 | | | | | | |
| AUTO ALLOWANCE/1810 | 4,860.00 | 0.00 | 4,860.00 | 0.00 | | | | | | |
| TOTAL IMPACT | 164,397.30 | 0.00 | 164,397.30 | | | | | | | |
| NEW FY 2022 SET-UP WITH INCREASE/POST APPROVAL | | | | | | | | | | |
| CHIEF BUILDING OFFICIAL | 90.083% | 9.917% | 100.00% | | | | | | | |
| PEREZ, Valentino | 451/BUILDING | 001/GENERAL | TOTAL | | | | | | | |
| ANNUAL SALARY/1110 | 109,015.74 | 12,001.26 | 121,017.00 | 0.00 | | | | | | |
| RETIREMENT/2210 | 10,629.04 | 1,170.12 | 11,799.16 | 0.00 | | | | | | |
| FICA/2110 | 8,339.70 | 918.10 | 9,257.80 | 0.00 | | | | | | |
| HEALTH INSURANCE/2320 | 27,863.57 | 3,067.43 | 30,931.00 | 0.00 | | | | | | |
| OEB/2330 | 626.98 | 69.02 | 696.00 | 0.00 | | | | | | |
| BENEFITS CREDIT/1512 | 718.11 | 79.05 | 797.16 | 0.00 | | | | | | |
| WORKERS COMP/2410 | 1,594.47 | 175.53 | 1,770.00 | 0.00 | | | | | | |
| AUTO ALLOWANCE/1810 | 4,378.03 | 481.97 | 4,860.00 | 0.00 | | | | | | |
| TOTAL IMPACT | 163,165.64 | 17,962.48 | 181,128.12 | | | | | | | |
| ANNUAL FUND DIFFERENCE | | | | | | | | | | |
| | (1,232) | 17,962 | 16,731 | | | | | | | |

Program : PR815L
 Dp/Dv/Act: 3120-524 BUILDING/BUILDING

Payroll Projection Report
 10/01/21 to 9/29/22

| Position Employee | Seq | Start Rate | Review Amount | General Amount | End Rate | Starting Grd/Stp | End Stp | Description | Amount |
|---------------------------------------------------|-----|---------------|------------------|-------------------|-------------|---------------------|------------|--------------------------|--------------|
| BUILDING INSPECTOR PROVIS Unfilled auth, 00004 | 40 | 19.4312 | .0000 0/00/00 | .5829 10/01/21 | 20.0141 | WO | 1 1 | REGULAR HOURS | 41,629.38 |
| | | | | | | | | Total wages | 41,629.38 * |
| | | | | | | | | BENEFIT CREDIT | 615.16 |
| | | | | | | | | CLOTH ALLOW/NW | 100.00 |
| | | | | | | | | Total additional pays | 715.16 * |
| | | | | | | | | MEDICAL OAP EE ONLY | 12,598.00 |
| | | | | | | | | OEB ALL OTHER FUNDS | 696.00 |
| | | | | | | | | RETIREMENT - NAGE WHITE | 1,248.78 |
| | | | | | | | | RETIREMENT-NAGE MATCH 6% | 2,497.82 |
| | | | | | | | | TAXES MEDICARE | 614.12 |
| | | | | | | | | TAXES SOCIAL SECURITY | 2,625.48 |
| | | | | | | | | WORKERS COMPENSATION | 1,770.00 |
| | | | | | | | | Total benefits | 22,050.20 * |
| | | | | | | | | Total expense | 64,394.74 ** |

Percent Project Account
 100.000 451-3120-524.12-10

| | | | | | | | | | |
|---------------------------------------------|----|---------|-------------------|--------------------|---------|----|-----|---------------------------|---------------|
| CHIEF BUILDING OFFICIAL PEREZ, VALENTINO | 32 | 50.8846 | .0000 12/01/20 | 1.5265 10/01/21 | 52.4111 | AN | 1 1 | REGULAR HOURS | 109,015.14 |
| | | | | | | | | Total wages | 109,015.14 * |
| | | | | | | | | AUTO ALLOWANCE | 4,860.00 |
| | | | | | | | | BENEFIT CREDIT | 797.16 |
| | | | | | | | | Total additional pays | 5,657.16 * |
| | | | | | | | | MEDICAL OAP FAMILY | 30,931.00 |
| | | | | | | | | OEB ALL OTHER FUNDS | 696.00 |
| | | | | | | | | RET - GEN EXEC MATCH 1-6% | 4,087.98 |
| | | | | | | | | RETIREMENT - GEN EXEC | 4,087.98 |
| | | | | | | | | TAXES MEDICARE | 1,545.18 |
| | | | | | | | | TAXES SOCIAL SECURITY | 6,606.86 |
| | | | | | | | | WORKERS COMPENSATION | 1,770.00 |
| | | | | | | | | Total benefits | 49,725.00 * |
| | | | | | | | | Total expense | 164,397.30 ** |

Percent Project Account
 100.000 451-3120-524.11-10

| | | | | | | | | | |
|--------------------------------------------------|----|---------|------------------|-------------------|---------|---|-----|---------------------------|--------------|
| COMMUNITY OUTREACH COORD Unfilled auth, 00001 | 36 | 19.8274 | .0000 0/00/00 | .5948 10/01/21 | 20.4222 | Q | 1 1 | REGULAR HOURS | 42,478.28 |
| | | | | | | | | Total wages | 42,478.28 * |
| | | | | | | | | BENEFIT CREDIT | 797.16 |
| | | | | | | | | Total additional pays | 797.16 * |
| | | | | | | | | MEDICAL OAP EE ONLY | 12,598.00 |
| | | | | | | | | OEB ALL OTHER FUNDS | 696.00 |
| | | | | | | | | RETIREMENT - GEN MATCH 6% | 2,548.78 |
| | | | | | | | | RETIREMENT - GENERAL | 1,274.26 |
| | | | | | | | | TAXES MEDICARE | 627.38 |
| | | | | | | | | TAXES SOCIAL SECURITY | 2,683.20 |
| | | | | | | | | WORKERS COMPENSATION | 1,770.00 |
| | | | | | | | | Total benefits | 22,197.62 * |
| | | | | | | | | Total expense | 65,473.06 ** |

Angelica Collins

From: Joy Barnett
Sent: Wednesday, November 17, 2021 8:39 AM
To: Angelica Collins; Valentino Perez
Subject: RE: Re-org of Code Compliance

Yes. Code will remain under the General Fund.

My salary split will be as follows:

My Salary will be brought up to \$121,017

My current salary of \$109,015 will remain under Building Fund

The difference of \$12,002 will come from General Fund Code Enforcement Acct.

Please let me know if you have any questions. Thanks



Joy Barnett
Building Department
Administrative Services Manager

☎ 321.726.5642 ext. 4455

**** Building Department Customer Service Survey:** Please take a few moments to let us know how effective we were in assisting you.

www.palmbayflorida.org/buildingfeedback



From: Angelica Collins <Angelica.Collins@palmbayflorida.org>
Sent: Wednesday, November 17, 2021 8:02 AM
To: Valentino Perez <Valentino.Perez@palmbayflorida.org>
Cc: Joy Barnett <Joy.Barnett@palmbayflorida.org>
Subject: RE: Re-org of Code Compliance



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Nancy A. Bunt, Community & Economic Development Director

DATE: 12/16/2021

RE: Consideration of a budget amendment for NSP, HOME, CDBG, and SHIP Programs as part of ongoing housing programs cleanup.

Housing staff has been conducting ongoing reconciliation of the various housing programs and funds to ensure that expenses and revenues are properly recorded in the City's financial system, H.T.E. As part of this ongoing reconciliation, Housing Division staff has identified that \$1,533.24 in lawn care maintenance costs charged to Fund 123/NSP in FY 2021 for two City-owned properties located at 2171 and 2173 Northview Street NE should be charged to Fund 001/General Fund and not Fund 123/NSP. These two properties were donated to the City in May of 2018 and were originally intended to be NSP-designated properties. However, they are no longer designated for NSP and these expenses must be transferred out of Fund 123/NSP and into Fund 001/General Fund. As such, the Housing Division staff is requesting to transfer \$1,533.24 from Fund 123/NSP Undesignated Fund Balance to Fund 001/General Fund C&ED/Housing Division account 001-3411-554-3141 to cover these expenses.

Housing staff also completed a reconciliation of the HOME Investment Partnership program as part of the FY 17-18 monitoring conducted by Brevard County, lead agency for the Brevard County HOME Consortium. As part of the monitoring response, Housing staff identified program income reported incorrectly in FY 2019 to the HOME program. \$9,017.05 in program income should have been recorded in Fund 111/SHIP and \$7,646.66 in program income should have been recorded in Fund 112/CDBG. As such, Housing staff is requesting that \$16,663.71 in program income recorded in Fund 114/HOME be transferred to Fund 111/SHIP (\$9,017.05) and Fund 112/CDBG (\$7,646.66). These errors occurred under the former Housing Administrator in 2019.

REQUESTING DEPARTMENT:
Community & Economic Development

FISCAL IMPACT:

Budget Amendment to go on Budget Amendment #1 for the following:

1. \$1,533.24 from 123-0000-392-1001 to 001-3411-554-3141 (project 09CD03)
2. \$9,017.05 from 114-0000-392-1001 HOME Fund Balance to 111-0000-392-1001 SHIP Fund Balance
3. \$7,646.66 from 114-0000-392-1001 HOME Fund Balance to 112-0000-392-1001 CDBG Fund Balance

RECOMMENDATION:

Motion to approve the budget amendment requests to move \$1,533.24 from Fund 123/NSP to 001/General Fund, \$9,017.05 from HOME Fund Balance to SHIP Fund Balance and \$7,646.66 from HOME Fund Balance to CDBG Fund Balance.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Nancy A. Bunt, Community & Economic Development Director

DATE: 12/16/2021

RE: Consideration of a budget amendment for payment of property taxes for 648 Osmosis Drive SE and 2741 Rhapsody Street NE.

On August 19, 2021, City Council approved Resolution 2021-39 conveying 648 Osmosis Drive SW, a former Homes for Warriors property, to Brevard Island Oaks, LLC. The property transferred ownership on September 24, 2021. Given the circumstances of this property, its foreclosure, and challenges related to the sale of the property's tax certificate, the sale of this property did not follow the conventional closing process. Upon Council's approval to sell this property to Brevard Island Oaks, LLC, which held the tax certificate, the buyer submitted payment for the sale and as such, bypassed the standard closing process which would typically less the balance of any settlement of fees, to include property taxes, from the sale proceeds on the settlement statement. Therefore, the 2021 property taxes remain unpaid, as outlined by the attached email from the City Attorney's Office. Housing Division staff is requesting \$3,750.32 in General Fund undesignated fund balance.

On November 4, 2021, City Council approved authorization for the City to move forward with foreclosure proceedings on 2741 Rhapsody Street NE. This property was a Homes for Warriors property purchased and rehabilitated through the Neighborhood Stabilization Program (NSP), which was foreclosed due to unpaid property taxes from 2019 (\$281.18) and 2020 (\$118.57). As this property is still in the foreclosure process, the 2021 property taxes totaling \$55.29 is also unpaid and due by December 31, 2021. Housing Division staff is requesting to pay the property taxes in full, totaling \$455.04, before March 31, 2022 in order to avoid a tax deed sale.

REQUESTING DEPARTMENT:
Community & Economic Development

FISCAL IMPACT:

The fiscal impact will be \$4,205.36 from General Fund undesignated fund balance (001-0000-392-1001) to 001-3411-554-4909 (project 09CD03).

RECOMMENDATION:

Motion to approve a budget amendment of \$4,205.36 from General Fund undesignated fund balance (001-0000-392-1001) to 001-3411-554-4909 (project 09CD03) for payment of property taxes on 648 Osmosis Drive and 2741 Rhapsody Street NE.

ATTACHMENTS:**Description**

648 Osmosis - 2021 Tax Bill Email

648 Osmosis Dr SW 2021 Property Tax Bill

2741 Rhapsody St. NW 2019, 2020, and 2021 Property Tax Bills

From: [Rodney Edwards](#)
To: [Sandra Urban](#)
Subject: RE: 648 Osmosis - 2021 Tax Bill
Date: Tuesday, December 7, 2021 1:21:44 PM
Attachments: [image003.png](#)

The Property Taxes had not been provided. It was not calculated until after the close of the property. We would have still been responsible to put that cost into escrow to cover the payment.

Thanks,



City Attorney's Office: <http://www.palmbayflorida.org/government/departments/city-attorney>
LinkedIn: <https://www.linkedin.com/in/rodney-a-edwards-43007529>
Martindale-Hubbell: <http://www.martindale.com/Mr-Rodney-Antonio-Edwards/169130816-lawyer.htm>

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From: Sandra Urban <Sandra.Urban@palmbayflorida.org>
Sent: Tuesday, December 7, 2021 12:01 PM
To: Rodney Edwards <Rodney.Edwards@palmbayflorida.org>
Subject: FW: 648 Osmosis - 2021 Tax Bill

Hi Rodney,

Do you know why the property taxes were not included on the settlement statement for this property?

Thank you.



From: Marcia Patacer <Marcia.Patacer@palmbayflorida.org>
Sent: Tuesday, December 7, 2021 9:34 AM
To: Sandra Urban <Sandra.Urban@palmbayflorida.org>
Subject: FW: 648 Osmosis - 2021 Tax Bill

FYI

From: Marcia Patacer
Sent: Monday, November 29, 2021 12:45 PM
To: Rodney Edwards <Rodney.Edwards@palmbayflorida.org>
Subject: RE: 648 Osmosis - 2021 Tax Bill

Perfect!
Thank you.

From: Rodney Edwards <Rodney.Edwards@palmbayflorida.org>
Sent: Monday, November 29, 2021 12:42 PM
To: Marcia Patacer <Marcia.Patacer@palmbayflorida.org>
Subject: RE: 648 Osmosis - 2021 Tax Bill

Yes because all though a municipality of the state owns the property, it is not being used for a governmental purpose, it a residence that we foreclosed on. We have several parcels around the City that we have to pay taxes on.

Thanks,



City Attorney's Office: <http://www.palmbayflorida.org/government/departments/city-attorney>
LinkedIn: <https://www.linkedin.com/in/rodney-a-edwards-43007529>

Martindale-Hubbell: <http://www.martindale.com/Mr-Rodney-Antonio-Edwards/169130816-lawyer.htm>

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From: Marcia Patacer <Marcia.Patacer@palmbayflorida.org>

Sent: Monday, November 29, 2021 12:35 PM

To: Rodney Edwards <Rodney.Edwards@palmbayflorida.org>

Subject: RE: 648 Osmosis - 2021 Tax Bill

Rodney,

One last question,

The City is required to pay Ad Valorem tax on this property?

Regards,

Marcia Patacer, CGFO

Chief Accountant

Ph. 321-952-3400 x 3217

marcia.patacer@pbfl.org



From: Marcia Patacer
Sent: Monday, November 29, 2021 12:32 PM
To: Rodney Edwards <Rodney.Edwards@palmbayflorida.org>
Subject: RE: 648 Osmosis - 2021 Tax Bill

Thanks for your help, Rodney.

Regards,

*Marcia Patacer, CGFO
Chief Accountant
Ph. 321-952-3400 x 3217
marcia.patacer@pbfl.org*



From: Rodney Edwards <Rodney.Edwards@palmbayflorida.org>
Sent: Monday, November 29, 2021 12:29 PM
To: Marcia Patacer <Marcia.Patacer@palmbayflorida.org>
Subject: RE: 648 Osmosis - 2021 Tax Bill

Marcia,

I have had an opportunity to research and reach out to the Tax Collector's office. This tax bill is correct and should be paid by the City because the property was owned by the City at the time the tax bill became due.

Thanks,



Rodney A. Edwards, Esq.
Deputy City Attorney

Down to Earth And Up To Great Things™



321.409.7185

City Attorney's Office: <http://www.palmbayflorida.org/government/departments/city-attorney>

LinkedIn: <https://www.linkedin.com/in/rodney-a-edwards-43007529>

Martindale-Hubbell: <http://www.martindale.com/Mr-Rodney-Antonio-Edwards/169130816-lawyer.htm>

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From: Marcia Patacer <Marcia.Patacer@palmbayflorida.org>

Sent: Monday, November 29, 2021 11:56 AM

To: Rodney Edwards <Rodney.Edwards@palmbayflorida.org>

Subject: 648 Osmosis - 2021 Tax Bill

Importance: High

Hi Rodney,

Following our conversation this morning, please advise if we are to pay the attached tax bill.

I have to pay it tomorrow to get the 4% discount.

Regards,

Marcia Patacer, CGFO

Chief Accountant

Ph. 321-952-3400 x 3217

marcia.patacer@pbfl.org



LISA CULLEN, CFC NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS
BREVARD COUNTY TAX COLLECTOR 2021 REAL ESTATE

| TAX ACCOUNT NUMBER | ESCROW CD | MILLAGE CODE |
|--------------------|-----------|--------------|
| 2912136 | | 54U0 |

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GOVERNMENT OWNED, Litigation

648 OSMOSIS DR PALM BAY
PORT MALABAR UNIT 31 LOTS 27 & 28
BLK 1488



PALM BAY, CITY OF
120 SE MALABAR RD
PALM BAY, FL 32907-3009

| AD VALOREM TAXES | | | | | |
|--------------------------------|--------------|----------------|-----------|---------------|--------------|
| TAXING AUTHORITY | MILLAGE RATE | ASSESSED VALUE | EXEMPTION | TAXABLE VALUE | TAXES LEVIED |
| COUNTY GENERAL FUND | 3.5661 | 193,390 | 0 | 193,390 | 689.65 |
| BREVARD LIBRARY DISTRICT | 0.4118 | 193,390 | 0 | 193,390 | 79.64 |
| BREVARD MOSQUITO CONTROL | 0.1669 | 193,390 | 0 | 193,390 | 32.28 |
| S BREVARD REC DIST 2001-2020 | 0.2711 | 193,390 | 0 | 193,390 | 52.43 |
| SCHOOL - BY STATE LAW | 3.6020 | 193,390 | 0 | 193,390 | 696.59 |
| SCHOOL - BY LOCAL BOARD | 0.7480 | 193,390 | 0 | 193,390 | 144.66 |
| SCHOOL - CAPITAL OUTLAY | 1.5000 | 193,390 | 0 | 193,390 | 290.09 |
| CITY OF PALM BAY | 7.5995 | 193,390 | 0 | 193,390 | 1,469.67 |
| ST JOHNS RIVER WATER MGMT DST | 0.2189 | 193,390 | 0 | 193,390 | 42.33 |
| FLA INLAND NAVIGATION DIST | 0.0320 | 193,390 | 0 | 193,390 | 6.19 |
| SEBASTIAN INLET DISTRICT | 0.0765 | 193,390 | 0 | 193,390 | 14.79 |
| ENV END LD/WTR LTD 05-24 | 0.0571 | 193,390 | 0 | 193,390 | 11.04 |
| ENV END LD/WTR LTD(DBTP) 05-24 | 0.0488 | 193,390 | 0 | 193,390 | 9.44 |
| S BREVARD REC DIST (DBTP)01-20 | 0.2646 | 193,390 | 0 | 193,390 | 51.17 |
| PALM BAY ROAD (DBTP) | 1.3424 | 193,390 | 0 | 193,390 | 259.61 |

HOUSE CONVEYED TO BREVARD ISLAND OAKS LLC - 10-12-21
ORB 9288 PG 151

| | | | |
|---------------|---------|------------------|------------|
| TOTAL MILLAGE | 19.9057 | AD VALOREM TAXES | \$3,849.58 |
|---------------|---------|------------------|------------|

| NON-AD VALOREM ASSESSMENTS | | |
|----------------------------|------|--------|
| LEVYING AUTHORITY | RATE | AMOUNT |
| 158 SOLID WASTE DISPOSAL | | 57.00 |

| | | |
|------------------------------------|----------------------------|---------|
| PAY ONLY ONE AMOUNT IN BOXES BELOW | NON-AD VALOREM ASSESSMENTS | \$57.00 |
|------------------------------------|----------------------------|---------|

| If Paid By Please Pay | Nov 30, 2021 \$3,750.32 | Dec 31, 2021 \$3,789.38 | Jan 31, 2022 \$3,828.45 | Feb 28, 2022 \$3,867.51 | Mar 31, 2022 \$3,906.58 |
|--------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
|--------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|

LISA CULLEN, CFC NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS
BREVARD COUNTY TAX COLLECTOR 2021 REAL ESTATE

| TAX ACCOUNT NUMBER | ESCROW CD | MILLAGE CODE |
|--------------------|-----------|--------------|
| 2912136 | | 54U0 |

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GOVERNMENT OWNED, Litigation

RETURN WITH
PAYMENT

PALM BAY, CITY OF
120 SE MALABAR RD
PALM BAY, FL 32907-3009

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"PAY ONLINE. NOT IN LINE"

PLEASE PAY IN U.S. FUNDS THRU U.S. BANK TO BREVARD COUNTY TAX COLLECTOR • P.O. BOX 2500 • TITUSVILLE, FL 32781-2500

| If Paid By Please Pay | Nov 30, 2021 \$3,750.32 | Dec 31, 2021 \$3,789.38 | Jan 31, 2022 \$3,828.45 | Feb 28, 2022 \$3,867.51 | Mar 31, 2022 \$3,906.58 |
|--------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
|--------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|

1 02912136 2021 1

LISA CULLEN, CFC
BREVARD COUNTY TAX COLLECTOR

NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS
2019 DELINQUENT INDIVIDUAL TAX CERTIFICATE

| TAX ACCOUNT NUMBER | ESCROW CD | MILLAGE CODE |
|--------------------|-----------|--------------|
| 2834749 | | 34U0 |

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PAYMENT MUST BE MADE BY CASH, CASHIER'S CHECK, MONEY ORDER, OR CREDIT CARD.

TAYLOR, SEAN M
TAYLOR, AMY N
2741 NE Rhapsody ST
Palm Bay, FL 32905-5429

2741 RHAPSODY ST
PORT MALABAR UNIT 4 LOT 13 BLK 33

Certificate Issued: 2020

| AD VALOREM TAXES | | | | | |
|--------------------------------|--------------|----------------|-----------|---------------|----------------|
| TAXING AUTHORITY | MILLAGE RATE | ASSESSED VALUE | EXEMPTION | TAXABLE VALUE | TAXES LEVIED |
| COUNTY GENERAL FUND | 3.8196 | 95,720 | 95,720 | 0 | 0.00 |
| BREVARD LIBRARY DISTRICT | 0.4463 | 95,720 | 95,720 | 0 | 0.00 |
| BREVARD MOSQUITO CONTROL | 0.1809 | 95,720 | 95,720 | 0 | 0.00 |
| S BREVARD REC DIST 2001-2020 | 0.2938 | 95,720 | 95,720 | 0 | 0.00 |
| SCHOOL - BY STATE LAW | 3.8380 | 95,720 | 95,720 | 0 | 0.00 |
| SCHOOL - BY LOCAL BOARD | 0.7480 | 95,720 | 95,720 | 0 | 0.00 |
| SCHOOL - CAPITAL OUTLAY | 1.5000 | 95,720 | 95,720 | 0 | 0.00 |
| CITY OF PALM BAY | 8.1379 | 95,720 | 95,720 | 0 | 0.00 |
| PALM BAY ROAD MAINTENANCE DIST | 0.0000 | 95,720 | 95,720 | 0 | 0.00 |
| ST JOHNS RIVER WATER MGMT DST | 0.2414 | 95,720 | 95,720 | 0 | 0.00 |
| FLA INLAND NAVIGATION DIST | 0.0320 | 95,720 | 95,720 | 0 | 0.00 |
| SEBASTIAN INLET DISTRICT | 0.0831 | 95,720 | 95,720 | 0 | 0.00 |
| ENV END LD/WTR LTD 05-24 | 0.0619 | 95,720 | 95,720 | 0 | 0.00 |
| ENV END LD/WTR LTD(DBTP) 05-24 | 0.0804 | 95,720 | 95,720 | 0 | 0.00 |
| S BREVARD REC DIST (DBTP)01-20 | 0.3062 | 95,720 | 95,720 | 0 | 0.00 |
| PALM BAY ROAD (DBTP) | 0.8296 | 95,720 | 95,720 | 0 | 0.00 |
| TOTAL MILLAGE | | | | | 20.5991 |
| AD VALOREM TAXES | | | | | \$0.00 |

| NON-AD VALOREM ASSESSMENTS | | AMOUNT |
|-------------------------------------------|-----------------------------|------------------------------|
| LEVYING AUTHORITY | | |
| 113 STORMWATER PALM BAY | | 148.13 |
| 158 SOLID WASTE DISPOSAL | | 57.00 |
| PAY ONLY ONE AMOUNT IN BOXES BELOW | | \$205.13 |
| Face: 261.84 Rate: 0.25% | Cert #8569 Bidder #66489 | If Received By Please Pay |
| | | Dec 30, 2021 \$281.18 |
| | | Jan 31, 2022 \$281.18 |
| | | Feb 28, 2022 \$281.18 |

LISA CULLEN, CFC
BREVARD COUNTY TAX COLLECTOR

NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS
2019 DELINQUENT INDIVIDUAL TAX CERTIFICATE

| TAX ACCOUNT NUMBER | ESCROW CD | MILLAGE CODE |
|--------------------|-----------|--------------|
| 2834749 | | 34U0 |

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PAYMENT MUST BE MADE BY CASH, CASHIER'S CHECK, MONEY ORDER, OR CREDIT CARD.

RETURN
WITH
PAYMENT
TAYLOR, SEAN M
TAYLOR, AMY N
2741 NE Rhapsody ST
Palm Bay, FL 32905-5429

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E-CHECK IS FREE**



"PAY ONLINE. NOT IN LINE"

Certificate Issued: 2020

PLEASE PAY IN U.S. FUNDS THROUGH U.S. BANK TO BREVARD COUNTY TAX COLLECTOR, PO BOX 2500, TITUSVILLE, FL 32781-2500

| | | | | | |
|-----------------------------|-----------------------------|------------------------------|--------------------------|--------------------------|--------------------------|
| Face: 261.84 Rate: 0.25% | Cert #8569 Bidder #66489 | If Received By Please Pay | Dec 30, 2021 \$281.18 | Jan 31, 2022 \$281.18 | Feb 28, 2022 \$281.18 |
|-----------------------------|-----------------------------|------------------------------|--------------------------|--------------------------|--------------------------|

1 02834749 2019 0

LISA CULLEN, CFC
BREVARD COUNTY TAX COLLECTOR

NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS
2020 DELINQUENT COUNTY-HELD TAX CERTIFICATE

| TAX ACCOUNT NUMBER | ESCROW CD | MILLAGE CODE |
|--------------------|-----------|--------------|
| 2834749 | | 34U0 |

Pay your taxes online at www.brevardtc.com

PRIOR YEAR(S) TAXES DUE. PAYMENT MUST BE MADE BY CASH, CASHIER'S CHECK, MONEY ORDER, OR CREDIT CARD.

TAYLOR, SEAN M
TAYLOR, AMY N
2741 NE Rhapsody ST
Palm Bay, FL 32905-5429

2741 RHAPSODY ST
PORT MALABAR UNIT 4 LOT 13 BLK 33

Certificate Issued: 2021

| AD VALOREM TAXES | | | | | |
|--------------------------------|--------------|----------------|-----------|---------------|--------------|
| TAXING AUTHORITY | MILLAGE RATE | ASSESSED VALUE | EXEMPTION | TAXABLE VALUE | TAXES LEVIED |
| COUNTY GENERAL FUND | 3.6929 | 97,920 | 97,920 | 0 | 0.00 |
| BREVARD LIBRARY DISTRICT | 0.4264 | 97,920 | 97,920 | 0 | 0.00 |
| BREVARD MOSQUITO CONTROL | 0.1728 | 97,920 | 97,920 | 0 | 0.00 |
| S BREVARD REC DIST 2001-2020 | 0.2804 | 97,920 | 97,920 | 0 | 0.00 |
| SCHOOL - BY STATE LAW | 3.6940 | 97,920 | 97,920 | 0 | 0.00 |
| SCHOOL - BY LOCAL BOARD | 0.7480 | 97,920 | 97,920 | 0 | 0.00 |
| SCHOOL - CAPITAL OUTLAY | 1.5000 | 97,920 | 97,920 | 0 | 0.00 |
| CITY OF PALM BAY | 7.8378 | 97,920 | 97,920 | 0 | 0.00 |
| PALM BAY ROAD MAINTENANCE DIST | 0.0000 | 97,920 | 97,920 | 0 | 0.00 |
| ST JOHNS RIVER WATER MGMT DST | 0.2287 | 97,920 | 97,920 | 0 | 0.00 |
| FLA INLAND NAVIGATION DIST | 0.0320 | 97,920 | 97,920 | 0 | 0.00 |
| SEBASTIAN INLET DISTRICT | 0.0796 | 97,920 | 97,920 | 0 | 0.00 |
| ENV END LD/WTR LTD 05-24 | 0.0592 | 97,920 | 97,920 | 0 | 0.00 |
| ENV END LD/WTR LTD(DBTP) 05-24 | 0.0522 | 97,920 | 97,920 | 0 | 0.00 |
| S BREVARD REC DIST (DBTP)01-20 | 0.2842 | 97,920 | 97,920 | 0 | 0.00 |
| PALM BAY ROAD (DBTP) | 0.7516 | 97,920 | 97,920 | 0 | 0.00 |
| TOTAL MILLAGE | | | | | 19.8398 |
| AD VALOREM TAXES | | | | | \$0.00 |

| NON-AD VALOREM ASSESSMENTS | | | | | |
|------------------------------------|-----------------|----------------|--------------|--------------|------------------------------------|
| LEVYING AUTHORITY | AMOUNT | | | | |
| 158 SOLID WASTE DISPOSAL | 57.00 | | | | |
| PAY ONLY ONE AMOUNT IN BOXES BELOW | | | | | NON-AD VALOREM ASSESSMENTS \$57.00 |
| Face: 101.65 | Cert #6958 | If Received By | Dec 30, 2021 | Jan 31, 2022 | Feb 28, 2022 |
| Rate: 18% | Bidder #2003080 | Please Pay | \$118.57 | \$120.10 | \$121.62 |

LISA CULLEN, CFC
BREVARD COUNTY TAX COLLECTOR

NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS
2020 DELINQUENT COUNTY-HELD TAX CERTIFICATE

| TAX ACCOUNT NUMBER | ESCROW CD | MILLAGE CODE |
|--------------------|-----------|--------------|
| 2834749 | | 34U0 |

Pay your taxes online at www.brevardtc.com

PRIOR YEAR(S) TAXES DUE. PAYMENT MUST BE MADE BY CASH, CASHIER'S CHECK, MONEY ORDER, OR CREDIT CARD.

RETURN
WITH
PAYMENT

TAYLOR, SEAN M
TAYLOR, AMY N
2741 NE Rhapsody ST
Palm Bay, FL 32905-5429

**PAYING ONLINE VIA
E-CHECK IS FREE**



Certificate Issued: 2021

"PAY ONLINE. NOT IN LINE"

PLEASE PAY IN U.S. FUNDS THROUGH U.S. BANK TO BREVARD COUNTY TAX COLLECTOR, PO BOX 2500, TITUSVILLE, FL 32781-2500

| | | | | | |
|--------------|-----------------|----------------|--------------|--------------|--------------|
| Face: 101.65 | Cert #6958 | If Received By | Dec 30, 2021 | Jan 31, 2022 | Feb 28, 2022 |
| Rate: 18% | Bidder #2003080 | Please Pay | \$118.57 | \$120.10 | \$121.62 |

LISA CULLEN, CFC**NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS****BREVARD COUNTY TAX COLLECTOR****2021 REAL ESTATE**

| TAX ACCOUNT NUMBER | ESCROW CD | MILLAGE CODE |
|--------------------|-----------|--------------|
| 2834749 | | 34U0 |

Pay your taxes online at www.brevardtc.com**PRIOR YEAR(S) TAXES DUE.**

TAYLOR, SEAN M
TAYLOR, AMY N
2741 NE Rhapsody ST
Palm Bay, FL 32905-5429

2741 RHAPSODY ST

PORT MALABAR UNIT 4 LOT 13 BLK 33

| AD VALOREM TAXES | | | | | |
|--------------------------------|--------------|----------------|-----------|---------------|--------------|
| TAXING AUTHORITY | MILLAGE RATE | ASSESSED VALUE | EXEMPTION | TAXABLE VALUE | TAXES LEVIED |
| COUNTY GENERAL FUND | 3.5661 | 99,290 | 99,290 | 0 | 0.00 |
| BREVARD LIBRARY DISTRICT | 0.4118 | 99,290 | 99,290 | 0 | 0.00 |
| BREVARD MOSQUITO CONTROL | 0.1669 | 99,290 | 99,290 | 0 | 0.00 |
| S BREVARD REC DIST 2001-2020 | 0.2711 | 99,290 | 99,290 | 0 | 0.00 |
| SCHOOL - BY STATE LAW | 3.6020 | 99,290 | 99,290 | 0 | 0.00 |
| SCHOOL - BY LOCAL BOARD | 0.7480 | 99,290 | 99,290 | 0 | 0.00 |
| SCHOOL - CAPITAL OUTLAY | 1.5000 | 99,290 | 99,290 | 0 | 0.00 |
| CITY OF PALM BAY | 7.5995 | 99,290 | 99,290 | 0 | 0.00 |
| ST JOHNS RIVER WATER MGMT DST | 0.2189 | 99,290 | 99,290 | 0 | 0.00 |
| FLA INLAND NAVIGATION DIST | 0.0320 | 99,290 | 99,290 | 0 | 0.00 |
| SEBASTIAN INLET DISTRICT | 0.0765 | 99,290 | 99,290 | 0 | 0.00 |
| ENV END LDMTR LTD 05-24 | 0.0571 | 99,290 | 99,290 | 0 | 0.00 |
| ENV END LDMTR LTD(DBTP) 05-24 | 0.0488 | 99,290 | 99,290 | 0 | 0.00 |
| S BREVARD REC DIST (DBTP)01-20 | 0.2646 | 99,290 | 99,290 | 0 | 0.00 |
| PALM BAY ROAD (DBTP) | 1.3424 | 99,290 | 99,290 | 0 | 0.00 |
| TOTAL MILLAGE | | | | | 19.9057 |
| AD VALOREM TAXES | | | | | \$0.00 |

| LEVYING AUTHORITY | | AMOUNT |
|------------------------------------|--------------|--------------|
| 158 SOLID WASTE DISPOSAL | | 57.00 |
| PAY ONLY ONE AMOUNT IN BOXES BELOW | | |
| NON-AD VALOREM ASSESSMENTS | | \$57.00 |
| If Paid By | Nov 30, 2021 | Dec 31, 2021 |
| Please Pay | \$54.72 | \$55.29 |
| | | Jan 31, 2022 |
| | | \$55.86 |
| | | Feb 28, 2022 |
| | | \$56.43 |
| | | Mar 31, 2022 |
| | | \$57.00 |

LISA CULLEN, CFC**NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS****BREVARD COUNTY TAX COLLECTOR****2021 REAL ESTATE**

| TAX ACCOUNT NUMBER | ESCROW CD | MILLAGE CODE |
|--------------------|-----------|--------------|
| 2834749 | | 34U0 |

Pay your taxes online at www.brevardtc.com**PRIOR YEAR(S) TAXES DUE.**

RETURN WITH PAYMENT
TAYLOR, SEAN M
TAYLOR, AMY N
2741 NE Rhapsody ST
Palm Bay, FL 32905-5429

**PAYING ONLINE VIA
E-CHECK IS FREE**
**"PAY ONLINE. NOT IN LINE"**

PLEASE PAY IN U.S. FUNDS THROUGH U.S. BANK TO BREVARD COUNTY TAX COLLECTOR, PO BOX 2500, TITUSVILLE, FL 32781-2500

| | | | | | |
|------------|--------------|--------------|--------------|--------------|--------------|
| If Paid By | Nov 30, 2021 | Dec 31, 2021 | Jan 31, 2022 | Feb 28, 2022 | Mar 31, 2022 |
| Please Pay | \$54.72 | \$55.29 | \$55.86 | \$56.43 | \$57.00 |

1 02834749 2021 6



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Larry Wojciechowski, Finance Director

DATE: 12/16/2021

RE: Acknowledgement of Budget Monitoring Report – Fiscal Year 2021 Quarter Four (Unaudited).

Attached for your information is the quarterly Budget Monitoring Report, covering Fiscal Year 2021 revenue and expenditure periods between July 1, 2021 and September 31, 2021. The report presents a comparison and analysis of the City's fiscal year budget and actual activity for the General Fund and All Funds (in total) including revenues and expenditures by category type and/or department level. Revenue and spending activity are monitored on a monthly basis and reported in aggregate quarterly each fiscal year.

In summary, revenues and expenditures for FY 2021 Quarter Four for the General Fund and All Funds (in total) are as follows:

General Fund revenues collected, ending September 2021, total \$80,238,756, or 99.4% of the amended budget. A total balance of \$492,479, or 0.6% of the amended budget, in revenue is unrealized.

General Fund expenditures expensed and/or encumbered, ending September 2021, total \$77,326,633, or 90.5% of the amended budget. A total balance of \$8,126,169, or 9.5% of the amended budget, is recorded across all category types.

All Funds (in total) revenues collected, ending September 2021, total \$304,673,939, or 91.8% of the amended budget. A total balance of \$27,198,066, or 8.2% of the amended budget, in revenue is unrealized.

All Funds (in total) expenditures expensed and/or encumbered, ending September 2021, total \$222,519,476, or 52.5% of the amended budget. A total balance of \$201,497,228, or 47.5% of the amended budget, is recorded across all category types.

REQUESTING DEPARTMENT:
Finance

FISCAL IMPACT:
None

RECOMMENDATION:

Motion to acknowledge receipt of the FY 2021 Quarter Four Budget Monitoring Report.

ATTACHMENTS:

Description

FY 21 - Q4_Quarterly Budget Monitoring Report (Period 12 Close-Out) RCM 12.16.2021

Quarterly Budget Monitoring Report

Quarter Four – July 2021 to September 2021

FY 2021

Report Summary

The City of Palm Bay, Florida's (the "City") Quarterly Budget Monitoring Report presents a comparison and analysis of the City's current fiscal year budget and actual activity for the General Fund and All Funds (in total) including revenues and expenditures by category type and/or department level.

Revenue and spending activity are monitored on a monthly basis and reported in aggregate quarterly each fiscal year.

Quarterly Budget Monitoring Report timeframes are as follows:

- Quarter One: October through December
- Quarter Two: January through March
- Quarter Three: April through June
- **Quarter Four: July through September**

Data Analysis

- **Year-to-Date Actuals** include actuals and encumbrances within the expenditure analysis side.
- **Balances** reflect year-to-date actuals versus the amended budget.
- **Percentages collected & spent** are reflected versus the type and/or departmental amended budget.

This report contains unaudited information. If you have any questions or comments on the financial reports, please contact the City of Palm Bay's Budget Office at budget@palmbayflorida.org

City Website: <http://www.palmbayflorida.org/>
Finance Website: www.palmbayflorida.org/finance

Quarterly Amended Budget Highlights

- The City's fourth Budget Amendment was approved by City Council on September 16, 2021 via Ordinance 2021-55. A total of 30 departmental requests, covering fund appropriation needs between July 1, 2021 and September 31, 2021, were included with a total city-wide all funds net impact of \$23,396,658.
- A total of 49 Budget Transfers were processed between July 1, 2021 and September 31, 2021, transferring existing budgeted funds between divisional general ledger accounts.

General Fund Overview

Revenues by Type

- Ending September 2021, a total revenue of \$80,238,756, or 99.4% of the amended budget, has been collected. A total balance of \$492,479, or 0.6% of the amended budget, in revenue is unrealized.
- Property tax revenue attributes to the largest collection across all revenue types; a total of \$35,683,300, or 44.2.0%, of the total amended budget has been collected.

| | FY 21 Approved Budget | FY 21 Amended Budget | FY 21 Year-to-Date Actuals | FY 21 Balance | FY 21 % Collected |
|-----------------------|-----------------------------|----------------------------|----------------------------------|------------------|----------------------|
| Property Taxes | 35,353,784 | 35,662,351 | 35,683,300 | 20,949 | 100.1% |
| Sales, Use & Fuel Tax | 3,620,907 | 3,842,728 | 3,603,594 | (239,134) | 93.8% |
| Franchise Fees | 5,936,200 | 5,936,200 | 5,570,889 | (365,311) | 93.8% |
| Utility Taxes | 8,920,500 | 8,979,792 | 9,055,845 | 76,053 | 100.8% |
| Comm. Svc. Tax | 2,454,678 | 2,454,678 | 2,345,019 | (109,659) | 95.5% |
| Licenses & Permits | 652,480 | 692,559 | 658,667 | (33,892) | 95.1% |
| Intergovernmental | 10,187,665 | 12,082,554 | 12,966,458 | 883,904 | 107.3% |
| Charges for Services | 5,072,376 | 6,118,283 | 5,852,115 | (266,168) | 95.6% |
| Fines & Forfeitures | 437,600 | 437,600 | 473,265 | 35,665 | 108.2% |
| Miscellaneous | 905,000 | 1,363,380 | 849,460 | (513,920) | 62.3% |
| Capital Contributions | 0 | 760,577 | 779,611 | 19,034 | 102.5% |
| Transfers | 1,750,106 | 2,400,533 | 2,400,533 | 0 | 100.0% |
| Totals | 75,291,296 | 80,731,235 | 80,238,756 | (492,479) | 99.4% |
| Fund Balance | 0 | 4,721,567 | 0 | 0 | N/A |

Expenditures by Category Type

- Ending September 2021, a total of \$77,326,633, or 90.5% of the amended budget, has been expensed and/or encumbered. A total balance of \$8,126,169, or 9.5% of the amended budget, is recorded across all category types.
- Personnel attributes to the largest expense across all category types. While \$52,833,040, or 93.6% of the amended personnel services budget of \$56,424,895 has been expensed, costs account for 61.8% of the total amended budget of \$85,452,802.

| | FY 21 Approved Budget | FY 21 Amended Budget | FY 21 Year-to-Date Actuals | FY 21 Balance | FY 21 % Spent |
|-------------------------------|-----------------------------|----------------------------|----------------------------------|------------------|------------------|
| <i>Personnel Services</i> | 53,878,473 | 56,424,895 | 52,833,040 | 3,591,855 | 93.6% |
| <i>Operating Expenditures</i> | 13,703,159 | 16,112,949 | 13,409,337 | 2,703,612 | 83.2% |
| <i>Capital Expenditures</i> | 0 | 2,561,075 | 910,396 | 1,650,679 | 35.5% |
| <i>Debt Service</i> | 0 | 970 | 970 | 0 | 100.0% |
| <i>Contributions</i> | 0 | 0 | 0 | 0 | N/A |
| <i>Transfers</i> | 7,709,664 | 10,352,913 | 10,172,890 | 180,023 | 98.3% |
| Totals | 75,291,296 | 85,452,802 | 77,326,633 | 8,126,169 | 90.5% |

Expenditures by Department

- Ending September 2021, the Facilities Department accounted for the largest spending of the departmental amended budgets. A total of \$2,726,744, or 99.4%, of the departmental amended budget of \$2,742,757 has been expensed and/or encumbered.

| | FY 21 Approved Budget | FY 21 Amended Budget | FY 21 Year-to-Date Actuals | FY 21 Balance | FY 21 % Spent |
|-------------------------------------|-----------------------------|----------------------------|----------------------------------|------------------|------------------|
| <i>Legislative</i> | 916,805 | 976,859 | 822,985 | 153,874 | 84.2% |
| <i>Office of City Manager</i> | 570,438 | 571,497 | 514,207 | 57,290 | 90.0% |
| <i>Office of City Attorney</i> | 521,826 | 521,928 | 330,944 | 190,984 | 63.4% |
| <i>Procurement</i> | 663,096 | 663,138 | 629,168 | 33,970 | 94.9% |
| <i>Finance</i> | 1,737,836 | 1,743,697 | 1,627,345 | 116,352 | 93.3% |
| <i>Information Technology</i> | 2,879,650 | 3,737,991 | 3,174,974 | 563,017 | 84.9% |
| <i>Human Resources</i> | 621,530 | 617,124 | 566,070 | 51,054 | 91.7% |
| <i>Growth Management</i> | 1,671,358 | 1,805,234 | 1,617,354 | 187,880 | 89.6% |
| <i>Comm. & Econ. Dev.</i> | 1,315,074 | 1,306,188 | 944,924 | 361,264 | 72.3% |
| <i>Parks & Recreation</i> | 4,566,295 | 6,155,393 | 4,707,631 | 1,447,762 | 76.5% |
| <i>Facilities</i> | 2,463,350 | 2,742,757 | 2,726,744 | 16,013 | 99.4% |
| <i>Police</i> | 22,811,528 | 23,873,617 | 21,637,864 | 2,235,753 | 90.6% |
| <i>Fire</i> | 15,843,425 | 17,582,082 | 16,514,655 | 1,067,427 | 93.9% |
| <i>Public Works</i> | 6,107,735 | 7,468,268 | 6,094,994 | 1,373,274 | 81.6% |
| <i>Transfers</i> | 7,709,664 | 10,352,913 | 10,172,890 | 180,023 | 98.3% |
| <i>Non-Departmental¹</i> | 4,891,686 | 5,334,116 | 5,243,884 | 90,232 | 98.3% |
| Totals | 75,291,296 | 85,452,802 | 77,326,633 | 8,126,169 | 90.5% |

¹ Non-departmental accounts contain expenditure items essential to the operation of the City; however, they don't fall within a function assigned or provide expenditures related to more than one department.

All Funds Overview

The All Funds Overview presented below contains all citywide funds as outlined:

- Governmental Funds: General Fund, Debt Service Funds, Special Revenue Funds and Capital Project Funds.
- Proprietary Funds: Enterprise Funds and Non-Major Enterprise Funds.
- Internal Service Funds

Revenues by Type

- Ending September 2021, a total revenue of \$304,673,939, or 91.8% of the amended budget, has been collected. A total balance of \$27,198,066, or 8.2% of the amended budget, in revenue is unrealized.
- Charges for Services attribute to the largest collection across all revenue types; a total of \$85,679,038, or 25.8% of the total amended budget has been collected.

| | FY 21 Approved Budget | FY 21 Amended Budget | FY 21 Year-to-Date Actuals | FY 21 Balance | FY 21 % Collected |
|-----------------------|-----------------------------|----------------------------|----------------------------------|---------------------|----------------------|
| Property Taxes | 40,285,504 | 40,652,101 | 40,709,084 | 56,983 | 100.1% |
| Sales, Use & Fuel Tax | 3,620,907 | 3,842,728 | 3,603,594 | (239,134) | 93.8% |
| Franchise Fees | 5,936,200 | 5,936,200 | 5,570,889 | (365,311) | 93.8% |
| Utility Taxes | 8,920,500 | 8,979,792 | 9,055,845 | 76,053 | 100.8% |
| Comm. Svc. Tax | 2,454,678 | 2,454,678 | 2,345,019 | (109,659) | 95.5% |
| Licenses & Permits | 4,552,480 | 6,789,607 | 6,965,288 | 175,681 | 102.6% |
| Impact Fees | 5,425,000 | 5,425,000 | 18,384,410 | 12,959,410 | 338.9% |
| Intergovernmental | 13,773,805 | 35,875,921 | 27,497,424 | (8,378,497) | 76.6% |
| Charges for Services | 84,869,933 | 86,551,661 | 85,679,038 | (872,623) | 99.0% |
| Fines & Forfeitures | 437,600 | 437,600 | 512,608 | 75,008 | 117.1% |
| Miscellaneous | 3,184,514 | 4,021,262 | 3,170,422 | (850,840) | 78.8% |
| Capital Contributions | 25,041,947 | 105,227,306 | 75,692,484 | (29,534,822) | 71.9% |
| Transfers | 21,516,146 | 25,678,149 | 25,487,834 | (190,315) | 99.3% |
| Totals | 220,019,214 | 331,872,005 | 304,673,939 | (27,198,066) | 91.8% |
| Fund Balance | 3,445,398 | 92,144,699 | 0 | 0 | N/A |

Expenditures by Category Type

- Ending September 2021, a total of \$222,519,476, or 52.5% of the amended budget, has been expensed and/or encumbered. A total balance of \$201,497,228, or 47.5% of the amended budget, is recorded across all category types.
- Personnel attributes to the largest expense across all category types. While \$71,354,400, or 91.9%, of the amended personnel services budget of \$77,677,421 has been expensed, costs account for 16.8% of the total amended budget of \$424,016,704.

| | FY 21 Approved Budget | FY 21 Amended Budget | FY 21 Year-to-Date Actuals | FY 21 Balance | FY 21 % Spent |
|-------------------------------|-----------------------------|----------------------------|----------------------------------|--------------------|------------------|
| <i>Personnel Services</i> | 75,054,056 | 77,677,421 | 71,354,400 | 6,323,021 | 91.9% |
| <i>Operating Expenditures</i> | 61,491,428 | 68,812,585 | 56,594,291 | 12,218,294 | 82.2% |
| <i>Capital Expenditures</i> | 33,349,246 | 133,699,804 | 50,069,562 | 83,630,242 | 37.4% |
| <i>Debt Service</i> | 18,812,779 | 24,956,273 | 18,682,643 | 6,273,630 | 74.9% |
| <i>Contributions</i> | 0 | 417,030 | 327,150 | 89,880 | 78.4% |
| <i>Transfers</i> | 21,516,145 | 25,673,785 | 25,487,833 | 185,952 | 99.3% |
| <i>Reserves</i> | 13,240,958 | 92,779,806 | 3,597 | 92,776,209 | 0.0% |
| Totals | 223,464,612 | 424,016,704 | 222,519,476 | 201,497,228 | 52.5% |

Expenditures by Department

- Ending September 2021, the Facilities Department accounts for the largest spending of their departmental amended budget. A total of \$2,726,744, or 99.4%, of the department's amended budget of \$2,742,757 has been expensed and/or encumbered.

| | FY 21 Approved Budget | FY 21 Amended Budget | FY 21 Year-to-Date Actuals | FY 21 Balance | FY 21 % Spent |
|-------------------------------------|-----------------------------|----------------------------|----------------------------------|--------------------|------------------|
| <i>Legislative</i> | 916,805 | 976,859 | 822,985 | 153,874 | 84.2% |
| <i>Office of City Manager</i> | 570,438 | 571,497 | 514,207 | 57,290 | 90.0% |
| <i>Office of City Attorney</i> | 5,184,749 | 5,194,491 | 3,940,531 | 1,253,960 | 75.9% |
| <i>Procurement</i> | 663,096 | 663,138 | 629,168 | 33,970 | 94.9% |
| <i>Finance</i> | 1,737,836 | 1,791,449 | 1,674,149 | 117,300 | 93.5% |
| <i>Information Technology</i> | 2,879,650 | 3,737,991 | 3,174,974 | 563,017 | 84.9% |
| <i>Human Resources</i> | 18,600,977 | 18,614,571 | 15,793,885 | 2,820,686 | 84.8% |
| <i>Building¹</i> | 0 | 5,319,006 | 4,038,006 | 1,281,000 | 75.9% |
| <i>Growth Management</i> | 5,492,039 | 2,087,234 | 1,870,026 | 217,208 | 89.6% |
| <i>Comm. & Econ. Dev.</i> | 1,315,074 | 7,308,875 | 2,822,162 | 4,486,713 | 38.6% |
| <i>Parks & Recreation</i> | 4,566,295 | 9,877,758 | 4,811,036 | 5,066,722 | 48.7% |
| <i>Facilities</i> | 2,463,350 | 2,742,757 | 2,726,744 | 16,013 | 99.4% |
| <i>Police</i> | 22,811,528 | 24,612,349 | 21,917,794 | 2,694,555 | 89.1% |
| <i>Fire</i> | 15,843,425 | 18,626,407 | 16,724,585 | 1,901,822 | 89.8% |
| <i>Public Works</i> | 33,507,857 | 83,927,782 | 54,439,517 | 29,488,265 | 64.9% |
| <i>Utilities</i> | 47,932,949 | 88,415,482 | 36,907,939 | 51,507,543 | 41.7% |
| <i>Other Gov't Units/BCRA</i> | 486,976 | 776,048 | 298,136 | 477,912 | 38.4% |
| <i>Debt Service</i> | 18,812,779 | 24,956,273 | 18,682,643 | 6,273,630 | 74.9% |
| <i>Transfers</i> | 21,516,145 | 25,673,785 | 25,487,833 | 185,952 | 99.3% |
| <i>Non-Departmental²</i> | 4,921,686 | 5,363,146 | 5,243,156 | 119,990 | 97.8% |
| <i>Reserves</i> | 13,240,958 | 92,779,806 | 0 | 92,779,806 | 0.0% |
| Totals | 223,464,612 | 424,016,704 | 222,519,476 | 201,497,228 | 52.5% |

¹ Building Department created on October 1, 2020 via Ordinance 2020-63 & Ordinance 2020-64.

² Non-departmental accounts contain expenditure items essential to the operation of the City; however, they don't fall within a function assigned or provide expenditures related to more than one department.

All Funds Revenue & Expenditure Activity

The following pages provide an activity summary, including revenues and expenditures, for all Funds.

| | BUDGET | REVENUES | | EXPENDITURES | |
|------------------------------|----------------------------|----------------------------------|----------------------|--------------------------------------------------|------------------|
| | FY 21 Amended Budget | FY 21 Year-to-Date Actuals | FY 21 % Collected | FY 21 Year-to-Date Actuals + Encumbered | FY 21 % Spent |
| General Fund | | | | | |
| 001 – General | 85,452,802 | 80,238,756 | 93.9% | 77,326,633 | 90.5% |
| Special Revenue Funds | | | | | |
| 101 – Law Enforcement Trust | 150,634 | 40,521 | 26.9% | 101,183 | 67.2% |
| 103 – PB Municipal Found. | 30,000 | 399 | 1.3% | 242 | 0.8% |
| 105 – Code Nuisance | 264,000 | 286,638 | 108.6% | 245,566 | 93.0% |
| 111 – SHIP | 742,963 | 199,357 | 26.8% | 664,646 | 89.5% |
| 112 – CDBG | 1,211,128 | 803,776 | 66.4% | 636,412 | 52.5% |
| 114 – HOME | 194,219 | 215,091 | 110.7% | 4,971 | 2.6% |
| 123 – NSP Program | 236,714 | 427,811 | 180.7% | (7,524) | -3.2% |
| 124 – Coronavirus Relief | 464,666 | 231,572 | 49.8% | 368,648 | 79.3% |
| 126 – CDBG - Corona Virus | 272,767 | 5,242 | 1.9% | 210,191 | 77.1% |
| 127 – Voluntary Home Buyout | 2,736,719 | 0 | 0.0% | 0 | 0.0% |
| 128 – American Rescue Plan | 9,654,743 | 9,007,600 | 93.3% | 0 | 0.0% |
| 131 – Donations | 9,404 | 14,937 | 158.8% | 8,627 | 91.7% |
| 161 – Environmental Fee | 72,000 | 155,479 | 215.9% | 7,000 | 9.7% |
| 181 – BCRA Operating | 3,320,643 | 2,413,332 | 72.7% | 1,346,949 | 40.6% |
| Impact Fee Funds | | | | | |
| 180 – Police - 32905 | 25,000 | 143,497 | 574.0% | 124 | 0.5% |
| 183 – Police - 32907 | 89,195 | 211,850 | 237.5% | 33,182 | 37.2% |
| 184 – Police - 32908 | 92,541 | 243,825 | 263.5% | 4,849 | 5.2% |
| 186 – Police - 32909 | 270,164 | 570,688 | 211.2% | 131,762 | 48.8% |
| 187 – Fire - 32905 | 86,651 | 226,693 | 261.6% | 5,209 | 6.0% |
| 188 – Fire - 32907 | 69,094 | 330,057 | 477.7% | 5,317 | 7.7% |
| 189 – Fire - 32908 | 240,800 | 379,910 | 157.8% | 520 | 0.2% |
| 190 – Fire - 32909 | 984,606 | 888,413 | 90.2% | 196,337 | 19.9% |
| 191 – Parks - 32905 | 347,838 | 410,347 | 118.0% | 3,143 | 0.9% |
| 192 – Parks - 32907 | 1,027,698 | 682,868 | 66.4% | 97,190 | 9.5% |
| 193 – Parks - 32908 | 625,637 | 801,434 | 128.1% | 1,008 | 0.2% |
| 194 – Parks - 32909 | 507,000 | 1,855,207 | 365.9% | 2,064 | 0.4% |
| 196 – Transportation - 32905 | 112,500 | 1,212,933 | 1078.2% | 1,296 | 1.2% |
| 197 – Transportation - 32907 | 1,082,787 | 2,355,053 | 217.5% | 53,889 | 5.0% |
| 198 – Transportation - 32908 | 703,000 | 2,666,334 | 379.3% | 2,408 | 0.3% |
| 199 – Transportation - 32909 | 2,509,696 | 5,437,962 | 216.7% | 1,005,957 | 40.1% |

| | BUDGET | REVENUES | | EXPENDITURES | |
|--------------------------------------|----------------------------|----------------------------------|----------------------|--------------------------------------------------|------------------|
| | FY 21 Amended Budget | FY 21 Year-to-Date Actuals | FY 21 % Collected | FY 21 Year-to-Date Actuals + Encumbered | FY 21 % Spent |
| Debt Service Funds | | | | | |
| 201 – L/P Agreements | 519,995 | 519,994 | 100.0% | 519,994 | 100.0% |
| 214 – 2004 Pension Bonds | 175,000 | 174,972 | 100.0% | 155,000 | 88.6% |
| 219 – 2010 PST Bonds | 803,542 | 5,566 | 0.7% | 803,542 | 100.0% |
| 221 – 2013 Pension Bonds | 1,488,160 | 1,484,533 | 99.8% | 810,404 | 54.5% |
| 222 – 2014 LOGT Ref. Note | 628,173 | 0 | 0.0% | 628,173 | 100.0% |
| 223 – 2015 Franchise Fee Note | 533,595 | 530,301 | 99.4% | 526,320 | 98.6% |
| 224 – 2015 Sales Tax Bond | 831,980 | 826,871 | 99.4% | 816,315 | 98.1% |
| 225 – 2015 Sales Tax Bond - TIF | 231,752 | 227,931 | 98.4% | 224,814 | 97.0% |
| 226 – 2016 Franchise Fee Note | 333,746 | 331,700 | 99.4% | 316,287 | 94.8% |
| 227 – 2018 LOGT Note | 778,784 | 768,411 | 98.7% | 760,128 | 97.6% |
| 228 – 2019 G.O. Bonds | 3,541,750 | 3,564,926 | 100.7% | 3,529,550 | 99.7% |
| 229 – 2019 T.S.O. Bonds | 2,211,085 | 2,209,772 | 99.9% | 1,882,778 | 85.2% |
| 230 – 2020 Rev. Refund Note | 4,632,303 | 4,631,730 | 100.0% | 4,343,329 | 93.8% |
| 231 – 2021 G.O. Bonds | 0 | 0 | N/A | 0 | N/A |
| Capital Project Funds | | | | | |
| 301 – Capital Improvement | 8,218,022 | 2,531,524 | 30.8% | 1,716,909 | 20.9% |
| 306 – I-95 Interchange | 197,644 | 4 | 0.0% | 17,011 | 8.6% |
| 307 – Road Maintenance CIP | 1,897,947 | 1,558,754 | 82.1% | 30,554 | 1.6% |
| 308 – Connector to I-95 | 466,749 | 488 | 0.1% | 157,161 | 33.7% |
| 309 – 2019 G.O. Road Bond | 42,543,695 | 38,024 | 0.1% | 22,635,381 | 53.2% |
| 310 – 2020 G.O. Road Bond | 56,437,163 | 56,471,350 | 100.1% | 348,809 | 0.8% |
| Proprietary Funds – Utilities | | | | | |
| 421 – Utility Operating | 44,788,744 | 39,368,949 | 87.9% | 30,816,145 | 68.8% |
| 423 – Utility Connection Fee | 8,838,140 | 9,356,175 | 105.9% | 3,760,150 | 42.5% |
| 424 – Utility Renewal/Replace. | 14,308,359 | 5,961,065 | 41.7% | 4,710,777 | 32.9% |
| 425 – Main Line Extension | 2,871,056 | 1,935,055 | 67.4% | 1,605,060 | 55.9% |
| 426 – 2016 Utility Rev. Ref. Bond | 1,537,860 | 1,530,793 | 99.5% | 186,010 | 12.1% |
| 427 – 2001 Utility Bond Constr. | 1,961,420 | 1,928,180 | 98.3% | 1,294,979 | 66.0% |
| 431 – USA-1 Assessment | 541,472 | 221,586 | 40.9% | 29,270 | 5.4% |
| 432 – Unit 31 Assessment | 842,475 | 402,880 | 47.8% | 34,975 | 4.2% |
| 433 – Utility SRF Loan | 31,972,953 | 0 | 0.0% | 3,403,220 | 10.6% |
| 434 – 2020 Utility Constr. Bond | 12,269,221 | 771,485 | 6.3% | 7,442,808 | 60.7% |
| Proprietary Funds – Other | | | | | |
| 451 – Building | 6,572,079 | 6,959,946 | 105.9% | 4,072,429 | 62.0% |
| 461 – Stormwater Utility | 14,408,305 | 7,997,765 | 55.5% | 6,952,170 | 48.3% |
| 471 – Solid Waste | 12,161,662 | 11,330,942 | 93.2% | 12,165,001 | 100.0% |

| | BUDGET | REVENUES | | EXPENDITURES | |
|--------------------------------------|----------------------------|----------------------------------|----------------------|--------------------------------------------------|------------------|
| | FY 21 Amended Budget | FY 21 Year-to-Date Actuals | FY 21 % Collected | FY 21 Year-to-Date Actuals + Encumbered | FY 21 % Spent |
| Internal Service Funds | | | | | |
| <i>511 – Employee Benefits</i> | 14,368,023 | 14,134,747 | 98.4% | 11,902,130 | 82.8% |
| <i>512 – Risk Management</i> | 4,706,870 | 4,958,789 | 105.4% | 3,609,587 | 76.7% |
| <i>513 – Other Employee Benefits</i> | 4,627,155 | 4,566,420 | 98.7% | 3,417,116 | 73.8% |
| <i>521 – Fleet Services</i> | 7,182,216 | 4,914,729 | 68.4% | 4,437,391 | 61.8% |



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Leslie Hoog, Fire Chief

DATE: 12/16/2021

RE: Consideration of submitting an application for FEMA's Assistance to Firefighter's Grant for the purchase a quint fire apparatus (\$950,000) and air bottles (\$60,000).

The Fire Rescue Department is seeking approval to apply for a total of \$1,010,000 under FEMA's Assistance to Firefighters Grant (AFG) for the purchase a quint fire apparatus (\$950,000) as well as forty-six (46) air bottles (\$60,000) under the two categories of vehicle acquisition and operations and safety.

The Department is seeking to address the critical need for additional apparatus to adequately respond to fire instances. A quint fire apparatus is a combination unit that serves as an engine and ladder truck and serves five functions including a pump, water tank, fire house, aerial device and ground ladders. The quint apparatus has the ability to carry water for fighting fire, provide rescue capability above the second story and utilize elevated fire streams on structure fires. The quint fire apparatus will require insurance and maintenance similar to other fire apparatus. No staff training is required to operate this apparatus as the Department currently operates similar apparatus.

The Department is also seeking to replace out of compliance air bottles. The City currently has approximately 126 air bottles, of which 46 are at the end of their life cycle. It is critical for the Department to replace the out of compliance air bottles in order to ensure the City is in compliance with the National Fire Protection Association (NFPA) standards and allow the fire engines to remain in service. The grant request will provide for the purchase of approximately 46 air bottles to be used citywide.

The Department previously applied for a quint and a larger request related to the air packs/bottles earlier in 2021, but was unsuccessful in the application. This new application has been modified based on feedback from the granting agency. The AFG requires a match of 10 percent, or approximately \$101,000 for both categories combined.

REQUESTING DEPARTMENT:

FISCAL IMPACT:

The AFG requires a local match of 10 percent, or approximately \$101,000 for both categories combined. The Department does not currently have the 10 percent match budgeted for the grant. If awarded, this funding would be requested from

General Fund undesignated fund balance.

RECOMMENDATION:

Motion to

Authorize the Fire Rescue Department to apply for the FEMA Assistance to Firefighters Grant.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Terese Jones, City Clerk

DATE: 12/16/2021

RE: Appointment of one (1) member to the Bayfront Community Redevelopment Agency (represents 'at-large' position).

As you may recall, the term of Aaron Parr from the above subject board will expire on December 20, 2021.

The term has been announced at the last two regular Council meetings and applications solicited for same.

The following application has been received:

Stephen Hayes
1035 Cromey Road, NE 32905

REQUESTING DEPARTMENT:

Legislative

FISCAL IMPACT:

None

RECOMMENDATION:

Motion to approve the appointment of one (1) member to serve on the Bayfront Community Redevelopment Agency representing the 'at-large' position.

ATTACHMENTS:

Description

Stephen Hayes Application



Office of The

NOV 29 2021

City Clerk

APPLICATION FOR MEMBERSHIP / City Boards or Committees

City of Palm Bay • 120 Malabar Road • Palm Bay, FL 32907
Phone: 321-952-3414 • www.palmbayflorida.org • Fax: 321-953-8971

BOARD/COMMITTEE

Name of Board/Committee: **DISASTER RELIEF AND OR BAYFRONT**
Full Name: **STEPHEN HAYES**
Home Address: **1035 CROMEY RD NE**
City: **PALM BAY** Zip Code: **32905**
Telephone Number: **3215080996** Fax Number:
Email Address: **sty2ocean@yahoo.com**

EMPLOYMENT

Employer: **Brevard Health Alliance** Occupation: **Patient Buisness Services**
Address: **5270 Babcock street ne**
City: **Palm Bay** State: **FL** Zip Code: **32905**
Telephone Number: **3218024708** Fax Number:
Email Address: **stephen.hayes@brevardhealth.org**
Job Responsibilities: **Finacial Buisness applications and as assigned Registration IT and various other duties**

EDUCATION

High School Name: **London Central High School**
Location: **High Wycombe England** Years Completed: **4** Major/Degree: **yes**
College Business or Trade School: **University Of Central Florida**
Location: **Orlando Florida** Years Completed: **4** Major/Degree: **B.A**
Professional School: **Brevard Community College**
Location: **Melbourne Florida** Years Completed: **3** Major/Degree: **A.A**
Other:
Location:
Years Completed:
Major/Degree:

What are your hobbies / interests? Christian studies and reading

Why do you want to serve on this board / committee? I have Lived in Palm Bay 23 Years

Wanted to strive to assist in the continued Growth and assistance during Disasters and preparation thereof

Section 760.80, Florida Statutes, requires certain information on statutorily created boards to be filed on an annual basis. Please complete the following.

Race: white Gender: Male Physically Disabled: ☐

APPLICATION CERTIFICATION

By filing this application with the City of Palm Bay and placing my signature below, I do hereby acknowledge the following:

1. This Application, when completed and filed with the Office of the City Clerk, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and is open to public inspection.
2. I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the City Clerk.
3. I consent to filing the Statement of Financial Interests if required for this board.
<http://www.ethics.state.fl.us>
4. If appointed to a board/committee, I acknowledge that it is my obligation and duty to comply with the following:
Code of Ethics for Public Officials (Florida Statutes, Chapter 112, Part III)
Florida Sunshine Law (Florida Statutes, Chapter 286)
<http://www.flsenate.gov/Statutes>
5. I understand the responsibilities associated with being a board/committee member, and I will have adequate time to serve on this board/committee.

The information provided on this form is true and correct, and consent is hereby given to the City Council or its designated representative to verify any and/or all information provided.

Signature:  Date: 11-29-21

Mail the application to:

City of Palm Bay
Office of the City Clerk
120 Malabar Road, SE
Palm Bay, Florida 32907

Fax the application to:

321-953-8971

SUBMIT FORM



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Terese Jones, City Clerk

DATE: 12/16/2021

RE: Appointment of one (1) adult member to the Youth Advisory Board.

The vacancy has been announced at several regular Council meetings and applications solicited for same.

The following application has been received:

Jeanne Aubin
2301 Garvin Avenue, SW 32909

REQUESTING DEPARTMENT:
Legislative

FISCAL IMPACT:
None

RECOMMENDATION:
Motion to approve the appointment of one (1) member to the Youth Advisory Board representing the 'adult member, 30 years and older' position.

ATTACHMENTS:
Description
J. Aubin



Office of The

NOV 24 2021

City Clerk

APPLICATION FOR MEMBERSHIP / City Boards or Committees

City of Palm Bay • 120 Malabar Road • Palm Bay, FL 32907
Phone: 321-952-3414 • www.palmbayflorida.org • Fax: 321-953-8971

BOARD/COMMITTEE

Name of Board/Committee: *Adult Member - Youth Advisory Council*

Full Name: Jeanne Aubin

Home Address: 2301 Garvin
Avenue SW

City: Palm Bay

Zip Code:

Telephone Number: 321-215-5035

Fax Number:

Email Address:
nancy.aubin@gmail.com

EMPLOYMENT

Employer: Travel and Leisure

Occupation: Technical Consultant/DBA

Address: 6277 Sea Harbor Drive

City: Orlando

State: FL Zip Code: 32821

Telephone Number: 407-626-5200

Fax Number:

Email Address:
jeanne.aubin@travelandleisure.com

Job Responsibilities: Database
Administration

EDUCATION

High School Name: Dillard High

Location: Fort Lauderdale

Years Completed: 4

Major/Degree:

College Business or Trade School:

Florida Atlantic University

Location: Boca Raton

Years Completed: 4

Major/Degree:

BS of Computer Information Systems

Professional School:

Location:

Years Completed:

Major/Degree:

Other:

Location:

Years Completed:

Major/Degree:

APPLICANT INFORMATION

Have you ever held a business tax receipt? No No *If yes, please provide the following:*

Title:

Issue Date:

Issuing Authority:

If any disciplinary action has been taken, please state the type and date of the action taken:

Disciplinary Action:

Disciplinary Date:

Are you a resident of the City? **Yes** No *If yes, how long? 15+ Years Months*

How long have you been a resident of Brevard County? 15+ Years Months

Are you a United States citizen? **Yes** No

Are you a registered voter of the City? **Yes** No

Are you employed by the City? **Yes** **No** *If yes, what department?*

Do you presently serve on a City board(s)? Yes **No** *If yes, please list board(s):*

Have you previously served on a City board(s)? Yes **No** *If yes, please list board(s):*

Are you currently serving on a board, authority, or commission for another governmental agency?

Yes **No** *If yes, what board(s):*

Have you ever been convicted or pled guilty to a criminal charge or pled nolo contendere (no contest)

to a criminal charge? Yes **No** *If yes, what charge:*

Where:

When:

Disposition was: Convicted Pled Guilty Pled No Contest

Have your civil rights been restored? Yes No

Are you a member or participant of any community organizations? Yes No

If yes, please list:

What are your hobbies / interests? Baking

Why do you want to serve on this board / committee? To assist the youth with decisions which impact our community.

Section 760.80, Florida Statutes, requires certain information on statutorily created boards to be filed on an annual basis. Please complete the following.

Race: African American

Gender: Female

Physically Disabled:

APPLICATION CERTIFICATION

By filing this application with the City of Palm Bay and placing my signature below, I do hereby acknowledge the following:

1. This Application, when completed and filed with the Office of the City Clerk, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and is open to public inspection.
2. I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the City Clerk.
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4. If appointed to a board/committee, I acknowledge that it is my obligation and duty to comply with the following:
Code of Ethics for Public Officials (Florida Statutes, Chapter 112, Part III)
Florida Sunshine Law (Florida Statutes, Chapter 286)
<http://www.flsenate.gov/Statutes>
5. I understand the responsibilities associated with being a board/committee member, and I will have adequate time to serve on this board/committee.

The information provided on this form is true and correct, and consent is hereby given to the City Council or its designated representative to verify any and/or all information provided.

Signature: J. Nancy Aubin Date:

11/23/2021

Mail the application to:
City of Palm Bay

Office of the City
Clerk



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Terese Jones, City Clerk

DATE: 12/16/2021

RE: Consideration of Councilmembers attending the Florida League of Cities' Legislative Action Days in Tallahassee, February 8-9, 2022.

The Florida League of Cities 2022 Legislative Action Days will be held in Tallahassee, Florida, February 8-9, 2022, in conjunction with the Florida League of Mayors events.

Councilmembers interested in attending need to announce same at tonight's meeting. If you are attending, you will be given a registration form to complete. Please return the form to Rosemarie by Friday, December 17th, so all travel arrangements can be made, and hotel accommodations secured.

REQUESTING DEPARTMENT:

Legislative

FISCAL IMPACT:

Cost per person is approximately \$1,155.00. Funding is available in Legislative operating accounts 001-1110-511-4005 and 001-1110-511-5505.

RECOMMENDATION:

Motion to approve travel for members of Council as requested.

ATTACHMENTS:

Description

Itinerary

FLC 2022 Legislative Action Days

Registration OPENS on December 8, 2021!

The 2022 Florida League of Cities Legislative Action Days will be held February 8-9, 2022 in Tallahassee.

Legislative Action Days is an opportunity for Florida municipal officials to come together to advocate for legislative issues impacting Florida cities at the Capitol. The cost for this event is \$50.00. On Monday, February 7, 2022, the League is offering a four-hour ethics workshop that meets the state requirements for Continuing Education in Ethics. There is no cost to League members for this Ethics workshop. Note: Cancellations for Legislative Action Days must be received in writing by January 26, 2022, and subject to a \$25.00 cancellation fee.

The Florida League of Mayors will also be holding its events during this time. See below for the schedules of both the Legislative Action Days and the Florida League of Mayors.

Legislative Action Days Schedule* (This registration is **separate** from the Florida League of Mayors registration. If attending both programs, please register for both programs.)

Monday, February 7, 2022

✱ 1:00 p.m. - 5:00 p.m. Continuing Education in Ethics Workshop (Sittig Hall at Kleman Plaza/FLC office, 301 S. Bronough Street)

Tuesday, February 8, 2022

8:00 a.m. - 1:00 p.m. Registration Desk Open (Tallahassee City Hall Chambers, 300 S. Adams Street)

9:00 a.m. - 10:00 a.m. Legislative Briefing: Hear from the League's Legislative Team (Tallahassee City Hall Chambers, 300 S. Adams Street)

10:00 a.m. - 12:00 p.m. Capitol Visits (in regional teams)

12:00 p.m. - 1:00 p.m. Box Lunches (Tallahassee City Hall, 300 S. Adams Street)

1:00 p.m. - 5:00 p.m. Capitol Visits (in regional teams)

5:30 p.m. - 6:30 p.m. FLC Legislative Action Days Reception (Doubletree Hotel, 101 S. Adams Street)

Wednesday, February 9, 2022

Capitol Visits (on your own)

9:00 a.m. - 11:00 a.m. FLC Board of Directors Meeting (Sittig Hall at Kleman Plaza/FLC office, 301 S. Bronough Street)

* Subject to change

Florida League of Mayors Schedule* (This registration is ***separate*** from the Legislative Action Days registration. To register for the FLM events, contact flm@flcities.com.)

Monday, February 7, 2022

4:00 p.m. - 6:00 p.m. FLM Workshop: Successful Communications (Tallahassee City Hall Chambers, 300 S. Adams Street); Registration deadline is February 2, 2022.

6:30 p.m. FLM Dinner (for mayors only); ticket required; RSVP by February 2, 2022, to flm@flcities.com.

Wednesday, February 9, 2022

8:15 a.m. FLM Press Conference (Florida Capitol)

12:00 p.m. - 1:00 p.m. FLM Board of Directors Meeting (Sittig Hall at Kleman Plaza /FLC office, 301 S. Bronough Street); Luncheon to follow for the FLM Board of Directors only.

* Subject to change

When 2/8/2022 10:00 AM - 2/9/2022 2:30 PM

Where Tallahassee, FL

Note: If there are additional registration options for this event, they will be shown below. To add an additional option, click the blue *Add* button to the left of the item(s). If there are no additional options available for this event, or additional options are available and you have successfully added the appropriate ones to the registration, click the gold *Proceed to checkout* button on the bottom right to continue on to the next registration step.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Mehul J. Parekh, P.E., Public Works Director

DATE: 12/16/2021

RE: Discussion of residential development along unimproved roads and request by resident Vernon Densler to develop at 1185 Deerfield Street.

Mr. Vernon Densler contacted Public Works in October 2021 regarding the accessibility and maintenance responsibilities of an existing unimproved (not paved) road, Deerfield Street in the Melbourne Pines subdivision of Palm Bay. He was referred to Public Works by the City's Building Department as he was interested in constructing a residence on Deerfield Street. Mr. Densler's initial inquiry was whether the cul-de-sac at the end of the unpaved section of Deerfield, approximately 600 feet from a paved road, would be considered a legal access to his property to receive a building permit. His questions included whether the City graded the road, if the cul-de-sac ending at his property corner would be considered access or would there be a requirement for a road to be constructed along the full length of the property. Since previous right of way acceptance by the City was for only the first 300 feet of Deerfield Mr. Densler was advised that he would need to improve the remaining part of the road.

At the October 21, 2021, City Council meeting, Mr. Densler presented his concerns regarding a request for a new driveway connection at 1185 Deerfield Street. Deerfield Street is currently a dirt roadway with the northern segment at 1185 Deerfield not accepted by the city. Based on the Deerfield Street being an unimproved roadway (no pavement) and not accepted by the city, he was denied the driveway permit. The presentation by Mr. Densler explained the history of Deerfield Street as part of the original Melbourne Pines platted subdivision back in 1925. Later, it was rezoned rural residential with most of the units as single-family residential homes. Since that meeting, Mr. Densler has met with City Staff as well as spoken during public comments at the October 25, 2021, Infrastructure Oversight and Advisory Board (IAOB), and then again as an action item at the November 22, 2021, IAOB meeting. At that IAOB meeting, the board did support the driveway connection onto a dirt road of Deerfield Street which would be an exception to the code and requested staff for clarification in the code on improved and accepted roads to avoid any future situation. Separately, Mr. Densler requested consideration by the City for vacation of a portion of Oakfield Avenue. Staff does not support this request.

This situation and other similar situations require additional discussion with City Council regarding the City's requirement per ordinance that roads be improved to standard (i.e. paved) before development can occur. It is clear that in years past, there have been permissions granted to residential properties, allowing them to develop without improving an existing dirt road.

There are several options to be discussed for City Council consideration, that could be applied in this situation on Deerfield Street, and others similarly situated. Those options include the following:

1. Property owner must pave the road per city ordinance in order to develop.
2. Allow the property owner to build the driveway connecting to a dirt road. This would allow building on existing dirt roads.
3. City will pave this segment of dirt road and assess the property owners along the road.
4. Add these dirt roads to Road Bond Paving program.

Based on current review, the City has approximately 3.2 miles of dirt roads in similar situations. A list of those roads is attached for further review. At this time, staff will support any of these four action items based on City Council direction.

REQUESTING DEPARTMENT:

Public Works

FISCAL IMPACT:

None at this time.

RECOMMENDATION:

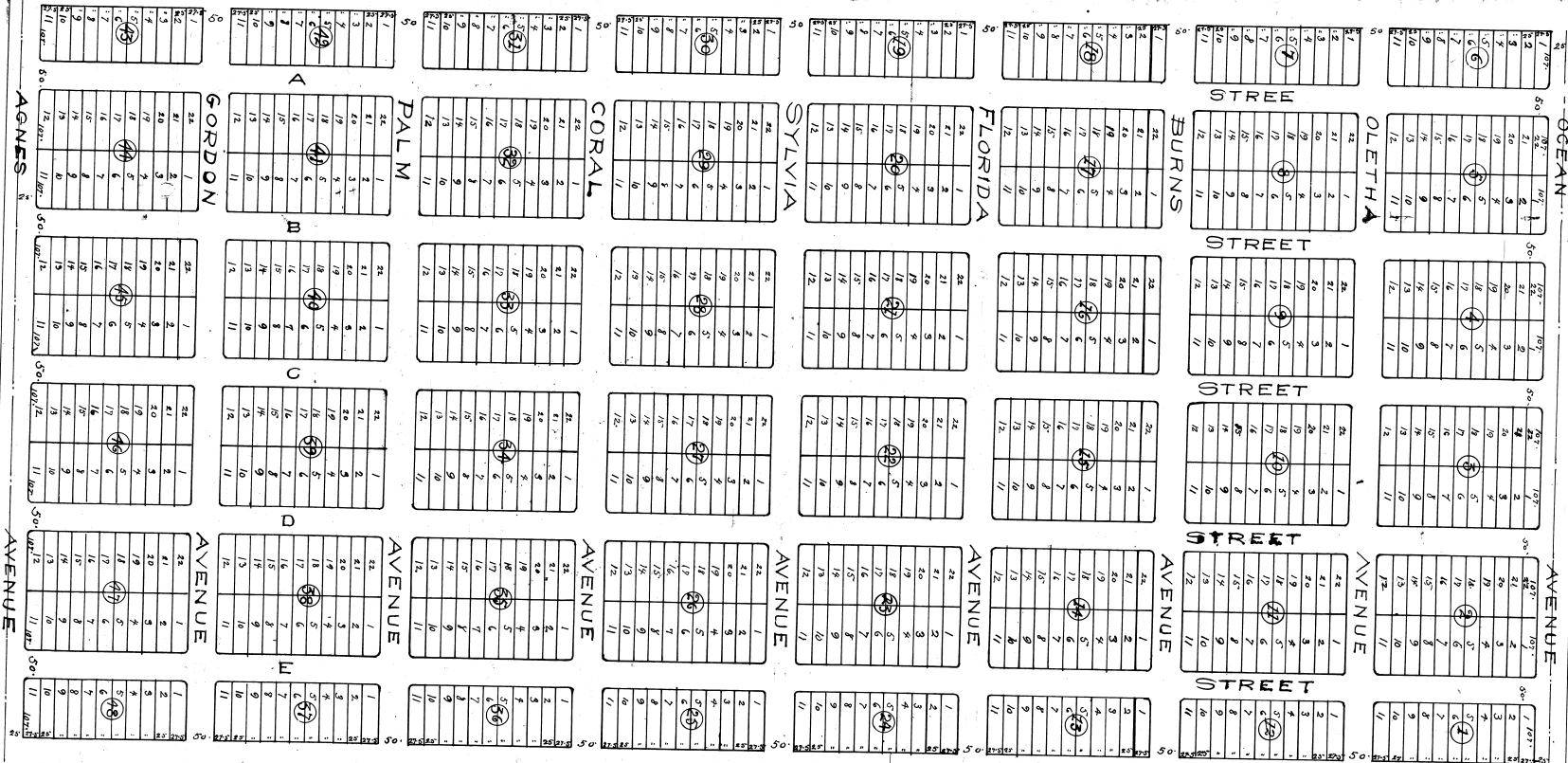
Motion to approval of staff proceeding with one of the four options as stated above, to be applied to the request from 1185 Deerfield Street and the other roadways as further described in the attachment.

ATTACHMENTS:

Description

Melbourne Pines Plat

City Unimproved Roads List



MELBOURNE PINES

A SUBDIVISION OF $W\frac{1}{2}$ OF SEC. 9-29-37
SE $\frac{1}{4}$
BREVARD COUNTY FLORIDA

SCALE 1 in = 100 ft

This is to certify that the undersigned is the lawful owner of the above described land and that he has caused the same to be surveyed subdivided and planned and that this plat is hereby adopted as a true and correct plot of said lands.

Witness my hand and seal this 21st day of July A.D. 1925

Notary Public State of New Jersey
My Commission Expires July 10, 1927

No. 13368
Filed and recorded in the Public Records of Brevard County, Florida, this 21st day of July A.D. 1925 in Plat Book 4 Page 89
Record Verified

by _____ Deputy Clerk

Unpaved Roads - Used by Public

| Street Name | Limits - Cross Streets | | Distance |
|-----------------------|------------------------|-----------------------------|----------|
| Orange Blossom Trail | Palm Bay Road | Pospisil Avenue | 640 |
| Elliott Street | Hickory Avenue | Turkey Creek | 875 |
| Hickory Avenue | Elliott Street | Lichty Street | 365 |
| Hardin Lane (East) | Knecht Road | NW corner Tax Acct #2835597 | 495 |
| Emmaus Road | Hield Road | Cul-de-Sac @ North | 3425 |
| Centerlane Road | County Maintenance | Moss Solar Farm Ditch | 6667 |
| Victor Court | Gran Avenue | End of Road (North) | 125 |
| Morris Avenue | Orange Blossom Trail | End of Road (Northwest) | 775 |
| Showanda Avenue | Keewin Avenue | Wabun Street | 530 |
| Maplewood Street | Palm Bay Road | Pospisil Avenue | 640 |
| Bay Boulevard (North) | Kirkland Road | NE - SW Platted ROW | 1440 |
| Broadview Drive * | US1 | FECRR ROW | 930 |
| | | | 16907 |
| | | | LF |
| | | | 3.20 |
| | | | Miles |

* Extra ROW Needed



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

DATE: 12/16/2021

RE: Discussion of General Fund Undesignated Fund Balance and potential funding items for Fiscal Year 2021-2022. (AGENDA REVISION)

Staff is presenting an overview of the current state of General Fund, with a specific focus on the undesignated fund balance and policy discussion regarding funding levels.

The attached spreadsheet reflects total fund balance details from the past nine years, including current estimates that reflect the City's new approach adopted in January 2021 to calculating the required minimum fund balance as well as the results of calculating the stabilization fund amount at 4%.

Staff is requesting City Council consideration of use of a portion of the available unassigned fund balance to meet certain unfunded capital, personnel, and contract needs as provided in the attachment.

REQUESTING DEPARTMENT:

City Manager's Office

FISCAL IMPACT:

Depending on City Council direction, multiple account numbers would be funded and reflected on an upcoming budget amendment.

RECOMMENDATION:

Motion to approve the use of a specified amount of undesignated fund balance, to be determined by City Council.

ATTACHMENTS:

Description

General Fund History Fund Balance

Funding Priorities FY 21-22

Presentation: General Fund and Fund Balance Overview

GENERAL FUND

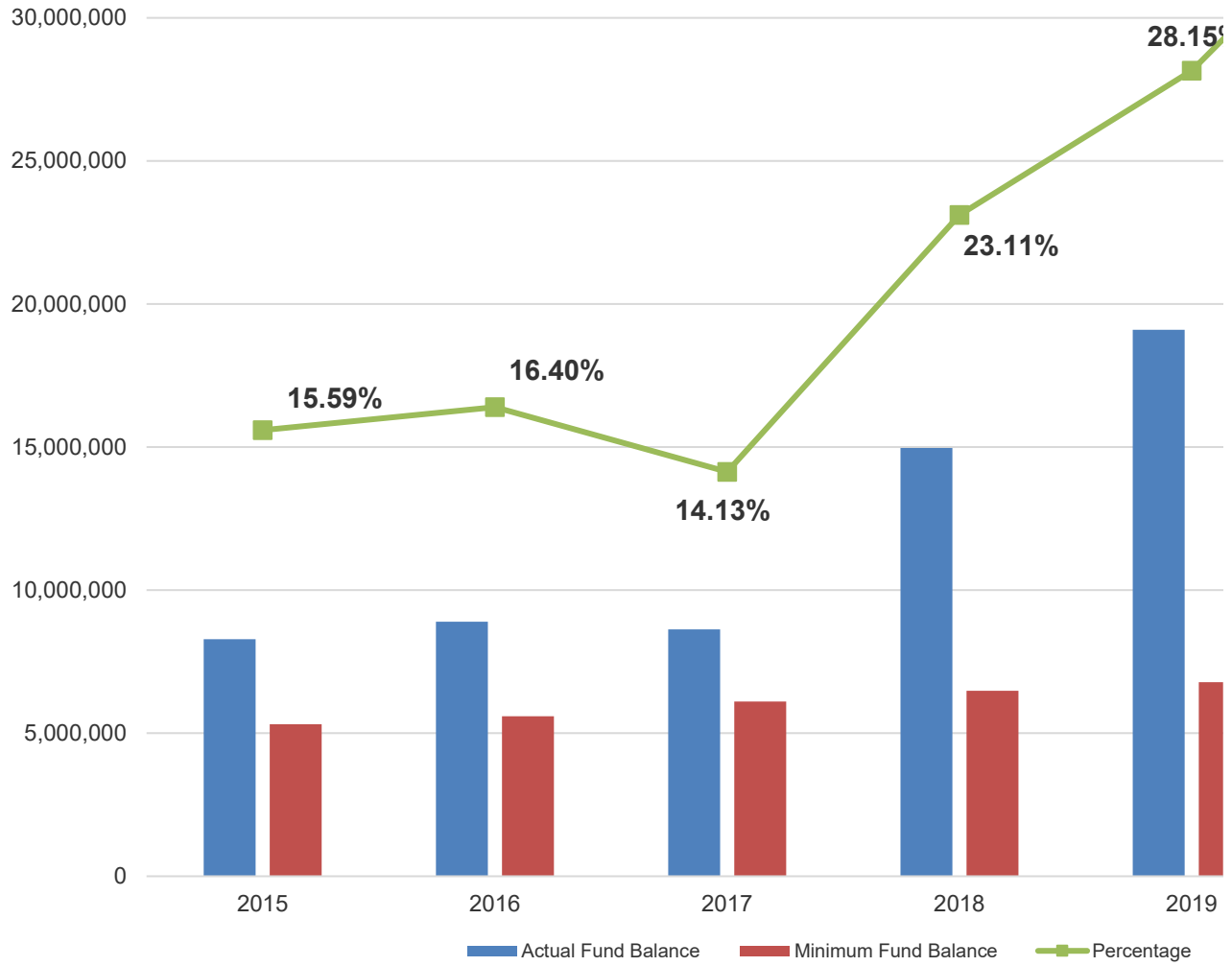
Fiscal Year:

Budgeted Subsequent FY - As Originally Adopted in September.

| GENERAL FUND MINIMUM FUND BALANCE - 9/30/XXXX | | | | | | | | | |
|--------------------------------------------------------------------------------------------------------------------------|-----------------------------|--------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------|--------------------------------------------------------------|--------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------|
| | ESTIMATED as of 11/04/13 | FY 15 Approved Budget as of 9/25/14 For FY 14 Basis | FY 16 Approved Budget as of 9/21/15 for FY 15 Basis | FY 17 Approved Budget as of 9/22/16 for FY 16 Basis | FY 18 Approved Budget as of 9/19/17 for FY 17 Basis | FY 19 Approved Budget as of 9/18/18 for FY 18 Basis | FY 20 Approved Budget as of 6/17/20 for FY 19 Basis | FY 21 Approved Budget as of 06/14/2021 for FY 20 Basis | FY 22 Approved Budget as of 11/01/2021 for FY 21 Basis |
| | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
| Expenditures | 55,861,718 | 58,553,889 | 60,949,527 | 64,227,340 | 68,315,437 | 72,567,846 | 75,662,828 | 75,291,296 | 83,236,049 |
| LESS Transfers | (5,035,541) | (5,261,966) | (7,234,424) | (8,099,375) | (6,519,250) | (7,353,190) | (7,740,645) | (7,709,664) | (7,699,502) |
| LESS Capital Outlay | (124,770) | (22,000) | (157,500) | (186,211) | (725,061) | (432,000) | (82,112) | - | - |
| LESS Reserves | (108,481) | (55,761) | (443,222) | - | - | - | - | - | - |
| Adjusted Expenditures | 50,592,926 | 53,214,162 | 53,114,381 | 55,941,754 | 61,071,126 | 64,782,656 | 67,840,071 | 67,581,632 | 75,536,547 |
| Req'd Minimum Fund Balance (10%) | 5,059,293 10%, Net Expds | 5,321,416 10%, Net Expds | 5,311,438 10%, Net Expds | 5,594,175 10%, Net Expds | 6,107,113 10%, Net Expds | 6,478,266 10%, Net Expds | 6,784,007 10%, Net Expds | 6,758,163 10%, Net Expds | 7,553,655 10%, Net Expds |
| Req'd Minimum Fund Balance (2-Months Operating) <i>Per Updated Policy - Resolution 2021-03 - Adopted January 2021</i> | | | | | | | | | 12,589,425 2-months; net expends |
| Increase in Req'd Min Fund Balance | | | | | | | | | |
| Total Fund Balance @ 9/30 | 12,005,802 | 10,040,314 | 8,282,350 | 9,174,582 | 8,631,987 | 14,972,626 | 19,098,786 | 24,540,027 | 28,833,490 |
| Total Fund Balance Percentage | 23.73% | 18.87% | 15.59% | 16.40% | 14.13% | 23.11% | 28.15% | 36.31% | 38.17% |
| Unassigned Fund Balance @ 9/30 | 9,833,161 | 9,668,623 | 7,899,629 | 8,900,069 | 8,267,662 | 11,753,606 | 17,615,847 | 20,521,877 | 26,165,774 |
| Unassigned Fund Balance Percentage | 19.44% | 18.17% | 14.87% | 15.91% | 13.54% | 18.14% | 25.97% | 30.37% | 34.64% |
| Unassigned Fund Balance - Surplus | 4,773,868 | 4,347,207 | 2,588,191 | 3,305,894 | 2,160,549 | 5,275,340 | 10,831,840 | 13,763,713 | 13,576,350 |
| Stabilization Funds (2.0% - 4.0% Annually) | | | | | | | | | 4.00% |
| Newly added with FY 2022 Approved Budget | | | | | | | | | 946,340 |

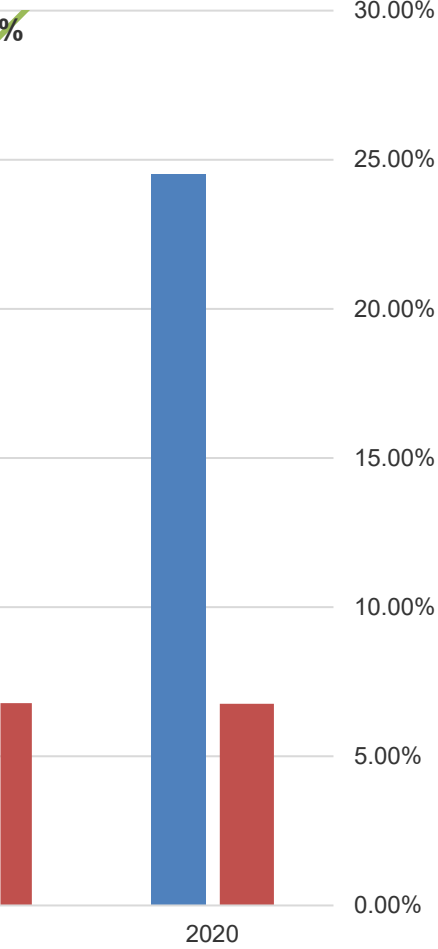
| | Actual Fund Balance | Minimum Fund Balance | Percentage |
|------|---------------------|----------------------|------------|
| 2013 | 12,005,802 | 5,059,293 | 23.73% |
| 2014 | 10,040,314 | 5,321,416 | 18.87% |
| 2015 | 8,282,350 | 5,311,438 | 15.59% |
| 2016 | 8,900,069 | 5,594,175 | 16.40% |
| 2017 | 8,631,987 | 6,107,113 | 14.13% |
| 2018 | 14,972,626 | 6,478,266 | 23.11% |
| 2019 | 19,098,786 | 6,784,007 | 28.15% |
| 2020 | 24,540,027 | 6,758,163 | 36.31% |

General Fund Balance vs. Minimum Fund Balance Requirement



*Unaudited as of publication date

rement



FY 21-22 Unfunded Capital, Personnel and Other Project Priorities

| | | | |
|-------------------|----|---------|------------------------------------------------------------------|
| Facilities | \$ | 153,000 | Chiller -PDHQ |
| | \$ | 150,000 | Chiller - Annex |
| | \$ | 250,000 | Generator Replacement - City Hall |
| | \$ | 60,000 | 2 replacement trucks |
| | \$ | 60,000 | AEDs for all buildings |
| | \$ | 100,000 | Building Security, initial investment |
| | | | |
| Parks | \$ | 23,536 | Replace Equipment Trailers |
| | \$ | 12,000 | Connexes to store equipment |
| | \$ | 49,173 | Veterans Park Pavilion replacements |
| | \$ | 50,000 | Scoreboards - Knecht(3) and Liberty (4) Parks |
| | | | |
| Police | \$ | 320,000 | 8 replacement vehicles (Durangos) |
| | \$ | 26,815 | 5 replacement command staff vehicles; 2 year lease |
| | | | |
| Fire | \$ | 520,000 | Replacement engine - Station 3 |
| | \$ | 78,000 | Mold remediation - Station 4 |
| | \$ | 22,000 | Training funds for TRT team |
| | | | |
| PW | \$ | 45,000 | PW Director Vehicle (currently using loaner from inspector pool) |
| | \$ | 210,500 | Tractor with mowing/trenching attachments |
| | \$ | 120,000 | Fuel Pump cover structure |
| | \$ | 25,000 | 2 zero turn mowers |
| | \$ | 25,000 | 2 gator ATVs |
| | \$ | 60,000 | Vehicle car/truck wash assembly |
| | \$ | 150,000 | Covered structures for vehicle/equipment |
| | \$ | 50,000 | Updated Sidewalk Master Plan |
| | \$ | 100,000 | Street Lights |
| | \$ | 100,000 | Sidewalks |
| | \$ | 90,000 | EV Chargers |
| | | | |
| Recreation | \$ | 7,500 | Recreation payment system upgrade |
| | | | |
| CED | \$ | 30,000 | Department Vehicle - new |
| | \$ | 15,000 | Office repairs/renovations |
| | | | |
| GM | \$ | 43,922 | Planning Specialist/Technician (\$58,563 full year est) |
| | \$ | 15,000 | Increase legal ad fees |
| | | | |
| IT | \$ | 54,298 | Database Administrator (\$76,023 full year est) |
| | | | |

| | | | |
|-------------------|----|---------------------|----------------------------------------------------------------------|
| Finance | \$ | 85,830 | Asset Manager (\$114,440 full year est) |
| | | | |
| City Clerk | \$ | 43,922 | Secretary (\$58,563 full year est) |
| | \$ | 17,000 | Public records software |
| | \$ | 16,000 | Increase legal ad fees |
| | \$ | 15,000 | Council Chambers chair replacements |
| | | | |
| CMO | \$ | 85,830 | Assistant to the CM/Sustainability Officer (\$114,440 full year est) |
| | \$ | 30,000 | Internal Control Modernization/Fraud Risk Reduction Audit |
| | \$ | 50,000 | Digital Marquee |
| | \$ | 30,000 | City Welcome Entry Signage/Design |
| | \$ | 13,209 | Community Info Coord salary adjustment |
| | \$ | 8,064 | Public Info Officer salary adjustment |
| | \$ | 800 | Florida Institute of Technology Sustainability Intern |
| | | | |
| | | \$ 3,411,400 | Total Funding Requests |

\$ 12,630,010 Current Unassigned Fund Balance

\$ 9,218,611 Remaining Unassigned Fund Balance if Requests are Approved

\$ 1,285,851 Capital - Vehicles/Equipment

\$ 1,574,173 Capital - Infrastructure

\$ 335,876 Personnel

\$ 215,500 Other

\$ 3,411,400



Down to Earth And Up To Great Things

GENERAL FUND HEALTH CHECK

December 16, 2021

PRESENTATION OUTLINE

- General Fund Overview
 - Palm Bay's Budget Philosophy
 - Revenue Funding Sources
 - Expenditures by Department
 - Debt
 - Unallocated Funds
 - Challenges
 - Funding Requests
 - Questions

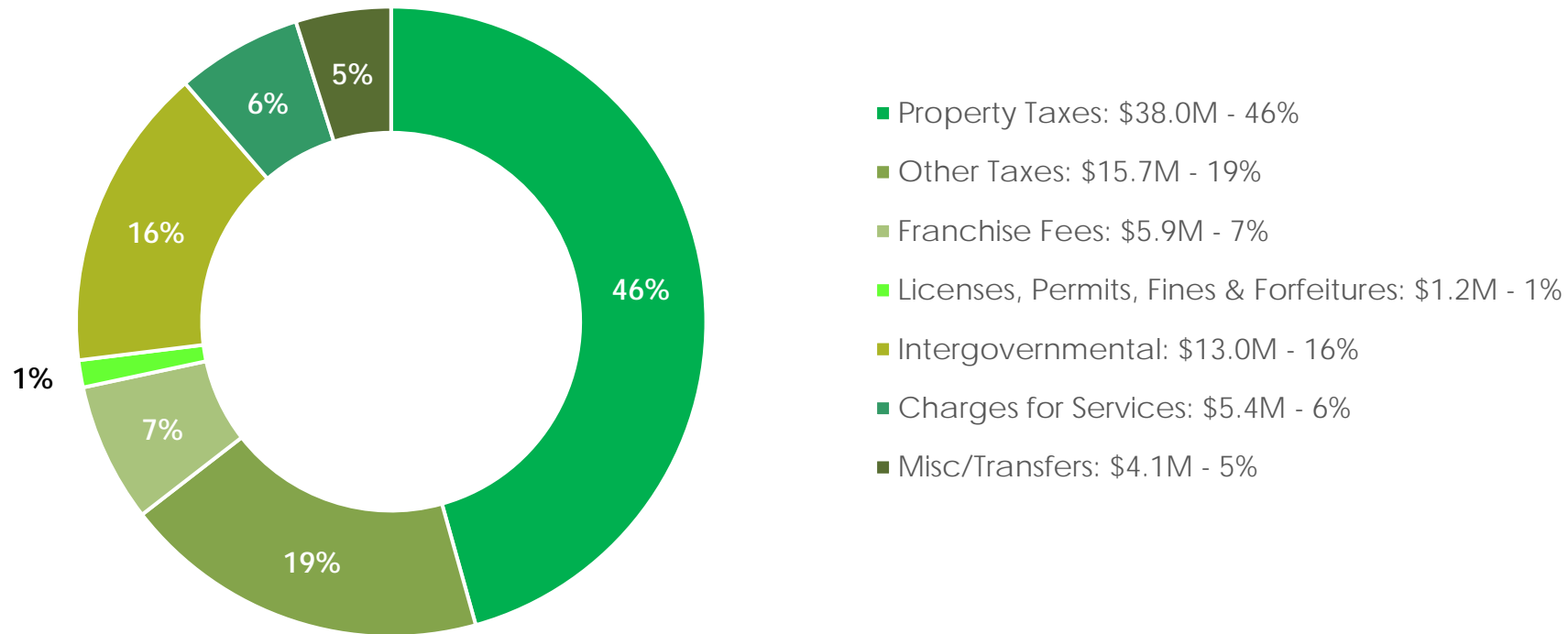
PALM BAY BUDGET PHILOSOPHY

For the 2021 budget development process, management incorporated the zero-based method for budgeting. This budgeting philosophy starts with each department budget at zero and with support is provided for every item added to the budget.

- Salaries and benefits are only adjusted according to guidance by Council and/or City Manager.
- Operating expenses must be supported by historical information.
- Capital requests are presented to the City Manager during the budget process and is approved if substantiated and funding is available.

FY 2022 REVENUE FUNDING SOURCES

**Total General Fund Budget
\$83,236,049**



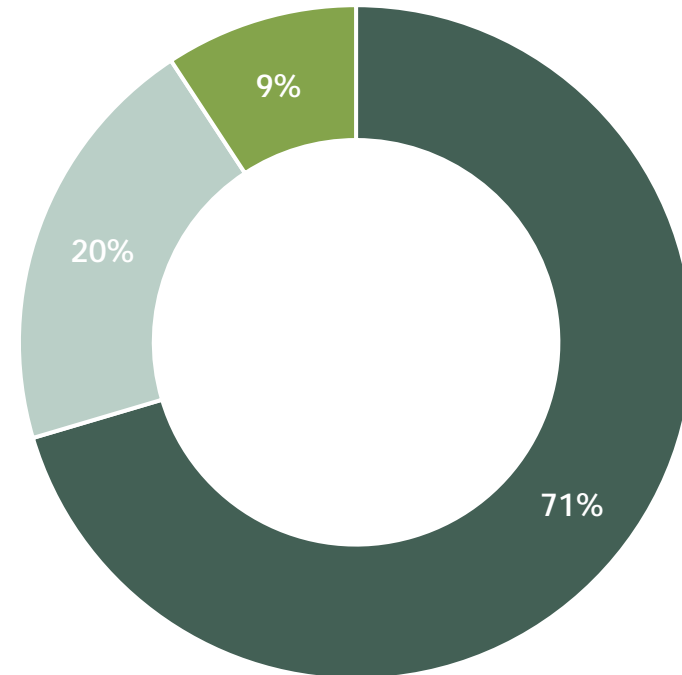
REVENUE BY DEPARTMENT



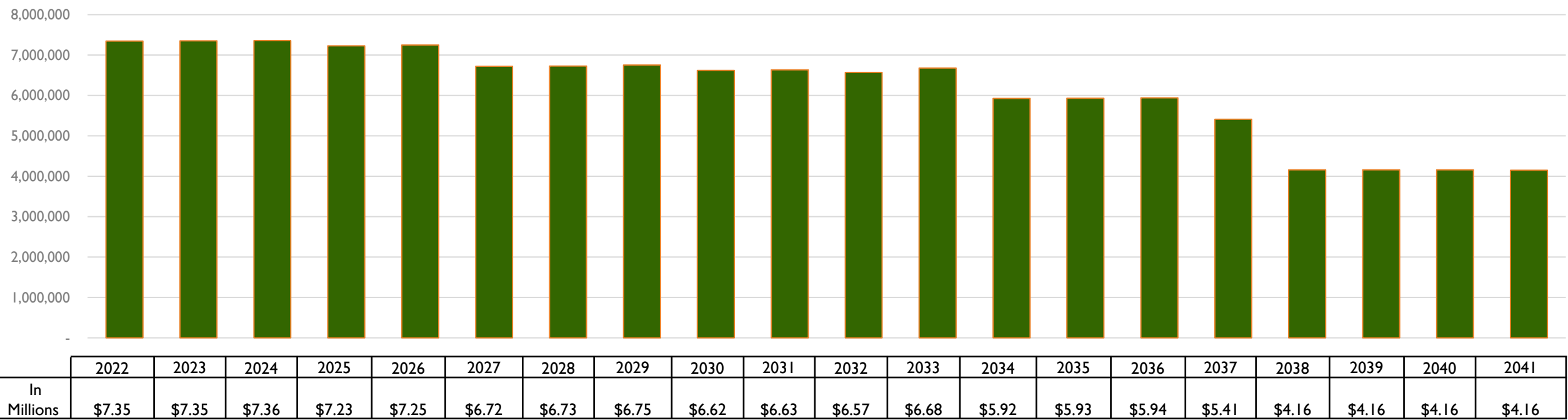
EXPENDITURES BY CATEGORY

**Total General Fund Budget
\$83,236,049**

- Personnel Services: \$58.6M - 71%
- Operating Expenditures: \$17M - 20%
- Transfers: \$7.7M - 9%



GENERAL FUND DEBT



The Bayfront CRA debt will sunset in FY 2022 and the whole CRA will sunset in FY 2024. This will allow for an estimated \$993k to go back into the General Fund.

UNALLOCATED FUNDS

Nine year history of Fund Balance calculations

| | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|--------------------------------------|--------------|--------------|-------------|-------------|-------------|--------------|--------------|--------------|---------------|
| Total Fund Balance @ 9/30 | \$12,005,802 | \$10,040,314 | \$8,282,350 | \$9,174,582 | \$8,631,987 | \$14,972,626 | \$19,098,786 | \$24,540,027 | \$28,833,490 |
| Total Fund Balance Percentage | 23.73% | 18.87% | 15.59% | 16.40% | 14.13% | 23.11% | 28.15% | 36.31% | 38.17% |
| Amended to Basis Percentage Increase | | | | | | | | | |
| Unassigned Fund Balance @ 9/30 | \$9,833,161 | \$9,668,623 | \$7,899,629 | \$8,900,069 | \$8,267,662 | \$11,753,606 | \$17,615,847 | \$20,521,877 | \$26,165,774 |
| Unassigned Fund Balance Percentage | 19.44% | 18.17% | 14.87% | 15.91% | 13.54% | 18.14% | 25.97% | 30.37% | 34.64% |
| Required Minimum Balance | \$5,059,293 | \$5,321,416 | \$5,311,438 | \$5,594,175 | \$6,107,113 | \$6,478,266 | \$6,784,007 | \$6,758,163 | \$12,589,425* |
| Stablization Fund | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$946,340 |
| Stabilization Funds Percentage | 0.00% | 0.00% | 0.00% | 0.00% | 0.00% | 0.00% | 0.00% | 0.00% | 4.00% |
| Unassigned Fund Balance - Surplus | \$4,773,868 | \$4,347,207 | \$2,588,191 | \$3,305,594 | \$2,160,549 | \$5,275,340 | \$10,831,840 | \$13,763,713 | \$12,630,010 |

*In 2021, the city changed the required minimum fund balance policy from a 10% of annual expenses to a 2 month annual expense amount.

CHALLENGES

- Post hurricane sustainability
 - City averaged \$2.4 million in damage from both Hurricane Matthew and Irma
 - Brevard County has not had sustained hurricane force winds since David – 1979
- Aging fleet and structures
- Competitive labor market
 - 985 positions within city
 - 155 or 15% vacant
 - Pay study currently being conducted
- 3% Cap on taxes per charter
 - FY 2020 - City did not receive \$1,271,865 in potential revenue due to Cap
 - FY 2021 – City did not receive \$1,350,591 in potential revenue due to Cap
 - FY 2022 – City did not receive \$1,188,863 in potential revenue due to Cap
 - For a total of \$3,811,319

FUNDING REQUESTS

As part of this agenda, is a list of requests that have been vetted through the City Manager. Below is a summary of that request.

| | |
|--------------|------------------------------|
| \$ 1,285,851 | Capital - Vehicles/Equipment |
| \$ 1,574,173 | Capital - Infrastructure |
| \$ 335,876 | Personnel |
| \$ 215,500 | Other |
| \$ 3,411,400 | Total Request |



QUESTIONS



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Terese Jones, City Clerk

DATE: 12/16/2021

RE: Committee/Council Reports

Committee Reports:

- Space Coast Transportation Planning Organization
- Space Coast League of Cities
- Tourist Development Council

Council Reports

REQUESTING DEPARTMENT:

Legislative