



## AGENDA

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

Regular Meeting 2020-02  
February 5, 2020 – 7:00 P.M.  
City Hall Council Chambers

#### **CALL TO ORDER:**

#### **PLEDGE OF ALLEGIANCE:**

#### **ROLL CALL:**

#### **ADOPTION OF MINUTES:**

1. Special Meeting 2020-01; January 8, 2020

#### **ANNOUNCEMENTS:**

#### **NEW BUSINESS:**

##### **1. CP-2-2020 – PAUL YATES**

A large-scale Comprehensive Plan Future Land Use Map amendment from Public/Semi-Public Use to Single Family Residential Use.

Tract B, Port Malabar Unit 37, Section 11, Township 29, Range 36, Brevard County, Florida, containing 11.71 acres, more or less. (Located east of and adjacent to Dalhart Avenue SW, in the vicinity between Geary Street SW and Harper Boulevard SW)

##### **2. ♣CPZ-2-2020 – PAUL YATES**

A zoning amendment from an RS-2, Single Family Residential District to an, RR, Rural Residential District.

Tract B, Port Malabar Unit 37, Section 11, Township 29, Range 36, Brevard County, Florida, containing 11.71 acres, more or less. (Located east of and adjacent to Dalhart Avenue SW, in the vicinity between Geary Street SW and Harper Boulevard SW)

**3. ♣V-4-2020 – CHRISTINE STEVENS AND JUAN DELGADO**

A variance to allow an existing accessory structure to encroach 4.5 feet into the 8.5-foot side-interior setback and an existing screened pool enclosure to encroach 3.5 feet into the 10-foot rear setback.

Lot 5, Block 2200, Port Malabar Unit 28, Section 33, Township 28, Range 37, Brevard County, Florida, containing .24 acres, more or less. (Located west of and adjacent to Roman Avenue NE, across from Lara Street NE, specifically at 236 Roman Avenue NE)

**4. T-5-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)**

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 178: Signs, to remove the timeframes by which temporary signs may be displayed.

**OTHER BUSINESS:**

**ADJOURNMENT:**

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

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

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

**♣ Quasi-Judicial Proceeding.**

**CITY OF PALM BAY, FLORIDA**

**PLANNING AND ZONING BOARD/  
LOCAL PLANNING AGENCY  
SPECIAL MEETING 2020-01**

Held on Wednesday, January 8, 2020, 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.

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

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

**ROLL CALL:**

<b>CHAIRPERSON:</b>	Philip Weinberg	Present	
<b>VICE CHAIRPERSON:</b>	Leeta Jordan	Present	
<b>MEMBER:</b>	Donald Boerema	Present	
<b>MEMBER:</b>	Donny Felix	Present	
<b>MEMBER:</b>	Khalilah Maragh	Present	
<b>MEMBER:</b>	Rainer Warner	Absent	(Excused)
<b>MEMBER:</b>	Vacant		
<b>NON-VOTING MEMBER:</b>	Vacant (School Board Appointee)		

Mr. Warner's absence was excused.

**CITY STAFF:** Present were Mr. Patrick Murphy, Assistant Growth Management Director; Ms. Chandra Powell, Recording Secretary; Ms. Jennifer Cockcroft, Deputy City Attorney.

**ADOPTION OF MINUTES:**

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2019-14; November 6, 2019 (Re-adoption). A request was made by Ms. Lynda Hauser to amend page 7, fourth paragraph, to reflect that her comments for Case T-27-2019 were an inquiry and were not against the request as stated. Motion by Ms. Maragh, seconded by Mr. Boerema to approve the re-adoption of the November 6, 2019 minutes as amended. The motion carried with members voting unanimously.



2. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2019-15; December 4, 2019. Per staff, an amendment to page 2, Adoption of Minutes, to reflect the revision and re-adoption of Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2019-14, November 6, 2019. Motion by Ms. Maragh, seconded by Ms. Jordan to approve the December 4, 2019 minutes as amended. The motion carried with members voting unanimously.

#### **ANNOUNCEMENTS:**

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

#### **NEW BUSINESS:**

##### **1. T-1-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)**

Mr. Murphy presented the staff report for Case T-1-2020. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 169: Land Development Code, Section 169.009 Variances, to modify the administrative variance provisions. Staff recommended Case T-1-2020 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 by Mr. Boerema, seconded by Ms. Maragh to submit Case T-1-2020 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 169: Land Development Code, Section 169.009 Variances, to modify the administrative variance provisions. The motion carried with members voting unanimously.

## **2. T-2-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)**

Mr. Murphy presented the staff report for Case T-2-2020. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.036 through 185.038; 185.043; 185.044; 185.053; 185.054; 185.058; 185.060; 185.062; 185.065; and 185.140, to establish new language for tiny homes; eliminate minimum unit sizes for specific residential development; establish a minimum threshold for large-scale commercial development; and to modify off-street parking regulations. Staff recommended Case T-2-2020 for approval.

Mr. Murphy explained that the proposed textual amendment had been prepared at the direction of City Council to permit smaller-sized homes in certain areas of the City that would create more housing opportunities and affordable housing. The minimum unit size for a dwelling would be dictated by development within zoning districts RM-10 and RM-15 (Single-, Two-, Multiple-Family Residential Districts); BMU (Bayfront Mixed Use District); and BMUV (Bayfront Mixed Use Village District). The proposed modification to the parking regulation would correct a conflict with multi-family parking setbacks and yard areas. The amendment would allow for board and City Council review of commercial developments at a 10-acre threshold within zoning districts CC (Community Commercial); HC (Highway Commercial); and GC (General Commercial). The proposal would allow for tiny home PUDs (Planned Unit Developments) and individual tiny homes in RM-10 and RM-15 zoning districts. The amendment re-established the allowance of 16-foot deep parking spaces with 3-foot overhangs to add more design flexibility. Parking ratios were also established for interior self-storage facilities.

Ms. Maragh inquired whether the requirements for tiny homes focused on developers or could an individual build a single tiny home. She was also concerned about tiny homes neighboring larger homes. Mr. Murphy clarified that the amendment allowed for tiny home developments and individual tiny homes. Individual tiny homes could locate on RM-10 lots, which were predominantly in the southeast area of the City near Babcock Street SE and Eldron Boulevard SE.

Ms. Jordan wanted to know how tiny homes affected impact fees. Mr. Murphy stated that the impact fees were based on the dwelling unit and not the size of the home.

Mr. Boerema asked if there would be a limit to the number of tiny homes allowed on an acre of land. Mr. Murphy stated that the Single-Family Residential Land Use allowed for a maximum of five units per acre.

The floor was opened for public comments.

Mr. Thomas Gaume (resident at Lantana Court NW) spoke in favor of the request. He stated that his first home in Palm Bay was 840 square feet and affordable. Tiny homes were similar and could hopefully expand within the City.

Mr. Richard Hill (resident at O'Connel Avenue SW) commented on the request. There were no provisions in the Residential Building Code for tiny homes. Treatment of tiny homes similar to trailers and recreational vehicles would create a liability to the surrounding residences because of tie-down schedules and wheels. He stated that tiny homes should be within its own PUDs and not among other single-family homes.

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

In response to comments from the audience, Mr. Murphy explained that mobile homes were not allowed in RM-10 and RM-15 districts. A small home could be built, or a structure could be converted to meet the Florida Building Code (FBC). There was a builder who wanted to construct 400 to 500 square-foot, A-frame homes in Palm Bay that met the FBC.

Mr. Weinberg was opposed to the removal of minimum living areas for tiny homes. Slums would be a result once tiny home residents tired of the fad because of their cramped spaces and lack of storage and privacy. Affordable housing was a crisis that could not be resolved with tiny homes. He suggested small PUDs be instituted with certain limits on the living areas to establish affordable homes.

Ms. Maragh asked if there were existing tiny home communities the board could evaluate, and she wanted to know if the proposed amendment limited the number of residents allowed to reside in a tiny home. Mr. Murphy stated that several communities had been researched. South Florida communities and Indian River County had existed for years with no standards for minimum living areas in all or portions of their communities, and slums did not appear to result from their regulations. Tiny homes were being introduced to a small section of Palm Bay, and the FBC set minimum square-footage standards per person for residential occupancy.

Ms. Maragh asked if staff anticipated small tiny home PUDs next to 2,000 square-foot homes. Mr. Murphy stated that most RM-10 lots were located in Port Malabar Unit 46, which typically had 1,200 square-foot homes.

Ms. Jordan inquired about the possibility of variance submittals to build tiny homes on other single-family lots. She was opposed to eliminating the minimum living areas and wanted tiny homes limited to PUDs in a specific area on a smaller basis. She asked about the percentage of vacant RM-10 and RM-15 lots available for individual tiny homes. Mr. Murphy stated that a hardship had to be proven to be granted variances. He explained that the amendment would restrict tiny home PUDs to parcels of land that currently had a Multiple Family Residential land use designation, and that vacant RM-10 and RM-15 lots consisted of approximately two percent of the City for individual tiny homes.

Mr. Felix agreed that affordable housing needed to be addressed in the City. He supported tiny home PUDs but was opposed to having a neighbor with a home the size of a shed. The tiny homes should also have a minimum square footage.

Mr. Weinberg commented that there would not be a great demand for tiny homes, so the homes should be limited to specific, small PUDs where the zero square footage could then be an option.

Mr. Weinberg inquired about Section 185.043(D) that would require a permitted use by conditional use on parcels of ten acres or more. Mr. Murphy explained that any permitted commercial development on ten or more acres would have to receive conditional use approval which would allow for further review and additional conditions.

Ms. Maragh was in favor of minimizing where tiny homes would be allowed. The areas could be expanded in the future if the developments were successful. Mr. Murphy remarked that the feedback from City Council was to provide individuals with the ability to build a tiny home without having to wait on large developments. The subject proposal allowed for tiny home communities or individual tiny homes.

Mr. Weinberg noted the elimination of minimum living square footage for efficiencies and bedroom units in Multiple-Family Residential Districts. Mr. Murphy explained that those changes were to address a new type of development called micro-housing for smaller studio-type apartments in multiple-family housing.

Mr. Weinberg reiterated his opinion that tiny homes should be limited to small PUDs and suggested the proposal be redone by staff. Ms. Maragh stated that residents had a right to choose to live in a tiny home; however, she did not want neighborhoods with larger homes to be affected by the tiny homes.

Mr. Weinberg stated that he did not have a problem with the parking changes. Mr. Murphy noted that a reduction in the amount of required retail parking was also being proposed.

Motion by Ms. Jordan to submit Case T-2-2020 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, with the exception to any reference to tiny homes with no restrictions.

Ms. Cockcroft and Mr. Murphy advised on the intent and clarity of the board's motion.

Motion amended by Ms. Jordan, seconded by Mr. Felix to submit Case T-2-2020 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, with an exception to where the minimum living areas for single-family homes in the amendment were changed to "None" for zoning districts RM-10 and RM-15 (Single-, Two-, Multiple-Family Residential Districts); BMU (Bayfront Mixed Use District); and BMUV (Bayfront Mixed Use Village District).

Ms. Maragh commented that if tiny home PUDs were successful, the language could be adjusted in the future to allow for individual tiny homes. Mr. Murphy stated that the provision could be readjusted in the future if directed by City Council.

A vote was called on the amended motion by Ms. Jordan, seconded by Mr. Felix to submit Case T-2-2020 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.036 through 185.038; 185.043; 185.044; 185.053; 185.054; 185.058; 185.060; 185.062; 185.065; and 185.140, to establish new language for tiny homes; eliminate minimum unit sizes for specific residential development; establish a minimum threshold for large-scale commercial development; and to modify off-street parking regulations, with an exception to where the minimum living areas for single-family homes in the amendment were changed to "None" for zoning districts RM-10 and RM-15 (Single-, Two-, Multiple-Family Residential Districts); BMU (Bayfront Mixed Use District); and BMUV (Bayfront Mixed Use Village District). The motion carried with members voting unanimously.

### **3. CP-1-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)**

Mr. Murphy presented the staff report for Case CP-1-2020. The applicant had requested a Comprehensive Plan textual amendment to the Future Land Use Element to allow for accessory dwelling units in the Single-Family Residential Future Land Use category. Staff recommended Case CP-1-2020 for approval.

Mr. Murphy explained that the proposed amendment would allow accessory dwelling units (ADU) as an allowed use under the Single Family Residential land use category.

Ms. Jordan and Mr. Weinberg wanted to know about the required minimum size of ADUs. Mr. Murphy stated that ADUs would have a 300 square-foot minimum with a maximum 50 percent of the existing primary home, or up to a maximum of 750 square feet, whichever was less.

Mr. Boerema asked if the ADUs would be stand-alone or attached dwellings. Mr. Murphy stated that ADUs could be either a stand-alone or an attached dwelling.

The floor was opened for public comments.

Mr. Bill Batten (resident at Ocean Spray Street SW) spoke in favor of the request. The proposal would allow him to move into an ADU when he grew older, and his grandchildren could move into the primary home. He commented that it was the resident and not the size or location of a house that made the home unkept.

Mr. Thomas Gaume (resident at Lantana Court NW) spoke in favor of the request. He commented on how ADUs would be a benefit that would allow adult children with special needs to live independently. Property rights should allow a property owner to have an additional dwelling on their site. He questioned the impact of moving residential sites with ADUs to multiple family accounts.

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

Ms. Maragh asked if the ADU would be required to have a kitchen and other utilities. Mr. Murphy confirmed that all utilities would be required.

Motion by Ms. Maragh, seconded by Ms. Jordan to submit Case CP-1-2020 to City Council for approval of a Comprehensive Plan textual amendment to the Future Land Use Element to allow for accessory dwelling units in the Single-Family Residential Future Land Use category. The motion carried with members voting unanimously.

#### **4. T-3-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)**

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.006; 185.031 through 185.035; 185.049; and 185.051, to establish new language for accessory dwelling units. Staff recommended Case T-3-2020 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.

Ms. Jordan asked about the proposed requirement to treat an accessory dwelling unit (ADU) as a multi-family unit for impact fees. Mr. Murphy explained that multi-family units had a lesser rate. ADUs would be subordinate to primary structures in size and would have less of an impact on services. The impact fee for the primary home would remain at the single-family rate.

Ms. Jordan asked about the garage size reduction that was proposed by the amendment. Mr. Murphy stated that the City Council had requested that principal single-family homes be allowed to have a one-car garage. The option would apply to single-family residential zoning districts RS-1, RS-2, and SF-1.

Ms. Maragh inquired whether a 3,000 square-foot home on double lots would be allowed to have two ADUs. Mr. Murphy stated that properties would only be permitted to have one ADU, and that ADUs could not locate on a site without a primary residence. He gave the board an overview of each criteria proposed to permit an ADU.

Mr. Weinberg questioned how the City would be able to keep a property owner or developer from renting out both the primary and accessory dwellings on a lot. He was also concerned about septic systems being burdened by additional dwelling units.



Mr. Murphy indicated that the requirement for the property owner to reside onsite would be enforced by homestead exemption. He said that existing septic systems would have to be modified or an additional tank added if the State Health Department determined that a drainfield servicing a primary home could not accommodate an ADU. ADUs on septic could not be built without approval from the Health Department.

Mr. Weinberg was not in favor of eliminating the requirement for two-car garages. More people would be parking in driveways, side yards, and other areas. Mr. Murphy said that building a one-car garage would be an option that not every homeowner would desire. Mr. Weinberg felt that the requirement would provide developers with a profit margin to charge more for two-car garages.

Mr. Felix asked if the ADUs would have separate water lines. Mr. Murphy stated that ADUs would have their own electrical meter; however, the Utilities Department had not yet determined whether to require separate water meters. Mr. Weinberg wanted to know if there would be restrictions based on the sufficiency of whether existing wells could provide for the ADUs. Mr. Murphy noted that wells would also be reviewed by the Health Department for re-permitting.

Ms. Maragh asked if the Health Department was responsible for addressing the number of residents allowed to reside in an ADU. Mr. Murphy stated that the standards for residential occupancy were addressed by the Florida Building Code.

Motion by Ms. Maragh, seconded by Mr. Boerema to submit Case T-3-2020 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.006; 185.031 through 185.035; 185.049; and 185.051, to establish new language for accessory dwelling units. The motion carried with members voting as follows:

Mr. Weinberg	Nay
Ms. Jordan	Aye
Mr. Boerema	Aye
Mr. Felix	Aye
Ms. Maragh	Aye

Mr. Weinberg stated that his vote against the request was due to the option that allowed for the one-car garages.



**OTHER BUSINESS:**

There was no other business discussed.

**ADJOURNMENT:**

The meeting was adjourned at approximately 8:25 p.m.

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Philip Weinberg, CHAIRPERSON

Attest:

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Chandra Powell, SECRETARY

♣Quasi-Judicial Proceeding.



# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042  
Landdevelopmentweb@palmbayflorida.org

### Prepared by

Christopher Balter, Planner II

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#### CASE NUMBER

CP-2-2020

#### PLANNING & ZONING BOARD HEARING DATE

February 5, 2020

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#### PROPERTY OWNER & APPLICANT

Paul Yates, Grapefruit Scuba, LLC

#### PROPERTY LOCATION/ADDRESS

Port Malabar Unit 37, Tract B, Section 11, Township 29,  
Range 36, Brevard County, Florida

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#### SUMMARY OF REQUEST

The applicant is requesting a large-scale Comprehensive Plan Future Land Use Map Amendment to change 11.71 acres of Public/Semi-Public Use (PSP) to Single-Family Residential Use (SFR).

##### Existing Zoning

RS-2, Single-Family Residential

##### Existing Land Use

Public/Semi-Public Use

##### Site Improvements

Vacant Land

##### Site Acreage

11.71, more or less

#### SURROUNDING ZONING & USE OF LAND USE

##### North

RS-2, Single-Family Residential; Single-Family Homes

##### East

RS-2, Single-Family Residential; Two Single-Family Homes and Vacant Lots

##### South

RS-2, Single-Family Residential; Vacant Residential Lots

##### West

RS-2, Single-Family Residential; Dalhart Avenue SW

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**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 Element Goal FLU-2 is to provide for and maintain viable neighborhoods and residential development to meet the existing and future needs of the residents of Palm Bay.

The subject property is bordered by single-family residential land uses on three sides. The intended use for the 11.71-acre parcels is small hobby farm. The proposed land use amendment would be considered compatible with the surrounding land uses as it is the same classification.

**2. COASTAL MANAGEMENT ELEMENT**

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

**3. CONSERVATION ELEMENT**

The environmental character of the City is maintained through conservation, appropriate use, and protection of natural resources.

The subject parcel is not located within any of the Florida scrub jay polygons identified on the City's Habitat Conservation Plan (HCP). No additional listed species are known to inhabit the subject property. Any listed species identified on the subject parcel would need to be mitigated for as required by State and Federal regulations, and per Comprehensive Plan Policy CON-1.7B.

According to the National Wetlands Inventory approximately 2.44 acres of wetlands are present on the subject property. Any proposed mitigation will require approval from all applicable State Agencies.

**4. HOUSING ELEMENT**

The proposed FLU amendment does not adversely impact the supply and variety of safe, decent, attractive and affordable housing within the City.

**5. INFRASTRUCTURE ELEMENT**

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

**Utilities:** The FLU change will not cause 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. If developed, the owner/developer will be responsible for extending services to the site in accordance with current City and State regulations.

**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

**Solid Waste:** Solid waste collection is provided to the area by Waste Management Inc. Sufficient capacity exists within the Brevard County landfills to service the property.

## 6. RECREATION AND OPEN SPACE ELEMENT

The Recreation and Open Space Element addresses the current and future recreational needs of the City. Single-Family Residential Use does have a demand upon the parks & recreational level of service (LOS) standards; however, the intended use of the property will have no effect on the recreation LOS.

## 7. TRANSPORTATION ELEMENT

The objectives of the Comprehensive Plan's Transportation Element are to provide a safe, balanced, efficient transportation system that maintains roadway level of service and adequately serves the needs of the community. If developed, a traffic impact analysis will 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.

### CONDITIONS:

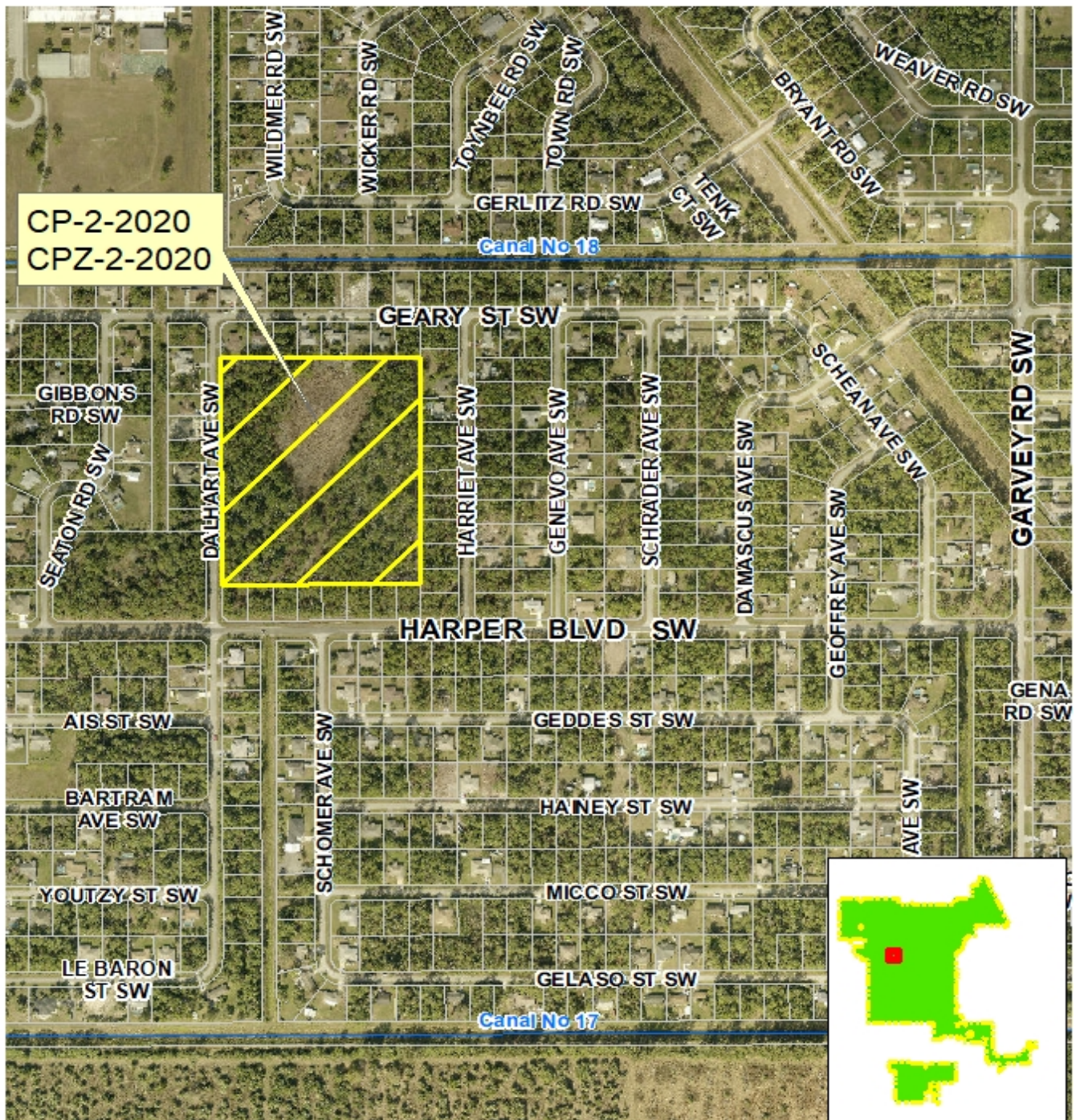
1. Future development will be restricted to the attached Development Agreement.

### STAFF RECOMMENDATION:

Case CP-2-2020 is recommended for approval subject to the staff comments and conditions contained in this report.



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



## AERIAL LOCATION MAP CASE CP-2-2020 & CPZ-2-2020

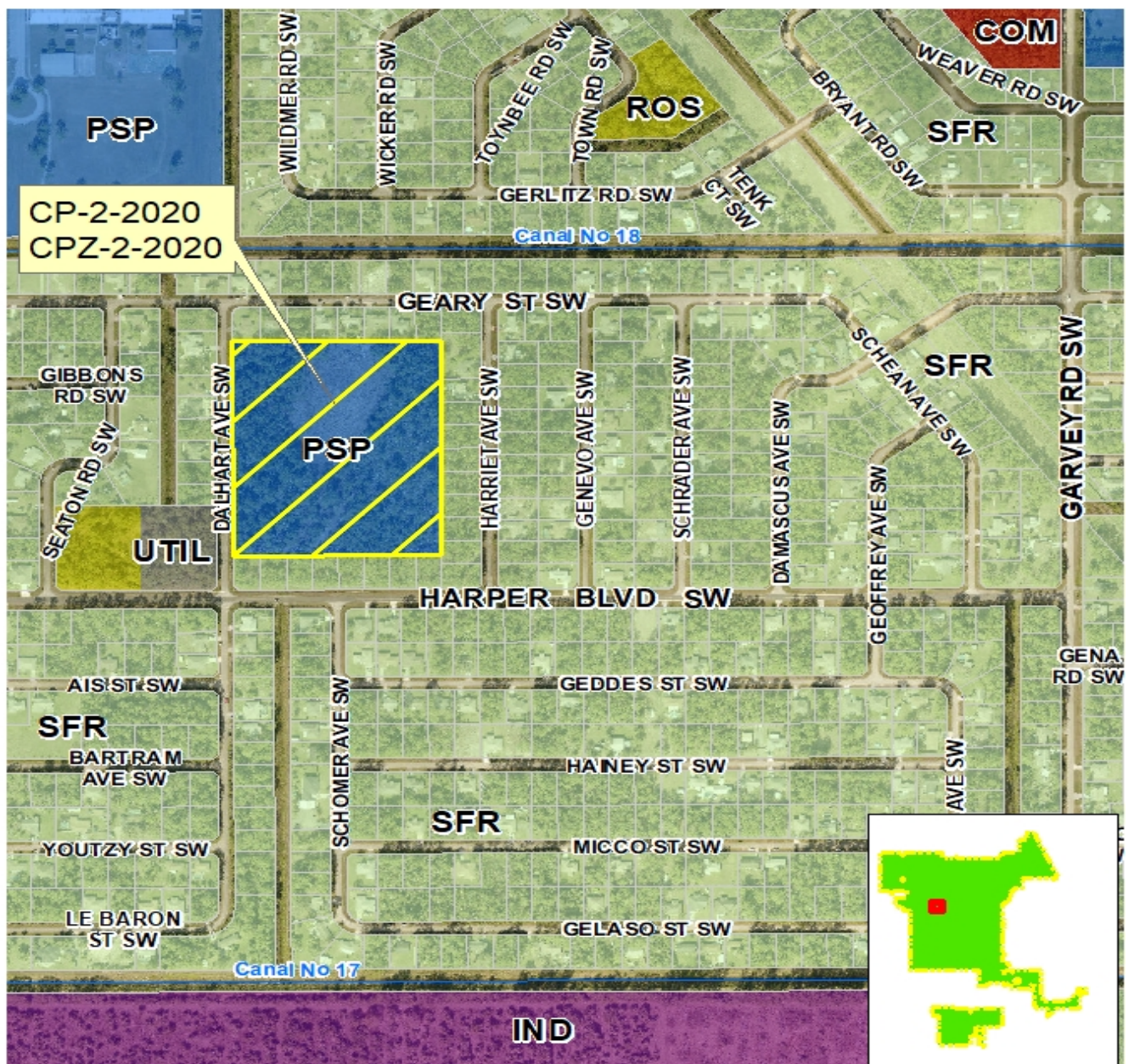
### Subject Property

East of and adjacent to Dalhart Avenue SW, in the vicinity between Geary Street SW and Harper 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 CP-2-2020 & CPZ-2-2020

### Subject Property

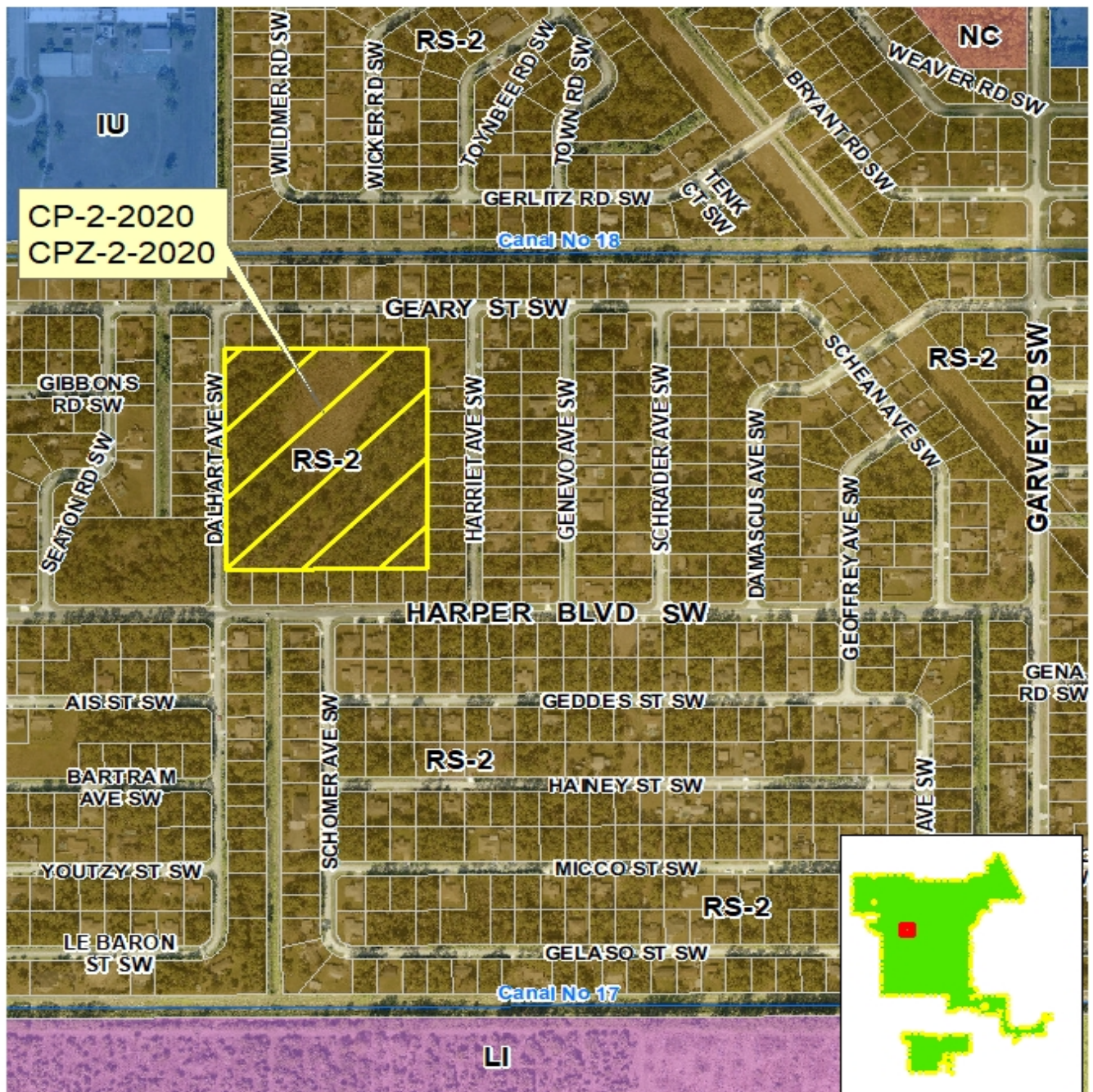
East of and adjacent to Dalhart Avenue SW, in the vicinity between Geary Street SW and Harper Boulevard SW

### Future Land Use Classification

PSP – Public Semi-Public Use



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



## ZONING MAP

## CASE CP-2-2020 & CPZ-2-2020

### Subject Property

East of and adjacent to Dalhart Avenue SW, in the vicinity between Geary Street SW and Harper Boulevard SW

### Current Zoning Classification

RS-2 - Single Family Residential District

CERTIFIED TO:  
GRAPEFRUIT SCUBA

**WJS**  
WILLIAM J. SUTTER  
LAND  
SURVEYING INC.  
1845 CANADA STREET S.E.  
PAUMotu, FLORENCE 32069  
WSUTTER@ATT.NET  
WJSUTTER.COM  
FLORENCE, FL 32069

1501 128-0085

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

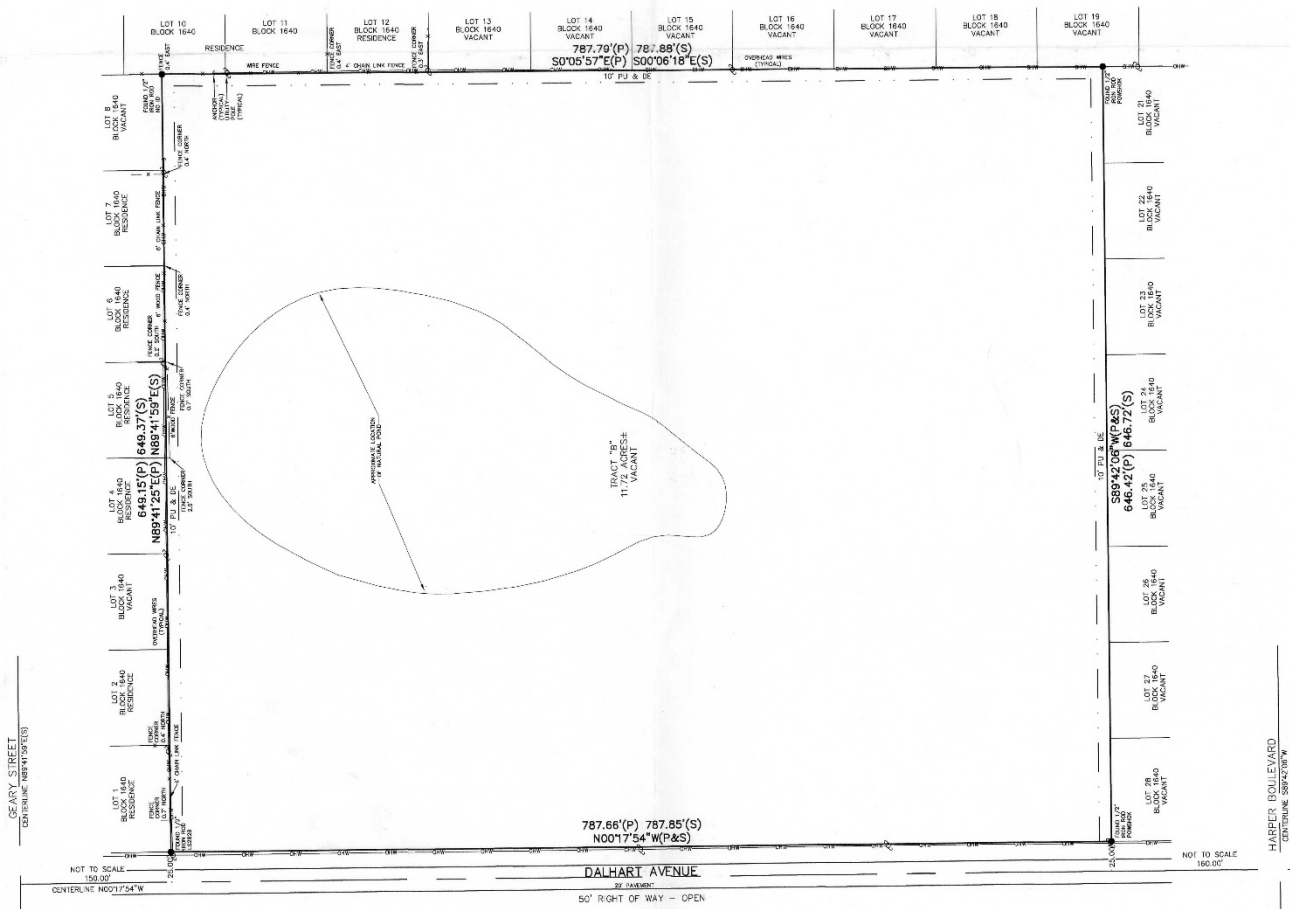
PROFESSIONAL SURVEYOR AND MAPPER IN RESPONSIBLE CHARGE  
WILLIAM J. MAPP, INC. 4210  
CENTROFAC OF AUTHORIZATION #B 5419

DATE OF SIGNATURE \_\_\_\_\_

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NOTES:

- 1) BEARINGS BASED ON THE ASSUMPTION THAT THE CORNERS OF DALLMAST AVENUE ARE THE CORNERS OF THE TRACT.
- 2) PROPERTY LIES WITHIN SECTION 11, TOWNSHIP 29 SOUTH, RANGE 36 EAST, SECTION 10, TOWNSHIP 29 SOUTH, RANGE 36 EAST.
- 3) PU & DE DENOTES PUBLIC UTILITY AND DRAINAGE EASEMENT.
- 4) FLOOD ZONE "X" FLOOD INSURANCE RATE MAP NUMBER 12009C006550.
- 5) "N" DENOTES NO IDENTIFICATION.
- 6) "X" DENOTES DIMENSIONS ARE AS PLANTED (P) OR SURVEYED (S).





Prepared by and return to:  
Jennifer D. Cockcroft, Esq.  
City of Palm Bay  
120 S. Malabar Rd SE  
Palm Bay, FL 32907  
Attn: City Clerk

## **DEVELOPMENT AGREEMENT BETWEEN CITY OF PALM BAY AND**

Grapefruit Scuba, LLC

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between the **CITY OF PALM BAY**, a municipal corporation of the State of Florida, whose address is 120 Malabar Road SE, Palm Bay, FL 32907, ("City"), and Grapefruit Scuba, LLC., a Limited Liability Company of the State of Florida, whose address is 485 North Harbor City Boulevard Melbourne, Florida. ("Owner".)

### **WITNESSETH:**

**WHEREAS**, Owner owns certain real property in the City of Palm Bay, Brevard County, Florida, more particularly described in Exhibit A ("Subject Property"); and

**WHEREAS**, the Subject Property is currently zoned RS-2, Single Family Residential and assigned a current land use classification of PSP, Public Semi Public; and

**WHEREAS**, Owner has filed a Comprehensive Plan Amendment and Rezoning Application with the City of Palm Bay, Florida; and,

**WHEREAS** the Owner desires to amend the City of Palm Bay Comprehensive Plan in order to change the land use of the Subject Property to SFR, Single Family Residential and rezone the Subject Property to RR Rural Residential; and

**WHEREAS**, the Florida Local Government Development Agreement Act, Sections 163.3220 - 163.3243, Florida Statutes, authorize the City to enter into development agreements with developers of land within its municipal boundaries to encourage the efficient use of resources, to reduce the economic cost of development and to provide certainty to developers in the approval of development and assurances that they may proceed in accordance with existing laws and policies, subject to the conditions of such development agreements; and

**WHEREAS**, the City is authorized to enter into this Agreement pursuant to its home rule powers under Article VIII, Section 2, Florida Constitution of 1968 and Section 166.021, Florida Statutes; and

**WHEREAS**, the City and Owner agree to enter into this Agreement subject to the terms herein; and,

**WHEREAS**, it is hereby deemed to be in the interest of the public health, safety and welfare for the City to enter into this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and covenant contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

**SECTION 1. RECITALS.** The above recitals are true and correct and are incorporated into this Agreement by this reference.

**SECTION 2. DEVELOPMENT OF PROPERTY.**

It is expressly agreed that Owner is hereby authorized to develop the Subject Property, subject to the following conditions:

1. Owner may use the property consistent with all permitted, conditional and accessory uses in the RR Zoning District except the following:
  - a. Public parks, playgrounds and other public recreational facilities.
  - b. Public utility equipment and facilities on a site of one (1) acre or less or within a dedicated utility easement or right-of-way.
  - c. Cemeteries.
  - d. Churches.
  - e. Antennas and transmitters.
  - f. Public and private schools.
  - g. Commercial dog kennels.
2. Agricultural pursuits shall be allowed, except no hog farms shall be allowed. Provided, however, that the property owner may keep and maintain on the property no more than 2 pigs for personal use as pets.
3. Owner may clear the land as necessary for Agricultural purposes.
4. Should the Owner use the property for any agricultural purposes which results in the sale of such farm products raised on the property, the Owner agrees to limit commercial delivery hours between 7:00 a.m. and 7:00 p.m Monday through Saturday. No commercial deliveries will be permitted on Sunday.
5. A perimeter fence is permitted. There shall be maintained a 10-foot-wide cleared area on the inside of fence for maintenance purposes.
6. Owner shall provide a 10-foot wide vegetative/natural state buffer on the inside of the 10-foot-wide cleared area around the perimeter, except for those areas where driveway shall be located.
7. No commercial wholesale nursery activity shall be permitted.
8. A future u-pick operation may be allowed as a conditional use under the RR zoning district.
9. Should the Subject Property be rezoned from RR-Rural Residential then this Agreement shall automatically expire.

**SECTION 3. PERMITS/APPROVALS.** The Owner shall, at its expense, obtain all necessary permits required by the City and any other federal, state, regional, or other local governmental entity necessary to lawfully initiate any work on the Subject Property and shall obtain all necessary consents, approvals or agreements from any other third party on, over or under which such septic system may be located. This Development Agreement shall not and does not authorize any activity on, over or under any other third party's property without their consent.

**SECTION 4. DEFAULT.** Each of the parties hereto shall give the other party written notice of any default hereunder and shall allow the defaulting party thirty (30) days from the date of its receipt of such notice within which to cure any such defaults or to commence and thereafter diligently pursue to completion good faith efforts of effect such cure and to thereafter notify the other parties of the actual cure of any such defaults. This Agreement is enforceable at law or in equity by the non-defaulting party, including, but not limited to the right of specific performance of such obligations.

**SECTION 5. BINDING AGREEMENT ON SUCCESSORS.** This Agreement shall be binding upon and shall inure to the benefit of Owner, the City, and their respective successors and assigns; and shall run with the land, for as long as enforceable by law, or by the limitation of this Agreement. Assignment of this Agreement or the conveyance of all or any portion of the Subject Property hereunder by Owner is expressly permitted, and upon such assignment or conveyance, the assignor/grantor shall be deemed released from all rights, obligations and liabilities hereunder, and the assignee/grantee shall be deemed to have assumed all rights, obligations and liabilities hereunder.

**SECTION 6. RECORDATION.** This Agreement shall be recorded in the Public Records of Brevard County, Florida, at the expense of Owner.

**SECTION 7. APPLICABLE LAW/JURY TRIAL WAIVER.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Brevard County, Florida. If any provision of this Agreement, or the application thereof to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law. The parties agree that in the event of litigation regarding this Agreement, any right to trial by jury is expressly waived.

**SECTION 8. FURTHER DOCUMENTATION.** The parties agree that at any time following a request by the other party, each shall execute and deliver to the other party such further documents and instruments, in form and substance reasonably necessary to confirm and/or effectuate the obligations of either party to this Agreement. Without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties hereby declare their intention to cooperate with each other in effectuating the terms of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

**SECTION 9. SEVERABILITY.** If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of the Agreement if the rights and obligation of the parties contained herein are not materially prejudiced and if the intention of the parties can continue to be affected.

**SECTION 10. LEGAL FEES AND EXPENSES.** In connection with any litigation between the City and the Owner, including appellate proceedings arising out of this Agreement or the violation of any law, rule, regulation, ordinance, resolution, or permit, each party shall bear its own legal fees and expenses incurred, whether incurred prior to, during or subsequent to such court proceedings, on appeal or during any bankruptcy proceedings.

**SECTION 11. ENTIRE AGREEMENT.** This instrument and referenced Exhibits constitute the entire Agreement between Owner and the City and superseded all previous discussions, understandings, and other agreements between Owner and the City relating to the subject matter of this Agreement.

**SECTION 12. AMENDMENTS TO AGREEMENT.** Amendments to and waiver of the provisions herein shall be made by Owner and City in writing by a formal amendment process which shall be recorded in the Public Records of Brevard County, Florida at Owner's expense.

**SECTION 13. COUNTERPARTS.** This Agreement and any amendments hereto may be executed in any number of counterparts, each of which shall be deemed an original instrument, but all such counterparts together shall constitute on and the same instrument.

**SECTION 14. STATUTORY DEVELOPMENT AGREEMENT REQUIREMENTS.** Pursuant to the requirements of the Florida Local Government Development Agreement Act, Sections 163.3220 - 163.3243, Florida Statutes, the following statements and representations are made: i) no reservation or dedication of land for public purposes is required or necessary by the City; ii) all local development permits required by City Code or other law(s) shall be obtained, regardless of whether this Agreement addresses the particular permit or requirement; and iii) all conditions, terms, restrictions, and other requirements determined to be necessary by the City for the public health, safety or welfare are provided for herein.

**SECTION 15. NOTICES.** Any notices or reports required by this Agreement shall be sent to the following or their successor in said designated position:

For the City:  
City Manager  
City of Palm Bay  
120 Malabar Road SE  
Palm Bay, FL 32907

For Owner:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The addresses to which notices are to be sent may be changed from time to time by written notice delivered to the other parties and such notices shall be effective upon receipt. Until notice of change of address is received as to any particular party hereto, all other parties may rely upon the last address given.

**SECTION 16. EXHIBITS.** All exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference.

**SECTION 17. CAPTIONS OR PARAGRAPH HEADINGS.** The captions and paragraph headings contained in this Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope of intent of this Agreement, nor the intent of any provision hereof.

**SECTION 18. COUNTERPARTS.** This Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and same Agreement.

**SECTION 19. EFFECT OF EXISTING AGREEMENTS.** This Agreement supersedes any existing agreements entered into between Owner and the City.

**SECTION 20. EFFECTIVE DATE.** This Agreement shall first be executed by Owner and submitted to the City for approval by the Palm Bay City Council. Upon approval by the City Council, this Agreement shall be executed by the City. In accordance with Section 163.3239, Florida Statutes, this Agreement shall become effective when, unless otherwise provided by law, it has been recorded in the Public Records of Brevard County, Florida. Unless terminated earlier by either party as provided herein, this Agreement shall remain in effect for a period of thirty (30) years pursuant to Fla. Statute Section 163.3220, et. seq. Additionally, the duration of this Agreement may be extended as provided for in Fla. Statute Section 163.3220, et. seq.

IN WITNESS WHEREOF, this Agreement has been executed by the parties on the day and year first written above.

**ATTESTATION:**

**CITY OF PALM BAY**

\_\_\_\_\_  
Terese Jones, City Clerk

By: \_\_\_\_\_  
William Capote, Mayor

**STATE OF FLORIDA  
COUNTY OF BREVARD**

The foregoing was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020 by William Capote, Mayor of the City of Palm Bay. He is personally known to and did not take an oath.

**NOTARY SEAL/STAMP:**

\_\_\_\_\_  
Notary Public, State of Florida  
My Commission Expires: \_\_\_\_\_

**OWNER:**

\_\_\_\_\_  
By: \_\_\_\_\_  
As: \_\_\_\_\_

**WITNESS ONE:**

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

**WITNESS TWO:**

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

**STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_**

The foregoing was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020 by \_\_\_\_\_ as the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ of the State of \_\_\_\_\_. This person is personally known to me or produced \_\_\_\_\_ as identification and did/ did not take an oath.

**NOTARY SEAL/STAMP:**

\_\_\_\_\_  
Notary Public, State of Florida  
My Commission Expires: \_\_\_\_\_



**LAND DEVELOPMENT DIVISION**

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042  
Landdevelopment@palmbayflorida.org

**COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT  
APPLICATION**

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

**APPLICATION AMENDMENT TYPE:**

☐

**Small Scale** (Less than 10 acres)

☐

**Text Amendment** (Comp. Plan)

☒

**Large Scale** (10 acres or more)

**PARCEL ID**

29-36-11-KH-B

**TAX ACCOUNT NUMBER**

2904389

**LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:**

TRACT B, PORT MALABAR UNIT THIRTY SEVEN ACCORDING TO THE PLAT THEREOF AS  
RECORDED IN PLAT BOOK 20, PAGE 2 THRU 10 OF THE PUBLIC RECORDS OF BREVARD  
COUNTY, FLORIDA

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

11.72

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

PSP, Public Semi Public

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

**LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE (attach additional sheets if necessary):**

SFR, Single Family Residential

**PRESENT USE OF PROPERTY**

VACANT

**STRUCTURES LOCATED ON THE PROPERTY**

NONE

**REZONING FILED IN CONJUNCTION WITH THIS APPLICATION**

Yes

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

Currently has a future land use designation of PSP, with a zoning of RS-2, Single Family Residential. Looking to amend the future land use to SFR, or equivalent as the current land use designation is not compatible with the current zoning, RS-2 nor would it allow the purposed zoning

**SPECIFIC USE INTENDED FOR PROPERTY**

We have worked with the USDA to obtain a conservation plan for a small hobby farm.

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

☐

\*Application Fee. Make Check payable to "City of Palm Bay."

☐

**\$1,200.00 - Small Scale** (Less than 10 acres)

☐

**\$2,000.00 - Large Scale** (10 acres or more)

☒

**\$2,000.00 - Text Amendment** (Comp. Plan)



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

- ☒ Property map showing adjacent properties and clearly outlining the subject parcel (for land use amendment(s)).
- ☒ List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This should be obtained for a fee from the Brevard County Planning and Zoning Department at (321) 633-2060.)
- ☐ School Board of Brevard County [School Impact Analysis Application](#) (if applicable).
- ☐ Sign(s) posted on the subject property. Refer to [Section 51.07\(C\)](#) of the Legislative Code for guideline.
- ☐ Where the property owner is not the representative for the request, a [LETTER](#) must be attached giving the notarized consent of the property owner(s) to a representative.

Name of Representative

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

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

Owner Signature

*Paul Yates*

Date

1/13/20

Printed Name

Paul Yates,

Full Address

4085 Avoca RD Melbourne FL 32934

Telephone

321-693-3322

Email

PaulYatesInc@gmail.com

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

Revision A: 12/19





# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042  
Landdevelopmentweb@palmbayflorida.org

### Prepared by

Christopher Balter, Planner II

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#### CASE NUMBER

CPZ-2-2020

#### PLANNING & ZONING BOARD HEARING DATE

February 5, 2020

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#### PROPERTY OWNER & APPLICANT

Paul Yates, Grapefruit Scuba, LLC

#### PROPERTY LOCATION/ADDRESS

Port Malabar Unit 37, Tract B, Section 11, Township 29,  
Range 36, Brevard County, Florida

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#### SUMMARY OF REQUEST

The applicant is requesting a rezoning of the subject parcel from RS-2, Single-Family Residential District to RR, Rural Residential District.

##### Existing Zoning

RS-2, Single-Family Residential

##### Existing Land Use

Public/Semi-Public Use

##### Site Improvements

Vacant Land

##### Site Acreage

11.71, more or less

#### SURROUNDING ZONING & USE OF LAND USE

##### North

RS-2, Single-Family Residential; Single-Family Homes

##### East

RS-2, Single-Family Residential; Two Single-Family Homes and Vacant Lots

##### South

RS-2, Single-Family Residential; Vacant Residential Lots

##### West

RS-2, Single-Family Residential; Dalhart Ave SW

#### COMPREHENSIVE PLAN COMPATIBILITY

The current nature of the future land use designation surrounding the subject parcel is Residential. The proposed land use amendment would be considered compatible with the surrounding land use.

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**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 change is “to change the zoning district to allow for a small hobby farm.” The Rural Residential zoning district will allow for rural single-family residential living combined with limited agricultural activities.

**Item 2 - *When pertaining to the rezoning of land, the effect of the change, if any, on the particular property and on surrounding properties.***

Designation of the RR zoning district for the subject property is compatible with the surrounding area and is consistent with the City’s plan.

**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.***

Approximately 39.72 acres of RR, Rural Residential zoned land is within 1,500 feet of the subject property.

**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).***

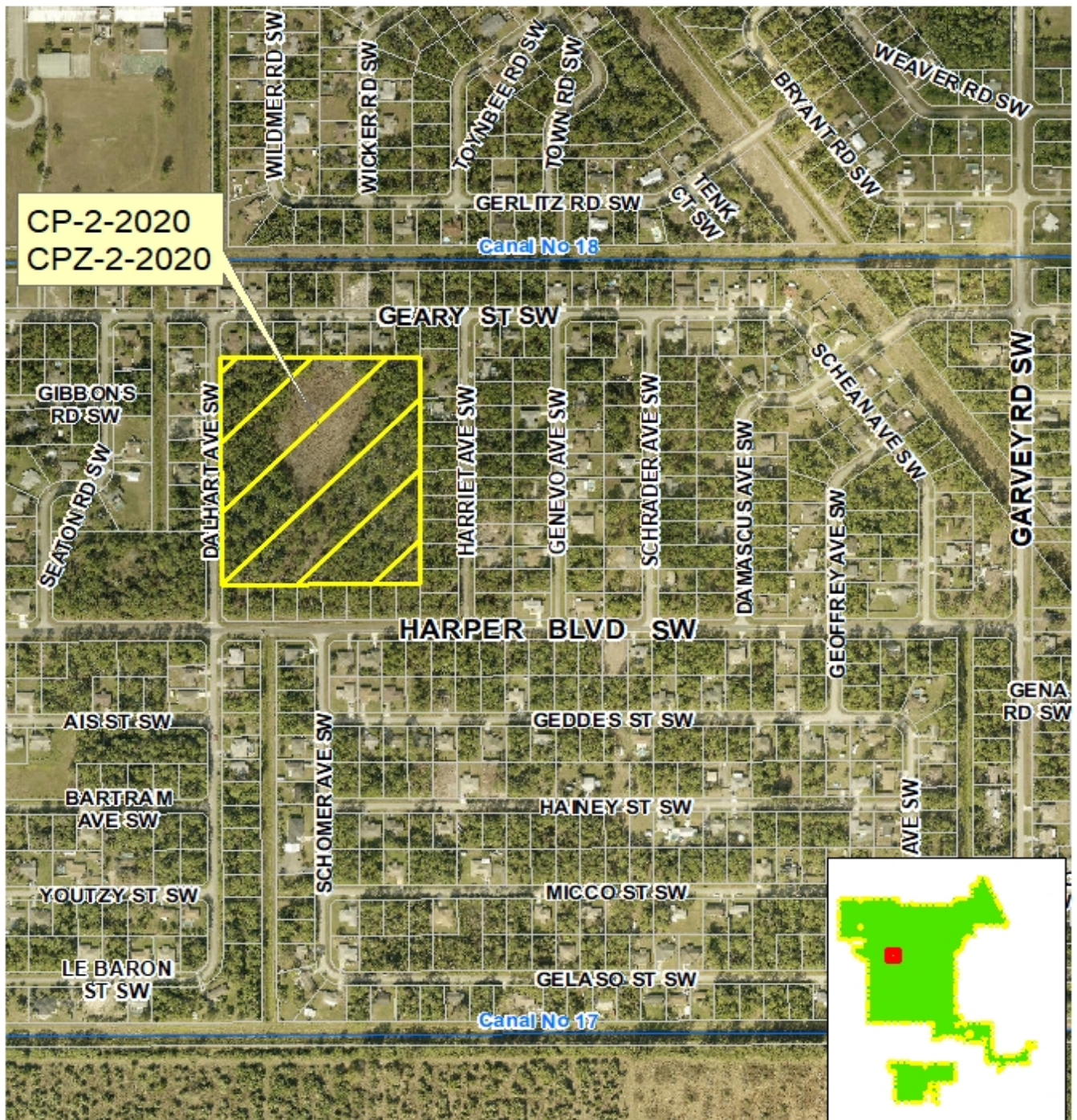
The proposed amendment will further the purposes of Chapter 185 and the Comprehensive Plan by accommodating agricultural uses within the City.

**STAFF RECOMMENDATION:**

Case CPZ-2-2020 is recommended for approval subject to the staff comments contained in this report.



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



## AERIAL LOCATION MAP CASE CP-2-2020 & CPZ-2-2020

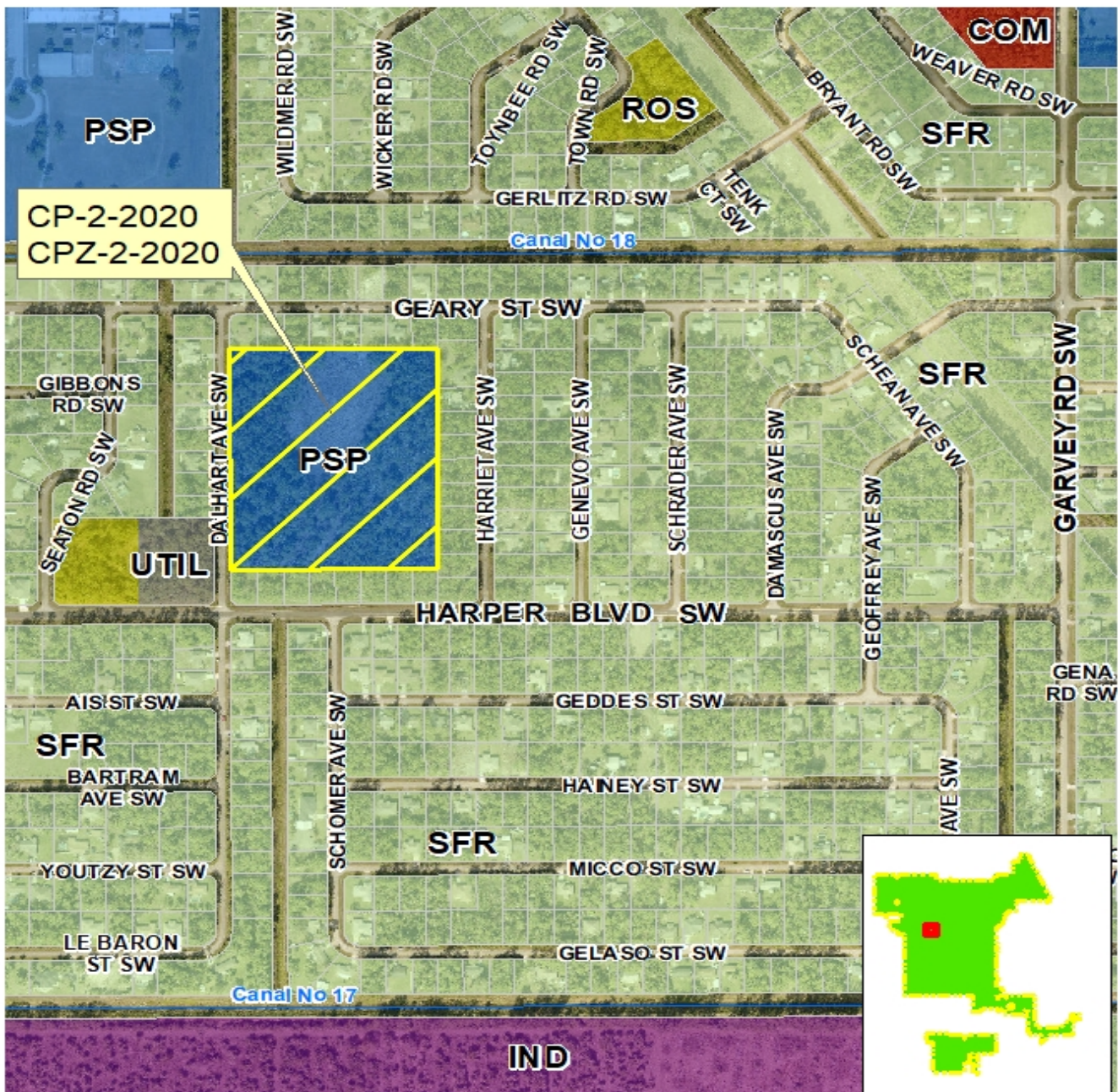
### Subject Property

East of and adjacent to Dalhart Avenue SW, in the vicinity between Geary Street SW and Harper 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 CP-2-2020 & CPZ-2-2020

### Subject Property

East of and adjacent to Dalhart Avenue SW, in the vicinity between Geary Street SW and Harper Boulevard SW

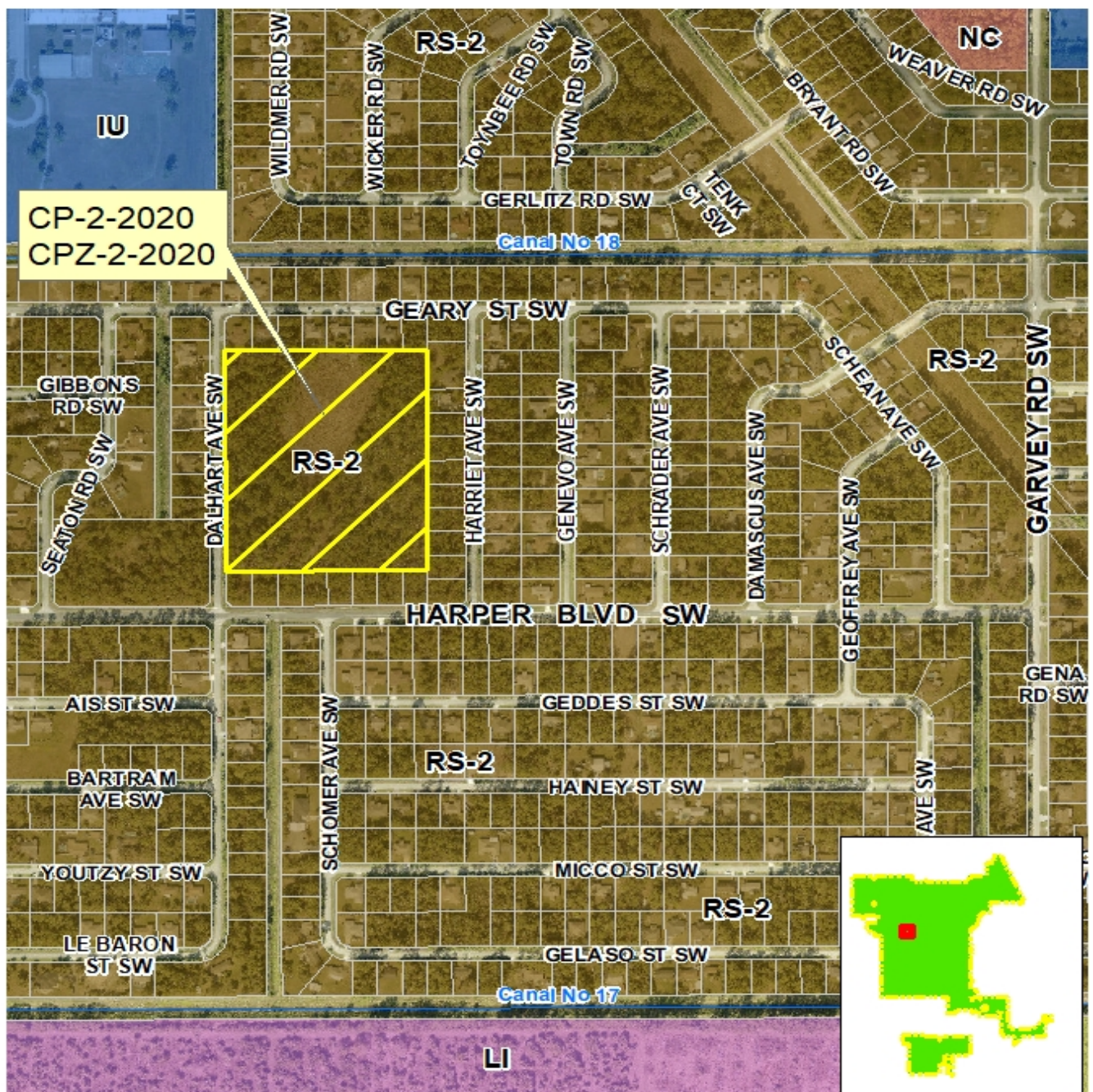
### Future Land Use Classification

PSP – Public Semi-Public Use





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



## ZONING MAP

## CASE CP-2-2020 & CPZ-2-2020

### Subject Property

East of and adjacent to Dalhart Avenue SW, in the vicinity between Geary Street SW and Harper Boulevard SW

### Current Zoning Classification

RS-2 –Single Family Residential District



**LAND DEVELOPMENT DIVISION**  
120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042  
Landdevelopment@palmbayflorida.org

### REZONING APPLICATION

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

**PARCEL ID** 29-36-11-HB-B

**TAX ACCOUNT NUMBER** 2904389

#### LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

TRACT B, PORT MALABAR UNIT THIRTY SEVEN ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 20, PAGE 2 THRU 10 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA

**PROPERTY ADDRESS**

**SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage):** 11.72

**ZONING CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.)** RS-2 Single Family Residential

**ZONING CLASSIFICATION DESIRED (ex.: IU, LI, etc.)** RR, Rural Residential

**STRUCTURES LOCATED ON THE PROPERTY** None

**PRESENT USE OF THE PROPERTY:**

Vacant

**INTENDED USE OF THE PROPERTY AND JUSTIFICATION FOR THE CHANGE:**

We have worked with the USDA to obtain a conservation plan for a small hobby farm. There are several properties in this area of this size with the requested zoning classification RR, Rural Residential

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

- ☒ \*\$650.00 Application Fee. Make Check payable to "City of Palm Bay."
- ☒ List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This should be obtained for a fee from the Brevard County Planning and Zoning Department at (321) 633-2060.)
- ☐ School Board of Brevard County School Impact Analysis Application (if applicable).
- ☐ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guideline.
- ☐ **Where the property owner is not the representative for the request, a LETTER must be attached giving the notarized consent of the property owner(s) to a representative.**

**Name of Representative**

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



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

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

Owner Signature Paul Yates Date 1/13/20  
Printed Name Paul Yates  
Full Address 4085 Aurora RD ~~Mc~~ Melbourne FL 32934  
Telephone 321-632-3322 Email PaulYatesInc@gmail.com

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





# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042  
Landdevelopmentweb@palmbayflorida.org

### Prepared by

Christopher Balter, Planner II

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#### CASE NUMBER

V-4-2020

#### PLANNING & ZONING BOARD HEARING DATE

February 5, 2020

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#### PROPERTY OWNER & APPLICANT

Christine Stevens and Juan M. Delgado Jr.

#### PROPERTY LOCATION/ADDRESS

West of and adjacent to Roman Avenue NE, across from  
Lara Street NE, specifically at 236 Roman Avenue NE Palm  
Bay, FL 32907

---

#### SUMMARY OF REQUEST

A variance to allow an existing accessory structure to encroach 4.5 feet into the 8-foot side interior setback and an existing pool enclosure to encroach 2.5 feet into the 10-foot rear setback, as established by Section 185.034(F)(7)(b) and 185.118(A)(4) of the Palm Bay Code of Ordinances.

#### Existing Zoning

RS-2, Single-Family Residential

#### Existing Land Use

Single-Family Residential

#### Site Improvements

Single-Family Home

#### Site Acreage

0.24, more or less

---

#### SURROUNDING ZONING & USE OF LAND USE

##### North

RS-2, Single-Family Residential; Single-Family Home

##### East

RS-2, Single-Family Residential; Roman Avenue NE

##### South

RS-2, Single-Family Residential; Single-Family Home

##### West

RS-2, Single-Family Residential; Single-Family Home

---

#### COMPREHENSIVE PLAN COMPATIBILITY

No effect on adopted Comprehensive Plan

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**BACKGROUND:**

The applicant has also applied for a vacate of easement for the 2.5 feet into the 6-foot side easement and 2.5 feet into the 10-foot rear easement.

**ANALYSIS:**

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

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

The applicant is requesting relief from the rear accessory structure setback for an existing pool enclosure and side interior setback for an existing accessory structure.

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

The special conditions and circumstances identified in item 1 do not appear to be a direct result of the actions of the applicant. The structures were installed by the previous owners.

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

Literal interpretation and enforcement of the Land Development Code would require the applicant to remove 2.5 feet of the pool enclosure and deck and remove 4.5 of the accessory structure making, both non-useable.

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

A maximum of 2.5' of the relief from the 10' rear setback and 4.5' of relief from the 8' side interior setback would be needed to meet the applicant's request.

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

It appears that the granting of the variance would confer upon the applicant a special privilege for the setback relief, as the same development standards apply to other properties in this community, and the property is not irregularly shaped or considered a sub-standard lot (with regards to area and lot dimensions).

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

Staff has not identified any detrimental effect to public welfare.

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

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

#### **STAFF CONCLUSION:**

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





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



## AERIAL LOCATION MAP CASE V-4-2020

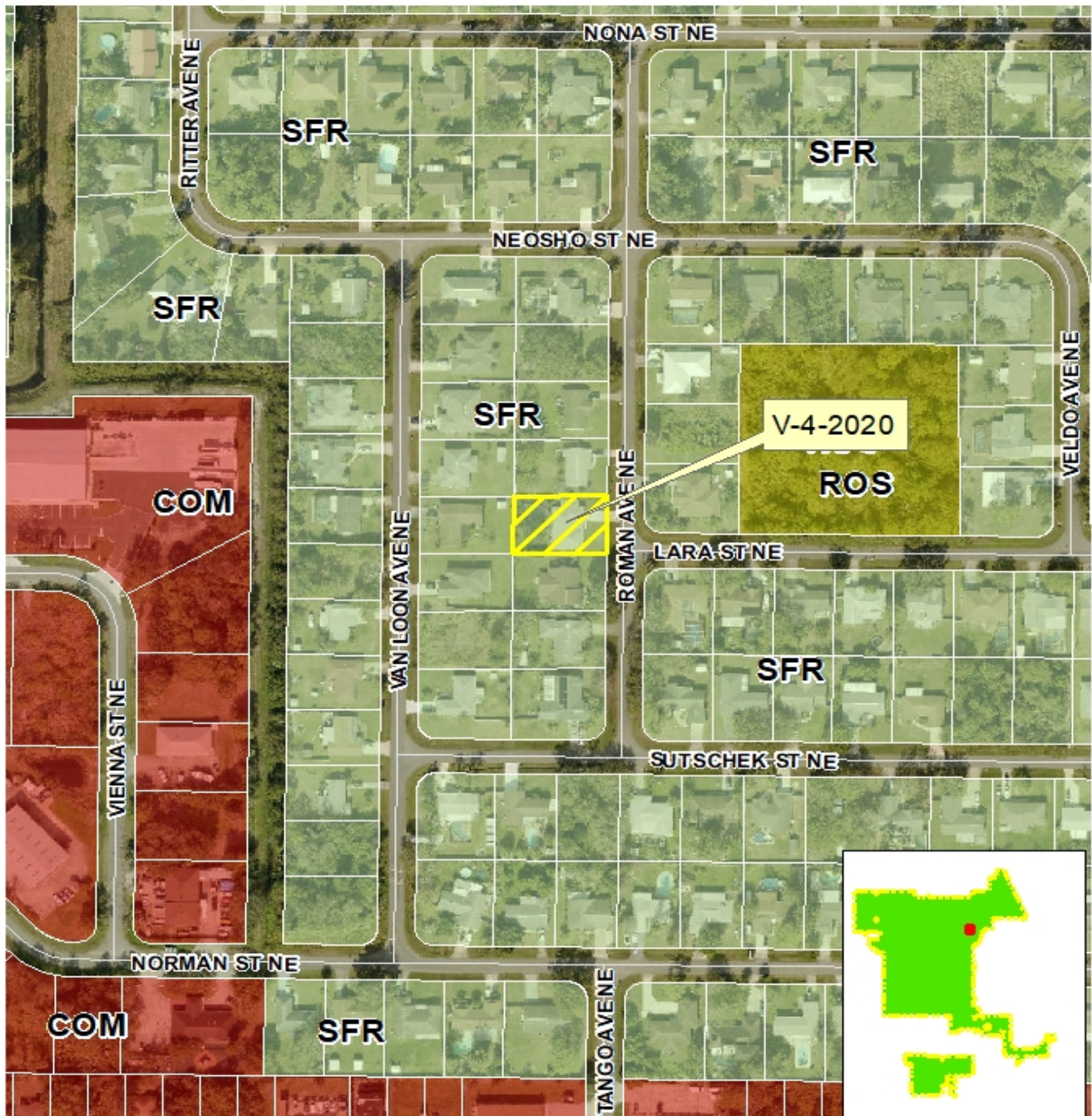
### Subject Property

West of and adjacent to Roman Avenue NE, across from Lara Street NE, specifically at 326 Roman Avenue NE





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



## FUTURE LAND USE MAP

## CASE V-4-2020

### Subject Property

West of and adjacent to Roman Avenue NE, across from Lara Street NE, specifically at 326 Roman Avenue NE

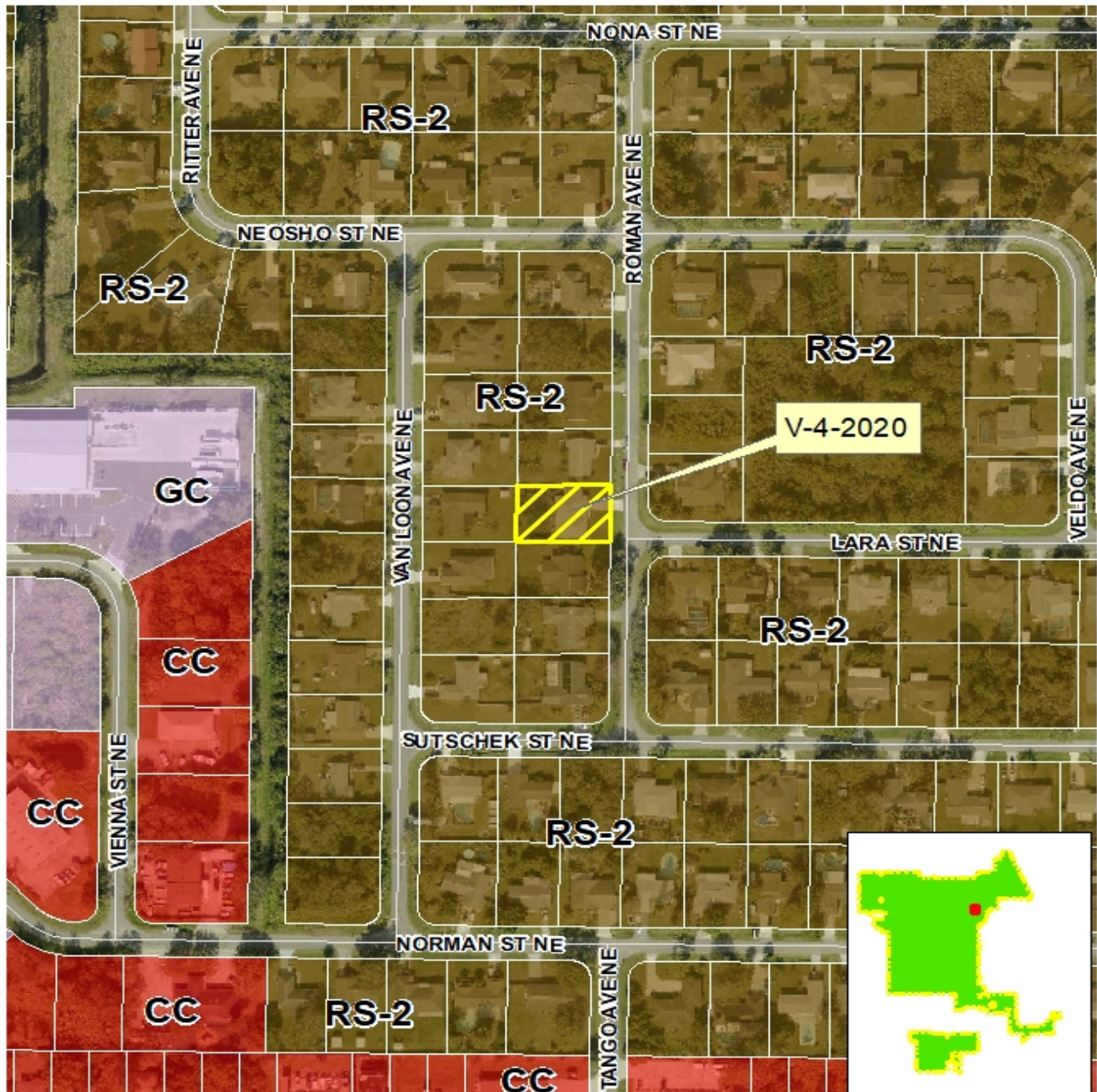
### Future Land Use Classification

SFR – Single Family Residential Use





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



## ZONING MAP

## CASE V-4-2020

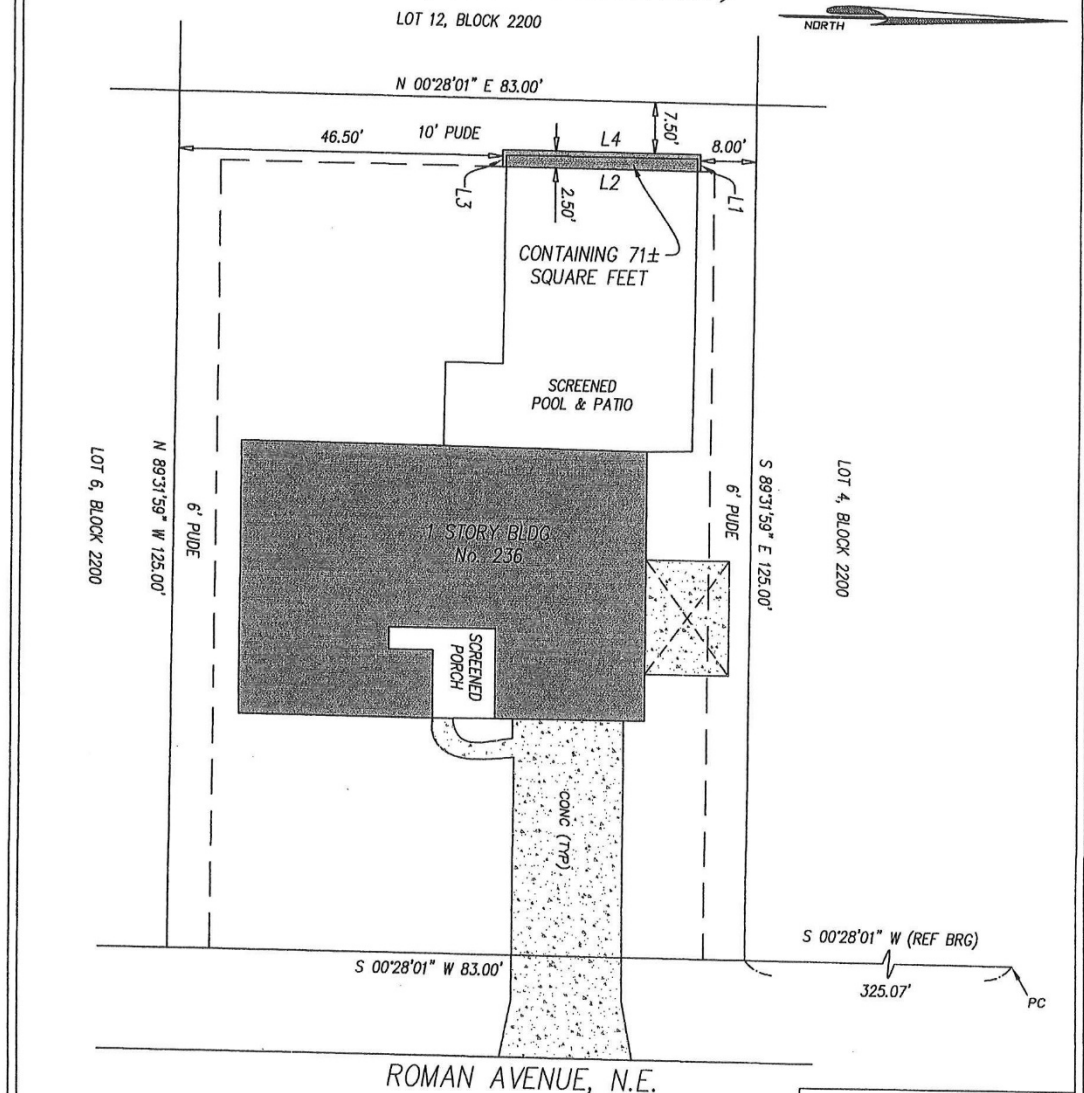
### Subject Property

West of and adjacent to Roman Avenue NE, across from Lara Street NE, specifically at 326 Roman Avenue NE

### Current Zoning Classification

RS-2 –Single Family Residential District

# **SKETCH TO ACCOMPANY LEGAL DESCRIPTION (NOT A SURVEY)**



## **LEGAL DESCRIPTION:**

THE EAST 2.50 FEET OF THE WEST 10.00 FEET OF LOT 5, BLOCK 2200, PORT MALABAR UNIT TWENTY EIGHT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 16, PAGES 119-123, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, LESS AND EXCEPT THE NORTH 8.00 FEET AND THE SOUTH 46.50 FEET THEREOF.

50' PUBLIC R/W

LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°31'59"E	2.50'
L2	S00°28'01"W	28.50'
L3	N89°31'59"W	2.50'
L4	N00°28'01"E	28.50'

## **NOTES:**

1. BEARINGS BASED ON SAID PLAT (SEE SKETCH)
2. BEARINGS, DISTANCES OR ANGLES SHOWN ARE THE SAME AS PLAT, DEED OR RECORD UNLESS SHOWN OTHERWISE.
3. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

## **CERTIFIED TO:**

CHRISTINE STEVENS AND JUAN DELGADO

SKETCH	PM28/L5B2200	JOB No. 39415
REVISED CERTIFICATIONS		DATE: 11/15/19

## **CERTIFICATION:**

I HEREBY CERTIFY: THAT THE ATTACHED SKETCH AND DESCRIPTION WAS DONE UNDER MY DIRECTION AND MEETS THE STANDARDS AND PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 FLORIDA STATUTES

JOEL A. SEYMOUR PROFESSIONAL LAND SURVEYOR AND MAPPER  
STATE OF FLORIDA NO. LS 8133

DRAWN BY: JED SCALE 1 INCH = 20 FEET

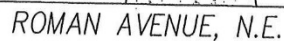
## **LEGEND**

BRG = BEARING  
CONC = CONCRETE  
No. = NUMBER  
PC = POINT OF CURVATURE  
PUDE = PUBLIC UTILITIES AND DRAINAGE EASEMENT  
REF = REFERENCE  
R/W = RIGHT OF WAY

## **Kane Surveying, Inc.**

FLORIDA LICENSED BUSINESS No. LB 7838  
505 DISTRIBUTION DRIVE  
MELBOURNE, FLORIDA 32904  
(321) 676-0427  
FAX (321) 984-1448

LOT 12, BLOCK 2200



50' PUBLIC R/W

NOTES:

- CERTIFIED TO:

**SKETCH**

PM28/L5B2200

JOB No. 39415

**CERTIFICATION:**

JOEL A. SEYMOUR PROFESSIONAL LAND SURVEYOR AND MAPPER  
STATE OF FLORIDA NO. LS 6133

**DRAWN BY: JED**

SCALE 1 INCH = 20 FEET

LINE	BEARING	LENGTH
L1	S00°28'01"W	3.50'
L2	N89°31'59"W	17.50'
L3	N00°28'01"E	3.50'
L4	S89°31'59"E	17.50'

BRG = BEARING  
CONC = CONCRETE  
No. = NUMBER  
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FAX (321) 984-1448





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

### VARIANCE APPLICATION

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

PARCEL ID 28-3733-75-2200-5

TAX ACCOUNT NO. 2844549

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

Lot 5 Block 2200 ~~Unit~~ Port Malabar Unit 28

STREET ADDRESS OF PROPERTY COVERED BY APPLICATION:

236 Roman Ave NE Palm Bay, FL 32907

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): .24 acres

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

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

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

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

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

Allow for existing accessory structure to encroach 4.5 feet into the 8.5 feet side interior setback and Allow for existing screened pool enclosure 3.5 feet into the 10 foot rear setback

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

**GIVE WRITTEN EXPLANATION(S) DEMONSTRATING HOW THE VARIANCE MEETS THE FOLLOWING CONDITIONS PER SECTION 169.009:**

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

a) Special Conditions exist: Property was purchased with structures already in place. In order to sell property, this variance & vacate must be cleared by county records. It is not feasible to remove the structures.

b) These structures were in place prior to current ownership/applicant.

c) It would be inconvenient & deprive applicant of rights to enjoy property as it was purchased. To remove these, it would put undue hardship on applicant.

d) I am only requesting the variance for the portion of land already in use as described. I have also cleared all old foliage and debris to make easement more accessible.

e) This variance will not afford me any special privileges, just will update records required by city/county.

f) This variance will be in harmony with the general intent and purpose of this code.

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

RECEIVED  
CITY OF PALM BAY  
JAN 10 2019

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

N/A BERT J. HARRIS PRIVATE PROPERTY RIGHTS PROTECTION ACT, Chapter 95-181, Laws of Florida.  
Provide a copy of one of the following:

- ☐ Special master appointed in accordance with the act. ☐ Court order as described in the act.

N/A AMERICANS WITH DISABILITIES ACT. Cite the section of the act from which the variance request will provide relief: \_\_\_\_\_

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

- ☒ \*\$350.00 Application Fee. Make check payable to "City of Palm Bay."
- ☒ A listing of legal descriptions of all properties within a 500 foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This should be obtained for a fee from the Brevard County Planning and Zoning Department at 321-633-2060.) *Call & get map*
- ☒ A site plan drawn to scale which shows all property and yard dimensions, its structures (if any) and the variance desired, including abutting highway or road boundaries. The site plan shall also be provided on Memory Drive. *PDF is fine*
- ☒ Site plan data may be shown on a copy of the survey and must also be provide on Memory Drive. *on Survey*
- ☒ A survey prepared by a registered surveyor showing all property lines and structures. The survey shall also be provided on Memory Drive. *PDF*
- \_\_\_\_ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.
- N/A Where property is not owned by the applicant, a letter must be attached giving the notarized consent of the owner for the applicant to request the variance.

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

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

Signature of Applicant [Signature] Date 12/20/19

Printed Name of Applicant Christine Stevens / Juan M. Delgado Jr.

Full Address 855 Highland Ave NW Palm Bay, FL 32907

Telephone (321) 543-0048 Email C\_Carpenter78@msn.com JD\_Valor@yahoo.com

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



# STAFF REPORT

## LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042  
Landdevelopmentweb@palmbayflorida.org

### Prepared by

Laurence Bradley, AICP, Growth Management Director

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#### CASE NUMBER

T-5-2020

#### PLANNING & ZONING BOARD HEARING DATE

February 5, 2020

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#### PROPERTY OWNER & APPLICANT

City of Palm Bay, Growth Management  
Department

#### 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 178: Signs, to eliminate the provisions concerning the time limits for Temporary Signs.

##### Zoning District

Not Applicable

##### Future Land Use

Not Applicable

##### Site Improvements

Not Applicable

##### Site Acreage

Not Applicable

#### APPLICABILITY

City-Wide

#### COMPREHENSIVE PLAN COMPATIBILITY

Not Specifically Addressed

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**BACKGROUND:**

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 178: Signs, to eliminate the provisions concerning the time limits for Temporary Signs. The applicant for this amendment is the City of Palm Bay.

On December 5, 2019, the Palm Bay City Council first discussed T-27-2019 (Ordinance 2019-68). T-27-2019 proposed several changes to Chapter 178. At that meeting it was suggested that the item be tabled as portions of the Chapter were perceived to be unenforceable. Certain members of the public also questioned whether or not the regulation was unconstitutional. The Council voted unanimously to table the item.

On December 19, 2019, T-27-2019 was again discussed by Council, at that time City staff offered that although the item was enforceable a previous administration had directed staff not to enforce the temporary signage regulations on private property. The Council after further discussion and public testimony agreed to have the time limits on Temporary Signs reviewed by the Planning & Zoning Board and then ultimately brought back to Council. The Council voted to approve the First Reading of the ordinance.

On January 5, 2020, a second reading was held and after testimony and comments the Council passed the ordinance with the understanding that the time limits on Temporary Signs would come back for Council review, at a future date.

The purpose of this application is to eliminate the time limits on Temporary Signs as originally requested by certain members of Council at the December 5<sup>th</sup> Regular Council Meeting.

Proposed language for this amendment is attached in legislative style with additions between >>arrow<< symbols and deletions in ~~strikethrough~~ format.

**ANALYSIS:**

The purpose of Chapter 178 is to promote public health, safety, and general welfare by establishing standards for the fabrication, erection, use, maintenance and alteration of signs within the City, that allow and encourage creativity, effectiveness and flexibility in the design and use of signs.

Chapter 178 was completely overhauled in the Spring of 2017 and adopted by City Council (repealed and replaced in its entirety) via Ordinance 2017-39 in response to an opinion by the United States Supreme Court. The adoption of the current ordinance was to ensure that sign regulations in the City of Palm Bay are content neutral and do not violate any constitutional rights or laws relating thereto. Generally, sign ordinances may legally regulate through 'time, placement and manner' regulations so long as they remain content neutral.

The changes requested by members of Council would eliminate time restrictions on Temporary Signs. Temporary Signs by their very nature are based on time limits. It should be noted that if there is no restriction on the amount of time for display then they could potentially remain in place long term with no end to their duration. It should be noted that the Florida Building Code does not require permits for Temporary Signs. Also, Temporary Signs are typically not made of durable materials and not maintained.

Although staff has not been recently enforcing these signs the regulation can be enforced if it remains content neutral.

The sections proposed to be eliminated currently place a 30-day consecutive limit and 60-day annual limit on two types of temporary signs (signs used in connection with a business and signs not used in connection with a business). Since this section imposes the same restriction on commercial signage and non-commercial signage, in the interest of content neutrality, if the City Council were inclined to keep these time restrictions the distinction between commercial and non-commercial signs can be combined into one standard for all temporary signs.

**STAFF RECOMMENDATION:**

Staff recommends that the time limits on temporary signs not be eliminated but that the distinction between commercial and non-commercial signs should be eliminated.

## CHAPTER 178: SIGNS

### § 178.08 DEFINITIONS

#### ***SIGN.***

(2) **SIGNS** includes the following defined classes of signs:

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

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

~~\_\_\_\_\_ a. be removed from public view while such business is closed or~~

~~\_\_\_\_\_ b. not be displayed for more than thirty (30) consecutive days nor more than a total of sixty (60) days per calendar year.~~

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

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





**LAND DEVELOPMENT DIVISION**  
120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042  
Landdevelopment@palmbayflorida.org

### **CODE TEXTUAL AMENDMENT APPLICATION**

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

#### **ORDINANCE SECTION(S) PROPOSED TO BE CHANGED:**

Section 178.08 Definitions (Signs) Temporary Signs

#### **PROPOSED LANGUAGE (attach addendum if necessary):**

See Attached

#### **JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary)**

Per direction from the City Council this proposed change would eliminate the time restrictions associated with temporary signs.



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

THE APPLICATION FEE MUST BE SUBMITTED WITH APPLICATION TO PROCESS THIS REQUEST:

\*\$1,500.00 Application Fee. Make Check payable to "City of Palm Bay."

I, the undersigned understand that this application must be complete and accurate before consideration by the Planning and Zoning Board/Local Planning Agency and certify that all the answers the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Under penalties of perjury, I declare that I have read the foregoing code textual amendment application and that the facts stated in it are true.

Signature of Applicant  Certificate signed by Laurence Bradley  
DN: cn=Laurence Bradley, o=City of Palm Bay, ou=City of Palm Bay, email=Laurence.Bradley@PalmBayFlorida.org, c=US Date

Printed Name of Applicant

Full Address

Telephone  Email

PERSON TO BE NOTIFIED (If different from above):

Printed Name

Full Address

Telephone  Email

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