



AGENDA

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Regular Meeting No. 2016-05

May 4, 2016 – 7:00 P.M.

City Hall Council Chambers

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ADOPTION OF MINUTES:

1. Regular Meeting No. 2016-04; April 6, 2016

ANNOUNCEMENTS:

OLD BUSINESS:

1. PUD-10-2016 – PALM BAY 2, LCC (JAKE WISE, REP.)
(SCHOOL COORDINATION BUSINESS)

A final Planned Unit Development (PUD) request to allow a multiple-family development called The Terraces in an RM-20, Multiple-Family Residential District.

Tax Parcel 517, Section 30, Township 28, Range 38, Brevard County, Florida, containing 6.86 acres, more or less. (Located west of and adjacent to Dixie Highway NE, in the vicinity north of Riverview Drive NE and south of Overlook Drive NE)

NEW BUSINESS:

1. CP-8-2016 – JOHN A. AND PAMELA S. THRASHER

A Comprehensive Plan Future Land Use Map amendment from Commercial Use to Single Family Residential Use.

Lot 14, Block 300, Port Malabar Unit 9, Section 5, Township 29, Range 37, Brevard County, Florida, containing .23 acres, more or less. (Located west of and adjacent to Lehigh Avenue SE, in the vicinity south of Malabar Road SE and north of Consumer Street SE, specifically at 130 Lehigh Avenue SE)

2. CPZ-8-2016 – JOHN A. AND PAMELA S. THRASHER

A zoning amendment request from an RC, Restricted Commercial District to an RS-1, Single Family Residential District.

Lot 14, Block 300, Port Malabar Unit 9, Section 5, Township 29, Range 37, Brevard County, Florida, containing .23 acres, more or less. (Located west of and adjacent to Lehigh Avenue SE, in the vicinity south of Malabar Road SE and north of Consumer Street SE, specifically at 130 Lehigh Avenue SE)

3. V-16-2016 – MCDONALD'S CORPORATION (RAMON SANTOS)

A variance request to allow a reduction in the number of required parking spaces from 42 to 38 spaces in a CC, Community Commercial District as established by Section 185.140 of the Code of Ordinances.

Tax Parcel 17, Section 1, Township 29, Range 36, Brevard County, Florida, containing .95 acres, more or less. (Located at the southwest intersection of Malabar Road SW and Minton Road SW, specifically at 132 Malabar Road SW)

4. T-17-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A textual amendment to the Code of Ordinances, Title IX, General Regulations, Chapter 93: Real Property Nuisances, in order to adopt criteria to process chronic nuisances.

5. CP-9-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A Comprehensive Plan Future Land Use Map amendment from Commercial Use to Industrial Use.

A portion of Tract Q, Port Malabar Unit 51, Section 34, Township 29, Range 36, Brevard County, Florida, containing 9.48 acres, more or less. (Located at the southeast corner of St. Andre Boulevard SW and Wingham Drive SW)

6. CPZ-9-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A zoning amendment request from an NC, Neighborhood Commercial District to an HI, Heavy Industrial District.

A portion of Tract Q, Port Malabar Unit 51, Section 34, Township 29, Range 36, Brevard County, Florida, containing 9.48 acres, more or less. (Located at the southeast corner of St. Andre Boulevard SW and Wingham Drive SW)

OTHER BUSINESS:

ADJOURNMENT:

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

Any aggrieved or adversely affected person desiring to become a party in the quasi-judicial proceeding shall provide written notice to the city clerk which notice shall, at a minimum, set forth the aggrieved or affected person's name, address, and telephone number, indicate how the aggrieved or affected person qualifies as an aggrieved or affected person and indicate whether the aggrieved or affected person is in favor of or opposed to the requested quasi-judicial action. The required notice must be received by the clerk no later than five (5) business days at the close of business, which is 5 p.m., before the hearing. (§ 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.

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING NO. 2016-04

Held on Wednesday, April 6, 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.

Chairperson Philip Weinberg called the meeting to order at approximately 7:00 p.m.

Mr. Stroderd led the Pledge of Allegiance to the Flag.

ROLL CALL:

CHAIRPERSON:	Philip Weinberg	Present
VICE CHAIRPERSON:	Wendall Stroderd	Present
MEMBER:	Leeta Jordan	Present
MEMBER:	Khalilah Maragh	Present
MEMBER:	William Pezzillo	Present
MEMBER:	Rainer Warner	Present
MEMBER:	Thomas "Woody" Woodrum	Present
MEMBER:	Vacant (School Board Appointee)	

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. 2016-03. Motion by Ms. Jordan, seconded by Ms. Maragh to approve the minutes as presented. The motion carried with members voting unanimously.

ANNOUNCEMENTS:

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

SCHOOL COORDINATION BUSINESS:

1. PUD-10-2016 – PALM BAY 2, LCC (JAKE WISE, REP.)

Mr. Murphy announced that Case PUD-10-2016 had been continued by staff to the May 4, 2016 Planning and Zoning Board meeting. No board action was required to continue the case.

NEW BUSINESS:

1. V-7-2016 – CARLA HANLON

Mr. Loring presented the staff report for Case V-7-2016. The applicant had requested a variance to allow an existing home to encroach 18 feet into the 25-foot side corner setback and a proposed fence to encroach 25 feet into the 25-foot side corner setback in an RS-1, Single Family Residential District as established by Section 185.033(F)(7)(c) and Section 185.118 of the 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. Stroderd questioned the distance between the corner of the subject site and Citrus Avenue NE. Mr. Loring noted that there was approximately 20 feet between the edge of pavement and the property, and no records were found to indicate that a taking of the existing Glenham Drive NE right-of-way had occurred.

Ms. Carla Hanlon (applicant) was present.

The floor was opened for public comments.

Mr. Stanley Wiezbicki (resident at Lemon Street NE) spoke against the request. He stated that the fence would be too close to the street and no other homes in the area were granted the same privilege. He suggested a lesser encroachment for the fence.

Mr. Warner wanted to know what was located at the back of the home. Mr. Loring indicated that the rear of the property abutted the rear neighbor's backyard.

The floor was closed for public comments, and there were six letters in the file in support of the request.

Motion by Mr. Stroderd, seconded by Mr. Pezzillo to submit Case V-7-2016 to City Council for approval of a variance to allow an existing home to encroach 18 feet into the 25-foot side corner setback and a proposed fence to encroach 25 feet into the 25-foot side corner setback in an RS-1, Single Family Residential District as established by Section 185.033(F)(7)(c) and Section 185.118 of the Palm Bay Code of Ordinances. The motion carried with members voting unanimously.

City Council will hear Case V-7-2016 on April 21, 2016.

2. V-8-2016 – EDDIE AND MELISSA EDWARDS

Mr. Loring presented the staff report for Case V-8-2016. The applicant had requested a variance to allow a proposed garage to encroach 7 feet into the 10-foot rear accessory structure setback and 10 feet into the 25-foot side corner setback in an RE, Estate Residential District as established by Section 185.032(F)(7)(c)&(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. Pezzillo asked about the available yard space for utilities. Mr. Loring stated that the east side of the property had room, but an exceptionally large septic system was present.

Ms. Melissa Edwards (applicant) stated that the intent was to build a workshop for wood projects.

Mr. Stroderd noted that a variance would not be required to construct a 12-foot by 25-foot structure. Mr. Warner inquired about the type of building planned for the site and if the structure would be used to operate a business. Mr. Eddie Edwards (applicant) answered that a 12-foot by 25-foot structure would be too small for his workshop equipment, and the proposed block structure would be a private woodshop for personal use only.

Mr. Woodrum commented on the large size of the applicant's backyard. Ms. Edwards explained how there was just 24 feet between her backyard and the fence location with a drainfield in the sideyard. Mr. Loring added that setback and separation requirements left an area of suitable construction of only 3 feet of width.

Mr. Stroderd noted that the structure would be outside the fence. Mr. Edward confirmed that a small portion of the building would sit outside the fence.

The floor was opened and closed for public comments; there were no comments from the audience, and a 23-signature petition in favor of the request was in the file.

Motion by Mr. Pezzillo, seconded by Ms. Jordan to submit Case V-8-2016 to City Council for approval of a variance to allow a proposed garage to encroach 7 feet into the 10-foot rear accessory structure setback and 10 feet into the 25-foot side corner setback in an RE, Estate Residential District as established by Section 185.032(F)(7)(c)&(d) of the Palm Bay Code of Ordinances.

Mr. Stroderd stated that a smaller structure should be considered. The staff report indicated that granting a variance required the minimum variance necessary to make reasonable use of land, building, or structure. Mr. Weinberg remarked that the proposed variance would not harm the neighborhood or the City.

A vote was called on the motion by Mr. Pezzillo, seconded by Ms. Jordan to submit Case V-8-2016 to City Council for approval of a variance to allow a proposed garage to encroach 7 feet into the 10-foot rear accessory structure setback and 10 feet into the 25-foot side corner setback in an RE, Estate Residential District as established by Section 185.032(F)(7)(c)&(d) of the Palm Bay Code of Ordinances. The motion carried with members voting as follows:

Mr. Weinberg	Aye
Mr. Stroderd	Nay
Ms. Jordan	Aye
Ms. Maragh	Aye
Mr. Pezzillo	Aye
Mr. Warner	Aye
Mr. Woodrum	Aye

City Council will hear Case V-8-2016 on April 21, 2016.

3. V-9-2016 – SUTTON PROPERTIES OF PALM BAY II, LLC (FRED E. SUTTON)

Mr. Loring announced that the applicant for Case V-9-2016 had requested a continuance to the July 6 Planning and Zoning Board meeting.

Mr. Stokes gave the board options on how to proceed with the request.

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. Stroderd, seconded by Ms. Jordan to continue Case V-9-2016 to the July 6, 2016 Planning and Zoning Board meeting at 7:00 p.m. as requested by the applicant. The motion carried with members voting unanimously.

4. CU-11-2016 - CUMBERLAND FARMS, INC. (KATHLEEN A. SOUSA)

Mr. Murphy presented the staff report for Case CU-11-2016. The applicant had requested a conditional use for a proposed convenience store to allow retail automotive gasoline/fuel sales in an HC, Highway Commercial District. The board had to determine if the request met the criteria of Sections 185.087 and 185.044(D)(1) of the City of Palm Bay Code of Ordinances, and approval of the request must be conditioned upon the approval of Case V-12-2016.

Ms. Maragh asked whether placing the fuel tanks underground or in a different location at the site would be an alternative to the variance. Mr. Murphy explained that the tank location was designed by the applicant's engineer to allow fuel delivery trucks to maneuver on the site.

Mr. Warner inquired into how Babcock Street NE and Palm Bay Road NE would be impacted during the project's construction and after its completion. Mr. Murphy responded that there would be no additional impact on the roads. A shared-access agreement was being negotiated with SunTrust Bank to the east, and construction traffic concerns could be alleviated by a board condition to eliminate direct access from Palm Bay Road.

Mr. George Balaban with Balaban Engineering (acting agent for Cumberland Farms, Inc.) stated that the existing Palm Bay Road driveway would be removed, and he confirmed that the placement of the underground tanks was to accommodate the onsite maneuvering by the fuel trucks.

Ms. Maragh asked about the adequacy of the existing underground tanks. Mr. Zach Middlebrooks with MetroGroup Development (representative for the applicant) explained that the existing fuel tanks were adequate; however, the applicant had determined that upgraded and environmentally enhanced tanks should be installed. The shared agreement with SunTrust Bank was almost finalized with the inclusion of directional signage for the tankers.

Mr. Weinberg inquired whether the shared agreement included the parking easement, and if construction traffic would use the Palm Bay Road driveway. Mr. Middlebrooks answered that the parking easement was included in the shared agreement, and he anticipated the rear access road as the primary route for construction traffic.

Mr. Murphy requested confirmation that once the pavement for the driveway was removed, restoration would include a continuance of the sidewalk and the replacement of the underlying drainage pipe so that pedestrian flow would not be interrupted. Mr. Middlebrooks agreed and stated that the sidewalks would be consistent with the existing sidewalks, and drainage would be addressed within the overall site design.

Ms. Maragh wanted to know the issues that SunTrust wanted resolved. Mr. Middlebrooks explained that the issues with stormwater, underground piping, and other details would be addressed during the construction, permitting, and design phase of development.

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 Ms. Jordan, seconded by Mr. Warner to submit Case CU-11-2016 to City Council for approval of a conditional use for a proposed convenience store to allow retail automotive gasoline/fuel sales in an HC, Highway Commercial District.

Mr. Murphy reminded the board that the conditional use could not be approved without Case V-12-2016.

Motion by Ms. Jordan, seconded by Mr. Warner to amend the motion to submit Case CU-11-2016 to City Council for approval of a conditional use for a proposed convenience store to allow retail automotive gasoline/fuel sales in an HC, Highway Commercial District subject to the approval of Case V-12-2016. The motion carried with members voting unanimously.

City Council will hear Case CU-11-2016 on April 21, 2016.

5. V-12-2016 - CUMBERLAND FARMS, INC. (KATHLEEN A. SOUSA)

Mr. Murphy presented the staff report for Case V-12-2016. The applicant had requested a variance to allow a proposed fuel pump canopy to encroach the 50-foot front accessory structure setback by a maximum of 18.7 feet; a request to allow a proposed underground gasoline storage tank relief from the 40-foot separation setback by a maximum of 26.2 feet; a request to allow relief from the 10-foot front parking setback by a maximum of 7 feet; and a request to allow a proposed detached sign relief from the 10-foot front and side interior setbacks by a maximum of 10 feet, as established by Sections 185.118; 185.140; 185.044(D)(1)(c); 185.044(F)(7)(a); and 178.12 in the HC, Highway Commercial District. 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. Zach Middlebrooks with MetroGroup Development (representative for the applicant) stated that he was willing to work with staff regarding the placement of the price signage for Palm Bay Road NE motorists to view. Mr. Warner asked if SunTrust Bank would appear on the sign. Mr. Middlebrooks stated that the bank would not appear on the sign. Mr. Murphy commented that efforts should be made to preserve the large oak tree in the north vicinity where the sign could possibly locate.

Mr. Weinberg noted that the submitted application requested 5 feet of relief for the detached sign whereas the staff report indicated 10 feet. Mr. George Balaban with Balaban Engineering (acting agent for Cumberland Farms, Inc.) explained that the site design had been modified to preserve the oak tree. Mr. Murphy indicated that this was correct.

Mr. Middlebrooks stated that there were no attendees at the Citizen Participation Plan meeting for the project.

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

Mr. Stroderd asked about potential complications with placing the sign on the property line near the new driveway location instead of the 10-foot setback. Mr. Murphy replied that there was no perceived safety issue.

Motion by Motion by Mr. Stroderd, seconded by Ms. Maragh to submit Case V-12-2016 to City Council for approval of a variance to allow a proposed fuel pump canopy to encroach the 50-foot front accessory structure setback by a maximum of 18.7 feet; a request to allow a proposed underground gasoline storage tank relief from the 40-foot separation setback by a maximum of 26.2 feet; a request to allow relief from the 10-foot front parking setback by a maximum of 7 feet; and a request to allow a proposed detached sign relief from the 10-foot front and side interior setbacks by a maximum of 10 feet, as established by Sections 185.118; 185.140; 185.044(D)(1)(c); 185.044(F)(7)(a); and 178.12 in the HC, Highway Commercial District subject to the staff report. The motion carried with members voting unanimously.

City Council will hear Case V-12-2016 on April 21, 2016.

6. V-13-2016 - DIMITRIOS MAKOS

Mr. Loring presented the staff report for case V-13-2016. The applicant had requested a variance to allow an existing home to encroach 2.3 feet into the 25-foot side corner setback and a proposed 6-foot high fence to encroach 12.3 feet into the 25-foot side corner setback in an RS-1, Single Family Residential District as established by Section 185.033(F)(7)(c). 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.

Ms. Maragh asked for clarification on staff's recommendation for the subject proposal. Mr. Loring explained that staff could only support a 7.7-foot fence encroachment, which would be in line with the newly created 15-foot side corner setback requirement for fences.

Mr. Dimitrios Makos (applicant) explained that he was requesting the 12.3-foot side yard encroachment for a 6-foot high fence in order to balance his existing shadowbox fencing. He said that a 7.7-foot encroachment would affect his sprinkler system and landscaping.

Mr. Warner and Mr. Stroderd noted that there was over 9 feet between the home and the proposed fence location so a 12.3-foot encroachment would be excessive. Mr. Makos replied that the request for a 12.3-foot encroachment was based on the 25-foot side corner setback requirement in place at the time of application.

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

Mr. Stroderd wanted to be sure that a 6-foot high fence would not hinder a driver's view from Durango Street SE. Mr. Loring assured the board that there was more than enough right-of-way between the property line and edge of pavement for visibility.

Ms. Maragh questioned why the applicant could not be granted the 10-foot side corner setback encroachment that was actually needed for the fence. Mr. Murphy answered that a 10-foot encroachment was not permitted by code, and he expounded on why the 15-foot side corner setback had been created.

Motion by Mr. Stroderd, seconded by Mr. Warner to submit Case V-13-2016 to City Council for approval of a variance to allow a proposed 6-foot high fence to encroach 7.7 feet into the 25-foot side corner setback in an RS-1, Single Family Residential District as established by Section 185.033(F)(7)(c) of the Palm Bay Code of Ordinances. The motion carried with members voting unanimously.

City Council will hear Case V-13-2016 on May 19, 2016.

7. CP-3-2016 - WATERSTONE HOLDINGS, LLC (BENJAMIN E. JEFFERIES)

Mr. Buchanan presented the combined staff report for cases CP-3-2016, CP-4-2016, CP-5-2016, and CP-6-2016. The applicant had requested a Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Commercial Use. Staff recommended cases CP-3-2016, CP-4-2016, CP-5-2016, and CP-6-2016 for approval as small scale amendments.

Mr. Buchanan explained that the requests had been approved by the board and City Council several years ago, but had never been submitted to the State. The properties were now within the City's Urban Service Boundary.

Mr. Stroderd questioned how the properties would be affected by the recent code changes to the PUD, Planned Unit Development District. Mr. Buchanan explained that when a PUD was eventually applied to the sites, the applicant would benefit from a certain amount of accessory commercial uses in addition to the Commercial future land use acreage.

Mr. Pezzillo noted that a portion of the properties were without designations. Mr. Buchanan stated that those sections would later be submitted to the board and City Council for approval; however, the subject sites were ready now for resubmittal.

Ms. Rochelle Lawandales with Waterstone Development Company, LLC (representative for the applicant) reiterated that the subject properties were previously adopted by City ordinance.

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. Stroderd, seconded by Mr. Pezzillo to submit Case CP-3-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Commercial Use subject to the staff report.

Ms. Maragh asked for clarification regarding the request. Mr. Buchanan recapped how the previous adoption of the sites were not on file with the State and that the resubmittal would avoid future problems.

Mr. Stroderd questioned how the properties were affected by the Urban Service Boundary. Mr. Buchanan replied that including the sites within the Urban Service Boundary had strengthened the applications against future challenge.

A vote was called on the motion by Mr. Stroderd, seconded by Mr. Pezzillo to submit Case CP-3-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Commercial Use subject to the staff report. The motion carried with members voting unanimously.

City Council will hear Case CP-3-2016 on April 21, 2016.

8. CP-4-2016 - CYPRESS BAY FARMS, LLC (BENJAMIN E. JEFFERIES)

Staff's presentation and the discussions that occurred under Case CP-3-2016 incorporated Case CP-4-2016.

Ms. Rochelle Lawandales with Waterstone Development Company, LLC (representative for the 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. Stroderd, seconded by Ms. Jordan to submit Case CP-4-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Commercial Use subject to the staff report. The motion carried with members voting unanimously.

City Council will hear Case CP-4-2016 on April 21, 2016.

9. CP-5-2016 - CYPRESS BAY FARMS, LLC (BENJAMIN E. JEFFERIES)

Staff's presentation and the discussions that occurred under Case CP-3-2016 incorporated Case CP-5-2016.

Ms. Rochelle Lawandales with Waterstone Development Company, LLC (representative for the 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. Stroderd, seconded by Ms. Maragh to submit Case CP-5-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Commercial Use subject to the staff report. The motion carried with members voting unanimously..

City Council will hear Case CP-5-2016 on April 21, 2016.

10. CP-6-2016 - WATERSTONE HOLDINGS, LLC (BENJAMIN E. JEFFERIES)

Staff's presentation and the discussions that occurred under Case CP-3-2016 incorporated Case CP-6-2016.

Ms. Rochelle Lawandales with Waterstone Development Company, LLC (representative for the 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. Stroderd, seconded by Ms. Maragh to submit Case CP-6-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Commercial Use subject to the staff report. The motion carried with members voting unanimously.
City Council will hear Case CP-6-2016 on April 21, 2016.

11. CP-7-2016 - BABCOCK STORAGE SOUTH, LLC (DEAN LACORTE)

Mr. Murphy presented the staff report for Case CP-7-2016. The applicant had requested a Comprehensive Plan Future Land Use Map amendment from Utilities Use to Industrial Use. Staff recommended Case CP-7-2016 for approval pursuant to Chapter 163, Florida Statutes.

Mr. Clayton Bennett with Bennett Engineering and Consulting (representative for the applicant) stated that he was in agreement with the staff report.

Mr. Stroderd inquired whether there would be any changes to the property. Mr. Bennett said that the property would be used for outdoor-storage, which could include screening and fencing along the front property line; however, no major construction was planned at this time.

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. Stroderd, seconded by Mr. Warner to submit Case CP-7-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map amendment from Utilities Use to Industrial Use. The motion carried with members voting unanimously.

City Council will hear Case CP-7-2016 on May 3, 2016.

12. CPZ-7-2016 - BABCOCK STORAGE SOUTH, LLC (DEAN LACORTE)

Mr. Murphy presented the staff report for Case CPZ-7-2016. The applicant had requested a zoning amendment from an IU, Institutional Use District to an LI, Light Industrial and Warehouse District. The board must determine if the requested zoning category was compatible with the Future Land Use category identified in Case CP-7-2016.

Mr. Clayton Bennett with Bennett Engineering and Consulting (representative for the applicant) stated his concurrence 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. Stroderd, seconded by Mr. Warner to submit Case CPZ-7-2016 to City Council for approval of a zoning amendment from an IU, Institutional Use District to an LI, Light Industrial and Warehouse District. The motion carried with members voting unanimously.

City Council will hear Case CPZ-7-2016 on May 3, 2016.

13. T-14-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case T-14-2016. The applicant had requested a textual amendment to the Code of Ordinances, Title IX, General Regulations, Chapter 185: Zoning, Section 185.006 Definitions, in order to define Mobile Vending. Case T-14-2016 was prepared by staff.

Mr. Buchanan stated that during the March 2, 2016 Planning and Zoning Board meeting, staff was asked by the board to modify the Mobile Vending definition by holding a community meeting to gather input for nighttime mobile vending. The proposed language was the result of the community meeting. Mobile vending would begin at 8:00 p.m., vendors would be licensed, and their lease agreements at commercial sites would be placed on file with the City. Food trucks would be allowed to locate within specific sections of Minton Road and Palm Bay Road during the evenings, but shopping centers with existing restaurants were excluded.

Mr. Stroderd asked if the shopping center restriction was amenable to the mobile vendors. Mr. Buchanan answered that the restriction was at the request of the restaurant owners; however, the vendors involved had chosen locations that were not within shopping plazas.

Mr. Stroderd noted that the Minton Road section should be from Malabar Road north to Palm Bay Road. Mr. Buchanan agreed with the correction.

Ms. Maragh asked if the restaurateurs had additional concerns. Mr. Buchanan indicated that there were no other concerns. Comments at the community meeting were that the mobile vendors were not seen as competition as they were a different type of market, and mobile vendors could eventually become stationary restaurant owners.

Mr. Warner inquired whether there would be a restriction on the number of food trucks to begin with. Mr. Stokes advised the board that the City did not have the right to regulate the number of mobile vendors.

Ms. Maragh wanted to make sure the process to operate a food truck business would not be cumbersome to the owners. Mr. Buchanan explained the Business Tax Receipt process and how the lease agreement was the only additional requirement for nighttime mobile vendors. Mobile vendors would provide the City with a diversity of foods and provide another facet of food entrepreneurship.

Mr. Weinberg commended staff for holding the community meeting.

Mr. Pezzillo commented that a food handler license would be required. Mr. Buchanan clarified that all mobile vendors were required to obtain State licensing from the Florida Department of Health within the Brevard County Environmental Health Services Office.

The floor was opened for public comments.

The group of mobile vendors in attendance stood to show their support of the proposal.

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

Motion by Mr. Warner, seconded by Mr. Stroderd to submit Case T-14-2016 to City Council for approval of a textual amendment to the Code of Ordinances, Title IX, General Regulations, Chapter 185: Zoning, Section 185.006 Definitions, in order to define Mobile Vending. The motion carried with members voting unanimously.

City Council will hear Case T-14-2016 on May 3, 2016.

14. T-15-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case T-15-2016. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 174: Floodplain and Stormwater Management; Chapter 179: Streets and Other Rights-of-Way; Chapter 182: Public Improvements; and Chapter 184: Subdivisions, in order to update particular sections within these chapters. Case T-15-2016 was prepared by staff.

Mr. Buchanan explained that the four chapters addressed by the proposed amendment fell under the authority of the Public Works Department. Staff from the Public Works Department and the Growth Management Department met with licensed local engineers to draft the amendment. Namely, Scott Glaubitz and Ana Saunders with BSE Consultants, Bruce Moia with MBV Engineering, and Jake Wise with CEG Engineering.

Mr. Weinberg remarked on what appeared to be conflicting language between Section 184.18(B)(1)(c) and Section 184.18(B)(9) regarding right-of-way widths. Mr. Buchanan believed Section 184.18(B)(1)(c) addressed roads in private subdivisions whereas Section 184.18(B)(9) was for the dedication of right-of-ways to the City. The language would be clarified under Section 184.18(B)(9) prior to the City Council hearing.

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

Mr. Pezzillo noted that the permit fees did not appear in the Fee Chapter that was referenced. Mr. Buchanan explained that all City fees were currently located in a Fee Schedule adopted by resolution.

Motion by Ms. Jordan, seconded by Mr. Stroderd to submit Case T-15-2016 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 174: Floodplain and Stormwater Management; Chapter 179: Streets and Other Rights-of-Way; Chapter 182: Public Improvements; and Chapter 184: Subdivisions, in order to update particular sections within these chapters, and subject to the clarification of Section 184.18(B)(9) Right-of-way widths. The motion carried with members voting unanimously.

Mr. Buchanan stated that the proposed request was approved by the Building and Construction Advisory Committee.

City Council will hear Case T-15-2016 on May 3, 2016.

OTHER BUSINESS:

1. Mr. Murphy acknowledged the valuable assistance provided by the four local engineers in drafting the code amendments for Case T-15-2016.

ADJOURNMENT:

The meeting was adjourned at approximately 8:58 p.m.

Philip Weinberg, CHAIRMAN

Attest:

Chandra Powell, SECRETARY



DATE: May 4, 2016
CASE #: PUD-10-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

- PROPOSAL:** Final Planned Unit Development for a multi-family residential subdivision to be called The Terraces PUD.
- LOCATION:** The project is located west of and adjacent to U.S. Highway No. 1, almost one (1) mile south of Port Malabar Boulevard NE. Specifically, the property is Tax Parcel 517, Section 30, Township 28 south, and Range 38 east, Brevard County, FL.
- APPLICANT:** Palm Bay 2, LLC. (Paul Paluzzi, Managing Member)

SITE DATA

- PRESENT ZONING:** RM-20, Multiple Family Residential & RS-2, Single Family Residential
- ACREAGE:** 6.86 acres (+)
- DENSITY:** 20 units per acre (UPA) are allowable in the RM-20 zoning district; the applicant is proposing 7.87 UPA (after Conservation dedication)
- ADJACENT ZONING
& LAND USE:**
- N** -- RM-20, Multiple Family Residential; The Bluffs Townhomes
 - E** -- RM-20, Multiple Family Residential; U.S. Highway No. 1
 - S** -- HC, Highway Commercial; Breezy Palms R.V. Park
 - W** -- RS-2, Single Family Residential; City Drainage Ditch
- WATER & SEWER:** City Water & Sewer Available and Required
- FLOOD ZONE:** Flood Zone X
- COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Yes

BACKGROUND:

1. The project is located west of and adjacent to U.S. Highway No. 1, almost one (1) mile south of Port Malabar Boulevard NE. Specifically, the property is Tax Parcel 517, Section 30, Township 28 south, and Range 38 east, Brevard County, FL.
2. The current zoning RM-20, Multiple Family Residential. The subject property is bordered by RM-20 zoning on the north and east. RS-2, Single Family Residential zoning exists to the west and HC, Highway Commercial zoning abuts to the south. The surrounding land uses are as follows: to the north are The Bluffs Townhomes and to the east is U.S. Highway No. 1. To the west is a city drainage ditch and to the south is the Breezy Palms RV Park.
3. The current request is for Final Planned Unit Development (PUD) approval in order to construct a multiple family residential subdivision with a total of 54 lots. The name of the subdivision will be "The Terraces." The applicant for this request, Palm Bay 2, LLC, will be represented by Jake Wise, Project Engineer from the CEG Engineering Group. The subject property is designated as Multiple Family Residential Use on the Comprehensive Plan Future Land Use Map. This category allows for single family homes, two-family homes and multiple family developments. Therefore, a map amendment is not required.

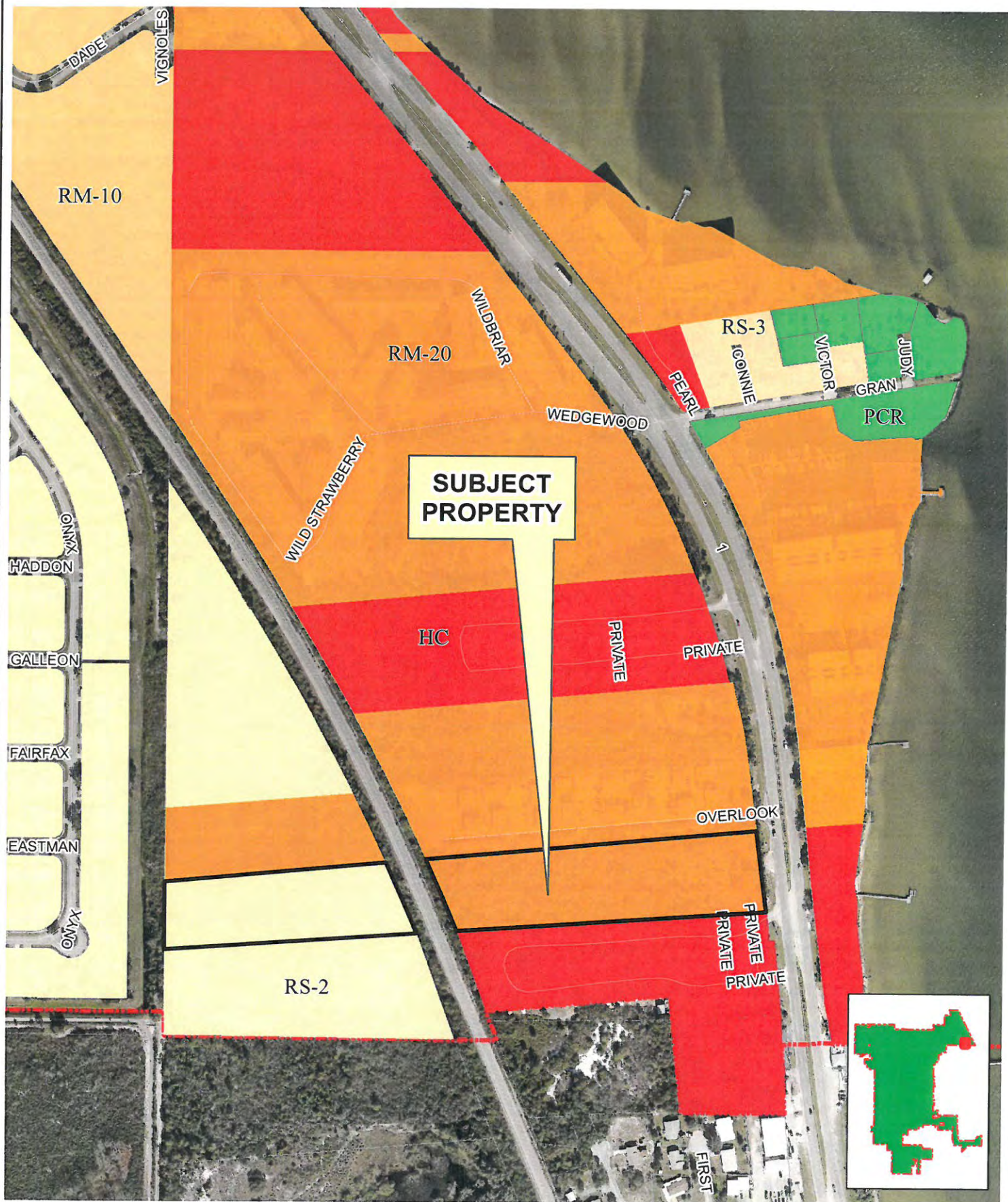
ANALYSIS:

1. The subject property (Tax Parcel 517.0) is actually two (2) parcels of land that are bisected by the Florida East Coast Railroad. The PUD will be developed upon the eastern portion of the overall property, on approximately 4.17 acres of land. The 2.69 acres located west of the RR Tracks is to be preserved via a Conservation Easement.
2. The internal road is to be a privately-owned and maintained and due to its design, will not be accepted by the City for maintenance responsibilities in the future. City water and sewer will be provided to each residential unit via an internal, looped system. The potable water system will also contain the necessary fire hydrants meeting the latest NFPA Codes.
3. The proposed subdivision will be a gated community with a decorative entrance. A clubhouse and pool area, with an associated parking area, is provided at the entrance. All 95 of the lots will have direct access to interior road and contain two (2) parking spaces. A stamped concrete path will serve as an internal sidewalk separating the parking spaces from the private roadway. Stormwater treatment is provided in the front and rear of the project.

4. In order to receive Final Planned Unit Development approval, the proposal must meet the requirements of Section 185.067 of the City of Palm Bay's Code of Ordinances. Upon review, it appears that the request is in conformance with the applicable requirements of this section, subject to the following being addressed prior to signing the Mylar:
 - A. The boundary and title opinion shall be approved by the City Surveyor.
 - B. Deed restrictions governing development standards shall be submitted for city staff review.
 - C. The easement widths in Plat Notes 2 & 3 shall be identified.
 - D. On both plat sheets the name of the project needs to be corrected from Planned Urban Development to Planned Unit Development.
 - E. Prior to the issuance of any building permits the proposed Development Plan must be granted administrative approval.

STAFF FINDINGS:

Case No. PUD-10-2016 is recommended for approval, subject to the staff comments contained in this report and upon adoption of an amendment to the PUD ordinance, as discussed within.

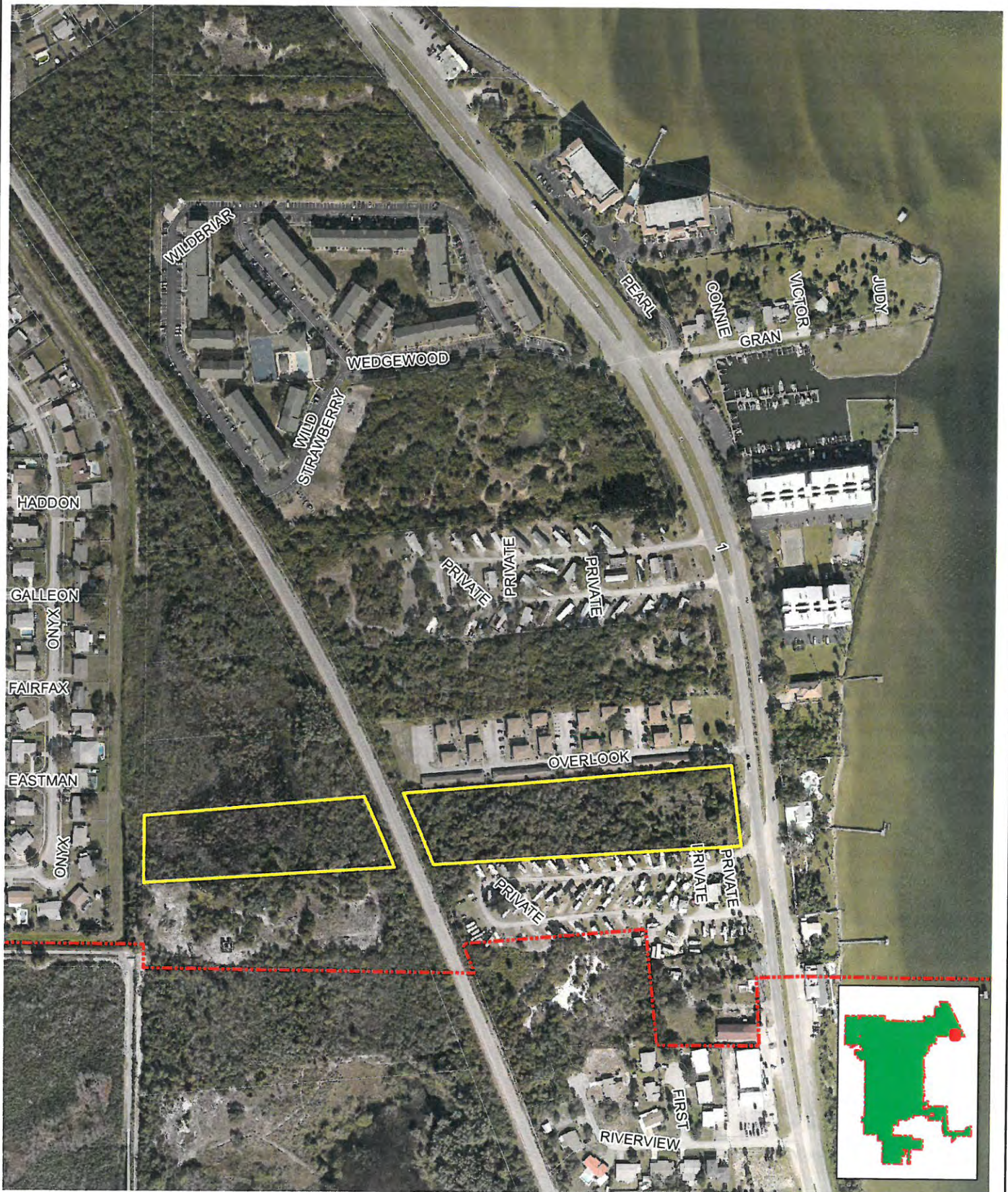


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



Case No. PUD-10-2016



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

Map created by the Land Development Division



Case No. PUD-10-2016

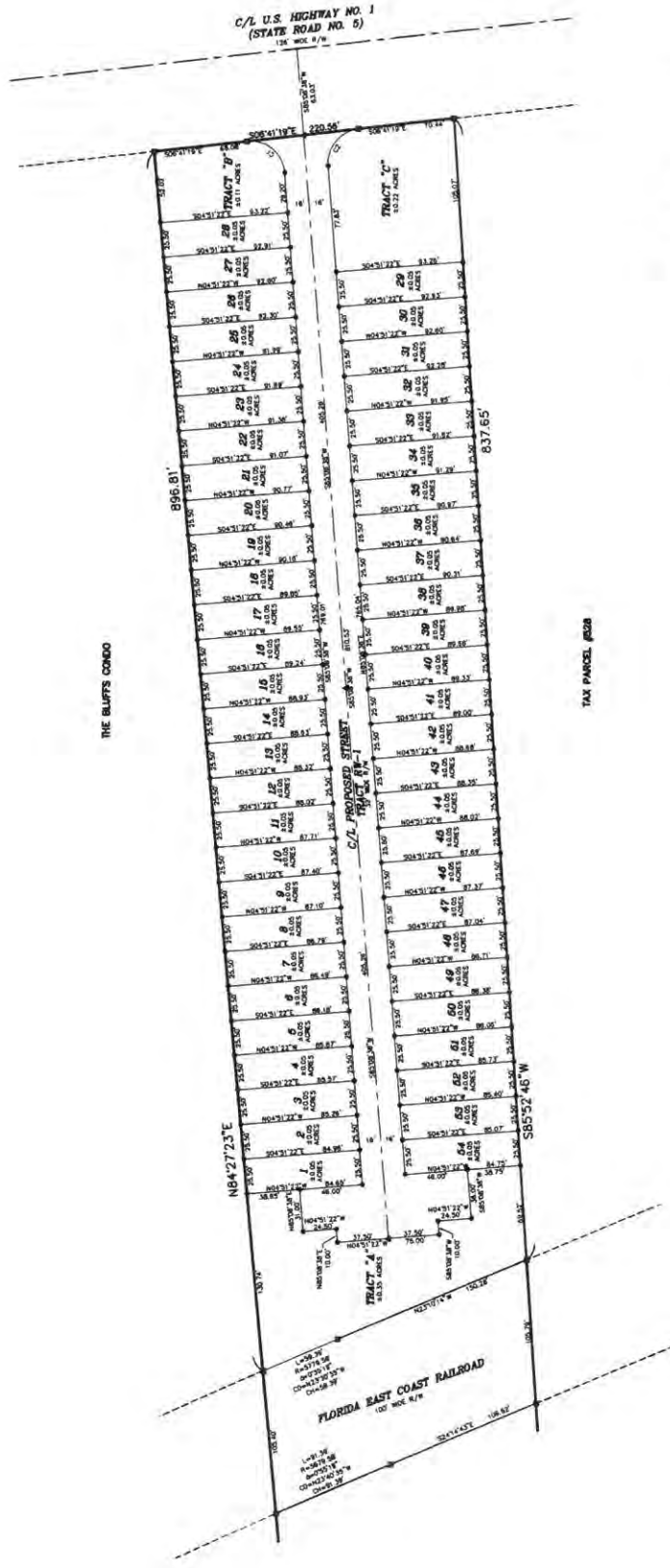
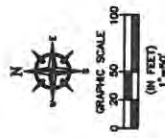
THE TERRACES

A PLANNED URBAN DEVELOPMENT
SECTION 30, TOWNSHIP 28 SOUTH, RANGE 38 EAST
CITY OF PALM BEACH
BREVARD COUNTY, FLORIDA

SHEET 2 OF 2

PLAT BOOK

PAGE



CURVE #	LENGTH	CHORD	DELTA	CHORD LENGTH	CHORD BEARING
1	10.07	23.00	90°00'00"	23.00	S85°52'46"W
2	38.47	23.00	108°17'04"	34.78	S85°52'46"W

ALL INFORMATION AND DATA HEREON IS BASED ON THE FOLLOWING:
1. FIELD SURVEY AND MEASUREMENTS
2. RECORDS OF THE BUREAU OF LAND MANAGEMENT
3. RECORDS OF THE FLORIDA DEPARTMENT OF TRANSPORTATION
4. RECORDS OF THE FLORIDA DEPARTMENT OF REVENUE
5. RECORDS OF THE FLORIDA DEPARTMENT OF AGRICULTURE
6. RECORDS OF THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
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100. RECORDS OF THE FLORIDA DEPARTMENT OF NATURE

PLAT PREPARED BY -
HORIZON SURVEYORS
380 PONTIAC DRIVE
MELBOURNE, FLORIDA 32901
(321) 254-8133

SEE SHEET 1 OF 2 FOR PLAT NOTES AND LEGAL DESCRIPTION

[illegible][illegible][illegible][illegible]



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

PLANNED UNIT DEVELOPMENT APPLICATION (PUD) FINAL DEVELOPMENT PLAN

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida at least forty-five (45) days prior to any scheduled meeting of the Planning and Zoning Board of the City of Palm Bay. 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) APPLICANT-DEVELOPER (Type or print) Palm Bay 2, LLC
ADDRESS 605 S Fremont Ave, Suite B
CITY Tampa STATE FL ZIP 33606
PHONE # 813-514-1776 FAX # _____
E-MAIL ADDRESS Paul@zonsdevelopment.com
- 2) ENGINEER Jake Wise, PE- Construction Engineering Group REGISTRATION # 55405
ADDRESS 2651 W Eau Gallie Blvd, Suite A
CITY Melbourne STATE FL ZIP 32935
PHONE # 321-610-1760 FAX # 321-253-3123
E-MAIL ADDRESS jwise@cegengineering.com
- 3) SURVEYOR Robert Doerrer, Jr- Horizon Surveyors of Central Florida, Inc REGISTRATION # 3982
ADDRESS 390 Poinciana Drive
CITY Melbourne STATE FL ZIP 32935
PHONE # 321-254-8133 FAX # _____
E-MAIL ADDRESS Horizonsurveyors@cfl.rr.com
- 4) NAME OF PROPOSED DEVELOPMENT The Terraces
- 5) LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION: See attached
- 6) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): +/- 6.86 acres
- 7) TWO (2) COPIES OF THE FOLLOWING EXHIBITS SHALL BE ATTACHED TO THE FINAL APPLICATION.
THE EXHIBITS SHALL ALSO BE PROVIDED BY CD OR MEMORY DRIVE.

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

A) Engineering plans showing:

- a) Existing ground surfaces and proposed elevations in the planned unit development.
- b) If deemed necessary by the Council, subsurface conditions on the tract, including the location and results of tests made to ascertain the conditions of subsurface soil, rock, and groundwater, and the existing depth of groundwater.
- c) Typical cross-sections of proposed grading, streets and sidewalks, canals, and waterways.
- d) Proposed type of pavement in accordance with City specifications.
- e) Layout of water distribution, sanitary sewers and storm drainage systems and sidewalks, streets bulkheads, street name signs and adequate lighting.

Said engineering plans shall be in conformity with the requirements and specifications of the City of Palm Bay Subdivision regulations.

B) A final development plan containing:

- a) North arrow, scale (1" = 200' or larger), date, and legal description of the proposed site.
- b) Dedication by owner and completion of certification of surveyor.
- c) The location, dimensions and character of construction of all proposed streets, driveways, points of ingress and egress, loading areas, number of parking spaces and areas, primary residential areas and structures, secondary non-residential structures, recreational areas and structures and common open space areas.
- d) Proposed lot lines (if any), lot and block numbers and dimensions of all primary non-residential uses (if any), and common open space.
- e) Location and width of canals and waterways.
- f) Reservations, easements, alleys and any areas to be dedicated to public uses or sites for other than residential use with notes stating their purpose and limitations.
- g) The proposed architectural and landscape design of all structures and common open space that clearly reflects the compatibility of the variety primary and secondary uses proposed.
- h) Sufficient data to determine readily and reproduce on the site the location, bearing and length of every street, line, lot line, boundary line and block line, whether curved or straight.
- i) The radius, central angle, point of tangent, tangent distance and arcs and chords of all curved property lines
- j) A legal description of the planned unit development boundaries with bearings, distances and tie point.
- k) Accurate location and description of all monuments and markers.

An original mylar of the final development plan drawn in india ink shall be filed, plus five (5) black or blue-line prints.

All dimensions should be to the nearest one two-hundredth (1/200) of a foot, and angles to the nearest second.

The final development plan shall be properly signed and executed by the developer as required for recording.

The final development shall meet the platting requirements of Florida Statutes, Chapter 177. In case of a large plan that may require two or more sheets, the sheets are to be numbered and the numbers of the sheets are to be indicated on the first sheet below the title.

C) Development schedule: The development schedule shall contain the following information:

- a) The order of construction of the proposed stages delineated in the development plan.
- b) The proposed date for the beginning of construction on said stages.
- c) The proposed date for the completion of construction on said stages.
- d) The proposed schedule for the construction and improvement of common open space within said stages, including any complimentary buildings.

CITY OF PALM BAY, FLORIDA
PLANNED UNIT DEVELOPMENT APPLICATION
FINAL DEVELOPMENT PLAN
PAGE 3 OF 4

- D) Deed restrictions: Deed restriction proposals to preserve the character of the common open space as set forth in subsection (E), Ordinance No. 74-23. Said deed restrictions shall include prohibition against partition by any residential property owner.
 - E) Association of non-profit corporation: If the developer elects this method of administering common open space, the proposed by-laws of the association or the certificate of incorporation and the corporate by-laws of the non-profit corporation shall be submitted for approval by the City.
 - F) Instruments: Instruments dedicating all rights-of-way, easements and other public lands shown on the final development plan from all persons having any interest in said land.
 - G) Bill of Sale: A bill of sale, conveying to the City water and sewer utility lines, mains, lift stations, and other personal property required to be installed by this chapter.
 - H) Instruments: Indicating that all necessary off-site easements or dedications have been acquired. In lieu of originals, "certified true copies" will be accepted if the recording information from the public records of Brevard County, Florida, is included thereon.
 - I) Title opinion: A title opinion from an attorney showing the status of the title to the site encompassed by the final development plan and all liens, encumbrances and defects, if any.
 - J) Tax receipts: Paid receipts from the County indicating taxes have been paid in full up to and including the current period.
- 8) SUBMITTAL OF FINAL APPLICATION, DEVELOPMENT PLANS, VICINITY MAPS, AND TOPOGRAPHIC MAPS SHALL BE ACCOMPLISHED AT LEAST FORTY-FIVE (45) DAYS PRIOR TO ANY SCHEDULED MEETING OF THE PLANNING AND ZONING BOARD OF THE CITY OF PALM BAY.

THE FOLLOWING ENCLOSURES ARE NEEDED TO COMPLETE THIS APPLICATION:

- ☒ *A \$1,500.00 application fee shall accompany the final development plan for the purpose of administration; additionally, engineering, plat filing, necessary copies and travel fees will also be incurred.
 - ☒ Where property is not owned by the applicant, a letter must be attached giving the Notarized consent of the owner to the applicant to request the planned unit development.
- 9) 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.
- 10) PUD AMENDMENTS WILL REQUIRE A CITIZEN PARTICIPATION PLAN IF MORE THAN TEN PERCENT OF THE TOTAL PUD ACREAGE IS AFFECTED. REFER TO SECTION 169.005 OF THE LAND DEVELOPMENT CODE FOR GUIDELINES.

**CITY OF PALM BAY, FLORIDA
PLANNED UNIT DEVELOPMENT APPLICATION
FINAL DEVELOPMENT PLAN
PAGE 4 OF 4**

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 FINAL PLANNED UNIT DEVELOPMENT (PUD) APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant

Date 3.22.16

Printed Name of Applicant

Paul Paluzzi

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

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

COMPREHENSIVE PLAN AMENDMENT APPLICATION

PROPOSAL: Amend the Comprehensive Plan Future Land Use Map from Commercial Use to Single Family Residential Use.

LOCATION: Located west of and adjacent to Lehigh Avenue SE, approximately 200 feet south of Malabar Road SE. Specifically, the subject property is Lot 14.0, Block 300, of Port Malabar Unit 9, Section 05, Township 29, Range 37, Brevard County, Florida.

APPLICANT: John A. Thrasher

SITE DATA

PRESENT ZONING: RC, Restricted Commercial District

**LAND USE
DESIGNATION:** Commercial Use

ACREAGE: 0.23 acres

**ADJACENT ZONING
& LAND USE:**

N -- RC, Restricted Commercial; Vacant Lot
E -- RC, Restricted Commercial; Lehigh Avenue SE
S -- RS-1, Single Family Residential; Single Family Dwelling
W -- RC, Restricted Commercial; Vacant Lot

BACKGROUND:

1. Located west of and adjacent to Lehigh Avenue SE, approximately 200 feet south of Malabar Road SE. Specifically, the subject property is Lot 14.0, Block 300, of Port Malabar Unit 9, Section 05, Township 29, Range 37, Brevard County, Florida.
2. The adjacent zoning and land uses are as follows:

North: RC, Restricted Commercial; Vacant Lot
East: RC, Restricted Commercial; Lehigh Avenue SE
South: RS-1, Single Family Residential; Single Family Dwelling
West: RC, Restricted Commercial; Vacant Lot
3. On June 6, 2002 the Comprehensive Plan Future Land Use Map was amended changing the designation of multiple properties along an approximate distance of 2 miles, from City Hall east to a block past Emerson Drive. The amendment changed the land use designation from Single Family Residential Use to Commercial Use.
4. At the same meeting these properties were rezoned from RS-2, Single Family Residential and RR, Rural Residential to a newly created zoning category called the RC, Restricted Commercial District. The category was created in order to provide more commercial opportunities along Malabar Road. The subject property was included in the amendment (Ord 2002-40) and rezoning (Ord 2002-41) actions.
5. The applicant is requesting a small-scale Comprehensive Plan Future Land Use Map Amendment to change from Commercial Use to Single Family Residential Use. The applicant for this request is John A. Thrasher. The applicant intends to utilize the property for residential purposes, but is having difficulty financing the property with its commercial classifications.

ANALYSIS:

Availability of Public Facilities and Services:

Potable Water: Provided by the City.

Sanitary Sewer: Provided by the City.

Solid Waste: Provided by Waste Management.

Parks & Recreation: Previously accounted for and will have no effect.

Drainage: The site contains an existing single family home with a typical horseshoe swale drainage plan. Stormwater is transferred to the roadside swale. The current drainage pattern would not be interrupted by the proposed land use.

Transportation: Single family residential use, according to the ITE Trip Generation Models, creates less of an impact on the road network than typical commercial uses.

Public Schools: The requested change, which would allow for one (1) single family home, will have a negligible effect on the Public School system.

Environmental Resources:

The site is presently developed and would have no environmental effects.

Coastal High Hazard Zone:

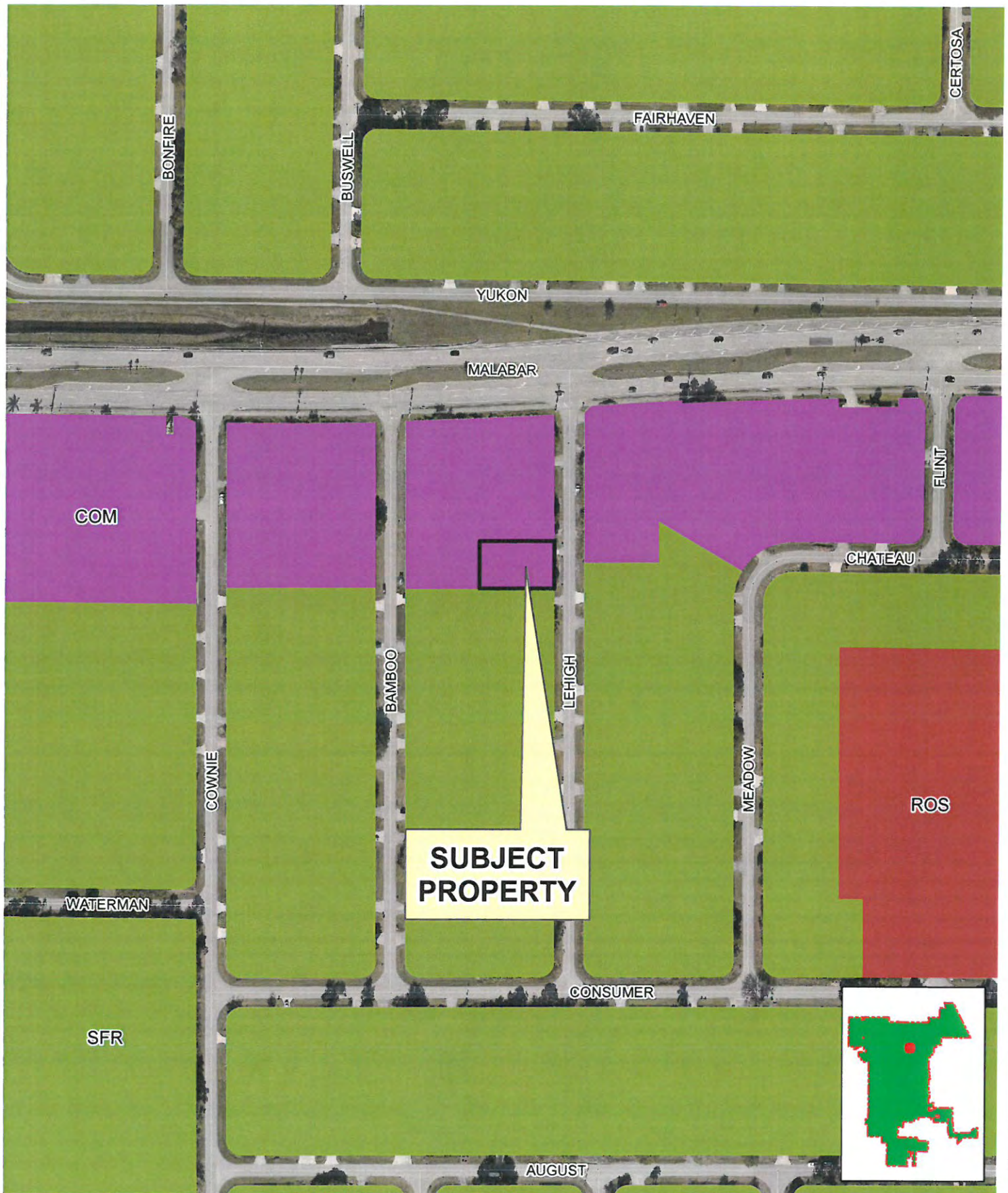
The subject property is not located within the Coastal High Hazard Zone or the current surge area.

Historic Resources:

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

STAFF CONCLUSION:

Motion to approve Case No. CP-8-2016, pursuant to Chapter 163, Florida Statutes

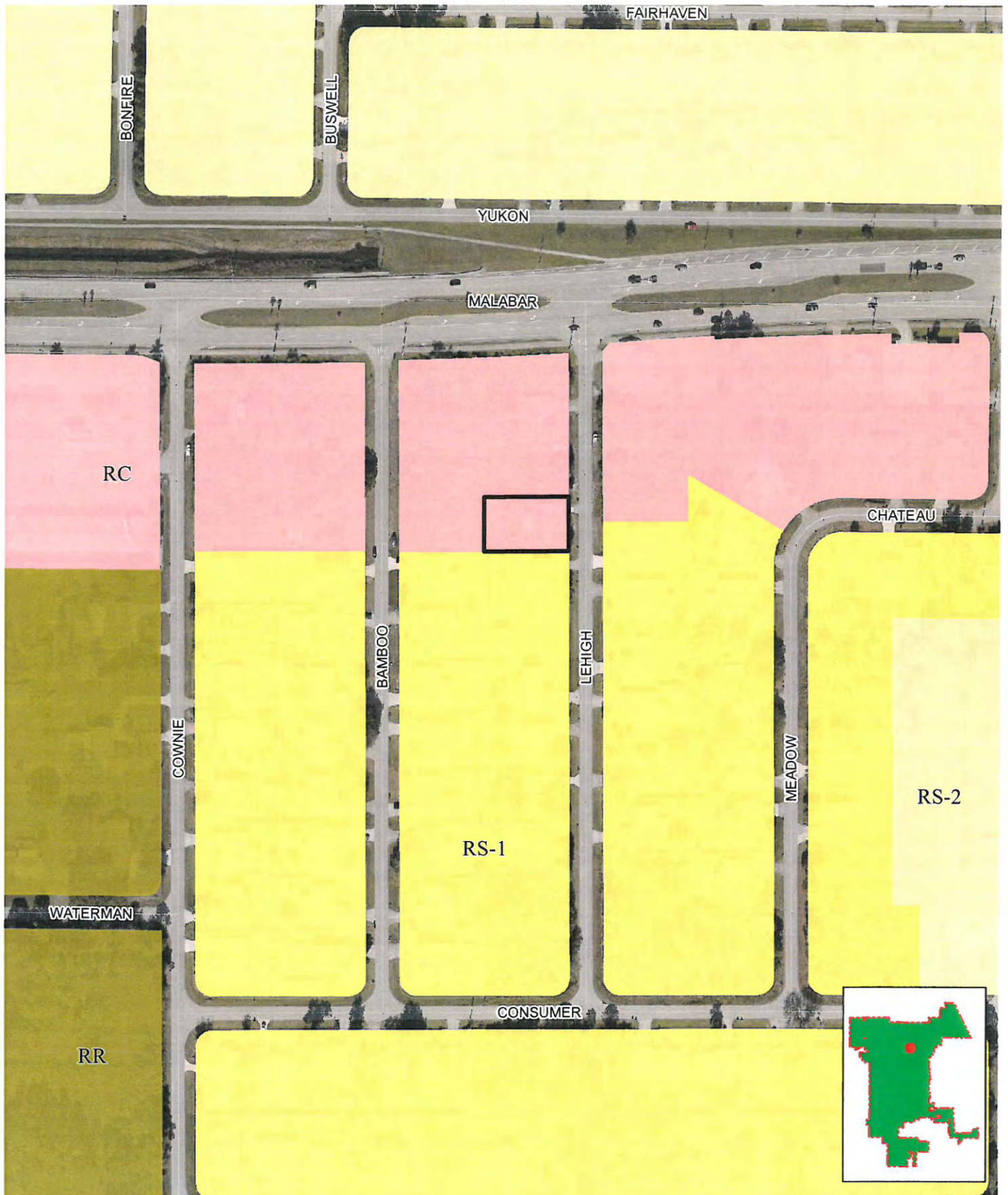


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-8-2016 & CPZ-8-2016



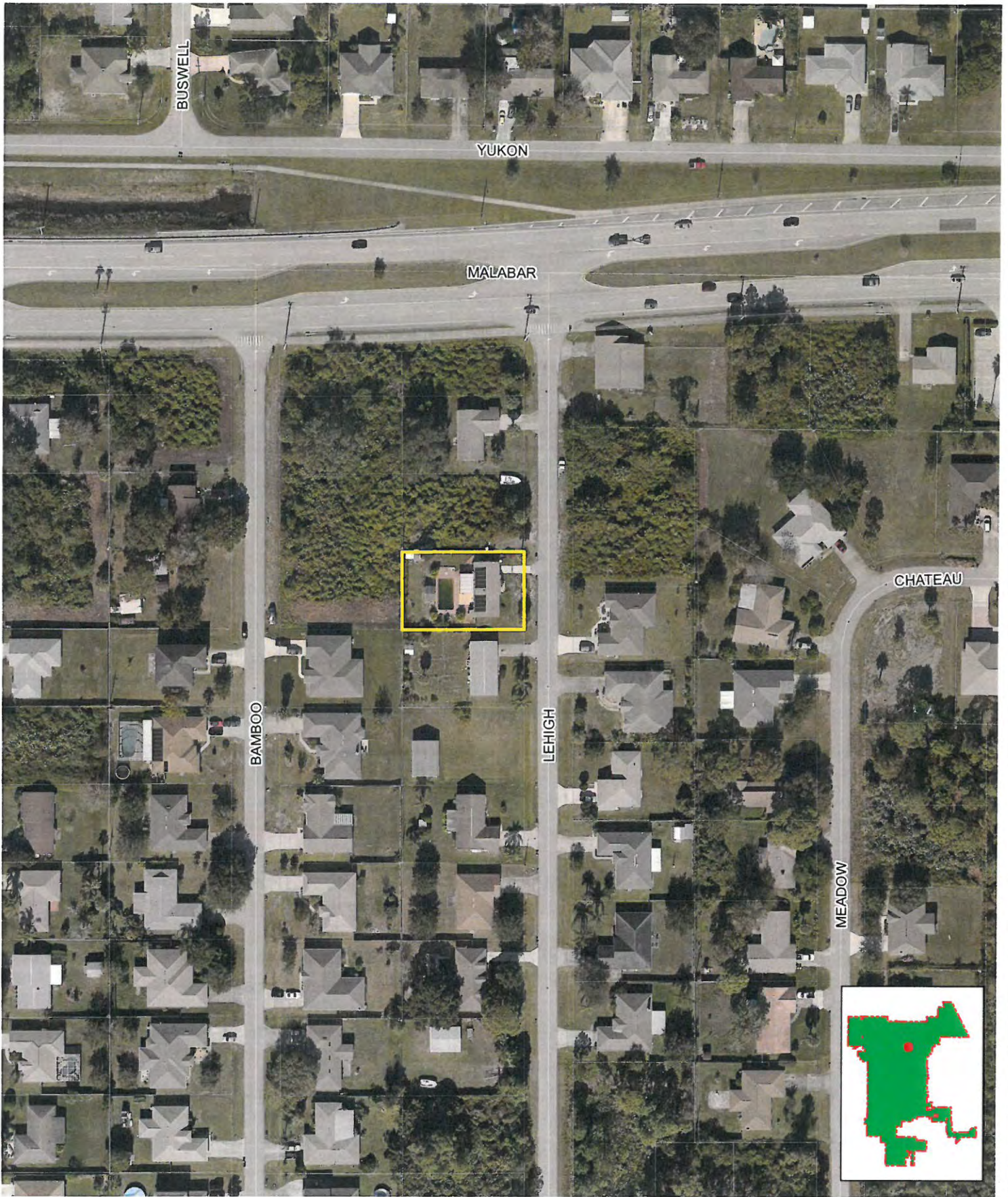
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Map created by the Land Development Division



CP-8-2016 & CPZ-8-2016





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as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-8-2016 & CPZ-8-2016



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

COMPREHENSIVE PLAN 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) _____

ADDRESS 130 LEHIGH AVE SE

CITY PALM BAY STATE FLA ZIP 32909

PHONE # 321-802-3470 FAX # _____

E-MAIL ADDRESS Wthrasner1@CIVIC.RR.COM

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION _____

LOT 14, BLOCK 300, PORT MALABAR UNIT #9. (RL)

SECTION 37 TOWNSHIP 29 RANGE 05

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

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

5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE: Single Family Res (RL)

6) PRESENT USE OF THE PROPERTY: Residential Use. (RL)

7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: Yes. (RL)

8) HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:

Yes.

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

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

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

10) SPECIFIC USE INTENDED FOR PROPERTY: Single Family Use

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

- ☒ *\$1,000 Application Fee. Make check payable to "City of Palm Bay."
- ☒ Property map showing adjacent properties and clearly outlining the subject parcel (for land use amendment(s)).
- ☒ 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). List shall be legible and the source of that information stated here: _____
- ☒ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.
- ☒ Citizen Participation Plan (for land use amendments of more than five acres in size). Refer to Section 169.005 of the Land Development Code for guidelines.
- ☒ WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE COMPREHENSIVE PLAN AMENDMENT.
- ☒ IN ORDER TO DISCLOSE ALL PARTIES SEEKING THIS APPROVAL, COMPLETE THE ATTACHED DISCLOSURES OF OWNERSHIP INTERESTS FORMS FOR PROPERTY OWNERS AND/OR APPLICANTS IN REFERENCE TO RESOLUTION 2008-19.

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

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

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

Signature of Applicant

Printed Name of Applicant

John A. Thrasher Pamela S. Thrasher Date 3-24-16
JOHN A. THRASHER PAMELA S. THRASHER

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



DATE: May 4, 2016
CASE #: CPZ-8-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

PROPOSAL: Rezoning from the RC, Restricted Commercial District to the RS-1, Single Family Residential District.

LOCATION: Located west of and adjacent to Lehigh Avenue SE, approximately 200 feet south of Malabar Road SE. Specifically, the subject property is Lot 14.0, Block 300, of Port Malabar Unit 9, Section 05, Township 29, Range 37, Brevard County, Florida.

APPLICANT: John A. Thrasher

SITE DATA

PRESENT ZONING: RC, Restricted Commercial District

**LAND USE
DESIGNATION:** Commercial Use

ACREAGE: 0.23 acres

ADJACENT ZONING

& LAND USE:

- N** -- RC, Restricted Commercial; Vacant Lot
- E** -- RC, Restricted Commercial; Lehigh Avenue SE
- S** -- RS-1, Single Family Residential; Single Family Dwelling
- W** -- RC, Restricted Commercial; Vacant Lot

WATER & SEWER: City Water & Sewer Available

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

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Yes, subject to approval of CP-8-2016

BACKGROUND:

1. Located west of and adjacent to Lehigh Avenue SE, approximately 200 feet south of Malabar Road SE. Specifically, the subject property is Lot 14.0, Block 300, of Port Malabar Unit 9, Section 05, Township 29, Range 37, Brevard County, Florida.
2. The adjacent zoning and land uses are as follows:

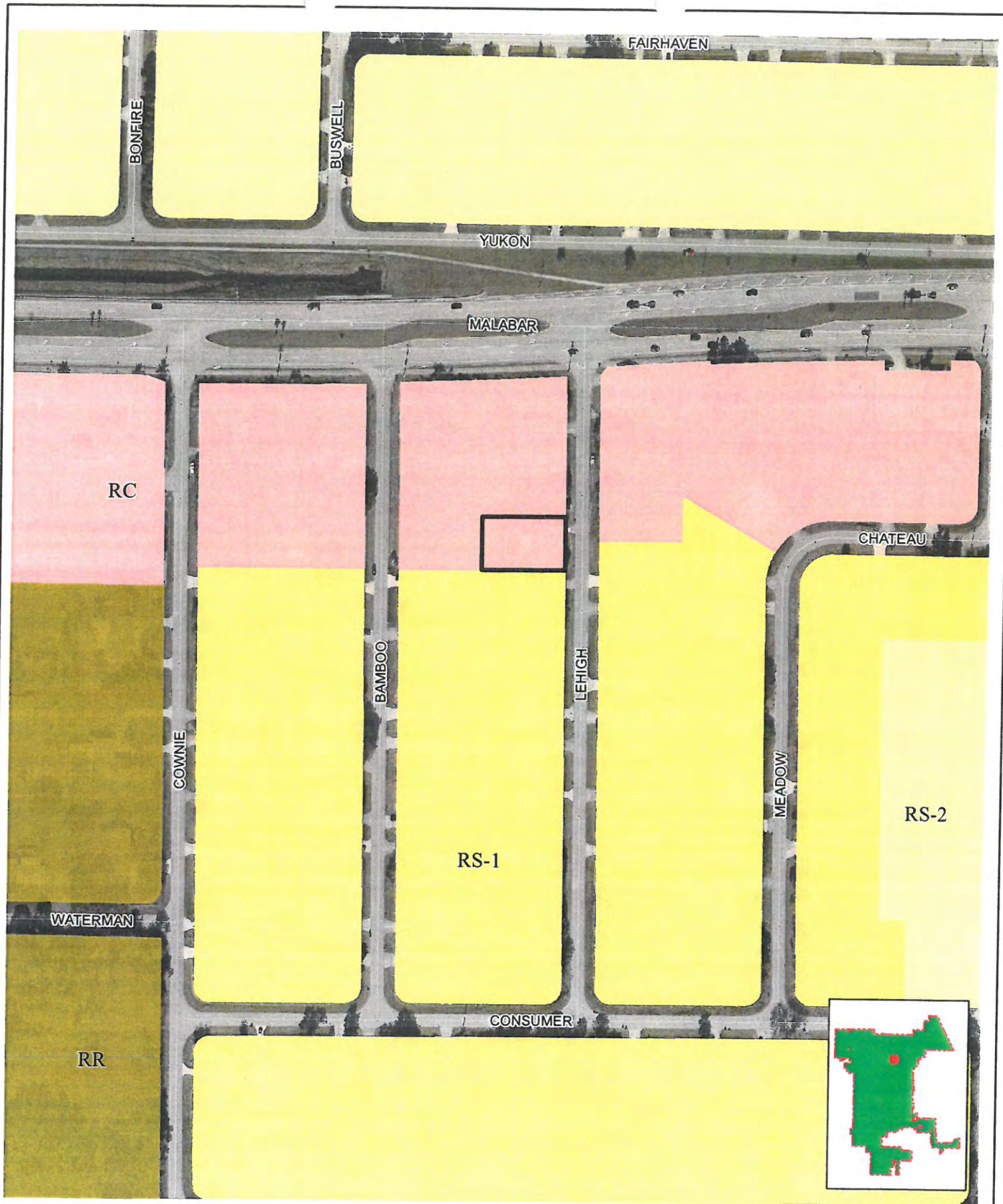
North: RC, Restricted Commercial; Vacant Lot
East: RC, Restricted Commercial; Lehigh Avenue SE
South: RS-1, Single Family Residential; Single Family Dwelling
West: RC, Restricted Commercial; Vacant Lot
4. The applicant is requesting a rezoning from the RC, Restricted Commercial District to the RS-1, Single Family Residential District. The applicant for this request is John A. Thrasher.

ANALYSIS:

1. The provisions of the RS-1 District are intended to apply to an area of low density single-family residential development. Lot sizes and other restrictions are intended to promote and protect high quality single-family residential development.
2. Despite the lot being zoned RC; single family residential use may exist upon the property since it was in operation prior to the zoning change of Ordinance No. 2002-41. However, should the home be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it cannot not be reconstructed {Section 185.159 (C)}. This code provision has proved difficult for the applicant to obtain financing.
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 Single Family Residential Use. The subject property is adjacent to residential zoning and would not create a "zoning enclave." The lots to the north may still be assembled to create a viable commercial development.

STAFF CONCLUSION:

The Board and Council must determine if the requested zoning category is compatible with the requested Future Land Use category identified in Case No. CP-8-2016.

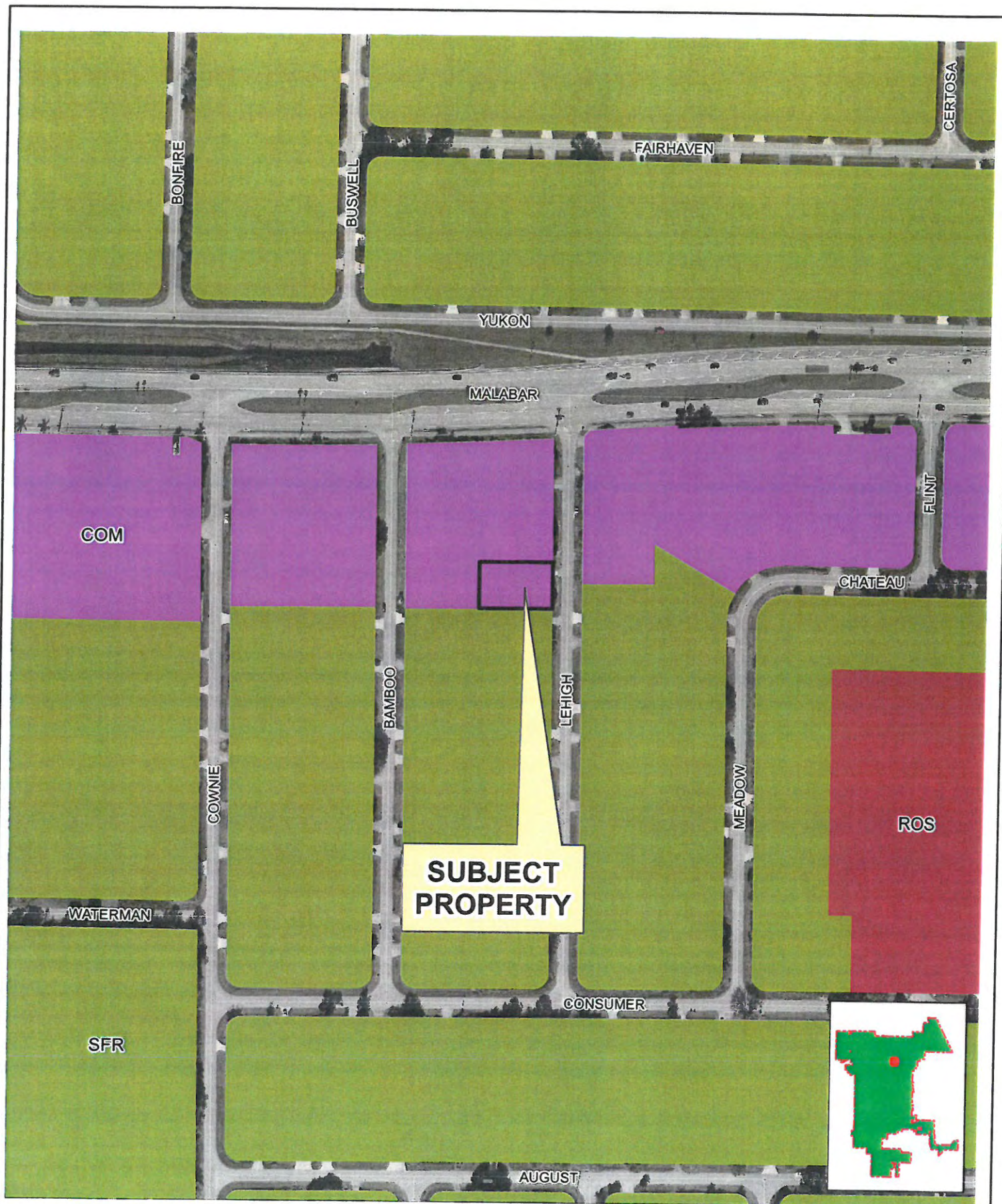


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



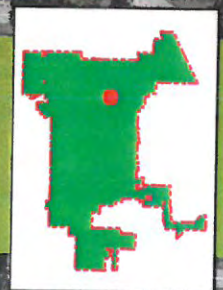
CP-8-2016 & CPZ-8-2016

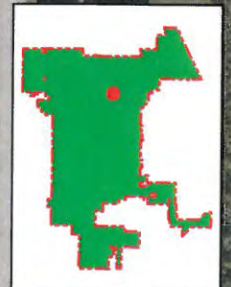
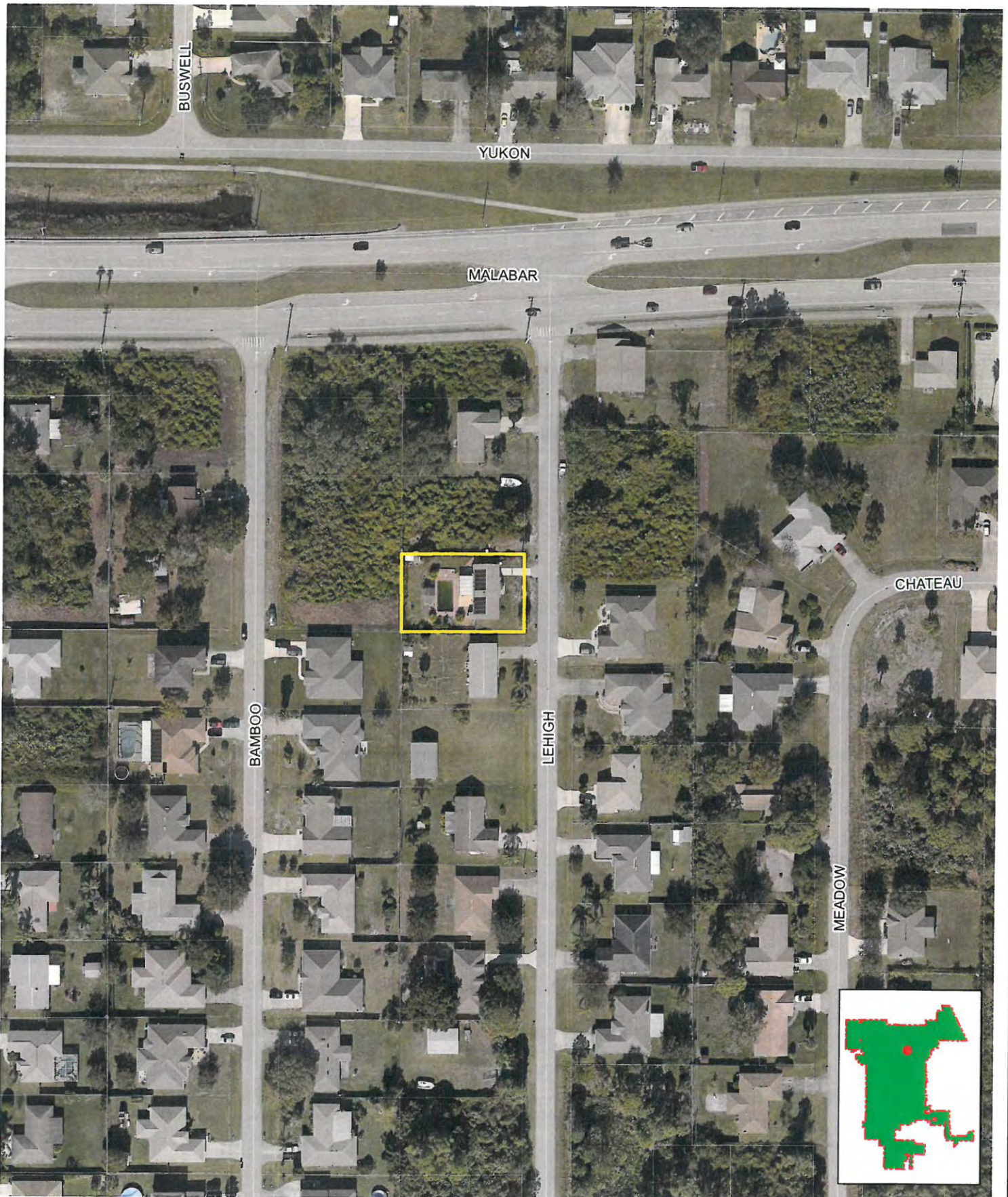


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Map created by the Land Development Division



CASE NO. CP-8-2016 & CPZ-8-2016





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

Map created by the Land Development Division



CASE NO. CP-8-2016 & CPZ-8-2016



Land Development Division
120 Malabar Road SE
Palm Bay, FL 32907
321-733-3042
Landdevelopment@palmabayflorida.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) John A. and Pamela S. Thrasher
ADDRESS 130 Lehigh Ave SE
CITY Palm Bay STATE FL ZIP 32909
PHONE # 321-802-3470 FAX # _____
E-MAIL ADDRESS jthrasher1@cinci.rr.com
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION
Lot 14, Block 300, Port Malabar Unit #9 RL
SECTION 37 TOWNSHIP 29 RANGE 05
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): _____
- 4) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.) RS RC
- 5) ZONE CLASSIFICATION DESIRED (ex.: IU, LI, etc.): RS1
- 6) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY? yes-
- 7) JUSTIFICATION FOR REZONING: SEE ATTACHMENT
- 8) PRESENT USE OF THE PROPERTY: primary (and only) residence
- 9) INTENDED USE OF PROPERTY: primary residence
- 10) THE FOLLOWING PROCEDURES AND ENCLOSURES ARE REQUIRED TO COMPLETE THIS APPLICATION:

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

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

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

N/A. A listing of legal descriptions of all properties within a 500 foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This can be obtained from the Brevard County Planning and Zoning Department at 633-2060, or on the Internet at www.brevardpropertyappraiser.com) List shall be legible and the source of that information stated here: _____

- ✓ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.
- ✓ WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE REZONING.
- ✓ 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 John A. Thrasher Pamela S. Thrasher Date Mar 24 16
Printed Name of Applicant JOHN A. THRASHER PAMELA S. Thrasher

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



DATE: May 4, 2016
CASE #: V-16-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

VARIANCE APPLICATION

PROPOSAL: A request to allow an reduction in the required number of parking spaces from 42 spaces to 38 spaces, as provided for in 185.140(C)(20).

LOCATION: 132 Malabar Road SW

APPLICANT: McDonald's Corporation

SITE DATA

PRESENT ZONING: CC, Community Commercial

ACREAGE: 0.95 Acres +/-

DENSITY: Not Applicable

ADJACENT ZONING

& LAND USE:

- N** -- CC, Community Commercial zoning district; w/ structures
- E** -- CC, Community Commercial zoning district; 7-11 Convenience Store
- S** -- CC, Community Commercial zoning district; PNC Bank
- W** -- CC, Community Commercial zoning district; Bennett Auto Supply

WATER & SEWER: Water and Sewer Available

FLOOD ZONE: Flood Zone 'X'

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

BACKGROUND:

1. The site is located at 132 Malabar Road SW (Specifically, in the vicinity of the SW corner of the intersection of Minton Road and Malabar Road).
2. The property is zoned CC, Community Commercial.
3. The applicant is requesting a variance to allow relief from the required number of parking spaces from 42 spaces to 38 spaces, as provided for in Section 185.140(C)(20).

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 minimum required 42 space parking amount. The request for reduction in the required parking is the result of proposed changes to the existing site to allow for a 2nd drive through lane and the addition of a pedestrian walkway at the north property line. These may be special circumstances or peculiarity with regard to the land for 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 may be a direct result of the actions of the applicant. The existing parking lot is compliant with regard to the current code and a reduction in the number of required parking areas may be a result of the actions of the applicant as it appears to be a self-imposed hardship.

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

Literal interpretation and enforcement of the land development code would require the applicant to maintain the required 42 parking spaces for the site. The Board and Council must decide to what limits constitute the necessity for parking count reduction.

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 as requested; the minimum variance necessary to accommodate the proposed site improvements would be a reduction in the required parking space requirement from 42 spaces to 38 spaces.

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

Granting of the variance would confer the applicant a special privilege for the parking count reduction. It should be noted however that the variance is needed to necessitate site improvements to make the drive thru area more efficient, increase walkability to the site, and unburden the required parking amount as a result of these site improvements.

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."

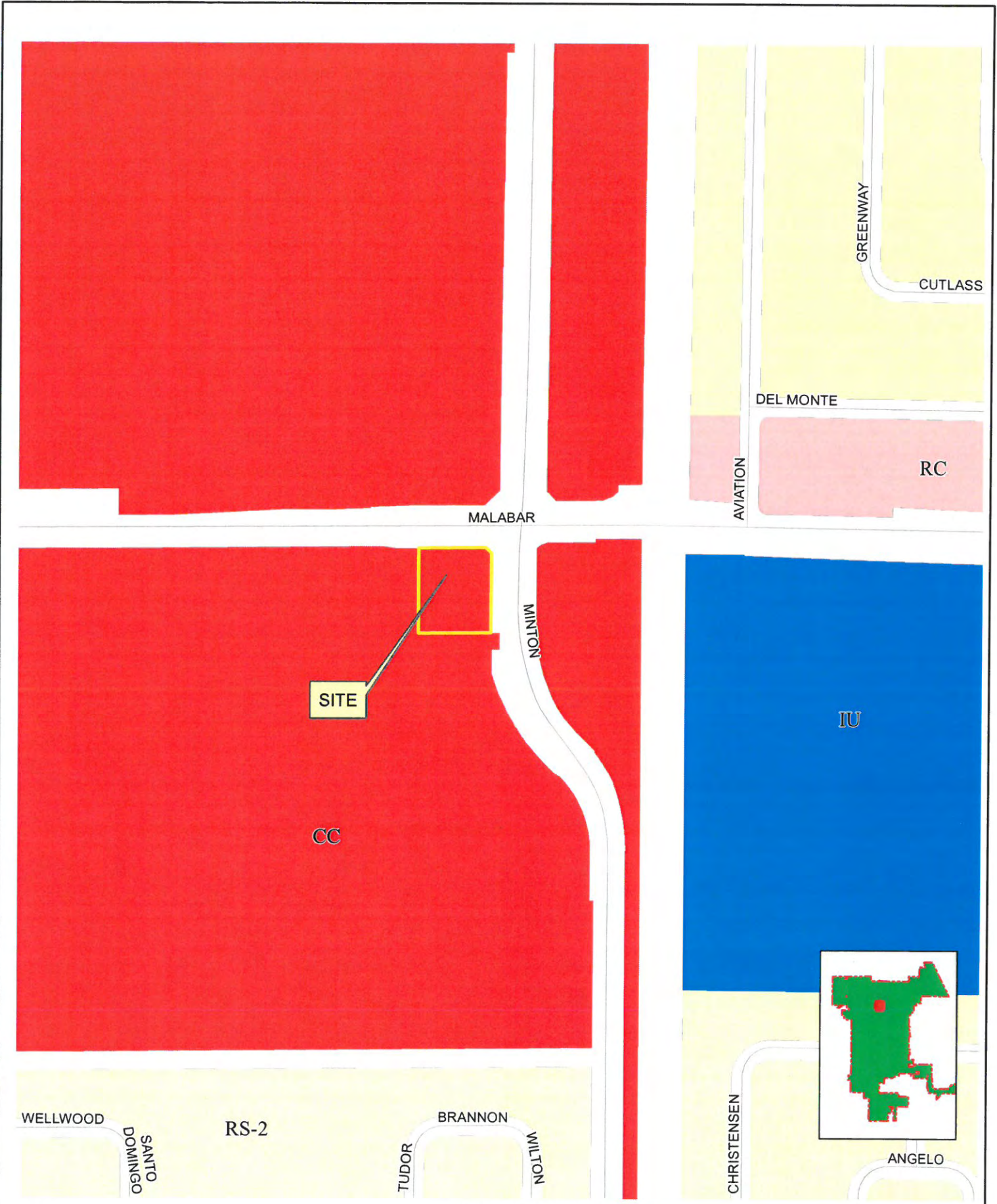
City Council must ultimately decide if the application meets the general intent and purpose of the code.

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:

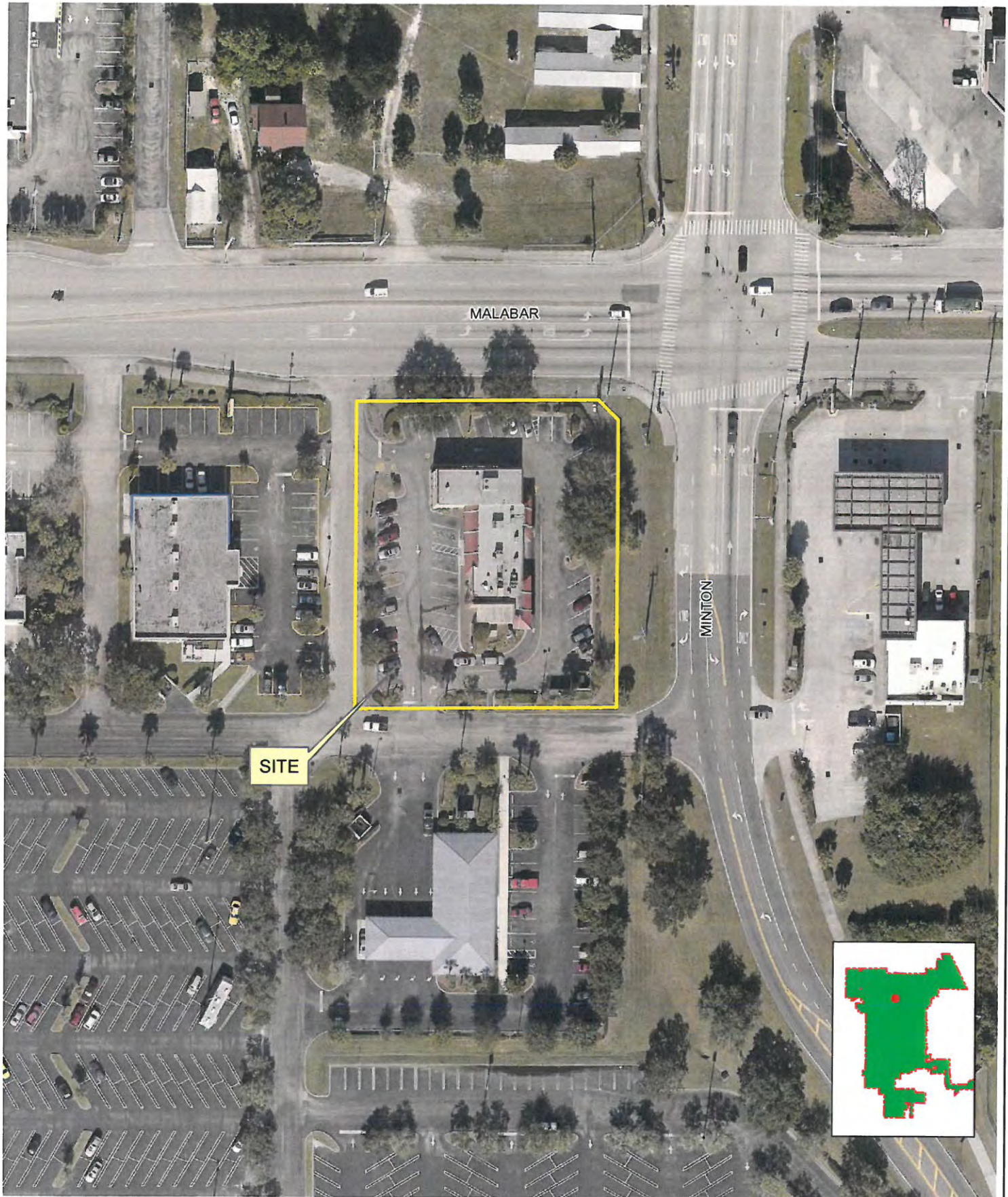
The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief is required to meet the needs of the variance being requested, as required under Section 169.009 of the City of Palm Bay Code of Ordinances and make recommendations to City Council for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

CASE V-16-2016 ZONING MAP





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

CASE V-16-2016 AERIAL VIEW





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

VARIANCE APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, prior to 5:00 p.m. on the first day of the month to be processed for consideration by the Planning and Zoning Board the following month. The application will then be referred to the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

1) NAME OF APPLICANT (Type or print) McDonald's Corporation

ADDRESS 10150 Highland Manor Drive, Suite 470

CITY Tampa STATE FL ZIP 33610

PHONE # 813-630-9634 FAX # _____

E-MAIL ADDRESS ramon.santos@us.mcd.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION _____

see attached warranty deed

SECTION 29 TOWNSHIP 36 RANGE 01

3) STREET ADDRESS OF PROPERTY COVERED BY APPLICATION: 132 SW Malabar Rd

4) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 0.95 ac

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

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

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

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

8) DESCRIBE THE EXTENT OF THE VARIANCE REQUESTED AND THE INTENDED USE OF THE PROPERTY IF THE VARIANCE IS GRANTED (SPECIFY NUMBER OF INCHES/FEET ENCROACHING INTO SPECIFIC REQUIRED YARD SETBACK OR REQUIRED HEIGHT RESTRICTIONS): Variance is being requested for a parking reduction. The required parking for the site is 42 parking spaces. Currently, the existing site has 42 parking spaces. The proposed improvements will result in a parking count of 38 spaces. A reduction of 4 spaces.

CITY OF PALM BAY, FLORIDA
VARIANCE APPLICATION
PAGE 2 OF 3

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

185.140(C)(20) - 1 parking space / 3 seats + 1 parking space / employee

- 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.

see attached explanation document

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

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

- N/A BERT J. HARRIS PRIVATE PROPERTY RIGHTS PROTECTION ACT, Chapter 95-181, Laws of Florida.
Provide a copy of one of the following: _____ Special master appointed in accordance with the act.
_____ Court order as described in the act.
- N/A AMERICANS WITH DISABILITIES ACT. Cite the section of the act from which the variance request will provide relief: _____

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

- X *\$300.00 Application Fee. Make check payable to "City of Palm Bay."
- 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 - PLANNING & ZONING
- X Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.
- X A site plan drawn to scale which shows all property and yard dimensions, its structures (if any) and the variance desired, including abutting highway or road boundaries. Submit in electronic or PDF format.
- X A survey prepared by a registered surveyor showing all property lines and structures.
- N/A WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE VARIANCE.
- X IN ORDER TO DISCLOSE ALL PARTIES SEEKING THIS APPROVAL, COMPLETE THE ATTACHED DISCLOSURES OF OWNERSHIP INTERESTS FORMS FOR PROPERTY OWNERS AND/OR APPLICANTS IN REFERENCE TO RESOLUTION 2008-19.

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

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

Signature of Applicant



Date 3/15/16

Printed Name of Applicant

Ramon Santos

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

Variance to 185.140(C)(20)

- (a) That special conditions and circumstances which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, 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.

The site was developed in 1993 which created specific physical conditions that would impact future improvements. As McDonald's strives to provide modern, efficient and friendly service to their customers, upgrades to their existing restaurants are vital. With over two thirds of their customers utilizing the drive-thru it is paramount this service operates efficiently. The "side-by-side" order station reduces wait time and on-site vehicular congestion. Recent studies by McDonald's indicate the "side-by-side" drive has led to more customers using the drive-thru and less of a need to park and order inside. Many of the remaining customers utilize the counter service, in which patrons often choose to order their food and leave, yielding a higher turnover of patrons, which in turn required fewer parking spaces. The current facility has 89 seats and 12 employees, which requires 42 parking spaces. The site is currently operating with 42 parking spaces. In an effort to reach the City's requirement, the proposed site was manipulated as much as possible to reduce the impact of existing parking; however, improvements were limited due to existing conditions and the scope of work.

- (b) That special conditions and circumstances referred to above do not result from the actions of the applicant.

The existing lot size cannot be changed and there is not additional land for sale adjacent to the site which is not a result of actions of the applicant. Denying the variance would prohibit McDonald's from improving their site.

- (c) 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.

Literal interpretation of the code would deprive McDonald's the opportunity of improving their site to provide faster and more efficient service to their customers. McDonald's has examined every possible layout to reduce the impact to existing parking.

- (d) That is granting the variance is the minimum variance necessary to make possible the reasonable use of the land, building or structure.

McDonald's has examined every possible layout to reduce the impact to existing parking. There is no additional space to add additional parking stalls and reduction of the seat count would not allow McDonald's to adequately serve their customers.

- (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.

Granting the variance will allow the site to be improved with faster service and an updated and remodeled building.

- (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.

The proposed site improvements will provide quicker service and a more aesthetically appealing and updated restaurant which will enhance the surrounding properties. Without the parking variance the site will not be able to construct the side-by-side drive thru which alleviates on-site congestion and created better traffic flow which is a benefit to the public welfare.



DATE: May 4, 2016

CASE #: T-17-2016

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 93: Real Property Nuisances, in order to adopt criteria to process chronic nuisances.

CODE CITATION: Chapter 93 - Creation of new Code

APPLICABILITY: City Wide

APPLICANT: Growth Management Department/Police Department

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** In compliance

BACKGROUND:

The Florida Statute (F.S.) provides for the local governments to adopt by ordinance codes related to nuisance properties. Several cities, including City of Cocoa, have adopted nuisance property ordinances and utilized them successfully in the past. The F.S. provides the parameters and guidelines to local application.

ANALYSIS:

Nuisance properties create incompatible land uses by the continuation of criminal activities or uses conflicting with the zoning district regulations. The proposed code amendment would empower the Code Enforcement Board to act as the Nuisance Abatement Board and enforce a local ordinance as provided for in State statute.

Chronic nuisance properties create high call for service volumes of Police and Fire/Rescue services, reducing the level of service available citywide and increasing the expenditure of City funds on subject properties.

STAFF FINDINGS:

The proposed code amendment would expand the City's ability to address chronic nuisance properties and reduce future calls for service to Police and Fire/Rescue services.

ARTICLE X. - PUBLIC NUISANCE ABATEMENT BOARD

Sec. XXX - Establishment; membership; meetings; definitions.

- (a) Pursuant to F.S. Chapter 893, the Code Enforcement Board of the City is hereby designated and established as the public nuisance abatement board (hereinafter referred to as "board"), and shall act as the City's administrative board to hear complaints regarding nuisances as provided for herein.
- (b) The terms of office of the board members shall coincide with the terms of office of the code enforcement board members.
- (c) The board shall establish a schedule of regular meetings at such intervals as the board may determine, but not less frequently than once every two (2) months. Regular meetings of the board shall be scheduled where possible to immediately precede the regularly scheduled meeting of the code enforcement board and may be cancelled by the chairman if there is no business to come before the board.
- (d) Definitions. The following terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:

Controlled substance shall mean any drug, narcotic, or other substance identified and prohibited under F.S. Chapter 893, as amended from time to time.

Criminal street gang shall have the same meaning as set forth under F.S. § 874.03.

Criminal street gang activity shall mean those activities committed by a criminal street gang or member thereof as set forth under F.S. § 874.03.

Dealing in stolen property shall have the same meaning as that provided under F.S. § 812.019.

Nuisance abatement coordinator shall mean the code enforcement supervisor or designee, or officers of the city police department responsible for the oversight and enforcement of public nuisances addressed under this article.

Prostitution or prostitution related activity shall mean any act constituting a violation of F.S. § 796.07.

Recording secretary for the nuisance abatement board/recording secretary shall mean a city staff member or clerk assigned to the public nuisance abatement board.

Recurring public nuisance means any single or multiple instance of conduct prescribed in F.S. § 893.138 that occurs during the effective term of an order entered by the board.

Stolen property shall mean tangible, intangible, personal or real property having any monetary or market value and that has been the subject of any temporary or permanent criminal taking in violation of the laws of the state.

Sec. XXX - Powers.

The public nuisance abatement board shall have the powers as delineated in F.S. § 893.138, which shall include, but not be limited to, the following:

- (1) Adopt rules for the conduct of its hearings.
- (2) Subpoena alleged violators and witnesses to its hearings.
- (3) Subpoena records, surveys, plats, or other documentary evidence which subpoenas shall be served by the police department.
- (4) Take testimony under oath.
- (5) Issue orders having force and effect of law commanding whatever steps are necessary to bring a violation into compliance.
- (6) Establish and levy fines.

It is the intent of this article to provide the city with an additional and supplemental means to abate drug, prostitution, dealing in stolen property, and criminal street gang activities amounting to a public nuisance. Nothing contained herein shall preclude the city from abating nuisances under F.S. §60.05 or as otherwise provided by federal, state or local law.

Sec. XXX - Public nuisance, violations.

It shall be a public nuisance and a violation of this article for any place or premises, or any part thereof, to be used or allowed to be used:

- (1) On more than two (2) occasions within a six-month period, as the site of a violation of F.S. §796.07, relating to prostitution and prostitution-related activities;
- (2) On more than two (2) occasions within a six-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (3) On one (1) occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony, and that has been previously used on more than one (1) occasion, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (4) By a criminal street gang for the purpose of conducting a pattern of criminal street gang activity as defined by F.S. § 874.03; or
- (5) On more than two (2) occasions within a six-month period, as the site of a violation of F.S. §812.019, relating to dealing in stolen property.

Sec. XXX - Enforcement procedures; notice; hearing.

- (a) Any employee, officer, or resident of the city may file, in accordance with this section, a complaint alleging the existence of a public nuisance. Such complaint shall only be for those nuisances enumerated above in section XXX and shall state facts that reasonably tend to establish the existence of such public nuisance.

All complaints shall be filed with the nuisance abatement coordinator. The nuisance abatement coordinator shall review each complaint filed to determine whether the facts presented establish the requisite number of incidents or occurrences required under Section XXX of this Code. Where the complaint alleges the requisite number of incidents or occurrences to establish a nuisance under this article, the nuisance abatement coordinator shall forward the complaint, with any relevant incident or arrest reports generated by the police department substantiating such incidents or occurrences or evidencing new or additional incidents or occurrences, to the city attorney.

- (b) The city manager shall review all complaints received from the nuisance abatement coordinator for legal sufficiency. If the city manager deems the complaint sufficient under the code to support a probable finding of the existence of a public nuisance, the nuisance abatement coordinator shall prepare a

courtesy notice of violation to be served, in accordance with this section, upon the owner of the property in question. The courtesy notice of violation shall provide the name of the owner of the premises, the address of the premises where the nuisance has occurred, a brief statement describing the incidents or occurrences which support the finding of a public nuisance upon the premises, and recommendations of remedial action to be taken to abate the public nuisance upon the property. The owner of the premises shall have ten (10) days from the date of the notice to contact the nuisance abatement coordinator to indicate what action will be taken to abate the nuisance upon the premises. Failure of the owner to receive this notice of violation shall not invalidate any further proceedings hereunder.

If a recurring public nuisance or emergency situation exists, the nuisance abatement coordinator shall not be required to provide a courtesy notice of violation, but instead the city manager may prepare and serve a statement of violation and notice of hearing as provided below.

- (c) Should the owner or operator fail to contact the nuisance abatement coordinator, fail to commit to a course of action designed to abate the nuisance upon the property, or should there be any further incidents or occurrences which constitute a nuisance upon the property a hearing date shall be scheduled before the board. Such hearing shall be held no sooner than ten (10) days after the notice of hearing is sent to the owner of the place or premises at the owner's last known address. The nuisance abatement coordinator shall then prepare and serve upon the owner or operator, in accordance with this article, a statement of violation/notice of hearing providing the following information:
 - (1) A statement of the time, place and nature of the hearing;
 - (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - (3) A reference to the particular sections of the statutes and ordinances involved; and
 - (4) A copy of the statement of violation, including all documentation in support thereof.
- (d) All notices under this article shall be hand-delivered by the city police department where practical or where not practical or impossible by certified mail, return receipt requested, to the property owner of record at the address as it appears in the public records of the county property appraiser's office. If the notice is

returned for any reason, then service shall be effected by mailing the notice through regular delivery to the address of the premises and by posting the notice in accordance with F.S. Chapter 162. Proof of service shall be by written declaration indicating the date, time, and manner in which service was made.

- (e) The city manager may negotiate stipulated settlement agreements with a property owner to facilitate the abatement of a public nuisance. All stipulated agreements shall be reviewed and approved by the nuisance abatement coordinator and board prior to being effective.
- (f) At the hearing, the nuisance abatement coordinator shall present evidence before the board on behalf of the city and has the burden to prove the existence of a public nuisance by substantial and competent evidence. The board may consider any evidence, regarding the activities alleged in the statement of violation and occurring about the place or premises, and the owner(s) of the place or premises shall have the opportunity to appear before the board, in person and/or through legal counsel, to present evidence in defense or in mitigation against the complaint, conduct cross-examination, submit rebuttal evidence, and make brief opening and/or closing statements. Irrelevant, immaterial or unduly repetitive evidence shall be excluded. All testimony shall be taken under oath and shall be recorded. Any member of the board, or counsel to the board, may inquire of any witness testifying before the board. The board shall take testimony of such witnesses as may be called by the respective sides. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern said proceedings. In addition, the board may consider testimony and evidence relating to the general reputation of the place or premises; and

The board may proceed with a hearing in absentia on the merits of an alleged public nuisance against any property owner who has been properly noticed under this article and has failed to appear. Any findings or orders entered by the board are valid and binding upon each Respondent who has been properly noticed.

The board in its discretion may continue a hearing to receive additional evidence, testimony, or for any other reason the board deems appropriate.

- (g) At the conclusion of the hearing, the board shall issue findings of fact based on evidence in the record and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted by Florida Statutes and by

this section. The order shall be stated orally at the meeting and shall be reduced to writing and mailed to the alleged violator within ten (10) days after the hearing.

- (h) If the board declares a place or premises to be a public nuisance, it may enter an order immediately prohibiting:
 - (1) The maintaining of the nuisance;
 - (2) The operating or maintaining of the place or premises;
 - (3) The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance; or
 - (4) Any other measures or conditions the board deems appropriate to abate a public nuisance.

Any other measures or conditions the board deems appropriate to abate a public nuisance.

- (i) This subsection does not restrict the right of any person, including the city, to proceed under F.S. § 60.05, against any public nuisance.
- (j) If the city proves the existence of a public nuisance or recurring public nuisance before the board, the city as the prevailing party, shall be entitled to recover its reasonable attorneys' fees and costs associated with the investigation, hearing and prosecution on the public nuisance through all appellate proceedings, including the costs of recording any order, notice or agreement.
- (k) An order of the board shall expire not more than one (1) year or as otherwise designated in the order after entry of the order by the board. The order may include deadlines or other notice for requiring compliance by a certain date and that a fine may be imposed in accordance with this article.

Sec. XXX - Penalties; fines; liens; recording.

- (a) The city manager shall, upon notification by the recording secretary that an affidavit of noncompliance has been filed by the nuisance abatement coordinator reflecting that a previous order of the board has not been complied with, schedule a hearing before the board. Upon evidence establishing that a noncompliance exists, the board shall enter an order imposing conditions and any other measures to abate the public nuisance as provided by this article, including the imposition of a fine.

- (b) A fine imposed pursuant to this section shall not exceed two hundred fifty dollars (\$250.00) per day for a first occurrence of a public nuisance and shall not exceed five hundred dollars (\$500.00) per day for a recurring public nuisance. However, total fines imposed in any action brought pursuant to this article shall not exceed fifteen thousand dollars (\$15,000.00). In determining the amount of the fine, if any, the board shall consider the following factors:
- (1) The gravity of the public nuisance;
 - (2) Any actions taken by the owner to correct the public nuisance; and
 - (3) Any previous nuisances maintained or permitted by the owner.
- (c) A certified copy of an order imposing a fine may be recorded in the public records of the county, and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the owner. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this article shall continue to accrue until the owner comes into compliance or until the judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the city, and the city may execute a satisfaction or release of a lien in the same manner as provided under Section XXX of this Code, or may otherwise seek to foreclose on the lien. However, where the nuisance abatement action is based on a stolen property nuisance, and is brought against a property owner operating an establishment where multiple tenants, on one (1) site, conduct their own retail businesses, the property owner shall not be subject to a lien against the owner's property or the prohibition of operation provision if the property owner elects to evict the business declared to be a nuisance within ninety (90) days after notification by registered mail to the property owner of a second stolen property conviction of the tenant. Any lien recorded against real property may be foreclosed by the city and the owner of such real property shall be liable for all costs, including a reasonable attorney's fee, associated with the recording of all orders and foreclosure.
- (d) The board may further bring a complaint under F.S. § 60.05, seeking a permanent injunction against any nuisance as described in this article. This section does not restrict the right of any person to proceed under F.S. § 60.05, against any public nuisance.

Sec. XXX – Appeal.

A party aggrieved by a final administrative order of the board shall have the right to appeal said order to a court of competent jurisdiction, pursuant to the rules of procedure of the court.



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

CODE TEXTUAL 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

PERSON(S) TO BE NOTIFIED (if different from above) N/A

ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE # _____ FAX # _____

E-MAIL ADDRESS _____

2) ORDINANCE SECTION PROPOSED TO BE CHANGED: Ch. 93: Real Property Nuisances

3) PROPOSED LANGUAGE (attach addendum if necessary): See attached

4) JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary): _____

Adopt criteria for processing chronic nuisances.

5) *A \$1,000.00 APPLICATION FEE. MAKE CHECK PAYABLE TO "CITY OF PALM BAY."

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

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 CODE TEXTUAL AMENDMENT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant



Date

March 1, 2016

Printed Name of Applicant

Stuart Buchanan, Growth Management Director

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



DATE: CP-9-2016
CASE #: MAY 4, 2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

COMPREHENSIVE PLAN AMENDMENT APPLICATION

- PROPOSAL:** Amend the Comprehensive Plan Future Land Use Map from Commercial Use to Industrial Use.
- LOCATION:** Located at the SE corner of St. Andre Boulevard SW and Wingham Drive SW. Specifically, the subject property is a portion of Tract Q, of Port Malabar Unit 51, Section 34, Township 29, Range 36, Brevard County, Florida.
- APPLICANT:** City of Palm Bay, Growth Management Department

SITE DATA

PRESENT ZONING: NC, Neighborhood Commercial District

**LAND USE
DESIGNATION:** Commercial Use

ACREAGE: 9.48 acres

ADJACENT ZONING

& LAND USE:

- N** -- IU, Institutional Use District; Vacant Land
- E** -- NC; Neighborhood Commercial District; Vacant Land
- S** -- IU, Institutional Use District; Vacant Land
- W** -- NC; Neighborhood Commercial District; Vacant Land

BACKGROUND:

1. Located at the SE corner of St. Andre Boulevard SW and Wingham Drive SW. Specifically, the subject property is a portion of Tract Q, of Port Malabar Unit 51, Section 34, Township 29, Range 36, Brevard County, Florida.
2. The adjacent zoning and land uses are as follows:

North: IU, Institutional Use District; Vacant Land
East: NC; Neighborhood Commercial District; Vacant Land
South: IU, Institutional Use District; Vacant Land
West: NC; Neighborhood Commercial District; Vacant Land
3. The applicant is requesting a small-scale Comprehensive Plan Future Land Use Map Amendment to change from Commercial Use to Industrial Use. The applicant for this request is the City of Palm Bay's Growth Management Department.
4. The parent property (Tract Q of Port Malabar Unit 51) is 11.98 acres. However, the city is requesting that only 9.48 acres of this land be changed. The remaining 2.5 acres is to remain Commercial Use in order to support future commercial development at the corner of these two (2) collector roads. The intended use of the land in question is for industrial uses. The nearest home is over 3,000 feet to the east.

ANALYSIS:

Availability of Public Facilities and Services:

Potable Water: Not available

Sanitary Sewer: Not available

Solid Waste: Provided by Waste Management

Parks & Recreation: Not Applicable for non-residential uses

Drainage: The site is presently vacant and in its natural state. A stabilized surface will be needed to accommodate the anticipated activity. All necessary drainage and storm water management facilities must be provided on-site by the developer and approved during the site plan and land development review process.

Transportation: Access to the site will be from St. Andre Boulevard SW, which connects directly to San Filippo Drive SW and De Groodt Road SW. The existing future land use and zoning allows for several uses, such as a Shopping Plaza which would generate approximately 4,071 average daily trips (ADT) based upon a conservative use of 10,000 sq. ft. per acre of principle structure. (ITE Code 820) The proposed future land use and zoning of Heavy Industrial would generate approximately 64 ADT (ITE Code 120), a sharp reduction trips.

Public Schools: Not Applicable for Industrial Use

Environmental Resources:

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

Coastal High Hazard Zone:

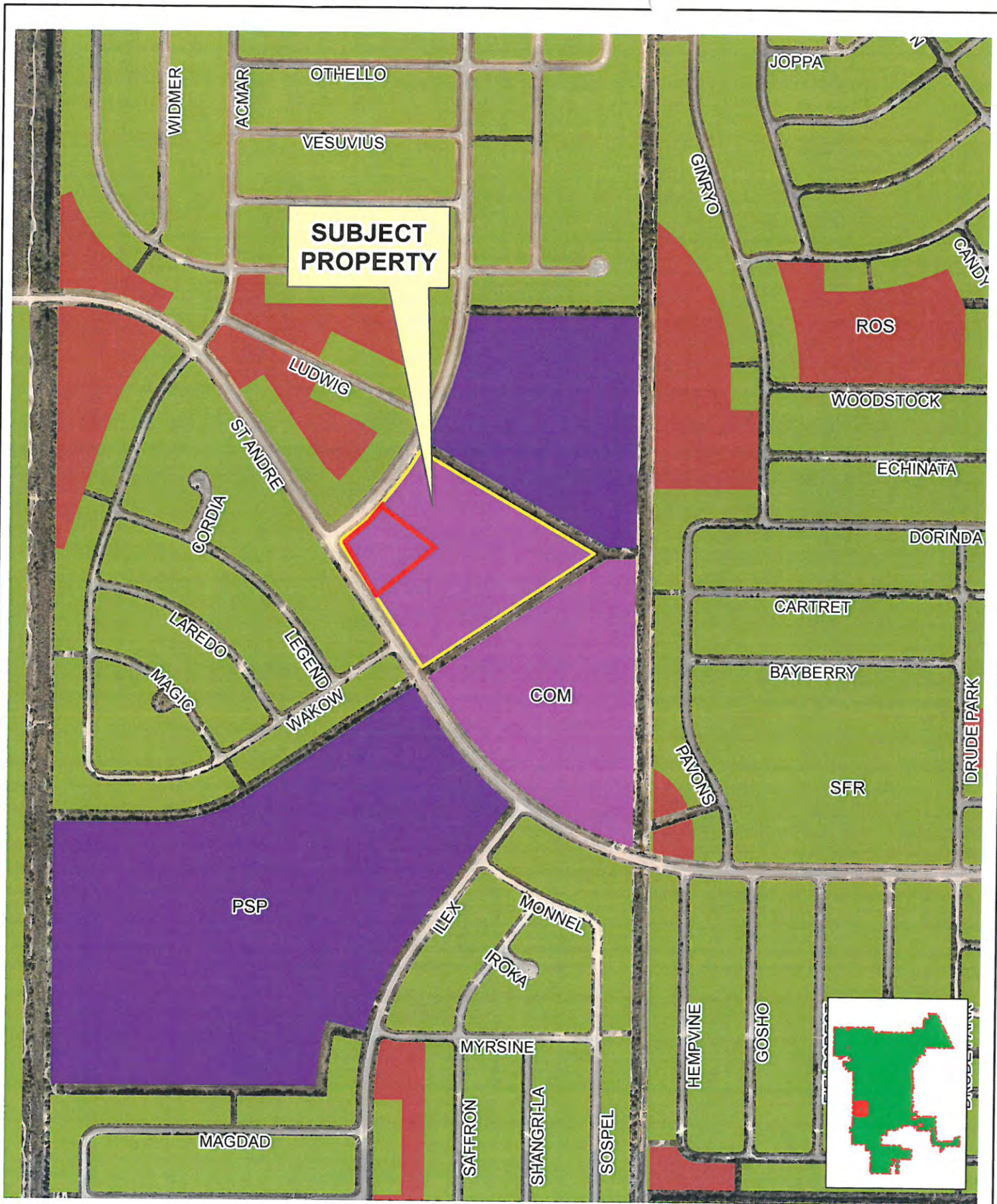
The subject property is not located within the Coastal High Hazard Zone or the current surge area.

Historic Resources:

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

STAFF CONCLUSION:

Motion to approve Case No. CP-9-2016, pursuant to Chapter 163, Florida Statutes

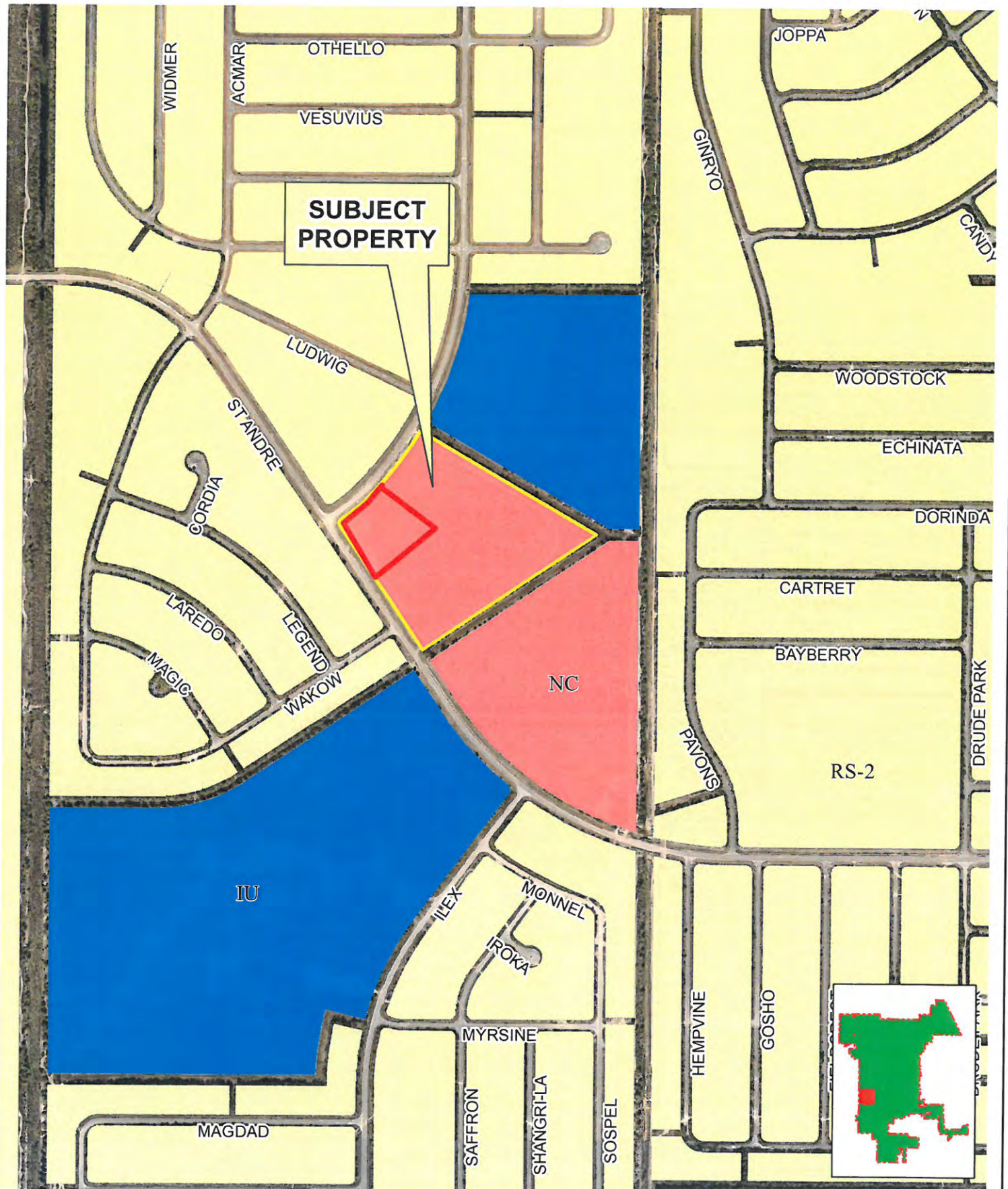


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-9-2016 & CPZ-9-2016

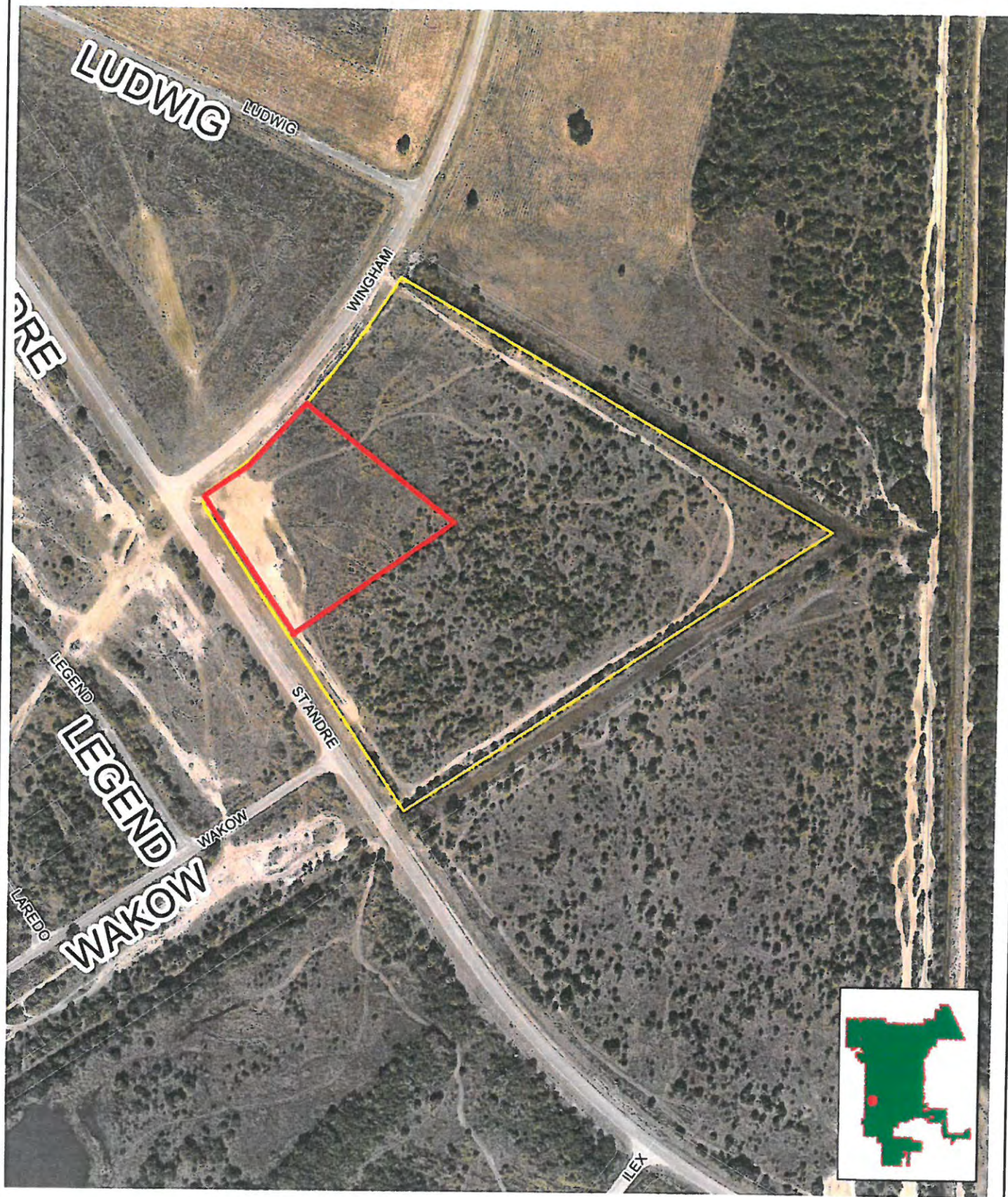


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Map created by the Land Development Division



CASE NO. CP-9-2016 & CPZ-9-2016



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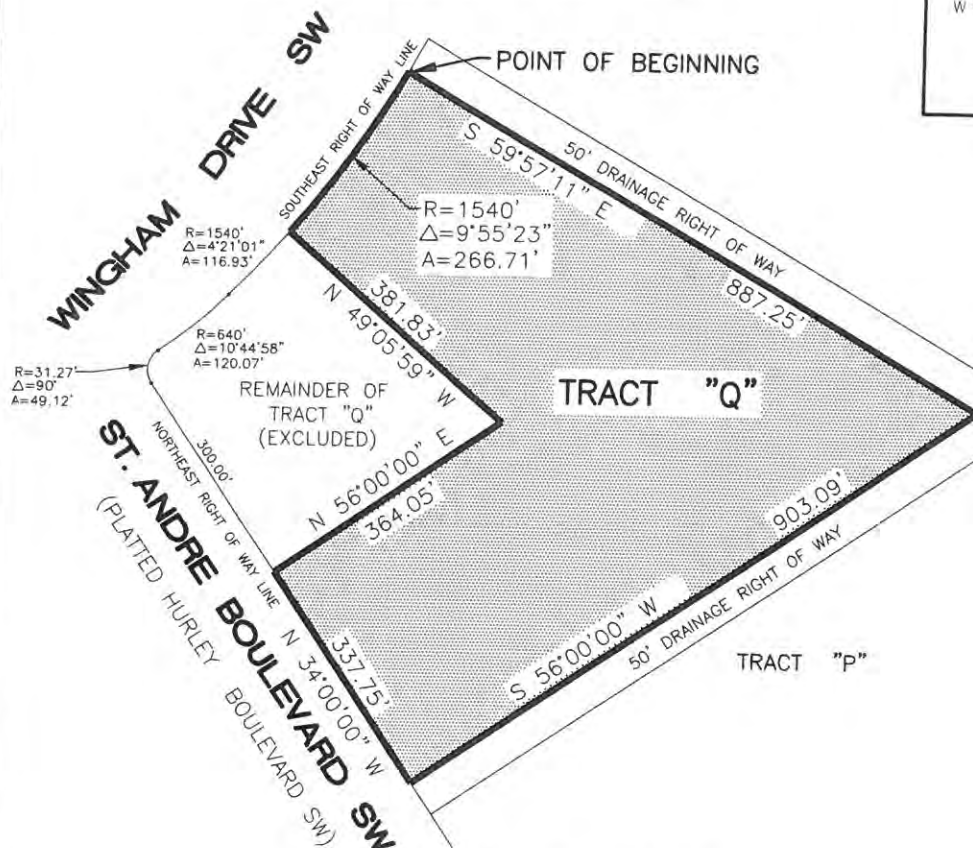


TAX PARCEL ID 29-36-34-KT-Q.0

SKETCH OF LEGAL DESCRIPTION PORTION OF TRACT "Q"



1"=200'



THIS IS NOT A SURVEY

LEGAL DESCRIPTION:

A portion of Tract "Q" Port Malabar Unit Fifty One, as described in Plat Book 23, Pages 104-118 of the public Records of Brevard County, Florida, less the Southwesterly 2.5 acres, more particularly described as follows:

Beginning at the North corner of said Tract "Q", said point also being the Southwest corner of a drainage Right of Way and also along the Southeast Right of Way line of Wingham Drive SW; Thence S 59°57'11" E along the Northeast line of said Tract "Q" a distance of 887.25 feet; Thence S 56°00'00" W along the Southeast line of said Tract "Q" a distance of 903.09 feet to the Northeast Right of Way of said St. Andre Boulevard SW, (platted Hurley Boulevard SW); Thence N 34°00'00" W along the Northeast Right of Way of said St Andre Boulevard SW, a distance of 337.75 feet; Thence departing said Right of Way run N 56°00'00" E a distance of 364.05 feet; Thence N 49°05'59" W, a radial line, a distance of 381.83 feet to the said Right of Way of Wingham Drive SW; Thence along the said Southeast Right of Way of Wingham Drive SW along a curve concave to the Northwest having a radius of 1540 feet, a central angle of 9°55'23", an arc distance of 266.71 feet, to the Point of Beginning.

Containing 9.48 Acres, more or less.

I HEREBY CERTIFY THAT THIS SKETCH MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

JOSEPH N. HALE PROFESSIONAL SURVEYOR AND MAPPER NO. 6366

SURVEY NOT VALID UNLESS IT IS EMBOSSED WITH SURVEYORS SEAL



CITY OF PALM BAY
1050 MALABAR ROAD, SW
PALM BAY, FLORIDA 32907
(321) 953-8996



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 Florida 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 _____
See Attached

SECTION 34 TOWNSHIP 29 RANGE 36
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 9.48 +/-
- 4) LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.): Commercial Use
- 5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE: _____
Industrial Use
- 6) PRESENT USE OF THE PROPERTY: Undeveloped Land
- 7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: No
- 8) HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:
Yes

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

Current land use designation does not permit the intended use

- 10) SPECIFIC USE INTENDED FOR PROPERTY: _____

Salvage Yard

- 11) THE FOLLOWING PROCEDURES AND ENCLOSURES ARE REQUIRED TO COMPLETE THIS APPLICATION FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP:

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

- | | |
|--|---|
| <input type="checkbox"/> Large Scale Map Amendment (10 acres or more) \$1,600.00 | <input type="checkbox"/> Text Amendment (Comp. Plan) \$1,600.00 |
| <input type="checkbox"/> Small Scale Map Amendment (Less than 10 acres) \$1,000.00 | <input type="checkbox"/> Special Amendment Cycle \$4,000.00 |

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

_____ 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). List shall be legible and the source of that information stated here: _____

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

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

_____ 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.

_____ 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** April 1, 2016
Printed Name of Applicant Stuart Buchanan, Growth Management Director

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

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

- PROPOSAL:** Rezoning from the NC, Neighborhood Commercial District to the HI, Heavy Industrial District.
- LOCATION:** Located at the SE corner of St. Andre Boulevard SW and Wingham Drive SW. Specifically, the subject property is a portion of Tract Q, of Port Malabar Unit 51, Section 34, Township 29, Range 36, Brevard County, Florida.
- APPLICANT:** City of Palm Bay, Growth Management Department

SITE DATA

PRESENT ZONING: NC, Neighborhood Commercial District

**LAND USE
DESIGNATION:** Commercial Use

ACREAGE: 9.48 acres

ADJACENT ZONING

& LAND USE:

- N** -- IU, Institutional Use District; Vacant Land
- E** -- NC; Neighborhood Commercial District; Vacant Land
- S** -- IU, Institutional Use District; Vacant Land
- W** -- NC; Neighborhood Commercial District; Vacant Land

WATER & SEWER: Well & Septic

FLOOD ZONE: Flood Zone AE

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Yes, subject to approval of CP-9-2016

BACKGROUND:

1. Located at the SE corner of St. Andre Boulevard SW and Wingham Drive SW. Specifically, the subject property is a portion of Tract Q, of Port Malabar Unit 51, Section 34, Township 29, Range 36, Brevard County, Florida.
2. The adjacent zoning and land uses are as follows:

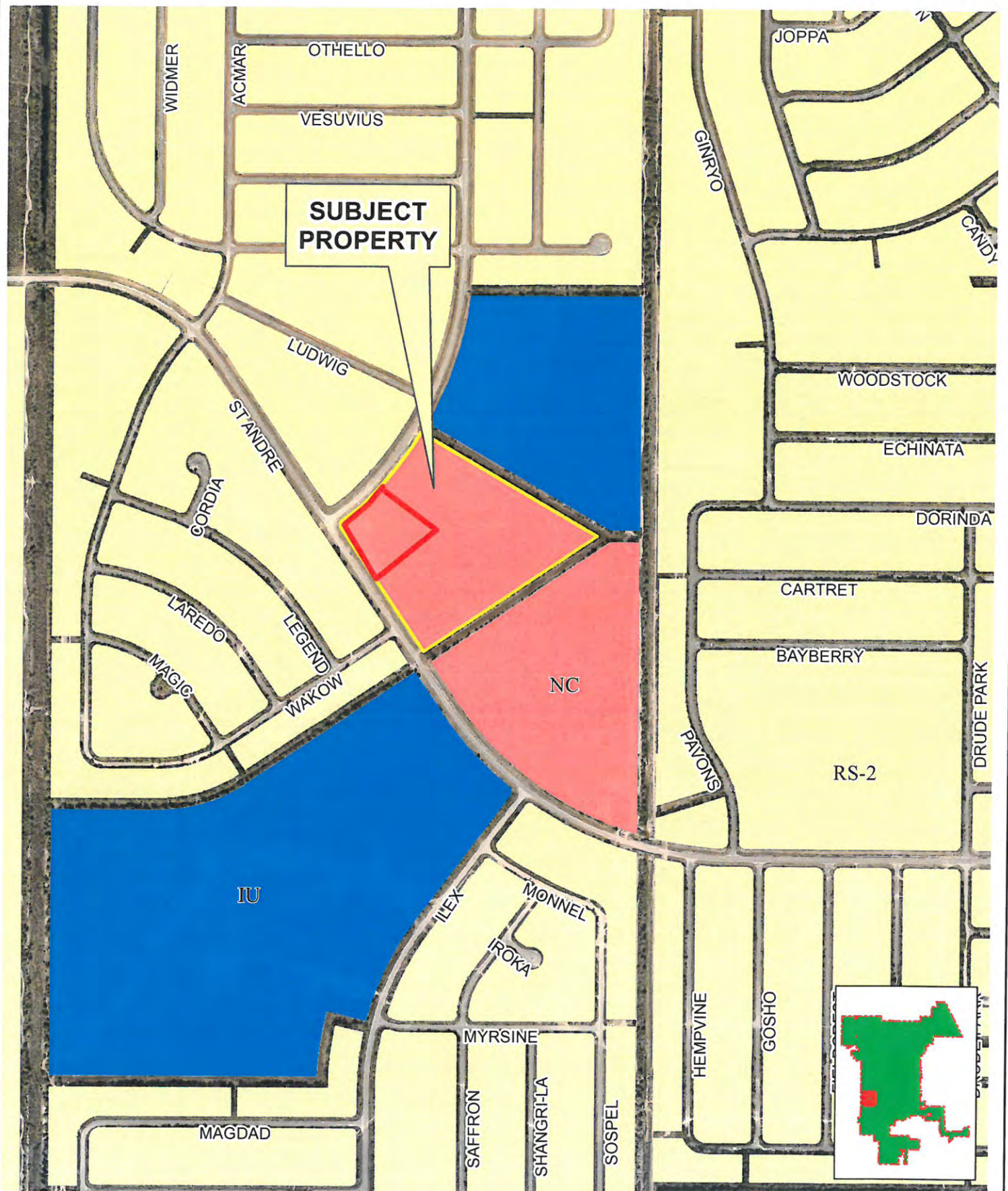
North: IU, Institutional Use District; Vacant Land
East: NC; Neighborhood Commercial District; Vacant Land
South: IU, Institutional Use District; Vacant Land
West: NC; Neighborhood Commercial District; Vacant Land
4. The applicant is requesting a rezoning from the NC, Neighborhood Commercial District to the HI, Heavy Industrial District. The applicant for this request is the City of Palm Bay's Growth Management Department.

ANALYSIS:

1. The provisions of this district are intended to apply to an area in close proximity to major transportation facilities and which can serve general manufacturing, storage and distribution needs of the city and region. Lot sizes and other restrictions are intended to minimize adverse impacts to adjacent properties.
2. The subject property is located at the intersection of two (2) collector roadways. Moreover, Wingham Drive is the proposed location of the future south leg of the St. John's Heritage Parkway. 2.5 acres (at the corner) of the parent parcel is to remain commercially zoned. The parcel contains a drainage ditch along its outside boundaries.
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 Industrial Use. The subject property is to be used for heavy industrial activities, which are permitted only in the HI District. The nearest home is more than 3,000 feet to the east.

STAFF CONCLUSION:

The Board and Council must determine if the requested zoning category is compatible with the requested Future Land Use category identified in Case No. CPZ-9-2016.

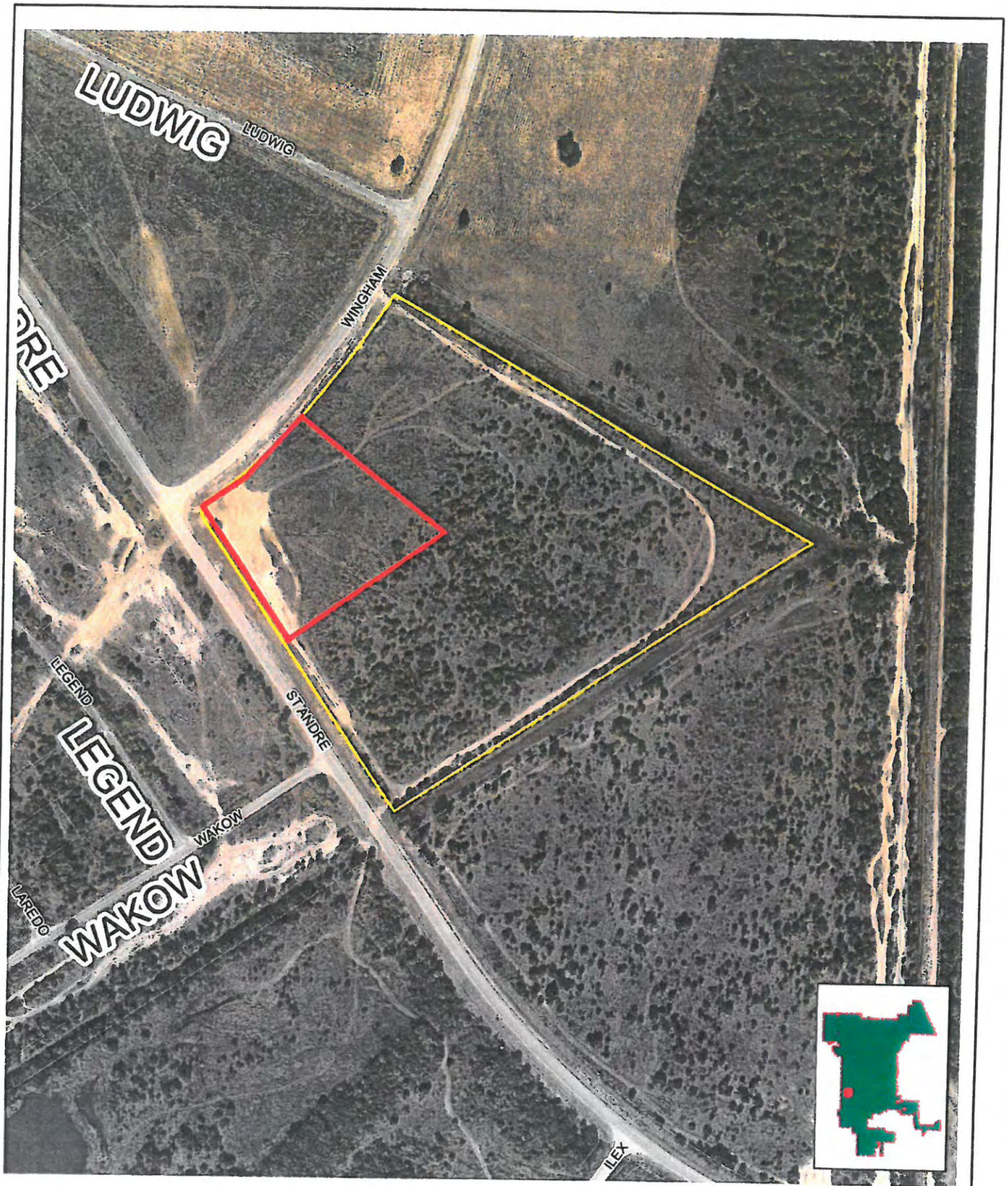


Map for illustrative purposes only. Not to be construed
as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-9-2016 & CPZ-9-2016



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

Map created by the Land Development Division.



TAX PARCEL ID 29-36-34-KT-Q.0



FLOODZONE DETERMINATION

Block Q WINGHAM DR SE at ST ANDRE BLVD

FLOODZONE AE

FLOOD INS. RATE MAP PANEL 0665 G

MAP NO.:12009C0665 G EFF DATE: MARCH 17, 2014



JIM WILLIAMS CFM
FLOODPLAIN ADMINISTRATOR
CITY OF PALM BAY

321-733-3042 willij@palmbayflorida.org

FLOODZONES

AE = BASE FLOOD ELEVATION (BFE) ESTABLISHED FLOOD INS. MANDATORY FOR FEDERALLY INSURED MORTGAGE
 A = NO BASE FLOOD ELEVATION (BFE) ESTABLISHED HIGHEST FLOOD INSURANCE RATE FLOOD INS. MANDATORY FOR FEDERALLY INSURED MORTGAGE



FW = FLOODWAY - NO CONSTRUCTION ALLOWED



X = AREA'S OUTSIDE 500 YEAR FLOODPLAIN
X-500 = AREA'S OF 500 YEAR FLOOD
.2 % CHANCE OF FLOODING IN ANY GIVEN YEAR

FEMA
LOMA - LOMR- OAS

LOMA

LOMR-F

OUT AS SHOWN

DECLINED

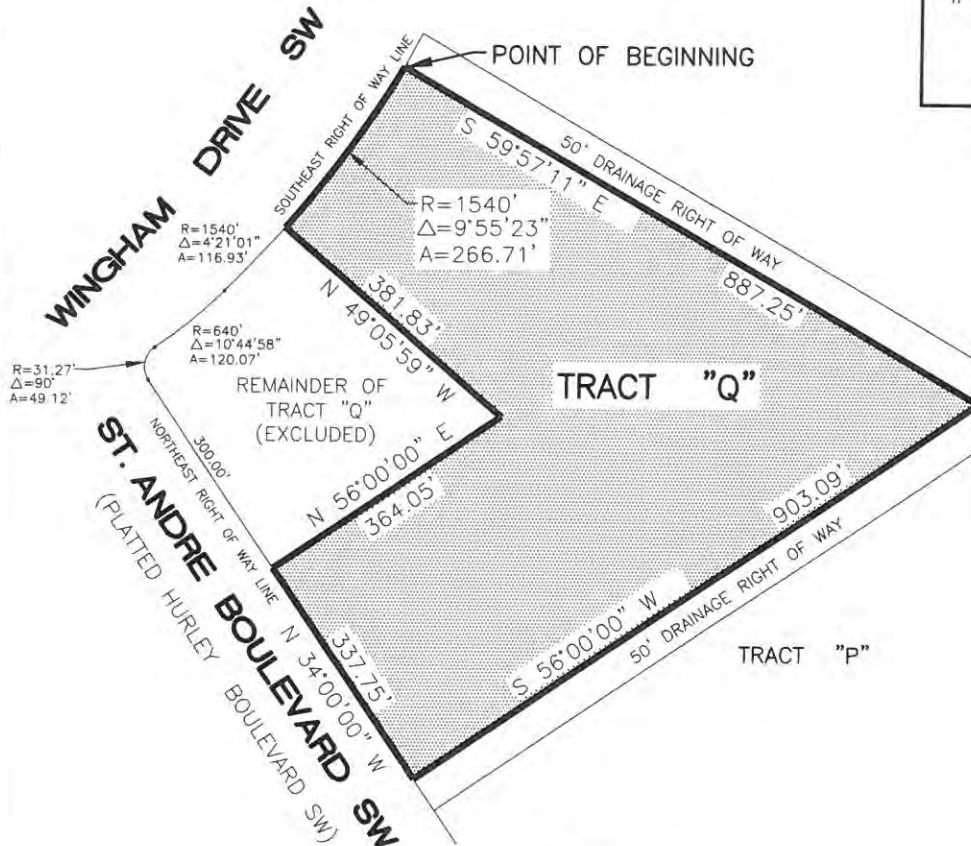
CASE NO.
LOMA DATE

X ZONES ARE NOT REQUIRED TO CARRY FLOOD INSURANCE, BUT QUALIFY FOR "PREFERRED RISK" POLICIES AND THE RATES ARE LOWER THAN "A" OR "AE" ZONES

SKETCH OF LEGAL DESCRIPTION PORTION OF TRACT "Q"



1"=200'



THIS IS NOT A SURVEY

LEGAL DESCRIPTION:

A portion of Tract "Q" Port Malabar Unit Fifty One, as described in Plat Book 23, Pages 104-118 of the public Records of Brevard County, Florida, less the Southwesterly 2.5 acres, more particularly described as follows:

Beginning at the North corner of said Tract "Q", said point also being the Southwest corner of a drainage Right of Way and also along the Southeast Right of Way line of Wingham Drive SW; Thence S 59°57'11" E along the Northeast line of said Tract "Q" a distance of 887.25 feet; Thence S 56°00'00" W along the Southeast line of said Tract "Q" a distance of 903.09 feet to the Northeast Right of Way of said St. Andre Boulevard SW, (platted Hurley Boulevard SW); Thence N 34°00'00" W along the Northeast Right of Way of said St Andre Boulevard SW, a distance of 337.75 feet; Thence departing said Right of Way run N 56°00'00" E a distance of 364.05 feet; Thence N 49°05'59" W, a radial line, a distance of 381.83 feet to the said Right of Way of Wingham Drive SW; Thence along the said Southeast Right of Way of Wingham Drive SW along a curve concave to the Northwest having a radius of 1540 feet, a central angle of 9°55'23", an arc distance of 266.71 feet, to the Point of Beginning.

Containing 9.48 Acres, more or less.

I HEREBY CERTIFY THAT THIS SKETCH MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

JOSEPH N. HALE PROFESSIONAL SURVEYOR AND MAPPER NO. 6366

SURVEY NOT VALID UNLESS IT IS EMBOSSED WITH SURVEYORS SEAL



CITY OF PALM BAY
1050 MALABAR ROAD, SW
PALM BAY, FLORIDA 32907
(321) 953-8996



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's Growth Management Department

ADDRESS 120 Malabar Road SE

CITY Palm Bay STATE Florida 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

See Attached

SECTION 34 TOWNSHIP 29 RANGE 36

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 9.48 +/-

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

5) ZONE CLASSIFICATION DESIRED (ex.: IU, LI, etc.): HI, Heavy Industrial

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

7) JUSTIFICATION FOR REZONING: HI District need for intended use

8) PRESENT USE OF THE PROPERTY: Undeveloped Land

9) INTENDED USE OF PROPERTY: Salvage Yard

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

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

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

CITY OF PALM BAY, FLORIDA
REZONING APPLICATION
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_____ 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: _____

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

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

_____ 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

April 1, 2016

Printed Name of Applicant

Stuart Buchanan, Growth Management Director

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