



AGENDA

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Regular Meeting No. 2016-08

August 3, 2016 – 7:00 P.M.

City Hall Council Chambers

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ADOPTION OF MINUTES:

1. Regular Meeting No. 2016-08; July 6, 2016

ANNOUNCEMENTS:

OLD BUSINESS:

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

A conditional use request to allow the expansion of an existing borrow pit in a GU, General Use Holding District.

Tax Parcels 1 and 9, Section 21, Township 30, Range 37, Brevard County, Florida, containing 244.42 acres, more or less. (Located west of and adjacent to Babcock Street SE, south of the Deer Run Subdivision)

2. CP-15-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A Comprehensive Plan Future Land Use Map small scale amendment from Recreation and Open Space Use to Single Family Residential Use and Commercial Use.

Tract E, Port Malabar Unit 48, Section 24, Township 28, Range 36, Brevard County, Florida, containing 4.54 acres, more or less. (Located at the southeast intersection of Rheine Road NW and Treu Terrace NW).

NEW BUSINESS:

1. V-21-2016 – ERIC HAMID

A variance request to waive the 1000-foot separation requirement by a maximum 208 feet for a proposed adult community residential home in an RS-2, Single Family Residential District, as provided for in Florida Statute, Title XXX, Chapter 419.001.

Lot 21, Block 202, Port Malabar Unit 7, Section 31, Township 28, Range 37, Brevard County, Florida, containing .25 acres, more or less. (Located at the northwest intersection of Deauville Avenue NE and Del Monte Street NE, specifically at 136 Deauville Avenue NE)

2. CP-21-2016 – WEST POINTE BABCOCK, LLC (STEPHEN BURCH)

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

A portion of Tax Parcel 506.1, Section 34, Township 29, Range 37, Brevard County, Florida, containing 4.41 acres, more or less. (Located at the southeast intersection of Babcock Street SE and Plantation Circle SE)

3. CPZ-21-2016 – WEST POINTE BABCOCK, LLC (STEPHEN BURCH)

A zoning amendment from an RR, Rural Residential District to a CC, Community Commercial District.

A portion of Tax Parcel 506.1, Section 34, Township 29, Range 37, Brevard County, Florida, containing 4.41 acres, more or less. (Located at the southeast intersection of Babcock Street SE and Plantation Circle SE)

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.

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Any aggrieved or adversely affected person desiring to become a party in the quasi-judicial proceeding shall provide written notice to the city clerk which notice shall, at a minimum, set forth the aggrieved or affected person's name, address, and telephone number, indicate how the aggrieved or affected person qualifies as an aggrieved or affected person and indicate whether the aggrieved or affected person is in favor of or opposed to the requested quasi-judicial action. The required notice must be received by the clerk no later than five (5) business days at the close of business, which is 5 p.m., before the hearing. (§ 59.03, Palm Bay Code of Ordinances)

In accordance with the Americans with Disabilities Act, persons needing special accommodations for this meeting shall, at least 48 hours prior to the meeting, contact the Land Development Division at (321) 733-3042 or Florida Relay System at 711.

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING NO. 2016-07

Held on Wednesday, July 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.

Ms. Khalilah Maragh led the Pledge of Allegiance to the Flag.

ROLL CALL:

CHAIRPERSON:	Philip Weinberg	Present
VICE CHAIRPERSON:	Wendall Stroder	Absent (Excused)
MEMBER:	Leeta Jordan	Present
MEMBER:	Khalilah Maragh	Present
MEMBER:	William Pezzillo	Present
MEMBER:	Rainer Warner	Present
MEMBER:	Thomas "Woody" Woodrum	Present
MEMBER:	Michele Quinn (School Board Appointee)	Present

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. 2016-07. Motion by Ms. Maragh, seconded by Ms. Jordan 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.

2. Mr. Murphy announced that Ms. Kim Rezanka, representative for Case CU-1-2016 (Roy Wayne Yates), had consented to the opposing counsel's request for a continuance of Case CU-1-2016. Board action was required.

Motion by Ms. Jordan, seconded by Mr. Pezzillo to continue Case CU-1-2016 to the August 3, 2016 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

3. Mr. Murphy announced that Case CP-15-2016 had been administratively continued to the August 3, 2016 Planning and Zoning Board meeting. No board action was required.

OLD BUSINESS:

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

Mr. Loring presented the staff report for Case V-9-2016. The applicant had requested a variance to reduce the minimum width requirement of an existing off-street parking area from 10-feet to 9-feet in a CC, Community Commercial District as established by Section 185.140(B)(2) 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 of the City of Palm Bay Code of Ordinances.

Mr. Pezzillo commented that a reduced 9-foot wide parking space would make it difficult to get in and out of a vehicle. Mr. Loring added that the variance would permit an overall gain of about nine parking spaces for the site; however, staff's position was that the property was currently in compliance, but the variance would create a non-compliant lot.

Mr. Jack Spira, attorney with Spira, Beadle & McGarrell, P.A. (representative for the applicant) explained that a grocery store in the shopping center had grown significantly and was in need of additional parking spaces. The property to the north of the site had supplemented the parking until the property was lost by the applicant in foreclosure. Nine-foot wide parking spaces were not uncommon and were allowed in the City of Melbourne under certain circumstances. The board could also stipulate that the variance would cease when the grocery store was no longer a tenant.

Mr. Woodrum inquired whether diagonal spaces or some other type of parking configuration had been considered for the site. Mr. Spira answered that the proposed variance was determined by the applicant's architectural engineer to be the best solution for maximizing the property.

Mr. Pezzillo remarked on how the grocery store presently occupied the entire shopping center which included the use of all parking spaces.

Ms. Maragh questioned what the applicant's plans were for the site beyond the nine spaces. Mr. Spira replied that other options for the grocery store might need to be considered in the future.

Mr. Warner commented that the two parking spaces proposed for the north side of the parking lot appeared to encroach the adjacent lot. Mr. Spira explained that an agreement was being negotiated with the north church site. Mr. Weinberg inquired whether the agreement would eliminate the need for the variance. Mr. Spira stated that the agreement would not resolve the parking issue as more parking spaces were needed.

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

Mr. Pezzillo did not believe the maximum gain of nine parking spaces warranted the variance.

Motion by Mr. Pezzillo to submit Case V-9-2016 to City Council for denial of a variance to reduce the minimum width requirement of an existing off-street parking area from 10-feet to 9-feet in a CC, Community Commercial District as established by Section 185.140(B)(2) of the Palm Bay Code of Ordinances. The motion failed for lack of a second.

Motion by Mr. Woodrum, seconded by Ms. Jordan to submit Case V-9-2016 to City Council for approval of a variance to reduce the minimum width requirement of an existing off-street parking area from 10-feet to 9-feet in a CC, Community Commercial District as established by Section 185.140(B)(2) of the Palm Bay Code of Ordinances.

Ms. Maragh stated that she would have preferred to have seen the parking alternatives that had been discussed for the site.

Mr. Weinberg stated that he could not support the request as the nine spaces would not make much difference to the parking situation, and reducing the width of the parking spaces to 9-feet wide could also cause a hazardous condition in the parking lot.

Motion by Mr. Woodrum, seconded by Ms. Jordan to submit Case V-9-2016 to City Council for approval of a variance to reduce the minimum width requirement of an existing off-street parking area from 10-feet to 9-feet in a CC, Community Commercial District as established by Section 185.140(B)(2) of the Palm Bay Code of Ordinances. The motion was denied with members voting as follows.

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

2. V-13-2016 - DIMITRIOS MAKOS

Mr. Murphy informed the board that the resubmittal of Case V-13-2016 was at the direction of City Council for board deliberation as the applicant had failed to appear for the City Council hearings. He synopsized that on April 6, 2016, the board recommended the case for approval for 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. The encroachment of the home into the side corner setback by 2.3-feet was inadvertently omitted from the motion. However, the fence ordinance had since been revised to establish 15-foot side corner setbacks for fences over four-feet in height. Staff was recommending approval of the home encroachment and denial of the fence encroachment.

The applicant, Mr. Dimitrios Makos, was not present.

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

Motion by Mr. Warner, seconded by Ms. Maragh to submit Case V-13-2016 to City Council for approval of a variance to allow an existing home to encroach 2.3 feet into the 25-foot side corner setback and denial of 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 August 4, 2016.

NEW BUSINESS:

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

Case CU-1-2016 was discussed under Announcements, Item No. 2.

2. CU-18-2016 – CHURCH OF OUR SAVIOR (REV. LOREN FOX)

Mr. Murphy presented the staff report for Case CU-18-2016. The applicant had requested a conditional use to allow a proposed private school to locate in an existing church in an IU, Institutional Use District. The board must determine if Case CU-18-2016 met the criteria of Section 185.087 of the Palm Bay Code of Ordinances.

Rev. Loren Fox (applicant) explained that Lifeline Academy planned to operate a school on the church's property for approximately 25 to 30 students, Kindergarten through 12th grade. The Citizen Participation Plan (CPP) meeting was attended by a couple who were long-time residents of the area and were pleased with the proposal.

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

Motion by Mr. Pezzillo, seconded by Ms. Maragh to submit Case CU-18-2016 to City Council for approval of a conditional use to allow a proposed private school to locate in an existing church in an IU, Institutional Use District.

Mr. Warner suggested imposing a one-way flow of traffic on the site.

Motion by Mr. Pezzillo, seconded by Ms. Maragh to amend the motion to stipulate that the site would have a one-way flow of traffic as depicted in the staff report.

Mr. Warner noted that the stipulation would be for the school hours.

Rev. Fox was opposed to the condition. He described how the safety of the children had been addressed by placing the school parking area on the opposite side of the driveway so that the students would not need to pass through vehicles on the site to access the building. The church had also accommodated Palm Bay Elementary School for the past two years without issue. He felt that the stipulation would cause confusion during Sunday morning service hours and after school activity hours.

Mr. Weinberg did not believe the stipulation was necessary for a maximum of 30 students.

Mr. Stokes cautioned the board against handicapping the church. The stipulation could confuse the school's parents who were also church parishioners.

Mr. Pezzillo rescinded the amendment to the motion.

A vote was called on the original Motion by Mr. Pezzillo, seconded by Ms. Jordan to submit Case CU-18-2016 to City Council for approval of a conditional use to allow a proposed private school to locate in an existing church in an IU, Institutional Use District. The motion carried with members voting unanimously.

City Council will hear Case CU-18-2016 on August 4, 2016.

3. CP-15-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Case CP-15-2016 was discussed under Announcements, Item No. 3.

4. CP-16-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case CP-16-2016. The applicant had requested a Comprehensive Plan Future Land Use Map small scale amendment from Recreation and Open Space Use to Single Family Residential Use. Staff recommended Case CP-16-2016 for approval.

The sale of City surplus properties was to fund road improvements.

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

Motion by Ms. Jordan, seconded by Ms. Maragh to submit Case CP-16-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map small scale amendment from Recreation and Open Space Use to Single Family Residential Use. The motion carried with members voting unanimously.

City Council will hear Case CP-16-2016 on August 4, 2016.

5. CP-17-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case CP-17-2016. The applicant had requested a Comprehensive Plan Future Land Use Map small scale amendment from Recreation and Open Space Use to Single Family Residential Use. Staff recommended Case CP-17-2016 for approval.

The sale of City surplus properties was to fund road improvements.

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

Motion by Mr. Pezzillo, seconded by Ms. Jordan to submit Case CP-17-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map small scale amendment from Recreation and Open Space Use to Single Family Residential Use. The motion carried with members voting unanimously.

City Council will hear Case CP-17-2016 on August 4, 2016.

6. CP-18-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case CP-18-2016. The applicant had requested a Comprehensive Plan Future Land Use Map small scale amendment from Recreation and Open Space Use to Single Family Residential Use. Staff recommended Case CP-18-2016 for approval.

The sale of City surplus properties was to fund road improvements.

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

Motion by Mr. Pezzillo, seconded by Ms. Maragh to submit Case CP-18-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map small scale amendment from Recreation and Open Space Use to Single Family Residential Use. The motion carried with members voting unanimously.

City Council will hear Case CP-18-2016 on August 4, 2016.

7. CP-19-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case CP-19-2016. The applicant had requested a Comprehensive Plan Future Land Use Map small scale amendment from Conservation Use to Commercial Use. Staff recommended Case CP-19-2016 for approval.

The sale of City surplus properties was to fund road improvements.

Mr. Buchanan stated that the contracted purchaser of the 5-acre site was required to install an oversized stormwater system to compensate for the percolation currently absorbed by the acreage in its natural state. The overall size of the property was 31 acres. Two restaurants were planned for the 5-acre site, and the applicant might provide a privacy pedestrian entrance onto the site if requested by the Woodside Condominium association.

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

Mr. James Rienzo (Director at Woodside Condominiums) spoke against the request. Runoff from the site and the retaining wall caused continual flooding at Woodside Condominiums. The commercial land would negatively affect the peace and quiet of the residential area, and a private gate would allow strangers to cut through the community. He felt there was already plenty of restaurants in the area.

Mr. Raymond Cintron (resident of Woodside Condominiums) spoke against the request. His concerns were with the commercial impact on the peace and tranquility of the residential areas and declining property values. His suggestion was to install a large buffer to protect the east and west residential communities and a traffic signal at the Riviera Drive NE and Palm Bay Road NE intersection. Numerous accidents and fatalities had occurred at the intersection.

Ms. Jackie Mullen (President of Malibu Villas Homeowners Association) spoke against the request. Her concerns were with the year-round flooding caused by the site, the eroding retaining wall, the need for a traffic signal to alleviate traffic problems, and the undesirable noise and odors that would come from the proposed restaurants. Residents of the three surrounding communities had purchased their homes believing the subject property would remain conservation land.

Mr. James Marahrens (resident at Oakwood Villas) spoke against the request. He was concerned about the flooding of his home, and he did not consider bringing restaurants into the area a priority.

Ms. Diana Silva (resident at Malibu Villas) spoke against the request. She said that flooding from the subject site occurred with every rain and had to be pumped from her development, which drained in front of her property. A traffic signal at the Riviera Drive and Palm Bay Road intersection was crucial for safety.

Ms. Lynda Patnood (member of Oakwood Villas Board of Directors) spoke against the request. She commented on how the conservation land was peaceful and full of wildlife. She said that fences in Oakwood Villas were damaged as her community was treated as a short cut to Palm Bay Road. More foot traffic to access the proposed restaurants was not desired, and additional traffic and drainage would harm the residential area.

Mr. Brad Jarvis (property manager for Malibu Villas Townhouse Property Owners Association) spoke against the request. He explained that although Malibu Villas had its own drainage system, the development was impacted by the higher elevation of the subject property. A pump was used to alleviate the flooding from the subject site by piping the water into Malibu Villas' onsite drainage pond. He was concerned about the continual drainage into his development from the subject site and from the City's portion of the acreage.

Mr. Joe Shulga (resident of Malibu Villas) spoke against the request. He was concerned that the sale of the site would cause a decline in surrounding residential property values. He felt that the lush, conservation land should not be changed to build restaurants.

Ms. Barbara Campbell (resident of Woodside Condominiums) spoke against the request. Her property faced the subject site, and she had purchased her property years ago with the understanding that the conservation land would be a sanctuary for birds and wildlife.

The floor was closed for public comments.

In response to comments from the audience, Mr. Buchanan informed the board that a funding application had been filed with Brevard County for signalization at the intersection of Riviera Drive and Palm Bay Road, and dedicated Transportation Impact Fees collected for the subject site would help fund a signal on Palm Bay Road where the driveway for the restaurants would be located. He explained that the private gate for the community to access the site would typically be by keycard if the access was agreed upon. A shared, oversized stormwater retention pond would overlap the site and the remaining conservation acreage to handle drainage from the restaurants and the surrounding properties. The Public Works Department would be notified about the standing water on the east side of the retention wall. He invited the homeowners associations to offer their input on the design of the proposed buffer area during the site plan review stage.

Ms. Maragh wanted to protect the area residents from viewing unsightly structures behind the restaurants, and she wanted a natural buffer to shield the residential areas. Mr. Buchanan responded that staff could incorporate her recommendations and would ensure that a natural buffer remained around the perimeter of the site. Mr. Stokes reminded the board to keep in mind that a view was not owned.

Mr. Weinberg noted that staff would address site conditions during site plan review and the residents would also be allowed to provide input.

Motion by Ms. Jordan, seconded by Mr. Pezzillo to submit Case CP-19-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map small scale amendment from Conservation Use to Commercial Use. The motion carried with members voting as follows:

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

City Council will hear Case CP-19-2016 on August 4, 2016.

8. CPZ-19-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case CPZ-19-2016. The applicant had requested a zoning amendment from an FC, Floodway Conservation District to a CC, Community Commercial District. The board must determine if the requested zoning category was compatible with the requested land use category identified in Case CPZ-19-2016.

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

Ms. Maragh wanted to confirm that just the 5 acres of the 31-acre parcel would be rezoned. Mr. Buchanan confirmed that this was correct.

Motion by Ms. Jordan, seconded by Mr. Pezzillo to submit Case CPZ-19-2016 to City Council for approval of a zoning amendment from an FC, Floodway Conservation District to a CC, Community Commercial District. The motion carried with members voting as follows:

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

City Council will hear Case CPZ-19-2016 on August 4, 2016.

A revision to the vote for Case CPZ-19-2016 occurred under Other Business, Item 1.

9. CP-20-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case CP-20-2016. The applicant had requested a Comprehensive Plan Future Land Use Map small scale amendment from Recreation and Open Space Use and Single Family Residential Use to Commercial Use. Staff recommended Case CP-20-2016 for approval.

The sale of City surplus properties was to fund road improvements.

Mr. Buchanan noted that the east portion of the site would be developed commercially, and a right-in deceleration lane would be constructed on the narrow, west portion of the property. The contracted purchaser would be responsible for constructing the deceleration lane.

Mr. Weinberg inquired about the intended use of the site. Mr. Buchanan stated that an office or a convenience store were under consideration.

The floor was opened and closed for public comments and there was one letter of opposition in the file.

Motion by Ms. Jordan, seconded by Mr. Pezzillo to submit Case CP-20-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map small scale amendment from Recreation and Open Space Use and Single Family Residential Use to Commercial Use. The motion carried with members voting unanimously.

City Council will hear Case CP-20-2016 on August 4, 2016.

10. CPZ-20-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case CPZ-20-2016. The applicant had requested a zoning amendment from an RS-2, Single Family Residential District to a CC, Community Commercial District. Staff recommended Case CP-20-2016 for approval.

The floor was opened and closed for public comments and there was one letter of opposition in the file.

Motion by Ms. Jordan, seconded by Mr. Pezzillo to submit Case CPZ-20-2016 to City Council for approval of a zoning amendment from an RS-2, Single Family Residential District to a CC, Community Commercial District. The motion carried with members voting unanimously.

City Council will hear Case CPZ-20-2016 on August 4, 2016.

11. T-19-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case T-19-2016. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 184: Subdivisions, to modify Section 184.04 Definitions; to modify Section 184.21 Sidewalks/Pedestrian Ways to allow developments to bond for future sidewalks; and to create Section 184.35 Minor Subdivisions to establish provisions for the division of parcels into no more than six contiguous lots. Staff recommended Case T-19-2016 for approval.

Mr. Buchanan explained that the requested amendment would permit sidewalks to be bonded for construction at one time and for minor subdivisions of no more than six contiguous lots to be administratively approved.

Ms. Maragh asked about the timeframe for sidewalk bonds. Mr. Buchanan replied that a developer must post bond prior to the issuance of the certificate of occupancy.

Ms. Jordan inquired whether minor subdivisions would have a minimum lot size requirement. Mr. Buchanan explained that the minimum lot size for the existing zoning district would apply.

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

Motion by Mr. Pezzillo, seconded by Ms. Maragh to submit Case T-19-2016 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 184: Subdivisions, to modify Section 184.04 Definitions; to modify Section 184.21 Sidewalks/Pedestrian Ways to allow developments to bond for future sidewalks; and to create Section 184.35 Minor Subdivisions to establish provisions for the division of parcels into no more than six contiguous lots. The motion carried with members voting unanimously.

City Council will hear Case T-19-2016 on August 4, 2016.

12. T-20-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case T-20-2016. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 171: Fair Share Impact Fees, Section 171.50 Water and Wastewater Impact Fees, in order to reflect the annual increase in Water and Wastewater capital charges (impact fees) and recovery usage fees for Fiscal Year 2016-2017 and to change the effective dates for the impact fees and recovery usage fees to October 1, 2016. Staff recommended Case T-20-2016 for approval.

Mr. Buchanan stated that the proposed amendment was being presented on behalf of the Utility Department to increase the waste water capital charges for Fiscal Year 2016-2017.

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

Motion by Mr. Pezillo, seconded by Ms. Jordan to submit Case T-20-2016 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 171: Fair Share Impact Fees, Section 171.50 Water and Wastewater Impact Fees, in order to reflect the annual increase in Water and Wastewater capital charges (impact fees) and recovery usage fees for Fiscal Year 2016-2017 and to change the effective dates for the impact fees and recovery usage fees to October 1, 2016. The motion carried with members voting unanimously.

City Council will hear Case T-20- 2016 on August 4, 2016.

OTHER BUSINESS:

1. As the board had no objection, at Mr. Woodrum's request, his vote for Case CPZ-19-2016 under New Business, Item No. 8, was changed to "Nay" to indicate the following:

Mr. Weinberg	Aye
Ms. Jordan	Aye
Ms. Maragh	Nay
Mr. Pezillo	Aye
Mr. Warner	Aye
Mr. Woodrum	Nay

ADJOURNMENT:

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

Philip Weinberg, CHAIRMAN

Attest:

Chandra Powell, SECRETARY



DATE: July 6, 2016
CASE #: CU-1-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

- PROPOSAL:** A conditional use request to allow the expansion of an existing borrow pit in a GU, General Use Holding District.
- LOCATION:** Tax Parcels 1 and 9, Section 21, Township 30, Range 37, Brevard County, Florida. (Located west of and adjacent to Babcock Street SE, south of the Deer Run Subdivision)
- APPLICANT:** Roy Wayne Yates (Kimberly Rezanka, Esquire, Representing)

SITE DATA

PRESENT ZONING: AU, Agricultural Residential and AGR, Agricultural (Brevard County)

ACREAGE: 244.42 acres +/-

DENSITY: N/A

ADJACENT ZONING

& LAND USE:

- N** -- AU, Agricultural Residential; Deer Run Subdivision
- E** -- AU, Agricultural Residential; Babcock Street SE
- S** -- GU, General Use; Vacant Land
- W** -- GU, General Use; Vacant Land

WATER & SEWER: Private Well & Septic

FLOOD ZONE: Floodzones X; X-500 and AE

COMPLIANCE WITH THE

COMPREHENSIVE PLAN: Yes, subject to adoption of Ordinance 2016-10 (Case No. CP-1-2016)

BACKGROUND:

1. The subject property is Tax Parcels 1 and 9, Section 21, Township 30, Range 37, Brevard County, Florida. The land is located west of and adjacent to Babcock Street SE, south of the Deer Run Subdivision.
2. The current zoning is AU, Agricultural Residential and AGR, Agricultural (Brevard County). The applicant applied for the GU, General Use Holding District, a City of Palm Bay zoning category. City Council approved that request at RCM 2016-11 (Ordinance No. 2016-11). City Council also approved a request to adopt the Rural Single Family Use future land use category (Ordinance No. 2016-10) at the same meeting. They also approved the applicant's request to annex the 244.42-acre property into the City of Palm Bay. Final adoption of these ordinances is expected to be heard by City Council in August.

The surrounding zoning and land uses are as follows:

North: AU, Agricultural Residential; Deer Run Subdivision
South: GU, General Use; Vacant Land
East: AU, Agricultural Residential; Babcock Street SE
West: GU, General Use; Vacant Land

3. The applicant is requesting conditional use approval to allow additional mining of land that contains an existing borrow pit. This approval is required per Section 185.030 (D)(8) of the Palm Bay Code of Ordinances. The applicant for this request, Roy Wayne Yates, will be represented by Kimberly Rezanka, Esquire.

ANALYSIS:

The property has an existing 5-acre borrow pit and intends to expand the mining operation to other parts of the property. Specifically, areas of no more than 30 acres in size will be mined in stages. The method of excavation will include the use of backhoes to remove the cemented coquina and sand. Dewatering pumps will be utilized to keep the pits from filling with ground water. The total area of land to be mined is anticipated to be approximately 128 acres. The process will be governed by a Consumptive Use Permit issued by the St. Johns River Water Management District.

CODE REQUIREMENTS:

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

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

Access to the site will be directly from Babcock Street, using an existing driveway that is located along the southern edge of the property. A right-turn or deceleration lane exists and provides safe ingress to the property.

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

Off-street parking and loading areas are located along the south and southwest portions of the property. These areas are approximately 1,500 feet from the nearest residential property.

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

Potable water and central sewer is not required for this operation. The land is supplied with electrical power.

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

A minimum buffer distance of 500 feet from the north edge of the northern-most borrow pit to the north property line is proposed. There is an existing Florida Power & Light right-of-way (ROW) of approximately 110 feet and an undeveloped 50-foot road ROW that separates the property from the Deer Run subdivision to the north. There is also an existing drainage distance that separates the property from the subdivision. As such, it does not appear that additional screening and/or buffering is warranted.

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

No signs or lighting plans have been submitted with this request. The mining will be a daytime operation, and thus, lighting is not an anticipated need.

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

The yards and open space requirements of the GU Zoning District have been met. Additional yard areas imposed by Chapter 175 have also met observed.

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

The number of people working on the borrow pit operation will be limited to 10-15 equipment operators during excavation and hauling of material. Activities will take

place during daylight hours only; dewatering will be limited to no more than 12 hours per day; and no work will take place on Sundays.

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

The haul road, parking area and storage of materials will take place in the southern reaches of the property, as far from the residential subdivision located north of the property. The haul road is constructed of stabilized materials, which will limit dust and particulate generation. Additionally, a water truck will be present on site for further control of dust. It shall be noted that the haul route and material storage area is located approximately 2,000 feet from the existing residences.

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

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

2. In addition to the General Requirements and Conditions of Section 185.087, the request must adhere to the applicable requirements of Chapter 175 of the Palm Bay Code of Ordinances. Those requirements are listed below. The applicant has addressed these items with the attached application and supplemental material included in this staff report.

Section 174.04 Approval Required.

- (A) The name and address of the person seeking the permit;
- (B) A legal description of the property;
- (C) A map showing the exact location and boundaries of the tract of land in question, to include the location and type of trees existing thereon;
- (D) Drawings to scale by a registered, professional engineer showing the dimensions of the proposed excavation to be undertaken;
- (E) The applicant shall provide a topographical survey of the property including the location of water courses or water bodies;
- (F) The exact location and means of vehicular ingress and egress to the proposed excavation;
- (G) A detailed statement and plan for the proposed reclamation and future use of the property at the conclusion of the excavation operation;
- (H) A detailed statement indicating the nature, purpose and method of the proposed excavation;
- (I) An acknowledged written consent of the owner of the premises and mortgagee, if any, including their addresses;

(J) A proposed and precise vehicular route indicating the streets and roadways over which all vehicles utilized to remove and transport the materials removed from any excavation shall travel, together with a statement from the city's engineering director that such streets and roadways are capable of accommodating such vehicles. A statement granting permission to use such roads from the appropriate county, city and state officials shall also be included; and

(K) An affidavit from a person authorized to act on behalf of the applicant stating both a familiarity with all federal and state statutes, rules and regulations applicable to the project and that the applicant has fully complied with them.

3. Should the conditional use request be approved by City Council no mining activities outside of the existing 5-acre borrow pit will be permitted until such time as administrative site plan approval is granted and all applicable building permits obtained.

STAFF CONCLUSION:

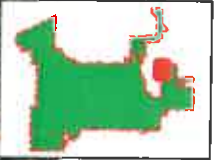
City Staff was unable to find the request non-compliant with applicable city codes. The Planning and Zoning Board and City Council shall determine if the request meets the criteria of Sections 185.087 and 175.04, of the Palm Bay Code of Ordinances.



LOCATION MAP



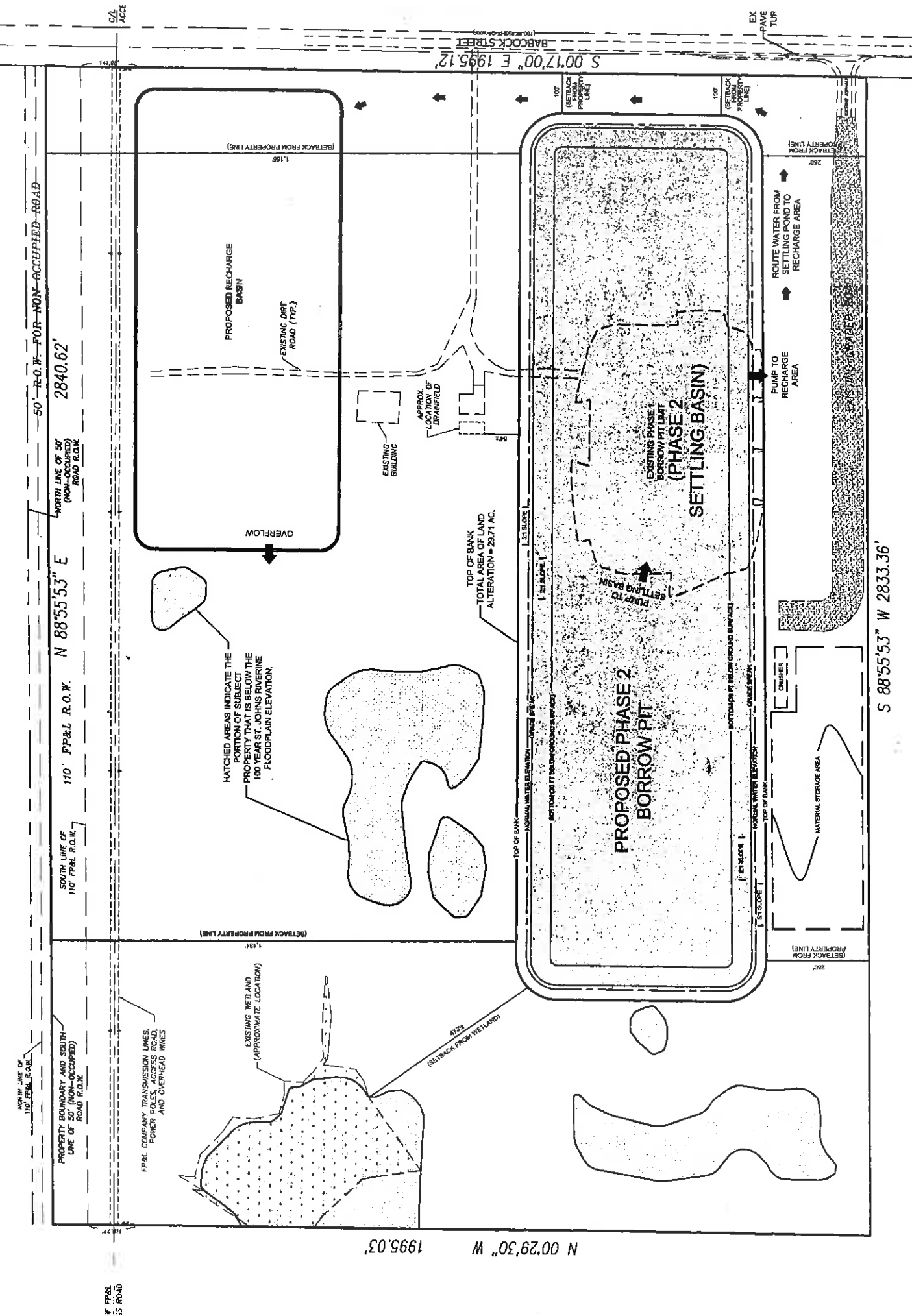
CU-1-2016



CASE NO. CU-1-2016 ROY WAYNE YATES



This is a preliminary map. It is not to be used for any purpose other than to show the location of the property. It is not to be used for any other purpose.



F F&L
15 ROAD

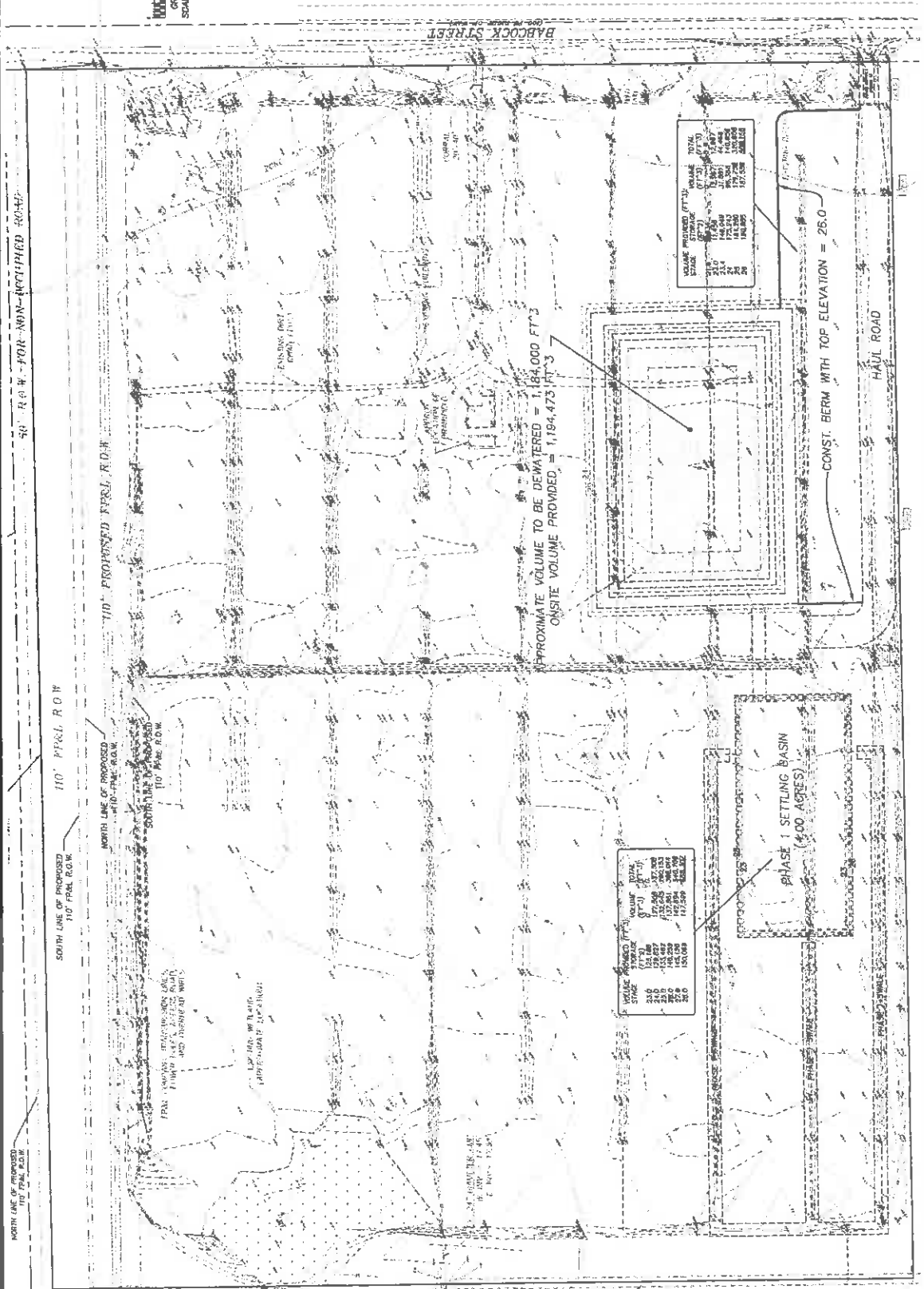
N 00°29'30" W 1995.03'

S 88°55'53" W 2833.36'

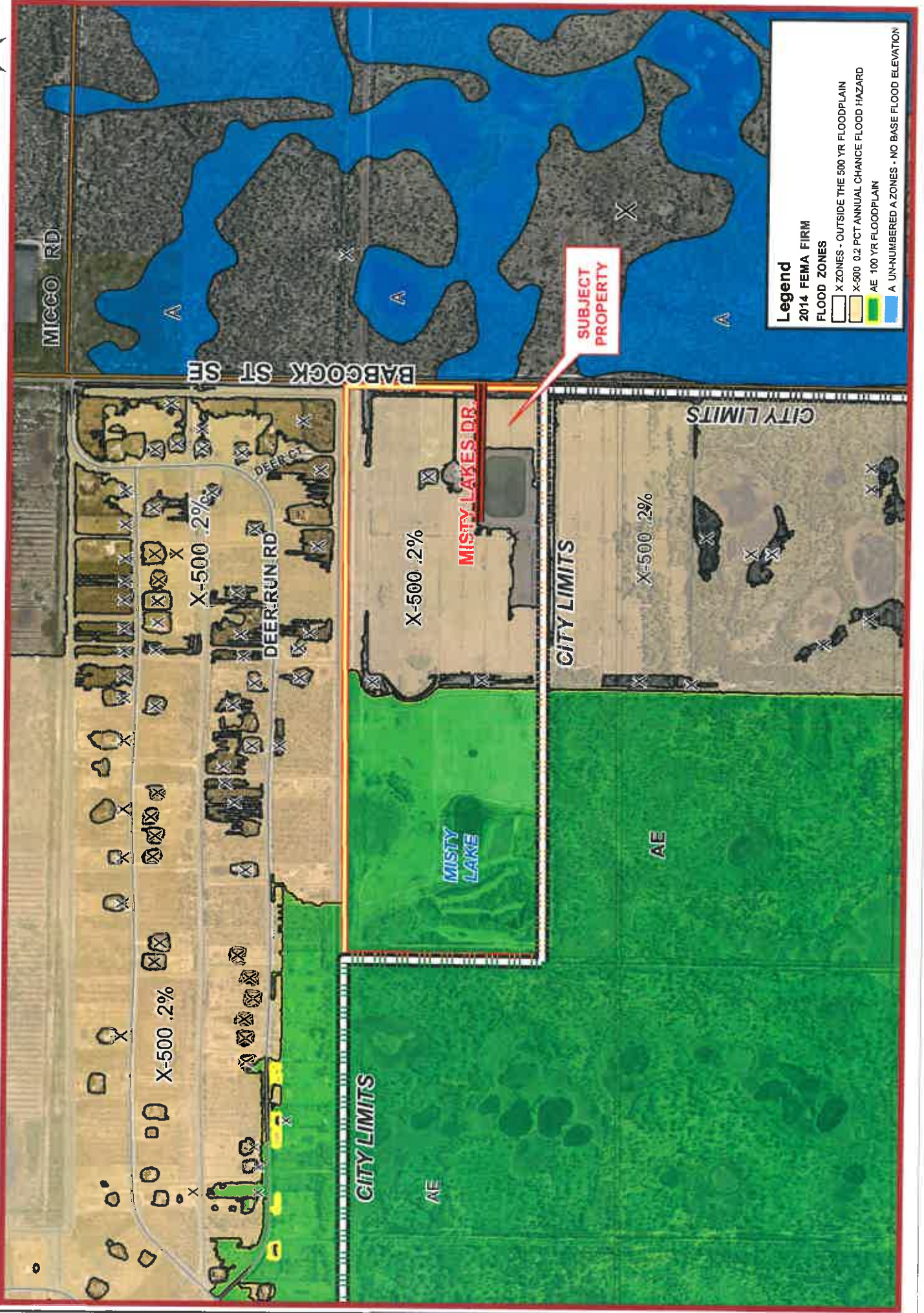
CONCEPTUAL PLAN



GRAPHIC SCALE
SCALE: 1" = 100'-0"



YATES PROPERTY FLOODZONE DETERMINATION



Conditional Use Permit (CUP) Application (2016)

Owner: Roy Wayne Yates

Property Location: 9400 S. Babcock Street, Fellsmere Brevard County FL 32948

- ⊗ The number of people working on the borrow pit operation will be limited to 5-10 equipment operators during excavation and hauling of material and is not anticipated to adversely affect adjacent property. There will be no rock crushing as part of the borrow pit operations.
- ⊗ The borrow pit activities will be limited to between dawn and dusk (no work on Sundays) and dewatering pumps will be operated no more than 12 hours/day.
- ⊗ The maximum number of truck trips per day to and from the site is anticipated to be 20 to 30. The current level of service (LOS) ((B) - Section 62-1901(c)(2)(a)) of Babcock Street will not be decreased by the anticipated number of trips.
- ⊗ Access from this project is directly to Babcock Street which has a LOS of B and is capable of handling the expected trips from the site. Babcock Street provides direct connection to Indian River County, US Highway 1, and Interstate 95.
- ⊗ In addition, a right-turn lane (deceleration lane) was constructed during Phase 1 construction and provides safe ingress and egress to the property and built to handle expected land alteration activities.
- ⊗ All activities from the proposed borrow pit are not expected to substantially interfere with the use or enjoyment of the adjacent and nearby property. In addition, the existing haul road that is to provide access to and from the site is located along the south edge of the property and is constructed of stabilized materials. The roads' construction will help limit dust and particulate generation from site ingress and egress activities and any dust created will have a minimal effect to residential properties due to its distance of approximately 2000 feet. In addition, a water truck will be located onsite for further particulate control. No adverse glare is anticipated as a result of the proposed land use.
- ⊗ Further, the materials storage area is located as far as possible from any single-family or multifamily dwelling. Any accumulation of uncovered sand, dirt or other fill material in excess of six feet in height shall be stationed in the materials storage area. While not anticipated or functionally efficient, should accumulations of sand, dirt or other fill material in excess of six feet in height be located within 500 feet of a single-family or multifamily dwelling, they shall be covered in such a manner as to prevent the distribution by wind of the fill material so covered in accordance with

- ⊗ Noise levels will be met at the property line by a combination of distance, maintenance of mufflers on pump engines and installation of a sound barrier around the pump engines.
- ⊗ A minimum buffer distance of 500 feet from the north edge of the proposed borrow pit top of bank (TOB) to the north property line is proposed. There is an additional approx. 275' wide FPL easement, unimproved McGill Rd north of the TOB that separates the parcel from the Deer Run subdivision. All noise creating activities will be minimized and limited to daytime operations.
- ⊗ The proposed land alteration will be compatible with the current and historic land use (borrow pits) in this portion of the County.
- ⊗ Excavation of the borrow pit will be limited to between dawn and dusk (with no Sunday work).
- ⊗ Dewatering pumps will be operated a maximum of 12 hours per day.
- ⊗ On premises parking and loading areas are located along the south and southwest portion of the property, generally along the existing graded road and south of the proposed maintenance storage area, and are not expected to adversely affect the adjacent properties or public right-of-ways.

Patrick Murphy

From: Kim Rezanka <KRezanka@deanmead.com>
Sent: Tuesday, May 31, 2016 4:38 PM
To: Stuart Buchanan
Cc: Patrick Murphy; David D Agee P.G. (david@ageeco.com)
Subject: Supplement to Roy Wayne Yates CUP Application (9400 South Babcock Street, Fellsmere)
Attachments: Topo (V0312155xA35FB).pdf; Affidavit of David Agee (V0312153xA35FB).pdf; CUP Proposed Conditions (V0287052-2xA35FB).pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Buchanan,

Please include this information to complete the CUP/Special Exception Application for Mr. Yates, pursuant to the requirements of Sec. 175.03.

- (E) Topographical Survey. (Please advise if you need a larger survey).
- (F) The vehicular access is as on the survey; it is the existing haul road on the southern edge of the Property.
- (G) The reclamation will be conducted pursuant to SJRWMD rules and regulations. The proposed plan is to create one lake of 128 acres, and plat the property for 39 single family homes on one-acre lots. A proposed "bubble Plan has been submitted. This is merely conceptual as the location of the homes may be relocated upon platting.
- (H) The excavation will be undertaken in areas no greater than 30 acres, for an anticipated removal area of 128 acres. The removal which will be governed by a Consumptive Use Permit issued by SJRWMD. The method of excavation will be by dewatering the phased pits and using backhoes to remove the cemented coquina and sand.
- (J) The vehicular route for the removal of the materials will south along Babcock Street. The City Engineer has provided a certification as required.
- (K) Affidavit of David Agee is attached.

As you know, a Citizen's Participation Plan was drafted and supplied. Mr. Yates will agree to conditions to accommodate the residents, and a proposed list of conditions is attached.

Please advise if additional information is required.

Sincerely,
Kim Rezanka

New Contact Information as of June 1, 2016:

Cantwell & Goldman, P.A.
Mariner Square
96 Willard Street, Suite 302
Cocoa, FL 32922

321-639-1320, ext. 123
Kim@cglawoffice.com



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

CONDITIONAL USE APPLICATION

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

- 1) NAME OF APPLICANT (Type or print) Roy Wayne Yates
ADDRESS 9400 South Babcock Street
CITY Fellsmere STATE Florida ZIP 32948
PHONE # 321-508-5670 FAX # NA
E-MAIL ADDRESS NA
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION
See Attached
SECTION 27 TOWNSHIP 30 RANGE 37
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 129.92
- 4) CONDITIONAL USE SOUGHT: Expansion of Existing Borrow Pit
- 5) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.): AU & AGR (County Zoning)
- 6) APPLICANT MUST PROVIDE A SITE PLAN SKETCH IN PDF FORMAT SHOWING THE FOLLOWING WHERE APPLICABLE:
 - (a) Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.
 - (b) Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor, or other detrimental effects upon adjoining properties.
 - (c) Adequate and properly located utilities that are available or may be reasonably provided to serve the proposed development.
 - (d) Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.
 - (e) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties.
 - (f) Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.
 - (g) The use as proposed will be in conformance with all stated provisions and requirements of this chapter.

- (h) Establishment and operation of the proposed use upon the particular property involved will not impair the health, safety, welfare, or convenience of residents or workers in the City.
 - (i) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation, or type of physical activity.
 - (j) The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.
 - (k) Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including but not limited to reasonable time limit within which the action for which special approval is requested shall be begun or completed, or both.
- 7) ADDITIONAL CONDITIONS MUST BE MET FOR THE FOLLOWING CONDITIONAL USES. LISTINGS OF THE ADDED CRITERIA ARE AVAILABLE FROM STAFF AND MUST BE INCORPORATED INTO THE SITE PLAN (Check all that apply). **NA**

☐ Planned Commercial Development (site is commercially zoned and over three acres in size).

☐ Planned Industrial Development (site is industrially zoned and over five acres in size).

☐ Planned Residential Development (site is zoned multi-family and proposes 100 or more units).

<input type="checkbox"/> Church	<input type="checkbox"/> Communication tower and facilities
<input type="checkbox"/> Club or Lodge	<input type="checkbox"/> Arcade amusement center
<input type="checkbox"/> Commercial dog kennel	<input type="checkbox"/> Electronic gaming establishment
<input type="checkbox"/> Public or private school	<input type="checkbox"/> Dance club (Sec. 185.088(J))
<input type="checkbox"/> Self-storage facility	

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

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

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

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

☒ Property map showing properties within 500 foot radius, and clearly outlining the subject parcel.

☒ Location map showing properties adjacent uses, zoning, streets, driveways, canals, and utilities.

☒ Citizen Participation Plan. Refer to Section 169.005 of the Land Development Code for guidelines.

NA ☐ WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE CONDITIONAL USE.

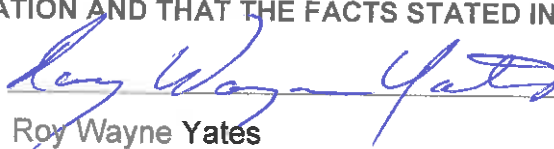
CITY OF PALM BAY, FLORIDA
CONDITIONAL USE APPLICATION
PAGE 3 OF 3

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

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

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

Signature of Applicant



Date 11/30/2015

Printed Name of Applicant

Roy Wayne Yates

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



MEMO TO: PLANNING AND ZONING BOARD MEMBERS

FROM: PATRICK J. MURPHY, ASSISTANT DIRECTOR

DATE: AUGUST 3, 2016

SUBJECT: CASE NO. CP-15-2016 (CITY OF PALM BAY)

The Growth Management Staff is requesting a Continuance to the September Planning and Zoning Board Meeting, as we have not received the survey that is required in order to bring forth the revised request. A vote to Continue is needed.

PJM



DATE: August 3, 2016
CASE #: V-21-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

VARIANCE APPLICATION

PROPOSAL: A request to allow relief from the 1000' separation requirement by a maximum of 208' for a proposed adult community residential home as provided for in Florida Statute, Title XXX, Chapter 419.001, in the RS-2, Single Family Residential zoning district.

LOCATION: 136 Deauville Avenue NE (Lot 21, Block 202, Port Malabar Unit 7)

APPLICANT: Mr. Eric Hamid

SITE DATA

PRESENT ZONING: RS-2 Single Family Residential

ACREAGE: 0.25 Acres +/-

DENSITY: Not Applicable

ADJACENT ZONING

& LAND USE:

- N** -- RS-2-Single Family residential zoning district; w/ homes
- E** -- RS-2-Single Family residential zoning district; w/ homes
- S** -- RS-2-Single Family residential zoning district; w/ homes
- W** -- RS-2-Single Family residential zoning district; w/ homes

WATER & SEWER: Water and Sewer Available

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

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

BACKGROUND:

1. The site is located at 136 Deauville Avenue (Specifically, Lot 21, Block 202, Port Malabar Unit 7).
2. The property is zoned RS-2, Single Family Residential.
3. The applicant is requesting relief from the 1000' separation requirement by a maximum of 208' for a proposed adult community residential home as provided for in Florida Statute, Title XXX, Chapter 419.001, in the RS-2, Single Family Residential zoning district.

ANALYSIS:

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

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

The proposed location for the adult community residential home lies approximately 208'-0" from an active community residential home (located at 155 Aviation Avenue NE). The State of Florida has set the minimum separation requirements for adult community homes at 1000' feet apart under Title XXX, Chapter 419.001 which is enclosed for the Board and City Council review. There does exist a provision in Chapter 419 that allows for a community residential home to locate within the 1000' distance provided that the local municipality agrees under the provisions outlined in FS 419.001(10). The City, under previous City Council direction, has designated the Planning and Zoning Board to hear such matters with regard to relief for these types of facilities and make a recommendation to City Council for final disposition. City staff has held to the minimum 1000' separation per State Statute, and as there exists other locations within the city that would meet the 1000' separation requirement, staff can find no special circumstances or peculiarity with regard to the land for the Board or City Council to consider with regard to the request.

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

The special conditions and circumstances identified in item 1 are a direct result of the actions of the applicant. As other locations exist that meet the 1000' separation requirement, the request appears to be a result of the actions of the applicant and imparts 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."

The State of Florida created the 1000' minimum separation requirement, and historically the City has enforced the minimum requirements per State Statute. The Board must ultimately decide if there exists a deprivation of rights with regard to the request.

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

It appears as requested; the applicant would require 208' of relief from the 1000' separation requirement in order to site the proposed adult community residential home.

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

Based on the circumstances that exist, granting the variance as requested would confer a special privilege that is denied to other lands, building or structures in the same district by allowing less than the 1000' separation requirement, as mandated by the State.

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."

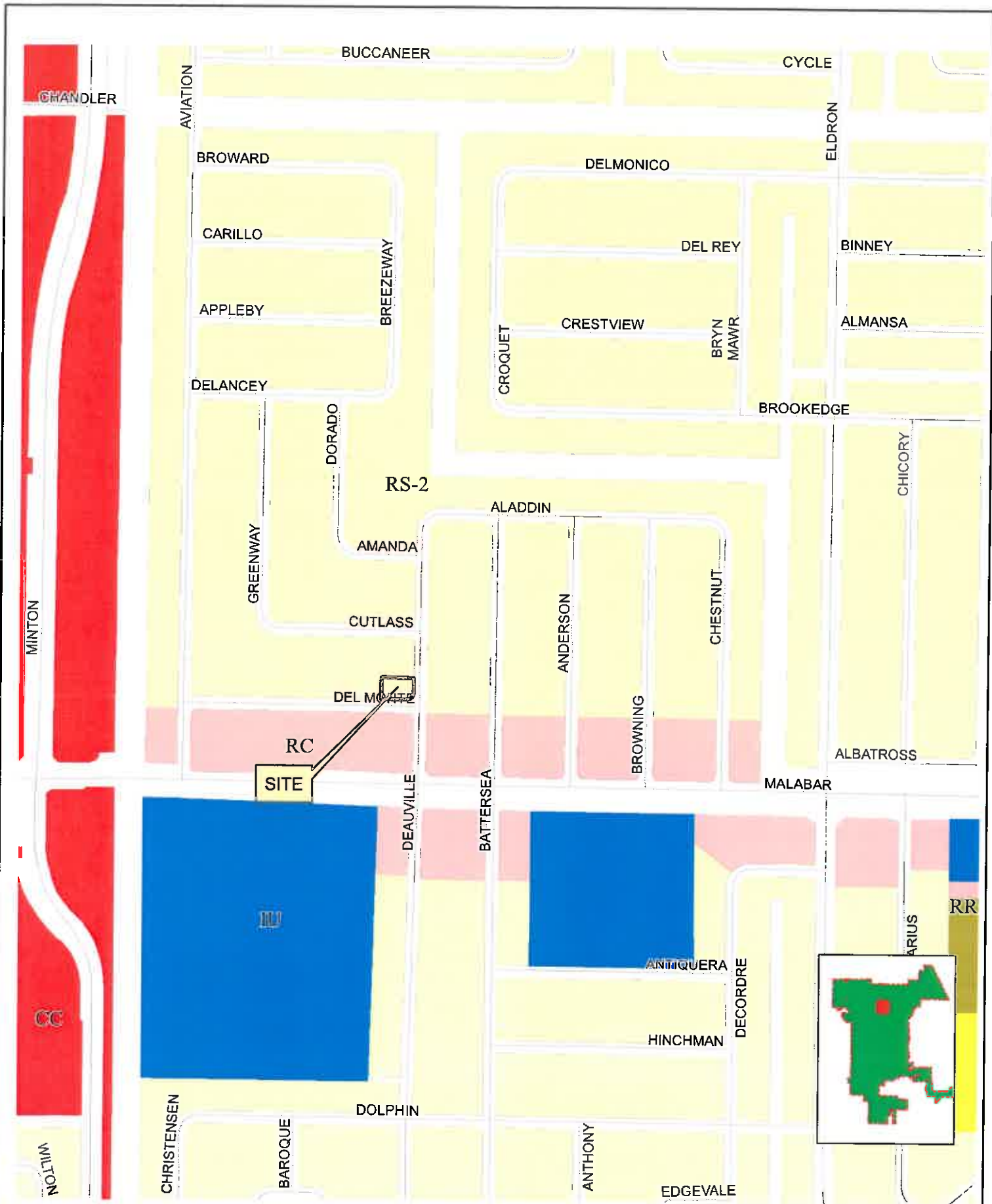
City Council must ultimately decide if the application meets the general intent and purpose of the code.

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."



**SUBJECT PROPERTY
CASE V-21-2016**



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





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

LOCATION MAP V-21-2016



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

PROXIMITY MAP V-21-2016

Select Year:

The 2016 Florida Statutes

Title XXXChapter 419[View Entire Chapter](#)

SOCIAL WELFARE

COMMUNITY RESIDENTIAL HOMES

419.001 Site selection of community residential homes.—

(1) For the purposes of this section, the term:

(a) “Community residential home” means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

(b) “Licensing entity” or “licensing entities” means the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Families, or the Agency for Health Care Administration, all of which are authorized to license a community residential home to serve residents.

(c) “Local government” means a county as set forth in chapter 7 or a municipality incorporated under the provisions of chapter 165.

(d) “Planned residential community” means a local government-approved, planned unit development that is under unified control, is planned and developed as a whole, has a minimum gross lot area of 8 acres, and has amenities that are designed to serve residents with a developmental disability as defined in s. 393.063 but that shall also provide housing options for other individuals. The community shall provide choices with regard to housing arrangements, support providers, and activities. The residents’ freedom of movement within and outside the community may not be restricted. For the purposes of this paragraph, local government approval must be based on criteria that include, but are not limited to, compliance with appropriate land use, zoning, and building codes. A planned residential community may contain two or more community residential homes that are contiguous to one another. A planned residential community may not be located within a 10-mile radius of any other planned residential community.

(e) “Resident” means any of the following: a frail elder as defined in s. 429.65; a person who has a handicap as defined in s. 760.22(7)(a); a person who has a developmental disability as defined in s. 393.063; a nondangerous person who has a mental illness as defined in s. 394.455; or a child who is found to be dependent as defined in s. 39.01 or s. 984.03, or a child in need of services as defined in s. 984.03 or s. 985.03.

(f) “Sponsoring agency” means an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.

(2) Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances. Homes of six or fewer residents which otherwise meet the definition of a

community residential home shall be allowed in single-family or multifamily zoning without approval by the local government, provided that such homes are not located within a radius of 1,000 feet of another existing such home with six or fewer residents or within a radius of 1,200 feet of another existing community residential home. Such homes with six or fewer residents are not required to comply with the notification provisions of this section; provided that, before licensure, the sponsoring agency provides the local government with the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located in order to show that there is not a home of six or fewer residents which otherwise meets the definition of a community residential home within a radius of 1,000 feet and not a community residential home within a radius of 1,200 feet of the proposed home. At the time of home occupancy, the sponsoring agency must notify the local government that the home is licensed by the licensing entity. For purposes of local land use and zoning determinations, this subsection does not affect the legal nonconforming use status of any community residential home lawfully permitted and operating as of July 1, 2016.

(3)(a) When a site for a community residential home has been selected by a sponsoring agency in an area zoned for multifamily, the agency shall notify the chief executive officer of the local government in writing and include in such notice the specific address of the site, the residential licensing category, the number of residents, and the community support requirements of the program. Such notice shall also contain a statement from the licensing entity indicating the licensing status of the proposed community residential home and specifying how the home meets applicable licensing criteria for the safe care and supervision of the clients in the home. The sponsoring agency shall also provide to the local government the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located. The local government shall review the notification of the sponsoring agency in accordance with the zoning ordinance of the jurisdiction.

(b) Pursuant to such review, the local government may:

1. Determine that the siting of the community residential home is in accordance with local zoning and approve the siting. If the siting is approved, the sponsoring agency may establish the home at the site selected.
2. Fail to respond within 60 days. If the local government fails to respond within such time, the sponsoring agency may establish the home at the site selected.
3. Deny the siting of the home.

(c) The local government shall not deny the siting of a community residential home unless the local government establishes that the siting of the home at the site selected:

1. Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the area.
2. Does not meet applicable licensing criteria established and determined by the licensing entity, including requirements that the home be located to assure the safe care and supervision of all clients in the home.
3. Would result in such a concentration of community residential homes in the area in proximity to the site selected, or would result in a combination of such homes with other residences in the community, such that the nature and character of the area would be substantially altered. A home that is located within a radius of 1,200 feet of another existing community residential home in a multifamily zone shall be an overconcentration of such homes that substantially alters the nature and character of

the area. A home that is located within a radius of 500 feet of an area of single-family zoning substantially alters the nature and character of the area.

(4) Community residential homes, including homes of six or fewer residents which would otherwise meet the definition of a community residential home, which are located within a planned residential community are not subject to the proximity requirements of this section and may be contiguous to each other. A planned residential community must comply with the applicable local government's land development code and other local ordinances. A local government may not impose proximity limitations between homes within a planned residential community if such limitations are based solely on the types of residents anticipated to be living in the community.

(5) All distance requirements in this section shall be measured from the nearest point of the existing home or area of single-family zoning to the nearest point of the proposed home.

(6) If agreed to by both the local government and the sponsoring agency, a conflict may be resolved through informal mediation. The local government shall arrange for the services of an independent mediator. Mediation shall be concluded within 45 days of a request therefor. The resolution of any issue through the mediation process shall not alter any person's right to a judicial determination of any issue if that person is entitled to such a determination under statutory or common law.

(7) The licensing entity shall not issue a license to a sponsoring agency for operation of a community residential home if the sponsoring agency does not notify the local government of its intention to establish a program, as required by subsection (3). A license issued without compliance with the provisions of this section shall be considered null and void, and continued operation of the home may be enjoined.

(8) A dwelling unit housing a community residential home established pursuant to this section shall be subject to the same local laws and ordinances applicable to other noncommercial, residential family units in the area in which it is established.

(9) Nothing in this section shall be deemed to affect the authority of any community residential home lawfully established prior to October 1, 1989, to continue to operate.

(10) Nothing in this section shall permit persons to occupy a community residential home who would constitute a direct threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.

(11) The siting of community residential homes in areas zoned for single family shall be governed by local zoning ordinances. Nothing in this section prohibits a local government from authorizing the development of community residential homes in areas zoned for single family.

(12) Nothing in this section requires any local government to adopt a new ordinance if it has in place an ordinance governing the placement of community residential homes that meet the criteria of this section. State law on community residential homes controls over local ordinances, but nothing in this section prohibits a local government from adopting more liberal standards for siting such homes.

History.—s. 1, ch. 89-372; s. 1, ch. 90-192; s. 4, ch. 91-429; s. 36, ch. 93-206; s. 6, ch. 95-152; s. 42, ch. 96-169; s. 222, ch. 97-101; s. 46, ch. 98-280; s. 14, ch. 98-338; s. 53, ch. 99-193; s. 23, ch. 99-284; s. 7, ch. 2000-135; s. 93, ch. 2004-267; s. 34, ch. 2006-86; s. 110, ch. 2006-120; s. 1, ch. 2006-177; s. 99, ch. 2007-5; s. 30, ch. 2008-245; s. 3, ch. 2010-193; s. 237, ch. 2014-19; s. 29, ch. 2015-30; s. 1, ch. 2016-74.



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

VARIANCE APPLICATION

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

1) NAME OF APPLICANT (Type or print) Eric Hamid
ADDRESS 136 Deauville Ave NE
CITY Palm Bay STATE FL ZIP 32907
PHONE # 321-914-3078 FAX # _____
E-MAIL ADDRESS erichamid@yahoo.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION Plat Bk/PG
0014/0126 -- Port Malabar Unit 7 -- Lot 21 BLK 202 Parcel ID: 28-37-31-FR-00202.0-0021.00

SECTION _____ TOWNSHIP _____ RANGE _____

3) STREET ADDRESS OF PROPERTY COVERED BY APPLICATION: 136 Deauville Ave NE, Palm Bay

4) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 0.25 Acres

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

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

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

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

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): Request a 208 Ft. variance to operate a four (4) Bed Adult Community

Residential Home within the 1,000 feet of separation requirement.

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

Florida Statutes, Title XXX, Chapter 419.

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

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

We would like to request a variance to operate a Adult Community Residential Home in our house.

This home will be used for caring for our elderly and war veterans with disabilities in Palm Bay.

Since these residents will be in our home, they will become part of our family; participate in family activities (eating together, shopping, appointments, vacations etc).

My wife has a passion to take care of the physically and mentally impaired elders. She has over 10 years experience working in Nursing Homes, Retirement Villages, Assisted Living Facilities and Memory Care facilities. She is a Certified Nursing Assistant and Medical Technician with training for caring for the elderly with Alzheimer's and Dementia.

She recently worked at the Inspired Living Memory Care center on Malabar Rd.

As a retired military veteran I have a special place in my heart for my military brothers and sisters in uniform, especially those who served in a war zone and the elderly.

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

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

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

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

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

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

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

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

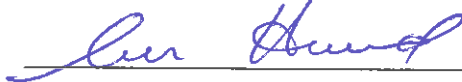
_____ WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE VARIANCE.

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

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

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

Signature of Applicant



Date 6-30-16

Printed Name of Applicant

Eric Hamid

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

CASE V-21-2016

CORRESPONDENCE: 3

Anne Dauphin
146 Deauville Ave NE
Palm Bay FL 32907

Dear Palm Bay Zoning Commission,

I have known Eric and Marie Hamid for over four years. They are very good neighbors and were a welcome sight when they moved in.

Eric and Marie know that I live alone and work late at night, so they are always making sure that I am safe. If they don't see me for a day or two, they call or come over to make sure I am ok. They always bring food over and invite me over to their house for dinners.

Eric is always making sure the grass is cut and the area around our homes is clean and presentable. They also help me when I receive any letters from the county or state, they help me understand the letters and what action I am supposed to take.

They are very helpful to me and I am sure, if they are allowed to open their home to older folks in our community, they will also enrich their lives as well.

Sincerely,

Anne Dauphin

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

Maylene Jackson
15 Delmonte St
Palm bay f. L
32907
16-6-29

To Whom it may Concern

I Would like To offer this letter of -
recommendation To the Palm bay Zonine Commission on behalf -
of Eric and Marie Hamid

I have know Eric and Marie for over three years and they -
are Very Kind respectable and courteous residents in our area

they are always there and Willing To help out. Recently Eric -
helped me to prepare and complete a family -
Sponsorship Package.

Marie has a very caring nature. She always Check up -
on me To make Sure i am ok. Since i live alone -
She always brings food and offers To help with housework.

If they are granted permission to open their home To -
help our elderly and Veterans, it would be a -
beneficial our aged neighbour

Sincerely.

Maylene Jackson

6-14-16:
Jerry's Water Treatment
243 Borado Av. N.E.
Palm Bay, Fl. 32907

To Whom It May Concern,
I have known Mr.
Eric Hamid for about
three years now. I
have done several jobs
for Mr. Hamid who was
always very nice and
helpful. It's a pleasure
to work for Mr. & Mrs. Hamid,
they are very caring people.

Sincerely,
Jerry Wiesenberg

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

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

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

APPLICANT: West Pointe Babcock, LLC. (Stephen Burch, Esquire Representing)

SITE DATA

PRESENT ZONING: RR, Rural Residential Zoning District

ACREAGE: 4.41 acres (\pm)

DENSITY: One (1) Unit Per Acre

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

E -- RR, Rural Residential; Vacant Residential Land

S -- RR, Rural Residential; Single Family Homes

W -- RR, Rural Residential; Babcock Street SE

BACKGROUND:

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

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

3. The applicant is requesting a Comprehensive Plan Future Land Use Map Amendment to change from Single Family Residential Use to Commercial Use, to allow for a future commercial uses. The applicant for this request is West Point Babcock, LLC. The applicant will be represented by the Law Firm of Smith & Associates.
4. On September 2, 2015 the applicant appeared before the Palm Bay Planning and Zoning Board with the same request, represented by a different Law Firm. Upon deliberation of the request, the Board voted unanimously to deny the request. On December 17, 2015 the request was withdrawn before it was heard by the Palm Bay City Council.

ANALYSIS:

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

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

2. Impact on Natural Systems

There would be an impact on the natural environment from the future Commercial Use as the property is currently vacant, residential land, in its natural state. However, any development, even single family residential use, would impact the present conditions. Typically though, less land is preserved by Commercial Use than rural residential uses. The

site is identified as Flood Zone X, which is outside the 500-year Floodzone. The lot is not located within any of the Scrub Jay Polygons identified on the city's Habitat Conservation Plan. No additional listed species are known to inhabit the site. Any registered species that may be encountered upon development of the site would need to be mitigated for, according to state and federal guidelines.

3. Land Use Consistency

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

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

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

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

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

The City of Palm Bay's Comprehensive Plan is made up of ten (10) separate, but intertwined Elements. The Future Land Use Element (Element B within the Plan), is primarily the criteria by which a land use amendment request is to be evaluated against. This element provides both a policy guide to govern future land use decisions and a map detailing the location of future land uses throughout the City of Palm Bay. It represents the

integration of the entire Comprehensive Plan onto the physical landscape of the City. As such, the policies in this element, combined with the graphic description presented on the Future Land Use Map, serve to plan for the distribution, type and intensity of future development in Palm Bay.

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

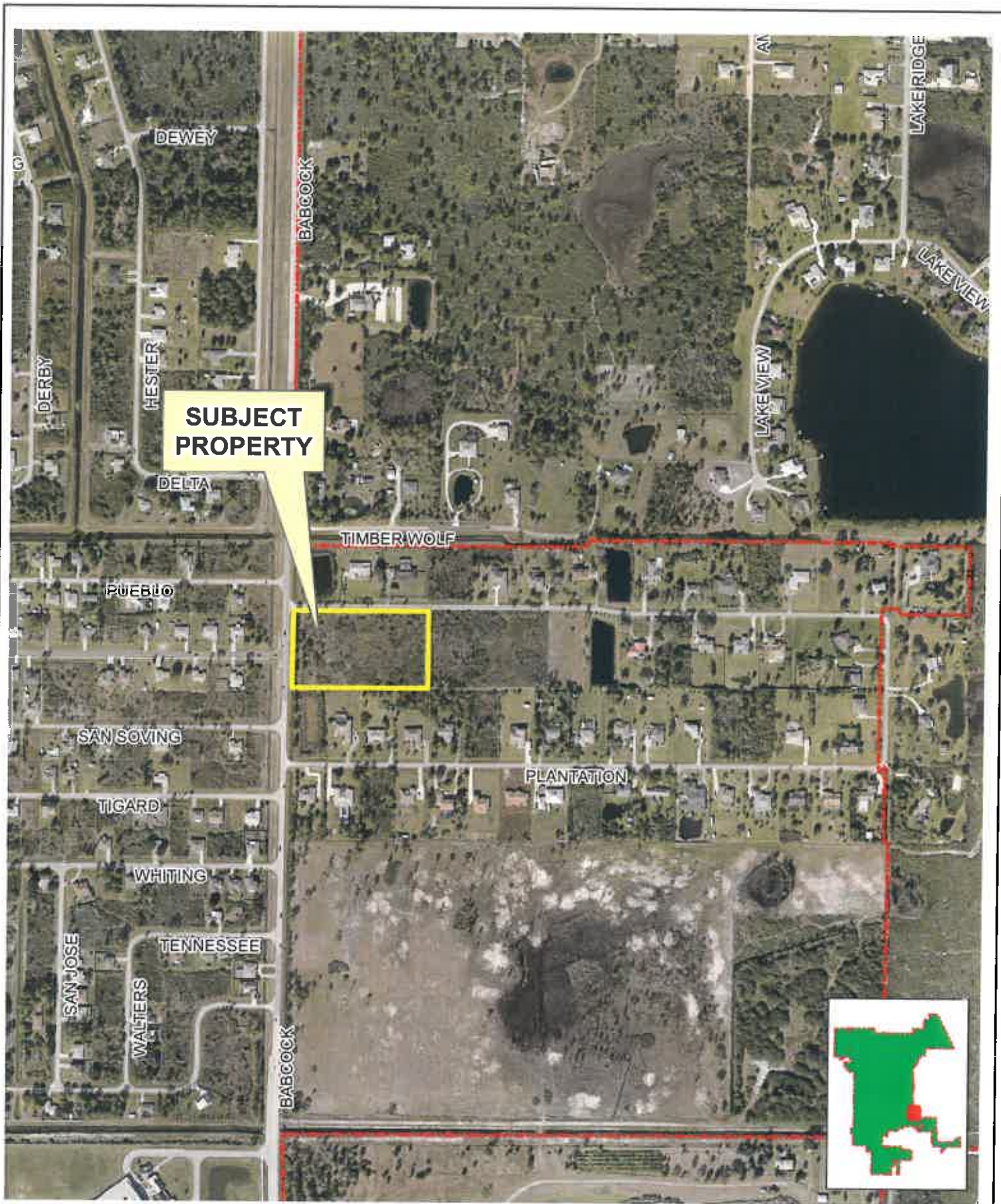
The third level involves the development of design criteria and standards which will permit site specific management of new growth. The criteria developed in this plan are intended to develop an interactive land use pattern which provides neighborhood, community and regional activity centers at appropriate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

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

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

STAFF CONCLUSION:

Motion to Deny Case CP-21-2016 as a Small Scale Future Land Use Map amendment.



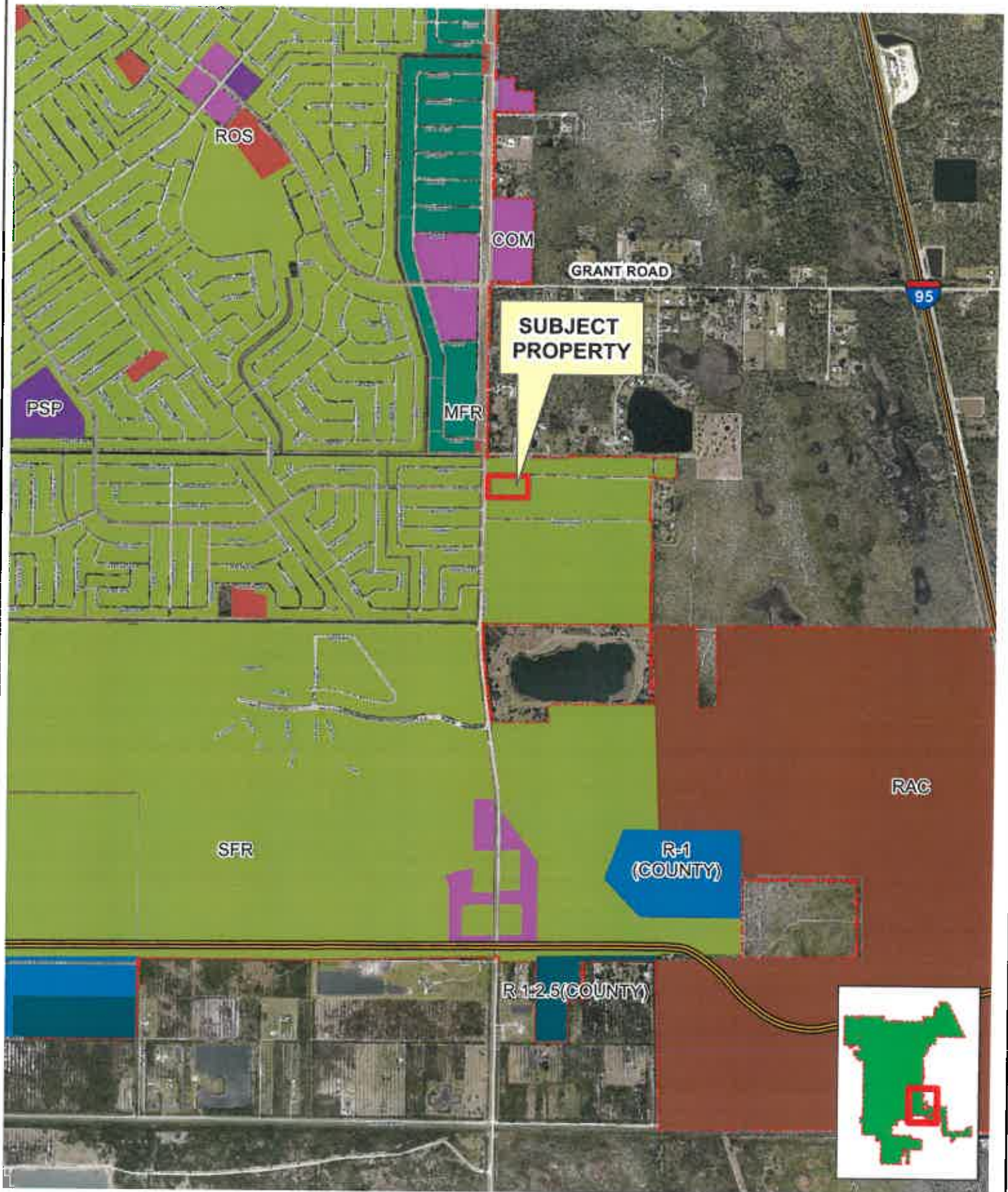
**SUBJECT
PROPERTY**

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-21-2016 & CPZ-21-2016

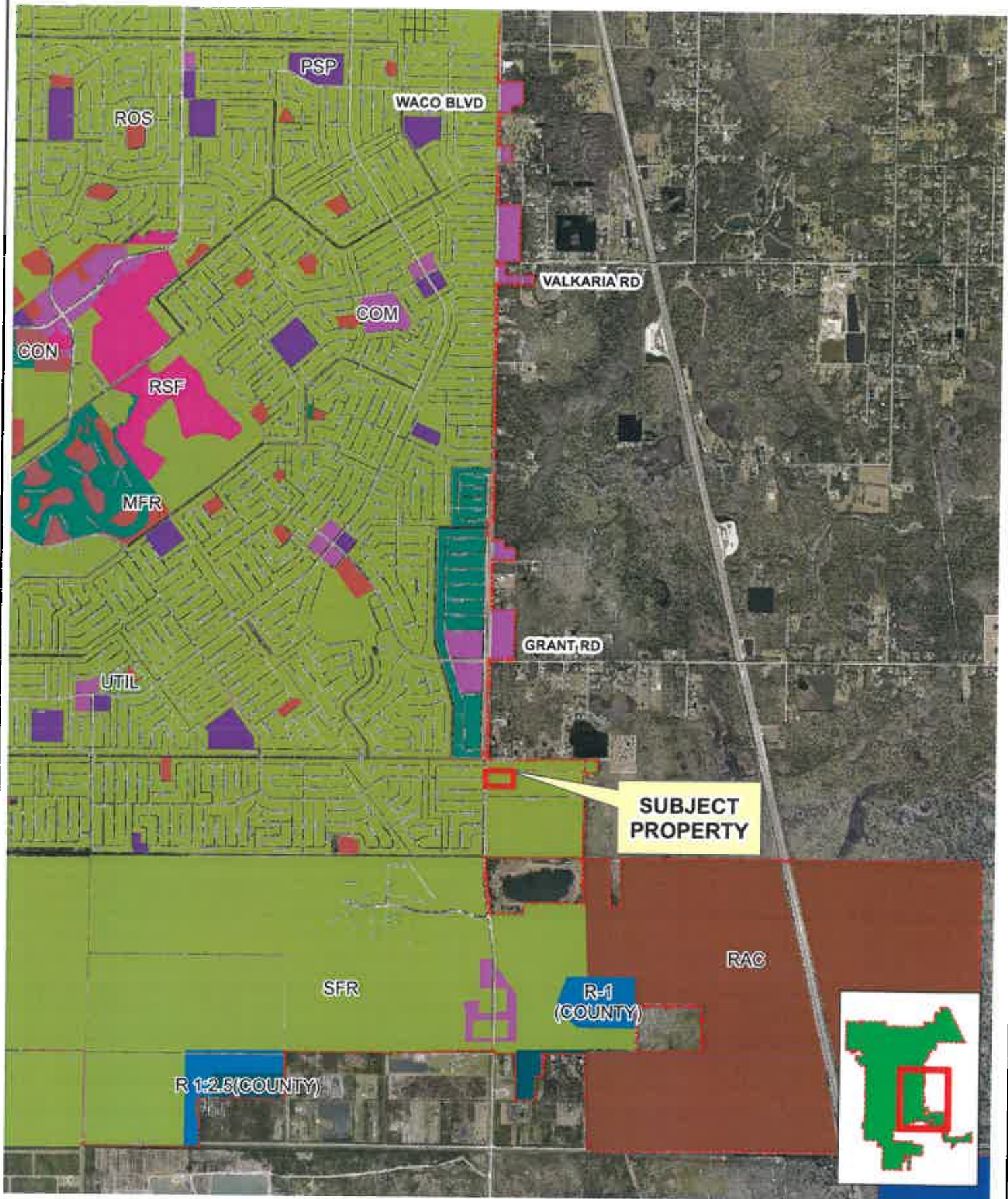


Map for illustrative purposes only. Not to be construed
as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-21-2016



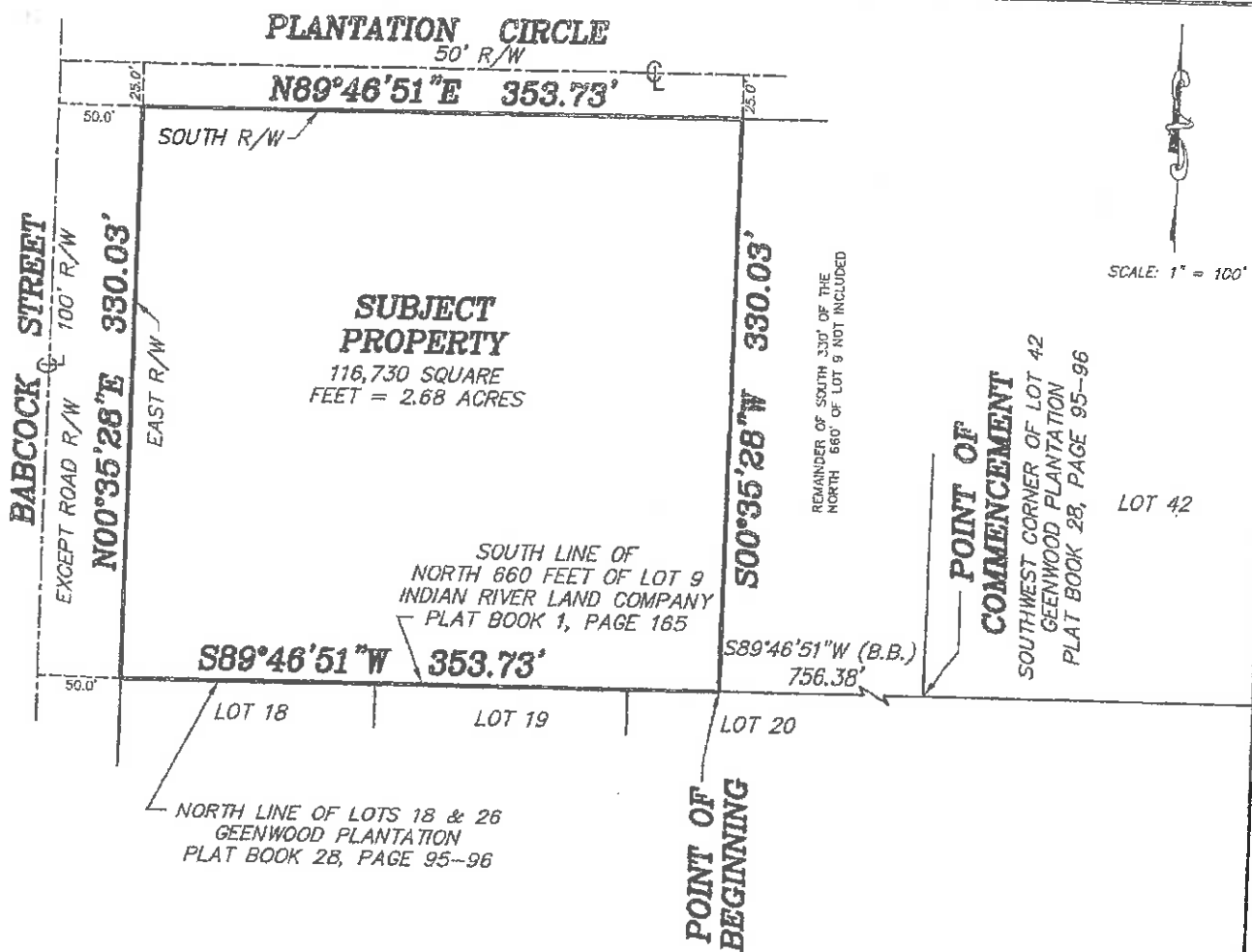
Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-21-2016

Exhibit "A-1"



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

SKETCH OF DESCRIPTION ONLY! THIS IS NOT A SURVEY!

AAL LAND SURVEYING SERVICES, INC.

SKETCH OF DESCRIPTION

JOB # 33811-1
DATE: 07-13-2015
SECTION 34, TOWNSHIP 29S, RANGE 37E
L.B. #6623

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

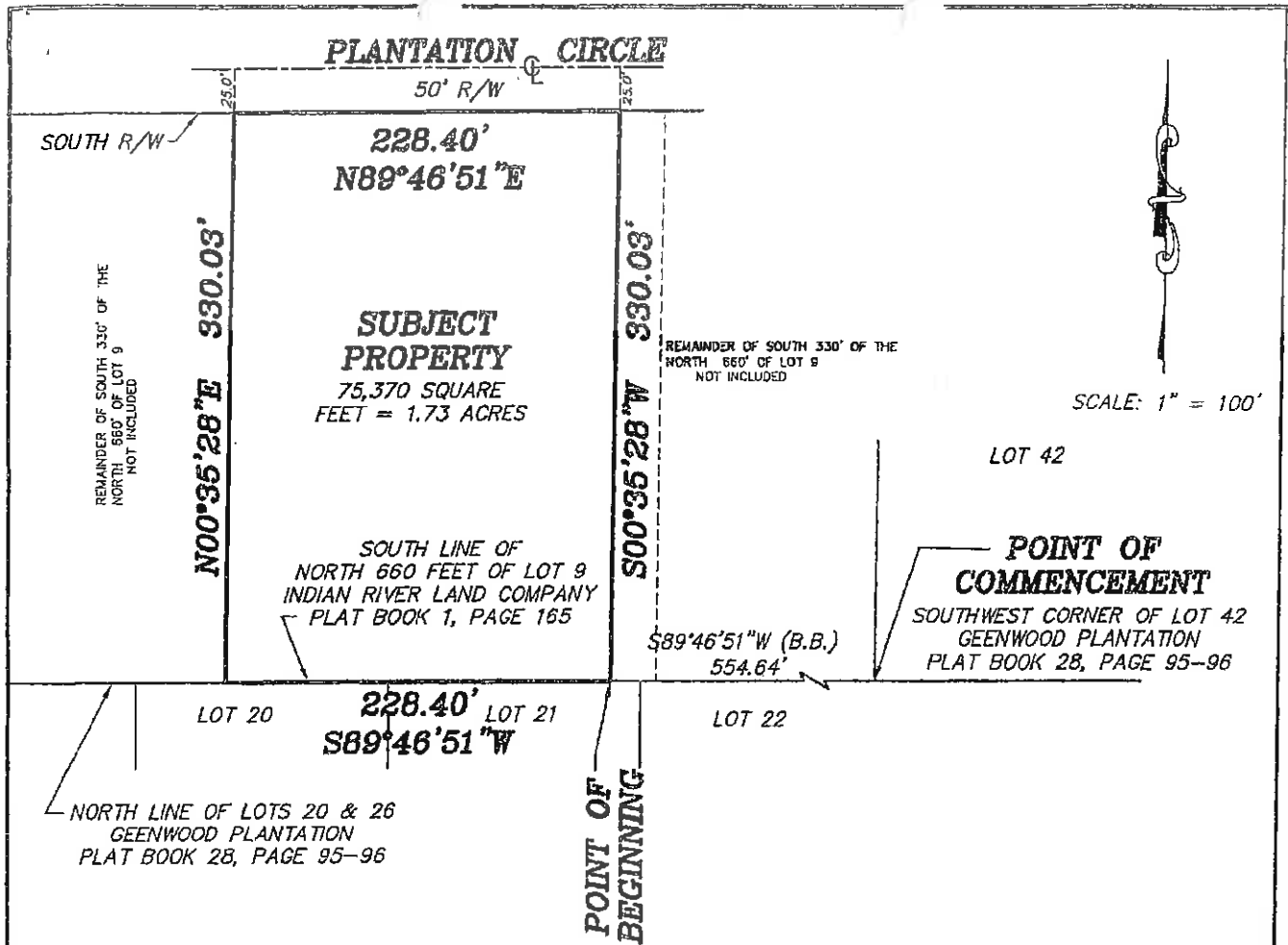
ANDREW W. POWSHOK
P.L.S. No. 5383

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

LEGEND

B.B. = BASIS OF BEARINGS

Exhibit "A-a"



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

SKETCH OF DESCRIPTION ONLY! THIS IS NOT A SURVEY!

AAL LAND SURVEYING SERVICES, INC.

SKETCH OF DESCRIPTION	1. THIS SKETCH AND DRAWING HAVE BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. 2. BEARINGS ARE BASED ON ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.	LEGEND B.B. = BASIS OF BEARINGS
JOB # 33811-2	ANDREW W. POWSHOK P.L.S. No. 8383	
DATE: 07-13-2015 SECTION 34, TOWNSHIP 26S, RANGE 37E	3970 MINTON ROAD WEST MELBOURNE, FL. 32904 (321) 768-8110	
L.B. #6623		



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

COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION

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

1) NAME OF APPLICANT (Type or print) West Pointe Babcock, LLC

ADDRESS c/o Smith & Associates, 1499 S. Harbor City Blvd, Ste. 202

CITY Melbourne STATE FL ZIP 32901

PHONE # 321-676-5555 FAX # 321-676-5558

E-MAIL ADDRESS stephen@smithlawtlh.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION _____

See attached exhibits A-1 and A-2

SECTION 34 TOWNSHIP 29S RANGE 37E

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

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

5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE: CC

6) PRESENT USE OF THE PROPERTY: Vacant

7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: No

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

Yes

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

The property fronts a major road.

- 10) SPECIFIC USE INTENDED FOR PROPERTY: Commercial

- 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."

☐ Large Scale Map Amendment (10 acres or more) \$1,600.00

☐ Text Amendment (Comp. Plan) \$1,600.00

☒ Small Scale Map Amendment (Less than 10 acres) \$1,000.00

☐ Special Amendment Cycle \$4,000.00

☒ 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.

☒ 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

7/1/2016

Printed Name of Applicant

Stephen Burch, for West Point Babcock, LLC

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

WEST POINTE BABCOCK, LLC
1135 Kane Concourse, Third Floor
Bay Harbor Islands, Florida 33154

July 1, 2016

City of Palm Bay

Please be advised that Smith & Associates, through its attorneys, are authorized to submit a rezoning application and a Comprehensive Plan or Future Land Use Map Amendment Application on behalf of West Pointe Babcock, LLC and represent it in any proceedings related to said application.

WEST POINTE BABCOCK LLC
By: Action Pointe, LLC, a manager

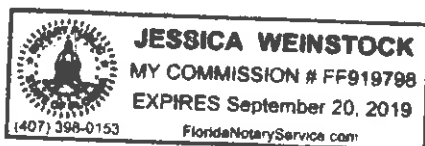
By: 
Name: Alan Sakowitz, President

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

BEFORE ME, the undersigned authority, personally appeared Alan Sakowitz, who is the President of Action Pointe, LLC, a manager of West Pointe Babcock, LLC, who is personally known to me, or who produced _____ as identification, and who did/did not take an oath.

AFFIRMED AND SUBSCRIBED before me this 7th day of July, 2016.




NOTARY PUBLIC

CASES CP-21-2016 & CPZ-21-2016

CORRESPONDENCE: 32

(Includes an 82-signature petition)

1813 Patrick Place
South Park, PA 15129
412-835-6795 (home)
412-605-8577 (mobile)
gjtristano@yahoo.com

July 2, 2016

To: Planning & Zoning Board/
Local Planning Agency City Council
City of Palm Bay, FL

Re: Case Numbers CP-19-2016 and CPZ-19-2016

As the owner of the condominium at 975 Sonesta Ave. NE, unit 106, Palm Bay, FL 32905, I wish to be considered an aggrieved and affected person in this matter. As such, I am OPPOSED to the change in zoning proposed in the above-mentioned cases.

I feel that this change will adversely affect the pleasant appearance of the surroundings behind my condominium as well as the wildlife habitat that this area provides. A decrease in the value of my property and its desirability to tenants could also result.



Gerald J. Tristano

REF: CP-21-2016, CPZ-21-2016

My name is Stephen Sweigart and I live at 1719 Plantation Cir SE Palm Bay. I am very concerned about the proposed zoning change from RR to CC. I am 100% against this change .I have lived and been a contractor in this city for 30 years. I have lived and built my home on Plantation Cir. 27 years ago.

This zoning change was denied last year and now they are trying it again. All of Plantation Cir was for estate type homes. If this change is approved the value of our homes will decrease.

There is enough property along Babcock St that is already zoned commercial, they need to look at that property instead.

Another concern is the intersection of Cogan and Babcock the traffic is getting worse by the day and Babcock St is in dire need of repair. This property is directly in front of our HOME and we are totally opposed to this change. Investors come from out of town and think they can do what they want so they can make a buck, while we have to live there.

I intend to be at each hearing to oppose this change

Thank you

Chandra Powell

From: Gordon Hampden <g.e.hampden@gmail.com>
Sent: Monday, July 18, 2016 7:25 PM
To: Chandra Powell; Patrick Murphy; Stuart Buchanan; Robert Loring
Cc: Jeannette Kraar; judytberry@gmail.com
Subject: CP-21-2016 and CPZ-21-2016

RE: CP-21-2016
CPZ-21-2016

I am a resident and property owner of Plantation Circle SE, Palm Bay. We moved here after retiring from my full time position at Jackson Memorial Hospital in Miami. We searched for homes and communities all over Florida over a three year period and finally made Plantation Circle SE our choice. It was not a fluke. It was the best decision we made as it relates to our retirement home and our neighbors. They are the best!

Several months ago, we went through an exercise with this applicant and now, we are being forced to go through it again. For the last event, my neighbors and I showed up at every Planning and Zoning meeting and wrote many letters to the Planning and Zoning Board expressing our dismay and concern that someone who, solely for personal gain and without regard to the negative impact it would have on our community and the City of Palm Bay, is attempting to destroy and completely change the living environment and quality of life that we have created, developed and cherish in our small community.

The Planning and Zoning Board agreed with us. The applicant finally withdrew his application when he we exposed the many inconsistencies he represented to the Board and because he also recognized that our resolve not to have our peaceful community destroyed was so strong and resolute.

At the Planning and Zoning Committee meeting of September 2, 2015, CP-7-2015 and CPZ-7-2015, both initiatives were recommended for denial by members of the Planning and Zoning Board and they so voted. They also noted that CPZ-7-2015 was incompatible with future land designation. They found that both requests were not in the best interests of Palm Bay and certainly not of the residents of this little, safe and quiet community on Plantation Circle SE.

After that vote, it was brought to our attention that the applicant was attempting to postpone a second hearing that was scheduled. I am not sure what his reasons were but for my neighbors and me, this was a farce and a ploy in the hope that we would "go away." I can assure you that will not happen. We will continue to defend our right to a safe and happy community for as long as it takes. We hope it ends on Wednesday night, August 3, 2016, with a resounding NAY vote on your part.

His representatives stood before the Planning and Zoning Board at the last attempt and asserted that he was in negotiation with the residents. This is a small community. We all look out for each other, know and speak to each other regularly and spend time with each other on a regular basis. I can assure you, that based on those I have spoken to, he had NOT been in contact with any of us either collectively or singularly. His attempt to misguide the Board was clearly evident and he was exposed to be telling less than the truth when members of our community addressed the Board to dispute many of his assertions.

I must bring to your attention that, on his last attempt, he sent a posting to us that he called the NIMBY (Not In My Backyard) letter, in which he made it clear that he would get this done in spite of what we or the anyone, and

that would have to include the Planning and Zoning Board, had to say. The level of arrogance in that letter was to attempt to intimidate us. What it did do was to insult us. He boasted that he had done it before in other places and he would do it again here. All of this is merely to give you some historical perspective of the arrogance of this person. If he wants to have a commercial venture, there is a plethora of available commercial property available all along Babcock from Malabar Road all the way to Fellsmere. It is not a far reach to say that he acquired the property in question at a very low price and is now trying to fill his pockets by any means necessary, regardless of the impact on the Palm Bay and Plantation Circle community. He does not live here. He may be possibly seeing dollar signs with the proposal of the new exit off I-95 that will bring additional traffic along Babcock Street.

We have had numerous serious accidents at Babcock and Cogan, and any suggestion of a commercial venture there, will cause significantly more accidents to occur. Babcock is a dangerous road at best and with the additional traffic when the exit is introduced, it will be nightmare. To add to that, there are more than three entrances to Babcock in a very short distance across from both entrances to Plantation Circle.

We are hoping that you, in your new role, will vote an affirmative NAY on this deliberate attempt to make profit by someone who is only in it for himself. We know we can depend on you to make informed decisions that are in the best interests of Palm Bay and its citizens and that you will listen and do those things that are in accordance with the law and in the best interests of the total community. You have taken on the responsibility to make Palm Bay a place where good and upstanding citizens can live happily. Some of the residents here in our community have spent their life savings to purchase homes to enjoy their retirement here. We know you take that responsibility very seriously and we invite you to come visit us sometime if you have never been here so that you can sense and feel the tenor of the community.

We look forward to your support in this matter and thank you for taking the time to serve your community. Again, we ask for your NAY vote so that we can have FINAL and resolute closure to this matter. We hope there is something that can be done so that we do not have to come every six months to defend our right to a peaceful community. The land in question is residential for a reason and we hope we can depend on your vote to keep it that way into perpetuity. We also hope that some form of ruling can be made to avoid future attempts to rezone this property for commercial use because as long as we live here, we will be not be in favor of the commercialization of that piece of land.

Thank you for taking the time to read this message. Yes, it is a little long, but I wanted you to have some historical perspective on how we feel and we will be there, in force, to personally express our feelings relative to this matter on August 3 at 7:00 PM.

Respectfully and cordially,

Dr. Gordon E. Hampden, MBA, FACHE

Vice President, Caribbean Operations

JIPA Network

"Your Connection to Affordable Global Health Care"



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City Council Members
City of Palm Bay

July 22, 2016

Re: CP-21-2016 and CPZ-21-2016
Re: CPZ -2015 and CP-7-2015

All:

I am a property owner and Resident of Plantation Circle SE Palm Bay. I was pleased by the decisions and findings reached by the Planning /Zoning Board meeting on September 2, 2015 when the plan of West Pointe Babcock LLC (Applicant) land use request (CP-7-2015) was recommended for denial - and so voted by the board- and therefore the rezoning request (CPZ-7-2015) was found to be incompatible with Future Land Designation – and so voted.

I am now aware that the same Applicant in this matter has now reintroduced to the Planning /Zoning Board a variation of the above referenced actions seeking a more favorable decision by the board. As a property owner in this neighborhood for the past 26 years, I strongly object to the changes in the zoning or land use restrictions that are currently afforded our Single Family Residential properties. Our neighborhood – Plantation Circle Southeast - provides a strong family oriented atmosphere in which street traffic consists primarily of our property owners. Our street, being a circle, does not provide an outlet to other neighborhoods which further lends itself to a safe quiet neighborhood in which to live.

Our residents, most having lived here for at least 15 – 20 years, fought with the original developer to have our street and water drainage conditions brought up to code such that we could be brought into and under the management of Palm Bay and St. Johns Water Management . As a group we are very proud of our quiet neighborhood of larger lots and homes and the life style that it provides being away from through traffic and the congestion that commercial properties may introduce.

I feel that the proposed rezoning and land use changes would jeopardize our neighborhood with traffic and other infrastructure impacts that are not predictable, which were not contemplated in our selection of property, nor is it wanted for the future retention of property values and continued desirous place to live.

Thank you in advance for your attention and consideration of our thoughts and concerns and for your support of the prior findings of the Planning and Zoning Board.

James A. and Judy Roberts
1768 Plantation Circle SE
Palm Bay Fl. 32909
321-768-6140

July 23,2016

Stuart Buchanan

Director, Growth Management Dept

ref: Proposed rezoning of property in Plantation Circle: Case numbers: CP-21-2016, CPZ-21-2016

We, John J. Meshelany and my wife Joan Meshelany of 1854 Plantation Circle SE, Palm Bay, Fla 32909 are in complete opposition and object to the above rezoning changes!

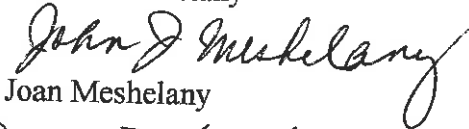
This a strictly residential neighborhood and we believe it should stay that way. There is plenty of unused property along Babcock Street.

Please do not allow our beautiful neighborhood to be sectioned off by someones commercial whim.

Sincerely

John J. Meshelany


1854 Plantation Circle SE, Palm Bay, Fl 32909


Joan Meshelany


jjmesh@yahoo.com

Memo to Plantation Circle Homeowners

This is where we are at:

1. We purchased 8.5 acres (zoned residential) of vacant land located at the SEC of Babcock Street and Plantation Circle. We plan to develop half of it for commercial purposes.
-  2. The nearby residents want to see the corner developed as a single family residence. Sorry, that simply will not happen. Anybody that thinks that is what will happen, is just being foolish and not realistic.
3. The property was intentionally left out of the original plat that the rest of the property owners are part of. There are "no" deed restrictions against commercial development on the entire 8.5 acres we purchased.
4. This property has been offered for sale to residential developers for 20 years and did not sell to residential builders. This means the property's highest and best use is not residential, and most likely commercial. You simply don't want to locate single family residents on a main arterial thoroughfare. It should be prevented if possible, and that is the opportunity we give the City of Palm Bay. Legally, Florida Case Law is clear and says you zone property for its best use for the overall community, "not" just for a few surrounding residents.
5. Planners by statute are supposed to zone properties for its highest and best use. Note: the fastest growing City in the entire United States, Houston, Texas, for the last 20 years, has "no" zoning; yes, no zoning! It is total "Buyer Beware"! The City of Palm Bay clearly wants to be a fast growing City.
6. Babcock Street is considered to be a major "commercial" thoroughfare in Brevard County. Most of the property on the East side of Babcock Street from Malabar Rd South to the new I-95 Interchange over the next 10 years will be zoned to some form of commercial or institutional type zoning. That

is the reality of what is presently happening and what is going to happen whether you realize it or not.

7. The opening of the I-95 Interchange between Grant Rd and Micco Rd will significantly increase the traffic on Babcock Street which will create a higher demand for more commercial properties in the area, particularly on Babcock Street. More traffic equals more commercial needs. The City of Palm Bay has already shown their desire to increase the number of commercial zoned properties on the East side of Babcock Street. This trend will obviously continue to occur.

Some incorrect statements were made at the meeting the other night; the I-95 plans are done, the right of way has been acquired, the funding is in place, and construction will start in the next few months, with completion in 2017. "Major" changes are obviously coming to the area. The City of Palm Bay is presently contemplating relocating their government offices to this general area, where the new I-95 Interchange is going to be. Please realize, major changes are coming to the area where you live.

8. Commercial properties, by good planning, are located at main intersections. The intersection of Coogan & Babcock is a main intersection, and the busiest intersections on Babcock Street, South of Malabar Rd.
9. Ideally, the location of commercial properties and the services they offer are best located to where they are needed to best serve the public. People typically shop where that closest opportunity is, thus, "reducing" the total traffic in an area.
10. One of the City of Palm Bay's worst financial problems is the lack of a large commercial tax base. It has the lowest commercial tax base of any City its size in the State of Florida. Further, the City of Palm Bay is one of the most under-retailed cities in the State of Florida. It is a well-known fact, the City of Palm Bay wants to significantly increase its commercial tax base. Well, how do you think that happens?

Getting Support from the Plantation Circle Residents to develop the corner west half of the Property as Commercial

We are "only" willing to do the following if we get the local residents to support us; "if not", we will not agree to do the following:

1. Develop "only" the West ½ of the 8.5 acres to commercial
2. Double the typical landscape buffer with substantially taller trees, twice on width "and" size currently required by the City of Palm Bay
3. Double the typical rear building setback requirement that is required by the City of Palm Bay
4. Give the City of Palm Bay architectural approval rights to insure something attractive is built on the property
5. Install attractive privacy gates on Plantation Circle. This should help increase property values for those living on Plantation Circle

FYI, I developed the Publix center (Driftwood Plaza) on South Melbourne Beach. The homeowner groups fought me, but I won, and property values increased by 30% in that area the next year. Driftwood Plaza is the most attractive building in the entire South Beach area. Everyone is very happy with Driftwood Plaza, particularly, the adjacent residents.

When I developed the Publix center (Shoppes of St Lucie West) in St Lucie West 25 years ago, again, residential property values increased by 30% the next year. That shopping center is still one of the most attractive buildings in all of St Lucie West. This shopping center was crucial and the most important factor in the growth of residential development in the first 5 years of St Lucie West.

I also developed a Walgreens/Office Building project at the SWC of Donald Ross Rd & Central Blvd in a residential area of Palm Beach Gardens. It is one of the most attractive retail/office building projects (see attached photos) in all of Northern Palm Beach County. This upper end development ("the Legends") is part of an upper end residential development, also called "the Legends". The local residents fought me and I won. After I built the project, the immediate residential property values increased by 30% the next year. The adjacent residents now love the commercial development I built.

I have successfully developed 7 million square feet of retail and office space in my 40 year career; those projects are still successful projects today. The Plantation Circle property owners are fortunate to have someone of my experience planning to develop this property. My successful track record speaks for itself.

To increase the residential property values in the area the residents should be pushing for 4 things to occur:

1. Push Brevard County, via the Palm Bay City Council, to 4 lane Babcock St; Babcock St looks terrible and is a sign a blighted area
2. Have architectural review requirements in place on "all" new building permits both on residential and commercial in the City of Palm Bay
3. Significantly increase the minimum landscape requirements in the City of Palm Bay, and have language in place that the property owner must replace dead landscaping within a certain time period or they will be subject to code violations and/or fines.
4. Lobby for better schools

My point is, if a project is tastefully done, it does not have a negative impact on property values, and there are certainly other factors that have a far greater significance on property values that I have referenced above.

I hope we can be good neighbors. Right now, I realize we have a lot of "NIMBY's" (not in my back yard). I would be happy to meet and discuss any issues you may have.

I look forward to hearing from you.

Brian West
Westco Development
3125 SW Mapp Road
Palm City, FL 34990

772-221-8500

Chandra Powell

From: Robert Heitsch <rtheitsch@gmail.com>
Sent: Friday, July 22, 2016 8:45 AM
To: Chandra Powell; Patrick Murphy; Stuart Buchanan; Robert Loring
Subject: Objection to rezoning request CP-21-2016

Dear Chandra Powell, Patrick Murphy, Stuart Buchanan, Robert Loring:

This letter is in regards to rezoning application CP-21-2016. This application is scheduled for consideration during the August 3rd 2016 Planning and Zoning Board meeting. We ask that the Planning and Zoning Board recommend to the city council that this rezoning request be denied without further consideration.

Rezoning application CP-21-2016 is simply a resubmittal of CP-7-2015. The Planning and Zoning Board considered CP-7-2015 last summer and recommended that the city deny that request. This recommendation and analysis is captured in the Land Development Division Staff Report, dated 9/2/15. The analysis in this report indicates that there is ample undeveloped commercial property in the area; that the rezoning request is incompatible with the adjacent residential land uses, and that commercial development of the property may result in unsafe traffic patterns. Each of these points are still valid.

In addition, we believe that any tax gains realized by commercial development of this property would be offset by the devaluation of the nearby homes.

We are the owners of 1755 Plantation Circle SE. We do NOT want the property in our neighborhood rezoned. This is a very family orientated and close knit neighborhood. Most of us are long term residents. We are very concerned that our property values and the quality of our neighborhood will decrease. When we built our house the entire area was zoned RR and we fully expect that it will remain this way.

Please recommend that the city council deny rezoning request CP-21-2016.

Sincerely,

Bob & Kim Heitsch

1755 Plantation Circle SE

[\(321\) 676-5215](tel:(321)676-5215)

July 22, 2016

Chandra Powell

From: BLAIR EDWARDS <sharpei2@bellsouth.net>
Sent: Saturday, July 23, 2016 10:18 AM
To: Chandra Powell; patrick.murphey@palmbayflorida.org; Stuart Buchanan; Robert Loring; Judy Thornberry
Subject: Plantation Cr. Concerns

We are writing concerning Case CPZ 21-2016 regarding zoning change on Plantation Cr.

Our family bought our home here in this neighborhood because it was both safe and quiet. We all enjoy biking and walking in the neighborhood because there is only traffic from residents. This is important for our autistic son.

We believe commercial zoning at the end of the block will compromise both our security and safety.

Please vote "NO" on this change.

Thank you for your help.

David Edwards
Dolly Edwards
Paul Edwards
Toby Edwards

Chandra Powell

From: Colette Brink <lettybrink@yahoo.com>
Sent: Saturday, July 23, 2016 5:07 PM
To: Chandra Powell; Patrick Murphy; Stuart Buchanan; robertloring@palmbayflorida.org
Subject: Case Numbers: CP-21-2016 and CPZ-21-2016

I object to the proposed rezoning of property located at the corner of Babcock St. and Plantation Circle SE by West Point Babcock LLC. (Case Numbers: CP-21-2016 and CPZ-21-2016). My wife and I have worked all our lives and saved to build our home. We fell in love with the Plantation Circle area and had our dream home built in 1992. My wife has Rheumatoid Arthritis for over 49 years and doesn't get around very much. We are both handicapped and enjoy our home much more now that we don't get around very well. Please help keep West Point Babcock LLC from "just making money" as he said to us previously.

Thank you,
William & Colette Brink
1786 Plantation Circle SE.
Palm Bay, FL 32909
(321) 951-8925

Chandra Powell

From: Beth McIntyre <mcintyre1978@bellsouth.net>
Sent: Sunday, July 24, 2016 3:32 PM
To: 'Beth McIntyre'
Subject: Plantation Circle commercial property opposition

Hi,

It has been brought to my attention that West Point Babcock LLC has submitted yet another application to rezone the property at the corner of Babcock Street and Planation Circle SE from Single Family Residential to Community Commercial.

As a current landowner and resident of Plantation Circle, I'd like to let you all know that I am vehemently opposed to having commercial property at the opening to our residential neighborhood. We have a wonderful area and do not need to have any commercial properties abutting ours.

Any questions/comments/concerns you may have, please feel free to contact me.

Thank you,

Beth McIntyre
1829 Plantation Circle SE
Palm Bay, FL 32909
321-676-5599
mcintyre1978@bellsouth.net

Beth McIntyre
321-676-5599
mcintyre1978@bellsouth.net

Chandra Powell

From: philip weinberg <pawasa@bellsouth.net>
Sent: Monday, July 25, 2016 10:53 AM
To: Chandra Powell
Subject: Fw: P&Z agenda item

Chandra,

I just received this e-mail from Frank Hickson. Please print it out and include in the agenda packet for all the board members.

Thanks,
Phil

On Sunday, July 24, 2016 10:31 PM, "Frank Hickson, PE" <FHickson@go-iei.com> wrote:

Mr. Weinberg,

I hope you are doing well. I am writing to you because I went out for a run this evening and saw a very small sign on the lot on the corner of Plantation circle and Babcock proposing a change in zoning in land use to commercial status (again). It was actually hard to see the sign as I missed it the first time I ran by it. I am used to the City posting those real large signs that are easily visible, but this time it was a fraction of the size and set on the tree line so it blended in a little. This is the same property which tried to change the zoning previously to commercial and the P&Z Board and Council voted unanimously not to grant the change. Both the P&Z and Council mentioned that this is a pristine rural residential area in Palm Bay and it shouldn't be changed to commercial as it would ruin the rural characteristics of the area. I do not have all the board members email addresses so I am hoping this email can be passed to the whole P&Z board.

My name is Frank Hickson and I reside at 1883 Plantation Circle SE. I am speaking on behalf of my wife, Alyssa, my daughter, Miranda, and my autistic son, Nicholas. I would request that my previous emails to council and the Board on the previous attempt for this land use and zoning change be attached to this upcoming agenda item as almost all those issues are still relevant. Some of the key points as to why I am against this change:

1. It would ruin the rural nature of the neighborhood. This is a gem of Palm Bay and should be protected as it is probably the only rural residential area in the area. Even after the Parkway interchange with I-95 is constructed, the planning is to maintain the rural residential feel here and the commercial influence of the interchange stops well short of our neighborhood.
2. Security
3. Noise
4. Improper use of the Plantation Circle which is only to be used for residential traffic and not commercial traffic. When I researched the codes on the last attempt by this developer, the codes stated that residential streets were not to be used by commercial developments.
5. Light pollution
6. Traffic Operation problems on Babcock itself due to access spacing.
7. Inconvenience to residents which will surround this commercial property
8. Can have major issues at the intersection at cogan which is already busy especially during school (Sunrise elementary).

9. The change didn't comply with the future land use or City's Vision for this area as documented in the vision plan

10. It is better to have this property set up as residential. A few years ago, I wanted to purchase the property (on 2 different occasions) to put my horse and barn, but the realtor never called me back. A few months back, we noticed "for sale" signs on the same property, so my wife and I called again and the realtor this time told us only the 3 easterly acres were available. We assumed the owners were still pursuing the development of the front 5 acres. There is no way we were going to buy a place to put horses and then have a gas station put next to our farm. Horses and convenience stores don't work well together. That is another reason any commercial zoning isn't appropriate, as large animals such as horses and cattle (more notably horses) are easily spooked by the sounds and the hustle and bustle of a commercial operation.

Essentially, any zoning other than rural residential just doesn't make any sense. I respectfully request the Board to vote "NO" on any land use or zoning change for this property so as to protect the quality of life for all the people who spent their life earnings to live in this beautiful established neighborhood. Thank you in advance for your consideration of this issue.

Frank Hickson, PE



Infrastructure Engineers, Inc.

Phone: +1.888.451.6822 x2001

Mobile: +1.407.973.0133

Email: FHickson@go-iei.com

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Chandra Powell

From: dicknlynnesmith . <dicknlynnesmith@gmail.com>
Sent: Monday, July 25, 2016 12:14 PM
To: William Capote; Chandra Powell; Patrick Murphy; stuartbuchanan@palmbayflorida.org; Robert Loring
Subject: OBJECTION to CP-21-2016 and CPZ-21-2016



1750 & 1756 Plantation Circle SE
Palm Bay, FL 32909-7111

August 25, 2016

RE: CP-21-2016 and CPZ-21-2016

Fifteen years ago, when we retired from the Florida Keys, we chose this rural, private neighborhood to spend our Golden Years because of the natural environment and because of assurances that the deed restrictions guaranteed that all lots would be used only as rural, single residence properties.

We love that Plantation Circle is composed of mixed-ethnic families, comprising young and old members, and that as we all age together, children's laughter will continue to be heard (if only from grandchildren). Ours has been a safe, law-abiding community, composed of residents who care for their properties and who respect each others' privacy ~ without HOA enforcement.

With a Wildlife Habitat and a scrub jay sanctuary at the bend of the Circle, as well as multiple retention ponds for wading birds, we are visited daily by Sandhill cranes, nesting owls, a wide array of birds ~ including roseate spoonbills ~ and even crossing deer. This flow of nature would be disrupted if a commercial venture were allowed to be placed in the center ~ and heart ~ of our Circle.

At table each evening, we give thanks for finding this special place to spend our Golden Years. Please don't allow GREED to trash our special neighborhood, where families live in peace, privacy, and harmony.

We **STRONGLY OBJECT** to the rezoning of Plantation Circle from Single Family Residential to Community Commercial.

Respectfully requested,

R. E. Smith

Richard E. Smith

Lynne H. Smith

Lynne H. Smith



as well as

PLANTATION CIRCLE SE

We have gone to a lot of trouble
to maintain the natural use and beauty
of our properties.

Part of our neighborhood is recognized
by the Federal Wildlife Federation as a
Certified Wildlife Habitat.



Thank you for your kind consideration.
Richard E. & Lynne H. Smith

Chandra Powell

From: kjohn173@bellsouth.net
Sent: Monday, July 25, 2016 8:48 PM
To: Chandra Powell; Patrick Murphy; Stuart Buchanan; Robert Loring
Cc: rjohnntwin@bellsouth.net
Subject: Rezoning in SE Pam Bay

My name is Kenneth L. Johnson, Sr. I have resided with my wife, Roberta, at 1894 Plantation Circle since 2003. This memo is to express our non-support of the proposed rezoning of the property on Plantation Circle and Babcock Street. When we searched for a place to retire we decided on the Palm Bay area for its peaceful and serene location. After spending most of my 68 years in New York, Philadelphia and Washington, and having been exposed to some of the environmental issues that are characteristic in an urban setting, I searched for, and found, a residential area that would be devoid of the inherent noise, pollution, crime and traffic congestion of city life.

Although our research showed us potential commercial development areas to the north and south of our home, we felt comfortable that the development in Plantation Circle would provide a safe haven away from what we had been exposed to.

We also sought a place where we could establish a central gathering place for our extended family. We have five children, 13 grandchildren and 25 great-grandchildren, and our home provides a respite away from their urban environment. Here, they run in the grass and ride their bicycles without concern for traffic, and without a concern for their personal safety. This goes far in enhancing their quality of life and helps us to establish and maintain a legacy for them. The proposed rezoning of Plantation Circle would be a detriment to everything we have worked for. Our one acre, the acre that God blessed us with, lies directly adjacent to the proposed rezoned area. That makes this very personal for us. We have had a buffer to the west of us, a retention pond, and the vacant land behind us, and this has shielded our family from some of the noise and pollution that already permeates through the area from Babcock Street, which is already viewed as a commercial thoroughfare in Brevard County. Witness the condition of Babcock Street from Malabar Road, south to Micco road.

We have an ideal community on Plantation Circle. Our homeowners maintain the safety and security of our community through the watching out of not just their home, but their neighbor's home. Any commercial development in our circle would

disrupt that sense of community and expose us to the dangers and the environmental issues that come with commercial development.

Therefore, it is for these reasons that we urge you to accept the recommendations of the previous staff study and the Planning and Zoning Board and to reject any attempts at the commercialization of Plantation Circle. We believe any commercialization of Plantation Circle is detrimental to the peace and tranquility of the area, and is not in keeping with those things that are deemed good and wholesome for the community and the City of Palm Bay, and have attracted families to Brevard County.

Thank You.

Sent from [Mail](#) for Windows 10

Sylvan & Harriett Blenman
2473 Cogan Dr. SE
Palm Bay, FL 32909

July 25th 2016

Chandra Powell
Growth Management Department
120 Malabar Rd, SE
Palm Bay, FL 32909

Dear Ms. Powell:

RE: Case #'s CP-21-2016, CPZ-21-2016

We are expressing opposition to the proposed rezoning of property at the Corner of Babcock St. and Plantation Circle.

Our principal objection is the zoning changes will affect a very large area not far from our house, with heavy traffic and increase accidents.

We are also very concerned since the property values in the entire neighborhood will decline as it becomes Commercial.

No doubt you will consider how the zone change will affect us.

Sincerely,



Sylvan & Harriett Blenman

Chandra Powell

From: David Thornberry <davetberry@bellsouth.net>
Sent: Tuesday, July 26, 2016 8:03 AM
To: Chandra Powell; Patrick Murphy; Stuart Buchanan; Robert Loring
Subject: Letter of Protest against rezoning property on Plantation Circle, Palm Bay from Residential to Commercial (Cases CPZ-21-2016 (Zoning), CP-21-2016 (Land Use))

To:

Patrick Murphy,
Assistant Growth Management Director
City of Palm Bay

Stuart Buchanan
Director, Growth Management Department
City of Palm Bay

Chandra Powell
Growth Management Department
City of Palm Bay

Robert Loring
Planner in Land Development Division Growth Management Department
City of Palm Bay

Just recently our community of Plantation Circle and across Babcock Street was notified that Brian West (West Pointe LLC) has yet again applied to change the zoning of parcel 29-37-34-00-506 from Residential to Commercial. As before, I and my neighbors find this totally unacceptable.

In 2015 West Pointe LLC purchased this property and immediately applied to change the zoning from Residential to Commercial (Cases CPZ-7-2015 and CP-7-2015). The zoning report from the City of Palm Bay stating that the Comprehensive Plan had areas already dedicated for commercial land usage, there would be traffic issues with Cogan Street and would also adversely impact on our neighborhood. The report recommendation was to deny the rezoning. A meeting with the zoning committee was held and not only was the request to rezone unanimously denied, but two members of the zoning committee spoken openly to the attendees that the request was not in the best interest of Palm Bay or our neighborhood. Representatives of West Pointe LLC canceled hours before the scheduled City Council meeting to further argue their case.

Here it is 7 months later and West Pointe LLC has once again applied for a rezoning from Residential to another form of Commercial (Cases CPZ-21-2016 (Zoning), CP-21-2016 (Land Use)). What has changed? The residents of Palm Bay who live on either side of Babcock are vehemently against this rezoning. The report by the City of Palm Bay and the Comprehensive Plan have not changed to my knowledge. Yet Brian West is determined to try to undermine our neighborhoods with what amounts to a cash grab in an area he doesn't live in or have any interest besides turning a quick buck. During the nearly 12 months that West Pointe LCC has owned this property there has been no work into developing this potentially valuable residential area. Instead Brian has tried to sell the land around Plantation Circle while keeping the lots facing Babcock with his LCC. There was never any intention of using this land as a residential area, just trying to raise its value as commercial without regard for the surrounding residents.

Our community pulled together last year to face this threat and we will do so again. When we purchased our house in 1997, this land was zoned as residential and this is one of the main reasons we purchased in Palm Bay. Since then this has been a great community of a good, tax paying Palm Bay residents.

We hope the City of Palm Bay will work with us again, as Mr. West continues to attempt to degrade our neighborhood and defy the good judgment of the City of Palm Bay. Mr. West could have at any time bought Commercial property in the areas designated for that purpose in the Comprehensive Plan if he was legitimately interested in Palm Bay commerce. Instead he has proven himself to be an unethical developer with his only his wallet in mind. These type of developers must be stopped unless they undo the far seeing plans of the City of Palm Bay.

Sincerely,

David Thornberry

Judy Thornberry

David and Judy Thornberry

1859 Plantation Circle S. E.

Palm Bay, Florida, 32909

321-956-6586.

July 25, 2016.

Stuart Buchanan, Robert Loring, Patrick Murphy, Chandra Powel,

I, Linda Filis (the first resident of Cheyenne Acres) **strongly and whole heartedly:**

Oppose:

The rezoning of 4.41 acres from (RR) Rural Residential to (CC) Community Commercial at the southeast corner of the north entrance to Plantation Circle on Babcock Street. Case # CPZ-21-2016 (Zoning)

Oppose:

Future land use change on the above described property from Single Family Residential to Commercial. Case # CP-21-2016 (Land Use)

My family built our home at 1779 Plantation Circle in 1984. Neighbors eventually brought their families here to build a community of God loving, family oriented, hardworking, supportive, and reliable people. A loyal fellowship of devoted **Palm Bay citizens**. These are the attributes of a thriving, well-kept residential neighborhood. Many of us (never alone, but with each other's help) have experienced joy, happiness, good health, prosperity, sickness, sadness, loss, hurricanes, fire, and even death. **Together** we have grown **strong** through life's journey.

Our children, the next generation (many reside in Palm Bay) support our city as:

Elementary School Teacher,
Nurse Practitioner,
Computer Engineer,
Magazine Editor,
Financial Advisors,
Media Specialist,
Nurse,
Retail Associates,
Chef,
Industrial Engineer,
Doctor of Chemical Engineering,
Master of Criminal Justice,
Youth Counselor,
Emergency Room Physician,
Attorney,

We helped foster beautiful individuals with strong foundations who add to the rich history of the city of Palm Bay. We know what is best for our families and neighbors. We must remain zoned a Rural Residential District at Babcock St. and Plantation Circle to keep the integrity of our community and its uniqueness intact. This is where the history of our families' hearts and souls exist.

Please help us by rejecting the zoning change proposals.

Linda M. Filis
1779 Plantation Cir. SE
Palm Bay, FL 32909
(321) 724-8081 Ifilis@yahoo.com 7/26/2016

Chandra Powell

From: Trevor Filis <tgfilis@yahoo.com>
Sent: Tuesday, July 26, 2016 1:06 PM
To: Chandra Powell
Subject: Objection to Plantation Cir Rezoning CP-21-2016 & CPZ-21-2016

Chandra Powell,

Case No.: CP-21-2016 and CPZ-21-2016

I am raising my objection to the planned rezoning of Plantation Circle. This rezoning is detrimental to my neighborhood. Any type of commercial property will cause negative impact to the community in more ways than one. I have lived here all my life and don't want this peaceful neighborhood to be ruined by this proposal. Please vote NO to this proposal.

Respectfully,

Trevor Filis
1779 Plantation Circle SE
Palm Bay, Florida 32909
tgfilis@yahoo.com
(321) 501-6242
7/26/2016

Chandra Powell

From: Bill and Lisa <wfaulken@cfl.rr.com>
Sent: Tuesday, July 26, 2016 4:18 PM
To: Chandra Powell
Cc: Patrick Murphy; Stuart Buchanan; Robert Loring
Subject: Case #'s CP-21-2016, CPZ-21-2016

We are the owners of 1842 Plantation Circle SE. We built our house in 1988 and many of the residents in our neighborhood have been here that long or longer. We strongly object to the rezoning of the land at the corner of Babcock and Plantation Circle. It has always been a quiet neighborhood and very much family oriented.

We are very concerned that the rezoning will decrease the value of our homes and the quality of our neighborhood. When the homes here were built, all of the properties were zoned Single Family Residential and it would be extremely disadvantageous to all home owners to allow West Pointe Babcock LLC to have the property rezoned to Community Commercial.

We ask that you vote no to the rezoning.

Thank you,
Bill and Lisa Faulkenberry
321-724-8957

Chandra Powell

From: Jane Clary <claryt@fit.edu>
Sent: Tuesday, July 26, 2016 5:18 PM
To: Chandra Powell; Patrick Murphy; Stuart Buchanan; Robert Loring
Subject: case # CP-21-2016 & CPZ-21-2016 - Plantation Circle

Re: Rezoning/change of use application, Family Residential to Community Commercial – Plantation Circle SE

I live on Plantation Circle, and I oppose the rezoning of the property at the south east corner of Plantation Circle and Babcock Street from Single Family Residential to Community Commercial. This property is located within the borders of our Plantation Circle neighborhood, and commercial development on this land would destroy the residential feel of our community, and decrease our property values. This change was attempted last year, and denied, and the reasons why the zoning should not be changed remain the same.

The change in use of this parcel does not fit the City's Comprehensive Plan, especially with major commercial development planned for only a few miles to the south and already zoned less than a mile to the north.

It does not make sense to place commercial development within the center of a residential neighborhood, that is why Palm Bay has a Comprehensive Plan - to ensure that the city grows in a way that makes sense, not just to provide a developer the opportunity to make a profit.

This zoning change would cause terrible traffic congestion at the intersection of Cogan & Babcock, making it similar to the Waco Babcock traffic congestion each morning. I believe that all the parents driving to Sunrise Elementary each morning and afternoon would also not appreciate the slowdown due to commercial development at this location.

I have lived on Plantation Circle for 19 years and I am a 2nd generation Palm Bay native (my dad, Martin Bayer was born here in 1924 and my mom in 1926). I have lived in Palm Bay for 51 years and have no plans on moving, because Palm Bay is such a great place to live. So I hope that you will vote no to this outside investor's request to rezone land in my neighborhood.

Thank you for your time,

T. Jane Clary

1835 Plantation Cir SE

Palm Bay, FL 32909

Chandra Powell

From: Robert Gotshall <gotshallr@bellsouth.net>
Sent: Tuesday, July 26, 2016 5:57 PM
To: Chandra Powell; Patrick Murphy; Stuart Buchanan; Robert Loring
Subject: proposed re-zoning for Case Numbers CP-21-2016 and CPZ-21-2016

Ladies and gentleman,

This letter regards the proposed re-zoning for Case Numbers CP-21-2016 and CPZ-21-2016

If this property is re-zoned from Residential to Commercial, I am concerned about the impact on homeowners as well the animals that reside or routinely visit our circle. I often see deer on that property that use that land for entrance and egress. Also, we have many Sandhill Cranes on our circle which could be hurt by increased traffic from any business. We have hawks, owls, and scrub jays that often nest in this property.

When me and my family moved to Plantation Cir and built our home 25 years ago, we thought we would be living in a nice, quiet neighborhood with our road having only local residential traffic. Any business on this property will greatly disturb our peace and quiet.

We believe there is already enough commercial zoned property on Babcock St to accommodate new businesses without disrupting my neighborhood. Why should we surrender our property values to outsiders who seek only to make a quick buck turning over this property without any consideration for us existing residents? They won't even tell us what the lots will be used for. They have been very secretive in the entire matter.

When we have our meetings of Plantation Circle homeowners, we are unanimously against this re-zoning in our neighborhood. We are united in our fight against this dangerous and illogical re-zoning of this property.

We believe the applicant is deviously trying to postpone this council vote in their attempt to wait out our resolve and concerns over time. Also, the applicant claims he is speaking with surrounding homeowner about this to gain their support for this re-zoning. In truth, upon speaking with my fellow homeowners, none of us at all have been contacted. It is just another sneaky delaying tactic.

We hope to see this re-zoning attempt voted down by you at this meeting. Thank-you for your support in this matter.

Sincerely,
Robert and Kathy Gotshall

1882 Plantation Circle SE
Palm Bay, FL 32909

dated: 26 July 2016
phone: 321-724-6624

Chandra Powell

From: Larry McIntyre <mcintyreogp@gmail.com>
Sent: Tuesday, July 26, 2016 7:35 PM
To: Chandra Powell; Stuart Buchanan
Cc: Patrick Murphy; robert.loriing@palmbayflorida.org
Subject: Case Number CP-21-2016 and CPZ-21-2016

I am opposed to the rezoning on the two case numbers above. It is inconsistent with good planning and zoning principals. The parcel is in one of the nicer developments in Palm Bay and rezoning this to commercial would reduce the property values in the area.

Larry McIntyre
321-508-3009
mcintyreogp@gmail.com

Chandra Powell

From: B <kaletas@hotmail.com>
Sent: Tuesday, July 26, 2016 7:56 PM
To: Chandra Powell
Cc: B
Subject: Rezoning of Plantation Circle, Palm Bay

Importance: High

I OBJECT TO THE PROPOSED REZONING OF PROPERTY IN PLANTATION CIRCLE. CASE #CP-21-2016, CPZ-21-2016 . I HAVE LIVED HERE SINCE 1994 WHERE MY WIFE AND I BUILT OUR HOME AND RAISED OUR TWO CHILDREN NOW YOUNG ADULTS . WE HAVE SEEN OTHER FAMILIES FOLLOW IN OUR FOOT STEPS WITH RAISING THERE FAMILIES . WE MOVED HERE FROM PORT ST LUCIE AND ENJOY LIVING IN PALM BAY . I OBJECT TO THE REZONING TO COMMERCIAL PROPERTY FOR ONE IT'S NOT A GOOD FIT . KEEP RESIDENTIAL WITH RESIDENTIAL AND COMMERCIAL WITH COMMERCIAL . THE NEW OWNER/ DEVELOPER TALKS ABOUT WORKING WITH THE HOME OWNERS OF PLANTATION CIR THAT IS ALSO NOT TRUE . HE HAS BEEN ARROGANT AND HAS NO CONCERNS ABOUT DESTROYING A QUIET RESIDENTIAL COMMUNITY .

THE NEW OWNER / DEVELOPER TALKS ABOUT HOW NO ONE WANTS THIS PROPERTY THAT'S NOT TRUE . IT'S THE WAY THE PROPERTY IS ZONED. IN ORDER TO SELL THE ONE ACRE RESIDENTIAL LOTS, THEY WOULD HAVE TO RUN CITY SEWER AND WATER INSTEAD OF WELL AND SEPTIC LIKE EVERYONE ELSE IS ON. AS YOU KNOW THIS LEADS TO A BIG EXPENSE .

TRAFFIC WOULD ALSO BE IMPACTED AT THE INTERSECTION OF COGAN AND BABCOCK ST AS THE PROPOSED REZONING WOULD ALSO HAVE TO HAVE A ENTRANCE AND EXIT NEAR OR AT THAT INTERSECTION

NO WHERE ELSE IN PALM BAY IS THERE A ONE WAY IN AND OUT WITH A COMMERCIAL PROPERTY INSIDE A RESIDENTIAL AREA .

PLEASE HELP US KEEP OUR COMMUNITY THE WAY IT IS AND PROTECT OUR PROPERTY VALUES!

THANK YOU IN ADVANCE.

TIM KALETA

1862 PLANTATION CIR S.E. PALM BAY FLORIDA 32909 e-mail address

KALETAS@HOTMAIL.COM

Charles W Clary
1835 Plantation Cir
Palm Bay Florida, 32909
321-480-5438
cclary@claryfl.com

July 26, 2016

Growth Management Department
City of Palm Bay, Florida

In reference to a proposed rezoning application, case#CP-21-2016 & CPZ-21-2016, I would like you to know I am opposed to the idea of this change of use. The real issue is the concept of having a commercial property in the center of the existing neighborhood and the traffic nightmare that would be created at the intersection of Cogan and Babcock. I am fully aware of change coming to the area with the I-95 interchange. I believe there is going to be plenty of new opportunities for a well planned out section of currently un-developed land that will include many different zoning applications all working together.

Currently there are two commercial properties located at the corner of Eldron Blvd SE and Babcock St that are bordered by the parallel road Westside Ave making it a much safer location for entering and exiting onto a main road. These two parcels are still vacant and will fill an immediate need for anything in the area as the I-95 interchange comes to completion. There is also a 17+ acre tract at the intersection of Grant Rd and Babcock St that is currently listed for sale. It is currently owned by one of the same parties as the 8.41 acre tract in the middle of Plantation Cir. These two areas are less than a half mile to the north.

The proposed zoning change seems to subdivide the current 8.41 acre tract to only include a 4.41 acre commercial use area. The modifications to that intersection of Cogan Dr and Babcock St would be necessary to allow a safe entry/exit onto these 4.41 acres. This site would have to be of course restricted to enter only from Babcock St not from Plantation Cir but will definitely result in turn around traffic. What will become of the other 4 acres that will be left out of this rezoning?

I would like to see a discussion on other possible ways to subdivide the 8.41 acres into buildable lots that keep the zoning consistent with the neighboring residential homes. I understand the current owners made a substantial investment last year to acquire the property and should have some way to divide the parcel and sell it off as that was their intentions, a quick dollar. I just don't see the possibility of rezoning being their answer. I will oppose all their attempts to rezone to commercial. We need to allow them to subdivide the 8.41 acres into buildable lots that align with the rest of the residential neighborhood.

Thank you

Charles W Clary
[SIGNED ELECTRONICALLY]

Chandra Powell

From: Linda Lawson <msllawson@cfl.rr.com>
Sent: Wednesday, July 27, 2016 10:02 AM
To: Chandra Powell; Patrick Murphy; Stuart Buchanan; Robert Loring
Subject: Case Numbers CP-21-2016/CPZ-21-2016

Dear Sirs and Madam-

I have been a resident of 1791 Plantation Circle SE for 20 years. I raised my four children here. My husband and I built in this neighborhood because of the upscale nature and the large lots. I love the isolated feel of the neighborhood, and the fact that there is very little traffic on this road. My three grandchildren will be riding their bikes here in a few years.

As you know, Plantation Circle is a U-shaped road off the east side of Babcock. There are numerous roads on both sides of Babcock from here south to Sunrise Elementary, more than any other place along Babcock. Particularly notable is Cogan Ave, which is directly across from Plantation Circle. The traffic in this area is high, and while the speed limit on Babcock is only 45 mph, drivers travel at a much greater rate of speed. The land in question is along Babcock, very close to Cogan. If this property was to be developed, it could add considerable traffic to an already busy part of Babcock Street. And along with high traffic comes less safe conditions when combined with high speed.

I love living on the Circle! We regularly see deer, foxes, Sandhill cranes in large numbers, bald eagles, gopher tortoises (one has been here for 20 years!), gators, and number other endangered and non-endangered species. I think that this is one of the nicest subdivisions in Palm Bay – especially in the older part of Palm Bay prior to the Bayside Lakes boom. It is a little gem in SE Palm Bay, and the epitome of the kind of neighborhoods the City should be proud to have. By changing the zoning from residential, you do a great injustice to the very residential quality of life you are promoting.

I wholeheartedly object to the proposed zoning changes.

Respectfully,

Linda H. Lawson



This email has been checked for viruses by Avast antivirus software.
www.avast.com

Chandra Powell

From: Patrick Murphy
Sent: Wednesday, July 27, 2016 10:13 AM
To: Chandra Powell
Subject: FW: rezoning of Plantation Cir

For the file.
Patrick

-----Original Message-----

From: B [<mailto:kaletas@hotmail.com>]
Sent: Tuesday, July 26, 2016 7:58 PM
To: Patrick Murphy
Cc: B
Subject: rezoning of Plantation Cir

I OBJECT TO THE PROPOSED REZONING OF PROPERTY IN PLANTATION CIRCLE. CASE #CP-21-2016, CPZ-21-2016 . I HAVE LIVED HERE SINCE 1994 WHERE MY WIFE AND I BUILT OUR HOME AND RAISED OUR TWO CHILDREN NOW YOUNG ADULTS . WE HAVE SEEN OTHER FAMILIES FOLLOW IN OUR FOOT STEPS WITH RAISING THERE FAMILIES . WE MOVED HERE FROM PORT ST LUCIE AND ENJOY LIVING IN PALM BAY . I OBJECT TO THE REZONING TO COMMERCIAL PROPERTY FOR ONE IT'S NOT A GOOD FIT . KEEP RESIDENTIAL WITH RESIDENTIAL AND COMMERCIAL WITH COMMERCIAL . THE NEW OWNER/ DEVELOPER TALKS ABOUT WORKING WITH THE HOME OWNERS OF PLANTATION CIR THAT IS ALSO NOT TRUE . HE HAS BEEN ARROGANT AND HAS NO CONCERNS ABOUT DESTROYING A QUIET RESIDENTIAL COMMUNITY .
THE NEW OWNER / DEVELOPER TALKS ABOUT HOW NO ONE WANTS THIS PROPERTY THAT'S NOT TRUE . IT'S THE WAY THE PROPERTY IS ZONED. IN ORDER TO SELL THE ONE ACRE RESIDENTIAL LOTS, THEY WOULD HAVE TO RUN CITY SEWER AND WATER INSTEAD OF WELL AND SEPTIC LIKE EVERYONE ELSE IS ON. AS YOU KNOW THIS LEADS TO A BIG EXPENSE .
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NO WHERE ELSE IN PALM BAY IS THERE A ONE WAY IN AND OUT WITH A COMMERCIAL PROPERTY INSIDE A RESIDENTIAL AREA .
PLEASE HELP US KEEP OUR COMMUNITY THE WAY IT IS AND PROTECT OUR PROPERTY VALUES!
THANK YOU IN ADVANCE.

TIM KALETA
1862 PLANTATION CIR S.E. PALM BAY FLORIDA 32909 e-mail address
KALETAS@HOTMAIL.COM

Chandra Powell

From: Patrick Murphy
Sent: Wednesday, July 27, 2016 10:20 AM
To: Chandra Powell
Subject: FW: Plantation Cir. Re-zoning

**For the File.
Patrick**

-----Original Message-----

From: timmy [<mailto:timmyveedj@yahoo.com>]
Sent: Tuesday, July 26, 2016 9:26 PM
To: Patrick Murphy
Subject: Plantation Cir. Re-zoning

Hello Mr. Murphy,

My Name is Timmy Vee and I live at 1871 Plantation Cir. S.E. , Palm Bay , 32909 And I oppose of CP-21-2016;CPZ-21-2016.

Thank you

Timmy Vee

Sent from my iPad

Chandra Powell

From: Mellane Davis <mellanedavis@yahoo.com>
Sent: Wednesday, July 27, 2016 1:11 PM
To: Chandra Powell
Subject: Case numbers CP-21-2016,,CPZ-21-2016

We are property owner and resident of Plantation Cir. S.E. Palm Bay for twenty seven (27) years. We strongly object to the rezoning and land use changes; as this would alter our neighborhood, and our way of life. Please vote NO on this matter.

Thank you in advance for your attention, thoughts, and consideration.

Kenneth& Mellane Davis
1767 Plantation Cir. S.E.
Palm Bay Florida

Chandra Powell

From: canenuts <canenuts@yahoo.com>
Sent: Wednesday, July 27, 2016 3:43 PM
To: Chandra Powell
Subject: Zoning

My wife and I spent many years looking for the perfect neighborhood when we found the nicest area we ever saw in palm bay we pitched our home one year ago on 1890 se plantation circle we thought we had it made. We have deer daily in the yard with much other assorted wildlife. Please dont allow anyone to put a business directly in our back yard. We already know that just a mile north or south of us on babcock is zoned commercial. Thanks for your time. Al davis .

Sent via the Samsung Galaxy S™ III, an AT&T 4G LTE smartphone

Chandra Powell

From: David Nowakowski <davidnowakowski@att.net>
Sent: Wednesday, July 27, 2016 4:02 PM
To: Chandra Powell
Subject: CP-21-2016, CPZ-21-2016

Chandra,
Good afternoon,

I Strongly Oppose the rezoning. The commercial property would ruin the Plantation neighborhood. While living in Baltimore and South Florida, I have seen how commercial areas have ruined the neighborhoods around. Our Family moved from South Florida to get away from commercialization. Plantation Circle provided us with the qualities we wanted in our lives.

Think of the reason why you moved to your neighborhood, why you enjoy your neighborhood, now take that away.

This is what this Real Estate group is trying to do, take away our neighborhood.

DO NOT REZONE

Sincerely,

David

Nowakowski

Chandra Powell

From: Hermin D'Oyen <d.hermin@gmail.com>
Sent: Wednesday, July 27, 2016 9:04 PM
To: Stuart Buchanan; Patrick Murphy; Robert Loring; Chandra Powell
Subject: Case No. CP-21-2016 & CPZ-21-2016

Messrs: Chandra Powell, Growth Management Department
Patrick Murphy, Assistant Director, Growth Management Dept.
Stuart Buchanan, Growth Management Dept.
Robert Loring, Planner in Land Development Division
Growth Management Department

Sirs:

It has been brought to our attention that another request is submitted by West Pointe Babcock, LLC (Stephen Burch) to Rezone property at the Corner of Babcock St. and Plantation Circle from Single Family Residential to Community Community Commercial.

This is to advise you that we strongly oppose this proposal for any part of this Circle to be commercialized. As we are all aware, this is definitely a residential area and we are asking that it remains that way.

We retired and moved here almost twelve (12) years ago for the explicit reason for the tranquility we were looking for in our retirement years.

We love it for the calmness, the interaction we have with each other on the block is unlike any we have ever experienced. This neighborhood is unique, we have each others back and will do just about anything for each other.

In view of the above, and much more that we could mention, we are asking you as residents of Plantation Circle who want our street to remain as a total and complete residential one, that you reject the Rezoning Application.

Thanks for your kind consideration and cooperation.

Linval & Hermin D,Oyen.

**Case Numbers CPZ-21-2016 (Zoning)
and
CP-21-2016 (Land Use)**

**I object to the Rezoning and Reuse of
the 4.41 Acres located on Plantation
Circle from Residential to
Commercial.**

**Enclosed please find a detailed
explanation of the basis for my
objection**

**Kenneth R. Smith
1866 Plantation Circle
Palm Bay, Florida 32909**

Table of Content

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- K) Reply to letter pending publication in newspaper



— — — — —



Plantation Circle, Palm Bay Florida
Currently 48 Homes
Average Market Price approx \$320,000

Houses

**The Residents of
Plantation Circle
Have**

\$11,480,515.00

**Invested
In Their Properties**

2015 Tax Map

**We pay over \$150,000.00 in property
taxes per year**

In recent years, the City of Palm Bay has exercised some long needed good planning with regards to residential and commercial area development. Basically developing these areas in modules that enhance each other. Bayside is a great example of how it is done right. The main Corridor of Palm Bay Road and the planned redevelopment on Route 1 also lend to this format. **We all want to see organized, well thought out commercial entities within our City.**

But, occasionally things go awry. Some outside speculator tries to pick up a cheap piece of property in an exclusively residential area and seeks to rezone it to commercial property, for the sole purpose of making a few quick bucks "flipping" it. These are not residents of Palm Bay, do not pay taxes in Palm Bay, and, most importantly, they don't vote in Palm Bay like my neighbors and me.

This is now the case at the southern end of Babcock Street, on Plantation Circle. This entire area is made up of residential single family houses. The houses in this area were built by people who invested their life's savings to build their homes here and start their families. The city master plan has for a long time classified this area as strictly residential. When I built my house here, I made sure that it was in a strictly residential area before investing in buying my property and building my home.

Now, an outside speculator group has set its sites on an 8 lot residential piece at the entrance to our subdivision. They have somehow rapidly cut through the usual slow process of rezoning property and in a matter of 6 weeks they hope to have completed the rezoning of this area from Residential to Commercial. This will destroy our neighborhood and quality of life by changing the heart of our neighborhood to a strip mall site. (Actually, the lawyer for the speculators, J Spira, informed me that he can't tell me what the intended use is, just that it is commercial)

There should be an overwhelming, important reason to change property zoning in the middle of established Residential Neighborhoods. Financial gain for one individual over that of another is not such a justification.

My neighbors and I object to this project. We urge the individuals on the Palm Bay Zoning board and the members of the town council to vote to reject this project. Its sole merit is to profit the speculators who seek to flip this property. Changes like this should be made prudently and with caution not to cause harm to our existing residents and their way of life. New and improved are not always words that indicate "for the good of the people." There are different kinds of growth. We want organized, well planned growth that enhances our lives, not the hap-hazard type of the past that does more harm than good and cheapens the image of our city.

Attached I have outlined some of the reasons that I object to this project as well as other information and emails that may be important to the issue. You may contact me at any time if you would like to discuss this matter further.

Respectfully

Kenneth R. Smith
1866 Plantation Circle
Palm Bay, Florida 32909
Wetemps@net.com
609-226-0120

Reason Number One..... for voting No to the proposed change of zoning for the entrance lot to Plantation Circle sub division.

There is no justification to re-zone and change use of this property other than speculation for financial gain.. This proposed change is not in keeping with our neighborhood design and intended use.

This lot actually fronts on to Plantation Circle not Babcock Street. Its side lot faces toward Babcock but is currently inaccessible from Babcock because a large, very deep drainage canal that runs along the entire side of the property. The required frontage for the subdivision of the 8 lots in this parcel in the past has been a minimum of 150 feet on Plantation Circle in accordance with our local zoning. I know this because I have already subdivided a piece off of this original piece of land and was required to have 150 feet frontage on Plantation Circle. The application is incorrect and flawed in this regard.

The City code of ordinances specifically prohibits the exit of commercial vehicles from a commercial property on to a residential street. The rezoning would have to encompass changing the access of this parcel to enter from Babcock Street directly across from the termination intersection of Cogan Street.. Having a commercial entity like a strip mall or any viable commercial entity at that location would create an extremely dangerous intersection. This is unnecessary and avoidable. There are already car accidents weekly at this intersection. Residential use of these lots facing on to Plantation Circle is a safe use consistent with the City Zoning Codes and Planning and once sub divided will generate a substantial tax base because of the high price of all the 1 acre+ lots in this neighborhood.

There is plenty of land south of this location that will soon be turned into a commercial hub, necessitated by the new highway intersecting with Babcock Street. This is where our Planning and Zoning committee should be using fore sight to build another model similar to Bayside. (Keeping commercial and residential areas in close proximity but not integrated into each other. Also, this speculator already owns more than 20 acres of commercial land within a ½ mile north of this property located on Babcock Street currently vacant.

This is a beautiful Residential Neighborhood, One of the nicest in Palm Bay. Ruining our beautiful neighborhood by putting a commercial lot right in the middle is wrong and is contrary to the basic layout of our neighborhood. To do this just so that speculators can make a few quick bucks is totally unjustified. The City can make just as much tax revenue if this same area were subdivided into 8 lots and remained residential.

Bookmark § 185.005 PURPOSE.

The city zoning code is based on, consistent with, related to and adopted to effectuate and implement the policies of the city comprehensive plan in order to protect, preserve and improve the public health, safety, order, appearance, convenience and welfare of the inhabitants of the city, including, but not limited to:

- (A) Lessening congestion in the streets;
 - (B) Encouraging the most appropriate use of land, water and resources;
 - (C) Providing adequate light and air;
 - (D) Securing safety from fire and other dangers;
 - (E) Preventing the overcrowding of land;
 - (F) Presenting the character and stability of residential, commercial, industrial and other areas;
 - (G) Facilitating the adequate provisions for transportation, water supply, sewerage, drainage, sanitation, recreation, schools, housing, and other services; and
 - (H) Conserving and enhancing the standard of living within the city.
-

Please consider the above city ordinance and vote NO to support your fellow residents and friends in Palm Bay.

Reason Number Two..... for voting No to the proposed change of zoning for the entrance lot to Plantation Circle sub division.

Incomplete, erroneous, and misleading application

I obtained a copy of the submitted Comprehensive Plan Amendment Application with regards to rezoning a property located at the front of Plantation Circle with a side access to Babcock Street at the Junction of Cogan Road. This application was provided to me upon my request from the Growth Management Department.

The application is confusing from the onset because nowhere does it describe the original lot which is the focus of this application. The current owner has purchased a large 8+ acre residential lot located on Plantation Circle. The applicant is aware that this property cannot be subdivided without a Major Subdivision Site Plan application because it has already been subdivided once already. Evidently, but not clearly, the intent is to change the use of specific parts of the land without properly subdividing them. A large portion will be left as residential property (about 1/3). Thus, the original property which is not shown on the application will result in 3 distinct areas, two of which are to be commercial and one to be residential. All this to be done on one incomplete application.

The application indicates that this property's frontage is on Babcock street, but this is incorrect. The property fronts on Plantation Circle. This was proven when I subdivided a piece of the property. Frontage was established on Plantation Circle at that time.

Most applicants at least try to complete the form in a professional manner. But all you have to do is look at items 9 and 10 on the application and you can see that either the applicant apparently does not understand the terms Justification and Specific.

9. Justification for Change (attach additional sheets containing supporting documents and evidence if necessary). The clients response: Fronts major Road. Knowing how much is at stake here with all of the residents that oppose this change, the applicant could have at least made an effort to justify why this change is needed. Fronting a major road is in no way a justification for changing the zoning of a residential lot. I deem this answer unacceptable to a very important question...Why do we have to do this?? Why do so many people have to change the quality of life? What is the Justification??

10. Specific use intended for property The clients response: Commercial. "Commercial" is not a SPECIFIC use for the property. Commercial is the zoning and use change sought, not the reason for it. Evidently this is pure speculation and the applicant has provided no information for you to make an informed decision. I mean, a tattoo parlor, a funeral parlor with a crematorium, a gas station? Why is he avoiding the issue and not correctly answering truthfully on the application.

It is obvious that the applicant is avoiding revealing anything about the intended use of the property as required. That is because I believe that the applicant is a speculator who has no intended use for the property and only seeks the change in zoning so that he and his partners can sell the property as commercial land at a good profit. Then the new buyer and the city will have to deal with all of the other issues associated with this property.

In my opinion, this application should be rejected as incomplete. If the applicant does provide the required information, then the process should be Start over at that point.



Land Development Division
120 Malabar Road SE
Palm Bay, FL 32909
321-733-3343
Landdevelopment@palmbayflorida.org

COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION

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

1) NAME OF APPLICANT (Type or print) West Pointe Babcock, LLC

ADDRESS Wb Smith & Associates, 1499 S Harbor City Blvd, Ste. 202

CITY Melbourne STATE FL ZIP 32901

PHONE # 321-676-5555 FAX # 321-676-5558

E-MAIL ADDRESS stephan@smithlewin.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION

See attached exhibits A-1 and A-2

SECTION 34 TOWNSHIP 29S RANGE 37E

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

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

5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE: CC

6) PRESENT USE OF THE PROPERTY: Vacant

7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: No

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

Yes

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

The property fronts a major road

- 10) SPECIFIC USE INTENDED FOR PROPERTY: Commercial

- 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."

☐ Large Scale Map Amendment (10 acres or more) \$1,600.00

☐ Text Amendment (Comp. Plan) \$1,600.00

☒ Small Scale Map Amendment (Less than 10 acres) \$1,000.00

☐ Special Amendment Cycle \$4,000.00

- ☒ 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(2) 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 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 2006-19.

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 7/1/2016

Printed Name of Applicant

Stephen Burch, for West Point Babcock, LLC

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

WEST POINTE BABCOCK, LLC
1135 Kane Concourse, Third Floor
Bay Harbor Islands, Florida 33154

July 1, 2016

City of Palm Bay

Please be advised that Smith & Associates, through its attorneys, are authorized to submit a rezoning application and a Comprehensive Plan or Future Land Use Map Amendment Application on behalf of West Pointe Babcock, LLC and represent it in any proceedings related to said application.

WEST POINTE BABCOCK LLC
By: Action Pointe, LLC, a manager

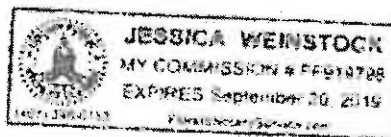
By: 
Name: Alan Sakowitz, President

STATE OF FLORIDA

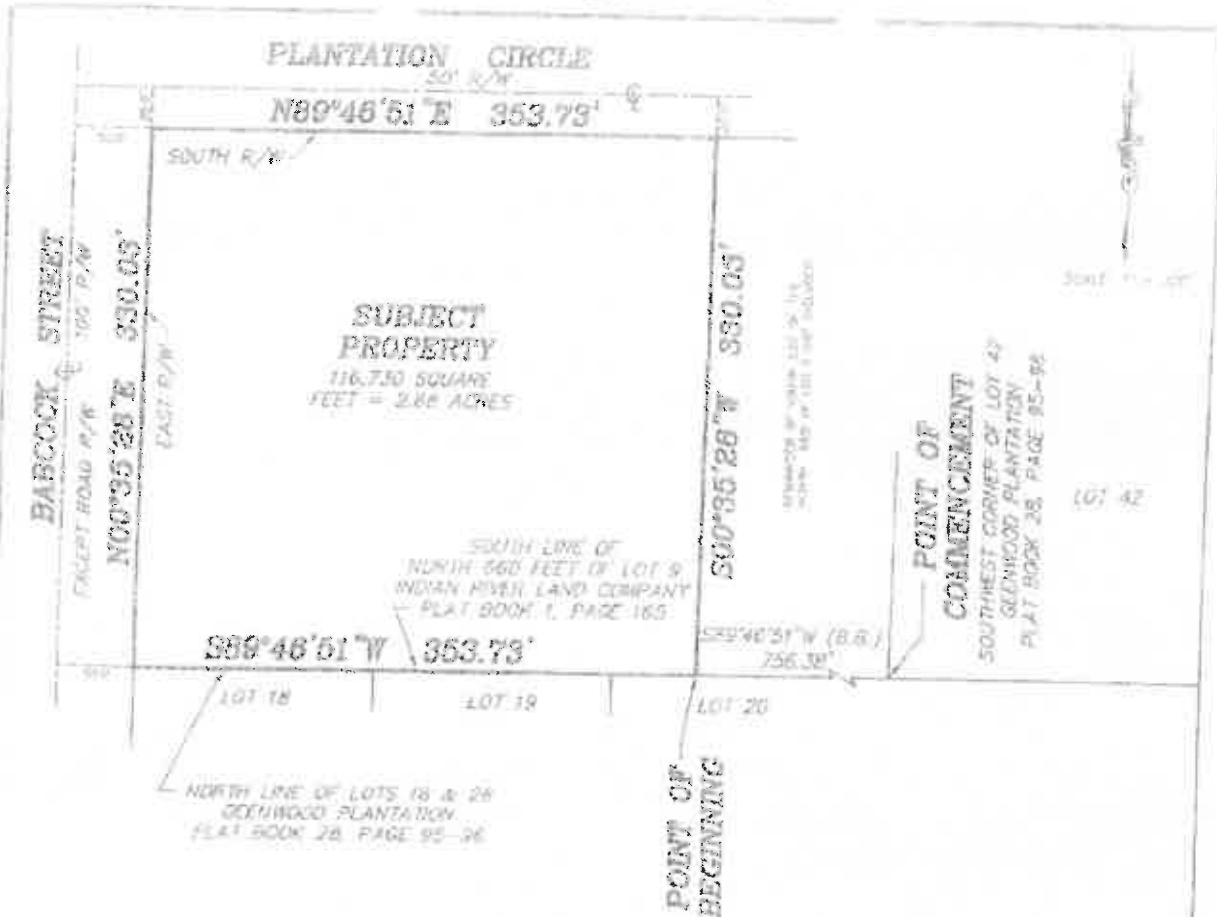
COUNTY OF MIAMI-DADE

BEFORE ME, the undersigned authority, personally appeared Alan Sakowitz, who is the President of Action Pointe, LLC, a manager of West Pointe Babcock, LLC, who is personally known to me, or who produced _____ as identification, and who did/did not take an oath.

AFFIRMED AND SUBSCRIBED before me this 7th day of July, 2016.




NOTARY PUBLIC

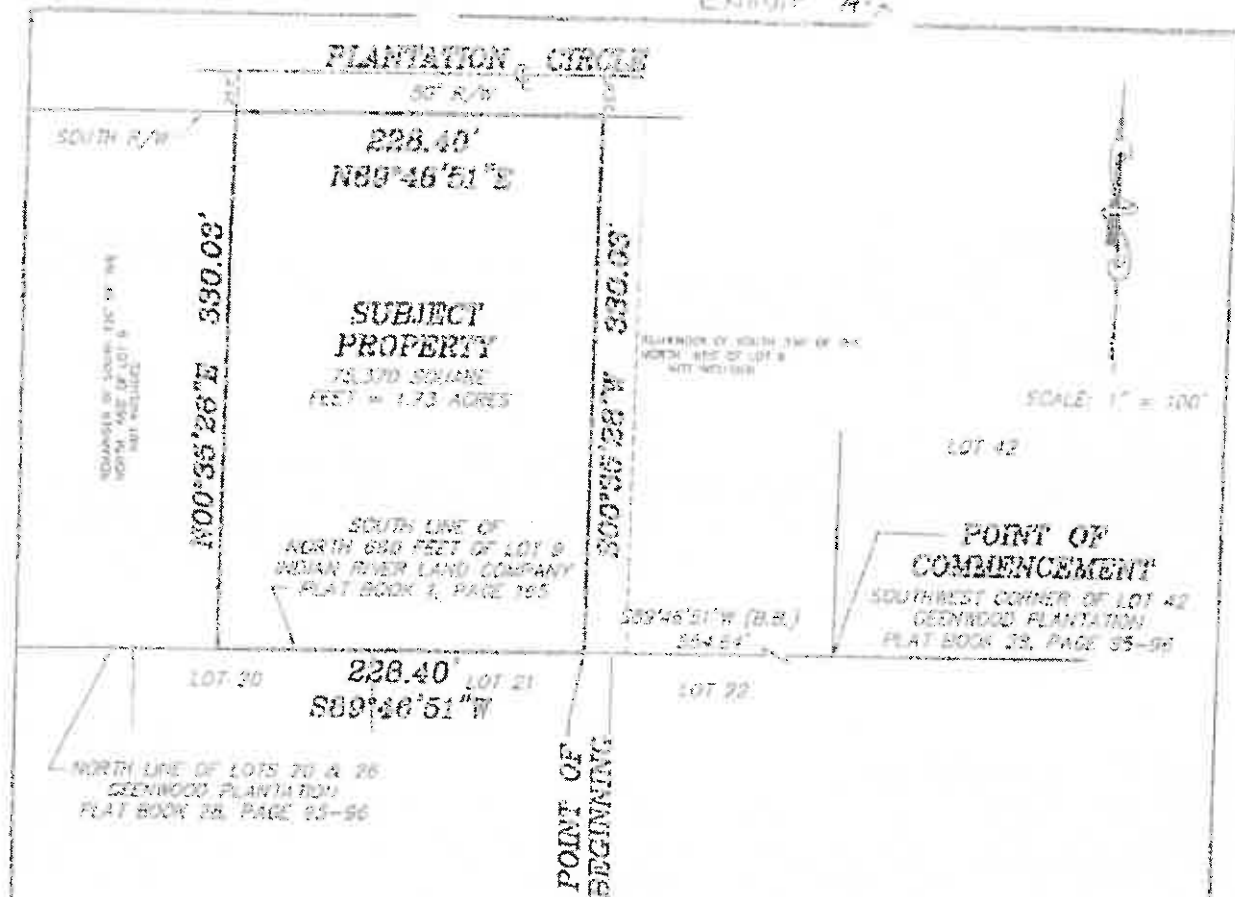


SKETCH OF DESCRIPTION ONLY! THIS IS NOT A SURVEY!

AAL LAND SURVEYING SERVICES, INC.

SKETCH OF DESCRIPTION 100 # 33011 DATE: 07-13-2016 BY: 06/24/2016 I.D. #6820	THE ABOVE-DESCRIBED AND/OR IDENTIFIED IS COMPLIANT WITH SPECIFIC STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL ENGINEERS IN CHAPTER 463.01, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO STATUTE 463.01 REPEATED AND BOUND BY ASSAULT DURING WHICH THE LATE TARIQ AZ SOANG, THE BROTHER OF REARRESTED ANDREW W. POWSHOK P.I. # 33011 3970 MINTON ROAD WEST MELBOURNE, FL 32904 (321) 768-8110	1220W 200 # STATE OF FLORIDA
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Exhibit 4



DESCRIPTION: A PORTION OF THE SOUTH 330 FEET OF THE NORTH 660 FEET OF LOT 9 IN SECTION 34, TOWNSHIP 29 SOUTH, RANGE 37 EAST, OF FLORIDA INDIAN RIVER LAND COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHWEST CORNER OF LOT 42 GREENWOOD PLANTATION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 28, PAGES 95-96, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND RUN 589°46'31"W ALONG THE NORTH LINE OF LOTS 20 THROUGH 26, OF SAID GREENWOOD PLANTATION, A DISTANCE OF 554.84 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE NORTH LINE OF SAID LOTS 20 THROUGH 26 AND THE SOUTH LINE OF THE NORTH 660 FEET OF SAID LOT 9, 589°46'31"W, A DISTANCE OF 228.40 FEET; THENCE 000°35'28"E A DISTANCE OF 330.03 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF PLANTATION CIRCLE ACCORDING TO PLAT OF SAID GREENWOOD PLANTATION, THENCE 000°35'28"E ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 228.40 FEET; THENCE 300°35'28"W, A DISTANCE OF 330.03 FEET TO THE POINT OF BEGINNING, CONTAINING 1.73 ACRES MORE OR LESS.

SKETCH OF DESCRIPTION ONLY! THIS IS NOT A SURVEY!

AAL LAND SURVEYING SERVICES, INC.

SKETCH OF DESCRIPTION	THIS SKETCH AND DRAWING HAVE BEEN PREPARED TO CONFORM WITH USABLE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS AS CHARTERED BY THE FLORIDA ADMINISTRATIVE CODE, PLURISANT TO SECTION 472.01, FLORIDA STATUTES. SKETCHES ARE BASED ON AVAILABLE DATA AND ON THE LINE SHOWN AS BEING THE BASIS OF RECORD.	LEGEND U.S.A. BASE OF RECORDS
JOB # 300124 DATE OF FIELD WORK 10/15/2015 DATE OF THIS SKETCH 10/15/2015 L.D. 408823	ANDREW R. POWSHOCK P.L.S. No. 5783 3070 MINTON ROAD WEST MELBOURNE, FL 32904 (321) 766-8110	

Reason Number Three..... for voting **No** to the proposed change of zoning for the entrance lot to Plantation Circle sub division.

Commercial Traffic in a residential area. We'll never keep them out

First: A bigger congested intersection will be created at the end of Cogan street.

This intersection is backed up now with all of the traffic coming off of Cogan including all of the many school busses that use this as a main route. (This intersection is already the site of weekly car crashes.) (see 185.005- A) With access to this commercial lot only available from Babcock Street according to current ordinances,(See 184.25 -b2) This will create a four-way intersection instead of a 3 way.. This is contrary to the City Plan to reduce congestion as outlined in the city ordinances.

Second: Large Trucks stuck on our street Trucks arriving at the new commercial site making deliveries will on occasion inadvertently pull on to Plantation Circle Street by mistake instead of the main parking lot. They may also us Plantation Circle to pull into to wait to make a delivery. Once a tractor-trailer has turned onto Plantation Circle, it will have one of two choices. It can either back up on to Babcock Street, which would be suicidal, or they could proceed down Plantation Circle, not knowing that the end of our street has a two bends that cannot accommodate large trucks without driving on the lawns of several houses. This is a nightmare no matter how you look at it.

Third: Secondary Increased traffic on our street because of exiting and entering the commercial property. Every time someone misses the turn for the strip mall parking lot, they will turn on to our street and drive around to the other side our circle to get to the commercial property.

I say drive, but experience tells me that in a short time the city will have to put in speed bumps or other traffic slowing devices to slow down these shoppers that have missed their turnoff. That is one reason that it is unwise to allow commercial entities in the middle of established neighborhoods.

Fourth: Brevard County Road Permission to front this property on Babcock Street, with a driveway/access directly across from Cogan Street should be cleared by Brevard County Roads Department prior to consideration of re-zoning.

This change will create a dangerous intersection that should be approved by the county prior to granting any kind of access /frontage to the county road.

In Conclusion: This is a terrible, dangerous , and disruptive spot to create a commercial enterprise. It will result in direct problems with traffic on Babcock Street as well as secondary problems with congestion on Plantation Circle. All this and we still have no idea of what the applicant intends for the property if the re-zoning is granted. I suspect that is why the applicant has still not indicated his specific intended use of the property on his application as required by ordinance. Pure Speculation !

Bookmark§ 184.25 NONRESIDENTIAL SUBDIVISIONS.

(A) General. If a proposed subdivision includes land that is zoned for commercial or industrial uses, the layout of the subdivision with respect to such land shall make such provision as the City Council may require. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the City Council that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity.

(B) Standards. The following principles and standards shall be observed:

(1) Special requirements over and above those listed in these regulations may be imposed by the city with respect to public infrastructure, such as streets, drainage, water and sewerage, etc., to accommodate the type of commercial and industrial development anticipated.

(2) The applicant shall make reasonable efforts to protect contiguous residential areas from the proposed commercial or industrial subdivision. These provisions include a requirement of a minimum twenty-five (25) foot wide permanent landscape buffer easement abutting all residentially zoned properties. Streets which carry nonresidential traffic shall not be built adjacent to the boundaries of residential areas. The commercial and industrial subdivision shall not have direct vehicular access to a local residential street.

(Ord. 96-05, passed 2-15-96)

Reason Number Four Improper Notification to residents

- A. The Signs were installed in the right of way which is forbidden by ordinance
- B. The Signs do not meet the 10' Setback rule as required
- C. One sign is the wrong size (24*24) and is not in front of the described property

Part of the application process is really quite simple. But, there are strict signage rules for any signs that are intended for public notice to all residents about a proposed change. Even the size of the print is specified.

The ordinance is very specific (Section 51.07(c)Public Hearing Notices.

- A) The sign on Plantation Circle is only 24 * 24 inches instead of the 48 * 48 required for Commercial Applications. 24 * 24 is strictly for Residential Applicants.
- B) Application Signage Guidelines and Examples are the guidelines provided by the City of Palm Bay to comply with City Ordinances with regards to Notification Signs. In the Mounting section, Part 2 specifically prohibits the signs from being placed in a Right of Way. Both signs placed by the applicant are in the right of way. One on Plantation Circle and one on the side street Babcock
- C) Neither of the signs meets the 10' setback rule as specified in Part 2 of the above Guidelines
- D) The sign on Plantation Circle is not in front of the area requested by the applicant and is, in fact, 120 feet further down the road.

APPLICATION SIGNAGE GUIDELINES & EXAMPLES

Application Signage:

Applicant shall be responsible for the posting of and required signage germane to any land use case with the City of Palm Bay. The signage requirements are listed herein:

Size:

1. Sign "A" - shall be 24"x24" or greater square and shall be suitable for all residential land use cases excluding multi-family zoned properties.
2. Sign "B" - shall be 48"x48" or greater square and shall be suitable for all commercial or industrial zoned properties, and shall be inclusive of multi-family zoned property.

Materials: (face)

1. Sign "A" shall be a minimum 4mm white corrugated plastic. A 5/32" plywood or masonite panel is also acceptable.
2. Sign "B" shall be a minimum 10mm white corrugated plastic. A 9/32" plywood or masonite panel is also acceptable.
3. Lettering for sign A or sign B shall be in vinyl adhesive backed lettering or painted w/ a dark colored acrylic paint.

Mounting:

1. Sign "A" shall be mounted by a 10ga. Steel "H" bracket supplied by the sign manufacturer, and placed in such a way that it can clearly be viewed by the public without any obstruction(s) and meeting a 10' setback requirement and not exceeding 10' in height. No sign is to be erected on any public right of way.
2. Sign "B" shall be mounted on wood or metal stakes or poles and shall be placed in such a way that it can clearly be viewed by the public without any obstruction(s) and meeting a 10' setback requirement and not exceeding 10' in height. No sign is to be erected on any public right of way.

Acceptable Color Palette:

The required City of Palm Bay logo shall match as closely as possible the current logo color palette (teal and gold). All other lettering or any other graphic shall be in hues of only Dark Blue or Black.

Acceptable Font:

All fonts relating to the required information shall be in New Times Roman or equivalent and no less than 3/8" in height for residential signage. All commercial signage shall be no less than 3/4" in height. All font work shall be executed in a clear, concise manner; hand drawn or stenciled fonts are not acceptable.

Lettering:

All lettering and graphics placed on required sign(s) must be clearly legible at time of placement when viewed at the property line. All signs shall be executed in the English language. Lettering shall be required on only one side of the sign which shall face the road right of way.

Placement:

The applicant is required for the safe placement and removal of required signage. No sign location shall create an undue burden to health, safety or welfare of the general public.

(C) Signs posted on the subject property.

(1) All properties that are subject to a rezoning, future land use map amendment, conditional use, zoning variance, architectural style exception, preliminary subdivision or final subdivision, shall be posted by the owner/applicant, at their expense, with a sign(s) meeting the following criteria:

(a) Sign(s) shall have minimum dimensions of forty-eight inches by forty-eight inches (48" x 48"). Sign(s) pertaining to a single-family residence shall be a minimum of twenty-four inches by twenty-four inches (24" x 24").

(b) The bottom of the sign(s) shall be placed a minimum of thirty-six inches (36") above grade.

(c) Sign(s) shall be located as close to the front property line (and side corner property line on corner lots) as possible, or in other locations approved by the Growth Management Director, in order to achieve maximum visibility.

(d) Corner properties shall require two (2) such signs, one each facing both streets.

(e) Sign(s) shall include the date, time and place of the public hearing, applicant's name, and the specific request(s).

(f) Sign(s) shall be posted ten (10) days prior to the advertised public hearing for the Planning and Zoning Board meeting at which the matter is to be considered and shall remain in place until after the final public hearing on the matter by the City Council. Such signs shall be removed within forty-eight (48) hours of the conclusion of the final public hearing on the matter.

(D) Large area rezonings and future land use map amendments. Administrative rezonings or administrative Future Land Use Map amendments shall meet the requirements of F.S. § 166.04(3)(c), in lieu of the requirements contained in this section.

(E) Failure to post sign(s).

(1) Failure to post the sign(s) within the time frame specified within division (C) of this section shall result in the continuance of the public hearing. The matter shall be rescheduled in accordance with § 51.03(3) above. The applicant shall pay a fee equaling one-half (1/2) the initial filing fee.

(2) Upon the continuance of a public hearing, failure to post the sign(s) within the time frame specified or to pay the fee within three (3) working days of the date the public hearing is rescheduled, shall render the matter as a withdrawal under this chapter.

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LETTERS AND FEEDBACK

Zoning change not good for residents

In recent years, the city of Palm Bay has exercised some good planning with regards to residential and commercial area development, developing these areas in modules that enhance each other. Bayside is a great example of how this is done right.

Occasionally, things go awry. Some outside speculator picks up a cheap piece of property in an exclusively residential area and seeks to re-zone it to commercial property, for the sole purpose of "flipping" it. These are not Palm Bay residents or taxpayers and most importantly, don't vote in Palm Bay like my neighbors and me.

This is now the case at the southern end of Babcock Street on Plantation Circle. The residential single-family houses were built by people who invested their life's savings to build homes here and start families. The city master plan has long classified this area as strictly residential. I made sure of that before buying my property and building my home.

Now, an outside speculator group has set its sights on an eight lot residential piece at the subdivision entrance. They have somehow rapidly cut through the process of rezoning property and in six weeks hope to have completed rezoning of this area from residential to commercial. This will destroy our neighborhood and quality of life, changing the heart of our neighborhood to a strip mall site.

There should be an overwhelming, important reason to change property zoning like this. Financial gain for one individual over that of another is not such a justification.

Rosemary Smith
Palm Bay

GOP should look at facts, stop lies

Regarding Mr. Kasch's let-



Debbie Ziegler holds a photo of her daughter, Brittany Maynard, the California woman with brain cancer who moved to Oregon to legally and her life last fall, during an Aug. 16 news conference to announce the reintroduction of right-to-die legislation in California.

about the conditions that led to the vote. Because of that, George W. Bush and members of his administration are liars. The hundreds of thousands who died in that failed escape make Bush and his lie-
niders murderers and war criminals. Mr. Kasch must be fatally misinformed.

Don Deitchmeyer
Indianapolis

Dropping atomic bombs saved lives

I feel compelled to reply to recent letters that commented on my Aug. 6 guest editorial on the atomic bombs.

I did emphasize Japan's fanaticism in two Jima and Okinawa as well as its preparations to defend against the invasion as rationale for Truman's decision. American officials interviewing Japanese civilians after the war were told that the government was

Finally, Secretary of War Henry L. Stimson ensured that the historic and traditional Japanese capital of Kyoto was spared from any bombing, a fact that later was warmly welcomed by the Japanese people. Perhaps one should remember the words of Robert E. Lee after the Civil War: "It is good war is so terrible lest we grow fond of it."

Lee Wyatt
Midbourne

We should support death with dignity

Columnist Marshall Frank recently wrote about states giving people the right to die. I am definitely in favor of this movement. If a person is of sound mind and wishes to end it all, then the state and medical professional should stay out of it. A person should be able to ask a doctor for a painless means of exit.

I am in my late 80s, so I

From: Westco Development [mailto:Netl.ense@westcodev.com]
Sent: Friday, August 21, 2015 5:42 PM
To: jroberts340@icloud.com
Subject: Plantation Circle
Mr Roberts
Please see attached
Brian West
Westco Development
3125 SW Mapp Rd
Palm City, FL 34990
772-221-8500

Memo to Plantation Circle Homeowners

This is where we are at:

1. We purchased 8.5 acres (zoned residential) of vacant land located at the SEC of Babcock Street and Plantation Circle. We plan to develop half of it for commercial purposes.
2. The nearby residents want to see the corner developed as a single family residence. Sorry, that simply will not happen. Anybody that thinks that is what will happen, is just being foolish and not realistic.
3. The property was intentionally left out of the original plat that the rest of the property owners are part of. There are "no" deed restrictions against commercial development on the entire 8.5 acres we purchased.
4. This property has been offered for sale to residential developers for 20 years and did not sell to residential builders. This means the property's highest and best use is not residential, and most likely commercial. You simply don't want to locate single family residents on a main arterial thoroughfare. It should be prevented if possible, and that is the opportunity we give the City of Palm Bay. Legally, Florida Case Law is clear and says you zone property for its best use for the overall community, not just for a few surrounding residents.
5. Planners by statute are supposed to zone properties for its highest and best use. Note: the fastest growing City in the entire United States, Houston, Texas, for the last 20 years, has "no" zoning; yes, no zoning! It is total "Buyer Beware"! The City of Palm Bay clearly wants to be a fast growing City.
6. Babcock Street is considered to be a major "commercial" thoroughfare in Brevard County. Most of the property on the East side of Babcock Street from Malabar Rd South to the new I-95 Interchange over the next 10 years will be zoned to some form of commercial or institutional type zoning. That

This
is
UNTRUE

NO
ZONING?

is the reality of what is presently happening and what is going to happen whether you realize it or not.

7. The opening of the I-95 Interchange between Grant Rd and Micco Rd will significantly increase the traffic on Babcock Street which will create a higher demand for more commercial properties in the area, particularly on Babcock Street. More traffic equals more commercial needs. The City of Palm Bay has already shown their desire to increase the number of commercial zoned properties on the East side of Babcock Street. This trend will obviously continue to occur.

Some incorrect statements were made at the meeting the other night: the I-95 plans are done, the right of way has been acquired, the funding is in place, and construction will start in the next few months, with completion in 2017. "Major" changes are obviously coming to the area. The City of Palm Bay is presently contemplating relocating their government offices to this general area, where the new I-95 Interchange is going to be. Please realize, major changes are coming to the area where you live.

8. Commercial properties, by good planning, are located at main intersections. The intersection of Coogan & Babcock is a main intersection, and the busiest intersections on Babcock Street, South of Malabar Rd.

Contradiction

9. Ideally, the location of commercial properties and the services they offer are best located to where they are needed to best serve the public. People typically shop where that closest opportunity is, thus, "reducing" the total traffic in an area.
10. One of the City of Palm Bay's worst financial problems is the lack of a large commercial tax base. It has the lowest commercial tax base of any City its size in the State of Florida. Further, the City of Palm Bay is one of the most under-retailed cities in the State of Florida. It is a well-known fact, the City of Palm Bay wants to significantly increase its commercial tax base. Well, how do you think that happens?

Getting Support from the Plantation Circle Residents to develop the corner west half of the Property as Commercial

We are "only" willing to do the following if we get the local residents to support us; "if not", we will not agree to do the following:

1. Develop "only" the West 1/2 of the 8.5 acres to commercial
2. Double the typical landscape buffer with substantially taller trees, twice on width "and" size currently required by the City of Palm Bay
3. Double the typical rear building setback requirement that is required by the City of Palm Bay
4. Give the City of Palm Bay architectural approval rights to insure something attractive is built on the property
5. Install attractive privacy gates on Plantation Circle. This should help increase property values for those living on Plantation Circle

FYI, I developed the Publix center (Driftwood Plaza) on South Melbourne Beach. The homeowner groups fought me, but I won, and property values increased by 30% in that area the next year. Driftwood Plaza is the most attractive building in the entire South Beach area. Everyone is very happy with Driftwood Plaza, particularly, the adjacent residents.

When I developed the Publix center (Shoppes of St Lucie West) in St Lucie West 25 years ago, again, residential property values increased by 30% the next year. That shopping center is still one of the most attractive buildings in all of St Lucie West. This shopping center was crucial and the most important factor in the growth of residential development in the first 5 years of St Lucie West.

I also developed a Walgreens/Office Building project at the SWC of Donald Ross Rd & Central Blvd in a residential area of Palm Beach Gardens. It is one of the most attractive retail/office building projects (see attached photos) in all of Northern Palm Beach County. This upper end development ("the Legends") is part of an upper end residential development, also called "the Legends". The local residents fought me and I won. After I built the project, the immediate residential property values increased by 30% the next year. The adjacent residents now love the commercial development I built.

I have successfully developed 7 million square feet of retail and office space in my 40 year career; those projects are still successful projects today. The Plantation Circle property owners are fortunate to have someone of my experience planning to develop this property. My successful track record speaks for itself.

To increase the residential property values in the area the residents should be pushing for 4 things to occur:

What

present

think the

city council

has done

1. Push Brevard County, via the Palm Bay City Council, to 4 lane Babcock St. Babcock St looks terrible and is a sign a blighted area.
2. Have architectural review requirements in place on "all" new building permits both on residential and commercial in the City of Palm Bay.
3. Significantly increase the minimum landscape requirements in the City of Palm Bay, and have language in place that the property owner must replace dead landscaping within a certain time period or they will be subject to code violations and/or fines.
4. Lobby for better schools.

My point is, if a project is tastefully done, it does not have a negative impact on property values, and there are certainly other factors that have a far greater significance on property values that I have referenced above.

I hope we can be good neighbors. Right now, I realize we have a lot of "NIMBY's" (not in my back yard). I would be happy to meet and discuss any issues you may have.

I look forward to hearing from you.

Draft Response to Brian West Open Letter. **Submitted to Florida Today for Publication**

Open Letter an Insult to Residents.

In an open letter to the Residents of Plantation Circle, a developer (Mr. Brian West) who has applied to change the zoning in a major part of our neighborhood from residential to commercial had this to say. "The nearby residents want to see the corner developed as single family residence. Sorry, that simply will not happen. Anybody that thinks that is what will happen, is just foolish and not realistic." And "That is the reality of what is presently happening and what is going to happen whether you realize it or not."

Later he threatened us by saying that if we don't come out in support of his application that he will some how punish us or get even. Mr. West implied in his letter that the zoning board is obsolete and that we should be more like Houston Texas, where there is no zoning and "Let the Buyer Beware. He lectured us on what our City needs. How our City should clean up its act. How he knows what is best for the city, not us, the people who live here.

The worst part of this letter was the implication that the rezoning was a "Done deal" and that somehow he knew the results of the vote of the planning board before they have even seen the case report from the Planning Department. That is an insult to the Zoning and Planning board members as well as that of City Council members. Mr. West owes them and us an apology. We have a better City government than he implies.

Lastly Mr. West quotes Florida Case Law "is clear and says you zone property for its best use for the overall community, not just for a few surrounding residents" That is just plain jibberish. Most zoning laws are on the books to protect the rights of existing residents and neighborhoods, while carefully integrating new zones and uses for the benefit of all residents. **We are not socialists who preach for the uniform good of all. We are a nation of hard working individuals, with individual rights and protection under the law, no matter what Mr. West thinks he knows.**

Petition
Against
The
Rezoning/Change of
Use

CPZ-21-2016
(Zoning)

CP-21-2016
(Land Use)

Plantation Circle

**BREAKDOWN OF SIGNATURES FROM PETITION TO OBJECT
TO CP-21-2016 AND CPZ-21-2016**

Vacant lots Included

STREET	# of Lots	# of lots with Signatures
PLANTATION CIRCLE	32	23
TIMBER WOLF RD	7	3
DELTA STREET	3	1
PUEBLO STREET	9	0
COGAN STREET	8	6
SAN SOVING STREET	10	1
TIGARD STREET	4	1
Total	73	35

**% of Properties with Signatures From Inside
Notification Radius**

48%

**30 LOTS WERE VACANT AND WE DID NOT HAVE ENOUGH TIME TO GET
IN CONTACT WITH THESE OWNERS .**

**THERE WERE MANY ADDITIONAL SIGNATURES THAT WERE FROM
OUTSIDE OF THE NOTIFICATION RADIUS**

Key

V= Vacant

Colored in lots = Residents that signed petition

RADIUS MAP

FRANCEY, DARCIA JONES

spira500







1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 7/27/2015

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

A total of
48 %
of the Property lot Owners
have petitioned in Opposition to
CPZ-21-2016 and CP-21-2016

City Of Palm Bay Ordinance

§ 185.203 PROTEST BY PROPERTY OWNERS.

In case of a protest petition against a change in zoning classification of a particular property signed by the owners of twenty percent (20%) or more either of the area of the lots included in the proposed change, or of those immediately adjacent thereto, such amendment shall not become effective except by the favorable vote of four (4) members of the City Council.

('74 Code, § 25-294) (Ord. 89-08, passed 4-27-89)

PETITION BY RESIDENTS OF PLANTATION CIRCLE S.E. AND ADJACENT
 PROPERTIES WHO OBJECT TO THE REZONING/CHANGE OF USE FROM
 RESIDENTIAL TO COMMERCIAL, ALL OR ANY PART OF THE REMAINDER OF LOT 10,
 FLORIDA INDIAN RIVER LAND COMPANY(Plat bookl, Page 165)
 LOCATED ON THE SOUTH SIDE OF THE NORTHWEST CORNER OF
 PLANTATION CIRCLE FROM SINGLE FAMILY RESIDENTIAL TO
 COMMERCIAL

(CASE NO.CP-21-2016 AND CASE NO CPZ-21-2016)

Petition summary and background:

We, the undersigned residents of Plantation Circle S.E. and adjacent neighborhoods, do hereby object to the above requested change of land use and zoning from single family residential to commercial. We object because there is no acceptable justification for making this disrupting change in the middle of our neighborhood which will directly degrade the quality of our lives. We feel that this does not go along with the City master Plan with regards to commercial and residential development. We are concerned that our homes, the major investment of our lives, will be devalued because of this change. We do not want this commercial area developed in the middle of our homes because it is does not fit with the existing planning of our residential area. Lastly, we are particularly concerned about our safety , the anticipated increased traffic and all of the other associated problems that come with putting a commercial entity in the middle of a developed residential area.

Action petitioned for:

We, the undersigned, are concerned citizens who object this change from Residential to Commercial use and/or zoning.

Printed Name	Signature	Address	Comments	Date
Stanley David	Stanley David	1982 Timber Wolf Trail 32909		7-23-16
Kuciana Grace	Grace Kuciana	1983 Timber Wolf Trail 32909		7-24-16
Timothy White	Timothy White	2002 Timber Wolf Tr-1 32909		7-25-16
Stanley David	Stanley David	1992 Timber Wolf Tr-1 32909		7-26-16
William Gotsch	William Gotsch	1882 Plantation SE 32909		7-26-16
Robert Gotsch	Robert Gotsch	1882 Plantation SE 32909		7-26-16

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Action petitioned for:

We, the undersigned, are concerned citizens who object this change from Residential to Commercial use and/or zoning.

Printed Name	Signature	Address	Comments	Date
Linda Filis	Linda Filis	1779 Plantation Circle SE	2909	7-22-16
TAEVON FILIS	Taevon	1779 Plantation Circle SE	NO COMMERCIAL	7-22-16
GREG FILIS	Greg Filis	1779 PLANTATION CIR, SE		7/22/2016
STUART FILIS	Stuart Filis	1779 PLANTATION CIR SE	RESIDENTIAL ONLY	7-22-16
Kalen Anderson	Kalen Anderson	1870 Plantation Circle SE	Residential Only	7-22-16
Tracy Anderson	Tracy Anderson	1570 Plant. Circle SE	RES ONLY	7/22/16
Michelle Grant	Michelle Grant	2462 Comm Drive SE	RES ONLY	7/23/16
Tracy M. Grant	Tracy M. Grant	2438 Comm Dr SE 5th Place Ave	RES ONLY	7/23/16
Kim Johnson	Kim Johnson	2449 Comm Dr SE 5th Place Ave		7/23/16

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Action petitioned for

We, the undersigned, are concerned citizens who object this change from Residential to Commercial use and/or zoning.

Printed Name	Signature	Address	Comments	Date
Kenneth Smith	Kenneth Smith	1816 Plantation Circle	OBJECT !	7/20/16
Elaine Smith	Elaine Smith	1806 Plantation Circle	OBJECT !	7-20-16
Judy Thacker	Judy Thacker	1859 Plantation Circle	object!	7/20/16
ALMA NIGHTINGALE	Alma Nightingale	1899 Plantation Cir.	object	7/20/16
Valerie Smith	Valerie Smith			
VERENCE NIGHTINGALE	Verence Nightingale	1899 Plantation OR SE	object	7/20/16
Robert Johnson	Robert Johnson	1894 Plantation, SE	Object	7-20-16
Shirley Davis	Shirley Davis	1890 Plantation SE	Object	7-20-16
Mr DAVIS	Mr DAVIS	1891 Plantation Cir. S.E	object	7-20-16

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Action petitioned for:

We, the undersigned, are concerned citizens who object this change from Residential to Commercial use and/or zoning.

Printed Name	Signature	Address	Comments	Date
Patsy Campbell		1874 Plantation Circle SE	Object	7/20/16
Robert M Campbell		1874 Plantation Circle SE	Strong objection	7/20/16
David Nowakowski		1863 Plantation Circle SE	Object	7/20/16
Rachel Nowakowski		1863 Plantation Circle SE	Object	7/20/16
Patricia Nowakowski		1863 Plantation Circle SE	Object	7/23/16
Patricia Nowakowski		1863 Plantation Circle SE	Object	7/23/16
Thomas Archer		1863 Plantation Circle SE	Object	7/23/16
Wendy Archer		1863 Plantation Circle SE	Object	7/23/16

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Action petitioned for:

We, the undersigned, are concerned citizens who object this change from Residential to Commercial use and/or zoning.

Printed Name	Signature	Address	Comments	Date
Lynette A. Davis	<i>Lynette A. Davis</i>	1286 Plantation Cir SE	Do not build	7-20-2016
Herman [unclear]	<i>Herman [unclear]</i>	1886 Plantation Cir SE	Object	7-20-2016
[unclear]	<i>[unclear]</i>			
[unclear]	<i>[unclear]</i>	1871 Plantation Cir SE	Object	7-20-2016
Charles Scudder	<i>Charles Scudder</i>	1692 Tanager St SE Palm Bay		July 23-2016
Donna [unclear]	<i>Donna [unclear]</i>	1680 Tanager St SE Palm Bay	Object	July 23-2016
Tim Kalketa	<i>Tim Kalketa</i>	1853 Plantation Cir SE Palm Bay		July 23-2016
Paul Hensley	<i>Paul Hensley</i>	1853 Plantation Cir SE Palm Bay	Object	7-23-16
John Meserian	<i>John Meserian</i>	1854 Plantation Cir SE Palm Bay	Object	7-23-16
Michael Seale	<i>Michael Seale</i>	1857 Plantation Cir SE Palm Bay	Object	7/23/16

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Action petitioned for

We, the undersigned, are concerned citizens who object this change from Residential to Commercial use and/or zoning.

Printed Name	Signature	Address	Comments	Date
Stephen Campbell	[Signature]	1715 Plantation Cir SE	Object	7-22-16
Theresa Knapton	[Signature]	1715 Plantation Cir	Object	7-22-16
Robert Herold	[Signature]	1755 Plantation Circle SE	Object	7/22/16
Kimberly Hester	[Signature]	1755 Plantation Circle SE	Object	7/22/16
Lionel Pope	[Signature]	1743 Plantation Cir SE	Object	7-22-16
Bonita Pope	[Signature]	1743 Plantation Cir SE	Object	7-22-16
Andrew Williams	[Signature]	1879 Plantation Cir SE	Object	7/22/16
William N. Orr	[Signature]	1776 Plantation Cir SE	Object	7-22-16
Collette M. Brink	[Signature]	1786 Plantation Cir SE	Object	7-22-16
Timmy Vee	[Signature]	1871 Plantation Cir SE	Object	7-22-16

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Action petitioned for

We, the undersigned, are concerned citizens who object this change from Residential to Commercial use and/or zoning.

Printed Name	Signature	Address	Comments	Date
Mellorne Davis	<i>Mellorne Davis</i>	1767 Plantation Cir SE Palm Bay	Object	7-24-16
Kenneth Davis	<i>Kenneth Davis</i>	1767 Plantation Cir SE Palm Bay	Object	7-24-16
Stacy Preston	<i>Stacy Preston</i>	1813 Plantation Cir SE P.A	Object	7-24/16
R Scott Preston	<i>R Scott Preston</i>	1813 Plantation Cir SE P.A	Object	7-24-16
Linda H. Lawson	<i>Linda H. Lawson</i>	1791 Plantation Cir SE PB	Object	7-24-16
Carlene Lawrence	<i>Carlene Lawrence</i>	1791 Plantation Cir SE PB PB	Object	7/24/16
Bay McInyre	<i>Bay McInyre</i>	1831 Plantation Circle SE Palm Bay	Object	7/24/16
LEERY McINTIRE	<i>LEERY McINTIRE</i>	1831 Plantation Circle SE Palm Bay	Object	7-24-16
Tama Meyer	<i>Tama Meyer</i>	1731 Plantation Circle SE Palm Bay	Object	7/24/16
James Meyer	<i>James Meyer</i>	1731 Plantation Cir SE Palm Bay	Object	7/24/16

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Action petitioned for

We, the undersigned, are concerned citizens who object this change from Residential to Commercial use and/or zoning.

Printed Name	Signature	Address	Comments	Date
Lynne H. Smith	Lynne H. Smith	1756 Plantation Circle, SE	Object	7-23-16
Richard E. Smith	Richard E. Smith	1752 Plantation Circle, SE	Object	7-23-16
Lynne H. Smith	Lynne H. Smith	1756 Plantation Circle, SE	Object	7-23-16
Richard E. Smith	Richard E. Smith	1756 Plantation Circle, SE	Object	7-23-16
James A. Roberts	James A. Roberts	1768 Plantation Circle, SE	Object	7-23-16
James A. Roberts	James A. Roberts	1768 Plantation Circle, SE	Object	7-23-16
Kenneth Mellare	Kenneth Mellare			

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(CASE NO.CP-21-2016 AND CASE NO CPZ-21-2016)

Petition summary and background:

We, the undersigned residents of Plantation Circle S.E. and adjacent neighborhoods, do hereby object to the above requested change of land use and zoning from single family residential to commercial. We object because there is no acceptable justification for making this disrupting change in the middle of our neighborhood which will directly degrade the quality of our lives. We feel that this does not go along with the City Master Plan with regards to commercial and residential development. We are concerned that our homes, the major investment of our lives, will be devalued because of this change. We do not want this commercial area developed in the middle of our homes because it is does not fit with the existing planning of our residential area. Lastly, we are particularly concerned about our safety, the anticipated increased traffic and all of the other associated problems that come with putting a commercial entity in the middle of a developed residential area.

Action petitioned for:

We, the undersigned, are concerned citizens who object this change from Residential to Commercial use and/or zoning.

Printed Name	Signature	Address	Comments	Date
Dolly Edwards	Dolly Edwards	1814 Plantation Cr Palm Bay	Thanks!	4/17/16
David Edwards	David Edwards	1814 Plantation Cr PB	No Commercial	4/17/16
Toby Edwards	Toby Edwards	1814 Plantation Cr PB		4/17/16
Paul Edwards	Paul Edwards	1814 Plantation Cr PB		4/17/16
Cambridge women	Cambridge	1825 Plantation Cr PB	Object	
Cecilia Edwards	Cecilia Edwards	2486 Cragon Dr		

Chandra Powell

From: Debra B <suncountryranch@hotmail.com>
Sent: Friday, July 29, 2016 9:01 AM
To: Chandra Powell
Subject: CU-1-2016
Attachments: YATES LETTERS 2.pdf; YATES LETTERS.pdf

Please ad to file above.

Thank you,

Debra Bohnsack

From: suncountryranch@hotmail.com
To: citycouncil@pbfl.org
Subject: Stop The Yates Property Pit Mine CU-1-2016
Date: Mon, 25 Jul 2016 18:28:07 -0400

City Council of Palm Bay,

I ask you to take the time to read these letters before considering the CU-1-2016 conditional use permit. They were written to the county, but I've been asked to send them to you. A 17-30 acre mine proposal has come before the county numerous times and was turned down each time with good reason. Now, according to your updated file, we find out they have increased the proposed mine from 30 to 128 acres without any notification!

It is impossible to get any straight answer from the applicant. We were all mislead at our Citizens Participation Meeting in January. Over forty residents attended and were given minimal information (a site plan) for a 29 acre project, *completely* different from what is now proposed!

Your council will be responsible for a very bad decision if the permit is granted for either a 30 acre mine or larger.

Please do your homework. We have.

Respectfully,

Debra Bohnsack
Secretary, Deer Run HOA

Stephen Walbert
129 Deer Run Road
Palm Bay, Fl. 32909
SLWEVW@aol.com
H)321-724-4002 C) 954-253-8451

OBJECTION
III.B.2

To: Planning and Zoning Board

10/4/2015

Re: Roy Wayne Yates request for a CUP

Dear Board Members,

I would love to be able to talk to you in person, but I will be preparing for surgery to be performed on Tuesday morning right across the street from you. That being said, I hope you will take a moment to read this, because I will be truly affected by your decision.

First off, I can't believe we are going here again. It seems like we just went through this. But since we *are* in this position, I will give you a few reasons why I am adamantly opposed to this, and let the other residents talk about the numerous other reasons why this should be denied, *again*.

I live in the 6th house in on the left. I hear Mr. Yates' cows bellowing all the time. That's a wonderful thing! That's what we are about in Deer Run. The sounds of country living. Rather it be the horses whinnying, the sandhill cranes a cackling, or at times, just the mere silence of a gentle breeze blowing through, it would be horrible to replace these sounds with heavy machinery and water pumps running 12 hours a day. And if I hear his cows mooing, you can be sure his mining project will drown out that sound.

Still keeping with the noise issue, as I'm sure you know, this is an equestrian community. A major place that people ride is along the berm separating our properties. Horses are easily spooked and with that going on next door would make it an extremely dangerous place to ride. I have seen firsthand what can happen in this case. I have seen the Medivac helicopter land in the cul-de-sac at the end of Deer Court to take my neighbor to the hospital because she was thrown by a spooked horse. That, I can assure you, is not a fun situation. We must make sure we do everything possible to make sure that these things *never* happen.

Now to my major concern. Water! As we have seen before, pulling millions of gallons of water out of the ground only a few hundred feet away, will have an effect on us. When we lose our wells, we will be dead! We have no other alternative. Even if Mr. Yates was to put up millions

of dollars to run water thru Deer Run, it would not work. I am a Waterplant Operator for the City of Palm Bay, so I might have a little more knowledge on this subject than most. A project this size would take years to complete. What happens in the mean time? It doesn't matter. It will never happen! Once you hook up to a public water system, you have to maintain a minimum chlorine residual throughout. That is just not possible with the proportion of homes to the miles of piping required. So it will never happen. And that would leave us where? Dead! So any risk at all of altering the water table in any way is just unacceptable!!!

I'll leave it to the others to talk about the other items in more detail. Like the condition and safety on Babcock street, the safety at Waterstone school, the air quality, the fact that he allowed hog hunts on his property that managed to find their way over into the back of Deer Run, the fact that he was actually shot on his own property and what that says about his character, and many other things I'm sure.

I thank you for your time and consideration. Please feel free to contact me with any questions that you might have.

Thanks again,

Steve Walbert

OBJECTION
III. b.2

October 5, 2015

Fax# 321-633-2074

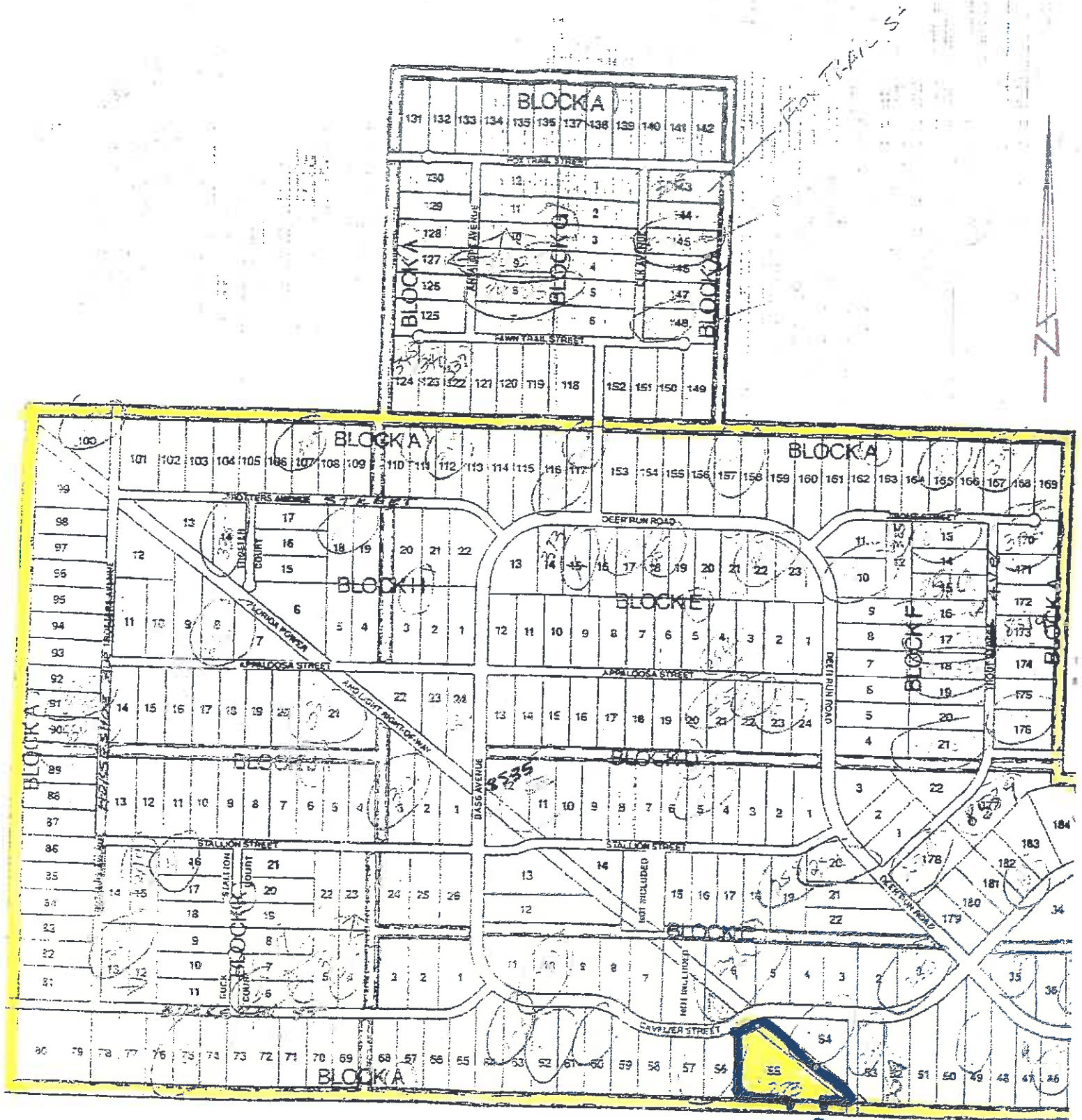
Attn: Jennifer Jones

How are you? My name is Janet Carty and I am the owner of 349 Deer Run Road, Palm Bay, FL 32909. I have been informed that a company, Roy Wayne Yates, wants to drill for minerals near and/or on my property. I am writing to you to let you know that I do not wish to have this done near my property.

If you have any questions or need additional information please feel free to contact me at 954-572-2837.

Thank you for your assistance in this matter,

Janet Carty



MAIN TRAIL

Community Equestrian

OBJECTION
YATES
III.B.3.

October 29, 2015. ID# 15PZ00051

Re. October 5, 2015, public hearing Request for Conditional Use Permit on 32.50 +/- acres by Roy Wayne Yates at 9400 Babcock Street, Palm Bay, Florida. The current zoning is Agricultural and Agricultural Residential.

Mr. Robin Fisher, Mr. Jim Barfield, Ms. Trudie Infantini, Mr. Curt Smith, Mr. Andy Anderson.

Dear Commissioners,

In 2006, Mr. Yates mined for sand and coquina in a five acre borrow pit. His proposed expansion to twenty-seven acres was denied. A second request was denied by the commissioners in 2010. Mr. Yates property is adjacent to Deer Run on the south. As described in the October 5, 2015, hearing the operation would include drilling, pumping out underground water and excavation of various rocks. The reasons for previous repeated denials remain the same today.

Space Coast Property Management, 928 E. New Haven Avenue, Melbourne, Florida reported on October 15, 2015, that Deer Run, a deed restricted community, has four hundred and sixty-two lots. Each lot is two acres or more. There are around 200 homes.

Mr. Yates plans to pump water from the underground water table as part of his operation. Any lowering of the water table on Mr. Yates property will also lower the water table on our properties. All our homes depend on wells for their potable water supply. There is no piped water from Palm Bay Municipality. Each home has dug its own well, installed pumps, pressure tanks, filter systems and aerator tanks to disperse sulfur gas. Our drinking water, showers, washing machines, septic tanks and drainage fields rely on the underground water supply.

In Deer Run our houses are constructed on a base of relatively unstable sandy fill. The fill is placed over a very thin natural mantle of dirt under which is water. Any impact from mining and change in water level may cause our houses to shift, our walls to crack, our septic tank drainage fields to malfunction, irreparable fracturing of foundations and sink holes to appear on our land.

Deer Run is a community crossed by canals, dotted with drainage ponds and sheltered by un-cut vegetation. This combination is designated wetlands. Brevard County does not permit clearing of wetlands in order to build houses. The delicate balance of vegetation, gullies, ditches, canals, underground water levels and surface water levels are essential. Our residents respect and abide by the codes set by Brevard County. Space Coast Property Management helps residents observe the covenants and restrictions of Deer Run.

Deer Run is a very quiet and peaceful residential section. The noise of mining equipment and water pumps, dust particles causing air pollution, trucking engines with constant backup beeps will destroy the tranquility for people and horses, not to mention wild deer, hawks, eagles, sand hill cranes, turtles, rabbits, armadillos, raccoons, pigs and bobcats.

Polluted well water or no well water is a daunting prospect. Will residents be able to stay in their houses or sell their houses? Will they continue to pay their mortgages, Space Coast Property Management dues, annual county taxes, homeowners' insurance and flood insurance? Will they continue to maintain their properties and repair their roofs?

There are no fire hydrants in Deer Run. Well water and hoses are the first responders in case of fire, a not infrequent occurrence throughout the dry season in Brevard. Fire engines are approximately fifteen minutes away. The trucks might need to suction water from our static water supply, i.e. ponds and canals that already drop their levels in the dry season.

This community is composed of stable hard working people employed in the cities of Brevard and beyond, plus retirees. Does Brevard County want to jeopardize this reliable tax base? Do the local public and private schools want to lose their students? There is no insurance or compensation for loss of well water, loss of surface water, loss of tranquility, loss of wildlife or loss of equity in our houses.

Please give your careful consideration to our predicament.

Respectfully, Susannah K. Becker

Section 62-1901(c)(2)(e) Impact upon potable water and waste water levels of service:

NA -- no potable water or wastewater is to be used as part of the project operations or activities.

During previous requests to expend the borrow pit concerns from residents of the Deer Run Subdivision were taken into consideration. Public water services in this area of the County are limited. Development relied on private wells for potable water.

Section 62-1901(c)(1)(c) Impact upon property values of abutting residential properties:

The borrow pit is to be located on the south half and central portions of the property in order to maximize the distance from Deer Run Subdivision residential property to the north and the north-south oriented Babcock Street to the east. Setbacks greater than those required are being proposed. The closest residence (other than the owner/applicant) is approximately 800 feet to the north. Babcock street is 350 feet from the east pit boundary.

See Figures - 3 & 4

OBJECTION
YATES
III B.3.

Hugh Crumpler III
171 Deer Run Road
Palm Bay, FL. 32909

I live near the Yates farm. In the past Mr. Yates has mined on his property. This mining has caused me many issues. Mr. Yates recently applied for Rezoning to mine again.

I went to the Planning and Zoning Meeting and was informed to look for his sign and read it. I pass his farm about five times a week and NEVER saw his Rezoning sign. Finally, someone told he had put one up and where it was. Here is a photo of his Notice of Application for Rezoning sign.



His sign is approximately one and a half times the size of this piece of paper.

Driving down the road it looks more like a "Lost Cat", "Lost Dog",

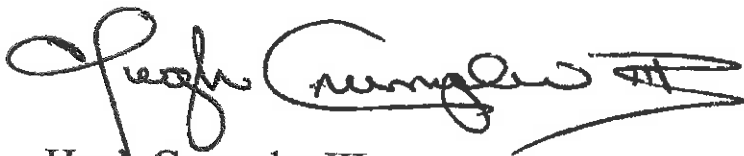
“Garage Sale”, or “Will Buy Your Junk Car for Cash” sign.

Does that meet his legal requirements? Is Mr. Yates trying to keep it a secret that he wants to rezone? If so, why?

Please consider these facts when reviewing his application.

Thank You.

God Bless You,

A handwritten signature in black ink, appearing to read "Hugh Crumpler III". The signature is stylized with a large initial "H" and a long, sweeping underline.

Hugh Crumpler III

OBJECTION
YATES
III B 3.

Hugh Crumpler III
171 Deer Run Road
Palm Bay, FL. 32909

ONE EXAMPLE OF COLATERAL DAMAGE TO MY PROPERTY AS A RESULT OF MR. YEATES MINING COQUINA

I purchased my home in May of 2004. The individual who was transferring the property to me took me through the property and showed me all about it. Of importance to this document is the wells and the pond.

There are/were three wells. One well fed the house. One well was originally intended for sprinkling the yard. The person from whom I was purchasing the home shut off the shallow well for the sprinkler system because he did not like the brown stuff all over the house from using that well. He replaced the shallow sprinkler well with a much deeper, clear water, Artesian well.

The person I purchased the property from used the Artesian well to supply his sprinkler system. The well is/was located near the pond. I asked him if he used the Artesian well for the pond. He used it rarely for the pond. He indicated that flow from the Artesian well would raise the level of the pond and if not shut off the Artesian well water supply would cause the pond to overflow. Much the same as leaving the faucet on when filling a bathtub.

Mr. Yeates began mining coquina in a five acre pit. As a result the water level in my pond began to immediately drop. Every time I heard his dewatering pumps the water level would go down. I used the water from the Artesian well to help control the loss of water. The Artesian well water was not enough. I had to disconnect my sprinkler system from the Artesian well. Still- not enough water flow to maintain water in the pond.

I purchased a water pump and connected it to the Artesian well. I was running the pump 24-7 and barely maintaining water in the pond. This was the largest pump available at Lowe's at the time.

I contacted the St, Johns Water Management District and two men came out to investigate. They were amazed at the amount of water I was pumping and not raising the water level in the pond. They asked me to find out what was in the bottom of my pond and let them know. We also placed a marker at a water level.

I found out that coquina was in the bottom of my pond. My pond is 12 feet deep.

Mr. Yeates quit mining. I did not need to pump water but it has been necessary to keep the Artesian well running 24-7 in order to keep water in the pond.

The elevation of my pond is higher than Mr. Yeates's pit. We are connected by coquina. The water runs down hill. It runs through the coquina like it was running through a siphoning tube. As long as his water level is lower than mine- I loose water from my pond.

At the same time I had the shallow well which had been used for yard watering. So I measured the distance of the top of the water in the well to the top of the well. I did this every time Mr. Yeates dewatered. When he dewatered my well water level went down.

The photo on the next page shows the water flowing from the Artesian well. This has been flowing 24-7 since Mr. Yeates first began to mine coquina. Not before! And the water level does not rise; except with the seasonal rains.



I have not had a yard sprinkler system water supply since Mr. Yeates began mining. The water is necessary to keep water in the pond.

In the time since Mr. Yeates began mining coquina portions of my land have depressed. The West side of my pond used to be level. It is not now. The water flowing out of the coquina below the sand has caused the depressions.

Photos on the next two pages show the depressions caused by Mr. Yeates's coquina mining operations.

I have also placed a drawing of how the water flows out of my pond, through the coquina, under the canal, and to Mr. Yeates's pit.

If Mr. Yeates is allowed to dewater and mine coquina what is now a creek from under my land, and the land of Deer Run, will become a raging underground river draining the water supplies under my property and that of any properties connected to Mr. Yeates's pit via the coquina.



My water supply is dwindling now. It is running to Mr. Yeates's pit. My land is eroding.



It is hard to see in the photo but the depressions are about two feet deep and of considerable size. All this land was flat.

Hugh Campbell

WATER FLOW DIAGRAM

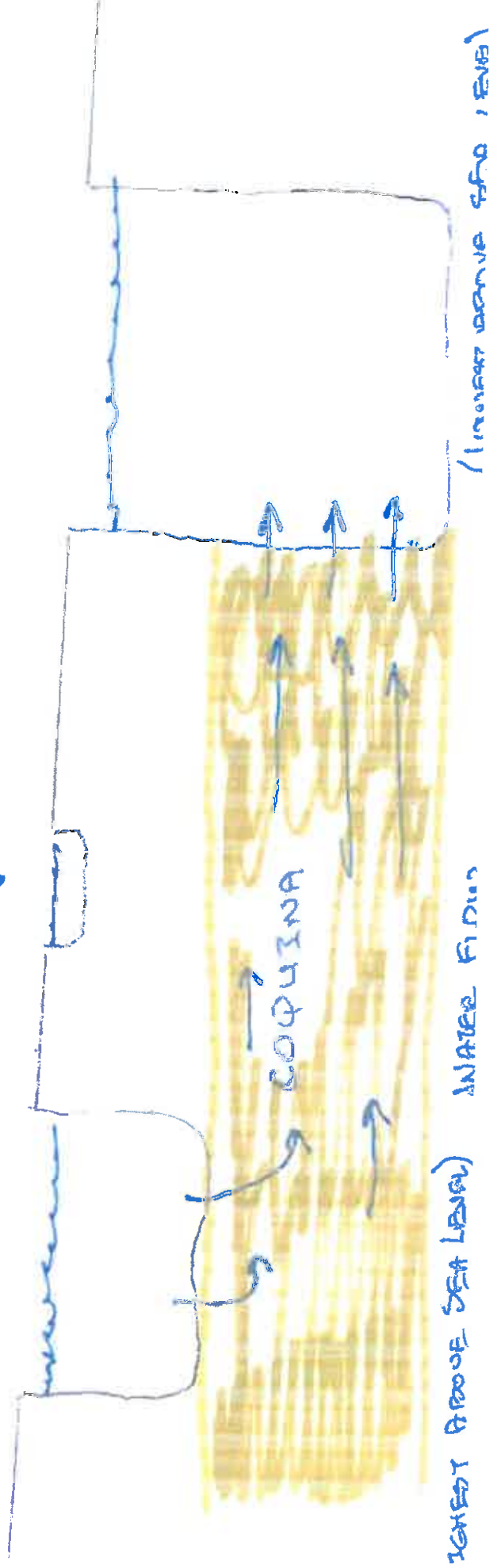
SHOWS WATER FLOW FROM CRUMPLER'S POND & PROPERLY TO MR. YEATERS'S PIT & WHY IT FLOWS THAT WAY.

171 DEER RUN ROAD 32909

POND
12' DEEP

CANAL
3' DEEP

YEATERS PIT
↓



OBJECTION
YATES
III B.3.

FROM THE DESK OF

BARBARA BROOKE-REESE

859 PECAN CIR BAREFOOT BAY, FLORIDA 32976 (772) 532-7086

November 9, 2015

Re: CUP ID#15PZ00051
Brevard County Board of County Commissioners
725 Judge Fran Jamieson Way
Viera, Florida 32940

To whom it may concern;

My name is Barbara Brooke-Reese and I am writing you today in order to express my opposition to the possibility of a Coquina/sand mine next to deer run.

My Husband, Paul Reese, trains horses, during the day, in and around the area of deer run. He both rides and drives these horses in the deer run community in order to train them for trail riding, driving, dressage, or anything else that their owners might want their horses to be able to do.

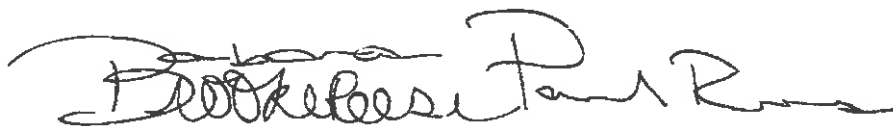
Deer run is an old established equestrian community, and if anyone on the board has ever dealt with horses, you would know that they are prey animals, Fight or flight. The noises coming from this operation, could and would put my husband's life, & the lives of the horses, at risk unnecessarily, especially when carriage driving.

When Driving a horse, the paths around Deer Run are too narrow to get a vehicle safely turned around if the horse is spooked. Deer run put in and maintains these paths in order to ensure the safety of the equestrian community & to provide a way to get to the preserves that are nearby without endangering the equestrians or the public.

Every day, more and more area becomes inaccessible for equestrians. Carriage driving even more so. We have been restricted from state parks & roadways. And Most of the time, people just see us as an annoyance. I am asking you to preserve the atmosphere of this equestrian community for us. It is a equestrian community that needs to stay as a safe place to have & enjoy horses for many generations to come.

Thank you for your time and consideration of this matter & please don't hesitate to call me at (772) 532-7086 or email me at brookereese@gmail.com if you have any questions, comments or concerns.

Sincerely;

A handwritten signature in black ink, appearing to read 'Barbara Brooke-Reese Paul Reese', written in a cursive style.

Barbara Brooke-Reese & Paul Reese

[Print](#)

OBJECTION
YATES
III.B.3. ^{Close}

yates

From: **DeJesus, Crystal** [redacted]
Sent: Mon 11/09/15 9:47 AM
To: suncountryranch@hotmail.com (suncountryranch@hotmail.com)
Cc: crystaldejesus@hotmail.com (crystaldejesus@hotmail.com)

To whom it may concern,

I am a resident living in DeerRun and I own 3 horses in which my family rides as well as drives. Our primary practice and exercise area for our driving horse is in the main strip which we call the 'cow hill' that borders Deer run and the proposed 'Yates' Mining area. A driving horse on this strip that 'spooks' due to the abundance of noise this mine will create will surely cause a major accident. There is no room on the trail for a driving horse to turn around or run other than into the canal. Horses are flight animals' and this mine will be putting them constantly in 'FLIGHT mode'.

I moved to Deer Run from Palm Beach County specifically into an equestrian neighborhood to get away from the hustle and bustle of noise. I wanted a safe haven to enjoy my horses. We sought out the quietness and safety that an equestrian neighborhood would bring us and that is needed to live the equestrian lifestyle. I'm sorry but to jeopardize all of our communities' lives and safety for this mine is just disgusting and appalling. We all moved to this neighborhood seeking the solitude it brings. I have waited my entire life to be at the place I am at now with my horse and the state in which we can go out for a Sunday stroll as a family in the horse drawn cart or to practice for an upcoming driving competition. I will no longer be able to do this if this mine is to be approved right next door. The danger of the cart flipping from a spook due to the mines activity is too great.

I beg you to NOT allow this mine to happen!!!!

Crystal DeJesus OPHN

Ambulatory/Ancillaries/Rx

800.800.1844 Support Center

704.649.9869 telephone direct

[redacted]

OBJECTION
YATES
III. B. 3
Close

Print

Letter for meeting

From: **Kimberley DeYoung** (kdeyoung82@hotmail.com)
Sent: Mon 11/09/15 8:56 AM
To: **Suncountryranch@hotmail.com** (suncountryranch@hotmail.com)

To Whom It may Concern:

My name is Kimberley DeYoung and I live at 109 Deer Run Rd in Palm Bay. This letter is in reference to the Yates coquina drilling. My husband and I moved here in 2012 after my husband served 24 years in the United States Marine Corps. We looked for over a year for a quiet place to retire and enjoy nature and our 2 horses. We chose Deer Run not only because it is a beautiful, quiet neighborhood but also because of the amenities it offered to us and our horses. We have spent a lot of money building our barn and doing renovations to our home because we plan to live there for quite a long time. But we are terribly worried about what will happen if Mr. Yates is allowed to drill for coquina or however he plans to get the coquina out of the ground. Not only will it decrease the value of our home and property but the noise and activity will be quite dangerous for any type of equestrian activity and I am very worried that I will no longer be able to take my horse out on a trail ride in the neighborhood because he is quite spooky when it comes to noises and lots of activity. He has thrown me before from a loud noise and I don't want to be afraid every time I get on him to ride because of the noise that will be coming from the Yates property. Also if dust is blowing in the air from the coquina and other land particles being stirred up from the mining, that is not only a danger to our lungs but also to our horses lungs. I have a 26 year old mare that is very sensitive to dust and allergens and I am highly sensitive to dust particles. Please don't take our beautiful home away from us by allowing Mr. Yates to mine coquina on his property.

Thank you for your time.

Sincerely,

Kimberley DeYoung

109 Deer Run Rd.
Palm Bay, FL 32909

OBJECTION
YATES
III.63.

November 9, 2015

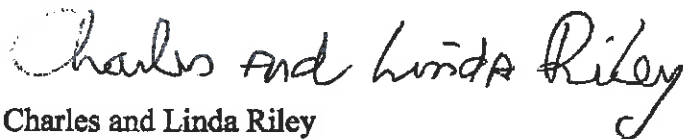
To: Brevard Planning and Zoning Committee

My husband and I have resided at 105 Deer Run Road since 2003. We purchased this residence to accommodate our two horses as this was the only deed restricted, equine community in South Brevard community. We are so fortunate to reside in this unique community: a multitude of wildlife to share the land with us, friendly neighbors with common interests, peace and solitude. The latter two qualities are remarkably important to the horses so many of us own and cherish. To the initiate, they look large, proud, and beautiful. And they are. But they are also prey animals, keen to see and hear and sense, through their hooves, unusual activity. Their instinctual response is to take flight. When this occurs with a rider onboard, serious accidents are prone to happen. Certainly, equestrians work with their horses to help them control their sudden flight responses, but these animals have never been subjected to a mining industry adjacent to their old, beloved riding trails. Not only that, the sounds of machinery and blasts from dawn to dusk would make the most poised horse turn chronically nervous, "spooky" and, over time, ill, due to the constant onslaught of stress. Our way of living, as well as that of our beloved animals, would soon fade away.

Add these concerns to loss of water – perhaps never to be replaced, and the fact that the coquina shelf Mt. Yates intends to mine is also the foundation underlying our beautiful homes. Will our homes be rendered unlivable for us - unsalable to others? It is not a far cry from this scenario to losing this unique community entirely.

Please, consider not only the 150 plus homes in Deer Run that would likely be harmed beyond repair. Consider our animals, our lifestyle, and those animals who were here before us who have no voice to speak for them.

JUST SAY NO TO MR. YATES' CONDITIONAL USE PERMIT!



Charles and Linda Riley
105 Deer Run Road, Palm Bay, Florida

OBJECTION
YATES
III.B.3.

November 9, 2015

To: Brevard Planning and Zoning Committee


My wife and I have resided at 105 Deer Run Road since 2003. We purchased this residence to accommodate our two horses as this was the only South Brevard community that was equine friendly. Like the vast majority of the homeowners in Deer Run, we have poured our savings and income into our residence. We endured through the tough economic recession of 2007/2008, maintaining our mortgage responsibilities.

Once again Mr. Yates approaches a governmental body with Brevard County attempting to obtain permission to conduct an enterprise that is a direct threat to the one hundred and fifty plus homes in Deer Run. The threat to the water supply by damaging the aquifer would put in jeopardy all Deer Run homes and property. No other water source is available to this community.

When the aquifer is affected and the water wells cease to function, what are the homes owners to do? These family homes will be uninhabitable. The homeowners will be faced with the decision of leaving their homes, not honoring their mortgage obligations and starting a costly and continuous legal battle against all individuals and government bodies involved in granting the approval of this request. I am sure that financial institutions will become involved since with the residences becoming uninhabitable and having little or no value, the financial institutions will seek someone or some decision making body to recoup their loans.

My wife and I request that your committee, as you have in previous years, again deny this application by Mr. Yates. The potential consequences are too great and the harm done to this community would be irreversible.

Thank you for your sincere consideration in this matter.



Charles and Linda Riley
105 Deer Run Road, Palm Bay, Florida

OBJECTION
YATES
III, B. 3.

Planning and Zoning Board
Brevard County Government Center
2725 Judge Fran Jamieson Way
Building C
Viera, Florida 32940

Oct 5th 2015

ID# 15PZ00051

Deer Run is an equestrian community with lovely homes in a beautiful rural setting where wildlife abounds. We know how fortunate we were to build a new home in 2013 within this growing community. It would be devastating to the Deer Run neighborhood if the mining operation on the adjacent Yates property was allowed to commence.

It is common knowledge that mining has the potential to contaminate the air and the groundwater in the surrounding area. The sole source of water in the Deer Run neighborhood are the private wells of the homeowners. If the water to these wells becomes contaminated or the water source is allowed to run dry due to the dewatering of the adjacent mining operation there will be absolutely no resolution available for Deer Run. It would without a doubt destroy the entire community.

Please don't think for a second that Deer Run will be the only place affected by this operation. The wildlife that lives here and in the nearby preserves will also be displaced or die off from lack of water or contamination of water sources.

In addition, the constant noise from the pumps and the possibility of structural issues to existing or future homes will surely make developers think twice about expanding into this area of Brevard County.

Babcock Street has been in constant deterioration over the years and Brevard County does not have the funds to repair it. Adding additional trucks traveling on Babcock from this potential mine will only accelerate the further breakdown of the road.

I personally also find it interesting that individual homeowners in the Deer Run community are constantly under a microscope by Brevard County Natural Resources when it comes to building a home. The homeowner has to prove they are not disturbing wetlands and that water sources are not being contaminated and drainage is proper on the site so there will be minimal issues. The mining operations should be held to a much higher and stricter environmental standard. I wonder how many people on the planning board would actually embrace a mining operation this close to their residential neighborhood especially when it threatens their only source of drinking water and has this magnitude of an environmental impact.

The initial mailing of the CUP to Deer Run residents and the first hearing in Viera is an unsatisfactory timeframe to allow residents to schedule time away from work and prior commitments. It does not allow the time for a proper response.

I hope that the Planning board and County Commissioners vote AGAINST this operation.

Minde and Mark Gibson,

8510 Trout Ave, Palm Bay, FL 32909 (321) 608-2238

Kirsten I. Black
287 Cavalier St.
Palm Bay, FL 32909
(321) 723-6310

OBJECTION
YATES
III.B.3.

October 12, 2015

Re: Roy Wayne Yates application for Conditional Use Permit for Land Alteration

Dear Commissioner,

My name is Kirsten Black and I am writing you on behalf of myself, my husband William Black and my two young children, Elfie and Willow to ask that you thoughtfully consider our request to preserve our home, neighborhood and surrounding wild life areas from pollution and endangerment as a result of allowing mining of coquina on the property owned adjacent to our backyard.

This month you will be presented with a request from Mr. Roy Wayne Yates to be granted a Conditional Use Permit for Land Alteration. I ask that you deny his request based on the following information.

Due to his property's close proximity to the Deer Run Subdivision, Mr. Yates request for a CUP cannot, in any way, comply with Section 62-1901(c)(1). Subsection c(1)(a) provides that proposed Conditional Use will not result in a substantial and adverse impact on adjacent nearby properties to due to (1) noise, odor, particularly smoke, fumes, and other omissions or other nuisance activities generated by the Conditional Use or (2) the increase of traffic in the vicinity caused by proposed Conditional Use.

The following are indeed not in compliance with Section 62-1901(c)(1).

1. Our only water source is well water. State of Florida Water Law 101 states that there is a prior appropriation, meaning new users cannot interfere with existing legal users; the water in the wells comes from the aquifer; if water is pumped from a well faster than it is replenished, the water table is lowered, or may go dry; and groundwater flows into an aquifer at different rates depending on permeability. Mr. Yates has not proved with scientific evidence that he will not impact the water in Deer Run; and if a drought situation is added to the de-watering, the water table will drop below existing wells and dry them up. We are only a 150 residences and should our wells become non potable because of Mr. Yates' actions we will have no drinking water. It would cost millions to the municipalities to run public water to our homes.
2. Our homeowner's policies will not cover damages caused by mining activities and companies may cancel policies or refuse to reinsure. All methods of mining coquina will have a direct and adverse impact on Deer Run. Possible methods include blasting and the wrecking ball technique. Another, which is environmentally devastating involves injecting a toxic chemical cocktail into the porous, open coquina system. Toxic chemicals can flow throughout the entire earthen subsurface and those chemicals will leach into groundwater which again could render our wells unpotable. If Mr. Yates' CUP is granted, the county and taxpayers may become liable for damages as a result.
3. The air quality will be affected. Crystalline silica is likely to be released from Mr. Yates' coquina mining operations. This airborne dust can travel miles before it settles. Many people, myself and my children included, have asthma and these types of dust particulates severely impact our ability to remain outdoors.

Mr. Yates' mining will prevent my children from playing in their own back yard. Sunrise Elementary school is only 3 miles away and I'm certain there are more than a few students there that will suffer the effects of the dust as well.

4. Traffic will also pose a problem for the residents, school and road maintenance. Babcock Street is the primary road; it is a two-lane road in already poor repair. Our concerns on how Babcock Street will be maintained under the strain of an additional 250 trucks, which equals 500 round trips and the trucks are substantially heavier than the traffic that is there currently. He stated school buses pick up in the mornings and afternoons, so there is a gathering of children at various stages; when it rains, the children walk along the side of the road because there are no sidewalks therefore, in my opinion, there is no safe way to move the material in and out of the mine without causing undue risk. The safety of the children and the residents has to be number one and Babcock Road cannot maintain that type of traffic.
5. Deer run is an equestrian community which means people live here specifically to own and ride their horses. During Mr. Yates' previous 5 acre mining activities, our trails and riding area were rendered unsafe due to noise traveling via the ground and through the air. Horses are highly sensitive to these types of disturbances whereas human are incapable of sensing them. Because humans cannot sense these disturbances, they cannot react in preparation for a horse spooking and as a result, can become seriously injured when the horse does so. Some may argue that they have ridden their seasoned horses with loud noises like marching bands and cars etc. however, this is not the same at all because the rider is cognizant of the noise and is prepared for possible problems. Moreover, only very experienced riders will take their horses into situations such as this and their skill levels are in no way comparable to the riding skill needed to walk a horse along a quiet trail. I personally can handle a seasoned horse at a parade, however my children ages 5 & 7 could not although they do enjoy trail and ring riding.

In conclusion. Mr. Yates has a history of not abiding by our laws. In 2000, Mr. Yates made alterations to his property in the following noncompliance ways. He filled an acre of wetlands with fill causing an adverse hydrologic impact of 24 acres. He was reported for spreading sludge too close to his own well and ignoring guidelines and he started de-watering in the spring of 2006 and by early August, was found not in compliance with a permit with the St. Johns River Water Management District. Due to his history regarding land and water use, Mr. Yates has a history of not abiding by the laws set forth to comply with the use of his land. Therefore I again urge you to decline, once again, his request for Conditional Use Permit for Land Alteration. Thank you very much for taking the time to hear my concerns.

Respectfully,



Kirsten I. Black

OBJECTION
YATES
Close
III.8-3.

Print

Yates Mining letter

From: **Kimberley DeYoung** (kdeyoung82@hotmail.com)
Sent: **Mon 11/09/15 9:13 AM**
To: **suncountryranch@hotmail.com** (suncountryranch@hotmail.com)

To Whom It May Concern:

My name is Roy DeYoung and I live at 109 Deer Run Rd in Palm Bay. My wife and I moved here in 2012 after I served 24 years in the United States Marine Corps. After 3 deployments to Iraq I was looking for a nice quiet place to retire and enjoy our 2 horses. We love our home and have spent a lot of money doing renovations and building a barn in order to have our horses on our property. We enjoy going on trail rides around the neighborhood. This is our way we relax and enjoy the outdoors and it's easy because we can just walk outside our gate and go and not have to deal with trailering them anywhere. Our gelding is a spooky horse so we have to be extra careful when we take him out anywhere. My wife has been thrown before because of a loud unexpected noise and I don't want to have to worry about her riding every time we want to go out in the neighborhood because of the noise that will be coming from the Yates property if he is allowed to mine for coquina. She had a very scary experience one night when a neighbor down the road decided to light fireworks at their house. She was in our gelding's stall and the fireworks went off (she had no reason to think anybody would be lighting fireworks that night because it was not July 4th or any other holiday that fireworks would be lit, it was just a usual Saturday night) and our gelding reared up and ran around the stall because of the noise. She was almost trampled to death in his stall just because of a loud noise.

I also worry about my property value decreasing if the mining is allowed. If our well runs dry there is no way for us to get water to our home and it would become worthless. Also, the noise and dust created by the mining would have a very negative impact on the value of our home because no one would want to live out here because you wouldn't be able to enjoy the outdoors anymore. We specifically chose Deer Run because of the quiet neighborhood and the ability to enjoy our horses in a relaxed atmosphere. Please do not allow Mr. Yates to mine for coquina and ruin our beautiful quiet home. Thank you for your time.

Sincerely,

Roy DeYoung

109 Deer Run Rd.
Palm Bay, FL 32909

OBJECTION
YATES
III b.3
Close

[Print](#)

Yates Mine:

From: **Thomas Jensen** (jensenthomas63@gmail.com)

Sent: Thu 11/05/15 4:01 PM

To: Debra B (suncountryranch@hotmail.com); Brian Curry (bwc184@gmail.com); Murrayluna@aol.com (Murrayluna@aol.com); AButti (AButti@aol.com); PERRONE - TORSIELLO, TERESA E (tt1829@att.com); tammie_rut@bellsouth.net (tammie_rut@bellsouth.net); Deerruntrailride (Deerruntrailride@aol.com); Paul Jensen (Jensen8540@gmail.com); Thomas Jensen (jensenthomas63@gmail.com); D1.commissioner@brevardcounty.us; D2.commissioner@brevardcounty.us; D3.commissioner@brevardcounty.us; D4.commissioner@brevardcounty.us; D5.commissioner@brevardcounty.us

Nov.5 2015

RE: YATES "COQUINA" MINE

Dear sirs,

My name is Thomas Jensen and I live in Deer Run. My wife is a "nighttime" nurse at Palm Bay Hospital and sleeps during the days. I have 3 and 7-year-old daughters who love to play and bike ride in their quiet, clean and safe neighborhood. The possible "RE-OPENING" of the "Yates" mine will bring disruption, trucks, noise, vibration, dust, and possible water/well/lake problems. My oldest daughter would like to buy and start riding a horse in our peaceful and quiet neighborhood, but that will not be possible if this mine is allowed to be reopened and enlarged and likely run for a long time! What should my wife and I tell her? Would you like to come over to our house and explain why she won't be able to have a horse and ride in our community? Especially since we live in the only equestrian neighborhood in the entire S. Brevard County? Along with living out here, I also take care of the lawn maintenance at the Deer Run entrance, Club House and drag and maintain the 2 horse rinks.

My kids are both home-schooled and this place is their life. The ability to ride a horse at the rink and go with the "Trail Riders" horse group and on the main trails will be off limits.....Who would like to live in a place like that? Would you? Or your kids and family, or friends? This place will no longer be safe for my 3 and 7-year-old. How can you say that this mine operation is going to be safe and not cause any problems for them?

Please reconsider this poor decision for another mine adjacent to our community. Is this ONE mine out of all the other mines really going to be worth it or even needed? We as a family and neighbors of Mr. Yates- beg you to put yourselves in our shoes and vote "NO" to this project- "Yet once again".....

Thank you!

Yours sincerely,

Thomas, Choi, Sumyee and Onyee Jensen

Deer Run

8544 Horseshoe Ave., Palm Bay, Fl. 32909

321 9514333

Jensenthomas63@gmail.com

OBJECTION
YATES
III.B.3.
Close

[Print](#)

planning/zoning note

From: AButti@aol.com
Sent: Wed 11/04/15 2:58 PM
To: suncountryranch@hotmail.com

Brevard County Planning/Zoning Board,

I would like you to vote NO on Yates request, a mining operation of 30+ acres. It is not compatible with the bordering equine community, Deer Run.

I am Anthony Butti, 222 Cavalier St. I have lived in Deer Run for 24 years. I have seen Yates request voted down several times. I hope that you see, all the same reasons previous boards have not allowed this to happen.

I do not ride often, it is more a hobby for my wife & son. I do however, want my wife & teenage son, to come back safe & sound from their trail rides. When I and my family ride, we usually ride the main trail that borders both Deer Run and Yates. It runs from the front of Deer Run to the Equestrian Center. We would feel very unsafe to ride this main trail if mining was going on. The dewatering pumps and heavy equipment and trucks could easily scare the horses. It would be very dangerous for us & our horses. We would like to continue riding this trail.

Please, do not approve this, and take away our right to ride our horses safely through out this equestrian community.

Please, vote NO!

Anthony Butti

OBJECTION
YATES
Close
III.B.3.

Print

CUP ID#15PZ00051 YATES MINE

From: **Debra B** (suncountryranch@hotmail.com)

Sent: **Thu 11/05/15 6:49 AM**

To: d1.commissioner@brevardcounty.us (d1.commissioner@brevardcounty.us);
d2.commissioner@brevardcounty.us (d2.commissioner@brevardcounty.us);
d3.commissioner@brevardcounty.us (d3.commissioner@brevardcounty.us);
d4.commissioner@brevardcounty.us (d4.commissioner@brevardcounty.us);
d5.commissioner@brevardcounty.us (d5.commissioner@brevardcounty.us)

Regarding CUP ID#15PZ00051

Debra Bohnsack – My name is Debra Bohnsack and I'm also a resident of Deer Run. I am a board member of the Deer Run HOA, and a horse owner. My family specifically chose Deer Run to be our home in 2012 because it's an active equestrian community, and I've been a horse owner my entire life.

I have serious concerns that the proposed mining operation - and I'm calling it mining operation because we really didn't figure out how it comes out of the ground, so unless it silently levitates itself out, I'm just going to call it mining - I have serious concerns about that, that it will jeopardize my ability and our community's ability, our children's ability to safety use and enjoy our horses and ponies on our property as it was designed and intended to be used. Horses can be reactive animals scared by loud noises, sudden unexpected sights, sounds, smells, and ground tremors.

About a year ago, I had an old palm tree cut down in my front yard. It didn't make very much noise when it fell, but it made a huge vibration, and as I was sitting at my desk looking out the back window, all the items on my desk shook and I watched my horses twirl around and take off running. They were spooked from the vibration under their feet. Adults and children horseback riding through our neighborhood with mining going on from dusk till dawn right next door is dangerous enough, but even basic handling of horses, feeding, leading of horses, can be very dangerous if they get spooked. Imagine a child trying to calm 1,000 pounds of rearing horse. Horses loose in pastures or kept in stalls are also susceptible to serious injury from running through fences or gates if they get scared. Carriage driving, which is what I enjoy, would become even more dangerous than riding because passengers are involved and those are oftentimes children. We do have several carriage drivers in our community, along with about 75 horses. When carriage driving on certain trails in our community you do not have the ability to turn around go the other way if you think that there is something frightening up ahead, like a piece of mining equipment.

In summary, the idea of allowing a mining operation with loud noises, unexpected sights and sounds, and ground vibrations, next to an equestrian community is a bad idea, it's unsafe for the adults, our children, and our horses. All of our community horse owners, and all of our owners for that matter, are in agreement in asking you to recommend denying this permit.

Thank you,

Debra & Steven Bohnsack

207 Deer Run Rd

Palm Bay FL 32909

"Never doubt that a small group of thoughtful, committed citizens
can change the world. Indeed, it's the only thing that ever has."
- Margaret Mead

OBJECTION
YATES
Close
III.B.3.

[Print](#)

planning/zoning note

From: **AButti@aol.com**
Sent: Wed 11/04/15 10:17 AM
To: suncountryranch@hotmail.com

Brevard County Planning/Zoning Board,

I would like you to vote NO on Yates request, a mining operation of 30+ acres. It is not compatible with the bordering equine community, Deer Run.

I am Anita Butti, 222 Cavalier St. I have lived in here for 24 years. I have been to all the previous meetings that voted him down in the past. I hope that you see, all the same reasons previous boards have not allowed this to happen.

I ride a main trail that borders both Deer Run and Yates. It runs from the front of Deer Run to the Equestrian Center. It is a county easement, it is the size of a one lane road, and is raised up. I would feel very unsafe to ride this main trail if mining was going on. The dewatering pumps and heavy equipment and trucks could easily scare my horse. It would be very dangerous for my horse to be spooked and then spin around and fall from this berm. I have been riding this trail and others in Deer Run for 24 years. Please, do not approve this, and take away my freedom to ride my horse through out our equestrian community.

Please, vote NO!

Anita Butti

OBJECTION
YATES
Close
III.B.3.

Print

Fwd: Yates:Request to expand his mine:

From: MurrayLuna@aol.com

Sent: Sat 11/07/15 9:21 AM

To: AButti@AOL.com; suncountryranch@hotmail.com

Note I sent to the Commissioners

From: MurrayLuna@aol.com

To: D1Commissioner@brevardcounty.us, D2Commissioner@brevardcounty.us,
D3Commissioner@brevardcounty.us, D4Commissioner@brevardcounty.us,
D5Commissioner@brevardcounty.us

Sent: 11/7/2015 10:18:44 A.M. Eastern Standard Time

Subj: Re: Yates:Request to expand his mine:

Attention: Robin Fisher D1: Jim Barfield D2: Trudie Infantini D3: Curt Smith D4: Andy Anderson D5:

Re: Up Coming December meeting: Yates vs: Deer Run::

I cannot believe that we are all going through this again now for the fourth time in 10 yrs. Same plot, different lies about what he is going to do and not due. I personally can not keep up with it, blast, no blasting, just sand, no rock, won't bother the water supply in Deer Run etc. maybe put ear plugs in the horses ears so they don't hear all the noise as we try to ride them along the brim next to the Yates property, which is the main trail to the community center and park. The lies keep coming.

This has been turned down three times already, you would think 3 strikes and your out: This guy keeps coming back like a bad rash:::he is only thinking of making money, don't care a bit about what effect it will have on our peaceful community and life style. I don't even think he lives on his property at this time.

My husband and I bought a lot in Deer Run in 1994 and proceeded to build our home at 121 Deer Run Road, we were number 40. Now 22 years later there are 150 homes, with 5 under construction, all high end homes.

In 2006 when he did the de watering on just the 5 ac.. all the ponds along Deer Run Rd went way down. My well and the neighbor 3 doors to the north went dry in the same week. Even though no one would admit it and we couldn't prove the de watering caused the problem, I know it did. This present request is for 30 ac.

Fast forward to his latest attempt to get this mine dream of his approved. This past July my husband of 52 years passed away. I have this home worth between \$350,000 and \$400,000, that's paid for. If this mine gets approved this home will be worthless, no one will buy a home next to a mine that works 6 days a week, 12 hours a day de watering as they go. Several residents in here are in the same boat as I am.

My request is that you deny this latest request, save our community, life style, and property values and water supply.

Sincerely:

Arlene Murray
121 Deer Run Rd.
Palm Bay, Fl. 32909
(321)723-4877

PS: I would be glad to show you our "One of a Kind" community before the next meeting if you are out for a ride and want to see why we don't want this mess next to our homes and life style.

OBJECTION
YATES
III.B.3.

November 7, 2015

To those in charge of overseeing land & resource use in Brevard County:

My wife and I fell in love with the secluded, natural setting in Deer Run approximately 13 years ago, and purchased a home at 277 Cavalier St., Palm Bay. We have thoroughly enjoyed this residence that is devoid of human pollution (air, water, noise etc.) and so full of wildlife co-existing with humans. As is so often the case when a region gets developed, natural conditions begin to deteriorate beyond the tipping point of numbers of species either due to habitat loss or excessive pollution. In my humble opinion as a teacher of IB Environmental Science at Cocoa Beach Jr/Sr High School if Mr Yates is allowed to de-water land situated under his plot, this will create a fluid vacuum causing water to naturally flow from surrounding regions to equalize pressure/volume. This will undoubtedly force a **drop in localized aquifer levels leading to neighbors having to re-drill wells**. As a result of this, there will be an **elevated probability that surface lands will depress or even sink** potentially causing damage to Deer Run residences & features. This will assuredly result in legal actions being taken against the responsible party (Mr. Yates) by those adversely affected.

Additionally, Deer Run **residents who own and ride horses** (this being a recognized Equestrian Community) **will be adversely impacted by the noise generated by heavy machinery** in conducting a mining business. It is also likely that there may be sinking of the berm that surrounds the Deer Run Association causing deterioration of the use of this for horseback riding. Also, it is well known that such commercial ventures **often involve inadvertent as well as intentional fuel and solvent spills**. Safety measures are usually not effectively implemented, maintained or inspected by a **neutral party** (just ask BP).

Furthermore, the **increase in the number of dump-truck runs to-&-from the mining pit elevates the probability of roadkill** (some of which might actually be **school children** in transit to the nearby Sunrise Elementary School).

Ultimately, as a property-owner in Deer Run, initiating use of the adjacent property as a commercial mine will **assuredly reduce the appeal of our residence**. The worst-case scenario involves a loss or tainting of the subterranean aquifer; elevated noise levels; development of land sinking / sinkholes; and possibly the loss of the life of a young child who impulsively runs onto Babcock Street near the elementary school.

Can't coquina be procured from a more-desolate...less invasive area in Florida?

Respectfully,

Jim & Dot Mardulier 277 Cavalier St Palm Bay FL

CUP Id# 15pz00051its

OBJECTION
YATES
III.B.3

Horses and mining operations in close proximity are not compatible. The inevitable sudden loud noises and movement of machinery in a mining operation will cause horses to panic and their instinctive flight mode will be engaged. This is a very dangerous situation for horse and human especially when riding on the designated trails in the Deer Run community. A horse that panics will run blindly away from what it perceives as a predator and could severely injure itself and the human. Sometimes these situations could become lethal.

Minde Gibson

8510 Trout Ave

Palm Bay FL 32909

Deer Run Community

OBJECTION!
YATES
III.B.3.
Nov 5, 2015

RE: YATES "COQUINA" MINE

Dear sirs,

My name is Thomas Jensen and I live in Deer Run. My wife is a "nighttime" nurse at Palm Bay Hospital and sleeps during the days. I have 3 and 7-year-old daughters who love to play and bike ride in their quiet, clean and safe neighborhood. The possible "RE-OPENING" of the "Yates" mine will bring disruption, trucks, noise, vibration, dust, and possible water/well/lake problems. My oldest daughter would like to buy and start riding a horse in our peaceful and quiet neighborhood, but that will not be possible if this mine is allowed to be reopened and enlarged and likely run for a long time! What should my wife and I tell her? Would you like to come over to our house and explain why she won't be able to have a horse and ride in our community? Especially since we live in the only equestrian neighborhood in the entire S. Brevard County? Along with living out here, I also take care of the lawn maintenance at the Deer Run entrance, Club House and drag and maintain the 2 horse rinks.

My kids are both homeschooled and this place is their life. The ability to ride a horse at the rink and go with the "Trail Riders" horse group and on the main trails will be off limits.....Who would like to live in a place like that? Would you? Or your kids and family, or friends? This place will no longer be safe for my 3 and 7-year-old. How can you say that this mine operation is going to be safe and not cause any problems for them?

Please reconsider this poor decision for another mine adjacent to our community. Is this ONE mine out of all the other mines really going to be worth it or even needed? We as a family and neighbors of Mr. Yates- beg you to put yourselves in our shoes and vote "NO" to this project-"Yet once again".....

Thank you!

Yours sincerely,

Thomas, Choi, Sumyee and Onyee Jensen

Deer Run

8544 Horseshoe Ave., Palm Bay, Fl. 32909

321 9514333 Jentsenthomas63@gmail.com

OBJECTION
YATES
III B.3.

November 5, 2015

Re: Yates (Cargana Mining)

Dear Committee Members,

My husband James & and myself moved three years ago to Deer Run Equestrian neighborhood. Coming from east of state with equine. It took months of finding such a place. This community allows us the space to have horses, it is quiet, peaceful, rider friendly and is in southern Brevard County. We are privileged to live in this amazing county, there is so much it offers. Deer Run Community is the only horse friendly one known to us. Brevard County is horse friendly.

Should Mr. Yates open his proposed mining operation it will severely impact our equine ability to simply ride on a daily basis which my husband does.

The equine require the environment that exists here presently. Noise, dust, vibration, decreased water tables, adjacent truck activity will make it impossible to ride and have continued equine events.

The main riding trail at the southern end of Deer Run will be non-rideable.

Please consider the huge impact this will have on this community. Its residents and equine will be greatly changed. Our community center, equine ring and future obstacle course is on the southern end. It would be like dropping a hand full of fire crackers into any local park, a constant disruption. Equines are so sensitive to noise.

Riding in Deer Run on our horse Cutter has been a huge part of my husband's recovery after having a heart attack April 20, 2015.

Please reconsider, examine the impact to Deer Run. Vote NO!

Thank you so much for your time and consideration.

Sincerely,

Sincerely
James J. & Judy Catron
328 Deer Run Rd.

Palm Bay Honda 32909

610-554-1012

Chandra Powell

From: Debra Bohnsack <suncountryranch@hotmail.com>
Sent: Friday, July 29, 2016 8:57 AM
To: Chandra Powell
Subject: for CU-1-2016 Yates mining file
Attachments: Plat map of Deer Run.pdf

Chandra,

Please add the following attachment to the file above. Thank you.

Debra Bohnsack

4-7-71 PM, File No. 44-5157
 H. R. Warrick
 Club of All Chief Const
 Inland for Bureau Comm
 H. R. Warrick

A SUBDIVISION OF SECTION 18 AND PARTS OF SECTIONS 7, 16 & 17, T 30 S, R 37 E, BREVARD COUNTY, FLORIDA
SHEET 2 OF 8

PLAT BOOK	27
AND PAGE	12

CONVE DATA	
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VIEW CURVE DATA

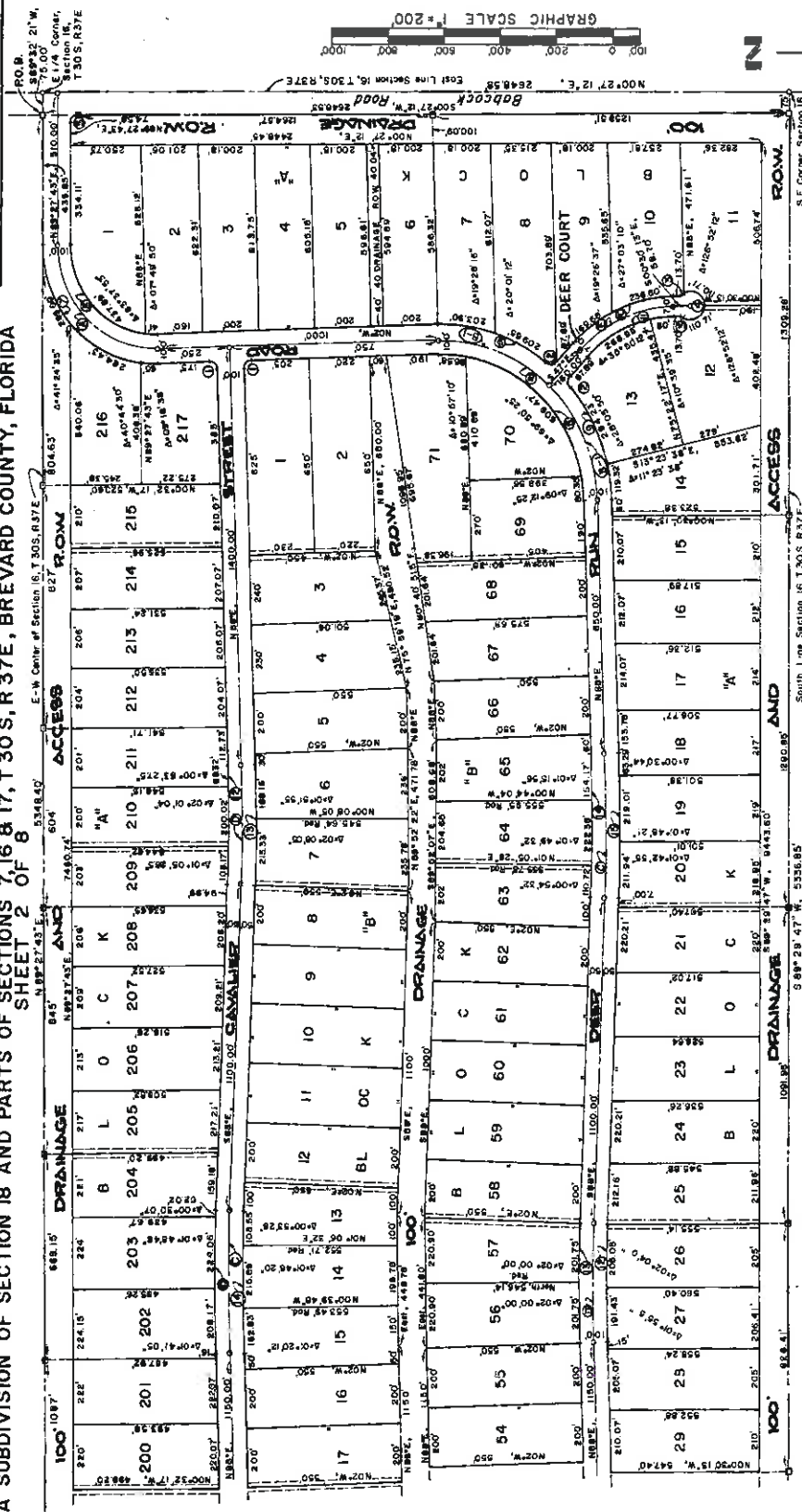
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26	45° 00' 00"	450	105.00	355.64	343.97		
27	45° 00' 00"	450	105.00	355.64	343.97		
28	45° 00' 00"	450	105.00	355.64	343.97		
29	45° 00' 00"	450	105.00	355.64	343.97		
30	45° 00' 00"	450	105.00	355.64	343.97		
31	45° 00' 00"	450	105.00	355.64	343.97		
32	45° 00' 00"	450	105.00	355.64	343.97		
33	45° 00' 00"	450	105.00	355.64	343.97		
34	45° 00' 00"	450	105.00	355.64	343.97		
35	45° 00' 00"	450	105.00	355.64	343.97		
36	45° 00' 00"	450	105.00	355.64	343.97		
37	45° 00' 00"	450	105.00	355.64	343.97		
38	45° 00' 00"	450	105.00	355.64	343.97		
39	45° 00' 00"	450	105.00	355.64	343.97		
40	45° 00' 00"	450	105.00	355.64	343.97		
41	45° 00' 00"	450	105.00	355.64	343.97		
42	45° 00' 00"	450	105.00	355.64	343.97		
43	45° 00' 00"	450	105.00	355.64	343.97		
44	45° 00' 00"	450	105.00	355.64	343.97		
45	45° 00' 00"	450	105.00	355.64	343.97		
46	45° 00' 00"	450	105.00	355.64	343.97		
47	45° 00' 00"	450	105.00	355.64	343.97		
48	45° 00' 00"	450	105.00	355.64	343.97		
49	45° 00' 00"	450	105.00	355.64	343.97		
50	45° 00' 00"	450	105.00	355.64	343.97		

CURVE DATA

N _s	H _v CURVE DATA			
	R	T	L	C
17	45° 00' 00"	750	310.68	589.05
18	46° 25' 18"	850	274.74	526.64
19	48° 25' 18"	950	231.27	461.93
20	48° 25' 18"	850	274.74	526.64
21	48° 25' 18"	750	310.68	589.05
22	35° 48' 03"	700	326.20	608.64
23	35° 48' 03"	600	312.45	507.95
24	35° 48' 03"	500	288.18	437.68
25	35° 48' 03"	400	268.77	363.74
26	35° 48' 03"	300	249.16	291.68
27	25° 52' 31"	255	68.59	135.30
28	25° 52' 31"	255	81.39	162.25
29	25° 52' 31"	255	93.19	189.20
30	25° 52' 31"	255	105.01	216.15
31	25° 52' 31"	255	116.81	243.10
32	25° 52' 31"	255	128.61	270.05
33	25° 52' 31"	255	140.41	297.00
34	25° 52' 31"	255	152.21	323.95
35	25° 52' 31"	255	164.01	350.90
36	25° 52' 31"	255	175.81	377.85
37	25° 52' 31"	255	187.61	404.80
38	25° 52' 31"	255	199.41	431.75
39	25° 52' 31"	255	211.21	458.70
40	25° 52' 31"	255	223.01	485.65
41	25° 52' 31"	255	234.81	512.60
42	25° 52' 31"	255	246.61	539.55
43	25° 52' 31"	255	258.41	566.50
44	25° 52' 31"	255	270.21	593.45
45	25° 52' 31"	255	282.01	620.40
46	25° 52' 31"	255	293.81	647.35
47	25° 52' 31"	255	305.61	674.30
48	25° 52' 31"	255	317.41	701.25
49	25° 52' 31"	255	329.21	728.20
50	25° 52' 31"	255	341.01	755.15
51	25° 52' 31"	255	352.81	782.10
52	25° 52' 31"	255	364.61	809.05
53	25° 52' 31"	255	376.41	836.00
54	25° 52' 31"	255	388.21	862.95
55	25° 52' 31"	255	399.99	889.90
56	25° 52' 31"	255	411.79	916.85
57	25° 52' 31"	255	423.59	943.80
58	25° 52' 31"	255	435.39	970.75
59	25° 52' 31"	255	447.19	997.70
60	25° 52' 31"	255	458.99	1024.65
61	25° 52' 31"	255	470.79	1051.60
62	25° 52' 31"	255	482.59	1078.55
63	25° 52' 31"	255	494.39	1105.50
64	25° 52' 31"	255	506.19	1132.45
65	25° 52' 31"	255	517.99	1159.40
66	25° 52' 31"	255	529.79	1186.35
67	25° 52' 31"	255	541.59	1213.30
68	25° 52' 31"	255	553.39	1240.25
69	25° 52' 31"	255	565.19	1267.20
70	25° 52' 31"	255	576.99	1294.15
71	25° 52' 31"	255	588.79	1321.10
72	25° 52' 31"	255	599.99	1348.05
73	25° 52' 31"	255	611.79	1375.00
74	25° 52' 31"	255	623.59	1401.95
75	25° 52' 31"	255	635.39	1428.90
76	25° 52' 31"	255	647.19	1455.85
77	25° 52' 31"	255	658.99	1482.80
78	25° 52' 31"	255	670.79	1509.75
79	25° 52' 31"	255	682.59	1536.70
80	25° 52' 31"	255	694.39	1563.65
81	25° 52' 31"	255	706.19	1590.60
82	25° 52' 31"	255	717.99	1617.55
83	25° 52' 31"	255	729.79	1644.50
84	25° 52' 31"	255	741.59	1671.45
85	25° 52' 31"	255	753.39	1698.40
86	25° 52' 31"	255	765.19	1725.35

[illegible]

N#	R/W			CURT DATA		
	A	R	L	T	L	L.C.
40	54° 01' 00"	515'	213.37'	404.48'	395.16'	
41	54° 01' 00"	515'	213.37'	348.03'	343.88'	
42	50° 00' 00"	285'	76.31'	112.57'	111.25'	
43	50° 00' 00"	285'	76.31'	127.23'	147.53'	
44	45° 00' 00"	250'	143.97'	274.69'	321.45'	
45	45° 00' 00"	250'	143.97'	323.87'	367.43'	
46	45° 00' 00"	250'	143.97'	323.87'	367.43'	
47	45° 00' 00"	250'	143.97'	323.87'	367.43'	
48	45° 00' 00"	250'	143.97'	323.87'	367.43'	
49	45° 00' 00"	250'	143.97'	323.87'	367.43'	
50	45° 00' 00"	250'	143.97'	323.87'	367.43'	
51	45° 00' 00"	250'	143.97'	323.87'	367.43'	
52	45° 00' 00"	250'	143.97'	323.87'	367.43'	
53	45° 00' 00"	250'	143.97'	323.87'	367.43'	
54	45° 00' 00"	250'	143.97'	323.87'	367.43'	
55	45° 00' 00"	250'	143.97'	323.87'	367.43'	
56	45° 00' 00"	250'	143.97'	323.87'	367.43'	
57	45° 00' 00"	250'	143.97'	323.87'	367.43'	
58	45° 00' 00"	250'	143.97'	323.87'	367.43'	
59	45° 00' 00"	250'	143.97'	323.87'	367.43'	
60	45° 00' 00"	250'	143.97'	323.87'	367.43'	



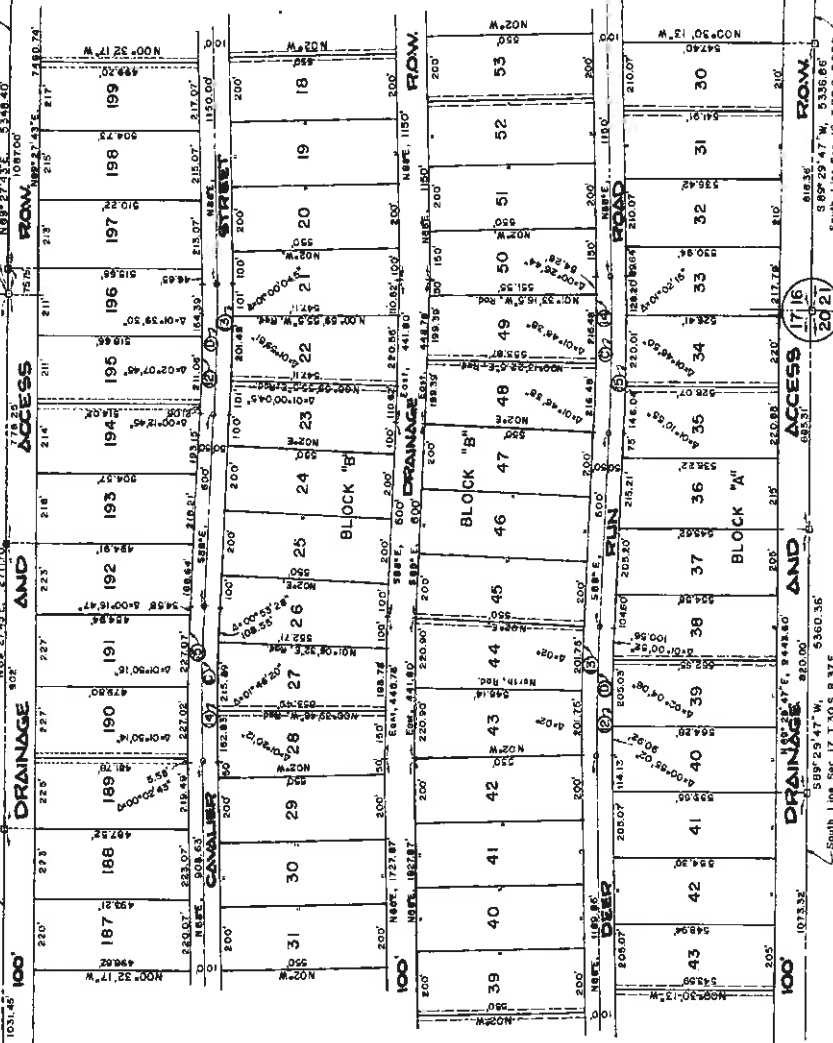
DEER RUN A SUBDIVISION OF SECTION 18 AND PARTS OF SECTIONS 7, 16 & 17, T 30 S, R 37 E, BREVARD COUNTY, FLORIDA SHEET 3 OF 8

SAN SEBASTIAN FARMS S/D
PLAT BOOK 6, PAGE 77

E-W Center Sec. 17, T 30 S, R 37 E

E-W Center Sec. 17, T 30 S, R 37 E

E-W Center Sec. 18, T 30 S, R 37 E



MATCH TO SHEET 4

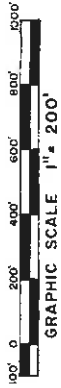
MATCH TO SHEET 2

SAN SEBASTIAN FARMS S/D
PLAT BOOK 6, PAGE 77

South Line Sec. 17, T 30 S, R 37 E

South Line Sec. 18, T 30 S, R 37 E

2



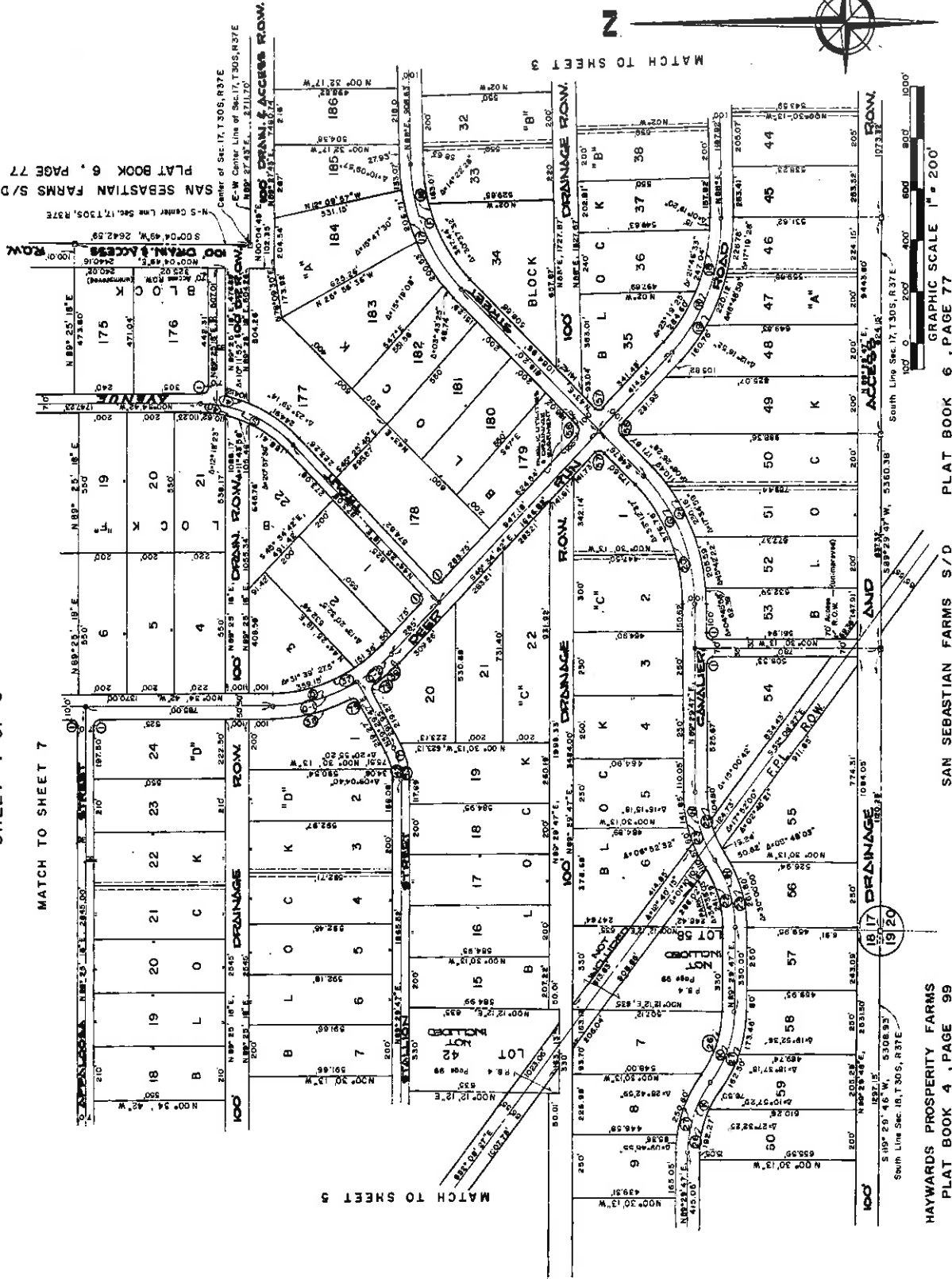
DEER RUN

A SUBDIVISION OF SECTION 18 AND PARTS OF SECTIONS 7, 16 & 17, T 30S, R 37E, BREVARD COUNTY, FLORIDA
SHEET 4 OF 8

PLAT BOOK 27
AND PAGE 14

MATCH TO SHEET 7

PLAT BOOK 6, PAGE 77



HAYWARDS PROSPERITY FARMS
PLAT BOOK 4, PAGE 99

SAN SEBASTIAN FARMS S/D

PLAT BOOK 6, PAGE 77

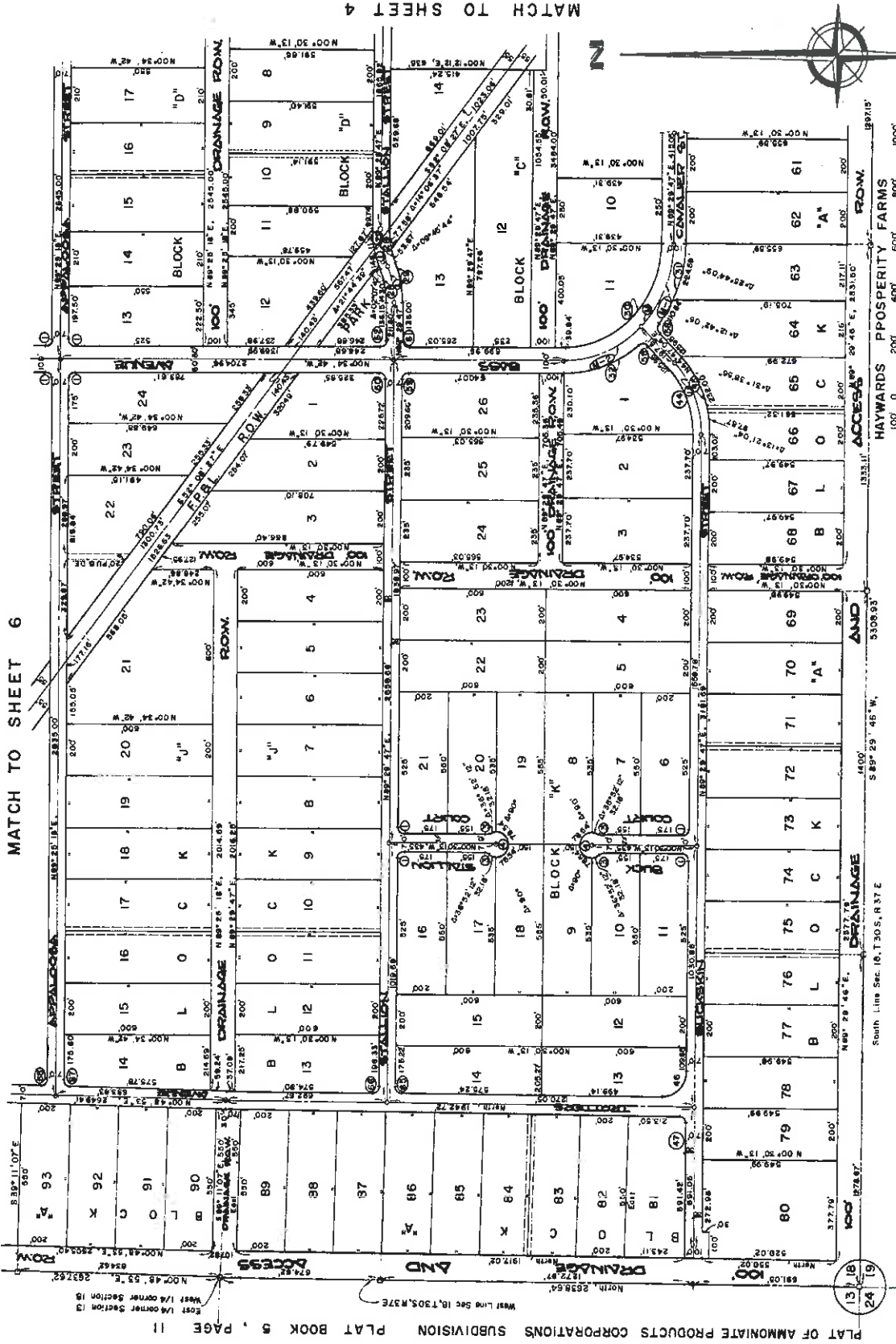
GRAPHIC SCALE 1" = 200'

DEER RUN

PLAT BOOK 27
AND PAGE 15

A SUBDIVISION OF SECTION 18 AND PARTS OF SECTIONS 7, 16 & 17, T 30 S, R 37 E, BREVARD COUNTY, FLORIDA
SHEET 5 OF 8

MATCH TO SHEET 6



GRAPHIC SCALE 1" = 200'
PLAT BOOK 4, PAGE 99

HAYWARDS PROSPERITY FARMS

AND DRAINAGE

13 18 24 19

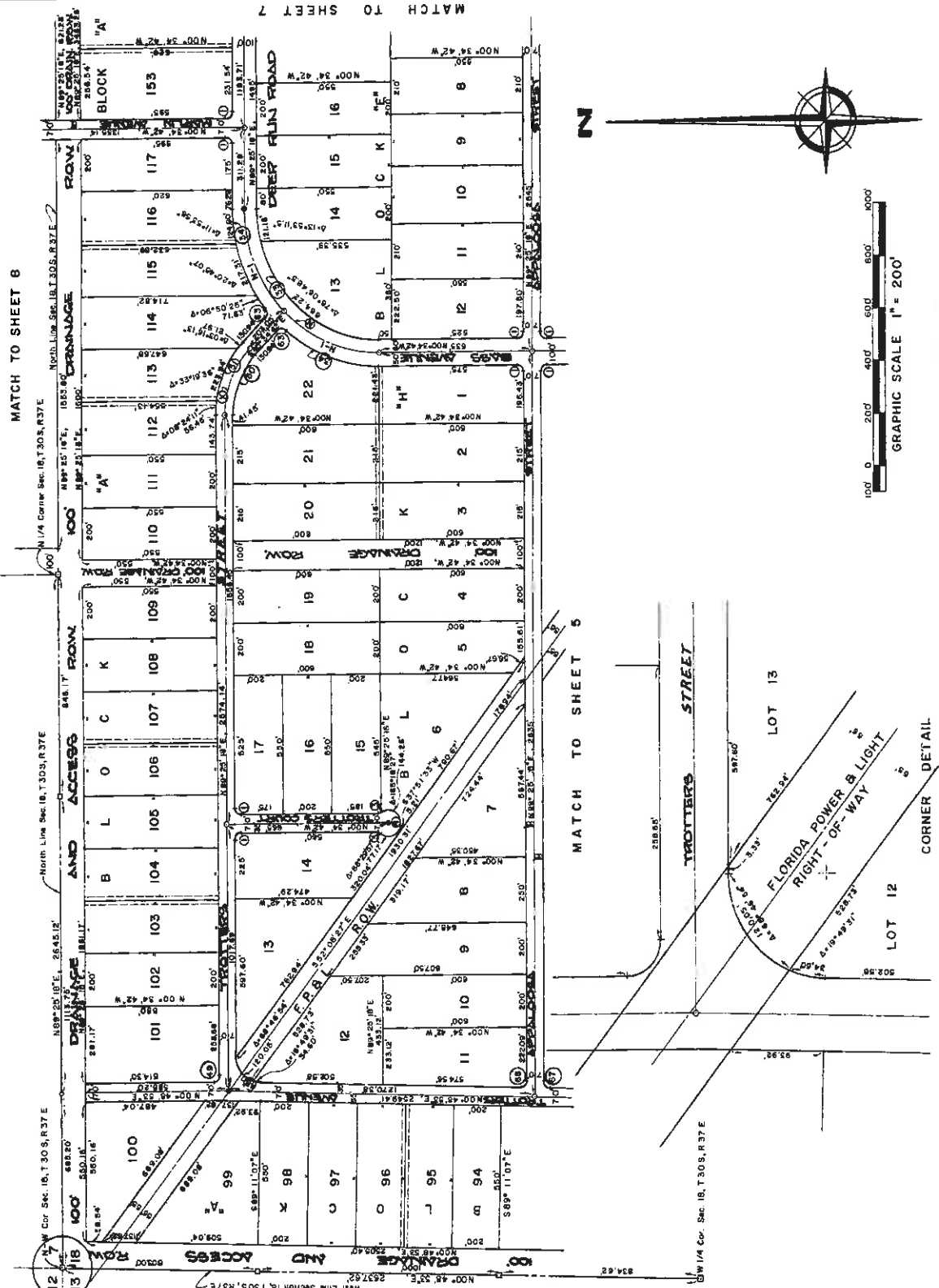
PLAT OF AMMONIATE PRODUCTS CORPORATIONS SUBDIVISION PLAT BOOK 5, PAGE 11

DEER RUN

A SUBDIVISION OF SECTION 18 AND PARTS OF SECTIONS 7, 16 & 17, T 30 S, R 37 E, BREVARD COUNTY, FLORIDA

SHEET 6 OF 8

PLAT BOOK 27
AND PAGE 16



PLAT OF AMMONIATE PRODUCTS CORPORATION'S SUBDIVISION
PLAT BOOK 5, PAGE 11

DEER RUN

A SUBDIVISION OF SECTION 18 AND PARTS OF SECTIONS 7, 16 & 17, T 30 S, R 37 E, BREVARD COUNTY, FLORIDA

SHEET 7 OF 8

PLAT BOOK 27
AND PAGE 17

SAN SEBASTIAN FARMS S/D
PLAT BOOK 6, PAGE 77

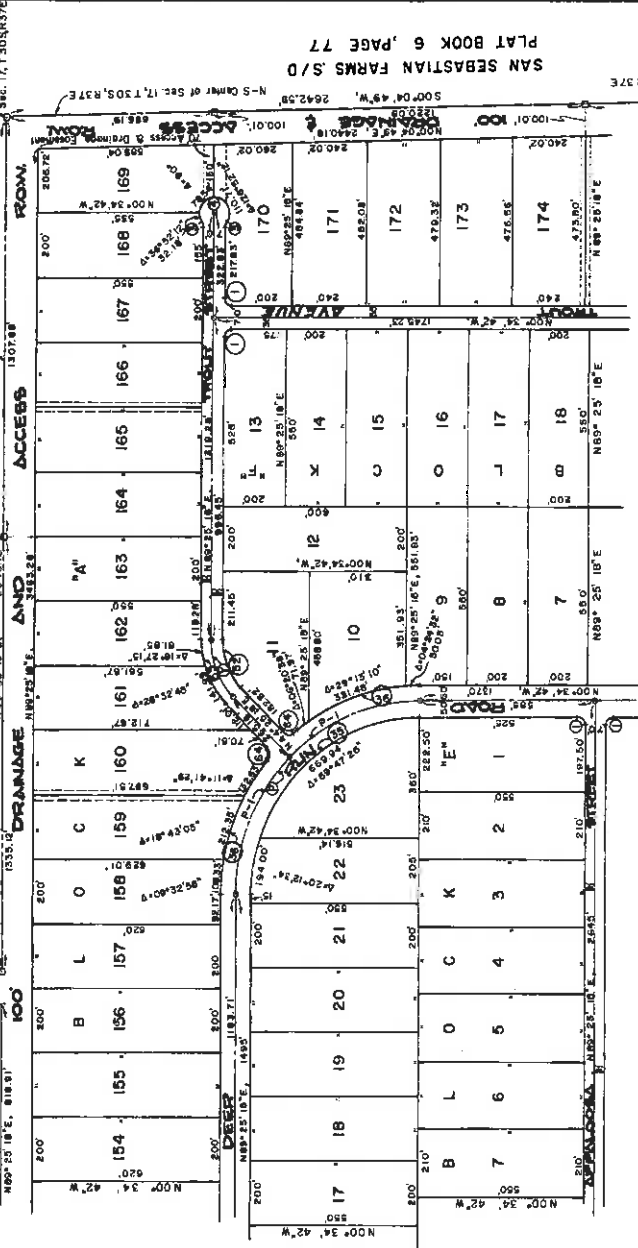
MATCH TO SHEET 8

100' N-W Corner Sec. 17, T 30 S, R 37 E

1355.0' N 89° 25' 18" E, 618.91'

2543.1' North Line Sec. 17, T 30 S, R 37 E

1307.68' North 1/4 Cor. Sec. 17, T 30 S, R 37 E



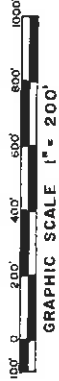
MATCH TO SHEET 6

MATCH TO SHEET 4

SAN SEBASTIAN FARMS S/D
PLAT BOOK 6, PAGE 77

Center of Sec. 17, T 30 S, R 37 E

N

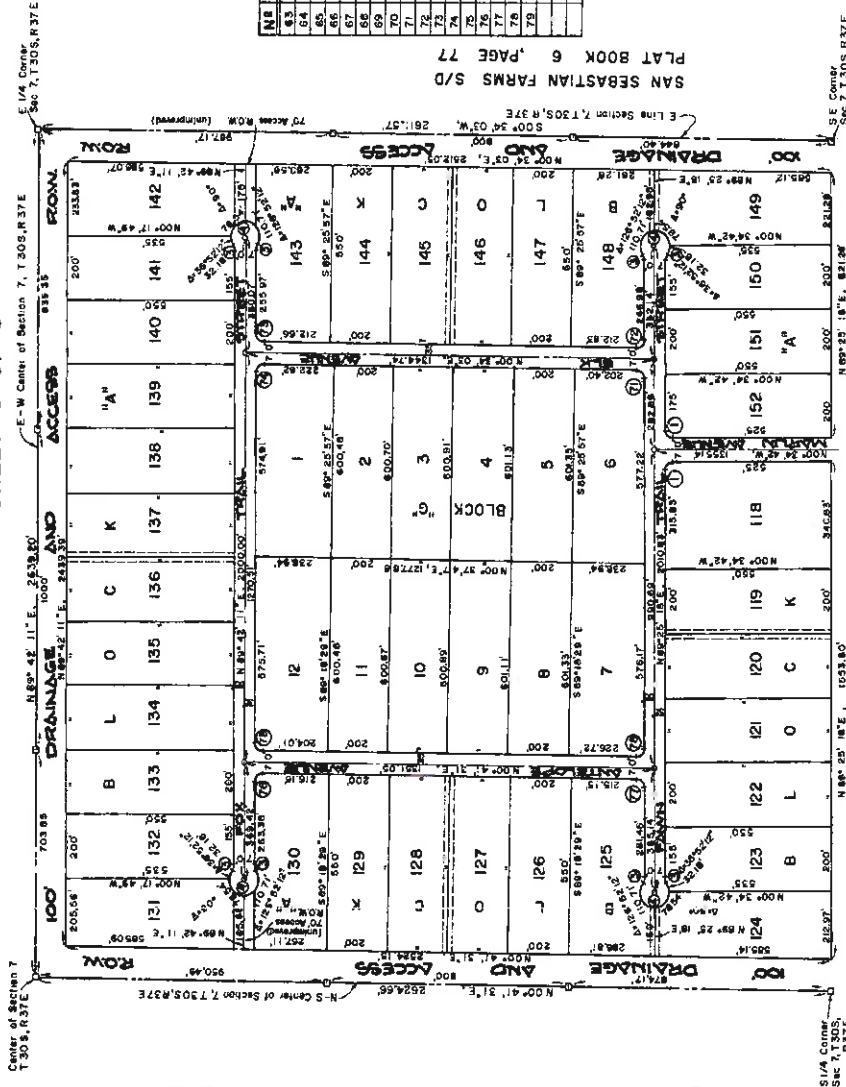


DEER RUN

A SUBDIVISION OF SECTION 18 AND PARTS OF SECTIONS 7, 16 & 17, T 30 S, R 37 E, BREVARD COUNTY, FLORIDA

SHEET 6 OF 8

PLAT BOOK 27
AND PAGE 18



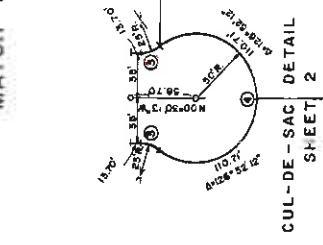
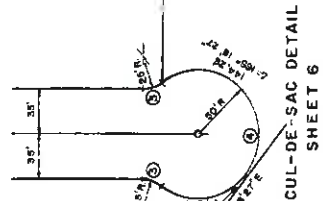
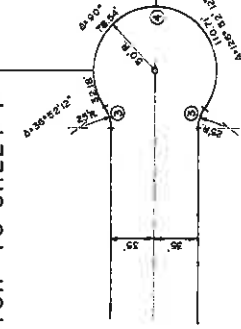
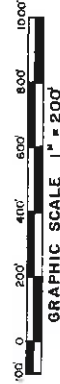
R/W CURVE DATA

NE	A	R	T	L	C
83	84° 33' 28"	25'	22.70	38.67	35.62
84	84° 34' 01"	25'	22.87	37.04	33.75
85	89° 19' 47"	25'	24.78	39.05	35.20
86	89° 30' 13"	25'	25.22	39.49	35.61
87	86° 35' 20"	25'	24.40	36.68	34.92
88	91° 23' 39"	25'	25.62	39.88	35.78
89					
90	89° 51' 18"	25'	24.80	36.77	35.00
91	81° 08' 03"	25'	29.31	39.77	36.71
92	81° 08' 03"	25'	29.31	39.77	36.71
93	90° 51' 52"	25'	25.35	38.85	35.62
94	89° 03' 40"	25'	24.27	38.94	35.62
95	90° 59' 20"	25'	25.4	39.70	35.62
96	88° 43' 47"	25'	24.45	36.72	34.92
97	91° 16' 15"	25'	25.95	39.82	35.75
98	83° 35' 35"	25'	23.13	37.33	33.96

SAN SEBASTIAN FARMS S/D
PLAT BOOK 6, PAGE 77

MATCH TO SHEET 6

MATCH TO SHEET 7



CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

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

SITE DATA

- PRESENT ZONING:** RR, Rural Residential
- ACREAGE:** 4.41 acres (+)
- DENSITY:** One (1) Unit Per Acre
- ADJACENT ZONING
& LAND USE:**
- | | | |
|----------|----|--|
| N | -- | RR, Rural Residential; Single Family Homes |
| E | -- | RR, Rural Residential; Vacant Residential Land |
| S | -- | RR, Rural Residential; Single Family Homes |
| W | -- | RR, Rural Residential; Babcock Street SE |
- WATER & SEWER:** City Water & Sewer Available
- TRAFFIC COUNTS:** Not Available
- FLOOD ZONE:** X, Area outside the 500-year flood zone
- COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Yes, Subject to Approval of Case No. CP-21-2016

BACKGROUND:

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

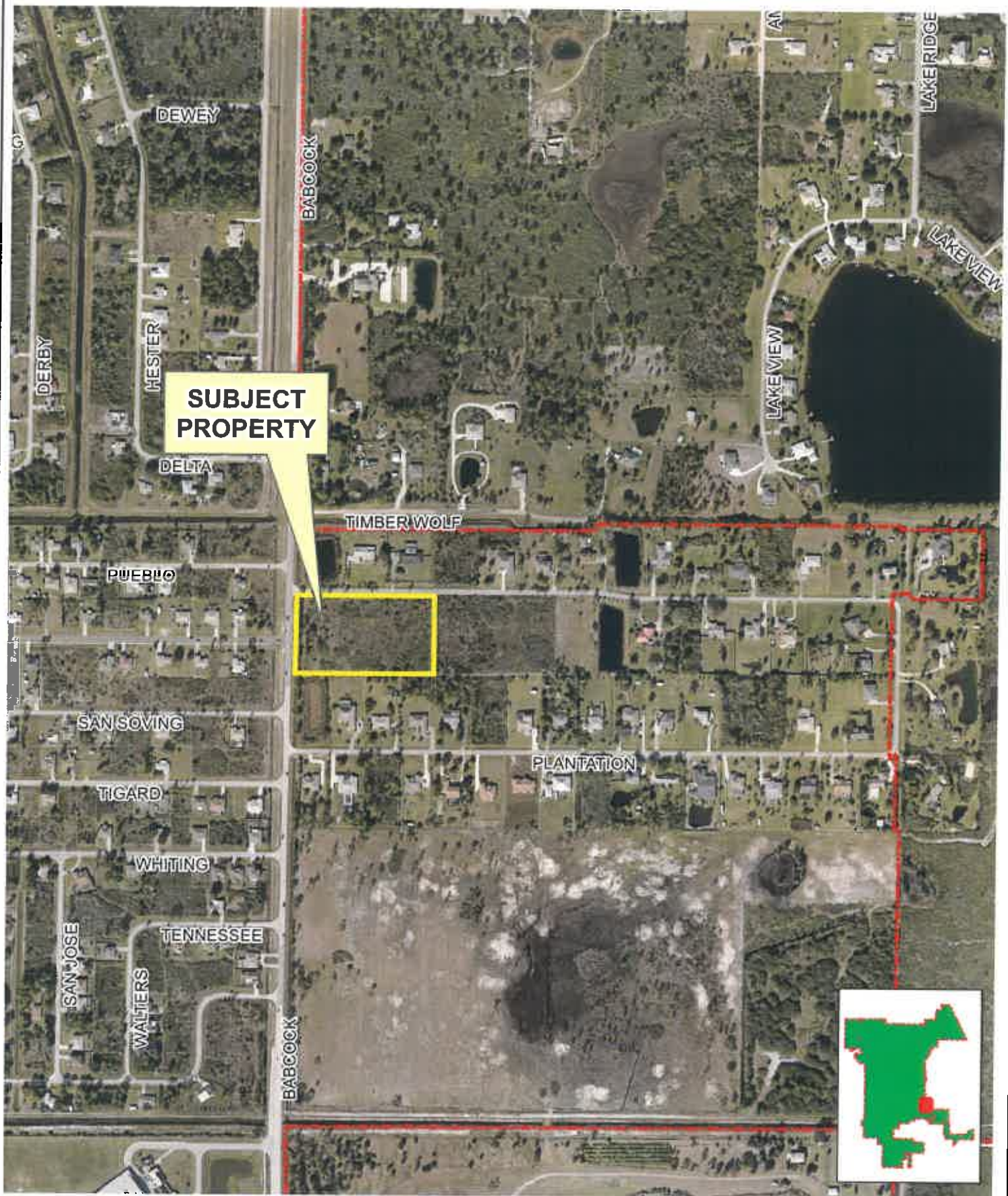
<u>NORTH:</u>	RR, Rural Residential; Single Family Homes
<u>EAST:</u>	RR, Rural Residential; Vacant Residential Land
<u>SOUTH:</u>	RR, Rural Residential; Single Family Homes
<u>WEST:</u>	RR, Rural Residential; Babcock Street SE
3. The applicant requests a rezoning from the RR, Rural Residential Zoning District to the CC, Community Commercial Zoning District. The applicant for this request is West Point Babcock, LLC. The applicant will be represented by the Law Firm of Smith & Associates.
4. On September 2, 2015 the applicant appeared before the Palm Bay Planning and Zoning Board with the same request, represented by a different Law Firm. Due to the Board's denial of the land use amendment, they also voted to deny the request. On December 17, 2015 the request was withdrawn before it was heard by the Palm Bay City Council.

ANALYSIS:

1. The property is presently vacant, residentially-zoned land. It is completely surrounded by RR Zoning, consisting mostly of developed, rural single family residential properties. As stated in the staff report for Case No. CP-21-2016, the applicant is requesting the rezoning in order to allow for future commercial uses upon the property.
2. The primary access to the property would be from Babcock Street SE. Secondary access from Plantation Circle SE, if the rezoning is approved, would only be permitted for the corner lot. Plantation Circle is a local residential street and commercial traffic would not be permitted upon this road to access the interior lot, per Section 185.130 of the Code of Ordinances. Therefore, internal cross-access would be required through both properties.
3. The purpose of the CC, Community Zoning District is to provide commercial areas that are primarily located in or near the intersection of arterial roadways; to designate those uses and services deemed appropriate and proper for location along a major thoroughfare; and to establish such development standards and provisions as are appropriate to ensure proper functioning of uses within the district. Based upon the analysis provided for in Case No. CP-21-2016, staff believes this request would not further this purpose.

STAFF CONCLUSION:

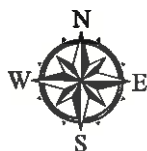
The Planning & Zoning Board and City Council must determine if the uses allowed within the CC, Community Commercial Zoning District would be compatible with the surrounding area. Should Case No. CP-21-2016 be denied, the rezoning request would be incompatible with the subject property's Future Land Use Designation of Single Family Residential.



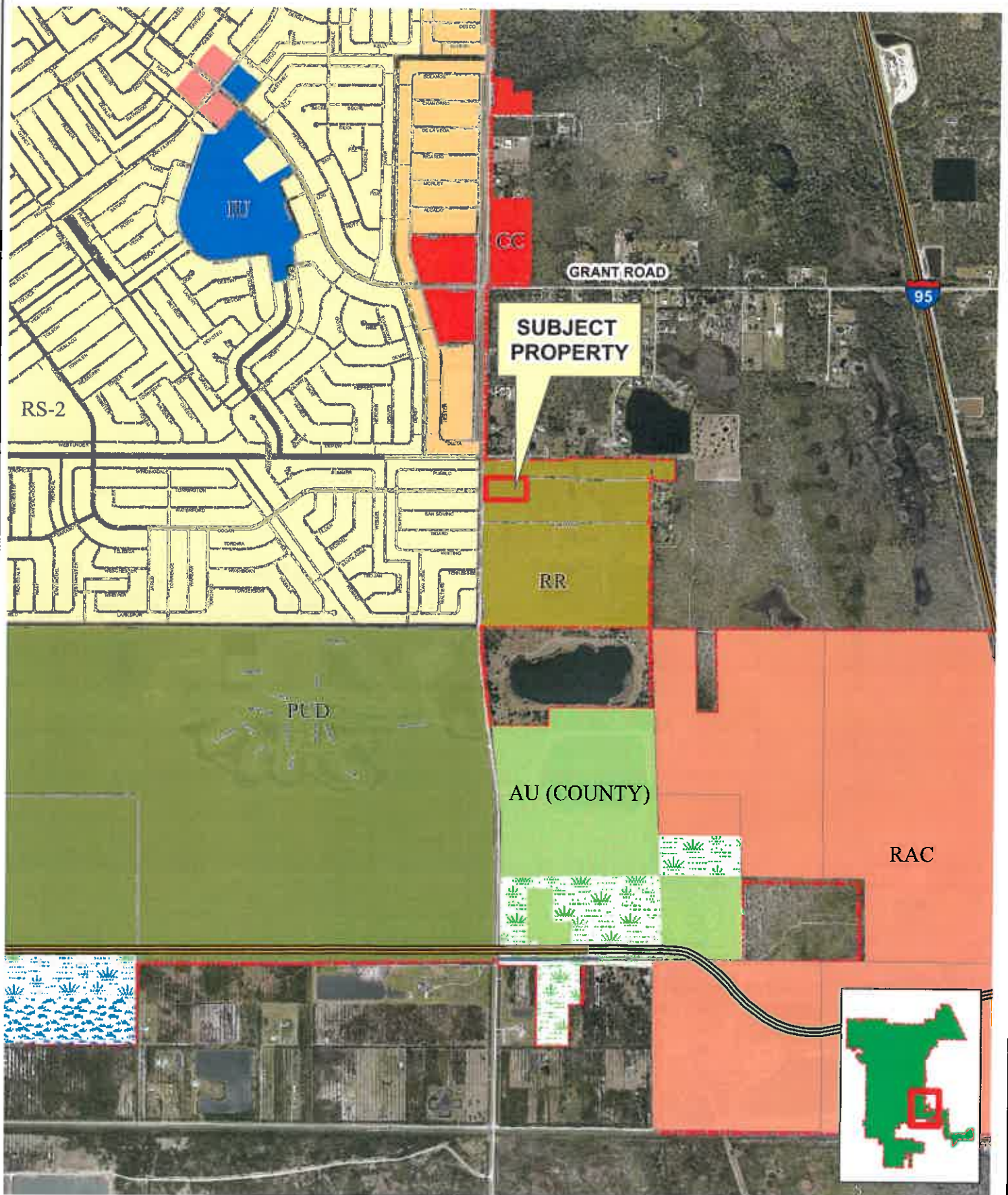
**SUBJECT
PROPERTY**

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-21-2016 & CPZ-21-2016



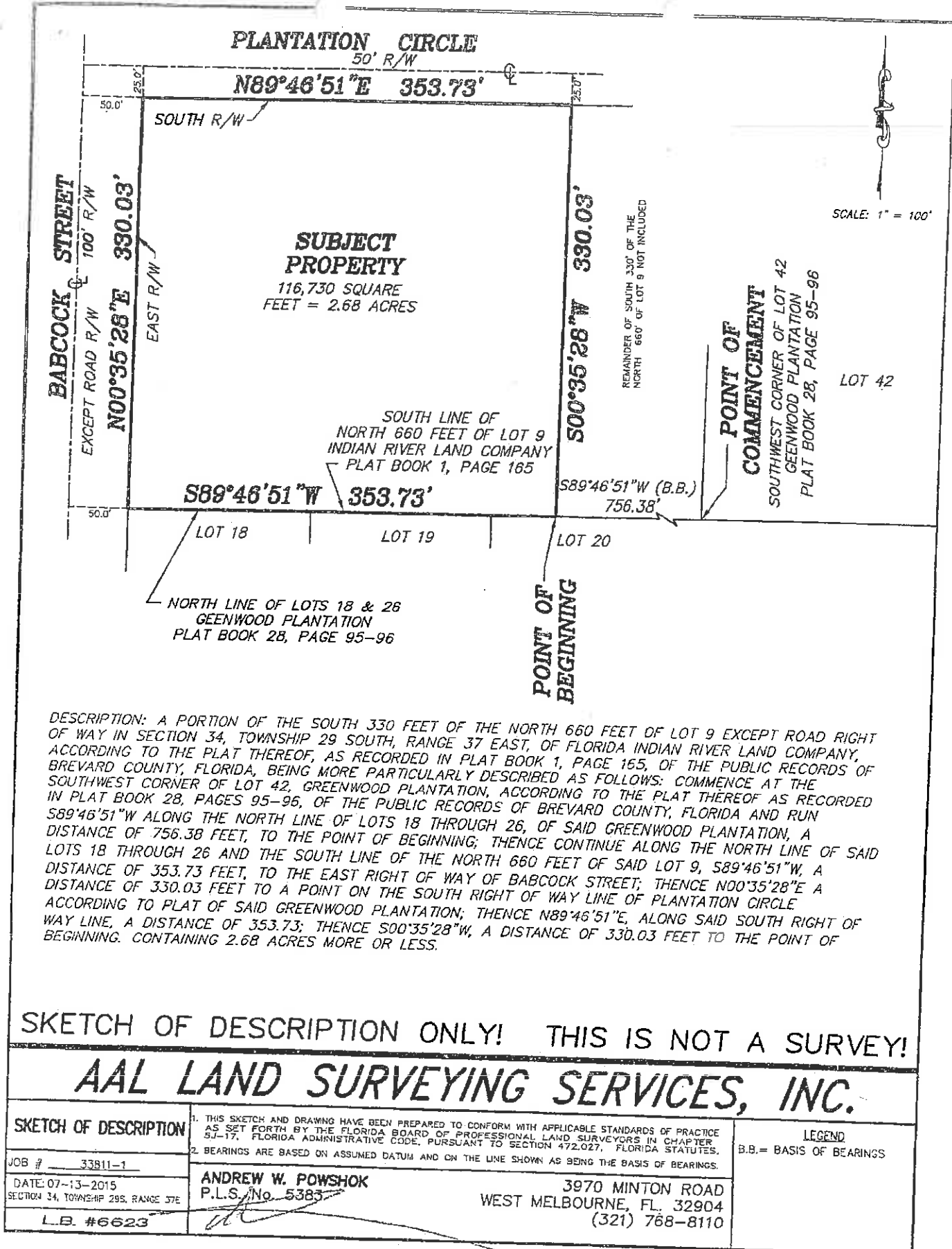
Map for illustrative purposes only. Not to be construed as a binding or as a survey.

Map created by the Land Development Division



CASE NO. CPZ-21-2016

Exhibit "A-1"



SKETCH OF DESCRIPTION ONLY! THIS IS NOT A SURVEY!

AAL LAND SURVEYING SERVICES, INC.

SKETCH OF DESCRIPTION

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

LEGEND
B.B. = BASIS OF BEARINGS

JOB # 33811-1

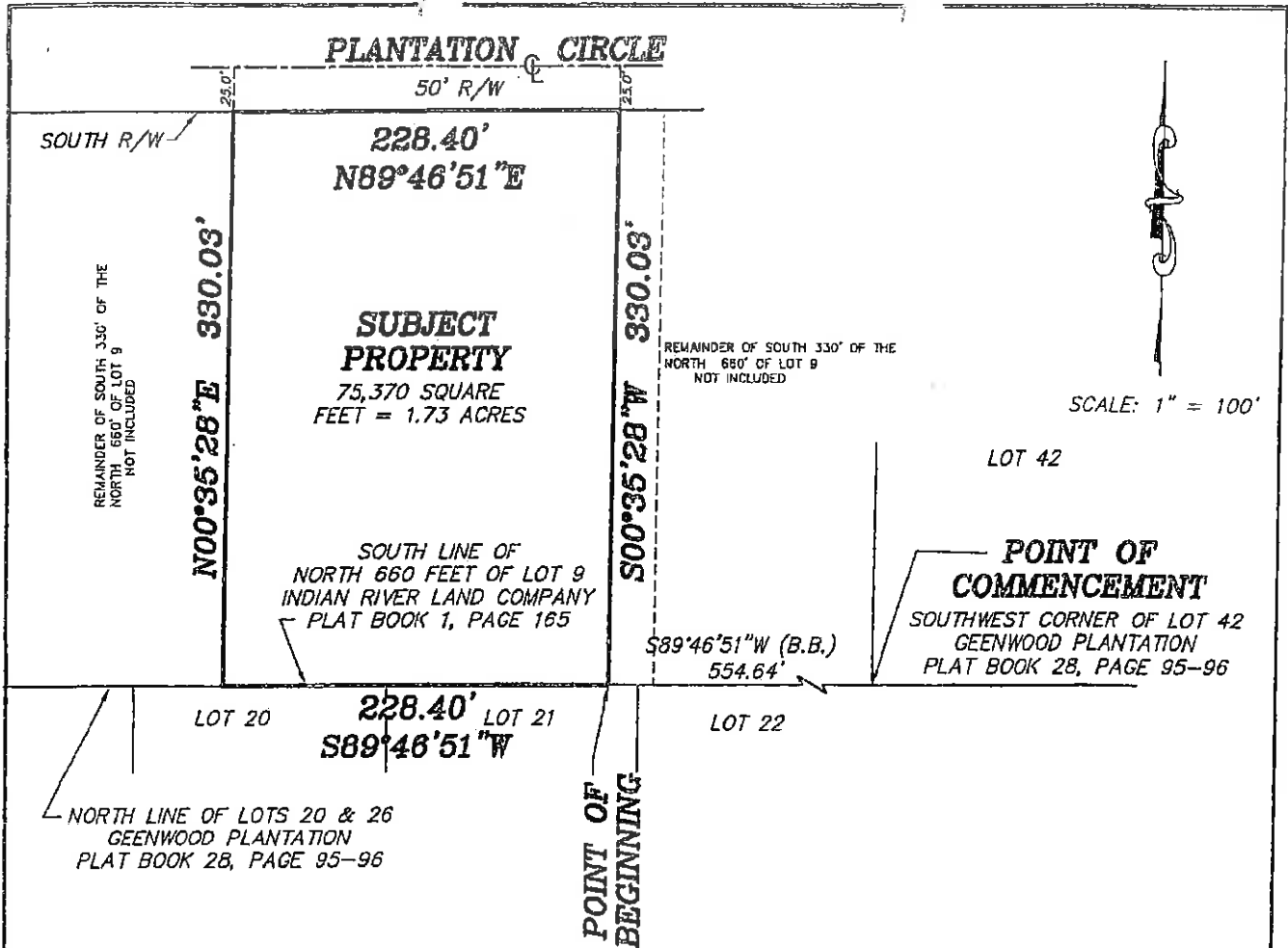
DATE: 07-13-2015
SECTION 34, TOWNSHIP 29S, RANGE 37E

L.B. #6623

ANDREW W. POWSHOK
P.L.S. No. 5383

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

Exhibit "A-2"



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

SKETCH OF DESCRIPTION ONLY! THIS IS NOT A SURVEY!

AAL LAND SURVEYING SERVICES, INC.

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



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

REZONING APPLICATION

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

1) NAME OF APPLICANT (Type or print) West Pointe Babcock, LLC

ADDRESS c/o Smith & Associates 1499 S. Harbor City Blvd, Ste. 202

CITY Melbourne STATE FL ZIP 32901

PHONE # 321-676-5555 FAX # 321-676-5558

E-MAIL ADDRESS stephen@smithlawth.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION

See attached exhibits A-1 and A-2

SECTION 34 TOWNSHIP 29S RANGE 37E

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

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

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

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

7) JUSTIFICATION FOR REZONING: Fronts a major roadway

8) PRESENT USE OF THE PROPERTY: Vacant

9) INTENDED USE OF PROPERTY: Commercial

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

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

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

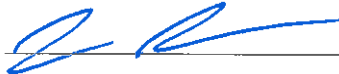
**CITY OF PALM BAY, FLORIDA
REZONING APPLICATION
PAGE 2 OF 2**

- X A listing of legal descriptions of all properties within a 500 foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This can be obtained from the Brevard County Planning and Zoning Department at 633-2060, or on the Internet at <https://www.bcpao.us/paohome.asp>) List shall be legible and the source of that information stated here: Brevard County Property Appraiser
- Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.
- X WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE REZONING.
- X IN ORDER TO DISCLOSE ALL PARTIES SEEKING THIS APPROVAL, COMPLETE THE ATTACHED DISCLOSURES OF OWNERSHIP INTERESTS FORMS FOR PROPERTY OWNERS AND/OR APPLICANTS IN REFERENCE TO RESOLUTION 2008-19.

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

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

Signature of Applicant



Date 6-30-16

Printed Name of Applicant

Stephen Burch, for West Pointe Babcock, LLC

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

WEST POINTE BABCOCK, LLC
1135 Kane Concourse, Third Floor
Bay Harbor Islands, Florida 33154

June 21, 2016

City of Palm Bay

Please be advised that Smith & Associates, through its attorneys, are authorized to submit a rezoning application on behalf of West Pointe Babcock, LLC and represent it in any proceedings related to said application.

WEST POINTE BABCOCK LLC
By: Westco Development, a Manager

By: Brian West

STATE OF FLORIDA

COUNTY OF MARTIN

BEFORE ME, the undersigned authority, personally appeared Brian West who is the managing member of Westco Development, a manager, who is personally known to me, or who produced _____ as identification, and who did/did not take an oath.

SWORN TO AND SUBSCRIBED before me this 23rd day of JUNE, 2016.

Karen M. Phelps
NOTARY PUBLIC



KAREN M. PHELPS
MY COMMISSION # EE 216796
EXPIRES: July 16, 2018
Bonded Thru Budget Notary Services