



# **AGENDA**

## **PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY**

Regular Meeting 2023-07

July 5, 2023 - 6:00 PM

City Hall Council Chambers, 120 Malabar Road SE

### **CALL TO ORDER:**

### **PLEDGE OF ALLEGIANCE:**

### **ROLL CALL:**

### **ADOPTION OF MINUTES:**

1. Regular Meeting 2023-06; June 7, 2023

### **ANNOUNCEMENTS:**

### **NEW BUSINESS:**

1. **\*\*CU23-00008 - REQUEST TO CONTINUE TO 08/02 P&Z -Car Wash - Royal Wash PSL, LLC (Chelsea Anderson, Esq., Mangrove Title & Legal, PLCC, Rep.) - A Conditional Use to allow a retail Car Wash in a GC-General Commercial District, in accordance with Section 185.054(D)(9) of the Palm Bay Code of Ordinances. Lots 1 through 6, Block 2211, Port Malabar Unit 38, Section 3, Township 29, Range 37, Brevard County, Florida, containing approximately 1.15 acres. Specifically located at 1300 Malabar Road SE**
2. **CP23-00007 - Future Land Use Lot 2 - Jennifer E. Torres - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Utilities to Low Density Residential. Tract K, Port Malabar Unit 20, Section 02, Township 29, Range 36, Brevard County, Florida, containing approximately 1.01 acres. Located on the south side of Warrington Road SW, in the vicinity of Jupiter Boulevard SW**
3. **FS23-00004 - Timbers at Everlands Phase 1B - DRP FL 6, LLC, Brian Clauson (Ana Saunders, P.E., BSE Consultants, Inc., Rep.) - Final Plat approval to allow for a proposed 41-lot single-family residential subdivision called Timbers at Everlands Phase 1B. A replat of a portion of Tract FD.1 together with Tract FD.2, all in Timbers at Everlands Phase 1A, Section 28, Township 28, Range 36, Brevard County, Florida, containing approximately 10.47 acres. Located at the northeast corner of St. Johns Heritage Parkway NW and Pace Drive NW**
4. **CP23-00003 - Gaynor - MP Developers, Inc. (James Boothroyd, Weichert Realtors Hallmark Properties, Rep.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Utilities to Low Density Residential. Tract L, Port Malabar Unit 32,**

**Section 13, Township 29, Range 36, Brevard County, Florida, containing approximately 1.33 acres. Located east of and adjacent to Gaynor Drive SW, in the vicinity north of Four Winds Street SW**

5. **\*\*CPZ23-00002 - Gaynor - MP Developers, Inc. (James Boothroyd, Weichert Realtors Hallmark Properties, Rep.) - A Zoning Amendment from an IU, Institutional Use District to an RS-2, Single Family Residential District. Tract L, Port Malabar Unit 32, Section 13, Township 29, Range, 36, Brevard County, Florida, containing approximately 1.33 acres. Located east of and adjacent to Gaynor Drive SW, in the vicinity north of Four Winds Street SW**
6. **CP23-00013 - 4180 Minton Road - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from CC, Community Commercial (Brevard County) to Commercial. Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE**
7. **\*\*CPZ23-00007 - 4180 Minton Road - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.) - A Zoning Amendment from BU-1, General Retail Commercial (Brevard County) to a CC, Community Commercial District. Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE**
8. **CP23-00010 - West Malabar Properties (Hield Road) - Cole Oliver, West Malabar Properties, LLC - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from RES 2 Residential 2 (Brevard County) to Commercial. Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE**
9. **\*\*CPZ23-00006 - West Malabar Properties (Hield Road) - Cole Oliver, West Malabar Properties, LLC - A Zoning Amendment from RP, Residential Professional and AU, Agricultural Residential (Brevard County) to a CC, Community Commercial District. Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE**
10. **T23-00006 - Accessory Structure - City of Palm Bay (Growth Management Department) - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.118, Accessory Structures, to amend and update standards for accessory structures**
11. **T23-00009 - Minor Site Plans - City of Palm Bay (Growth Management Department) - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.018, Site Plans, to amend the site plan review process and establish different levels of plan reviews**
12. **T23-00016 - Outdoor Dining - City of Palm Bay (Growth Management Department) - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to establish Section 185.139, Outdoor Dining, to incorporate standards for outdoor dining**

## **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. (Section 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.

If you use assistive technology (such as a Braille reader, a screen reader, or TTY) and the format of any material on this website or documents contained therein interferes with your ability to access information, please contact us. To enable us to respond in a manner most helpful to you, please indicate the nature of your accessibility problem, the preferred format in which to receive the material, the web address of the requested material, and your contact information. Users who need accessibility assistance can also contact us by phone through the Federal Information Relay Service at 1-800-877-8339 for TTY/Voice communication.

**\*\*Quasi-Judicial Proceeding.**



## **MEMORANDUM**

**DATE:** July 5, 2023

**SUBJECT:** Regular Meeting 2023-06; June 7, 2023

**ATTACHMENTS:**

**Description**

- ▣ **P&Z/LPA Minutes - Regular Meeting 2023-06; June 7, 2023**

CITY OF PALM BAY, FLORIDA

PLANNING AND ZONING BOARD/  
LOCAL PLANNING AGENCY  
REGULAR MEETING 2023-06

Held on Wednesday, June 7, 2023, 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 Leeta Jordan called the meeting to order at approximately 6:00 p.m.

Mr. Donald Boerema led the Pledge of Allegiance to the Flag.

**ROLL CALL:**

<b>CHAIRPERSON:</b>	Leeta Jordan	Present
<b>VICE CHAIRPERSON:</b>	Philip Weinberg	Present
<b>MEMBER:</b>	Donald Boerema	Present
<b>MEMBER:</b>	Robert Good	Absent (Excused)
<b>MEMBER:</b>	Jeffrey McLeod	Present
<b>MEMBER:</b>	Randall Olszewski	Absent (Excused)
<b>MEMBER:</b>	Rainer Warner	Absent (Excused)
<b>NON-VOTING MEMBER:</b>	David Karaffa	Absent
	(School Board Appointee)	

**CITY STAFF:** Present were Ms. Joan Junkala-Brown, Acting Growth Management Director; Mr. Jesse Anderson, Ph.D., Assistant Growth Management Director; Ms. Alexandra Bernard, Principal Planner; Mr. Stephen White, Senior Planner; Ms. Tania Ramos, Senior Planner; Ms. Chandra Powell, Recording Secretary; Mr. Rodney Edwards, Deputy City Attorney.

The absences were excused for Mr. Good, Mr. Olszewski, and Mr. Warner.

**ADOPTION OF MINUTES:**

1. Regular Planning and Zoning Board/Local Planning Agency Meeting 2023-05; May 3, 2023.

Motion to approve the minutes as presented.

Motion by Mr. Weinberg, seconded by Mr. Boerema. Motion carried with members voting as follows:

**Aye:** Jordan, Weinberg, Boerema, McLeod.

#### **ANNOUNCEMENTS:**

1. Ms. Jordan 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 the City Council.

#### **NEW BUSINESS:**

1. **\*\*CU23-00005 – Heritage Corners - Ascot Palm Bay Holdings, LLC (Ana Saunders P.E., BSE Consultants, Inc., Rep.) - A Conditional Use to allow retail automotive gas/fuel sales in a CC, Community Commercial District, in accordance with Section 185.043(D)(3) of the Palm Bay Code of Ordinances. A Portion of Block 501, Section 21, Township 28, Range 36, Brevard County, Florida, containing approximately 2.16 acres. Located at the intersection of St. Johns Heritage Parkway and Emerson Drive NW**

Ms. Ramos presented the staff report for Case CU23-00005. Case CU23-00005 met the minimum requirements for approval of a conditional use, subject to the staff comments contained in the staff report and completion of the lot split process prior to site plan approval.

Mr. Boerema asked if the required lot split had to occur prior to the board taking action on the request. Ms. Ramos stated that the applicant was already in the process of creating the new lot split. The new lot would soon receive its own tax account number, and staff was fine with proceeding.

Ms. Jordan indicated that there was no correspondence in the file.

Ms. Ana Saunders P.E., BSE Consultants, Inc. (representative for the applicant), stated that signalization design plans were currently underway for the St. Johns

Heritage Parkway NW and Emerson Drive NW intersection, and that the signalization would be completed prior to the construction of the subject proposal. There were no issues with the comments and conditions in the staff report. She noted that the subject fuel service station would potentially be one of two fuel stations allowed at the intersection per City code.

Mr. Boerema asked if the site would be accessed off Emerson Drive. Ms. Saunders stated that the location would have an access off Emerson Drive and off the Parkway.

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

Motion to submit Case CU23-00005 to City Council for approval subject to staff comments.

Motion by Mr. Weinberg, seconded by Mr. McLeod. Motion carried with members voting as follows:

**Aye:** Jordan, Weinberg, Boerema, McLeod.

2. **\*\*CU23-00002 – Dollar General - David Moallem Trust; Pirzadeh, Siroos; Pirzadeh, Mahnaz (Holly Irish, Vector Civil Engineering, Reps.) - A Conditional Use to allow for a Dollar General/Retail Store with a gross floor area over 5,000 square feet in an NC, Neighborhood Commercial District. A Portion of Block O, Subdivision GI, Section 02, Township 29, Range 36, Brevard County, Florida, containing approximately 1.75 acres. Generally located south of and adjacent to Jupiter Boulevard SW and west of and adjacent to Garvey Road SW**

Mr. White presented the staff report for Case CU23-00002. Case CU23-00002 met the minimum requirements for approval of a conditional use, subject to the staff comments contained in the staff report being addressed during the site plan review, and the completion of the required lot split at site plan review.

Mr. McLeod inquired about the minimum amount of parking spaces that had not been met. Mr. White stated that the issue would be addressed at the site plan review phase.

Mr. Jack Spira, Esq., Spira Beadle & McGarrell PA (attorney for Concept Development, Inc.), stated that the proposed use was allowed in the NC, Neighborhood Commercial District by right; however, a conditional use was required as the project exceeded 5,000 square-feet. He noted that the Citizen Participation Plan (CPP) meeting was sparsely attended.

Ms. Holly Irish, Vector Civil Engineering (representative for the applicant), reiterated that the parking issue would be addressed during the site plan permitting process. She commented on how the project would extend a water main 325 feet down Garvey Road from the north side of Jupiter Boulevard, and the existing force main would be extended 350 feet down Garvey Road from the south side of Jupiter Boulevard. She stated that all staff comments would be met, as well as the request by adjacent residents during the CPP meeting to erect the required fence along the buffer line with landscaping on the residential side of the fence. The fence would be addressed with staff during the site plan permitting process.

Mr. McLeod asked if the site plan would be updated to address the new fence location. Ms. Irish confirmed that the site plan would be updated with staff's approval.

The floor was opened for public comments.

Ms. Jessica Newbern (resident at Weaver Road SW) spoke against the request. It was her suggestion to place the required fence along the buffer line with exterior landscaping. She commented that there were already three Dollar General Stores within two miles of the subject site, and that she would prefer a store that helped the community.

Mr. John Letzkus (owner of property at Weaver Road SW) spoke against the request. He supported the modification planned for the fence, but as a former law enforcement officer, he stated that the Dollar General Stores were known to attract thefts and the homeless.

Mr. Richard Newbern (resident at Weaver Road SW) spoke against the request. He stated that there were 18,000 Dollar General Stores in the United States, so he questioned the need for another Dollar General. He remarked on how a stakeholder in the company had a connection that profited China.

In response to the comments from the audience, Mr. Spira stated that the amount of Dollar General Stores was market driven, and he reminded the board that the commercially zoned site currently allowed by right a smaller-sized Dollar General Store or some other store. The applicant had agreed to make the fence adjustments requested by the residents, and the area would also benefit from the water and sewer extensions. He was not aware of any homeless problems with Dollar Generals, and company ownership related to China profits was not relevant to the subject request.

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

Mr. Weinberg commented that the board and City Council must make decisions based on legalities and not whether they were fans or not of projects such as Dollar General Stores. The store would be set well back from Jupiter Boulevard so that traffic would not be a safety concern for school children, and the site would be primarily separated from the residential areas to the west and to the south by the retention ponds and setbacks. Dollar General would not build at a location they did not feel would be successful.

Motion to submit Case CU23-00002 to City Council for approval subject to staff comments.

Motion by Mr. Weinberg, seconded by Mr. McLeod. Motion carried with members voting as follows:

**Aye:** Jordan, Weinberg, Boerema, McLeod.

3. **CP23-00004 – Steamboat Landing - Steamboat Landing, LLC and Gateway Medical Property, LLC (Curtis J. McKinney, Rep.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from High Density**

**Residential and Urban Mixed Use to Urban Mixed Use. Lot 1, Block A, Hiawatha Gardens, Section 13, Township 28, Range 37, along with Lot K, Plat of Tillman, Section 24, Township 28, Range 37, and Lots 1 – 8 and 29 – 38, Block 2, Plat of Tillman, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately 4.12 acres. Located east of and adjacent to Dixie Highway NE, in the vicinity of Kirkland Road NE and Bay Boulevard NE**

Ms. Ramos presented the staff report for Case CP23-00004. Case CP23-00004 met the minimum requirements of a Comprehensive Plan Future Land Use amendment request and was recommended by staff for approval.

Mr. James Mayes, managing member of Steamboat Landing, LLC and a member of Gateway Medical Property, LLC (applicants), stated that the subject proposal would allow for a higher density development, condominiums, age-55-plus condominiums, and an additional mix of uses. He commented on how the surrounding neighborhood would benefit from some of the required site plan enhancements.

Mr. Boerema asked about the height of the proposed condominiums as he wanted to ensure the Fire Department would not have a problem with the height. Mr. Mayes explained that there were no formal plans at this time, but the maximum building height restriction for the property was currently 70 feet. Mr. Anderson stated that this was correct, and that fire apparatus would be a consideration during the site plan review process.

The floor was opened for public comments, and there was no correspondence in the file.

Ms. Susan B. Connolly (resident at Castaway Cove Condominiums) spoke against the request. She remarked on how residents of the proposed memory care facility would have mobility, mental, and medical challenges that would keep them indoors. Their limitations on activity would be in contrast to the subject location near the Indian River Lagoon and Castaways Point Park that promoted outdoor and recreational activity. She recommended that if the project was approved, the City's Low Impact Development guidelines be used for all aspects and phases of the proposal. She felt that the site acreage was too small to permit the phased development of a memory care facility, condominiums, and tiki lounge bar. She



cautioned the board to consider how their decisions for the subject proposal would present a foundation for the six future developments that were also being planned for the area.

Mr. Victor Farvet (resident at Castaway Cove Condominiums) spoke against the request. He stated that the developer should be required to provide land footage to improve road access onto Dixie Highway; a turnaround lane on Dixie Highway for safety; and a traffic light. The three-story tiki bar and seven-story condominiums would cause a parking issue.

Ms. Ann Atherton (resident at Castaway Cove Condominiums) spoke against the request. She stated that there was not infrastructure to support the project based on the single-lane dirt road. Exiting Castaway Cove onto Dixie Highway was already a danger. She commented on how the developer should ensure all reasonable environmental issues were addressed to save the Indian River Lagoon.

Ms. Louise Fortun (resident at Castaway Cove Condominiums) spoke against the request. She stated that she was concerned about the birds that roost in the area.

Mr. Timothy Schofield (resident at Castaway Cove Condominiums) spoke against the request. He stated that there was already a traffic problem in the area with difficulty making left turns onto Dixie Highway.

Ms. Mary Jane Russell (resident at Fairfax Avenue NE) spoke against the request. She stated how she visited Castaway Point Park every evening. The park was a beautiful place to view manatees, sunsets, and sunrises and should be considered before a decision was made about the subject request.

Mr. David Jellison (member of the Castaway Shores Condominiums Board of Directors) spoke against the request. He commented on how the project bordered Castaway Shores to the south and east, and that the Bay Boulevard property in the proposal was a constant problem that affected the quality of life of Castaway Shores residents. The elderly residents were afraid to venture out at night because of the sexual activity, loud music, profanity, homeless camps, and drug use at the Bay Boulevard site. He said that the property owner had not responded to requests to fix

the holes in the fences or to erect No Trespass signs. The garbage and debris and illegal activity were unbearable.

In response to comments from the audience, Mr. Mayes explained that the subject property already had an approved site plan for a memory care facility, but a decision had not been made to keep the memory care use. Development of the property would substantially add to the tax base and over \$100,000 in impact fees had been contributed for road development. He stated that he was fully aware of the permitting process to maintain proper environmental standards for the Indian River Lagoon, and that current environmental permits for the project would be re-obtained if necessary. He noted that the subject property was privately owned and was not a park. However, a component of the development would enhance the adjacent park and the entire area.

Mr. Curtis J. McKinney, McKinney Construction Group Inc., Melbourne Development (representative for the applicant), explained that vagrants continued to cause problems at the property, but all fence, sign, and site complaints had been corrected with the Code Compliance Division. He was prepared to move forward with construction in January of 2024 once all approvals were obtained. The demographics of Palm Bay and the surrounding area had changed over the years, and the \$56 million proposal would be part of the catalyst to bring something good into the Bayfront district. He noted how there was a market trend toward independent living facilities, which could include memory care and supported medical amenities.

The floor was closed for public comments.

Motion to submit Case CP23-00004 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Boerema. Motion carried with members voting as follows:

**Aye:** Jordan, Weinberg, Boerema, McLeod.

4. **\*\*CPZ23-00003 – Steamboat Landing - Steamboat Landing, LLC and Gateway Medical Property, LLC (Curtis J. McKinney, Rep.) - A Zoning Amendment from BMUV, Bayfront Mixed Use Village District and RM-20, Multiple-Family**

**Residential District to BMU, Bayfront Mixed Use District. Lot 1, Block A, Hiawatha Gardens, Section 13, Township 28, Range 37, along with Lot K, Plat of Tillman, Section 24, Township 28, Range 37, and Lots 1 – 8 and 29 – 38, Block 2, Plat of Tillman, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately 4.12 acres. Located east of and adjacent to Dixie Highway NE, in the vicinity of Kirkland Road NE and Bay Boulevard NE**

Ms. Ramos presented the staff report for Case CPZ23-00003. Case CPZ23-00003 met the minimum requirements of a Zoning Amendment request and was recommended by staff for approval.

Mr. Curtis J. McKinney, McKinney Construction Group Inc., Melbourne Development (representative for the applicant), stated that he wanted to do good by the community and for Palm Bay as he was a local and had a long-time vested interest in Palm Bay.

The floor was opened for public comments, and there was no correspondence in the file.

Mr. Victor Farvet (resident at Castaway Cove Condominiums) spoke against the request. His concern was that nothing had been provided to show sidewalks, roadway expansion for safety, or lights. He realized that development was coming to the Bayfront district; however, development should be done right, and concerns should be addressed now and not after they become a problem in the future.

Ms. Ann Atherton (resident at Castaway Cove Condominiums) spoke against the request. She agreed that development was coming to the Bayfront district but infrastructure should be in place, and there was no room to expand the existing single-lane dirt road.

Mr. David Jellison (member of the Castaway Shores Condominiums Board of Directors) spoke against the request. He stated that the property owner would have to file a blanket No Trespass with the Palm Bay Police Department for the vagrants. He felt that the applicant was not showing concern for the neighbors that were being impacted by the project.

Ms. Susan B. Connolly (resident at Castaway Cove Condominiums) spoke against the request. She commented that the developer should think of the future and of ways that development, residents, the environment, and wildlife could co-exist. She stated that the site should remain a place where people could come to enjoy the birds, the view, water, and the fish.

In response to the comments from the audience, Mr. McKinney stated that a blanket No Trespass letter had been filed. He explained that the infrastructure for the development would be available for viewing when drawings for the project were prepared. Development property had been provided to build a proper, enlarged asphalt road; however, the dirt road was located beyond the subject site. He had worked with the Florida Department of Transportation regarding lights and turn lanes. The project would continue to allow for the viewing of wildlife and the water. New docks, viewing platforms, fencing, and sidewalks for public use were being offered to enhance the community.

The floor was closed for public comments.

Motion by Mr. Weinberg to submit Case CPZ23-00003 to City Council for approval.

Mr. Weinberg commented on how condominiums could currently be built on the property; the project would eliminate the illegal activity and homeless encampments; impact fees would be used to fund infrastructure improvements; and all environmental laws would have to be met.

Motion by Mr. Weinberg, seconded by Mr. Boerema. Motion carried with members voting as follows:

**Aye:** Jordan, Weinberg, Boerema, McLeod.

5. **CP23-00005 – Garden Center Expansion - Vision 43 LLC (Holly Tanner, Rep.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Low Density Residential to Commercial Use. Block 66, Section 23, Township 28, Range 37, Brevard County, Florida, containing approximately 0.38 acres. Located east of and adjacent to Magnolia Street NE, in the vicinity of Palm Bay Road NE**

Ms. Bernard presented the staff report for Case CP23-00005. Case CP23-00005 met the minimum requirements of a Small-Scale Comprehensive Plan Future Land Use amendment request and was recommended by staff for approval.

Ms. Holly Tanner, L.H. Tanner Construction (representative for the applicant), explained that Vision 43 LLC was a garden center with a location on Palm Bay Road NE that had grown over the last couple of years and now desired to expand their business. She used a PowerPoint to describe the existing business and the beautification that the applicant wanted to extend north onto the adjacent subject property. The garden center had enhanced and brought value into the area.

Mr. Weinberg asked if only the garden area and not the building was being expanded. Ms. Tanner indicated that this was correct.

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

Motion to submit Case CP23-00005 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Boerema. Motion carried with members voting as follows:

**Aye:** Jordan, Weinberg, Boerema, McLeod.

6. **\*\*CPZ23-00004 – Garden Center Expansion - Vision 43 LLC (Holly Tanner, Rep.) - A Zoning Amendment from an RS-3, Single Family Residential District to an HC, Highway Commercial District. Block 66, Section 23, Township 28, Range 37, Brevard County, Florida, containing approximately 0.38 acres. Located east of and adjacent to Magnolia Street NE, in the vicinity of Palm Bay Road NE**

Ms. Bernard presented the staff report for Case CPZ23-00004. Case CPZ23-00004 met the minimum requirements of a Zoning Amendment request and was recommended by staff for approval.

Ms. Holly Tanner, L.H. Tanner Construction (representative for the applicant), was present to answer questions.

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

Motion to submit Case CPZ23-00004 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Boerema. Motion carried with members voting as follows:

**Aye:** Jordan, Weinberg, Boerema, McLeod.

7. **T23-00010 – Car Wash In GC District - Chelsea Anderson - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.054, GC – General Commercial District; to amend the conditional uses to allow for car washes by conditional use in the General Commercial zoning district**

Ms. Bernard presented the staff report for Case T23-00010. Case T23-00010 met the minimum requirements of a Textual Amendment request and was recommended by staff for approval.

Ms. Chelsea Anderson (agent representative for Royal Wash PSL, LLC) stated that car washes were already allowable by conditional use in HC, Highway Commercial and CC, Community Commercial Districts. If the subject request to allow car washes in GC, General Commercial Districts by conditional use was approved, an application would be submitted to the board next month for a site-specific GC location.

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

Motion to submit Case T23-00010 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. McLeod. Motion carried with members voting as follows:

**Aye:** Jordan, Weinberg, Boerema, McLeod.

**8. T23-00012 - Conditional Uses - City of Palm Bay (Growth Management Department) - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Conditional Uses to incorporate a new section 185.089 conditional uses; conditions governing applications and repealing section 185.202 conditional uses; Conditions governing applications; procedures**

Ms. Bernard presented the staff report for Case T23-00012. Case T23-00012 met the minimum requirements of a Textual Amendment request and was recommended by staff for approval.

Mr. McLeod wanted to know how the amendment would benefit the City and future applicants. Ms. Bernard explained that the amendment provided further guidelines on how conditional uses should be regulated. Mr. Anderson added that conditional uses presently commenced when a development plan approval occurred. Permits, however, were not typically issued in a year, so the period for the conditional use to commence was being changed from one year to two years and extensions would be permitted.

Ms. Jordan noted a repetition in the proposal. Ms. Bernard indicated the code sections under consideration.

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

Motion to submit Case T23-00012 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Boerema. Motion carried with members voting as follows:

**Aye:** Jordan, Weinberg, Boerema, McLeod.

**9. T23-00004 – Planning and Zoning Board Factors of Analysis - City of Palm Bay (Growth Management Department) - A textual amendment to Section 185.201 of the City of Palm Bay’s Land Development Code to modify the procedure for amendment applications**

Mr. Anderson presented the staff report for Case T23-00004. Case T23-00004 was recommended by staff for approval.

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

Motion to submit Case T23-00004 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. McLeod. Motion carried with members voting as follows:

**Aye:** Jordan, Weinberg, Boerema, McLeod.

**OTHER BUSINESS:**

There was no other business discussed.

**ADJOURNMENT:**

The meeting was adjourned at approximately 7:30 p.m.

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Leeta Jordan, CHAIRPERSON

Attest:

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Chandra Powell, SECRETARY

\*\*Quasi-Judicial Proceeding





## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Stephen White, Senior Planner

**DATE:** July 5, 2023

**SUBJECT:** \*\*CU23-00008 - REQUEST TO CONTINUE TO 08/02 P&Z -Car Wash - Royal Wash PSL, LLC (Chelsea Anderson, Esq., Mangrove Title & Legal, PLLC, Rep.) - A Conditional Use to allow a retail Car Wash in a GC-General Commercial District, in accordance with Section 185.054(D)(9) of the Palm Bay Code of Ordinances. Lots 1 through 6, Block 2211, Port Malabar Unit 38, Section 3, Township 29, Range 37, Brevard County, Florida, containing approximately 1.15 acres. Specifically located at 1300 Malabar Road SE

A request to continue Case CU23-00008 to the August 2, 2023 Planning and Zoning Board Meeting to allow for City Council review of related Case T23-00010 regarding car washes in GC districts.

**Board action is required to continue the case.**

City Council is scheduled to hear the request on August 17, 2023.

**\*\*Quasi-Judicial Proceeding.**



## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Tania Ramos, Senior Planner

**DATE:** July 5, 2023

**SUBJECT:** CP23-00007 - Future Land Use Lot 2 - Jennifer E. Torres - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Utilities to Low Density Residential. Tract K, Port Malabar Unit 20, Section 02, Township 29, Range 36, Brevard County, Florida, containing approximately 1.01 acres. Located on the south side of Warrington Road SW, in the vicinity of Jupiter Boulevard SW

### ATTACHMENTS:

#### Description

- ▣ CP23-00007 Staff Report
- ▣ CP23-00007 Site Sketches
- ▣ CP23-00007 Citizen Participation Report
- ▣ CP23-00007 Application
- ▣ CP23-00007 Legal Acknowledgement
- ▣ CP23-00007 Legal Ad



## STAFF REPORT

### LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

[landdevelopmentweb@palmbayflorida.org](mailto:landdevelopmentweb@palmbayflorida.org)

#### Prepared by

Tania Ramos, Senior Planner

---

#### CASE NUMBER

CP23-00007

#### PLANNING & ZONING BOARD HEARING DATE

July 5, 2023

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#### PROPERTY OWNER & APPLICANT

Jennifer E. Torres

#### PROPERTY LOCATION/ADDRESS

Tract K, Port Malabar Unit 20, Section 02, Township 29, Range 36, Brevard County, Florida, containing approximately 1.01 acres. Tax Accounts 3016123 and 2901319

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#### SUMMARY OF REQUEST

The applicant is requesting a Small-Scale Comprehensive Plan Future Land Use Map amendment from UTL, Utilities to LDR, Low Density Residential.

##### Existing Zoning

RS-2, Single-Family Residential

##### Existing Land Use

UTL, Utilities

##### Site Improvements

Vacant land

##### Site Acreage

Approximately 1.01 acres

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#### SURROUNDING FUTURE LAND USE & USE OF LAND

##### North

LDR, Low Density Residential; Single-family residence

##### East

LDR, Low Density Residential; Single-family residence

##### South

ROS, Residential Open Space; Vacant land

##### West

LDR, Low Density Residential; Single-family residence

**BACKGROUND:**

The subject properties are located on the south side of Warrington Road SW, in the vicinity of Jupiter Boulevard SW. The property was platted in 1961 as Tract K of Port Malabar Unit 20 and has a Future Land Use (FLU) designation of UTL, Utilities. The current zoning on this tract and in most of the surrounding area is RS-2, Single-Family Residential. Tract K has been divided into two conforming lots, and the applicant intends to build a home on each lot. The requested Future Land Use Map amendment will bring the FLU and zoning into compliance and allow the applicant to move forward with development.

**ANALYSIS:**

Per Chapter 183: Comprehensive Plan Regulations, Section 183.01(B), the purpose, and intent of the Comprehensive Plan is to encourage the most appropriate use of land and resources to promote the health, safety, and welfare of the community.

**1. FUTURE LAND USE ELEMENT**

The Comprehensive Plan (Plan) FLU Element Goal FLU-1 is to ensure a high-quality, diversified living environment through the efficient distribution of compatible land uses.

The Comprehensive Plan (Plan) FLU Objective FLU-1.8 is to ensure that future development activity shall be compatible with established neighborhoods and strive to enhance the character of the community.

The subject properties are surrounded by the Low Density Residential FLU designation to the east, west, and north. To the south is a 3.53-acre tract owned by the city, with a FLU of Recreation and Open Space. The area is characterized by single-family development. The proposed land use amendment and development of single-family homes is compatible with the established neighborhood.

**2. CONSERVATION ELEMENT**

The environmental character of the city is maintained through conservation, appropriate use, and protection of natural resources. Any protected species that would be found on the subject property would need to be mitigated as required by State and Federal regulations and per Comprehensive Plan Policy CON-1.7B.

**Coastal Management:** The subject property is not located within the Coastal Management Area.

**3. HOUSING ELEMENT**

The proposed FLU amendment does not adversely impact the supply and variety of safe,

decent, attractive, and affordable housing within the city.

#### 4. INFRASTRUCTURE ELEMENTS

The city evaluates present and future water, sewer, drainage, and solid waste and assesses the ability of infrastructure to support development.

**Utilities:** The Utilities Department has no objection to the proposed FLU amendment. Upon development of the sites, the owner/developer at their expense, will be required to design, permit, install, inspect, and test water and septic systems of adequate size to accommodate the development.

**Drainage:** The Public Works Department has no objection to the proposed FLU amendment. If developed, a drainage plan must be prepared in accordance with current regulations and approved by the City, along with appropriate outside agencies, including the St. Johns River Water Management District. Any proposed stormwater management system will be reviewed and approved by the City during the site plan review process.

#### 5. INTERGOVERNMENTAL COORDINATION ELEMENT

**Public Schools:** The proposed FLU amendment to Low Density Residential will add two (2) housing units. Small Scale Comprehensive Plan Amendment requests which will not increase the maximum allowable residential units by 50 units, or more are exempted from School Capacity Determination by the Interlocal Agreement for Public Schools.

#### 6. RECREATION AND OPEN SPACE ELEMENT

The proposed FLU amendment would increase the demand for recreation services due to potential increase in density. However, the requested use would not exceed the existing parkland or recreational level of service standards for the planning area.

#### 7. TRANSPORTATION ELEMENT

The objectives of the Comprehensive Plan's Transportation Element are to provide a safe, balanced, efficient transportation system that maintains the roadway level of service and adequately serves the needs of the community. The Public Works Department has not expressed any concerns regarding transportation levels of service with the proposed FLU amendment.

#### 8. PROPERTY RIGHTS ELEMENT

The goal of the Comprehensive Plan's Property Rights Element is for the City to respect judicially acknowledged and constitutionally protected private property rights.

This proposed land-use change does not appear to infringe upon the property rights of the applicant.

**STAFF RECOMMENDATION:**

Case CP23-00007 is recommended for approval.





*Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.*



## **AERIAL LOCATION MAP CASE: CP23-00007**

### **Subject Property**

East of and adjacent to Warrington Road SW, in the vicinity north of Jupiter Boulevard SW





Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



## FUTURE LAND USE MAP CASE: CP23-00007

### Subject Property

East of and adjacent to Warrington Road SW, in the vicinity north of Jupiter Boulevard SW

### Future Land Use Classification

UTL – Utilities





Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



## ZONING MAP CASE: CP23-00007

### Subject Property

East of and adjacent to Warrington Road SW, in the vicinity north of Jupiter Boulevard SW

### Current Zoning Classification

RS-2 – Single-Family Residential



NOW 02-GI-K-\*

# DAVID A. BLOCK SURVEYING & MAPPING

## MAP & LEGAL OF:

A PARCEL OF LAND LOCATED IN SECTION 2, TOWNSHIP 29 S., RANGE 36 E., BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
 PARCEL "B"  
 COMMENCE AT THE N.E. CORNER OF LOT 1, BLOCK 1023, AS SHOWN ON THE PLAT OF PORT MALABAR UNIT 20, PLAT BOOK 15, PAGE 129 THROUGH 139, PUBLIC RECORDS OF BREVARD COUNTY FLORIDA, THENCE RUN N.53°20'27"E., ALONG THE EAST R/W OF WARRINGTON ROAD, A DISTANCE OF 161.85 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE N.W. AND HAVING A RADIUS OF 400.00 FEET; THENCE RUN ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°07'26", HAVING THE AFOREMENTIONED RADIUS OF 400.00 FEET AND AN ARC LENGTH OF 112.57 FEET, TO THE POINT OF BEGINNING FOR THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°07'24", HAVING THE AFOREMENTIONED RADIUS OF 400.00 FEET AND AN ARC LENGTH OF 84.64 FEET TO A POINT, THENCE DEPARTING THE R/W OF WARRINGTON ROAD, ALONG A RADIAL BEARING OF S.64°54'23"E., A DISTANCE OF 180.12 FEET TO A POINT ON THE WEST LINE OF A 50' DRAINAGE R/W; THENCE S.00°05'03"E., ALONG SAID WEST LINE OF THE 50' DRAINAGE R/W, A DISTANCE OF 153.16 FEET; THENCE, N.52°46'59"W., A DISTANCE OF 259.99 FEET, RETURNING TO THE POINT OF BEGINNING.

.53 AC

### LEGEND

(AKA) = Also Known As  
 C = Centerline  
 (C) = Calculated  
 C.B. = Concrete Block  
 C.B.S. = Concrete Block Structure  
 C.L.F. = Chain Link Fence  
 CLR. = Clear  
 C.M. = Concrete Monument  
 CONC. = Concrete  
 COR. = Corner  
 COVD = Covered  
 ELEV. = Elevation  
 ENCH. = Encroachment  
 FD = Found  
 ID = Identification  
 I.P. = Iron Pipe  
 I.R. = Iron Rod  
 L = Length  
 (M) = Measured

N/D = Nail & Disk  
 N.R. = Non Radial  
 (P) = Plated  
 P.C. = Point of Curvature  
 P.C.C. = Point of Compound Curve  
 P.C.P. = Permanent Control Point  
 PP = Power Pole  
 P.R.M. = Permanent Reference Marker  
 P.S.M. = Professional Surveyor & Mapper  
 P.T. = Point of Tangency  
 P.U. & D. = Public Utility & Drainage  
 PVMT = Pavement  
 R = Radius  
 R.P. = Radius Point  
 R/W = Right-of-way  
 (TYP.) = Typical  
 W.F. = Wood Fence  
 Δ = Delta Angle

### CERTIFIED TO:

CHARLES WISMER

SCALE: 1" = 30'

DATE: 3/31/2017

PROJECT: 17-214B

F.B. NUMBER:

REVISION:

### SURVEYOR'S NOTES:

- 1) THE BEARING SYSTEM SHOWN HEREON IS BASED ON A BEARING OF N.53°20'27"W., ALONG THE EAST R/W LINE OF WARRINGTON ROAD.
- 2) AS PER FLOOD INSURANCE RATE MAP NO.12009C 0655 G, INDEX DATED 03-17-2014, THE ABOVE DESCRIBED PROPERTY LIES IN ZONE X.
- 3) THIS SURVEY WAS PREPARED FROM TITLE INFORMATION PROVIDED TO THE SURVEYOR. THERE MAY BE ADDITIONAL RESTRICTIONS OR EASEMENTS THAT AFFECT THE PROPERTY.
- 4) THIS TRACT CONTAINS 23,278 SQUARE FEET OR 0.53 ACRES OF LAND MORE OR LESS.
- 5) UNDERGROUND UTILITIES AND FOUNDATIONS HAVE NOT BEEN SHOWN.
- 6) MAP AND LEGAL DOES NOT REPRESENT AN ACTUAL FIELD SURVEY.
- 7) NOT VALID WITHOUT SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

### TYPE OF SURVEY:

BOUNDARY SURVEY

CAD FILE:

17-214B.DWG

### CERTIFIED BY:

DAVID A. BLOCK  
 FLORIDA P.S.M. 6263

(NOT VALID UNLESS SEALED)

1545 BREAM STREET  
 MERRITT ISLAND, FL 32952  
 PHONE: 321-452-7048  
 FAX: 321-452-5109  
 www.blocksurveying.com  
 dblock@blocksurveying.com

SHEET: 1 OF 2

LIABILITY SHALL NOT EXCEED THE TOTAL AMOUNT PAID TO THE SURVEYOR BY THE CLIENT.





NOW 02-GI-\* - K.1

# DAVID A. BLOCK SURVEYING & MAPPING

## MAP & LEGAL OF:

A PARCEL OF LAND LOCATED IN SECTION 2, TOWNSHIP 29 S., RANGE 36 E., BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
 PARCEL "A"  
 COMMENCE AT THE N.E. CORNER OF LOT 1, BLOCK 1023, AS SHOWN ON THE PLAT OF PORT MALABAR UNIT 20, PLAT BOOK 15, PAGE 129 THROUGH 139, PUBLIC RECORDS OF BREVARD COUNTY FLORIDA, THENCE RUN N.53°20'27"E., ALONG THE EAST R/W OF WARRINGTON ROAD, A DISTANCE OF 161.85 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE N.W. AND HAVING A RADIUS OF 400.00 FEET; THENCE RUN ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 4°05'30", HAVING THE AFOREMENTIONED RADIUS OF 400.00 FEET AND AN ARC LENGTH OF 28.56 FEET, TO THE S.W. CORNER OF TRACT "K", AFOREMENTIONED PLAT OF PORT MALABAR UNIT 20, SAID POINT ALSO BEING THE POINT OF BEGINNING FOR THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°01'56", HAVING THE AFOREMENTIONED RADIUS OF 400.00 FEET AND AN ARC LENGTH OF 84.00 FEET TO A POINT, THENCE DEPARTING THE R/W OF WARRINGTON ROAD, ALONG A RADIAL BEARING OF S.52°46'59"E., A DISTANCE OF 259.99 FEET TO A POINT ON THE WEST LINE OF A 50' DRAINAGE R/W; THENCE S.00°05'03"E., ALONG SAID WEST LINE OF THE 50' DRAINAGE R/W, A DISTANCE OF 7.43 FEET, TO THE S.E. CORNER OF THE AFORESAID TRACT "K"; THENCE, S.89°54'57"W., ALONG THE SOUTH LINE OF AFORESAID TRACT "K", A DISTANCE OF 175.00 FEET TO A POINT; THENCE RUN N.40°45'03"W., A DISTANCE OF 137.09 FEET, RETURNING TO THE POINT OF BEGINNING.

.48 AC

### LEGEND

(AKA) = Also Known As  
 C = Centerline  
 (C) = Calculated  
 C.B. = Concrete Block  
 C.B.S. = Concrete Block Structure  
 C.L.F. = Chain Link Fence  
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 R = Radius  
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 R/W = Right-of-way  
 (TYP.) = Typical  
 W.F. = Wood Fence  
 Δ = Delta Angle

CERTIFIED TO:

**CHARLES WISMER**

SCALE: 1" = 30'

DATE: 3/31/2017

PROJECT: 17-214A

F.B. NUMBER:

REVISION:

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- 2) AS PER FLOOD INSURANCE RATE MAP NO.12009C 0655 G, INDEX DATED 03-17-2014, THE ABOVE DESCRIBED PROPERTY LIES IN ZONE X.
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TYPE OF SURVEY:

**BOUNDARY SURVEY**

CAD FILE:

**17-214A.DWG**

CERTIFIED BY:

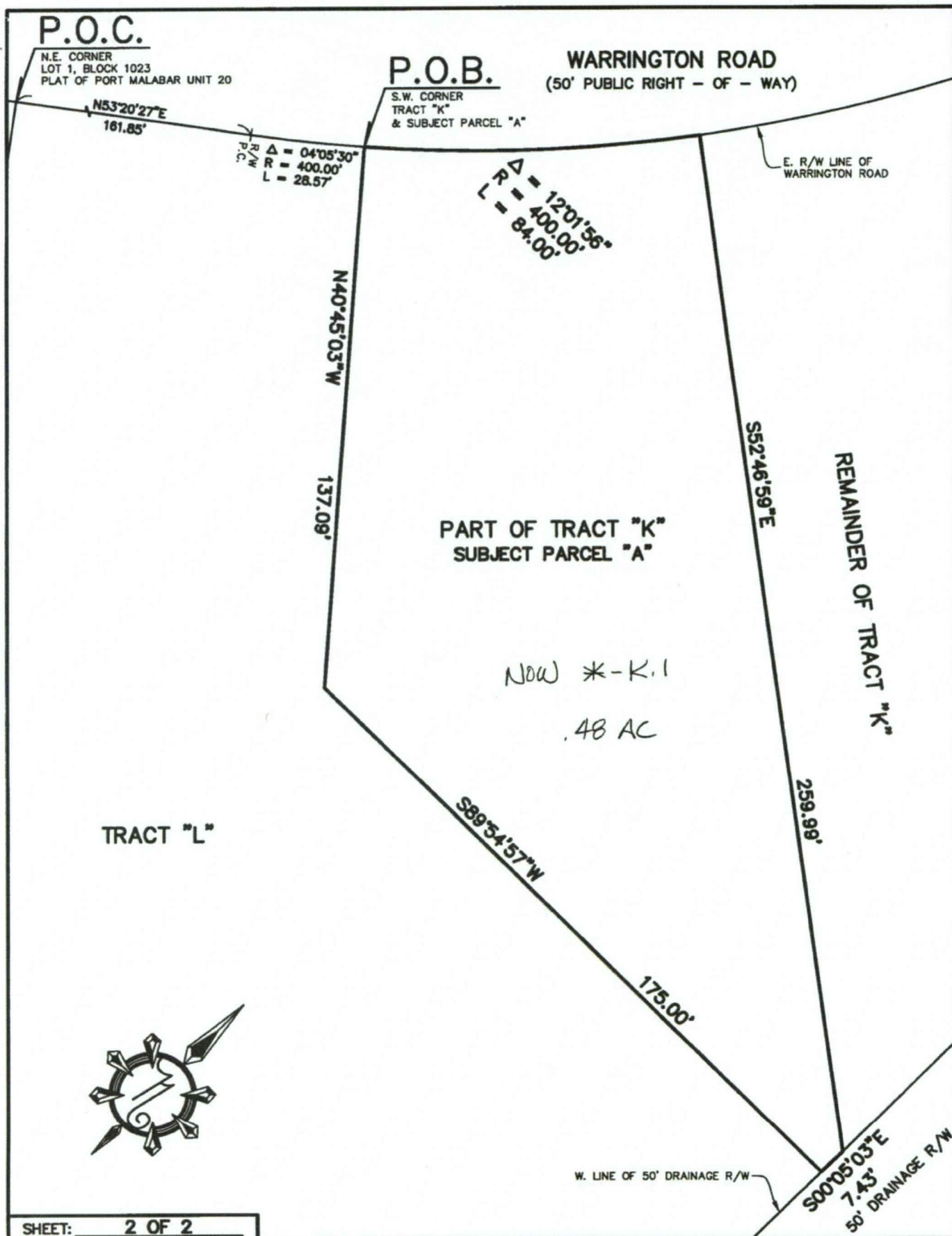
**DAVID A. BLOCK**  
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 dblock@blocksurveying.com

SHEET: 1 OF 2

LIABILITY SHALL NOT EXCEED THE TOTAL AMOUNT PAID TO THE SURVEYOR BY THE CLIENT.





## **CITIZEN PARTICIPATION REPORT**

Applicant should follow established Citizen Participation Plan as specified in § 169.005 CITIZEN PARTICIPATION PLANS.

### **CASE DETAILS**

Applicant Name	Jennifer Torres
Project Name	Future Land Use Lot 2
Case Type	Comprehensive Plan - Future Land Use
Case Description	Single Family Residential
Intended Month of Submission	April 2023

### **INFORMATION ON THE CITIZEN PARTICIPATION MEETING**

Notice to the Public (Date)	March 3, 2023
Date of CPP	March 20, 2023
Location of the Meeting	Franklin T. DeGroodt Public Library
Number of Attendees	2



**DENOTE ANY ADVERSE COMMENTS/COMPLAINTS/ CONCERNS/ ISSUES RECEIVED AND DESCRIBE RESOLUTION OR PROVIDE JUSTIFICATION IF THE APPLICANT IS UNABLE OR UNWILLING TO ADDRESS THE ISSUE:**

[illegible]



## LIST OF ATTENDEES

Number	Name of attendee	Number	Name of attendee
1.	Roberta Ruff	2.	Patrick Huston
3.		4.	
5.		6.	
7.		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.	





**ADDITIONAL DOCUMENTS REQUIRED WITH CITIZEN PARTICIPATION PLAN REPORT SUBMISSION**

1. Copy of notice sent (separate attachment)
2. Material distributed or presented at the meeting (separate attachment)
  - ☐ All the property owners within a 500-foot radius of the subject parcel shall be informed about the meeting date, time and location.

I hereby certify that information provided as part of this report is correct.

A handwritten signature in blue ink, appearing to read "Jennifer Torres".

\_\_\_\_\_  
Signature,

\_\_\_\_\_  
Typed Name and Title: Jennifer\_Torres

\_\_\_\_\_  
Date : 5/10/23

FUTURE LAND USE MEETING - March 19, 2023

Discuss rezoning properties 29-36-02-GI-K & 29-36-02-GI-\*-K.1 future land use from UTILITY to SINGLE FAMILY RESIDENTIAL

NAME

ADDRESS

COMMENTS

Roberta Ruff 406 Trotwood Ln SW

Patrick Huston 455 Wimpole Ln SW.

March 3, 2023

**RE:** Notice of Citizen Informational Meeting

**Project Site Address:**

Warrington Rd SW, Palm Bay, FL 32908

Parcel ID's: 29-36-02-GI-K & 29-36-02-GI-\*-K.1

**Zoning Request:** R2 - Single Family Residential

Dear Neighbor,

Jennifer Torres has submitted an application requesting the approval of rezoning from the **Future Land Use** of "Utility" to "RS - Single Family Residential". Currently the parcels are zoned for R2 - Single Family Residential, it is the *future* use that is being requested to rezone. You are invited to attend an informational meeting to discuss this request, answer any questions that you may have and record any feedback you may have to offer. We will then present your feedback to the City Staff, the Planning and Zoning Board and City Commission as we move through the review process for this request.

**Meeting Date:** Monday, March 20th, 2023

**Time:** 4:00pm - 4:45pm

**Place:** Franklin T. DeGroodt Public Library

6475 Minton Rd, Palm Bay, FL 32908

We hope to see you there!

Best Regards,



Jennifer Torres



Parcel ID's: 29-36-02-GI-K & 29-36-02-GI-\*-K.1

# Project Details: CP23-00007

## Project Type: Comprehensive Plan Future Land Use Map

Project Location: Palm Bay, FL  
Milestone: Under Review  
Created: 4/14/2023  
Description: Future Land Use Lot 2  
Assigned Planner: Tania Ramos

### Contacts

Contact	Information
Owner/Applicant	TORRES, JENNIFER E 115 TURPIAL WAY MELBOURNE, FL 32901  jenuin420@gmail.com
Legal Representative	Jennifer Torres 115 Turpial Way Melbourne, FL 32901  jenuin420@gmail.com
Assigned Planner	Tania Ramos FL  tania.ramos@palmbayflorida.org
Submitter	Jennifer Torres -1  jenuin420@gmail.com

### Fields

Field Label	Value
Total Acreage	
Present Land Use Classification	Vacant Residential Land (Single Family - Platted)
Proposed Land Use Classification	Single Family Residential
Structures On Property?	False
List Structures	
Rezoning Submitted?	False
Development Submitted?	False

# Project Details: CP23-00007

Justification for Change	Future land use is 'Utility', request is for future land use to be changed to 'Single Family Residential'
Specific Use Intended for Property	Build a home on the lot
Project Scale	Small Scale (50 acres or less)
Present Use of Property	Vacant Land
Is Submitter the Representative?	True
Ordinance Number	
Block	*
Lot	K.1
Section Township Range	02-29-36
Subdivision	GI
Year Built	
Use Code	0010
Use Code Desc	VACANT RESIDENTIAL LAND (SINGLE FAMILY, PLATTED)
LotSize	
Building SqFt	
Homestead Exemption	
Taxable Value Exemption	
Assessed Value	
Market Value	
Land Value	
Tax ID	3016123
Flu Description	Utilities
Flu Code	UTIL
Zoning Description	Single-Family Residential
Zoning Code	RS-2

# Acknowledgement Log

**Header:**

Legal Acknowledgement

**Text:**

I, the submitter, understand that this application must be complete and accurate before consideration by the City of Palm Bay and certify that all the answers to the questions in said application, and all data and matter attached to and made 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 application and that the facts stated in it are true.

**Accepted By:**

Jennifer Torres

**On:**

4/14/2023 1:54:02 AM

☒ CP23-00007

Select Language ▼



**Classified Ad Receipt  
(For Info Only - NOT A BILL)**

**Customer:** CITY OF PALM BAY

**Ad No.:** 0005744457

**Address:** SUITE 201  
PALM BAY FL 32907  
USA

**Pymt Method** Invoice

**Net Amount** 167.17

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 06/22/23

**Text of Ad:**

Ad#5744457 06/22/2023  
CITY OF PALM BAY, FLORIDA  
NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on July 5, 2023, and by the City Council on August 3, 2023, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):

**1. \*\*CU23-00008 – Royal Wash PSL, LLC (Chelsea Anderson, Esq., Mangrove Title & Legal, PLLC, Rep.)**

A Conditional Use to allow a retail Car Wash in a GC-General Commercial District, in accordance with Section 185.054(D)(9) of the Palm Bay Code of Ordinances

Lots 1 through 6, Block 2211, Port Malabar Unit 38, Section 3, Township 29, Range 37, Brevard County, Florida, containing approximately 1.15 acres. Specifically located at 1300 Malabar Road SE

**2. CP23-00007 – Jennifer E. Torres**

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Utilities to Low Density Residential

Tract K, Port Malabar Unit 20, Section 02, Township 29, Range 36, Brevard County, Florida, containing approximately 1.01 acres. Located on the south side of Warrington Road SW, in the vicinity of Jupiter Boulevard SW

**3. T23-00006 – City of Palm Bay (Growth Management Department)**

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.118, Accessory Structures, to amend and update standards for accessory structures

**4. T23-00009 - City of Palm Bay (Growth Management Department)**

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.018, Site Plans, to amend the site plan review process and establish different levels of plan reviews

**5. T23-00016 – City of Palm Bay (Growth Management Department)**

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to establish Section 185.139, Outdoor Dining, to incorporate standards for outdoor dining

\*\*Indicates quasi-judicial request(s).

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or the City Council 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.

Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.

Jesse Anderson  
Assistant Growth Management Director



## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Alexandra Bernard, Principal Planner

**DATE:** July 5, 2023

**SUBJECT:** FS23-00004 - Timbers at Everlands Phase 1B - DRP FL 6, LLC, Brian Clauson (Ana Saunders, P.E., BSE Consultants, Inc., Rep.) - Final Plat approval to allow for a proposed 41-lot single-family residential subdivision called Timbers at Everlands Phase 1B. A replat of a portion of Tract FD.1 together with Tract FD.2, all in Timbers at Everlands Phase 1A, Section 28, Township 28, Range 36, Brevard County, Florida, containing approximately 10.47 acres. Located at the northeast corner of St. Johns Heritage Parkway NW and Pace Drive NW

### ATTACHMENTS:

#### Description

- ▢ FS23-00004 -- Staff Report
- ▢ FS23-00004 -- Plat
- ▢ FS23-00004 -- Deed Restrictions
- ▢ FS23-00004 -- Title Opinion
- ▢ FS23-00004 -- Application
- ▢ FS23-00004 -- Letter of Authorization
- ▢ FS23-00004 -- Legal Acknowledgement
- ▢ FS23-00004 -- Legal Ad





# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

[landdevelopmentweb@palmabayflorida.org](mailto:landdevelopmentweb@palmabayflorida.org)

### Prepared by

Alix Bernard, Principal Planner

---

#### CASE NUMBER

FS23-00004

#### PLANNING & ZONING BOARD HEARING DATE

July 5, 2023

---

#### PROPERTY OWNER & APPLICANT

DRP FL 6, LLC, Brian Clauson (Ana Saunders, P.E., BSE Consultants, Inc, Rep.)

#### PROPERTY LOCATION/ADDRESS

A replat of a portion of Tract FD1 together with Tract FD2, All in Timbers at Everlands Phase 1A, section 28, Township 28 Range 36, Brevard County, Florida, containing approximately 10.47 acres. Located at the northeast corner of St. Johns Heritage Pkwy and Pace Dr NW.

---

#### SUMMARY OF REQUEST

The applicant requests that the property be granted Final Plat approval to allow for a proposed 41 lot single family residential subdivision called Timbers at Everlands Phase 1B.

##### Existing Zoning

PUD -- Planned Unit Development

##### Existing Land Use

Low Density Residential

##### Site Improvements

Single Family Homes

##### Site Acreage

Approximately 10.47 acres

---

#### SURROUNDING ZONING & USE OF LAND

##### North

CC, Community Commercial – Vacant

##### East

RS-2, Single Family Residential – Single Family Homes

##### South

PUD, Planned Unit Development – Single Family Homes

##### West

AU, Agricultural Residential – Vacant

#### COMPREHENSIVE PLAN COMPATIBILITY

Yes, the property has a Low-Density Residential Future Land Use Designation

**BACKGROUND:**

The subject property is located in the vicinity east of St. Johns Heritage Parkway, north of Pace Rd NW, containing approximately 10.47 acres.

The current zoning of the property is PUD, Planned Unit Development. The proposed subdivision will create 41 new single family residential age-restricted lots.

**ANALYSIS:**

Phase 1B, consisting of 41 single family residential age-restricted lots will be a mixture of 40 ft wide lots and 50 ft wide lots. In November 3, 2022, City Council approved Ordinance 2022-118 granting a Final Development Plan for Medley at Everlands, for a Planned Unit Development consisting of 840 units constructed in four phases. Phase 1 is a total of 184 lots, of which 66 lots have already been platted. This final plat request is for 41 lots, which will leave a balance of 107 lots in Phase 1 that still need to go through the final platting process.

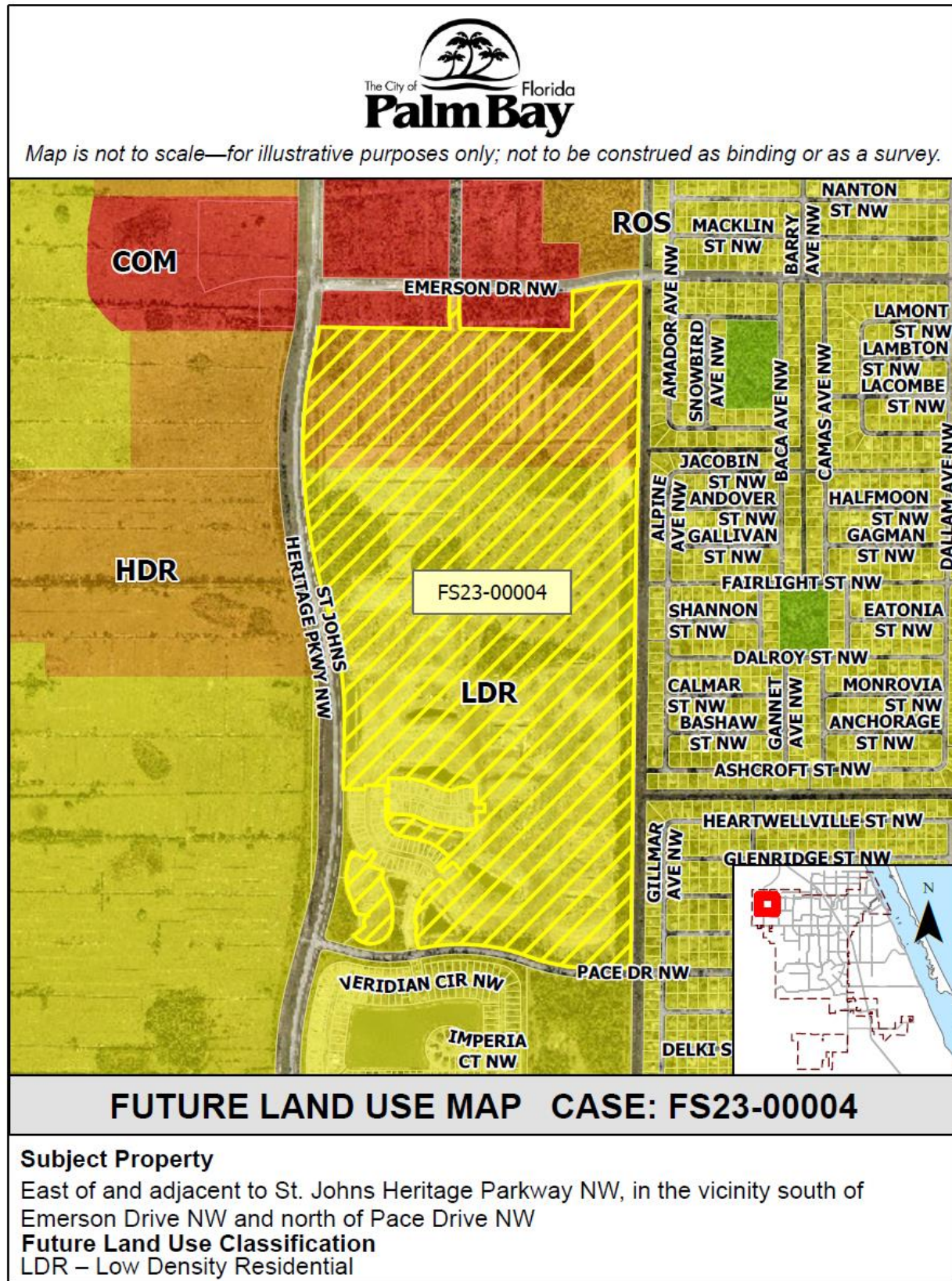
Access to this subdivision for Phase 1B is off of Pace Dr NW, on the newly constructed private right of way noted as Tract Z on the final plat with the roadway named Velorum Lane.

Technical staff review comments have all been addressed.

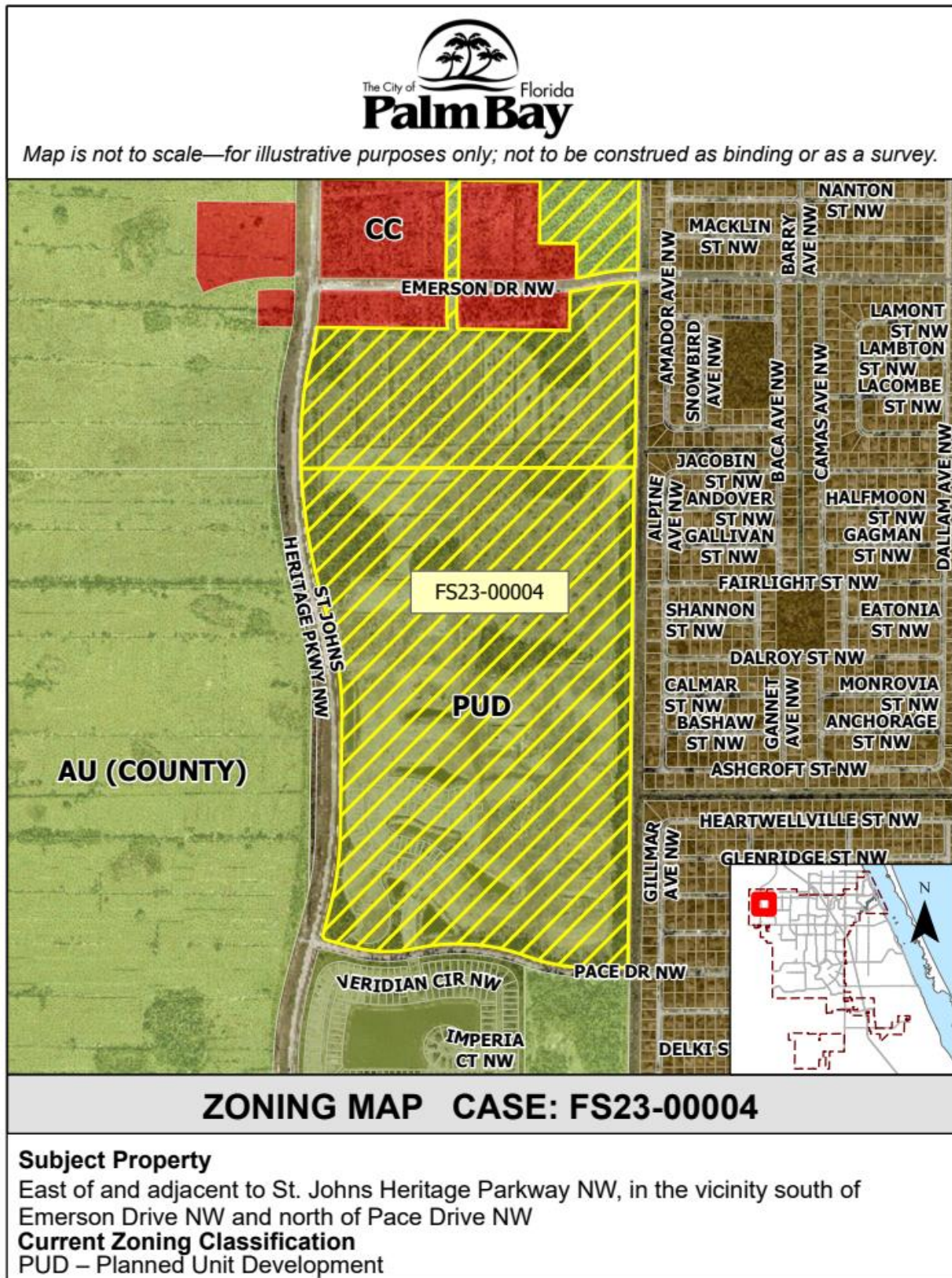
To receive Final Plat approval, the proposal must meet the requirements of Section 184.08 of the Palm Bay Code of Ordinances. Upon review of the submitted materials the Final Plat request is in substantial conformance with the applicable requirements of this section.

**STAFF RECOMMENDATION:**

Staff recommends Case FS23-00004 for approval.









TIMBERS AT EVERLANDS PHASE 1B  
BEING A REPLAT OF A PORTION OF TRACT FD1 TOGETHER WITH TRACT FD2, ALL IN TIMBERS AT EVERLANDS PHASE 1A,  
ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 73, PAGE 64, PUBLIC RECORDS OF  
BREVARD COUNTY, FLORIDA, LYING IN SECTION 28, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA

DESCRIPTION

A PORTION OF TRACT FD1 TOGETHER WITH TRACT FD2, ALL IN TIMBERS AT EVERLANDS PHASE 1A, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 73, PAGE 64, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LYING IN SECTION 28, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PORTION OF TRACT FD1

BEGIN AT THE EASTERLY MOST CORNER OF LOT 2, BLOCK C OF SAID TIMBERS AT EVERLANDS PHASE 1A AND RUN S48°27'17"W, A DISTANCE OF 120.00 FEET TO THE SOUTHERLY MOST CORNER OF SAID LOT 2, BLOCK C, (SAID POINT ALSO BEING A POINT ON THE BOUNDARY OF TRACT Z OF SAID TIMBERS AT EVERLANDS PHASE 1A); THENCE ALONG THE BOUNDARY OF SAID TRACT Z, THE FOLLOWING TEN (10) COURSES AND DISTANCES; 1) THENCE S54°22'00"W, A DISTANCE OF 50.18 FEET; 2) THENCE N40°32'43"W, A DISTANCE OF 40.00 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; 3) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTH, AND HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", A CHORD BEARING OF N85°32'43"W, AND A CHORD LENGTH OF 35.36 FEET), A DISTANCE OF 39.27 FEET TO THE END OF SAID CURVE; 4) THENCE S49°27'17"W, A DISTANCE OF 55.66 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; 5) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 400.00 FEET, A CENTRAL ANGLE OF 44°56'44", A CHORD BEARING OF S26°58'55"W, AND A CHORD LENGTH OF 305.79 FEET), A DISTANCE OF 313.78 FEET TO A POINT OF COMPOUND CURVATURE; 6) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 39°05'31", A CHORD BEARING OF S15°02'12"E, AND A CHORD LENGTH OF 33.46 FEET), A DISTANCE OF 34.11 FEET TO A POINT OF REVERSE CURVATURE; 7) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE WEST, AND HAVING A RADIUS OF 59.00 FEET, A CENTRAL ANGLE OF 60°36'33", A CHORD BEARING OF S04°16'42"E, AND A CHORD LENGTH OF 59.54 FEET), A DISTANCE OF 62.41 FEET TO A POINT OF REVERSE CURVATURE; 8) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 36°35'06", A CHORD BEARING OF S07°44'02"W, AND A CHORD LENGTH OF 31.39 FEET), A DISTANCE OF 31.93 FEET TO THE END OF SAID CURVE; 9) THENCE S10°33'31"E, A DISTANCE OF 91.71 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; 10) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHEAST, AND HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°48'05", A CHORD BEARING OF S55°57'34"E, AND A CHORD LENGTH OF 35.60 FEET), A DISTANCE OF 39.62 FEET TO A POINT OF REVERSE CURVATURE AND A POINT ON THE CURVED NORTH RIGHT-OF-WAY LINE OF PACE DRIVE (AN 80.00 FOOT WIDE PUBLIC RIGHT-OF-WAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 6149, PAGE 2602, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA); THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTH, AND HAVING A RADIUS OF 1580.00 FEET, A CENTRAL ANGLE OF 17°56'36", A CHORD BEARING OF N87°36'41"E, AND A CHORD LENGTH OF 492.79 FEET), A DISTANCE OF 494.81 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE NORTH; THENCE N09°03'50"E, ALONG SAID NON-TANGENT LINE, A DISTANCE OF 205.72 FEET; THENCE N00°36'59"E, A DISTANCE OF 50.66 FEET; THENCE N10°46'12"E, A DISTANCE OF 120.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 130.00 FEET, A CENTRAL ANGLE OF 38°41'05", A CHORD BEARING OF N59°53'16"W, AND A CHORD LENGTH OF 86.12 FEET), A DISTANCE OF 87.77 FEET TO THE END OF SAID CURVE; THENCE N40°32'43"W, A DISTANCE OF 237.18 FEET TO THE POINT OF BEGINNING. CONTAINING 6.22 ACRES, MORE OR LESS.

TRACT FD2

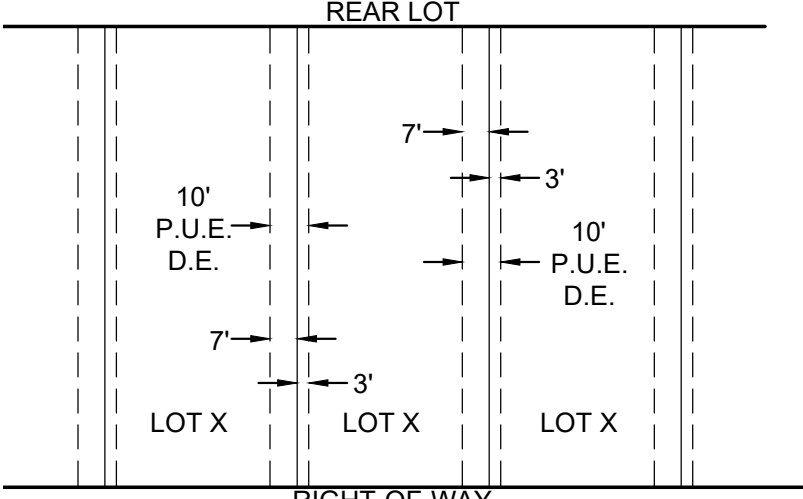
BEGIN AT THE SOUTHWEST CORNER OF LOT 1, BLOCK BB OF SAID TIMBERS AT EVERLANDS PHASE 1A, (SAID POINT ALSO BEING A POINT ON THE BOUNDARY OF TRACT A4 OF SAID TIMBERS AT EVERLANDS PHASE 1A); THENCE ALONG THE BOUNDARY OF SAID TRACT A4, THE FOLLOWING FOUR (4) COURSES AND DISTANCES; 1) THENCE ALONG THE ARC OF A CURVE TO THE LEFT, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 275.00 FEET, A CENTRAL ANGLE OF 9°10'19", A CHORD BEARING OF S22°58'16"W, AND A CHORD LENGTH OF 43.97 FEET), A DISTANCE OF 44.02 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE SOUTHEAST; 2) THENCE S71°36'54"E ALONG SAID NON-TANGENT LINE, A DISTANCE OF 120.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE LEFT; 3) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 155.00 FEET, A CENTRAL ANGLE OF 30°42'42", A CHORD BEARING OF S06°58'15"E, AND A CHORD LENGTH OF 132.75 FEET), A DISTANCE OF 137.19 FEET TO A POINT OF REVERSE CURVATURE; 4) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE WEST, AND HAVING A RADIUS OF 370.00 FEET, A CENTRAL ANGLE OF 24°48'01", A CHORD BEARING OF S19°55'35"E, AND A CHORD LENGTH OF 158.91 FEET), A DISTANCE OF 160.15 FEET TO THE SOUTHWEST CORNER OF SAID TRACT A4, (SAID POINT ALSO BEING A POINT ON THE BOUNDARY OF TRACT A3 OF SAID TIMBERS AT EVERLANDS PHASE 1A); THENCE ALONG THE BOUNDARY OF SAID TRACT A3, THE FOLLOWING THREE (3) COURSES AND DISTANCES; 1) THENCE CONTINUE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE WEST, AND HAVING A RADIUS OF 370.00 FEET, A CENTRAL ANGLE OF 9°03'44", A CHORD BEARING OF S02°59'43"E, AND A CHORD LENGTH OF 58.46 FEET), A DISTANCE OF 58.52 FEET TO THE END OF SAID CURVE; 2) THENCE S01°32'10"W, A DISTANCE OF 78.41 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; 3) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTH, AND HAVING A RADIUS OF 174.00 FEET, A CENTRAL ANGLE OF 139°42'14", A CHORD BEARING OF S71°23'16"W, AND A CHORD LENGTH OF 326.70 FEET), A DISTANCE OF 424.26 FEET TO A NON-TANGENT INTERSECTION WITH THE BOUNDARY OF TRACT A2 OF SAID TIMBERS AT EVERLANDS PHASE 1A; THENCE ALONG THE BOUNDARY OF SAID TRACT A2, THE FOLLOWING FIVE (5) COURSES AND DISTANCES; 1) THENCE N51°14'23"E, A DISTANCE OF 120.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE RIGHT; 2) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 54.00 FEET, A CENTRAL ANGLE OF 113°16'39", A CHORD BEARING OF N17°52'43"E, AND A CHORD LENGTH OF 90.20 FEET), A DISTANCE OF 106.76 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE WEST; 3) THENCE N80°24'57"W, ALONG SAID NON-TANGENT LINE, A DISTANCE OF 102.18 FEET; 4) THENCE N20°23'28"W, A DISTANCE OF 149.65 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; 5) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 445.00 FEET, A CENTRAL ANGLE OF 18°50'34", A CHORD BEARING OF N10°58'11"W, AND A CHORD LENGTH OF 145.69 FEET), A DISTANCE OF 146.35 FEET TO THE NORTHEAST CORNER OF SAID TRACT A2, (SAID POINT ALSO BEING A POINT ON THE BOUNDARY OF TRACT A1 OF SAID TIMBERS AT EVERLANDS PHASE 1A); THENCE ALONG THE BOUNDARY OF SAID TRACT A1, THE FOLLOWING THREE (3) COURSES AND DISTANCES; 1) THENCE CONTINUE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 445.00 FEET, A CENTRAL ANGLE OF 28°02'54", A CHORD BEARING OF N12°28'33"E, AND A CHORD LENGTH OF 215.67 FEET), A DISTANCE OF 217.84 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE SOUTHEAST; 2) THENCE S63°30'00"E, ALONG SAID NON-TANGENT LINE, A DISTANCE OF 120.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE RIGHT; 3) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 325.00 FEET, A CENTRAL ANGLE OF 3°08'22", A CHORD BEARING OF N28°04'11"E, AND A CHORD LENGTH OF 17.81 FEET), A DISTANCE OF 17.81 FEET TO THE SOUTHERLY MOST CORNER OF LOT 45, BLOCK R OF SAID TIMBERS AT EVERLANDS PHASE 1A; THENCE CONTINUE ALONG THE ARC OF SAID CURVE AND ALONG THE SOUTHEASTERLY BOUNDARY OF SAID LOT 45, BLOCK R, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 325.00 FEET, A CENTRAL ANGLE OF 12°17'53", A CHORD BEARING OF N35°47'18"E, AND A CHORD LENGTH OF 69.62 FEET), A DISTANCE OF 69.76 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE SOUTHEAST AND A POINT ON THE BOUNDARY OF TRACT Z OF SAID TIMBERS AT EVERLANDS PHASE 1A; THENCE S48°03'46"E, ALONG SAID NON-TANGENT LINE AND ALONG THE BOUNDARY OF SAID TRACT Z, A DISTANCE OF 50.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE LEFT AND A POINT ON THE BOUNDARY OF SAID LOT 1, BLOCK BB OF SAID TIMBERS AT EVERLANDS PHASE 1A; THENCE ALONG THE BOUNDARY OF SAID LOT 1, BLOCK BB AND ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 275.00 FEET, A CENTRAL ANGLE OF 14°22'49", A CHORD BEARING OF S34°44'50"W, AND A CHORD LENGTH OF 68.84 FEET), A DISTANCE OF 69.02 FEET TO THE POINT OF BEGINNING. CONTAINING 4.25 ACRES, MORE OR LESS.

CONTAINING 10.47 NET ACRES, MORE OR LESS

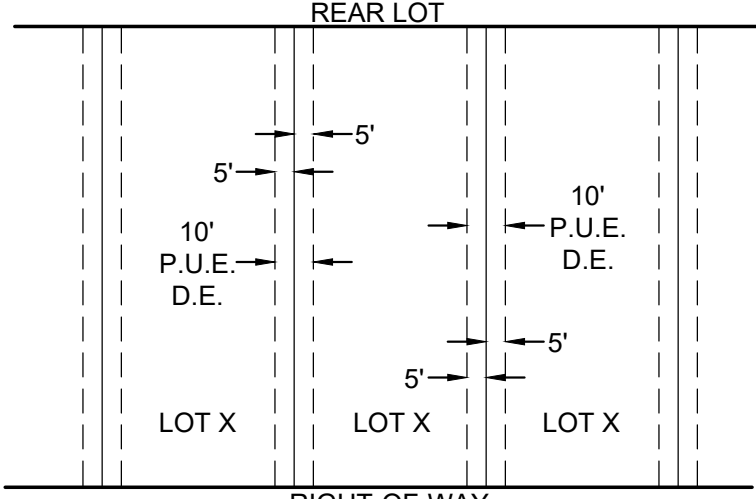
PLAT NOTES:

- BEARING REFERENCE: ASSUMED BEARING OF S49°27'17"W ON THE SOUTHEASTERLY LINE OF LOT 2, BLOCK C, TIMBERS AT EVERLANDS PHASE 1A, AS RECORDED IN PLAT BOOK 73, PAGE 64, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
- SURVEY MONUMENTATION WITHIN THE SUBDIVISION SHALL BE SET IN ACCORDANCE WITH FLORIDA STATUTES CHAPTERS 177.091(8) & 177.091(9).
- UNLESS OTHERWISE NOTED ALL LINES ARE RADIAL.
- ALL LOT DRAINAGE IS PRIVATE AND IS TO BE MAINTAINED BY THE INDIVIDUAL LOT OWNER, OR THE DECLARED MAINTENANCE ENTITY (I.E. HOMEOWNER ASSOCIATION).
- ALL PLATTED UTILITY EASEMENTS SHALL PROVIDE THAT SUCH EASEMENTS SHALL ALSO BE EASEMENTS FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION OF CABLE TELEVISION SERVICES; PROVIDED, HOWEVER, NO SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION OF CABLE TELEVISION SERVICES SHALL INTERFERE WITH THE FACILITIES AND SERVICES OF AN ELECTRIC, TELEPHONE, GAS, OR OTHER PUBLIC UTILITY. IN THE EVENT A CABLE TELEVISION COMPANY DAMAGES THE FACILITIES OF A PUBLIC UTILITY, IT SHALL BE SOLELY RESPONSIBLE FOR THE DAMAGES. THIS SECTION SHALL NOT APPLY TO THOSE PRIVATE EASEMENTS GRANTED TO OR OBTAINED BY A PARTICULAR ELECTRIC, TELEPHONE, GAS, OR OTHER PUBLIC UTILITY. SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION SHALL COMPLY WITH THE NATIONAL ELECTRICAL SAFETY CODE AS ADOPTED BY THE FLORIDA PUBLIC SERVICE COMMISSION.
- UNLESS OTHERWISE NOTED THERE IS HEREBY DEDICATED OVER AND ACROSS THE FRONT OF ALL LOTS AND TRACTS ABUTTING AND COINCIDENT WITH THE PRIVATE RIGHTS-OF-WAY, A 10.00 FOOT WIDE PERPETUAL PUBLIC UTILITY EASEMENT.
- A 3.00 FOOT WIDE AND 7.00 FOOT WIDE PERPETUAL PUBLIC UTILITY AND PRIVATE DRAINAGE EASEMENT IS HEREBY DEDICATED ALONG ALL SIDE LOT LINES WITHIN BLOCK "A" AS SHOWN ON "SIDE LOT EASEMENT DETAIL A", UNLESS OTHERWISE NOTED. WHERE MORE THAN ONE LOT, OR PARTS OF ONE OR MORE LOTS, ARE USED AS A SINGLE BUILDING SITE, ONLY THE OUTER BOUNDARIES OF THE BUILDING SITE SHALL CARRY THE SIDE EASEMENTS.
- A 5.00 FOOT WIDE PUBLIC UTILITY AND PRIVATE DRAINAGE EASEMENT IS HEREBY DEDICATED ALONG ALL SIDE LOT LINES WITHIN BLOCK "A", "C", AND "CC" AS SHOWN ON "SIDE LOT EASEMENT DETAIL B", UNLESS OTHERWISE NOTED. WHERE MORE THAN ONE LOT, OR PARTS OF ONE OR MORE LOTS, ARE USED AS A SINGLE BUILDING SITE, ONLY THE OUTER BOUNDARIES OF THE BUILDING SITE SHALL CARRY THE SIDE EASEMENTS.
- DRAINAGE AND UTILITY EASEMENTS SHOWN ARE CENTERED ALONG LOT LINES UNLESS SPECIFICALLY DIMENSIONED OTHERWISE.
- LOTS AND TRACTS ABUTTING ANY EXISTING STORM WATER LAKE AND TRACT, OR FLOW WAYS, WETLANDS AND ANY OTHER STORM WATER MANAGEMENT FACILITIES CONSTRUCTED SUBSEQUENT TO THIS PLAT SHALL NOT HAVE RIPARIAN RIGHTS WITH RESPECT TO ANY SUCH TRACTS AND DRAINAGE FACILITIES, INCLUDING WITHOUT LIMITATION, ANY DRAINAGE PONDS OR LAKES, DRAINAGE STRUCTURES OR AQUATIC LANDSCAPE FEATURES WHICH MAY BE CONSTRUCTED WITHIN SAID FACILITIES.
- ALL INTERNAL ROADWAYS ARE DESIGNATED AS TRACT "Z" AND TRACT "ZZ", AND SHALL BE PRIVATE AND SHALL BE OWNED AND MAINTAINED BY THE TIMBERS AT EVERLANDS HOMEOWNERS ASSOCIATION, INC., ITS SUCCESSORS AND/OR ASSIGNS. AN INGRESS/EGRESS EASEMENT IS HEREBY GRANTED TO THE CITY OF PALM BAY FOR EMERGENCY VEHICLE ACCESS OVER AND ACROSS TRACT "Z" AND TRACT "ZZ".
- THERE IS HEREBY DEDICATED TO THE CITY OF PALM BAY, FLORIDA AN EASEMENT FOR THE PURPOSES OF INSTALLATION, MAINTENANCE, ACCESS AND REPAIR OF A PUBLIC SANITARY SEWER LINE AND ASSOCIATED FACILITIES OVER, UNDER, AND ACROSS TRACT "Z" AND TRACT "ZZ".
- THERE IS HEREBY DEDICATED TO THE CITY OF PALM BAY, FLORIDA AN EASEMENT FOR THE PURPOSES OF INSTALLATION, MAINTENANCE, ACCESS AND REPAIR OF A PUBLIC POTABLE WATER LINE AND ASSOCIATED FACILITIES OVER, UNDER, AND ACROSS TRACT "Z" AND TRACT "ZZ".
- TRACT "Z" AND TRACT "ZZ" ARE HEREBY DEDICATED FOR PRIVATE USE AND AS A COMMON VEHICLE AND PEDESTRIAN WAY ACCESS EASEMENT FOR THE USE, MAINTENANCE, AND BENEFIT OF ALL LOT OWNERS WITHIN TIMBERS AT EVERLANDS AND THE TIMBERS AT EVERLANDS HOMEOWNERS ASSOCIATION, INC., ITS SUCCESSORS AND/OR ASSIGNS, AND FOR INGRESS AND EGRESS FROM EACH LOT TO THE ABUTTING PUBLIC STREETS.
- THE CITY OF PALM BAY, FLORIDA, BREVARD COUNTY, FLORIDA, STATE OF FLORIDA AND THE FEDERAL GOVERNMENT OF THE UNITED STATES OF AMERICA SHALL BE ALLOWED ACCESS ON TRACT "Z" AND TRACT "ZZ", PEDESTRIAN WAYS, EASEMENTS AND COMMON OPEN SPACE TO ENSURE AND PROVIDE THE POLICE AND FIRE PROTECTION OF THE AREA, AND TO CONTROL THE HEALTH AND SAFETY OF THE RESIDENTS AND GUESTS OF TIMBERS AT EVERLANDS.
- THE HOMEOWNERS ASSOCIATION SHALL HAVE THE PRIMARY MAINTENANCE RESPONSIBILITY FOR THE DRAINAGE FACILITIES CONSTRUCTED WITHIN THE PRIVATE EASEMENTS AND STORMWATER TRACTS, HEREIN GRANTED. HOWEVER, THE CITY OF PALM BAY SHALL HAVE THE RIGHT BUT NOT THE OBLIGATION, TO PERFORM MAINTENANCE OR TO MAKE EMERGENCY REPAIRS AS IT DEEMS NECESSARY OR DESIRABLE, AT THE EXPENSE OF THE HOMEOWNERS' ASSOCIATION, INC., THEIR SUCCESSORS, OR ASSIGNS.
- THE LANDS SUBDIVIDED HEREON ARE SUBJECT TO THE TERMS AND CONDITIONS OF THOSE CERTAIN COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE TIMBERS AT EVERLANDS AS RECORDED IN OFFICIAL RECORDS BOOK 9766, PAGE 425, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

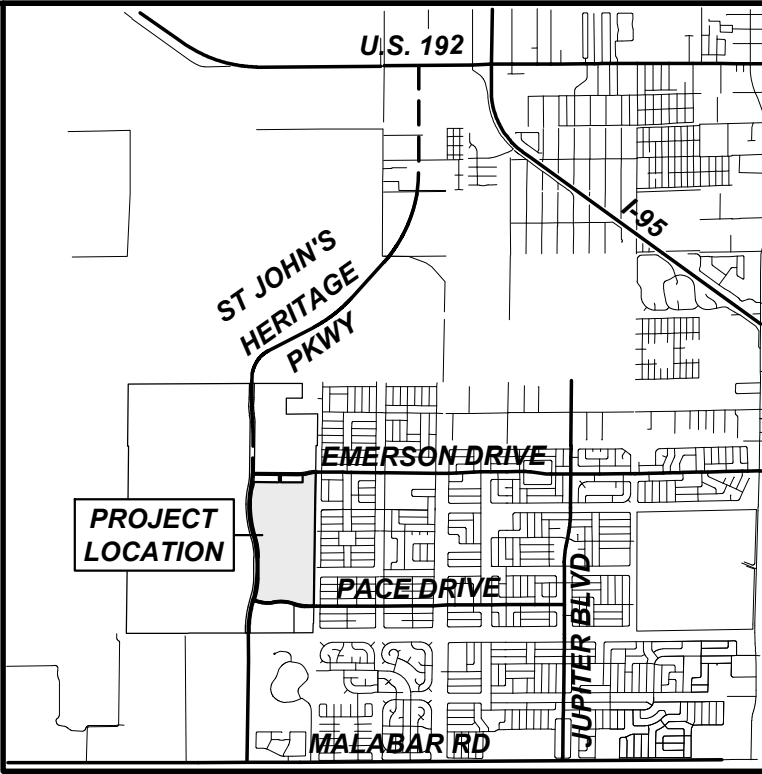
TRACT TABLE			
TRACT ID	AREA (ACRES)	TRACT USE	OWNERSHIP AND MAINTENANCE ENTITY
B1	3.25	LANDSCAPE, DRAINAGE, STORM WATER, AND UTILITIES	THE TIMBERS AT EVERLANDS HOMEOWNERS ASSOCIATION, INC., ITS SUCCESSORS AND/OR ASSIGNS
TRACT Z	0.49	VEHICULAR AND PEDESTRIAN ACCESS, UTILITIES, DRAINAGE, AND SIDEWALKS	THE TIMBERS AT EVERLANDS HOMEOWNERS ASSOCIATION, INC., ITS SUCCESSORS AND/OR ASSIGNS
TRACT ZZ	0.85	VEHICULAR AND PEDESTRIAN ACCESS, UTILITIES, DRAINAGE, AND SIDEWALKS	THE TIMBERS AT EVERLANDS HOMEOWNERS ASSOCIATION, INC., ITS SUCCESSORS AND/OR ASSIGNS



SIDE LOT EASEMENT DETAIL "A"



SIDE LOT EASEMENT DETAIL "B"



LOCATION MAP

NTS



KEY MAP

N.T.S.

SURVEY SYMBOL LEGEND

- PERMANENT REFERENCE MONUMENT (PRM); SET 5/8" IRON ROD AND CAP STAMPED PRM LB4905, UNLESS OTHERWISE NOTED
- PERMANENT CONTROL POINT (PCP); SET MAG NAIL AND DISK STAMPED PCP LB4905, UNLESS OTHERWISE NOTED

ABBREVIATIONS

- MINUTES/FEET
- SECONDS/INCHES
- DEGREES

- AC ACRES
- AL ARC LENGTH
- BOC BEGINNING OF CURVE
- CB CHORD BEARING
- CH CHORD LENGTH
- CM CONCRETE MONUMENT
- DE PRIVATE DRAINAGE EASEMENT
- DEL CENTRAL/DELTA ANGLE
- E EAST
- EOC END OF CURVE
- EX EXISTING
- FD FOUNT
- FT FOOT/FEET
- N NORTH
- NR NON-RADIAL
- NTS NOT TO SCALE
- NTI NON-TANGENT INTERSECTION
- NTL NON-TANGENT LINE
- OR/ORB OFFICIAL RECORDS BOOK
- PB PLAT BOOK
- PCC POINT OF COMPOUND CURVATURE
- PCP PERMANENT CONTROL POINT
- PG(S) PAGE(S)
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- PRC POINT OF REVERSE CURVATURE
- P.S.E. PUBLIC SIDEWALK EASEMENT
- P.U.D. PLANNED UNIT DEVELOPMENT
- P.U.E. PUBLIC UTILITY EASEMENT
- R RADIUS
- RW RIGHT-OF-WAY
- TYP TYPICAL

- THIS PLAT PREPARED BY -



B.S.E. CONSULTANTS, INC.  
CONSULTING - ENGINEERING - LAND SURVEYING  
312 SOUTH HARBOR CITY BOULEVARD, SUITE 401  
PALM BEACH, FLORIDA 33480  
PHONE: (561) 725-8674 FAX: (561) 725-1159  
CERTIFICATE OF BUSINESS REGISTRATION  
CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: LB0004905

DATE: 5/12/23  
DESIGN/DRAWN: SMG/DRB  
DRAWING#10860600\_302\_001  
PROJECT#10860.600

PLAT BOOK \_\_\_\_\_, PAGE \_\_\_\_\_

SHEET 1 OF 4

SECTION 28, TOWNSHIP 28 SOUTH, RANGE 36 EAST

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that the limited liability company named below, being the owner in fee simple of the lands described in

TIMBERS AT EVERLANDS PHASE 1B

Hereby dedicates to the City of Palm Bay, Florida an ingress and egress easement over and across TRACT Z and TRACT ZZ for law enforcement, emergency access and emergency maintenance and hereby dedicates to private utility companies, for their perpetual use an easement over and across said TRACT Z and TRACT ZZ for the access and maintenance of utilities as described in the plat notes. No other tracts or easements are dedicated or granted to the public. All Right of Way tracts are dedicated to the Homeowners' Association and all maintenance responsibilities shall not be the City of Palm Bay's.

DRP FL 6, LLC, a Delaware limited liability company  
By: DW General Partner, LLC, its Manager

SEAL

By: \_\_\_\_\_  
Name: Houdin Honarvar, Authorized Signatory for Manager

Attest:

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Attest:

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

DRP FL 6, LLC  
590 MADISON AVE FL 13  
NEW YORK, NY 10022

STATE OF NEW YORK COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of \_\_\_\_\_ physical presence or \_\_\_\_\_ online notarization, this \_\_\_\_\_ by Houdin Honarvar, Authorized Signatory for Manager of the above named limited liability company, to me known to be the individual and officer described in and who executed the foregoing Dedication and severally acknowledged the execution thereof to be their free act and deed as such officer thereunto duly authorized; that official seal of said corporation is duly affixed thereto; and that the dedication is the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the above date.

NOTARY PUBLIC \_\_\_\_\_

Notary Public, State of New York  
My Comm. Expires \_\_\_\_\_  
Comm. No. \_\_\_\_\_

SEAL

CERTIFICATE OF SURVEYOR

KNOW ALL MEN BY THESE PRESENTS, That the undersigned, being a licensed professional surveyor and mapper, does hereby certify that on 05/12/2023 he completed the boundary survey of the lands shown on the foregoing plat; and that said plat was prepared under his direction and supervision and that said plat complies with all of the survey requirements of Chapter 177, part 1, Florida Statutes, and that said lands are located in Brevard County, Florida.

Registration Number 5611  
LESLIE E. HOWARD  
B.S.E. Consultants, Inc.  
312 South Harbor City Boulevard, Suite #4  
Melbourne, Fla. 32901  
Certificate of Authorization Number: LB-0004905

CERTIFICATE OF REVIEWING SURVEYOR  
FOR THE CITY OF PALM BAY

I HEREBY CERTIFY, That I have reviewed the foregoing plat and find that it is in conformity with Chapter 177, part 1, Florida Statutes.

Joseph N. Hale, Professional Surveyor & Mapper No. 6366

CERTIFICATE OF APPROVAL BY MUNICIPALITY

THIS IS TO CERTIFY, That on: \_\_\_\_\_ the City Council of the City of Palm Bay, Florida approved the foregoing plat.

Mayor - J. Robert Medina

Attest:

City Clerk - Terese M. Jones

CERTIFICATE OF CLERK

I HEREBY CERTIFY, That I have examined the foregoing plat and find that it complies in form with all the requirements of Chapter 177, part 1 Florida Statutes, and was filed for record on \_\_\_\_\_ at \_\_\_\_\_ File No. \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Clerk of the Circuit Court in and for Brevard County, Fla.

NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

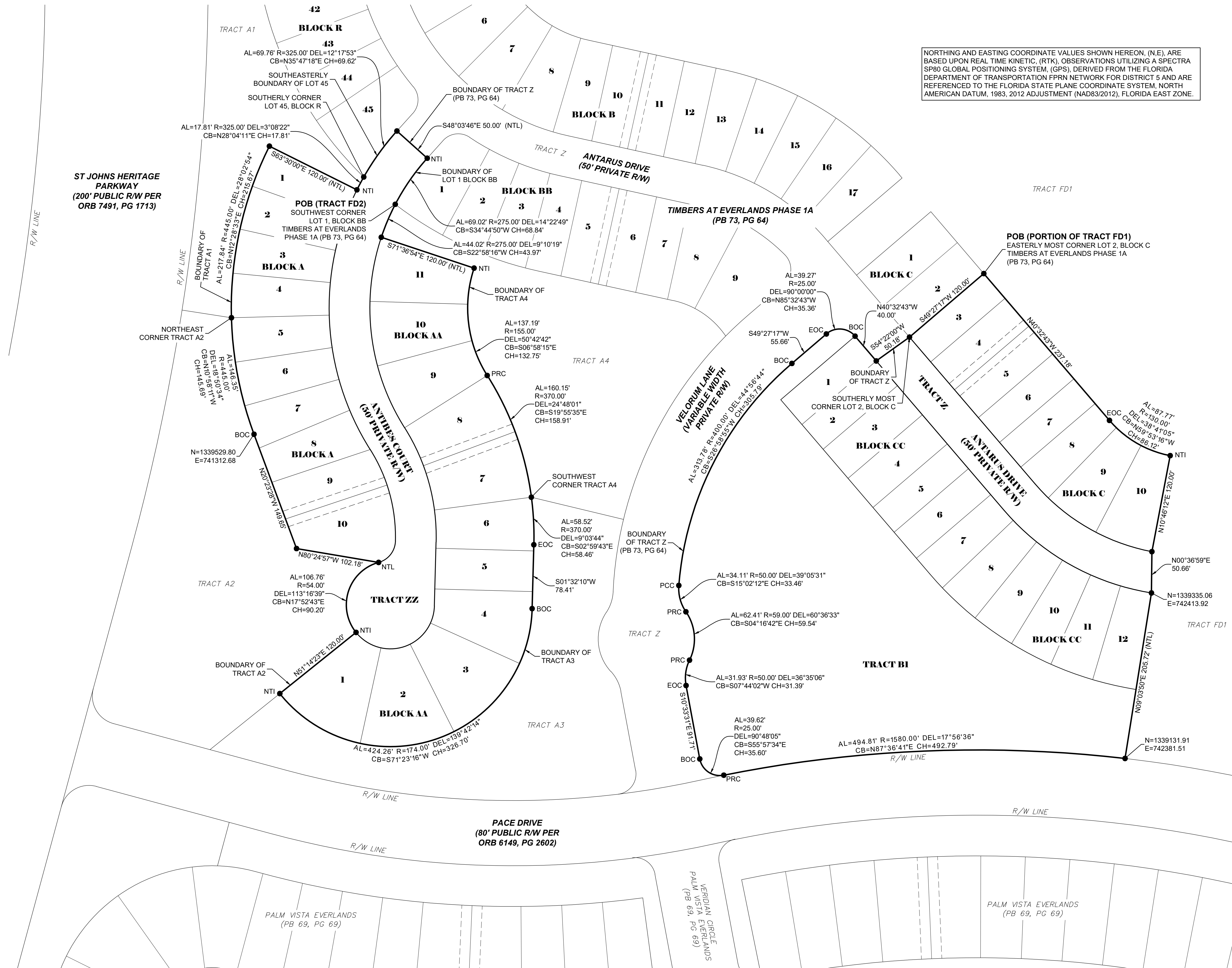
BEING A REPLAT OF A PORTION OF TRACT FD1 TOGETHER WITH TRACT FD2, ALL IN TIMBERS AT EVERLANDS PHASE 1A,  
ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 73, PAGE 64, PUBLIC RECORDS OF  
BREVARD COUNTY, FLORIDA, LYING IN SECTION 28, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA

### SURVEY SYMBOL LEGEND

- ## ABBREVIATIONS

- 

 <p><b>B.S.E. CONSULTANTS, INC.</b>  CONSULTING - ENGINEERING - LAND SURVEYING  312 SOUTH HARBOR CITY BOULEVARD, SUITE 4 MELBOURNE, FL 32901  PHONE: (321) 725-3674 FAX: (321) 725-1159  CERTIFICATE OF BUSINESS AUTHORIZATION: 4955  CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: LB0004005</p>	<p>DATE: 05/12/2023  DESIGN/DRAWN: SMG/DRB  DRAWING# 108600_302_002  PROJECT# 10860_600</p>
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# TIMBERS AT EVERLANDS PHASE 1B

BEING A REPLAT OF A PORTION OF TRACT FD1  
TOGETHER WITH TRACT FD2, ALL IN TIMBERS AT  
EVERLANDS PHASE 1A, ACCORDING TO THE PLAT  
THEREOF AS RECORDED IN PLAT BOOK 73, PAGE 64,  
PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LYING  
IN SECTION 28, TOWNSHIP 28 SOUTH, RANGE 36 EAST,  
BREVARD COUNTY, FLORIDA



KEY MAP  
N.T.S.

## SURVEY SYMBOL LEGEND

- PERMANENT REFERENCE MONUMENT (PRM); SET 5/8" IRON ROD AND CAP STAMPED PRM LB4905, UNLESS OTHERWISE NOTED
- ▲ PERMANENT CONTROL POINT (PCP); SET MAG NAIL AND DISK STAMPED PCP LB4905, UNLESS OTHERWISE NOTED

## ABBREVIATIONS

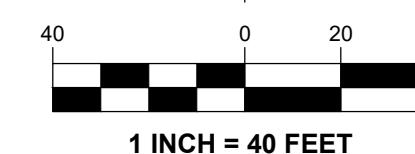
- ' MINUTES/FEET
- " SECONDS/INCHES
- ° DEGREES
- AC ACRES
- AL ARC LENGTH
- BOC BEGINNING OF CURVE
- CB CHORD BEARING
- CH CHORD LENGTH
- CM CONCRETE MONUMENT
- DE PRIVATE DRAINAGE EASEMENT
- DEL CENTRAL/DELTA ANGLE
- E EAST
- EOC END OF CURVE
- EX EXISTING
- FD FOUND
- FT FOOT/FEET
- N NORTH
- NR NON-RADIAL
- NTS NOT TO SCALE
- NTI NON-TANGENT INTERSECTION
- NTL NON-TANGENT LINE
- OR/ORB OFFICIAL RECORDS BOOK
- PB PLAT BOOK
- PCC POINT OF COMPOUND CURVATURE
- PCP PERMANENT CONTROL POINT
- PG(S) PAGE(S)
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- PRC POINT OF REVERSE CURVATURE
- P.S.E. PUBLIC SIDEWALK EASEMENT
- P.U.D. PLANNED UNIT DEVELOPMENT
- P.U.E. PUBLIC UTILITY EASEMENT
- R RADIUS
- R/W RIGHT-OF-WAY
- TYP TYPICAL

- THIS PLAT PREPARED BY -



**B.S.E. CONSULTANTS, INC.**  
CONSULTING - ENGINEERING - LAND SURVEYING  
312 SOUTH HARBOR CITY BOULEVARD, SUITE 400, MELBOURNE, FL 32901  
PHONE: (321) 725-3074 FAX: (321) 725-1109  
CERTIFICATE OF BUSINESS AUTHORIZATION #002  
CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: LB0004905

DATE: 05/12/2023  
DESIGN/DRAWN: LEH/DRB  
DRAWING#10860600\_302\_003  
PROJECT# 10860.600



SEE SHEET 4 FOR CONTINUATION

ST JOHNS HERITAGE  
PARKWAY  
(200' PUBLIC R/W PER  
ORB 7491, PG 1713)

ANTARUS DRIVE  
(50' PRIVATE R/W)

VELORUM LANE  
(VARIABLE WIDTH  
PRIVATE R/W)

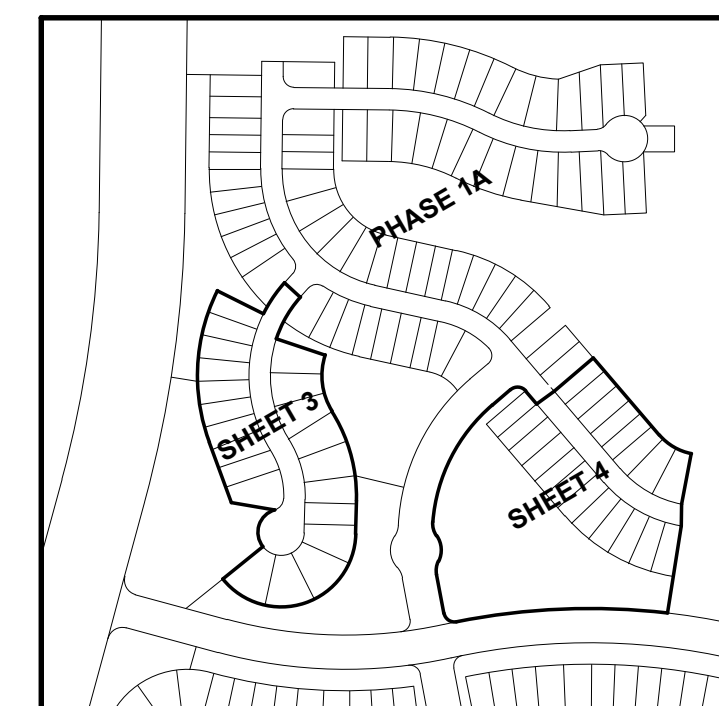
PACE DRIVE  
(80' PUBLIC R/W PER  
ORB 6149, PG 2602)

PACE DRIVE  
(80' PUBLIC R/W PER  
ORB 6149, PG 2602)



# TIMBERS AT EVERLANDS PHASE 1B

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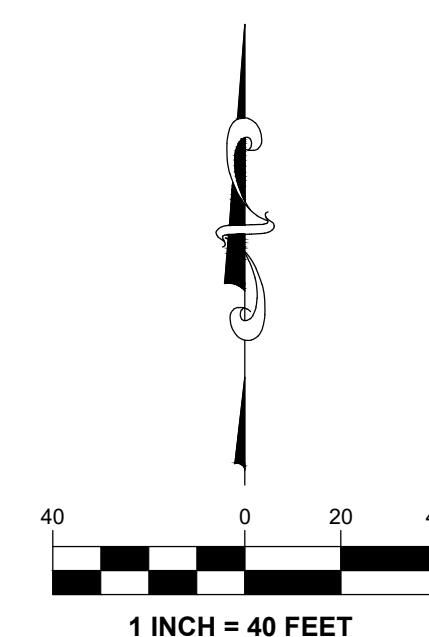
KEY MAP  
N.T.S.

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- P.U.E. PUBLIC UTILITY EASEMENT
- R RADIUS
- R/W RIGHT-OF-WAY
- TYP TYPICAL



- THIS PLAT PREPARED BY -



SEE SHEET 3 FOR CONTINUATION

THIS INSTRUMENT PREPARED BY AND  
UPON RECORDATION RETURN TO:

JEFF COOPERMAN, ESQ.  
SOLOMON, COOPERMAN & RECONDO, LLP  
1101 BRICKELL AVENUE, SUITE N1101  
MIAMI, FLORIDA 33131

**FIRST AMENDMENT TO DECLARATION  
FOR EVERLANDS**

THIS FIRST AMENDMENT TO DECLARATION FOR EVERLANDS (this “**First Amendment**”) is made by LENNAR HOMES, LLC, a Florida limited liability company, (“**Developer**”), and joined in by EVERLANDS MASTER ASSOCIATION, INC., a Florida not-for-profit corporation.

**R E C I T A L S**

A. Developer recorded that certain Declaration for Everlands on April 5, 2022 in Official Records Book 9466, at Page 1511 of the Public Records of Brevard County, Florida (the “**Declaration**”) respecting the community known as Everlands.

B. Pursuant to Section 4.3 of the Declaration, prior to and including the Turnover Date (as defined in the Declaration), Developer shall have the right to amend the Declaration as it deems appropriate, without the joinder or consent of any person or entity whatsoever.

C. The Turnover Date has not yet occurred.

D. Developer wishes to amend the Declaration to modify the same as set forth herein.

NOW THEREFORE, Developer hereby declares that every portion of Everlands is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

1. **Recitals.** The foregoing Recitals are true and correct and are incorporated into and form a part of this First Amendment.

2. **Conflicts.** In the event that there is a conflict between this First Amendment and the Declaration, this First Amendment shall control. Whenever possible, this First Amendment and the Declaration shall be construed as a single document. Except as modified hereby, the Declaration shall remain in full force and effect.

3. **Formatting.** In this First Amendment, words in the text which are lined through (——) indicate deletions from the present text of the Declaration; words in the text which are underlined indicate additions to the present text of the Declaration.

4. **Definitions.** All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration, except that the following defined term is hereby modified as follows:

“**Permit**” shall mean ~~collectively~~, the permit(s) issued by SJRWMD, a copy of which is ~~are~~ attached hereto as **Exhibit 4**, in addition to any other permits issued by the SJRWMD which may be added to Exhibit 4 pursuant to future amendment of this Declaration.

5. **Garages.** Section 14.17 of the Declaration is hereby modified as follows:

14.17 **Garages.** Each Home may have its own garage. The conversion of any garage into a general living area, as may be determined by the Board in its discretion, within Everlands shall be prohibited. Garage doors may be left open during use for vehicular and pedestrian ingress and egress, in addition to other uses, and while performing activities in and around the garage, Home or Lot, so long as such additional uses and activities do not become a nuisance. At all other times, garage doors shall remain closed.

6. Interpretation. Section 26.3 of the Declaration is hereby modified as follows:

26.3 Interpretation. The Board shall be responsible for interpreting the provisions hereof and of any of the exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of counsel that any interpretation adopted by Association is not unreasonable shall conclusively establish the validity of such interpretation. Article, section, and paragraph captions, headings and titles inserted throughout the Association Documents are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of the Association Documents. Whenever the context so requires or permits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

7. FHA/VA/USDA. The following language is hereby added as Section 26.13 of the Declaration as follows:

26.13 FHA/VA/USDA Exceptions. Notwithstanding any inconsistent or contrary provision, or portion thereof, in this Declaration, if there are any FHA, VA or USDA insured loans affecting a Lot, and only for so long as any such loans affect the Lot, any provisions, or portions thereof, in this Declaration on renting, subleasing, or reconveyance that violate any FHA, VA or USDA requirements shall not apply to such Lot or its Owner.

8. Covenant. This First Amendment shall be a covenant running with the land.

IN WITNESS WHEREOF, the undersigned, being Developer under the Declaration, has hereunto set its hand and seal this 6 day of May, 2022.

WITNESSES:

LENNAR HOMES, LLC, a Florida limited liability company

Print Name: J.R. Beer  
Print Name: TEO AKTARNA

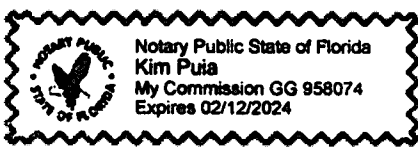
By: [Signature]  
Name: Michael Meyers  
Title: Vice President

[SEAL]

STATE OF FLORIDA )  
COUNTY OF ~~MIAMI-DADE~~ ) SS.:  
Palm Beach ) WFO

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 6 day of May, 2022, by Michael Meyers, as Vice President of LENNAR HOMES, LLC, a Florida limited liability company. He/she is personally known to me or produced as identification, on behalf of the company.

My commission expires: [Signature]  
NOTARY PUBLIC, State of Florida at Large  
Print Name: \_\_\_\_\_



JOINDER

EVERLANDS MASTER ASSOCIATION, INC.

EVERLANDS MASTER ASSOCIATION, INC. ("Association") does hereby join in the First Amendment to Declaration for Everlands (the "First Amendment"), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association agrees that this Joinder is for convenience purposes only and does not apply to the effectiveness of the First Amendment as Association has no right to approve the First Amendment.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 6 day of May, 2022.

WITNESSES:

EVERLANDS MASTER ASSOCIATION, INC., a Florida not-for-profit corporation

Print Name: TEO AXTARNA

By: [Signature]

Name: T.R. Beer

Print Name: DANIEL PAVIO

Title: Vice President

[SEAL]

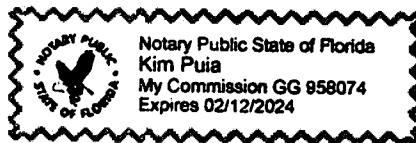
STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE ) SS.:  
Palm Beach )

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 06 day of May, 2022 by T.R. Beer, as Vice President of EVERLANDS MASTER ASSOCIATION, INC., a Florida not-for-profit corporation. She is personally known to me or produced as identification, on behalf of the corporation.

My commission expires:

[Signature]  
NOTARY PUBLIC, State of Florida at Large

Print Name: \_\_\_\_\_



JOINDER

PACE DRIVE HOLDINGS, LLC

PACE DRIVE HOLDINGS, LLC ("**Pace**") does hereby join in the First Amendment to Declaration for Everlands to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Pace agrees that this Joinder is for convenience purposes only.


IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 6 day of May, 2022.

WITNESSES:

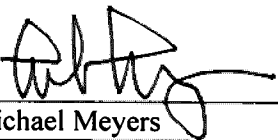
**PACE DRIVE HOLDINGS, LLC**, a Florida limited liability company



Print Name: T.R. Beer

Print Name:  TED ALTARONA

**LENNAR HOMES, LLC**, a Florida limited liability company, its Manager

By:   
Name: Michael Meyers  
Title: Vice President


{SEAL}

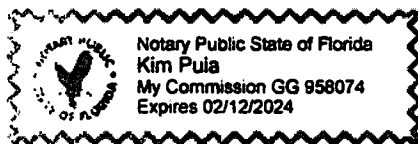
STATE OF FLORIDA )

COUNTY OF Palm Beach ) SS.:

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 6 day of May, 2022, by Michael Meyers, as Vice President of LENNAR HOMES, LLC, a Florida limited liability company, the Manager of Pace Drive Holdings, LLC, a Florida limited liability company. He/she is personally known to me or has produced \_\_\_\_\_ as identification, on behalf of the company.

My commission expires:

  
NOTARY PUBLIC, State of Florida  
Print Name: \_\_\_\_\_



THIS INSTRUMENT PREPARED BY  
AND UPON RECORDATION RETURN TO:

JEFF COOPERMAN, ESQ.  
SOLOMON, FURSHMAN & COOPERMAN, LLP  
1101 BRICKELL AVENUE, SUITE N1101  
MIAMI, FLORIDA 33131

DECLARATION  
FOR  
EVERLANDS

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**DECLARATION  
FOR  
EVERLANDS**

THIS DECLARATION FOR EVERLANDS (this "**Declaration**") is made by Lennar Homes, LLC, a Florida limited liability company ("**Lennar**") and joined in by Everlands Master Association, Inc., a Florida not-for-profit corporation ("**Association**") and Pace Drive Holdings, LLC, a Florida limited liability company ("**Pace**").

**R E C I T A L S**

- A. Lennar and/or Pace is or will be the owner of that certain real property located in Brevard County, Florida ("**County**"), more particularly described in **Exhibit 1** attached hereto and made a part hereof ("**Everlands**").
- B. Everlands may, but shall not be required to, contain one or more Neighborhoods (as such term is defined below).
- C. Lennar, as the Developer (as defined below) desires to subject Everlands to the covenants, conditions and restrictions contained in this Declaration, and Pace, as the owner of some of the real property located within Everlands agrees that Lennar shall be the Developer and shall have all of the rights set forth in this Declaration.
- D. Lennar may unilaterally, in its sole and absolute discretion, from time to time, elect to: (i) subject additional properties to this Declaration; (ii) amend this Declaration; and/or (iii) impose additional covenants, conditions and restrictions not set forth in this Declaration on such additional portions of property.
- E. This Declaration is a covenant running with all of the land comprising Everlands, and each present and future owner of interests therein and their heirs, successors and assigns are hereby subject to this Declaration.

NOW THEREFORE, in consideration of the premises and mutual covenants contained in this Declaration, Developer hereby declares, and Pace (as an owner of property within Everlands) consents and agrees, that every portion of Everlands is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, charges and liens hereinafter set forth.

1. **Recitals.** The foregoing Recitals are true and correct and are incorporated into and form a part of this Declaration.
2. **Definitions.** In addition to the terms defined elsewhere in this Declaration, all initially capitalized terms herein shall have the following meanings:

"**ACC**" shall mean the Architectural Control Committee for Everlands established pursuant to Section 20.1 hereof.

"**Access Control System**" shall mean any system intended to control vehicular access to and/or from Everlands.

"**Articles**" shall mean the Articles of Incorporation of Association filed with the Florida Secretary of State in the form attached hereto as **Exhibit 2** and made a part hereof, as amended from time to time.

"**Assessments**" shall mean any assessments made in accordance with this Declaration and as further defined in Section 18 hereof.

"**Association**" shall mean Everlands Master Association, Inc., its successors and assigns.

"**Association Documents**" shall mean this Declaration, the Articles, the By-Laws, the Rules and Regulations, and the Community Standards, as amended from time to time.

"**Board**" shall mean the Board of Directors of Association.

"**Builder**" shall mean any Owner who is designated in writing as a Builder by Developer. All Owners that are designated as Builders shall be entitled to the rights of Builders contained in this Declaration.

"**By-Laws**" shall mean the By-Laws of Association in the form attached hereto as **Exhibit 3** and made a part hereof, as amended from time to time.

"**Cable Services**" shall mean "basic service tier" as described in Section 623(b)(7)(A) of the Cable Television Consumer Protection Act of 1992, video programming services offered on a per-channel or per-program basis, video programming services offered in addition to basic service tier, any method of delivering video programming to Homes including, without limitation, interactive video programming, and any channel recognized in the industry as premium including, without limitation, HBO, Showtime, Disney, Cinemax and the Movie Channel. By way of example, and not of limitation, the term Cable Services may include cable television, satellite master antenna television, individual satellite dishes, multipoint distribution systems, video dialtone, open video system or any combination thereof.

**“Common Areas”** shall mean all real property interests and personalty within Everlands designated as Common Areas from time to time by Plat or recorded amendment to this Declaration and provided for, owned, leased by, or dedicated to, the common use and enjoyment of the Owners within Everlands. The Common Areas may include, without limitation, open space areas, internal buffers, entranceways, a gatehouse, entrance features, electronic gates, perimeter buffers, perimeter walls and fences, landscaping areas, improvements, easement areas owned by others, public rights of way, additions, lakes, canals, irrigation pumps, irrigation lines, sidewalks, private roads, landscape lighting, walls, commonly used utility facilities, project signage, parking areas. The Common Areas do not include any portion of a Home or Lot. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DEFINITION OF “COMMON AREAS” AS SET FORTH IN THIS DECLARATION IS FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND, OBLIGATE OR LIMIT DEVELOPER TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION, THE CONSTRUCTION OR SUPPLYING OF ANY SUCH ITEM BEING IN DEVELOPER’S SOLE DISCRETION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF THE COMMON AREAS TO BE OWNED, LEASED BY OR DEDICATED TO ASSOCIATION, EXCEPT AFTER CONSTRUCTION AND DEDICATION OR CONVEYANCE OF ANY SUCH ITEM. Further, and without limiting the foregoing, it is possible that certain areas that would otherwise be Common Areas shall be conveyed to the District and comprise part of the Facilities. The final determination as to whether any areas within Everlands shall be Common Areas or comprise part of the Facilities shall be made by the Developer in its sole and absolute discretion.

**“Community Completion Date”** shall mean the date upon which all Homes in Everlands, as ultimately planned and as fully developed, have been conveyed by Developer and/or Builder to Owners.

**“Community Standards”** shall mean such standards of conduct, maintenance or other activity, if any, established by the ACC pursuant to Section 20.6 hereof.

**“Contractors”** shall have the meaning set forth in Section 20.14 hereof.

**“County”** shall have the meaning set forth in the Recitals hereof.

**“Data Transmission Services”** shall mean (i) internet access services and (ii) enhanced services as defined in Section 64.702 of Title 47 of the Code of Federal Regulations, as amended from time to time, and without regard to whether the transmission facilities are used in interstate commerce.

**“Declaration”** shall mean this Declaration together with all amendments and modifications thereof.

**“Developer”** shall mean Lennar and any of its designees (including its affiliated or related entities which conduct land development, homebuilding and sales activities), successors and assigns who receive a written assignment of all or some of the rights of Developer hereunder. Developer shall have the right to assign all or a portion of any rights granted to the Developer in this Declaration. Developer shall also have the right to assign all or a portion of any obligations of the Developer in this Declaration. Such assignment need not be recorded in the Public Records in order to be effective. In the event of a partial assignment of some, but not all, Developer rights and/or obligations, the assignee shall not be deemed Developer, but may exercise those rights or shall be responsible for those obligations of Developer assigned to it. Additionally any partial assignee that does not assume all of the obligations of Developer shall not be deemed the Developer. Any such assignment may be made on a non-exclusive basis. All assignments of Developer rights and/or obligations (whether full and/or partial) must be in writing.

**“District”** shall have the meaning set forth in Section 10 hereof.

**“Estate Home”** shall mean each single family Home within Everlands.

**“Facilities”** shall have the meaning set forth in Section 10 hereof.

**“Front Yard”** shall mean the yard of every Home between the front of the Home and the road providing access to such Home. In the event that there is any question about what portion of a Home is part of the Front Yard, Association’s determination shall be final.

**“Home”** shall mean a residential home and appurtenances thereto constructed on a Lot or Parcel within Everlands. A Home shall include, without limitation, condominium unit, a coach home, villa, townhome, estate home, single family home and zero lot line home. The term Home may not reflect the same division of property as reflected on a Plat. A Home shall be deemed created and have perpetual existence upon the issuance of a final or temporary Certificate of Occupancy for such residence; provided, however, the subsequent loss of such Certificate of Occupancy (e.g., by casualty or remodeling) shall not affect the status of a Home, or the obligation of Owner to pay Assessments with respect to the Lot upon which the Home is constructed. The term “Home” includes any interest in land, improvements, or other property appurtenant to the Home.

**“Individual Assessments”** shall have the meaning set forth in Section 18.2 hereof.

**“Initial Contribution”** shall have the meaning set forth in Section 18.11 herein.

**“Installment Assessments”** shall have the meaning set forth in Section 18.2 hereof.

**“Lender”** shall mean (i) the institutional and licensed holder of a first mortgage encumbering a Lot or Home or (ii) Developer and its affiliates, to the extent Developer or its affiliates finances the purchase of a Home or Lot initially or by assignment of an existing mortgage.

**“Lessee”** shall mean the lessee named in any written lease respecting a Home who is legally entitled to possession of any rental Home within Everlands.

**“Lot”** shall mean any platted residential lot shown on a Plat. Once a Home has been constructed on a Lot, the term “Lot” shall be deemed to include all improvements thereon including, without limitation, a Home. With respect to a condominium within Everlands, each condominium unit shall be considered a Lot for the purposes of this Declaration.

**“Master Plan”** shall mean collectively any full or partial concept plan for the development of Everlands, as it exists as of the date of recording this Declaration, regardless of whether such plan is currently on file with one or more governmental agencies. The Master Plan is subject to change as set forth herein. The Master Plan is not a representation by Developer as to the development of Everlands or its amenities, as Developer reserves the right to amend all or part of the Master Plan from time to time.

**“Neighborhood”** shall mean any subdivision of Everlands which is subject to the jurisdiction of a Neighborhood Association. Each Lot or Home may be part of a Neighborhood, if any.

**“Neighborhood ACC”** shall mean the Architectural Control Committee of a Neighborhood Association.

**“Neighborhood Association”** shall mean any homeowners or condominium association which governs a portion of Everlands, if any.

**“Neighborhood Common Areas”** shall mean all property owned and/or maintained by a Neighborhood Association.

**“Neighborhood Common Areas”** shall mean all property owned and/or maintained by a Neighborhood Association.

**“Neighborhood Declaration”** shall mean any declaration recorded in the Public Records governing a Neighborhood including, without limitation, any condominium declaration. No Neighborhood Declaration shall be effective unless and until approved by Developer, which approval shall be evidenced by Developer’s execution of, or joinder in, such Neighborhood Declaration.

**“Neighborhood Developer”** shall mean any Developer, as defined in a Neighborhood Declaration.

**“Operating Costs”** shall mean all costs and expenses of Association and the Common Areas. Operating Costs may include, without limitation, all of the costs of ownership; operation; administration; all amounts payable by Association; all amounts required to remove canvas canopies located within the Common Areas as required herein; all amounts required to maintain the Surface Water Management System which are not maintained by the District or Association; all community lighting (including certain lights adjacent to, but outside of Everlands) including, without limitation, lighting provided pursuant to agreements between Association and private utility providers up-lighting and entrance lighting (if not the obligation of the District or Association); all amounts payable in connection with any private street lighting agreement between Association and an electric utility provider; amounts payable to a Telecommunications Provider for Telecommunications Services furnished to all Owners; utilities; taxes; insurance; bonds; salaries; management fees; professional fees; service costs; supplies; maintenance; repairs; replacements; refurbishments; common area landscape maintenance and any and all of the costs relating to the discharge of the obligations hereunder, or as determined to be part of the Operating Costs by Association. By way of example, and not of limitation, Operating Costs shall include all of Association’s legal expenses and costs relating to or arising from the enforcement and/or interpretation of this Declaration. If any of the foregoing items identified as possible Operating Costs are included as District Maintenance Special Assessments, the same shall not be included in Operating Costs.

**“Owner”** shall mean the record owner (whether one or more persons or entities) of fee simple title to any Lot. The term “Owner” shall not include Developer or Builder (once so designated in writing by Developer) until the Turnover Date, or a Lender.

**“Parcel”** shall mean any portion of Everlands upon which one or more Homes may be constructed.

**“Permit”** shall mean collectively, the permit(s) issued by SJRWMD, a copy of which is/are attached hereto as **Exhibit 4**.

**“Plat”** shall mean any plat or plats respecting Everlands to be filed in the Public Records, as the same may be amended by Developer, from time to time.

**“Public Infrastructure”** shall have the meaning set forth in Section 10 hereof.

**“Public Records”** shall mean the Public Records of Brevard County, Florida.

**“Reserves”** shall have the meaning set forth in Section 18.2 hereof.

**“Rules and Regulations”** shall mean collectively the Rules and Regulations governing Everlands as adopted by the Board from time to time.

**“SJRWMD”** shall mean the St. Johns River Water Management District.



**“Special Assessments”** shall mean those Assessments more particularly described as Special Assessments in Section 18.2 hereof.

**“Surface Water Management System”** shall mean the collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term includes exfiltration trenches, mitigation areas, retention areas, water management areas, ditches, culverts, structures, dams, impoundments, reservoirs, drainage maintenance easements, retention lakes, canals and those works defined in Section 373.403(1)-(5) of the Florida Statutes. The Surface Water Management System includes those works authorized by SJRWMD pursuant to the Permit.

**“Telecommunications Provider”** shall mean any party contracting with Association and/or Owners directly to provide Owners with one or more Telecommunications Services. With respect to any particular Telecommunications Services, there may be one or more Telecommunications Providers. By way of example, with respect to Data Transmission Services, one Telecommunications Provider may provide Association or Owners such service while another may own, maintain and service the Telecommunications Systems which allow delivery of such Data Transmission Services.

**“Telecommunications Services”** shall mean delivered entertainment services; all services that are typically and in the future identified as telecommunication services; Telephony Services; Cable Services; and Data Transmission Services. Without limiting the foregoing, such Telecommunications Services include the development, promotion, marketing (which may be provided by Telecommunications Providers pursuant to agreements with the Association), advertisement, provision, distribution, maintenance, transmission, and servicing of any of the foregoing services. The term Telecommunications Services is to be construed as broadly as possible.

**“Telecommunications Systems”** shall mean all facilities, items and methods required and/or used in order to provide Telecommunications Services to Everlands. Without limiting the foregoing, Telecommunications Systems may include wires (fiber optic or other material), conduits, passive and active electronic equipment, pipes, pedestals, wireless cell sites, computers, modems, satellite antenna sites, transmission facilities, amplifiers, junction boxes, trunk distribution, feeder cables, lock boxes, taps, drop cables, related apparatus, converters, connections, head-end antennae, earth stations, appurtenant devices, network facilities necessary and appropriate to support provision of local exchange services and/or any other item appropriate or necessary to support provision of Telecommunications Services. Ownership and/or control of all or a portion of any part of the Telecommunications Services may be bifurcated among network distribution architecture, system head-end equipment, and appurtenant devices (e.g., individual adjustable digital units).

**“Telephony Services”** shall mean local exchange services provided by a certified local exchange carrier or alternative local exchange company, intraLATA and interLATA voice telephony and data transmission.

**“Title Documents”** shall have the meaning set forth in Section 26.12 hereof.

**“Toll Calls”** shall have the meaning given to such term by the Florida Public Service Commission and/or the Federal Communications Commission.

**“Townhome”** shall mean each Home within Everlands that is part of a Townhome Building.

**“Townhome Building”** shall mean a single structure containing multiple Homes in which the Homes are separated by Party Walls and in which the Homes have private garages.

**“Turnover Date”** shall mean the date on which transition of control of Association from Developer to Owners occurs. Without limiting the foregoing, Developer shall never be obligated to turn over Association prior to the date currently required by law.

**“Use Fees”** shall have the meaning set forth in Section 18.2.3 hereof.

**“Villa”** shall mean each Home within Everlands that is part of a Villa Building.

**“Villa Building”** shall mean a single structure containing multiple Homes in which the Homes are separated by Party Walls and in which the Homes do not have private garages.

**“Wetland Conservation Areas”** shall have the meaning set forth in Section 11.10.3 herein. The Wetland Conservation Areas will either be part of the Common Areas and will be maintained by Association or part of the Facilities and subject to the jurisdiction of the District.

### 3. **Plan of Development.**

3.1 **General.** The planning process for Everlands is an ever-evolving one and must remain flexible in order to be responsible to and accommodate the needs of Developer’s buyers. Subject to the Title Documents, Developer may wish and has the right to develop Everlands and adjacent property owned by Developer and/or Pace into residences, comprised of homes, villas, coach homes, townhomes, zero lot line homes, patio homes, multi-family homes, condominiums, rental apartments, and other forms of residential dwellings, as well as commercial development, which may include shopping centers, stores, office buildings, showrooms, industrial facilities, technological facilities, and professional offices. The existence at any point in time of walls, landscape screens, or berms is not a guarantee or promise that such items will remain or form part of Everlands as finally developed.

3.2 Association's Obligation to Cooperate. Association shall at all times cooperate with every entity comprising Developer. Without limiting the foregoing, Association shall provide Developer with such consents and approvals which Developer may reasonably require in connection with all matters including, without limitation, (i) the sale of Parcels and/or Lots to Builders, (ii) the development and conveyance of the Common Areas and transfer of the Permit or other construction related permitting documents, and (iii) master land development requirements. Additionally, Association shall cooperate with Developer in connection with the turnover of Association control including, but not limited to, signing a turnover receipt in the form to be provided by Developer to Association on the Turnover Date.

4. Amendment.

4.1 General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to this Declaration shall affect the rights of Developer unless such amendment receives the prior written consent of Developer, which consent may be withheld for any reason whatsoever. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to this Declaration, then the prior written consent of such entity or agency must also be obtained. All amendments must comply with Section 11.10 hereof which benefits the SJRWMD. No amendment shall be effective until it is recorded in the Public Records.

4.2 No Vested Rights. Each Owner by acceptance of a deed to a Home irrevocably waives any claim that such Owner has any vested rights pursuant to case law or statute with respect to this Declaration or any of the other Association Documents. It is expressly intended that Developer and Association have the unfettered right to amend this Declaration and the other Association Documents except as expressly set forth herein.

4.3 Amendments Prior to and Including the Turnover Date. Prior to and including the Turnover Date, Developer shall have the right to amend this Declaration as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Such amendments may include, without limitation, the creation of easements for Telecommunications Systems, utility, drainage, ingress and egress and roof overhangs over any portion of Everlands; additions or deletions from the properties comprising the Common Areas; changes in the Rules and Regulations, and modifications of restrictions on the Homes, and maintenance standards for landscaping. Developer's right to amend under this provision is to be construed as broadly as possible. By way of example, and not as a limitation, Developer may create easements over Homes conveyed to Owners provided that such easements do not prohibit the use of such Homes as residential homes. In the event that Association shall desire to amend this Declaration prior to and including the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records. Notwithstanding the foregoing, at all times after the Turnover Date, Developer shall have the right to amend Association Documents unilaterally to correct scrivener's errors.

4.4 Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, this Declaration may be amended with the approval of (i) sixty six and two-thirds percent (66 2/3%) of the Board; and (ii) seventy-five percent (75%) of all of the votes present (in person or by proxy) at a duly noticed meeting of the members of Association at which there is a quorum.

5. Annexation and Withdrawal.

5.1 Annexation by Developer. Prior to and including the Turnover Date, additional lands may be made part of Everlands by Developer, at Developer's sole discretion. Such additional lands to be annexed may or may not be adjacent to Everlands. Except for applicable governmental approvals (if any), no consent to such annexation shall be required from any other party (including, but not limited to, Association, Owners or any Lenders of any portion of Everlands, including a Home). Such annexed lands shall be brought within the provisions and applicability of this Declaration by recording an amendment to this Declaration in the Public Records. The amendment shall subject the annexed lands to the covenants, conditions, and restrictions contained in this Declaration as fully as though the annexed lands were described herein as a portion of Everlands. Such amendment may contain additions to, modifications of or omissions from the covenants, conditions, and restrictions contained in this Declaration as deemed appropriate by Developer and as may be necessary to reflect the different character, if any, of the annexed lands. Prior to and including the Turnover Date, only Developer may add additional lands to Everlands.

5.2 Annexation by Association. After the Turnover Date, and subject to applicable governmental approvals (if any), additional lands may be annexed with the approval of (i) sixty-six and two-thirds percent (66 2/3%) of the Board; and (ii) seventy-five percent (75%) of all of the votes present (in person or by proxy) at a duly noticed meeting of the members of Association at which there is a quorum.

5.3 Withdrawal. Prior to and including the Turnover Date, any portions of Everlands (or any additions thereto) may be withdrawn by Developer from the provisions and applicability of this Declaration by the recording of an amendment to this Declaration in the Public Records. The right of Developer to withdraw portions of Everlands shall not apply to any Home which has been conveyed to an Owner unless that right is specifically reserved in the instrument of conveyance or the prior written consent of the Owner is obtained. The withdrawal of any portion of Everlands shall not require the consent or joinder of any other party (including, but not limited to, Association, Owners, or any Lenders of any portion of Everlands). Association shall have no right to withdraw land from Everlands.

6. Dissolution.

6.1 Generally. In the event of the dissolution of Association without reinstatement within thirty (30) days, other than incident to a merger or consolidation, any Owner may petition the Circuit Court of the appropriate Judicial Circuit of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Common Areas in the place and stead of Association, and to make of such provisions as may be necessary for the continued management of the affairs of the dissolved Association. In the event Association is dissolved, and any portion of the Surface Water Management System is part of the Common Areas, the Surface Water Management System shall be conveyed to the District or an appropriate agency of local government, and that if not accepted, then the Surface Water Management System shall be dedicated to a similar non-profit corporation.

6.2 Applicability of Declaration after Dissolution. In the event of dissolution of Association, Everlands and each Lot therein shall continue to be subject to the provisions of this Declaration, including, without limitation, the provisions respecting Assessments specified in this Declaration. Each Owner shall continue to be personally obligated to the successors or assigns of Association for Assessments to the extent that Assessments are required to enable the successors or assigns of Association to properly maintain, operate and preserve the Common Areas. The provisions of this Section shall only apply with regard to the maintenance, operation, and preservation of those portions of Everlands which had been Common Areas and continue to be so used for the common use and enjoyment of the Owners.

7. Binding Effect and Membership.

7.1 Term. This Declaration and all covenants, conditions and restrictions contained in this Declaration are equitable servitudes, perpetual and run with the land. Each Owner, by acceptance of a deed to a Home or Lot, and any person claiming by, through or under such Owner agrees to be subject to the provisions of this Declaration and irrevocably waives any right to deny, and any claim, that this Declaration and all covenants, conditions and restrictions contained in this Declaration are not enforceable under the Marketable Record Titles to Real Property Act, Chapter 712 of the Florida Statutes. It is expressly intended that the Marketable Record Titles to Real Property Act will not operate to extinguish any encumbrance placed on Everlands by this Declaration. It is further expressly intended that no re-filing or notice of preservation is necessary to continue the applicability of this Declaration and the applicability of all covenants, conditions, and restrictions contained in this Declaration. This provision is not subject to amendment, except by Developer.

7.2 Transfer. The transfer of the fee simple title to a Lot, whether voluntary or by operation of law, terminating the Owner's title to that Lot shall terminate the Owner's rights to the use of and enjoyment of the Common Areas as it pertains to that Lot and shall terminate such Owner's membership in Association. An Owner's rights and privileges under this Declaration are not assignable separately from a Lot. The Owner of each Lot is entitled to the benefits of, and is burdened with the duties and responsibilities set forth in, the provisions of this Declaration. All parties acquiring any right, title and interest in and to any Lot shall be fully bound by the provisions of this Declaration. In no event shall any Owner acquire any rights that are greater than the rights granted to, and limitations placed upon its predecessor in title pursuant to the provisions of this Declaration. In the event that any Owner desires to sell or otherwise transfer title of his or her Lot, such Owner shall give the Board at least fourteen (14) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board may reasonably require. The transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner and the Lot pursuant to this Declaration including, without limitation, payment of all Assessments accruing prior to the date of transfer. Until written notice is received as provided in this Section, the transferor and transferee shall be jointly and severally liable for Assessments accruing subsequent to the date of transfer. In the event that upon the conveyance of a Lot an Owner fails in the deed of conveyance to reference the imposition of this Declaration on the Lot, the transferring Owner shall remain liable for Assessments accruing on the Lot from and after the date of conveyance.

7.3 Membership. Upon acceptance of title to a Lot, and as more fully provided in the Articles and By-Laws, each Owner (or his or her Lessee, if applicable) shall be a member of Association. Membership rights are governed by the provisions of this Declaration, the deed to a Lot, the Articles and By-Laws. Membership shall be an appurtenance to and may not be separated from, the ownership of a Lot. Developer rights with respect to Association are set forth in this Declaration, the Articles and the By-Laws.

7.4 Ownership by Entity. In the event that an Owner is other than a natural person, that Owner shall, immediately upon taking title, designate one or more persons who are to be the occupants of the Home or Lot and register such persons with Association. All provisions of this Declaration and the other Association Documents shall apply to both such Owner and the designated occupants.

7.5 Voting Interests. Voting interests in Association are governed by the provisions of the Articles and By-Laws.

7.6 Document Recordation by Owners Prohibited. Neither Association nor any Owner, nor group of Owners, may record any documents which, in any way, affect or restrict the rights of Developer or or conflict with the provisions of this Declaration or the other Association Documents.

7.7 Composition of Board. Developer reserves the right to change, from time to time prior to and including Turnover Date, the composition of the Board. Without limiting the foregoing, Developer may changes the number of Board members, the effect of a vote by a Board member, or how a Board member is elected or appointed prior to and including Turnover Date.

7.8 Conflicts. In the event of any conflict among this Declaration, a Neighborhood Declaration, the Articles, the By-Laws or any of the other Association Documents, this Declaration shall control. In the event that a Neighborhood Declaration is more restrictive than this Declaration, the Neighborhood Declaration shall control.

8. Paramount Right of Developer. Notwithstanding anything to the contrary herein, prior to the Community Completion Date Developer shall have the paramount right to dedicate, transfer, and/or convey (by absolute conveyance, easement, or otherwise) portions of Everlands for various public purposes or for the provision of Telecommunications Systems, or to make any portions of Everlands part of the Common Areas, or to create and implement a special taxing district which may include all or any portion of Everlands. In addition, the Common Areas of Everlands may include decorative improvements, berms and waterbodies. Notwithstanding anything to the contrary herein, the waterbodies may be dry during certain weather conditions or during certain times of the year. Developer may remove, modify, eliminate or replace these items from time to time in its sole discretion. SALES BROCHURES, SITE PLANS, AND MARKETING MATERIALS ARE CURRENT CONCEPTUAL REPRESENTATIONS AS TO WHAT FACILITIES, IF ANY, WILL BE INCLUDED WITHIN THE COMMON AREAS. DEVELOPER SPECIFICALLY RESERVES THE RIGHT TO CHANGE THE LAYOUT, COMPOSITION, AND DESIGN OF ANY AND ALL COMMON AREAS AT ANY TIME WITHOUT NOTICE AT ITS DISCRETION.

9. Operation of Common Areas.

9.1 Prior to Conveyance. Prior to the conveyance, identification and/or dedication of the Common Areas to Association as set forth in Section 9.4 herein, any portion of the Common Areas owned by Developer shall be operated, maintained, and administered by the Association at the sole cost of Association for all purposes and uses reasonably intended, as Developer in its sole discretion deems appropriate. Notwithstanding the foregoing, during such period, Developer's right to operate, modify or take any action or inaction regarding the Common Areas shall be without interference from any Owner or Lender of a Parcel, Lot or any portion of Everlands or Home or any other person or entity whatsoever. Owners shall have no right in or to any Common Areas referred to in this Declaration unless and until same are actually constructed, completed, and conveyed to, leased by, dedicated to, and/or maintained by Association. The current conceptual plans and/or representations, if any, regarding the composition of the Common Areas are not a guarantee of the final composition of the Common Areas. No party should rely upon any statement contained herein as a representation or warranty as to the extent of the Common Areas to be owned, leased by, operated or dedicated to Association. Developer, so long as it controls Association, further specifically retains the right to add to, delete from, or modify any of the Common Areas referred to herein in its sole discretion and without notice.

9.2 Construction of Common Areas Facilities. Developer has constructed or will construct, at its sole cost and expense, certain facilities and improvements as part of the Common Areas, together with equipment and personalty contained therein, and such other improvements and personalty as Developer determines in its sole discretion. Developer shall be the sole judge of the composition of such facilities and improvements. Prior to the Community Completion Date Developer reserves the absolute right to construct additional Common Areas facilities and improvements within Everlands, from time to time, in its sole discretion, and to remove, add to modify and change the boundaries, facilities and improvements now or then part of the Common Areas. Developer is not obligated to, nor has it represented that it will, modify or add to the facilities, improvements, or Common Areas as they are contemplated as of the date hereof. Developer is the sole judge of the foregoing, including the plans, specifications, design, location, completion schedule, materials, size, and contents of the facilities, improvements, appurtenances, personalty (e.g., furniture), color, textures, finishes, or Common Areas, or changes or modifications to any of them.

9.3 Use of Common Areas by Developer. Until the Community Completion Date Developer shall have the right to use any portion of the Common Areas, without charge, for any purpose deemed appropriate by Developer.

9.4 Conveyance.

9.4.1 Generally. Simultaneously with the Plat being recorded, or earlier or later as determined by Developer in its sole discretion, or as may be required by law, all or portions of the Common Areas shall be dedicated by Plats, created in the form of easements, and conveyed by written instrument or by Quitclaim Deed recorded in the Public Records from Developer to Association. Association shall pay all of the costs of the conveyance. The dedication, creation by easement, or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations, and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership operation, maintenance, and administration of the conveyed portions of Common Areas and other obligations relating to the Common Areas imposed herein. Association shall, and does hereby, indemnify and hold Developer harmless on account thereof. Association, by its joinder in this Declaration, hereby accepts such dedication(s) or conveyance(s) without setoff, condition, or qualification of any nature. The Common Areas, personal property and equipment thereon and appurtenances thereto shall be dedicated or conveyed in "as is, where is" condition WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE COMMON AREAS BEING CONVEYED.

9.4.2 Form of Deed. Each deed of the Common Areas shall be subject to the following provisions:

9.4.2.1 a perpetual nonexclusive easement in favor of governmental agencies for the maintenance and repair of existing road, speed and directional signs, if any;

9.4.2.2 matters reflected in the Plat;

9.4.2.3 perpetual non-exclusive easements in favor of the Developer, its successors, and assigns in, to, upon and over all of the Common Areas for the purposes of vehicular and pedestrian ingress and egress, installation of utilities, landscaping and/or drainage, without charge, including, without limitation, the right to use such roadways for construction vehicles and equipment. The easements reserved in the deed shall run in favor of Developer, and its employees, representatives, agents, licensees, guests, invitees, successors and/or assigns;

9.4.2.4 all restrictions, easements, covenants and other matters of record;

9.4.2.5 in the event that Association believes that Developer shall have failed in any respect to meet Developer's obligations under this Declaration or has failed to comply with any of Developer's obligations under law or the Common Areas conveyed herein are defective in any respect, Association shall give written notice to Developer detailing the alleged failure or defect. Once Association has given written notice to Developer pursuant to this Section, Association shall be obligated to permit Developer and its agents to perform inspections of the Common Areas and to perform all tests and make all repairs/replacements deemed necessary by Developer to respond to such notice at all reasonable times. Association agrees that any inspection, test and/or repair/replacement scheduled on a business day between 9 a.m. and 5 p.m. shall be deemed scheduled at a reasonable time. The rights reserved in this Section include the right of Developer to repair or address, in Developer's sole option and expense, any aspect of the Common Areas deemed defective by Developer during its inspections of the Common Areas. Association's failure to give the notice and/or otherwise comply with the provisions of this Section will damage Developer. At this time, it is impossible to determine the actual damages Developer might suffer. Accordingly, if Association fails to comply with its obligations under this Section in any respect, Association shall pay to Developer liquidated damages in the amount of \$250,000.00 which Association and Developer agree is a fair and reasonable remedy; and

9.4.2.6 a reservation of right in favor of Developer (so long as Developer or Pace owns any portion of Everlands) to require that Association reconvey all or a portion of the Common Areas conveyed by quitclaim deed in favor of Developer in the event that such property is required to be owned by Developer for any purpose, including, without limitation, the reconfiguration of any adjacent property by replatting or otherwise.

9.5 Operation After Conveyance. After the conveyance or dedication of any portion of the Common Areas to Association, the portion of the Common Areas so dedicated shall be owned, operated and administered by Association for the use and benefit of the owners of all property interests in Everlands including, but not limited to, Association, Developer, Owners and any Lenders. Subject to Association's right to grant easements and other interests as provided herein, Association may not convey, abandon, alienate, encumber, or transfer all or a portion of the Common Areas to a third party without (i) if prior to and including the Turnover Date, the approval of (a) a majority of the Board; and (b) the consent of Developer, or (ii) from and after the Turnover Date, approval of (a) sixty-six and two-thirds percent (66⅔%) of the Board; and (b) seventy-five percent (75%) of all of the votes in Association; being first had and obtained.

9.6 Paved Common Areas. Certain paved areas may be part of the Facilities under the jurisdiction of the District. The Common Areas may also contain certain paved areas. Without limiting any other provision of this Declaration, Association is responsible for the maintenance and/or resurfacing of all paved surfaces including, but not limited to, roads, pathways, bicycle paths, and sidewalks forming a part of the Common Areas, if any. Although pavement appears to be a durable material, it requires maintenance. Any patching, grading, or other maintenance work should be performed by a company licensed to perform the work. From and after the Community Completion Date, Association should monitor the roads and sidewalks forming the Common Areas monthly to ensure that vegetation does not grow into the asphalt and that there are no eroded or damaged areas that need immediate maintenance.

9.7 Delegation and Managers. Once conveyed or dedicated to Association, the Common Areas and facilities and improvements located thereon shall, subject to the provisions of this Declaration and the document of conveyance or dedication, at all times be under the complete supervision, operation, control, and management of Association. Notwithstanding the foregoing Association may delegate all or a portion of its obligations hereunder to a licensed manager or professional management company. Association specifically shall have the right to pay for management services on any basis approved by the Board (including bonuses or special fee arrangements for meeting financial or other goals). Developer, its affiliates and/or subsidiaries shall have the right to manage Association. Owners and Association acknowledge that it is fair and reasonable to have Developer, its affiliates and/or subsidiaries manage Association. Further, in the event that a Common Area is created by easement, Association's obligations and rights with respect to such Common Area may be limited by the terms of the document creating such easement.

9.8 Use.

9.8.1 General Public Use. The Common Areas shall be used and enjoyed by the Owners on a non-exclusive basis in common with other persons, entities and corporations (who may, but are not required to be, members of Association) entitled to use those portions of the Common Areas. Prior to the Community Completion Date, Developer, and thereafter, Association has the right, at any and all times, and from time to time, to further additionally provide and make the Common Areas available to other individuals, persons, firms, or corporations, as it deems appropriate. The granting of such rights shall not invalidate this Declaration, reduce or abate any Owner's obligations pursuant to this Declaration, or give any Owner the right to avoid any of the covenants, agreements or obligations to be performed hereunder.

9.8.2 Right to Allow Use. Developer and/or Association may enter into easement agreements or other use or possession agreements whereby the Owners, Telecommunications Providers and/or Association and/or others may obtain the use, possession of, or other rights regarding certain property, on an exclusive or non-exclusive basis, for certain specified purposes. Association may agree to maintain and pay the taxes, insurance, administration, upkeep, repair, and replacement of such property, the expenses of which shall be Operating Costs. Any such agreement by Association prior to the Community Completion Date shall require the consent of Developer. Thereafter, any such agreement shall require the approval of the majority of the Board.

9.8.3 Waterbodies. BY ACCEPTANCE OF A DEED TO A HOME OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL WATERBODIES MAY VARY, THERE IS NO GUARANTEE BY DEVELOPER, THE DISTRICT OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME; AT TIMES, WATER LEVELS MAY BE NONEXISTENT. Developer, the District, and Association shall not be obligated to erect fences, gates, or walls around or adjacent to any waterbody within Everlands, if any. Notwithstanding the foregoing, an Owner may erect a fence adjacent to the boundary of a waterbody but within the boundary of a Lot or Home with the prior approval of such Owner's Neighborhood ACC. All or a portion of the waterbodies within Everlands may be part of the Facilities, as hereinafter defined, and owned by the District.

9.8.4 Obstruction of Common Areas. No portion of the Common Areas may be obstructed, encumbered, or used by Owners for any purpose other than as permitted by Association.

9.8.5 Assumption of Risk. Without limiting any other provision herein, each person within any portion of Everlands accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use or occupancy of any portion of Everlands (e.g., the Common Areas) including, without limitation, (a) actions or inactions taken, or nuisances caused, by neighboring Owners (b) noise from maintenance equipment, (c) use of pesticides, herbicides and fertilizers, (d) view restrictions caused by maturation of trees and shrubbery, (e) reduction in privacy caused by the removal or pruning of shrubbery or trees within Everlands and (f) design of any portion of Everlands. Each such person entering onto any portion of Everlands also expressly indemnifies and agrees to hold harmless Developer, Pace, the District, Association, and their employees, directors, representatives, officers, agents, affiliates, attorneys and partners (collectively, "Indemnified Parties") from any and all damages, whether direct or consequential, arising from or related to the person's use of the Common Areas and/or Facilities, including attorneys' fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings, including appeals. Without limiting the foregoing, all persons using the Common Areas and/or Facilities, including without limitation, all waterbodies or pools do so at their own risk. BY ACCEPTANCE OF A DEED, EACH OWNER ACKNOWLEDGES THAT THE COMMON AREAS MAY CONTAIN WILDLIFE SUCH AS ALLIGATORS, DOGS, RACCOONS, SNAKES, DUCKS, DEER, SWINE, TURKEYS AND FOXES. DEVELOPER, THE DISTRICT, BUILDERS, NEIGHBORHOOD ASSOCIATIONS, IF ANY, AND ASSOCIATION SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND HIS OR HER GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

9.8.6 Owner's Obligation to Indemnify. Each Owner agrees to indemnify and hold harmless Indemnified Parties against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to the Common Areas including, without limitation, use of waterbodies within Everlands, if any, by Owners, and their guests, family members, invitees, or agents, or the interpretation of this Declaration and/or exhibits attached hereto and/or from any act or omission of Developer, Pace, the District, Association, or of any of the Indemnified Parties. Should any Owner bring suit against Developer, the District, Association, or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals.

## 9.9 Rules and Regulations.

9.9.1 Generally. Prior to and including the Turnover Date, Developer, and thereafter Association, shall have the right to adopt Rules and Regulations governing the use of the Common Areas and Everlands. The Rules and Regulations need not be recorded in the Public Records. The Common Areas shall be used in accordance with this Declaration and Rules and Regulations promulgated hereunder.

9.9.2 Developer Not Subject to Rules and Regulations. The Rules and Regulations shall not apply to Developer or to any property owned by Developer and shall not be applied in a manner which would prohibit or restrict the development or operation of the community or adversely affect the interests of Developer. Without limiting the foregoing, Developer and/or its assigns, shall have the right to: (i) develop and construct commercial and industrial uses, club uses, Homes, Common Areas, and related improvements within Everlands, and make any additions, alterations, improvements, or changes thereto; (ii) maintain sales offices (for the sale and re-sale of (a) Homes and (b) residences and properties located outside of Everlands), general offices and construction operations within Everlands; (iii) place, erect or construct portable, temporary or accessory buildings or structure within Everlands for sales, construction storage or other purposes; (iv) temporarily deposit, dump or accumulate materials, trash, refuse and rubbish in connection with the development or construction of any portion of Everlands; (v) post, display, inscribe or affix to the exterior of any portion of the Common Areas or portions of Everlands owned by Developer, signs and other materials used in developing, constructing, selling or promoting the sale of any portion Everlands including, without limitation, Homes; (vi) excavate fill from any waterways within and/or contiguous to Everlands by dredge or dragline, store fill within Everlands and remove and/or sell excess fill; and grow or store plants and trees within, or contiguous to, Everlands and use and/or sell excess plants and trees; and



(vii) undertake all activities which, in the sole opinion of Developer, are necessary for the development and sale of any lands and improvements comprising Everlands.

9.10 Public Facilities. Everlands may include one or more facilities which may be open and available for the use of the general public. By way of example, there may be a public park, fire station, police station, or other facility within the boundaries of Everlands; provided however, no such facility shall result in expense to the general taxpayers of the County or assumption by the County or any responsibility for maintenance of any portion thereof.

9.11 Default by Another Owner. No default by any Owner in the performance of the covenants and promises contained in this Declaration or by any person using the Common Areas or any other act of omission by any of them shall be construed or considered (a) a breach by Developer or Association or a non-defaulting Owner or other person or entity of any of their promises or covenants in this Declaration; or (b) an actual, implied or constructive dispossession of another Owner from the Common Areas; or (c) an excuse, justification, waiver or indulgence of the covenants and promises contained in this Declaration.

9.12 Special Taxing Districts. For as long as Developer controls Association, Developer shall have the right, but not the obligation, to dedicate or transfer or cause the dedication or transfer of all or portions of the Common Areas of Association to the District, a special taxing district or a public agency or authority under such terms as Developer deems appropriate in order to create or contract with special taxing districts and community development districts (or others) for lighting, perimeter walls, entrance features, roads, landscaping, irrigation areas, waterways, ponds, surface water management systems, wetlands mitigation areas, parks, recreational or other services, security or communications, or other similar purposes deemed appropriate by Developer, including without limitation, the maintenance and/or operation of any of the foregoing; provided, however, that any such dedication or transfer shall not result in expense to the general taxpayers of the County (other than Owners) or the assumption by the County of any responsibility for maintenance of any portion of the Common Areas. As hereinafter provided, Developer may sign any taxing district petition as attorney-in-fact for each Owner. Each Owner's obligation to pay taxes associated with such district shall be in addition to such Owner's obligation to pay Assessments. Any special taxing district shall positively provide for the proper and continuous payment of taxes for Common Areas and maintenance thereof without expense to the general taxpayers of the County and shall be created pursuant to all applicable ordinances of County and all other applicable governing entities having jurisdiction with respect to the same. Developer has applied to County for the creation of a multi-purpose special taxing district. Developer may, but shall not be required, to apply for a street lighting special taxing district, which would operate upon creation.

9.13 Water Transmission and Distribution Facilities Easement and Repair. Developer hereby grants and conveys to County, its successors and assigns, the non-exclusive right, privilege and easement to construct, reconstruct, lay, install, operate, maintain, relocate, repair, replace, improve and inspect water transmission and distribution facilities and sewer collection facilities and all appurtenances thereto, and all appurtenant equipment, with the full right of ingress thereto and egress therefrom, within Everlands (excluding such facilities located inside a Home) in accordance with plans approved by Developer or Association. Certain water transmission and distribution facilities and sewer collection facilities may be covered with decorative brick pavers that do not conform to County regulations ("Non-Conforming Pavers") in the course of construction of Homes and Common Areas, as and to the extent permitted under the terms of this Declaration. In the event County or any of its subdivisions, agencies and/or divisions shall damage any Non-Conforming Pavers as a result of construction, repair or maintenance operations of the water and/or sewer facilities or the County's use of its easement rights granted in this Section 9.13, then Association shall replace or repair such damage at the expense of the Owner of the affected Home and such cost shall be billed to such Owner as an Individual Assessment, unless, and only to the extent that, such cost is not paid by County or such other subdivisions, agencies and/or divisions. Association shall indemnify and hold harmless County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance by Association of Association's obligations under this Section 9.13.

9.14 Association's Obligation to Indemnify. Association and Owners each covenant and agree jointly and severally to indemnify, defend and hold harmless Developer, the District, and their officers, directors, shareholders, representatives, agents, partners, affiliates, and any related persons or corporations and their employees from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Areas and/or the Facilities, or other property serving Association, and improvements thereon, or resulting from or arising out of activities or operations of Association or Owners, and from and against all costs, expenses, court costs, attorneys' fees and paraprofessional fees (including, but not limited to, attorneys' and paraprofessional fees at all levels of proceedings including appeals), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders judgments or decrees which may be entered relating thereto. The costs and expense of fulfilling this covenant of indemnification shall be Operating Costs to the extent such matters are not covered by insurance maintained by Association.

9.15 Site Plans and Plats. Everlands is subject to the Plat. The Plat may identify some of the Common Areas within Everlands. The description of the Common Areas on the Plat is subject to change (contingent upon receipt of the appropriate plat approval(s)) and the notes on a Plat are not a guarantee of what facilities will be constructed on such Common Areas. Site plans used by Developer in its marketing efforts illustrate the types of facilities which may be constructed on the Common Areas, but such site plans are not a guarantee of what facilities will actually be constructed. Each Owner should not rely on a Plat or any site plans used for illustration purposes as the Declaration governs the rights and obligations of Developer and Owners with respect to the Common Areas.

## 10. Community Development District.

10.1 Generally. It is anticipated that Everlands will, in part, be located within multiple development districts, some of which may be created by Developer in conjunction with local government, and some of which are already in existence and will be permitting portions of Everlands to be annexed (the various development districts shall hereinafter be collectively referenced as the "**District**"). To the extent Everlands is ever located within the District, the following language (and all other references to the District in this Declaration) shall apply. To the extent Everlands is not within the District at the time of recordation, all references to the District in this Declaration shall be deemed deleted in their entirety. Portions of Everlands may be owned and maintained by the District, including, but not limited to, the lakes, canals, roads, drainage system, Surface Water Management System, landscaping and/or utilities. In the event that any portions of Everlands are owned by the District, such facilities shall not be part of the Common Areas, but will be part of the infrastructure facilities owned by the District ("**Facilities**"). AT THIS TIME IT IS NOT KNOWN WHAT PORTIONS OF EVERLANDS WILL BE DESIGNATED COMMON AREAS OF THE ASSOCIATION OR FACILITIES OF THE DISTRICT. FINAL DETERMINATION OF WHICH PROPERTIES WILL BE COMMON AREAS OF THE ASSOCIATION MAY NOT OCCUR UNTIL THE COMPLETION OF ALL DEVELOPMENT.

10.2 The Districts. The District may issue special assessment bonds (the "**Bonds**") to finance a portion of the cost of the Facilities. The District is an independent, multi-purpose, special district created pursuant to Chapter 190 of the Florida Statutes. The creation of the District puts residential units and non-residential development within the jurisdiction of the District. The District may be authorized to acquire, finance, fund, install, equip, extend, construct or reconstruct, without limitation, the following; water and sewer facilities, environmental mitigation, roadways, Surface Water Management System, utility plants and lines, and land acquisition, miscellaneous utilities for the community and other infrastructure projects and services necessitated by the development of, and serving lands, within Everlands ("**Public Infrastructure**"). The estimated design, development, construction and acquisition costs for the Facilities may be funded by the District in one or more series of governmental bond financings utilizing Bonds or other revenue backed bonds. The District may issue both long-term debt and short-term debt to finance the Public Infrastructure. The principal and interest on the Bonds may be repaid through non ad valorem special assessments ("**District Debt Service Assessments**") levied on all benefiting properties in the District, which properties have been found to be specially benefited by the Public Infrastructure. The principal and interest on the other revenue backed bonds ("**District Special Assessment Bonds**") may be repaid through user fees, franchise fees or other use related revenues. In addition to the Bonds issued to fund the Public Infrastructure costs, the District may also impose an annual non ad valorem special assessment to fund the operations of the District, and the maintenance and repair of its Public Infrastructure and its services ("**District Administrative and Maintenance Special Assessments**").

10.3 District Assessments. The District Debt Service Assessments and District Administrative and Maintenance Special Assessments will not be taxes but, under Florida law, will constitute a lien co-equal with the lien of state, county, municipal, and school board taxes and may be collected on the ad valorem tax bill sent each year by the Tax Collector of County and disbursed to the District, or may be billed directly by the District. The homestead exemption is not applicable to the District Assessments. Because a tax bill cannot be paid in part, failure to pay the District Debt Service Assessments, District Administrative and Maintenance Special Assessments, or any other portion of the tax bill will result in the sale of tax certificates and could ultimately result in the loss of title to the property of the delinquent taxpayer through the issuance of a tax deed. District Special Assessment Bonds are not taxes or liens on property. If the fees and user charges underlying the District Special Assessment Bonds are not paid, then such fees and user charges could become liens on the property which could ultimately result in the loss of title to the property through the issuance of a tax deed. The initial amounts of the District Debt Service Assessments and District Administrative and Maintenance Special Assessments which will be due in connection with each Home were unknown at the time of recording of this Declaration. Such amounts may vary from year to year and from time to time, and may depend upon the type of Home (*i.e.*, District Debt Service Assessments and District Administrative and Maintenance Special Assessments may be different for Estate Homes, Townhomes, Villas and condominium units). The actual amount of District Debt Service Assessments will be set forth in the District Assessment Methodology Report. District Administrative and Maintenance Special Assessments relating to Facilities will be determined by the District. Any future District Assessments and/or other charges due with respect to the Facilities are direct obligations of each Owner and are secured by a lien against the Home as set forth in this Section. Failure to pay such sums may result in loss of property as set forth in this Section. The District may construct, in part or in whole, by the issuance of Bonds (as explained in Section 10.2 above), certain facilities including, but not limited to, roads, utilities, landscaping and/or drainage system, as the District determines in its sole discretion.

10.4 Common Areas and Facilities Part of District. Portions of Everlands may be conveyed by Developer to the District. Such Facilities will be part of the District and the District shall govern the use and maintenance of the Facilities. In the event Developer conveys certain Facilities to the District, some of the provisions of this Declaration will not apply to such Facilities, as the Facilities will no longer be Common Areas. By way of example and not of limitation, the procedures set forth in this Declaration respecting Developer's obligation to convey the Common Areas will not apply to the Facilities. ANY CONVEYANCE OF COMMON AREAS TO THE DISTRICT SHALL IN NO WAY INVALIDATE THIS DECLARATION. Developer may decide, in its sole discretion, to convey additional portions of the Common Areas to either the District or Association, thereby making such Common Areas part of the District's Facilities. The District or Association may promulgate membership rules, regulations, and/or covenants which may outline use restrictions for the Facilities, or Association's responsibility to maintain the Facilities, if any. The establishment of the District and the inclusion of Facilities in the District will obligate each Owner to become responsible for the payment of District Debt Service Assessments and the District Administrative and Maintenance Special Assessments for the acquisition, construction, reconstruction, and equipping of the Facilities as set forth in this Section.

10.5 Facilities Owned by District. The Facilities may be owned and operated by the District (and the various development districts may each own certain areas, all of which are collectively referenced herein as "Facilities") or owned by the District and maintained by Association. The Facilities may be owned by a governmental entity other than the District. The Facilities shall be used and enjoyed by the Owners, on a non-exclusive basis, in common with such other persons, entities, and corporations that may be entitled to use the Facilities.

11. Maintenance by Association.

11.1 Common Areas. Except as otherwise specifically provided in this Declaration to the contrary, Association shall at all times maintain, repair, replace and insure the Common Areas, and all improvements placed thereon, including without limitation, all Common Area landscaping and irrigation.

11.2 District Facilities. The District may contract with Association for maintenance, repair and replacement of District Facilities in the District's sole and absolute discretion.

11.3 Drainage. To the extent it is not the responsibility of the District, Association shall at all times maintain the drainage systems and drainage facilities within the Common Areas.

11.4 Canvas Canopies. Association shall be responsible for the removal of all canvas canopies including, but not limited to, mailbox and entrance canopies, if any, located within the Common Areas of the Community in the event of extreme wind conditions, as determined by the Association in its sole discretion. The expense of such removal shall be part of the Operating Costs of Association. Additionally, in the event winds are forecasted to exceed fifty (50) miles per hour, each Owner shall be responsible, at its sole cost and expense, for the removal of all canvas canopies located within its respective Home and yard.

11.5 Lawn Maintenance. Association shall have no responsibility for maintenance of yards within a Lot. All lawn maintenance of Lot shall be the responsibility of each Owner unless a Neighborhood Declaration provides otherwise with respect to a Neighborhood or type of Home. Association shall be responsible for the maintenance of the sprinkler system serving the Common Areas, if any, located outside of the Neighborhoods within Everlands. To the extent an Owner fails to maintain his or her yard in compliance with the obligations imposed by a Neighborhood Declaration, and the Neighborhood Association fails to sufficiently address such failure in the Association's discretion, the Association may, but shall not be obligated to, enter upon the Lot and perform any maintenance needed, in Association's discretion. The costs and expenses of such maintenance plus \$25.00 (or such other amount determined by Association in its sole discretion) shall be charged to such Owner as an Individual Assessment.

11.6 Irrigation and Sprinkler Systems. Association shall be responsible to maintain the irrigation and sprinkler systems within the Common Areas. If provided in the Association's budget, Association may also be responsible for maintaining the sprinkler system within each Front Yard of a Lot, if any. To the extent not included in the Association's budget, each Owner shall be responsible for the maintenance of irrigation and sprinkler systems within their respective Lots. Owners will be limited to irrigating Lots during scheduled times established by the Association from time to time. Association, but not Owners, may use lakes and/or canals within Everlands for irrigation purposes.

11.7 Duty to Paint Exterior of Townhomes, Villas and Condominium Buildings. Each Neighborhood Association shall be responsible for repainting the exterior of each Townhome and Villa within Everlands, at such time as the applicable Neighborhood Association board deems such repainting necessary or desirable, or, if the Association demands, within ninety (90) days of such Association demand, and the costs of same shall be charged as an Individual Assessment to each Owner whose Home is repainted in accordance with this Section. In the event of a condominium within Everlands, the applicable Neighborhood Association shall be responsible for repainting the condominium building within ninety (90) days notice from the Association. Owners of Estate Homes shall be obligated to repaint their respective Homes in accordance with their applicable Neighborhood Declaration. To the extent any Neighborhood Association fails in its obligations pursuant to this Section, Association may perform any applicable work and shall be entitled to charge all costs relating to such work as an Individual Assessment to each Owner in the applicable Neighborhood. To the extent that there is any ambiguity with respect to the responsibilities of Association or any Neighborhood Association under this Section, Association's determination shall control and be final.

11.8 Perimeter Walls. Association or the District shall be responsible for the maintenance, repair and replacement of those portions of the perimeter walls located within Lots and/or Homes in Everlands, at such time as the Board or District, as applicable, deems such maintenance, repair and/or replacement necessary or desirable in its sole discretion, and the costs of the same shall be charged as an Individual Assessment to the Owner of the Home or Lot upon which any such portion of the perimeter wall is located, or shall be included within the charges assessed by the District, as applicable.

11.9 Public Roads. It is possible that either the District or Association may maintain the surfaces, medians and swales of the public roads within Everlands. The costs of such maintenance by Association shall be Operating Costs. The costs of such maintenance by the District shall be part of District Maintenance Special Assessments.

11.10 Surface Water Management System.

11.10.1 Duty to Maintain. Unless owned by the District as part of the Facilities, the Surface Water Management System within Everlands will be owned, maintained and operated by Association as permitted

by the SJRWMD. If owned by Association as Common Areas, the costs of the operation and maintenance of the Surface Water Management System shall be part of the Operating Costs of Association. Notwithstanding the foregoing, the SJRWMD has the right to take enforcement action, including a civil action for an injunction and penalties against Association to compel it to correct any outstanding problems with the Surface Water Management System facilities or in mitigation or conservation areas under the responsibility or control of Association.

11.10.2 Amendments to Association Documents. Any proposed amendment to Association Documents which will affect the Surface Water Management System, including any water management portions of the Common Areas must have the prior written approval of the SJRWMD (and the District in the event that the Surface Water Management System is owned by the District). Association's registered agent shall maintain copies of all Surface Water Management System permits and correspondence respecting such permits, and any future SJRWMD permit actions shall be maintained by Association's registered agent for Association's benefit.

11.10.3 Wetland Conservation Areas. Parcels or Lots may contain or be adjacent to wetlands, wetland mitigation or preservation areas, upland conservation areas and drainage easements, which may be dedicated by Plat and/or protected by a conservation easement ("**Wetland Conservation Areas**"). Owners of Homes abutting Wetland Conservation Areas shall not remove native vegetation (including cattails) that becomes established within the Wetland Conservation Areas abutting their Home. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. Owners shall address any questions regarding authorized activities within the Wetland Conservation Areas to the SJRWMD Service Office, Surface Water Regulation Manager.

11.10.4 Use Restrictions for Wetland Conservation Areas. The Wetland Conservation Areas may in no way be altered from their natural or permitted state. These use restrictions may be defined on the Permit and the Plats associated with Everlands. Activities prohibited within the conservation areas include, but are not limited to, the following:

11.10.4.1 Construction or placing of landscaping, buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

11.10.4.2 Dumping or placing of soil or other substances or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

11.10.4.3 Removal or destruction of trees, shrubs or other vegetation; with exception of nuisance and exotic plant species as may be required by Developer;

11.10.4.4 Excavation, dredging, or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to affect the surface;

11.10.4.5 Surface use except for purposes that permit the land or water area to remain predominately in its natural condition;

11.10.4.6 Activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat preservation or conservation;

11.10.4.7 Acts or uses detrimental to such aforementioned retention and maintenance of land or water areas;

11.10.4.8 Acts or uses detrimental to the preservation of any features or aspects of the property having historical, archeological or cultural significance;

11.10.4.9 No Builder or Owner within Everlands may construct or maintain any building, residence, or structure, or undertake or perform any activity in the Wetland Conservation Areas described in the Permit and recorded Plat(s) of Everlands, unless prior approval is received from the SJRWMD Environmental Resource Regulation Department; and

11.10.4.10 Each Builder and Owner within Everlands at the time of construction of a building, residence, or structure shall comply with the construction plans for the Surface Water Management System approved and on file the SJRWMD.

11.11 Adjoining Areas. Except as otherwise provided herein, Association shall also maintain those drainage areas, swales, lake maintenance easements, driveways, lake/canal slopes and banks, and landscape areas that are within the Common Areas, provided that such areas are readily accessible to Association. Association shall have no responsibility for the Facilities except and to the extent provided in any agreement between Association and the District. Under no circumstances shall Association be responsible for maintaining any areas within fences or walls that form a part of a Home.

11.12 Negligence. The expense of any maintenance, repair or construction of any portion of the Common Areas necessitated by the negligent or willful acts of an Owner or persons utilizing the Common Areas, through or under an Owner shall be borne solely by such Owner and the Home and/or Lot owned by that Owner shall be subject to an Individual Assessment for that expense. By way of example, and not of limitation, an Owner shall be responsible for the removal of all landscaping and structures placed within easements or Common Areas without the prior written approval of Association.

11.13 Right of Entry. Developer, the District and Association are granted a perpetual and irrevocable easement over, under and across Everlands for the purposes herein expressed, including, without limitation, for inspections to ascertain compliance with the provisions of this Declaration, and for the performance of any maintenance, alteration or repair which it is entitled to perform. Without limiting the foregoing, Developer specifically reserves easements for all purposes necessary to comply with any governmental requirement or to satisfy any condition that is a prerequisite for a governmental approval. By way of example, and not of limitation, Developer may construct, maintain, repair, alter, replace and/or remove improvements; install landscaping; install utilities; and/or remove structures on any portion of Everlands if Developer is required to do so in order to obtain the release of any bond posted with any governmental agency.

11.14 Maintenance of Property Owned by Others. Association shall, if designated by Developer, or by Association after the Community Completion Date by amendment to this Declaration or any document of record, maintain vegetation, landscaping, sprinkler system, community identification/features and/or other areas or elements designated by Developer (or by Association after the Community Completion Date) upon areas which are within or which lie outside of Everlands. Such areas may abut, or be proximate to, Everlands, and may be owned by, or be dedicated to, others including, but not limited to, a utility, governmental or quasi-governmental entity, or the District. These areas may include, without limitation, swale areas, landscape buffer areas, berm areas or median areas within the right-of-way of public streets, roads, brick pavers, irrigation, drainage areas, community identification or entrance features, community signage or other identification and/or areas within canal rights-of-ways or other abutting waterways. By way of example and not of limitation, Association may be obligated to maintain and irrigate certain landscaped medians outside of Everlands and/or public parks, if any. To the extent there is any agreement between Developer and Association for the maintenance of any parks, lakes, or ponds outside Everlands, Association shall maintain the same as part of the Common Areas.

12. Multi-Purpose Taxing District. It is possible that the District may maintain the roads, off-site improvements, Surface Water Management System, landscape buffers, and/or entrance features within Everlands and, possibly, an adjacent community. In the event the District does not maintain such roads, off-site improvements, Surface Water Management Systems, landscape buffers and/or entrance features, then a special taxing district or Association may be responsible for such maintenance. Each Home shall be subject to assessments for the operation of District or for Operating Costs.

13. Maintenance by Owners. All lawns, landscaping and sprinkler systems and any property, structures, improvements, fences, sidewalks, and appurtenances not maintained by a Neighborhood Association shall be well maintained and kept in first class, good, safe, clean, neat and attractive condition consistent with the general appearance of Everlands by the Owner of each Lot. Each Owner is specifically responsible for maintaining all grass, landscaping and improvements within any portion of a Home/Lot that is fenced. In addition, if an Owner has installed a fence or wall around a Home, or any portion thereof, then such Owner must maintain any portion of the Common Areas that is no longer readily accessible to Association. To the extent not otherwise set forth in a Neighborhood Declaration, each Owner shall be responsible for root pruning trees within any portion of his or her Lot. Without limiting the foregoing, to the extent a Neighborhood Association agrees in writing to perform any obligation of an Owner hereunder, such obligation shall thereafter be the obligation of such Owner's Neighborhood Association. To the extent not maintained by a Neighborhood Association, each Owner is specifically responsible for maintaining all grass, landscaping and improvements within any portion of their Home in accordance with the standards set forth below.

13.1.1 Lake and Canal Slopes. The rear yard of some Homes may contain lake and/or canal slopes. To the extent that such lake and/or canal slopes comprise part of the Facilities, they will be regulated by the District. Owners shall maintain those portions of the lake and/or canal slopes located on their Lot and Association shall maintain such portions of the lake and/or canal slopes contained in the Common Areas, as part of its Operating Expense. Association may establish from time to time maintenance standards for the lake and canal maintenance by Owners who own Homes adjacent to Common Area waterbodies (the "Lake and Canal Slope Maintenance Standards"). Such standards may include requirements respecting compaction and strengthening of lake or canal banks. Association shall have the right to inspect such lake and canal slopes and banks to insure that each Owner has complied with its obligations hereunder and under the Lake and Canal Slope Maintenance Standards. Each Owner hereby grants Association and the District an easement of ingress and egress across his or her Home to all adjacent lake and canal areas for the purpose of insuring compliance with the requirements of this provision and the Lake and Canal Slope Maintenance Standards. For the purposes of this Declaration, each day that an Owner fails to comply with the requirements of this paragraph or any Lake and Canal Slope Maintenance Standards shall be deemed a separate and independent violation of this Declaration.

13.1.2 Weeds and Refuse. No weeds, underbrush, or other unsightly growth shall be permitted to be grown or remain upon any Home. No refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Home.

13.2 Paint. The applicable Neighborhood Association shall be responsible for repainting the exterior of each Townhome and Villa within Everlands, at such time as the Neighborhood Association deems such repainting necessary or desirable in its sole discretion, and the costs of same shall be charged as an Individual Assessment to each Owner whose Home is repainted in accordance with this Section. In the event of a condominium within Everlands, the applicable Neighborhood Association shall be responsible for repainting the condominium building within ninety (90) days notice from the Association. Owners of Estate Homes shall be obligated to repaint their respective Homes in accordance with their applicable Neighborhood Declaration, but in no event later than 45 days following a notice from such Neighborhood Association. To the extent any Neighborhood Association fails in its obligations pursuant to this Section, Association may perform any applicable work and shall be entitled to charge all costs relating to such work as an Individual Assessment to each Owner in the applicable Neighborhood. To the

extent that there is any ambiguity with respect to the responsibilities of Association or any Neighborhood Association under this Section, Association's determination shall control and be final.

14. Use Restrictions. All Owners within Everlands shall comply with the following:

14.1 Alterations and Additions. No material alteration, addition or modification to a Lot or Home, or material change in the appearance thereof, shall be made without the prior written approval thereof being first had and obtained from the applicable Neighborhood ACC.

14.2 Animals. No animals of any kind shall be raised, bred or kept within Everlands for commercial purposes. No roosters or pigeons shall be raised or kept within Everlands. The breeding of animals is strictly prohibited within Everlands. Association may prohibit breeds of dogs that the Board considers dangerous in its sole discretion. Otherwise, Owners may keep domestic pets as permitted by County and City ordinances and otherwise in accordance with the Rules and Regulations established by the Board from time to time. Notwithstanding the foregoing, pets may be kept or harbored in a Home only so long as such pets or animals do not constitute a nuisance. A determination by the Board that an animal or pet kept or harbored in a Home is a nuisance shall be conclusive and binding on all parties. All pets shall be walked on a leash. No pet shall be permitted outside a Home unless such pet is kept on a leash or within an enclosed portion of the yard of a Home, as approved by the Owner's Neighborhood ACC. No pet or animal shall be "tied out" on the exterior of the Home or in the Common Areas, or left unattended in a yard or on a balcony, porch, or patio. No dog runs or enclosures shall be permitted on any Home. When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of the giving of the notice. All pets shall defecate only in the "pet walking" areas within Everlands designated for such purpose, if any, or on that Owner's Home. The person walking the pet or the Owner shall clean up all matter created by the pet. Each Owner shall be responsible for the activities of its pet. Notwithstanding anything to the contrary, seeing eye dogs shall not be governed by the restrictions contained in this Section.

14.3 Artificial Vegetation. No artificial grass, plants or other artificial vegetation, or rocks or other landscape devices, shall be placed or maintained upon the exterior portion of any Home or Lot, unless approved by the applicable Neighborhood ACC.

14.4 Cars, Trucks and Boats.

14.4.1 Parking. Owners' automobiles shall be parked in the garage or driveway, if provided, and shall not block the sidewalk. The entry area of the driveway for each Home shall be reserved for the Owner(s), guests and invitees of such Home. No vehicles of any nature shall be parked on any portion of Everlands or a Lot except on the surfaced parking area thereof. All lawn maintenance vehicles shall park on the driveway of the Home and not in the roadway or swale. No vehicles used in business for the purpose of transporting goods, equipment and the like shall be parked in Everlands except during the period of a delivery. Recreational vehicles, personal street vans, personal trucks and personal vehicles that can be appropriately parked within standard size parking stalls may be parked in Everlands. Guest parking spaces located on the Common Areas shall be limited to the Owners in that Owners may not park in guest parking spaces for longer than twenty-four (24) hours at a time.

14.4.2 Repairs and Maintenance of Vehicles. No vehicle which cannot operate on its own power or which, in the Board's discretion, is damaged in a way that negatively impacts the aesthetics of Everlands including, but not limited to, a vehicle that has plastic bags covering broken or missing windows, shall remain within Everlands for more than twenty-four (24) hours unless the same is stored in the garage of a Home. No repair or maintenance, except emergency repair, of vehicles shall be made within Everlands. No vehicles shall be stored on blocks. Tarpaulin covers on vehicles shall not be permitted without the applicable Neighborhood ACC approval.

14.4.3 Prohibited Vehicles. No boats, commercial vehicle, limousine, trailer including, but not limited to, house trailers, boat trailers and trailers of every other type, kind or description, or camper, may be kept within Everlands except in the garage of a Home. The term commercial vehicle shall not be deemed to include law enforcement vehicles or recreational or utility vehicles (*i.e.*, Broncos™, Blazers™, Explorers™, Navigators™, *etc.*) or clean "non- working" vehicles such as pick-up trucks, vans, or cars if they are used by the Owner on a daily basis for normal transportation. Notwithstanding any other provision in this Declaration to the contrary, the foregoing provisions shall not apply to construction vehicles in connection with the construction, improvement, installation, or repair by Developer or Builder of Homes, Common Areas, or any other Everlands facility. No vehicles displaying commercial advertising shall be parked within the public view. No vehicles bearing a "for sale" sign shall be parked within the public view anywhere on Everlands. For any Owner who drives an automobile issued by the County or other governmental entity (*i.e.*, police cars), such automobile shall not be deemed to be a commercial vehicle and may be parked in the garage or driveway of the Home. No vehicle shall be used as a domicile or residence either temporarily or permanently. No vehicle with expired registration or license plates may be kept within public view anywhere on Everlands. Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained in this Declaration or in the Rules and Regulations now or subsequently adopted may (without obligation) be towed by Association at the sole expense of the owner of such vehicle. Association shall not be liable to the owner of such vehicle for trespass, conversion, or otherwise, nor guilty of any criminal act, by reason of such towing. Notwithstanding the foregoing, each Owner acknowledges that such Owner and its family, guests, tenants, and invitees shall abide by all parking regulations issued by the local governing authority having jurisdiction.

14.5 Casualty Destruction to Improvements. In the event that a Home or other improvement is damaged or destroyed by casualty loss or other loss, then within a reasonable period of time after such incident, the Owner thereof shall either commence to rebuild or repair the damaged Home or improvement and diligently continue such rebuilding or repairing until completion, or properly clear the damaged Home or improvement and restore or repair the Home as set forth in Section 16.2.2 herein and as approved by the applicable Neighborhood

ACC. As to any such reconstruction of a destroyed Home or improvements, the same shall only be replaced as approved by the applicable Neighborhood ACC.

14.6 Commercial Activity. Except for normal construction activity, sale, and re-sale of a Home, sale or re-sale of other property owned by Developer, administrative offices of Developer, or a Builder, no commercial or business activity shall be conducted in any Home within Everlands. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Home for such Owner's personal use; provided, however, business invitees customers, and clients shall not be permitted to meet with Owners in Homes unless the Board provides otherwise in the Rules and Regulations. No Owner may actively engage in any solicitations for commercial purposes within Everlands. No solicitors of a commercial nature shall be allowed within Everlands, without the prior written consent of Association. No day care center or facility may be operated out of a Home. No garage sales are permitted, except as permitted by Association. Prior to the Community Completion Date, Association shall not permit any garage sales without the prior written consent of Developer.

14.7 Completion and Sale of Homes. No person or entity shall interfere with the completion and sale of Homes or Lots within Everlands. WITHOUT LIMITING THE FOREGOING, EACH OWNER, BY ACCEPTANCE OF A DEED, AGREES THAT ACTIONS OF OWNERS MAY IMPACT THE VALUE OF HOMES; THEREFORE EACH OWNER IS BENEFITED BY THE FOLLOWING RESTRICTION: PICKETING AND POSTING OF NEGATIVE SIGNS OR POSTING OF NEGATIVE WEBSITES ON THE INTERNET, NEGATIVE ADVERTISING, NEGATIVE INFORMATION PROVIDED OR POSTED AT PUBLIC GATHERINGS ARE STRICTLY PROHIBITED IN ORDER TO PRESERVE THE VALUE OF THE HOMES IN EVERLANDS AND THE RESIDENTIAL ATMOSPHERE THEREOF. IN THE EVENT AN OWNER OR OCCUPANT VIOLATES THE TERMS OF THIS SECTION, THE DEVELOPER AND/OR ASSOCIATION SHALL HAVE THE RIGHT TO ENTER UPON THE HOME OR LOT AND CURE THE VIOLATION AS FURTHER PROVIDED IN THIS DECLARATION.

14.8 Control of Contractors. Except for direct services which may be offered to Owners (and then only according to the Rules and Regulations relating thereto as adopted from time to time), no person other than an Association officer or representative of the management company retained by Association shall direct, supervise, or in any manner attempt to assert any control over any contractor of Association.

14.9 Cooking. No cooking shall be permitted nor shall any goods or beverages be consumed on the Common Areas except in areas designated for those purposes by Association. The applicable Neighborhood ACC shall have the right to prohibit or restrict the use of grills or barbeque facilities throughout Everlands.

14.10 Decorations. No decorative objects including, but not limited to, birdbaths, wind chimes, figurines, wind chimes, light fixtures, sculptures, statues, weather vanes, or flagpoles shall be installed or placed within or upon any portion of Everlands without the prior written approval of the applicable Neighborhood ACC. Notwithstanding the foregoing, no statues, sculptures or birdbaths of any kind can be installed or placed within the Front Yard or visible from the street. Notwithstanding the foregoing, holiday lighting and decorations shall be permitted to be placed upon the exterior portions of the Home and upon the Lot in the manner permitted hereunder commencing on Thanksgiving and shall be removed no later than January 15th of the following year. The applicable Neighborhood ACC may establish standards for holiday lights. The applicable Neighborhood ACC may require the removal of any lighting that creates a nuisance (e.g., unacceptable spillover to adjacent Home).

14.11 Disputes as to Use. If there is any dispute as to whether the use of any portion of Everlands complies with this Declaration, such dispute shall, prior to the Community Completion Date, be decided by Developer, and thereafter by Association. A determination rendered by such party with respect to such dispute shall be final and binding on all persons concerned.

14.12 Drainage System. Drainage systems and drainage facilities may be part of the Facilities, Common Areas and/or Homes. The maintenance of such system and/or facilities within the Common Areas shall be the responsibility of the Association. Once drainage systems or drainage facilities are installed by Developer, the maintenance of such systems and/or facilities thereafter within the boundary of a Home shall be the responsibility of the Owner of the Home which includes such system and/or facilities. In the event that such system or facilities (whether comprised of swales, pipes, pumps, waterbody slopes, or other improvements) is adversely affected by landscaping, fences, structures (including, without limitation, pavers) or additions, the cost to correct, repair, or maintain such drainage system and/or facilities shall be the responsibility of the Owner of each Home containing all or a part of such drainage system and/or facilities. By way of example, and not of limitation, if the Owner of one Home plants a tree (pursuant to the applicable Neighborhood ACC approval) and the roots of such tree subsequently affect pipes or other drainage facilities within another Home, the Owner that plants the tree shall be solely responsible for the removal of the roots which adversely affects the adjacent Home. Likewise, if the roots of a tree located within the Common Areas adversely affect an adjacent Home, Association shall be responsible for the removal of the roots and the costs thereof shall be Operating Costs. Notwithstanding the foregoing, Association, Builders, District, and Developer shall have no responsibility or liability for drainage problems of any type whatsoever.

14.13 Easement for Unintentional and Non-Negligent Encroachments. If any other building or improvement on a Home shall encroach upon another Home by reason of original construction by Developer, then an easement for such encroachment shall exist so long as the encroachment exists. It is contemplated that each Home shall contain an improvement with exterior walls, footings, and other protrusions which may pass over or underneath an adjacent Home. A perpetual nonexclusive easement is herein granted to allow the footers for such walls and other protrusions and to permit any natural water run off from roof overhangs, eaves and other protrusions onto an adjacent Home.



14.14 Extended Vacation and Absences. In the event a Home will be unoccupied for an extended period, the Home must be prepared prior to departure by: (i) notifying Association in writing; (ii) removing all removable furniture, plants and other objects from outside the Home; and (iii) designating a responsible firm or individual to care for the Home, should the Home suffer damage or require attention, and providing a key to that firm or individual. The name of the designee shall be furnished to Association. Neither Association nor Developer shall have responsibility of any nature relating to any unoccupied Home.

14.15 Fences, Walls and Screens. No walls or fences shall be erected or installed without prior written consent of the applicable Owner's Neighborhood ACC. All enclosures of balconies or patios including, without limitation, addition of vinyl windows and decks shall require the prior written approval of the the Owner's Neighborhood ACC. No fences, walls, structures or trees shall be permitted within any lake maintenance easement of the District or Association or within any District property abutting the lakes.

14.16 Fuel Storage. No fuel storage shall be permitted within Everlands, except as may be necessary or reasonably used for swimming pools, spas, barbecues, fireplaces, emergency generators, or similar devices and as otherwise permitted by this Declaration.

14.17 Garages. Each Home may have its own garage. The conversion of any garage within Everlands shall be prohibited. Garage doors may be left open during use for vehicular and pedestrian ingress and egress, in addition to other uses, and while performing activities in and around the garage, Home or Lot, so long as such additional uses and activities do not become a nuisance. At all other times, garage doors shall remain closed.

14.18 Garbage Cans. Trash collection and disposal procedures established by Association shall be observed. It is possible Association may provide for or contract with a private entity for garbage pick-up, the cost of which shall be Operating Costs. It is also possible that a Neighborhood Association, if any, may provide for or contract with a private entity for garbage pickup in their respective Neighborhood. No outside burning of trash or garbage is permitted. No garbage cans, supplies or other similar articles shall be maintained on any Home so as to be visible from outside the Home, Lot or Parcel. Each Owner shall be responsible for properly depositing his or her garbage and trash in garbage cans and trash containers sufficient for pick-up by the appropriate collection agencies in accordance with the requirements of any such agency. All such trash receptacles shall be maintained in a sanitary condition and shall be shielded from the view of adjacent properties and streets. Garbage cans and trash containers shall not be placed outside the Home for pick-up earlier than 6:00 p.m. on the day preceding the pick-up, and must be returned to the Home so that they are not visible from outside the Home on the day of pick-up. Without limiting the foregoing, it is anticipated, but not guaranteed, that the Owners of Villas and/or condominium units will utilize a private garbage pickup company and be obligated to dispose of garbage in a common dumpster or dumpsters, and that the applicable private collection agency may pick up trash from such dumpster(s), rather than from each Lot. Owners of Townhomes and Estate Homes shall not be permitted to use any dumpsters used by Owners of Villas and/or condominium units. To the extent any Owner must utilize any swale in connection with bulk pickup items, such Owner shall be obligated to request the bulk pickup the same day that the debris or other bulk items are placed in the swale, and must further notify the Association in writing as to the placement of the items and the request for pickup of the same. Any bulk items that are left in any portion of the Common Areas without notice to the Association shall be considered dumping and shall subject the applicable Owner to fines and/or legal action. In the event of legal action by the Association, the applicable Owner (and his or her guests, tenants and/or invitees) shall be fully liable for the Association's legal fees and costs.

14.19 General Use Restrictions. Each Home, the Common Areas and any portion of Everlands shall not be used in any manner contrary to the Association Documents.

14.20 Hurricane Shutters. Any hurricane shutters or other protective devices installed by any party other than Developer and/or any Builders which are visible from outside a Home shall be of a type as approved in writing by the Owner's Neighborhood ACC. Panel, accordion and roll-up style hurricane shutters may not be left closed during hurricane season (nor at any other time). Any such approved hurricane shutters may be installed or closed up to forty-eight (48) hours prior to the expected arrival of a hurricane and must be removed or opened within seventy-two (72) hours after the end of a hurricane watch or warning or as the Board may determine otherwise. Except as the Board may otherwise decide, shutters may not be closed at any time other than a storm event. Any approval by the Owner's Neighborhood ACC shall not be deemed an endorsement of the effectiveness of hurricane shutters.

14.21 Irrigation. The water used in the irrigation system is not suitable for drinking or water sports. People and pets should not play in such water. Such water shall not be used by Owners to irrigate lawns. Due to water quality, irrigation systems may cause staining on Homes, other structures, paved areas, or vehicles. It is each Owner's responsibility to treat and remove any such staining. Association may require from time to time, that Owners adopt systems to prevent stains (e.g., automatic deionization systems). The yard of each Home may be equipped with irrigation lines, depending on the model of the Home. Developer is not providing any irrigation to the Homes. No Owner whose Home adjoins a waterway, if any, may utilize the waterway to irrigate unless so provided by Developer as part of original construction, subject to applicable permitting. Use of waterbody water, if any, by Owners is prohibited and is at the Owner's sole risk. Association may use waterways to irrigate Common Areas, subject to applicable permitting and Developer shall not be liable for same. BY ACCEPTANCE OF A DEED TO A HOME OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DEVELOPER OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME. Developer, the District, Association, and Builders shall have the right to use one or more pumps to remove water from waterbodies for irrigation purposes at all times, subject to applicable permitting. Developer may utilize a computerized loop system to irrigate the Common Areas and/or Homes. Any computerized loop irrigation system

that is not specifically the maintenance obligation of an Owner, shall be the maintenance obligation of Association and shall be deemed part of the Common Areas.

14.22 Laundry. Subject to the provisions of Section 163.04 of the Florida Statutes, to the extent applicable, no rugs, mops, or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed so as to be visible outside the Home or Lot.

14.23 Lawful Use. No immoral, improper, offensive, unlawful or obnoxious use shall be made in any portion of Everlands. All laws, zoning ordinances and regulations of all governmental entities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental entities for maintenance, modification or repair of a portion of Everlands shall be the same as the responsibility for maintenance and repair of the property concerned.

14.24 Leases. The leasing of Homes shall be subject to the requirements of each Neighborhood Association pursuant to their respective Neighborhood Declaration and/or applicable rules and regulations. Notwithstanding the foregoing, the following minimum requirements apply to the leasing of all Homes within Everlands. Lots or Homes may be leased, licensed or occupied only in their entirety and no fraction or portion may be rented. All restrictions and requirements respecting leases in the Association Documents shall apply to all leases of Lots. No bed and breakfast facility may be operated out of a Home. Individual rooms of a Home may not be individually leased on any basis. No transient tenants may be accommodated in a Home. All leases or occupancy agreements shall be in writing and a copy of all leases of Homes shall be provided to Association. All leases shall be on forms approved by Association and shall provide (or if not provided, shall be automatically deemed to provide) that tenants are required to abide by the provisions of the Association Documents or other applicable provisions of any agreement, document or instrument governing Everlands or administered by Association. Each Owner hereby acknowledges and agrees that any and all leases entered into by such Owner in connection with his or her Home shall be deemed to incorporate by this reference a collateral assignment of rents and leases in favor of Association, which collateral assignment of rents and leases shall provide that in the event such Owner leasing his or her Home is past due in the payment of his or her Assessments, Association shall have the power and authority to take actions including, but not limited to: (i) collecting rents now due or that become due directly from such Owner's tenant(s) (or other party in possession of the Home); and/or (ii) pursuing any and all legal remedies available against such Owner and/or such Owner's tenant(s). Owners are responsible for providing their tenants with copies of all such Association Documents or instruments at such Owner's sole cost and expense. No subleasing or assignment of lease rights by a tenant is permitted. No time-share or other similar arrangement is permitted. In no event shall occupancy of a leased Home (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. Each Owner shall be jointly and severally liable with the tenant to Association for all costs incurred by Association for the repair of any damage to Common Areas or to pay any claim for injury or damage to property caused by tenants. Association shall repair any such damage and the cost of such repair shall be invoiced as an Individual Assessment to the Owner. Additionally, Association has the authority to require that a security deposit in an amount not to exceed the equivalent of one (1) month's rent be deposited into an account maintained by Association. The security deposit shall protect against damages to the Common Areas or Association Property. A security deposit held by Association under this Section shall be governed by Chapter 83 of the Florida Statutes, as it may be renumbered from time to time. Association may also charge a reasonable fee of no more than One Hundred (\$100.00) dollars to offset the costs of a background check on tenant, which shall be shared with the Owner. Notwithstanding the foregoing, this Section shall not apply to a situation where an Owner or resident of a Home receives in-home care by a professional caregiver residing within the Home.

14.25 Minor's Use of Facilities. Each Owner shall be responsible for all actions of minor children dwelling in and/or visiting his or her Home. Developer, Builders, and Association shall not be responsible for any use of the facilities and Common Areas by anyone, including minors. Children under the age of twelve (12) shall be accompanied by an adult at all times.

14.26 Nuisances. No nuisance or any use or practice that is the source of unreasonable annoyance to others or which interferes with the peaceful possession and proper use of Everlands is permitted. The final determination of what constitutes a nuisance shall be made by the Board in its sole discretion. No firearms shall be discharged within Everlands. Nuisances shall include, without limitation, the playing of loud music or the gathering in front of homes or Common Areas by any Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees. No firearms shall be discharged within Everlands. Nothing shall be done or kept within the Common Areas, or any other portion of Everlands, including a Home or Lot which will increase the rate of insurance to be paid by Association.

14.27 Oil and Mining Operations. No oil, drilling development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or on any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or on any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

14.28 Paint. Homes (and buildings within Neighborhoods) shall be repainted as set forth in the applicable Neighborhood Declaration. In the event an Owner fails to repaint their Home in accordance with such Neighborhood Declaration, Association may, but shall not be obligated to, repaint such Owner's Home and the costs of same shall be charged as an Individual Assessment to the Owner whose Home is repainted.

14.29 Personal Property. All personal property of Owners or other occupants of Homes shall be stored within the Homes. No personal property, except usual patio furniture, may be stored on, nor any use made of, the Common Areas, any Parcel, Lot or Home, or any other portion of Everlands, which is unsightly or which interferes with the comfort and convenience of others.

14.30 Townhomes - Pools. No pools shall be permitted to be installed on Lots containing Townhomes.

14.31 Estate Home - Pools. No above-ground pools shall be permitted. All in-ground pools, hot tubs, spas and appurtenances installed shall require the prior written approval of the applicable Neighborhood ACC. The design must incorporate, at a minimum, the following: (i) the composition of the material must be thoroughly tested and accepted by the industry for such construction; (ii) any swimming pool constructed on any Lot shall have an elevation at the top of the pool of not over two (2) feet above the natural grade unless approved by the applicable Neighborhood ACC; (iii) pool cages and screens must be of a design, color and material approved by the applicable Neighborhood ACC and shall be no higher than twelve (12) feet unless otherwise approved by the applicable Neighborhood ACC; and (iv) pool screening shall in no event be higher than the roof line of the Home. Pool screening shall not extend beyond the sides of the Home without the express approval of the applicable Neighborhood ACC. All pools shall be adequately maintained and chlorinated (or cleaned with similar treatment). Unless installed by Developer or a Builder, no diving boards, slides, or platforms shall be permitted without the approval of the applicable Neighborhood ACC.

14.32 Removal of Soil and Additional Landscaping. Without the prior consent of the Owner's Neighborhood ACC, no Owner shall remove soil from any portion of Everlands or change the level of the land within Everlands, or plant landscaping which results in any permanent change in the flow and drainage of surface water within Everlands. Owners may not place additional plants, shrubs, or trees within any portion of Everlands without the prior approval of the applicable Neighborhood ACC.

14.33 Roofs, Driveways and Pressure Treatment. Roofs and/or exterior surfaces (outside of Homes) and/or pavement, including, but not limited to, sidewalks, walkways and drives, shall be pressure treated within thirty (30) days of notice by the applicable Neighborhood ACC. No surface applications to driveways shall be permitted without the prior written approval of the applicable Neighborhood ACC as to material, color and pattern. Such applications shall not extend beyond the front Lot line or include the sidewalk. No oil stains, stains or weeds are permitted on driveways or Lots. Each Owner shall be responsible to pressure clean between paintings. The Board may decide to have annual window washing or roof repair and may collect the costs thereof by way of Individual Assessments, or as part of Operating Costs or Reserves. In addition to the foregoing, each Owner shall be responsible for pressure treatments and cleaning of Townhome exterior surfaces within thirty (30) days notice by the applicable Neighborhood ACC. In the event that an Owner fails to comply with the requirements of this Section, the Association shall be entitled to perform pressure treatments and may charge the costs of the same to each applicable Owner as an Individual Assessment.

14.34 Satellite Dishes and Antennas. No exterior visible antennas, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot without the prior written approval thereof being first had and obtained from the applicable Neighborhood ACC as required by this Declaration. The applicable Neighborhood ACC may require, among other things, that all such improvements be screened so that they are not visible from adjacent Homes, or from the Common Areas. Each Owner agrees that the location of satellite dishes, antennas, and other equipment under this Section must be first approved by the applicable Neighborhood ACC in order to address the welfare of the residents of Everlands and satellite dishes must be on the fascia board when possible with no exposed wires. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others. All antennas not permitted by the Federal Communications Commission ("FCC") rules are prohibited. Installation, maintenance, and use of all antennas shall comply with restrictions adopted by the Board and shall be governed by the then current rules of the FCC.

14.35 Screened Enclosures. No screened enclosures, for pools or otherwise, shall be permitted without the prior written approval of the applicable Neighborhood ACC.

14.36 Signs and Flags. No sign (including brokerage or for sale/lease signs) flag, banner, sculpture, fountain, outdoor play equipment, solar equipment, artificial vegetation, sports equipment, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed in, or upon any part of Everlands that is visible from the outside without the prior written approval thereof being first had and obtained from the applicable Neighborhood ACC as required by this Declaration; provided however, signs required by governmental agencies and approved by the applicable Neighborhood ACC may be displayed (e.g. permit boards). "For Sale" and "For Rent" signs must be approved by the applicable Neighborhood ACC and shall be no larger than 12" x 12". Notwithstanding the foregoing, no broker, "For Sale" or "For Rent" signs shall be exhibited, displayed, inscribed, painted or affixed in, or upon any part of Everlands while the Developer or any Builder holds any Homes for sale in the ordinary course of business. No sign may be placed in the window of a Home. Developer and Builders are exempt from this Section. No in-ground flag poles (except as Developer or a Builder) shall be permitted within Everlands unless written approval of the applicable Neighborhood ACC is obtained. Notwithstanding the foregoing, flags which are no larger than 24" x 36" attached to a Home and displayed for the purpose of a holiday, and United States of America flags shall be permitted without applicable Neighborhood ACC approval. Notwithstanding the foregoing, no Neighborhood ACC approval is necessary for the installation of an American flag, up to two feet (2') by four feet (4') in size, posted on a three foot (3') pole and attached at a forty five degree (45°) angle from the Home.

14.37 Sports Equipment. No recreational, playground or sports equipment shall be installed or placed within or about any portion of Everlands without prior written consent of the applicable Neighborhood ACC. No basketball backboards, skateboard ramps, or play structures will be permitted without written approval by the applicable Neighborhood ACC. Such approved equipment shall be located at the rear of the Home or on the inside portion of corner Homes within the setback lines. Tree houses or platforms of a similar nature shall not be constructed on any part of a Home. No basketball hoops shall be attached to a Home and any portable basketball hoops must be stored inside the Home. No tennis courts are permitted within Lots.

14.38 Storage. No temporary or permanent utility or storage shed, storage building, tent, or other structure or improvement shall be permitted and no other structure or improvement shall be constructed, erected, altered, modified or maintained without the prior approval of the applicable Neighborhood ACC, and/or County, which approval shall conform to the requirements of this Declaration. Any boat stored on a Lot must be screened by landscaping, fencing or walls approved by the applicable Neighborhood ACC so that such boat is not visible above such landscaping, fencing or walls or from the street. Water softeners, trash containers, propane tanks, and other similar devices shall be properly screened from the street in a manner approved by the applicable Neighborhood ACC.

14.39 Subdivision and Regulation of Land. No portion of any Home, Lot or Parcel shall be divided or subdivided or its boundaries changed without the prior written approval of Association. No Owner shall inaugurate or implement any variation from, modification to, or amendment of governmental regulations, land use plans, land development regulations, zoning, or any other development orders or development permits applicable to Everlands, without the prior written approval of Developer, which may be granted or denied in its sole discretion.

14.40 Substances. No flammable, combustible or explosive fuel, fluid, chemical, hazardous waste, or substance shall be kept on any portion of Everlands or within any Home, Lot or Parcel, except those which are required for normal household use. All propane tanks and bottled gas for household and/or pool purposes (excluding barbecue grill tanks) must be installed underground or in a manner to be screened from view by landscaping or other materials approved by the applicable Neighborhood ACC.

14.41 Swimming, Fishing, Boating, Docks and Wildlife. Swimming, fishing and feeding wildlife are prohibited within any waterbodies within or adjacent to Everlands. Boating and personal watercraft (e.g., jet/water skis) are prohibited. No private docks may be erected within any waterbody.

14.42 Use of Homes. Except as otherwise permitted by the Association Documents, each Home is restricted to residential use as a residence by the Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees.

14.43 Visibility on Corners. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the applicable Neighborhood ACC and governmental agencies. No vehicles, objects, fences, walls, hedges, shrubs or other planting shall be placed or permitted on a corner Lot where such obstruction would create a traffic problem.

14.44 Water Intrusion. Florida experiences heavy rainfall and humidity on a regular basis. Each Owner is responsible for making sure his or her Home remains watertight including, without limitation, checking caulking around windows and seals on doors. Each Owner acknowledges that running air conditioning machinery with windows and/or doors open in humid conditions can result in condensation, mold and/or water intrusion. Neither Developer nor Association shall have liability under such circumstances for any damage or loss that an Owner may incur.

14.45 Wells. Owners shall be prohibited from using or installing wells within Everlands. Association and Neighborhood Associations may install and utilize wells in the performance of any respective obligations relative to maintenance or irrigation.

14.46 Wetlands and Mitigation Areas. It is anticipated that the Common Areas may include one or more preserves, wetlands, and/or mitigation areas. No Owner or other person shall take any action or enter onto such areas so as to adversely affect the same. Such areas are to be maintained by Association in their natural state.

14.47 Windows or Wall Units. No window or wall air conditioning unit may be installed in any window or wall of a Home.

14.48 Window Treatments. Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) weeks after an Owner or tenant first moves into a Home or when permanent window treatments are being cleaned or repaired. No security bars shall be placed on the windows of any Home without prior written approval of the applicable Neighborhood ACC. No awnings, canopies or shutters shall be affixed to the exterior of a Home without the prior written approval of the applicable Neighborhood ACC. No reflective tinting or mirror finishes on windows shall be permitted unless approved by the applicable Neighborhood ACC. Window treatments facing the street shall be of a neutral color, such as white, off-white or wood tones.

14.49 Workers. Workers hired by any Owner for any purpose including, without limitation, maintenance, landscaping, and/or housekeeping may not congregate in or about the Common Areas or make any personal use of such Common Areas.

15. Easement for Unintentional and Non-Negligent Encroachments. If any other building or improvement on a Home shall encroach upon another Home or the Common Areas by reason of original construction by Developer, then an easement for such encroachment shall exist so long as the encroachment exists. It is contemplated that each Home shall contain an improvement with exterior walls, footings, and other protrusions including, without limitation, overhangs on Homes with side entry, which may pass over or underneath an adjacent Home. A perpetual nonexclusive easement is herein granted to allow the footers for such walls and such other protrusions and overhangs, and to permit any natural water runoff from roof overhangs, eaves and other protrusions onto an adjacent Home or Common Areas.

16. Requirement to Maintain Insurance.

16.1 Association. Association shall maintain the following insurance coverage:

16.1.1 Flood Insurance. If the Common Areas are located within an area which has special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP), coverage in appropriate amounts, available under NFIP for all buildings and other insurable property within any portion of the Common Areas located within a designated flood hazard area.

16.1.2 Liability, Property Damage, Hazard Insurance. Commercial general liability insurance, property damage insurance and hazard insurance coverage providing coverage and limits deemed appropriate. Such policies must provide that they may not be canceled or substantially modified by any party, without at least thirty (30) days' prior written notice to Developer (until the Community Completion Date) and Association.

16.1.3 Directors and Officers Liability Insurance. Each member of the Board shall be covered by directors and officers liability insurance in such amounts and with such provisions as approved by the Board.

16.1.4 Other Insurance. Such other insurance coverage as appropriate from time to time. All coverage obtained by Association shall cover all activities of Association and all properties maintained by Association, whether or not Association owns title thereto.

16.1.5 Developer. Prior to and including the Turnover Date, Developer shall have the right, at Association's expense, to provide any such insurance coverage it deems appropriate under its master insurance policy in lieu of any of the foregoing.

16.2 Homes.

16.2.1 Requirement to Maintain Insurance. Each Owner shall be required to obtain and maintain adequate insurance of his or her Home. Such insurance shall be sufficient for necessary repair or reconstruction work, and/or shall cover the costs to demolish a damaged Home as applicable, remove the debris, and to resod and landscape land comprising the Home. Upon the request of Association, each Owner shall be required to supply the Board with evidence of insurance coverage on his Home which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of Association, Association shall specifically have the right to bring an action to require an Owner to comply with his or her obligations hereunder.

16.2.2 Requirement to Reconstruct or Demolish. In the event that any Home is destroyed by fire or other casualty, the Owner of such Home shall do one of the following: the Owner shall commence reconstruction and/or repair of the Home ("**Required Repair**"), or Owner shall tear the Home down, remove all the debris, and resod and landscape the property comprising the Home as required by the Neighborhood ACC, if any, and ACC ("**Required Demolition**") to the extent permitted under law. If an Owner elects to perform the Required Repair, such work must be commenced within thirty (30) days of the Owner's receipt of the insurance proceeds respecting such Home. If an Owner elects to perform the Required Demolition, the Required Demolition must be completed within six (6) months from the date of the casualty or such longer period of time established by the Board in its sole and absolute discretion subject to extension if required by law. If an Owner elects to perform the Required Repair, such reconstruction and/or repair must be completed in a continuous, diligent, and timely manner. Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the powers of Association, Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on his or her Home within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes, and/or building codes.

16.2.3 Townhome and Villa Buildings. Certain Homes are separated by Party Walls but form part of a Townhome Building or Villa Building. Notwithstanding anything to the contrary herein, any Owner of a Home within a Townhome Building or Villa Building must have the written agreement of all of the Owners of Homes within such Townhome Building or Villa Building, as applicable, before any Required Demolition can be commenced. Such written agreement must be presented to the Neighborhood ACC before any Required Demolition can commence. If all of the Owners of Homes within a Townhome Building or Villa Building do not agree to the Required Demolition, then such Required Demolition shall not be commenced by any Owner of a Home within a Townhome Building or Villa Building, as applicable, and all Owners of damaged or destroyed Homes within such Townhome Building or Villa Building shall perform Required Repair with respect to such Homes.

16.2.4 Standard of Work. The standard for all demolition, reconstruction, and other work performed as required by this Section 16.2.4 shall be in accordance with the Community Standards and any other standards established by Association with respect to any casualty that affects all or a portion of Everlands.

16.2.5 Additional Rights of Association. If an Owner refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then Association, in its sole and absolute discretion, by and through its Board is hereby irrevocably authorized by such Owner to perform the Required Repair or Required Demolition. All Required Repair performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Home. Association shall have the absolute right to perform the Required Demolition to a Home pursuant to this Section if any contractor certifies in writing to Association that such Home cannot be rebuilt or repaired. The Board may levy an Individual Assessment against

the Owner in whatever amount sufficient to adequately pay for Required Repair or Required Demolition performed by Association.

16.2.6 Rights of County. In the event that any Home is destroyed by fire or other casualty, County or other authorized governmental agency shall have the right, but not the obligation, to enter such Owner's Lot and/or Home for the purpose of inspecting and assessing the damage to such Home. County shall further have the right to enforce any local laws and/or ordinances with regard to the Required Repair or the Required Demolition of the Home.

16.2.7 Association Has No Liability. Notwithstanding anything to the contrary in this Section, Association, its directors and officers, shall not be liable to any Owner should an Owner fail for any reason whatsoever to obtain insurance coverage on a Home. Moreover, Association, its directors and officers, shall not be liable to any person if Association does not enforce the rights given to Association in this Section.

16.3 Fidelity Bonds. If available, Association may obtain a blanket fidelity bond for all officers, directors, trustees and employees of Association, and all other persons handling or responsible for funds of, or administered by, Association. In the event Association delegates some or all of the responsibility for the handling of the funds to a professional management company or licensed manager, such bonds shall be required for its officers, employees and agents, handling or responsible for funds of, or administered on behalf of Association. The amount of the fidelity bond shall be based upon reasonable business judgment. The fidelity bonds required herein must meet the following requirements (to the extent available at a reasonable premium):

16.3.1 The bonds shall name Association as an obligee.

16.3.2 The bonds shall contain waivers, by the issuers of the bonds, of all defenses based upon the exclusion of persons serving without compensation from the definition of "employee" or similar terms or expressions.

16.3.3 The premiums on the bonds (except for premiums on fidelity bonds maintained by a professional management company, or its officers, employees and agents), shall be paid by Association.

16.3.4 The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days' prior written notice to Developer (until the Community Completion Date) and Association.

16.4 Association as Agent. Association is irrevocably appointed agent for each Owner of any interest relating to the Common Areas to adjust all claims arising under insurance policies purchased by Association and to execute and deliver releases upon the payment of claims.

16.5 Casualty to Common Areas. In the event of damage to the Common Areas, or any portion thereof, Association shall be responsible for reconstruction after casualty. In the event of damage to a Lot or Home, or any portion thereof, the Owner shall be responsible for reconstruction after casualty as approved by such Owner's Neighborhood ACC, if any.

16.6 Nature of Reconstruction. Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or as the improvement was last constructed, subject to modification to conform with the then current governmental regulation(s).

16.7 Additional Insured. Developer and its Lender(s) shall be named as additional insured on all policies obtained by Association, as their interests may appear.

16.8 Cost of Insurance. The costs of all insurance maintained by Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof are Operating Costs. Notwithstanding the foregoing or any other provisions in this Declaration, expenses incurred during the guarantee period which result from a natural disaster or an act of God occurring during such guarantee period, which are not covered by proceeds from insurance maintained by Association (*i.e.*, the costs of any deductible, the costs incurred which are in excess of the Association's coverage, etc.), shall not be Operating Costs (and as such, are not part of the Developer's deficit funding obligation under its guarantee, if any) and may be charged as a Special Assessment against all Owners of record as of the date that the Special Assessment is assessed.

## 17. Property Rights.

17.1 Owners' Easement of Enjoyment. Every Owner, and its immediate family, tenants, guests and invitees, and every owner of an interest in Everlands shall have a non-exclusive right and easement of enjoyment in and to those portions of the Common Areas which it is entitled to use for their intended purpose, subject to the following provisions:

17.1.1 Easements, restrictions, reservations, conditions, limitations and declarations of record, now or hereafter existing, and the provisions of this Declaration, as amended.

17.1.2 Rules and Regulations adopted governing use and enjoyment of the Common Areas.

17.1.3 The right of Association to suspend an Owner's rights hereunder or to impose fines in accordance with Section 720.305 of the Florida Statutes, as amended from time to time.

17.1.4 The right to suspend the right to use all (except vehicular and pedestrian ingress and egress and necessary utilities) or a portion of the Common Areas by an Owner, its immediate family, etc. for any period during which any Assessment against that Owner remains unpaid.

17.1.5 The right of Developer and/or Association to dedicate or transfer all or any part of the Common Areas. No such dedication or transfer shall be effective prior to the Community Completion Date without prior written consent of Developer.

17.1.6 The right of Developer and/or Association to modify the Common Areas as set forth in this Declaration.

17.1.7 The perpetual right of Developer to access and enter the Common Areas at any time, even after the Community Completion Date, for the purposes of inspection and testing of the Common Areas. Association and each Owner shall give Developer unfettered access, ingress and egress to the Common Areas so that Developer and/or its agents can perform all tests and inspections deemed necessary by Developer. Developer shall have the right to make all repairs and replacements deemed necessary by Developer. At no time shall Association and/or an Owner prevent, prohibit and/or interfere with any testing, repair or replacement deemed necessary by Developer relative to any portion of the Common Areas.

17.1.8 The right of Developer and/or Association to modify the Common Areas as set forth in this Declaration.

17.1.9 The rights of Developer and/or Association regarding Everlands as reserved in this Declaration, including, without limitation, the right to utilize the same and to grant use rights, etc. to others.

17.1.10 Rules and Regulations adopted governing use and enjoyment of the Common Areas.

17.1.11 An Owner relinquishes use of the Common Areas at any time that a Home is leased to a Tenant.

17.1.12 The right of Association to fine and/or enforce rules and regulations against occupants, tenants, guests and invitees as provided in this Declaration.

17.2 Ingress and Egress. An easement for ingress and egress is hereby created for pedestrian traffic over, and through and across sidewalks paths, walks, driveways, passageways, and lanes as the same, from time to time, may exist upon, or be designed as part of, the Common Areas, and for vehicular traffic over, through and across such portions of the Common Areas as, from time to time, may be paved and intended for such purposes.

17.3 Development Easement. In addition to the rights reserved elsewhere herein, Developer reserves an easement for itself and its nominees over, upon, across, and under Everlands as may be required in connection with the development of Everlands and other lands designated by Developer and to promote or otherwise facilitate the development, construction and sale and/or leasing of Homes, any portion of Everlands and other lands designated by Developer. Without limiting the foregoing, Developer specifically reserves the right to use all paved roads and rights of way within Everlands for vehicular and pedestrian ingress and egress to and from construction sites and for the construction and maintenance of any Telecommunications Systems provided by Developer. Specifically, each Owner acknowledges that construction vehicles and trucks may use portions of the Common Areas. Developer shall have no liability or obligation to repave, restore, or repair any portion of the Common Areas as a result of the use of the same by construction traffic, and all maintenance and repair of such Common Areas shall be deemed ordinary maintenance of Association payable by all Owners as part of Operating Costs. Without limiting the foregoing, at no time shall Developer be obligated to pay any amount to Association on account of Developer use of the Common Areas for construction purposes. Developer intends to use the Common Areas for sales of new and used Homes. Further, Developer may market other residences and commercial properties located outside of Everlands from Developer's sales facilities located within Everlands. Developer has the right to use all portions of the Common Areas in connection with its marketing activities including, without limitation, allowing members of the general public to inspect model Homes, installing signs and displays, holding promotional parties and picnics, and using the Common Areas for every other type of promotional or sales activity that may be employed in the marketing of new and used residential Homes or the leasing of residential apartments. The easements created by this Section, and the rights reserved herein in favor of Developer, shall be construed as broadly as possible and supplement the rights of Developer. At no time shall Developer incur any expense whatsoever in connection with its use and enjoyment of such rights and easements. Without limiting any other provision of this Declaration, Developer may non-exclusively assign their rights hereunder to each Builder.

17.4 Public Easements. County, fire, police, school transportation, health, sanitation and other public service and utility company personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas. The County shall also have a permanent and perpetual easement for ingress and egress over and across the Common Areas. In addition, Telecommunications Providers shall also have the right to use all paved roadways for ingress and egress to and from Telecommunications Systems within Everlands.

17.5 Delegation of Use. Every Owner shall be deemed to have delegated its right of enjoyment to the Common Areas to occupants or lessees of that Owner's Home subject to the provisions of this Declaration and the Rules and Regulations, as may be promulgated, from time to time. Any such delegation or lease shall not relieve any Owner from its responsibilities and obligations provided herein.



17.6 Easement for Encroachments. In the event that any improvement upon Common Areas, as originally constructed, shall encroach upon any other property or improvements thereon, or for any reason, then an easement appurtenant to the encroachment shall exist for so long as the encroachment shall naturally exist.

17.7 Permits, Licenses and Easements. Prior to the Community Completion Date, Developer, and thereafter Association shall, in addition to the specific rights reserved to Developer herein, have the right to grant, modify, amend and terminate permits, licenses and easements over, upon, across, under and through Everlands (including Lots, Parcels and/or Homes) for Telecommunications Systems, utilities, roads and other purposes reasonably necessary or useful as it determines, in its sole discretion. To the extent legally required, each Owner shall be deemed to have granted to Developer and, thereafter, Association an irrevocable power of attorney, coupled with an interest, for the purposes herein expressed.

17.8 Blanket Easement in Favor of District. The District shall also have blanket easements necessary for District operations above, across and under Everlands. The easement shall permit, without limitation, all construction, maintenance and replacement activities of the District as well as provide the District with an easement over all roads for water and sewer drainage.

17.9 Support Easement and Maintenance Easement. An easement is hereby created for the existence and maintenance of supporting structures (and the replacement thereof) in favor of the entity required to maintain the same. An easement is hereby created for maintenance purposes (including access to perform such maintenance) over and across Everlands (including Lots, Parcels, and Homes) for the reasonable and necessary maintenance of Common Areas, utilities, cables, wires and other similar facilities.

17.10 Drainage. A non-exclusive easement shall exist in favor of Developer, the District, Association, and their designees, and any applicable water management district, state agency, county agency and/or federal agency having jurisdiction over, across and upon Everlands for drainage, irrigation and water management purposes and for purposes of installing, repairing, modifying or improving drainage facilities or components. A non-exclusive easement for ingress, egress and access exists as shown on the Plat for such parties to enter upon and over any portion of Everlands (including Homes) in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, conservation areas, mitigation areas, irrigation systems and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation of Everlands and/or installation or maintenance of utilities or which may obstruct or retard the flow of water through Everlands and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Declaration.

17.11 Access Easements. It is anticipated, but not guaranteed, that non-exclusive easements may be created in favor of the owner/builder of commercial or privately owned amenity areas within Everlands and its respective designees, invitees, guests, agents, employees, and members over and upon the Common Areas and portions of Everlands necessary for ingress, egress, access to, construction, maintenance and/or repair of the applicable areas.

17.12 Easement in favor of Association. Association is hereby granted an easement over all of Everlands, including all Homes and Lots, for the purposes of (a) constructing, maintaining, replacing and operating all Common Areas and Neighborhood Common Areas, if any, including, but not limited to, lakes, canals, perimeter walls and fences and (b) performing any obligation of an Owner for which Association intends to impose an Individual Assessment.

17.13 Blanket Easement in Favor of the District. The District, as defined collectively herein, shall also have an easement necessary for District operations above, over, across and under Everlands.

17.14 Duration. All easements created herein or pursuant to the provisions hereof shall be perpetual unless stated to the contrary.

17.15 Neighborhood Developer Easements. In addition to the other easements contained in this Declaration, each Neighborhood Developer shall hereby have an easement over Everlands (excluding building pads within a Neighborhood being developed by a different Neighborhood Developer, if any, unless the applicable work is to be performed on any such building pad) for the purpose of performing any work or maintenance which such Neighborhood Developer may be required or permitted to perform pursuant to this Declaration or other agreement between the Neighborhood Developers. With respect to each Lot located within a Neighborhood being developed by a different Neighborhood Developer, this easement shall terminate (without the need for further documentation as to any Lot) solely as to each such Lot upon the conveyance of such Lot by the applicable Neighborhood Developer to a third party purchaser.

## 18. Assessments.

18.1 Types of Assessments. Each Owner and Builder, by acceptance of a deed or instrument of conveyance for the acquisition of title in any manner (whether or not so expressed in the deed), including any purchaser at a judicial sale, shall hereafter be deemed to have covenanted and agreed to pay to Association at the time and in the manner required by the Board, assessments or charges and any special assessments as are fixed, established and collected from time to time by Association (collectively, the "Assessments"). All Owners and Builders shall pay Assessments. Notwithstanding the foregoing, so long as Developer deficit funds Association, neither Developer nor any Builder shall pay Assessments. Rather, during any period in which Developer is deficit funding the Association, each Builder shall pay pursuant to a Builder budget to be prepared by Developer in its discretion such portion of Operating Costs which benefits any Lot or Parcel owned by such Builder, as determined

by Developer, in Developer's sole discretion. By way of example, and not of limitation, Developer may require that each Builder pay some portion of Assessments on a Lot or Parcel owned by a Builder which does not contain a Home. As vacant Lots or Parcels owned by Builders may not receive certain services (e.g., Telecommunications Services), Builders shall not be required to pay for the same. To the extent Developer is not deficit funding Association, each Builder shall be required to pay Assessments in connection with its Lots. The statutory rights afforded to Association including, without limitation, the right of Association to file liens, bring actions for foreclosure and/or the right of Association to accelerate the amount of Assessments due upon non-payment of Assessments, shall also apply to Assessments (or portions of Operating Costs) owed by Builders with respect to Homes and/or Lots owned by such Builders. Additionally, all legal fees, late fees, interest and attorneys' fees and costs relating to the collection of Assessments from Builders shall be fully recoverable by Association against Builders.

18.2 Purpose of Assessments. The Assessments levied by Association shall be used for, among other things, the improvement and maintenance of the Common Areas and any easement in favor of Association, including but not limited to the following categories of Assessments as and when levied and deemed payable by the Board:

18.2.1 Any monthly or quarterly assessment (as determined by the Board) or charge for the purpose of operating Association and accomplishing any and all of its purposes, as determined in accordance herewith, including, without limitation, payment of Operating Costs and collection of amounts necessary to pay any deficits from prior years' operation (hereinafter "Installment Assessments");

18.2.2 Any special assessments for capital improvements, major repairs, emergencies, the repair or replacement of the Common Areas, or nonrecurring expenses (hereinafter "Special Assessments");

18.2.3 Any specific fees, dues or charges to be paid by Owners for any special services provided to or for the benefit of an Owner or Home, for any special or personal use of the Common Areas, or to reimburse Association for the expenses incurred in connection with that service or use (hereinafter "Use Fees");

18.2.4 Assessments of any kind for the creation of reasonable reserves for any of the aforesaid purposes. At such time as there are improvements in any Common Areas for which Association has a responsibility to maintain, repair, and replace, the Board may, but shall have no obligation to, include a "Reserve for Replacement" in the Installment Assessments in order to establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements comprising a portion of the Common Areas (hereinafter "Reserves"). Assessments pursuant to this Section shall be payable in such manner and at such times as determined by Association, and may be payable in installments extending beyond the fiscal year in which the Reserves are approved. Until the Community Completion Date, Reserves shall be subject to the prior written approval of Developer, which may be withheld for any reason; and

18.2.5 Assessments for which one or more Owners (but less than all Owners) or Builders within Everlands is subject ("Individual Assessments") such as costs of special services provided to a Builder, Home or Owner or cost relating to enforcement of the provisions of this Declaration or the architectural provisions hereof as it relates to a particular Builder, Owner or Home. By way of example, and not of limitation, in the event an Owner fails to maintain the exterior of his Home (other than those portions of a Home maintained by Association) in a manner satisfactory to Association, Association shall have the right, through its agents and employees, to enter upon the Home and to repair, restore, and maintain the Home as required by this Declaration. The cost thereof, plus the reasonable administrative expenses of Association, shall be an Individual Assessment. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment. As a further example, if one or more Owners receive optional Telecommunications Services such as Toll Calls, Cable Services and/or Data Transmission Services, and Association pays a Telecommunications Provider for such services, then the cost of such services shall be an Individual Assessment as to each Owner receiving such services. Further, in the event that Association decides it is in the best interest of Everlands that Association perform any other obligation of an Owner or Builder under this Declaration, the cost of performing such obligation shall be an Individual Assessment. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment.

18.3 Designation. The designation of Assessment type shall be made by Association. Prior to the Community Completion Date, any such designation must be approved by Developer. Such designation may be made on the budget prepared by Association. The designation shall be binding upon all Owners.

#### 18.4 Allocation of Operating Costs.

18.4.1 For the period until the adoption of the first annual budget, the allocation of Operating Costs shall be as set forth in the initial budget prepared by Developer.

18.4.2 Commencing on the first day of the period covered by the annual budget, and until the adoption of the next annual budget, the Installment Assessments shall be allocated so that each Owner shall pay his pro rata portion of Installment Assessments, Special Assessments, and Reserves based upon a fraction, the numerator of which is one (1) and the denominator of which is the total number of Homes in Everlands conveyed to Owners or any greater number determined by Developer from time to time. Developer, in its sole and absolute discretion may change such denominator from time to time. Under no circumstances will the denominator be less than the number of Homes owned by Owners other than Developer. Notwithstanding the foregoing, it is anticipated, but not guaranteed, that Owners of Townhomes, Owners of Villas, Owners of condominium units, and Owners of Estate Homes will be required to pay additional Operating Costs for services exclusive to Townhomes, Townhome Buildings, Villas, Villa Buildings, condominiums, and/or Estate Homes, respectively.

18.4.3 In the event the Operating Costs as estimated in the budget for a particular fiscal year are, after the actual Operating Costs for that period is known, less than the actual costs, then the difference shall, at the election of Association: (i) be added to the calculation of Installment Assessments, as applicable, for the next ensuing fiscal year; or (ii) be immediately collected from the Owners as a Special Assessment. Association shall have the unequivocal right to specially assess Owners retroactively on January 1st of any year for any shortfall in Installment Assessments, which Special Assessment shall relate back to the date that the Installment Assessments could have been made. No vote of the Owners shall be required for such Special Assessment (or for any other Assessment except to the extent specifically provided herein).

18.4.4 Each Owner agrees that so long as it does not pay more than the required amount it shall have no grounds upon which to object to either the method of payment or non-payment by other Owners of any sums due.

18.5 General Assessments Allocation. Except as hereinafter specified to the contrary, Installment Assessments, Special Assessments and Reserves shall be allocated equally to each Owner. Notwithstanding the foregoing, it is anticipated, but not guaranteed, that Owners of Townhomes, Owners of Villas, Owners of condominium units, and Owners of Estate Homes will be required to pay additional Operating Costs for services exclusive to Townhomes, Townhome Buildings, Villas, Villa Buildings, condominiums, and/or Estate Homes, respectively.

18.6 Use Fees and Individual Assessment. Except as hereinafter specified to the contrary, Use Fees and Individual Assessments shall be made against the Owners benefiting from, or subject to the special service or cost as specified by Association.

18.7 Commencement of First Assessment. Assessments shall commence as to each Owner on the day of the conveyance of title of a Lot to an Owner. The applicable portion of Assessments shall commence as to each Builder on the day of the conveyance of title of a Lot or Parcel to such Builder.

18.8 Deficit Funding, Shortfalls and Surpluses. Each Owner acknowledges that because Installment Assessments, Special Assessments, and Reserves are allocated based on the formula provided herein, the total number of Homes to be included in Everlands, or upon the number of Homes conveyed to Owners on or prior to September 30 of the prior fiscal year (as determined in Developer's discretion), it is possible that Association may collect more or less than the amount budgeted for Operating Costs. At any time (and from time to time) prior to and including the Turnover Date, Developer shall have the option ("Developer's Option") to either (i) fund all or any portion of the shortfall in Installment Assessments not raised by virtue of all Installment Assessments due from Owners and other income produced by Association or (ii) to pay Installment Assessments on Homes or Lots owned by Developer. In the event that Developer elects to fund all or a portion of the shortfall in Installment Assessments, as stated above, Developer shall have no obligation to fund bad debt expenses relating to the payment of Assessments including, without limitation, estimates for bad debt allowance and actual write-offs of Owner balances. If Developer has cumulatively overfunded Operating Costs and/or prepaid expenses of Association including, but not limited to, loaning Association uncollected Assessments due from Owners which are not timely paid, Association shall refund such amounts to Developer immediately upon such prepaid or loaned amounts being received by Association (through legal collection efforts or otherwise), but in no event later than the Turnover Date or as soon as possible thereafter (e.g. once the amount is finally determined), or, in Developer's sole and absolute discretion, pursuant to terms and conditions (e.g., payment plan) approved by Developer. Developer shall never be required to (i) pay Installment Assessments if Developer has elected to fund the deficit instead of paying Installment Assessments on Homes or Lots owned by Developer, (ii) pay Special Assessments, management fees or Reserves, or (iii) pay amounts due from, but not paid by, Owners, as referenced above. Any surplus Assessments collected by Association may be (i) allocated towards the next year's Operating Costs, (ii) used to fund Reserves, whether or not budgeted, (iii) retained by Association, and/or (iv) used for any other purpose, in Association's sole and absolute discretion, to the creation of Reserves, whether or not budgeted. Under no circumstances shall Association be required to pay surplus Assessments to Owners.

21.8.2 If an audit of the Association's financial records reveals that Developer has funded a greater amount (e.g. including, without limitation, pre-paid amounts, deposits for utilities, Developer's funding of delinquent Installment Assessments, or portion thereof, not paid by Owners, etc.) than required under this Section, then any such excess shall be promptly refunded to the Developer by Association.

21.8.3 If Developer elects to loan funds to Association for any purpose including, but not limited to, covering uncollected Assessments due from Owners which are not timely paid, Developer may, but shall have no obligation to, require the Association to sign a promissory note. Notwithstanding the foregoing, irrespective of whether a promissory note exists with respect to any loan to Association by Developer, Association shall be liable to Developer for all amounts loaned.

18.9 Budget. The initial budget prepared by Developer is adopted as the budget for the period of operation until adoption of the first annual Association budget. Thereafter, annual budgets shall be prepared and adopted by Association. To the extent Association has commenced or will commence operations prior to the date this Declaration is recorded or the first Home is closed, the Operating Costs may vary in one or more respects from that set forth in the initial budget. A Builder shall pay Assessments or other amounts as per the Builder budget prepared by the Developer for each Lot or Parcel owned by such Builder commencing from the date the Builder obtained title to such Lot or Parcel. During the deficit funding period, if any, Developer shall fund entirely all Operating Costs not covered by Builders' Assessments until the month prior to the closing of the first Home. Thereafter, Assessments shall be payable by each Owner and Builder as provided in this Declaration. THE INITIAL BUDGET OF ASSOCIATION IS PROJECTED (NOT BASED ON HISTORICAL OPERATING

FIGURES). THEREFORE, IT IS POSSIBLE THAT ACTUAL ASSESSMENTS MAY BE LESSER OR GREATER THAN PROJECTED.

18.10 Establishment of Assessments. Assessments shall be established in accordance with the following procedures:

18.10.1 Installment Assessments shall be established by the adoption of a twelve (12) month operating budget by the Board. The budget shall be in the form required by Section 720.303(6) of the Florida Statutes, as amended from time to time. Written notice of the amount and date of commencement thereof shall be given to each Owner and Owner not less than ten (10) days in advance of the due date of the first installment thereof. Notwithstanding the foregoing, the budget may cover a period of less than twelve (12) months if the first budget is adopted mid-year or in order to change the fiscal year of Association. The Board may, from time to time, determine how the Assessments will be collected by Association (i.e., monthly, quarterly or annually).

18.10.2 Special Assessments and Individual Assessments against the Owners may be established by Association, from time to time, and shall be payable at such time or time(s) as determined. Until the Community Completion Date, no Special Assessment shall be imposed without the consent of Developer.

18.10.3 Association may establish, from time to time, by resolution, rule or regulation, or by delegation to an officer or agent, including, a professional management company, Use Fees. The sums established shall be payable by the Owner utilizing the service or facility as determined by Association.

18.11 Initial Contribution. The first purchaser of each Lot, Home or Parcel, at the time of closing of the conveyance from Developer to the purchaser, shall pay to Developer an initial contribution in an amount up to three (3) months Assessments (the "**Initial Contribution**") as determined by Developer in its sole and absolute discretion. The funds derived from the Initial Contributions shall be used at the discretion of Developer for any purpose, including but not limited to, future and existing capital improvements, operating expenses, support costs and start-up costs. Developer may waive this requirement for some Lots and Homes, if the first purchaser is a Builder, and the Builder becomes unconditionally obligated to collect and pay the Initial Contribution upon the subsequent sale of each Lot and Home to an end purchaser.

18.12 Resale Contribution. Association may establish a resale contribution ("**Resale Contribution**"). There shall be collected upon every conveyance of ownership interest in a Home by an Owner other than Developer or Builders an amount payable to Association. The Resale Contribution shall not be applicable to conveyances from Developer or Builder. After the Home has been conveyed by Developer or a Builder there shall be a recurring assessment payable to Association upon all succeeding conveyances of a Home. The amount of Resale Contribution and the manner of payment shall be determined by resolution of the Board from time to time; provided, however, all Homes shall be assessed a uniform amount.

18.13 Assessment Estoppel Certificates. No Owner or Builder shall sell or convey its interest in a Lot unless all sums due Association have been paid in full and an estoppel certificate in recordable form shall have been received by such Owner or Builder. Association shall prepare and maintain a ledger noting Assessments due from each Owner or Builder. The ledger shall be kept in the office of Association, or its designees, and shall be open to inspection by any Owner. Within ten (10) days of a written request therefor, there shall be furnished to an Owner or Builder an estoppel certificate in writing setting forth whether the Assessments have been paid and/or the amount which is due as of any date. As to parties other than Owners or Builders who, without knowledge of error, rely on the certificate, the certificate shall be conclusive evidence of the amount of any Assessment therein stated. The Owner or Builder requesting the estoppel certificate shall be required to pay Association a reasonable sum to cover the costs of examining records and preparing such estoppel certificate. Each Owner and Builder waives its rights (if any) to an accounting related to Operating Costs or Assessments.

18.14 Payment of Home Real Estate Taxes. Each Owner and Builder shall pay all taxes and obligations relating to its Home which, if not paid, could become a lien against the Home which is superior to the lien for Assessments created by this Declaration.

18.15 Creation of the Lien and Personal Obligation. Each Owner and Builder, by acceptance of a deed or instrument of conveyance for the acquisition of title to a Lot, shall be deemed to have covenanted and agreed that the Assessments, and/or other charges and fees set forth herein, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees at all levels of proceedings including appeals, collections and bankruptcy, shall be a charge and continuing lien in favor of Association encumbering the Lot and all personal property located thereon owned by the Owner or Builder against whom each such Assessment is made. The lien is effective from and after recording a Claim of Lien in the Public Records stating the legal description of the Lot, name of the Owner or Builder, and the amounts due as of that date, but shall relate back to the date that this Declaration is recorded. The Claim of Lien shall also cover any additional amounts which accrue thereafter until satisfied. Each Assessment, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, and other costs and expenses provided for herein, shall be the personal obligation of the person who was the Owner or Builder of the Lot at the time when the Assessment became due, as well as the Owner's heirs, devisees, personal representatives, successors or assigns.

18.16 Subordination of Lien to Mortgages. The lien for Assessments shall be a lien superior to all other liens save and except tax liens and, except as set forth in this Section, mortgage liens, provided such mortgage liens are first liens against the property encumbered thereby, subject only to tax liens, and secure indebtedness which is amortized in monthly or quarter-annual payments over a period of not less than ten (10) years. An acquirer of title to a Lot, whether by foreclosure, deed in lieu of foreclosure, or otherwise, shall be liable for all unpaid Assessments, interest, late fees and reasonable attorney's fees and costs incurred by Association in the collection of unpaid

amounts that became due prior to such acquirer's acquisition. Notwithstanding the foregoing, with respect to a Lender or its successor or assignees who acquire title to a Lot by foreclosure or by deed in lieu of foreclosure, such Lender's liability respecting the unpaid Assessments (but not late fees, interest or reasonable attorney's fees or costs incurred by Association in the collection of unpaid amounts) that became due prior to the Lender's acquisition of title shall be limited to the lesser of: (i) the Lot's unpaid Assessments which accrued or came due during the twelve (12) months immediately preceding the acquisition of title and for which payment in full has not yet been received by Association; or (ii) one percent (1%) of the original mortgage debt. The limitations on Lender liability provided in this Section apply only if the Lender filed suit against the Owner and initially (and not through amendment or re-foreclosure) joined Association as a defendant in the Lender's foreclosure action when such action was first filed with a court. Joinder of Association is not required if, on the date the complaint is filed, Association was dissolved or did not maintain an office or agent for service of process at a location that was known to or reasonably discoverable by the Lender. In addition to the foregoing, any acquirer of title to a Lot including, without limitation, a Lender or other third party, shall be liable for all late fees and interest charged against the former Owner of the Lot and all reasonable attorney's fees and costs incurred by Association in collection efforts against the former Owner of the Lot. Unless specifically provided otherwise by Association in writing from time to time and in its sole and absolute discretion, late fees, interest and reasonable attorney's fees and costs shall not be considered Assessments as that term is used in this Section. The Lender or its successor or assignees acquiring title to a Lot shall pay all of the foregoing amounts owed including, but not limited to, Assessments (as the same may be limited above), late fees, interest, attorneys fees and costs owed to Association within thirty (30) days after transfer of title. Failure to pay the full amount due when due shall entitle Association to record a claim of lien against the Lot and proceed in the same manner as provided in this Declaration for the collection of unpaid Assessments and other amounts. The provisions of this Section shall not be available to shield a Lender from liability for Assessments and other amounts in any case where the unpaid Assessments and other amounts sought to be recovered by Association are secured by a lien recorded prior to the recording of the mortgage. Additionally, in order to be afforded the limitations of liability for Lenders included in this Section, a Lender must give written notice to Association if the mortgage held by such Lender is in default. Association shall have the right, but not the obligation, to cure such default within the time periods applicable to Owner. In the event Association makes such payment on behalf of an Owner, Association shall, in addition to all other rights reserved herein, be subrogated to all of the rights of Lender. All amounts advanced on behalf of an Owner pursuant to this Section shall be added to the Assessments payable by such Owner with appropriate interest. Any unpaid Assessments for which an acquirer of title is not liable (*i.e.*, where a Lender takes title to a Lot, any past due Assessment amounts which exceed the lesser of 12 months of Assessments or one percent (1%) of the original mortgage debt) may be reallocated and assessed to all Owners (including such acquirer of title) as part of Operating Costs included within Assessments. Any sale or transfer pursuant to a foreclosure (or by deed in lieu of foreclosure or otherwise) shall not relieve the acquiring party from liability for, nor the Lot from the lien of any Assessments made thereafter. Nothing herein contained shall be construed as releasing the party liable for any delinquent Assessments from the payment thereof, or the enforcement of collection by means other than a foreclosure.

18.17 Survival of the Association's Lien. To the extent that the Association forecloses upon its lien, as permitted by Florida law and the Association Documents, and becomes the owner of record title to a Home or Lot, the Association's lien shall survive foreclosure, and all amounts due in connection with the Association's foreclosure including, but not limited to, past due Assessments, late fees, interest, attorneys fees and costs shall be the joint and several liability of the Owner that was foreclosed by the Association and the Owner that takes title to the Home or Lot after the Association, and the Association shall have no liability for the same.

18.18 Acceleration. In the event of a default in the payment of any Assessment, Association may accelerate the Assessments then due for up to the next ensuing twelve (12) month period.

18.19 Non-Payment of Assessments. If any Assessment is not paid within fifteen (15) days (or such other period of time established by the Board) after the due date, a late fee of \$25.00 per month (or such greater amount established by the Board), together with interest in an amount equal to the maximum rate allowable by law (or such lesser rate established by the Board), per annum, beginning from the due date until paid in full, may be levied. The late fee shall compensate Association for administrative costs, loss of use of money, and accounting expenses. Association may, at any time thereafter, bring an action at law against the Owner or Builder personally obligated to pay the same, and/or foreclose the lien against the Lot/Home, or both. Association shall not be required to bring such an action if it believes that the best interests of Association would not be served by doing so. To the extent permitted by Florida law, the lien granted to Association may be established and foreclosed in the Circuit Court in and for the County, and in any suit for the foreclosure of such lien, Association shall be entitled to seek an order of court that it is entitled to (i) collect a reasonable rent from the Owner or Builder, if the Owner or Builder remains in possession of a Lot after a judgment of foreclosure is entered and (ii) obtain the appointment of a receiver for such Lot to collect the rent if the Lot is leased or rented during the pendency of the foreclosure action. There shall be added to the Assessment all costs expended in preserving the priority of the lien and all costs and expenses of collection, including attorneys' fees, pre-trial and at all levels of proceedings, including appeals, collection and bankruptcy. No Owner or Builder may waive or otherwise escape liability for Assessments provided for herein by non-use of, or the waiver of the right to use the Common Areas by abandonment of a Lot.

18.20 Exemption. Notwithstanding anything to the contrary herein, neither Developer nor the District nor any Home or property owned by Developer shall (unless specified to the contrary by Developer in a separate written instrument) be responsible for any Assessments of any nature or any portion of the Operating Costs. Developer, at Developer's sole option, may pay Assessments on Homes owned by it, or fund the deficit, if any, as set forth in Section 18.8 herein. In addition, the Board shall have the right to exempt any portion of Everlands subject to this Declaration from the Assessments, provided that such portion of Everlands exempted is used (and as long as it is used) for any of the following purposes:

18.20.1 Any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

18.20.2 Any real property interest held by a Telecommunications Provider;

18.20.3 Any of Everlands exempted from ad valorem taxation by the laws of the State of Florida or exempted from Assessments by other provisions of this Declaration;

18.20.4 Any Common Areas; and

18.20.5 Any Facilities.

18.21 Collection by Developer. If for any reason Association shall fail or be unable to levy or collect Assessments, then in that event, Developer shall at all times have the right, but not the obligation: (i) to advance such sums as a loan to Association to bear interest and to be repaid as hereinafter set forth; and/or (ii) to levy and collect such Assessments by using the remedies available as set forth above, which remedies, including, but not limited to, recovery of attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals shall be deemed assigned to Developer for such purposes. If Developer advances sums, it shall be entitled to immediate reimbursement, on demand, from Association for such amounts so paid, plus interest thereon at the Wall Street Journal Prime Rate plus two percent (2%), plus any costs of collection including, but not limited to, reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals.

18.22 Rights to Pay Assessments and Receive Reimbursement. Association, Developer, and any Lender of a Home shall have the right, but not the obligation, jointly and severally, and at their sole option, to pay any Assessments or other charges which are in default and which may or have become a lien or charge against any Home. If so paid, the party paying the same shall be subrogated to the enforcement rights of Association with regard to the amounts due.

18.23 Mortgagee Right. Each Lender may request in writing that Association notify such Lender of any default of the Owner of the Home subject to the Lender's mortgage under the Association Documents which default is not cured within thirty (30) days after Association learns of such default. A failure by Association to furnish notice to any Lender shall not result in liability of Association because such notice is given as a courtesy to a Lender and the furnishing of such notice is not an obligation of Association to Lender.

18.24 Collection of Assessments. Installment Assessments shall be paid by each Owner directly to Association separate from any assessments then due to any Neighborhood Association. Any collection proceedings for an Owner's failure to pay Assessments shall be the sole responsibility of Association. Each Owner shall be responsible to pay all Assessments to Association on time and in full regardless of other assessments due to such Owner's Neighborhood Association. Notwithstanding the foregoing, the Board may require that Installment Assessments shall be paid by each Owner to their respective Neighborhood Association together with all assessments due to such Neighborhood Association. In such event, each Neighborhood Association shall remit a lump sum payment to Association of the full amount of Installment Assessments collected for Homes or Lots within each Neighborhood. Additionally in such event, collection proceedings for an Owner's failure to pay Installment Assessments may be brought by Association or the applicable Neighborhood Association, but in no event shall Association and a Neighborhood Association be entitled to initiate collection proceedings for the same amounts. In the event a Neighborhood Association fails to remit a required payment in full at any time, Association shall be entitled to all remedies available at law or in equity.

## 19. Information to Lenders and Owners.

19.1 Availability. There shall be available for inspections upon request, during normal business hours or under other reasonable circumstances, to Owners and Lenders current copies of the Association Documents.

19.2 Copying. Any Owner and/or Lender shall be entitled, upon written request, and at its cost, to a copy of the documents referred to above.

19.3 Notice. Upon written request by a Lender (identifying the name and address of the Lender and the name and address of the applicable Owner), the Lender will be entitled to timely written notice of:

19.3.1 Any condemnation loss or casualty loss which affects a material portion of a Home to the extent Association is notified of the same;

19.3.2 Any delinquency in the payment of Assessments owed by an Owner of a Home subject to a first mortgage held by the Lender, which remains uncured for a period of sixty (60) days;

19.3.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained hereunder; and

19.3.4 Any proposed action (if any) which would require the consent of a specific mortgage holder.

20. Architectural Control. The following provisions govern Everlands.

20.1 Architectural Control Committee. The ACC shall be a permanent committee of Association and shall, subject to the terms of this Section, administer and perform the architectural and landscape review and control functions relating to Everlands. The ACC shall consist of all of the members of the Developer appointed Board of Directors of the Association. The ACC shall have the right to form subcommittees to review ACC applications. The ACC shall oversee such subcommittees and shall take precedence over any decision made by such subcommittees. Until the Community Completion Date, Developer shall have the right to change the number of members on the ACC, and to appoint, remove, and replace all members of the ACC. Developer shall determine which members of the ACC shall serve as its chairman and co-chairman. In the event of the failure, refusal, or inability to act of any of the members appointed by Developer, Developer shall have the right to replace any member within thirty (30) days of such occurrence. If Developer fails to replace that member, the remaining members of the ACC shall fill the vacancy by appointment. From and after the Community Completion Date, the Board shall have the same rights as Developer with respect to the ACC. The ACC and each Neighborhood ACC shall enforce Everlands Community Standards. The ACC shall be a dormant committee which shall become active in the event the Association determines in its sole and absolute discretion that a Neighborhood ACC is failing or is ineffective in carrying out its duties under a Neighborhood Declaration. While dormant, all architectural applications shall be submitted to both the ACC and the applicable Neighborhood ACC, but shall only require the approval of the applicable Neighborhood ACC and the ACC shall not have any obligation to respond to, approve or deny applications or hear appeals of any nature including, without limitation, appeals relating to Neighborhood ACC decisions. To the extent the Association determines that a Neighborhood ACC is failing, or is ineffective, in performing its duties pursuant to its applicable Neighborhood Declaration, all architectural applications must receive the approval of both the ACC and the applicable Neighborhood ACC, and the Association shall deliver to each Home in the applicable Neighborhood a notice indicating the date upon which such dual approval is required.

20.2 Neighborhood Architectural Control Committees. Each Neighborhood Association shall have a Neighborhood ACC as a permanent committee of such Neighborhood Association and such Neighborhood ACC shall administer and perform the architectural and landscape review and control functions relating to such Neighborhood. The Neighborhood ACC shall consist of a minimum of three (3) members who shall initially be named by the Neighborhood developer and who shall hold office at the pleasure of the Neighborhood developer. Until the Community Completion Date, the Neighborhood developer shall have the right to change the number of members on the Neighborhood ACC, and to appoint, remove, and replace all members of the Neighborhood ACC. The applicable Neighborhood developer shall determine which members of the Neighborhood ACC shall serve as its chairman and co-chairman. In the event of the failure, refusal, or inability to act of any of the members appointed by Neighborhood developer, the Neighborhood developer shall have the right to replace any member within thirty (30) days of such occurrence. If the Neighborhood developer fails to replace that member, the remaining members of the Neighborhood ACC shall fill the vacancy by appointment. From and after the Community Completion Date, the Neighborhood Board shall have the same rights as the Neighborhood developer with respect to the Neighborhood ACC.

20.3 Membership. There is no requirement that any member of the ACC be an Owner or a member of Association.

20.4 General Plan. It is the intent of this Declaration to create a general plan and scheme of development of Everlands. Accordingly, if activated, the ACC shall have the right to approve or disapprove all architectural, landscaping, and improvements within Everlands by Owners other than Developer. The ACC shall have the right to evaluate all plans and specifications as to harmony of exterior design, landscaping, location of any proposed improvements, relationship to surrounding structures, topography and conformity with such other reasonable requirements as shall be adopted by ACC. The ACC may impose standards for construction and development which may be greater or more stringent than standards prescribed in applicable building, zoning, or other local governmental codes. Prior to the Community Completion Date, any additional standards or modification of existing standards shall require the consent of Developer, which may be granted or denied in its sole discretion.

20.5 Master Plan. Developer has established an overall Master Plan. However, notwithstanding the above, or any other document, brochures or plans, Developer reserves the right to modify the Master Plan or any site plan at any time as it deems desirable in its sole discretion and in accordance with applicable laws and ordinances. WITHOUT LIMITING THE FOREGOING, DEVELOPER OR BUILDERS MAY PRESENT TO THE PUBLIC OR TO OWNERS RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS RESPECTING EVERLANDS. SUCH RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS ARE NOT A GUARANTEE OF HOW EVERLANDS WILL APPEAR UPON COMPLETION AND DEVELOPER RESERVES THE RIGHT TO CHANGE ANY AND ALL OF THE FOREGOING AT ANY TIME AS DEVELOPER DEEMS NECESSARY IN ITS SOLE AND ABSOLUTE DISCRETION.

20.6 Community Standards. Each Owner and its contractors and employees shall observe, and comply with, the Community Standards attached to this Declaration as the same may hereafter be promulgated or revised by the ACC and approved by the Board of Association from time to time. The Community Standards shall be effective from the date of adoption; shall be specifically enforceable by injunction or otherwise; and shall have the effect of covenants as set forth herein verbatim. The Community Standards shall not require any Owner to alter the improvements previously constructed. Until the Community Completion Date, Developer shall have the right to approve the Community Standards, which approval, may be granted in its sole discretion.

20.7 Quorum. A majority of the ACC or a Neighborhood ACC shall constitute a quorum to transact business at any meeting. The action of a majority present at a meeting at which a quorum is present shall constitute the action of the ACC and/or a Neighborhood ACC. In lieu of a meeting, the ACC and/or a Neighborhood ACC may act in writing.



20.8 Power and Duties of the ACC and Neighborhood ACC. No improvements shall be constructed on a Lot or Parcel, no exterior of a Home shall be repainted, no landscaping, sign, or improvements erected, removed, planted, or maintained on a Lot or Parcel, nor shall any material addition to or any change, replacement, or alteration of the improvements as originally constructed by Developer (visible from the exterior of the Home) be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme, and the location of same shall have been submitted to and approved in writing by such Owner's Neighborhood ACC, and if activated pursuant to Section 20.1, the ACC.

20.9 Procedure Regarding Neighborhood ACC Approval. In order to obtain the approval of the applicable Neighborhood ACC, each Owner shall observe the following provisions.

20.9.1 Each applicant shall submit an application to such applicant's Neighborhood ACC and the ACC with respect to any proposed improvement or material change in an improvement, together with the required application(s) and other fee(s) as established by such applicant's Neighborhood ACC. The applications shall include such information as may be required by the application form adopted by such applicant's Neighborhood ACC. Such applicant's Neighborhood ACC may also require submission of samples of building materials and colors proposed to be used. At the time of such submissions, the applicant shall, if requested, submit to such applicant's Neighborhood ACC, such site plans, plans and specifications for the proposed improvement, prepared and stamped by a registered Florida architect or residential designer, and landscaping and irrigation plans, prepared by a registered landscape architect or designer showing all existing trees and major vegetation stands and surface water drainage plan showing existing and proposed design grades, contours relating to the predetermined ground floor finish elevation, pool plans and specifications and the times scheduled for completion, all as reasonably specified by such applicant's Neighborhood ACC.

20.9.2 In the event the information submitted to such applicant's Neighborhood ACC is, in the Neighborhood ACC's opinion, incomplete or insufficient in any manner, the Neighborhood ACC may request and require the submission of additional or supplemental information. The Owner shall, within fifteen (15) days thereafter, comply with the request.

20.9.3 No later than forty-five (45) days after receipt of all information required by such applicant's Neighborhood ACC for final review, the Neighborhood ACC shall approve or deny the application in writing. Such applicant's Neighborhood ACC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the Neighborhood ACC's sole discretion, for aesthetic or any other reasons or to impose qualifications and conditions thereon. In approving or disapproving such plans and specifications, such applicant's Neighborhood ACC shall consider the suitability of the proposed improvements, the materials of which the improvements are to be built, the site upon which the improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event such applicant's Neighborhood ACC fails to respond within such forty-five (45) day period, the plans and specifications shall be deemed disapproved by such applicant's Neighborhood ACC.

20.9.4 In the event that such applicant's Neighborhood ACC disapproves any plans and specifications, the applicant may request a rehearing by the Neighborhood ACC for additional review of the disapproved plans and specifications. The meeting shall take place no later than forty-five (45) days after written request for such meeting is received by the Neighborhood ACC, unless applicant waives this time requirement in writing. Such applicant's Neighborhood ACC shall make a final written decision no later than forty-five (45) days after such meeting. In the event such applicant's Neighborhood ACC fails to provide such written decision within such forty-five (45) days, the plans and specifications shall be deemed disapproved.

20.9.5 Upon final disapproval (even if the members of such applicant's Neighborhood Board and such applicant's Neighborhood ACC are the same), the applicant may appeal the decision of such applicant's Neighborhood ACC to such applicant's Neighborhood Board within thirty (30) days of the Neighborhood ACC's written review and disapproval. Review by the Neighborhood Board shall take place no later than thirty (30) days subsequent to the receipt by such Neighborhood Board of the Owner's request therefor. If the Neighborhood Board fails to hold such a meeting within thirty (30) days after receipt of request for such meeting, then the plans and specifications shall be deemed approved. The applicant's Neighborhood Board shall make a final decision no later than sixty (60) days after such meeting. In the event the Neighborhood Board fails to provide such written decision within such sixty (60) days after such meeting, such plans and specifications shall be deemed approved. The decision of the such applicant's Neighborhood ACC, or if appealed, the such applicant's Neighborhood Board, shall be final and binding upon the applicant, its heirs, legal representatives, successors and assigns.

20.10 Procedure Regarding ACC Approval. In order to obtain the approval of the ACC, if activated pursuant to this Declaration, each Owner shall observe the following:

20.10.1 Each Owner shall submit an application to the ACC with respect to any proposed improvement or material change in an improvement, together with the required application(s) and other fee(s) as established by the ACC. The applications shall include such information as may be required by the application form adopted by the ACC. The ACC may also require submission of samples of building materials and colors proposed to be used. At the time of such submissions, the Owner shall, if requested, submit to the ACC, such site plans, plans and specifications for the proposed improvement, prepared and stamped by a registered Florida architect or residential designer, and landscaping and irrigation plans, prepared by a registered landscape architect or designer showing all existing trees and major vegetation stands and surface water drainage plan showing existing and proposed design grades, contours relating to the predetermined ground floor finish elevation, pool plans and specifications and the times scheduled for completion, all as reasonably specified by the ACC.

20.10.2 In the event the information submitted to the ACC is, in the ACC's opinion, incomplete or insufficient in any manner, the ACC may request and require the submission of additional or supplemental information. The Owner shall, within fifteen (15) days thereafter, comply with the request.

20.10.3 No later than forty-five (45) days after receipt of all information required by the ACC for final review, the ACC shall approve or deny the application in writing. The ACC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the ACC's sole discretion, for aesthetic or any other reasons or to impose qualifications and conditions thereon. In approving or disapproving such plans and specifications, the ACC shall consider the suitability of the proposed improvements, the materials of which the improvements are to be built, the site upon which the improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the ACC fails to respond within such forty-five (45) day period, the plans and specifications shall be deemed disapproved by the ACC.

20.10.4 Construction of all improvements shall be completed within the time period set forth in the application and approved by the ACC.

20.10.5 In the event that the ACC disapproves any plans and specifications, the Owner may request a rehearing by the ACC for additional review of the disapproved plans and specifications. The meeting shall take place no later than forty-five (45) days after written request for such meeting is received by the ACC, unless applicant waives this time requirement in writing. The ACC shall make a final written decision no later than forty-five (45) days after such meeting. In the event the ACC fails to provide such written decision within such forty-five (45) days, the plans and specifications shall be deemed disapproved.

20.10.6 Upon disapproval, the applicant may appeal the decision of the ACC to the Board within forty-five (45) days of the ACC's written review and disapproval. Review by the Board shall take place no later than forty-five (45) days subsequent to the receipt by the Board of the Owner's request therefor. If the Board fails to hold such a meeting within forty-five (45) days after receipt of request for such meeting, then the plans and specifications shall be deemed approved. The Board shall make a final decision no later than sixty (60) days after such meeting. In the event the Board fails to provide such written decision within such sixty (60) days after such meeting, such plans and specifications shall be deemed approved. The decision of the ACC, or if appealed, the Board of Association, shall be final and binding upon the Owner, his/her heirs, legal representatives, successors and assigns.

20.10.7 The ACC, if activated pursuant to Section 20.1 hereof, shall in its sole discretion, have the right to disapprove any application regardless of whether approval of the same has been granted by such applicant's Neighborhood ACC and/or such applicant's Neighborhood Board.

20.11 Alterations. Any and all alterations, deletions, additions and changes of any type or nature whatsoever to then existing improvements or the plans or specifications previously approved by the ACC shall be subject to the approval of the ACC in the same manner as required for approval of original plans and specifications. Construction of all improvements shall be completed within the time period set forth in the application approved by such applicant's Neighborhood ACC and/or ACC.

20.12 Variances. Association or ACC shall have the power to grant variances from any requirements set forth in this Declaration or from the Community Standards, on a case by case basis, provided that the variance sought is reasonable and results from a hardship upon the applicant. The granting of a variance shall not nullify or otherwise affect the right to require strict compliance with the requirements set forth herein or in the Community Standards on any other occasion.

20.13 Permits. The Owner is solely responsible to obtain all required building and other permits from all governmental authorities having jurisdiction. To the extent that an Owner fails to obtain all required permits and or consents from local and/or governmental authorities, any applicable Neighborhood ACC or ACC approvals shall be deemed withdrawn.

20.14 Construction by Owners. The following provisions govern construction activities by Owners after consent of the ACC has been obtained:

20.14.1 Each Owner shall deliver to the ACC, if requested, copies of all construction and building permits as and when received by the Owner. Each construction site in Everlands shall be maintained in a neat and orderly condition throughout construction. Construction activities shall be performed on a diligent, workmanlike and continuous basis. Roadways, easements, swales, Common Areas and other such areas in Everlands shall be kept clear of construction vehicles, construction materials and debris at all times. No construction office or trailer shall be kept in Everlands and no construction materials shall be stored in Everlands subject, however, to such conditions and requirements as may be promulgated by the ACC. All refuse and debris shall be removed or deposited in a dumpster on a daily basis. No materials shall be deposited or permitted to be deposited in any canal or waterway or Common Areas or other Homes in Everlands or be placed anywhere outside of the Home upon which the construction is taking place. No hazardous waste or toxic materials shall be stored, handled and used, including, without limitation, gasoline and petroleum products, except in compliance with all applicable federal, state and local statutes, regulations and ordinances, and shall not be deposited in any manner on, in or within the construction or adjacent property or waterways. All construction activities shall comply with the Community Standards. If a contractor or Owner shall fail to comply in any regard with the requirements of this Section, the ACC may require that such Owner or contractor post security with Association in such form and such amount deemed appropriate by the ACC in its sole discretion.

20.14.2 There shall be provided to the ACC, if requested, a list (name, address, telephone number and identity of contact person), of all contractors, subcontractors, materialmen and suppliers (collectively, "Contractors") and changes to the list as they occur relating to construction. Each Builder and all of its employees and Contractors and their employees shall utilize those roadways and entrances into Everlands as are designated by the ACC for construction activities. The ACC shall have the right to require that each Builder's and Contractor's employees check in at the designated construction entrances and to refuse entrance to persons and parties whose names are not registered with the ACC.

20.14.3 Each Owner is responsible for insuring compliance with all terms and conditions of these provisions and of the Community Standards by all of its employees and Contractors. In the event of any violation of any such terms or conditions by any employee or Contractor, or, in the opinion of the ACC, the continued refusal of any employee or Contractor to comply with such terms and conditions, after five (5) days' notice and right to cure, the ACC shall have, in addition to the other rights hereunder, the right to prohibit the violating employee or Contractor from performing any further services in Everlands.

20.14.4 The ACC may, from time to time, adopt standards governing the performance or conduct of Owners, Contractors and their respective employees within Everlands. Each Owner and Contractor shall comply with such standards and cause its respective employees to also comply with same. The ACC may also promulgate requirements to be inserted in all contracts relating to construction within Everlands and each Owner shall include the same therein.

20.15 Inspection. There is specifically reserved to Association, each Neighborhood ACC and ACC and to any agent or member of either of them, the right of entry and inspection upon any portion of Everlands at any time within reasonable daytime hours, for the purpose of determination whether there exists any violation of the terms of any approval or the terms of this Declaration or the Community Standards.

20.16 Violation. Without limiting any other provision herein, if any improvement shall be constructed or altered without prior written approval, or in a manner which fails to conform with the approval granted, the Owner shall, upon demand of Association or the ACC, cause such improvement to be removed, or restored until approval is obtained or in order to comply with the plans and specifications originally approved. The Owner shall be liable for the payment of all costs of removal or restoration, including all costs and attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, collections and bankruptcy, incurred by Association or ACC. The costs shall be deemed an Individual Assessment and enforceable pursuant to the provisions of this Declaration. The ACC and/or Association is specifically empowered to enforce the architectural and landscaping provisions of this Declaration and the Community Standards, by any legal or equitable remedy.

20.17 Court Costs. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed improvement or to cause the removal of any unapproved improvement, Association and/or ACC shall be entitled to recover court costs, expenses and attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, collections and bankruptcy, in connection therewith.

20.18 Certificate. In the event that any Owner fails to comply with the provisions contained herein, the Community Standards, or other rules and regulations promulgated by the ACC, Association and/or ACC may, in addition to all other remedies contained herein, record a Certificate of Non-Compliance against the Home stating that the improvements on the Home fail to meet the requirements of this Declaration and that the Home is subject to further enforcement remedies.

20.19 Certificate of Compliance. If requested by an Owner, prior to the occupancy of any improvement constructed or erected on any Home by other than Developer or a Builder, or its designees, the Owner thereof shall obtain a Certificate of Compliance from the Neighborhood ACC and/or ACC, as applicable, certifying that the Owner has complied with the requirements set forth herein. The ACC may, from time to time, delegate to a member or members of the ACC, the responsibility for issuing the Certificate of Compliance. The issuance of a Certificate of Compliance does not abrogate the ACC's rights set forth in Section 20.15 herein.

20.20 Exemption. Notwithstanding anything to the contrary contained herein, or in the Community Standards, any improvements of any nature made or to be made by Developer, Builder or their written nominees, including, without limitation, improvements made or to be made to the Common Areas or any Home, shall not be subject to the review of the Neighborhood ACC or ACC, Association, or the provisions of the Community Standards.

20.21 Exculpation. Developer, Builders, Association, the directors or officers of Association, the ACC, the members of the ACC, the Neighborhood ACC, members of the Neighborhood ACC, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any Owner or any other party whatsoever, due to any mistakes in judgment, negligence, or any action of Developer, Builders, Association, Neighborhood ACC, ACC or their members, officers, or directors, in connection with the approval or disapproval of plans and specifications. Each Owner agrees, individually and on behalf of his/her heirs, devisees, successors and assigns, and legal and personal representatives by acquiring title to a Lot, that it shall not bring any action or suit against Developer, Builders, Association or their respective directors or officers, Neighborhood ACC and the ACC or the members of the Neighborhood ACC and ACC, or their respective agents, in order to recover any damages caused by the actions of Developer, Builders, Association, Neighborhood ACC or ACC or their respective members, officers, or directors in connection with the provisions of this Section. Association does hereby indemnify, defend and hold Developer, Builders, Neighborhood ACC and the ACC, and each of their members, officers, and directors harmless from all costs, expenses, and liabilities, including attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, of all nature resulting by virtue of the acts of the Owners, Association,

Neighborhood ACC, ACC or their members, officers and directors. Developer, Builders, Association, its directors or officers, the ACC or its members, or any person acting on behalf of any of them, shall not be responsible for any defects in any plans or specifications or the failure of same to comply with applicable laws or code nor for any defects in any improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

20.22 Government Approval. Each Owner acknowledges and agrees that Neighborhood ACC and/or ACC approval, as discussed herein, shall not be deemed to constitute an approval by any governmental authority, nor shall it relieve any Owner of the obligation to obtain necessary governmental approvals at such Owner's sole cost and expense. Additionally, in the event any governmental authority denies an Owner's application for a permit or otherwise in connection with planned alterations or improvements, such denial shall prohibit construction of such improvements (regardless of whether the Neighborhood ACC or ACC has previously approved the Owner's planned alterations or improvements by certificate or otherwise). Decisions of the Neighborhood ACC or ACC with respect to architectural control shall be based upon proposed improvements being consistent with the overall aesthetics and master plan of Everlands and such decisions shall not be deemed a waiver of an Owner's obligation to comply with state and local codes and/or ordinances. In the event that any Owner, with or without Neighborhood ACC and/or ACC approval, constructs any improvements or makes any changes to his or her Home without the required governmental permits or approvals, such Owner shall be solely liable for all fines and/or citations imposed by any governmental authority and shall further bear all costs in connection with the removal, repair or reconstruction of improvements required by such governmental authority. In addition, to the extent an Owner fails to obtain governmental permits and/or approvals prior to constructing improvements which require the same, or if any governmental entity requires the repair, removal or reconstruction of any improvements, Association shall be permitted to cause such Owner to repair, remove or reconstruct any unapproved improvement at the Owner's sole and absolute cost, and in the event such Owner fails to remove the same within a reasonable time, Association may, but shall not be obligated to remove the improvement and charge all costs in connection with the same to the Owner as an Individual Assessment. Each Owner further agrees to remise, release, acquit, satisfy, and forever discharge Developer, Builder and Association of and from all, and all manner of, action and actions, cause and causes of action, suits, debts, sums of money, accounts, bills, covenants, controversies, agreements, promises, damages (including consequential, incidental, punitive, special or other), judgments, executions, claims, liabilities and demands, whatsoever, at law and in equity (including, but not limited to, claims founded on tort, contract, contribution, indemnity or any other theory whatsoever) in any way related to any construction of any requested improvements due to any defects to the marketability, ability to obtain a loan, and/or insurability of a Home caused therefrom; any encroachment caused by requested improvements; and/or the repair, reconstruction or removal of the improvements as required by any governmental or court action.

21. Owners Liability.

21.1 Violations. Should any Owner do any of the following:

21.1.1 Fail to perform its responsibilities as set forth herein or otherwise breach the provisions of the Declaration including, without limitation, any provision herein benefiting SJRWMD; or

21.1.2 Cause any damage to any improvement or Common Areas; or

21.1.3 Impede Developer or Association from exercising its rights or performing its responsibilities hereunder, or

21.1.4 Undertake unauthorized improvements or modifications to a Home or the Common Areas; or

21.1.5 Impede Developer from proceeding with or completing the development of Everlands;

then, Developer and/or Association, where applicable, after reasonable prior written notice, shall have the right, through its agents and employees, to cure the breach, including, but not limited to, the entering upon the Home and causing the default to be remedied and/or the required repairs or maintenance to be performed, or as the case may be, remove unauthorized improvements or modifications. The cost thereof, plus reasonable overhead costs and attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, collections and bankruptcy, incurred shall be assessed against the Owner as an Individual Assessment.

21.2 Non-Monetary Defaults. In the event of a violation by any Owner, other than the nonpayment of any Assessment or other monies, of any of the provisions of this Declaration, Developer or Association shall notify the Owner of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, the party entitled to enforce same may, at its option:

21.2.1 Commence an action to enforce the performance on the part of the Owner or to enjoin the violation or breach or for equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

21.2.2 Commence an action to recover damages; and/or

21.2.3 Take any and all action reasonably necessary to correct the violation or breach.

21.3 Expenses. All expenses incurred in connection with the violation or breach, or the commencement of any action against any Owner, including reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, collections and bankruptcy, shall be assessed against the Owner, as an Individual Assessment, and shall be immediately due and payable without further notice.

21.4 No Waiver. The failure to enforce any right, provision, covenant or condition in this Declaration, shall not constitute a waiver of the right to enforce such right, provision, covenant or condition in the future.

21.5 Rights Cumulative. All rights, remedies, and privileges granted to SJRWMD, Developer, Association and/or the ACC pursuant to any terms, provisions, covenants or conditions of this Declaration, or Community Standards, shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude any of them from pursuing such additional remedies, rights or privileges as may be granted or as it might have by law.

21.6 Enforcement By or Against Other Persons. In addition to the foregoing, this Declaration or Community Standards may be enforced by Developer and/or, where applicable, Association and/or Owners, by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration or Community Standards shall be borne by the person against whom enforcement is sought, provided such proceeding results in a finding that such person was in violation of this Declaration or the Community Standards.

21.7 Fines. Association may suspend, for reasonable periods of time, the rights of an Owner or an Owner's tenants, guests and invitees, or both, to use the Common Areas and/or common services including, but not limited to, cable services and/or other services which are paid through Common Expenses, and may levy reasonable fines, not to exceed the maximum amounts permitted by Section 720.305(2) of the Florida Statutes, against an Owner, tenant, guest or invitee, for failure to comply with any provision of this Declaration including, without limitation, those provisions benefiting the SJRWMD.

21.7.1 A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing. Fines in the aggregate are not capped to any amount.

21.7.2 Unless otherwise permitted by Florida law, fines or suspensions may not be imposed by the Board without notice of at least fourteen (14) days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) persons (the "Violations Committee") appointed by the Board who are not officers, directors or employees of Association, or the spouse, parent, child, brother, sister of an officer, director or employee. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the Board. If the Violations Committee does not by a majority vote confirm a fine or suspension the same may not be imposed. The written notice of violation shall be in writing to the Owner, tenant, guest or invitee and detail the infraction or infractions. Included in the notice shall be the date and time of the hearing of the Violations Committee.

21.7.3 The non-compliance shall be presented to the Violations Committee acting as a tribunal, after which the Violations Committee shall hear reasons why a fine should not be imposed. The hearing shall be conducted in accordance with the procedures adopted by the Violations Committee from time to time. A written decision of the Violations Committee shall be submitted to the Owner, tenant, guest or invitee, as applicable, by not later than twenty-one (21) days after the meeting of the Violations Committee. The Owner, tenant, guest or invitee shall have a right to be represented by counsel and to cross-examine witnesses.

21.7.4 To the extent the Violations Committee confirms the fine to be levied by the Board, the Board may impose Individual Assessments against the Owner in the amount of \$100 (or any greater amount permitted by law from time to time) for each violation. Each day of non-compliance shall be treated as a separate violation and there is no cap on the aggregate amount the Board may fine an Owner, tenant, guest or invitee. Individual Assessment fines shall be paid not later than five (5) days after notice of the imposition of the Individual Assessment. All monies received from fines shall be allocated as directed by the Board.

21.8 Enforcement Against Neighborhood Association and Owner(s). In the event that a Neighborhood Association fails in its obligations to undertake its obligations under its applicable Neighborhood Declaration and/or fails to enforce requirements contained within its Neighborhood Declaration, the Association may compel the applicable Neighborhood Association and/or Owner(s) to comply with its governing documents. In the event that

## 22. Additional Rights of Developer.

22.1 Sales Office and Administrative Offices. For so long as Developer and/or its assigns owns any property in Everlands, is affected by this Declaration, or maintains a sales office or administrative office within Everlands, Developer shall have the perpetual right to take such action reasonably necessary to transact any business necessary to consummate the development of Everlands and sales and re-sales of Homes and/or other properties owned by Developer or others outside of Everlands. This right shall include, but not be limited to, the right to maintain models, sales offices and parking associated therewith, have signs on any portion of Everlands, including Common Areas, employees in the models and offices, without the payment of rent or any other fee, maintain offices in models, and use of the Common Areas to show Homes. The sales office, models, signs and all items pertaining to development and sales remain the property of Developer. Developer shall have all of the foregoing rights without

charge or expense. Without limiting any other provision of this Declaration, Developer may assign its rights hereunder to each Builder. The rights reserved hereunder shall extend beyond the Community Completion Date.

22.2 Modification. The development and marketing of Everlands will continue as deemed appropriate in Developer's sole discretion, and nothing in this Declaration or Community Standards, or otherwise, shall be construed to limit or restrict such development and marketing. It may be necessary or convenient for the development of Everlands to, as an example and not a limitation, amend a Plat and/or the Master Plan, modify the boundary lines of the Common Areas, grant easements, dedications, agreements, licenses, restrictions, reservations, covenants, rights-of-way, and to take such other actions which Developer, or its agents, affiliates, or assignees may deem necessary or appropriate. Association and Owners shall, at the request of Developer, execute and deliver any and all documents and instruments which Developer deems necessary or convenient, in its sole and absolute discretion, to accomplish the same. Without limiting anything to the contrary in this Declaration, prior to and including the Turnover Date, all agreements and/or contracts which are entered into by Association shall require the prior written approval of Developer or may otherwise be voided by Developer in its sole and absolute discretion.

22.3 Promotional Events. Prior to the Community Completion Date, Developer, Builders, and their assigns shall have the right, at any time, to hold marketing, special and/or promotional events within Everlands and/or on the Common Areas, without any charge for use. Developer, its agents, affiliates, or assignees shall have the right to market Everlands and Homes in advertisements and other media by making reference to Everlands, including, but not limited to, pictures or drawings of Everlands, Common Areas, and Homes constructed in Everlands. All logos, trademarks, and designs used in connection with Everlands are the property of Developer, and Association shall have no right to use the same after the Community Completion Date except with the express written permission of Developer. Without limiting any other provision of this Declaration, Developer may assign its rights hereunder to each Builder.

22.4 Use by Prospective Purchasers. Prior to the Community Completion Date, Developer and each Builder shall have the right, without charge, to use the Common Areas for the purpose of entertaining prospective purchasers of Homes, or other properties owned by Developer outside of Everlands.

22.5 Franchises. Developer may grant franchises or concessions to commercial concerns on all or part of the Common Areas and shall be entitled to all income derived therefrom.

22.6 Management. Developer may manage the Common Areas by contract with Association. Developer may contract with a third party ("Manager") for management of Association and the Common Areas.

22.7 Easements. Until the Community Completion Date, Developer reserves the exclusive right to grant, in its sole discretion, easements, permits and/or licenses for ingress and egress, drainage, utilities service, maintenance, Telecommunications Services; and other purposes over, under, upon and across Everlands so long as any such easements do not materially and adversely interfere with the intended use of Homes previously conveyed to Owners. By way of example, and not of limitation, Developer may be required to take certain action, or make additions or modifications to the Common Areas in connection with an environmental program. All easements necessary for such purposes are reserved in favor of Developer, in perpetuity, for such purposes. Without limiting the foregoing, Developer may relocate any easement affecting a Home, or grant new easements over a Home, after conveyance to an Owner, without the joinder or consent of such Owner, so long as the grant of easement or relocation of easement does not materially and adversely affect the Owner's use of the Home as a residence. As an illustration, Developer may grant an easement for Telecommunications Systems, irrigation, drainage lines or electrical lines over any portion of Everlands so long as such easement is outside the footprint of the foundation of any residential improvement constructed on such portion of Everlands. Developer shall have the sole right to any fees of any nature associated therewith, including, but not limited to, license or similar fees on account thereof. Association and Owners will, without charge, if requested by Developer: (a) join in the creation of such easements, etc. and cooperate in the operation thereof; and (b) collect and remit fees associated therewith, if any, to the appropriate party. Association will not grant any easements, permits or licenses to any other entity providing the same services as those granted by Developer, nor will it grant any such easement, permit or license prior to the Community Completion Date without the prior written consent of Developer which may be granted or denied in its sole discretion.

22.8 Right to Enforce. Developer has the right, but not the obligation, to enforce the provisions of this Declaration and the Community Standards and to recover all costs relating thereto, including attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, collections and bankruptcy. Such right shall include the right to perform the obligations of Association and to recover all costs incurred in doing so.

22.9 Additional Development. If Developer withdraws portions of Everlands from the operation of this Declaration, Developer may, but is not required to, subject to governmental approvals, create other forms of residential property ownership or other improvements of any nature on the property not subjected to or withdrawn from the operation of this Declaration. Developer shall not be liable or responsible to any person or entity on account of its decision to do so or to provide, or fail to provide, the amenities and/or facilities which were originally planned to be included in such areas. If so designated by Developer, owners or tenants of such other forms of housing or improvements upon their creation, may share in the use of all or some of the Common Areas and other facilities and/or roadways which remain subject to this Declaration. The expense of the operation of such facilities shall be allocated to the various users thereof, if at all, as determined by Developer.

22.10 Representations. Developer makes no representations concerning development both within and outside the boundaries of Everlands including, but not limited to, the number, design, boundaries, configuration and arrangements, prices of all Homes or Lots and buildings in all other proposed forms of ownership and/or other improvements on Everlands or in Everlands or adjacent to or near Everlands, including, but not limited to, the size,



location, configuration, elevations, design, building materials, height, view, airspace, number of homes, number of buildings, location of easements, parking and landscaped areas, services and amenities offered.

22.11 Non-Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE ASSOCIATION DOCUMENTS, NEITHER ASSOCIATION, DEVELOPER, NEIGHBORHOOD DEVELOPER, NEIGHBORHOOD ASSOCIATION(S), NOR ANY BUILDERS SHALL BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF EVERLANDS INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, LESSEES, LICENSEES, INVITEES, AGENTS, SERVANTS, CONTRACTORS, AND/OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

22.11.1 IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF EVERLANDS HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF EVERLANDS AND THE VALUE THEREOF; AND

22.11.2 DEVELOPER AND/OR ASSOCIATION ARE NOT EMPOWERED, AND HAVE NOT BEEN CREATED, TO ACT AS AGENCIES WHICH ENFORCE OR ENSURE THE COMPLIANCE WITH THE LAWS OF THE STATE OF FLORIDA AND/OR BREVARD COUNTY OR PREVENT TORTIOUS ACTIVITIES. NEITHER DEVELOPER, ANY BUILDER, NOR ASSOCIATION SHALL BE LIABLE FOR THE UNLAWFUL OR UNDESIRABLE ACTIONS OR INACTIONS OF OWNERS OR THEIR RESPECTIVE FAMILIES, TENANTS, GUESTS, INVITEES OR ANY OTHER OCCUPANTS OF HOMES WITHIN EVERLANDS AND SHALL FURTHER HAVE NO OBLIGATION TO TAKE ANY AFFIRMATIVE ACTION NOT SPECIFICALLY SET FORTH IN THIS DECLARATION IN ORDER TO STOP, ENJOIN OR PREVENT ANY SUCH ACTIONS BY ANY OWNER OR THEIR FAMILIES, TENANTS, GUESTS, INVITEES OR ANY OTHER OCCUPANTS OF HOMES WITHIN EVERLANDS; AND

22.11.3 THE PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH AND WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF ASSOCIATION TO PROTECT OR FURTHER THE HEALTH OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON. EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO A LOT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING A USE OF, ANY PORTION OF EVERLANDS (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS SECTION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF ASSOCIATION HAS BEEN DISCLAIMED IN THIS SECTION OR OTHERWISE. AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS).

## 22.12 Claims and Disputes

22.12.1 . All claims, disputes and other matters in question between the Association, any Owner and the Developer and/or any Builder arising out of or relating to this Declaration or any alleged breach of any terms or conditions hereof, the transition of Association control or any alleged failures relating thereto, or any other matter contemplated under this Declaration, shall be decided by mandatory and binding arbitration in accordance with the rules of the American Arbitration Association ("AAA") currently in effect unless the parties mutually agree otherwise. The following procedures shall apply:

22.12.2 Demand for arbitration shall be filed in writing with the other party or parties subject to the Declaration and with the AAA. A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. "Construction Rules" will be utilized in any arbitration proceeding under this Section.

22.12.3 No arbitration arising out of or relating to this Declaration shall include, by consolidation, joinder or any other manner, an additional person or entity not a party to this Declaration, except by written consent containing a specific reference to this Declaration signed by the parties hereto and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented by the parties to this Declaration shall be specifically enforceable in accordance with applicable law and any court having jurisdiction thereof.

22.12.4 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

22.12.5 All filing fees and AAA costs associated with the arbitration itself shall be paid for by the party who files the notice of arbitration; provided, however, that all such expenses shall be recovered by the filing

party in the event such party prevails. Any issues regarding who is the prevailing party shall be determined by the arbitration panel. The prevailing party also shall recover from the non-prevailing party all attorneys' fees and costs, including fees and costs for legal assistants and expert witnesses, and including all fees and costs incurred relative to any challenge or appeal of the arbitration award, or confirmation by a court of law.

22.12.6 If and only to the extent a matter arising under this Declaration cannot be resolved by arbitration pursuant to this Section, the prevailing party shall be entitled to collect from the non-prevailing party reasonable attorneys' fees and costs at the trial level and at all levels of appeal. In such event, to the maximum extent permitted by law, each of the Developer, Association, Builders, and Owners, voluntarily, intentionally and irrevocably waive all right to trial by jury in respect of any action, proceeding, or counterclaim (whether based on contract, tort, or otherwise) arising out of or related to any of the provisions of this Declaration, or any course of conduct, course of dealing, statements (whether oral or written) or actions of any party hereto or to any document pertaining to this Declaration. This provision is a material inducement of all parties taking title to real property subject to this Declaration. The parties hereby submit to the jurisdiction of the Civil Courts of the State of Florida and the United States District Courts located in the State of Florida in respect of any suit or other proceeding brought in connection with or arising out of this Declaration and venue shall be in the County.

22.13 Venue. EACH OWNER ACKNOWLEDGES REGARDLESS OF WHERE SUCH OWNER (i) EXECUTED A PURCHASE AND SALE AGREEMENT, (ii) RESIDES, (iii) OBTAINS FINANCING OR (iv) CLOSED ON A HOME, THIS DECLARATION LEGALLY AND FACTUALLY WAS EXECUTED IN BREVARD COUNTY, FLORIDA. DEVELOPER HAS AN OFFICE IN BREVARD COUNTY, FLORIDA AND EACH HOME IS LOCATED IN BREVARD COUNTY, FLORIDA. ACCORDINGLY, AN IRREBUTTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN BREVARD COUNTY, FLORIDA. IN ADDITION TO THE FOREGOING, EACH OWNER AND DEVELOPER AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN BREVARD COUNTY, FLORIDA.

22.14 Reliance. BEFORE ACCEPTING A DEED TO A HOME, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS DECLARATION. BY ACCEPTANCE OF A DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT HE HAS SOUGHT AND RECEIVED SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. DEVELOPER IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A HOME THAT THIS DECLARATION IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO DEVELOPER. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS DECLARATION IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR DEVELOPER TO SUBJECT EVERLANDS TO THIS DECLARATION, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

22.15 Access Control System. The Developer may, but shall not be required to, install Access Control System facilities at the entrance or exit of Everlands. To the extent legally permissible at any time, Association may contract for the installation of Access Control System facilities for Everlands. Prior to the Community Completion Date, all contracts for Access Control Systems, if any, shall be subject to the prior written approval of Developer. ASSOCIATION AND DEVELOPER SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN. Each and every owner and the occupant of each Home acknowledges that Developer, Association, and their employees, agents, managers, directors, and officers, are not insurers of Owners or Homes, or the personal property located within Homes. Developer and Association will not be responsible or liable for losses, injuries, or deaths resulting from any casualty or intrusion into a Home.

22.16 Developer's Right to Control Access. Notwithstanding anything to the contrary in this Declaration, prior to the Community Completion Date, Developer shall have the unilateral right to control the operation of the community gates, if any, and the same shall remain open during normal business hours or as otherwise determined in the sole and absolute discretion of Developer.

## 23. Telecommunications Services.

23.1 Right to Contract for Telecommunications Services. Association shall have the right, but not the obligation, to enter into one or more contracts for the provision of one or more Telecommunications Services for all or any portion of Everlands. Prior to the Community Completion Date, all contracts between a Telecommunications Provider and Association shall be subject to the prior written approval of Developer. Owners may enter into one or more contracts for the provision of one or more Telecommunication Services for his/her Home. Developer and/or its nominees, successors, assigns, affiliates, and licensees may contract with Association and act as a Telecommunications Provider for one or more Telecommunications Services, subject only to the requirements of all applicable laws, statutes, and regulations. If Developer is not the Telecommunications Provider for any particular

Telecommunications Service, Developer shall have the right to receive, on a perpetual basis, all or a portion of access fees and/or the revenues derived from such Telecommunications Service within Everlands as agreed, from time to time, between the Telecommunications Provider and Developer. It is anticipated that the Developer will not install alarms in Homes within Everlands.

23.2 Easements. Developer (i) reserves unto itself and its nominees, successors, assigns, affiliates, and licensees, and (ii) grants to each Telecommunications Provider providing Telecommunications Services to all or a portion of Everlands pursuant to an agreement between Association or Owner and such Telecommunications Provider, a perpetual right, privilege, easement and right-of-way across, over, under and upon Everlands for the installation, construction and maintenance of Telecommunications Systems together with a perpetual right, privilege and easement of ingress and egress, access, over and upon Everlands for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing facilities and equipment constituting such systems. If, and to the extent, Telecommunications Services provided by such Telecommunications Systems are to serve all of Everlands, then the cost of the Telecommunications Services may be Operating Costs of Association and shall be assessed as a part of the Assessments.

23.3 Restoration. Upon the completion of any installation, upgrade, maintenance, repair, or removal of the Telecommunications Systems or any part thereof, each Telecommunications Provider shall restore the relevant portion of the Common Areas and/or any Home to as good a condition as that which existed prior to such installation, maintenance, repair or removal. Failure by Telecommunications Provider to complete such restoration within ten (10) days after receiving written notice from Association of such failure shall vest in Association, the right (but not the obligation) to restore or cause to be restored such portion of the Common Areas and/or Home disturbed by such work, all at such Telecommunications Provider's sole cost and expense, except for in emergency situations whereby Association may restore or cause to be restored such disturbed portion of the Common Areas and/or Home immediately. In the event that Association exercises the right of self-help, each Telecommunications Provider agrees in advance that Association shall have the sole right, to (i) select the Contractors to perform such work and (ii) determine the extent of required restoration. This remedy of self-help is in addition to all other remedies of Association hereunder. All reasonable expenses incurred by Association in connection with such restoration shall be paid by Telecommunications Provider within ten (10) days of delivery to Telecommunications Provider of Association's invoice therefor. Any expenses not so paid when due shall bear interest from the due date at the lesser of (i) the publicly announced prime rate (or similar successor reference rate) of Wachovia National Bank or its successor on the date of such invoice, or (ii) the maximum rate of interest allowed by the law of the State of Florida for such obligations, or as may be provided in a contract between Association and a Telecommunications Provider.

23.4 Operating Costs. Each Owner understands that the expense of any Telecommunications Service may not be charged on a bulk basis, but may be charged at the rate equal to any rate paid by individual home owners that are not subject to a homeowners/condominium association. Each Owner acknowledges that Developer may receive lump sum or monthly compensation from any Telecommunications Provider in connection with the supply of Telecommunications Services. Such compensation may be paid on a per Home or other basis. All such compensation shall be the sole property of Developer, who shall have no duty to account for or disclose the amount of such compensation.

24. Refund of Taxes and Other Charges. Unless otherwise provided herein, Association agrees that any taxes, fees or other charges paid by Developer to any governmental authority, utility company or any other entity which at a later date are refunded in whole or in part, shall be returned to Developer in the event such refund is received by Association.

25. Assignment of Powers. All or any part of the rights, exemptions and powers and reservations of Developer herein contained may be conveyed or assigned in whole or part to other persons or entities by an instrument in writing duly executed, acknowledged, and at Developer's option, recorded in the Public Records.

26. General Provisions.

26.1 Master and Neighborhood Obligations and Liabilities. The obligations and liabilities of the Developer relating to Everlands shall be limited to the Common Areas and installations, infrastructure and other construction or improvements located within such Common Areas. All obligations and liabilities relating in any way to a Neighborhood shall be the responsibility of the applicable Neighborhood Developer. By taking title to a Lot within Everlands, each Owner and/or Builder acknowledge the foregoing and agree to indemnify the Developer for any claims made against the Developer which arise from or relate to a Neighborhood for which the Developer is not also the Neighborhood Developer or an affiliate of such Neighborhood Developer.

26.2 Authority of Board. Except when a vote of the membership of Association is specifically required, all decisions, duties, and obligations of Association hereunder may be made by the Board. Association and Owners shall be bound thereby.

26.3 Interpretation. The Board shall be responsible for interpreting the provisions hereof and of any of the exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of counsel that any interpretation adopted by Association is not unreasonable shall conclusively establish the validity of such interpretation.

26.4 Severability. Invalidation of any of the provisions of this Declaration by judgment or court order shall in no way affect any other provision, and the remainder of this Declaration shall remain in full force and effect.

26.5 Affirmative Obligation of Association. In the event that Association believes that Developer has failed in any respect to meet Developer's obligations under this Declaration or has failed to comply with any of Developer's obligations under law or the Common Areas are defective in any respect, Association shall give written notice to Developer detailing the alleged failure or defect. Association agrees that once Association has given written notice to Developer pursuant to this Section, Association shall be obligated to permit Developer and its agents to perform inspections of the Common Areas and to perform all tests and make all repairs/replacements deemed necessary by Developer to respond to such notice at all reasonable times. Association agrees that any inspection, test and/or repair/replacement scheduled on a business day between 9 a.m. and 5 p.m. shall be deemed scheduled at a reasonable time. The rights reserved in this Section include the right of Developer to repair or address, in Developer's sole option and expense, any aspect of the Common Areas deemed defective by Developer during its inspections of the Common Areas. Association's failure to give the notice and/or otherwise comply with the provisions of this Section will damage Developer. At this time, it is impossible to determine the actual damages Developer might suffer. Accordingly, if Association fails to comply with its obligations under this Section in any respect, Association shall pay to Developer liquidated damages in the amount of \$250,000.00 which Association and Developer agree is a fair and reasonable remedy.

26.6 Execution of Documents. Developer's plan of development for Everlands (including, without limitation, the creation of one (1) or more special taxing districts) may necessitate from time to time the execution of certain documents as required by governmental agencies. To the extent that such documents require the joinder of Owners other than Developer, Developer, by its duly authorized officers, may, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents (including, without limitation, any consents or other documents required by any governmental agencies in connection with the creation of any special taxing district); and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Developer, through its duly authorized officers, as their proper and legal attorneys-in-fact, for such purpose. Such appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Home or any other portion of Everlands, to execute or otherwise join in any petition and/or other documents required in connection with the creation of a special taxing district relating to Everlands or any portion(s) thereof.

26.7 Letter(s) of Credit. During the development of Everlands, Developer may be required to obtain a letter of credit in connection with or as security for matters relating to Association including, without limitation, the Association's maintenance obligations. From and after the Turnover Date, Association agrees that it shall indemnify and be liable to Developer for any amounts drawn or due from any such letter(s) of credit which result from the Association's failure to act in accordance with the terms of this Declaration, any applicable law, ordinance or requirement of any governmental agency. In addition to the foregoing, Association agrees that immediately following the Turnover Date, the Association shall take all measures necessary to reimburse Developer for all amounts expended in connection with the letter of credit, remove Developer from the letter of credit, and add Association as the responsible party under the letter of credit.

26.8 Notices. Any notice required to be sent to any person, firm, or entity under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address at the time of such mailing.

26.9 Florida Statutes. Whenever this Declaration refers to the Florida Statutes, it shall be deemed to refer to the Florida Statutes as they exist on the date this Declaration is recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

26.10 Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF EVERLANDS ARE HEREBY PLACED ON NOTICE THAT (1) DEVELOPER AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES AND/OR (2) ANY OTHER PARTIES MAY BE, FROM TIME TO TIME, CONDUCTING BLASTING, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO EVERLANDS. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF EVERLANDS, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO EVERLANDS WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DEVELOPER AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, EXCEPT RESULTING DIRECTLY FROM DEVELOPER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF EVERLANDS HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

26.11 Pace. Pace has joined into the execution of this Declaration solely to submit its interest in and to any properties in Everlands to the covenants, conditions, restrictions, easements, reservations, regulations, charges, liens and other matters set forth in this Declaration and in order to afford Developer all of the rights, benefits and privileges of the Developer set forth herein

26.12 Title Documents. Each Owner by acceptance of a deed to a Lot or Home acknowledges that such Lot/Home is subject to certain land use and title documents and all amendments thereto, which include among other items, this Declaration, the Plat, Neighborhood Declarations and those documents listed in the Owner's title commitment and title insurance policy, as well as further title documents described in this Declaration (collectively, the "Title Documents").

Developer's plan of development for Everlands may necessitate from time to time the further amendment, modification and/or termination of the Title Documents. DEVELOPER RESERVES THE UNCONDITIONAL RIGHT TO SEEK AMENDMENTS AND MODIFICATIONS OF THE TITLE DOCUMENTS. It is possible that a governmental subdivision or agency may require the execution of one or more documents in connection with an amendment, modification, and/or termination of the Title Documents. To the extent that such documents require the joinder of Owners other than Developer, Developer, by any one of its duly authorized officers, may, as the agent and/or the attorney-in-fact for the Owners, execute, acknowledge and deliver any documents required by applicable governmental subdivision or agency; and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Developer, through any one of its duly authorized officers, as their proper and legal attorney-in-fact for such purpose. This appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Home: (i) to execute or otherwise join in any documents required in connection with the amendment, modification, or termination of the Title Documents; and (ii) that such Owner has waived its right to object to or comment the form or substance of any amendment, modification, or termination of the Title Documents. Without limiting the foregoing, upon the Community Completion Date, Association shall assume all of the obligations of Developer under the Title Documents unless otherwise provided by Developer by amendment to this Declaration recorded by Developer in the Public Records, from time to time, and in the sole and absolute discretion of Developer.

IN WITNESS WHEREOF, the undersigned, being Developer hereunder, has hereunto set its hand and seal this 25<sup>th</sup> day of March, 2022.

WITNESSES:

Hector Apoit  
Print Name: Hector Apoit  
T.R. Beer  
Print Name: T.R. Beer

LENNAR HOMES, LLC, a Florida limited liability company

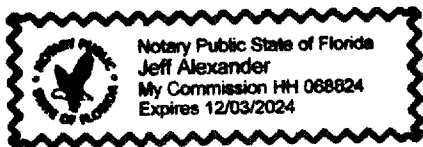
By: [Signature]  
Name: Michael Meyers  
Title: Vice President

{SEAL}

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) SS.:

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 25 day of MARCH, 2022, by Michael Meyers, as Vice President of LENNAR HOMES, LLC, a Florida limited liability company. He is personally known to me or produced as identification, on behalf of the company.

My commission expires:



[Signature]  
NOTARY PUBLIC, State of Florida at Large  
Print Name: \_\_\_\_\_

JOINDER

EVERLANDS MASTER ASSOCIATION, INC.

EVERLANDS MASTER ASSOCIATION, INC. ("Association") does hereby join in the Declaration for Everlands ("Declaration"), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association agrees that this joinder is for convenience only and not to the effectiveness of this Declaration as Association has no right to approve this Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 25<sup>th</sup> day of March, 2022.

WITNESSES:

EVERLANDS MASTER ASSOCIATION, INC., a  
Florida not-for-profit corporation

[Signature]  
Print Name: DAVID POU  
[Signature]  
Print Name: T.R. Beer

By: [Signature]  
Name: Greg Pettibon  
Title: President

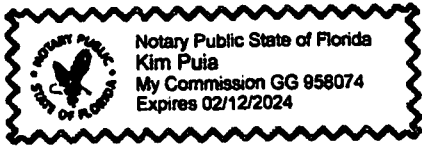
{SEAL}

STATE OF FLORIDA  
COUNTY OF BREVARD Palm Beach SS.:

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 25<sup>th</sup> day of March, 2022, by Greg Pettibon, as President of Everlands Master Association, Inc. He/she is personally known to me or produced \_\_\_\_\_ as identification, on behalf of the corporation.

My commission expires:

[Signature]  
NOTARY PUBLIC, State of Florida at Large  
Print Name: \_\_\_\_\_





JOINDER

PACE DRIVE HOLDINGS, LLC

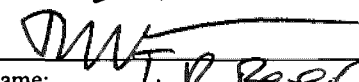
PACE DRIVE HOLDINGS, LLC ("**Pace**") does hereby join in the Declaration for Everlands ("**Declaration**") to which this Joinder is attached, agrees to the submission of its interest in and to Everlands, including, without limitation, the real property legally described in **Exhibit 1** attached to and made a part of this Declaration, to the covenants, conditions, restrictions, easements, reservations, regulations, charges, liens and other matters set forth in this Declaration and agrees to the Developer (*i.e.*, Lennar) having all of the rights, benefits and privileges of the Developer set forth set forth in the foregoing Declaration. Pace further agrees that the terms of the Declaration are and shall be binding upon Pace and its successors in title.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 25<sup>th</sup> day of March 2022.

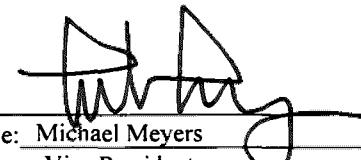
WITNESSES:

**PACE DRIVE HOLDINGS, LLC**, a Florida limited liability company

  
Print Name: DAVID PAVIA

  
Print Name: T. R. Beeler

**LENNAR HOMES, LLC**, a Florida limited liability company, its Manager


  
By: \_\_\_\_\_  
Name: Michael Meyers  
Title: Vice President  
{SEAL}

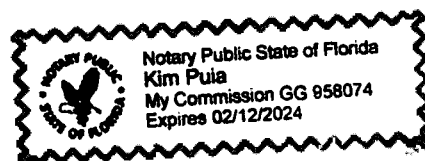
STATE OF FLORIDA )

COUNTY OF Palm Beach ) SS.:

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 25<sup>th</sup> day of March, 2022, by Michael Meyers, as Vice President of LENNAR HOMES, LLC, a Florida limited liability company, the Manager of Pace Drive Holdings, LLC, a Florida limited liability company. He/she is personally known to me or has produced \_\_\_\_\_ as identification, on behalf of the company.

My commission expires:

  
NOTARY PUBLIC, State of Florida  
Print Name \_\_\_\_\_



**EXHIBIT 1**  
**LEGAL DESCRIPTION**

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THIS IS NOT A BOUNDARY SURVEY, NOR IS IT INTENDED TO BE USED AS ONE

PALM VISTA EAST

A PARCEL OF LAND IN SECTIONS 20, 21, 28, AND 29, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST ¼ OF SECTION 28, TOWNSHIP 28 SOUTH, RANGE 36 EAST, THENCE N00°42'46"E ALONG THE EAST LINE OF THE SOUTHWEST ¼ OF SAID SECTION 28 A DISTANCE OF 112.52 FEET; THENCE S89°44'39"W A DISTANCE OF 47.01 FEET TO THE NORTH RIGHT OF WAY OF WATER CONTROL DISTRICT OF BREVARD CANAL NUMBER ONE (A 225 FOOT RIGHT OF WAY); THENCE S89°44'39"W ALONG SAID NORTH LINE OF CANAL NUMBER ONE A DISTANCE OF 831.51 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE S89°44'39"W ALONG SAID NORTH LINE OF CANAL NUMBER ONE A DISTANCE OF 1759.16 FEET TO THE WEST LINE OF SAID SECTION 28; THENCE N00°43'04"E ALONG THE WEST LINE OF SECTION 28 AND THE NORTH RIGHT OF WAY OF CANAL NUMBER ONE A DISTANCE OF 6.00 FEET; THENCE S89°48'32"W ALONG SAID NORTH LINE OF CANAL NUMBER ONE (A 237 FOOT RIGHT OF WAY) A DISTANCE OF 269.05 FEET TO THE WEST RIGHT OF WAY LINE OF PROPOSED PALM BAY PARKWAY (A 200 FOOT WIDE RIGHT OF WAY); THENCE NORTHERLY ALONG SAID WEST RIGHT OF WAY THE FOLLOWING SIXTEEN (16) COURSES AND CURVES: 1) THENCE N00°41'01"E A DISTANCE OF 346.29 FEET TO A POINT OF CURVATURE; 2) THENCE NORTHEASTERLY A DISTANCE OF 732.83 FEET ALONG AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2900.00 FEET, A CENTRAL ANGLE OF 14°28'43", AND A CHORD WHICH BEARS N07°55'23"E A DISTANCE OF 730.88 FEET TO A POINT OF TANGENCY; 3) THENCE N15°09'44"E A DISTANCE OF 588.03 FEET TO A POINT OF CURVATURE; 4) THENCE NORTHEASTERLY A DISTANCE OF 629.73 FEET ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2497.00 FEET, A CENTRAL ANGLE OF 14°26'59", AND A CHORD WHICH BEARS N7°56'15"E A DISTANCE OF 628.06 FEET TO A POINT OF TANGENCY; 5) THENCE N00°42'45"E A DISTANCE OF 893.10 FEET TO A POINT OF CURVATURE; 6) THENCE NORTHWESTERLY A DISTANCE 790.47 FEET ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2500.00 FEET, A CENTRAL ANGLE OF 18°06'58", AND A CHORD WHICH BEARS N08°20'44"W A DISTANCE OF 787.18 FEET TO A POINT OF RESERVE CURVATURE; 7) THENCE NORTHWESTERLY A DISTANCE OF 1427.67 FEET ALONG AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 4700.00 FEET, A CENTRAL ANGLE OF 17°24'15", AND A CHORD WHICH BEARS N08°42'05"W A DISTANCE OF 1422.19 FEET TO A POINT OF TANGENCY; 8) THENCE N00°00'00"W A DISTANCE OF 58.06 FEET TO A POINT OF CURVATURE; 9) THENCE NORTHEASTERLY A DISTANCE OF 723.49 FEET ALONG AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2900.00 FEET, A CENTRAL ANGLE OF 14°17'39", AND A CHORD WHICH BEARS N07°08'51"E A DISTANCE OF 721.61 FEET TO A POINT OF REVERSE CURVATURE; 10) THENCE NORTHEASTERLY A DISTANCE OF 474.42 FEET ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2000.00 FEET, A CENTRAL ANGLE OF 13°35'28", AND A CHORD WHICH BEARS N07°29'57"E A DISTANCE OF 473.31 FEET TO A POINT OF TANGENCY; 11) THENCE N00°42'13"E A DISTANCE OF 2200.22 FEET TO A POINT OF CURVATURE; 12) THENCE NORTHWESTERLY A DISTANCE OF 286.83 FEET ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1000.00 FEET, A CENTRAL ANGLE OF 16°26'03", AND A CHORD WHICH BEARS N07°30'49"W A DISTANCE OF 285.85 FEET TO A POINT OF REVERSE CURVATURE; 13) THENCE NORTHWESTERLY A DISTANCE OF 367.37 FEET ALONG AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1000.00 FEET, A CENTRAL ANGLE OF 21°02'56", AND A CHORD WHICH BEARS N05°12'22"W A DISTANCE OF 365.31 FEET TO A POINT OF TANGENCY; 14) THENCE N05°19'06"E A DISTANCE OF 303.76 FEET TO A POINT OF CURVATURE; 15) THENCE NORTHEASTERLY A DISTANCE OF 80.87 FEET ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1000.00 FEET, A CENTRAL ANGLE OF 4°38'01", AND A CHORD WHICH BEARS N03°00'05"E A DISTANCE OF 80.85 FEET TO A POINT OF TANGENCY; 16) THENCE N00°41'05"E A DISTANCE OF 579.15 FEET TO THE SOUTH RIGHT OF WAY LINE OF WATER CONTROL DISTRICT OF BREVARD CANAL NUMBER FIFTY FOUR (A 92 FOOT RIGHT OF WAY); THENCE N89°48'50"E ALONG THE SOUTH RIGHT OF WAY LINE OF SAID CANAL FIFTY FOUR A DISTANCE OF 233.31 FEET TO THE WEST LINE OF THE NORTHWEST ONE QUARTER OF SECTION 21, TOWNSHIP 28 SOUTH, RANGE 36 EAST; THENCE N89°46'53"E ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 1973.79 FEET TO THE WEST LINE OF THE EAST ONE HALF OF THE NORTHEAST ONE QUARTER OF THE NORTHWEST ONE QUARTER OF SAID SECTION 21, THENCE S00°46'00"W ALONG SAID WEST LINE A DISTANCE OF 613.69 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST ONE QUARTER OF THE NORTHEAST ONE QUARTER OF THE NORTHWEST ONE QUARTER OF SAID SECTION 21; THENCE S89°46'47"W A DISTANCE OF 658.09 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST ONE QUARTER OF THE NORTHEAST ONE QUARTER OF THE NORTHWEST ONE QUARTER OF SAID SECTION 21; THENCE S00°46'54"W A DISTANCE OF 659.73 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST ONE QUARTER OF THE NORTHEAST ONE QUARTER OF THE NORTHWEST ONE QUARTER OF SAID SECTION 21; THENCE N89°46'40"E A DISTANCE OF 1316.53 FEET TO THE SOUTHEAST CORNER OF THE EAST ONE-HALF OF THE NORTHEAST ONE QUARTER OF THE NORTHWEST ONE QUARTER OF SAID SECTION 21; THENCE S00°45'06"W, ALONG THE EAST LINE OF THE WEST ONE-HALF OF SAID SECTION 21, A DISTANCE OF 1319.35 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST ONE QUARTER OF SAID SECTION 21; THENCE S89°46'26"W ALONG THE NORTH LINE OF SAID SOUTHWEST ONE QUARTER A DISTANCE OF 55.01 FEET TO THE WEST RIGHT OF WAY LINE OF WATER CONTROL DISTRICT OF BREVARD CANAL NUMBER FIFTY NINE (A 95 FOOT RIGHT OF WAY); THENCE S00°45'06"W ALONG SAID WEST RIGHT OF WAY LINE A DISTANCE OF 2638.71 FEET TO THE SOUTH LINE OF SAID SECTION 21 AND THE NORTH RIGHT OF WAY LINE OF SAID CANAL NUMBER FIFTY NINE; THENCE S89°45'59"W ALONG SAID SOUTH LINE OF SECTION 21 AND NORTH RIGHT OF WAY LINE A DISTANCE OF 7.00 FEET TO THE WEST RIGHT OF WAY LINE OF SAID CANAL NUMBER FIFTY NINE (A 102 FOOT RIGHT OF WAY); THENCE S00°42'46"W ALONG SAID WEST RIGHT OF WAY LINE A DISTANCE OF 4104.66 FEET; THENCE S89°44'47"W A DISTANCE OF 296.51 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY A DISTANCE OF 546.69 FEET ALONG AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1542.49 FEET, A CENTRAL ANGLE OF 20°18'24", AND A CHORD WHICH BEARS N80°06'01"W A DISTANCE OF 543.83 FEET; THENCE S00°07'38"E A DISTANCE OF 1155.02 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT:  
COMMERCIAL PARCEL C-1 AS RECORDED IN OFFICIAL RECORDS BOOK 5750, PAGE 7946, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

LESS AND EXCEPT:  
COMMERCIAL PARCELS C-2 THROUGH C-5 AS RECORDED IN OFFICIAL RECORDS BOOK 5750, PAGE 7946, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

LESS AND EXCEPT:  
COMMERCIAL PARCELS C-6 THROUGH C-9 AS RECORDED IN OFFICIAL RECORDS BOOK 5750, PAGE 7946, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

LESS AND EXCEPT:  
COMMERCIAL PARCELS C-10 THROUGH C-12 AS RECORDED IN OFFICIAL RECORDS BOOK 5750, PAGE 7950, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

LESS AND EXCEPT:  
COMMERCIAL PARCELS C-13 THROUGH C-16 AS RECORDED IN OFFICIAL RECORDS BOOK 5750, PAGE 7950, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

LESS AND EXCEPT:  
EMERSON DRIVE AS RECORDED IN OFFICIAL RECORDS BOOK 6149, PAGE 2602, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

LESS AND EXCEPT:  
JOHN'S HERITAGE PARKWAY AS RECORDED IN OFFICIAL RECORDS BOOK 6149, PAGE 2602, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

LESS AND EXCEPT:  
PACE DRIVE AS RECORDED IN OFFICIAL RECORDS BOOK 6149, PAGE 2602, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

(DESCRIPTION CONTINUED ON SHEET 2 OF 3)

PALM VISTA CDD



**B.S.E. CONSULTANTS, INC.**  
CONSULTING - ENGINEERING - LAND SURVEYING  
312 SOUTH HARBOR CITY BOULEVARD, SUITE 4 MELBOURNE, FL 32901  
PHONE: (321) 725-3674 FAX: (321) 723-1159  
CERTIFICATE OF BUSINESS AUTHORIZATION: 4905  
CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: LB0004905

DATE: 09/28/2020  
DESIGN/DRAWN: LEH  
DRAWING# 10860500\_100\_001  
PROJECT# 10860.500  
SHEET 1 OF 3

THIS IS NOT A BOUNDARY SURVEY, NOR IS IT INTENDED TO BE USED AS ONE

(DESCRIPTION CONTINUED FROM SHEET 1 OF 2)

PALM VISTA WEST

A PARCEL OF LAND IN SECTIONS 20, 28, AND 29, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST ¼ OF SECTION 28, TOWNSHIP 28 SOUTH, RANGE 36 EAST, THENCE N00°42'46"E ALONG THE EAST LINE OF THE SOUTHWEST ¼ OF SAID SECTION 28 A DISTANCE OF 112.52 FEET; THENCE S89°44'39"W A DISTANCE OF 47.01 FEET TO THE NORTH RIGHT OF WAY OF WATER CONTROL DISTRICT OF BREVARD CANAL NUMBER ONE (A 225 FOOT RIGHT OF WAY); THENCE S89°44'39"W ALONG SAID NORTH LINE OF CANAL NUMBER ONE A DISTANCE OF 831.51; THENCE CONTINUE S89°44'39"W ALONG SAID NORTH LINE OF CANAL NUMBER ONE A DISTANCE OF 1759.16 FEET TO THE WEST LINE OF SAID SECTION 28; THENCE N00°43'04"E ALONG THE WEST LINE OF SECTION 28 AND THE NORTH RIGHT OF WAY OF CANAL NUMBER ONE A DISTANCE OF 6.00 FEET; THENCE S89°48'32"W ALONG SAID NORTH LINE OF CANAL NUMBER ONE (A 237 FOOT RIGHT OF WAY) A DISTANCE OF 269.05 FEET TO THE WEST RIGHT OF WAY LINE OF PROPOSED PALM BAY PARKWAY (A 200 FOOT WIDE RIGHT OF WAY) AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE NORTHERLY ALONG SAID WEST RIGHT OF WAY THE FOLLOWING SIXTEEN (16) COURSES AND CURVES:

1) THENCE N00°41'01"E A DISTANCE OF 346.29 FEET TO A POINT OF CURVATURE;

1) THENCE NORTHEASTERLY A DISTANCE OF 732.83 FEET ALONG AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2900.00 FEET, A CENTRAL ANGLE OF 14°28'43", AND A CHORD WHICH BEARS N07°55'23"E A DISTANCE OF 730.88 FEET TO A POINT OF TANGENCY;

2) THENCE N15°09'44"E A DISTANCE OF 588.03 FEET TO A POINT OF CURVATURE;

3) THENCE NORTHEASTERLY A DISTANCE OF 629.73 FEET ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2497.00 FEET, A CENTRAL ANGLE OF 14°26'59", AND A CHORD WHICH BEARS N7°56'15"E A DISTANCE OF 628.06 FEET TO A POINT OF TANGENCY;

4) THENCE N00°42'45"E A DISTANCE OF 893.10 FEET TO A POINT OF CURVATURE;

5) THENCE NORTHWESTERLY A DISTANCE 790.47 FEET ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2500.00 FEET, A CENTRAL ANGLE OF 18°06'58", AND A CHORD WHICH BEARS N08°20'44"W A DISTANCE OF 787.18 FEET TO A POINT OF REVERSE CURVATURE;

6) THENCE NORTHWESTERLY A DISTANCE OF 1427.67 FEET ALONG AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 4700.00 FEET, A CENTRAL ANGLE OF 17°24'15", AND A CHORD WHICH BEARS N08°42'05"W A DISTANCE OF 1422.19 FEET TO A POINT OF TANGENCY;

7) THENCE N00°00'00"W A DISTANCE OF 58.06 FEET TO A POINT OF CURVATURE;

8) THENCE NORTHEASTERLY A DISTANCE OF 723.49 FEET ALONG AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2900.00 FEET, A CENTRAL ANGLE OF 14°17'39", AND A CHORD WHICH BEARS N07°08'51"E A DISTANCE OF 721.61 FEET TO A POINT OF REVERSE CURVATURE;

9) THENCE NORTHEASTERLY A DISTANCE OF 474.42 FEET ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2000.00 FEET, A CENTRAL ANGLE OF 13°35'28", AND A CHORD WHICH BEARS N07°29'57"E A DISTANCE OF 473.31 FEET TO A POINT OF TANGENCY;

10) THENCE N00°42'13"E A DISTANCE OF 2200.22 FEET TO A POINT OF CURVATURE;

11) THENCE NORTHWESTERLY A DISTANCE OF 286.83 FEET ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1000.00 FEET, A CENTRAL ANGLE OF 16°26'03", AND A CHORD WHICH BEARS N07°30'49"W A DISTANCE OF 285.85 FEET TO A POINT OF REVERSE CURVATURE;

12) THENCE NORTHWESTERLY A DISTANCE OF 367.37 FEET ALONG AN ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1000.00 FEET, A CENTRAL ANGLE OF 21°02'56", AND A CHORD WHICH BEARS N05°12'22"W A DISTANCE OF 365.31 FEET TO A POINT OF TANGENCY;

13) THENCE N05°19'06"E A DISTANCE OF 303.76 FEET TO A POINT OF CURVATURE;

14) THENCE NORTHEASTERLY A DISTANCE OF 80.87 FEET ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1000.00 FEET, A CENTRAL ANGLE OF 4°38'01", AND A CHORD WHICH BEARS N03°00'05"E A DISTANCE OF 80.85 FEET TO A POINT OF TANGENCY;

15) THENCE N00°41'05"E A DISTANCE OF 579.15 FEET TO THE SOUTH RIGHT OF WAY LINE OF WATER CONTROL DISTRICT OF BREVARD CANAL NUMBER FIFTY FOUR (A 92 FOOT RIGHT OF WAY); THENCE S89°48'59"W ALONG THE SOUTH RIGHT OF WAY LINE OF SAID CANAL FIFTY FOUR, A DISTANCE OF 5044.35 FEET TO THE WEST LINE OF SAID SECTION 20; THENCE S00°45'35"W, ALONG SAID WEST LINE A DISTANCE OF 2592.78 FEET TO THE WEST ONE-QUARTER CORNER OF SAID SECTION 20; THENCE N89°49'10"E, ALONG THE EAST-WEST QUARTER SECTION LINE OF SAID SECTION 20, A DISTANCE OF 41.01 FEET TO THE EAST RIGHT-OF-WAY LINE OF WATER CONTROL DISTRICT OF BREVARD CANAL NUMBER 56; THENCE S00°45'35"W, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 2638.79 FEET TO THE SOUTH LINE OF SAID SECTION 20 (ALSO BEING THE NORTH LINE OF SAID SECTION 29); THENCE N89°49'20"E, ALONG THE SOUTH LINE OF SAID SECTION 20, A DISTANCE OF 9.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID CANAL NUMBER 56; THENCE S00°44'01"W, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 5166.54 FEET TO THE NORTH RIGHT-OF-WAY LINE OF WATER CONTROL DISTRICT OF BREVARD CANAL NUMBER ONE; THENCE N89°48'32"E, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 2588.94 FEET TO THE NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 29; THENCE N00°43'32"E, ALONG SAID NORTH-SOUTH LINE, A DISTANCE OF 6.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF SAID CANAL NUMBER ONE; THENCE N89°48'32"E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 2366.38 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT:  
COMMERCIAL PARCEL C-17 AS RECORDED IN OFFICIAL RECORDS BOOK 5750, PAGE 7946, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

LESS AND EXCEPT:  
COMMERCIAL PARCELS C-18 AND C-19 AS RECORDED IN OFFICIAL RECORDS BOOK 5750, PAGE 7946, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

PALM VISTA CDD

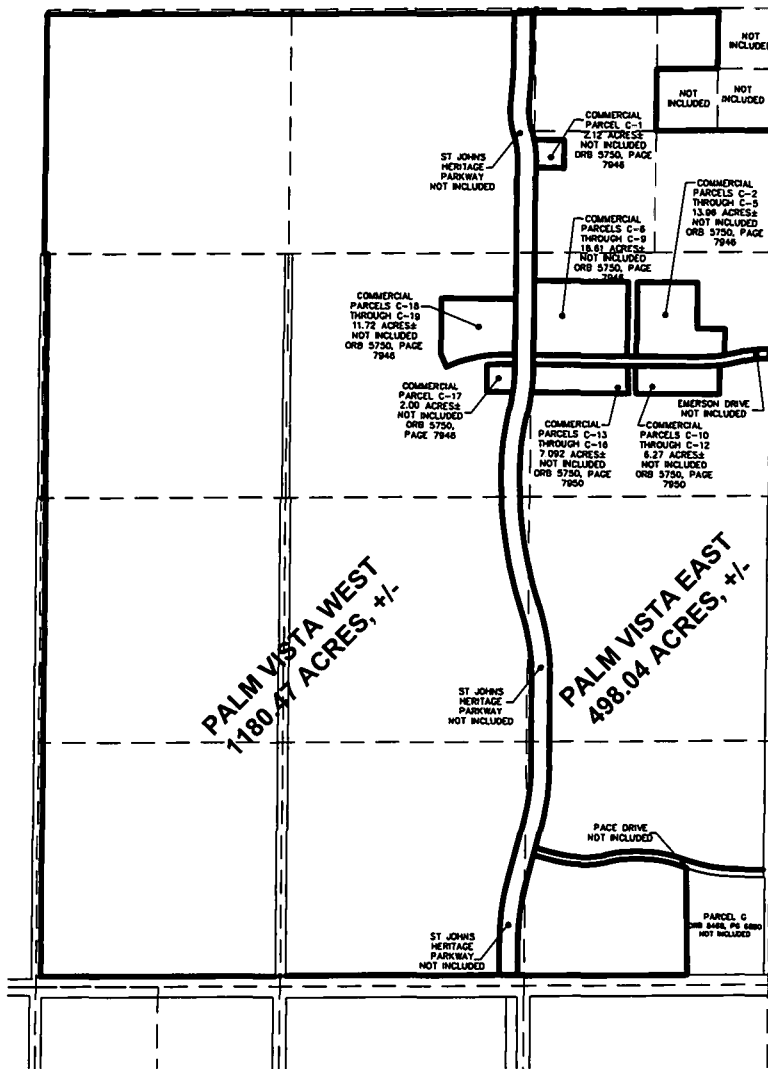


**B.S.E. CONSULTANTS, INC.**  
CONSULTING - ENGINEERING - LAND SURVEYING  
312 SOUTH HARBOR CITY BOULEVARD, SUITE 4 MELBOURNE, FL 32901  
PHONE: (321) 725-3674 FAX: (321) 723-1159  
CERTIFICATE OF BUSINESS AUTHORIZATION 4905  
CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: LB0004905

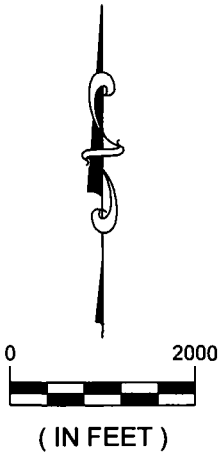
DATE: 09/28/2020  
DESIGN/DRAWN: LEH  
DRAWING# 10860500\_100\_001  
PROJECT# 10860.500  
SHEET 2 OF 3

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THIS IS NOT A BOUNDARY SURVEY, NOR IS IT INTENDED TO BE USED AS ONE



PALM VISTA EAST = 498.04 ACRES, +/-  
PALM VISTA WEST = 1180.47 ACRES, +/-  
TOTAL PALM VISTA CDD ACRES = 1678.51 ACRES, +/-



PALM VISTA CDD

REVISED 02/08/2021:  
CORRECTED ACREAGE FOR PALM  
VISTA EAST & TOTAL "CDD" ACRES



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312 SOUTH HARBOR CITY BOULEVARD, SUITE 4 MELBOURNE, FL 32901  
PHONE: (321) 725-3674 FAX: (321) 723-1159  
CERTIFICATE OF BUSINESS AUTHORIZATION: 4905  
CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: LB0004905

DATE: 09/28/2020  
DESIGN/DRAWN: LEH  
DRAWING# 10860500\_100\_001  
PROJECT# 10860.500  
SHEET 3 OF 3

**EXHIBIT 2**  
**ARTICLES OF INCORPORATION**





I certify from the records of this office that EVERLANDS MASTER ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on June 4, 2021.

The document number of this corporation is N21000006733.

I further certify that said corporation has paid all fees due this office through December 31, 2021, and its status is active.


I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code, 321A00012344-060721-N21000006733-1/1, noted below.

Authentication Code: 321A00012344-060721-N21000006733-1/1



Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Seventh day of June, 2021

  
Secretary of State



I certify the attached is a true and correct copy of the Articles of Incorporation of EVERLANDS MASTER ASSOCIATION, INC., a Florida corporation, filed on June 4, 2021, as shown by the records of this office


I further certify the document was electronically received under FAX audit number H21000222293. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N21000006733.

Authentication Code: 321A00012344-060721-N21000006733-1/1



Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Seventh day of June, 2021

  
Secretary of State

850-617-6381

6/7/2021 12:13:03 PM PAGE 3/003 Fax Server



June 7, 2021

FLORIDA DEPARTMENT OF STATE  
Division of Corporations

EVERLANDS MASTER ASSOCIATION, INC.  
8895 MILITARY TRL STE 101-B  
PALM BEACH GARDENS, FL 33410US

The Articles of Incorporation for EVERLANDS MASTER ASSOCIATION, INC. were filed on June 4, 2021, and assigned document number N21000006733. Please refer to this number whenever corresponding with this office.

Enclosed is the certification requested. To be official, the certification for a certified copy must be attached to the original document that was electronically submitted and filed under FAX audit number H21000222293.

To maintain "active" status with the Division of Corporations, an annual report must be filed yearly between January 1st and May 1st beginning in the year following the file date or effective date indicated above. It is your responsibility to remember to file your annual report in a timely manner.

A Federal Employer Identification Number (FEI/EIN) will be required when this report is filed. Apply today with the IRS online at:

<https://sa.www4.irs.gov/modiein/individual/index.jsp>.

Please be aware if the corporate address changes, it is the responsibility of the corporation to notify this office.

Should you have questions regarding corporations, please contact this office at (850) 245-6052.

SHAMIYA M HARRIS  
Regulatory Specialist II  
New Filings Section  
Division of Corporations

Letter Number: 321A00012344

P.O BOX 6327 - Tallahassee, Florida 32314

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**ARTICLES OF INCORPORATION  
OF  
EVERLANDS MASTER ASSOCIATION, INC.**

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**ARTICLES OF INCORPORATION  
OF  
EVERLANDS MASTER ASSOCIATION, INC.**

In compliance with the requirements of the laws of the State of Florida, the following are the Articles of Incorporation for Everlands Master Association, Inc.

1. Name. The name of the corporation shall be Everlands Master Association, Inc. (the "Association").

2. Principal Office. The principal office of the Association is 8895 Military Trail, Suite 101-B, Palm Beach Gardens, FL 33410.

3. Registered Office - Registered Agent. The street address of the Registered Office of the Association is Association Law Group, P.L., 1101 Brickell Avenue, Suite N1101, Miami, Florida 33131. The name of the Registered Agent of the Association is:

ASSOCIATION LAW GROUP, P.L.

4. Definitions. A declaration entitled Declaration for Everlands (the "Declaration") has been (or will be) recorded in the Public Records of Brevard County, Florida, and shall govern all of the operations of the community to be known as Everlands (the "Community"). All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration.

5. Purpose. Association is formed to: (a) provide for ownership, operation, maintenance and preservation of the Common Areas, and improvements thereon; (b) perform the duties delegated to it in the Declaration; (c) administer the interests of Association and the Owners; (d) promote the health, safety and welfare of the Owners.

6. Not-for-Profit. Association is a not-for-profit Florida corporation and does not contemplate pecuniary gain to, or profit for, its members.

7. Powers and Duties. The powers of the Association shall include and be governed by the following:

7.1. To perform all the duties and obligations of Association set forth in the Declaration and By-Laws, as herein provided.

7.2. To enforce, by legal action or otherwise, the provisions of the Declaration and By-Laws and of all rules, regulations, covenants, restrictions and agreements governing or binding Association and Everlands.

7.3. To fix, levy, collect and enforce payment, by any lawful means, of all Assessments pursuant to the terms of the Declaration, these Articles and By-Laws.

7.4. To pay all Operating Costs, including, but not limited to, all licenses, taxes or governmental charges levied or imposed against the property of Association.

7.5. To acquire (by gift, purchase or otherwise), annex, own, hold, improve, build upon, operate, maintain, convey, grant rights and easements, sell, dedicate, lease, transfer or otherwise dispose of real or personal property (including the Common Areas) in connection with the functions of Association except as limited by the Declaration.

7.6. To borrow money, and to mortgage, pledge or hypothecate any or all of its real or personal property as security for money or debts incurred.

7.7. To dedicate, grant, license, lease, concession, create easements upon, sell or transfer all or any part of Everlands to any public agency, entity, authority, utility or other person or entity for such purposes and subject to such conditions as it determines and as provided in the Declaration.

7.8. To participate in mergers and consolidations with other non-profit corporations organized for the same purposes.

7.9. To adopt, publish, promulgate or enforce rules, regulations, covenants, restrictions or agreements governing Association, Everlands, the Common Areas, Lots, Parcels and Homes as provided in the Declaration and to effectuate all of the purposes for which Association is organized.



7.10. To have and to exercise any and all powers, rights and privileges which a not-for-profit corporation organized under the laws of the State of Florida may now, or hereafter, have or exercise.

7.11. To employ personnel and retain independent contractors to contract for management of Association, Everlands, and the Common Areas as provided in the Declaration and to delegate in such contract all or any part of the powers and duties of Association.

7.12. To contract for services to be provided to, or for the benefit of, Association, Owners, the Common Areas, and Everlands as provided in the Declaration, such as, but not limited to, Telecommunications Services, maintenance, garbage pick-up, and utility services.

7.13. To establish committees and delegate certain of its functions to those committees.

7.14. To sue and be sued.

7.15. To contract with the District or a special taxing districts, if any, for any purpose.

7.16. The obligation to operate and maintain the Surface Water Management System within Everlands, to the extent not maintained by the District or special taxing district, if any, (including, without limitation, all waterbodies, retention areas, culverts and related appurtenances, if any) in a manner consistent with the applicable SJRWMD Permit requirements and applicable SJRWMD rules, and to assist in the enforcement of the provisions contained in the Declaration which relate to the Surface Water Management System. The Association shall be responsible for assessing and collecting assessments for the operation, maintenance, and if necessary, repairs of the Surface Water Management System within Everlands.

## 8. Owners and Membership.

8.1. Membership. The Members of the Association shall consist of all of the record Owners of Lots in Everlands from time to time.

8.2. Assignment. The share of an Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Home for which that share is held. The funds and assets of the Association shall be expended, held or used only for the benefit of the Owners and for the purposes authorized herein, in the Declaration, and in the By-Laws.

8.3. Voting. On all matters upon which the Owners shall be entitled to vote, there shall be only one (1) vote for each Lot, which vote shall be exercised or cast in the manner provided by the By-Laws, which may include neighborhood delegate voting on behalf of Owners.

8.4. Prior to Recordation of Declaration. Until such time as the real property comprising Everlands, and the improvements now and/or to be constructed thereon, are submitted to the community form of ownership by recordation of the Declaration in the Public Records of Brevard, Florida, the membership of the Association (the "Membership") shall be comprised of the Directors of the Association, each of whom shall be entitled to cast a vote on all matters upon which the Membership would be entitled to vote.

9. Dissolution. In the event of the dissolution of Association other than incident to a merger or consolidation, any member may petition the Circuit Court having jurisdiction of the Judicial Circuit of the State of Florida for the appointment of a receiver to manage its affairs of the dissolved Association and to manage the Common Areas, in the place and stead of Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and its properties. In addition, if Association is dissolved, the Surface Water Management System shall be conveyed to an appropriate agency of local government. If a governmental agency will not accept the Surface Water Management System, then it must be dedicated to a similar non-profit corporation.

10. Term of Existence. The Association shall have perpetual existence.

## 11. Directors.

11.1. Number and Qualification. The property, business and affairs of the Association shall be managed by a Board of Directors (the "Board") consisting initially of three (3) directors, but subject to

change as provided by the By-Laws. Directors appointed or designated by the Developer need not be Owners of the Association or residents of Homes or Lots in the Community. All other directors must be Owners.

11.2. Duties and Powers. All of the duties and powers of the Association existing under the Declaration, these Articles, and the By-Laws shall be exercised exclusively by the Board, its agents, contractors and/or employees, subject only to approval by Owners when such approval is specifically required by the Declaration.

11.3. Election; Removal. Directors shall be appointed, elected, and removed as provided in the By-Laws.

11.4. Current Directors. The names and addresses of the members of the current Board who shall hold office until their successors are appointed and/or elected, are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Greg Pettibon	8895 Military Trail, Suite 101-B, Palm Beach Gardens, FL 33410
T.R. Beer	8895 Military Trail, Suite 101-B, Palm Beach Gardens, FL 33410
Bojana Brown	8895 Military Trail, Suite 101-B, Palm Beach Gardens, FL 33410

12. Officers. The affairs of the Association shall be administered by the officers holding the offices designated in the By-Laws. The officers shall be elected by the Board and shall serve at the pleasure of the Board. The names and addresses of the current officers who shall serve until their successors are designated by the Board are as follows:

PRESIDENT:	Greg Pettibon 8895 Military Trail, Suite 101-B, Palm Beach Gardens, FL 33410
VICE PRESIDENT:	T.R. Beer 8895 Military Trail, Suite 101-B, Palm Beach Gardens, FL 33410
TREASURER/SECRETARY:	Bojana Brown 8895 Military Trail, Suite 101-B, Palm Beach Gardens, FL 33410

13. Incorporator. The name and address of the Incorporator is as follows:

Jeff Cooperman, Esq.  
Solomon, Cooperman & Recondo, LLP  
1101 Brickell Avenue, Suite N1101  
Miami, Florida 33131

14. Indemnification.

14.1. Indemnity. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director, employee, officer, or agent of the Association, against expenses (including reasonable attorneys' fees and paraprofessional fees at trial and upon appeal), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceedings, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, has no reasonable cause to believe his conduct was unlawful.

14.2. Limitations on Indemnification. Notwithstanding the foregoing, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have adjudged to be liable for gross negligence or intentional misconduct in the performance of his duties to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all of the circumstances of the case,

such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

14.3. Effect of Termination of Action. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

14.4. Expenses. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 14.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and paraprofessional fees at trial and upon appeal) actually and reasonably incurred by him in connection therewith.

14.5. Approval. Any indemnification under Section 14.1 above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper under the circumstances because he has met the applicable standard of conduct set forth in Section 14.1 above. Such determination shall be made (a) by the Board by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or, even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or by a majority of the voting interests of the Owners.

14.6. Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in any specific case upon receipt of an undertaking by or on behalf of the affected director, officer, employee or agent to repay such amount until such time it shall ultimately be determined that he was not entitled to be indemnified by the Association as authorized in this Article 14.

14.7. Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the By-Laws, agreement, vote of Owners or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs and personal representatives of such person.

15. By-Laws. The first By-Laws of the Association shall be adopted by the Board and may be altered, amended or rescinded by the Board, Owners, and/or the Developer as provided in the By-Laws.

16. Amendments. Amendments to these Articles shall be proposed and adopted in the following manner:

16.1. Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

16.2. Proposal. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or Owners holding one-third (1/3) of the voting interests in the Association.

16.3. Approval. An amendment shall be approved once it is approved:

16.3.1. by Owners holding a majority of the voting interests in the Association present in person or by proxy at a Members meeting at which a quorum thereof has been attained and by not less than sixty-six and two thirds percent (66-2/3%) of the entire Board; or

16.3.2. by Owners holding eighty percent (80%) of the voting interests in the Association present in person or by proxy at a Members meeting at which a quorum has been attained; or

16.3.3. prior to the date upon which Owners other than Developer control the Board, by not less than one hundred percent (100%) of the entire Board.

16.4. Attendance Not Required. Directors not present in person at the meeting considering the amendment may express their agreement or disagreement in writing, provided that the same is delivered

to the Secretary at or prior to the meeting. Such agreement or disagreement may not be used as a vote for or against the action taken and may not be used as a vote for the purpose of creating a quorum.

16.5. Limitation. Notwithstanding the foregoing, no amendment shall be made that is in conflict with the Declaration, or the By-Laws, nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers, or options herein provided in favor of or reserved to the Developer herein or in the Declaration unless the Developer shall join in the execution of the amendment.

16.6. Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the Public Records of Brevard County, Florida.

[ADDITIONAL TEXT AND SIGNATURES APPEAR ON THE FOLLOWING PAGE]

16.7. Developer. Notwithstanding anything herein to the contrary, prior to the Turnover Date, the Developer may amend these Articles without the consent or joinder of any party whatsoever. This paragraph may not be amended.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, being the Incorporator of this Association, has executed these Articles of Incorporation as of this 4<sup>th</sup> day of June, 2021.

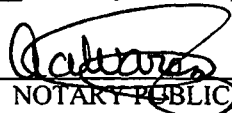


Jeff Cooperman, Esq., Incorporator

STATE OF FLORIDA            )  
  ) SS.:  
COUNTY OF MIAMI-DADE    )

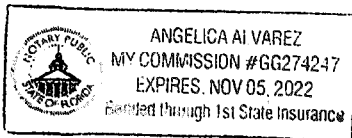
The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 4<sup>th</sup> day of June, 2021 by Jeff Cooperman, Esq. who is personally known to me.

My commission expires:



NOTARY PUBLIC  
State of Florida at Large

Print name: Angelica Alvarez




**ACCEPTANCE BY REGISTERED AGENT**

The undersigned, having been named to accept service of process for the above-stated corporation at the place designated in this certificate, hereby agrees to act in this capacity, and is familiar with, and accepts, the obligations of this position and further agrees to comply with the provisions of all statutes relative to the proper and complete performance of its duties.

Dated this 4<sup>th</sup> day of June, 2021

ASSOCIATION LAW GROUP, P.L.

By: \_\_\_\_\_  
Victor Recondo, Esq., Partner

**EXHIBIT 3**  
**BY-LAWS**



**BY-LAWS  
OF  
EVERLANDS MASTER ASSOCIATION, INC.**

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**BY-LAWS**  
**OF**  
**EVERLANDS MASTER ASSOCIATION, INC.**

1. **Name and Location.** The name of the corporation is Everlands Master Association, Inc. ("**Association**"). The principal office of the corporation shall be located at 8895 N. Military Trail, Suite 101-B, Palm Beach Gardens, Florida 33410, or at such other location determined by the Board of Directors (the "**Board**") from time to time.

2. **Definitions.** The definitions contained in the Declaration for Everlands (the "**Declaration**") relating to the residential community known as Everlands, recorded, or to be recorded, in the Public Records of Brevard County, Florida, are incorporated herein by reference and made a part hereof. All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration. In addition to the terms defined in the Declaration, the following terms shall have the meanings set forth below:

"**Annual Members Meeting**" shall have the meaning assigned to such term in Section 3.2 of these By-Laws.

"**Articles**" shall mean the Articles of Incorporation for Association, as amended from time to time.

"**By-Laws**" shall mean these By-Laws, together with all amendments and modifications thereof.

"**Declaration**" shall mean the Declaration as modified from time to time.

"**Delegate**" shall have the meaning set forth in Section 4.6.2.1 hereof. Delegates shall be the only Members entitled to vote the Voting Interests.

"**Developer**" shall mean Lennar Homes, LLC, and any of its designees, successors and assigns who receive a written assignment of all or some of the rights of Developer hereunder. Such assignment need not be recorded in the Public Records in order to be effective. In the event of such a partial assignment, the assignee shall not be deemed Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

"**Director**" shall mean a director elected or appointed to the Board.

"**Member**" shall mean a member of Association.

"**Minutes**" shall mean the minutes of all Member and Board meetings, which shall be in the form required by the Florida Statutes. In the absence of governing Florida Statutes, the Board shall determine the form of the minutes.

"**Official Records**" shall mean all records required to be maintained by Association pursuant to Section 720.303(4) of the Florida Statutes, as amended from time to time.

"**Special Members Meeting**" shall have the meaning assigned to such term in Section 3.3 of these By-Laws.

"**Turnover Date**" shall have the meaning set forth in the Declaration.

"**Voting Interests**" shall mean the voting rights held by the Members and exercised by Delegates.

3. **Members.**

3.1 **Voting Interests.** Each Owner and Developer shall be a Member of Association. No person who holds an interest in a Home only as security for the performance of an obligation shall be a Member of Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot. There shall be one vote appurtenant to each Lot (which shall be cast by the applicable Delegate, as further set forth herein).

3.2 **Annual Meetings.** The annual meeting of the Delegates (the "**Annual Members Meeting**") shall be held at least once each calendar year on a date, at a time, and at a place to be determined by the Board.

3.3 Special Meetings of the Members. Special meetings of the Delegates (a "Special Members Meeting") may be called by the President, a majority of the Board, or upon written request of Delegates entitled to cast ten percent (10%) of the Voting Interests of the Members. The business to be conducted at a Special Members Meeting shall be limited to the extent required by Florida Statutes.

3.4 Notice of Members Meetings. Written notice of each Members meeting shall be given by, or at the direction of, any officer of the Board or any management company retained by Association. A copy of the notice shall be mailed to each Delegate entitled to vote, postage prepaid, not less than ten (10) days before the meeting (provided, however, in the case of an emergency, two (2) days' notice will be deemed sufficient). The notice shall be addressed to the Delegate's address last appearing on the books of Association. The notice shall specify the place, day, and hour of the meeting and, in the case of a Special Members Meeting, the purpose of the meeting. Delegates shall be responsible for notifying Members of their respective Neighborhood of any Members meeting. Alternatively, and to the extent not prohibited by the Florida Statutes, the Board may adopt from time to time, other procedures for giving notice to the Delegates of the Annual Members Meeting or a Special Members Meeting. By way of example, and not of limitation, such notice may be included in a newsletter sent to each of the Delegates by Association.

3.5 Quorum of Delegates. Until and including the Turnover Date, a quorum shall be established by Developer's presence, in person or by proxy, at any meeting. After the Turnover Date, a quorum shall be established by the presence, in person or by proxy, of the Delegates entitled to cast twenty percent (20%) of the Voting Interests of Members, except as otherwise provided in the Articles, the Declaration, or these By-Laws. Notwithstanding any provision herein to the contrary, in the event that technology permits Delegates to participate in Members Meetings and vote on matters electronically, then the Board shall have authority, without the joinder of any other party, to revise this provision to establish appropriate quorum requirements.

3.6 Adjournment of Members Meetings. If, however, a quorum shall not be present at any Members meeting, the meeting may be adjourned as provided in the Florida Statutes. In the absence of a provision in the Florida Statutes, the Delegates present shall have power to adjourn the meeting and reschedule it on another date.

3.7 Action of Delegates. Decisions that require a vote of the Delegates must be made by a concurrence of a majority of the Voting Interests present in person or by proxy, represented at a meeting at which a quorum has been obtained unless provided otherwise in the Declaration, the Articles, or these By-Laws.

3.8 Proxies. At all meetings, Delegates may vote the Voting Interests of their respective Neighborhood in person or by proxy. All proxies shall comply with the provisions of Section 720.306(6) of the Florida Statutes, as amended from time to time, be in writing, and be filed with the Secretary at, or prior to, the meeting. Every proxy shall be revocable prior to the meeting for which it is given.

#### 4. Board of Directors.

4.1 Number. The affairs of Association shall be managed by a Board consisting of not less than three (3) persons and no more than nine (9) persons. Board members appointed by Developer need not be Members of Association. Board members elected by Delegates must be Members of Association.

4.2 Term of Office. The election of Directors shall take place after Developer no longer has the authority to appoint the Board and shall take place on the Turnover Date. Directors shall be elected for a term ending upon the election of new Directors at the following Annual Members Meeting (except that the term of the Board appointed by the Developer shall extend until the date designated by Developer, or until the Turnover Date).

4.3 Removal. Any vacancy created by the resignation or removal of a Board member appointed by Developer may be replaced by Developer. Developer may replace or remove any Board member appointed by Developer in Developer's sole and absolute discretion. In the event of death or resignation of a Director elected by the Delegates, the remaining Directors may fill such vacancy. Directors elected by Delegates may be removed with or without cause by the vote or agreement in writing of Delegates holding a majority of the Voting Interests.

4.4 Compensation. No Director shall receive compensation for any service rendered as a Director to Association; provided, however, any Director may be reimbursed for actual expenses incurred as a Director.

4.5 Action Taken Without a Meeting. Except to the extent prohibited by law, the Board shall have the right to take any action without a meeting by obtaining the written approval of the required number of Directors. Any action so approved shall have the same effect as though taken at a meeting of Directors.

4.6 Appointment and Election of Directors.

4.6.1 Prior to the Turnover Date. Prior to the Turnover Date, the Board shall consist of three (3) Members. Developer shall have the unrestricted power to appoint all Directors of Association.

4.6.2 After the Turnover Date. From and after the Turnover Date, or such earlier date determined by Developer in its sole and absolute discretion, the number of Directors will be determined by the Board.

4.6.2.1 Each Neighborhood shall be represented by an individual (the "**Delegate**"). The president of each Neighborhood Association shall serve as that Neighborhood's Delegate. In the event that the president of such Neighborhood Association is unavailable or unwilling to serve as the Delegate, the board of such Neighborhood Association shall appoint an alternative delegate to serve as the Delegate, which alternative delegate shall be a member of such Neighborhood Association.

4.6.2.2 Each Delegate shall have one (1) vote for each Lot located within such Delegate's Neighborhood. Notwithstanding the foregoing, double Lots shall have one (1) vote. The Delegates shall appoint and/or elect from amongst themselves the Directors of Association on the Turnover Date and thereafter such appointment and/or election shall occur at or in conjunction with the Annual Members Meeting. Directors shall be elected for a term expiring on the date of the next annual meeting.

4.7 Election. Election to the Board shall be by secret written ballot, unless unanimously waived by all Delegates present. The Delegates receiving the largest numbers of votes shall be elected. Cumulative voting of the Voting Interests held by Delegates for purposes of electing Directors is permitted.

4.8 Fiduciary Duty of Directors. Directors shall act in good faith in the performance of all duties.

5. Meeting of Directors.

5.1 Regular Meetings. Regular meetings of the Board shall be held on a schedule adopted by the Board from time to time. Meetings shall be held at such place, hour and date as may be fixed, from time to time, by resolution of the Board.

5.2 Special Meetings. Special meetings of the Board shall be held when called by the President, or by any two (2) Directors. Each Director shall be given not less than two (2) days' notice except in the event of an emergency. Notice may be waived. Attendance shall be a waiver of notice. Telephone conference meetings are permitted.

5.3 Emergencies. In the event of an emergency involving immediate danger of injury or death to any person or damage to property, if a meeting of the Board cannot be immediately convened to determine a course of action, the President or, in his absence, any other officer or director, shall be authorized to take such action on behalf of Association as shall be reasonably required to appropriately respond to the emergency situation, including the expenditure of Association funds in the minimum amount as may be reasonably required under the circumstances. The authority of officers to act in accordance herewith shall remain in effect until the first to occur of the resolution of the emergency situation or a meeting of the Board convened to act in response thereto.

5.4 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting, at which a quorum is present, or in writing in lieu thereof, shall be action of the Board. Any Director attending any regular or special meeting of the Board telephonically shall be considered present for purposes of quorum and voting.

5.5 Open Meetings. Meetings of the Board shall be open to all Members whose participation shall be through their respective Delegate only, and shall be permitted with Board acknowledgement or upon advance request through an item properly placed on the Board meeting agenda.

5.6 Voting. Board Members shall cast votes in the manner provided in the Florida Statutes. In the absence of a statutory provision, the Board shall establish the manner in which votes shall be cast.

5.7 Notice of Board Meetings. Notices of meetings of the Board shall be posted in a conspicuous place on the Common Areas at least 48 hours in advance, except in an event of an emergency. Alternatively, notice may be given to Delegates in any other manner provided by Florida Statute. By way of example, and not of limitation, notice may be given in any newsletter distributed to the Delegates and/or Members. Notices of any meetings of the Board at which Assessments against Homes are to be established shall specifically contain a statement that Assessments shall be considered and a statement of the nature of such Assessments.

## 6. Powers and Duties of the Board.

6.1 Powers. The Board shall, subject to the limitations and reservations set forth in the Declaration and Articles, have the powers reasonably necessary to manage, operate, maintain and discharge the duties of Association, including, but not limited to, the power to cause Association to do the following:

6.1.1 General. Exercise all powers, duties and authority vested in or delegated to Association by law and in these By-Laws, the Articles, the Declaration, including, without limitation, adopt budgets, levy Assessments, and enter into contracts with Telecommunications Providers for Telecommunications Services.

6.1.2 Rules and Regulations. Adopt, publish, promulgate and enforce rules and regulations governing the use of Everlands by the Members, tenants and their guests and invitees, and to establish penalties and/or fines for the infraction thereof subject only to the requirements of the Florida Statutes, if any.

6.1.3 Enforcement. Suspend the right of use of the Common Areas (other than for vehicular and pedestrian ingress and egress and for utilities) of a Member during any period in which such Member shall be in default in the payment of any Assessment or charge levied, or collected, by Association.

6.1.4 Declare Vacancies. Declare the office of a member of the Board to be vacant in the event such Delegate shall be absent from three (3) consecutive regular Board meetings.

6.1.5 Hire Employees. Employ, on behalf of Association, managers, independent contractors, or such other employees as it deems necessary, to prescribe their duties and delegate to such manager, contractor or other person or entity any or all of the duties and functions of Association and/or its officers.

6.1.6 Common Areas. Dedicate, grant, license, lease, concession, create easements upon, sell or transfer all or any part of, the Common Areas to any public agency, entity, authority, utility or other person or entity for such purposes as subject to such conditions as it determines and as provided in the declaration; and acquire, sell, operate, lease, manage and otherwise trade and deal with property, real and personal, including the Common Areas, as provided in the Declaration, and with any other matters involving Association or its Members, on behalf of Association or the discharge of its duties, as may be necessary or convenient for the operation and management of Association and in accomplishing the purposes set forth in the Declaration.

6.1.7 Granting of Interest. Grant licenses, easements, permits, leases, or privileges to any individual or entity, which affect Common Areas and to alter, add to, relocate or improve the Common Areas as provided in the Declaration.

6.1.8 Financial Reports. Prepare all financial reports required by the Florida Statutes.

6.1.9 District. Contract with the District for any lawful purpose.

6.2 Vote. The Board shall exercise all powers so granted except where the Declaration, Articles or these By-Laws specifically require a vote of the Members.

6.3 Limitations. Until the Turnover Date, Developer shall have and is hereby granted a right to disapprove or veto any such action, policy, or program proposed or authorized by Association, the Board, the ACC, any committee of Association, or the vote of the Members. This right may be exercised by Developer at any time within ten (10) days following a meeting held pursuant to the terms and



provisions hereof. This right to disapprove may be used to veto proposed actions but shall not extend to the requiring of any action or counteraction on behalf of Association, the Board, the ACC or any committee of Association.

7. Obligations of Association. Association, subject to the provisions of the Declaration, Articles, and these By-Laws, shall discharge such duties as may be necessary in order to operate Association pursuant to the Declaration, including, but not limited to, the following:

7.1 Official Records. Maintain and make available all Official Records ("Official Records").

7.2 Supervision. Supervise all officers, agents and employees of Association, and to see that their duties are properly performed.

7.3 Assessments and Fines. Fix and collect the amount of the Assessments and fines; take all necessary legal action; and pay, or cause to be paid, all obligations of Association or where Association has agreed to do so, of the Members.

7.4 Enforcement. Enforce the provisions of the Declaration, Articles, these By-Laws, and Rules and Regulations.

8. Officers and Their Duties.

8.1 Officers. The officers of this Association shall be a President, a Vice President, a Secretary, and a Treasurer.

8.2 Election of Officers. Except as set forth below, the election of officers shall be by the Board and shall take place at the first meeting of the Board following each Annual Members Meeting.

8.3 Term. The officers named in the Articles shall serve until their replacement by the Board. The officers of Association shall hold office until their successors are appointed or elected unless such officer shall sooner resign, be removed, or otherwise disqualified to serve.

8.4 Special Appointment. The Board may elect such other officers as the affairs of Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

8.5 Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein. Acceptance of such resignation shall not be necessary to make it effective.

8.6 Vacancies. A vacancy in any office shall be filled by appointment by the Board. The officer appointed to fill such vacancy shall serve for the remainder of the term of the replaced officer.

8.7 Multiple Offices. The office of President and Vice-President shall not be held by the same person. All other offices may be held by the same person.

8.8 Duties. The duties of the officers are as follows:

8.8.1 President. The President shall preside at all meetings of Association and Board, sign all leases, mortgages, deeds and other written instruments and perform such other duties as may be required by the Board. The President shall be a member of the Board. In addition to the foregoing, prior to and including the Turnover Date, any Developer-appointed director serving as President of the Association shall be entitled and shall be authorized to take action on behalf of the Association including, without limitation, entering into contracts, terminating vendors, conveying real property or Common Areas, and bringing and/or resolving legal claims, without a vote, approval or consent of the remaining directors.

8.8.2 Vice President. The Vice President shall act in the place and stead of the President in the event of the absence, inability or refusal to act of the President, and perform such other duties as may be required by the Board.

8.8.3 Secretary. The Secretary shall record the votes and keep the Minutes of all meetings and proceedings of Association and the Board; keep the corporate seal of Association and affix it on all papers required to be sealed; serve notice of meetings of the Board and of Association; keep

appropriate current records showing the names of the Members of Association together with their addresses; and perform such other duties as may be required by the Board.

8.8.4 Treasurer. The Treasurer shall cause to be received and deposited in appropriate bank accounts all monies of Association and shall disburse such funds as directed by the Board; sign, or cause to be signed, all checks, and promissory notes of Association; cause to be kept proper books of account and accounting records required pursuant to the provisions of Section 720.303 of the Florida Statutes cause to be prepared in accordance with generally accepted accounting principles all financial reports required by the Florida Statutes; and perform such other duties as required by the Board.

9. Committees.

9.1 General. The Board may appoint such committees as it deems appropriate. The Board may fill any vacancies on all committees.

9.2 ACC. Developer shall have the sole right to appoint the members of the ACC until the Turnover Date. Upon expiration of the right of Developer to appoint members of the ACC, the Board shall appoint the members of the ACC. As provided in the Declaration, Association shall have the authority and standing to seek in courts of competent jurisdiction, enforcement of any decisions of the ACC.

10. Records. The Official Records of Association shall be available for inspection by any Member at the principal office of Association. Copies may be purchased, by a Member, at a reasonable cost.

11. Corporate Seal. Association shall have an impression seal in circular form.

12. Amendments.

12.1 General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to these By-Laws shall affect the rights of Developer unless such amendment receives the prior written consent of Developer which may be withheld for any reason whatsoever. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to these By-Laws, then the prior written consent of such entity or agency must also be obtained. No amendment shall be effective until it is recorded in the Public Records.

12.2 Amendments Prior to and Including the Turnover Date. Prior to and including the Turnover Date, Developer shall have the right to amend these By-Laws as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Developer's right to amend under this provision is to be construed as broadly as possible. In the event that Association shall desire to amend these By-Laws prior to and including the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

12.3 Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, these By-Laws may be amended with the approval of (i) two-thirds (66 2/3%) of the Board; and (ii) seventy-five percent (75%) of the votes as calculated by Voting Interests held by Delegates present, in person or by proxy, at a duly noticed meeting of the Members at which there is a quorum. Notwithstanding the foregoing, these By-Laws may be amended after the Turnover Date by two-thirds (66 2/3%) of the Board acting alone to change the number of directors on the Board. Such change shall not require the approval of the Delegates.

13. Conflict. In the case of any conflict between the Articles and these By-Laws, the Articles shall control. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

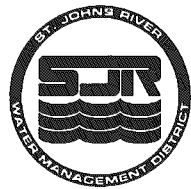
14. Fiscal Year. The first fiscal year shall begin on the date of incorporation and end on December 31 of that year. Thereafter, the fiscal year of Association shall begin on the first day of January and end on the 31st day of December of every year.

15. Miscellaneous.

15.1 Florida Statutes. Whenever these By-Laws refer to the Florida Statutes, they shall be deemed to refer to the Florida Statutes as they exist on the date these By-Laws are recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

15.2 Severability. Invalidation of any of the provisions of these By-Laws by judgment or court order shall in no way affect any other provision, and the remainder of these By-Laws shall remain in full force and effect.

**EXHIBIT 4**  
**PERMIT**



# St. Johns River

## Water Management District

Ann B. Shortelle, Ph.D., Executive Director

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4049 Reid Street • P.O. Box 1429 • Palatka, FL 32178-1429 • (386) 329-4500  
On the Internet at [floridaswater.com](http://floridaswater.com).

August 24, 2015

City of Palm Bay  
120 Malabar Rd SE  
Palm Bay, FL 32907-3009

SUBJECT: 125243-5  
Palm Bay Parkway/Emerson/Pace Permit Modification

Dear Sir:

Enclosed is your individual permit issued by the St. Johns River Water Management District on August 24, 2015. This permit is a legal document and should be kept with your other important documents. Permit issuance does not relieve you from the responsibility of obtaining any necessary permits from any federal, state, or local agencies for your project.

**Technical Staff Report:**

If you wish to review a copy of the Technical Staff Report (TSR) that provides the District's staff analysis of your permit application, you may view the TSR by going to the Permitting section of the District's website at [floridaswater.com/permitting](http://floridaswater.com/permitting). Using the "search applications and permits" feature, you can use your permit number or project name to find information about the permit. When you see the results of your search, click on the permit number and then on the TSR folder.

**Noticing Your Permit:**

For noticing instructions, please refer to the noticing materials in this package regarding closing the point of entry for someone to challenge the issuance of your permit. Please note that if a timely petition for administrative hearing is filed, your permit will become nonfinal and any activities that you choose to undertake pursuant to your permit will be at your own risk.

**Compliance with Permit Conditions:**

To submit your required permit compliance information, go to the District's website at [floridaswater.com/permitting](http://floridaswater.com/permitting). Under the "Apply for a permit or submit compliance data" section, click to sign-in to your existing account or to create a new account. Select the "Compliance Submittal" tab, enter your permit number, and select "No Specific Date" for the Compliance Due Date Range. You will then be able to view all the compliance submittal requirements for your project. Select the compliance item that you are ready to submit and then attach the appropriate information or form. The forms to comply with your permit conditions are available at [floridaswater.com/permitting](http://floridaswater.com/permitting) under the section "Handbooks, forms, fees, final orders". Click on forms to view all permit compliance forms, then scroll to the ERP application forms section and select the applicable compliance forms. Alternatively, if you have difficulty finding forms or need

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**GOVERNING BOARD**

---

John A. Miklos, CHAIRMAN  
ORLANDO

Douglas C. Bournique  
VERO BEACH

Fred N. Roberts Jr., VICE CHAIRMAN  
OCALA

Douglas Burnett  
ST. AUGUSTINE

Chuck Drake, SECRETARY  
ORLANDO

Maryam H. Ghyabi  
ORMOND BEACH

Ron Howse  
COCOA

Carla Yetter, TREASURER  
FERNANDINA BEACH

George W. Robbins  
JACKSONVILLE

copies of the appropriate forms, please contact the Bureau of Regulatory Support at (386) 329-4570.

**Transferring Your Permit:**

Your permit requires you to notify the District within 30 days of any change in ownership or control of the project or activity covered by the permit, or within 30 days of any change in ownership or control of the real property on which the permitted project or activity is located or occurs. You will need to provide the District with the information specified in rule 62-330.340, Florida Administrative Code (F.A.C.). Generally, this will require you to complete and submit Form 62-330.340(1), "Request to Transfer Permit," available at <http://www.floridaswater.com/permitting/permitforms.html>.

Please note that a permittee is liable for compliance with the permit before the permit is transferred. The District, therefore, recommends that you request a permit transfer in advance in accordance with the applicable rules. You are encouraged to contact District staff for assistance with this process.

Thank you and please let us know if you have additional questions. For general questions contact [e-permit@sjrwmd.com](mailto:e-permit@sjrwmd.com) or (386) 329-4570.

Sincerely,



Margaret Daniels, Bureau Chief  
Bureau of Regulatory Support  
St. Johns River Water Management District  
4049 Reid Street  
Palatka, FL 32177-2529  
(386) 329-4570

Enclosures: Permit

cc: District Permit File

**Consultant:** S. Mark Kline  
Keith and Schnars, P.A.  
6500 N Andrews Ave  
Ft Lauderdale, FL 33309-2132

**ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**  
**Post Office Box 1429**  
**Palatka, Florida 32178-1429**

**PERMIT NO:** 125243-5                      **DATE ISSUED:** August 24, 2015  
**PROJECT NAME:** Palm Bay Parkway/Emerson/Pace Permit Modification

**A PERMIT AUTHORIZING:**  
Modification of an existing permit and re-construction of a Stormwater Management System with stormwater treatment by roadside swales, wet detention for Palm Bay Parkway/Emerson/Pace, a 72.2- acre project to be constructed as per plans received by the District on August 14, 2015.

**LOCATION:**  
Section(s): 17, 21, 28, 32, Township(s): 28S                      Range(s): 36E  
                  16, 29, 20  
Brevard County

**Receiving Water Body:**

Name	Class
Indian River Lagoon	III Marine, IW
Sawgrass Lake Water Management Area	III Fresh, IW

**ISSUED TO:**  
City of Palm Bay  
120 Malabar Rd SE  
Palm Bay, FL 32907-3009


The permittee agrees to hold and save the St. Johns River Water Management District and its successors harmless from any and all damages, claims, or liabilities which may arise from permit issuance. Said application, including all plans and specifications attached thereto, is by reference made a part hereof.

This permit does not convey to the permittee any property rights nor any rights or privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation or requirement affecting the rights of other bodies or agencies. All structures and works installed by permittee hereunder shall remain the property of the permittee.

This permit may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes.

**PERMIT IS CONDITIONED UPON:**  
See conditions on attached "Exhibit A", dated August 24, 2015

**AUTHORIZED BY:** St. Johns River Water Management District  
Division of Regulatory, Engineering and Environmental Services

By:   
\_\_\_\_\_  
John Juilianna  
Service Center Director



**"EXHIBIT A"**  
**CONDITIONS FOR ISSUANCE OF PERMIT NUMBER 125243-5**  
**Palm Bay Parkway/Emerson/Pace Permit Modification**  
**DATED August 24, 2015**

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the District staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007), and the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), which are both incorporated by reference in subparagraph 62-330.050(9)(b)5, F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the District a fully executed Form 62-330.350(1), "Construction Commencement Notice,"[10-1-13], incorporated by reference herein (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505>), indicating the expected start and completion dates. A copy of this form may be obtained from the District, as described in subsection 62-330.010(5), F.A.C. If available, an District website that fulfills this notification requirement may be used in lieu of the form.
5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
  - a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex — "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or
  - b. For all other activities — "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)].
  - c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.

7. If the final operation and maintenance entity is a third party:
  - a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as-built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
  - b. Within 30 days of submittal of the as- built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity" [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.
8. The permittee shall notify the District in writing of changes required by any other regulatory District that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.
9. This permit does not:
  - a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
  - b. Convey to the permittee or create in the permittee any interest in real property;
  - c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
  - d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.
11. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.
12. The permittee shall notify the District in writing:
  - a. Immediately if any previously submitted information is discovered to be inaccurate; and
  - b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.

13. Upon reasonable notice to the permittee, District staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.
16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.
17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the District will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with Rule 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.
19. This permit for construction will expire five years from the date of issuance.
20. The operation and maintenance entity shall inspect the stormwater or surface water management system once within two years after the completion of construction and every two years thereafter to determine if the system is functioning as designed and permitted. The operation and maintenance entity must maintain a record of each required inspection, including the date of the inspection, the name and contact information of the inspector, and whether the system was functioning as designed and permitted, and make such record available for inspection upon request by the District during normal business hours. If at any time the system is not functioning as designed and permitted, then within 30 days the entity shall submit a report electronically or in writing to the District using Form 62-330.311(1), "Operation and Maintenance Inspection Certification," describing the remedial actions taken to resolve the failure or deviation.
21. This permit for construction will expire five years from the date of issuance.
22. The operation and maintenance entity shall inspect the stormwater or surface water management system once within two years after the completion of construction and every two years thereafter to determine if the system is functioning as designed and permitted.

The operation and maintenance entity must maintain a record of each required inspection, including the date of the inspection, the name and contact information of the inspector, and whether the system was functioning as designed and permitted, and make such record available for inspection upon request by the District during normal business hours. If at any time the system is not functioning as designed and permitted, then within 30 days the entity shall submit a report electronically or in writing to the District using Form 62-330.311(1), "Operation and Maintenance Inspection Certification," describing the remedial actions taken to resolve the failure or deviation.

23. The surface water management system is already constructed and completed in accordance with the design/built plans received by the District on August 14, 2015. The design/built plans supersedes the original permitted plans received by the District on January 7, 2011.
24. This permit does not authorize any additional work and/or construction associated with this roadway project.
25. This permit authorizes the construction of two(2) lanes only, additional permitting will be required to accommodate any future lanes and modification of the authorized or temporary systems.
26. Prior to the use of the roadway, the permittee must install a fence along the minimum 15', average 25' wide upland buffer boundary in order to restrict access and prevent damage to the upland buffer/wetland area.
27. Prior to the use of the roadway, the permittee must stabilize the slope adjacent to Wetland 3 of the Palm Vista Subdivision by planting with sand cordgrass using bare root plants at 18 inches on center or one gallon plants at 36 inches on center and one gallon wax myrtle planted 8 foot on center. Any deviation must be approved by the District prior to installation.
28. Successful establishment of the upland buffer planting area will have occurred when:
  - o a) At least 90 percent of the planted individuals in each stratum have survived throughout the monitoring period and are showing signs of normal growth, based upon standard growth parameters such as height and base diameter, or canopy circumference; and,
  - o b) At least 80 percent cover by appropriate native, non-invasive species has been obtained; and,
  - o c) The above criteria have been achieved by the end of a 3-year period following initial planting.

### Notice of Rights

1. A person whose substantial interests are or may be affected has the right to request an administrative hearing by filing a written petition with the St. Johns River Water Management District (District). Pursuant to Chapter 28-106 and Rule 40C-1.1007, Florida Administrative Code, the petition must be filed (received) either by delivery at the office of the District Clerk at District Headquarters, P. O. Box 1429, Palatka Florida 32178-1429 (4049 Reid St., Palatka, FL 32177) or by e-mail with the District Clerk at [Clerk@sjrwm.com](mailto:Clerk@sjrwm.com), within twenty-six (26) days of the District depositing the notice of District decision in the mail (for those persons to whom the District mails actual notice), within twenty-one (21) days of the District emailing the notice of District decision (for those persons to whom the District emails actual notice), or within twenty-one (21) days of newspaper publication of the notice of District decision (for those persons to whom the District does not mail or email actual notice). A petition must comply with Sections 120.54(5)(b)4. and 120.569(2)(c), Florida Statutes, and Chapter 28-106, Florida Administrative Code. The District will not accept a petition sent by facsimile (fax), as explained in paragraph no. 4 below.
  
2. Please be advised that if you wish to dispute this District decision, mediation may be available and that choosing mediation does not affect your right to an administrative hearing. If you wish to request mediation, you must do so in a timely-filed petition. If all parties, including the District, agree to the details of the mediation procedure, in writing, within 10 days after the time period stated in the announcement for election of an administrative remedy under Sections 120.569 and 120.57, Florida Statutes, the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, shall be tolled to allow mediation of the disputed District decision. The mediation must be concluded within 60 days of the date of the parties' written agreement, or such other timeframe agreed to by the parties in writing. Any mediation agreement must include provisions for selecting a mediator, a statement that each party shall be responsible for paying its pro-rata share of the costs and fees associated with mediation, and the mediating parties' understanding regarding the confidentiality of discussions and documents introduced during mediation. If mediation results in settlement of the administrative dispute, the District will enter a final order consistent with the settlement agreement. If mediation terminates without settlement of the dispute, the District will notify all the parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Florida Statutes, is resumed. Even if a party chooses not to engage in formal mediation, or if formal mediation does not result in a settlement agreement, the District will remain willing to engage in informal settlement discussions.
  
3. A person whose substantial interests are or may be affected has the right to an informal administrative hearing pursuant to Sections 120.569 and 120.57(2), Florida Statutes, where no material facts are in dispute. A petition for an informal hearing must also comply with the requirements set forth in Rule 28-106.301, Florida Administrative Code.

### Notice of Rights

4. A petition for an administrative hearing is deemed filed upon receipt of the complete petition by the District Clerk at the District Headquarters in Palatka, Florida during the District's regular business hours. The District's regular business hours are 8:00 a.m. – 5:00 p.m., excluding weekends and District holidays. Petitions received by the District Clerk after the District's regular business hours shall be deemed filed as of 8:00 a.m. on the District's next regular business day. The District's acceptance of petitions filed by e-mail is subject to certain conditions set forth in the District's Statement of Agency Organization and Operation (issued pursuant to Rule 28-101.001, Florida Administrative Code), which is available for viewing at [floridaswater.com](http://floridaswater.com). These conditions include, but are not limited to, the petition being in the form of a PDF or TIFF file and being capable of being stored and printed by the District. Further, pursuant to the District's Statement of Agency Organization and Operation, attempting to file a petition by facsimile is prohibited and shall not constitute filing.
5. Failure to file a petition for an administrative hearing within the requisite timeframe shall constitute a waiver of the right to an administrative hearing. (Rule 28-106.111, Florida Administrative Code).
6. The right to an administrative hearing and the relevant procedures to be followed are governed by Chapter 120, Florida Statutes, Chapter 28-106, Florida Administrative Code, and Rule 40C-1.1007, Florida Administrative Code. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means the District's final action may be different from the position taken by it in this notice. A person whose substantial interests are or may be affected by the District's final action has the right to become a party to the proceeding, in accordance with the requirements set forth above.
7. Pursuant to Section 120.68, Florida Statutes, a party to the proceeding before the District who is adversely affected by final District action may seek review of the action in the District Court of Appeal by filing a notice of appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, within 30 days of the rendering of the final District action.
8. A District action is considered rendered, as referred to in paragraph no. 7 above, after it is signed on behalf of the District and filed by the District Clerk.
9. Failure to observe the relevant timeframes for filing a petition for judicial review as described in paragraph no. 7 above will result in waiver of that right to review.

**Notice of Rights**

**Certificate of Service**

I HEREBY CERTIFY that a copy of the foregoing Notice of Rights has been sent to the permittee:

City of Palm Bay  
120 Malabar Rd SE  
Palm Bay, FL 32907-3009

This 24th day of August, 2015.

A handwritten signature in cursive script, appearing to read "M. Daniels".

Margaret Daniels, Bureau Chief  
Bureau of Regulatory Support  
St. Johns River Water Management District  
4049 Reid Street  
Palatka, FL 32177-2529  
(386) 329-4570

Permit Number: 125243-5



### NOTICING INFORMATION

Dear Permittee:

Please be advised that the St. Johns River Water Management District will not publish a notice in the newspaper advising the public that it has issued a permit for this project.

Newspaper publication, using the District's notice form, notifies members of the public of their right to challenge the issuance of the permit. If proper notice is given by newspaper publication, then there is a 21-day time limit for someone to file a petition for an administrative hearing to challenge the issuance of the permit.

To close the point of entry for filing a petition, you may publish (at your own expense) a one-time notice of the District's decision in a newspaper of general circulation within the affected area as defined in Section 50.011 of the Florida Statutes. If you do not publish a newspaper notice to close the point of entry, the time to challenge the issuance of your permit will not expire and someone could file a petition even after your project is constructed.

A copy of the notice form and a partial list of newspapers of general circulation are attached for your convenience. However, you are not limited to those listed newspapers. If you choose to close the point of entry and the notice is published, the newspaper will return to you an affidavit of publication. In that event, it is important that you either submit a scanned copy of the affidavit by emailing it to [compliancesupport@sjrwmd.com](mailto:compliancesupport@sjrwmd.com) (preferred method) or send a copy of the original affidavit to:

Margaret Daniels, Bureau Chief  
Bureau of Regulatory Support  
4049 Reid Street  
Palatka, FL 32177

If you have any questions, please contact the Bureau of Regulatory Support at (386) 329-4570.

Sincerely,



Margaret Daniels, Bureau Chief  
Bureau of Regulatory Support

NOTICE OF AGENCY ACTION TAKEN BY THE  
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

Notice is given that the following permit was issued on \_\_\_\_\_:

(Name and address of applicant)\_\_\_\_\_  
permit#\_\_\_\_\_. The project is located in \_\_\_\_\_ County, Section  
\_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ East. The permit authorizes a surface  
water management system on \_\_\_\_\_ acres for \_\_\_\_\_ known as  
\_\_\_\_\_. The receiving water body is \_\_\_\_\_.

A person whose substantial interests are or may be affected has the right to request an administrative hearing by filing a written petition with the St. Johns River Water Management District (District). Pursuant to Chapter 28-106 and Rule 40C-1.1007, Florida Administrative Code (F.A.C.), the petition must be filed (received) either by delivery at the office of the District Clerk at District Headquarters, P.O. Box 1429, Palatka FL 32178-1429 (4049 Reid St, Palatka, FL 32177) or by e-mail with the District Clerk at Clerk@sjrwmd.com, within twenty-one (21) days of newspaper publication of the notice of District decision (for those persons to whom the District does not mail or email actual notice). A petition must comply with Sections 120.54(5)(b)4. and 120.569(2)(c), Florida Statutes (F.S.), and Chapter 28-106, F.A.C. The District will not accept a petition sent by facsimile (fax). Mediation pursuant to Section 120.573, F.S., may be available and choosing mediation does not affect your right to an administrative hearing.

A petition for an administrative hearing is deemed filed upon receipt of the complete petition by the District Clerk at the District Headquarters in Palatka, Florida during the District's regular business hours. The District's regular business hours are 8 a.m. – 5 p.m., excluding weekends and District holidays. Petitions received by the District Clerk after the District's regular business hours shall be deemed filed as of 8 a.m. on the District's next regular business day. The District's acceptance of petitions filed by e-mail is subject to certain conditions set forth in the District's Statement of Agency Organization and Operation (issued pursuant to Rule 28-101.001, Florida Administrative Code), which is available for viewing at floridaswater.com. These conditions include, but are not limited to, the petition being in the form of a PDF or TIFF file and being capable of being stored and printed by the District. Further, pursuant to the District's Statement of Agency Organization and Operation, attempting to file a petition by facsimile (fax) is prohibited and shall not constitute filing.

The right to an administrative hearing and the relevant procedures to be followed are governed by Chapter 120, Florida Statutes, Chapter 28-106, Florida Administrative Code, and Rule 40C-1.1007, Florida Administrative Code. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means the District's final action may be different from the position taken by it in this notice. **Failure to file a petition for an administrative hearing within the requisite time frame shall constitute a waiver of the right to an administrative hearing. (Rule 28-106.111, F.A.C.).**

If you wish to do so, please visit [http://floridaswater.com/nor\\_dec/](http://floridaswater.com/nor_dec/) to read the complete Notice of Rights to determine any legal rights you may have concerning the District's decision(s) on the permit application(s) described above. You can also request the Notice of Rights by contacting the Director of Regulatory Support, 4049 Reid St., Palatka, FL 32177-2529, tele. no. (386)329-4570.

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THIS INSTRUMENT PREPARED BY  
AND UPON RECORDATION RETURN TO:

JEFF COOPERMAN, ESQ.  
SOLOMON, COOPERMAN & RECONDO, LLP  
1101 BRICKELL AVENUE, SUITE N1101  
MIAMI, FLORIDA 33131

DECLARATION  
FOR  
MEDLEY AT EVERLANDS

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**DECLARATION  
FOR  
MEDLEY AT EVERLANDS**

THIS DECLARATION FOR MEDLEY AT EVERLANDS (this “**Declaration**”) is made by Lennar Homes, LLC, a Florida limited liability company (“**Lennar**”) and joined in by Medley at Everlands Homeowners Association, Inc., a Florida not-for-profit corporation (“**Association**”), \_\_\_\_\_

**R E C I T A L S**

A. Lennar is the owner of that certain real property located in Brevard County, Florida (“**County**”), more particularly described in **Exhibit 1** attached hereto and made a part hereof (“**Medley at Everlands**”).

B. Lennar, as the Developer (as defined below) desires to subject Medley at Everlands to the covenants, conditions and restrictions contained in this Declaration.

C. This Declaration is a covenant running with all of the land comprising Medley at Everlands, and each present and future owner of interests therein and their heirs, successors and assigns are hereby subject to this Declaration.

NOW THEREFORE, in consideration of the premises and mutual covenants contained in this Declaration, Lennar, and on behalf of its successors and/or assigns), hereby declares that every portion of Medley at Everlands is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, charges and liens hereinafter set forth.

1. **Recitals.** The foregoing Recitals are true and correct and are incorporated into and form a part of this Declaration.

2. **Definitions.** In addition to the terms defined elsewhere in this Declaration, all initially capitalized terms herein shall have the following meanings:

“**ACC**” shall mean the Architectural Control Committee for Medley at Everlands established pursuant to Section 22.1 hereof.

“**Access Control System**” shall mean any system intended to control vehicular access to and/or from Medley at Everlands.

“**Articles**” shall mean the Articles of Incorporation of Association filed with the Florida Secretary of State in the form attached hereto as **Exhibit 2** and made a part hereof, as amended from time to time.

“**Assessments**” shall mean any assessments made in accordance with this Declaration and as further defined in Section 20 hereof.

“**Association**” shall mean Medley at Everlands Homeowners Association, Inc., its successors and assigns.

“**Association Documents**” shall mean this Declaration, the Articles, the By-Laws, the Rules and Regulations, and the Community Standards, as amended from time to time.

“**Board**” shall mean the Board of Directors of Association.

“**Builder**” shall mean any Owner who is designated in writing as a Builder by Developer. All Owners that are designated as Builders shall be entitled to the rights of Builders contained in this Declaration.

“**By-Laws**” shall mean the By-Laws of Association in the form attached hereto as **Exhibit 3** and made a part hereof, as amended from time to time.

“**Cable Services**” shall mean “basic service tier” as described in Section 623(b)(7)(A) of the Cable Television Consumer Protection Act of 1992, video programming services offered on a per-channel or per-program basis, video programming services offered in addition to basic service tier, any method of delivering video programming to Homes including, without limitation, interactive video programming, and any channel recognized in the industry as premium including, without limitation, HBO, Showtime, Disney, Cinemax and the Movie Channel. By way of example, and not of limitation, the term Cable Services may include cable television, satellite master antenna television, individual satellite dishes, multipoint distribution systems, video dialtone, open video system or any combination thereof.

“**Common Areas**” shall mean all real property interests and personalty within Medley at Everlands designated as Common Areas from time to time by Plat or recorded amendment to this Declaration and provided for, owned, leased by, or dedicated to, the common use and enjoyment of the Owners within Medley at Everlands. The Common Areas may include, without limitation, open space areas, internal buffers, entrance features, a gatehouse, access control components, perimeter buffers, perimeter walls and fences, landscaping areas, improvements, easement areas owned by others, public rights of way, additions, lakes, waterways, irrigation pumps, irrigation lines, sidewalks, private roads, landscape lighting, walls, commonly used utility facilities, project signage, and parking areas. The Common Areas do not include any portion of a Home or Lot. NOTWITHSTANDING ANYTHING

HEREIN CONTAINED TO THE CONTRARY, THE DEFINITION OF “COMMON AREAS” AS SET FORTH IN THIS DECLARATION IS FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND, OBLIGATE OR LIMIT DEVELOPER TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION, THE CONSTRUCTION OR SUPPLYING OF ANY SUCH ITEM BEING IN DEVELOPER’S SOLE DISCRETION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF THE COMMON AREAS TO BE OWNED, LEASED BY OR DEDICATED TO ASSOCIATION, EXCEPT AFTER CONSTRUCTION AND DEDICATION OR CONVEYANCE OF ANY SUCH ITEM. Further, and without limiting the foregoing, it is possible that certain areas that would otherwise be Common Areas shall be conveyed to the District and comprise part of the Facilities. The final determination as to whether any areas within Medley at Everlands shall be Common Areas or comprise part of the Facilities shall be made by the Developer in its sole and absolute discretion.

“**Community Completion Date**” shall mean the date upon which all Homes in Medley at Everlands, as ultimately planned and as fully developed, have been conveyed by Developer and/or Builder to Owners.

“**Community Standards**” shall mean such standards of conduct, maintenance or other activity, if any, established by the ACC pursuant to Section 22.5 hereof.

“**Contractors**” shall have the meaning set forth in Section 22.12 hereof.

“**County**” shall have the meaning set forth in the Recitals hereof.

“**Data Transmission Services**” shall mean (i) internet access services and (ii) enhanced services as defined in Section 64.702 of Title 47 of the Code of Federal Regulations, as amended from time to time, and without regard to whether the transmission facilities are used in interstate commerce.

“**Declaration**” shall mean this Declaration together with all amendments and modifications thereof.

“**Developer**” shall mean Lennar and any of its designees (including its affiliated or related entities which conduct land development, homebuilding and sales activities), successors and assigns who receive a written assignment of all or some of the rights of Developer hereunder. Developer shall have the right to assign all or a portion of any rights granted to the Developer in this Declaration. Developer shall also have the right to assign all or a portion of any obligations of the Developer in this Declaration. Such assignment need not be recorded in the Public Records in order to be effective. In the event of a partial assignment of some, but not all, Developer rights and/or obligations, the assignee shall not be deemed Developer, but may exercise those rights or shall be responsible for those obligations of Developer assigned to it. Additionally, any partial assignee that does not assume all of the obligations of Developer shall not be deemed the Developer. Any such assignment may be made on a non-exclusive basis. All assignments of Developer rights and/or obligations (whether full and/or partial) must be in writing.

“**District**” shall have the meaning set forth in Section 10 hereof.

“**Estate Home**” shall mean each single-family Home within Medley at Everlands.

“**Facilities**” shall have the meaning set forth in Section 10 hereof.

“**Front Yard**” shall mean the yard of every Home between the front of the Home and the road providing access to such Home. In the event that there is any question about what portion of a Home is part of the Front Yard, Association’s determination shall be final.

“**Home**” shall mean a residential home and appurtenances thereto constructed on a Lot or Parcel within Medley at Everlands. A Home shall include, without limitation, a coach home, villa, townhome, estate home, single family home and zero lot line home. The term Home may not reflect the same division of property as reflected on a Plat. A Home shall be deemed created and have perpetual existence upon the issuance of a final or temporary Certificate of Occupancy for such residence; provided, however, the subsequent loss of such Certificate of Occupancy (e.g., by casualty or remodeling) shall not affect the status of a Home, or the obligation of Owner to pay Assessments with respect to the Lot upon which the Home is constructed. The term “Home” includes any interest in land, improvements, or other property appurtenant to the Home.

“**Individual Assessments**” shall have the meaning set forth in Section 20.2 hereof.

“**Initial Contribution**” shall have the meaning set forth in Section 20.11 herein.

“**Installment Assessments**” shall have the meaning set forth in Section 20.2 hereof.

“**Lender**” shall mean (i) the institutional and licensed holder of a first mortgage encumbering a Lot or Home or (ii) Developer and its affiliates, to the extent Developer or its affiliates finances the purchase of a Home or Lot initially or by assignment of an existing mortgage.

“**Lessee**” shall mean the lessee named in any written lease respecting a Home who is legally entitled to possession of any rental Home within Medley at Everlands.

“**Lot**” shall mean any platted residential lot shown on a Plat. Once a Home has been constructed on a Lot, the term “Lot” shall be deemed to include all improvements thereon including, without limitation, a Home.

**“Master Association”** shall mean Everlands Master Association, Inc. a Florida not-for-profit corporation, its successors and assigns.

**“Master Community”** shall mean the community in County known as Everlands, which is legally described as Exhibit 1 to the Master Declaration.

**“Master Declaration”** shall mean the Declaration for Everlands, recorded or to be recorded in the Public Records of County, as the same may be amended from time to time, together with all amendments and modifications thereof.

**“Master Developer”** shall have the meaning of Developer set forth in the Master Declaration.

**“Master Site Plan”** shall mean collectively any full or partial concept plan for the development of The Landings. The Master Site Plan is subject to change as set forth herein. The Master Site Plan is not a representation by Developer as to the development of Medley at Everlands or its amenities, as Developer reserves the right to amend all or part of the Master Site Plan from time to time.

**“Operating Costs”** shall mean all costs and expenses of Association and the Common Areas. Operating Costs may include, without limitation, all of the costs of ownership; operation; administration; all amounts payable by Association; all amounts required to remove canvas canopies located within the Common Areas as required herein; all amounts required to maintain the Surface Water Management System which are not maintained by the District or Association; all community lighting (including certain lights adjacent to, but outside of Medley at Everlands) including, without limitation, lighting provided pursuant to agreements between Association and private utility providers up-lighting and entrance lighting (if not the obligation of the District or Association); all amounts payable in connection with any private street lighting agreement between Association and an electric utility provider; amounts payable to a Telecommunications Provider for Telecommunications Services furnished to all Owners; utilities; taxes; insurance; bonds; salaries; management fees; professional fees; service costs; supplies; maintenance; repairs; replacements; refurbishments; common area landscape maintenance and any and all of the costs relating to the discharge of the obligations hereunder, or as determined to be part of the Operating Costs by Association. By way of example, and not of limitation, Operating Costs shall include all of Association’s legal expenses and costs relating to or arising from the enforcement and/or interpretation of this Declaration. If any of the foregoing items identified as possible Operating Costs are included as District Maintenance Special Assessments, the same shall not be included in Operating Costs.

**“Owner”** shall mean the record owner (whether one or more persons or entities) of fee simple title to any Lot. The term “Owner” shall not include Developer or Builder (once so designated in writing by Developer) until the Turnover Date, or a Lender.

**“Parcel”** shall mean any portion of Medley at Everlands upon which one or more Homes may be constructed.

**“Party Roof”** shall mean any roof built as part of the construction of two or more Homes, which Homes are connected by one or more Party Walls.

**“Party Wall”** shall mean any fence or wall built as part of the original construction of two or more Homes which is placed on the dividing line or platted lot line between such Homes.

**“Permit”** shall have the meaning set forth in the Master Declaration. To the extent any South Florida Water Management Permits exist solely as to Medley at Everlands, the term “Permit” shall include such permit.

**“Plat”** shall mean the plat respecting Medley at Everlands to be filed in the Public Records, as the same may be amended by Developer, from time to time.

**“Public Records”** shall mean the Public Records of Brevard County, Florida.

**“Reserves”** shall have the meaning set forth in Section 20.2 hereof.

**“Rules and Regulations”** shall mean collectively the Rules and Regulations governing Medley at Everlands as adopted by the Board from time to time.

**“SJRWMD”** shall mean the St. Johns River Water Management District.

**“Special Assessments”** shall mean those Assessments more particularly described as Special Assessments in Section 20.2 hereof.

**“Surface Water Management System”** shall mean the collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term includes exfiltration trenches, mitigation areas, retention areas, water management areas, ditches, culverts, structures, dams, impoundments, reservoirs, drainage maintenance easements, retention lakes and those works defined in Section 373.403(1)-(5) of the Florida Statutes. The Surface Water Management System includes those works authorized by SJRWMD pursuant to the Permit.

**“Telecommunications Provider”** shall mean any party contracting with Association and/or Owners directly to provide Owners with one or more Telecommunications Services. With respect to any particular

Telecommunications Services, there may be one or more Telecommunications Providers. By way of example, with respect to Data Transmission Services, one Telecommunications Provider may provide Association or Owners such service while another may own, maintain and service the Telecommunications Systems which allow delivery of such Data Transmission Services.

**“Telecommunications Services”** shall mean delivered entertainment services; all services that are typically and in the future identified as telecommunication services; Telephony Services; Cable Services; and Data Transmission Services. Without limiting the foregoing, such Telecommunications Services include the development, promotion, marketing (which may be provided by Telecommunications Providers pursuant to agreements with the Master Association or Association), advertisement, provision, distribution, maintenance, transmission, and servicing of any of the foregoing services. The term Telecommunications Services is to be construed as broadly as possible.

**“Telecommunications Systems”** shall mean all facilities, items and methods required and/or used in order to provide Telecommunications Services to Medley at Everlands. Without limiting the foregoing, Telecommunications Systems may include wires (fiber optic or other material), conduits, passive and active electronic equipment, pipes, pedestals, wireless cell sites, computers, modems, satellite antenna sites, transmission facilities, amplifiers, junction boxes, trunk distribution, feeder cables, lock boxes, taps, drop cables, related apparatus, converters, connections, head-end antennae, earth stations, appurtenant devices, network facilities necessary and appropriate to support provision of local exchange services and/or any other item appropriate or necessary to support provision of Telecommunications Services. Ownership and/or control of all or a portion of any part of the Telecommunications Services may be bifurcated among network distribution architecture, system head-end equipment, and appurtenant devices (e.g., individual adjustable digital units).

**“Telephony Services”** shall mean local exchange services provided by a certified local exchange carrier or alternative local exchange company, intraLATA and interLATA voice telephony and data transmission.

**“Title Documents”** shall mean the Title Documents identified in the Master Declaration and this Declaration, if any.

**“Toll Calls”** shall have the meaning given to such term by the Florida Public Service Commission and/or the Federal Communications Commission.

**“Townhome”** shall mean each Home within Medley at Everlands that is part of a Townhome Building.

**“Townhome Building”** shall mean a single structure containing multiple Homes in which the Homes are separated by Party Walls and in which the Homes have private garages.

**“Turnover Date”** shall mean the date on which transition of control of Association from Developer to Owners occurs. Without limiting the foregoing, Developer shall never be obligated to turn over Association prior to the date currently required by law.

**“Use Fees”** shall have the meaning set forth in Section 20.2.3 hereof.

**“Villa”** shall mean each Home within Medley at Everlands that is part of a Villa Building.

**“Villa Building”** shall mean a single structure containing multiple Homes in which the Homes are separated by Party Walls and in which the Homes do not have private garages.

### 3. Plan of Development.

3.1 General. The planning process for Medley at Everlands is an ever-evolving one and must remain flexible in order to be responsible to and accommodate the needs of Developer’s buyers. Subject to the Title Documents, Developer may wish and has the right to develop Medley at Everlands and adjacent property owned by Developer into residences, comprised of homes, villas, coach homes, townhomes, zero lot line homes, patio homes, multi-family homes, condominiums, rental apartments, and other forms of residential dwellings, as well as commercial development, which may include shopping centers, stores, office buildings, showrooms, industrial facilities, technological facilities, and professional offices. The existence at any point in time of walls, landscape screens, or berms is not a guarantee or promise that such items will remain or form part of Medley at Everlands as finally developed.

3.2 Association’s Obligation to Cooperate. Association shall at all times cooperate with every entity comprising Developer. Without limiting the foregoing, Association shall provide Developer with such consents and approvals which Developer may reasonably require in connection with (i) the sale of Parcels and/or Lots to Builders, (ii) the development and conveyance of the Common Areas, (iii) any transfer and/or modification of the Permit, (iv) the opening, modification, and/or closure of any permit, and (v) master land development requirements and/or changes. Additionally, Association shall cooperate with Developer in connection with the turnover of Association control including, but not limited to, signing a turnover receipt in the form to be provided by Developer to Association on the Turnover Date.

3.3 Active Adult Community - Occupancy Restrictions. Medley at Everlands is intended to be an active adult community. The Fair Housing Amendments Act of 1988 (Public Law 100-430, approved September 13, 1988) (the **“FHA”**), which became effective in March, 1989, and was amended effective December 31, 1995, provides that communities cannot reject families with children. However, The FHA contains an exemption for such prohibition if (a) at least eighty percent (80%) of the homes are occupied by at least one (1) person that is fifty-five

(55) years of age or older; and (b) the community has published and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older (hereinafter collectively referred to as the “Requirements for Exemption”). For so long as such provisions of the FHA are in effect, Developer intends that Medley at Everlands shall be a community which falls under this exemption to the FHA (the “Exemption”) and may therefore prohibit families with children nineteen (19) years of age or younger from residing within Medley at Everlands. In furtherance of this intent, and for so long as such provisions of the FHA remain effective, the Association shall be charged with ensuring that: (i) at least one (1) occupant of each home in Medley at Everlands must be at least fifty-five (55) years of age or older, except as hereinafter set forth, and (ii) the Association must publish and adhere to policies and procedures which demonstrate an intent by Association to provide housing for persons fifty-five (55) years of age and older.

3.3.1 Board Discretion. The Requirements for Exemption indicate that up to twenty percent (20%) of the homes in a community may be occupied by persons, all of whom are under the age of fifty-five (55) without losing the Exemption. Accordingly, the Association, upon application by an Owner, tenant, purchaser or proposed lessee, shall have absolute discretion to allow a Home to be occupied by only individuals under the age of fifty-five (55) based upon criteria that the Board shall determine in its sole discretion, which criteria may include, but shall not be limited to, information then known to the Board concerning potential pending or changing information regarding occupancy of Homes within Medley at Everlands due to known adverse medical conditions or domestic relationships and the ages of any likely remaining occupants of such Homes; other known prospective changes in occupancy of Homes for whatever reasons; proximity to age fifty-five (55) of those occupants of other Homes in Medley at Everlands then under such age; and any other information known to and deemed relevant by the Board in carrying out its duty to monitor and control the percentage of the Homes becoming occupied only by persons under the age of fifty-five (55). However, for so long as the age provisions of the FHA are in effect, the Board shall comply with the Requirements for Exemption including, but not limited to, ensuring that not more than twenty percent (20%) of the Homes in Medley at Everlands are occupied only by individuals under the age of fifty-five (55).

3.3.2 Developer Rights and Limitations. Notwithstanding the provisions of Section 3.3.1 and 3.3 above, Developer shall have the right to convey any Home owned by the Developer to any purchaser that intends the Home to be occupied only by persons under fifty-five (55) years of age, provided that, for so long as the FHA is in effect, after the conveyance, not more than twenty percent (20%) of the Homes shall be occupied only by persons under fifty-five (55). Such Homes shall at first change of occupancy thereafter be subject to the requirement that at least one (1) occupant be fifty-five (55) years of age or older unless waived by the Board pursuant to the provisions of Section 3.3.1 above.

3.3.3 Owner Obligations. No Owner may lease or sell his or her Home without the prior written consent of the Association and unless at least one (1) of the intended occupants is at least fifty-five (55) years of age or older at the time of occupancy. Such Owner shall submit an age verification form to the Association prior to the effective date of such occupancy as part of such Owner’s application to the Association to sell, lease or convey (by any means) his, her or its Home which sets forth the ages of the intended occupants. The Board, however, shall have the right in its sole discretion to waive this requirement based upon criteria in accordance with the provisions set forth in Section 3.3.1 hereof, but not if more than twenty percent (20%) of the Homes in Medley at Everlands will not have at least one (1) occupant at least fifty-five (55) years of age or older. In the event there is a change in the occupants of a Home (for any reason whatsoever) so that at least one (1) of the occupants is no longer fifty-five (55) years of age or older, the Owner must immediately notify the Association of said change in writing.

3.3.4 Individuals Age Nineteen (19) and Under. As long as Medley at Everlands is within the Exemption, no children nineteen (19) years of age or younger shall be permitted to reside in any of the Homes, except for a period of time not to exceed a total of sixty (60) days per calendar year. In addition, children shall be allowed to play only in those areas of The Everlands community designated from time to time by the Master Association.

3.3.5 Failure to Remain within the Exemption. To the extent the Association is failing in its responsibilities under this Section in the discretion of the Master Association, the Master Association may undertake such responsibilities, as further set forth in the Master Declaration. Notwithstanding anything herein to the contrary in this Declaration, however, it is acknowledged and agreed that although it is the intent of the Developer and Association that Medley at Everlands be within the Exemption so that persons nineteen (19) years of age or younger will be prohibited within Medley at Everlands, no representation or warranty is given that Medley at Everlands will comply with the Exemption and in the event for any reason it is determined that Medley at Everlands does not fall within the Exemption, and therefore it is unlawful to discriminate against families with children nineteen (19) years of age or younger, neither the Association or Developer shall have any liability in connection therewith.

#### 4. Amendment.

4.1 General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to this Declaration shall affect the rights of Developer or any holder of an easement from the Developer or Association related to access, shared drainage, or water use unless such amendment receives the prior written consent of Developer or any such easement holder, which consent may be withheld for any reason whatsoever. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to this Declaration, then the prior written consent of such entity or agency must also be obtained. All amendments must comply with Section 13.12 hereof which benefits the SJRWMD. No amendment shall be effective until it is recorded in the Public Records.

4.2 No Vested Rights. Each Owner by acceptance of a deed to a Home irrevocably waives any claim that such Owner has any vested rights pursuant to case law or statute with respect to this Declaration or any of the other Association Documents. It is expressly intended that Developer and Association have the unfettered right to amend this Declaration and the other Association Documents except as expressly set forth herein.

4.3 Amendments Prior to and Including the Turnover Date. Prior to and including the Turnover Date, Developer shall have the right to amend this Declaration as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Such amendments may include, without limitation, the creation of easements for Telecommunications Systems, utility, drainage, ingress and egress and roof overhangs over any portion of Medley at Everlands; additions or deletions from the properties comprising the Common Areas; changes in the Rules and Regulations, and modifications of restrictions on the Homes, and maintenance standards for landscaping. Developer's right to amend under this provision is to be construed as broadly as possible. By way of example, and not as a limitation, Developer may create easements over Homes conveyed to Owners provided that such easements do not prohibit the use of such Homes as residential homes. In the event that Association shall desire to amend this Declaration prior to and including the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records. Notwithstanding the foregoing, at all times after the Turnover Date, Developer shall have the right to amend Association Documents unilaterally to correct scrivener's errors.

4.4 Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, this Declaration may be amended with the approval of (i) sixty six and two-thirds percent (66 2/3%) of the Board; and (ii) seventy-five percent (75%) of all of the votes present (in person or by proxy) at a duly noticed meeting of the members of Association at which there is a quorum. Notwithstanding the foregoing, annexation and related amendments respecting the addition of non-residential, green/open space, or commercial property to the Common Areas of the Association may be accomplished by unanimous approval of the Board.

## 5. Annexation and Withdrawal.

5.1 Annexation by Developer. Prior to and including the Turnover Date, additional lands may be made part of Medley at Everlands by Developer, at Developer's sole discretion. Such additional lands to be annexed may or may not be adjacent to Medley at Everlands. Except for applicable governmental approvals (if any), no consent to such annexation shall be required from any other party (including, but not limited to, Association, Owners or any Lenders of any portion of Medley at Everlands, including a Home). Such annexed lands shall be brought within the provisions and applicability of this Declaration by recording an amendment to this Declaration in the Public Records. The amendment shall subject the annexed lands to the covenants, conditions, and restrictions contained in this Declaration as fully as though the annexed lands were described herein as a portion of Medley at Everlands. Such amendment may contain additions to, modifications of or omissions from the covenants, conditions, and restrictions contained in this Declaration as deemed appropriate by Developer and as may be necessary to reflect the different character, if any, of the annexed lands. Prior to and including the Turnover Date, only Developer may add additional lands to Medley at Everlands.

5.2 Annexation by Association. After the Turnover Date, and subject to applicable governmental approvals (if any), additional lands containing homes or homesites may be annexed with the approval of (i) sixty-six and two-thirds percent (66 2/3%) of the Board; and (ii) seventy-five percent (75%) of all of the votes present (in person or by proxy) at a duly noticed meeting of the members of Association at which there is a quorum. Additional non-residential, green/open space, and/or commercial property may be acquired by the Association and annexed to Medley at Everlands as Common Areas following the Turnover Date upon the unanimous approval of the Board at a duly noticed meeting of the Board of Directors at which a quorum is present.

5.3 Withdrawal. Prior to and including the Turnover Date, any portions of Medley at Everlands (or any additions thereto) may be withdrawn by Developer from the provisions and applicability of this Declaration by the recording of an amendment to this Declaration in the Public Records. The right of Developer to withdraw portions of Medley at Everlands shall not apply to any Home which has been conveyed to an Owner unless that right is specifically reserved in the instrument of conveyance or the prior written consent of the Owner is obtained. The withdrawal of any portion of Medley at Everlands shall not require the consent or joinder of any other party (including, but not limited to, Association, Owners, or any Lenders of any portion of Medley at Everlands). Association shall have no right to withdraw land from Medley at Everlands.

## 6. Dissolution.

6.1 Generally In the event of the dissolution of Association without reinstatement within thirty (30) days, other than incident to a merger or consolidation, any Owner may petition the Circuit Court of the appropriate Judicial Circuit of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Common Areas in the place and stead of Association, and to make of such provisions as may be necessary for the continued management of the affairs of the dissolved Association. In the event Association is dissolved, and any portion of the Surface Water Management System is part of the Common Areas, the Surface Water Management System shall be conveyed to the District or an appropriate agency of local government, and that if not accepted, then the Surface Water Management System shall be dedicated to a similar non-profit corporation.

6.2 Applicability of Declaration after Dissolution. In the event of dissolution of Association, Medley at Everlands and each Lot therein shall continue to be subject to the provisions of this Declaration,



including, without limitation, the provisions respecting Assessments specified in this Declaration. Each Owner shall continue to be personally obligated to the successors or assigns of Association for Assessments to the extent that Assessments are required to enable the successors or assigns of Association to properly maintain, operate and preserve the Common Areas. The provisions of this Section shall only apply with regard to the maintenance, operation, and preservation of those portions of Medley at Everlands which had been Common Areas and continue to be so used for the common use and enjoyment of the Owners.

7. Binding Effect and Membership.

7.1 Term. This Declaration and all covenants, conditions and restrictions contained in this Declaration are equitable servitudes, perpetual and run with the land. Each Owner, by acceptance of a deed to a Home or Lot, and any person claiming by, through or under such Owner agrees to be subject to the provisions of this Declaration and irrevocably waives any right to deny, and any claim, that this Declaration and all covenants, conditions and restrictions contained in this Declaration are not enforceable under the Marketable Record Titles to Real Property Act, Chapter 712 of the Florida Statutes. It is expressly intended that the Marketable Record Titles to Real Property Act will not operate to extinguish any encumbrance placed on Medley at Everlands by this Declaration. It is further expressly intended that no re-filing or notice of preservation is necessary to continue the applicability of this Declaration and the applicability of all covenants, conditions, and restrictions contained in this Declaration. This provision is not subject to amendment, except by Developer.

7.2 Transfer. The transfer of the fee simple title to a Lot, whether voluntary or by operation of law, terminating the Owner's title to that Lot shall terminate the Owner's rights to the use of and enjoyment of the Common Areas as it pertains to that Lot and shall terminate such Owner's membership in Association. An Owner's rights and privileges under this Declaration are not assignable separately from a Lot. The Owner of each Lot is entitled to the benefits of, and is burdened with the duties and responsibilities set forth in, the provisions of this Declaration. All parties acquiring any right, title and interest in and to any Lot shall be fully bound by the provisions of this Declaration. In no event shall any Owner acquire any rights that are greater than the rights granted to, and limitations placed upon its predecessor in title pursuant to the provisions of this Declaration. In the event that any Owner desires to sell or otherwise transfer title of his or her Lot, such Owner shall give the Board at least fourteen (14) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board may reasonably require. The transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner and the Lot pursuant to this Declaration including, without limitation, payment of all Assessments accruing prior to the date of transfer. Until written notice is received as provided in this Section, the transferor and transferee shall be jointly and severally liable for Assessments accruing subsequent to the date of transfer. In the event that upon the conveyance of a Lot an Owner fails in the deed of conveyance to reference the imposition of this Declaration on the Lot, the transferring Owner shall remain liable for Assessments accruing on the Lot from and after the date of conveyance.

7.3 Membership. Upon acceptance of title to a Lot, and as more fully provided in the Articles and By-Laws, each Owner (or his or her Lessee, if applicable) shall be a member of Association. Membership rights are governed by the provisions of this Declaration, the deed to a Lot, the Articles and By-Laws. Membership shall be an appurtenance to and may not be separated from, the ownership of a Lot. Developer rights with respect to Association are set forth in this Declaration, the Articles and the By-Laws.

7.4 Ownership by Entity. In the event that an Owner is other than a natural person, that Owner shall, immediately upon taking title, designate one or more persons who are to be the occupants of the Home or Lot and register such persons with Association. All provisions of this Declaration and the other Association Documents shall apply to both such Owner and the designated occupants.

7.5 Voting Interests. Voting interests in Association are governed by the provisions of the Articles and By-Laws.

7.6 Document Recordation by Owners Prohibited. Neither Association nor any Owner, nor group of Owners, may record any documents which, in any way, affect or restrict the rights of Developer, or conflict with the provisions of this Declaration or the other Association Documents.

7.7 Composition of Board. Developer reserves the right to change, from time to time prior to and including Turnover Date, the composition of the Board. Without limiting the foregoing, Developer may change the number of Board members, the effect of a vote by a Board member, or how a Board member is elected or appointed prior to and including Turnover Date.

7.8 Conflicts. In the event of any conflict among this Declaration, the Master Declaration, the Articles, the By-Laws or any of the other Association Documents, the Master Declaration shall control. Notwithstanding the foregoing, in the event of any conflict among this Declaration, the Articles, the By-Laws or any of the other Association Documents, this Declaration shall control. In the event that this Declaration is more restrictive than the Master Declaration, this Declaration shall control.

8. Paramount Right of Developer. Notwithstanding anything to the contrary herein, prior to the Community Completion Date Developer shall have the paramount right to dedicate, transfer, and/or convey (by absolute conveyance, easement, or otherwise) portions of Medley at Everlands for various public purposes or for the provision of Telecommunications Systems, or to make any portions of Medley at Everlands part of the Common Areas, or to create and implement a special taxing district which may include all or any portion of Medley at Everlands. In addition, the Common Areas of Medley at Everlands may include decorative improvements, berms and waterbodies. Notwithstanding anything to the contrary herein, the waterbodies may be dry during certain weather conditions or during certain times of the year. Developer may remove, modify, eliminate or replace these

items from time to time in its sole discretion. SALES BROCHURES, SITE PLANS, AND MARKETING MATERIALS ARE CURRENT CONCEPTUAL REPRESENTATIONS AS TO WHAT FACILITIES, IF ANY, WILL BE INCLUDED WITHIN THE COMMON AREAS. DEVELOPER SPECIFICALLY RESERVES THE RIGHT TO CHANGE THE LAYOUT, COMPOSITION, AND DESIGN OF ANY AND ALL COMMON AREAS AT ANY TIME WITHOUT NOTICE AT ITS DISCRETION.

9. Operation of Common Areas.

9.1 Prior to Conveyance. Prior to the conveyance, identification and/or dedication of the Common Areas to Association as set forth in Section 9.4 herein, any portion of the Common Areas owned by Developer shall be operated, maintained, and administered at the sole cost of Association for all purposes and uses reasonably intended, as Developer in its sole discretion deems appropriate. During such period, Developer shall own, operate, and administer the Common Areas without interference from any Owner or Lender of a Parcel, Lot or any portion of Medley at Everlands or Home or any other person or entity whatsoever. Owners shall have no right in or to any Common Areas referred to in this Declaration unless and until same are actually constructed, completed, and conveyed to, leased by, dedicated to, and/or maintained by Association. The current conceptual plans and/or representations, if any, regarding the composition of the Common Areas are not a guarantee of the final composition of the Common Areas. No party should rely upon any statement contained herein as a representation or warranty as to the extent of the Common Areas to be owned, leased by, operated or dedicated to Association. Developer, so long as it controls Association, further specifically retains the right to add to, delete from, or modify any of the Common Areas referred to herein in its sole discretion and without notice.

9.2 Construction of Common Areas Facilities. Developer has constructed or will construct, at its sole cost and expense, certain facilities and improvements as part of the Common Areas, together with equipment and personalty contained therein, and such other improvements and personalty as Developer determines in its sole discretion. Developer shall be the sole judge of the composition of such facilities and improvements. Prior to the Community Completion Date Developer reserves the absolute right to construct additional Common Areas facilities and improvements within Medley at Everlands, from time to time, in its sole discretion, and to remove, add to modify and change the boundaries, facilities and improvements now or then part of the Common Areas. Developer is not obligated to, nor has it represented that it will, modify or add to the facilities, improvements, or Common Areas as they are contemplated as of the date hereof. Developer is the sole judge of the foregoing, including the plans, specifications, design, location, completion schedule, materials, size, and contents of the facilities, improvements, appurtenances, personalty (e.g., furniture), color, textures, finishes, or Common Areas, or changes or modifications to any of them.

9.3 Use of Common Areas by Developer. Until the Community Completion Date Developer shall have the right to use any portion of the Common Areas without charge, for any purpose deemed appropriate by Developer.

9.4 Conveyance.

9.4.1 Generally. Simultaneously with the Plat being recorded, or earlier or later as determined by Developer in its sole discretion, or as may be required by law, all or portions of the Common Areas shall be dedicated by Plats, created in the form of easements, and conveyed by written instrument or by Quitclaim Deed recorded in the Public Records from Developer to Association. Association shall pay all of the costs of the conveyance. The dedication, creation by easement, or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations, and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership operation, maintenance, and administration of the conveyed portions of Common Areas and other obligations relating to the Common Areas imposed herein. Association shall, and does hereby, indemnify and hold Developer harmless on account thereof. Association, by its joinder in this Declaration, hereby accepts such dedication(s) or conveyance(s) without setoff, condition, or qualification of any nature. The Common Areas, personal property and equipment thereon and appurtenances thereto shall be dedicated or conveyed in "as is, where is" condition WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE COMMON AREAS BEING CONVEYED.

9.4.2 Form of Deed. Each deed of the Common Areas shall be subject to the following provisions:

9.4.2.1 a perpetual nonexclusive easement in favor of governmental agencies for the maintenance and repair of existing road, speed and directional signs, if any;

9.4.2.2 matters reflected in the Plat;

9.4.2.3 perpetual non-exclusive easements in favor of the Developer, its successors, and assigns in, to, upon and over all of the Common Areas for the purposes of vehicular and pedestrian ingress and egress, installation of utilities, landscaping and/or drainage, without charge, including, without limitation, the right to use such roadways for construction vehicles and equipment. The easements reserved in the deed shall run in favor of Developer, and its employees, representatives, agents, licensees, guests, invitees, successors and/or assigns;

9.4.2.4 all restrictions, easements, covenants and other matters of record;

9.4.2.5 in the event that Association believes that Developer shall have failed in any respect to meet Developer's obligations under this Declaration or has failed to comply with any of Developer's

obligations under law or the Common Areas conveyed herein are defective in any respect, Association shall give written notice to Developer detailing the alleged failure or defect. Once Association has given written notice to Developer pursuant to this Section, Association shall be obligated to permit Developer and its agents to perform inspections of the Common Areas and to perform all tests and make all repairs/replacements deemed necessary by Developer to respond to such notice at all reasonable times. Association agrees that any inspection, test and/or repair/replacement scheduled on a business day between 9 a.m. and 5 p.m. shall be deemed scheduled at a reasonable time. The rights reserved in this Section include the right of Developer to repair or address, in Developer's sole option and expense, any aspect of the Common Areas deemed defective by Developer during its inspections of the Common Areas. Association's failure to give the notice and/or otherwise comply with the provisions of this Section will damage Developer. At this time, it is impossible to determine the actual damages Developer might suffer. Accordingly, if Association fails to comply with its obligations under this Section in any respect, Association shall pay to Developer liquidated damages in the amount of \$250,000.00 which Association and Developer agree is a fair and reasonable remedy; and

9.4.2.6 a reservation of right in favor of Developer (so long as Developer owns any portion of Medley at Everlands) to require that Association reconvey all or a portion of the Common Areas conveyed by quitclaim deed in favor of Developer in the event that such property is required to be owned by Developer for any purpose, including, without limitation, the reconfiguration of any adjacent property by replatting or otherwise.

9.5 Operation After Conveyance. After the conveyance or dedication of any portion of the Common Areas to Association, the portion of the Common Areas so dedicated shall be owned, operated and administered by Association for the use and benefit of the owners of all property interests in Medley at Everlands including, but not limited to, Association, Developer, Owners and any Lenders. Subject to Association's right to grant easements and other interests as provided herein, Association may not convey, abandon, alienate, encumber, or transfer all or a portion of the Common Areas to a third party without (i) if prior to and including the Turnover Date, the approval of (a) a majority of the Board; and (b) the consent of Developer, or (ii) from and after the Turnover Date, approval of (a) sixty-six and two-thirds percent (66⅔%) of the Board; and (b) seventy-five percent (75%) of all of the votes in Association being first had and obtained.

9.6 Paved Common Areas. The Common Areas may contain certain paved areas. All of the paved areas, including but not limited to roads and parking areas, not located on Lots in Medley at Everlands are Common Areas as reflected on the Master Site Plan. Notwithstanding the foregoing, Association shall have the right to transfer all or a portion of the roads to the Master Association or District at which time such roads would no longer be Common Areas, but rather, would form part of the Master Association's common areas or the District's facilities. Without limiting any other provision of this Declaration, Association is responsible for the maintenance and/or resurfacing of all paved surfaces, including, but not limited to, cart paths, roads, pathways, and sidewalks forming a part of the Common Areas, if any. Although pavement appears to be a durable material, it requires maintenance. Any patching, grading, or other maintenance work should be performed by a company licensed to perform the work. From and after the Community Completion Date, Association should monitor the roads, cart paths and sidewalks forming the Common Areas monthly to ensure that vegetation does not grow into the asphalt and that there are no eroded or damaged areas that need immediate maintenance.

9.7 Delegation and Managers. Once conveyed or dedicated to Association, the Common Areas and facilities and improvements located thereon shall, subject to the provisions of this Declaration and the document of conveyance or dedication, at all times be under the complete supervision, operation, control, and management of Association. Notwithstanding the foregoing Association may delegate all or a portion of its obligations hereunder to a licensed manager or professional management company. Association specifically shall have the right to pay for management services on any basis approved by the Board (including bonuses or special fee arrangements for meeting financial or other goals). Developer, its affiliates and/or subsidiaries shall have the right to manage Association. Owners and Association acknowledge that it is fair and reasonable to have Developer, its affiliates and/or subsidiaries manage Association. Further, in the event that a Common Area is created by easement, Association's obligations and rights with respect to such Common Area may be limited by the terms of the document creating such easement.

9.8 Use.

9.8.1 General Public Use. The Common Areas shall be used and enjoyed by the Owners on a non-exclusive basis in common with other persons, entities and corporations (who may, but are not required to be, members of Association) entitled to use those portions of the Common Areas. Prior to the Community Completion Date, Developer, and thereafter, Association has the right, at any and all times, and from time to time, to further additionally provide and make the Common Areas available to other individuals, persons, firms, or corporations, as it deems appropriate. The granting of such rights shall not invalidate this Declaration, reduce or abate any Owner's obligations pursuant to this Declaration, or give any Owner the right to avoid any of the covenants, agreements or obligations to be performed hereunder.

9.8.2 Right to Allow Use. Developer and/or Association may enter into easement agreements or other use or possession agreements whereby the Owners, Telecommunications Providers and/or Association and/or others may obtain the use, possession of, or other rights regarding certain property, on an exclusive or non-exclusive basis, for certain specified purposes. Association may agree to maintain and pay the taxes, insurance, administration, upkeep, repair, and replacement of such property, the expenses of which shall be Operating Costs. Any such agreement by Association prior to the Community Completion Date shall require the consent of Developer. Thereafter, any such agreement shall require the approval of the majority of the Board.

9.8.3 Waterbodies. BY ACCEPTANCE OF A DEED TO A HOME OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL WATERBODIES MAY VARY, THERE IS NO GUARANTEE BY DEVELOPER, THE DISTRICT OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME; AT TIMES, WATER LEVELS MAY BE NONEXISTENT. Developer, Master Developer, the District, Master Association, and Association shall not be obligated to erect fences, gates, or walls around or adjacent to any waterbody within Medley at Everlands, if any. Notwithstanding the foregoing, an Owner may erect a fence adjacent to the boundary of a waterbody but within the boundary of a Home with the prior approval of the ACC. All or a portion of the waterbodies within Medley at Everlands may be part of the Facilities, as hereinafter defined, and owned by the District.

9.8.4 Assumption of Risk. Without limiting any other provision herein, each person within any portion of Medley at Everlands accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use or occupancy of any portion of Medley at Everlands, including, without limitation, (a) noise from maintenance equipment, (b) use of pesticides, herbicides and fertilizers, (c) view restrictions caused by maturation of trees and shrubbery, (d) reduction in privacy caused by the removal or pruning of shrubbery or trees within Medley at Everlands, (e) actions or inactions taken, or nuisances caused by neighboring Owners and/or tenants or their respective guests, and (f) design of any portion of Medley at Everlands. Each such person also expressly indemnifies and agrees to hold harmless Developer, Master Developer the District, Master Association, Association, Builders, and all employees, directors, representatives, officers, agents, and partners (the “**Indemnified Parties**”) of the foregoing, from any and all damages, whether direct or consequential, arising from or related to the person’s use of the Common Areas, including for attorneys’ fees, paraprofessional fees and costs at trial and upon appeal. Without limiting the foregoing, all persons using the Common Areas including, without limitation, all waterbodies, if any, or pools do so at their own risk. BY ACCEPTANCE OF A DEED, EACH OWNER ACKNOWLEDGES THAT THE COMMON AREAS MAY CONTAIN WILDLIFE SUCH AS ALLIGATORS, DOGS, RACCOONS, SNAKES, DUCKS, DEER, SWINE, TURKEYS, AND FOXES. DEVELOPER, MASTER DEVELOPER, BUILDERS, THE DISTRICT, MASTER ASSOCIATION, AND ASSOCIATION, SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND HIS OR HER GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

9.8.5 Owner’s Obligation to Indemnify. Each Owner agrees to indemnify and hold harmless the Indemnified Parties against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever (“**Losses**”) incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to the Common Areas, including, without limitation, use of the Common Areas by Owners, and their guests, family members, invitees, or agents, or the interpretation of this Declaration and/or exhibits attached hereto and/or from any act or omission of Developer, Builders or Association or of any of the Indemnified Parties. Should any Owner bring suit against Developer, Master Developer, Builders, Master Association, Association or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys’ fees and paraprofessional fees at trial and upon appeal.

## 9.9 Rules and Regulations.

9.9.1 Generally. Prior to and including the Turnover Date, Developer, and thereafter Association, shall have the right to adopt Rules and Regulations governing the use of the Common Areas and Medley at Everlands. The Rules and Regulations need not be recorded in the Public Records. The Common Areas shall be used in accordance with this Declaration and Rules and Regulations promulgated hereunder.

9.9.2 Developer Not Subject to Rules and Regulations. The Rules and Regulations shall not apply to Developer or to any property owned by Developer and shall not be applied in a manner which would prohibit or restrict the development or operation of the Common Areas or adversely affect the interests of Developer. Without limiting the foregoing, Developer and/or its assigns, shall have the right to: (i) develop and construct commercial and industrial uses, Homes, Common Areas, and related improvements within Medley at Everlands, and make any additions, alterations, improvements, or changes thereto; (ii) maintain sales offices (for the sale and re-sale of (a) Homes and (b) residences and properties located outside of Medley at Everlands), general offices and construction operations within Medley at Everlands; (iii) place, erect or construct portable, temporary or accessory buildings or structure within Medley at Everlands for sales, construction storage or other purposes; (iv) temporarily deposit, dump or accumulate materials, trash, refuse and rubbish in connection with the development or construction of any portion of Medley at Everlands; (v) post, display, inscribe or affix to the exterior of any portion of the Common Areas or portions of Medley at Everlands owned by Developer, signs and other materials used in developing, constructing, selling or promoting the sale of any portion Medley at Everlands including, without limitation, Homes; (vi) excavate fill from any waterways within and/or contiguous to Medley at Everlands by dredge or dragline, store fill within Medley at Everlands and remove and/or sell excess fill; and grow or store plants and trees within, or contiguous to, Medley at Everlands and use and/or sell excess plants and trees; and (vii) undertake all activities which, in the sole opinion of Developer, are necessary for the development and sale of any lands and improvements comprising Medley at Everlands.

9.10 Public Facilities. Medley at Everlands may include one or more facilities which may be open and available for the use of the general public. By way of example, there may be a public park, fire station, police station, or other facility within the boundaries of Medley at Everlands; provided however, no such facility shall result in expense to the general taxpayers of the County or assumption by the County or any responsibility for maintenance of any portion thereof.

9.11 Default by Another Owner. No default by any Owner in the performance of the covenants and promises contained in this Declaration or by any person using the Common Areas or any other act of omission by any of them shall be construed or considered (a) a breach by Developer or Association or a non-defaulting Owner or other person or entity of any of their promises or covenants in this Declaration; or (b) an actual, implied or constructive dispossession of another Owner from the Common Areas; or (c) an excuse, justification, waiver or indulgence of the covenants and promises contained in this Declaration.

9.12 Special Taxing Districts. For as long as Developer controls Association, Developer shall have the right, but not the obligation, to dedicate or transfer or cause the dedication or transfer of all or portions of the Common Areas of Association to the applicable community development district, a special taxing district, or a public agency or authority under such terms as Developer deems appropriate in order to create or contract with such special taxing districts and community development districts (or others) for lighting, perimeter walls, entrance features, roads, landscaping, irrigation areas, ponds, surface water management systems, wetlands mitigation areas, parks, recreational or other services, security or communications, or other similar purposes deemed appropriate by Developer including, without limitation, the maintenance and/or operation of any of the foregoing. Notwithstanding the foregoing, any district(s) created and/or Common Areas transferred pursuant to this Section shall be subject to governmental approval. As hereinafter provided, Developer or Master Developer may sign any taxing district petition as attorney-in-fact for each Owner. Each Owner's obligation to pay taxes associated with such district(s) shall be in addition to such Owner's obligation to pay Assessments. Any special taxing district shall be created pursuant to all applicable ordinances of County and all other applicable governing entities having jurisdiction with respect to the same.

9.13 Water Transmission and Distribution Facilities Easement and Repair. Developer hereby grants and conveys to County, its successors and assigns, the non-exclusive right, privilege and easement to construct, re-construct, lay, install, operate, maintain, relocate, repair, replace, improve and inspect water transmission and distribution facilities and sewer collection facilities and all appurtenances thereto, and all appurtenant equipment, with the full right of ingress thereto and egress therefrom, within Medley at Everlands (excluding such facilities located inside a Home) in accordance with plans approved by Developer or Association. Certain water transmission and distribution facilities and sewer collection facilities may be covered with decorative brick pavers that do not conform to County regulations ("Non-Conforming Pavers") in the course of construction of Homes and Common Areas, as and to the extent permitted under the terms of this Declaration. In the event County or any of its subdivisions, agencies and/or divisions shall damage any Non-Conforming Pavers as a result of construction, repair or maintenance operations of the water and/or sewer facilities or the County's use of its easement rights granted in this Section 9.13, then Association shall replace or repair such damage at the expense of the Owner of the affected Home and such cost shall be billed to such Owner as an Individual Assessment, unless, and only to the extent that, such cost is not paid by County or such other subdivisions, agencies and/or divisions. Association shall indemnify and hold harmless County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance by Association of Association's obligations under this Section 9.13.

9.14 Association's Obligation to Indemnify. Association and Owners each covenant and agree jointly and severally to indemnify, defend and hold harmless Developer, AG, the District, and their officers, directors, shareholders, representatives, agents, partners, affiliates, and any related persons or corporations and their employees from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Areas and/or the Facilities, or other property serving Association, and improvements thereon, or resulting from or arising out of activities or operations of Association or Owners, and from and against all costs, expenses, court costs, attorneys' fees and paraprofessional fees (including, but not limited to, attorneys' and paraprofessional fees at all levels of proceedings including appeals), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders judgments or decrees which may be entered relating thereto. The costs and expense of fulfilling this covenant of indemnification shall be Operating Costs to the extent such matters are not covered by insurance maintained by Association.

9.15 Site Plans and Plats. Medley at Everlands is subject to the Plat. The Plat may identify some of the Common Areas within Medley at Everlands. The description of the Common Areas on the Plat is subject to change (contingent upon receipt of the appropriate plat approval(s)) and the notes on a Plat are not a guarantee of what facilities will be constructed on such Common Areas. Site plans used by Developer in its marketing efforts illustrate the types of facilities which may be constructed on the Common Areas, but such site plans are not a guarantee of what facilities will actually be constructed. Each Owner should not rely on a Plat or any site plans used for illustration purposes as the Declaration governs the rights and obligations of Developer and Owners with respect to the Common Areas.

## 10. Medley at Everlands Community Development District.

10.1 Generally. Medley at Everlands is within the Everlands Community Development District (the "District"). Portions of the Master Community, including portions of Medley at Everlands, may be owned and maintained by the District, including, but not limited to, the lakes, roads, drainage system, Surface Water Management System, landscaping and/or utilities. In the event that any portions of the Master Community and/or Medley at Everlands are owned by the District, such facilities shall not be part of the Common Areas or Master Association common areas, but will be part of the infrastructure facilities owned by the District ("Facilities"). AT THIS TIME IT IS NOT KNOWN WHAT PORTIONS OF MEDLEY AT EVERLANDS OR THE MASTER COMMUNITY WILL BE DESIGNATED COMMON AREAS OF THE ASSOCIATION, MASTER ASSOCIATION OR FACILITIES OF THE DISTRICT. FINAL DETERMINATION OF WHICH PROPERTIES

WILL BE COMMON AREAS OF THE ASSOCIATION MAY NOT OCCUR UNTIL THE COMPLETION OF ALL DEVELOPMENT.

10.2 Creation of the District. The District may issue special assessment bonds (the “**Bonds**”) to finance a portion of the cost of the Facilities. The District is an independent, multi-purpose, special district created pursuant to Chapter 190 of the Florida Statutes. The creation of the District puts residential units and non-residential development of the Master Community and Medley at Everlands jurisdiction of the District. The District may be authorized to acquire, finance, fund, install, equip, extend, construct or reconstruct, without limitation, the following; water and sewer facilities, environmental mitigation, roadways, Surface Water Management System, utility plants and lines, and land acquisition, miscellaneous utilities for the community and other infrastructure projects and services necessitated by the development of, and serving lands, within the Master Community and/or Medley at Everlands (“**Public Infrastructure**”). The estimated design, development, construction and acquisition costs for the Facilities may be funded by the District in one or more series of governmental bond financings utilizing Bonds or other revenue backed bonds. The District may issue both long-term debt and short-term debt to finance the Public Infrastructure. The principal and interest on the Bonds may be repaid through non ad valorem special assessments (“**District Debt Service Assessments**”) levied on all benefiting properties in the District, which properties have been found to be specially benefited by the Public Infrastructure. The principal and interest on the other revenue backed bonds (“**District Special Assessment Bonds**”) may be repaid through user fees, franchise fees or other use related revenues. In addition to the Bonds issued to fund the Public Infrastructure costs, the District may also impose an annual non ad valorem special assessment to fund the operations of the District, and the maintenance and repair of its Public Infrastructure and its services (“**District Administrative and Maintenance Special Assessments**”).

10.3 District Assessments. The District Debt Service Assessments and District Administrative and Maintenance Special Assessments will not be taxes but, under Florida law, will constitute a lien co-equal with the lien of state, county, municipal, and school board taxes and may be collected on the ad valorem tax bill sent each year by the Tax Collector of County and disbursed to the District, or may be billed directly by the District. The homestead exemption is not applicable to the District Assessments. Because a tax bill cannot be paid in part, failure to pay the District Debt Service Assessments, District Administrative and Maintenance Special Assessments, or any other portion of the tax bill will result in the sale of tax certificates and could ultimately result in the loss of title to the property of the delinquent taxpayer through the issuance of a tax deed. District Special Assessment Bonds are not taxes or liens on property. If the fees and user charges underlying the District Special Assessment Bonds are not paid, then such fees and user charges could become liens on the property which could ultimately result in the loss of title to the property through the issuance of a tax deed. The initial amounts of the District Debt Service Assessments and District Administrative and Maintenance Special Assessments which will be due in connection with each Home were unknown at the time of recording of this Declaration. Such amounts may vary from year to year and from time to time, and may depend upon the type of Home (*i.e.*, District Debt Service Assessments and District Administrative and Maintenance Special Assessments may be different for Estate Homes, Townhomes and Villas). The actual amount of District Debt Service Assessments will be set forth in the District Assessment Methodology Report. District Administrative and Maintenance Special Assessments relating to Facilities will be determined by the District. Any future District Assessments and/or other charges due with respect to the Facilities are direct obligations of each Owner and are secured by a lien against the Home as set forth in this Section. Failure to pay such sums may result in loss of property as set forth in this Section. The District may construct, in part or in whole, by the issuance of Bonds (as explained in Section 10.2 above), certain facilities including, but not limited to, roads, utilities, landscaping and/or drainage system, as the District determines in its sole discretion.

10.4 Common Areas and Facilities Part of District. Portions of Medley at Everlands may be conveyed by Developer to the District. Such Facilities will be part of the District and the District shall govern the use and maintenance of the Facilities. In the event Developer conveys certain Facilities to the District, some of the provisions of this Declaration will not apply to such Facilities, as the Facilities will no longer be Common Areas. By way of example and not of limitation, the procedures set forth in this Declaration respecting Developer’s obligation to convey the Common Areas will not apply to the Facilities. ANY CONVEYANCE OF COMMON AREAS TO THE DISTRICT SHALL IN NO WAY INVALIDATE THIS DECLARATION. Developer may decide, in its sole discretion, to convey additional portions of the Common Areas to either the District or Association, thereby making such Common Areas part of the District’s Facilities. The District or Association may promulgate membership rules, regulations, and/or covenants which may outline use restrictions for the Facilities, or Association’s responsibility to maintain the Facilities, if any. The establishment of the District and the inclusion of Facilities in the District will obligate each Owner to become responsible for the payment of District Debt Service Assessments and the District Administrative and Maintenance Special Assessments for the acquisition, construction, reconstruction, and equipping of the Facilities as set forth in this Section.

10.5 Master Property and Facilities Part of District. Portions of the Master Community may be conveyed by Master Developer to the District. Such Facilities will be part of the District and the District shall govern the use and maintenance of the Facilities. In the event Master Developer conveys certain Facilities to the District, some of the provisions of this Declaration will not apply to such Facilities, as the Facilities will no longer be Master Common Areas. By way of example and not of limitation, the procedures set forth in the Master Declaration respecting Master Developer’s obligation to convey the Master Common Areas will not apply to the Facilities. ANY CONVEYANCE OF COMMON AREAS OR MASTER COMMON AREAS TO THE DISTRICT SHALL IN NO WAY INVALIDATE THIS DECLARATION OR THE MASTER DECLARATION. Master Developer may decide, in its sole discretion, to convey additional portions of the Master Common Areas to either the District or Master Association, thereby making such Master Common Areas part of the District’s Facilities. The District or Master Association may promulgate membership rules, regulations, and/or covenants which may outline use restrictions for the Facilities, or Master Association’s responsibility to maintain the Facilities, if any. The establishment of the District and the inclusion of Facilities in the District will obligate each Owner to become responsible for the payment of District Debt Service Assessments and the District Administrative and Maintenance

Special Assessments for the acquisition, construction, reconstruction, and equipping of the Facilities as set forth in this Section.

10.6 Facilities Owned by District. The Facilities may be owned and operated by the District or owned by the District and maintained by Association. The Facilities may be owned by a governmental entity other than the District. The Facilities shall be used and enjoyed by the Owners, on a non-exclusive basis, in common with such other persons, entities, and corporations that may be entitled to use the Facilities.

## 11. Party Walls.

11.1 General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Section, the general rule of law regarding party walls and liability for personal damage due to negligence of willful acts or omissions shall apply to all Party Walls within Medley at Everlands which are built by Developer as part of the original construction of the Townhome Buildings and Villa Buildings and any replacement thereof. In the event any portion of any structure or facility, as originally constructed by Developer, including without limitation, any Party Wall, shall protrude over an adjoining Townhome or Villa, it shall be deemed that such Owners have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the projection or Party Wall. The foregoing shall also apply to any replacements of any Party Walls. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of this Declaration.

### 11.2 Sharing of Repair, Replacement and Maintenance for Party Walls.

11.2.1 Generally. The cost of reasonable repair and maintenance of Party Walls (other than painting) shall be shared equally by the Owners of the Townhomes or Villas sharing such improvements without prejudice, however, to the right of any Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

11.2.2 Failure to Contribute. In the event that an Owner shall fail or refuse to pay his pro rata share of costs of repair, maintenance or replacement of a Party Wall (whether or not through his own fault or the failure of his insurance company to pay any claim), then and in that event, the Owner advancing monies therefor shall have a right to file a claim of lien for such monies advanced in the Public Records and shall have the right to foreclose such lien in accordance with the same procedural requirements as now provided for in Florida Statutes for foreclosure of a construction lien; provided, however, such claim of lien shall be filed within ninety (90) days from date repairs or replacements are made to Party Wall and suit thereon shall be commenced one (1) year from date such lien is filed. Notwithstanding the foregoing, Association shall have the right, but not the obligation, to advance monies for the repair, replacement and/or maintenance of Party Wall(s) and charge the responsible Owner(s) an Individual Assessment for such Owner's pro rata share of the costs.

11.2.3 Alterations. The Owner of a Townhome or Villa sharing a Party Wall with an adjoining Townhome or Villa shall not cut windows or other openings in the Party Wall, nor make any alterations, additions or structural changes in the Party Wall without the joint agreement of all of the Owners sharing the Party Wall.

11.2.4 Weatherproofing. Notwithstanding any other provisions of this Declaration, an Owner who by his negligent or willful act causes a Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

11.2.5 Easements. Each Owner sharing a Party Wall shall have all easement rights reasonably necessary to perform the obligations contained herein over the Townhomes or Villas sharing the Party Wall.

## 12. Party Roofs.

12.1 General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Section the general rule of law regarding party roofs and liability for personal damage due to negligence of willful acts or omissions shall apply to all Party Roofs within Medley at Everlands, which are built by Developer as part of the original construction of the Townhomes and Villas and any replacement thereof. In the event any portion of any structure or facility, as originally constructed by Developer, including, without limitation, any Party Roof, shall protrude over an adjoining Townhome or Villa, it shall be deemed that such Owners have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the protrusion or Party Roof. The foregoing shall also apply to any replacements of any Party Roof. The foregoing shall be perpetual in duration and shall not be subject to amendment of this Declaration.

### 12.2 Sharing of Repair, Replacement and Maintenance for Party Roofs.

12.2.1 Generally. Association shall repair, maintain and/or replace the Party Roofs of Townhome Buildings and Villa Buildings within Medley at Everlands, at such time as the Board deems any such repairs, maintenance and/or replacement necessary or desirable in its sole discretion, and the costs of the same shall be charged as an Individual Assessment to each Owner whose Party Roof is maintained, repaired and/or replaced in accordance with this Section. The cost of reasonable repair and maintenance of Party Roofs shall be shared equally by the Owners of the Townhomes and/or Villas sharing such improvements without prejudice, subject however, to the right of any Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

12.2.2 Failure to Contribute. In the event an Owner shall fail or refuse to pay his or her pro rata share of costs to repair, maintain and/or replace his or her portion of the Party Roof (whether or not through his or her own fault or the failure of his or her insurance company to pay any claim), then and in that event, the Owner



advancing monies therefor shall have the right to file a claim of lien in the Public Records for such monies advanced and shall have the right to foreclose such lien in accordance with the same procedural requirements as now provided for in Florida Statutes for foreclosure of a construction lien; provided, however, such claim of lien shall be filed within ninety (90) days from date repairs and/or replacements are made to the Party Roof and the suit thereon shall be commenced one (1) year from the date such lien is filed. Notwithstanding the foregoing, Association shall have the right, but not the obligation, to advance monies for the repair, replacement, and /or maintenance of Party Roof(s) and charge the responsible Owner(s) an Individual Assessment for such Owner's pro-rata share of the costs.

12.2.3 Alterations. Subject to applicable building codes, the Owner of a Townhome or Villa sharing a Party Roof with an adjoining Townhome or Villa shall not make any alterations, additions or structural changes in the Party Roof without the prior written consent of the ACC.

12.2.4 Easements. Each Owner and Association shall have all easement rights reasonably necessary to perform the obligations contained herein over the Townhomes and/or Villas sharing the Party Roof.

13. Maintenance by Association.

13.1 Common Areas. Except as otherwise specifically provided in this Declaration to the contrary, Association shall at all times maintain, repair, replace and insure the Common Areas, and all improvements placed thereon, including without limitation, all Common Area landscaping and irrigation.

13.2 District Facilities. The District may contract with Association for maintenance, repair and replacement of District Facilities in the District's sole and absolute discretion.

13.3 Drainage. To the extent it is not the responsibility of the District, Association shall at all times maintain the drainage systems and drainage facilities within the Common Areas.

13.4 Canvas Canopies. Association shall be responsible for the removal of all canvas canopies including, but not limited to, mailbox and entrance canopies, if any, located within the Common Areas of the Community in the event of extreme wind conditions, as determined by the Association in its sole discretion. The expense of such removal shall be part of the Operating Costs of Association. Additionally, in the event winds are forecasted to exceed fifty (50) miles per hour, each Owner shall be responsible, at its sole cost and expense, for the removal of all canvas canopies located within its respective Home and yard.

13.5 Lawn Maintenance. If so provided in Association's budget, Association shall maintain the entire yard of each Home. In such event, Association shall have no obligation to maintain any plant beds or other landscaping that has been modified by an Owner, and shall have no obligation to maintain landscaping and/or improvements within any portion of a Home that is fenced. Each Owner shall be required to ensure that the Association has access to their respective yard for maintenance purposes, and hereby grants to the Association an easement over, under, across and through their respective Lot for landscape maintenance purposes. Each day of a continuing violation of this requirement shall constitute a separate violation of this Declaration. Each Owner is responsible financially for replacing any trees, shrubs, grass or landscaping that require replacement. EACH OWNER ACKNOWLEDGES THAT SOME HOMES MAY NOT HAVE FRONT YARDS, AND OTHER HOMES MAY HAVE FRONT YARDS THAT ARE LARGER OR SMALLER THAN THE FRONT YARDS OF OTHER HOMES. NOTWITHSTANDING THE FOREGOING, ALL LAWN MAINTENANCE EXPENSES SHALL BE DEEMED PART OF THE OPERATING COSTS OF ASSOCIATION, AND EACH OWNER SHALL PAY AN EQUAL SHARE OF SUCH COSTS. Association shall have no obligation to maintain any landscaping within any fenced portions of a Lot, or any balconies, terraces or patios of a Home.

13.6 Irrigation and Sprinkler Systems. The Master Association is responsible for the maintenance of the main irrigation line that runs throughout Everlands. As lateral lines will be installed to irrigate certain Lots and Common Areas within Medley at Everlands, the Association shall be responsible for the maintenance of all such lateral lines (including those within the Lots). Association shall be responsible to maintain the irrigation and sprinkler system within the Common Areas and Lots. Association shall have an easement over, under, across and through all of Medley at Everlands for the purpose of maintaining the irrigation and sprinkler system. Every Owner shall be required to irrigate the grass and landscaping located on his or her respective Lot(s) in a routine and ordinary manner, and shall ensure that sufficient irrigation occurs during all periods when the Owner is absent from the Lot. Each Owner shall comply with all water use restrictions imposed by applicable governmental entities. To the extent an Owner fails to comply with any such water use restrictions and Association is subsequently fined due to such water use, Association may impose an Individual Assessment upon such Owner for the payment of any fine(s) imposed on Association.

13.7 Duty to Paint Exterior of Townhomes and Villas. Association shall be responsible for repainting the exterior of each Townhome and Villa within Medley at Everlands, at such time as the Board deems such repainting necessary or desirable in its sole discretion, and the costs of same shall be charged as an Individual Assessment to each Owner whose Home is repainted in accordance with this Section.

13.8 Perimeter Walls. Association shall be responsible for the maintenance, repair and replacement of those portions of the perimeter walls located within Lots and/or Homes in Medley at Everlands, at such time as the Board deems such maintenance, repair and/or replacement necessary or desirable in its sole discretion, and the costs of the same shall be charged as an Individual Assessment to the Owner of the Home or Lot upon which any such portion of the perimeter wall is located.

13.9 Public Roads. It is possible that either the District or Association may maintain the medians and swales of all public roads pursuant to agreement with the appropriate governmental entities. The costs of such

maintenance by Association shall be Operating Costs. The costs of such maintenance by the District shall be part of District Maintenance Special Assessments.

13.10 Private Roads. All roads within Medley at Everlands which are privately owned shall be maintained by Association. Association may enter into an agreement with the District whereby the District would be obligated to maintain such private roads within Medley at Everlands.

13.11 Duty to Maintain Surface Water Management System. The Surface Water Management System within Medley at Everlands may be owned, maintained and operated by Association, Master Association and/or the District as permitted by the SJRWMD. If owned by Association as Common Areas, the costs of the operation and maintenance of those portions of the Surface Water Management System shall be part of the Operating Costs of Association. If owned by Master Association as Common Areas, the costs of the operation and maintenance of those portions of the Surface Water Management System shall be part of the Operating Costs of Master Association. If owned by the District as part of the Facilities, the costs of operation and maintenance of those portions of the Surface Water Management System will be part of the District Debt Maintenance Assessments. Notwithstanding the foregoing, the SJRWMD has the right to take enforcement action, including a civil action for an injunction and penalties against Association or Master Association to compel it to correct any outstanding problems with the Surface Water Management System facilities or in mitigation or conservation areas under the responsibility or control of Association. Association shall accept any and all transfer of permits from Developer. Association shall cooperate with Developer with any applications, certifications, documents or consents required to effectuate any such transfer of permits to Association.

13.12 Amendments Affecting Surface Water Management System. Any proposed amendment to the Association Documents which will affect the Surface Water Management System including any environmental conservation area and the water management portions of the Common Areas, must have the prior written approval of the SJRWMD. Association's or Master Association's registered agent shall maintain copies of all Surface Water Management System permits and correspondence respecting such permits, and any future SJRWMD permit actions shall be maintained by Association's or Master Association's registered agent for Association's benefit.

13.13 Adjoining Areas. Except as otherwise provided herein, Association shall also maintain those drainage areas, swales, lake maintenance easements, driveways, lake slopes and banks, and landscape areas that are within the Common Areas, provided that such areas are readily accessible to Association. Association shall have no responsibility for the Facilities or other areas owned by County except and to the extent provided in any agreement between Association and the District or County, as applicable. Under no circumstances shall Association be responsible for maintaining any areas within fences or walls that form a part of a Home.

13.14 Negligence. The expense of any maintenance, repair or construction of any portion of the Common Areas necessitated by the negligent or willful acts of an Owner or persons utilizing the Common Areas, through or under an Owner shall be borne solely by such Owner and the Home and/or Lot owned by that Owner shall be subject to an Individual Assessment for that expense. By way of example, and not of limitation, an Owner shall be responsible for the removal of all landscaping and structures placed within easements or Common Areas without the prior written approval of Association.

13.15 Right of Entry. Developer, the District, and Association are granted a perpetual and irrevocable easement over, under and across Medley at Everlands for the purposes herein expressed, including, without limitation, for inspections to ascertain compliance with the provisions of this Declaration, and for the performance of any maintenance, alteration or repair which it is entitled to perform. Without limiting the foregoing, Developer specifically reserves easements for all purposes necessary to comply with any governmental requirement or to satisfy any condition that is a prerequisite for a governmental approval. By way of example, and not of limitation, Developer may construct, maintain, repair, alter, replace and/or remove improvements; install landscaping; install utilities; and/or remove structures on any portion of Medley at Everlands if Developer is required to do so in order to obtain the release of any bond posted with any governmental agency.

13.16 Maintenance of Property Owned by Others. Association shall, if designated by Developer, or by Association after the Community Completion Date by amendment to this Declaration or any document of record, maintain vegetation, landscaping, sprinkler system, community identification/features and/or other areas or elements designated by Developer (or by Association after the Community Completion Date) upon areas which are within or which lie outside of Medley at Everlands. Such areas may abut, or be proximate to, Medley at Everlands, and may be owned by, or be dedicated to, others including, but not limited to, a utility, governmental or quasi-governmental entity, or the District. These areas may include, without limitation, swale areas, landscape buffer areas, berm areas or median areas within the right-of-way of public streets, roads, brick pavers, irrigation, drainage areas, community identification or entrance features, community signage or other identification and/or areas.

14. Multi-Purpose Taxing District. It is possible that the District may maintain the roads, off-site improvements, Surface Water Management System, landscape buffers, and/or entrance features within Medley at Everlands and, possibly, an adjacent community. In the event the District does not maintain such roads, off-site improvements, Surface Water Management Systems, landscape buffers and/or entrance features, then a special taxing district or Association may be responsible for such maintenance. Each Home shall be subject to assessments for the operation of District or for Operating Costs.

15. Maintenance by Owners. All lawns, landscaping and sprinkler systems and any property, structures, improvements and appurtenances not maintained by Association, if any, shall be well maintained and kept in first class, good, safe, clean, neat and attractive condition consistent with the general appearance of Medley at Everlands by the Owner of each Home. To the extent not maintained by the Association, each Owner is specifically

responsible for maintaining all grass, landscaping and improvements within any portion of their Home in accordance with the standards set forth below.

15.1 Lawn Maintenance Standards. The following maintenance standards (the “Lawn Maintenance Standards”) apply to landscaping maintained by Owners.

15.1.1 Trees. Trees are to be pruned as needed.

15.1.2 Shrubs. All shrubs are to be trimmed as needed.

15.1.3 Grass.

15.1.3.1 Cutting Schedule. Grass shall be maintained in a neat and appropriate manner. In no event shall an Owner’s lawn get in excess of five inches (5”) in height.

15.1.3.2 Edging. Edging of all streets, curbs, beds and borders shall be performed as needed. Chemical edging shall not be permitted.

15.1.3.3 Dead Grass. Owner shall be responsible to replace dead grass. Neither Developer nor Association shall be responsible to replace dead grass.

15.1.4 Mulch. Mulch is to be turned four (4) times per year and shall be replenished as needed on a yearly basis.

15.1.5 Insect Control and Disease. Disease and insect control shall be performed on an as needed basis.

15.1.6 Fertilization. Fertilization of all turf, trees, shrubs, and palms shall be performed at a minimum of three (3) times a year during the following months: February, June and October.

15.1.7 Irrigation. Owners shall be responsible to irrigate grass. Pump stations, if applicable, and valves shall be checked as needed by an independent contractor to assure proper automatic operation.

15.1.8 Post Lights. Each Owner shall maintain all post lights (whether gas or electric) which are located within the boundaries of his or her Home.

15.1.9 Weeding. All beds are to be weeded upon every cut. Weeds growing in joints in curbs, driveways, and expansion joints shall be removed as needed. Chemical treatment is permitted.

15.1.10 Trash Removal. Dirt, trash, plant and tree cuttings and debris resulting from all operations shall be removed and all areas left in clean condition before the end of the day.

15.1.11 Right of Association to Enforce. Each Owner grants Association and/or Master Association an easement over his or her Lot for the purpose of insuring compliance with the requirements of this provision and the Lawn Maintenance Standards. In the event an Owner does not comply with this Section, Association and/or Master Association may perform the necessary maintenance to the lawn and charge the costs thereof to the non-complying Owner as an Individual Assessment. Association and/or Master Association shall have the right to enforce the foregoing Lawn Maintenance Standards by all necessary legal action. In the event that Association and/or Master Association is the prevailing party with respect to any litigation respecting the Lawn Maintenance Standards, it shall be entitled to recover all of its attorneys’ fees and paraprofessional fees, and costs, pre-trial and at all levels of proceedings, including appeals.

15.2 Landscaping and Irrigation of Lots; Removal of Sod and Shrubbery; Additional Planting.

15.2.1 Every Owner shall be required to irrigate the grass and landscaping located on the Lots in a routine and ordinary manner, and shall ensure that sufficient irrigation occurs during all periods when the Owner is absent from the Lot. Each Owner shall comply with all water use restrictions imposed by applicable governmental entities. To the extent an Owner fails to comply with any such water use restrictions and Association is subsequently fined due to such water use, Association may impose an Individual Assessment upon such Owner for the payment of any fine(s) imposed on Association.

15.2.2 All grass and landscaping located within any rear yard of a Lot shall be maintained by the Owner. No gardens, jacuzzis, fountains, playground equipment, pools, screened rooms, or other permitted improvements shall be constructed within the rear yard of a Lot without the prior written approval of the ACC. Each Owner understands that Lots within this Community may not be large enough to accommodate any of the foregoing items in any event.

15.2.3 Without the prior consent of the ACC and Master ACC (if activated), no sod, topsoil, tree or shrubbery shall be removed from Medley at Everlands, and there shall be no change in the plant landscaping, elevation, condition of the soil or the level of the land of such areas which results in any change in the flow and drainage of surface water which the ACC or Master ACC (if activated), each in its sole discretion, considers detrimental or potentially detrimental to person or property. Notwithstanding the foregoing, Owners who install improvements to the Home (including, without limitation, concrete or brick pavers) which result in any change in the flow and/or drainage of surface water shall be responsible for all of the costs of drainage problems resulting from

such improvement. Further, in the event that such Owner fails to pay for such required repairs, each Owner agrees to reimburse the Association for all expenses incurred in fixing such drainage problems including, without limitation, removing excess water and/or repairing the Surface Water Management System.

15.2.4 No landscape lighting shall be installed by an Owner without the prior written approval of the ACC.

15.2.5 Weeds and Refuse. No weeds, underbrush, or other unsightly growth shall be permitted to be grown or remain upon any Home. No refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Home.

15.2.6 Swale, Driveway and Sidewalk Repair. Each Owner shall be responsible to timely repair, maintain and/or replace the driveway which comprises part of a Home, the sidewalk abutting the front Lot or side of the Home and any swale areas between the Lot and the paved Common Areas including, but not limited to, any damage caused by Developer, Master Developer, Master Association, Association or by the holder of any easement over which such driveway or sidewalk is constructed. Each Owner, by acceptance of a deed to a Home, shall be deemed to have agreed to indemnify, defend and hold harmless Association, Master Association, Developer and/or Master Developer and the holder of any such easement including, without limitation, all applicable utility companies and governmental agencies, their agents, servants, employees and elected officials, from and against any and all actions or claims whatsoever arising out of the use of the Common Areas and any easement or the construction and/or maintenance of any driveway or sidewalk in that portion of the Common Areas, easement area, or in a public right-of-way between the boundary of such Owner's Home and the edge of the adjacent paved roadway. Further, each Owner agrees to reimburse Association any expense incurred in repairing any damage to such driveway or sidewalk in the event that such Owner fails to make the required repairs, together with interest at the highest rate allowed by law.

15.3 Paint. Estate Homes shall be repainted by each Owner, at such Owner's sole cost and expense, within forty-five (45) days of notice by the Association. In the event an Owner fails to repaint their Estate Home within the above referenced time frame, Association may, but shall not be obligated to, repaint such Owner's Estate Home and the costs of same shall be charged as an Individual Assessment to the Owner whose Home is repainted.

16. Use Restrictions. Each Owner must comply with the following:

16.1 Alterations and Additions. No material alteration, addition or modification to a Lot or Home, or material change in the appearance thereof, shall be made without the prior written approval thereof being first had and obtained from the ACC as required by this Declaration.

16.2 Animals. No animals of any kind shall be raised or kept within Medley at Everlands for commercial purposes. No roosters or pigeons shall be raised or kept within Medley at Everlands. The breeding of animals is strictly prohibited within Medley at Everlands. Association may prohibit breeds of dogs that the Board considers dangerous in its sole discretion. Otherwise, Owners may keep domestic pets as permitted by County ordinances and otherwise in accordance with the Rules and Regulations established by the Board from time to time. Notwithstanding the foregoing, pets may be kept or harbored in a Home only so long as such pets or animals do not constitute a nuisance. A determination by the Board that an animal or pet kept or harbored in a Home is a nuisance shall be conclusive and binding on all parties. All pets shall be walked on a leash. No pet shall be permitted outside a Home unless such pet is kept on a leash or within an enclosed portion of the yard of a Home, as approved by the ACC. No pet or animal shall be "tied out" on the exterior of the Home or in the Common Areas, or left unattended in a yard or on a balcony, porch, or patio. No dog runs or enclosures shall be permitted on any Home. When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of the giving of the notice. All pets shall defecate and urinate only in the "pet walking" areas within Medley at Everlands designated for such purpose, if any, or on that Owner's Home. The person walking the pet or the Owner shall clean up all matter created by the pet. Each Owner shall be responsible for the activities of its pet. Notwithstanding anything to the contrary, seeing eye dogs shall not be governed by the restrictions contained in this Section.

16.3 Artificial Vegetation. No artificial grass, plants or other artificial vegetation, or rocks or other landscape devices, shall be placed or maintained upon the exterior portion of any Home or Lot, unless approved by the ACC.

16.4 Cars and Trucks.

16.4.1 Parking. The driveways serving Villas within Medley at Everlands comprise a portion of each Lot, and each Villa Owner (and such Owner's guests and invitees) shall have unfettered access over such driveways for ingress and egress to their respective Villas. Owners' automobiles shall be parked in the garage or driveway, if provided, and shall not block the sidewalk. No vehicles of any nature shall be parked on any portion of Medley at Everlands or a Lot except on the surfaced parking area thereof. All lawn maintenance vehicles shall park on the driveway of the Home and not in the roadway or swale. No vehicles used in business for the purpose of transporting goods, equipment and the like, shall be parked in Medley at Everlands except during the period of a delivery. Recreational vehicles, personal street vans, personal trucks, and personal vehicles that can be appropriately parked within standard size parking stalls may be parked in Medley at Everlands. If at any time parking is permitted in the streets within Medley at Everlands, such street parking shall be limited to one side of the street. Owners may park in guest parking spaces located on the Common Areas provided, however, such Owners do not park their vehicles overnight in a guest parking space.

16.4.2 Repairs and Maintenance of Vehicles. No vehicle which cannot operate on its own power shall remain within Medley at Everlands for more than twenty-four (24) hours unless the same is stored in the garage of a Home. No repair or maintenance, except emergency repair, of vehicles shall be made within Medley at Everlands. No vehicles shall be stored on blocks. Tarpaulin covers on vehicles shall not be permitted without ACC approval.

16.4.3 Prohibited Vehicles. No commercial vehicle, limousines, house trailers, and trailers of every other type, kind or description, or camper, may be kept within Medley at Everlands except in the garage of a Home. Notwithstanding the foregoing, so long as an Estate Home has a fence which has been approved by the ACC, a boat and/or boat trailer, may be kept within the fenced yard of such Estate Home. Boats and/or boat trailers shall not be permitted to be kept within the yard of any Townhome or Villa. The term commercial vehicle shall not be deemed to include law enforcement vehicles or recreational or utility vehicles (*i.e.*, Broncos™, Blazers™, Explorers™, Navigators™, *etc.*) or clean “non- working” vehicles such as pick-up trucks, vans, or cars if they are used by the Owner on a daily basis for normal transportation. Notwithstanding any other provision in this Declaration to the contrary, the foregoing provisions shall not apply to construction vehicles in connection with the construction, improvement, installation, or repair by Developer or Builder of Homes, Common Areas, or any other Medley at Everlands facility. No vehicles displaying commercial advertising shall be parked within the public view. No vehicles bearing a “for sale” sign shall be parked within the public view anywhere on Medley at Everlands. For any Owner who drives an automobile issued by the County or other governmental entity (*i.e.*, police cars), such automobile shall not be deemed to be a commercial vehicle and may be parked in the garage or driveway of the Home. No vehicle shall be used as a domicile or residence either temporarily or permanently. No vehicle with expired registration or license plates may be kept within public view anywhere on Medley at Everlands. Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained in this Declaration or in the Rules and Regulations now or subsequently adopted may (without obligation) be towed by Association at the sole expense of the owner of such vehicle. Association shall not be liable to the owner of such vehicle for trespass, conversion, or otherwise, nor guilty of any criminal act, by reason of such towing. Notwithstanding the foregoing, each Owner acknowledges that such Owner and its family, guests, tenants, and invitees shall abide by all parking regulations issued by the local governing authority having jurisdiction.

16.4.4 Rules Regarding Boat and Boat Trailer Storage. No boat which is stored in the yard of a Home may extend higher than fourteen (14) feet from the ground. All boat owners shall be responsible for any damage to any Common Areas which in any way results from such owner’s storage of such boat within Medley at Everlands. In addition to the foregoing, any owner desiring to store a boat within Medley at Everlands must provide the Association with proof of insurance for their respective boat(s). Inoperable and/or unseaworthy boats may not be stored or parked in Medley at Everlands. No repairs to any boat(s) may be performed within Medley at Everlands. No boat engines may be run or flushed within Medley at Everlands. Full or partial boat covers which are commercial grade and in good repair (in the Association’s sole and absolute discretion) are permitted on boats within Medley at Everlands. No other boat covers including, but not limited to, tarps or other homemade covers may be used on boats which are stored or parked within Medley at Everlands. All boats which are stored within the yard of a Home must be on a trailer and must be enclosed by an ACC approved fence.

16.5 Casualty Destruction to Improvements. In the event that a Home or other improvement is damaged or destroyed by casualty loss or other loss, then within a reasonable period of time after such incident, the Owner thereof shall either commence to rebuild or repair the damaged Home or improvement and diligently continue such rebuilding or repairing until completion, or properly clear the damaged Home or improvement and restore or repair the Home as set forth in Section 18.2.2 herein and as approved by the ACC. As to any such reconstruction of a destroyed Home or improvements, the same shall only be replaced as approved by the ACC.

16.6 Commercial Activity. Except for normal construction activity, sale, and re-sale of a Home, sale or re-sale of other property owned by Developer, administrative offices of Developer, no commercial or business activity shall be conducted in any Home within Medley at Everlands. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Home for such Owner’s personal use; provided, however, business invitees customers, and clients shall not be permitted to meet with Owners in Homes unless the Board provides otherwise in the Rules and Regulations. No Owner may actively engage in any solicitations for commercial purposes within Medley at Everlands. No solicitors of a commercial nature shall be allowed within Medley at Everlands, without the prior written consent of Association. No day care center or facility may be operated out of a Home. No garage sales are permitted, except as permitted by Association. Prior to the Community Completion Date, Association shall not permit any garage sales without the prior written consent of Developer.

16.7 Completion and Sale of Homes. No person or entity shall interfere with the completion and sale of Homes within Medley at Everlands. WITHOUT LIMITING THE FOREGOING, EACH OWNER, BY ACCEPTANCE OF A DEED, AGREES THAT ACTIONS OF OWNERS MAY IMPACT THE VALUE OF HOMES; THEREFORE EACH OWNER IS BENEFITED BY THE FOLLOWING RESTRICTION: PICKETING AND POSTING OF NEGATIVE SIGNS OR POSTING OF NEGATIVE WEBSITES ON THE INTERNET, NEGATIVE ADVERTISING, NEGATIVE INFORMATION PROVIDED OR POSTED AT PUBLIC GATHERINGS ARE STRICTLY PROHIBITED IN ORDER TO PRESERVE THE VALUE OF THE HOMES IN MEDLEY AT EVERLANDS AND THE RESIDENTIAL ATMOSPHERE THEREOF.

16.8 Control of Contractors. Except for direct services which may be offered to Owners (and then only according to the Rules and Regulations relating thereto as adopted from time to time), no person other than an Association officer or representative of the management company retained by Association shall direct, supervise, or in any manner attempt to assert any control over any contractor of Association.

16.9 Cooking. No cooking shall be permitted nor shall any goods or beverages be consumed in the Front Yard of any Home or on the Common Areas except in areas designated for those purposes by Association. The ACC shall have the right to prohibit or restrict the use of grills or barbeque facilities throughout Medley at Everlands.

16.10 Decorations. No decorative objects including, but not limited to, birdbaths, wind chimes, figurines, wind chimes, light fixtures, sculptures, statutes, weather vanes, or flagpoles shall be installed or placed within or upon any portion of Medley at Everlands without the prior written approval of the ACC. Notwithstanding the foregoing, no statues, sculptures or birdbaths of any kind can be installed or placed within the Front Yard or visible from the street. Notwithstanding the foregoing, holiday lighting and decorations shall be permitted to be placed upon the exterior portions of the Home and upon the Lot in the manner permitted hereunder commencing on October 15<sup>th</sup> and shall be removed no later than January 15<sup>th</sup> of the following year. The ACC may establish standards for holiday lights. The ACC may require the removal of any lighting that creates a nuisance (*e.g.*, unacceptable spillover to adjacent Home).

16.11 Disputes as to Use. If there is any dispute as to whether the use of any portion of Medley at Everlands complies with this Declaration, such dispute shall, prior to the Community Completion Date, be decided by Developer, and thereafter by Association. A determination rendered by such party with respect to such dispute shall be final and binding on all persons concerned.

16.12 Drainage System. Drainage systems and drainage facilities may be part of the Facilities, Common Areas and/or Homes. The maintenance of such system and/or facilities within the Common Areas shall be the responsibility of the Association. Once drainage systems or drainage facilities are installed by Developer, the maintenance of such systems and/or facilities thereafter within the boundary of a Home shall be the responsibility of the Owner of the Home which includes such system and/or facilities. In the event that such system or facilities (whether comprised of swales, pipes, pumps, waterbody slopes, or other improvements) is adversely affected by landscaping, fences, structures (including, without limitation, pavers) or additions, the cost to correct, repair, or maintain such drainage system and/or facilities shall be the responsibility of the Owner of each Home containing all or a part of such drainage system and/or facilities. By way of example, and not of limitation, if the Owner of one Home plants a tree (pursuant to the ACC approval) and the roots of such tree subsequently affect pipes or other drainage facilities within another Home, the Owner that plants the tree shall be solely responsible for the removal of the roots which adversely affects the adjacent Home. Likewise, if the roots of a tree located within the Common Areas adversely affect an adjacent Home, Association shall be responsible for the removal of the roots and the costs thereof shall be Operating Costs. Notwithstanding the foregoing, Association, District, and Developer shall have no responsibility or liability for drainage problems of any type whatsoever.

16.13 Easement for Unintentional and Non-Negligent Encroachments. If any other building or improvement on a Home shall encroach upon another Home by reason of original construction by Developer, then an easement for such encroachment shall exist so long as the encroachment exists. It is contemplated that each Home shall contain an improvement with exterior walls, footings, and other protrusions which may pass over or underneath an adjacent Home. A perpetual nonexclusive easement is herein granted to allow the footers for such walls and other protrusions and to permit any natural water run off from roof overhangs, eaves and other protrusions onto an adjacent Home.

16.14 Extended Vacation and Absences. In the event a Home will be unoccupied for an extended period, the Home must be prepared prior to departure by: (i) notifying Association in writing; (ii) removing all removable furniture, plants and other objects from outside the Home; and (iii) designating a responsible firm or individual to care for the Home, should the Home suffer damage or require attention, and providing a key to that firm or individual. The name of the designee shall be furnished to Association. Neither Association nor Developer shall have responsibility of any nature relating to any unoccupied Home.

16.15 Fences, Walls and Screens. No walls or fences shall be erected or installed without prior written consent of the ACC. All enclosures of balconies or patios including, without limitation, addition of vinyl windows and decks shall require the prior written approval of the ACC. Other than as installed by the Developer, no chain link fencing may be installed within Medley at Everlands. The Owner of such Lot shall be obligated to ensure that the Association has unfettered access through such rear yard to repair, replace, maintain, or otherwise address issues relating to the perimeter fence or irrigation lines, if any. All fencing of yards within Medley at Everlands shall be aluminum rail and shall be bronze in color. All other fencing shall be four (4) feet in height.

16.16 Fuel Storage. No fuel storage shall be permitted within Medley at Everlands, except as may be necessary or reasonably used for swimming pools, spas, barbecues, fireplaces, emergency generators, or similar devices and as otherwise permitted by this Declaration.

16.17 Garages. Each Home may have its own garage. No garage shall be converted into a general living area. Garage doors may be left open during use for vehicular and pedestrian ingress and egress, in addition to other uses, and while performing activities in and around the garage, Home or Lot, so long as such additional uses and activities do not become a nuisance. At all other times, garage doors shall remain closed.

16.18 Garbage Cans. Trash collection and disposal procedures established by Association shall be observed. It is possible Association may provide for or contract with a private entity for garbage pick-up, the cost of which shall be Operating Costs. No outside burning of trash or garbage is permitted. No garbage cans, supplies or other similar articles shall be maintained on any Home so as to be visible from outside the Home, Lot or Parcel. Each Owner shall be responsible for properly depositing his or her garbage and trash in garbage cans and trash containers sufficient for pick-up by the appropriate collection agencies in accordance with the requirements of any such agency. All such trash receptacles shall be maintained in a sanitary condition and shall be shielded from the

view of adjacent properties and streets. Garbage cans and trash containers shall not be placed outside the Home for pick-up earlier than 6:00 p.m. on the day preceding the pick-up, and must be returned to the Home so that they are not visible from outside the Home on the day of pick-up. Without limiting the foregoing, it is anticipated, but not guaranteed, that the Owners of Villas will be obligated to dispose of garbage in a common dumpster or dumpsters, and that the applicable collection agency may pick up trash from such dumpster(s), rather than from each Lot. Owners of Townhomes and Estate Homes shall not be permitted to use any dumpsters used by Owners of Villas. To the extent any Owner must utilize any swale in connection with bulk pickup items, such Owner shall be obligated to request the bulk pickup the same day that the debris or other bulk items are placed in the swale, and must further notify the Association in writing as to the placement of the items and the request for pickup of the same. Any bulk items that are left in any portion of the Common Areas without notice to the Association shall be considered dumping and shall subject the applicable Owner to fines and/or legal action. In the event of legal action by the Association, the applicable Owner (and his or her guests, tenants and/or invitees) shall be fully liable for the Association's legal fees and costs.

16.19 General Use Restrictions. Each Home, the Common Areas and any portion of Medley at Everlands shall not be used in any manner contrary to the Association Documents.

16.20 Hurricane Shutters. Any hurricane shutters or other protective devices visible from outside a Home shall be of a type as approved in writing by the ACC. Panel, accordion and roll-up style hurricane shutters may not be left closed during hurricane season (nor at any other time). Any such approved hurricane shutters may be installed or closed up to forty-eight (48) hours prior to the expected arrival of a hurricane and must be removed or opened within seventy-two (72) hours after the end of a hurricane watch or warning or as the Board may determine otherwise. Except as the Board may otherwise decide, shutters may not be closed at any time other than a storm event. Any approval by the ACC shall not be deemed an endorsement of the effectiveness of hurricane shutters.

16.21 Irrigation. The water used in the irrigation system is not suitable for drinking or water sports. People and pets shall not play in such water. Such water shall not be used by Owners to irrigate lawns. Due to water quality, irrigation systems may cause staining on Homes, other structures, paved areas, or vehicles. It is the Association's obligation to treat and remove any such staining. The yard of each Home may be equipped with irrigation lines, depending on the model of the Home. No Owner whose Lot adjoins a waterway/lake, if any, may utilize the waterway to irrigate unless so provided by Developer as part of original construction, subject to applicable permitting. Association may use wells, waterways and lakes adjacent to or outside of Medley at Everlands to irrigate Common Areas, subject to applicable permitting and Developer shall not be liable for same. BY ACCEPTANCE OF A DEED TO A HOME OR PARCEL, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL WATERBODIES, IF ANY, MAY VARY. THERE IS NO GUARANTEE BY DEVELOPER OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME. Developer, Master Developer, the District, Association, Master Association shall have the right to use one or more pumps to remove water from lakes and waterbodies, if any, for irrigation purposes at all times, subject to applicable permitting. Developer may utilize a computerized loop system to irrigate the Common Areas and/or Homes. Any computerized loop irrigation system that is not specifically the maintenance obligation of an Owner, shall be the maintenance obligation of Association and shall be deemed part of the Common Areas.

16.22 Laundry. Subject to the provisions of Section 163.04 of the Florida Statutes, to the extent applicable, no rugs, mops, or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed so as to be visible outside the Home or Lot.

16.23 Lawful Use. No immoral, improper, offensive, unlawful or obnoxious use shall be made in any portion of Medley at Everlands. All laws, zoning ordinances and regulations of all governmental entities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental entities for maintenance, modification or repair of a portion of Medley at Everlands shall be the same as the responsibility for maintenance and repair of the property concerned.

16.24 Leases. Lots or Homes may be leased, licensed or occupied only in their entirety and no fraction or portion may be rented. All occupants of Homes other than the Owner, whether family of the Owner or third party tenants, must be approved by the Association. No bed and breakfast facility may be operated out of a Home. Individual rooms of a Home may not be individually leased on any basis. No transient tenants may be accommodated in a Home. To the extent that an Owner does not reside in his or her Home, but desires to permit family or friends to occupy such Home without a lease, all prospective occupants of the Home, prior to moving into the Home and irrespective of their relation to the Owner, must be registered with the Association and shall be subject to the Association's screening and approval process which is used for prospective tenants seeking to lease a Home within Medley at Everlands. All leases shall be subject to Association approval, and all tenants (and other occupants, as noted herein, shall be subject to Association screening). The Association shall not be permitted to deny a prospective tenant solely based upon credit score. Any credit score guideline used for tenant applications shall be no higher than the credit requirement to obtain an FHA loan (with the low down payment advantage) in effect at the time of tenancy application. All leases or occupancy agreements shall be in writing and a copy of all leases of Homes shall be provided to Association. All leases shall be on forms approved by Association and shall provide (or if not provided, shall be automatically deemed to provide) that Association shall have the unilateral right to terminate the lease upon default by the tenant in observing any of the provisions of the Association Documents or other applicable provisions of any agreement, document or instrument governing Medley at Everlands or administered by Association. Each Owner hereby acknowledges and agrees that any and all leases entered into by such Owner in connection with his or her Home shall be deemed to incorporate by this reference a collateral assignment of rents and leases in favor of Association, which collateral assignment of rents and leases shall provide that in the event such Owner leasing his or her Home is past due in the payment of his or her Assessments, Association shall have the power and authority to take actions including, but not limited to: (i) collecting rents now

due or that become due directly from such Owner's tenant(s) (or other party in possession of the Home); and/or (ii) pursuing any and all legal remedies available against such Owner and/or such Owner's tenant(s) including, but not limited to, actions for eviction of such Owner's tenant(s). Owners are responsible for providing their tenants with copies of all such Association Documents or instruments at such Owner's sole cost and expense. Leasing of Homes shall also be subject to the prior written approval of Association, as more particularly explained in Section 29 hereof. No Home may be subject to more than two (2) leases in any twelve (12) month period, regardless of the lease term. No lease term shall be less than six (6) months. No subleasing or assignment of lease rights by the tenant is permitted. No time-share or other similar arrangement is permitted. In no event shall occupancy of a leased Home (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. Each Owner shall be jointly and severally liable with the tenant to Association for all costs incurred by Association for the repair of any damage to Common Areas or to pay any claim for injury or damage to property caused by tenants. Association shall repair any such damage and the cost of such repair shall be invoiced as an Individual Assessment to the Owner. Additionally, as a condition to the approval by Association of a proposed lease of a Home, Association has the authority to require that a security deposit in an amount not to exceed the equivalent of one (1) month's rent be deposited into an account maintained by Association. The security deposit shall protect against damages to the Common Areas or Association Property. A security deposit held by Association under this Section shall be governed by Chapter 83 of the Florida Statutes, as it may be renumbered from time to time. Association may also charge a reasonable fee of no more than One Hundred (\$100.00) dollars to offset the costs of a background check on tenant. Association and its directors or officers, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any party whatsoever, due to any mistakes in judgment, negligence, or any action or inaction of Association, its officers, or directors, in connection with the approval or disapproval of tenants. Each Owner agrees, individually and on behalf of its prospective tenants, current tenants, heirs, successors and assigns by acquiring title to a Lot, that he or she (or any other of the aforementioned parties) shall not bring any action or suit against Association or its directors or officers, or any of the Association's agents or other parties acting on Association's behalf, in order to recover any damages alleged or caused by the actions of Association, or its officers or directors in connection with the provisions of this Section. All leases shall also comply with and be subject to the provisions of Section 29 hereof. Notwithstanding the foregoing, this Section shall not apply to a situation where an Owner or resident of a Home receives in-home care by a professional caregiver residing within the Home.

#### 16.25 Maintenance by Owners.

16.25.1 Standard of Maintenance. All lawns, landscaping and sprinkler systems and any property, structures, improvements, shadow box fences, and appurtenances not maintained by Association shall be well maintained and kept in first class, good, safe, clean, neat and attractive condition consistent with the general appearance of Medley at Everlands by the Owner of each Home. Each Owner is specifically responsible for maintaining all grass, landscaping and improvements within any portion of a Home that is fenced or located outside the Front Yard. In addition, if an Owner has installed a fence or wall around a Home, or any portion thereof, then such Owner must maintain any portion of the Common Areas that is no longer readily accessible to Association. Each Owner shall be responsible for root pruning trees within any portion of his or her Home.

16.25.2 Enclosed Common Area. If an Owner has enclosed the yard of a Home, or any portion thereof, with the ACC approval, then such Owner must maintain any portion of the Common Areas that is no longer readily accessible to Association.

16.26 Minor's Use of Facilities. Each Owner shall be responsible for all actions of minor children dwelling in and/or visiting his or her Home. Developer and Association shall not be responsible for any use of the facilities and Common Areas by anyone, including minors. Children under the age of twelve (12) shall be accompanied by an adult at all times.

16.27 Nuisances. No nuisance or any use or practice that is the source of unreasonable annoyance to others or which interferes with the peaceful possession and proper use of Medley at Everlands is permitted. The final determination of what constitutes a nuisance shall be made by the Board in its sole discretion. No firearms shall be discharged within Medley at Everlands. Nuisances shall include, without limitation, the playing of loud music or the gathering in front of homes or Common Areas by any Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees. Nothing shall be done or kept within the Common Areas, or any other portion of Medley at Everlands, including a Home or Lot which will increase the rate of insurance to be paid by Association.

16.28 Oil and Mining Operations. No oil, drilling development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or on any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or on any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

16.29 Personal Property. All personal property of Owners or other occupants of Homes shall be stored within the Homes. No personal property, except usual patio furniture, may be stored on, nor any use made of, the Common Areas, any Lot or Home, or any other portion of Medley at Everlands, which is unsightly or which interferes with the comfort and convenience of others. No personal property may be stored in the Front Yard of a Home.

16.30 Townhomes and Villas - Pools. No pools shall be permitted to be installed on Lots containing Townhomes or Villas.

16.31 Estate Home - Pools. No above-ground pools shall be permitted. All in-ground pools, hot tubs, spas and appurtenances installed shall require the prior written approval of the ACC and must be constructed in accordance with all applicable codes and ordinances. The design must incorporate, at a minimum, the following: (i)



the composition of the material must be thoroughly tested and accepted by the industry for such construction; (ii) any swimming pool constructed on any Lot shall have an elevation at the top of the pool of not over two (2) feet above the natural grade unless approved by the ACC; (iii) pool cages and screens must be of a design, color and material approved by the ACC and shall be no higher than twelve (12) feet unless otherwise approved by the ACC; and (iv) pool screening shall in no event be higher than the first floor of the Home. Pool screening shall not extend beyond the sides of the Home without the express approval of the ACC. All pools shall be adequately maintained and chlorinated (or cleaned with similar treatment). Unless installed by Developer, no diving boards, slides, or platforms shall be permitted without the approval of the ACC. All yards with in-ground pools, hot tubs, and/or spas must be enclosed by an ACC approved fence. No pool, hot tub or spa shall be approved by the ACC without such a fence.

16.32 Removal of Soil and Additional Landscaping. Without the prior consent of the ACC, no Owner shall remove soil from any portion of Medley at Everlands or change the level of the land within Medley at Everlands, or plant landscaping which results in any permanent change in the flow and drainage of surface water within Medley at Everlands. Owners may not place additional plants, shrubs, or trees within any portion of Medley at Everlands without the prior approval of the ACC.

16.33 Roofs, Driveways and Pressure Treatment. Roofs and/or exterior surfaces and/or pavement, including, but not limited to, walks and drives, shall be pressure treated within thirty (30) days of notice by the ACC. No surface applications to driveways shall be permitted without the prior written approval of the ACC as to material, color and pattern. Such applications shall not extend beyond the front Lot line or include the sidewalk. No oil stains, stains or weeds are permitted on driveways or Lots. Each Owner shall be responsible to pressure clean between paintings. The Board may decide to have annual window washing or roof repair and may collect the costs thereof as part of Operating Costs or Reserves. Notwithstanding the foregoing, the Association shall be responsible for pressure treatments and cleaning of Townhome and Villa exterior surfaces and the costs of the same shall be charged to each applicable Owner as an Individual Assessment.

16.34 Satellite Dishes and Antennas. No exterior visible antennas, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot without the prior written approval thereof being first had and obtained from the ACC as required by this Declaration. The ACC may require, among other things, that all such improvements be screened so that they are not visible from adjacent Homes, or from the Common Areas. Each Owner agrees that the location of satellite dishes, antennas, and other equipment under this Section must be first approved by the ACC in order to address the welfare of the residents of Medley at Everlands and satellite dishes must be on the fascia board when possible with no exposed wires. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others. All antennas not permitted by the Federal Communications Commission (“**FCC**”) rules are prohibited. Installation, maintenance, and use of all antennas shall comply with restrictions adopted by the Board and shall be governed by the then current rules of the FCC.

16.35 Screened Enclosures. No screened enclosures, for pools or otherwise, shall be permitted without the prior written approval of the ACC.

16.36 Signs and Flags. No sign (including brokerage or for sale/lease signs) flag, banner, sculpture, fountain, outdoor play equipment, solar equipment, artificial vegetation, sports equipment, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed in, or upon any part of Medley at Everlands that is visible from the outside without the prior written approval thereof being first had and obtained from the ACC as required by this Declaration; provided however, signs required by governmental agencies and approved by the ACC may be displayed (e.g. permit boards). “For Sale” and “For Rent” signs must be approved by the ACC and shall be no larger than 5” x 8”. Notwithstanding the foregoing, no broker, “For Sale” or “For Rent” signs shall be exhibited, displayed, inscribed, painted or affixed in, or upon any part of Medley at Everlands while the Developer holds any Homes for sale in the ordinary course of business. In the event that any such “For Sale” or “For Rent” signs (or related signage including, but not limited to, open house signs) are exhibited, displayed, inscribed, painted or affixed in, or upon any part of Medley at Everlands while the Developer holds any Homes for sale in the ordinary course of business, the Developer and/or Association through their respective representatives or vendors shall be entitled to remove any such signs on sight and without any requirement for prior notice of any kind, may enter upon any property within Medley at Everlands (inclusive of Common Areas and Lots) to accomplish such removal, and may invoice the applicable Owner for any costs incurred by the Developer and/or Association in the removal process. No sign may be placed in the window of a Home. Developer and Builders are exempt from this Section. No in-ground flag poles (except as Developer may use) shall be permitted within Medley at Everlands unless written approval of the ACC is obtained. Notwithstanding the foregoing, flags which are no larger than 24” x 36” attached to a Home and displayed for the purpose of a holiday, and United States of America flags shall be permitted without ACC approval. Notwithstanding the foregoing, no ACC approval is necessary for the installation of an American flag, up to two feet (2’) by four feet (4’) in size, posted on a three foot (3’) pole and attached at a forty five degree (45°) angle from the Home.

16.37 Solar Equipment and Components. No solar equipment shall be installed on a Lot or affixed to any Home within Medley at Everlands without the prior written approval thereof being first had and obtained from the ACC. With respect to ground-mounted solar panels, the same may only be installed in the rear yards of Homes that have an ACC approved fence, and all solar equipment and panels must be screened by such ACC approved fence (i.e., no solar equipment may exceed the height of the ACC approved fence). No ground-mounted solar equipment may be affixed to an Owner’s fence. Roof-mounted solar panels and equipment shall be installed so that the panels are flush mounted and shall located on a portion of the rear roof area, as reasonably determined by the ACC. Roof-mounted solar panels shall be an integrated part of the roof design and mounted directly to the roof deck or if mounted on or over the existing roof tile, should be flush with the slope of the roof. Solar units must not break the roof ridgeline. Solar panels should be positioned as low as possible on the roof extending wider rather

than higher on the roof plane. The solar panels, piping or any exposed part of the installation may not be higher than the roof peak. Visibility of devices and their components must be minimized from public view, and may be required to be screened from neighboring property in a manner approved by the ACC.

16.38 Sports Equipment. No recreational, playground or sports equipment shall be installed or placed within or about any portion of Medley at Everlands without prior written consent of the ACC. No basketball backboards, skateboard ramps, or play structures will be permitted without written approval by the ACC. Such approved equipment shall be located at the rear of the Home or on the inside portion of corner Homes within the setback lines. Tree houses or platforms of a similar nature shall not be constructed on any part of a Home. No basketball hoops shall be attached to a Home and any portable basketball hoops must be stored inside the Home. No tennis courts are permitted within Lots.

16.39 Storage. No temporary or permanent utility or storage shed, storage building, tent, or other structure or improvement shall be permitted and no other structure or improvement shall be constructed, erected, altered, modified or maintained without the prior approval of the ACC, which approval shall conform to the requirements of this Declaration and the Community Standards. Water softeners, trash containers, propane tanks, and other similar devices shall be properly screened from the street in a manner approved by the ACC.

16.40 Subdivision and Regulation of Land. No portion of any Home, Lot or Parcel shall be divided or subdivided or its boundaries changed without the prior written approval of Association. No Owner shall inaugurate or implement any variation from, modification to, or amendment of governmental regulations, land use plans, land development regulations, zoning, or any other development orders or development permits applicable to Medley at Everlands, without the prior written approval of Developer, which may be granted or denied in its sole discretion.

16.41 Substances. No flammable, combustible or explosive fuel, fluid, chemical, hazardous waste, or substance shall be kept on any portion of Medley at Everlands or within any Home, Lot or Parcel, except those which are required for normal household use. All propane tanks and bottled gas for household and/or pool purposes (excluding barbecue grill tanks) must be installed underground or in a manner to be screened from view by landscaping or other materials approved by the ACC.

16.42 Swimming, Fishing, Boating, Docks and Wildlife. Swimming, fishing and feeding wildlife are prohibited within any waterbodies within or adjacent to Medley at Everlands. Boating and personal watercraft (*e.g.*, jet/water skis) are prohibited. No private docks may be erected within any waterbody.

16.43 Use of Homes. Each Home is restricted to residential use as a residence by the Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees. To the extent that an Owner does not reside in his or her Home, but desires to permit family or friends to occupy such Home without a lease, all prospective occupants of the Home, prior to moving into the Home and irrespective of their relation to the Owner, must be registered with the Association and shall be subject to the Association's screening and approval process which is used for prospective tenants seeking to lease a Home within Medley at Everlands.

16.44 Visibility on Corners. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the ACC and governmental agencies. No vehicles, objects, fences, walls, hedges, shrubs or other planting shall be placed or permitted on a corner Lot where such obstruction would create a traffic problem.

16.45 Water Intrusion. Florida experiences heavy rainfall and humidity on a regular basis. Each Owner is responsible for making sure his or her Home remains watertight including, without limitation, checking caulking around windows and seals on doors. Each Owner acknowledges that running air conditioning machinery with windows and/or doors open in humid conditions can result in condensation, mold and/or water intrusion. Neither Developer nor Association shall have liability under such circumstances for any damage or loss that an Owner may incur.

16.46 Wells. Wells are not permitted within Medley at Everlands.

16.47 Windows or Wall Units. No window or wall air conditioning unit may be installed in any window or wall of a Home.

16.48 Window Treatments. Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) weeks after an Owner or tenant first moves into a Home or when permanent window treatments are being cleaned or repaired. No security bars shall be placed on the windows of any Home without prior written approval of the ACC. No awnings, canopies or shutters shall be affixed to the exterior of a Home without the prior written approval of the ACC. No reflective tinting or mirror finishes on windows shall be permitted unless approved by the ACC. Window treatments facing the street shall be of a neutral color, such as white, off-white or wood tones.

16.49 Workers. Workers hired by any Owner for any purpose including, without limitation, maintenance, landscaping, and/or housekeeping may not congregate in or about the Common Areas or make any personal use of such Common Areas.

17. Easement for Unintentional and Non-Negligent Encroachments. If any other building or improvement on a Home shall encroach upon another Home by reason of original construction by Developer, then an easement for such encroachment shall exist so long as the encroachment exists. It is contemplated that each Home shall contain an improvement with exterior walls, footings, and other protrusions which may pass over or underneath an adjacent

Home. A perpetual nonexclusive easement is herein granted to allow the footers for such walls and such other protrusions and to permit any natural water runoff from roof overhangs, eaves and other protrusions onto an adjacent Home.

18. Requirement to Maintain Insurance.

18.1 Association. Association shall maintain the following insurance coverage:

18.1.1 Flood Insurance. If the Common Areas are located within an area which has special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP), coverage in appropriate amounts, available under NFIP for all buildings and other insurable property within any portion of the Common Areas located within a designated flood hazard area.

18.1.2 Liability, Property Damage, Hazard Insurance. Commercial general liability insurance, property damage insurance and hazard insurance coverage providing coverage and limits deemed appropriate. Such policies must provide that they may not be canceled or substantially modified by any party, without at least thirty (30) days' prior written notice to Developer (until the Community Completion Date) and Association.

18.1.3 Directors and Officers Liability Insurance. Each member of the Board shall be covered by directors and officers liability insurance in such amounts and with such provisions as approved by the Board.

18.1.4 Other Insurance. Such other insurance coverage as appropriate from time to time. All coverage obtained by Association shall cover all activities of Association and all properties maintained by Association, whether or not Association owns title thereto.

18.1.5 Developer. Prior to and including the Turnover Date, Developer shall have the right, at Association's expense, to provide any such insurance coverage it deems appropriate under its master insurance policy in lieu of any of the foregoing.

18.2 Homes.

18.2.1 Requirement to Maintain Insurance. Each Owner shall be required to obtain and maintain adequate insurance of his or her Home. Such insurance shall be sufficient for necessary repair or reconstruction work, and/or shall cover the costs to demolish a damaged Home as applicable, remove the debris, and to resod and landscape land comprising the Home. Upon the request of Association, each Owner shall be required to supply the Board with evidence of insurance coverage on his Home which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of Association, Association shall specifically have the right to bring an action to require an Owner to comply with his or her obligations hereunder.

18.2.2 Requirement to Reconstruct or Demolish. . In the event that any Home is destroyed by fire or other casualty, the Owner of such Home shall do one of the following: the Owner shall commence reconstruction and/or repair of the Home ("**Required Repair**"), or Owner shall tear the Home down, remove all the debris, and resod and landscape the property comprising the Home as required by the ACC ("**Required Demolition**") to the extent permitted under law. If an Owner elects to perform the Required Repair, such work must be commenced within thirty (30) days notice from Association and/or the Master Association. If an Owner elects to perform the Required Demolition, the Required Demolition must be completed within six (6) months from the date of the casualty or such longer period of time established by the Board in its sole discretion subject to extension if required by law. If an Owner elects to perform the Required Repair, such reconstruction and/or repair must be completed in a continuous, diligent, and timely manner. Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the powers of Association, Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on his or her Home within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes, and/or building codes.

18.2.3 Townhome and Villa Buildings. Certain Homes are separated by Party Walls but form part of a Townhome Building or Villa Building. Notwithstanding anything to the contrary herein, any Owner of a Home within a Townhome Building or Villa Building must have the written agreement of all of the Owners of Homes within such Townhome Building or Villa Building, as applicable, before any Required Demolition can be commenced. Such written agreement must be presented to the ACC before any Required Demolition can commence. If all of the Owners of Homes within a Townhome Building or Villa Building do not agree to the Required Demolition, then such Required Demolition shall not be commenced by any Owner of a Home within a Townhome Building or Villa Building, as applicable, and all Owners of damaged or destroyed Homes within such Townhome Building or Villa Building shall perform Required Repair with respect to such Homes.

18.2.4 Standard of Work. The standard for all demolition, reconstruction, and other work performed as required by this Section 18.2.4 shall be in accordance with the Community Standards and any other standards established by Association with respect to any casualty that affects all or a portion of Medley at Everlands.

18.2.5 Additional Rights of Association. If an Owner refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then Association, in its sole and absolute discretion, by and through its Board is hereby irrevocably authorized by such Owner to perform the Required Repair or

Required Demolition. All Required Repair performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Home. Association shall have the absolute right to perform the Required Demolition to a Home pursuant to this Section if any contractor certifies in writing to Association that such Home cannot be rebuilt or repaired. The Board may levy an Individual Assessment against the Owner in whatever amount sufficient to adequately pay for Required Repair or Required Demolition performed by Association.

18.2.6 Rights of County. In the event that any Home is destroyed by fire or other casualty, County or other authorized governmental agency shall have the right, but not the obligation, to enter such Owner's Lot and/or Home for the purpose of inspecting and assessing the damage to such Home. County shall further have the right to enforce any local laws and/or ordinances with regard to the Required Repair or the Required Demolition of the Home.

18.2.7 Association Has No Liability. Notwithstanding anything to the contrary in this Section, Association, its directors and officers, shall not be liable to any Owner should an Owner fail for any reason whatsoever to obtain insurance coverage on a Home. Moreover, Association, its directors and officers, shall not be liable to any person if Association does not enforce the rights given to Association in this Section.

18.3 Fidelity Bonds. If available, Association may obtain a blanket fidelity bond for all officers, directors, trustees and employees of Association, and all other persons handling or responsible for funds of, or administered by, Association. In the event Association delegates some or all of the responsibility for the handling of the funds to a professional management company or licensed manager, such bonds shall be required for its officers, employees and agents, handling or responsible for funds of, or administered on behalf of Association. The amount of the fidelity bond shall be based upon reasonable business judgment. The fidelity bonds required herein must meet the following requirements (to the extent available at a reasonable premium):

18.3.1 The bonds shall name Association as an obligee.

18.3.2 The bonds shall contain waivers, by the issuers of the bonds, of all defenses based upon the exclusion of persons serving without compensation from the definition of "employee" or similar terms or expressions.

18.3.3 The premiums on the bonds (except for premiums on fidelity bonds maintained by a professional management company, or its officers, employees and agents), shall be paid by Association.

18.3.4 The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days' prior written notice to Developer (until the Community Completion Date) and Association.

18.4 Association as Agent. Association is irrevocably appointed agent for each Owner of any interest relating to the Common Areas to adjust all claims arising under insurance policies purchased by Association and to execute and deliver releases upon the payment of claims.

18.5 Casualty to Common Areas. In the event of damage to the Common Areas, or any portion thereof, Association shall be responsible for reconstruction after casualty. In the event of damage to a Home, or any portion thereof, the Owner shall be responsible for reconstruction after casualty.

18.6 Nature of Reconstruction. Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or as the improvement was last constructed, subject to modification to conform with the then current governmental regulation(s).

18.7 Additional Insured. Developer and their Lender(s) shall be named as additional insured on all policies obtained by Association, as their interests may appear.

18.8 Cost of Insurance. The costs of all insurance maintained by Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof are Operating Costs. Notwithstanding the foregoing or any other provisions in this Declaration, expenses incurred which result from a natural disaster or an act of God occurring which are not covered by proceeds from insurance maintained by Association (*i.e.*, the costs of any deductible, the costs incurred which are in excess of the Association's coverage, etc.), shall not be Operating Costs (and as such, are not part of the Developer's deficit funding obligation, if any) and may be charged as a Special Assessment against all Owners of record as of the date that the Special Assessment is assessed.

## 19. Property Rights.

19.1 Owners' Easement of Enjoyment. Every Owner, and its immediate family, tenants, guests and invitees, and every owner of an interest in Medley at Everlands shall have a non-exclusive right and easement of enjoyment in and to those portions of the Common Areas which it is entitled to use for their intended purpose, subject to the following provisions:

19.1.1 Easements, restrictions, reservations, conditions, limitations and declarations of record, now or hereafter existing, and the provisions of this Declaration, as amended.

19.1.2 Rules and Regulations adopted governing use and enjoyment of the Common Areas.

19.1.3 The right of Association to suspend an Owner's rights hereunder or to impose fines in accordance with Section 720.305 of the Florida Statutes, as amended from time to time.

19.1.4 The right to suspend the right to use all (except vehicular and pedestrian ingress and egress and necessary utilities) or a portion of the Common Areas by an Owner, its immediate family, etc. for any period during which any Assessment against that Owner remains unpaid.

19.1.5 The right of Developer and/or Association to dedicate or transfer all or any part of the Common Areas. No such dedication or transfer shall be effective prior to the Community Completion Date without prior written consent of Developer and any holders of Association or Developer granted easements related to access, shared drainage, or water use.

19.1.6 The right of Developer and/or Association to modify the Common Areas as set forth in this Declaration.

19.1.7 The perpetual right of Developer to access and enter the Common Areas at any time, even after the Community Completion Date, for the purposes of inspection and testing of the Common Areas. Association and each Owner shall give Developer unfettered access, ingress and egress to the Common Areas so that Developer and/or its agents can perform all tests and inspections deemed necessary by Developer. Developer shall have the right to make all repairs and replacements deemed necessary by Developer. At no time shall Association and/or an Owner prevent, prohibit and/or interfere with any testing, repair or replacement deemed necessary by Developer relative to any portion of the Common Areas.

19.1.8 The right of Developer and/or Association to modify the Common Areas as set forth in this Declaration.

19.1.9 The rights of Master Developer, Developer, Master Association and/or Association regarding Medley at Everlands as reserved in this Declaration, including, without limitation, the right to utilize the same and to grant use rights, etc. to others.

19.1.10 Rules and Regulations adopted governing use and enjoyment of the Common Areas.

19.1.11 An Owner relinquishes use of the Common Areas at any time that a Home is leased to a Tenant.

19.1.12 The right of Association to evict occupants, tenants, guests and invitees as provided in this Declaration.

19.2 Ingress and Egress. An easement for ingress and egress is hereby created for pedestrian traffic over, and through and across sidewalks paths, walks, driveways, passageways, and lanes as the same, from time to time, may exist upon, or be designed as part of, the Common Areas, and for vehicular traffic over, through and across such portions of the Common Areas as, from time to time, may be paved and intended for such purposes.

19.3 Development Easement. In addition to the rights reserved elsewhere herein, Developer and Master Developer reserve an easement for themselves or their nominees over, upon, across, and under Medley at Everlands as may be required in connection with the development of Medley at Everlands and other lands designated by Developer and/or Master Developer and to promote or otherwise facilitate the development, construction and sale and/or leasing of Homes, any portion of Medley at Everlands and other lands designated by Developer and/or Master Developer. Without limiting the foregoing, Developer and/or Master Developer specifically reserve the right to use all paved roads and rights of way within Medley at Everlands for vehicular and pedestrian ingress and egress to and from construction sites and for the construction and maintenance of any Telecommunications Systems provided by Developer and/or Master Developer. Specifically, each Owner acknowledges that construction vehicles and trucks may use portions of the Common Areas. Developer and/or Master Developer shall have no liability or obligation to repave, restore, or repair any portion of the Common Areas as a result of the use of the same by construction traffic, and all maintenance and repair of such Common Areas shall be deemed ordinary maintenance of Association payable by all Owners as part of Operating Costs. Without limiting the foregoing, at no time shall Developer and/or Master Developer be obligated to pay any amount to Association on account of Developer's and/or Master Developer's use of the Common Areas for construction purposes. Developer and Master Developer intend to use the Common Areas for sales of new and used Homes. Further, Developer and Master Developer may market other residences and commercial properties located outside of Medley at Everlands from Developer's and/or Master Developer's sales facilities located within Medley at Everlands. Developer and Master Developer have the right to use all portions of the Common Areas in connection with its marketing activities including, without limitation, allowing members of the general public to inspect model Homes, installing signs and displays, holding promotional parties and picnics, and using the Common Areas for every other type of promotional or sales activity that may be employed in the marketing of new and used residential Homes or the leasing of residential apartments. The easements created by this Section, and the rights reserved herein in favor of Developer and Master Developer, shall be construed as broadly as possible and supplement the rights of Developer and Master Developer. At no time shall Developer and/or Master Developer incur any expense whatsoever in connection with its use and enjoyment of such rights and easements. Without limiting any other provision of this Declaration, Developer and Master Developer may non-exclusively assign their rights hereunder to each Builder.

19.4 Public Easements. County, fire, police, school transportation, health, sanitation and other public service and utility company personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas. The County shall also have a permanent and perpetual easement for ingress and egress over and across the Common Areas. In addition, Telecommunications Providers shall also have

the right to use all paved roadways for ingress and egress to and from Telecommunications Systems within Medley at Everlands.

19.5 Delegation of Use. Every Owner shall be deemed to have delegated its right of enjoyment to the Common Areas to occupants or lessees of that Owner's Home subject to the provisions of this Declaration and the Rules and Regulations, as may be promulgated, from time to time. Any such delegation or lease shall not relieve any Owner from its responsibilities and obligations provided herein.

19.6 Easement for Encroachments. In the event that any improvement upon Common Areas, as originally constructed, shall encroach upon any other property or improvements thereon, or for any reason, then an easement appurtenant to the encroachment shall exist for so long as the encroachment shall naturally exist.

19.7 Permits, Licenses and Easements. Prior to the Community Completion Date, Developer, and thereafter Association shall, subject to restrictions contained in easement agreements already in effect, and in addition to the specific rights reserved to Developer herein, have the right to grant, modify, amend and terminate permits, licenses and easements over, upon, across, under and through Medley at Everlands (including Lots, Parcels and/or Homes) for Telecommunications Systems, utilities, roads and other purposes reasonably necessary or useful as it determines, in its sole discretion. To the extent legally required, each Owner shall be deemed to have granted to Developer and, thereafter, Association an irrevocable power of attorney, coupled with an interest, for the purposes herein expressed.

19.8 Blanket Easement in Favor of District. The District shall also have blanket easements necessary for District operations above, across and under Medley at Everlands. The easement shall permit, without limitation, all construction, maintenance and replacement activities of the District as well as provide the District with an easement over all roads for water and sewer drainage.

19.9 Support Easement and Maintenance Easement. An easement is hereby created for the existence and maintenance of supporting structures (and the replacement thereof) in favor of the entity required to maintain the same. An easement is hereby created for maintenance purposes (including access to perform such maintenance) over and across Medley at Everlands (including Lots, Parcels, and Homes) for the reasonable and necessary maintenance of Common Areas, utilities, cables, wires and other similar facilities.

19.10 Drainage. A non-exclusive easement shall exist in favor of Developer, Master Developer, the District, Master Association, Association, and their designees, and any applicable water management district, state agency, county agency and/or federal agency having jurisdiction over Medley at Everlands over, across and upon Medley at Everlands for drainage, irrigation and water management purposes and for purposes of installing, repairing, modifying or improving drainage facilities or components. A non-exclusive easement for ingress, egress and access exists as shown on the Plat for such parties to enter upon and over any portion of Medley at Everlands (including Homes) in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, conservation areas, mitigation areas, irrigation systems and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation of Medley at Everlands and/or installation or maintenance of utilities or which may obstruct or retard the flow of water through Medley at Everlands and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Declaration.

19.11 Easement in favor of Association. Association is hereby granted an easement over all of Medley at Everlands, including all Homes and Lots, for the purpose of (a) constructing, maintaining, replacing and operating all Common Areas, including, but not limited to, perimeter walls and fences, and (b) performing any obligation of an Owner for which Association intends to impose an Individual Assessment.

19.12 Duration. All easements created herein or pursuant to the provisions hereof shall be perpetual unless stated to the contrary.

## 20. Assessments.

20.1 Types of Assessments. Each Owner and Builder, by acceptance of a deed or instrument of conveyance for the acquisition of title in any manner (whether or not so expressed in the deed), including any purchaser at a judicial sale, shall hereafter be deemed to have covenanted and agreed to pay to Association at the time and in the manner required by the Board, assessments or charges and any special assessments as are fixed, established and collected from time to time by Association (collectively, the "Assessments"). All Owners and Builders shall pay Assessments. Notwithstanding the foregoing, so long as Developer deficit funds Association, neither Developer nor any Builder shall pay Assessments. Rather, during any period in which Developer is deficit funding the Association, each Builder shall pay pursuant to a Builder budget to be prepared by Developer in its discretion such portion of Operating Costs which benefits any Lot or Parcel owned by such Builder, as determined by Developer, in Developer's sole discretion. By way of example, and not of limitation, Developer may require that each Builder pay some portion of Assessments on a Lot or Parcel owned by a Builder which does not contain a Home. As vacant Lots or Parcels owned by Builders may not receive certain services (e.g., Telecommunications Services), Builders shall not be required to pay for the same. To the extent Developer is not deficit funding Association, each Builder shall be required to pay Assessments in connection with its Lots. The statutory rights afforded to Association including, without limitation, the right of Association to file liens, bring actions for foreclosure and/or the right of Association to accelerate the amount of Assessments due upon non-payment of Assessments, shall also apply to Assessments (or portions of Operating Costs) owed by Builders with respect to Homes and/or Lots owned by such Builders. Additionally, all legal fees, late fees, interest and attorneys' fees and

costs relating to the collection of Assessments from Builders shall be fully recoverable by Association against Builders.

20.2 Purpose of Assessments. The Assessments levied by Association shall be used for, among other things, the improvement and maintenance of the Common Areas and any easement in favor of Association, including but not limited to the following categories of Assessments as and when levied and deemed payable by the Board:

20.2.1 Any monthly or quarterly assessment (as determined by the Board) or charge for the purpose of operating Association and accomplishing any and all of its purposes, as determined in accordance herewith, including, without limitation, payment of Operating Costs and collection of amounts necessary to pay any deficits from prior years' operation (hereinafter "Installment Assessments");

20.2.2 Any special assessments for capital improvements, major repairs, emergencies, the repair or replacement of the Common Areas, or nonrecurring expenses (hereinafter "Special Assessments");

20.2.3 Any specific fees, dues or charges to be paid by Owners for any special services provided to or for the benefit of an Owner or Home, for any special or personal use of the Common Areas, or to reimburse Association for the expenses incurred in connection with that service or use (hereinafter "Use Fees");

20.2.4 Assessments of any kind for the creation of reasonable reserves for any of the aforesaid purposes. At such time as there are improvements in any Common Areas for which Association has a responsibility to maintain, repair, and replace, the Board may, but shall have no obligation to, include a "Reserve for Replacement" in the Installment Assessments in order to establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements comprising a portion of the Common Areas (hereinafter "Reserves"). Assessments pursuant to this Section shall be payable in such manner and at such times as determined by Association, and may be payable in installments extending beyond the fiscal year in which the Reserves are approved. Until the Community Completion Date, Reserves shall be subject to the prior written approval of Developer, which may be withheld for any reason; and

20.2.5 Assessments for which one or more Owners (but less than all Owners) or Builders within Medley at Everlands is subject ("Individual Assessments") such as costs of special services provided to a Builder, Home or Owner or cost relating to enforcement of the provisions of this Declaration or the architectural provisions hereof as it relates to a particular Builder, Owner or Home. By way of example, and not of limitation, in the event an Owner fails to maintain the exterior of his Home (other than those portions of a Home maintained by Association) in a manner satisfactory to Association, Association shall have the right, through its agents and employees, to enter upon the Home and to repair, restore, and maintain the Home as required by this Declaration. The cost thereof, plus the reasonable administrative expenses of Association, shall be an Individual Assessment. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment. As a further example, if one or more Owners receive optional Telecommunications Services such as Toll Calls, Cable Services and/or Data Transmission Services, and Association pays a Telecommunications Provider for such services, then the cost of such services shall be an Individual Assessment as to each Owner receiving such services. Further, in the event that Association decides it is in the best interest of Medley at Everlands that Association perform any other obligation of an Owner or Builder under this Declaration, the cost of performing such obligation shall be an Individual Assessment. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment.

20.3 Designation. The designation of Assessment type shall be made by Association. Prior to the Community Completion Date, any such designation must be approved by Developer. Such designation may be made on the budget prepared by Association. The designation shall be binding upon all Owners.

20.4 Allocation of Operating Costs.

20.4.1 For the period until the adoption of the first annual budget, the allocation of Operating Costs shall be as set forth in the initial budget prepared by Developer.

20.4.2 Commencing on the first day of the period covered by the annual budget, and until the adoption of the next annual budget, the Installment Assessments shall be allocated so that each Owner shall pay his pro rata portion of Installment Assessments, Special Assessments, and Reserves based upon a fraction, the numerator of which is one (1) and the denominator of which is the total number of Homes in Medley at Everlands conveyed to Owners or any greater number determined by Developer from time to time. Developer, in its sole and absolute discretion may change such denominator from time to time. Under no circumstances will the denominator be less than the number of Homes owned by Owners other than Developer. Notwithstanding the foregoing, it is anticipated, but not guaranteed, that Owners of Townhomes, Owners of Villas and Owners of Estate Homes will be required to pay additional Operating Costs for services exclusive to Townhomes, Townhome Buildings, Villas, Villa Buildings and/or Estate Homes, respectively.

20.4.3 In the event the Operating Costs as estimated in the budget for a particular fiscal year are, after the actual Operating Costs for that period is known, less than the actual costs, then the difference shall, at the election of Association: (i) be added to the calculation of Installment Assessments, as applicable, for the next ensuing fiscal year; or (ii) be immediately collected from the Owners as a Special Assessment. Association shall have the unequivocal right to specially assess Owners retroactively on January 1st of any year for any shortfall in Installment Assessments, which Special Assessment shall relate back to the date that the Installment Assessments could have been made. No vote of the Owners shall be required for such Special Assessment (or for any other Assessment except to the extent specifically provided herein).

20.4.4 Each Owner agrees that so long as it does not pay more than the required amount it shall have no grounds upon which to object to either the method of payment or non-payment by other Owners of any sums due.

20.5 General Assessments Allocation. Except as hereinafter specified to the contrary, Installment Assessments, Special Assessments and Reserves shall be allocated equally to each Owner. Notwithstanding the foregoing, it is anticipated, but not guaranteed, that Owners of Townhomes, Owners of Villas and Owners of Estate Homes will be required to pay additional Operating Costs for services exclusive to Townhomes, Townhome Buildings, Villas, Villa Buildings and/or Estate Homes, respectively.

20.6 Use Fees and Individual Assessment. Except as hereinafter specified to the contrary, Use Fees and Individual Assessments shall be made against the Owners benefiting from, or subject to the special service or cost as specified by Association.

20.7 Commencement of First Assessment. Assessments shall commence as to each Owner on the day of the conveyance of title of a Lot to an Owner. The applicable portion of Assessments shall commence as to each Builder on the day of the conveyance of title of a Lot or Parcel to such Builder.

20.8 Deficit Funding, Shortfalls and Surpluses. Each Owner acknowledges that because Installment Assessments, Special Assessments, and Reserves are allocated based on the formula provided herein, the total number of Homes to be included in Medley at Everlands, or upon the number of Homes conveyed to Owners on or prior to September 30 of the prior fiscal year (as determined in Developer's discretion), it is possible that Association may collect more or less than the amount budgeted for Operating Costs. At any time (and from time to time) prior to and including the Turnover Date, Developer shall have the option ("**Developer's Option**") to either (i) fund all or any portion of the shortfall in Installment Assessments not raised by virtue of all Installment Assessments due from Owners and other income produced by Association or (ii) to pay Installment Assessments on Homes or Lots owned by Developer. In the event that Developer elects to fund all or a portion of the shortfall in Installment Assessments, as stated above, Developer shall have no obligation to fund bad debt expenses relating to the payment of Assessments including, without limitation, estimates for bad debt allowance and actual write-offs of Owner balances. If Developer has cumulatively overfunded Operating Costs and/or prepaid expenses of Association including, but not limited to, loaning Association uncollected Assessments due from Owners which are not timely paid, Association shall refund such amounts to Developer immediately upon such prepaid or loaned amounts being received by Association (through legal collection efforts or otherwise), but in no event later than the Turnover Date or as soon as possible thereafter (*e.g.* once the amount is finally determined), or, in Developer's sole and absolute discretion, pursuant to terms and conditions (*e.g.*, payment plan) approved by Developer. Developer shall never be required to (i) pay Installment Assessments if Developer has elected to fund the deficit instead of paying Installment Assessments on Homes or Lots owned by Developer, (ii) pay Special Assessments, management fees or Reserves, or (iii) pay amounts due from, but not paid by, Owners, as referenced above. Any surplus Assessments collected by Association may be (i) allocated towards the next year's Operating Costs, (ii) used to fund Reserves, whether or not budgeted, (iii) retained by Association, and/or (iv) used for any other purpose, in Association's sole and absolute discretion, to the creation of Reserves, whether or not budgeted. Under no circumstances shall Association be required to pay surplus Assessments to Owners.

21.8.1 If an audit of the Association's financial records reveals that Developer has funded a greater amount (*e.g.* including, without limitation, pre-paid amounts, deposits for utilities, Developer's funding of delinquent Installment Assessments, or portion thereof, not paid by Owners, etc.) than required under this Section, then any such excess shall be promptly refunded to the Developer by Association.

21.8.2 If Developer elects to loan funds to Association for any purpose including, but not limited to, covering uncollected Assessments due from Owners which are not timely paid, Developer may, but shall have no obligation to, require the Association to sign a promissory note. Notwithstanding the foregoing, irrespective of whether a promissory note exists with respect to any loan to Association by Developer, Association shall be liable to Developer for all amounts loaned.

20.9 Budget. The initial budget prepared by Developer is adopted as the budget for the period of operation until adoption of the first annual Association budget. Thereafter, annual budgets shall be prepared and adopted by Association. To the extent Association has commenced or will commence operations prior to the date this Declaration is recorded or the first Home is closed, the Operating Costs may vary in one or more respects from that set forth in the initial budget. A Builder shall pay Assessments or other amounts as per the Builder budget prepared by the Developer for each Lot or Parcel owned by such Builder commencing from the date the Builder obtained title to such Lot or Parcel. During the deficit funding period, if any, Developer shall fund entirely all Operating Costs not covered by Builders' Assessments until the month prior to the closing of the first Home. Thereafter, Assessments shall be payable by each Owner and Builder as provided in this Declaration. THE INITIAL BUDGET OF ASSOCIATION IS PROJECTED (NOT BASED ON HISTORICAL OPERATING FIGURES). THEREFORE, IT IS POSSIBLE THAT ACTUAL ASSESSMENTS MAY BE LESSER OR GREATER THAN PROJECTED.

20.10 Establishment of Assessments. Assessments shall be established in accordance with the following procedures:

20.10.1 Installment Assessments shall be established by the adoption of a twelve (12) month operating budget by the Board. The budget shall be in the form required by Section 720.303(6) of the Florida Statutes, as amended from time to time. Written notice of the amount and date of commencement thereof shall be given to each Owner and Owner not less than ten (10) days in advance of the due date of the first installment thereof. Notwithstanding the foregoing, the budget may cover a period of less than twelve (12) months if the first



budget is adopted mid-year or in order to change the fiscal year of Association. The Board may, from time to time, determine how the Assessments will be collected by Association (i.e., monthly, quarterly or annually).

20.10.2 Special Assessments and Individual Assessments against the Owners may be established by Association, from time to time, and shall be payable at such time or time(s) as determined. Until the Community Completion Date, no Special Assessment shall be imposed without the consent of Developer.

20.10.3 Association may establish, from time to time, by resolution, rule or regulation, or by delegation to an officer or agent, including, a professional management company, Use Fees. The sums established shall be payable by the Owner utilizing the service or facility as determined by Association.

20.11 Initial Contribution. The first purchaser of each Lot, Home or Parcel, at the time of closing of the conveyance from Developer to the purchaser, shall pay to Developer an initial contribution in an amount up to three (3) months Assessments (the “Initial Contribution”) as determined by Developer in its sole and absolute discretion. The funds derived from the Initial Contributions shall be used at the discretion of Developer for any purpose, including but not limited to, future and existing capital improvements, operating expenses, support costs and start-up costs. Developer may waive this requirement for some Lots and Homes, if the first purchaser is a Builder, and the Builder becomes unconditionally obligated to collect and pay the Initial Contribution upon the subsequent sale of each Lot and Home to an end purchaser.

20.12 Resale Contribution. Association may establish a resale contribution (“Resale Contribution”). There shall be collected upon every conveyance of ownership interest in a Home by an Owner other than Developer or Builders an amount payable to Association. The Resale Contribution shall not be applicable to conveyances from Developer or Builder. After the Home has been conveyed by Developer or a Builder there shall be a recurring assessment payable to Association upon all succeeding conveyances of a Home. The amount of Resale Contribution and the manner of payment shall be determined by resolution of the Board from time to time; provided, however, all Homes shall be assessed a uniform amount.

20.13 Assessment Estoppel Certificates. No Owner or Builder shall sell or convey its interest in a Lot unless all sums due Association have been paid in full and an estoppel certificate in recordable form shall have been received by such Owner or Builder. Association shall prepare and maintain a ledger noting Assessments due from each Owner or Builder. The ledger shall be kept in the office of Association, or its designees, and shall be open to inspection by any Owner. Within ten (10) days of a written request therefor, there shall be furnished to an Owner or Builder an estoppel certificate in writing setting forth whether the Assessments have been paid and/or the amount which is due as of any date. As to parties other than Owners or Builders who, without knowledge of error, rely on the certificate, the certificate shall be conclusive evidence of the amount of any Assessment therein stated. The Owner or Builder requesting the estoppel certificate shall be required to pay Association a reasonable sum to cover the costs of examining records and preparing such estoppel certificate. Each Owner and Builder waives its rights (if any) to an accounting related to Operating Costs or Assessments.

20.14 Payment of Home Real Estate Taxes. Each Owner and Builder shall pay all taxes and obligations relating to its Home which, if not paid, could become a lien against the Home which is superior to the lien for Assessments created by this Declaration.

20.15 Creation of the Lien and Personal Obligation. Each Owner and Builder, by acceptance of a deed or instrument of conveyance for the acquisition of title to a Lot, shall be deemed to have covenanted and agreed that the Assessments, and/or other charges and fees set forth herein, together with interest, late fees, costs and reasonable attorneys’ fees and paraprofessional fees at all levels of proceedings including appeals, collections and bankruptcy, shall be a charge and continuing lien in favor of Association encumbering the Lot and all personal property located thereon owned by the Owner or Builder against whom each such Assessment is made. The lien is effective from and after recording a Claim of Lien in the Public Records stating the legal description of the Lot, name of the Owner or Builder, and the amounts due as of that date, but shall relate back to the date that this Declaration is recorded. The Claim of Lien shall also cover any additional amounts which accrue thereafter until satisfied. Each Assessment, together with interest, late fees, costs and reasonable attorneys’ fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, and other costs and expenses provided for herein, shall be the personal obligation of the person who was the Owner or Builder of the Lot at the time when the Assessment became due, as well as the Owner’s heirs, devisees, personal representatives, successors or assigns.

20.16 Subordination of Lien to Mortgages. The lien for Assessments shall be a lien superior to all other liens save and except tax liens and, except as set forth in this Section, mortgage liens, provided such mortgage liens are first liens against the property encumbered thereby, subject only to tax liens, and secure indebtedness which is amortized in monthly or quarter-annual payments over a period of not less than ten (10) years. An acquirer of title to a Lot, whether by foreclosure, deed in lieu of foreclosure, or otherwise, shall be liable for all unpaid Assessments, interest, late fees and reasonable attorney’s fees and costs incurred by Association in the collection of unpaid amounts that became due prior to such acquirer’s acquisition. Notwithstanding the foregoing, with respect to a Lender or its successor or assignees who acquire title to a Lot by foreclosure or by deed in lieu of foreclosure, such Lender’s liability respecting the unpaid Assessments (but not late fees, interest or reasonable attorney’s fees or costs incurred by Association in the collection of unpaid amounts) that became due prior to the Lender’s acquisition of title shall be limited to the lesser of: (i) the Lot’s unpaid Assessments which accrued or came due during the twelve (12) months immediately preceding the acquisition of title and for which payment in full has not yet been received by Association; or (ii) one percent (1%) of the original mortgage debt. The limitations on Lender liability provided in this Section apply only if the Lender filed suit against the Owner and initially (and not through amendment or re-foreclosure) joined Association as a defendant in the Lender’s foreclosure action when such action was first filed with a court. Joinder of Association is not required if, on the date the complaint is filed, Association was dissolved or did not maintain an office or agent for service of process at a location that was known to or reasonably

discoverable by the Lender. To the maximum extent permitted by Florida law as modified from time to time, any acquirer of title to a Lot including, without limitation, a Lender or other third party, shall be liable for all late fees and interest charged against the former Owner of the Lot and all reasonable attorney's fees and costs incurred by Association in collection efforts against the former Owner of the Lot. Unless specifically provided otherwise by Association in writing from time to time and in its sole and absolute discretion, late fees, interest and reasonable attorney's fees and costs shall not be considered Assessments as that term is used in this Section. The Lender or its successor or assignees acquiring title to a Lot shall pay all of the foregoing amounts owed including, but not limited to, Assessments (as the same may be limited above), late fees, interest, attorneys' fees and costs owed to Association within thirty (30) days after transfer of title. Failure to pay the full amount due when due shall entitle Association to record a claim of lien against the Lot and proceed in the same manner as provided in this Declaration for the collection of unpaid Assessments and other amounts. The provisions of this Section shall not be available to shield a Lender from liability for Assessments and other amounts in any case where the unpaid Assessments and other amounts sought to be recovered by Association are secured by a lien recorded prior to the recording of the mortgage.

Additionally, in order to be afforded the limitations of liability for Lenders included in this Section, a Lender must give written notice to Association if the mortgage held by such Lender is in default. Association shall have the right, but not the obligation, to cure such default within the time periods applicable to Owner. In the event Association makes such payment on behalf of an Owner, Association shall, in addition to all other rights reserved herein, be subrogated to all of the rights of Lender. All amounts advanced on behalf of an Owner pursuant to this Section shall be added to the Assessments payable by such Owner with appropriate interest. Any unpaid Assessments for which an acquirer of title is not liable (*i.e.*, where a Lender takes title to a Lot, any past due Assessment amounts which exceed the lesser of 12 months of Assessments or one percent (1%) of the original mortgage debt) may be reallocated and assessed to all Owners (including such acquirer of title) as part of Operating Costs included within Assessments. Any sale or transfer pursuant to a foreclosure (or by deed in lieu of foreclosure or otherwise) shall not relieve the acquiring party from liability for, nor the Lot from the lien of any Assessments made thereafter. Nothing herein contained shall be construed as releasing the party liable for any delinquent Assessments from the payment thereof, or the enforcement of collection by means other than a foreclosure.

20.17 Survival of the Association's Lien. To the extent that the Association forecloses upon its lien, as permitted by Florida law and the Association Documents, and becomes the owner of record title to a Home or Lot, the Association's lien shall survive foreclosure, and all amounts due in connection with the Association's foreclosure including, but not limited to, past due Assessments, late fees, interest, attorneys fees and costs shall be the joint and several liability of the Owner that was foreclosed by the Association and the Owner that takes title to the Home or Lot after the Association, and the Association shall have no liability for the same.

20.18 Acceleration. In the event of a default in the payment of any Assessment, Association may accelerate the Assessments then due for up to the next ensuing twelve (12) month period.

20.19 Non-Payment of Assessments. If any Assessment is not paid within fifteen (15) days (or such other period of time established by the Board) after the due date, a late fee of \$25.00 per month (or such greater amount established by the Board), together with interest in an amount equal to the maximum rate allowable by law (or such lesser rate established by the Board), per annum, beginning from the due date until paid in full, may be levied. The late fee shall compensate Association for administrative costs, loss of use of money, and accounting expenses. Association may, at any time thereafter, bring an action at law against the Owner or Builder personally obligated to pay the same, and/or foreclose the lien against the Lot/Home, or both. Association shall not be required to bring such an action if it believes that the best interests of Association would not be served by doing so. To the extent permitted by Florida law, the lien granted to Association may be established and foreclosed in the Circuit Court in and for the County, and in any suit for the foreclosure of such lien, Association shall be entitled to seek an order of court that it is entitled to (i) collect a reasonable rent from the Owner or Builder, if the Owner or Builder remains in possession of a Lot after a judgment of foreclosure is entered and (ii) obtain the appointment of a receiver for such Lot to collect the rent if the Lot is leased or rented during the pendency of the foreclosure action. There shall be added to the Assessment all costs expended in preserving the priority of the lien and all costs and expenses of collection, including attorneys' fees, pre-trial and at all levels of proceedings, including appeals, collection and bankruptcy. No Owner or Builder may waive or otherwise escape liability for Assessments provided for herein by non-use of, or the waiver of the right to use the Common Areas by abandonment of a Lot.

20.20 Exemption. Notwithstanding anything to the contrary herein, neither Master Developer, Developer, nor the District nor any Lot or property owned by Developer shall (unless specified to the contrary by Developer in a separate written instrument) be responsible for any Assessments of any nature or any portion of the Operating Costs. Developer, at Developer's sole option, may pay Assessments on Lots or Homes owned by it, or fund the deficit, if any, as set forth herein. In addition, the Board shall have the right to exempt any portion of Medley at Everlands subject to this Declaration from the Assessments, provided that such portion of Medley at Everlands exempted is used (and as long as it is used) for any of the following purposes:

20.20.1 Any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

20.20.2 Any real property interest held by a Telecommunications Provider;

20.20.3 Any of Medley at Everlands exempted from ad valorem taxation by the laws of the State of Florida or exempted from Assessments by other provisions of this Declaration;

20.20.4 Any Common Areas and Master Association common areas; and

20.20.5 Any Facilities.

20.21 Collection by Developer. If for any reason Association shall fail or be unable to levy or collect Assessments, then in that event, Developer shall at all times have the right, but not the obligation: (i) to advance such sums as a loan to Association to bear interest and to be repaid as hereinafter set forth; and/or (ii) to levy and collect such Assessments by using the remedies available as set forth above, which remedies; including, but not limited to, recovery of attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals shall be deemed assigned to Developer for such purposes. If Developer advances sums, it shall be entitled to immediate reimbursement, on demand, from Association for such amounts so paid, plus interest thereon at the Wall Street Journal Prime Rate plus two percent (2%), plus any costs of collection including, but not limited to, reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals.

20.22 Rights to Pay Assessments and Receive Reimbursement. Association, Developer, and any Lender of a Home shall have the right, but not the obligation, jointly and severally, and at their sole option, to pay any Assessments or other charges which are in default and which may or have become a lien or charge against any Home. If so paid, the party paying the same shall be subrogated to the enforcement rights of Association with regard to the amounts due.

20.23 Mortgagee Right. Each Lender may request in writing that Association notify such Lender of any default of the Owner of the Home subject to the Lender's mortgage under the Association Documents which default is not cured within thirty (30) days after Association learns of such default. A failure by Association to furnish notice to any Lender shall not result in liability of Association because such notice is given as a courtesy to a Lender and the furnishing of such notice is not an obligation of Association to Lender.

20.24 Collection of Master Assessments. All assessments due to Master Association ("**Master Assessments**") shall be paid by each Owner directly to Master Association separate from any Assessments then due to Association. Any collection proceedings for an Owner's failure to pay Master Assessments shall be the sole responsibility of Master Association. Each Owner shall be responsible to pay all Master Assessments to Master Association on time and in full regardless of any other Association Assessments due. Notwithstanding the foregoing, Master Association shall have the right, in its discretion, to require the Association to collect Master Assessments. To the extent Master Association requires the Association to collect Master Assessments, such requirement shall remain in full force and effect until Master Association notifies Association otherwise, at which time Owners shall then be obligated to pay Master Assessments directly to Master Association as initially set forth in this Section. In the event that Master Association requires Association to collect Master Assessments, all assessments due to Master Association shall be paid by each Owner directly to Association along with any Assessments then due to Association. Association shall on a monthly basis remit a lump sum payment to Master Association in the full amount of all Master Assessments. Any collection proceedings for an Owner's failure to pay Master Assessments shall be the sole responsibility of Association. Association shall be responsible to pay all Master Assessments to Master Association on time and in full regardless of whether such Association receives such full amount of Master Assessments from its Owners.

## 21. Information to Lenders and Owners.

21.1 Availability. There shall be available for inspections upon request, during normal business hours or under other reasonable circumstances, to Owners and Lenders current copies of the Association Documents.

21.2 Copying. Any Owner and/or Lender shall be entitled, upon written request, and at its cost, to a copy of the documents referred to above.

21.3 Notice. Upon written request by a Lender (identifying the name and address of the Lender and the name and address of the applicable Owner), the Lender will be entitled to timely written notice of:

21.3.1 Any condemnation loss or casualty loss which affects a material portion of a Home to the extent Association is notified of the same;

21.3.2 Any delinquency in the payment of Assessments owed by an Owner of a Home subject to a first mortgage held by the Lender, which remains uncured for a period of sixty (60) days;

21.3.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained hereunder; and

21.3.4 Any proposed action (if any) which would require the consent of a specific mortgage holder.

22. Architectural Control. In addition to the architectural control provisions in the Master Declaration, and the potential activation of the Master ACC, the following provisions govern Medley at Everlands:

22.1 Architectural Control Committee. The ACC shall be a permanent committee of Association and shall administer and perform the architectural and landscape review and control functions relating to Medley at Everlands. The ACC shall consist of a minimum of three (3) members who shall initially be named by Developer and who shall hold office at the pleasure of Developer. The ACC shall have the right to form subcommittees to review ACC applications. The ACC shall oversee such subcommittees and shall take precedence over any decision made by such subcommittees. Until the Community Completion Date, Developer shall have the right to change the number of members on the ACC, and to appoint, remove, and replace all members of the ACC. Developer shall determine which members of the ACC shall serve as its chairman and co-chairman. In the event of the failure, refusal, or inability to act of any of the members appointed by Developer, Developer shall have the right to replace any member within thirty (30) days of such occurrence. If Developer fails to replace that member, the remaining

members of the ACC shall fill the vacancy by appointment. From and after the Community Completion Date, the Board shall have the same rights as Developer with respect to the ACC. The ACC shall enforce the Master Community Standards.

22.2 Membership. There is no requirement that any member of the ACC be an Owner or a member of Association.

22.3 General Plan. It is the intent of this Declaration to create a general plan and scheme of development of Medley at Everlands. Accordingly, the ACC shall have the right to approve or disapprove all architectural, landscaping, and improvements within Medley at Everlands by Owners other than Developer. The ACC shall have the right to evaluate all plans and specifications as to harmony of exterior design, landscaping, location of any proposed improvements, relationship to surrounding structures, topography and conformity with such other reasonable requirements as shall be adopted by ACC. The ACC may impose standards for construction and development which may be greater or more stringent than standards prescribed in applicable building, zoning, or other local governmental codes. Prior to the Community Completion Date, any additional standards or modification of existing standards shall require the consent of Developer, which may be granted or denied in its sole discretion.

22.4 Master Plan. Developer has established an overall Master Plan. However, notwithstanding the above, or any other document, brochures or plans, Developer reserves the right to modify the Master Plan or any site plan at any time as it deems desirable in its sole discretion and in accordance with applicable laws and ordinances. WITHOUT LIMITING THE FOREGOING, DEVELOPER MAY PRESENT TO THE PUBLIC OR TO OWNERS RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS RESPECTING MEDLEY AT EVERLANDS. SUCH RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS ARE NOT A GUARANTEE OF HOW MEDLEY AT EVERLANDS WILL APPEAR UPON COMPLETION AND DEVELOPER RESERVES THE RIGHT TO CHANGE ANY AND ALL OF THE FOREGOING AT ANY TIME AS DEVELOPER DEEMS NECESSARY IN ITS SOLE AND ABSOLUTE DISCRETION.

22.5 Community Standards. Each Owner and its contractors and employees shall observe, and comply with, the Community Standards which now or may hereafter be promulgated by the ACC and approved by the Board of Association from time to time. The Community Standards shall be effective from the date of adoption; shall be specifically enforceable by injunction or otherwise; and shall have the effect of covenants as set forth herein verbatim. The Community Standards shall not require any Owner to alter the improvements previously constructed. Until the Community Completion Date, Developer shall have the right to approve the Community Standards, which approval, may be granted in its sole discretion.

22.6 Quorum. A majority of the ACC shall constitute a quorum to transact business at any meeting. The action of a majority present at a meeting at which a quorum is present shall constitute the action of the ACC. In lieu of a meeting, the ACC may act in writing.

22.7 Power and Duties of the ACC. No improvements shall be constructed on any portion of Medley at Everlands, no exterior of a Home shall be repainted, no landscaping, sign, or improvements erected, removed, planted, or maintained on any portion of Medley at Everlands, nor shall any material addition to or any change, replacement, or alteration of the improvements as originally constructed by Developer (visible from the exterior of the Home) be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme, and the location of same shall have been submitted to and approved in writing by the ACC.

22.8 Procedure. In order to obtain the approval of the ACC, each Owner shall observe the following:

22.8.1 Each Owner shall submit an application to the ACC with respect to any proposed improvement or material change in an improvement, together with the required application(s) and other fee(s) as established by the ACC. The applications shall include such information as may be required by the application form adopted by the ACC. The ACC may also require submission of samples of building materials and colors proposed to be used. At the time of such submissions, the Owner shall, if requested, submit to the ACC, such site plans, plans and specifications for the proposed improvement, prepared and stamped by a registered Florida architect or residential designer, and landscaping and irrigation plans, prepared by a registered landscape architect or designer showing all existing trees and major vegetation stands and surface water drainage plan showing existing and proposed design grades, contours relating to the predetermined ground floor finish elevation, pool plans and specifications and the times scheduled for completion, all as reasonably specified by the ACC.

22.8.2 In the event the information submitted to the ACC is, in the ACC's opinion, incomplete or insufficient in any manner, the ACC may request and require the submission of additional or supplemental information. The Owner shall, within fifteen (15) days thereafter, comply with the request.

22.8.3 No later than forty-five (45) days after receipt of all information required by the ACC for final review, the ACC shall approve or deny the application in writing. The ACC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the ACC's sole discretion, for aesthetic or any other reasons or to impose qualifications and conditions thereon. In approving or disapproving such plans and specifications, the ACC shall consider the suitability of the proposed improvements, the materials of which the improvements are to be built, the site upon which the improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the ACC fails to respond within such forty-five (45) day period, the plans and specifications shall be deemed disapproved by the ACC.

22.8.4 Construction of all improvements shall be completed within the time period set forth in the application and approved by the ACC.

22.8.5 In the event that the ACC disapproves any plans and specifications, the Owner may request a rehearing by the ACC for additional review of the disapproved plans and specifications. The meeting shall take place no later than forty-five (45) days after written request for such meeting is received by the ACC, unless applicant waives this time requirement in writing. The ACC shall make a final written decision no later than forty-five (45) days after such meeting. In the event the ACC fails to provide such written decision within such forty-five (45) days, the plans and specifications shall be deemed disapproved.

22.8.6 Upon disapproval, the applicant may appeal the decision of the ACC to the Board within forty-five (45) days of the ACC's written review and disapproval. Review by the Board shall take place no later than forty-five (45) days subsequent to the receipt by the Board of the Owner's request therefor. If the Board fails to hold such a meeting within forty-five (45) days after receipt of request for such meeting, then the plans and specifications shall be deemed approved. The Board shall make a final decision no later than sixty (60) days after such meeting. In the event the Board fails to provide such written decision within such sixty (60) days after such meeting, such plans and specifications shall be deemed approved. The decision of the ACC, or if appealed, the Board of Association, shall be final and binding upon the Owner, his/her heirs, legal representatives, successors and assigns.

22.9 Alterations. Any and all alterations, deletions, additions and changes of any type or nature whatsoever to then existing improvements or the plans or specifications previously approved by the ACC shall be subject to the approval of the ACC in the same manner as required for approval of original plans and specifications.

22.10 Variances. Association or ACC shall have the power to grant variances from any requirements set forth in this Declaration or from the Community Standards, on a case by case basis, provided that the variance sought is reasonable and results from a hardship upon the applicant. The granting of a variance shall not nullify or otherwise affect the right to require strict compliance with the requirements set forth herein or in the Community Standards on any other occasion.

22.11 Permits. The Owner is solely responsible to obtain all required building and other permits from all governmental authorities having jurisdiction.

22.12 Construction by Owners. The following provisions govern construction activities by Owners after consent of the ACC has been obtained:

22.12.1 Each Owner shall deliver to the ACC, if requested, copies of all construction and building permits as and when received by the Owner. Each construction site in Medley at Everlands shall be maintained in a neat and orderly condition throughout construction. Construction activities shall be performed on a diligent, workmanlike and continuous basis. Roadways, easements, swales, Common Areas and other such areas in Medley at Everlands shall be kept clear of construction vehicles, construction materials and debris at all times. No construction office or trailer shall be kept in Medley at Everlands and no construction materials shall be stored in Medley at Everlands subject, however, to such conditions and requirements as may be promulgated by the ACC. All refuse and debris shall be removed or deposited in a dumpster on a daily basis. No materials shall be deposited or permitted to be deposited in any lake or waterway or Common Areas or other Homes in Medley at Everlands or be placed anywhere outside of the Home upon which the construction is taking place. No hazardous waste or toxic materials shall be stored, handled and used, including, without limitation, gasoline and petroleum products, except in compliance with all applicable federal, state and local statutes, regulations and ordinances, and shall not be deposited in any manner on, in or within the construction or adjacent property or waterways. All construction activities shall comply with the Community Standards. If a contractor or Owner shall fail to comply in any regard with the requirements of this Section, the ACC may require that such Owner or contractor post security with Association in such form and such amount deemed appropriate by the ACC in its sole discretion.

22.12.2 There shall be provided to the ACC, if requested, a list (name, address, telephone number and identity of contact person), of all contractors, subcontractors, materialmen and suppliers (collectively, "**Contractors**") and changes to the list as they occur relating to construction. Each Builder and all of its employees and Contractors and their employees shall utilize those roadways and entrances into Medley at Everlands as are designated by the ACC for construction activities. The ACC shall have the right to require that each Builder's and Contractor's employees check in at the designated construction entrances and to refuse entrance to persons and parties whose names are not registered with the ACC.

22.12.3 Each Owner is responsible for insuring compliance with all terms and conditions of these provisions and of the Community Standards by all of its employees and Contractors. In the event of any violation of any such terms or conditions by any employee or Contractor, or, in the opinion of the ACC, the continued refusal of any employee or Contractor to comply with such terms and conditions, after five (5) days' notice and right to cure, the ACC shall have, in addition to the other rights hereunder, the right to prohibit the violating employee or Contractor from performing any further services in Medley at Everlands.

22.12.4 The ACC may, from time to time, adopt standards governing the performance or conduct of Owners, Contractors and their respective employees within Medley at Everlands. Each Owner and Contractor shall comply with such standards and cause its respective employees to also comply with same. The ACC may also promulgate requirements to be inserted in all contracts relating to construction within Medley at Everlands and each Owner shall include the same therein.

22.13 Inspection. There is specifically reserved to Association and ACC and to any agent or member of either of them, the right of entry and inspection upon any portion of Medley at Everlands at any time within reasonable daytime hours, for the purpose of determination whether there exists any violation of the terms of any approval or the terms of this Declaration or the Community Standards.

22.14 Violation. Without limiting any other provision herein, if any improvement shall be constructed or altered without prior written approval, or in a manner which fails to conform with the approval granted, the Owner shall, upon demand of Association or the ACC, cause such improvement to be removed, or restored until approval is obtained or in order to comply with the plans and specifications originally approved. The Owner shall be liable for the payment of all costs of removal or restoration, including all costs and attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, collections and bankruptcy, incurred by Association or ACC. The costs shall be deemed an Individual Assessment and enforceable pursuant to the provisions of this Declaration. The ACC and/or Association is specifically empowered to enforce the architectural and landscaping provisions of this Declaration and the Community Standards, by any legal or equitable remedy.

22.15 Court Costs. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed improvement or to cause the removal of any unapproved improvement, Association and/or ACC shall be entitled to recover court costs, expenses and attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, collections and bankruptcy, in connection therewith.

22.16 Certificate. In the event that any Owner fails to comply with the provisions contained herein, the Community Standards, or other rules and regulations promulgated by the ACC, Association and/or ACC may, in addition to all other remedies contained herein, record a Certificate of Non-Compliance against the Home stating that the improvements on the Home fail to meet the requirements of this Declaration and that the Home is subject to further enforcement remedies.

22.17 Certificate of Compliance. If requested by an Owner, prior to the occupancy of any improvement constructed or erected on any Home by other than Developer, or its designees, the Owner thereof shall obtain a Certificate of Compliance from the ACC, certifying that the Owner has complied with the requirements set forth herein. The ACC may, from time to time, delegate to a member or members of the ACC, the responsibility for issuing the Certificate of Compliance. The issuance of a Certificate of Compliance does not abrogate the ACC's rights set forth in Section 22.13 herein.

22.18 Exemption. Notwithstanding anything to the contrary contained herein, or in the Community Standards, any improvements of any nature made or to be made by Developer, Builder or their nominees, including, without limitation, improvements made or to be made to the Common Areas or any Home, shall not be subject to the review of the ACC, Association, or the provisions of the Community Standards.

22.19 Exculpation. Developer, Association, the directors or officers of Association, the ACC, the members of the ACC, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any Owner or any other party whatsoever, due to any mistakes in judgment, negligence, or any action of Developer, Association, ACC or their members, officers, or directors, in connection with the approval or disapproval of plans and specifications. Each Owner agrees, individually and on behalf of his/her heirs, devisees, successors and assigns, and legal and personal representatives by acquiring title to a Lot, that it shall not bring any action or suit against Developer, Association or their respective directors or officers, the ACC or the members of the ACC, or their respective agents, in order to recover any damages caused by the actions of Developer, Association, or ACC or their respective members, officers, or directors in connection with the provisions of this Section. Association does hereby indemnify, defend and hold Developer and the ACC, and each of their members, officers, and directors harmless from all costs, expenses, and liabilities, including attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, of all nature resulting by virtue of the acts of the Owners, Association, ACC or their members, officers and directors. Developer, Association, its directors or officers, the ACC or its members, or any person acting on behalf of any of them, shall not be responsible for any defects in any plans or specifications or the failure of same to comply with applicable laws or code nor for any defects in any improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

22.20 Government Approval. Each Owner acknowledges and agrees that ACC approval, as discussed herein, shall not be deemed to constitute an approval by any governmental authority, nor shall it relieve any Owner of the obligation to obtain necessary governmental approvals at such Owner's sole cost and expense. Additionally, in the event any governmental authority denies an Owner's application for a permit or otherwise in connection with planned alterations or improvements, such denial shall prohibit construction of such improvements (regardless of whether the ACC has previously approved the Owner's planned alterations or improvements by certificate or otherwise). By way of example, and not of limitation, irrespective ACC approval, the conversion of garages within Medley at Everlands is prohibited pursuant to local government regulations. As such, no garage conversions shall be permitted within Medley at Everlands. Decisions of the ACC with respect to architectural control shall be based upon proposed improvements being consistent with the overall aesthetics and master plan of Medley at Everlands and such decisions shall not be deemed a waiver of an Owner's obligation to comply with state and local codes and/or ordinances. In the event that any Owner, with or without ACC approval, constructs any improvements or makes any changes to his or her Home without the required governmental permits or approvals, such Owner shall be solely liable for all fines and/or citations imposed by any governmental authority and shall further bear all costs in connection with the removal, repair or reconstruction of improvements required by such governmental authority. In addition, to the extent an Owner fails to obtain governmental permits and/or approvals prior to constructing improvements which require the same, or if any governmental entity requires the

repair, removal or reconstruction of any improvements, Association shall be permitted to cause such Owner to repair, remove or reconstruct any unapproved improvement at the Owner's sole and absolute cost, and in the event such Owner fails to remove the same within a reasonable time, Association may, but shall not be obligated to remove the improvement and charge all costs in connection with the same to the Owner as an Individual Assessment. Each Owner further agrees to remise, release, acquit, satisfy, and forever discharge Developer and Association of and from all, and all manner of, action and actions, cause and causes of action, suits, debts, sums of money, accounts, bills, covenants, controversies, agreements, promises, damages (including consequential, incidental, punitive, special or other), judgments, executions, claims, liabilities and demands, whatsoever, at law and in equity (including, but not limited to, claims founded on tort, contract, contribution, indemnity or any other theory whatsoever) in any way related to any construction of any requested improvements due to any defects to the marketability, ability to obtain a loan, and/or insurability of a Home caused therefrom; any encroachment caused by requested improvements; and/or the repair, reconstruction or removal of the improvements as required by any governmental or court action.

22.21 Security Deposit. Any Owner seeking Association approval for the alteration or modification of a Lot or Home (or change in the appearance thereof) may, in the Association's discretion, be required to pay to Association a security deposit in an amount to be determined by the Board from time to time (the "**Security Deposit**"). To the extent the Association determines, in its sole discretion, that damage to the Common Areas has occurred as a result of an Owner's work (whether performed by such Owner or his or her contractor or agent) relating to the modification or alteration of his or her Home or Lot, the Association may, without notice to the Owner, draw upon the Security Deposit to restore the Common Areas to their condition and appearance existing prior to such Owner's modification or alteration of his or her Home or Lot. To the extent the cost of restoring any Common Areas exceeds the total amount of the Security Deposit, the Association shall be entitled to draw upon and utilize the entire Security Deposit and charge any additional costs to such Owner as an Individual Assessment. To the extent there is no damage caused to the Common Areas as a result of an Owner's alteration or modification of his or her Home or Lot, as determined by the Association in its sole discretion, the entire Security Deposit shall be returned to such Owner.

23. Master Association. Each Owner, Lot and Home is subject to the Master Declaration which contains, among other things, architectural review requirements, assessment obligations, and use restrictions. For additional information relating to the Master Association, refer to the Master Declaration.

23.1 Surface Water Management System. Either the District or Master Association shall maintain the Surface Water Management System.

23.2 Master Association and District Easements. Without limiting any provision of the Master Declaration, the Master Association and the District, and their agents, employees, and managers, shall be deemed to have easements of ingress and egress in, over, and across the Common Areas for all reasonable purposes.

23.3 Priority of Master Association Lien. A Claim of Lien for Assessments (as defined in the Master Declaration) payable to the Master Association shall be superior to a Claim of Lien for Assessments due to Association.

24. Owners Liability.

24.1 Loop System Irrigation. Some or all Homes and Common Areas may receive irrigation pursuant to a loop system. If an Owner desires to make any alterations or improvements to a Home that in any way affect the loop irrigation system, then the Owner shall be responsible for taking measures to "cap off" the main line of the loop irrigation system that leads to the Home. In addition, the Owner shall be obligated to obtain the prior written approval of Association before taking any action that may adversely affect the loop irrigation system. Once the main line is "capped off," the Owner shall then be responsible for maintaining the irrigation system for his or her Home. Any damages to the Home resulting from an Owner's failure to comply with the terms set forth herein shall be the sole responsibility of such Owner and Developer shall not be liable for the same. Furthermore, each Owner understands that as provided in this Declaration, an Owner may be permitted to install, without limitation, a patio, and/or screened enclosure ("**Improvement**") on the Home upon the prior written approval of the ACC as set forth in this Declaration and/or the Community Standards. If an Improvement is approved to be installed, then a five (5) foot gate must also be installed. Before the ACC approves the installation of an Improvement, the irrigation system that will be within the Improvement portion of that Home must be re-routed, if necessary, by a professional irrigation company. In order for the ACC to approve the Improvement installation, a letter or other evidence by a professional irrigation company must be given to the ACC at least ten (10) days before the Improvement installation stating that the effectiveness of Medley at Everlands' drainage system will not be affected by the re-routing of the irrigation system. Should an Owner install the Improvement without providing the necessary letter or other evidence from a professional irrigation company in advance as required herein, then Association may conduct the necessary inspection, repair any necessary drainage facilities and charge the work as an Individual Assessment to such Owner, all as further provided in this Declaration and/or Community Standards.

24.2 Violations. Should any Owner do any of the following:

24.2.1 Fail to abide by this Declaration, the Articles, the By-Laws or the Rules and Regulations;

24.2.2 Fail to perform its responsibilities as set forth herein or otherwise breach the provisions of the Declaration including, without limitation, any provision herein benefiting SJRWMD; or

24.2.3 Cause any damage to any improvement or Common Areas; or

24.2.4 Impede Developer or Association from exercising its rights or performing its responsibilities hereunder, or

24.2.5 Undertake unauthorized improvements or modifications to a Home or the Common Areas; or

24.2.6 Impede Developer from proceeding with or completing the development of Medley at Everlands, as the case may be;

then, Developer and/or Association, where applicable, after reasonable prior written notice, shall have the right, through its agents and employees, to cure the breach, including, but not limited to, the entering upon the Home and causing the default to be remedied and/or the required repairs or maintenance to be performed, or as the case may be, remove unauthorized improvements or modifications. The cost thereof, plus reasonable overhead costs and attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, collections and bankruptcy, incurred shall be assessed against the Owner as an Individual Assessment.

24.3 Non-Monetary Defaults. In the event of a violation by any Owner, other than the nonpayment of any Assessment or other monies, of any of the provisions of this Declaration, Developer or Association shall notify the Owner of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, the party entitled to enforce same may, at its option:

24.3.1 Commence an action to enforce the performance on the part of the Owner or to enjoin the violation or breach or for equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

24.3.2 Commence an action to recover damages; and/or

24.3.3 Take any and all action reasonably necessary to correct the violation or breach.

24.4 Expenses. All expenses incurred in connection with the violation or breach, or the commencement of any action against any Owner, including reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, collections and bankruptcy, shall be assessed against the Owner, as an Individual Assessment, and shall be immediately due and payable without further notice.

24.5 No Waiver. The failure to enforce any right, provision, covenant or condition in this Declaration, shall not constitute a waiver of the right to enforce such right, provision, covenant or condition in the future.

24.6 Rights Cumulative. All rights, remedies, and privileges granted to SJRWMD, Developer, Association and/or the ACC pursuant to any terms, provisions, covenants or conditions of this Declaration, or Community Standards, shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude any of them from pursuing such additional remedies, rights or privileges as may be granted or as it might have by law.

24.7 Enforcement By or Against Other Persons. In addition to the foregoing, this Declaration or Community Standards may be enforced by Developer and/or, where applicable, Association and/or Owners, by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration or Community Standards shall be borne by the person against whom enforcement is sought, provided such proceeding results in a finding that such person was in violation of this Declaration or the Community Standards.

24.8 Fines. Association may suspend, for reasonable periods of time, the rights of an Owner or an Owner's tenants, guests and invitees, or both, to use the Common Areas and/or common services including, but not limited to, cable services and/or other services which are paid through Common Expenses, and may levy reasonable fines, not to exceed the maximum amounts permitted by Section 720.305(2) of the Florida Statutes, against an Owner, tenant, guest or invitee, for failure to comply with any provision of this Declaration including, without limitation, those provisions benefiting the SJRWMD.

24.8.1 A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing. Fines in the aggregate are not capped to any amount.

24.8.2 Unless otherwise permitted by Florida law, fines or suspensions may not be imposed by the Board without notice of at least fourteen (14) days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) persons (the "Violations Committee") appointed by the Board who are not officers, directors or employees of Association, or the spouse, parent, child, brother, sister of an officer, director or employee. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the Board. If the Violations Committee does not by a majority vote confirm a fine or suspension the same may not be imposed. The written notice of violation shall be in writing to the Owner, tenant, guest or invitee and detail the infraction or infractions. Included in the notice shall be the date and time of the hearing of the Violations Committee.

24.8.3 The non-compliance shall be presented to the Violations Committee acting as a tribunal, after which the Violations Committee shall hear reasons why a fine should not be imposed. The hearing shall be conducted in accordance with the procedures adopted by the Violations Committee from time to time. A written



decision of the Violations Committee shall be submitted to the Owner, tenant, guest or invitee, as applicable, by not later than twenty-one (21) days after the meeting of the Violations Committee. The Owner, tenant, guest or invitee shall have a right to be represented by counsel and to cross-examine witnesses.

24.8.4 To the extent the Violations Committee confirms the fine to be levied by the Board, the Board may impose Individual Assessments against the Owner in the amount of \$100 (or any greater amount permitted by law from time to time) for each violation. Each day of non-compliance shall be treated as a separate violation and there is no cap on the aggregate amount the Board may fine an Owner, tenant, guest or invitee. Individual Assessment fines shall be paid not later than five (5) days after notice of the imposition of the Individual Assessment. All monies received from fines shall be allocated as directed by the Board.

24.9 Right of Association to Evict Tenants, Occupants, Guests and Invitees. With respect to any tenant or any person present in any Home or any portion of Medley at Everlands, other than an Owner and the members of his/her immediate family permanently residing with him/her in the Home, if such person shall violate any provision of the Association Documents or shall create a nuisance or an unreasonable and continuous source of annoyance to a resident of Medley at Everlands in Association's sole discretion, or shall willfully damage or destroy any of the Common Areas or personal property of Association, then upon written notice by Association, such person shall be required to immediately leave Medley at Everlands and if such person does not do so, Association shall be authorized to commence an action to evict such tenant or compel such person to leave Medley at Everlands and, where necessary, to enjoin such person from returning. Any expense incurred by Association in connection with any such action, including, without limitation, attorneys' fees, shall be charged by Association to the applicable Owner of such Home as an Individual Assessment.

25. Additional Rights of Developer.

25.1 Sales Office and Administrative Offices. For so long as Developer and/or its assigns owns any property in Medley at Everlands, is affected by this Declaration, or maintains a sales office or administrative office within Medley at Everlands, Developer shall have the perpetual right to take such action reasonably necessary to transact any business necessary to consummate the development of Medley at Everlands and sales and re-sales of Homes and/or other properties owned by Developer or others outside of Medley at Everlands. This right shall include, but not be limited to, the right to maintain models, sales offices and parking associated therewith, have signs on any portion of Medley at Everlands, including Common Areas, employees in the models and offices, without the payment of rent or any other fee, maintain offices in models, and use of the Common Areas to show Homes. The sales office, models, signs and all items pertaining to development and sales remain the property of Developer. Developer shall have all of the foregoing rights without charge or expense. Without limiting any other provision of this Declaration, Developer may assign its rights hereunder to each Builder. The rights reserved hereunder shall extend beyond the Community Completion Date.

25.2 Modification. The development and marketing of Medley at Everlands will continue as deemed appropriate in Developer's sole discretion, and nothing in this Declaration or Community Standards, or otherwise, shall be construed to limit or restrict such development and marketing. It may be necessary or convenient for the development of Medley at Everlands to, as an example and not a limitation, amend a Plat and/or the Master Plan, modify the boundary lines of the Common Areas, grant easements, dedications, agreements, licenses, restrictions, reservations, covenants, rights-of-way, and to take such other actions which Developer, or its agents, affiliates, or assignees may deem necessary or appropriate. Association and Owners shall, at the request of Developer, execute and deliver any and all documents and instruments which Developer deems necessary or convenient, in its sole discretion, to accomplish the same. Without limiting anything to the contrary in this Declaration, prior to and including the Turnover Date, all agreements and/or contracts which are entered into by Association shall require the prior written approval of Developer or may otherwise be voided by Developer in its sole and absolute discretion.

25.3 Promotional Events. Prior to the Community Completion Date, Developer, Builders, and their assigns shall have the right, at any time, to hold marketing, special and/or promotional events within Medley at Everlands and/or on the Common Areas, without any charge for use. Developer, its agents, affiliates, or assignees shall have the right to market Medley at Everlands and Homes in advertisements and other media by making reference to Medley at Everlands, including, but not limited to, pictures or drawings of Medley at Everlands, Common Areas, and Homes constructed in Medley at Everlands. All logos, trademarks, and designs used in connection with Medley at Everlands are the property of Developer, and Association shall have no right to use the same after the Community Completion Date except with the express written permission of Developer. Without limiting any other provision of this Declaration, Developer may assign its rights hereunder to each Builder.

25.4 Use by Prospective Purchasers. Prior to the Community Completion Date, Developer and each Builder shall have the right, without charge, to use the Common Areas for the purpose of entertaining prospective purchasers of Homes, or other properties owned by Developer outside of Medley at Everlands.

25.5 Franchises. Developer may grant franchises or concessions to commercial concerns on all or part of the Common Areas and shall be entitled to all income derived therefrom.

25.6 Management. Developer may manage the Common Areas by contract with Association. Developer may contract with a third party ("**Manager**") for management of Association and the Common Areas.

25.7 Easements. Until the Community Completion Date, Developer reserves the exclusive right to grant, in its sole discretion, easements, permits and/or licenses for ingress and egress, drainage, utilities service, maintenance, Telecommunications Services; and other purposes over, under, upon and across Medley at Everlands so long as any such easements do not materially and adversely interfere with the intended use of Homes previously conveyed to Owners. By way of example, and not of limitation, Developer may be required to take certain action,

or make additions or modifications to the Common Areas in connection with an environmental program. All easements necessary for such purposes are reserved in favor of Developer, in perpetuity, for such purposes. Without limiting the foregoing, Developer may relocate any easement affecting a Home, or grant new easements over a Home, after conveyance to an Owner, without the joinder or consent of such Owner, so long as the grant of easement or relocation of easement does not materially and adversely affect the Owner's use of the Home as a residence. As an illustration, Developer may grant an easement for Telecommunications Systems, irrigation, drainage lines or electrical lines over any portion of Medley at Everlands so long as such easement is outside the footprint of the foundation of any residential improvement constructed on such portion of Medley at Everlands. Developer shall have the sole right to any fees of any nature associated therewith, including, but not limited to, license or similar fees on account thereof. Association and Owners will, without charge, if requested by Developer: (a) join in the creation of such easements, etc. and cooperate in the operation thereof; and (b) collect and remit fees associated therewith, if any, to the appropriate party. Association will not grant any easements, permits or licenses to any other entity providing the same services as those granted by Developer, nor will it grant any such easement, permit or license prior to the Community Completion Date without the prior written consent of Developer which may be granted or denied in its sole discretion.

25.8 Right to Enforce. Developer has the right, but not the obligation, to enforce the provisions of this Declaration and the Community Standards and to recover all costs relating thereto, including attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, collections and bankruptcy. Such right shall include the right to perform the obligations of Association and to recover all costs incurred in doing so.

25.9 Additional Development. If Developer withdraws portions of Medley at Everlands from the operation of this Declaration, Developer may, but is not required to, subject to governmental approvals, create other forms of residential property ownership or other improvements of any nature on the property not subjected to or withdrawn from the operation of this Declaration. Developer shall not be liable or responsible to any person or entity on account of its decision to do so or to provide, or fail to provide, the amenities and/or facilities which were originally planned to be included in such areas. If so designated by Developer, owners or tenants of such other forms of housing or improvements upon their creation, may share in the use of all or some of the Common Areas and other facilities and/or roadways which remain subject to this Declaration. The expense of the operation of such facilities shall be allocated to the various users thereof, if at all, as determined by Developer.

25.10 Representations. Developer makes no representations concerning development both within and outside the boundaries of Medley at Everlands including, but not limited to, the number, design, boundaries, configuration and arrangements, prices of all Homes or Lots and buildings in all other proposed forms of ownership and/or other improvements on Medley at Everlands or in Medley at Everlands or adjacent to or near Medley at Everlands, including, but not limited to, the size, location, configuration, elevations, design, building materials, height, view, airspace, number of homes, number of buildings, location of easements, parking and landscaped areas, services and amenities offered.

25.11 Non-Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE ASSOCIATION DOCUMENTS, NEITHER ASSOCIATION, MASTER ASSOCIATION, DEVELOPER, MASTER DEVELOPER, NOR ANY BUILDERS SHALL BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF MEDLEY AT EVERLANDS INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, LESSEES, LICENSEES, INVITEES, AGENTS, SERVANTS, CONTRACTORS, AND/OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

25.11.1 IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF MEDLEY AT EVERLANDS HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF MEDLEY AT EVERLANDS AND THE VALUE THEREOF; AND

25.11.2 DEVELOPER, MASTER DEVELOPER, MASTER ASSOCIATION AND/OR ASSOCIATION ARE NOT EMPOWERED, AND HAVE NOT BEEN CREATED, TO ACT AS AGENCIES WHICH ENFORCE OR ENSURE THE COMPLIANCE WITH THE LAWS OF THE STATE OF FLORIDA AND/OR BREVARD COUNTY OR PREVENT TORTIOUS ACTIVITIES. NEITHER DEVELOPER, MASTER DEVELOPER, ANY BUILDER, MASTER ASSOCIATION NOR ASSOCIATION SHALL BE LIABLE FOR THE UNLAWFUL OR UNDESIRABLE ACTIONS OR INACTIONS OF OWNERS OR THEIR RESPECTIVE FAMILIES, TENANTS, GUESTS, INVITEES OR ANY OTHER OCCUPANTS OF HOMES WITHIN MEDLEY AT EVERLANDS AND SHALL FURTHER HAVE NO OBLIGATION TO TAKE ANY AFFIRMATIVE ACTION NOT SPECIFICALLY SET FORTH IN THIS DECLARATION IN ORDER TO STOP, ENJOIN OR PREVENT ANY SUCH ACTIONS BY ANY OWNER OR THEIR FAMILIES, TENANTS, GUESTS, INVITEES OR ANY OTHER OCCUPANTS OF HOMES WITHIN MEDLEY AT EVERLANDS; AND

25.11.3 THE PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH AND WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF ASSOCIATION TO PROTECT OR FURTHER THE HEALTH OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON. EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO A LOT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING A USE OF, ANY PORTION OF MEDLEY AT EVERLANDS (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS SECTION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL

RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF ASSOCIATION HAS BEEN DISCLAIMED IN THIS SECTION OR OTHERWISE. AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS).

25.12 Resolution of Disputes. All claims, disputes and other matters in question between the Association, any Owner and the Developer and/or any Builder arising out of or relating to this Declaration or any alleged the breach of any terms or conditions hereof, the transition of Association control or any alleged failures relating thereto, or any other matter contemplated under this Declaration, shall be decided by mandatory and binding arbitration in accordance with the rules of the American Arbitration Association ("AAA") currently in effect unless the parties mutually agree otherwise. The following procedures shall apply:

25.12.1 Demand for arbitration shall be filed in writing with the other party or parties subject to the Declaration and with the AAA. A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. "Construction Rules" will be utilized in any arbitration proceeding under this Section.

25.12.2 No arbitration arising out of or relating to this Declaration shall include, by consolidation, joinder or any other manner, an additional person or entity not a party to this Declaration, except by written consent containing a specific reference to this Declaration signed by the parties hereto and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented by the parties to this Declaration shall be specifically enforceable in accordance with applicable law and any court having jurisdiction thereof.

25.12.3 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

25.12.4 All filing fees and AAA costs associated with the arbitration itself shall be paid for by the party who files the notice of arbitration; provided, however, that all such expenses shall be recovered by the filing party in the event such party prevails. Any issues regarding who is the prevailing party shall be determined by the arbitration panel. The prevailing party also shall recover from the non-prevailing party all attorneys' fees and costs, including fees and costs for legal assistants and expert witnesses, and including all fees and costs incurred relative to any challenge or appeal of the arbitration award, or confirmation by a court of law.

25.12.5 If and only to the extent a matter arising under this Declaration cannot be resolved by arbitration pursuant to this Section, the prevailing party shall be entitled to collect from the non-prevailing party reasonable attorneys' fees and costs at the trial level and at all levels of appeal. In such event, to the maximum extent permitted by law, each of the Developer, Association, Builders, and Owners, voluntarily, intentionally and irrevocably waive all right to trial by jury in respect of any action, proceeding, or counterclaim (whether based on contract, tort, or otherwise) arising out of or related to any of the provisions of this Declaration, or any course of conduct, course of dealing, statements (whether oral or written) or actions of any party hereto or to any document pertaining to this Declaration. This provision is a material inducement of all parties taking title to real property subject to this Declaration. The parties hereby submit to the jurisdiction of the Civil Courts of the State of Florida and the United States District Courts located in the State of Florida in respect of any suit or other proceeding brought in connection with or arising out of this Declaration and venue shall be in the County.

25.13 Venue. EACH OWNER ACKNOWLEDGES REGARDLESS OF WHERE SUCH OWNER (i) EXECUTED A PURCHASE AND SALE AGREEMENT, (ii) RESIDES, (iii) OBTAINS FINANCING OR (iv) CLOSED ON A HOME, THIS DECLARATION LEGALLY AND FACTUALLY WAS EXECUTED IN BREVARD COUNTY, FLORIDA. DEVELOPER HAS AN OFFICE IN BREVARD COUNTY, FLORIDA AND EACH HOME IS LOCATED IN BREVARD COUNTY, FLORIDA. ACCORDINGLY, AN IRREBUTTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN BREVARD COUNTY, FLORIDA. IN ADDITION TO THE FOREGOING, EACH OWNER AND DEVELOPER AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN BREVARD COUNTY, FLORIDA.

25.14 Reliance. BEFORE ACCEPTING A DEED TO A HOME, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS DECLARATION. BY ACCEPTANCE OF A DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT HE HAS SOUGHT AND RECEIVED SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. DEVELOPER IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A HOME THAT THIS DECLARATION IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO DEVELOPER. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS DECLARATION IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR DEVELOPER TO SUBJECT MEDLEY AT EVERLANDS TO THIS DECLARATION, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES,

ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

25.15 Access Control System. Developer may, but shall not be obligated to, install a tele-entry system at the entrance to Medley at Everlands. There shall be no guarantee as to the type of system or physical components used in connection with the operation of such system (*i.e.*, there is no guarantee as to whether gates, arms, or other devices will be utilized). Association shall have the right, but not the obligation, to contract for the installation of additional Access Control System facilities for Medley at Everlands. Prior to the Community Completion Date, all contracts for Access Control Systems shall be subject to the prior written approval of Developer. ASSOCIATION AND DEVELOPER SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN. Each and every owner and the occupant of each Home acknowledges that Developer, Association, and their employees, agents, managers, directors, and officers, are not insurers of Owners or Homes, or the personal property located within Homes. Developer and Association will not be responsible or liable for losses, injuries, or deaths resulting from any casualty or intrusion into a Home.

25.16 Developer's Right to Control Access. Notwithstanding anything to the contrary in this Declaration, prior to the Community Completion Date, Developer shall have the unilateral right to control the operation of the community access control system and components, if any, and the same shall remain open during normal business hours or as otherwise determined in the sole and absolute discretion of Developer.

26. Telecommunications Services.

26.1 Right to Contract for Telecommunications Services. Subject to the rights of the Master Association, Association shall have the right, but not the obligation, to enter into one or more contracts for the provision of one or more Telecommunications Services for all or any portion of Medley at Everlands. Prior to the Community Completion Date, all contracts between a Telecommunications Provider and Association shall be subject to the prior written approval of Developer. Owners may enter into one or more contracts for the provision of one or more Telecommunication Services for his/her Home. Developer and/or its nominees, successors, assigns, affiliates, and licensees may contract with Association and act as a Telecommunications Provider for one or more Telecommunications Services, subject only to the requirements of all applicable laws, statutes, and regulations. If Developer is not the Telecommunications Provider for any particular Telecommunications Service, Developer shall have the right to receive, on a perpetual basis, all or a portion of access fees and/or the revenues derived from such Telecommunications Service within Medley at Everlands as agreed, from time to time, between the Telecommunications Provider and Developer. It is anticipated that the Developer will not install alarms in Homes within Medley at Everlands.

26.2 Easements. Developer (i) reserves unto itself and its nominees, successors, assigns, affiliates, and licensees, and (ii) grants to each Telecommunications Provider providing Telecommunications Services to all or a portion of Medley at Everlands pursuant to an agreement between Association or Owner and such Telecommunications Provider, a perpetual right, privilege, easement and right-of-way across, over, under and upon Medley at Everlands for the installation, construction and maintenance of Telecommunications Systems together with a perpetual right, privilege and easement of ingress and egress, access, over and upon Medley at Everlands for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing facilities and equipment constituting such systems. If, and to the extent, Telecommunications Services provided by such Telecommunications Systems are to serve all of Medley at Everlands, then the cost of the Telecommunications Services may be Operating Costs of Association and shall be assessed as a part of the Assessments.

26.3 Restoration. Upon the completion of any installation, upgrade, maintenance, repair, or removal of the Telecommunications Systems or any part thereof, each Telecommunications Provider shall restore the relevant portion of the Common Areas and/or any Home to as good a condition as that which existed prior to such installation, maintenance, repair or removal. Failure by Telecommunications Provider to complete such restoration within ten (10) days after receiving written notice from Association of such failure shall vest in Association, the right (but not the obligation) to restore or cause to be restored such portion of the Common Areas and/or Home disturbed by such work, all at such Telecommunications Provider's sole cost and expense, except for in emergency situations whereby Association may restore or cause to be restored such disturbed portion of the Common Areas and/or Home immediately. In the event that Association exercises the right of self-help, each Telecommunications Provider agrees in advance that Association shall have the sole right, to (i) select the Contractors to perform such work and (ii) determine the extent of required restoration. This remedy of self-help is in addition to all other remedies of Association hereunder. All reasonable expenses incurred by Association in connection with such restoration shall be paid by Telecommunications Provider within ten (10) days of delivery to Telecommunications Provider of Association's invoice therefor. Any expenses not so paid when due shall bear interest from the due date at the lesser of (i) the publicly announced prime rate (or similar successor reference rate) of Wachovia National Bank or its successor on the date of such invoice, or (ii) the maximum rate of interest allowed by the law of the State of Florida for such obligations, or as may be provided in a contract between Association and a Telecommunications Provider.

26.4 Operating Costs. Each Owner understands that the expense of any Telecommunications Service may not be charged on a bulk basis, but may be charged at the rate equal to any rate paid by individual home owners

that are not subject to a homeowners association. Each Owner acknowledges that Developer may receive lump sum or monthly compensation from any Telecommunications Provider in connection with the supply of Telecommunications Services. Such compensation may be paid on a per Home or other basis. All such compensation shall be the sole property of Developer, who shall have no duty to account for or disclose the amount of such compensation.

27. Refund of Taxes and Other Charges. Unless otherwise provided herein, Association agrees that any taxes, fees or other charges paid by Developer to any governmental authority, utility company or any other entity which at a later date are refunded in whole or in part, shall be returned to Developer in the event such refund is received by Association.

28. Assignment of Powers. All or any part of the rights, exemptions and powers and reservations of Developer herein contained may be conveyed or assigned in whole or part to other persons or entities by an instrument in writing duly executed, acknowledged, and at Developer's option, recorded in the Public Records.

29. Selling, Leasing and Mortgaging of Homes. In order to maintain complementary uses, congenial neighbors and to protect the value of Homes, the transfer of title to or possession of Homes by any Owner shall be subject to the following provisions so long as Association exists, which provisions each Owner covenants to observe:

29.1 Transfers Subject to Approval.

29.1.1 Sale. No Owner may dispose of a Home or any interest therein by sale without approval of Association.

29.1.2 Lease. No Owner may transfer possession of a Home or any interest therein by lease for any period without approval of Association. The renewal of any lease, including any lease previously approved by Association under this Section 29, shall be re-submitted for approval by Association. No Owner may transfer possession of a Home or any interest therein by lease for any period until such Owner is current in payment of all assessments due to Association under the terms of this Declaration, and Association shall have the right to withhold approval of any lease until such time as the Owner is current in payment of such Assessments.

29.1.3 Gift. If any Owner proposes to transfer a Home by gift, the proposed transfer shall be subject to the approval of Association.

29.2 Approval by Association. To obtain approval of Association which is required for the transfer of Homes, each Owner shall comply with the following requirements:

29.2.1 Notice to Association.

29.2.1.1 Sale. An Owner intending to make a bona fide sale of his or her Home, or any interest therein, shall give to Association a transfer fee (in an amount determined by the Board and permitted by Florida Statutes) and notice pursuant to a form approved by Association of such intentions, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as Association may reasonably require. Such notice, at the Owner's option, may include a demand by the Owner that Association furnish a new purchaser if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract for sale.

29.2.1.2 Lease. An Owner intending to make a bona fide lease of his or her Home or any interest therein shall give to Association a transfer fee (in an amount determined by the Board and permitted by Florida Statutes) and notice pursuant to a form approved by Association of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as Association may reasonably require, and an executed copy of the proposed lease, which lease shall provide that it is subject to approval by Association. Each Owner is solely responsible to obtain all required permits relating to leasing property from all applicable governmental authorities having jurisdiction. To the extent that an Owner fails to obtain all required permits and or consents from local and/or governmental authorities, any and all Association approvals shall be deemed withdrawn.

29.2.1.3 Gift. An Owner who proposes to transfer his or her title by gift shall give to Association a transfer fee (in an amount determined by the Board and permitted by Florida Statutes) and notice pursuant to a form approved by Association of the proposed transfer of his or her title, together with such information concerning the transferee as Association may reasonably require, and a copy of all instruments to be used in transferring title.

29.2.1.4 Failure to Give Notice. If the notice to Association herein required is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Home, Association at its discretion and without notice may approve or disapprove the lease, sale or transfer. If Association disapproves the transaction or ownership, Association shall proceed as if it had received the required notice on the date of such disapproval.

29.2.1.5 Effect and Manner of Notice. The giving of notice shall constitute a representation and warranty by the offeror to Association and any purchaser produced by the Board that the offering is a bona fide offer in all respects. The notice shall be given by certified mail, return receipt requested, or delivered by professional courier or by hand delivery to Association which shall give a receipt therefor.

#### 29.2.2 Certificate of Approval.

29.2.2.1 Sale. If the proposed transaction is a sale, then, within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the proper officers of Association in recordable form and shall be delivered to the purchaser and may be recorded in the Public Records of County (the “**Public Records**”).

29.2.2.2 Lease. If the proposed transaction is a lease then, within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the proper officers of Association and shall be delivered to the lessee.

29.2.2.3 Devise or Inheritance. Any person who has obtained a Home by devise or inheritance (except for the spouse, parents or children of the immediately previous Owner of such Home) shall give to Association notice thereof together with such information concerning the person(s) obtaining such Home as may be reasonably required by the Board and a certified copy of the instrument by which such Home was obtained. If such notice is not given to Association, then at any time after receiving knowledge thereof, the Board shall proceed in accordance with Section 29.2.2.4 as if it had been given such notice on the date of receipt of such knowledge. Within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transfer. If approved, the approval shall be stated in a certificate executed by the proper officers of Association in recordable form and shall be delivered to the person receiving title by devise or inheritance.

29.2.2.4 Gift. If the Owner giving notice proposes to transfer his or her title by gift, then, within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transfer of title to the Home. If approved, the approval shall be upon such terms and conditions as Association may reasonably require, and the approval shall be stated in a certificate executed by the proper officers of Association in recordable form and shall be delivered to the Owner and shall be recorded in the Public Records.

29.2.3 Approval of Owner Other Than an Individual. Inasmuch as the Home may be used only for residential purposes, and a corporation, trust or other entity cannot occupy a Home for such use, if the Owner or purchaser of a Home is a corporation, trust or other entity, the approval of ownership by the corporation, trust or other entity shall be conditioned upon the primary occupant or the beneficial owners of the entity being approved by Association. Any change in such primary occupant or beneficial owners of the Home shall be deemed a change of ownership subject to Association approval pursuant to this Section.

29.3 Disapproval by Association. Although an Owner complies with the foregoing requirements, Association may disapprove of the transfer. If Association disapproves a transfer or ownership of a Home, the matter shall be disposed of in the following manner:

29.3.1 Sale. If the proposed transaction is a sale and if the notice of sale given by the Owner shall so demand, then, within thirty (30) days after receipt of such notice and information by Association, Association shall deliver by professional courier or hand-delivery, or mail by certified mail, to the Owner an agreement to purchase by Association, or a purchaser approved by Association who will purchase and to whom the Owner must sell the Home, upon the following terms:

29.3.1.1 The price to be paid by the purchaser, to be identified in the agreement, shall be that stated in the disapproved contract to sell.

29.3.1.2 The purchase price shall be paid by official check or federal wire.

29.3.1.3 The sale shall be closed within ninety (90) days after the delivery or mailing of the agreement to purchase to the Owner and shall be upon terms no less favorable than the terms of the disapproved contract.

29.3.1.4 If Association fails to provide a purchaser upon the demand of the Owner in the manner provided, or if a purchaser furnished by Association shall default in his or her agreement to purchase, the proposed transaction shall be deemed to have been approved and Association shall furnish a certificate of approval as provided in this Section 29.

29.3.2 Lease. In the event the Board disapproves of a transfer of possession of a Home by lease, then the Owner may not lease the Home to the intended lessee for whom the Owner sought approval.

29.3.3 Transfer by Gift, Devise or Inheritance. In the event the Board disapproves of such transfer of title by gift, devise or inheritance, the Board shall advise in writing within such thirty (30) day period, the person who has obtained such title of a purchaser approved by the Board to purchase the respective Home at its fair market value. The fair market value of the Home will be determined by any one of the following methods determined by the Board: (i) by three (3) M.A.I. appraisers, one of whom shall be selected by the Association’s proposed purchaser, one by the person holding title, and one by the two (2) appraisers so selected; or (ii) by mutual agreement by the Association’s proposed purchaser and the person holding title. All costs for such appraisal shall be paid by the Association’s proposed purchaser. The purchase price shall be paid by federal wire or official check and the sale closed within thirty (30) days after the determination of the purchase price. Simultaneously upon notification to the person holding title that the Board has a purchaser for the respective Home, the person holding title and such purchaser shall execute a contract providing for the acquisition of such Home in accordance with the

terms of this Declaration. In the event the purchaser furnished by Association shall default in his or her obligation to purchase such Home, then the Board shall be required to approve the passage of title to the person then holding title thereof and shall issue and deliver a certificate of approval therefor.

29.4 Exceptions. The foregoing provisions of this Section shall not apply to a transfer or purchase by an Institutional First Mortgagee or other approved mortgagee which acquires its title as the result of owning a mortgage upon the Home concerned, and this shall be so whether the title is acquired by deed from the mortgagor or its successor in title or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by an Institutional First Mortgagee or other approved mortgagee which so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to a Lot at a duly advertised public sale with open bidding which is provided by law including, but not limited to, an execution sale, foreclosure sale, judicial sale or tax sale. The provisions of this Section shall not apply to Developer. Notwithstanding any inconsistent or contrary provision, or portion thereof, in this Declaration, if there are any FHA, VA or USDA insured loans affecting a Lot, and only for so long as any such loans affect the Lot, any provisions, or portions thereof, in this Declaration on renting, subleasing, or reconveyance that violate any FHA, VA or USDA requirements shall not apply to such Lot or its Owner.

29.5 Unauthorized Transactions. Any sale, transfer mortgage or lease which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by Association.

29.6 Notice of Lien or Suit.

29.6.1 Notice of Lien. An Owner shall give notice to Association of every lien upon his or her Home other than for permitted mortgages, taxes and special assessments within five (5) days after the attaching of such lien.

29.6.2 Notice of Suit. An Owner shall give notice to Association of every suit or other proceeding which may affect the title to his or her Home; such notice is to be given within five (5) days after the Owner receives knowledge thereof.

29.6.3 Failure to Comply. Failure to comply with this Section will not affect the validity of any judicial sale.

30. General Provisions.

30.1 Authority of Board. Except when a vote of the membership of Association is specifically required, all decisions, duties, and obligations of Association hereunder may be made by the Board. Association and Owners shall be bound thereby.

30.2 Interpretation. The Board shall be responsible for interpreting the provisions hereof and of any of the exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of counsel that any interpretation adopted by Association is not unreasonable shall conclusively establish the validity of such interpretation. Article, section, and paragraph captions, headings and titles inserted throughout the Association Documents are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of the Association Documents. Whenever the context so requires or permits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

30.3 Severability. Invalidation of any of the provisions of this Declaration by judgment or court order shall in no way affect any other provision, and the remainder of this Declaration shall remain in full force and effect.

30.4 Affirmative Obligation of Association. In the event that Association believes that Developer has failed in any respect to meet Developer's obligations under this Declaration or has failed to comply with any of Developer's obligations under law or the Common Areas are defective in any respect, Association shall give written notice to Developer detailing the alleged failure or defect. Association agrees that once Association has given written notice to Developer pursuant to this Section, Association shall be obligated to permit Developer and its agents to perform inspections of the Common Areas and to perform all tests and make all repairs/replacements deemed necessary by Developer to respond to such notice at all reasonable times. Association agrees that any inspection, test and/or repair/replacement scheduled on a business day between 9 a.m. and 5 p.m. shall be deemed scheduled at a reasonable time. The rights reserved in this Section include the right of Developer to repair or address, in Developer's sole option and expense, any aspect of the Common Areas deemed defective by Developer during its inspections of the Common Areas. Association's failure to give the notice and/or otherwise comply with the provisions of this Section will damage Developer. At this time, it is impossible to determine the actual damages Developer might suffer. Accordingly, if Association fails to comply with its obligations under this Section in any respect, Association shall pay to Developer liquidated damages in the amount of \$250,000.00 which Association and Developer agree is a fair and reasonable remedy.

30.5 Execution of Documents. Developer's plan of development for Medley at Everlands (including, without limitation, the creation of one (1) or more special taxing districts) may necessitate from time to time the execution of certain documents as required by governmental agencies. To the extent that such documents require the joinder of Owners other than Developer, Developer, by its duly authorized officers, may, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents (including, without limitation, any consents or other documents required by any governmental agencies in connection with the creation of any

special taxing district); and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Developer, through its duly authorized officers, as their proper and legal attorneys-in-fact, for such purpose. Such appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Home or any other portion of Medley at Everlands, to execute or otherwise join in any petition and/or other documents required in connection with the creation of a special taxing district relating to Medley at Everlands or any portion(s) thereof.

30.6 Letter(s) of Credit. During the development of Medley at Everlands, Developer may be required to obtain a letter of credit in connection with or as security for matters relating to Association including, without limitation, the Association's maintenance obligations. From and after the Turnover Date, Association agrees that it shall indemnify and be liable to Developer for any amounts drawn or due from any such letter(s) of credit which result from the Association's failure to act in accordance with the terms of this Declaration, any applicable law, ordinance or requirement of any governmental agency. In addition to the foregoing, Association agrees that immediately following the Turnover Date, the Association shall take all measures necessary to reimburse Developer for all amounts expended in connection with the letter of credit, remove Developer from the letter of credit, and add Association as the responsible party under the letter of credit.

30.7 Notices. Any notice required to be sent to any person, firm, or entity under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address at the time of such mailing.

30.8 Florida Statutes. Whenever this Declaration refers to the Florida Statutes, it shall be deemed to refer to the Florida Statutes as they exist on the date this Declaration is recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

30.9 Medley at Everlands Club – For Disclosure Purposes Only. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND AGREES THAT THE RECORDED “MEDLEY AT EVERLANDS CLUB, CLUB PLAN” IS A STANDALONE, INDEPENDENT AND DISTINCT COVENANT RUNNING WITH THE LAND ENCUMBERED THEREBY, AND IS NOT A PART OF OR SUBJECT TO THE ASSOCIATION DOCUMENTS. THE CLUB, CLUB PROPERTY, AND CLUB FACILITIES (ALL AS DEFINED IN THE MEDLEY AT EVERLANDS CLUB, CLUB PLAN) ARE SEPARATE AND DISTINCT COMMERCIAL PROPERTIES, NOT PART OF THE MEDLEY AT EVERLANDS COMMUNITY, AND ARE NOT SUBJECT TO OR GOVERNED BY FLORIDA STATUTES, CHAPTER 720 OR CHAPTER 718, THE ASSOCIATION DOCUMENTS, OR ASSOCIATION OVERSIGHT OR CONTROL. THIS PROVISION IS FOR DISCLOSURE PURPOSES ONLY.

30.10 Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF MEDLEY AT EVERLANDS ARE HEREBY PLACED ON NOTICE THAT (1) DEVELOPER AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES AND/OR (2) ANY OTHER PARTIES MAY BE, FROM TIME TO TIME, CONDUCTING BLASTING, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO MEDLEY AT EVERLANDS. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF MEDLEY AT EVERLANDS, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO MEDLEY AT EVERLANDS WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DEVELOPER AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, EXCEPT RESULTING DIRECTLY FROM DEVELOPER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF MEDLEY AT EVERLANDS HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

30.11 Title Documents. Each Owner by acceptance of a deed to a Lot or Home acknowledges that such Lot/Home is subject to certain land use and title documents and all amendments thereto, which include among other items, the Plat, the title documents listed in the Owner's title commitment and title insurance policy, as well as further title documents described in this Declaration (collectively, the “**Title Documents**”).

[ADDITIONAL TEXT AND SIGNATURES APPEAR ON THE FOLLOWING PAGE]



IN WITNESS WHEREOF, the undersigned, being Developer hereunder, has hereunto set its hand and seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**LENNAR HOMES, LLC**, a Florida limited liability company

By:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

---

{SEAL}

SS.:

My commission expires:

NOTARY PUBLIC, State of Florida at Large

Print Name: \_\_\_\_\_

JOINDER

MEDLEY AT EVERLANDS HOMEOWNERS ASSOCIATION, INC.

MEDLEY AT EVERLANDS HOMEOWNERS ASSOCIATION, INC. (“Association”) does hereby join in the Declaration for Medley at Everlands (“Declaration”), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association agrees that this joinder is for convenience only and not to the effectiveness of this Declaration as Association has no right to approve this Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this \_\_\_\_ day of \_\_\_\_\_, 2022.

WITNESSES: MEDLEY AT EVERLANDS HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: President

{SEAL}

STATE OF FLORIDA )  
 ) SS.:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2022 by \_\_\_\_\_ as President of MEDLEY AT EVERLANDS HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:

\_\_\_\_\_  
NOTARY PUBLIC, State of Florida at Large

Print Name: \_\_\_\_\_

**JOINDER AND CONSENT OF LANDOWNER**

**EXHIBIT 1**

**LEGAL DESCRIPTION**

**EXHIBIT 2**

ARTICLES OF INCORPORATION

**EXHIBIT 3**  
**BY-LAW**

**EXHIBIT 4**

**PERMIT**

**OPINION OF TITLE**

**To: CITY OF PALM BAY**

With the understanding that this Opinion of Title is furnished to the City of Palm Bay, Florida, as inducement for acceptance of a proposed final subdivision plat ("Plat") covering the real property, hereinafter described, it is hereby certified that I have examined North American Title Insurance Company Property Information Report under File No. 2022-11195-FL Rev. 3, covering the period from the beginning to the 8th day of May, 2023, at the hour of 5:00 p.m. This certification of ownership is being issued to the City of Palm Bay, Florida, in accordance with the Uniform Title Standards of the Real Property and Trust Law Section of the Florida Bar, and Chapter 177.041, Florida Statutes. The legal description for the land subject to the above captioned Plat is more particularly described as follows (the "Real Property"):

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

I am of the opinion that on the last mentioned date, the fee simple title to the above-described real property was vested in:

DRP FL 6, LLC, a Delaware limited liability company (the "Company")

Subject to the following encumbrances, liens, and other exceptions:

**1. RECORDED MORTGAGES:**

None.

**2. RECORDED CONSTRUCTION LIENS, CONTRACT LIENS AND JUDGMENTS:**

None.

**3. GENERAL EXCEPTIONS:**

1. All taxes for the year 2023 and subsequent years, which are not yet due and payable.
2. Rights of persons other than the above owners who are in possession.
3. Facts that would be disclosed upon accurate survey.
4. Any unrecorded labor, mechanics' or materialmen's liens.
5. Zoning and other restrictions imposed by governmental authority.



6. Any claim that any portion of said lands are sovereign lands of the State of Florida, including submerged, filled or artificially exposed lands and lands accreted to such lands.
  7. Any lien provided by County Ordinance or by Chapter 159, Florida Statutes, in favor of any city, town, village or port authority for unpaid service charges for service by any water, sewer or gas system supplying the property.
4. **SPECIAL EXCEPTIONS:**
1. Ordinance No. 85-49 in Official Records Book 2756, Page 10.
  2. Ordinance No. 2003-32 in Official Records Book 5030, Page 541.
  3. Ordinance No. 2004-37 in Official Records Book 5352, Page 1548.
  4. Terms and conditions of Reserved Easements and License Rights Agreement recorded in Official Records Book 5468, Page 6896, as affected by First Amendment recorded in Official Records Book 5507, Page 1769, as corrected by Corrected First Amendment recorded in Official Records Book 5509, Page 439.
  5. Rights of the public over and across that portion of the premises that lies within Pace Drive as described in Official Records Book 6149, Page 2602.
  6. Declaration of Easements in Official Records Book 6149, Page 2612, as supplemented in Official Records Book 8915, Page 1507.
  7. Notice of Environmental Resource Permit in Official Records Book 8583, Page 198.
  8. Notice of Establishment of the Everlands Community Development District recorded in Official Records Book 8693, Page 2281; ratified by Ordinance 2020-17 in Official Records Book 8717, Page 152; Final Judgment recorded in Official Records Book 9257, Page 1663; annexing the subject parcel by virtue of the Amended Notice of Establishment of the Everlands Community Development District recorded in Official Records Book 9271, Page 2431; Declaration of Consent to Jurisdiction of the Everlands Community Development District (Imposition of Series 2021 Special Assessments and Imposition of Lien of Record recorded in Official Records Book 9298, Page 216; Lien of Record recorded in Official Records Book 9298, Page 220 and True-Up Agreement recorded in Official Records Book 9298, Page 223.
  9. Resolution 2021-65 in Official Records Book 9408, Page 2279.

10. Declaration for Everlands recorded in Official Records Book 9466, Page 1511; First Amendment to Declaration for Everlands recorded in Official Records Book 9506, Page 791.
11. Memorandum of Option Agreement Recorded in OR Book 9521, Page 2902.
12. Recorded Notice of Environmental Resource Permit recorded in Official Records Book 9527, Page 2708.
13. Ordinance 2022-118 recorded in Official Records Book 9686, Page 816.
14. Plat of Timbers at Everlands Phase 1A recorded in Plat Book 73, Page 64.

All recordings herein refer to the Public Records of Brevard County, Florida.

I HEREBY CERTIFY that I have reviewed all the aforementioned encumbrances and exceptions.

Therefore, it is my opinion that the following parties must join in the Plat in order to make the plat a valid and binding covenant on the lands described herein:

<u>Name</u>	<u>Interest</u>
DRP FL 6, LLC, a Delaware limited liability company	Owner

I HEREBY CERTIFY that the legal description contained in this Opinion of Title coincides with, and is the same as, the legal description in the proffered, recordable Plat.

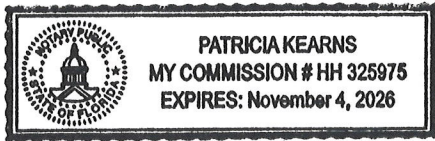
Respectfully submitted this 22nd day of May, 2023.

  
\_\_\_\_\_  
Nicholas G. Milano  
Attorney at Law  
Florida Bar No. 9757788  
Holland & Knight LLP  
P.O. Box 14070 (Zip Code 33302-4070)  
515 East Las Olas Boulevard, Suite 1200  
Fort Lauderdale, FL 33301  
Telephone: (954) 468-7804

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of   X   physical presence or \_\_\_\_\_ online notarization, this 22nd day of May, 2023, by Nicholas G. Milano, who is personally known to me.



*Patricia Kearns*  
Notary Public

## EXHIBIT "A"

### TIMBERS AT EVERLANDS PHASE 1B

A PORTION OF TRACT FD1 TOGETHER WITH TRACT FD2, ALL IN TIMBERS AT EVERLANDS PHASE 1A, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 73, PAGE 64, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LYING IN SECTION 28, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

#### PORTION OF TRACT FD1

BEGIN AT THE EASTERLY MOST CORNER OF LOT 2, BLOCK C OF SAID TIMBERS AT EVERLANDS PHASE 1A AND RUN S49°27'17"W, A DISTANCE OF 120.00 FEET TO THE SOUTHERLY MOST CORNER OF SAID LOT 2, BLOCK C, (SAID POINT ALSO BEING A POINT ON THE BOUNDARY OF TRACT Z OF SAID TIMBERS AT EVERLANDS PHASE 1A); THENCE ALONG THE BOUNDARY OF SAID TRACT Z, THE FOLLOWING TEN (10) COURSES AND DISTANCES; 1) THENCE S54°22'00"W, A DISTANCE OF 50.18 FEET; 2) THENCE N40°32'43"W, A DISTANCE OF 40.00 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; 3) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTH, AND HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", A CHORD BEARING OF N85°32'43"W, AND A CHORD LENGTH OF 35.36 FEET), A DISTANCE OF 39.27 FEET TO THE END OF SAID CURVE; 4) THENCE S49°27'17"W, A DISTANCE OF 55.66 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; 5) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 400.00 FEET, A CENTRAL ANGLE OF 44°56'44", A CHORD BEARING OF S26°58'55"W, AND A CHORD LENGTH OF 305.79 FEET), A DISTANCE OF 313.78 FEET TO A POINT OF COMPOUND CURVATURE; 6) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 39°05'31", A CHORD BEARING OF S15°02'12"E, AND A CHORD LENGTH OF 33.46 FEET), A DISTANCE OF 34.11 FEET TO A POINT OF REVERSE CURVATURE; 7) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE WEST, AND HAVING A RADIUS OF 59.00 FEET, A CENTRAL ANGLE OF 60°36'33", A CHORD BEARING OF S04°16'42"E, AND A CHORD LENGTH OF 59.54 FEET), A DISTANCE OF 62.41 FEET TO A POINT OF REVERSE CURVATURE; 8) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 36°35'06", A CHORD BEARING OF S07°44'02"W, AND A CHORD LENGTH OF 31.39 FEET), A DISTANCE OF 31.93 FEET TO THE END OF SAID CURVE; 9) THENCE S10°33'31"E, A DISTANCE OF 91.71 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; 10) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHEAST, AND HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°48'05", A CHORD BEARING OF S55°57'34"E, AND A CHORD LENGTH OF 35.60 FEET), A DISTANCE OF 39.62 FEET TO A POINT OF REVERSE CURVATURE AND A POINT ON THE CURVED NORTH RIGHT-OF-WAY LINE OF PACE DRIVE (AN 80.00 FOOT WIDE PUBLIC RIGHT-OF-WAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 6149, PAGE 2602, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA); THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTH, AND HAVING A RADIUS OF 1580.00 FEET, A CENTRAL ANGLE OF 17°56'36", A CHORD BEARING OF N87°36'41"E, AND A CHORD LENGTH OF 492.79

FEET), A DISTANCE OF 494.81 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE NORTH; THENCE N09°03'50"E, ALONG SAID NON-TANGENT LINE, A DISTANCE OF 205.72 FEET; THENCE N00°36'59"E, A DISTANCE OF 50.66 FEET; THENCE N10°46'12"E, A DISTANCE OF 120.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 130.00 FEET, A CENTRAL ANGLE OF 38°41'05", A CHORD BEARING OF N59°53'16"W, AND A CHORD LENGTH OF 86.12 FEET), A DISTANCE OF 87.77 FEET TO THE END OF SAID CURVE; THENCE N40°32'43"W, A DISTANCE OF 237.18 FEET TO THE POINT OF BEGINNING. CONTAINING 6.22 ACRES, MORE OR LESS.

#### TRACT FD2

BEGIN AT THE SOUTHWEST CORNER OF LOT 1, BLOCK BB OF SAID TIMBERS AT EVERLANDS PHASE 1A, (SAID POINT ALSO BEING A POINT ON THE BOUNDARY OF TRACT A4 OF SAID TIMBERS AT EVERLANDS PHASE 1A); THENCE ALONG THE BOUNDARY OF SAID TRACT A4, THE FOLLOWING FOUR (4) COURSES AND DISTANCES; 1) THENCE ALONG THE ARC OF A CURVE TO THE LEFT, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 275.00 FEET, A CENTRAL ANGLE OF 9°10'19", A CHORD BEARING OF S22°58'16"W, AND A CHORD LENGTH OF 43.97 FEET), A DISTANCE OF 44.02 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE SOUTHEAST; 2) THENCE S71°36'54"E ALONG SAID NON-TANGENT LINE, A DISTANCE OF 120.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE LEFT; 3) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 155.00 FEET, A CENTRAL ANGLE OF 50°42'42", A CHORD BEARING OF S06°58'15"E, AND A CHORD LENGTH OF 132.75 FEET), A DISTANCE OF 137.19 FEET TO A POINT OF REVERSE CURVATURE; 4) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE WEST, AND HAVING A RADIUS OF 370.00 FEET, A CENTRAL ANGLE OF 24°48'01", A CHORD BEARING OF S19°55'35"E, AND A CHORD LENGTH OF 158.91 FEET), A DISTANCE OF 160.15 FEET TO THE SOUTHWEST CORNER OF SAID TRACT A4, (SAID POINT ALSO BEING A POINT ON THE BOUNDARY OF TRACT A3 OF SAID TIMBERS AT EVERLANDS PHASE 1A); THENCE ALONG THE BOUNDARY OF SAID TRACT A3, THE FOLLOWING THREE (3) COURSES AND DISTANCES; 1) THENCE CONTINUE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE WEST, AND HAVING A RADIUS OF 370.00 FEET, A CENTRAL ANGLE OF 9°03'44", A CHORD BEARING OF S02°59'43"E, AND A CHORD LENGTH OF 58.46 FEET), A DISTANCE OF 58.52 FEET TO THE END OF SAID CURVE; 2) THENCE S01°32'10"W, A DISTANCE OF 78.41 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; 3) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTH, AND HAVING A RADIUS OF 174.00 FEET, A CENTRAL ANGLE OF 139°42'14", A CHORD BEARING OF S71°23'16"W, AND A CHORD LENGTH OF 326.70 FEET), A DISTANCE OF 424.26 FEET TO A NON-TANGENT INTERSECTION WITH THE BOUNDARY OF TRACT A2 OF SAID TIMBERS AT EVERLANDS PHASE 1A; THENCE ALONG THE BOUNDARY OF SAID TRACT A2, THE FOLLOWING FIVE (5) COURSES AND DISTANCES; 1) THENCE N51°14'23"E, A DISTANCE OF 120.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE RIGHT; 2) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 54.00 FEET, A CENTRAL ANGLE OF 113°16'39", A CHORD BEARING OF N17°52'43"E, AND A CHORD LENGTH OF 90.20 FEET), A DISTANCE OF 106.76 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE WEST; 3) THENCE N80°24'57"W, ALONG SAID NON-TANGENT LINE, A DISTANCE OF 102.18 FEET; 4) THENCE N20°23'28"W, A DISTANCE OF 149.65 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; 5) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 445.00 FEET, A CENTRAL ANGLE OF 18°50'34", A CHORD BEARING OF N10°58'11"W, AND A CHORD

LENGTH OF 145.69 FEET), A DISTANCE OF 146.35 FEET TO THE NORTHEAST CORNER OF SAID TRACT A2, (SAID POINT ALSO BEING A POINT ON THE BOUNDARY OF TRACT A1 OF SAID TIMBERS AT EVERLANDS PHASE 1A); THENCE ALONG THE BOUNDARY OF SAID TRACT A1, THE FOLLOWING THREE (3) COURSES AND DISTANCES; 1) THENCE CONTINUE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 445.00 FEET, A CENTRAL ANGLE OF 28°02'54", A CHORD BEARING OF N12°28'33"E, AND A CHORD LENGTH OF 215.67 FEET), A DISTANCE OF 217.84 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE SOUTHEAST; 2) THENCE S63°30'00"E, ALONG SAID NON-TANGENT LINE, A DISTANCE OF 120.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE RIGHT; 3) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 325.00 FEET, A CENTRAL ANGLE OF 3°08'22", A CHORD BEARING OF N28°04'11"E, AND A CHORD LENGTH OF 17.81 FEET), A DISTANCE OF 17.81 FEET TO THE SOUTHERLY MOST CORNER OF LOT 45, BLOCK R OF SAID TIMBERS AT EVERLANDS PHASE 1A; THENCE CONTINUE ALONG THE ARC OF SAID CURVE AND ALONG THE SOUTHEASTERLY BOUNDARY OF SAID LOT 45, BLOCK R, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 325.00 FEET, A CENTRAL ANGLE OF 12°17'53", A CHORD BEARING OF N35°47'18"E, AND A CHORD LENGTH OF 69.62 FEET), A DISTANCE OF 69.76 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE SOUTHEAST AND A POINT ON THE BOUNDARY OF TRACT Z OF SAID TIMBERS AT EVERLANDS PHASE 1A; THENCE S48°03'46"E, ALONG SAID NON-TANGENT LINE AND ALONG THE BOUNDARY OF SAID TRACT Z, A DISTANCE OF 50.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE LEFT AND A POINT ON THE BOUNDARY OF SAID LOT 1, BLOCK BB OF SAID TIMBERS AT EVERLANDS PHASE 1A; THENCE ALONG THE BOUNDARY OF SAID LOT 1, BLOCK BB AND ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 275.00 FEET, A CENTRAL ANGLE OF 14°22'49", A CHORD BEARING OF S34°44'50"W, AND A CHORD LENGTH OF 68.84 FEET), A DISTANCE OF 69.02 FEET TO THE POINT OF BEGINNING. CONTAINING 4.25 ACRES, MORE OR LESS.

CONTAINING 10.47 NET ACRES, MORE OR LESS

# Project Details: FS23-00004

## Project Type: Subdivisions & Plats Final Plat

Project Location: **Palm Bay, FL**  
Milestone: **Submitted**  
Created: **6/12/2023**  
Description: **Timbers at Everlands - Phase 1B**  
Assigned Planner:

### Contacts

Contact	Information
Owner/Applicant	DRP FL 6, LLC 590 Madison Ave, FL 13 New York, NY 10022 (212) 751-5949 brian.clauson@domainrealestatepartners.com
Legal Representative	Scott M. Glaubitz 312 S. Harbor City Blvd., Suite # 4 Melbourne, FL 32901 (321) 725-3674 info@bseconsult.com
Assigned Planner	
Submitter	BSE Consultants, Inc. 312 S Harbor City Blvd Melbourne, FL 32901 (321) 725-3674 info@bseconsult.com

### Fields

Field Label	Value
Total Lots Proposed by Use	41
Intended Use of Property	single family residential
Proposed Subdivision Name	Timbers at Everlands - Phase 1B
Submitted Preliminary Subdivision?	Yes
Size of Area Covered (acres)	
Is Submitter the Representative?	False
Tax Account Numbers	3017369

# Project Details: FS23-00004

Parcel Number	28-36-28-00-3
Action Letter Date	
Block	*
Lot	FD.1
Section Township Range	28-28-36
Subdivision	YS
Year Built	
Use Code	9911
Use Code Desc	VACANT SINGLE-FAMILY PLATTED > 5 AC
LotSize	
Building SqFt	
Homestead Exemption	
Taxable Value Exemption	
Assessed Value	
Market Value	
Land Value	
Tax ID	3032616
Flu Description	Single Family Residential
Flu Code	SFR
Zoning Description	Agricultural Residential
Zoning Code	AU (COUNTY)
Subdivision Name	



June 13, 2023

Re: Letter of Authorization

As the property owner of the site legally described as:

See attached.

I, Owner Name: DRP FL 6, LLC c/o DW General Partner, LLC- Brian Clauson-Authorized Signatory

Address: 590 Madison Ave FL 13

Telephone: 212-751-5949

Email: brian.clauson@domainrealestatepartners.com

hereby authorize:

Representative: Scott M. Glaubiz P.E., P.L.S (or other B.S.E Consultants, Inc. representative)

Address: 312 South Harbor City Blvd, Suite # 4, Melbourne, FL 32901

Telephone: 321-725-3674

Email: info@bseconsult.com

to represent the request(s) for:

Timbers (fka Medely) at Everlands- Phase 1B Final Plat

*[Signature]*

(Property Owner Signature)

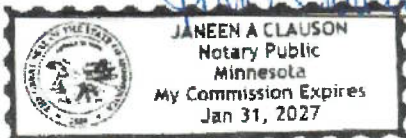
STATE OF Minnesota

COUNTY OF Dakota

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 13 day of June, 2023 by

*Brian Clauson*

, property owner.



*Janeen A. Clauson*  
Janeen A. Clauson

, Notary Public

☒ Personally Known or ☐ Produced the Following Type of Identification:

## **TIMBERS AT EVERLANDS PHASE 1B**

A PORTION OF TRACT FD1 TOGETHER WITH TRACT FD2, ALL IN TIMBERS AT EVERLANDS PHASE 1A, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 73, PAGE 64, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LYING IN SECTION 28, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

### PORTION OF TRACT FD1

BEGIN AT THE EASTERLY MOST CORNER OF LOT 2, BLOCK C OF SAID TIMBERS AT EVERLANDS PHASE 1A AND RUN S49°27'17"W, A DISTANCE OF 120.00 FEET TO THE SOUTHERLY MOST CORNER OF SAID LOT 2, BLOCK C, (SAID POINT ALSO BEING A POINT ON THE BOUNDARY OF TRACT Z OF SAID TIMBERS AT EVERLANDS PHASE 1A); THENCE ALONG THE BOUNDARY OF SAID TRACT Z, THE FOLLOWING TEN (10) COURSES AND DISTANCES; 1) THENCE S54°22'00"W, A DISTANCE OF 50.18 FEET; 2) THENCE N40°32'43"W, A DISTANCE OF 40.00 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; 3) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTH, AND HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", A CHORD BEARING OF N85°32'43"W, AND A CHORD LENGTH OF 35.36 FEET), A DISTANCE OF 39.27 FEET TO THE END OF SAID CURVE; 4) THENCE S49°27'17"W, A DISTANCE OF 55.66 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; 5) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 400.00 FEET, A CENTRAL ANGLE OF 44°56'44", A CHORD BEARING OF S26°58'55"W, AND A CHORD LENGTH OF 305.79 FEET), A DISTANCE OF 313.78 FEET TO A POINT OF COMPOUND CURVATURE; 6) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 39°05'31", A CHORD BEARING OF S15°02'12"E, AND A CHORD LENGTH OF 33.46 FEET), A DISTANCE OF 34.11 FEET TO A POINT OF REVERSE CURVATURE; 7) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE WEST, AND HAVING A RADIUS OF 59.00 FEET, A CENTRAL ANGLE OF 60°36'33", A CHORD BEARING OF S04°16'42"E, AND A CHORD LENGTH OF 59.54 FEET), A DISTANCE OF 62.41 FEET TO A POINT OF REVERSE CURVATURE; 8) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 36°35'06", A CHORD BEARING OF S07°44'02"W, AND A CHORD LENGTH OF 31.39 FEET), A DISTANCE OF 31.93 FEET TO THE END OF SAID CURVE; 9) THENCE S10°33'31"E, A DISTANCE OF 91.71 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; 10) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHEAST, AND HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°48'05", A CHORD BEARING OF S55°57'34"E, AND A CHORD LENGTH OF 35.60 FEET), A DISTANCE OF 39.62 FEET TO A POINT OF REVERSE CURVATURE AND A POINT ON THE CURVED NORTH RIGHT-OF-WAY LINE OF PACE DRIVE (AN 80.00 FOOT WIDE PUBLIC RIGHT-OF-WAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 6149, PAGE 2602, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA); THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTH, AND HAVING A RADIUS OF 1580.00 FEET, A CENTRAL ANGLE OF 17°56'36", A CHORD BEARING OF N87°36'41"E, AND A CHORD LENGTH OF 492.79 FEET), A DISTANCE OF 494.81 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE NORTH; THENCE N09°03'50"E, ALONG SAID NON-TANGENT LINE, A DISTANCE OF 205.72 FEET; THENCE N00°36'59"E, A DISTANCE OF 50.66 FEET; THENCE N10°46'12"E, A DISTANCE OF 120.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 130.00 FEET, A CENTRAL ANGLE OF 38°41'05", A CHORD BEARING OF N59°53'16"W, AND A CHORD LENGTH OF 86.12 FEET), A DISTANCE OF 87.77 FEET TO THE END OF SAID CURVE;

THENCE N40°32'43"W, A DISTANCE OF 237.18 FEET TO THE POINT OF BEGINNING. CONTAINING 6.22 ACRES, MORE OR LESS.

TRACT FD2

BEGIN AT THE SOUTHWEST CORNER OF LOT 1, BLOCK BB OF SAID TIMBERS AT EVERLANDS PHASE 1A, (SAID POINT ALSO BEING A POINT ON THE BOUNDARY OF TRACT A4 OF SAID TIMBERS AT EVERLANDS PHASE 1A); THENCE ALONG THE BOUNDARY OF SAID TRACT A4, THE FOLLOWING FOUR (4) COURSES AND DISTANCES; 1) THENCE ALONG THE ARC OF A CURVE TO THE LEFT, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 275.00 FEET, A CENTRAL ANGLE OF 9°10'19", A CHORD BEARING OF S22°58'16"W, AND A CHORD LENGTH OF 43.97 FEET), A DISTANCE OF 44.02 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE SOUTHEAST; 2) THENCE S71°36'54"E ALONG SAID NON-TANGENT LINE, A DISTANCE OF 120.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE LEFT; 3) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 155.00 FEET, A CENTRAL ANGLE OF 50°42'42", A CHORD BEARING OF S06°58'15"E, AND A CHORD LENGTH OF 132.75 FEET), A DISTANCE OF 137.19 FEET TO A POINT OF REVERSE CURVATURE; 4) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE WEST, AND HAVING A RADIUS OF 370.00 FEET, A CENTRAL ANGLE OF 24°48'01", A CHORD BEARING OF S19°55'35"E, AND A CHORD LENGTH OF 158.91 FEET), A DISTANCE OF 160.15 FEET TO THE SOUTHWEST CORNER OF SAID TRACT A4, (SAID POINT ALSO BEING A POINT ON THE BOUNDARY OF TRACT A3 OF SAID TIMBERS AT EVERLANDS PHASE 1A); THENCE ALONG THE BOUNDARY OF SAID TRACT A3, THE FOLLOWING THREE (3) COURSES AND DISTANCES; 1) THENCE CONTINUE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE WEST, AND HAVING A RADIUS OF 370.00 FEET, A CENTRAL ANGLE OF 9°03'44", A CHORD BEARING OF S02°59'43"E, AND A CHORD LENGTH OF 58.46 FEET), A DISTANCE OF 58.52 FEET TO THE END OF SAID CURVE; 2) THENCE S01°32'10"W, A DISTANCE OF 78.41 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; 3) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTH, AND HAVING A RADIUS OF 174.00 FEET, A CENTRAL ANGLE OF 139°42'14", A CHORD BEARING OF S71°23'16"W, AND A CHORD LENGTH OF 326.70 FEET), A DISTANCE OF 424.26 FEET TO A NON-TANGENT INTERSECTION WITH THE BOUNDARY OF TRACT A2 OF SAID TIMBERS AT EVERLANDS PHASE 1A; THENCE ALONG THE BOUNDARY OF SAID TRACT A2, THE FOLLOWING FIVE (5) COURSES AND DISTANCES; 1) THENCE N51°14'23"E, A DISTANCE OF 120.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE RIGHT; 2) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 54.00 FEET, A CENTRAL ANGLE OF 113°16'39", A CHORD BEARING OF N17°52'43"E, AND A CHORD LENGTH OF 90.20 FEET), A DISTANCE OF 106.76 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE WEST; 3) THENCE N80°24'57"W, ALONG SAID NON-TANGENT LINE, A DISTANCE OF 102.18 FEET; 4) THENCE N20°23'28"W, A DISTANCE OF 149.65 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; 5) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 445.00 FEET, A CENTRAL ANGLE OF 18°50'34", A CHORD BEARING OF N10°58'11"W, AND A CHORD LENGTH OF 145.69 FEET), A DISTANCE OF 146.35 FEET TO THE NORTHEAST CORNER OF SAID TRACT A2, (SAID POINT ALSO BEING A POINT ON THE BOUNDARY OF TRACT A1 OF SAID TIMBERS AT EVERLANDS PHASE 1A); THENCE ALONG THE BOUNDARY OF SAID TRACT A1, THE FOLLOWING THREE (3) COURSES AND DISTANCES; 1) THENCE CONTINUE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST, AND HAVING A RADIUS OF 445.00 FEET, A CENTRAL ANGLE OF 28°02'54", A CHORD BEARING OF N12°28'33"E, AND A CHORD LENGTH OF 215.67 FEET), A DISTANCE OF 217.84 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE SOUTHEAST; 2) THENCE S63°30'00"E, ALONG SAID NON-TANGENT LINE, A DISTANCE OF 120.00

FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE RIGHT; 3) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 325.00 FEET, A CENTRAL ANGLE OF  $3^{\circ}08'22''$ , A CHORD BEARING OF  $N28^{\circ}04'11''E$ , AND A CHORD LENGTH OF 17.81 FEET), A DISTANCE OF 17.81 FEET TO THE SOUTHERLY MOST CORNER OF LOT 45, BLOCK R OF SAID TIMBERS AT EVERLANDS PHASE 1A; THENCE CONTINUE ALONG THE ARC OF SAID CURVE AND ALONG THE SOUTHEASTERLY BOUNDARY OF SAID LOT 45, BLOCK R, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 325.00 FEET, A CENTRAL ANGLE OF  $12^{\circ}17'53''$ , A CHORD BEARING OF  $N35^{\circ}47'18''E$ , AND A CHORD LENGTH OF 69.62 FEET), A DISTANCE OF 69.76 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE SOUTHEAST AND A POINT ON THE BOUNDARY OF TRACT Z OF SAID TIMBERS AT EVERLANDS PHASE 1A; THENCE  $S48^{\circ}03'46''E$ , ALONG SAID NON-TANGENT LINE AND ALONG THE BOUNDARY OF SAID TRACT Z, A DISTANCE OF 50.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE LEFT AND A POINT ON THE BOUNDARY OF SAID LOT 1, BLOCK BB OF SAID TIMBERS AT EVERLANDS PHASE 1A; THENCE ALONG THE BOUNDARY OF SAID LOT 1, BLOCK BB AND ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 275.00 FEET, A CENTRAL ANGLE OF  $14^{\circ}22'49''$ , A CHORD BEARING OF  $S34^{\circ}44'50''W$ , AND A CHORD LENGTH OF 68.84 FEET), A DISTANCE OF 69.02 FEET TO THE POINT OF BEGINNING. CONTAINING 4.25 ACRES, MORE OR LESS.

CONTAINING 10.47 NET ACRES, MORE OR LESS

# Acknowledgement Log

**Header:**

Legal Acknowledgement

**Text:**

I, the submitter, understand that this application must be complete and accurate before consideration by the City of Palm Bay and certify that all the answers to the questions in said application, and all data and matter attached to and made 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 application and that the facts stated in it are true.

**Accepted By:**

BSE Consultants

**On:**

6/12/2023 4:06:35 PM

☒ FS23-00004

Select Language ▼



**Classified Ad Receipt**  
**(For Info Only - NOT A BILL)**

**Customer:** CITY OF PALM BAY  
**Address:** SUITE 201  
PALM BAY FL 32907  
USA

**Ad No.:** 0005744465  
**Pymt Method** Invoice  
**Net Amount** 212.94

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 06/22/23

**Text of Ad:**

Ad#5744465 06/22/2023  
CITY OF PALM BAY, FLORIDA  
NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on July 5, 2023, and by the City Council on July 20, 2023, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):

**1. FS23-00004 - DRP FL 6, LLC, Brian Clauson (Ana Saunders, P.E., BSE Consultants, Inc., Rep.)**

Final Plat approval to allow for a proposed 41-lot single-family residential subdivision called Timbers at Everlands Phase 1B

A replat of a portion of Tract FD.1 together with Tract FD.2, all in Timbers at Everlands Phase 1A, Section 28, Township 28, Range 36, Brevard County, Florida, containing approximately 10.47 acres. Located at the northeast corner of St. Johns Heritage Parkway NW and Pace Drive NW

**2. CP23-00013 - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.)**

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from CC, Community Commercial (Brevard County) to Commercial

Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE

**3. \*\*CP23-00007 - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.)**

A Zoning Amendment from BU-1, General Retail Commercial (Brevard County) to a CC, Community Commercial District

Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE

**4. CP23-00010 - Cole Oliver, West Malabar Properties, LLC**

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from RES 2 Residential 2 (Brevard County) to Commercial

Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE

**5. \*\*CP23-00006 - Cole Oliver, West Malabar Properties, LLC**

A Zoning Amendment from RP, Residential Professional and AU, Agricultural Residential (Brevard County) to a CC, Community Commercial District

Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE

**\*\*Indicates quasi-judicial request(s).**

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or the City Council 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.

Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.

Jesse Anderson  
Assistant Growth Management Director



## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Alexandra Bernard, Principal Planner

**DATE:** July 5, 2023

**SUBJECT:** CP23-00003 - Gaynor - MP Developers, Inc. (James Boothroyd, Weichert Realtors Hallmark Properties, Rep.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Utilities to Low Density Residential. Tract L, Port Malabar Unit 32, Section 13, Township 29, Range 36, Brevard County, Florida, containing approximately 1.33 acres. Located east of and adjacent to Gaynor Drive SW, in the vicinity north of Four Winds Street SW

### ATTACHMENTS:

#### Description

- ▣ CP23-00003 -- Staff Report
- ▣ CP23-00003 -- Site Sketch
- ▣ CP23-00003 -- Citizen Participation Plan Report
- ▣ CP23-00003 -- Application
- ▣ CP23-00003 -- Letter of Authorization
- ▣ CP23-00003 -- Legal Ad





# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

[landdevelopmentweb@palmabayflorida.org](mailto:landdevelopmentweb@palmabayflorida.org)

### Prepared by

Alix Bernard, Principal Planner

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#### CASE NUMBER

CP23-00003

#### PLANNING & ZONING BOARD HEARING DATE

July 5, 2023

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#### PROPERTY OWNER & APPLICANT

MP Developers Inc (James Boothroyd, Rep.)

#### PROPERTY LOCATION/ADDRESS

Tract L, Port Malabar Unit 32, Section 13, Township 29, Range 36, Brevard County, Florida; containing approximately 1.33 acres. Located east of and adjacent to Gaynor Dr SW, in the vicinity north of Four Winds St SW. Tax Account 2906955

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#### SUMMARY OF REQUEST

The applicant is requesting a future land use map amendment from Utilities to LDR, Low Density Residential.

##### Existing Zoning

IU, Institutional Use

##### Existing Land Use

Utilities

##### Site Improvements

Undeveloped Land

##### Site Acreage

1.33 acres

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#### SURROUNDING FUTURE LAND USE & USE OF LAND

##### North

LDR, Low Density Residential; Single-Family Home

##### East

LDR, Low Density Residential; Vacant

##### South

LDR, Low Density Residential; Single-Family Home

##### West

LDR, Low Density Residential; Single-Family Home and Vacant

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**BACKGROUND:**

The subject property is located east of and adjacent to Gaynor Dr SW, in the vicinity north of Four Winds St. SW. There is one 1.33-acre parcel that is included in this request, which is currently vacant land. The property was platted in 1961 as Tract K of Port Malabar Unit 32 and has a Future Land Use (FLU) designation of UTL, Utilities.

The applicant is requesting to change the future land use of this property from Utilities to Low Density Residential, with a vision of building single family homes in the future.

**ANALYSIS:**

Per Chapter 183: Comprehensive Plan Regulations, Section 183.01(B), the purpose and intent of the Comprehensive Plan is to encourage the most appropriate use of land and resources to promote the health, safety, and welfare of the community.

**1. FUTURE LAND USE ELEMENT**

The Comprehensive Plan (Plan) FLU Element Goal FLU-1 is to ensure a high-quality, diversified living environment through the efficient distribution of compatible land uses.

Objective FLU-1.8 Future development activity shall be compatible with established neighborhoods and strive to enhance the character of the community.

The subject parcel which is located east of and adjacent to Gaynor DR SW, in the vicinity north of Four Winds St SW, containing approximately 1.33 acres currently has a future land use of Utilities which is a classification that was given by General Development Corporation.

The objective FLU-1.8 is in alignment with the applicants request to change the future land use from Utilities to Low Density Residential as all the surrounding property currently has a future land use of Low Density Residential. The proposed Future Land Use change will allow the opportunity for more infill single family homes in an already established neighborhood As such, the requested change to Low Density Residential is compatible with the surrounding established neighborhood.

**2. CONSERVATION ELEMENT**

The environmental character of the City is maintained through conservation, appropriate use, and protection of natural resources.

No protected species are known to inhabit the subject property. Any protected species that would be found on the subject property would need to be mitigated as required by State and Federal regulations and per Comprehensive Plan Policy CON-1.6A.

**Coastal Management:** The subject property is not located within the Coastal Management Area.

### 3. HOUSING ELEMENT

HSG -1 of the Housing element in the Comprehensive Plan is to cultivate a diverse, safe and affordable housing stock with meets the needs of all currently and future residents of Palm Bay.

The proposed FLU amendment will positively impact the supply and variety of safe, decent, attractive, and affordable housing within the City by providing more opportunities for infill housing.

### 4. INFRASTRUCTURE ELEMENTS

The City evaluates present and future water, sewer, drainage, and solid waste and assesses the ability of infrastructure to support development.

**Utilities:** The FLU change will not cause the level of service to fall below the standards adopted in the Comprehensive Plan for these services for the current planning period. Public water and sewerage facilities are not available at the site.

**Drainage:** If developed, a drainage plan must be prepared in accordance with current regulations and approved by the City, along with appropriate outside agencies, including the St. Johns River Water Management District. Any proposed stormwater management system will be reviewed and approved by the City during the site plan review process.

### 5. INTERGOVERNMENTAL COORDINATION ELEMENT

**Public Schools:** The proposed FLU amendment to Low Density Residential has the potential to addfive (5) additional housing units.

A school board concurrency review is not required as the number of units reasonably able to be constructed under the requested zoning falls below the de minimis impact for school capacity determination of 50 units or more.

As such, a School Concurrency application is not required per the Interlocal Agreement.

### 6. RECREATION AND OPEN SPACE ELEMENT

The proposed FLU amendment to Low Density Residential will have a de minimis impact on the demand for recreation services.

## 7. TRANSPORTATION ELEMENT

The objectives of the Comprehensive Plan's Transportation Element are to provide a safe, balanced, efficient transportation system that adequately serves the needs of all residents and visitors of Palm Bay. If developed, a traffic impact analysis may be required to determine any negative impacts on the existing transportation system along with any suggested improvements, which will be taken under consideration during the subdivision review/approval process.

## 8. PROPERTY RIGHTS ELEMENT

The goal of the Comprehensive Plan's Property Rights Element is for the City to respect judicially acknowledged and constitutionally protected private property rights.

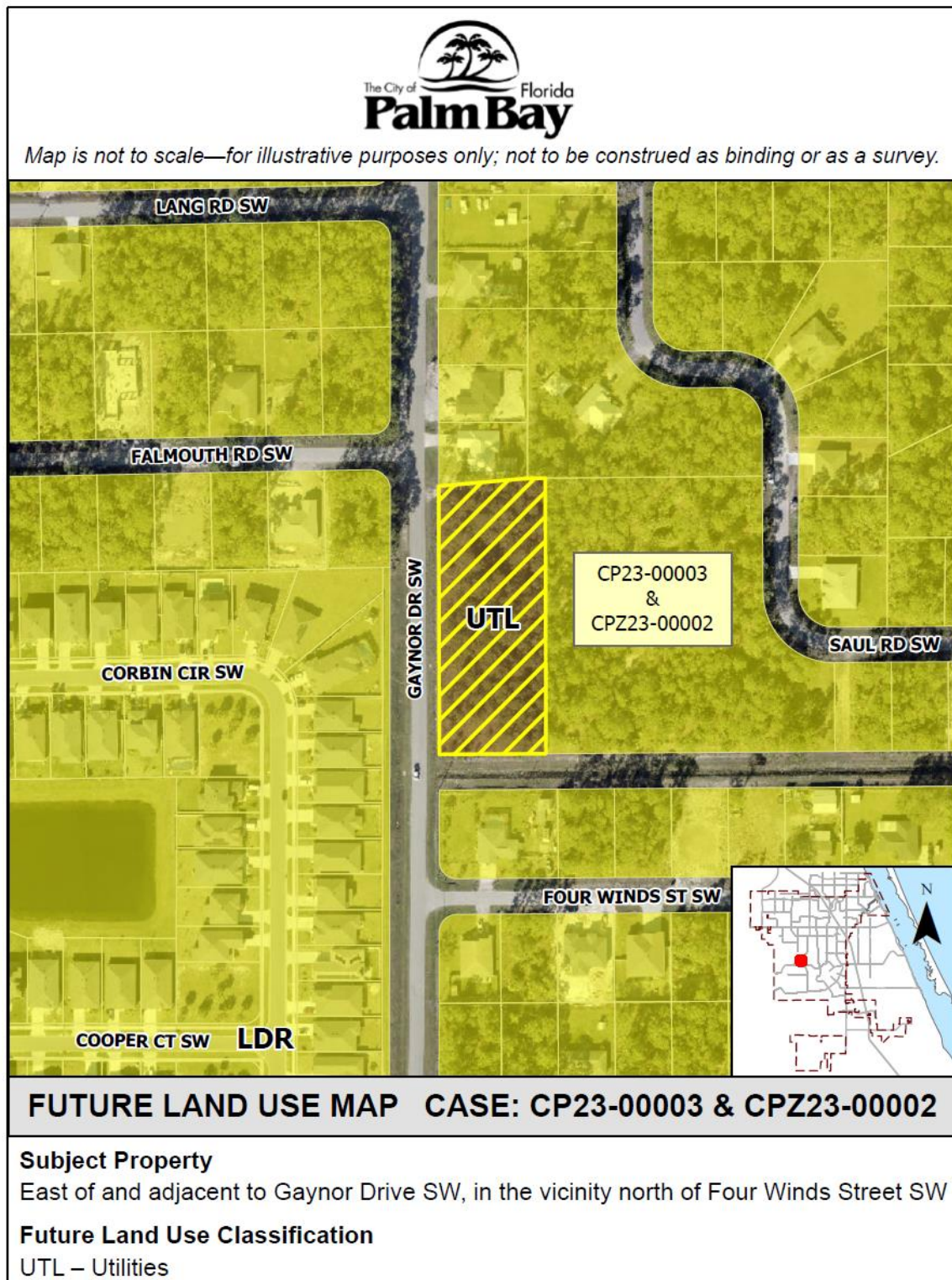
This proposed land-use change does not appear to infringe upon the property rights of the applicant.

### **STAFF FINDINGS:**

Staff recommends Case CP23-00003 for approval.

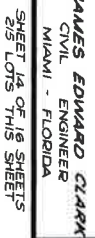






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SHEET 14 OF 16 SHEETS







## CITIZEN PARTICIPATION REPORT

Applicant should follow established Citizen Participation Plan as specified in § 169.005 CITIZEN PARTICIPATION PLANS.

### CASE DETAILS

Applicant Name	JAMES BOOTHROYD / ANTHONY PINTO
Project Name	GAYNOR DR.
Date of Submission	

### INFORMATION ON THE CITIZEN PARTICIPATION MEETING

Notice to the Public (Date)	3/11/23
Date of CPP	3/21/23
Location of the Meeting	TED WHITLOCK COMMUNITY CENTER - FRED POPPE PARK
Number of Attendees	0







Immediately following this page, attach the documents below:

Copy of notice sent (separate attachment)

Material distributed or presented at the meeting (separate attachment)

Sign-In Sheets

\*All the property owners within a 500-foot radius of the subject parcel shall be informed about the meeting date, time and location

I hereby certify that information provided as part of this report is correct.

A handwritten signature in black ink, appearing to be "James Boothroy", written over a horizontal line.

Signature,

JAMES BOOTHROY (APPLICANT)

Typed Name and Title:

Date :

DENOTE ANY ADVERSE COMMENTS/COMPLAINTS/ CONCERNS/ ISSUES RECEIVED AND DESCRIBE RESOLUTION OR PROVIDE JUSTIFICATION IF THE APPLICANT IS UNABLE OR UNWILLING TO ADDRESS THE ISSUE :

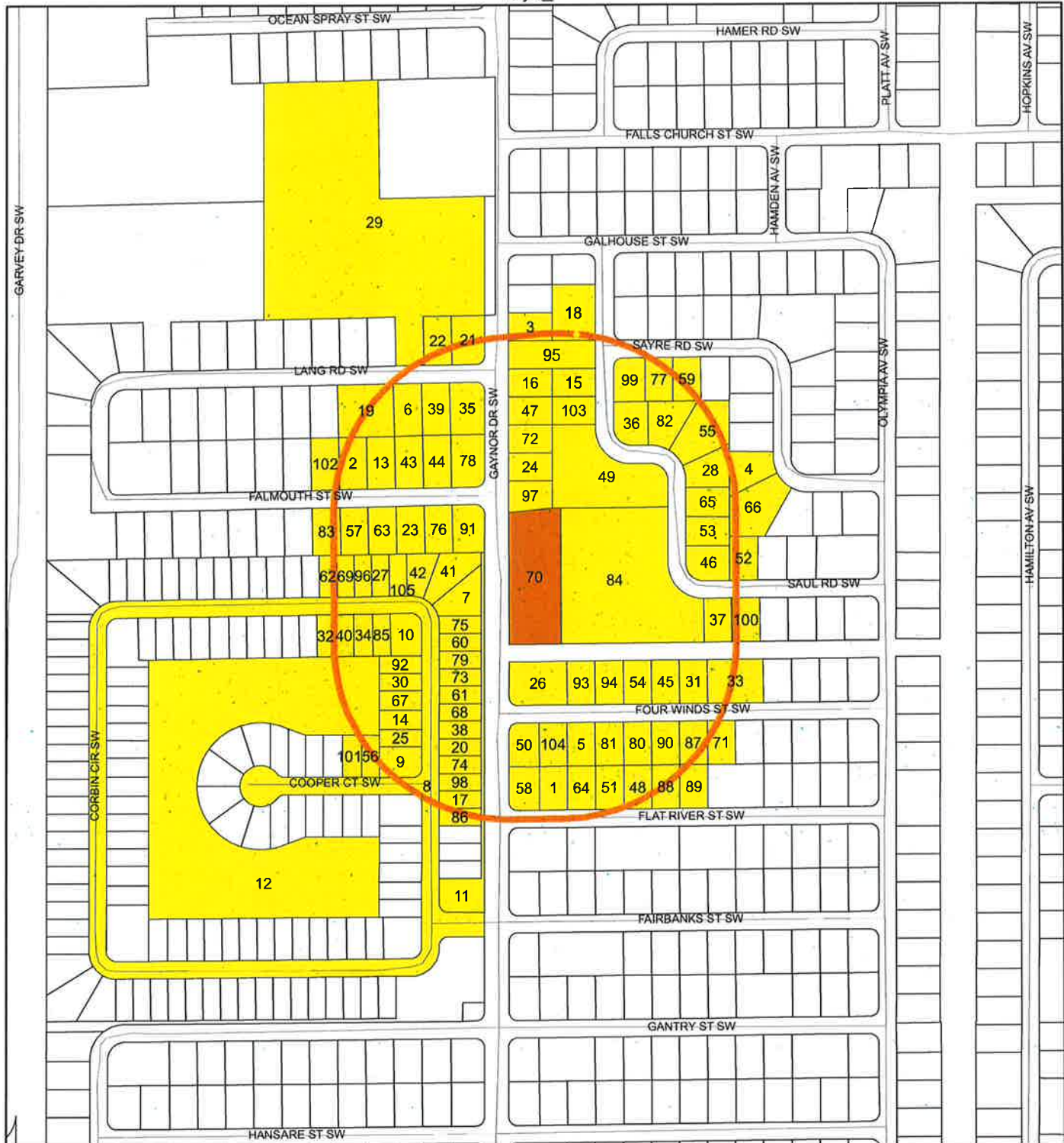
RE: Citizens participation

This letter is inform all interested parties within a 500ft radius of parcel 29-36-13-kk-\* -L that a pending application with city of Palm Bay seeking approval of a small scale comprehensive plan and zoning amendment change. The subject property consists of 1.33 acres and is currently zoned institutional with future land use of utilities. The applicant is seeking to amend the zoning to RS2 single family residential. This will fit with current uses within the neighborhood. There will be a meeting Tuesday March 21, 2023 6pm at the Ted Whitlock community center Fred Poppe park to answer question and address concerns.

# RADIUS MAP

MP DEVELOPERS INC

Boothroyd\_2906955



1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 3/7/2023

- Buffer
- Subject Property
- Notify Property
- Parcels



**James Boothroyd**  
REALTOR®

**Cell: (321) 536-0090**

jboothroyd73@gmail.com

**Weichert**  
REALTORS®

Hallmark Properties

7640 N. Wickham Road, Suite 102

Melbourne, FL 32940

Office: 321-327-2993



"Independently Owned and Operated"  

99 INVESTMENTS INC  
8865 COMMODITY CIR, STE 4  
ORLANDO FL 32819-9077

ADJOCY, WISLAND  
5320 NW 17TH ST  
LAUDERHILL FL 33313-5427

ARAUJO, MARK  
1527 GAYNOR DR SW  
PALM BAY FL 32908-

ARMSTRONG, ADRIAN  
244 TECUMSEH AVE  
MOUNT VERNON NY 10553-

AVTEC HOMES INC  
590 MALABAR RD SE, STE 3  
PALM BAY FL 32907-3108

BAIJNATH, CHANDRA  
BAIJNATH, WILFORD  
4205 BAMBOO PALMS CT  
LAKE WORTH FL 33463-9322

BAKER, DANA M  
1190 DILLARD DR SE  
PALM BAY FL 32909-2371

BAYRIDGE HOMEOWNER'S ASSOCIATION,  
INC.  
PO BOX 110224  
PALM BAY FL 32911-0224

BENDECK, JUAN I  
BENDECK, MARY N M SAYBE  
3 CALLE 2 Y 3 AVE S O  
PO BOX 27Q  
SAN PEDRO -

BENNETT, BRAYLAND  
BENNETT, DERICA M  
1043 CORBIN CIR SW  
PALM BAY FL 32908-8182

BILES, CARL L  
472 SAUL RD SW  
PALM BAY FL 32908-

BROOKS, VENICE A  
1219 ADMIRAL DR  
APOPKA FL 32703-6501

BROWER, MATTHEW H  
BROWER, SUSAN L  
484 SAUL RD SW  
PALM BAY FL 32908-

BROWN, GLEN ROY  
MILLS, CORDELLA E  
5910 NW 15 COURT  
SUNRISE FL 33313-

BULL, MARK ALLEN  
BULL, APRIL DAWN  
1060 CORBIN CIR SW  
PALM BAY FL 32908-8181

BUNCH-A LOTS LLC  
193 OLD RTE 32  
SAUGERTIES NY 12477-

CACHO, CANDICE  
355 5TH AVE  
NEW ROCHELLE NY 10801-2037

CARHARP VENTURES PALM BAY LLC  
10892 SUNSET RIDGE CIR  
BOYNTON BEACH FL 33473-4866

CARPENTER, KASEY  
1051 CORBIN CIR SW  
PALM BAY FL 32908-8182

CASTANEDA, JOSE E  
CASTANEDA, AUDREY R  
499 FOUR WINDS ST SW  
PALM BAY FL 32908-

CASTRO, JUSTIN  
CARROLL, HAYLEY ELIZABETH  
964 CORBIN SW CIR SW  
PALM BAY FL 32908-8179

CICCHINI, ROBERT L  
HARTFORD, LYNN MARIE TRUSTEES  
6120 PETERS RD  
PLANTATION FL 33317-

CLARK, STEVEN R  
PO BOX 62  
MELBOURNE FL 32902-0062

CLARKE, DELPHA MARINE  
1027 CORBIN CIR SW  
PALM BAY FL 32908-8182

COCHRAN, JASON  
WADDELL, JENNEY  
451 FOUR WINDS SW ST SW  
PALM BAY FL 32908-8106

CRAVEN, JOSHUA PATRICK  
CRAVEN, JESSIKA B  
939 CORBIN CIR SW  
PALM BAY FL 32908-8180

DALY, JOHN, JR  
443 FOUR WINDS ST SW  
PALM BAY FL 32908-8106

DAVIS, JOY ALLYSON  
MYATT, NOEL PATRICK  
955 CORBIN CIR SW  
PALM BAY FL 32908-8180

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DELEON, JOSEFINO A  
DELEON, LINDA N  
4329 GOLDEN ORCHARD  
MISSISSAUGA ON L4W 3G2

DETLOF, MARK  
2189 SE ERWIN RD  
PORT SAINT LUCIE FL 34952-5538

DOUYON, LOUIS G  
DOUYON, EVELYN  
13832 VISTA DEL LAGO BLVD  
CLERMONT FL 34711-8015

DYE, CALEB LEVI  
DYE, KATELYNE RENEE  
1052 CORBIN CIR SW  
PALM BAY FL 32908-8181

EISNAUGLE, RICHARD A  
EISNAUGLE, SEVERINE  
3547 SO GLENN  
WICHITA KS 67217-

ESCALANTE-POZDEEV, DENIS  
ESCALANTE, SHERI ELLEN  
947 CORBIN CIR SW  
PALM BAY FL 32908-8180

FENNER, ROBERT  
988 CORBIN CIR SW  
PALM BAY FL 32908-8179

FILS AIME, JAMES  
FILS AIME, ANTOINETTE  
980 CORBIN CIR SW  
PALM BAY FL 32908-8179

FINCHAM, BRANDON S  
FINCHAM, SARAH E  
519 FALMOUTH SW ST SW  
PALM BAY FL 32908-8145

FINCHMAN, SARAH  
369 CYCLE NE ST NE  
PALM BAY FL 32907-1948

FKH SFR PROPCO E LP  
1850 PARKWAY PL SE, FL 9  
MARIETTA GA 30067-4439

FLOWERS, GALE EVON  
435 SAUL RD SW  
PALM BAY FL 32908-

FRANKO, BRIAN L  
1563 GAYNOR DR SW  
PALM BAY FL 32908-

GREER, ALLEN R  
448 RAY ST  
FREEPORT NY 11520-

GRINDLEY, GAIL ANN  
460 SAUL RD SW  
PALM BAY FL 32908-8119

HAMILTON, TYRONE  
498 FOUR WINDS ST SW  
PALM BAY FL 32908-

HH PALM BAY VERO LLC  
120 N SWINTON AVE  
DELRAY BCH FL 33444-

HIJU PROPERTIES I LLC  
242 S FEDERAL HWY  
DANIA FL 33004-4005

HOLIDAY BUILDERS INC  
2293 W EAU GALLIE BLVD  
MELBOURNE FL 32935-3184

HORIZON CAPITAL INVESTMENTS CORP  
LIBURD, FREDERIC  
725 ORIOLE AVE  
WEST HEMPSTEAD NY 11552-3828

HOWELL, MASON D  
HOWELL, SHEILA A  
529 COOPER CT SW  
PALM BAY FL 32908-8173

JJA INVESTMENTS-PALM BAY LLC  
160 W CAMINO REAL, # 238  
BOCA RATON FL 33432-5942

JOHN, MAHADAYE  
11661 SW ROCKVILLE CT  
PORT ST LUCIE FL 34987-2715

KARITH, GEORGE  
KARITH, MOLLY  
200 YOHO DR  
OTTOWA ON K2M 2K1

KEARNEY, N'STASIA A  
1012 CORBIN CIR SW  
PALM BAY FL 32908-8181

KIDDER, COLLEEN MARGARET  
1036 CORBIN CIR SW  
PALM BAY FL 32908-8181

KINGSTON, NAKEITA K  
LESLIE, MICHAEL J  
940 CORBIN CIR SW  
PALM BAY FL 32908-8179

L & M PROFESSIONALS LLC  
PO BOX 350522  
CENTRAL STATION  
JAMAICA NY 11435-0522

LAWSON, JENNIFER L  
483 FLAT RIVER ST SW, # SW  
PALM BAY FL 32908-8133



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MARSHALL, WAYNE A  
DEJESUS, JASMINE DESIREE  
447 SAUL RD SW  
PALM BAY FL 32908-

MCDANIEL, DOLORES  
DAVIS, COREY  
1100 HOA ST  
HONOLULU HI 96825-3524

MEDIDA, GILBERT FIGUERAS  
MAGADAN, JOSE RAMON  
1035 CORBIN CIR SW  
PALM BAY FL 32908-8182

MITCHEL, YERLYN Y  
WAITE, STEVE L  
1044 CORBIN CIR SW  
PALM BAY FL 32908-8181

MORALES, CARLOS J SOTO  
MORALES, IVELISSE MELENDEZ  
948 CORBIN CIR SW  
PALM BAY FL 32908-8179

MP DEVELOPERS INC  
1108 S RIVERSIDE DR  
INDIALANTIC FL 32903-3549

MULEY, NANDKISHOR  
1340 RETREAT VIEW CIR  
SANFORD FL 32771-7278

MUNISAR, RAJAH S  
MUNISAR, VEDA WATTIE DEVI  
1136 PALERMO NW ST NW  
PALM BAY FL 32907-7910

OCTAVIANI, GILBERTO R COLON  
1028 CORBIN CIR SW  
PALM BAY FL 32908-8181

PARIONA, MARCO  
58 HENRY ST  
PASSAIC NJ 07055-4010

PATEL, PURVANGBH K  
PATEL, DIPAN P  
1004 CORBIN CIR SW  
PALM BAY FL 32908-8181

PRINGLE, SHARON  
PRINGLE, TODD  
3428 BARKER AVE  
BRONX NY 10467-5602

QUINN, ROBERT D  
NORTHBRIDGE  
2513 GARFIELD AVE  
CLAYMONT DE 19703-

RAMOTAR, DEENDIAL  
RAMOTAR, JASODA S  
18 WOODLAND CT  
KINNELON NJ 07405-2920

REGINA, SARAH  
ESTABA, PEDRO X SUAREZ  
1020 CORBIN CIR SW  
PALM BAY FL 32908-8181

ROBAINA, MICHAEL J  
ROBAINA, STEPHANIE L  
443 FOUR WINDS ST SW  
PALM BAY FL 32908-8106

ROBAINA, MICHAEL JAMES  
ROBAINA, STEPHANIE LYNN  
474 FOUR WINDS ST  
PALM BAY FL 32908-

ROSE, L MORTON  
ROSE, CAROL E  
1063 LAKE BREEZE DR  
WELLINGTON FL 33414-7914

SAINT-FLEUR, GEORGES  
SAINT-FLEUR, RONETTE  
416 SW 74TH AVE  
NORTH LAUDERDALE FL 33068-1443

SEALE, DAVID R  
SEALE, ROXSANA T  
742 ALFONSO AVE SE  
PALM BAY FL 32909-4549

SHAFQUAT, SHOAIB  
SHAFQUAT, DAWN M  
963 CORBIN CIR SW  
PALM BAY FL 32908-8180

SINCLAIR, DEBORAH LEE  
1092 CORBIN CIR SW  
PALM BAY FL 32908-8181

SOLOMON, FRANK G  
SOLOMON, JENNIFER V  
251 STALLION ST  
PALM BAY FL 32909-1178

SPELLMAN, MARY DANIEL  
104 GEORGE ST  
GAITHERSBURG MD 20877-1932

SPLONSKOWSKI, LEO ANTHONY  
SPLONSKOWSKI, JANET MARIE  
17252 280TH ST N  
ULEN MN 56585-9205

ST LOUIS, BERNADETTE  
1124 WILCOX RD SE  
PALM BAY FL 32909-

STRICKLAND, DAVID A  
STRICKLAND, RHONDA S  
478 SAUL RD SW  
PALM BAY FL 32908-

TORRES, JOSE A  
TORRES, CYNTHIA N  
956 CORBIN CIR SW  
PALM BAY FL 32908-8179

TRAVIESO, REINALDO  
TRAVIESO, LOURDES  
1599 GAYNOR SW DR SW  
PALM BAY FL 32908-8124

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Page4

TREMBLAY, CHRISTOPHER DAVID  
TREMBLAY, KRISTA  
1076 CORBIN CIR SW  
PALM BAY FL 32908-8181

VASSELL, MILDRED H TRUSTEE  
1681 DOZIER CIR SE  
PALM BAY FL 32909-

VENABLE, WILLIS L  
VENABLE, JUNE  
600 PACIFIC GROVE CT  
VACAVILLE CA 95688-2516

VENTURA EMERSON LLC  
402 N BABCOCK ST, STE 102  
MELBOURNE FL 32935-7335

WILSON, DENNIS D  
WILSON, CHARLES R  
1302 SAINT ANDREWS DR  
MEBANE NC 27302-7135

WJHFL LLC D/B/A WJH LLC  
3091 GOVERNORS LAKE DR, STE 300  
PEACHTREE CORNERS GA 30071-1133

ZIZZO, BRANDON JEFFREY  
ZIZZO, STEPHANIE GRACE  
972 CORBIN SW CIR SW  
PALM BAY FL 32908-8179

||||

99 INVESTMENTS INC||8865 COMMODITY CIR, STE 4||ORLANDO FL 32819-9077  
ADJOCY, WISLAND||5320 NW 17TH ST||LAUDERHILL FL 33313-5427  
ARAUJO, MARK||1527 GAYNOR DR SW||PALM BAY FL 32908-  
ARMSTRONG, ADRIAN||244 TECUMSEH AVE||MOUNT VERNON NY 10553-  
AVTEC HOMES INC||590 MALABAR RD SE, STE 3||PALM BAY FL 32907-3108  
BAIJNATH, CHANDRA|BAIJNATH, WILFORD|4205 BAMBOO PALMS CT||LAKE WORTH FL  
33463-9322  
BAKER, DANA M||1190 DILLARD DR SE||PALM BAY FL 32909-2371  
BAYRIDGE HOMEOWNER'S ASSOCIATION, |INC.||PO BOX 110224||PALM BAY FL  
32911-0224  
BENDECK, JUAN |BENDECK, MARY N M SAYBE|3 CALLE 2 Y 3 AVE S O|PO BOX 27Q|SAN  
PEDRO -  
BENNETT, BRAYLAND|BENNETT, DERICA M|1043 CORBIN CIR SW||PALM BAY FL  
32908-8182  
BILES, CARL L||472 SAUL RD SW||PALM BAY FL 32908-  
BROOKS, VENICE A||1219 ADMIRAL DR||APOPKA FL 32703-6501  
BROWER, MATTHEW H|BROWER, SUSAN L|484 SAUL RD SW||PALM BAY FL 32908-  
BROWN, GLEN ROY|MILLS, CORDELLA E|5910 NW 15 COURT||SUNRISE FL 33313-  
BULL, MARK ALLEN|BULL, APRIL DAWN|1060 CORBIN CIR SW||PALM BAY FL 32908-8181  
BUNCH-A LOTS LLC||193 OLD RTE 32||SAUGERTIES NY 12477-  
CACHO, CANDICE||355 5TH AVE||NEW ROCHELLE NY 10801-2037  
CARHARP VENTURES PALM BAY LLC||10892 SUNSET RIDGE CIR||BOYNTON BEACH FL  
33473-4866  
CARPENTER, KASEY||1051 CORBIN CIR SW||PALM BAY FL 32908-8182  
CASTANEDA, JOSE E|CASTANEDA, AUDREY R|499 FOUR WINDS ST SW||PALM BAY FL  
32908-  
CASTRO, JUSTIN|CARROLL, HAYLEY ELIZABETH|964 CORBIN SW CIR SW||PALM BAY FL  
32908-8179  
CICCHINI, ROBERT L|HARTFORD, LYNN MARIE TRUSTEES|6120 PETERS  
RD||PLANTATION FL 33317-  
CLARK, STEVEN R||PO BOX 62||MELBOURNE FL 32902-0062  
CLARKE, DELPHA MARINE||1027 CORBIN CIR SW||PALM BAY FL 32908-8182  
COCHRAN, JASON|WADDELL, JENNEY|451 FOUR WINDS SW ST SW||PALM BAY FL  
32908-8106  
CRAVEN, JOSHUA PATRICK|CRAVEN, JESSIKA B|939 CORBIN CIR SW||PALM BAY FL  
32908-8180  
DALY, JOHN,JR||443 FOUR WINDS ST SW||PALM BAY FL 32908-8106  
DAVIS, JOY ALLYSON|MYATT, NOEL PATRICK|955 CORBIN CIR SW||PALM BAY FL  
32908-8180

DELEON, JOSEFINO A|DELEON, LINDA N|4329 GOLDEN ORCHARD|MISSISSAUGA ON

L4W 3G2| -

DETLOF, MARK||2189 SE ERWIN RD||PORT SAINT LUCIE FL 34952-5538

DOUYON, LOUIS G|DOUYON, EVELYN|13832 VISTA DEL LAGO BLVD||CLERMONT FL  
34711-8015

DYE, CALEB LEVI|DYE, KATELYNE RENEE|1052 CORBIN CIR SW||PALM BAY FL  
32908-8181

EISNAUGLE, RICHARD A|EISNAUGLE, SEVERINE|3547 SO GLENN||WICHITA KS 67217-  
ESCALANTE-POZDEEV, DENIS|ESCALANTE, SHERI ELLEN|947 CORBIN CIR SW||PALM  
BAY FL 32908-8180

FENNER, ROBERT||988 CORBIN CIR SW||PALM BAY FL 32908-8179

FILS AIME, JAMES|FILS AIME, ANTOINETTE|980 CORBIN CIR SW||PALM BAY FL  
32908-8179

FINCHAM, BRANDON S|FINCHAM, SARAH E|519 FALMOUTH SW ST SW||PALM BAY FL  
32908-8145

FINCHMAN, SARAH||369 CYCLE NE ST NE||PALM BAY FL 32907-1948

FKH SFR PROPCO E LP||1850 PARKWAY PL SE, FL 9||MARIETTA GA 30067-4439

FLOWERS, GALE EVON||435 SAUL RD SW||PALM BAY FL 32908-

FRANKO, BRIAN L||1563 GAYNOR DR SW||PALM BAY FL 32908-

GREER, ALLEN R||448 RAY ST||FREEPORT NY 11520-

GRINDLEY, GAIL ANN||460 SAUL RD SW||PALM BAY FL 32908-8119

HAMILTON, TYRONE||498 FOUR WINDS ST SW||PALM BAY FL 32908-

HH PALM BAY VERO LLC||120 N SWINTON AVE||DELRAY BCH FL 33444-

HIJU PROPERTIES I LLC||242 S FEDERAL HWY||DANIA FL 33004-4005

HOLIDAY BUILDERS INC||2293 W EAU GALLIE BLVD||MELBOURNE FL 32935-3184

HORIZON CAPITAL INVESTMENTS CORP|LIBURD, FREDERIC|725 ORIOLE AVE||WEST  
HEMPSTEAD NY 11552-3828

HOWELL, MASON D|HOWELL, SHEILA A|529 COOPER CT SW||PALM BAY FL 32908-8173

JJA INVESTMENTS-PALM BAY LLC||160 W CAMINO REAL, # 238||BOCA RATON FL  
33432-5942

JOHN, MAHADAYE||11661 SW ROCKVILLE CT||PORT ST LUCIE FL 34987-2715

KARITH, GEORGE|KARITH, MOLLY|200 YOHO DR|OTTOWA ON K2M 2K1| -

KEARNEY, N'STASIA A||1012 CORBIN CIR SW||PALM BAY FL 32908-8181

KIDDER, COLLEEN MARGARET||1036 CORBIN CIR SW||PALM BAY FL 32908-8181

KINGSTON, NAKEITA K|LESLIE, MICHAEL J|940 CORBIN CIR SW||PALM BAY FL  
32908-8179

L & M PROFESSIONALS LLC||PO BOX 350522|CENTRAL STATION|JAMAICA NY  
11435-0522

LAWSON, JENNIFER L||483 FLAT RIVER ST SW, # SW||PALM BAY FL 32908-8133

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MARSHALL, WAYNE A|DEJESUS, JASMINE DESIREE|447 SAUL RD SW||PALM BAY FL  
32908-

MCDANIEL, DOLORES|DAVIS, COREY|1100 HOA ST||HONOLULU HI 96825-3524

MEDIDA, GILBERT FIGUERAS|MAGADAN, JOSE RAMON|1035 CORBIN CIR SW||PALM BAY

FL 32908-8182

MITCHEL, YERLYN Y|WAITE, STEVE L|1044 CORBIN CIR SW||PALM BAY FL 32908-8181

MORALES, CARLOS J SOTO|MORALES, IVELISSE MELENDEZ|948 CORBIN CIR SW||PALM BAY FL 32908-8179

MP DEVELOPERS INC||1108 S RIVERSIDE DR||INDIALANTIC FL 32903-3549

MULEY, NANDKISHOR||1340 RETREAT VIEW CIR||SANFORD FL 32771-7278

MUNISAR, RAJAH S|MUNISAR, VEDA WATTIE DEVI|1136 PALERMO NW ST NW||PALM BAY FL 32907-7910

OCTAVIANI, GILBERTO R COLON||1028 CORBIN CIR SW||PALM BAY FL 32908-8181

PARIONA, MARCO||58 HENRY ST||PASSAIC NJ 07055-4010

PATEL, PURVANGBH K|PATEL, DIPAN P|1004 CORBIN CIR SW||PALM BAY FL 32908-8181

PRINGLE, SHARON|PRINGLE, TODD|3428 BARKER AVE||BRONX NY 10467-5602

QUINN, ROBERT D||NORTHRIDGE|2513 GARFIELD AVE|CLAYMONT DE 19703-

RAMOTAR, DEENDIAL|RAMOTAR, JASODA S|18 WOODLAND CT||KINNELON NJ 07405-2920

REGINA, SARAH|ESTABA, PEDRO X SUAREZ|1020 CORBIN CIR SW||PALM BAY FL 32908-8181

ROBAINA, MICHAEL J|ROBAINA, STEPHANIE L|443 FOUR WINDS ST SW||PALM BAY FL 32908-8106

ROBAINA, MICHAEL JAMES|ROBAINA, STEPHANIE LYNN|474 FOUR WINDS ST||PALM BAY FL 32908-

ROSE, L MORTON|ROSE, CAROL E|1063 LAKE BREEZE DR||WELLINGTON FL 33414-7914

SAINT-FLEUR, GEORGES|SAINT-FLEUR, RONETTE|416 SW 74TH AVE||NORTH LAUDERDALE FL 33068-1443

SEALE, DAVID R|SEALE, ROXSANA T|742 ALFONSO AVE SE||PALM BAY FL 32909-4549

SHAFQUAT, SHOAIB|SHAFQUAT, DAWN M|963 CORBIN CIR SW||PALM BAY FL 32908-8180

SINCLAIR, DEBORAH LEE||1092 CORBIN CIR SW||PALM BAY FL 32908-8181

SOLOMON, FRANK G|SOLOMON, JENNIFER V|251 STALLION ST||PALM BAY FL 32909-1178

SPELLMAN, MARY DANIEL||104 GEORGE ST||GAITHERSBURG MD 20877-1932

SPLONSKOWSKI, LEO ANTHONY|SPLONSKOWSKI, JANET MARIE|17252 280TH ST N||ULEN MN 56585-9205

ST LOUIS, BERNADETTE||1124 WILCOX RD SE||PALM BAY FL 32909-

STRICKLAND, DAVID A|STRICKLAND, RHONDA S|478 SAUL RD SW||PALM BAY FL 32908-

TORRES, JOSE A|TORRES, CYNTHIA N|956 CORBIN CIR SW||PALM BAY FL 32908-8179

TRAVIESO, REINALDO|TRAVIESO, LOURDES|1599 GAYNOR SW DR SW||PALM BAY FL 32908-8124

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TREMBLAY, CHRISTOPHER DAVID|TREMBLAY, KRISTA|1076 CORBIN CIR SW||PALM BAY FL 32908-8181

VASSELL, MILDRED H TRUSTEE||1681 DOZIER CIR SE||PALM BAY FL 32909-

VENABLE, WILLIS L|VENABLE, JUNE|600 PACIFIC GROVE CT||VACAVILLE CA 95688-2516

VENTURA EMERSON LLC||402 N BABCOCK ST, STE 102||MELBOURNE FL 32935-7335

WILSON, DENNIS D|WILSON, CHARLES R|1302 SAINT ANDREWS DR||MEBANE NC  
27302-7135

WJHFL LLC D/B/A WJH LLC||3091 GOVERNORS LAKE DR, STE 300||PEACHTREE  
CORNERS GA 30071-1133

ZIZZO, BRANDON JEFFREY|ZIZZO, STEPHANIE GRACE|972 CORBIN SW CIR SW||PALM  
BAY FL 32908-8179

BUFF_ID	TAXID	PARCELID	OWNER1	OWNER2	MAIL1	MAIL2	CITY_STATE_ZIP5_ZIP4
1	2907431	29 3613-KK-1588-25	99 INVESTMENTS INC		8865 COMMODITY CIR, STE 4		ORLANDO FL 32819-9077
2	2907372	29 3613-KK-1585-18	ADJOCY, WISLAND		5320 NW 17TH ST		LAUDERHILL FL 33313-5427
3	2907325	29 3613-KK-1583-7	ARAUJO, MARK		1527 GAYNOR DR SW		PALM BAY FL 32908-
4	2907296	29 3613-KK-1581-8	ARMSTRONG, ADRIAN		244 TECUMSEH AVE		MOUNT VERNON NY 10553-
5	2907409	29 3613-KK-1588-3	AVTEC HOMES INC		590 MALABAR RD SE, STE 3		PALM BAY FL 32907-3108
6	2907365	29 3613-KK-1585-11	BAIJNATH, CHANDRA	BAIJNATH, WILFORD	4205 BAMBOO PALMS CT		LAKE WORTH FL 33463-9322
7	3020912	29 3613-50-A-16	BAKER, DANA M		1190 DILLARD DR SE		PALM BAY FL 32909-2371
8	3021040	29 3613-50-*-A	BAYRIDGE HOMEOWNER'S ASSOCIATION, INC.				PO BOX 110224   PALM BAY FL 32911-0224
9	3021048	29 3613-50-*-I	BAYRIDGE HOMEOWNER'S ASSOCIATION, INC.				PO BOX 110224   PALM BAY FL 32911-0224
10	3021049	29 3613-50-*-J	BAYRIDGE HOMEOWNER'S ASSOCIATION, INC.				PO BOX 110224   PALM BAY FL 32911-0224
11	3021043	29 3613-50-*-D	BAYRIDGE HOMEOWNER'S ASSOCIATION, INC.				PO BOX 110224   PALM BAY FL 32911-0224
12	3021041	29 3613-50-*-B	BAYRIDGE HOMEOWNER'S ASSOCIATION, INC.				PO BOX 110224   PALM BAY FL 32911-0224
13	2907371	29 3613-KK-1585-17	BENDECK, JUAN I	BENDECK, MARY N M SAYBE	3 CALLE 2 Y 3 AVE S O		PO BOX 27Q   SAN PEDRO -
14	3020991	29 3613-50-B-95	BENNETT, BRAYLAND	BENNETT, DERICA M	1043 CORBIN CIR SW		PALM BAY FL 32908-8182
15	2907332	29 3613-KK-1583-14	BILES, CARL L		472 SAUL RD SW		PALM BAY FL 32908-
16	2907323	29 3613-KK-1583-5	BILES, CARL L		472 SAUL RD SW		PALM BAY FL 32908-
17	3020901	29 3613-50-A-5	BROOKS, VENICE A		1219 ADMIRAL DR		APOPKA FL 32703-6501
18	2907329	29 3613-KK-1583-11	BROWER, MATTHEW H	BROWER, SUSAN L	484 SAUL RD SW		PALM BAY FL 32908-
19	2907363	29 3613-KK-1585-9	BROWN, GLEN ROY	MILLS, CORDELLA E	5910 NW 15 COURT		SUNRISE FL 33313-
20	3020904	29 3613-50-A-8	BULL, MARK ALLEN	BULL, APRIL DAWN	1060 CORBIN CIR SW		PALM BAY FL 32908-8181
21	2907338	29 3613-KK-1584-1	BUNCH-A LOTS LLC		193 OLD RTE 32		SAUGERTIES NY 12477-
22	2907339	29 3613-KK-1584-2	BUNCH-A LOTS LLC		193 OLD RTE 32		SAUGERTIES NY 12477-
23	2907383	29 3613-KK-1586-3	CACHO, CANDICE		355 5TH AVE		NEW ROCHELLE NY 10801-2037
24	2907320	29 3613-KK-1583-2	CARHARP VENTURES PALM BAY LLC		10892 SUNSET RIDGE CIR		BOYNTON BEACH FL 33473-4866
25	3020990	29 3613-50-B-94	CARPENTER, KASEY		1051 CORBIN CIR SW		PALM BAY FL 32908-8182
26	2907394	29 3613-KK-1587-1	CASTANEDA, JOSE E	CASTANEDA, AUDREY R	499 FOUR WINDS ST SW		PALM BAY FL 32908-
27	3020916	29 3613-50-A-20	CASTRO, JUSTIN	CARROLL, HAYLEY ELIZABETH	964 CORBIN SW CIR SW		PALM BAY FL 32908-8179
28	2907309	29 3613-KK-1581-21	CICCHINI, ROBERT L	HARTFORD, LYNN MARIE TRUSTEES	6120 PETERS RD		PLANTATION FL 33317-
29	2907340	29 3613-KK-1584-3	CLARK, STEVEN R		PO BOX 62		MELBOURNE FL 32902-0062

30|3020993|29 3613-50-B-97|CLARKE, DELPHA MARINE||1027 CORBIN CIR SW||PALM BAY FL 32908-8182  
 31|2907400|29 3613-KK-1587-7|COCHRAN, JASON|WADDELL, JENNEY|451 FOUR WINDS SW ST SW||PALM BAY FL 32908-8106  
 32|3020998|29 3613-50-B-102|CRAVEN, JOSHUA PATRICK|CRAVEN, JESSIKA B|939 CORBIN CIR SW||PALM BAY FL 32908-8180  
 33|2907401|29 3613-KK-1587-8|DALY, JOHN,JR||443 FOUR WINDS ST SW||PALM BAY FL 32908-8106  
 34|3020996|29 3613-50-B-100|DAVIS, JOY ALLYSON|MYATT, NOEL PATRICK|955 CORBIN CIR SW||PALM BAY FL 32908-8180  
 35|2907367|29 3613-KK-1585-13|DELEON, JOSEFINO A|DELEON, LINDA N|4329 GOLDEN ORCHARD|MISSISSAUGA ON L4W 3G2| -  
 36|2907312|29 3613-KK-1581-24|DETLOF, MARK||2189 SE ERWIN RD||PORT SAINT LUCIE FL 34952-5538  
 37|2907318|29 3613-KK-1582-6|DOUYON, LOUIS G|DOUYON, EVELYN|13832 VISTA DEL LAGO BLVD||CLERMONT FL 34711-8015  
 38|3020905|29 3613-50-A-9|DYE, CALEB LEVI|DYE, KATELYNE RENEE|1052 CORBIN CIR SW||PALM BAY FL 32908-8181  
 39|2907366|29 3613-KK-1585-12|EISNAUGLE, RICHARD A|EISNAUGLE, SEVERINE|3547 SO GLENN||WICHITA KS 67217-  
 40|3020997|29 3613-50-B-101|ESCALANTE-POZDEEV, DENIS|ESCALANTE, SHERI ELLEN|947 CORBIN CIR SW||PALM BAY FL 32908-8180  
 41|3020913|29 3613-50-A-17|FENNER, ROBERT||988 CORBIN CIR SW||PALM BAY FL 32908-8179  
 42|3020914|29 3613-50-A-18|FILS AIME, JAMES|FILS AIME, ANTOINETTE|980 CORBIN CIR SW||PALM BAY FL 32908-8179  
 43|2907370|29 3613-KK-1585-16|FINCHAM, BRANDON S|FINCHAM, SARAH E|519 FALMOUTH SW ST SW||PALM BAY FL 32908-8145  
 44|2907369|29 3613-KK-1585-15|FINCHMAN, SARAH||369 CYCLE NE ST NE||PALM BAY FL 32907-1948  
 45|2907399|29 3613-KK-1587-6|FKH SFR PROPCO E LP||1850 PARKWAY PL SE, FL 9||MARIETTA GA 30067-4439  
 46|2907306|29 3613-KK-1581-18|FLOWERS, GALE EVON||435 SAUL RD SW||PALM BAY FL 32908-  
 47|2907322|29 3613-KK-1583-4|FRANKO, BRIAN L||1563 GAYNOR DR SW||PALM BAY FL 32908-  
 48|2907428|29 3613-KK-1588-22|GREER, ALLEN R||448 RAY ST||FREEPORT NY 11520-  
 49|2907334|29 3613-KK-1583-16|GRINDLEY, GAIL ANN||460 SAUL RD SW||PALM BAY FL 32908-8119  
 50|2907407|29 3613-KK-1588-1|HAMILTON, TYRONE||498 FOUR WINDS ST SW||PALM BAY FL 32908-  
 51|2907429|29 3613-KK-1588-23|HH PALM BAY VERO LLC||120 N SWINTON AVE||DELRAY BCH FL 33444-  
 52|2907305|29 3613-KK-1581-17|HIJU PROPERTIES I LLC||242 S FEDERAL HWY||DANIA FL 33004-4005  
 53|2907307|29 3613-KK-1581-19|HIJU PROPERTIES I LLC||242 S FEDERAL HWY||DANIA FL 33004-4005  
 54|2907398|29 3613-KK-1587-5|HOLIDAY BUILDERS INC||2293 W EAU GALLIE BLVD||MELBOURNE FL 32935-3184  
 55|2907310|29 3613-KK-1581-22|HORIZON CAPITAL INVESTMENTS CORP|LIBURD, FREDERIC|725 ORIOLE AVE||WEST HEMPSTEAD NY 11552-3828  
 56|3020989|29 3613-50-B-93|HOWELL, MASON D|HOWELL, SHEILA A|529 COOPER CT SW||PALM BAY FL 32908-8173



57|2907385|29 3613-KK-1586-5|JJA INVESTMENTS-PALM BAY LLC||160 W CAMINO REAL, #  
238||BOCA RATON FL 33432-5942  
58|2907432|29 3613-KK-1588-26|JOHN, MAHADAYE||11661 SW ROCKVILLE CT||PORT ST LUCIE  
FL 34987-2715  
59|2907291|29 3613-KK-1581-3|KARITH, GEORGE|KARITH, MOLLY|200 YOHO DR|OTTOWA ON K2M  
2K1| -  
60|3020910|29 3613-50-A-14|KEARNEY, N'STASIA A||1012 CORBIN CIR SW||PALM BAY FL  
32908-8181  
61|3020907|29 3613-50-A-11|KIDDER, COLLEEN MARGARET||1036 CORBIN CIR SW||PALM BAY FL  
32908-8181  
62|3020919|29 3613-50-A-23|KINGSTON, NAKEITA K|LESLIE, MICHAEL J|940 CORBIN CIR  
SW||PALM BAY FL 32908-8179  
63|2907384|29 3613-KK-1586-4|L & M PROFESSIONALS LLC||PO BOX 350522|CENTRAL  
STATION|JAMAICA NY 11435-0522  
64|2907430|29 3613-KK-1588-24|LAWSON, JENNIFER L||483 FLAT RIVER ST SW, # SW||PALM  
BAY FL 32908-8133  
65|2907308|29 3613-KK-1581-20|MARSHALL, WAYNE A|DEJESUS, JASMINE DESIREE|447 SAUL RD  
SW||PALM BAY FL 32908-  
66|2907297|29 3613-KK-1581-9|MCDANIEL, DOLORES|DAVIS, COREY|1100 HOA ST||HONOLULU HI  
96825-3524  
67|3020992|29 3613-50-B-96|MEDIDA, GILBERT FIGUERAS|MAGADAN, JOSE RAMON|1035 CORBIN  
CIR SW||PALM BAY FL 32908-8182  
68|3020906|29 3613-50-A-10|MITCHEL, YERLYN Y|WAITE, STEVE L|1044 CORBIN CIR SW||PALM  
BAY FL 32908-8181  
69|3020918|29 3613-50-A-22|MORALES, CARLOS J SOTO|MORALES, IVELISSE MELENDEZ|948  
CORBIN CIR SW||PALM BAY FL 32908-8179  
70|2906955|29 3613-KK-\*-L|MP DEVELOPERS INC||1108 S RIVERSIDE DR||INDIALANTIC FL  
32903-3549  
71|2907414|29 3613-KK-1588-8|MULEY, NANDKISHOR||1340 RETREAT VIEW CIR||SANFORD FL  
32771-7278  
72|2907321|29 3613-KK-1583-3|MUNISAR, RAJAH S|MUNISAR, VEDA WATTIE DEVI|1136 PALERMO  
NW ST NW||PALM BAY FL 32907-7910  
73|3020908|29 3613-50-A-12|OCTAVIANI, GILBERTO R COLON||1028 CORBIN CIR SW||PALM BAY  
FL 32908-8181  
74|3020903|29 3613-50-A-7|PARIONA, MARCO||58 HENRY ST||PASSAIC NJ 07055-4010  
75|3020911|29 3613-50-A-15|PATEL, PURVANGBH K|PATEL, DIPAN P|1004 CORBIN CIR  
SW||PALM BAY FL 32908-8181  
76|2907382|29 3613-KK-1586-2|PRINGLE, SHARON|PRINGLE, TODD|3428 BARKER AVE||BRONX NY  
10467-5602  
77|2907290|29 3613-KK-1581-2|QUINN, ROBERT D||NORTHBRIDGE|2513 GARFIELD AVE|CLAYMONT  
DE 19703-  
78|2907368|29 3613-KK-1585-14|RAMOTAR, DEENDIAL|RAMOTAR, JASODA S|18 WOODLAND  
CT||KINNELON NJ 07405-2920  
79|3020909|29 3613-50-A-13|REGINA, SARAH|ESTABA, PEDRO X SUAREZ|1020 CORBIN CIR  
SW||PALM BAY FL 32908-8181  
80|2907411|29 3613-KK-1588-5|ROBAINA, MICHAEL J|ROBAINA, STEPHANIE L|443 FOUR WINDS  
ST SW||PALM BAY FL 32908-8106  
81|2907410|29 3613-KK-1588-4|ROBAINA, MICHAEL JAMES|ROBAINA, STEPHANIE LYNN|474 FOUR  
WINDS ST||PALM BAY FL 32908-  
82|2907311|29 3613-KK-1581-23|ROSE, L MORTON|ROSE, CAROL E|1063 LAKE BREEZE

DR||WELLINGTON FL 33414-7914  
83|2907386|29 3613-KK-1586-6|SAINT-FLEUR, GEORGES|SAINT-FLEUR, RONETTE|416 SW 74TH AVE||NORTH LAUDERDALE FL 33068-1443  
84|2906956|29 3613-KK-\*-M|SEALE, DAVID R|SEALE, ROXSANA T|742 ALFONSO AVE SE||PALM BAY FL 32909-4549  
85|3020995|29 3613-50-B-99|SHAFQUAT, SHOAB|SHAFQUAT, DAWN M|963 CORBIN CIR SW||PALM BAY FL 32908-8180  
86|3020900|29 3613-50-A-4|SINCLAIR, DEBORAH LEE||1092 CORBIN CIR SW||PALM BAY FL 32908-8181  
87|2907413|29 3613-KK-1588-7|SOLOMON, FRANK G|SOLOMON, JENNIFER V|251 STALLION ST||PALM BAY FL 32909-1178  
88|2907427|29 3613-KK-1588-21|SOLOMON, FRANK G|SOLOMON, JENNIFER V|251 STALLION ST||PALM BAY FL 32909-1178  
89|2907426|29 3613-KK-1588-20|SOLOMON, FRANK G|SOLOMON, JENNIFER V|251 STALLION ST||PALM BAY FL 32909-1178  
90|2907412|29 3613-KK-1588-6|SOLOMON, FRANK G|SOLOMON, JENNIFER V|251 STALLION ST||PALM BAY FL 32909-1178  
91|2907381|29 3613-KK-1586-1|SPELLMAN, MARY DANIEL||104 GEORGE ST||GAITHERSBURG MD 20877-1932  
92|3020994|29 3613-50-B-98|SPLONSKOWSKI, LEO ANTHONY|SPLONSKOWSKI, JANET MARIE|17252 280TH ST N||ULEN MN 56585-9205  
93|2907396|29 3613-KK-1587-3|ST LOUIS, BERNADETTE||1124 WILCOX RD SE||PALM BAY FL 32909-  
94|2907397|29 3613-KK-1587-4|ST LOUIS, BERNADETTE||1124 WILCOX RD SE||PALM BAY FL 32909-  
95|2907331|29 3613-KK-1583-13|STRICKLAND, DAVID A|STRICKLAND, RHONDA S|478 SAUL RD SW||PALM BAY FL 32908-  
96|3020917|29 3613-50-A-21|TORRES, JOSE A|TORRES, CYNTHIA N|956 CORBIN CIR SW||PALM BAY FL 32908-8179  
97|2907319|29 3613-KK-1583-1|TRAVIESO, REINALDO|TRAVIESO, LOURDES|1599 GAYNOR SW DR SW||PALM BAY FL 32908-8124  
98|3020902|29 3613-50-A-6|TREMBLAY, CHRISTOPHER DAVID|TREMBLAY, KRISTA|1076 CORBIN CIR SW||PALM BAY FL 32908-8181  
99|2907289|29 3613-KK-1581-1|VASSELL, MILDRED H TRUSTEE||1681 DOZIER CIR SE||PALM BAY FL 32909-  
100|2907317|29 3613-KK-1582-5|VENABLE, WILLIS L|VENABLE, JUNE|600 PACIFIC GROVE CT||VACAVILLE CA 95688-2516  
101|3020988|29 3613-50-B-92|VENTURA EMERSON LLC||402 N BABCOCK ST, STE 102||MELBOURNE FL 32935-7335  
102|2907373|29 3613-KK-1585-19|WILSON, DENNIS D|WILSON, CHARLES R|1302 SAINT ANDREWS DR||MEBANE NC 27302-7135  
103|2907333|29 3613-KK-1583-15|WJHFL LLC D/B/A WJH LLC||3091 GOVERNORS LAKE DR, STE 300||PEACHTREE CORNERS GA 30071-1133  
104|2907408|29 3613-KK-1588-2|WJHFL LLC D/B/A WJH LLC||3091 GOVERNORS LAKE DR, STE 300||PEACHTREE CORNERS GA 30071-1133  
105|3020915|29 3613-50-A-19|ZIZZO, BRANDON JEFFREY|ZIZZO, STEPHANIE GRACE|972 CORBIN SW CIR SW||PALM BAY FL 32908-8179

# Project Details: CP23-00003

## Project Type: Comprehensive Plan Future Land Use Map

Project Location: UNKNOWN # 2700 ANNELEIGH CIR Palm Bay, FL  
Milestone: Submitted  
Created: 3/30/2023  
Description: Gaynor  
Assigned Planner: Alexandra Bernard

### Contacts

Contact	Information
Owner/Applicant	MP DEVELOPERS INC 1108 S RIVERSIDE DR INDIALANTIC, FL 32903
Legal Representative	James Boothroyd 7640 N. Wickham Rd Melbourne, FL 32940 (321) 536-6090 jboothroyd73@gmail.com
Assigned Planner	Alexandra Bernard 120 Malabar Rd Palm Bay, FL 32907  alexandra.bernard@palmbayflorida.org
Submitter	James Boothroyd 2768 Snapdragon Dr. NW Palm Bay, FL 32907  jboothroyd73@gmail.com

### Fields

Field Label	Value
Swale	
Swale Elevation	
Garage Slab Station	
Garage Slab Elevation	
1st Check Date	
1st Check Inv IN	
1st Check Inv OUT	

# Project Details: CP23-00003

Swale Station	
2nd Check Date	
2nd Check Inv OUT	
3rd Check Date	
3rd Check Inv IN	
3rd Check Inv OUT	
C/L Right of Way	
Crown of Road	
2nd Check Inv IN	
Edge of Sidewalk Elevation	
Edge of Sidewalk Station	
Edge of Road Elevation	
Road	
Swale Comments	
Drainage Facilities Condition	
Recommended Reveal	
Other	
Additional Comments	
Lot has been Cleared	
Building Pad Prepared	
Vertical Datum	
Other	
C/L Right of Way Station	
C/L Right of Way Elevation	
Crown of Road Station	
Crown of Road Elevation	
Edge of Road Station	
Edge of Road	

# Project Details: CP23-00003

Block	*
Lot	L
Section Township Range	13-29-36
Subdivision	KK
Year Built	
Use Code	7000
Use Code Desc	VACANT LAND - INSTITUTIONAL
LotSize	
Building SqFt	
Homestead Exemption	
Taxable Value Exemption	
Assessed Value	
Market Value	
Land Value	
Tax ID	2906955
Flu Description	Utilities
Flu Code	UTIL
Zoning Description	Institutional Use
Zoning Code	IU
Total Acreage	
Present Land Use Classification	institutional
Proposed Land Use Classification	rs2 single family residential
Structures On Property?	False
List Structures	
Rezoning Submitted?	True
Development Submitted?	False
Justification for Change	best use of property to conform with neighborhood
Specific Use Intended for Property	single family residential

## Project Details: CP23-00003

Project Scale	Small Scale (50 acres or less)
Present Use of Property	vacant land
Is Submitter the Representative?	False
Ordinance Number	

April 14, 2023

Re: Letter of Authorization

As the property owner of the site legally described as:

Port Malabar Unit 32 Tract L / Tax account # 290655 / Parcel ID 29-36-13-KK-\*-L

I, Owner Name: MP Developers Inc.

Address: 1108 S Riverside Dr Indiatlantic, Fl 32903

Telephone:

Email:

hereby authorize:

Representative: James Boothroyd or Tony Pinto

Address: 7640 N. Wickham Rd #102 Melbourne, Fl 32940

Telephone: 321-536-6090

Email: jboothroyd73@gmail.com

to represent the request(s) for:

CP23-0003 & CPZ23-0002

(Property Owner Signature)

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 1<sup>st</sup> day of May, 20 23 by

Jayshree Patel, property owner.

Thomas Sisti, Notary Public

☐ Personally Known or ☒ Produced the Following Type of Identification:



THOMAS SISTI  
Notary Public, State of Florida  
Commission# HH 286385  
My comm. expires July 12, 2026

Florida Driver License



**Classified Ad Receipt**  
**(For Info Only - NOT A BILL)**

**Customer:** CITY OF PALM BAY  
**Address:** SUITE 201  
PALM BAY FL 32907  
USA

**Ad No.:** 0005744531  
**Pymt Method** Invoice  
**Net Amount** 105.48

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 06/22/23

**Text of Ad:**

Ad#5744531 06/22/2023  
CITY OF PALM BAY, FLORIDA  
NOTICE OF PUBLIC HEARING  
Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on July 5, 2023, and by the City Council on July 6, 2023, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):  
1. CP23-00003 - MP Developers, Inc. (James Boothroyd, Weichert Realtors Hallmark Properties, Rep.)  
A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Utilities to Low Density Residential Tract L, Port Malabar Unit 32, Section 13, Township 29, Range 36, Brevard County, Florida; containing approximately 1.33 acres. Located east of and adjacent to Gaynor Drive SW, in the vicinity north of Four Winds Street SW  
2. \*\*CP23-00002 - MP Developers, Inc. (James Boothroyd, Weichert Realtors Hallmark Properties, Rep.)  
A Zoning Amendment from an IU, Institutional Use District to an RS-2, Single Family Residential District  
Tract L, Port Malabar Unit 32, Section 13, Township 29, Range 36, Brevard County, Florida; containing approximately 1.33 acres. Located east of and adjacent to Gaynor Drive SW, in the vicinity north of Four Winds Street SW  
\*\*Indicates quasi-judicial request(s).  
If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or the City Council 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.  
Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.  
Jesse Anderson  
Assistant Growth Management Director





## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Alexandra Bernard, Principal Planner

**DATE:** July 5, 2023

**SUBJECT:** \*\*CPZ23-00002 - Gaynor - MP Developers, Inc. (James Boothroyd, Weichert Realtors Hallmark Properties, Rep.) - A Zoning Amendment from an IU, Institutional Use District to an RS-2, Single Family Residential District. Tract L, Port Malabar Unit 32, Section 13, Township 29, Range, 36, Brevard County, Florida, containing approximately 1.33 acres. Located east of and adjacent to Gaynor Drive SW, in the vicinity north of Four Winds Street SW

\*\*Quasi-Judicial Proceeding.

### ATTACHMENTS:

#### Description

- ▣ CPZ23-00002 -- Staff Report
- ▣ CPZ23-00002 -- Site Sketch
- ▣ CPZ23-00002 -- Citizen Participation Plan Report
- ▣ CPZ23-00002 -- Application
- ▣ CPZ23-00002 -- Letter of Authorization
- ▣ CPZ23-00002 -- Legal Ad



# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

[landdevelopmentweb@palmabayflorida.org](mailto:landdevelopmentweb@palmabayflorida.org)

### Prepared by

Alix Bernard, Principal Planner

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#### CASE NUMBER

CPZ23-00002

#### PLANNING & ZONING BOARD HEARING DATE

July 5, 2023

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#### PROPERTY OWNER & APPLICANT

MP Developers Inc (James Boothroyd, Rep.)

#### PROPERTY LOCATION/ADDRESS

Tract L, Port Malabar Unit 32, Section 13, Township 29, Range 36, Brevard County, Florida; containing approximately 1.33 acres. Located east of and adjacent to Gaynor Dr SW, in the vicinity north of Four Winds St SW; Tax Account 2906955

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#### SUMMARY OF REQUEST

The applicant is requesting a rezoning from IU, Institutional Use to RS-2, Single Family Residential.

##### Existing Zoning

IU, Institutional Use

##### Existing Land Use

Utilities

##### Site Improvements

Undeveloped Land

##### Site Acreage

1.33 acres

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#### SURROUNDING ZONING & USE OF LAND

##### North

RS-2 Single Family Residential; Single-Family Home

##### East

RS-2, Single Family Residential; Vacant

##### South

RS-2, Single Family Residential; Single-Family Home

##### West

RS-2, Single Family Residential; Vacant & PUD, Planned Unit Development; Single-Family Home

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**BACKGROUND:**

The subject property is located east of and adjacent to Gaynor Dr SW, in the vicinity north of Four Winds St. SW. There is one vacant unimproved parcel totaling 1.33-acres is included in this request.

This request is to rezone from IU, Institutional Use to RS-2 Single Family Residential. A maximum of five (5) homes are proposed to be developed. A school board concurrency review is not required as the number of units reasonably able to be constructed under the requested zoning falls below the de minimis impact for school capacity determination of 50 units or more.

**ANALYSIS:**

The following analysis is per Chapter 185: Zoning Code, Section 185.201(C) which states that all proposed amendments shall be submitted to the Planning and Zoning Board, which shall study such proposals in accordance with items 1 through 4 of Section 185.201(C).

**Item 1 - *The need and justification for the change.***

The applicant states the justification for the change is that RS-2 is 'the best use of the property to conform with the surrounding neighborhood.' The RS-2, Single Family Residential zoning district is designed to promote high quality residential development. As this proposed development is an infill development that is surrounded by similarly zoned single family homes, this request will continue to promote high quality residential development in an already established neighborhood.

**Item 2 - *When pertaining to the rezoning of land, the effect of the change, if any, on the particular property and on surrounding properties.***

The designation of the RS-2, Single Family Residential zoning district for the subject property is compatible with the surrounding area and is consistent with the City's desire to properly zone land that is intended for single family homes. The parcel in question is surrounded by RS-2 zoning, with the only other zoning district in vicinity being a single family residential Planned Unit Development. As such, the use of single-family residences is considered compatible.

**Item 3** - *When pertaining to the rezoning of land, the amount of undeveloped land in the general area and in the City having the same classification as that requested.*

There are scattered single family lots all throughout the city which have the RS-2 Single Family Residential classification. Furthermore, the property associated with this request is surrounded by RS-2 to the north, south, east and a portion of its west

**Item 4** - *The relationship of the proposed amendment to the purpose of the city plan for development, with appropriate consideration as to whether the proposed change will further the purposes of this chapter and the Comprehensive Plan (Plan).*

The proposed amendment will further the purposes of Chapter 185, the Comprehensive Plan.

**STAFF RECOMMENDATION:**

Staff recommends Case CPZ23-00002 for approval.











## CITIZEN PARTICIPATION REPORT

Applicant should follow established Citizen Participation Plan as specified in § 169.005 CITIZEN PARTICIPATION PLANS.

### CASE DETAILS

Applicant Name	JAMES BOOTHROYD / ANTHONY PINTO
Project Name	GAYNOR DR.
Date of Submission	

### INFORMATION ON THE CITIZEN PARTICIPATION MEETING

Notice to the Public (Date)	3/11/23
Date of CPP	3/21/23
Location of the Meeting	TED WHITLOCK COMMUNITY CENTER - FRED POPPE PARK
Number of Attendees	0







Immediately following this page, attach the documents below:

Copy of notice sent (separate attachment)

Material distributed or presented at the meeting (separate attachment)

Sign-In Sheets

\*All the property owners within a 500-foot radius of the subject parcel shall be informed about the meeting date, time and location

I hereby certify that information provided as part of this report is correct.

A handwritten signature in black ink, appearing to be "James Boothroy", written over a horizontal line.

Signature,

JAMES BOOTHROY (APPLICANT)

Typed Name and Title:

Date :

DENOTE ANY ADVERSE COMMENTS/COMPLAINTS/ CONCERNS/ ISSUES RECEIVED AND DESCRIBE RESOLUTION OR PROVIDE JUSTIFICATION IF THE APPLICANT IS UNABLE OR UNWILLING TO ADDRESS THE ISSUE :

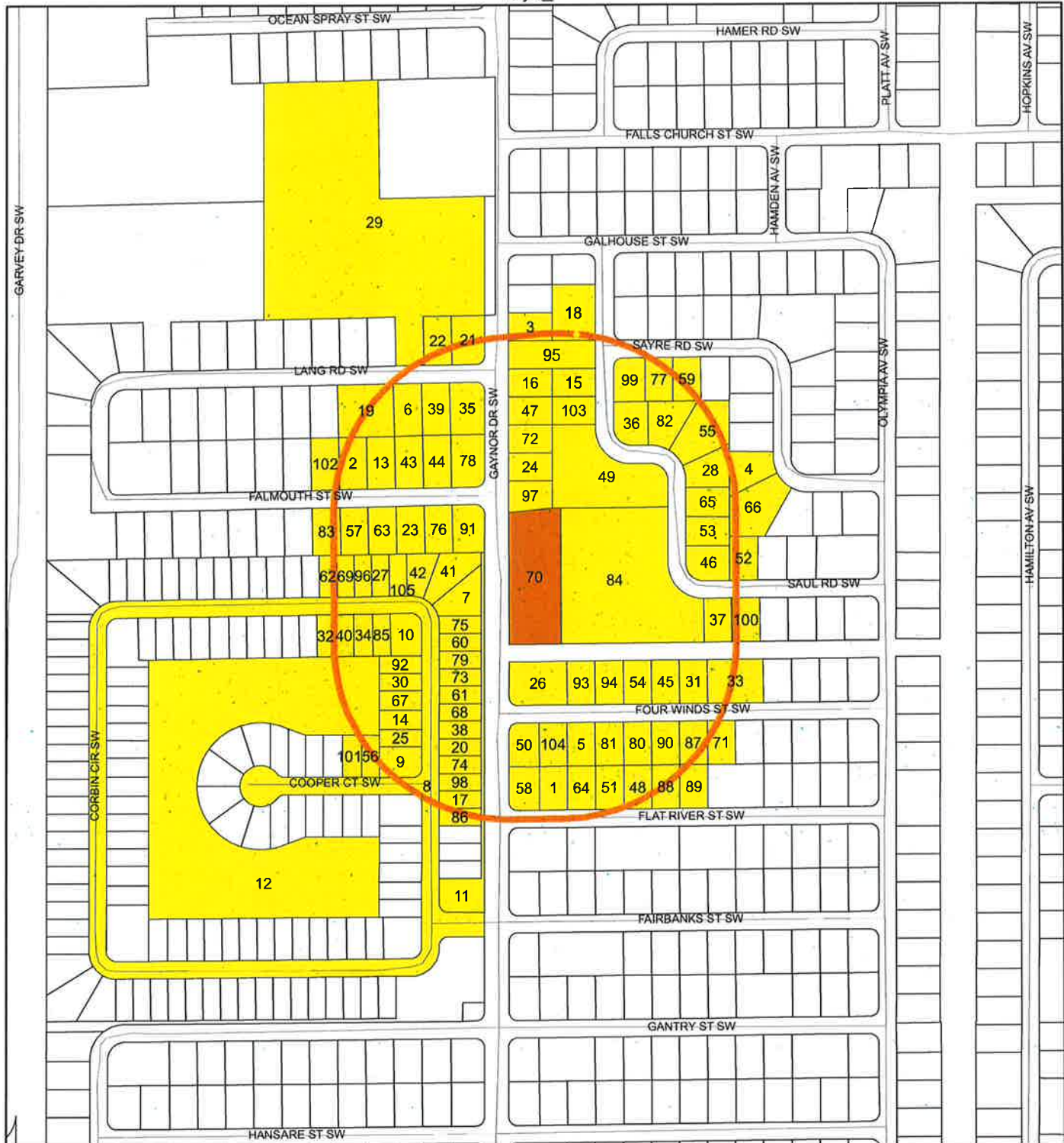
RE: Citizens participation

This letter is inform all interested parties within a 500ft radius of parcel 29-36-13-kk-\* -L that a pending application with city of Palm Bay seeking approval of a small scale comprehensive plan and zoning amendment change. The subject property consists of 1.33 acres and is currently zoned institutional with future land use of utilities. The applicant is seeking to amend the zoning to RS2 single family residential. This will fit with current uses within the neighborhood. There will be a meeting Tuesday March 21, 2023 6pm at the Ted Whitlock community center Fred Poppe park to answer question and address concerns.

# RADIUS MAP

MP DEVELOPERS INC

Boothroyd\_2906955



1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 3/7/2023

- Buffer
- Subject Property
- Notify Property
- Parcels



**James Boothroyd**  
REALTOR®

**Cell: (321) 536-0090**

jboothroyd73@gmail.com

**Weichert**  
REALTORS®

Hallmark Properties

7640 N. Wickham Road, Suite 102

Melbourne, FL 32940

Office: 321-327-2993



"Independently Owned and Operated"  

99 INVESTMENTS INC  
8865 COMMODITY CIR, STE 4  
ORLANDO FL 32819-9077

ADJOCY, WISLAND  
5320 NW 17TH ST  
LAUDERHILL FL 33313-5427

ARAUJO, MARK  
1527 GAYNOR DR SW  
PALM BAY FL 32908-

ARMSTRONG, ADRIAN  
244 TECUMSEH AVE  
MOUNT VERNON NY 10553-

AVTEC HOMES INC  
590 MALABAR RD SE, STE 3  
PALM BAY FL 32907-3108

BAIJNATH, CHANDRA  
BAIJNATH, WILFORD  
4205 BAMBOO PALMS CT  
LAKE WORTH FL 33463-9322

BAKER, DANA M  
1190 DILLARD DR SE  
PALM BAY FL 32909-2371

BAYRIDGE HOMEOWNER'S ASSOCIATION,  
INC.  
PO BOX 110224  
PALM BAY FL 32911-0224

BENDECK, JUAN I  
BENDECK, MARY N M SAYBE  
3 CALLE 2 Y 3 AVE S O  
PO BOX 27Q  
SAN PEDRO -

BENNETT, BRAYLAND  
BENNETT, DERICA M  
1043 CORBIN CIR SW  
PALM BAY FL 32908-8182

BILES, CARL L  
472 SAUL RD SW  
PALM BAY FL 32908-

BROOKS, VENICE A  
1219 ADMIRAL DR  
APOPKA FL 32703-6501

BROWER, MATTHEW H  
BROWER, SUSAN L  
484 SAUL RD SW  
PALM BAY FL 32908-

BROWN, GLEN ROY  
MILLS, CORDELLA E  
5910 NW 15 COURT  
SUNRISE FL 33313-

BULL, MARK ALLEN  
BULL, APRIL DAWN  
1060 CORBIN CIR SW  
PALM BAY FL 32908-8181

BUNCH-A LOTS LLC  
193 OLD RTE 32  
SAUGERTIES NY 12477-

CACHO, CANDICE  
355 5TH AVE  
NEW ROCHELLE NY 10801-2037

CARHARP VENTURES PALM BAY LLC  
10892 SUNSET RIDGE CIR  
BOYNTON BEACH FL 33473-4866

CARPENTER, KASEY  
1051 CORBIN CIR SW  
PALM BAY FL 32908-8182

CASTANEDA, JOSE E  
CASTANEDA, AUDREY R  
499 FOUR WINDS ST SW  
PALM BAY FL 32908-

CASTRO, JUSTIN  
CARROLL, HAYLEY ELIZABETH  
964 CORBIN SW CIR SW  
PALM BAY FL 32908-8179

CICCHINI, ROBERT L  
HARTFORD, LYNN MARIE TRUSTEES  
6120 PETERS RD  
PLANTATION FL 33317-

CLARK, STEVEN R  
PO BOX 62  
MELBOURNE FL 32902-0062

CLARKE, DELPHA MARINE  
1027 CORBIN CIR SW  
PALM BAY FL 32908-8182

COCHRAN, JASON  
WADDELL, JENNEY  
451 FOUR WINDS SW ST SW  
PALM BAY FL 32908-8106

CRAVEN, JOSHUA PATRICK  
CRAVEN, JESSIKA B  
939 CORBIN CIR SW  
PALM BAY FL 32908-8180

DALY, JOHN, JR  
443 FOUR WINDS ST SW  
PALM BAY FL 32908-8106

DAVIS, JOY ALLYSON  
MYATT, NOEL PATRICK  
955 CORBIN CIR SW  
PALM BAY FL 32908-8180

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Page2

DELEON, JOSEFINO A  
DELEON, LINDA N  
4329 GOLDEN ORCHARD  
MISSISSAUGA ON L4W 3G2

DETLOF, MARK  
2189 SE ERWIN RD  
PORT SAINT LUCIE FL 34952-5538

DOUYON, LOUIS G  
DOUYON, EVELYN  
13832 VISTA DEL LAGO BLVD  
CLERMONT FL 34711-8015

DYE, CALEB LEVI  
DYE, KATELYNE RENEE  
1052 CORBIN CIR SW  
PALM BAY FL 32908-8181

EISNAUGLE, RICHARD A  
EISNAUGLE, SEVERINE  
3547 SO GLENN  
WICHITA KS 67217-

ESCALANTE-POZDEEV, DENIS  
ESCALANTE, SHERI ELLEN  
947 CORBIN CIR SW  
PALM BAY FL 32908-8180

FENNER, ROBERT  
988 CORBIN CIR SW  
PALM BAY FL 32908-8179

FILS AIME, JAMES  
FILS AIME, ANTOINETTE  
980 CORBIN CIR SW  
PALM BAY FL 32908-8179

FINCHAM, BRANDON S  
FINCHAM, SARAH E  
519 FALMOUTH SW ST SW  
PALM BAY FL 32908-8145

FINCHMAN, SARAH  
369 CYCLE NE ST NE  
PALM BAY FL 32907-1948

FKH SFR PROPCO E LP  
1850 PARKWAY PL SE, FL 9  
MARIETTA GA 30067-4439

FLOWERS, GALE EVON  
435 SAUL RD SW  
PALM BAY FL 32908-

FRANKO, BRIAN L  
1563 GAYNOR DR SW  
PALM BAY FL 32908-

GREER, ALLEN R  
448 RAY ST  
FREEPORT NY 11520-

GRINDLEY, GAIL ANN  
460 SAUL RD SW  
PALM BAY FL 32908-8119

HAMILTON, TYRONE  
498 FOUR WINDS ST SW  
PALM BAY FL 32908-

HH PALM BAY VERO LLC  
120 N SWINTON AVE  
DELRAY BCH FL 33444-

HIJU PROPERTIES I LLC  
242 S FEDERAL HWY  
DANIA FL 33004-4005

HOLIDAY BUILDERS INC  
2293 W EAU GALLIE BLVD  
MELBOURNE FL 32935-3184

HORIZON CAPITAL INVESTMENTS CORP  
LIBURD, FREDERIC  
725 ORIOLE AVE  
WEST HEMPSTEAD NY 11552-3828

HOWELL, MASON D  
HOWELL, SHEILA A  
529 COOPER CT SW  
PALM BAY FL 32908-8173

JJA INVESTMENTS-PALM BAY LLC  
160 W CAMINO REAL, # 238  
BOCA RATON FL 33432-5942

JOHN, MAHADAYE  
11661 SW ROCKVILLE CT  
PORT ST LUCIE FL 34987-2715

KARITH, GEORGE  
KARITH, MOLLY  
200 YOHO DR  
OTTOWA ON K2M 2K1

KEARNEY, N'STASIA A  
1012 CORBIN CIR SW  
PALM BAY FL 32908-8181

KIDDER, COLLEEN MARGARET  
1036 CORBIN CIR SW  
PALM BAY FL 32908-8181

KINGSTON, NAKEITA K  
LESLIE, MICHAEL J  
940 CORBIN CIR SW  
PALM BAY FL 32908-8179

L & M PROFESSIONALS LLC  
PO BOX 350522  
CENTRAL STATION  
JAMAICA NY 11435-0522

LAWSON, JENNIFER L  
483 FLAT RIVER ST SW, # SW  
PALM BAY FL 32908-8133



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Page3

MARSHALL, WAYNE A  
DEJESUS, JASMINE DESIREE  
447 SAUL RD SW  
PALM BAY FL 32908-

MCDANIEL, DOLORES  
DAVIS, COREY  
1100 HOA ST  
HONOLULU HI 96825-3524

MEDIDA, GILBERT FIGUERAS  
MAGADAN, JOSE RAMON  
1035 CORBIN CIR SW  
PALM BAY FL 32908-8182

MITCHEL, YERLYN Y  
WAITE, STEVE L  
1044 CORBIN CIR SW  
PALM BAY FL 32908-8181

MORALES, CARLOS J SOTO  
MORALES, IVELISSE MELENDEZ  
948 CORBIN CIR SW  
PALM BAY FL 32908-8179

MP DEVELOPERS INC  
1108 S RIVERSIDE DR  
INDIALANTIC FL 32903-3549

MULEY, NANDKISHOR  
1340 RETREAT VIEW CIR  
SANFORD FL 32771-7278

MUNISAR, RAJAH S  
MUNISAR, VEDA WATTIE DEVI  
1136 PALERMO NW ST NW  
PALM BAY FL 32907-7910

OCTAVIANI, GILBERTO R COLON  
1028 CORBIN CIR SW  
PALM BAY FL 32908-8181

PARIONA, MARCO  
58 HENRY ST  
PASSAIC NJ 07055-4010

PATEL, PURVANGBH K  
PATEL, DIPAN P  
1004 CORBIN CIR SW  
PALM BAY FL 32908-8181

PRINGLE, SHARON  
PRINGLE, TODD  
3428 BARKER AVE  
BRONX NY 10467-5602

QUINN, ROBERT D  
NORTHBRIDGE  
2513 GARFIELD AVE  
CLAYMONT DE 19703-

RAMOTAR, DEENDIAL  
RAMOTAR, JASODA S  
18 WOODLAND CT  
KINNELON NJ 07405-2920

REGINA, SARAH  
ESTABA, PEDRO X SUAREZ  
1020 CORBIN CIR SW  
PALM BAY FL 32908-8181

ROBAINA, MICHAEL J  
ROBAINA, STEPHANIE L  
443 FOUR WINDS ST SW  
PALM BAY FL 32908-8106

ROBAINA, MICHAEL JAMES  
ROBAINA, STEPHANIE LYNN  
474 FOUR WINDS ST  
PALM BAY FL 32908-

ROSE, L MORTON  
ROSE, CAROL E  
1063 LAKE BREEZE DR  
WELLINGTON FL 33414-7914

SAINT-FLEUR, GEORGES  
SAINT-FLEUR, RONETTE  
416 SW 74TH AVE  
NORTH LAUDERDALE FL 33068-1443

SEALE, DAVID R  
SEALE, ROXSANA T  
742 ALFONSO AVE SE  
PALM BAY FL 32909-4549

SHAFQUAT, SHOAIB  
SHAFQUAT, DAWN M  
963 CORBIN CIR SW  
PALM BAY FL 32908-8180

SINCLAIR, DEBORAH LEE  
1092 CORBIN CIR SW  
PALM BAY FL 32908-8181

SOLOMON, FRANK G  
SOLOMON, JENNIFER V  
251 STALLION ST  
PALM BAY FL 32909-1178

SPELLMAN, MARY DANIEL  
104 GEORGE ST  
GAITHERSBURG MD 20877-1932

SPLONSKOWSKI, LEO ANTHONY  
SPLONSKOWSKI, JANET MARIE  
17252 280TH ST N  
ULEN MN 56585-9205

ST LOUIS, BERNADETTE  
1124 WILCOX RD SE  
PALM BAY FL 32909-

STRICKLAND, DAVID A  
STRICKLAND, RHONDA S  
478 SAUL RD SW  
PALM BAY FL 32908-

TORRES, JOSE A  
TORRES, CYNTHIA N  
956 CORBIN CIR SW  
PALM BAY FL 32908-8179

TRAVIESO, REINALDO  
TRAVIESO, LOURDES  
1599 GAYNOR SW DR SW  
PALM BAY FL 32908-8124

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Page4

TREMBLAY, CHRISTOPHER DAVID  
TREMBLAY, KRISTA  
1076 CORBIN CIR SW  
PALM BAY FL 32908-8181

VASSELL, MILDRED H TRUSTEE  
1681 DOZIER CIR SE  
PALM BAY FL 32909-

VENABLE, WILLIS L  
VENABLE, JUNE  
600 PACIFIC GROVE CT  
VACAVILLE CA 95688-2516

VENTURA EMERSON LLC  
402 N BABCOCK ST, STE 102  
MELBOURNE FL 32935-7335

WILSON, DENNIS D  
WILSON, CHARLES R  
1302 SAINT ANDREWS DR  
MEBANE NC 27302-7135

WJHFL LLC D/B/A WJH LLC  
3091 GOVERNORS LAKE DR, STE 300  
PEACHTREE CORNERS GA 30071-1133

ZIZZO, BRANDON JEFFREY  
ZIZZO, STEPHANIE GRACE  
972 CORBIN SW CIR SW  
PALM BAY FL 32908-8179

||||

99 INVESTMENTS INC||8865 COMMODITY CIR, STE 4||ORLANDO FL 32819-9077  
ADJOCY, WISLAND||5320 NW 17TH ST||LAUDERHILL FL 33313-5427  
ARAUJO, MARK||1527 GAYNOR DR SW||PALM BAY FL 32908-  
ARMSTRONG, ADRIAN||244 TECUMSEH AVE||MOUNT VERNON NY 10553-  
AVTEC HOMES INC||590 MALABAR RD SE, STE 3||PALM BAY FL 32907-3108  
BAIJNATH, CHANDRA|BAIJNATH, WILFORD|4205 BAMBOO PALMS CT||LAKE WORTH FL  
33463-9322  
BAKER, DANA M||1190 DILLARD DR SE||PALM BAY FL 32909-2371  
BAYRIDGE HOMEOWNER'S ASSOCIATION, |INC.||PO BOX 110224||PALM BAY FL  
32911-0224  
BENDECK, JUAN |BENDECK, MARY N M SAYBE|3 CALLE 2 Y 3 AVE S O|PO BOX 27Q|SAN  
PEDRO -  
BENNETT, BRAYLAND|BENNETT, DERICA M|1043 CORBIN CIR SW||PALM BAY FL  
32908-8182  
BILES, CARL L||472 SAUL RD SW||PALM BAY FL 32908-  
BROOKS, VENICE A||1219 ADMIRAL DR||APOPKA FL 32703-6501  
BROWER, MATTHEW H|BROWER, SUSAN L|484 SAUL RD SW||PALM BAY FL 32908-  
BROWN, GLEN ROY|MILLS, CORDELLA E|5910 NW 15 COURT||SUNRISE FL 33313-  
BULL, MARK ALLEN|BULL, APRIL DAWN|1060 CORBIN CIR SW||PALM BAY FL 32908-8181  
BUNCH-A LOTS LLC||193 OLD RTE 32||SAUGERTIES NY 12477-  
CACHO, CANDICE||355 5TH AVE||NEW ROCHELLE NY 10801-2037  
CARHARP VENTURES PALM BAY LLC||10892 SUNSET RIDGE CIR||BOYNTON BEACH FL  
33473-4866  
CARPENTER, KASEY||1051 CORBIN CIR SW||PALM BAY FL 32908-8182  
CASTANEDA, JOSE E|CASTANEDA, AUDREY R|499 FOUR WINDS ST SW||PALM BAY FL  
32908-  
CASTRO, JUSTIN|CARROLL, HAYLEY ELIZABETH|964 CORBIN SW CIR SW||PALM BAY FL  
32908-8179  
CICCHINI, ROBERT L|HARTFORD, LYNN MARIE TRUSTEES|6120 PETERS  
RD||PLANTATION FL 33317-  
CLARK, STEVEN R||PO BOX 62||MELBOURNE FL 32902-0062  
CLARKE, DELPHA MARINE||1027 CORBIN CIR SW||PALM BAY FL 32908-8182  
COCHRAN, JASON|WADDELL, JENNEY|451 FOUR WINDS SW ST SW||PALM BAY FL  
32908-8106  
CRAVEN, JOSHUA PATRICK|CRAVEN, JESSIKA B|939 CORBIN CIR SW||PALM BAY FL  
32908-8180  
DALY, JOHN,JR||443 FOUR WINDS ST SW||PALM BAY FL 32908-8106  
DAVIS, JOY ALLYSON|MYATT, NOEL PATRICK|955 CORBIN CIR SW||PALM BAY FL  
32908-8180

DELEON, JOSEFINO A|DELEON, LINDA N|4329 GOLDEN ORCHARD|MISSISSAUGA ON

L4W 3G2| -

DETLOF, MARK||2189 SE ERWIN RD||PORT SAINT LUCIE FL 34952-5538

DOUYON, LOUIS G|DOUYON, EVELYN|13832 VISTA DEL LAGO BLVD||CLERMONT FL  
34711-8015

DYE, CALEB LEVI|DYE, KATELYNE RENEE|1052 CORBIN CIR SW||PALM BAY FL  
32908-8181

EISNAUGLE, RICHARD A|EISNAUGLE, SEVERINE|3547 SO GLENN||WICHITA KS 67217-  
ESCALANTE-POZDEEV, DENIS|ESCALANTE, SHERI ELLEN|947 CORBIN CIR SW||PALM  
BAY FL 32908-8180

FENNER, ROBERT||988 CORBIN CIR SW||PALM BAY FL 32908-8179

FILS AIME, JAMES|FILS AIME, ANTOINETTE|980 CORBIN CIR SW||PALM BAY FL  
32908-8179

FINCHAM, BRANDON S|FINCHAM, SARAH E|519 FALMOUTH SW ST SW||PALM BAY FL  
32908-8145

FINCHMAN, SARAH||369 CYCLE NE ST NE||PALM BAY FL 32907-1948

FKH SFR PROPCO E LP||1850 PARKWAY PL SE, FL 9||MARIETTA GA 30067-4439

FLOWERS, GALE EVON||435 SAUL RD SW||PALM BAY FL 32908-

FRANKO, BRIAN L||1563 GAYNOR DR SW||PALM BAY FL 32908-

GREER, ALLEN R||448 RAY ST||FREEPORT NY 11520-

GRINDLEY, GAIL ANN||460 SAUL RD SW||PALM BAY FL 32908-8119

HAMILTON, TYRONE||498 FOUR WINDS ST SW||PALM BAY FL 32908-

HH PALM BAY VERO LLC||120 N SWINTON AVE||DELRAY BCH FL 33444-

HIJU PROPERTIES I LLC||242 S FEDERAL HWY||DANIA FL 33004-4005

HOLIDAY BUILDERS INC||2293 W EAU GALLIE BLVD||MELBOURNE FL 32935-3184

HORIZON CAPITAL INVESTMENTS CORP|LIBURD, FREDERIC|725 ORIOLE AVE||WEST  
HEMPSTEAD NY 11552-3828

HOWELL, MASON D|HOWELL, SHEILA A|529 COOPER CT SW||PALM BAY FL 32908-8173

JJA INVESTMENTS-PALM BAY LLC||160 W CAMINO REAL, # 238||BOCA RATON FL  
33432-5942

JOHN, MAHADAYE||11661 SW ROCKVILLE CT||PORT ST LUCIE FL 34987-2715

KARITH, GEORGE|KARITH, MOLLY|200 YOHO DR|OTTOWA ON K2M 2K1| -

KEARNEY, N'STASIA A||1012 CORBIN CIR SW||PALM BAY FL 32908-8181

KIDDER, COLLEEN MARGARET||1036 CORBIN CIR SW||PALM BAY FL 32908-8181

KINGSTON, NAKEITA K|LESLIE, MICHAEL J|940 CORBIN CIR SW||PALM BAY FL  
32908-8179

L & M PROFESSIONALS LLC||PO BOX 350522|CENTRAL STATION|JAMAICA NY  
11435-0522

LAWSON, JENNIFER L||483 FLAT RIVER ST SW, # SW||PALM BAY FL 32908-8133

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MARSHALL, WAYNE A|DEJESUS, JASMINE DESIREE|447 SAUL RD SW||PALM BAY FL  
32908-

MCDANIEL, DOLORES|DAVIS, COREY|1100 HOA ST||HONOLULU HI 96825-3524

MEDIDA, GILBERT FIGUERAS|MAGADAN, JOSE RAMON|1035 CORBIN CIR SW||PALM BAY

FL 32908-8182

MITCHEL, YERLYN Y|WAITE, STEVE L|1044 CORBIN CIR SW||PALM BAY FL 32908-8181

MORALES, CARLOS J SOTO|MORALES, IVELISSE MELENDEZ|948 CORBIN CIR SW||PALM BAY FL 32908-8179

MP DEVELOPERS INC||1108 S RIVERSIDE DR||INDIALANTIC FL 32903-3549

MULEY, NANDKISHOR||1340 RETREAT VIEW CIR||SANFORD FL 32771-7278

MUNISAR, RAJAH S|MUNISAR, VEDA WATTIE DEVI|1136 PALERMO NW ST NW||PALM BAY FL 32907-7910

OCTAVIANI, GILBERTO R COLON||1028 CORBIN CIR SW||PALM BAY FL 32908-8181

PARIONA, MARCO||58 HENRY ST||PASSAIC NJ 07055-4010

PATEL, PURVANGBH K|PATEL, DIPAN P|1004 CORBIN CIR SW||PALM BAY FL 32908-8181

PRINGLE, SHARON|PRINGLE, TODD|3428 BARKER AVE||BRONX NY 10467-5602

QUINN, ROBERT D||NORTHRIDGE|2513 GARFIELD AVE|CLAYMONT DE 19703-

RAMOTAR, DEENDIAL|RAMOTAR, JASODA S|18 WOODLAND CT||KINNELON NJ 07405-2920

REGINA, SARAH|ESTABA, PEDRO X SUAREZ|1020 CORBIN CIR SW||PALM BAY FL 32908-8181

ROBAINA, MICHAEL J|ROBAINA, STEPHANIE L|443 FOUR WINDS ST SW||PALM BAY FL 32908-8106

ROBAINA, MICHAEL JAMES|ROBAINA, STEPHANIE LYNN|474 FOUR WINDS ST||PALM BAY FL 32908-

ROSE, L MORTON|ROSE, CAROL E|1063 LAKE BREEZE DR||WELLINGTON FL 33414-7914

SAINT-FLEUR, GEORGES|SAINT-FLEUR, RONETTE|416 SW 74TH AVE||NORTH LAUDERDALE FL 33068-1443

SEALE, DAVID R|SEALE, ROXSANA T|742 ALFONSO AVE SE||PALM BAY FL 32909-4549

SHAFQUAT, SHOAIB|SHAFQUAT, DAWN M|963 CORBIN CIR SW||PALM BAY FL 32908-8180

SINCLAIR, DEBORAH LEE||1092 CORBIN CIR SW||PALM BAY FL 32908-8181

SOLOMON, FRANK G|SOLOMON, JENNIFER V|251 STALLION ST||PALM BAY FL 32909-1178

SPELLMAN, MARY DANIEL||104 GEORGE ST||GAITHERSBURG MD 20877-1932

SPLONSKOWSKI, LEO ANTHONY|SPLONSKOWSKI, JANET MARIE|17252 280TH ST N||ULEN MN 56585-9205

ST LOUIS, BERNADETTE||1124 WILCOX RD SE||PALM BAY FL 32909-

STRICKLAND, DAVID A|STRICKLAND, RHONDA S|478 SAUL RD SW||PALM BAY FL 32908-

TORRES, JOSE A|TORRES, CYNTHIA N|956 CORBIN CIR SW||PALM BAY FL 32908-8179

TRAVIESO, REINALDO|TRAVIESO, LOURDES|1599 GAYNOR SW DR SW||PALM BAY FL 32908-8124

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TREMBLAY, CHRISTOPHER DAVID|TREMBLAY, KRISTA|1076 CORBIN CIR SW||PALM BAY FL 32908-8181

VASSELL, MILDRED H TRUSTEE||1681 DOZIER CIR SE||PALM BAY FL 32909-

VENABLE, WILLIS L|VENABLE, JUNE|600 PACIFIC GROVE CT||VACAVILLE CA 95688-2516

VENTURA EMERSON LLC||402 N BABCOCK ST, STE 102||MELBOURNE FL 32935-7335

WILSON, DENNIS D|WILSON, CHARLES R|1302 SAINT ANDREWS DR||MEBANE NC  
27302-7135

WJHFL LLC D/B/A WJH LLC||3091 GOVERNORS LAKE DR, STE 300||PEACHTREE  
CORNERS GA 30071-1133

ZIZZO, BRANDON JEFFREY|ZIZZO, STEPHANIE GRACE|972 CORBIN SW CIR SW||PALM  
BAY FL 32908-8179

BUFF_ID	TAXID	PARCELID	OWNER1	OWNER2	MAIL1	MAIL2	CITY_STATE_ZIP5_ZIP4
1	2907431	29 3613-KK-1588-25	99 INVESTMENTS INC		8865 COMMODITY CIR, STE 4		ORLANDO FL 32819-9077
2	2907372	29 3613-KK-1585-18	ADJOCY, WISLAND		5320 NW 17TH ST		LAUDERHILL FL 33313-5427
3	2907325	29 3613-KK-1583-7	ARAUJO, MARK		1527 GAYNOR DR SW		PALM BAY FL 32908-
4	2907296	29 3613-KK-1581-8	ARMSTRONG, ADRIAN		244 TECUMSEH AVE		MOUNT VERNON NY 10553-
5	2907409	29 3613-KK-1588-3	AVTEC HOMES INC		590 MALABAR RD SE, STE 3		PALM BAY FL 32907-3108
6	2907365	29 3613-KK-1585-11	BAIJNATH, CHANDRA	BAIJNATH, WILFORD	4205 BAMBOO PALMS CT		LAKE WORTH FL 33463-9322
7	3020912	29 3613-50-A-16	BAKER, DANA M		1190 DILLARD DR SE		PALM BAY FL 32909-2371
8	3021040	29 3613-50-*-A	BAYRIDGE HOMEOWNER'S ASSOCIATION, INC.				PO BOX 110224   PALM BAY FL 32911-0224
9	3021048	29 3613-50-*-I	BAYRIDGE HOMEOWNER'S ASSOCIATION, INC.				PO BOX 110224   PALM BAY FL 32911-0224
10	3021049	29 3613-50-*-J	BAYRIDGE HOMEOWNER'S ASSOCIATION, INC.				PO BOX 110224   PALM BAY FL 32911-0224
11	3021043	29 3613-50-*-D	BAYRIDGE HOMEOWNER'S ASSOCIATION, INC.				PO BOX 110224   PALM BAY FL 32911-0224
12	3021041	29 3613-50-*-B	BAYRIDGE HOMEOWNER'S ASSOCIATION, INC.				PO BOX 110224   PALM BAY FL 32911-0224
13	2907371	29 3613-KK-1585-17	BENDECK, JUAN I	BENDECK, MARY N M	SAYBE 3 CALLE 2 Y 3 AVE S O		PO BOX 27Q   SAN PEDRO -
14	3020991	29 3613-50-B-95	BENNETT, BRAYLAND	BENNETT, DERICA M	1043 CORBIN CIR SW		PALM BAY FL 32908-8182
15	2907332	29 3613-KK-1583-14	BILES, CARL L		472 SAUL RD SW		PALM BAY FL 32908-
16	2907323	29 3613-KK-1583-5	BILES, CARL L		472 SAUL RD SW		PALM BAY FL 32908-
17	3020901	29 3613-50-A-5	BROOKS, VENICE A		1219 ADMIRAL DR		APOPKA FL 32703-6501
18	2907329	29 3613-KK-1583-11	BROWER, MATTHEW H	BROWER, SUSAN L	484 SAUL RD SW		PALM BAY FL 32908-
19	2907363	29 3613-KK-1585-9	BROWN, GLEN ROY	MILLS, CORDELLA E	5910 NW 15 COURT		SUNRISE FL 33313-
20	3020904	29 3613-50-A-8	BULL, MARK ALLEN	BULL, APRIL DAWN	1060 CORBIN CIR SW		PALM BAY FL 32908-8181
21	2907338	29 3613-KK-1584-1	BUNCH-A LOTS LLC		193 OLD RTE 32		SAUGERTIES NY 12477-
22	2907339	29 3613-KK-1584-2	BUNCH-A LOTS LLC		193 OLD RTE 32		SAUGERTIES NY 12477-
23	2907383	29 3613-KK-1586-3	CACHO, CANDICE		355 5TH AVE		NEW ROCHELLE NY 10801-2037
24	2907320	29 3613-KK-1583-2	CARHARP VENTURES PALM BAY LLC		10892 SUNSET RIDGE CIR		BOYNTON BEACH FL 33473-4866
25	3020990	29 3613-50-B-94	CARPENTER, KASEY		1051 CORBIN CIR SW		PALM BAY FL 32908-8182
26	2907394	29 3613-KK-1587-1	CASTANEDA, JOSE E	CASTANEDA, AUDREY R	499 FOUR WINDS ST SW		PALM BAY FL 32908-
27	3020916	29 3613-50-A-20	CASTRO, JUSTIN	CARROLL, HAYLEY ELIZABETH	964 CORBIN SW CIR SW		PALM BAY FL 32908-8179
28	2907309	29 3613-KK-1581-21	CICCHINI, ROBERT L	HARTFORD, LYNN MARIE	TRUSTEES 6120 PETERS RD		PLANTATION FL 33317-
29	2907340	29 3613-KK-1584-3	CLARK, STEVEN R		PO BOX 62		MELBOURNE FL 32902-0062

30|3020993|29 3613-50-B-97|CLARKE, DELPHA MARINE||1027 CORBIN CIR SW||PALM BAY FL 32908-8182  
 31|2907400|29 3613-KK-1587-7|COCHRAN, JASON|WADDELL, JENNEY|451 FOUR WINDS SW ST SW||PALM BAY FL 32908-8106  
 32|3020998|29 3613-50-B-102|CRAVEN, JOSHUA PATRICK|CRAVEN, JESSIKA B|939 CORBIN CIR SW||PALM BAY FL 32908-8180  
 33|2907401|29 3613-KK-1587-8|DALY, JOHN,JR||443 FOUR WINDS ST SW||PALM BAY FL 32908-8106  
 34|3020996|29 3613-50-B-100|DAVIS, JOY ALLYSON|MYATT, NOEL PATRICK|955 CORBIN CIR SW||PALM BAY FL 32908-8180  
 35|2907367|29 3613-KK-1585-13|DELEON, JOSEFINO A|DELEON, LINDA N|4329 GOLDEN ORCHARD|MISSISSAUGA ON L4W 3G2| -  
 36|2907312|29 3613-KK-1581-24|DETLOF, MARK||2189 SE ERWIN RD||PORT SAINT LUCIE FL 34952-5538  
 37|2907318|29 3613-KK-1582-6|DOUYON, LOUIS G|DOUYON, EVELYN|13832 VISTA DEL LAGO BLVD||CLERMONT FL 34711-8015  
 38|3020905|29 3613-50-A-9|DYE, CALEB LEVI|DYE, KATELYNE RENEE|1052 CORBIN CIR SW||PALM BAY FL 32908-8181  
 39|2907366|29 3613-KK-1585-12|EISNAUGLE, RICHARD A|EISNAUGLE, SEVERINE|3547 SO GLENN||WICHITA KS 67217-  
 40|3020997|29 3613-50-B-101|ESCALANTE-POZDEEV, DENIS|ESCALANTE, SHERI ELLEN|947 CORBIN CIR SW||PALM BAY FL 32908-8180  
 41|3020913|29 3613-50-A-17|FENNER, ROBERT||988 CORBIN CIR SW||PALM BAY FL 32908-8179  
 42|3020914|29 3613-50-A-18|FILS AIME, JAMES|FILS AIME, ANTOINETTE|980 CORBIN CIR SW||PALM BAY FL 32908-8179  
 43|2907370|29 3613-KK-1585-16|FINCHAM, BRANDON S|FINCHAM, SARAH E|519 FALMOUTH SW ST SW||PALM BAY FL 32908-8145  
 44|2907369|29 3613-KK-1585-15|FINCHMAN, SARAH||369 CYCLE NE ST NE||PALM BAY FL 32907-1948  
 45|2907399|29 3613-KK-1587-6|FKH SFR PROPCO E LP||1850 PARKWAY PL SE, FL 9||MARIETTA GA 30067-4439  
 46|2907306|29 3613-KK-1581-18|FLOWERS, GALE EVON||435 SAUL RD SW||PALM BAY FL 32908-  
 47|2907322|29 3613-KK-1583-4|FRANKO, BRIAN L||1563 GAYNOR DR SW||PALM BAY FL 32908-  
 48|2907428|29 3613-KK-1588-22|GREER, ALLEN R||448 RAY ST||FREEPORT NY 11520-  
 49|2907334|29 3613-KK-1583-16|GRINDLEY, GAIL ANN||460 SAUL RD SW||PALM BAY FL 32908-8119  
 50|2907407|29 3613-KK-1588-1|HAMILTON, TYRONE||498 FOUR WINDS ST SW||PALM BAY FL 32908-  
 51|2907429|29 3613-KK-1588-23|HH PALM BAY VERO LLC||120 N SWINTON AVE||DELRAY BCH FL 33444-  
 52|2907305|29 3613-KK-1581-17|HIJU PROPERTIES I LLC||242 S FEDERAL HWY||DANIA FL 33004-4005  
 53|2907307|29 3613-KK-1581-19|HIJU PROPERTIES I LLC||242 S FEDERAL HWY||DANIA FL 33004-4005  
 54|2907398|29 3613-KK-1587-5|HOLIDAY BUILDERS INC||2293 W EAU GALLIE BLVD||MELBOURNE FL 32935-3184  
 55|2907310|29 3613-KK-1581-22|HORIZON CAPITAL INVESTMENTS CORP|LIBURD, FREDERIC|725 ORIOLE AVE||WEST HEMPSTEAD NY 11552-3828  
 56|3020989|29 3613-50-B-93|HOWELL, MASON D|HOWELL, SHEILA A|529 COOPER CT SW||PALM BAY FL 32908-8173



57|2907385|29 3613-KK-1586-5|JJA INVESTMENTS-PALM BAY LLC||160 W CAMINO REAL, #  
238||BOCA RATON FL 33432-5942  
58|2907432|29 3613-KK-1588-26|JOHN, MAHADAYE||11661 SW ROCKVILLE CT||PORT ST LUCIE  
FL 34987-2715  
59|2907291|29 3613-KK-1581-3|KARITH, GEORGE|KARITH, MOLLY|200 YOHO DR|OTTOWA ON K2M  
2K1| -  
60|3020910|29 3613-50-A-14|KEARNEY, N'STASIA A||1012 CORBIN CIR SW||PALM BAY FL  
32908-8181  
61|3020907|29 3613-50-A-11|KIDDER, COLLEEN MARGARET||1036 CORBIN CIR SW||PALM BAY FL  
32908-8181  
62|3020919|29 3613-50-A-23|KINGSTON, NAKEITA K|LESLIE, MICHAEL J|940 CORBIN CIR  
SW||PALM BAY FL 32908-8179  
63|2907384|29 3613-KK-1586-4|L & M PROFESSIONALS LLC||PO BOX 350522|CENTRAL  
STATION|JAMAICA NY 11435-0522  
64|2907430|29 3613-KK-1588-24|LAWSON, JENNIFER L||483 FLAT RIVER ST SW, # SW||PALM  
BAY FL 32908-8133  
65|2907308|29 3613-KK-1581-20|MARSHALL, WAYNE A|DEJESUS, JASMINE DESIREE|447 SAUL RD  
SW||PALM BAY FL 32908-  
66|2907297|29 3613-KK-1581-9|MCDANIEL, DOLORES|DAVIS, COREY|1100 HOA ST||HONOLULU HI  
96825-3524  
67|3020992|29 3613-50-B-96|MEDIDA, GILBERT FIGUERAS|MAGADAN, JOSE RAMON|1035 CORBIN  
CIR SW||PALM BAY FL 32908-8182  
68|3020906|29 3613-50-A-10|MITCHEL, YERLYN Y|WAITE, STEVE L|1044 CORBIN CIR SW||PALM  
BAY FL 32908-8181  
69|3020918|29 3613-50-A-22|MORALES, CARLOS J SOTO|MORALES, IVELISSE MELENDEZ|948  
CORBIN CIR SW||PALM BAY FL 32908-8179  
70|2906955|29 3613-KK-\*-L|MP DEVELOPERS INC||1108 S RIVERSIDE DR||INDIALANTIC FL  
32903-3549  
71|2907414|29 3613-KK-1588-8|MULEY, NANDKISHOR||1340 RETREAT VIEW CIR||SANFORD FL  
32771-7278  
72|2907321|29 3613-KK-1583-3|MUNISAR, RAJAH S|MUNISAR, VEDA WATTIE DEVI|1136 PALERMO  
NW ST NW||PALM BAY FL 32907-7910  
73|3020908|29 3613-50-A-12|OCTAVIANI, GILBERTO R COLON||1028 CORBIN CIR SW||PALM BAY  
FL 32908-8181  
74|3020903|29 3613-50-A-7|PARIONA, MARCO||58 HENRY ST||PASSAIC NJ 07055-4010  
75|3020911|29 3613-50-A-15|PATEL, PURVANGBH K|PATEL, DIPAN P|1004 CORBIN CIR  
SW||PALM BAY FL 32908-8181  
76|2907382|29 3613-KK-1586-2|PRINGLE, SHARON|PRINGLE, TODD|3428 BARKER AVE||BRONX NY  
10467-5602  
77|2907290|29 3613-KK-1581-2|QUINN, ROBERT D||NORTHBRIDGE|2513 GARFIELD AVE|CLAYMONT  
DE 19703-  
78|2907368|29 3613-KK-1585-14|RAMOTAR, DEENDIAL|RAMOTAR, JASODA S|18 WOODLAND  
CT||KINNELON NJ 07405-2920  
79|3020909|29 3613-50-A-13|REGINA, SARAH|ESTABA, PEDRO X SUAREZ|1020 CORBIN CIR  
SW||PALM BAY FL 32908-8181  
80|2907411|29 3613-KK-1588-5|ROBAINA, MICHAEL J|ROBAINA, STEPHANIE L|443 FOUR WINDS  
ST SW||PALM BAY FL 32908-8106  
81|2907410|29 3613-KK-1588-4|ROBAINA, MICHAEL JAMES|ROBAINA, STEPHANIE LYNN|474 FOUR  
WINDS ST||PALM BAY FL 32908-  
82|2907311|29 3613-KK-1581-23|ROSE, L MORTON|ROSE, CAROL E|1063 LAKE BREEZE

DR||WELLINGTON FL 33414-7914  
83|2907386|29 3613-KK-1586-6|SAINT-FLEUR, GEORGES|SAINT-FLEUR, RONETTE|416 SW 74TH AVE||NORTH LAUDERDALE FL 33068-1443  
84|2906956|29 3613-KK-\*-M|SEALE, DAVID R|SEALE, ROXSANA T|742 ALFONSO AVE SE||PALM BAY FL 32909-4549  
85|3020995|29 3613-50-B-99|SHAFQUAT, SHOAB|SHAFQUAT, DAWN M|963 CORBIN CIR SW||PALM BAY FL 32908-8180  
86|3020900|29 3613-50-A-4|SINCLAIR, DEBORAH LEE||1092 CORBIN CIR SW||PALM BAY FL 32908-8181  
87|2907413|29 3613-KK-1588-7|SOLOMON, FRANK G|SOLOMON, JENNIFER V|251 STALLION ST||PALM BAY FL 32909-1178  
88|2907427|29 3613-KK-1588-21|SOLOMON, FRANK G|SOLOMON, JENNIFER V|251 STALLION ST||PALM BAY FL 32909-1178  
89|2907426|29 3613-KK-1588-20|SOLOMON, FRANK G|SOLOMON, JENNIFER V|251 STALLION ST||PALM BAY FL 32909-1178  
90|2907412|29 3613-KK-1588-6|SOLOMON, FRANK G|SOLOMON, JENNIFER V|251 STALLION ST||PALM BAY FL 32909-1178  
91|2907381|29 3613-KK-1586-1|SPELLMAN, MARY DANIEL||104 GEORGE ST||GAITHERSBURG MD 20877-1932  
92|3020994|29 3613-50-B-98|SPLONSKOWSKI, LEO ANTHONY|SPLONSKOWSKI, JANET MARIE|17252 280TH ST N||ULEN MN 56585-9205  
93|2907396|29 3613-KK-1587-3|ST LOUIS, BERNADETTE||1124 WILCOX RD SE||PALM BAY FL 32909-  
94|2907397|29 3613-KK-1587-4|ST LOUIS, BERNADETTE||1124 WILCOX RD SE||PALM BAY FL 32909-  
95|2907331|29 3613-KK-1583-13|STRICKLAND, DAVID A|STRICKLAND, RHONDA S|478 SAUL RD SW||PALM BAY FL 32908-  
96|3020917|29 3613-50-A-21|TORRES, JOSE A|TORRES, CYNTHIA N|956 CORBIN CIR SW||PALM BAY FL 32908-8179  
97|2907319|29 3613-KK-1583-1|TRAVIESO, REINALDO|TRAVIESO, LOURDES|1599 GAYNOR SW DR SW||PALM BAY FL 32908-8124  
98|3020902|29 3613-50-A-6|TREMBLAY, CHRISTOPHER DAVID|TREMBLAY, KRISTA|1076 CORBIN CIR SW||PALM BAY FL 32908-8181  
99|2907289|29 3613-KK-1581-1|VASSELL, MILDRED H TRUSTEE||1681 DOZIER CIR SE||PALM BAY FL 32909-  
100|2907317|29 3613-KK-1582-5|VENABLE, WILLIS L|VENABLE, JUNE|600 PACIFIC GROVE CT||VACAVILLE CA 95688-2516  
101|3020988|29 3613-50-B-92|VENTURA EMERSON LLC||402 N BABCOCK ST, STE 102||MELBOURNE FL 32935-7335  
102|2907373|29 3613-KK-1585-19|WILSON, DENNIS D|WILSON, CHARLES R|1302 SAINT ANDREWS DR||MEBANE NC 27302-7135  
103|2907333|29 3613-KK-1583-15|WJHFL LLC D/B/A WJH LLC||3091 GOVERNORS LAKE DR, STE 300||PEACHTREE CORNERS GA 30071-1133  
104|2907408|29 3613-KK-1588-2|WJHFL LLC D/B/A WJH LLC||3091 GOVERNORS LAKE DR, STE 300||PEACHTREE CORNERS GA 30071-1133  
105|3020915|29 3613-50-A-19|ZIZZO, BRANDON JEFFREY|ZIZZO, STEPHANIE GRACE|972 CORBIN SW CIR SW||PALM BAY FL 32908-8179

# Project Details: CPZ23-00002

## Project Type: Rezoning Comprehensive Plan Zoning Amendment

Project Location: UNKNOWN # 2700 ANNELEIGH CIR Palm Bay, FL  
Milestone: Submitted  
Created: 3/30/2023  
Description: Gaynor  
Assigned Planner: Alexandra Bernard

### Contacts

Contact	Information
Owner/Applicant	Jayshree Patel, MP DEVELOPERS INC 1108 S RIVERSIDE DR INDIALANTIC, FL 32903
Legal Representative	James Boothroyd 7640 N. Wickham Rd Melbourne, FL 32940 (321) 327-2993 jboothroyd73@gmail.com
Assigned Planner	Alexandra Bernard 120 Malabar Rd Palm Bay, FL 32907  alexandra.bernard@palmbayflorida.org
Submitter	James Boothroyd 2768 Snapdragon Dr. NW Palm Bay, FL 32907  jboothroyd73@gmail.com

### Fields

Field Label	Value
Block	*
Lot	L
Section Township Range	13-29-36
Subdivision	KK
Year Built	
Use Code	7000
Use Code Desc	VACANT LAND - INSTITUTIONAL

# Project Details: CPZ23-00002

LotSize	
Building SqFt	
Homestead Exemption	
Taxable Value Exemption	
Assessed Value	
Market Value	
Land Value	
Tax ID	2906955
Flu Description	Utilities
Flu Code	UTIL
Zoning Description	Institutional Use
Zoning Code	IU
Size of Area (acres)	
Present Use of Property	institutional ( vacant land )
Zoning Classification Desired	rs2
Structures On Property?	False
Intended Use of Property	single family residential
Justification for Change	BEST USE OF PROERTY TO CONFORM WITH NEIGHBORHOOD
Is Submitter the Representative?	False

April 14, 2023

Re: Letter of Authorization

As the property owner of the site legally described as:

Port Malabar Unit 32 Tract L / Tax account # 290655 / Parcel ID 29-36-13-KK-\*-L

I, Owner Name: MP Developers Inc.

Address: 1108 S Riverside Dr Indiatlantic, Fl 32903

Telephone:

Email:

hereby authorize:

Representative: James Boothroyd or Tony Pinto

Address: 7640 N. Wickham Rd #102 Melbourne, Fl 32940

Telephone: 321-536-6090

Email: jboothroyd73@gmail.com

to represent the request(s) for:

CP23-0003 & CPZ23-0002

(Property Owner Signature)

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 1<sup>st</sup> day of May, 20 23 by

Jayshree Patel, property owner.

Thomas Sisti, Notary Public

☐ Personally Known or ☒ Produced the Following Type of Identification:



THOMAS SISTI  
Notary Public, State of Florida  
Commission# HH 286385  
My comm. expires July 12, 2026

Florida Driver License



**Classified Ad Receipt**  
**(For Info Only - NOT A BILL)**

**Customer:** CITY OF PALM BAY

**Ad No.:** 0005744531

**Address:** SUITE 201  
PALM BAY FL 32907  
USA

**Pymt Method** Invoice

**Net Amount** 105.48

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 06/22/23

**Text of Ad:**

Ad#5744531 06/22/2023

CITY OF PALM BAY, FLORIDA  
NOTICE OF PUBLIC HEARING  
Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on July 5, 2023, and by the City Council on July 6, 2023, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):

1. CP23-00003 - MP Developers, Inc. (James Boothroyd, Weichert Realtors Hallmark Properties, Rep.)

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Utilities to Low Density Residential Tract L, Port Malabar Unit 32, Section 13, Township 29, Range 36, Brevard County, Florida; containing approximately 1.33 acres. Located east of and adjacent to Gaynor Drive SW, in the vicinity north of Four Winds Street SW

2. \*\*CP23-00002 - MP Developers, Inc. (James Boothroyd, Weichert Realtors Hallmark Properties, Rep.)

A Zoning Amendment from an IU, Institutional Use District to an RS-2, Single Family Residential District Tract L, Port Malabar Unit 32, Section 13, Township 29, Range 36, Brevard County, Florida; containing approximately 1.33 acres. Located east of and adjacent to Gaynor Drive SW, in the vicinity north of Four Winds Street SW

\*\*Indicates quasi-judicial request(s).

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or the City Council 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.

Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.

Jesse Anderson  
Assistant Growth Management Director



## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Alexandra Bernard, Principal Planner

**DATE:** July 5, 2023

**SUBJECT:** CP23-00013 - 4180 Minton Road - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from CC, Community Commercial (Brevard County) to Commercial. Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE

### ATTACHMENTS:

#### Description

- ▣ CaseCP23-00013 -- Staff Report
- ▣ CaseCP23-00013 -- Survey
- ▣ Case CP23-00013 -- CPP report
- ▣ Case CP23-00013 -- Application
- ▣ Case CP23-00013 -- Letter of Authorization
- ▣ Case CP23-00013 -- Legal Ad



# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

[landdevelopmentweb@palmabayflorida.org](mailto:landdevelopmentweb@palmabayflorida.org)

### Prepared by

Alix Bernard, Principal Planner

---

#### CASE NUMBER

CP23-00013

#### PLANNING & ZONING BOARD HEARING DATE

July 5, 2023

---

#### PROPERTY OWNER & APPLICANT

Bruce Coffman, Affordable Trailer  
Service & Supply, Inc. (Jeff Kuhn, Rep)

#### PROPERTY LOCATION/ADDRESS

Lot 2.01, Melbourne Poultry Colony Addition 1, Section  
24, Township 28, Range 36, Brevard County, Florida;  
containing approximately 2.11 acres. Located west of  
and adjacent to Minton Rd, in the vicinity of Palm Bay  
Rd NE; Tax Account 2806116

---

#### SUMMARY OF REQUEST

The applicant is requesting a small scale Future Land Use map  
amendment from CC Community Commercial (Brevard County) to  
Commercial.

##### Existing Zoning

BU-1 General Retail Commercial (Brevard County)

##### Existing Land Use

CC Community Commercial (Brevard County)

##### Site Improvements

Office Building

##### Site Acreage

2.11 acres

---

#### SURROUNDING FUTURE LAND USE & USE OF LAND

##### North

RES 2, Residential 2 & NC Neighborhood Commercial (Brevard  
County); Single-Family Homes & Office Building

##### East

COM, Commercial (West Melbourne); Retail Plaza

##### South

COM, Commercial; Retail

##### West

RES 2, Residential 2 (Brevard County); Single-Family Homes

---



**BACKGROUND:**

The subject parcel is located west of and adjacent to Minton Road, in the vicinity south of Hield Road. There is one parcel totaling 2.11 acres included in this request, which is comprised of one existing commercial retail building owned and occupied by the applicant, Affordable Trailer Service & Supply Inc.

The applicant is requesting to change the Future Land Use of this property from CC Community Commercial (Brevard County) to Commercial (City of Palm Bay). This request is in conjunction with a voluntary annexation request for the same parcel, which is scheduled to be heard at the July 20, 2023 Regular Council Meeting. **ANALYSIS:**

Per Chapter 183: Comprehensive Plan Regulations, Section 183.01(B), the purpose and intent of the Comprehensive Plan is to encourage the most appropriate use of land and resources to promote the health, safety, and welfare of the community.

**1. FUTURE LAND USE ELEMENT**

The Comprehensive Plan (Plan) FLU Element Goal FLU-1 is to ensure a high-quality, diversified living environment through the efficient distribution of compatible land uses.

Objective FLU-1.4 Provide and maintain FLUCs and zoning districts that would accommodate a diverse range of nonresidential activities of varying types and sizes.

The subject property is located west of and adjacent to Minton Rd, in the vicinity south of Hield Rd. There is one parcel for a total of 2.11 acres. This parcel currently has a Future Land Use of Community Commercial, which is a Brevard County Future Land Use Classification.

The request to change the Future Land Use from Community Commercial (Brevard County) to Commercial (City of Palm Bay) is in alignment with the objective FLU-1.4 of the Comprehensive Plan, as this would be compatible with the surrounding area, which is predominantly commercially.

Furthermore, the proposed Future Land Use change will allow the opportunity for more commercial in an already established major commercial intersection. T

## 2. CONSERVATION ELEMENT

The environmental character of the City is maintained through conservation, appropriate use, and protection of natural resources.

No protected species are known to inhabit the subject property. Any protected species that would be found on the subject property would need to be mitigated as required by State and Federal regulations and per Comprehensive Plan Policy CON-1.6A.

**Coastal Management:** The subject property is not located within the Coastal Management Area.

## 3. HOUSING ELEMENT

The goal HSG -1 of the Housing element in the Comprehensive Plan is to cultivate a diverse, safe and affordable housing stock with meets the needs of all currently and future residents of Palm Bay.

The proposed FLU amendment will not have an impact the supply and variety of safe, decent, attractive, and affordable housing within the city as the request is for a commercial land use.

## 4. INFRASTRUCTURE ELEMENTS

The city evaluates present and future water, sewer, drainage, and solid waste and assesses the ability of infrastructure to support development.

**Utilities:** The FLU change will not cause the level of service to fall below the standards adopted in the Comprehensive Plan for these services for the current planning period. This property is already developed and would retain its existing use.

**Drainage:** This property is already developed and would retain its existing use. The property already meets drainage requirements.

## 5. INTERGOVERNMENTAL COORDINATION ELEMENT

**Public Schools:** The proposed FLU amendment to Commercial will not add the potential of any additional housing units. As such, a School Concurrency application is not required per the Interlocal Agreement with Brevard Public Schools.

#### 6. RECREATION AND OPEN SPACE ELEMENT

The proposed FLU amendment to Commercial will have a de minimis impact on the demand for recreation services.

#### 7. TRANSPORTATION ELEMENT

The objectives of the Comprehensive Plan's Transportation Element are to provide a safe, balanced, efficient transportation system that adequately serves the needs of all residents and visitors of Palm Bay. If developed, a traffic impact analysis may be required to determine any negative impacts on the existing transportation system along with any suggested improvements, which will be taken under consideration during the subdivision review/approval process.

#### 8. PROPERTY RIGHTS ELEMENT

The goal of the Comprehensive Plan's Property Rights Element is for the City to respect judicially acknowledged and constitutionally protected private property rights.

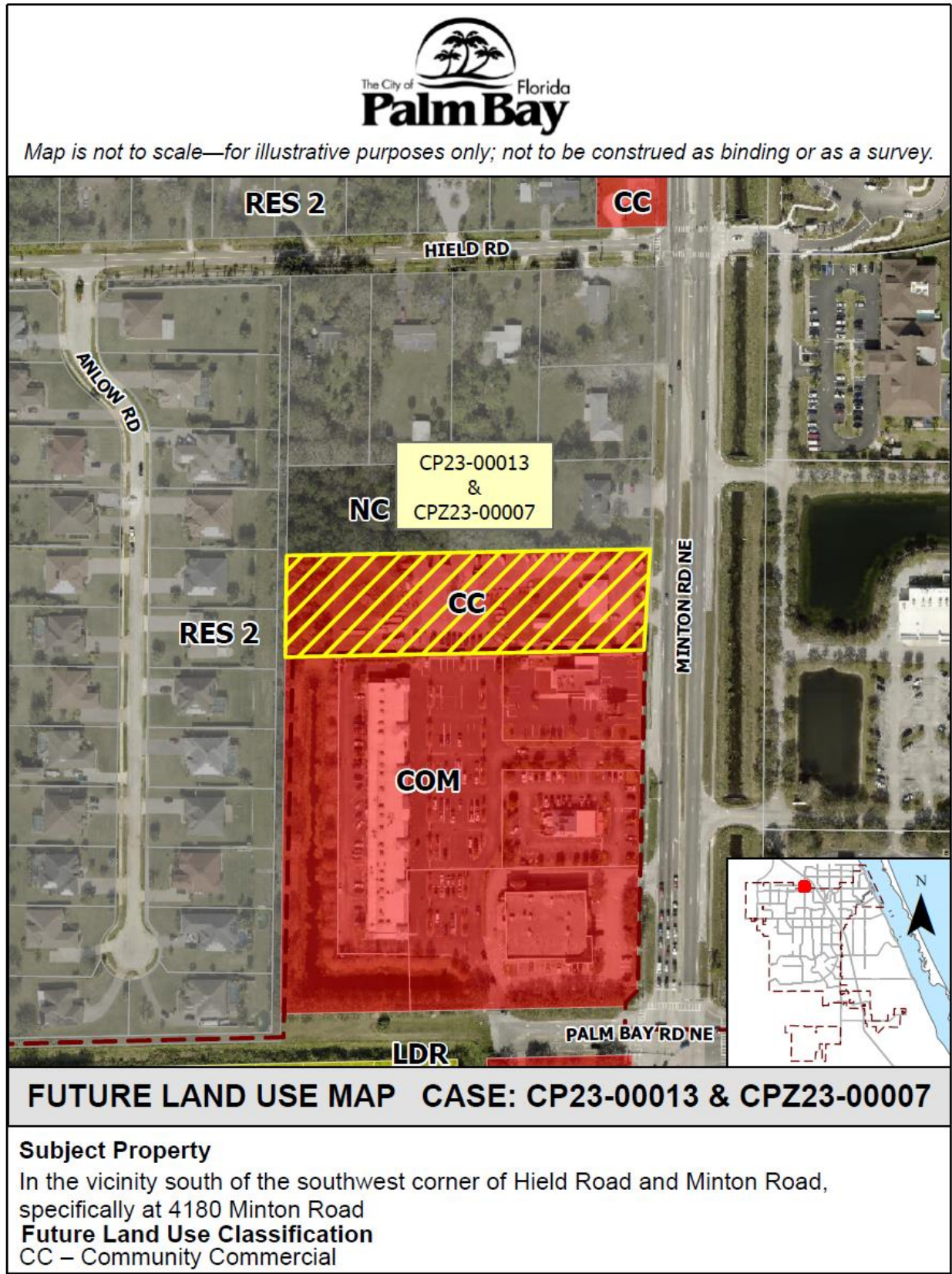
This proposed land-use change does not appear to infringe upon the property rights of the applicant.

#### **STAFF FINDINGS:**

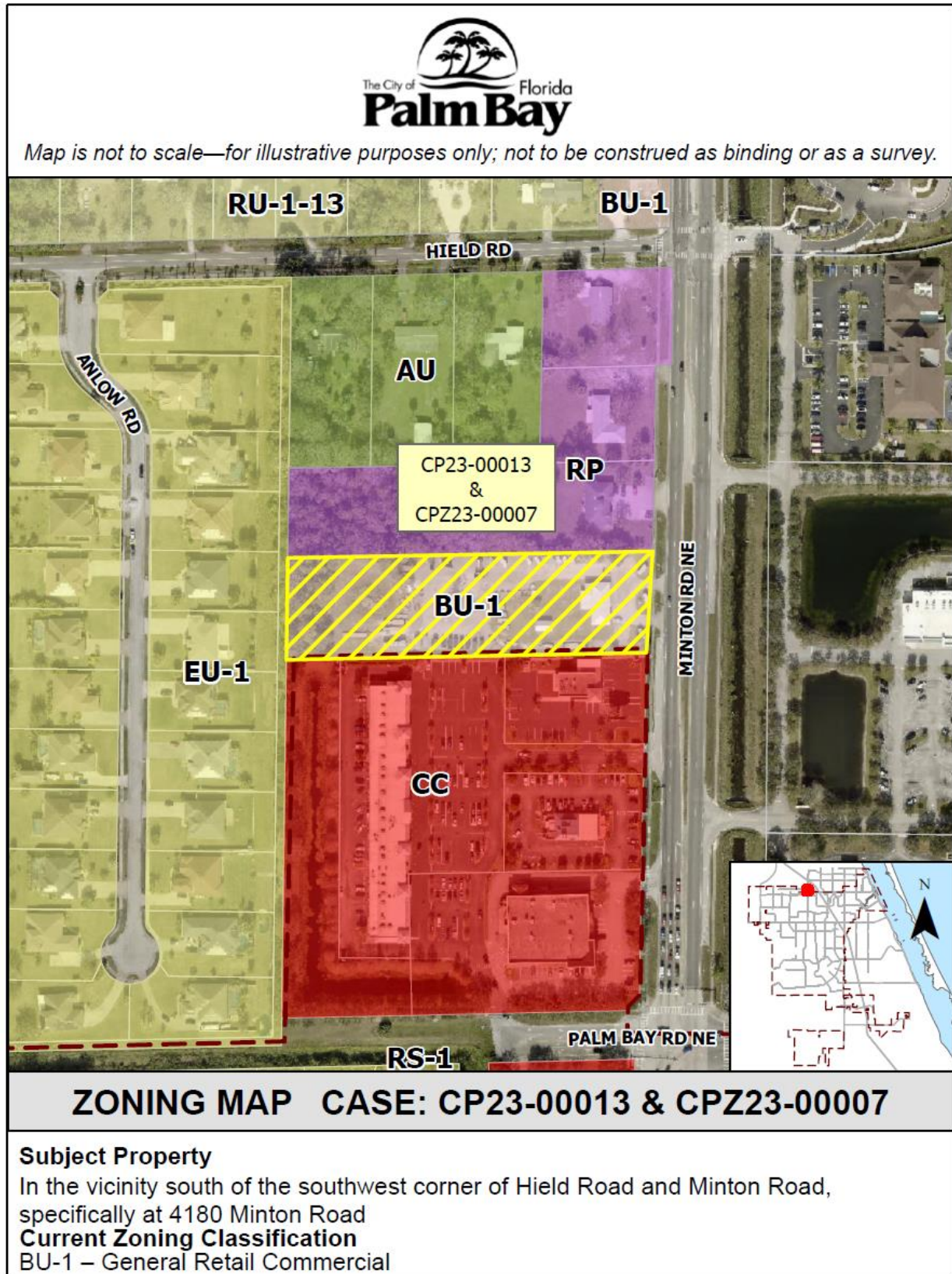
Staff recommends Case CP23-00013 for approval.







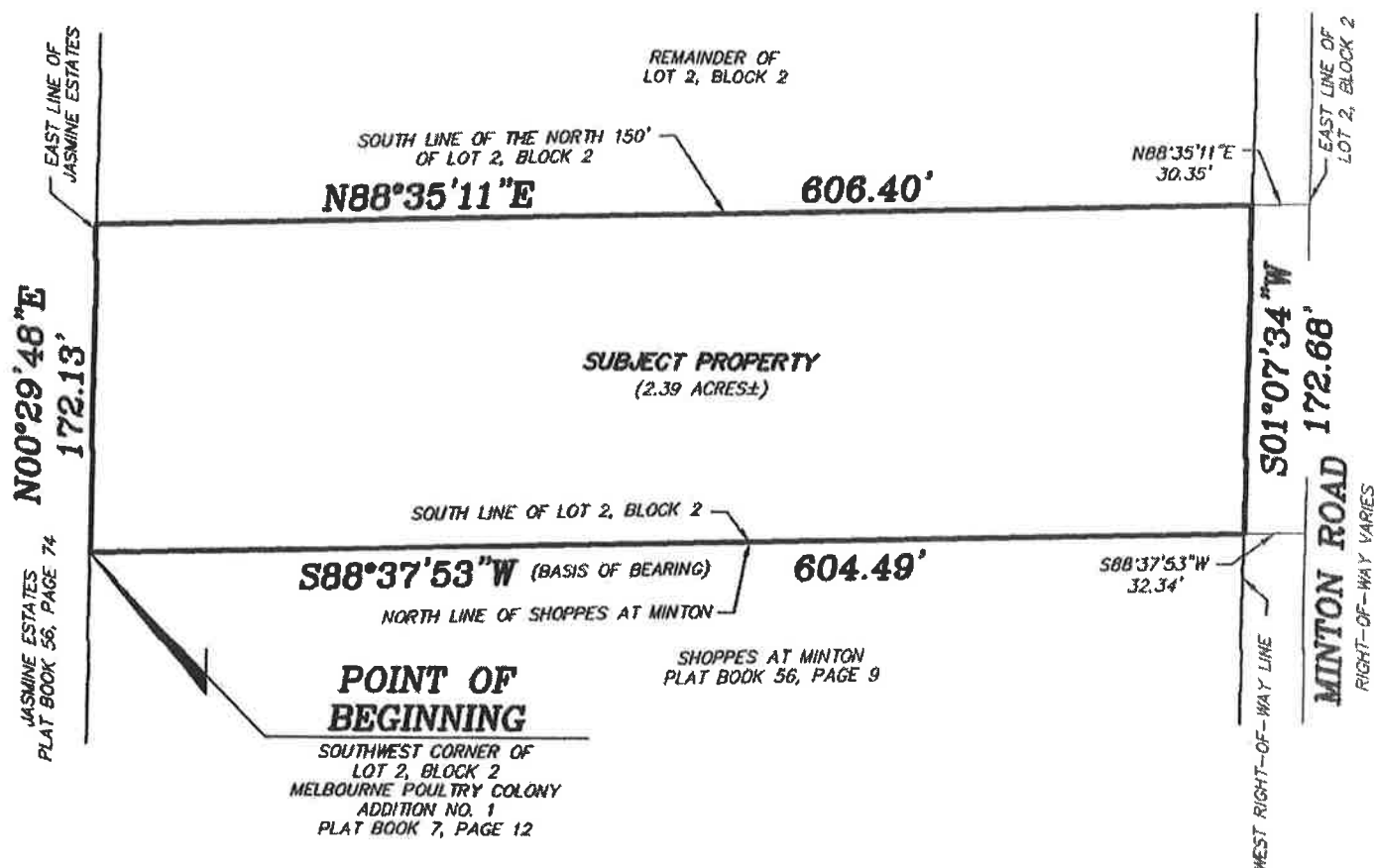




**DESCRIPTION:**

A PORTION OF LOT 2, BLOCK 2, MELBOURNE POULTRY COLONY ADDITION NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 12, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID LOT 2, BLOCK 2; THENCE NORTH 00°29'48" EAST ALONG THE EAST LINE OF JASMINE ESTATES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 12, A DISTANCE OF 172.13 FEET; THENCE NORTH 88°35'11" EAST ALONG THE SOUTH LINE OF THE NORTH 150 FEET OF SAID LOT 2, BLOCK 2, A DISTANCE OF 606.40 FEET; THENCE SOUTH 01°07'34" WEST ALONG THE WEST RIGHT-OF-WAY LINE OF MINTON ROAD, A DISTANCE OF 172.68 FEET; THENCE SOUTH 88°37'53" WEST ALONG THE NORTH LINE OF SHOPPES AT MINTON, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 56, PAGE 9, A DISTANCE OF 604.49 FEET TO THE POINT OF BEGINNING. CONTAINING 2.39 ACRES, MORE OR LESS.



**SKETCH OF DESCRIPTION ONLY! THIS IS NOT A SURVEY!**

# AAL LAND SURVEYING SERVICES, INC.

SKETCH OF DESCRIPTION

JOB # 40761

DATE: 9-19-22  
SECTION 24, TOWNSHIP 28S, RANGE 36E

L.B. #6623

1. THIS SKETCH AND DRAFTING HAVE BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 53-12, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.  
2. BEARINGS ARE BASED ON ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.

Prepared by  
Andrew W. Povshok  
Date: 9/22/22

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

SHEET 1 OF 1

SCALE: 1" = 100'





## CITIZEN PARTICIPATION PLAN REPORT

Applicant should follow established Citizen Participation Plan as specified in §169.005 CITIZEN PARTICIPATION PLANS.

CASE DETAILS	
Applicant Name:	BRUCE COFFMAN AS DIRECTOR OF AFFORDABLE TRAILER SERVICE AND SUPPLY, INC.
Project Name:	" "
Case Type:	ANNEXATION INTO CITY OF PB
Case Description:	" "
Intended Month of Submission:	JUNE 2023

### INFORMATION ON THE CITIZEN PARTICIPATION PLAN MEETING

Notice to the Public (Date):	MAY 1, 2023
Date CPP was Held:	MAY 8, 2023
Location of the Meeting:	HYATT PLACE PALM BAY
Number of Attendees:	0





**DENOTE ANY ADVERSE COMMENTS/COMPLAINTS/ CONCERNS/ ISSUES RECEIVED AND DESCRIBE RESOLUTION OR PROVIDE JUSTIFICATION IF THE APPLICANT IS UNABLE OR UNWILLING TO ADDRESS THE ISSUE:**

[illegible]



LIST OF ATTENDEES



Number	Name of attendee	Number	Name of attendee
1.		2.	
3.		4.	
5.		6.	
7.		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.	



**ADDITIONAL DOCUMENTS REQUIRED WITH CITIZEN PARTICIPATION PLAN REPORT SUBMISSION**

1. Copy of notice sent (separate attachment) *- ALREADY HAVE ON FILE*
  - All the property owners within a 500-foot radius of the subject parcel shall be informed about the meeting date, time, location, and project.
2. Material distributed or presented at the meeting (separate attachment)

**I hereby certify that information provided as part of this report is correct.**

**Signature**

A handwritten signature in blue ink, appearing to read "J. Cole Oliver".

**Typed Name and Title**

J. Cole Oliver

**Date**

6/7/2023



516 Delannoy Avenue  
Cocoa, Florida 32922  
Telephone: 321-632-4710  
[cole@eksdevelopment.com](mailto:cole@eksdevelopment.com)

May 1, 2023

FIRST CLASS U.S. MAIL

RE: **Notice of Citizen Informational Meeting on Monday, May 8, 2023, at 6:00 PM**  
**Applicant:** Affordable Trailer Service and Supply, Inc.  
**Project Site Address:** 4180 Minton Road  
**Zoning Request:** Commercial (Continue existing use; zoning required in conjunction with annexation into the City of Palm Bay).

Dear Neighbor:

Affordable Trailer and Service and Supply, Inc. will submit a conditional use application requesting approval for Commercial (Continue existing use; zoning required in conjunction with annexation into the City of Palm Bay) no later than May 9, 2023, to the City of Palm Bay. On behalf of Affordable Trailer and Service and Supply, Inc., I am inviting you to an informational meeting to discuss the zoning request, answer any questions you may have, and record any feedback you may have to offer, which we will then present to City Staff, the Planning and Zoning Board, and City Commission as we move through the review and public hearing process for this request.

If you have any questions you wish to submit in advance of the meeting, we would appreciate the opportunity to review them in advance to be sure we bring the appropriate information to answer any of your questions or address your concerns at the meeting. The meeting is scheduled as follows:

DATE: May 8, 2023  
TIME: 6:00 PM-7:00 PM  
PLACE: Hyatt Place  
1435 Sportsman Lane NE  
Palm Bay, FL 32907

We hope to see you there. In the interim, please do not hesitate to contact me via email at [cole@eksdevelopment.com](mailto:cole@eksdevelopment.com).

Best regards,

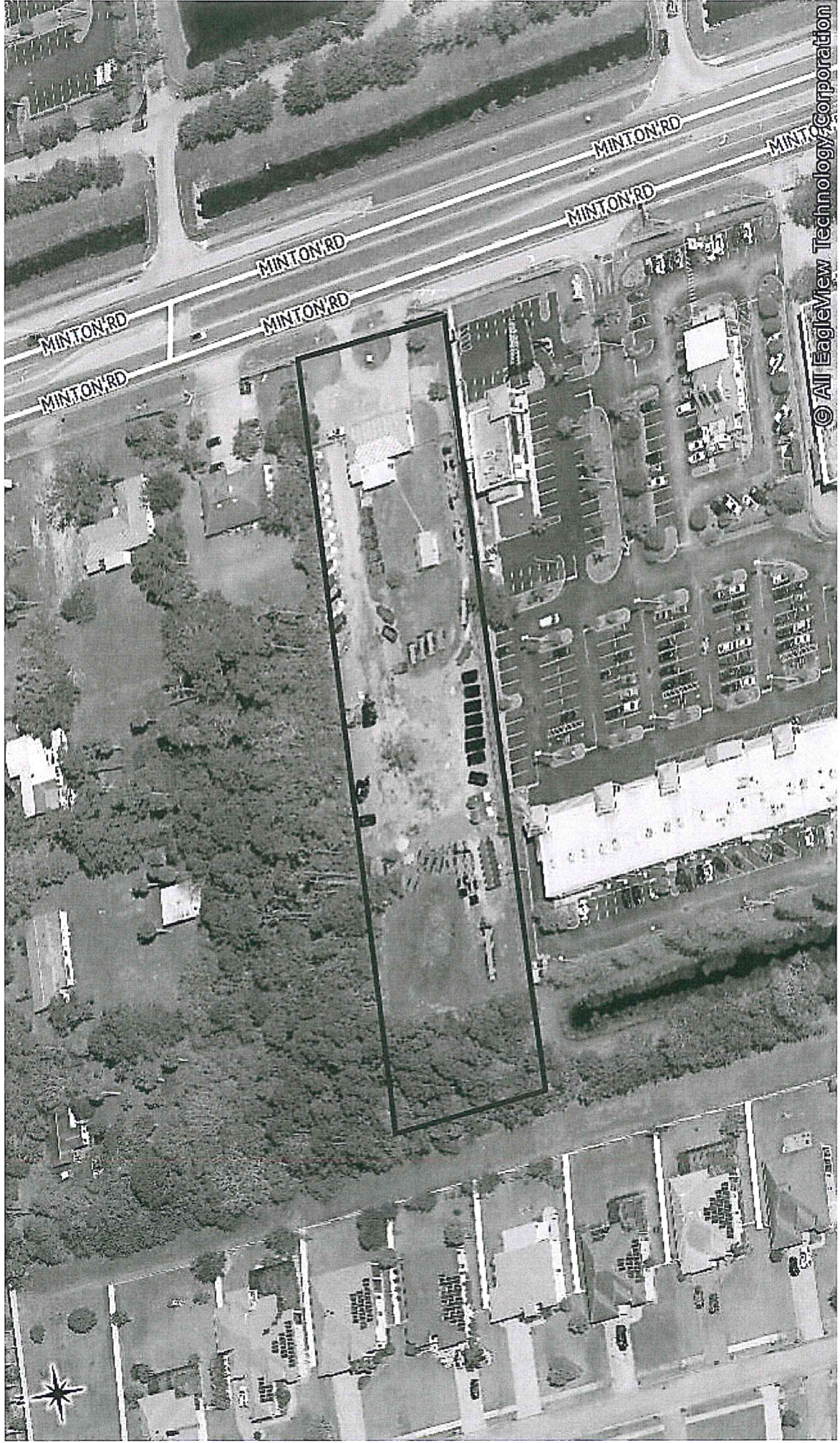
A handwritten signature in black ink, appearing to read "Cole Oliver", written over a horizontal line.

Cole Oliver

Enclosures



# 4180 Minton Road



TAX PARCEL : 2806116



# Project Details: CP23-00013

## Project Type: Comprehensive Plan Future Land Use Map

Project Location: **Palm Bay, FL**  
Milestone: **Submitted**  
Created: **6/5/2023**  
Description: **4180 Minton Road**  
Assigned Planner: **Alexandra Bernard**

### Contacts

Contact	Information
Legal Representative	Kuhn, Jeff 1834 NW 32nd Place Cape Coral, FL 33993 (239) 766-9428 kuhncontracting@yahoo.com
Owner/Applicant	Bruce Coffman, Affordable Trailer Service & Supply, Inc. 4180 Minton Road Melbourne, FL 32904 (772) 205-7482 affordabletrailersupply@yahoo.com
Submitter	
Owner	Bruce Coffman 7040 U.S. Highway 1 Vero Beach, FL 32967 (772) 205-7482 affordabletrailersupply@yahoo.com
Assigned Planner	Alexandra Bernard 120 Malabar Rd Palm Bay, FL 32907  alexandra.bernard@palmbayflorida.org

### Fields

Field Label	Value
Block	2
Lot	2.01
Section Township Range	24-28-36
Subdivision	FA

# Project Details: CP23-00013

Year Built	
Use Code	
Use Code Desc	
LotSize	
Building SqFt	
Homestead Exemption	
Taxable Value Exemption	
Assessed Value	
Market Value	
Land Value	
Tax ID	
Flu Description	
Flu Code	
Zoning Description	
Zoning Code	
Is Submitter the Representative?	False
Parcel Number(s)	28-36-24-FA-2-2.01
Tax Account Number(s)	2806116
Present Use of Property	retail sales with office
Project Scale	Small Scale (50 acres or less)
Specific Use Intended for Property	continue existing use and future redevelopment
Development Submitted?	False
Rezoning Submitted?	False
List Structures	1800 sq. ft. office building
Structures On Property?	True
Proposed Land Use Classification	Commercial
Present Land Use Classification	CC county land use
Justification for Change	In conjunction with annexation

## Project Details: CP23-00013

Total Acreage	
Ordinance Number	
Subdivision Name	



June 15, 2022

Re: Letter of Authorization

As the property owner of the site legally described as:

Parcel ID: 28-36-24-FA-2-2.01

I, Owner Name: Affordable Trailer Service & Supply, Inc.

Address: 4180 Minton Rd, Melbourne FL 32904

Telephone: 772-205-8904

Email: Affordable Trailer Supply at yahoo.com

hereby authorize:

Representative: Jeff Kuhn

Address: 1834 NW 32<sup>nd</sup> Place Cape Coral, FL 33993

Telephone: 239-766-9428

Email: Kuhn Contracting @ yahoo.com

to represent the request(s) for:

Annexation and Zoning for Commercial Use AND Land Use Map Amendment Application

*[Signature]*

(Property Owner Signature)

STATE OF Florida

COUNTY OF Indian River

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 26 day of August, 2022 by

Bruce Coffman, property owner.



J HARDING EVANS  
Commission # GG 311018  
Expires March 14, 2023  
Rendezvous Budget Notary Services

*[Signature]*

J. HARDING EVANS, Notary Public

☐ Personally Known or ☒ Produced the Following Type of Identification:

FL Dr License



**Classified Ad Receipt**  
**(For Info Only - NOT A BILL)**

**Customer:** CITY OF PALM BAY  
**Address:** SUITE 201  
PALM BAY FL 32907  
USA

**Ad No.:** 0005744465  
**Pymt Method** Invoice  
**Net Amount** 212.94

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 06/22/23

**Text of Ad:**

Ad#5744465 06/22/2023  
CITY OF PALM BAY, FLORIDA  
NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on July 5, 2023, and by the City Council on July 20, 2023, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):

**1. FS23-00004 - DRP FL 6, LLC, Brian Clauson (Ana Saunders, P.E., BSE Consultants, Inc., Rep.)**

Final Plat approval to allow for a proposed 41-lot single-family residential subdivision called Timbers at Everlands Phase 1B

A replat of a portion of Tract FD.1 together with Tract FD.2, all in Timbers at Everlands Phase 1A, Section 28, Township 28, Range 36, Brevard County, Florida, containing approximately 10.47 acres. Located at the northeast corner of St. Johns Heritage Parkway NW and Pace Drive NW

**2. CP23-00013 - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.)**

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from CC, Community Commercial (Brevard County) to Commercial

Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE

**3. \*\*CP23-00007 - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.)**

A Zoning Amendment from BU-1, General Retail Commercial (Brevard County) to a CC, Community Commercial District

Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE

**4. CP23-00010 - Cole Oliver, West Malabar Properties, LLC**

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from RES 2 Residential 2 (Brevard County) to Commercial

Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE

**5. \*\*CP23-00006 - Cole Oliver, West Malabar Properties, LLC**

A Zoning Amendment from RP, Residential Professional and AU, Agricultural Residential (Brevard County) to a CC, Community Commercial District

Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE

**\*\*Indicates quasi-judicial request(s).**

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or the City Council 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.

Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.

Jesse Anderson  
Assistant Growth Management Director



## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Alexandra Bernard, Principal Planner

**DATE:** July 5, 2023

**SUBJECT:** \*\*CPZ23-00007 - 4180 Minton Road - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.) - A Zoning Amendment from BU-1, General Retail Commercial (Brevard County) to a CC, Community Commercial District. Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE

\*\*Quasi-Judicial Proceeding.

### ATTACHMENTS:

#### Description

- ▣ CPZ23-00007 -- Staff Report
- ▣ CPZ23-00007 -- Survey
- ▣ CPZ23-00007 -- CPP Report
- ▣ CPZ23-00007 -- Application
- ▣ CPZ23-00007 -- Letter of Authorization
- ▣ CPZ23-00007 -- Legal Ad



# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

[landdevelopmentweb@palmbayflorida.org](mailto:landdevelopmentweb@palmbayflorida.org)

### Prepared by

Alix Bernard, Principal Planner

---

#### CASE NUMBER

CPZ23-00007

#### PLANNING & ZONING BOARD HEARING DATE

July 5, 2023

---

#### PROPERTY OWNER & APPLICANT

Bruce Coffman, Affordable Trailer  
Service & Supply, Inc. (Jeff Kuhn, Rep)

#### PROPERTY LOCATION/ADDRESS

Lot 2.01, Melbourne Poultry Colony Addition 1, Section  
24, Township 28, Range 36, Brevard County, Florida;  
containing approximately 2.11 acres. Located west of  
and adjacent to Minton Rd, in the vicinity of Palm Bay  
Rd NE; Tax Account 2806116

---

#### SUMMARY OF REQUEST

The applicant is requesting a Rezoning from BU-1 General Retail  
Commercial (Brevard County) to CC, Community Commercial.

##### Existing Zoning

BU-1 General Retail Commercial (Brevard County)

##### Existing Land Use

CC Community Commercial (Brevard County)

##### Site Improvements

Retail Building

##### Site Acreage

2.11 acres

---

#### SURROUNDING ZONING & USE OF LAND

##### North

RP, Residential Professional (Brevard County); Office Building

##### East

C-1, Low Density Commercial (West Melbourne); Retail Plaza

##### South

CC, Community Commercial; Retail

##### West

EU-1 Estate Use Residential (Brevard County); Single-Family  
Homes

---

**BACKGROUND:**

The subject parcel is located west of and adjacent to Minton Road, in the vicinity south of Hield Road. There is one parcel totaling 2.11 acres included in this request, which is comprised of one existing commercial retail building owned and occupied by the applicant, Affordable Trailer Service & Supply Inc.

This request is for a rezoning from BU-1 General Retail Commercial (Brevard County) to Community Commercial. This request is in conjunction with a voluntary annexation request for the same parcel, which is scheduled to be heard at the July 20, 2023 Regular Council Meeting. .

No homes are proposed to be developed, therefore a school concurrency determination from the School Board of Brevard County is not required.

**ANALYSIS:**

The following analysis is per Chapter 185: Zoning Code, Section 185.201(C) which states that all proposed amendments shall be submitted to the Planning and Zoning Board, which shall study such proposals in accordance with items 1 through 4 of Section 185.201(C).

**Item 1 - *The need and justification for the change.***

The applicant states the justification for the change is ‘the proposed zoning classification will meet the current needs for the property’. Per the Land Development Code, the Community Commercial zoning district shall be in areas that are deemed to be uniquely suited for development. This area already has established commercial in the surrounding area and is located along a major roadway within the City and Brevard County, making it uniquely suitable for such rezoning.

**Item 2 - *When pertaining to the rezoning of land, the effect of the change, if any, on the particular property and on surrounding properties.***

The designation of the Community Commercial zoning district for the subject property is compatible with the surrounding area, and its already established commercial activity, and is consistent with the City’s desire and plan for the expansion of Commercial development.

**Item 3 - *When pertaining to the rezoning of land, the amount of undeveloped land in the general area and in the City having the same classification as that requested.***

There are a few undeveloped lots with CC, Community Commercial zoning in the general area and throughout the city.

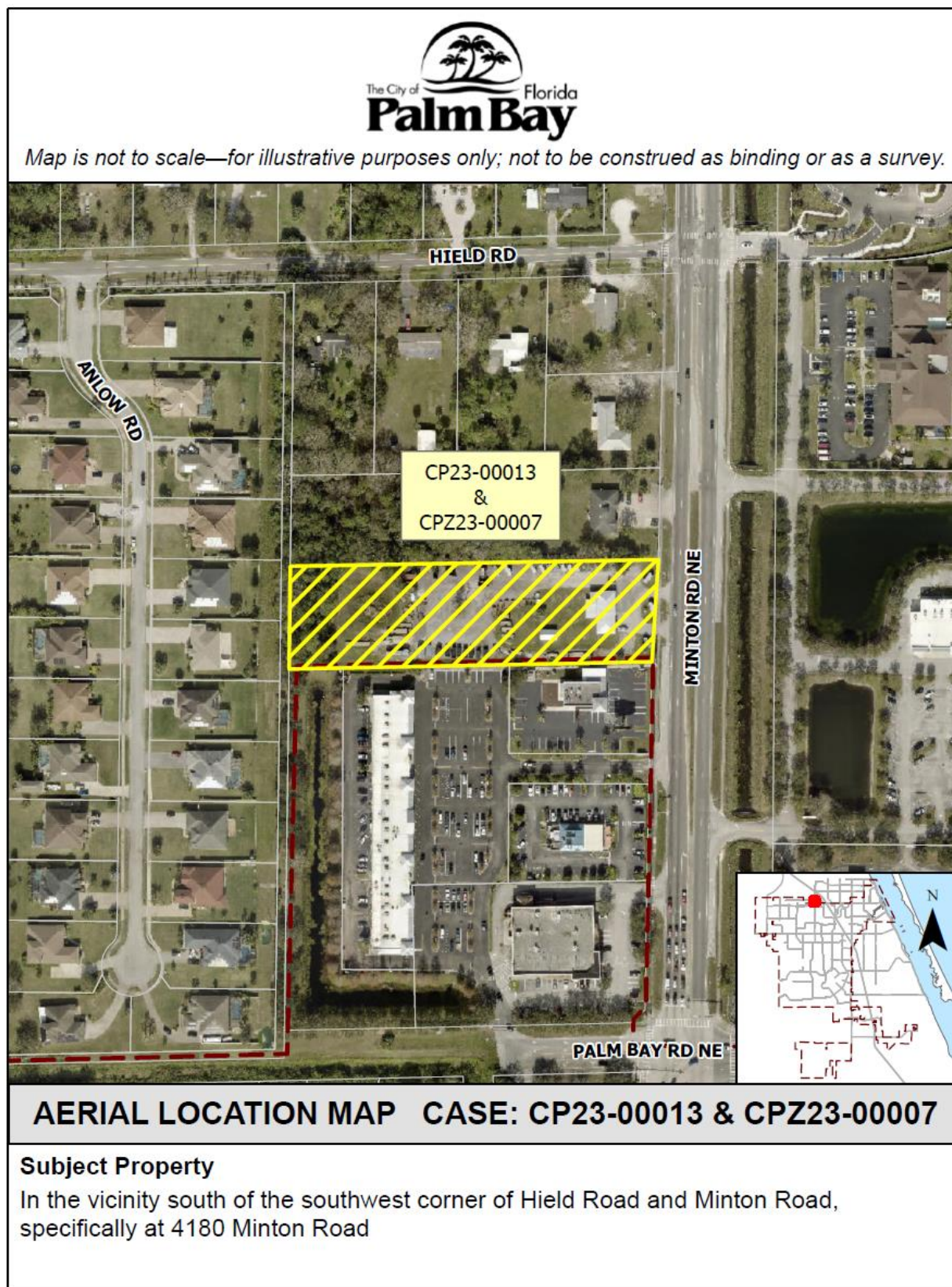
**Item 4** - *The relationship of the proposed amendment to the purpose of the city plan for development, with appropriate consideration as to whether the proposed change will further the purposes of this chapter and the Comprehensive Plan (Plan).*

The proposed amendment will further the purposes of Chapter 185, the Comprehensive Plan.

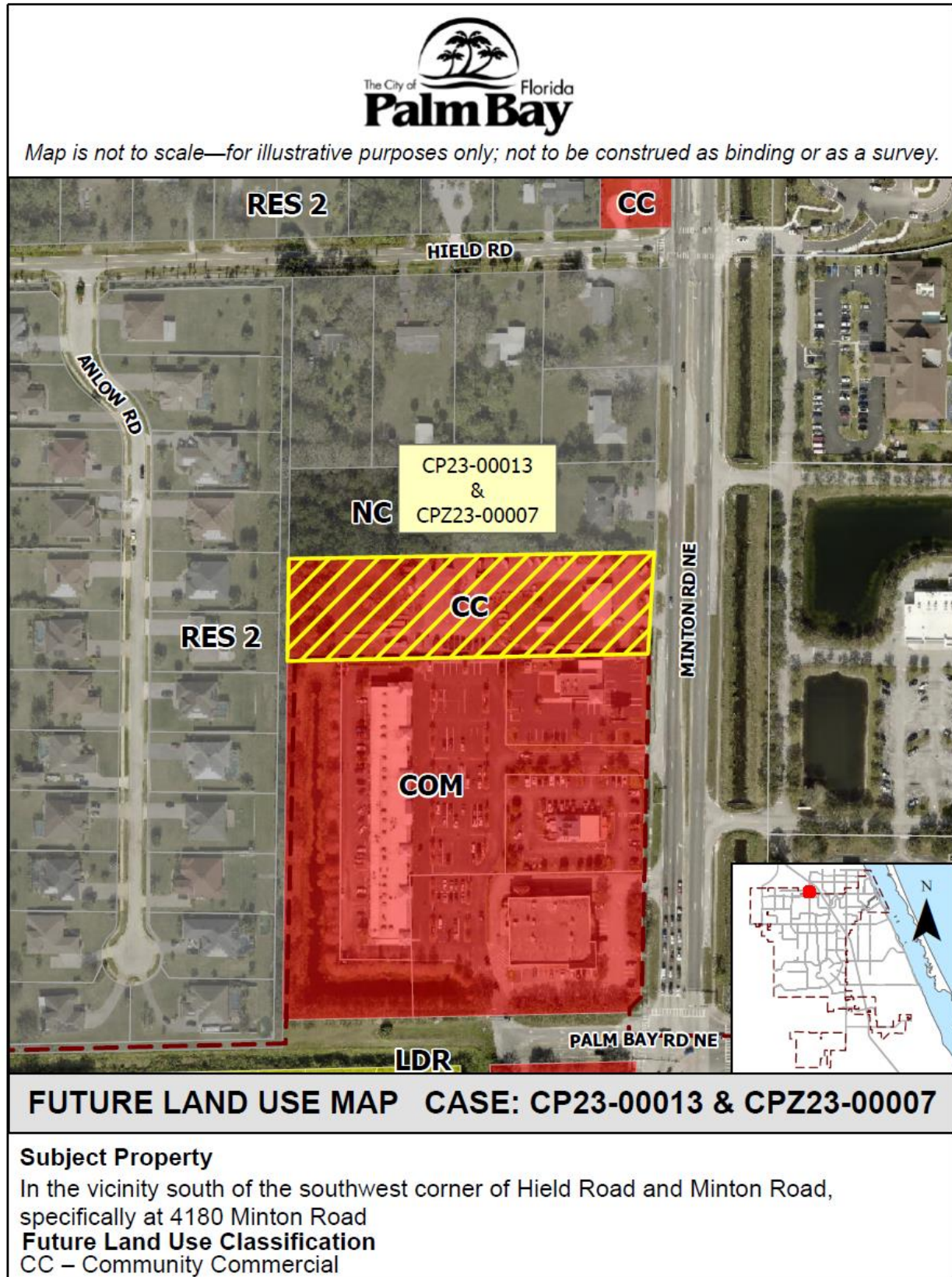
**STAFF RECOMMENDATION:**

Staff recommends Case CPZ23-00007 for approval.

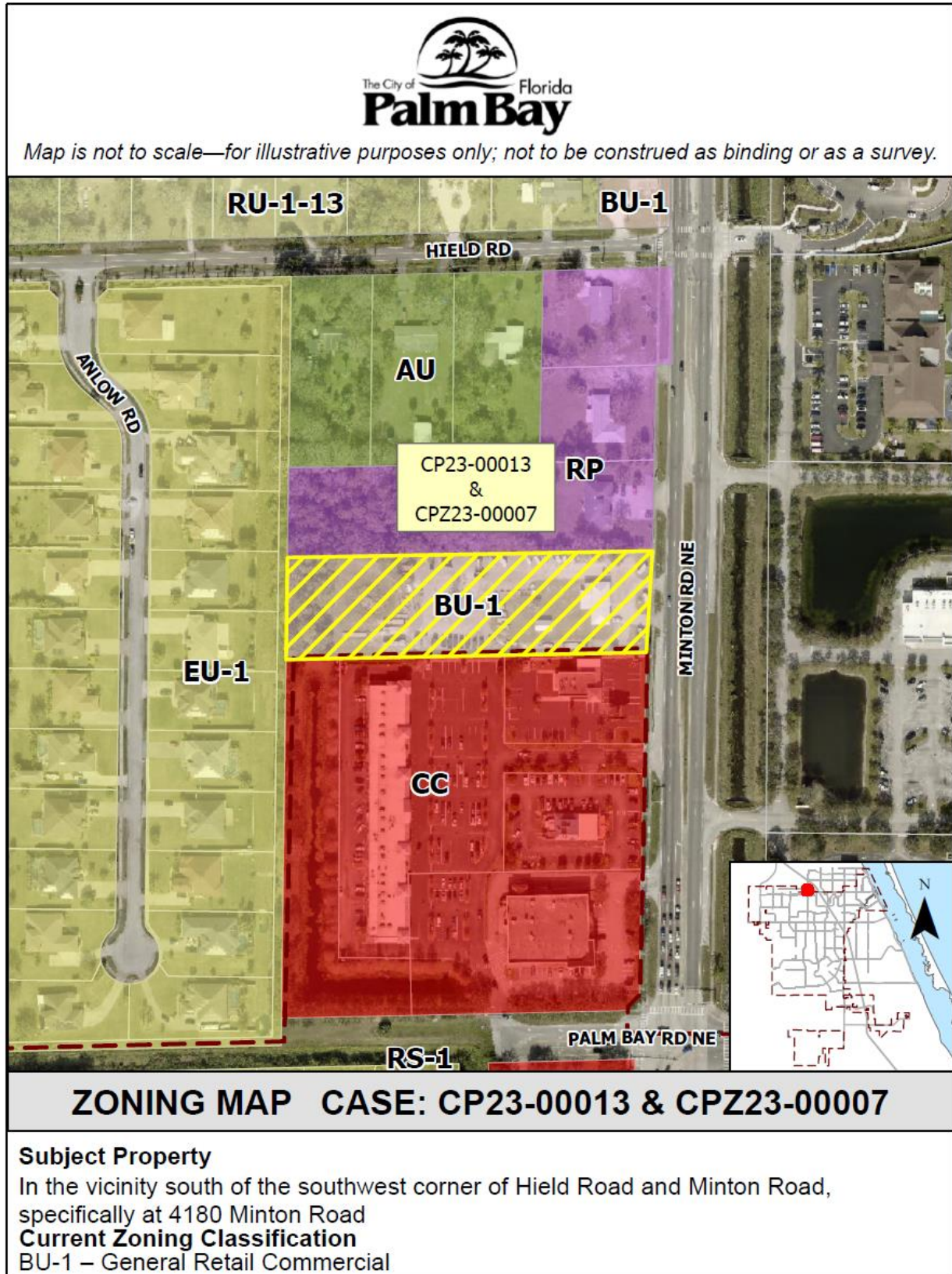








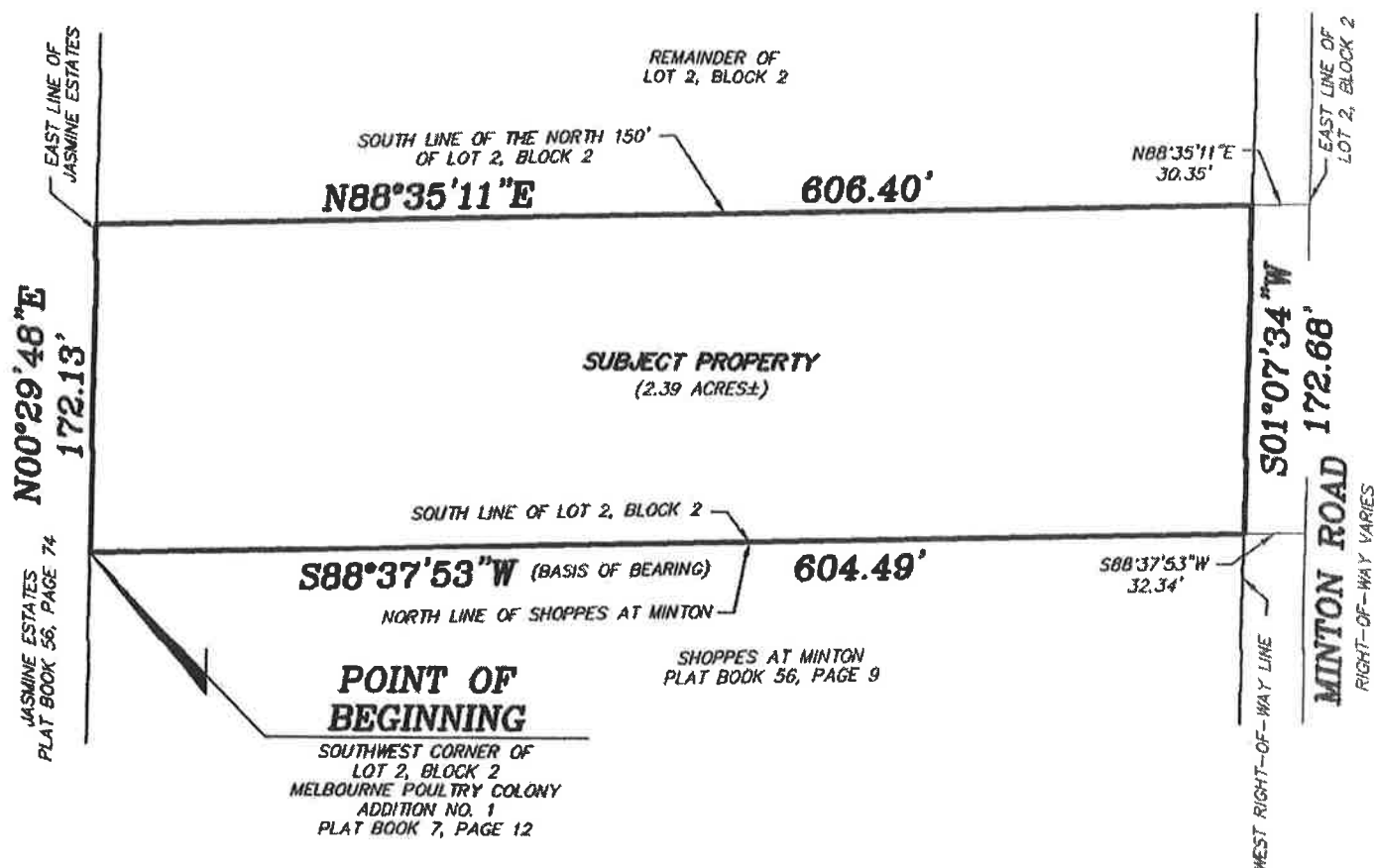




**DESCRIPTION:**

A PORTION OF LOT 2, BLOCK 2, MELBOURNE POULTRY COLONY ADDITION NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 12, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID LOT 2, BLOCK 2; THENCE NORTH 00°29'48" EAST ALONG THE EAST LINE OF JASMINE ESTATES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 12, A DISTANCE OF 172.13 FEET; THENCE NORTH 88°35'11" EAST ALONG THE SOUTH LINE OF THE NORTH 150 FEET OF SAID LOT 2, BLOCK 2, A DISTANCE OF 606.40 FEET; THENCE SOUTH 01°07'34" WEST ALONG THE WEST RIGHT-OF-WAY LINE OF MINTON ROAD, A DISTANCE OF 172.68 FEET; THENCE SOUTH 88°37'53" WEST ALONG THE NORTH LINE OF SHOPPES AT MINTON, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 56, PAGE 9, A DISTANCE OF 604.49 FEET TO THE POINT OF BEGINNING. CONTAINING 2.39 ACRES, MORE OR LESS.



SKETCH OF DESCRIPTION ONLY! THIS IS NOT A SURVEY!

# AAL LAND SURVEYING SERVICES, INC.

SKETCH OF DESCRIPTION

JOB # 40761

DATE: 9-19-22  
SECTION 24, TOWNSHIP 28S, RANGE 36E

L.B. #6623

1. THIS SKETCH AND DRAWING HAVE BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 53-12, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.  
2. BEARINGS ARE BASED ON ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.

Prepared by  
Andrew W. Povshok  
Date: 9/22/22

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

SHEET 1 OF 1

SCALE: 1" = 100'



REGISTERED LAND SURVEYOR



## CITIZEN PARTICIPATION PLAN REPORT

Applicant should follow established Citizen Participation Plan as specified in §169.005 CITIZEN PARTICIPATION PLANS.

CASE DETAILS		BRUCE COFFMAN AS DIRECTOR OF
Applicant Name:		AFFORDABLE TRAILER SERVICE AND SUPPLY, INC.
Project Name:	"	"
Case Type:		ANNEXATION INTO CITY OF PB
Case Description:	"	"
Intended Month of Submission:		JUNE 2023

### INFORMATION ON THE CITIZEN PARTICIPATION PLAN MEETING

Notice to the Public (Date):	MAY 1, 2023
Date CPP was Held:	MAY 8, 2023
Location of the Meeting:	HYATT PLACE PALM BAY
Number of Attendees:	0





**DENOTE ANY ADVERSE COMMENTS/COMPLAINTS/ CONCERNS/ ISSUES RECEIVED AND DESCRIBE RESOLUTION OR PROVIDE JUSTIFICATION IF THE APPLICANT IS UNABLE OR UNWILLING TO ADDRESS THE ISSUE:**

[illegible]



LIST OF ATTENDEES



Number	Name of attendee	Number	Name of attendee
1.		2.	
3.		4.	
5.		6.	
7.		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.	



**ADDITIONAL DOCUMENTS REQUIRED WITH CITIZEN PARTICIPATION PLAN REPORT SUBMISSION**

1. Copy of notice sent (separate attachment) *- ALREADY HAVE ON FILE*
  - All the property owners within a 500-foot radius of the subject parcel shall be informed about the meeting date, time, location, and project.
2. Material distributed or presented at the meeting (separate attachment)

**I hereby certify that information provided as part of this report is correct.**

**Signature**

A handwritten signature in blue ink, appearing to read "J. Cole Oliver".

**Typed Name and Title**

J. Cole Oliver

**Date**

6/7/2023



516 Delannoy Avenue  
Cocoa, Florida 32922  
Telephone: 321-632-4710  
[cole@eksdevelopment.com](mailto:cole@eksdevelopment.com)

May 1, 2023

FIRST CLASS U.S. MAIL

RE: **Notice of Citizen Informational Meeting on Monday, May 8, 2023, at 6:00 PM**  
**Applicant:** Affordable Trailer Service and Supply, Inc.  
**Project Site Address:** 4180 Minton Road  
**Zoning Request:** Commercial (Continue existing use; zoning required in conjunction with annexation into the City of Palm Bay).

Dear Neighbor:

Affordable Trailer and Service and Supply, Inc. will submit a conditional use application requesting approval for Commercial (Continue existing use; zoning required in conjunction with annexation into the City of Palm Bay) no later than May 9, 2023, to the City of Palm Bay. On behalf of Affordable Trailer and Service and Supply, Inc., I am inviting you to an informational meeting to discuss the zoning request, answer any questions you may have, and record any feedback you may have to offer, which we will then present to City Staff, the Planning and Zoning Board, and City Commission as we move through the review and public hearing process for this request.

If you have any questions you wish to submit in advance of the meeting, we would appreciate the opportunity to review them in advance to be sure we bring the appropriate information to answer any of your questions or address your concerns at the meeting. The meeting is scheduled as follows:

DATE: May 8, 2023  
TIME: 6:00 PM-7:00 PM  
PLACE: Hyatt Place  
1435 Sportsman Lane NE  
Palm Bay, FL 32907

We hope to see you there. In the interim, please do not hesitate to contact me via email at [cole@eksdevelopment.com](mailto:cole@eksdevelopment.com).

Best regards,

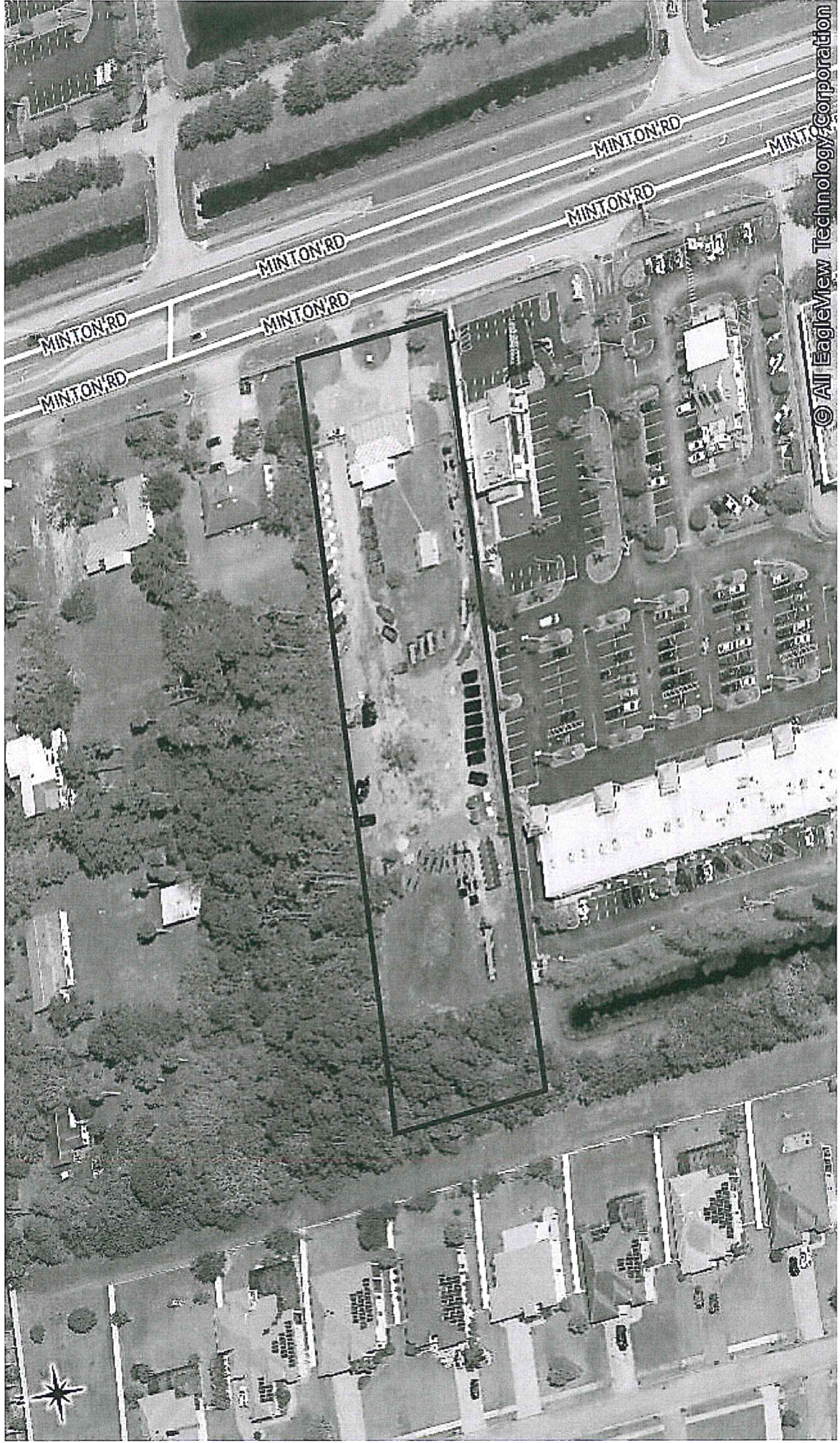
A handwritten signature in black ink, appearing to read "Cole Oliver", written over a horizontal line.

Cole Oliver

Enclosures



# 4180 Minton Road



TAX PARCEL : 2806116



# Project Details: CPZ23-00007

## Project Type: Rezoning Comprehensive Plan Zoning Amendment

Project Location: Palm Bay, FL  
Milestone: Submitted  
Created: 6/5/2023  
Description: 4180 Minton Road  
Assigned Planner: Alexandra Bernard

### Contacts

Contact	Information
Owner/Applicant	Bruce Coffman, Affordable Trailer Service & Supply, Inc. 4180 Minton Road Melbourne, FL 32904 (772) 205-7482 affordabletrailersupply@yahoo.com
Legal Representative	Kuhn, Jeff 1834 NW 32nd Place Cape Coral, FL 33993 (239) 766-9428 kuhncontracting@yahoo.com
Submitter	
Owner	Bruce Coffman 7040 U.S. Highway 1 Vero Beach, FL 32967 (772) 205-7482 affordabletrailersupply@yahoo.com
Assigned Planner	Alexandra Bernard 120 Malabar Rd Palm Bay, FL 32907  alexandra.bernard@palmbayflorida.org

### Fields

Field Label	Value
Block	2
Lot	2.01
Section Township Range	24-28-36
Subdivision	FA

# Project Details: CPZ23-00007

Year Built	
Use Code	
Use Code Desc	
LotSize	
Building SqFt	
Homestead Exemption	
Taxable Value Exemption	
Assessed Value	
Market Value	
Land Value	
Tax ID	
Flu Description	
Flu Code	
Zoning Description	
Zoning Code	
Size of Area (acres)	
Present Use of Property	retail sales and office space
Zoning Classification Desired	CC
Structures On Property?	True
Intended Use of Property	continue existing use
Justification for Change	in conjunction with annexation
Is Submitter the Representative?	False
Ordinance Number	
Subdivision Name	

June 15, 2022

Re: Letter of Authorization

As the property owner of the site legally described as:

Parcel ID: 28-36-24-FA-2-2.01

I, Owner Name: Affordable Trailer Service & Supply, Inc.

Address: 4180 Minton Rd, Melbourne FL 32904

Telephone: 772-205-8904

Email: Affordable Trailer Supply at yahoo.com

hereby authorize:

Representative: Jeff Kuhn

Address: 1834 NW 32<sup>nd</sup> Place Cape Coral, FL 33993

Telephone: 239-766-9428

Email: Kuhn Contracting @ yahoo.com

to represent the request(s) for:

Annexation and Zoning for Commercial Use AND Land Use Map Amendment Application

*[Signature]*

(Property Owner Signature)

STATE OF Florida

COUNTY OF Indian River

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 26 day of August, 2022 by

Bruce Coffman

, property owner.



J HARDING EVANS  
Commission # GG 311018  
Expires March 14, 2023  
Rendezvous Budget Notary Services

*[Signature]*

J. HARDING EVANS

, Notary Public

☐ Personally Known or ☒ Produced the Following Type of Identification:

FL Dr License



**Classified Ad Receipt**  
**(For Info Only - NOT A BILL)**

**Customer:** CITY OF PALM BAY  
**Address:** SUITE 201  
PALM BAY FL 32907  
USA

**Ad No.:** 0005744465  
**Pymt Method** Invoice  
**Net Amount** 212.94

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 06/22/23

**Text of Ad:**

Ad#5744465 06/22/2023  
CITY OF PALM BAY, FLORIDA  
NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on July 5, 2023, and by the City Council on July 20, 2023, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):

1. FS23-00004 - DRP FL 6, LLC, Brian Clauson (Ana Saunders, P.E., BSE Consultants, Inc., Rep.)

Final Plat approval to allow for a proposed 41-lot single-family residential subdivision called Timbers at Everlands Phase 1B

A replat of a portion of Tract FD.1 together with Tract FD.2, all in Timbers at Everlands Phase 1A, Section 28, Township 28, Range 36, Brevard County, Florida, containing approximately 10.47 acres. Located at the northeast corner of St. Johns Heritage Parkway NW and Pace Drive NW

2. CP23-00013 - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.)

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from CC, Community Commercial (Brevard County) to Commercial

Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE

3. \*\*CP23-00007 - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.)

A Zoning Amendment from BU-1, General Retail Commercial (Brevard County) to a CC, Community Commercial District

Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE

4. CP23-00010 - Cole Oliver, West Malabar Properties, LLC

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from RES 2 Residential 2 (Brevard County) to Commercial

Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE

5. \*\*CP23-00006 - Cole Oliver, West Malabar Properties, LLC

A Zoning Amendment from RP, Residential Professional and AU, Agricultural Residential (Brevard County) to a CC, Community Commercial District

Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE

\*\*Indicates quasi-judicial request(s).

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or the City Council 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.

Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.

Jesse Anderson  
Assistant Growth Management Director



## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Alexandra Bernard, Principal Planner

**DATE:** July 5, 2023

**SUBJECT:** CP23-00010 - West Malabar Properties (Hield Road) - Cole Oliver, West Malabar Properties, LLC - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from RES 2 Residential 2 (Brevard County) to Commercial. Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE

### ATTACHMENTS:

#### Description

- ▣ CP23-00010 -- Staff Report
- ▣ CP23-00010 -- Survey
- ▣ CP23-00010 -- Citizen Participation Plan Report
- ▣ CP23-00010 -- Application
- ▣ CP23-00010 -- Legal Acknowledgement
- ▣ CP23-00010 -- Legal Ad





# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

[landdevelopmentweb@palmabayflorida.org](mailto:landdevelopmentweb@palmabayflorida.org)

### Prepared by

Alix Bernard, Principal Planner

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#### CASE NUMBER

CP23-00010

#### PLANNING & ZONING BOARD HEARING DATE

July 5, 2023

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#### PROPERTY OWNER & APPLICANT

Cole Oliver, West Malabar Properties,  
LLC

#### PROPERTY LOCATION/ADDRESS

Lot 1; 1.02 & 2, Melbourne Poultry Colony Addition,  
Section 24, Township 28, Range 36, Brevard County,  
Florida; containing approximately 4.58 acres. Located  
west of adjacent to Minton Rd, in the vicinity of Palm  
Bay Rd NE; Tax Account 2806110, 2806111, 2806112,  
2806115

---

#### SUMMARY OF REQUEST

The applicant is requesting a small scale Future Land Use map amendment from RES-2 Residential 2 (Brevard County) to Commercial.

##### Existing Zoning

RP Residential Professional & AU Agricultural Residential (Brevard County)

##### Existing Land Use

RES-2 Residential 2 (Brevard County)

##### Site Improvements

2 office buildings and 2 single family homes

##### Site Acreage

4.58 acres

---

#### SURROUNDING FUTURE LAND USE & USE OF LAND

##### North

RES 2, Residential 2 (Brevard County); Single-Family Homes

##### East

COM, Commercial (West Melbourne); Charter School and Retail Plaza

##### South

CC, Community Commercial (Brevard County); Trailer Service

##### West

RES 2, Residential 2 (Brevard County); Single-Family Homes

---

**BACKGROUND:**

The subject parcels are located west of and adjacent to Minton Rd, in the vicinity south of Hield Rd. There are four (4) parcels totaling 4.58 acres included in this request, which is comprised of two office buildings and two single family homes.

The applicant is requesting to change the future land use of this property from RES 2 Residential 2 (Brevard County) to Commercial (City of Palm Bay). This request is conjunction with a voluntary annexation request for the same parcels as well as 4180 Minton Road, a parcel immediately south of these parcels and abutting property within Palm Bay city limits, both of which are scheduled to be heard at the July 20, 2023 Regular Council Meeting.

**ANALYSIS:**

Per Chapter 183: Comprehensive Plan Regulations, Section 183.01(B), the purpose and intent of the Comprehensive Plan is to encourage the most appropriate use of land and resources to promote the health, safety, and welfare of the community.

**1. FUTURE LAND USE ELEMENT**

The Comprehensive Plan (Plan) FLU Element Goal FLU-1 is to ensure a high-quality, diversified living environment through the efficient distribution of compatible land uses.

Objective FLU-1.4 Provide and maintain FLUCs and zoning districts that would accommodate a diverse range of nonresidential activities of varying types and sizes.

The subject properties are located west of and adjacent to Minton Road, in the vicinity south of Hield Road. There are (4) four parcels totaling 4.58 acres included in this request. Currently, all four parcel have a Future Land Use of Residential 2, which is a Brevard County Future Land Use Classification.

The request to change the future land use from RES 2 (Brevard County) to Commercial (City of Palm Bay) is in alignment with the objective FLU-1.4 of the Comprehensive Plan, as this would be compatible with the surrounding area, which is predominantly commercially.. Furthermore, the proposed Future Land Use change will allow the opportunity for more commercial in an already established major commercial intersection.

## 2. CONSERVATION ELEMENT

The environmental character of the City is maintained through conservation, appropriate use, and protection of natural resources.

No protected species are known to inhabit the subject property. Any protected species that would be found on the subject property would need to be mitigated as required by State and Federal regulations and per Comprehensive Plan Policy CON-1.6A.

**Coastal Management:** The subject property is not located within the Coastal Management Area.

## 3. HOUSING ELEMENT

The goal HSG -1 of the Housing element in the Comprehensive Plan is to cultivate a diverse, safe and affordable housing stock with meets the needs of all currently and future residents of Palm Bay.

The proposed FLU amendment will not have a significant impact the supply and variety of safe, decent, attractive, and affordable housing within the City as the request is for a commercial land use.

## 4. INFRASTRUCTURE ELEMENTS

The City evaluates present and future water, sewer, drainage, and solid waste and assesses the ability of infrastructure to support development.

**Utilities:** The FLU change will not cause the level of service to fall below the standards adopted in the Comprehensive Plan for these services for the current planning period. If developed water and sewer lines will have to be run to this site.

**Drainage:** If developed, a drainage plan must be prepared in accordance with current regulations and approved by the City, along with appropriate outside agencies, including the St. Johns River Water Management District. Any proposed stormwater management system will be reviewed and approved by the City during the site plan review process.

## 5. INTERGOVERNMENTAL COORDINATION ELEMENT

**Public Schools:** The proposed FLU amendment to Commercial will not add the potential of any additional housing units. As such, a School Concurrency application is not required per the Interlocal Agreement with Brevard Public Schools.

## 6. RECREATION AND OPEN SPACE ELEMENT

The proposed FLU amendment to Commercial will have a De minimis impact on the demand for recreation services.

## 7. TRANSPORTATION ELEMENT

The objectives of the Comprehensive Plan's Transportation Element are to provide a safe, balanced, efficient transportation system that adequately serves the needs of all residents and visitors of Palm Bay. If developed, a traffic impact analysis may be required to determine any negative impacts on the existing transportation system along with any suggested improvements, which will be taken under consideration during the site plan review/approval process.

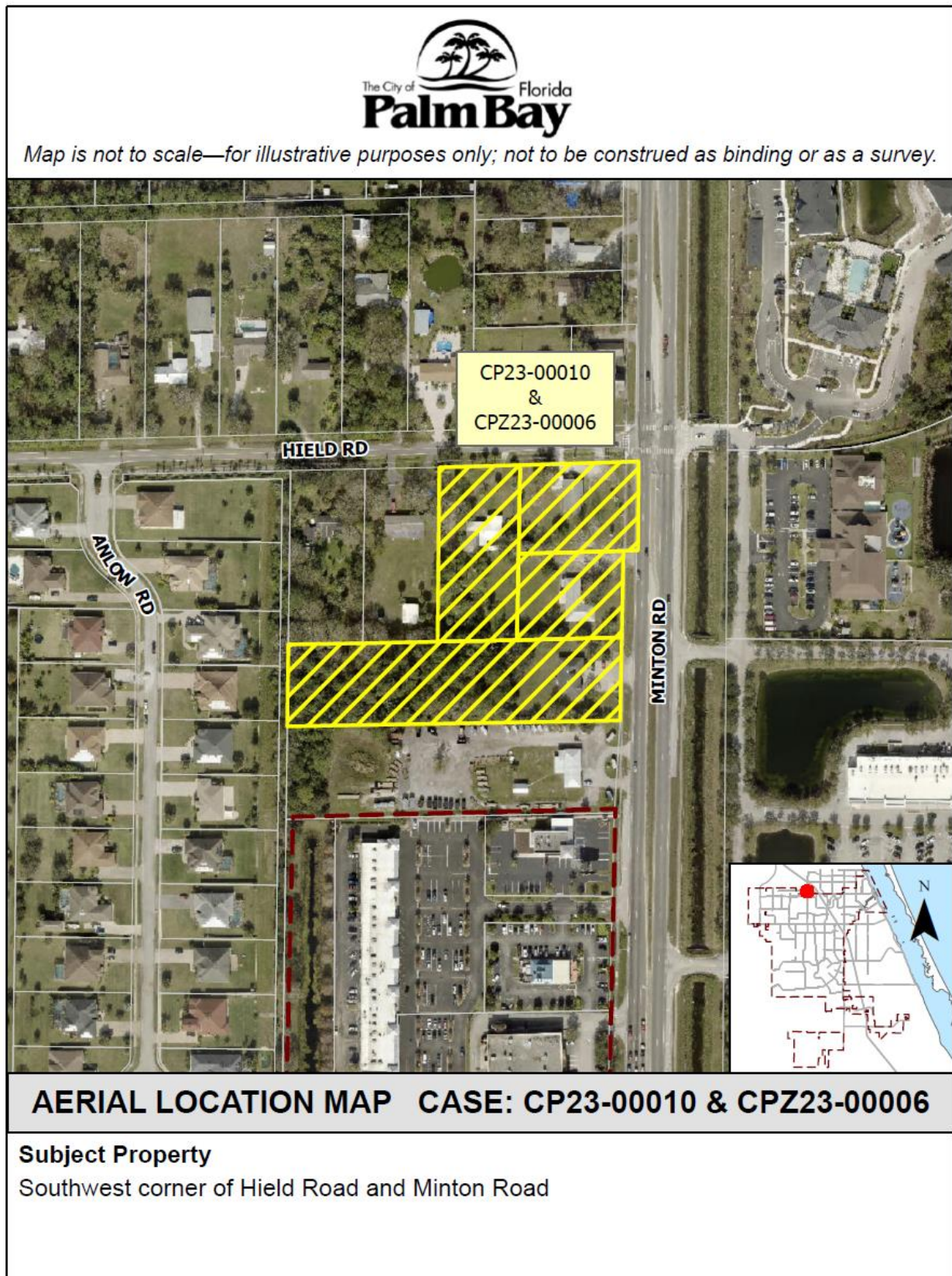
## 8. PROPERTY RIGHTS ELEMENT

The goal of the Comprehensive Plan's Property Rights Element is for the City to respect judicially acknowledged and constitutionally protected private property rights.

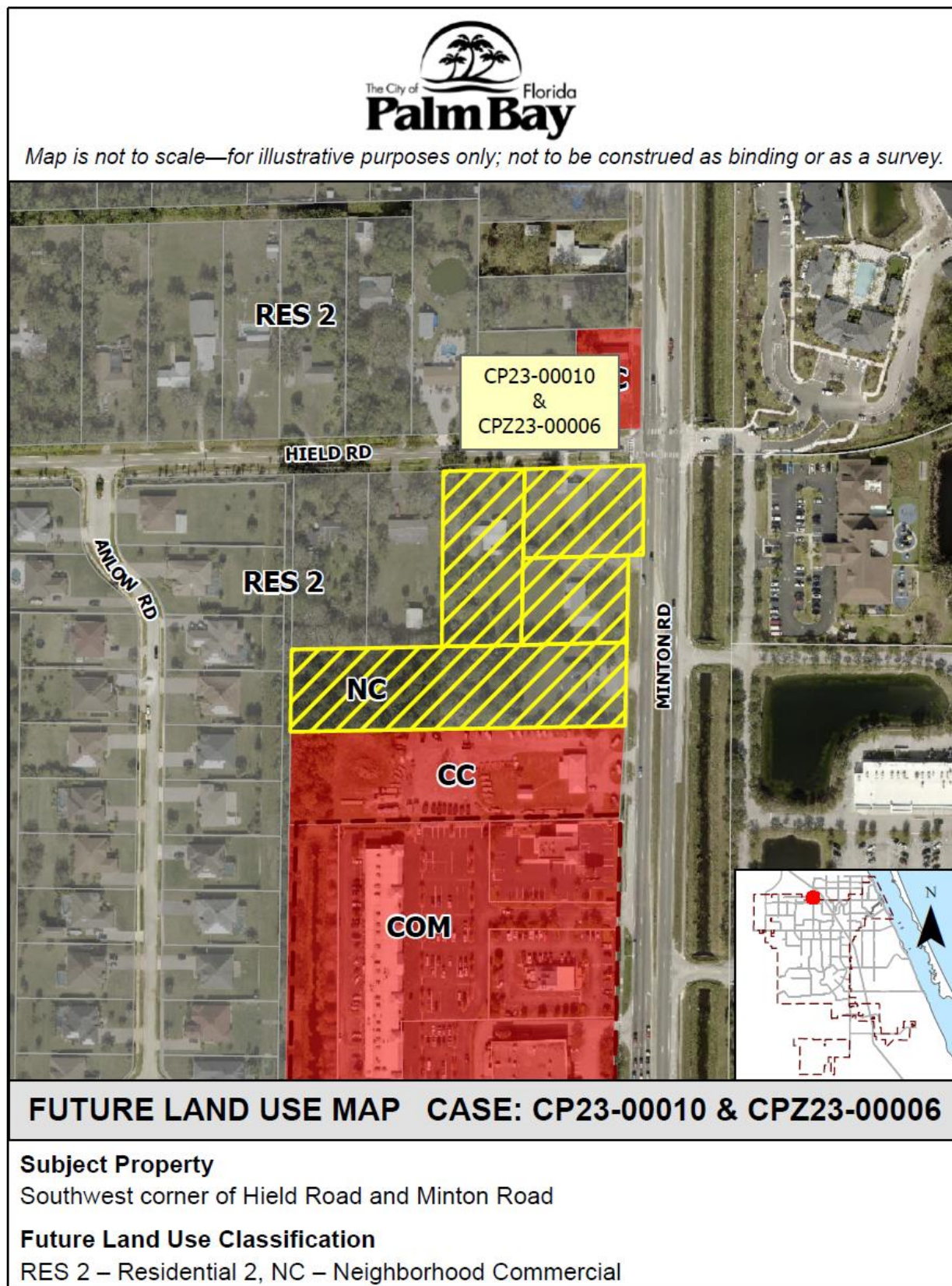
This proposed land-use change does not appear to infringe upon the property rights of the applicant.

### **STAFF FINDINGS:**

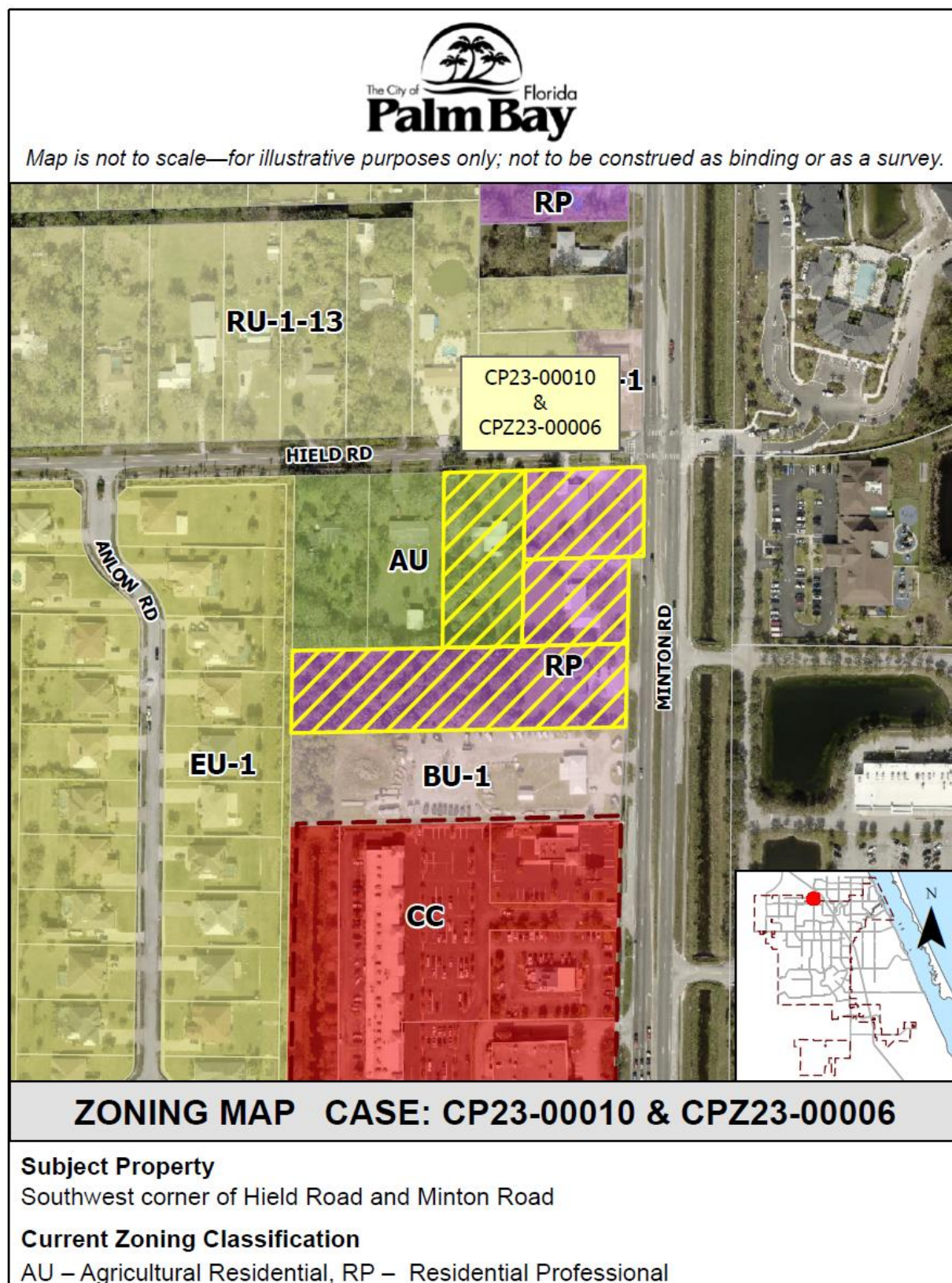
Staff recommends Case CP23-00010 for approval.



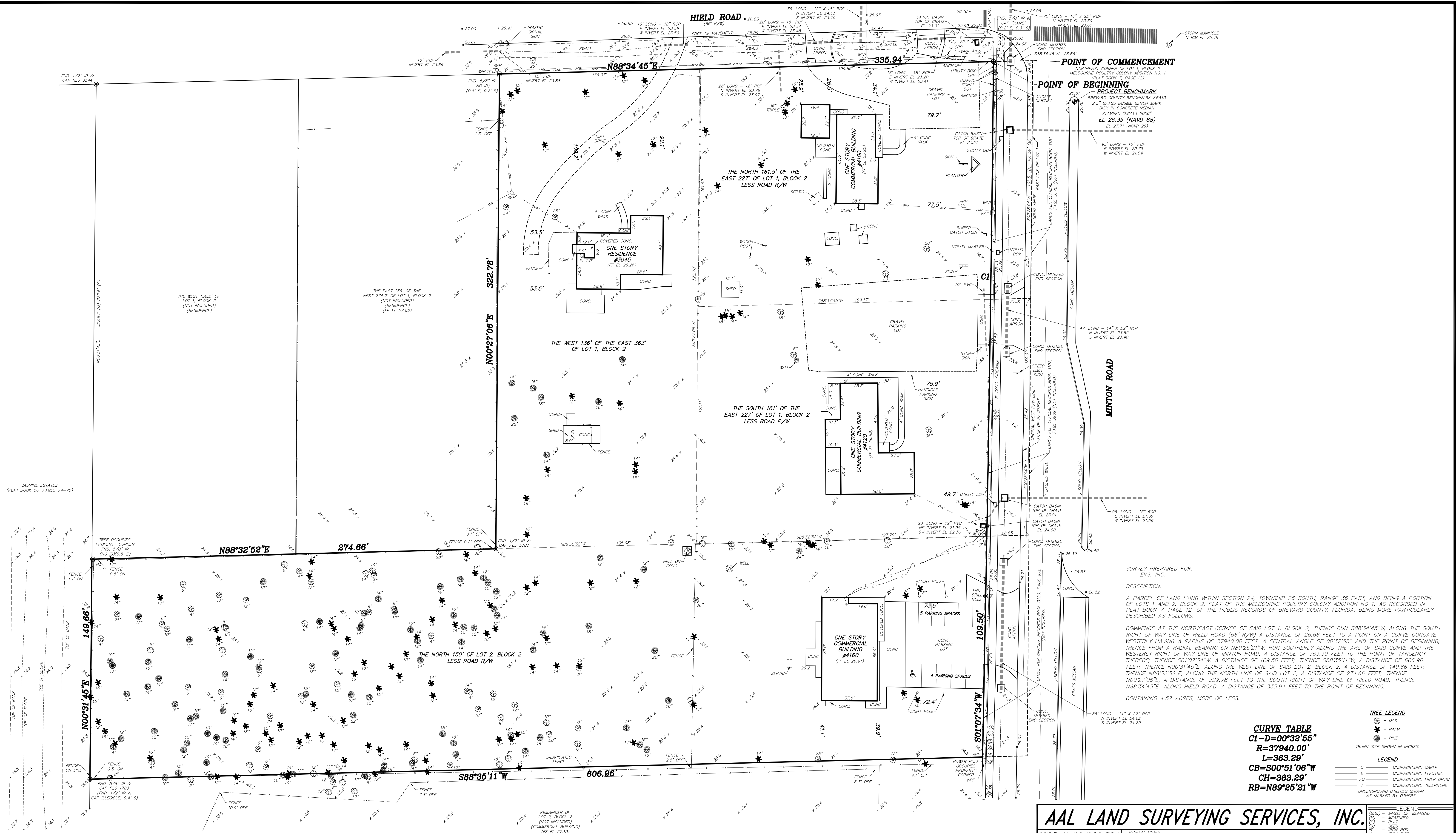












SURVEY PREPARED FOR:  
EKS, INC.

DESCRIPTION:  
A PARCEL OF LAND LYING WITHIN SECTION 24, TOWNSHIP 26 SOUTH, RANGE 36 EAST, AND BEING A PORTION OF LOTS 1 AND 2, BLOCK 2, PLAT OF THE MELBOURNE POULTRY COLONY ADDITION NO. 1, AS RECORDED IN PLAT BOOK 7, PAGE 12, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCE AT THE NORTHEAST CORNER OF SAID LOT 1, BLOCK 2, THENCE RUN S88°34'45"W, ALONG THE SOUTH RIGHT OF WAY LINE OF HIELD ROAD (66' R/W) A DISTANCE OF 26.66 FEET TO A POINT ON A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 37940.00 FEET, A CENTRAL ANGLE OF 00°32'55" AND THE POINT OF BEGINNING; THENCE FROM A RADIAL BEARING ON N89°29'21"W, RUN SOUTHERLY ALONG THE ARC OF SAID CURVE AND THE WESTERLY RIGHT OF WAY LINE OF MINTON ROAD, A DISTANCE OF 363.30 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S01°07'34"W, A DISTANCE OF 109.50 FEET; THENCE S88°35'11"W, A DISTANCE OF 606.96 FEET; THENCE N00°31'45"E, ALONG THE WEST LINE OF SAID LOT 2, BLOCK 2, A DISTANCE OF 149.66 FEET; THENCE N88°32'52"E, ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 274.66 FEET; THENCE N00°27'06"E, A DISTANCE OF 322.78 FEET TO THE SOUTH RIGHT OF WAY LINE OF HIELD ROAD, THENCE N88°34'45"E, ALONG HIELD ROAD, A DISTANCE OF 335.94 FEET TO THE POINT OF BEGINNING.  
CONTAINING 4.57 ACRES, MORE OR LESS.

CURVE TABLE	
C1-D=00°32'55"	
R=37940.00'	
L=363.29'	
CB=S00°51'06"W	
CH=363.29'	
RB=N89°25'21"W	

TREE LEGEND	
○	OAK
★	PALM
●	PINE
TRUNK SIZE SHOWN IN INCHES	
LEGEND	
C	UNDERGROUND CABLE
E	UNDERGROUND ELECTRIC
FO	UNDERGROUND FIBER OPTIC
T	UNDERGROUND TELEPHONE
UNDERGROUND UTILITIES SHOWN AS MARKED BY OTHERS	

# AAL LAND SURVEYING SERVICES, INC.

ACCORDING TO F.L.R.M. #32096 DSSS G, DATED MARCH 11, 2014, THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE X (HAZ. 88)	
GENERAL NOTES: 1. THIS SURVEY AND DRAWING HAVE BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 63-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 475.027, FLORIDA STATUTES. 2. THIS SURVEY IS FOR THE SOLE BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE NOTED HEREON AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES. 3. THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND THE SEAL OF THE FLORIDA LICENSED SURVEYOR AND REPRODUCTION OF THIS DRAWING WITHOUT WRITTEN PERMISSION OF THE SURVEYOR IS HEREBY FORBIDDEN. 4. NO OPINION OF TITLE OR OWNERSHIP IS HEREBY EXPRESSED OR IMPLIED BY THE SURVEYOR. 5. THIS SURVEY WAS PREPARED FROM INFORMATION FURNISHED TO THE SURVEYOR BY THE CLIENT, AND MAY BE SUBJECT TO EASEMENTS OR LIMITATIONS EITHER RECORDED OR IMPLIED. 6. BEARINGS ARE BASED ON ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS. 7. NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN. 8. ELEVATIONS, IF SHOWN, ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988, UNLESS OTHERWISE NOTED. 9. NO WELLS AND NO SEPTICS ARE DEFINITELY TO SHOW AN ATTEMPT BY THE SURVEYOR TO LOCATE POSSIBLE EXISTING WELLS AND SEPTICS, HOWEVER NONE WERE FOUND USING STANDARD SURVEY LOCATING EQUIPMENT.	
BOUNDARY SURVEY	
SCALE: 1" = 30'	
REVISION: _____	
REVISION: _____	
REVISION: _____	
REVISION: _____	
REVISION: _____	
FIELD DATE: 04-05-23	
SECTION 24, TOWNSHIP 28 SOUTH, RANGE 36 EAST	
PROJECT #47133	
3970 MINTON ROAD, WEST MELBOURNE, FL 32904 L.B.#5823 PHONE: (321)768-8110 FAX: (321)852-9771 E-MAIL: frontdesk@atsurvey.com	
ANDREW W. POWSHOK P.L.S. No. 5383	
DANIEL D. GARNER P.L.S. No. 6189	

LEGEND	
(B.B.)	BASES OF BEARING
(M)	MEASURED
(S)	FLAT
(D)	DEED
(R)	ROAD
(P)	IRON PIPE
(M&D)	MAIL AND DISC
(M)	MAIL AND TIN TAB
(C.M.)	CONCRETE MONUMENT
(P.M.)	PERMANENT REFERENCE MARKER
(C.W.)	CODE OF WATER
(C.B.)	CHORD BEARING
(S.L.)	SOLID
(R.)	RADIUS
(L.)	LENGTH
(P.O.B.)	POINT OF BEGINNING
(P.T.)	POINT OF TANGENCY
(P.I.)	POINT OF INTERSECTION
(P.R.C.)	POINT OF REVERSE CURVE
(R.B.)	RADIAL BEARING
(O.W.)	OVERHEAD WIRE
(E.P.)	EDGE OF PAVEMENT
(P.U.)	PUBLIC UTILITY EASEMENT
(D.E.)	DRAINAGE EASEMENT
(E.)	ELEVATION
(F.F.)	FINISHED FLOOR
(C.W.)	CONCRETE
(R.C.P.)	REINFORCED CONCRETE PIPE
(C.M.P.)	CORRUGATED METAL PIPE
(S.)	SURVEYING
(L.B.)	LICENSED BUSINESS
(P.L.S.)	PROFESSIONAL LAND SURVEYOR



## **CITIZEN PARTICIPATION REPORT**

Applicant should follow established Citizen Participation Plan as specified in § 169.005 CITIZEN PARTICIPATION PLANS.

### **CASE DETAILS**

Applicant Name	Cole Oliver
Project Name	West Malabar Properties, L.L.C.
Case Type	Preliminary Development Plan-Annexation into the City of PB
Case Description	Commercial Redevelopment
Intended Month of Submission	May 2023

### **INFORMATION ON THE CITIZEN PARTICIPATION MEETING**

Notice to the Public (Date)	4/7/2023
Date of CPP	4/21/2023
Location of the Meeting	Comfort Suites Palm Bay
Number of Attendees	16



**DENOTE ANY ADVERSE COMMENTS/COMPLAINTS/ CONCERNS/ ISSUES RECEIVED AND DESCRIBE RESOLUTION OR PROVIDE JUSTIFICATION IF THE APPLICANT IS UNABLE OR UNWILLING TO ADDRESS THE ISSUE:**

	<b>Comments</b>	<b>Resolution</b>	<b>Justification if the applicant is unable or unwilling to address the issue</b>
	Attendee-The entrance to Hield Road is the only way in or out of the Hield Road Neighborhood. This will cause traffic congestion and make it a catastrophic safety hazard for emergency vehicles to get in and out of the neighborhood. Also, it will make it difficult to just get out of the neighborhood. This can be resolved by 1) Not doing developing 2) Move it down to another plat 3) Eliminate the entrance that is located on Hield Road. If an accident happens at this intersection, we are trapped in the neighborhood. Eliminate Hield Road entrance and put a left turn lane south of the proposed locations for Minton's north bound traffic.	There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.	Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments.
	1) Currently Hield Road is a 2 lane road (east and west). An additional east and an additional west lane will be required to accommodate emergency vehicles (fire truck and ambulance vehicles). 2) Hundreds of residents live west of Minton on Hield Road. Hield road is the only entry and exit for the hundreds of people. Safety is the is the biggest concern.	There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.	Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments



	<p>The project does not provide a solution to the additional traffic construction that will be added to Hield Road. There also is no room in the existing ROW on Hield Road for 3 lanes and sidewalk. The minimum lanes needed on Hield is at least 4 lanes.</p>	<p>There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>
	<p>I recommend NO entrance on Hield Road due to horrible traffic issue that will not allow cars to get down Hield Road. There is only one lane going west on Hield Road and there is no way to get around if someone is turning left into Starbucks. If an ambulance has to get by it cannot. This is a safety issue. Lanes going East bound, there is no room to put 2 turning lanes and a sidewalk. If you do put it should have a left/straight turn lane and a right only turn lane.</p>	<p>There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>
	<p>This project is a traffic nightmare, as the only entrance from northbound Minton is onto Hield Road, then into Starbucks. Currently during the periods 7-9am and 4-6pm exiting Hield backs traffic up several hundred feet, which will effectively block the entrance to Starbucks. One care that wishes to turn will completely block west-bound Hield. This will be bad.</p>	<p>There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>
	<p>The main concern with a Starbucks is traffic we have such an issue already with our neighborhood getting in and out of Hield Road. Many residents feel there is not</p>	<p>There may be a possibility that your comments or suggestions will be taken into consideration please</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>



	<p>enough room, lanes, entrances already. You cannot add a particular restaurant to this spot. We don't feel safe for EMS to come in and cannot get to work or home with all the additional traffic.</p>	<p>provide feedback on the comment cards provided.</p>	
	<p>The main concern with adding this project is the traffic issues. If a traffic study is done there is no doubt that it will make a horrible situation 10 times worse. Hield Road is literally the only entrance to hundreds of homes. The road is narrow and cannot support that much traffic.</p>	<p>There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>
	<p>If it's a huge issue for us to have the entrance and exit of project right on Hield Road. 1) Safety issue 2) Traffic issue etc. Also, the two trash binds right across the street from my house is not right at all.</p>	<p>Dumpsters will be encapsulated by concrete barriers and landscaping. There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>
	<p>Traffic Control going out to Minton Road. Driveway into site from Hield Road.</p>	<p>There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>



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## LIST OF ATTENDEES

Number	Name of attendee	Number	Name of attendee
1.	Daniel McKee	2.	David Richards
3.	Gwendolyn Mapp	4.	Tony Masone
5.	Rick Wiedenhoeft	6.	Kevin Ward
7.	Natalie Ward	8.	Audie Carter
9.	Judi Carter	10.	Ellen Moorehead
11.	Tina Winchode	12.	Bobbi Jo Micheis
13.	Cody Lafferty	14.	Carmen Castillo
15.	Deborah Kaufman	16.	Michael Bramleti
17.		18.	
19.		20.	
21.		22.	
23.		24.	
25.		26.	
27.		28.	
29.		30.	
31.		32.	
33.		34.	
35.		36.	






## ADDITIONAL DOCUMENTS REQUIRED WITH CITIZEN PARTICIPATION PLAN REPORT SUBMISSION

1. Copy of notice sent (separate attachment)
2. Material distributed or presented at the meeting (separate attachment)
  - All the property owners within a 500-foot radius of the subject parcel shall be informed about the meeting date, time and location.

I hereby certify that information provided as part of this report is correct.

 as manager  
\_\_\_\_\_  
Signature,

J. Cole Oliver, as Manager of West Malabar Properties, LLC  
\_\_\_\_\_  
Typed Name and Title:

5/12/2023  
\_\_\_\_\_  
Date :

# Project Details: CP23-00010

## Project Type: Comprehensive Plan Future Land Use Map

Project Location: 120 MALABAR RD SE # CITYHL Palm Bay, FL 32907  
Milestone: Submitted  
Created: 4/25/2023  
Description: West Malabar Properties (Hield Road)  
Assigned Planner: Alexandra Bernard

### Contacts

Contact	Information
Owner/Applicant	Cole Oliver, West Malabar Properties, LLC 516 Delannoy Ave Cocoa, FL 32922 (321) 632-4710 cole@eksdevelopment.com
Legal Representative	516 Delannoy Ave Cocoa, FL 32940
Assigned Planner	Alexandra Bernard 120 Malabar Rd Palm Bay, FL 32907  alexandra.bernard@palmbayflorida.org
Submitter	Mindy Mason 516 Delannoy Ave Cocoa, FL 32940  mindym@eksdevelopment.com

### Fields

Field Label	Value
Total Acreage	
Present Land Use Classification	CC RP AU Mixed
Proposed Land Use Classification	Commercial
Structures On Property?	True
List Structures	Office Building
Rezoning Submitted?	True
Development Submitted?	False

# Project Details: CP23-00010

Justification for Change	City land use designation in conjunction with annexation.
Specific Use Intended for Property	Commercial Redevelopment
Project Scale	Small Scale (50 acres or less)
Present Use of Property	Office
Is Submitter the Representative?	False
Ordinance Number	
Block	A
Lot	
Section Township Range	06-29-37
Subdivision	GK
Year Built	Multiple
Use Code	8910
Use Code Desc	MUNICIPALLY OWNED LAND - IMPROVED
LotSize	
Building SqFt	
Homestead Exemption	
Taxable Value Exemption	
Assessed Value	
Market Value	
Land Value	
Tax ID	2925038
Flu Description	Public Semi-Public
Flu Code	PSP
Zoning Description	Institutional Use
Zoning Code	IU
Subdivision Name	

# Acknowledgement Log

**Header:**

Legal Acknowledgement

**Text:**

I, the submitter, understand that this application must be complete and accurate before consideration by the City of Palm Bay and certify that all the answers to the questions in said application, and all data and matter attached to and made 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 application and that the facts stated in it are true.

**Accepted By:**

Mindy Mason

**On:**

5/15/2023 2:47:07 PM

☒ CP23-00010

Select Language ▼



**Classified Ad Receipt**  
**(For Info Only - NOT A BILL)**

**Customer:** CITY OF PALM BAY

**Ad No.:** 0005744465

**Address:** SUITE 201  
PALM BAY FL 32907  
USA

**Pymt Method** Invoice

**Net Amount** 212.94

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 06/22/23

**Text of Ad:**

Ad#5744465 06/22/2023  
CITY OF PALM BAY, FLORIDA  
NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on July 5, 2023, and by the City Council on July 20, 2023, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):

1. FS23-00004 - DRP FL 6, LLC, Brian Clauson (Ana Saunders, P.E., BSE Consultants, Inc., Rep.)

Final Plat approval to allow for a proposed 41-lot single-family residential subdivision called Timbers at Everlands Phase 1B

A replat of a portion of Tract FD.1 together with Tract FD.2, all in Timbers at Everlands Phase 1A, Section 28, Township 28, Range 36, Brevard County, Florida, containing approximately 10.47 acres. Located at the northeast corner of St. Johns Heritage Parkway NW and Pace Drive NW

2. CP23-00013 - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.)

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from CC, Community Commercial (Brevard County) to Commercial

Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE

3. \*\*CP23-00007 - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.)

A Zoning Amendment from BU-1, General Retail Commercial (Brevard County) to a CC, Community Commercial District

Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE

4. CP23-00010 - Cole Oliver, West Malabar Properties, LLC

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from RES 2 Residential 2 (Brevard County) to Commercial

Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE

5. \*\*CP23-00006 - Cole Oliver, West Malabar Properties, LLC

A Zoning Amendment from RP, Residential Professional and AU, Agricultural Residential (Brevard County) to a CC, Community Commercial District

Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE

\*\*Indicates quasi-judicial request(s).

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or the City Council 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.

Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.

Jesse Anderson  
Assistant Growth Management Director



## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Alexandra Bernard, Principal Planner

**DATE:** July 5, 2023

**SUBJECT:** \*\*CPZ23-00006 - West Malabar Properties (Hield Road) - Cole Oliver, West Malabar Properties, LLC - A Zoning Amendment from RP, Residential Professional and AU, Agricultural Residential (Brevard County) to a CC, Community Commercial District. Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE

\*\*Quasi-Judicial Proceeding.

### ATTACHMENTS:

#### Description

- ▣ CPZ23-00006 -- Staff Report
- ▣ CPZ23-00006 -- Survey
- ▣ CPZ23-00006 -- Citizen Participation Plan Report
- ▣ CPZ23-00006 -- Application
- ▣ CPZ23-00006 -- Legal Acknowledgement
- ▣ CPZ23-00006 -- Legal Ad





# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

[landdevelopmentweb@palmabayflorida.org](mailto:landdevelopmentweb@palmabayflorida.org)

### Prepared by

Alix Bernard, Principal Planner

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#### CASE NUMBER

CPZ23-00006

#### PLANNING & ZONING BOARD HEARING DATE

July 5, 2023

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#### PROPERTY OWNER & APPLICANT

Cole Oliver, West Malabar Properties,  
LLC

#### PROPERTY LOCATION/ADDRESS

Lot 1; 1.02 & 2, Melbourne Poultry Colony Addition,  
Section 24, Township 28, Range 36, Brevard County,  
Florida; containing approximately 4.58 acres. Located  
west of adjacent to Minton Rd, in the vicinity of Palm  
Bay Rd NE; Tax Account 2806110, 28061111,  
2806112, 2806115

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#### SUMMARY OF REQUEST

The applicant is requesting a Rezoning from RP Residential Professional and AU Agricultural Residential (Brevard County) to CC, Community Commercial.

##### Existing Zoning

RP Residential Professional; AU Agricultural Residential (Brevard County)

##### Existing Land Use

Residential 2 (Brevard County)

##### Site Improvements

Two office buildings and two single family homes

##### Site Acreage

4.58 acres

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#### SURROUNDING ZONING & USE OF LAND

##### North

RU1-13, Single Family Residential & BU-1, General Retail Commercial (Brevard County); Single-Family Home

##### East

C-1, Low Density Commercial (West Melbourne); Retail Plaza

##### South

BU-1, General Retail Commercial; Trailer Service

##### West

AU, Agricultural Residential & EU-1 Estate Use Residential (Brevard County); Single-Family Homes

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**BACKGROUND:**

The subject parcels are located west of and adjacent to Minton Rd, in the vicinity south of Hield Rd. There are four parcels for a total of 4.58 acres included in this request, which is comprised of two office buildings and two single family homes.

This request is for a rezoning from RP Residential Professional and AU Agricultural Residential (Brevard County) to Community Commercial, ), and proposes a 2,500 SF quick service drive-thru restaurant on the southwest corner of Hield and Minton Roads, two additional commercial pads and a shared stormwater pond.. This request is in conjunction with a voluntary annexation request for the same parcels as well as 4180 Minton Road, a parcel immediately south of these parcels and abutting property within Palm Bay city limits, both of which are scheduled to be heard at the July 20, 2023 Regular Council Meeting.

No homes are proposed to be developed therefore a school concurrency determination from the School Board of Brevard County is not required.

**ANALYSIS:**

The following analysis is per Chapter 185: Zoning Code, Section 185.201(C) which states that all proposed amendments shall be submitted to the Planning and Zoning Board, which shall study such proposals in accordance with items 1 through 4 of Section 185.201(C).

**Item 1 - *The need and justification for the change.***

The applicant states the justification for the change is 'the proposed zoning classification will meet the needs of future vision for the property'. Per the Land Development Code, the Community Commercial zoning district shall be in areas that are deemed to be uniquely suited for development. This area already has established commercial in the surrounding area and is located along a major roadway within the City and Brevard County, making it uniquely suitable for such rezoning.

**Item 2 - *When pertaining to the rezoning of land, the effect of the change, if any, on the particular property and on surrounding properties.***

The designation of the Community Commercial zoning district for the subject property is compatible with the surrounding area, and its already established commercial activity, and is consistent with the City's desire and plan for the expansion of Commercial development.

**Item 3** - *When pertaining to the rezoning of land, the amount of undeveloped land in the general area and in the City having the same classification as that requested.*

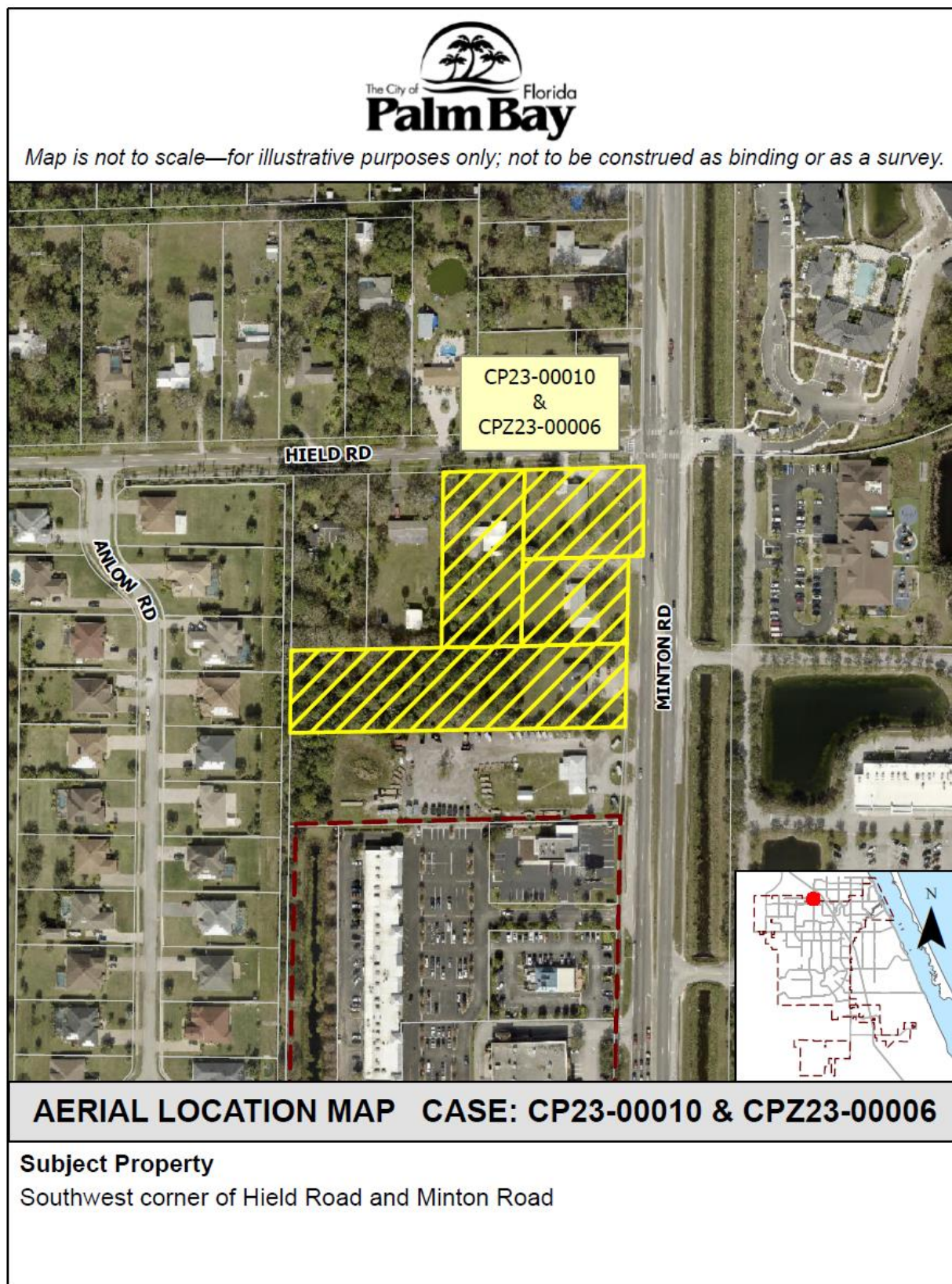
There are a few undeveloped lots with CC, Community Commercial zoning in the general area and throughout the city.

**Item 4** - *The relationship of the proposed amendment to the purpose of the city plan for development, with appropriate consideration as to whether the proposed change will further the purposes of this chapter and the Comprehensive Plan (Plan).*

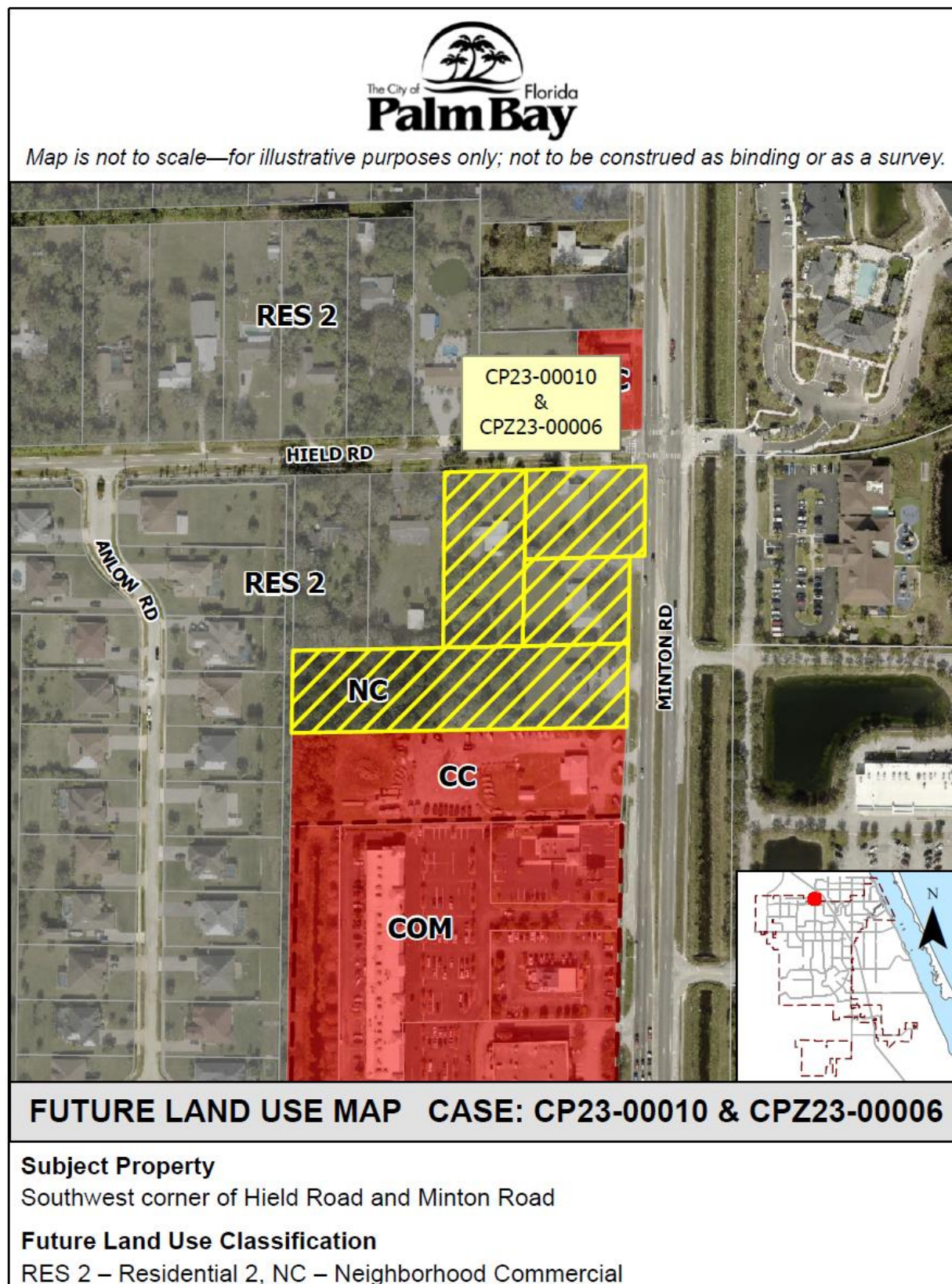
The proposed amendment will further the purposes of Chapter 185, the Comprehensive Plan.

**STAFF RECOMMENDATION:**

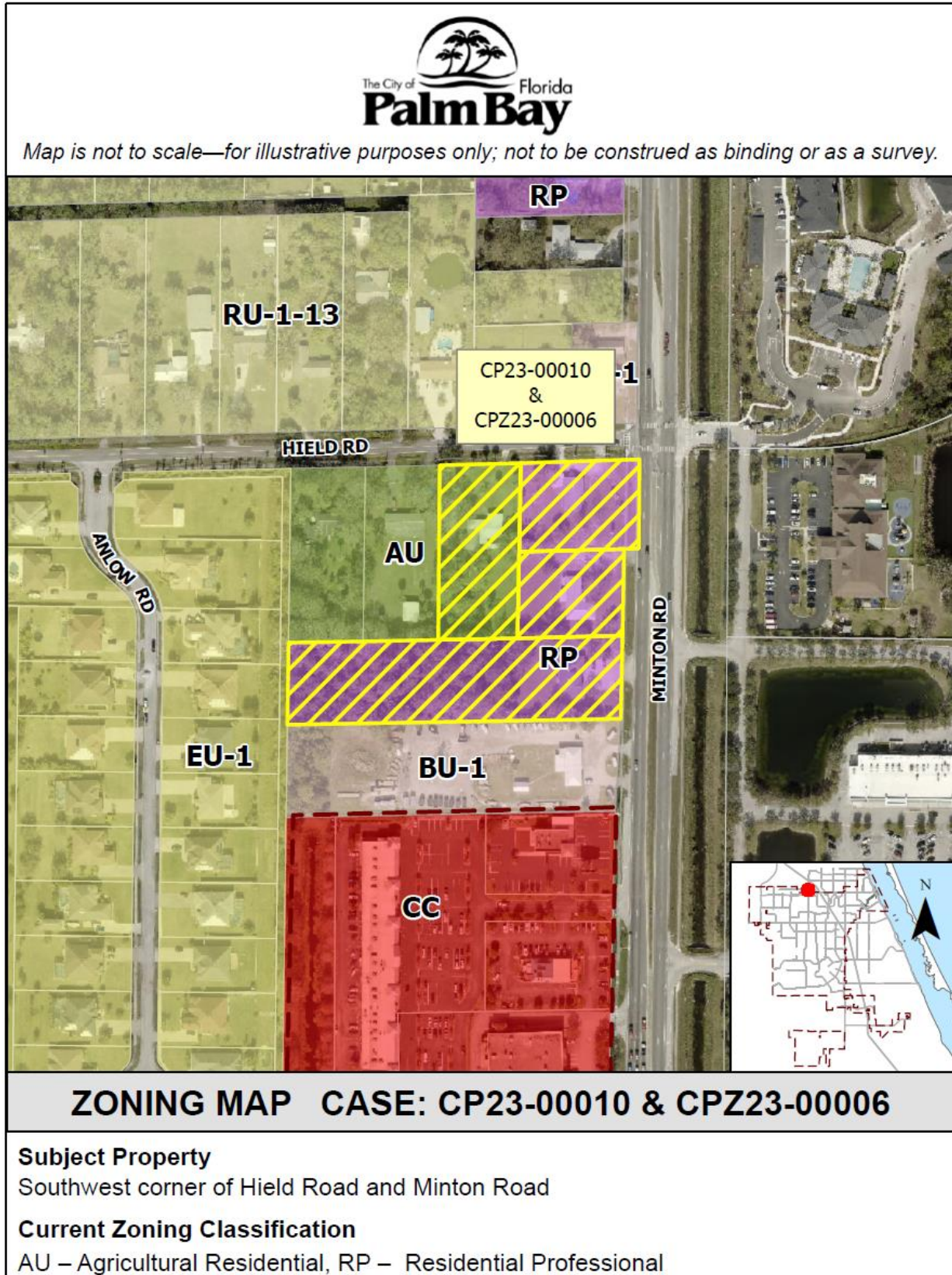
Staff recommends Case CPZ23-00006 for approval.

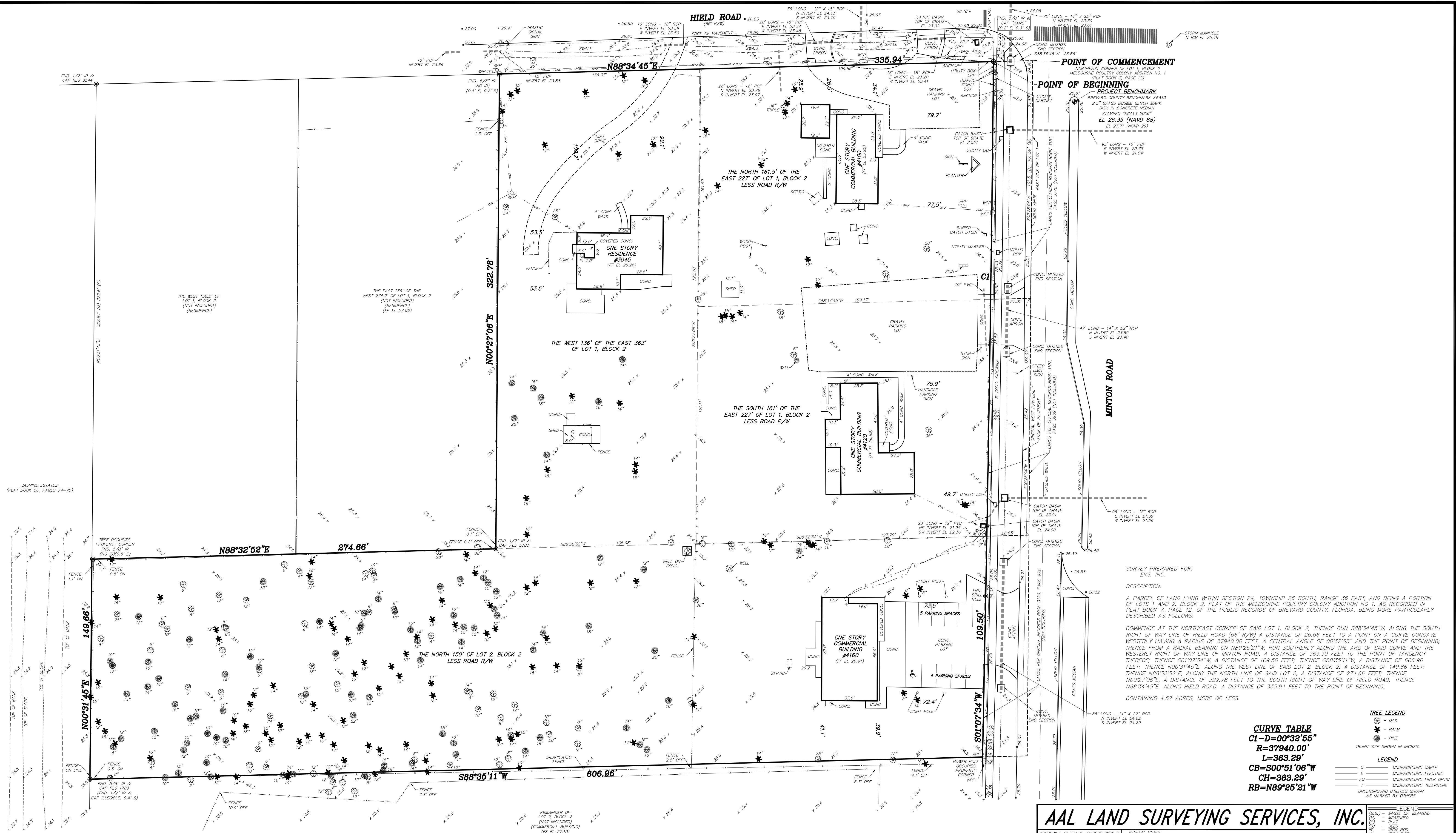












SURVEY PREPARED FOR:  
EKS, INC.

DESCRIPTION:  
A PARCEL OF LAND LYING WITHIN SECTION 24, TOWNSHIP 26 SOUTH, RANGE 36 EAST, AND BEING A PORTION OF LOTS 1 AND 2, BLOCK 2, PLAT OF THE MELBOURNE POULTRY COLONY ADDITION NO. 1, AS RECORDED IN PLAT BOOK 7, PAGE 12, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCE AT THE NORTHEAST CORNER OF SAID LOT 1, BLOCK 2, THENCE RUN S88°34'45"W, ALONG THE SOUTH RIGHT OF WAY LINE OF HIELD ROAD (66' R/W) A DISTANCE OF 26.66 FEET TO A POINT ON A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 37940.00 FEET, A CENTRAL ANGLE OF 00°32'55" AND THE POINT OF BEGINNING; THENCE FROM A RADIAL BEARING ON N89°29'21"W, RUN SOUTHERLY ALONG THE ARC OF SAID CURVE AND THE WESTERLY RIGHT OF WAY LINE OF MINTON ROAD, A DISTANCE OF 363.30 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S01°07'34"W, A DISTANCE OF 109.50 FEET; THENCE S88°35'11"W, A DISTANCE OF 606.96 FEET; THENCE N00°31'45"E, ALONG THE WEST LINE OF SAID LOT 2, BLOCK 2, A DISTANCE OF 149.66 FEET; THENCE N88°32'52"E, ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 274.66 FEET; THENCE N00°27'06"E, A DISTANCE OF 322.78 FEET TO THE SOUTH RIGHT OF WAY LINE OF HIELD ROAD, THENCE N88°34'45"E, ALONG HIELD ROAD, A DISTANCE OF 335.94 FEET TO THE POINT OF BEGINNING.  
CONTAINING 4.57 ACRES, MORE OR LESS.

CURVE TABLE	
C1-D=00°32'55"	
R=37940.00'	
L=363.29'	
CB=S00°51'08"W	
CH=363.29'	
RB=N89°25'21"W	

- TREE LEGEND**
- OAK
  - ★ PALM
  - PINE
- TRUNK SIZE SHOWN IN INCHES.
- LEGEND**
- C UNDERGROUND CABLE
  - E UNDERGROUND ELECTRIC
  - FO UNDERGROUND FIBER OPTIC
  - T UNDERGROUND TELEPHONE
  - EXISTING GRADES

## AAL LAND SURVEYING SERVICES, INC.

ACCORDING TO F.L.R.M. #32096 DSSS G, DATED MARCH 11, 2014, THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE X (HAZ. 88)

**BOUNDARY SURVEY**

SCALE: 1" = 30'

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

FIELD DATE: 04-05-23

SECTION 24, TOWNSHIP 28 SOUTH, RANGE 36 EAST

PROJECT #47133

3970 MINTON ROAD, WEST MELBOURNE, FL 32904 L.B.#5823  
PHONE: (321)768-8110 FAX: (321)852-9771 E-MAIL: frontdesk@atsurvey.com

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

DANIEL D. GARNER  
P.L.S. No. 6189

- LEGEND**
- (B.B.) - BASIS OF BEARING
  - (M) - MEASURED
  - (S) - SET
  - (D) - DEED
  - (R) - ROAD
  - (P) - PAVEMENT
  - (N) - NAIL AND TIN TAB
  - (M) - METAL MONUMENT
  - (P) - PERMANENT REFERENCE MARKER
  - (C) - CODE OF WATER
  - (B) - CHORD BEARING
  - (L) - CHORD LENGTH
  - (R) - RADIUS
  - (E) - ELEVATION
  - (X) - EXISTING GRADES
  - (O.B.) - POINT OF BEGINNING
  - (P.T.) - POINT OF TANGENCY
  - (I.C.) - POINT OF INTERSECTION
  - (P.C.) - POINT OF REVERSE CURVE
  - (O.W.) - OVERHEAD WIRE
  - (E.P.) - EDGE OF PAVEMENT
  - (P.U.) - PUBLIC UTILITY EASEMENT
  - (D.E.) - DRAINAGE EASEMENT
  - (E) - ELEVATION
  - (F) - FINISHED FLOOR
  - (C) - CONCRETE
  - (R.C.P.) - REINFORCED CONCRETE PIPE
  - (C.M.P.) - CORRUGATED METAL PIPE
  - (S) - CENTERLINE
  - (L.B.) - LICENSED BUSINESS
  - (P.L.S.) - PROFESSIONAL LAND SURVEYOR





## **CITIZEN PARTICIPATION REPORT**

Applicant should follow established Citizen Participation Plan as specified in § 169.005 CITIZEN PARTICIPATION PLANS.

### **CASE DETAILS**

Applicant Name	Cole Oliver
Project Name	West Malabar Properties, L.L.C.
Case Type	Preliminary Development Plan-Annexation into the City of PB
Case Description	Commercial Redevelopment
Intended Month of Submission	May 2023

### **INFORMATION ON THE CITIZEN PARTICIPATION MEETING**

Notice to the Public (Date)	4/7/2023
Date of CPP	4/21/2023
Location of the Meeting	Comfort Suites Palm Bay
Number of Attendees	16



**DENOTE ANY ADVERSE COMMENTS/COMPLAINTS/ CONCERNS/ ISSUES RECEIVED AND DESCRIBE RESOLUTION OR PROVIDE JUSTIFICATION IF THE APPLICANT IS UNABLE OR UNWILLING TO ADDRESS THE ISSUE:**

	<b>Comments</b>	<b>Resolution</b>	<b>Justification if the applicant is unable or unwilling to address the issue</b>
	Attendee-The entrance to Hield Road is the only way in or out of the Hield Road Neighborhood. This will cause traffic congestion and make it a catastrophic safety hazard for emergency vehicles to get in and out of the neighborhood. Also, it will make it difficult to just get out of the neighborhood. This can be resolved by 1) Not doing developing 2) Move it down to another plat 3) Eliminate the entrance that is located on Hield Road. If an accident happens at this intersection, we are trapped in the neighborhood. Eliminate Hield Road entrance and put a left turn lane south of the proposed locations for Minton's north bound traffic.	There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.	Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments.
	1) Currently Hield Road is a 2 lane road (east and west). An additional east and an additional west lane will be required to accommodate emergency vehicles (fire truck and ambulance vehicles). 2) Hundreds of residents live west of Minton on Hield Road. Hield road is the only entry and exit for the hundreds of people. Safety is the is the biggest concern.	There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.	Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments



	<p>The project does not provide a solution to the additional traffic construction that will be added to Hield Road. There also is no room in the existing ROW on Hield Road for 3 lanes and sidewalk. The minimum lanes needed on Hield is at least 4 lanes.</p>	<p>There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>
	<p>I recommend NO entrance on Hield Road due to horrible traffic issue that will not allow cars to get down Hield Road. There is only one lane going west on Hield Road and there is no way to get around if someone is turning left into Starbucks. If an ambulance has to get by it cannot. This is a safety issue. Lanes going East bound, there is no room to put 2 turning lanes and a sidewalk. If you do put it should have a left/straight turn lane and a right only turn lane.</p>	<p>There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>
	<p>This project is a traffic nightmare, as the only entrance from northbound Minton is onto Hield Road, then into Starbucks. Currently during the periods 7-9am and 4-6pm exiting Hield backs traffic up several hundred feet, which will effectively block the entrance to Starbucks. One care that wishes to turn will completely block west-bound Hield. This will be bad.</p>	<p>There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>
	<p>The main concern with a Starbucks is traffic we have such an issue already with our neighborhood getting in and out of Hield Road. Many residents feel there is not</p>	<p>There may be a possibility that your comments or suggestions will be taken into consideration please</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>



	<p>enough room, lanes, entrances already. You cannot add a particular restaurant to this spot. We don't feel safe for EMS to come in and cannot get to work or home with all the additional traffic.</p>	<p>provide feedback on the comment cards provided.</p>	
	<p>The main concern with adding this project is the traffic issues. If a traffic study is done there is no doubt that it will make a horrible situation 10 times worse. Hield Road is literally the only entrance to hundreds of homes. The road is narrow and cannot support that much traffic.</p>	<p>There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>
	<p>If it's a huge issue for us to have the entrance and exit of project right on Hield Road. 1) Safety issue 2) Traffic issue etc. Also, the two trash binds right across the street from my house is not right at all.</p>	<p>Dumpsters will be encapsulated by concrete barriers and landscaping. There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>
	<p>Traffic Control going out to Minton Road. Driveway into site from Hield Road.</p>	<p>There may be a possibility that your comments or suggestions will be taken into consideration please provide feedback on the comment cards provided.</p>	<p>Traffic Studies and analysis will be conducted in the later stages. The applicant will meet local requirements but cannot take into account for impacts from prior developments</p>



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## LIST OF ATTENDEES


Number	Name of attendee	Number	Name of attendee
1.	Daniel McKee	2.	David Richards
3.	Gwendolyn Mapp	4.	Tony Masone
5.	Rick Wiedenhoeft	6.	Kevin Ward
7.	Natalie Ward	8.	Audie Carter
9.	Judi Carter	10.	Ellen Moorehead
11.	Tina Winchode	12.	Bobbi Jo Micheis
13.	Cody Lafferty	14.	Carmen Castillo
15.	Deborah Kaufman	16.	Michael Bramleti
17.		18.	
19.		20.	
21.		22.	
23.		24.	
25.		26.	
27.		28.	
29.		30.	
31.		32.	
33.		34.	
35.		36.	



## ADDITIONAL DOCUMENTS REQUIRED WITH CITIZEN PARTICIPATION PLAN REPORT SUBMISSION

1. Copy of notice sent (separate attachment)
2. Material distributed or presented at the meeting (separate attachment)
  - All the property owners within a 500-foot radius of the subject parcel shall be informed about the meeting date, time and location.

I hereby certify that information provided as part of this report is correct.

 as manager  
\_\_\_\_\_  
Signature,

J. Cole Oliver, as Manager of West Malabar Properties, LLC

5/12/2023

Typed Name and Title:

Date :



# Project Details: CPZ23-00006

## Project Type: Rezoning Comprehensive Plan Zoning Amendment

Project Location: 120 MALABAR RD SE # CITYHL Palm Bay, FL 32907  
Milestone: Submitted  
Created: 4/25/2023  
Description: West Malabar Properties (Hield Road)  
Assigned Planner: Alexandra Bernard

### Contacts

Contact	Information
Owner/Applicant	Cole Oliver, West Malabar Properties, LLC 516 Delannoy Ave Cocoa, FL 32922 (321) 632-4710 cole@eksdevelopment.com
Legal Representative	516 Delannoy Ave Cocoa, FL 32922
Assigned Planner	Alexandra Bernard 120 Malabar Rd Palm Bay, FL 32907  alexandra.bernard@palmbayflorida.org
Submitter	Mindy Mason 516 Delannoy Ave Cocoa, FL 32940  mindym@eksdevelopment.com

### Fields

Field Label	Value
Size of Area (acres)	
Present Use of Property	Commercial Office
Zoning Classification Desired	CC
Structures On Property?	True
Intended Use of Property	Continue existing use, zoning required in conjunction with annexation into city
Justification for Change	Continue existing use, zoning required in conjunction with annexation into city

# Project Details: CPZ23-00006

Is Submitter the Representative?	False
Ordinance Number	
Block	A
Lot	
Section Township Range	06-29-37
Subdivision	GK
Year Built	Multiple
Use Code	8910
Use Code Desc	MUNICIPALLY OWNED LAND - IMPROVED
LotSize	
Building SqFt	
Homestead Exemption	
Taxable Value Exemption	
Assessed Value	
Market Value	
Land Value	
Tax ID	2925038
Flu Description	Public Semi-Public
Flu Code	PSP
Zoning Description	Institutional Use
Zoning Code	IU
Subdivision Name	

# Acknowledgement Log

**Header:**

Legal Acknowledgement

**Text:**

I, the submitter, understand that this application must be complete and accurate before consideration by the City of Palm Bay and certify that all the answers to the questions in said application, and all data and matter attached to and made 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 application and that the facts stated in it are true.

**Accepted By:**

Mindy Mason

**On:**

5/15/2023 2:45:03 PM

☒ CPZ23-00006

Select Language ▼



**Classified Ad Receipt**  
**(For Info Only - NOT A BILL)**

**Customer:** CITY OF PALM BAY

**Ad No.:** 0005744465

**Address:** SUITE 201  
PALM BAY FL 32907  
USA

**Pymt Method** Invoice

**Net Amount** 212.94

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 06/22/23

**Text of Ad:**

Ad#5744465 06/22/2023  
CITY OF PALM BAY, FLORIDA  
NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on July 5, 2023, and by the City Council on July 20, 2023, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):

1. **FS23-00004 - DRP FL 6, LLC, Brian Clauson (Ana Saunders, P.E., BSE Consultants, Inc., Rep.)**

Final Plat approval to allow for a proposed 41-lot single-family residential subdivision called Timbers at Everlands Phase 1B

A replat of a portion of Tract FD.1 together with Tract FD.2, all in Timbers at Everlands Phase 1A, Section 28, Township 28, Range 36, Brevard County, Florida, containing approximately 10.47 acres. Located at the northeast corner of St. Johns Heritage Parkway NW and Pace Drive NW

2. **CP23-00013 - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.)**

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from CC, Community Commercial (Brevard County) to Commercial

Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE

3. **\*\*CP23-00007 - Bruce Coffman, Affordable Trailer Service & Supply, Inc. (Jeff Kuhn, Rep.)**

A Zoning Amendment from BU-1, General Retail Commercial (Brevard County) to a CC, Community Commercial District

Lot 2.01, Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 2.11 acres. Located west of and adjacent to Minton Road, in the vicinity of Palm Bay Road NE

4. **CP23-00010 - Cole Oliver, West Malabar Properties, LLC**

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from RES 2 Residential 2 (Brevard County) to Commercial

Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE

5. **\*\*CP23-00006 - Cole Oliver, West Malabar Properties, LLC**

A Zoning Amendment from RP, Residential Professional and AU, Agricultural Residential (Brevard County) to a CC, Community Commercial District

Lots 1, 1.02, and 2 of Block 2, Melbourne Poultry Colony Addition 1, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately 4.58 acres. Located west of adjacent to Minton Road, in the vicinity of Palm Bay Road NE

\*\*Indicates quasi-judicial request(s).

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or the City Council 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.

Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.

Jesse Anderson  
Assistant Growth Management Director



## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Stephen White, Senior Planner

**DATE:** July 5, 2023

**SUBJECT:** T23-00006 - Accessory Structure - City of Palm Bay (Growth Management Department) - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.118, Accessory Structures, to amend and update standards for accessory structures

### ATTACHMENTS:

#### Description

- ▣ T23-00006 Staff Report
- ▣ T23-00006 Application
- ▣ T23-00006 Legal Acknowledgement
- ▣ Legal Ad



## STAFF REPORT

### LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

[landdevelopmentweb@palmbayflorida.org](mailto:landdevelopmentweb@palmbayflorida.org)

#### Prepared by

Stephen White, Senior Planner

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#### CASE NUMBER

T23-00006

#### PLANNING & ZONING BOARD HEARING DATE

July 5, 2023

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#### APPLICANT

City of Palm Bay, Florida

#### PROPERTY LOCATION/ADDRESS

Not Applicable

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#### SUMMARY OF REQUEST

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code; Section 185.118, Accessory Structures; to amend the Code of Ordinances and provide clarification of Accessory Structures.

##### Existing Zoning

Not Applicable

##### Existing Land Use

Not Applicable

##### Site Improvements

Not Applicable

##### Site Acreage

Not Applicable

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#### SURROUNDING ZONING & USE OF LAND

##### North

Not Applicable

##### East

Not Applicable

##### South

Not Applicable

##### West

Not Applicable

---



**BACKGROUND:**

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code; Section 185.118, Accessory Structures; to amend the Code of Ordinances and provide clarification of Accessory Structures. An analysis of this section of the Land Development Code identified areas with section 185.118 that require clarification and standards to be re-evaluated.

At the direction of City Council, staff conducted a review of Section 185.118, Accessory Structures to identify cases suitable for administrative review and approvals.

Proposed language for this amendment is attached in legislative style with additions between >>arrow<< symbols and deletions in ~~striketrough~~ format.

**PURPOSE:**

Section 185.118, Accessory Structures outlines requirements and conditions for accessory structures within the city limits of Palm Bay in keep with the purpose and intent of Chapter 185: Zoning Code. These requirements implement the purpose of the Zoning Code to preserve and improve the public health, safety, order, appearance, convenience and welfare of the inhabitants of the city.

The 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.

**ANALYSIS:**

Staff has proposed language to eliminate redundancies and provide clarification for the types, location, and sizes of accessory structures. Staff has also proposed an increase in height of accessory structures from 24' to 25' to allow accessory structures up to the height allowed of principal structures. The amendment also ensures that accessory structures do not encroach on neighboring properties and sets parameters for more aesthetically pleasing accessory structures.

Additionally, staff proposes to incorporate a table into Section 185.118 to consolidate information in a manner more readily available and accessible for residents. The table outlines regulations for structure setbacks, heights, and sizes based on the type of accessory structure.

**STAFF RECOMMENDATION:**

Staff recommends Case T23-00006 for approval.

## TITLE XVII: LAND DEVELOPMENT CODE

### CHAPTER 185: Zoning

#### § 185.118 ACCESSORY STRUCTURES.

(A) No accessory structure shall be erected>>with<< in:

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

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

>>(5) Within five (5) feet of any building on the same lot.<<

(B) No accessory structure shall exceed twenty-four >>five (24>>25<<) feet in height>>or the height of the principal structure, whichever is least.<<

(C) ~~Accessory buildings shall not be used until after the principal structure has been fully constructed and a certificate of occupancy issued. Erection of tents as accessory structures is prohibited. No home occupation or business may be conducted in an accessory building. Residential use in any accessory building is strictly prohibited. No accessory building may be erected upon a property without the presence of a principal building, unless a principal building is not required in the applicable zoning district. In any residential zoning district, no accessory structure shall exceed the size of the principal structure's living area, except that sheds may not exceed 50% of the size of the principal structure's living area. In no case shall the cumulative size of all accessory structures exceed the principal structures living area. Shipping containers will be considered the same as a shed, for the purposes of this section, and in addition to meeting the provisions of 185.118; they shall also meet the requirements of the latest adopted Florida Building Code. >> Properties zoned Rural Residential, RR, of two (2) acres or more shall be permitted to have accessory structures that exceed the square footage of the principal structure's living area.<<~~

>>(D) No home occupation or business may be conducted in an accessory building.

>>(E) Residential use in any accessory building is strictly prohibited.<<

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

(E) Satellite dish antennae. For the purpose of this chapter, satellite dish antennae are considered an accessory structure and a building permit shall be required when installing, moving or reconstructing a dish antenna. Satellite dish antennae shall meet the following requirements:

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

(2) Roof mounting. Satellite dish antennae may be roof-mounted provided that the twenty-four >>five (24>>25<<) foot height restriction in single-family residential districts and the maximum height limits in commercial, industrial, and multi-family districts are not exceeded. {The height of the antenna/dish shall be that distance as measured vertically from the highest point of the dish/antenna, when positioned at its lowest angle for operation, to ground level.}

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

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

~~—(F) Animal cages or enclosures.~~

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

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

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

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

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

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

~~—(G) Metal structures. For the purpose of this chapter, metal accessory structures over three hundred (300) square feet or over twelve (12) feet in height are prohibited in RR (Rural Residential District), RE (Estate Residential District), RS-1 (Single-Family Residential District), RS-2 (Single-Family Residential District), RS-3 (Single-Family Residential District), SRE (Suburban Residential Estate Category), SF-1 (Single-Family Residential Category), and SF-2 (Single-Family Residential~~

~~Category) zoning districts unless the structure is designed to simulate non-metal construction, is treated with a textured coating on all four sides, or is painted to match the color scheme of the primary residence.~~

**>>Table A**

**Minimum Requirements**

<b>Type of Structure</b>	<b>Setback requirement</b>	<b>Max Height</b>
Carport or detached garage	Carports shall not be permissible in a front yard.  Rear: same as the rear yard setback of the principal structure  Side: same as the side yard setback of the principal structure  Corner lots: same as the side yard setback of principal structure plus 5'	Height of the principal Structure or 25 feet, whichever is less
Animal enclosures or cages <sup>1</sup>	Rear: 15'  Side: 10'	6'
Metal Structures <sup>2</sup>	Metal structures shall not be erected within side or front yards.  Rear: same as the rear yard setback of the principal structure	12'
Swimming pools, as defined by Chapter 515, F.S., and associated barriers	Rear: same as side setback of principal structure plus three feet to water's edge.  Side: same as side setback of principal structure plus three feet to water's edge.	Height of the principal structure or 25 feet, whichever is less
Satellite dish (ground-mounted)	Radius of the dish plus five feet for side and rear yard setback	Satellite dish (ground-mounted)
Screen room (non-habitable space only)	Rear: setback same as rear setback of principal structure  Side: setback same as rear setback of principal structure	Height of the principal structure or 25 feet, whichever is less
Sheds, gazebos, and pergolas over 120 square feet	Rear: 10'  Side: 6'  Corner lots: 10'	Height of the principal structure or 25 feet, whichever is less

1. Animal cages or enclosures shall be limited in size to fifteen (15) feet in length by ten (10) feet in width
2. Metal accessory structures over three hundred (300) square feet are prohibited in residential zoning districts, except within the Rural Residential zoning district.<<

# Project Details: T23-00006

Project Type: **Code Textual Amendment**

Project Location: ,  
Milestone: **Approved**  
Created: **4/4/2023**  
Description: **Accessory Structure**  
Assigned Planner: **Stephen White**

## Contacts

Contact	Information
Supplemental Contact	Stephen White  stephen.white2@palmbayflorida.org
Submitter	Stephen White 120 Malabar Rd SE Palm Bay, FL 32907 (321) 733-3042 stephen.white2@palmbayflorida.org
Applicant	Alexandra Bernard, Growth Management Director 120 Malabar Rd SE Palm Bay, FL 32907 (321) 733-3042 alexandra.bernard@palmbayflorida.org
Assigned Planner	Stephen White -1  stephen.white2@palmbayflorida.org

## Fields

Field Label	Value
Section Proposed to be Changed	185.118

# Project Details: T23-00006

Proposed Language	<p>§ 185.118 ACCESSORY STRUCTURES.</p> <p>(C) Accessory buildings shall not be used until after the principal structure has been fully constructed and a certificate of occupancy issued. Erection of tents as accessory structures is prohibited. No home occupation or business may be conducted in an accessory building. Residential use&gt;&gt;not specifically mentioned with the appropriate Zoning District &lt;&lt; in any accessory building is strictly prohibited. No accessory building may be erected upon a property without the presence of a principal building, unless a principal building is not required in the applicable zoning district. In any residential zoning district, no accessory structure shall exceed the size of the principal structure's living area, except that sheds may not exceed 50% of the size of the principal structure's living area. In no case shall the cumulative size of all accessory structures exceed the principal structures living area. &gt;&gt; Properties zoned RR (Rural Residential) and in excess of 5-acres of are permitted to have accessory structures in excess of 500 square feet of the living area of the principal structure.&lt;&lt;Shipping containers will be considered the same as a shed, for the purposes of this section, and in addition to meeting the provisions of 185.118; they shall also meet the requirements of the latest adopted Florida Building Code.</p>
Justification for Proposed Change	review and amend the regulations on accessory structure size
Ordinance Number	



# Acknowledgement Log

**Header:**

Legal Acknowledgement

**Text:**

I, the submitter, understand that this application must be complete and accurate before consideration by the City of Palm Bay and certify that all the answers to the questions in said application, and all data and matter attached to and made 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 application and that the facts stated in it are true.

**Accepted By:**

Stephen White

**On:**

4/4/2023 9:39:20 AM

☒ T23-00006

Select Language ▼

 Home |  City of Palm Bay

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**Classified Ad Receipt  
(For Info Only - NOT A BILL)**

**Customer:** CITY OF PALM BAY

**Ad No.:** 0005744457

**Address:** SUITE 201  
PALM BAY FL 32907  
USA

**Pymt Method** Invoice

**Net Amount** 167.17

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 06/22/23

**Text of Ad:**

Ad#5744457 06/22/2023  
CITY OF PALM BAY, FLORIDA  
NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on July 5, 2023, and by the City Council on August 3, 2023, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):

**1. \*\*CU23-00008 – Royal Wash PSL, LLC (Chelsea Anderson, Esq., Mangrove Title & Legal, PLLC, Rep.)**

A Conditional Use to allow a retail Car Wash in a GC-General Commercial District, in accordance with Section 185.054(D)(9) of the Palm Bay Code of Ordinances

Lots 1 through 6, Block 2211, Port Malabar Unit 38, Section 3, Township 29, Range 37, Brevard County, Florida, containing approximately 1.15 acres. Specifically located at 1300 Malabar Road SE

**2. CP23-00007 – Jennifer E. Torres**

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Utilities to Low Density Residential

Tract K, Port Malabar Unit 20, Section 02, Township 29, Range 36, Brevard County, Florida, containing approximately 1.01 acres. Located on the south side of Warrington Road SW, in the vicinity of Jupiter Boulevard SW

**3. T23-00006 – City of Palm Bay (Growth Management Department)**

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.118, Accessory Structures, to amend and update standards for accessory structures

**4. T23-00009 - City of Palm Bay (Growth Management Department)**

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.018, Site Plans, to amend the site plan review process and establish different levels of plan reviews

**5. T23-00016 – City of Palm Bay (Growth Management Department)**

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to establish Section 185.139, Outdoor Dining, to incorporate standards for outdoor dining

\*\*Indicates quasi-judicial request(s).

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or the City Council 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.

Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.

Jesse Anderson  
Assistant Growth Management Director



## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Tania Ramos, Senior Planner

**DATE:** July 5, 2023

**SUBJECT:** T23-00009 - Minor Site Plans - City of Palm Bay (Growth Management Department - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.018, Site Plans, to amend the site plan review process and establish different levels of plan reviews

### ATTACHMENTS:

#### Description

- 📎 T23-00009 Staff Report
- 📎 T23-00009 Application
- 📎 T23-00009 Legal Acknowledgement
- 📎 T23-00009 Legal Ad



## STAFF REPORT

### LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

[landdevelopmentweb@palmbayflorida.org](mailto:landdevelopmentweb@palmbayflorida.org)

#### Prepared by

Tania Ramos, Senior Planner

---

#### CASE NUMBER

T23-00009

#### PLANNING & ZONING BOARD HEARING DATE

July 5, 2023

---

#### APPLICANT

City of Palm Bay, Florida

#### PROPERTY LOCATION/ADDRESS

Not Applicable

---

#### SUMMARY OF REQUEST

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.018, Site Plans, to amend the site plan review process and establish different levels of plan reviews.

##### Existing Zoning

Not Applicable

##### Existing Land Use

Not Applicable

##### Site Improvements

Not Applicable

##### Site Acreage

Not Applicable

---

#### SURROUNDING ZONING & USE OF LAND

##### North

Not Applicable

##### East

Not Applicable

##### South

Not Applicable

##### West

Not Applicable

---

**BACKGROUND:**

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.018, Site Plans, to amend the site plan review process and establish a separate review process for plan reviews of certain minor expansions or redevelopment of developed sites.

The applicant for this amendment is the City of Palm Bay, Florida. The applicant seeks to define 'minor site plans' and to provide guidelines for submittal and review of minor site plans. Proposed language for this amendment is attached in legislative style with additions between >>arrow<< symbols and deletions in ~~strikethrough~~ format.

**PURPOSE:**

Section 185.018, Site Plans, is the regulatory process to ensure that plans for development meet the purpose and intent of Chapter 185: Zoning Code. The 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.

**ANALYSIS:**

The purpose of this amendment is to delineate the review process for certain minor expansions or redevelopment of developed sites from development of vacant unimproved property.

Applicants submitting for an expansion or redevelopment on a developed site may meet requirements outlined in the code for a minor site plan or a site plan modification and obtain relief from submittal requirements and in-depth reviews associated with the development of vacant unimproved property. This amendment will provide a streamlined submittal and review process, allowing expansion and redevelopment projects to move into construction more quickly.

This amendment also includes exemptions from site plan review for small site alterations that can be adequately reviewed through other processes such as building permit review. The amendment also defines revisions to approved plans (RTAP), which are changes to a site under construction.

Staff has drafted this amendment to allow for the change in verbiage as described above and textually written below to define site plans, minor site plans, site plan modifications, revisions to site plans, and to and establish different levels of plan reviews.

**STAFF RECOMMENDATION:**

Case T23-00009 is recommended for approval.

## TITLE XVII: LAND DEVELOPMENT CODE

### CHAPTER 185: ZONING CODE

#### **§ 185.018 SITE PLANS.**

~~Prior to the issuance of a Building Permit for any development in the City of Palm Bay, other than construction of a single family residence or duplex, a site plan shall be submitted for administrative review.~~—>>A site plan shall be required for the construction or expansion of any building, structure, infrastructure, or complex of buildings or structures, unless exempted by this section. Prior to making application for a site plan, the applicant shall request a pre-application meeting with the City to determine whether the proposed project meets the criteria established for a site plan, minor site plan, site plan modification, or is exempt from the site plan process. A building permit shall not be issued unless the construction plans are accompanied by a City approved site plan. A site plan shall be submitted to the Growth Management Department for administrative review. The submittal requirements shall follow the Guidelines for Site and Building Permitting Procedures Manual.

(A) *Site Plan*. A site plan shall be submitted for all the following development proposals:

- (1) New site development proposals for unimproved real property.
- (2) Any developed site proposing an addition of 50 percent or greater of the original floor area or seating capacity of the existing structure.
- (3) Any addition of impervious area, or modification of an existing onsite wetland, surface water, or stormwater management system.
- (4) Proposals where existing onsite “natural areas” of any size will be impacted.

(B) *Minor Site Plan*. A minor site plan shall be submitted for the following site development proposals:



- (1) Changes to existing development which does not exceed 50 percent of the original floor area or seating capacity of the existing structure.
  - (2) Additions or alterations to site infrastructure, stormwater, impervious areas of less than 500 SF; or an addition of up to 20 percent of parking areas on developed sites, or on sites with no existing permit.
- (C) *Site Plan Modification.* Site plan modifications shall meet the following criteria:
- (1) All infrastructure required to service the site shall exist on the subject site.
  - (2) Parking meets all code requirements, or any approved parking determination, parking rate adjustments or variance requests, in accordance with the Land Development Code.
  - (3) The proposed modification does not substantially alter the traffic circulation system or substantially change the use of property, as determined by the Growth Management Director.
- (D) *Applicability.* All site plans are subject to compliance with the Zoning Code.
- (1) Only the specific work area identified in a site plan, minor site plan or site plan modification shall be subject to compliance with current code requirements, unless the alteration or modification adversely impacts safety, existing infrastructure, or another code requirement that stipulates the area outside of the work area must comply with the current standards.
- (E) *Exemptions.* The following are exempt from the site plan review; however, shall comply with all other development regulations and building code requirements.
- (1) Detached single family or duplex/two family residence on a fee simple lot.
  - (2) Accessory structures to an established principal use meeting the following criteria:

- (a) The structure does not necessitate the expansion of the existing infrastructure such as parking spaces, stormwater system, etc., or
- (b) Does not impact the adequacy of the existing infrastructure (e.g., utilize necessary parking spaces, remove/reduce stormwater, etc.), and
- (c) The scope of work does not require modifying the existing site engineering and can be regulated through the building permit review process.

(F) *Revisions to Approved Plans (RTAP)*. Revisions to approved plans under construction which do not increase the gross square footage of a building or adversely impact compliance with the approved site plan and would not alter the required infrastructure and improvements necessary to serve the site, may be approved in writing provided such additions and/or modifications fully conform to all existing city regulations. Prior to final acceptance of the site, as-built drawings shall be submitted indicating such revisions, and/or modifications prior to site acceptance.<<

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

# Project Details: T23-00009

Project Type: **Code Textual Amendment**

Project Location: ,  
Milestone: **Submitted**  
Created: **4/19/2023**  
Description: **Minor Site Plans**  
Assigned Planner: **Tania Ramos**

## Contacts

Contact	Information
Supplemental Contact	
Submitter	Tania Ramos FL (321) 952-3400 tania.ramos@palmbayflorida.org
Assigned Planner	Tania Ramos FL tania.ramos@palmbayflorida.org

## Fields

Field Label	Value
Section Proposed to be Changed	Section 185.018, Site Plans
Proposed Language	>>A site plan shall be required for the construction or expansion of any building, structure, infrastructure, or complex of buildings or structures, unless exempted by this section. Prior to making application for a site plan, the applicant shall request a pre-application meeting with the City to determine whether the proposed project meets the criteria established for a site plan, minor site plan, site plan modification, or is exempt from the site plan process. A building permit shall not be issued unless the construction plans are accompanied by a City approved site plan. A site plan shall be submitted to the Growth Management Department for administrative review. The submittal requirements shall follow the Guidelines for Site and Building Permitting Procedures Manual. (A) Site Plan. A site plan shall be submitted for all the following development proposals: (1) New site development proposals for unimproved real property. (2) Any developed site proposing an addition of 50 percent or greater of the original floor area or seating capacity of the existing structure.

# Project Details: T23-00009

(3) Any addition of impervious area, or modification of an existing onsite wetland, surface water, or stormwater management system.

(4) Proposals where existing onsite “natural areas” of any size will be impacted.

(B) Minor Site Plan. A minor site plan shall be submitted for the following site development proposals:

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(3) The proposed modification does not substantially alter the traffic circulation system or substantially change the use of property, as determined by the Growth Management Director.

(D) Applicability. All site plans are subject to compliance with the Zoning Code.

(1) Only the specific work area identified in a site plan, minor site plan or site plan modification shall be subject to compliance with current code requirements, unless the alteration or modification adversely impacts safety, existing infrastructure, or another code requirement that stipulates the area outside of the work area must comply with the current standards.

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(F) Revisions to Approved Plans (RTAP). Revisions to approved plans under construction which do not increase the gross square footage of a building or adversely impact compliance with the approved site plan and would not alter the required infrastructure and improvements necessary to serve the site, may be approved in writing provided such additions and/or modifications fully conform to all existing city regulations. Prior to final acceptance of the site, as-built drawings shall be submitted indicating such revisions, and/or modifications prior to site acceptance.<<

# Project Details: T23-00009

Justification for Proposed Change	The purpose of the change is to provide applicants with appropriate review options for expansion or redevelopment on existing developed sites.
Ordinance Number	
Subdivision Name	

# Acknowledgement Log

**Header:**

Legal Acknowledgement

**Text:**

I, the submitter, understand that this application must be complete and accurate before consideration by the City of Palm Bay and certify that all the answers to the questions in said application, and all data and matter attached to and made 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 application and that the facts stated in it are true.

**Accepted By:**

Tania Ramos

**On:**

4/19/2023 10:31:46 AM

☒ T23-00009

Select Language ▼



**Classified Ad Receipt  
(For Info Only - NOT A BILL)**

**Customer:** CITY OF PALM BAY  
**Address:** SUITE 201  
PALM BAY FL 32907  
USA

**Ad No.:** 0005744457  
**Pymt Method** Invoice  
**Net Amount** 167.17

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 06/22/23

**Text of Ad:**

Ad#5744457 06/22/2023  
CITY OF PALM BAY, FLORIDA  
NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on July 5, 2023, and by the City Council on August 3, 2023, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):

**1. \*\*CU23-00008 – Royal Wash PSL, LLC (Chelsea Anderson, Esq., Mangrove Title & Legal, PLLC, Rep.)**

A Conditional Use to allow a retail Car Wash in a GC-General Commercial District, in accordance with Section 185.054(D)(9) of the Palm Bay Code of Ordinances

Lots 1 through 6, Block 2211, Port Malabar Unit 38, Section 3, Township 29, Range 37, Brevard County, Florida, containing approximately 1.15 acres. Specifically located at 1300 Malabar Road SE

**2. CP23-00007 – Jennifer E. Torres**

A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Utilities to Low Density Residential

Tract K, Port Malabar Unit 20, Section 02, Township 29, Range 36, Brevard County, Florida, containing approximately 1.01 acres. Located on the south side of Warrington Road SW, in the vicinity of Jupiter Boulevard SW

**3. T23-00006 – City of Palm Bay (Growth Management Department)**

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.118, Accessory Structures, to amend and update standards for accessory structures

**4. T23-00009 - City of Palm Bay (Growth Management Department)**

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.018, Site Plans, to amend the site plan review process and establish different levels of plan reviews

**5. T23-00016 – City of Palm Bay (Growth Management Department)**

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to establish Section 185.139, Outdoor Dining, to incorporate standards for outdoor dining

**\*\*Indicates quasi-judicial request(s).**

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or the City Council 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.

Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.

Jesse Anderson  
Assistant Growth Management Director





## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Alexandra Bernard, Principal Planner

**DATE:** July 5, 2023

**SUBJECT:** T23-000016 - Outdoor Dining - City of Palm Bay (Growth Management Department) - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to establish Section 185.139, Outdoor Dining, to incorporate standards for outdoor dining

### ATTACHMENTS:

#### Description

- ☐ Case T23-00016 -- Staff report
- ☐ Case T23-00016 -- Application
- ☐ Case T23-00016 -- Legal Acknowledgment
- ☐ Case T23-00016 -- Legal Ad



**STAFF REPORT  
LAND DEVELOPMENT DIVISION**

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042

[landdevelopmentweb@palmabayflorida.org](mailto:landdevelopmentweb@palmabayflorida.org)

**Prepared by**

Alix Bernard, Principal Planner

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**CASE NUMBER**

T23-00016

**PLANNING & ZONING BOARD HEARING DATE**

July 5, 2023

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**APPLICANT**

City of Palm Bay Growth Management

**PROPERTY LOCATION/ADDRESS**

Not Applicable

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**SUMMARY OF REQUEST**

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code; Supplementary District Regulations to incorporate a new section 185.139 Outdoor Dining.

**Existing Zoning**

Not Applicable

**Existing Land Use**

Not Applicable

**Site Improvements**

Not Applicable

**Site Acreage**

Not Applicable

---

**SURROUNDING ZONING & USE OF LAND**

**North**

Not Applicable

**East**

Not Applicable

**South**

Not Applicable

**West**

Not Applicable

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**BACKGROUND:**

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code; Supplementary District Regulations to incorporate a new section 185.139 Outdoor Dining.

The applicant for this amendment is the City of Palm Bay's Growth Management Department. The request is to add new language to the Land Development Code related to outdoor dining in association with a licensed food or eating establishment. The City has received site plans and revisions to approved plans seeking to incorporate outdoor seating and/or dining areas as accessory to their operations. However, the Land Development Code currently lacks language and regulations related to outdoor seating and dining.

Proposed language for this amendment is attached in legislative style with additions between >>arrow<< symbols and deletions in ~~strikethrough~~ format.

**PURPOSE:**

The proposed Section 185.139, Outdoor Dining, is the regulatory process to ensure that licensed food or eating establishments seeking to provide outdoor seating and/or dining for their patrons meet the purpose and intent of Chapter 185: Zoning Code. The 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.

Outdoor seating and dining areas are present throughout the city. However, the lack of regulatory language on this use has caused site-specific applications and interpretations of the Zoning Code. This amendment seeks to avoid inconsistencies in interpretation of the Code and ensure fair and equitable treatment of all such applications..

**ANALYSIS:**

The proposed language intends to permit outdoor seating and/or dining by right, provided that the use is accessory and in association with a licensed food or eating establishment, meets the development standards governing Outdoor Dining in the Code, and is represented on an approved site plan. Furthermore, the language will improve the order, appearance, convenience, and welfare of citizens by providing for more unique and diverse dining experiences within the local economy.

**STAFF RECOMMENDATION:**

Staff recommends approval for Case T23-00016.

## &gt;&gt;185.139 Outdoor Dining

An outdoor seating and/or dining area is an allowable use when such use is in conjunction with a licensed food or eating establishment. The outdoor seating and/or dining area shall be identified on an approved site plan that demonstrates the following conditions are met:

- (1) An outdoor seating and/or dining area is restricted to an area within the boundary lines of the property for which the licensed food or eating establishment is located.
- (2) The outdoor dining area shall be aesthetically and architecturally pleasing and in alignment with the architectural style requirements.
- (3) An outdoor seating and/or dining area must be clearly delineated on the site plan. Any such area which abuts a parking area shall have a protective buffer in the form of planters, decorative fencing, and/or hedges.
- (4) The number of outdoor seats provided by a restaurant shall be counted as part of the restaurants total allowable dining allotment and shall be shown on an approved site plan. All outdoor seating and/or dining furniture and associated lighting shall be contained within the defined area on the site plan.
- (5) Outdoor seats shall not cause a licensed restaurant's required parking to become inadequate.
- (6) Outdoor dining areas shall not encroach upon any public right of way, public easements or setbacks.
- (7) Outdoor dining shall not be placed within five feet of bus stops, loading zones, fire hydrants, site triangles, above ground public utilities, bike racks or any type of public street furniture.
- (8) Private sidewalks that abut restaurants may be used for such outdoor seating and/or dining area, provided that there is a five-foot pedestrian clear zone, which shall be maintained at all times.
- (9) No outdoor seating and/or dining furniture shall be allowed within five feet of a pedestrian crosswalk.
- (10) All kitchen equipment used to service the outdoor dining area shall be located within a building.
- (11) All outdoor dining furniture, including all accessory appurtenances including but not limited to approved space heaters, misters and portable umbrellas that are located within the outdoor dining area shall be stored inside a building after close of business.
- (12) No outdoor dining furniture shall be attached, chained or in any manner affixed to any tree, post, sign or other fixtures.
- (13) Outdoor food service will terminate no later than 10:00 pm on weekdays (Monday through Thursday) and 11:00 pm on weekends (Friday through Sunday).
- (14) The serving or consumption of alcoholic beverages within an outdoor dining area shall comply with the regulations of applicable government agencies.
- (15) Outdoor seating and/or dining areas must be maintained in a neat and orderly appearance at all times and must be cleared of all trash and debris on a periodic basis during the day and at the close of each business day.

- (16) If found to be necessary for the protection of the health, safety and welfare of the public, the city manager or his/her designee may require the subject property to immediately remove or relocate all or part of the tables, chairs, etc. of the outdoor seating and/or dining area.
- (17) This section shall not apply to outdoor dining areas that are depicted on site plans approved prior to July 1, 2023. <<

# Project Details: T23-00016

Project Type: **Code Textual Amendment**

Project Location: ,  
Milestone: **Submitted**  
Created: **6/6/2023**  
Description: **Outdoor Dining**  
Assigned Planner: **Alexandra Bernard**

## Contacts

Contact	Information
Submitter	AB Alexandra Bernard 120 Malabar Rd SE Palm Bay, FL 32907 (321) 733-3042 alexandra.bernard@palmbayflorida.org
Supplemental Contact	120 Malabar Rd SE Palm Bay, FL 32907 (321) 733-3042
Assigned Planner	Alexandra Bernard 120 Malabar Rd Palm Bay, FL 32907 alexandra.bernard@palmbayflorida.org

## Fields

Field Label	Value
Section Proposed to be Changed	New section to be added to the supplementary district regulations 185.139



# Project Details: T23-00016

## Proposed Language

### 185.139 Outdoor Dining Area for Restaurants

An outdoor dining area is an allowable use that is in conjunction with a licensed restaurant provided that the following conditions are met:

- (1) An outdoor dining area is restricted to the area abutting the boundary lines of the property on which the business owned by the applicant is located.
- (2) All outdoor dining furniture and associated lighting shall be aesthetically and architecturally pleasing and in alignment with the architectural style requirements.
- (3) An outdoor dining area must be clearly delineated with planters, decorative fencing, and/or hedges to distinguish such area from the parking area serving the restaurant.
- (4) The number of outdoor seats provided by a restaurant shall be counted as part of the restaurants total allowable dining allotment and shall be shown on an approved site plan.
- (5) Outdoor seats shall not cause a licensed restaurant's required parking to become inadequate.
- (6) Outdoor dining areas shall not encroach upon public right of way, public easements or setbacks.
- (7) Private sidewalks that abut restaurants may be used for such dining area, provided that there is a five-foot pedestrian clear zone.
- (8) Outdoor dining that is provided within a private sidewalk area shall either maintain a five-foot-wide clear pedestrian path or 50 percent of the sidewalk width, whichever is greater. Such clear pedestrian paths shall be maintained at all times.
- (9) No outdoor dining area furniture shall be allowed within five feet of a pedestrian crosswalk.
- (10) All kitchen equipment used to service the outdoor dining area shall be located within a building.
- (11) All outdoor dining furniture, including all accessory appurtenances including but not limited to approved space heaters, misters and portable umbrellas that are located within the outdoor dining area shall be stored inside a building after close of business.
- (12) No outdoor dining furniture shall be attached, chained or in any manner affixed to any tree, post, sign or other fixtures.
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- (17) If found to be necessary for the protection of the health, safety and welfare of the public, the city manager or his/her designee may require the subject property to immediately remove or relocate all or part of the tables, chairs, etc. of the outdoor dining area.
- (18) This section shall not apply to outdoor dining areas that are depicted on site plans approved prior to May 1, 2023.

# Project Details: T23-00016

Justification for Proposed Change	Currently the code is silent on outdoor dining regulations. The proposed language is to bring clarification to the parameters of is allowed with outdoor dining.
Ordinance Number	
Subdivision Name	

# Acknowledgement Log

**Header:**

Legal Acknowledgement

**Text:**

I, the submitter, understand that this application must be complete and accurate before consideration by the City of Palm Bay and certify that all the answers to the questions in said application, and all data and matter attached to and made 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 application and that the facts stated in it are true.

**Accepted By:**

Alexandra Bernard

**On:**

6/6/2023 4:26:18 PM

☒ T23-00016

Select Language ▼



**Classified Ad Receipt  
(For Info Only - NOT A BILL)**

**Customer:** CITY OF PALM BAY

**Ad No.:** 0005744457

**Address:** SUITE 201  
PALM BAY FL 32907  
USA

**Pymt Method** Invoice

**Net Amount** 167.17

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 06/22/23

**Text of Ad:**

Ad#5744457 06/22/2023  
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Jesse Anderson  
Assistant Growth Management Director