



## AGENDA

### **PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY**

Regular Meeting No. 2016-03

March 2, 2016 – 7:00 P.M.

City Hall Council Chambers

#### **CALL TO ORDER:**

#### **PLEDGE OF ALLEGIANCE:**

#### **ROLL CALL:**

#### **ELECTION OF CHAIRMAN AND VICE CHAIRMAN:**

#### **ELECTION OF COMMUNITY DEVELOPMENT ADVISORY BOARD MEMBER:**

#### **ADOPTION OF MINUTES:**

1. Regular Meeting No. 2016-02; February 3, 2016

#### **ANNOUNCEMENTS:**

#### **SCHOOL COORDINATION BUSINESS:**

#### **NEW BUSINESS:**

1. V-5-2016 – JOSEPH T. KAUFHOLD

A variance request to allow a proposed front porch to encroach 5 feet into the 25-foot front setback in an RS-1, Single Family Residential District as established in Section 185.033(F)(7)(a) of the Palm Bay Code of Ordinances.

Lot 32, Block 327, Port Malabar Unit 9, Section 5, Township 29, Range 37, Brevard County, Florida, containing .23 acres, more or less. (Located north of and adjacent to Douglas Street SE, in the vicinity east of Mirage Avenue SE and west of Cavern Avenue SE, specifically at 935 Douglas Street SE)

2. CP-2-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A Comprehensive Plan Future Land Use Map amendment from Public/Semi-Public Use to Commercial Use.

Lot 1, Block 4, Port Malabar Industrial Park Subdivision, Section 22, Township 28, Range 37, Brevard County, Florida, containing 1.84 acres, more or less. (Located at the southwest intersection of Palm Bay Road NE and Franklin Drive NE, specifically at 2144 Palm Bay Road NE)

3. CPZ-2-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A zoning amendment request to change from an IU, Institutional Use District to a CC, Community Commercial District.

Lot 1, Block 4, Port Malabar Industrial Park Subdivision, Section 22, Township 28, Range 37, Brevard County, Florida, containing 1.84 acres, more or less. (Located at the southwest intersection of Palm Bay Road NE and Franklin Drive NE, specifically at 2144 Palm Bay Road NE)

4. T-6-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A textual amendment to the Code of Ordinances, Title IX, General Regulations, Chapter 92: Noise; Title XVII, Land Development Code, Chapter 170: Construction Codes and Regulations; and Title XVII, Land Development Code, Chapter 185: Zoning, in order to update particular sections within these chapters.

**OTHER BUSINESS:**

1. Adoption of Planning and Zoning Board/Local Planning Agency Bylaws.

**ADJOURNMENT:**

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.

City of Palm Bay, Florida  
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**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 Land Development Division at (321) 733-3042 or Florida Relay System at 711.**



## **MEMORANDUM**

**TO:** Planning and Zoning Board Members

**FROM:** *SAB* Stuart Buchanan, Growth Management Director

**DATE:** March 2, 2016

**SUBJECT:** Election of Planning and Zoning Board Chairman and Vice Chairman

As you know, City Council recently revised the Planning and Zoning Board. Please be aware of the following:

Planning and Zoning Board Chairman and Vice Chairman shall serve for a term of two (2) years. The Vice Chairman shall automatically succeed the Chairman.

/crp



## **MEMORANDUM**

**TO:** Planning and Zoning Board Members

**FROM:** <sup>SAB</sup> Stuart Buchanan, Growth Management Director

**DATE:** March 2, 2016

**SUBJECT:** Election of Community Development Advisory Board (CDAB) Member

As required by state law, the Local Planning Agency (Planning and Zoning Board) is required to appoint a representative to the Community Development Advisory Board (Affordable Housing Committee). Mr. William Pezzillo was the preceding board representative.

The CDAB has four-year terms and meets quarterly (January, April, July, October, or as needed), third Wednesdays of the month, at 6:30 p.m., in the City Hall Council Chambers.

The CDAB serves as a citizen input mechanism for the community and in an advisory capacity to the City for community development administered programs funded with Community Development Block Grant (CDBG), HOME Investment Partnership, and State Housing Initiatives Partnership (SHIP) grant funds.

/crp

**CITY OF PALM BAY, FLORIDA**  
**PLANNING AND ZONING BOARD/**  
**LOCAL PLANNING AGENCY**  
**REGULAR MEETING NO. 2016-02**

Held on Wednesday, February 3, 2016, 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.

Chairman Bob Williams called the meeting to order at approximately 7:00 p.m.

Mr. Philip Weinberg led the Pledge of Allegiance to the Flag.

**ROLL CALL:**

<b>CHAIRMAN:</b>	Bob Williams	Present
<b>VICE CHAIRMAN:</b>	Adam Hill	Absent (Excused)
<b>MEMBER:</b>	Samuel Artley	Present
<b>MEMBER:</b>	Leeta Jordan	Present
<b>MEMBER:</b>	Martha Melendez	Present
<b>MEMBER:</b>	William Pezzillo	Present
<b>MEMBER:</b>	Marty Piatkowski	Present
<b>MEMBER:</b>	Philip Weinberg	Present
<b>MEMBER:</b>	Vacant	
<b>APPOINTEE:</b>	Wendall Stroder	Present

The absence of Mr. Hill was excused.

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

**ADOPTION OF MINUTES:**

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2016-01. Motion by Mr. Pezzillo, seconded by Mr. Piatkowski to approve the minutes as presented. The motion carried with members voting unanimously.

## **ANNOUNCEMENTS:**

1. Mr. Williams addressed the audience on the meeting procedures and explained that the Planning and Zoning Board/Local Planning Agency consists of volunteers who act as an advisory board to City Council.

## **OLD BUSINESS:**

1. FS-3-2015 – PALLADIO DEVELOPMENT, LLC (STEPHEN STRELECKI)

As the applicant was not present at this time, the board concurred to consider Case FS-3-2015 following the applicant's arrival. The item was considered later in the meeting prior to New Business.

The board concurred to consider Item No. 1, under New Business, at this time.

- ☞ 1. V-3-2016 – AZROR ASHRAPOV (MICHAEL KARAFFA, REP.)

Mr. Loring presented the staff report for Case V-3-2016. The applicant had requested a variance for an existing building and walk-in cooler to encroach 5 feet into the 5-foot side interior setback and 10 feet into the 10-foot rear setback; and to allow a proposed exterior stair roof overhang to encroach 2 feet into the 10-foot rear setback in a BMUV, Bayfront Mixed Use Village District as established in Section 185.053(9)(b)(d) of the Palm Bay Code of Ordinances. The board had to determine, based on the facts presented, the degree of minimal relief to meet the needs of the variance request as required by Section 169.009, City of Palm Bay Code of Ordinances.

Mr. Michael Karaffa, architect with Don Facciobene, Inc. (representative for the applicant), stated that he was in agreement with the staff report.

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. Pezzillo, seconded by Ms. Jordan to submit Case V-3-2016 to City Council for approval of a variance for an existing building and walk-in cooler to encroach 5 feet into the 5-foot side interior setback and 10 feet into the 10-foot rear setback; and to allow a proposed exterior stair roof overhang to encroach 2 feet into the 10-foot rear setback in a BMUV, Bayfront Mixed Use Village District as established in Section 185.053(9)(b)(d) of the Palm Bay Code of Ordinances. The motion carried with members voting unanimously.

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

2. CP-1-2016 – ROY WAYNE YATES (KIM REZANKA, REP.)

Mr. Murphy presented the staff report for Case CP-1-2016. The applicant had requested a Comprehensive Plan Future Land Use Map Amendment from Residential 1:2.5 (Brevard County) to Rural Single Family Use. Staff recommended Case CP-1-2016 for approval.

Mr. Weinberg inquired about the letter of opposition in the file from Linda and David Huddleston that stated the St. Johns River Water Management District (SJRWMD) had shut down the site's mining operations in 2010 because of the impact it had on the wells and pond water within the Deer Run community. He asked if the applicant was planning to expand the borrow pit. Mr. Murphy replied that staff was awaiting a copy of the 2010 SJRWMD report, and he emphasized that the subject request pertained only to the assignment of the future land use designation. A conditional use application for the borrow pit would be reviewed at a later date.

Mr. Pezzillo questioned whether the Rural Single Family land use request was so that residential development could occur at the site. Mr. Murphy explained that the agricultural use intended for the property could only be permitted under the City's Rural Single Family Use designation.

Attorney Kim Rezanka with the law firm of Dean Mead (representative for the applicant) confirmed that an excavation conditional use application for the borrow pit would be presented in the future, and an annexation request would be heard by City Council. She explained that Mr. Yates who owned and resided at the subject location proposed to excavate coquina sand from the site. No blasting would occur as excavation would be done by backhoe and other equipment. A two-year SJRWMD Consumptive Use permit was obtained in 2008 to dewater the pit through a settlement agreement with SJRWMD and the Deer Run Community Association, which required well monitoring. A dewatering conditional use permit issued in 2011 was valid through November 2031. She noted how the proposed City land use density would be less than the present County density at the site. She concluded that the proposed request met the purpose and intent of the City Ordinance, Section 183.01(B) specifically, to encourage the most appropriate use of land, water, and other resources consistent with public interest; preventing overcrowding of land; and avoidance of undue concentration of population.

Mr. Pezzillo asked why the Brevard County Board of County Commissioners had denied the expansion of the borrow pit. Ms. Rezanka clarified that the expansion had not been denied by the County Commissioners. The County Planning and Zoning Board recommended the expansion for denial for various reasons, including the fact that the representative for the proposal had not met with the residents of Deer Run.

The floor was opened for public comments.

Attorney Kyle Magee (representative for Deer Run Community Association, Inc.) spoke against the subject request. He informed the board that the same project for 32.5 acres of the subject 244-acre site was heard and denied by the County Planning and Zoning Board in 2010 and more recently in 2015. He commented that the facts gathered for the County's evaluation were still applicable and should not be disregarded by the City. The applicant's latest expansion attempt by way of the City was unfair to the Deer Run community who had prepared in good faith to appear before the County Commissioners. He informed the board that the draft meeting plan requirement for the Citizen Participation Plan (CPP) meeting was a critical part of the land-use application process that the applicant had failed to meet. There were also issues with the arrangements for the CPP meeting, its organization and its intent. Deer Run's monthly association meeting had to be cancelled so that residents could attend the CPP meeting. The Deer Run association was not opposed to the Rural Single Family land use classification at this time but reserved the right to object in the future. He noted that the borrow pit on the subject site had not operated since 2006 and only five acres of the 244-acre site were ever active.

Mr. Pezzillo asked for clarification regarding the subject application. Ms. Rezanka reiterated the requested land use proposal for Rural Single Family Use, and noted that a conditional use application for the borrow pit would be submitted to the board and City Council for future review. She detailed how the CPP process had been met and assured the board that the scheduling conflict between the CPP and association meetings was unintentional. Mr. Weinberg asked the opinion of the board attorney on whether the CPP process requirements were met. Mr. Stokes and Mr. Murphy advised the board that the requirement had been met. Mr. Murphy explained that the draft meeting plan was properly submitted and that the CPP meeting date and location fell within the required parameters.

Mr. Brian Curry (president of Deer Run Community Association, Inc.) spoke against the subject request. He indicated how the 52 residents who attended the CPP meeting were all opposed to the expansion of the borrow pit. He was displeased with the notice, arrangement, and organization of the CPP meeting. In regards to the CPP report, he informed the board that the applicant had turned down his request for a bond to protect the homeowners. He wanted the board to understand that once excavation commenced on the original five acres in 2008, the association had no choice but to go into a settlement agreement with the applicant.

Ms. Debra Bohnsack (secretary of Deer Run Community Association, Inc.) spoke against the subject request. She said that the mine had not been active since 2006 and submitted 23 letters from area residents opposed to the annexation, land use, and zoning requests. A map depicting approximately 130 Deer Run homes was also submitted. She did not feel that the draft meeting plan deadline for the CPP meeting had been met. She said that an RR, Rural Residential zoning district would be more compatible with the surrounding area than the proposed GU, General Use Holding zoning district. She, as well as the residents of Deer Run, had become frustrated by the ongoing County and City hearings.

Mr. Magee voiced his objection to the land use request being heard by the board before the site was annexed into the City. Mr. Murphy responded that the board was required to hear the land use and zoning applications prior to the City Council. Both land use and zoning applications were consistent and compatible.

Mr. Buchanan submitted to the board a revised County staff report dated November 5, 2015 that showed a reduction in the amount of traffic trips the mining operation would generate. The report indicated a 21 percent impact on the roadway as opposed to the October 5, 2015 County staff report that mistakenly indicated a 53 percent impact.

The floor was closed for public comments.

Mr. Weinberg commented that the approval of the requested land use and zoning district would not mean the acceptance or expansion of the borrow pit operation.

Motion by Mr. Weinberg, seconded by Mr. Artley to submit case CP-1-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map amendment from Residential 1:2.5 (Brevard County) to Rural Single Family Use. The motion carried with members voting unanimously.

City Council will hear Case CP-1-2016 on February 18, 2016.

2. CPZ-1-2016 – ROY WAYNE YATES (KIM REZANKA, REP.)

Mr. Murphy presented the staff report for Case CPZ-1-2016. The applicant had requested a zoning amendment from an AU, Agricultural Residential Classification (Brevard County) and an AGR, Agricultural Classification (Brevard County) to a GU, General Use Holding District.. Staff recommended Case CPZ-1-2016 for approval.

Attorney Kim Rezanka with the law firm of Dean Mead (representative for the applicant) stated that the GU zoning district was consistent with the land use proposed for the site and with the surrounding area, including the Deer Run community. The same uses currently on the property would be allowed by the GU district.

The floor was opened for public comments.

Attorney Kyle Magee (representative for Deer Run Community Association, Inc.) spoke against the subject request. He believed the GU zoning district was incompatible with the adjacent equestrian community and with the proposed Rural Single Family land use due to the mining that the GU district would permit by conditional use. Deer Run was unique as the only equestrian community in Brevard County. The horse trail between Deer Run and the subject site was widely used by Deer Run residents. Valid concerns raised at previous Brevard County hearings was the effect mining noise would have on the horses, the impact dewatering would have on Deer Run wells and ponds, the heavy truck loads on Babcock Street, and the safety of the school bus route on Babcock Street. He expounded on how the activities permitted under the RR, Rural Residential zoning classification would be a more compatible fit for the site.

Mr. Piatkowski questioned why Mr. Magee considered the GU zoning district to be incompatible as there were GU zoned properties to the south and to the west of the site. Mr. Magee remarked on the negative impact a mining operation allowed under the GU district would have on the Deer Run community. An RR zoning district would be more appropriate for the site as it did not allow mining.

Mr. Piatkowski and Mr. Williams commented that the mining operation was not under consideration at this time. The board had to determine whether the requested GU district was a compatible zoning designation.

The floor was closed for public comments and there were 25 letters of opposition in the file.

Motion by Mr. Weinberg, seconded by Mr. Pezzillo to submit case CPZ-1-2016 to City Council for approval of a zoning amendment from an AU, Agricultural Residential Classification (Brevard County) and an AGR, Agricultural Classification (Brevard County) to a GU, General Use Holding District. The motion carried with members voting unanimously.

City Council will hear Case CP-1-2016 on February 18, 2016.

#### **SCHOOL COORDINATION BUSINESS:**

There was no school coordination business.

#### **1. FS-3-2015 – PALLADIO DEVELOPMENT, LLC (STEPHEN STRELECKI)**

Mr. Murphy presented the staff report for Case FS-3-2015. The applicant had requested final subdivision approval for a proposed 5-lot single-family residential development called Palladio Subdivision in an RS-2, Single Family Residential District. Staff recommended Case FS-3-2015 for approval subject to the staff report.

Mr. Stephen Strelecki (applicant) was present.

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. Pezzillo, seconded by Mr. Piatkowski to submit Case FS-3-2015 to City Council for final subdivision approval of a proposed 5-lot single-family residential development called Palladio Subdivision in an RS-2, Single Family Residential District subject to the requirements and conditions of the staff report. The motion carried with members voting unanimously.

City Council will hear Case FS-3-2015 on February 18, 2016.

**NEW BUSINESS:**

1. V-3-2016 – AZROR ASHRAPOV (MICHAEL KARAFFA, REP.)

The item was considered earlier in the meeting after Item No. 1, under Old Business.

2. T-4-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case T-4-2016. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 169.005(B) in order to modify the applicability requirements for Citizen Participation Plans. Staff recommended Case T-4-2016 for approval.

Mr. Buchanan explained that the proposed textual amendment was to address antiquated “land use change” language for consistency with Florida Statute 163.

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. Pezzillo, seconded by Mr. Weinberg to submit Case T-4-2016 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 169.005(B) in order to modify the applicability requirements for Citizen Participation Plans. The motion carried with members voting unanimously.

**OTHER BUSINESS:**

1. Recognition of board members with ten or more years of service and the announcement of new board members would occur at the February 18, 2016 City Council hearing. Board members were encouraged to seek a Council member for an appointment or to submit applications for at-large positions.
2. Mr. Williams announced his retirement from the board as of February 16 and expressed his appreciation for the board and staff. On behalf of staff, Mr. Murphy thanked Mr. Williams and the entire board for their service.

**ADJOURNMENT:**

The meeting was adjourned at approximately 8:22 p.m.

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Bob Williams, CHAIRMAN

Attest:

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Chandra Powell, SECRETARY

☞ Indicates item was considered out of sequence



DATE: March 2, 2016  
CASE #: V-5-2016

*CITY OF PALM BAY*

# LAND DEVELOPMENT DIVISION STAFF REPORT

## VARIANCE APPLICATION

**PROPOSAL:** A request to allow a proposed screened front porch to encroach the 25'-0" front setback by a maximum of 5'-0" as provided for in Section 185.033(F)(7)(a) in the RS-1, Single Family Residential zoning district.

**LOCATION:** 935 Douglas Street (Lot 32, Block 327, Port Malabar Unit #9)

**APPLICANT:** Mr. & Mrs. Joseph Kaufhold

## SITE DATA

**PRESENT ZONING:** RS-1, Single Family Residential

**ACREAGE:** 0.23 Acres +/-

**DENSITY:** Not Applicable

### ADJACENT ZONING

**& LAND USE:**

- N** -- RS-1, Single Family Residential; vacant
- E** -- RS-1, Single Family Residential; vacant
- S** -- RS-1, Single Family Residential; with home
- W** -- RS-1, Single Family Residential; with home

**WATER & SEWER:** Water and Sewer Available

**FLOOD ZONE:** Flood Zone 'X'- an area of minimum flood potential.

**COMPLIANCE WITH THE  
COMPREHENSIVE PLAN:** Not specifically addressed

**BACKGROUND:**

1. The site is located at 935 Douglas Street S.E. (Lot 32, Block 327, Port Malabar Unit 9)
2. The property is zoned RS-1, Single Family Residential.
3. The applicant is requesting a proposed screened front porch to encroach the 25'-0" front setback by a maximum of 5'-0" as provided for in Section 185.033(F)(7)(a) in the RS-1, Single Family Residential zoning district

**ANALYSIS:**

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

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

The applicant is requesting relief from the front setback in order to construct a screened front porch. City Staff, as well as the Board have in the past, recognized the necessity and commonality of front porch structures in residential districts. As the home was placed by others very close to the front property line, this may be a peculiarity with regard to the land that the Board and City Council may wish to consider.

**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 above are not a direct result of the actions of the applicant. The home was placed near the front property line by another party which would not allow for a 'useable' front porch structure to be built upon it.

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

Literal interpretation and enforcement of the land development code would allow a porch structure of only 3.10' in width; this would impart a deprivation of rights to the applicant as other properties in the residential districts have 'useable' front porches. The applicant is seeking 5' of relief, which would allow a 'useable' area of 8.10' feet of width.

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

It appears at minimum, the applicant would require 5'-0" of relief from the 25'-0" setback for the proposed screened front porch.

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

Granting of the variance may confer the applicant a perceived special privilege for the encroachment of the proposed structure. However, the encroachment is minor in nature, and front porch structures are common amenities to homes in the area.

**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."

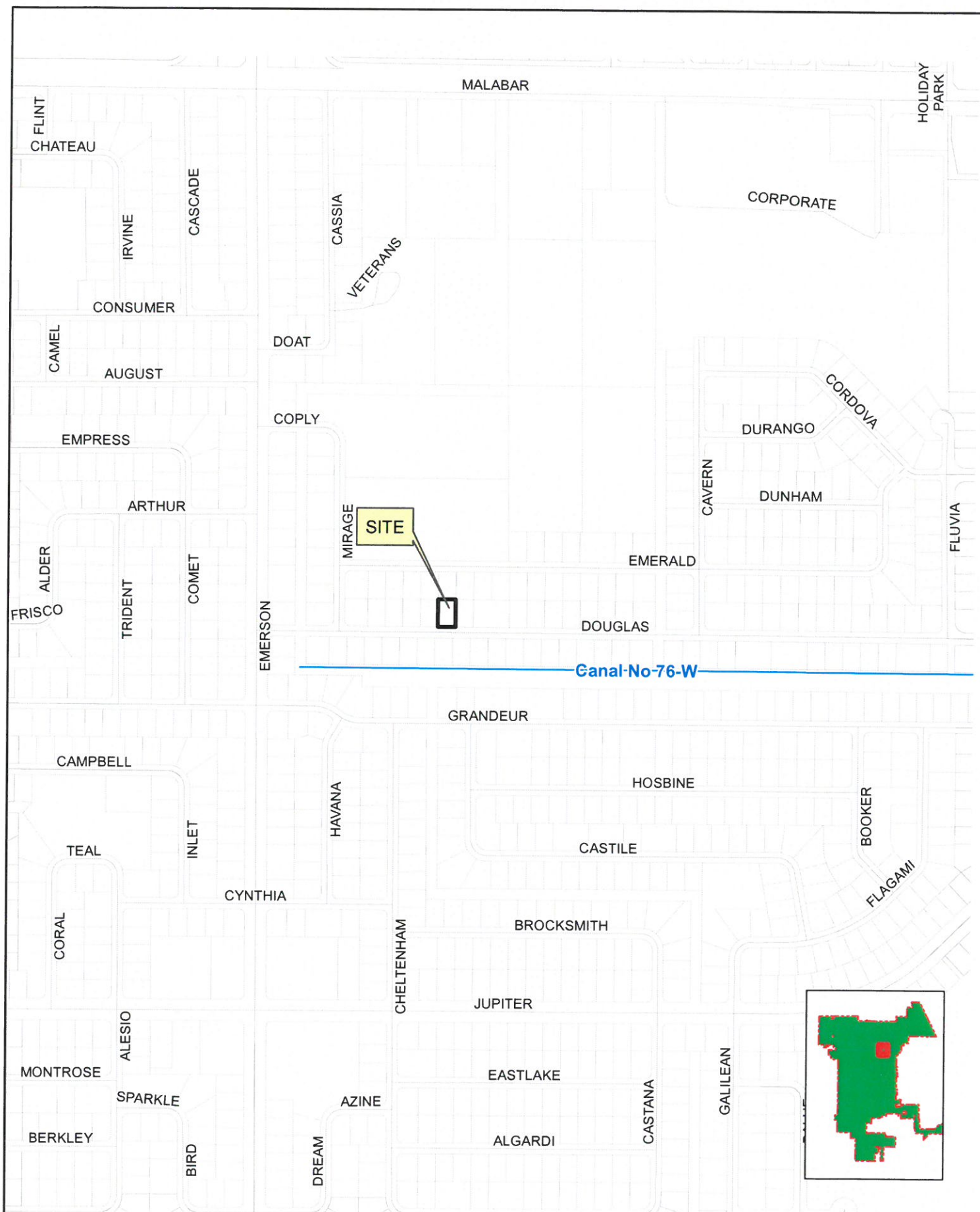
City Council must ultimately decide if the application meets the general intent and purpose of the code. The Board may wish to add special conditions such as allowing the front porch to only be screened, and to disallow any future conversion to living area in the encroachment area.

**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.

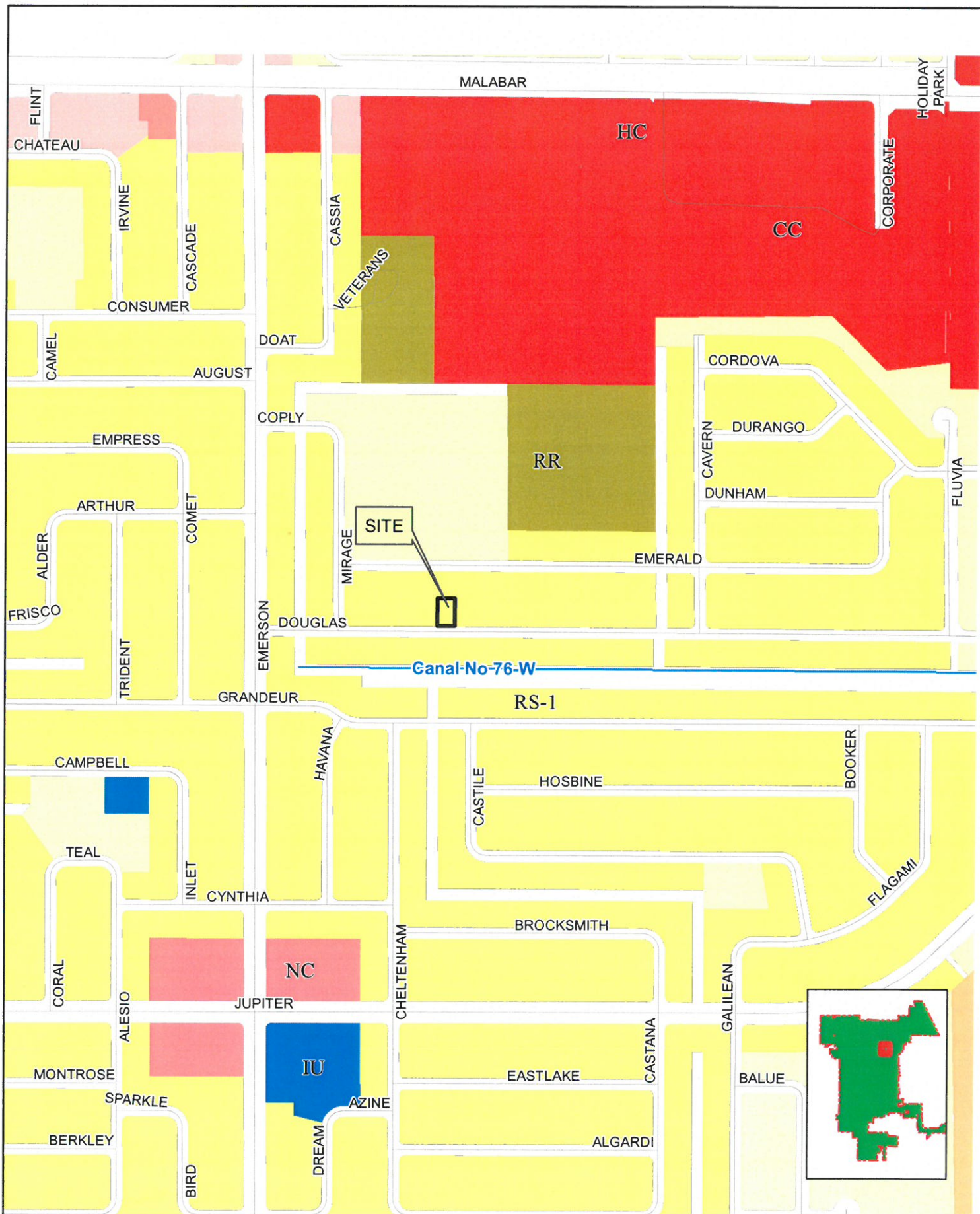
**STAFF CONCLUSION:**

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

## CASE V-5-2016 LOCATION MAP

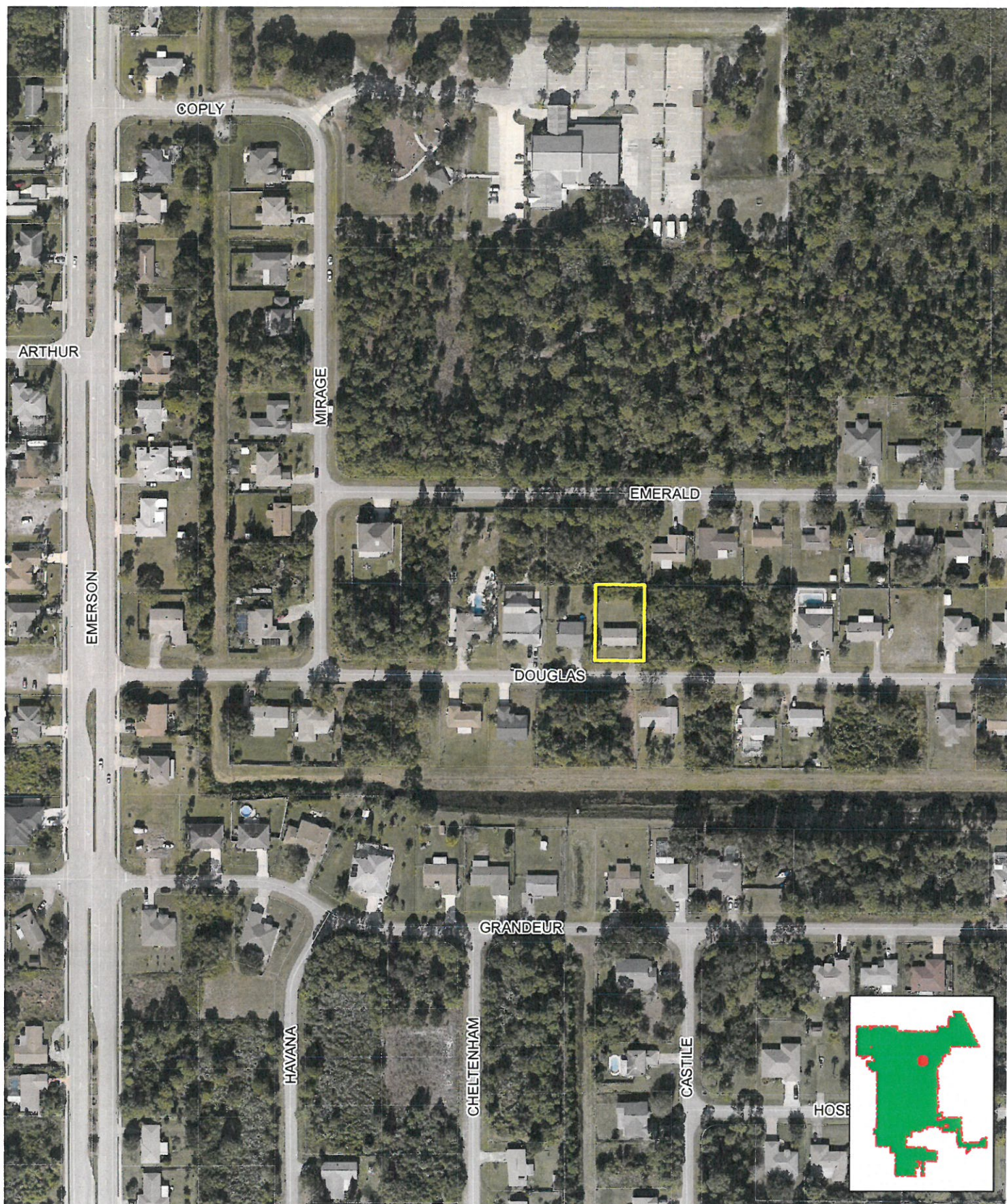


# **CASE V-5-2016** **ZONING MAP**



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-5-2016**



DOUGLAS



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

## CASE V-5-2016 AERIAL VIEW

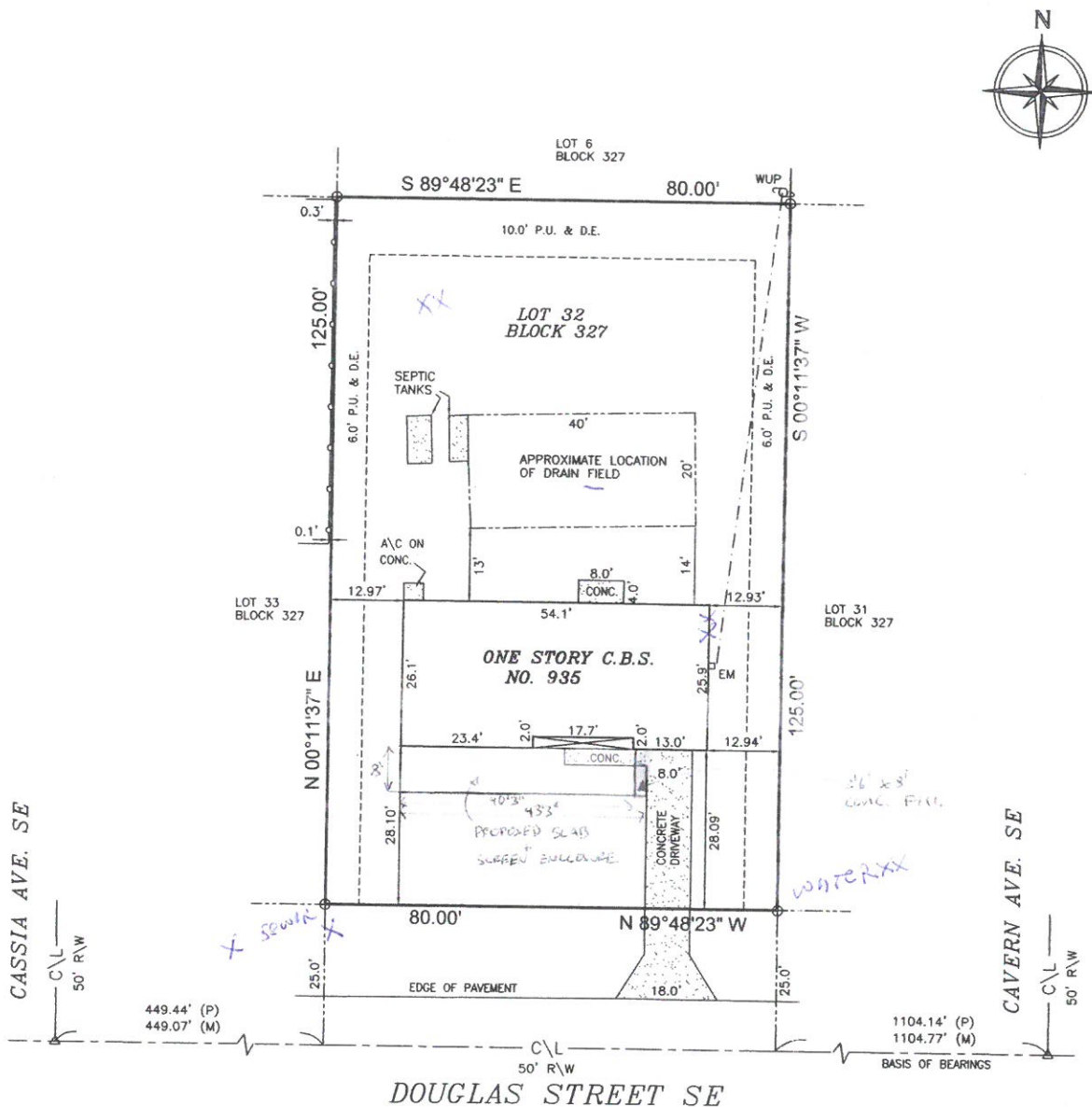


DESCRIPTION:

LOT 32, BLOCK 327  
PORT MALABAR UNIT NINE

ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 15, PAGES 01, THROUGH 09  
OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

MAP OF BOUNDARY SURVEY



SURVEYOR'S NOTES:

1. This property is located in Flood Zone(s) X. The Residence is lying in Flood Zone(s) X, Map No. 12095C06606, Panel No. 660, Suffix C, Community No. 120404, Effective Date, March 17, 2014.
2. The bearings shown are based on an Assumed North Meridian, Being N 89° 48' 23" W along the Center line of Douglas St. SE
3. This is Real Property being situated in Section 5, Township 29S, Range 37E.

4. The Surveyor has not abstracted the property. Only platted or furnished easements or encumbrances that may restrict the property are shown.
5. Underground improvements are not located unless requested.
6. Elevations shown hereon based on Assumed Datum. Originating Benchmark is

LEGEND & ABBREVIATIONS:

○ = Fnd 5/8" iron rod no i.d.  
△ = Fnd nail & disc no id. □ = Set concrete monument with disc  
— = 4' C.L.F. XXX = Existing Elevations  
— = 6' W.F. (XXX) = Proposed Elevations  
— = OHPL

(B.M.)=Benchmark,(CONC.)=Concrete,(C.L.)=Centerline,(C.B.S.)=Concrete Block Structure  
(C.B.S.)=Concrete Block Structure,(C.S.)=Covered and Screened,  
(C.M.)=Concrete Monument,(C.M.P.)=Corrugated Metal Pipe,(C.L.F.)=Chain Link Fence  
(D)=Deed,(E.M.)=Electric Meter,(F.F.E.)=Finished Floor Elevation,(Fnd.)=Found,  
(F.P.R.)=Fixed Point of Reference, (I.R.)=Iron Rod with Cap,(L.P.)=Iron Pipe  
(G.M.)=Gas Meter,(L.B.)=Licensed Business,(L.S.)=Licensed Surveyor,(M.)=Measured  
(M.E.S.)=Mitered End Section,(N&D)=Nail & Disc,(O.R.B.)=Official Records Book,  
(OHP)=Over Head Power Line,(P.C.P.)=Permanent Control Point, (P)=Plot  
(P.O.B.)=Point of Beginning,(P.O.C.)=Point of Commencement  
(P.R.M.)=Permanent Reference Monument,(P.U. & D.E.)=Public Utility & Drainage Easement,  
(RNG.)=Range,(R.C.P.)=Reinforced Conc. Pipe,(R.W.)=Right of Way,(SEC.)=Section  
(TWP.)=Township,(WUP.)=Wood Utility Pole,(W.F.S.)=Wood Frame Structure,(W.M.)=Water Meter

CERTIFIED TO:

JOSEPH THOMAS KAUFHOLD and RUTH ANN TUCCI KAUFHOLD

Certified By:

*E. Nielsen*

Signature Date: 9-15-15

I, Eric Nielsen Professional Surveyor & Mapper, No. 5386, L.B. 8948, State of Florida certify this map of survey meets the standards set per Florida Administrative Code 5J-17.051 pursuant to Chapter 472.027 per Florida Statutes.

Eric Nielsen Land Surveying, Inc.

Revisions:

12 STONE STREET, COCOA, FL. 32922  
Ph: (321) 631-5654 Fax: (321) 631-5974

SCALE: 1" = 20' DATE: 09-10-2015 JOB NO: 15-302-09



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) Joseph T. & Ruth T. KAUFHOLD  
ADDRESS 935 Douglas St. SE  
CITY Palm Bay STATE FL ZIP 32909  
PHONE # 804.690.1456; 804.347.6484 FAX # \_\_\_\_\_  
E-MAIL ADDRESS RKAUFHOLD77@GMAIL.COM, joeKaufhold@gmail.com
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION LOT 32  
Block 327; Port Malabar; Unit Nine; Book 15 pp 1-9  
SECTIONS 4, 5, & 6 TOWNSHIP 29 South RANGE 37 East
- 3) STREET ADDRESS OF PROPERTY COVERED BY APPLICATION: 935 Douglas St. SE
- 4) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 0.23 acres
- 5) EXISTING ZONING CLASSIFICATION OF PROPERTY (ex.: RS-2, CC, etc.): RS-1
- 6) ARE THERE ANY STRUCTURES ON THE PROPERTY NOW?: ☒ YES ☐ NO
- 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: \_\_\_\_\_

- 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):

The proposed structure is a screened front porch to extend 8 feet from the current house; this is encroaching 5 feet into 25 foot set-back.

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

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.

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

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](http://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

*Joseph T. Kaufhold*

Date

*1/21/16*

Printed Name of Applicant

JOSEPH T. KAUFHOLD

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

# **CASE V-5-2016**

**CORRESPONDENCE: 1**

**Chandra Powell**

V-5-2015

**From:** Stacy LaVanture  
**Sent:** Thursday, February 25, 2016 8:49 AM  
**To:** Stuart Buchanan  
**Cc:** Chandra Powell  
**Subject:** FW: Feedback for City of Palm Bay, FL

Should this go to your dept? I am not sure who to send this to. This was sent from the feedback button on city website.

**From:** Help Desk  
**Sent:** Wednesday, February 24, 2016 9:31 PM  
**To:** Stacy LaVanture  
**Subject:** FW: Feedback for City of Palm Bay, FL

-----  
**From:** Cleotha Morgan Jr[SMTP:CMJENERGYINC@MSN.COM]  
**Sent:** Wednesday, February 24, 2016 9:30:43 PM  
**To:** Help Desk  
**Subject:** Feedback for City of Palm Bay, FL  
**Auto forwarded by a Rule**

You have received this feedback from Cleotha Morgan Jr < [cmjenergyinc@msn.com](mailto:cmjenergyinc@msn.com) > for the following page:

<http://www.palmbayflorida.org/i-want-to-/report-a-problem-or-request-a-service>

I own a 1/4 Acre Lot 32, Block 327, Port Malabar Unit 9, Section 5, Township 29, Range 37 in Brevard County Florida. Also I received a letter from the City of Palm Bay about a porch encroaching 5 Feet into the 25-Foot Front setback in an RS-1. Whatever all that mean, I do not request anyone violating the perimeter of my property to build any structure. I'm in protest of any proposal to construct any subjects/objects that will pass onto or under my vacant lot that I've owned for over 20 Years and purchased from Atlantic Gulf Communities Corporation.

Cleotha Morgan Jr



DATE: CP-2-2016  
CASE #: March 2, 2016

*CITY OF PALM BAY*

# LAND DEVELOPMENT DIVISION STAFF REPORT

## COMPREHENSIVE PLAN AMENDMENT APPLICATION

**PROPOSAL:** Amend the Comprehensive Plan Future Land Use Map from Public/Semipublic Use to Commercial Use.

**LOCATION:** Located at 2144 Palm Bay Road, which is at the SW corner of the intersection of Palm Bay Road and Franklin Drive. Specifically, the subject property is Lot 1, Block 4, of the Port Malabar Industrial Park Subdivision.

**APPLICANT:** City of Palm Bay, Growth Management Department

## SITE DATA

**PRESENT ZONING:** IU, Institutional Use District

### LAND USE

**DESIGNATION:** Public/Semi-public Use

**ACREAGE:** 1.84 acres

### ADJACENT ZONING

**& LAND USE:**

- N** -- CC, Community Commercial (across Palm Bay Road);  
Various Commercial Businesses
- E** -- CC, Community Commercial; Restaurant and Bank
- S** -- LI, Light Industrial and Warehousing District; Palm Bay Mowers
- W** -- CC, Community Commercial; Vacant Land

BACKGROUND:

1. The property is located at Located at 2144 Palm Bay Road, which is at the SW corner of the intersction of Palm Bay Road and Franklin Drive. Specifically, the subject property is Lot 1, Block 4, of the Port Malabar Industrial Park Subdivision.
2. The adjacent zoning and land uses are as follows:  
  
North: CC, Community Commercial (across Palm Bay Road);  
Various Commercial Businesses  
East: CC, Community Commercial; Restaurant and Bank  
South: LI, Light Industrial and Warehousing District; Palm Bay Mowers  
West: CC, Community Commercial; Vacant Land
3. The applicant is requesting a small-scale Comprehensive Plan Future Land Use Map Amendment to change from Public/Semi-Public Use to Commercial Use. The applicant for this request is the City of Palm Bay's Growth Management Department.
4. At the August 6, 2015 and the September 17, 2015 regular City Council meetings, staff was given direction to review the steps necessary to surplus or lease the subject parcel. The proposed future land use amendment will remove the public/institutional future land use and provide for a Commercial Future Land Use will allow for the redevelopment of the property for private commercial uses.

ANALYSIS:

**Availability of Public Facilities and Services:**

Potable Water: Provided by the City of Palm Bay Utilities Department

Sanitary Sewer: Provided by the City of Palm Bay Utilities Department

Solid Waste: Provided by Waste Management

Parks & Recreation: Not Applicable for Commercial Use

Drainage: The site contains an existing development and no re-development is proposed at this time. Any future development that proposes significant increases in the impervious surfaces of the site shall adhere to the stormwater treatment requirements of the City of Palm Bay, as well the St. Johns River Water Management District.

Transportation: Primary access to the site is via Palm Bay Road, with a secondary access on Franklin Drive. As the previous use was a Fire and Police Station, no additional traffic impacts are expected from a change to a Commercial Land Use designation.

Public Schools: Not Applicable for Commercial Use

**Environmental Resources:**

Any future use will require review and compliance with all relevant City regulations, including environmental review as required.

**Coastal High Hazard Zone:**

The subject property is not located within the original Coastal High Hazard Zone or the current surge area.

**Historic Resources:**

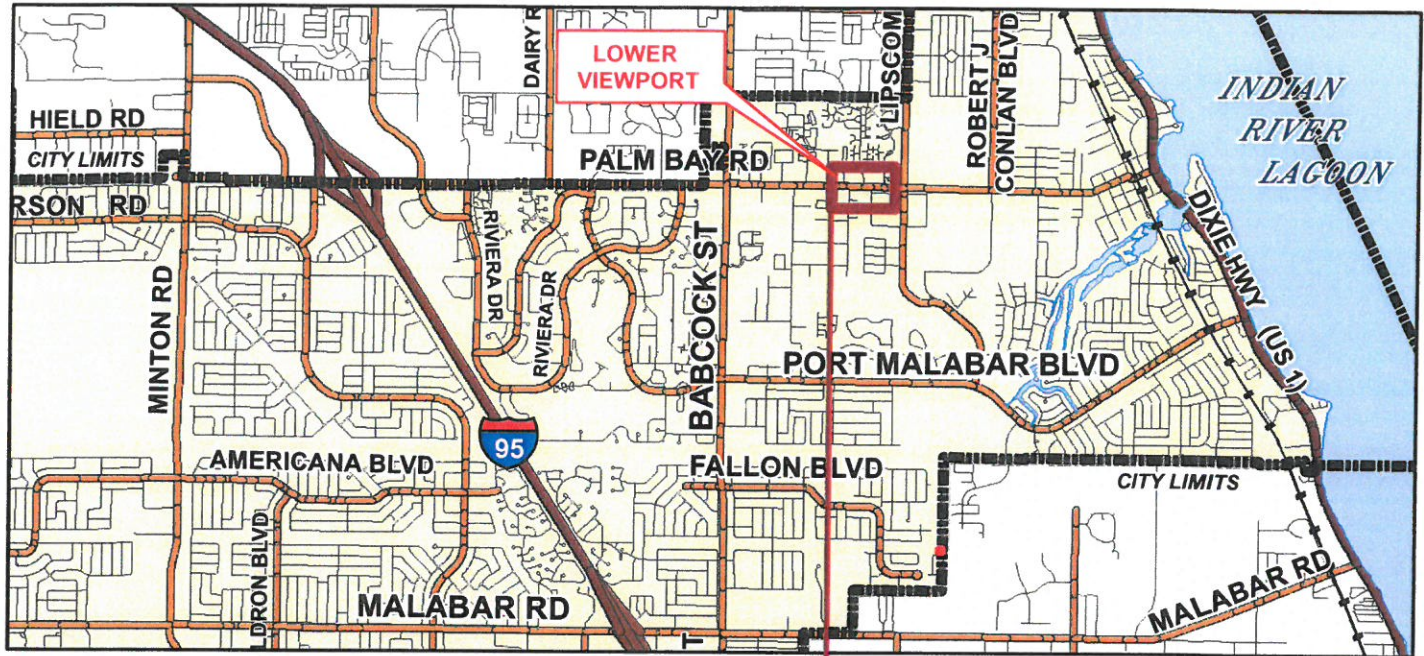
There is no Florida Master Site File for any historic resources on the property.

**STAFF CONCLUSION:**

Motion to approve Case No. CP-2-2016, pursuant to Chapter 163, Florida Statutes

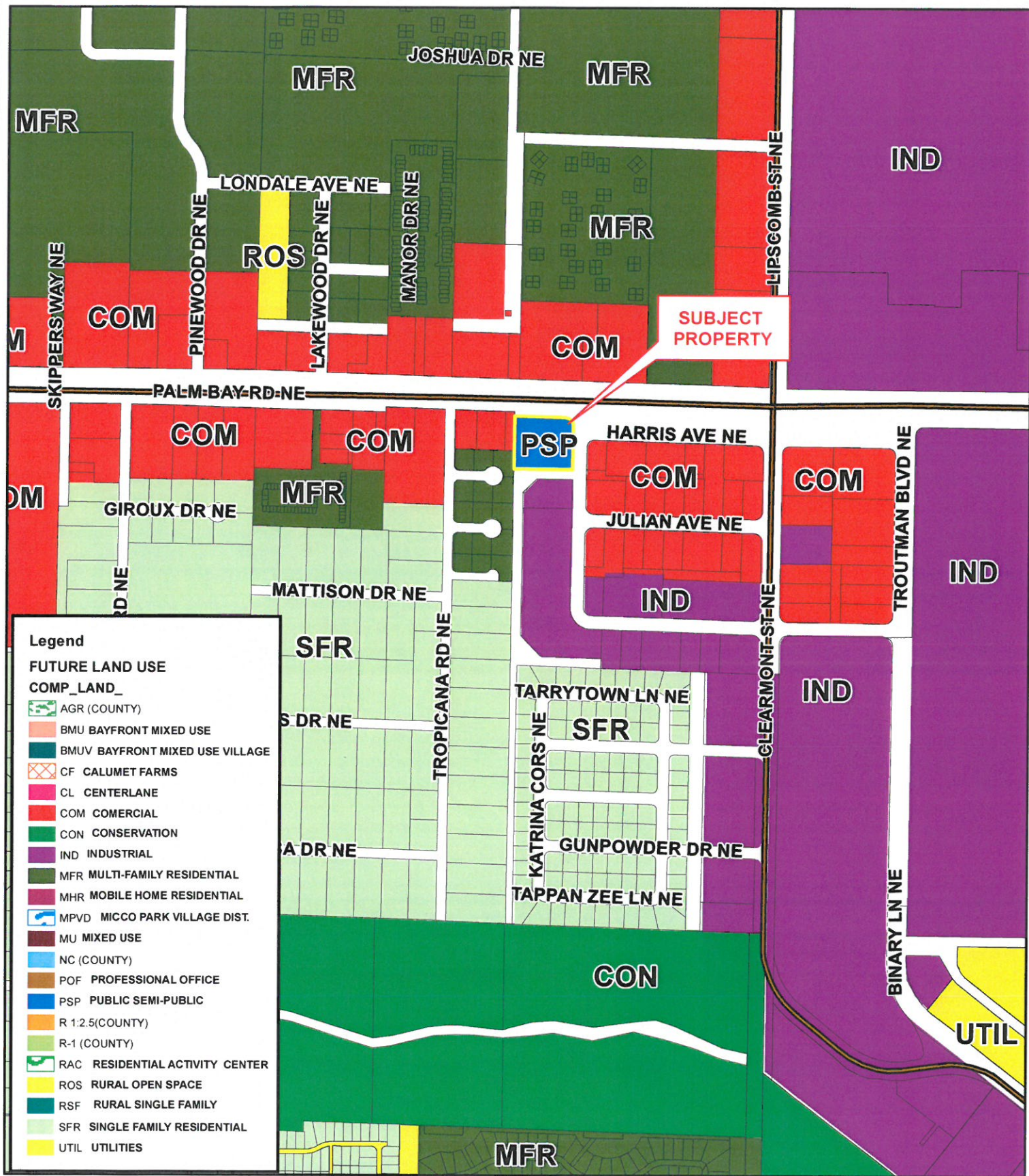


# LOCATION MAP



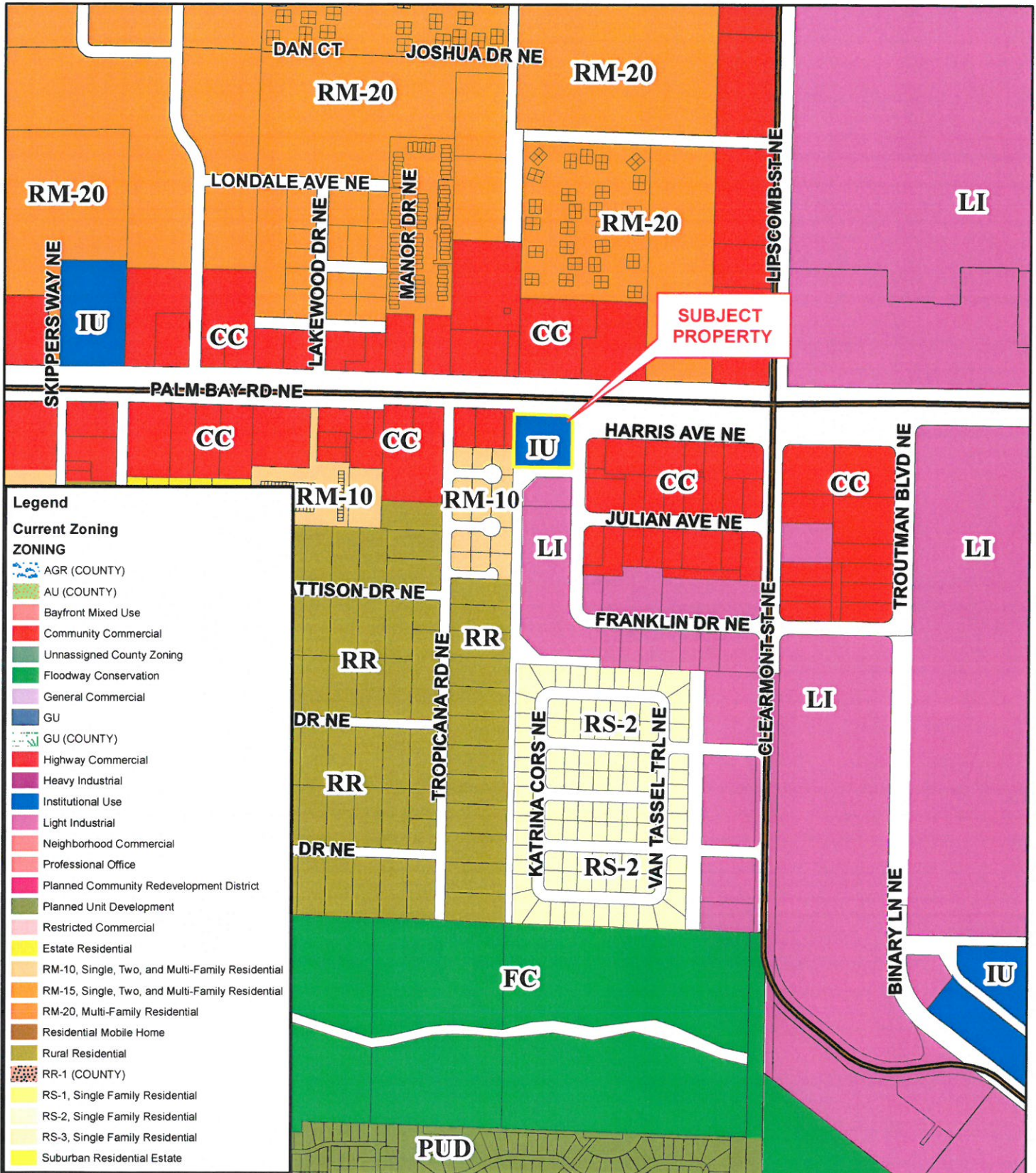
**CP-2-2016 and CPZ-2-2016**

# Future Land Use Map



**CP-2-2016 and CPZ-2-2016**

# Zoning Map



**CP-2-2016 and CPZ-2-2016**



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

## COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT 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) City of Palm Bay (Growth Management Department)  
ADDRESS 120 Malabar Road SE  
CITY Palm Bay STATE FL ZIP 32907  
PHONE # (321) 733-3041 FAX # (321) 953-8920  
E-MAIL ADDRESS stuart.buchanan@palmbayflorida.org
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION \_\_\_\_\_  
Lot 1, Block 4, Port Malabar Industrial Park Subdivision  
\_\_\_\_\_  
SECTION 22 TOWNSHIP 28 RANGE 37
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 1.84 acres
- 4) LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.): Public/Semi-Public Use
- 5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE: Commercial Use  
\_\_\_\_\_  
\_\_\_\_\_
- 6) PRESENT USE OF THE PROPERTY: Unoccupied
- 7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: Vacant fire station
- 8) HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:  
Case CPZ-2-2016

(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 Economic Opportunity and the City of Palm Bay.)

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

- 9) JUSTIFICATION FOR CHANGE (attach additional sheets containing supporting documents and evidence if necessary): At the August 6, 2015 and September 17, 2015 regular City Council meetings, staff was directed to  
take steps to surplus or lease the subject property. The land use change will allow for the redevelopment of the  
property for private commercial uses.
- 10) SPECIFIC USE INTENDED FOR PROPERTY: Private commercial development.
- 11) THE FOLLOWING PROCEDURES AND ENCLOSURES ARE REQUIRED TO COMPLETE THIS APPLICATION FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP:
- N/A \*Application Fee. Make check payable to "City of Palm Bay."
- ☐ Large Scale Map Amendment (10 acres or more) \$1,600.00 ☐ Text Amendment (Comp. Plan) \$1,600.00
- ☒ Small Scale Map Amendment (Less than 10 acres) \$1,000.00 ☐ Special Amendment Cycle \$4,000.00
- 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.bcpao.us/paohome.asp](http://www.bcpao.us/paohome.asp)). List shall be legible and the source of that information stated here: Brevard County Property Appraiser website
- X Sign(s) posted on the subject property. Refer to [Section 51.07\(C\)](#) of the Legislative Code for guidelines.
- N/A 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.
- 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 COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT.
- N/A 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 OR FUTURE LAND USE MAP 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 OR FUTURE LAND USE MAP AMENDMENT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.**

Signature of Applicant  Date February 16, 2016  
Printed Name of Applicant Stuart Buchanan, Growth Management Director

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



DATE: March 2, 2016  
CASE #: CPZ-2-2016

## CITY OF PALM BAY

# LAND DEVELOPMENT DIVISION STAFF REPORT

### APPLICATION

- PROPOSAL:** Rezoning from the IU, Institutional Use District to the CC, Community Commercial District.
- LOCATION:** The property is located at 2144 Palm Bay Road NE, which is the southwest corner of the intersection of Palm Bay Road and Franklin Drive. Specifically, the subject property is Lot 1, Block 4, of the Port Malabar Industrial Park Subdivision
- APPLICANT:** City of Palm Bay, Growth Management Department

### SITE DATA

**PRESENT ZONING:** IU, Institutional Use District

#### LAND USE

**DESIGNATION:** Public/Semi-Public Use

**ACREAGE:** 1.84 acres

#### ADJACENT ZONING

**& LAND USE:**

- N** -- CC, Community Commercial (across Palm Bay Road); Various Commercial Businesses
- E** -- CC, Community Commercial; Restaurant and Bank
- S** -- LI, Light Industrial and Warehousing District; Palm Bay Mowers
- W** -- CC, Community Commercial; Vacant Land

**WATER & SEWER:** City Water & Sewer

**FLOOD ZONE:** Floodzone X, outside the 500-year Floodzone

#### COMPLIANCE WITH THE

**COMPREHENSIVE PLAN:** Yes, subject to approval of CP-2-2016

BACKGROUND:

1. The property is located at 2144 Palm Bay Road NE, which is the southwest corner of the intersection of Palm Bay Road and Franklin Drive. Specifically, the subject property is Lot 1, Block 4, of the Port Malabar Industrial Park Subdivision.
2. The adjacent zoning and land uses are as follows:  
  
North: CC, Community Commercial (across Palm Bay Road);  
Various Commercial Businesses  
East: CC, Community Commercial; Restaurant and Bank  
South: LI, Light Industrial and Warehousing District; Palm Bay Mowers  
West: CC, Community Commercial; Vacant Land
3. At the August 6, 2015 and the September 17, 2015 regular City Council meetings, staff was given direction to review the steps necessary to surplus or lease the subject parcel. The proposed rezoning will allow for the redevelopment of the property for private commercial uses.
4. Therefore, the applicant is requesting a rezoning from the IU, Institutional Use District to the CC, Community Commercial District. The applicant for this request is the City of Palm Bay's Growth Management Department.

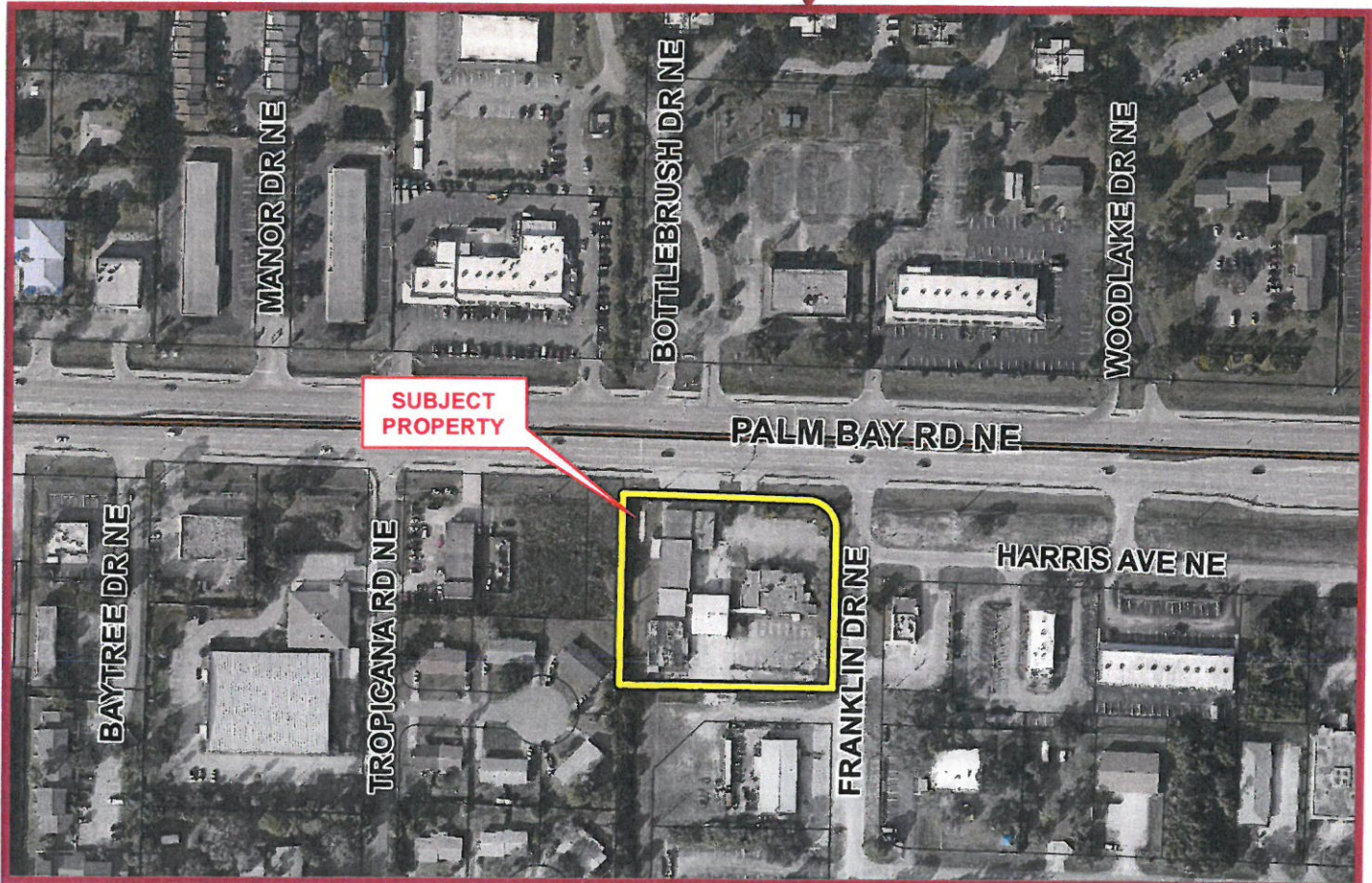
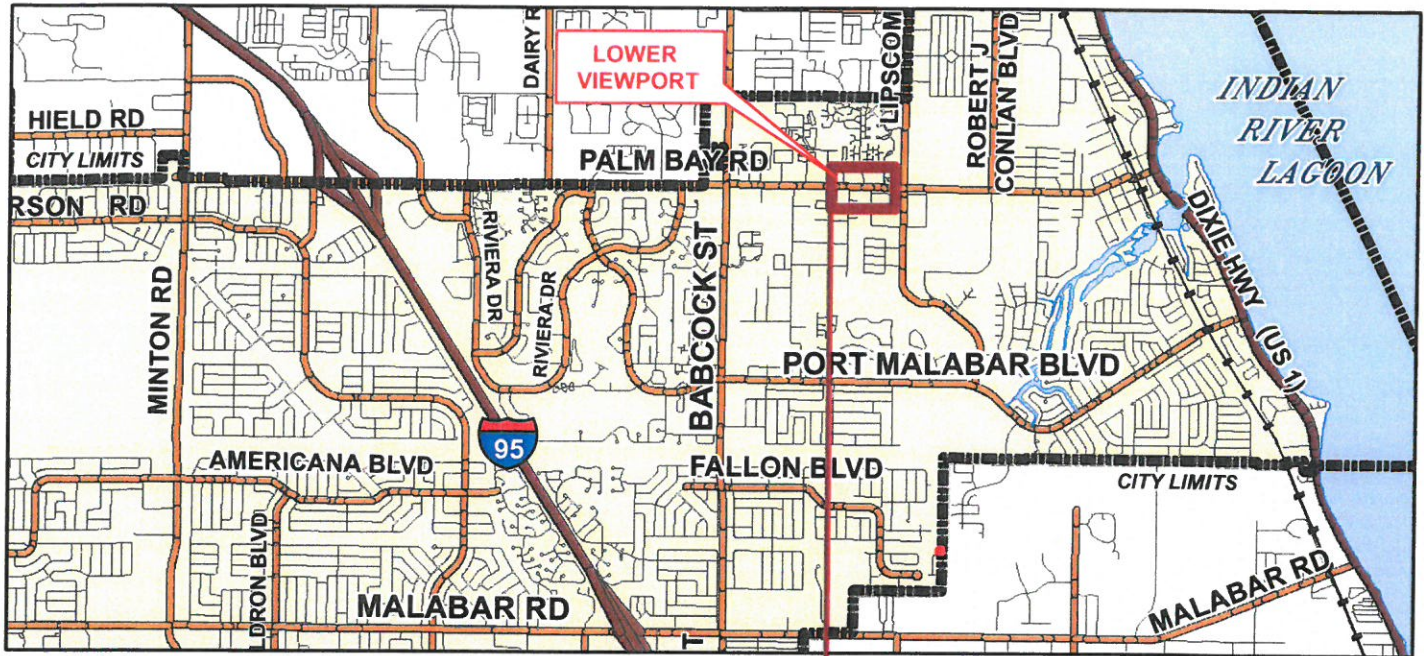
ANALYSIS:

1. 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.
2. The primary access to the property will continue to be from Palm Bay Road. The existing driveway access to Franklin Drive will be retained. The proposed zoning includes no significant change from existing Brevard County trip generations.
3. The request for this zoning district has been submitted in order to be consistent and compatible with the proposed Future Land Use category of Commercial Use.

STAFF CONCLUSION:

The Board and City Council must determine if the requested zoning category is compatible with the requested Future Land Use category identified in Case No. CP-2-2016.

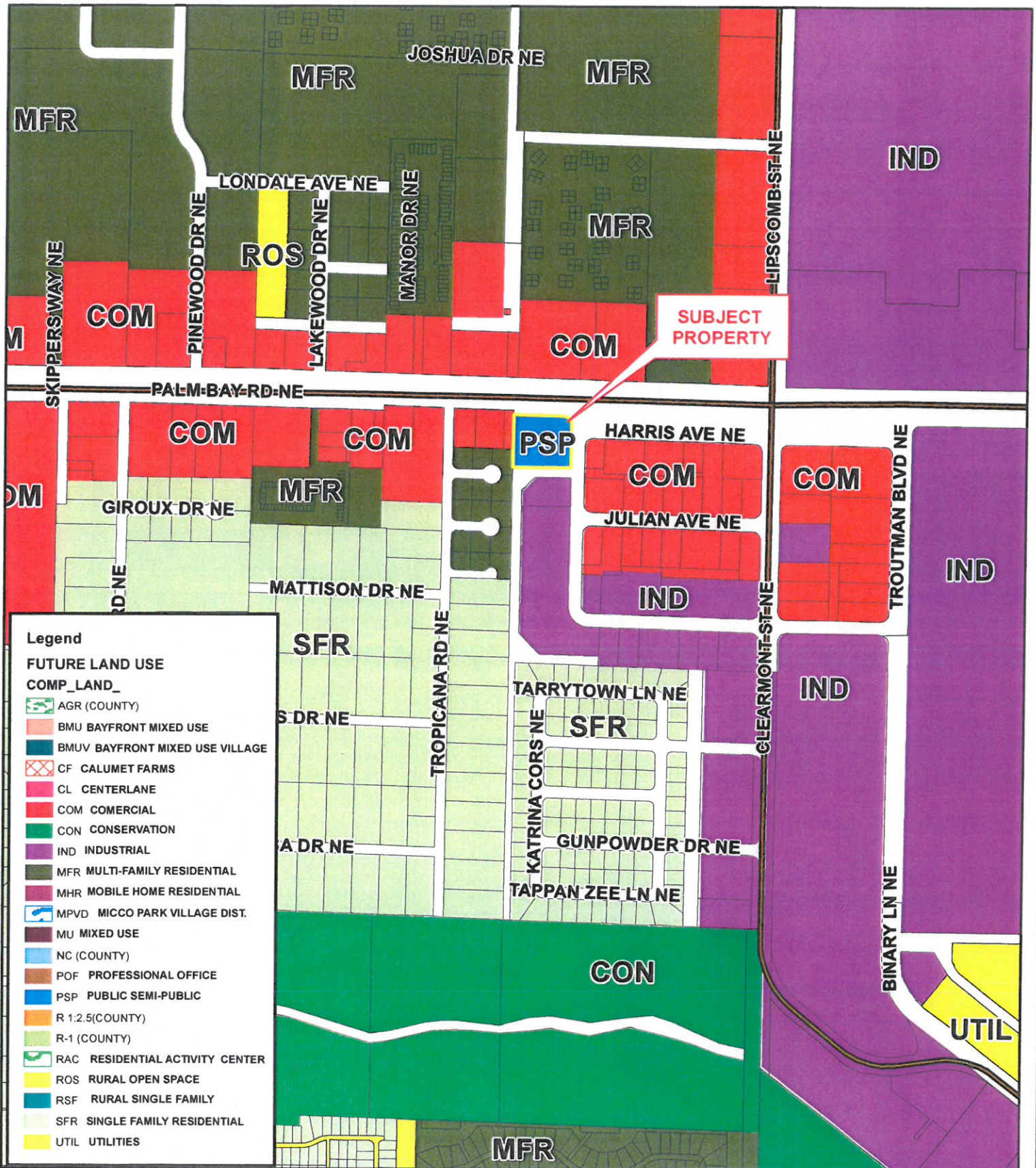
# LOCATION MAP



**CP-2-2016 and CPZ-2-2016**



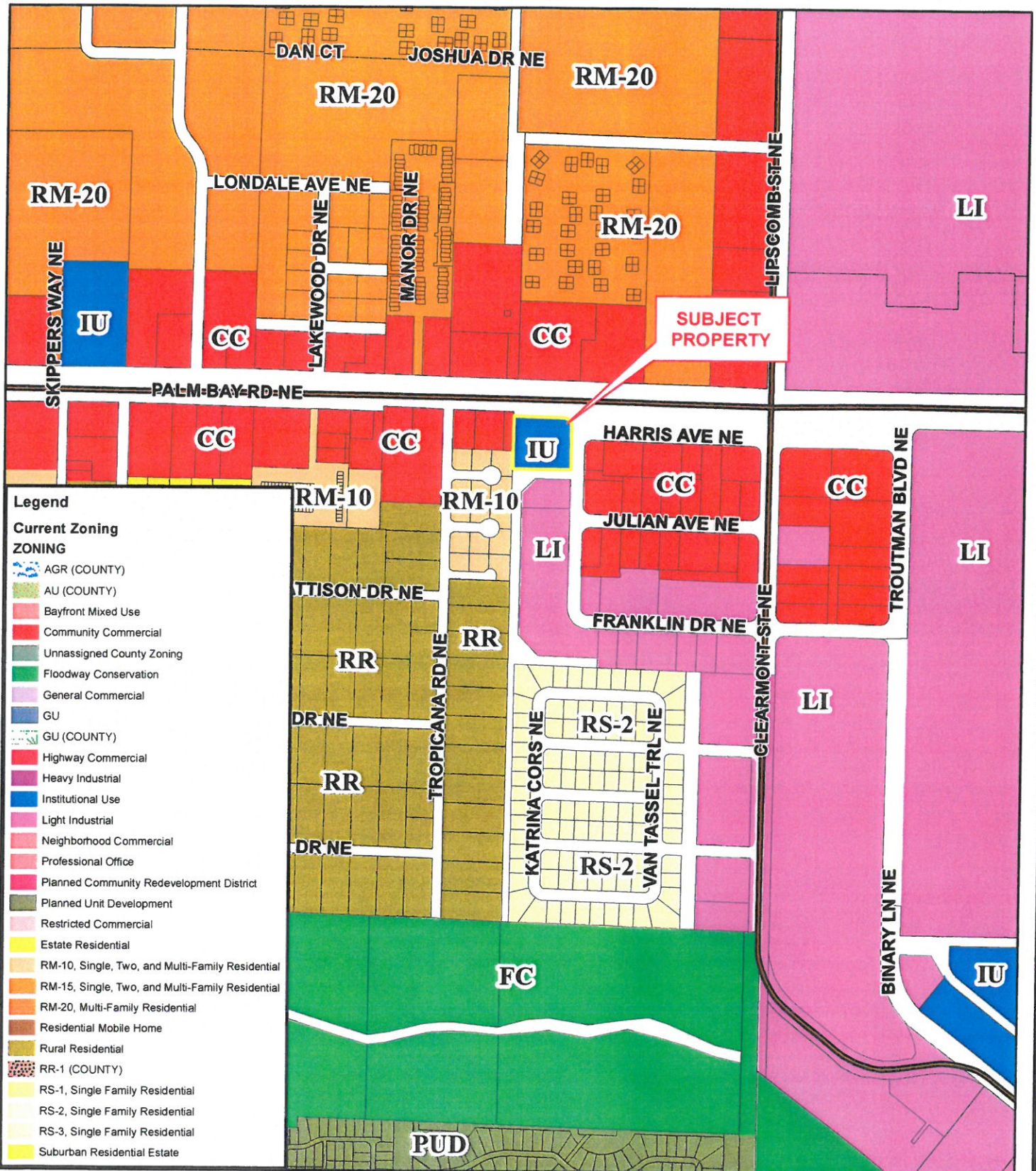
# Future Land Use Map



CP-2-2016 and CPZ-2-2016



# Zoning Map



CP-2-2016 and CPZ-2-2016



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) City of Palm Bay (Growth Management Department)  
ADDRESS 120 Malabar Road SE  
CITY Palm Bay STATE FL ZIP 32907  
PHONE # (321) 733-3041 FAX # (321) 953-8920  
E-MAIL ADDRESS stuart.buchanan@palmbayflorida.org
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION  
Lot 1, Block 4, Port Malabar Industrial Park Subdivision  
SECTION 22 TOWNSHIP 28 RANGE 37
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 1.84 acres
- 4) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.): IU, Institutional Use District
- 5) ZONE CLASSIFICATION DESIRED (ex.: IU, LI, etc.): CC, Community Commercial District
- 6) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY? Vacant fire station
- 7) JUSTIFICATION FOR REZONING: Per City Council direction to take steps to surplus or lease the property.
- 8) PRESENT USE OF THE PROPERTY: Unoccupied
- 9) INTENDED USE OF PROPERTY: Private commercial development
- 10) THE FOLLOWING PROCEDURES AND ENCLOSURES ARE REQUIRED TO COMPLETE THIS APPLICATION:  
N/A \*\$600.00 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)). 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 <https://www.bcpao.us/paohome.asp>) List shall be legible and the source of that information stated here: Brevard County Property Appraiser website
- X Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.
- 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 REZONING.
- N/A 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 February 16, 2016

Printed Name of Applicant Stuart Buchanan, Growth Management Director

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



DATE: March 2, 2016

CASE #: T-6-2016

*CITY OF PALM BAY*

# **LAND DEVELOPMENT DIVISION STAFF REPORT**

## **TEXTUAL AMENDMENT APPLICATION**

**PROPOSAL:** A textual amendment to the Code of Ordinances, Title IX, General Regulations, Chapter 92: Noise; Title XVII, Land Development Code, Chapter 170: Construction Codes and Regulations; and Title XVII, Land Development Code, Chapter 185: Zoning, in order to update particular sections within these chapters.

**CODE CITATION:** Section 92.02, Sections 170.113, 170.114 & 170.120 and multiple sections within Chapter 185

**APPLICABILITY:** Citywide

**APPLICANT:** City of Palm Bay - Growth Management Department

**COMPLIANCE WITH THE  
COMPREHENSIVE PLAN:** Not specifically addressed

BACKGROUND:

1. A textual amendment to the Code of Ordinances is requested for, Title IX, General Regulations, Chapter 92: Noise; Title XVII, Land Development Code, Chapter 170: Construction Codes and Regulations; and Title XVII, Land Development Code, Chapter 185: Zoning, in order to update particular sections within these chapters.
2. The applicant for this amendment is the City of Palm Bay's Growth Management Department.
3. Proposed language for this amendment in legislative style with additions underlined and ~~deletions~~ in strikethrough format, is attached

ANALYSIS:

1. Chapter 92: Noise, was written in 1960, when the City of Palm Bay was incorporated. The chapter has been amended only once, back in 2002. This amendment included the addition of a subsection on loud noise emanating from radios and stereos. Section 92.02 establishes the hours and days of the week for the start and completion of construction work. This subsection has never been updated, and in its current state would not permit construction on a Saturday, without specific approval to do so.
2. Chapter 170 contains the Construction Codes and Regulations. This chapter was adopted in 1973 and has had multiple amendments since the original language. The specific sections being amended within this textual amendment include provisions for fences and surveys. Specifically, the proposed revisions included the type, size and placement of fences in residential and non-residential zoning districts. The changes contained herein will serve to allow increased utilization of private property.
3. Chapter 185: Zoning, was originally adopted in 1974 as part the General Development Corporation's (GDC) standardized Code for its Florida communities. As a Code written to be applied for multiple GDC communities across a diverse range of locations in Florida, there were several generalities applied, irrelevant of the actual community it was applied upon. The chapter is quite lengthy and covers a wide range of development parameters.

With the passage of the Growth Management Act by the Florida legislature and the subsequent adoption of the City's first Comprehensive Plan, the City amended the entire Chapter 185, in 1989. This amendment was to recognize the adoption of the Comprehensive Plan, however, much of the original 1974 Code remained.

Further amendments of this chapter included revising permitted uses to conditional uses based upon acreage, rather than the actual proposed usage of the property. These amendments increased development review time, associated project costs to the development community, including legal, engineering, and monetary carrying costs. Additional amendments over time, while done with good intentions, have proven to work against the ability to foster commercial and industrial development in the City of Palm Bay.

It is staff's believe that the proposed changes contained within this textual amendment will address reoccurring issues with the existing Zoning Code; remove internal inconsistencies; enable current needs for redevelopment; and act as a catalyst for new development in areas annexed into the City, post-GDC development.

The proposed amendments of Chapter 185 provide flexibility for the Planning & Zoning Board and City Council; reduce duplicative layers of review for permitted uses; reduce the time required to bring projects forward to the building permit stage, thereby reducing the carrying costs of private development; update the required minimum acreages; and allows for the removal of obsolete or incorrect references to other sections within the overall Code of Ordinances.

STAFF FINDINGS:

Case No. T-6-2016 is recommended for approval.

§ 92.02 LOUD AND DISTURBING NOISES ENUMERATED.

(I) *Construction or repairing of buildings.* The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 9:00 p.m. Monday thru Saturday ~~on weekdays~~, except in case of urgent necessity in the interest of public health and safety, and then only with written authorization ~~a permit~~ from the Building Official, which approval ~~permit~~ may be granted for Sunday ~~a period not to exceed three (3) days while the emergency continues~~ and which approval ~~permit~~ may be renewed for additional Sundays, if deemed necessary by the Building Official ~~periods of three (3) days or less while the emergency continues~~. If the Building Official should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways between the hours of 9:00 p.m. and 7:00 a.m., and if he shall determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done between the hours of 9:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

§ 170.007 PERMIT AND INSPECTION FEES.

Permit fees shall be as established through resolution adopted by the Palm Bay City Council. Permit applications for principal structures shall include a survey of the property, prepared by a Florida Licensed Professional Surveyor and may be required for accessory structures, at the discretion of the Building Official, or his designee.

§ 170.113 TYPES OF FENCES AND WALLS PERMITTED.

(E) Type F. Barbed Wire. Barbed wire may only be permitted upon lands that are zoned GC, General Commercial, LI, Light Industrial and Warehousing and HI, Heavy Industrial Zoning Districts.

**§ 170.114 RESIDENTIAL AREA LIMITATIONS AND RESTRICTIONS ON HEIGHT.**

§ 170.114 RESIDENTIAL AREA LIMITATIONS AND RESTRICTIONS ON HEIGHT.

(A) All walls, fences, ~~or~~ hedges, shrubs or dense planting of trees or other plant material hereafter located, erected, constructed, reconstructed or altered outside of the building lines of property situated in the city shall not be over four (4) feet in height when placed in the front ~~or side-corner~~ setback, and not more than six (6) feet in height at any other location ~~from the front building line to the rear easement or property line~~. For corner lots, a maximum fence height of six (6) feet may be permitted within the side corner yard area, provided it is no closer than fifteen (15) feet from the side corner property line.

§ 170.120 USE OF CERTAIN WIRE PROHIBITED.

The utilization or installation of barbed tape, razor tape and/or razor wire and concertina barbed

wire, for fencing, partitions or obstacles is prohibited within the city limits of the City of Palm Bay, except as permitted herein.

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 **CHAPTER 185: ZONING CODE** Top of Form

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District Regulations

~~185.050—SF 2—Single family residential category~~

185.055 PCR – Planned Community Redevelopment District (~~PCRD~~)

185.058 PCD – Planned Commercial Development

**§ 185.006 DEFINITIONS.**

 § 185.006 DEFINITIONS.

**ABROGATE.** To abolish; repeal; or annul.

**ARCADE AMUSEMENT CENTER.** This term refers to a place of business having at least fifty (50) coin-operated amusement games or machines which operate by means of the insertion of a coin and by the application of skill on premises which are operated for the entertainment of the general public and tourists as a bona fide amusement facility. An arcade amusement center shall follow all state regulations, as established by Florida Statute 546.109.

**CONSIGNMENT AND/OR THRIFT STORE.** A store to which people bring items that they no longer want (such as old clothes, shoes, and equipment) to have them sold. The person who brought it to the store doesn't necessarily have to receive a portion of the money paid for it; the item(s) could simply be donated.

**DUPLEX.** A residential structure that is divided into (2) units, with a separate entrance for each unit. Each unit may allow one (1) family to reside within.

**ESTATE.** A large, individually-owned piece of land containing a residence.

~~**FARM ANIMAL.** Poultry and other domesticated fowl including, but not limited to, chickens, ducks, geese, turkeys, pigeons and guinea; livestock including, but not limited to, beef cattle, dairy cattle, sheep, swine, horses, ponies, mules, donkeys, buffalo, llama, alpaca or goats or any mutations or hybrids thereof.~~

**GROWTH MANAGEMENT DIRECTOR.** The official charged with the administration, interpretation, and enforcement of this chapter as provided for in § 185.180.

**LIVESTOCK.** Domestic animals raised for use and/or for sale; such as fowl, ducks, geese, turkeys, horses, cows, mules, donkeys, pigs, chickens, goats and other animals commonly found on farms.

**MOBILE VENDING.** The vending of food or other items from a vehicle, trailer or cart that is pulled by a vehicle. Mobile vending must be truly mobile and may not operate in a stationary manner for longer than 90 minutes. The operation may not take place on publically owned land, unless specifically allowed by city approval.

~~**PLANNING DIRECTOR.** The official charged with the administration, interpretation, and enforcement of this chapter as provided for in § 185.180.~~

**TRAVEL TRAILER or MOBILE CAMPER.** A self-powered or non-self-powered vehicle eight (8) feet or under in width and no more than thirty-five (35) feet in length capable of being towed by an ordinary vehicle upon which it is constructed, whose primary use is temporary lodging while traveling or camping and is not used for habitation except in designated areas while within the corporate limits of the city.

**TRUCK FARMING.** Farms where crops are grown specifically to be retailed. This is typically an operation with rows of crops that are harvested by trucks that drive between or alongside the crops.

**§ 185.008 ZONING MAP.**

📖 § 185.008 ZONING MAP.

(C) *Final authority as to zoning status.* Regardless of the existence of purported copies of the official zoning map which may, from time to time, be made or published, the official zoning map shall be kept under the responsible charge of the ~~City Planner~~ Growth Management Director or his designee and shall be the final graphic authority as to the current zoning status of all lands, waters and structures in the city. However, the legal description of all zoning or rezoning ordinances or resolutions, if applicable, shall be the final legal authority as to the zoning status of land.

**§ 185.009 INTERPRETATION OF DISTRICT BOUNDARIES; USES.**

📖 § 185.009 INTERPRETATION OF DISTRICT BOUNDARIES; USES.

(I) *Interpretation of uses permitted.* Uses not designated as permitted by right, allowed by conditional use, or accessory to such uses shall be prohibited from that district. If a question arises as to the interpretation of any permitted uses, such interpretation shall be made by the ~~Community Planning and Economic Development~~ Growth Management Director.

('74 Code, § 25-85)

(Ord. 89-08, passed 4-27-89; Am. Ord. 95-44, passed 11-2-95; Am. Ord. 2010-76, passed 11-4-10)

**§ 185.010 APPLICATION.**

📖 § 185.010 APPLICATION.

No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, and/or reconstructed, moved or structurally

altered except in conformity with all of the regulations herein specified for the district in which it is located, or as otherwise provided for in this chapter.

('74 Code, § 25-81) (Ord. 89-08, passed 4-27-89)

#### **§ 185.011 BUILDINGS TO CONFORM.**

#### **§ 185.017 TRANSITION PROVISION.**

#### § 185.017 TRANSITION PROVISION.

In the event any provision of this chapter would limit or modify the vested rights of any person or entity to complete a development that has been previously authorized, then in that event, the city may recognize the right to complete the development as provided herein. The city recognizes the right of any person to complete the following development:

(C) Development that has filed a completed application for a building permit shall have ~~one~~ ~~(1)-year~~ 180 days to obtain and maintain a valid building permit.  
(‘74 Code, § 25-314) (Ord. 89-08, passed 4-27-89)

#### 185.018 SITE PLANS.

Prior to the issuance of a Building Permit for any development in the City of Palm Bay, other than construction of a single family residence or duplex, a site plan shall be submitted for administrative review. The submittal requirements shall follow the Guidelines for Site and Building Permitting Procedures Manual, found [here](#).

### **DISTRICT REGULATIONS**

#### *DISTRICT REGULATIONS*

#### **§ 185.030 GU — GENERAL USE HOLDING DISTRICT.**

#### § 185.030 GU — GENERAL USE HOLDING DISTRICT.

(B) *Principal uses and structures:*

(4) Keeping or raising ~~of~~ for sale of small domestic animals, birds or fish.

(E) *Prohibited uses and structures:*

(2) All uses not in keeping with the low density residential or agricultural character of the district.

#### **§ 185.031 RR — RURAL RESIDENTIAL DISTRICT.**

§ 185.031 RR — RURAL RESIDENTIAL DISTRICT.

(B) *Principal uses and structures:*

(7) Keeping or raising for sale of small farm animals, such as goats, chickens, pigs and other small animals typically found on a farm, provided the total of all such animals shall not exceed five (5) for each one half (½) acre of lot area.

(8) The acreage used in determining the numbers of animals that may kept upon the premises may only be used for one (1) type of animal. For example, an acre of land would allow two (2) horses, but it would not allow an additional five (5) goats. The land needed to support one type of animals cannot in turn be counted to permit further animals. This provision is to protect the health of the animal(s) and to ensure the residential character of the neighborhood is maintained.

(D) *Conditional uses:*

(2) Retail sales of agricultural products grown or raised on the same lot, provided the following conditions are met:

(a) No structure for sale of such products shall contain a floor area greater than ~~two hundred (200)~~ four hundred (400) square feet.

(5) ~~Broadcasting towers~~, antennas and transmitters.

(E) *Prohibited uses and structures:*

(3) Intense agricultural activities such as truck farming, beekeeping, fish hatcheries, poultry farms, pig farms and other agricultural activities not expressly provided for under principal uses.

(4) Correctional facilities.

(F) *Lot and structure requirements:*

(5) ~~Maximum~~ Minimum living area — one thousand two hundred (1,200) square feet.

§ 185.032 RE — ESTATE RESIDENTIAL DISTRICT.

§ 185.032 RE — ESTATE RESIDENTIAL DISTRICT.

(D) *Conditional uses:*

~~(4) Private golf courses.~~

~~(5)~~ (4) Public utility equipment facilities, except communication towers, not located within a utility easement or right-of-way.

(E) *Prohibited uses and structures:*

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

(2) Correctional facilities.

**§ 185.033 RS-1 — SINGLE-FAMILY RESIDENTIAL DISTRICT.**

§ 185.033 RS-1 — SINGLE-FAMILY RESIDENTIAL DISTRICT.

(D) *Conditional uses:*

~~(4) Private golf courses.~~

~~(5)~~ (4) Public utility equipment and facilities, except communication towers, not located within a utility easement or right-of-way.

(E) *Prohibited uses and structures:*

(2) Correctional facilities.

(F) *Lot and structure requirements:*

(2) Minimum lot width — eighty~~-five~~ (80) feet.

**§ 185.034 RS-2 — SINGLE-FAMILY RESIDENTIAL DISTRICT.**

§ 185.034 RS-2 — SINGLE-FAMILY RESIDENTIAL DISTRICT.

(D) *Conditional uses:*

~~(4) Private golf courses.~~

(E) *Prohibited uses and structures:*

(2) Correctional facilities.

**§ 185.035 RS-3 — SINGLE-FAMILY RESIDENTIAL DISTRICT.**

§ 185.035 RS-3 — SINGLE-FAMILY RESIDENTIAL DISTRICT.

(D) *Conditional uses:*

~~(4) Private golf courses.~~

(E) *Prohibited uses and structures:*

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

**§ 185.036 RM-10 — SINGLE-, TWO-, MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

 **§ 185.036 RM-10 — SINGLE-, TWO-, MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

(B) Principal uses and structures:

- (2) Two-family dwellings/duplexes.

(3) Multiple-family dwellings provided that in no case shall there be more than ten (10) dwelling units per gross residential acre.

~~(a) Submit a Management Plan for approval that includes and adequately addresses the following items: maintenance procedures, outdoor lighting for safety, tenant selection criteria, internal policing mechanisms for problem tenants, annual reporting requirements to the City of Palm Bay on adherence to the plan along with required review fees, and other items that may be identified by Police, Fire and other local agencies. Adherence to the City approved Management Plan shall be a condition of approval for the site plan.~~

~~(b)~~ (a) A tree survey shall be submitted, where applicable, showing the types, locations, and sizes of existing trees.

~~(c)~~ (b) The perimeter of the project shall be provided with a six (6) foot high wall or fence of wood, masonry, brick, PVC, or wrought iron material. For perimeter fences adjacent to road right-of-ways, landscaping shall be provided between the road right-of-way and the perimeter fence. A minimum of one (1) tree for each fifty (50) linear feet of fence shall be provided. In addition to the tree requirement, a minimum of two (2) foot tall, continuous and unbroken row of shrubs shall be planted between the wall/fence and the right-of-way to provide relief from the wall/fence. Ivy or clinging vines may be used in lieu of the shrub requirement on masonry or brick fences. Earthen berms may be approved in lieu of the wall or fence provided the berm is six (6) feet in height with landscaping provided as identified in this subsection.

~~(d) Identify amenities and services to be provided including recreation, medical, transportation, and similar items.~~

~~(e) Public safety and security plan required addressing the following:~~

~~1. Placement and design of physical features to maximize visibility and safety including building orientation, windows, entrances and exits, parking lots, walkways and other physical obstructions.~~

~~2. Lighting that provides for nighttime illumination of parking lots, pedestrian areas, walkways and entrances/exits.~~

~~(f)~~ (c) Sidewalks required.

~~3. When garages are provided resulting in vehicles backing out onto interior circulation drives, a concrete sidewalk shall be constructed between the driveway and the drive lane.~~

(g) Balconies. Balconies designed for other than purely ornamental purposes shall be a minimum of five (5) feet in depth.

(7) Public uses.

(D) *Conditional uses:*

~~(4) Private golf courses, tennis complexes or other private recreational facilities not accessory to one (1) or more principal uses.~~

~~(5) Planned residential development of two family or multi family uses of one hundred (100) units or more.~~

~~(6) Public uses.~~

(F) *Lot and structure requirements, single-family:*

- (2) Minimum lot width — ~~sixth~~ sixty (60) feet.
- (3) Minimum lot depth — one hundred (100) feet.
- (4) Maximum building coverage — thirty-five percent (35%).
- (5) Minimum living area — eight hundred (800) square feet.
- (6) Maximum height — twenty-five (25) feet.
- (7) Minimum yard requirements:
  - (a) Front — twenty-five (25) feet.
  - (b) Side interior — eight (8) feet.
  - (c) Side corner — twenty-five (25) feet.
  - (d) Rear — twenty-five (25) feet.

(H) *Lot and structure requirements, multiple-family:*

(5) Minimum living area:

- (a) Efficiency units: ~~three hundred and fifty (350)~~ four hundred (400) square feet;

**§ 185.037 RM-15 — SINGLE-, TWO-, MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

 **§ 185.037 RM-15 — SINGLE-, TWO-, MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

(A) *Intent.* The provisions of this district are intended to apply to an area of medium density residential development with a variety of housing types. Lot sizes and other restrictions are intended to promote medium density development while maintaining an adequate amount of open space for such development.

(B) *Principal uses and structures:*

(3) Multiple-family dwellings provided that in no case shall there be more than fifteen (15) dwelling units per gross residential acre.

~~(a) Submit a Management Plan for approval that includes and adequately addresses the following items: maintenance procedures, outdoor lighting for safety, tenant selection criteria, internal policing mechanisms for problem tenants, annual reporting requirements to the City of Palm Bay on adherence to the plan along with required review fees, and other items that may be identified by Police, Fire and other local agencies. Adherence to the City approved Management Plan shall be a condition of approval for the site plan.~~

~~(b)~~ (a) A tree survey shall be submitted, where applicable, showing the types, locations, and sizes of existing trees.

~~(c)~~ (b) The perimeter of the project shall be provided with a six (6) foot high wall or fence of wood, masonry, brick, PVC, or wrought iron material. For perimeter fences adjacent to road right-of-ways, landscaping shall be provided between the road right-of-way and the perimeter fence. A minimum of one (1) tree for each fifty (50) linear feet of fence shall be provided. In addition to the tree requirement, a minimum of two (2) foot tall, continuous and unbroken row of shrubs shall be planted between the wall/fence and the right-of-way to provide relief from the wall/fence. Ivy or clinging vines may be used in lieu of the shrub requirement on masonry or brick fences. Earthen berms may be approved in lieu of the wall or fence provided the berm is six (6) feet in height with landscaping provided as identified in this subsection.

~~(d) Identify amenities and services to be provided including recreation, medical, transportation, and similar items.~~

~~(e) Public safety and security plan required addressing the following:~~

~~1. Placement and design of physical features to maximize visibility and safety including building orientation, windows, entrances and exits, parking lots, walkways and other physical obstructions.~~

~~2. Lighting that provides for nighttime illumination of parking lots, pedestrian areas, walkways and entrances/exits.~~

~~(f)~~ (c) Sidewalks required.

~~3. When garages are provided resulting in vehicles backing out onto interior circulation drives, a concrete sidewalk shall be constructed between the driveway and the drive lane.~~

~~(g) Traffic enforcement agreement required. The owner and/or management of each multi-family project shall enter into a Traffic Enforcement Agreement permitting the city to enforce traffic laws including moving violations, parking requirements, towing of illegally parked vehicles, maintaining emergency vehicle access to each unit, and marking or signing areas adjacent to fire hydrants or other fire connections to prohibit blocking access thereto when deemed necessary by city officials at their sole discretion. Signage shall comply with the~~

~~"Manual on Uniform Traffic Control Devices" and shall be installed at the owner's expense.~~

(D) *Conditional uses:*

~~(4) Private golf courses, tennis complexes or other private recreational facilities not accessory to one (1) or more principal uses.~~

~~(5)~~ (4) Permitted uses or uses permissible by special exception exceeding twenty-five (25) feet in height, but not to exceed forty (40) feet in height.

~~(6) Planned residential development of two family or multi-family uses of one hundred (100) units or more.~~

(H) *Lot and structure requirements, multiple-family:*

(5) Minimum living area:

(a) Efficiency units: ~~three hundred and fifty (350)~~ four hundred (400) square feet;

**§ 185.038 RM-20 — MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

📖 § 185.038 RM-20 — MULTIPLE-FAMILY RESIDENTIAL DISTRICT.

(B) *Principal uses and structures:*

(1) Multiple-family dwellings provided that in no case shall there be more than twenty (20) dwelling units per gross residential acre.

~~(a) Submit a Management Plan for approval that includes and adequately addresses the following items: maintenance procedures, outdoor lighting for safety, tenant selection criteria, internal policing mechanisms for problem tenants, annual reporting requirements to the City of Palm Bay on adherence to the plan along with required review fees, and other items that may be identified by Police, Fire and other local agencies. Adherence to the City approved Management Plan shall be a condition of approval for the site plan.~~

~~(b)~~ (a) A tree survey shall be submitted, where applicable, showing the types, locations, and sizes of existing trees.

~~(c)~~ (b) The perimeter of the project shall be provided with a six (6) foot high wall or fence of wood, masonry, brick, PVC, or wrought iron material. For perimeter fences adjacent to road right-of-ways, landscaping shall be provided between the road right-of-way and the perimeter fence. A minimum of one (1) tree for each fifty (50) linear feet of fence shall be provided. In addition to the tree requirement, a minimum of two (2) foot tall, continuous and unbroken row of shrubs shall be planted between the wall/fence and the right-of-way to provide relief from the wall/fence. Ivy or clinging vines may be used in lieu of the shrub requirement on masonry or brick fences. Earthen berms may be approved in lieu of the wall or fence provided the berm is

six (6) feet in height with landscaping provided as identified in this subsection.

~~(d) Identify amenities and services to be provided including recreation, medical, transportation, and similar items.~~

~~(e) Public safety and security plan required addressing the following:~~

~~1. Placement and design of physical features to maximize visibility and safety including building orientation, windows, entrances and exits, parking lots, walkways and other physical obstructions.~~

~~2. Lighting that provides for nighttime illumination of parking lots, pedestrian areas, walkways and entrances/exits.~~

~~(f)~~ (c) Sidewalks required.

~~3. When garages are provided resulting in vehicles backing out onto interior circulation drives, a concrete sidewalk shall be constructed between the driveway and the drive lane.~~

~~(g)~~ (d) Variations in building height.

~~(h)~~ (e) Variations in building facade.

~~(i) Traffic enforcement agreement required. The owner and/or management of each multi-family project shall enter into a Traffic Enforcement Agreement permitting the city to enforce traffic laws including moving violations, parking requirements, towing of illegally parked vehicles, maintaining emergency vehicle access to each unit, and marking or signing areas adjacent to fire hydrants or other fire connections to prohibit blocking access thereto when deemed necessary by city officials at their sole discretion. Signage shall comply with the Manual on Uniform Traffic Control Devices and shall be installed at the owner's expense.~~

~~(j)~~ (f) Balconies. Balconies designed for other than purely ornamental purposes shall be a minimum of five (5) feet in depth.

(D) *Conditional uses:*

~~(2) Private golf course, tennis complex or other private recreational facility not accessory to one (1) or more principal uses.~~

~~(3)~~ (2) Public utility equipment and facilities, except communication towers, not located within a utility easement or right-of-way.

~~(4)~~ (3) Churches.

~~(5)~~ (4) ~~Public or p~~Private clubs or lodges.

~~(6) Hospitals and medical clinics.~~

~~(7)~~ (5) Private Marinas.

~~(8) Planned residential development of two family or multi-family uses of one hundred (100) units or more.~~

~~(9) Single family dwellings.~~

(E) *Prohibited uses and structures:*

~~(2) Hotels and motels.~~

~~(3) Single family and two family dwellings.~~

~~(4)~~ (2) Corrections facilities.

(F) *Lot and structure requirements:*

(5) Minimum living area:

(a) Efficiency units: ~~three hundred and fifty (350)~~ four hundred (400) square feet;

(7) Minimum yard requirements:

(a) Front — twenty-five (25) feet, ~~plus one (1) foot for each one (1) foot in height over twenty-five (25) feet.~~

(b) Side interior — ~~fifteen (15)~~ twenty-five (25) feet, ~~plus one (1) foot for each one (1) foot in height over twenty-five (25) feet.~~

(c) Side corner — twenty-five (25) feet, ~~plus one (1) foot for each one (1) foot in height over twenty-five (25) feet.~~

(d) Rear — twenty-five (25) feet, ~~plus one (1) foot for each one (1) foot in height over twenty-five (25) feet.~~

**§ 185.039 RMH — RESIDENTIAL MOBILE HOME DISTRICT.**

 § 185.039 RMH — RESIDENTIAL MOBILE HOME DISTRICT.

(D) *Conditional uses:*

~~(2) Schools.~~

(E) *Site and building regulations:*

(10) Site perimeter yard requirements:

(b) A mobile home park/subdivision shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence, or evergreen hedge not less than six (6) feet in height.

(F) *Development plan review.*

(1) As part of the supplementary data required to complete an application for a public hearing for a mobile home park/subdivision development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such application (if the site plan is larger than eleven (11) inches by seventeen (17) inches, ~~fifteen (15)~~ two (2) copies are needed, as well as a digital copy); and if the application is approved, the mobile home park/subdivision shall be built substantially in accordance with such a plan. If the Planning Growth Management Director deems that there is a substantial change from that which is shown on the original application, the developer shall be required to return to the Planning and Zoning Board and the City Council in order to receive approval for such changes as an amendment to the original site plan. The plot or site plan shall include, but not be limited to, location of all lots, service areas, public streets, street signs, walkways, and utilities showing the same underground where such is required. If a public utility equipment and facility is to be located on a site, its dimensions, location, access and other pertinent information should be indicated on the site plan. Adequate access for firefighting and emergency purposes and access to service areas shall be provided. Information concerning abutting land areas, such as land use, zoning, existing structures, and existing streets shall also be included. Site plan approval is limited to one (1) year, but may be extended for an additional year by the City Council, for demonstrated progress ~~(after review by the Planning and Zoning Board)~~.

(2) A completion bond may be required by the City Council. If the construction is not substantially underway within one (1) year after the approval of the site plan, the site plan may be voided by the City Council ~~and the Planning and Zoning Board may initiate a rezoning of the property to an appropriate classification.~~

**§ 185.040 RVP — RECREATIONAL VEHICLE PARK DISTRICT.**

📖 § 185.040 RVP — RECREATIONAL VEHICLE PARK DISTRICT.

(E) *Design standards for recreational vehicle parks.*

(3) Streets and parking:

(b) Width of streets. Streets or driveways in a recreational vehicle park shall be private and shall have the following widths:

2. A two-way street/drive shall be at least twenty-four (24) feet in width.

(c) Street surfacing. All roads or driveways shall be paved meeting city standards ~~engineering department specifications.~~

(e) Parking. Each travel trailer site shall have off-street parking pads for both recreational vehicles and for towing vehicles. The pads shall be composed of a stabilized material meeting city standards ~~engineering department specifications.~~

(4) Buffer strips. A twenty-five (25) foot minimum yard setback shall be provided from all exterior property lines and right-of-ways. The recreational vehicle park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence, or evergreen hedge not less than six (6) feet in height. The buffer strip shall be separate from recreational areas, streets, driveways, travel trailer sites (R.V. sites) and utility sites, but may be utilized for stormwater drainage and retention purposes.

(G) *Provisions of service in recreational vehicle parks.*

(2) Water supply. An adequate supply of water shall be provided in accordance with the regulatory agencies ~~state sanitary code and the county health department.~~ A minimum of one (1) potable water supply outlet shall be provided for every two (2) travel trailer sites. Each recreational area and bathhouse-restroom facility shall have at least one (1) approved drinking fountain in close proximity.

(3) Sewage disposal.

(a) All sewage disposal facilities shall be provided in accordance with the regulatory agencies ~~state sanitary code and the County Health Department.~~

(d) The ~~following schedule indicates the~~ minimum number of bath and toilet facilities shall be determined by the latest adopted Florida Building Code. ~~required based upon the total number of spaces within the travel trailer park:~~

No. of Spaces	Toilets		Urinals	Lavatories		Shower s		Laundry Sink
	M	W		M	W	M	W	
-								
1—15	1	1	1	1	1	1	1	2
16— 30	1	2	1	2	2	1	1	2

<del>31—</del> 45	2	2	1		3	3	1	1	2
<del>46—</del> 60	2	3	2		3	3	2	2	2
<del>61—</del> 80	3	4	2		4	4	2	2	2
<del>81—</del> 100	3	4	2		4	4	3	3	2

~~—(e) For travel trailer parks having more than one hundred (100) travel trailer spaces there shall be provided:~~

~~—1. One (1) additional toilet and lavatory for each sex per additional thirty (30) travel trailer spaces:~~

~~—2. One (1) additional shower for each sex per each additional forty (40) travel trailer spaces.~~

~~—3. One (1) additional men's urinal per each additional one hundred (100) travel trailer spaces.~~

(4) Lighting. All entrances, exits, streets, and service buildings shall be well lighted during the hours of darkness. Street lighting may be overhead or low level but must be ~~shaded~~ shielded and reflected into the street and should be of low intensity. All recreational facilities which are to be utilized during the hours of darkness shall be adequately lighted to ensure the safety of all users of such facilities.

(5) Electricity. All requirements of the National Electrical Code as contained in §§ ~~170.015~~ 170.005(I) et seq. of this code of ordinances must be met.

(7) Refuse handling. Each travel trailer site shall be provided with at least one (1) fly-tight, watertight, rodent-proof container of a capacity not less than four (4) gallons and not more than thirty (30) gallons. However, this is not required when sites are within two hundred (200) feet of a large covered trash receptacle (e.g., dumpster). All refuse shall be collected at least twice weekly and where public or private collection service is not available, the owner or operator of the travel trailer park shall dispose of the refuse by transporting it to a disposal site approved by the regulatory agency ~~county health department~~. All refuse shall be collected and transported in covered vehicles or covered containers.

(8) Insect and rodent control. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform ~~with~~ to the requirements and regulations of the regulatory agency ~~County Health Department and the sanitary code of the state~~. Adequate drainage systems will be provided and maintained in such a manner as to prevent the breeding of mosquitoes and other obnoxious insects in the park.

(10) Fuel supply and storage. All installations and tanks furnishing and/or storing any type of gaseous fuels to be used by the occupants of the travel trailer park shall comply with the Fire Prevention Code of the National Fire Prevention Association ~~American Insurance Association~~, as adopted.

*(H) Operation of recreational vehicle park.*

(1) Responsibilities of park management. The owner of a travel trailer park or the park management shall at all times maintain the park and its facilities in a clean, orderly, and sanitary condition. The park management shall inform all park occupants of the provisions of this section, other related code provisions and ordinances of the city, and statutes, and of their responsibilities thereunder.

*(I) Regulation of recreational vehicle parks.*

(1) Use and occupancy permits. It shall be unlawful for any person to operate a travel trailer park within Palm Bay without first obtaining a business tax receipt ~~use and occupancy permit~~, in the name of such person, to operate the specific park.

(3) Revocation of permit. Whenever any of the above officials, upon inspection of a travel trailer park, find that conditions or practices exist which are in violation of any applicable provision of this section, they shall furnish the permittee with a list of violations that the inspection shall reveal, and give the permittee written notice of a specific reasonable time in which to remedy the violations. Failure of the permittee to remedy the violations within the specific time shall result in the revocation of the business tax receipt ~~permit~~. Such permit shall be reissued only if the violations have been remedied to comply with the requirements of this section. The users of the travel trailer park shall have two (2) days from the date of the revocation in which to vacate the travel trailer park. The permittee shall be granted a hearing on such revocation before the City Council provided a request is made by the applicant within thirty (30) days after the revocation.

*(J) Development site plan review.* As part of the supplementary data required to complete an application for a public hearing for a recreational vehicle/travel-trailer park development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such application (if the site plan is greater than eleven (11) inches by seventeen (17) inches, ~~fifteen~~ (15) two (2) copies are needed, as well as a digital copy); and if the application is approved, the recreational vehicle/travel trailer park shall be built in accordance with such a plan. The site plan shall include, but not be limited to, location of all R.V./travel trailer sites, service areas, drives, streets, signs, buildings, parking, recreational space, setbacks, public utility locations and any other pertinent information. Site plan approval is limited to one (1) year by the City Council.

**§ 185.041 OP — OFFICE PROFESSIONAL DISTRICT.**

§ 185.041 OP — OFFICE PROFESSIONAL DISTRICT.

(B) *Principal uses and structures.* The following uses and structures are permitted for any use or group of uses that are developed, either separately, or as a unit with certain site improvements shared in common, ~~on a site of three (3) acres or less:~~

(D) *Conditional uses:*

~~(6) Permitted uses with more than three (3) acres of lot area subject to the provisions set forth in §§ 185.085 et seq.~~

~~(7)~~ (6) Camouflaged communication towers and facilities.

(8) Shared access and parking areas.

(a) No side interior building and parking area setbacks are required provided all of the following are met:

2. Parking areas and aisles are joined ~~and shared in common~~ with adjacent parcel(s) under, separate ownership;

4. Easements and/or written assurances of ~~shared~~ cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.

(b) No interior side parking area setbacks, are required provided the requirements of divisions 2. through 4. are met.

§ 185.042 NC — NEIGHBORHOOD COMMERCIAL DISTRICT.

§ 185.042 NC — NEIGHBORHOOD COMMERCIAL DISTRICT.

(B) *Principal uses and structures.* The following uses and structures are permitted: ~~for any uses or group of uses that are developed, either separately, or as a unit with certain site improvements shared in common, on a site of three (3) acres or less.~~

(D) *Conditional uses:*

~~(4) Permitted uses with more than three (3) acres of lot area subject to the provisions set forth in §§ 185.085 et seq.~~

~~(5)~~ (4) Indoor commercial recreation and amusement such as batting cages, miniature vehicle racetracks and similar uses.

~~(6)~~ (5) Public utility equipment, facilities and uses located on sites greater than one-half (1/2) acre in size.

~~(7)~~ (6) Eating establishments licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation licensed as a restaurant that serve beer and/or wine, provided alcohol sales do not occur between 10:00 p.m. and 10:00 a.m. daily.

~~(8)~~ (7) Retail stores, sales, and display rooms (not including automotive, lumber and building supplies) and similar uses occupying more than five thousand (5,000) square feet of gross floor.

~~(9)~~ (8) Professional offices, studios, clinics, general offices, government offices, business schools and similar uses occupying more than five thousand (5,000) square feet of gross floor area.

~~(10)~~ (9) Day care centers occupying more than five thousand (5,000) square feet of gross floor area.

(E) *Prohibited uses and structures:*

~~(1) Residential structures.~~

~~(2) Outdoor sales, display and storage.~~

~~(3) Automotive repair, manufacturing activities, storage warehousing, assembling, wholesaling, transportation terminals and other activities of a similar nature.~~

~~(4)~~ (1) All uses not specifically or provisionally permitted herein.

~~(5) Car washes.~~

~~(6)~~ (2) Corrections facilities.

~~(7) On-site consumption of alcoholic beverages, except as expressly provided for in § 185.042(D)(7) above. Legal existing land uses that presently have on-site consumption of alcoholic beverages will be considered nonconforming uses.~~

~~(8)~~ (3) Arcade amusement centers.

~~(9)~~ (4) Pain-management clinic.

(5) Electronic gaming establishments.

(8) Shared access and parking areas.

2. Parking areas and aisles are joined ~~and shared in common~~ with adjacent parcel(s) under separate ownership;

4. Easements and/or written assurances of ~~shared~~ cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.

(B) *Principal uses and structures.* The following uses and structures are permitted: ~~provided any uses or groups of uses that are developed, either separately, or if developed as a unit with certain site improvements shared in common, are developed on a site of three (3) acres or less:~~

(6) Restaurant, eating and drinking establishments (including a drive-through~~s~~).

(14) Hotels, motels and guest cottages.

(b) There shall be no more than seventy-five (75) ~~fifty (50) guest rooms~~ rental units per acre.

(20) New and used automobiles, major recreational equipment and mobile home sales and rentals with accessory uses, subject to the following restrictions:

(a) All outside areas where merchandise is displayed shall be paved, meeting city ~~engineering department~~ specifications;

(e) All requirements of the Palm Bay ~~Advertising and~~ Sign Ordinance must be met;

(g) Required parking shall be provided based on a one (1) space for each two hundred (200) square feet of gross floor area of the structure used primarily to conduct sales and one (1) space per employee on the largest working shift;

(i) Gasoline facilities may be permitted as accessory uses, provided the requirements of division (D)(2)(c), (d), and (g) below are complied with. Retail sales are prohibited unless ~~a special exception~~ conditional use approval is granted.

(23) Indoor commercial recreation such as theaters, driving ranges, bowling alleys, and similar uses, excluding dance clubs.

(24) Arcade amusements centers; subject to the following regulations:

(a) The facility shall be located no less than one hundred (100) feet, measured from the outer wall of the facility to the closest property line, of any residentially zoned land, as well as any land designated as recreation and open space use by the Palm Bay Comprehensive Plan Future Land Use Map.

(b) The facility shall be located no less than one thousand (1,000) feet, measured from the outer wall of the facility to the closest property line, of any school.

(c) No two facilities, operating pursuant to this subdivision, shall be located closer than five hundred (500) feet from one another, measured from the closest outer wall of each facility.

(d) The number of devices within the facility shall be governed by the Land Development

Code of the City of Palm Bay, as well as applicable Florida Statutes and laws.

(D) *Conditional uses.*

~~(3) Permitted uses with more than three (3) acres of areas, subject to the provisions set forth in §§ 185.085 et seq.~~

~~(4) (3) Commercial recreation and amusement such as theaters, driving ranges, skating rinks, bowling alleys, miniature golf and similar uses.~~ Indoor dance clubs, outdoor recreation, and outdoor amusement such as amusement parks, driving ranges, batting cages, go-cart tracks, outdoor skating facilities, miniature golf courses and similar uses.

~~(5)~~ (4) Commercial radio and television broadcasting.

~~(6)~~ (5) Marinas including wet and dry storage.

~~(7)~~ (6) Car washes.

~~(8)~~ (7) Permitted uses or uses permissible by conditional use ~~special exception~~ exceeding seventy (70) feet in height.

~~(9)~~ (8) Self storage facilities subject to the provisions established in § 185.088~~(H)~~(F).

~~(10)~~ (9) Communication towers and facilities.

~~(11)~~ (10) Eating and drinking establishments that allow patrons to dance to music, subject to the provisions set forth in § 185.088~~(H)~~(H).

~~(12) Arcade amusement centers subject to the provisions set forth in § 185.088(K).~~

~~(13)~~ (11) Human crematoriums:

~~(14) Electronic gaming establishments subject to the provisions set forth in § 185.088(M).~~

(E) *Prohibited uses and structures:*

~~(1) Manufacturing activities, transportation terminals, storage, warehousing, outdoor display except for plant nurseries and other activities of a similar nature.~~

~~(2) Residential uses.~~

~~(3)~~ (1) All uses not specifically or provisionally permitted herein; any uses not in keeping with the community commercial character of the district.

~~(4)~~ (2) Corrections facilities.

~~(5)~~ (3) Pain-management clinic.

(4) Electronic gaming establishments.

(8) Shared access and parking areas.

(a) No side interior building and parking area setbacks are required provided all of the following are met:

2. Parking areas and aisles are joined ~~and shared in common~~ with adjacent parcel(s) under separate ownership;

4. Easements and/or written assurances of ~~shared~~ cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.

§ 185.044 HC — HIGHWAY COMMERCIAL DISTRICT.

(B) *Principal uses and structures.* The following uses and structures are permitted: ~~provided any uses or groups of uses that are developed as a unit with certain site improvements shared in common, are developed on a site of three (3) acres or less:~~

(4) Hotels, motels, tourist courts.

(b) There shall be no more than fifty (50) ~~dwelling~~ rental units per acre.

(22) Arcade amusements centers; subject to the following regulations:

(a) The facility shall be located no less than one hundred (100) feet, measured from the outer wall of the facility to the closest property line, of any residentially zoned land, as well as any land designated as recreation and open space use by the Palm Bay Comprehensive Plan Future Land Use Map.

(b) The facility shall be located no less than one thousand (1,000) feet, measured from the outer wall of the facility to the closest property line, of any school.

(c) No two facilities, operating pursuant to this subdivision, shall be located closer than five hundred (500) feet from one another, measured from the closest outer wall of each facility.

(d) The number of devices within the facility shall be governed by the Land Development Code of the City of Palm Bay, as well as applicable Florida Statutes and laws.

(D) *Conditional uses.*

~~(4) Permitted uses with more than three (3) acres of area subject to the provisions set forth in §§ 185.085 et seq.~~

~~(5)~~ (4) Car washes.

~~(6)~~ (5) Self storage facilities subject to the provisions established in § 185.088~~(H)~~(F).

~~(7)~~ (6) Communication towers and facilities.

~~(8)~~ (7) Eating and drinking establishments that allow patrons to dance to music, subject to the provisions set forth in § 185.088~~(H)~~(H).

~~(9)~~ (8) Indoor dance clubs, outdoor recreation, and outdoor amusement such as amusement parks, driving ranges, batting cages, go-cart tracks, outdoor skating facilities, miniature golf courses and similar uses.

~~(10) Arcade amusement centers subject to the provisions set forth in § 185.088(K).~~

~~(11) Electronic gaming establishments subject to the provisions set forth in § 185.088(M).~~

(E) *Prohibited uses and structures.*

~~(1) Residential uses.~~

~~(2) Outdoor sales, display and/or storage except as provided herein.~~

~~(3) Manufacturing activities, transportation terminals, storage warehousing and other activities of a similar nature.~~

~~(4) Junk and salvage yards.~~

~~(5)~~ (1) All uses not specifically or provisionally permitted herein; any use not in keeping with the commercial character of the district.

~~(6)~~ (2) Corrections facilities.

~~(7)~~ (3) In the Bayfront Community Redevelopment District east of the Florida East Coast Railroad:

~~(8)~~ (4) Pain-management clinic.

(5) Electronic gaming establishments.

(8) Shared access and parking areas.

(a) No side interior building and parking area setbacks are required provided all of the following are met:

2. Parking areas and aisles are joined ~~and shared in common~~ with adjacent parcel(s) under, separate ownership;

4. Easements and/or written assurances of ~~shared~~ cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.

§ 185.045 LI — LIGHT INDUSTRIAL AND WAREHOUSING DISTRICT.

(C) *Accessory uses and structures:*

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

(E) *Prohibited uses and structures:*

~~(2) Residential uses.~~

~~(3) Automobile wrecking yards, junk yards, scrap yards, and salvage yards.~~

~~(4) Retail, office and other commercial uses except as permitted herein.~~

~~(5) Concrete, block and asphalt plants including batch plants.~~

(8) An ~~six (6)~~ eight (8) foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abutting property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this zoning code.

§ 185.046 HI — HEAVY INDUSTRIAL DISTRICT.

§ 185.046 HI — HEAVY INDUSTRIAL DISTRICT.

(C) *Accessory uses and structures:*

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

(D) *Conditional uses:*

- (2) Storage of ~~liquefied~~ liquefied petroleum products.

(9) Smoke-producing industries, such as paper mills, rubber mills or regional incinerators, provided the land where such facility is operated shall be located no less than one-half (1/2) mile from the closest right-o-f-way line of Interstate 95.

(F) *Lot and structure requirements:*

(8) An ~~six-(6)~~ eight (8) foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abating property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this chapter.

**§ 185.047 IU — INSTITUTIONAL USE DISTRICT.**

📖 § 185.047 IU — INSTITUTIONAL USE DISTRICT.

- (8) Shared access and parking areas.

(a) No side interior building and parking area setbacks are required provided all of the following are met:

2. Parking areas and aisles are joined ~~and shared in common~~ with adjacent parcel(s) under, separate ownership;

4. Easements and/or written assurances of ~~shared~~ cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.

**§ 185.048 FC — FLOODWAY CONSERVATION DISTRICT.**

**§ 185.049 SF-1 — SINGLE FAMILY RESIDENTIAL CATEGORY.**

📖 § 185.049 SF-1 — SINGLE FAMILY RESIDENTIAL CATEGORY.

(D) *Conditional uses.*

~~(4) Private golf courses.~~

~~**§ 185.050 SF-2 — SINGLE FAMILY RESIDENTIAL CATEGORY.**~~

 ~~§ 185.050 SF 2 — SINGLE FAMILY RESIDENTIAL CATEGORY.~~

~~—(A) *Intent.* The provisions of this category are intended to apply to an area of medium density single family residential development. Lot sizes, minimum living area standards, and other restrictions are intended to promote high quality residential development.~~

~~—(B) *Principal uses and structures:*~~

~~—(1) Single family dwellings.~~

~~—(2) Public parks, playgrounds and other public recreational facilities.~~

~~—(3) Public utility equipment and facilities located within a utility easement or right-of-way.~~

~~—(C) *Accessory uses and structures:*~~

~~—(1) Customary accessory uses of a non-commercial nature clearly incidental and subordinate to one (1) or more principal uses.~~

~~—(D) *Conditional uses:*~~

~~—(1) Public and private schools.~~

~~—(2) Churches.~~

~~—(3) Public utility equipment and facilities, except communication towers, not located within a utility easement or right-of-way.~~

~~—(4) Private golf courses.~~

~~—(E) *Prohibited uses and structures:*~~

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

~~—(F) *Lot and structure requirements:*~~

~~—(1) Minimum lot area — Seven thousand five hundred (7,500) square feet.~~

~~—(2) Minimum lot width — Seventy five (75) feet.~~

~~—(3) Minimum lot depth — One hundred (100) feet.~~

~~—(4) Maximum building coverage — Thirty (30) percent.~~

~~—(5) Minimum living area — Twelve hundred (1200) square feet.~~

~~—(6) Maximum height — Twenty five (25) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front — Twenty five (25) feet.~~

~~—(b) Side interior — Eight (8) feet.~~

~~—(c) Side corner — Twenty five (25) feet.~~

~~—(d) Rear — Twenty five (25) feet.~~

~~—(8) Minimum two (2) car enclosed garage required at the time of the issuance of the structure's certificate of occupancy.~~

~~(Ord. 96-07, passed 3-7-96; Am. Ord. 98-20, passed 7-16-98; Am. Ord. 2001-51, passed 8-16-01)~~

**§ 185.051 SRE — SUBURBAN RESIDENTIAL ESTATE CATEGORY.**

 § 185.051 SRE — SUBURBAN RESIDENTIAL ESTATE CATEGORY.

(A) *Intent.* The provisions of this category are intended to apply to an area of medium density

single-family residential development. Lot sizes, minimum living area standards, and other restrictions are intended to promote high quality residential development.

(C) *Accessory uses and structures.*

(2) A security dwelling unit may be provided within a subdivision and shall adhere to the following standards:

(a) The unit will only be permitted in conjunction with a subdivision that offers large, estate homes on medium to low-density lot sizes.

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

(c) The unit may contain no more than one thousand (1,000) square feet of gross floor area.

(d) There may be only one (1) security dwelling unit for the subdivision.

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

(D) *Conditional uses.*

~~(4) Private golf courses.~~

(8) ~~Enclosed garage required — Two (2) per dwelling unit~~ Minimum two (2) car enclosed garage required at the time of the issuance of the structure's certificate of occupancy.

#### **§ 185.052 RC - RESTRICTED COMMERCIAL DISTRICT.**



#### **§ 185.052 RC - RESTRICTED COMMERCIAL DISTRICT.**

(B) *Principal uses and structures.* The following uses and structures are permitted ~~provided any uses or groups of uses that are developed either separately, or if developed as a unit with certain site improvements shared in common, are developed on a site of three (3) acres or less:~~

(9) Day care centers licensed by the State of Florida (minimum fifteen thousand (15,000) square foot lot), provided the lot has frontage on an Arterial or Collector Roadway, as identified in the adopted City Comprehensive Plan.

(C) *Accessory uses and structures.* Customary accessory uses of one (1) or more of the principal uses, clearly incidental and subordinate to the principal use, in keeping with the low intensity commercial nature of the district. All storage shall be within an enclosed structure unless clearly provided or excluded for herein.

(D) *Conditional uses.*

~~(6) Planned commercial developments (any principal use over three (3) acres in size).~~

~~(7)~~ (6) Model home centers subject to the following:

(8) Shared access and parking areas:

(a) No side interior building and parking area setbacks are required provided all of the following are met:

2. Parking areas and aisles are joined ~~and shared in common~~ with adjacent parcel(s) under separate ownership;

4. Easements and/or written assurances of ~~shared~~ cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.

§ 185.053 BMUV - BAYFRONT MIXED USE VILLAGE DISTRICT.

(A) *Intent.* The purpose of the Bayfront mixed use village (BMUV) district is to provide areas within the Bayfront Redevelopment District for an attractive and functional mix of residential, office, neighborhood supporting commercial, institutional, and other similar low intensity land uses that are linked by a network of walkways to create a village center as recommended in the Bayfront Redevelopment Plan.

(D) *Conditional uses.*

~~(7) Planned commercial developments (any permitted commercial use over one (1) acre in size).~~

(E) *Prohibited uses and structures.*

(7) ~~Fire-works~~ Fireworks sales.

(F) *Lot and structure requirements.*

(7) Minimum living area for single family detached dwellings - ~~eight hundred (800)~~ one thousand (1,000) square feet.

(8) Minimum living area for multifamily units:

(a) Efficiency units: ~~three hundred fifty (350)~~ four hundred (400) square feet;

(10) Shared access and parking areas:

(c) No side interior building and parking area setbacks are required for nonresidential buildings provided all of the following are met:

1. Buildings on adjacent parcels, under separate ownership, are joined ~~joint~~ by a common wall.

2. Parking areas and aisles are joined ~~and shared in common~~ with adjacent parcel(s) under separate ownership;

4. Easements and/or written assurances of ~~shared~~ cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.

(11) Design requirements:

(a) The Bayfront Architectural Style for each structure is required. This shall include the following architectural elevations facing public rights-of-way.

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

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

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

(c) The design requirements listed in division (11)(a) above shall be applicable to all new construction in the district, and in the case of additions or renovations to, or development of, an existing building or project, where the ~~cost of such~~ addition, renovation or redevelopment exceeds fifty percent (50%) of the square footage of the existing structure(s). A mirror building, defined as a building meant to compliment a pre-existing structure by use of identical material finishes, scale and form, shall be exempt from the design requirements. New buildings that are part of an overall campus plan that has an established architectural theme shall also be exempt from the design requirements herein.

(15) Fence/walls. The construction, erection, and maintenance of walls and fences

shall be permitted per the city's fence code (§§ [170.110](#) through [170.122](#)) with the following exceptions and additions:

(a) Chain link fence cannot be placed within twenty (20) feet of the front or side corner property lines, except that chain link fencing is prohibited on property containing residential buildings. Such projects may only erect a fence of wooden, PVC, or wrought iron material.

(c) The use of barbed wire is prohibited ~~within twenty (20) feet of the front and side corner property lines.~~

**§ 185.054 GC - GENERAL COMMERCIAL DISTRICT.**

 § 185.054 GC - GENERAL COMMERCIAL DISTRICT.

(B) *Principal uses and structures.* The following uses and structures are permitted. provided ~~any uses or groups of uses that are developed, either separately, or if developed as a unit with certain site improvements shared in common, are developed on a site of three (3) acres or less:~~

(7) Veterinarians and veterinary clinics. provided all activities are within the principal structure and there is no boarding of animals.

(C) *Accessory uses and structures.* Customary accessory uses of one (1) or more of the principal uses, clearly incidental and subordinate to the principal use, in keeping with the high intensity commercial nature of the district. All storage shall be within an enclosed structure or completely screened by an opaque fence or wall, of at least six (6) feet in height.

(D) Conditional uses.

~~(1) Planned commercial developments (any principal use over three (3) acres in size).~~

~~(2)~~ (1) Commercial towers.

~~(3)~~ (2) Security dwelling unit, subject to the provisions established in § [185.088\(I\)](#) ~~(L)~~.

~~(4)~~ (3) Canine day care, and related services:

~~(5)~~ (4) Dancing in eating and drinking establishments.

~~(6)~~ (5) Churches.

(E) *Prohibited uses and structures.*

~~(2) Retail automotive fuel sales.~~

~~(3)~~ (2) Pawn shops.

~~(4) Fortune tellers, tarot card reading, palm readers, and similar uses.~~

~~(5)~~ (3) Pain-management clinic.

(F) *Lot and structure requirements.*

(7) Minimum yard requirements:

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

(8) Shared access and parking areas.

(a) No side interior building and parking area setbacks are required provided all of the following are met:

2. Parking areas and aisles are joined ~~and shared in common~~ with adjacent parcel(s) under separate ownership;

4. Easements and/or written assurances of ~~shared~~ cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.

#### **§ 185.055 PLANNED COMMUNITY REDEVELOPMENT DISTRICT (PCRD).**

§ 185.055 PCR – PLANNED COMMUNITY REDEVELOPMENT DISTRICT ~~(PCRD)~~.

(D) *Commercial land use standards.*

(1) Commercial use(s) consisting of one (1) or more of the following: retail, office, restaurant, personal services (hair salons, tailors, spas and similar uses) hotels, motels and similar uses is required to be provided in each Planned Community Redevelopment District based on the following minimum square footage standards:

(2) A minimum of fifty percent (50%) of the required commercial square footage must be located within the same building(s) as the residential uses proposed for development. The balance of the required commercial square footage may be located in separate buildings from the planned residential.

(3) When deemed appropriate by the City Council, up to forty percent (40%) of the required commercial square footage may be mitigated for through financial contributions made into a fund incorporated into the Bayfront Community Redevelopment Agency budget for promotion, development and enhancement of commercial development within the community

redevelopment district. The amount of the contribution shall be determined by the City Council provided that a minimum of \$33.75 per square feet of commercial not constructed is deposited into the fund. The forty percent (40%) mitigation shall be ~~applied to~~ deducted from the minimums established in both subsection (1) and (2) above.

(E) *Residential land use standards.*

(3) Maximum density shall be twenty (20) units per acre. Density may be increased one (1) unit per acre for every ~~five thousand (5,000)~~ two thousand (2,000) square feet of additional commercial developed on the site up to a maximum density of thirty (30) units per acre.

(F) *Architectural standards.*

(1) Applicants shall provide detailed architectural drawings for all structures within the project. The architectural styles must be cohesive within the project and shall include adherence to the standards contained in § 185.134. ~~and shall meet the character and adopted style of the redevelopment district as determined by the City Council.~~

(G) *Landscaping standards.*

(2) Any walls ~~or fences~~ along the perimeter of the property shall be buffered from offsite view by landscaping. Such walls ~~or fences~~ must be approved by City Council during the approval process.

(I) *Development standards.*

(7) Fencing is permitted along the rear and side interior property lines at a maximum height of eight (8) feet. Fencing along river frontage shall comply with (H)(2) of this district and shall be limited to a height of four (4) feet.

(J) *Review process.*

(1) An application for a Planned Community Development District zoning shall consist of a Preliminary Application Approval process and a Final Application Approval process. Approval of the Preliminary PCR request shall be via Resolution. A PCR zoning classification is established when the ~~Preliminary~~ Final Application is approved by City Council and shall be enacted by Ordinance. Both the preliminary and final applications must be submitted for review and action to the Bayfront Community Redevelopment Agency, the Planning and Zoning Board and City Council. All meetings must be public hearings.

(K) *Preliminary application submittal requirements.*

(3) Quantitative summary of land uses (maximum acres, maximum non-residential building square feet, maximum number of residential dwelling units, etc.). A report shall be submitted to

the city that includes a statement indicating how the proposed development complies with the comprehensive plan and a general description of the proposed development including:

(b) The number of acres proposed to be developed in the various categories of land use shown on the concept plan; the percentage of total acreage represented by each category of use and each component of development; and an itemized list of uses proposed for each of the components which shall be the range of uses permitted for that section of the PCR.

(c) The number and type of dwelling units proposed for the overall site and for its components, including dwelling unit per acre calculations and population projections for each ~~or~~ and for non-residential projects, provide the gross square footage devoted for each land use.

(e) A site conditions map that includes:

2. Name of the PCR; owner, ~~subdivider/lessee/optionee (if applicable), and~~ along with their address and phone number ~~of each~~; surveyor and engineer of record; and, date of drawing.

(L) *Final application submittal requirements.*

(2) Final development plan:

(a) A final development plan containing, in addition to those items specified in § 185.055(K), the following information:

9. A legal description of the ~~planned-unit development~~ project's boundaries with bearings, distances and tie point.

10. The final development shall meet the platting requirements of Fla. Stat. Ch. 177. In case of a large plan that may require two (2) or more sheets, the sheets are to be numbered and the numbers of the sheets are ~~to~~ to be indicated on the first sheet below the title.

(M) *Procedure.*

(1) A fee, following the latest fee resolution, ~~of one thousand dollars (\$1,000.00)~~ shall accompany the preliminary and final development plan application for the purpose of administration, additionally, engineering, plat filing, necessary copies and travel fees will be incurred.

#### 185.058 PCD – PLANNED COMMERCIAL DEVELOPMENT DISTRICT

(A) Intent. The purpose of the planned commercial development district shall be to locate and establish areas within the city which are deemed to be uniquely suited for the management and development of strategically designed commercial projects. These shared commercial developments shall have frontage upon an arterial roadway, as established in the Palm Bay Comprehensive Plan. The minimum size necessary for a PCD is five (5) acres. The application of the PCD district shall be approved by City Council and shall adhere to the design requirements

contained herein.

(B) *Principal uses and structures.* The following uses and structures are permitted:

(1) Retail stores, sales and display rooms, including places in which goods are produced and sold at retail on premises.

(2) Personal services establishments such as barber and beauty shops, fitness salons, laundry and dry cleaning establishments using nonflammable solvents as determined by the Fire Chief, tailor shops and similar uses.

(3) Professional offices, studios, clinics, general offices, business schools and similar uses, including veterinarian clinics provided all activities are within the principal structure and there is no boarding of animals.

(4) Hotels, motels, tourist courts.

(a) The minimum living area per hotel/motel efficiency unit shall be two hundred and eighty (280) square feet.

(b) There shall be no more than fifty (50) rental units per acre.

(5) Eating and drinking establishments including drive-through facilities.

(6) Indoor commercial recreation such as theaters, driving ranges, bowling alleys and similar uses, excluding dance clubs.

(7) Banks and financial institutions with drive-through facilities.

(8) Retail stores using outside display areas including plant nurseries, and building supplies providing the following provisions are met:

(a) The outside display area may be open along the front of the lot but shall be effectively screened with a six (6) foot opaque wall or fence rendering the sides and rear opaque in order to avoid any deleterious effect on adjacent properties.

(b) The outside display area shall be considered the same as the floor area for the purpose of calculating off-street parking requirements, yard and lot coverage regulations.

(c) All outside display items with the exception of new and/or used vehicles for sale shall meet a twenty (20) foot front and side setback and a thirty (30) foot rear setback. New and used vehicles for sale or rent shall meet the parking setback requirements established in division (E)(7) below.

(d) The sale of sheds or other accessory buildings is prohibited within the Bayfront Community Redevelopment District east of the Florida East Coast Railroad.

(9) Public and private clubs and lodges including golf courses and similar activities.

(10) New and used motor vehicles, major recreational equipment and mobile home sales and rentals with accessory uses; subject to the following restrictions:

(a) All outside areas where merchandise is displayed shall be paved.

(b) All servicing and repair facilities, except for gasoline pumps, shall be located in an enclosed structure.

(c) There shall be no storage of junked or wrecked automobiles other than temporary storage for those awaiting repair. Such temporary storage shall be in an enclosed area and the vehicles shall not be visible from outside the property. All vehicles shall have attached at all times a current vehicle registration license plate.

(11) Public utility equipment and facilities not located within a public utility easement.

(12) Hospitals and nursing homes.

(13) Schools, churches, and libraries.

(14) Day care centers.

(15) Business service establishments.

(16) Public uses.

(C) Accessory uses and structures. Customary accessory uses of one (1) or more of the principal uses clearly subordinate to the principal use, in keeping with the intense commercial character of the district.

(D) Conditional uses.

(1) Retail automotive gas/fuel sales:

(a) Location of facilities. Gasoline/ fuel pumps, storage tanks and other service island equipment shall be at least forty (40) 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.

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

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

(d) 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.

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

(2) Commercial radio and television broadcasting.

(3) Marinas.

(4) Car washes.

(5) Self storage facilities subject to the provisions established in § 185.088(F).

(6) Communication towers and facilities.

(7) Eating and drinking establishments that allow patrons to dance to music, subject to the provisions set forth in § 185.088(H).

(8) Indoor dance clubs, outdoor recreation, and outdoor amusement such as amusement parks, driving ranges, batting cages, go-cart tracks, outdoor skating facilities, miniature golf courses and similar uses.

(E) Setbacks. The setback required from the nearest part of any wall to the perimeter of the project shall be included in the development plan and approved by City Council.

(F) A six (6) foot high completely opaque masonry wall or wood fence shall be provided along the entire length of any side or rear property line abutting property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this zoning code.

(G) Design requirements.

(1) An Architectural Style for each structure is required. This shall include adherence to all standards contained in § 185.134.

(2) Development of a commercial use or group of commercial uses intended to be

developed according to a carefully drawn plan, may be permitted after obtaining the proper site plan and building permit approvals. This coordinated project shall:

(a) Encourage timely and logical development of commercial facilities which would be constructed as a unit; and

(b) Discourage development of commercial parcels of size where uncoordinated development would likely result in less efficient use of the land and of service to the community and its residents; and to assure suitable design and other criteria which would protect both the commercial environment and surrounding properties.

(H) In order to approve the project, the following conditions must be met:

(a) Ownership. The site proposed shall be under single ownership or if in several ownerships, a letter of authorization for the project to proceed towards obtaining city approval shall be filed by all owners of the properties included in the plan.

(b) Street frontage. The site proposed shall have a minimum width of two hundred (200) feet along a major street frontage.

(c) Access limitations. The minimum distance between access points shall be at least one hundred and fifty (150) feet, and the minimum distance between any one (1) location and an intersection of two (2) or more streets rights-of-way shall be one hundred (100) feet. The width of driveways and curb cuts, measured at the right-of-way line, shall provide for at least twelve (12) feet per traffic lane and shall conform to the following requirements:

	<u>Minimum</u>	<u>Maximum</u>
One-way traffic lane	15 feet	24 feet
Two-way traffic lanes	24 feet	30 feet
Three-way traffic lanes	36 feet	45 feet
Four-way traffic lanes	50 feet	56 feet

(d) Driveways having three (3) traffic lanes or more shall provide a raised median between entrance and exit lanes at the right-of-way line.

(e) Tree regulations. Full compliance with the city tree regulations set forth in this chapter, in Chapter 180 and in any other applicable ordinance of the city must be assured.

## **§ 185.056 RAC - REGIONAL ACTIVITY CENTER DISTRICT.**

### **PLANNED UNIT DEVELOPMENT (PUD)**

 **§ 185.067 PROCEDURE FOR SECURING APPROVAL OF A FINAL DEVELOPMENT PLAN.**

The developer shall have one (1) year from the approval of the preliminary development plan for a planned unit development zone in which to file a final development plan application. At the request of the developer, and for good cause shown, the City Council may extend the period required for the filing of the application for a time certain not to exceed one (1) year. The final development plan application may request approval for the entire planned unit development plan or any stage ~~(minimum ten (10) acres).~~

## **§ 185.060 DEFINITIONS.**

## **CONDITIONAL USES**

### **§ 185.086 APPLICATION FOR CONDITIONAL USES; FEES.**

§ 185.086 APPLICATION FOR CONDITIONAL USES; FEES.

Written application for conditional use shall be complete and made to the ~~planning~~ Land Development ~~Division~~ using the application form provided by the city. Application must be filed not later than the first day of the month preceding the scheduled hearing month. The applicant shall be required to pay any fee as may be established to defray processing and advertising costs related to review and hearing of the application. An application shall be accepted only for a conditional use specifically listed within the zoning district classification applying to the subject property or as specifically provided for elsewhere in this chapter.

### **§ 185.087 GENERAL REQUIREMENTS AND CONDITIONS.**

§ 185.087 GENERAL REQUIREMENTS AND CONDITIONS.

(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.

(G) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation or type, of physical activity. The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.

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

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

§ 185.088 SPECIAL REQUIREMENTS AND CONDITIONS.

§ 185.088 SPECIAL REQUIREMENTS AND CONDITIONS.

(A) *Churches.* A ~~special exception~~ conditional use may be granted under the following conditions:

~~(D) —Planned commercial development.~~

~~(1) —Development of a commercial use or group of commercial uses of three (3) or more acres intended to be developed according to a carefully drawn plan, may be permitted by the City Council, as a conditional use, after review by the Planning and Zoning Board, in the appropriate zoning district in which such development is planned. This provision is intended to:~~

~~(a) —Encourage timely and logical development of commercial facilities which would be constructed as a unit;~~

~~(b) —Discourage development of commercial parcels of size where uncoordinated development would likely result in less efficient use of the land and of service to the community and its residents; and to assure suitable design and other criteria which would protect both the commercial environment and surrounding properties.~~

~~(2) —In order to qualify for such conditional uses, the following conditions must be met:~~

~~(a) —Ownership. The site proposed shall be in one (1) ownership, or, if in several ownerships, the request for conditional use shall be filed by all owners of the properties included in the plan.~~

~~(b) —Zoning provisions. All other portions of the respective zoning district regulations and all other applicable portions of this chapter.~~

~~(c) —Street frontage. The site proposed shall have a minimum width of two hundred (200) feet along a major street frontage.~~

~~(d) —Access limitations.~~

~~1. —The minimum distance between access points shall be at least one hundred and fifty (150) feet, and the minimum distance between any one (1) location and an intersection of two (2) or more streets rights of way shall be one hundred (100) feet.~~

~~2. —The width of driveways and curb cuts, measured at the right of way line, shall provide for at least twelve (12) feet per traffic lane and shall conform to the following requirements:~~

~~**Minimum —Maximum**~~

~~—One-way traffic lane — 15 feet — 24 feet~~

~~—Two-way traffic lanes — 24 feet — 30 feet~~

~~—Three-way traffic lanes — 36 feet — 45 feet~~

~~—Four-way traffic lanes — 50 feet — 56 feet~~

~~3. —Driveways having three (3) traffic lanes or more shall provide a raised median between entrance and exit lanes at the right of way line.~~

~~(e) —Site plan.~~

~~1. —Concurrent with the request, a site plan shall be submitted on which structures shall be located in relation to:~~

- ~~a. Each other and to major entrances into and off the site;~~
- ~~b. Internal circulation ways;~~
- ~~c. Parking and service areas; and~~
- ~~d. Landscaped areas.~~

~~2. The site plan and supporting data shall show proposed standards for development, including restrictions of the use of property; plans for the provision of utilities, including water, sewer and drainage facilities; plans for protection of abutting properties; and such other plans, tabulations and other data that the City Council may require.~~

~~(f) Tree regulations. Full compliance with the city tree regulations set forth in this chapter, in Chapter 180 and in any other applicable ordinance of the city must be assured.~~

~~(g) Assurance of improvements. A statement defining the manner in which the city is to be assured that all improvements and protective devices are to be installed and maintained shall accompany the application.~~

~~(E)~~ (D) *Planned industrial development.*

Development of industrial use or group of industrial uses of five (5) or more acres intended to be developed according to a carefully drawn plan, may be permitted by the City Council as a ~~special exception~~ conditional use, after review by the Planning and Zoning Board, in the LI and HI zoning districts. This provision is intended to encourage better organization and controlled development for land reserved primarily for industrial uses, to create a compatible environment for a variety of industrial activities, to protect the integrity of surrounding residential and commercial uses, to allow and encourage proper placement and design for those commercial and residential uses which augment the principal uses, and to discourage commercial and residential encroachment upon areas which should be reserved for industrial activities. In order to qualify for such ~~special exceptions~~ conditional use, the following conditions must be met:

(1) Ownership. The site proposed shall be in one (1) ownership or if in several ownerships, the request for ~~special exception~~ conditional use shall be filed by all owners of the properties included in the plan.

(5) Site plan.

(b) The site plan and supporting data shall also show proposed standards for development, including restrictions of the use of property; plans for the provisions of utilities, including water, sewer and drainage facilities; plans for protection of abutting properties; plans for cross access and/or shared parking areas; and such other plans, tabulations and other data that the City Council may require.

~~(7) Assurance of improvements. A statement defining the manner in which the city is to be assured that all improvements and protective devices are to be installed and maintained shall accompany the application.~~

~~(8)~~ (7) Office/business parks. All office/business park proposals must provide a list of prohibited and permitted uses in the proposed business park. The applicant should also address

how the development will be designed and regulated to ensure the compatibility of uses within the office/business park.

~~(F) *Planned residential development.* Development of a two-family or multi-family residential use or group of residential uses of one hundred (100) or more units intended to be developed according to a carefully drawn plan, may be permitted by the City Council as a conditional use, after review by the Planning and Zoning Board, in the, RM-10, RM-15 and RM-20 zoning districts.~~

~~—(1) Ownership. The site proposed shall be in one (1) ownership, or, if in several ownerships the request for special exception shall be filed by all owners of the properties included in the plan.~~

~~—(2) Zoning provisions. All other portions of the respective zoning district regulations and all other applicable portions of this chapter must be met.~~

~~—(3) Street frontage. The site proposed shall have a minimum width of one hundred (100) feet along a collector or arterial roadway.~~

~~—(4) Access limitations. The minimum distance between access points shall be at least one hundred and fifty (150) feet, and the minimum distance between any one (1) location and an intersection of two (2) or more street rights-of-way shall be one hundred (100) feet.~~

~~—(5) Site plan.~~

~~—(a) Concurrent with the request, a site plan shall be submitted on which structures shall be located in relation to:~~

~~——1. Each other and to major entrances into and off the site;~~

~~——2. Internal circulation ways;~~

~~——3. Parking and service areas; and~~

~~——4. Landscaped areas.~~

~~—(b) The site plan and supporting data shall also show proposed standards for development, including restrictions of the use of property; plans for the provision of utilities, including water, sewer and drainage facilities; plans for protection of abutting properties; and such other plans, tabulations and other data that the City Council may require.~~

~~—(6) Tree regulations. Full compliance with the city tree regulations set forth in this chapter, in Chapter 180 and in any other applicable ordinance of the city must be assured. A tree survey shall be submitted showing the types and locations of existing trees and their calipers.~~

~~—(7) Assurance of improvements. A statement defining the manner in which the city is to be assured that all improvements and protective devices are to be installed and maintained shall accompany the application.~~

~~—(8) Submit a Management Plan for approval that includes and adequately addresses the following items: maintenance procedures, outdoor lighting for safety, tenant selection criteria, internal policing mechanisms for problem tenants, annual reporting requirements to the City of Palm Bay on adherence to the plan along with required review fees, and other items that may be identified by Police, Fire and other local agencies. Adherence to the City approved Management Plan shall be a condition of approval for any conditional use granted.~~

~~—(9) Submit a traffic impact analysis for staff review.~~

~~—(10) All projects shall be provided with a six (6') foot high fence of wood, masonry, brick,~~

~~PVC, or wrought iron, around the perimeter of the project.~~

~~—(11) Identify amenities and services to be provided including recreation, medical, transportation, and similar items.~~

~~—(12) Public safety and security plan required addressing the following:~~

~~—(a) Placement and design of physical features to maximize visibility and safety including building orientation, windows, entrances and exits, parking lots, walkways and other physical obstructions.~~

~~—(b) Lighting that provides for nighttime illumination of parking lots, pedestrian areas, walkways and entrances/exits.~~

~~—(13) Sidewalks required.~~

~~—(a) All buildings, parking areas and amenities shall be connected by sidewalks or interior walkways, and sidewalks along interior circulation drives shall connect with off-site sidewalks.~~

~~—(b) When parking is provided in front, behind or on the side, of a building along an interior circulation drive, a concrete sidewalk with raised curb shall be constructed between the parking spaces and the building, with connecting sidewalks to the building entrance. If such sidewalk is provided on only one side of an interior circulation drive, it shall be at least five (5) feet in width. If sidewalks are provided on both sides of the interior circulation drive, they shall be a minimum of four (4) feet wide.~~

~~—(c) When garages are provided resulting in vehicles backing out onto interior circulation drives, a concrete sidewalk shall be constructed between the driveway and the drive lane.~~

~~—(14) Variations in building height.~~

~~—(a) For buildings of two (2) or three (3) stories in height and not exceeding one hundred (100) feet in length, at least fifteen (15) percent of the roof line shall have a variation in height, or an average variation in height, of at least five (5) feet.~~

~~—(b) For buildings of two (2) or three (3) stories in height and in excess of one hundred (100) feet in length, at least two (2) portions of the building shall have a variation in height, or an average variation in height, of at least five (5) feet. The combination of said required variations in height shall amount to not less than fifteen (15) percent of the length of the building.~~

~~—(c) For buildings of four (4) or more stories in height at least fifteen (15) percent of the roof line shall have a variation in height, or an average variation in height, of at least ten (10) feet.~~

~~—(15) Variations in building facade.~~

~~—(a) For buildings not exceeding one hundred (100) feet in length, at least fifteen (15) percent of the building face shall have a variation in setback of at least five (5) feet.~~

~~—(b) For buildings in excess of one hundred (100) feet in length, at least two (2) portions of the building shall have a variation in setback of at least five (5) feet. Variations of less than five (5) feet shall not count toward this requirement. The combination of said required variations in setback shall amount to not less than fifteen (15) percent of the length of the building.~~

~~—(16) Traffic enforcement agreement required. The owner and/or management of each multi-family project shall enter into a Traffic Enforcement Agreement permitting the city to enforce traffic laws including moving violations, parking requirements, towing of illegally parked vehicles, maintaining emergency vehicle access to each unit, and marking or signing areas adjacent to fire hydrants or other fire connections to prohibit blocking access thereto when deemed necessary by city officials at their sole discretion. Signage shall comply with the~~

~~"Manual of Uniform Traffic Control Devices" and shall be installed at the owner's expense.~~  
~~—(17) Multi family developments of five (5) acres or more in size shall provide an improved recreation area. Said improved recreation area shall have at least fifteen (15) square feet of area for each dwelling unit with two (2) or more bedrooms. The minimum size for any improved recreation area shall either be located away from streets, lakes or canals or shall be fenced. The multi family development shall locate the improved recreation area in an area which is not directly adjoining or across a water body from any single family residentially zoned plot unless it is impractical, as determined by the Growth Management Director, or the multi family development employs other site planning criteria such as increased and staggered plantings to reduce noise. A plot may use all or a portion of its usable open space requirement to satisfy the requirement to provide an improved recreation area. However, the requirement for an improved recreation area will not be applied to multi family developments, or those portions of a multi family development, restricted by deed, a notation on the face of the plat or other recorded instrument which in the opinion of the city attorney creates said restriction to adults only.~~  
~~—(18) Balconies. Balconies designed for other than purely ornamental purposes shall be a minimum of five (5) feet in depth.~~

~~(G)~~ (E) *Public and private schools.* A conditional use may be granted under the following conditions:

~~(H)~~ (F) Self storage facilities may be granted with the following conditions:

(3) Interior traffic lanes shall be a minimum of thirty-five (35) feet wide for two-way traffic and a minimum of twenty-five (25) feet for one-way traffic, wide enough in order to accommodate loading and unloading as well as through and/or emergency traffic.

(7) Such facilities may only be utilized for storage. Occupancy for any other ~~sue~~ use is prohibited.

~~(I)~~ (G) *Communication towers and facilities.* A conditional use may be granted under the following conditions:

(3) If camouflaging is required, then tower or facilities must be camouflaged as required by City Council ~~trees, in church steeples, or other appropriate common structures.~~ An elevation view of this structure shall be provided.

(5) The submittal conditional use site plan includes a landscape plan that shows the landscape buffer and its irrigation as per Section 186.07 (E) of the Palm Bay Code of Ordinances. ~~Ord. No. 98-19, Section 7(E)(2).~~

~~(J)~~ (H) *Eating and drinking establishments that allow patrons to dance to music.* A conditional use may be granted under the following conditions:

~~(K) Arcade amusement center. A conditional use may be granted under the following~~

conditions:

~~(1) The facility shall be located no less than one hundred (100) feet, measured from the outer wall of the facility to the closest property line, of any residentially zoned land, as well as any land designated as recreation and open space use by the Palm Bay Comprehensive Plan Future Land Use Map.~~

~~(2) The facility shall be located no less than one thousand (1,000) feet, measured from the outer wall of the facility to the closest property line, of any school.~~

~~(3) No two facilities, operating pursuant to this subdivision, shall be located closer than five hundred (500) feet from one another, measured from the closest outer wall of each facility. Nothing in this section shall be construed as to prevent a business from operating under both subdivision (K) and subdivision (M) in the same facility without the need for additional approval, provided the machines and business operations are kept separate and apart from one another, preventing commingling of usage, and do not otherwise violate the provisions of Fla. stat. Chapter 849, or any regulation of the state. A business operating under both subdivision (K) and subdivision (M) must meet the separation criteria from other like businesses pursuant to both subdivisions, in other words arcade amusement centers from another arcade amusement center and electronic gaming establishments from another electronic gaming establishment.~~

~~(4) If the facility is placed within a freestanding building the site must contain a parking ratio of one parking space per two (2) game machines, regardless of whether the building is new or existing.~~

~~(5) If the facility is located in a shopping center, or other buildings with shared parking, it shall not utilize more spaces than are allocated to the leasable space as a percentage of the overall center or building, based upon the ratio above.~~

~~(6) The number of devices within the facility shall be governed by the Land Development Code of the City of Palm Bay as well as Florida Statutes and laws.~~

~~(7) The consumption, possession, dispensation, or sale of alcohol, shall be prohibited.~~

~~(8) The business location shall operate under the following management plan:~~

~~(a) The facility shall not have any reflective or other opaque material on the exterior windows which limits or restricts the visibility of the interior of the facility from the exterior of the facility under normal circumstances;~~

~~(b) Upon initially opening and on June 1 of each calendar year thereafter, the business shall report to the Growth Management Director and the Finance Director the number of machines being operated within the facility; and~~

~~(c) The business shall not operate in violation of county, state or federal law.~~

~~(9) The business shall not operate between the hours of 2:00 a.m. and 7:00 a.m.~~

~~(10) A person playing or operating a game or machine shall be entitled to receive points or coupons, which may be exchanged for merchandise only, excluding cash and/or alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed seventy-five cents (\$.75) on any game played, all strictly in accordance with Florida Statutes and laws.~~

~~—A conditional use shall not be construed to authorize any game or machine that may be construed as a gambling device under Florida law.~~

~~(11) In the event an arcade amusement center is operating in a dual capacity under~~

~~subdivision (M), patrons utilizing sweepstakes computers shall be made aware of the rules of the sweepstakes, as required by state law or the regulation of any appropriate state agency, and shall otherwise comply with the laws and regulations of the state in regard to such sweepstakes gaming.~~

~~(L)~~ (I) *Security dwelling unit.* A conditional use may be granted under the following conditions:

~~(M) *Electronic gaming establishment.* A conditional use may be granted under the following conditions:~~

~~(1) The facility shall be located no less than one hundred (100) feet, measured from the outer wall of the facility to the closest property line, of any residentially zoned land, as well as any land designated as recreation and open space use by the Palm Bay Comprehensive Plan Future Land Use Map.~~

~~(2) The facility shall be located no less than one thousand (1,000) feet, measured from the outer wall of the facility to the closest property line, of any school.~~

~~(3) No two (2) facilities, operating pursuant to this subdivision, shall be located closer than five hundred (500) feet from one another, measured from the closest outer wall of each facility. Nothing in this section shall be construed as to prevent a business from operating under both subdivision (K) and subdivision (M) in the same facility without the need for additional approval, provided the machines and business operations are kept separate and apart from one another, preventing commingling of usage, and do not otherwise violate the provisions of Fla. stat. Chapter 849, or any regulation of the state. A business operating under both subdivision (K) and subdivision (M) must meet the separation criteria from other like businesses pursuant to both subdivisions, in other words, Arcade amusement centers from another arcade amusement center and electronic gaming establishments from another electronic gaming establishment.~~

~~(4) If the facility is placed within a freestanding building the site must contain a parking ratio of one parking space per two (2) game machines, regardless of whether the building is new or existing.~~

~~(5) If the facility is located in a shopping center, or other buildings with shared parking, it shall not utilize more spaces than are allocated to the leasable space as a percentage of the overall center or building, based upon the ratio above.~~

~~(6) The number of devices within the facility shall be governed by the Land Development Code of the City of Palm Bay as well as Florida statutes and laws.~~

~~(7) The consumption, possession, dispensation, or sale of alcohol, shall be prohibited.~~

~~(8) The business location shall operate under the following management plan:~~

~~(a) The facility shall not have any reflective or other opaque material on the exterior windows which limits or restricts the visibility of the interior of the facility from the exterior of the facility under normal circumstances;~~

~~(b) Upon initially opening and on June 1 of each calendar year thereafter, the business shall report to the Growth Management Director and the Finance Director the number of machines being operated within the facility; and~~

~~(c) The business shall not operate in violation of county, state or federal law.~~

~~(9) The business shall not operate between the hours of 2:00 a.m. and 7:00 a.m.~~

~~(10) All patrons of the business shall be made aware that they are participating in a computer based sweepstakes, including the rules of the sweepstakes, as required by state law or the regulation of any appropriate state agency.~~

~~A conditional use shall not be construed to authorize any game or machine that may be construed as a gambling device under Florida law.~~

## TRANSITION ZONING

## SUPPLEMENTARY DISTRICT REGULATIONS

### § 185.115 BUILDING SETBACK LINES.

#### § 185.115 BUILDING SETBACK LINES.

(A) For the purpose of promoting health, safety and general welfare of the community, and to:

- (1) Lessen congestion in the street;
- (2) Secure safety from fire, panic, storm, hurricane, or other causes;
- (3) Provide adequate light and air;
- (4) Prevent the overcrowding of land;
- (5) Avoid undue concentration of population;
- (6) Provide adequate facilities for transportation, parking, water and sewerage; and

~~(7) Conserve the value of buildings and encourage the most appropriate use of land, all properties within the city limits which abut the following roads shall maintain these minimum building setback lines as measured from the centerline of the existing right-of-way:~~

-

<del>Street or Road—</del>	<del>Setback (feet)</del>
<del>U.S. Highway No. 1</del>	<del>125</del>
<del>Babcock Street (north of I-95)</del>	<del>80</del>
<del>Babcock Street (south of I-95)</del>	<del>75</del>
<del>Robert J. Conlan Boulevard</del>	<del>125</del>
<del>Palm Bay Road</del>	<del>80</del>
<del>Malabar Road</del>	<del>80</del>
<del>Minton Road (north of Malabar)</del>	<del>80</del>
<del>Port Malabar Boulevard</del>	<del>75</del>
<del>Riviera Drive</del>	<del>75</del>
<del>Troutman Boulevard</del>	<del>75</del>
<del>Lipscomb Street</del>	<del>75</del>
<del>Clearmont Street</del>	<del>75</del>

<del>Emerson Drive</del>	<del>75</del>
<del>Jupiter Boulevard</del>	<del>75</del>
<del>Eldron Boulevard</del>	<del>75</del>
<del>San Filippo Drive</del>	<del>65</del>

(B) For the purpose of promoting health, safety and general welfare of the community and secured safety from fire, storm, hurricane or other causes, all ~~principal~~ structures shall maintain a twenty-five (25) foot setback from the mean high water line of the following:

**§ 185.116 ERECTION OF MORE THAN ONE (1) PRINCIPAL STRUCTURE ON A LOT.**

**§ 185.118 ACCESSORY STRUCTURES.**

 **§ 185.118 ACCESSORY STRUCTURES.**

(A) No accessory structure shall be erected in:

(3) Any required side yard setback. ~~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. No separate or freestanding accessory structure shall be constructed or placed within ten (10) feet of any building on the same lot unless securely attached to the main building. Accessory structures erected on lots fronting on two (2) streets shall conform to the principal structure setbacks for the side corner yard setback.~~

(4) 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. No separate or freestanding accessory structure shall be constructed or placed within ~~ten (10)~~ five (5) feet of any building on the same lot ~~unless securely attached to the main building~~. Accessory structures erected on lots fronting on two (2) streets shall conform to the principal structure setbacks for the side corner yard setback.

(C) Accessory buildings shall not be used until after the principal structure has been fully constructed and a certificate of occupancy issued. Erection of tents as accessory structures is prohibited. No home occupation ~~nor~~ or business may be conducted in an accessory building. Residential use in any accessory building is strictly prohibited. No accessory building may be erected upon a property without the presence of a principal building, unless a principal building is not required in the applicable zoning district. In any residential zoning district, no accessory structure shall exceed the size of the principal structure's living area, except that sheds may not exceed 50% of the size of the principal structure's living area. Shipping containers will be considered the same as a shed, for the purposes of this section, and in addition to meeting the provisions of 185.118; they shall also meet the requirements of the latest adopted Florida

Building Code.

(E) *Satellite dish antennae.* For the purpose of this chapter, satellite dish antennae are considered an accessory structure and a building permit shall be required when installing, moving or reconstructing a dish antenna. Satellite dish antennae shall meet the following requirements:

(3) No more than one (1) dish antenna shall be located on any record parcel of land zoned for a single-family ~~residences~~ residential use. No more than two (2) dish antennae shall be permitted for multi-family or commercial uses.

(F) Animal cages or enclosures.

(1) For purposes of this subsection, animal cages or enclosures ~~erected outside of the lines of the principal structures~~ shall be considered to be an accessory structure.

**§ 185.119 AIR CONDITIONING UNITS.**

**§ 185.125 HOME OCCUPATIONS.**

 **§ 185.125 HOME OCCUPATIONS.**

(A) In a residentially zoned district, a home ~~occupational license~~ business tax receipt may be issued when the home is used only as a location for a business telephone, an address for business correspondence, and a storage place for business records in conjunction with a principal residential use. A home ~~occupational license~~ business tax receipt does not permit or authorize the following:

(8) Storage of commercial vehicles; vehicles or vessels for hire; mobile food vending trucks/trailers.

(B) *Application for home occupational license.*

(1) Application for a ~~occupational license~~ business tax receipt shall be made in the same manner as provided for in Chapter 110 of this code of ordinances. However, the Growth Management Director, or designee, shall certify compliance with the requirements of this section after review of the following information submitted by the applicant:

(C) In a residentially zoned district, a home-based business occupational license may be issued for a business that does not meet all of the criteria identified in subsections (A) and (B) above provided the following criteria are met:

(5) A business operating under a Cottage Food License is permissible with proof of such license from the governing authority.

(6) A licensed firearms dealer may operate within their home, provided a Federal Firearms Permit is valid and secured prior to the business tax receipt application. No on-site storage of ammunition or items related to ammunition reloading, musket ball or muzzle manufacturing or re-loading may be permitted. Transfer of firearms to private individuals may not occur at the property where the home is located.

~~(5) No employees of the business, other than those permanently residing within the dwelling, are permitted to engage in business activities at the site.~~

~~(6) No customers of the home-based business are permitted to walk to or drive to the business.~~

~~(7) Signs or advertising of any type identifying the home-based business are prohibited on the premises.~~

~~(8) No home-based business shall cause an increase in the use of water and/or solid waste above the average use by residences in the neighborhood.~~

~~(9) Home-based businesses shall not occupy greater than twenty-five percent (25%) of the living area of the primary residence.~~

~~(10) Any home-based business that involves employees, equipment or other activities not permitted at the home but necessary for the business shall provide proof of a properly zoned and licensed business locations housing those activities. Such employees, equipment or other activities are not permitted at the site of the home-based business.~~

~~(11) The home-based business address shall not be distributed in connection with any advertising, business card or by other means that would in any way connect the residential address to a customer. Telephone numbers are permitted and business mail addressing is permitted.~~

~~(12) No license for a home-based business shall be issued in a location if there is an existing violation of any city ordinance that has been found to exist by the Code Enforcement Board.~~

*(D) Application for home-based business occupational license.*

(1) Application for a home-based ~~occupational license~~ business tax receipt shall be made in the same manner as provided for in Chapter 110 of this code of ordinances. However, the Growth Management Director, or designee, shall certify compliance with the requirements of this section after review of the following information submitted by the applicant:

*(E) Expiration and revocation of license.*

(1) ~~Licenses~~ Business tax receipts for home occupations and/or home-based businesses shall expire as provided in Chapter 110, Palm Bay Code of Ordinances.

(2) ~~Licenses~~ Business tax receipts for home occupations and/or home-based businesses may be revoked by the Growth Management Director for violation of any criteria established by this section. ~~In addition, home occupation and/or home-based business licenses may be revoked if at any time during the life of the license, if the licensed property is found to have a violation of any city ordinance by the Code Enforcement Board.~~

(F) *Appeals for denial or revocation of license.*

(1) Licenses for home occupations and/or home-based businesses that have been denied by the Growth Management Director, or designee, for failure to meet the criteria established in this section may file an appeal of an administrative decision pursuant to § 169.009.

#### **§ 185.126 BUILDINGS REQUIRED.**

#### **§ 185.131 LIMITATIONS ON THE NUMBER OF DOGS KEPT WITHIN RESIDENTIAL ZONING DISTRICTS.**

§ 185.131 LIMITATIONS ON THE NUMBER OF DOGS KEPT WITHIN RESIDENTIAL ZONING DISTRICTS.

(C) Application for a certificate shall be made on a form provided by the city and submitted to the Palm Bay Code ~~Enforcement~~ Compliance Division. In order to obtain a certificate, applicants must provide the following information and documentation on all dogs owned or kept by the applicant:

#### **§ 185.132 CONVERSION OF GARAGE(S) TO LIVING AREA.**

§ 185.132 CONVERSION OF GARAGE(S) TO LIVING AREA.

(B) The living area created must be directly accessible from ~~other~~ the living area in the principal home.

#### **§ 185.133 TEMPORARY STORAGE UNITS IN RESIDENTIAL AREAS.**

#### **§ 185.134 ARCHITECTURAL STYLE REQUIREMENTS.**

§ 185.134 ARCHITECTURAL STYLE REQUIREMENTS.

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

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

(8) There shall ~~exist~~ be no area greater than 400 square feet of contiguous blank wall area on any front facade that remains unadorned by architectural features that include, but are not limited

to, windows, doors, lights, banding trim or porch elements.

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

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

(E) The design requirements listed in subsections (A) and (B) above shall be applicable to all accessory buildings also. Any accessory structure not meeting this requirement shall be screened so as to not be visible from the public right-of-way. Mechanical equipment such as gasoline pumps, air and vacuum machines, drive-through menu boards and speaker stations, drive-through teller stations, ATM's, and similar appliances which require direct access by the public shall be exempt from the design review requirements of this subsection.

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

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

(I) Appeals.

(1) The intent of City Council is that commercial structures adhere to the Architectural Style Requirements as described above during the administrative site plan review process for the city. The appeals process described below is intended to provide relief from those provisions only in unusual and unique circumstances. Subsection (J) describes an alternative process for Architectural Styles that do not conform to the style requirements of subsections (B) through (H) above.

(a) Appeals. When an applicant feels that the decision of the City review staff has been made in error with regard to compliance with the Architectural Style Requirements, they may appeal that decision to the Growth Management Director for a final administrative decision. The appeal shall be in the form of a letter indicating the reasons for the appeal and the applicant's opinion of their adherence to the requirements. In rendering that final decision, the Growth Management Director shall take into account the overall level to which the architectural design complies with the requirements. If the applicant is not satisfied with the Final Administrative Decision, they may appeal that decision pursuant to Chapter 59.04(6) § 169.009.

(J) Alternative Architectural Styles.

(2) The City Council shall hold a minimum of one (1) public hearing in accordance with Chapter 59 to consider the requested Exception. The decision of Council shall be based upon the following:

(3) Prior to the public hearing required above, city staff shall prepare a report to Council that describes how the submitted site and architectural plans address the following issues:

(a) Provisions for public gathering space including benches, tables, fountains, shade and weather coverings, landscaping treatments and similar features.

#### **§ 185.135 GREEN DEVELOPMENT PROGRAM STANDARDS.**

#### **§ 185.136 BACKYARD CHICKENS.**

📖 § 185.136 BACKYARD CHICKENS.

(B) Up to four (4) chickens may be kept on single family lots in the RE, RS-1, RS-2, RS-3, SF-1, SF-2 and SRE Zoning Districts, subject to adherence to the following criteria:

#### **§ 185.137 PIGEONS.**

📖 § 185.137 PIGEONS.

(B) Pigeons may be kept on single family lots in the RE, RS-1, RS-2, RS-3, SF-1, SF-2 and SRE Zoning Districts, subject to adherence to the following criteria:

### **OFF-STREET PARKING AND LOADING REQUIREMENTS**

#### **§ 185.140 OFF-STREET PARKING AND TRAFFIC CIRCULATION.**

📖 § 185.140 OFF-STREET PARKING AND TRAFFIC CIRCULATION.

In all districts, off-street parking shall be provided as follows:

(B) *Design and use requirements.* Wherever, in any zoning district, off-street parking areas are provided for the parking of any and all types of vehicles, boats or heavy construction equipment, whether such vehicles, boats or equipment are self-propelled or not, and wherever land is utilized for the movement of vehicles as a function of the primary use of the land, such off-street parking areas and land shall conform to the following design and requirements:

(1) All off-street parking areas in excess of five (5) spaces for vehicular uses shall have individual spaces marked and shall be maintained so as to present a neat and orderly appearance free of refuse and debris. All off-street parking areas shall be surfaced with type 1 asphalt or concrete, or such other surface as may be approved by the Growth Management ~~Department~~ or designee. All parking areas shall be delineated with curbing, wheel stops or other appropriate

materials to be determined by the Growth Management ~~Department~~ or designee.

(3) All off-street parking areas shall be designed so as to have adequate access to a public street or alley and, in the case of parking areas, adequate access to interior maneuvering areas. Except for parking serving single-family and two-family dwellings, parking areas shall be arranged so that no vehicle shall be required to back from such areas directly onto alleys, driveways, sidewalks or rights-of-way. No parking aisle or system or parking aisles in a parking lot shall connect more than 30 consecutive parking stalls. ~~Wherever vehicular entrances and exits are involved, the number, size, curb cuts, distance apart and general design of any such entrances and exits shall comply with all established standards and requirements of the applicable city, county or state; however, should the requirements of these jurisdictions conflict, the more stringent regulations shall apply.~~ No building permit shall be issued and no site development shall commence until permits or letters of intent to issue such permits are obtained from the agency with jurisdiction and submitted to the city. Interior aisle widths shall conform to the minimum requirements below:

(4) Except for single-family and two-family lots and those lots provided for under §185.088 (being the ~~planned commercial development~~, planned industrial development ~~and planned residential development~~ regulations), driveways, measured at the right-of-way line, shall be a minimum width of fifteen (15) feet for one-way traffic and twenty-four (24) feet for two-way traffic; provided, that no driveway exceeds ~~thirty (30)~~ thirty-six (36) feet in width. One (1) driveway per parcel shall be permitted for properties with up to one hundred and fifty (150) feet of street frontage; an additional driveway shall be permitted for each additional one hundred and fifty (150) feet or fraction thereof street frontage. Driveways shall be at least fifty (50) feet apart measured from the closest driveway edge at the right-of-way line and located not closer than thirty (30) feet from the nearest street intersection measured at its nearest right-of-way line. In no case, however, shall a driveway or curb cut be permitted on the radii of any intersection. All driveways shall be paved from the property line to the edge of the street pavement.

(a) For larger commercial development that proposes multiple lanes of traffic, the following driveway width requirements shall be apply:

<u>Minimum</u>	<u>Maximum</u>	
Three-way traffic lanes	36 feet	45 feet
Four-way traffic lanes	50 feet	56 feet

(b) Any driveway having three (3) traffic lanes or more shall provide a raised median between entrance and exit lanes at the right-of-way line

(14) At such time as existing off-street parking or other vehicular use areas are modified, the modification shall not cause the existing areas to be more nonconforming. The intent of this provision is that any existing off-street parking or vehicular use areas shall, when feasible, become more conforming to this division (B). Determination of the feasibility of modifying the existing parking or vehicular use areas, to become more conforming, shall be made by the Growth Management Director, or designee. This determination shall be based on the following

considerations:

(d) The extent to which modification addresses other criteria within the Code of Ordinances, such as, but not limited to, landscaping provisions, compliance with the Americans with Disabilities Act (ADA), stormwater management requirements and similar regulations.

(e) Parking lots permitted prior to adoption of the Americans with Disabilities Act (ADA) may be re-painted atop the existing parking space striping and will be considered maintenance. However, parking areas that are modified from this original layout shall be re-designed meeting the ADA requirements, inclusive of parking space striping, signage, markings, and handicapped ramps (where applicable). The site must still meet the minimum amount of parking spaces as provided for in this Chapter.

(C) *Amount of off-street parking required.* Off-street parking shall be provided and maintained on the basis of the following minimum requirements:

(8) Elderly and handicapped housing: ~~Six-tenths (6/10)~~ One half (1/2) of a parking space per dwelling unit.

(12) Hospital ~~or nursing home~~: One (1) space for each two (2) beds, excluding bassinets, plus one (1) space for each ~~two (2)~~ employees at maximum employment on a single shift.

(19) Place of public assembly, including an assembly hall, exhibition hall, convention hall, entertainment center, community center, library or museum: One (1) space for each three (3) seats, or one (1) space for each two hundred (200) square feet of gross floor area, whichever is greater.

(20) Restaurants and drinking establishments: One (1) space for each three (3) seats, plus one (1) space for every employee.

(24) School, junior and senior high schools and colleges (public, private or parochial), K-8 and K-12 educational facilities: Four (4) spaces for each classroom or office room, plus one (1) space for each one hundred and fifty (150) square feet of seating area, including aisles, in any auditorium or gymnasium or cafeteria intended to be used as an auditorium.

(25) Shopping centers.

(a) For commercially zoned developments with twenty-five thousand (25,000) gross square feet or greater, off-street parking shall be provided according to the following schedule:

<i>Gross Floor Area</i>	<i>Parking/Square Feet</i>
25,000 to 400,000 sq. ft	4.0 spaces/1,000
<del>400,000 to 600,000 sq. ft</del>	<del>4.5 spaces/1,000</del>
<u>600,000 sq. ft. and over</u>	<u>5.0 spaces/1,000</u>

(b) When tenants of a shopping center include ~~offices or~~ theaters, the following also applies:

~~1. Where office space amounts to less than ten percent (10%) of the total gross floor area (GFA), the office gross floor area shall be deducted from the total gross floor area and the remainder used to calculate the required parking based on the schedule set forth in division (a) above. If the office space is greater than ten percent (10%), the following formula shall be used to determine the required parking:~~

~~2. (1) Theaters. Shopping centers that contain a theatre shall provide the amount of parking as required in (a) above, plus the number of spaces required for theaters in (26) below. with one hundred thousand (100,000) to two hundred thousand (200,000) square feet of gross leasable area having theaters with up to four hundred and fifty (450) seats, and at centers with over two hundred thousand (200,000) square feet with up to seven hundred and fifty (750) seats, no additional parking spaces are required. Theaters having more than this number of seats, or theaters located at centers smaller than one hundred thousand (100,000) square feet, however, shall provide three (3) additional parking spaces per one hundred (100) seats over the requirements stated above.~~

(27) Warehousing and wholesaling: One (1) space for each one thousand (1,000) square feet of gross floor area for buildings up to ten thousand (10,000) square feet of gross floor area. For buildings in excess of ~~up to~~ ten thousand (10,000) square feet, ~~and~~ one (1) ~~additional~~ space shall be provided for each ~~additional~~ two thousand (2,000) square feet, plus one (1) space for each company vehicle operating from the premises.

(28) Indoor Recreation: For those indoor recreation categories not specifically provided for herein, there shall be a minimum of one (1) space for each three hundred (300) square feet of gross floor area or one (1) space for each two (2) machines, whichever is greater.

~~(28)~~ (29) Uses not specifically mentioned: The requirements for off-street parking for any uses not specifically mentioned in this division (C) shall be the same as provided in this division for the use most similar in nature, it being the intent to require all uses to provide off-street parking. Where there is any question regarding the number of off-street parking spaces to be provided, the number shall be determined and fixed by the City Planner.

(E) *Combined off-street parking.* Nothing in this division (E) shall be construed to prevent collective provisions for, or joint use of, off-street parking facilities for two (2) or more buildings ~~of, off-street parking facilities for two (2) or more buildings~~ or uses by two (2) or more owners or operators; provided, that the total of such parking spaces when combined or used together shall not be less than the sum of the requirements of the several individual uses computed separately in accordance with the requirements of this division. Where combined usage is proposed, a joint agreement for access and maintenance shall be executed and filed with the ~~Planning Official~~ Growth Management Department. In commercially zoned areas, the shared access and parking area requirements of §§ 185.030 et seq. and §§ 185.060 et seq. shall be met.

(F) *Use of required off-street parking for another building or use.* No part of an off-street parking area required for any building or use shall be included as part of an off-street parking area similarly required for another building or use, unless the type of use indicates that the periods of use will not overlap or be concurrent with each other, as determined and approved by the ~~city Planning~~ Growth Management Director, or designee. ('74 Code, § 25-191) (Ord. 89-08, passed 4-27-89; Am. Ord. 94-37, passed 7-7-94; Am. Ord. 2008-70, passed 12-18-08; Am. Ord. 2010-89, passed 1-6-11)

#### **§ 185.141 OFF-STREET LOADING AND SERVICE FACILITIES.**

##### § 185.141 OFF-STREET LOADING AND SERVICE FACILITIES.

(A) On the same lot with every structure or use, hereinafter erected or created there shall be provided and maintained adequate space for loading and unloading of materials, goods or things and for delivery and shipping so that vehicles for the service may use this space without encroaching on or interfering with the public use of sidewalks, streets, parking areas, aisles, driveways and alleys by pedestrians and vehicles.

(C) For the purposes of this section, an off-street loading space shall be an area at the grade level at least fourteen (14) feet wide, forty-five (45) feet long, and having fourteen (14) feet of vertical clearance. Each off-street loading space ~~shall be from a public street or alley without space, and~~ shall be arranged for convenient and safe ingress and egress by motor truck and/or trailer combinations. No off-street loading space or necessary access way thereto shall be designated or utilized as off-street parking space. Each off-street loading space shall be accessible from the interior of any building it is intended to serve.

(D) Off-street loading spaces shall be provided and maintained in accordance with the following schedule:

(1) For buildings or structures containing retail, food store, restaurant, laundry, dry cleaning or similar retail or service uses which have an aggregate gross floor area of:

(b) Over twenty-five thousand (25,000) square feet, but not over ~~sixty~~ fifty thousand ~~(60,000)~~ (50,000) square feet — two (2) spaces;

(c) One (1) additional loading space shall be provided for each additional fifty thousand (50,000) square feet, or fractional part thereof, for buildings larger than fifty thousand (50,000) square feet.

~~(c) Over sixty thousand (60,000) square feet, but not over one hundred and twenty thousand (120,000) square feet — three (3) spaces;~~

~~—— (d) Over one hundred and twenty thousand (120,000) square feet, but not over two hundred thousand (200,000) square feet — four (4) spaces;~~

~~—— (e) Over two hundred thousand (200,000) square feet, but not over two hundred and ninety thousand (290,000) square feet or major fraction thereof — one (1) space for every one hundred~~

~~thousand (100,000) square feet.~~

(2) For each auditorium, exhibition hall, museum, hotel, or motel, office building, or similar use, which has an aggregate gross floor area of over ten thousand (10,000) square feet, but not over ~~forty~~ fifty thousand ~~(40,000)~~ (50,000) square feet, one (1) space; ~~plus one (1) space for each additional sixty thousand (60,000) square feet over forty thousand (40,000) square feet or fraction thereof.~~ One (1) additional loading space shall be provided for each additional fifty thousand (50,000) square feet, or fractional part thereof, for buildings larger than fifty thousand (50,000) square feet.

(3) For any light manufacturing, warehouse, research and development, assembly or similar industrial use which has aggregate gross floor area of over ten thousand (10,000) square feet, but not over fifty thousand (50,000) square feet, one (1) space. One (1) additional loading space shall be provided for each additional fifty thousand (50,000) square feet, or fractional part thereof, for buildings larger than fifty thousand (50,000) square feet.

- ~~(a) Up to fifteen thousand (15,000) square feet — one (1) space;~~
- ~~(b) Over fifteen thousand (15,000) square feet, but not over forty thousand (40,000) square feet — two (2) spaces;~~
- ~~(c) Over forty thousand (40,000) square feet, but not over sixty five thousand (65,000) square feet — three (3) spaces;~~
- ~~(d) Each additional eighty thousand (80,000) square feet over sixty five thousand (65,000) square feet — one (1) additional space.~~

(4) For any use not specifically mentioned in this section, the requirements for off-street loading for a use which is mentioned and to which the unmentioned use is similar shall apply. Where there is any question as to the off-street loading needs of any other use, the number shall be determined and fixed by the ~~City Planning~~ Growth Management Director, or designee.

(G) Nothing in this section shall prevent the collective, joint or combined provision of off-street loading facilities for two (2) or more buildings or uses; provided that such off-street loading facilities are equal in size and capacity to the combined requirements of the several buildings or uses and are so located and arranged as to be usable thereby.

(H) Plans for buildings or uses requiring off-street loading facilities under the provisions of this section shall clearly indicate the location, dimensions, clearance and access of ~~an~~ such required off-street loading facilities

#### **§ 185.142 OFF-STREET PARKING AREA LANDSCAPING REQUIREMENTS.**

- (A) *Plant material.*

(1) Existing vegetation. The preservation and maintenance of existing native vegetation is strongly encouraged. ~~Wax myrtles, cabbage palms, mangroves, saw palmetto or other native species~~ Native species such as oaks, pines, sabal palms, red maples and mangroves having a trunk height of at least ~~four (4)~~ six (6) feet or having a caliper of at least two (2) inches may substitute for the tree planting requirements stated in this section. Existing vegetation may also substitute for buffer requirements along interior lot lines if such vegetation creates an opaque screen and has a caliper of at least two (2) inches. The following species, however, are not to be used as substitutes for the requirements in this section nor shall they be planted:

***Botanical name (common names)***

*Casuarina* (Australian pine, beefwood)

*Melaleuca* (cajeput, punk tree, paperbark tree)

*Eucalyptus* (gum tree)

*Schinus terebinthifolius* (Brazilian pepper)

*Ricinus cummunis* (castor bean)

*Melia azedarach* (chinaberry)

*Enterolobium cyclocarpum* (ear tree)

~~*Cinnamomum camphora* (camphor tree)~~

*Sapium sebiferum* (Chinese Tallow)

*Cupaniopsis anacardioides* (Carrotwood)

*Leucaena leucocephala* (White Leadtree)

(3) (a) Trees. All trees shall be species having an average mature spread or crown spread of fifteen (15) feet or greater in area and having trunks which can be maintained in a clean condition with over six (6) feet of clear wood measured from the ground. Trees having an average mature spread or crown less than fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of a fifteen (15) foot crown spread. Tree species shall be a minimum of ~~six (6)~~ ten (10) feet in overall height ~~immediately after~~ at time of planting. ~~Trees of~~ species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than twelve (12) feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior dimensions shall be five (5) feet square and five (5) feet deep, and for which construction requirements shall be four (4) inch thick concrete reinforced with No. 6 load mesh (6×6×6) or equivalent.

(b) No ~~singular~~ single species of tree shall be ~~utilized~~ used to total more than fifty (50%) percent of the required number of trees.

(4) Palms. Palm trees may be ~~utilized~~ used as a part of a landscaping plan; however, palms shall not be ~~utilized~~ used in fulfilling to fill more than thirty percent (30%) of the requirements of this section. Existing native palms on site should be ~~utilized~~ used and can substitute if the palms have a clear trunk height of at least ~~eight (8)~~ six (6) feet or a caliper of at least ~~eight (8)~~ six (6) inches.

(5) Shrubs and hedges. Shrubs shall be a minimum of ~~two (2)~~ three (3) feet overall in height when measured at planting. Hedges, where required, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen within ~~one (1) year~~ six (6) months after time of planting.

(9) Conformance with state standards. All plant material used shall conform to the standards for Florida No. 1, or better, as given in *Grades and Standards for Nursery Plants, Part One, 1963, and Part Two*, State of Florida, Department of Agriculture.

(11) Vines. Plants which require support to reach mature form. Vines shall be planted no further apart than three (3) feet from each other when ~~utilized~~ used to meet the requirements of division (B)(3)(g) below.

(B) *Development standards.*

(1) Where parking areas are ~~not entirely screened visually by an intervening building or structure from any abutting right-of-way,~~ provided, there shall be ~~provided~~ required landscaping between such area and ~~such~~ any abutting right-of-way as follows:

(a) A strip of land at least ten (10) feet in depth located ~~between the abutting right-of-way and the off-street parking area or other vehicular use area which is exposed~~ adjacent to an abutting right-of-way shall be landscaped to include an average of one (1) tree for each fifty (50) linear feet or fractional part thereof. These trees shall have a minimum two (2) inch caliper with a height of ten (10) feet at time of planting. ~~Such trees shall be located between the abutting right-of-way and off-street parking area or other vehicular use area.~~

(b) In addition, a hedge, wall, berm or other opaque durable landscape barrier of at least ~~two (2)~~ three (3) feet in height shall be placed along the entire length of the ~~parking area abutting right-of-way.~~ Shrubs shall be planted twenty four (24) inches apart; this requirement shall apply to all sections of the landscape code where the planting of shrubs is required. If such opaque, durable barrier is of nonliving material, ~~a~~ shrubs or vines shall be planted in such a manner as to break up the expanse of the wall. A two (2) foot berm may be used; however, additional landscaping at least one (1) foot in height at time of planting shall be installed. The remainder of the required landscape areas shall be landscaped with grass, ground cover or other landscape treatment.

(c) Large parcels. When multi-family or non-residential parcels or tracts of land contain frontage that exceeds three hundred (300') linear feet, these developments shall plant one (1) tree per thirty (30) linear feet, or fractional part thereof, for the entire length of the frontage. Trees may be clumped, provided that spacing between tree trunks is no greater than fifty (50) feet. The frontage shall also contain one (1) shrub per two (2) linear feet and these shrubs shall be a minimum of three (3) feet in height at time of planting.

(2) Required landscaping adjacent to interior property lines:

(a) Where parking areas abut property zoned or, in fact, used primarily for residential or institutional purposes, that portion of such area not entirely screened visually by an intervening structure or existing conforming buffer from an abutting property, ~~there~~ shall be provided a landscaped buffer which ~~should~~ shall be maintained and replaced as needed. Such landscaped buffer shall consist of plant material; ~~a~~ wall or other durable barrier at least six (6) feet in height measured from the median elevation of the parking area closest to the common lot line, and shall be located between the common lot line and ~~the off-street parking area or other vehicular use area exposed to~~ the abutting property. Where the screen is composed of plant material capable of reaching six (6) feet in height, it shall be at least thirty-six (36) ~~(30)~~ inches in height at time of planting and shall attain opacity within twelve (12) months under normal growing conditions.

(b) In addition, an average of one (1) tree shall be provided for each thirty-five (35) linear feet of such parking area or fractional part thereof, adjacent to the common lot line, or a ratio equal to one (1) tree per thirty-five (35) linear feet of fifty percent (50%) of the length of the common lot line, whichever is greater. ~~Trees within perimeter landscape strips may be grouped, but the distance between these trees shall not exceed fifty (50) feet. These trees shall have a minimum two (2) inch caliper with a height of ten (10) feet at time of planting. Such trees shall be located between the common lot line and the off-street parking area or other vehicular use area.~~ Each such tree shall be planted in at least twenty-five (25) square feet of planting area with a minimum dimension of at least five (5) feet. Each such planting area shall be landscaped with grass, ground cover or other landscape treatment.

(3) Required interior parking area landscaping.

(a) All parking areas shall be internally landscaped to provide visual and climatic relief from broad expanses of pavement and to channelize and define logical areas for pedestrian and vehicular circulation. Interior landscaping, excluding required parking setbacks, shall account for ten percent (10%) of the total parking area. Landscape dividing strips, with or without walkways, shall be used to subdivide the parking area into rows with not more than an average of ten (10) spaces ~~per row~~, except that parking rows adjacent to required land-scape landscape row dividers shall only be required such ~~land-scape landscape~~ strips at the end of each landscape row divider.

(b) Each separate landscape area shall contain a minimum of one hundred (100) square feet and shall have a minimum dimension of at least ten (10) feet, measured at its narrowest area, except that islands required to be designed with turn radii are permitted to have less than ten (10) feet if approved by the Growth Management Director, or designee, and shall include at least one (1) tree, with the remaining area meeting the requirements of this code. The total number of trees shall not be less than one (1) per two hundred (200) square feet or fraction thereof of required interior landscaped area and shall exclude those trees required along the perimeter of the parcel. Such landscaped areas shall be protected from vehicular encroachment by curbs, wheel stops or landscape timbers. Whenever an off-street parking area is designed to provide parking of vehicles in five (5) rows or more, at least one (1) interior landscaped area not less ~~then~~ than ten (10) feet in width shall be provided the length of the parking rows, with at least

one (1) landscaped row divider required for every five (5) parking rows. Landscaped areas, including landscaped islands, within or abutting vehicular use areas shall be excavated to a depth of two (2) feet to remove lot base course material, lime rock, asphalt, concrete, and similar material in order to ensure that adequate planting soil exists.

(c) In other parking areas where the strict application of this section will seriously limit the function of such areas, such as off-street loading areas, the required landscaping may be located near the perimeter of the paved area. Such interior landscaping, which is relocated as herein provided, shall be in addition to the perimeter landscaping requirements.

(d) The front of a vehicle may encroach upon any interior landscaped area or walkway when the area is at least three and one-half (3½) feet in depth per abutting parking space and protected by motor vehicle stops or curbing. An overhang may be permitted in such landscaped area or walkway. If shrubs or hedges are planted in front of such parking areas, the shrubs must be planted a minimum of three and one-half (3 ½) feet from the back of the curb or wheel stop to prevent damage to the hedge.

(e) Interior landscaped areas may be used for retention and detention sites for groundwater recharge.

(f) All garbage/refuse ~~dumpsters~~ containers shall be screened on at least three (3) sides by concrete block, fencing or other materials at least six (6) feet in height which renders the view of the ~~dumpster~~ container opaque.

(g) Landscape vines, shrubs, or a combination of the two, are required to be planted along the outside of subdivision walls and/or any required masonry walls facing canal, road, or other rights-of-ways.

(4) Pedestrian zone landscaping.

(a) A pedestrian zone is defined as a setback from any building façade facing a parking area or driveway, excluding the rear of the building. In no case shall the required pedestrian zone have an area less than ten (10) feet in width; nor shall more than five (5) feet of the width of the required pedestrian zone be paved, except for necessary access perpendicular to building entries. A minimum of five (5) feet of the width of the required pedestrian zone shall be clear of roof overhang. For drive-thru facilities, the length of a building containing the drive-thru window(s), or the loading/unloading spaces and overhead doors in industrial/warehouse or commercial buildings shall be exempt from these provisions.

(b) Plant materials. All multi-family and all non-residential development shall have at least two (2) trees planted per pedestrian zone, except for areas under a canopy. The requirements of this subsection concerning pedestrian zone trees shall not apply for gasoline stations if such trees cause a line of sight obstruction.

(6) Replacement Trees. The requirements for replacements trees listed in Section 180.16 (E) shall be observed. However, under extenuating circumstances where the requirements conflict with best horticulture practices for tree planting, some number of these trees may be planted within publically-owned lands. The number, location, and placement thereon, shall be approved by the Growth Management Director, or designee. As an alternative to planting the trees off-site, the developer may choose to mitigate said trees through the payment of a fee, into the Palm Bay Tree Replacement Trust Fund. The replacement contribution shall be as provided for in latest fee resolution.

(C) *Intersection visibility.* Where an aisle, driveway, sidewalk, bike path or other access way intersects a public right-of-way, landscaping shall be used to define the intersection; provided, however, all landscaping within the triangular areas described below shall provide unobstructed cross-visibility at a level between two (2) and six (6) feet. Trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into cross-visibility shall be allowed, provided they are so located so as not to create a traffic hazard. Landscaping, except grass and ground cover, shall not be located closer than three (3) feet from the edge of any access way pavement. The triangular areas are:

(D) *Installation and maintenance.*

(1) All landscaping shall be installed to accepted commercial planting procedures. Soil, which is free of lime rock, pebbles or other construction debris, shall be provided. The owner of the property shall be responsible for the maintenance of all landscaping in good condition so as to present a neat, healthy and orderly appearance free of refuse and debris. All landscaped areas shall be provided with an irrigation system or available water supply with at least one (1) outlet located within one hundred and fifty (150) feet of the plant material. Where existing vegetation is used to meet the requirement along public rights-of-way or interior lot lines a water supply is not required. In order to reduce irrigation requirements, the following water saving techniques will be encouraged:

(e) Irrigation systems shall be designed ~~so that~~, to the greatest extent practical, so that water being applied to impervious areas is eliminated;

(2) If any living material that is required by this code and shown on the approved site/landscape plan dies or fails to achieve normal growth, it shall be replaced within ~~ninety (90)~~ thirty (30) days of notification from the ~~planning director~~ Growth Management Director, or designee ~~or his designated representative~~. Such replacement landscaping shall meet all requirements of this code and the approved site/landscape plan. ~~The failure~~ Failure to maintain the minimum landscape requirements of this section shall constitute a violation of this code.

(3) Pruning and topping. Pruning restrictions shall not apply for trees located under power lines. Trees shall be pruned only as necessary to promote healthy growth. Trees shall be allowed to attain their normal size and shall not be severely pruned or "hat

racked” in order to permanently maintain growth at a reduced height. Trees may be periodically pruned or thinned in order to reduce leaf mass in preparation for tropical storms. All pruning shall be accomplished in accordance with the National Arborist’s Standards.

(E) *Site plan data.* Applicants for building permits shall submit a landscape plan containing the following:

(5) Accurate parking lot design showing parking spaces, aisles, loading areas, driveways, islands, signs, and parking lot or security light fixtures and the like.

(7) Location of water lines or other underground utilities, fire hydrants and other above ground utility fixtures.

(F) Nuisance Vegetation. All recognized nuisance trees (i.e. pepper trees, Australian pines, etc.) shall be removed during site preparation and perpetually removed (upon re-growth) after issuance of a Certificate of Occupancy.

#### **§ 185.142 OFF-STREET PARKING AREA LANDSCAPING REQUIREMENTS.**

~~(F)~~ (G) The provisions of this section shall apply to all new off-street parking areas.

~~(G)~~ (H) At such time as existing off-street parking or other vehicular use areas are enlarged, the enlarged areas shall meet the provisions of this section. The newly enlarged areas shall not cause the existing parking area landscaping to be more nonconforming.

~~(H)~~ (I) At such time as existing off-street parking or other vehicular use areas are modified, the modification shall not cause the existing parking area landscaping to be more nonconforming. The intent of this provision is that any existing off-street parking or vehicular use areas shall, when feasible, become more conforming to the landscaping requirements of this section. Determination of the feasibility of modifying the existing parking or vehicular use areas, to become more conforming, shall be made by the Growth Management Director, or designee. This determination shall be based on the following considerations:

#### **§ 185.160 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION.**

§ 185.160 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION.

(D) When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for six (6) consecutive months ~~or for eighteen (18) months during any three (3) year period (except when government action impedes access to the premises)~~, the structure, or structure and premises in combination, shall not thereafter be used except in

conformance with the regulations of the district in which it is located;

**§ 185.161 REPAIRS AND MAINTENANCE.**

 **§ 185.161 REPAIRS AND MAINTENANCE.**

(A) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of ~~twelve (12)~~ six (6) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased.

**§ 185.162 NONCONFORMING OR SUBSTANDARD LOTS CREATED BY EMINENT DOMAIN PROCEEDINGS.**

 **§ 185.162 NONCONFORMING OR SUBSTANDARD LOTS CREATED BY EMINENT DOMAIN PROCEEDINGS.**

Any lot or parcel which shall be made nonconforming or substandard as a result of eminent domain proceedings instituted by the city or other governmental agency or through a voluntary conveyance by a lot owner in lieu of formal eminent domain proceedings, which lot or parcel except for such eminent domain or voluntary conveyance shall be deemed to be a conforming lot or parcel for all purposes under this chapter. However, any new construction or building addition shall conform to the subject yard requirements of the applicable district.

**§ 185.163 USES UNDER CONDITIONAL USE PROVISIONS NOT NONCONFORMING USES.**

**§ 185.180 ADMINISTRATION AND ENFORCEMENT.**

 **§ 185.180 ADMINISTRATION AND ENFORCEMENT.**

The ~~Planning~~ Growth Management Director, under the supervision of the City Manager, shall administer and enforce this chapter. He may be provided with assistance of such other officers and employees of the city as may be necessary to enforce the provisions of this chapter. If any provisions of this chapter are violated, the person responsible for such violation shall be notified in writing, indicating the nature of the violation and ordering the action necessary to correct it. The ~~Planning~~ Growth Management Director, at his discretion, shall order discontinuance of illegal use of land, buildings, or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

**§ 185.181 BUILDING PERMITS REQUIRED.**

**§ 185.182 APPLICATION FOR BUILDING PERMIT.**

 **§ 185.182 APPLICATION FOR BUILDING PERMIT.**

(A) All applications for building permits for any structure and its accessory buildings; shall be accompanied by scale drawings at a scale acceptable to the Building Official in the appropriate number showing the following:

(6) When applicable, grading and drainage plans showing any and all cuts, fills and provisions for adequately carrying off surface water on premises plus provisions for any surface water which would naturally flow over or through the area. Such plans shall be reviewed and approved by the ~~City~~Land Development Review Engineer.

**§ 185.183 CERTIFICATE OF OCCUPANCY REQUIRED.**

**§ 185.201 PROCEDURE.**

 **§ 185.201 PROCEDURE.**

The procedure for amendment of this chapter shall ~~Shall~~ be as follows:

**§ 185.202 CONDITIONAL USES; CONDITIONS GOVERNING APPLICATION; PROCEDURES.**

 **§ 185.202 CONDITIONAL USES; CONDITIONS GOVERNING APPLICATION; PROCEDURES.**

(A) The City Council shall hear and decide conditional uses after review of the Planning and Zoning Board. All applications for conditional uses shall be submitted to the Planning and Zoning Board for study and written, advisory recommendations. The City Council may either grant conditional uses with such conditions and safeguards as are appropriate under this chapter or other applicable code or ordinance provisions, or deny conditional uses when not in harmony with the purpose and intent of this chapter. A conditional use shall not be granted by the City Council unless and until:

(3) Public notice shall be given as required by state statutes. The owner of the property for which conditional use is sought or his agent shall be notified by certified mail. Notice of such hearing shall be posted on the property for which conditional use is sought ~~at the city hall~~.

**§ 185.204 MODIFICATION OF DISTRICT BOUNDARY CHANGES.**

 **§ 185.204 MODIFICATION OF DISTRICT BOUNDARY CHANGES.**

If a request for a district boundary change is for a district more liberal than the existing district, and the Planning and Zoning Board or the City Council determines that the request should be denied, the Planning and Zoning Board may recommend, and/or the City Council may change the

district classification for the property to any district classification that is less restrictive than the requested zoning classification.

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## **MEMORANDUM**

**TO:** Planning and Zoning Board Members  
*SAB*  
**FROM:** Stuart Buchanan, Growth Management Director  
**DATE:** March 2, 2016  
**SUBJECT:** Adoption of the Planning and Zoning Board Bylaws

Based on recent changes to the composition and provisions of the Planning and Zoning Board, the attached bylaws are submitted for the board's review and adoption. The proposed language is in legislative format with additions underlined and deletions ~~struckthrough~~.

/crp

Attachment

## **City of Palm Bay, Florida**

### **PLANNING AND ZONING BOARD BY-LAWS**

#### **ARTICLE I PURPOSE AND INTENT**

**Section 1.** The purpose and intent of these by-laws is to set forth a uniform set of Rules-of-Procedure whereby the City of Palm Bay Planning and Zoning Board hereinafter referred to as “Planning and Zoning Board” may regulate the manner in which it elects officers, conducts meetings and otherwise carries out its functions.

#### **ARTICLE II GENERAL GOVERNING RULES**

**Section 1.** The Planning and Zoning Board shall be governed by the provisions of the City of Palm Bay Ordinance No. 81-28 and the Rules-of-Procedure set forth herein.

#### **ARTICLE III COMPOSITION**

##### **Section 1. Membership**

- A. The City Council shall appoint a 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.
- 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.
- 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.

##### **Section 2. Appointments**

- A. All appointments shall be made for a term of three (3) years.
- B. Appointments to fill any vacancy on the Board shall be for the remainder of the unexpired term of Office.
- C. The School Board shall determine the term of its appointee.

- D. Patrick Air Force Base, 45<sup>th</sup> Space Wing, shall determine the term of its appointee.

## ARTICLE ~~III~~ IV OFFICERS

**Section 1.** 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.

### **Section 12.** Chairman

- A. The Chairman, a voting member of the Board, shall serve as presiding officer at all meetings of the Planning and Zoning Board and shall conduct said meetings as specified herein. It shall be the duty of the Chairman to sign the minutes of proceeding meetings upon their approval at a public meeting. ~~The Chairman shall be elected by a majority of the membership at the regular meeting in the month of September and the term of office shall be one (1) year. The Chairman shall be eligible for re-election but shall serve no longer than one (1) additional consecutive term.~~
- B. The Chairman shall transmit reports, plans and recommendations of the Board to the City Council and in general shall act as spokesman for the Board. The Chairman shall appoint from the Board membership any committees found necessary to investigate matters before the Board.

### **Section 23.** Vice Chairperson

- A. ~~Vice-Chairman — The Vice-Chairman shall be elected by the Planning and Zoning Board from among its regular members in the same manner and for the same term as the Chairman and shall be eligible for re-election.~~ The Vice-Chairman shall serve as Acting Chairman in the absence of the Chairman and at such times shall have the same powers and duties as the Chairman. In event of the death or resignation of the Chairman, the Vice-Chairman shall ~~perform the various duties until such time as the Board shall elect a new chairman.~~ automatically succeed the duties of the Chairperson. The Board shall appoint a new Vice Chairperson.

### **Section 34.** Secretary

- A. A Member-member of the Planning-Growth Management Department staff shall serve as Secretary to the Planning and Zoning Board but shall not be a

voting member of the Board. The duties of the office shall include the preparation and distribution of agenda, meeting notices, distribution of minutes, to establish and maintain files, books and member attendance records.

## **ARTICLE ~~IV~~ V** **STANDING AND AD HOC COMMITTEES**

**Section 1.** The Planning and Zoning Board shall have the power to establish committees on a permanent or "Ad Hoc" basis to study in-depth and make recommendations on projects or programs to be acted upon by the Board. Membership of the committees shall consist of one or more members from the Planning and Zoning Board, any interested residents of Palm Bay and any technical or professional person(s) deemed appropriate. Such committees shall be appointed by the Chairman.

## **ARTICLE ~~V~~ VI** **MEETINGS**

**Section 1.** Regular Meetings – Regular meetings of the Planning and Zoning Board shall be held on the first (1<sup>st</sup>) Wednesday of every month at 7:00 P.M. in the Palm Bay City Hall Council Chambers. An agenda shall be prepared by the Secretary of the Board as directed by the Chairman listing all matters which shall be taken up before the Board at any of its meetings. The agenda shall be prepared five (5) days prior to the regularly scheduled meeting with the exception of plats submitted pursuant to the subdivision ordinance.

**Section 2.** Special Meetings – Special meetings may be called at any time by the Chairman. The Secretary, at the direction of the Chairman, shall give at least five (5) days notice of the time and place of any such meeting to each member of the Board, the City Clerk, the press-media and all individuals presenting matters on the agenda at such meeting.

**Section 3.** Workshop Meetings – Workshop meetings may be called by the Chairman as required for the purpose of enabling the Planning and Zoning Board to gather information and examine Proposals relating to the powers and duties with which the Board is charged. Said meetings shall be open to the public and members of the press media, however, the Board is not compelled to hear any comments or questions from other than Board members, except when recognized by the Chairman. In no event shall official action be taken by the Board at any workshop meeting.

**Section 4.** Continued Meetings – The Planning and Zoning Board may continue a Regular or Special Meeting if all business cannot be conducted on the advertised date; no further public notice shall be necessary for resuming such meetings provided the time, date and place of resumption is stated at the time of continuance, unless additional notice is required by law.

**Section 5.** Notice of Meetings – Board members and the local ~~press-media~~ shall be notified at least twenty-four (24) hours prior to any Workshop or Continued meeting unless the time and place of said meeting is announced at a regular meeting of the Board or unless additional notice is required by law.

**Section 6.** Cancellation of Meetings – Whenever there is no business or whenever a majority of the members notify the Secretary of inability to attend a meeting, the Chairman may cancel the meeting by giving written or oral notice to all members not less than twenty-four (24) hours prior to the time set for the meeting. Said notice shall be posed in a conspicuous place within or at the scheduled meeting place and the ~~press media~~ shall be notified of the cancellation.

**Section 7.** Conduct of Meeting – All meetings shall be open to the public and shall be conducted according to a suitably adopted standard of parliamentary procedure.

The order of Business at a regular meeting shall be as follows:

- Call to Order
- Roll Call
- Approval of Minutes
- Old Business
- New Business
- Other Business
- Adjournment

**Section 8.** Quorum – A quorum shall consist of a least five (5) members for the transaction of all business.

**Section 9.** Voting – A quorum is required and the vote of a majority of those members present shall be necessary to decide matters before the Board. No member shall vote by proxy on any matter before the Board. A tie vote on any motion shall constitute a failure of the motion.

~~**Section 10.** Agenda – An agenda shall be prepared by the Secretary of the Board as directed by the Chairman listing all matters which shall be taken up before the Board at any to its meetings. The agenda shall be prepared fourteen (14) days prior to the regularly scheduled meeting with the exception of plats submitted pursuant to the subdivision ordinance.~~

**Section 10.** Public Comments – Individuals wishing to address agenda items can do so at the time the agenda item is being considered by the Board. The Chairperson will ask if there are any public comments prior to the Board taking action on an item.

Individuals who wish to address the Board shall provide their name, address, subject matter on which they wish to speak, and a means of contact, on a sign-in sheet

[on the podium.](#)

**Section 11.** Attendance – Any member who fails to attend two of three successive meetings without cause and without prior approval of the Chairman shall automatically forfeit his appointment. The Chairman shall notify the City Council of any vacancy, at which time said vacancy shall be promptly filled. (Ordinance 81-28, Section 4c).

**ARTICLE ~~VI~~ VII**  
**STAFF**

The Planning and Zoning Board and duly authorized committees shall have access to the information and staff of all the departments of the city government on such a basis as these departments are able to render assistance and upon approval by the City Manager.

**ARTICLE ~~VII~~ VIII**  
**AMENDMENTS**

These Rules of Procedure and By-Laws may be amended from time to time as deemed necessary by the Board ~~and subject to final approval of the proposed amendment by the City Council.~~