



AGENDA

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Regular Meeting No. 2017-05

May 3, 2017 – 7:00 P.M.

City Hall Council Chambers

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ADOPTION OF MINUTES:

1. Regular Meeting No. 2017-04; April 5, 2017

ANNOUNCEMENTS:

OLD BUSINESS:

1. SP-13-2017 – MICHAEL J. MINICK

A site plan approval request per Section 185.140(B)(7) to allow off-site private parking of vehicles in a CC, Community Commercial District.

Lots 33 and 34, Block 2207, Port Malabar Unit 28, Section 33, Township 28, Range 37, Brevard County, Florida, containing .42 acres, more or less. (Located north of and adjacent to Georgia Street NE, in the vicinity west of Tango Avenue NE)

NEW BUSINESS:

1. T-15-2017 – CITY OF PALM BAY (OFFICE OF THE CITY ATTORNEY)

A textual amendment is requested to the Code of Ordinances, Title XVII, Land Development Code, Chapter 178: Signs, in order to adopt a new Sign Code.

2. ♣V-16-2017 – NANETTE LIMA

A variance request to allow a proposed air conditioning unit and concrete pad to encroach 5 feet into the 12-foot side interior setback as established by Section 185.032(7)(b) of the Palm Bay Code of Ordinances.

Lot 7, Block 2383, Port Malabar Unit 45, Section 30, Township 28, Range 37, Brevard County, Florida, containing .34 acres, more or less. (Located north of and adjacent to Humbert Street NE, in the vicinity west of Peacock Avenue NE, specifically at 385 Humbert Street NE)

3. CP-14-2017 - MERCURY AVENUE, LLC (STEVEN BRESNICK)

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

Lots 12 and 13, Block 1987, Port Malabar Unit 40, Section 3, Township 29, Range 37, Brevard County, Florida, containing 3.01 acres, more or less. (Located west of and adjacent to Mercury Avenue SE, in the vicinity south of Lockheed Street SE)

4. ♣V-18-2017 - MERCURY AVENUE, LLC (STEVEN BRESNICK)

A variance request to reduce the ratio used to determine the minimum number of required parking spaces from 2 parking spaces per unit to 1.5 parking spaces per unit, as established by Section 185.140(C)(7)(b) of the Palm Bay Code of Ordinances.

Lots 12 and 13, Block 1987, Port Malabar Unit 40, Section 3, Township 29, Range 37, Brevard County, Florida, containing 2.77 acres, more or less. (Located west of and adjacent to Mercury Avenue SE, in the vicinity south of Lockheed Street SE)

5. CP-13-2017 - WEST POINT BABCOCK, LLC (STEPHEN BURCH, REP.)

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

Tax Parcel 506.1, Section 34, Township 29, Range 37, Brevard County, Florida, containing 8.4 acres, more or less. (Located at the southeast corner of Babcock Street SE and the north segment of Plantation Circle SE)

6. ♣CPZ-13-2017 - WEST POINT BABCOCK, LLC (STEPHEN BURCH, REP.)

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

Tax Parcel 506.1, Section 34, Township 29, Range 37, Brevard County, Florida, containing 8.4 acres, more or less. (Located at the southeast corner of Babcock Street SE and the north segment of Plantation Circle SE)

7. ♣CU-19-2017 - COPPER CHIMNEY GRILL & BAR (MAULIK SHAH)

A conditional use to allow a restaurant to serve alcohol in an NC, Neighborhood Commercial District.

Tract B, Port Malabar Unit 18, Section 16, Township 29, Range 37, Brevard County, Florida, containing 3.62 acres, more or less. (Located at the northeast corner of San Filippo Drive SE and Wyoming Drive SE, specifically at 1181 San Filippo Drive SE)

8. ♣CU-20-2017 - CIRCLE K STORES, INC. (PETER PENSA, REP.)

An amendment to an existing conditional use in order to expand retail automotive gasoline/fuel sales.

Tract D, Port Malabar Unit 20, Section 2, Township 29, Range 36, Brevard County, Florida, containing 3.43 acres, more or less. (Located at the southeast corner of Malabar Road and Jupiter Boulevard SW, specifically at 900 Malabar Road SW)

9. T-21-2017 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A textual amendment is requested to the Code of Ordinances, Title V, Legislative, Chapter 52: Boards, in order to adopt language that further clarifies the duties and responsibilities of the Planning and Zoning Board/Local Planning Agency.

10. T-22-2017 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 184: Subdivisions, in order to adopt provisions for water and sewer in minor subdivisions.

11. CP-15-2017 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

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

Tract D, Port Malabar Unit 50, Section 17, Township 29, Range 37, Brevard County, Florida, containing 7.01 acres, more or less. (Located west of Emerson Drive SE, north of Raleigh Road SE, and surrounded by Dozier Circle SE)

12. CP-16-2017 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

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

Tract C, Port Malabar Unit 26, Section 34, Township 28, Range 36, Brevard County, Florida, containing 10.04 acres, more or less. (Located south of and adjacent to Dorchester Street NW, north of Biarritz Street NW, and west of Delake Road NW)

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. 2017-04

Held on Wednesday, April 5, 2017, in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida.

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

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

Ms. Leeta Jordan led the Pledge of Allegiance to the Flag.

ROLL CALL:

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

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

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2017-03. Motion by Mr. Pezzillo, 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. ♣CU-10-2017 – GATOR INTERCHANGE PARTNERS, LLLP
(WILLIAM GOLDSMITH)

Mr. Murphy presented the staff report for Case CU-10-2017. The applicant had requested a conditional use to modify a binding site plan for additional commercial development within the Interchange Square Plaza. Staff recommended Case CU-10-2017 for approval with conditions.

Ms. Maragh questioned whether the existing retention pond would remain on the property. Mr. Murphy described how a third of the retention pond would be filled in and its northeast section reconfigured.

Mr. Pezzillo asked if a new driveway was planned for the site, and Mr. Stroder inquired about the stand of trees that staff wanted preserved. Mr. Murphy indicated the location of the proposed driveway and the existing stand of trees.

Mr. Derrick Cave and Mr. Jacob Lawson with Kimley-Horn and Associates (the project engineers of record) described how the rearrangement of the retention pond would be designed for drainage consistency and to add compensatory storage. Reconfiguration of the parking lot would also add additional parking spaces. A drainage permit had been received from the St. Johns River Water Management District. The oak tree on the site would be preserved; however, the palm trees did not appear to be in great shape and would be replaced with landscaping. A traffic study had been prepared, and there were no other concerns with the staff report.

Mr. Warner questioned whether the proposed driveway would extend to the rear of the site. Mr. Cave confirmed that the new driveway would connect with the overall property. Mr. Weinberg was concerned about the driveway's proximity to the existing access near the east side of Bank of America. Mr. Lawson stated that the traffic study did not reveal any significant issues regarding the proposed driveway.

The floor was opened for public comments.

Mr. William Goldsmith (applicant) informed the board that he owned the Interchange Square Plaza. He explained that the submitted site plan was attached to a lease agreement with Starbucks. Site modifications to preserve the oak tree would be acceptable; however, the proposed ingress/egress was important to reducing onsite traffic flow. He emphasized how the planned improvements would be an integral part of the shopping center's long-term viability.

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

Motion by Ms. Jordan, seconded by Mr. Stroderd to submit Case CU-10-2017 to City Council for approval of a conditional use to modify a binding site plan for additional commercial development within the Interchange Square Plaza subject to staff recommendations. The motion carried with members voting unanimously.

City Council will hear Case CU-10-2017 on April 20, 2017.

NEW BUSINESS:

1. SP-13-2017 – MICHAEL J. MINICK

The applicant for Case SP-13-2017 was not in attendance. The board wanted the applicant present to represent the request.

Motion by Mr. Pezzillo, seconded by Mr. Stroderd to continue Case SP-13-2017 to the May 3, 2017 Planning Zoning Board Meeting at 7:00 p.m. The motion carried with members voting unanimously.

2. ♣V-14-2017 – FRANK GABRIEL

Mr. Balter presented the staff report for Case V-14-2017. The applicant had requested a variance to grant relief from Section 185.118(A)(4) of the Code of Ordinances in order to allow an existing screened patio to encroach 3.3 feet into the 25-foot side corner setback; a proposed shed to encroach 23 feet into the 25-foot side corner setback; and relief from Section 170.114(A) of the Code of Ordinances in order to allow an existing fence to encroach 15 feet into the 15-foot side corner yard setback. The board had to determine, based on the facts presented, the degree of minimal relief to meet the needs of the variance request, as required by Section 169.009 of the City of Palm Bay Code of Ordinances.

Ms. Jordan wanted to know how long the subject fence had existed at the site. Mr. Balter explained that the actual installation date of the fence was unknown since the permits that the two previous property owners had attempted to pull were incomplete.

Mr. Pezzillo commented that the need for the variance seemed self-induced and excessive. He questioned the large size of the proposed shed.

Mr. Frank Gabriel (applicant) explained that his current home was smaller than his previous residence. He purchased his house as-is and had assumed that the pool, fence, and porch on the provided plat were fine. The proposed shed would be used for storage, woodworking, and crafts; and his existing six-foot high fence offered security.

Mr. Weinberg noted that the screen enclosure and fence under consideration were already in place, and that the neighbors had no concerns. The proposed shed would be large, but the yard was already fenced.

The floor was opened for public comments.

Mr. Courtney Reid (lot owner at Cyclone Street NW) inquired whether the shed would affect his lot to the north and rear of the site. Mr. Gabriel reiterated that the shed would be located within the fenced yard and on the west side of the property.

The floor was closed for public comments, and a five-signature petition in favor of the request was in the file.

Motion by Ms. Jordan, seconded by Mr. Warner to submit Case V-14-2017 to City Council for approval of a variance to grant relief from Section 185.118(A)(4) of the Code of Ordinances in order to allow an existing screened patio to encroach 3.3 feet into the 25-foot side corner setback; a proposed shed to encroach 23 feet into the 25-foot side corner setback; and relief from Section 170.114(A) of the Code of Ordinances in order to allow an existing fence to encroach 15 feet into the 15-foot side corner yard setback.

The board discussed conditioning the variance on obtaining appropriate permits.

Ms. Jordan withdrew her motion.

Motion by Ms. Maragh, seconded by Mr. Stroderd to submit Case V-14-2017 to City Council for approval of a variance to grant relief from Section 185.118(A)(4) of the Code of Ordinances in order to allow an existing screened patio to encroach 3.3 feet into the 25-foot side corner setback; a proposed shed to encroach 23 feet into the 25-foot side corner setback; and relief from Section 170.114(A) of the Code of Ordinances in order to allow an existing fence to encroach 15 feet into the 15-foot side corner yard setback, subject to the condition that a permit for the shed was obtained. The motion carried with members voting as follows:

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

3. CP-12-2017 - EVANS CENTER INC. (LYNN BROCKWELL-CAREY)

Mr. Murphy presented the staff report for Case CP-12-2017. The applicant had requested a Comprehensive Plan Future Land Use Map small scale amendment from Single Family Residential Use to Public/Semi-Public Use. Staff recommended Case CP-12-2017 for approval, pursuant to Chapter 163, Florida Statutes.

Mr. Stroderd wanted to know what other uses would be allowed at the subject site if the planned project was to fail. Mr. Murphy indicated how public uses like churches, cell towers, and governmental buildings would be permitted. However, the applicant was proposing to construct a multi-purpose facility that would benefit the immediate community. Financial backing was in place and the project was ready to move forward.

Ms. Lynn Brockwell-Carey (applicant and project manager) stated that Evans Center Inc. was a nonprofit organization that would provide outreach programs focused on health and wellness and job training to the Powell's Subdivision, the Driskell Heights neighborhood within the Bayfront Community Redevelopment District. The proposed land use was consistent with the site's existing IU, Institutional Use zoning designation.

Mr. James Bartell (board president of Evans Center Inc.) stated that the Evans Center would provide a food market with healthy foods and gainfully employ area youth. Brevard Health Alliance would operate a clinic at the site, and classes like parental training would be held in the multipurpose room.

Mr. Woodrum asked if the community was canvased for their input. Mr. Bartell described how every resident in the area for the last six years had continually been apprised about the project. Two thousand surveys inviting community input were hand delivered to each home in 2011.

Mr. Pezzillo inquired about the size of the proposed building. Mr. Bartell noted that the facility would be just under 6000 square feet in size with the store at 3200 square feet, the medical area at 1000 square feet, and the multipurpose room at 1700 square feet in size.

The floor was opened for public comments.

Ms. Fay Higgins (interested citizen) spoke in favor of the request. She wanted to know if agencies such as Career Source Brevard would be involved with the center. Ms. Brockwell-Carey confirmed that this was correct.

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

Motion by Mr. Pezzillo, seconded by Mr. Ranier to submit Case CP-12-2017 to City Council for approval of a Comprehensive Plan Future Land Use Map small scale amendment from Single Family Residential Use to Public/Semi-Public Use. The motion carried with members voting unanimously.

OTHER BUSINESS:

1. Staff congratulated the members of the Planning and Zoning Board who had completed their first year of service on the board.

ADJOURNMENT:

The meeting was adjourned at approximately 8:09 p.m.

City of Palm Bay
Planning and Zoning Board/
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Regular Meeting No. 2017-04
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Philip Weinberg, CHAIRMAN

Attest:

Chandra Powell, SECRETARY

♣Quasi-Judicial Proceeding.



DATE: APRIL 5, 2017
CASE #: SP-13-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

PROPOSAL: The applicant is requesting approval for an off-site parking lot in a CC, Community Commercial District.

LOCATION: The property is located north of and adjacent to Georgia Street NE, approximately 200 feet west of Tango Avenue NE. More specifically, the subject property is Lots 33 & 34, Block 2207, Port Malabar Unit 28, Section 33, Township 28 South, Range 37 East, Brevard County, Florida.

APPLICANT: Michael J. Minick

SITE DATA

PRESENT ZONING: CC, Community Commercial District

ACREAGE: 0.42 +/-

DENSITY: Not Applicable

ADJACENT ZONING

& LAND USE:

- N** -- RS-2, Single Family Residential; Single Family Homes
- E** -- CC, Community Commercial; Small, Commercial Plaza
- S** -- CC, Community Commercial; Small, Commercial Plaza
- W** -- CC, Community Commercial; Malabar Discount Mufflers

WATER & SEWER: Not Applicable

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

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Yes

BACKGROUND:

1. The property is located north of and adjacent to Georgia Street NE, approximately 200 feet west of Tango Avenue NE. More specifically, the subject property is Lots 33 & 34, Block 2207, Port Malabar Unit 28, Section 33, Township 28 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: RS-2, Single Family Residential; Single Family Homes
South: CC, Community Commercial; Small, Commercial Plaza
East: CC, Community Commercial; Small, Commercial Plaza
West: CC, Community Commercial; Malabar Discount Mufflers
3. The applicant, Michael J. Minick, is requesting approval for an Off-Site Parking Lot, in conjunction with a nearby business. The 0.42-acre 'lot' is currently being used as overflow of vehicles awaiting repair and pick-up from Malabar Automotive, Truck & R.V. Repair Company. This approval was granted by City Council on March 20, 2003 (Case No. SP-8-2003).
4. As part of the previous approval, the applicant entered into an Off-Site Parking Area Agreement with the City, which was recorded in the Brevard County Public Records. The applicant seeks approval for an additional use on this site – the parking/storage of U-Haul Trucks that will be rented from 1533 Georgia Street NE. No other conditions of this agreement are to be modified: The parking lot will remain private and limited to the parking of these vehicles, as well as Palm Bay Tree Inc. equipment and vehicles of their employees. At no time will the lot be open to public parking.

CODE REQUIREMENTS:

1. In order to be granted off-site parking plan approval, the application must meet the provisions for approval outlined in 185.140(G). A review of these items is as follows:

Item (A)(1): *The site must be located no further than five hundred feet (500') from the outermost boundaries to the parent parcel, with the parent parcel containing a minimum of 1 principle structure.*

The site is located adjacent to the parent parcel and contains a principle structure.

Item (A)(1)(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 stormwater retention for review.*

There are no exceptional specimen trees on this site as it was previously cleared.

Item (A)(2): *All off street storage lots must be effectively screened by an opaque fence or similar material meeting the Growth Management Department standards for opacity.*

The site was previously screened but was destroyed by Hurricane Matthew. The applicant is presently working with staff on an acceptable material.

Item (A)(2)(a): *All off-site parking lots shall be required to have the same parking and driveway standards found in 185.140.*

These items were previously met and no changes have been proposed.

Item (A)(2)(b): *All landscaping for the off-site parking area shall meet the landscape requirements for off-street parking landscaping requirements found in 185.142.*

Landscaping requirements were previously met and will be further inspected to ensure that these requirements have been maintained.

Item (A)(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.*

Not applicable.

Item (A)(4): *All areas used for storage shall be stabilized meeting City of Palm Bay Public Works standard details for stabilized surfaces.*

The site is compliant.

Item (A)(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.*

The site is compliant.

Item (A)(6): *The proposed off-site parking area or storage lot must at all times post the identity of 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.*

This item was not required when the applicant received a similar approval in 2003, but will now be required should the applicant receive approval for U-Haul truck storage.

Item (A)(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.*

The applicant owns the subject property.

Item (A)(8): *All off-street storage lots shall be effectively restored by seed or sod at the time the use is terminated.*

As the site is for off-site parking, this provision does not apply.

Item (A)(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.*

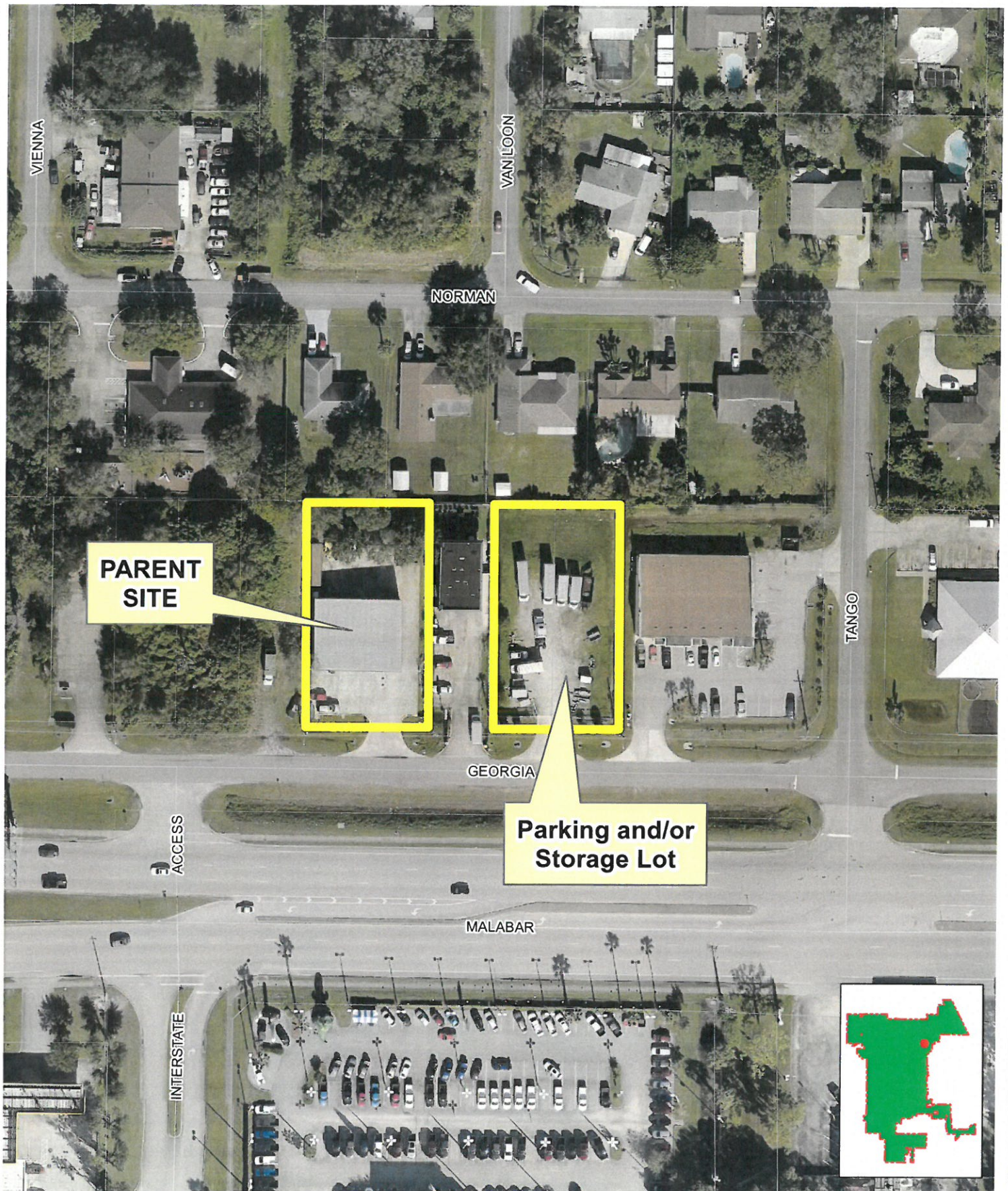
No applicable.

Item (A)(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.*

The site is adjacent to commercial properties, with like zoning, on the east and west and a road abuts to the south. To the north is single family residential. An existing 6-foot tall wood fence runs along the north property line. This must be maintained at all times. There is no fixed lighting on site.

STAFF RECOMMENDATION:

Staff recommends approval of Case No. SP-13-2017, subject to a modification of the existing agreement, which shall be recorded at the owner's expense.

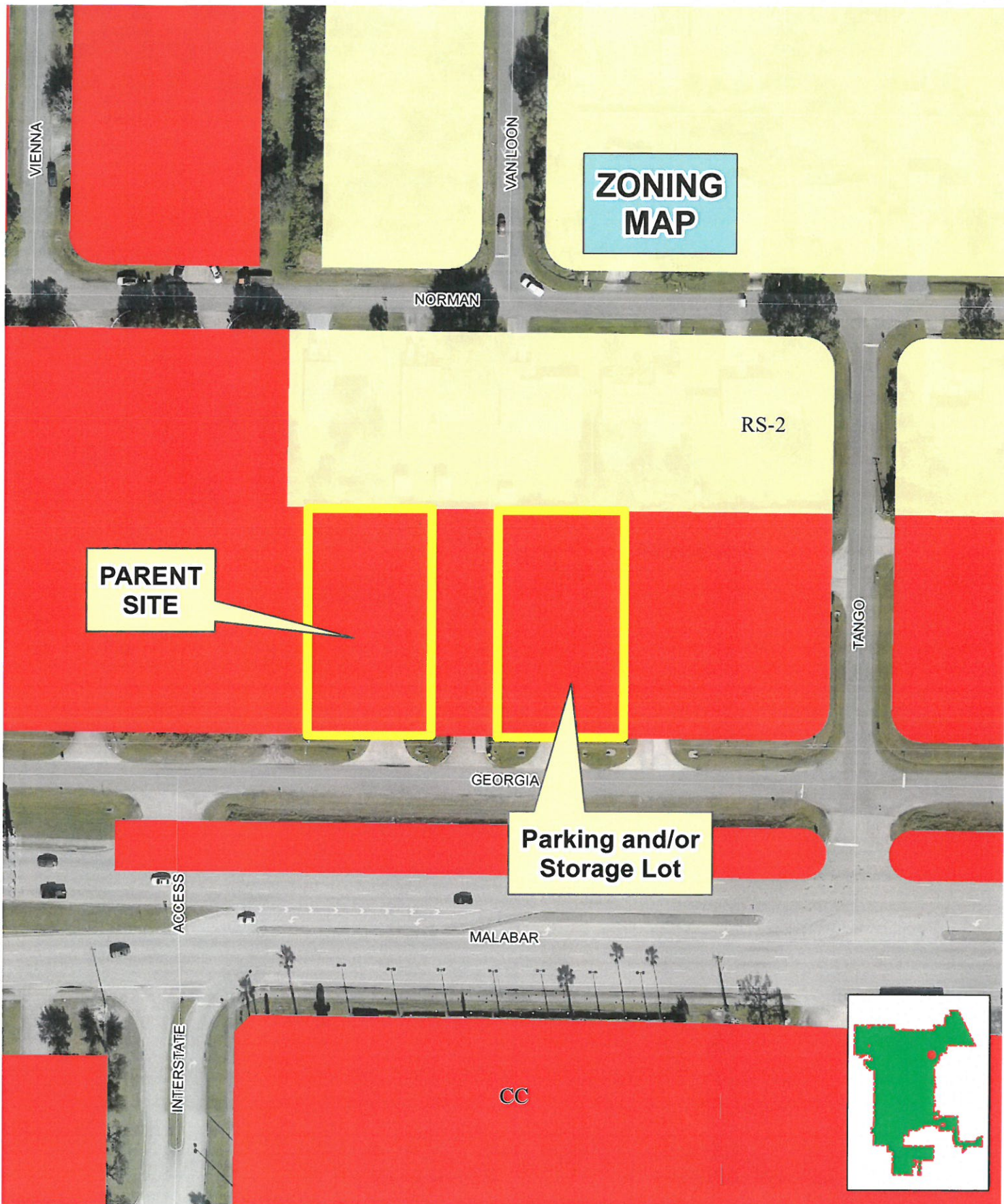


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



CASE NO. SP-13-2017



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

Map created by the Land Development Division



CASE NO. SP-13-2017



OFF-SITE PARKING AND/OR STORAGE LOT 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) MICHAEL J Minick
ADDRESS 1940 Michels Drive N.E.
CITY Palm Bay STATE Fla ZIP 32905
PHONE # 321-917-0536 FAX # _____
E-MAIL ADDRESS Palm Bay Tree & more . com

2) COMPLETE LEGAL DESCRIPTION OF THE PARKING AND/OR STORAGE LOT:
1545 Georgia St N.E. Palm Bay
1551
SECTION _____ TOWNSHIP _____ RANGE _____

3) COMPLETE LEGAL OF THE PARENT PARCEL:

SECTION _____ TOWNSHIP _____ RANGE _____

4) JUSTIFICATION FOR OFF-SITE PARKING AND/OR STORAGE LOT. REFER TO SECTION 185.140(G) OF THE PALM BAY CODE OF ORDINANCES:
Need to use for Palm Bay Tree - Malabar Auto over
Plo Parking.

5) PRESENT USE OF THE OFF-SITE PROPERTY:
over flow parking for Malabar Auto and parking for
Palm Bay Tree Trucks

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

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

_____ A property map clearly outlining the subject parcel and the business premises the off-site parking and/or storage lot will serve.

CITY OF PALM BAY, FLORIDA
OFF-SITE PARKING AND/OR STORAGE LOT APPLICATION
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_____ If the proposed parking and/or storage area is already constructed, the applicant shall provide an as-built survey prepared by a registered surveyor showing all boundary lines, structures (if any), and abutting properties. The as-built survey shall also be provided by CD or Memory Drive.

_____ If the proposed parking and/or storage area is to be constructed, the applicant shall provide a site plan drawn to scale showing all yard dimensions of the proposed improvements and any abutting roadways. The site plan shall also be provided by CD or Memory Drive.

_____ A list of all property owners directly adjacent to the proposed off-site parking and/or storage area covered by this application. The list is to include the names and complete mailing addresses of the property owners. (This can be obtained from the Brevard County Planning and Zoning Department at 321-633-2060, or on the Internet at <https://www.bcpao.us>). The list shall be legible and the source of that information stated here: _____

_____ 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 off-site parking and/or storage lot approval.

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

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 OFF-SITE PARKING AND/OR STORAGE LOT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Applicant

Michael J Minick

Date

3/2/17

Printed Name of Applicant

MICHAEL J Minick

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



DATE: MAY 3, 2017
CASE #: T-15-2017

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 178: Signs, in order to adopt a new Sign Code.

CODE CITATION: Chapter 178

APPLICABILITY: Citywide

APPLICANT: City of Palm Bay – Office of the City Attorney

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

BACKGROUND:

1. A textual amendment to the Code of Ordinances is requested for, Title XVII, Land Development Code, Chapter 178: Signs; in order to adopt a new Sign Code.
2. The applicant for this amendment is the City of Palm Bay's Office of the City Attorney.
3. Proposed language for this amendment in legislative style with additions underlined and ~~deletions~~ in strikethrough format, is attached

ANALYSIS:

1. Chapter 178: Signs, was written in 1982 (adopted via Ordinance No. 82-21). It has been amended several times over the years to include new types of signs, procedures for issuance of permits; size restrictions; etc.
2. The intent and purpose of this chapter was to create regulations for the design, construction, and location of signs to protect the public safety and welfare; provide ample opportunity for business advertisement while preventing excessive, dangerous, and unsightly signs; and to prevent clutter among sign displays which would distract vehicle operators or place excessive demands on public attention and have a detrimental effect on the character and appearance of the residential, commercial, and industrial areas of the city.
3. The new sign code seeks to continue this same purpose and intent, while balancing the promotion of public health, safety, and welfare with the public's interest in presenting and receiving constitutionally protected messages by way of signs within the City. This code shall facilitate compliance and enforcement by providing objective guidelines, payment of fees to offset costs attendant to administering this ordinance, and imposing penalties in cases where the code is violated.
4. Lastly, the sign is intended to cover all requirements relative to the types, sizes, heights, permissible locations, restrictions, permits, inspections, identification, materials of manufacture and/or construction, erection, maintenance, procedure for requesting variances, and penalties for violation of the provisions prescribed herein for all signs placed, installed, repaired, altered, replaced and/or erected within the limits of the City which are exposed to the out-of-doors view of the public.
5. The written text attached to this report reflects a collaboration between the Office of the City Attorney, outside legal Counsel, and the Growth Management Department.

STAFF RECOMMENDATION:

Case No. T-15-2017 is recommended for approval.

CHAPTER 178

§ 178.01 TITLE.

This Chapter shall be known and may be cited as the "Sign Ordinance of the City of Palm Bay, Florida."

§ 178.02 STATEMENT OF PURPOSE.

The purpose of this Chapter is to promote public health, safety, and general welfare by:

(a) establishing standards for the fabrication, erection, use, maintenance and alteration of signs within the City, which standards allow and encourage creativity, effectiveness and flexibility in the design and use of signs;

(b) promoting pedestrian and traffic safety by reducing signs within the City that pose visual hazards;

(c) preserving and improving the City's aesthetic appearance and mitigating against visual blight;

(d) balancing the promotion of public health, safety, and welfare with the public's interest in presenting and receiving constitutionally protected messages by way of signs within the City; and

(e) facilitating compliance and enforcement by providing objective guidelines, payment of fees to offset costs attendant to administering this ordinance, and imposing penalties in cases where the code is violated.

§ 178.03 CONTENT NEUTRALITY.

Nothing in this Chapter is intended to regulate or control the content of signs or to regulate differently commercial or noncommercial speech.

§ 178.04 SCOPE.

This chapter is intended to cover all requirements relative to the types, sizes, heights, permissible locations, restrictions, permits, inspections, identification, materials of manufacture and/or construction, erection, maintenance, procedure for requesting variances, and penalties for violation of the provisions prescribed herein for all signs placed, installed, repaired, altered, replaced and/or erected within the limits of the City which are exposed to the out-of-doors view of the public.

§ 178.05 SIGNS AUTHORIZED--LIMITATIONS.

All signs not expressly authorized by this Chapter are prohibited. Additionally, authorized signs requiring a permit under the terms of this Chapter are prohibited until the City issues such permit, or as otherwise provided in this Chapter. All signs, including those authorized and permitted, shall be subject to the restrictions, procedures, and limitations contained in this Chapter and other applicable governmental regulations.

§ 178.06 CONSISTENCY.

This Chapter is based on and is intended to be consistent with and enhance the City's Zoning Code and the City's Comprehensive Plan.

§ 178.07 ADMINISTRATIVE AUTHORITY.

The Growth Management Director shall act as Administrator of the provisions of this Chapter, acting in lieu of the governing body. As used in this Chapter, "Administrator" shall include such Administrator's authorized representative.

§ 178.08 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply. Unless specifically defined below or in Chapter 185 (Zoning Code), the words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter it's most reasonable application.

AGGREGATE. When used in reference to the total allowable sign area, the total available display area of all sides or portions of a sign shall constitute the aggregate sign area.

ALTER. This term shall include, but not be limited to, the addition of sign surface area, the changing or relocation of light source or the relocation of an outdoor advertising display from one position to another. This term shall include any and all structural changes in the sign, but shall not include the changing of copy on a sign, including a sign which is designed as a changeable copy sign.

APERATURE SIZE. See SIGN SURFACE AREA.

BASE. This term shall include, but not be limited to, the bottom support surface of any sign where it meets the ground.

BEACON LIGHT. Any outdoor high intensity light which consists of one or more beams capable of being directed in any direction or directions, capable of being revolved automatically, or capable of having any part thereof revolve automatically, or which flashes.

BUILDING FRONTAGE. The linear length of a building facing a public street right-of-way, exclusive of alleys.

COPY. The letters, colors, text or other graphics displayed upon the sign surface area.

ERECT. Build, construct, attach, hang, place, suspend or affix, and shall include the painting of wall signs.

ESTABLISHMENT. An establishment is any commercial, industrial, institutional, educational, office, social, business, or financial entity.

FASCIA. A horizontal construction component that is used to cap the ends of a structural roof truss.

FRAME. The outermost corners or edges of a sign cabinet (see also Sign Cabinet).

GOVERNMENTAL BODY. The city, county, state or government of the United States, and any branch, agency, board or department thereof.

GROUND LEVEL. Ground level shall mean the finished grade at the base of a sign structure.

GROWTH MANAGEMENT DEPARTMENT. The City Department that administers and enforces the Land Development Code and the Florida Building Code.

GROWTH MANAGEMENT DIRECTOR. The City officer or other designated authority, or their duly authorized representative, in charge of the Growth Management Department.

HEIGHT. The vertical distance between the uppermost portion of a sign and ground level.

LUMENS. A quantifiable measure of light.

MAINTAIN. Maintain shall include general servicing and upkeep in a safe and operable condition and free from excessive wear and tear.

NOTICE. Written notification given by certified mail delivery or to the last known address of the person to be notified, or by hand delivery to such person and, if such notification related to a violation of this Chapter, the physical posting of written notification on the sign structure or real property on which the sign is located. If certified mail delivery or hand delivery is not possible, then an advertisement in any regularly published newspaper in the City shall suffice.

OWNER. The person owning the fee simple title to the property upon which a sign is located for which a permit is required.

PARAPHET. The vertical wall section that extends above a roof.

PERMITTEE. The owner of a sign for which a permit is required.

PERSON. Any individual, firm, partnership, association, corporation or other legal entity.

PLACEMENT. The location that a sign occupies on a lot or building.

PREMISES. A lot or parcel of land or combination of contiguous lots or parcels under single ownership.

PUBLIC or PRIVATE WAY. Any public or private thoroughfare utilized for vehicular or pedestrian traffic.

RELOCATE. Any change in the position of a sign from its original location.

REPLACE. Rebuild, enlarge or change in size, structure or lettering other than repainting, or repair to electrical apparatus.

SIDEWALK. The paved portion of a right-of-way specifically designed for pedestrian traffic.

SIGN.

(1) Any permanent or temporary object, which is visible from a public place, including public roadways, and which is designed to attract attention to the subject matter of its copy or image. Specifically excluded from this definition is works of art, flags or emblems of any nation, state or political subdivision.

(2) Signs includes the following defined classes of signs:

(a) **PERMANENT SIGNS.** Signs made of durable material and fixed to a building, supporting structure, or the ground in such a manner as to be immobile without the use of extraordinary means, such as disassembly. The following types of signs shall be permanent signs:

(i) **ANIMATED SIGN.** Any sign with physical action or motion, or giving the appearance thereof, through the use of illumination wind or other mechanical means. Animated signs shall include flashing or oscillating signs and swinging signs, sky trackers and shall exclude electronic message signs and time or temperature units.

(ii) **AWNING SIGN.** A roof-like structure extending and supported from the exterior wall of a building and which is composed of non-rigid materials (except for the supporting framework) upon which a sign is indelibly drawn, painted or printed.

(iii) **BENCH SIGN.** A bench whose primary purpose is collateral with providing transportation service to the public upon which a sign is indelibly drawn, painted or printed.

(iv) **BILLBOARD SIGN.** Any freestanding sign, which may, without limitation, be a sign having changeable copy sign or an Electronic Message Sign, which identifies or advertises a use, establishment, product, activity or service not sold, produced, manufactured, located, provided or furnished on the parcel on which the sign is located (or which identifies a use, product, activity or service which is only incidentally sold or available on that parcel). Billboard Signs may be illuminated or non-illuminated and include Digital Billboards.

(v) **DIRECTORY SIGN.** Any sign that states the name and/or occupation of the occupants of a structure or gives the use of the structure, including office building directories, houses of worship directories and apartment house directories.

(vi) **ELECTRONIC MESSAGE SIGN.** A non-billboard Illuminated Sign emitting an illuminated message, image or design created electronically by any light source, light emitting diodes ("LEDs"), bare electric bulbs, luminous tubes, fiber optics, or any other combination of light sources creating a message. This definition shall include time, temperature and date signs. Each message on the sign must be displayed for a minimum of (8) eight seconds and all static message changes shall be completed within one (1) second. Each display must have a light sensing device that will adjust the brightness, as ambient light conditions change. An Electronic Message Sign which has copy which moves continuously or appears to be moving, flashing, changes color, pulses or alternates shall be considered an Activated Sign.

(vii) **MARQUEE SIGN.** Any sign which is attached to, or hung from, a permanent, roof-like structure which is supported by a building wall and which projects out from the building line usually, but not necessarily, over a public right-of-way such as a sidewalk.

(viii) **MONUMENT SIGN.** Any on-premises, freestanding sign supported by structures or supports in or upon the ground and independent of support of any building(s) and which has a maximum height of ten (10) feet. A monument sign may be a directly illuminated sign, electronic message sign, or indirectly illuminated sign.

(ix) **POLE SIGN.** A freestanding sign supported by one (1) or more poles in or upon the ground.

(x) **PYLON SIGN.** Any sign, other than a portable sign, which is supported by structures or supports in or upon the ground and independent of support from any building and having eight (8) feet or more ground clearance when measured from the grade at the base of the sign to the bottom of the sign face. The structural elements of a pylon sign shall not exceed one and one-half (1½) feet in diameter.

(xi) **ROOF SIGN.** Any sign that is erected, constructed or maintained on the roof

of a building or structure above the eaves, or above mansards, parapets, or other similar architectural features of buildings or structures which are capable of supporting signs.

(xii) **TRANSIT SHELTER SIGN.** Any sign that is attached to a shelter on or abutting a public right of way, which shelter is intended for use in connection with public transportation.

(xiii) **WALL SIGN.** A sign which is attached to or erected against the wall of a building with its face in a parallel plane to the plane of the building façade or wall. This definition shall include the painting of a sign on a wall surface. For a building façade with multiple heights or roof lines, the wall sign shall not project above the parapet unless it is affixed to, or painted upon, a roof line that is more than 50% of the length of the building façade. Any wall sign contrary to this requirement shall be considered a roof sign.

(b) **TEMPORARY SIGN.** Any sign that is not a permanent sign.

(i) Any temporary sign used in connection with a business shall:

(A) be removed from public view while such business is closed or not be displayed for more than thirty (30) consecutive days nor more than a total of sixty (60) days per calendar year.

Any temporary sign not used in connection with a business shall not be displayed for more than thirty (30) consecutive days nor more than a total of sixty (60) days per calendar year.

(iii) The following types of signs shall be temporary signs:

(A) **A-FRAME SIGN.** A sign consisting of two (2) sign faces connected at the top with either hinges or fixed fastening devices.

(B) **BANNER SIGN.** Any sign intended to be hung either with or without frames, possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind, and shall include flags, and streamers.

(C) **CONSTRUCTION SIGN.** Any temporary sign erected between the time of issuance of a building permit and the issuance of a certificate of occupancy and located on the premises where construction is taking place, indicating the description of the project, the names and telephone numbers of the architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors and similar persons having a role or interest in the structure or project.

(D) **FEATHER SIGNS.** A sign supported by a single monopole with an affixed, cloth-like material that moves and flexes with the wind.

(E) **FREESTANDING FRAME SIGN.** Any self-supporting two-sided sign with a total sign area of no more than sixty-four (64) square feet and which has a maximum height not exceeding eight (8) feet.

(F) **FUTURE IMPROVEMENT SIGN.** Any sign which describes proposed development to take place on the premises.

(G) **HUMAN SIGN HOLDER.** Any sign that is supported, in whole or in part by a person.

(H) **INFLATED SIGN.** A sign constructed from nonporous material, which is inflated with air or any lighter-than-air gas. Included in this definition are inflated signs which represent the form of a person, place or thing. Aircraft which may meet this definition are not considered inflated signs.

(I) **PORTABLE SIGN.** Any sign not permanently erected on a premises and which may be moved readily from place to place; except that this definition shall not apply to Vehicle Signs or signs displayed through, but not on, windows.

(J) **REAL ESTATE SIGN.** Any sign used solely for the purpose of offering the sale or lease of the premises and/or building on which the sign is located.

(K) **VEHICLE SIGN.** Any sign erected upon a vehicle wherein the principle purpose of the vehicle is not general transportation, but merely the support of the sign itself. Signs mounted upon taxis, buses, or other modes of general public transportation when in the course of their normal service are excluded from this definition.

(L) **WINDOW SIGN.** A window sign is one that lets light or air through to the habitable part of the building and which is painted on, attached to, or visible through a window. A window sign does not include the display of merchandise.

(c) **ABANDONED SIGN.** Any:

(i) sign which through age and/or obsolescence no longer conforms to the structural or maintenance specifications of this chapter; or

(ii) pole, pylon or structure expressly installed for the purpose of affixing a sign which bears no sign or copy for a period of twelve (12) consecutive months; or

(iii) sign which displays information which incorrectly identifies the business, owner, lessor, or principal activity conducted on the site; or

(d) **ACTIVATED SIGN.** Any sign which

(i) contains or uses for illumination any light, lighting device or lights which change color, flash or alternate, or change appearance of said sign or any part thereof automatically, except electronic message signs;

(ii) contains moving parts as part of its normal operation;

(iii) depicts or contains copy which moves or appears to be moving.

(e) **DIGITAL BILLBOARD.** Any Billboard Sign utilizing digital message technology, capable of changing the static message or copy on the sign electronically. A Digital Billboard may be internally or externally illuminated. A Digital Billboard shall contain static messages only, and shall not have animation, movement, or the appearance or optical illusion of movement, of any part of the sign structure. Each static message shall not include flashing or the varying of light intensity. Digital Billboards shall be operated in accordance with Fla. Admin Code Rule 14-10.004(3).

(f) **FLASHING SIGN.** Any sign on which all or any portion of the electrical lighting device(s) on such signs go on and off at alternate intervals. Any revolving Illuminated Sign shall be considered a Flashing Sign for purposes of this chapter. Digital billboards shall not be considered Flashing Signs for purposes of this chapter.

(g) **GOVERNMENT SIGN.** Any sign erected by or at the direction of a public official in the performance of such official's office or duty.

(h) **ILLEGAL SIGN.** An unpermitted sign which was not lawfully erected or a permitted sign not constructed in accordance with the representations set forth in the permit documents or a sign constructed in violation of city codes.

(i) **ILLUMINATED SIGN.** Any sign using an artificial light source.

(j) **INTERIOR SIGN.** A sign which is located in the interior of a structure or which is located outside a structure but, because of the sign's placement, design or orientations is not visible to persons from a location other than the parcel on which the sign is located. Interior signs are not regulated by this Chapter.

(k) **REVOLVING SIGN.** Any sign so erected or constructed as to periodically or continuously change the direction toward which any plane containing the display surface area is oriented.

(l) **SNIPE SIGN.** Any sign made of nondurable material and which is attached in any way to a utility, tree, fence post or any other similar object, or inserted with one or more stakes into the ground.

(m) **SUBDIVISION SIGN.** Any permanent sign located at the entry of a subdivision or neighborhood, mobile home park, townhouse, or other planned residential development.

SIGN CABINET. The self-supporting structural or non-structural frame that contains the sign face.

SIGN FACE. The part of the sign that is or can be used to identify, display, advertise, communicate information, or for visual representation which attracts or intends to attract the attention of the public for any purpose.

SIGN NUMBER. For the purpose of determining the number of signs, a sign shall be construed to be a single display surface or device containing elements organized, related, and composed to form a single unit. In cases where material is displayed in a random or unconnected manner, or where there is reasonable doubt as to the intended relationship of such components, each component or element shall be considered to be a single sign. A sign with sign surface on multiple sides of such sign shall be construed as a single sign, and the total area of such sign shall be the area computed on a single side of the sign.

SIGN STRUCTURE. Any structure which is designed specifically for the purpose of supporting a sign, has supported or is capable of supporting a sign. This definition shall include any decorative covers, braces, wires, supports or components attached to or placed around the sign structure.

SIGN SURFACE AREA. The total area of each sign face which may be used to display copy, including background, but not including the frame and structural supporting elements. The sign surface area shall be computed for the entire area within the periphery of a geometric form, or combination of geometric forms. The surface area of the sign shall be measured from the outside edges of the sign or the sign frame, whichever is greater. The sign area shall include the total of a single side of a sign surface upon which copy could be placed. Where a sign is composed of individual letters, characters or symbols applied directly to a building, canopy, marquee, mansard, fascia, façade, parapet, awning, or the area of the sign shall be the smallest geometric shape which will enclose all of the letters, characters or symbols. The area of a multi-faced sign shall be the total area of each sign face.

SIGN UNIT. Any display and/or display device containing elements organized, related and/or composed to form a single unit. Where the display of any elements is in a random manner without any organized relationship of elements, each element shall be considered a separate sign. A double-faced sign shall be considered a single sign.

STREET FRONTAGE. The length of the property line for a single parcel which runs parallel to and along each public right-of-way (exclusive of alleys) it borders.

WALL. The surface of the exterior of a principal building exposed to the public view within a single plane, exclusive of windows and/or doors.

ZONING DISTRICT. The various zoning districts as established and described in the zoning regulations set forth in Chapter 185 of this code of ordinances.

§ 178.09 SIGN PERMITS, NOT REQUIRED

A sign permit shall not be required for:

(a) The erection, installation, alteration, repair, relocation, reinstallation, or structural maintenance of:

(i) Signs in conformance with the requirements of this Chapter located on property owned by a Governmental Body or on a right of way;

(ii) Temporary signs otherwise conforming with the requirements of this Chapter;

(iii) Directory Signs; or

(iv) Interior Signs.

(b) Nonstructural maintenance of an existing permitted sign, such as cleaning or painting, or repairs to an existing sign which does not alter the size or height of the sign; or

(c) Changing the copy of an existing permitted sign; or

(d) Any sign that is legally existing and, if required, properly permitted as of the date this Chapter is enacted. A new permit shall be required prior to any alteration, repair, relocation, reinstallation, or structural maintenance of such legally existing sign.

§ 178.10 SIGN PERMITS.

(a) Permits required. A sign permit is required prior to construction, erection, installation, alteration, repair, relocation, reinstallation, or structural maintenance of any sign not subject to Section 178.09 of this Chapter.

(b) Emergency Repairs. Repairs to a legally existing sign may be conducted prior to obtaining a permit in the event of an emergency imposing an imminent threat to life or property, provided, however, that any necessary permit is obtained promptly after such repairs are initiated. Emergency repairs shall be limited to returning the sign to its original permitted state.

(c) Who may apply. The following persons, or the designated agent or such persons, may apply for a sign permit:

- (i) the owner of a sign for which a permit is required.
- (ii) the designated agent of the owner of a sign for which a permit is required.

(d) Administration. The Administrator or the Administrator's designee shall be responsible for the administration, processing, review and determination of applications for sign permits.

(e) Timing. Unless otherwise expressly provided for in this chapter, the Administrator or the Administrator's designee shall review an application for any permit for the erection, relocation, repair, or in any way pertaining to signs, and issue a written determination to the applicant within thirty (30) business days of receipt of the completed application. The review and determination period may be extended for an additional forty-five (45) business days at the request of the applicant or its agent.

(f) Grant or denial. If the application for a sign permit demonstrates that the proposed sign or the proposed work relating to a sign conforms with the requirements of this Chapter, and if all fees relating to such sign permit application have been paid, the sign permit application shall be granted. If the sign permit application does not demonstrate such conformity with the requirements of this Chapter or if all fees relating to such sign permit application have not been paid, the application shall be denied. In the event the application is denied, the Administrator or the Administrator's designee shall include the specific basis for the denial in the written determination provided to the applicant. ~~Failure of the Administrator or the Administrator's designee to issue a final determination within the time set forth in subsection (e) above shall constitute a grant of such sign permit application.~~

(g) Electrical Permits. A separate electrical permit shall be required for any sign containing electrical components. If the work authorized under an electrical permit has not been completed within six (6) months after the date that the electrical permit is issued, then both the electrical permit and the sign permit shall become null and void.

(h) Revocation of permit. If the person to whom a sign permit is issued fails to comply with any of the provisions of this Chapter, the Administrator or the Administrator's designee shall provide notice to the permit holder revoking such permit and specifying the reason for such revocation.

- (i) Sign permit related fees.

(i) Permit fees. Fees for sign permits, including inspection fees and plan checking fees, but exclusive of any fees for any electrical permit, shall be as established by City Council by resolution pursuant to § 169.004. For the purpose of determining the sign permit fee, sign valuation shall be determined by the Administrator or the Administrator's designee.

(ii) Work commenced before acquiring permit. Where work for which a sign permit is required commences prior to issuance of such the permit, the fees for such permit shall be doubled, but the payment of such double fee shall not relieve the sign permit applicant from fully complying with the requirements of this Chapter and any other applicable regulations of the City in the execution of the work nor from any other applicable penalties. This provision shall not apply to emergency repairs under subsection (b) above.

(j) Inspections.

(i) Signs for which permits have been issued shall be inspected during and at completion of construction and at such times as deemed necessary by the Administrator or the Administrator's designee. The Administrator and the Administrator's designee are empowered to enter or inspect any building, structure or premises in the City upon which or in connection with which a sign is located, for the purpose of inspecting the sign, including its structural details and electrical connections, to ensure compliance with the provisions of this Chapter. Such inspections shall be carried out during normal business hours, unless an emergency exists.

(ii) When an inspection reveals maintenance, repair, or other remedial action is needed, the Administrator or the Administrator's designee shall provide notice to the property owner, and the sign permit holder (if not the property owner) identifying the needed remedial action. The owner shall have ten (10) business days to complete the remedial action or remove the sign.

(iii) Construction inspections. Any person constructing, erecting or relocating a sign for which a permit is required shall notify the Administrator or the Administrator's designee at all stages of construction that require inspection and approval by the Building Division. The requirements for such inspections are as follows:

(A) a footing inspection for all detached signs shall be required;

(B) a final structural inspection shall be required at completion of the work on all types of signs; and

(C) a final electrical inspection shall be required on all signs containing electrical components and wiring to be connected to an electrical energy source.

§ 178.11 REVIEW OF SIGN-RELATED DECISIONS.

(a) Any person who has been aggrieved by any order, requirement, decision, or determination applying or interpreting the provisions of this Chapter may seek review of said order, requirement, decision, or determination as provided in § 169.006.

(b) Persons with standing to seek review of any order, requirement, decision, or determination under this Chapter related to constitutionally protected first amendment activity shall be entitled, as a matter of right, to seek immediate review of such final determination by filing an appropriate pleading with the circuit court having jurisdiction over the territory encompassed by the City.

§ 178.12 PENALTIES AND REMEDIES.

Unless otherwise stated, a person who engages in conduct in violation of this Chapter shall be subject to the following penalties and/or remedies:

(a) Violations of this chapter may be punished as provided in the City of Palm Bay Code, Section 10.99, General Penalty.

(b) Each day that a violation continues after receipt of written notice of such violation shall constitute a separate violation and separate offense for purposes of the penalties and remedies specified herein.

(c) In addition to the penalties and remedies above, the City may institute any appropriate action or proceedings to prevent, restrain, correct or abate a violation of this Chapter, as provided by law.

§ 178.13 SIGNS ON PROPERTY OWNED BY A GOVERNMENTAL BODY, PUBLIC RIGHTS OF WAY, AND PUBLIC PLACES.

(a) Property owned by Governmental Body. No private person or group shall erect, install, maintain, alter, repair, demolish, remove, relocate, reinstall, or perform structural maintenance upon, a sign located on property owned by a Governmental Body without the prior written agreement of such Governmental Body. Only the Governmental Body owning such land, or its designated agents, may erect, install, maintain, alter, repair, demolish, remove, relocate, reinstall, or perform structural maintenance upon, a sign upon such property.

(b) Public Rights of Way. Except as expressly provided otherwise by the Florida Department of Transportation with regard to rights of way within its control and/or jurisdiction, no private person or group shall erect, install, maintain, alter, repair, demolish, remove, relocate, reinstall, or perform structural maintenance upon, a sign located on any public right of way. Only the Governmental Body responsible for the maintenance of such public right of way, or its designated agents, may erect, install, maintain, alter, repair, demolish, remove, relocate, reinstall, or perform structural maintenance upon, a sign upon such a right of way.

(c) Requirements. Any sign located on property owned by a Governmental Body or upon any public right-of-way must conform to the requirements of this Chapter.

(d) Removal of unauthorized signs. The City may immediately remove any unauthorized sign located on property owned by a Governmental Body or upon any public right-of-way. Upon removing such a sign, the City shall hold it for a minimum of five (5) business days. At any time during such a holding period the owner of the sign may reclaim the sign after paying a removal and storage fee of one hundred dollars (\$100.00). Signs not reclaimed by the owner during this holding period shall be discarded.

§ 178.14 SCHEDULE OF SIGNS IN COMMERCIAL DISTRICTS.

The table setting forth the type, size, location, number, and allowable sign illumination for signs located on parcels within commercial districts is found in Appendix A.

§ 178.15 SCHEDULE OF SIGNS IN INDUSTRIAL DISTRICTS.

The table setting forth the type, size, location, number, and allowable sign illumination for signs located on parcels within industrial districts is found in Appendix B.

§ 178.16 SCHEDULE OF SIGNS IN RESIDENTIAL DISTRICTS.

The table setting forth the type, size, location, number, and allowable sign illumination for signs located on parcels within industrial districts is found in Appendix C.

§ 178.17 BILLBOARD SIGNS.

(a) Billboard signs may be permitted on industrial or commercial zoned properties abutting U.S. Highway No. 1, and Interstate 95, ~~and Palm Bay Road~~, subject to the following restrictions:

(i) Height shall not exceed sixty (60) feet along Interstate 95 and thirty (30) feet along U.S. Highway No. 1 ~~and Palm Bay Road~~;

(ii) Sign Surface Area shall be:

(A) between three hundred and sixty (360) square feet and six hundred and eighty (680) square feet, (~~excluding~~ including cabinetry and trim) along Interstate 95; and

(B) between two hundred (200) square feet and four hundred (400) square feet, (~~excluding~~ including cabinetry and trim) along U.S. Highway No. 1 ~~and Palm Bay Road~~; and

(iii) No Billboard sign shall be located less than 1,500 linear feet from any other Billboard Sign, measured in a straight line distance from sign to sign. In order to protect the Scenic Byway Distinction along the section of U.S. Highway 1 that runs the length of Palm Bay's jurisdiction, these Billboards will be considered an "Entry Way" Sign and must be located within 300 feet of the north or south city limit line.

(iv) Each Billboard sign shall be setback from all property lines of the parcel upon which they are erected upon a distance equal to half the height of the sign.

(b) Digital Billboards may be permitted on new and existing Billboard Signs on industrial or commercial zoned properties abutting U.S. Highway No. 1, Interstate 95, ~~and Palm Bay Road~~ within the City limits. Notwithstanding any other provision contained herein, an existing legal nonconforming Billboard Sign may be converted to a Digital Billboard and may be altered or reconstructed to the extent necessary to complete such conversion, notwithstanding any other provision to the contrary contained in this Chapter 178 or in Chapter 185, subject to the following criteria:

(i) Such Digital Billboard sign shall conform to State outdoor advertising regulations;

(ii) Such Digital Billboard sign shall have an active State outdoor advertising permit from the Florida Department of Transportation;

(iii) The messaging area of the Digital Billboard sign (including framing, cabinetry and trim) shall not be larger than the existing sign face area;

(v) The sign height and location shall not be changed.

(vi) Minimum display time. Each message on the Digital Billboard sign shall be displayed for a minimum of (8) eight seconds.

(vii) Message Changes. All Digital Billboard static message changes shall be completed within one (1) second.

(viii) Brightness level. Digital Billboard signs shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at a pre-set distance.

(ix) Each Digital Billboard sign display shall have a light sensing device that will adjust the brightness as ambient light conditions change;

(x) Digital Billboard signs shall be operated with systems and monitoring in place to either turn the display off or show a "full black" image on the display in the event of a malfunction that affects at least fifty percent of the sign area; and

(c) Digital Billboards may be operated with conventional printed display faces.

(d) Owners of Digital Billboards are strongly encouraged to coordinate with law enforcement and emergency management authorities to display, when appropriate, regional emergency information important to the traveling public including, but not limited to Amber Alerts or emergency management information, such as Hurricane Evacuation Orders.

§ 178.18 CONSTRUCTION, DESIGN, AND LOCATION OF SIGNS.

(a) Design and construction. The design, construction and erection of all signs permitted within the city shall conform to the requirements of the Standard Building Code, adopted in Chapter 170 of this Code of Ordinances. Signs containing components to be connected to an electrical energy source shall also conform to the requirements of the National Electrical Code, adopted Chapter 170 of this Code of Ordinances. If the requirements of this Chapter conflict with the requirements of the above codes, the provisions of this Chapter shall govern.

(b) Illuminated signs. Light sources for Illuminated Signs shall prevent glare upon public rights of way and adjacent property. All such light sources shall be maintained in good working condition. In no case shall the lumens from any sign cause glare upon adjacent properties or create a hazardous condition upon any abutting roadway.

(c) Sign setbacks. Sign setbacks shall be determined to be the leading edge of the sign or the supporting structure for such sign, whichever is closer to the point from which the setback is calculated.

(d) Orientation. All signs shall be designed and erected to be perpendicular to the ground upon which the sign is erected.

§ 178.19 MAINTENANCE OF SIGNS.

(a) Except as expressly otherwise provided, all signs regulated by this Chapter, including their supports, braces, guys, anchors, electrical parts, lighting fixtures, and all painted and display areas shall be maintained so as to present a neat, clean appearance. Painted areas and sign surfaces shall be kept in good condition, and illumination, if provided, shall be maintained in safe and good working order.

(b) Weeds and grass shall be kept cut in front of, behind, underneath and around the base of ground signs for a distance of ten (10) feet, and no rubbish or debris shall be permitted under or near such signs.

§ 178.20 EXPRESSLY PROHIBITED SIGNS, NUISANCE.

(a) The following types of signs, in any location, are expressly prohibited:

- (i) Abandoned Signs;
- (ii) Activated signs;
- (iii) Animated Signs;
- (iv) Beacon Lights;
- (v) Flashing Signs;
- (vi) Illegal Signs;
- (vii) Revolving Signs;
- (viii) Roof Signs;
- (ix) Vehicle Signs;
- (x) Snipe Signs;
- (xi) Any sign confusingly similar to a Government Sign;
- (xii) Any sign, other than a Government Sign, in or upon any river, bay, lake, or other body of water within the City;
- (xiii) Any sign, other than a Government Sign, upon any pier or seawall;
- (xiv) Window signs which, in aggregate, cover more than twenty-five (25) percent of the total window surface; and
- (xv) Any sign which:
 - (A) contains content previously adjudged obscene in the community;
 - (B) emits audible sound, vapor, smoke, odor particles, or gaseous matter;
 - (C) obstructs, conceals, hides, or obscures any Government Sign;
 - (D) presents a hazard to the safety of the public; or
 - (E) causes radio, television or other communication interference.

(b) Any sign expressly prohibited by this section shall be deemed a nuisance. The Administrator or the Administrator's designee shall issue notices to both the owner of the property on which such sign is located and, to the extent discernable, those persons maintaining and/or owning such signs, giving such persons ten (10) days to dismantle and remove signs or take action to make such sign conform to the requirements of this Chapter. In the event such a sign presents a hazard to public safety, it may be removed immediately by direction of the Administrator, the Administrator's designee, or any other City official responsible for public safety.

§ 178.21 NONCONFORMING SIGNS.

(a) Any sign which did not conform to the provisions Chapter 178 immediately prior to the effective date of this ordinance, and was not legally permitted and constructed, shall be an illegal nonconforming sign and shall be removed immediately.

(b) Unless otherwise subject to the provisions §70.20, Florida Statutes, any sign which was legally permitted and constructed, but which does not conform to the provisions Chapter 178, shall be a legal nonconforming sign and shall be governed as provided for herein.

(c) A legal nonconforming sign may not be altered, enlarged, or moved in a way which increases its degree of nonconformity, but any sign or portion thereof may be altered to decrease its degree of nonconformity, except as provided for herein. (d)

Notwithstanding the foregoing or section (d) below, a legal nonconforming sign may be reconstructed as a Digital Billboard if doing so would otherwise conform to the requirements of Chapter 178.

(e) A legal nonconforming sign shall not be structurally altered to prolong the life of the sign, except as otherwise provided herein. Reasonable repair and maintenance of nonconforming signs, including change of copy, is permitted, as provided for herein. Reasonable repair and maintenance means the work necessary to keep the sign, including the sign structure, in a good state of repair, but does not include replacement of materials in the sign structure. Reasonable repair does not include:

(i) Any modification that changes the structure, or type of structure, such as conversion of a wooden sign structure to a metal sign structure;

(ii) Any modification, including the addition of embellishments, that changes the sign area or the height above ground level; or

(iii) Any modification that adds lighting to a sign structure that previously did not contain lighting and does not have the approvals to do so, or changes the existing lighting from printed faces to digital faces without prior approval.

(f) Should a legal nonconforming sign become damaged, destroyed or deteriorated by any means to the extent that it requires more than reasonable repair and maintenance, as defined in subsection (d) above, then the sign shall not be reconstructed except in compliance with this Chapter.

(g) Should a legal nonconforming sign be moved for any reason, it shall thereafter conform to the requirements of this Chapter after it is moved.

(h) A legal nonconforming sign, other than legal nonconforming billboard signs, shall be deemed an abandoned sign and shall be removed if either the sign or the sign structure has not been used, or if the parcel or parcels upon which the sign is located becomes vacant or unoccupied for a period of ninety (90) consecutive calendar days or more.

(i) A legal nonconforming billboard sign shall be deemed an abandoned sign and shall be removed if either the sign or the sign structure has not been used or becomes vacant or unoccupied for a period of twelve (12) consecutive calendar months or more.

CHAPTER 178 APPENDIX A

SCHEDULE OF SIGNS IN COMMERCIAL ZONING DISTRICTS						
<i>Sign Type</i>	<i>District(s)</i>	<i>Maximum Number</i>	<i>Maximum Area</i>	<i>Maximum Height</i>	<i>Placement</i>	<i>Illumination</i>
A-Frame	All	1 per street frontage	16 sq. ft.	10 ft.	At the Property Line	None
Awning	All	1 per street frontage	10% of wall Area	10 ft.	Attached	Int. or Ext.
Banner	All	Non-Regulated	Non-Regulated	25 ft.	Non-Regulated	None
Bench	All	1 per bench	3 sq. ft.	6 ft.	Non-Residential	None
Billboard	See §178.17	See §178.17	See §178.17	See §178.17	See §178.17	External or Internal
Construction	All	1 per street frontage	16 sq. ft.	10 ft.	10' from any Property line	None
Directory	All	1 per street frontage	3 sq. ft.	3 ft.	At the Property Line	None
Electronic Message	All	1 per street frontage	64 sq. ft.	10' height @ < 150' frontage 25' height @ + 150' frontage	10' from any Property line	Internal
Freestanding Frame	All	1 per street frontage	64 sq. ft.	10' height @ < 150' frontage 25' height @ + 150' frontage	10' from any Property line	Int/Ext
Future Improvement	All	1 per street frontage	16 sq. ft.	10 ft.	10' from any Property line	No
Human Sign Holder	All	1 per street frontage	16 sq. ft.	10 ft.	No such Sign shall impede visibility for traffic safety	None
Inflated	All	1 per street frontage	Non-Restricted.	25 ft.	10' from any Property line	External or Internal
Marquee	All	1 per street frontage	12 sq. ft.	N/A	Attached	External or Internal

Monument	All	1 per street frontage	64 sq. ft.	10' height @ < 150' frontage 25' height @ + 150' frontage	10' from any Property Line	External or Internal
Pole	All	1 per street frontage	64 sq. ft.	10' height @ < 150' frontage 25' height @ + 150' frontage	10' from any Property Line	Internal
Portable	All	1 per street frontage	64 sq. ft.	10 ft.	Non- Regulated	Internal
Pylon	All	1 per street frontage	64 sq. ft.	10' height @ < 150' frontage 25' height @ + 150' frontage	10' from any Property Line	Internal
Real Estate	All	1 per street frontage	16 sq. ft.	10 ft.	10' from any Property Line	No
Transit Shelter	All	1 per developed parcel	16 sq. ft.	10 ft.	Right-of-way	External or Internal
Vehicle	All	1 per street frontage	N/A	N/A	N/A	N/A
Wall	All	1 per street frontage	Max 10% of Wall Area	Not Above Average Roofline	On the Principle Building	External
Window	All	1 per street frontage	10% of wall Area	Not Above Roofline	N/A	N/A

CHAPTER 178 APPENDIX B

SCHEDULE OF SIGNS IN INDUSTRIAL ZONING DISTRICTS						
<i>Sign Type</i>	<i>District(s)</i>	<i>Maximum Number</i>	<i>Maximum Area</i>	<i>Maximum Height</i>	<i>Placement</i>	<i>Illumination</i>
A-Frame	All	1 per street frontage	16 sq. ft.	10 ft.	10' from any Property line	None
Awning	All	1 per street frontage	10% of Area	Not above than roof line	On the Principle Building	External or Internal
Banner	All	Non-Reg. per street frontage	Non-Regulated	25 ft.	Non-regulated	None
Bench	All	1 per bench	3 sq. ft.	6 ft.	Non-Residential	None
Billboard	See §§178.17	See §§178.17	See §§178.17	See §§178.17	See §§178.17	External or Internal
Construction	All	1 per street frontage	16 sq. ft.	10 ft.	10' from any Property line	None
Directory	All	1 per street frontage	3 sq. ft.	3 ft.	10' from any Property line	Ext. on Int.
Electronic Message	All	1 per street frontage	64 sq. ft.	10 @ 150' < ft. 25 @ + 150'	10' from any Property line	No Cinematic Movement 0 Lumens @ Property line.
Freestanding Frame	All	1 per street frontage	64 sq. ft.	10' @ 150' <, ft. 25 @ 150' >	10' from any Property line	Int/Ext.
Future Improvement	All	1 per street frontage	16 sq. ft.	10 ft.	10' from any Property line	None
Human Sign Holder	All	1 per street frontage	16 sq. ft.	10 ft.	No such sign shall impede vision for traffic safety	None
Inflated	All	1 per street frontage	Non-Restricted	25ft.	10' from any property line	External or Internal
Marquee	All	1 per street frontage	12 sq. ft.	N/A	Attached	External or Internal

Monument	All	1 per street frontage	64 sq. ft.	10 ft.	10' from any Property line	External or Internal
Pole	All	1 per street frontage	64 sq. ft.	10' < 150' ft. 25' @ 150 >'	10' from any Property line	Internal
Portable	All	1 per street frontage	64 sq. ft.	10 ft.	Non-regulated	Internal
Pylon	All	1 per street frontage	64 sq. ft.	10' < 150' ft. 25' + 150 '	10' from any Property line	Internal
Real Estate	All	1 per street frontage	16 sq. ft.	10 ft.	10' from any Property line	None
Transit Shelter	All	1 per developed parcel	16 sq. ft.	10 ft.	Right-of-Way	External or Internal
Vehicle	All	1 per street frontage	N/A	N/A	N/A	N/A
Wall	All	1 per street frontage	10% of wall Placement.	Not Above the Average Roof Line	On the Principle Building	External
Window	All	1 per street frontage	10% Max. Of Place	N/A	N/A	None

CHAPTER 178 APPENDIX C

SCHEDULE OF SIGNS IN RESIDENTIAL ZONING DISTRICTS						
<i>Sign Type</i>	<i>District(s)</i>	<i>Maximum Number</i>	<i>Maximum Area</i>	<i>Maximum Height</i>	<i>Placement</i>	<i>Illumination</i>
Construction	All	1 per street frontage	16 sq. ft.	10 ft.	10' from any Property Line	None
Directory	All	1 per street frontage	3 sq. ft.	3 ft.	10' from any Property Line	None
Future Improvement	All	1 per street frontage	16 sq. ft.	10 ft.	10' from any Property line	None
Real Estate	All	1 per street frontage	16 sq. ft.	10 ft.	10' from any Property line	None
Subdivision	All	2 per street frontage	32 sq. ft.	10 ft.	Not within the 10' sight Visibility Triangle	Internal or External
Transit Shelter	Mixed Use Commercial/ Residential	1 per developed parcel	16 sq. ft.	10 ft.	Right of Way	No External or Internal

A-Frame	All	1 per street frontage	16 sq. ft.	10 ft.	At the Property Line	None
Awning	All	1 per street frontage	10% of wall Area	10 ft.	Attached	Int. or Ext.
Banner	All	Non-Regulated	Non-Regulated	25 ft.	Non-regulated	None
Bench	All	1 per bench	3 sq. ft.	6 ft.	Non-Residential	None
Billboard	See §178.17	See §§178.17	680 sq. ft.	60 ft.	See §§178.17	External or Internal
Electronic Message	All	1 per street frontage	64 sq. ft.	10' height @ < 150' frontage 25' height @ + 150' frontage	10' from any Property line	Internal

Freestanding Frame	All	1-per street frontage	64 sq. ft.	10' height @ < 150' frontage 25' height @ + 150' frontage	10' from any Property line	Int/Ext
Human Sign Holder	All	1-per street frontage	16 sq. ft.	10 ft.	No such Sign shall impede visibility for traffic safety	None
Inflated	All	1-per street frontage	Non-Restricted.	25 ft.	10' from Property line.	External or Internal
Marquee	All	1-per street frontage	12 sq. ft.	N/A	Attached	External or Internal
Monument	All	1-per street frontage	64sq. ft.	10' height @ < 150' frontage 25' height @ + 150' frontage	10' from any Property Line	External or Internal
Pole	All	1-per street frontage	64 sq. ft.	10' height @ < 150' frontage 25' height @ + 150' frontage	10' from any Property Line	Internal
Portable	All	1-per street frontage	64 sq. ft.	10 ft.	Non-regulated	Internal
Pylon	All	1-per street frontage	64 sq. ft.	10' height @ < 150' frontage 25' height @ + 150' frontage	10' from any Property Line	Internal
Wall	All	1-per street frontage	Max 10% of wall Area	Not Above the Average Roofline	On the Principle Building	External



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 (Office of the City Attorney)

ADDRESS 120 Malabar Road SE

CITY Palm Bay STATE FL ZIP 32907

PHONE # (321) 409-7185 FAX # _____

E-MAIL ADDRESS andrew.lannon@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: Chapter 178: SIGNS

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

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

The Sign Code is being re-written and updated to conform to applicable federal laws and regulations.

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

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

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

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

Signature of Applicant Andrew P. Lannon Date 4/6/2017
Printed Name of Applicant Andrew Lannon, City Attorney

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



DATE: MAY 3, 2017
CASE #: V-16-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

VARIANCE APPLICATION

PROPOSAL: A request to allow a proposed A/C unit and concrete pad to encroach the 12' side interior setback by a maximum of 5' as provided in Section 185.032(F)(7)(b), of the Palm Bay Code of Ordinances.

LOCATION: 385 Humbert Street NE (Lot 7, Block 2383, Port Malabar Unit 45)

APPLICANT: Nanette Lima

SITE DATA

PRESENT ZONING: RE, Estate Residential District

ACREAGE: 0.34 Acres +/-

DENSITY: 3 units per acre

ADJACENT ZONING

& LAND USE:

- N** -- RE, Estate Residential Zoning District; Single Family Homes
- E** -- RE, Estate Residential Zoning District; Single Family Homes
- S** -- RE, Estate Residential Zoning District; Single Family Homes
- W** -- RE, Estate Residential Zoning District; Single Family Homes

WATER & SEWER: City Water and Septic

FLOOD ZONE:

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:**

BACKGROUND:

1. The site is located at 385 Humbert Street NE (In the vicinity of the NW corner of Humbert Street NE and Peacock Avenue NE as described in PB 22, Page 03).
2. The property is zoned RE, Estate Residential District. The property is surrounded by single family homes to the North, South, East, and West.
3. The applicant is requesting to allow a proposed A/C unit and concrete pad to encroach the 12' side interior setback by a maximum of 5', as provided in Section 185.032(F)(7)(b), of the Palm Bay Code of Ordinances.

ANALYSIS:

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

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

The applicant is requesting relief from the side interior setback for a proposed A/C unit and concrete pad on the west side of the property. The owner plans to place a swimming pool in the rear of the property and an addition onto the west side of the home. These improvements are shown on the attached survey.

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

The special conditions and circumstances identified in item 1 do appear to be a direct result of the actions of the applicant.

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

Literal interpretation and enforcement of the Land Development Code would require the applicant to build within the setbacks allowed for A/C unit and concrete pad. With regard to the A/C unit and concrete pad, under the current code, the A/C unit and concrete pad could be built and meet the setback requirements, if placed at the rear of the house or on the East side of the house without the need for a variance. The pool and deck could be shifted 5' to the east.

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

A maximum of 5' of the relief from the 12' side interior setback would be needed to meet the applicants request.

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."

It appears that the granting of the variance would confer upon the applicant a special privilege for the setback relief.

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."

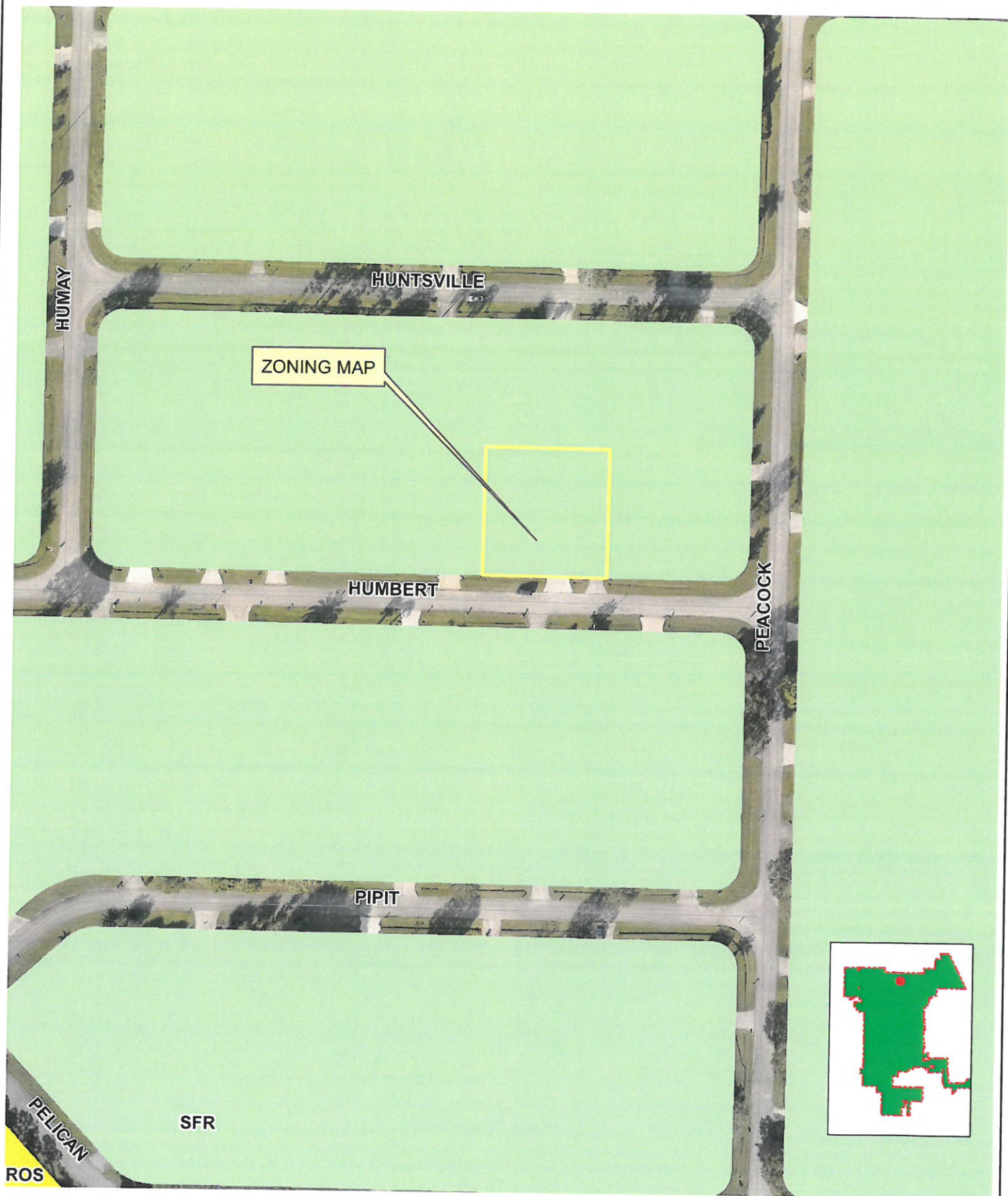
City Council must ultimately decide if the application meets the general intent and purpose of the code.

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:

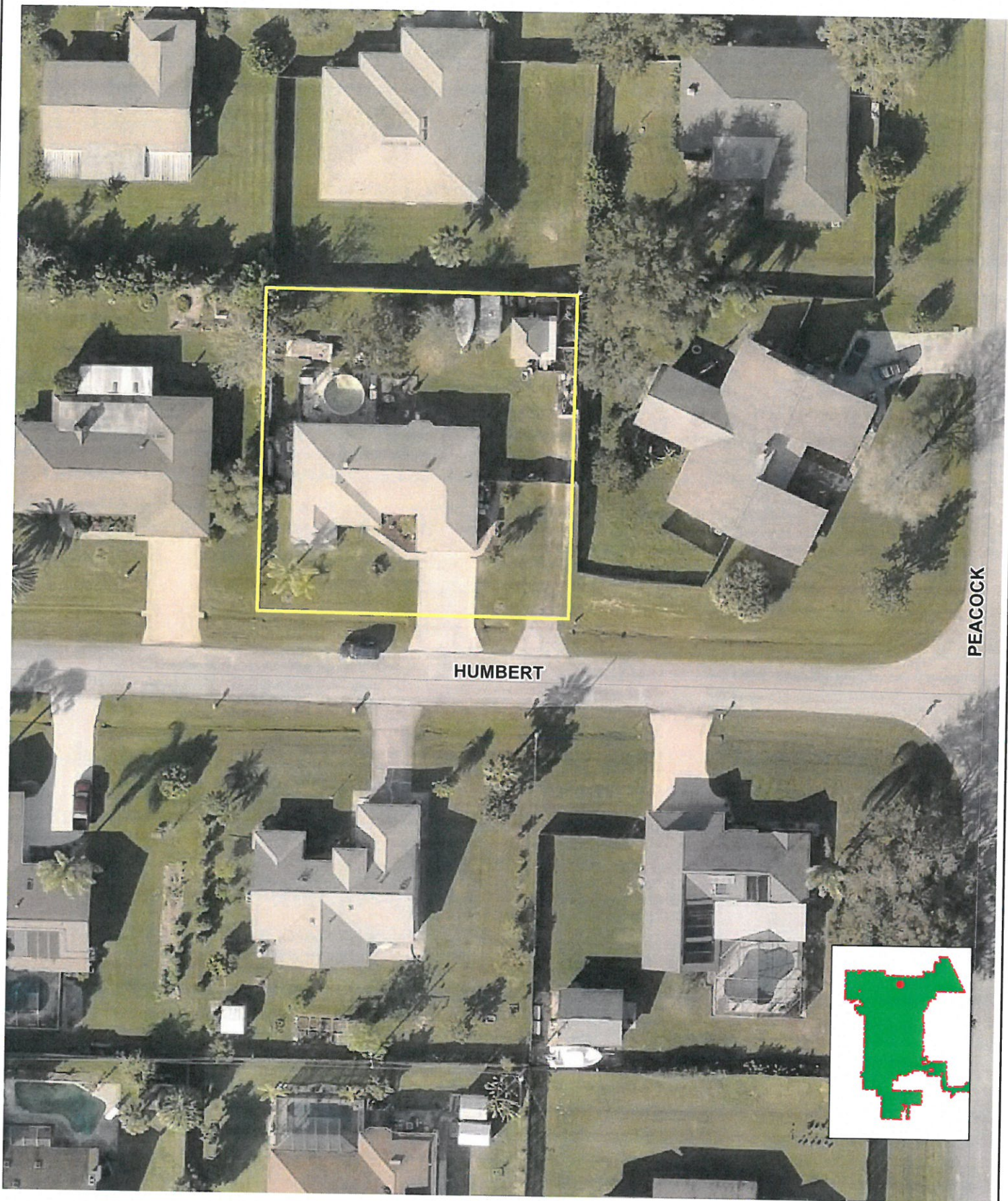
The Planning and Zoning Board must determine, based on the facts presented, to what degree, if any, of minimal relief, is required to meet the needs of the variance being requested, as required under Section 169.009 of the City of Palm Bay Code of Ordinances and make recommendations to City Council for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



CASE NO. V-16-2017

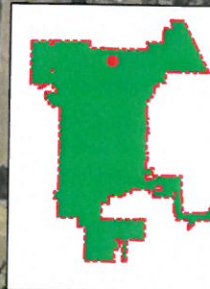


Map for illustrative purposes only. Not to be construed as binding or as a survey.



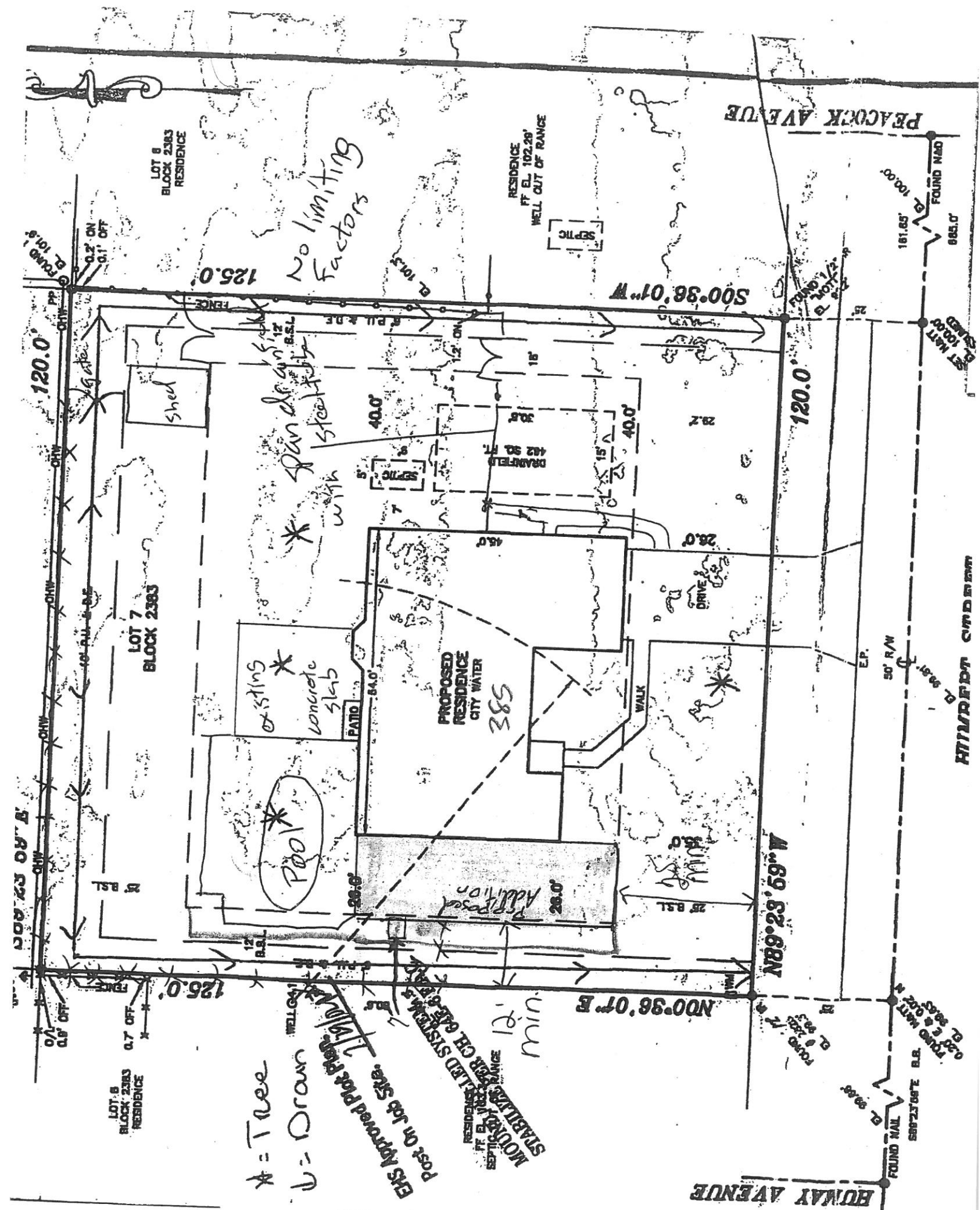
HUMBERT

PEACOCK



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

CASE NO. V-16-2017





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

VARIANCE APPLICATION

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

- 1) NAME OF APPLICANT (Type or print) Nanette Lima
ADDRESS 385 Humbert St. NE
CITY Palm Bay STATE Florida ZIP 32907
PHONE # (321)- 768-6390 FAX # N/A
E-MAIL ADDRESS onix4079@bellsouth.net
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION
Port Malabar Unit 45 Lot 7 Block 2383 CB
SECTION 30 TOWNSHIP 28 RANGE 37
- 3) STREET ADDRESS OF PROPERTY COVERED BY APPLICATION: 385 Humbert Street NE
- 4) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 0.34 acres +/- CB
- 5) EXISTING ZONING CLASSIFICATION OF PROPERTY (ex.: RS-2, CC, etc.): RE - Estate Residential District CB
- 6) ARE THERE ANY STRUCTURES ON THE PROPERTY NOW?: X YES NO
- 7) HAS A VARIANCE APPLICATION PREVIOUSLY BEEN FILED FOR THIS PROPERTY?:
YES X NO
IF SO, STATE THE NATURE OF THE PREVIOUS APPLICATION, WHETHER THE REQUEST WAS APPROVED OR DENIED, AND DATE OF ACTION: N/A CB
- 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):
5'-0" building setback from the 12'-0" easement located on West side of structure for exterior
ac unit, irrigation pump and pool deck leaving an 7'-0" easement on West side of structure

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

Chapter 185.032 (F)(7)(b) Side interior - twelve (12) foot setback requirement

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

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

We would like to install a pool on the back side of our house and would like our a/c unit to stay on the West side of the house so it won't conflict with a future pool installation by our having to move this exterior a/c unit to the back side of our house. We don't think that our proposed variance will be harmful to any of our neighboring properties. Moreover, we will not be encroaching, obstructing or conflicting with the existing 6' public utility easement in any way if we are granted this variance by the City.

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

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

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

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

- ☒ \$350.00 Application Fee. Make check payable to "City of Palm Bay."
- ☒ A listing of legal descriptions of all properties within a 500 foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This can be obtained from the Brevard County Planning and Zoning Department at 633-2060, or on the Internet at <https://www.bcpao.us/>) 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.
- ☒ N/A WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A LETTER MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE VARIANCE.
- ☒ N/A IN ORDER TO DISCLOSE ALL PARTIES SEEKING THIS APPROVAL, COMPLETE THE ATTACHED DISCLOSURES OF OWNERSHIP INTERESTS FORMS FOR PROPERTY OWNERS AND/OR APPLICANTS IN REFERENCE TO RESOLUTION 2008-19.

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

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

Signature of Applicant

N. Lima

Date 3-6-17

Printed Name of Applicant

Nanette Lima

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



DATE: MAY 3, 2017

CASE #: CP-14-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

COMPREHENSIVE PLAN AMENDMENT APPLICATION

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

LOCATION: The subject property is located in the vicinity of Lockheed Street SE, and Mercury Avenue SE. Specifically, Lots 12 and 13, Block 1987, Port Malabar Unit 40, inclusive of the abutting drainage ROW, as described in Plat Book 21, Page 32, Brevard County, Florida.

APPLICANT: Mercury Avenue, LLC (Mr. Stephen Bresnick representing)

SITE DATA

PRESENT ZONING: RM-20, Multiple Family Residential District

LAND USE

DESIGNATION: Recreation and Open Space Use (ROS)

ACREAGE: 3.01 Acres +/-

ADJACENT ZONING

& LAND USE:

N -- RM-20, Multiple Family Residential; Apartments

E -- RM-20, Multiple Family Residential; Apartments

S -- RR-65, Town of Malabar; Vacant

W -- RM-20, Multiple Family Residential; Apartments, and GC, General Commercial; Storage Yard

BACKGROUND:

1. The subject property is located in the vicinity of Lockheed Street SE, and Mercury Avenue SE. Specifically, Lots 12 and 13, Block 1987, Port Malabar Unit 40, including the abutting drainage ROW, as described in Plat Book 21, Page 32, Brevard County, Florida.
2. The vacant tract has apartments to the East and West, which are zoned RM-20, Multiple Family Residential. Lockheed Street abuts to the north and vacant land (Town of Malabar) is found to the south. A storage yard abuts the north tract.
3. The applicant is requesting a small-scale Comprehensive Plan Future Land Use Map Amendment to change from Recreation and Open Space Use to Multiple Family Residential Use. The applicant for this request is Mercury Avenue, LLC.

ANALYSIS:

Availability of Public Facilities and Services:

Potable Water: Provided by the City of Palm Bay

Sanitary Sewer: The area is serviced by the City of Palm Bay

Solid Waste: Provided by Waste Management

Parks & Recreation: The proposed future land use amendment would not exceed existing parkland or recreational level of service standards for the Planning Area.

Drainage: The site is presently vacant and in its natural state. A storm water 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 proposed future land use amendment is below the 1% minimum threshold. The applicant intends to develop this property into an apartment complex. The future development is consistent with its current zoning classification and compatible with other multiple family uses located in the general vicinity. The use will not negatively impact the surrounding road network.

Public Schools: Future multiple family residential uses will impact the public school system; however, due to the relatively small size of the proposed development the impact does not appear to be significant.

Environmental Resources:

Future development 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.

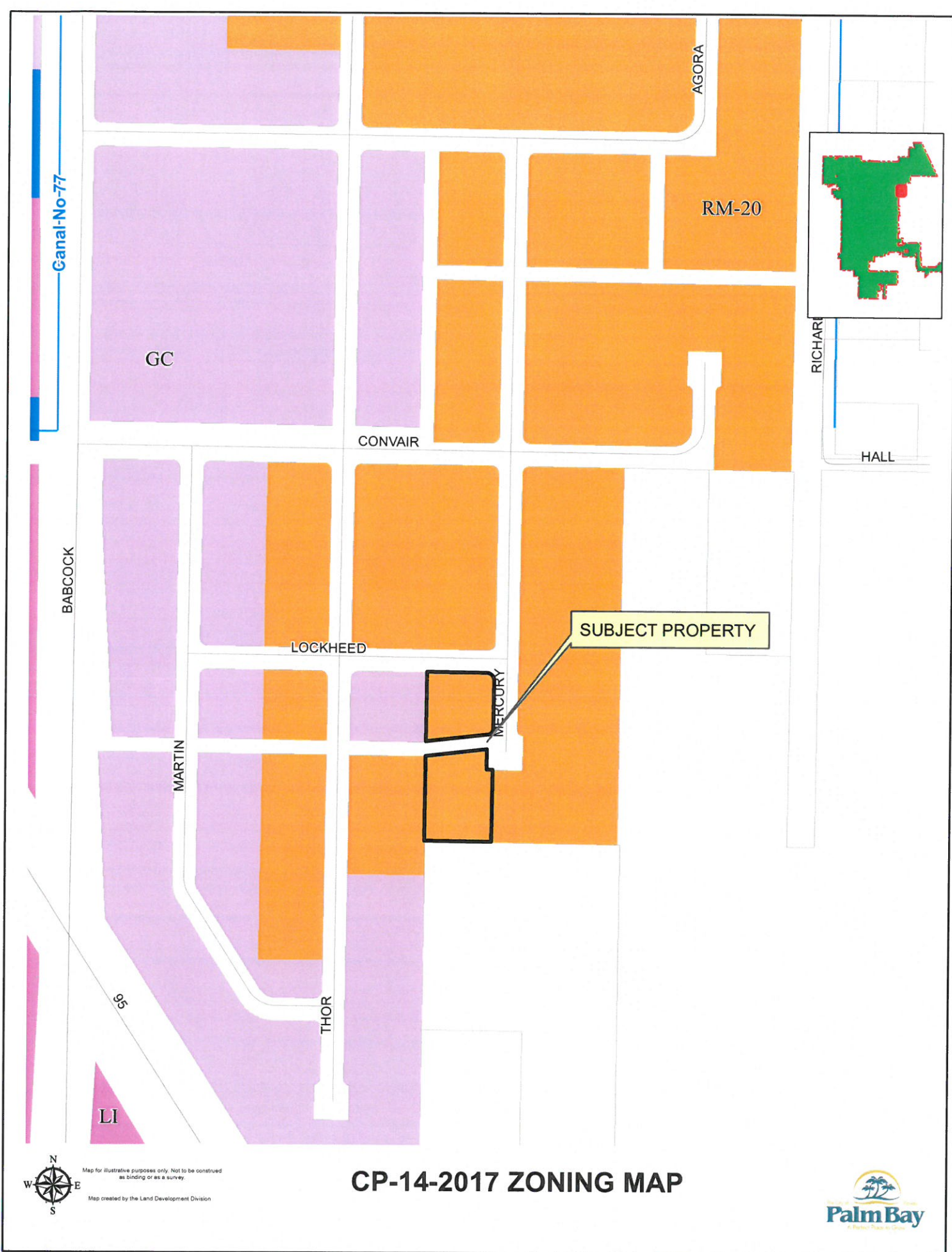
Historic Resources:

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

STAFF CONCLUSION:

Motion to approve Case No. CP-14-2017, pursuant to Chapter 163, Florida Statutes.





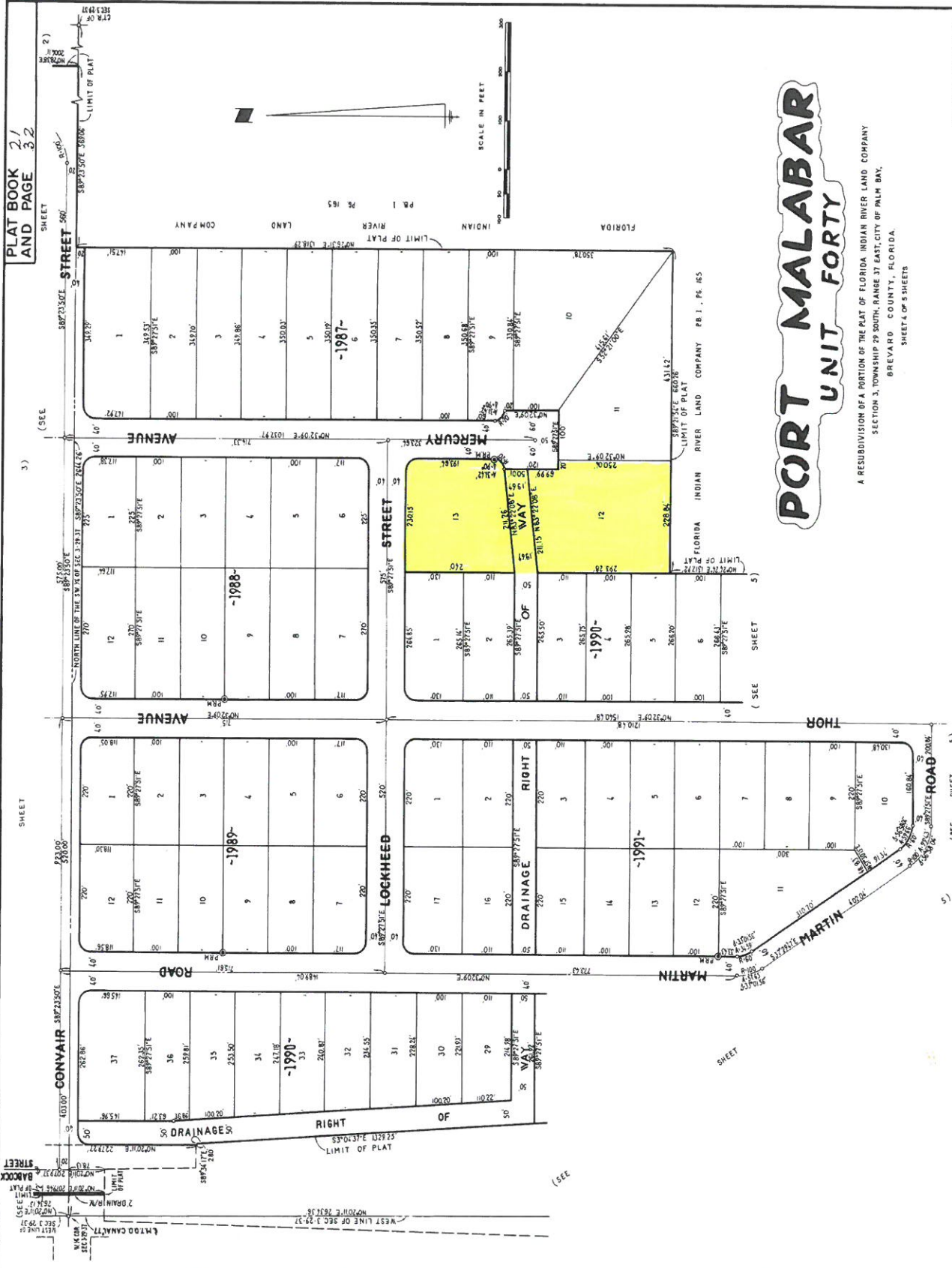
Map for illustrative purposes only. Not to be construed
as binding or as a survey.
Map created by the Land Development Division

CP-14-2017 ZONING MAP





PLAT BOOK 21
AND PAGE 32

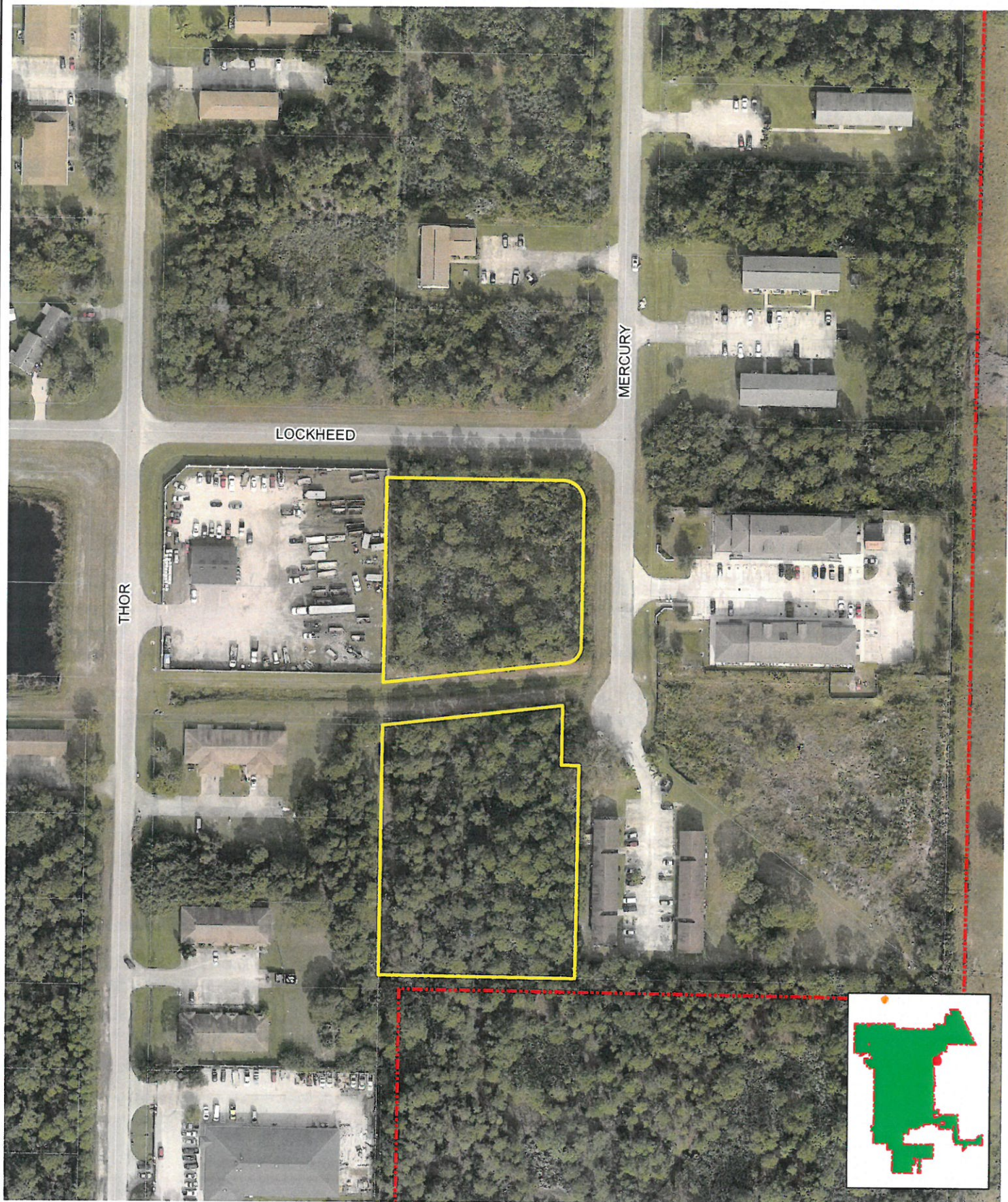


PORT MALABAR UNIT FORTY

A RESUBDIVISION OF A PORTION OF THE PLAT OF FLORIDA INDIAN RIVER LAND COMPANY
SECTION 3, TOWNSHIP 29 SOUTH, RANGE 37 EAST, CITY OF PALM BAY,
BREVARD COUNTY, FLORIDA.
SHEET 4 OF 5 SHEETS

JAMES EDWARD CLARK
ENGINEER
MIAMI - FLORIDA

CALC. BY S.P.
CHECKED BY S.P.
APPROVED BY J.E.C.



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

Map created by the Land Development Division



CASE NO. CP-14-2017



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) Mercury Avenue, LLC
ADDRESS 6671 W INDIANTOWN RD STE #50 RM#383
CITY JUPITER STATE FL ZIP 33458
PHONE # (561) 827-2828 FAX # _____
E-MAIL ADDRESS bresnick.steven@gmail.com
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION
Legal Description:
Lots 12 and 13, Block 1987, Port Malabar Unit Forty, as recorded in Plat Book 21, Page 32, Brevard County, Florida, including the abutting drainage ROW.
SECTION 3 TOWNSHIP 29 RANGE 37
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 3.01 acres
- 4) LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.): RES ROS
- 5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE:
MFR
- 6) PRESENT USE OF THE PROPERTY: vacant
- 7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: no
- 8) HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:
no

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

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

Property is zoned RM-20. Existing land use is not compatible with the existing zoning.

10) SPECIFIC USE INTENDED FOR PROPERTY:

Multi-family residential apartments

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

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

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

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

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

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

(previously submitted to city on 2-22-2017 as part of request for abandon & vacate)

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

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

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

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

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

Signature of Applicant



Date

3/28/17

Printed Name of Applicant

Steven Bresnick

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



DATE: MAY 3, 2017
CASE #: V-18-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

VARIANCE APPLICATION

PROPOSAL: A request to reduce the ratio used to determine the minimum number of required parking spaces from 2 spaces per unit to 1.5 spaces per unit, as provided in 185.140(C)(7)(b) of the Palm Bay Code of Ordinances.

LOCATION: Located at the SW corner of Mercury Ave SE and Lockheed Street (Lots 12 & 13, Block 1987, Port Malabar Unit 40)

APPLICANT: Mr. Steven Bresnick

SITE DATA

PRESENT ZONING: RM-20, Multiple Family Residential District

ACREAGE: 2.77 Acres +/-

DENSITY: Twenty dwelling units per gross residential acre

ADJACENT ZONING

& LAND USE:

N -- RM-20, Multiple Family Residential Zoning District; Lockheed Street SE
E -- RM-20, Multiple Family Residential Zoning District; Mercury Ave
S -- RM-20, Multiple Family Residential Zoning District; Vacant Land
W -- GC, General Commercial Zoning District; Storage Lot and RM-20; Mercury Apartments

WATER & SEWER: City Water and Sewer available and required.

FLOOD ZONE: Flood Zone 'X' – an area outside the 500-year flood event.

COMPLIANCE WITH THE

COMPREHENSIVE PLAN: Yes, pending approval of Case CP-14-2017.

BACKGROUND:

1. The site is located at the SW corner of Lockheed Street SE and Mercury Avenue SE. Specifically, the subject property is lots 12 & 13 Block 1987, Port Malabar Unit 40.
2. The current zoning is RM-20, Multiple Family Residential and the property is bordered by RM-20 zoning on the North, South and East. GC, General Commercial zoning exists to the west. The particular land uses of the adjacent properties are as follows:

NORTH: RM-20, Multiple Family Residential; Lockheed Street SE

SOUTH: RM-20, Multiple Family Residential; Vacant Land

EAST: RM-20, Multiple Family Residential; Mercury Avenue SE

WEST: GC, General Commercial & RM-20 Multiple Family Residential;
Leo's Concrete & Mercury Apartments

3. The applicant is requesting to reduce the ratio used to determine the minimum number of required parking spaces from 2 spaces per unit to 1.5 spaces per unit, as provided in 185.140(C)(7)(b), of the Palm Bay Code of Ordinances.

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 applicant must demonstrate that items 1 through 7 of Section 169.009 of the Code of Ordinances have been met. A review of these items is as follows.

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

The applicant is requesting a reduction in the minimum number of required parking spaces, from 2 parking spaces per two or more dwelling units to 1.5 parking spaces per two bedroom units. The applicant claims the tenants will be of a lower economical background that will have either one car or no car at all. Staff has received no supporting documentation for such claims.

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

The special conditions and circumstances identified in item 1 appear to be a result of the actions of the applicant.

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

Literal interpretation and enforcement of the Land Development Code would require the applicant to provide the minimum required parking counts for this type of development. The parking count reduction could present an issue, as the site may become deficient in parking needs. City staff has received and approved three other phases from the applicant, two constructed and one pending to be constructed all meeting the required parking counts of the same Zoning District. We believe this standard should be met.

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, that the applicant would require a reduction in the minimum number of required parking spaces, from 2 parking spaces per two or more dwelling unit to 1.5 parking spaces per two dwelling unit in order to achieve their design.

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

Granting of the variance would confer upon the applicant a special privilege for the parking count relief.

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."

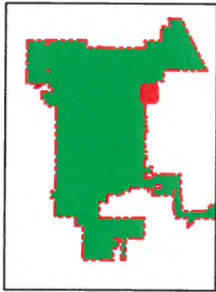
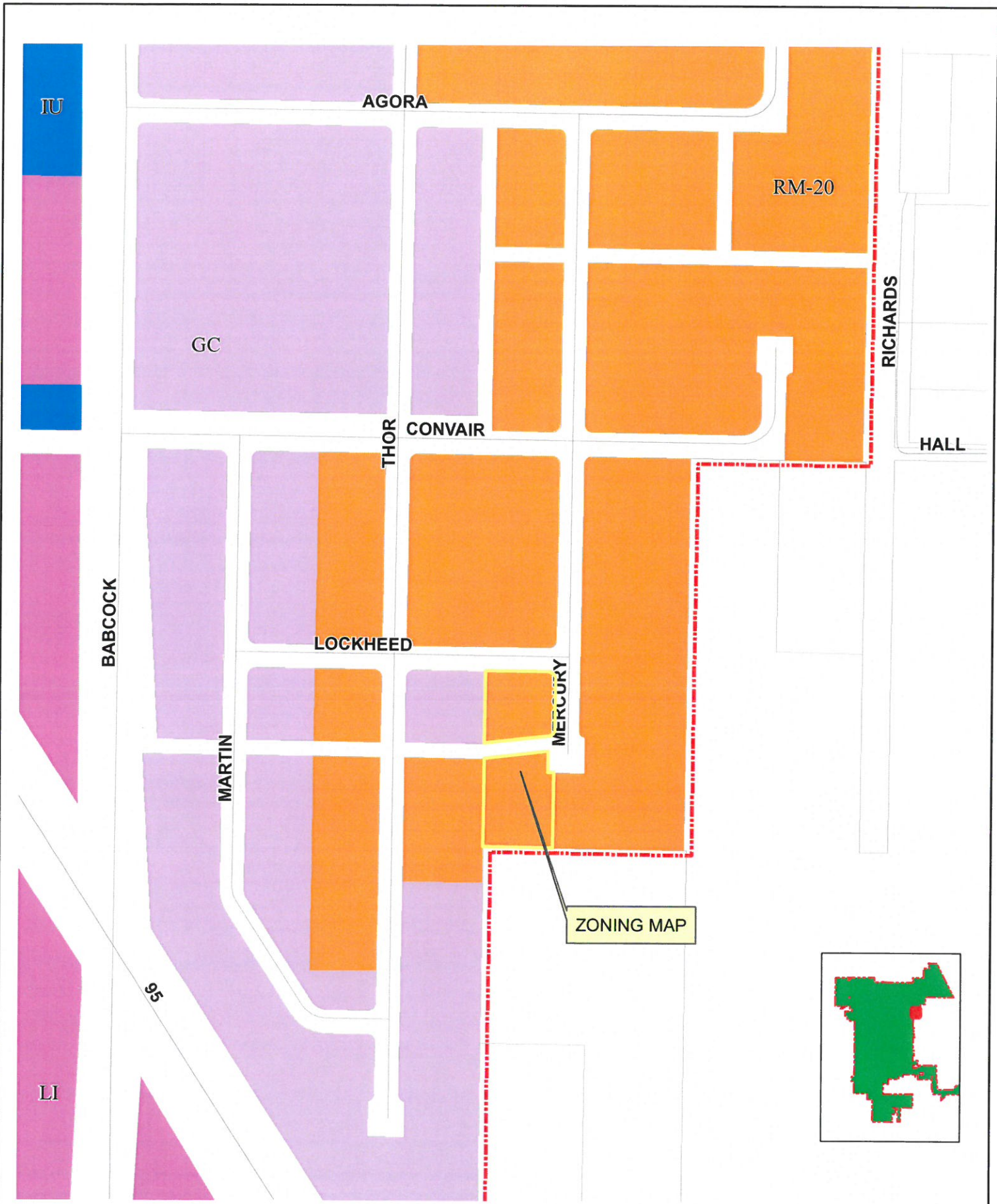
City Council must ultimately decide if the application meets the general intent and purpose of the code.

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."

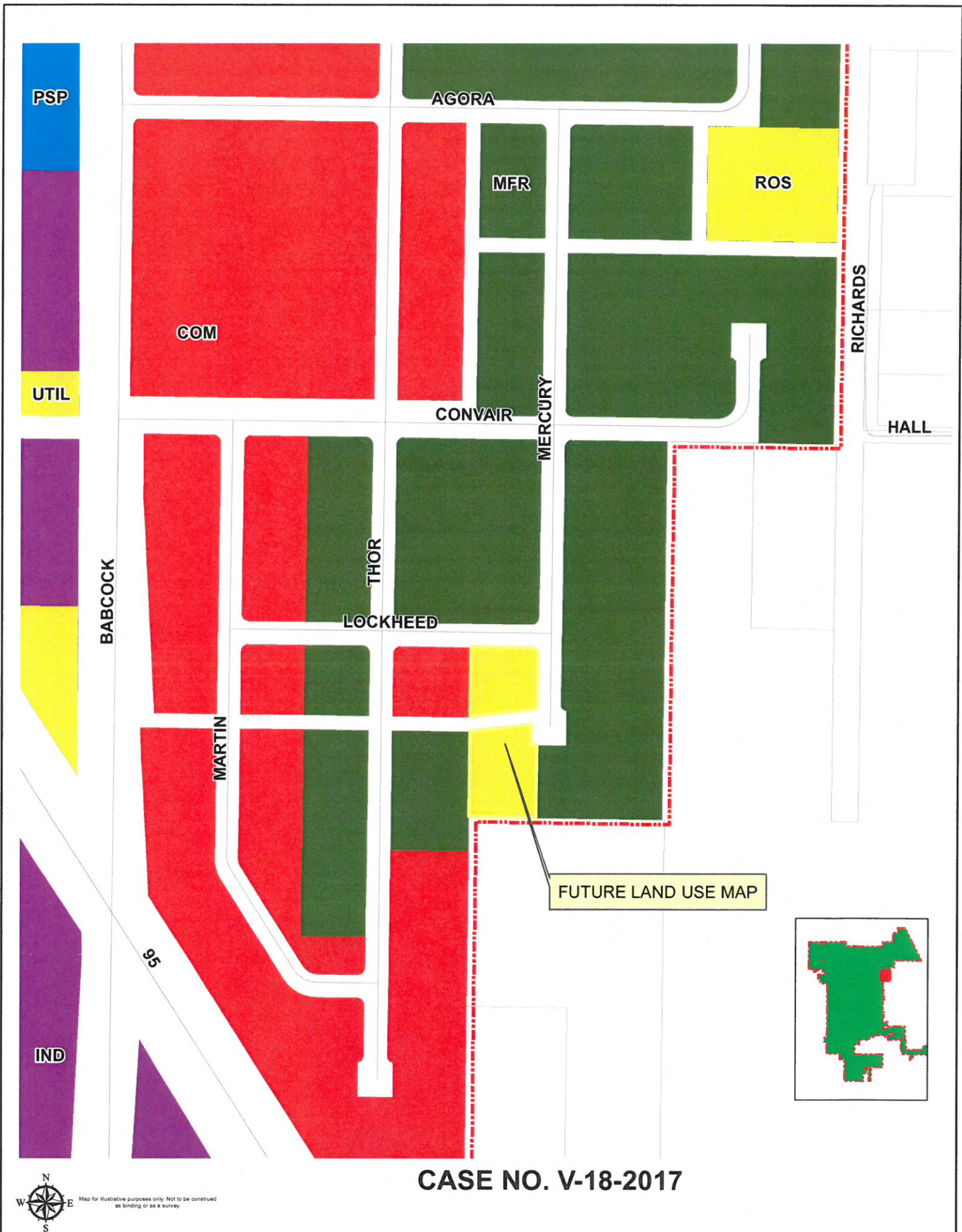
Staff has not received a claim made upon this property, with respect to the "Bert J. Harris Act," or any development order, as indicated above. Therefore, Item 7 is not applicable to the variance request.

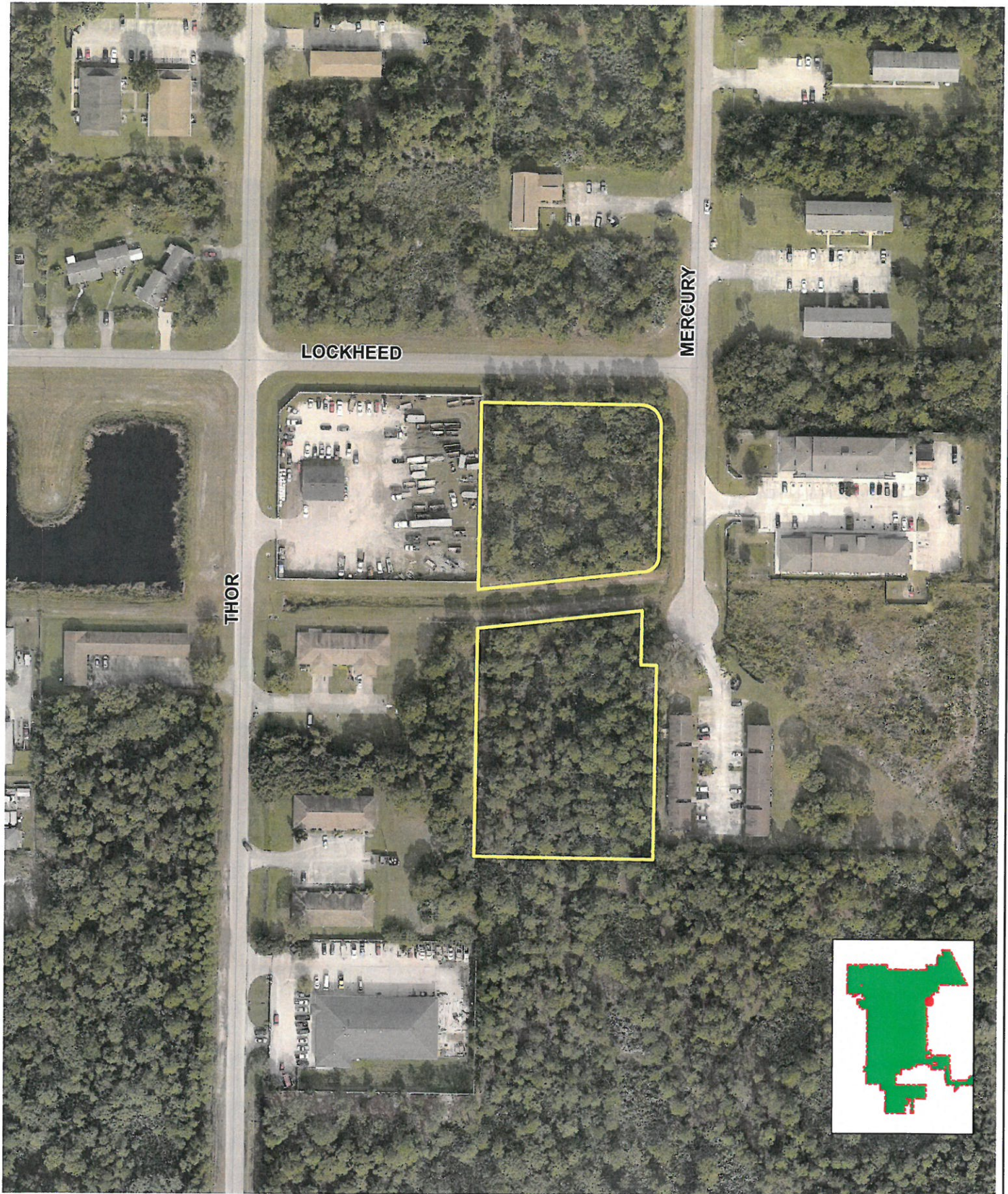
STAFF CONCLUSION:

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."



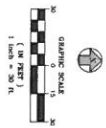
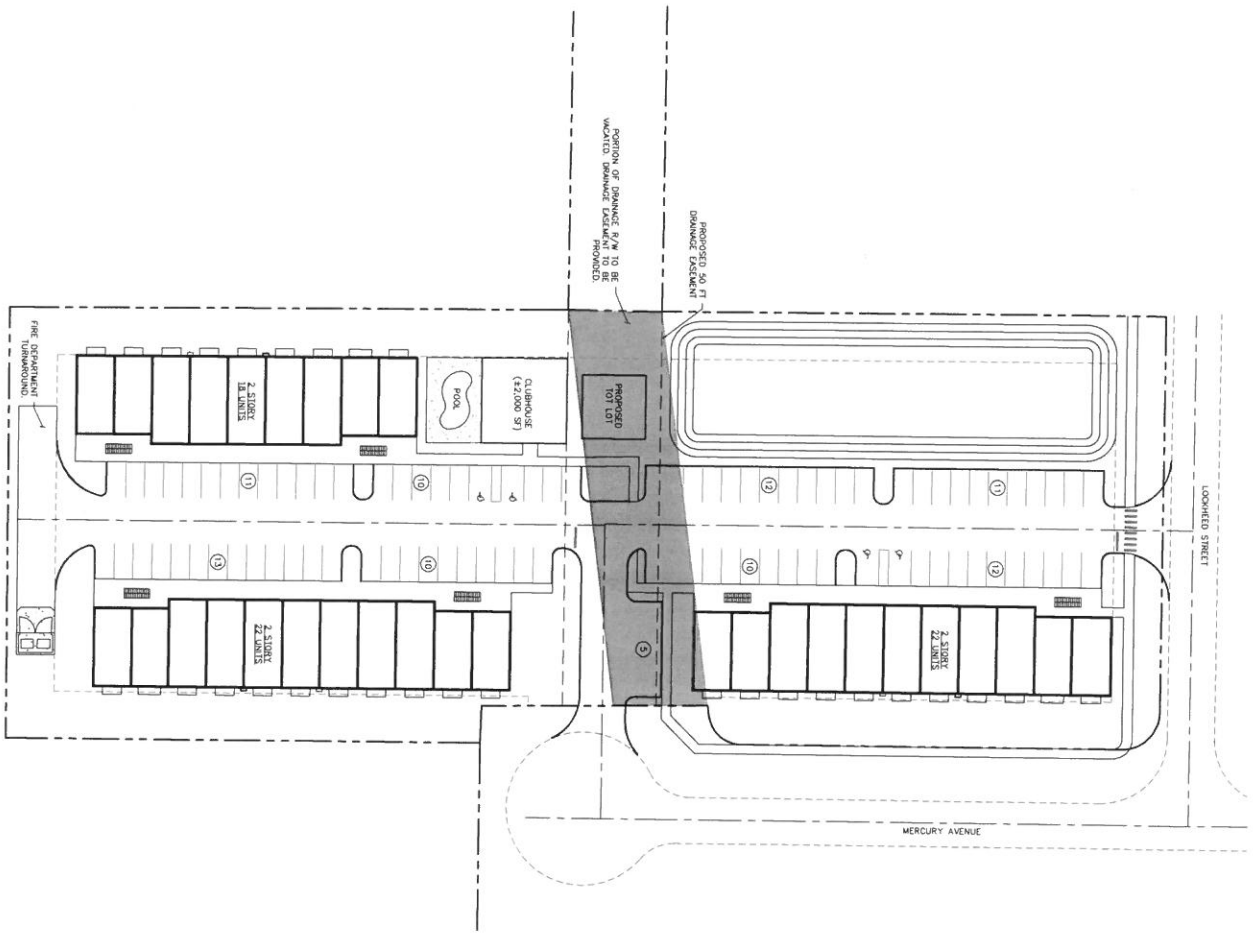
CASE NO. V-18-2017





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

CASE NO. V-18-2017



SHEET CP-1 12/10/07	NOT FOR CONSTRUCTION THIS PLAN IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION. IT IS THE RESPONSIBILITY OF THE CLIENT TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.	CITY OF PALM BAY	FLORIDA	MERCURY COVE APARTMENTS UNIT IV	CONCEPTUAL LAYOUT	MBV ENGINEERING, INC. HOW BOYLES VILLAREJA & ASSOCIATES CIVIL - STRUCTURAL - SURVEYING - ENVIRONMENTAL 1200 NW 1st Ave. Suite 200, Palm Bay, FL 32909 Phone: 321.321.1811 Fax: 321.321.1811 www.mbv-engineering.com	JOB NO. DESIGNED: DWH DRAWN: DWH DATE: 01-23-2017 CHECKED: BAM DATE ISSUED:	REVISIONS DATE



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) Mercury Avenue, LLC

ADDRESS 6671 W INDIANTOWN RD STE #50

CITY JUPITER STATE FL ZIP 33457

PHONE # (561) 846-0846 (561) 827-2828 FAX #

E-MAIL ADDRESS buildit561@aol.com bresnick.steven@gmail.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION:

Legal Description:

Lots 12 and 13, Block 1987, Port Malabar Unit Forty, as recorded in Plat Book 21, Page 32, Brevard County, Florida.

SECTION 3 TOWNSHIP 29 RANGE 37

3) STREET ADDRESS OF PROPERTY COVERED BY APPLICATION: 498 Mercury Ave. SE

4) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 2.77 acres AS

5) EXISTING ZONING CLASSIFICATION OF PROPERTY (ex.: RS-2, CC, etc.): RM-20

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

7) HAS A VARIANCE APPLICATION PREVIOUSLY BEEN FILED FOR THIS PROPERTY?:

YES X NO

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

n/a

8) DESCRIBE THE EXTENT OF THE VARIANCE REQUESTED AND THE INTENDED USE OF THE PROPERTY IF THE VARIANCE IS GRANTED (SPECIFY NUMBER OF INCHES/FEET ENCROACHING INTO SPECIFIC REQUIRED YARD SETBACK OR REQUIRED HEIGHT RESTRICTIONS):

Request variance of the required two (2) parking spaces per unit to 1.5 spaces/unit.

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

Sec. 185.140 (c)(7)(b) Minimum of two (2) parking spaces for a two(2) or more bedroom dwelling unit.
Request variance to 1.5 spaces/two bedroom unit.

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

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

a. The special condition that exists for this request is that the proposed apartments are identical to the existing apartments in type and rent amount. The rent is for lower income tenants that either have only one car or no car at all. The requirement for two parking spaces is not reflective of the actual tenants being served.

b. The special conditions are not a result of the applicant, but a result of the user.

c. The code allows for reduced parking based on unit type, but the literal interpretation does not address unit user. Other apartment complexes in the same use category enjoy a reduced parking benefit based on number of bedrooms, in which does not reflect parking needs as well as the income level of the user. The implementation of the code creates a hardship for the applicant because it creates more parking than necessary, resulting in more cost to develop, resulting in a rent higher for the lower income tenants than could be imposed.

d. The variance requested is the minimum variance necessary to allow reasonable use of the land.

e. The granting of this variance does not confer any special privilege to the applicant that other development in the same use category do not enjoy.

f. Granting this variance will be in harmony with the surrounding properties, as well as the general intent of the code.

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

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

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

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

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

☒ *\$350.00 Application Fee. Make check payable to "City of Palm Bay."

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

_____ 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.

n/a WHERE PROPERTY IS NOT OWNED BY THE APPLICANT, A [LETTER](#) MUST BE ATTACHED GIVING THE NOTARIZED CONSENT OF THE OWNER FOR THE APPLICANT TO REQUEST THE VARIANCE.

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

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

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

Signature of Applicant

Date 2/2/17

Printed Name of Applicant

Steven Bresnick

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

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

COMPREHENSIVE PLAN AMENDMENT APPLICATION

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

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

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

SITE DATA

PRESENT ZONING: RR, Rural Residential District

LAND USE

DESIGNATION: Single Family Residential Use

ACREAGE: 8.41 acres (\pm)

ADJACENT ZONING

& LAND USE:

N	--	RR, Rural Residential; Single Family Homes
E	--	RR, Rural Residential; Vacant Residential Land
S	--	RR, Rural Residential; Single Family Homes
W	--	RR, Rural Residential; Babcock Street SE

BACKGROUND:

1. The property is located at the SE corner of the intersection of Babcock Street SE and Plantation Circle SE. Specifically; the subject property is Tax Parcel 506.1, of Section 34, Township 29 South, and Range 37 East, Brevard County, Florida. The property is approximately 8.41 acres.
2. The adjacent zoning and land uses are as follows:

NORTH: RR, Rural Residential; Single Family Homes
EAST: RR, Rural Residential; Vacant Residential Land
SOUTH: RR, Rural Residential; Single Family Homes
WEST: RR, Rural Residential; Babcock Street SE
3. The applicant is requesting a Comprehensive Plan Future Land Use Map Amendment to change from Single Family Residential Use to Commercial Use, to allow for future commercial uses. The applicant for this request is West Point Babcock, LLC. The applicant will be represented by the Law Firm of Smith & Associates.
4. On September 2, 2015 the applicant appeared before the Palm Bay Planning and Zoning Board with the same request, represented by a different Law Firm. Upon deliberation of the request, the Board voted unanimously to deny the request. On December 17, 2015 the request was withdrawn before it was heard by the Palm Bay City Council. On August 3, 2016, the applicant appeared before the Planning and Zoning Board to request the same future land use amendment, this time for the west 4.41 acres of the subject property. The request was unanimously recommended for denial by the Board. The request was withdrawn on September 14, 2016, and was not heard by City Council.

ANALYSIS:

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

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

2. Impact on Natural Systems

There would be an impact on the natural environment from the future Commercial Use as the property is currently vacant, residential land, in its natural state. However, any development, even single family residential use, would impact the present conditions. Typically though, less land is preserved by Commercial Use than rural residential uses. The site is identified as Flood Zone X, which is outside the 500-year Floodzone. The parcel is not located within any of the Scrub Jay Polygons identified on the city's Habitat Conservation Plan. No additional listed species are known to inhabit the site. Any registered species that may be encountered upon development of the site would need to be mitigated for, according to state and federal guidelines.

3. Land Use Consistency

The subject property is an 8.41 acre parcel located at the SE corner of Babcock Street SE and the north loop of Plantation Circle SE. The parcel is surrounded by land designated as residential use and provides for a rural setting. The surrounding neighborhood (Greenwood Plantation) includes 57 lots that are a minimum of one (1) acre in size. An additional four (4) homes located immediately east of and adjacent to this neighborhood utilize Plantation Circle as their sole means of ingress & egress.

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

Approximately 3,000 feet to the south, at Mara Loma Boulevard SE, and extending south to the location of the future "south leg" of the St. Johns Heritage Parkway SE, the city has designated both sides of Babcock Street and along the approved location of the Parkway, as Commercial Use on the Future Land Use Map. This area has also been designated as a future Commercial Node and includes approximately 195 acres of commercial land.

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

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

The City of Palm Bay's Comprehensive Plan is made up of ten (10) separate, but intertwined Elements. The Future Land Use Element (Element B within the Plan), is primarily the criteria by which a land use amendment request is to be evaluated against. This element provides both a policy guide to govern future land use decisions and a map detailing the location of future land uses throughout the City of Palm Bay. It represents the integration of the entire Comprehensive Plan onto the physical landscape of the City. As such, the policies in this element, combined with the graphic description presented on the Future Land Use Map, serve to plan for the distribution, type and intensity of future development in Palm Bay.

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

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

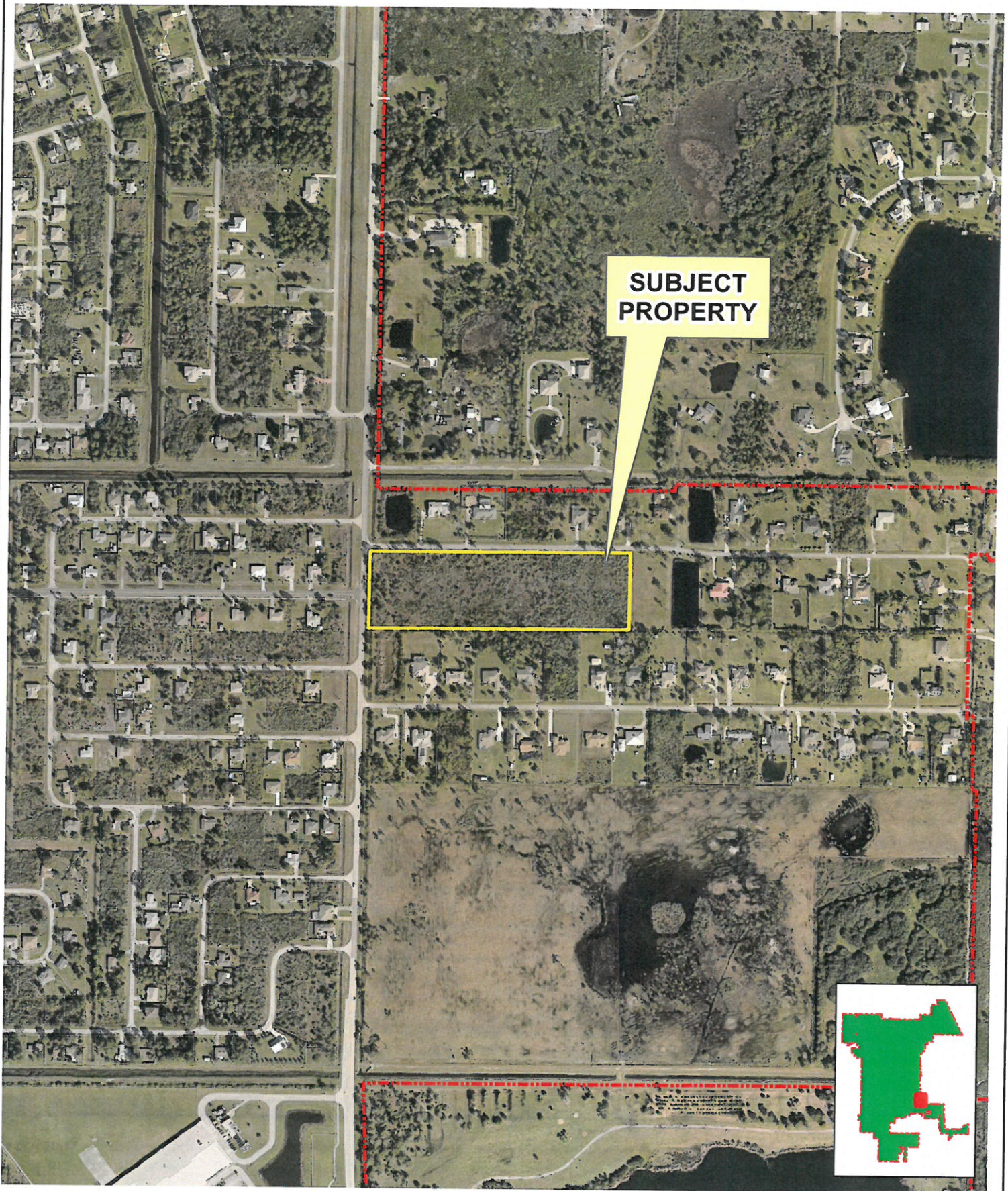
The Purpose and Intent of the Comprehensive Plan, as established in Section 183.01 of the Palm Bay Code of Ordinances, is to provide for the city a plan which will guide future growth and development; encourage the most appropriate use of land; promote and protect the public health, safety, and general welfare; preserve the residential or historical character of neighborhoods; promote the residential, business, and industrial needs of the community; and conserve and protect natural resources within the city, while protecting private property rights. By the adoption of this plan, the city will encourage and actively pursue coordination and cooperation between the planning and development activities of the city. The adoption of this section reserves the city's right to balance the needs of the community.

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

Based upon the available and presently undeveloped 240 + acres of commercial land in the general and overall vicinity of Babcock Street (both north and south of the subject property), the anticipated access constraints, and the incompatibility with adjacent and surrounding residential land uses, staff believes the request is not consistent with the policies and objectives of the Comprehensive Plan.

STAFF CONCLUSION:

Motion to Deny Case CP-13-2017 as a Small Scale Future Land Use Map amendment.

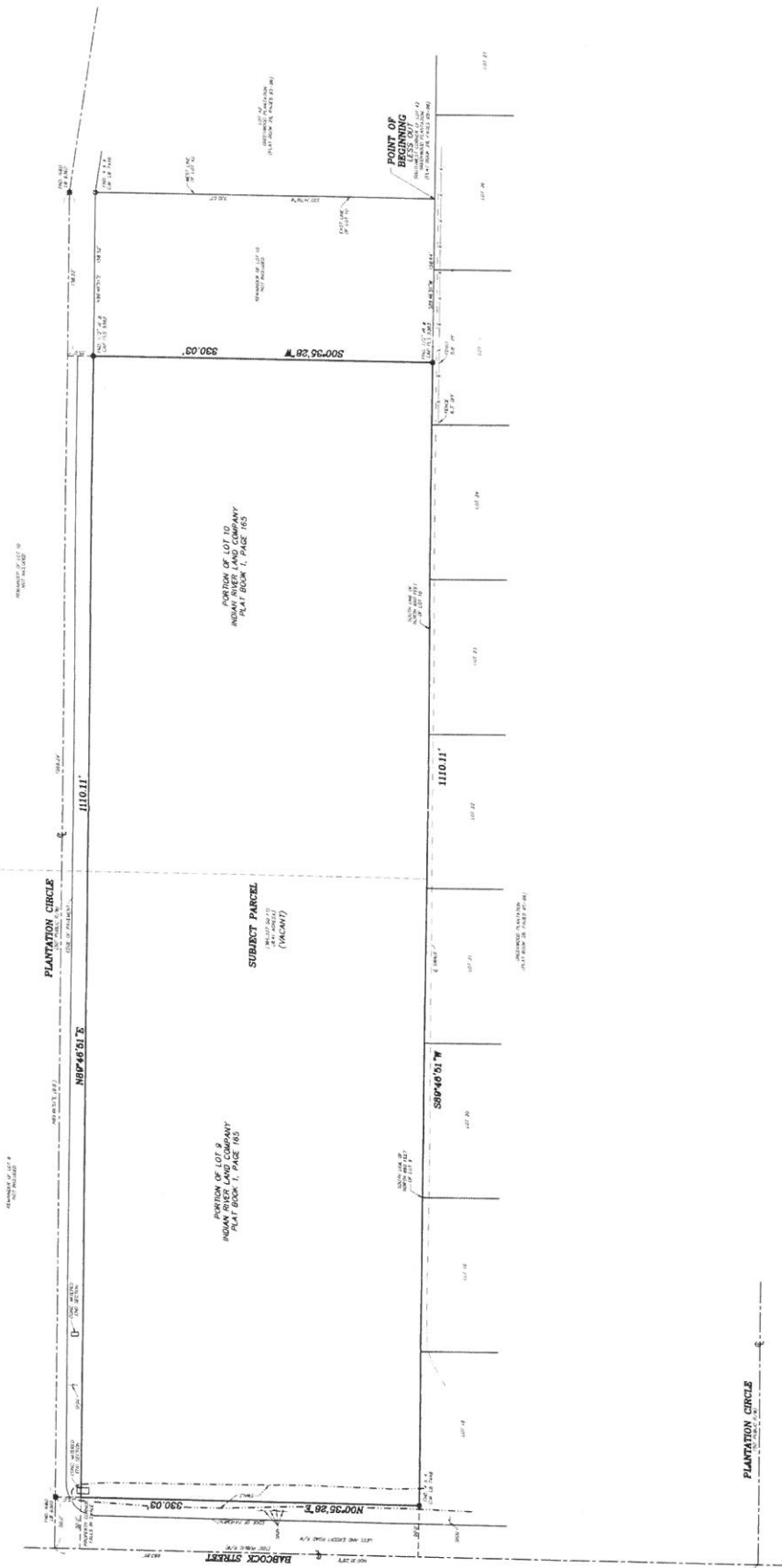


Map for illustrative purposes only. Not to be construed
as binding or as a survey.

Map created by the Land Development Division



**CASE NO. CP-13-2017
AND CPZ-13-2017**



SURVEY PREPARED FOR:
WEST POINT BABCOCK, LLC
IRIA GROSS
ALLIANCE TITLE INSURANCE AGENCY
CHICAGO TITLE INSURANCE COMPANY

[illegible]

AAL LAND SURVEYING SERVICES, INC.

1. NAME OF VESSEL: WILLIAMSON
 2. NAME OF CAPTAIN: WILLIAMSON
 3. NAME OF MASTER: WILLIAMSON
 4. NAME OF FIRST MATE: WILLIAMSON
 5. NAME OF SECOND MATE: WILLIAMSON
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 143.



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

COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION

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

- 1) NAME OF APPLICANT (Type or print) West Pointe Babcock, LLC
ADDRESS c/o Smith & Associates, 1499 S. Harbor City Blvd, Ste. 202
CITY Melbourne STATE FL ZIP 32901
PHONE # 321-676-5555 FAX # 321-676-5558
E-MAIL ADDRESS stephen@smithlawtlh.com
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION _____
See attached - a larger pdf version is available upon request.

SECTION 34 TOWNSHIP 29S RANGE 37E
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 8.4
- 4) LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.): RR Single family
- 5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE: CC
Commercial use
- 6) PRESENT USE OF THE PROPERTY: Vacant
- 7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: No
- 8) HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:
Yes

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

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

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

The property fronts a major road.

- 10) SPECIFIC USE INTENDED FOR PROPERTY: Commercial

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

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

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

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

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

☐ **Special Amendment Cycle** \$4,000.00

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

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

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


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

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

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

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

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

Signature of Applicant  **Date** 3/23/2017
Printed Name of Applicant Stephen Burch, Attorney for West Pointe Babcock, LLC

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

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

March 21, 2016

City of Palm Bay

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

WEST POINTE BABCOCK, LLC


Alan Sakowitz, Managing Member

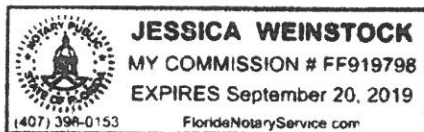
STATE OF FLORIDA

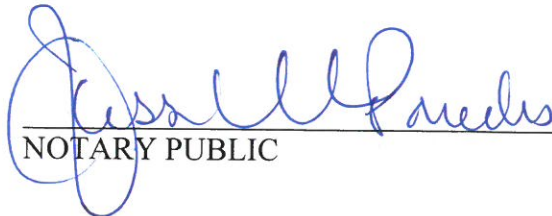
COUNTY OF miami-dade

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

AFFIRMED TO AND SUBSCRIBED before me this 23rd day of march,

2017.




NOTARY PUBLIC

CASES CP-13-2017 & CPZ-13-2017

CORRESPONDENCE: 27

Chandra Powell

From: Robert Heitsch <rtheitsch@bellsouth.net>
Sent: Saturday, April 15, 2017 8:29 AM
To: Chandra Powell; Robert Loring
Cc: Robert Heitsch; 'Judy Thornberry'; 'Linda Filis'; 'dicknlynnsmith .'; 'Bill and Lisa'; wetemps@aol.com; elainesmith2@aol.com
Subject: re-zoning Plantation Circle

Hello All,

My name is Kim Heitsch and I live at 1755 Plantation Circle. I would like to invite you all to come out and visit our little slice of peace and quiet to see what would change if you let the re-zoning go through. I feel that we have earned the right to keep our neighborhood the same way it is. All of us are long term Palm Bay residents who have supported the city in changing over 30 years. When you visit this neighborhood, the land that the builder wants to commercialize is very small and it would have a great impact on us. There is a great deal of land around us that would be utilized better for this purpose. Please consider visiting and see for yourself. My phone# is 321-676-5215 and I would like to meet with you.

Kim Heitsch

Chandra Powell

From: Paul Hensley <p.hensley755@gmail.com>
Sent: Friday, April 21, 2017 11:00 AM
To: William Capote; Harry Santiago Jr.; Brian Anderson; Tres Holton; Jeff Bailey; Terese Jones; Stuart Buchanan; Patrick Murphy; Chandra Powell; judyberry@gmail.org
Subject: Rezoning

To all Palm Bay City Council, Planning, Zoning and Growth Department:

Regarding the current or any future application for change to the Comprehensive Plan and zoning amendment from single family residential to commercial for the piece of land known as Tax parcel 506.1 section 34, Township 29, Range 37, Brevard County Florida (located at the southeast intersection of Plantation Circle and Babcock Street).

We object to this proposal and we know all of our neighbors are adamantly opposed to this proposal. We love our quiet neighborhood of single family custom estates on Plantation Circle. We passionately urge you to deny this proposal and any other similar proposals. We feel this proposal is in direct conflict with the best use of the land. We strongly feel rezoning any land on Plantation CR to anything other than Rural Residential would result in a negative impact to our property and neighborhood value.

Sincerely,
Paul and Mayra Hensley
1858 Plantation CR SE
Palm Bay FL
32909

Planning /Zoning Board

April 24, 2017

City of Palm Bay

Subject: CP-13-2017 and CPZ-13-2017

Ref: CP-21-2016 and CPZ-21-2016

Ref: CPZ -2015 and CP-7-2015

All:

I am a property owner and Resident of Plantation Circle SE Palm Bay. I was pleased by the decisions and findings previously reached by the Planning /Zoning Board meetings when the prior requests (referenced above) of West Pointe Babcock LLC (Applicant) was recommended for denial - and so voted by the board.

I am now aware that this same Applicant has reintroduced to the Planning /Zoning Board a variation of the above referenced actions seeking a favorable decision by the board. **Their third application.**

I find the application lacking the required detail of planned actions and / or prospective land uses thereby giving an open opportunity to do as they please in our neighborhood. As a resident of Plantation Circle, the only acceptable land use criterion for the acreage in question is for single family residences.

Our Circle is a "local" residential street not an arterial thoroughfare suitable for commercial enterprise or the attendant traffic that would follow. Further, the commercial re-zoning of eight acres on a residential street which does not provide an outlet to other neighborhoods would not serve to benefit the residents Plantation Circle or the residents of Palm Bay in part or as a whole.

Our neighborhood – Plantation Circle Southeast - provides a strong family oriented atmosphere in which street traffic consists primarily of our property owners. I feel that the proposed rezoning and land use changes would jeopardize our neighborhood with traffic and other infrastructure impacts that are not predictable. As a property owner in this neighborhood for the past 26 years, I **strongly object** to the changes in the zoning or land use restrictions that are currently afforded our Single Family Residential properties.

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

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

Chandra Powell

From: Brad Johnston <bradj123@bellsouth.net>
Sent: Monday, April 24, 2017 9:05 PM
To: William Capote; Harry Santiago Jr.; deputymayor@pbfl.org; Tres Holton; Jeff Bailey; Terese.jone@pbfl.org; Stuart.buchana@palbayflorida.org; Patrick Murphy; Chandra Powell
Cc: Brad Johnston
Subject: Plan & Zone Case #'s CP-13-2017 and CPZ-13-2017

Palm Bay City Council:

SUBJECT: Plan & Zone Case #'s CP-13-2017 and CPZ-13-2017

Hello,

As a notified "Interested Property owner" we want to bring to your attention our concerns and objections to the above planning and zoning cases. First, this will be the third time this request has been made for said property by said owner, we have said NO and continue to say NO. How can we even consider an application that contains no specific use intended detail, just "commercial". This is like giving a blank check to a developer. What are we going to get; a crematorium, a Porta-Potty rental, or a junk yard business? Next, the obvious traffic in this area is already a mess (numerous accidents at Cogan & Babcock intersection), we don't need more.

What happened to the "Master Plan", we already have too many vacant commercial properties very close (north and south) of this site available. It appears like we are in effect "spot zoning" which changes the good master plan when in this case it's NOT even recommended by the City Zoning Department.

This "Nothing Project", is so undefined it's NOT any good for ANY citizens of Palm Bay.

I'd like to understand where you are on this issue?

Please contact us with any questions.

Brad & Kim Johnston
2449 Cogan DR. SE
Palm Bay, FL 32909
954.494.2431

CC:

Mayor Capote
Dep. Mayor Santiago
S#2 Brain Anderson
S#4 Tres Holton

S#5 Jeff Baily

Council Sec Terese Jones

Grow Mgmt: Stuart Buchanan & Patrick Murphy

Sec Grow Mgmt: Chandra Powell

REF: CP-13-2017, CPZ-13-2017

My name is Stephen Sweigart and I live at 1719 Plantation Cir SE Palm Bay. I am very concerned about the proposed zoning change from RR to CC. I am 100% against this change .I have lived and been a contractor in this city for 32 years. I have lived and built my home on Plantation Cir. 29 years ago.

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

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

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

This property should be used for residential homes that it was intended for.

The Residents of Plantation Cir had the Developer redo Plantation Cir in a law suit because of drainage problems and the City never accepted the road. You can check, the subdivision is Cheyenne Arces. Plantation Cir is a residential street and not used for commercial traffic

I intend to be at each hearing to oppose this change

Thank you

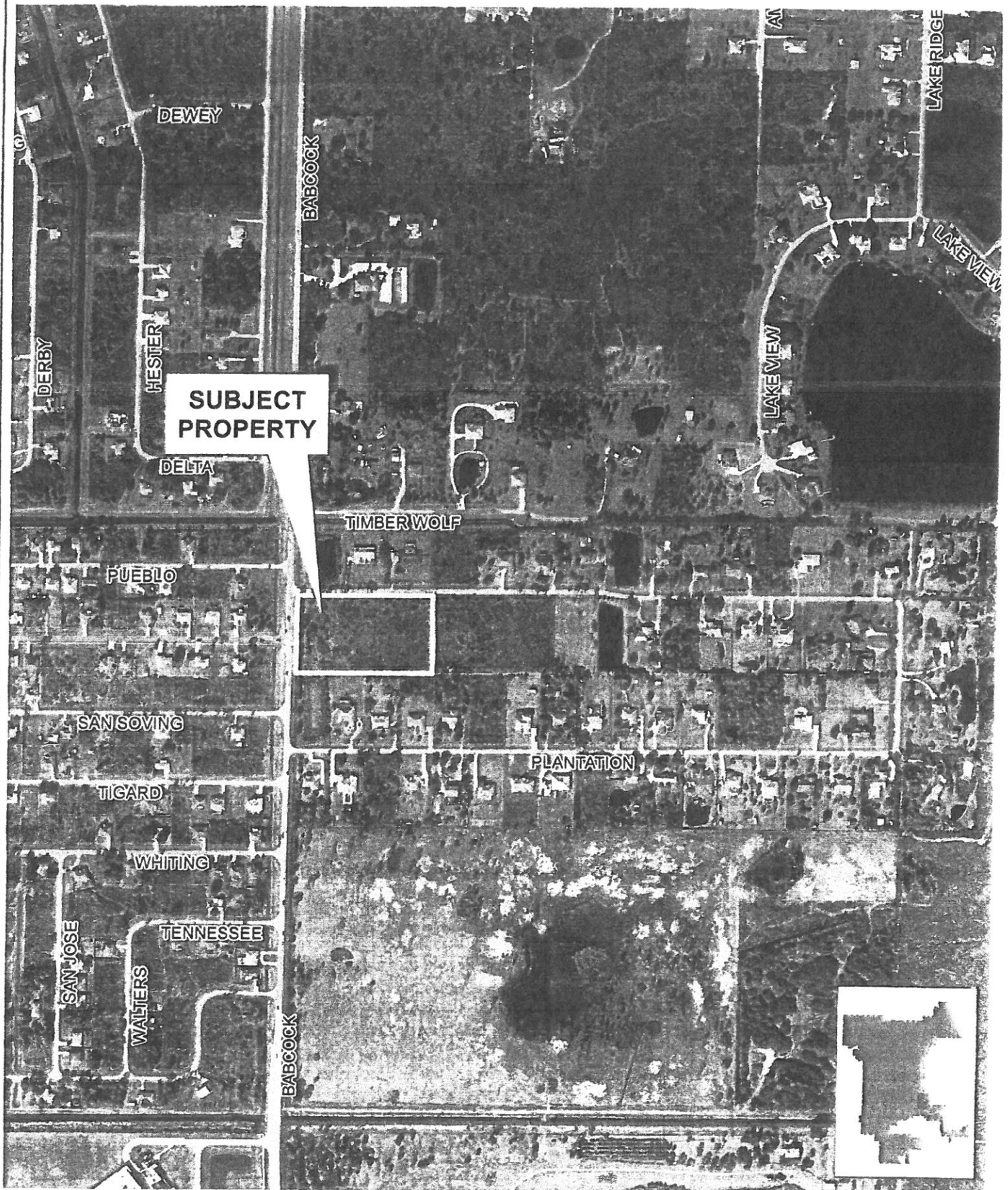
Stephen Sweigart

To: Chandra Powell/ Growth Management Department

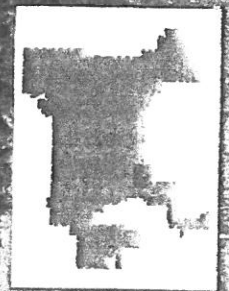
From: Greg & Tonya LaVanture 1688 Pueblo St. (Across Babcock West)

Subject: Rezoning Request Case# CP-13-2017/CPZ-13-2017

We appreciate your time to listen to our concerns. We are 125' west of Babcock St. on Pueblo St. across from subject property. When you review the overhead view of property of discussion. There are (11) streets intersecting Babcock St. within .4 tenths mile of this property, they are as follows starting north of subject property Delta, Timberwolf, Pueblo, Plantation, Cogan, San Soving, Plantation, Tigard, Whiting, Tennessee, Weiman. Then the school property starts after Weiman Rd. from the south of the property again within the .4 tenths mile= 2,112'. There is no other cluster of streets north or south of the property being discussed. They are spread out more evenly with secondary roads parallel to Babcock. Be advised that starting at Timberwolf there is drainage canals on both sides of Babcock heading south. The canals are 20' on the east side, and 25' on the west side, with grass on both sides leaving any driver little or no stopping capacity. They would be in the ditches for sure. It is interesting to watch the traffic flow now, and the possibility of adding a business/ traffic light is not the answer. Getting the best cycle time for that traffic signal would be very hard to meet the traffic demand times. Then with a traffic signal we all know people run red lights, increased speed, etc. I have been in the Traffic Design/ Fabrication business for over (10) years working throughout the Southeast U.S. This is a nightmare from the design side, safety issues for sure.



**SUBJECT
PROPERTY**



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

Map created by the Land Development Division



13.2017 13.2017
CASE NO. CP-21-2016 & CPZ-21-2016

PAGE 3

We welcome all of you to my property to witness the traffic flow now, and then imagine a possible business, traffic light, then long lines of stopped vehicles on Babcock, and all streets intersecting Babcock. Then you add the vehicles turning off Babcock on to the side streets. The present Cogan intersection is working fair right now. It needs a South bound turning lane to make it more effective, just like Babcock/Waco intersection North of Cogan.

Be advised the speed limit on this section of Babcock is 45 mph.

VERY FEW TRAVELERS DO 45 MPH, COME AND SEE YOURSELVES!!

Reaction Distance + Braking Distance = Stopping Distance

It takes two football fields 720' for an 18 wheeler to stop at 55 mph. I have seen them do that speed plus. Example the truck would start stopping at Delta maybe stopping at Cogan distance of approximate 700'. Car comparison at 40 mph the Vehicle Reaction Distance would be 88', Braking Distance is 80' totaling 168'. At 60 mph RD 132', BD 180' totaling 312'. You could pass 2-3 side streets stopping. Be advised that this section of Babcock has ripples due to excess wear. The stopping distance for any vehicle would increase at least 15% because the tires would start hopping not having complete contact with the road. On wet roads these distances are off the chart. There is also poor drainage on Babcock creating many pools of water. Then remember the drainage ditches on both sides, once they hit the grass those distances go off the chart.

PAGE 4

*In closing just imagine bright lights, noise, increased crime, reduced property values, destruction of hundreds of trees, natural surroundings, drainage issues, loss of any privacy, traffic nightmare, and increased accidents combined with more possible deaths of innocent people across from your home. So please accept our invitation to visit our property to really see the above topics of concern. We do not want this rezoning to happen along with all the residents of Plantation Circle!! Please force commercial improvements 3,000' to go north or south of this location as your planning department has planned for. They have done their research, and are on the right path for the future of the City of Palm Bay. This request falls under a **SPOT CHANGE** not fitting into the zoning plan in effect now. Being semi-retired we want to enjoy our life as we have since we moved in 3.5 years ago with our kids, and grandchildren. With any accident a detour would be almost impossible due to present limited access now. I have witnessed many speeding vehicles passing at the intersections of these streets. There should be NO PASSING at any of the above intersections. Then just imagine an 18 wheeler traveling on Babcock doing average of 45-55+mph as the new possible traffic light changes, a school bus full of kids, or any person with their family turning onto Babcock. There is no room for any kind of recovery for any vehicle. I would not want that on my mind that I let this change happen.*

PLEASE VOTE NO FOR THIS REQUEST

Chandra Powell

From: David Nowakowski <dnowakowski@Harrells.com>
Sent: Tuesday, April 25, 2017 5:27 PM
To: Chandra Powell
Subject: CP-13-2017, CPZ-13-2017

Chandra,
Good afternoon,

I strongly object to the rezoning of residential to commercial.

If numbers run the world, these don't add up. In doing some research on taxes, City of Palm Bay would collect more taxes on 7 homes than the commercial entity.

There are numerous commercial lots north and south that are vacant. Why the need for these lots?

So if you would collect more taxes with homes than commercial, then why pass it.

Some reasons I have found.

-People linked with West Pointe Babcock LLC have agreed to develop other Palm Bay properties for commercial

-People linked with West Pointe Babcock LLC have donated to various political campaigns.

-The Mayor was under the assumption that the "deal" was for only 4 acres and not all 8 acres.

Interesting what people will tell you when you talk with them.

The application gives them a blank check to build whatever commercial entity on that property. They needed to list on the application what type of commercial.

The people of Palm Bay do not want residential property changed to commercial in their neighborhoods.

The residents of Plantation Circle do not want it rezoned to commercial.

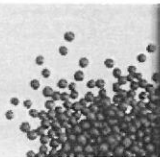
Vote NO

David Nowakowski, CSFM
Sports Turf/Specialty Ag- Sod
Territory Manager (FL)
786-390-9154 Mobile
🐦 @davenowturf


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Chandra Powell

From: Jane Clary <claryt@fit.edu>
Sent: Tuesday, April 25, 2017 10:52 PM
To: Chandra Powell; Patrick Murphy; Stuart Buchanan; Robert Loring
Subject: Objection to Plantation Circle Rezoning Case# CP-13-2017 & CPZ-13-2017
Attachments: Brian West Letter to Residents 8-21-2015.pdf; IMG_3795.JPG; IMG_3797.JPG; IMG_3798.JPG; IMG_3798.JPG; IMG_3803.JPG; Apr24-2017 Fire Plantation Cir - West Point Babcock Property.png

Follow Up Flag: Follow up
Flag Status: Flagged

Re: Objection to Plantation Circle Rezoning Case# CP-13-2017 & CPZ-13-2017 Family Residential to Community Commercial

I object to this rezoning request. It does not make any sense to place commercial development at the east end of Cogan at the corner of Babcock & the north Plantation Circle entrance. What could possibly justify changing the image of the middle of a residential neighborhood by placing a business there that does not match the surrounding land's existing use (and is not part of the Palm Bay Comprehensive Plan)? This land owner has no hardship - he purchased it in July of 2015, 8.14 acres for \$140,000 (quite the bargain, \$17,199/acre).

If a person were talking about commercial land just to the north or south of the neighborhood, that would be easier to imagine, but why in the middle of a current neighborhood ? ? ? Only for profit. To the south, there is endless land available for commercial development, with no residential neighborhoods to worry about. There is land already zoned commercial at the corner of Babcock & Grant Rd. And, just to the north of our area, both Westside Avenue and Senate Avenue would offer buffers to residential neighborhoods if property to the east of Babcock was developed commercially (see map below).

Not only does this type of buffer not exist around the land requested to be changed to commercial zoning, there are 11 streets that intersect with Babcock in less than one half of a mile (a quarter mile to the north and a quarter mile to the south). In addition Sunrise Elementary is less than a mile to the south.

Instead of making the Cogan/Babcock intersection one of the next most congested areas on Babcock Street, and a dreaded intersection, the land instead should be set aside as a future water retention area for when Babcock is widened. This would be consistent with the current use of the land, the lots both to the south and north of this land are currently retention ponds for Planation Circle drainage (currently owned by private individuals). The portion of this property that is bordered by Babcock should be set aside through "eminent domain" for a retention pond, so that road flooding will not be an issue once Babcock is widened. The back part of the property should only be developed as residential homes that match the existing neighborhood. Or all should be residential.

Brian West, West Babcock LLC originally brought this zoning change request to the Planning & Zoning Board last year, right after purchasing it. The Zoning Board recommended the City Council to deny it, so when it came time for the City Council vote, he withdrew his request. Then a 2nd time he applied for the same request – nothing changed regarding this property (he though had new lawyer). Planning & Zoning again recommended that it be denied. This case was on the September 1st City Council Agenda, but Brian West choose to delay it yet again (until September 15th). We, as neighbors attended, to ensure that the City Council see that all of us tax paying voters are deeply concerned.

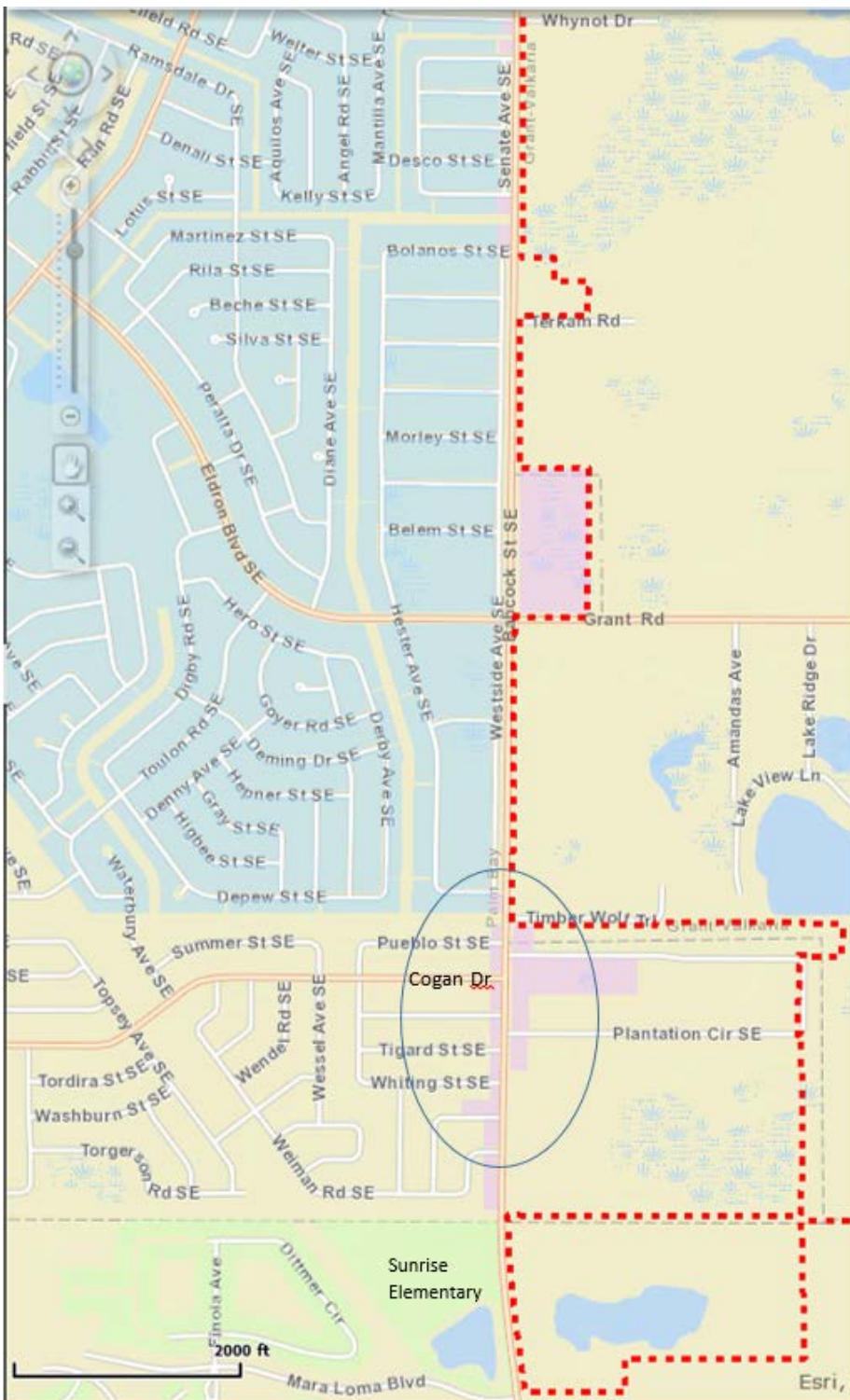
So, Plantation Circle and surrounding neighbors (usually more than 50 of us - in red shirts) must continue to go to these meetings, in order to protect the uniformity of our neighborhood, and attempt to ensure that a daily traffic nightmare at the entrance to our neighborhood is not in our future. An outside prospector/developer should not be able to continue to make the same request, in an attempt to wear down those who it affects. Brian West is hoping that as City Council Members change, he will be able to push/bully his agenda through. Last year he wrote a arrogant, threatening letter to all of us prior to any official meetings, that stated if we did not "get on board" he was basically guaranteed to win in the end, and develop the property however he wanted without concern for its Palm Bay neighbors (excerpt shown below, entire letter attached - which includes many false statements). I hope that the planning and zoning committee - will remain consistent in their recommendation to reject this change to commercial property, and protect the land interests of its Palm Bay citizens who will be left here to live with the traffic nightmares long after the outside real estate prospector/developer is long gone with his profits.

This zoning change would only be for the benefit of one company - West Pointe Babcock, LLC - No one in Palm Bay will be better off with this change.

So yesterday we came home to a fire on this exact property, which is under investigation by the fire marshal? Fire fighters had to work all night and until noon the next day to protect our houses and lives. It was so windy, it could have easily caught one of our houses on fire. Pictures attached and shown below. Looks like the wild life that used to live on this property will not be an issue for this developer after all. Please help protect your current Palm Bay citizens.

Thank you for your time and consideration, and please reject this out of place change to commercial zoning!

Jane Clary
1835 Plantation Cir SE (for 20 years),
Palm Bay (for 51 years, 3rd generation Palm Bayer)
321-537-4917



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

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

THREAT

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



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

Memo to Plantation Circle Homeowners

This is where we are at:

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

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

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

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

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

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

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

Threat

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

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

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

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

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

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

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

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

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

I look forward to hearing from you.









Chandra Powell

From: Rachel Clary <rachelclaryfl@gmail.com>
Sent: Wednesday, April 26, 2017 7:29 AM
To: Chandra Powell; Patrick Murphy; Stuart Buchanan; Robert Loring
Subject: Objection to Plantation Circle Rezoning Case# CP-13-2017 & CPZ-13-2017 Family Residential to Community Commercial

Objection to Plantation Circle Rezoning Case# CP-13-2017 & CPZ-13-2017 Family Residential to Community Commercial

I object to this rezoning request. I have grown up on Plantation Circle. I went to Sunrise Elementary, located on the west side of Babcock Street. Even though we are within the 2 mile radius of the school, I could not walk to school because of the hazards of Babcock (15 years ago), they provided bus service just to get to the school 1 mile away.

Placing a commercial enterprise at the corner of the north entrance to Plantation Circle and Babcock Street (at the east end of Cogan), will make Babcock even more dangerous for all the parents who must get their children to school each morning.

The congested traffic nightmare that occurs each morning at Waco and Babcock Street where Country Beginnings Pre-school and Royal Palm Elementary Schools are located, is an example of the problems that will be created by commercial property at Cogan, Babcock & Plantation.

So please do what is right for the citizens of Palm Bay and recommend that this 8.14 acres not be changed from family residential to community commercial. Next year I will be attending the Florida Institute of Technology, and hope to purchase my own house in Palm Bay in the future. If prospective home buyers can't be confident that the city will protect their investment and reject commercial spot zoning that does not fit the surrounding land use, they will choose to live elsewhere.

Thank you for keeping Palm Bay a place where everyone knows there is somebody looking out for its resident's best interests too, not just the developers. Residents pay taxes too.

Rachel Clary

1835 Plantation Circle

Palm Bay, FL 32909

CASE # CP 13-2017 CPZ 13-2017
ALONG WITH OTHERS CONCERNED I
OBJECT TO THE REZONING OF
PLANTATION CIRCLE

FROM: LIN VAL D'OYEN
1886 PLANTATION CIR.

TO: CHANDRA POWELL
GROWTH M/MENT DEPT.
120 MALABAR RD.

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

April 26, 2017

Growth Management Department
City of Palm Bay, Florida

In reference to a proposed rezoning application, case#CP-13-2017 & CPZ-13-2017, I would like you to know I am opposed to the idea of this change of use. The real issue is the concept of having a commercial property in the center of the existing neighborhood and the traffic nightmare that would be created at the intersection of Cogan and Babcock.

I am fully aware of change coming to the area with the I-95 interchange. I believe there is going to be plenty of new opportunities for a well planned out section of currently un-developed land that will include many different zoning applications all working together.

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

The current application is the Owners third attempt to re zone this parcel. This time it lists the entire 8.41 acres. My neighbors and I attended a meeting with the owners Tuesday night where they displayed concept boards that showed a commercial entrance onto Plantation Cir. This cannot happen but even without the side entrance there will still be plenty of increase traffic on Plantation circle.

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

The rezoning at this point will not affect the city's tax base at all. They will either market it to flip it or sit on it till the I-95 interchange and Babcock widening is done. Meanwhile they will label it as a bee farm to avoid paying Palm Bay taxes. I believe they are not to be trusted at this point. The residences of Plantation received a threatening letter from Brian West when he started this mess and this past Monday the 8.41 acres in question burned in a VERY suspicious brush fire. There is a current investigation into the activities that took place there just prior to the fire as their bee keeper was working the area.

Thank you

Charles W Clary

[SIGNED ELECTRONICALLY]

Chandra Powell

From: mary sears <mary1652@earthlink.net>
Sent: Wednesday, April 26, 2017 8:18 PM
To: Chandra Powell; Robert Loring
Subject: Case # CPZ-7-2015 and CP-7-2015

I am writing this in regards to the rezoning of Plantation Circle from residential to commercial. I am not a resident of this development; however, I live on Pueblo St. which is on the other side of Babcock across from Plantation Circle and will be impacted by this change.

I am asking that you do not approve this rezoning.

This is a residential neighborhood with beautiful, well-maintained homes. Allowing a commercial development would destroy the charm of the neighborhood. I'm sure that when these residents purchased their homes, it was done so with the intent of living in a neighborhood environment. Had these individuals wanted to live by commercial properties, they could have purchased homes in many other locations throughout Palm Bay.

I walk this neighborhood each morning or evening. It has a small town feeling and is safe place for me to walk. I do not have to worry about traffic or any other concerns that many face while walking some of our streets in Palm Bay. The road is well paved and easy to walk, unlike many roads which are difficult to navigate because of the potholes. Increasing the traffic will cause the roads to deteriorate. It is also a peaceful, quiet neighborhood where one can encounter wildlife. This would obviously change with commercial property. The people are friendly and watch out for each other. During my walks, many others are also out walking, riding bikes or working in their yards. And although I may not live on Plantation Circle, I am familiar with many of the residents through my walks and would be able to get assistance if I ever needed it.

We have many areas of existing commercial properties and other areas zoned for it in Palm Bay. When the owner of this property purchased his land, he did so knowing that it was zoned residential. Allowing it to be rezoned is like changing the rules after the game has started. This is unfair to the residents of Plantation Circle and sets a precedent that may make an unfair impact on many others in Palm Bay in the years to come.

Please do not approve the rezoning of Plantation Circle from residential to commercial.

Mary Sears
1652 Pueblo St SE
Palm Bay, FL

Chandra Powell

From: Nitrovintage <trace@nitrovintage.com>
Sent: Wednesday, April 26, 2017 8:28 PM
To: Chandra Powell; Patrick Murphy; Robert Loring; Stuart Buchanan
Cc: Tracy Amadon
Subject: Case# CP-13-2017 and CPZ-13-2017

Here we go again!

Below is the letter I sent last year. I am wondering how long must we endure this attack on our neighborhoods? This corner of Palm Bay will be the new entrance to our city from the interstate. Let us not look like the next line of cheap convenience stores and commercial boredom. The slate is clean now.

From : 27AUG2015 now 26APR2017.

I object to the proposed Rezoning of property in Plantation Circle, Case Nos. were CPZ-7-2015, CP-7-2015 new case numbers are: CP-13-2017 and CPZ-13-2017. Approval of this application would result in irreparable harm to our neighborhood.

The proposed site is within the boundaries of an existing neighborhood of existing homes. The site backs up to residential yards and is directly across the street to others. People walk, jog, walk their pets, and children play in this neighborhood. Folks bought their houses here because is is a RESIDENTIAL NEIGHBORHOOD.

A business at this site will attract increased traffic, pollution, and potential crime as well as nighttime light pollution and visual disruption. Businesses are not typically pretty.

The view east from Cogan Street and the homes there will be of a commercial operation. (I suspect a filling station, since the applicants are elusive about the actual nature.)

One acre home sites are rare in a neighborhood setting in Palm Bay. We should be preserving this place, not destroying it.

No Water, Sewer, or Drainage currently exist on the site. We have some drainage issues here already. There are currently open issues on drainage with the supposed retention pond at Babcock street. The rear ditches don't work at all.

Commercial Property currently exists just north of this site at Eldron and Babcock streets. It is already in the Use Plan and not utilized.

The current Land Use Plan for Palm Bay is dated 2011, less than six years old. let's stick with it a while. Palm Bay must act against these predatory land grabs in order to maintain the integrity of our neighborhoods. Carpetbaggers don't care about us.

Thank You,
Tracy P. Amadon
1870 Plantation Circle, Palm Bay, Fl
(321)727-0332

Chandra Powell

From: timmy <timmyveedj@yahoo.com>
Sent: Wednesday, April 26, 2017 9:03 PM
To: Chandra Powell; Patrick Murphy; Robert Loring
Subject: Plantation circle N.E. Palm Bay

I disagree with what they are trying to do on Plantation Circle in Palm Bay. I'm not going to tell get into why because you live in a neighborhood somewhere, I'm sure you get it. Thank you for your time.

**Timmy Vee
321-506-4455**

Sent from my iPad

Chandra Powell

From: David Thornberry <davetberry@bellsouth.net>
Sent: Wednesday, April 26, 2017 9:18 PM
To: Chandra Powell; Patrick Murphy; Stuart Buchanan; Robert Loring
Cc: Judy Thornberry
Subject: RE: Letter of Protest against rezoning property on Plantation Circle, Palm Bay from Residential to Commercial (Cases CPZ-13-2017 and CP-13-2017): Correction

To:

Patrick Murphy,
Assistant Growth Management Director
City of Palm Bay

Stuart Buchanan
Director, Growth Management Department
City of Palm Bay

Chandra Powell
Growth Management Department
City of Palm Bay

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

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

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

7 months later and West Pointe LLC has once again applied for a rezoning from Residential to another form of Commercial (Cases CPZ-21-2016 (Zoning), CP-21-2016 (Land Use)). Once again the zoning report from the City of Palm Bay came back with the same conclusions as they did back in 2016 and the same unanimous vote of rejecting the change by the zoning committee. Also like the previous time, Representatives of West Pointe cancelled out just before the City Council meeting.

What has changed? The residents of Palm Bay who live on either side of Babcock are vehemently against this rezoning. The report by the City of Palm Bay and the Comprehensive Plan have not changed to my knowledge. Yet West

Pointe LLC is determined to try to undermine our neighborhoods with what amounts to a cash grab in an area they doesn't live in or have any interest besides turning a quick buck. NO WHERE IN THEIR APPLICATION DOES IT SPECIFY THE ACTUAL USE OF THE LAND. How can a city plan for any new business without knowing what that business is? How do you measure the traffic impact on Babcock when the type of business is unknown?

The larger issue is that if this is allowed, it will open up the flood gates for all of Palm Bay. Why bother sticking to the Comprehensive plan if the city will allow cheaper residential property to be bought and converted to Commercial? This will threaten all of the communities in Palm Bay and also potentially keep high quality home builders out of the area because of the potential 'Wild West' reputation of the city. PLEASE stick with the Comprehensive plan. Mayor Capote stated during a council meeting that he was in favor of 'smart growth'. This disregard for the Comprehensive Plan and threatening of Palm Bay communities is not 'smart'.

When we purchased our house in 1997, this land was zoned as residential and this is one of the main reasons we purchased in Palm Bay. Since then this has been a great community of a good, tax paying Palm Bay residents.

We hope the City of Palm Bay will work with us again, as West Pointe LLC continues to attempt to degrade our neighborhood and defy the good judgment of the City of Palm Bay. They could have at any time bought commercial property in the areas designated for that purpose in the Comprehensive Plan if they was legitimately interested in Palm Bay commerce and improving the quality of life in our community. These type of developers must be stopped unless they undo the far seeing plans of the City of Palm Bay.

Sincerely,

David Thornberry

Judy Thornberry

David and Judy Thornberry

1859 Plantation Circle S. E.

Palm Bay, Florida, 32909

321-956-6586.

April 26, 2017.

Chandra Powell

From: sharpei2 <sharpei2@bellsouth.net>
Sent: Wednesday, April 26, 2017 9:38 PM
To: Chandra Powell; patrick.murphey@palmbayflorida.org; Stuart Buchanan; Robert Loring
Subject: Cp 13 2017; cpz 13 2017 Plantation Cr.

Sent from my Sprint Samsung Galaxy Note5.

Crash! Life can change so quickly! Our quiet residential neighborhood is under threat. We are depending on our elected officials to protect us and do the right thing. Any palm bay citizens that purchased residential property that was under no threat of zoning change, even in the future land use plan, would not want "the rug pulled out from under them" by an outsider who just wanted to make more profit than he deserved at their expense. NO resident would ever want that. His property has plenty of value in it in its current residential state. Please vote No on changing the zoning on plantation and babcock to commercial. Especially non specific commercial! That is unprecedented and not good business. And now we are to understand the original request to change 4 acres has grown to 8?!

We pray you will help us.

Dolly, David, Paul, and Toby Edwards at 1814 Plantation Cr.

Sent from my Sprint Samsung Galaxy Note5.

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

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

Oppose:

The rezoning of 8.4 acres from (RR) Rural Residential to (CC) Community Commercial at the southeast corner of the north entrance to Plantation Circle on Babcock Street. Case # CPZ-13-2017 (Zoning)

Oppose:

Future land use change on the above described property from Single Family Residential to Commercial. Case # CP-13-2017 (Land Use)

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

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

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

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

Please help us by rejecting the zoning change proposals.

Linda M. Filis
1779 Plantation Cir. SE
Palm Bay, FL 32909
(321) 724-8081 Ifilis@yahoo.com 4/26/2017

Chandra Powell

From: Trevor Filis <tgfilis@yahoo.com>
Sent: Thursday, April 27, 2017 12:04 AM
To: Chandra Powell
Subject: Objection to Plantation Cir Rezoning Case Numbers CP-13-2017, CPZ-13-2017

Chandra Powell,

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

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

Respectfully,

Trevor Filis
1779 Plantation Circle SE
Palm Bay, Florida 32909
tgfilis@yahoo.com
(321) 501-6242
4/26/2017

Chandra Powell

From: Trevor Filis <tgfilis@yahoo.com>
Sent: Thursday, April 27, 2017 12:06 AM
To: Chandra Powell
Subject: Objection to Plantation Cir Rezoning Case Numbers CPZ-13-2017, CP-13-2017

Chandra Powell,

Case No.: CP-13-2017 and CPZ-13-2017

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

Respectfully,

Trevor Filis
1779 Plantation Circle SE
Palm Bay, Florida 32909
tgfilis@yahoo.com
(321) 501-6242
4/26/2017

Chandra Powell

From: Stuart Filis <sfilis@cfl.rr.com>
Sent: Thursday, April 27, 2017 6:51 AM
To: Patrick Murphy; Robert Loring; Chandra Powell; Stuart Buchanan
Cc: William Capote; Harry Santiago Jr.; Brian Anderson; Tres Holton; Jeff Bailey
Subject: Objection to Plantation Circle property rezoning

4-27-2017

Members of Palm Bay City's Growth Management Department,

I object to the proposed rezoning of 8.2 acres of land from RR to CC at the southeast corner of the north entrance to Plantation Circle on Babcock St. I have lived here for over 30 years. This property is nestled amongst a community of over 40 homes. Some with their back yards adjacent to the property in question. The developers claim their justification for this rezoning is that it fronts a major roadway. That is absolutely untrue, the property in question fronts Plantation Circle and there is no direct entry from Babcock St. There are MANY properties along Babcock St. which do front a major roadway (Babcock St.) which are not nestled amongst residents' homes. This location is just not an appropriate spot for this project. Please review this case (CP-13-2017 and CPZ-13-2017) and **recommend against sending it to the City Council for approval.**

Furthermore, the applicants have corresponded to my neighbors and I and in their correspondence they exhibited an arrogance and presumptiveness that was utterly offensive. These men, who reside in South Florida and not Palm Bay, had the nerve to suggest that they know what is right for our community better than we who actually live in the community that they aim to defile. I do not want to live within any proximity of a project in which this group of developers is involved. Again, I strongly oppose this proposal and ask that you **recommend that the Zoning Board does not pass it to the City Council for approval.**

Please reply with confirmation of receipt of this letter.

Thank you,

Stuart T. Filis
1779 Plantation Cir. SE
Palm Bay, FL 32909
(321) 724-8081
sfilis@cfl.rr.com

Chandra Powell

From: Robert Heitsch <rtheitsch@gmail.com>
Sent: Thursday, April 27, 2017 9:49 AM
To: Chandra Powell; Patrick Murphy; Stuart Buchanan; Robert Loring
Subject: Recommend against CPZ-13-2017 and CP-13-2017

To: Palm Bay Zoning Board Members

This letter is in regards to rezoning application CPZ-13-2017 and CP-13-2017. We ask that the Palm Bay Zoning Board recommend to the City Council that is request be denied.

Rezoning application CPZ-13-2017 is a resubmittal of CPZ-21-2016 and CPZ-7-2015. The Planning and Zoning Board considered both CPZ-21-2016 and CPZ-7-2015 and recommended in each case that the city deny those requests. Planning and Zoning Board analysis is captured in the Land Development Division Staff Report, dated 9/2/15. The analysis in this report indicates that there is ample undeveloped commercial property in the area; that the rezoning request is incompatible with the adjacent residential land uses, and that commercial development of the property may result in unsafe traffic patterns.

In addition, we believe that any tax gains realized by commercial development of this property would be offset by the devaluation of the nearby homes. We also feel that this rezoning request is simply an attempt by the applicant to speculate on land without regard to the surrounding residents. This is evident by his vague application.

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

Please recommend that the City Council deny rezoning request CP-13-2017 and CPZ-13-2017.

Sincerely,

Bob Heitsch

1755 Plantation Circle SE
(321) 676-5215

**Case Numbers CPZ-13-2017 (Zoning)
and
CP-13-2017 (Land Use)**

**I object to the Rezoning and Reuse of
the 8.4 Acres located on Plantation
Circle from Residential to
Commercial.**

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

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

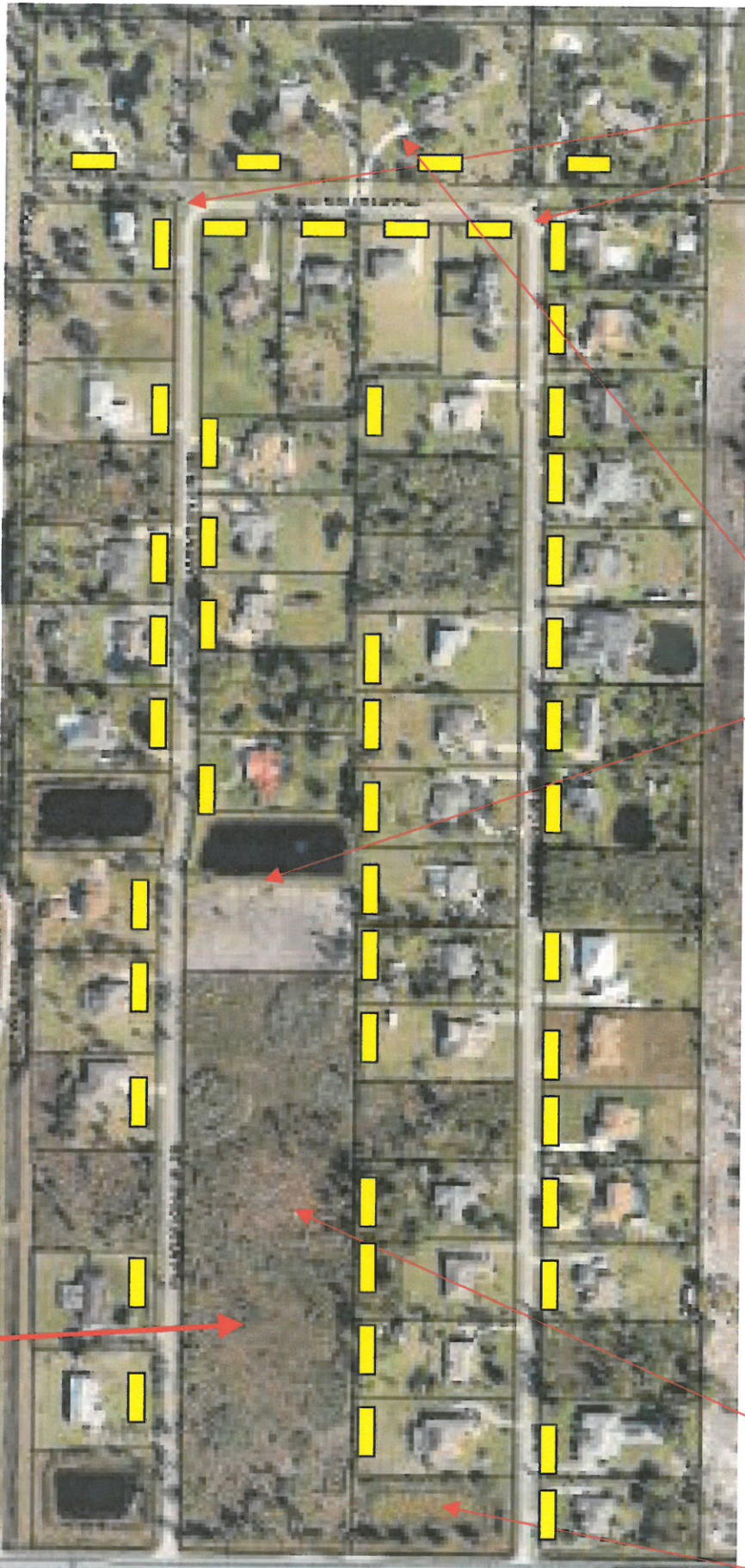
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- D) Reason 1 for Voting NO ! with supporting ordinance**
- E) Reason 2 for Voting NO ! with application**
- F) Reason 3 for Voting NO ! with supporting ordinance**
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- (I) Article Published in FLORIDA TODAY**
- (J) Insulting and Threatening letter from Applicant**
- K) Reply to letter pending publication in newspaper**



**There should be an
overwhelming, important
reason to change property
zoning in the heart of an
established Residential
Neighborhood!**

**Financial gain for one
individual over that of
another is not such a
justification!**



Lot requested for Rezoning

90 degree Turn

CERTIFIED WILDLIFE HABITATS

Known Wetlands

Non
Functioning
Retention
Pond

Houses

Plantation Circle, Palm Bay Florida
Currently 48 Homes
Average Market Price approx \$400,000

**The Residents of
Plantation Circle
Have**

\$11,480,515.00

**Invested
In Their Properties**

2015 Tax Map

**We pay over \$160,000.00 in property
taxes per year**

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

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

This is now the case at the southern end of Babcock Street, on Plantation Circle. The lot in question is bounded on all sides excepting Babcock Street. There are 13 Homes that are adjacent to the lots (It is right in the heart of our developed residential neighborhood. The houses in this area are owned by people who invested their life's savings to build their homes here and start their families. The city master plan has for a long time classified this area as strictly residential. When I built my house here, I made sure that it was in a strictly residential area before investing in buying my property and building my home.

Now, an outside speculator group is again trying to rezone the 8 lot residential piece at the entrance to our subdivision. Twice in the past they submitted their application for this rezoning and change of use. Twice they failed to receive endorsement for their application from the Growth Development Department. Twice the Planning and Zoning board has denied the application. Twice the same applicant has withdrawn their application at the last minute before going before City Council.

During both prior applications, there were petitions of objection that far exceeded the requirement for a supermajority vote in council. In the last petition submitted to P&Z, 100% of the adjoining property owners objected to the application as well as over 70% of the land owners located within the 500 ft notification radius. Following the last application being withdrawn, representatives of the applicant persuaded city officials to eliminate the petition ordinance contrary to the recommendation of the Planning and Zoning board which recommended a 60% threshold for requiring a super majority council vote.. To me, it is obvious that this ordinance removal was aimed directly at the only residents that ever used it, the residents of Plantation Circle.

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

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

Respectfully

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

This is from the City of Palm Bay Website:

§ 185.005 PURPOSE.

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

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

Please consider the above city ordinance and vote NO to support your fellow residents and friends in Palm Bay. And yes, we are also voters who will not forget your vote at election time...We want officials that represent us, not outside interests. Your No vote will guarantee our support in your future endeavors.

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

This lot's major frontage is on Plantation Circle. Its side lot faces toward Babcock The required frontage for the subdivision of the 8 lots in this parcel in the past has been a minimum of 150 feet on Plantation Circle in accordance with our local zoning. I know this because I have already subdivided a piece off of this original piece of land and was required to have 150 feet frontage on Plantation Circle.

This lot is particularly ill suited for direct access on to an undivided Babcock Street with no deceleration lane in either direction. The frontage onto Babcock starts with a drainage right of way that is approximately 8 feet deep and 10 feet across. Water and sewer are required for this lot but is located on the opposite side of Babcock Street. This will require water and sewer to be brought across Babcock just for this lot.

To the north, there is a substantial amount of undeveloped community commercial land in close proximity to this location (See Map on next page). Until some of this commercial land is developed there is absolutely no need or advantage to the citizens of Palm Bay to rezone these beautiful, unique residential lots into a strip mall.

To the south, within a short distance, there are plans to develop a large commercial hub in the close proximity of the Babcock- By Pass intersection. This is planned along with a huge residential area of homes, townhouses, and condos. This will be similar to Bayside and is the smart kind of development that enhances both the residential areas and the commercial entities.

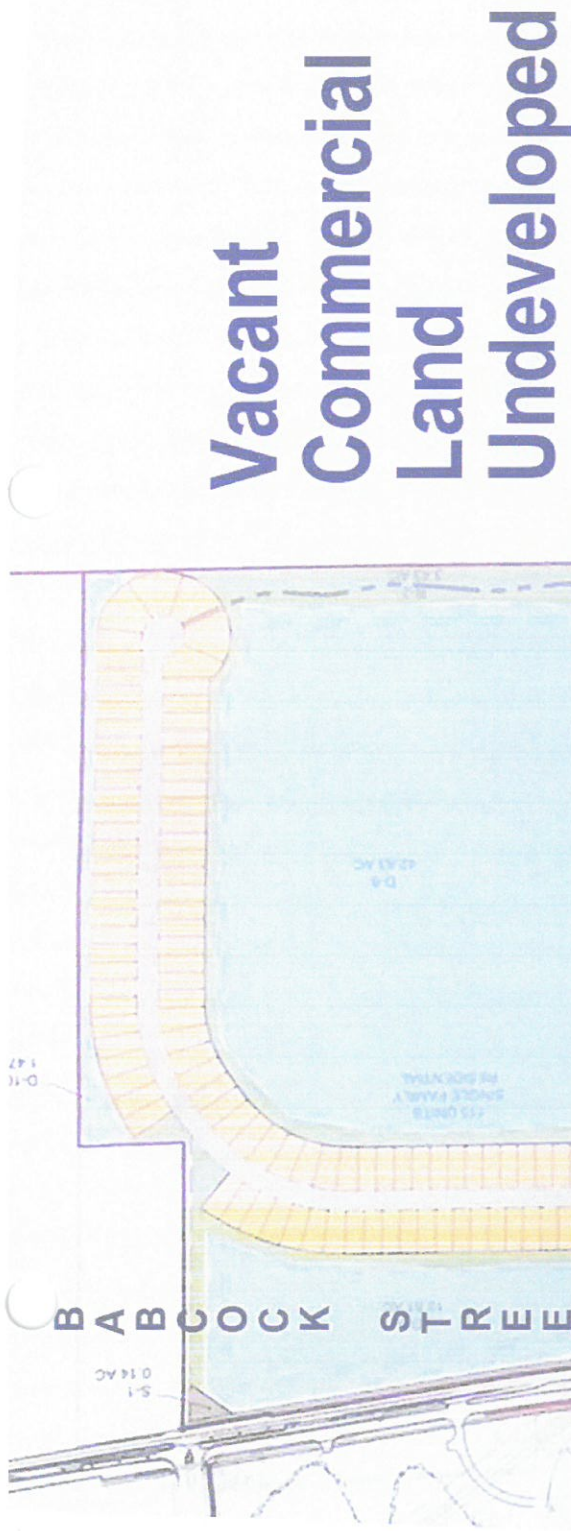
This is where we hope that our Planning and Zoning committee wisely foresee what is coming and encourage another model similar to the one used to develop Bayside. (Keeping commercial and residential areas in close proximity but not integrated into each other. That is what makes an attractive and inviting community.

Unfortunately, that is just the opposite of what this applicant wants to do. What happens to the community after he is done is the least of his concerns especially the cost to local residents both financially and emotionally? He openly admitted to the Residents of Plantation Circle that he only cares about is making a large sum of money on his investment. The problems that follow are not his responsibility.

This is a beautiful Residential Neighborhood, One of the nicest in Palm Bay. Let's keep it that way. There is no legitimate justification for destroying the heart of Plantation Circle Community, especially while there are acres and acres of undeveloped community commercial land right around the corner.

Property rights go both ways. People should have the right to do whatever they want with their property, but it should not interfere with the rights of other established land/home owners. Residents want Life, liberty and the pursuit of happiness Speculators and their cronies = Power, Money, and the profit you can make with it.

We hope that our Planning and Zoning board will protect the existing, hard working residents of this community by enforcing our existing zoning restrictions. Our elected officials need to stop telling us "But we are doing this for the good of the entire population of Palm Bay." Want to bet! Ask any citizen of Palm Bay "Do you agree with the widespread integration of commercial entities into Palm Bay Neighborhoods. Not hard to guess that answer. Please do the right thing and deny this applicant.



Vacant Commercial Land Undeveloped

LOCATED ON THE NORTH AND SOUTH OF THE ST. JOHNS HERITAGE PARK OF 115 SINGLE FAMILY UNITS, 524 MULTI-FAMILY UNITS, 250,000 SQUARE FEET OF NON-RESIDENTIAL SPACE, ALONG WITH PRIVATE ROADS, PARKS, PUBLIC AND PRIVATE OPEN SPACE, THE PROJECT WILL EXTEND THE CITY OF PALM BEACH WATER UTILITY SERVICE THROUGHOUT AND INCLUDES PROVIDING PER CITY AND STATE REQUIREMENTS THROUGH A SEWER STORMWATER TREATMENT FACILITIES THROUGH A SEWER TO THE SOUTHERN CANAL AND WEST TO THE BARRACKS IN COMPLIANCE WITH EXISTING ZONING AND FUTURE LIGHTING, SIGNALS AND UPGRADED LANDSCAPING WILL MASTER PLANNED COMMUNITY THERE WILL BE A MASTER ASSOCIATION THAT WILL MAINTAIN ALL COMMON FACILITY PORTION OF THE PROJECT AND A HOMEOWNER'S ASSOCIATION RESIDENTIAL PORTIONS

CONTACT INFORMATION:

DEVELOPER
CYPRESS BAY FARMS LLC
235 WEST DRIVE
MELBOURNE, FL 32904

SURVEYOR
HORIZON SURVEYORS
BOB DOERFER
380 PORCANA DRIVE
MELBOURNE, FL 32935
TEL (321) 254-8133

DOB ENGINEER
CONSTRUCTION
JAKE T. WELLS
2851 EAU CAL
MELBOURNE, FL
TEL (321) 610
FAX (321) 253
E-MAIL JWELLS@DOB-FL.COM

LOCATION
TOWNSHIP 30
RANGE 37
SECTION 03, 10
TAX ACCOUNT 1C

CYPRESS BAY AT WATERSTONE

CYPRESS BAY RESIDENTIAL SUBDIVISION:

USE	ACRES	UNITS
RESIDENTIAL	24.0	115
OPEN SPACE/RECREATION/RETENTION	72.5	164
SDN TRACT	0.1	

TOTAL RESIDENTIAL TRACT: 124 279

CYPRESS BAY COMMERCIAL CENTER

USE	ACRES	UNITS
COMMERCIAL	80.0	300
MULTI-FAMILY	11.0	
OPEN SPACE/RECREATION/RETENTION	2.0	
FUTURE PUBLIC USE/RETENTION SITE	5.0	
SDN TRACT	5.2	

TOTAL COMMERCIAL TRACT: 144 300

CYPRESS BAY AT WATERSTONE PRELIMINARY PLAN

SUMMARY	ACRES	UNITS
GRAND TOTAL	268.0	639

NOTE: TRACTS WILL BE FURTHER DEFINED DURING PLATTING

Babcock Street and St Johns Parkway Intersection

LEGAL DESCRIPTION:
TOWNSHIP 30 SOUTH, RANGE 37
SECTION 03, 10
TAX ACCOUNT 1C, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Reason Number Two..... for voting No

Application for rezoning...Changed, Incomplete, and Pretentious.

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

The current owner has purchased a large 8+ acre residential lot located on Plantation Circle. The applicant is aware that this property cannot be subdivided without a Major Subdivision Site Plan application because it has already been subdivided once already. On the two previous applications by this applicant, the request was for changing the zoning of a little over 4 acres of this property. **He has now changed his application to reflect a request to change the zoning of the entire 8+ acres to community commercial. This would absolutely destroy the entire fabric of our community.** He proposes to build a wall that will border 15 residential lots, 12 of which are beautiful homes set in a country landscape. A 6-foot high brick wall to look at every day. We don't live on the Texas-Mexico border.

Incomplete application.....Not By Accident !!!

Line Item #9

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

Line Item #10

Specific use intended for property The client's response: *Commercial..*

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

Can I have a blank Check Please ??

This is a con job, a way of getting approval for all kinds of commercial entities without giving the slightest hint at what the real intended use will be. **At a Meeting held on Tuesday, April 25th, 2017 the residents of Plantation Circle finally found out why Mr. Sakowitz and Mr. West left that part of their application with an evasive answer. As Mr. Sakowitz stated publicly to all of the residents in attendance, He doesn't know and doesn't care what he puts on that lot. As long as someone is willing to pay him, he will develop whatever they want.**

There you have it !!!!

The list of community commercial uses take up 3 pages in the code of ordinances. They range from Tattoo parlors to Crematoriums. **They also include many Tax Exempt uses that could cost the City a fortune in lost taxes.** It would be morally repugnant to approve this "Blank Check" and destroy the quality of life of so many Palm Bay Residents without even knowing why. The Planning and Zoning board, The City Council, and most importantly, the residents of Palm Bay deserve transparency with this type of application and have the right require specific information prior to considering any kind of variance or re-zoning.

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

First: Access to this commercial lot is restricted by ordinance:

Originally, the city of Palm Bay ordinance 185.130 allowed for a commercial property to have access to a residential street if it was located on a corner of an arterial highway. This ordinance was adopted in 1989 when Palm Bay was in its infancy. Later, on February 15, 1996, ordinance 184.25 was adopted. This more current ordinance was adopted after Palm Bay was experiencing a dramatic increase in growth. The more recent ordinance specifically prohibits any commercial or industrial entity from having direct access to a residential Street. (See Attached)

The applicant has shown us several concept drawings of his possible plans, all having an illegal direct access onto Plantation Circle, a neighborhood residential street as defined by the Florida DOT manual on streets.

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

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

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

In Conclusion: This is a terrible, dangerous , and disruptive spot to create a commercial enterprise. It will result in direct problems with traffic on Babcock Street as well as secondary problems with congestion on Plantation Circle. All this and we still have no idea of what the applicant intends for the property if the re-zoning is granted. **At a minimum, this proposal should not be considered until Babcock Street is brought to 4 lanes and a traffic light is installed at Cogan and Babcock. Then, and only then, should the proposal be considered. By then, I would hope that the lots would be sold off as Residential.**

Making this dangerous intersection more complicated is flirting with disaster. Can you imagine the thought of a School bus full of small children being hit by a large dump truck at the intersection of Babcock and Cogan because someone was pulling out of the new commercial driveway at the same intersection.

Bookmark§ 184.25 NONRESIDENTIAL SUBDIVISIONS.

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

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

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

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

The commercial and industrial subdivision shall not have direct vehicular access to a local residential street.

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

Reason # 4 Failure to meet the City of Palm Bay Ordinance Required for Re-Zoning

This application fails to meet several of the required criteria for approval of rezoning. Below is a list of the criteria taken from the City of Palm Bay Ordinance, which is attached.

Requirements for Altering the City Master Plan are as follows:

1. There must be a special condition or circumstance peculiar to the land which is not applicable to the surrounding land

Comment: There is no special condition or circumstance particular to this land. It is a basic residential lot in a residential area. **This criterion is not met**

2. These Special conditions are not the result of the actions of the applicant

Comment: Special condition does not exist: **This criterion is not met**

3. Enforcement of the existing code would deprive the applicant of rights commonly enjoyed by other properties in the same land use category and would work unnecessary and undue hardship on the applicant

Comment: Enforcement of the code would not deny the applicant: It would not put unnecessary and undue hardship on the applicant. Applicant has many people ready to purchase the land as it is currently zoned. **The criterion is not met**

4. Variance is the minimal variance necessary to make possible the reasonable use of the land

Comment: This property, used as it is currently zoned (Residential) already is a reasonable use of the land. **This criterion is not met**

5. Granting the variance will not confer special privilege that is denied by the development code to other lands

Comment: N/A

6. Granting the variance will be in harmony with the general intent and purpose of the code and will not be injurious to the surrounding properties or detrimental to the public welfare.

This variance would be totally out of harmony with the general intent and purpose of the code. It will be injurious to the surrounding properties and will adversely effect the quality of life of the public who lives in this residential neighborhood. **This criterion is not met**

The above criteria shall be used to determine the justification for granting of relief from the requirements of the development code. All variance requests shall **demonstrate the application of each criterion of the specific case**

Financial disadvantage or inconvenience to the applicant shall not of themselves constitute conclusive evidence of unnecessary and undue hardship and be grounds to justify granting of the variance

The applicant has failed to meet most or all of the criteria necessary to qualify for approval for rezoning the existing residential lot located in the center of Plantation Circle.

The Applicant keeps claiming the Babcock is a commercial road. Yet, from Waco south it is almost all Residential zoning. The city master Plan has several "Commercial Nodes" set to go for the expansion south of us where the new highway will cross Babcock Street. That is where the commercial growth will and should take place. In the vicinity of good Neighborhoods but not in the middle of them.

(A) The City Council shall hear petitions for variances from the terms of the Land Development Code delineated in §§ 170.114, 170.142, and Chapters 178 and 185, or pursuant to §§ 174.023, 175.03(H), and 180.17, as will not be contrary to the public interest where, owing to special conditions, the enforcement of the provisions of the city's land development regulations would result in unnecessary hardship.

(B) Upon receipt from the Planning and Zoning Board of a recommendation concerning disposition of a requested variance, the City Council shall hold a public hearing and may grant, deny or grant with conditions any variance request upon finding that the request meets the following criteria:

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

(2) The special conditions and circumstances identified in paragraph (1) above are not the result of actions of the applicant.

(3) 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.

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

(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.

(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.

(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 unreasonably burdened the applicant's property, based upon the recommendations of the special master appointed in accordance with the act, or the order of a court as described in the act.

The above criteria shall be used to determine the justification for granting of relief from requirements of the development code. All variance requests shall demonstrate the application of each criterion to the specific case.

(C) Financial disadvantages or inconvenience to the applicant shall not of themselves constitute conclusive evidence of unnecessary and undue hardship and be grounds to justify granting of a variance.

(D) Notwithstanding the foregoing criteria, variances may be granted under the authority of the Americans with Disabilities Act as reasonable accommodations based on the disabilities of any applicant or a member of the applicant's household. For purposes herein, "reasonable accommodation" and "disabilities" shall have the meanings provided under the Americans with Disabilities Act.

LETTERS AND FEEDBACK

Zoning change not good for residents

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

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

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

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

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

Kenneth Smith
Palm Bay

GOP should look at facts, stop lies

Regarding Mr. Kasch's letter to the editor of Aug. 18, it could be reframing for a change if Republicans embraced facts instead of making up lies.

Despite his hand-wringing



Debbie Ziegler holds a photo of her daughter, Brittany Maynard, the California woman with brain cancer who moved to Oregon to legally end her life last fall, during an Aug. 18 news conference to announce the reintroduction of right-to-die legislation in California.

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

Don Deschinckel
Indianapolis

Dropping atomic bombs saved lives

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

I did emphasize Japan's fanaticism in Iwo Jima and Okinawa as well as its preparations to defend against the invasion as rationale for Truman's decision. American officials interviewing Japanese civilians after the war were told that the government was prepared to place the sick, old and infirm as a screening force in front of its defending troops and that American troops would rape women and murder children. The immediate and long-term suffering wrought

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

Lee Wyatt
Melbourne

We should support death with dignity

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

I am in my late 80s, so I have had much experience in life and am able to decide for myself. I have worked all my life — never a big-paying job, but always forced myself to save and put a tidy sum away

ott
e
kets

environment to it that has no angle? back in the teeth on Floridians Amendment 1, could use new-venues for the protection of funds. Nobody is governor — nor — would his own legal

that cost tax- was the firing of Gerald Bailey, respected head department of ment. Bailey's orchestrated by actively sup- abinet.

g lawyer Mat- and several tions filed a ing that Scott nbers violated meeting law by ailey without sion or vote.

Bailey went mplaints that d his staff had erly influence mal investiga- ped other inci- interference. rom past video ott can't the r polished wit- i. His version rstandable.

sit still and tes- y Bailey was rnor chose to vious Cabinet : close on his

r lawsuit was for \$55,000, a rue cost to take point, more vate attorneys on behalf of abinet, racking about \$365,000.

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

Memo to Plantation Circle Homeowners

This is where we are at:

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

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

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

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

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

Contradiction

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

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

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

Threat

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

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

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

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

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

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

WHAT
MR WEST
THINKS THE
CITY COUNCIL
HAS WRONG

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

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

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

I look forward to hearing from you.

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

Open Letter an Insult to Residents.

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

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

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

Lastly Mr. West quotes Florida Case Law “is clear and says you zone property for its best use for the overall community, not just for a few surrounding residents” That is just plain jibberish. Most zoning laws are on the books to protect the rights of existing residents and neighborhoods, while carefully integrating new commercial zones and uses for the benefit of all residents.

We are not socialists who preach for the uniform good of all.
We are a City made up of hard working individuals, with
individual rights and protection under the law, no matter what
Mr. West thinks he knows.

Ken Smith

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

April 24th 2017

Ms. Chandra Powell
Growth Management Department
120 Malabar, Palm Bay, FL 32907

Dear Ms. Powell.

RE: Case #'s CP-13-2017, CPZ-13-2017

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

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

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

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

Sincerely,


Sylvan & Harriett Blenman

Cecil & Amanda Edwards
2486 Cogan Dr. SE
Palm Bay, FL 32909

April 24th 2017

Ms. Chandra Powell,
Growth Management Department,
120 Malabar Rd, SE
Palm Bay, FL 32907.

Dear Ms. Powell,

RE: Case #'s CP-13-2017, CPZ-13-2017

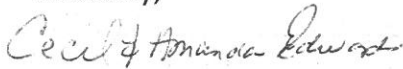
We are expressing opposition to the proposed rezoning of property at the Corner of Babcock St. and Plantation Circle.

Our main objection is the zoning changes will drastically affect a very large area near to our house, with heavy traffic and increase accidents.

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

Please consider how the zone change will seriously damage our community.

Sincerely,



Cecil & Amanda Edwards

TO: Growth Management Department

FROM: Richard & Lynne Smith, 1750 and 1756 Plantation Circle SE

Re: CP-13-2017 and CPZ-13-2017

We strongly OBJECT to changes in the zoning of this parcel, which is close to our home and the adjacent lot we purchased with our life savings 16 years ago. Prior to our purchase, we checked the deed restrictions on the legal requirements and were assured that all vacant lots would be strictly residential. Since then all residents have worked hard to maintain their properties in accordance with Palm Bay requirements. We have attained a lovely community of which we are proud.

After over a year of objecting and objecting to repeated attempts by the developed to beat us down into submitting to his wishes - through whatever devious temptations to the City by changing ordinances in order to bypass our codes with sweet promises and maneuvering, we still OBJECT to the insertion of commercial enterprises as unnecessary, dangerous, and downright intrusive to our community.

.Our wellbeing has been put into your hands. You represent us. We are your parents and grandparents, your children and grandchildren. We trust you to protect our well-earned pride in community. We are not against community development, but this request is not appropriate, not wanted and not needed, and we are counting on you to protect the interests of your residents ~ over those of out-of-area developers whose only interest is turning a buck.. Changing this zoning would constitute change for the worse, not better.

Respectfully submitted,

Richard E. & Lynne H. Smith

Chandra Powell

From: B <kaletas@hotmail.com>
Sent: Thursday, April 27, 2017 5:38 PM
To: Patrick Murphy; Chandra Powell; Terese Jones; Stuart Buchanan; William Capote; Harry Santiago Jr.; seat4@apfl.org; Jeff Bailey
Subject: REZONING OF PLANTATION CIRCLE CP-13-2017 & CPZ-13-2017

I OBJECT TO THE REZONING OF PLANTATION CIRCLE CASE #CP-13-2017 AND CPZ-13-2017.THE APPLICANT IS NOW ASKING FOR ALL 8.4 ACRES TO BE REZONE BUT REGARDLESS IF ITS 2-4-OR 8 ACRES YOU SHOULD NOT ALLOW THIS PROPERTY TO GO COMERCIAL IN THE MIDDLE OF OUR SUBDIVISION.THERE ARE MORE SUITED PROPERTIES OUT THERE TO BE USED AS COMERCIAL.THERE IS ALREADY PLENTY ON NON DEVELOPED COMERCIAL LAND OUT THERE THAT IS STILL VACANT WITH NO BUYERS.I THINK THIS PROPERTY WOULD BE BETTER SUITED FOR RESIDENTIAL HOMES WHERE THE CITY COULD COLLECT MORE TAXES .THIS SMALL TIME DEVELOPER IS JUST TRYING TO TURN A PROFIT AND WALK AWAY .THEY DON'T CARE ABOUT THE CITY OR THE RESIDENTS OF PALM BAY. PLEASE VOTE NO ON THIS REZONING .THANK YOU IN ADVANCE A LONG TIME RESIDENCE SINCE 1994 TIM KALETA1662 PLANTATION CIRCLE PALM BAY FL 32909

Chandra Powell

From: Bill and Lisa <wfaulken@cfl.rr.com>
Sent: Thursday, April 27, 2017 9:21 PM
To: Chandra Powell; Patrick Murphy; Robert Loring
Subject: Case numbers CP-13-2017 and CPZ-13-2017

We strongly object to the rezoning of the properties associated with the above case numbers. We have lived on Plantation Circle SE since we built our house in 1988. We decided to live here and raise our children because it was a quiet and quaint place. If you recommend the zoning change, it will profusely change the integrity of this neighborhood. We all take great pride in maintaining our property in keeping this a beautiful place to live and we would expect the members of the Planning and Zoning Board to act on our behalf.

The developers are only interested in reselling the property. They could care less about what this zoning change would do to our neighborhood or the values of our property. Please put yourselves in our shoes and think about the effects this would have on all of us.

Thank you.

Respectfully,
Bill and Lisa Faulkenberry
1842 Plantation Circle SE
Palm Bay, FL 32909



DATE: MAY 3, 2017
CASE #: CPZ-13-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

- PROPOSAL:** Rezoning from the RR, Rural Residential Zoning District to the CC, Community Commercial Zoning District.
- LOCATION:** The property is located at the SE corner of the intersection of Babcock Street SE and the north loop of Plantation Circle SE. Specifically; the subject property is Tax Parcel 506.1, of Section 34, Township 29 South, and Range 37 East, Brevard County, Florida.
- APPLICANT:** West Pointe Babcock, LLC (Stephen Burch, Esquire Representing)

SITE DATA

PRESENT ZONING: RR, Rural Residential District

ACREAGE: 8.41 acres (\pm)

DENSITY: One (1) unit per acre

ADJACENT ZONING

& LAND USE:

- N** -- RR, Rural Residential; Single Family Homes
- E** -- RR, Rural Residential; Vacant Residential Land
- S** -- RR, Rural Residential; Single Family Homes
- W** -- RR, Rural Residential; Babcock Street SE

WATER & SEWER: City Water & Sewer Available

TRAFFIC COUNTS: Not Available

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

COMPLIANCE WITH THE

COMPREHENSIVE PLAN: Yes, Subject to Approval of Case No. CP-13-2017

BACKGROUND:

1. The property is located at the SE corner of the intersection of Babcock Street SE and Plantation Circle SE. Specifically; the subject property is Tax Parcel 506.1, of Section 34, Township 29 South, and Range 37 East, Brevard County, Florida. The property is approximately 8.41 acres.
2. The adjacent zoning and land uses are as follows:

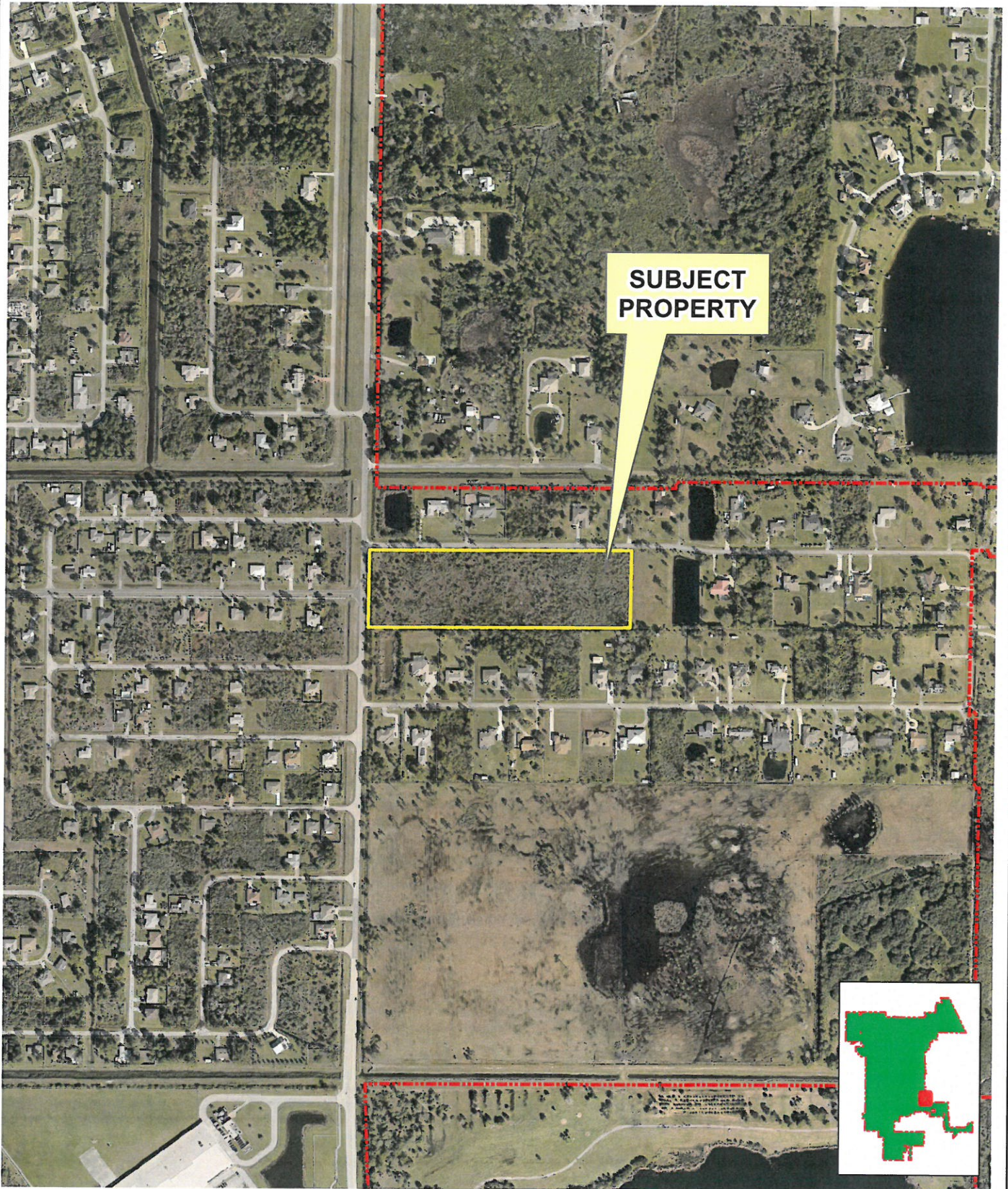
NORTH: RR, Rural Residential; Single Family Homes
EAST: RR, Rural Residential; Vacant Residential Land
SOUTH: RR, Rural Residential; Single Family Homes
WEST: RR, Rural Residential; Babcock Street SE
3. The applicant requests a rezoning from the RR, Rural Residential Zoning District to the CC, Community Commercial Zoning District. The applicant for this request is West Point Babcock, LLC. The applicant will be represented by the Law Firm of Smith & Associates.
4. On September 2, 2015 the applicant appeared before the Palm Bay Planning and Zoning Board with the same request, represented by a different Law Firm. Due to the Board's denial of the land use amendment, they also voted to deny the request. On December 17, 2015 the request was withdrawn before it was heard by the Palm Bay City Council. On August 3, 2016, the applicant appeared before the Planning and Zoning Board to request the same zoning category, this time for the west 4.41 acres of the subject property. Since the Board denied the request to amend the future land use amendment, they also voted to deny the rezoning request. The rezoning request was withdrawn on September 14, 2016, and was not heard by City Council.

ANALYSIS:

1. The property is presently vacant, residentially-zoned land. It is completely surrounded by RR Zoning, consisting mostly of developed, rural single family residential properties. As stated in the staff report for Case No. CP-13-2017, the applicant is requesting the rezoning in order to allow for future commercial uses upon the property. The primary access to the property would be from Babcock Street SE.
2. The purpose of the CC, Community Zoning District is to provide commercial areas that are primarily located at or near the intersection of arterial roadways; to designate those uses and services deemed appropriate and proper for location along a major thoroughfare; and to establish such development standards and provisions as are appropriate to ensure proper functioning of uses within the district. Based upon the analysis provided for in Case No. CP-13-2017, staff believes this request would not further this purpose.

STAFF CONCLUSION:

The Planning & Zoning Board and City Council must determine if the uses allowed within the CC, Community Commercial Zoning District would be compatible with the surrounding area. Should Case No. CP-13-2017 be denied, the rezoning request would be incompatible with the subject property's Future Land Use Designation of Single Family Residential Use.

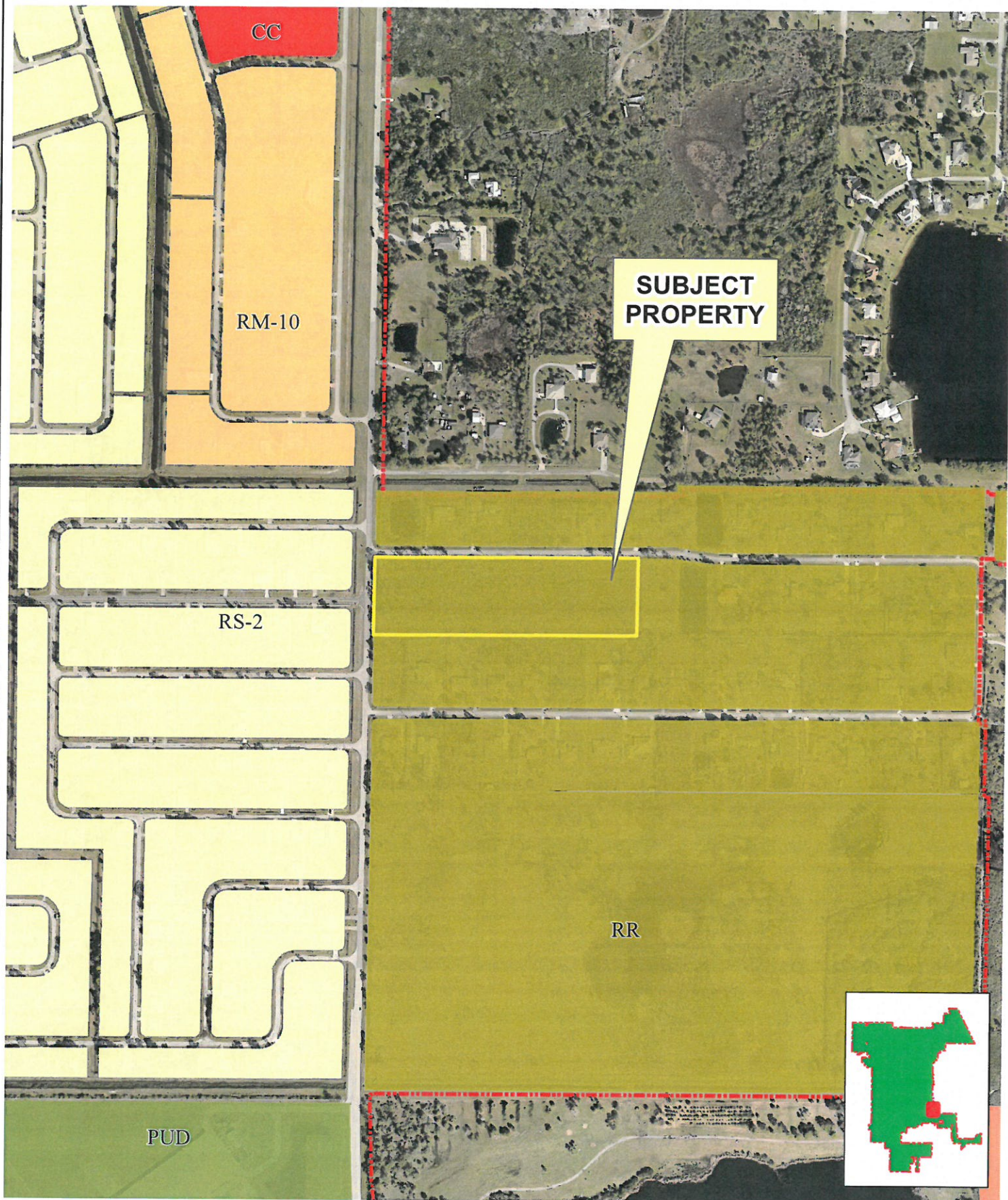


Map for illustrative purposes only. Not to be construed
as binding or as a survey.

Map created by the Land Development Division



**CASE NO. CP-13-2017
AND CPZ-13-2017**



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

Map created by the Land Development Division



CASE NO. CPZ-13-2017



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) West Pointe Babcock, LLC
ADDRESS c/o Smith & Associates 1499 S. Harbor City Blvd, Ste. 202
CITY Melbourne STATE FL ZIP 32901
PHONE # 321-676-5555 FAX # 321-676-5558
E-MAIL ADDRESS stephen@smithlawtlh.com

2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION

See attached - a larger pdf version is available upon request.

SECTION 34 TOWNSHIP 29S RANGE 37E

3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 8.4
4) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.) RR
5) ZONE CLASSIFICATION DESIRED (ex.: IU, LI, etc.): CC
6) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY? NO
7) JUSTIFICATION FOR REZONING: Fronts a major roadway
8) PRESENT USE OF THE PROPERTY: Vacant

9) INTENDED USE OF PROPERTY: Commercial

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

- ☒ *\$600.00 Application Fee. Make check payable to "City of Palm Bay."
☒ Property map showing adjacent properties and clearly outlining the subject parcel (for land use amendment(s)). Provide in PDF format if larger than 11" x 14".

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

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

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

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

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

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

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

Signature of Applicant



Date

3/23/2017

Printed Name of Applicant

Stephen Burch, Attorney for West Pointe Babcock, LLC

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

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

March 21, 2016

City of Palm Bay

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

WEST POINTE BABCOCK LLC


Alan Sakowitz, Managing Member

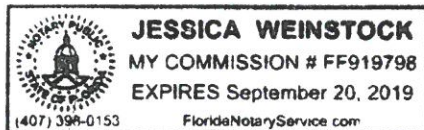
STATE OF FLORIDA


COUNTY OF Miami-Dade

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

AFFIRMED TO AND SUBSCRIBED before me this 23rd day of March,

2017.




NOTARY PUBLIC



DATE: MAY 3, 2017
CASE #: CU-19-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

APPLICATION

PROPOSAL: The applicant is requesting conditional use approval to allow a restaurant to serve alcohol upon a property zoned NC, Neighborhood Commercial District.

LOCATION: The restaurant, Copper Chimney, is located within the San Filippo Commercial Center at the northeast corner of San Filippo Drive SE and Wyoming Drive SE. Specifically, the property is located at 1181 San Filippo Drive SE.

APPLICANT: Copper Chimney Grill, LLC. (Maulik Shah)

SITE DATA

PRESENT ZONING: NC, Neighborhood Commercial District

ACREAGE: 3.62 acres (+)

DENSITY: Not Applicable

ADJACENT ZONING

& LAND USE:

- N** -- RS-2, Single Family Residential; Single Family Homes
- E** -- RS-2, Single Family Residential; Single Family Homes
- S** -- NC, Neighborhood Commercial; Wyoming Drive
- W** -- NC, Neighborhood Commercial; San Filippo Drive

WATER & SEWER: City Water & Sewer

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

**COMPLIANCE WITH THE
COMPREHENSIVE PLAN:** Yes

BACKGROUND:

1. The applicant, Copper Chimney Grill, LLC., is requesting conditional use approval to allow a restaurant to serve alcohol upon a property zoned NC, Neighborhood Commercial District. The restaurant is located within the San Filippo Commercial Center, at the northeast corner of San Filippo Drive SE and Wyoming Drive SE. Specifically, the property is located at 1181 San Filippo Drive SE.
2. Adjacent to the property on the north and east are vacant lots and single family homes, which are zoned RS-2, Single Family Residential. The subject parcel is bordered by Wyoming Drive to the south and San Filippo Drive to the west. Specifically, the property is Tract B, Port Malabar Unit 18, and contains approximately 3.62 acres of land.
3. On April 20, 2017 the Palm Bay City Council approved a textual amendment submitted by the same applicant to allow restaurants located in NC Zoning Districts to serve alcohol, as a Conditional Use (Ordinance 2017-30). This ordinance established the requirement that in order to serve alcohol the establishment shall be licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, as a bona fide Restaurant.

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, traffic flow and control, and access in case of fire or other emergency.

Copper Chimney is located in an existing commercial plaza that was completed in 2009. The site is accessed via driveway connections to both San Filippo and Wyoming Drives. The intersection of these two roadways is signalized. Sidewalks exist along the property's frontage upon both roads. No physical changes to the site design, with regards to access, are proposed or needed.

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

The existing plaza contains the minimum number of required parking spaces (74) per the zoning code. The addition of alcoholic beverages to the restaurant's menu does not require the business to provide additional parking areas.

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

All necessary utilities are available to the property.

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

Screening and buffering of the site from the abutting residential land was vetted during the site plan review process. The current request does not include any outside seating areas or other items that would warrant additional buffering.

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

No additional signage or lighting has been proposed.

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 were met under previous review.

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

The conditional use request for the sale of alcohol is not anticipated to create any nuisances from the number of persons that would patronage the restaurant.

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

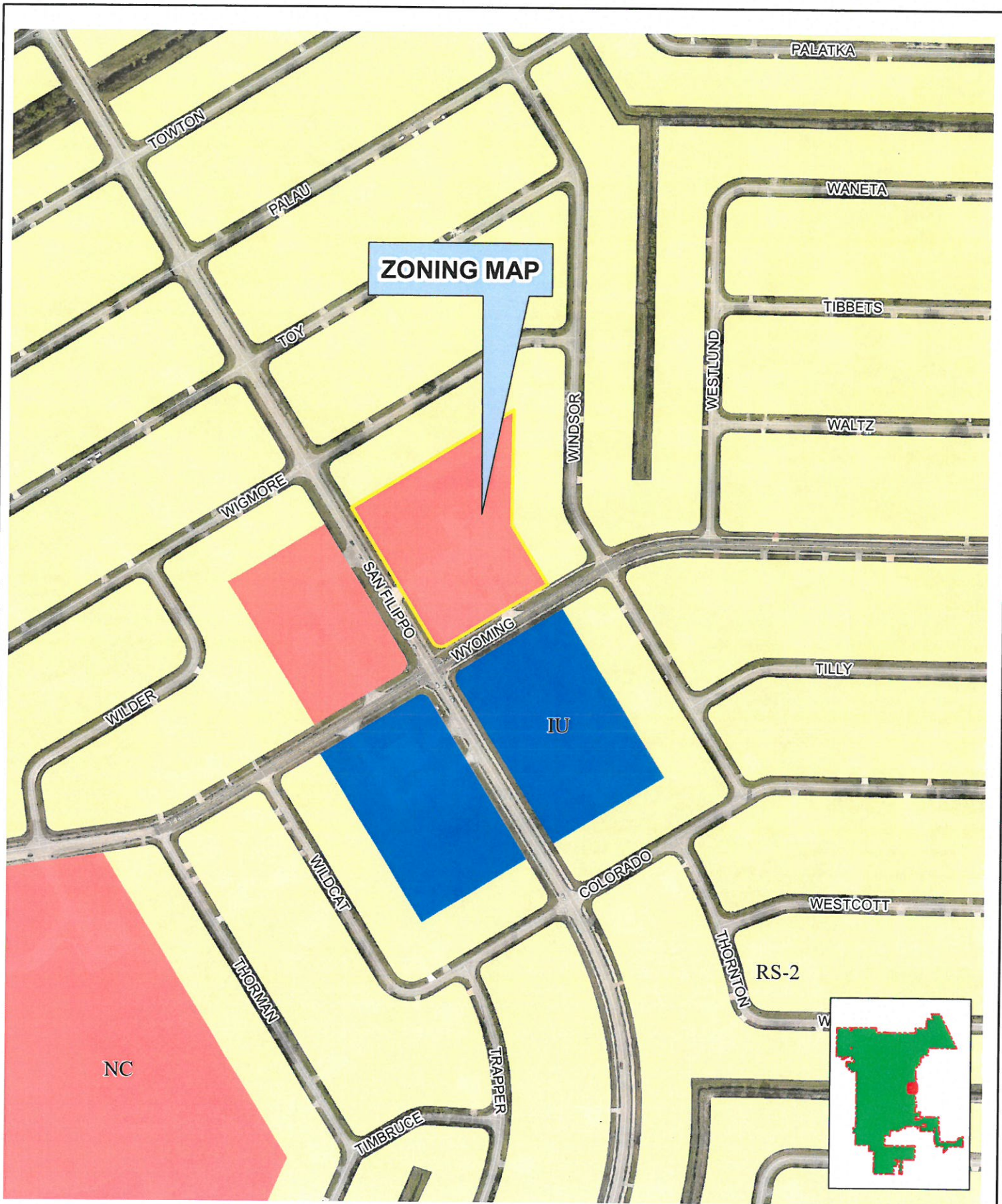
Staff can find no evidence that the request would create an incompatibility with adjacent properties.

Item (I): Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including, but not limited to, a reasonable time limit 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. City Staff has no suggested conditions for consideration.

STAFF RECOMMENDATION:

Staff recommends approval of Case No. CU-19-2017, subject to compliance with all applicable City Codes and other governmental regulations.

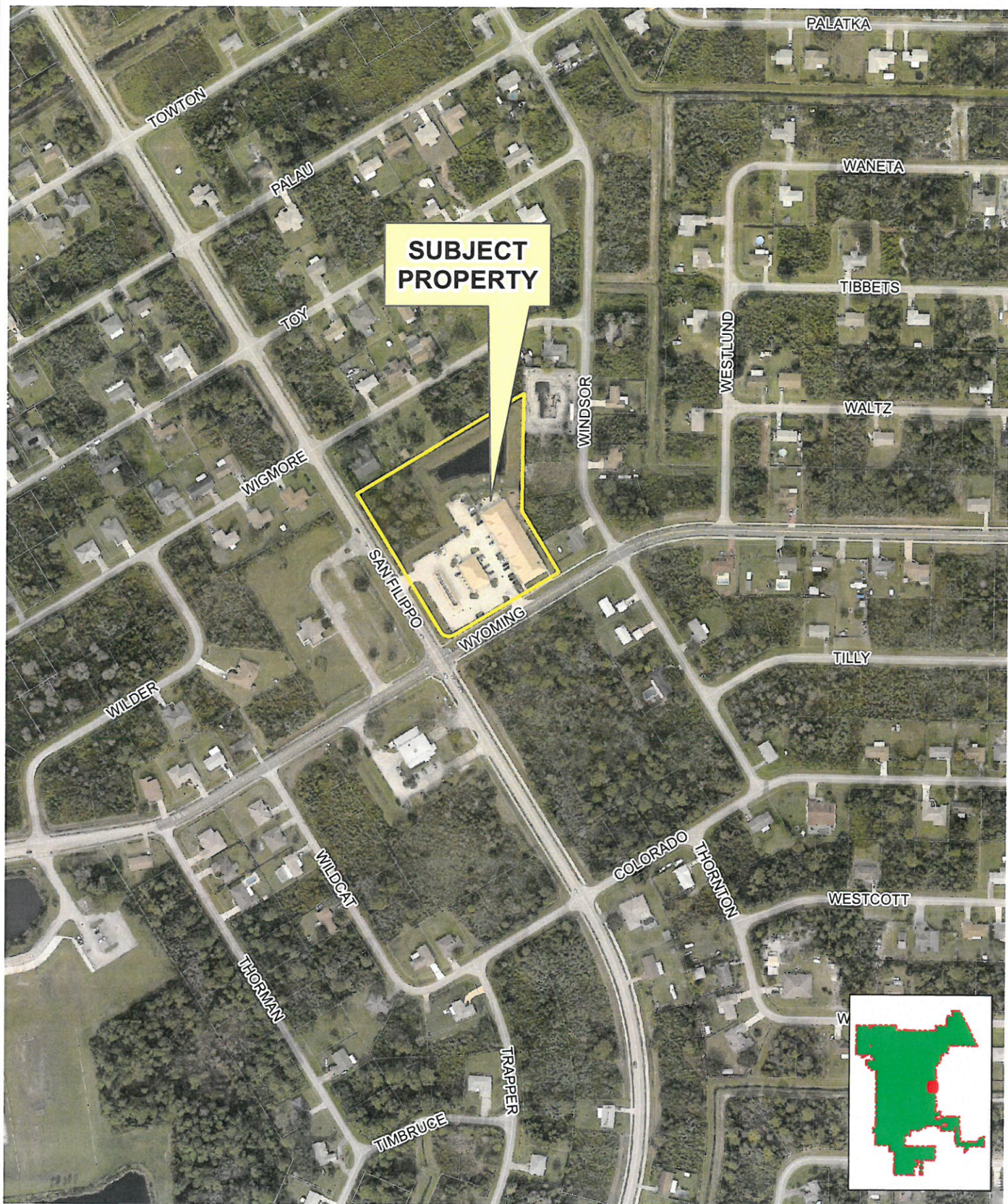


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



CASE NO. CU-19-2017

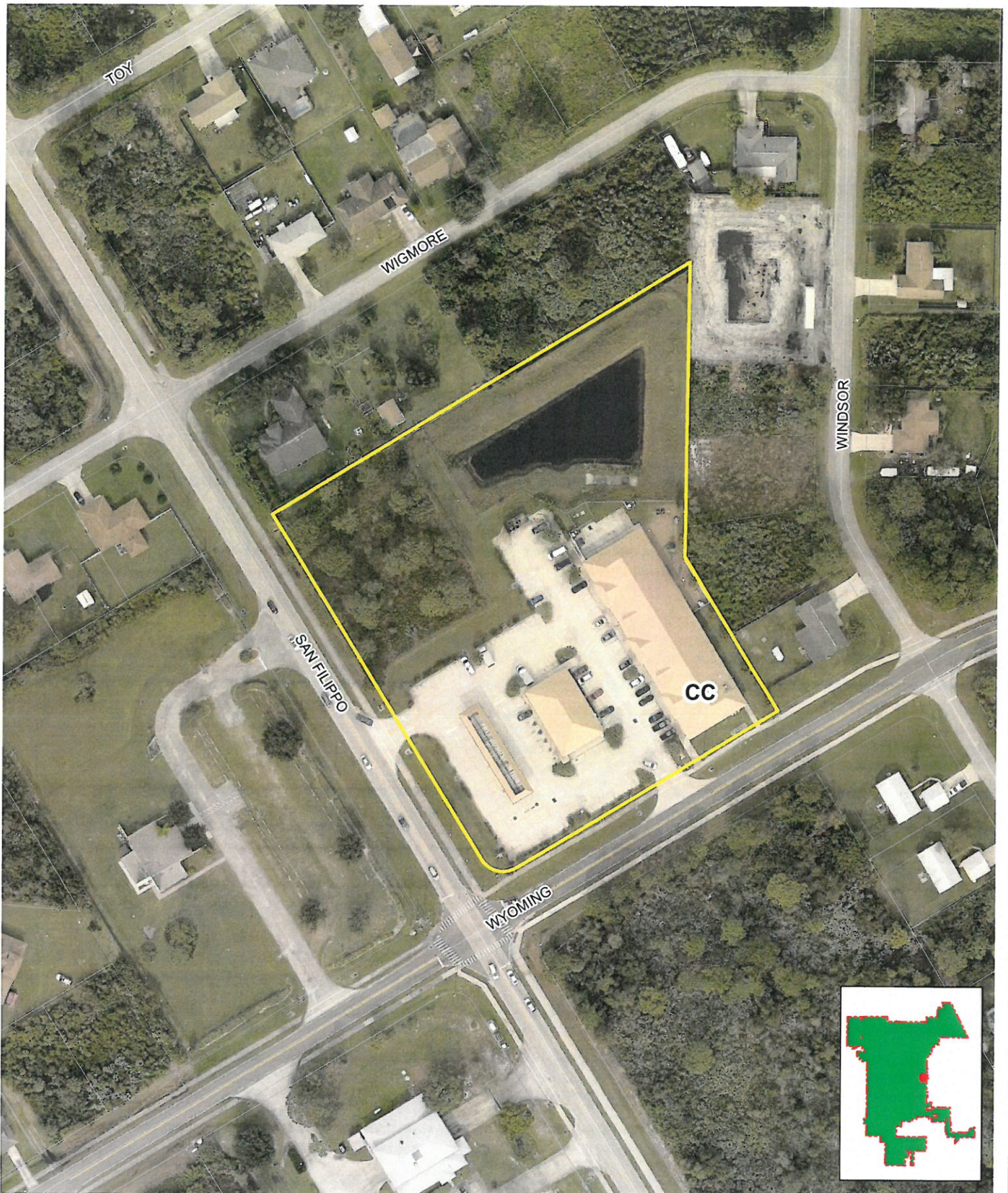


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as binding or as a survey.

Map created by the Land Development Division



CASE NO. CU-19-2017



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as binding or as a survey.

Map created by the Land Development Division



CASE NO. CU-19-2017



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) Copper Chimney Grill, LLC
ADDRESS c/o Carmel Development, LLC, 3860 Curtis Blvd, Suite 636
CITY Cocoa STATE FL ZIP 32927
PHONE # 321-536-5200 FAX # _____
E-MAIL ADDRESS carmel32927@gmail.com
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION:
Port Malabar Unit 18, Tract B, Plat Book 15, Page 109 Folio#29-37-16-GR-B a/k/a 1181 San Fillipo Dr. SE
SECTION 16 TOWNSHIP 29 RANGE 37
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 3.62
- 4) CONDITIONAL USE SOUGHT: Sale of Alcohol in restaurant for on the premises consumption
- 5) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.): NC - Neighborhood Commercial
- 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).

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

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

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

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

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

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

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

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

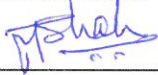
☒ Where property is not owned by the applicant, a letter must be attached giving the notarized consent of the owner for the applicant to request the conditional use.

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

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

03/17/17

Printed Name of Applicant

Maulik Shah

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

CASE CU-19-2017

CORRESPONDENCE: 1

Chandra Powell

From: Patrick Murphy
Sent: Thursday, April 27, 2017 4:06 PM
To: Chandra Powell
Subject: FW: Up coming Copper Chimney restaurant at 1181 San Fillipo DR

From: Carmine Ferraro [<mailto:carmel32927@gmail.com>]
Sent: Thursday, April 27, 2017 2:43 PM
To: David Moallem; Patrick Murphy
Subject: Re: Up coming Copper Chimney restaurant at 1181 San Fillipo DR

Thank you David for your support. I am forwarding your email to the Zoning Department for COPB.

Regards

Carmine Ferraro, President, Broker, Managing Member
Crossover Commercial Group, Inc.
Carmel Development, LLC

3860 Curtis Blvd., Suite 636
Port St. John, FL, 32927
(321) 536-5200 Cell/Direct

Confidentiality Note: The information contained in the electronic mail is privileged and confidential and is intended for the use of the individual or entity named above. If the reader of the message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this electronic mail is strictly prohibited. If you have received this electronic mail in error, please immediately notify the sender and delete copies.

On Thu, Apr 27, 2017 at 2:38 PM, David Moallem <palmbayland@gmail.com> wrote:
To Whom it may concern:

This letter is to support your request for conditional use Permit from myself my my companies in which own several properties in immediate neighborhood of the proposed restaurant.
I like to wish you good luck and welcome you to Palm bay, Florida.
should anyone has any question or concern regarding this letter please feel free to write or call me.

David Moallem & Companies

1663 NE Georgia St.

Suite #200

Palm Bay, FL. 32907

321-724-2424 Office

321-626-3590 Cell

321-951-8861 Fax

www.palmbayland.com

palmbayland@gmail.com



DATE: MAY 3, 2017
CASE #: CU-20-2017

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 southeast corner of Malabar Road and Jupiter Boulevard. Specifically, the property is Tracts D & D.1 of Port Malabar Unit 20, Section 2, Township 29 South, and Range 36 East, Brevard County, Florida.
- APPLICANT:** Circle K Stores, Inc. (Michael Higgins, Circle K Real Estate Director)

SITE DATA

PRESENT ZONING: CC, Community Commercial District

ACREAGE: 3.43 +/-

DENSITY: Not Applicable

ADJACENT ZONING

& LAND USE:

- N** -- CC, Community Commercial District; Malabar Road SW
- E** -- RS-2, Single Family Residential District; Single Family Homes
- S** -- RS-2, Single Family Residential District; Single Family Homes
- W** -- CC, Community Commercial District; Jupiter Boulevard SW

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 southeast corner of Malabar Road and Jupiter Boulevard. Specifically, the property is Tracts D & D.1 of Port Malabar Unit 20, Section 2, Township 29 South, and Range 36 East, Brevard County, Florida.
2. The current zoning is CC, Community Commercial. The surrounding zoning and land uses are as follows:

North: CC, Community Commercial District; Malabar Road SW
South: RS-2, Single Family Residential District; Single Family Homes
East: RS-2, Single Family Residential District; Single Family Homes
West: CC, Community Commercial District; Jupiter Boulevard SW
3. The property previously received conditional use approval in 2008, via Resolution No. 2008-47. However, the property owner did not seek development and the approval expired. Although the site contains a gas station, the proposed expansion is a substantial deviation from the binding site plan conditioned upon the original approval of this facility (Resolution No. 87-43).
4. The applicant, Circle K Stores, Inc. is requesting conditional use approval for retail automotive fuel sales upon property zoned CC, Community Commercial District. The applicant is represented by Peter Pensa of Avid Engineering, Inc.

ANALYSIS:

1. The project includes the removal of the existing underground storage tanks and all four (4) fueling appurtenances. The existing 4,166 square foot building will be razed and a new convenience store of approximately 5,319 square feet will be constructed. The new facility will also include an automatic car wash and seven (7) fuel islands, for a total of fourteen (14) fueling stations.
2. Stormwater treatment will be provided by a joint-use dry retention pond in the southern portion of the overall property. This retention area will service both the proposed development and the outparcel (1.28 acres) being created to the south of the new facility. May it be noted that any development of this outparcel will require an amendment to this conditional use approval, as no development is currently shown on the submitted plan. Moreover, a joint-use and maintenance agreement for this retention area, and the driveway access improvements, shall be recorded with the Brevard County Clerk of the Courts, prior to site plan approval.

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 Jupiter Boulevard and one (1) driveway onto Malabar Road. The current connection to Malabar will be removed and a right-in/right out only driveway constructed further east on the overall property. The northern driveway access to Jupiter will be a right-in/right-out only and the southern driveway is designed for full access. 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 27 parking spaces are required, of which at least two (2) spaces shall be designated for handicapped parking. The conceptual plan proposes 27 regular spaces and two (2) handicapped parking stalls, for an overall total of 29 spaces.

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

The facility is currently serviced by a potable well and septic system. The new facility will be required to connect to the city's water and sewer system, as these services are now available to the site. The applicant must follow the required procedures for abandonment of both the septic system and the potable well. The property has electric and phone services.

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 and west. The convenience store will be approximately 130 feet from the homes to the east and 240 from the homes to the south. The submitted plan proposes a 6-foot tall opaque fence along the east perimeter of the overall property. This fence shall also be constructed along the south property line.

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 facing Malabar Road and one on Jupiter Boulevard. A lighting plan has not been provided. It shall be noted that City code requires the design of lighting so as to not create a nuisance to adjacent properties. During 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. The traffic study will determine any necessary off-site roadway improvements. With regards to noise, the proposed car wash is to be located 10.5 feet from the rear property lines of Lots 9 & 10, Block 999, PMU 20. The Board and Council may want to consider a condition of locating the car wash adjacent to the east side of the convenience store. This will also move the internal driveway further away from existing homes. The displacement of the three (3) parking stalls that results from this mandate may be accommodated elsewhere on site.

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

The proposed "use" is permitted (via conditional use) and the site is bordered by roads on two (2) sides. The minimum building setbacks have met. Although the use exists today, the proposed expansion brings the development closer to existing residential to the east. The only incompatibility perceived by staff is the car wash building location.

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.

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 Jupiter Boulevard is designated as a Major Collector Roadway. This is the only fueling station at this intersection.

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

The gas station parcel contains approximately 291 feet along Malabar Road and 268 feet along Jupiter Boulevard.

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 are shown on the submitted plan to be placed twenty feet from the new (north) property line. That is, the applicant is dedicating the north 46 feet of its property to the City of Palm Bay for additional Malabar Road Right-of-Way. This was taken into account during fuel apparatus design. The closest property line is more than 100 feet from the fueling islands and the islands are 80 feet from the convenience store. The closest municipal or public supply well is approximately 3.5 miles to the northeast.

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.

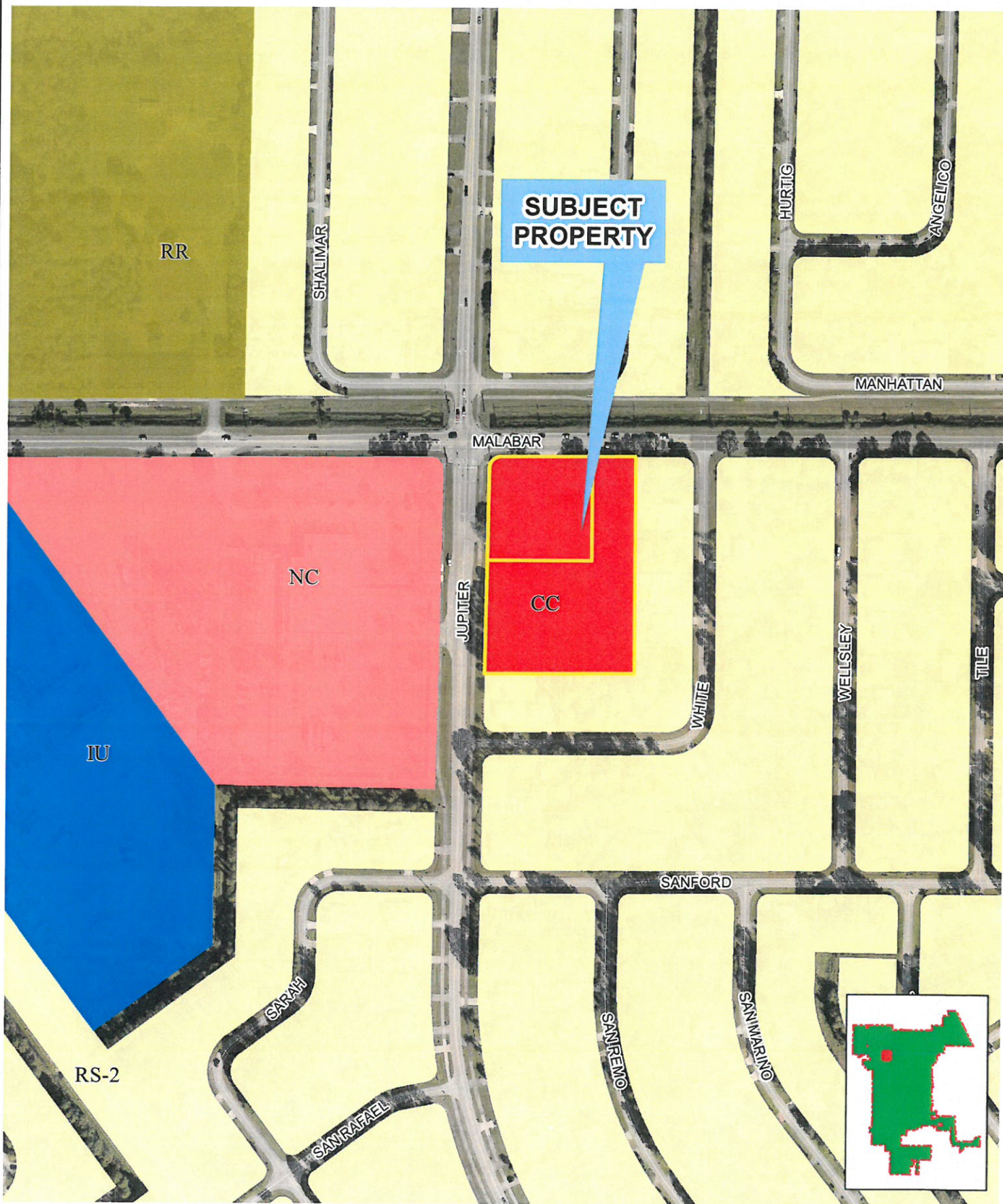
This was previously addressed under Item (E) of the general requirements.

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 RECOMMENDATION:

Staff recommends approval of Case No. CU-20-2017, subject to the recommendations contained within this report and compliance with all applicable City Codes and other governmental regulations.

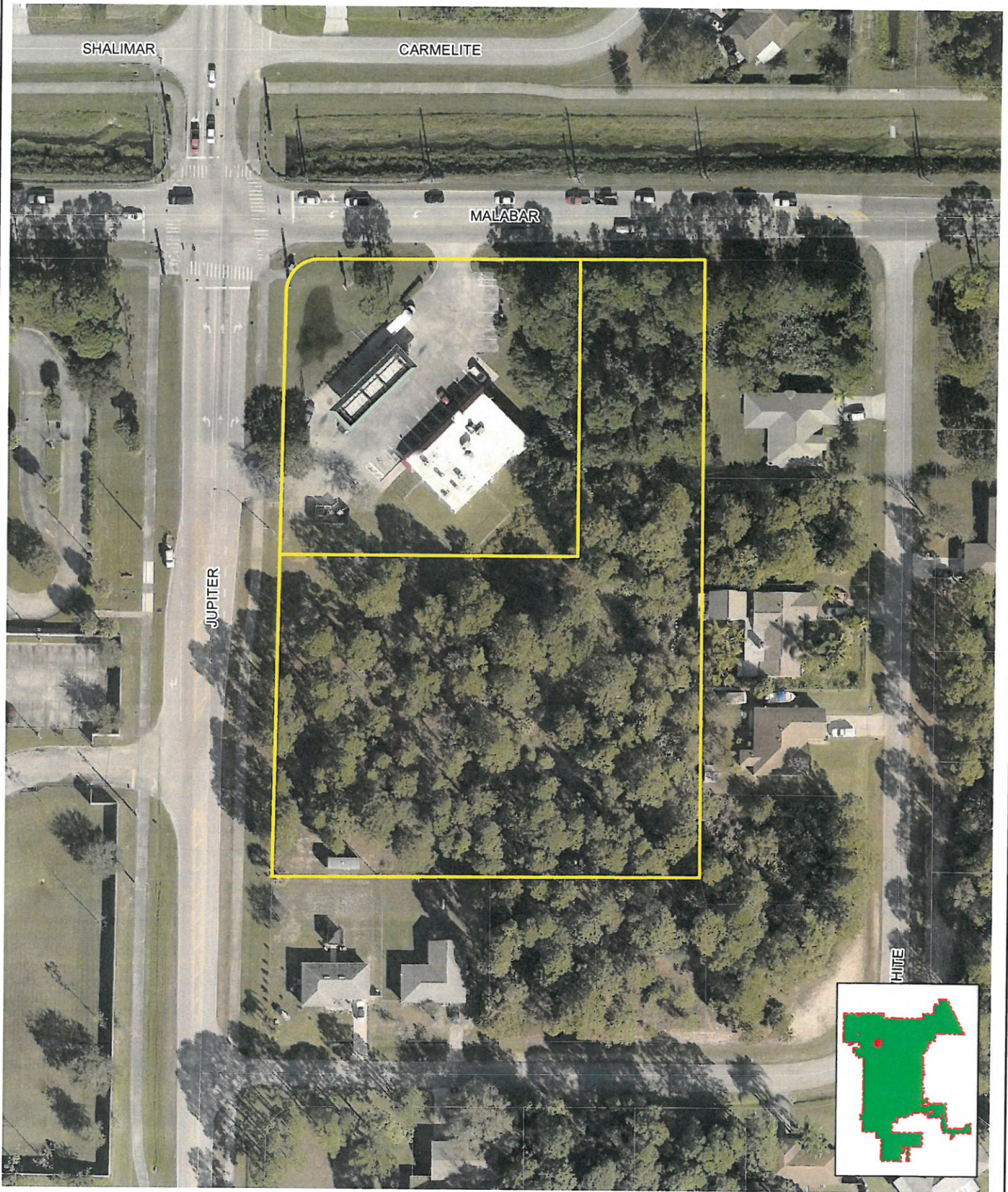


Map for illustrative purposes only. Not to be construed
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Map created by the Land Development Division



CASE NO. CU-20-2017



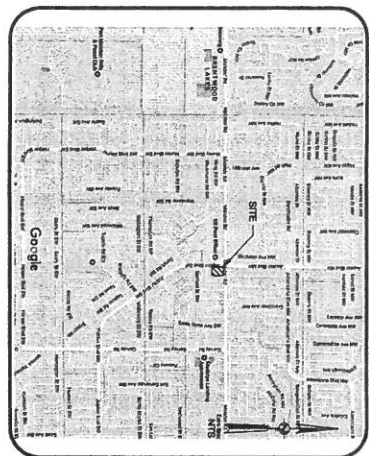
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as binding or as a survey.

Map created by the Land Development Division



CASE NO. CU-20-2017

LOCATION MAP



MAP REFERENCES

EXISTING AND PROPOSED ELEVATIONS
 INFORMATION FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) AND THE FLORIDA DEPARTMENT OF HIGHWAYS (FDH) IS PROVIDED FOR YOUR INFORMATION. THE DATA IS NOT GUARANTEED BY AVID GROUP.

LEGAL DESCRIPTION:

PARCEL 1:
 THE NORTH 25.00 FEET OF TRACT 2, PORT MALABAR UNIT TWENTY, ACCORDING TO THE PLAT RECORDED IN PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LESS AND EXCEPT THEREFROM THE LATTERLY 1' BOUND FEET.

PARCEL 2:
 TRACT 2, PORT MALABAR UNIT TWENTY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LESS AND EXCEPT THEREFROM THE LATTERLY 25.00 FEET OF THE WEST 75.00 FEET.

NOTHING PREVENTS THE ALSO DESCRIBED AS FOLLOWS:
 TRACT 2, PORT MALABAR UNIT TWENTY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LESS AND EXCEPT THEREFROM THE LATTERLY 25.00 FEET OF THE WEST 75.00 FEET.

PROFESSIONAL TEAM

CIVIL ENGINEER/PLANNER:
 AVID GROUP
 2500 CURLEW ROAD, SUITE 201
 PALM HARBOR, FLORIDA 34883
 PHONE: (772) 788-9000

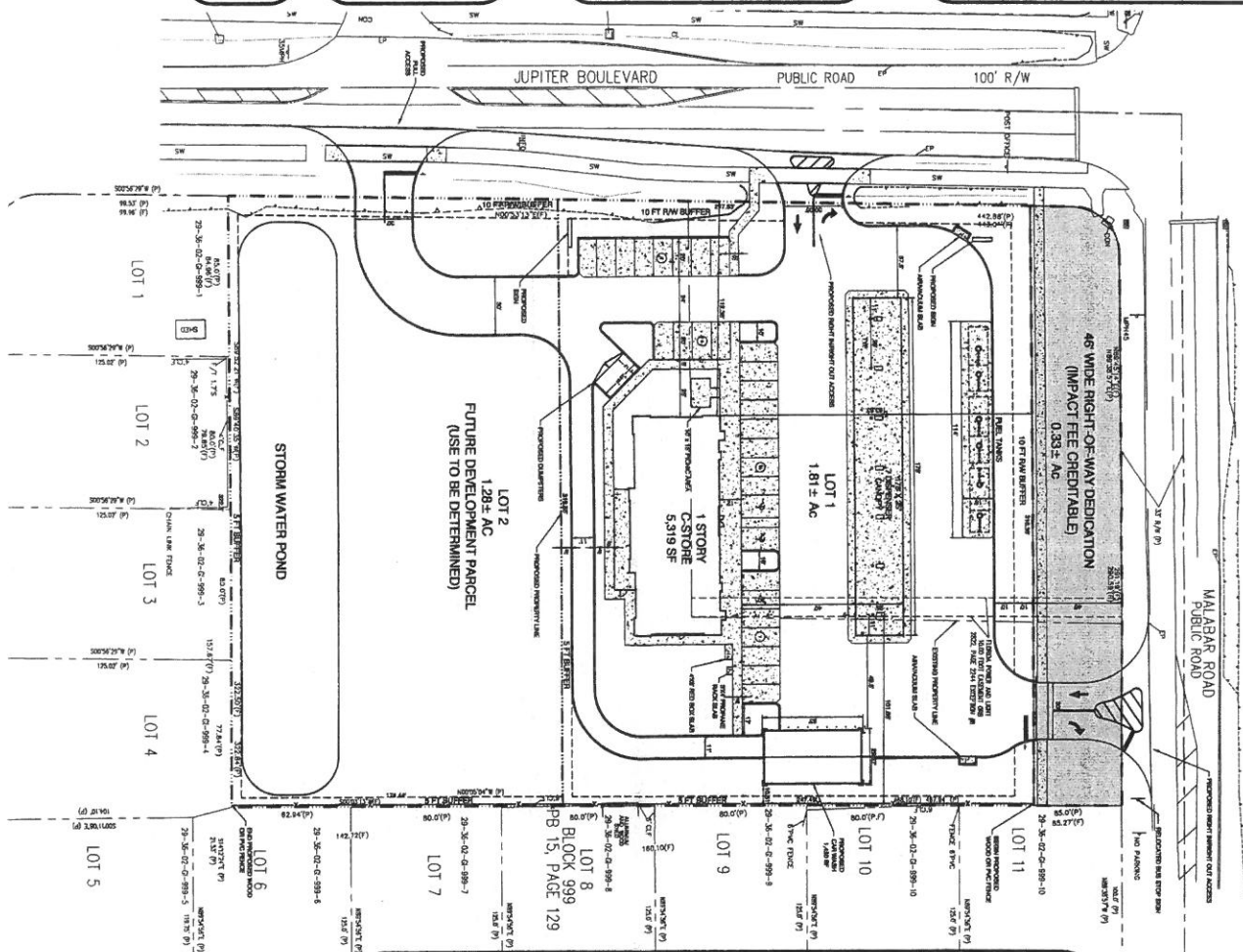
GEOTECHNICAL ENGINEER:
 AVID GROUP
 2500 CURLEW ROAD, SUITE 201
 PALM HARBOR, FLORIDA 34883
 PHONE: (772) 788-9000

ARCHITECT:
 AVID GROUP
 2500 CURLEW ROAD, SUITE 201
 PALM HARBOR, FLORIDA 34883
 PHONE: (772) 788-9000

LANDSCAPE ARCHITECT:
 AVID GROUP
 2500 CURLEW ROAD, SUITE 201
 PALM HARBOR, FLORIDA 34883
 PHONE: (772) 788-9000

THE DESIGN AND IDEAS INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE PROPERTY OF AVID GROUP AND IS NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT WRITTEN AUTHORIZATION FROM AVID GROUP.

ADDITIONAL INFORMATION SHOULD NOT BE OBTAINED BY SCALING THE PLANS, AND GROUP, © 2017 788-9000.



SITE DATA



SCALE: 1" = 20'

PROPERTY OWNER:
 CIRCLE K STORES, INC.
 1400 PALM BLVD., SUITE 100
 PALM BEACH, FLORIDA 33480

PROPERTY LOCATION:
 46 WIDE RIGHT-OF-WAY DEDICATION
 (IMPACT FEE CREDITABLE)
 0.33 ± AC

PROPERTY ZONING:
 EXISTING: COMMERCIAL (C-1)
 PROPOSED: COMMERCIAL (C-1)

PROPERTY USE:
 EXISTING: COMMERCIAL (C-1)
 PROPOSED: COMMERCIAL (C-1)

MINIMUM LOT AREA:
 12,500 SF
 TOTAL: 78,744 SF (LOT 1)
 12,500 SF (LOT 2)
 12,500 SF (LOT 3)
 12,500 SF (LOT 4)
 12,500 SF (LOT 5)
 12,500 SF (LOT 6)
 12,500 SF (LOT 7)
 12,500 SF (LOT 8)
 12,500 SF (LOT 9)
 12,500 SF (LOT 10)
 12,500 SF (LOT 11)

MINIMUM LOT WIDTH:
 100 FT
 TOTAL: 78,744 SF (LOT 1)
 100 FT (LOT 2)
 100 FT (LOT 3)
 100 FT (LOT 4)
 100 FT (LOT 5)
 100 FT (LOT 6)
 100 FT (LOT 7)
 100 FT (LOT 8)
 100 FT (LOT 9)
 100 FT (LOT 10)
 100 FT (LOT 11)

MINIMUM LOT DEPTH:
 100 FT
 TOTAL: 78,744 SF (LOT 1)
 100 FT (LOT 2)
 100 FT (LOT 3)
 100 FT (LOT 4)
 100 FT (LOT 5)
 100 FT (LOT 6)
 100 FT (LOT 7)
 100 FT (LOT 8)
 100 FT (LOT 9)
 100 FT (LOT 10)
 100 FT (LOT 11)

MINIMUM BUILDING COVERAGE:
 100 FT
 TOTAL: 78,744 SF (LOT 1)
 100 FT (LOT 2)
 100 FT (LOT 3)
 100 FT (LOT 4)
 100 FT (LOT 5)
 100 FT (LOT 6)
 100 FT (LOT 7)
 100 FT (LOT 8)
 100 FT (LOT 9)
 100 FT (LOT 10)
 100 FT (LOT 11)

MINIMUM BUILDING HEIGHT:
 100 FT
 TOTAL: 78,744 SF (LOT 1)
 100 FT (LOT 2)
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 100 FT (LOT 7)
 100 FT (LOT 8)
 100 FT (LOT 9)
 100 FT (LOT 10)
 100 FT (LOT 11)

MINIMUM SETBACK REQUIREMENTS:
 100 FT
 TOTAL: 78,744 SF (LOT 1)
 100 FT (LOT 2)
 100 FT (LOT 3)
 100 FT (LOT 4)
 100 FT (LOT 5)
 100 FT (LOT 6)
 100 FT (LOT 7)
 100 FT (LOT 8)
 100 FT (LOT 9)
 100 FT (LOT 10)
 100 FT (LOT 11)

LOT 1 COVERAGE CALCULATIONS:	EXISTING	PROPOSED
TOTAL AREA	4,166 SF	6,750 SF
MINIMUM LOT AREA	12,500 SF	12,500 SF
MINIMUM LOT WIDTH	100 FT	100 FT
MINIMUM LOT DEPTH	100 FT	100 FT
MINIMUM BUILDING COVERAGE	100 FT	100 FT
MINIMUM BUILDING HEIGHT	100 FT	100 FT
MINIMUM SETBACK REQUIREMENTS	100 FT	100 FT
TOTAL AREA	4,166 SF	6,750 SF
TOTAL LOT AREA	78,744 SF	78,744 SF
TOTAL LOT WIDTH	100 FT	100 FT
TOTAL LOT DEPTH	100 FT	100 FT
TOTAL BUILDING COVERAGE	100 FT	100 FT
TOTAL BUILDING HEIGHT	100 FT	100 FT
TOTAL SETBACK REQUIREMENTS	100 FT	100 FT

NOTES:

- THE SITE IS LOCATED IN PARCELS 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

**CIRCLE K @ SEC MALABAR RD
 & JUPITER BLVD
 PALM BAY, FLORIDA
 PRELIMINARY SITE PLAN**

CIRCLE K STORES, INC.

AVID GROUP

CIVIL ENGINEERING 2500 CURLEW ROAD, SUITE 201
 PALM HARBOR, FLORIDA 34883
 PHONE: (772) 788-9000
 FAX: (772) 784-8888 EXT. 144
 AVIDGROUP.COM

NO.	DATE	DESCRIPTION	BY
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AVID Group®
2300 Curlew Road, Suite 201
Palm Harbor, Florida 34683
Phone (727) 789-9500
www.avidgroup.com
[AUTH#6139 LB7345]

PROJECT NARRATIVE

Application for Conditional Use

900 SW Malabar Rd, Palm Bay, FL

Project Description

Subject property is a 3.42 acre +/- tract of land comprised of two parcels located at the southeast corner of Malabar Rd and Jupiter Blvd in the City of Palm Bay, Brevard County, Florida (Parcel Nos. 29-36-02-GI-D and 29-36-02-GI-D1). The northern parcel is currently developed and operating as a 4,166 sq.ft. convenience store with 8 fueling positions (4 multi-fuel dispensers). The southern parcel is vacant commercial land. The property owner is seeking conditional use site plan approval to redevelop the property with a 5,319 sq.ft. convenience store with 14 fueling positions (7 multi-fuel dispensers) and an automated car wash facility. The common lot lines between the parcels will be adjusted in order to accommodate the convenience store redevelopment project on 1.81 acres +/-, which leaves a 1.28 acre +/- parcel available for future commercial development (use to be determined). The parcels will have shared access and stormwater facilities. The City has requested reservation/dedication of 46' of right-of-way (0.33 acres +/-) along the property frontage in order to accommodate future widening of Malabar Road.

Review Criteria

Pursuant to Code Section 185.087, the City Council shall consider the following guidelines and standards when granting a conditional use. In furtherance of this requirement, the applicants' professional land planning and engineering consultant has made the following findings in support of the project:

- (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.**

Applicant's finding: The current convenience store development has one driveway each onto Malabar Road and Jupiter Boulevard. These driveways will be relocated to meet/exceed the City's current spacing requirements from the intersection. Plus, an additional driveway will be constructed on Jupiter Boulevard in order to accommodate the future development parcel and to provide internal cross-access between both parcels as shown on the preliminary site plan. These driveways will meet City standards and will provide for safe and convenient access, traffic flow and control. There is an existing sidewalk along the Jupiter Boulevard property frontage but none along Malabar Road. A new sidewalk will be constructed along the Malabar Road property frontage (post right-of-way dedication) and the existing bus stop will be relocated to the east side of the new driveway.

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

Applicant's finding: There is adequate parking and loading proposed to meet the City's parking and loading standards, as well as to meet the operational needs of the convenience store. The redevelopment project will not create undue noise, glare, odor or other detrimental effects upon adjoining properties.

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

Applicant's finding: The existing convenience store is served by a private well (for potable water and fire suppression) and septic system. The City has potable water and sanitary sewer mains located nearby, which will be extended to the site in order to serve the redevelopment project.

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

Applicant's finding: The proposed screening and buffering will meet or exceed City standards as shown on the preliminary site plan.

(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.

Applicant's finding: The proposed signs and lighting will comply with City standards so as to promote traffic safety and eliminate or minimize 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.

Applicant's finding: The proposed yards and open spaces will meet or exceed City standards as shown on the preliminary site plan.

(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.

Applicant's finding: The proposed convenience store redevelopment project will function like any other similar use and will not constitute a nuisance or hazard to adjoining properties or the general public.

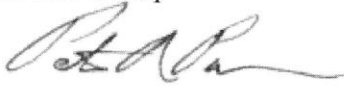
(H) The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.

Applicant's finding: The proposed development is a redevelopment project being undertaken by the property owner to expand and modernize their existing convenience store use of the property.

(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.

Applicant's finding: The applicant does not believe additional conditions or safeguards are necessary.

Prepared by:
AVID Group

A handwritten signature in black ink, appearing to read 'Peter R. Pensa', written over a horizontal line.

Peter R. Pensa, AICP
Associate / Director of Planning



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) Circle K Stores, Inc. (ATTN: Avid Group, Peter Pensa, (agent))
ADDRESS 2300 Curlew Rd, Suite 201
CITY Palm Harbor STATE FL ZIP 34683
PHONE # 727 789-9500 x 181 FAX # _____
E-MAIL ADDRESS peter.pensa@avidgroup.com (with copy to mhiggins@circlek.com)
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION:
See attached

SECTION 29 TOWNSHIP 36 RANGE 02
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 3.42+/- acres
- 4) CONDITIONAL USE SOUGHT: Retail automotive gas/fuel sales
- 5) ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.): CC - Community Commercial District
- 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 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
- ☐ Communication tower and facilities
- ☐ Dance club (Sec. 185.088(J))
- ☐ Public or private school
- ☐ Self-storage facility

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

- ☒ *\$600.00 Application Fee. Make check payable to "City of Palm Bay."
- ☒ A listing of legal descriptions of all properties within a 500 foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This can be obtained for a fee from the Brevard County Planning and Zoning Department at 321-633-2060.)
- ☐ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.
- ☒ Property map showing properties within 500 foot radius, and clearly outlining the subject parcel.
- ☒ Location map showing properties adjacent uses, zoning, streets, driveways, canals, and utilities.
- ☒ Citizen Participation Plan. Refer to Section 169.005 of the Land Development Code for guidelines.
- ☐ Where property is not owned by the applicant, a letter must be attached giving the notarized consent of the owner for the applicant to request the conditional use.
- ☒ In order to disclose all parties seeking this approval, complete the attached disclosures of ownership interests forms for property owners and/or applicants In reference to Resolution 2008-19.

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

3/24/17

Printed Name of Applicant

Peter Pensa, AICP (agent)

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



DATE: MAY 3, 2017
CASE #: T-21-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

TEXTUAL AMENDMENT APPLICATION

PROPOSAL: A textual amendment to the Code of Ordinances, Title V, Legislative, Chapter 52: Boards, Section 52.141 Duties and Responsibilities, to further clarify the role of the Planning and Zoning Board.

CODE CITATION: Section 52.141

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 V, Legislative, Chapter 52: Boards, Section 52.141 Duties and Responsibilities, to further clarify the role of the Planning and Zoning Board.
2. The applicant for this request the City of Palm Bay, 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 Planning and Zoning Board (Board) was established as the local planning agency for the City in 1981 (Ordinance No. 81-28), as mandated by F.S. § 163.3174.
2. The Board makes recommendations to City Council on matters that pertain to the chapters found in Title XVII, Land Development Code.
3. The purpose of this amendment is to codify exactly what these matters are.

STAFF RECOMMENDATION:

Case No. T-21-2017 is recommended for approval.

§ 52.141 DUTIES AND RESPONSIBILITIES.

The duties and responsibilities of the Planning and Zoning Board shall be established by the Legislature of the State of Florida as set forth in the Local Government Comprehensive Planning Act [i.e., F.S. Ch. 163], and the Board shall have the authority to exercise those powers granted therein. The Board shall also have the responsibility and authority to hear and make recommendations concerning variances and appeals from the terms of the Land Development Code pursuant to § 169.009. Specifically, these powers include the review of proposed land development regulations, land development codes, or amendments thereto, and to make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof.



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 Malabar Road SE
CITY Palm Bay STATE Florida ZIP 32907
PHONE # 321-733-3041 FAX # 321-953-8920
E-MAIL ADDRESS stuart.buchanan@palmbayflorida.org
PERSON(S) TO BE NOTIFIED (if different from above) Stuart Buchanan, Growth Management Director
ADDRESS _____
CITY _____ STATE _____ ZIP _____
PHONE # _____ FAX # _____
E-MAIL ADDRESS _____
- 2) ORDINANCE SECTION PROPOSED TO BE CHANGED: 52.141 Duties and Responsibilities

- 3) PROPOSED LANGUAGE (attach addendum if necessary): See Attached

- 4) JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary): _____
Clarify the duties and responsibilities of the Planning and Zoning Board

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

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

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

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

Signature of Applicant



Date

3/31/17

Printed Name of Applicant

Stuart Buchanan, Growth Management Director

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



DATE: MAY 3, 2017
CASE #: T-22-2017

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 184: Subdivisions, in order to adopt provisions for water and sewer in minor subdivisions.

CODE CITATION: Section 184.34

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 184: Subdivisions, in order to adopt provisions for water and sewer in minor subdivisions.
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 purpose of the subdivision ordinance is to protect and provide for the public health, safety and general welfare of the city, in accordance with the City's Comprehensive Plan. This is accomplished through the establishment of reasonable standards of design and procedures for subdivisions and re-subdivisions of land. The chapter also seeks to ensure that public facilities are available and will have sufficient capacity to serve the proposed subdivision; assure the adequacy of drainage facilities; prevent pollution of surface water; and encourage the wise use and management of natural resources throughout the city.
2. Chapter 184 of the Palm Bay Code of Ordinances was adopted in 1996 and has had several minor amendments since that time. Most recently, the Chapter was amended to allow developers to post a bond that covers the cost of constructing a new sidewalk when the proposed subdivision is along a section of roadway that has no connecting sidewalks. The chapter was also recently amended for the inclusion of an administrative process that allows for a minor subdivision of land.
3. The purpose of this amendment is to provide requirements for constructing minor subdivisions, with respect to the provision of water and sewer. Since the minor subdivision section was adopted, staff has received feedback from developers that the development of small subdivisions on city water and sewer is cost-prohibitive. Therefore, in drafting the attached language staff researched Chapter 381 of the Florida Statutes, which regulates the issuance of septic tank permits.

STAFF FINDINGS:

Case No. T-22-2017 is recommended for approval.

§ 184.34 MINOR SUBDIVISIONS.

(A) *Minor subdivisions.* Division of such parcels into no more than ~~six (6)~~ ten (10) lots that comply with the following criteria shall be considered a minor subdivision and shall be administratively reviewed in two (2) stages: 1) preliminary plat review; and 2) construction plan and final plat review. A minor subdivision may be approved for a division of land if the following conditions are met:

(D) Provision of water and sewer: A minor subdivision may be developed under the following parameters:

(1) Parcels with city water available to them, meaning existing water lines running along the parcel's frontage or across the street that the parcel has frontage upon, may be exempt from providing city sewer if existing sewer lines are not located within ¼ mile of the parcel. This distance shall be measured using existing road right-of-ways. For such a parcel of land, the lots in the minor subdivision shall be a minimum of ½ acre in size. The subdivision must connect to the city water system.

(2) Parcels with city water available to them, and existing sewer lines located within ¼ mile of the parcel must provide sewer to each lot, regardless of the size of the lots in the subdivision. The subdivision must connect to the city water system.

(3) Parcels located within areas that do not have either water or sewer lines available to them shall be required to provide both water and sewer to the subdivision, unless each lot is a minimum of one (1) acre in size. If both water and sewer are brought to the site, then the minimum lot size shall be consistent with what is provided for in the applicable Zoning District.



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 Florida 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) Stuart Buchanan, Growth Management Director
ADDRESS _____
CITY _____ STATE _____ ZIP _____
PHONE # _____ FAX # _____
E-MAIL ADDRESS _____
- 2) ORDINANCE SECTION PROPOSED TO BE CHANGED: 184.34 Minor Subdivisions

- 3) PROPOSED LANGUAGE (attach addendum if necessary): See Attached


- 4) JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary): _____
Provide Additional Standards for Minor Subdivisions

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

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

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

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

Signature of Applicant  **Date** 3/31/17
Printed Name of Applicant Stuart Buchanan, Growth Management Director

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



DATE: MAY 3, 2017
CASE #: CP-15-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

COMPREHENSIVE PLAN AMENDMENT APPLICATION

- PROPOSAL:** Amend the Comprehensive Plan Future Land Use Map from Recreation and Open Space Use to Single Family Residential Use.
- LOCATION:** The subject property is located in the vicinity of Dozier Circle SE. Specifically, Tract D of Port Malabar Unit 50, Section 17, Township 29 South, Range 37 East, Brevard County, Florida.
- APPLICANT:** City of Palm Bay, Growth Management Department (Stuart Buchanan, Director)

SITE DATA

PRESENT ZONING: RS-2, Single Family Residential District

**LAND USE
DESIGNATION:** Recreation and Open Space Use (ROS)

ACREAGE: 7.01 Acres +/-

ADJACENT ZONING

& LAND USE:

N	-- RS-2, Single Family Residential; Single Family Homes
E	-- RS-2, Single Family Residential; Single Family Homes
S	-- RS-2, Single Family Residential; Single Family Homes
W	-- RS-2, Single Family Residential; Single Family Homes

BACKGROUND:

1. The subject property is located in the vicinity of Dozier Circle SE. Specifically, Tract D of Port Malabar Unit 50, Section 17, Township 29 South, Range 37 East, Brevard County, Florida.
2. The vacant tract has single family homes to the North, South, East and West, which are zoned RS-2, Single Family Residential.
3. The applicant is requesting a small-scale Comprehensive Plan Future Land Use Map Amendment to change from Recreation and Open Space Use to Single Family Residential Use. The applicant for this request is the City of Palm Bay, Growth Management Department.

ANALYSIS:

Availability of Public Facilities and Services:

Potable Water: Provided by the City of Palm Bay.

Sanitary Sewer: The area is serviced by individual septic systems.

Solid Waste: Provided by Waste Management.

Parks & Recreation: The proposed future land use amendment would not exceed existing parkland or recreational level of service standards for the Planning Area.

Drainage: The site is presently vacant and in its natural state. A storm water drainage system may 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 proposed future land use amendment is below the 1% minimum threshold. The applicant intends to sell this tract of land as it has been deemed surplus land to be developed for future single family use. The future development is consistent with its current zoning classification and compatible with other single family uses surrounding the subject property. The use will not negatively impact the surrounding road network.

Public Schools: Future single family residential uses will impact the public school system; however, due to the relatively small size of the tract, the impact does not appear to be significant.

Environmental Resources:

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

Coastal High Hazard Zone:

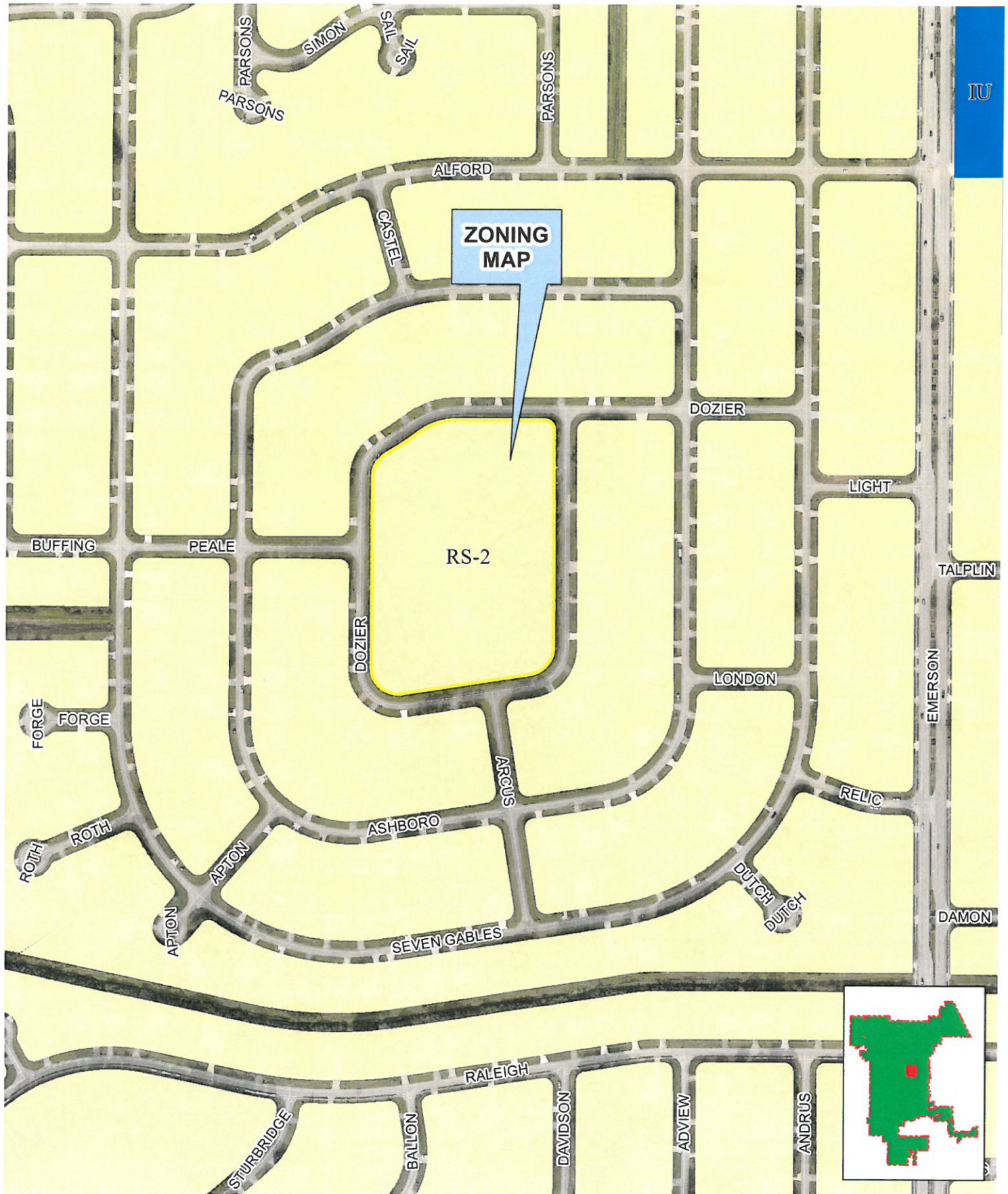
The subject property is not located within the Coastal High Hazard Zone or the current surge area.

Historic Resources:

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

STAFF CONCLUSION:

Motion to approve Case No. CP-15-2017, pursuant to Chapter 163, Florida Statutes.

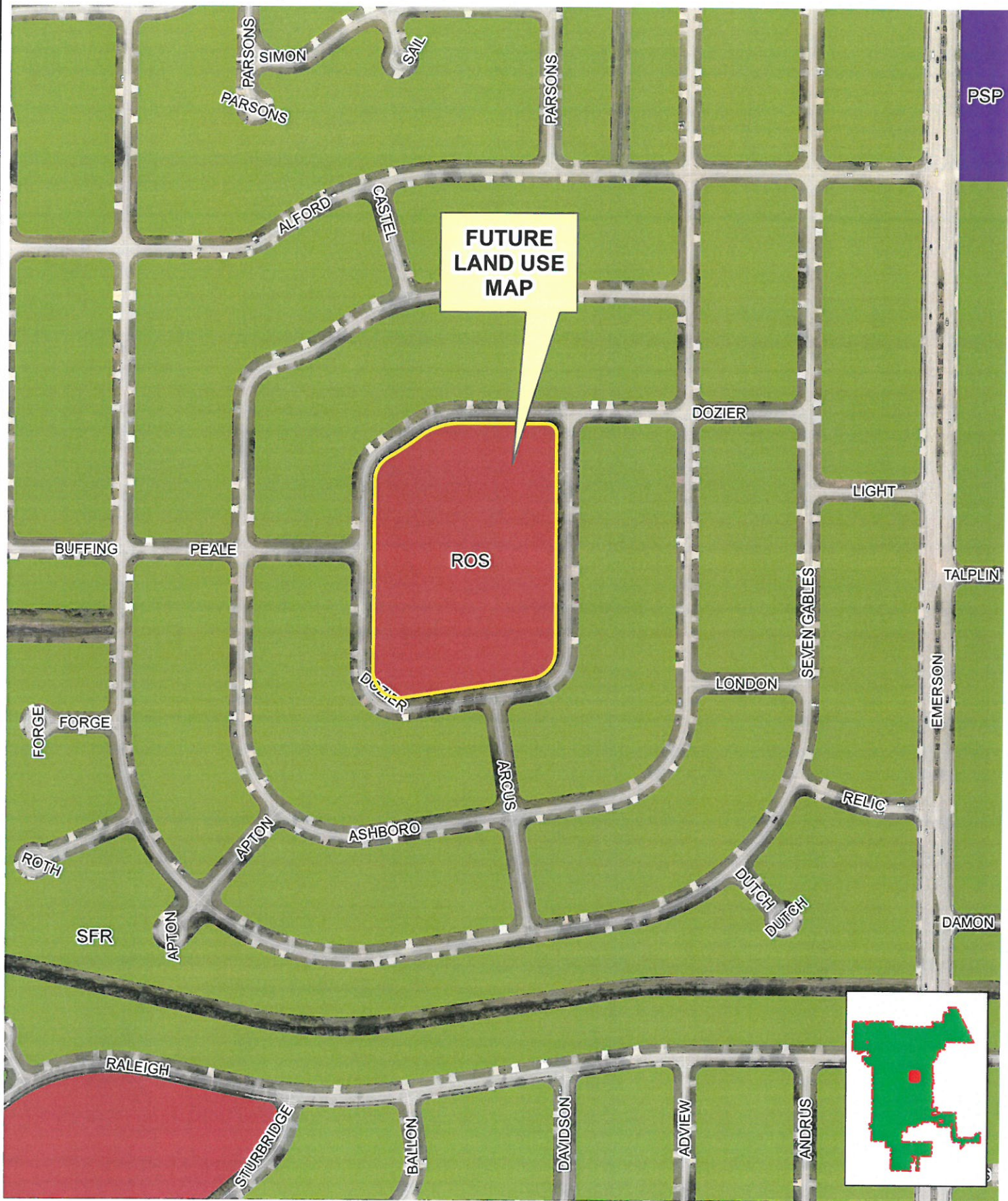


Map for illustrative purposes only. Not to be construed
as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-15-2017

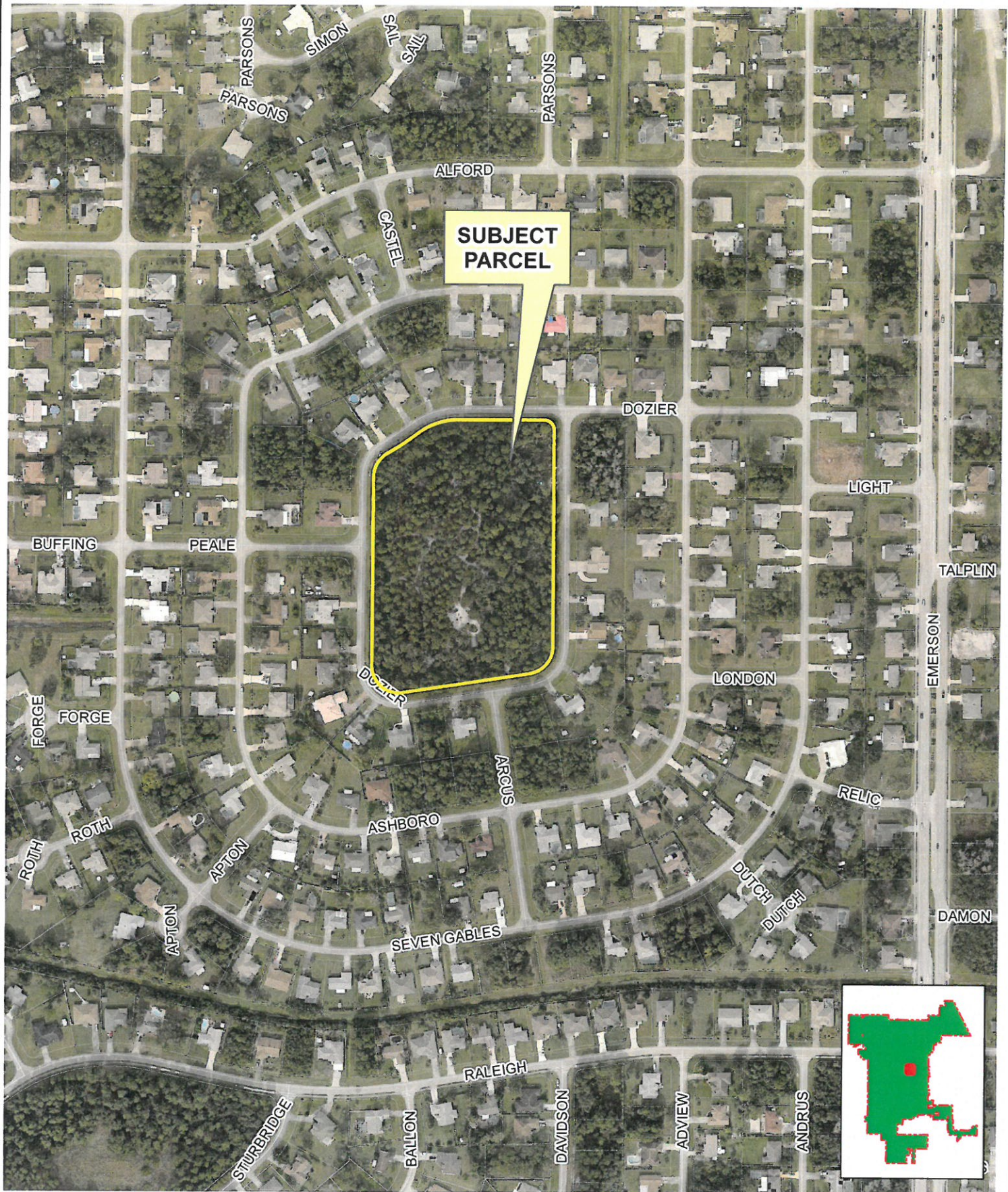


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division



CASE NO. CP-15-2017



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

Map created by the Land Development Division



CASE NO. CP-15-2017



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) City of Palm Bay, Growth Management Department
ADDRESS 120 Malabar Road SE
CITY Palm Bay STATE Florida ZIP 32907
PHONE # 321-733-3041 FAX # 321-953-8920
E-MAIL ADDRESS stuart.buchanan@palmbayflorida.org
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION
Tract D of Port Malabar Unit 50
SECTION 17 TOWNSHIP 29 South RANGE 37 East
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 7.01
- 4) LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.): Recreation and Open Space Use
- 5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE:
Single Family Residential Use
- 6) PRESENT USE OF THE PROPERTY: Undeveloped
- 7) ARE ANY STRUCTURES NOW LOCATED ON THE PROPERTY: No
- 8) HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:
No

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

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

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

To allow for the future construction of single family homes

- 10) SPECIFIC USE INTENDED FOR PROPERTY:

Single family homes

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

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

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

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

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

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

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

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

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

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

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

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

Signature of Applicant _____ **Date** May 31, 2017
Printed Name of Applicant Stuart A. Buchanan

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



DATE: MAY 3, 2017

CASE #: CP-16-2017

CITY OF PALM BAY

LAND DEVELOPMENT DIVISION STAFF REPORT

COMPREHENSIVE PLAN AMENDMENT APPLICATION

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

LOCATION: The subject property is located in the vicinity of Dorchester Road NW. Specifically, Tract C of Port Malabar Unit 26, Section 34, Township 28 South, Range 36 East, Brevard County, Florida.

APPLICANT: City of Palm Bay, Growth Management Department (Stuart Buchanan, Director)

SITE DATA

PRESENT ZONING: RS-2, Single Family Residential District

LAND USE

DESIGNATION: Recreation and Open Space Use (ROS)

ACREAGE: 10.04 Acres +/-

ADJACENT ZONING

& LAND USE:

N	-- RS-2, Single Family Residential; Dorchester Street NW
E	-- RS-2, Single Family Residential; Single Family Homes
S	-- RS-2, Single Family Residential; Vacant Land
W	-- RS-2, Single Family Residential; 110' FP&L Easement

BACKGROUND:

1. The subject property is located in the vicinity of Dorchester Road NW. Specifically, Tract C of Port Malabar Unit 26, Section 34, Township 28 South, Range 36 East, Brevard County, Florida.
2. The vacant tract has single family homes to the East. A 110-foot wide Florida Power & Light Easement exists to the west and vacant single family lots are found to the south. Dorchester Street NW abuts the subject property to the north.
3. The applicant is requesting a Large-Scale Comprehensive Plan Future Land Use Map Amendment to change from Recreation and Open Space Use to Single Family Residential Use. The applicant for this request is the City of Palm Bay, Growth Management Department.

ANALYSIS:

Availability of Public Facilities and Services:

Potable Water: Provided by individual well.

Sanitary Sewer: The area is serviced by individual septic systems.

Solid Waste: Provided by Waste Management.

Parks & Recreation: The proposed future land use amendment would not exceed existing parkland or recreational level of service standards for the Planning Area.

Drainage: The site is presently vacant and in its natural state. A storm water drainage system may 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 proposed future land use amendment is below the 1% minimum threshold. The applicant intends to sell this tract of land as it has been deemed surplus land to be developed for future single family use. The future development is consistent with its current zoning classification and compatible with other single family uses surrounding the subject property. The use will not negatively impact the surrounding road network.

Public Schools: Future single family residential uses will impact the public school system; however, due to the relatively small size of the tract, the impact does not appear to be significant.

Environmental Resources:

Future development 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.

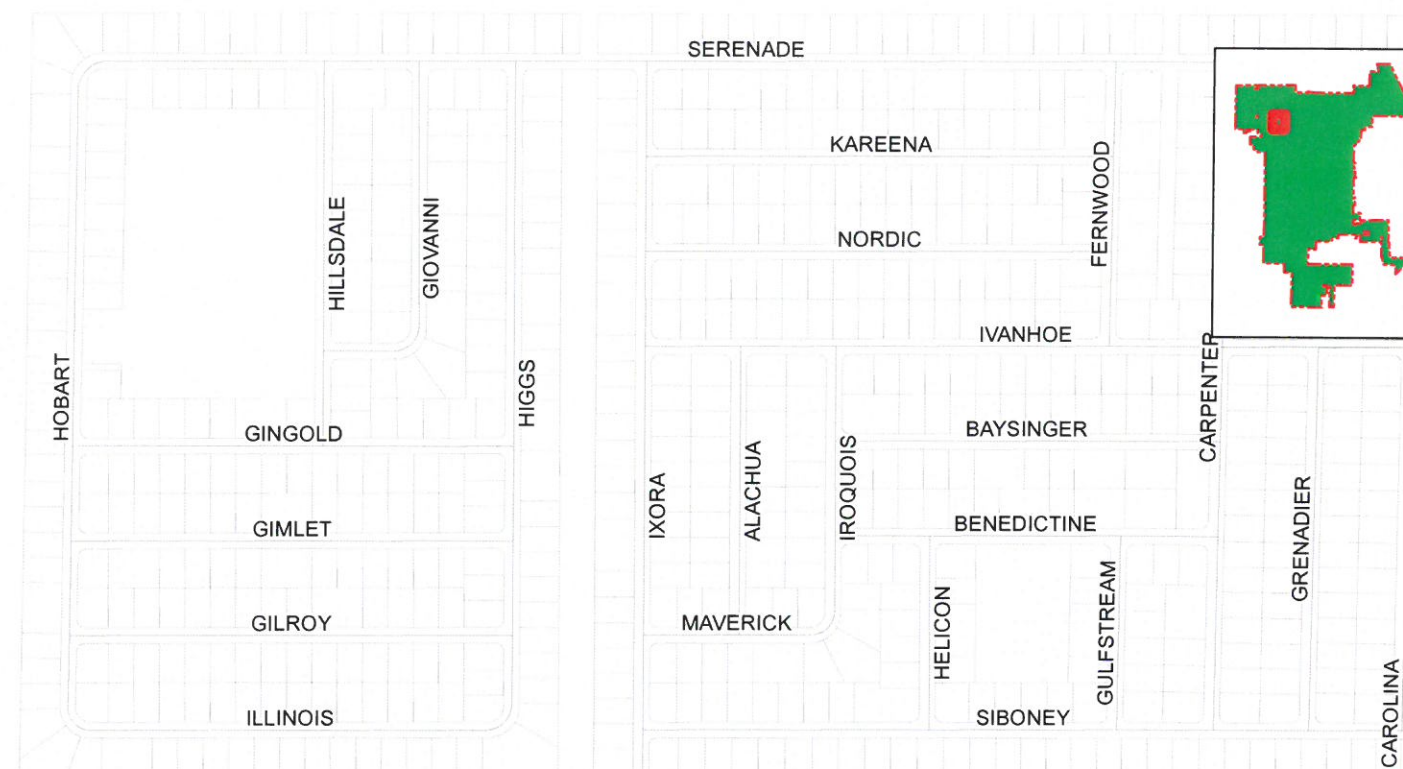
Historic Resources:

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

STAFF CONCLUSION:

Motion to approve Case No. CP-16-2017, pursuant to Chapter 163, Florida Statutes.

Canal-No-1



Canal-No-21

SUBJECT PROPERTY



Canal-No-20 MALABAR



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

Map created by the Land Development Division

CP-16-2017 LOCATION MAP



Canal-No-1

RS-2

SERENADE

KAREENA

NORDIC

FERNWOOD

IVANHOE

HOBART

HILLSDALE

GINGOLD

GIMLET

GILROY

ILLINOIS

HIGGS

ALACHUA

IROQUOIS

BAYSINGER

CARPENTER

GRENADIER

BENEDICTINE

MAVERICK

HELICON

GULFSTREAM

SIBONEY

CAROLINA

IXORA

Canal-No-21

SUBJECT PROPERTY

HAZEL

SEQUOIA

HILLIARD

HIGH

PAVILLION

DEFENDER

HOFFER

HILTON

HILLSBOROUGH

HILLCREST

HEARTHSIDE

DEEDRA

HILLOCK

RR

DORCHESTER

HIGGINS

JOY HAVEN

JACARANDA

FRANCISCAN

JEFFERSON

BAYSHORE

BIARRITZ

Canal-No-20

MALABAR



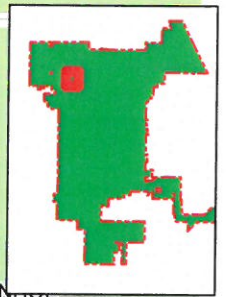
Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division

CP-16-2017 ZONING MAP



Canal-No-1



SERENADE

KAREENA

NORDIC

FERNWOOD

IVANHOE

HOBART

HILLSDALE

GIOVANNI

HIGGS

GINGOLD

GIMLET

GILROY

ILLINOIS

ALACHUA

IROQUOIS

BAYSINGER

CARPENTER

GRENADIER

CAROLINA

BENEDICTINE

HELICON

GULFSTREAM

SIBONEY

MAVERICK

IXORA

Canal-No-21

SUBJECT PROPERTY

HAZEL

SEQUOIA

PAVILLION

DEFENDER

HILLIARD

HIGH

DORCHESTER

UTIL

ROS

DELAKE

BIARRITZ

HIGGINS

JOY HAVEN

JACARANDA

FRANCISCAN

JEFFERSON

BAYSHORE

HOFFER

HEARTHSIDE

HILTON

HILLSBOROUGH

HILLOCK

HILLCREST

DEEDRA

PSP

SFR

Canal-No-20 MALABAR

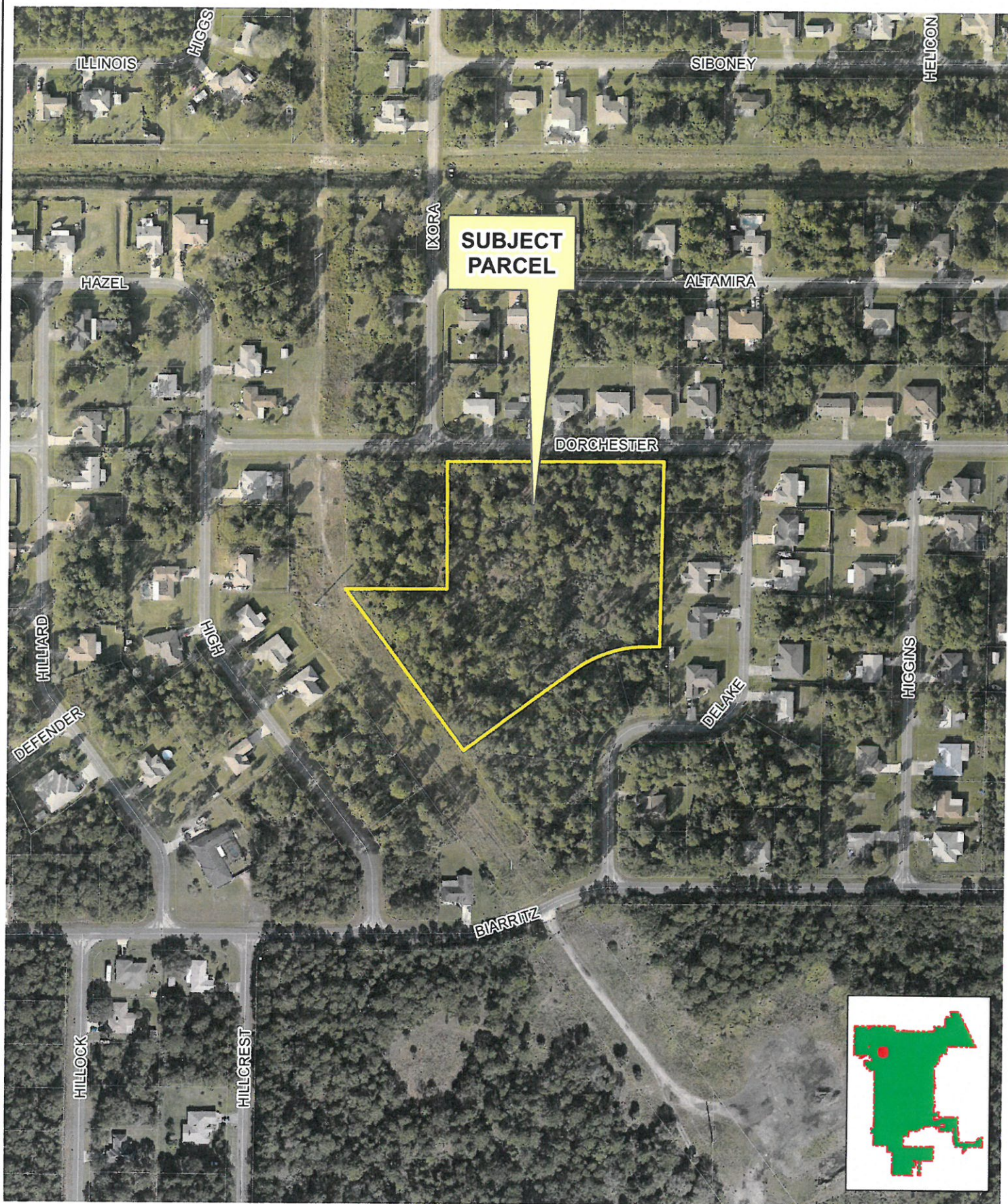


Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division

CP-16-2017 FUTURE LAND USE MAP





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

Map created by the Land Development Division



CASE NO. CP-16-2017



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

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PHONE # 321-733-3041 FAX # 321-953-8920
E-MAIL ADDRESS stuart.buchanan@palmbayflorida.org
- 2) COMPLETE LEGAL DESCRIPTION OF PROPERTY COVERED BY APPLICATION
Tract C of Port Malabar Unit 26
SECTION 34 TOWNSHIP 28 South RANGE 36 East
- 3) SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 10.04
- 4) LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.): Recreation and Open Space Use
- 5) LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE:
Single Family Residential Use
- 6) PRESENT USE OF THE PROPERTY: Undeveloped
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No

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

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

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

To allow for the future construction of single family homes

- 10) SPECIFIC USE INTENDED FOR PROPERTY:

Single family homes

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

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

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

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

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

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

Signature of Applicant _____ **Date** May 31, 2017
Printed Name of Applicant Stuart A. Buchanan

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