



AGENDA

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Regular Meeting No. 2016-11
November 2, 2016 – 7:00 P.M.
City Hall Council Chambers

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ADOPTION OF MINUTES:

1. Regular Meeting No. 2016-10; October 5, 2016

ANNOUNCEMENTS:

OLD BUSINESS:

1. ♣V-25-2016 – HAROLD W. FAHS

A variance request to allow a proposed concrete carport to encroach 11 feet into the 25-foot side corner setback in an RS-2, Single Family Residential District as established by Section 185.034(F)(7)(c) of the Palm Bay Code of Ordinances.

Lot 13, Block 1755, Port Malabar Unit 36, Section 11, Township 29, Range 36, Brevard County, Florida, containing .26 acres, more or less. (Located at the northeast intersection of Haryestor Avenue SW and Harper Boulevard SW, specifically at 791 Haryestor Avenue SW)

2. ♣V-33-2016 – JOHNNY R. IMES

A variance request to allow a proposed free-standing garage to encroach 8 feet into the 25-foot side corner setback in an RS-2, Single Family Residential District as established by Section 185.034(F)(7)(c) of the Palm Bay Code of Ordinances.

Lot 15, Block 264, Port Malabar Unit 8, Section 31, Township 28, Range 37, Brevard County, Florida, containing .24 acres, more or less. (Located at the northeast intersection of Del Alto Street NE and Dinner Street NE, specifically at 433 Del Alto Avenue NE)

NEW BUSINESS:

1. ♣FS-2-2016 – ERIC ADDINGTON
(CONTINUED)

A final subdivision request to allow a proposed single-family residential 55-lot development called Sanibel Cove Subdivision in an RS-2, Single Family Residential District.

Tract A, Port Malabar Unit 36, Section 3, Township 29, Range 36, Brevard County, Florida, containing 16.74 acres, more or less. (Located east of and adjacent to Gertrude Avenue SW, between Whitehurst Road SW and Sapulpa Road SW)

2. CP-23-2016 - WHEELER FARMS, INC. (DAVID WHEELER)

A Comprehensive Plan Future Land Use Map large scale amendment from Residential One (Brevard County) to Rural Single Family Use.

Tax Parcel 500, Section 9, Township 30, Range 38 and Tax Parcel 1, Section 1, Township 30G, Range 38, Brevard County, Florida, containing 122.7 acres, more or less. (Located north of and adjacent to Micco Road in the vicinity west of Dottie Drive and across from Laguna Circle)

3. ♣CPZ-23-2016 - WHEELER FARMS, INC. (DAVID WHEELER)

A zoning amendment from a GU, General Use District (Brevard County) to a GU, General Use Holding District.

Tax Parcel 500, Section 9, Township 30, Range 38 and Tax Parcel 1, Section 1, Township 30G, Range 38, Brevard County, Florida, containing 122.7 acres, more or less. (Located north of and adjacent to Micco Road in the vicinity west of Dottie Drive and across from Laguna Circle)

4. ♣Z-38-2016 – FRED D. BOOZER, JR.

A change in zoning request from an RM-20, Multiple Family Residential District to an RM-15, Single-, Two-, Multi-Family Residential District.

A portion of Tax Parcel 254, Section 26, Township 28, Range 37, Brevard County, Florida, containing 3.52 acres, more or less. (Located east of and adjacent to Clearmont Street NE, in the vicinity north of Mandarin Drive NE)

5. ♣CU-39-2016 – FRED D. BOOZER, JR.

A conditional use request to allow proposed construction of 28 multi-family residential units.

A portion of Tax Parcel 254, Section 26, Township 28, Range 37, Brevard County, Florida, containing 3.52 acres, more or less. (Located east of and adjacent to Clearmont Street NE, in the vicinity north of Mandarin Drive NE)

6. ♣Z-40-2016 – ALLIANCE PALM BAY, LLC (ROBERT CAMBO)

A change in zoning request from an RM-10, Single-, Two-, Multi-Family Residential District to an RM-20, Multiple Family Residential District.

Tax Parcel 251, Section 9, Township 29, Range 37, Brevard County, Florida, containing 9.63 acres, more or less. (Located north of and adjacent to Jaslo Street SE, in the vicinity between Bloke Avenue SE and San Filippo Drive SE)

7. CP-24-2016 – SAN FILIPPO COVE, INC. (WILLIAM H. BENSON)

A Comprehensive Plan Future Land Use Map large scale amendment from Recreation and Open Space Use to Multiple Family Residential Use.

Tax Parcels G1-1 and G1-2, Section 4, Township 29, Range 37, Brevard County, Florida, containing .27 acres, more or less. (Located in the vicinity southwest of the intersection of Jupiter Boulevard SE and San Filippo Drive SE)

8. ♣CPZ-24-2016 – SAN FILIPPO COVE, INC. (WILLIAM H. BENSON)

A zoning amendment from an RM-10, Single-, Two- and Multi-Family Residential District to an RM-20, Multiple Family Residential District.

Tax Parcels 510, G1-1, G1-2, G-2, G2-1, G2-2, G2-3, G2-4, and G2-5, Section 4, Township 29, Range 37, Brevard County, Florida, containing 18.94 acres, more or less. (Located in the vicinity southwest of the intersection of Jupiter Boulevard SE and San Filippo Drive SE)

9. CP-25-2016 – LEN-PALM VISTA, LLC (SCOTT GLAUBITZ, REP.)

A Comprehensive Plan amendment to the Future Land Use Element related to density cap for Policy 8.3I, Palm Vista.

Part of Sections 20, 21, 28, and 29, Township 28, Range 36, Brevard County, Florida, containing 1,698.30 acres, more or less. (Located in the vicinity east and west of St. Johns Heritage Parkway between Pace Drive NW and Emerson Drive NW)

10. CP-26-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Comprehensive Plan Amendments to the Future Land Use Element Map Series related to Urban Service Boundaries; Capital Improvements Element adding and removing capital projects for consistency with the City's adopted Capital Improvement Program; Transportation Element Map Series amending Roadway Functional Classifications and Future Transportation Map Series; and Transportation Element Policy TC-1.4E and TC-1.4F.

11. T-41-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A textual amendment to the Code of Ordinances, Title V, Legislative, Chapter 51: Public Hearings, to modify Section 51.04; Title XVII, Land Development Code, Chapter 170: Construction Codes and Regulations, to modify Sections 170.050 and 170.051; Chapter 179: Streets and Other Rights-of-Way, to create Section 179.033, Road Surfaces; Chapter 185: Zoning Code, to modify Sections 185.006, Definitions; District Regulation Sections 185.043, 185.044, 185.048, 185.059; Planned Unit Development (PUD) Sections 185.066, 185.067, 185.071; Supplementary District Regulations Section 185.118; Nonconformance Provisions Sections 185.158, 185.159, 185.160, 185.161, 185.162; and Administration and Enforcement Sections 185.200, 185.201, 185.202, 185.203.

OTHER BUSINESS:

ADJOURNMENT:

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

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

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

♣ Quasi-Judicial Proceeding.

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING NO. 2016-10

Held on Wednesday, October 5, 2016, in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Land Development Division, Palm Bay, Florida. The minutes are not a verbatim transcript but a brief summary of the discussions and actions taken at this meeting.

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

Mr. Wendall Stroder led the Pledge of Allegiance to the Flag.

ROLL CALL:

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

The absence of Ms. Quinn and Mr. Warner were excused.

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

ANNOUNCEMENTS:

1. Mr. Weinberg addressed the audience on the meeting procedures and explained that the Planning and Zoning Board/Local Planning Agency consists of volunteers who act as an advisory board to City Council.
2. Mr. Murphy announced that the applicant for Cases CU-23-2016 and CP-22-2016 (Ganesh of Titusville, LLC) had withdrawn the requests. Board action was not required for the withdrawals.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2016-09. Motion by Mr. Stroderd, seconded by Mr. Pezzillo to approve the minutes as presented. The motion carried with members voting unanimously.

OLD BUSINESS:

1. ♣CU-22-2016 – INTERPLAN, LLC (NICOLE WEIR)

Mr. Murphy presented the staff report for Case CU-22-2016. The applicant had requested a conditional use to allow proposed retail use in excess of 5,000 square feet of gross floor area in an NC, Neighborhood Commercial District. The board had to carefully consider the guidelines and standards of Section 185.087 of the City of Palm Bay Code of Ordinances.

Ms. Nicole Weir (applicant) stated that the subject request was in order to locate a Family Dollar Store at the subject property, and that all site issues had been addressed.

Ms. Maragh asked about the Citizen Participation Plan (CPP) Meeting. Ms. Weir replied that all neighborhood questions and concerns were addressed during the CPP meeting and the community seemed pleased about the coming store.

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

Motion by Ms. Jordan, seconded by Mr. Stroderd to submit Case CU-22-2016 to City Council for approval of a conditional use to allow proposed retail use in excess of 5,000 square feet of gross floor area in an NC, Neighborhood Commercial District. The motion carried with members voting unanimously.

2. CP-22-2016 – GANESH OF TITUSVILLE, LLC (MAHESH SHAH)

Case CP-22-2016 was discussed under Announcements, Item 2.

3. CU-23-2016 – GANESH OF TITUSVILLE, LLC (MAHESH SHAH)

Case CU-23-2016 was discussed under Announcements, Item 2.

4. ♣V-25-2016 – HAROLD W. FAHS

Mr. Murphy informed the board that the applicant for Case V-25-2016 could not be present and had requested a second continuance. Board action was required to continue the request.

Motion by Ms. Jordan, seconded by Mr. Pezzillo to continue Case V-25-2016 to the November 2, 2016 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

NEW BUSINESS:

1. ♣V-24-2016 – LOUIS RONALD PROPHETE

Mr. Murphy presented the staff report for Case V-24-2016. The applicant had requested a variance to allow a proposed shed to encroach 15 feet into the 25-foot side corner setback in an RS-2, Single Family Residential District, as established by Section 185.034(F)(7)(c) 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. Louis Prophete (applicant) stated that the subject request would allow his existing shed to be moved from where his pool deck was proposed and placed at the side of his home. His neighbors had no objection to the request, and the proposed location would not interfere with driving visibility.

Mr. Stroderd inquired whether the requested shed location would impact the drainfield or septic areas. Mr. Murphy commented that the location was at least five feet from the septic tank.

Ms. Jordan asked about alternative shed locations on the site that would not require a variance. Mr. Prophete answered that the layout of the property did not allow for an alternative location.

Mr. Stroderd noted that the shed would be within a fenced yard. Mr. Prophete confirmed that this was correct and that the shed would sit 15 feet back from the fence.

Mr. Woodrum remarked on the location of water lines on the property. Mr. Prophete stated that the shed would be relocated and anchored by professionals.

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

Motion by Mr. Stroderd, seconded by Mr. Pezzillo to submit Case V-24-2016 to City Council for approval of a variance to allow a proposed shed to encroach 15 feet into the 25-foot side corner setback in an RS-2, Single Family Residential District as established by Section 185.034(F)(7)(c) of the Palm Bay Code of Ordinances. The motion carried with members voting unanimously.

2. ♣CU-28-2016 – THE HADY FAMILY LIMITED PARTNERSHIP
(AHMED M. EL-MAHDAWY, REP.)

Mr. Murphy presented the staff report for Case CU-28-2016. The applicant had requested a conditional use for a Planned Industrial Development in an LI, Light Industrial and Warehousing District. The board had to carefully consider the guidelines and standards of Sections 185.087 and 185.088(D) of the City of Palm Bay Code of Ordinances.

Mr. Stroderd inquired whether the proposed change to over 50,000 square feet of industrial land would have an impact on the amount of available industrial land in the City. Mr. Murphy explained that the subject property would remain light industrial, and that the conditional use request was in order to allow commercial uses at the property.

Mr. Waseem El Hady (co-owner representing the partnership) stated that allowing retail businesses to operate out of the existing buildings would make the properties more competitive. Potential occupants had been turned away while taxes were being paid on the half-empty buildings. He said that the 17 residents from the area who attended the Citizen Participation Plan (CPP) Meeting had no problem with the request.

Ms. Maragh wanted to know how the proposed change would impact the light industrial businesses currently at the property. Mr. El Hady answered that the commercial uses would have no impact on the existing businesses as the north building was a 20,000 square foot facility.

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

Mr. Murphy remarked that with the recent transition of Clearmont Street NE into a main thoroughfare, allowing commercial uses into the area made sense from a zoning perspective.

Motion by Mr. Stroderd, seconded by Ms. Maragh to submit Case CU-28-2016 to City Council for approval of a conditional use for a Planned Industrial Development in an LI, Light Industrial and Warehousing District. The motion carried with members voting unanimously.

3. ♣CU-29-2016 – SUNSHINE PETRO, INC. (BRUCE MOIA, REP.)

Mr. Murphy presented the staff report for Case CU-29-2016. The applicant had requested a conditional use to allow proposed retail automotive fuel sales in a CC, Community Commercial District. The board had to carefully consider the guidelines and standards of Sections 185.087 and 185.043(D)(2) of the City of Palm Bay Code of Ordinances.

Mr. Pezzillo asked whether the subject site would require an additional setback to accommodate the future widening of Babcock Street. Mr. Murphy said that there was sufficient right-of-way to widen Babcock Street.

Ms. Tainy Casta with MBV Engineering (representative for the applicant) stated that the three area residents who attended the Citizen Participation Plan (CPP) Meeting had no objection to the request.

Ms. Maragh noted that signage was not shown on the site plan. Ms. Casta replied that the sign location had not been determined, but sign setbacks would be met.

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

Mr. Weinberg disclosed that Mr. Stroderd had a conflict of interest with the request and would be abstaining from the vote. Form 8B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers was submitted into the record.

Motion by Ms. Jordan, seconded by Ms. Maragh to submit Case CU-29-2016 to City Council for approval of a conditional use to allow proposed retail automotive fuel sales in a CC, Community Commercial District. The motion carried with members voting as follows:

Mr. Weinberg	Aye
Mr. Stroderd	Abstained
Ms. Jordan	Aye
Ms. Maragh	Aye
Mr. Pezzillo	Aye
Mr. Woodrum	Aye

4. PUD-30-2016 – KEW, LLC (PHILIP NOHRR, REP.)

Mr. Murphy presented the staff report for Case PUD-30-2016. The applicant had requested a Final Planned Unit Development (PUD) to allow a proposed self-storage facility within the Bayside Lakes Office Park. Staff recommended Case PUD-30-2016 for denial based on the Analysis section of the staff report.

Mr. Philip Nohrr with Gray Robinson Attorneys At Law (attorney and representative for the applicant) submitted an 18-page packet in support of the request. He informed the board that as a well-invested owner of several properties in the subject area, his client planned to produce an attractive, quality project that further enhanced the area, met code, and served a public need. The site abutted The Majors Golf Course and was more than 756 feet away from the nearest residential lot. The single-story, interior-only storage facility would be landscaped with tall shrubbery, and additional buffers could be added. The project met the requirements and intent of a PUD, and the large amount of self-storage facilities that operated in the City had no bearing on the existing need in the subject area.

Mr. Pezzillo asked if the buildings on the property would be removed. Mr. Nohrr stated that the owners of the two buildings had signed a document consenting to the proposed storage facility becoming their immediate neighbor.

Mr. Stroderd inquired whether a feasibility study had been done for the site since the warehouse storage facility to the north was also in the applicant's ownership. Mr. Nohrr remarked that his client's existing business was at 98-percent capacity. However, the proposed facility would be smaller and a completely different prototype.

Ms. Jordan wanted to know if any of the adjacent properties were owned by the applicant, and Mr. Pezzillo suggested how additional land would allow the project to be located away from Bayside Lakes Boulevard SE. Ms. Maragh asked if more than self-storage would occur at the site. Mr. Nohrr responded by identifying the different properties his client owned in the vicinity. He believed the applicant would want to keep the larger, existing storage facility separate as it permitted outside storage activities like car rentals. The proposed facility would be more restrictive with interior storage only.

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

Motion by Mr. Pezzillo, seconded by Mr. Stroderd to submit Case PUD-30-2016 to City Council for approval of a Final Planned Unit Development (PUD) to allow a proposed self-storage facility within the Bayside Lakes Office Park.

Mr. Stroderd agreed with the suggestion by Mr. Pezzillo regarding additional land and stated that he could not support the proposed facility unless it was placed next to the applicant's existing storage facility behind the 300-foot tree barrier. The proposed location would not be harmonious with the surrounding area.

Mr. Weinberg concurred with the staff report in that the proposed facility was not the type of business desired for direct frontage on Bayside Lakes Boulevard.

A vote was called on the motion by Mr. Pezzillo, seconded by Mr. Stroderd to submit Case PUD-30-2016 to City Council for approval of a Final Planned Unit Development (PUD) to allow a proposed self-storage facility within the Bayside Lakes Office Park. The motion failed with members voting as follows:

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

5. ♣CU-31-2016 – CUMBERLAND FARMS, INC. (MATTHEW KAHN, REP.)

Mr. Murphy presented the staff report for Case CU-31-2016. The applicant had requested a conditional use to allow proposed retail automotive fuel sales in a CC, Community Commercial District. The board had to carefully consider the guidelines and standards of Sections 185.087 and 185.043(D)(2) of the City of Palm Bay Code of Ordinances, subject to the approval of Case V-32-2016.

Mr. John LaPointe with Bohler Engineering (representative for the applicant) stated that the area residents who attended the Citizen Participation Plan (CPP) Meeting had no objection to the subject request.

Mr. Weinberg commented on staff's recommendation to remove the driveway existing on Minton Road NW. Mr. LaPointe explained that to reduce onsite traffic conflict, the existing north driveway was needed for service vehicle deliveries while a new, additional driveway would be used by customers. The access points would have to be approved by Brevard County. Mr. Stroderd noted that the tank location was near the south customer driveway. Mr. LaPointe explained how the tanker trucks and other delivery vehicles would maneuver the site.

The floor was opened for public comments.

Mr. Alan Thomas with Thomas Trust, LLC (title holder to the 7-Eleven land in the vicinity) spoke against the request. A site plan of the original 7-Eleven convenience store layout on the south side of Malabar Road was submitted. He remarked that since the 7-Eleven was denied relief for reduced parking spaces and for an additional driveway, the proposed project should, in fairness, also be denied relief. Property was purchased to allow the 7-Eleven to meet code requirements.

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

Motion by Ms. Jordan, seconded by Mr. Stroderd to submit Case CU-31-2016 to City Council for approval of a conditional use to allow proposed retail automotive fuel sales in a CC, Community Commercial District.

Mr. Weinberg stated that the subject site was formerly occupied by a gas station, and that the proposed development would be an improvement over the vacant eyesore that was present during the last three years.

For safety purposes, Mr. Stroderd concurred with staff that the north driveway should be eliminated. Delivery trucks would take the most direct route instead of maneuvering from the back of the site as the applicant expected.

A vote was called on the motion by Ms. Jordan, seconded by Mr. Stroderd to submit Case CU-31-2016 to City Council for approval of a conditional use to allow proposed retail automotive fuel sales in a CC, Community Commercial District. The motion carried with members voting as follows:

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

6. ♣V-32-2016 – CUMBERLAND FARMS, INC. (MATTHEW KAHN, REP.)

Mr. Murphy presented the staff report for Case V-32-2016. The applicant had requested a variance to allow a proposed Cumberland Farms site to encroach 5.6 feet into the 10-foot side-corner parking setback and to reduce the minimum number of required parking spaces from 25 spaces to 21 spaces in a CC, Community Commercial District. The board had to determine, based on the facts presented, the degree of minimal relief to meet the needs of the variance request as required by Section 169.009 of the City of Palm Bay Code of Ordinances.

Mr. Buchanan noted that the driveways proposed for the Cumberland Farms site would be right-in and right-out driveways, which were completely different from the full-access driveway at the 7-Eleven convenience store to the south. The Brevard County Engineering Department would determine if the driveways were appropriate for the project. In regards to the reduced number of parking spaces, he noted that after customers pumped their gas, many remained parked at the pumps instead of pulling into a parking space.

Mr. John LaPointe with Bohler Engineering (representative for the applicant) was present.

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 V-32-2016 to City Council for approval of a variance to allow a proposed Cumberland Farms site to encroach 5.6 feet into the 10-foot side-corner parking setback and to reduce the minimum number of required parking spaces from 25 spaces to 21 spaces in a CC, Community Commercial District.

Mr. Stroder commented that since Cumberland Farms convenience stores offered more than gas, the required amount of parking spaces was necessary to keep customers from using the gas pump areas as parking spaces. He suggested a site reconfiguration to meet parking requirements. Ms. Maragh concurred. Mr. LaPointe responded that various options to gain parking spaces had been considered, but the property was hampered by the C-1 Canal to the east. A couple more spaces could be created during the administrative site plan process; however, a variance would still be needed to capture the other required parking spaces. Cumberland Farms would prefer to have more parking spaces to accommodate more customers.

Mr. Weinberg commented on the odd shape of the subject property, and he believed the applicant would have wanted to meet the 25 parking space requirement.

A vote was called on the motion by Mr. Pezzillo, seconded by Ms. Jordan to submit Case V-32-2016 to City Council for approval of a variance to allow a proposed Cumberland Farms site to encroach 5.6 feet into the 10-foot side-corner parking setback and to reduce the minimum number of required parking spaces from 25 spaces to 21 spaces in a CC, Community Commercial District. The motion carried with members voting unanimously.

7. ♣V-33-2016 – JOHNNY R. IMES

Mr. Murphy informed the board that the applicant for Case V-33-2016 was not in attendance.

Mr. Weinberg commented that the encroachment for the proposed garage was not shown on the submitted site plan. Continuing the request to the November board meeting would give the applicant an opportunity to make the revision.

Motion by Ms. Jordan, seconded by Mr. Stroder to continue Case V-33-2016 to November 2, 2016 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

8. T-34-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case T-34-2016. The applicant had requested a textual amendment to the Code of Ordinances, Title XX, Utilities Code, Chapter 202: Reclaimed Water, Section 202.10, Use of Reclaimed Water, in order to revise procedures. Staff was presenting Case T-34-2016 on behalf of the Utilities Department.

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

Ms. Maragh asked if there were costs associated with the reclaimed water use. Mr. Buchanan confirmed that there would be a cost involved, but added that it was cheaper for a homeowner to use reclaimed water than to install their own system.

Motion by Mr. Pezzillo, seconded by Ms. Maragh to submit Case T-34-2016 to City Council for approval of a textual amendment to the Code of Ordinances, Title XX, Utilities Code, Chapter 202: Reclaimed Water, Section 202.10, Use of Reclaimed Water, in order to revise procedures. The motion carried with members voting unanimously.

9. T-35-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case T-35-2016. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 184: Subdivisions, Section 184.11, Improvements and Performance and Maintenance Bonds, in order revise procedures. Staff recommended Case T-35-2016 for approval.

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

Mr. Pezzillo wanted to ensure gated communities were bonded. Mr. Buchanan explained the difference between maintenance bonds and performance bonds, and that performance bonds for gated communities were already addressed by the ordinance.

Motion by Ms. Jordan, seconded by Mr. Stroderd to submit Case T-35-2016 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 184: Subdivisions, Section 184.11, Improvements and Performance and Maintenance Bonds, in order revise procedures. The motion carried with members voting unanimously.

10. T-36-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case T-36-2016. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.006, 185.059, 185.066, and 185.067, in order to add the definition of a Regional Transportation Center and to revise the PCD, Planned Commercial Development District and PUD, Planned Unit Development procedures. Staff recommended Case T-36-2016 for approval.

Mr. Buchanan explained that the amendment would allow for bus and train depots.

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 T-36-2016 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.006, 185.059, 185.066, and 185.067, in order to add the definition of a Regional Transportation Center and to revise the PCD, Planned Commercial Development District and PUD, Planned Unit Development procedures. The motion carried with members voting unanimously.

11. T-37-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case T-37-2016. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.134, Architectural Style Requirements, in order to revise standards. Staff recommended Case T-37-2016 for approval.

Mr. Buchanan stated that the proposed amendment was in order to restrict the Bayfront Architectural Style to the Bayfront Community Redevelopment District. He explained that Section 185.134(A)(10) was not part of the amendment as it was a separate proposal that would have to go before the Bayfront Community Redevelopment Agency for consideration prior to review by the Planning and Zoning Board.

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 T-37-2016 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.134, Architectural Style Requirements, in order to revise standards. The motion carried with members voting unanimously.

OTHER BUSINESS:

There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 9:23 p.m.

Philip Weinberg, CHAIRMAN

Attest:

Chandra Powell, SECRETARY

♣Quasi-Judicial Proceeding.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Stroderd Wendall W		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE City of Palm Bay Planning and Zoning Board
MAILING ADDRESS 1511 Masters Road NW		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY Palm Bay	COUNTY Brevard	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED 10/05/2016		NAME OF POLITICAL SUBDIVISION: City of Palm Bay
		MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Wendall Stroder, hereby disclose that on October 05, 2016, 20 ____ :

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____ ;
- ☐ inured to the special gain or loss of my relative, _____ ;
- ☐ inured to the special gain or loss of _____ , by
whom I am retained; or
- ☐ inured to the special gain or loss of Sunshine Petro Inc. , which
is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

CU-29-2016 – SUNSHINE PETRO, INC. (BRUCE MOIA, REP.)

A conditional use request to allow proposed retail automotive fuel sales in a CC,
Community Commercial District

Principals of Sunshine Petro Inc. are associated with Southeast Petro Distributors Inc. with whom my company
does business.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

10/05/2016

Date Filed


Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.



DATE: September 7, 2016
CASE #: V-25-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

VARIANCE APPLICATION

PROPOSAL: A request to allow a proposed accessory structure to encroach the 25' side corner setback by a maximum of 11' as provided for in Section 185.034(F)(7)(c), in the RS-2, Single Family Residential Zoning District.

LOCATION: 791 Haryestor Avenue SW (Lot 13, Block 1775, Port Malabar Unit 36)

APPLICANT: Mr. Harold Fahs

SITE DATA

PRESENT ZONING: RS-2 Single Family Residential

ACREAGE: 0.26 Acres +/-

DENSITY:

ADJACENT ZONING

& LAND USE:

N -- RS-2-Single Family Residential Zoning district; vacant
E -- RS-2-Single Family Residential Zoning district; vacant
S -- RS-2-Single Family Residential Zoning district; vacant
W -- RS-2-Single Family Residential Zoning district; vacant

WATER & SEWER not available

FLOOD ZONE:

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:**

BACKGROUND:

1. The site is located at 791 Haryestor Avenue SW (Specifically, Lot 13, Block 1755, Port Malabar Unit 36).
2. The property is zoned RS-2, Single Family Residential.
3. The applicant is requesting relief to allow a proposed accessory structure to encroach the 25' side corner setback by a maximum of 11' as provided for in Section 185.034(F)(7)(c), 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 proposed accessory structure is 5'-0" from the home in the SW corner of the property. There appears to be other locations on the property where the building could be placed with no variance required. 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 appear to be a result of the actions of the applicant as other locations exist where the accessory structure could be placed with no variance required. The request appears to be a self-imposed hardship.

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

Literal interpretation would require the applicant meet the setbacks for the placement of the accessory structure. 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 10.83' of relief from the 25' side corner setback in order to place the proposed accessory structure.

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 25' setback requirement- it should be noted however that the placement of the proposed structure does not appear to create any health, safety, or traffic visibility issues for any surrounding properties.

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

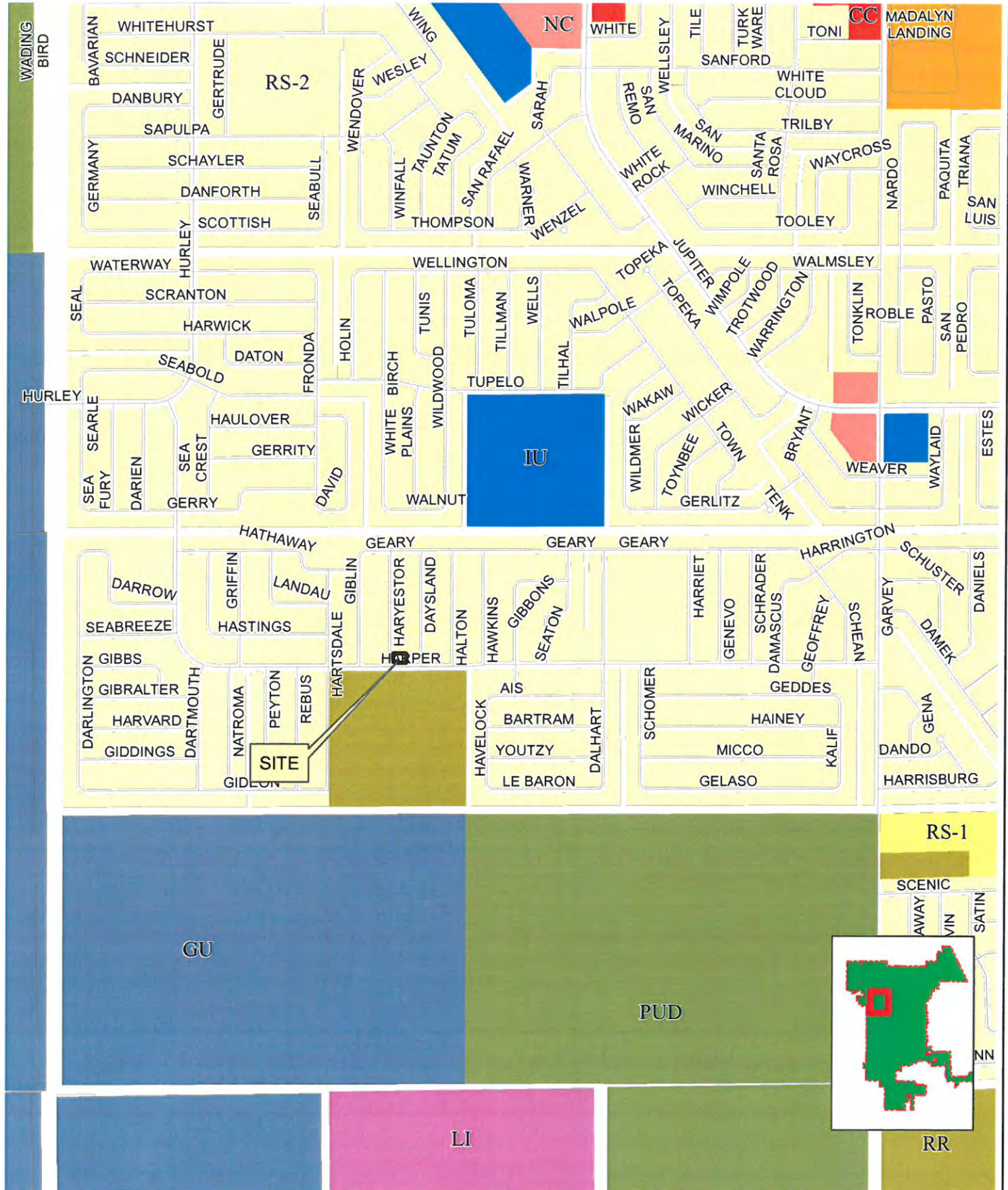
City Council must ultimately decide if the application meets the general intent and purpose of the code.

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

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

STAFF CONCLUSION:

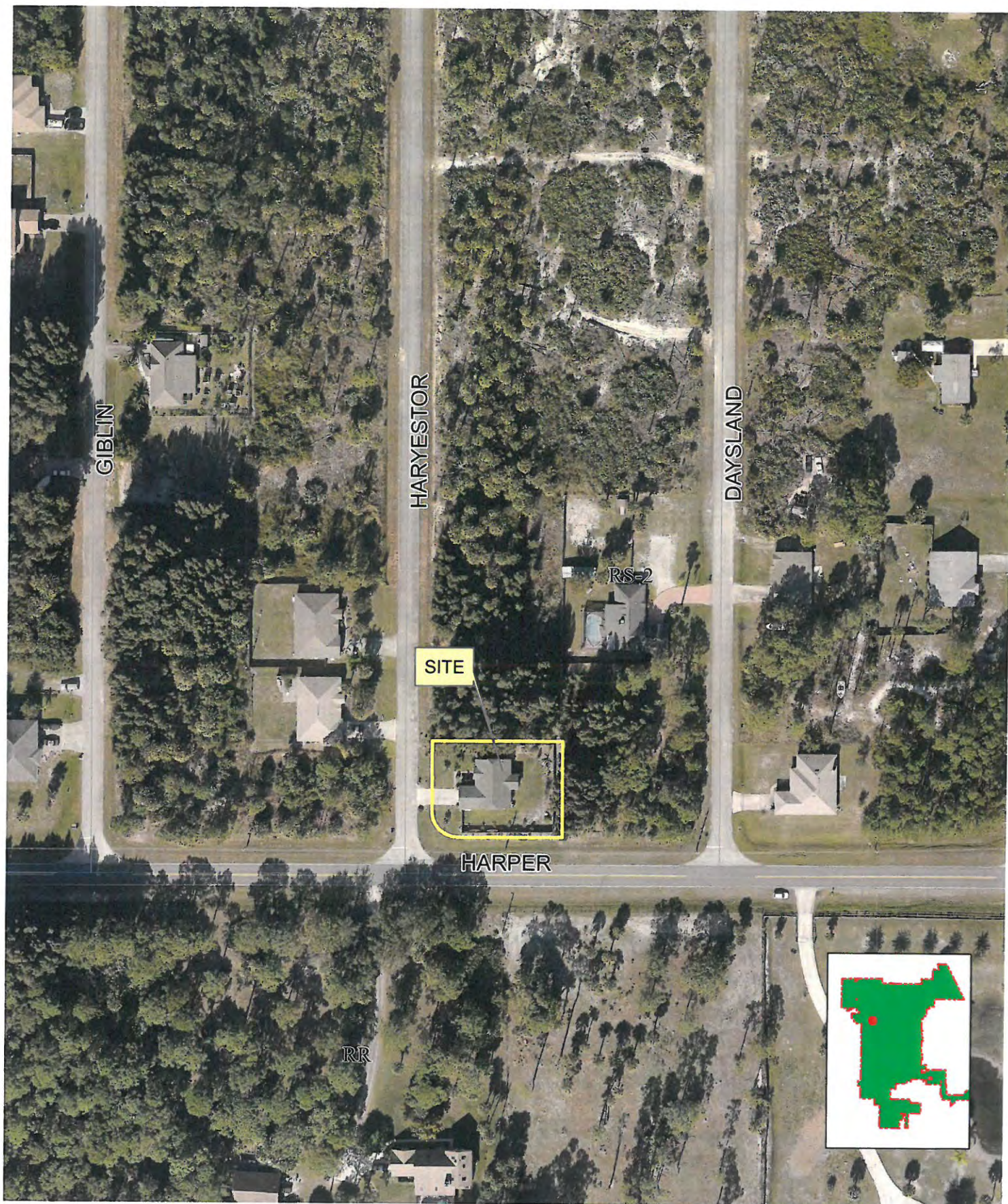
The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief is required to meet the needs of the variance being requested, as required under Section 169.009 of the City of Palm Bay Code of Ordinances and make recommendations to City Council for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



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

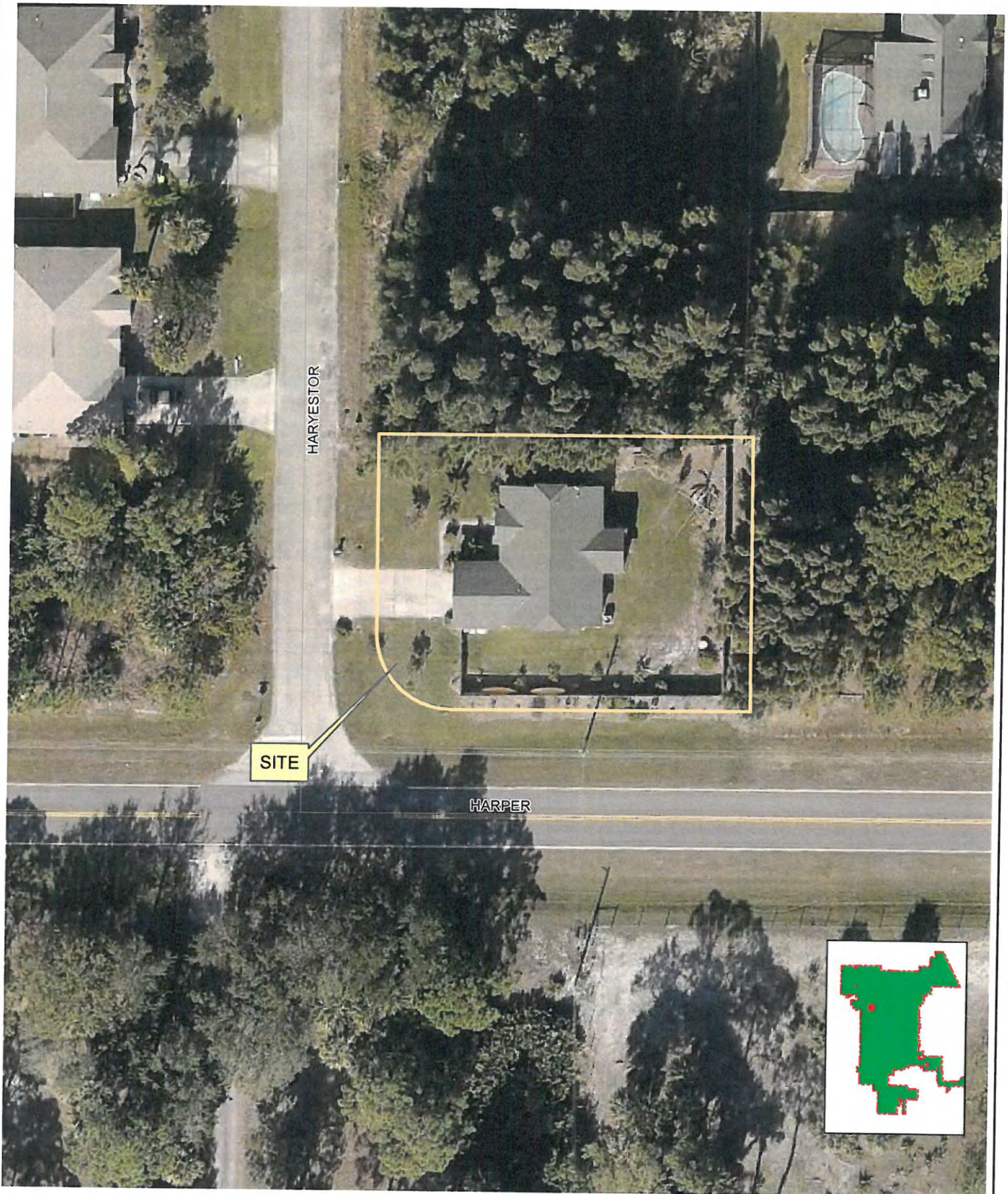
LOCATION MAP V-25-2016





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

LOCATION MAP V-25-2016



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LOCATION MAP V-25-2016





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AERIAL VIEW
V-25-2016



MAP OF SURVEY BOUNDARY SURVEY

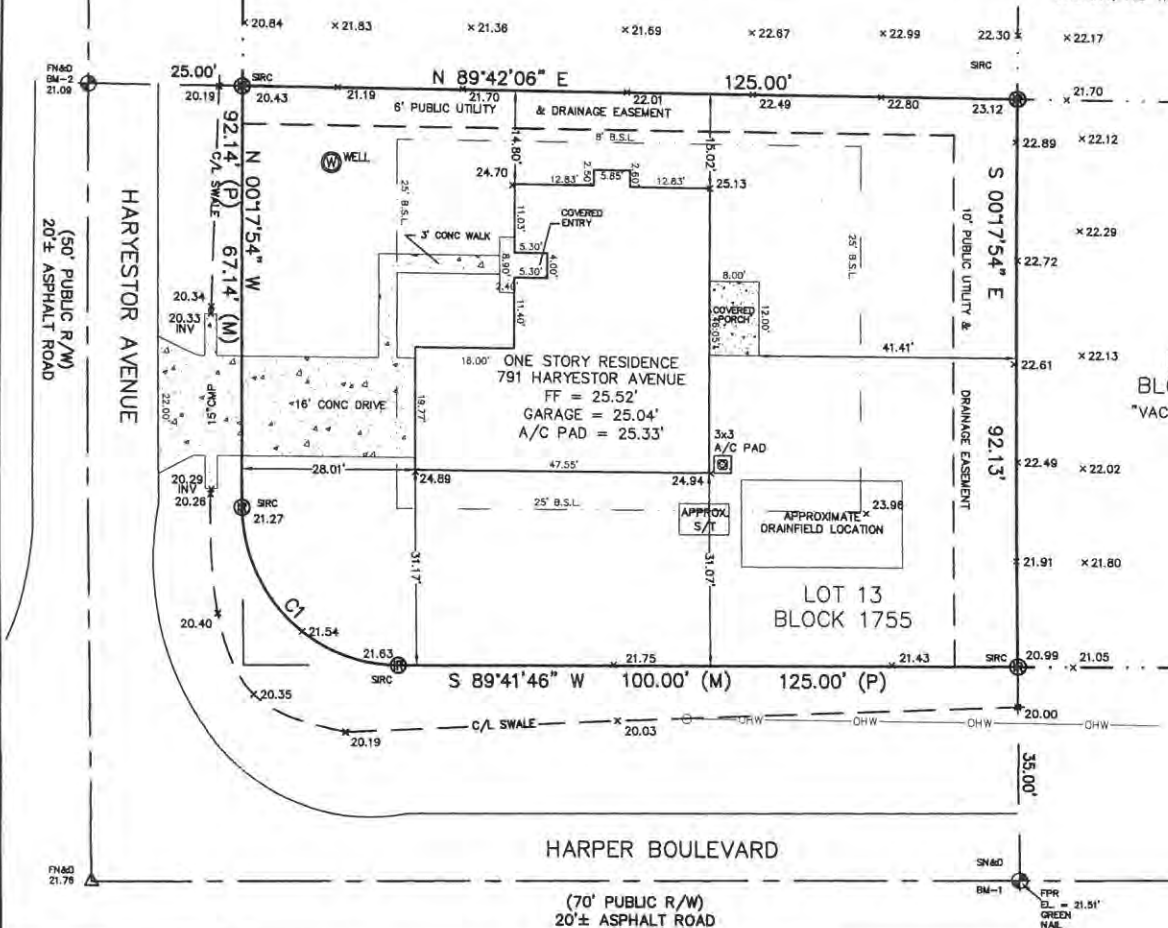
OF
LOT 13, BLOCK 1755, PORT MALABAR, UNIT THIRTY SIX, according to the plat thereof as recorded in Plat Book 19, Pages 82-94,
of the Public Records of Brevard County, Florida. (Contains 0.261 acres or 11,382 square feet)

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	DIRECTION
C1	39.27'	25.00'	90°00'20"	35.36'	S 45°18'04" E

LOT 12
BLOCK 1755
"VACANT, NO WELL"

LOT 15
BLOCK 1755
"VACANT, NO WELL"

LOT 14
BLOCK 1755
"VACANT, NO WELL"



SETBACKS:

FRONT 25'
SIDE 8'
REAR 25'

CERTIFIED TO:

KEVIN YOO
CRAFTSMEN BUILDERS
FIRST AMERICAN TITLE
RG CROWN BANK

CERTIFICATE:

WE HEREBY CERTIFY THAT THIS MAP OF SURVEY AND OTHER PERTINENT DATA SHOWN HEREON, OF THE ABOVE-DESCRIBED PROPERTY WAS MADE ON THE GROUND, CONFORMS TO THE MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA, AS OUTLINED IN CHAPTER 81G17-8, (FLORIDA ADMINISTRATIVE CODE) AS ADOPTED BY THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES AND THAT SAID SURVEY IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF AS SURVEYED UNDER OUR DIRECTION.

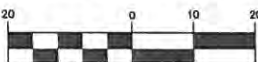
GEODETTIC SURVEY SERVICES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER 19 7288

PROFESSIONAL SURVEYOR AND MAPPER IN RESPONSIBLE CHARGE

Terry H. Drum
TERRY H. DRUM
PROFESSIONAL SURVEYOR AND MAPPER NO. 5697

NOT VALID WITHOUT THE SIGNATURE AND RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

GRAPHIC SCALE



(IN FEET)

1 inch = 20 ft.

SURVEYORS NOTES:

- LEGAL DESCRIPTION PROVIDED BY CLIENT.
- ADJOINERS SHOWN HAVE NOT BEEN SURVEYED.
- THIS SURVEY IS BASED ON A CLOSED TRAVERSE WITH A RELATIVE DISTANCE ACCURACY BETTER THAN 1 FOOT IN 10,000 FEET.
- LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHT-OF-WAY AND/OR EASEMENTS OF RECORD.
- UNDERGROUND UTILITIES OR FOOTERS HAVE NOT BEEN LOCATED.
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- THE PROPOSED IMPROVEMENTS SHOWN HEREON DO NOT REPRESENT THE FINAL DESIGN UNLESS APPROVED BY THE GOVERNING MUNICIPALITIES.
- ALL RIGHTS-OF-WAY SHOWN HEREON ARE OPEN TO TRAVEL UNLESS OTHERWISE NOTED.
- THIS MAP MAY HAVE BEEN REDUCED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.
- ACCORDING TO THE NATIONAL FLOOD INSURANCE RATE MAP NUMBER 12009C0580E, HAVING AN EFFECTIVE DATE OF APRIL 03, 1989, THIS PROPERTY LIES WITHIN ZONE AE, INSIDE SPECIAL FLOOD HAZARD AREA, BASE FLOOD ELEVATION = 21.0 FEET.
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- EXISTING ELEVATIONS SHOWN ARE BASED ON THE NATIONAL GEODETTIC VERTICAL DATUM OF 1929.
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LEGEND

<p>TFB = TOP OF FENCE BOARD EL = ELEVATION BM = SITE BENCHMARK FPR = FIXED POINT OF REFERENCE CS = CHORD BEARING PCP = PERMANENT CONTROL POINT PC = POINT OF CURVATURE PT = POINT OF TANGENCY RW = RIGHT OF WAY FIR = FOUND IRON ROD "NO IDENTIFICATION" FIRC = FOUND IRON ROD WITH CAP</p>	<p>FIP = FOUND IRON PIPE "NO IDENTIFICATION" FIPC = FOUND IRON PIPE WITH CAP SIRC = SET 1/2" IRON ROD WITH CAP "LB 7288" CONC = CONCRETE FNAD = FOUND NAIL AND DISK SNAD = SET NAIL AND DISK FF = FINISHED FLOOR ST = SEPTIC TANK SF = SQUARE FOOT (P) = PLAT (F) = FIELD (M) = MEASURE</p>	<p>WM = WATER METER FDH = FIRE HYDRANT WV = WATER VALVE EW = EXISTING WELL SMH = SANITARY MANHOLE DMH = STORM MANHOLE</p>	<p>CB = CATCH BASIN CPE = CABLE PEDESTAL WUP = WOOD UTILITY POLE GA = GUY ANCHOR ET = ELECTRIC TRANSFORMER TJB = TELEPHONE JUNCTION BOX</p>	<p>SL = STREET LIGHT LP = LIGHT POLE EE = EXISTING ELEVATION PE = PROPOSED ELEVATION PW = PROPOSED WELL</p>	<p>CLF = CHAIN LINK FENCE WF = WOOD FENCE TDB = TOP OF BANK TOS = TOE OF SLOPE OW = OVERHEAD WIRES BSL = BUILDING SETBACK LINE</p>
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UPDATES and/or REVISIONS	BY	DATE	JOB #	05-1032
PLOT PLAN	JWR	01-05-06	DRAWN BY:	JWR
CHANGE DRAINFIELD	JWR	03-08-06	CHECKED BY:	THD
FORMBOARD LOCATION	JWR	06-14-06	FIELD BOOK:	88
FOUNDATION LOCATION	JWR	10-12-06	PAGE:	85-87
FINAL SURVEY	JWR	03-08-07	FIELD DATE:	12-30-05



Geodetic Survey Services, Inc.
1501 Robert J. Conlan Blvd Suite 130
Palm Bay, FL 32905
321-724-6659

MAP OF SURVEY BOUNDARY SURVEY

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"VACANT, NO WELL"

LOT 15
BLOCK 1755
"VACANT, NO WELL"

LOT 14
BLOCK 1755
"VACANT, NO WELL"

LOT 13
BLOCK 1755

HARPER BOULEVARD

(70' PUBLIC R/W)
20'± ASPHALT ROAD

SETBACKS:

FRONT 25'
SIDE 8'
REAR 25'

CERTIFIED TO:

KEVIN YOO
CRAFTSMEN BUILDERS
FIRST AMERICAN TITLE
RG CROWN BANK

CERTIFICATE:

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GEODETIC SURVEY SERVICES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 7268

PROFESSIONAL SURVEYOR AND MAPPER IN RESPONSIBLE CHARGE

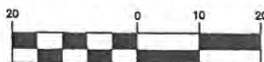
TERRY H. DRUM PROFESSIONAL SURVEYOR AND MAPPER NO. 5597

NOT VALID WITHOUT THE SIGNATURE AND RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SURVEYORS NOTES:

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GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

LEGEND

TFB = TOP OF FORMBOARD EL = ELEVATION BM = SITE BENCHMARK FPR = FIXED POINT OF REFERENCE CB = CHORD BEARING PCP = PERMANENT CONTROL POINT PC = POINT OF CURVATURE PT = POINT OF TANGENCY RW = RIGHT OF WAY FIR = FOUND IRON ROD "NO IDENTIFICATION" FIRC = FOUND IRON ROD WITH CAP	FIP = FOUND IRON PIPE "NO IDENTIFICATION" FIPC = FOUND IRON PIPE WITH CAP SIRC = SET 1/2" IRON ROD WITH CAP "LB 7268" CONC = CONCRETE FND = FOUND NAIL AND DISK SND = SET NAIL AND DISK FF = FINISHED FLOOR S/T = SEPTIC TANK SF = SQUARE FOOT (P) = PLAT (F) = FIELD (M) = MEASURE	W = WATER METER F = FIRE HYDRANT V = WATER VALVE W = EXISTING WELL S = SANITARY MANHOLE D = STORM MANHOLE	C = CATCH BASIN CATV = CABLE PEDESTAL W = WOOD UTILITY POLE G = GUY ANCHOR E = ELECTRIC TRANSFORMER T = TELEPHONE JUNCTION BOX	S = STREET LIGHT L = LIGHT POLE E = EXISTING ELEVATION P = PROPOSED ELEVATION W = PROPOSED WELL	C = CHAIN LINK FENCE W = WOOD FENCE T = TOP OF BANK T = TOE OF SLOPE O = OVERHEAD WIRES B = BUILDING SETBACK LINE
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321-724-6659

VACANT, NO WELL

× 21.36

× 21.69

× 22.67

× 22.99

22.30

SIRC

N 89°42'06" E

125.00'

6' PUBLIC UTILITY

& DRAINAGE EASEMENT

22.49

22.80

23.12

N 00°17'54" W

92.14' (P) 67.14' (M)

C/L SWALE

WELL

25' B.S.L.

24.70

12.83'

2.50'

5.85'

2.60'

12.83'

25.13

25' B.S.L.

41.41'

S 00°17'54" E

10' PUBLIC UTILITY &

DRAINAGE EASEMENT

92.13'

HARVESTOR AVENUE

(50' PUBLIC R/W)
20'± ASPHALT ROAD

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

VARIANCE APPLICATION

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

- 1) NAME OF APPLICANT (Type or print) HAROLD W. FAHS
ADDRESS 791 HARYESTOR AVE SW
CITY PALM BAY STATE FL ZIP 32908
PHONE # 239-220-1171 FAX # _____
E-MAIL ADDRESS hwfahs@GMAIL.COM
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION _____
LOT 13 BLOCK 1755 PMU 36 (B)
SECTION 11 (CB) TOWNSHIP 29 (B) RANGE 36 (CB)
- 3) STREET ADDRESS OF PROPERTY COVERED BY APPLICATION: 791 HARYESTOR AVE SW
- 4) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): .26
- 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?:
X YES _____ NO
IF SO, STATE THE NATURE OF THE PREVIOUS APPLICATION, WHETHER THE REQUEST WAS APPROVED OR DENIED, AND DATE OF ACTION: REQUEST FOR A WOOD FENCE WAS APPROVED 9/12
- 8) DESCRIBE THE EXTENT OF THE VARIANCE REQUESTED AND THE INTENDED USE OF THE PROPERTY IF THE VARIANCE IS GRANTED (SPECIFY NUMBER OF INCHES/FEET ENCROACHING INTO SPECIFIC REQUIRED YARD SETBACK OR REQUIRED HEIGHT RESTRICTIONS): VARIANCE DOCUMENT ATTACHED

- 9) CITE THE APPLICABLE SECTION(S) OF THE ZONING ORDINANCE AND ITS REQUIREMENT FROM WHICH VARIANCE IS REQUESTED (ex.: 185.034(f)(7)):
- _____
- _____
- 10) GIVE WRITTEN EXPLANATION(S) DEMONSTRATING HOW THE VARIANCE MEETS THE FOLLOWING CONDITIONS:
- (a) That special conditions and circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same land use category, zoning district, or situation.
 - (b) That special conditions and circumstances referred to above do not result from the actions of the applicant.
 - (c) That literal interpretation and enforcement of the development code regulations would deprive the applicant of rights commonly enjoyed by other properties in the same land use category, zoning district, or situation under the terms of the development code, and would work unnecessary and undue hardship on the applicant.
 - (d) That if granted, the variance is the minimum variance necessary to make possible the reasonable use of the land, building or structure.
 - (e) That granting the variance requested will not confer on the applicant any special privilege that is denied by the development code to other lands, buildings, or structures in the same land use category, zoning district, or situation.
 - (f) That granting the requested variance will be in harmony with the general intent and purpose of this code, and will not be injurious to the surrounding properties or detrimental to the public welfare.

A REQUEST TO ALLOW A PROPOSED ACCESSORY
STRUCTURE TO ENCROACH THE 25' SIDE
CORNER SETBACK BY A MAXIMUM OF 11' IN A
RS-2 SINGLE FAMILY RESIDENTIAL DISTRICT

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

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

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

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

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

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

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

_____ 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 Harold W. Fahn Date 8/1/2016

Printed Name of Applicant HAROLD W. Fahn

FAHS

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



DATE: November 2, 2016
CASE #: V-33-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

VARIANCE APPLICATION

PROPOSAL: A request to allow a proposed accessory structure to encroach the 25' side corner setback by a maximum of 8.0' as provided for in Section 185.034(F)(7)(c), in the RS-2, Single Family Residential Zoning District.

LOCATION: 433 Del Alto Avenue NE (Lot 15, Block 264, Port Malabar Unit 8)

APPLICANT: Mr. Jonny Imes

SITE DATA

PRESENT ZONING: RS-2, Single Family Residential

ACREAGE: 0.26 Acres +/-

DENSITY: Not applicable

ADJACENT ZONING

& LAND USE:

N	-- RS-2-Single Family Residential Zoning District; w/ home
E	-- RS-2-Single Family Residential Zoning District; w/ home
S	-- RS-2-Single Family Residential Zoning District; w/ home
W	-- RS-2-Single Family Residential Zoning District; w/ home

WATER & SEWER Water Service Available, Septic

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 433 Del Alto Avenue NE (Specifically, Lot 15, Block 264, Port Malabar Unit 8).
2. The property is zoned RS-2, Single Family Residential.
3. The applicant is requesting relief to allow a proposed accessory structure to encroach the 25' side corner setback by a maximum of 8.2' as provided for in Section 185.034(F)(7)(c), 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 proposed accessory structure is approximately 17'-0" from the property line in the South corner of the property. A smaller structure could be placed with no variance required. 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 may be a result of the actions of the applicant as a smaller structure could be placed with no variance required. The request appears to be a self-imposed hardship.

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

Literal interpretation would require the applicant meet the setbacks for the placement of the accessory structure. 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 8.0' of relief from the 25' side corner setback in order to place the proposed accessory structure.

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 25' setback requirement- it should be noted however that the placement of the proposed structure does not appear to create any health, safety, or traffic visibility issues for any surrounding properties. If the Board wishes to grant the variance, items they may wish to address is to mandate that the existing shed structures will be moved under an active Building permit to accommodate the proposed structure that meets the 5' separation requirement. It should also be noted that Brevard County Health and Environmental Services shall require all accessory structures remain 5' from any Septic system or drainfield as a part of the Building permit.

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

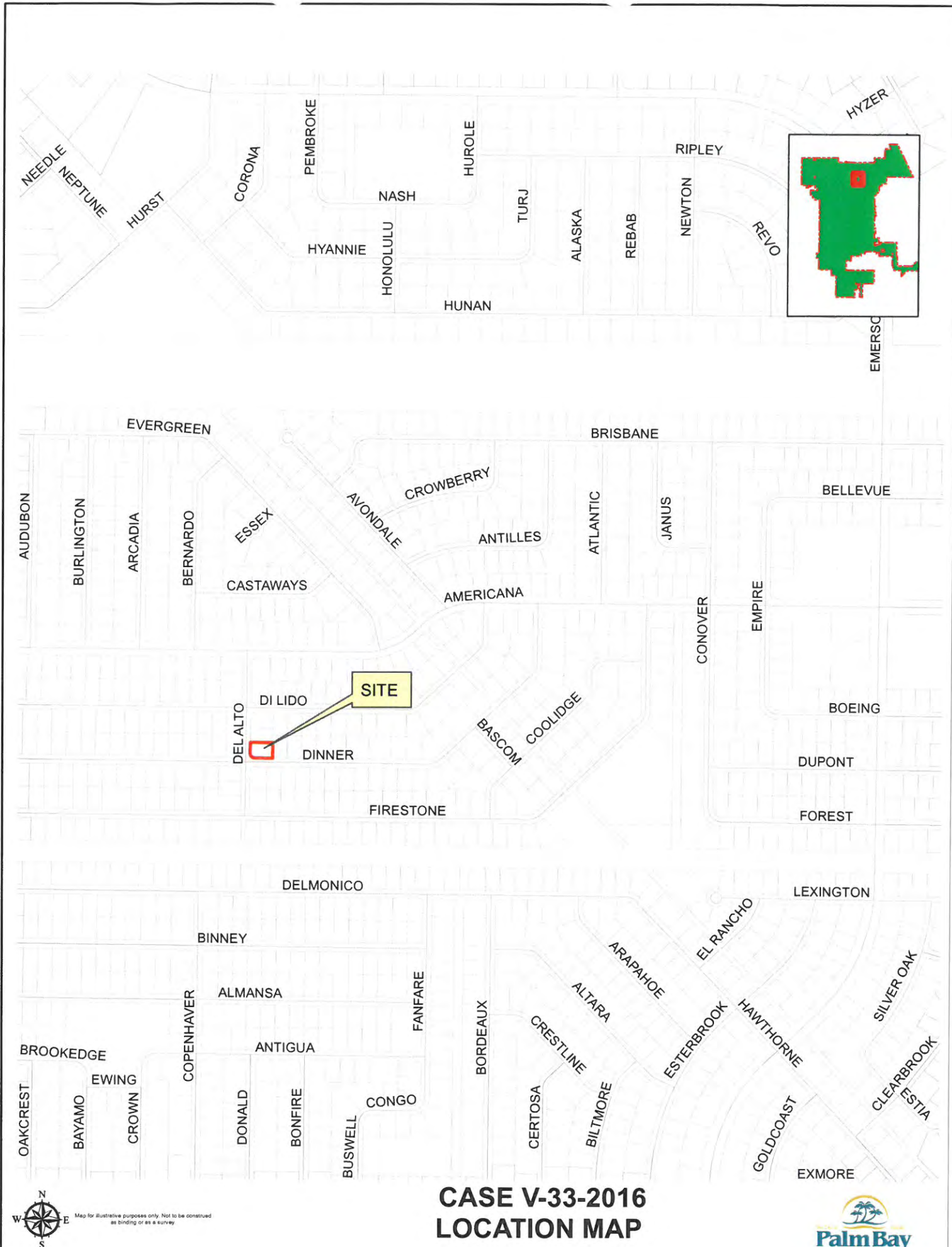
City Council must ultimately decide if the application meets the general intent and purpose of the code.

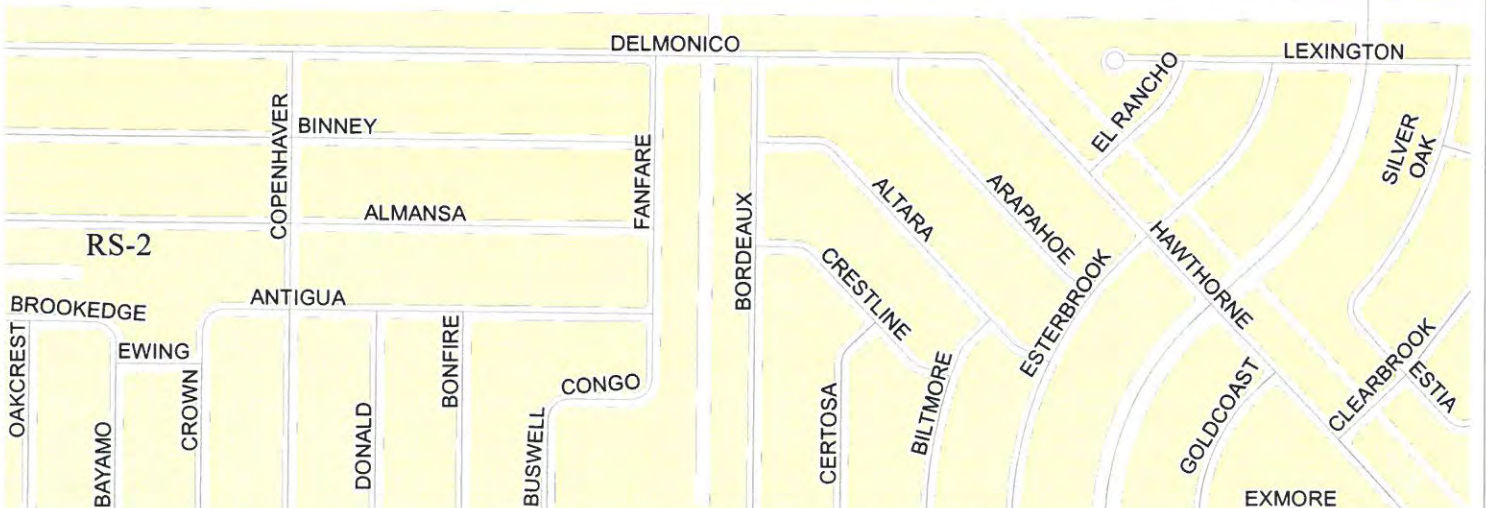
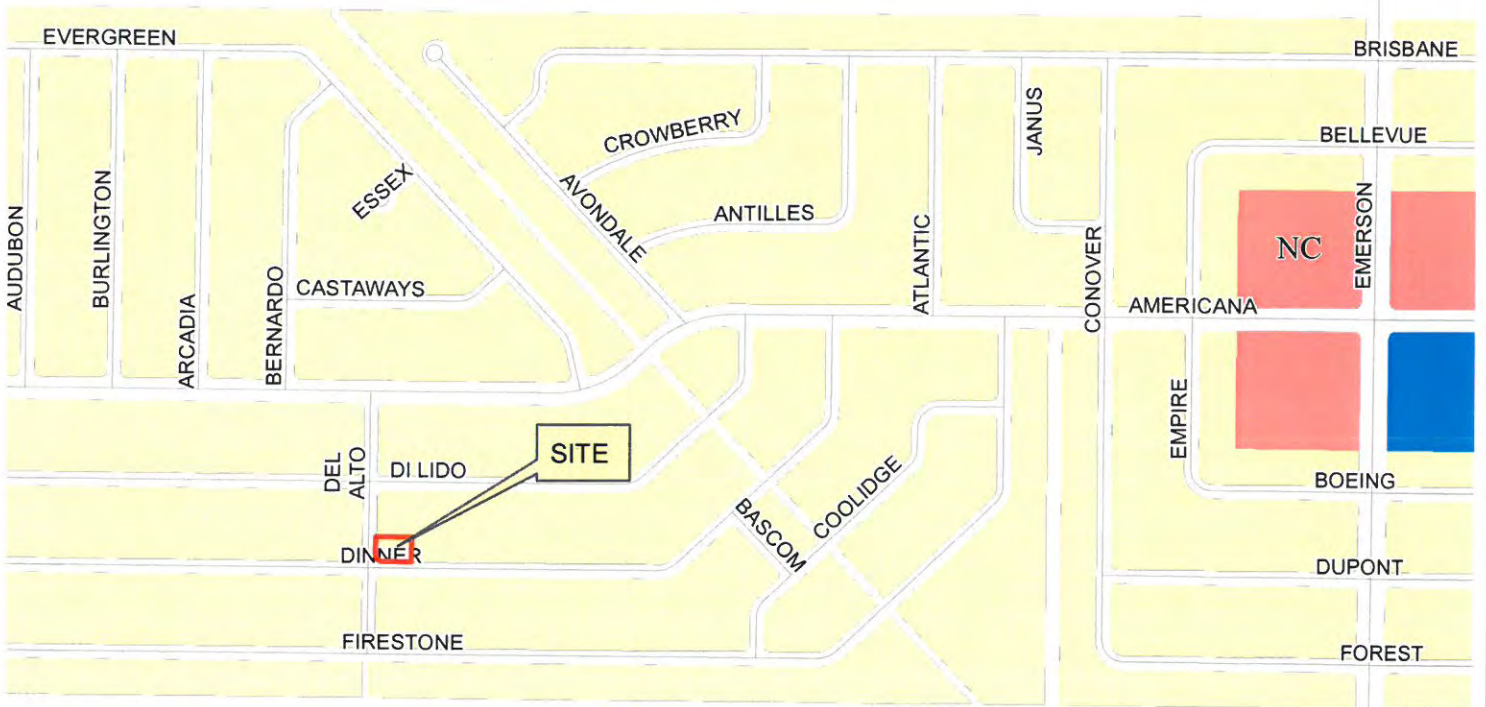
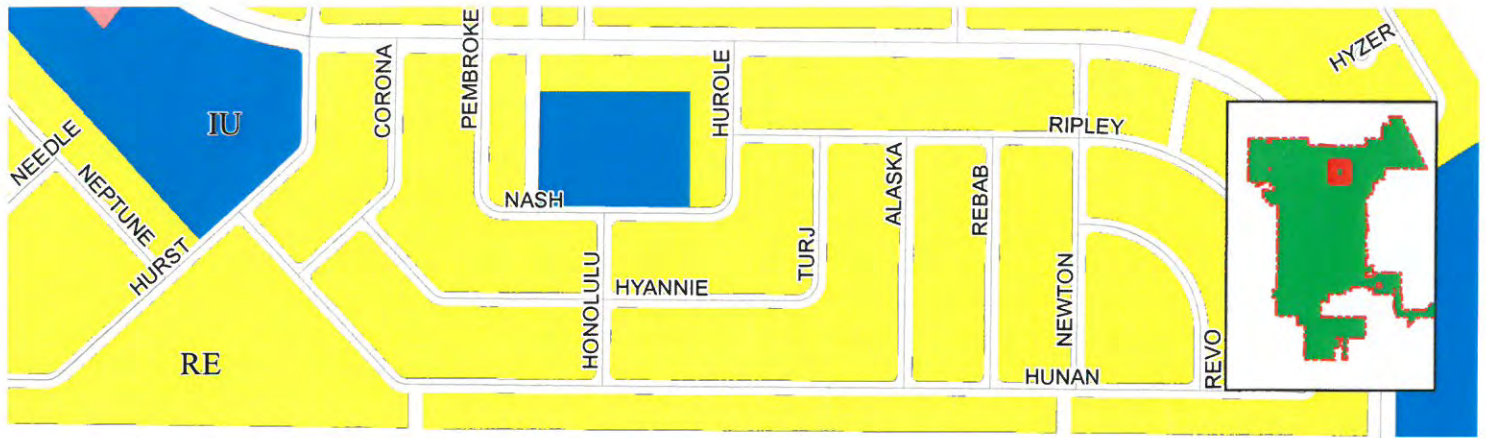
Item 7 - "The variance represents a reasonable disposition of a claim brought under the Bert J. Harris Private Property Rights Protection Act, chapter 95-181, Laws of Florida, that a development order of the city has reasonably burdened the applicant's property, based on the recommendations of the special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

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

STAFF CONCLUSION:

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

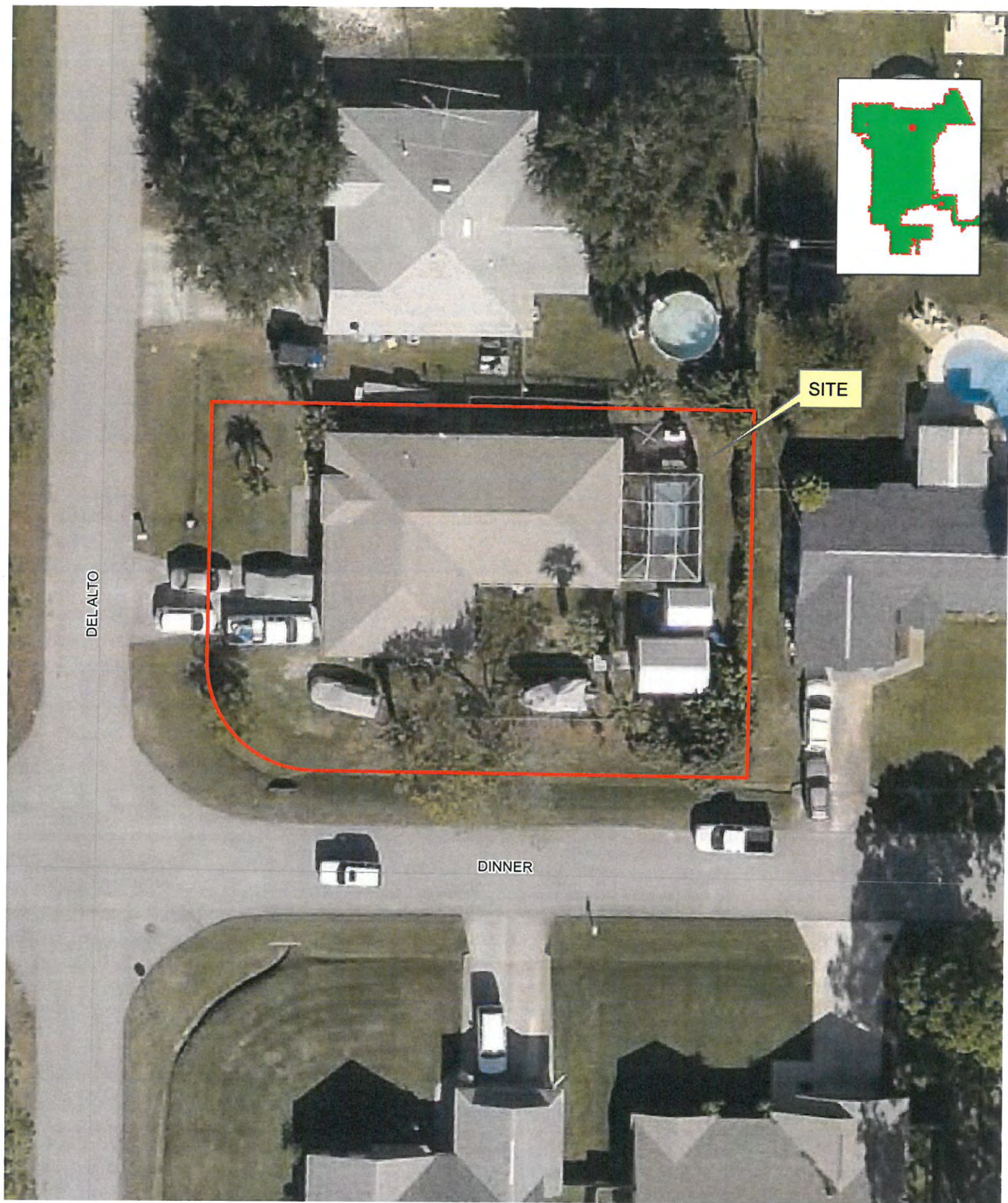




Map for illustrative purposes only. Not to be construed as binding or as a survey.

CASE V-33-2016 ZONING MAP





DEL ALTO

DINNER

SITE



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

CASE V-33-2016
AERIAL VIEW



LOT 15, BLOCK 264, PORT MALABAR, UNIT EIGHT, according to the plat thereof as recorded in Plat Book 14, Pages 142-150, of the Public Records of Brevard County, Florida. (Contains 0.24 acres or 10,454 square feet)





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) Johnny R Imes
ADDRESS 433 Del Alto Ave NE
CITY Palm Bay STATE FL ZIP 32907
PHONE # 321 676 8364 FAX # _____
E-MAIL ADDRESS belare433@yahoo.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION _____
LOT 15 Block 264 Port Malabar Unit 8
SECTION 31 TOWNSHIP 28 RANGE 37 CB

3) STREET ADDRESS OF PROPERTY COVERED BY APPLICATION: 433 Del Alto Ave NE

4) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): .24 +/- CB

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

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

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

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

8) DESCRIBE THE EXTENT OF THE VARIANCE REQUESTED AND THE INTENDED USE OF THE PROPERTY IF THE VARIANCE IS GRANTED (SPECIFY NUMBER OF INCHES/FEET ENCROACHING INTO SPECIFIC REQUIRED YARD SETBACK OR REQUIRED HEIGHT RESTRICTIONS): This Request is for the Added footage to build an detached free standing garage, in size not ~~like~~ limited but will not exceed 20ft x 25ft in size

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

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

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.

I when able enjoy working on my classic automobiles. In order to maintain Auto Insurance my vehicles must be stored in a enclosed structure. We currently Rent and have for a few years. But with the ability to now installed a prefab steel on metal Structure would be more affordable and cost effective. Thanks for your time and await your ruling on this Request.

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

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

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

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

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

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

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

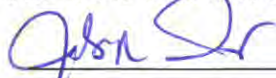
_____ WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE VARIANCE.

_____ 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 25 Aug 2016

Printed Name of Applicant

Johnny R James

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

CASE V-33-2016

CORRESPONDENCE: 1

Michael & Deborah Messenger
620 Di Lido Street NE
Palm Bay, FL 32907
(321) 242-3376

September 29, 2016

Planning & Zoning Board
City Council
c/o Land Development Branch
120 Malabar Road SE
Palm Bay, FL 32907

Reference: Case V-33-2016

We are writing to let you know that we have absolutely no objection to the granting of this variance. This gentleman has made many sacrifices serving our country and we see no reason not to grant him the 8' variance requested.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deborah Messenger".

Deborah Messenger

Cc: Johnny R. Imes
433 Del Alto Avenue
Palm Bay, FL 32907



MEMO TO: PLANNING AND ZONING BOARD MEMBERS

FROM: PATRICK J. MURPHY, ASSISTANT DIRECTOR

DATE: NOVEMBER 2, 2016

SUBJECT: CASE NO. FS-2-2016 (Sanibel Cove)

The applicant has requested a Continuance of this case to the November 2nd Planning and Zoning Board Meeting in order to allow for more time to re-design the layout. A vote to Continue is required.

PJM



MEMO TO: PLANNING AND ZONING BOARD MEMBERS

FROM: PATRICK J. MURPHY, ASSISTANT DIRECTOR

DATE: NOVEMBER 2, 2016

SUBJECT: CASE NO. CP-23-2016 & CPZ-23-2016 (Wheeler Farms)

The City is administratively continuing these requests to the Planning and Zoning Board meeting on December 7, 2016, so that the applicant can submit applications for alternate land use and zoning classifications.

PJM

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

- PROPOSAL:** A rezoning from the RM-20, Multiple Family Residential Zoning District to the RM-15, Single-, Two- and Multi-Family Residential Zoning District.
- LOCATION:** Located east of and adjacent to Clearmont Street NE, approximately 800 feet north of Mandarin Drive NE. Specifically, the property is the northern portion of Tax Parcel 254.0; located in Section 26, Township 28 South, and Range 37 East.
- APPLICANT:** Fred D. Boozer Jr. Trustee

SITE DATA

PRESENT ZONING: RM-20, Multiple Family Residential District

ACREAGE: 3.5 acres (\pm)

DENSITY: Twenty (20) Units per Acre

ADJACENT ZONING & LAND USE:

- N** -- IU, Institutional Use District; Palm Bay Water Treatment Plant
- E** -- RS-1, Single Family Residential District; Turkey Creek Estates
- S** -- RM-15, Single-, Two- and Multi-Family Residential District; Turkey Creek Villas and Vacant Land
- W** -- RM-20 District; Clearmont Street NE and a City Drainage Ditch

WATER & SEWER: City Water & Sewer Available and Required

FLOOD ZONE: X, Area outside the 500-year flood zone

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Yes

BACKGROUND:

1. Located east of and adjacent to Clearmont Street NE, approximately 800 feet north of Mandarin Drive NE. Specifically, the property is the northern portion of Tax Parcel 254.0; located in Section 26, Township 28 South, and Range 37 East.
2. The adjacent zoning and land uses are as follows:

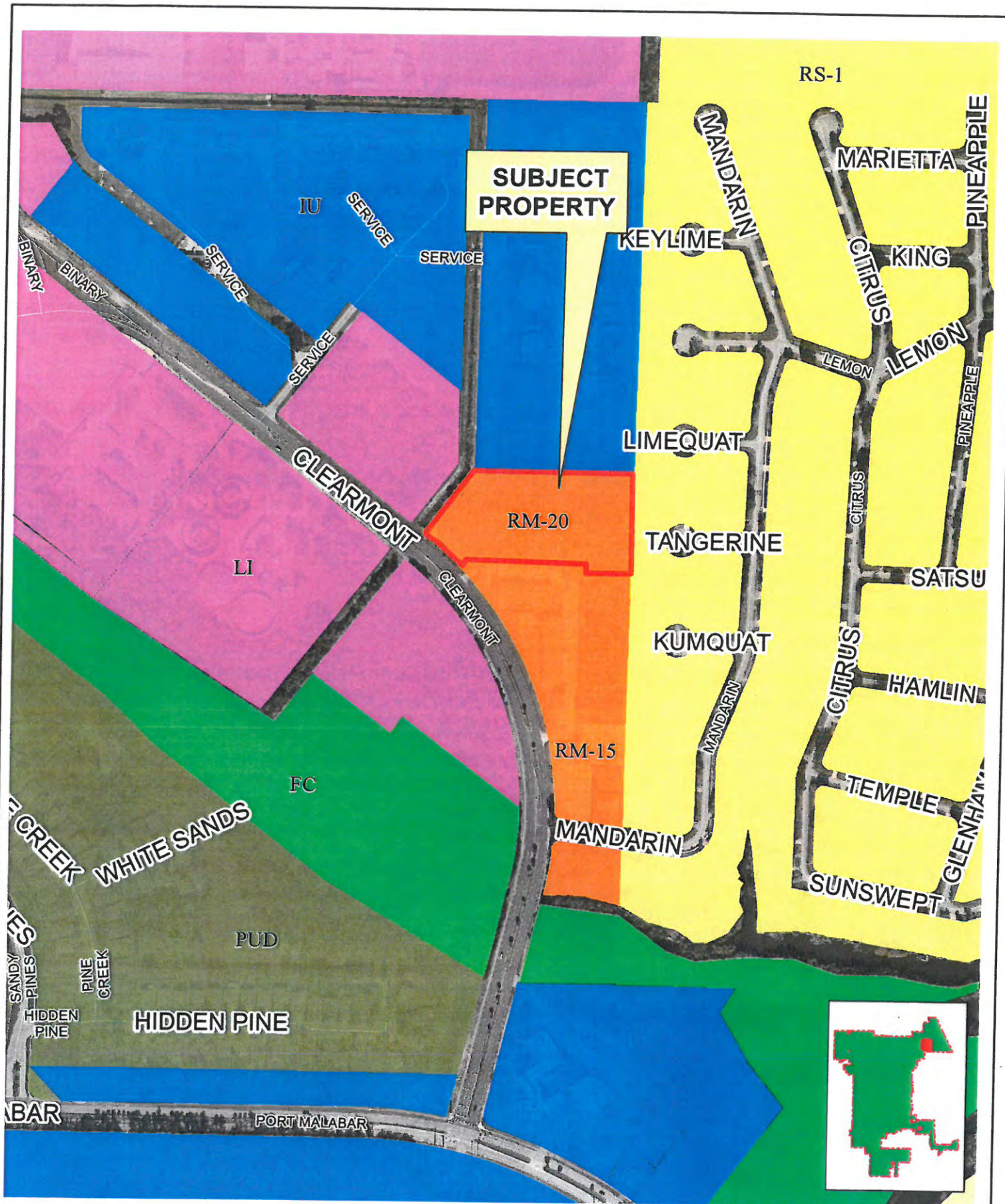
<u>NORTH:</u>	IU, Institutional Use District; Palm Bay Water Treatment Plant
<u>EAST:</u>	RS-1, Single Family Residential District; Turkey Creek Estates
<u>SOUTH:</u>	RM-15, Single-, Two- and Multi-Family Residential District; Turkey Creek Villas and Vacant Land
<u>WEST:</u>	RM-20 District; Clearmont Street NE and a City Drainage Ditch
3. A rezoning from the RM-20, Multiple Family Residential Zoning District to the RM-15, Single-, Two- and Multi-Family Residential Zoning District. The applicant for this request is Fred D. Boozer Jr. Trustee. The size of the property is 3.5 acres.

ANALYSIS:

1. The applicant has submitted engineered site plans to develop the property with a multi-family residential project called Clearmont Trace. During the review of the project it was determined that the buildings needed to be separated by a minimum of 30 feet, in order to meet the zoning provisions of the RM-20 District. Due to the existing 30-foot wide drainage easement running along the eastern portion of the property and the amount of the stormwater treatment system needed, the applicant needs to site the buildings 20 feet apart.
2. The minimum separation distance between principal structures in the RM-15 District is 20 feet. Therefore, the applicant is requesting the rezoning to accommodate the proposed development discussed above. The land is designated as Multiple Family Residential Use on the Palm Bay Comprehensive Plan, so a Future Land Use Map Amendment is not needed.

STAFF CONCLUSION:

The Planning and Zoning Board and City Council must determine if the request is consistent with the city's development vision and whether or not the uses allowed under the RM-15 District regulations would be compatible with the surrounding area.

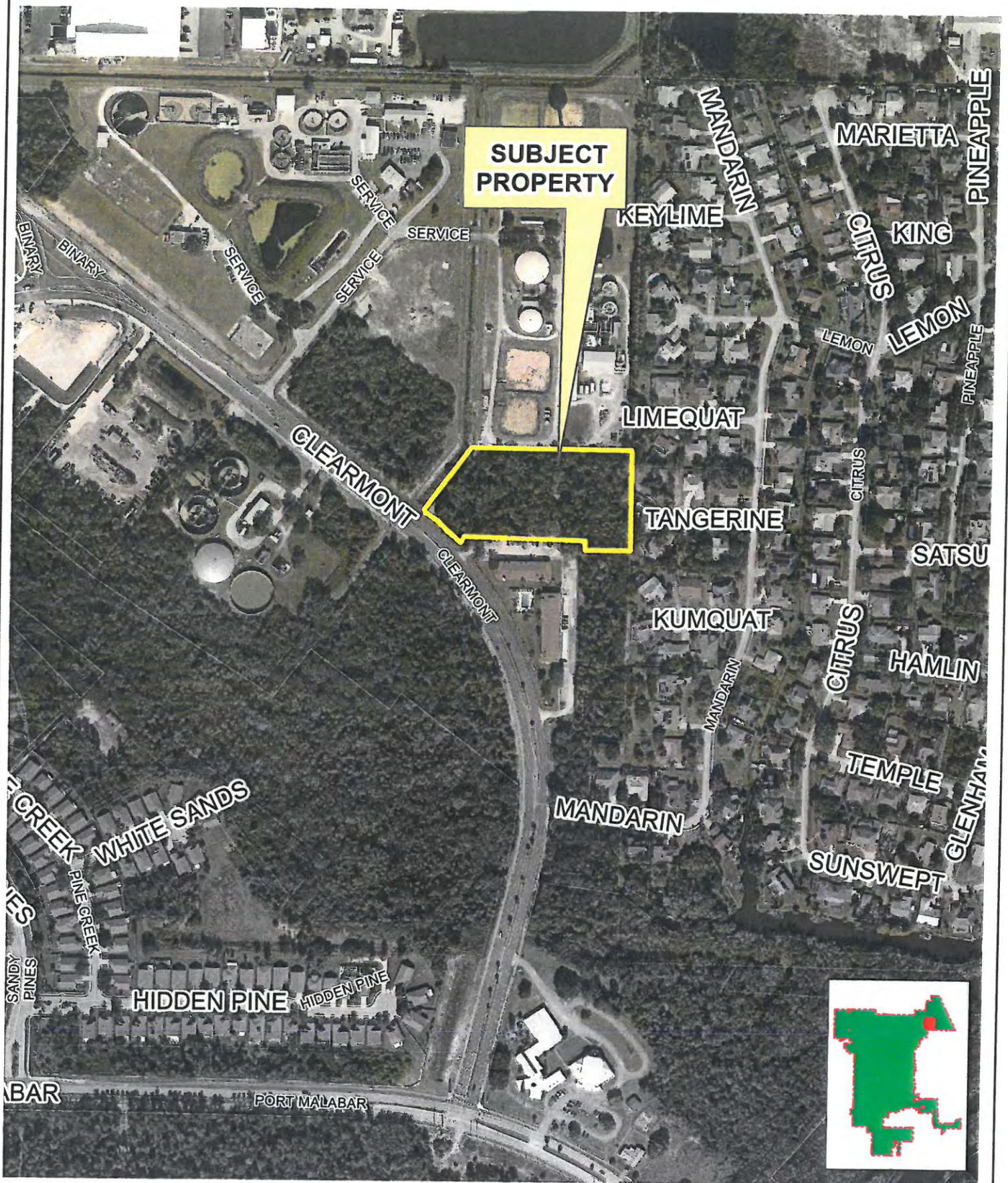


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



**CASE NO. Z-38-2016 AND
CASE NO. CU-39-2016**

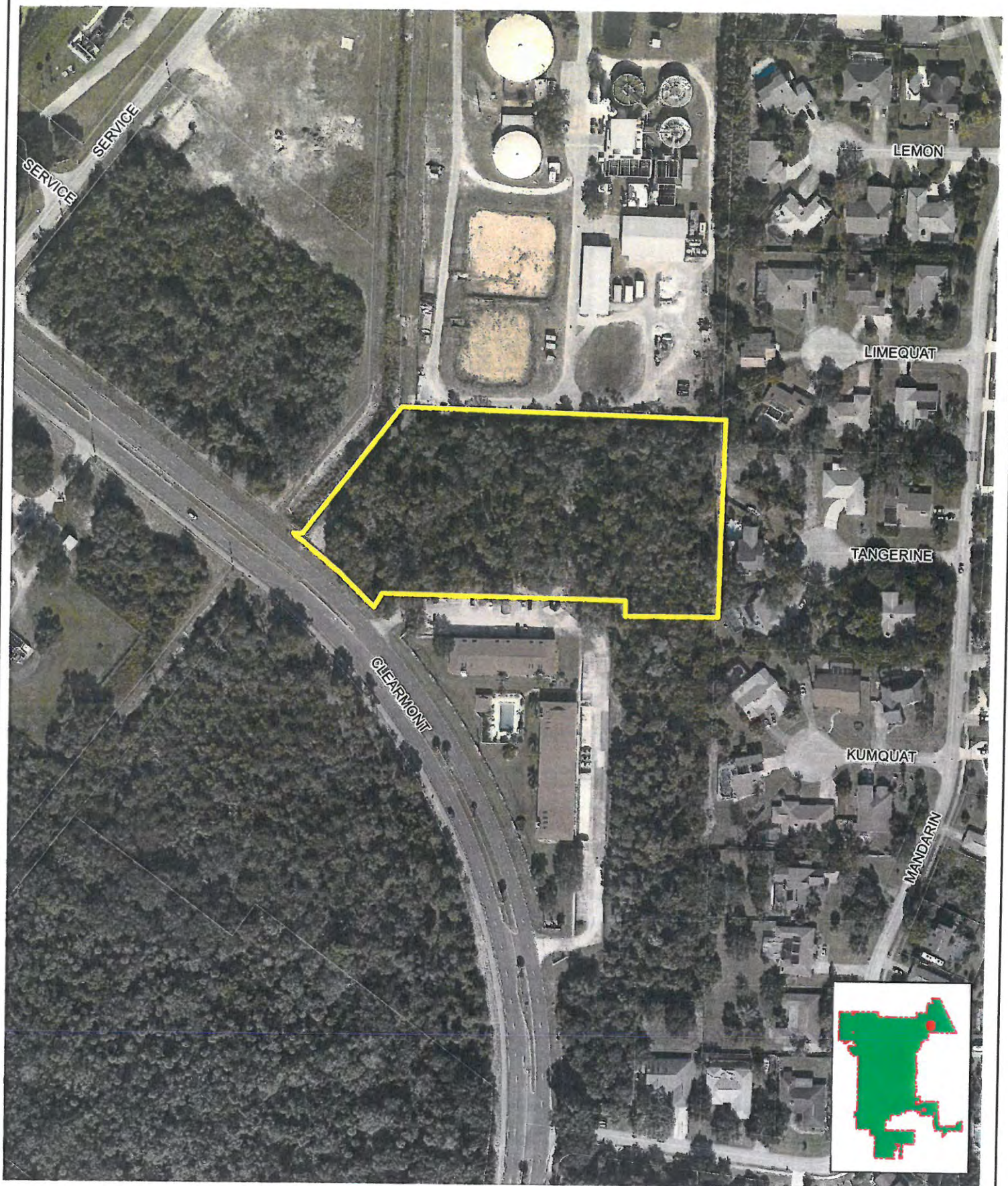


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Map created by the Land Development Division



**CASE NO. Z-38-2016 AND
CASE NO. CU-39-2016**



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

Map created by the Land Development Division



**CASE NO. Z-38-2016 AND
CASE NO. CU-39-2016**



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

REZONING APPLICATION

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

1) NAME OF APPLICANT (Type or print) Fred D Boozer Jr Trustee

ADDRESS 4885 N Wickham Road #106

CITY Melbourne STATE FL ZIP 32940

PHONE # 321-724-9999

FAX # _____

E-MAIL ADDRESS fredboozerjr@gmail.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION

See Exhibit A

SECTION 26 TOWNSHIP 28 RANGE 37

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

4) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.) RM-20

5) ZONE CLASSIFICATION DESIRED (ex.: IU, LI, etc.): RM-15

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

7) JUSTIFICATION FOR REZONING: Down zoning to allow for 20' separation between the buildings

8) PRESENT USE OF THE PROPERTY: Vacant Land

9) INTENDED USE OF PROPERTY: Multi family residential

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

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

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

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

- X A listing of legal descriptions of all properties within a 500 foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This can be obtained from the Brevard County Planning and Zoning Department at 633-2060, or on the Internet at www.brevardpropertyappraiser.com) List shall be legible and the source of that information stated here: _____
- N/A Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.
- WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE REZONING.
- 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 8-8-2016

Printed Name of Applicant

Fred D. Boozer JR

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

CITY OF PALM BAY
RECEIVED

AUG 11 2016

LAND DEVELOPMENT

EXHIBIT "A"

PROPERTY

DESCRIPTION:

PARCEL "A"

A PARCEL OF LAND SITUATED IN A PORTION OF SECTION 26, TOWNSHIP 28 SOUTH, RANGE 37 EAST, CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF LOT 40, BLOCK "S" ACCORDING TO THE PLAT OF "TURKEY CREEK SUBDIVISION" AS RECORDED IN PLAT BOOK 25 AT PAGES 111 AND 112 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE N 0°23'09"E, ALONG THE WEST LINE OF SAID LOT 40 AND THE WEST LINE OF THE EAST HALF OF SAID SECTION 26, FOR A DISTANCE OF 762.80 FEET TO THE POINT OF BEGINNING; THENCE N 89°51'02"W FOR A DISTANCE OF 139.30 FEET; THENCE N 0°08'58"E FOR A DISTANCE OF 25.00 FEET; THENCE N 89°51'02"W FOR A DISTANCE OF 354.45 FEET; THENCE S 45°29'09"W FOR A DISTANCE OF 25.00 FEET TO A POINT ON A CURVE, CONCAVE SOUTHWESTERLY, AND HAVING A RADIUS OF 1050.24 FEET (1052.98 FEET PER O.R.B. 1467 PAGE 87), THRU WHICH A RADIAL LINE BEARS N 45°29'09"E, SAID POINT ALSO BEING THE EASTERLY RIGHT OF WAY LINE OF TROUTMAN BOULEVARD, A 100 FOOT RIGHT OF WAY; THENCE NORTHWESTERLY ALONG THE ARC CURVE AND SAID RIGHT OF WAY LINE, THRU A CENTRAL ANGLE OF 8°03'50", FOR A DISTANCE OF 147.81 FEET TO THE EASTERLY RIGHT OF WAY LINE OF A 50 FOOT DRAINAGE RIGHT OF WAY ACCORDING TO THE PLAT OF "PORT MALABAR INDUSTRIAL PARK" AS RECORDED IN PLAT BOOK 13 AT PAGES 103 THROUGH 107 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE N 37°25'17"E ALONG SAID EASTERLY DRAINAGE RIGHT OF WAY FOR A DISTANCE OF 236.36 FEET; THENCE S 89°51'02"E FOR A DISTANCE OF 480.55 FEET TO THE WEST LINE OF BLOCK "S" OF SAID PLAT OF "TURKEY CREEK SUBDIVISION" AND THE WEST LINE OF THE EAST HALF OF SECTION 26; THENCE S 0°23'09"W ALONG SAID WEST LINE OF BLOCK "S" A DISTANCE OF 293.00 FEET TO THE POINT OF BEGINNING.



DATE: November 2, 2016
CASE #: CU-39-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

PROPOSAL: The applicant is requesting conditional use approval in order to allow for the development of a multi-family residential development called Clearmont Trace.

LOCATION: The subject property is located east of and adjacent to Clearmont Street NE, approximately 800 feet north of Mandarin Drive NE. Specifically, the property is the northern portion of Tax Parcel 254.0; located in Section 26, Township 28 South, and Range 37 East.

APPLICANT: Fred D. Boozer Jr. Trustee

SITE DATA

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

ACREAGE: 3.5 acres (+)

DENSITY: 15 Units per Acre

ADJACENT ZONING

& LAND USE:

- N** -- IU, Institutional Use District; Palm Bay Water Treatment Plant
- E** -- RS-1, Single Family Residential District; Turkey Creek Estates
- S** -- RM-15, Single-, Two- and Multi-Family Residential District; Turkey Creek Villas and Vacant Land
- W** -- RM-20 District; Clearmont Street NE and a City Drainage Ditch

WATER & SEWER: City Water & Sewer Available and Required

FLOOD ZONE: X, Area outside the 500 Year Flood Zone

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Yes

BACKGROUND:

1. The subject property is located east of and adjacent to Clearmont Street NE, approximately 800 feet north of Mandarin Drive NE. Specifically, the property is the northern portion of Tax Parcel 254.0; located in Section 26, Township 28 South, and Range 37 East.
2. With the approval of Case No. Z-38-2016 the subject property will be zoned RM-15, Single-, Two- and Multi-Family Residential District. The surrounding zoning and land uses are as follows:

<u>NORTH:</u>	IU, Institutional Use District; Palm Bay Water Treatment Plant
<u>EAST:</u>	RS-1, Single Family Residential District; Turkey Creek Estates
<u>SOUTH:</u>	RM-15, Single-, Two- and Multi-Family Residential District; Turkey Creek Villas and Vacant Land
<u>WEST:</u>	RM-20 District; Clearmont Street NE and a City Drainage Ditch

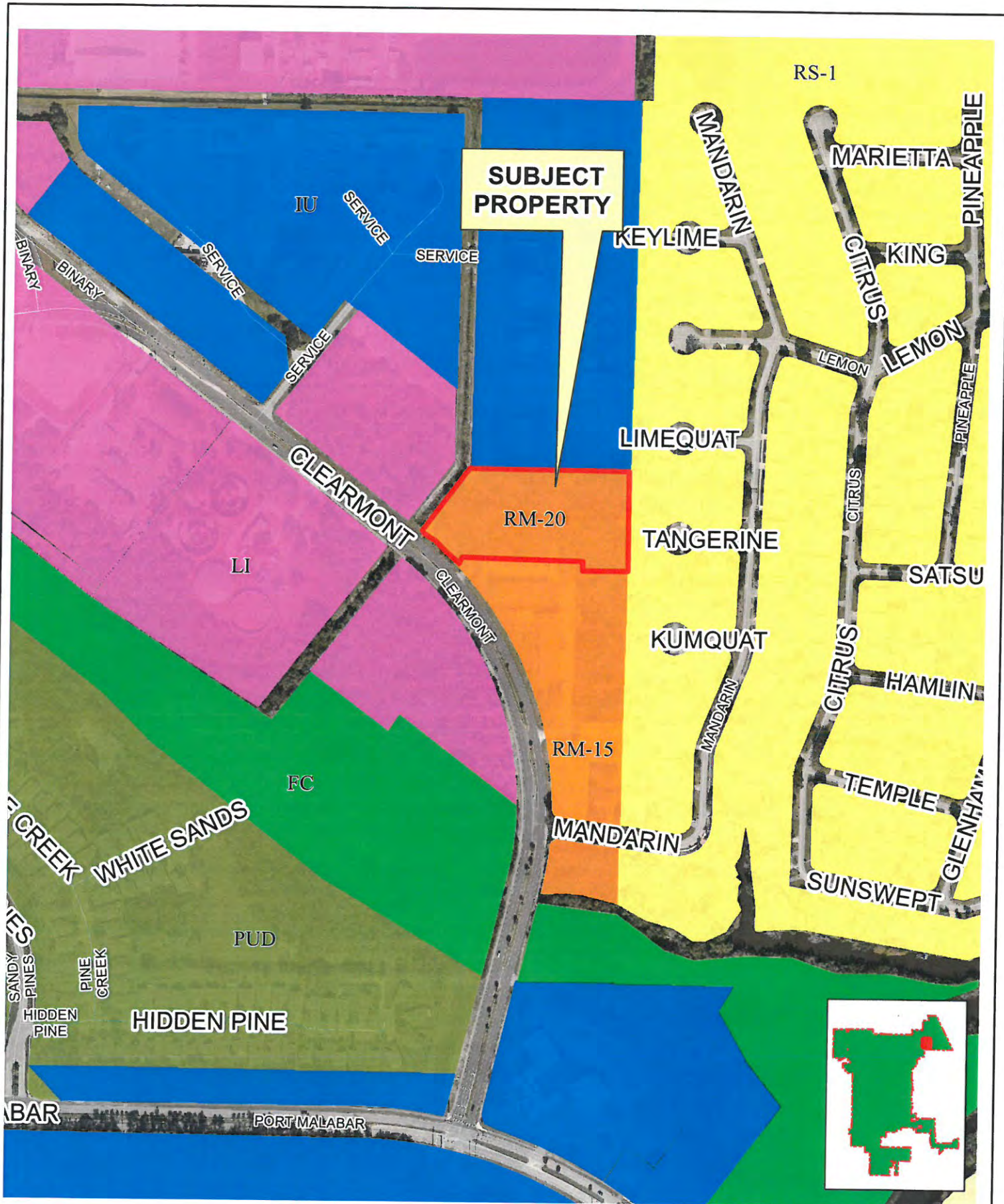
3. The applicant, Fred D. Boozer Jr. Trustee, is requesting conditional use approval in order to allow for the development of a multi-family residential development called Clearmont Trace.

ANALYSIS:

1. The subject property was originally part of a larger development proposal that included lands south of and contiguous to this property. Specifically, Resolution No. 99-40 was approved with a conceptual plan that included an assisted living facility on the northern portion of the overall property. When the middle portion (Turkey Creek Villas) was developed, it locked in the approved site plan and made it binding upon all of the property.
2. In order to relieve the property from the conditions of this approval, the above Resolution must be amended through a new resolution. The applicant went through this same process in early 2015 for the middle portions of Parcel 254.0 and the remnants of Parcel 254.0 south of Mandarin Drive (Resolution No. 2015-14). However, during that project the exhibit that was submitted did not include the north parcel (aka Tract A).
3. The purpose of this request is thus to relieve the subject property from the requirement of having to build an assisted living facility upon it. If there were no site plan binding upon this property then this request would not be necessary, as the amount of development proposed in Clearmont Trace (28 units) would be allowable without approval from City Council.

STAFF RECOMMENDATION:

Staff recommends approval of Case No. CU-39-2016.

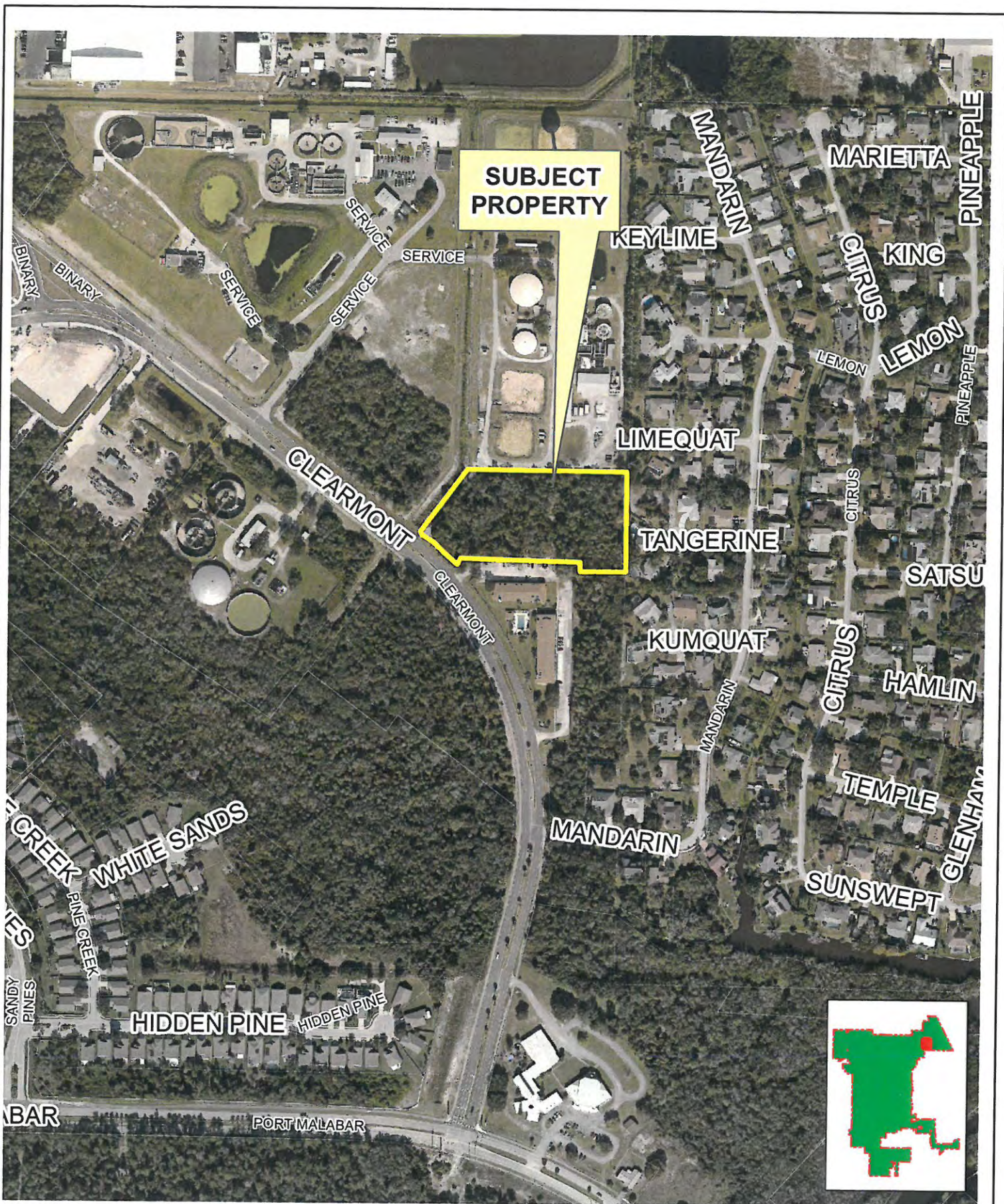


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



**CASE NO. Z-38-2016 AND
CASE NO. CU-39-2016**

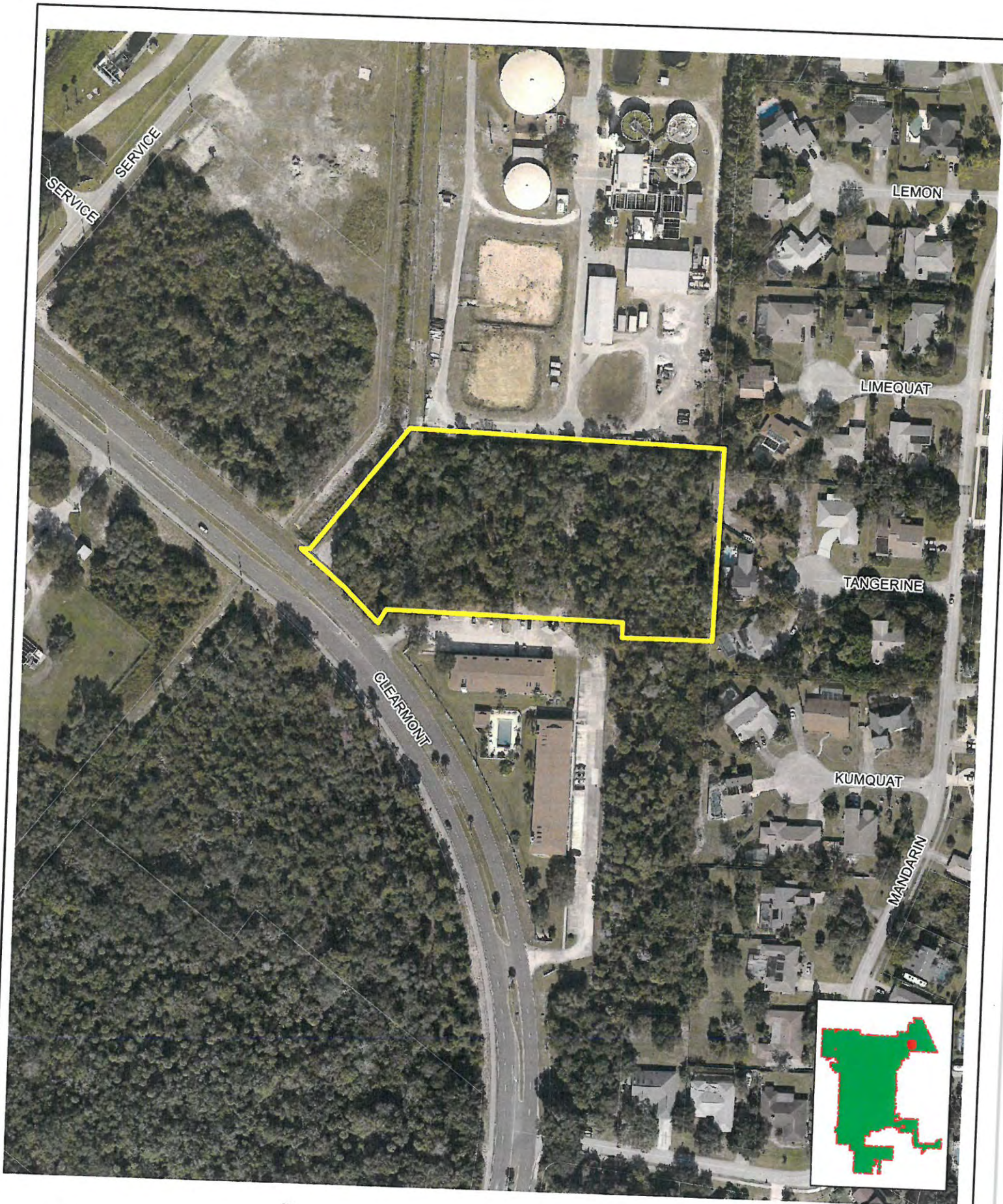


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as binding or as a survey.

Map created by the Land Development Division.



**CASE NO. Z-38-2016 AND
CASE NO. CU-39-2016**



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

Map created by the Land Development Division



**CASE NO. Z-38-2016 AND
CASE NO. CU-39-2016**



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) Fred Boozer
ADDRESS 4885 North Wickham Road Suite 106
CITY MELBOURNE STATE FL ZIP 32946
PHONE # 321-724-9999 FAX # 321-728-7733
E-MAIL ADDRESS FREDBOOZERJR@GMAIL.COM
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION Part of E
1/2 OF East 1/2 OF NW 1/4 AS DESC IN ORB 2516 PG 550 EX ORB 2549 Pgs 798
SECTION 28 TOWNSHIP 37 RANGE 26
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 3.5 ± ACRES
- 4) CONDITIONAL USE SOUGHT: AMEND RESOLUTION NO-99-40 ALONG WITH
CURRENT REZONING
- 5) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.): RU-20
- 6) APPLICANT MUST PROVIDE A SITE PLAN SKETCH ON CD OR MEMORY DRIVE 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 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.

- (h) The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.
- (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, reasonable time limit within which the action for which special approval is requested shall be begun or completed, or both.

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

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

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

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

Submitted

- ☐ 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.
- ☒ 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.

- ☒ N/A Where property is not owned by the applicant, a letter must be attached giving the notarized consent of the owner for the applicant to request the conditional use.

- ☐ 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
CONDITIONAL USE 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
CONDITIONAL USE APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.**

Signature of Applicant



Date



Printed Name of Applicant



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

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

- PROPOSAL:** A rezoning from the RM-10, Single-, Two- and Multi-Family Residential Zoning District to the RM-20, Multiple Family Residential Zoning District.
- LOCATION:** Located in the vicinity NW or the intersection of San Filippo Drive SE and Jaslo Street SE. Specifically, the property is Tax Parcel 251.0; located in Section 9, Township 29 South, and Range 37 East.
- APPLICANT:** Alliance of Palm Bay, LLC.

SITE DATA

- PRESENT ZONING:** RM-10, Single-, Two- and Multi-Family Residential District
- ACREAGE:** 9.63 acres (\pm)
- DENSITY:** Ten (10) Units per Acre
- ADJACENT ZONING
& LAND USE:** **N** -- RM-10 District; Drainage Tract
E -- RM-10 District; Drainage Tract
S -- RM-10 District; Jaslo Street SE
W -- RM-10 District; Drainage Tract
- WATER & SEWER:** City Water & Sewer Available and Required
- FLOOD ZONE:** X, Area outside the 500-year flood zone
- COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Yes

BACKGROUND:

1. Located in the vicinity NW or the intersection of San Filippo Drive SE and Jaslo Street SE. Specifically, the property is Tax Parcel 251.0; located in Section 9, Township 29 South, and Range 37 East.
2. The adjacent zoning and land uses are as follows:

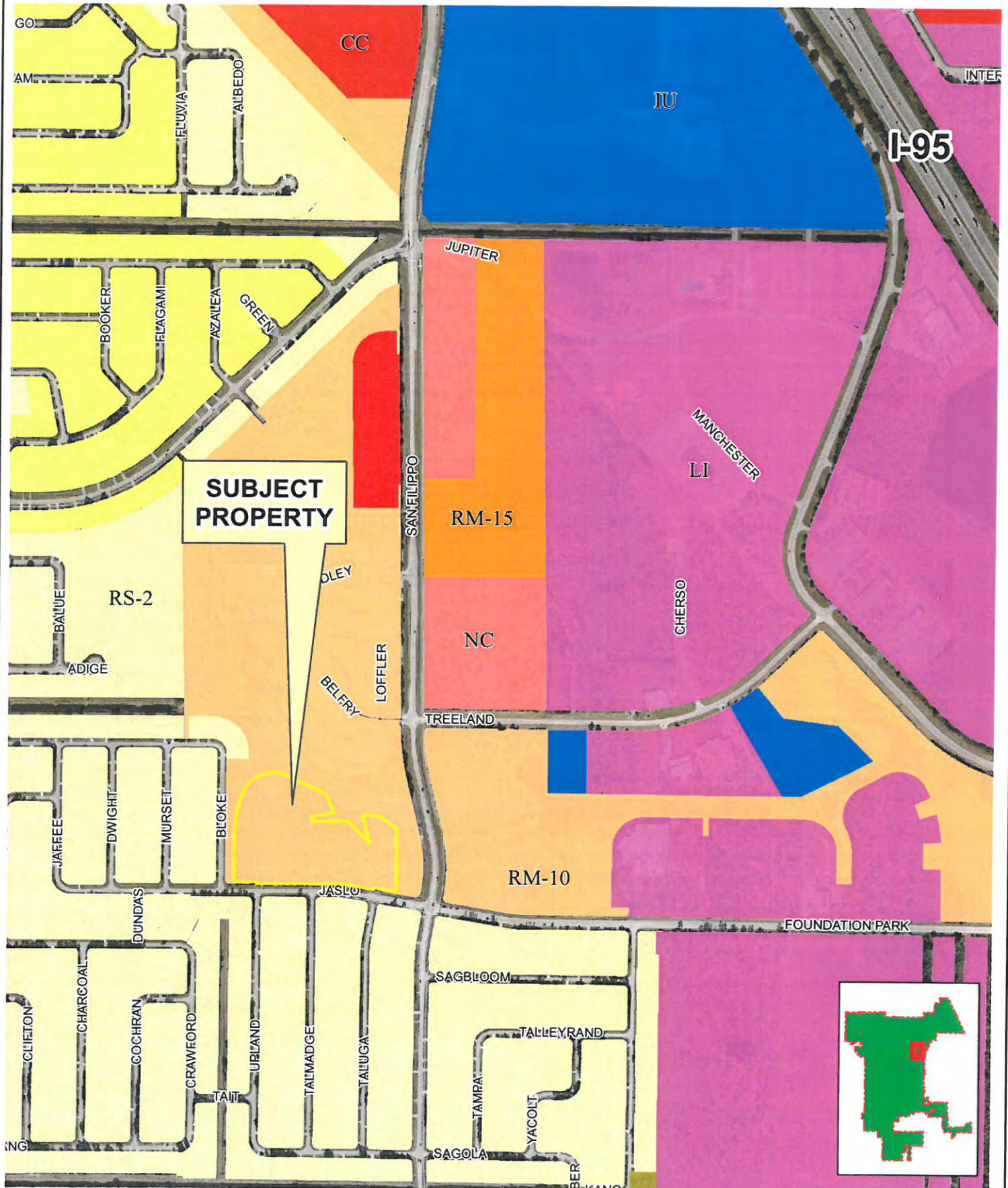
<u>NORTH:</u>	RM-10 District; Drainage Tract
<u>EAST:</u>	RM-10 District; Drainage Tract
<u>SOUTH:</u>	RM-10 District; Jaslo Street
<u>WEST:</u>	RM-10 District; Drainage Tract
3. A rezoning from the RM-10, Single-, Two- and Multi-Family Residential Zoning District to the RM-20, Multiple Family Residential Zoning District, in order to maximize the development potential of the site. The applicant for this request is Robert Cambo, Managing Member of Alliance Palm Bay, LLC. The size of the property is 9.63 acres.

ANALYSIS:

1. The subject property was originally forty (40) single family lots on four (4) named roadways and was a part of Port Malabar Unit 56. However, this portion of the subdivision was only created on "paper"; no public improvements were ever constructed. The portion of the subdivision plat that contained these forty lots was vacated via Resolution No. 99-43.
2. Surrounding the property on three (3) sides is Tract G-1, which was designated for drainage and temporary retention of stormwater runoff of the property included in the PMU 56 subdivision plat. The Tract is currently owned by Eastern Florida State College Foundation, Inc. Abutting the property to the south is Jaslo Street SE, with single family residential lots located across Jaslo to the south.
3. The subject parcel's Future Land Use designation is Multiple Family Residential Use, which allows for multiple family residential, at a range of 0-20 units per acre. Therefore, an amendment to the Comprehensive Plan Future Land Use Map is not required. The current zoning designation of RM-10 allows for a maximum of 10 units per acre. The applicant is requesting the RM-20 District in order to maximize the amount of student and workforce housing that they intend to develop upon the property.

STAFF CONCLUSION:

The Planning and Zoning Board and City Council must determine if the request is consistent with the city's development vision and whether or not the uses allowed under the RM-20 District regulations would be compatible with the surrounding area.

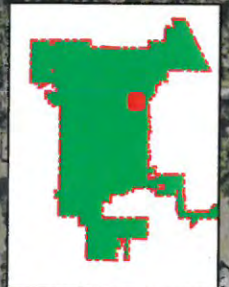


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division.



CASE NO. Z-40-2016



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

LOCATION MAP Z-40-2016



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

REZONING APPLICATION

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

1) NAME OF APPLICANT (Type or print) Alliance Palm Bay, LLC
ADDRESS 2601 South Bayshore Drive, Suite 100
CITY Miami STATE FL ZIP 33133
PHONE # 305-500-9440 FAX # 305-445-6100
E-MAIL ADDRESS rc@alliancecos.com and mr@alliancecos.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION

See Attached Legal Description Identified as Exhibit "A"

SECTION 9 TOWNSHIP 29 South RANGE 37 East

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 9.63 Acres

4) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.) RM-10 (1, 2, Multi-family Res.)

5) ZONE CLASSIFICATION DESIRED (ex.: IU, LI, etc.): RM-20 (Multiple Family Residential)

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

7) JUSTIFICATION FOR REZONING: To address under served demand for workforce housing

8) PRESENT USE OF THE PROPERTY: None. Vacant Parcel

9) INTENDED USE OF PROPERTY: Multiple Family Residential

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

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

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

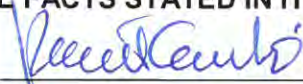
N/A WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE REZONING.

☒ 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 August 31, 2016

Printed Name of Applicant

Robert Cambo

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



DATE: November 2, 2016

CASE #: CP-24-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

COMPREHENSIVE PLAN AMENDMENT APPLICATION

PROPOSAL: Amend the Comprehensive Plan Future Land Use Map from Recreation and Open Space Use to Multiple Family Residential Use.

LOCATION: The two (2) parcels are located south of Jupiter Boulevard; west of San Filippo Drive; and north of the Park at Palm Bay Apartments. Specifically, Tax Parcels 1.0 & 2.0, of Port Malabar Unit 56, Section 4, Township 29 South, Range 37 East, Brevard County, Florida.

APPLICANT: San Filippo Cove, Inc. (William H. Benson, President)

SITE DATA

PRESENT ZONING: RM-10, Single-, Two- and Multi-Family Residential

**LAND USE
DESIGNATION:** Recreation and Open Space

ACREAGE: 0.27 Acres +/-

**ADJACENT ZONING
& LAND USE:**

N	-- RM-10, Single-, Two- and Multi-Family Residential; Vacant Land
E	-- RM-10, Single-, Two- and Multi-Family Residential; Vacant Land
S	-- RM-10, Single-, Two- and Multi-Family Residential; Vacant Land
W	-- RM-10, Single-, Two- and Multi-Family Residential; Vacant Land

BACKGROUND:

1. The two (2) parcels are located south of Jupiter Boulevard; west of San Filippo Drive; and north of the Park at Palm Bay Apartments. Specifically, Tax Parcels 1.0 & 2.0, of Port Malabar Unit 56, Section 4, Township 29 South, Range 37 East, Brevard County, Florida.
2. The parcels are surrounded by vacant land with an RM-10 Zoning Designation. These small slivers of land, totaling only 0.27 acres, were portions of a drainage tract (G-1) of the Port Malabar Unit 56 subdivision plat. They were designed to convey stormwater runoff from the adjacent Block 3024 and 3025, of the PMU 56 subdivision. However, these blocks were never developed.
3. The applicant purchased these parcels in order to complete the future development of the adjacent parcel, which is what became of the blocks mentioned above. The single family lots previously created in this portion of PMU 56 were vacated via Resolution No. 99-43. The applicant is requesting a small-scale Comprehensive Plan Future Land Use Map Amendment to change from Recreation and Open Space Use to Multiple Family Residential Use. The applicant for this request is William Benson.

ANALYSIS:

Availability of Public Facilities and Services:

Potable Water: Provided by the City of Palm Bay

Sanitary Sewer: Provided by the City of Palm Bay

Solid Waste: Provided by Waste Management

Parks & Recreation: The Recreation and Open Space Element of the City's Comprehensive Plan sets a Level of Service of 2 acres per 1,000 residents. The city maintains public ownership of park-designated lands that far exceeds this requirement. Even at an estimated build-out population of 300,000 persons, the city already has enough land to meet this parameter.

Drainage: The site is presently vacant and in its natural state. A stormwater drainage system will be required for development and approved by the St. Johns River Water Management District. This system will also be reviewed by the city and approved during the administrative site plan review process.

Transportation: The applicant intends to develop these small parcels as part of a larger multi-family residential development. They will be incorporated into the overall design. The parcels in and of themselves will not cause any traffic concerns.

Public Schools: There currently exists sufficient school capacity for the property.

Environmental Resources:

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

Coastal High Hazard Zone:

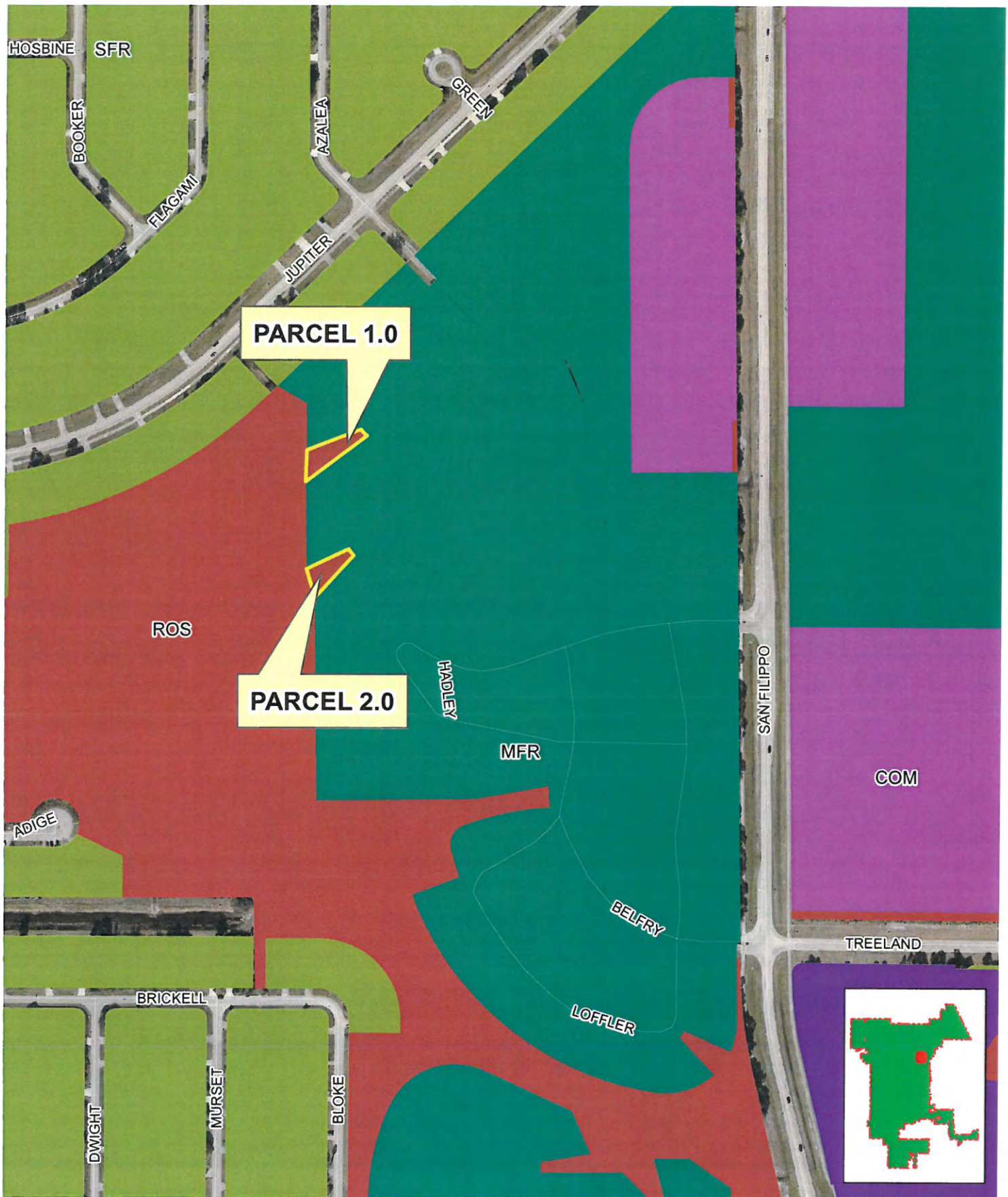
The subject property is not located within the Coastal High Hazard Zone or the current surge area.

Historic Resources:

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

STAFF CONCLUSION:

Motion to approve Case No. CP-24-2016, pursuant to Chapter 163, Florida Statutes.

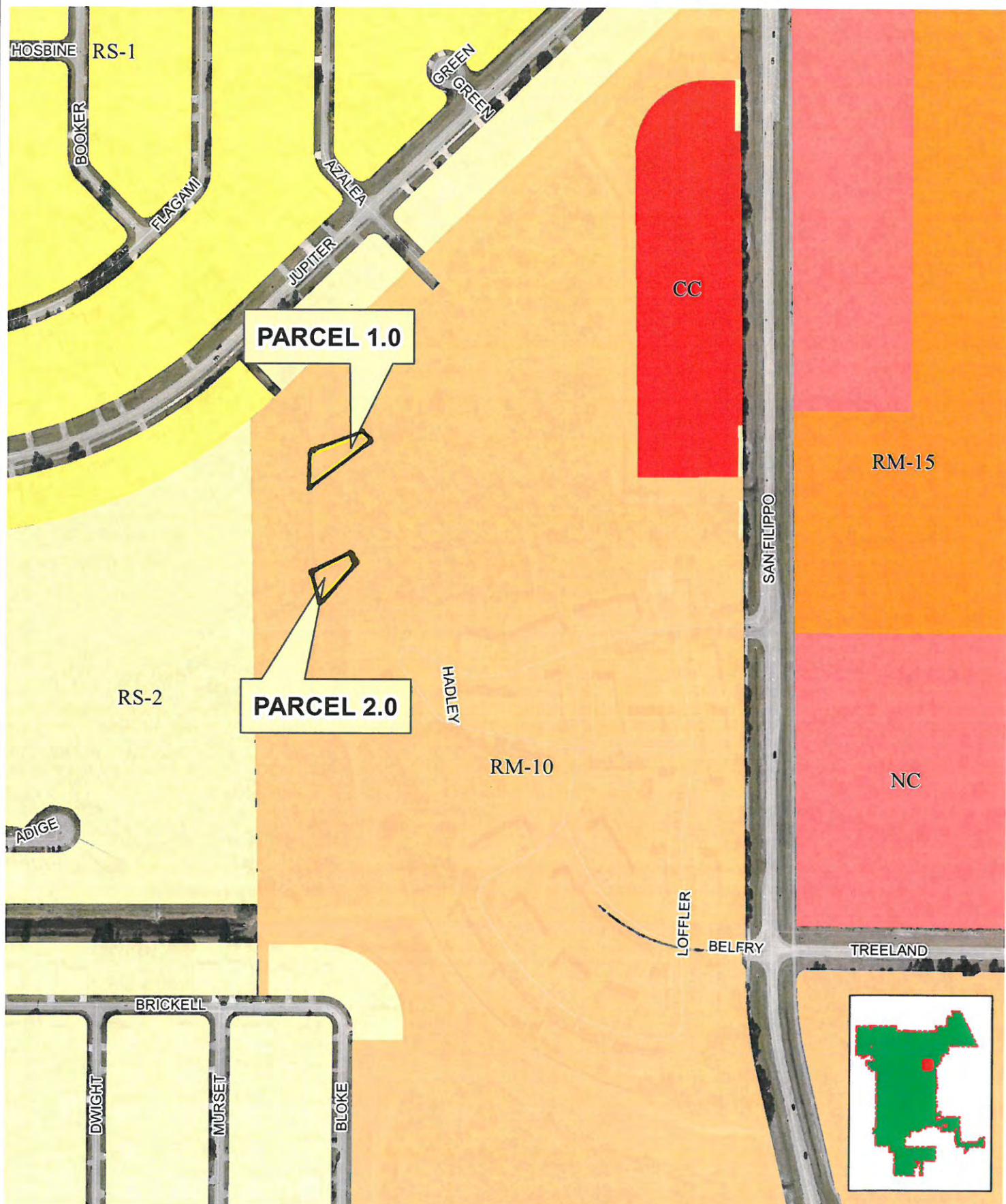


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-24-2016



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-24-2016



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

COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION

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

- 1) NAME OF APPLICANT (Type or print) San Filippo Cove, Inc.
ADDRESS 4780 Dairy Road, Suite 103
CITY Melbourne STATE florida ZIP 32904
PHONE # 321.984.0999 FAX # 321.984.9796
E-MAIL ADDRESS whb@whbenson.com
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION _____
tax accounts #2959881 and 2959882/see attached tax cards/legal descriptions

SECTION 04 TOWNSHIP 29 RANGE 37
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 0.27
- 4) LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.): recreation and open space
- 5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE: MFR (multifamily residential)

- 6) PRESENT USE OF THE PROPERTY: none/vacant land
- 7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: no
- 8) HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:
yes

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

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

- 9) JUSTIFICATION FOR CHANGE (attach additional sheets containing supporting documents and evidence if necessary): achieve highest and best use and make the (FLU) consistent with the multifamily zoning

- 10) SPECIFIC USE INTENDED FOR PROPERTY: future multifamily residential use

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

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

- ☐ **Large Scale Map Amendment** (10 acres or more) \$1,600.00 ☐ **Text Amendment** (Comp. Plan) \$1,600.00
☒ **Small Scale Map Amendment** (Less than 10 acres) \$1,000.00 ☐ **Special Amendment Cycle** \$4,000.00

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

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

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

____ 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.

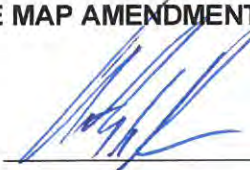
 x IN ORDER TO DISCLOSE ALL PARTIES SEEKING THIS APPROVAL, COMPLETE THE ATTACHED DISCLOSURES OF OWNERSHIP INTERESTS FORMS FOR PROPERTY OWNERS AND/OR APPLICANTS IN REFERENCE TO RESOLUTION 2008-19.

**CITY OF PALM BAY, FLORIDA
COMPREHENSIVE PLAN 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

10-14-16

Printed Name of Applicant

William H. Benson, President, San Filippo Cove Inc.

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



DATE: November 2, 2016
CASE #: CPZ-24-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

PROPOSAL: Rezoning from the RM-10, Single-, Two- and Multi-Family Residential Zoning District to the RM-20, Multiple Family Residential Zoning District.

LOCATION: The subject parcels are located south of Jupiter Boulevard; west of San Filippo Drive; and north of the Park at Palm Bay Apartments. Specifically, Tract G-2; Tax Parcels 1-5, of Tract G-2; Tax Parcel 1 & 2 of Tract G-1; and Tax Parcel 510.0; all of which are located in Section 4, Township 29 South, Range 37 East, Brevard County, Florida.

APPLICANT: San Filippo Cove, Inc. (William H. Benson, President)

SITE DATA

PRESENT ZONING: RM-10, Single-, Two- and Multi-Family Residential

LAND USE

DESIGNATION: Multiple Family Residential Use

ACREAGE: 18.94 Acres +/-

ADJACENT ZONING

& LAND USE:

- N** -- RS-2, Single Family Residential; Single Family Homes
- E** -- CC, Community Commercial; Vacant Land
- S** -- RM-10, Single-, Two- and Multi-Family Residential; The Park at Palm Bay Apartments
- W** -- RM-10, Single-, Two- and Multi-Family Residential; Vacant Land

WATER & SEWER: City Water & City Sewer Required

FLOOD ZONE: Portions of the site are in Floodzone "A" and a CLOMA will be required.

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:**

Yes, subject to approval of CP-24-2016

BACKGROUND:

1. The subject parcels are located south of Jupiter Boulevard; west of San Filippo Drive; and north of the Park at Palm Bay Apartments. Specifically, Tract G-2; Tax Parcels 1-5, of Tract G-2; Tax Parcel 1 & 2 of Tract G-1; and Tax Parcel 510.0; all of which are located in Section 4, Township 29 South, Range 37 East, Brevard County, Florida.
2. The adjacent zoning and land uses are as follows:

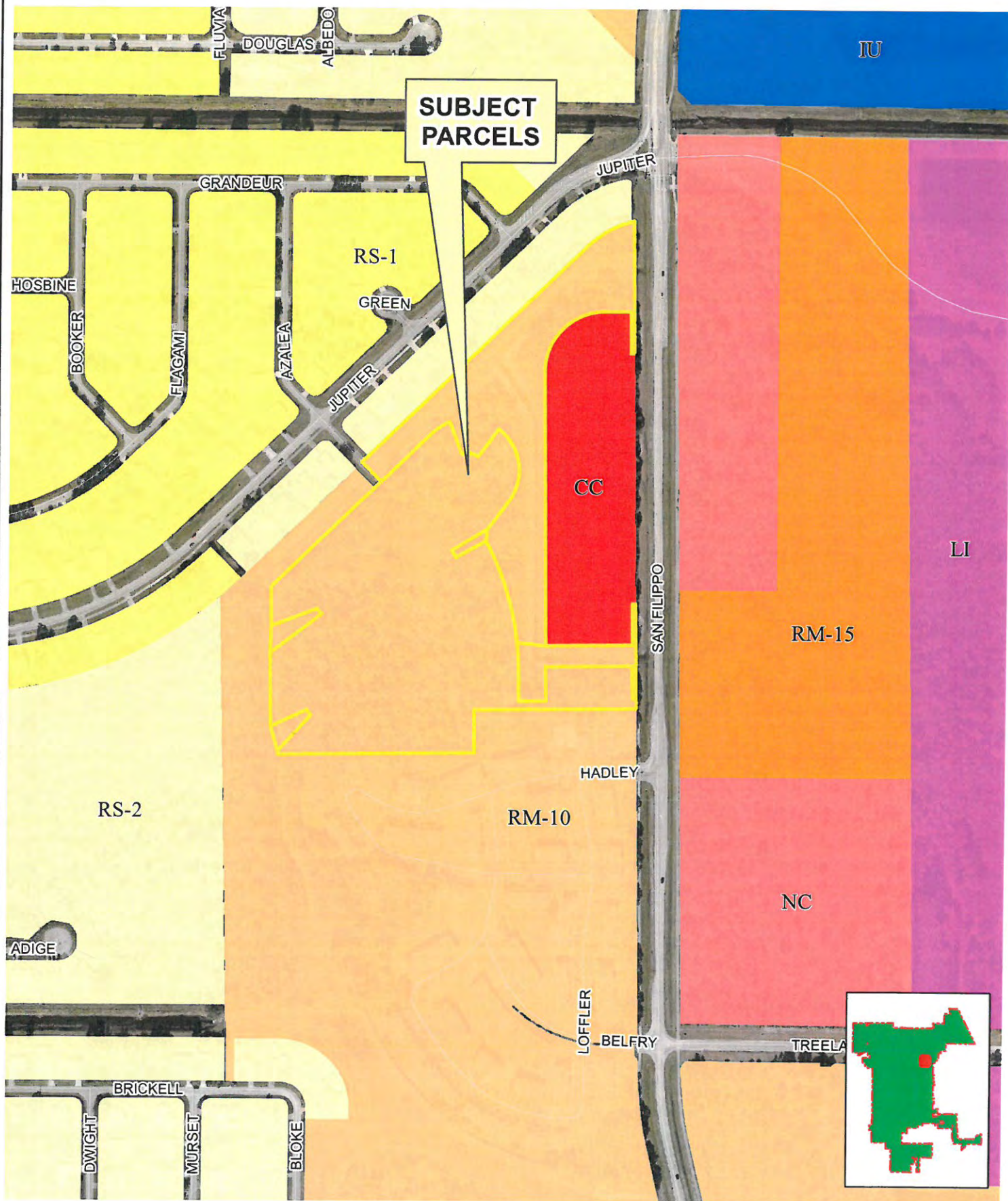
North: RS-2, Single Family Residential; Single Family Homes
East: CC, Community Commercial; Vacant Land
South: RM-10 District; the Park at Palm Bay Apartments
West: RM-10, Single-, Two- and Multi-Family Residential; Vacant Land
3. The applicant is requesting a rezoning from the RM-10, Single-, Two- and Multi-Family Residential Zoning District to the RM-20, Multiple Family Residential Zoning District. The applicant for this request is William H. Benson, President of San Filippo Cove, LLC.

ANALYSIS:

1. The provisions of the RM-20 Zoning District are intended to apply to an area of high-density residential development. Lot, height, and other restrictions are intended to accommodate an intense degree of development, maintaining adequate amounts of open space for residential uses. Some nonresidential uses compatible with the character of the district are allowed.
2. The subject property is located west of and adjacent to San Filippo Drive, which is designated as a Major Collector Roadway on the Palm Bay Comprehensive Plan. Running through the eastern portion of the property is an existing drainage ditch that conveys stormwater runoff from the surrounding lands. The applicant intends on leaving this land intact and using its acreage as a density transfer to the "buildable" portion of the property.
3. During the administrative site plan review process for the development of this overall property, the city will require a perpetual drainage easement to be recorded atop the existing drainage ditch.
3. The request for this zoning district has been submitted in order to be maximize the development potential of the property. The applicant has informed staff that they intend to develop the property for student and workforce housing.

STAFF CONCLUSION:

The Planning and Zoning Board and City Council must determine if the request is consistent with the city's development vision and whether or not the uses allowed under the RM-20 District regulations would be compatible with the surrounding area.

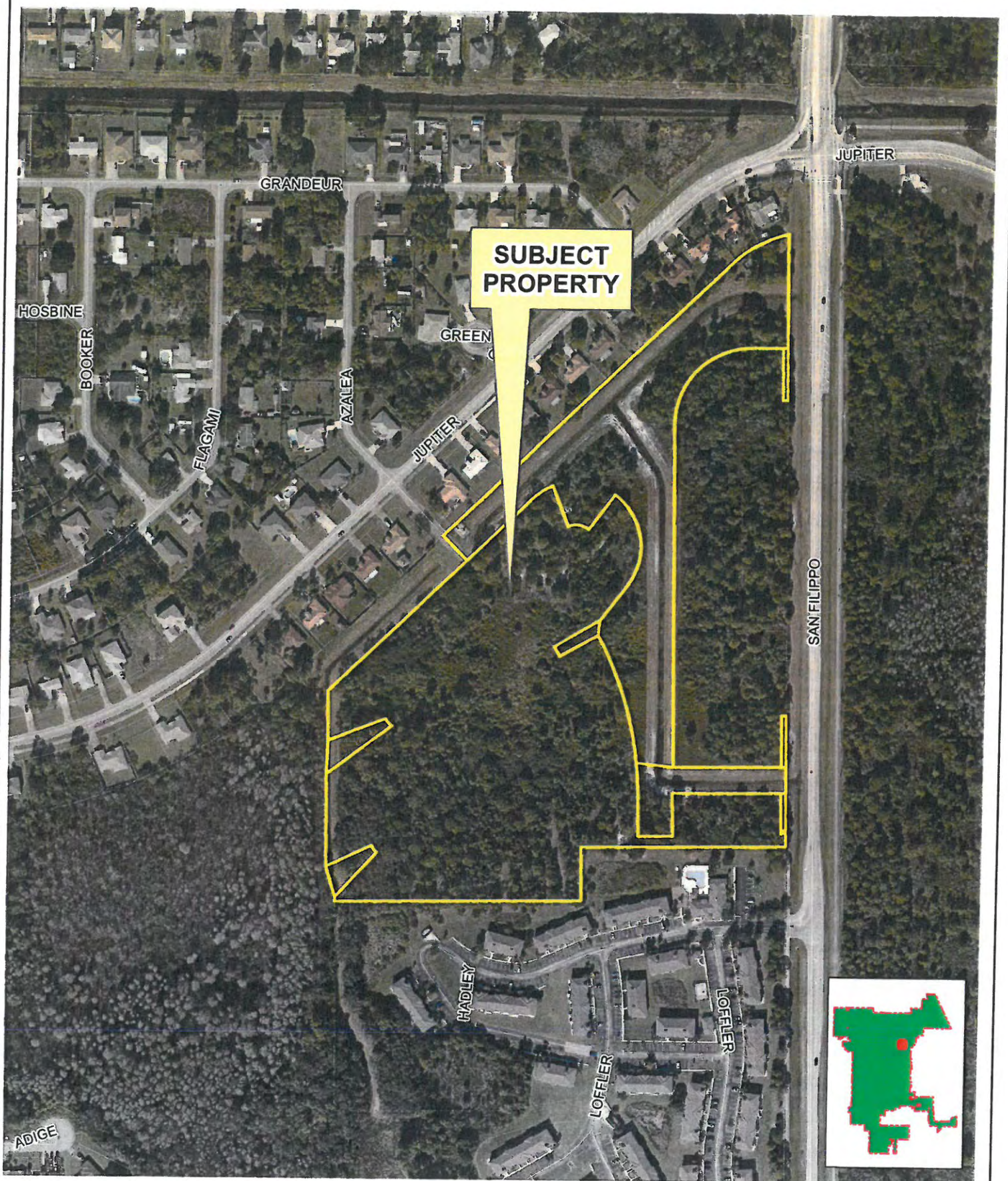


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



CASE NO. CPZ-24-2016



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

Map created by the Land Development Division



CASE NO. CPZ-24-2016



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

REZONING APPLICATION

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

1) NAME OF APPLICANT (Type or print) San Filippo Cove, Inc.
ADDRESS 4780 Dairy Road, Suite 103
CITY Melbourne STATE Florida ZIP 32904
PHONE # 321.984.0999 FAX # 321.984.9796
E-MAIL ADDRESS whb@whbenson.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION

see attached legals and tax account numbers

SECTION 04 TOWNSHIP 29 RANGE 37

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 18.94

4) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.) RM-10

5) ZONE CLASSIFICATION DESIRED (ex.: IU, LI, etc.): RM-20

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

7) JUSTIFICATION FOR REZONING: achieve highest and best use

8) PRESENT USE OF THE PROPERTY: none. vacant land

9) INTENDED USE OF PROPERTY: multifamily developmentx

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: _____

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

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

 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

9-27-16

Printed Name of Applicant

William H. Benson, President

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



DATE: November 2, 2016
CASE #: CP-25-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

COMPREHENSIVE PLAN TEXTUAL AMENDMENT APPLICATION

PROPOSAL: A Comprehensive Plan amendment to the Future Land Use Element related to density cap for Policy 8.3I, Palm Vista

CODE CITATION: N/A Comprehensive Plan Amendment

APPLICABILITY: Palm Vista - 1,698.30 acres

APPLICANT: Len-Palm Vista, LLC (Scott Glaubitz, Rep.)

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** The application is for a textual amendment to the Future Land use Element, not to the Code of Ordinances.

BACKGROUND:

Palm Vista is a proposed 1,698.30 acre development located along the new St. Johns Heritage Parkway west of I-95. It is served by several east-west connecting roadways including Emerson Drive, Pace Drive, and Malabar Road. Previously, a plan amendment was performed amending the Future Land Use Map (FLUM) for approximately 584 acres to Single Family Residential, however the textual policy 8.3I was adopted capping the residential density at 1,754 dwelling units.

An addition to the 584 acres of residential property included in this amendment, additional parcels have included been added for recreation/open space; school site; and commercial uses. Additional surrounding parcels were added to the project to bring the current project site to the 1,698.30 acres.

ANALYSIS:

The adopted Future Land Use Map places the single family residential density at 0 to 5 dwelling units per acre. However, the Future Land Use Element a textual policy 8.3I limits the total density to 1,754 dwelling units. The proposed amendment would increase the maximum density to 4,000 dwelling units.

The City has finished construction of the St. Johns Heritage Parkway providing a new arterial roadway through the subject property. The City Utilities Department is currently under design for the extension of both potable water and sanitary sewer service to the subject property. The engineering design is completed and permit application is scheduled November 2016.

STAFF FINDINGS:

The proposed increase in residential density to 4,000 dwelling units is less than the maximum 8,490 dwelling unit maximum allowed by the Future Land Use category of Single Family Residential. Infrastructure improvements have been constructed or are funded for construction within the next five years. The applicant will be required to provide a traffic impact analysis to demonstrate thee trip distribution through the roadway network. A future application will need to be filed to achieve the Planned Unit Development (PUD) zoning for consistency with the proposed amendment.

PROPOSED AMENDMENT

FLU-8.31 The following special conditions shall be applicable to Case No. ~~CP-14-2003~~ CP-25-2016 adopted by City Council as Ordinance No. ~~2004-54~~. 2016-XX

1. Maximum residential density is capped at ~~1,754~~ 4,000 residential units.



CASE NO. CP-25-2016



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

COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION

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

1) NAME OF APPLICANT (Type or print) Len-Palm Vista, LLC

ADDRESS 6750 Forum Drive, Suite 310

CITY Orlando STATE FL ZIP 32821

PHONE # 407-586-4060 FAX # _____

E-MAIL ADDRESS Keith.Malcuit@Lennar.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION _____

Refer to Sketch & Description

SECTION 20, 21, 28, 29 TOWNSHIP 28S RANGE 36E

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): +/- 1,698.30

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

5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE: An amendment to Future Land Use Element Policy 8.31 to increase residential density cap to 4,000 dwelling units.

6) PRESENT USE OF THE PROPERTY: Vacant Land

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

8) HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:
No

(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): _____

Proposed change does not exceed maximum density allowed by acreage / Future Land Use category.

- 10) SPECIFIC USE INTENDED FOR PROPERTY: Residential

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

X *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

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

N/A 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: _____

N/A 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 COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT.

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

X Parcel Acreage Exhibit

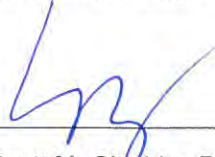
X Sketch & Description

**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

10.17.16

Printed Name of Applicant

Scott M. Glaubitz, P.E., P.L.S., President of BSE Consultants, Inc.

(Authorized Agent for Keith Malcuit, Len-Palm Vista, LLC)

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

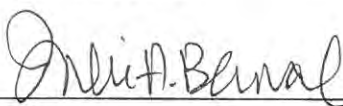
AUTHORIZATION TO ACT AS AGENT

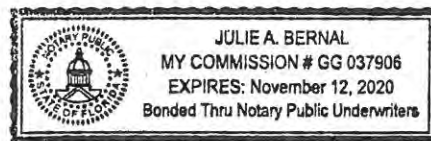
I, Mr. Keith Malcuit, Authorized Agent of Len-Palm Vista, LLC and which Len-Palm Vista, LLC, owns the property, hereby authorize Scott M. Glaubitz, P.E., P.L.S., President, of B.S.E. Consultants, Inc., to act as agent in all permitting and certification matters for Palm Vista (subdivision) in Palm Bay, Brevard County, Florida. This authorization shall include all engineering and permitting services for this subdivision. In addition, I authorize the above listed agent to bind me, or my corporation, to perform any requirements which may be necessary to procure permits or authorizations.


Signature

Keith Malcuit, Authorized Agent
Len-Palm Vista, LLC

Sworn to and subscribed before me this 17th day of October, 2017, by Keith Malcuit who is personally known to me and who (did) (did not) take an oath.

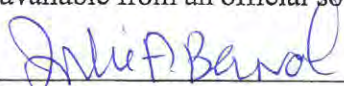

NOTARY PUBLIC AT LARGE

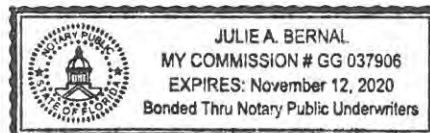


(SEAL)

STATE OF FLORIDA,
COUNTY OF BREVARD

On this 18th day of October, 2017, I attest that the preceding document is a true, exact, complete, and unaltered photocopy made by me of the AUTHORIZATION TO ACT AS AGENT presented to me by the document's custodian, Scott M. Glaubitz, P.E., P.L.S. and, to the best of my knowledge, that the photocopied document is neither a public record nor a publicly recordable document, certified copies of which are not available from an official source other than a notary public.


NOTARY PUBLIC AT LARGE





DATE: November 2, 2016
CASE #: CP-26-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

COMPREHENSIVE PLAN TEXTUAL AMENDMENT APPLICATION

PROPOSAL: Comprehensive Plan Amendments to the Future Land Use Element Map Series related to Urban Service Boundaries; Capital Improvements Element adding and removing capital projects for consistency with the City's adopted Capital Improvement Program; Transportation Element Map Series amending Roadway Functional Classifications and Future Transportation Map Series; and Transportation Element Policy tC-1.4F.

CODE CITATION: N/A Comprehensive Plan Amendment

APPLICABILITY: Citywide

APPLICANT: City of Palm Bay (Growth Management Department)

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** The application is for a textual amendment to the Future Land use Element, not to the Code of Ordinances.

BACKGROUND:

The City's adopted Comprehensive Plan includes the several policies and map series that have not been updated, in many cases for five to ten years. The proposed amendments will help bring consistency between the City Comprehensive Plan; the recognize new roadway and utility construction or the budgeted funding for extension of infrastructure within the next 5 years; the related extension of the City's Urban Boundaries; and update the Transportation Element and Map Series to reflect the St. Johns Heritage Parkway.

ANALYSIS:

Future Land Use Element Map Series related to Urban Service Boundaries:

The proposed amendment will add the Calumet Farms property owned by Babcock LLC of approximately 2,092 acres abutting and on the west side of Babcock Street. This inclusion is support by the planned extension of utility service; the construction of the new I-95 interchange; the connection to Babcock Street by the new St. Johns Heritage Parkway; and the subsequent re-classification of that segment of Babcock Street from a Major Collector to a Minor Arterial roadway.

Capital Improvements Element (CIE) adding and removing capital projects for consistency with the City's adopted Capital Improvement Program:

The proposed amendments will add projects to the CIE for consistency with the City's adopted Capital Improvements Plan (CIP) and recognize grant funding opportunities by inclusion of certain capital projects.

Transportation Element Map Series amending Roadway Functional Classifications and Future Transportation Map Series:

The proposed amendment will recognize the new construction of the St. Johns Heritage Parkway (two segments), and the connecting roadway Emerson Drive and its future widening at the Parkway intersection.

Transportation Element Policy TC-1.4F:

The proposed amendment will recognize the preparation PD & E study required for Federal Highway funding for the future St. Johns Heritage Parkway from Babcock Street to Malabar Road. The PD&E study must be performed to the Federal National Environmental Protection Act (NEPA) standards for consideration for Federal funding for right of way acquisition and roadway construction. This will reduce fiscal impact to the City. From this PD & E the preferred alignment will be determined and consideration by the City Council.

STAFF FINDINGS:

The proposed amendments will bring the Comprehensive Plan into consistency with City's Capital Improvement Plan; the proposed submittals to the Space Coast Transportation Planning Organization (TPO) and Florida Department of Transportation (FDOT) to amend the Federal Functional Classification Map; the adjustment of the City's Urban Service Boundary to include Calumet Farms; and the recognition of the PD & E requirements to Federal NEPA standards to determine a preferred alignment for the final segment of the St. Johns Heritage Parkway to allow for Federal roadway funding to reduce fiscal impacts to the City.

PROPOSED AMENDMENTS

Transportation Element Policy TC-1.4F:
II GOALS, OBJECTIVES AND POLICIES (cont.)
POLICIES (cont.):

The land development regulations shall include a Transportation Corridor Management Ordinance for the southern extension (south of Malabar Road) of the Palm Bay Parkway ~~Parkway consistent with the Recommended Alignment established by the Palm Bay Parkway Extension Preferred Corridor map adopted in the Future Transportation Map Series.~~ A consistent alignment shall be defined as a 200' right-of-way corridor extending from Malabar Road on the northern end Interstate 95 on the southeastern end ~~and shall be identified by a legal description within the Ordinance. The Transportation Corridor Management Ordinance shall be adopted prior to the City granting any development permits for projects within the corridor identified on Future Transportation Map Series Map #8.~~ The alignment shall be based upon the preferred alignment of a PD & E study conducted to Federal NEPA standards.

TRANSPORTATION IMPROVEMENTS

1. St. John's Heritage Parkway – PD & E Trans. Element Policy 1.1A

Project Description:

PD & E study for arterial roadway, from Malabar Road south to Babcock Street

Fiscal Year Ending Sept. 30, 2016	2017	2018	2019	2020	Total
Local		\$450,000			\$450,000
Total		\$450,000			\$450,000

2. St. John's Heritage Parkway – ROW Acq. Trans. Element Policy 1.1A

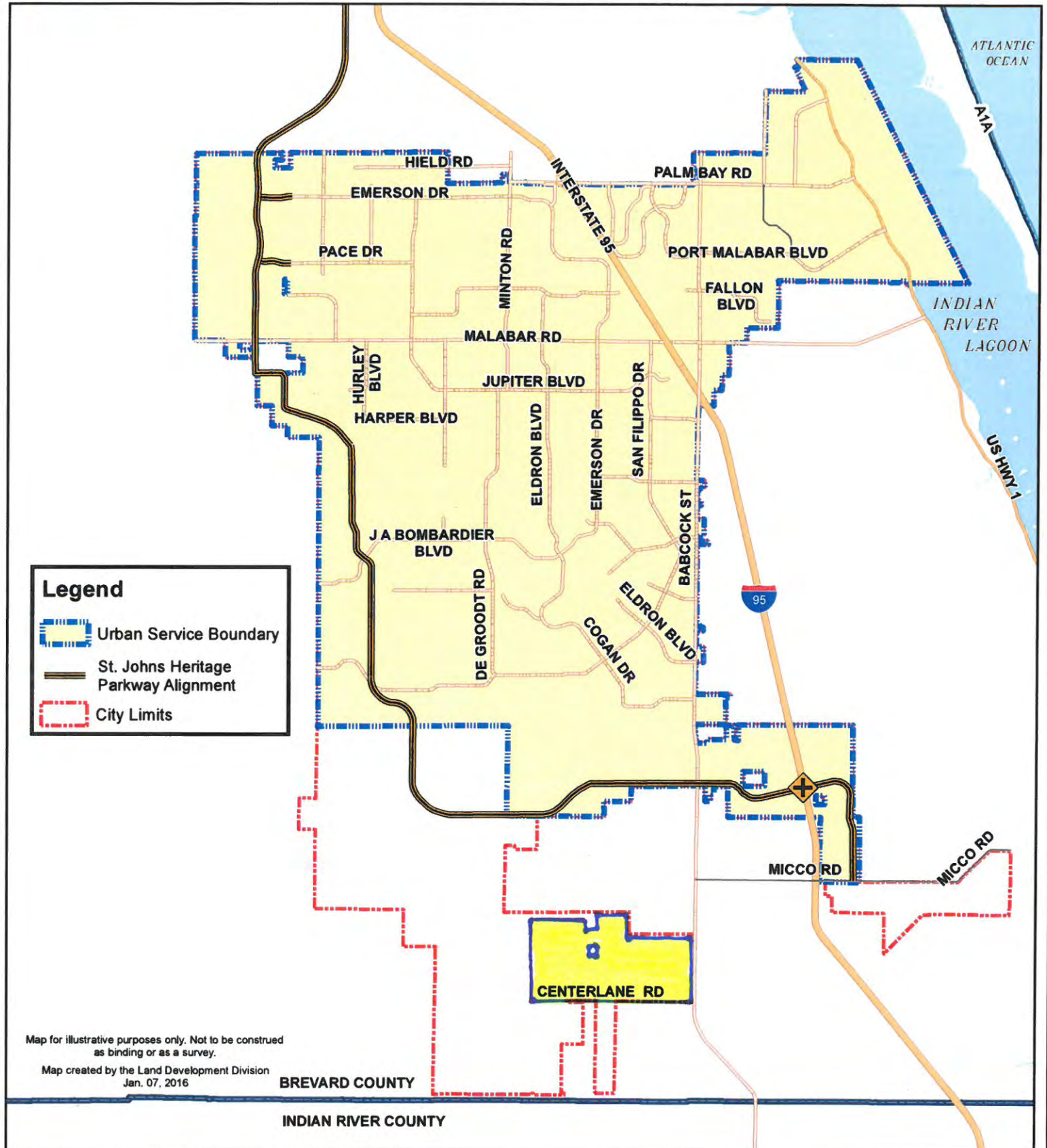
Project Description:

ROW acquisition for arterial roadway, from Malabar Road south to Babcock Street

Fiscal Year Ending Sept. 30, 2016	2017	2018	2019	2020	Total
State & Local Match		\$6,000,000			\$6,000,000
Total		\$6,000,000			\$6,000,000



City of Palm Bay - Comprehensive Plan EAR Amendments 2016



1 0.5 0 1
Miles

URBAN SERVICE BOUNDARY



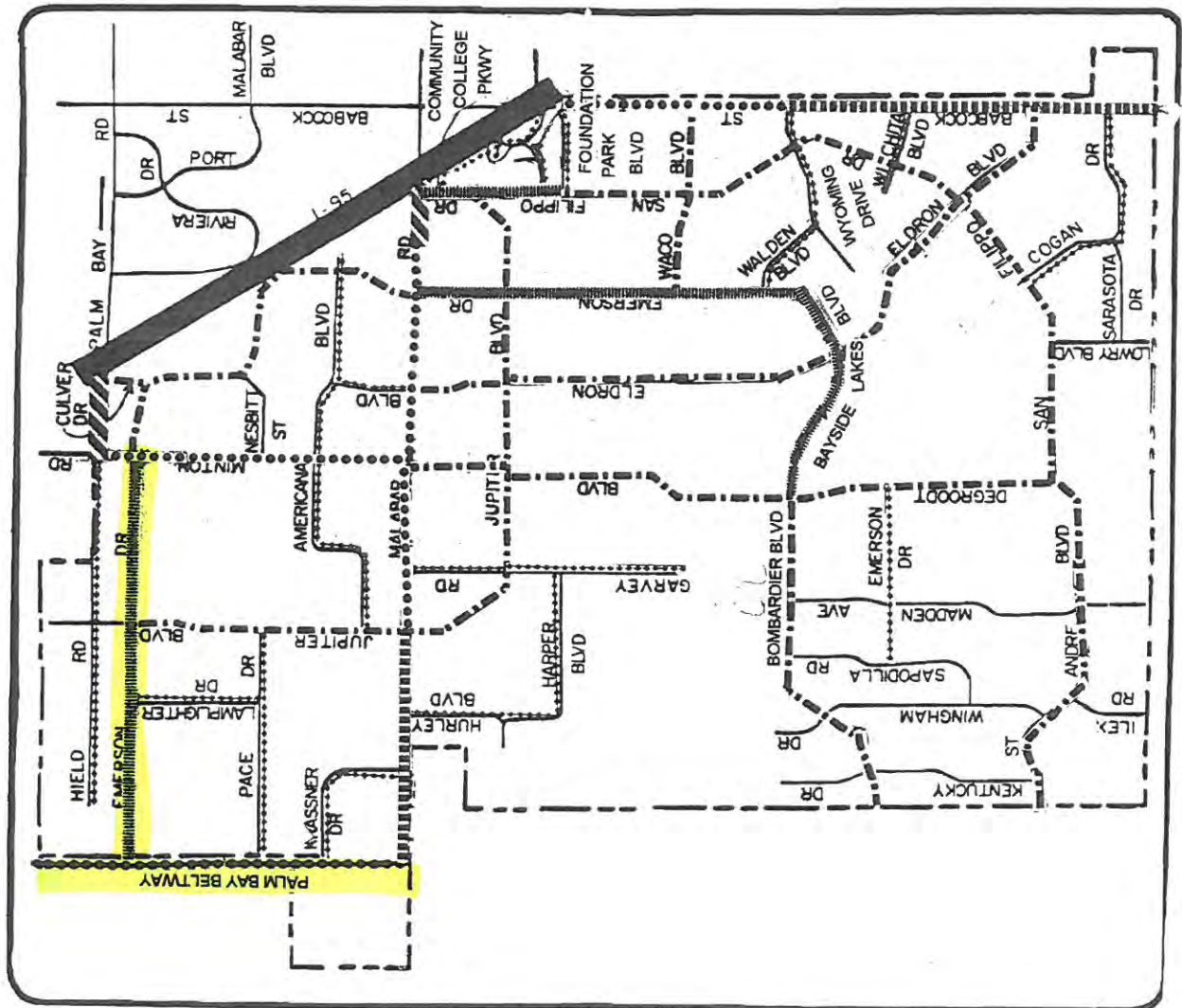
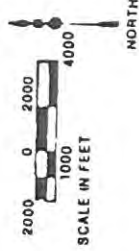
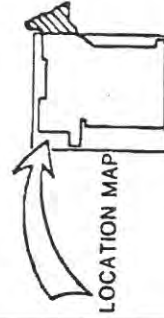
FUTURE TRANSPORTATION
MAP SERIES

MAP # 1B

2011

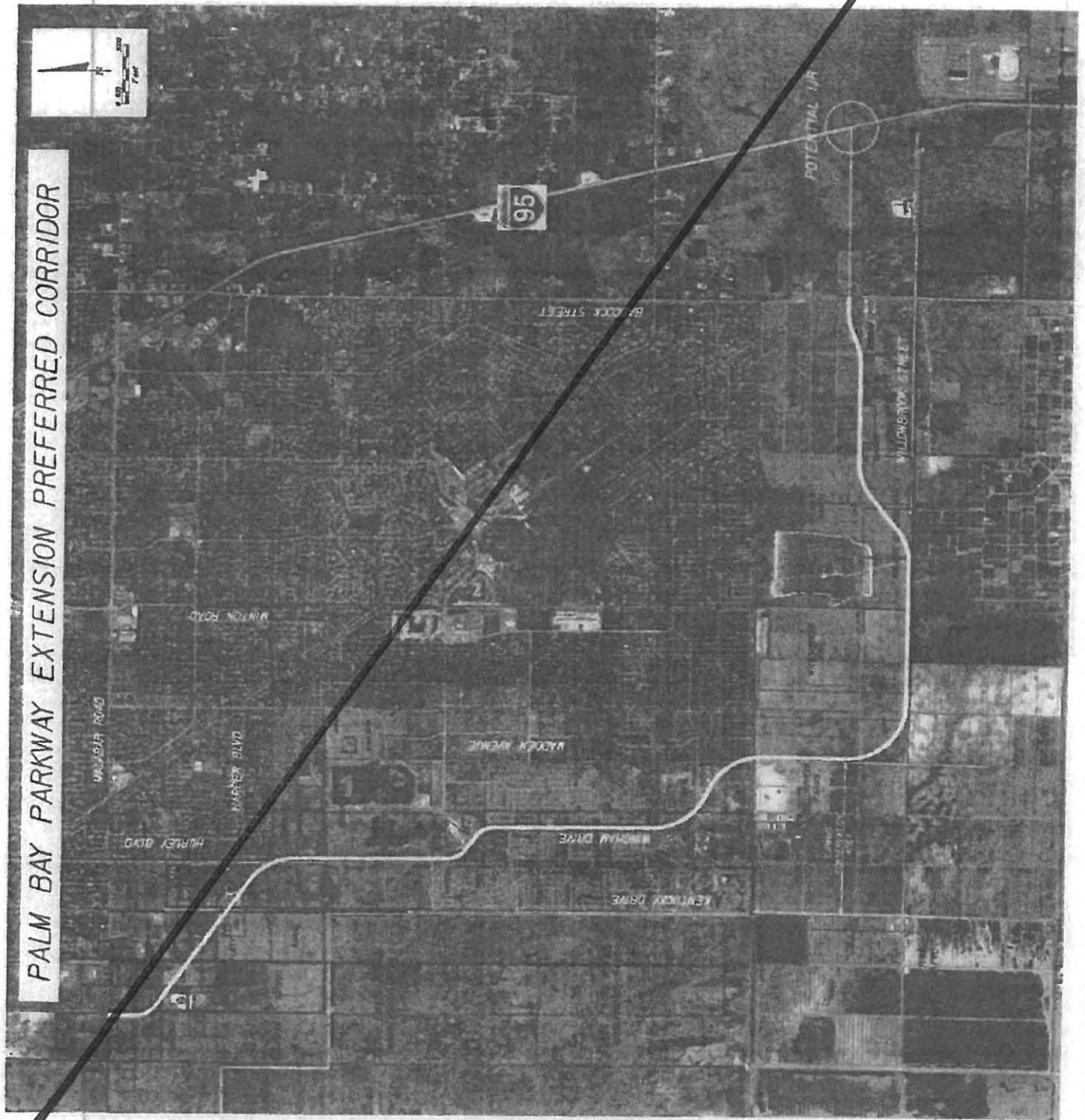
FUNCTIONAL
CLASSIFICATION
(West of I-95)

- 6-Lane Expressway - Divided
- 6-Lane Arterial - Divided
- 4-Lane Arterial - Divided
- 2-Lane Arterial
- 4-Lane Collector - Divided
- 2-Lane Collector - Divided
- 2-Lane Major Collector
- 2-Lane Minor Collector



~~FUTURE TRANSPORTATION MAP SERIES~~

~~Map #8~~





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

COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION

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

- 1) NAME OF APPLICANT (Type or print) City of Palm Bay (Growth Management Department)
ADDRESS 120 Malabar Road SE
CITY Palm Bay STATE FL ZIP 32907
PHONE # (321) 733-3041 FAX # (321) 953-8920
E-MAIL ADDRESS stuart.buchanan@palmbayflorida.org
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION N/A

SECTION _____ TOWNSHIP _____ RANGE _____
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): N/A
- 4) LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.): See attached
- 5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE: See attached
- 6) PRESENT USE OF THE PROPERTY: N/A
- 7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: N/A
- 8) HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:
N/A

(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): To amend the Future Land Use Element Map Series; Capital Improvements Element; Transportation Element Map Series; and Transportation Element Policy TC-1.4E and TC-1.4F.

- 10) SPECIFIC USE INTENDED FOR PROPERTY: N/A

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

N/A *Application Fee. Make check payable to "City of Palm Bay."

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

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

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

☐ Special Amendment Cycle \$4,000.00

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

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

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

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

- N/A WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT.

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

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

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

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

Signature of Applicant



Date

September 30, 2016

Printed Name of Applicant

Stuart Buchanan, Growth Management Director

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



DATE: November 2, 2016

CASE #: T-41-2016

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

TEXTUAL AMENDMENT APPLICATION

PROPOSAL: A textual amendment to the Code of Ordinances, in order to revise procedures.

CODE CITATION: Sections 51.04, 170.050, 170.051, 179.033, 185.006, 185.043, 185.044, 185.048, 185.059, 185.066, 185.067, 185.071, 185.118, 185.158, 185.159, 185.160, 185.161, 185.162, 185.200, 185.201, 185.202, and 185.203

APPLICABILITY: Citywide

APPLICANT: City of Palm Bay (Growth Management Department)

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** The proposed Code amendments are consistent with the Comprehensive Plan.

BACKGROUND:

The subject chapters in the Code of Ordinances includes several references adopted in the 1972 Code prepared by General Development Corporation.

ANALYSIS:

The proposed amendments will update the existing Code to similar procedures adopted by local municipalities.

STAFF FINDINGS:

The proposed textual amendments will provide internal consistency, consistency with the Comprehensive Plan, and adopt procedures similar to our neighboring municipalities.

PROPOSED AMENDMENT

51.04 WITHDRAWALS.

In the event an applicant withdraws a matter that has been advertised for a public hearing, any re-application for ~~neither~~ such matter nor a matter with similar issues shall be required to meet all public notification requirements, including but not limited to: re-advertisement, courtesy notices, and posting of the property. ~~, refiled again with the City Council or a board for a period of six (6) months from the date of the public hearing from which it was withdrawn.~~

('74 Code, § 2-54) (Ord. 82-15, passed 2-4-82; Am. Ord. 2006-57, passed 6-1-06)

170.050 ADOPTED.

(A) *The International Property Maintenance Code, 2015*, as adopted by the International Code Congress, exclusive of Section 111, Means of Appeals, contained therein, is adopted as the property maintenance code for the city, and is, by reference, incorporated herein and made a part of this section as if fully set forth herein.

(B) The city's administrative amendments to the International Property Maintenance Code are hereby adopted, and by reference, incorporated herein as Exhibit B and made a part of this section as if fully set forth herein.

('74 Code, § 8-70) (Ord. 70-15, passed 9-3-70; Am. Ord. 75-19, passed 6-19-75; Am. Ord. 78-36, passed 12-7-78; Am. Ord. 83-15, passed 3-17-83; Am. Ord. 85-55, passed 9-17-85; Am. Ord. 87-31, passed 7-16-87; Am. Ord. 87-42, passed 1-7-88; Am. Ord. 90-06, passed 1-18-90; Am. Ord. 92-08, passed 3-19-92; Am. Ord. 2002-36, passed 5-16-02; Am. Ord. 2015-33, passed 8-6-15)

170.051 ENFORCEMENT.

The provisions of this subchapter shall be enforced by the City Manager ~~Building Official~~, or ~~licensed~~ designee, of the city.

('74 Code, § 8-71) (Ord. 70-15, passed 9-3-70; Am. Ord. 75-19, passed 6-19-75; Am. Ord. 78-36, passed 12-7-78; Am. Ord. 83-15, passed 3-17-83; Am. Ord. 2002-36, passed 5-16-02)

179.033 ROADWAY SURFACING

For any block face with 50% or less of the platted lots being undeveloped, the road surface may be pulverized at the discretion of the City Engineer.

185.006 DEFINITIONS.

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

COMMERCIAL VEHICLE. Any truck, bus, trailer, portable equipment, machinery, or similar vehicle or combination thereof used or intended to be used for any commercial enterprise or business purpose, or which has over four (4) wheels, more than two (2) axles, a height greater than eight (8) feet or has an overall length of more than twenty-two (22) feet, excluding self-propelled roadway vehicles less than six thousand (6,000) pounds net weight and pickup trucks with a standard pickup truck bed with a carrying capacity no greater than one and one-half (1.5) ton gross weight ~~five thousand (5,000) pounds gross weight.~~

SUBMERGED LANDS. Submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters. Privately owned submerged lands may be utilized for the calculation of density and intensity of residential and commercial development.

§ 185.043 CC — COMMUNITY COMMERCIAL DISTRICT.

(A) *Intent.* The purpose of the community commercial district shall be to locate and establish areas within the city which are deemed to be uniquely suited for the development and maintenance of community commercial facilities, the areas to be primarily located in or near the intersection of arterial roadways; to designate those uses and services deemed appropriate and proper for location and development within the subject district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district.

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

- (1) Retail stores, sales and display rooms (not including lumber and building supply, and similar uses).
- (2) Personal service establishments such as beauty and barber, laundry and dry cleaning pick-up stations, and the like.
- (3) Professional offices, studios, clinics, general offices, government office, business schools and similar uses.
- (4) Schools, libraries, churches and similar uses.
- (5) Day care centers.
- (6) Restaurant, eating and drinking establishments (including a drive-through).
- (7) Public utility equipment and facilities.
- (8) Banks and financial institutions with or without drive-through facilities.
- (9) Business service establishments.
- (10) Clubs, lodges, and fraternal organizations.
- (11) Dry cleaning establishments using noninflammable solvents and cleaning fluids as determined by the Fire Chief.
- (12) Funeral homes.
- (13) Repair service establishments such as household appliances, radio and television, and similar uses, and automobile service establishments excluding body shops, upholstery, and painting. Subject to the following:
 - (a) There shall be no storage of junked or wrecked motor vehicles other than temporary storage for those vehicles awaiting repair. All vehicles shall have attached at

all times a current vehicle registration license plate and shall be parked on a paved surface. Any wrecked vehicles shall be in an enclosed area and shall not be visible from outside the property.

(14) Hotels, motels and guest cottages.

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

(b) There shall be no more than seventy-five (75) rental units per acre.

(15) Hospitals and nursing homes.

(16) Xerographic and offset printing.

(17) Plant nurseries and green houses.

(18) Public and private parking facilities. Must have at least a minimum-sized building on site.

(19) Veterinarian clinics provided all activities are within the principal structure and there is no boarding of animals.

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

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

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

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

(d) The lot must have frontage on an arterial roadway as identified in the adopted City Comprehensive Plan;

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

(f) All areas utilized for the parking of motor vehicles, major recreational equipment, and mobile homes for sales, lease or rental or awaiting repair must meet the parking setbacks, must be in addition to required parking spaces, aisles and drives required by §§ 185.140 et seq., and shall be considered parking areas under the terms § 185.142;

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

(h) The property must have minimum frontage on an arterial roadway of one hundred (100) feet;

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

(21) State approved tattoo parlors.

(22) Public uses.

(23) Medical and dental manufacturing labs.

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

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

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

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

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

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

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

(D) *Conditional uses.*

(1) Auto body repair, upholstery and painting.

(a) There shall be no storage of junked or wrecked vehicles other than temporary storage for those awaiting repair. All vehicles shall have attached at all times a current vehicle registration license plate.

(b) Any wrecked vehicles awaiting repair shall be in an enclosed area and the vehicle shall not be visible from outside the property and shall be parked on a paved surface.

(2) Retail automotive gas/fuel sales:

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

(b) Minimum street frontage: one hundred and fifty (150) feet on each abutting street.

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

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

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

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

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

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

(4) Commercial radio and television broadcasting.

(5) Marinas including wet and dry storage.

(6) Car washes.

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

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

(9) Communication towers and facilities.

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

~~—(11)~~ (10) Human crematoriums:

(a) May only be allowed in conjunction with a funeral home.

(b) Crematoriums shall adhere to the principal use setbacks of the CC district, except where the subject property abuts residentially zoned land. In this instance, all portions of the building that contains the crematorium must be setback a minimum of one hundred (100) feet from any land zoned residential.

(c) All crematoriums must be placed within a sound-proof building and this building shall be constructed in such a manner to reduce vibrations. The building shall also contain the proper apparatus for eliminating emissions.

(d) All crematorium facilities shall have an annual Visual Emissions Test conducted and a copy of the inspection report provided to the City.

(e) All crematoriums must obtain a Florida Department of Environmental Protection (FDEP) Non-Title V permit, per Fla. Stat. § 62-296.401.

(E) *Prohibited uses and structures:*

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

(2) Corrections facilities.

(3) Pain-management clinic.

(4) Electronic gaming establishments.

(F) *Lot and structure requirements:*

(1) Minimum lot area — twelve thousand five hundred (12,500) square feet.

(2) Minimum lot width — one hundred (100) feet.

(3) Minimum lot depth — one hundred and twenty-five (125) feet.

(4) Maximum building coverage — thirty-five percent (35%).

(5) Minimum floor area — three hundred (300) square feet.

(6) Maximum height — seventy (70) feet.

(7) Minimum yard requirements:

(a) Front: thirty (30) feet minimum building setback. Parking areas may be located in the front yard except within ten (10) feet of the front lot line.

(b) Side interior: ten (10) feet minimum building setback. Parking areas may be located in the side yard, except within five (5) feet of the side lot line. Side yards

abutting residentially zoned property shall maintain a twenty- five (25) foot minimum setback for all buildings and parking.

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

(d) Rear: twenty- five (25) feet minimum building and parking area setback; ten (10) feet when abutting a dedicated alley.

(8) Shared access and parking areas.

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

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

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

3. Curb cuts and driveways on principal roadways (collector and arterial streets) are shared in common parcels involved and a minimum spacing of one hundred and fifty (150) feet is maintained; or access is provided by an approved frontage road;

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

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

(c) For adjacent developments meeting the requirements of divisions 2. through 4. above, the total number of off-street parking spaces required for uses on all parcels involved may be reduced by ten percent (10%) where the location of shared parking areas provides convenient access to all principal buildings.

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

(10) *Design requirements.*

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

('74 Code, § 25-135) (Ord. 89-08, passed 4-27-89; Am. Ord. 89-33, passed 12-21-89; Am. Ord. 90-14, passed 3-15-90; Am. Ord. 94-31, passed 6-16-94; Am. Ord. 94-51, passed 11-16-94; Am. Ord. 94-52, passed 11-16-94; Am. Ord. 95-01, passed 1-19-95; Am. Ord. 95-44, passed 11-2-95; Am. Ord. 96-03, passed 1-18-96; Am. Ord. 96-06, passed 2-15-96; Am. Ord. 98-07, passed 4-16-98; Am. Ord. 98-20, passed 7-16-98; Am. Ord. 98-31, passed 9-17-98; Am. Ord. 2000-57, passed 11-2-00; Am. Ord. 2004-02, passed 1-22-04; Am. Ord. 2004-59, passed 10-7-04; Am. Ord. 2005- 23, passed 6-20-05; Am. Ord. 2008-27, passed 5-1-08; Am. Ord. 20080-42, passed 6-5-08; Am. Ord. 2009-16, passed 5-7-09; Am. Ord. 2010-41, passed 9-16-10; Am. Ord. 2011-02, passed 1-20-11; Am. Ord. 2011-26, passed 4-7-11; Am. Ord. 2014-31, passed 8-7-14; Am. Ord. 2016-17, passed 4-21-16)

§ 185.044 HC — HIGHWAY COMMERCIAL DISTRICT.

(A) *Intent.* The purpose of the highway commercial district shall be to provide areas within Palm Bay which are deemed to be uniquely suited for the development and maintenance of highway oriented businesses and regional scale facilities, the areas to be primarily located along or near the intersection of major arterials and major transportation nodes; to designate those uses and services deemed appropriate and proper for location and development within the subject district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district.

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

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

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

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

(4) Hotels, motels, tourist courts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Used motor vehicles may only be sold on the same site as a new motor vehicle dealership within the Bayfront Community Redevelopment District in the area east of the Florida East Coast Railroad.

(e) Major recreational equipment and mobile home sales and rentals with accessory uses are not permitted within the Bayfront Community Redevelopment District in the area east of the Florida East Coast Railroad.

(11) Auto repair, paint, upholstering and body shops subject to provisions (10)(a) through (c) above except within the Bayfront Community Redevelopment District in the area east of the Florida East Coast Railroad.

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

(13) Hospitals and nursing homes.

(14) Schools, churches, and libraries.

(15) Day care centers.

(16) Business service establishments.

(17) Dry cleaning.

(18) Funeral homes.

(19) Xerographic and off-set printing.

(20) Public and private parking lots and garages.

(21) Public uses.

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

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

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

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

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

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

(D) *Conditional uses.*

(1) Retail automotive gas/fuel sales:

(a) Access. Retail automotive gas/ fuel establishments shall be located on arterial roadways or on corner lots at intersections of collector streets or higher

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

(b) Minimum street frontage: one hundred and fifty (150) feet on each abutting street.

(c) Location of facilities. Gasoline/ fuel pumps, storage tanks and other service island equipment shall be at least forty (40) feet from all property lines, fifteen (15) feet from any building, and one hundred (100) feet from the nearest residentially zoned land. No gasoline/fuel pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well.

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

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

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

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

(2) Commercial radio and television broadcasting.

(3) Marinas.

(4) Car washes.

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

(6) Communication towers and facilities.

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

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

(E) *Prohibited uses and structures.*

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

(2) Corrections facilities.

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

(a) Used motor vehicle sales not on the same site as a new motor vehicle dealership;

(b) Major recreational vehicle equipment and mobile home sales and rentals with accessory uses;

(c) The sale of sheds or other accessory structures; and

(d) Auto repair, upholstery and body shops.

(4) Pain-management clinic.

(5) Electronic gaming establishments.

(F) *Lot and structure requirements:*

(1) Minimum lot area — fifteen thousand six hundred and twenty-five (15,625) square feet.

(2) Minimum lot width — one hundred and twenty-five (125) feet.

(3) Minimum lot depth — one hundred and twenty-five (125) feet.

(4) Maximum building coverage — thirty-five percent (35%).

(5) Minimum floor area — three hundred (300) square feet.

(6) Maximum height — forty (40) feet.

(7) Minimum yard requirements:

(a) Front — fifty (50) feet minimum building setback. Parking areas may be located in the front yard, except within ten (10) feet of the front lot line.

(b) Side interior — twenty (20) feet minimum building setback. Parking areas may be located in the side yard, except within ten (10) feet of the side lot line. Side yards abutting residentially zoned property shall maintain a twenty-five (25) foot minimum setback for all buildings and parking.

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

(d) Rear — thirty (30) feet minimum building and parking area setback; fifteen (15) feet when abutting a dedicated alley.

(8) Shared access and parking areas.

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

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

2. Parking areas and aisles are joined with adjacent parcel(s) under separate ownership.

3. Curb cuts and driveways on principal roadways (collector and arterial streets) are shared in common by all parcels involved and a minimum spacing of two hundred (200) feet is maintained; or access is provided by an approved frontage road.

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

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

(c) For adjacent developments meeting the requirements of divisions 2. through 4. above, the total number of off-street parking spaces required for uses and all parcels involved may be reduced by ten percent (10%) where the location of shared parking areas provides convenient access to all principal buildings.

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

(10) *Design requirements.*

(a) An Architectural Style for each structure is required. This shall include adherence to all standards contained in § 185.134. ('74 Code, § 25-136)

(Ord. 89-08, passed 4-27-89; Am. Ord. 94-32, passed 6-16-94; Am. Ord. 95-44, passed 11-2-5; Am. Ord. 96-06, passed 2-15-96; Am. Ord. 98-07, passed 4-16-98; Am. Ord. 98-20, passed 7-6-98; Am. Ord. 98-31, passed 9-17-98; Am. Ord. 2000-57, passed 11-2-00; Am. Ord. 2002-70, passed 11-21-02; Am. Ord. 2004-02, passed 1-22-04; Am. Ord. 2004-59, passed 10-7-04; Am. Ord. 2006-123, passed 11-2-06; Am. Ord. 2008-27, passed 5-1-08; Am. Ord. 2008-42, passed 6-5-08; Am. Ord. 2009-16, passed 5-7-09; Am. Ord. 2010-41, passed 9-16-10; Am. Ord. 2011-26, passed 4-7-11; Am. Ord. 2016-17, passed 4-21-16)

185.048 FC — FLOODWAY CONSERVATION DISTRICT.

(A) *Intent.* The provisions of this district are intended to protect persons and property from the hazards of floodways and to conserve important natural resources for ecological purposes, open space needs and the enjoyment and education of present and future residents.

(B) *Principal uses and structures:*

(1) Open space devoted to the conservation of natural waterways, vegetation and wildlife.

(2) Aquatic preserves and outstanding Florida waters.

(3) Canoe trails.

(4) Hiking and/or bicycle trails.

(5) Nature study areas and boardwalks.

(6) Fishing and wildlife preserves.

(7) Public parks.

(8) Public or private open space as part of a planned unit development, DRI or other project.

(9) Natural drainage area.

(10) Pavilions for outdoor exhibits or special nature study.

(11) Public or private storm water retention areas.

(C) *Accessory uses and structures:*

(1) Customary accessory uses clearly incidental and subordinate to one (1) or more principal uses.

(D) *Conditional uses:*

(1) Single-family homes at a maximum density of one (1) unit per ten (10) acres.

(2) Public facilities.

(3) Boat ramps or docks.

(4) Camping areas.

~~(5) Private drainage areas serving adjacent property.~~

(E) *Prohibited uses and structures:* All uses not specifically or provisionally provided for herein.

(F) *Lot and structure requirements:*

(1) Minimum lot area — None except as specifically provided for above.

(2) Minimum lot width — one hundred (100) feet for single-family; none otherwise.

(3) Minimum lot depth — two hundred (200) feet for single-family; none otherwise.

(4) Maximum building coverage — five percent (5%).

(5) Minimum floor area — one thousand (1,000) square feet for single-family; none, otherwise.

(6) Maximum height — twenty-five (25) feet.

(7) Minimum yard requirements:

(a) Front — fifty (50) feet.

(b) Side interior — twenty-five (25) feet.

(c) Side corner — twenty-five (25) feet.

(d) Rear — twenty-five (25) feet.

('74 Code, § 25-140) (Ord. 89-08, passed 4-27-89; Am. Ord. 94-35, passed 6-16-94; Am. Ord. 95-44, passed 11-2-95)

185.059 PCD - PLANNED COMMERCIAL DEVELOPMENT DISTRICT.

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

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

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

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

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

(4) Hotels, motels, tourist courts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) Hospitals and nursing homes.

(13) Schools, churches, and libraries.

(14) Day care centers.

(15) Business service establishments.

(16) Public uses.

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

(D) *Conditional uses.*

(1) Retail automotive gas/fuel sales:

(a) Location of facilities. Gasoline/fuel pumps, storage tanks and other service island equipment shall be at least forty (40) feet from all property lines, fifteen (15) feet from any building, and one hundred (100) feet from the nearest residentially zoned land. No gasoline/fuel pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well.

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

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

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

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

(2) Commercial radio and television broadcasting.

(3) Marinas.

(4) Car washes.

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

(6) Communication towers and facilities.

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

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

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

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

(G) *Design requirements.*

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

(2) Development of a commercial use or group of commercial uses intended to be developed according to a carefully drawn plan, may be permitted after obtaining the proper site plan and building permit approvals. This coordinated project shall:

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

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

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

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

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

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

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

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

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

(Ord. 2016-17, passed 4-21-16)

185.066 PROCEDURE FOR APPROVAL OF A PRELIMINARY DEVELOPMENT PLAN AND TENTATIVE ZONING.

The following procedures, applications, and exhibits shall be required when applying for tentative zoning approval of a preliminary plan:

(A) *Tentative development plan.* Before submission of a preliminary application for approval as a planned unit development zone, the developer and his registered engineer, architect, and site planner are encouraged to meet with the Planning and Zoning Board and City Planner and such other personnel as necessary to determine the feasibility and suitability of his application. This step is encouraged so that the developer may obtain information and guidance from city personnel before entering into any binding commitments or incurring substantial expenses of site and plan preparation.

(B) *Preliminary development plan application.*

(1) Preliminary application. A preliminary application shall be submitted to the Planning and Zoning Board by the developer requesting approval of the site as a planned unit development zone. The preliminary application shall contain the name of the developer, surveyor and engineer who prepared the development plan and topographic data map, and the name of the proposed planned unit development.

(2) Exhibits. The following exhibits shall be attached to the preliminary application:

(a) Vicinity map indicating the relationship between the planned unit development and its surrounding area including adjacent streets and thoroughfares.

(b) Development plan that shall contain, but not be limited to, the following information:

1. Proposed name or title of project, the name of the engineer, architect, and developer.

2. North arrow, scale (one (1) inch equals two hundred (200) feet or larger), date, and legal description of the proposed site.

3. Boundaries of tract shown with bearings, distances, closures, and bulkhead liner. All existing easements, section lines and all existing streets and physical features in and adjoining the project, and the existing zoning.

4. Names and locations of adjoining developments and subdivisions.

5. Proposed parks, school sites or other public or private open space.

6. Vehicular and pedestrian circulation systems including off-street parking and loading areas, driveways and access points.

7. Site data including tabulation of the total number of gross acres in the project, the acreage to be devoted to each of the several types of primary residential and secondary nonresidential uses, and the total number of dwelling units.

8. Proposed common open space, including the proposed improvements and any complementary structures and the tabulation of the percentage of the total area devoted to common open space. Areas qualifying for common open space shall be specifically designated on the site plan.

9. Delineation of specific areas designated as a proposed stage.

10. General statement indicating proposed means of drainage for the site to ensure conformity with natural drainage within the vicinity area or with the drainage plan established within the vicinity.

11. General location within site of each primary residential and secondary nonresidential use, and the proposed amount of land to be devoted to individual ownership.

12. Schematic drawing of the elevation and architectural construction of the proposed primary and secondary nonresidential structures.

13. The proposed method of dedication and administration of proposed common open space.

(c) Topographic data map drawn to scale of two hundred (200) feet to one (1) inch or larger by a registered surveyor and/or engineer showing:

1. The location of existing property lines both for private property and public property, streets, building, water courses, transmission lines, sewers, bridges, culverts, and drain pipes, water mains and any public utility easements.

2. Wooded areas, streams, lakes; marshes and any physical conditions affecting the site.

3. Existing contours based on current U.S. Coast and Geodetic data with a contour interval of two (2) feet, and proposed finished elevations.

(3) Submittal.

(a) The PUD zoning application and preliminary development plan shall be submitted to the Land Development Division at least forty-five (45) days prior to any scheduled meeting of the Planning and Zoning Board of the city.

(b) A fee as established by resolution pursuant to § 169.004 shall accompany the PUD application for the purposes of review and administration.

(c) The application shall include five (5) black or blue line prints of the development plan of the proposed planned unit development and a minimum of two (2) copies of the required exhibits.

(4) Application review.

(a) The preliminary development plan shall be reviewed formally by the Planning and Zoning Board to determine its conformity with the official plans and policies of the city and the requirements of this subchapter.

(b) Upon completion of its review, the Planning and Zoning Board shall recommend to the City Council, the approval, approval subject to conditions, or disapproval of the preliminary development plan application.

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

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

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

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

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

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

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

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

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

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

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

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

(6) Review by City Council. Upon receiving the, recommendation of the Planning and Zoning Board, the City Council shall, at a regularly scheduled public hearing, review the recommendation and preliminary development plan and either approve, approve subject to conditions, or disapprove the preliminary development plan application. The decision of the Council shall be based upon a consideration of the facts specified as review criteria for the zoning board in § 185.064.

(7) Recordation of preliminary application. In the event the primary development plan application is approved by the City Council, a copy of such application and required exhibits shall be certified and approved by the City Clerk as a permanent record. A notice of such approval and filing, containing a legal description of the site, shall be recorded in the official records of the county.

(C) Applications in excess of one thousand (1,000) acres.

(1) In the event any PUD application is in excess of one thousand (1,000) acres, the City Council may approve planned unit development zoning based on the requirements in this section on a revised or general basis. Specifically, the exact requirements of divisions (B)(2)(b)2., 3., 11. and (c) above may be revised in terms of map scale and detail required.

(2) Following this, the developer shall have six (6) months to present a preliminary development plan for any minimum stage of ten (10) acres. At the request of the developer, and for good cause shown, the City Council may extend the period required for the filing of the plan for a time certain not to exceed six (6) months. The plan shall be reviewed by the Planning and Zoning Board and the procedure of divisions (A) and (B) above would specifically then apply to any stage or the total development. Provided, however, approval of a preliminary development plan shall be a condition precedent to the filing of an application for the approval of a final development plan under § 185.067. ('74 Code, § 25-132(g)) (Ord. 89- 08, passed 4-27-89; Am. Ord. 2006-10, passed 2-2-06; Am. Ord. 2016-02, passed 1-19-16)

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

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

(A) *Required exhibits.* The following exhibits shall be attached to the final development plan application:

(1) Engineering plans.

(a) Engineering plans showing:

1. Existing ground surfaces and proposed elevations in the planned unit development.

2. If deemed necessary by the Council, subsurface conditions on the tract, including the location and results of tests made to ascertain the conditions of subsurface soil, rock, and groundwater, and the existing depth of groundwater.

3. Typical cross-sections of proposed grading, streets and sidewalks, canals and waterways.

4. Proposed type of pavement in accordance with city specifications.

5. Layout of water distribution, sanitary sewers and storm drainage systems, with grades and sizes indicated.

6. Final engineering drawing of water, sanitary sewer and storm drainage systems and sidewalks, streets, bulkheads, street name signs and adequate lighting.

(b) The engineering plans shall be in conformity with the requirements and specifications of the city subdivision regulations set forth in Chapter 184 of this code of ordinances for all improvements to be dedicated to the public.

(2) Final development plan:

(a) A final development plan containing, in addition to those items specified in § 185.066(B)(2)(b), the following information:

1. Dedication by owner and completion of certificate of surveyor.

2. The location, dimensions and character of construction of all proposed streets, driveways, points of ingress and egress, loading areas, number of parking spaces and areas, primary residential areas and structures, secondary nonresidential areas and structures, recreational areas and structures, and common open space areas.

3. Proposed lot lines (if any), lot and block numbers and dimensions of all primary nonresidential uses, and common open space.

4. The proposed architectural and landscape design of all structures and common open space that clearly reflects the compatibility of the variety primary and secondary uses proposed.

5. Location and width of canals and waterways.

6. Reservations, easements, alleys and any areas to be dedicated to public uses or sites for other than residential use with notes stating their purpose and any limitations.

7. Sufficient data to determine readily and reproduce on the site the location, bearing and length of every street, line, lot line, boundary line and block line, whether curved or straight.

8. The radius, central angle, point of tangent, tangent distance and arcs and chords of all curved property lines.

9. A legal description of the planned unit development boundaries with bearings, distances and tie point.

10. Accurate location and descriptions of all monuments and markers.

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

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

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

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

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

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

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

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

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

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

(5) Association or nonprofit corporation. If the developer elects this method of administering common open space, the proposed bylaws of the association or the certificate of incorporation and the corporate bylaws of the nonprofit corporation shall be submitted for approval by the city.

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

(7) Bill of sale. A bill of sale, conveying to the city water and sewer utility lines, mains, lift stations and other personal property required to be installed by this chapter.

(8) Instrument. Indicating that all necessary off-site easements or dedications have been acquired. In lieu of originals, "certified true copies" will be accepted if the recording information from the public records of the county is included thereon.

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

(10) Tax receipts. Paid receipts from the county indicating taxes have been paid in full up to and including the current period.

(B) *Procedure.*

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

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

(3) The City Council shall review the recommendations of the Planning and Zoning Board at a regular public hearing of the City Council and shall approve, approve subject to conditions, or deny the final development plan application. The final development plan approval shall constitute a PUD rezoning enacted by Ordinance.

(C) *Recording of final development plan.*

(1) After approval by the City Council of the final development plan application, the City Clerk shall see that all requirements of Fla. Stat. Ch. 177 have been complied with before the final development plan is recorded in the public records of the county.

(2) The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of, or other use of a final development plan of a planned unit development, or portion thereof, that has not been given final approval by the City Council and recorded in the official records of the county is prohibited. The description by metes and bounds in the instrument of transfer or other documents shall not exempt the transaction from such prohibition.

('74 Code, § 25-132(h)) (Ord. 89- 08, passed 4-27-89; Am. Ord. 2006-10, passed 2-2-06; Am. Ord. 2016-02, passed 1-19-16; Am. Ord. 2016-17, passed 4-21-16)

185.071 TERMINATION OF PUD ZONE.

(A) Any owners of all or a portion of land that has been designated a planned unit development under the provisions of this subchapter can apply to the city for the termination of that portion of a stage within an approved final development plan within which his property is located if construction has not been commenced pursuant to such

final development plan. The procedure for the termination shall be that applicable to a zoning district change under this chapter and any other applicable zoning ordinance.

(B) Failure of the developer to file a final development plan application within the time periods specified in § 185.067 shall automatically revoke approval of § 185.066(B)(7), and the site shall revert to the zoning classifications for which the property was zoned prior to the approval of the preliminary development plan. A notice of the revocation, containing a legal description of the site, shall be recorded in the official records of the county.

('74 Code, § 25-132(l)) (Ord. 89- 08, passed 4-27-89; Am. Ord. 2016-02, passed 1-19-16)

185.118 ACCESSORY STRUCTURES.

(A) No accessory structure shall be erected in:

- (1) Any public drainage and utility easement.
- (2) Any required front yard setback.
- (3) Any required side yard setback.

(4) Within any required rear yard setback, no accessory structure shall be erected within ten (10) feet of any rear property line and within six (6) feet of any side property line. No separate or freestanding accessory structure shall be constructed or placed within five (5) feet of any building on the same lot. Accessory structures erected on lots fronting on two (2) streets shall conform to the principal structure setbacks for the side corner yard setback.

(B) No accessory structure shall exceed twenty-four (24) feet in height.

(C) Accessory buildings shall not be used until after the principal structure has been fully constructed and a certificate of occupancy issued. Erection of tents as accessory structures is prohibited. No home occupation or business may be conducted in an accessory building. Residential use in any accessory building is strictly prohibited. No accessory building may be erected upon a property without the presence of a principal building, unless a principal building is not required in the applicable zoning district. In any residential zoning district, no accessory structure shall exceed the size of the principal structure's living area, except that ~~shed sheds~~ may not exceed 50% of the size of the principal structure's living area. In no case shall the cumulative size of all accessory structures exceed the principal structures living area. Shipping containers will be considered the same as a shed, for the purposes of this section, and in addition to meeting the provisions of 185.118; they shall also meet the requirements of the latest adopted Florida Building Code.

(D) *Swimming pools.* For the purpose of this chapter, swimming pools are considered as an accessory structure and shall meet the requirements listed in divisions (A) through (C) above. Screened enclosures around swimming pools shall also meet the requirements listed in (A) through (C) above. All swimming pools shall have around them an enclosure of a permanent nature of not less than four (4) feet in height with a doorway which can be locked. Pools shall maintain a minimum five (5) foot setback from the water's edge to all principal structures.

(E) *Satellite dish antennae.* For the purpose of this chapter, satellite dish antennae are considered an accessory structure and a building permit shall be required when

installing, moving or reconstructing a dish antenna. Satellite dish antennae shall meet the following requirements:

(1) The satellite dish shall be erected to the rear of the front wall of the principal building and shall also meet the accessory structure requirements listed in divisions (A) through (C) of this section. The setback of the dish antenna shall be measured from the outermost point of the dish on the side closest to the applicable setback or property line.

(2) Roof mounting. Satellite dish antennae may be roof-mounted provided that the twenty-four (24) foot height restriction in single-family residential districts and the maximum height limits in commercial, industrial, and multi-family districts are not exceeded. (The height of the antenna/dish shall be that distance as measured vertically from the highest point of the dish/antenna, when positioned at its lowest angle for operation, to ground level.)

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

(4) Dish antennae located in single family residential districts shall not have a dish which exceeds ten (10) feet in diameter.

(F) *Animal cages or enclosures.*

(1) For purposes of this subsection, animal cages or enclosures shall be considered to be an accessory structure.

(2) Animal cages or enclosures shall meet all setback requirements for accessory structures.

(3) For purposes of this subsection, a perimeter or boundary fence or wall shall not be considered to be an animal cage or enclosure. Perimeter or boundary fences or walls must meet the requirements of Chapter 170 of the City of Palm Bay Code or Ordinances.

(4) Animal cages or enclosures shall be limited in size to fifteen (15) feet in length by ten (10) feet in width and shall not exceed six (6) feet in height.

(5) Animal cages or enclosures shall meet all the requirements of all city, county, state and federal ordinances, rules, statutes and regulations that pertain to and apply to structures that are utilized for and pertain to animals and animal control.

(6) Penalties. Any person found guilty of being in violation of this subsection shall be guilty of a misdemeanor of the 2nd degree punishable as provided in § 10.99 of the City of Palm Bay Code of Ordinances. However, in addition to or in lieu of any criminal prosecution, the city shall have the right to sue in civil court to enforce the provisions of this subsection, to initiate proceedings before the City of Palm Bay Code Enforcement Board to enforce compliance, or to issue a violator a Notice of Violation as provided in § 93.07, Palm Bay Code of Ordinances.

(G) *Metal structures.* For the purpose of this chapter, metal accessory structures over three hundred (300) square feet or over twelve (12) feet in height are prohibited in RR (Rural Residential District), RE (Estate Residential District), RS-1 (Single-Family Residential District), RS-2 (Single-Family Residential District), RS-3 (Single-Family Residential District), SRE (Suburban Residential Estate Category), SF-1 (Single-Family Residential Category), and SF-2 (Single-Family Residential Category) zoning districts unless the structure is designed to simulate non-metal construction, is treated with a

textured coating on all four sides, or is painted to match the color scheme of the primary residence.

('74 Code, § 25-214) (Ord. 89-08, passed 4-27-89; Am. Ord. 99-16, passed 6-3-99; Am. Ord. 2000-53, passed 10-19-00; Am. Ord. 2014-60, passed 12-18-14; Am. Ord. 2016-17, passed 4-21-16)

185.158 NONCONFORMING USES OF LAND.

Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(A) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter; unless such use is changed to a use permitted in the district in which such use is located;

(B) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter;

(C) If any such nonconforming use of land ceases for any reason for a period of more than ninety (90) consecutive days. Any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located;

(D) No additional structure which does not conform to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

('74 Code, § 25-104) (Ord. 89-08, passed 4-27-89)

§ 185.159 NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this, chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) No such structure may be enlarged or altered in a way which increases its nonconformity;

(B) But any structure or portion thereof may be altered to decrease its nonconformity;

(C) Should such a structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter;

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(D) Should such a structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

('74 Code, § 25-105) (Ord. 89-08, passed 4-27-89)

§ 185.160 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION.

If a lawful use involving individual structures, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) No existing structure devoted to a use not permitted by this chapter in the district on which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

(B) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building;

(C) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed;

(D) When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for six (6) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located;

(E) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction, for the purpose of this chapter, is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at time of destruction. ('74 Code, § 25-106) (Ord. 89-08, passed 4-27-89; Am. Ord. 2016-17, passed 4-21-16)

§ 185.161 REPAIRS AND MAINTENANCE.

(A) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of six (6) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased.

(B) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

('74 Code, § 25-107) (Ord. 89-08, passed 4-27-89; Am. Ord. 2016-17, passed 4-21-16)

§ 185.162 NONCONFORMING OR SUB-STANDARD LOTS CREATED BY EMINENT DOMAIN PROCEEDINGS.

Any lot or parcel which shall be made nonconforming or substandard as a result of eminent domain proceedings instituted by the city or other governmental agency or through a voluntary conveyance by a lot owner in lieu of formal eminent domain proceedings, which lot or parcel except for such eminent domain or voluntary conveyance shall be deemed to be a conforming lot or parcel for all purposes under this chapter. However, any new construction or building addition shall conform to the subject yard requirements of the applicable district. [Any re-construction or maintenance of the existing structures may be performed with no additional encroachment into the subject yard requirements.](#)

('74 Code, § 25-108) (Ord. 89-08, passed 4-27-89)
95)

185.200 REGULATIONS SUBJECT TO AMENDMENT.

The regulations, restrictions and boundaries set forth in this chapter may, from time to time, be amended, supplemented, changed or repealed, in the manner prescribed by law.

('74 Code, § 25-291) (Ord. 89-08, passed 4-27-89)

§ 185.201 PROCEDURE.

The procedure for amendment of this chapter shall be as follows:

(A) A district boundary may be initiated by:

(1) The owner or owners of at least seventy-five percent (75%) of the property described in the application;

(2) Tenant or tenants, with owner's sworn-to consent;

(3) Duly authorized agents evidenced by a written power of attorney;

(4) City Council;

(5) Planning and Zoning Board;

(6) Any department or agency of the city.

(B) Any amendment to this chapter other than a district boundary change may be proposed by:

(1) City Council;

(2) Planning and Zoning Board;

(3) Any department or agency of the city;

(4) Any individual, corporation or agency.

(C) All proposed amendments shall be submitted to the Planning and Zoning Board which shall study such proposals to determine:

(1) The need and justification for the change;

(2) When pertaining to the rezoning of land, the effect of the change, if any, on the particular property and on surrounding properties;

(3) When pertaining to the rezoning of land, the amount of undeveloped land in the general area and in the city having the same classification as that requested;

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

(D) When a change of zoning classification of a single parcel is proposed, or a group of not more than five hundred (500) parcels, of any property within the city, a notice shall be mailed to each property owner whose zoning classification is proposed to be changed, using owner's current address of record, as maintained by the Tax Assessor, and be postmarked not later than ten (10) days prior to the scheduled hearing. Prior to the effective date of any zoning classification change, the City Council shall cause an affidavit to be filed with the City Clerk certifying its compliance with the provisions of this section. A failure to give notice shall not affect the validity of zoning except as to the property of the complaining owner.

(E) When any proposed change of a zoning district boundary lies within five hundred (500) feet of the boundary of an incorporated or unincorporated area, notice shall be forwarded to the Planning Board or governing body of such incorporated or unincorporated areas in order to give such body an opportunity to appear at the hearing and express its opinion on the effect of the district boundary change.

(F) The Planning and Zoning Board shall submit the request for change or amendment to the City Council with written reasons for its recommendation.

(G) The City Council shall hold public hearings on the recommendation of the Planning and Zoning Board, giving public notice as required by the state statutes and by posting notice in city hall.

('74 Code, § 25-292) (Ord. 89- 08, passed 4-27-89; Am. Ord. 95- 45, passed 10-19-95; Am. Ord. 2016-17, passed 4-21-16)

§ 185.202 CONDITIONAL USES; CONDITIONS GOVERNING APPLICATION; PROCEDURES.

(A) The City Council shall hear and decide conditional uses after review of the Planning and Zoning Board. All applications for conditional uses shall be submitted to the Planning and Zoning Board for study and written, advisory recommendations. The City Council may either grant conditional uses with such conditions and safeguards as are appropriate under this chapter or other applicable code or ordinance provisions, or deny conditional uses when not in harmony with the purpose and intent of this chapter. A conditional use shall not be granted by the City Council unless and until:

(1) A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

(2) Proposed conditional uses for planned development shall also be submitted to the Planning and Zoning Board for study, and the written recommendation of the Planning and Zoning Board shall be considered as part of the official record when hearing an application for a planned development.

(3) Public notice shall be given as required by state statutes. The owner of the property for which conditional use is sought or his agent shall be notified by certified mail. Notice of such hearing shall be posted on the property for which conditional use is sought.

(4) A courtesy notice may be mailed to the property owners of record within a radius of five hundred (500) feet, provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceedings taken hereunder.

(5) Any party may appear in person, or be represented by a duly authorized representative.

(B) In granting any conditional use, the City Council may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this chapter and punishable as provided by this chapter. The City Council shall prescribe a time limit within which the action for which the conditional use is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the conditional use.

('74 Code, § 25-293) (Ord. 89-08, passed 4-27-89; Am. Ord. 95-45, passed 10-19-95; Am. Ord. 2016-17, passed 4-21-16)

§ 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%)~~ sixty percent (60%) 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)

§ 185.204 MODIFICATION OF DISTRICT BOUNDARY CHANGES.

If a request for a district boundary change is for a district more liberal than the existing district, and the Planning and Zoning Board or the City Council determines that the request should be denied, the Planning and Zoning Board may recommend, and/or the City Council may change the district classification for the property to any district classification that is less restrictive than the requested zoning classification consistent with the Future Land Map.

('74 Code, § 25-295) (Ord. 89-08, passed 4-27-89)



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

CODE TEXTUAL AMENDMENT APPLICATION

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

1) NAME OF APPLICANT (Type or print) City of Palm Bay (Growth Management Department)

ADDRESS 120 Malabar Road SE

CITY Palm Bay STATE FL ZIP 32907

PHONE # (321) 733-3041 FAX # (321) 953-8920

E-MAIL ADDRESS stuart.buchanan@palmabayflorida.org

PERSON(S) TO BE NOTIFIED (if different from above) _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE # _____ FAX # _____

E-MAIL ADDRESS _____

2) ORDINANCE SECTION PROPOSED TO BE CHANGED: Secs. 51.04, 170.050, 170.051, 179.033, 185.006,
185.043, 185.044, 185.048, 185.059, 185.066, 185.067, 185.071, 185.118, 185.158 thru 185.162, 185.200 thru 185.203

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

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

In order to revise, create, and define standards.

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

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

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

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

Signature of Applicant



Date

09/30/2016

Printed Name of Applicant

Stuart Buchanan, Growth Management Director

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