



120 Malabar Road, SE - Palm Bay, FL 32907 (321-952-3400)
www.palmbayflorida.org

Mayor
WILLIAM CAPOTE

Deputy Mayor
JEFF BAILEY

Councilmembers
MICHELE PACCIONE
HARRY SANTIAGO, JR.
TRES HOLTON

HOLIDAY SEASON MERRIMENT
6:30 P.M. – Heritage High School Show Choir, Heritage High School

AGENDA

REGULAR COUNCIL MEETING NO. 2015-34 THURSDAY

December 17, 2015 - 7:00 P.M.
City Hall Council Chambers

CALL TO ORDER:

INVOCATION:

Pastor Chris Hitte – Discover Life Church, Melbourne

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

1. One (1) vacancy on the Community Development Advisory Board (represents 'employers within the city').++
2. Two (2) vacancies on the Building and Construction Advisory Board (represents 'homeowner' and 'design engineer' positions).++
3. One (1) term expiring on the Enterprise Zone Development Agency (represents 'local financial or insurance entities').++
4. One (1) vacancy on the Enterprise Zone Development Agency (represents 'local business in the enterprise zone area').++

AGENDA REVISIONS:

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.

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

PUBLIC COMMENTS/RESPONSES: (Non-agenda Items Only)

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

PUBLIC HEARINGS:

1. Ordinance No. 2015-65, amending the Code of Ordinances, Chapter 52, Boards, by revising the composition of and establishing term limits for specific boards, for final reading.
- ♣2. Resolution No. 2015-52, granting a conditional use for retail automotive gas/fuel sales and a restaurant with drive-through facility in NC (Neighborhood Commercial District) zoning on property located at the northwest corner of Jupiter Boulevard and Garvey Road (2.94 acres)(Case No. CU-13-2015, Speedtrac Petroleum, Inc.)(**CONTINUED FROM RCM 11/05/15**).
3. Ordinance No. 2015-66, vacating all or portions of the public utility and drainage easements surrounding and lying between Lots 20 through 24, Block B, Pinehurst Subdivision (14,374.80 square feet)(Case No. VE-10-2015, Palma Bella Development, Inc.), for first reading.
4. Ordinance No. 2015-67, vacating a portion of the rear twenty (20) foot public utility and drainage easement located within Lot 7, Block 54, Port Malabar Unit 4 (Case No. VE-11-2015, John Turner), for first reading.
5. Request by West Pointe Babcock, LLC to amend the City's Comprehensive Plan Future Land Use Map to change the designated use of property located at the southeast corner of Babcock Street and Plantation Circle from Single Family Residential Use to Commercial Use (4.41 acres)(Case No. CP-7-2015).
- ♣6. Request by West Pointe Babcock, LLC to rezone property located at the southeast corner of Babcock Street and Plantation Circle from RR (Rural Residential District) to CC (Community Commercial District) (4.41 acres)(Case No. CPZ-7-2015).
- ♣7. Request by Bonnie Kennedy for a variance to allow a proposed detached garage to encroach the front, side interior, and rear setbacks in RS-3 (Single-Family Residential District) zoning (0.50 acres)(Case No. V-27-2015).
- ♣8. Request by Steve Smolko for a variance to allow an existing pool and proposed screen enclosure to encroach the ten (10) foot rear setback and the eight (8) foot side setback in RS-2 (Single Family Residential District) zoning (0.22 acres)(Case No. V-29-2015).
- ♣9. Request by Derek Hindle for a variance to allow relief from the two-car garage requirement for a proposed reconstructed home in RS-2 (Single Family Residential District) zoning (0.23 acres)(Case No. V-30-2015).
10. Request by Palladio Development, LLC for a final subdivision to be known as Palladio Subdivision in RS-2 (Single Family Residential District) zoning (1.38 acres)(Case No. FS-3-2015)(**RESCHEDULED TO P&Z – 01/06/16**).
11. Request by Zons Development, LLC for a planned development for a proposed Regional Activity Center Planned Development Concept Plan in conjunction with a change in zoning from GU (General Use District) zoning (Brevard County) to RAC (Regional Activity Center District) zoning (723.06 acres)(Case No. PD-16-2015)(**RESCHEDULED TO P&Z – 01/06/16**).

PROCUREMENTS:

Award of Proposal:

- * 1. Banking services, RFP No. 61-0-2015 – Finance Department (JP Morgan Chase Bank).
- * 2. Pump and motor repair and maintenance services, RFP No. 03-0-2016 – Utilities Department (TAW Orlando Service Center - \$70,000).

Contracts:

- * 1. Automotive body repairs, renewal (Gerber Collision and Glass - \$62,000).
- * 2. Palm Vista regional lift station design and permitting – Task Order 15-08 (Wade Trim, Inc. - \$114,980).
- * 3. Stormwater utility review and audit, continuing consultant services – RFQ No. 09-0-2016 – Public Works Department (Government Services Group, Inc. – estimated \$200,000).

Miscellaneous:

- * 1. Neptune water meters and parts, purchasing authority – Utilities Department (Sunstate Meter and Supply - \$720,000 (sole source)).
- * 2. Economic Development website, purchasing authority – Communications and Information Technology Department/Economic Development and External Affairs Department (Vision Internet Providers – up to \$25,951).

UNFINISHED AND OLD BUSINESS:

- 1. One (1) appointment to the Library Advisory Board.

COMMITTEE AND COUNCIL REPORTS:

NEW BUSINESS:

- 1. Resolution No. 2015-58, supporting House Bill 613 and Senate Bill 544 relating to the exemption from the sales and use tax for certain machinery and equipment (Deputy Mayor Bailey).
- 2. Resolution No. 2015-59, commenting on the conceptual legislative proposal relating to the regulation of municipal elections.
- * 3. Resolution No. 2015-60, authorizing the City Manager to execute necessary documents conveying City-owned surplus properties to third-party buyers.
- * 4. Resolution No. 2015-61, declaring the public purpose of and necessity for the exercise of the right and power of eminent domain to acquire certain real property located in the City of Palm Bay for the construction and maintenance of a roadway and installation of utility lines and associated drainage facilities.
- * 5. Consideration of a Right-of-Way Contribution Agreement with Cypress Bay Farms, a Florida limited partnership, for conveyance of rights-of-way for the I-95 Southern Interchange/Parkway project.

- * 6. Consideration of a Transportation Impact Fee Application-for-Credit Agreement with Cypress Bay Farms, for properties located at the proposed St. Johns Heritage Parkway alignment connecting west to Babcock Street.
- * 7. Consideration of an amendment to the Right-of-Way Contribution Agreements with Sebastian Resources 400 Limited and Brevard Landvest, LLC for roadway and stormwater needs related to the I-95 Southern Interchange/Parkway project.
- * 8. Consideration of a Transportation Impact Fee Application-for-Credit Agreement with Sebastian Resources 400, Brevard Landvest LLC, and KJZ Sunrise LLC, for properties located at the proposed I-95 Southern Interchange/Parkway alignment.
- * 9. Consideration of emergency closure of Tranter Avenue, between Sandusky Street and Tidewell Street, due to the failed drainage structure located in the Melbourne-Tillman Water Control District Canal.
- 10. Consideration of councilmembers attending the Florida League of Cities Legislative Action Days, February 2-3, 2016, in Tallahassee.

ADMINISTRATIVE AND LEGAL REPORTS:

- * 1. Consideration of renewing the employment contract with Nick Tsamoutales, City Attorney, Emeritus.

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

ADJOURNMENT:

♣Quasi-judicial proceeding.

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. (§ 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.

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



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk

A handwritten signature in blue ink, appearing to read "Terese M. Jones", positioned to the right of the "FROM:" line.

DATE: December 17, 2015

SUBJECT: Ordinance No. 2015-65

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.

If you should have any questions or desire additional information, please advise.

/tmj
Attachment

ORDINANCE NO. 2015-65

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE V, LEGISLATIVE, CHAPTER 52, BOARDS, BY REVISING THE MEMBERSHIP COMPOSITION OF SPECIFIC ADVISORY BOARDS AND CERTAIN PROVISIONS THEREIN; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; 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 City of Palm Bay Code of Ordinances, Title V, Legislative, Chapter 52, Boards, Subchapter 'Building and Construction Advisory Committee', is hereby amended and shall henceforth read as follows:

"BUILDING AND CONSTRUCTION ADVISORY COMMITTEE

* * *

Section 52.052 COMPOSITION.

(A) The Committee shall consist of seven (7) members appointed by the City Council, ~~including, but not limited to the following vocations:~~ Members shall be familiar with and involved in the building industry.

~~(1) One (1) general contractor (Mayor);~~

~~(2) One (1) residential contractor (Seat 2);~~

~~(3) One (1) remodeler (Seat 3);~~

~~(4) One (1) realtor (Seat 4);~~

~~(5) One (1) homeowner (Seat 5);~~

~~(6) One (1) subcontractor (carpenter, mason, pools, etc.); and~~

~~(7) One (1) design engineer.~~

(B) Each Council seat shall appoint one (1) member as delineated above. Subsequent appointments shall coincide with the Council seat and not the term of office of the Councilmember.

(C) The two (2) remaining members' positions shall be considered at-large. The members shall be selected by using the City Council's process for filling board positions.

(B) In addition, the City Manager, or his/her designee, shall act as staff and provide assistance to the committee.

Section 52.053 TERMS OF OFFICE.

(A) Members shall have been residents of the county for a period of not less than two (2) years. The initial terms of the seven (7) members shall be as follows:

- (1) Two (2) members shall be appointed to serve for three (3) years:
- (2) Two (2) members shall be appointed to serve for two (2) years; and
- (3) Three (3) members shall be appointed to serve for one (1) year.

(B) Thereafter, all appointments shall be for ~~three (3)~~ four (4) year terms and limited to two (2) consecutive terms. Appointments to fill any vacancy on the Committee shall be for the remainder of the unexpired term of office. When filling positions on this Committee, the City Council shall attempt to achieve, to the maximum extent possible, the broadest representation from the categories listed in § 52.052.

Section 52.054 GENERAL PROVISIONS.

* * *

(C) *Officers and bylaws.* The Committee shall select its own chairperson and vice chairperson ~~and such other officers as it deems appropriate. Such officers~~ The chairperson and vice chairperson shall serve for a term of ~~one~~ two (2) years. The vice chairperson shall automatically succeed the chairperson. The Committee may adopt bylaws not inconsistent with the provisions of this subchapter.

* * *

SECTION 2. The City of Palm Bay Code of Ordinances, Title V, Legislative, Chapter 52, Boards, Subchapter 'Code Enforcement Board, is hereby amended and shall henceforth read as follows:

"CODE ENFORCEMENT BOARD

* * *

Section 52.084 ORGANIZATION.

(A) The board shall consist of seven (7) city residents appointed by the City Council. Each Council seat shall appoint one (1) member. ~~Subsequent appointments shall coincide with the Council seat and not the term of office of the Councilmember.~~

(B) The two (2) remaining members' positions shall be considered at-large. The members shall be selected by using the City Council's process for filling board positions.

(AC) The Board shall ~~consist of~~ select a chairperson; and a vice-chairperson; ~~and such other officers as the Board shall deem necessary.~~ The chairperson and vice-chairperson shall serve for a term of two (2) years. The vice-chairperson shall automatically succeed the chairperson.

(BD) There shall be an election of officers at the annual Board meeting held each January.

(GE) A member of the Board may serve unlimited terms as an officer of the Board, including successive terms.

* * *

SECTION 3. The City of Palm Bay Code of Ordinances, Title V, Legislative, Chapter 52, Boards, Subchapter 'Library Advisory Board, is hereby amended and shall henceforth read as follows:

"LIBRARY ADVISORY BOARD

Section 52.110 LIBRARY ADVISORY BOARD.

* * *

(B) *Composition.*

(1) The board shall consist of five (5) city residents appointed by the City Council. Each Council seat shall appoint one (1) member. Subsequent appointments shall coincide with the Council seat and not the term of office of the Councilmember.

(2) Of the members first appointed, two (2) shall be appointed for terms of one (1) year, two (2) for terms of two (2) years, and one (1) for a term of three (3) years. Subsequent appointments, except for filling vacancies, shall be for the full term of ~~three (3)~~ four (4) years and limited to two (2) consecutive terms.

* * *

(D) *Rules of procedure.*

* * *

(3) *Officers.* The Board shall select its own chairperson and vice chairperson ~~and such other officers as it deems appropriate.~~ The ~~officers~~ chairperson and vice chairperson shall serve for a term of ~~one~~ two (2) years ~~and may succeed themselves.~~ The vice chairperson shall automatically succeed the chairperson.

* * *

SECTION 4. The City of Palm Bay Code of Ordinances, Title V, Legislative, Chapter 52, Boards, Subchapter 'Planning and Zoning Board/Local Planning Agency', is hereby amended and shall henceforth read as follows:

"PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

* * *

52.142 SELECTION, COMPOSITION, AND RETENTION OF MEMBERS.

(A) *Membership.*

(1) The City Council shall appoint a ~~nine (9)~~ seven (7) member Planning and Zoning Board. The members of the Board shall have been residents of the city for at least one (1) year, and shall be appointed on the basis of experience, knowledge, and/or interest in the area of local planning.

(a) Each Council seat shall appoint one (1) member. Subsequent appointments shall coincide with the Council seat and not the term of office of the Councilmember.

(b) The two (2) remaining members' positions shall be considered at-large. The members shall be selected by using the City Council's process for filling board positions.

* * *

(D) The members of the Board shall elect a Chairperson and Vice Chairperson at their first meeting. The Chairperson and Vice chairperson shall serve for a term of two (2) years. The Vice Chairperson shall automatically succeed the Chairperson. The presence of ~~five (5)~~ four (4) or more members shall constitute a quorum of the Planning and Zoning Board.

* * *

SECTION 5. The City of Palm Bay Code of Ordinances, Title V, Legislative, Chapter 52, Boards, Subchapter 'Recreation Advisory Board, is hereby amended and shall henceforth read as follows:

"RECREATION ADVISORY BOARD

* * *

Section 52.171 COMPOSITION; COMPENSATION.

The Board shall consist of ~~nine (9)~~ seven (7) city residents serving without pay.

Section 52.172 SELECTION; APPOINTMENT.

~~The City Council shall appoint the members of the Board from candidates recommended by members of the City Council and existing board. The recommendations shall be consistent with an objective to provide as broad a representation of the various interests of the community as is practical and all are encouraged to actively seek candidates from all areas of the community.~~

(A) Each Council seat shall appoint one (1) member. Subsequent appointments shall coincide with the Council seat and not the term of office of the Councilmember.

(B) The two (2) remaining Board members' positions shall be considered at-large. The members shall be selected by using the City Council's process for filling board positions.

Section 52.173 TERMS.

The term of office for Board members shall be ~~three (3)~~ four (4) years and limited to two (2) consecutive terms. ~~Their~~ Their terms shall be staggered as provided in bylaws to be established by the Board.

* * *

Section 52.175 ORGANIZATION.

The Palm Bay Recreation Advisory Board shall organize by electing a Chairperson and Vice Chairperson from its membership ~~and such other officers as it may deem necessary;~~ The term of the Chairperson and Vice Chairperson ~~other officers being shall be~~ for ~~one (1)~~ two (2) years~~;~~ The Vice Chairperson shall automatically succeed the Chairperson. ~~and [t]he Board~~ shall adopt bylaws regulating, among other matters, the proper conduct of its meeting, staggering of the terms of office, and removal of members.

* * *

SECTION 6. The City of Palm Bay Code of Ordinances, Title V, Legislative, Chapter 52, Boards, Subchapter 'Utilities Advisory Board, is hereby amended and shall henceforth read as follows:

"UTILITIES ADVISORY BOARD

* * *

Section 52.222 COMPOSITION; TERMS; VACANCIES.

(A) The Board shall consist of five (5) members who shall be appointed by the City Council as follows:

- (1) Two (2) members shall each serve an initial term of three (3) years;
- (2) Two (2) members shall serve an initial term of two (2) years; and
- (3) One (1) member shall serve an initial term of one (1) year.

All subsequent appointments shall be for a term of ~~three (3)~~ four (4) years and limited to two (2) consecutive terms.

(B) Each Council seat shall appoint one (1) member. Subsequent appointments shall coincide with the Council seat and not the term of office of the Councilmember.

(B) Members shall be residents of and qualified voters within the city. At least three (3) members of the Board shall be current customers of the city's utility system.

(C) The Board shall be made up of individuals who will have special talents, credentials, or experience which will be useful in the review and recommendation of utilities.

(D) No official of the city or employee of the city's Utilities Department may be appointed as a member of the Board.

(E) Vacancies for unexpired terms shall be filled in the manner in which original appointments are required to be made. Appointments to fill any vacancy on the board shall be for the remainder of the unexpired term.

* * *

Section 52.224 RULES OF PROCEDURE.

* * *

(C) *Officers.* The Board shall select its own chairperson and vice chairperson ~~and such other officers as it deems appropriate.~~ The ~~officers~~ chairperson and vice chairperson shall serve for a term of ~~one~~ two (2) years ~~and may succeed themselves.~~ The vice chairperson shall automatically succeed the chairperson.

* * *

SECTION 7. The City of Palm Bay Code of Ordinances, Title V, Legislative, Chapter 52, Boards, Subchapter 'Local Road Advisory Board, is hereby amended and shall henceforth read as follows:

“LOCAL ROAD ADVISORY BOARD

* * *

Section 52.292 COMPOSITION; TERMS; VACANCIES.

(A) The Board shall consist of seven (7) members who shall be appointed by the City Council as follows:

(1) Each Council seat shall appoint one (1) member. Subsequent appointments shall coincide with the Council seat and not the term of office of the Councilmember.

(2) ~~Two (2) members shall be appointed at-large.~~ The two (2) remaining Board members' positions shall be considered at-large. The members shall be selected by using the City Council's process for filling board positions.

(3) Members shall serve an initial term of two (2) years. The initial term shall be through December 31, 2016.

(4) After the expiration of the above initial terms, all appointments shall be for a term of ~~two (2)~~ four (4) years and limited to two (2) consecutive terms.

~~All subsequent appointments shall coincide with the Council seat and not the term of office of the Councilmember.~~

* * *

~~(D) Vacancies for unexpired terms shall be filled in the manner in which original appointments are required to be made. Appointments to fill any vacancy on the board shall be for the remainder of the unexpired term.~~

* * *

Section 52.294 RULES OF PROCEDURE.

* * *

(C) *Officers.* The Board shall select its own chairperson and vice chairperson ~~and such other officers as it deems appropriate.~~ The ~~officers~~ chairperson and vice chairperson shall serve for a term of ~~one (1)~~ two (2) years ~~and may succeed themselves.~~ The vice chairperson shall automatically succeed the chairperson.

* * *”

SECTION 8. 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 9. 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 10. 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 11. The provisions within this ordinance shall take effect February 1, 2016.

Read in title only at Meeting No. 2015-33, held on December 1, 2015; and read in title only and duly enacted at Meeting No. 2015- , held on , 2015.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Words ~~stricken~~ through shall be deleted; underscored words shall be included. Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk

DATE: December 17, 2015

SUBJECT: Conditional Use Request, Retail Automotive Gas/Fuel Sales and Restaurant with Drive-Through Facility – Speedtrac Petroleum, Inc.

As you may recall, at the regular meeting held on November 5, 2015, City Council voted to table the above request and directed the applicant to complete a traffic study and traffic signal warrant analysis. Attached is a letter from the applicant with regard to Council's direction and a request to move forward with consideration of the conditional use request prior to completing the study/analysis.

Speedtrac Petroleum, Inc. (Steve Monroe, representative) has submitted an application for a conditional use for retail automotive gas/fuel sales and a restaurant with drive-through facility in NC (Neighborhood Commercial District) zoning. The property is located at the northwest corner of Jupiter Boulevard and Garvey Road, and contains 2.94 acres, more or less.

Staff Conclusion:

The Planning and Zoning Board and City Council must determine if the request, based upon the submitted material and presentation made by the applicant, meets the general and specific requirements of the Code of Ordinances, as identified in the Staff Report.

Planning and Zoning Board Recommendation:

Denial of the request, by a vote of 5 to 2.

Resolution No. 2015-52 has been prepared for consideration at tonight's meeting. If you should have any questions, please advise.

/tjl

Attachments

Case No. CU-13-2015

MEC
CONTRACTORS ■ ENGINEERS
DBA MID-FLORIDA ENGINEERING CONSULTANTS

Office of The
DEC - 4 2015
City Clerk

December 1, 2015

Ms. Teresa Jones, City Clerk
City of Palm Bay
120 Malabar Rd. S.E.
Palm Bay, FL 32907

Re: City Council meeting November 5, 2015 / Public Hearings, item #8 (res. No. 2015-52)
Garvey & Jupiter C-Store / Conditional Approval (CU-13-2015)

Dear Ms. Jones,

We are contacting you concerning the November 5, 2015 City Council meeting and agenda item. MEC attended & represented the applicant, Speedtrac Petroleum Inc., at this hearing. Council directed the applicant to complete a traffic study & traffic signal warrant analysis prior to the next hearing. Council moved to continue this item on December 17, 2015 pending completion of both studies.

Our client has no problem completing these studies as required in the Staff Report and following recommendations once the conditional uses are approved. MEC received a proposal in the amount of +\$10,000 to complete these services. Contracting professional services to complete a traffic study & signal warrant analysis will prematurely impose significant cost on the applicant without guarantee the application for conditional use will be approved. Speedtrac Petroleum does not own the property. They only have it under contract for purchase.

At this stage of the application process, Speedtrac Petroleum believes an undue burden is being placed on their project that is not required of other like projects. Respectfully, we would like to request this item be placed on the December 17, 2015 City Council Agenda as directed by Council. Thank you in advance.

Sincerely,



Steve Monroe P.E.
Vice President of Engineering
stevem@meconstruction.com

cc: Mr. Sandeep Patel, Speedtrac Petroleum, Inc.



CONDITIONAL USE APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, prior to 5:00 p.m. on the first day of the month to be processed for consideration by the Planning and Zoning Board the following month. The application will then be referred to 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.

- 1) NAME OF APPLICANT (Type or print) Speedtrac Petroleum, Inc.
ADDRESS 577 Barnes Blvd., #650
CITY Rockledge STATE FL ZIP 32955
PHONE # 321-636-7110 FAX # 321-636-5746
E-MAIL ADDRESS sandeep915@hotmail.com
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION _____
Please see attached (tax parcel ID #29-36-02-GI-0000M.0-0000.00)
SECTION 02 TOWNSHIP 29 RANGE 36
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 2.94 acres
- 4) CONDITIONAL USE SOUGHT: Retail automotive gas/fuel sales & Restaurant with drive-through
- 5) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.): NC (Neighborhood Commercial)
- 6) APPLICANT MUST PROVIDE A SITE PLAN SKETCH IN PDF FORMAT SHOWING THE FOLLOWING WHERE APPLICABLE:
 - (a) Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.
 - (b) Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor, or other detrimental effects upon adjoining properties.
 - (c) Adequate and properly located utilities that are available or may be reasonably provided to serve the proposed development.
 - (d) Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.
 - (e) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties.
 - (f) Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.
 - (g) The use as proposed will be in conformance with all stated provisions and requirements of this chapter.

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

- (h) Establishment and operation of the proposed use upon the particular property involved will not impair the health, safety, welfare, or convenience of residents or workers in the City.
- (i) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation, or type of physical activity.
- (j) The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.
- (k) Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including but not limited to reasonable time limit within which the action for which special approval is requested shall be begun or completed, or both.

7) ADDITIONAL CONDITIONS MUST BE MET FOR THE FOLLOWING CONDITIONAL USES. LISTINGS OF THE ADDED CRITERIA ARE AVAILABLE FROM STAFF AND MUST BE INCORPORATED INTO THE SITE PLAN (Check all that apply).

- _____ Planned Commercial Development (site is commercially zoned and over three acres in size).
- _____ Planned Industrial Development (site is industrially zoned and over five acres in size).
- _____ Planned Residential Development (site is zoned multi-family and proposes 100 or more units).
- _____ Church
- _____ Communication tower and facilities
- _____ Club or Lodge
- _____ Arcade amusement center
- _____ Commercial dog kennel
- _____ Electronic gaming establishment
- _____ Public or private school
- _____ Dance club (Sec. 185.088(J))
- _____ Self-storage facility

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

- ☒ *\$600.00 Application Fee. Make check payable to "City of Palm Bay."
- ☒ A listing 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 can be obtained from the Brevard County Planning and Zoning Department at 633-2060, or on the Internet at www.brevardpropertyappraiser.com) List shall be legible and the source of that information stated here: R SOURCE
- ☒ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.
- ☒ Property map showing properties within 500 foot radius, and clearly outlining the subject parcel.
- ☒ Location map showing properties adjacent uses, zoning, streets, driveways, canals, and utilities.
- ☒ Citizen Participation Plan. Refer to Section 169.005 of the Land Development Code for guidelines.
- ☒ 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 CONDITIONAL USE.

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

 X IN ORDER TO DISCLOSE ALL PARTIES SEEKING THIS APPROVAL, COMPLETE THE ATTACHED DISCLOSURES OF OWNERSHIP INTERESTS FORMS FOR PROPERTY OWNERS AND/OR APPLICANTS IN REFERENCE TO RESOLUTION 2008-19.

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

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

Signature of Applicant



Date

8/27/15

Printed Name of Applicant

Sandeep Patel

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

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

- PROPOSAL:** The applicant is requesting conditional use approval for retail automotive fuel sales and a restaurant with drive-thru service in a NC, Neighborhood Commercial Zoning District.
- LOCATION:** The subject property is located at the NW corner of the intersection of Jupiter Boulevard SE and Garvey Road SE. Specifically, the property is Tract M, of Port Malabar Unit 20; located in Section 2, Township 29 South, and Range 36 East.
- APPLICANT:** Speedtrac Petroleum, Inc.

SITE DATA

- PRESENT ZONING:** NC, Neighborhood Commercial
- ACREAGE:** 2.94 acres (\pm)
- DENSITY:** Not applicable
- ADJACENT ZONING
& LAND USE:** **N** -- RS-2, Single Family Residential; Single Family Homes
E -- NC, Neighborhood Commercial; Garvey Road SE
S -- NC, Neighborhood Commercial; Jupiter Boulevard SE
W -- RS-2, Single Family Residential; Single Family Homes
- WATER & SEWER:** City Water & Sewer Available and Required
- FLOOD ZONE:** X, Area outside the 500 Year Flood Zone
- COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Yes

BACKGROUND:

1. The subject property is located at the NW corner of the intersection of Jupiter Boulevard SE and Garvey Road SE. Specifically, the property is Tract M, of Port Malabar Unit 20; located in Section 2, Township 29 South, and Range 36 East.
2. The current zoning is NC, Neighborhood Commercial and the property is bordered by NC Zoning on the south and east. Abutting the site to the north and west is RS-2, Single Family Residential Zoning. Surrounding land uses include Jupiter Boulevard to the south and Garvey Road to the east. Two (2) single family homes currently abut the property and the remaining residential land is presently vacant.
3. The applicant is requesting conditional use approval in order to construct a retail automotive fuel sales and convenience store, per Section 185.042 (D) (1), and for a restaurant that includes drive-thru service, per Section 185.042 (D) (3), of the Palm Bay Code of Ordinances. The applicant, Sandeep Patel of Speedtrac Petroleum, Inc. is being represented by his Civil Engineer, Steve Monroe, of M.E. Construction, Inc. The property includes approximately 2.94 acres.

ANALYSIS:

The project includes the construction of a 4,250 square foot commercial building. The western 1,200 feet will be occupied by a restaurant that provides drive-thru service. The remaining 3,050 square feet will be a convenience store called Sunrise Foodmart. Automotive fuel will be retailed from the convenience store. The new facility will include four (4) fuel islands, with a total of (8) fuel pumps. This meets the maximum allowed for both items within the NC Zoning District.

Stormwater treatment will be provided by a dry retention pond located along the north and west portions of the tract. There is land available for future development between the proposed building and the detention area. If development is to occur, the property owner would need to seek Conditional Use Approval. All principal use buildings will be required adherence to the Palm Bay Architectural Ordinance.

CODE REQUIREMENTS:

1. In order to be granted a conditional use permit, a request must meet items (A) through (K) of the General Requirements and Conditions listed in Section 185.087 of the Code of Ordinances. A review of these items is as follows:

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

The site will be served by two (2) driveways – one each from Jupiter and Garvey. A traffic study shall be prepared and submitted during the administrative site plan review process to examine the possible need for turn lanes and other road right-of-way improvements.

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

Based upon the size of the building and its intended use, the project is required 40 parking spaces, of which at least two (2) shall be provided for handicapped persons. The submitted plan proposes exactly 40 spaces, two of which are handicap accessible. It appears that ample room has been provided on-site to allow for the maneuvering of fuel delivery trucks.

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

The facility will be required to connect to the city's water and sewer system as these services are available to the site. A sewer lift station may be necessary. The property has both electric and phone services.

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

The site is bordered to the south and east by existing roads. One (1) single family lot exists to the west and four (4) single family lots abut to the north. The plan proposes a 6-foot tall concrete block wall along the north and west property lines and immediately inside the wall will be the site's stormwater treatment area. As such, it appears that the project will sufficiently buffer itself from the residentially-zoned lots.

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

One (1) detached sign is proposed in the SE corner of the property. The sign appears to meet the minimum ten (10) foot setback from adjacent roadways. A lighting plan has not been submitted at this time. City codes require any and all lighting to be shielded and/or directed downward so as to not create a nuisance to adjacent properties.

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

The submitted plan meets the minimum yard and open space requirements.

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

Staff was unable to determine any concerns with respect to this item, pending review of the required Traffic Study.

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

As previously stated, the project is permitted, via conditional use approval, and is providing sufficient buffering. Retail automotive fuel establishments shall be located on arterial roadways or on corner lots at intersections of collector streets or a higher functional classification, as identified in the Palm Bay Comprehensive Plan. Within the City's Comprehensive Plan, Jupiter Boulevard is identified as a Major Collector Roadway and Garvey Road is identified as a Minor Collector Roadway.

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

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

2. The request must also successfully address items (a) through (h) of the conditional use requirements for automotive fuel sales as provided in the guidelines of the CC District. A review of these items is as follows:

(a) Access: *Retail automotive gas/fuel sales establishments shall be located on arterial roadways or on corner lots at the intersection of collector streets or higher functional classification as identified in the adopted Palm Bay Comprehensive Plan. No more than two (2) corner lots at any one (1) intersection shall be used for retail gasoline or automotive fuel sales. No driveway or access shall be permitted within one hundred (100) feet from an intersection of collector streets or higher functional classification.*

Jupiter Boulevard and Garvey Road are both designated as Collector Streets on the Palm Bay Comprehensive Plan. The Garvey driveway is proposed 240 feet from the intersection and the Jupiter driveway is approximately 160 feet away. This would be the only fueling station at this intersection.

Item (b) Minimum Frontage: *One hundred and fifty (150) feet on each abutting street.*

The shortest frontage (Garvey Road) is approximately 290.

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

The underground fuel storage tanks are approximately 40 feet from the nearest property line; the fueling islands are located 65 feet from the convenience store and approximately 205 feet from the nearest residentially-zoned property. The closest municipal or public supply well is more than three (3) miles to the northeast.

Item (d) Tank Storage: *Underground storage required for all receptacles for combustible materials in excess of two hundred (200) gallons.*

The fuel storage tanks are being located underground.

Item (e) Proposed Use: *The proposed use will not constitute a nuisance or hazard because of vehicular traffic movement, delivery of fuel movement, noise or fume generation.*

This was previously addressed under Item (G) of the general requirements.

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

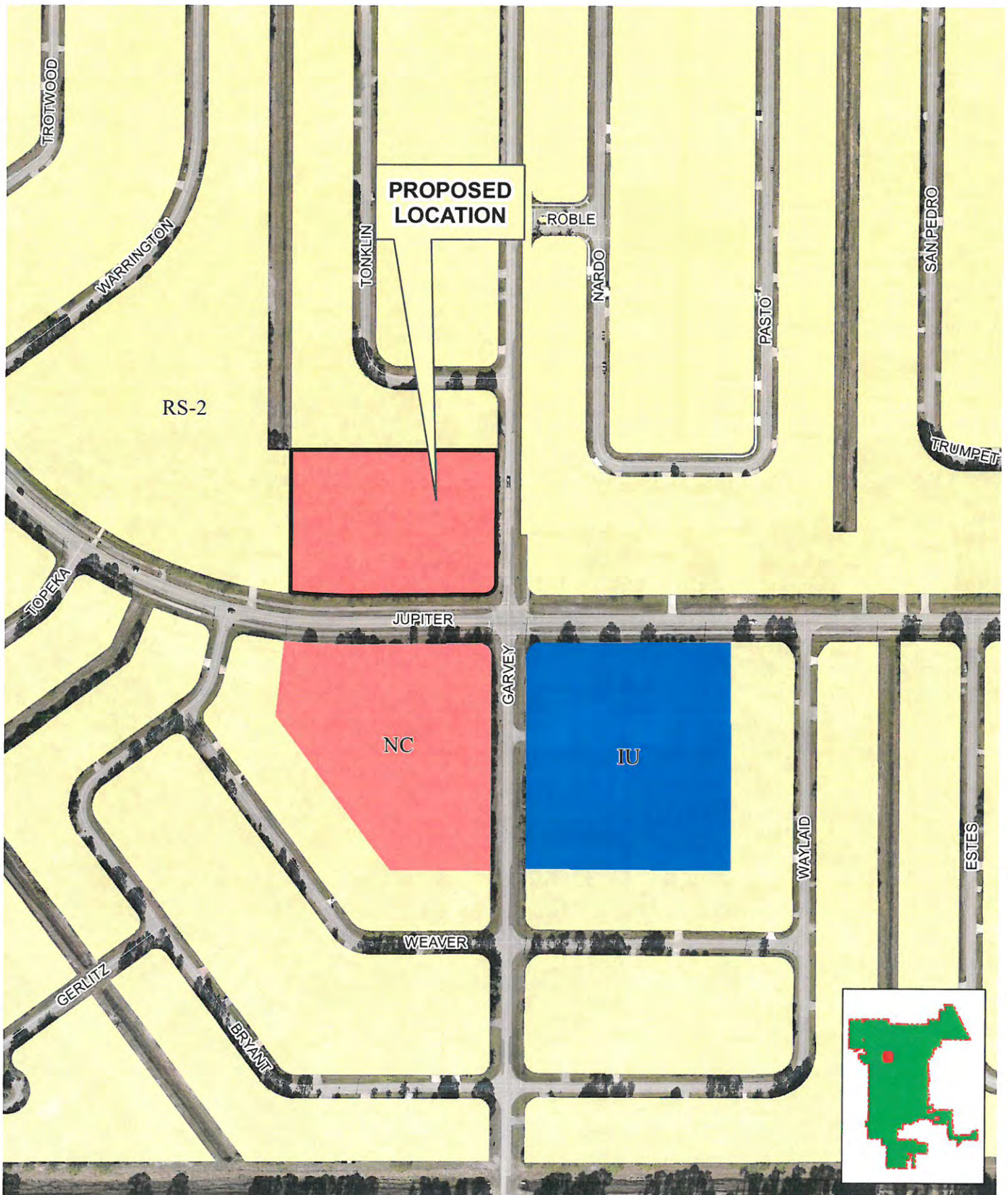
This was previously addressed under Item (E) of the general requirements.

Item (g) Operation: *Development and operation of the fuel pumps and attendant storage tanks shall be in compliance with Section 176.01 et seq. of the City of Palm Bay's Code of Ordinances.*

This is a code requirement dealing with the installation of this equipment and must be met during the administrative site plan review process.

STAFF CONCLUSION:

The Planning and Zoning Board and City Council must determine if the request, based upon the submitted material and presentation made by the applicant, meets the general and specific requirements of the Code of Ordinances, as identified in this report.

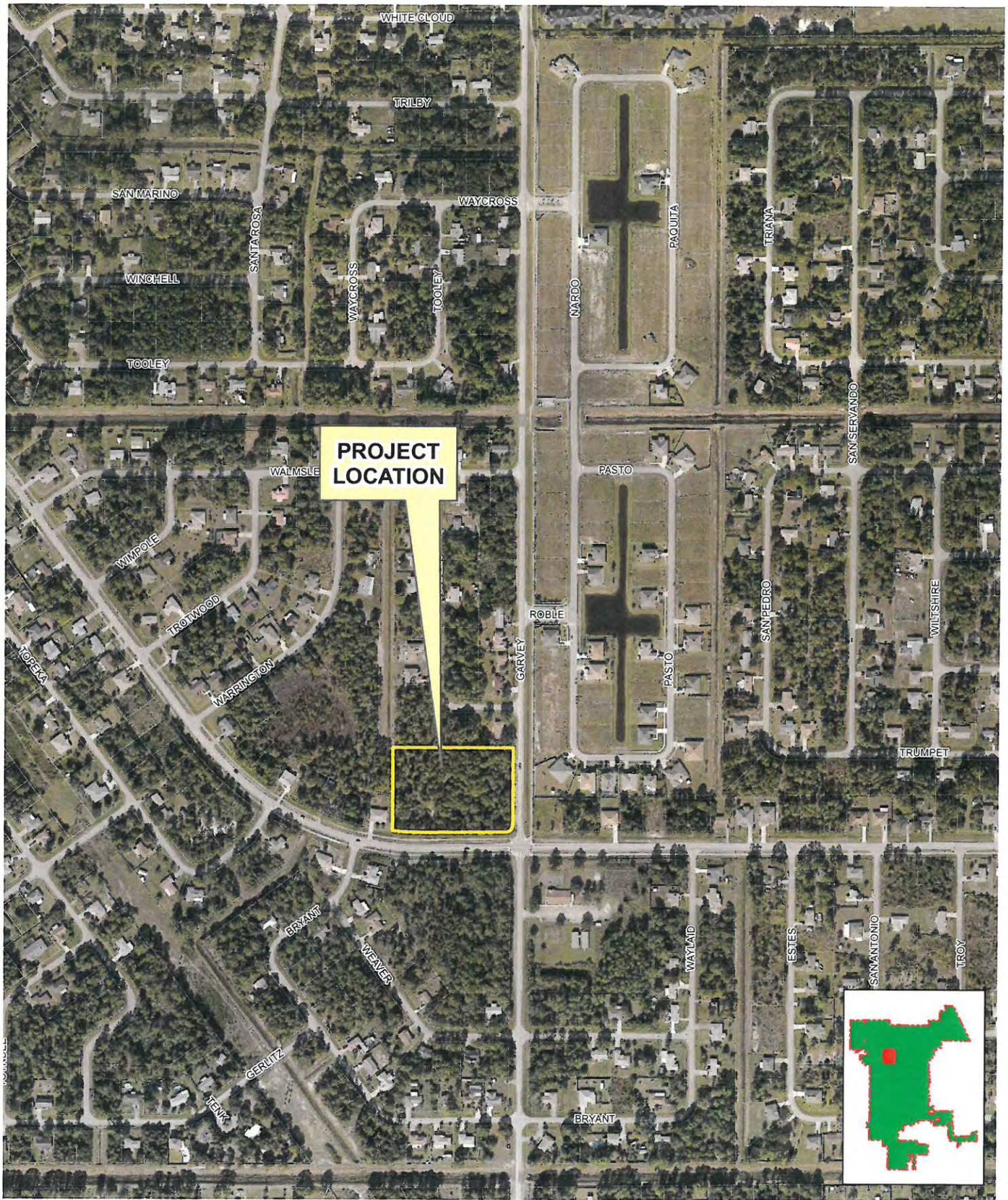


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division.



CASE NO. CU-13-2015

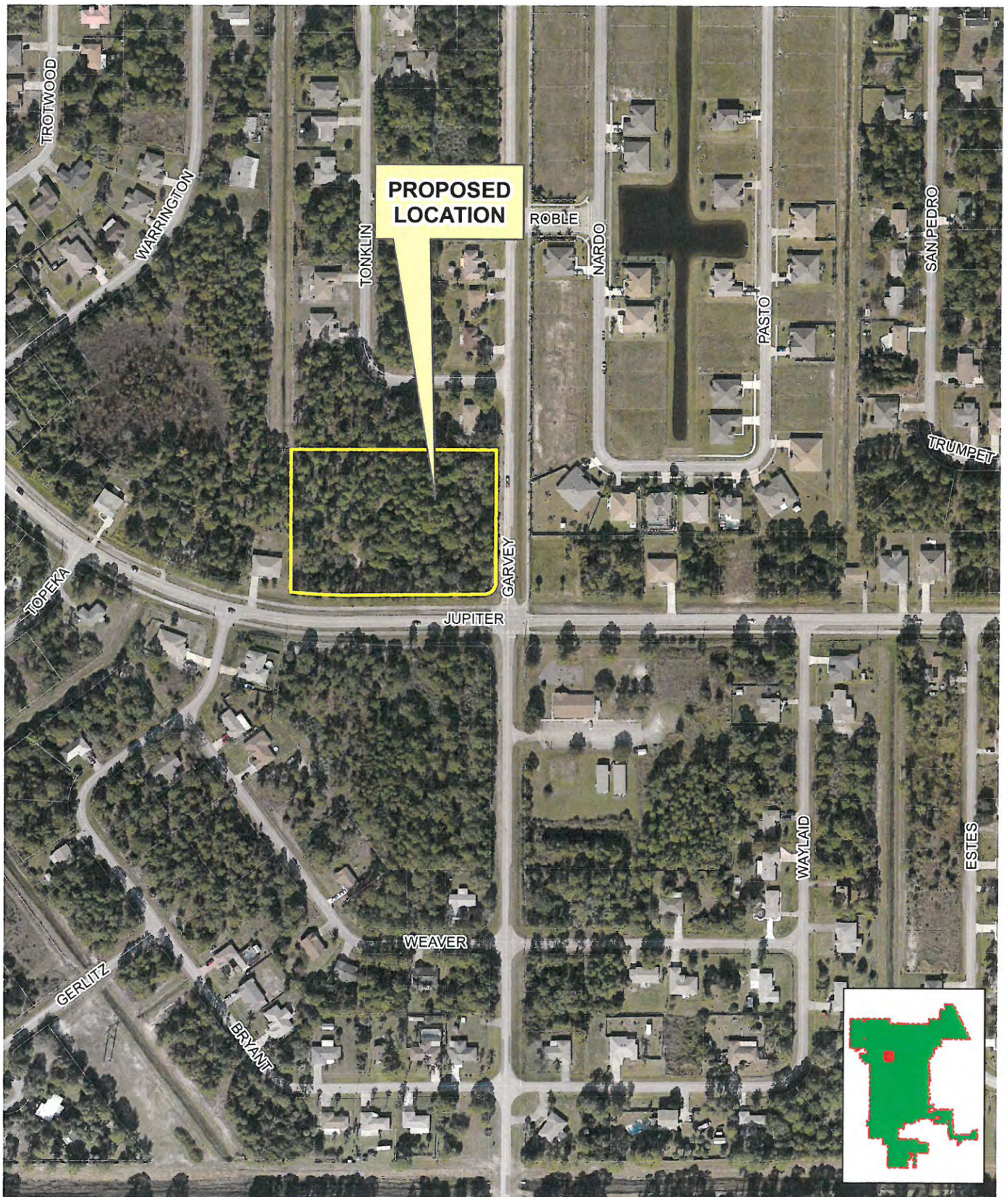


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



CASE NO. CU-13-2015

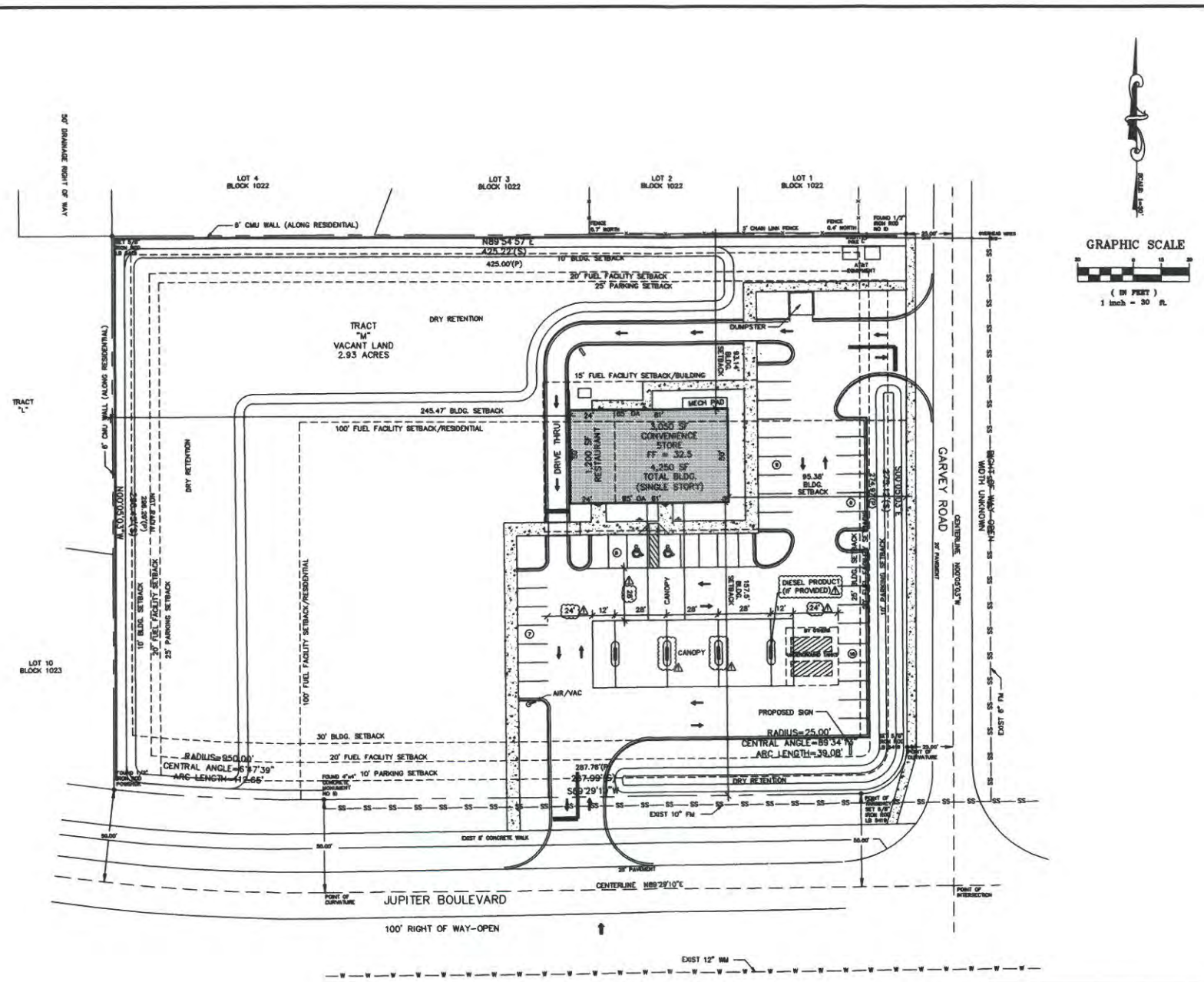


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



CASE NO. CU-13-2015



VICINITY MAP

GENERAL STATEMENT:
CONSTRUCT NEW 4,250 SF (SINGLE STORY) COMMERCIAL BUILDING TO CONSIST OF 3,050 SF CONVENIENCE STORE (WITH RETAIL AUTOMOTIVE GAS/FUEL SALES) AND A 1,200 SF FAST FOOD RESTAURANT (WITH DRIVE THROUGH), ASSOCIATED PARKING, PAVING & STORMWATER RETENTION.
OWNER(S): DAVID MOALLEN, JOAN MOALLEN, SROOS PIRZADEH, 1883 GEORGIA ST. NE STE #200, PALM BAY, FL 32907
CLIENT: SPEEDTRAC PETROLEUM, INC., 577 BARNES BLVD., #850, ROCKLEDGE, FL 32955
ENGINEER: MID-FLORIDA ENGINEERING CONSULTANTS, 7607 CORAL DRIVE, WEST MELBOURNE, FL 32904, PH: (321) 733-5841, FAX: (321) 851-1052, CONTACT: MR. STEVEN W. MONROE, P.E.

TAX PARCEL ID#: 29-36-02-0-0000-0-0000.00
LEGAL DESCRIPTION: TRACT "A", PORT PALM LAKES UNIT TWENTY, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 15, PAGE 129 THRU 130, INCLUSIVE, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
TOTAL AREA OWNED: 127,834 SF = 2.935 AC = 100%
ADDRESS: TO BE DETERMINED
CURRENT USE: VACANT
FUTURE LAND USE: COMMERCIAL
CONSTRUCTION TYPE: MASONRY WALLS, PRE-ENGINEERED WOOD TRUSS, UNPROTECTED, UNSPRINKLED, TYPE II
COMPLETION DATE: SUMMER 2016
MAX. ALLOW. BUILDING HEIGHT: 25'
PROPOSED BUILDING HEIGHT: BUILDING - EAVE = 12'-6" ROOF = 22'-5"
ZONING: NC ADJACENT ZONING: NORTH RS-2 EAST RS-2 SOUTH NC WEST RS-2

SETBACKS:		PARKING & PAVING		GASOLINE SERVICE EQUIP.		
	BUILDING		REQUIRED PROVIDED		REQUIRED PROVIDED	
NORTH	10'	8.83.1'		NORTH	20'	8.508'
SOUTH	30'	8.157.2'		SOUTH	20'	8.510'
EAST	25'	8.88.4'		EAST	20'	8.30'
WEST	10'	8.245.5'		WEST	20'	8.252'
				BUILD.	12'	8.3'
				WEST	100'	8.252'
				WEST	100'	8.208'

PARKING REQUIREMENTS:		QUANT.	SPACES/SF	REQ.
USE				
3,050 SF		1,200 SF		18
RESTAURANT WITH INDOOR SEATING	80	1 PER 3 SEATS		20
EMPLOYEES	4	1 PER EMPLOYEE		4
PARKING REQUIRED:				40
PARKING PROVIDED:				40
HANDICAP PARKING				2

- NOTES:
1. CITY OF PALM BAY SITE PLAN APPROVAL REQUIRED.
 2. ST. JOHNS RIVER WATER MANAGEMENT DISTRICT PERMIT REQUIRED.
 3. FDEP SEWER PERMIT REQUIRED.
 4. FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION NOI APPROVAL REQUIRED.
 5. WATER FOR FIRE FIGHTING PURPOSES SHALL BE AVAILABLE PRIOR TO COMBUSTIBLES BEING BROUGHT ON SITE.
 6. LANDSCAPING SHALL NOT BE LOCATED WITHIN 7.5 FEET OF ANY FIRE HYDRANT AND/OR FIRE DEPARTMENT CONNECTION.
 7. ALL SLOPE SLOPES GREATER THAN 4:1 SHALL BE SOODED.
 8. DIMENSIONS SHOWN ARE FROM FACE OF CURB.
 9. WATER SERVICE WILL BE CONNECTED TO THE EXISTING WATER MAIN LOCATED AT THE SOUTH PROPERTY BOUNDARY.
 10. SEWER SERVICE WILL BE PROVIDED VIA PRIVATE ONSITE LIFT STATION & FORCE MAIN THAT WILL BE CONNECTED TO AN EXISTING FORCE MAIN ON THE EAST SIDE OF GARVEY ROAD.
 11. EXTERIOR LIGHTING WILL BE DESIGNED AND ARRANGED TO PROMOTE ONSITE SAFETY AND SECURITY. LIGHT LOCATIONS AND FIXTURES WILL BE SELECTED TO LIMIT LIGHT LEVELS AT THE PROPERTY LINE & ELIMINATE ANY UNDESIRABLE GLARE.

- LEGEND
- CURB = ———
 - SETBACK LINE = - - - - -
 - EASEMENT LINE = - - - - -
 - PROPERTY LINE = - - - - -
 - DRAINAGE ARROW = ———>
 - INLET = (C) (S)
 - EXISTING ELEV. = .58.70
 - FINISH ELEV. = .60.0
 - 24" STOP BAR
 - 30" STOP SIGN
 - SEWER CLEAN OUT
 - GATE VALVE
 - FIRE HYDRANT
 - MANHOLE
 - MITERED END
 - WATER METER

COPYRIGHT © STATEMENT
THESE DOCUMENTS AND THEIR CONTENTS ARE THE PROPERTY OF M.E.C. ENGINEERING CONSULTANTS, INC. (M.E.C.) AND ARE TO BE USED ONLY FOR THE PROJECT SPECIFICALLY NOTED ON THESE DOCUMENTS. ANY REPRODUCTION OR REUSE OF THESE DOCUMENTS WITHOUT THE EXPRESS WRITTEN CONSENT OF M.E.C. IS PROHIBITED BY LAW.

ENGINEERS CERTIFICATION
NOTE: NOT VALID WITHOUT ORIGINAL SIGNATURE, DATE, AND SEAL
STEVEN W. MONROE PE #01778

SIGNATURE _____
DATE SEPTEMBER 30, 2015

SURVEY DATA FOR THIS SITE HAS BEEN PROVIDED BY WILLIAM J. BUTLER LAND SURVEYING, INC. JOB # 15-216, DATED 8-20-13. FOR USE IN THE PROJECT DRAWINGS TO DEPICT EXISTING TOPOGRAPHY AND IMPROVEMENTS.



PROJECT NAME: GARVEY & JUPITER C-STORE

SHEET DESCRIPTION: CONDITIONAL USE PLAN

DRAWING SCALE: 1"=30'

ISSUE: 8-31-15

REV. DATE: 8/30/15

BY: J.A.

REVIEWED BY: J.A.

PROJECT NUMBER: 31520

SHEET 1 OF 1

CUP

CITY OF PALM BAY, FLORIDA

PLANNING AND ZONING BOARD/ LOCAL PLANNING AGENCY REGULAR MEETING NO. 2015-10

Held on Wednesday, October 7, 2015, 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. Bob Williams called the meeting to order at approximately 7:00 p.m.

Ms. Martha Melendez led the Pledge of Allegiance to the Flag.

ROLL CALL:

CHAIRMAN:	Bob Williams	Present
VICE CHAIRMAN:	Adam Hill	Present
MEMBER:	Samuel Artley	Absent (Excused)
MEMBER:	Conroy Jacobs	Present
MEMBER:	Leeta Jordan	Present
MEMBER:	Martha Melendez	Present
MEMBER:	William Pezzillo	Present
MEMBER:	Marty Piatkowski	Absent (Excused)
MEMBER:	Philip Weinberg	Present
APPOINTEE:	Wendall Stroderd	Present

The absence of Mr. Artley and Mr. Piatkowski was excused.

CITY STAFF: Present were Mr. Patrick Murphy, Assistant Growth Management Director; Mr. Robert Loring, Planner; Ms. Chandra Powell, Growth Management Recording Secretary; and Mr. James Stokes, Board Attorney.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2015-09. Motion by Mr. Pezzillo, seconded by Mr. Weinberg to approve the minutes as presented. The motion carried with members voting unanimously.

4. CU-12-2015 – TREASURE COAST RESTAURANTS (MICHAEL KINZLEY)

Mr. Murphy informed the board that the applicant had not held the required Citizen Participation Plan meeting for Case CU-12-2015. Case CU-12-2015 was continued to the November 4, 2015 Planning and Zoning Board meeting. No board action was required to continue the case.

5. CU-13-2015 – SPEEDTRAC PETROLEUM, INC. (STEVE MONROE, REP.)

Mr. Murphy presented the staff report for Case CU-13-2015. The applicant had requested a conditional use to allow proposed retail automotive fuel sales and a restaurant with a drive-through in an NC, Neighborhood Commercial District. The board must determine if the request, based on the submitted material and presentation, meets the general and specific requirements of the Code of Ordinances as identified in the staff report.

Mr. Hill noted that there was no mention of a landscape plan for the site. Mr. Murphy replied that a landscape plan had not been submitted.

Mr. Jacobs asked whether the height of the masonry wall would extend to the property line. Mr. Murphy answered that the six-foot high masonry wall would run the length of the north and west property lines.

Mr. Hill inquired whether lighting requirements had been discussed with the applicant. Mr. Murphy commented that lighting requirements were typically discussed during administrative site plan review.

Mr. Steve Monroe, vice president of engineering with M.E. Construction, Inc. (representative for the applicant) noted that the NC zoning district allowed retail sales and restaurants. The conditional use was needed to permit the requested retail automotive fuel sales and drive-through. He was in agreement with the staff report and would submit a site plan, landscape plan, and lighting plan for administrative review.

Mr. Pezzillo asked how vehicles would maneuver the property to access the drive-through. Mr. Monroe described the onsite counter-clockwise circulation that vehicles would use to access the drive-through. Traffic could enter and exit the site from either Garvey Road SW or Jupiter Boulevard SW entrances.

Mr. Hill wanted to know about the lighting and landscape plans to protect the privacy of existing residents in the area. Mr. Monroe responded that a six-foot high wall with landscaping was proposed.

Mr. Jacobs inquired whether any other use had been proposed for the site. Mr. Monroe answered that no other use besides the convenience store and gas station was proposed at this time.

The floor was opened for public comments.

Mr. Jimmie Demmings (resident at Nardo Avenue SW) spoke against the request. He had purchased his retirement property a year ago for its rural quietness away from commercial businesses. Four convenience stores were already within a 3.5-mile proximity of the Sloneridge Subdivision; the subject intersection served as a major school crossing and bus stop in the area; and additional traffic would include truck deliveries, heavy fuel tankers, and late night visits. He believed Dunkin Donuts was part of the project and would also generate a high volume of traffic. Drunks, loiterers, thefts, and other illicit activities at the convenience store would spill into the residential neighborhood. He submitted letters in opposition to the request from Ms. Marvleen Hamilton and Ms. Sandra Sykes.

Ms. Anide Voltaire (resident at Jupiter Boulevard SW) spoke against the request. The parking lot for the convenience store would be next to her driveway and one of her windows. She agreed with the comments made by Mr. Demmings.

Mr. Jerry Culbertson (resident at Nardo Avenue SW) spoke against the request. He relocated from South Florida where a convenience store robbery occurred near his home and resulted in two deaths. He purchased his home in the Sloneridge Subdivision in October because of the quiet residential neighborhood. He said that the portion of Garvey Road near the rear of his home was narrow and in bad repair; the proposed six-foot high wall would not stop lighting from bleeding off the site; and traffic would back up onto Garvey Road. He was concerned about the students who walk and bicycle in the area and the potential increase in crime.

Ms. Iolette Carty (resident at Pasto Circle SW) spoke against the request. She believed her backyard would be used as a cut-through to the convenience store since the plastic fence was constantly down and vandalized. Her bedroom was directly across from the subject site so the lights, noise, and her safety were an issue.

In response to comments from the audience, Mr. Monroe stated that sidewalks would be installed the length of the subject site along Garvey Road which should alleviate safety concerns for the students. A meeting would be taking place with the Police Department for site plan input to curb criminal activity where possible. There was; however, no study that correlated crime with convenience stores. He assured the board that traffic would not back up onto Garvey Road as stacking was estimated at eight to ten spaces and there was ample room to move traffic. Light levels could be measured after construction to ensure lighting did not exceed what was approved.

Mr. Hill asked if the Tree Preservation Removal Code would be met. Mr. Monroe explained that the next phase of the project would include a boundary, topo, and tree survey so that tree preservation and replacement requirements could be met.

Mr. Jacobs was concerned with the circulation of traffic at the four-way intersection; the proximity of the two access driveways to residential driveways; and the queueing at the drive-through. He believed the intensity of the project was too much for the area and would change the character of the neighborhood and the quality of life for the residents. Mr. Monroe responded that the traffic study would identify any improvements that were necessary because of the project, and he explained that the convenience store was being placed at the site to capture traffic that was already present.

Mr. Pezzillo did not believe Garvey Road met commercial requirements or could handle the traffic pattern proposed for the project. Mr. Murphy assured the board that the traffic study would determine the necessary improvements that would need to be addressed to receive site plan approval or a building permit.

Mr. Williams asked about other uses that could locate at the site without a conditional use. Mr. Murphy remarked that a convenience store without gasoline sales or a restaurant without a drive-through would actually be permitted at the site without conditional use approval as well as several other businesses.

The floor was closed for public comments.

Motion by Mr. Jacobs, seconded by Mr. Pezzillo to submit Case CU-13-2015 to City Council for denial of a conditional use to allow proposed retail automotive fuel sales and a restaurant with a drive-through in an NC, Neighborhood Commercial District.

Mr. Jacobs reiterated his concern that the project was too intense for the neighborhood and that a regular convenience store would be less of an impact. Mr. Weinberg disagreed. He commented on how the types of businesses permitted without a conditional use could also generate as much traffic as the subject proposal.

A vote was called on the motion by Mr. Jacobs, seconded by Mr. Pezzillo to submit Case CU-13-2015 to City Council for denial of a conditional use to allow proposed retail automotive fuel sales and a restaurant with a drive-through in an NC, Neighborhood Commercial District. The motion carried with members voting as follows:

Mr. Williams	Aye
Mr. Hill	Aye
Mr. Jacobs	Aye
Ms. Jordan	Nay
Ms. Melendez	Aye
Mr. Pezzillo	Aye
Mr. Weinberg	Nay

6. T-14-2015 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Loring presented the staff report for Case T-14-2015. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 169: Land Development Code, Section 169.009 Variances, in order to implement a procedure to consider variance requests up to 12 inches administratively. Staff recommended Case T-14-2015 for approval.

The board was in support of the new procedure.

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

Motion by Mr. Hill, seconded by Mr. Pezzillo to submit Case T-14-2015 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 169: Land Development Code, Section 169.009 Variances, in order to implement a procedure to consider variance requests up to 12 inches administratively. The motion carried with members voting unanimously.

CORRESPONDENCE

My name is Jimmie Demmings. I live at 491 Nardo Ave SW, Sloneridge subdivison. I served in the Air Force for 21 years and as a Correctional Officer of this state for 20 years. Last year when I decided to retire, I choose Palm Bay for it's ruralness and quietness. I choose Sloneridge because there would not be businesses at my door step.

I object for the following reasons:

We currently have four convenient stores within 3.5 miles of our subdivision. The closest, is one mile away at Jupiter and Malabar Rd. There's also a Winn-Dixie 1.3 miles away. How many convenient stores do we need. Do we need one on every corner of our city? I say NO. Enough is enough.

The corner is a Major school crossing and

bus stop. Many children are dropped off there by their parents. Many ride and leave their bikes there in order to catch a school bus. Others, cross there on their walk to school. With the increased traffic, the corner will require crossing guards in order to keep our children safe. There's also a church right across the street.

Regardless of what we're being told, there will be an increase in traffic. Just think about it. Deliveries must be made. They will be made all hours of the day. The weight of these trucks, especially fuel trucks, will further damage Garvey Road which is in much need of repair as we speak.

Evenings and late night runs for milk so little Johnny can have cereal before school. Runs for cigarettes and beer which will increase the chance for drunk driving

incidents. The Duncan Donuts alone will tie up traffic just as it does,at the one on Malabar Rd.

After twenty years in Law Enforcement, here's what I know about convenient stores:

- They are convenient for prostitutes**
- They are convenient for drug deals**
- They are convenient for loitering**
- They are convenient for robbers to escape into subdivisions.**
- They are convenient for robbers to steal cars or for carjacking.**
- They are convenient for robbers to break into subdivision houses inorder to hide.**
- They are convenient for robbers to injure someone while attempting to escape.**

- They are convenient for robbers to take a hostage from a subdivision while attempting to escape.

The area around Garvey Rd and Jupiter is a residential neighborhood. It is surrounded by homes. The building of this store would shatter the quiet and serenity we currently enjoy. I also believe property values will be adversely affected.

**IT'S TIME TO REZONE THIS AREA
"RESIDENTIAL ONLY".**

Sloneridge subdivision is a wonderful place to live. It embodies all the unity and pride which we are building in our city. Palm Bay is a great city to raise your family and have a great quality of life. Allow us here in Palm Bay to continue to enjoy our quiet neighborhood which drew us here in the first place.

We were told the owner of this property lives in Rockledge. Then I say, let him build this convenient store in his back yard in Rockledge!!! DENY THIS REQUEST!!!

October 5th, 2015

To: The Planning & Zoning Board
Palm Bay, Florida

I am not able to be present at the zoning meeting but am appointing Jimmi Demmings as my representative.

My name is Marvleen Hamilton and I live at 425 Pasto Circle in the Sloneridge sub-division community. I had my house built in 2007 and paid top \$\$ for it. What attracted me to the neighborhood was the fact that it was very quiet and tucked away and I was willing to pay a premium price for it.

I was totally flabbergasted to learn that an application has been made to put a gas station/restaurant in our neighborhood. Should you grant such an application:

- gone would be the quiet solace to be replaced by horrendous amounts of traffic, both human and vehicles
- property values are already depressed due to economic circumstances beyond our control, with such retailing activities our property values would plummet so far that we would never have any hope of recouping our original purchase price – how sad and grim!!!
- the litter would be totally unsightly that I cannot imagine who would want to live near such, so forget any resale objectives
- not that we are better than others but we do not live in caves either – retailing places such as gas stations is a magnet to draw all types of illegal activities and that is a widely known phenomenon – they hang around hoping to make a quick “score”. Frankly, this image makes me want to cry and to think that you are willing to subject me to this is even more than heart breaking
- this sub-division has a lot of families with young children and we try to protect our children from the temptation of 'hanging out' – so why make it so easy by putting such a place next door to where they live

For all these reasons, I very strongly object to this application and plead with you to deny it completely.

Retailers like this applicant should be put where other commercial activities

are already being done and not in quiet residential neighborhoods like ours.
Thank you.

Sandra L. Sykes
443 Pasto Circle, SW
Palm Bay, Florida 32908
October 7, 2015

The City of Palm Bay
Planning and Zoning Board/Local Planning Agency
City Council
Palm Bay, Florida

Re: Case No. CU-13-2015

Dear Sir:

I, Sandra L. Sykes, do hereby appoint my neighbor, Jimmie Demmings, as my representative regarding the proposed conditional use request, referenced above, to allow a retail automotive fuel sales and restaurant with a drive-through at the site located at the northwest corner of Jupiter Blvd., SW and Garvey Road SW.

Let it be known that I am a resident of the adjacent Sloneridge **Subdivision** consisting of 117 single family homes/home sites that will be negatively affected by the proposed development. Our subdivision is located between Malabar and Jupiter and behind Madalyn Landing. With so many subdivisions and 2 large apartment complexes creating gridlock on Malabar Road many people in the area use Jupiter as an alternative (2 lane) road. Therefore, I believe that traffic flow would be affected. The proposed development would create safety concerns particularly for our school children at that intersection and beyond.

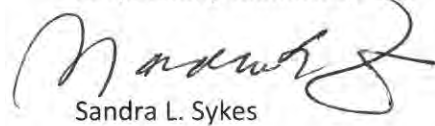
I believe that the proposed development would create undue noise, glare, odor, loitering, pollution, establishment of a feeding ground for criminal activity (especially if alcohol is being sold), fume generation and a hazard as a result of increase of traffic movement, delivery of fuel movement and storage.

I do not see the benefit of having another automotive retail when we are surrounded by and in close proximity to such establishments. Why would I want one at my back door? I do not want more crime, more pollution, 24/7 noise, more taxes to repair roads due to heavy trucks delivering supplies and gas and to provide police intervention. The proposal does not bring peace and joy; only unrest to a quiet residential area.

This proposal is not consistent with the existing and permitted use of the adjacent properties and it does not promote "community unity and pride". It is inclusive but not limited to these reasons that lead me to vehemently oppose the said proposal.

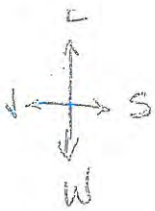
I now yield any time left for my remarks to Mr. Demmings.

Respectfully submitted,



Sandra L. Sykes

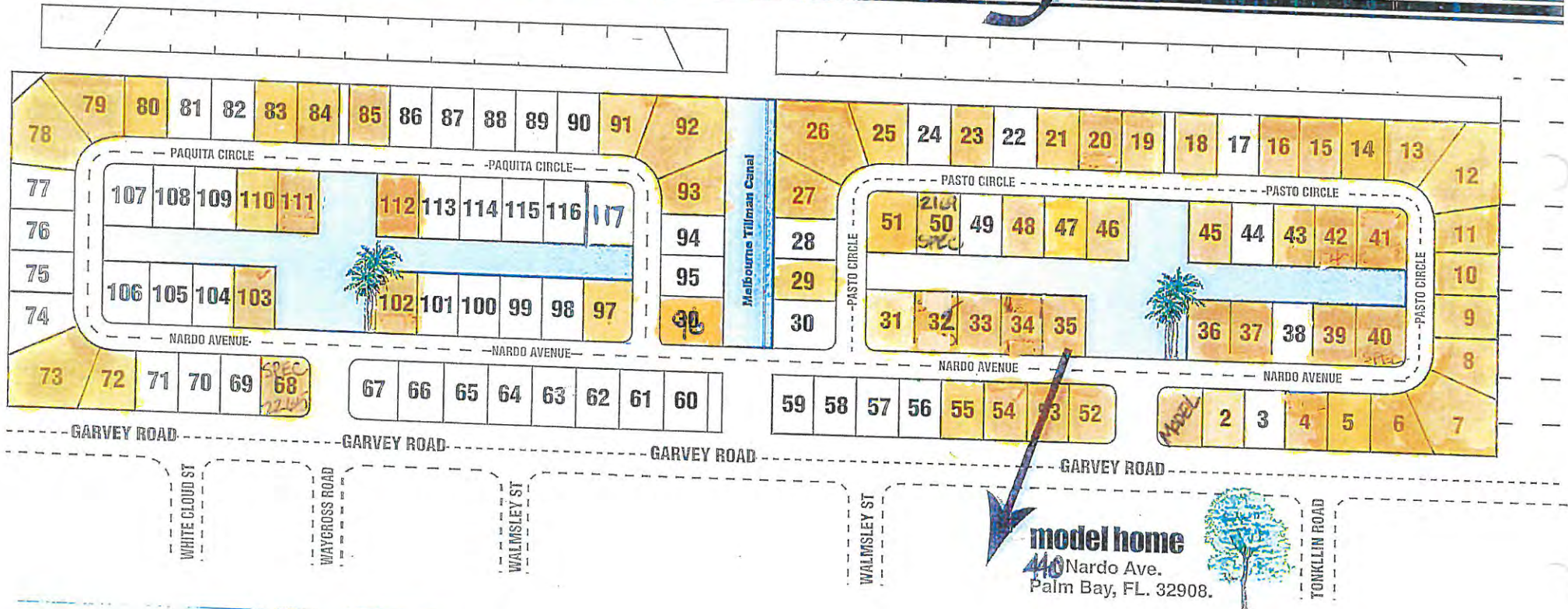
Attachment (1)



Sloneridge

117 total homes
76' x 115' Lot Size

Directions:
From I-95, West on Malabar Road.
Make a left on Garvey Road,
Sloneridge subdivision will be on the left



Community Amenities:

- Palm Bay Community Hospital is within 6 miles
- Brevard Community College is within 4 miles.
- Palm Bay Regional Park (Recreation) is within 3 miles.
- Shopping Center (WalMart super store) within 2 miles.
- Banks within 2 miles as well.
- Great Schools in the area.

SOLD

RESOLUTION NO. 2015-52

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, GRANTING A CONDITIONAL USE FOR RETAIL AUTOMOTIVE GAS/FUEL SALES AND A RESTAURANT WITH DRIVE-THROUGH FACILITY IN NC (NEIGHBORHOOD COMMERCIAL DISTRICT) ZONING; WHICH PROPERTY IS LOCATED AT THE NORTHWEST CORNER OF JUPITER BOULEVARD AND GARVEY ROAD, AND LEGALLY DESCRIBED HEREIN; GRANTING THE USE AS A CONDITIONAL USE; PROVIDING FOR CONSTRUCTION TO BE IN COMPLIANCE WITH THE SITE PLAN; PROVIDING FOR A COMMENCEMENT PERIOD; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, application for a conditional use in NC (Neighborhood Commercial District) zoning to permit retail automotive gas/fuel sales and a restaurant with drive-through facility on property legally described herein, has been made by Speedtrac Petroleum, Inc., and

WHEREAS, the request was duly considered by the Planning and Zoning Board of the City of Palm Bay on October 7, 2015, which voted to recommend to the City Council denial, and

WHEREAS, all provisions applicable to the conditional use under Chapter 185, Zoning, Conditional Uses, Sections 185.085 and 185.086, and District Regulations, Section 185.042, of the Palm Bay Code of Ordinances, have been addressed by the applicant, and

WHEREAS, the City Council of the City of Palm Bay has determined that such conditional use will neither be injurious to the neighborhood 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 a conditional use for retail automotive gas/fuel sales and a restaurant with drive-through facility on property zoned NC (Neighborhood Commercial District), which property is legally described as follows:

Tract "M", Port Malabar Unit 20, according to the plat thereof as recorded in Plat Book 15, Page 138, of the Public Records of Brevard County, Florida; Section 02, Township 29S, Range 36E; containing 2.94 acres, more or less.

SECTION 2. The conditional use is granted subject to the applicant complying with the following:

- 1) Constructing the structures relevant to retail automotive gas/fuel sales and restaurant with drive-through facility in accordance with the site plan which is, by reference, incorporated herein as Exhibit "A".
- 2) The Land Development Division Staff Report which is, by reference, incorporated herein as Exhibit "B".
- 3) 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.

A. The conditional use must be commenced within one (1) year from the effective date of this resolution. Commencement shall mean the issuance of a building permit which must remain active. Failure to commence such construction within one (1) year shall void the conditional use.

B. Failure to make payment of the business tax within one (1) year shall void the conditional use.

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

This resolution was duly enacted at Meeting No. 2015- , of the City Council of the
City of Palm Bay, Brevard County, Florida, held on , 2015.

ATTEST:

William Capote, MAYOR

Terese M. Jones, CITY CLERK

Applicant: Speedtrac Petroleum, Inc.
Case No.: CU-13-2015

cc: (date) Brevard County Recording
Applicant
Case File



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk

DATE: December 17, 2015

SUBJECT: Request to Vacate Easement – Palma Bella Development, Inc.

Palma Bella Development, Inc. has submitted an application to vacate the following within Block B, Pinehurst Subdivision, to allow for a proposed forty (40) unit condominium project:

- a) The six (6) foot public utility and drainage easements lying between Lots 20 through 24;
- b) Ten (10) feet of the twenty (20) foot public utility and drainage easement located on the east side of Lot 23;
- c) Ten (10) feet of the twenty (20) foot public utility and drainage easement located on the west side of Lots 20 and 21; and,
- d) The south six (6) foot public utility and drainage easement located within Lot 20.

Staff Recommendation:

Approval of the request, per the analysis section of the Staff Report.

Ordinance No. 2015-66 has been prepared for consideration at tonight's meeting. If you should have any questions, please advise.

/tjl

Attachments

Case No. VE-10-2015



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

REQUEST TO VACATE EASEMENT/DRAINAGE RIGHTS-OF-WAY

This application must be completed, legible, and returned, with all attachments referred to herein, to the Land Development Division, Palm Bay, Florida. The request will be reviewed by City staff and scheduled before the City Council. A minimum of eight (8) weeks is required to process the application. You or your representative are required to attend the hearing, and will be notified by mail of the date of the meeting. The meeting will be held 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 (Type or print) Palma Bella Development, LLC.

ADDRESS 2999 NE 191st Street, PH2

CITY Aventura STATE Florida ZIP 33180

HOME PHONE # _____ BUSINESS PHONE # 305-933-4646

FAX # 954-615-1112 E-MAIL ADDRESS steve@bhinvestments.us

2) **LEGAL DESCRIPTION, PREPARED BY A CERTIFIED SURVEYOR, OF THAT PORTION OF THE EASEMENT REQUESTING TO BE VACATED UPON WHICH THE ENCROACHMENT IS PROPOSED OR CURRENTLY EXISTS:** _____

Vacate the existing 6' public utility and drainage easement located between lot's 20, 21, 22,23,24
and the east 10'of the west 20 foot public utliyt and drainage easements of lots 23 and the South
6' public utility and drainage easement lot 20 of Block B, Pinehurst Subdivision PB 25, pg 132.

SECTION 28 TOWNSHIP 28 RANGE 37

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 14,374.80

4) ZONING CLASSIFICATION AT PRESENT (ex.: CC, RS-2, etc.): RM-15

5) WHICH ACTION APPLYING FOR (ex.: Easement, Drainage): Public E & Drainage E.

6) REASON FOR REQUESTING VACATION AND INTENDED USE: _____

The development of a 40 unit condo project.

7) IF THE ENCROACHMENT CURRENTLY EXISTS, PROVIDE THE DATE THAT A PERMIT WAS ISSUED BY THE BUILDING DIVISION: NA

8) THE FOLLOWING ENCLOSURES ARE NEEDED TO COMPLETE THIS APPLICATION:

X *\$175.00 Application Fee. Make check payable to "City of Palm Bay";

CITY OF PALM BAY, FLORIDA
APPLICATION REQUEST TO VACATE EASEMENT/DRAINAGE RIGHTS-OF-WAY
PAGE 2 OF 3

- ☒ List of names and addresses of property owners abutting the lot or parcel within which the easement or drainage right-of-way is located;
- ☒ Copy of plat, map, etc. depicting area location of easement or drainage right-of-way to be vacated.
- ☒ Original notarized letters from the following utility and service companies are required stating whether or not they object to or if there is no interest in the vacating of the easement or drainage right-of-way. If equipment lies within the easement or drainage right-of-way requested for vacation, the applicant shall be responsible for any expenses incurred for relocating same, unless other arrangements have been made with the company. See attached to contact:

- (a) Florida Power & Light Company;
- (b) AT&T Telecommunications;
- (c) Bright House Networks;
- (d) Melbourne-Tillman Water Control District (if applicable);
- (e) Ameri Gas (if applicable);
- (f) Florida City Gas (if applicable);
- (g) Holiday Park, Board of Directors (if applicable).

9) ARE YOU THE PROPERTY OWNER OF RECORD?: ☒ YES ☐ NO

IF NO, A NOTARIZED LETTER FROM THE PROPERTY OWNER MUST BE ATTACHED GIVING CONSENT TO THE APPLICANT TO REQUEST THE VACATING.


10) CONTACT THE **LAND DEVELOPMENT DIVISION** (321-733-3042) AS TO WHETHER A VARIANCE IS REQUIRED. IF REQUIRED, YOU MUST OBTAIN APPROVAL FOR THE VARIANCE PRIOR TO PROCEEDING WITH THE VACATING REQUEST.

☐ Required ☒ Not Required

Land Development Division _____ Date _____

I, THE UNDERSIGNED UNDERSTAND THAT THIS APPLICATION AND ALL DATA ATTACHED MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE CITY COUNCIL.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING REQUEST TO VACATE EASEMENT/DRAINAGE RIGHTS-OF-WAY APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant  Date 9/24/15

Printed Name of Applicant STEVE EYAL LEVY

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

LAND DEVELOPMENT DIVISION STAFF REPORT

REQUEST TO VACATE EASEMENT

PROPOSAL: To vacate an approximate 14,374.80 square foot portion of existing public utility and drainage easements lying in between lots 20 thru 24; a request to vacate 10' of the 20' public utility and drainage easement of lot 23, the westerly 10' of lot 20 and 21, and the South 6' public utility and drainage easement of lot 20, Block B of Pinehurst Subdivision for a proposed 40 unit condominium project.

LOCATION: Northerly and Westerly intersection of Forest Knoll Drive NE and Tree Ridge Lane. Lots 20 thru 24, Block B, Pinehurst Subdivision

APPLICANT: Palma Bella Development Inc.

SITE DATA

PRESENT ZONING: RM-15- Single, Two-, and Multiple Family Residential

AREA OF VACATING: 14,374.80 square feet

ADJACENT ZONING & LAND USE:	N	RM-15- Single, Two, and Multi- Family Residential District
	E	RM-15- Single, Two, and Multi- Family Residential District
	S	RM-15- Single, Two, and Multi- Family Residential District
	W	RS-2- Single Family Residential District

STAFF ANALYSIS:

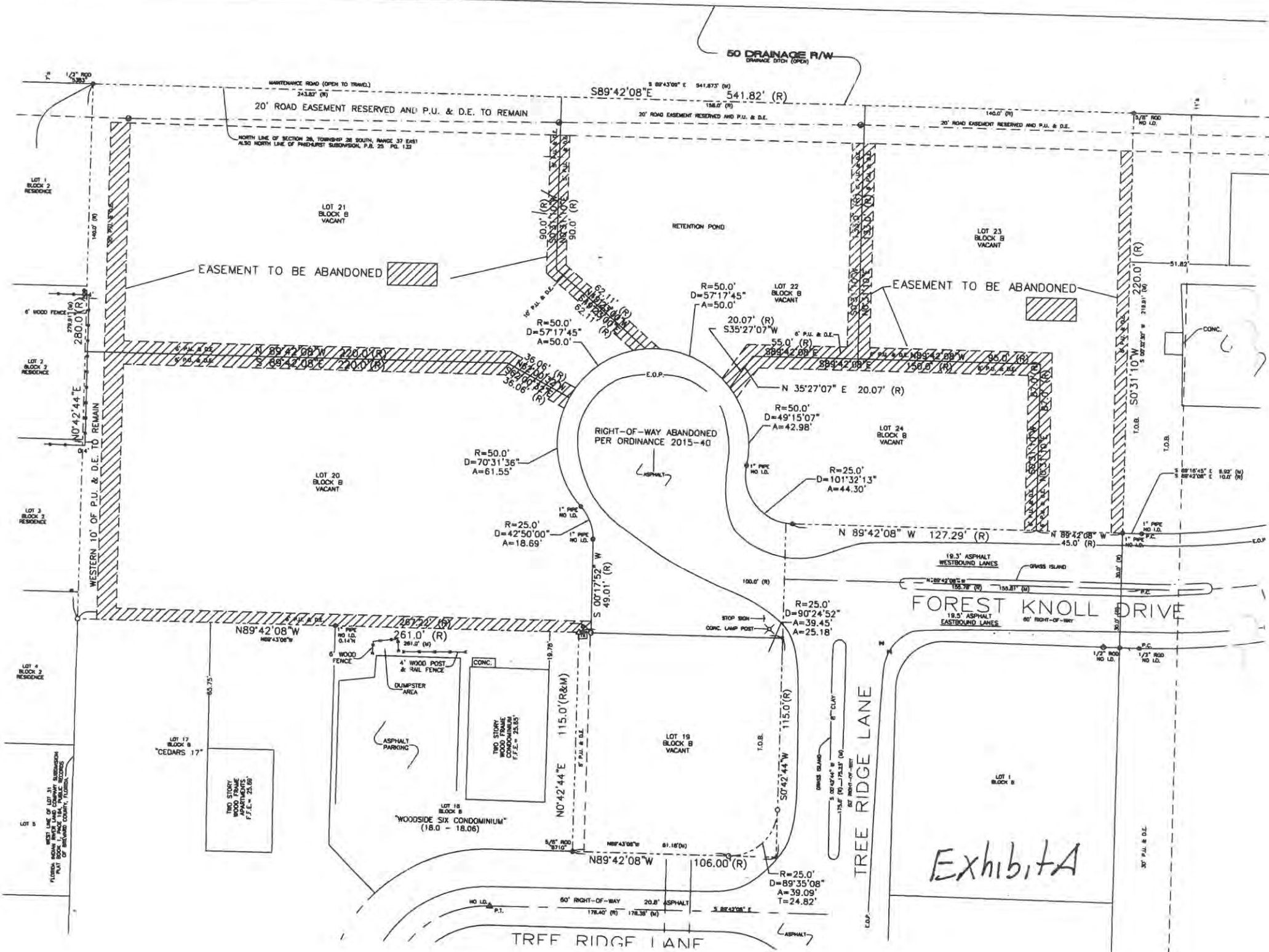
A request to vacate an approximate 14,374.80 foot portion of existing public utility and drainage easements lying in between lots 20 thru 24; a request to vacate 10' of the 20' public utility and drainage easement of lot 23, and the South 6' public utility and drainage easement of lot 20, Block B of Pinehurst Subdivision for a proposed 40 unit condominium project. The site is legally described as Lots 20, 21, 22, 23,& 24, Block B, Pinehurst Subdivision of the public records of Brevard County, Florida.

These are existing public utility easements. AT & T, Florida Power and Light, Florida City Gas, Coast Gas, and Bright House have no adverse comments with regard to the request.

Staff has no adverse comments regarding vacating 14,374.80 square foot portion of the existing easements for the proposed development provided that a hold-harmless agreement is signed by the applicant with the City, and that the applicant is solely responsible for the engineering, surveying, and recording costs associated with vacation of easement or relocation of any utilities found within the existing easement. The applicant, their successors or assigns, shall also be responsible for maintaining proper grading and drainage for the proposed development and create no deleterious impacts to any adjacent properties.

STAFF RECOMMENDATION:

Staff recommends approval of the vacating of easement per the analysis section of this staff report.



ORDINANCE NO. 2015-66

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, VACATING AND ABANDONING ALL OR PORTIONS OF THE PUBLIC UTILITY AND DRAINAGE EASEMENTS SURROUNDING AND LYING BETWEEN LOTS 20 THROUGH 24, BLOCK B, PINEHURST SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 25, PAGE 132, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palma Bella Development, Inc. has requested the City of Palm Bay, Florida, to vacate portions of certain public utility and drainage easements, which portions are legally described herein, and

WHEREAS, the vacation and abandonment of said portions of the public utility and drainage easements 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 Council of the City of Palm Bay hereby vacates and abandons portions of the public utility and drainage easements located within Lots 20 through 24, Block B, Pinehurst Subdivision, according to the plat thereof as recorded in Plat Book 25, Page 132, of the Public Records of Brevard County, Florida, Section 28, Township 28S, Range 37E, being more particularly described as follows:

The southerly 6.00 feet and the northerly 6.00 feet of Lot 20, Block B, and the east 10.00 feet of the west 20.00 feet of the Lot 20, Block B; the southerly 6.00 feet, the easterly 6.00 feet and the easterly 10.00 feet of the westerly 20.00 feet of Lot 21, Block B; the westerly 6.00 feet of the easterly 6.00 feet and the southerly 6.00 feet of Lot 22, Block B; the westerly 6.00 feet, the southerly 6.00 feet of the west 95.00 feet of the north 133.00 feet and the easterly 6.00 feet of Lot 23, Block B; the northerly 6.00 feet and the easterly 6.00 feet of Lot 24, Block B; containing 14,374.80 square feet, more or less.

SECTION 2. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting No. 2015- , held on , 2015, and read in title only and duly enacted at Meeting No. 2015- , held on , 2015.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Applicant: Palma Bella Development, Inc.
Case No.: VE-10-2015

cc: (date) Applicant
Case File
Brevard County Recording



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk

DATE: December 17, 2015

SUBJECT: Request to Vacate Easement – John Turner

John Turner has submitted an application to vacate a portion of the rear twenty (20) foot public utility and drainage easement located within Lot 7, Block 54, Port Malabar Unit 4, to allow for an existing pool.

Staff Recommendation:

Approval of the request, per the analysis section of the Staff Report.

Ordinance No. 2015-67 has been prepared for consideration at tonight's meeting. If you should have any questions, please advise.

/tjl

Attachments

Case No. VE-11-2015



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

REQUEST TO VACATE EASEMENT/DRAINAGE RIGHTS-OF-WAY

This application must be completed, legible, and returned, with all attachments referred to herein, to the Land Development Division, Palm Bay, Florida. The request will be reviewed by City staff and scheduled before the City Council. A minimum of eight (8) weeks is required to process the application. You or your representative are required to attend the hearing, and will be notified by mail of the date of the meeting. The meeting will be held 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 (Type or print) JOHN TURNER
ADDRESS 1686 AVERY RD. N.E.
CITY PALM BAY STATE FL ZIP 32905
HOME PHONE # — ^{CELL} BUSINESS PHONE # (321) 355-9520
FAX # — E-MAIL ADDRESS JOHNTURNER785@YAHOO.COM
- 2) LEGAL DESCRIPTION, PREPARED BY A CERTIFIED SURVEYOR, OF THAT PORTION OF THE EASEMENT REQUESTING TO BE VACATED UPON WHICH THE ENCROACHMENT IS PROPOSED OR CURRENTLY EXISTS:
2948 Garden Terrace NE. - see enclosed description RL
- SECTION 37 TOWNSHIP 28 RANGE 25
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 14 x 27' = 378 RL
- 4) ZONING CLASSIFICATION AT PRESENT (ex.: CC, RS-2, etc.): RS-2 RL
- 5) WHICH ACTION APPLYING FOR (ex.: Easement, Drainage): 20' PLIDE RL
- 6) REASON FOR REQUESTING VACATION AND INTENDED USE:
vacation of easement for existing pool. RL
- 7) IF THE ENCROACHMENT CURRENTLY EXISTS, PROVIDE THE DATE THAT A PERMIT WAS ISSUED BY THE BUILDING DIVISION: —
- 8) THE FOLLOWING ENCLOSURES ARE NEEDED TO COMPLETE THIS APPLICATION:
☒ *\$175.00 Application Fee. Make check payable to "City of Palm Bay";

CITY OF PALM BAY, FLORIDA
APPLICATION REQUEST TO VACATE EASEMENT/DRAINAGE RIGHTS-OF-WAY
PAGE 2 OF 3

☒ List of names and addresses of property owners abutting the lot or parcel within which the easement or drainage right-of-way is located;

☒ Copy of plat, map, etc. depicting area location of easement or drainage right-of-way to be vacated.

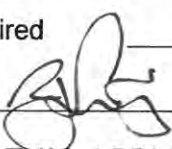
Original notarized letters from the following utility and service companies are required stating whether or not they object to or if there is no interest in the vacating of the easement or drainage right-of-way. If equipment lies within the easement or drainage right-of-way requested for vacation, the applicant shall be responsible for any expenses incurred for relocating same, unless other arrangements have been made with the company. See attached to contact:

- (a) Florida Power & Light Company;
- (b) AT&T Telecommunications;
- (c) Bright House Networks;
- (d) Melbourne-Tillman Water Control District (if applicable);
- (e) Ameri Gas (if applicable);
- (f) Florida City Gas (if applicable);
- (g) Holiday Park, Board of Directors (if applicable).

9) ARE YOU THE PROPERTY OWNER OF RECORD?: ☒ YES ☐ NO

IF NO, A NOTARIZED LETTER FROM THE PROPERTY OWNER MUST BE ATTACHED GIVING CONSENT TO THE APPLICANT TO REQUEST THE VACATING.

10) CONTACT THE **LAND DEVELOPMENT DIVISION** (321-733-3042) AS TO WHETHER A VARIANCE IS REQUIRED. IF REQUIRED, YOU MUST OBTAIN APPROVAL FOR THE VARIANCE PRIOR TO PROCEEDING WITH THE VACATING REQUEST.

_____ Required _____ Not Required *Variance was applied for/passed 11-17-2015*
Land Development Division  Date 11-18-2015

I, THE UNDERSIGNED UNDERSTAND THAT THIS APPLICATION AND ALL DATA ATTACHED MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE CITY COUNCIL.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING REQUEST TO VACATE EASEMENT/DRAINAGE RIGHTS-OF-WAY APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant

Date 11-17-15

Printed Name of Applicant

JOHN TURNER

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

LAND DEVELOPMENT DIVISION STAFF REPORT

REQUEST TO VACATE EASEMENT

PROPOSAL: To vacate an approximate 14' x 27' portion of the existing rear 20' public utility and drainage easements for an existing pool.

LOCATION: 2948 Garden Terrace NE (Lot 7, Block 54, Port Malabar Unit #4).

APPLICANT: Mr. John Turner

SITE DATA

PRESENT ZONING: RS-2, Single Family Residential

AREA OF VACATING: 14' x 27' = 378 square feet

ADJACENT ZONING	N	RS-2- Single Family Residential District
& LAND USE:	E	RS-2- Single Family Residential District
	S	RS-2- Single Family Residential District
	W	RS-2- Single Family Residential District

STAFF ANALYSIS:

A request to vacate an approximate 378 foot portion of existing rear 20' public utility and drainage easement. The site is legally described as Lot 7, Block 54, Port Malabar Unit #4 of the public records of Brevard County, Florida.

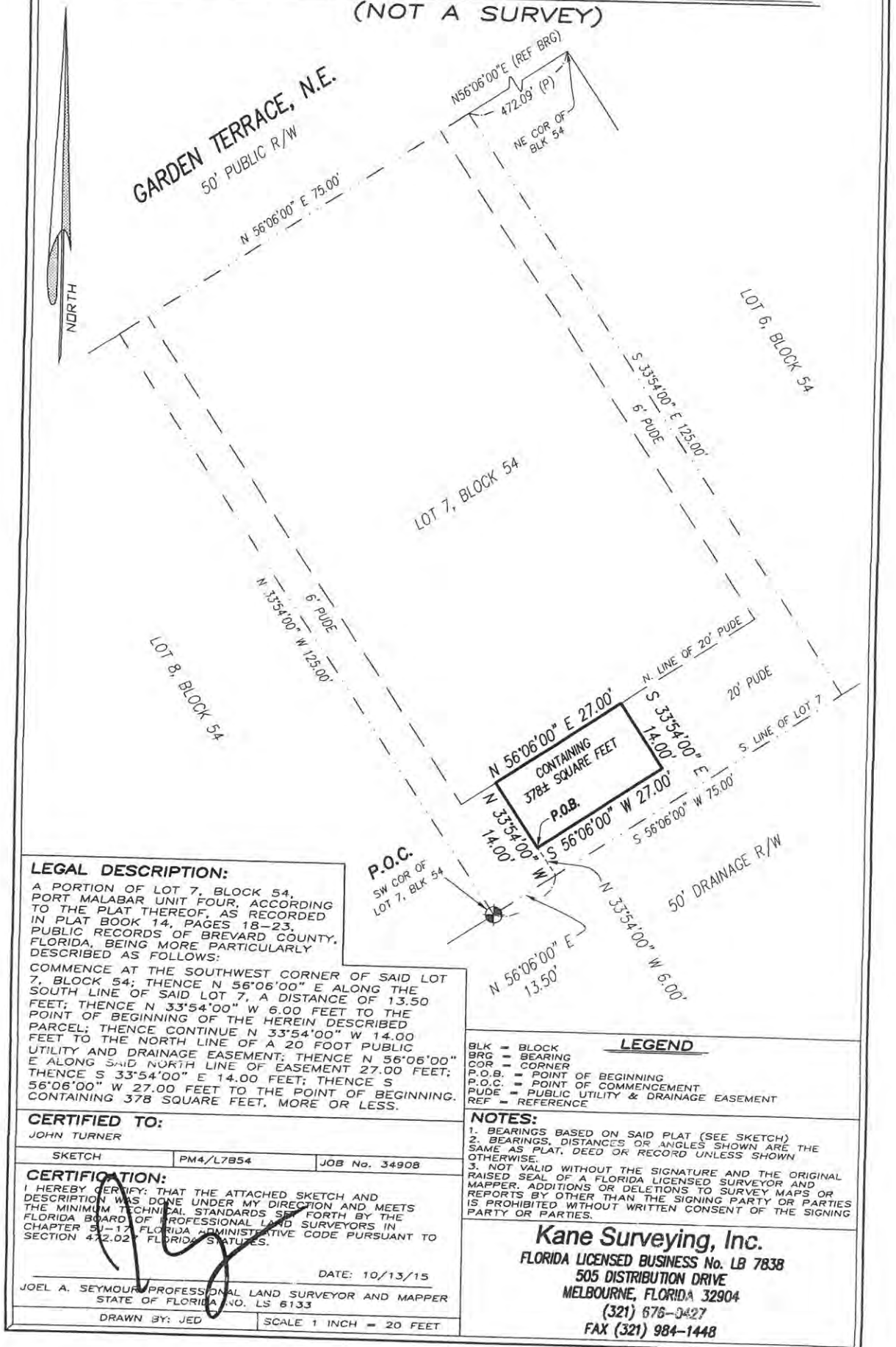
These are existing public utility easements; AT & T, Florida Power and Light, Florida City Gas, Coast Gas, and Bright House have no adverse comments with regard to the request. It should be noted that Melbourne-Tillman Water Control district does not have jurisdictional control over the rear easement in this case, and therefore their approval is not required. The property did receive a variance for the encroachment on 11-18-2015 (reference Case V-26-2015).

Staff has no adverse comments regarding vacating 378 square foot portion of the existing easements for the existing pool provided that a hold-harmless agreement is signed by the applicant with the City, and that the applicant is solely responsible for the engineering, surveying, and recording costs associated with vacation of easement or relocation of any utilities found within the existing easement.

STAFF RECOMMENDATION:

Staff recommends approval of the vacating of easement per the analysis section of this staff report.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION (NOT A SURVEY)



LEGAL DESCRIPTION:

A PORTION OF LOT 7, BLOCK 54, PORT MALABAR UNIT FOUR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 14, PAGES 18-23, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID LOT 7, BLOCK 54; THENCE N 56°06'00" E ALONG THE SOUTH LINE OF SAID LOT 7, A DISTANCE OF 13.50 FEET; THENCE N 33°54'00" W 6.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE N 33°54'00" W 14.00 FEET TO THE NORTH LINE OF A 20 FOOT PUBLIC UTILITY AND DRAINAGE EASEMENT; THENCE N 56°06'00" E ALONG SAID NORTH LINE OF EASEMENT 27.00 FEET; THENCE S 33°54'00" E 14.00 FEET; THENCE S 56°06'00" W 27.00 FEET TO THE POINT OF BEGINNING. CONTAINING 378 SQUARE FEET, MORE OR LESS.

CERTIFIED TO:

JOHN TURNER

SKETCH

PM4/L7B54

JOB No. 34908

CERTIFICATION:

I HEREBY CERTIFY: THAT THE ATTACHED SKETCH AND DESCRIPTION WAS DONE UNDER MY DIRECTION AND MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 51-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.02, FLORIDA STATUTES.

DATE: 10/13/15

JOEL A. SEYMOUR PROFESSIONAL LAND SURVEYOR AND MAPPER
STATE OF FLORIDA NO. LS 6133

DRAWN BY: JED

SCALE 1 INCH = 20 FEET

LEGEND

BLK = BLOCK
BRG = BEARING
COR = CORNER
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
PUDE = PUBLIC UTILITY & DRAINAGE EASEMENT
REF = REFERENCE

NOTES:

1. BEARINGS BASED ON SAID PLAT (SEE SKETCH)
2. BEARINGS, DISTANCES OR ANGLES SHOWN ARE THE SAME AS PLAT, DEED OR RECORD UNLESS SHOWN OTHERWISE
3. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.

Kane Surveying, Inc.

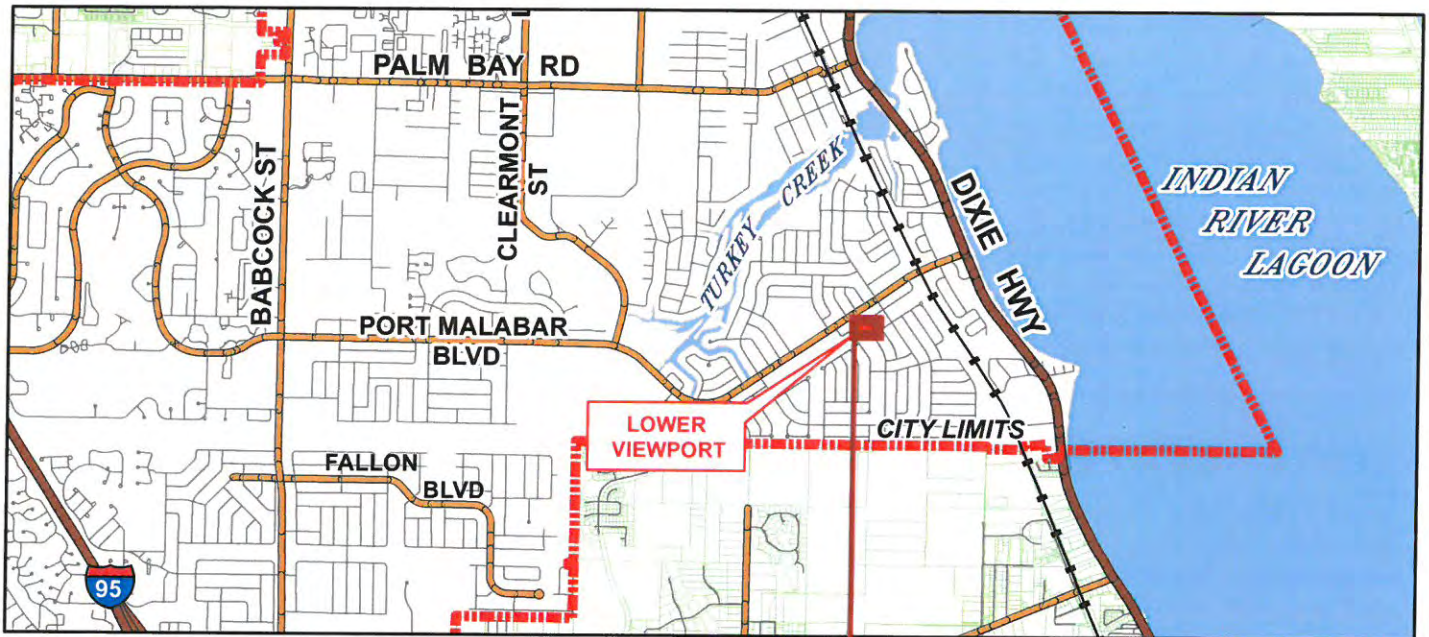
FLORIDA LICENSED BUSINESS No. LB 7838

505 DISTRIBUTION DRIVE
MELBOURNE, FLORIDA 32904

(321) 676-0427

FAX (321) 984-1448

LOCATION MAP



VE - 11 - 2015

ORDINANCE NO. 2015-67

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, VACATING AND ABANDONING A PORTION OF THE REAR TWENTY (20) FOOT PUBLIC UTILITY AND DRAINAGE EASEMENT, LOCATED WITHIN LOT 7, BLOCK 54, PORT MALABAR UNIT 4, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 14, PAGE 23, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND LEGALLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, John Turner has requested the City of Palm Bay, Florida, to vacate a portion of a certain public utility and drainage easement, which portion is legally described herein, and

WHEREAS, the vacation and abandonment of said portion of the public utility and drainage easement 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 Council of the City of Palm Bay hereby vacates and abandons a portion of the rear public utility and drainage easement located within Lot 7, Block 54, Port Malabar Unit 4, according to the plat thereof as recorded in Plat Book 14, Page 23, of the Public Records of Brevard County, Florida, Section 26, Township 28S, Range 37E, being more particularly described as follows:

Commence at the southwest corner of said Lot 7, Block 54; thence N 56°06'00" E along the south line of said Lot 7, a distance of 13.50 feet; thence N 33°54'00" W, 6.00 feet to the Point of Beginning of the herein described parcel; thence continue N 33°54'00" W, 14.00 feet to the north line of a 20-foot public utility and drainage easement; thence N 56°06'00" E along said north line of easement, 27.00 feet; thence S 33°54'00" E, 14.00 feet; thence S 56°06'00" W, 27.00 feet to the Point of Beginning; containing 378.00 square feet, more or less.

SECTION 2. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting No. 2015- , held on , 2015, and read in title only
and duly enacted at Meeting No. 2015- , held on , 2015.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Applicant: John Turner
Case No.: VE-11-2015

cc: (date) Applicant
Case File
Brevard County Recording



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk

DATE: December 17, 2015

SUBJECT: West Pointe Babcock, LLC – Request to Continue Comprehensive Plan Amendment and Rezoning Cases

Staff has received a request from the representative for the applicant, Jack Spira, asking the City Council to reschedule the following requests in order to reach an agreement with the neighboring homeowners:

1. Item No. 5, Public Hearings – request to change the Comprehensive Plan Future Land Use Map from Single Family Residential Use to Commercial Use; and
2. Item No. 6, Public Hearings – request to rezone from RR (Rural Residential District) to CC (Community Commercial District).

The property is located at the southeast corner of Babcock Street and Plantation Circle, and contains 4.41 acres, more or less.

The Code of Ordinances, Section 51.03, Continuance by Council or Boards, reads as follows:

- (A) Continuances requested by an applicant on a matter that has been advertised for a public hearing can only be granted by either the City Council or the board before whom the public hearing has been scheduled. In such circumstances, however, the applicant shall be required to participate in the hearing in the event the City Council or board do not grant such continuance.
- (B) Should a scheduled public hearing be continued by the City Council or a board upon the applicant's request, or upon request by the City Council or a board, the matter shall be rescheduled for a specific date and time as determined by the Council or board. If no date and time are specified by the Council or board, the matter shall automatically be rescheduled for the next regularly scheduled meeting of the Council or board. No notice or publication shall be required, except as may be provided by law.

Memo - Honorable Mayor and City Council
Case Nos. CP-7-2015 and CPZ-7-2015
December 17, 2015
Page 2 of 2

Also, pursuant to the Code of Ordinances, Section 51.06, Costs, reads as follows:

Costs that may be incurred by the city related to a continuance requested by and granted to an applicant by the Council or a board shall be imposed against the applicant in the amount equal to the additional costs expended by the city.

Should the City Council approve the applicant's request, the public hearings will be rescheduled to the regular Council meeting to be held on the date as specified by Council in February 2016.

The matter is presented to the City Council for consideration at tonight's meeting.

/tmj

Case Nos. CP-7-2015 and CPZ-7-2015

Spira, Beadle & McGarrell, P.A.

Attorneys & Counselors at Law

5205 Babcock Street, N.E.

Palm Bay, Florida 32905

**Jack B. Spira
James P. Beadle
Thomas P. McGarrell
Stephen E. Spira**

Telephone: (321) 725-5000

Facsimile: (321) 724-6008

November 24, 2015

Of Counsel
Michelle Stein Spira

VIA E-MAIL

Terese Jones, City Clerk
City of Palm Bay
120 Malabar Road, SE
Palm Bay, FL 32907

RE: West Pointe Babcock, LLC – CP-7-2015 and CPZ-7-2015

Dear Ms. Jones:

This office represents West Pointe Babcock, LLC in reference to the above matter. I would like to request a continuance of the meeting scheduled for December 17, 2015 to February 2016. My clients are trying to reach an agreement with the neighboring homeowners.

If you have any questions, please do not hesitate to contact me.

Sincerely,



JACK B. SPIRA

JBS/ckb



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk

DATE: December 17, 2015

SUBJECT: Comprehensive Plan Amendment – West Pointe Babcock, LLC

West Pointe Babcock, LLC (Jack Spira, representative) has submitted a request for a change to the Comprehensive Plan Future Land Use Map from Single Family Residential Use to Commercial Use on property located at the southeast corner of Babcock Street and Plantation Circle, and contains 4.41 acres, more or less.

Staff Conclusion:
Denial of the request.

Planning and Zoning Board Recommendation:
Unanimous denial of the request.

The request is being presented to Council under Public Hearings. If approved, an ordinance will be prepared and scheduled for the next regular Council meeting.

If you should have any questions, please advise.

/tjl
Attachments

Case No. CP-7-2015



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

REZONING APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, prior to 5:00 p.m. on the first day of the month to be processed for consideration by the Planning and Zoning Board the following month. The application will then be referred to 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.

1) NAME OF APPLICANT (Type or print) West Point Babcock LLC
ADDRESS c/o Jack B. Spira, Esq. 5205 Babcock St NE
CITY Palm Bay STATE FL ZIP 32905
PHONE # 321-725-5000 FAX # 321-724-6008
E-MAIL ADDRESS jspira@sbmlawyers.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION

See Attached Exhibits "A-1," "A-2"
SECTION 34 TOWNSHIP 29 S RANGE 37 E

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 4.41

4) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.) RR

5) ZONE CLASSIFICATION DESIRED (ex.: IU, LI, etc.): CC-#

6) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY? No

7) JUSTIFICATION FOR REZONING: Fronts Major Roadway

8) PRESENT USE OF THE PROPERTY: VACANT

9) INTENDED USE OF PROPERTY: COMMERCIAL

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

☒ *\$600.00 Application Fee. Make check payable to "City of Palm Bay."

☒ Property map showing adjacent properties and clearly outlining the subject parcel (for land use amendment(s)). Provide in PDF format if larger than 11" x 14".

CITY OF PALM BAY, FLORIDA
REZONING APPLICATION
PAGE 2 OF 2

X A listing 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 can be obtained from the Brevard County Planning and Zoning Department at 633-2060, or on the Internet at www.brevardpropertyappraiser.com) List shall be legible and the source of that information stated here: _____

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

X 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 REZONING.

X IN ORDER TO DISCLOSE ALL PARTIES SEEKING THIS APPROVAL, COMPLETE THE ATTACHED DISCLOSURES OF OWNERSHIP INTERESTS FORMS FOR PROPERTY OWNERS AND/OR APPLICANTS IN REFERENCE TO RESOLUTION 2008-19.

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

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

Signature of Applicant

Date

2/31/15

Printed Name of Applicant

Jack B. Spira, Atty for West Point Babcock LLC

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

WEST POINTE BABCOCK, LLC

1135 Kane Concourse, Third Floor
Bay Harbor Islands, Florida 33154

July 28, 2015

City of Palm Bay

Please be advised Jack Spira has authorization to submit the following Applications on behalf of West Pointe Babcock, LLC with respect to the property described in Exhibit "A":

Comprehensive Plan Amendment Application
Rezoning Application

WEST POINTE BABCOCK, LLC

By: Brian West, Manager

STATE OF Florida
COUNTY OF Martin

The foregoing instrument was sworn to and subscribed before me this 30th day of July 2015, by Brian West as Manager of West Pointe Babcock, LLC who is personally known to me, or produced _____ as identification and did/did not take an oath.



KAREN M PHELPS
MY COMMISSION # EE 216796
EXPIRES: July 16, 2016
Bonded Thru Budget Notary Services

Karen M. Phelps
Notary Public

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

PROPOSAL: A Comprehensive Plan Future Land Use Map Amendment is requested to change from Single Family Residential Use to Commercial Use.

LOCATION: The property is located at the SE corner of the intersection of Babcock Street SE and Plantation Circle SE. Specifically; the subject property is the west 4.41 acres of Tax Parcel 506.1, of Section 34, Township 29 South, and Range 37 East, Brevard County, Florida.

APPLICANT: West Pointe Babcock, LLC. (Jack Spira, Esquire Representing)

SITE DATA

PRESENT ZONING: RR, Rural Residential Zoning District

ACREAGE: 4.41 acres (\pm)

DENSITY: One (1) Unit Per Acre

ADJACENT ZONING & LAND USE: N -- RR, Rural Residential; Single Family Homes

E -- RR, Rural Residential; Vacant Residential Land

S -- RR, Rural Residential; Single Family Homes

W -- RR, Rural Residential; Babcock Street SE

BACKGROUND:

1. The property is located at the SE corner of the intersection of Babcock Street SE and Plantation Circle SE. Specifically; the subject property is the west 4.41 acres of Tax Parcel 506.1, of Section 34, Township 29 South, and Range 37 East, Brevard County, Florida.

2. The adjacent zoning and land uses are as follows:

<u>NORTH:</u>	RR, Rural Residential; Single Family Homes
<u>EAST:</u>	RR, Rural Residential; Vacant Residential Land
<u>SOUTH:</u>	RR, Rural Residential; Single Family Homes
<u>WEST:</u>	RR, Rural Residential; Babcock Street SE

3. The applicant is requesting a Comprehensive Plan Future Land Use Map Amendment to change from Single Family Residential Use to Commercial Use, to allow for a future commercial uses. The applicant for this request is West Point Babcock, LLC. The applicant will be represented by their attorney, Mr. Jack Spira, Esquire.

ANALYSIS:

1. Impact on the Level of Service (LOS) Standards

Based on an analysis of the project, the proposed change will not cause level of service to fall below the standards adopted in the Comprehensive Plan for the current planning period for water, sewer, drainage facilities or solid waste. Water and sewer service are provided by the City. A 16" water distribution main runs along the east side of Babcock Street and a 16" sewer force main runs along the west side of Babcock Street. Ample pressure and capacity exist within both lines. Future commercial development would need to provide its own on-site stormwater treatment system, which would overflow into the adjacent canal that parallels Babcock Street. Solid waste collection services are provided by Waste Management, Inc. for this area.

2. Impact on Natural Systems

There would be an impact on the natural environment from the future Commercial Use as the property is currently vacant, residential land, in its natural state. However, any development, even single family residential use, would impact the present conditions. Typically though, less land is preserved by Commercial Use than residential uses. The site is identified as Flood Zone X, which is outside the 500-year Floodzone. The lot is not located within any of the Scrub Jay Polygons identified on the city's Habitat Conservation Plan. No additional listed species are known to inhabit the site. Any registered species that may be encountered upon development of the site would need to be mitigated for, according to state and federal guidelines.

3. Land Use Consistency

The subject property is the west 4.41 acres (582.13 wide x 330.03 deep) of an 8.41 acre parcel located at the SE corner of Babcock Street SE and Plantation Circle SE. The application includes two (2) *proposed* parcels that make up the 4.41 acres. Parcel "A-1" fronts Babcock Street and constitutes the west 2.68 acres of the overall request. The remaining land, Parcel "A-2" is the eastern 1.73 acres. The collective 4.41 acres is surrounded by land designated as residential use and provides for a rural setting. The surrounding neighborhood (Greenwood Plantation) includes 57 lots that are a minimum of one (1) acre in size. An additional four (4) homes located immediately east of and adjacent to this neighborhood utilize Plantation Circle as their sole means of ingress & egress.

To the west of the subject property is Babcock Street SE, which is designated as an Arterial Roadway on the City of Palm Bay's Comprehensive Plan. On the west side of this segment of Babcock Street are numerous ¼ acre single family residential lots. The nearest commercial land use is approximately 3,000 feet to the north, where Eldron Boulevard and Grant Road intersect Babcock Street. It is approximately 45.23 acres of vacant, commercially-zoned land. This intersection has been designated as a Commercial Node.

Approximately 3,000 feet to the south, at Mara Loma Boulevard SE, and extending south to the location of the future "south leg" of the St. Johns Heritage Parkway SE, the city has designated both sides of Babcock Street as Commercial Use on the Future Land Use Map. This area has also been designated as a future Commercial Node.

Directly opposite the subject property, on the west side of Babcock Street, is Cogan Drive SE. Cogan is designated as a Minor Collector Roadway on the Comprehensive Plan, but does not align with Plantation Circle. This would create an off-set in the existing road network and may result in an unsafe traffic pattern if the property were to develop commercially.

4. Consistency with the Policies and Objectives of the Comprehensive Plan

The City of Palm Bay's Comprehensive Plan is made up of ten (10) separate, but intertwined Elements. The Future Land Use Element (Element B within the Plan), is primarily the criteria by which a land use amendment request is to be evaluated against. This element 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. It represents the integration of the entire Comprehensive Plan onto the physical landscape of the City. As such, the policies in this element, combined with the graphic description presented on the Future Land Use Map, serve to plan for the distribution, type and intensity of future development in Palm Bay.

Within the Future Land Use Element, the City has developed a multi-level system of growth management. The first level includes the establishment of a “growth management area” boundary; which will physically define the areas of the City to receive major infrastructure improvements. The subject property is located within this boundary. The second level requires that new development not be approved if level-of-service standards for public facilities and services will drop below the adopted standards set forth in this Comprehensive Plan. Staff has determined that the request will not cause the adopted levels of service to drop below the accepted parameters.

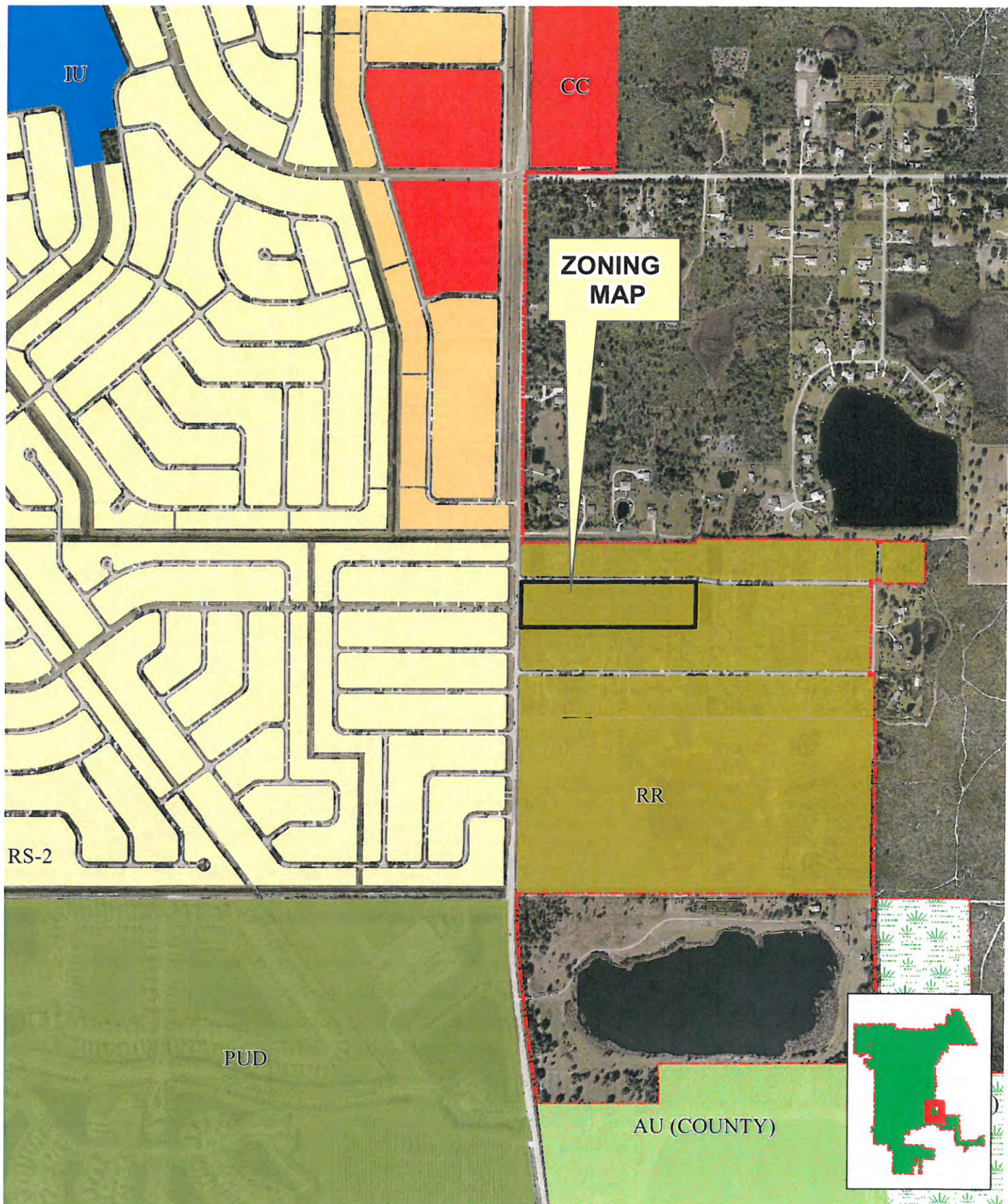
The third level involves the development of design criteria and standards which will permit site specific management of new growth. The criteria developed in this plan are intended to develop an interactive land use pattern which provides neighborhood, community and regional activity centers at appropriate locations throughout the City. Over time, this will result in more balance among land use types and provide the City with the ability to ensure that necessary services, both public and private, are provided in a more efficient manner.

Lastly, FLU-3.1; 3.1A & 3.1B, of the Comprehensive Plan include the following objectives: “Provide additional commercial areas by type, size and distribution, based upon area need and the availability of supporting infrastructure; the acreage of commercial land permitted by the Future Land Use Map shall not exceed projected needs; and that commercial development shall be located at locations with adequate access.”

Based upon the available commercial land in the general and overall vicinity of Babcock Street (both north and south of the subject property), the anticipated access constraints, and the incompatibility with adjacent and surrounding residential land uses, staff believes the request is not consistent with the policies and objectives of the Comprehensive Plan.

STAFF CONCLUSION:

Motion to Deny Case CP-7-2015 as a Small Scale Future Land Use Map amendment.

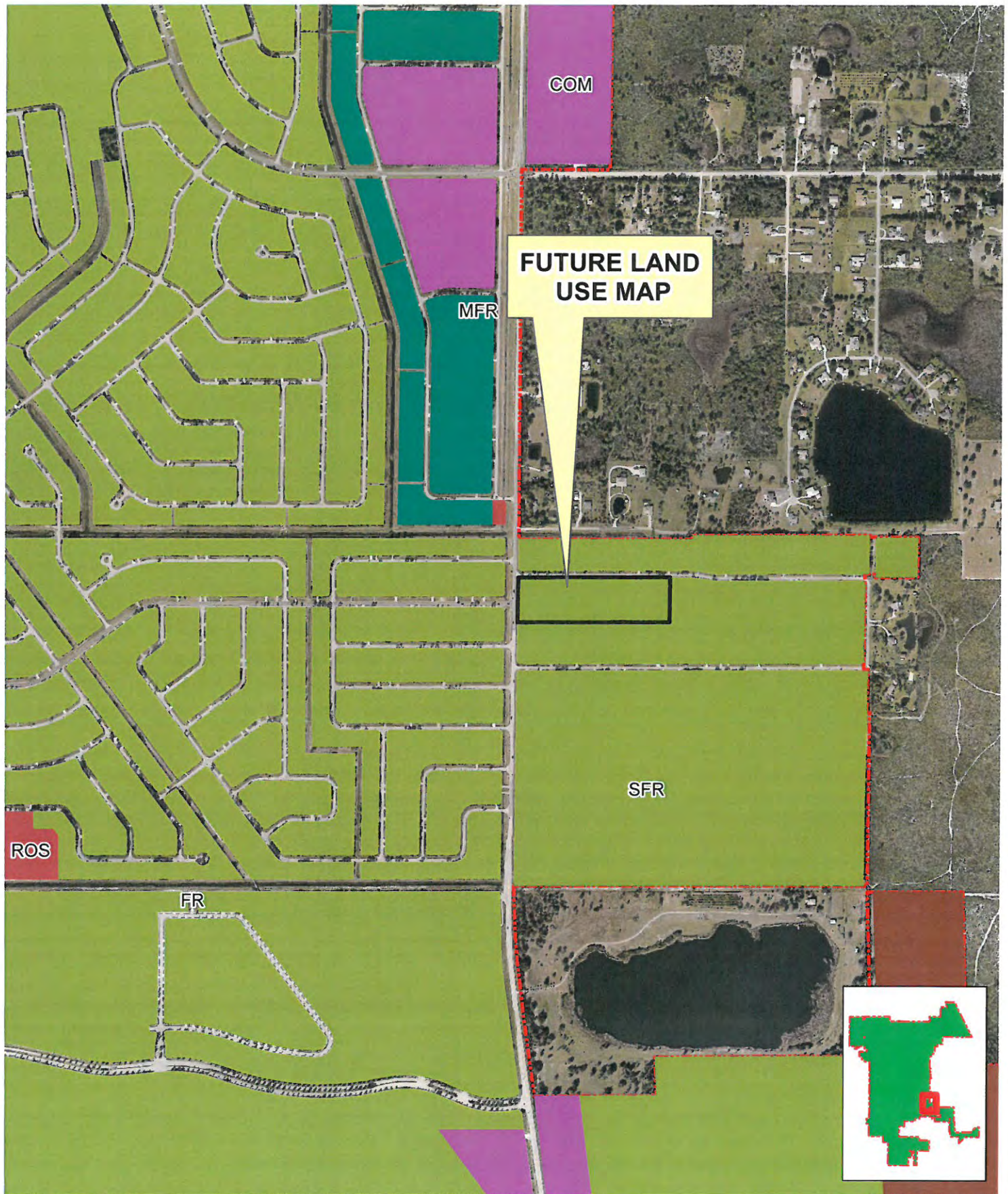


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-7-2015 & CPZ-7-2015

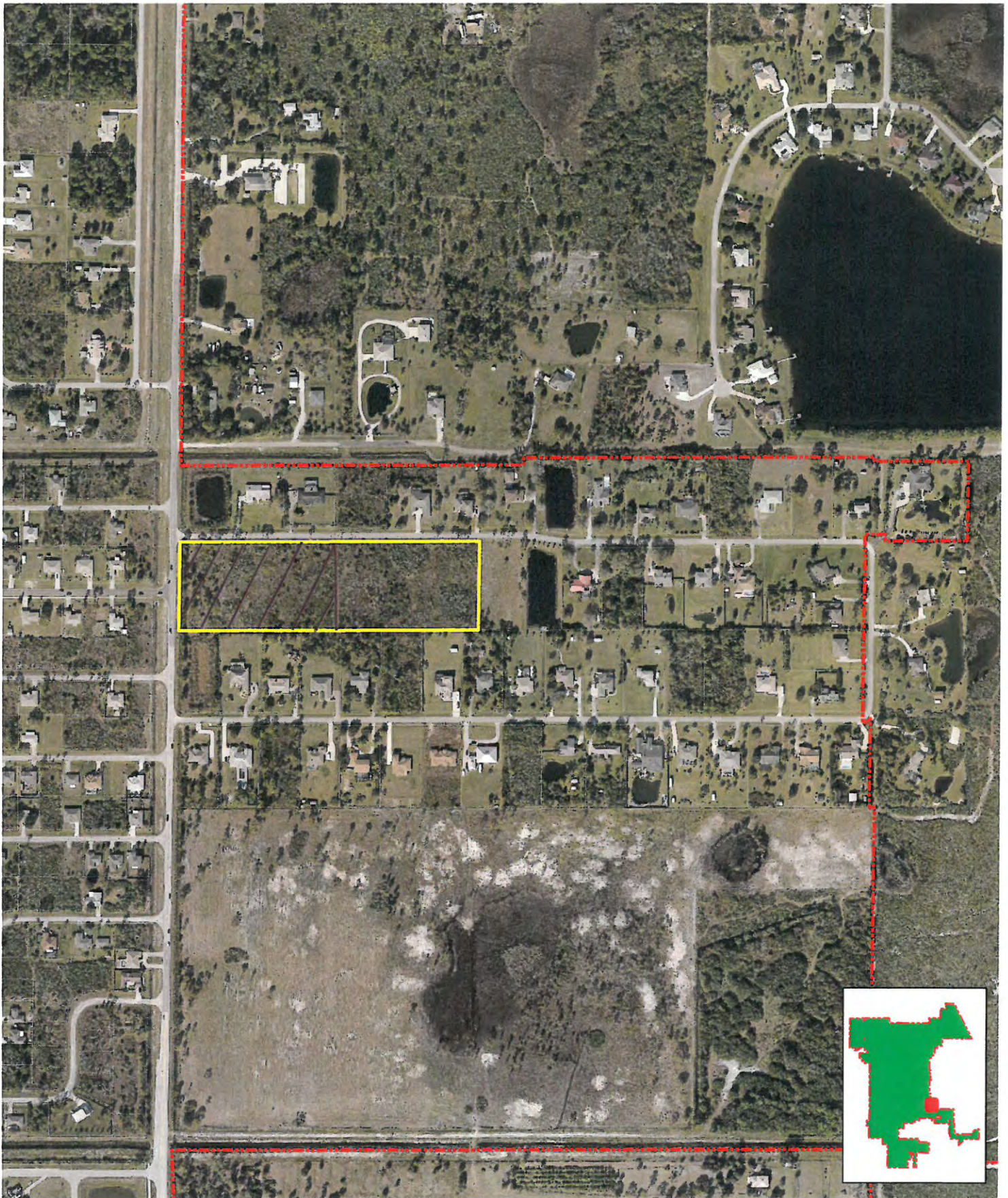


Map for illustrative purposes only. Not to be construed
as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-7-2015 & CPZ-7-2015

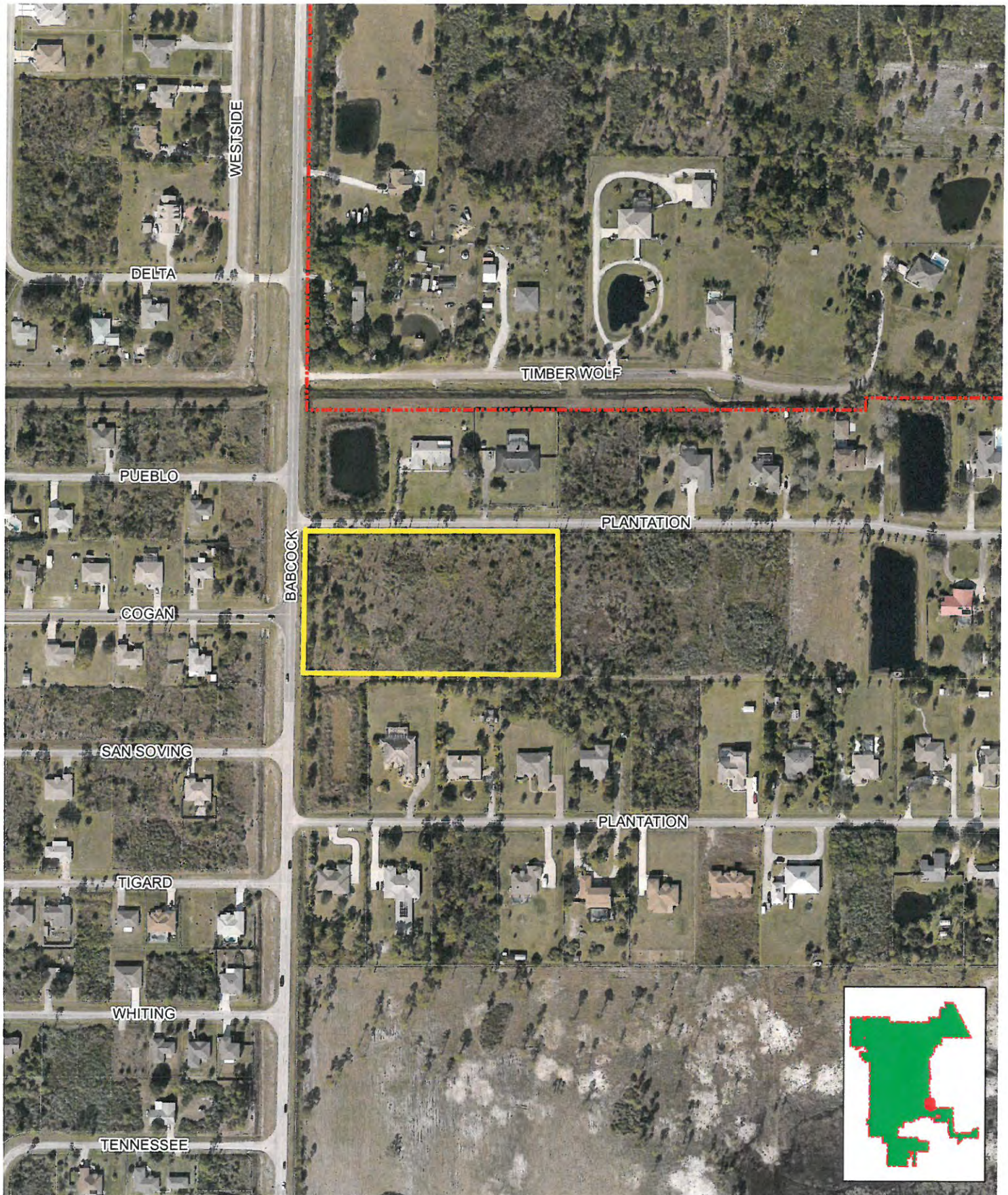


Map for illustrative purposes only. Not to be construed
as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-7-2015 & CPZ-7-2015

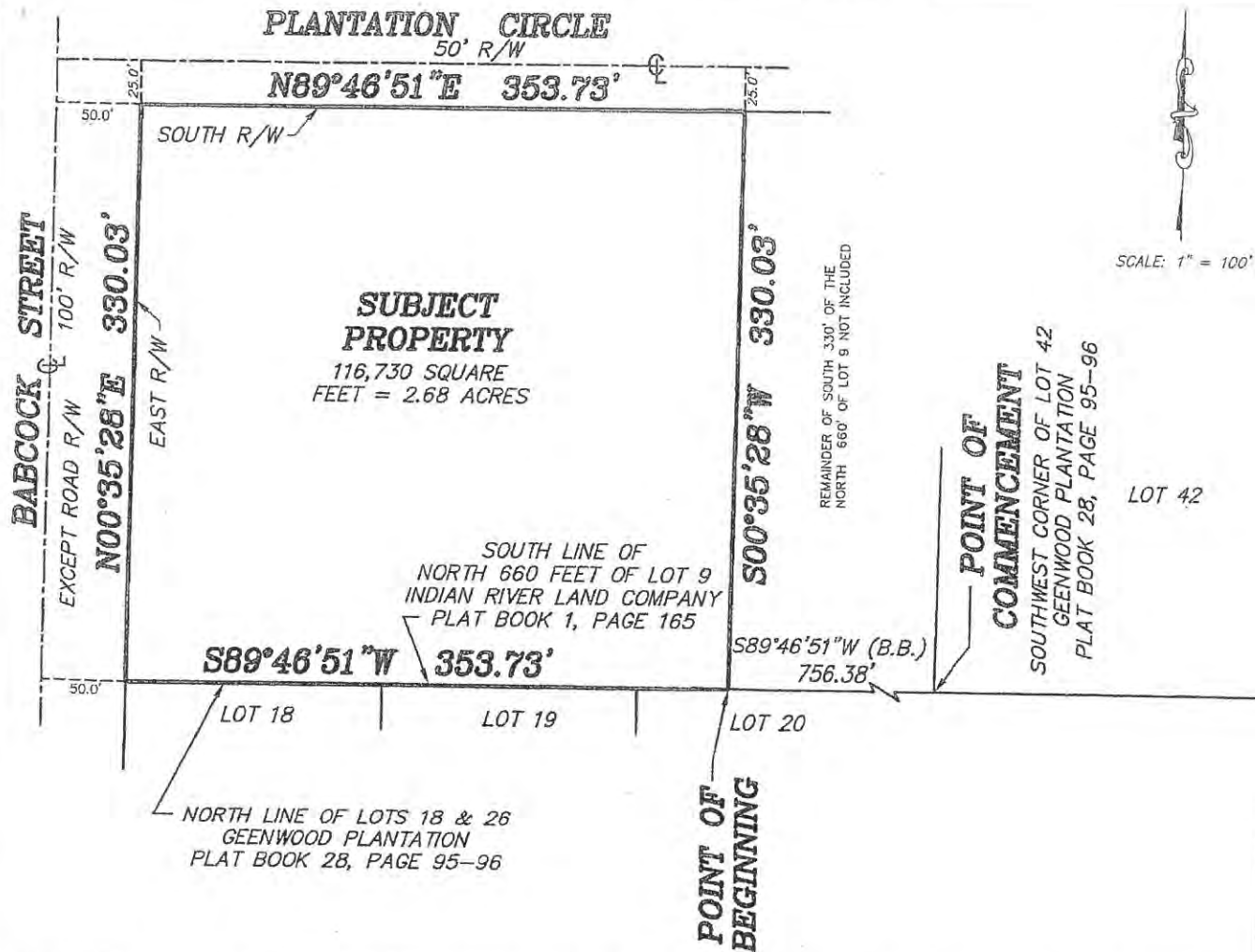


Map for illustrative purposes only. Not to be construed
as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-7-2015 & CPZ-7-2015

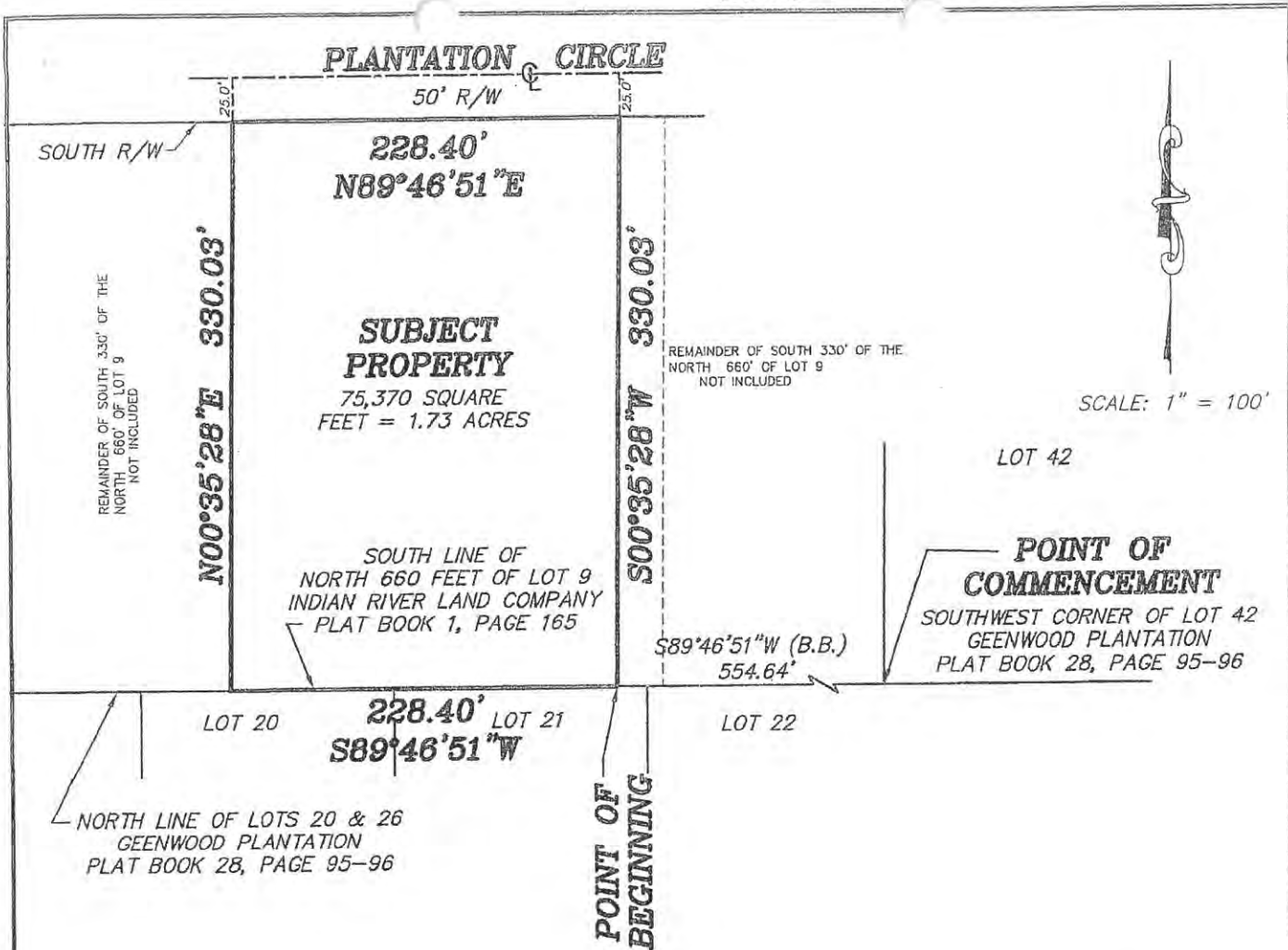


DESCRIPTION: A PORTION OF THE SOUTH 330 FEET OF THE NORTH 660 FEET OF LOT 9 EXCEPT ROAD RIGHT OF WAY IN SECTION 34, TOWNSHIP 29 SOUTH, RANGE 37 EAST, OF FLORIDA INDIAN RIVER LAND COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHWEST CORNER OF LOT 42, GREENWOOD PLANTATION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 28, PAGES 95-96, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND RUN S89°46'51"W ALONG THE NORTH LINE OF LOTS 18 THROUGH 26, OF SAID GREENWOOD PLANTATION, A DISTANCE OF 756.38 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE NORTH LINE OF SAID LOTS 18 THROUGH 26 AND THE SOUTH LINE OF THE NORTH 660 FEET OF SAID LOT 9, S89°46'51"W, A DISTANCE OF 353.73 FEET, TO THE EAST RIGHT OF WAY OF BABCOCK STREET; THENCE N00°35'28"E A DISTANCE OF 330.03 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF PLANTATION CIRCLE ACCORDING TO PLAT OF SAID GREENWOOD PLANTATION; THENCE N89°46'51"E, ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 353.73; THENCE S00°35'28"W, A DISTANCE OF 330.03 FEET TO THE POINT OF BEGINNING. CONTAINING 2.68 ACRES MORE OR LESS.

SKETCH OF DESCRIPTION ONLY! THIS IS NOT A SURVEY!

AAL LAND SURVEYING SERVICES, INC.

SKETCH OF DESCRIPTION	1. THIS SKETCH AND DRAWING HAVE BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. 2. BEARINGS ARE BASED ON ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.	LEGEND B.B. = BASIS OF BEARINGS
JOB # 33811-1	ANDREW W. POWSHOK P.L.S. No. 5383	
DATE: 07-13-2015 SECTION 34, TOWNSHIP 29S, RANGE 37E	3970 MINTON ROAD WEST MELBOURNE, FL. 32904 (321) 768-8110	
L.B. #6623		



DESCRIPTION: A PORTION OF THE SOUTH 330 FEET OF THE NORTH 660 FEET OF LOT 9 IN SECTION 34, TOWNSHIP 29 SOUTH, RANGE 37 EAST, OF FLORIDA INDIAN RIVER LAND COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHWEST CORNER OF LOT 42, GREENWOOD PLANTATION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 28, PAGES 95-96, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND RUN S89°46'51"W ALONG THE NORTH LINE OF LOTS 20 THROUGH 26, OF SAID GREENWOOD PLANTATION, A DISTANCE OF 554.64 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE NORTH LINE OF SAID LOTS 20 THROUGH 26 AND THE SOUTH LINE OF THE NORTH 660 FEET OF SAID LOT 9, S89°46'51"W, A DISTANCE OF 228.40 FEET; THENCE N00°35'28"E A DISTANCE OF 330.03 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF PLANTATION CIRCLE ACCORDING TO PLAT OF SAID GREENWOOD PLANTATION; THENCE N89°46'51"E, ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 228.40; THENCE S00°35'28"W, A DISTANCE OF 330.03 FEET TO THE POINT OF BEGINNING. CONTAINING 1.73 ACRES MORE OR LESS.

SKETCH OF DESCRIPTION ONLY! THIS IS NOT A SURVEY!

AAL LAND SURVEYING SERVICES, INC.

SKETCH OF DESCRIPTION	1. THIS SKETCH AND DRAWING HAVE BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. 2. BEARINGS ARE BASED ON ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.	LEGEND B.B.= BASIS OF BEARINGS
JOB # 33811-2	ANDREW W. POWSHOK P.L.S. No. 5383	
DATE: 07-13-2015 SECTION 34, TOWNSHIP 29S, RANGE 37E		
L.B. #6623	3970 MINTON ROAD WEST MELBOURNE, FL. 32904 (321) 768-8110	

**PLEASE SEE
CITY WEBSITE
FOR THIS
INFORMATION**



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk

DATE: December 17, 2015

SUBJECT: Rezoning Request – West Pointe Babcock, LLC

West Pointe Babcock, LLC (Jack Spira, representative) has submitted an application to rezone property from RR (Rural Residential District) to CC (Community Commercial District). The property is property located at the southeast corner of Babcock Street and Plantation Circle, and contains 4.41 acres, more or less.

Staff Conclusion:

The Planning and Zoning Board and City Council must determine if the uses allowed within the CC (Community Commercial District) zoning would be compatible with the surrounding area. Should Case No. CP-7-2015 be denied, the rezoning request would be incompatible with the subject property's Future Land Use Designation of Single Family Residential.

Planning and Zoning Board Recommendation:

Unanimous denial of the request due to its incompatibility with the existing Comprehensive Plan Future Land Use designation.

The request is being presented to Council under Public Hearings. If approved, an ordinance will be prepared and scheduled for the next regular Council meeting.

If you should have any questions, please advise.

/tjl
Attachments

Case No. CPZ-7-2015



Growth Management Department
120 Malabar Road SE
Palm Bay, FL 32907
321-733-3041
Growthmgmt@palmabayflorida.org

COMPREHENSIVE PLAN AMENDMENT APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein to the Growth Management Department, Palm Bay, Florida, no later than April 1st by 5:00 p.m. for spring amendments or October 1st by 5:00 p.m. for fall amendments. Contact the Growth Management Department at (321) 733-3041 to determine the schedule for public hearings. This application will be referred to the Local Planning Agency 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). Meetings 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 (Type or print) West Pointe Babcock LLC
ADDRESS c/o Jack B. Spira, Esq. 5205 Babcock St NE
CITY Palm Bay STATE FL ZIP 32905
PHONE # 321-725-5000 FAX # 321-724-6008
E-MAIL ADDRESS jspira@sbmlawyers.com
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION _____
See Exhibits "A-1", "A-2" Attached.

SECTION 34 TOWNSHIP 29 S RANGE 37 E
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 4.41
- 4) LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.): SFR
- 5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE: CC #

- 6) PRESENT USE OF THE PROPERTY: VACANT
- 7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: No
- 8) HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:
YES

(If no rezoning application is filed, the City must assume the maximum impact permissible by the land use classification desired. Impacts to transportation facilities, water and sewer facilities, drainage, recreation facilities, and solid waste must be examined and justified before acceptance by the Florida Department of Community Affairs and the City of Palm Bay.)

CITY OF PALM BAY, FLORIDA
COMPREHENSIVE PLAN AMENDMENT APPLICATION
PAGE 2 OF 3

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

10) SPECIFIC USE INTENDED FOR PROPERTY: Commercial

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

X *\$1,000 Application Fee. Make check payable to "City of Palm Bay."

X Property map showing adjacent properties and clearly outlining the subject parcel (for land use amendment(s)).

X A listing of legal descriptions (for land use amendments) 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 can be obtained from the Brevard County Planning and Zoning Department at 633-2060, or on the Internet at www.brevardpropertyappraiser.com) List shall be legible and the source of that information stated here: _____

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

____ Citizen Participation Plan (for land use amendments of more than five acres in size). Refer to Section 169.005 of the Land Development Code for guidelines.

X 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 COMPREHENSIVE PLAN AMENDMENT.


X IN ORDER TO DISCLOSE ALL PARTIES SEEKING THIS APPROVAL, COMPLETE THE ATTACHED DISCLOSURES OF OWNERSHIP INTERESTS FORMS FOR PROPERTY OWNERS AND/OR APPLICANTS IN REFERENCE TO RESOLUTION 2008-19.

**CITY OF PALM BAY, FLORIDA
COMPREHENSIVE PLAN AMENDMENT APPLICATION
PAGE 3 OF 3**

I, THE UNDERSIGNED UNDERSTAND THAT THIS APPLICATION MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE 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 AMENDMENT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant

 _____ **Date** 7/13/15

Printed Name of Applicant

Jack B Spira, Atty for West Point Balboade LLC

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

WEST POINTE BABCOCK, LLC

1135 Kane Concourse, Third Floor
Bay Harbor Islands, Florida 33154

July 28, 2015

City of Palm Bay

Please be advised Jack Spira has authorization to submit the following Applications on behalf of West Pointe Babcock, LLC with respect to the property described in Exhibit "A":

Comprehensive Plan Amendment Application
Rezoning Application

WEST POINTE BABCOCK, LLC

By: Brian West, Manager

STATE OF Florida
COUNTY OF Martin

The foregoing instrument was sworn to and subscribed before me this 30th day of July 2015, by Brian West as Manager of West Pointe Babcock, LLC who is personally known to me, or produced _____ as identification and ~~did~~ did not take an oath.



KAREN M PHELPS
MY COMMISSION # EE 216796
EXPIRES: July 16, 2016
Bonded Thru Budget Notary Services

Notary Public

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

- PROPOSAL:** Rezoning from the RR, Rural Residential Zoning District to the CC, Community Commercial Zoning District.
- LOCATION:** The property is located at the SE corner of the intersection of Babcock Street SE and Plantation Circle SE. Specifically; the subject property is the west 4.41 acres of Tax Parcel 506.1, of Section 34, Township 29 South, and Range 37 East, Brevard County, Florida.
- APPLICANT:** West Pointe Babcock, LLC. (Jack Spira, Esquire Representing)

SITE DATA

- PRESENT ZONING:** RR, Rural Residential
- ACREAGE:** 4.41 acres (\pm)
- DENSITY:** One (1) Unit Per Acre
- ADJACENT ZONING
& LAND USE:**
- | | | |
|---|----|------------------------------------------------|
| N | -- | RR, Rural Residential; Single Family Homes |
| E | -- | RR, Rural Residential; Vacant Residential Land |
| S | -- | RR, Rural Residential; Single Family Homes |
| W | -- | RR, Rural Residential; Babcock Street SE |
- WATER & SEWER:** City Water & Sewer Available
- TRAFFIC COUNTS:** Not Available
- FLOOD ZONE:** X, Area outside the 500-year flood zone
- COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Yes, Subject to Approval of CP-7-2015

BACKGROUND:

1. The property is located at the SE corner of the intersection of Babcock Street SE and Plantation Circle SE. Specifically; the subject property is the west 4.41 acres of Tax Parcel 506.1, of Section 34, Township 29 South, and Range 37 East, Brevard County, Florida.
2. The adjacent zoning and land uses are as follows:

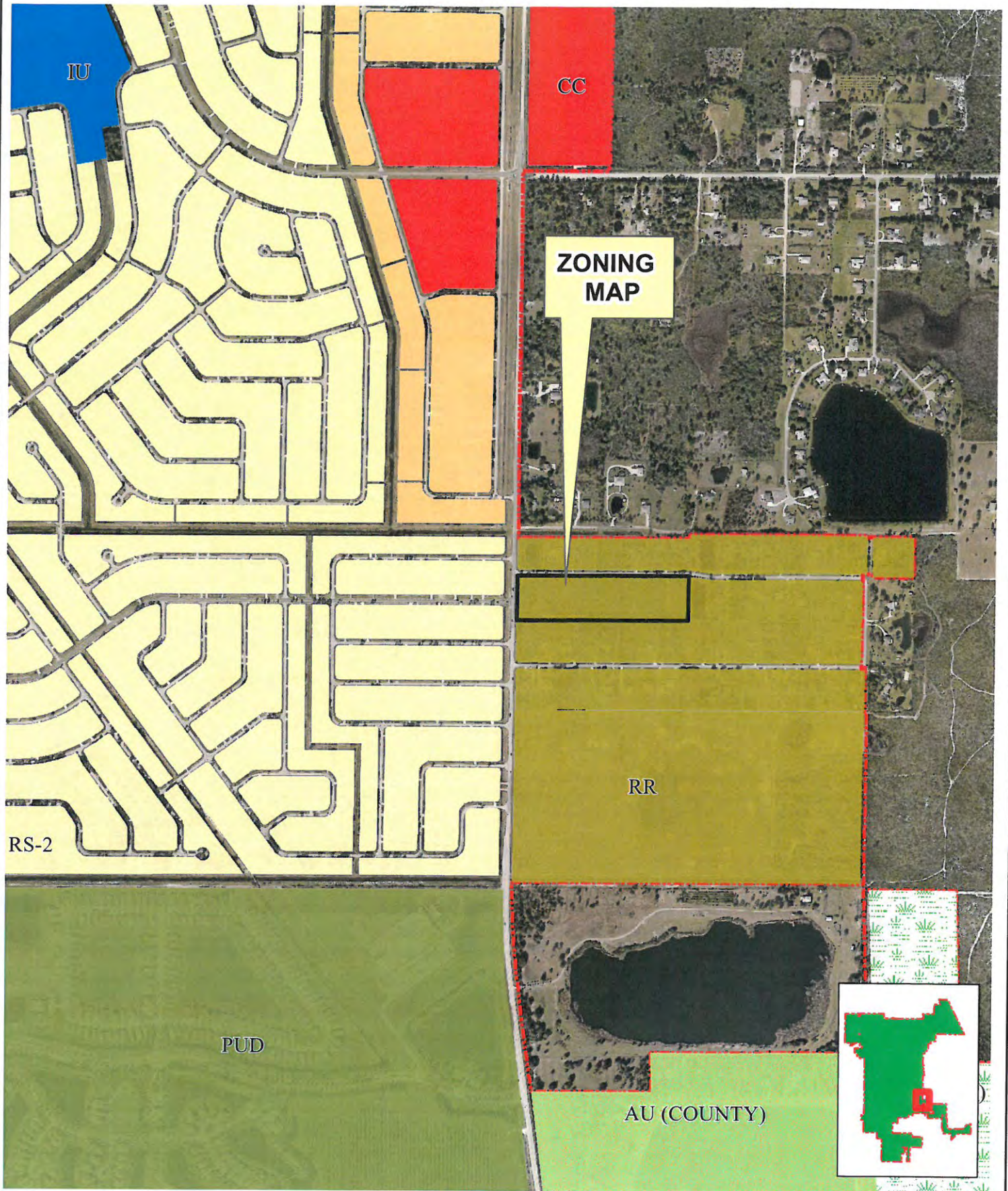
<u>NORTH:</u>	RR, Rural Residential; Single Family Homes
<u>EAST:</u>	RR, Rural Residential; Vacant Residential Land
<u>SOUTH:</u>	RR, Rural Residential; Single Family Homes
<u>WEST:</u>	RR, Rural Residential; Babcock Street SE
3. The applicant is requesting a rezoning from the RR, Rural Residential Zoning District to the CC, Community Commercial Zoning District. The applicant for this request is West Point Babcock, LLC. The applicant will be represented by their attorney, Mr. Jack Spira.

ANALYSIS:

1. The property is presently vacant, residentially-zoned land. It is completely surrounded by RR Zoning, consisting mostly of developed, rural single family residential properties. As stated in the staff report for Case No. CP-7-2015, the applicant is requesting the rezoning in order to allow for future commercial uses upon the property.
2. The primary access to the property would be from Babcock Street SE. Secondary access from Plantation Circle SE, if the rezoning is approved, would only be permitted for the corner lot. Plantation Circle is a local residential street and commercial traffic would not be permitted upon this road to access the interior lot, per Section 185.130 of the Code of Ordinances. Therefore, internal cross-access would be required through both properties.
3. The purpose of the CC, Community Zoning District is to provide commercial areas that are primarily located in or near the intersection of arterial roadways; to designate those uses and services deemed appropriate and proper for location along a major thoroughfare; and to establish such development standards and provisions as are appropriate to ensure proper functioning of uses within the district. Based upon the analysis provided for in Case No. CP-7-2015, staff believes this request would not further this purpose.

STAFF CONCLUSION:

The Planning & Zoning Board and City Council must determine if the uses allowed within the CC, Community Commercial Zoning District would be compatible with the surrounding area. Should Case No. CP-7-2015 be denied, the rezoning request would be incompatible with the subject property's Future Land Use Designation of Single Family Residential.

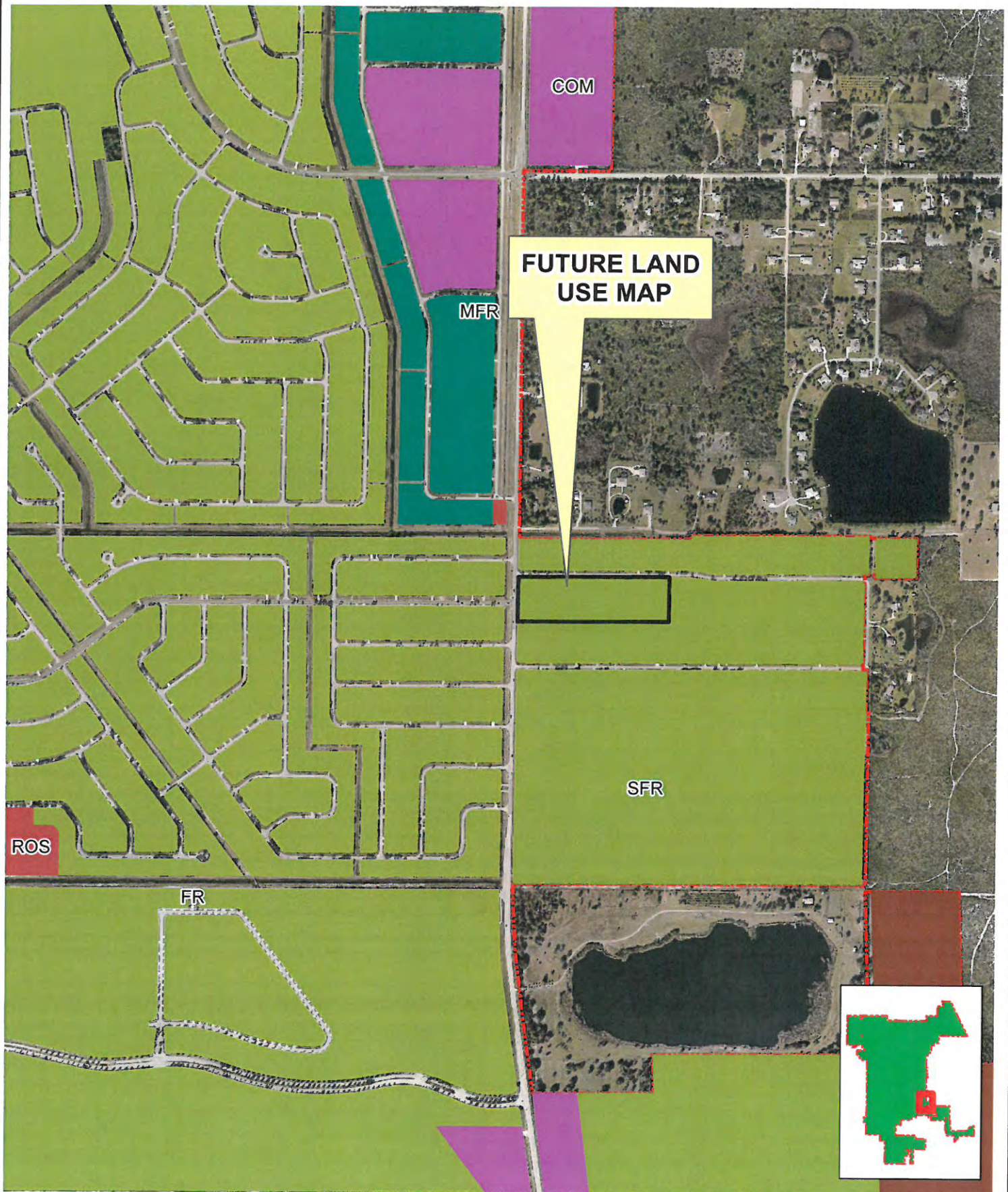


Map for illustrative purposes only. Not to be construed
as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-7-2015 & CPZ-7-2015

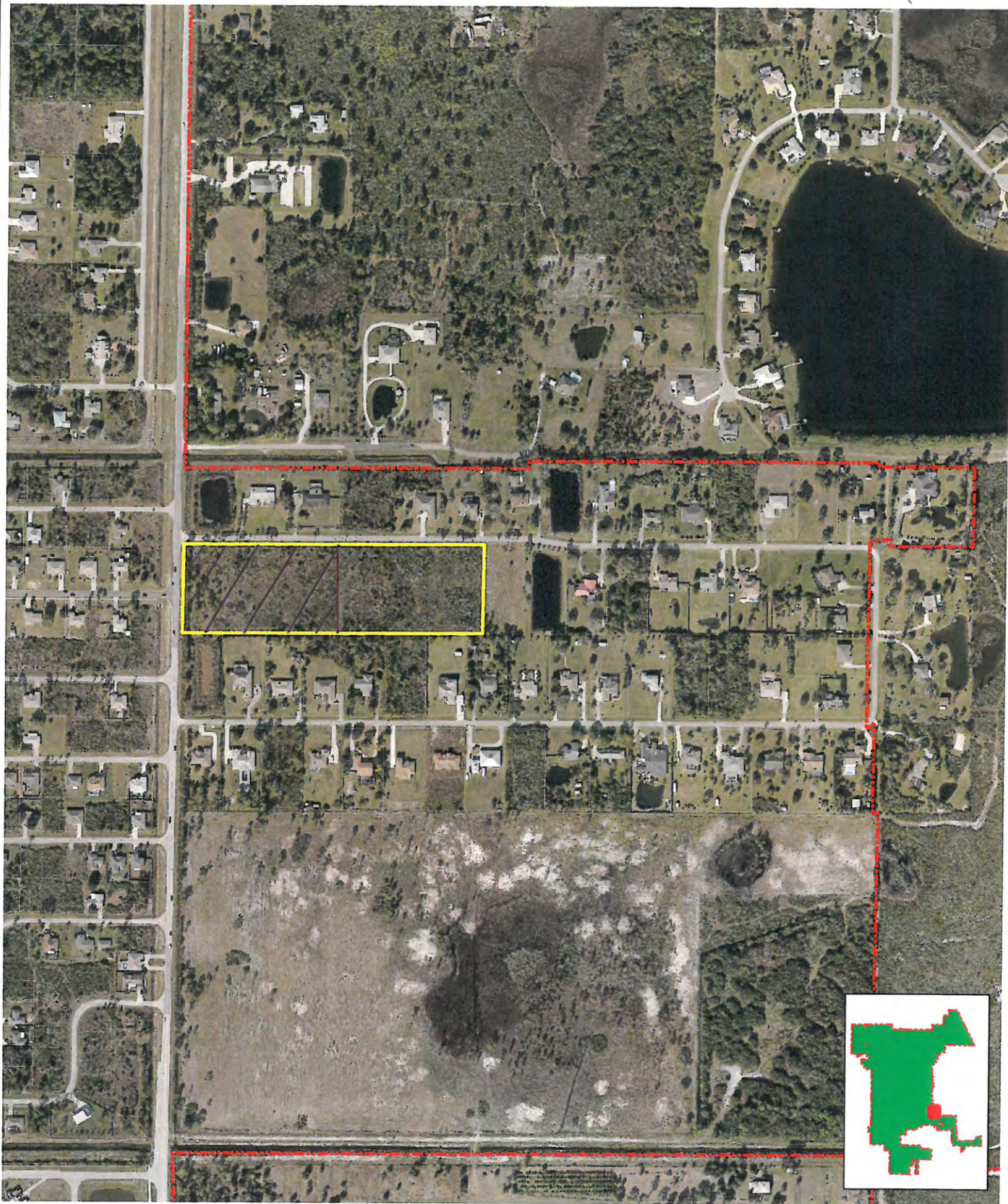


Map for illustrative purposes only. Not to be construed
as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-7-2015 & CPZ-7-2015

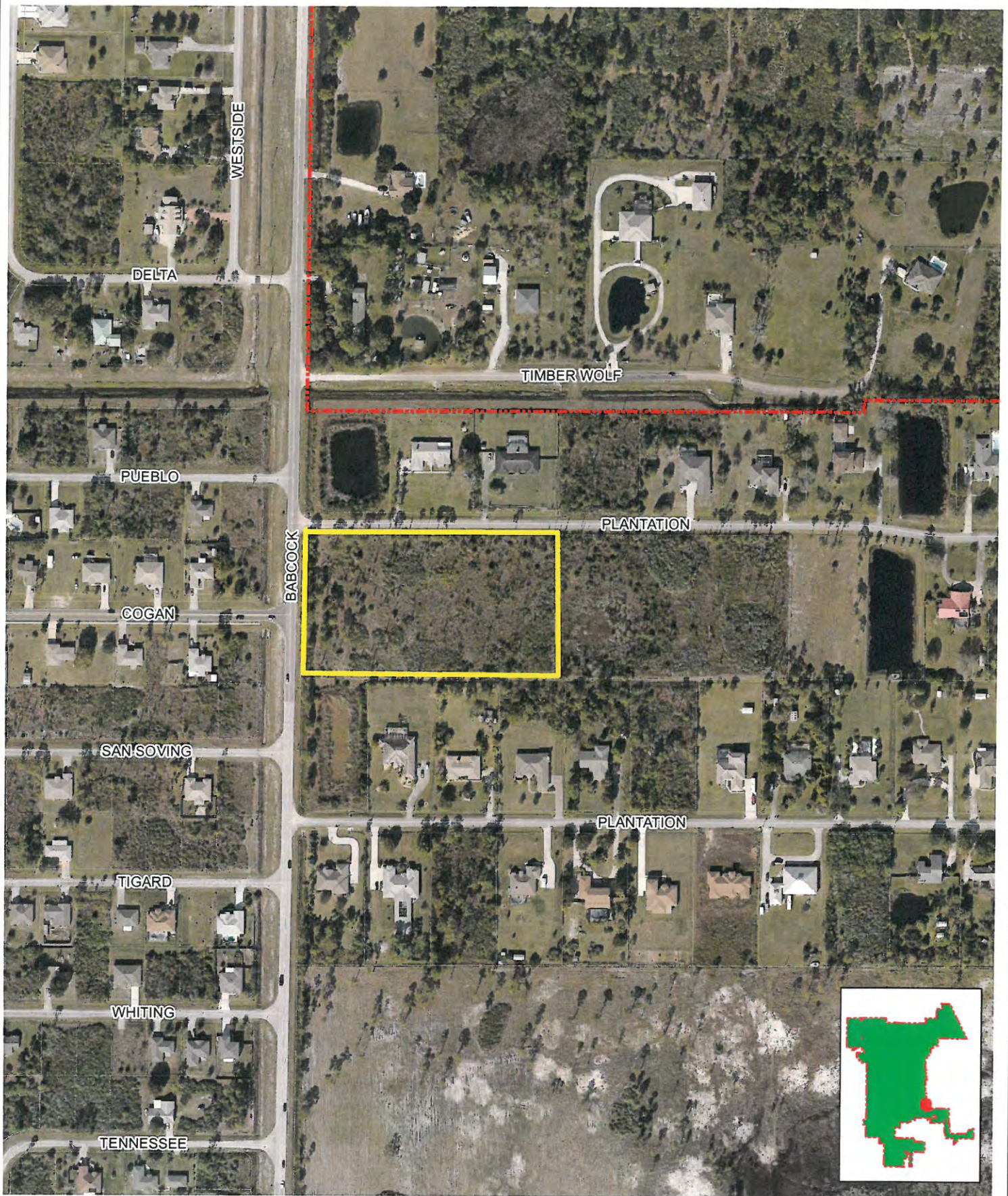


Map for illustrative purposes only. Not to be construed
as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-7-2015 & CPZ-7-2015

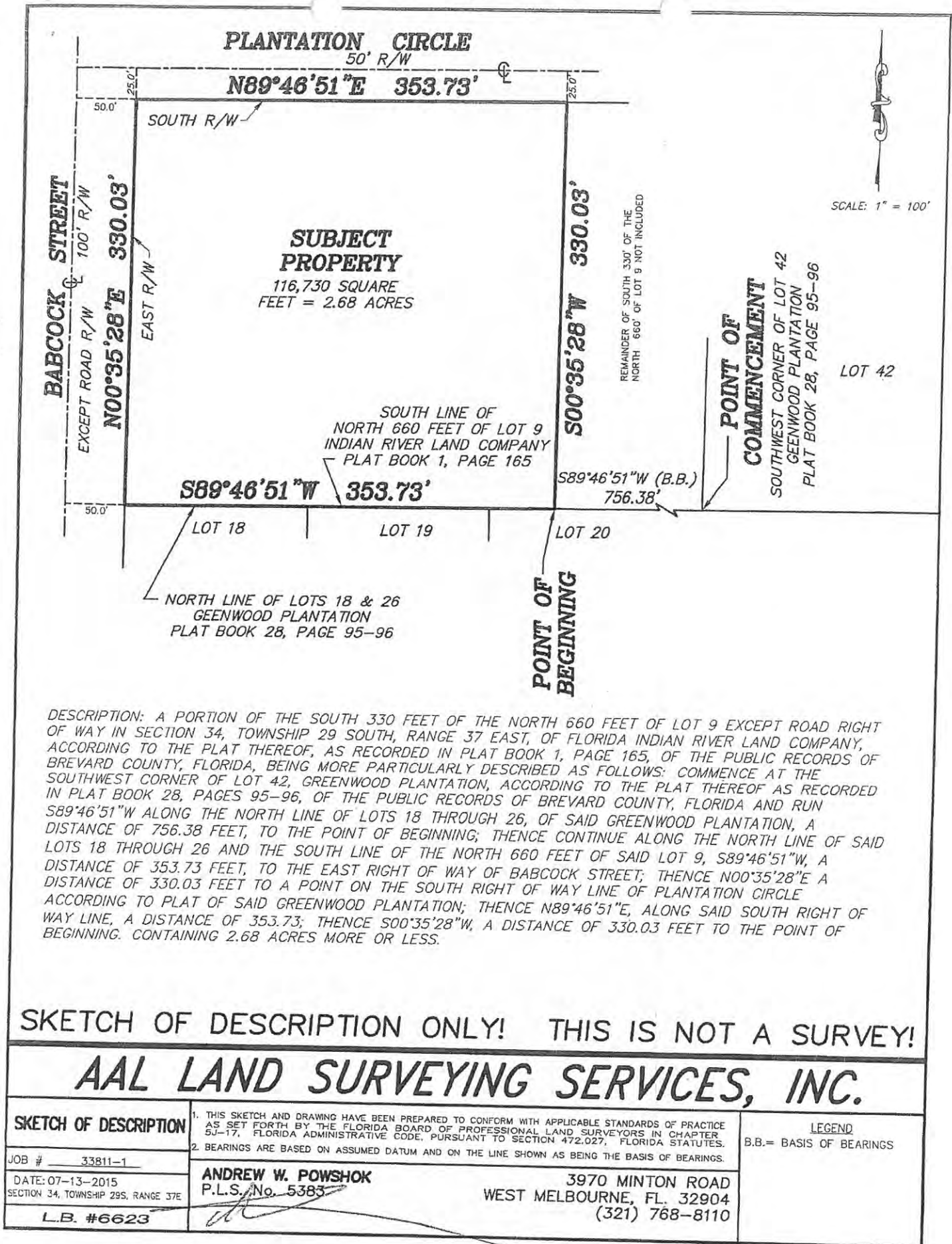


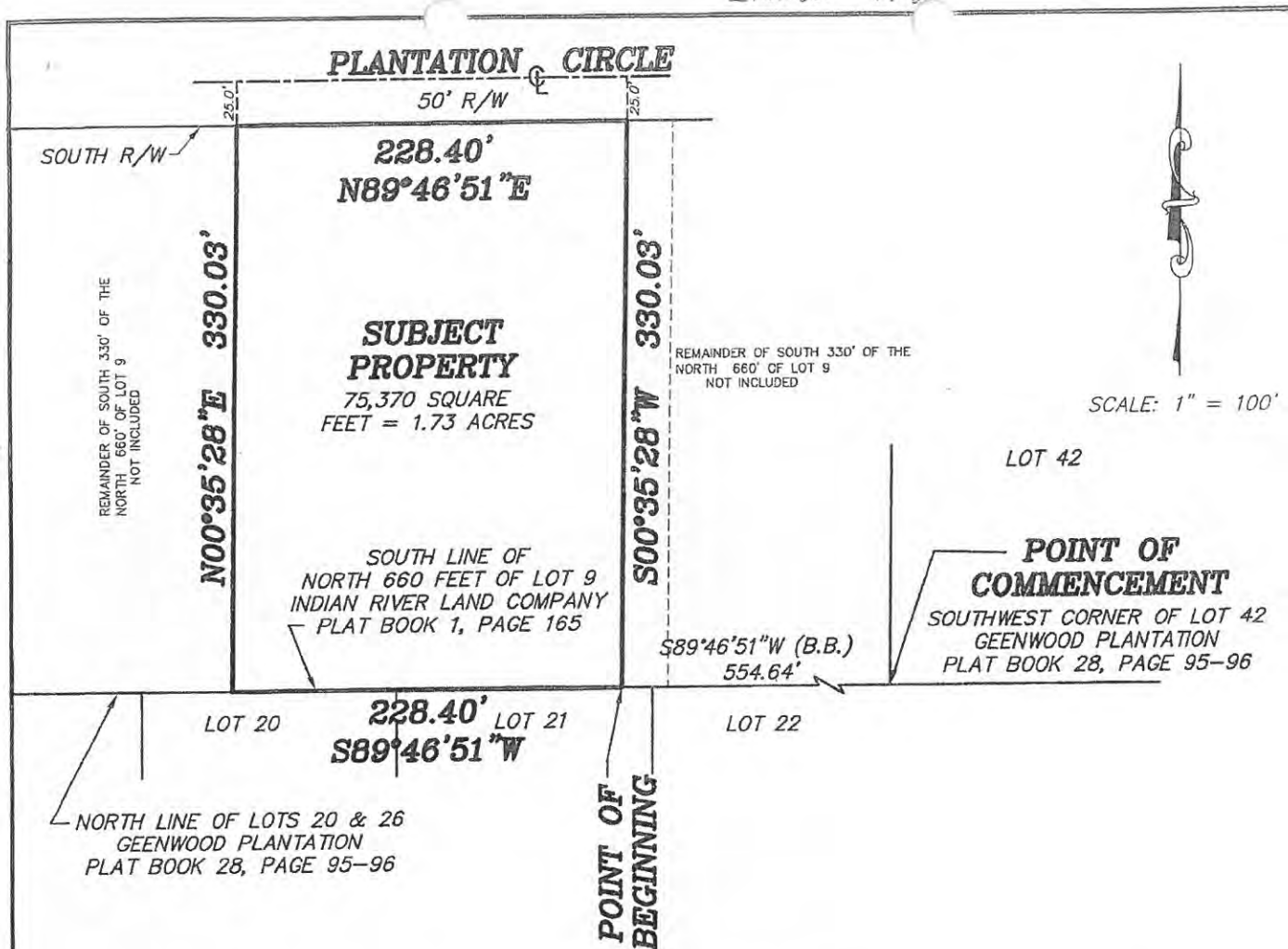
Map for illustrative purposes only. Not to be construed
as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-7-2015 & CPZ-7-2015





DESCRIPTION: A PORTION OF THE SOUTH 330 FEET OF THE NORTH 660 FEET OF LOT 9 IN SECTION 34, TOWNSHIP 29 SOUTH, RANGE 37 EAST, OF FLORIDA INDIAN RIVER LAND COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHWEST CORNER OF LOT 42, GREENWOOD PLANTATION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 28, PAGES 95-96, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND RUN S89°46'51"W ALONG THE NORTH LINE OF LOTS 20 THROUGH 26, OF SAID GREENWOOD PLANTATION, A DISTANCE OF 554.64 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE NORTH LINE OF SAID LOTS 20 THROUGH 26 AND THE SOUTH LINE OF THE NORTH 660 FEET OF SAID LOT 9, S89°46'51"W, A DISTANCE OF 228.40 FEET; THENCE N00°35'28"E A DISTANCE OF 330.03 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF PLANTATION CIRCLE ACCORDING TO PLAT OF SAID GREENWOOD PLANTATION; THENCE N89°46'51"E, ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 228.40; THENCE S00°35'28"W, A DISTANCE OF 330.03 FEET TO THE POINT OF BEGINNING. CONTAINING 1.73 ACRES MORE OR LESS.

SKETCH OF DESCRIPTION ONLY! THIS IS NOT A SURVEY!

AAL LAND SURVEYING SERVICES, INC.

SKETCH OF DESCRIPTION

1. THIS SKETCH AND DRAWING HAVE BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.
2. BEARINGS ARE BASED ON ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.

LEGEND
B.B.= BASIS OF BEARINGS

JOB # 33811-2

DATE: 07-13-2015
SECTION 34, TOWNSHIP 29S, RANGE 37E

L.B. #6623

ANDREW W. POWSHOK
P.L.S. No. 8383

3970 MINTON ROAD
WEST MELBOURNE, FL. 32904
(321) 768-8110

**PLEASE SEE
CITY WEBSITE
FOR THIS
INFORMATION**



MEMO TO: Honorable Mayor and Members of City Council
FROM: Terese M. Jones, City Clerk
DATE: December 17, 2015
SUBJECT: Variance Request – Bonnie Kennedy

Bonnie Kennedy has submitted an application for a variance to allow a proposed detached garage to encroach the following in RS-3 (Single Family Residential District) zoning, as provided for in Section 185.035(F)(7)(a)(b)(d), of the Palm Bay Code of Ordinances:

- a) The twenty-five (25) foot front setback by a maximum of 4.9 feet;
- b) The ten (10) foot rear setback by a maximum of 3.0 feet; and,
- c) The eight (8) foot side interior setback by a maximum of 7.2 feet.

The property is located east of and adjacent to Miller Street, in the vicinity south of Hickory Avenue and north of Turkey Creek, and contains 0.50 acres, more or less.

Staff Findings:

The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief is required to meet the needs of the variance being requested as required under Section 169.009 of the City of Palm Bay Code of Ordinances, and make recommendations to City Council for a final review.

Planning and Zoning Board Recommendation:

Approval of the request, by a vote of 7 to 1, with the condition that all exterior light fixtures will be low intensity and that there be an effort to add landscaping to address privacy, noise, and glare.

The subject matter is scheduled for public hearing purposes at tonight's meeting. If you should have any questions, please advise.

/tjl

Attachments

Case No. V-27-2015



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

VARIANCE APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, prior to 5:00 p.m. on the first day of the month to be processed for consideration by the Planning and Zoning Board the following month. The application will then be referred to 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.

- 1) NAME OF APPLICANT (Type or print) MR. & MRS. MATTHEW KENNEDY (H&W)
ADDRESS 1353 MILLER ST. NE
CITY PALM BAY STATE FL ZIP 32909
PHONE # 321-626-6606 FAX # _____
E-MAIL ADDRESS bonnie.fmdc@gmail.com
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION LOTS 3 & 4
BLK 8, W/LY 1/2 OF OUT LOT S & VAC TURKEY LAKE BLVD ADJ EXC ORB 4461 PG 2353
SECTION 24 TOWNSHIP 28 RANGE 37
- 3) STREET ADDRESS OF PROPERTY COVERED BY APPLICATION: 1353 MILLER ST. NE
- 4) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 0.41 ACRES
- 5) EXISTING ZONING CLASSIFICATION OF PROPERTY (ex.: RS-2, CC, etc.): RS-3
- 6) ARE THERE ANY STRUCTURES ON THE PROPERTY NOW?: X YES NO
- 7) HAS A VARIANCE APPLICATION PREVIOUSLY BEEN FILED FOR THIS PROPERTY?:
 YES X NO
IF SO, STATE THE NATURE OF THE PREVIOUS APPLICATION, WHETHER THE REQUEST WAS APPROVED OR DENIED, AND DATE OF ACTION: N/A
- 8) DESCRIBE THE EXTENT OF THE VARIANCE REQUESTED AND THE INTENDED USE OF THE PROPERTY IF THE VARIANCE IS GRANTED (SPECIFY NUMBER OF INCHES/FEET ENCROACHING INTO SPECIFIC REQUIRED YARD SETBACK OR REQUIRED HEIGHT RESTRICTIONS): Variance requested is up to 7.2' of the required 8' side setback and up to 5.0' of the required 25' front setback for accessory structure. A garage is proposed to be constructed using the existing driveway. (SEE ATTACHED EXHIBIT)

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

185.035 (F)(7)(a)&(b): 5' from front 25' setback and 7.2' from side 8' setback

- 10) GIVE WRITTEN EXPLANATION(S) DEMONSTRATING HOW THE VARIANCE MEETS THE FOLLOWING CONDITIONS:

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

(a) The lot in question is adjacent to Turkey Creek and slopes from north (existing driveway) to south (Turkey Creek). There exist a number of very mature, large diameter oak trees that restrict access from Miller St.; except for the existing driveway there is no other practical access from Miller St.

(b) The topography and existing oak trees are not a result of the applicant's actions.

(c) It is customary for single family residential zoning classifications to enjoy the use and benefit of an enclosed garage.

(d) The requested variance is the minimum variance possible.

(e) No special privilege will be awarded applicant not commonly enjoyed by this variance.

(f) Proposed garage abuts neighbors garage. Size and location will be in harmony with the general intent and purpose of this code, and will not be injurious to the surrounding properties or detrimental to the public welfare.

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

_____ BERT J. HARRIS PRIVATE PROPERTY RIGHTS PROTECTION ACT, Chapter 95-181, Laws of Florida.
Provide a copy of one of the following: _____ Special master appointed in accordance with the act.
_____ Court order as described in the act.

_____ AMERICANS WITH DISABILITIES ACT. Cite the section of the act from which the variance request will provide relief: _____

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

✓ _____ *\$300.00 Application Fee. Make check payable to "City of Palm Bay."

✓ _____ A listing 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 can be obtained from the Brevard County Planning and Zoning Department at 633-2060, or on the Internet at www.brevardpropertyappraiser.com) List shall be legible and the source of that information stated here: Brevard County Planning & Zoning

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

_____ A site plan drawn to scale which shows all property and yard dimensions, its structures (if any) and the variance desired, including abutting highway or road boundaries. Submit in electronic or PDF format.

_____ A survey prepared by a registered surveyor showing all property lines and structures.

_____ 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 VARIANCE.

_____ IN ORDER TO DISCLOSE ALL PARTIES SEEKING THIS APPROVAL, COMPLETE THE ATTACHED DISCLOSURES OF OWNERSHIP INTERESTS FORMS FOR PROPERTY OWNERS AND/OR APPLICANTS IN REFERENCE TO RESOLUTION 2008-19.

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

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

Signature of Applicant

Bonnie L Kennedy

Date 9-29-2015

Printed Name of Applicant

Bonnie Kennedy

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

V-27-2015



Submitted by applicant at 12/02/15 Planning and Zoning Board Meeting

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

PROPOSAL: A request to allow a proposed detached garage to encroach the 25' front setback by a maximum of 4.9', a request to encroach the rear 10' setback by a maximum of 3', and a request to encroach the 8' side interior setback by a maximum of 7.2' as provided for in Section 185.035(F) (7) (a) (b) (d), of the Palm Bay Code of Ordinances.

LOCATION: 1353 Miller Street NE

APPLICANT: Mrs. Bonnie L. Kennedy

SITE DATA

PRESENT ZONING: RS-3, Single Family Residential Zoning District

ACREAGE: 0.50 Acres +/-

DENSITY: N/A

ADJACENT ZONING & LAND USE:
N -- RS-3, Single Family Residential District, Single Family Home
E -- RS-3, Single Family Residential District, Single Family Home
S -- RS-3, Single Family Residential District, Turkey Creek
W -- RS-3, Single Family Residential District, Miller Street NE

WATER & SEWER: Water & Sewer service available

TRAFFIC COUNTS: Not Available

FLOOD ZONE: Zone "X" – area of minimum flood potential

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Not Specifically Addressed

BACKGROUND:

1. The site is located at 1353 Miller Street NE. The property contains .50 acres, more or less.
2. The property is zoned RS-3, Single Family Residential. Surrounding zoning includes RS-3 zoning to the north, south, east, and west.
3. The applicant is seeking a variance to allow a proposed detached garage to encroach the 25' front setback by a maximum of 4.9'; to encroach the 8' side interior setback by a maximum of 7.2'; and to encroach the rear setback by a maximum of 3', as provided for in Section 185.035 (F) (7) (a) (b), of the Palm Bay Code of Ordinances.

ANALYSIS:

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

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

The proposal is for a proposed 17.6' x 47' detached garage on a site that has some mature oaks and an existing well located on site. A review of the enclosed plan indicates that by locating the proposed garage closer to the existing home would result in a structure that would be more compliant to the setback requirements and have the added benefit of creating a more suitable separation distance between the existing trees and the proposed structure that would better allow for their continued survival. However, the existing well would need to be relocated in order to move the proposed garage closer to the home. The Board and Council must ultimately make a determination if there exists any special conditions or circumstances to consider with regard to this request.

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

The special conditions and circumstances identified in item 1 may be a direct result of the actions of the applicant. There appear other areas on site better suited to locate the proposed structure limiting the amount of relief requested. The Board and City Council must determine if the request has a hardship that requires relief from the Code, or if the hardship is self-induced.

Item 3 – “Literal interpretation and enforcement of the land development code regulations would deprive the applicant of rights commonly enjoyed by other properties in the same land use category, zoning district or situation under the terms of the land development code, and would work unnecessary and undue hardship on the applicant.”

Literal interpretation and enforcement of the code would require applicant to construct a garage that meets the setback requirements for the RS-3 zoning district. The Board must ultimately decide if there exists a deprivation of rights with regard to the request.

Item 4 – “The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building or structure.”

City Council, after recommendation from the Planning and Zoning Board, will need to determine the minimum amount of relief, if any, that is required to make possible the reasonable use of the land, building or structure. It appears at minimum, and as requested, the applicant would require 4.9’ of relief from the 25’ front setback, 3’ from the rear setback, and 7.2’ of relief from the 8’ side interior setback, in order to accommodate the garage in its proposed size and location.

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

Based on the circumstances that exist, granting the variance as requested would confer a special privilege that is denied to other lands, building or structures in the same district by allowing the relief for the proposed garage. If the Board does wish to consider the variance request, items that they may want to impose on the applicant would be requiring additional landscaping along the side property line, which would limit any deleterious effects of the proposed garage onto the adjacent property to the North.

Item 6 – “The Granting of the variance will be in harmony with the general intent and purpose of this code, and will not be injurious to the surrounding properties or detrimental to the public welfare.”

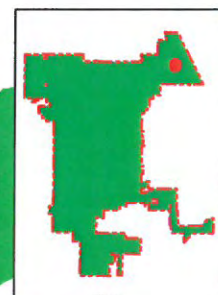
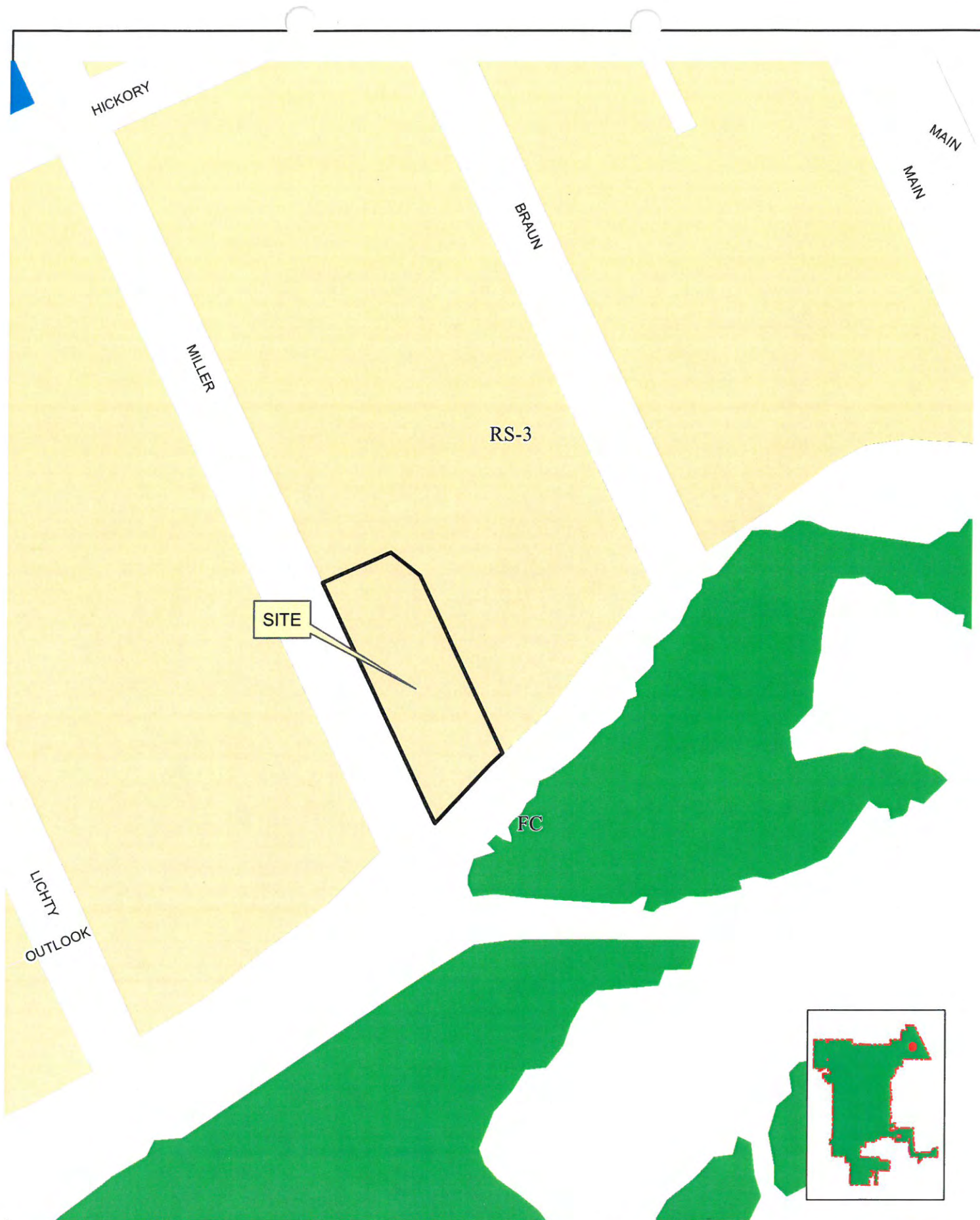
City Council will need to make a determination if the proposed use is in harmony with the general intent and purpose of the code.

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

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

STAFF FINDINGS:

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



CASE V-27-2015 LOCATION MAP



Map for illustrative purposes only. Not to be construed
as binding or as a survey.
Map created by the Land Development Division



Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



CASE NO. V-27-2015



CASE V-27-2015 AERIAL VIEW



Map for illustrative purposes only. Not to be construed
as binding or as a survey.
Map created by the Land Development Division.

**PLANNING AND ZONING BOARD
RECOMMENDATION
December 2, 2015**

Due to the Planning and Zoning Board minutes not being fully transcribed, only an excerpt of the minutes is being provided at this time.

V-27-2015 – BONNIE KENNEDY

Staff Findings (Staff's findings have not changed):

The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief is required to meet the needs of the variance being requested as required under Section 169.009 of the City of Palm Bay Code of Ordinances, and make recommendations to City Council for a final review.

Planning and Zoning Board Recommendation:

Motion by Mr. Hill, seconded by Mr. Jacobs to submit Case V-27-2015 to City Council for approval of a variance to allow a proposed detached garage to encroach 4.9 feet into the 25-foot front setback, 3 feet into the 10-foot rear setback, and 7.2 feet into the 8-foot side interior setback in an RS-3, Single-Family Residential District as established by Section 185.035(F)(7)(a)(b)(d) of the Palm Bay Code of Ordinances with the condition that all exterior light fixtures will be low intensity and that there be an effort to add landscaping to address privacy, noise, and glare. The motion carried with members voting as follows:

Bob Williams	Aye
Adam Hill	Aye
Samuel Artley	Aye
Conroy Jacobs	Aye
Leeta Jordan	Aye
William Pezzillo	Aye
Marty Piatkowski	Nay
Philip Weinberg	Aye

V-29-2015 – STEVE SMOLKO

Staff Findings (Staff's findings have not changed):

The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief is required to meet the needs of the variance being requested as required under Section 169.009 of the City of Palm Bay Code of Ordinances, and make recommendations to City Council for a final review.



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk

DATE: December 17, 2015

SUBJECT: Variance Request – Steve Smolko

Steve Smolko has submitted an application for a variance to allow an existing pool and proposed screen enclosure to encroach the following in RS-2 (Single Family Residential District) zoning, as provided for in Section 185.118(A)(3), of the Palm Bay Code of Ordinances:

- a) The ten (10) foot rear setback by a maximum of four (4) feet; and
- b) The eight (8) foot side setback by a maximum of two (2) feet.

The property is located north of and adjacent to Tarrytown Lane, in the vicinity west of Clearmont Street, and contains 0.22 acres, more or less.

Staff Findings:

The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief is required to meet the needs of the variance being requested as required under Section 169.009 of the City of Palm Bay Code of Ordinances, and make recommendations to City Council for a final review.

Planning and Zoning Board Recommendation:

Unanimous approval of the request.

The subject matter is scheduled for public hearing purposes at tonight's meeting. If you should have any questions, please advise.

/tjl

Attachments

Case No. V-29-2015



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

VARIANCE APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, prior to 5:00 p.m. on the first day of the month to be processed for consideration by the Planning and Zoning Board the following month. The application will then be referred to 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.

1) NAME OF APPLICANT (Type or print) Steve Smolko
ADDRESS 2185 Tarrytown Lane NE
CITY Palm Bay STATE FL ZIP 32905
PHONE # 330-550-9388 FAX # N/A
E-MAIL ADDRESS ste0698ve@gmail.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION Plat/Book
0025/0116 SubName: Sleepy Hollow LOT 5 BLK A

SECTION 22 TOWNSHIP 28 RANGE 37

3) STREET ADDRESS OF PROPERTY COVERED BY APPLICATION: 2185 Tarrytown Lane NE

4) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 0.22

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

6) ARE THERE ANY STRUCTURES ON THE PROPERTY NOW?: X YES NO

7) HAS A VARIANCE APPLICATION PREVIOUSLY BEEN FILED FOR THIS PROPERTY?:
 YES X NO

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

8) DESCRIBE THE EXTENT OF THE VARIANCE REQUESTED AND THE INTENDED USE OF THE PROPERTY IF THE VARIANCE IS GRANTED (SPECIFY NUMBER OF INCHES/FEET ENCROACHING INTO SPECIFIC REQUIRED YARD SETBACK OR REQUIRED HEIGHT RESTRICTIONS): A variance is requested to allow a proposed screen enclosure to encroach a maximum of 4 feet into the 10-foot rear setback. There is an existing pool that encroaches more than 3 feet into the setback.

- 9) CITE THE APPLICABLE SECTION(S) OF THE ZONING ORDINANCE AND ITS REQUIREMENT FROM WHICH VARIANCE IS REQUESTED (ex.: 185.034(f)(7)): Section 185.118(A)(3)

Within any required rear yard setback, no accessory structure shall be erected within ten (10)

feet of any rear property line and within six (6) feet of any side property line.

- 10) GIVE WRITTEN EXPLANATION(S) DEMONSTRATING HOW THE VARIANCE MEETS THE FOLLOWING CONDITIONS:

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

a) The house was built to code with the pool in April 1980.

b) The house was not owned by the applicant at that time it was built. The applicant purchased the house in February 2014 and is hoping to increase the safety of the property by adding the enclosure around the pool.

c) Without the variance the pool enclosure would be in the middle of the pool.

d) If granted the minimum variance necessary will be used to install a screened enclosure around the pool and pool deck to ensure the safety of animals and neighborhood children.

e) If granted the variance will not confer on the applicant any special privilege. Upon research done there are other properties with the same conflict that have been granted a variance to allow an enclosure.

f) Granting this variance will not be injurious to the surrounding properties or detrimental to the public welfare.

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

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

N/A BERT J. HARRIS PRIVATE PROPERTY RIGHTS PROTECTION ACT, Chapter 95-181, Laws of Florida.
Provide a copy of one of the following: N/A Special master appointed in accordance with the act.
N/A Court order as described in the act.

N/A AMERICANS WITH DISABILITIES ACT. Cite the section of the act from which the variance request will provide relief: N/A

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

X *\$300.00 Application Fee. Make check payable to "City of Palm Bay."

N/A A listing 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 can be obtained from the Brevard County Planning and Zoning Department at 633-2060, or on the Internet at www.brevardpropertyappraiser.com) List shall be legible and the source of that information stated here: _____

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

X A site plan drawn to scale which shows all property and yard dimensions, its structures (if any) and the variance desired, including abutting highway or road boundaries. Submit in electronic or PDF format.

X A survey prepared by a registered surveyor showing all property lines and structures.

N/A 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 VARIANCE.

X IN ORDER TO DISCLOSE ALL PARTIES SEEKING THIS APPROVAL, COMPLETE THE ATTACHED DISCLOSURES OF OWNERSHIP INTERESTS FORMS FOR PROPERTY OWNERS AND/OR APPLICANTS IN REFERENCE TO RESOLUTION 2008-19.

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

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

Signature of Applicant



Date 10/23/15

Printed Name of Applicant

Steve Smolko

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

CITY OF PALM BAY

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

TO: CITY OF PALM BAY GROWTH MANAGEMENT DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, this day personally appeared Steve Smolko, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [☒] individual or [☐] _____ [position-e.g., president, partner, trustee] of [position-e.g., president, partner, trustee] of _____ [name and type of entity-e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with the City of Palm Bay.
2. Affiant's address is: _____
2185 Tarrytown Lane NE, Palm Bay, FL 32905
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that the Affidavit is given to comply with City of Palm Bay Resolution No. 2008 - 19, and will be relied upon by the City of Palm Bay in its review of application for Comprehensive Plan amendment or Development Order approval affecting the property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

, Affiant

Steve Smolko
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 23rd day of October, 2015, by Steve Smolko, [X] who is personally known to me or [] who has produced _____ as identification and who did take an oath.

, Notary Public

Jamie D Riley
(Print Notary Name)



NOTARY PUBLIC
State of Florida at Large
My Commission Expires: June 12, 2019

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

PROPOSAL: A request to allow an existing pool and proposed screen enclosure to encroach the 10' rear setback by a maximum of 4', and a request to encroach the 8' side interior setback by a maximum of 2' as provided for in Section 185.118 of the Palm Bay Code of Ordinances.

LOCATION: 2185 Tarrytown Lane NE (Lot 5, Block 'A', Sleepy Hollow Subdivision)

APPLICANT: Mr. Steve Smolko

SITE DATA

PRESENT ZONING: RS-2, Single Family Residential District

ACREAGE: .22 Acres +/-

DENSITY: N/A

ADJACENT ZONING & LAND USE:
N -- LI, Light Industrial and Warehousing District, vacant
E -- RS-2, Single Family Residential District, w/ single family home
S -- RS-2, Single Family Residential District, w/ single family home
W -- RS-2, Single Family Residential District, w/ single family home

WATER & SEWER: Water & Sewer service available

TRAFFIC COUNTS: not available

FLOOD ZONE: Zone "X" – area of minimum flood potential

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Not Specifically Addressed

BACKGROUND:

1. The site is located at 2185 Tarrytown Lane NE. The property contains .22 acres, more or less.
2. The property is zoned RS-2, Single Family Residential. Surrounding zoning includes LI zoning to the north, and RS-2 zoning to the south, east, and west.
3. The applicant is seeking a variance to allow an existing pool and proposed screen enclosure to encroach the 10' rear setback by a maximum of 4', and a request to encroach the 8' side interior setback by a maximum of 2' as provided for in Section 185.118 of the Palm Bay Code of Ordinances.

ANALYSIS:

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

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

The proposal is for a proposed screen enclosure around an existing pool. The pool did receive all the necessary permits from the City at the time it was constructed; as it is common for many homes to have screen enclosures around pool structures, this may be a special circumstance that the Board and Council may wish to consider with regard to this request.

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

The special conditions and circumstances identified in item 1 are not a direct result of the actions of the applicant. The pool was constructed by others in a improper location. The Board and City Council must determine if the request has a hardship that requires relief from the Code, or if the hardship is self-induced.

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

Literal interpretation and enforcement of the code would not allow the screen room and would require applicant to remove a portion of the existing pool to comply with the code. This would be considered excessive, and detract from an otherwise aesthetically pleasing and functional pool. The Board must ultimately decide if there exists a deprivation of rights with regard to the request.

Item 4 – “The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building or structure.”

City Council, after recommendation from the Planning and Zoning Board, will need to determine the minimum amount of relief, if any, that is required to make possible the reasonable use of the land, building or structure. It appears at minimum, the applicant would require 4’ of relief from the 10’ rear setback, and 2’ of relief from the 8’ side interior setback for the proposed screen room and existing pool.

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

Based on the circumstances that exist, granting the variance as requested may confer a special privilege that is denied to other lands, building or structures in the same district by allowing the relief for the proposed screen room and existing pool; however, the proposed relief is considered by staff to be minor in nature, and does not appear to pose any health or safety concerns for the surrounding properties.

Item 6 – “The Granting of the variance will be in harmony with the general intent and purpose of this code, and will not be injurious to the surrounding properties or detrimental to the public welfare.”

City Council will need to make a determination if the proposed use is in harmony with the general intent and purpose of the code.

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

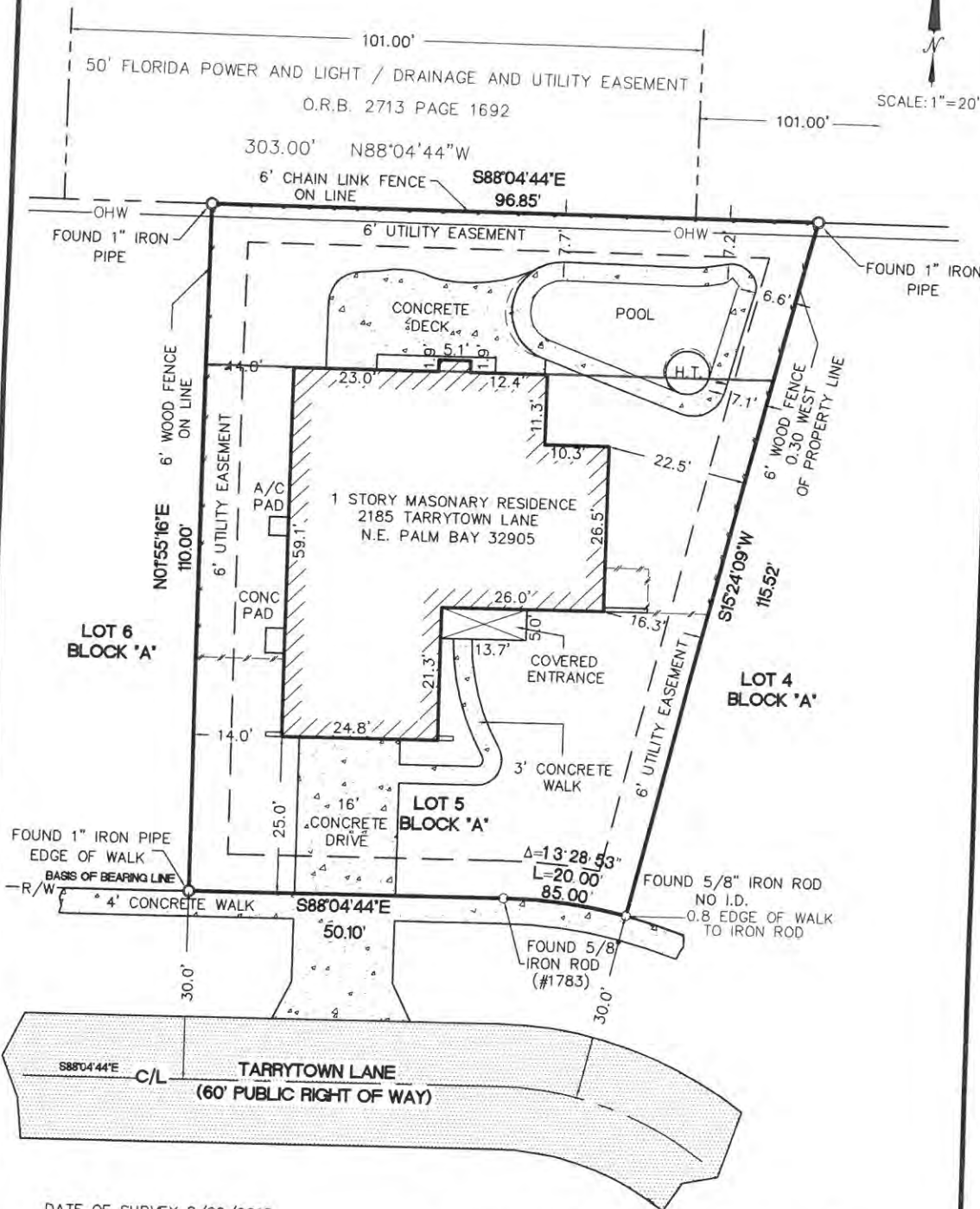
Staff has not received a claim made upon this property, with respect to the “Bert J. Harris Act,” or any development order, as indicated above. Therefore, Item 7 is not applicable to the variance request.

STAFF FINDINGS:

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

Map of Boundary Survey

STEVEN S. SMOLKO
2185 TARRYTOWN LANE N.E.
PALM BAY, FLORIDA 32905



DATE OF SURVEY 8/09/2015
RICHARD A. PUTZ P.S.M. #4505
SURVEYING AND MAPPING L.B. #6610
JOB NUMBER: 15-1023S

See report of Boundary survey, lands described on page 2 of 2, and lying in Brevard County, Florida. This map and attached REPORT is not valid without the signature and original raised seal of a Florida Licensed Surveyor and Mapper which can be found on the REPORT, The MAP and REPORT are not full and complete without the other.

SHEET 1 OF 2

B.L.S.&C. INC.
LAND SURVEYORS
AND CONSULTANTS
397 ASBURY AVE. N.E.
PALM BAY, FLORIDA 32907
(320)693-4993 FAX (320)726-0602
LAND SURVEYING / LAND PLATTING

P.B.= Plat Book
C.B.S.= Concrete Block Stucco
R/W=Right-of-way
CONC.=Concrete
C/L=Center line
O.A.=Over All
OHW= Overhead wire
N.I.D.=NO IDENTIFICATION
(C)=Calculated from closed traverse
P.G.= Page
N.G.V.D. Elevation
D&U=Drainage and Utility
N&D=Nail and disk
A/C=Air Conditioner

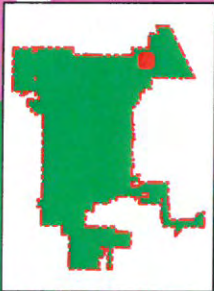
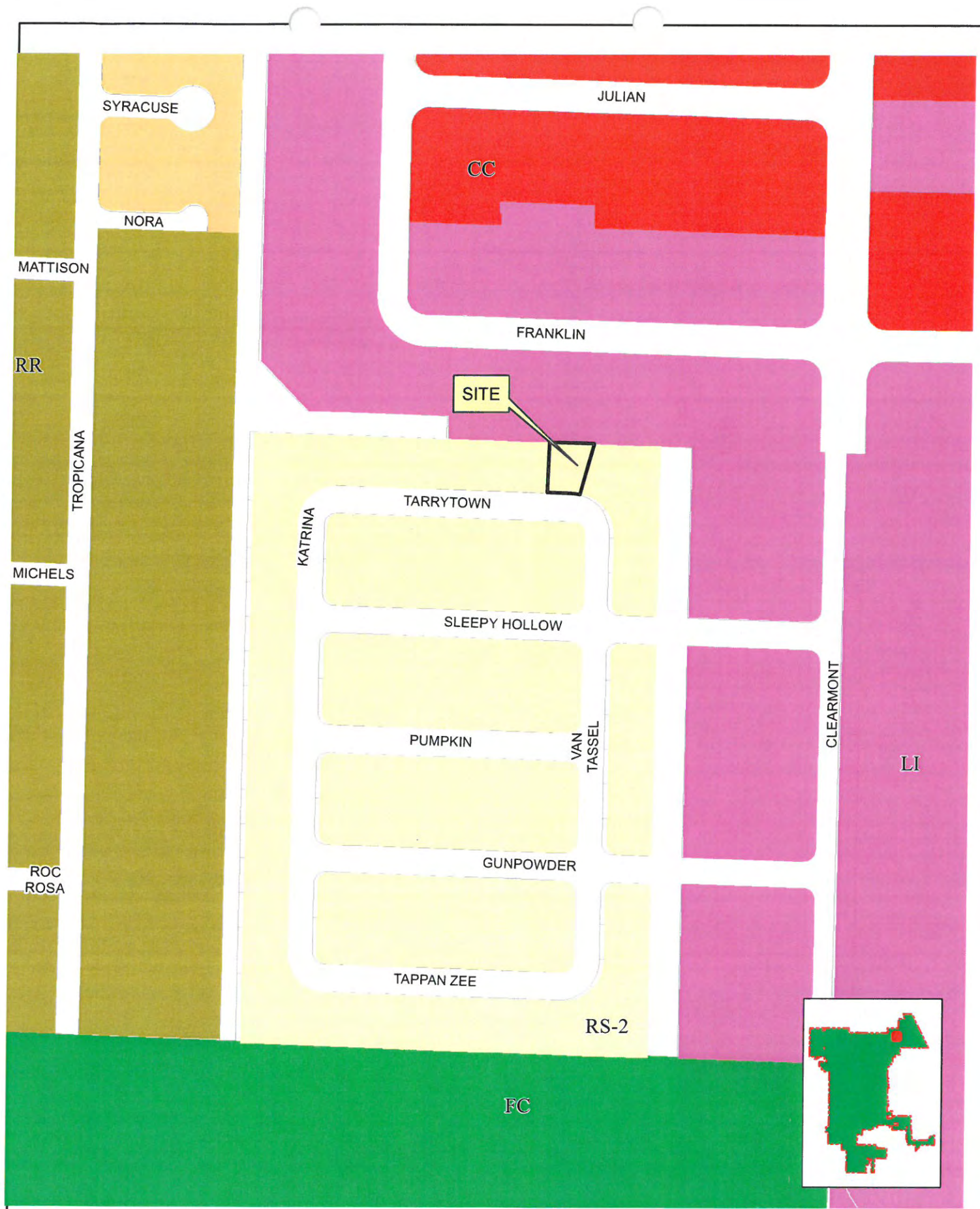


V-29-2015 AERIAL VIEW



Map for illustrative purposes only. Not to be construed as binding or as a survey.
Map created by the Land Development Division





Map for illustrative purposes only. Not to be construed as binding or as a survey.
Map created by the Land Development Division

V-29-2015 ZONING MAP



**PLANNING AND ZONING BOARD
RECOMMENDATION
December 2, 2015**

Due to the Planning and Zoning Board minutes not being fully transcribed, only an excerpt of the minutes is being provided at this time.

V-27-2015 – BONNIE KENNEDY

Staff Findings (Staff's findings have not changed):

The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief is required to meet the needs of the variance being requested as required under Section 169.009 of the City of Palm Bay Code of Ordinances, and make recommendations to City Council for a final review.

Planning and Zoning Board Recommendation:

Motion by Mr. Hill, seconded by Mr. Jacobs to submit Case V-27-2015 to City Council for approval of a variance to allow a proposed detached garage to encroach 4.9 feet into the 25-foot front setback, 3 feet into the 10-foot rear setback, and 7.2 feet into the 8-foot side interior setback in an RS-3, Single-Family Residential District as established by Section 185.035(F)(7)(a)(b)(d) of the Palm Bay Code of Ordinances with the condition that all exterior light fixtures will be low intensity and that there be an effort to add landscaping to address privacy, noise, and glare. The motion carried with members voting as follows:

Bob Williams	Aye
Adam Hill	Aye
Samuel Artley	Aye
Conroy Jacobs	Aye
Leeta Jordan	Aye
William Pezzillo	Aye
Marty Piatkowski	Nay
Philip Weinberg	Aye

V-29-2015 – STEVE SMOLKO

Staff Findings (Staff's findings have not changed):

The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief is required to meet the needs of the variance being requested as required under Section 169.009 of the City of Palm Bay Code of Ordinances, and make recommendations to City Council for a final review.

Planning and Zoning Board Recommendation:

Motion by Mr. Hill, seconded by Mr. Piatkowski to submit Case V-29-2015 to City Council for a variance to allow an existing pool and proposed screen room to encroach 4 feet into the 10-foot rear setback and 2 feet into the 8-foot side interior setback in an RS-2, Single-Family Residential District as established by Section 185.118(A)(3) of the Palm Bay Code of Ordinances. The motion carried with members voting unanimously.

V-30-2015 – DEREK HINDLE

Staff Findings (Staff's findings have not changed):

The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief is required to meet the needs of the variance being requested as required under Section 169.009 of the City of Palm Bay Code of Ordinances, and make recommendations to City Council for a final review.

Planning and Zoning Board Recommendation:

Motion by Mr. Pezzillo, seconded by Mr. Artley to submit Case V-30-2015 to City Council for a variance to allow relief from the two-car garage requirement for a proposed reconstructed home in an RS-2, Single Family Residential District as established by Section 185.034(F)(8) of the Palm Bay Code of Ordinances per the staff report. The motion carried with members voting unanimously.

/tjl



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk

DATE: December 17, 2015

SUBJECT: Variance Request – Derek Hindle

Derek Hindle has submitted an application for a variance to allow relief from the two-car garage requirement for a proposed reconstructed home in RS-2 (Single Family Residential District) zoning, as provided for in Section 185.034(F)(8), of the Palm Bay Code of Ordinances. The property is located south of and adjacent to Cornell Street, in the vicinity west of Emerson Drive, and contains 0.23 acres, more or less.

Staff Findings:

The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief is required to meet the needs of the variance being requested as required under Section 169.009 of the City of Palm Bay Code of Ordinances, and make recommendations to City Council for a final review.

Planning and Zoning Board Recommendation:

Unanimous approval of the request.

The subject matter is scheduled for public hearing purposes at tonight's meeting. If you should have any questions, please advise.

/tjl

Attachments

Case No. V-30-2015



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

VARIANCE APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, prior to 5:00 p.m. on the first day of the month to be processed for consideration by the Planning and Zoning Board the following month. The application will then be referred to 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.

- 1) NAME OF APPLICANT (Type or print) DEREK HINDLE
ADDRESS 1518 Tugwell St.
CITY Palm Bay STATE FLORIDA ZIP 32909
PHONE # 321-732-9850 FAX # _____
E-MAIL ADDRESS derekhindle@yahoo.com
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION lot 23,
Block 451, Port Malabar unit 11, platbook 0015/0034
SECTION _____ TOWNSHIP _____ RANGE _____
- 3) STREET ADDRESS OF PROPERTY COVERED BY APPLICATION: 886 Cornell St
- 4) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 0.23 Acre
- 5) EXISTING ZONING CLASSIFICATION OF PROPERTY (ex.: RS-2, CC, etc.): RS-2
- 6) ARE THERE ANY STRUCTURES ON THE PROPERTY NOW?: ☒ YES ☐ NO Block walls
- 7) HAS A VARIANCE APPLICATION PREVIOUSLY BEEN FILED FOR THIS PROPERTY?:
☐ YES ☒ NO
- IF SO, STATE THE NATURE OF THE PREVIOUS APPLICATION, WHETHER THE REQUEST WAS APPROVED OR DENIED, AND DATE OF ACTION: N/A
- 8) DESCRIBE THE EXTENT OF THE VARIANCE REQUESTED AND THE INTENDED USE OF THE PROPERTY IF THE VARIANCE IS GRANTED (SPECIFY NUMBER OF INCHES/FEET ENCROACHING INTO SPECIFIC REQUIRED YARD SETBACK OR REQUIRED HEIGHT RESTRICTIONS): Is A Burned down house, would like to
rebuild as it was originally. Do not have room
on property for a second garage.

- 9) CITE THE APPLICABLE SECTION(S) OF THE ZONING ORDINANCE AND ITS REQUIREMENT FROM WHICH VARIANCE IS REQUESTED (ex.: 185.034(f)(7)): 185.034(8)

- Residential Zoning district -

- 10) GIVE WRITTEN EXPLANATION(S) DEMONSTRATING HOW THE VARIANCE MEETS THE FOLLOWING CONDITIONS:

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

We would like to rebuild structure for the purpose of living there with our family within the next couple of years.

We currently maintain the yard, looks, of yard.

We have already started purchasing trusses plans etc. to find out later that we are now going to have issues with zoning due to not having space for an additional garage making it 2 garages, which at the time had no idea about. Thank you in advance + for your consideration,

Respectfully,

Neil Smith

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

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

N/A BERT J. HARRIS PRIVATE PROPERTY RIGHTS PROTECTION ACT, Chapter 95-181, Laws of Florida.
Provide a copy of one of the following: _____ Special master appointed in accordance with the act.
_____ Court order as described in the act.

N/A AMERICANS WITH DISABILITIES ACT. Cite the section of the act from which the variance request will provide relief: _____

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

_____ *\$300.00 Application Fee. Make check payable to "City of Palm Bay."

☒ A listing 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 can be obtained from the Brevard County Planning and Zoning Department at 633-2060, or on the Internet at www.brevardpropertyappraiser.com) List shall be legible and the source of that information stated here: _____

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

☒ A site plan drawn to scale which shows all property and yard dimensions, its structures (if any) and the variance desired, including abutting highway or road boundaries. Submit in electronic or PDF format.

☒ A survey prepared by a registered surveyor showing all property lines and structures.

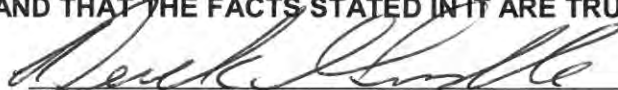
_____ WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE VARIANCE.

_____ IN ORDER TO DISCLOSE ALL PARTIES SEEKING THIS APPROVAL, COMPLETE THE ATTACHED DISCLOSURES OF OWNERSHIP INTERESTS FORMS FOR PROPERTY OWNERS AND/OR APPLICANTS IN REFERENCE TO RESOLUTION 2008-19.

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

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

Signature of Applicant



Date 10-28-15

Printed Name of Applicant

Derek Hindle

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

Submitted by applicant at 12/02/15 Planning and Zoning Board Meeting



Submitted by applicant at 12/02/15 Planning and Zoning Board Meeting



Submitted by applicant at 12/02/15 Planning and Zoning Board Meeting





DATE: December 2, 2015
CASE #: Case V-30-2015

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

PROPOSAL: A request to allow relief from the 2-car garage requirement for a proposed reconstructed home as provided for in Section 185.034(8) of the Palm Bay Code of Ordinances.

LOCATION: 886 Cornell Street NE (Lot 23, Block 451, Port Malabar Unit 11)

APPLICANT: Mr. Derek Hindle

SITE DATA

PRESENT ZONING: RS-2, Single Family Residential District

ACREAGE: .23 Acres +/-

DENSITY: N/A

ADJACENT ZONING & LAND USE:
N -- RS-2, Single Family Residential District, w/ single family home
E -- RS-2, Single Family Residential District, w/ single family home
S -- RS-2, Single Family Residential District, w/ single family home
W -- RS-2, Single Family Residential District, w/ single family home

WATER & SEWER: Water & Sewer service available

TRAFFIC COUNTS: not available

FLOOD ZONE: Zone "X" – area of minimum flood potential

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Not Specifically Addressed

BACKGROUND:

1. The site is located at 886 Cornell Street NE. The property contains .23 acres, more or less.
2. The property is zoned RS-2, Single Family Residential. Surrounding zoning includes RS-2 zoning to the north, south, east, and west- single family homes abut all sides of the site.
3. The applicant is seeking a variance to allow relief from the 2-car garage requirement for a proposed reconstructed home as provided for in Section 185.034(8) of the Palm Bay Code of Ordinances.

ANALYSIS:

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

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

The proposal is for relief from the 2 car garage requirement for a home that is to be reconstructed as a result from a residential fire. Typically, the code would require non-conforming structures that are removed or destroyed to comply with the current code. With respect to the applicant's request, the exterior load bearing walls remain and are in good condition. The applicant is seeking to rebuild what was originally built on the property and does not have the ability to reconfigure the exterior walls easily to accommodate a 2-car garage. This may be a special circumstance that the Board and Council may wish to consider with regard to this request.

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

The special conditions and circumstances identified in item 1 may be a direct result of the actions of the applicant. The Board and City Council must determine if the request has a hardship that requires relief from the Code, or if the hardship is self-induced.

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

Literal interpretation and enforcement of the code would require the applicant to reconfigure or rebuild the exterior walls to accommodate a 2-car garage in order to meet the code. The Board must ultimately decide if there exists a deprivation of rights with regard to the request.

Item 4 – “The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building or structure.”

City Council, after recommendation from the Planning and Zoning Board, will need to determine the minimum amount of relief, if any, that is required to make possible the reasonable use of the land, building or structure. It appears at minimum, the applicant would require relief from the 2 car garage requirement.

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

Based on the circumstances that exist, granting the variance as requested may confer a special privilege that is denied to other lands, building or structures in the same district by allowing the relief from the 2-car garage requirement; however, the proposed relief is considered by staff to be minor in nature and does not appear to pose any health or safety concerns for the surrounding properties.

Item 6 – “The Granting of the variance will be in harmony with the general intent and purpose of this code, and will not be injurious to the surrounding properties or detrimental to the public welfare.”

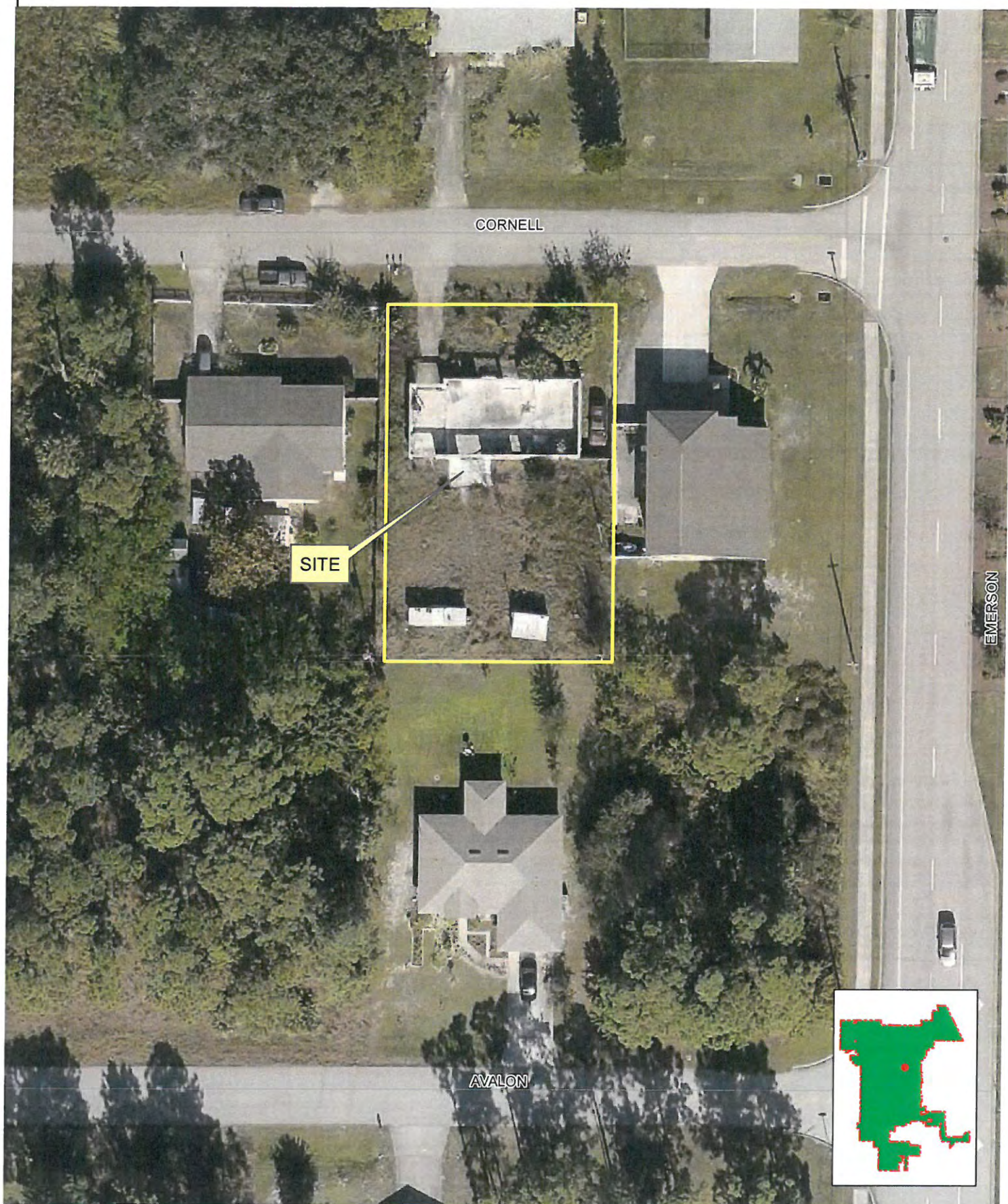
City Council will need to make a determination if the proposed use is in harmony with the general intent and purpose of the code.

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

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

STAFF FINDINGS:

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



CORNELL

SITE

EMERSON

AVALON



V-30-2015 AERIAL VIEW

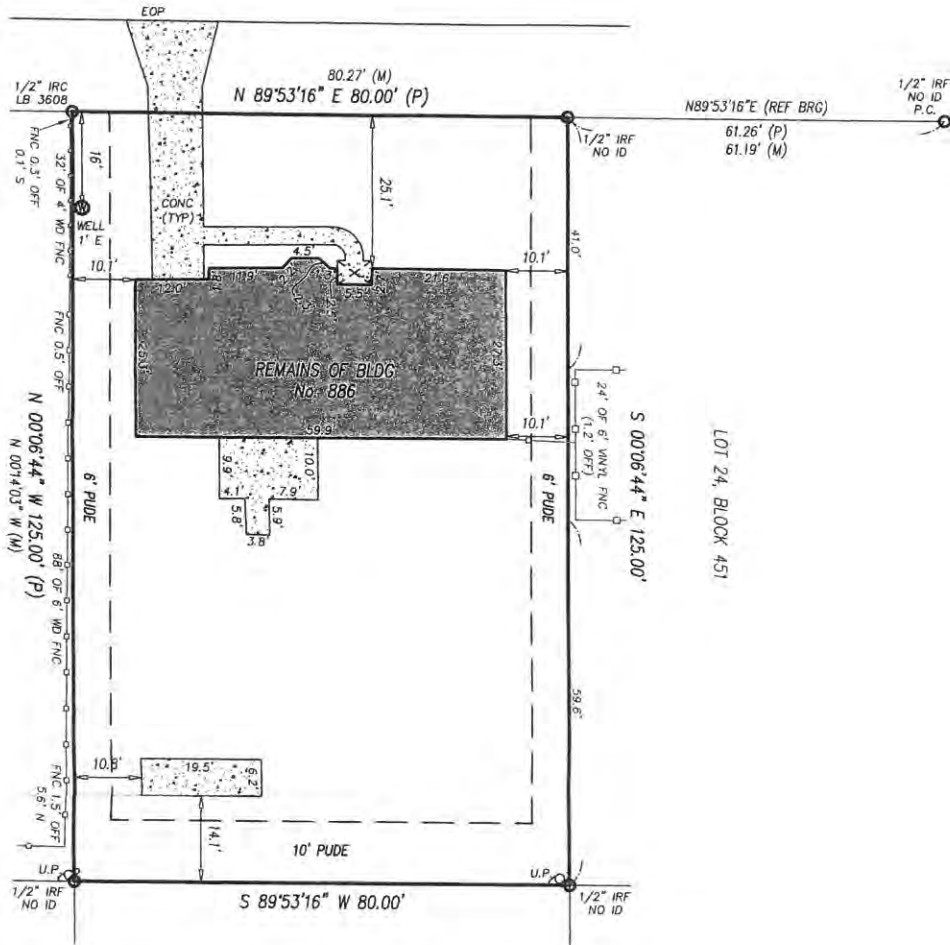


Map for illustrative purposes only. Not to be construed
as binding or as a survey.
Map created by the Land Development Division.

MAP OF BOUNDARY SURVEY

CORNELL STREET, S.E.

50' PUBLIC R/W



LOT 26, BLOCK 451

LEGEND

A = ARC	FEMA = FEDERAL EMERGENCY MANAGEMENT AGENCY	PCP = POINT OF COMPOUND CURVATURE
A/C = AIR CONDITIONER	FF = FINISHED FLOOR	PCP = PERMANENT CONTROL POINT
BFE = BASE FLOOD ELEVATION	FNC = FENCE	PI = POINT OF INTERSECTION
BLDG = BUILDING	FND = FOUND	PLS = PROFESSIONAL LAND SURVEYOR
BLK = BLOCK	FP&L = FLORIDA POWER & LIGHT COMPANY	POB = POINT OF BEGINNING
BM = BENCHMARK	ID = IDENTIFICATION	POC = POINT OF COMMENCEMENT
BRG = BEARING	IRF = IRON ROD FOUND	PRC = POINT OF REVERSE CURVATURE
(C) = CALCULATED	IRS = 5/8" IRON ROD SET "LB 7838"	PRM = PERMANENT REFERENCE MONUMENT
CATV = CABLE TELEVISION	LB = LICENSED BUSINESS NUMBER	PSM = PROFESSIONAL SURVEYOR AND MAPPER
CBS = CONCRETE BLOCK STRUCTURE	LS = PROFESSIONAL LAND SURVEYOR	PT = POINT OF TANGENCY
CHD = CHORD	(M) = MEASURED	PUDE = PUBLIC UTILITY & DRAINAGE EASEMENT
C/L = CENTERLINE	NDF = NAIL & DISK FOUND	PUE = PUBLIC UTILITY EASEMENT
CLF = CHAIN LINK FENCE	NDS = 1 1/4" NAIL & DISK SET "LB 7838"	R = REFERENCE
CMF = CONCRETE MONUMENT FOUND	NGVD = NATIONAL GEODETIC VERTICAL DATUM	RNG = RANGE
CMF = CORRUGATED METAL PIPE	NO. = NUMBER	R/W = RIGHT OF WAY
CONC = CONCRETE	O/H = OVERHEAD	SEC = SECTION
COR = CORNER	ORB = OFFICIAL RECORDS BOOK	SFHA = SPECIAL FLOOD HAZARD AREAS
DB = DEED BOOK	O/S = OFFSET	TEL = TELEPHONE RISER
DA = DELTA ANGLE	(P) = PLAT	TWP = TOWNSHIP
ELEC = ELECTRIC	PC = POINT OF CURVATURE	UP = UTILITY POLE
ELEV = ELEVATION		WD = WOOD
ENC = ENCROACHMENT		WIT-COR = 5/8" IRON ROD SET WITH CAP "WITNESS LB 7838"
EOP = EDGE OF PAVEMENT		WM = WATER METER
ESMT = EASEMENT		XCF = CROSS CUT FOUND
FB = FIELD BOOK		

LEGAL DESCRIPTION:

LOT 23, BLOCK 451, PORT MALABAR UNIT ELEVEN, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 15, PAGES 34-42, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA

BOUNDARY	DATE: 8/14/15	JOB No. 34802
		FB 15-11-4
		PM11/L23B451

CERTIFIED TO:
DEREK HINDLE

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 5J-17 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

DATE: 8/19/15

JOEL A. SEYMOUR PROFESSIONAL LAND SURVEYOR AND MAPPER
STATE OF FLORIDA NO. LS 6133

DRAWN BY: DGB

SCALE 1 INCH = 20 FEET

NOTES:

1. BEARINGS BASED ON THE SOUTH R/W BEING N89°53'16"E AS PER PLAT (SEE SKETCH)
2. ELEVATIONS BASED ON _____
3. FLOOD ZONE "X", MAP NO. 12009C0660G COMMUNITY No. 120404, MARCH 17, 2014, FLOOD ZONE INFORMATION DEPICTED HEREON IS APPROXIMATE. FEMA RETAINS SOLE AUTHORITY REGARDING BOUNDARY AND EXTENT OF SFHA.
4. HORIZONTAL CLOSURE MEETS OR EXCEEDS THE ACCURACY REQUIREMENTS FOR SUBURBAN LAND AS PER FLORIDA STATUTE 5J-17-8.003
5. BEARINGS, DISTANCES OR ANGLES SHOWN ARE THE SAME AS PLAT, DEED OR RECORD UNLESS SHOWN OTHERWISE.
6. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY.
7. THE SURVEYOR HAS NOT LOCATED NOR ATTEMPTED TO LOCATE ANY UNDERGROUND UTILITIES, FOUNDATIONS, OR STRUCTURES OTHER THAN THOSE THAT MAY BE SHOWN HEREON.
8. ONLY BOUNDARY CORNER MONUMENTS AS SHOWN HEREON ARE TO BE USED FOR THE LOCATION AND CONSTRUCTION OF IMPROVEMENTS.
9. UNLESS OTHERWISE INDICATED THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A TITLE SEARCH OR ATTORNEY'S TITLE OPINION.

Kane Surveying, Inc.

FLORIDA LICENSED BUSINESS No. LB 7838
505 DISTRIBUTION DRIVE
MELBOURNE, FLORIDA 32904
(321) 676-0427 FAX (321) 984-1448

Planning and Zoning Board Recommendation:

Motion by Mr. Hill, seconded by Mr. Piatkowski to submit Case V-29-2015 to City Council for a variance to allow an existing pool and proposed screen room to encroach 4 feet into the 10-foot rear setback and 2 feet into the 8-foot side interior setback in an RS-2, Single-Family Residential District as established by Section 185.118(A)(3) of the Palm Bay Code of Ordinances. The motion carried with members voting unanimously.

V-30-2015 – DEREK HINDLE

Staff Findings (Staff's findings have not changed):

The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief is required to meet the needs of the variance being requested as required under Section 169.009 of the City of Palm Bay Code of Ordinances, and make recommendations to City Council for a final review.

Planning and Zoning Board Recommendation:

Motion by Mr. Pezzillo, seconded by Mr. Artley to submit Case V-30-2015 to City Council for a variance to allow relief from the two-car garage requirement for a proposed reconstructed home in an RS-2, Single Family Residential District as established by Section 185.034(F)(8) of the Palm Bay Code of Ordinances per the staff report. The motion carried with members voting unanimously.

CORRESPONDENCE

November 23, 2015 – 3:49 p.m.

Telephone Message:

Re. Case V-30-2015 – I am in favor of the request. The house is small so it is ridiculous to require a two-car garage. I live across the street and my view is of the burnt out structure. The City should not hold up the construction.

Karen Harvey

Property location: 885 Cornell Street SE, FL 32909

crp





LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager

DATE: December 17, 2015

RE: Award of RFP #61-0-2015/SB, Banking Services

A handwritten signature in blue ink, appearing to read "Gregg Lynk".

On September 17, 2015, the City requested Proposals from qualified banks interested in providing a variety of banking services to the City. A total of three banks responded by the October 13, 2015 deadline.

The banks were informed in the Request for Proposal that the City intends to award the Banking Service Agreement to a single institution; and that the Agreement will be for an initial three year period, with an option to renew for two additional one year periods at terms mutually agreed upon.

Proposals were requested to: 1) Allow the City to obtain banking services of the highest quality at the overall lowest cost, 2) obtain standard term and price guarantees for a fixed period of time, and 3) to allow local providers of banking services an opportunity to provide services required by the City.

Services requested in the proposal included: Depository services, ACH/wire transfer services, account reconciliation services, information services and imaging services.

The proposals received were reviewed and ranked independently by members of the selection committee which was comprised of the Finance Director, Assistant Finance Director and the Utility Accountant.

Each bank's proposal was ranked independently by committee members based on the criteria outlined in the request for proposal: ability to provide services, bank human resources, past experience, level of compensation, client references. Total fees are based on services requested

and volumes provided by the City in the Request for Proposal.

<u>BANK</u>	<u>TOTAL SCORE</u>	<u>ANNUAL COST</u>
JP Morgan Chase Bank	87.92	\$31,772.88
Bank of America	75.35	\$52,055.92
TD Bank	74.44	\$39,741.35

Based on past experience/and or response to the proposal, each bank, JP Morgan Chase, Bank of America, and TD Bank was deemed qualified to provide both the quality and level of service required by the City. The committee recommended that the banking service contract be awarded to JP Morgan Chase Bank.

In addition to providing treasury solutions that cover the range of banking services requested by the City; as well as competitively priced services with an aggressive Earnings Credit Rate, JP Morgan Chase Bank, will assist with the transition of the City's banking services with the following concessions:

- A waiver of service fees for the first six months effective after the contract is executed, equating to a value of up to \$16,000.00.
- Five "free" refurbished scanners with a waiver of implementation fees valued at \$4,200.00.
- A waiver of up to \$1,000.00 for the initial order of depository supplies (deposit slips, endorsement stamps, tamper-evident deposit bags).

The City's Local Preference was not applied to this solicitation as funding for this service is not a budgeted expenditure.

REQUESTING DEPARTMENTS:

Finance Department, Purchasing Division

FISCAL IMPACT:

Funding to pay for banking services utilized by the City will be covered by earnings credit allowances (soft-dollar credits) that are automatically applied against monthly service charges. The average balance necessary to offset service charges will be determined, so the City can minimize cash outlay for banking services.

RECOMMENDATION:

Motion to authorize staff to negotiate a final agreement with JP Morgan Chase Bank for banking services, and authorize the City Manager to execute all necessary documents.

Attachments: 1) Scoring-Ranking Form
 2) Pro-Forma Account Analysis/Tabulation Sheet

YM/ab

CRITERIA - TOTAL 100 POINTS

Summary of Qualifications = 25 points

Technical Proposal = 45 points

Quality of Submittal = 5 points

Cost = 25 points

Short List - Oral Presentations = 10 points

EVALUATION		\$52,055.92	\$31,772.88	\$39,741.35
CRITERIA		Bank of America, N.A. 625 N. Flagler Drive West Palm Beach, FL 33401	JPMorgan Chase Bank, NA 450 S. Orange Ave., Floor 10 Orlando, FL 32801	TD Bank, N.A. 1560 N. Orange Ave. Winter Park, FL 32789
POSSIBLE		561-838-2256/904-312-5586	407-236-5398/407-910-3007	407-622-3526/407-622-8467
POINTS		stephen.b.lenehan@baml.com	scott.ricker@jpmorgan.com	Weldon.Ledbetter@td.com
Summary of Qualifications	25	21.35	21.48	17.97
Technical Proposals	45	34.99	36.86	32.63
Quality of Submittal	5	3.75	4.58	3.85
SUBTOTAL (1) NON-PRICE FACTORS		60.09	62.92	54.45
Cost	25	15.26	25.00	19.99
SUBTOTAL (2) POINTS	100	75.35	87.92	74.44
SHORT LIST - ORAL PRESENTATIONS	10	0.00	0.00	0.00
SUBTOTAL (3) POINTS	110	75.35	87.92	74.44
Local Preference (N/A)		0.0%	0.0%	0.0%
Additional Points		0.00	0.00	0.00
TOTAL SCORE		75.35	87.92	74.44

Final Ranking

1) JPMorgan Chase Bank, NA	87.92
2) Bank of America	75.35
2) TD Bank, N.A.	74.44

RFP #61-0-2015/SB
Banking Services
Cost

COMPANY NAME	PROPOSAL COST	LOWEST COST PROPOSED	% OF LOW	MULTIPLIER	TOTAL POINTS ASSIGNED
Bank of America	\$ 52,055.92	\$ 31,772.88	61.0%	25	15.26
JP Morgan Chase	\$ 31,772.88	\$ 31,772.88	100.0%	25	25.00
TD Bank	\$ 39,741.35	\$ 31,772.88	79.9%	25	19.99

RFP #61-0-2015/SB
Banking Services
Initial Scoring

Summary of Qualifications = max 4 - points x's 6.25 = max 25 total						
	Ruth	Lori	Yvonne	Average	Multiplier	TOTAL
COMPANY NAME	Chapman	Embrey	McDonald			POINTS
Bank of America	2.75	3.5	4	3.42	6.25	21.35
JP Morgan Chase	3.0625	3.25	4	3.44	6.25	21.48
TD Bank	2.63	3.00	3	2.88	6.25	17.97
Technical Response = max 4 - points x's 11.25 = max 45 total						
	Ruth	Lori	Yvonne	Average	Multiplier	TOTAL
COMPANY NAME	Chapman	Embrey	McDonald			POINTS
Bank of America	2.83	3.5	3	3.11	11.25	34.99
JP Morgan Chase	2.83	3	4	3.28	11.25	36.86
TD Bank	2.70	3.00	3	2.90	11.25	32.63
Quality of Submittal = max 4 - points x's 1.25 = 5 total						
	Ruth	Lori	Yvonne	Average	Multiplier	TOTAL
COMPANY NAME	Chapman	Embrey	McDonald			POINTS
Bank of America	3	4	2	3.00	1.25	3.75
JP Morgan Chase	3	4	4	3.67	1.25	4.58
TD Bank	2.75	3.50	3	3.08	1.25	3.85
					TOTALS COMBINED	
Bank of America						60.09
JP Morgan Chase						62.93
TD Bank						54.45

- 1) JP Morgan Chase
- 2) Bank of America
- 3) TD Bank

**** RE-ISSUED WITH ADDENDUM #2 ****
NO CHANGES EXCEPT FORM IS NOW IN EXCEL FORMAT
EXHIBIT 1 - PROPOSED FEE SCHEDULE
RFP #61-0-2015/SB - BANKING SERVICES

PRO FORMA ACCOUNT ANALYSIS									
Service	Estimated Monthly Volume	Charge per Item	Estimated Monthly Charge	Charge per Item	Estimated Monthly Charge	Charge per Item	Estimated Monthly Charge	Charge per Item	Estimated Monthly Charge
	B of A Current Extension			B of A Proposal		JP Morgan Proposal		TD Bank Proposal	
Balance Related Services									
FDIC Assessment	8,613,659	0.0002123	\$ 1,828.68	0.0001086	935.44	0	0.00	0	0.00
Depository Services									
Account Maintenance	5	\$ 5.0000	\$ 25.00	7.0000	35.00	5.0000	25.00	11.2000	56.00
Banking Center Deposit	359	\$ 0.2500	\$ 89.75	See Req'd	See Oth Req'd	1.0000	359.00	0.5600	201.04
Check Deposit - paper	10	\$ 0.2500	\$ 2.50	1.0000	10.00	0.0000	0.00	0.0700	0.70
Debits Posted - other	1	\$ 0.0400	\$ 0.04	0.0400	0.04	0.0400	0.04	0.0000	0.00
Deposit Correction Non-Cash	3	\$ 2.0000	\$ 6.00	2.0000	6.00	2.5000	7.50	7.0000	21.00
General Checks Paid	567	\$ 0.0550	\$ 31.19	0.0400	22.68	0.0400	22.68	0.1330	75.41
ZBA Master Account Maintenance	1	\$ 5.0000	\$ 5.00	15.0000	15.00	10.0000	10.00	28.0000	28.00
ZBA Subsidiary Account Maintenance	2	\$ 5.0000	\$ 10.00	5.0000	10.00	5.0000	10.00	17.5000	35.00
Returns - ERIN	46	\$ 0.1000	\$ 4.60	0.2500	11.50	0.0000	0.00	7.0000	322.00
Returns - Chargeback	22	\$ 0.7500	\$ 16.50	1.0000	22.00	1.2500	27.50	7.0000	154.00
Returns - Reclear	24	\$ 0.7500	\$ 18.00	1.0000	24.00	1.2500	30.00	7.0000	168.00
Checks Dep Pre-Encoded	10	\$ 0.0400	\$ 0.40	0.1000	1.00	See Req'd	Add'l Pricing	0.0700	0.70
Checks Dep Un-Encoded	6,093	\$ 0.0500	\$ 304.65	0.1500	913.95	See Req'd	Add'l Pricing	0.0700	426.51
Cehcks Dep Foreign Items	6	\$ 0.0400	\$ 0.24	2.0000	12.00	2.5000	15.00	0.0700	0.42
Checks Dep ICL or RDSO	21	\$ 0.2500	\$ 5.25	0.2500	5.25	See Req'd	Add'l Pricing	0.0500	1.05
Debits Posted - Electronic	56	\$ 0.0400	\$ 2.24	0.0400	2.24	0.0400	2.24	0.1500	8.40
Credits Posted - Electronic	166	\$ 0.0400	\$ 6.64	0.0400	6.64	0.0400	6.64	0.1500	24.90
IRD Deposited Items - ICL	1	\$ 0.0400	\$ 0.04	0.1000	0.10	See Req'd	Add'l Pricing	210.0000	210.00
Image Deposited Items - ICL	9428	\$ 0.0400	\$ 377.12	0.0000	0.00	See Req'd	Add'l Pricing	0.0000	0.00
Direct Account Transfer	3	\$ 3.0000	\$ 9.00	1.5000	4.50	0.5000	1.50	0.3500	1.05
Stop Payment	1	\$ 29.0000	\$ 29.00	2.0000	2.00	10.0000	10.00	17.5000	17.50
Commercial Deps - Cash Vault									
Currency / coin Dep / \$100 - Bkg Ctr	2,367	\$ 0.0800	\$ 189.36	See Req'd	See Othr Req'd	See Req'd	Add'l Pricing	0.0000	0.00
Change Order Bkg Ctr	1	\$ 1.0000	\$ 1.00	6.0000	6.00	2.5000	2.50	0.0000	0.00
General ACH Services									
ACH Return Item - NOC	22	\$ 1.0000	\$ 22.00	0.7500	16.50	1.0000	22.00	2.8000	61.60
ACH Monthly Maintenance	1	\$ 10.0000	\$ 10.00	7.5000	7.50	10.0000	10.00	35.0000	35.00
ACH Input - File	5	\$ 5.0000	\$ 25.00	5.0000	25.00	5.0000	25.00	11.2000	56.00
ACH Standard Reports - Fax	19	\$ 1.5000	\$ 28.50	5.0000	95.00	0.0000	0.00	0.0000	0.00
ACH Credit Received Item	160	\$ 0.0500	\$ 8.00	0.0400	6.40	0.0400	6.40	0.1540	24.64
ACH Debit Received Item	43	\$ 0.0500	\$ 2.15	0.0400	1.72	0.0400	1.72	0.1540	6.62
Consumer ON US Debits	1,133	\$ 0.0400	\$ 45.32	0.0400	45.32	0.0400	45.32	0.1100	124.63

**** RE-ISSUED WITH ADDENDUM #2 ****
NO CHANGES EXCEPT FORM IS NOW IN EXCEL FORMAT
EXHIBIT 1 - PROPOSED FEE SCHEDULE
RFP #61-0-2015/SB - BANKING SERVICES

PRO FORMA ACCOUNT ANALYSIS									
Service	Estimated Monthly Volume	Charge per Item	Estimated Monthly Charge	Charge per Item	Estimated Monthly Charge	Charge per Item	Estimated Monthly Charge	Charge per Item	Estimated Monthly Charge
	B of A Current Extension			B of A Proposal		JP Morgan Proposal		TD Bank Proposal	
Consumer OFF US Debits	5,221	\$ 0.0400	\$ 208.84	0.0400	208.84	0.0400	208.84	0.1100	574.31
ACH Delete / Reversal	1	\$ 7.5000	\$ 7.50	15.0000	15.00	1.0000	1.00	7.0000	7.00
Wire Transfer									
Monthly Maintenance Fee	1	\$ 5.0000	\$ 5.00	5.0000	5.00	0.0000	0.00	0.0000	0.00
Elec Wire Out Domestic	19	\$ 4.0000	\$ 76.00	3.0000	57.00	4.0000	76.00	8.4000	159.60
Elec Wire Out - Book DB	3	\$ 2.0000	\$ 6.00	2.0000	6.00	2.0000	6.00	8.4000	25.20
Manual Wire Book Debit	1	\$ -	\$ -	25.0000	25.00	35.0000	35.00	35.0000	35.00
Incoming Domestic Wire	3	\$ 5.0000	\$ 15.00	2.0000	6.00	4.0000	12.00	9.1000	27.30
Incoming USD Int'l Wire	1	\$ 5.0000	\$ 5.00	10.0000	10.00	4.0000	4.00	9.1000	9.10
Cust Main Template Storage	30	\$ -	\$ -	0.0000	0.00	0.0000	0.00	0.0000	0.00
Account Reconciliation									
ARP Full Ppay Maint Paper Report	1	\$ 25.0000	\$ 25.00	75.0000	75.00	See Req'd	Add'l Pricing	66.5000	66.50
ARP Full Ppay Input Per Item	606	\$ 0.0500	\$ 30.30	0.0400	24.24	See Req'd	Add'l Pricing	0.0560	33.94
ARP Recon Trans End of Cycle	1	\$ 20.0000	\$ 20.00	10.0000	10.00	0.0000	0.00	24.5000	24.50
ARP Void Cancel Items	20	\$ -	\$ -	0.0400	0.80	0.0000	0.00	0.7000	14.00
Positive Pay Exceptions	2	\$ -	\$ -	2.5000	5.00	1.0000	2.00	0.7000	1.40
Information Services									
Direct Previous Day Maintenance	1	\$ -	\$ -	10.0000	10.00	25.0000	25.00	70.0000	70.00
Direct Per Account Fee	3	\$ 11.6700	\$ 35.01	7.0000	21.00	10.0000	30.00	8.4000	25.20
Direct Previous Day Std Item	1,508	\$ 0.0176	\$ 26.54	0.0500	75.40	0.0400	60.32	0.0700	105.56
Research Item	1	\$ -	\$ -	0.0000	0.00	0.0000	0.00	10.5000	10.50
Image									
CD ROM Maintenance	1	\$ 25.0000	\$ 25.00	10.0000	10.00	See Req'd	Add'l Pricing	35.0000	35.00
CD ROM Per Image	550	\$ 0.0400	\$ 22.00	0.0200	11.00	See Req'd	Add'l Pricing	0.0500	27.50
CD ROM Disk	1	\$ 10.0000	\$ 10.00	8.0000	8.00	0.0000	0.00	0.0000	0.00
Online Image Retrieval	3	\$ 0.2500	\$ 0.75	0.0000	0.00	0.0000	0.00	0.0000	0.00
TOTAL MONTHLY FEE (D)			\$ 3,621.11		\$ 2,826.06		\$ 1,100.20		\$ 3,311.78
OTHER REQUIRED FEES									
qbd/night drop deposit	359			2.0000	718.00				
Curr/Coin Dep	2,367			0.1000	236.70				
SAME BOA SVCS AS CURRENT			\$ 3,621.11		\$ 3,780.76				

**** RE-ISSUED WITH ADDENDUM #2 ****
NO CHANGES EXCEPT FORM IS NOW IN EXCEL FORMAT
EXHIBIT 1 - PROPOSED FEE SCHEDULE
RFP #61-0-2015/SB - BANKING SERVICES


PRO FORMA ACCOUNT ANALYSIS

Service	Estimated Monthly Volume	Charge per Item	Estimated Monthly Charge	Charge per Item	Estimated Monthly Charge	Charge per Item	Estimated Monthly Charge	Charge per Item	Estimated Monthly Charge
	B of A Current Extension			B of A Proposal		JP Morgan Proposal		TD Bank Proposal	
CPO Online Subscription	1			10.0000	10.00				
Image Maintenance CPO	1			10.0000	10.00				
Image Retrieval	3			0.2500	0.75				
Image Deposited Items-ICL	10,287			0.0400	411.48				
Transmission Maintenance	1			125.0000	125.00				
Image Cash Letter							515.75		
Image Deposit Direct							427.35		
Other Depository Services							63.00		
Commerical Deps - Cash Vault							378.72		
General ACH Services							47.00		
Account Reconciliation							76.94		
Information Services							20.00		
Image							18.78		
TOTAL MONTHLY FEE (D)			\$ 3,621.11		4,337.99		2,647.74		3,311.78
TOTAL ANNUAL FEE FOR SERVICES (D times 12)			\$ 43,453.27		52,055.92		31,772.88		39,741.35
TOTAL CONTRACT FEE FOR SERVICES (D times 36)			\$ 130,359.80		156,167.76		95,318.64		119,224.04
Annual Change from Current BOA Extension (Assumes use of Remote Deposit)				BOA - Increase	8,602.65	JPM-Decrease	-11,680.39		-3,711.92



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: December 17, 2015

RE: Award of RFP 03-0-2016/SB, Pump and Motor Repair & Maintenance Services

There are numerous pumps and motors at the water & wastewater treatment plants, wells and lift stations that require immediate repairs on an as needed basis. The repairs are for equipment that is no longer under warranty.

Due to the nature of a pump/motor it has to be dismantled to some degree before the vendor can provide a quote for the repair. Once the pump/motor has been dismantled it is not feasible to take to several vendors to obtain additional quotes for the repair. Generally, the pump/motor is left at vendor location and a purchase order is obtained so the vendor can complete the repair. In FY15 our expenditures were approximately \$70,000.00 for pump/motor repairs. While this exceeded our previous year's annual expenditures, (FY14 \$15,667.00 and FY13 \$11,349.00) staff cannot predict what equipment will require repairs and costs may exceed \$25,000.00 annually. Due to the variability in our annual expenditures it was determined that the City needs to have a contract in place for repairs and avoid possible delays that would require council approval if costs exceed the \$25,000.00 annual threshold.

A competitive request for proposals was issued. Four responses were received from the following vendors: TAW Orlando Service Center, Orlando, FL; Quality Electric Motors, West Melbourne, FL; Kaman Industrial dba Florida Bearings, Orlando, FL; and Hydra Services, DeBary, FL. The proposals were evaluated for qualifications and technical response by Utilities Department Staff. The proposal submitted by TAW Orlando Service Center was deemed the most responsive and Staff concurred that their experience in repairing a variety of brands, sizes and types of pumps/motors would best fit the Department's needs. Calculation for cost was completed by Purchasing Staff and based on hourly rates for regular and emergency services as well as the percentage of markup on parts. Staff recommends award of this solicitation to TAW Orlando Service Center.

The City's Local Preference was applied to this solicitation.

REQUESTING DEPARTMENTS:

Utilities Department, Purchasing Division, Finance Department

FISCAL IMPACT:

The estimated annual amount of expenditures is \$70,000.00. Funding is available in various Utilities Department Operating and Renewal & Replacement accounts; purchase orders are issued on an "as needed" basis.

RECOMMENDATION:

Motion to award RFP 03-0-2016/SB, Pump and Motor Repair & Maintenance Services to TAW Orlando Service Center located in Orlando, Florida. The term is for one year with the option to renew for up to an additional four (4) one-year terms; the total term not to exceed five (5) consecutive years.

Attachments: 1) Bid Tabulation
 2) Scoring/Ranking Form

	RFP #03-0-2016		Hydra Services Inc			Kaman Industrial Technologies			Quality Electric Motors			TAW Orlando Service Center		
	Pump & Motor Repair and Maintenance		250 Springview Commerce Drive DeBary FL 32713			202 N Rio Grande Avenue Orlando FL 32804			7040 Industrial Road West Melbourne FL 32904			3400 Bartlett Blvd Orlando FL 32811		
			407-330-3456 / 407-212-1787			407-843-4153 / 407-843-4154			321-951-9296 / 321-676-9068			407-423-1886 / 407-423-3017		
			tim@hydraservice.net			pablo.rodriquez@kaman.com			qualityelectricmotors@yahoo.com			jim.amerman@tawinc.com		
ITEM	ITEM DESCRIPTION	UOM			Price			Price			Price			Price
1	% Markup for Parts	EA			20%			25%			13.5%			15%
2	Hourly Rate - Regular Time	EA			\$75.00			\$85.00			\$48.75			\$45.00
3	Hourly Rate - Emergency	EA			\$112.50			\$120.00			\$139.00			\$55.00

RFP #03-0-2016/SB
Pump and Motor Repairs Maintenance Services
Local Preference Calculations

CRITERIA - TOTAL 100 POINTS

Qualifications = 15 points

Technical Proposal = 15 points

Cost = 65 points

Quality of Submittal = 5 points

Short List - Oral Presentations = 10 points

Local Preference

Class "A" Vendor 10%
Class "B" Vendor 7.5%
Class "C" Vendor 5%
Class "D" Vendor 0%

		Class "D" Vendor	Class "D" Vendor	Class "C" Vendor	Class "D" Vendor
EVALUATION		Hydra Services	Kaman Industrial dba Florida Bearings	Quality Electric Motors	TAW Orlando Service Center
CRITERIA	POSSIBLE	250 Springview Commerce Drive DeBary, FL 32713	202 N. Rio Grande Avenue Orlando, FL 32804	7040 Industrial Road West Melbourne, FL 32904	3400 Bartlett Blvd. Orlando, FL 32811
	POINTS	407-330-3456/407-212-1787	407-843-4153/407-843-4154	321-951-9296/321-676-9068	407-423-1886/407-723-3017
		tim@hydraservice.net	pablo.rodriguez@kaman.com	qualityelectricmotors@yahoo.com	jim@amerman@tawinc.com
Summary of Qualifications	15	8.75	8.75	6.88	14.38
Technical Proposals	15	10.63	9.06	9.38	13.13
Quality of Submittal	5	3.75	2.50	1.67	5.00
SUBTOTAL (1) NON-PRICE FACTORS	35	23.13	20.31	17.92	32.50
Cost	65	38.21	33.61	54.01	62.50
SUBTOTAL (2) POINTS	100	61.33	53.92	71.93	95.00
SHORT LIST - ORAL PRESENTATIONS	10	0.00	0.00	0.00	0.00
SUBTOTAL (3) POINTS	110	61.33	53.92	71.93	95.00
Local Preference		0.0%	0.0%	5.0%	0.0%
Additional Points		0.00	0.00	3.60	0.00
TOTAL SCORE		61.33	53.92	75.53	95.00

RFP #03-0-2016/SB
Pump and Motor Repairs and Maintenance Services
Cost Calculations

% Markup on Parts

COMPANY NAME	PROPOSAL COST	LOWEST COST PROPOSED	% OF LOW	MULTIPLIER	TOTAL POINTS ASSIGNED
Hydra Services	20%	13.5%	67.5%	25	15.88
Kaman Industrial Technologies dba Florida Bearings	25%	13.5%	54.0%	25	13.50
Quality Electric Motors	13.5%	13.5%	100.0%	25	25.00
TAW Orlando Service Center	15%	13.5%	90.0%	25	22.50

Hourly Rate - Regular

COMPANY NAME	PROPOSAL COST	LOWEST COST PROPOSED	% OF LOW	MULTIPLIER	TOTAL POINTS ASSIGNED
Hydra Services	\$ 75.00	\$ 45.00	60.0%	25	15.0
Kaman Industrial Technologies dba Florida Bearings	\$ 85.00	\$ 45.00	52.9%	25	13.2
Quality Electric Motors	\$ 48.75	\$ 45.00	92.3%	25	23.1
TAW Orlando Service Center	\$ 45.00	\$ 45.00	100.0%	25	25.0

Hourly Rate - Emergency

COMPANY NAME	PROPOSAL COST	LOWEST COST PROPOSED	% OF LOW	MULTIPLIER	TOTAL POINTS ASSIGNED
Hydra Services	\$ 112.50	\$ 55.00	48.9%	15	7.3
Kaman Industrial Technologies dba Florida Bearings	\$ 120.00	\$ 55.00	45.8%	15	6.9
Quality Electric Motors	\$ 139.00	\$ 55.00	39.6%	15	5.9
TAW Orlando Service Center	\$ 55.00	\$ 55.00	100.0%	15	15.0

TOTALS

COMPANY NAME	% Markup on Parts	Hourly Rate - Reg	Hourly Rate - Emergency	TOTAL POINTS
Hydra Services	15.88	15.0	7.3	38.21
Kaman Industrial Technologies dba Florida Bearings	13.50	13.2	6.9	33.61
Quality Electric Motors	25.00	23.1	5.9	54.01
TAW Orlando Service Center	22.50	25.0	15.0	62.50

RFP #03-0-2016/SB
Pump and Motor Repairs and Maintenance
Initial Scoring

Qualifications = max 4 - points x's 3.75 = max 15 total						
	Dave	Cassandra	Bill	Average	Multiplier	TOTAL
COMPANY NAME	Bryant	Smith	Peters			POINTS
Hydra Services	3	3	1	2.33	3.75	8.75
Kaman Industrial dba Florida Bearings	2	2	3	2.33	3.75	8.75
Quality Electric Motors	1.5	1	3	1.83	3.75	6.88
TAW Orlando Service Center	4	3.5	4.00	3.83	3.75	14.38
Technical Response = max 4 - points x's 3.75 = max 15 total						
	Dave	Cassandra	Bill	Average	Multiplier	TOTAL
COMPANY NAME	Bryant	Smith	Peters			POINTS
Hydra Services	4	2.5	2	2.83	3.75	10.63
Kaman Industrial dba Florida Bearings	1.5	1.75	4	2.42	3.75	9.06
Quality Electric Motors	2.5	1	4	2.50	3.75	9.38
TAW Orlando Service Center	3	3.5	4.00	3.50	3.75	13.13
Quality of Proposal = max 4 - points x's 1.25 = max 5 total						
	Dave	Cassandra	Bill	Average	Multiplier	TOTAL
COMPANY NAME	Bryant	Smith	Peters			POINTS
Hydra Services	3	3	3	3.00	1.25	3.75
Kaman Industrial dba Florida Bearings	2	2	2	2.00	1.25	2.50
Quality Electric Motors	1	1	2	1.33	1.25	1.67
TAW Orlando Service Center	4	4	4.00	4.00	1.25	5.00
					TOTALS COMBINED	
Hydra Services						23.13
Kaman Industrial dba Florida Bearings						20.31
Quality Electric Motors						17.92
TAW Orlando Service Center						32.50



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager

DATE: December 17, 2015

RE: RFP #01-0-2014/SB Automotive Body Repairs

A handwritten signature in blue ink, appearing to read "Gregg Lynk".

On December 19, 2013, City Council awarded RFP #01-0-2014/SB for Auto Body Repairs with a budget amount of \$50,000.00 to Craftmaster Auto Body, LLC, and MD Automotive. This contract is a continuing contract and services are provided on an as needed basis. City-owned vehicles, when damaged in a collision, may require repair through an approved automotive body repair shop. The repairs are directed by Fleet Maintenance based on the extent of damage, vehicle age and operational necessity.

In January of 2015, Craftmaster Auto Body, LLC sold their business to Gerber Collision and Glass and the City's agreement was assigned to the new company. This contract with Gerber Collision and Glass was renewed in October with no price increase. MD Automotive agreement was not renewed due to unacceptable quality of repair on previous projects completed.

The City is currently in the second year term of an optional three year agreement. Annual expenditures in contract year-1 (1/29/14-1/28/15) were \$28,570.00; and are currently at \$30,299.00.

FISCAL IMPACT:

Auto repairs are funded through Risk account # 512-1425-519-4556. The Fiscal Year 2015-16 budget includes \$50,000.00 for auto physical damage repairs. Insurance proceeds received from the City's insurance carrier (Preferred Governmental Insurance Trust) and subrogation from other insurance companies is budgeted in Risk Management revenue accounts. Additionally, Fleet has budgeted \$12,000.00 (521-7070-519-4622) for auto body refurbishment, painting, and related repairs necessary due to deteriorated condition and excessive age of vehicles.

REQUESTING DEPARTMENTS

Fleet Services/Public Works, Risk Management/City Attorney's Office, Finance Department, Purchasing Division

RECOMMENDATION:

Motion to authorize estimated annual expenditures for automotive body repairs in the budgeted amount of \$62,000.00 from Gerber Collision and Glass, located in West Melbourne, Florida, on an "as needed" basis for the remaining terms of the agreement.

BW/ab



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager

DATE: December 17, 2015

RE: Wade Trim Task Order 15-08
Palm Vista Regional Lift Station Design & Permitting

A handwritten signature in blue ink, appearing to read "Gregg Lynk".

Wade Trim has submitted Task Order 15-08, Palm Vista Regional Lift Station Design & Permitting for council approval. The Task Order was requested in anticipation of new development in the northwest sections of the City. In order to properly address the wastewater flows and pressure conditions the collection system requires the installation of a regional lift station.

The proposed location for the regional lift station is the City's Public Works Department. Task Order includes the connection to the existing force main along Malabar Road. The estimated construction cost is approximately \$900,000.00.

City Staff has reviewed the scope of work and requests council approval to proceed with Task Order 15-08 in the amount of \$114,980.00.

REQUESTING DEPARTMENTS:

Utilities Department, Purchasing Division, Finance Department

FISCAL IMPACT:

Funds are available in account Utilities Operating account 421-8010-536-3121.

RECOMMENDATION:

Motion to approve Wade Trim Task Order 15-08, in the amount of \$114,980.00.

Attachment: 1) Task Order 15-08

CITY OF PALM BAY, FLORIDA

TASK ORDER 15-08

PALM VISTA REGIONAL LIFT STATION DESIGN & PERMITTING

Section I. BACKGROUND

The City of Palm Bay is anticipating new development in the northwest sections of the City resulting in increased demand on the city's utility infrastructure. Based on the city's current collection system, the new wastewater flows introduced in the current collection system would increase the pressure conditions beyond acceptable levels. In order to address the new wastewater flows and address the need to stabilize pressure conditions in the collection system, the need for a regional lift station in the northwest section of the City is needed.

The City of Palm Bay Utilities Department is requesting that Wade Trim prepare bid documents and permitting for the design of the regional lift station and connection into the existing 16-inch force main along Malabar Road. The proposed location for the regional lift station is at the City's Public Works Department / FPL easement vicinity.

The effort described in this task order is to provide survey, plan and profile design and to submit permitting documentation to the Florida Department of Environmental Protection.

The conceptual construction cost estimate for this projects described below is approximately \$ 900,000.

Section II. SCOPE OF WORK

Wade Trim agrees to perform the following tasks to complete the above mentioned task orders:

Task A – Basis of Design Memorandum

Wade Trim will utilize the wastewater hydraulic model to establish the design parameters of the lift station. This includes: pump size, wet well size (diameter and depth), generator capacity, and intake and discharge line sizes. The anticipated wastewater flows will be provided by the City and utilized in the hydraulic modeling.

The information and results obtained will be documented in a memorandum and used a Basis of Design of the proposed lift station.

Task B – Survey

Wade Trim will provide a survey of approximately 5 acres to the area needed for the proposed lift station location adjacent to Malabar Road. This surveyed area will be sufficient for the proposed site and the survey needed for the tie-in to the existing 16-inch force main along Malabar Road.

The survey datum will be based on NAVD 1988 (vertical) and State Plans Coordinate, 1983 (Horizontal).

Task C – 75% Design

Wade Trim will prepare the construction plans for the proposed lift station which includes intake and discharge pipes. Engineering plans will be prepared using a 1:40 scale for plan and profile view. Engineering plans will be prepared from the information obtained in Task A & B.

Engineering plans will be used as the bid documents for the construction of the lift station, intake & discharge pipes, back-up generator, and site needs for this project. Scope within this project is to include the installation of Variable Frequency Drives (VFD) with a dedicated structure for the control panels.

Utility information shown on the engineering plans will be from the information provided from each of the responsive utility companies. No subsurface utility elevations or geotechnical engineering is included in this task order.

Wade Trim will utilize the City's utility specifications as part of the engineering bid documents.

Task D – 100% Design

Per comments received from the City's 75% review and comments received from FDEP per the Constructing a Domestic Wastewater Collection/Transmission System permit submittal.

Task E – Permitting

Wade Trim will prepare the permit application for the Florida Department of Environmental Protection (FDEP) Constructing a Domestic Wastewater Collection/Transmission System permit related for the construction of the lift station and discharge and intake pipes connecting to the 16-inch Malabar Road force main.

Wade Trim agrees to make any necessary modifications to the plans and provide any additional information for one (1) FDEP RAI.

Section III. PROJECT TEAM

City of Palm Bay, Project Manager:	Bob Hinkel
Wade Trim, Project Manager:	Edward Fontanin, PE

Kane Land Surveying will be a subconsultant to provide surveying support.

Section IV. PERMITTING

FDEP Domestic Wastewater Permit: Notification/Application for Constructing a Domestic Wastewater Collection/Transmission System

Section V. OWNER'S RESPONSIBILITY

The following items are, but not limited to, required from the City in order to complete this Task Order:

- Geotechnical information
- Confirmation on the location of lift station
- Coordination with other City departments for project approval
- Provided anticipated development/demands for wastewater modeling
- Provide the payment for any of the agency permitting applications

Section VI. NOT INCLUDED IN SCOPE OF WORK

The following are scope of work not included within the effort of this task order:

- Preparation and submittal of an environmental resource permit (ERP)
- Geotechnical
- Bidding assistance
- Construction management
- Construction inspection

Section VII. DELIVERABLES

The following deliverables will be provided to the City:

Task A – Basis of Design Memorandum

- PDF of memorandum

Task B – Survey

- PDF of survey

Task C – 75% Design

- Engineering plans
- Specifications
- Cost estimate

Task D – 100% Design

- Engineering plans
- Specifications
- Cost estimate

Task E – Permitting

- Constructing a Domestic Wastewater Collection/Transmission System permit submittal

Section VIII. SCHEDULE

Work will begin within 5 days of notice-to-proceed and adhere to the following milestone dates:

Task A – Basis of Design Memorandum

- 2 weeks from NTP

Task B – Survey

- 3 weeks from NTP

Task C – 75% Design

- 4 weeks upon receipt of survey

Task D – 100% Design

- 2 weeks upon receipt of comments from City

Task E – Permitting

- Submittal to FDEP upon completion of 75% review

Section IX. METHOD OF COMPENSATION

The City shall compensate Wade Trim the lump sum fee for each task for the scope of services as specified prior in this task. The breakdown for this project is as follows:

Task A – Basis of Design Memorandum:	\$12,424
Task B – Survey:	\$ 8,602
Task C – 75% Design:	\$ 68,584
Task D – 100% Design:	\$ 20,986
Task E – Permitting:	\$ 4,384
Total:	\$ 114,980

Wade Trim shall invoice the City the fee allocated for each task upon the completion of each task. At the direction of the City, Wade Trim may be requested to provide additional services. These additional services will be billed at Wade Trim's standard hourly billing rates.

Section X. ACCEPTANCE

If the above scope and fees meet your approval, please indicate by your signature in the space provided below and return one (1) signed copy which will constitute an "Agreement and Notice to Proceed" for the accomplishment of this work.

WADE TRIM, INC.

CITY OF PALM BAY



Edward Fontanin, PE
Vice President

December 1, 2015

Date

Gregg Lynk
City Manager

Date



TASKS		Task A BOD Memo	Task B Survey	Task C 75% Design	Task D 100% Design	Task E Permitting		TOTAL	OTHER DIRECT COSTS	
CLASSIFICATION	RATE	HOURS \$	HOURS \$	HOURS \$	HOURS \$			HOURS \$		
E. Fontanin Project Manager	\$ 200.00	24 \$4,800.00	8 \$1,600.00	40 \$8,000.00	32 \$6,400.00	12 \$2,400.00	\$0.00	116 \$23,200.00	Subconsultants Aerial Photos Soils Eng. Environmental Assessment	\$ 4,250.00
C. Little PE 2	\$ 124.00	16 \$1,984.00	12 \$1,488.00	96 \$11,904.00	32 \$3,968.00	16 \$1,984.00	\$0.00	172 \$21,328.00		
A. Schwab Electrical	\$ 200.00	8 \$1,600.00	0 \$0.00	100 \$20,000.00	12 \$2,400.00		\$0.00	120 \$24,000.00	Survey Mechanical Electrical Environmental	
CAD Tech 6	\$ 79.00		16 \$0.00	240 \$18,960.00	22 \$1,738.00		\$0.00	278 \$21,962.00		
J. White Structural	\$ 200.00			30 \$6,000.00	20 \$4,000.00		\$0.00	50 \$10,000.00	Sub Total	
M. Romemka PE 2	\$ 124.00			30 \$3,720.00	20 \$2,480.00		\$0.00	50 \$6,200.00	Direct Cost	\$ 4,250.00
Modeling PE 1	\$ 101.00	40 \$4,040.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	40 \$4,040.00	CADD Computers Equipment Photocopies Color Copies Graphics Computer Travel Scanner OCE Printer	
								0 \$0.00		
								0 \$0.00		
								0 \$0.00		
								0 \$0.00		
								0 \$0.00		
								0 \$0.00		
								0 \$0.00		
								0 \$0.00	Sub Total	
								0 \$0.00	OTHER DIRECT COSTS TOTAL	
								0 \$0.00	Labor Multiplier (=1 for billing rate schedule)	
								0 \$0.00	1.00	
								0 \$0.00		
								0 \$0.00	TOTAL DIRECT LABOR	
TOTAL		88 \$12,424.00	36 \$ 4,352.00	536 \$ 68,584.00	138 \$ 20,986.00	28 \$ 4,384.00		826 \$110,730.00	TOTAL COST	\$ 110,730.00 \$114,980.00



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager

DATE: December 17, 2015

RE: Authorization to Negotiate Stormwater Utility Review and Audit Continuing Consultant Services Contract for RFQ #09-0-2016/JM

A handwritten signature in blue ink, appearing to read "Gregg Lynk".

On August 17, 2010, the City Council adopted Ordinance 2010-33 implementing the Stormwater Utility establishing a rate based on equivalent residential unit (ERU). The Stormwater Utility Fee went into effect on October 1, 2010. The Stormwater Utility is a special entity set up to provide funding that is used specifically for stormwater management. During the past five years, improvements have been reviewed and modified to include stormwater utility calculations and credits, for residential and commercial property owners. We are requesting the services from an outside consultant, to review our current business model, with an emphasis on conducting an audit of residential and commercial accounts, for accuracy of assigned ERU's and applied credits. By conducting a review of the entire stormwater utility business model we will increase efficiency and financial stability.

A request for qualifications (RFQ) for a Stormwater Utility Review and Audit Continuing Consultant Services was advertised and two firms responded. An evaluation committee [Barney Weiss (Public Works), Hector Franco P.E. (Public Works), LeeAnn Bachan (Public Works), and Crystal Phillips-Mustain (Utilities)] reviewed all submittals received.

Both firms were subsequently brought in for interviews and given a final ranking. Government Services Group, Inc. located in Tallahassee, FL was ranked highest overall by the evaluation committee. Raftelis Financial Consultants, Inc. located in Casselberry, FL was ranked second respectively.

Because this is a solicitation for continuing consultant services, Florida Statutes §287.055 requires a qualification-based selection process to occur. Price as well as final scope of work will be negotiated with the top-ranked firm. If agreement cannot be reached, the City may opt to conclude negotiations and move to the next highest-ranked firm.

REQUESTING DEPARTMENTS:

Public Works Department, Purchasing Division, Finance Department

FISCAL IMPACT:

The estimated cost of the Stormwater Utility Review and Audit is \$200,000.00. Funds for this project are currently available in account # 461-7084-541-3141, Professional Services/Other Professional Services.

The action requested today does not incur any expenses. A contract will be presented for Council consideration following negotiations of cost and final scope of work requirements with the selected firm.

RECOMMENDATION:

Motion to authorize the City staff to negotiate a contract with Government Services Group, Inc. for Stormwater Utility Review and Audit Continuing Consultant Services contract. In the event that an agreement cannot be reached with the first-ranked firm, request includes additional authorization to negotiate with the second ranked firm to reach an agreement.

Attachments: 1) Scoring/Ranking Forms

BW/ab

RFP #09-0-2016/JM, Stormwater Utility Review and Audit Continuing Consultant Services
FINAL OVERALL RANKING

Final Rank, where a rank of "1" is the top ranked firm						
	Hector	Barney	Crystal	Lee Ann		FINAL
COMPANY NAME	Franco	Weiss	Phillips-Mustain	Bachan	AVERAGE	RANK
Government Services Group, Inc.	1	1	1	1	1	1
Raftelis Financial Consultants, Inc.	2	2	2	2	2	2

Overall rank individually determined by team and turned in to Purchasing. Unanimous. Consensus from Committee to recommend top ranked firm for negotiations.

Following Discussion

Project Team = max 4 - points x 6.25 = max 25 total

	Hector	Barney	Crystal	Lee Ann		Multiplier	TOTAL
COMPANY NAME	Franco	Weiss	Phillips-Mustain	Bachan	AVERAGE		POINTS
Government Services Group, Inc.	4.00	4.00	3.00	4.00	3.75	6.25	23.44
Raftelis Financial Consultants, Inc.	3.30	4.00	2.00	4.00	3.33	6.25	20.78

Project Team Location= max 4 - points x 2.5 = max 10 total

	Hector	Barney	Crystal	Lee Ann		Multiplier	TOTAL
COMPANY NAME	Franco	Weiss	Phillips-Mustain	Bachan	AVERAGE		POINTS
Government Services Group, Inc.	3.00	3.00	3.00	3.00	3.00	2.50	7.50
Raftelis Financial Consultants, Inc.	3.00	4.00	2.00	2.50	2.88	2.50	7.19

Firm's Experience & Demonstrated Capabilities = max 4 - points x 6.25 = max 25 total

	Hector	Barney	Crystal	Lee Ann		Multiplier	TOTAL
COMPANY NAME	Franco	Weiss	Phillips-Mustain	Bachan	AVERAGE		POINTS
Government Services Group, Inc.	3.50	3.75	2.00	3.50	3.19	6.25	19.92
Raftelis Financial Consultants, Inc.	3.00	3.75	2.00	3.75	3.13	6.25	19.53

Project Management = max 4 - points x 5.00 = max 20 total

	Hector	Barney	Crystal	Lee Ann		Multiplier	TOTAL
COMPANY NAME	Franco	Weiss	Phillips-Mustain	Bachan	AVERAGE		POINTS
Government Services Group, Inc.	3.60	3.40	3.00	3.60	3.40	5.00	17.00
Raftelis Financial Consultants, Inc.	3.20	4.00	2.00	3.80	3.25	5.00	16.25

Project Approach = max 4 - points x 5.00 = max 20 total

	Hector	Barney	Crystal	Lee Ann		Multiplier	TOTAL
COMPANY NAME	Franco	Weiss	Phillips-Mustain	Bachan	AVERAGE		POINTS
Government Services Group, Inc.	3.5	3.5	3	3	3.25	5.00	16.25
Raftelis Financial Consultants, Inc.	3.25	3.00	2.00	3.50	2.94	5.00	14.69

TOTAL

							TOTAL
COMPANY NAME							POINTS
Government Services Group, Inc.							84.11
Raftelis Financial Consultants, Inc.							78.44

Initial Scoring

Project Team = max 4 - points x 6.25 = max 25 total

	Hector	Barney	Crystal	Lee Ann		Multiplier	TOTAL
COMPANY NAME	Franco	Weiss	Phillips-Mustain	Bachan	AVERAGE		POINTS
Government Services Group, Inc.	4.00	4.00	3.00	4.00	3.75	6.25	23.44
Raftelis Financial Consultants, Inc.	3.30	4.00	2.00	4.00	3.33	6.25	20.78

Project Team Location= max 4 - points x 2.5 = max 10 total

	Hector	Barney	Crystal	Lee Ann		Multiplier	TOTAL
COMPANY NAME	Franco	Weiss	Phillips-Mustain	Bachan	AVERAGE		POINTS
Government Services Group, Inc.	3.00	3.00	3.00	3.00	3.00	2.50	7.50
Raftelis Financial Consultants, Inc.	3.00	4.00	2.00	2.50	2.88	2.50	7.19

Firm's Experience & Demonstrated Capabilities = max 4 - points x 6.25 = max 25 total

	Hector	Barney	Crystal	Lee Ann		Multiplier	TOTAL
COMPANY NAME	Franco	Weiss	Phillips-Mustain	Bachan	AVERAGE		POINTS
Government Services Group, Inc.	3.50	3.75	2.00	3.50	3.19	6.25	19.92
Raftelis Financial Consultants, Inc.	3.00	3.75	2.00	3.75	3.13	6.25	19.53

Project Management = max 4 - points x 5.00 = max 20 total

	Hector	Barney	Crystal	Lee Ann		Multiplier	TOTAL
COMPANY NAME	Franco	Weiss	Phillips-Mustain	Bachan	AVERAGE		POINTS
Government Services Group, Inc.	3.60	Not provided	3.00	3.60	3.40	5.00	17.00
Raftelis Financial Consultants, Inc.	3.20	4.00	2.00	3.80	3.25	5.00	16.25

Project Approach = max 4 - points x 5.00 = max 20 total

	Hector	Barney	Crystal	Lee Ann		Multiplier	TOTAL
COMPANY NAME	Franco	Weiss	Phillips-Mustain	Bachan	AVERAGE		POINTS
Government Services Group, Inc.	3.5	3	3	3	3.13	5.00	15.63
Raftelis Financial Consultants, Inc.	3.25	3.00	2.00	3.75	3.00	5.00	15.00


TOTAL

							TOTAL
COMPANY NAME							POINTS
Government Services Group, Inc.							83.48
Raftelis Financial Consultants, Inc.							78.75



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: December 17, 2015

RE: Sole Source Procurement Sunstate Meter and Supply, Inc. Neptune Water Meters, Additional Expenditures for 2015-Contract Term

The Utilities Department has standardized water meters based on the Neptune radio read system for water meters.

On December 4, 2014, Council approved a one-year Price Agreement with Sunstate Meter and Supply, Inc. for the term January 1, 2015 through December 31, 2015 for Neptune water meters. The estimated annual amount approved for the calendar year 2015 was \$600,000.00. The Utilities Department anticipates the annual expenditures will exceed that amount by \$120,000.00 for 2015.

Sunstate Meter and Supply, Inc. is the sole source provider of Neptune water meters and parts for the State of Florida.

REQUESTING DEPARTMENTS:

Utilities Department, Purchasing Division, Finance Department

FISCAL IMPACT:

Funding is available in the Utilities Department Operating and Renewal and Replacement funds, 421-8020-533-6322 and 424-8022-533-6322 project 08WS05. The revised estimated annual expenditure for 2015 is \$720,000.00. Purchase orders are issued on an "as needed" basis

RECOMMENDATION:


Motion to approve the increase in annual expenditures for the Sole Source purchase of Neptune Water Meters and parts to Sunstate Meter and Supply, located in Newberry, Florida.

DR/ab



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: December 17, 2015

RE: Purchasing Authority for Vision Internet Providers, Inc – Other Agency Contract, General Service Administration (GSA) Contract GS-07F-445AA

Vision Internet Providers, Inc located at 2530 Wilshire Boulevard, Floor 2, of Santa Monica, California is currently the content management system (CMS) platform and maintainer of the city's award winning website through March of 2017. The city has enjoyed much success with the website and features and continued with a redesign of the city's intranet for internal use and the upcoming e-procurement web portal that will enhance and streamline the competitive proposals.

A request to improve the city's economic development web presence and resources stems from the attendance of the International Economic Development Council's (IEDC) annual conference in early October. Although the city maintains an above average rating for the city's website and by several reviews and awards; the IEDC conference yielded better practices to follow after a review during a session entitled "Constructive Criticism: Economic Development Websites Under the Microscope." The IEDC recommends separation of economic development resources from a municipality website, utilizing the existing GSA contract #GS-07-4455AA, Vision Internet can consult with city staff to design, deliver, and host an advance sub-website for this purpose.

REQUESTING DEPARTMENTS:

Economic Development & External Affairs Department and Communications & Information Technology Department

FISCAL IMPACT:

Funding is available in the Economic Development budget, 001-3410-559-4809. The one-time

cost to develop the advance sub website is \$11,943.00, with a four year contract for hosting, CMS, and support totals, \$14,008.00. With the approval, the total contract value is \$25,951.00.

RECOMMENDATION:

Motion to approve purchasing authority of up to 25,951 for Vision Internet Providers, Inc located at 2530 Wilshire Boulevard, Floor 2, of Santa Monica, California for the development of an separate website for Economic Development for presence, attraction, and retention of the local impact of business and economy and execution of the contracted services for a four year term by the city manager.

Attachments:

- 1) Quote for Palm Bay Economic Development
- 2) GSA contract #GS-07-4455AA
- 3) Vision Contract

ADVANCED SUBSITE

The Advanced Subsite package is intended to serve the needs of larger departments that have either maintained their own separate websites in the past, or would like to develop one as part of this project. Any department that purchases this package will receive comprehensive services, including one-on-one consultation through the development process, in order to define their unique goals, analyze their audiences, and ultimately create a structure, navigation and site design that serves those goals.

















The resulting site will include the same functionality as the main website since it will use the same administrative backend and have the same interactive components. This means that there is a single instance of visionCMS™ where all content is stored.

Please also note that any department that selects the Advanced Subsite package will also receive their own department-specific Account Management services, equivalent to those included in the visionLive™ edition selected by the City.









Cost Summary

Please note that Vision Internet is a GSA Contract Holder, Contract #GS07F445AA:

Included Services	Fee
Included Professional Services – Advanced Subsite	\$11,943
1 st Year of visionLive™	\$3,250
2 nd Year of visionLive™	\$3,413
3 rd Year of visionLive™	\$3,583
4 th Year of visionLive™	\$3,762

visionLive [®] department branding »	
Design	
Design Elements	
 Department logo in site header	✓
 Unique color scheme	✓
 Unique background	✓
 Separate font style	✓
 Logo can link to departmental homepage instead of main homepage	✓
Page Layout	
 Custom page template based on main site wireframe	
 Custom wireframe	✓
 Interior page layout same as the main site	✓
 Number of new widgets included	7
Mobile	
 Unique color scheme	✓
 Department logo in header	✓
 Logo can link to own departmental home page instead of main homepage	✓
Design Services	
 Heatmap analysis	✓
 User surveys	✓
Functionality	
Own Domain	✓
Main Navigation	
 Same as main site	
 Separate page tree from main site	✓

visionLive
 department branding »

	Advanced Sub-site
Header and Footer Sections	
 Independent header configurations (logo, top nav, social icons, quick links)	✓
 Independent footer configurations (footer nav, social icons)	✓
Search	
 Result part of main site search	
 Stand alone search	✓
Separate Google Analytics	✓
Background	
 Ability to change background image if main site is able	✓
Page Limit	Unlimited
Additional Storage	10 GB
On-going Services*	
 Health checks (account review)	✓
 Site analytics report	✓
 Graphics site audit	✓

* Based on visionLive edition – Outlined services will occur annually if main site is Standard Edition of visionLive or semi-annually if main site is Plus Edition of visionLive.

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1.Contract ID Code		Page of Pages 1 1		
Amendment/Modification No. PO-0006		3. Effective Date: Jul 01, 2015		4. Requisition/Purchase Req. No.		5. Project No. (If Applicable) 541	
6. Issued By: General Service Administration GSA, MANAGEMENT SERVICES CTR 400 15TH ST, SW RM 2757 (AQSA) AUBURN WA 98001				7. Administered By: (If Other) GSA/FAS/QVOCE 401 WEST PEACHTREE ST ATLANTA, GA 30308			
8. Name and Address of Contractor (No. Street, County, State and Zip Code) VISION INTERNET PROVIDERS INC 2530 WILSHIRE BLVD FL 2 SANTA MONICA, CA 904034643				9A Amendment of Solicitation No:			
				9B. Dated (See Item 11)			
				10A. Modification of Contract/Order No. GS-07F-445AA 10B. Dated (See Item 13) Jul 01, 2010			
Code		Facility Code					
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS							
<div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of Offers </div> <div> <input type="checkbox"/> is extended </div> <div> <input type="checkbox"/> is not extended. </div> </div>							
Offerors must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods. (a) By completing items 8 and 15, and returning copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment and is received prior to the opening hour and date specified.							
12. ACCOUNTING AND APPROPRIATION DATA (If required)							
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.							
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.							
<input checked="" type="checkbox"/> B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14 PURSUANT TO THE AUTHORITY OF FAR 43.103(b). Type of contract modifications Unilateral							
<input type="checkbox"/> C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:							
<input checked="" type="checkbox"/> D. OTHER (Specify type of modification and authority): See Block 13 Notes...							
E. IMPORTANT: Contractor: is not <input checked="" type="checkbox"/> , is <input type="checkbox"/> required to sign this document and return, ___ copies to the issuing office.							
14. DESCRIPTION OF MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)							
The above numbered contract under Federal Supply Schedule Industrial Group 541 - Advertising and Integrated Marketing Solutions (AIMS) is modified as follows: This contract is hereby extended for an additional 180 days for the period of 7-1-2015 to 12-27-2015. Current Year 5 prices will remain in effect until the contract expires or the option is exercised.							
15A. NAME AND TITLE OF SIGNER (Type or Print) GSA Initiated Mod				16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or Print) Kenny K Yiu			
15B. CONTRACTOR/OFFEROR Signature Not Required <small>(Signature of person authorized to sign)</small>		15C. DATE SIGNED		16B. UNITED STATES OF AMERICA By Signed electronically See above <small>(Signature of Contracting Officer)</small>		16C. DATE SIGNED Jun 24, 2015	



creating what's next for the City of Palm Bay Economic Development

Project Name:

List of Services

Vision will perform the following services for the City of Palm Bay Economic Development:

- › Advanced Subsite Development Services
- › visionLive™ Subscription Services Standard Edition

Contacts

City Project Manager

- › Name: Lisa Morrell
- › Address: 120 Malabar Road, SE, Communications & Information Technology, Palm Bay, FL 32907
- › Phone: 321-733-3022
- › Email: Lisa.morrell@palmabayflorida.org
- › Fax: 321-953-8934

City Contract Contact

- › Name: Bobby Marsala
- › Address: 120 Malabar Road SE, Purchasing and Contracts, Palm Bay, FL 32907
- › Phone: 321-953-3400
- › Email: Bobbye.Marsala@palmbayflorida.org
- › Fax:

Vision Internet Project Manager

- › Name: Kristoffer Von Bonsdorff, or his designee
- › Address: 2530 Wilshire Blvd., 2nd Floor, Santa Monica, CA 90403
- › Phone: (310) 656-3100
- › Email:
- › Fax: (310) 656-3103

Vision Internet Contract Contact

- › Name: Contract Administrator
- › Address: 2530 Wilshire Blvd., 2nd Floor, Santa Monica, CA
- › Phone: (310) 656-3100
- › Email: contracts@visioninternet.com
- › Fax: (310) 656-3103



terms and conditions

This Master Services Agreement ("**Agreement**") is made and entered into effective as of the date of the last signature below (the "**Effective Date**") by and between Vision Technology Solutions, LLC dba VISION INTERNET PROVIDERS ("**Contractor**"), and the customer which is a signatory hereto ("**Client**"). Client and Contractor are sometimes individually referred to as a "**Party**" and collectively as the "**Parties**."

1. Services. This Agreement (which includes and incorporates the Addendum(s) attached hereto and Contractor's acceptable use policy ("**AUP**") posted at www.visioninternet.com) sets forth the entire terms and conditions by which Contractor will deliver and Client will receive any and all of the services provided by Contractor, including one or more of the following: website development, visionLive™ subscription services, maintenance services, and/or other extra work and services (collectively, the "**Services**") and supersedes all other written or oral agreements, proposals or understandings with regard to the Services provided for herein. This Agreement is intended to cover any and all Services ordered by Client and provided by Contractor.

Contractor will provide Services to Client as requested by Client and as set forth in the applicable Addendum(s) in exchange for payment of related fees specified in such Addendum(s), and compliance with the terms and conditions of this Agreement, and compliance with Contractor's AUP as such policy may change from time to time. In the event of conflict with an Addendum with respect to the terms of this main body of this Agreement, then this Agreement shall govern.

2. Subsequent Extra Work/Other Services. Additional services not initially covered in this Agreement (including the Addendum referenced above) and extra hours will be presented to Client for approval prior to commencement of work ("**Extra Work**"). Extra Work will be set forth in an amendment to this Agreement signed by the Parties and designated as Addendum C-1, C-2, etc., as applicable, and such Addendum shall become part of this Agreement when executed by both parties. Such addendum will be billed at Contractor's then prevailing hourly rates, which are currently as follows: Content Migration, \$85/hr; Graphic Production, \$95/hr; Quality Assurance, Testing, Debugging, Technical Support, Webmaster Services, HTML Programming, \$105/hr; Consulting, Project Management, Database Design, Dynamic Programming, \$135/hr; Graphic Design, Training, \$125/hr; Straight flatbed scanning will be billed at \$10 per scan. Touch up work to images will be billed at the Graphic Design hourly rate. Client shall be responsible for any or all additional fees including, without limitation: photography, stock images, illustration, fonts, scanning, software, applications, online promotion, marketing, copy writing, redesign, change orders, mailings, and fees to any third party vendors if applicable. Calls outside of Business Hours for support services unrelated to the website being down for more than ten (10) minutes will be subject to a minimum fee of \$135.

3. Ownership; Limited Licensing of Intellectual Property.

3.1. Designs. Upon payment in full of the website development fees provided under Addendum A, Contractor grants a non-exclusive, non-transferrable, and perpetual license for Client to reproduce, modify or create derivative works for its own use, public display, and use any and all of Contractor's copyrights in the homepage layout wireframe, sitemap, draft homepage design concept(s) interior page layouts (collectively, the "**Contractor Designs**") embodied in Client's website, which are prepared or caused to be prepared by Contractor under this Agreement. The Contractor Designs provided under this Agreement is licensed and not sold. Client understands and agrees that the Contractor Designs as a whole is an original work of authorship by Contractor and that Contractor shall retain all rights, title, and interests therein. Contractor retains its right to use any web pages developed for the Client in any of its own promotional materials as examples of its work.

3.2. Vision Content Management System™. Contractor also grants a limited, non-exclusive, and non-transferrable license for Client to use the Vision Content Management System™ (also known as the Vision Internet Content Management System, VCMT, VCMS and the Vision Content Management Tool, collectively, the "**VCMS**"), and Dynamic and Interactive Components of the VCMS to the extent necessary for the Client's use and operation of its website; provided, Client does not modify the VCMS and maintains a visionLive™ Subscription in



accordance with this Agreement and Addendum B. The VCMS provided under this Agreement is licensed and not sold, and Client understands and agrees that Contractor shall retain all rights, title, and interests in the VCMS, Dynamic and Interactive Components, and any other Contractor intellectual property not provided for in this Section.

4. Limited Warranty. If Contractor performs Website Development and/or Custom Programming services, Contractor warrants that the deliverables set forth in Addendum A will be conveyed to Client upon transfer of the website to the production server with a public Internet Protocol address ("**Completion**"). All programming code developed by Contractor within Addendum A is warranted to be free of any errors or bugs that prevent the code from performing as originally intended ("**Warranted Problem**") for a period of twelve (12) months from the date of Completion. Contractor will create a backup of the website on the date of Completion. If any Warranted Problem arises while Client or its designee is maintaining the website, Contractor will restore the website back to its condition as it existed at Completion. If Contractor is hosting and/or maintaining the website pursuant to one or more Addendums to this Agreement, Contractor shall restore the website back to its condition as it existed at the day of the most recent backup. Contractor shall provide compiled code upon Client's request. Contractor shall only be responsible for any costs associated with correcting any unmodified programming code during this twelve (12) month period following the Completion. Except as expressly set forth above, CONTRACTOR MAKES NO GUARANTEE OR WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING OF MERCHANTABILITY OR FITNESS OF THE SERVICES FOR A PARTICULAR PURPOSE WHATSOEVER, AND USE OF THE SERVICES OR ANY INFORMATION THAT MAY BE OBTAINED THERE FROM IS AT CLIENT'S OWN RISK AS THE SERVICES ARE PROVIDED TO CLIENT ON AN "AS IS" BASIS. In no event, at any time, shall the aggregate liability of Contractor under this Agreement or otherwise exceed the amount of fees paid by Client to Contractor in the most recent twelve months, and Contractor shall not be responsible for any lost profits or other damages, including direct, indirect, incidental, special, consequential or any other damages, however caused. Contractor does not warrant any connection to, transmission over, nor results of use of, any network connection or facilities provided, nor any third-party applications and software obtained by, for, or on behalf of Client. Contractor assumes no responsibility for any damages suffered by the Client, including, but not limited to, server down time, loss of data, loss of business, mis-deliveries, delays, non-deliveries, access speed, or service interruptions of any kind. Client acknowledges that the information available through the interconnecting networks may not be accurate. Contractor has no ability or authority over the material. In addition, Contractor has no liability for the quality, accuracy, or validity of the data/information gathered from the Internet. Use of information gathered through the use of Contractor services is at the risk of the Client.

5. Rights Regarding Content. Each Party warrants that it holds all rights and/or licenses necessary to display all of the images, data, information or other items supplied by such Party and being displayed on the Client's web pages during the effective period of this Agreement. Contractor agrees that Client will retain ownership of all information and content (including Client provided logos and images) owned exclusively by Client and provided by Client for use on its website. Client shall supply all necessary information to Contractor in a timely manner in digital format including without limitation copy, text, audio files, video files, pdf files, photographs, artwork and preexisting graphics. Contractor is not responsible for content migrated by Client or any third party. Client expressly authorizes Contractor to display and/or modify any Client supplied images, data, information and other items in connection with the services provided herein.

6. Contractor's Mark. Client agrees that Contractor may place in the website footer an unobtrusive text link reading "Developed by Vision Internet" or the equivalent. Contractor's footer text credit shall always be linked to a Contractor web page.

7. Indemnity.

7.1. Indemnification of Contractor. Intentionally omitted.

7.2. Intellectual Property Indemnity. Contractor will defend, hold harmless and indemnify



Client against any third-party action, suit, or proceeding ("**Claims**") for infringement or alleged infringement of any United States' letters patent, trademark, or copyright ("**Intellectual Property**") contained in Contractor's VCMS provided under this Agreement. Notwithstanding the foregoing, Contractor shall have no defense or indemnity obligations for Intellectual Property modified by a party other than Contractor, for Intellectual Property modified in accordance with Client's specifications or instructions, or Claims of infringement based on Client's other products or other third-party products.

8. Timing. Estimated times are included for convenience. Actual times will vary depending on Client interaction and participation. However, the Parties agree to reasonably cooperate with one another in all respects including, if applicable, in the construction and design of the website in a timely manner.

9. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the United States of America, and the State of Florida, excluding choice of law provisions thereof. In the event a judicial proceeding is necessary, except for permitted equitable relief, the venue for resolving disputes arising under or relating to this Agreement are the State courts located in Brevard County, State of Florida and/or federal courts located in the Middle District of Florida, and all related appellate courts, and the parties hereby consent to the jurisdiction of such courts. Each party hereto waives any right to challenge or move the foregoing designated jurisdictions and venue on grounds of inconvenient forum. Service of process may be made in any manner provided for by applicable law.

10. Modification and Waiver.

10.1. Modification. Any modification of this Agreement is valid only if the modification is in writing and signed by both Parties.

10.2. Waiver. The waiver by one Party of any term or condition of this Agreement, or any breach thereof, shall be in writing and shall not be construed to be a general waiver by said Party or as a waiver of any other term or breach.

10.3. Conduct. Neither the course of conduct between the Parties nor any trade practice shall act to modify the provisions of this Agreement, except as expressly stated herein.

11. Confidentiality. Except as permitted by the Florida Public Records Act or court order, Contractor activities and all discussions regarding Client website development, including without limitation demonstrations, know-how, techniques, designs, specifications, drawings, compilations, diagrams, models, samples, flow charts, business, strategic and marketing plans, and other technical, financial or business information of Contractor, shall be treated as confidential and shall not be disclosed to parties other than representatives of Contractor and the authorized representatives of Client, and shall be used only in furtherance of the Services provided under this Agreement.

12. Authority. With the intent to be legally bound, each of the undersigned hereby covenants and acknowledges that he or she (a) has read each of the terms set forth herein, (b) has the authority to execute this Agreement and each initialed Addendum for such person or entity, and (c) expressly consents and agrees that the entity upon behalf of which the undersigned is acting shall be bound by all terms and conditions contained herein.

13. Interpretation. It is understood and agreed that if any interpretation is to be made of this Agreement, the same shall not be construed for or against any of the Parties.

14. Counsel. The Parties have each been advised to seek independent legal counsel in entering into this Agreement and the transactions described herein. In the event a Party chooses not to seek independent legal counsel, that Party does so freely and knowingly and waives any such rights to counsel. Since the Parties or their



agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party.

15. Attorney's Fees. In the absence of fraud or bad faith, each party will be responsible for the party's own attorney fees and costs resulting from any controversy arising out of this Agreement.

16. Independent Contractor Relationship. The relationship of Contractor, including, without limitation, its employees and subcontractors) with Client is that of an independent contractor and nothing in this Agreement and/or any Addendum shall be construed to create a partnership, joint venture, or employer-employee relationship. Contractor acknowledges and agrees that neither it, nor any of its employees or subcontractors, is or shall be an agent of Client and none of the foregoing is or shall be authorized to make any representation, contract, or commitment on behalf of Client.

17. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which together shall constitute one and the same Agreement. This Agreement becomes effective upon Contractor's receipt of an executed copy of this Agreement.

18. Force Majeure. Any delay in the performance by either Party hereto of its obligations hereunder shall be excused when such delay in performance is due to any cause or event of any nature whatsoever beyond the reasonable control of such Party, including, without limitation, any act of God; any fire, flood, or weather condition; any computer virus, worm, denial of service attack; any earthquake; any act of a public enemy, war, insurrection, riot, explosion or strike; provided, that written notice thereof must be given by such Party to the other Party within twenty (20) days after occurrence of such cause or event.

19. Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

20. Headings. The titles and headings of the paragraphs of this Agreement have been inserted for convenience of reference only and are not intended to summarize or otherwise describe the subject matter of such paragraphs and shall not be given any consideration in the construction of this Agreement.

21. Survival. The terms and conditions of Sections 4 (Limited Warranty), 7 (Indemnity), 9 (Governing Law & Venue), 11 (Confidentiality), 15 (Prevailing Party), 21 (Survival) and 24 (No Hire) shall survive any termination or expiration of this Agreement.

22. Cooperative Programs. Contractor shall agree to offer the prices and terms and conditions offered herein to other state, local, county, education, and municipal government agencies in the United States who wish to participate in a cooperative purchase program with Contractor.

23. No Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person or entity other than the Parties and their respective successors and permitted assigns.

24. No Hire. During the period Contractor provides any Services to Client and for one (1) year thereafter, Client shall not, directly or indirectly, solicit or offer to hire, hire, or retain as an employee or contractor persons employed or retained then or within the preceding six (6) months by Contractor (or any of its affiliates), without Contractor's prior written consent in each instance; provided, nothing contained herein shall prevent employment of any person who responds to a general media advertisement or non-directed search inquiry, or who makes an unsolicited contact for employment.

25. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests or obligations hereunder without the prior written approval of the other Party



hereto, except that Contractor may assign this Agreement without Client's consent to an "**Affiliate**" of Contractor or in connection with an acquisition of Contractor, merger (whether Contractor is the surviving or disappearing entity) or consolidation of Contractor with another entity, or in connection with the sale, assignment, or majority transfer of any stock, membership or other ownership interest in Contractor. "**Affiliate**" shall mean (a) a domestic entity formed, existing and governed pursuant to the laws of one of the fifty (50) states of the United States of America (or the District of Columbia) controlling, controlled by, or under common control with Contractor.

26. Term. This Agreement will remain in effect for 5 years from the Effective Date. Thereafter, it will renew for successive 1 year periods, unless either Party refuses such renewal by written notice 30 or more days before the end of the current term. Client shall permanently delete all copies of the VCMS upon termination of this Agreement.

27. Notices. All notices under this Agreement shall be in writing and effective on the date of delivery if delivered by personal service, Federal Express, or facsimile; or effective three (3) days after deposit in first class U.S. mail, postage prepaid, to each Party as indicated on Page 1 of this Agreement.

28. Invoices. Contractor will submit itemized invoices to Client for the payments required by the applicable Addendum(s), and all invoices will be due and payable within 30 days. Payments not received by Contractor 30 days after the date of the invoice will be considered delinquent. A finance charge per month will apply if full payment is not received 45 days after the date of the invoice. Returned checks are subject to a charge of \$25.00. Pursuant to Florida Prompt Payment Act, §218.76 Florida Statutes, if the Contractor is the prevailing party and if the court finds that the nonprevailing party withheld any portion of the payment that is the subject of the action without any reasonable basis in law or fact to dispute the prevailing party's claim to those amounts, then the Contractor shall be entitled to court costs and reasonable attorney's fees, including fees incurred through any appeal.

Signatures follow.



IN WITNESS WHEREOF, the Parties have caused this Master Services Agreement to be signed by their duly authorized representatives and given effect as of the the **"Effective Date"** below.

"Client"

CITY OF PALM BAY

Signature: _____

Name: _____

Title: _____

Date: _____

"Contractor"

VISION TECHNOLOGY SOLUTIONS, LLC, DBA VISION
INTERNET PROVIDERS

Signature:  _____

Name: David M. Nachman

Title: Chief Executive Officer

Date: 11/11, 2015

Addendums:

- A Website Development Services (and/or Other Services, if applicable)
- B VisionLive™ Subscription Services
- C Extra Work (if and when applicable): N/A at this time.
- D Maintenance Services: N/A.



Addendum A

website development services

Included Services

Pursuant to the terms herein, Contractor agrees to provide Advanced Subsite (also referred to as "Website") development services as provided below in exchange for payment of fees and compliance with the terms and conditions of this Addendum and the Agreement. Advanced Subsite development services include the following:

Advanced Subsite

Advanced Subsite development services include the following:

Design

- Design Elements
 - Department logo in site header
 - Unique color scheme
 - Unique background
 - Separate font style
 - Logo can link to departmental homepage

Page Layout

- Custom wireframe
- Interior page layout same as the main site
- Number of new widgets included: 7

Mobile

- Unique color scheme
- Department logo in header
- Logo can link to own departmental home page

Design Services

- Heatmap analysis
- User surveys

Functionality

- Own Domain
- Main Navigation
 - Separate page tree from main site
- Header and Footer Sections
 - Independent header configurations (logo, top navigation, social icons, quick links)
 - Independent footer configurations (footer navigation, social icons)
- Search
 - Stand-alone search
- Separate Google Analytics
- Background
 - Ability to change background image if main site is able
- Page Limit: Unlimited



Website Development Fees

Client agrees to pay Contractor for Website Development as follows:

1. Price. Contractor agrees to perform work set forth in this Addendum A for \$11,943.
2. Payment. Contractor will submit itemized invoices to Client for the payments required by this Section, and all invoices will be due and payable within 30 days:
 - (a) An initial payment equal to 50% of the total cost; and
 - (b) A payment equal to 50% of the total cost upon completion of work in this Addendum A.
3. Non-Contractor Hosting. If Contractor is not providing hosting services under Addendum B then, at Client's request, Contractor will assist Client with setting up the subsite on Client's server. A flat rate of \$475 for up to four hours of Technical Support will be charged for assistance in setting up the subsite according to Contractor's Standard Hosting Procedure. Any additional work will be billed at the Technical Support hourly rate.

Additional Website Development Terms and Conditions

1. Client understands and agrees that Contractor will develop website frontend to be compatible with Internet Explorer 9, 10, and 11, and the latest released versions at the time of Completion of: Firefox, Chrome, and Safari. Website backend will be compatible with Internet Explorer 9, 10, and 11, and the latest released version of Firefox at the time of Completion. Website may not be compatible with previous or future versions. Website backend will be optimized for 1024 x 768 pixels resolution or above. Client understands and agrees that the website will be developed with Hypertext Markup Language ("**HTML**"), CSS, JavaScript, and Microsoft ASP.NET ("**MS-ASP**") interfaced with a database created in Microsoft SQL Server ("**MS-SQL**"). Client understands and agrees that the website is developed to run on a Microsoft Windows Server 2012 ("**MS-Server**"), or later. visionMobile™, if provided under this Agreement, will be compatible with the latest released versions at the time of Completion of iOS Safari, Android Chrome, and Windows Phone 7 Internet Explorer. visionMobile™ may not be compatible with previous or future versions. visionMobile™, if provided under this Agreement, shall include "Powered by Vision Internet" in the footer and always be linked to a Contractor web page. Client is responsible for the costs of all software licensing. All of the web browsers listed in this section, and any others added by Contractor at its discretion are herein referred to collectively as the "**Supported Web Browsers**".
2. Client understands and agrees that the website frontend and content migrated by Contractor will be designed to be compliant with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), hereinafter referred to as "**Section 508**" guidelines on accessibility as follows: Compliance standards will be verified via SortSite™ to be compliant to automatic checkpoints prior to Completion. Client understands and agrees that website backend and third party tools may not be Section 508 compliant. Contractor is not responsible for content migrated by Client or any third party.



Addendum B

visionLive™ subscription services

Subscription Services

Pursuant to the terms herein, Contractor agrees to provide Hosting Services and VCMS Licensing Services (collectively "**Subscription Services**") as provided below. Contractor will provide Subscription Services to the Client in exchange for payment of fees and compliance with the terms and conditions of this Addendum and the Agreement. Subscription Services include the following:

Hosting Services. Contractor will provide shared website hosting on a Microsoft Windows Server and shared database hosting on a Microsoft SQL Server for one (1) unique Advanced Subsite.

VCMS Licensing Services. Contractor will provide a license to the VCMS for the City of Palm Bay Economic Development Advanced Subsite, which includes the following functionalities indicated by the applicable check marks below.

VCMS Licensing Services include:

- ☑ Periodic functional enhancements.
- ☑ New visionLive™ Interactive Components that may be released from time to time by Contractor.
- ☑ Bug fixes to the VCMS code.
- ☑ Updates to provide compatibility to future versions of Supported Web Browsers (as listed in Addendum A) within three months of their release. Compatibility with previous versions of Supported Web Browsers is not guaranteed.

VCMS Licensing Services do not include:

- ☑ Optional Interactive Components.
- ☑ Modules, Programs, or Software Applications.
- ☑ Conversion to new platforms.
- ☑ Modification of third-party products.
- ☑ Compatibility with Client's third-party products.
- ☑ Website design services.
- ☑ All other services not expressly provided for in this Agreement and its applicable Addendum(s).

visionLive
department branding >





Advanced
 Sub-site

Design


Design Elements

- | | | |
|-----------------------------------------------------------------------------------|-----------------------------------------------------------------|---|
|  | Department logo in site header | ✓ |
|  | Unique color scheme | ✓ |
|  | Unique background | ✓ |
|  | Separate font style | ✓ |
|  | Logo can link to departmental homepage instead of main homepage | ✓ |

Page Layout

- | | | |
|-------------------------------------------------------------------------------------|---------------------------------------------------|---|
|  | Custom page template based on main site wireframe | |
|  | Custom wireframe | ✓ |
|  | Interior page layout same as the main site | ✓ |
|  | Number of new widgets included | 7 |

Mobile

- | | | |
|-------------------------------------------------------------------------------------|----------------------------------------------------------------------|---|
|  | Unique color scheme | ✓ |
|  | Department logo in header | ✓ |
|  | Logo can link to own departmental home page instead of main homepage | ✓ |

Design Services

- | | | |
|-------------------------------------------------------------------------------------|------------------|---|
|  | Heatmap analysis | ✓ |
|  | User surveys | ✓ |

Functionality

Own Domain









✓

Main Navigation

- | | | |
|-------------------------------------------------------------------------------------|-----------------------------------|---|
|  | Same as main site | |
|  | Separate page tree from main site | ✓ |



visionLive department branding >

	Advanced Sub-site
Header and Footer Sections	
 Independent header configurations (logo, top nav, social icons, quick links)	✓
 Independent footer configurations (footer nav, social icons)	✓
Search	
 Result part of main site search	
 Stand alone search	✓
Separate Google Analytics	✓
Background	
 Ability to change background image if main site is able	✓
Page Limit	Unlimited
Additional Storage	10 GB
On-going Services*	
 Health checks (account review)	✓
 Site analytics report	✓
 Graphics site audit	✓

* Based on visionLive edition – Outlined services will occur annually if main site is Standard Edition of visionLive or semi-annually if main site is Plus Edition of visionLive.



Customizations. The following are customizations provided in Client's project: None.

Unless Client has retained other Services from Contractor under the applicable Addendum, Client is solely and exclusively responsible for all services not expressly provided for in this Addendum. Any changes, alterations or modification requested by the Client to its Website may be subject to a fee to be quoted by a Contractor representative at the time of the request. Client may, at any time, upgrade from its current edition to either a Standard or Plus Edition, as applicable. Client may not, during the Initial Term (defined below) or any renewal term, downgrade from its current edition to either a Standard or Basic Edition, as applicable. Client acknowledges that the Subscription Services may be modified or improved because of the dynamic nature of technology. Contractor may, from time to time, make minor modifications to the Subscription Services, as a whole or any part thereof. Such minor modifications may be implemented at any time and without notice to Client. Continued use of the Subscription Services following any modification shall constitute binding acceptance of the modification.

Subscription Fees

1. Rate

(a) Main Website: Intentionally omitted.

(b) Advanced Subsite: All Subscription Services provided for the Client's Advanced Subsite during the first year of the Agreement shall be at no cost to Client. Contractor shall invoice Client \$3,250 upon Completion of the Advanced Subsite, which rate shall be increased by five percent (5%) per year, for each year of the Agreement Term, and any and all renewal terms; provided, however, that the Advanced Subsite is completed before the second year of this Agreement. If the Advanced Subsite is completed after the second year of this Agreement, then Contractor shall invoice Client the pro-rated rate for the applicable year. Contractor shall invoice Client annually every year thereafter, including any renewal term. All invoices are due and payable by Client within 30 days. If the Advanced Subsite exceeds 10 GB of storage, then it shall be subject to an additional monthly fee of \$50 per 5GB increment.



Addendum C-__

extra work

Sample Only.

This Addendum is made and entered into by Vision Technology Solutions, LLC ("Contractor") and CLIENT, STATE ("Client") as of the date of full execution.

Contractor and Client hereby mutually acknowledge and agree that:

1. On DATE, Contractor and Client entered into the Master Services Agreement ("Agreement"), incorporated herein by reference.
2. The Agreement, including all other terms and conditions therein, shall continue in effect.
3. In the event of any conflict or inconsistency between the provisions of this Addendum and the Agreement, the provisions of this Addendum shall control only to the extent of the services provided in this Addendum, and not any other subject matter covered by the Agreement.

Included Services

Extra Work Fees

Client agrees to pay Contractor as follows:

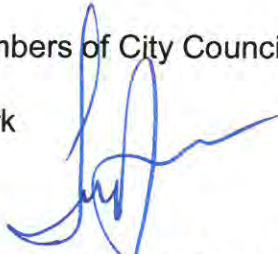
1. Price. Contractor agrees to perform work set forth in this Addendum for [\$a.bcd].
2. Payment. Contractor will submit itemized invoices to Client for the payments required by this Addendum, and all invoices will be due and payable by Client within 30 days:
 - (a) An initial payment equal to 50% of the total cost; and
 - (b) A payment equal to 50% of the total cost 21 days after completion of the services in this Addendum.

OR

Payment. Contractor will submit an itemized invoice to Client for the payment required by this Addendum, and the invoice will be due and payable by Client within 30 days.



MEMO TO: Honorable Mayor and Members of City Council
FROM: Terese M. Jones, City Clerk
DATE: December 17, 2015
SUBJECT: One (1) Appointment – Library Advisory Board

A handwritten signature in blue ink, likely belonging to Terese M. Jones, is written over the "FROM:" and "DATE:" lines.

The position has been announced at several regular Council meetings and applications solicited for same.

The following application has been received:

Judy L. Thornberry
1859 Plantation Circle, SE 32909

The matter is presented to Council for the appointment of one (1) member to the Library Advisory Board.

If you should have any questions, please advise.

/jcd

Attachment



Office of The

DEC - 3 2015

City Clerk

**APPLICATION FOR MEMBERSHIP
CITY BOARDS OR COMMITTEES**

Board/Committee: Library Advisory Board

1. Full name: Judy L Thornberry

a) Home Address: 1859 Plantation Circle S.E.

City: Palm Bay Zip Code: 32909

Telephone No. 321-956-6586 Fax No.: _____

E-mail: judythornberry@gmail.com

b) Employer: _____ Occupation: _____

Address: _____

City: _____ Zip Code: _____

Telephone No. _____ Fax No: _____

E-mail: _____

Job responsibilities: _____

If retired, what was your occupation prior to retirement? _____

List job responsibilities in the space above.

2. Education: Beaufort High Beaufort S.C.

University of South Carolina B.A.

3. Have you ever held a business license or certificate? Yes _____ No _____

If yes, please provide the following:

Title	Issue Date	Issuing Authority	Disciplinary Action/Dates
-------	------------	-------------------	---------------------------

4. Are you a resident of the City? Yes _____ No _____

If yes, how long? 27

5. How long have you been a resident of Brevard County? 27

6. Are you a United States citizen? Yes ☒ No _____

7. Are you a registered voter of the City?

Yes ☒ No ☐

8. Are you employed by the City?

Yes ☐ No ☒

9. Do you presently serve on a City board(s)?

Yes ☐ No ☒

If yes, please list board(s): _____

10. Have you previously served on a City board(s)?

Yes ☐ No ☒

If yes, please list board(s): _____

11. Are you currently serving on a board, authority, or commission for another governmental agency?

Yes ☐ No ☒

If yes, what board, etc. _____

12. 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 ☐

13. Are you a member or participant of any community organizations? (Please list) _____

Former Member of the Board of Directors of Friends of
the Library Palm Bay
UBPN Board of Directors UBPN.ORG

14. What are your hobbies/interests? Reading, Metal Detecting

15. Why do you want to serve on this board/committee?

I have previously served of the Friends of the Library
Board and took a break and would like to serve
my community again.

16. 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 _____
Asian-American _____
Hispanic-American _____
Native-American _____
Caucasian ✓ _____
Not Known _____

Gender: Male _____
Female ✓ _____

Physically Disabled: Yes ✓ No _____

APPLICANT 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.
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)
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 the City Council or its designated representative to verify any and/or all information provided.

Signature: _____

Date: _____

Judy Thornberry
12/3/15

Please return via email: judy.denis@pbfl.org

Fax: (321) 953-8971

or mail to: City of Palm Bay
Office of the City Clerk
120 Malabar Road, SE
Palm Bay, FL 32907



COMMITTEE AND COUNCIL REPORTS

- **The Greater Palm Bay Chamber of Commerce**

Committee Reports

- **Space Coast Transportation Planning Organization**
- **Space Coast League of Cities**
- **Tourist Development Council**
- **Palm Bay Hospital Board**

Council Reports

RESOLUTION NO. 2015-58

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, SUPPORTING HOUSE BILL 613 AND SENATE BILL 544 RELATING TO THE EXEMPTION FROM THE SALES AND USE TAX FOR CERTAIN MACHINERY AND EQUIPMENT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, manufacturing accounts for more than 19,000 employers and over 300,000 jobs in Florida, and

WHEREAS, manufacturing involves high tech and high wage jobs which provide great careers with opportunities for personal growth and wages that support Florida's families, and

WHEREAS, the industrial equipment and machinery sales tax exemption first went into effect on April 30, 2014, and is set to expire in 2017, and

WHEREAS, House Bill 613 and Senate Bill 544 proposes to amend Section 212.08, Florida Statutes, by repealing the exemption for certain mixer drums, and parts and labor; and deletes the expiration date for exemption on the purchase of industrial equipment and machinery used by manufacturers, and

WHEREAS, this legislation will send a positive message to manufacturers who are looking to expand their already established businesses or are looking to relocate to Florida.

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 supports House Bill 613 and Senate Bill 544 to ensure the growth of manufacturing opportunities in Florida.

SECTION 2. A certified copy of this Resolution shall be provided to Governor Rick Scott, House Speaker Steve Crisafulli, and Senate President Andy Gardiner.

SECTION 3. This resolution shall take effect immediately upon the enactment date.

This resolution was duly enacted at Meeting No. 2015- , of the City Council of the City of Palm Bay, Brevard County, Florida, held on , 2015.


ATTEST:

William Capote, MAYOR

Terese M. Jones, CITY CLERK



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese M. Jones, City Clerk 

DATE: December 17, 2015

SUBJECT: Resolution No. 2015-59, Legislative Proposal Regulating Municipal Elections

Earlier this month, the House State Affairs Committee passed a conceptual proposal (PCB SAC 16-04) in order to regulate municipal elections. The attached resolution explains the effects that this proposal, currently not in bill form, would have on municipalities, such as the length of terms for elected officials, date of the elections, increased cost to the municipalities, and deterioration of citizens' home rule powers.

A resolution was adopted by the Space Coast League of Cities providing its comments with regard to the proposal. Brevard County municipalities are following suit by adopting their own resolutions.

The matter is presented to the City Council for consideration at tonight's meeting. If you should have any questions, please advise.

/tmj
Attachment

RESOLUTION NO. 2015-59

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, COMMENTING ON A CONCEPTUAL PROPOSAL RECENTLY PASSED BY THE HOUSE STATE AFFAIRS COMMITTEE TO REGULATE MUNICIPAL REGULATIONS; DETERMINING THAT THE CONCEPTUAL CHANGES WOULD CAUSE A DETERIORATION OF CITIZENS' HOME RULE POWERS; REQUIRING MUNICIPAL ELECTIONS TO BE HELD ONCE EVERY TWO YEARS FOR MUNICIPALITIES WITH TWO-YEAR TERMS OF OFFICE WOULD EVISCERATE THE ABILITY OF THE MUNICIPALITY TO HAVE STAGGERED TERMS; REQUIRING MUNICIPAL GENERAL ELECTIONS WILL INCREASE COSTS TO MUNICIPAL TAXPAYERS; OPPOSING PARTISAN MUNICIPAL ELECTIONS; PROVIDING COMMENT WITH REGARD TO REFERENDA, BALLOT TIMING, AND THE USE OF MAIL BALLOT ELECTIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida League of Cities has received a conceptual legislative proposal prepared by Representative Matt Caldwell, Chair of House State Affairs Committee, relating to municipal elections, and

WHEREAS, the proposal, currently not in bill form, is likely to be considered during the upcoming 2016 Legislative Session, and

WHEREAS, this proposal seeks to standardize various local government election dates in Florida and will have a direct impact on municipal and local governmental referenda elections, and

WHEREAS, the conceptual plan calls for moving all municipal elections for local office to general elections (November) on odd-numbered years, and

WHEREAS, the conceptual plan calls for moving all municipal elections for ballot measures to general elections (November) on even-numbered or odd-numbered years, and

WHEREAS, the City of Palm Bay offers comments with regard to the conceptual proposal.

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

SECTION 1. The City of Palm Bay commends Representative Caldwell for giving the City an opportunity to comment on conceptual changes to statutes regulating municipal elections.

SECTION 2. The City of Palm Bay would welcome the opportunity to discuss specific changes with Representative Caldwell and the House State Affairs Committee. In the interim, the City of Palm Bay offers the comments in this resolution.

SECTION 3. The City of Palm Bay notes that the regulation would detract from the flexibility of home rule. Currently, each municipality may set the length of terms, date of elections, and whether elections should be partisan or non-partisan. In many cases, this is set forth in municipal charters. Citizens have the ultimate control over municipal charters through the ballot box, because: 1) charter provisions must be approved by municipal electors; and 2) citizens have the right by petition to propose any amendment to a municipal charter that they desire, so long as it is not inconsistent with Florida law or provisions of a county charter (see Section 166.031, Florida Statutes). Thus, more regulation means less freedom for municipal voters to determine how elections and terms of office will occur. Ultimately, this detracts from the sacred concept of home rule.

SECTION 4. The City of Palm Bay is concerned with negative impacts that will be caused by several of the concepts set forth in the legislation. In an effort to encourage voter participation in municipal elections and to lessen the cost to the taxpayers for holding an election, many municipalities have decided that municipal elections should be held at the time of Presidential or Gubernatorial elections. Moving municipal elections for governing body office to odd-numbered years will cause fewer voters to participate in municipal elections. Proof of this can be observed by looking at any municipality holding elections in November with 3-year terms. One may then compare the number of voters participating in elections in odd-numbered years versus the number of voters participating in elections in even-numbered years. Turnout drops drastically in the in odd-numbered years. For example, the City of Palm Bay cites the Town of Indialantic Town Council elections. The Town of Indialantic, a small municipality with approximately 3,000 residents +/-, has two-year terms for council members with staggered terms. Thus, Council election may occur every year in November. Turnout in 2007 was 20% of the electorate, in 2008 76% of the electorate, in 2009 22% of the electorate, in 2010 65% of the electorate and in 2013 under 14% of the electorate.

SECTION 5. Holding municipal elections in odd-numbered years will likely increase the cost to the taxpayers for holding an election as opposed to holding a municipal election at the time of Presidential or Gubernatorial elections. This increases the burden of cost to municipal taxpayers. Proof of this can be observed by contacting various Supervisors of Elections around the state and comparing the cost of stand-

alone municipal elections versus holding municipal elections at the same time as Presidential or Gubernatorial elections. An example may be observed by examining one Brevard municipality's experience with regard to the amount of money a municipality must pay the Supervisor of Elections for conduct of the municipal election. The Town of Indialantic, a small municipality with approximately 3,000 residents +/-, has two-year terms for council members. The terms are staggered which means that an election is held in November *every* year. A recent odd-numbered year election cost the Town \$4,599. A recent even-numbered year election cost the Town \$446. In medium size and larger municipalities, the cost will be much greater. The reason for the difference in cost is based on the fact that during an odd-numbered year election, there are no other offices on the ballot, and the municipality will be expected to pay the entire cost of the election.

SECTION 6. Other municipalities are opposed to holding elections in November or at the same time as Presidential or Gubernatorial elections. The reason is that holding municipal elections at a separate time will allow the voters to focus on municipal election candidates and avoid the distraction of campaigns for other higher office races, such as Presidential or Gubernatorial elections. While the point made in this Section may seem inconsistent with Sections 4 and 5 of this Resolution, the point is not inconsistent. The point is that in keeping with the concept of home rule, citizens in each municipality should be able to determine for themselves through their charter or municipal code when their municipal candidates should be voted upon.

SECTION 7. Requiring that municipalities hold elections for local governing body office in odd-numbered years will infringe upon citizen home rule for municipalities that desire to have 3-year terms of office.

SECTION 8. Requiring that municipalities hold elections in odd-numbered years will infringe upon citizen home rule for municipalities that desire to have 2-year terms of office. While terms of office could still be two years in duration, with a two-year term an entire municipal governing body would be required to be voted on in one election and at one time. The voters of some municipalities believe that terms of office should be staggered to maintain institutional knowledge on municipal governing bodies. Requiring municipal elections in odd-numbered years for municipalities with 2-year terms of office would destroy the concept of holding staggered elections.

SECTION 9. The City of Palm Bay is concerned that the regulatory proposal will ultimately develop into a requirement that municipal elections be partisan in nature. The City of Palm Bay has found that non-partisan elections work well in Brevard County and elsewhere and opposes a requirement for partisan elections. This is a matter that should be reserved to citizen home rule, the City of Palm bay opposes any proposal that would turn municipal elections in Florida into a Chicago-style partisan municipal government.

SECTION 10. Holding elections only during general elections for charter amendments or other ballot questions will hamper the ability of municipalities to make charter changes or submit ballot questions to municipal voters as needed and will cause longer ballots since proposals must be “saved up” for the once per year general

election. If the election happens to occur in an even-numbered year, the charter amendment will likely be competing for attention against constitutional amendments, county charter amendments, and other ballot questions.

SECTION 11. Requiring that municipal elections for certain ballot issues, such as charter amendments, must be held only during general elections will hamper the ability of municipalities to hold mail-ballot elections and may, in selected cases, hamper local government efficiency. Section 101.6102(2)(b), Florida Statutes, provides that mail-ballot elections may be held for ballot questions, but if the election for municipal ballot questions must be held at the same time as a general election, no mail-ballot election will ever take place. Mail-ballot elections usually result in high voter participation. Again, using the Town of Indialantic as an example, in February 2002, the Town called a special election to ask voters about their feelings with regard to expanding Advanced Life Support (ALS) emergency response within the Town. The election was held by mail ballot, in a one-item election in which 43% of the registered voters cast ballots. This may be compared to 20% of the voters participating in a November 2007, odd-numbered year general election for Council Member or the 2013 general election for Council Member resulting in a turnout of under 20% of the voters participating.

SECTION 12. Requiring that elections be held at the time of a general election in odd- or even- years will cause an inability on the part of local government to address issues in a timely manner.

(a) Some municipal charters require that all revenue bond elections or revenue bond elections over a specific amount must be subject to voter approval. Municipalities may lose the ability to obtain more favorable interest rates or otherwise delay necessary infrastructure improvement projects, If an election must be held coincident with a municipal general election.

(b) Brevard County operates under a special act requiring that increases in municipal millage rates over that will yield an increase of more than 10% of the previous year's ad valorem tax revenues for the local government's operating fund must secure voter approval (see Chapter 74-430, as amended by Chapter 85-381, Laws of Florida). Requiring that ballot elections may only be held only during general elections will make it impossible to comply with this special act. Requiring municipalities to wait for the general municipal election means that a municipality would have to make budgetary predictions well in advance, prior to the tax rolls being assessed or roll backs being released, which is a practical improbability.

(c) Section 101.6102(1)(b), Florida Statutes, specifically authorizes the use of mail-ballot elections for annexation referendum required by Section 171.0413, Florida Statutes. Such ordinances must be voted upon by voters the area to be annexed and *may* be submitted to a referendum of voters in the annexing municipality (see Section 171.0413(2)(e), Florida Statutes). However, requiring that elections be held only during general elections co-extensive with general elections for elected officials will make the use of mail-ballots impossible and will delay municipal annexation referenda.

SECTION 13. A copy of this Resolution shall be provided to Representative Matt Caldwell, Chair of the House State Affairs Committee; each member of the House State Affairs Committee; the Florida League of Cities; and to all Brevard County municipalities.

SECTION 14. This resolution shall take effect immediately upon the enactment date.

This resolution was duly enacted at Meeting No. 2015- , of the City Council of the City of Palm Bay, Brevard County, Florida, held on , 2015.

ATTEST:

William Capote, MAYOR

Terese M. Jones, CITY CLERK

RESOLUTION NO. 2015-60

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AUTHORIZING AND DIRECTING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL CONTRACTS, DEEDS AND OTHER NECESSARY CLOSING DOCUMENTS CONVEYING CITY-OWNED SURPLUS PROPERTIES TO THIRD-PARTY BUYERS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Palm Bay is the owner of real property located in the City of Palm Bay, Brevard County, Florida, and

WHEREAS, the City Council is desirous of conveying certain real property as surplus to third-party buyers, and

WHEREAS, Council authorization is required for the City Manager to execute certain closing documents related to these transactions.

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 authorizes the City Manager or his designee to execute any and all documents related to the conveyance of city-owned surplus properties to third-party buyers.

SECTION 2. This resolution shall take effect immediately upon the enactment date.

This resolution was duly enacted at Meeting No. 2015- , of the City Council of the City of Palm Bay, Brevard County, Florida, held on , 2015.

ATTEST:

William Capote, MAYOR

Terese M. Jones, CITY CLERK



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager

DATE: December 17, 2015

RE: St. Johns Heritage Parkway – Resolution of Necessity

Subject properties located in Sections 1, 2, 3, 10, 11, 12, Township 30 South, Range 37 East.

The City Council, in regular session on May 16, 2013, entered into a Memorandum of Agreement with the Florida Department of Transportation to provide for the construction of the Palm Bay Parkway Southern Interchange on I-95 and authorized staff to begin negotiating the acquisition of the subject properties.

Staff is requesting the Council to adopt the Resolution of Necessity and grant authorization for the City Attorney's Office and staff to proceed with action in accordance with the statutory requirements set forth in Florida Statutes applicable to "quick-take" proceedings for lands required to complete the St. Johns Heritage Parkway should property owners not negotiate closure in a timely manner. Staff has followed all applicable City policies to contact and make an offer to the owners of the parcels listed in the Resolution. In order to avoid construction delays, staff has prepared a Resolution of Necessity for Council adoption and execution by the Mayor.

It is also requested that reasonable legal expert fees be authorized for payment per Florida Statutes, as part of staff's efforts to negotiate settlements.

REQUESTING DEPARTMENT:

Growth Management

FISCAL IMPACT:

Brevard Landvest, LLC & Sebastian Resources 400 Limited – \$764,400.00

Cypress Bay Farms – A Florida Limited Partnership – \$648,000.00

RECOMMENDATION:

Motion to approve and adopt a Resolution of Necessity and authorize the Mayor to execute the Resolution for the properties necessary for the construction of the St. Johns Heritage Parkway and I-95 Interchange. Further, it is requested that the City Attorney's Office and staff be authorized to

proceed with this action in accordance with the statutory requirements set forth in Florida Statutes applicable to “quick-take” proceedings.

Attachments: 1) Resolution of Necessity
 2) Appraisals of Subject Parcels

SB/ab

Stuart Buchanan

From: O'Dea, Frank <Frank.ODea@dot.state.fl.us>
Sent: Tuesday, December 08, 2015 8:38 AM
To: Stuart Buchanan
Cc: Bacomo, Christine; Brennan, Annette; Bizzio, Mario; Adkins, Jack; McDermott, Daniel
Subject: FW: I-95 at St. Johns Heritage Pkwy SE (426904-3)-- Project Milestones

Stuart,

I was concerned to hear yesterday that the efforts by the city of Palm Bay to secure the rights of way necessary for the city to build the connector road to the proposed interchange at I-95 and Palm Bay Parkway have not progressed in the manner we have all been anticipating. As you likely know, we have worked closely with the city of Palm Bay to advance the project this far, but one of the conditions in our agreement requires the connecting road to the interchange be constructed and open in conjunction with the interchange. The failure to have this connector open will jeopardize our ability to build the interchange.

In order for the FDOT to meet our current letting dates for the interchange, we would need the following:

- FDOT must own the right-of-way necessary for the interchange (including floodplain compensation needs) by February 1, 2016.
- The City's letting date for the connector roadway should coincide with the FDOT's letting date for the interchange project, which is currently scheduled for June 15, 2016
- The connector roadway must be fully constructed by the time the interchange project is completed (approximately two years from the letting date)

As you are aware, the RFP for the interchange Design-Build project was advertised on Monday, Nov. 30th, and FDOT is working to ensure successful completion of the project. We look forward to the City's continued cooperation in moving this project forward. Please work with Christine Bacomo, the FDOT's project manager, to verify the city can meet the commitments above.

Frank J. O'Dea, P.E. | Director of Transportation Development
Florida Department of Transportation - District 5
Phone (office) 386-943-5476 | (cell) 386-801-1893

"The brick walls are not there to keep us out. The brick walls are there to give us a chance to show how badly we want something." [Randy Pausch](#)

**Maxwell Appraisal
& Consulting**

Group 2525 Aurora Road, Suite 105, Melbourne, Florida 32935 Phone: 321-253-0026 Cell: 321-698-4641

December 8, 2015

Mr. Paul Paluzzi, CEO
Zons Development
605 S. Tremont Avenue
Tampa, Florida 33606

Re: Appraisals of Emerald City East and West

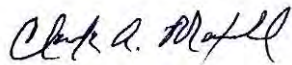
Dear Mr. Paluzzi:

It is my understanding that the actual areas of the proposed Palm Bay Parkway and Interstate 95 Interchange may differ from the areas utilized in the above referenced appraisal reports that I prepared for you.

The parent tract unit values of \$11,000 and \$14,000 per acre (East vs. West) would not change. Therefore, the same unit values would apply to any revision of proposed right-of-way areas.

Please let me know if you have any comments or questions pertaining to this.

Sincerely,



Clark A. Maxwell, MAI
Cert Gen RZ920

RESOLUTION NO. 2015-61

A RESOLUTION OF THE CITY OF PALM BAY, FLORIDA, DECLARING THE PUBLIC PURPOSE OF AND NECESSITY FOR THE EXERCISE OF THE RIGHT AND POWER OF EMINENT DOMAIN TO ACQUIRE CERTAIN REAL PROPERTY LOCATED IN THE CITY OF PALM BAY FOR THE CONSTRUCTION AND MAINTENANCE OF A ROADWAY, AND INSTALLATION OF UTILITY LINES AND ASSOCIATED DRAINAGE FACILITIES WITHIN THE PROPERTY DESCRIBED HEREIN LYING IN SECTIONS 1, 2, 3, 10, 11, AND 12, TOWNSHIP 30 SOUTH, RANGE 37 EAST; ALL LYING IN CITY OF PALM BAY, BREVARD COUNTY, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City of Palm Bay has undertaken responsibility to provide adequate transportation facilities and utility services within its boundaries, and

WHEREAS, the provision of such transportation facilities and utility services is authorized under State law, and

WHEREAS, the City of Palm Bay is authorized to exercise the right and power of eminent domain for certain public purposes, and

WHEREAS, the City's exercise of the right and power of eminent domain to condemn real property for the provision of transportation facilities and utility services within the City is a proper public purpose, and

WHEREAS, to maintain safe, efficient and continuous levels of service to the residents of the City, it is necessary to construct a roadway and install utility lines and drainage facilities along the roadway known as St. Johns Heritage Parkway and I-95 Southern Interchange, and it is necessary to construct, operate and maintain such roadway, utility lines and drainage facilities for the purpose of providing safe and efficient transportation levels and provision of continuous utility services to nearby areas, and

WHEREAS, the City Council of the City of Palm Bay finds that the construction of the roadway, installation of the utility lines and construction of the drainage facilities is necessary and in the best interest of the public health, safety and welfare, and

WHEREAS, there are certain vacant and unimproved parcels located in the area of the proposed project, and

WHEREAS, there are no mobile homes on the property, and

WHEREAS, the parcels have been shown to be necessary and suitable for use as a roadway and for the installation of utility lines and drainage facilities.

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 declares the public purpose of and necessity for acquiring, through condemnation by right of eminent domain, fee simple title in the real property which is, by reference, incorporated herein as Exhibit "A", for the construction and maintenance of the St. Johns Heritage Parkway and I-95 Southern Interchange, and the related utility lines and drainage facilities and all other associated or incidental uses within the properties.

SECTION 2. The interest to be acquired in the real property shall be fee simple absolute. The Office of the City Attorney is directed to acquire or condemn the interest in real property described in Exhibit "A". The Office of the City Attorney is authorized to initiate proceedings against the owners and any other persons required by law to be joined in such proceedings pursuant to Chapters 73 and 74, Florida Statutes, for the exercise of the power of eminent domain to obtain the possession and title of the property

in advance of the final judgment as provided by law and determined necessary by the City Council of the City of Palm Bay for the public purposes set forth herein. The City Attorney is authorized to employ outside counsel to assist in the acquisition as necessary.

SECTION 3. This resolution shall take effect immediately upon the enactment date.

This resolution was duly enacted at Meeting No. 2015- , of the City Council of the City of Palm Bay, Brevard County, Florida, held on , 2015.

ATTEST:

William Capote, MAYOR

Terese M. Jones, CITY CLERK

Sebastian Resources 400 Limited

PARCEL NO. 101

RIGHT OF WAY

THAT PART OF:

"All of Section 2 lying Westerly of said Interstate 95 less the West one-half of the Southwest one-quarter of the Southwest one-quarter, the Northeast one-quarter of Section 3, except the West one-half of the East one-half of the Northwest one-quarter of the Northeast one-quarter, the Northeast one-quarter of the Southeast one-quarter of Section 3, the Northeast one-quarter of Section 10, the North one-half of Section 11 lying Westerly of said Interstate 95, less that portion of a strip of land 200 feet in width constituting the main canal of the San Sebastian Drainage District traversing the North one-half of Section 11 and the Northeast one-quarter of Section 10 that lies within this legal. All lying in Township 30 South, Range 27 East, Brevard County, Florida. Subject to a 50 foot wide Florida Gas Transmission easement lying adjacent to and Westerly of said Interstate 95 through Section 2 and the North one-half of Section 11. Subject to any other easements or Canal and Road Rights of way that an accurate survey of said lands would disclose."

(The above described land being the land described and recorded in Official Records Book 4284, Page 3557, Public Records of Brevard County, Florida.)

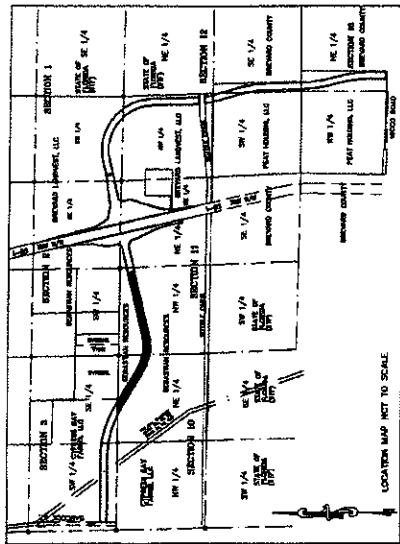
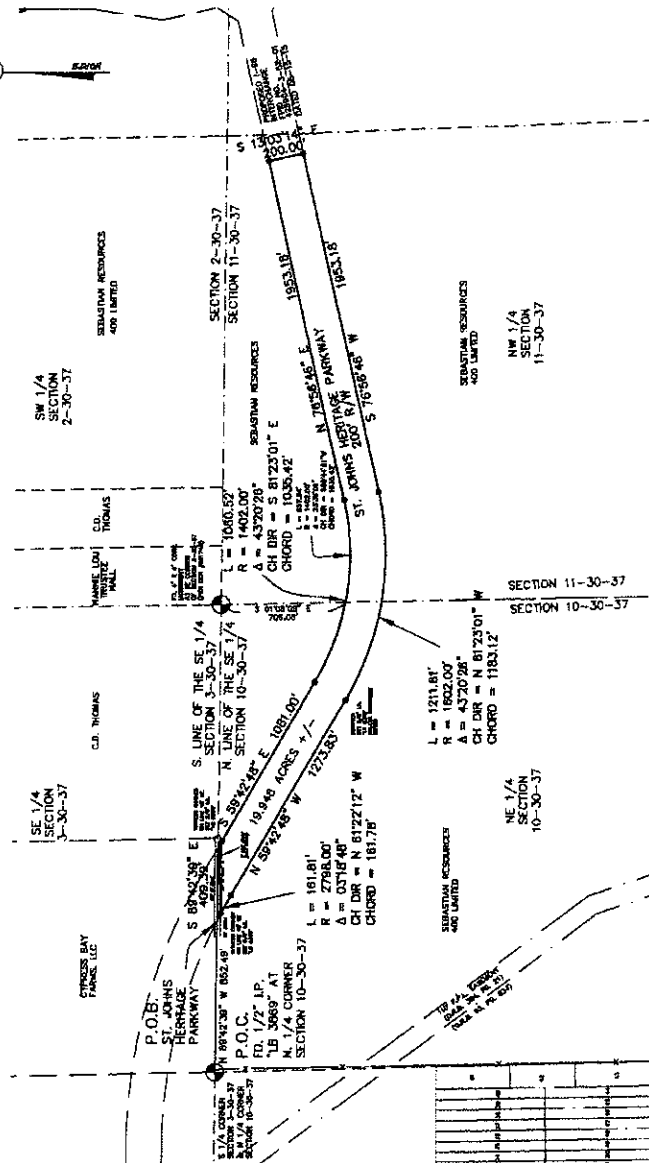
DESCRIBED AS FOLLOWS:

From a 4 inch by 4 inch concrete monument with disc stamped "PLS 3916" at the Southeast corner of the Northeast one-quarter of Section 11, Township 30 South, Range 37 East as shown on the Florida Department of Transportation Right of Way Map for State Road 9 (Interstate 95), Section 70220, F.P. No. 426904 3; thence North 89 degrees 23 minutes 47 seconds West along the South line of said Northeast one-quarter of Section 11 a distance of 1079.13 feet to a point on the existing Westerly Limited Access Right of Way line of State Road 9 (Interstate 95) lying 150.00 feet Westerly of, as measured perpendicular to the centerline of survey of said State Road 9 (Interstate 95) as shown on said Right of Way Map; thence North 13 degrees 03 minutes 35 seconds West along said existing Westerly Limited Access Right of Way line and parallel with said centerline of survey 900.45 feet to the POINT OF BEGINNING; thence departing said existing Westerly Limited Access Right of Way line South 76 degrees 56 minutes 25 seconds West, 75.00 feet; thence North 13 degrees 03 minutes 35 seconds West, parallel with said centerline of survey 684.89 feet; thence North 23 degrees 50 minutes 26 seconds West, 174.39 feet; thence North 27 degrees 21 minutes 19 seconds West, 646.10 feet to a point lying 417.16 feet Westerly of, as measured perpendicular to said centerline of survey; thence North 13 degrees 03 minutes 35 seconds West, parallel with said centerline of survey 103.60 feet; thence North 58 degrees 03 minutes 06 seconds West, 158.98 feet to a point lying 100.00 feet Southerly of, as measured perpendicular to the centerline of survey of St. Johns Heritage Parkway as shown on said Right of Way Map; thence South 76 degrees 56 minutes 46 seconds West, parallel with said centerline of survey 822.85; thence North

13 degrees 03 minutes 14 seconds West, 200.00 feet to a point lying 100.00 feet Northerly of, as measured perpendicular to said centerline of survey of St. Johns Heritage Parkway; thence North 76 degrees 56 minutes 46 seconds East, parallel with said centerline of survey 810.40 feet; thence North 31 degrees 56 minutes 46 seconds East, 141.42 feet to a point lying 441.99 feet Westerly of, as measured perpendicular to the aforesaid centerline of survey of State Road 9 (I-95) as shown on said Right of Way Map; thence North 13 degrees 03 minutes 20 seconds West, parallel with said centerline of survey 313.63 feet; thence North 08 degrees 52 minutes 16 seconds East, 393.34 feet; thence North 00 degrees 58 minutes 01 seconds East, 157.82 feet; thence North 00 degrees 29 minutes 36 seconds West, 196.60 feet; thence North 03 degrees 30 minutes 59 seconds West, 168.84 feet; thence North 09 degrees 03 minutes 35 seconds West, 518.51 feet to the existing Westerly Limited Access Right of Way line of said State Road 9 (I-95), said point lying 150.00 feet Westerly of, as measured perpendicular to the aforesaid centerline of survey of State Road 9 (I-95) as shown on said Right of Way Map; thence South 13 degrees 03 minutes 20 seconds East along said existing Westerly Limited Access Right of Way line and parallel with said centerline of survey 1832.46 feet; thence South 13 degrees 03 minutes 35 seconds East, continuing along said existing Westerly Limited Access Right of Way line and parallel with said centerline of survey 1873.13 feet to the POINT OF BEGINNING.

SECTIONS 10 & 11, TOWNSHIP 30 SOUTH, RANGE 37 EAST

SEBASTIAN RESOURCES 400 LIMITED

[illegible]

2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 104

- [illegible]

1

- [illegible]

HORIZON SURVEYORS
OF CENTRAL FLORIDA, INC.
PENSACOLA DE, MELBOURNE, FL 32909
E-MAIL: HORIZONSURVEYORS@CFL
(321) 294-0133

SCALE	1" = 300'	REVISION TABLE	
DATE	9-28-13	DATE	
FIELD BOOK	212		DESCRIPTION
& PAGE	15		
FIELD DATE			

PREPARED FOR THE EXCLUSIVE USE OF:
OLD REPUBLIC NATIONAL TITLE
INSURANCE COMPANY
CANTWELL & COBBHAM, P.A.
FLORIDA DEPARTMENT OF

I HEREBY CERTIFY THAT THE PROPERTY HEREON WAS SURVEYED UNDER MY DIRECT SUPERVISION AND THAT THIS MAP OF SURVEY IS TRUE, CORRECT, ACCURATE AND CORRECT. I FURTHER CERTIFY THAT THIS SURVEY MEETS OR EXCEEDS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS.

NOTE: THIS SKETCH IS NOT VALID UNLESS IT BEARS A SIGNATURE AND AN EMBOSSED SURVEYOR'S SEAL.

400 UNIT (TEL)
ASIAN RESOURCE
SURVEY FOR:

Brevard Landvest LLC

PARCEL NO. 102

RIGHT OF WAY

THAT PART OF:

"The West one-half of Section 1, the East one-half of Section 2 lying Easterly of said Interstate 95, the North one-half of Section 11 lying Easterly of said Interstate 95, and the Northwest one-quarter of Section 12, less and except that portion of a strip of land 200 feet in width constituting the main canal of the San Sebastian Drainage District lying in Sections 11 and 12; also less and except Borrow Pit No. 5 and haul route from Borrow Pit No. 5 being more particularly described as follows:

BORROW PIT NO. 5: A parcel of land in the Northwest one-quarter of Section 12 and Northeast one-quarter of Section 11, Township 30 South, Range 37 East, more particularly described as follows: Commence on the North boundary of Section 11, Township 30 South, Range 37 East at a point 1394.41 feet West from the Northeast corner thereof; run South 13 degrees 05 minutes 20 seconds East 1550.05 feet; thence South 89 degrees 43 minutes 50 seconds East 628.67 feet to the Point of Beginning; continue South 89 degrees 43 minutes 50 seconds East 800.00 feet; thence North 00 degrees 16 minutes 10 seconds East 800.00 feet; thence North 89 degrees 43 minutes 50 seconds West 800.00 feet; thence South 00 degrees 16 minutes 10 seconds West 800.00 feet to the Point of Beginning,
AND

HAUL ROUTE FROM BORROW PIT NO. 5: That part of the Northeast one-quarter of Section 11, Township 30 South, Range 37 East lying Easterly of the right of way for Interstate Highway No. 95 and Northerly and within 50 feet of a line described as follows: Begin at the Southwest corner of Borrow Pit No. 5 as described above and run North 89 degrees 42 minutes 50 seconds West 628.67 feet to the survey line of Interstate Highway No. 95 and the end of said line as herein described.

All lying and being in Township 30 South, Range 37 East, Brevard County, Florida."

(The above described land being the land described and recorded in Official Records Book 5705, Page 1996, Public Records of Brevard County, Florida.)

DESCRIBED AS FOLLOWS:

PART A:

From a 4 inch by 4 inch concrete monument with disc stamped "PLS 3916" at the Southeast corner of the Northeast one-quarter of Section 11, Township 30 South, Range 37 East as shown on the Florida Department of Transportation Right of Way Map for State Road 9 (Interstate 95), Section 70220, F.P. No. 426904 3; thence North 89 degrees 23 minutes 47 seconds West along the South line of said Northeast one-quarter of Section 11

a distance of 770.39 feet to a point on the existing Easterly Limited Access Right of Way line of State Road 9 (Interstate 95) lying 150.00 feet Easterly of, as measured perpendicular to the centerline of survey of said State Road 9 (Interstate 95) as shown on said Florida Department of Transportation Right of Way Map; thence North 13 degrees 03 minutes 35 seconds West along said existing Easterly Limited Access Right of Way line and parallel with said centerline of survey 500.46 feet to the POINT OF BEGINNING; thence continue North 13 degrees 03 minutes 35 seconds West along said existing Easterly Limited Access Right of Way line and parallel with said centerline of survey 712.49 feet to the South line of the Florida Department of Transportation Haul Route for Borrow Pit No. 5 as described in the order of taking recorded in Civil Records Book 22, Page 426 of the Public Records of Brevard County, Florida as shown on said Florida Department of Transportation Right of Way Map; thence departing said existing Easterly Limited Access Right of Way line South 89 degrees 42 minutes 06 seconds East along the South line of said Haul Route for Borrow Pit No. 5 a distance of 72.40 feet; thence departing the South line of said Haul Route for Borrow Pit No. 5 run South 02 degrees 23 minutes 20 seconds East, 185.13 feet; thence South 09 degrees 02 minutes 03 seconds East, 515.10 feet to the existing Easterly Limited Access Right of Way line of State Road 9 (Interstate 95) and the POINT OF BEGINNING.

PART B:

From a 4 inch by 4 inch concrete monument with disc stamped "PLS 3916" at the Southeast corner of the Northeast one-quarter of Section 11, Township 30 South, Range 37 East as shown on the Florida Department of Transportation Right of Way Map for State Road 9 (Interstate 95), Section 70220, F.P. No. 426904 3; thence North 89 degrees 23 minutes 47 seconds West along the South line of said Northeast one-quarter of Section 11 a distance of 770.39 feet to a point on the existing Easterly Limited Access Right of Way line of State Road 9 (Interstate 95) lying 150.00 feet Easterly of, as measured perpendicular to the centerline of survey of said State Road 9 (Interstate 95) as shown on said Right of Way Map; thence North 13 degrees 03 minutes 35 seconds West along said existing Easterly Limited Access Right of Way line and parallel with said centerline of survey 1264.34 feet to the North line of the Florida Department of Transportation Haul Route for Borrow Pit No. 5 as described in the order of taking recorded in Civil Records Book 22, Page 426 of the Public Records of Brevard County, Florida as shown on said Right of Way Map and the POINT OF BEGINNING; thence continue North 13 degrees 03 minutes 35 seconds West along said existing Easterly Limited Access Right of Way line and parallel with said centerline of survey 1582.16 feet; thence North 13 degrees 03 minutes 20 seconds West, continuing along said existing Easterly Limited Access Right of Way line and parallel with said centerline of survey 2175.22; thence departing said existing Easterly Limited Access Right of Way line North 76 degrees 56 minutes 40 seconds East, 11.84 feet to the beginning of a curve concave Easterly, having a radius of 6406.00 feet; thence from a Tangent Bearing of South 13 degrees 03 minutes 20 seconds East run Southerly along the arc of said curve, through a central angle of 02 degrees 17 minutes 31 seconds an arc distance of 256.26 feet, to the Point of Tangency thereof; thence South 15 degrees 20 minutes 51 seconds East, 1286.48 feet; thence South 36 degrees 19 minutes 13 seconds East, 398.02 feet; thence South 78 degrees 15 minutes 58 seconds

East, 398.01 feet; thence North 80 degrees 45 minutes 39 seconds East, 467.93 feet; thence North 85 degrees 19 minutes 23 seconds East, 307.45 feet to a point lying 100.00 feet Northerly of, as measured perpendicular to the centerline of survey of St. Johns Heritage Parkway as shown on the aforesaid Florida Department of Transportation Right of Way Map; thence North 76 degrees 56 minutes 46 seconds East, parallel with said centerline of survey 164.58; thence South 13 degrees 03 minutes 14 seconds East, 200.00 feet to a point lying 100.00 feet Southerly of, as measured perpendicular to said centerline of survey of St. Johns Heritage Parkway; thence South 76 degrees 56 minutes 46 seconds West, parallel with said centerline of survey 785.74 feet; thence South 31 degrees 57 minutes 06 seconds West, 141.43 feet to a point lying 786.82 feet Easterly of, as measured perpendicular to the centerline of survey of said State Road 9 (Interstate 95) as shown on said Right of Way Map; thence South 13 degrees 03 minutes 35 seconds East, parallel with said centerline of survey 240.15 feet; thence South 13 degrees 33 minutes 28 seconds West, 210.54 feet; thence South 25 degrees 12 minutes 14 seconds West, 130.81 feet; thence South 18 degrees 00 minutes 57 seconds West, 415.68 feet; thence South 11 degrees 14 minutes 49 seconds West, 352.17 feet; thence South 02 degrees 23 minutes 20 seconds East, 120.17 feet to the aforesaid North line of the Florida Department of Transportation Haul Route for Borrow Pit No. 5 as described in the order of taking recorded in Civil Records Book 22, Page 426 of the Public Records of Brevard County, Florida as shown on said Right of Way Map; thence North 89 degrees 42 minutes 06 seconds West along the North line of said Haul Route for Borrow Pit No. 5 a distance of 81.92 feet to the existing Easterly Limited Access Right of Way line of said State Road 9 (Interstate 95) and the POINT OF BEGINNING.

**PARCEL NO. 800
FLOOD PLAIN COMPENSATION
EASEMENT**

**SECTION NO. 70220
FP NO. 426904 3**

THAT PART OF:

"The West one-half of Section 1, the East one-half of Section 2 lying Easterly of said Interstate 95, the North one-half of Section 11 lying Easterly of said Interstate 95, and the Northwest one-quarter of Section 12, less and except that portion of a strip of land 200 feet in width constituting the main canal of the San Sebastian Drainage District lying in Sections 11 and 12; also less and except Borrow Pit No. 5 and haul route from Borrow Pit No. 5 being more particularly described as follows:

BORROW PIT NO. 5: A parcel of land in the Northwest one-quarter of Section 12 and Northeast one-quarter of Section 11, Township 30 South, Range 37 East, more particularly described as follows: Commence on the North boundary of Section 11, Township 30 South, Range 37 East at a point 1394.41 feet West from the Northeast corner thereof; run South 13 degrees 05 minutes 20 seconds East 1550.05 feet; thence South 89 degrees 43 minutes 50 seconds East 628.67 feet to the Point of Beginning; continue South 89 degrees 43 minutes 50 seconds East 800.00 feet; thence North 00 degrees 16 minutes 10 seconds East 800.00 feet; thence North 89 degrees 43 minutes 50 seconds West 800.00 feet; thence South 00 degrees 16 minutes 10 seconds West 800.00 feet to the Point of Beginning,
AND

HAUL ROUTE FROM BORROW PIT NO. 5: That part of the Northeast one-quarter of Section 11, Township 30 South, Range 37 East lying Easterly of the right of way for Interstate Highway No. 95 and Northerly and within 50 feet of a line described as follows: Begin at the Southwest corner of Borrow Pit No. 5 as described above and run North 89 degrees 42 minutes 50 seconds West 628.67 feet to the survey line of Interstate Highway No. 95 and the end of said line as herein described.

All lying and being in Township 30 South, Range 37 East, Brevard County, Florida."

(The above described land being the land described and recorded in Official Records Book 5705, Page 1996, Public Records of Brevard County, Florida.)

DESCRIBED AS FOLLOWS:

From a 4 inch by 4 inch concrete monument with disc stamped "PLS 3916" at the Southeast corner of the Northeast one-quarter of Section 11, Township 30 South, Range 37 East as shown on the Florida Department of Transportation Right of Way Map for State Road 9 (Interstate 95), Section 70220, F.P. No. 426904 3 thence North 89 degrees 23 minutes 47 seconds West along the South line of said Northeast one-quarter of Section 11 a distance of 770.39 feet to a point on the existing Easterly Limited Access Right of Way line of State Road 9 (Interstate 95) lying 150.00 feet

Easterly of, as measured perpendicular to the centerline of survey of said State Road 9 (Interstate 95) as shown on said Right of Way Map; thence North 13 degrees 03 minutes 35 seconds West along said existing Easterly Limited Access Right of Way line and parallel with said centerline of survey 1212.95 feet to the South line of the Florida Department of Transportation Haul Route for Borrow Pit No. 5 as described in the order of taking recorded in Civil Records Book 22, Page 426 of the Public Records of Brevard County, Florida as shown on said Right of Way Map; thence departing said existing Easterly Limited Access Right of Way line South 89 degrees 42 minutes 06 seconds East along the South line of said Haul Route for Borrow Pit No. 5 a distance of 72.40 feet to the Limited Access Right of Way line as shown on said Right of Way Map for the POINT OF BEGINNING; thence along said Limited Access Right of Way line the following courses and distances: South 02 degrees 23 minutes 20 seconds East, 185.13 feet; thence South 09 degrees 02 minutes 03 seconds East, 175.39 feet; thence departing said Limited Access Right of Way line South 89 degrees 42 minutes 06 seconds East and parallel with the aforesaid South line of the Haul Route for Borrow Pit No. 5 a distance of 584.80 feet; thence North 00 degrees 17 minutes 54 seconds East, 358.00 feet to the South line of Borrow Pit No. 5 as described in said order of taking recorded in Civil Records Book 22, Page 426 of the Public Records of Brevard County, Florida as shown on said Right of Way Map; thence North 89 degrees 42 minutes 06 seconds West along the North line of said Borrow Pit No. 5 and Haul Route 621.92 feet to the POINT OF BEGINNING.

The lands described herein contain 5.002 acres, more or less.

This legal description prepared under the direction of:

Scott V. Miller, P.L.S. No. 4370
Florida Department of Transportation
719 South Woodland Boulevard
DeLand, Florida 32720
Date: August 21, 2015

MAP OF BOUNDARY SURVEY

[illegible][illegible]

<div>HORIZON SURVEYORS</div> <div>18 N 880 390 PIONEER AVENUE, SUITE 200 POMONA, CALIFORNIA 91768 E-MAIL: HORIZON@HORIZONSURVEY.COM TEL: 909-864-4848 • FAX: 909-864-4849 www.horizonsurvey.com</div>		<div>SCALE: 1" = 300'</div> <div>FIELD BOOK: 210 PAGE: 14 FIELD DATE: 05-05-15</div>	<div>REVISION TABLE</div> <table><thead><tr><th>DATE</th><th>DESCRIPTION</th></tr></thead><tbody><tr><td>11-12-15</td><td>BOUNDARY UPDATE</td></tr></tbody></table>	DATE	DESCRIPTION	11-12-15	BOUNDARY UPDATE	<div>PREPARED FOR THE EXCLUSIVE USE OF:</div> <div>CDD REALTAC COMPANY 10000 W. 10TH AVE. SUITE 100 FLORIDA DEPARTMENT OF AGRICULTURE CITY OF PANAMA CITY PANAMA CITY, FLORIDA 32401</div>	<div>WE CERTIFY THAT THE FOREGOING SURVEY WAS SURVEYED UNDER MY DIRECT SUPERVISION AND THAT THE SURVEY IS ACCURATE AND CORRECT. I FURTHER CERTIFY THAT THE SURVEY COMES WITHIN THE STANDARD TECHNICAL STANDARDS SET FORTH IN THE FLORIDA SURVEYING STATUTES, CHAPTER 161, PART 1, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 174.067, FLORIDA STATUTES.</div>	<div>NOTE: THIS SECTION IS NOT VALID UNLESS IT BEARS THE SIGNATURE AND SEAL OF A LICENSED SURVEYOR.</div>	<div>SURVEY FOR: HORIZON SURVEYORS, LLC DRAWING NUMBER: 5912-021</div>
DATE	DESCRIPTION										
11-12-15	BOUNDARY UPDATE										
				<div>_____ ROBERT E. DORRIS, S. PROFESSIONAL LAND SURVEYOR #2892</div>							

Cypress Bay Farms LLC

SECTIONS 3 & 10, TOWNSHIP 30 SOUTH , RANGE 37 EAST

SKETCH OF DESCRIPTION

"THIS IS NOT A BOUNDARY SURVEY"

EXHIBIT "A"

PAGE 1 OF 2

DATE: 8-13-15

JOB #: 5866

FOR: CYPRESS BAY

SCALE: 1"=600'

DESCRIPTION.

A PARCEL OF LAND LYING IN SECTION 3, TOWNSHIP 30 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 3 RUN S01°07'32"E ALONG THE EAST LINE OF THE WEST ONE HALF OF SAID SECTION 3 A DISTANCE OF 1246.45 FEET TO THE SOUTHEAST CORNER OF PARCEL D AS DESCRIBED IN OFFICIAL RECORDS BOOK 2624, PAGE 812 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE S89°55'05"W ALONG THE SOUTH LINE OF PARCEL D AND PARCEL C AS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 2624, PAGE 812 A DISTANCE OF 1652.28 FEET TO THE NORTHEAST CORNER OF THE PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 2226, PAGE 1842 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA ; THENCE S01°07'32"E ALONG THE EAST LINE OF SAID PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 2226, PAGE 1842 A DISTANCE OF 287.36 FEET TO A POINT ON THE SOUTH LINE OF THE SAID PARCEL; THENCE S89°55'05"W ALONG THE SOUTH LINE OF THE SAID PARCEL A DISTANCE OF 817.63 FEET TO THE EAST RIGHT OF WAY LINE OF BABCOCK STREET (A 100 FOOT WIDE RIGHT OF WAY); THENCE S07°52'48"E ALONG SAID EAST RIGHT OF WAY LINE A DISTANCE OF 835.20 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY A DISTANCE OF 808.40 FEET ALONG SAID EAST RIGHT OF WAY LINE AND AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5364.29 FEET, A CENTRAL ANGLE OF 08°38'04", AND A CHORD WHICH BEARS S03°33'46"E A DISTANCE OF 807.63 FEET TO A POINT OF TANGENCY; THENCE S00°45'16"W CONTINUING ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 1986.85 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 3; THENCE S89°42'39"E ALONG SAID SOUTH LINE A DISTANCE OF 3718.71 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 3; THENCE N01°04'42"W ALONG THE EAST LINE OF THE WEST ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 3, A DISTANCE OF 1957.12 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 3; THENCE N89°27'30"W ALONG THE NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 3, A DISTANCE OF 1317.65 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 3; THENCE N01°07'32"W ALONG THE EAST LINE OF THE WEST ONE-HALF OF SAID SECTION 3, A DISTANCE OF 1960.81 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH LOTS 12 THROUGH 22, 65 THROUGH 72, AND THE SOUTH 25 FEET OF LOTS 3, AND 73 THROUGH 80 OF PLOT OF CAPE KENNEDY GROVES, AS DESCRIBED IN PLAT BOOK 21, PAGE 77 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA;

ALSO TOGETHER WITH LOTS 2, 5 THROUGH 18, 70, 73, AND 74, ALL UNIT 1 OF PLOT PLANS OF SUNSHINE GROVE, AS DESCRIBED IN PLAT BOOK 21, PAGE 78 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

CONTAINING 300.315 ACRES, MORE OR LESS.

FOR SKETCH OF DESCRIPTION, SEE PAGE 2.

HORIZON SURVEYORS

OF CENTRAL FLORIDA, INC.

LR 6360

390 POINCIANA DR., MELBOURNE, FL 32935

E-MAIL: HORIZONSURVEYORS@CFL.RR.COM

PHONE: (321) 254-8133

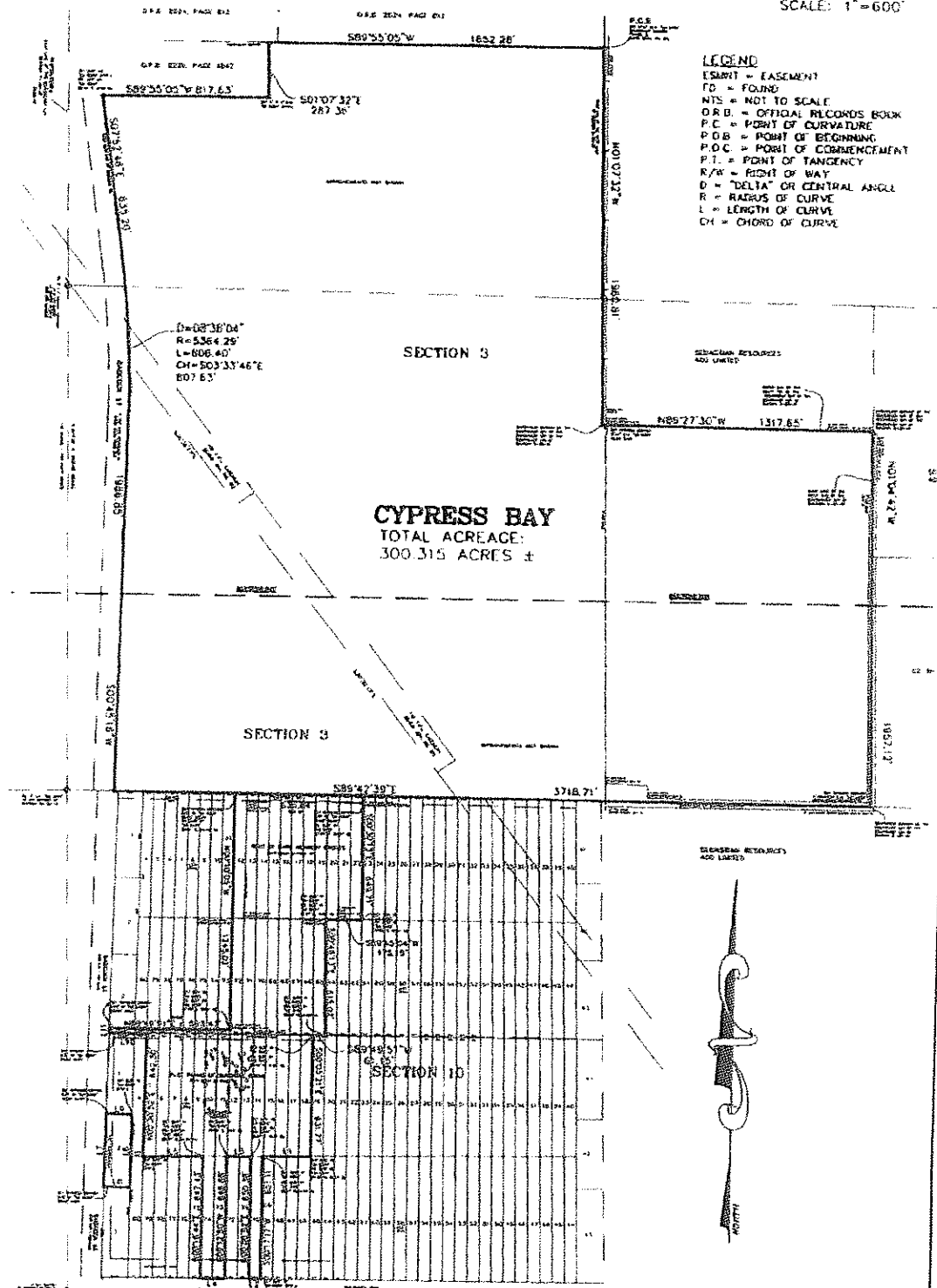
ROBERT R. DOERRER, JR.
PROFESSIONAL LAND SURVEYOR #3982

NOTE: THIS SKETCH IS NOT
VALID UNLESS IT BEARS
A SIGNATURE AND AN
EMBOSSED SURVEYOR'S
SEAL

PAGE 2 OF 2

EXHIBIT A

DATE: 8-13-15
JOB #: 5868
FOR: CYPRESS BAY
SCALE: 1"=600'



HORIZON SURVEYORS

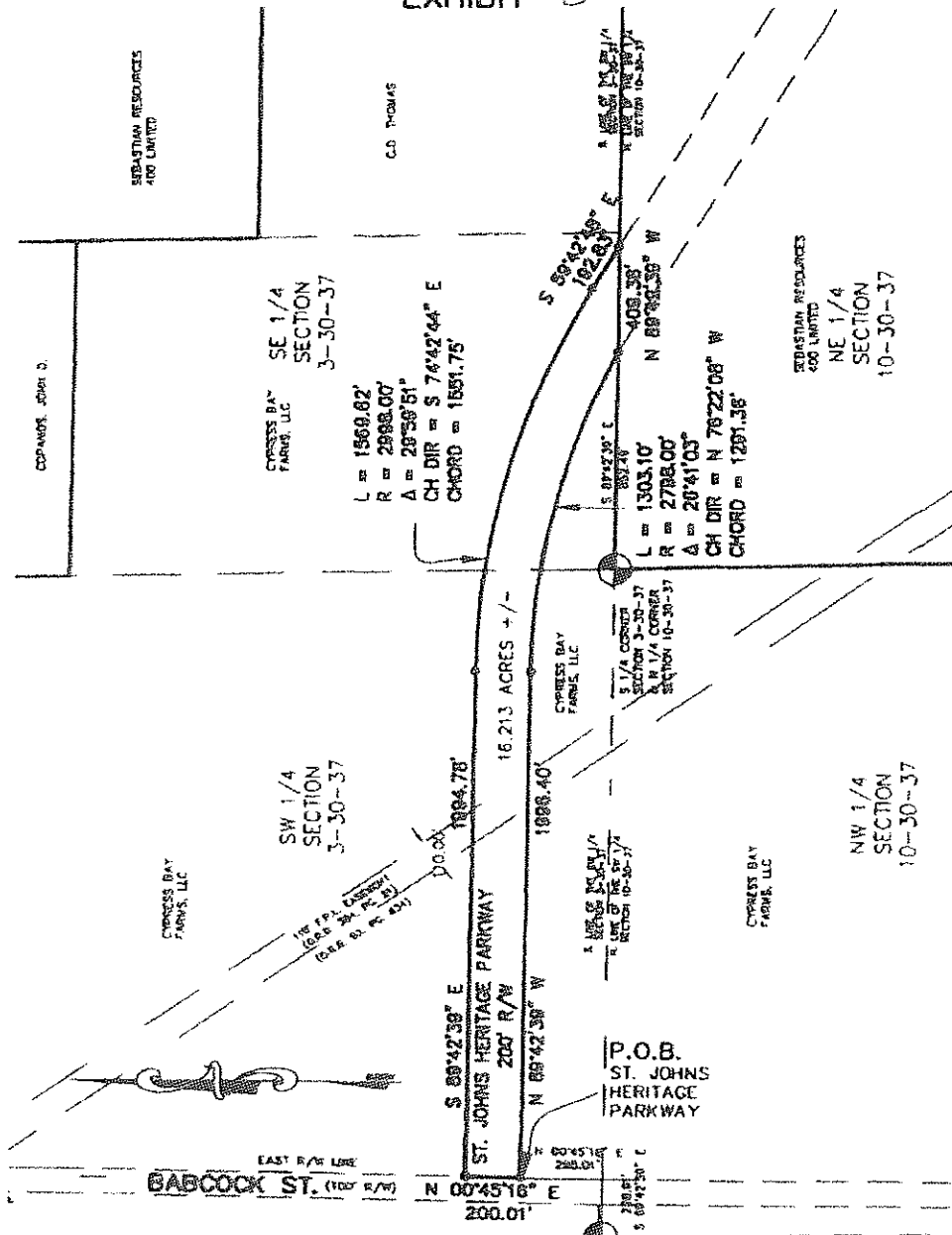
OF CENTRAL FLORIDA, INC. 18 0360
390 PONCIANA DR., MELBOURNE, FL 32935
E-MAIL: HORIZONSURVEYORS@CFLRR.COM
PHONE: (321) 254-8133

SECTIONS 3, TOWNSHIP 30 SOUTH, RANGE 37 EAST

SKETCH OF DESCRIPTION
"THIS IS NOT A BOUNDARY SURVEY"

PAGE 2 OF 2
DATE: 02-16-15
JOB #: 6284
SCALE: 1" = 500'
FOR: CYPRESS BAY FARMS, LLC

EXHIBIT "B"



HORIZON SURVEYORS

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

P.O.C.
1" I.P.
"LB 3869" AT
SW CORNER
SECTION 3-30-37

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

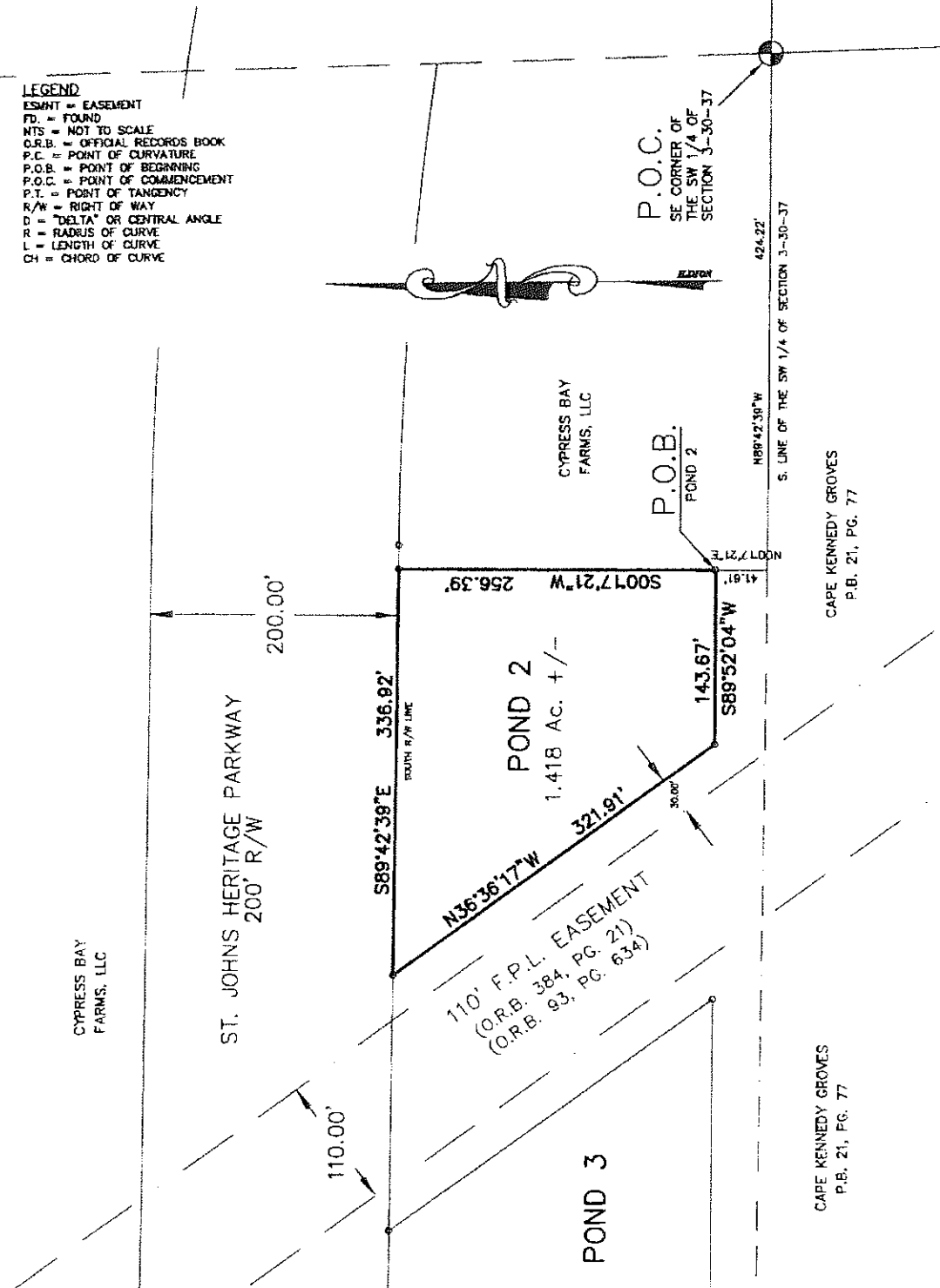
SECTION 3, TOWNSHIP 30 SOUTH, RANGE 37 EAST

SKETCH OF DESCRIPTION
"THIS IS NOT A BOUNDARY SURVEY"

EXHIBIT "B" STORMWATER POND 2

PAGE 2 OF 2
DATE: 12-10-15
JOB #: 5868
FOR: CYPRESS BAY FARMS, LLC
SCALE: 1"=100'

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



HORIZON SURVEYORS

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

SECTION 3, TOWNSHIP 30 SOUTH, RANGE 37 EAST

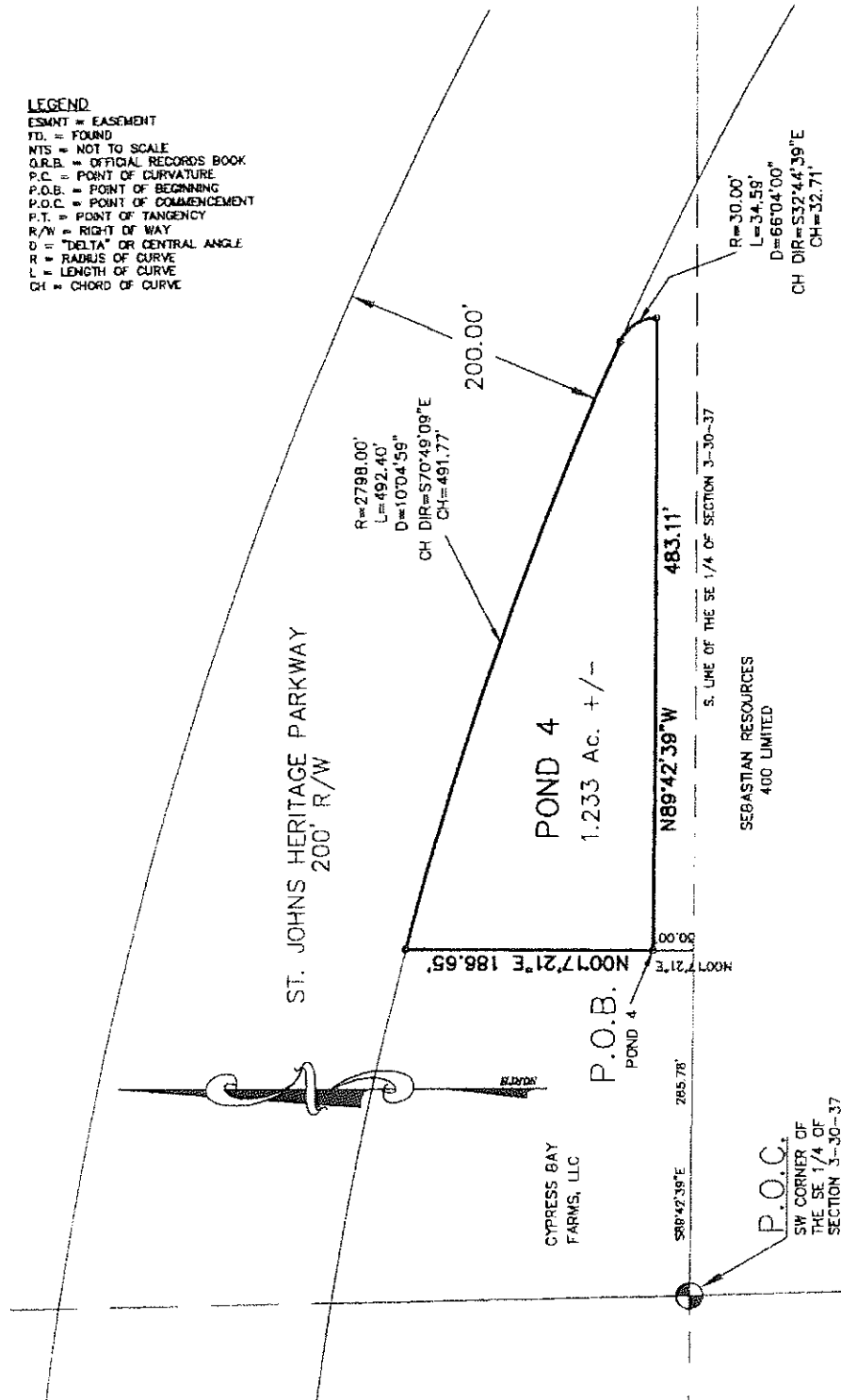
SKETCH OF DESCRIPTION
"THIS IS NOT A BOUNDARY SURVEY"

EXHIBIT "B" STORMWATER POND 4

PAGE 2 OF 2
DATE: 12-10-15
JOB #: 5868
FOR: CYPRESS BAY FARMS, LLC
SCALE: 1"=100'

LEGEND

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



HORIZON SURVEYORS

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

SECTION 3, TOWNSHIP 30 SOUTH, RANGE 37 EAST

SKETCH OF DESCRIPTION
THIS IS NOT A BOUNDARY SURVEY

PAGE 1 OF 2
DATE: 02-16-15
JOB #: 6284
FOR: CYPRESS BAY FARMS, LLC

EXHIBIT "C"

DESCRIPTION: ST. JOHNS HERITAGE PARKWAY (A 200 FOOT WIDE RIGHT OF WAY), WEST OF I-95 (CYPRESS BAY FARMS, LLC)

A PARCEL OF LAND LYING IN SECTION 3, TOWNSHIP 30 SOUTH, RANGE 37 EAST, BREVARD COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER SAID SECTION 3; THENCE RUN S89°42'39"E ALONG THE SOUTH LINE OF SAID SECTION 3 A DISTANCE OF 228.91 FEET TO THE EAST RIGHT OF WAY OF BACKCOCK ST (A 100' RIGHT OF WAY); THENCE RUN N00°45'16"E ALONG SAID RIGHT OF WAY A DISTANCE OF 298.01 FEET TO THE POINT OF BEGINING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE N00°45'16"E ALONG SAID RIGHT OF WAY A DISTANCE OF 200.01 FEET; THENCE RUN S89°42'39"E A DISTANCE OF 1994.78 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT; THENCE RUN SOUTHEASTERLY A DISTANCE OF 1569.62 FEET ALONG SAID CURVE HAVING A RADIUS OF 2998.00 FEET, A CENTRAL ANGLE OF 29°59'51", AND A CHORD WHICH BEARS S74°42'44"E A DISTANCE OF 1551.75 TO A POINT OF TANGENCY; THENCE RUN S59°42'48"E A DISTANCE OF 192.83 FEET TO THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 3; THENCE RUN N89°42'39"W ALONG SAID SOUTH LINE A DISTANCE OF 409.38 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT, SAID POINT BEARING S89°42'39"E A DISTANCE OF 852.49 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 3; THENCE RUN NORTHWESTERLY A DISTANCE OF 1303.10 FEET ALONG SAID CURVE HAVING A RADIUS OF 2798.00 FEET, A CENTRAL ANGLE OF 26°41'03", AND A CHORD WHICH BEARS N76°22'08"W A DISTANCE OF 1291.36 FEET TO A POINT OF TANGENCY; THENCE RUN N89°42'39"W A DISTANCE OF 1996.40 FEET TO THE POINT OF BEGINING; CONTAINING 16.213 ACRES, MORE OR LESS.

SEE PAGE 2 OF 2 FOR SKETCH OF DESCRIPTION.

HORIZON SURVEYORS

OF CENTRAL FLORIDA, INC. LB 8360
390 POINCIANA DR., MELBOURNE, FL 32935
E-MAIL: HORIZONSURVEYORS@CFLRR.COM
PHONE: (321) 254-8133

ROBERT R. DOERRER, JR.
PROFESSIONAL LAND SURVEYOR #3982

NOTE: THIS SKETCH IS NOT
VALID UNLESS IT BEARS A
SIGNATURE AND AN EMBOSSED
SURVEYOR'S SEAL

SECTION 3, TOWNSHIP 30 SOUTH, RANGE 37 EAST

SKETCH OF DESCRIPTION
"THIS IS NOT A BOUNDARY SURVEY"

PAGE 1 OF 2
DATE: 12-10-15
JOB #: 5868
FOR: CYPRESS BAY FARMS, LLC

EXHIBIT "C"
STORMWATER POND 2

LEGAL DESCRIPTION: STORMWATER POND 2

A PARCEL OF LAND LYING IN THE SOUTHWEST QUARTER OF SECTION 3,
TOWNSHIP 30 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, BEING
MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF
SAID SECTION 3; THENCE RUN N89°42'39"W ALONG THE SOUTH LINE OF
THE SOUTHWEST QUARTER OF SAID SECTION 3 A DISTANCE OF 424.22
FEET; THENCE RUN N00°17'21"E A DISTANCE OF 41.61 FEET TO THE POINT
OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE RUN
S89°52'04"W A DISTANCE OF 143.67 FEET; THENCE RUN N36°36'17"W A
DISTANCE OF 321.91 FEET TO THE SOUTH RIGHT OF WAY LINE OF THE
PROPOSED ST. JOHNS HERITAGE PARKWAY (A 200 FOOT WIDE RIGHT OF
WAY); THENCE RUN S89°42'39"E ALONG THE SOUTH RIGHT OF WAY LINE OF
SAID PROPOSED ST. JOHNS HERITAGE PARKWAY A DISTANCE OF 336.92
FEET; THENCE RUN S00°17'21"W A DISTANCE OF 256.39 FEET TO THE POINT
OF BEGINNING, CONTAINING 1.418 ACRES MORE OR LESS.

NOTE: THIS SKETCH IS NOT
VALID UNLESS IT BEARS
A SIGNATURE AND AN
EMBOSSSED SURVEYOR'S
SEAL.

HORIZON SURVEYORS

OF CENTRAL FLORIDA, INC. LB 6380
390 PONCIANA DR., MELBOURNE, FL 32935
E-MAIL: HORIZONSURVEYORS@CFL.RR.COM
PHONE: (321) 254-8133

ROBERT R. DOERRER, JR.
PROFESSIONAL LAND SURVEYOR #3982

SKETCH OF DESCRIPTION
"THIS IS NOT A BOUNDARY SURVEY"

EXHIBIT "C"
STORMWATER POND 3

ROBERT R. DOERRER, JR.
PROFESSIONAL LAND SURVEYOR #3982

SECTION 3, TOWNSHIP 30 SOUTH, RANGE 37 EAST

SKETCH OF DESCRIPTION
"THIS IS NOT A BOUNDARY SURVEY"

PAGE 1 OF 2
DATE: 12-10-15
JOB #: 5868
FOR: CYPRESS BAY FARMS, LLC

EXHIBIT "C"
STORMWATER POND 4

LEGAL DESCRIPTION: STORM POND 4

A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 3,
TOWNSHIP 30 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, BEING
MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF
SAID SECTION 3; THENCE RUN S89°42'39"E ALONG THE SOUTH LINE OF THE
SOUTHEAST QUARTER OF SAID SECTION 3 A DISTANCE OF 265.78 FEET;
THENCE RUN N00°17'21"E A DISTANCE OF 30.00 FEET TO THE POINT OF
BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE RUN N00°17'21"E A
DISTANCE OF 186.65 FEET TO THE SOUTH RIGHT OF WAY LINE OF THE
PROPOSED ST. JOHNS HERITAGE PARKWAY (A 200 FOOT WIDE RIGHT OF WAY)
AND POINT OF NON-TANGENCY OF A CURVE TO THE RIGHT, THENCE RUN
SOUTHEASTERLY A DISTANCE OF 492.40 FEET ALONG SAID CURVE HAVING A
RADIUS OF 2798.00 FEET, A CENTRAL ANGLE OF 10°04'59", AND A CHORD
WHICH BEARS S70°49'09"E A DISTANCE OF 491.77 FEET TO A POINT OF
COMPOUND CURVATURE OF A CURVE TO THE RIGHT; THENCE RUN
SOUTHEASTERLY A DISTANCE OF 34.59 FEET ALONG SAID CURVE HAVING A
RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 66°04'00", AND A CHORD
WHICH BEARS S32°44'39"E A DISTANCE OF 32.71 FEET; THENCE RUN
N89°42'39"W A DISTANCE OF 483.11 FEET TO THE POINT OF BEGINNING,
CONTAINING 1.233 ACRES MORE OR LESS.

NOTE: THIS SKETCH IS NOT
VALID UNLESS IT BEARS
A SIGNATURE AND AN
EMBOSSSED SURVEYOR'S
SEAL.

HORIZON SURVEYORS

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

ROBERT R. DOERRER, JR.
PROFESSIONAL LAND SURVEYOR #3982

**PLEASE SEE
CITY WEBSITE
FOR THIS
INFORMATION**



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager

DATE: December 17, 2015

RE: I-95 Southern Interchange/Parkway Project:
Cypress Bay Farms, a Florida limited partnership

A handwritten signature in blue ink, appearing to read "Gregg Lynk".

Please find attached one agreement related to the properties located at the proposed I-95 Southern Interchange and future St. Johns Heritage Parkway alignment. The proposed agreements include the conveyance of rights-of-way (ROW) for both the Interchange and the St. Johns Heritage Parkway from Cypress Bay Farms; the granting of Impact Fee Credits for both the ROW conveyance, storm water pond easement conveyance, and the engineering and design of the St. Johns Heritage Parkway. Impact Fee Credit values will be presented in a Transportation Impact Fee Credit Agreement, to be presented at a subsequent Council meeting.

Acquisition of right-of-way is necessary for the construction of the St. Johns Heritage Parkway west of the properties owned by Brevard Landvest, LLC and Sebastian Resources 400 Limited to connect the new interchange to Babcock Street.

State and federal funding of over \$40 million has been allocated to the construction of a new I-95 Interchange in Palm Bay. The City has assured the Florida Department of Transportation (FDOT) that properties needed for the new interchange and the connecting portions of the St. Johns Heritage Parkway (Parkway) will be acquired and that mitigation and other needs of the project will be met. Construction on the interchange is scheduled to start Summer 2016, and the City is committed to insuring that the portion of the Parkway connecting Babcock Street to I-95 will be constructed concurrently.

The Interchange/Parkway project will serve as a major economic engine for the south part of the City.

REQUESTING DEPARTMENTS:

City Manager's Office, Growth Management

FISCAL IMPACT:

Transportation impact fee credit value has been determined upon the averaging of two appraisal values in the amount of \$988,850.00.

Transportation impact fee credit value for the storm water pond easements has been determined upon the averaging of two appraisal values in the amount of \$197,765.00.

Transportation impact fee credit value for Engineering, Environmental, and Survey has been determined at \$100,547.75.

RECOMMENDATION:

Motion to authorize the Mayor to execute the Cypress Bay Farms, a Florida limited partnership rights-of-way donation Agreement, pending final review and approval by the City Attorney's Office.

Attachment: 1) Right-of-way Contribution Agreement – Cypress Bay Farms, a
Florida limited partnership


SB/ab

**PLEASE SEE
CITY WEBSITE
FOR THIS
INFORMATION**



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: December 17, 2015

RE: I-95 Southern Interchange/Western Connecting Road - Parkway Project:
Cypress Bay Farms LLC (Jefferies)

Please find attached Transportation Impact Fee Application for Credit agreement related to the properties located at the proposed St. Johns Heritage Parkway alignment connecting west to Babcock Street. The proposed agreement is for the granting of Impact Fee Credits for the Rights of Way (ROW) donation and the engineering and design of the St. Johns Heritage Parkway.

Acquisition of right-of-way is necessary for the roadway and storm water needs for the St. Johns Heritage Parkway leading west from the interchange to Babcock Street. Key aspects of this agreement includes providing transportation impact fee credit for the conveyance of the land in the amount of \$988,850.00, storm water pond easements valued at \$197,765.00, engineering design and permitting costs previously expended in the amount of \$100,547.75, and legal expenses related to future development agreement review in the amount of \$50,000.00, as well as the ability of the developer to use those credits within a designated area.

State and federal funding of over \$40 million has been allocated to the construction of a new I-95 interchange in Palm Bay. The City has assured the Florida Department of Transportation (FDOT) that properties needed for the new interchange and the connecting portions of the St. Johns Heritage Parkway (Parkway) will be acquired and that mitigation and other needs of the project will be met. Construction on the interchange is scheduled to start Summer 2016, and the City is committed to insuring that the portion of the Parkway connecting Babcock Street to I-95 will be constructed concurrently. Once the privately owned right-of-way is deeded over to the City for this project, the City will deed the property necessary for the Interchange directly over to FDOT.

The Interchange/Parkway project will serve as a major economic engine for the south part of the City.

REQUESTING DEPARTMENTS:

City Manager's Office, Growth Management

FISCAL IMPACT:

Transportation impact fee credit value of \$1,337,162.75 for the Right-of-Way conveyance and storm water property easements; engineering design costs; and future development agreement legal expenses.

RECOMMENDATION:

Motion to authorize the Mayor to execute the Cypress Bay Farms, LLC Transportation Impact Fee Application for Credit Agreement.

Attachments: 1) Impact Fee Credit Agreement – Cypress Bay Farms, LLC

**PLEASE SEE
CITY WEBSITE
FOR THIS
INFORMATION**



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager

DATE: December 17, 2015

RE: I-95 Southern Interchange/Parkway Project:
Brevard Landvest, LLC & Sebastian Resources 400 Limited (Paluzzi/Copanos)
Amendment to Rights of Way Agreements

On October 6, 2015, the City Council approved two agreements related to the properties located at the proposed I-95 Southern Interchange and future St. Johns Heritage Parkway alignment. The agreements include the conveyance of rights-of-way (ROW) for both the Interchange and the St. Johns Heritage Parkway from two parties; the granting of Impact Fee Credits for both the ROW contribution and the engineering and design of the St. Johns Heritage Parkway; and the pre-payment of Impact Fees to assist the City in the construction of the Parkway.

The Florida Department of Transportation (FDOT) has requested that we amend the reverter language to reflect a five year period for the State to begin construction on the Interchange. This is standard FDOT agreement language, and does not reflect any change to the Interchange project construction schedule. Impact Fee Credit values will be presented in a Transportation Impact Fee Credit Agreement, to be presented at a subsequent Council meeting.

Acquisition of right-of-way is necessary for the roadway and stormwater needs of this project, and the parcels owned by Brevard Landvest, LLC and Sebastian Resources 400 Limited include property needed for the interchange itself, along with east and west portions of the Parkway.

The agreements include a donation of \$250,000.00 from the property owner to offset the City's environmental mitigation costs of the project, and an \$800,000.00 commitment by the property owner to offset the City's costs for construction of the Parkway between Babcock Street and I-95.

State and federal funding of over \$40 million has been allocated to the construction of a new I-95 Interchange in Palm Bay. The City has assured the Florida Department of Transportation (FDOT) that properties needed for the new interchange and the connecting portions of the St. Johns Heritage Parkway (Parkway) will be acquired and that mitigation and other needs of the project will be met. Construction on the interchange is scheduled to start Summer 2016, and the City is committed to insuring that the portion of the Parkway connecting Babcock Street to I-95 will be constructed concurrently. Once the privately owned right-of-way is deeded over to the City for this project, the City will deed the property necessary for the Interchange directly over to FDOT.

The Interchange/Parkway project will serve as a major economic engine for the south part of the City.

REQUESTING DEPARTMENTS:

City Manager's Office, Growth Management

FISCAL IMPACT:

Transportation impact fee credit value to be determined based upon appraisal value. Funding to be received from the property owner includes \$250,000.00 toward environmental mitigation costs and \$800,000.00 for construction of the Parkway.

RECOMMENDATION:

Motion to authorize the Mayor to execute the amendment to the Brevard Landvest, LLC and Sebastian Resources 400 Limited rights-of-way donation Agreements, pending final review and approval by the City Attorney's Office.

Attachments:


- 1) Right-of-way Contribution Agreement & amendment – Sebastian Resources 400 Limited
- 2) Right-of-way Contribution Agreement & amendment – Brevard Landvest, LLC

SB/ab



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager 

DATE: December 17, 2015

RE: **I-95 Southern Interchange/Parkway Project:
Brevard Landvest, LLC & Sebastian Resources 400 Limited (Paluzzi/Copanos)
Transportation Impact Fee Application for Credit**

Please find attached Transportation Impact Fee Application for Credit agreement related to the properties located at the proposed I-95 Southern Interchange and future St. Johns Heritage Parkway alignment. The proposed agreement is for the granting of Impact Fee Credits for the Rights of Way (ROW) donation, environmental mitigation donation, and the engineering and design of the St. Johns Heritage Parkway.

Acquisition of right-of-way is necessary for the roadway and storm water needs for the interchange itself, along with east and west portions of the Parkway. Key aspects of this agreement includes providing transportation impact fee credit for the conveyance of the land in the amount of \$1,200,188.50, and for engineering design and permitting costs previously expended and to finalize the Environmental Resource Permit (ERP) in the amount of \$291,051.00, as well as the ability of the developer to use those credits within a designated area.

The previously approved Right of Way donation agreement also included a donation of \$250,000.00 from the property owner to offset the City's environmental mitigation costs of the project, and an \$800,000.00 commitment by the property owner to offset the City's costs for construction of the Parkway between Babcock Street and I-95.

State and federal funding of over \$40 million has been allocated to the construction of a new I-95 interchange in Palm Bay. The City has assured the Florida Department of Transportation (FDOT) that properties needed for the new interchange and the connecting portions of the St. Johns Heritage Parkway (Parkway) will be acquired and that mitigation and other needs of the project will be met. Construction on the interchange is scheduled to start Summer 2016, and the City is committed to insuring that the portion of the Parkway connecting Babcock Street to I-95 will be constructed concurrently. Once the privately owned right-of-way is deeded over to the City for this project, the City will deed the property necessary for the Interchange directly over to FDOT.

The Interchange/Parkway project will serve as a major economic engine for the south part of the City.

REQUESTING DEPARTMENTS:

City Manager's Office, Growth Management

FISCAL IMPACT:

Transportation impact fee credit value of \$1,741,239.50 for the Right-of-Way and storm water property; environmental mitigation funding; and engineering design costs.

RECOMMENDATION:

Motion to authorize the Mayor to execute the Brevard Landvest, LLC and Sebastian Resources 400 Limited the Transportation Impact Fee Application for Credit Agreement.

Attachment: 1) Impact Fee Credit Agreement – Sebastian Resources 400 Limited & Brevard Landvest, LLC

SB/ab

**TRANSPORTATION IMPACT FEE APPLICATION-FOR-CREDIT
AGREEMENT
KJZ Sunrise LLC**

This Transportation Impact Fee Credit Agreement ("Agreement"), entered into this ___ day of October, 2015, by and between the City of Palm Bay, Florida, a political subdivision of the State of Florida ("City"), Sebastian Resources 400, limited partnership, a Florida limited partnership ("Sebastian"), Brevard Landvest LLC, a Florida limited liability company ("Brevard Landvest"), and KJZ Sunrise LLC, a Delaware limited liability company ("KJZ"). Sebastian, Brevard, and KJZ, their successors and assigns, shall sometimes hereinafter collectively be referred to as "Developer".

RECITALS:

WHEREAS, Section 171.31 of the Code of Ordinances of the City of Palm Bay (the "Code") provides for transportation impact fee credits for qualifying contributions towards off-site roadway improvements and further provides that no credit shall exceed the estimated cost of the eligible improvements, the actual costs of the eligible improvements, or the assessed transportation impact fee for the land development activity awarded the credit, whichever is less; and

WHEREAS, pursuant to Section 171.29 of the Code, Resolution No. 2015-45, as it may be amended, includes a schedule of "Transportation Impact Fees" assessable against the users of property for the public purpose of requiring new development to pay its fair share of the impacts attributable to said development on the transportation network of the City; and

WHEREAS, Sebastian owns approximately 918 acres of real property within the City ("Sebastian Property") which is located north and south of the Sottile Canal and west of Interstate 95; and

WHEREAS, Brevard Landvest owns approximately 723 acres of real property within the City ("Brevard Property") which is located north and south of the Sottile Canal and east of Interstate 95; and

WHEREAS, KJZ is the assignee under contract to purchase the Sebastian Property and Brevard Property (hereinafter the KJZ Contract"); and

WHEREAS, the City and the Developer have entered into that certain Right of Way Contribution Agreement between the City, Sebastian and KJZ dated October __, 2015 ("Sebastian ROW Agreement") and that certain Right of Way Contribution Agreement between the City, Brevard Landvest and KJZ dated October __, 2015 ("Brevard ROW Agreement") (collectively the "ROW Agreements") to provide for the donation of certain right of way and other transportation contributions; and

WHEREAS, pursuant to the Sebastian ROW Agreement, the Developer has agreed to the conveyance of rights of way as described in Exhibit A attached hereto and incorporated herein, to fund engineering design and permitting for certain improvements as described in Exhibit C attached hereto and incorporated herein, and to provide certain monetary contributions for compensatory mitigation; and

WHEREAS, pursuant to the Brevard ROW Agreement, the Developer has agreed to the conveyance of rights of way as described in Exhibit B attached hereto and incorporated herein and to fund engineering design and permitting for certain improvements as described in Exhibit C attached hereto and incorporated herein; and

WHEREAS, the Developer has requested transportation impact fee credits for the donation of the right of way, the funding of the engineering design, and permitting, and the monetary contributions for compensatory mitigation (collectively referred to as the “Transportation Contributions”); and

WHEREAS, the Transportation Contributions are related to the construction of the Interchange and the Connecting Roadways as those terms are defined in the ROW Agreements, which are expected to improve the traffic flow and provide for the mitigation of traffic congestion that is anticipated to result from traffic that is generated by new development in the entire south Palm Bay region in general; and by the development project in particular; and

WHEREAS, the Transportation Contributions are consistent with and serve to implement the goals, objectives, and policies of the City’s Comprehensive Plan and the City has determined that this Agreement meets the requirements of the City’s Transportation Impact Fee provisions in the Code, specifically including Section 171.31 (B)(3)(a); and

NOW, THEREFORE, be it agreed by and between the parties as follows:

1. Recitals. The foregoing recitals are true and correct and are hereby made a part of this Agreement by reference.

2. Transportation Impact Fee Credit.

A. Pursuant to the ROW Agreements, the City and the Developer hereby agree that a credit for the qualified Transportation Contributions is established in the following amounts (“Transportation Impact Fee Credit”):

1. Right of Way Property donation - \$1,200,188.50
2. Engineering, Design, and Permitting - \$291,051.00 per Exhibit C
3. Compensatory Mitigation Donation - \$250,000

B. The Transportation Impact Fee Credit shall be available to pay Transportation Impact Fees assessed on Land Development Activity Generating Traffic, as defined in Section 171.27 of the City of Palm Bay Code of Ordinances, within the City limits south of Latitude 27

55 53.9287, running approximately parallel with Terkam Road. The Transportation Impact Fee Credit shall be available to Sebastian, Brevard Landvest, or KJZ, including their successors and/or assigns, with the determining factor being which party actually made the payment of third-party professional fees per above, as shown on Exhibit C, the party actually conveying the right of way Property to the City pursuant to the ROW Agreements, and the party paying the Compensatory Mitigation Donation. Subject to approval of the City Council, all or a portion of the Transportation Impact Fee Credit may be transferred or assigned to other persons and used by such other persons to pay Transportation Impact Fees for Land Development Activity Generating Traffic within the areas identified above and in accordance with the terms of this Agreement.

C. The Transportation Impact Fee Credits shall vest and be available to the Developer upon the occurrence of the following:

1. Right of Way Property donation – conveyance of the property to the City by either deed or easement pursuant to the terms of the ROW Agreements.
2. Engineering, Design, and Permitting –
 - a. Total Paid Fees per Exhibit C – provision of the 100% final design plans to the City for the City’s use in constructing the Connecting Roadways, as that term is defined in the ROW Agreements, in accordance with the ROW Agreements.
 - b. Known Future Fees per Exhibit C– provision to the City of invoices documenting appropriate payments up to the amounts identified in Exhibit C.
3. Compensatory Mitigation Donation – receipt of the payment by the City in accordance with the Sebastian ROW Agreement.

D. The Transportation Impact Fee Credit shall expire when fully utilized by Land Development Activity Generating Traffic or in ten (10) years from date specified in paragraph 7 hereof, whichever occurs first. Any unused Transportation Impact Fee Credit shall be forfeited at the expiration of such ten (10) year period and in no event before or after such ten year period shall all or any portion of the Transportation Impact Fee Credit be refunded or redeemable for cash or other valuable consideration, except the monetary value of all or a portion of the Transportation Impact Fee Credit may be applied to a development’s proportionate fair share payment, as authorized in the ROW Agreements.

E. In the event of any Reversion Event, as described in the ROW Agreements, any credits associated with any property or monies that are returned to the Developer shall immediately expire. In the event the Developer has utilized any of the Transportation Impact Fee Credit prior to the Reversion Event, the amount of any Transportation Impact Fees paid with such credit shall immediately become due and owed to the City and no future building permits shall be issued to Developer until payment of such amount has been made to the City. Aside from the occurrence of a Reversion Event, no portion of the Transportation Impact Fees Credit can be refunded or redeemed for cash or other valuable consideration.

F. The Transportation Impact Fee Credit shall be applied to the Transportation Impact Fee rates in effect at the time Developer is issued building permits for any Land Development Activity Generating Traffic.

3. Use of Credit.

A. Upon vesting per paragraph 2.C., the City shall establish a Transportation Impact Fee Credit for the Developer in the amounts outlined in paragraph 2.A. above from which the Developer can draw down as needed to obtain building permits from the City for new Land Development Activity Generating Traffic within the areas identified in paragraph 2.B. above.

B. It shall be the responsibility of the Developer prior to the submittal of an application for a building permit to the City, to submit such information as required by the City to assess Transportation Impact Fees on any Land Development Activity Generating Traffic. Upon payment of any other applicable fees due on the planned construction and until such time that the Transportation Impact Fee Credit has been fully exhausted or has expired in accordance with paragraph 2.D. or E. above, the City shall issue an impact fee voucher to the Developer that indicates that the Transportation Impact Fees have been paid. The City shall also provide to the Developer a statement of the amount of Transportation Impact Fees that would have been paid on the Land Development Activity Generating Traffic, but were instead paid by the Transportation Impact Fee Credit. The statement shall be in a format acceptable to both the Developer and the City.

4. Covenants Running with the Land and Successors and Assigns. The obligations imposed and entitlements created pursuant to this Agreement shall run with and bind the Property as covenants running with the land, and this Agreement shall be binding upon and enforceable by and against the Parties hereto, their personal representatives, heirs, successors, grantees and assigns. The obligations of Sebastian, Brevard Landvest and KJZ may be assigned to one or more parties, including but not limited to, developers, builders, property owners associations or to one or more community development districts upon the written consent of the City, which consent shall not be unreasonably, withheld, conditioned or delayed. The obligations of the City may be assigned upon the written consent of Sebastian, Brevard Landvest and/or KJZ, as applicable or the authorized agents of any of the foregoing.

5. Attorneys' Fees. Should any party to this Agreement bring an action against any other party to enforce any provision of the Agreement, the prevailing party in such action shall be entitled to recover from the unsuccessful party, the successful parties attorney's fees, expert witnesses and court costs in all trial and appellate proceedings.

6. Notices. Every notice, demand, consent, approval or other document or instrument required or permitted to be given to any party to this Agreement shall be in writing and shall be delivered in person or sent by registered or certified mail, postage prepaid, return receipt requested, to the following address (or such other address as any party may designate from time to time in writing).

For KJZ: Paul Paluzzi
605 S. Fremont Avenue, Suite B
Tampa, Florida 33606

With a copy to: Peter Z. Skokos, Esq.
Norton, Hammersley, Lopez & Skokos
1819 Main Street Suite 610
Sarasota, Florida 34236

For the City: Gregg Lynk, City Manager
City of Palm Bay
120 Malabar Road, SE
Palm Bay, Florida 32907

With a copy to: Andrew P. Lannon, City Attorney
City of Palm Bay
120 Malabar Road, SE
Palm Bay, Florida 32907

For Sebastian: Sebastian Resources 400 Limited Partnership
1 N. Ft. Lauderdale Beach Blvd., Unit 1802
Ft. Lauderdale, FL 33462-6208

For Brevard Landvest: Walter Forrer
Sandstrasse 8
7310 Bad Ragaz
Sarganserland, St. Gallen, Switzerland

With a copy to: ALL FLORIDA TAX CONSULTING INC
9720 Stirling Road, Ste. 213
Cooper City, FL 33024-8015

The foregoing is not intended to require that notice of the approval or denial of development permits be given as provided for in this provision.

7. Effective Date. This Agreement shall become effective upon approval and execution by all parties; provided, however, that the 10-year expiration period in Paragraph 2.D. shall begin to run upon approval by the City.

8. Entire Agreement. This Agreement contains and sets forth all the promises, covenants, agreements, conditions and understandings between the Parties with respect to the subject matter of this Agreement.

9. Terms and Words. All terms and words used in this Agreement regardless of the number and gender in which used, shall be deemed to include any other gender or number as the context

or the use thereof may require.

10. Headings. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

11. Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of Florida and venue with respect to any litigation between the Parties related to this Agreement shall be Brevard County, Florida.

12. Amendments. This Agreement shall not be changed, modified or amended except by an instrument in writing and executed by the Parties with the same formality and or equal dignity herewith.

13. Third Party Beneficiaries. The City shall not be liable to any third party who may have relied on this Agreement. This Agreement is solely for the benefit of the parties hereto and no causes of action shall accrue upon or by reason hereof to or for the benefit of any third party.

14. Recording. The Parties hereby acknowledge that this Agreement, along with all attachments thereto, shall be recorded in the Public Records of Brevard County, Florida, by the Developer at its sole and exclusive expense.

15. Survival. The provisions of paragraph 2.E. hereof shall survive the termination or expiration of this Agreement.

16. Preparation of Agreement. This Agreement shall not be construed more strongly against any party regardless of who is responsible for its preparation. Each party to this Agreement has been represented by counsel of its choosing.

17. Negation of Partnership. Nothing contained in this Agreement will be deemed to create a partnership or joint venture between the parties to this Agreement or to cause any party to this Agreement to be liable or responsible in any way for the actions, liabilities, debts or obligations of any other party to this Agreement.

[SIGNATURES CONTAINED ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

CITY OF PALM BAY,
a Florida municipal corporation

ATTEST:

Terese Jones, Clerk

By: _____
William Capote, Mayor

APPROVED AS TO FORM
AND CORRECTNESS

Andrew Lannon, City Attorney

Sebastian Resources 400 Limited
Partnership (Sebastian)

By: Pandanus 400, LLC, its General
Partner

WITNESSES:

By: _____
As Authorized Agent

Witness
Print Name: _____

WITNESS:

Witness
Print Name: _____

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by
, as authorized agent for Pandanus 400, LLC, General Partner of Sebastian Resources Limited Partnership.
He/she is ____ personally known to me or has produced _____ as identification.

Notary Public

Typed, printed or stamped name of
Notary Public

My Commission Expires:

KJZ Sunrise, LLC

WITNESSES:

By: _____
Paul Paluzzi, manager

Witness
Print Name: _____

WITNESS:

Witness
Print Name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Paul Paluzzi, Manager of KJZ Development, LLC, on behalf of the company. He is _____ personally known to me or has produced _____ as identification.

Notary Public

Typed, printed or stamped name of
Notary Public

My Commission Expires:

Brevard Landvest, LLC

WITNESSES:

By: _____
As Authorized Agent

Witness
Print Name: _____

WITNESS:

Witness
Print Name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2015,
as authorized agent for Brevard Landvest, LLC, on behalf of the company. He/she is _____ personally
known to me or has produced _____ as identification.

Notary Public

Typed, printed or stamped name of
Notary Public

My Commission Expires:

Exhibit A

PARCEL NO. 101

RIGHT OF WAY

THAT PART OF:

"All of Section 2 lying Westerly of said Interstate 95 less the West one-half of the Southwest one-quarter of the Southwest one-quarter, the Northeast one-quarter of Section 3, except the West one-half of the East one-half of the Northwest one-quarter of the Northeast one-quarter, the Northeast one-quarter of the Southeast one-quarter of Section 3, the Northeast one-quarter of Section 10, the North one-half of Section 11 lying Westerly of said Interstate 95, less that portion of a strip of land 200 feet in width constituting the main canal of the San Sebastian Drainage District traversing the North one-half of Section 11 and the Northeast one-quarter of Section 10 that lies within this legal. All lying in Township 30 South, Range 27 East, Brevard County, Florida. Subject to a 50 foot wide Florida Gas Transmission easement lying adjacent to and Westerly of said Interstate 95 through Section 2 and the North one-half of Section 11. Subject to any other easements or Canal and Road Rights of way that an accurate survey of said lands would disclose."

(The above described land being the land described and recorded in Official Records Book 4284, Page 3557, Public Records of Brevard County, Florida.)

DESCRIBED AS FOLLOWS:

From a 4 inch by 4 inch concrete monument with disc stamped "PLS 3916" at the Southeast corner of the Northeast one-quarter of Section 11, Township 30 South, Range 37 East as shown on the Florida Department of Transportation Right of Way Map for State Road 9 (Interstate 95), Section 70220, F.P. No. 426904 3; thence North 89 degrees 23 minutes 47 seconds West along the South line of said Northeast one-quarter of Section 11 a distance of 1079.13 feet to a point on the existing Westerly Limited Access Right of Way line of State Road 9 (Interstate 95) lying 150.00 feet Westerly of, as measured perpendicular to the centerline of survey of said State Road 9 (Interstate 95) as shown on said Right of Way Map; thence North 13 degrees 03 minutes 35 seconds West along said existing Westerly Limited Access Right of Way line and parallel with said centerline of survey 900.45 feet to the POINT OF BEGINNING; thence departing said existing Westerly Limited Access Right of Way line South 76 degrees 56 minutes 25 seconds West, 75.00 feet; thence North 13 degrees 03 minutes 35 seconds West, parallel with said centerline of survey 684.89 feet; thence North 23 degrees 50 minutes 26 seconds West, 174.39 feet; thence North 27 degrees 21 minutes 19 seconds West, 646.10 feet to a point lying 417.16 feet Westerly of, as measured perpendicular to said centerline of survey; thence North 13 degrees 03 minutes 35 seconds West, parallel with said centerline of survey 103.60 feet; thence North 58 degrees 03 minutes 06 seconds West, 158.98 feet to a point lying 100.00 feet Southerly of, as measured perpendicular to the centerline of survey of St. Johns Heritage Parkway as shown on said Right of Way Map; thence South 76 degrees 56 minutes 46 seconds West, parallel with said centerline of survey 822.85; thence North

13 degrees 03 minutes 14 seconds West, 200.00 feet to a point lying 100.00 feet Northerly of, as measured perpendicular to said centerline of survey of St. Johns Heritage Parkway; thence North 76 degrees 56 minutes 46 seconds East, parallel with said centerline of survey 810.40 feet; thence North 31 degrees 56 minutes 46 seconds East, 141.42 feet to a point lying 441.99 feet Westerly of, as measured perpendicular to the aforesaid centerline of survey of State Road 9 (I-95) as shown on said Right of Way Map; thence North 13 degrees 03 minutes 20 seconds West, parallel with said centerline of survey 313.63 feet; thence North 08 degrees 52 minutes 16 seconds East, 393.34 feet; thence North 00 degrees 58 minutes 01 seconds East, 157.82 feet; thence North 00 degrees 29 minutes 36 seconds West, 196.60 feet; thence North 03 degrees 30 minutes 59 seconds West, 168.84 feet; thence North 09 degrees 03 minutes 35 seconds West, 518.51 feet to the existing Westerly Limited Access Right of Way line of said State Road 9 (I-95), said point lying 150.00 feet Westerly of, as measured perpendicular to the aforesaid centerline of survey of State Road 9 (I-95) as shown on said Right of Way Map; thence South 13 degrees 03 minutes 20 seconds East along said existing Westerly Limited Access Right of Way line and parallel with said centerline of survey 1832.46 feet; thence South 13 degrees 03 minutes 35 seconds East, continuing along said existing Westerly Limited Access Right of Way line and parallel with said centerline of survey 1873.13 feet to the POINT OF BEGINNING.

Exhibit B

PARCEL NO. 102

RIGHT OF WAY

THAT PART OF:

"The West one-half of Section 1, the East one-half of Section 2 lying Easterly of said Interstate 95, the North one-half of Section 11 lying Easterly of said Interstate 95, and the Northwest one-quarter of Section 12, less and except that portion of a strip of land 200 feet in width constituting the main canal of the San Sebastian Drainage District lying in Sections 11 and 12; also less and except Borrow Pit No. 5 and haul route from Borrow Pit No. 5 being more particularly described as follows:

BORROW PIT NO. 5: A parcel of land in the Northwest one-quarter of Section 12 and Northeast one-quarter of Section 11, Township 30 South, Range 37 East, more particularly described as follows: Commence on the North boundary of Section 11, Township 30 South, Range 37 East at a point 1394.41 feet West from the Northeast corner thereof; run South 13 degrees 05 minutes 20 seconds East 1550.05 feet; thence South 89 degrees 43 minutes 50 seconds East 628.67 feet to the Point of Beginning; continue South 89 degrees 43 minutes 50 seconds East 800.00 feet; thence North 00 degrees 16 minutes 10 seconds East 800.00 feet; thence North 89 degrees 43 minutes 50 seconds West 800.00 feet; thence South 00 degrees 16 minutes 10 seconds West 800.00 feet to the Point of Beginning,
AND

HAUL ROUTE FROM BORROW PIT NO. 5: That part of the Northeast one-quarter of Section 11, Township 30 South, Range 37 East lying Easterly of the right of way for Interstate Highway No. 95 and Northerly and within 50 feet of a line described as follows: Begin at the Southwest corner of Borrow Pit No. 5 as described above and run North 89 degrees 42 minutes 50 seconds West 628.67 feet to the survey line of Interstate Highway No. 95 and the end of said line as herein described.

All lying and being in Township 30 South, Range 37 East, Brevard County, Florida."

(The above described land being the land described and recorded in Official Records Book 5705, Page 1996, Public Records of Brevard County, Florida.)

DESCRIBED AS FOLLOWS:

PART A:

From a 4 inch by 4 inch concrete monument with disc stamped "PLS 3916" at the Southeast corner of the Northeast one-quarter of Section 11, Township 30 South, Range 37 East as shown on the Florida Department of Transportation Right of Way Map for State Road 9 (Interstate 95), Section 70220, F.P. No. 426904 3; thence North 89 degrees 23 minutes 47 seconds West along the South line of said Northeast one-quarter of Section 11

a distance of 770.39 feet to a point on the existing Easterly Limited Access Right of Way line of State Road 9 (Interstate 95) lying 150.00 feet Easterly of, as measured perpendicular to the centerline of survey of said State Road 9 (Interstate 95) as shown on said Florida Department of Transportation Right of Way Map; thence North 13 degrees 03 minutes 35 seconds West along said existing Easterly Limited Access Right of Way line and parallel with said centerline of survey 500.46 feet to the POINT OF BEGINNING; thence continue North 13 degrees 03 minutes 35 seconds West along said existing Easterly Limited Access Right of Way line and parallel with said centerline of survey 712.49 feet to the South line of the Florida Department of Transportation Haul Route for Borrow Pit No. 5 as described in the order of taking recorded in Civil Records Book 22, Page 426 of the Public Records of Brevard County, Florida as shown on said Florida Department of Transportation Right of Way Map; thence departing said existing Easterly Limited Access Right of Way line South 89 degrees 42 minutes 06 seconds East along the South line of said Haul Route for Borrow Pit No. 5 a distance of 72.40 feet; thence departing the South line of said Haul Route for Borrow Pit No. 5 run South 02 degrees 23 minutes 20 seconds East, 185.13 feet; thence South 09 degrees 02 minutes 03 seconds East, 515.10 feet to the existing Easterly Limited Access Right of Way line of State Road 9 (Interstate 95) and the POINT OF BEGINNING.

PART B:

From a 4 inch by 4 inch concrete monument with disc stamped "PLS 3916" at the Southeast corner of the Northeast one-quarter of Section 11, Township 30 South, Range 37 East as shown on the Florida Department of Transportation Right of Way Map for State Road 9 (Interstate 95), Section 70220, F.P. No. 426904 3; thence North 89 degrees 23 minutes 47 seconds West along the South line of said Northeast one-quarter of Section 11 a distance of 770.39 feet to a point on the existing Easterly Limited Access Right of Way line of State Road 9 (Interstate 95) lying 150.00 feet Easterly of, as measured perpendicular to the centerline of survey of said State Road 9 (Interstate 95) as shown on said Right of Way Map; thence North 13 degrees 03 minutes 35 seconds West along said existing Easterly Limited Access Right of Way line and parallel with said centerline of survey 1264.34 feet to the North line of the Florida Department of Transportation Haul Route for Borrow Pit No. 5 as described in the order of taking recorded in Civil Records Book 22, Page 426 of the Public Records of Brevard County, Florida as shown on said Right of Way Map and the POINT OF BEGINNING; thence continue North 13 degrees 03 minutes 35 seconds West along said existing Easterly Limited Access Right of Way line and parallel with said centerline of survey 1582.16 feet; thence North 13 degrees 03 minutes 20 seconds West, continuing along said existing Easterly Limited Access Right of Way line and parallel with said centerline of survey 2175.22; thence departing said existing Easterly Limited Access Right of Way line North 76 degrees 56 minutes 40 seconds East, 11.84 feet to the beginning of a curve concave Easterly, having a radius of 6406.00 feet; thence from a Tangent Bearing of South 13 degrees 03 minutes 20 seconds East run Southerly along the arc of said curve, through a central angle of 02 degrees 17 minutes 31 seconds an arc distance of 256.26 feet, to the Point of Tangency thereof; thence South 15 degrees 20 minutes 51 seconds East, 1286.48 feet; thence South 36 degrees 19 minutes 13 seconds East, 398.02 feet; thence South 78 degrees 15 minutes 58 seconds

East, 398.01 feet; thence North 80 degrees 45 minutes 39 seconds East, 467.93 feet; thence North 85 degrees 19 minutes 23 seconds East, 307.45 feet to a point lying 100.00 feet Northerly of, as measured perpendicular to the centerline of survey of St. Johns Heritage Parkway as shown on the aforesaid Florida Department of Transportation Right of Way Map; thence North 76 degrees 56 minutes 46 seconds East, parallel with said centerline of survey 164.58; thence South 13 degrees 03 minutes 14 seconds East, 200.00 feet to a point lying 100.00 feet Southerly of, as measured perpendicular to said centerline of survey of St. Johns Heritage Parkway; thence South 76 degrees 56 minutes 46 seconds West, parallel with said centerline of survey 785.74 feet; thence South 31 degrees 57 minutes 06 seconds West, 141.43 feet to a point lying 786.82 feet Easterly of, as measured perpendicular to the centerline of survey of said State Road 9 (Interstate 95) as shown on said Right of Way Map; thence South 13 degrees 03 minutes 35 seconds East, parallel with said centerline of survey 240.15 feet; thence South 13 degrees 33 minutes 28 seconds West, 210.54 feet; thence South 25 degrees 12 minutes 14 seconds West, 130.81 feet; thence South 18 degrees 00 minutes 57 seconds West, 415.68 feet; thence South 11 degrees 14 minutes 49 seconds West, 352.17 feet; thence South 02 degrees 23 minutes 20 seconds East, 120.17 feet to the aforesaid North line of the Florida Department of Transportation Haul Route for Borrow Pit No. 5 as described in the order of taking recorded in Civil Records Book 22, Page 426 of the Public Records of Brevard County, Florida as shown on said Right of Way Map; thence North 89 degrees 42 minutes 06 seconds West along the North line of said Haul Route for Borrow Pit No. 5 a distance of 81.92 feet to the existing Easterly Limited Access Right of Way line of said State Road 9 (Interstate 95) and the POINT OF BEGINNING.

**PARCEL NO. 800
FLOOD PLAIN COMPENSATION
EASEMENT**

**SECTION NO. 70220
FP NO. 426904 3**

THAT PART OF:

"The West one-half of Section 1, the East one-half of Section 2 lying Easterly of said Interstate 95, the North one-half of Section 11 lying Easterly of said Interstate 95, and the Northwest one-quarter of Section 12, less and except that portion of a strip of land 200 feet in width constituting the main canal of the San Sebastian Drainage District lying in Sections 11 and 12; also less and except Borrow Pit No. 5 and haul route from Borrow Pit No. 5 being more particularly described as follows:

BORROW PIT NO. 5: A parcel of land in the Northwest one-quarter of Section 12 and Northeast one-quarter of Section 11, Township 30 South, Range 37 East, more particularly described as follows: Commence on the North boundary of Section 11, Township 30 South, Range 37 East at a point 1394.41 feet West from the Northeast corner thereof; run South 13 degrees 05 minutes 20 seconds East 1550.05 feet; thence South 89 degrees 43 minutes 50 seconds East 628.67 feet to the Point of Beginning; continue South 89 degrees 43 minutes 50 seconds East 800.00 feet; thence North 00 degrees 16 minutes 10 seconds East 800.00 feet; thence North 89 degrees 43 minutes 50 seconds West 800.00 feet; thence South 00 degrees 16 minutes 10 seconds West 800.00 feet to the Point of Beginning,
AND

HAUL ROUTE FROM BORROW PIT NO. 5: That part of the Northeast one-quarter of Section 11, Township 30 South, Range 37 East lying Easterly of the right of way for Interstate Highway No. 95 and Northerly and within 50 feet of a line described as follows: Begin at the Southwest corner of Borrow Pit No. 5 as described above and run North 89 degrees 42 minutes 50 seconds West 628.67 feet to the survey line of Interstate Highway No. 95 and the end of said line as herein described.

All lying and being in Township 30 South, Range 37 East, Brevard County, Florida."

(The above described land being the land described and recorded in Official Records Book 5705, Page 1996, Public Records of Brevard County, Florida.)

DESCRIBED AS FOLLOWS:

From a 4 inch by 4 inch concrete monument with disc stamped "PLS 3916" at the Southeast corner of the Northeast one-quarter of Section 11, Township 30 South, Range 37 East as shown on the Florida Department of Transportation Right of Way Map for State Road 9 (Interstate 95), Section 70220, F.P. No. 426904 3 thence North 89 degrees 23 minutes 47 seconds West along the South line of said Northeast one-quarter of Section 11 a distance of 770.39 feet to a point on the existing Easterly Limited Access Right of Way line of State Road 9 (Interstate 95) lying 150.00 feet

Easterly of, as measured perpendicular to the centerline of survey of said State Road 9 (Interstate 95) as shown on said Right of Way Map; thence North 13 degrees 03 minutes 35 seconds West along said existing Easterly Limited Access Right of Way line and parallel with said centerline of survey 1212.95 feet to the South line of the Florida Department of Transportation Haul Route for Borrow Pit No. 5 as described in the order of taking recorded in Civil Records Book 22, Page 426 of the Public Records of Brevard County, Florida as shown on said Right of Way Map; thence departing said existing Easterly Limited Access Right of Way line South 89 degrees 42 minutes 06 seconds East along the South line of said Haul Route for Borrow Pit No. 5 a distance of 72.40 feet to the Limited Access Right of Way line as shown on said Right of Way Map for the POINT OF BEGINNING; thence along said Limited Access Right of Way line the following courses and distances: South 02 degrees 23 minutes 20 seconds East, 185.13 feet; thence South 09 degrees 02 minutes 03 seconds East, 175.39 feet; thence departing said Limited Access Right of Way line South 89 degrees 42 minutes 06 seconds East and parallel with the aforesaid South line of the Haul Route for Borrow Pit No. 5 a distance of 584.80 feet; thence North 00 degrees 17 minutes 54 seconds East, 358.00 feet to the South line of Borrow Pit No. 5 as described in said order of taking recorded in Civil Records Book 22, Page 426 of the Public Records of Brevard County, Florida as shown on said Right of Way Map; thence North 89 degrees 42 minutes 06 seconds West along the North line of said Borrow Pit No. 5 and Haul Route 621.92 feet to the POINT OF BEGINNING.

The lands described herein contain 5.002 acres, more or less.

This legal description prepared under the direction of:

Scott V. Miller, P.L.S. No. 4370
Florida Department of Transportation
719 South Woodland Boulevard
DeLand, Florida 32720
Date: August 21, 2015

EXHIBIT C

	engineering CEG	environmental AES	survey Horizon	
	\$20,260	\$1,845	\$1,800	
	103,020	18,750	550	
	11,222	7,020	6,480	
	22,105	1,845	3,750	
	8,735	25,830	3,750	
	15,877	9,990	1,100	
	7,544		6,045	
	6,113		3,740	
	3,680			<i>grand total</i>
<i>totals:</i>	\$198,556	\$65,280	\$27,215	\$291,051



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Gregg Lynk, City Manager

DATE: December 17, 2015

RE: Tranter Avenue – Temporary Road Closure

A handwritten signature in blue ink, appearing to read "Gregg Lynk".

The Public Works Department is requesting that City Council authorize the temporary closure of Tranter Avenue, between Sandusky Street and Tidewell Street. The drainage structure located in the Melbourne-Tillman Water Control District Canal (MTWCD); which provides access across Tranter Avenue has failed and is in a state of disrepair. Public Works staff has evaluated the canal crossing pipes within the city limits and have found that it is more cost effective to remove the canal crossing due to the redundant ingress and egress available to the community. Redundant ingress and egress are located to the East and West of Tranter Avenue thru Thisbe Avenue and San Filippo Drive, connecting Sandusky and Tidewell Street/Walsh Avenue. Removal of the pipe is also a creative approach to reduce the maintenance cost of the entire canal crossing drainage system throughout the City of Palm Bay over the long term, thus, improving the free flow of the storm water through the MTWCD canals. The cost of replacing the failed structure at Tranter Avenue as per MTWCD guidelines is \$275K and there are over 40 failed canal crossing pipes within the city limit. If the funding ever becomes available to replace the failed pipes throughout the City, Tranter Avenue will be reinstalled.

Average Daily Traffic (ADT) counts were conducted on the section of road recommended for closure before and after the school year commenced in August 2015; and the results were 178 and 168 respectively, not a significant amount of traffic on the road. The Public Works Department solicited feedback from the Police and Fire Departments, on how the closure will affect their response time. The Police Department reported that the closure will not negatively affect their response time, because of the two other access points on the West and East of the closure. The Fire Department stated in general that they will not support any permanent closures.

In order to close the road, the drainage structure will be removed from the canal; the asphalt pavement will be replaced with sod and the appropriate traffic sign(s) will be placed on both Sandusky and Tidewell Streets as required.

REQUESTING DEPARTMENT:
Public Works Department

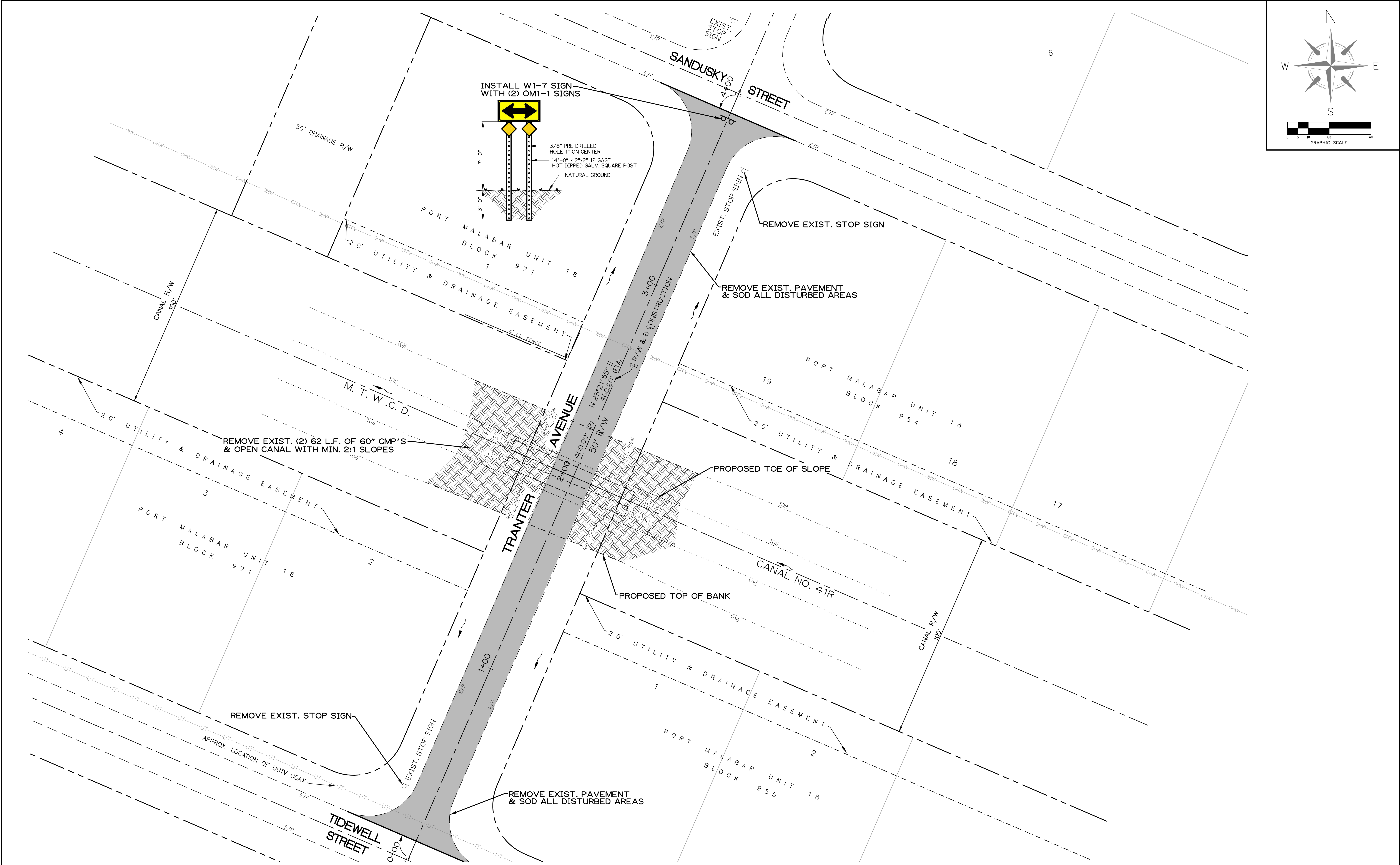
FISCAL IMPACT:
The cost of the temporary closure is primarily the staff time involved in implementation. Direct costs include: removal of the drainage structure, sign panels, sign posts, and accessories, asphalt removal and placement of sod. The cost of the closure is estimated at under \$4,000.00 including

materials and labor, which can be absorbed by the Public Works Infrastructure account.

RECOMMENDATION:


Motion to authorize the temporary closure of the roadway as requested. A resolution officiating the action will be provided for council's consideration at the next regular meeting.

Attachment: 1) Closure design



REV. NO.	DATE	BY	REVISION

DESIGNED BY LAB
DRAWN BY DAH
CHECKED BY HIF



CITY OF PALM BAY, FLORIDA

PUBLIC WORKS DEPARTMENT

1050 MALABAR ROAD S.W.
PALM BAY, FLORIDA 32907
(321) 953-6996

TRANTER AVENUE

• MTWCD CANAL NO. 41-R

ROAD CLOSER PLAN

DATE JULY 2015
SCALE HORIZ: 1" = 20'
VERT: N/A

HECTOR I. FRANCO P.E. NO. 60078
DATE

PROJECT NUMBER 13-24
SHEET 2 OF 2



MEMO TO: Honorable Mayor and Members of City Council

FROM: Terese Jones, City Clerk

DATE: December 17, 2015

SUBJECT: 2016 FLoC Legislative Action Days
February 2-3, 2016

The Florida League of Cities Legislative Action Days will be held at the Doubletree by Hilton in Tallahassee, February 2-3, 2016.

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 it to Rosemarie by Friday, December 18th, so all travel arrangements can be made and hotel accommodations secured.

The cost per person will be approximately \$550.00.

Council has a balance of \$8,890.00 in its travel account.

/ras
Attachments

FLORIDA LEAGUE OF CITIES Legislative Action Days



Doubletree by Hilton Tallahassee

February 2-3, 2016

Hotel Reservation Deadline: January 6, 2016

Registration Deadline: January 23, 2016

TENTATIVE SCHEDULE*

MONDAY, FEBRUARY 1

Ethics Training

1:00 p.m. - 5:00 p.m.

Class meets the state requirements for Ethics Continuing Education.
Sittig Hall at Kleman Plaza

TUESDAY, FEBRUARY 2

Legislative Briefing

10:00 a.m. - 11:00 a.m.

Sittig Hall at Kleman Plaza

Registration Desk Open

11:00 a.m. - 2:00 p.m.

Doubletree

Legislative Luncheon

11:45 a.m. - 1:30 p.m.

Doubletree

Opening Remarks

Invocation & Welcome

Speakers to include various House and Senate members

"Charge to the Delegates"
Matthew Surrency, President,
Florida League of Cities;
Mayor, City of Hawthorne

Capitol Visits

1:45 p.m. - 5:00 p.m.

FLC Board of Directors Meeting

4:00 p.m. - 6:00 p.m.

Sittig Hall at Kleman Plaza

Reception

6:00 p.m. - 7:00 p.m.

Third Floor of FLC Office at Kleman Plaza

WEDNESDAY, FEBRUARY 3

Continental Breakfast with

FLC Legislative Advocates

7:30 a.m. - 8:30 a.m.

Doubletree

Capitol Visits

8:45 a.m. - 12:00 p.m.

Florida League of Mayors Roundtable

12:00 p.m. - 2:00 p.m.

Sittig Hall at Kleman Plaza

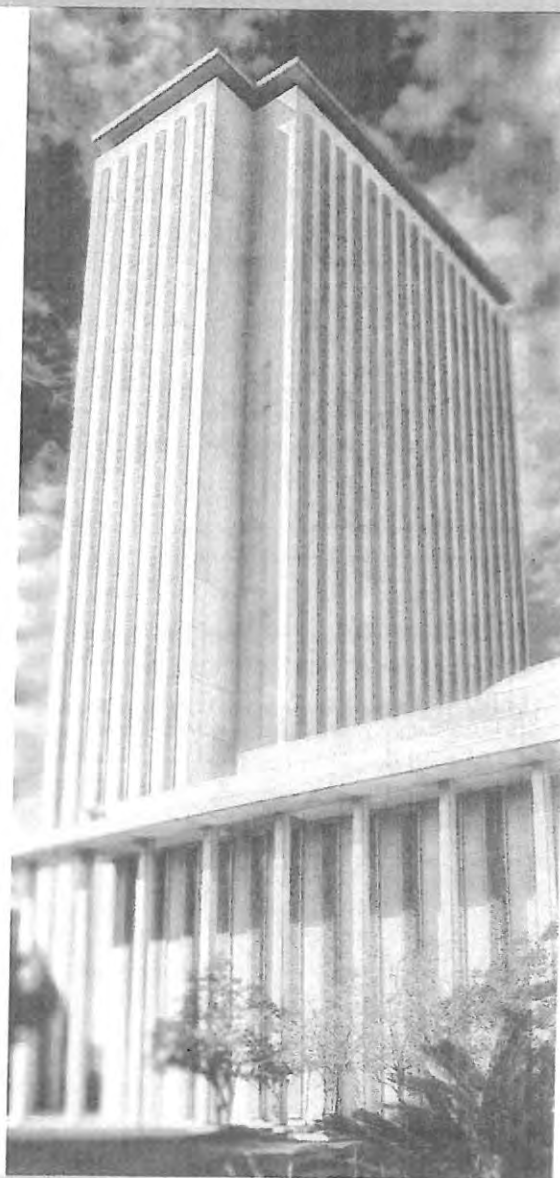
Florida League of Mayors

Board of Directors Meeting

2:00 p.m. - 3:00 p.m.

Sittig Hall at Kleman Plaza

*Subject to change





Office of the City Attorney

Legislative Memorandum

TO: Honorable Mayor & Members of the City Council

FROM: Andrew P. Lannon, Esq., B.C.S., City Attorney

SUBJECT: City Attorney Emeritus

DATE: December 4, 2015

Nick Tsamoutales, the City Attorney Emeritus, has 51 years of experience in municipal law, has represented seven (7) local governments during that time, and received the highest award bestowed on any city attorney in Florida, the Paul Buchman Award, in 2003. His hourly rate is by far the least expensive of all of the attorneys I engage for legal services, and I would greatly appreciate it if Council would renew his contract as he is an invaluable member of the Palm Bay City Attorney's Office. An executed copy of his contract is attached hereto.

cc: Gregg Lynk, City Manager
Terese Jones, City Clerk



EMPLOYMENT AGREEMENT CITY ATTORNEY EMERITUS

THIS AGREEMENT is made and entered into this _____ day of December, 2015, between the **City of Palm Bay**, a Florida municipal corporation (hereinafter, "City") and **Nicholas F. Tsamoutales** (hereinafter, "Mr. Tsamoutales").

IN CONSIDERATION of the mutual covenants below, sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Ratification of Previous Appointment.

Pursuant to Section 3.11 of the City Charter of the City of Palm Bay, the City, acting through its City Council, has previously appointed and hereby ratifies the appointment of Mr. Tsamoutales as its City Attorney Emeritus, serving as Special Counsel to the City.

2. Duties.

Mr. Tsamoutales shall attend any meeting to which it has been mutually agreed (between Mr. Tsamoutales and the City Attorney) that he should attend. Mr. Tsamoutales shall conduct real estate transactions and closings for the City and will also handle such City litigation or transactions which are within his field of expertise to the extent that such is assigned to him by the City Attorney.

3. Office, Staff & Equipment.

Mr. Tsamoutales shall be provided an office in the Office of the City Attorney and shall have the right to utilize such City office equipment and support personnel in the Office of the City Attorney to the extent reasonably necessary to professionally, competently, and promptly fulfill his duties. Mr. Tsamoutales may also be provided a City cellular phone and laptop which may be used for all City and personal business.

4. Compensation.

For the performance of the duties set forth herein, Mr. Tsamoutales shall be compensated at the rate of one hundred (\$100.00) dollars per hour. Mr. Tsamoutales' hours of work and his paychecks (less the normal legal deductions) shall be processed through normal city payroll as done for other part-time employees. Mr. Tsamoutales shall not be required to maintain itemized statements of his work, as his assignments and hours shall be monitored by the City Attorney.

5. Benefits.

Mr. Tsamoutales shall be entitled to the medical and dental insurance provided to City employees (both individual and dependent coverage) fully paid for by the City. Mr. Tsamoutales shall also be entitled to life insurance paid for by the City in the

amount of \$300,000, with the beneficiary of his choosing¹. Mr. Tsamoutales, however, shall not be entitled to annual leave, paid holiday leave, vacation leave, sick leave, administrative leave, or any other benefit not specified herein. The City shall not be obligated to make contributions to any retirement plan on behalf of Mr. Tsamoutales.

6. Dues and Subscriptions.

The City agrees to pay Mr. Tsamoutales' professional dues for membership in The Florida Bar, including the City, County & Local Government Section and the Brevard County Bar Association. The City may pay such other dues and subscriptions on behalf of Mr. Tsamoutales as approved by the City Attorney.

7. Professional Development.

The City agrees to pay reasonable and customary travel and subsistence expenses for Mr. Tsamoutales' travel and attendance at the Florida Bar's Local Government Seminar, the Florida Municipal Attorneys Association seminar, and the Florida League of Cities conference. Further, the City agrees to pay reasonable and customary travel and subsistence expenses for Mr. Tsamoutales to comply with the mandatory continuing legal education (CLE) requirements. Attendance at other seminars, conferences, or committee meetings by Mr. Tsamoutales may be paid for by the City if such is approved by the City Attorney.

8. Indemnification.

The City shall defend, hold harmless and indemnify Mr. Tsamoutales to the extent provided to all other employees and as provided in Section 34.13 Palm Bay Code of Ordinances and Sections 111.07 and 111.071, Florida Statutes. This provision shall also survive the termination of this Agreement, any other separation of Mr. Tsamoutales' employment and until the statute of limitations fully runs on any claim made against Mr. Tsamoutales, if any.

9. Performance of Outside (Non-City) Legal Services.

Provided such services do not create a conflict of interest or otherwise unreasonably interfere with Mr. Tsamoutales' duties and responsibilities to the City, Mr. Tsamoutales shall be allowed to engage in teaching or lecturing, and the representation of other government or private entities and individuals. The City shall incur no expenses or costs for such outside (non-City) practice or activities. In the event that Mr. Tsamoutales wishes to utilize any City supplies, materials, or support personnel in the performance of his outside legal services or activities, Mr. Tsamoutales shall so advise the City Attorney beforehand, and the City Attorney and Mr. Tsamoutales shall mutually agree (in writing) upon appropriate payment for the utilization of any such supplies, materials, or support personnel. If feasible, the City Attorney and Mr. Tsamoutales may mutually agree upon in advance (in writing) a payment schedule for the utilization of any supplies, materials, or support personnel for any period of time (e.g., a fiscal year) covered by this Agreement. It shall be Mr. Tsamoutales' obligation and responsibility to keep accurate records of his use of any City supplies, materials, or

¹ At the City's option, it may self-insure Tsamoutales in the amount of \$300,000 should that option prove more cost effective.

support personnel for outside (non-City) legal services or activities and timely reimburse the City for any such use.

10. Office Hours.

Mr. Tsamoutales shall not be required to maintain regular office hours. Mr. Tsamoutales, however, shall attend the meetings and perform the duties set forth in Section 2 above in a professional, competent, and timely manner. Further, upon reasonable notice under the circumstances, Mr. Tsamoutales shall be available to meet with the City Attorney and members of the City Council on any city matter they choose, in connection with matters related to the performance of his City duties.

11. Voluntary Resignation.

In the event Mr. Tsamoutales voluntarily resigns his employment under this Agreement, he shall give the City thirty (30) days advance written notice, unless the City agrees to waive such notice requirement. In the event of such voluntary resignation, Mr. Tsamoutales shall be entitled only to compensation for the City duties he has performed through the date of his resignation. Under no circumstances will Mr. Tsamoutales be entitled to severance pay of any nature if he voluntarily resigns his employment hereunder. However, he will be entitled to all funds he has in any retirement plans he has with the City.

12. Termination.

Nothing in this Agreement shall prevent, limit, or otherwise interfere with the absolute right of the City to terminate the services of Mr. Tsamoutales at any time, with or without cause. The City may only remove Mr. Tsamoutales, with or without cause, upon the recommendation of the City Attorney and by a majority vote of the City Council.

13. Severance Provision.

In the event the City terminates Mr. Tsamoutales without cause, the City agrees for a period of eighteen (18) months from the date of separation to: (1) retain Mr. Tsamoutales and his eligible family members on the City's insurance plan (as set forth in Section 5, above) or (2) pay the full amount of COBRA coverage for Mr. Tsamoutales and his dependents.

14. Termination for Cause.

If Mr. Tsamoutales is removed for cause, the notice for such removal shall state the cause(s) alleged, and the removal may be effective immediately. Cause for termination of Mr. Tsamoutales shall be one or more of the following:

- A. Disbarment or Suspension by The Florida Bar;
- B. Conviction of a misdemeanor involving an offense of moral turpitude or any felony, whether or not adjudication is withheld;
- C. Any conduct which has been adjudicated as an act of legal malpractice;

- D. A finding of guilt in any Ethics Complaint brought before the Florida Commission on Ethics.

15. Refusal to Comply with Provisions of Agreement.

If the City refuses to comply with any provision of this Agreement benefiting Mr. Tsamoutales, he shall, at his option and upon written notice, be deemed to be terminated without cause. Under no circumstances shall Mr. Tsamoutales be entitled to exercise such option unless and until he provides the City with written notice of any alleged refusal to comply with any provision of this Agreement and provides the City with twenty (20) days within which to address/remedy any such alleged refusal.

16. City's Obligations Upon Death.

Upon Mr. Tsamoutales' death, the City's obligations under this Agreement shall terminate except for:

- A. Payment of all outstanding hospitalization, medical and dental bills in accordance with the City's insurance policies provided hereunder;
- B. Payment of all life insurance benefits in accordance with the life insurance policy provided hereunder;
- C. Continuation of coverage and indemnification of any matter under Section 8, above; and
- D. Continuation of the health insurance (COBRA) for Mr. Tsamoutales' eligible dependents for eighteen (18) months as set forth herein.

17. Jurisdiction and Venue.

The City and Mr. Tsamoutales each waive the privilege of jurisdiction and venue, and agree that any litigation involving this Agreement shall take place in the appropriate state court, in and for Brevard County, Florida, and shall be construed and governed by the laws of the State of Florida.

18. Provisions in Conflict.

This Agreement shall supersede all prior Agreements and provisions of any City Resolutions to the extent of any conflict with such Agreements or Resolutions.

19. Severability.

In the event that any provision of this Agreement should be found to be invalid, unlawful, or unenforceable by reason of any existing or subsequently enacted legislation or judicial decision, all other provisions of this Agreement shall remain in full force and effect.

20. Effective Date.

Upon approval by the City Council, this Agreement shall become effective upon execution and shall remain in effect until terminated by one of the parties pursuant to the terms herein.

IN WITNESS WHEREOF, this Agreement has been executed on behalf of City by its Mayor and duly attested to by its City Clerk; and agreed to, accepted and executed by Mr. Tsamoutales, in duplicate, on the respective dates under each signature.

CITY OF PALM BAY, FLORIDA

ATTEST:

Terese Jones, City Clerk

DATE: _____

By _____

William Capote
Mayor

By Nicholas F. Tsamoutales
Nicholas F. Tsamoutales
City Attorney Emeritus

STATE OF FLORIDA |
COUNTY OF BREVARD |

The foregoing instrument was acknowledged before me this 4th day of December, 2015, by Nicholas F. Tsamoutales, as City Attorney Emeritus of the City of Palm Bay, who is personally known to me.

Debra A. Hunt
NOTARY PUBLIC, State of Florida

Commission Expires:

