AGENDA

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Regular Meeting No. 2017-01
January 4, 2017 – 7:00 P.M.
City Hall Council Chambers

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ADOPTION OF MINUTES:

1. Regular Meeting No. 2016-12; December 7, 2016

ANNOUNCEMENTS:

OLD BUSINESS:

1. ♣FS-2-2016 – ERIC ADDINGTON

   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)

NEW BUSINESS:

1. CP-1-2017 – EMERSON DEVELOPMENT PARTNERS, LLC (MATT WILLIAMS)

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

Lots 6 and 7, Block 304, Port Malabar Unit 9, Section 5, Township 29, Range 37, Brevard County, Florida, containing .48 acres, more or less. (Located at the southwest intersection of Malabar Road and Emerson Drive SE)

2. ♣CPZ-1-2017 – EMERSON DEVELOPMENT PARTNERS, LLC (MATT WILLIAMS)

A zoning amendment from an RC, Restricted Commercial District and an RS-2, Single Family Residential District to a CC, Community Commercial District.

Lots 6 through 14, Block 304, Port Malabar Unit 9, Section 5, Township 29, Range 37, Brevard County, Florida, containing 2.05 acres, more or less. (Located at the southwest intersection of Malabar Road and Emerson Drive SE)

3. ♣CU-1-2017 – EMERSON DEVELOPMENT PARTNERS, LLC (MATT WILLIAMS)

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

Lots 6 through 14, Block 304, Port Malabar Unit 9, Section 5, Township 29, Range 37, Brevard County, Florida, containing 2.05 acres, more or less. (Located at the southwest intersection of Malabar Road and Emerson Drive SE)

4. ♣V-2-2017 – GUY HARTFORD

A variance request to allow an existing pool and screen enclosure to encroach 3.1 feet into the 10-foot rear setback in an RS-1, Single Family Residential District as established by Section 185.118(A)(3) of the Palm Bay Code of Ordinances.

Lot 8, Block 13, Port Malabar Country Club Unit 2, Section 28, Township 28, Range 37, Brevard County, Florida, containing .29 acres, more or less. (Located adjacent to Waialae Circe NE, in the northwest vicinity of the southernmost intersection of Waialae Circle NE and Port Malabar Boulevard NE, specifically at 927 Waialae Circle, NE)

5. T-3-2017 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.140, in order to permit off-site storage and parking lots.

6. T-4-2017 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

   A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, in order to create Section 185.143, Lighting Standards.

7. T-5-2017 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

   A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.066, 185.067, and 185.070, in order to update the Planned Unit Development (PUD) procedures and bonding requirements.

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. 2016-12

Held on Wednesday, December 7, 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. Thomas "Woody" Woodrum led the Pledge of Allegiance to the Flag.

ROLL CALL:

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

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

The absence of Mr. Pezzillo was excused.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2016-11. Motion by Mr. Warner, seconded by Mr. Stroderd to approve the minutes as presented. The motion carried with members voting unanimously.

ANNOUNCEMENTS:

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

OLD BUSINESS:

1. ♣FS-2-2016 – ERIC ADDINGTON

   Mr. Murphy announced that a second continuance had been requested by the applicant for Case FS-2-2016. Board action was required to continue the request.

   Motion by Mr. Warner, seconded by Ms. Jordan to continue Case FS-2-2016 to the January 4, 2017 Planning and Zoning Board Meeting. The motion carried with members voting unanimously

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

   Mr. Murphy presented the staff report for Case CP-23-2016. The applicant had requested a Comprehensive Plan Future Land Use Map large scale amendment from Residential One (Brevard County) to Single Family Residential Use. Staff recommended Case FS-2-2016 for approval, pursuant to Chapter 163, Florida Statutes.

   Mr. David Agee of Agee Consulting (representative for the applicant) commented on the applicant's desire to annex into the City of Palm Bay based on potential development opportunities such as water and sewer availability and police and fire services. The site was also compatible with the surrounding area.

   Mr. Weinberg reminded the board and audience that the annexation was not part of the current proceedings.

   Mr. Warner wanted to know about the applicant's primary business and their plans for the subject property. Mr. Agee informed the board that Wheeler Farms operated a huge agricultural cattle business in the central west part of the state, and did not have any plans at this time for the subject site.

The floor was opened for public comments.

Ms. Beth Shreve (resident of Micco) wanted assurance that mobile homes, apartments, and smaller sized lots were not proposed for the site. Mr. Murphy explained that the land use request was for single-family homes, and that the applicant was also seeking an RR, Rural Residential zoning designation that would require a minimum of one dwelling unit per acre. Any future requests for mobile homes or apartments would have to come back before the board and City Council.

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

Motion by Mr. Warner, seconded by Ms. Maragh to submit Case CP-23-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map large scale amendment from Residential One (Brevard County) to Single Family Residential Use, pursuant to Chapter 163, Florida Statutes. The motion carried with members voting unanimously.

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

Mr. Murphy presented the staff report for Case CPZ-23-2016. The applicant had requested a zoning amendment from a GU, General Use District (Brevard County) to an RR, Rural Residential District. Staff recommended Case CPZ-23-2016 for approval in order to be consistent and compatible with the future land use designation assigned by Case CP-23-2016.

Mr. David Agee of Agee Consulting (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 Ms. Jordan, seconded by Ms. Maragh to submit case CPZ-23-2016 to City Council for approval of a zoning amendment from a GU, General Use District (Brevard County) to an RR, Rural Residential District. The motion carried with members voting unanimously.

NEW BUSINESS:

1. CP-27-2016 – CONCEPT DEVELOPMENT, INC. (MATTHEW D. CASON)

   Mr. Murphy presented the staff report for Case CP-27-2016. The applicant had requested a Comprehensive Plan Future Land Use Map small scale amendment from Professional Office Use to Commercial Use. Staff recommended Case CP-27-2016 for approval, pursuant to Chapter 163, Florida Statutes.

   Mr. Craig Brashier with CHW (representative for the applicant) commented on the applicant's intent to combine the subject site with the adjacent, City-owned property to the north, which was also seeking a commercial land use designation. The properties would operate as a retail business.

   Ms. Maragh inquired whether a particular commercial use was proposed, and Mr. Warner asked if the planned facility would be sectioned into units. Mr. Kraiser indicated that the property was currently under negotiation, but there was no guarantee. The building, however, would be a single structure with no units.

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

   Mr. Warner asked if there were any other commercial uses in the area. Mr. Murphy noted the Cranbrook Medical facility and commercial land that reached Babcock Street NE to the west, and Palm Bay Fire Station No. 1 to the east.

   Motion by Ms. Jordan, seconded by Mr. Warner to submit Case CP-27-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map small scale amendment from Professional Office Use to Commercial Use, pursuant to Chapter 163, Florida Statutes. The motion carried with members voting unanimously.

2. ♣CPZ-27-2016 – CONCEPT DEVELOPMENT, INC. (MATTHEW D. CASON)

   Mr. Murphy presented the staff report for Case CPZ-27-2016. The applicant had requested a zoning amendment from an OP, Office Professional District to a CC, Community Commercial District. Staff recommended Case CPZ-27-2016 for approval in order to be consistent and compatible with the future land use designation assigned by Case CP-27-2016.

Mr. Craig Brashier with CHW (representative for the applicant) stated that the comments he made under Case CP-27-2016 were the same for the subject request.

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

Motion by Mr. Warner, seconded by Ms. Jordan to submit Case CPZ-27-2016 to City Council for approval of a zoning amendment from an OP, Office Professional District to a CC, Community Commercial District. The motion carried with members voting unanimously.

3. CP-28-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Murphy presented the staff report for Case CP-28-2016. The applicant had requested a Comprehensive Plan Future Land Use Map small scale amendment from Professional Office Use to Commercial Use. Staff recommended Case CP-28-2016 for approval pursuant to Chapter 163, Florida Statutes.

Mr. Stroderd questioned how the City came to own the subject property. Mr. Murphy explained that the City acquired the site as surplus property in 1991 as a result of the General Development Corporation (GDC) bankruptcy. Mr. Stroderd asked if the property had the Professional Office classification when owned by GDC. Mr. Murphy replied that the property was designated Office Professional in 1989. The site was currently under contract, and the future owner planned to develop the property with the adjacent tract of land they owned to the south.

Mr. Warner asked about height requirements for the site. Mr. Murphy replied that a proposed CC, Community Commercial zoning designation would have a maximum 70-foot height restriction; however, the applicant was proposing a single-story retail store, and the footprint for the site was not very large.

Ms. Maragh inquired whether the property would have to come back before the board and City Council if the applicant decided to build an Office Professional building. Mr. Murphy stated that office use was allowed by right in a CC district.

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

Motion by Ms. Maragh, seconded by Mr. Stroderd to submit Case CP-28-2016 to City Council for approval of a Comprehensive Plan Future Land Use Map small scale amendment from Professional Office Use to Commercial Use, pursuant to Chapter 163, Florida Statutes. The motion carried with members voting unanimously.

4. ♣CPZ-28-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Murphy presented the staff report for Case CPZ-28-2016. The applicant had requested a zoning amendment from an OP, Office Professional District to a CC, Community Commercial District. Staff recommended Case CPZ-28-2016 for approval in order to be consistent and compatible with the future land use designation assigned by Case CP-28-2016.

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

Motion by Ms. Maragh, seconded by Mr. Warner to submit Case CPZ-28-2016 to City Council for approval as a zoning amendment from an OP, Office Professional District to a CC, Community Commercial District. The motion carried with members voting unanimously.

5. ♣T-42-2016 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Buchanan presented the staff report for Case T-42-2016. The applicant had requested a textual amendment to the Code of Ordinances, Title XI, Business Regulations, Chapter 110: Business Taxes, Sections 110.15, 110.17, 110.19, 110.37, and 110.44. Staff recommended Case T-42-2016 for approval.

Mr. Stroderd questioned whether an owner of several single-family residential rental homes would be required to obtain a Business Tax Receipt (BTR) for each site and undergo inspections. He wanted to know how the tenants of cited landlords would be affected by the proposed amendment. Mr. Buchanan confirmed that each rental home would require its own BTR and undergo inspections. Affected tenants of cited landlords would be provided a state brochure with tenant options. Landlords typically found it less of a financial hardship to bring properties into compliance than to pay code fines. The properties would not have homestead exemptions and would be subject to liens.

Mr. Warner inquired about the costs associated with acquiring the BTR, and if there would be enough staff to perform the inspections. He believed the proposal would help address long-distance landlord problems, but unnecessarily impact local landlords. He questioned why Code Compliance Officers could not handle the violations. Mr. Buchanan responded that there would eventually be three to four certified inspectors and a clerical person staffed to handle the inspections. The fee for the annual inspections would be $55 a year. The inspectors would be part of the Code Compliance Division. Code Compliance Officers were restricted to exterior violations; however, the inspectors would have the authority to address violations inside of the homes.

Ms. Maragh asked what the timeframe would be to inspect a property newly acquired for rental, and when would the BTR process go into effect. Mr. Buchanan assured the board that inspections would occur soon after a BTR was applied for. He explained that landlord issues were typically because of older homes that were not being maintained. He said that the program would go into effect in the new year.

Ms. Jordan commented on the need for the Code inspectors and officers to work together to address interior and exterior property violations.

Ms. Maragh wanted to know about reinspection fees. Mr. Buchanan remarked that the City did not charge for first reinspections.

The floor was opened for public comments.

Mr. Roy Beard (resident at Whitehurst Road SE) spoke against the request. He did not believe the $55 annual fee could fund the proposal, and that targeting a specific type of business could become a legal problem. He did not see the benefit to the City. Mr. Buchanan responded that the budget for the program was to cover costs and not to make the City money. The neighbors surrounding the rental properties would be the beneficiaries of the program. Mr. Weinberg added that the landlords were not being targeted or treated any different than other business owners in the City.

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

Motion by Mr. Stroderd, seconded by Ms. Jordan to submit Case T-42-2016 to City Council for approval of a textual amendment to the Code of Ordinances, Title XI, Business Regulations, Chapter 110: Business Taxes, Sections 110.15, 110.17, 110.19, 110.37, and 110.44.

Mr. Stroderd commented that the program would be self-funded. Renting out a home was a business, and landlords had gotten away over the years with not having the BTR. Obtaining a BTR and paying an annual $55 inspection fee was reasonable. Mr. Weinberg agreed.

Ms. Maragh questioned what would happen if the amount of rental homes in the City decreased. Mr. Buchanan explained that the four inspectors would be hired over a period of time as the number of BTRs increased and not all at once.

Ms. Jordan stated that she had seen many instances in the City as a V-Cop (volunteer officer) that necessitated having the BTR.

Mr. Warner reiterated his opposition to the request as he believed its implementation would complicate becoming a landlord in the City. He suggested modifying the authority of Code Compliance Officers to bring the focus back to targeting violations. Mr. Stokes advised the board that as with law enforcement, privacy issues prohibited Code Compliance Officers from legally entering a home to check for violations. However, the law allowed for business inspections, and rental properties were businesses.

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Mr. Stroderd asked whether the state required payment and collection of sales taxes for residential rentals were the same as for commercial rentals. Mr. Buchanan explained that the inspection of rentals greater than four units were regulated by the state, and sales taxes were only collected if there were at least four contiguous rental units.

Ms. Maragh questioned how staff had determined that there was approximately 11,000 rental homes in the City. Mr. Buchanan described the process of layering homestead exemption and utility bill information to determine rental properties. Tenants would be pleased that landlords would be forced to fix problem homes.

Mr. Stroderd noted that landlords who took care of their properties would not be negatively impacted by the ordinance, but landlords who allowed their properties to remain in disrepair would be impacted.

A vote was called on the motion by Mr. Stroderd, seconded by Ms. Jordan to submit Case T-42-2016 to City Council for approval of a textual amendment to the Code of Ordinances, Title XI, Business Regulations, Chapter 110: Business Taxes, Sections 110.15, 110.17, 110.19, 110.37, and 110.44. The motion carried with members voting as follows:

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

OTHER BUSINESS:

There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 7:59 p.m.

Philip Weinberg, CHAIRMAN

Attest:

Chandra Powell, SECRETARY

♣Quasi-Judicial Proceeding.

MEMO TO: PLANNING AND ZONING BOARD MEMBERS

FROM: PATRICK J. MURPHY, ASSISTANT DIRECTOR

DATE: JANUARY 4, 2017

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

The applicant has requested a Continuance of this case to the February 1st Planning and Zoning Board Meeting in order to continue working through engineering design issues. A vote to Continue is required.

PJM

The City of Palm Bay Florida

DATE: January 4, 2017
CASE #: CP-1-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

COMPREHENSIVE PLAN AMENDMENT APPLICATION

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

LOCATION: The subject property is located east of and adjacent to Cascade Avenue SE, approximately 265 feet south of Malabar Road. Specifically, Lots 6 & 7, Block 304, of Port Malabar Unit 9, Section 5, Township 29 South, Range 37 East, Brevard County, Florida.

APPLICANT: Emerson Development Partners, LLC. (Matt Williams, Manager)

SITE DATA

PRESENT ZONING: RS-1, Single Family Residential

LAND USE DESIGNATION: Single Family Residential Use

ACREAGE: 0.48 Acres +/-

ADJACENT ZONING & LAND USE:

N -- RC, Restricted Commercial District; Vacant Lot
E -- RC, Restricted Commercial District; Lifestyle Homes Office
S -- RS-1, Single Family Residential District; Vacant Land
W -- RS-1, Single Family Residential District; Cascade Avenue SE

BACKGROUND:

1. The subject property is located east of and adjacent to Cascade Avenue SE, approximately 265 feet south of Malabar Road. Specifically, Lots 6 & 7, Block 305, of Port Malabar Unit 9, Section 5, Township 29 South, Range 37 East, Brevard County, Florida.

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

NORTH:	RC, Restricted Commercial District; Vacant Lot
EAST:	RC, Restricted Commercial District; Lifestyle Homes Office
SOUTH:	RS-2, Single Family Residential District; Vacant Land
WEST:	(Across Cascade) RS-1, Single Family Residential District; Single Family Homes

3. The applicant is requesting a small-scale Comprehensive Plan Future Land Use Map Amendment to change from Single Family Residential Use to Commercial Use. The applicant for this request is Matt Williams, Representative for Emerson Development Partners, LLC.

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: Commercial Use has no effect on the parks & recreation level of service standards, nor does it place any demand on such services.

Drainage: The lots are presently vacant and in their 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 two (2) lots in conjunction with the seven (7) lots that abut to the north and east. The future commercial development will consist of a Wa Wa Neighborhood Market. As part of the conditional use process required for this development, city staff is requiring a traffic study to be submitted during the administrative site plan review process. Any impact to the adjacent road network will be reviewed at that time and mitigated through the design of the site.

Public Schools: Commercial Use has no impact on the public school system.

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:

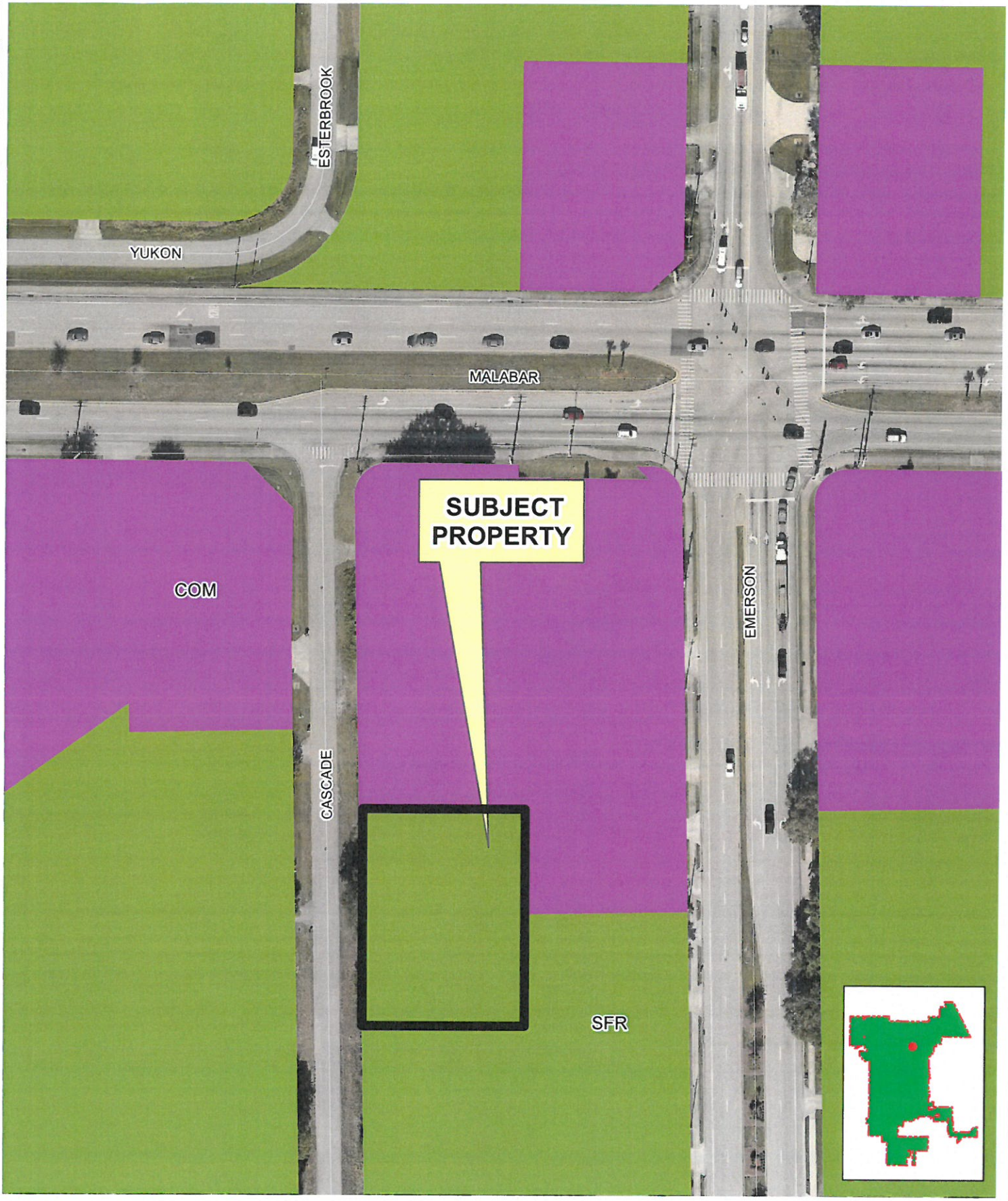
The subject property is not located within the Coastal High Hazard Zone or the current surge area.

Historic Resources:

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

STAFF CONCLUSION:

Motion to approve Case No. CP-1-2017, 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

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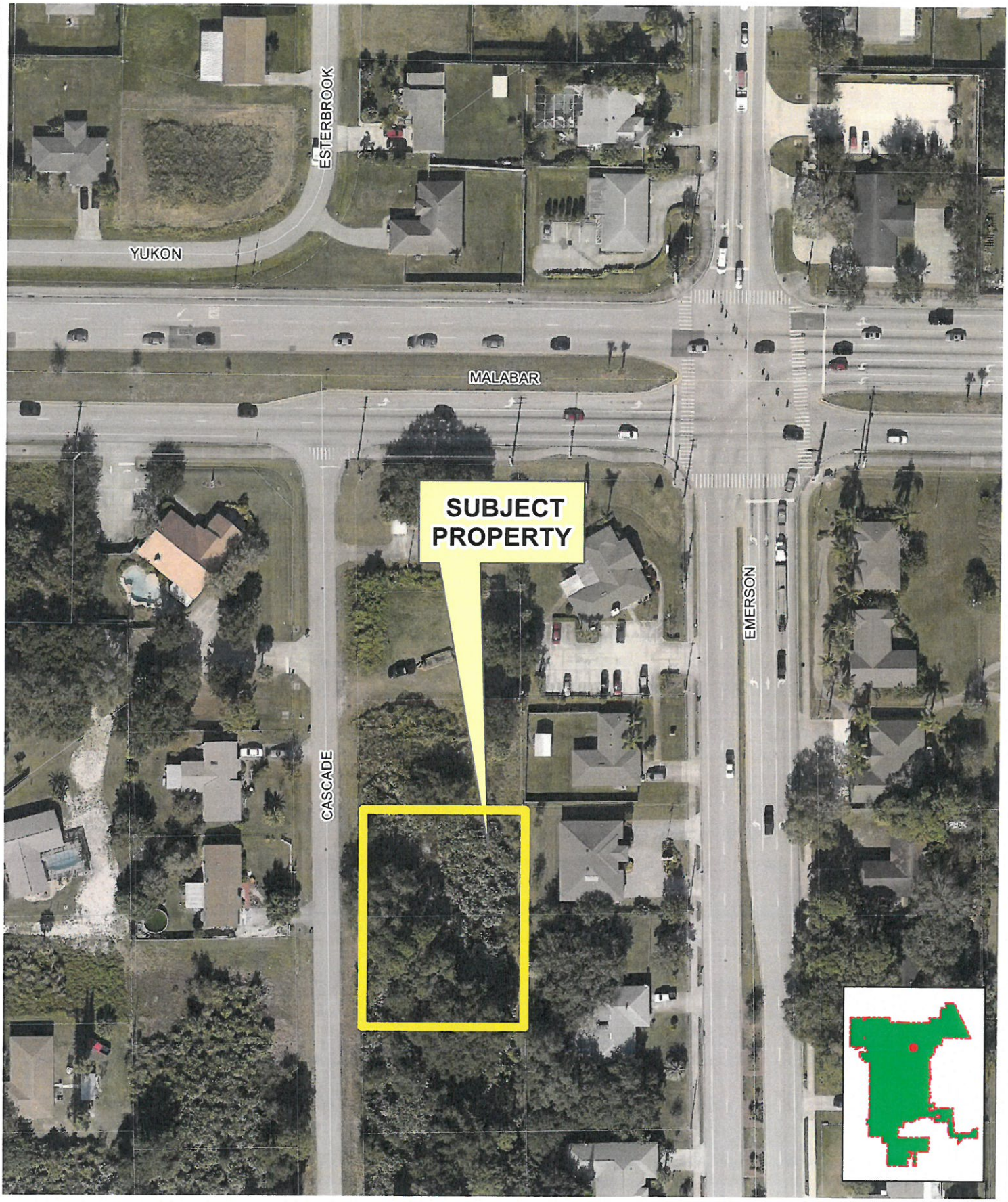
CASE NO. CP-1-2017



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

Map created by the Land Development Division

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CASE NO. CP-1-2017

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) Emerson Development Partners, LLC

ADDRESS 7331 Office Park Place, Suite 200

CITY Viera STATE Florida ZIP 32940

PHONE # 321-428-4424 FAX #

E-MAIL ADDRESS matt.williams@matthewdev.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION

Lots 6 and 7 of block 304 per PB 15, PG 3 - Port Malabar unit nine. PID: 29-37-05-GJ-304-7 and

29-37-05-GJ-304-6

SECTION 29 TOWNSHIP 37 RANGE 05

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): ± 0.48 ac.

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

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

6) PRESENT USE OF THE PROPERTY: Vacant/Undeveloped

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.)

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

10) SPECIFIC USE INTENDED FOR PROPERTY: As part of a larger assemblage of ± 2.05 ac, the subject property is necessary for the construction of a Wawa Neighborhood Market with gas.

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)).

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

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

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

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

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

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

Signature of Applicant Matt Williams **Date** 12-1-16

Printed Name of Applicant Matt Williams of Emerson Development Partners, LLC

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

FUTURE LAND USE MAP AMENDMENT - SUPPLEMENTAL

JUSTIFICATION FOR CHANGE

The subject property is located approximately one mile west of the I-95 interchange at the southwest corner of the Malabar Road / Emerson Drive signalized intersection. Within the vicinity of the subject property, the development pattern along the south side of Malabar Road transitions from several big box retailers and intensive highway commercial uses to the east to professional offices and eventually single family homes further to the west. The recent development trends continue to indicate a high demand for commercial businesses along Malabar Road. In addition to the intensive commercial hub at the interchange, existing and newly developed commercial uses along the south side of the corridor include fast food restaurants, gas stations, urgent care medical facilities, and multi-tenant neighborhood commercial centers.

REQUEST:

The subject of this land use map amendment application consists of two vacant / undeveloped lots totaling 0.48 acres in size. The proposed land use amendment from SFR to COM is necessary to assemble with the adjacent 6 lots to the north and northeast that are currently designated Commercial. In total the ±2.05 acre project is adequate to support a proposed Wawa Neighborhood Market with gas.

PROJECT DESCRIPTION:

Wawa is a family owned business offering a highly desirable alternative to traditional "gas stations" with affordable quality deli options, fresh, built-to-order foods, beverages, coffee, no surcharge ATMs and free air dispenser. The winner of the 2013 Beautification Award in Orlando, Wawa is proud to be recognized for its continued commitment to enhancing the community environment through litter prevention, waste reduction and recycling, and beautification. The building and site design includes extensive windows along the façade and dual frontage accessibility. These intentional site designs along with an average of 40 part time and full time employees per store collectively provide a safe and clean environment for customers and employees.

JUSTIFICATION:

Consistency The proposed land use amendment is consistent with the adjacent properties to the north / northeast / northwest and is generally consistent with the Commercial land use pattern along the south side of Malabar Road.

Compatibility Within the vicinity of the subject property, Malabar Road is a 4 lane divided arterial highway with a grassed center median and dedicated turn lanes with signalized intersections. Similarly, Emerson Drive to the east is a four lane divided roadway with a raised / grassed center median and dedicated turn lanes.

Most recently, a Cumberland Farms and a Dunkin Donuts were developed immediately east of the subject property. Traffic volumes in the area, improved properties, established development patterns and emerging development trends, indicate a more intensive commercial use of the property would be consistent and compatible with the adjacent properties along Malabar Road corridor.

Market Area

A Wawa Neighborhood Market is complimentary and compatible with the current land use pattern and existing mix of uses along the corridor. A general evaluation of the area indicates a significant retail opportunity for a neighborhood serving market with fresh food, beverages and general merchandise consistent with the market demands serving the local residents and workforce within the City of Palm Bay.

Infill / Redevelopment

Infill redevelopments include assembling sites, providing employment, and supporting a cohesive infrastructure system. There are several reasons to support redevelopment of the subject property specifically for the Wawa Neighborhood Market use:

- The subject property is part of an assemblage of underutilized sites.
- As platted, the physical size of the individual parcels is inadequate to support the development demands of modern commercial uses along the corridor.
- The proposed infill redevelopment will bring the property substantially within code including access, setbacks, signage, and landscaping, which collectively will significantly improve the aesthetics of the property and enhance economic development in the area.
- Wawa prides itself on being part of the neighborhood community and providing a clean and safe place to shop.

SUMMARY:

The proposed land use amendment from SFR, Residential to COM, Commercial is consistent and compatible with the commercial development pattern along the Malabar Road corridor. Additionally, the intended Wawa Neighborhood Market use provides a logical, cohesive and efficient development opportunity for the subject property consistent with the intent of infill redevelopment.

Thank you for your consideration.

Wawa – Emerson & Malabar

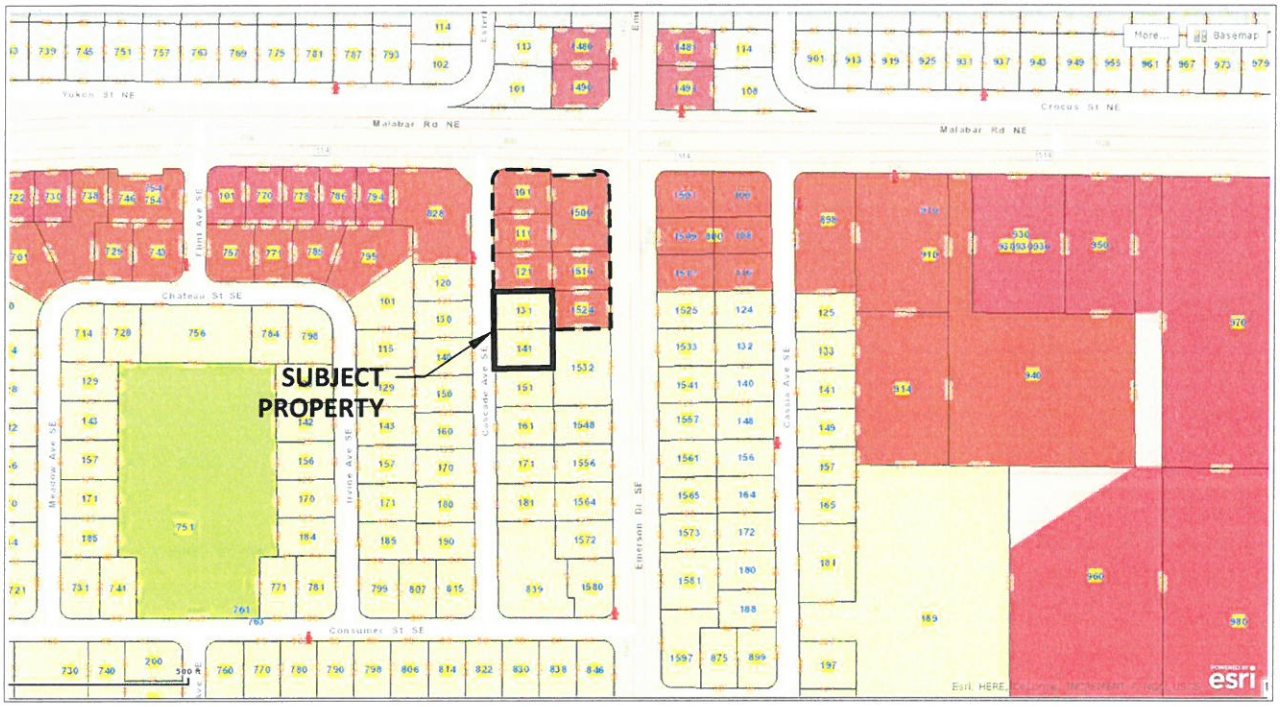
Subject Property:

The subject of the Comprehensive Plan – Future Land Use Map Amendment is comprised of the following two parcels:

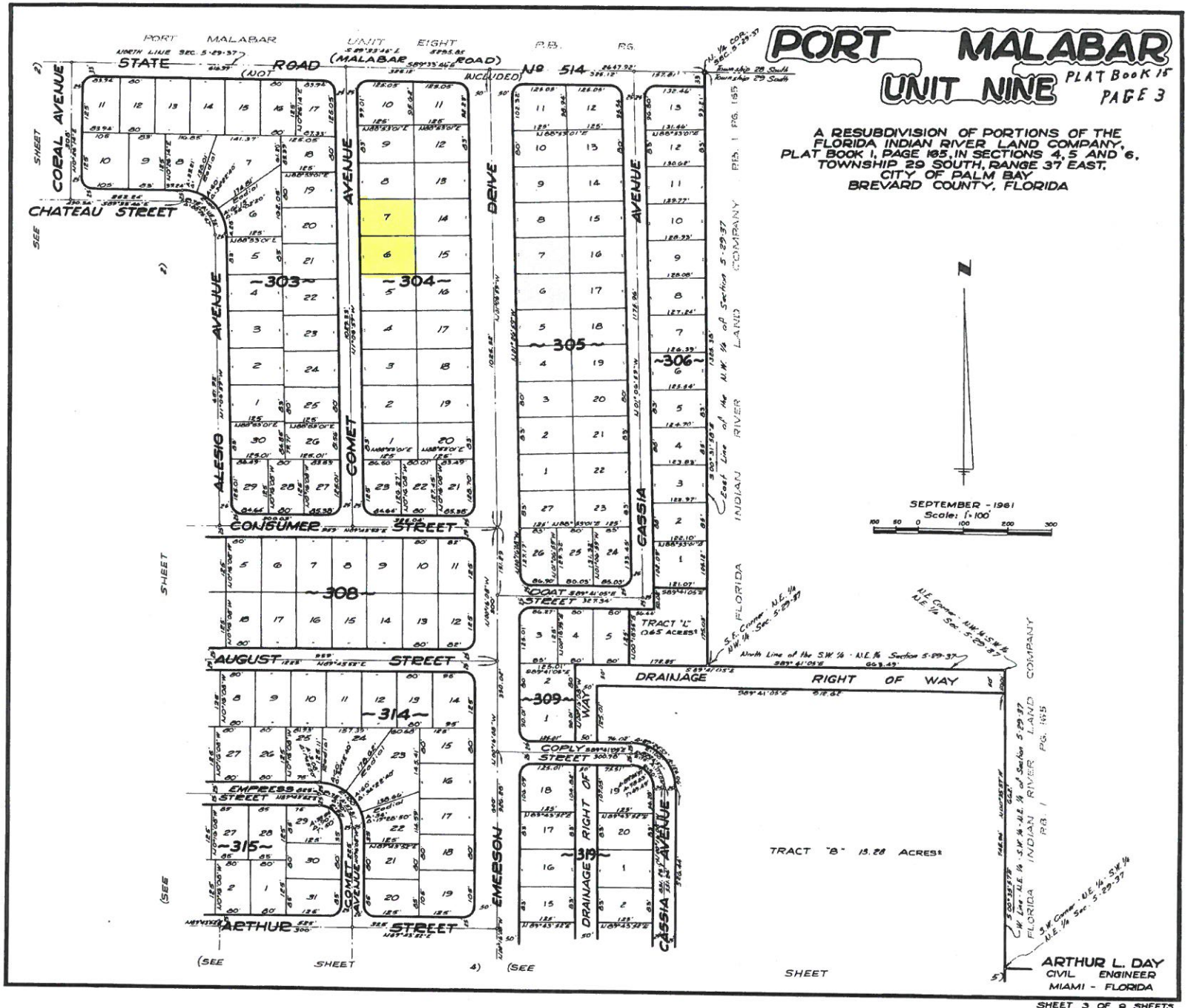
Current Owner	Current Use	Address	Parcel ID
CLS Investment of Brevard Co.	Vacant	131 Cascade Ave.	29-37-05-GJ-304-7*
Kris Sarabjit	Residence	141 Cascade Ave.	29-37-05-GJ-304-6*

*Subject to rezoning under separate cover.

FUTURE LAND USE MAP - EXISTING: SFR, RESIDENTIAL



FUTURE LAND USE MAP - PROPOSED: CCM, COMMERCIAL


PORT MALABAR
UNIT NINE
PLAT BOOK 15
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A RESUBDIVISION OF PORTIONS OF THE FLORIDA INDIAN RIVER LAND COMPANY'S PLAT BOOK 1, PAGE 165, IN SECTIONS 4, 5 AND 6, TOWNSHIP 29 SOUTH, RANGE 37 EAST, CITY OF PALM BAY BREVARD COUNTY, FLORIDA
PORT MALABAR UNIT EIGHT
STATE ROAD No 514 (MALABAR ROAD)
(NOT INCLUDED)
CORAL AVENUE
CHATEAU STREET
ALESIO AVENUE
COMET AVENUE
DRIVE
CASSIA AVENUE
CONSUMER STREET
COAT STREET
AUGUST STREET
COPLY STREET
EMPRESS STREET
ARTHUR STREET
DRAINAGE RIGHT OF WAY
TRACT "L" 0.65 ACRES±
TRACT "B" 13.28 ACRES±
-303-
-304-
-305-
-306-
-308-
-309-
-314-
-315-
-319-
SEPTEMBER - 1961
Scale: 1"=100'
ARTHUR L. DAY
CIVIL ENGINEER
MIAMI - FLORIDA
CALCULATED BY- R.G.
DRAWN BY- S.P.
CHECKED BY- J.B.
APPROVED BY- C.B.K.
SHEET 3 OF 9 SHEETS
147 LOTS THIS SHEET

The City of Palm Bay Florida
A Perfect Place to Grow

DATE: January 4, 2017
CASE #: CPZ-1-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

PROPOSAL: A rezoning from the RS-1, Single Family Residential and RC, Restricted Commercial Zoning Districts to the CC, Community Commercial Zoning District.

LOCATION: The subject property is located at the SW corner of Malabar Road SE and Emerson Drive SE. Specifically, Lots 6-14, Block 304, of Port Malabar Unit 9, Section 5, Township 29 South, Range 37 East, Brevard County, Florida.

APPLICANT: Emerson Development Partners, LLC. (Matt Williams, Manager)

SITE DATA

PRESENT ZONING: RS-1, Single Family Residential and RC, Restricted Commercial Districts

ACREAGE: 2.05 acres (±)

DENSITY: Not Applicable

ADJACENT ZONING & LAND USE:

N -- RC, Restricted Commercial District; Malabar Road
E -- RC, Restricted Commercial District; Emerson Drive
S -- RS-1, Single Family Residential District; Single Family Homes
W -- RS-1, Single Family Residential and RC, Restricted Commercial Districts; Cranbrook Avenue

WATER & SEWER: City Water & Sewer Available and Required

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

COMPLIANCE WITH THE COMPREHENSIVE PLAN: Yes, Subject to Case No. CP-1-2017

BACKGROUND:

1. The subject property is located at the SW corner of Malabar Road SE and Emerson Drive SE. Specifically, Lots 6-14, Block 304, of Port Malabar Unit 9, Section 5, Township 29 South, Range 37 East, Brevard County, Florida.

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

NORTH:	RC, Restricted Commercial District; Malabar Road
EAST:	RC, Restricted Commercial District; Emerson Drive
SOUTH:	RS-1, Single Family Residential District; Single Family Homes
WEST:	RS-1, Single Family Residential and RC, Restricted Commercial Districts; Cranbrook Avenue

3. A rezoning from the RS-1, Single Family Residential and RC, Restricted Commercial Zoning Districts to the CC, Community Commercial Zoning District, is requested. The applicant for this request is Matt Williams of Emerson Development Partners, LLC. The size of the property is 2.05 acres.

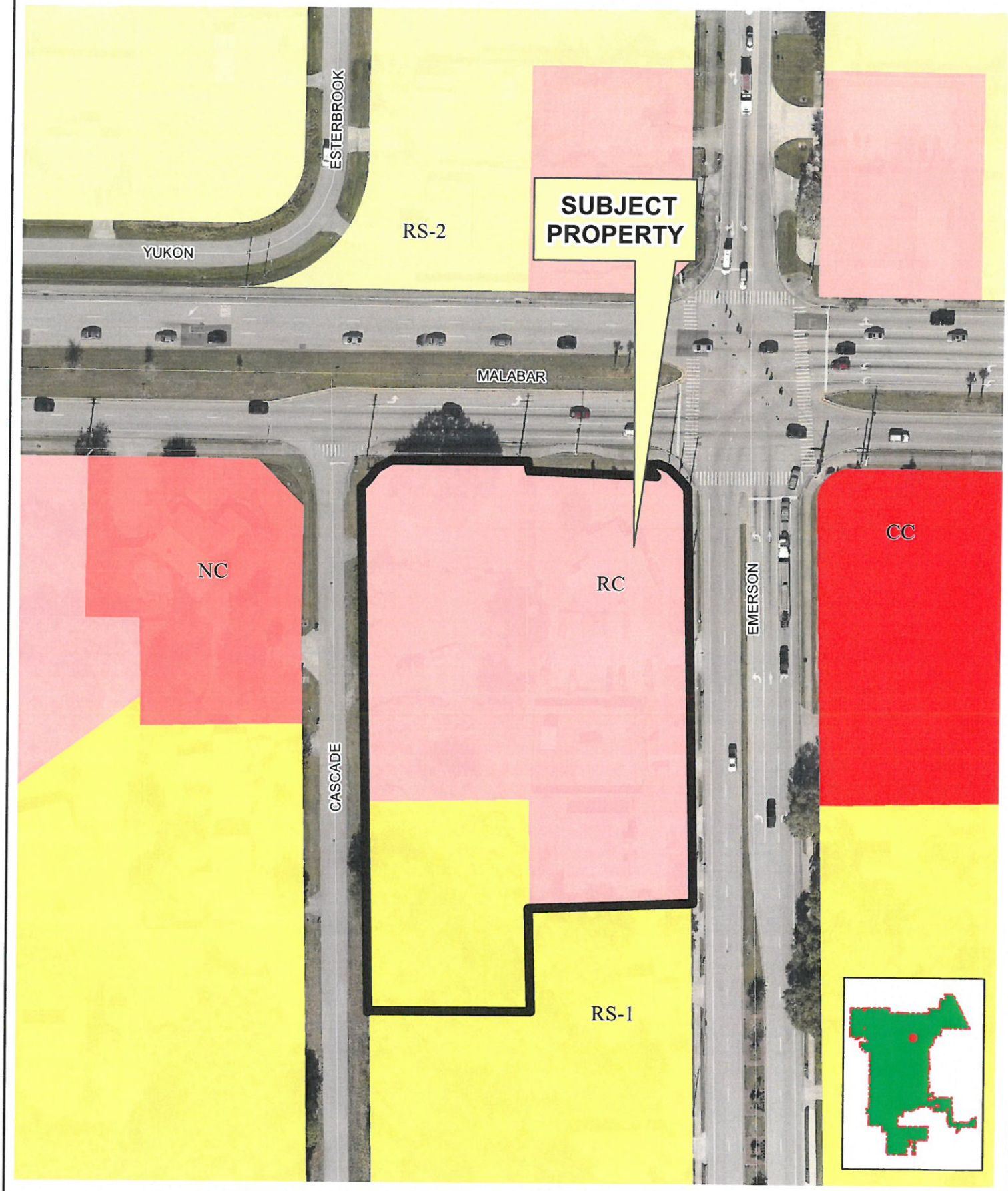
ANALYSIS:

1. The purpose of the community commercial district is to establish areas within the city, which are uniquely suited for the development and maintenance of community commercial facilities. These areas are to be primarily located in or near the intersection of arterial roadways; and to designate those uses and services deemed appropriate and for development within the subject district.

2. The subject property is located at the SW corner of Malabar Road SE and Emerson Drive SE. On the Palm Bay Comprehensive Plan, Emerson Drive is designated as a Major Collector Roadway and Malabar is designated as an Arterial Roadway. Emerson is a 4-laned road with a divided median, capable of handling large amounts of traffic. Malabar Road east of the intersection is a 6-lane roadway and a 4-lane roadway west of the intersection. Both segments contain raised medians. With such a high traffic trip count at this intersection, the corner properties warrant a higher commercial designation.

STAFF RECOMMENDATION:

Case No. CPZ-1-2017 is recommended for approval in order to be consistent and compatible with the Future Land Use designation approved via Case No. CP-27-2016.



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

Map created by the Land Development Division

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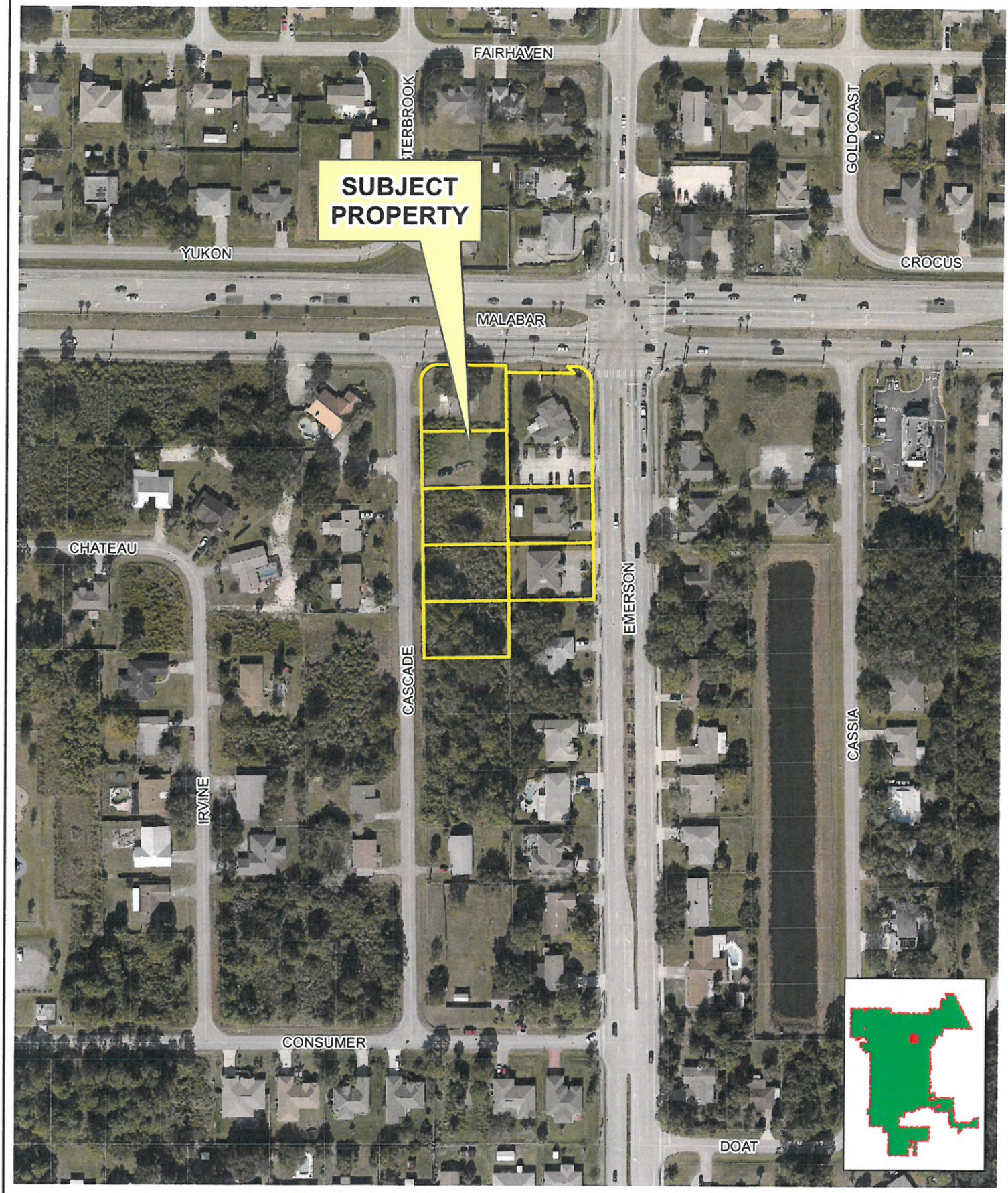
CASE NO. CPZ-1-2017



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

Map created by the Land Development Division

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CASE NO. CPZ-1-2017

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) Emerson Development Partners, LLC

ADDRESS 7331 Office Park Place, Suite 200

CITY Viera STATE Florida ZIP 32940

PHONE # 321-428-4424 FAX #

E-MAIL ADDRESS matt.williams@matthewdev.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION

See Attached.

SECTION 29 TOWNSHIP 37 RANGE 05

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 2.05 ac

4) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.) RC Commercial and RS-1 Residential

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

6) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY? Yes

7) JUSTIFICATION FOR REZONING: See Attached.

8) PRESENT USE OF THE PROPERTY: Combination of office and vacant lands.

9) INTENDED USE OF PROPERTY: Construction of a Wawa Neighborhood Market with gas station

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

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

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

_____ 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 Matt Williams **Date** 12-1-16

Printed Name of Applicant Matt Williams of Emerson Development Partners, LLC

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

Wawa – Emerson & Malabar

Subject Property:

The subject of the rezoning is comprised of 8 parcels as follows:

Current Owner	Current Use	Address	Parcel ID
Bell South Telecommunications	Utility Substation	N/A (southeast corner of Malabar & Cascade)	29-37-05-GJ-304-10 PJM
CLS Investment of Brevard Co.	Vacant	111 Cascade Ave.	29-37-05-GJ-304-9
CLS Investment of Brevard Co.	Vacant	121 Cascade Ave.	29-37-05-GJ-304-8
CLS Investment of Brevard Co.	Vacant	131 Cascade Ave.	29-37-05-GJ-304-7*
Kris Sarabjit	Residence	141 Cascade Ave.	29-37-05-GJ-304-6*
CLS Investment of Brevard Co.	Office	1500 Emerson Dr.	29-37-05-GJ-304-11
CLS Investment of Brevard Co.	Office	1516 Emerson Dr.	29-37-05-GJ-304-13
Lifestyle Home Builders	Model Home / Office	1524 Emerson Dr.	29-37-05-GJ-304-14

*Subject to Comprehensive Plan – Future Land Use Map amendment under separate cover.

REZONING - SUPPLEMENTAL

JUSTIFICATION FOR CHANGE of ZONING

The subject property is located approximately one mile west of the I-95 interchange at the southwest corner of the Malabar Road / Emerson Drive signalized intersection. Within the vicinity of the subject property, the development pattern along the south side of Malabar Road transitions from several big box retailers and intensive highway commercial uses to the east to professional offices and eventually single family homes further to the west. The recent development trends continue to indicate a high demand for commercial businesses along Malabar Road. In addition to the intensive commercial hub at the interchange, existing and newly developed commercial uses along the south side of the corridor include fast food restaurants, gas stations, urgent care medical facilities, and multi-tenant neighborhood commercial centers.

REQUEST:

The subject of this REZONING application consists of EIGHT lots totaling ±2.05 acres in size. The existing lots consist of two improved single-tenant office uses, a model home / sales office for a home builder, a small Bellsouth telecommunication utility substation (to remain) and four vacant / undeveloped lots. The rezoning request is for 6 lots currently zoned RC, Restricted Commercial and 2 lots zoned RS-1, Residential to CC, Community Commercial.

In total, the assembled ±2.05 acre project is adequate to support a proposed Wawa Neighborhood Market with gas / fuel sales. *Included as part of the application package, under separate cover, is a Conditional Use Application to allow for the proposed Wawa Neighborhood Market with gas / fuel sales.*

PROJECT DESCRIPTION:

Wawa is a family owned business offering a highly desirable alternative to traditional "gas stations" with affordable quality deli options, fresh, built-to-order foods, beverages, coffee, no surcharge ATMs and free air dispenser. The winner of the 2013 Beautification Award in Orlando, Wawa is proud to be recognized for its continued commitment to enhancing the community environment through litter prevention, waste reduction and recycling, and beautification. The building and site design includes extensive windows along the façade and dual frontage accessibility. These intentional site designs along with an average of 40 part time and full time employees per store collectively provide a safe and clean environment for customers and employees.

JUSTIFICATION:

The purpose and intent of the CC, Community Commercial district is to establish areas which are deemed to be uniquely suited for the development and maintenance of community commercial facilities primarily located in or near the intersection of arterial roadways. The subject property is located at southwest corner of the signalized intersection of Malabar Road

and Emerson Drive. Malabar Road is a 4 lane divided arterial highway with a grassed center median and dedicated turn lanes with signalized intersections. Similarly, Emerson Drive to the east is a four lane divided roadway with a raised / grassed center median and dedicated turn lanes.

Consistency The proposed rezoning is consistent with the adjacent properties to the east and west along the south side of Malabar Road.

Compatibility Most recently, a Cumberland Farms and a Dunkin Donuts were developed immediately east of the subject property. Traffic volumes in the area, improved properties, established development patterns and emerging development trends, indicate a more intensive commercial use of the property would be consistent and compatible with the adjacent properties along Malabar Road corridor.

Market Area A Wawa Neighborhood Market is complimentary and compatible with the current land use pattern and existing mix of uses along the corridor. A general evaluation of the area indicates a significant retail opportunity for a neighborhood serving market with fresh food, beverages and general merchandise consistent with the market demands serving the local residents and workforce within the City of Palm Bay.

Infill Infill redevelopments include assembling sites, providing employment, and supporting a cohesive infrastructure system. There are several reasons to support redevelopment of the subject property specifically for the Wawa Neighborhood Market use:

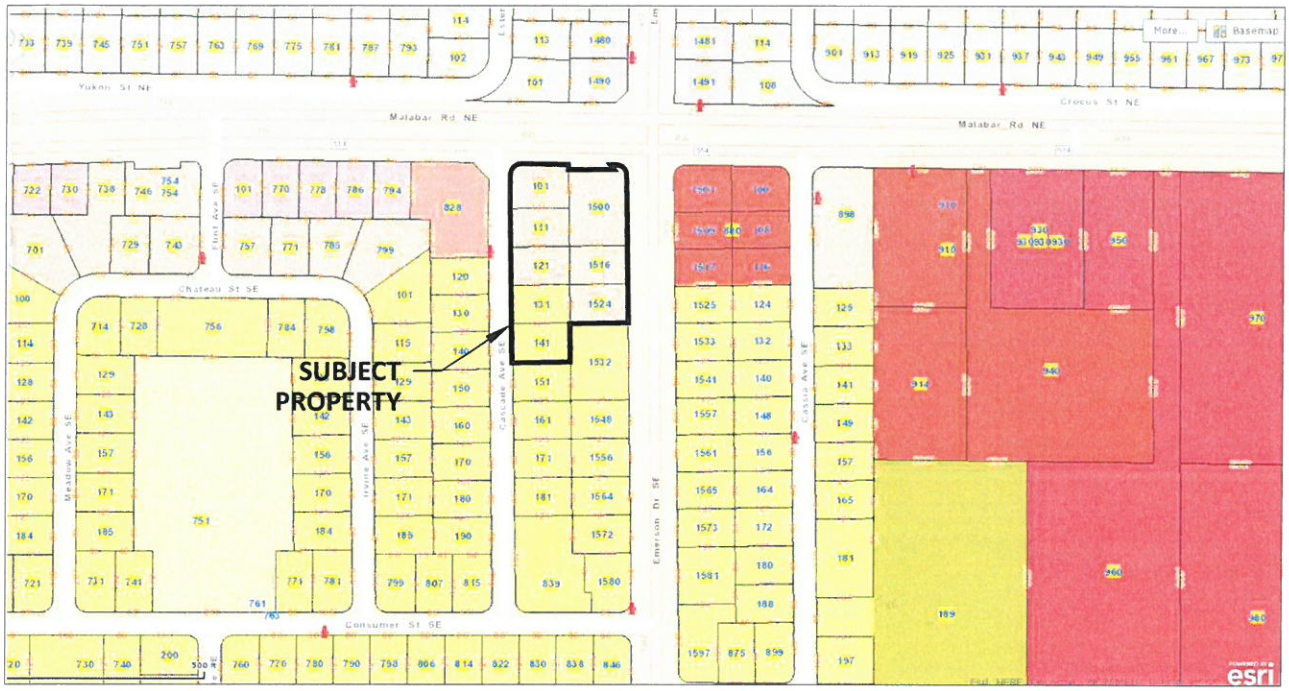
- The subject property is part of an assemblage of underutilized sites.
- As platted, the physical size of the individual parcels is inadequate to support the development demands of modern commercial uses along the corridor.
- The proposed infill redevelopment will bring the property substantially within code including access, setbacks, signage, and landscaping, which collectively will significantly improve the aesthetics of the property and enhance economic development in the area.
- Wawa prides itself on being part of the neighborhood community and providing a clean and safe place to shop.

SUMMARY:

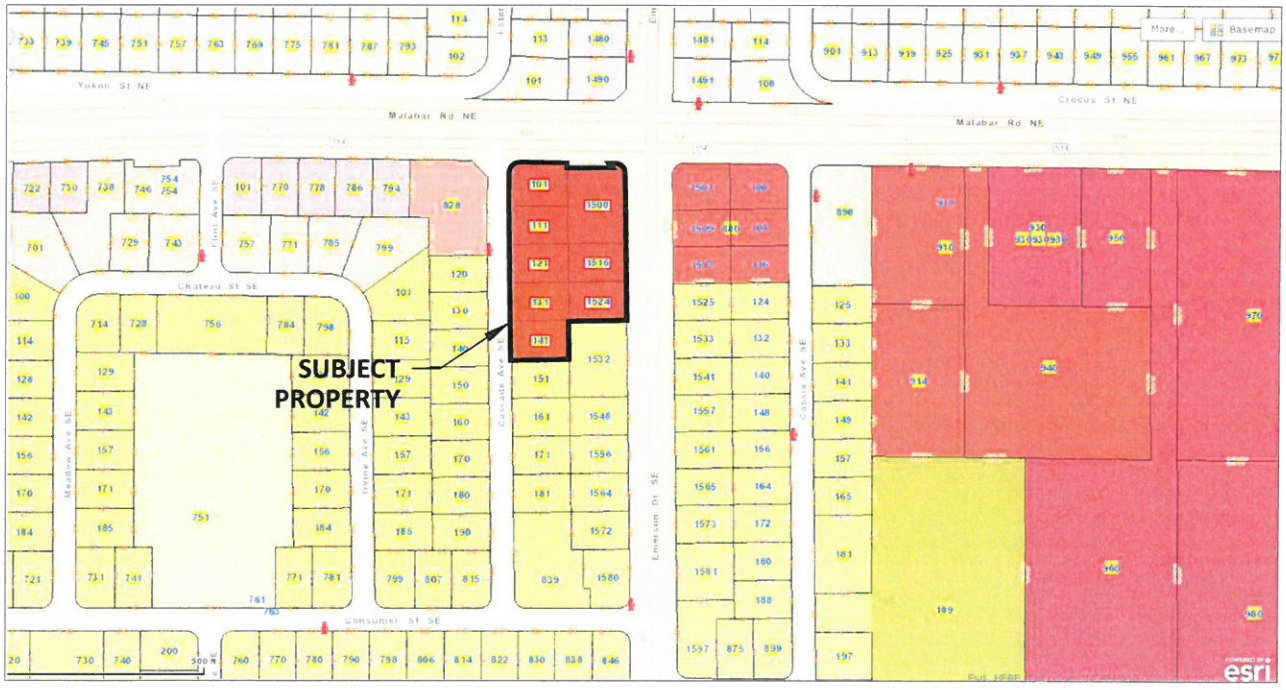
The proposed rezoning to CC, Community Commercial is consistent and compatible with the commercial development pattern along the Malabar Road corridor. Additionally, the intended Wawa Neighborhood Market use provides a logical, cohesive and efficient development opportunity for the subject property consistent with the intent of infill redevelopment.

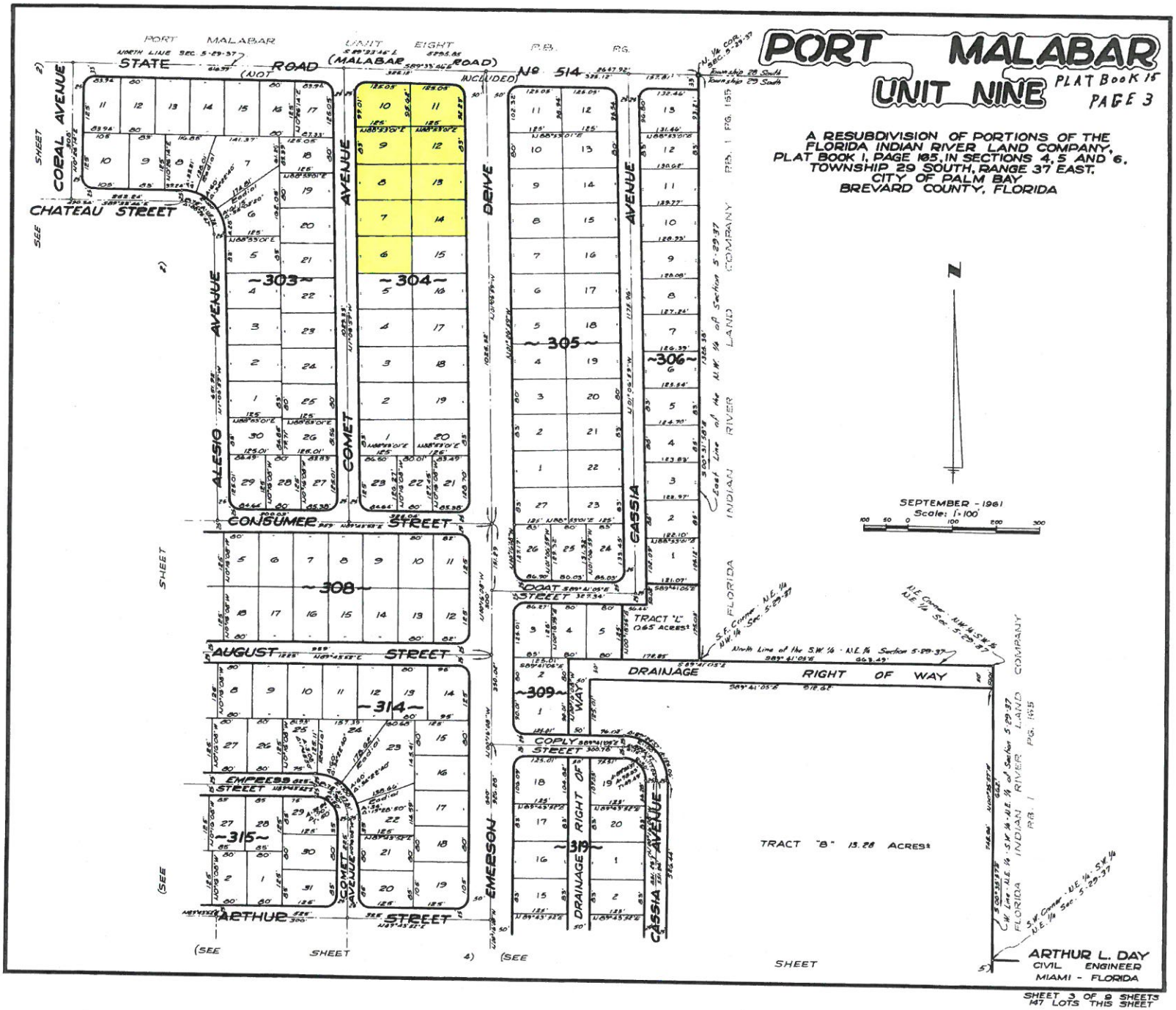
Thank you for your consideration.

ZONING MAP - EXISTING: RC, COMMERCIAL & RS-1, RESIDENTIAL



ZONING MAP - PROPOSED: CC, COMMUNITY COMMERCIAL

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PORT MALABAR UNIT EIGHT
STATE ROAD (NOT INCLUDED)
(MALABAR ROAD)
P.B. PG.
No 514
CORAL AVENUE
CHATEAU STREET
ALESIO AVENUE
COMET AVENUE
DRIVE
CASSIA AVENUE
CONSUMER STREET
AUGUST STREET
EMPEROR STREET
ARTHUR STREET
COPLY STREET
DRAINAGE RIGHT OF WAY
-303-
-304-
-305-
-306-
-308-
-309-
-314-
-315-
-319-
TRACT "L" 0.65 ACRES±
TRACT "B" 13.28 ACRES±
SEPTEMBER - 1961
Scale: 1"=100'
ARTHUR L. DAY
CIVIL ENGINEER
MIAMI - FLORIDA
CALCULATED BY: RC
DRAWN BY: SP
CHECKED BY: JB
APPROVED BY: CBK
SHEET 3 OF 9 SHEETS
147 LOTS THIS SHEET

DATE: January 4, 2017
CASE #: CU-1-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

PROPOSAL: The applicant is requesting conditional use approval for retail automotive fuel sales upon a property zoned CC, Community Commercial District.

LOCATION: The subject property is located at the SW corner of Malabar Road SE and Emerson Drive SE. Specifically, Lots 6-14, Block 304, of Port Malabar Unit 9, Section 5, Township 29 South, Range 37 East, Brevard County, Florida.

APPLICANT: Emerson Development Partners, LLC. (Matt Williams, Manager)

SITE DATA

PRESENT ZONING: CC, Community Commercial District

ACREAGE: 2.05 +/-

DENSITY: Not Applicable

ADJACENT ZONING & LAND USE:

N -- RC, Restricted Commercial District; Malabar Road
E -- RC, Restricted Commercial District; Emerson Drive
S -- RS-1, Single Family Residential District; Single Family Homes
W -- RS-1, Single Family Residential and RC, Restricted Commercial Districts; Cranbrook Avenue

WATER & SEWER: City Water & Sewer Available and Required

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

COMPLIANCE WITH THE COMPREHENSIVE PLAN: Yes

BACKGROUND:

1. The subject property is located at the SW corner of Malabar Road SE and Emerson Drive SE. Specifically, Lots 6-14, Block 304, of Port Malabar Unit 9, Section 5, Township 29 South, Range 37 East, Brevard County, Florida.

2. The current zoning is CC, Community Commercial. The surrounding zoning and land uses are as follows:

   North: RC, Restricted Commercial District; Malabar Road
   South: RC, Restricted Commercial District; Emerson Drive
   East: RS-1, Single Family Residential District; Single Family Homes
   West: RS-1, Single Family Residential and RC, Restricted Commercial Districts; Cranbrook Avenue

3. The applicant, Emerson Development Partners, LLC. is requesting conditional use approval for retail automotive fuel sales upon property zoned CC, Community Commercial District. The applicant is represented by Mr. Phillip Nhorr, Esquire.

ANALYSIS:

The property consists of nine (9) lots of roughly ¼ acre each, at the SW corner of Malabar Road and Emerson Drive. Four (4) of these lots are vacant. The other lots contain such uses as an AT&T Switching Station, Cheryl Smith Realty Office, Lifestyle Homes Office, and a Hair Salon. Except for the AT&T Facility, all of the existing buildings and parking lots will be removed in order to construct a Wa Wa Neighborhood Market. The convenience store will be approximately 6,119 square feet. The facility will retail automotive fuel and contain eight (8) pump islands, for a total of 16 fueling stations. Outdoor seating is provided on the north and east sides of the building.

CODE REQUIREMENTS:

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

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

   The conceptual plan proposes two (2) driveways onto Emerson Drive and one (1) on Cascade Avenue. The site will not be accessed directly from Malabar Road. As this parcel is located at the intersection of an arterial and major collector roadway a traffic study is required during the administrative site plan review process, in order to examine possible roadway safety and capacity improvements.

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

Based upon the use and size of the building, a minimum of 31 parking spaces are required, of which at least two (2) spaces shall be designated for handicapped parking. The conceptual plan proposes 67 regular spaces and three (3) handicapped parking stalls.

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

The building is required to connect to the city's potable water and sewer system.

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

The site is bordered by roadways on the north, east and west. The building will be approximately 150 feet from the homes located on the west side of Cascade, as well as the home located south of the project. The landscape code and the width of the abutting roadways appear sufficient buffering from existing development.

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

Two (2) detached signs are shown – one on Malabar Road and one on Emerson Drive. The note states the signs will be a maximum 25 feet tall and setback at least ten (10) feet from the property line. These standards comply with the city's sign code. However, the note also states the signs will have a maximum copy area of 150 square feet. The maximum sign area for a detached sign, at this location, is 64 square feet. A lighting plan has not been provided. It shall be noted that City codes require any and all lighting to be shielded and/or directed downward, so as to not create a nuisance to adjacent properties. During the administrative site plan review a lighting and photometric plan will be required.

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

The yards and open space requirements of the Zoning Code have been met.

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

Wide drive aisles and ample on-site maneuverability are proposed. Fuel islands and storage tanks are placed in the northern end of the site, which is flanked by commercial uses. The traffic study will determine any necessary off-site roadway improvements.

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

The proposed "uses" are permitted (via conditional use) and the site is bordered by roads on three (3) sides. The minimum buffering required by the zoning code has been met along the south property line.

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

The Planning and Zoning Board and City Council has the authority and right to impose any additional and justifiable safeguards and/or conditions to ensure that the facility operates safely and harmoniously with its surroundings. The City's Public Works Department has recommended that the project provide a sidewalk along its western boundary and that connections to off-site sidewalks are provided to the site. They have also recommended that 6-inch curbing is constructed along the east side of Cascade Avenue, to prevent on-street parking.

2. In addition to the General Requirements and Conditions of Section 185.087, the request shall successfully address items (a) through (h) of the conditional use requirements for automotive fuel sales, as provided in the guidelines of the CC District {Section 185.043 (D) (2)}. A review of these items is as follows:

Item (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.

As previously stated, Malabar Road is designated as an Arterial Roadway and Emerson Drive is designated as a Major Collector Roadway. There is a Cumberland Farms Store located to the east, across Emerson. Therefore, this would be the second fueling station at this intersection.

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

The property contains approximately 425 feet along Cascade Avenue; 331 feet along Emerson Drive; and 234 feet along Malabar Road

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

The underground fuel storage tanks shown on the submitted plan do not appear to meet the minimum 20 foot setback from the north property line. This item will be addressed during the official review of the site plans. The closest property line is more than 40 feet from the fueling islands and the islands are 60 feet from the convenience store. The islands are located more than 280 feet from the nearest residentially-zoned property and the closest municipal or public supply well is approximately 1.5 miles to the north.

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

The fuel storage tanks shall be located underground.

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

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

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

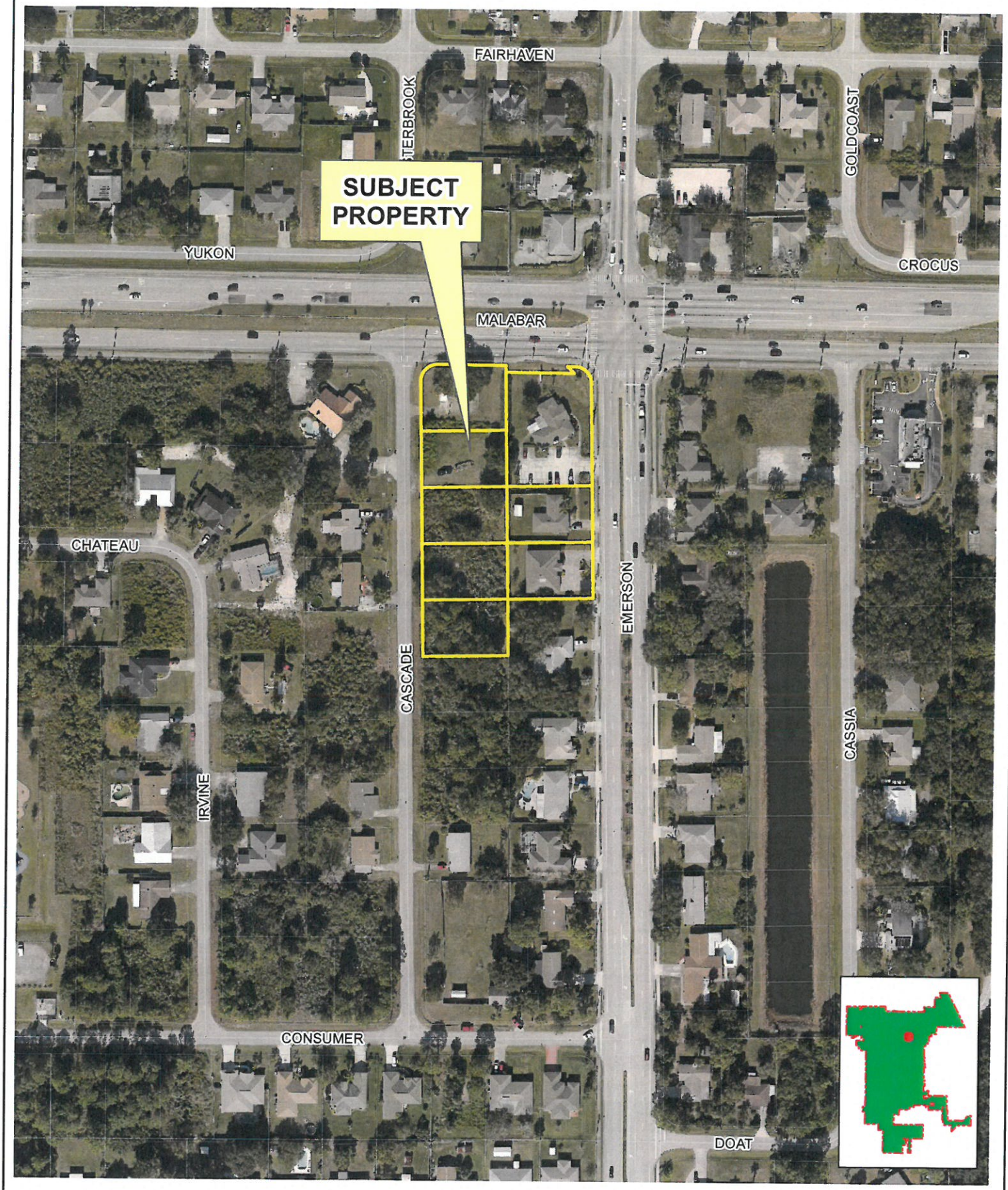
This was previously addressed under Item (E) of the general requirements.

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

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

STAFF CONCLUSION:

The Planning and Zoning Board and City Council must determine if the request meets the criteria of Sections 185.087 and 185.043 (D) (2), of the Palm Bay Code of Ordinances.



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

Map created by the Land Development Division

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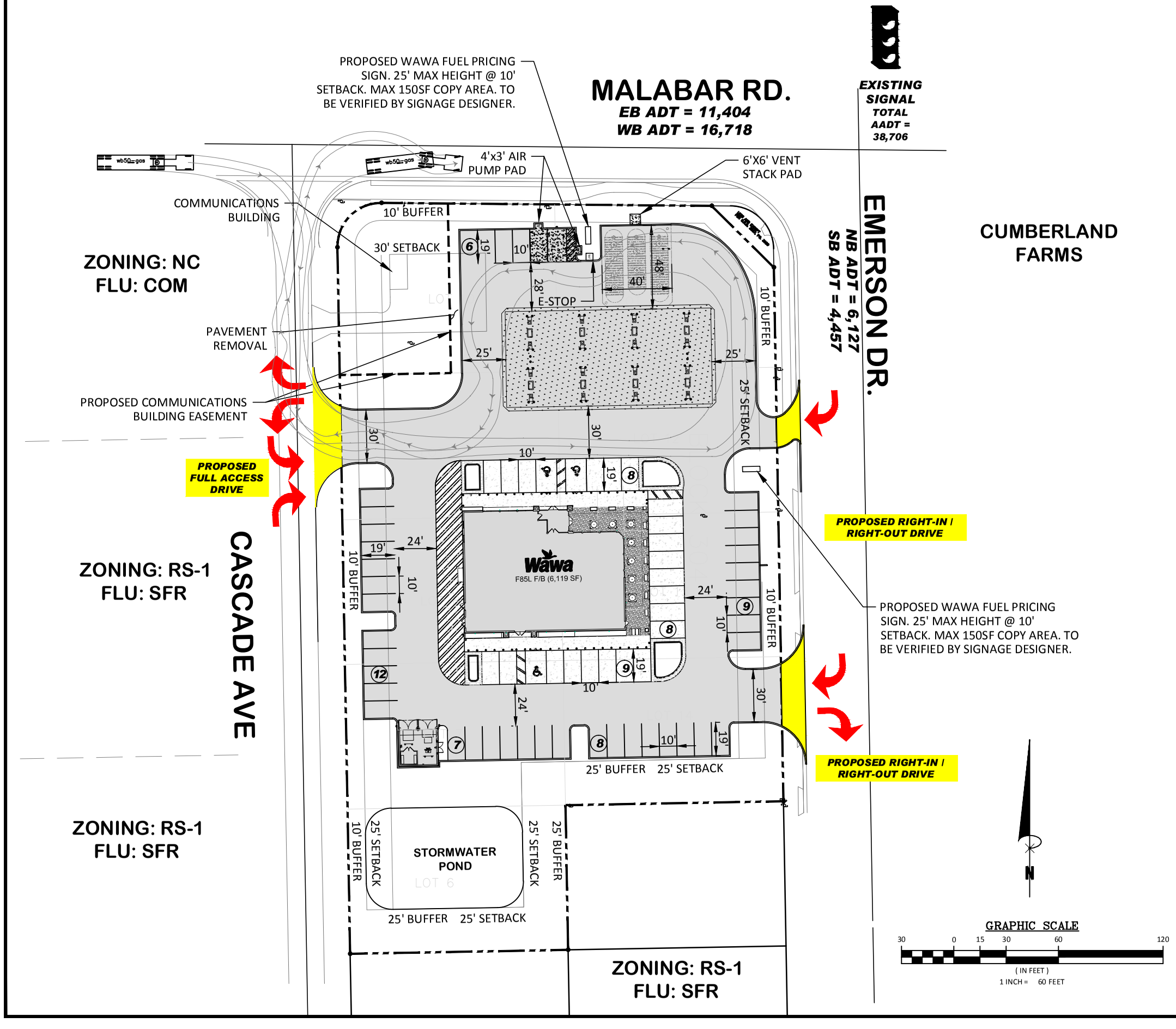
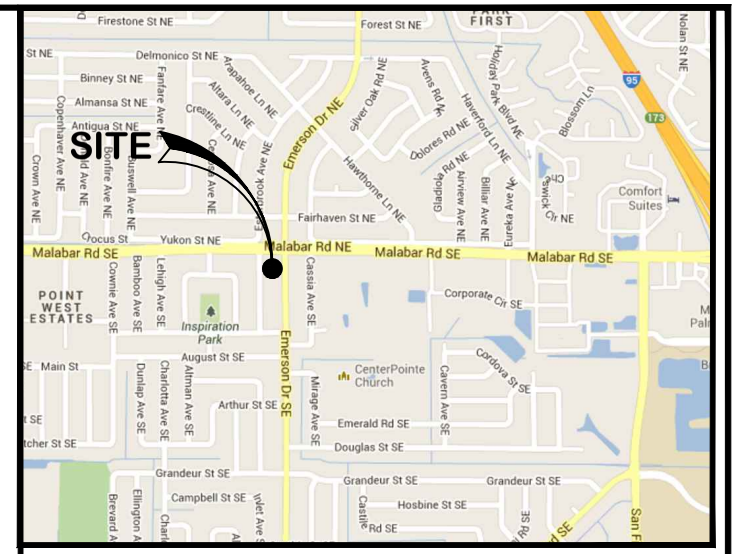
CASE NO. CU-1-2017





VICINITY MAP

SITE SUMMARY:

Jurisdiction	City of Palm Bay, FL
Existing Zoning	RC
Proposed Zoning	CC
Wawa Site Area	2.05 ac
Building Area	6,119 sf
Parking Required	
1 SP/ 200 SF X 6119 SF	31 spaces
Parking Provided	
Zone A	25 spaces
Zone B	15 spaces
Zone C	27 spaces
Total	67 spaces
Handicap	3 spaces
Setbacks:	
Front	30 Feet
Rear	25 Feet
Side (Street)	25 Feet
Side	25 Feet
Buffers:	
Front	10 Feet
Rear	25 Feet
Side (Street)	10 Feet
Side	10 Feet
Building Type	F85L F/B
Canopy Configuration	Stacked
Canopy Type	Sloped
# of MPD's	8
Type of MPD's	TBD

*DISCLAIMER:

This is a preliminary conceptual plan based on a cursory review of local regulations. A more detailed investigation is required.

NOTE:

1. Proposed access points are assumed and have not been independently verified with the FDOT and local jurisdiction.
2. Wawa Site Area excludes Communications Building Easement.

KELLY, COLLINS & GENTRY, INC.
KCG
1700 NORTH ORANGE AVENUE, SUITE 400
ORLANDO, FLORIDA 32804
(407) 896-7468 FAX (407) 896-1468

NO.	DATE	REVISION
6		
5		
4		
3		
2		
1		

PREPARED FOR: Wawa
200 WEST EVANS STREET
WEST CHESTER, PA 19380

PROJECT: SWC MALABAR ROAD & EMERSON DRIVE

CONCEPTUAL PLAN 1

DRAWN: DLD
DESIGN: SCF
CHECKED: SCF
JOB NO.: 1210.000
DATE: 12/21/16

SHEET 1 OF 2

M:\11cadd\Wawa\Malabar & Emerson\SWC Malabar & Emerson\Conceptual\2016-12-15 Concept 1.dwg, 12/21/2016 10:29:49 AM, 1:1

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

ADDRESS 7331 Office Park Place, Suite 200

CITY Viera STATE Florida ZIP 32940

PHONE # 321-428-4424 FAX #

E-MAIL ADDRESS matt.williams@matthewdev.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION

See Attached

SECTION 29 TOWNSHIP 37 RANGE 05

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 2.05 ac

4) CONDITIONAL USE SOUGHT: Retail auto gas/fuel sales

5) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.): CC Community Commercial (pending)

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

_____Club or Lodge

_____Commercial dog kennel

_____Public or private school

_____Self-storage facility

_____Communication tower and facilities

_____Arcade amusement center

_____Electronic gaming establishment

_____Dance club (Sec. 185.088(J))

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

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

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

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

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

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

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

_____Where property is not owned by the applicant, a letter must be attached giving the notarized consent of the owner for the applicant to request the conditional use.

X In order to disclose all parties seeking this approval, complete the attached disclosures of ownership interests forms for property owners and/or applicants In reference to resolution 2008-19.

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

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

Signature of Applicant _____ **Date** 12-1-16

Printed Name of Applicant Matt Williams of Emerson Development Partners, LLC

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

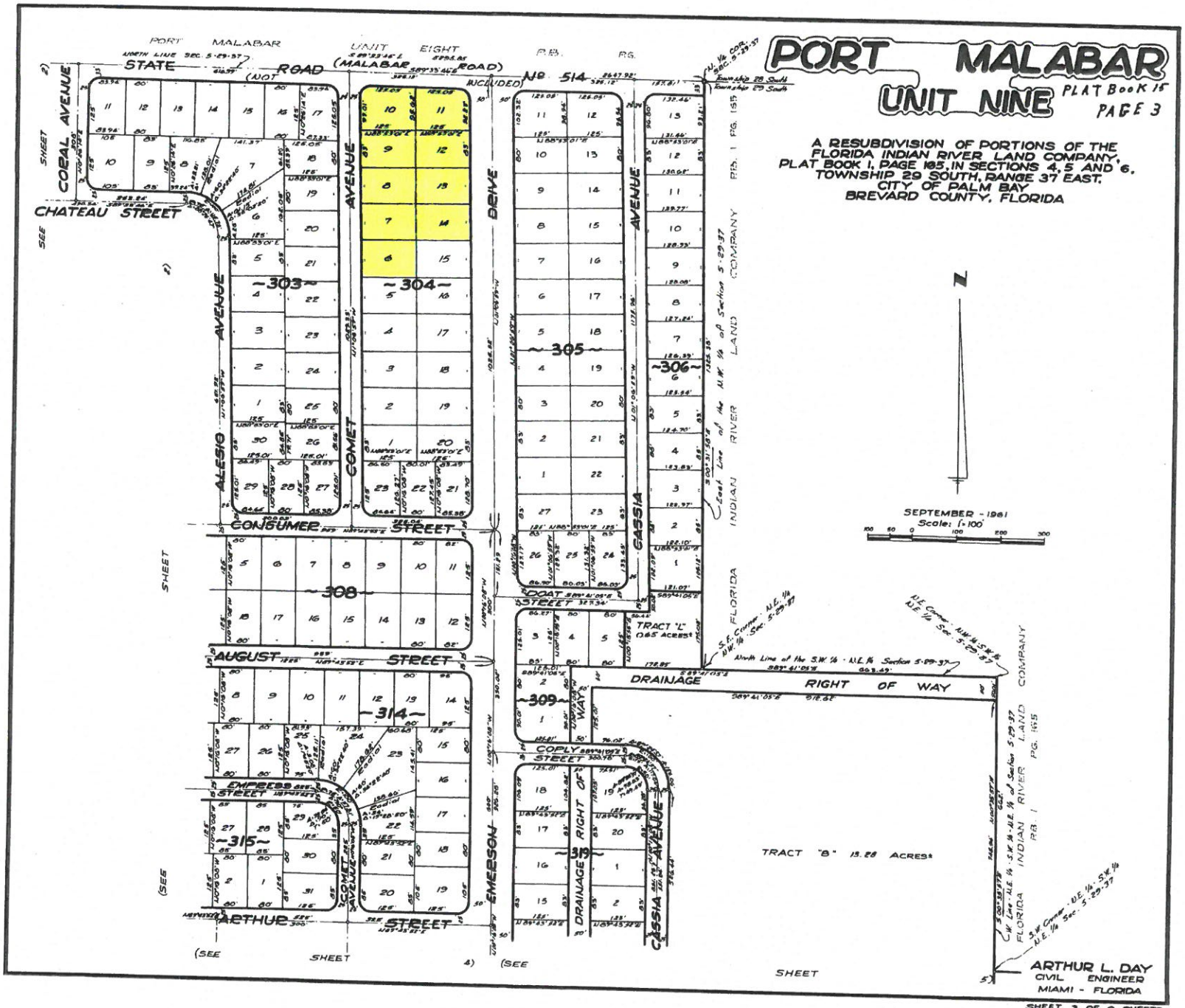
Wawa – Emerson & Malabar
Complete Legal Description of Property Covered by Application

Subject Property:

The subject of the rezoning is comprised of 8 parcels as follows:

Current Owner	Current Use	Address	Parcel ID
Bell South Telecommunications	Utility Substation	N/A (southeast corner of Malabar & Cascade)	29-37-05-GJ-304-~~11~~ 10
CLS Investment of Brevard Co.	Vacant	111 Cascade Ave.	29-37-05-GJ-304-9
CLS Investment of Brevard Co.	Vacant	121 Cascade Ave.	29-37-05-GJ-304-8
CLS Investment of Brevard Co.	Vacant	131 Cascade Ave.	29-37-05-GJ-304-7*
Kris Sarabjit	Residence	141 Cascade Ave.	29-37-05-GJ-304-6*
CLS Investment of Brevard Co.	Office	1500 Emerson Dr.	29-37-05-GJ-304-11
CLS Investment of Brevard Co.	Office	1516 Emerson Dr.	29-37-05-GJ-304-13
Lifestyle Home Builders	Model Home / Office	1524 Emerson Dr.	29-37-05-GJ-304-14

*Subject to Comprehensive Plan – Future Land Use Map amendment under separate cover.


PORT MALABAR UNIT EIGHT
STATE ROAD (NOT INCLUDED) (MALABAR ROAD)
CORAL AVENUE
CHATEAU STREET
ALESIO AVENUE
COMET AVENUE
EMERSON DRIVE
CASSIA AVENUE
CONSUMER STREET
AUGUST STREET
EMPEROR STREET
ARTHUR STREET
DOAT STREET
COPLY STREET
DRAINAGE RIGHT OF WAY
TRACT "L" 0.65 ACRES±
TRACT "B" 15.28 ACRES±
~303~
~304~
~305~
~306~
~308~
~309~
~314~
~315~
~319~
PORT MALABAR
UNIT NINE
PLAT BOOK 15
PAGE 3
A RESUBDIVISION OF PORTIONS OF THE FLORIDA INDIAN RIVER LAND COMPANY, PLAT BOOK 1, PAGE 165, IN SECTIONS 4, 5 AND 6, TOWNSHIP 29 SOUTH, RANGE 37 EAST, CITY OF PALM BAY BREVARD COUNTY, FLORIDA
SEPTEMBER - 1961
Scale: 1"=100'
FLORIDA INDIAN RIVER LAND COMPANY PB. 1 PG. 165
ARTHUR L. DAY
CIVIL ENGINEER
MIAMI - FLORIDA
CALCULATED BY: RC
DRAWN BY: S.P.
CHECKED BY: JB
APPROVED BY: CBK
SHEET 3 OF 9 SHEETS
147 LOTS THIS SHEET

Dec. 8, 2016

29-37-05-GJ-304-9 CLS
29-37-05-GJ-304-8 CLS
29-37-05-GJ-304-13 CLS
29-37-05-GJ-304-12 CLS
29-37-05-GJ-304-11 CLS

Re: Letter of Authorization

As the property owner of the site legally described as 29-37-05-GJ-304-7 (CLS Investment of Brevard Co.),
I hereby authorize Emerson Development Partners, LLC
to represent my Comprehensive Plan, Conditional Use, Rezoning & Variance application for said property.

Cheryl L Smith
(Signature)

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 8th Dec., 2016
by Cheryl L. Smith, who is personally known by me or
who has produced _____ as identification,
and who did ✓/did not___ take an oath.

(SEAL)

SHARON L MAYNARD
Notary Public - State of Florida
Commission # GG 042861
My Comm. Expires Feb 25, 2021
Bonded through National Notary Assn.

Sharon L. Maynard, Notary Public
Serial No. GG 042861
My commission expires 2-25-21

December 5th, 2016

Re: Letter of Authorization

As the property owner of the site legally described as 29-37-05-GJ-304-14 (Lifestyle Home Builders),
I hereby authorize Emerson Development Partners, LLC
to represent my Conditional Use, Rezoning & Variance application for said property.

(Signature)

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 12/5, 2016 by Jordan Luhn, who is personally known by me or who has produced _____ as identification, and who did____/did not____ take an oath.

(SEAL)

LORRAINE Y. EDMISTEN
Commission # GG 025600
Expires December 29, 2020
Bonded Thru Troy Fain Insurance 800-385-7019

Lorraine Y. Edmisten, Notary Public
Serial No. _____
My commission expires _____

Dec 12, 2016

Re: Letter of Authorization

As the property owner of the site legally described as 29-37-05-GJ-304-6
(Kris Sarabjit)
I hereby authorize Emerson Development Partners, LLC
to represent my Comprehensive Plan, Conditional Use, Rezoning & Variance application for said property.

(Signature)

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 12th Dec, 2016
by Kris Sarabjit, who is personally known by me or
who has produced _____ as identification,
and who did ✓ /did not ___ take an oath.

(SEAL)

CHERYL L. SMITH
Notary Public - State of Florida
My Comm. Expires Sep 15, 2017
Commission # FF 050473
Bonded Through National Notary Assn.

Cheryl L Smith, Notary Public
Serial No. FF 050473
My commission expires 9-15-17

DATE: January 3, 2017
CASE #: V-2-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

VARIANCE APPLICATION

PROPOSAL: A request to allow an existing pool and screen enclosure to encroach the 10' rear setback by a maximum of 3.1' as provided for in Section 185.118(A)(4) of the Palm Bay Code of Ordinances in the RS-1, Single Family Residential Zoning District.

LOCATION: 927 Waialae Court NE (Lot 8, Block 13, Port Malabar Country Club Unit 2)

APPLICANT: Mr. Guy Hartford

SITE DATA

PRESENT ZONING: RS-1, Single Family Residential

ACREAGE: 0.29 Acres +/-

DENSITY: Not Applicable

ADJACENT ZONING & LAND USE:

N -- RS-1-Single Family Residential Zoning District; w/ home
E -- RS-1-Single Family Residential Zoning District; w/home
S -- RS-1-Single Family Residential Zoning District; w/home
W -- RS-1-Single Family Residential Zoning District; w/home

WATER & SEWER City Water, Sewer

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 927 Waialae Court NE (Specifically, Lot 8, Block 13, Port Malabar Country Club Unit 2).

2. The property is zoned RS-1, Single Family Residential.

3. The applicant is requesting relief to allow an existing pool and screen enclosure to encroach the 10' rear setback by a maximum of 3.1' as provided for in Section 185.118(A)(4), in the RS-1, Single Family Residential Zoning District.

ANALYSIS:

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

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

The existing home was constructed in 1973, with the pool and screen enclosure being constructed some time thereafter. The applicant is requesting relief from the code so that they may re-construct the screen enclosure- the pool and screen enclosure have both existed in the setback for some time, and as the structures appear to have the necessary permitting for each structure, Staff finds this to be a special circumstances or peculiarity with regard to the land for the Board and City Council to consider with regard to the request.

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

The special conditions and circumstances identified in item 1 do not appear to be a result of the actions of the applicant as the structures were in place when the applicant purchased the property in 2015.

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 to destroy a portion of the pool and reconstruct the screen enclosure to meet the rear setback. Such an endeavor would be costly, and detract from an otherwise functional and ascetically pleasing pool and screen room. 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 3.1' of relief from the 10' rear setback in order to reconstruct the screen room in its existing location and for the existing pool to remain as-is.

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 10' setback requirement. It should be noted however that the pool and screen enclosure do not appear to create any health, safety, issues for any surrounding properties. It should also be noted that the applicant has applied for the required vacation of easement for the encroachments.

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."

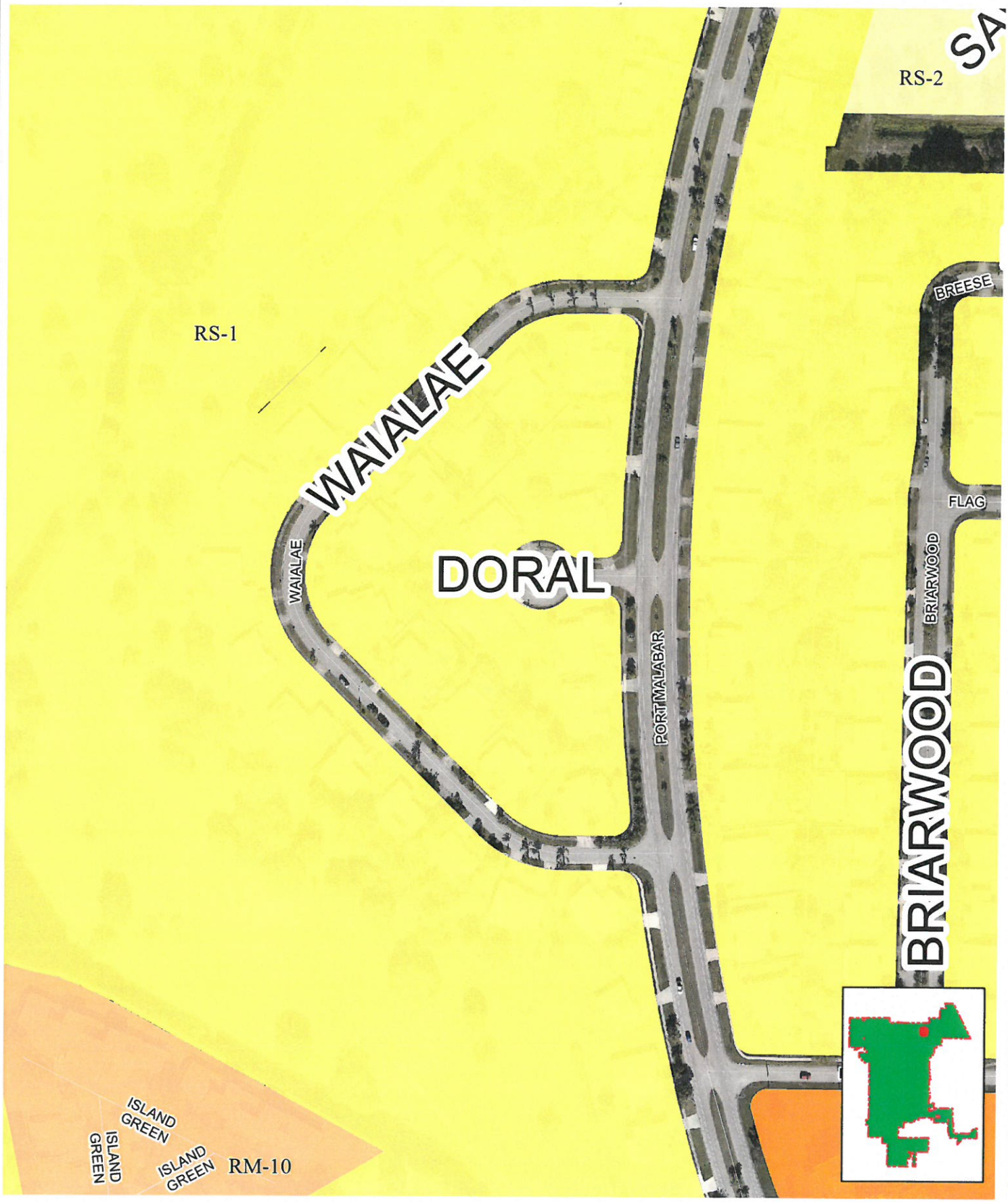
City Council must ultimately decide if the application meets the general intent and purpose of the code.

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.

Map created by the Land Development Division

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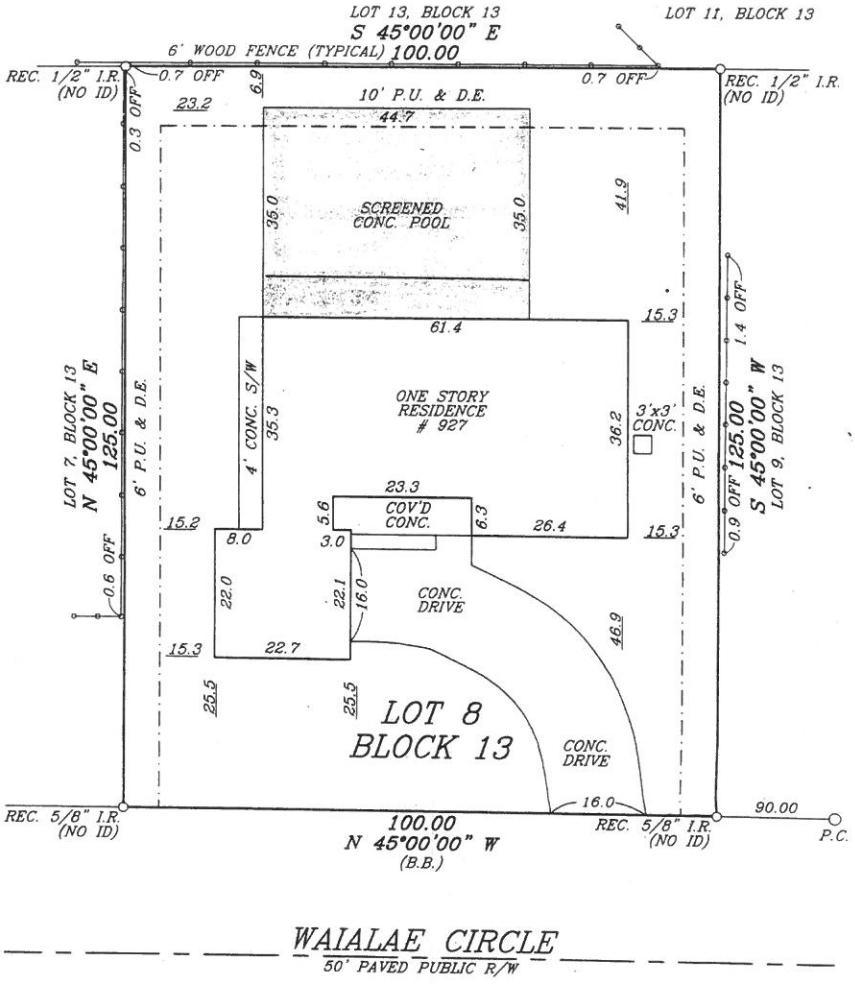
Map for illustrative purposes only. Not to be construed as binding or as a survey.

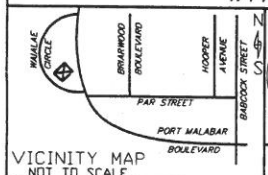
LOCATION MAP
V-2-2017

PLAT OF LAND SURVEY FOR and/or CERTIFIED TO:
Guy Hartford & Elaine Hartford

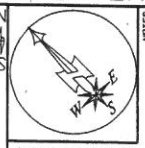
DESCRIPTION AS FOLLOWS: Lot 8, Block 13, PORT MALABAR COUNTRY CLUB UNIT TWO, as recorded in Plat Book 21, Pages 134–136, Public Records of Brevard County, Florida.



WALKER LAND SURVEYING, INC.



VICINITY MAP
NOT TO SCALE



BREVARD COUNTY OFFICE
4175 S. U.S. 1
ROCKLEDGE, FL. 32955
321-636-1055
321-636-1404 (FAX)

LB 6710

LEGEND

P.T. = POINT OF TANGENCY	P = PLAT		
D = DESCRIPTION	F = FIELD		
B.B. = BASE BEARING (SEE #8)	I.P. = IRON PIPE		
A/C = AIR CONDITIONER	I.R. = IRON ROD		
R = RADIUS	C.M. = CONCRETE MONUMENT		
L = ARC LENGTH	SET I.R. = S/B I.R. W/RLS 6710		
CH = CHORD	REC. = RECOVERED		
CB = CHORD BEARING	P.O.B. = POINT OF BEGINNING		
P.O.L. = POINT ON LINE	P.O.C. = POINT OF COMMENCEMENT		
TYP. = TYPICAL	C/C = COVERED CONCRETE		
R/W = RIGHT-OF-WAY	N&D = NAIL & DISC		
RAD. = RADIAL	ESMT. = EASEMENT		
N.R. = NON-RADIAL	DRAIN. = DRAINAGE		
W.P. = WITNESS POINT	UTIL. = UTILITY		
W.D. = WOOD	C.L. = CHAIN LINK		
S/W = SIDEWALK	CONC. = CONCRETE		
D.H. = DRILLHOLE	P.C. = POINT OF CURVATURE		
EL. = ELEVATION	F.F.E. = FINISHED FLOOR ELEVATION		
P.U. & D.E. = PUBLIC UTILITIES & DRAINAGE ESMT.			

NOTES:
1. THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS IN CHAPTER 5J-17.052 FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472-025, FLORIDA STATUTES.
2. UNLESS SIGNED AND EMBOSSED WITH SURVEYOR'S SEAL, THIS SURVEY IS NOT VALID.
3. THIS SURVEY WAS PREPARED FROM TITLE INFORMATION FURNISHED TO THE SURVEYOR. THERE MAY BE OTHER RESTRICTIONS OR EASEMENTS THAT AFFECT THIS PROPERTY.
4. NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
5. THIS SURVEY IS PREPARED FOR THE SOLE BENEFIT OF THOSE CERTIFIED TO AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY.
6. DIMENSIONS SHOWN FOR THE LOCATION OF IMPROVEMENTS HEREON SHOULD NOT BE USED TO RECONSTRUCT BOUNDARY LINES.
7. ELEVATIONS, IF SHOWN, ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929, UNLESS OTHERWISE NOTED.
8. BEARINGS BASED ON THE NORTHEAST R/W LINE OF WAIALAE CIRCLE
   SAID BEARING BEING N 45°00'00" W
9. BEARING AND DISTANCES ARE PLAT AND MEASURED UNLESS OTHERWISE SHOWN.
10. MEASUREMENTS SHOWN ARE BASED ON THE STANDARD U.S. SURVEY FOOT.
11. ADDITIONS OR DELETIONS TO THIS SURVEY IS PROHIBITED WITHOUT CONSENT FROM SIGNING SURVEYOR.

CERTIFIED BY: _____ R.L.S. NO. 5362
JOHN V. WALKER

THIS BUILDING/PROPERTY DOES NOT LIE WITHIN THE ESTABLISHED SPECIAL FLOOD HAZARD AREA PER 'FIRM'. IT LIES IN ZONE: X
PANEL # 12009C 0594G MAP DATE: 3-17-14

SCALE 1" = 20'

FIELD DATE	ORDER NO. (DWG. NO.)
BOUNDARY 8-6-16	55716
DRAWN BY: NICK	CHECKED BY:

11/18, 2016

Re: Letter of Authorization

As the applicant involving the property legally described as 927 WAIALAE CIR NE PALM BAY FLORIDA 32905,
I hereby authorize HOUSEMAN ALUMINUM
to represent my Variance and Vacating of Easement applications for said property.

Guy R. HARTFORD
(Please Print)

(Signature)

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 22ND day of November 2016
by Guy R. Hartford, who is personally known by me or who has produced Drivers License as identification, and who did ✓ did not___ take an oath.

(SEAL)

Kristin L. Snyder
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF209003
Expires 7/6/2019

FLORIDA NOTARY ASSOCIATION SINCE 1978

Kristin L Snyder, Notary Public
Serial No. FF209003
My commission expires 7/6/2019

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) Guy Hartford

ADDRESS 927 Wailae Ct.

CITY Palm Bay STATE FL ZIP 32905

PHONE # 321-704-0619 FAX # _____

E-MAIL ADDRESS GHARTFORD@Bex.net

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION _____

28-37-28-JD-13-8

SECTION _____ TOWNSHIP _____ RANGE _____

3) STREET ADDRESS OF PROPERTY COVERED BY APPLICATION: 927 Wailae Cir

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

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

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): _____

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.

Replacing existing screen enclosure of ~~existing~~ with new — no changes to structure or space

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 Guy R. Hartford **Date** 8/24/16

Printed Name of Applicant Guy R. Hartford

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

The City of Palm Bay Florida
A Perfect Place to Grow

DATE: January 4, 2017
CASE #: Case T-3-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

TEXTUAL AMENDMENT APPLICATION

PROPOSAL: A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, in order to adopt standards for off-site parking and storage lots for all commercial, institutional, and industrially zoned properties.

CODE CITATION: 185.140(G) OFF SITE PARKING AND STORAGE LOTS

APPLICABILITY: City Wide

APPLICANT: City of Palm Bay- Growth Management Department

COMPLIANCE WITH THE COMPREHENSIVE PLAN: Not Specifically Addressed

BACKGROUND:

1. A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, in order to adopt standards for off-site parking and storage lots for all commercial, institutional, and industrially zoned properties. The provisions set forth will require standards that promote useful, aesthetically pleasing off-site parking and storage areas, without creating nuisance or any deleterious effects to adjacent properties.

2. The applicant is the City of Palm Bay- Growth Management Department.

3. The proposed language for this amendment is legislative style with additions underlined and ~~deletions~~ in strike thru format, is attached.

ANALYSIS:

1. Section 185.140 (G) OFF-SITE PARKING AND STORAGE LOTS would be created, stating the following language:

Section 185.140(G) OFF-SITE PARKING AND STORAGE LOTS

(A) *Intent.* It is the intent of this Code to define practical standards by which otherwise vacant parcels of land may be utilized for off-site parking and storage areas, and not injurious to adjacent parcels of land where a proposed off-street parking area or storage lot is to be created. All off-site parking & storage lot applications shall be submitted to City Council for approval.

(1) *Conformance Standards.* All off-site parking and storage lots must be located no further than five-hundred feet (500') from the outermost boundaries to the parent parcel that must contain a minimum of one (1) principle structure. Parcels greater than 500' from the parent parcel must apply for, and receive, a variance from this code section.No off-site parking area shall be permitted where the subject property is separated from the parent property by an arterial or collector roadway.

a) The applicant must submit a survey showing any exceptional specimen trees on site, secure a site work permit for the site, and submit a parking plan with details for surface material, traffic and safety devices, along with storm water retention for site plan review.

(2) All off-site storage lots shall be effectively screened by an opaque fence or similar material meeting the Growth Management Division standards for opacity set by the Growth Management Director.

a) All off-site parking lots shall be required to have the same parking and driveway standards found in 185.140.

b) All landscaping for the off-site parking area shall meet the landscape requirements for off street parking landscaping requirements found in 185.142.

3) Any exceptional specimen trees to be saved on site shall be effectively fenced or separated so that no damage shall occur to these trees while the site is being used for parking of vehicles or storage of materials on site.

(4) All areas utilized for storage shall be stabilized meeting the City of Palm Bay Public Works standard details for stabilized surfaces.

(5) All entrances and exits accessing a public street shall be paved, meeting the City of Palm Bay Public Works standard details for driveways.-with traffic control devices at all exits required.

(6) The proposed off-site parking or storage lot must at all times post the identity which business(es) have control of the site, the hours of operation for the lot, as well as emergency contact information that is clearly visible from the street.

(7) If the subject parcel is a leased property, the off-site parking and storage use shall cease at the time the contract is terminated.

(8) All off-street parking and storage lots shall be effectively restored by seed/sod at the time the use is terminated.

(9) A unity of title shall be required for off-site parking lots where they are utilized to meet the minimum parking requirements of the parent parcel.

10) The Growth Management Director or their designee may mandate additional landscape buffer and lighting requirements where properties of dissimilar zoning categories abut one another.

STAFF RECOMMENDATION:

Case T-3-2017 is recommended for approval.

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

CODE TEXTUAL AMENDMENT APPLICATION

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

1) NAME OF APPLICANT (Type or print) City of Palm Bay (Growth Management Department)

ADDRESS 120 Malabar Road SE

CITY Palm Bay STATE FL ZIP 32907

PHONE # (321) 733-3041 FAX # (321) 953-8920

E-MAIL ADDRESS stuart.buchanan@palmbayflorida.org

PERSON(S) TO BE NOTIFIED (if different from above) _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE # _____ FAX # _____

E-MAIL ADDRESS _____

2) ORDINANCE SECTION PROPOSED TO BE CHANGED: Sections 185.140

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

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

In order to permit off-site storage and parking lots

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

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** 12/01/2016

Printed Name of Applicant Stuart Buchanan, Growth Management Director

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

The City of Palm Bay Florida
A Perfect Place to Grow

DATE: January 4, 2017
CASE #: Case T-4-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

TEXTUAL AMENDMENT APPLICATION

PROPOSAL: A textual amendment to the Code of Ordinances, Title XVIII, Land Development Code, Chapter 185, Zoning Code to adopt lighting standards for all non-single family residential properties.

CODE CITATION: 185.143 LIGHTING STANDARDS

APPLICABILITY: City Wide

APPLICANT: City of Palm Bay- Growth Management Department

COMPLIANCE WITH THE COMPREHENSIVE PLAN: Not Specifically Addressed

BACKGROUND:

1. A textual amendment to the Code of Ordinances, Title XVIII, Land Development Code, Chapter 185, Zoning Code to adopt lighting standards for all non-single family residential properties. The provisions set forth will require lighting standards that promote energy efficient design, without creating nuisance or glare to adjacent properties or passing motorists.

2. The applicant is the City of Palm Bay- Growth Management Department.

3. The proposed language for this amendment is legislative style with additions underlined and ~~deletions~~ in strike thru format, is attached.

ANALYSIS:

1. Section 185.143 LIGHTING STANDARDS will be created, providiing the following language:

Section 185.143 LIGHTING STANDARDS

(A) *Intent.* It is the intent of this Code to define practical and effective measures by which the commercial outdoor light usage can be reduced, while preserving safety, security, and the nighttime use and enjoyment of property. These measures are intended to curtail the degradation of the nighttime visual environment, reduce light trespass, glare, energy consumption and resource waste by encouraging lighting practices that direct appropriate amounts of light where and when it is needed, increasing the use of energy-efficient sources, and decreasing the use of poorly shielded or inappropriately directed lighting fixtures.

(1) *Conformance Standards*. All outdoor lighting shall be installed in conformance with the provisions of this Code, the Florida Building Code, the National Electrical Code, the Energy Code, and the Sign Code of Palm Bay and under appropriate permit and inspection.

(2) *Applicability*. New Uses, Buildings and Major Additions or Modifications. For all proposed new land uses, developments, buildings, and structures that require a permit, all outdoor lighting shall meet the requirements of this Code. All building additions or modifications of fifty (50%) percent or more in terms of additional dwelling units, gross floor area, or parking spaces, either with a single addition or with cumulative additions subsequent to the effective date of this provision, shall invoke the requirements of this Code for the entire site, including previously installed and any new outdoor lighting. Cumulative modification or replacement of outdoor lighting constituting fifty (50) percent or more of the permitted lumens for the parcel, no matter the actual amount of lighting already on a non-conforming site, shall constitute a major addition for purposes of this section.

(B) *General Outdoor Lighting Standards.*

(1) *Shielding Standards.* All nonexempt outdoor lighting fixtures shall have shielding so that the total lumen output falls to zero (0.00) at the property line. (*Exception:*) seasonal decorative lighting (i.e. Christmas Lights) using typical low-wattage incandescent or LED lamps shall be permitted in all zoning districts from the Thanksgiving holiday through the 15th of January.

(2) The use of Metal Halide (MH), Light Emitting Diode (LED), Quartz Light (QL), and High Intensity Discharge (HID), when properly shielded is permitted for all exterior site lighting. Other types of lamps not listed shall be considered as a part of the permitting process.

(3) High Pressure Sodium (HPS) lighting is prohibited for building and security lighting.

(4) The use of Low Pressure Sodium (LPS) lighting is prohibited in all zoning districts.

(5) The undue lighting of the night sky- by means of searchlights and similar devices without prior approval from the City Manager or their designee is prohibited.

(6) Neon Lighting, LED strip and tracer lighting and other types of lighting used to illuminate the outline of a structure or storefront window system is prohibited.

(7) No lighting fixture shall produce a lumen output exceeding 1000 lumens in any given area.

(8) Poles and support structures used for outdoor lighting shall not exceed 30 feet in height. The exception shall permit for required lighting of all communication towers or tall structures as mandated by the FAA and FCC.

C. EXEMPTIONS

(1) Industrial zoned property, where it abuts other Industrially zoned lands on all sides and not a part of an overlay or re-development district shall be exempt from the lighting standards set forth in this code.

D. APPEALS

(1) Any property owner aggrieved by these lighting standards may seek relief from the code under 169.009 VARIANCES.

STAFF RECOMMENDATION:

Case T-4-2017 is recommended for approval.

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

CODE TEXTUAL AMENDMENT APPLICATION

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

1) NAME OF APPLICANT (Type or print) City of Palm Bay (Growth Management Department)

ADDRESS 120 Malabar Road SE

CITY Palm Bay STATE FL ZIP 32907

PHONE # (321) 733-3041 FAX # (321) 953-8920

E-MAIL ADDRESS stuart.buchanan@palmbayflorida.org

PERSON(S) TO BE NOTIFIED (if different from above) _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE # _____ FAX # _____

E-MAIL ADDRESS _____

2) ORDINANCE SECTION PROPOSED TO BE CHANGED: New Section185.143, Lighting Standards

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

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

In order to establish lighting standards.

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

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** 12/01/2016

Printed Name of Applicant Stuart Buchanan, Growth Management Director

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

The City of Palm Bay Florida

DATE: January 4, 2017
CASE #: T-5-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

TEXTUAL AMENDMENT APPLICATION

PROPOSAL: A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to modify Section 185.066 Procedure for approval of a Preliminary Development Plan and Tentative Zoning; to modify Section 185.067 Procedure for securing approval of a Final Development Plan; and to modify Section 185.070 Bonding.

CODE CITATION: Section 185.066; 185.067 and 185.070

APPLICABILITY: Citywide

APPLICANT: City of Palm Bay - Growth Management Department

COMPLIANCE WITH THE COMPREHENSIVE PLAN: Not specifically addressed

BACKGROUND:

1. A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to modify Section 185.066 Procedure for approval of a Preliminary Development Plan and Tentative Zoning; to modify Section 185.067 Procedure for securing approval of a Final Development Plan; and to modify Section 185.070 Bonding.

2. The applicant for this amendment is the City of Palm Bay's Growth Management Department.

3. Proposed language for this amendment in legislative style with additions underlined and ~~deletions~~ in strikethrough format, is attached

ANALYSIS:

1. The PUD, Planned Unit Development regulations were adopted in 1989 (via Ordinance 89-08) and has had several minor amendments since that time. Most recently, the Chapter was amended to address height, setbacks, pervious versus impervious surfaces, and standards for submittal of a tree survey.

2. The planned unit development is a concept which encourages and permits variation in residential developments by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage, setbacks, open space, and other Land Development Regulations and open space from that required in any one (1) residential land use classification under the zoning regulations of the city. The purpose of a planned unit development is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types as well as commercial uses designed to serve the inhabitants of the planned unit development.

3. Typically, a Planned Unit Development is a single family residential subdivision. Subdivisions developed under the overlay of a standard single family zoning category are regulated in Chapter 184: Subdivisions. While the PUD District allows for variation in lot sizes, setbacks and density/intensity standards, the submittal requirements for plan review should follow the same as established in Chapter 184.

4. This amendment seeks to bring the PUD Ordinance in line with the subdivision requirements for plan submittals and bonding of public improvements.

STAFF FINDINGS:

Case No. T-5-2017 is recommended for approval.

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

(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/or 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~~ Land Development Division 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.

(3) Submittal.

(a) The PUD zoning application and preliminary development plan shall be submitted to the Land Development Division at least ~~forty-five (45)~~ thirty (30) 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.~~

(b) The application must be complete and accompanied by two (2) copies of the preliminary development plan, as described in these regulations, a CD or other approved electronic copy of the plat, a filing fee, and a list of all owners of adjacent property and/or property directly opposite of the proposed subdivision. Such property owner information shall be obtained from the most recent County Tax Appraiser's rolls.

(c) The Land Development Division shall process and coordinate the review of the preliminary development plan by the appropriate city departments. The appropriate city departments are to review and comment on the submitted information. Written comments from the city departments are to be returned to the Land Development Division to be incorporated into a staff report generated by the Land Development Division. The staff report is submitted to the Planning and Zoning Board at the time of the next regular meeting of the Board.

(d) The preliminary plat application shall be heard by the Planning and Zoning Board at its regular meeting in the month following the submittal deadline date. Courtesy notice letters of the meeting are to be sent to the owners of abutting and opposite properties of the proposed subdivision. Failure to mail or receive such courtesy notice shall not affect any action or proceedings taken however. Notice of such a meeting shall also be posted on the property for which subdivision is sought.

(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, in the form of a Resolution.

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

(B) *Procedure.*

(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. The final development plan shall be binding upon the land contained with the plan. Any proposed modifications to the final development plan shall be submitted to the Growth Management Director for determination of departure. If determined to be a substantial deviation from the approved final development plan, the applicant must receive Final PUD approval from City Council for such deviation.

§ 185.070 BONDING.

The PUD shall follow the bonding procedures listed in Section 184.11 of the Code of Ordinances.

~~(A) Prior to the commencement of construction within the site of a planned unit development, the developer shall file with the city, the following contracts and bonds:~~

~~(1) A performance, labor, and material payment bond for the completion of the construction of all public improvements specified in the final development plan prior to construction.~~

~~(2) A performance, labor and material payment bond for the completion of the construction of all common open areas designated in the final development plan within one (1) year from the date of commencement of construction.~~

~~(3) A maintenance warranty bond in the amount of ten percent (10%) of the total cost of the construction of all public improvements to be in force for a period of two (2) years following acceptance by the city of the final construction of the public improvements.~~

~~(4) However, the City Council may, in, its discretion, accept corporate performance bonds or other financial assurances which it deems gives reasonable assurance of construction of improvements required by this chapter.~~

~~(B) All such bonds shall be from a company licensed as a surety in the state listed by the U.S. Treasury Department, reviewed and approved by the City Risk Management staff. Upon acceptance of all improve-ments described in divisions (A)(1) and (2) above, the performance and payment bond shall be released.~~

~~(C) All of the provisions relating to bonding contained in the subdivision regulations of the city set forth in Chapter 184 of this code of ordinances shall be fully applicable to the bonds required under this subchapter.~~

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

CODE TEXTUAL AMENDMENT APPLICATION

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

1) NAME OF APPLICANT (Type or print) City of Palm Bay (Growth Management Department)

ADDRESS 120 Malabar Road SE

CITY Palm Bay STATE FL ZIP 32907

PHONE # (321) 733-3041 FAX # (321) 953-8920

E-MAIL ADDRESS stuart.buchanan@palmbayflorida.org

PERSON(S) TO BE NOTIFIED (if different from above) _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE # _____ FAX # _____

E-MAIL ADDRESS _____

2) ORDINANCE SECTION PROPOSED TO BE CHANGED: Sections 185.066, 185.067, and 185.070

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

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

In order to update the Planned Unit Development (PUD) procedures and bonding requirements.

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

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** 12/01/2016

Printed Name of Applicant Stuart Buchanan, Growth Management Director

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