



# AGENDA

## PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Regular Meeting 2020-12  
October 7, 2020 – 7:00 P.M.  
City Hall Council Chambers

### CALL TO ORDER:

### PLEDGE OF ALLEGIANCE:

### ROLL CALL:

### ADOPTION OF MINUTES:

1. Regular Meeting 2020-10; September 2, 2020

### ANNOUNCEMENTS:

### OLD BUSINESS:

1. **T-20-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT – REQUESTED BY COUNCILMAN JEFF BAILEY)**  
***(REQUEST TO CONTINUE TO NOVEMBER 4, 2020)***

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 170: Construction Codes and Regulations, Section 170.005 Adopted, to exempt accessory structures associated with a single-family residence, that meet certain criteria, from the requirement of obtaining a building permit.

### NEW BUSINESS:

1. **♣CU-23-2020 – REPUBLIC SERVICES OF FLORIDA, LP**  
**(JAKE WISE, P.E., REP.)**

A conditional use to allow for proposed automotive fuel dispensary in an LI, Light Industrial and Warehousing District.

Tax Parcel 19, Section 14, Township 28, Range 37, Brevard County, Florida, containing 3.41 acres, more or less. (Located north of and east of Doreatha Fields Avenue NE, in the vicinity east of Northview Street NE, specifically at 2575 Doreatha Fields Avenue NE)

2. **♣PD-24-2020 – CHAPARRAL OVERALL PUD -  
CHAPARRAL PROPERTIES, LLC (JAKE WISE, P.E., REP.)**

Preliminary Development Plan for a PUD, Planned Unit Development to allow a proposed development of 602 single-family residential units and 75 townhomes called Chaparral Overall PUD.

Part of Tax Parcel 1 and all of Tax Parcels 751, 752, and 753 of Section 4, Township 29, Range 36 with Tax Parcels 3 and 4 of Section 9, Township 29, Range 36, Brevard County, Florida, containing 204.43 acres, more or less. (Located south of Malabar Road SW and west of Brentwood Lakes Subdivision)

3. **CP-9-2020 – AD 1 URBAN STRATEGY PALM BAY RETAIL, LLC  
(BRUCE MOIA, P.E., REP.)**

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

A portion of Lot 3, Bilda Executive Park, Section 20, Township 28, Range 37, Brevard County, Florida, containing 2.49 acres, more or less. (Located adjacent to between Sportsman Lane NE and Bass Pro Drive NE)

4. **♣CPZ-9-2020 – AD 1 URBAN STRATEGY PALM BAY RETAIL, LLC  
(BRUCE MOIA, P.E., REP.)**

A zoning amendment from a CC, Community Commercial District to an RM-20, Multiple-Family Residential District.

A portion of Lot 3, Bilda Executive Park, Section 20, Township 28, Range 37, Brevard County, Florida, containing 2.49 acres, more or less. (Located adjacent to between Sportsman Lane NE and Bass Pro Drive NE)

**5. T-25-2020 – CITY OF PALM BAY (UTILITIES DEPARTMENT)**

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 171: Fair Share Impact Fees, Section 171.50 Water and Wastewater Impact Fees, to adopt proposed water and sewer impact fee adjustments and to establish January 1, 2021 as the date of implementation.

**OTHER BUSINESS:**

**ADJOURNMENT:**

Pursuant to Section 286.011, Florida Statutes, and Executive Order 20-69, notice is hereby given that this meeting may be conducted via communications media technology (teleconference/video conference).

Public comments may be submitted via email at [pandzcomments@palmbayflorida.org](mailto:pandzcomments@palmbayflorida.org). Members of the public may also call (321) 726-2798 to provide comments via a dedicated Palm Bay Planning and Zoning Board public comment voicemail. All comments submitted will be included as part of the public record for this virtual meeting and will be considered by the board prior to any action taken. Comments must be received at least twenty-four (24) hours prior to the meeting and shall have a time limit of three (3) minutes.

Inquiries regarding matters before the Planning and Zoning Board can be directed to the Land Development Division at (321) 733-3042.

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

Any aggrieved or adversely affected person desiring to become a party in the quasi-judicial proceeding shall provide written notice to the city clerk which notice shall, at a minimum, set forth the aggrieved or affected person's name, address, and telephone number, indicate how the aggrieved or affected person qualifies as an aggrieved or affected person and indicate whether the aggrieved or affected person is in favor of or

opposed to the requested quasi-judicial action. The required notice must be received by the clerk no later than five (5) business days at the close of business, which is 5 p.m., before the hearing. (§ 59.03, Palm Bay Code of Ordinances)

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

♣ Quasi-Judicial Proceeding.

**CITY OF PALM BAY, FLORIDA**  
**PLANNING AND ZONING BOARD/**  
**LOCAL PLANNING AGENCY**  
**REGULAR MEETING 2020-10**

Held on Wednesday, September 2, 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.

Pursuant to Section 286.011, Florida Statutes, and Executive Order 20-69, this public meeting included media technology communications (teleconference/video conference).

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

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

**ROLL CALL:**

<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	(Late)
<b>MEMBER:</b>	Richard Hill	Present	
<b>MEMBER:</b>	Khalilah Maragh	Present	
<b>MEMBER:</b>	Rainer Warner	Absent	(Excused)
<b>NON-VOTING MEMBER:</b>	David Karaffa	Present	
	(School Board Appointee)		

Mr. Warner's absence was excused.

**CITY STAFF:** Present were Mr. Laurence Bradley, Growth Management Director; Mr. Patrick Murphy, Assistant Growth Management Director; Mr. Christopher Balter, Senior Planner; Ms. Chandra Powell, Recording Secretary; Mr. Rodney Edwards, Assistant City Attorney.

Announcements were heard at this time.

- ☞ 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.

The meeting was joined at this point by Mr. Felix.

Old Business was heard at this time.

☞ 1. ♣ **FD-10-2020 – CHAPARRAL SUBDIVISION PHASE II -  
CHAPARRAL PROPERTIES, LLC (JAKE WISE, P.E., REP.)**

Mr. Murphy presented the staff report for Case FD-10-2020. The applicant had requested a Final Development Plan for a PUD, Planned Unit Development to allow a proposed 27-lot, single-family residential development called Chaparral Phase II. Staff recommended Case FD-10-2020 for approval, subject to the staff comments contained in the staff report.

Mr. Jake Wise, P.E. of Construction Engineering Group, Inc. (civil engineer for the project and representative for the applicant) stated that Phase I of the Chaparral development was currently under construction, and that the subject request was the extension of an internal loop road that would include 27 lots. He commented that the Citizen Participation Plan (CPP) meeting was mostly attended by Malabar Lakes West residents to the west. There were no concerns regarding the subject phase as it was not as close in proximity as Phase I. He noted that a traffic light was approved for the site, and the access would align with Wisteria Lane NW on the north side of Malabar Road.

Ms. Maragh asked if the applicant was in agreement with staff conditions. Mr. Wise stated his agreement with the conditions by staff.

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

A virtual comment was received in opposition to the request from Mr. Milad Chrieki and Ms. Brenda Chrieki (residents of Malabar Lakes West). They wanted better irrigation to be put in place to address flooding; a wall to be erected to separate the two developments; and single-story homes instead of multi-level homes to abut the rear Allison Drive properties for privacy. In response, Mr. Wise remarked that their concerns were in relation to Phase III and would be addressed during that phase of development. He noted that 50 feet of right-of-way to the south had been donated for the future widening of Malabar Road.

The floor was closed for public comments.

Mr. Weinberg reminded the board that only Phase II was under consideration.

Motion by Ms. Jordan, seconded by Ms. Maragh to submit Case FD-10-2020 to City Council for approval of a Final Development Plan for a PUD, Planned Unit Development to allow a proposed 27-lot, single-family residential development called Chaparral Phase II, subject to the staff comments contained in the staff report. The motion carried with members voting unanimously.

The board resumed consideration of items in the order shown on the agenda.

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

1. Regular Planning and Zoning Board/Local Planning Agency Meeting 2020-09; August 5, 2020. Motion by Ms. Jordan, seconded by Mr. Felix to approve the minutes as presented. The motion carried with members voting unanimously.

#### **ANNOUNCEMENTS:**

Announcements were heard following Roll Call.

#### **OLD BUSINESS:**

1. **♣FD-10-2020 – CHAPARRAL SUBDIVISION PHASE II –  
CHAPARRAL PROPERTIES, LLC (JAKE WISE, P.E., REP.)**

Case FD-10-2020 was discussed prior to Announcements.

**NEW BUSINESS:**

**1. ♣FS-1-2020 – CROWN SQUARE - ROOK AT PALM BAY, LLC  
(JAKE WISE, P.E., REP.)**

Mr. Murphy presented the staff report for Case FS-1-2020. The applicant had requested Final Plat approval for a 5-lot commercial and multi-family residential subdivision called Crown Square, with requests for waivers from Section 184.18(B) of the Palm Bay Code of Ordinances to allow for the reduction of a proposed road right-of-way width and cul-de-sac radius. Staff recommended Case FS-1-2020 for approval, subject Items A through D of the staff report being completed/approved during the administrative site plan review.

Ms. Maragh wanted to know the impact of reducing the road right-of-way width from 50 feet to 32 feet. Mr. Murphy stated that the Public Works Department had no concerns with the reduction. The road would be constructed to meet City standards and would be privately owned and maintained.

Mr. Boerema inquired whether a traffic study had been done since the preliminary review. He was concerned about west traffic from the subdivision crossing eastbound Malabar Road traffic to make U-turns. Mr. Murphy stated that the traffic analysis and a traffic signal analysis had necessitated a proposed traffic signal with median and turn lane improvements for the development.

Mr. Jake Wise, P.E. of Construction Engineering Group, Inc. (civil engineer for the project and representative for the applicant) stated that the project was substantially the same as the preliminary submittal previously reviewed by the board. The reduced road right-of-way width was needed to accommodate the unusual shape of the property with under 400 feet of frontage along Malabar Road. The width reduction would allow for commercial development to occur. The cul-de-sac portion that was right-of-way would be reduced in width and constructed to City standards. He said that the traffic signal was for safety purposes and would work in conjunction with the Wal-Mart traffic signal to the east. He confirmed that Certificates of Occupancy would not be



issued until the traffic signal was in place. He commented that the majority of concerns at the Citizen Participation Plan (CPP) meeting were alleviated based on the proposed development being gated, the Class A apartments, and the complete fencing. Area residents were pleased that the homeless on the site would be disbanded, and there were neighborhood hopes for a nice restaurant. The wetland and upland buffer on the west side of the property would be preserved, and American Legion Post 117 to the west no longer had objections to the development. He stated his agreement with the staff report.

Mr. Hill inquired about the Soil Tracking Prevention Device (STPD) to handle the construction traffic on Malabar Road. Mr. Wise explained that an old concrete access drive from Malabar Road onto the site would be used for stabilization, and that daily sweeping of the streets and ongoing inspections would keep Malabar Road clean.

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

A virtual comment was received in opposition to the request from Mr. Bryan Lang (resident at Cassia Avenue SE). His concerns were regarding access and drainage onto his property. In response, Mr. Wise stated that the only access point for the subdivision would be at the Malabar Road traffic signal, and the proposed drainage system would improve area drainage by reducing the flow into the canal system and by maintaining water onsite.

The floor was closed for public comments.

Motion by Ms. Maragh, seconded by Mr. Hill to submit Case FS-1-2020 to City Council for Final Plat approval of a 5-lot commercial and multi-family residential subdivision called Crown Square, with requests for waivers from Section 184.18(B) of the Palm Bay Code of Ordinances to allow for the reduction of a proposed road right-of-way width and cul-de-sac radius, subject to Items A through D of the staff report being completed/approved during the administrative site plan review. The motion carried with members voting unanimously.

**2. ♣V-22-2020 – LUIS E. AND TAMMY M. SANCHEZ**

Mr. Balter presented the staff report for Case V-22-2020. The applicant had requested a variance to allow an existing screen room enclosure to encroach 4.17 feet into the 25-foot rear building setback as established by Section 185.034(F)(7)(d) of the Palm Bay Code of Ordinances. The board had to determine, based on the facts presented, the degree of minimal relief, if any, to meet the needs of the variance request, as required by Section 169.009 of the City of Palm Bay Code of Ordinances.

Mr. Weinberg questioned whether the applicant could apply for a new permit if the variance was granted since the original permit was voided. Mr. Balter explained how a screen enclosure company had applied for the original permit that was voided. The screen room was built by the applicant without a permit or submittal of the required engineer drawings. Mr. Weinberg remarked that obtaining the permit could be a condition of the variance.

Mr. Luis Sanchez (applicant) explained how a permit was obtained by the screen enclosure company for his swimming pool and a covered patio before the plans to screen the patio were eliminated to fund the pool. The error occurred when he added the screening himself based on the original permit that had included the screen enclosure. He commented on the hardship of relocating the septic system from the rear of the property to allow for the pool and patio, which still encroached the setback. He believed his property was surveyed incorrectly and resulted in the rear easement encroachments. He agreed to provide new engineering drawings and apply for a new building permit for the screen enclosure.

Ms. Jordan asked for clarification on whether the engineering drawings would be the same as the original plan. Mr. Balter explained that the applicant would be submitting new drawings for the screen enclosure that he had built himself. A pool permit and a screen enclosure permit were originally applied for; however, because the enclosure encroached the setbacks, only the pool and the patio slab were issued permits.

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

Motion by Mr. Hill, seconded by Ms. Maragh to submit Case V-22-2020 to City Council for approval of a variance to allow an existing screen room enclosure to encroach 4.17 feet into the 25-foot rear building setback as established by Section 185.034(F)(7)(d) of the Palm Bay Code of Ordinances, subject to the screen room enclosure obtaining a building permit. The motion carried with members voting unanimously.

3. **CP-7-2020 – M. DAVID MOALLEM  
(LEHEM D. AND BRANDI L. BERRIOS, REPS.)**

Mr. Balter presented the staff report for Case CP-7-2020. The applicant had requested a small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use. Staff recommended Case CP-7-2020 for approval, subject to the staff comments.

Mr. Lehem Berrios (representative for the applicant) stated that he had searched for a large property for a while to build his future home.

Ms. Jordan asked if there was a contract pending on the subject site. Mr. Berrios confirmed that he had a contract on the property.

The floor was opened and closed for public comments; there were no comments from the audience and there was a 35-signature petition in the file in opposition to the request.

Motion by Mr. Boerema, seconded by Mr. Felix to submit Case CP-7-2020 to City Council for approval of a small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use, subject to the staff comments.

The floor was reopened to allow for virtual public comments.

A virtual comment and video clip were received in opposition to the request from Mr. Kenneth Muck (resident at Castanada Street NW). His concern was regarding gopher tortoises, which he had recorded on the subject property. He also believed the site was frequented by a red-tail hawk. In response, Mr. Berrios informed the board that an environmental assessment was prepared by Atlantic Environmental of Florida, LLC and a full gopher tortoise survey had been scheduled to determine the best option to address the tortoises on the property. The assessment was submitted to the file.

A virtual comment was received in opposition to the request from Ms. Marilyn Campbell-Muck (resident at Castanada Street NW). She felt that the open space properties were part of the ambiance of Palm Bay and were especially needed during the pandemic. There was also wildlife on the property that should not be disturbed. In response, Mr. Berrios noted that there was undeveloped property to the west of the site, and he would also be willing to leave a portion of the subject site undeveloped for the wildlife after consulting with Atlantic Environmental.

The floor was reclosed for public comments.

Motion restated by Mr. Boerema, seconded by Mr. Felix to submit Case CP-7-2020 to City Council for approval of a small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use, subject to the staff comments. The motion carried with members voting unanimously.

#### **4. CP-8-2020 – JARED K. AND MEGAN L. COOPER**

Mr. Balter presented the staff report for Case CP-8-2020. The applicant had requested a small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use. Staff recommended Case CP-8-2020 for approval, subject to the staff comments.

Mr. Jared Cooper (applicant) stated that he planned to build a single-family home on the subject site, and he commented on the difficulty in finding a large property. He noted that there was currently five acres to the northeast of the site that was City-owned Recreation and Open Space Use land.

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

Ms. Theresa Grimes (resident at Coolidge Road NE) spoke in concern of the gopher tortoises and other endangered native species on the subject property which needed to be addressed. She had documented seven active gopher burrows with the Florida Wildlife Commission. She welcomed the Cooper family as a neighbor and in working around the wildlife.

Mr. Robert Llewellyn (resident at Firestone Street NE) spoke in concern of the gopher tortoises on the site and in the area, and he suggested that a horticultural natural park be created on a portion of the northeast City-owned property. The land could be reserved for native Florida plant species and wildlife. There was a need for open spaces in the City.

Mr. Weinberg stated that the suggestion for the horticultural natural park would have to be addressed to City Council.

A virtual public comment was received in support of the request from Mr. Michael Wademan (resident at Firestone Street NE). The property had undergone two fires, a suicide, homeless inhabitants, junk, rodents, and his wife had concerns for her safety.

In response to comments from the audience, Mr. Cooper confirmed that there were between five and seven tortoise burrows on the back perimeter of the property. His intent was to fence the back quarter acre of the property so that the tortoise burrows could remain undisturbed.

The floor was closed for public comments.

Motion by Mr. Hill, seconded by Mr. Boerema to submit Case CP-8-2020 to City Council for approval of a small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use. Staff recommended Case CP-8-2020 for approval, subject to the staff comments.

Ms. Jordan asked if the environmental issues would be addressed at the building permit stage. Mr. Balter stated that this was correct.

A vote was called on the motion by Mr. Hill, seconded by Mr. Boerema to submit Case CP-8-2020 to City Council for approval of a small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use. Staff recommended Case CP-8-2020 for approval, subject to the staff comments. The motion carried with members voting unanimously.

**5. T-21-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)**

Mr. Bradley presented the staff report for a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to establish language that will permit tiny homes on wheels and modification to the small planned unit developments. Tiny Homes on Wheels (THOWs) was a policy decision that the board and City Council will need to address. The board and City Council should consider the definitional changes to make the use permissible, and could also adopt additional requirements, if so desired, to enhance the appearance of the units and the communities where they will locate. The subject proposal was at the request of City Council.

Ms. Maragh inquired whether the proposed amendment was based on best practices or other municipalities that had implemented THOWs. Mr. Bradley explained that the amendments were the minimum necessary to permit THOWs within Small Unit Developments (SPUDs).

Ms. Jordan questioned whether the proposal would permit SPUDs to occur throughout the City. Mr. Bradley explained that SPUDs were currently restricted to properties with an existing future land use designation of Multiple Family Residential Use. The subject amendment would allow SPUDs to locate on properties where the land use designations were changed through the public hearing process in the future to Multiple Family Residential Use.

Ms. Jordan asked if THOWs must hook into water and sewer, and if one unit would be permitted on a single-family lot. Mr. Bradley confirmed that the units would be required to hook up to water and sewer, and that a single THOW could locate on a single-family lot if the site was within a SPUD.

Ms. Maragh asked about the staff report's reference to Brevard County and the City of Rockledge and if other municipalities were researched. Mr. Bradley stated that the two municipalities were the only communities in the region that had THOW ordinances, but neither had received any THOW requests.

The floor was opened for public comments.

Mr. Bruce Moia, P.E. (president of MBV Engineering, Inc.) spoke in favor of the request. He stated that he was instrumental in getting the amendment brought forward. He had an upscale THOW project that was ready for submittal. The amendment was well written, and the SPUD designations would permit the board and City Council to review the developments. Ms. Maragh inquired if the mentioned THOW development would entirely be on wheels. Mr. Moia said that wheels, skirting, landscaping, and other options would be considered for a proposed well-done community with amenities.

Mr. Weinberg noted that THOWs were required to have tie-downs, foundations, and utility connections.

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

Mr. Weinberg stated that he had no problem with the ordinance because of the required tie-downs, foundations, and utility connections. The City could determine architectural standards.

Motion by Mr. Hill, seconded by Ms. Maragh to submit Case T-21-2020 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, to establish language that will permit tiny homes on wheels and modification to the small planned unit developments. The motion carried with members voting unanimously.



**OTHER BUSINESS:**

**1. PETITION TO ESTABLISH A TEMPORARY MORATORIUM FOR CONDITIONAL USES PROPOSED WITHIN THE NC, NEIGHBORHOOD COMMERCIAL DISTRICT**

Mr. Bradley presented the request to establish a moratorium in the NC, Neighborhood Commercial District on all proposed Conditional Use applications, reference Section 185.042(D), by suspending the acceptance, processing, and consideration of Conditional Use applications within the zoning district for a period of six (6) months. The temporary moratorium will allow for the review of current uses and requirements and for the consideration of new regulations which will enhance the intent of the district. Staff recommended the Petition to Establish the Temporary Moratorium for approval.

Mr. Bradley noted that the request was at the direction of City Council and would be heard by City Council on September 17, 2020.

Mr. Weinberg questioned why staff recommended changes for the NC district conditional uses could not be submitted to the board and City Council without a moratorium. Mr. Bradley stated that based on discussions with the City Attorney, City Manager, and City Council, a moratorium would allow staff time to review standards for conditional uses and bring forward the changes. The moratorium would protect the neighborhood areas until language could be drafted.

Mr. Weinberg wanted to know the specific conditional use that was an issue. Mr. Bradley stated that City Council had raised some concerns regarding a few of the conditional use applications that had come before them. Neighbors had concerns regarding the types of developments the conditional uses were permitting into the neighborhoods.

Mr. Weinberg asked about allowed conditional uses. Mr. Bradley stated that there were several kinds of conditional uses, including gas stations and uses over certain sizes. Staff would review the uses, protections, and the buffering and landscape requirements to reduce the impact of uses on the residential area.



Ms. Maragh wanted to know what would occur during the six-month time span, and how many projects were currently affected by the moratorium. Mr. Bradley stated that staff could hold workshops with City Council and members of the public to create draft language within the six months. Staff would have time to review all the uses and their conditions. There was only one application received since the notice for the proposed moratorium was published.

The floor was opened for public comments.

Mr. M. David Moallem (Moallem Properties, Inc.) spoke in opposition to the request. He explained how 25 years ago he had purchased a large number of NC properties from General Development Corporation, which he was currently paying \$30,000.00 annually in property taxes. Dollar General stores had recently become a viable opportunity for NC sites. However, the conditional use application submitted to allow a Dollar General on his NC property on De Groodt Road SE was placed on hold by the City while the subject moratorium was not yet in effect. He believed Deputy Mayor Kenny Johnson was pushing the moratorium because of residents who did not want a Dollar General adjacent to their homes. He felt, however, that residents who purchased land near NC properties were fully aware of the commercial aspects. Dollar Generals benefited Palm Bay residents with a service, jobs, and taxes.

Ms. Maragh was concerned about the conditional use application that was being held. Mr. Bradley stated that in discussion with the City Attorney, the publication of notice of the moratorium served as a stay until City Council action occurred to either uphold the moratorium for six months or to deny and allow NC conditional use submittals to continue.

Ms. Jordan inquired about lessening the six-month timeframe. Mr. Bradley indicated that the time period could be shortened.

Mr. Weinberg stated that he did not have a problem with a moratorium to allow staff the time needed to make decisions regarding the NC district.

Motion by Ms. Maragh, seconded by Mr. Felix to submit to City Council an approval of the Petition to Establish a Temporary Moratorium for Conditional Uses within the Neighborhood Commercial (NC) District. The motion carried with members voting as follows:

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

2. At the request of the City Manager, the board agreed to hold a special meeting on September 30, 2020, at 7:00 p.m., to consider requirements for signage at City properties during early voting and polling.

#### **ADJOURNMENT:**

The meeting was adjourned at approximately 9:00 p.m.

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Philip Weinberg, CHAIRPERSON

Attest:

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Chandra Powell, SECRETARY

♣Quasi-Judicial Proceeding.

☞ Indicates item was considered out of sequence



## MEMORANDUM

**TO:** Planning and Zoning Board Members

**FROM:** Laurence Bradley, AICP, Growth Management Director

**DATE:** October 7, 2020

**SUBJECT:** T-20-2020 – Continuance

Councilman Jeff Bailey has requested a continuance of Case T-20-2020 (City of Palm Bay - Growth Management Department - requested by Councilman Jeff Bailey) to the November 4, 2020 Planning and Zoning Board meeting to allow for further review. The request will be heard by City Council on November 19, 2020. Board action is required to continue the case.

cp



# 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

Patrick J. Murphy, Assistant Growth Management Director

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#### CASE NUMBER

CU-23-2020

#### PLANNING & ZONING BOARD HEARING DATE

October 7, 2020

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#### PROPERTY OWNER & APPLICANT

Republic Services of Florida, LP  
Being Represented by Jake Wise of  
Construction Engineering Group, LLC

#### PROPERTY LOCATION/ADDRESS

2725 Dorothea Fields Avenue NE 32905  
Located at the eastern terminus of Dorothea Fields  
Avenue NE, in the vicinity north of Robert J. Conlan  
Boulevard NE

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#### SUMMARY OF REQUEST

Conditional Use Approval for a for an Automotive Fuel Dispensary.

##### Existing Zoning

LI, Light Industrial and Warehousing District

##### Existing Land Use

Industrial Use

##### Site Improvements

Two (2) Existing Buildings and associated Parking Areas

##### Site Acreage

3.41 acres, more or less

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#### SURROUNDING ZONING & USE OF LAND

##### North

LI, Light Industrial and Warehousing District, Undeveloped Land

##### East

LI, Light Industrial and Warehousing District, Undeveloped Land

##### South

LI, Light Industrial and Warehousing District, Undeveloped Land

##### West

RM-10, Single-, Two-, and Multi-Family Residential; Three (3)  
Existing Residential Structures and Three (3) Vacant Residential  
Lots

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#### COMPREHENSIVE PLAN

##### COMPATIBILITY

Yes

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**BACKGROUND:**

The subject property is located at the eastern terminus of Dorothea Fields Avenue, in the vicinity north of Robert J. Conlan Boulevard NE. Specifically, the property is Tax Parcel 19.0; located in Section 14, Township 28 south, Range 37 east, Brevard County, Florida. The size of the property is approximately 3.41 acres.

The property is presently developed land with two (2) existing buildings and associated parking areas. A 10,294 square foot building was constructed in 1974 and an additional 1,440 square foot building was built in 1987. The site was the former home of Diamond Community School, from 1994 to 2016, and the property is currently occupied by Couch's Waterproofing, Inc. (a Roofing Contractor).

The applicant, Republic Services, is requesting conditional use approval for an automotive fuel dispensary, as required by Section 185.045(D)(1) of the Palm Bay Code of Ordinances. The applicant is represented by their Civil Engineer, Jake Wise of CEG.

**ANALYSIS:**

The applicant, Republic Services, is a solid waste collection company that has recently moved into one of the buildings on the subject property. They are seeking approval to install a 10,000 gallon above ground fuel tank that will provide fuel to their fleet of vehicles. This is not a retail automotive fuel facility that will be open to the public, the on-site fueling apparatus is solely for use by the applicant.

**CODE REQUIREMENTS:**

To be granted conditional use approval, requests are evaluated upon items (A) through (I) of the General Requirements and Conditions of Section 185.087 of the Code of Ordinances. A review of these items is as follows:

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

Sole access to the site is via the existing driveway onto Dorothea Fields Avenue. There are no other driveways proposed or anticipated at this time.

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

Based upon the uses of the property, which are considered as Industrial Activities in the City's Parking Code, one (1) parking space shall be provided for every employee, or one (1) space

for each 1,000 square feet of gross floor area, whichever is greater, plus one (1) space for each company vehicle operating from the premises. The number of employees and number of company vehicles must be provided at the time of formal site plan submission, for both businesses, to determine the minimum number of parking spaces required for operation. The site plan shall clearly indicate the parking spaces and delineate the dimensions of such parking areas.

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

The existing buildings are connected to the City's water distribution and sewer collection systems. No additional demand upon the existing system is expected. The property has both electric and phone services.

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

Solid Waste collection services is considered an allowable business service use in the LI zoning district. However, due to the site's close proximity to existing residential properties (to the west and northwest) staff recommends that an eight foot (8') high opaque fence be provided along the west and north property lines to screen the garbage trucks that will be stored and maneuvered upon the property on a daily basis.

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

Although no photometric plan or sign detail has been provided, it shall be noted that City codes require any and all lighting to be shielded and/or directed downward to avoid creating a nuisance to adjacent properties. Only one (1) detached sign would be allowed and it must meet all applicable location and dimension criteria.

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

The yards and open space requirements of the Zoning Code have been met. No building or pavement expansions are proposed, and the tank will be located in the parking lot.

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

Per City Code Section 185.045(D)(1)(a): All pumps, storage tanks and other service island equipment shall be at least twenty (20) feet from all property lines, fifteen (15) feet from any building and one hundred (100) feet from the nearest residentially owned land. No pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well. Upon review of the conceptual site plan, the proposed above ground tank location is approximately 121' east of the nearest residentially-owned land, 36' east of the nearest building, 25' west of the nearest property line, and almost 2 miles due north from the nearest municipal or public supply well.

However, due to the site's close proximity to existing residential properties (to the west) staff suggests that the tank be moved to the south side of the building that is located on the east side of the parking area. This will allow the existing 10,000 square foot building on the west side of the parking area to serve as a physical buffer in both sound and visual effect. An aerial map is included in this report, illustrating the suggested location.

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

As stated above, the facility is an allowable use in the LI zoning district. To ensure compatibility with adjacent properties, staff has recommended a "buffer" fence. It shall be noted that the facility is subject to the Noise Ordinance, which is applicable to all uses.

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

The Board and Council have the authority and right to impose any additional and justifiable safeguards, and/or conditions, to ensure that the facility operates safely and harmoniously with its surroundings.

**Additional Staff Comments:**

The Public Works Department (PWD) has identified the Brevard County Natural Resources Management Department as the responsible party for ensuring compliance with Chapter 62-761 and 62-762, of the Florida Administrative Code, which regulates petroleum storage facilities. Republic Services must submit the above-ground storage tank specifications to the County for review and inspection of the facility. The PWD has requested copies of the compliance documentation, once provided by the County, and that all inspection records be kept on-site.

**STAFF CONCLUSION:**

The Planning and Zoning Board and City Council must determine if the request meets the criteria of Section 185.087 of the Palm Bay Code of Ordinances.





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

Map created by the Land Development Division



**CASE NO. CU-23-2020**



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



## AERIAL LOCATION MAP

## CASE CU-23-2020

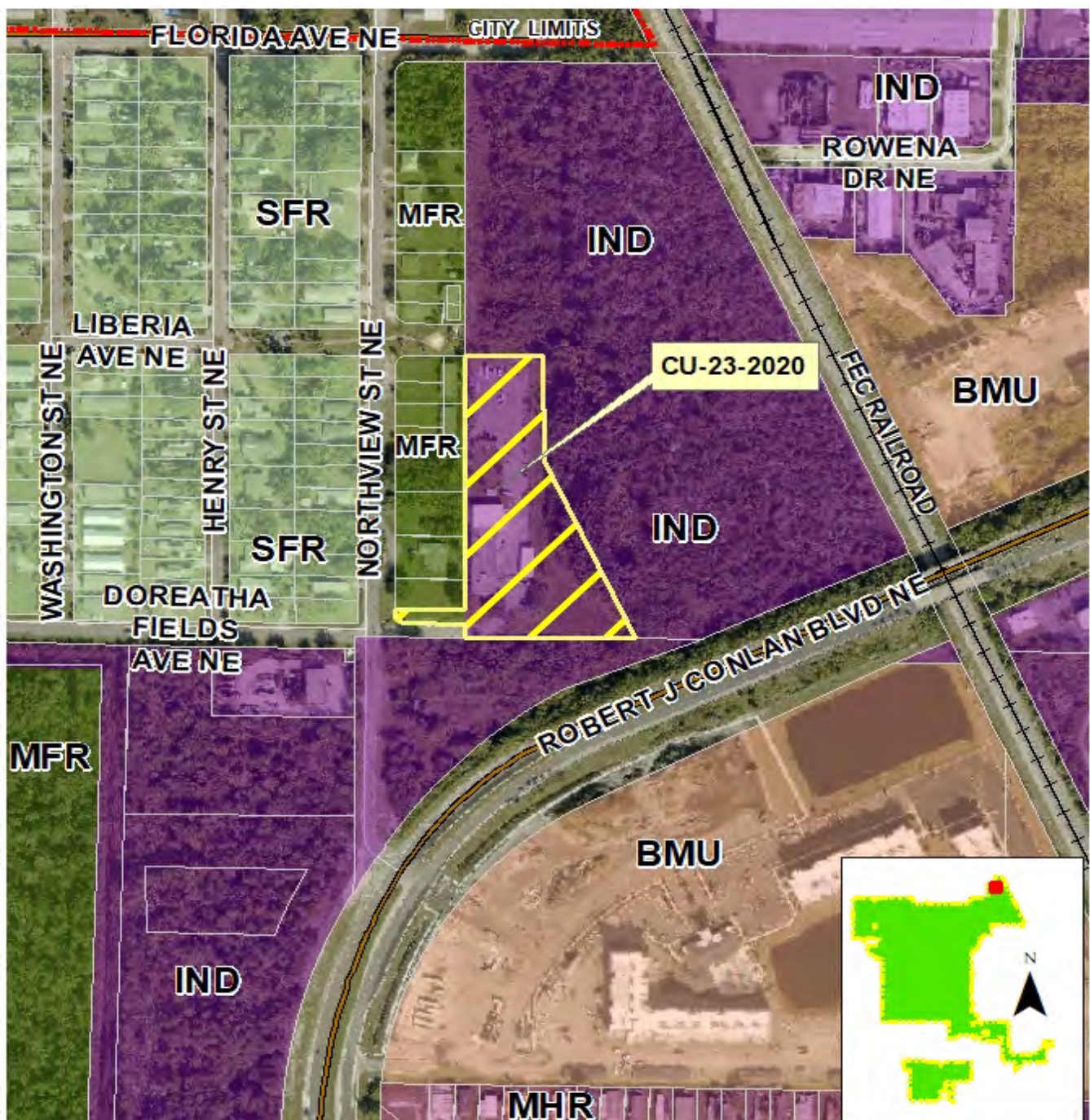
### Subject Property

North of and east of Doreatha Fields Avenue NE, in the vicinity east of Northview Street NE, specifically at 2575 Doreatha Fields 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 CU-23-2020

### Subject Property

North of and east of Doreatha Fields Avenue NE, in the vicinity east of Northview Street NE, specifically at 2575 Doreatha Fields Avenue NE

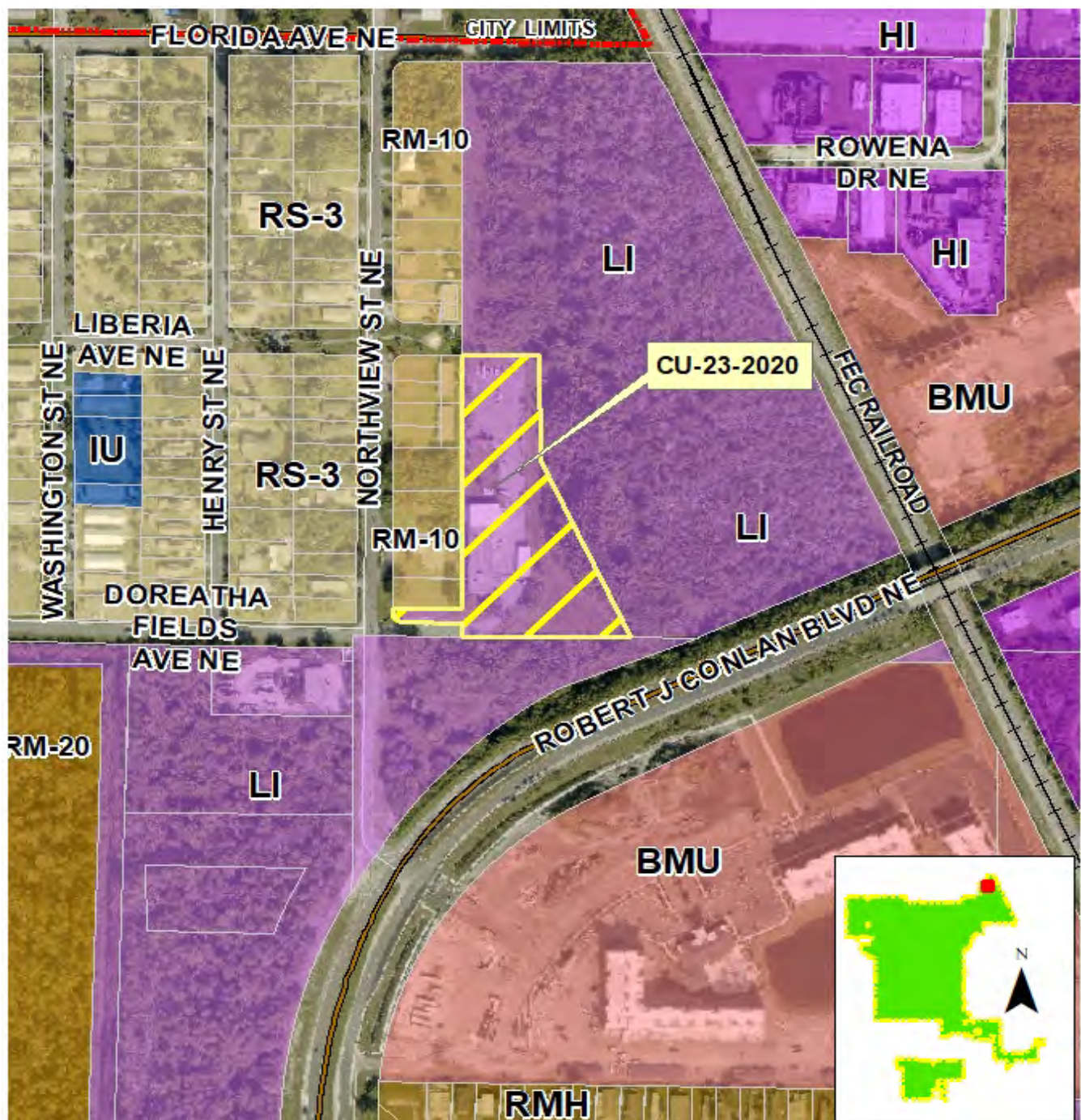
### Future Land Use Classification

IND – Industrial Use





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



## ZONING MAP

## CASE CU-23-2020

### Subject Property

North of and east of Doreatha Fields Avenue NE, in the vicinity east of Northview Street NE, specifically at 2575 Doreatha Fields Avenue NE

### Current Zoning Classification

LI – Light Industrial and Warehousing District







**LAND DEVELOPMENT DIVISION**

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

Landdevelopment@palmbayflorida.org

**CONDITIONAL USE 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.

**PARCEL ID** 28-37-14-00-19

**TAX ACCOUNT NUMBER** 2857737

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

See attached

**SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage):** 3.41 acres

**ZONING CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.)** L1

**CONDITIONAL USE SOUGHT** Installation of a fuel tank

**CONDITIONAL USE REQUIREMENTS FOR SUBMITTAL (Section 185.087):**

The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties per Section 185.085.

**A SITE SKETCH TO SCALE MUST BE PROVIDED, AND ALSO PROVIDED ON MEMORY DRIVE, OF THE FOLLOWING:**

- (A) Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.
- (B) Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor, or other detrimental effects upon adjoining properties.

**CITY OF PALM BAY, FLORIDA  
CONDITIONAL USE APPLICATION  
PAGE 2 OF 3**

- (C) Adequate and properly located utilities that are available or may be reasonably provided to serve the proposed development.
- (D) Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.
- (E) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties.
- (F) Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.
- (G) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation, or type of physical activity.
- (H) Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including, but not limited to, reasonable time limit within which the action for which special approval is requested shall be begun or completed, or both.

**ADDITIONAL CONDITIONS MUST BE MET AND INCORPORATED INTO THE SITE SKETCH FOR THE SPECIFIC CONDITIONAL USE.**

Additional criteria is listed in Section 185.088 and available from staff (check all that apply):

- ☐ **Church** (Sec. 185.088(A))
- ☐ **Club or Lodge** (Sec. 185.088(B))
- ☐ **Commercial Dog Kennel** (Sec. 185.088(C))
- ☐ **Planned Industrial Development** (industrially zoned site over 5 acres) (Sec. 185.088(D))
- ☐ **Public or Private School** (Sec. 185.088(E))
- ☐ **Self-Storage Facility** (Sec. 185.088(F))
- ☐ **Communication Tower and Facilities** (Sec. 185.088(G))
- ☐ **Dance Club** (Sec. 185.088(H))
- ☐ **Security Dwelling Unit** (Sec. 185.088(I))
- ☐ **Wedding Venue** (Sec. 185.088(J))
- ☐ **Event Hall** (Sec. 185.088(K))



CITY OF PALM BAY, FLORIDA  
CONDITIONAL USE APPLICATION  
PAGE 3 OF 3

**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.)
- ☒ Site Sketch (See page 1 for requirements). Site Sketch must also be provided on Memory Drive.
- ☒ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guideline.
- ☒ Citizen Participation Plan. Refer to Section 169.005 of the Land Development Code for guidelines.
- ☒ **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.**

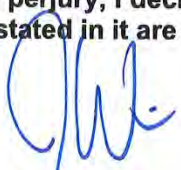
**Name of Representative** Jake Wise, PE- Construction Engineering Group, LLC

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 Conditional Use application and that the facts stated in it are true.**

Representative

**Owner-Signature**



**Date**

8-31-20

**Printed Name** Jake Wise, PE- Construction Engineering Group, LLC

**Full Address** 2651 W Eau Gallie Blvd; Suite A; Melbourne, FL 32935

**Telephone** 321-610-1760

**Email** jwise@cegengineering.com

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

Revision G: 01/2020



AUG. 27<sup>th</sup>, 20 20

Re: Letter of Authorization

As the property owner of the site legally described as:

28-37-14-00-19

I, Owner Name: Ocean Blue 3 LLC

Address: 2575 N.E. Doreatha Fields Ave. Palm Bay, FL 32905

Telephone: 321-956-0990

Email: Kintz Ave @ Gmail. com

hereby authorize:

Representative: Jake Wise PE- Construction Engineering Group, LLC

Address: 2651 W Eau Gallie Blvd Ste A, Melbourne, FL 32935

Telephone: 321-610-1760

Email: jwise@cegengineering.com

to represent the request(s) for:

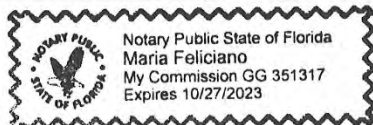
Conditional Use Application

[Signature]  
(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 27 day of August, 20 20 by Victor Couch, property owner.



Maria Feliciano, Notary Public

☒ Personally Known or ☐ Produced the Following Type of Identification:



# 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

Patrick J. Murphy, Assistant Growth Management Director

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#### CASE NUMBER

PD-24-2020

#### PLANNING & ZONING BOARD HEARING DATE

October 7, 2020

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#### PROPERTY OWNER & APPLICANT

Chaparral Properties, LLC  
Represented by Jake Wise, P.E. of  
CEG Engineering Group, LLC

#### PROPERTY LOCATION/ADDRESS

The project will be located south of Malabar Road SW,  
and west of and adjacent to the Brentwood Lakes PUD

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#### SUMMARY OF REQUEST

Preliminary Planned Unit Development approval for a 677-unit residential subdivision to be known as Chaparral PUD.

##### Existing Zoning

AU, Agricultural Residential; RR-1, Rural Residential; GU, General Use; and AGR, Agricultural – Brevard County Zoning Designations

##### Existing Land Use

Single Family Residential Use (Ord 2006-93)

##### Site Improvements

None; Cleared Land

##### Site Acreage

204.43 acres, more or less

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#### SURROUNDING ZONING & USE OF LAND

##### North

PUD, Planned Unit Development (Chaparral Phase 1 & 2)

##### East

PUD, Planned Unit Development; Brentwood Lakes PUD and GU, General Use; Port Malabar Rifle & Pistol Club

##### South

GU, General Use (Brevard County); Undeveloped Land

##### West

SR, Suburban Residential (Brevard County); Malabar Lakes West; and RR-1, Rural Residential (Brevard County); Undeveloped Land

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#### COMPREHENSIVE PLAN COMPATIBILITY

Yes and No: The 602 single-family lots are permitted, via the SFR future land use designation and Ordinance 2006-93. However, the proposed 75 townhome units will require an amendment to the City's Comprehensive Plan Future Land Use Map.

**BACKGROUND:**

The overall project will be located south of and adjacent to Malabar Road SE, and west of and adjacent to the Brentwood Lakes PUD. Specifically, the property is a portion of Tax Parcel 1, all of Tax Parcels 751, 752, and 753, Section 4; and Tax Parcels 3 and 4, Section 9. All parcels are in Township 29 south, Range 36 east, Brevard County, Florida. This Preliminary PUD request includes approximately 204.43 acres of land.

Back in 2005 the subject property was part of a larger project (250 acres) that was granted Preliminary PUD approval, with conditions, to consist of 730 residential units (PUD-13-2005). The applicant also requested an amendment of the Comprehensive Plan Future Land Use Map to assign the designation of Single-Family Residential Use. The land use request was approved via Ordinance No. 2006-93. The future land use approval has no expiration date.

The Chaparral project was then modified in 2007 to increase the overall residential count to 850 units (PUD-5-2007). The developer had one (1) year by which to receive Final PUD approval. A series of House Bill, Senate Bill, and City Council extensions were granted over the years, but ultimately, the Preliminary PUD status expired on June 5, 2017.

On October 3, 2017 City Council approved the Final PUD for Chaparral Phase 1 (Ordinance 2017-63) at RCM 2017-27. The approval applied PUD zoning to the north 28.75 acres of the overall property. In the SE portion of this phase of development was a future development tract (Tract A). Chaparral Phase 2 (Tract A from Phase 1), is a Final PUD request to develop 27 single-family home sites and a stormwater management tract upon a 13-acre portion of Phase 1. Phase 2 is scheduled to be heard by City Council on October 1, 2020.

The current request is for Preliminary PUD upon the remainder of the overall Chaparral project. The applicant is Chaparral Properties, LLC. They are represented by their Civil Engineer, Mr. Jake Wise P.E. of CEG Engineering Group, LLC.

**ANALYSIS:**

Chaparral PUD will eventually contain multiple "PODs" or phases of development, within an overall PUD. Vehicular access to the subdivision(s) will be from Malabar Road only, with the new entrance to align with Wisteria Avenue NW. The first two (2) phases of development have been designed to stand on their own and are currently under construction. Right-of-way dedication for the widening of Malabar Road was accounted for in the Phase 1 design.

The development included in this request will extend Abilene Drive SW, which is the main road that will run north-south thru the overall project and connect to six (6) additional pods of housing types. 5 of the 6 pods will contain a total of 602 single-family lots that vary in width from 40-50', with each having a depth of 110'. The last pod, in the far SE corner of the site, will include 75 townhomes. This pod will require a Future Land Use map amendment.

Sanitary sewer is currently gravity-fed to an existing lift station in Phase 1 (Tract LS-1), which was designed to also provide service for the Phase 2 lots. Public water and sewer will be extended from the existing connections in the current development, as the future pods are approved for Final PUD and begin construction.

Interconnected wet detention ponds will serve as stormwater treatment for all phases or pods of development, with an overflow structure that discharges to Melbourne-Tillman Canal No. 9 to the east and Melbourne-Tillman Canal No. 59 to the west. Specific stormwater treatment system designs for each phase will be provided upon each Final PUD submittal and all systems will tie into a master system for the overall project.

The internal road network will be designed to meet city standards but will be maintained by the Homeowner's Association (HOA). The Chaparral of Palm Bay Community Development District (CDD) was approved by City Council via Ordinance 2019-08. The CDD will deliver the community development services and facilities to the overall project area. No City funds will be used to provide the basic infrastructure needed to support the development.

Section 185.065 of the City's Code of Ordinances requires a Planned Unit Development to permanently set aside and designate on the site plan recreational and/or open space for use by residents of the PUD. Such useable space shall in the form of active or passive recreation areas. Common open space shall be improved to the extent necessary to complement the residential uses and may contain compatible and complimentary structures for the benefit and enjoyment of the residents of the PUD.

The Preliminary PUD subdivision plan provides a breakdown showing that the minimum set aside of 25% of the acreage of the PUD has been met by a series of pocket parks, a linear trail, master amenity area, and a portion of the stormwater ponds. In the General Statement of this plan is the following: "The Master Amenity is proposed to begin construction after issuance of the 269<sup>th</sup> residential certificate of occupancy and completed within 18 months of commencement". This would equal, approximately, the build-out of the 4<sup>th</sup> phase (or pod) of development – the area located north of the master amenity.

However, it shall be noted that no specific development of this master amenity has been shown or provided. Therefore, the specific recreational amenity will need to be submitted and reviewed as a future, Final PUD request; either a stand-alone PUD or as part of a phase of development. At that time, the Planning and Zoning Board and City Council shall consider the degree of departure of the proposed PUD from the surrounding residential areas in terms of character and density. That is, the Board and Council shall decide if the master amenity is designed to provide the recreational benefits not otherwise found on the smaller lot types proposed by this development.

The City of Palm Bay's Intergovernmental Coordination Element (ICE-1.1A) establishes coordination between the City and appropriate jurisdictions regarding development approvals. The subject property will access a section of Malabar Road that is within the jurisdictional ownership and maintenance responsibilities of Brevard County. Thus, the PUD request was forwarded to this agency. Review comments from the County are:

"The results of the traffic study submitted by the Applicant recommend signalization at the intersection of Malabar Road at the St. Johns Heritage Parkway, and at the intersection of Malabar Road with the entrance to the Chaparral PUD/project. These signals are recommended to be installed at the completion of the Phase 1 improvements, in order to meet the Level of Service (LOS) criteria. Due to the proximity of the recently installed traffic signal at the entrance to the Brentwood Lakes PUD, and the two (2) additional traffic signals identified in this study, it is further recommended that signal coordination and a communication network shall be made a part of this development".

The City's Traffic Engineer has reviewed the traffic study and concurs with the County's assessment regarding the need for the two (2) traffic signals, and that the City and County will work together on signal timing. It shall be noted that Phase 1 is identified in the Traffic Study to be the initial 275 single-family residential units.

Lastly, technical staff review comments are attached to this report.

#### **CONDITIONS:**

In order to receive Preliminary Planned Unit Development approval, the proposal must meet the requirements of Section 185.066 of the City of Palm Bay's Code of Ordinances. Upon review, it appears that the request is in conformance with the applicable requirements of this section, subject to the following items being submitted with a Final PUD application:

- A. A preliminary subdivision plat and a boundary & title opinion;
- B. Deed restrictions establishing development standards;
- C. Construction drawings;
- D. Specific layout and architectural drawings illustrating the Master Amenity Center;
- E. A Concurrency Determination letter from the School Board of Brevard County; and
- F. The technical comments generated by the Development Review Staff (attached) shall be observed and incorporated into all future subdivision designs.

#### **STAFF RECOMMENDATION:**

Case PD-24-2020 is recommended for approval, subject to the staff comments contained in this report.

## **TECHNICAL COMMENTS**

### **CASE PD-24-2020 – CHAPARRAL OVERALL PUD**

#### **BREVARD COUNTY (Jeffrey Ball, Planning and Zoning Manager):**

1. The results of the traffic study recommended signalization of intersections of Malabar Road at the St. Johns Heritage Parkway and at Wisteria Avenue/Project Driveway prior to completion of Chaparral Residential Phase 1 in order to meet LOS criteria. Due to the number of signals and proximity to the recently installed traffic signal at Bending Branch Lane/Krassner Drive, signal coordination and a communication network will be required as part of this development.
2. The PUD is proposing improvements within the flood zone X and AE floodplains. Please ensure no adverse impacts offsite. County will want to review how they mitigate impacts to Malabar Lakes West (Unincorporated Brevard County) and Allison Drive (BC ROW).

#### **PUBLIC WORKS (Natalie Shaber, Engineer II):**

1. The stormwater management system shall meet all of the performance and design standards of Ch. 174, especially subsections 174.066, 174.067 and 174.068 of the City's Code of Ordinances. Operation of the stormwater management system shall be the responsibility of the HOA, however emergency easements shall be dedicated to the City over the stormwater management system.
2. Zone AE: SS174.068(F) - To protect against damage by building in an area, the whole or part of which is subject to flooding, until the area is filled to the base flood elevation after settlement, as shown on the flood insurance rate map and/or the flood hazard boundary map with amendments; or elevate the structures such that the finished habitable floors are built to or above the applicable base flood elevation as shown on the flood insurance rate map and/or the flood hazard boundary map with amendments and have met the requirements of this chapter.
3. Storage shall be provided in the stormwater management system to mitigate for stormwater storage lost by filling the area located in Zone AE. This shall be provided on a 'cup for cup' basis.

#### **UTILITIES (Christopher Little, Utilities Director):**

The Utilities Department has no objection to the proposed 602 single-family residential units and 75 town homes PUD.

Upon development of the site, the following shall apply for connection to the City's Water and Sewer Utilities System:



1. The applicant/owner, at their expense, will be required to design, permit, install, inspect and test water & sewer systems of adequate size to accommodate the development and to connect to the City's water & sewer system. [§ 200.11(D)(1) – On-Site Facilities]
2. The applicant/owner may be required to extend and/or loop service from the On-Site Facilities to the existing water and sewer connection points. [§ 200.11(D)(2) – Off-Site Facilities].
3. The applicant/owner will be responsible for the property's hydraulic share for the new utilities required to serve the development. Oversizing of utilities at the request of the Utilities Department will be subject to a refunding agreement or refundable advance [§ 200.11(D) & (E)]. The City of Palm Bay's 2017 Wastewater Master Plan & 2017 Water Master Plan, both of which are available by request, identify proposed mainline extensions with the City's current pipe sizing requirements.
4. A City of Palm Bay "Utility Agreement" shall be executed between the Property Owner and the City. All Utility impact/connection charges noted in the "Utility Agreement" must be paid as outlined in the terms and conditions of the Utility Agreement. All fees are subject to change annually on October 1. The Property Owner shall submit a certified copy of the property deed as verification of ownership as part of the Utility Agreement.
5. All utility construction, materials, and testing shall be in accordance with the latest revision of the Palm Bay Utility Departments Policies, Procedures and Standards Handbook and the Standard Detail Drawings. Prior to any construction, all required FDEP Permit applications for the Water and Sanitary Sewer Construction shall be processed through and copies of the Permits filed with the Utilities Department.

**FIRE PREVENTION (Christopher Childs, Firefighter/EMT):**

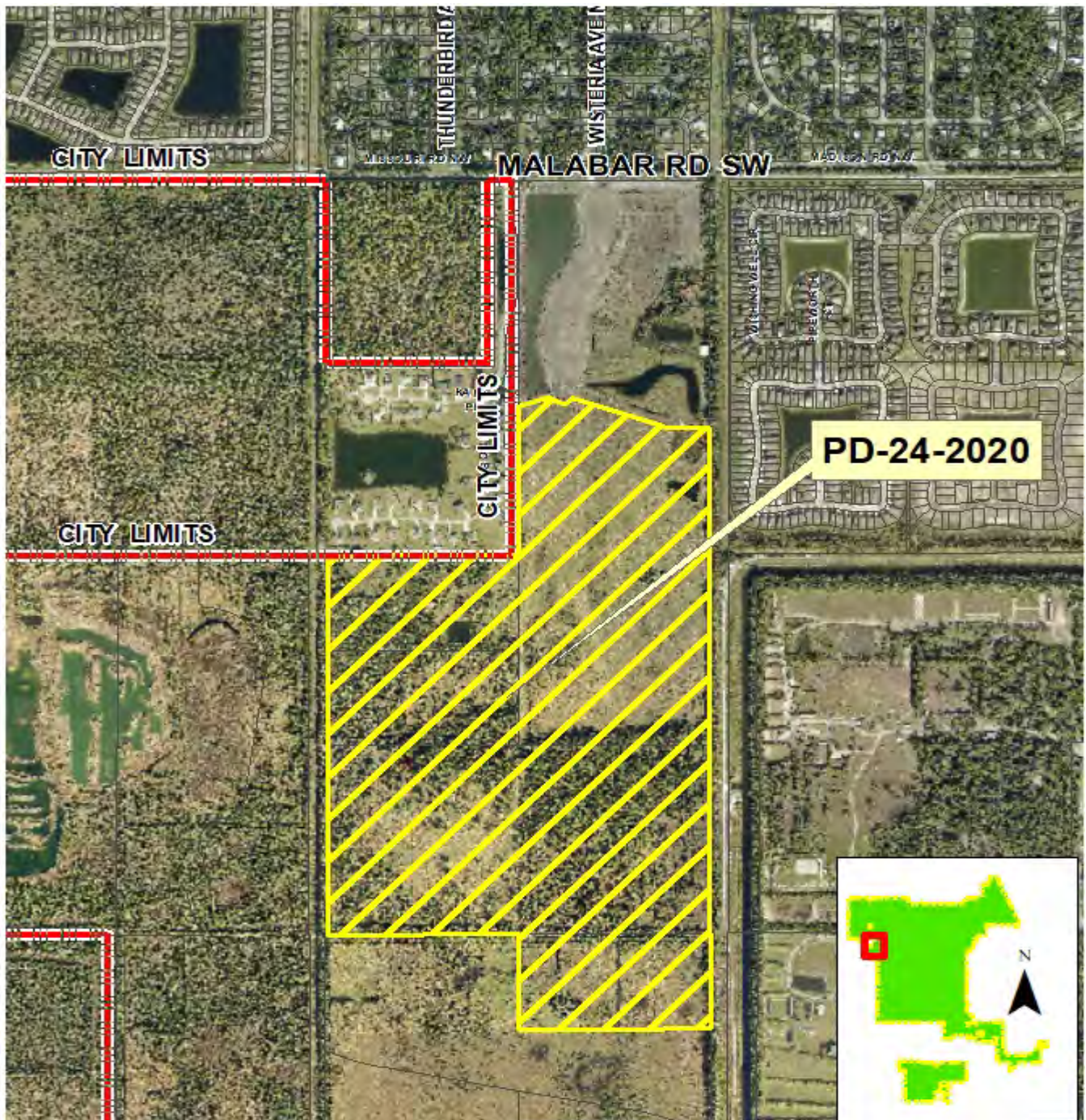
No Comments.

**LAND DEVELOPMENT (James Williams, Flood Plain Administrator):**

The southern portion of project site is in a Special Flood Hazard Area (SFHA) flood zone AE. Any development in the SFHA will require a FEMA "Conditional Letter of Map Amendment" (CLOMA) that approves the PUD plans upon completion to be rezoned to Flood zone X. Upon completion of a PUD or Phase, a "Letter of Map Revision" (LOMR) removing the entire PUD or Phase from the SFHA is required.



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



## AERIAL LOCATION MAP CASE PD-24-2020

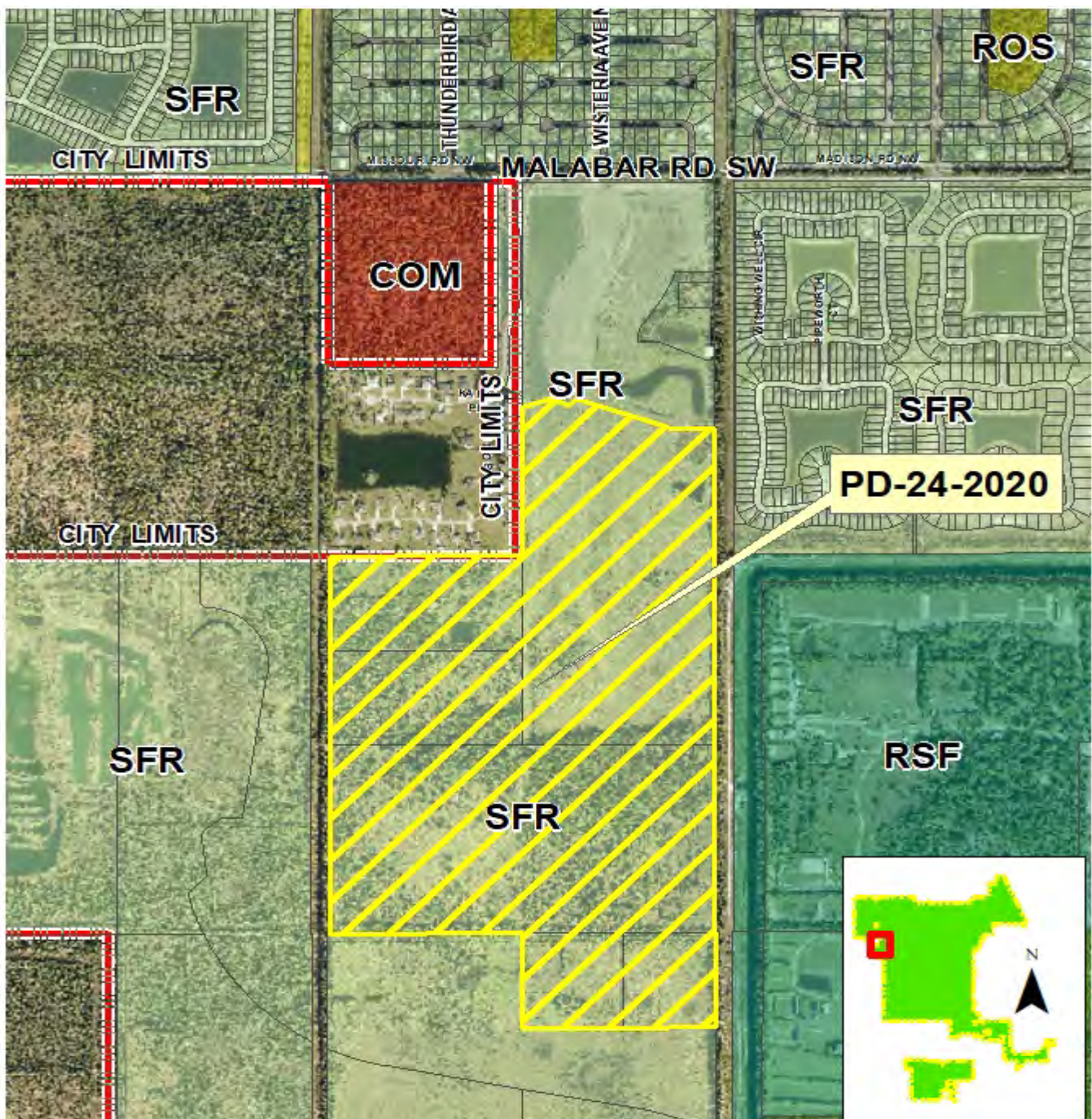
### Subject Property

South of Malabar Road SW and west of Brentwood Lakes Subdivision





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



## FUTURE LAND USE MAP

## CASE PD-24-2020

### Subject Property

South of Malabar Road SW and west of Brentwood Lakes Subdivision

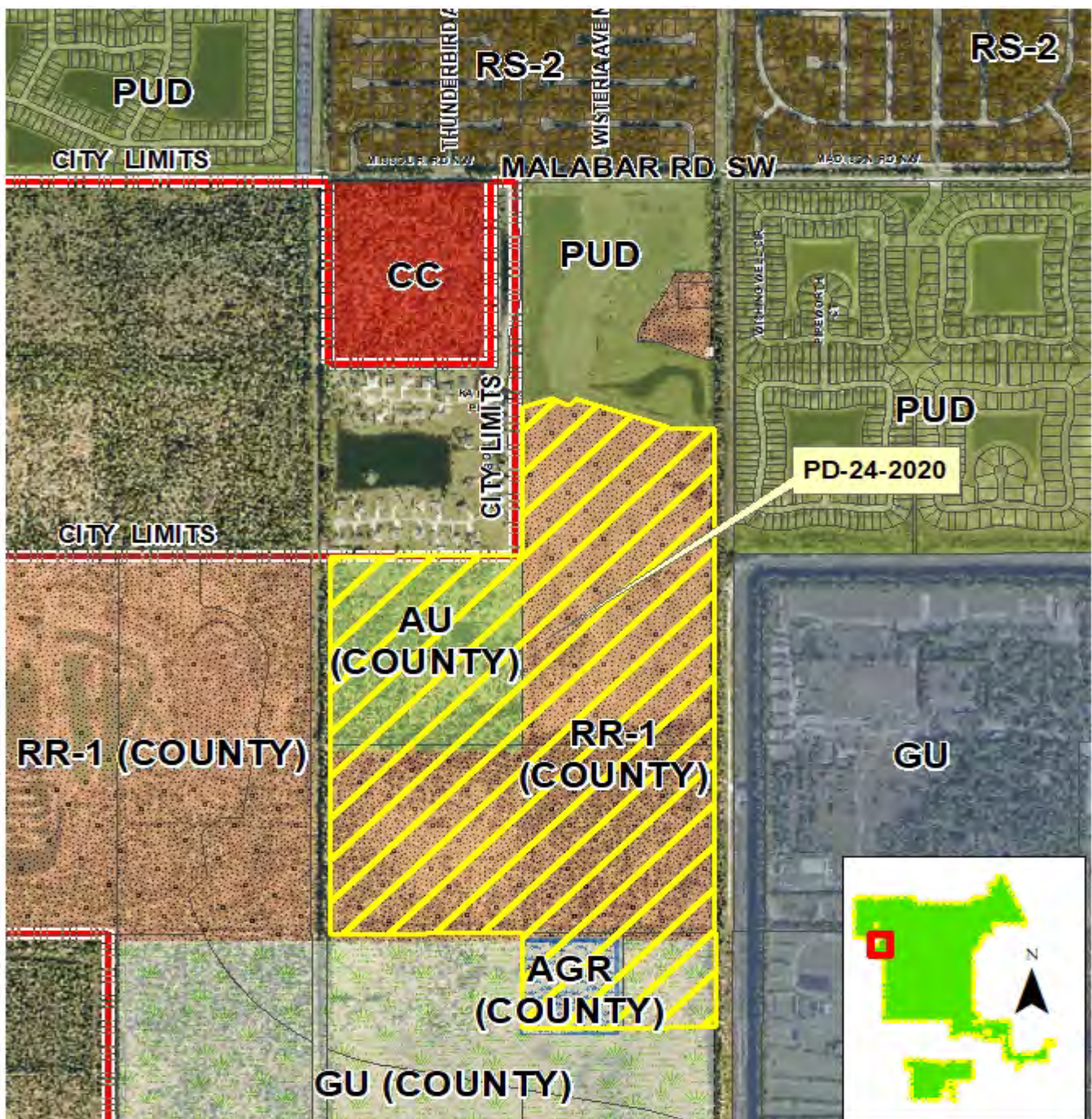
### Future Land Use Classification

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 PD-24-2020

### Subject Property

South of Malabar Road SW and west of Brentwood Lakes Subdivision

### Current Zoning Classification

Brevard County Designations: RR-1, AU, GU and AGR







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

## PRELIMINARY DEVELOPMENT PLAN 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.

### APPLICATION TYPE:

☒ **PUD**

Planned Unit Development  
(Section 185.060)

☐ **PMU**

Parkway Mixed Use District  
(Preliminary Design Plan)  
(Section 185.057)

☐ **PCRD**

Planned Community  
Redevelopment District  
(Section 185.055)

☐ **RAC**

Regional Activity Center District  
(Preliminary Concept Plan)  
(Section 185.056)

PROPOSED DEVELOPMENT NAME Chaparral Subdivision- Overall Master

PARCEL ID Brevard County Parcel IDs 29-36-04-00-1; 29-36-04-00-751; 29-36-04-00-753; 29-36-04-00-752; 29-36-09-00-4; 29-36-09-00-3

TAX ACCOUNT NO. 2903859; 2903866; 2903868; 2903867; 2963407; 2960819

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

See attached and separate Chaparral Preliminary PUD Application narrative for explanation of property encumbered by this PUD Application

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): +/- 204.43\*

TOTAL LOTS PROPOSED (list by use): 602 single family residential units & 75 townhomes\*

\* See separate Chapparral PUD Application narrative for description of acreage and total lots

DEVELOPER Chaparral Properties, LLC

Full Address 2502 N Rocky Point Drive; Suite 1050; Tampa, FL 33607

Telephone 813-288-8178 Email Marc@metrodevelopmentgroup.com & betsey@metrodg.com

ENGINEER Jake Wise, PE- Construction Engineering Group, LLC

Full Address 2651 W Eau Gallie Blvd; Suite A; Melbourne, FL 32935

Telephone 321- 610-1760 Email jwise@cegengineering.com

SURVEYOR AAL Land Surveyors

Full Address 3970 Minton Road, West Melbourne, FL 32904

Telephone 321-768-8110 Email aal@aalsurvey.com

**CITY OF PALM BAY, FLORIDA  
PRELIMINARY DEVELOPMENT PLAN APPLICATION  
PAGE 2 OF 3**

**PRELIMINARY PLAN CRITERIA FOR SUBMITTAL:**

TWO (2) COPIES OF THE FOLLOWING EXHIBITS SHALL BE ATTACHED TO THE PRELIMINARY APPLICATION. THE EXHIBITS SHALL ALSO BE PROVIDED ON MEMORY DRIVE.

- A) Vicinity map clearly outlining subject property and showing the relationship between the site and its surrounding area including adjacent streets and thoroughfares.
- B) Preliminary Development Plan that shall contain maps, drawings and narrative, as appropriate, providing the following information:
  - 1) A general plan for the use of all lands within the proposed development. Such plans shall indicate the general location of residential areas (including maximum density and unit types), open space, parks, passive or scenic areas, and nonresidential areas (including maximum building square footage or other intensity maximums).
  - 2) Proposed name or title of project, the name of the engineer, architect, and developer.
  - 3) North arrow, scale (1 inch = 200 feet or larger), date and legal description of the proposed site.
  - 4) Boundaries of tract shown with bearings, distances, closures, and bulkhead liner. All existing easements, section lines, and all existing streets and physical features in and adjoining the project, and the existing zoning.
  - 5) Proposed parks, school sites, or other public or private open space.
  - 6) Off-street parking, loading areas, driveways and access points.
  - 7) Site data including tabulation of the total number of gross acres in the project, the acreage to be devoted to each of the several types of primary residential and secondary non-residential uses, and the total number of dwelling units, the maximum height of all structures, the minimum setbacks of all structures (and parking areas) and the total area of pervious and impervious surfaces.
  - 8) Delineation of phased development, if applicable.
  - 9) Proposed means of drainage for the site.
- C) A plan of vehicular and pedestrian circulation showing the general locations and right-of-way widths of roads, sidewalks, the capacity of the system and major access points to the external and internal thoroughfare network.
- D) Schematic drawing of the elevation and architectural construction of the proposed primary and secondary nonresidential structures.
- E) A Traffic Study meeting generally accepted engineering practices examining the impact of the proposed development on the surrounding roadway network. (If applicable)
- F) Narrative describing in detail how the proposed Preliminary Development Plan meets the requirements of the Land Development Code and the Palm Bay Comprehensive Plan.

**ADDITIONAL CONDITIONS MUST BE MET AND INCORPORATED INTO THE SITE PLAN FOR THE SPECIFIC TYPE OF DEVELOPMENT REQUESTED (PUD, PMU, PCRD, RAC).** The additional criteria are listed in the Code of Ordinances and available from staff.



**CITY OF PALM BAY, FLORIDA  
PRELIMINARY DEVELOPMENT PLAN APPLICATION  
PAGE 3 OF 3**

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

- ☒ \*A \$1,000.00 application fee shall accompany the Development Plan application for the purposes of administration. Make check payable to "City of Palm Bay."
- ☒ Vicinity Map (see Item A).
- ☒ Preliminary Development Plan (see Item B).
- ☒ Vehicular and Pedestrian Circulation Plan (see Item C).
- ☐ N/A Schematic Drawing (see Item D).
- ☒ Traffic Study (see Item E).
- ☒ Narrative (see Item F).
- ☒ 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.)
- ☒ Citizen Participation Plan. Refer to Section 169.005 of the Land Development Code for guidelines.
- ☒ 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 guidelines.
- ☒ **Where property is not owned by the applicant**, a letter must be attached giving the notarized consent of the owner to the applicant to apply for the preliminary development plan.

I, THE UNDERSIGNED UNDERSTAND THAT THIS PRELIMINARY DEVELOPMENT PLAN 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 PRELIMINARY DEVELOPMENT PLAN APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.**

Signature of Applicant  Date 9-4-20

Printed Name of Applicant Jake Wise, PE- Construction Engineering Group, LLC

Full Address 2651 W Eau Gallie Blvd; Suite A; Melbourne, FL 32935

Telephone 321- 610-1760 Email jwise@cegengineering.com

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

9-3, 20 20

Re: Letter of Authorization

As the property owner of the site legally described as:

Brevard County Parcel IDs 29-36-04-00-1; 29-36-04-00-751; 29-36-04-00-753;  
29-36-04-00-752; 29-36-09-00-4; 29-36-09-00-3

I, Owner Name: John M. Ryan, Manager of Chaparral Properties, LLC

Address: 2502 N Rocky Point Drive; Suite 1050; Tampa, FL 33607

Telephone: 813-288-8178

Email: Marc@metrodevelopmentgroup.com & betsey@metrodg.com

hereby authorize:

Representative: Jake Wise, PE- Construction Engineering Group, LLC

Address: 2651 W Eau Gallie Blvd; Suite A; Melbourne, FL 32935

Telephone: 321-610-1760

Email: jwise@cegengineering.com

to represent the request(s) for:

Preliminary Development Plan

  
(Property Owner Signature)  
John M. Ryan, Manager

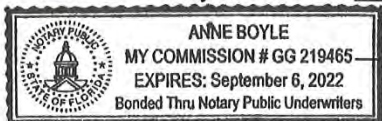
STATE OF Florida

COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me by means of ☒ physical  
presence or ☐ online notarization, this 3 day of September, 20 20 by

John M. Ryan, property owner.

☒ Personally Known or ☐ Produced the Following Type of Identification:



, Notary Public



# LEGAL DESCRIPTION:

PARCEL 1:  
LANDS IN SECTIONS 4 AND 9 OF TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, AS FOLLOWS: THE FOLLOWING LAND IN SECTION 4, TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA: THE EAST 1/2 OF THE NORTHEAST 1/4; AND THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4; AND THE SOUTH 1/2 OF THE SOUTHEAST 1/4; LESS AND EXCEPT THE FOLLOWING FIVE (5) TRACTS:

TRACT 1:  
THE NORTH 33 FEET OF THE EAST 1/2 OF THE NORTHEAST 1/4; AND  
TRACT 2:  
THE EAST 65 FEET OF THE EAST 1/2 OF THE NORTHEAST 1/4; AND  
TRACT 3:  
THE EAST 65 FEET OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4; AND  
TRACT 4:  
THE EAST 65 FEET AND WEST 64 FEET OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4; AND  
TRACT 5:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 4, TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND RUN SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST, ALONG THE EAST LINE OF SAID SECTION 4, A DISTANCE OF 673.07 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 4; THENCE SOUTH 89 DEGREES 48 MINUTES 16 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, A DISTANCE OF 65.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF THE MELBOURNE-TILLMAN DRAINAGE DISTRICT C-9 CANAL AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED: THENCE SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 628.82 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 20 SECONDS WEST A DISTANCE OF 56.65 FEET; THENCE NORTH 66 DEGREES 20 MINUTES 23 SECONDS WEST A DISTANCE OF 336.04 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 29 SECONDS WEST A DISTANCE OF 135.60 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 31 SECONDS WEST A DISTANCE OF 23.81 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST AND HAVING A RADIUS OF 170.00 FEET, A CENTRAL ANGLE OF 35 DEGREES 17 MINUTES 36 SECONDS, A CHORD LENGTH OF 103.07 FEET AND A CHORD BEARING OF NORTH 17 DEGREES 38 MINUTES 17 SECONDS EAST), A DISTANCE OF 104.72 FEET TO THE END OF SAID CURVE; THENCE NORTH 35 DEGREES 17 MINUTES 05 SECONDS EAST A DISTANCE OF 146.86 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1055.00 FEET, A CENTRAL ANGLE OF 15 DEGREES 26 MINUTES 14 SECONDS, A CHORD LENGTH OF 283.39 FEET AND A CHORD BEARING OF NORTH 27 DEGREES 33 MINUTES 58 SECONDS EAST), A DISTANCE OF 284.25 FEET TO A NON-TANGENT INTERSECTION WITH THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 89 DEGREES 48 MINUTES 16 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 252.74 FEET TO THE POINT OF BEGINNING AND

THE FOLLOWING LAND IN SECTION 9, TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA: THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4; LESS AND EXCEPT THE FOLLOWING ONE (1) TRACT: THE EAST 52 FEET OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4

PARCEL 2:  
THE FOLLOWING LAND IN SECTION 4, TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA: THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4; LESS AND EXCEPT THE FOLLOWING ONE (1) TRACT: THE WEST 64 FEET OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4

PARCEL 3:  
THE FOLLOWING LAND IN SECTION 4, TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA: THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4; LESS AND EXCEPT THE FOLLOWING ONE (1) TRACT: THE WEST 64 FEET OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4

PARCEL 4:  
THE FOLLOWING LAND IN SECTION 9, TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA: THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4

PARCEL 5 (EASEMENT PARCEL):  
TOGETHER WITH A CONVEYANCE AND STORMWATER EASEMENT DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 4, TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND RUN SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST, ALONG THE EAST LINE OF SAID SECTION 4, A DISTANCE OF 673.07 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 4; THENCE SOUTH 89 DEGREES 48 MINUTES 16 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, A DISTANCE OF

65.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF THE MELBOURNE-TILLMAN DRAINAGE DISTRICT C-9 CANAL; THENCE SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 628.82 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 20 SECONDS WEST, A DISTANCE OF 56.65 FEET; THENCE NORTH 66 DEGREES 20 MINUTES 23 SECONDS WEST A DISTANCE OF 54.85 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE NORTH 28 DEGREES 54 MINUTES 19 SECONDS EAST A DISTANCE OF 75.54 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 18 SECONDS WEST A DISTANCE OF 191.60 FEET; THENCE NORTH 67 DEGREES 02 MINUTES 12 SECONDS WEST A DISTANCE OF 230.09 FEET; THENCE SOUTH 60 DEGREES 14 MINUTES 32 SECONDS WEST A DISTANCE OF 171.62 FEET; THENCE SOUTH 35 DEGREES 17 MINUTES 05 SECONDS WEST A DISTANCE OF 44.15 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; 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 35 DEGREES 17 MINUTES 36 SECONDS, A CHORD LENGTH OF 93.98 FEET AND A CHORD BEARING OF SOUTH 17 DEGREES 38 MINUTES 17 SECONDS WEST), A DISTANCE OF 95.48 FEET TO THE END OF SAID CURVE; THENCE SOUTH 00 DEGREES 00 MINUTES 31 SECONDS EAST A DISTANCE OF 23.81 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 29 SECONDS EAST A DISTANCE OF 120.60 FEET; THENCE SOUTH 66 DEGREES 20 MINUTES 23 SECONDS EAST A DISTANCE OF 281.39 FEET TO THE POINT OF BEGINNING.

TOGETHER ALSO WITH A 60 FOOT WIDE DRAINAGE EASEMENT DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 4, TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND RUN SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST, ALONG THE EAST LINE OF SAID SECTION 4, A DISTANCE OF 673.07 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 4; THENCE SOUTH 89 DEGREES 48 MINUTES 16 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, A DISTANCE OF 65.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF THE MELBOURNE-TILLMAN DRAINAGE DISTRICT C-9 CANAL; THENCE SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 439.75 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST, ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 60.08 FEET THENCE NORTH 87 DEGREES 06 MINUTES 38 SECONDS WEST A DISTANCE OF 70.27 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 18 SECONDS WEST A DISTANCE OF 60.08 FEET; THENCE SOUTH 87 DEGREES 06 MINUTES 38 SECONDS EAST, A DISTANCE OF 70.26 FEET TO THE POINT OF BEGINNING.

PARCEL 7 (EASEMENT PARCEL):  
TOGETHER ALSO WITH A 30 FOOT WIDE DRAINAGE EASEMENT DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 4, TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND RUN SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST, ALONG THE EAST LINE OF SAID SECTION 4, A DISTANCE OF 673.07 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 4; THENCE SOUTH 89 DEGREES 48 MINUTES 16 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, A DISTANCE OF 65.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF THE MELBOURNE-TILLMAN DRAINAGE DISTRICT C-9 CANAL; THENCE SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 628.82 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 20 SECONDS WEST A DISTANCE OF 56.65 FEET; THENCE NORTH 66 DEGREES 20 MINUTES 23 SECONDS WEST A DISTANCE OF 336.04 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 29 SECONDS WEST A DISTANCE OF 135.60 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 31 SECONDS WEST A DISTANCE OF 23.81 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE EAST AND HAVING A RADIUS OF 170.00 FEET, A CENTRAL ANGLE OF 35 DEGREES 17 MINUTES 36 SECONDS, A CHORD LENGTH OF 103.07 FEET AND A CHORD BEARING OF NORTH 17 DEGREES 38 MINUTES 17 SECONDS EAST), A DISTANCE OF 104.72 FEET TO THE END OF SAID CURVE; THENCE NORTH 35 DEGREES 17 MINUTES 05 SECONDS EAST A DISTANCE OF 146.86 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1055.00 FEET, A CENTRAL ANGLE OF 01 DEGREES 21 MINUTES 07 SECONDS, A CHORD LENGTH OF 24.89 FEET AND A CHORD BEARING OF NORTH 34 DEGREES 36 MINUTES 32 SECONDS EAST), A DISTANCE OF 24.89 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE ALONG THE ARC OF SAID CURVE A DISTANCE OF 37.78 FEET THROUGH A CENTRAL ANGLE OF 02 DEGREES 03 MINUTES 07 SECONDS AND HAVING A CHORD LENGTH OF 37.78 FEET AND A CHORD BEARING OF NORTH 32 DEGREES 54 MINUTES 25 SECONDS EAST, TO AN INTERSECTION WITH A NON-TANGENT LINE; THENCE SOUTH 19 DEGREES 39 MINUTES 48 SECONDS WEST, ALONG SAID NON-TANGENT LINE, A DISTANCE OF 86.39 FEET; THENCE SOUTH 60 DEGREES 14 MINUTES 32 SECONDS WEST A DISTANCE OF 30.47 FEET; THENCE NORTH 19 DEGREES 39 MINUTES 48 SECONDS WEST A DISTANCE OF 68.77 FEET TO THE POINT OF BEGINNING...



CONSTRUCTION  
ENGINEERING  
GROUP

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license #0008987

CHAPARRAL PUD  
MALABAR ROAD  
PALM BAY, FL

LEGAL DESCRIPTION

DATE  
9-3-20

COUNTY  
BREVARD

APPROVED BY  
WISE

SCALE  
NTS

THIS SHEET  
FIG-1B



# LEGAL DESCRIPTION (CONTINUED):

## PARCEL B (EASEMENT PARCEL):

TOGETHER ALSO WITH A 15 FOOT WIDE LANDSCAPE EASEMENT DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 4, TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND RUN SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST, ALONG THE EAST LINE OF SAID SECTION 4, A DISTANCE OF 673.07 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 4; THENCE SOUTH 89 DEGREES 48 MINUTES 16 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, A DISTANCE OF 65.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF THE MELBOURNE-TILLMAN DRAINAGE DISTRICT C-9 CANAL; THENCE SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 628.82 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 28 SECONDS WEST A DISTANCE OF 56.65 FEET; THENCE NORTH 66 DEGREES 20 MINUTES 23 SECONDS WEST A DISTANCE OF 336.04 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 29 SECONDS WEST A DISTANCE OF 120.60 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE SOUTH 89 DEGREES 59 MINUTES 29 SECONDS WEST A DISTANCE OF 15.00 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 31 SECONDS WEST A DISTANCE OF 23.81 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE; (SAID CURVE BEING CURVED CONCAVE TO THE EAST AND HAVING A RADIUS OF 170.00 FEET, A CENTRAL ANGLE OF 35 DEGREES 17 MINUTES 36 SECONDS, A CHORD LENGTH OF 103.07 FEET AND A CHORD BEARING OF NORTH 17 DEGREES 38 MINUTES 17 SECONDS EAST), A DISTANCE OF 104.72 FEET TO THE END OF SAID CURVE; THENCE NORTH 35 DEGREES 05 MINUTES 05 SECONDS EAST A DISTANCE OF 146.86 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1055.00 FEET, A CENTRAL ANGLE OF 12 DEGREES 43 MINUTES 43 SECONDS, A CHORD LENGTH OF 229.52 FEET AND A CHORD BEARING OF NORTH 29 DEGREES 02 MINUTES 13 SECONDS EAST), A DISTANCE OF 230.08 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE; THENCE SOUTH 87 DEGREES 12 MINUTES 38 SECONDS EAST, ALONG SAID NON-TANGENT LINE, A DISTANCE OF 15.00 FEET TO NON-TANGENT INTERSECTION WITH A CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1070.00 FEET, A CENTRAL ANGLE OF 12 DEGREES 29 MINUTES 43 SECONDS, A CHORD LENGTH OF 232.89 FEET AND A CHORD BEARING OF SOUTH 29 DEGREES 02 MINUTES 13 SECONDS WEST), A DISTANCE OF 233.35 FEET TO THE END OF SAID CURVE; THENCE SOUTH 35 DEGREES 17 MINUTES 05 SECONDS WEST A DISTANCE OF 146.86 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; 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 35 DEGREES 17 MINUTES 36 SECONDS, A CHORD LENGTH OF 93.98 FEET AND A CHORD BEARING OF SOUTH 17 DEGREES 38 MINUTES 17 SECONDS WEST), A DISTANCE OF 95.48 FEET TO THE END OF SAID CURVE; THENCE SOUTH 00 DEGREES 00 MINUTES 31 SECONDS EAST A DISTANCE OF 23.81 FEET TO THE POINT OF BEGINNING.

## LESS AND EXCEPT

### PHASE 1:

A PARCEL OF LAND LYING IN THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 4, AND RUN SOUTH 89°49'35" WEST ALONG THE NORTH LINE OF SAID SECTION 4, A DISTANCE OF 65.00 FEET; THENCE SOUTH 00°00'32" EAST, A DISTANCE OF 33.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 00°00'32" EAST, ALONG THE WEST RIGHT-OF-WAY LINE OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL NO. 9, A DISTANCE OF 640.00 FEET; THENCE RUN ALONG THE NORTH, WESTERLY AND SOUTHERLY LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 5465, PAGE 3836, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, FOR THE FOLLOWING EIGHT (8) CALLS: SOUTH 89°48'58" WEST, A DISTANCE OF 252.69 FEET TO A POINT ON A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1055.00 FEET, A CENTRAL ANGLE OF 15°26'44", AND A RADIAL BEARING OF NORTH 70°09'39" WEST, THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 284.40 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 35°17'05" WEST, A DISTANCE OF 146.86 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 170.00 FEET, A CENTRAL ANGLE OF 35°17'36", THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 104.72 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 00°00'31" EAST, A DISTANCE OF 23.81 FEET; THENCE NORTH 89°59'29" EAST, A DISTANCE OF 135.60 FEET; THENCE SOUTH 66°20'23" EAST, A DISTANCE OF 336.04 FEET; THENCE NORTH 89°59'28" EAST, A DISTANCE OF 56.65 FEET; THENCE EAST, A DISTANCE OF 23.81 FEET; THENCE SOUTH 66°20'23" EAST, A DISTANCE OF 453.58 FEET; THENCE SOUTH 89°59'28" WEST, A DISTANCE OF 252.37 FEET; THENCE NORTH 71°24'42" WEST, A DISTANCE OF 681.96 FEET TO A POINT BEING ON A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF

66.00 FEET, A CENTRAL ANGLE OF 88°54'04", AND A RADIAL BEARING OF NORTH 71°24'42" WEST, THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 102.41 FEET TO THE POINT OF TANGENCY; THENCE NORTH 72°30'38" WEST, A DISTANCE OF 59.95 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 40.00 FEET, A CENTRAL ANGLE OF 30°36'21", THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 21.37 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 76°53'02" WEST, A DISTANCE OF 201.00 FEET; THENCE NORTH 00°01'37" EAST, A DISTANCE OF 16.00 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 89°49'35" EAST, ALONG THE SOUTH RIGHT OF WAY LINE OF MALABAR ROAD, A DISTANCE OF 1255.66 FEET TO THE POINT OF BEGINNING.

## PHASE 2:

TRACT A, CHAPARRAL P.U.D. PHASE ONE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK \_\_\_\_\_, PAGE \_\_\_\_\_, OF THE SAID PUBLIC RECORDS OF BREVARD COUNTY AND A PORTION OF LAND LYING IN SECTION 4, TOWNSHIP 29 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 4, AND RUN SOUTH 00°00'32" EAST ALONG THE EAST LINE OF SAID SECTION 4, A DISTANCE OF 1302.10 FEET; THENCE SOUTH 89°59'28" WEST, A DISTANCE OF 65.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH 00°00'32" EAST ALONG THE WEST RIGHT OF WAY LINE OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL NO. 9, A DISTANCE OF 614.99 FEET; THENCE SOUTH 89°59'28" WEST, A DISTANCE OF 20.00 FEET; THENCE NORTH 23°58'55" WEST, A DISTANCE OF 81.30 FEET; THENCE NORTH 55°04'44" WEST, A DISTANCE OF 92.64 FEET; THENCE NORTH 87°05'43" WEST, A DISTANCE OF 98.45 FEET; THENCE NORTH 78°41'00" WEST, A DISTANCE OF 638.42 TO A POINT; SAID POINT BEING ON A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 105.00 FEET, A CENTRAL ANGLE OF 43°50'08", AND A RADIAL BEARING OF NORTH 64°45'09" EAST, THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 80.33 FEET TO THE POINT OF TANGENCY; THENCE NORTH 18°35'18" EAST, A DISTANCE OF 5.50 FEET TO A POINT BEING THE SOUTHWEST CORNER OF SAID TRACT A; THENCE RUN ALONG THE WEST, NORTH AND EAST LINES OF SAID TRACT A, CHAPARRAL P.U.D. PHASE ONE FOR THE FOLLOWING TWENTY (20) CALLS: SAID POINT BEING ON A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 210.00 FEET, A CENTRAL ANGLE OF 14°40'21", AND A RADIAL BEARING OF SOUTH 71°24'42" EAST, THENCE NORTHEASTERLY ALONG THE ARC A DISTANCE OF 53.78 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 260.00 FEET, A CENTRAL ANGLE OF 33°18'14", THENCE NORTHEASTERLY ALONG THE ARC A DISTANCE OF 151.13 FEET TO THE POINT OF TANGENCY; THENCE NORTH 00°02'34" WEST, A DISTANCE OF 16.28 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", THENCE NORTHEASTERLY ALONG THE ARC A DISTANCE OF 39.27 FEET TO A POINT; THENCE NORTH 00°02'34" WEST, A DISTANCE OF 50.00 FEET TO A POINT; SAID POINT BEING ON A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", AND A RADIAL BEARING OF NORTH 00°02'34" WEST, THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 39.27 FEET; THENCE NORTH 00°02'34" WEST, A DISTANCE OF 102.98 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 456.00 FEET, A CENTRAL ANGLE OF 35°04'47", THENCE NORTHEASTERLY ALONG THE ARC A DISTANCE OF 279.19 FEET TO THE POINT OF TANGENCY; THENCE NORTH 35°02'13" EAST, A DISTANCE OF 151.99 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 798.00 FEET, A CENTRAL ANGLE OF 08°14'42", THENCE NORTHEASTERLY ALONG THE ARC A DISTANCE OF 110.66 FEET; THENCE SOUTH 63°12'29" EAST, A DISTANCE OF 120.50 FEET TO A POINT; SAID POINT BEING ON A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 889.50 FEET, A CENTRAL ANGLE OF 01°04'35", AND A RADIAL BEARING OF NORTH 63°12'29" WEST, THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 16.71 FEET; THENCE SOUTH 62°07'54" EAST, A DISTANCE OF 165.50 FEET TO A POINT ON THE WEST LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 5465, PAGE 3836, OF THE SAID PUBLIC RECORDS OF BREVARD COUNTY; THENCE RUN ALONG THE WESTERLY AND SOUTHERLY LINE OF SAID OFFICIAL RECORDS BOOK 5465, PAGE 3836, FOR THE FOLLOWING SEVEN (7) CALLS: SAID POINT BEING ON A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1055.00 FEET, A CENTRAL ANGLE OF 07°24'59", AND A RADIAL BEARING OF NORTH 62°07'54" WEST, THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 136.56 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 35°17'05" WEST, A DISTANCE OF 146.86 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 170.00 FEET, A CENTRAL ANGLE OF 35°17'36", THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 104.72 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 00°00'31" EAST, A DISTANCE OF 23.81 FEET; THENCE NORTH 89°59'29" EAST, A DISTANCE OF 135.60 FEET; THENCE SOUTH 66°20'23" EAST, A DISTANCE OF 336.04 FEET; THENCE NORTH 89°59'28" EAST, A DISTANCE OF 56.65 FEET TO THE POINT OF BEGINNING.

CONTAINING 13.24 ACRES MORE OR LESS.



**CONSTRUCTION  
ENGINEERING  
GROUP**

consulting engineers

2651 W. Eau Gallie Blvd., Suite A  
Melbourne, FL 32935

Tel. 321.253.1221  
Fax 321.253.3123  
www.ceengineering.com  
license #00018097

**CHAPARRAL PUD**  
MALABAR ROAD  
PALM BAY, FL

**LEGAL DESCRIPTION**

DATE	9-3-20
COUNTY	BREVARD
APPROVED BY	WISE
SCALE	THIS SHEET
NTS	FIG-1C

## Chaparral Preliminary PUD Application

### **Executive Summary**

Chaparral is a master planned residential community that was previously granted Preliminary Planned Unit Development (PUD)/Preliminary Development Plan (PDP) approval by the City of Palm Bay on June 5, 2014, as extended until June 5, 2017 (the "Initial PUD Approval"). This PUD/PDP application is being filed to re-establish the overall PUD zoning on the entire property in substantially the same form as was approved on June 5, 2014. The entire PUD/PDP application property consists of:

- 1) The Phase 1A Final PUD/FDP Ordinance No. 2017-63 subsequently approved by the City on October 3, 2017 (the "Ph. 1A Final PUD Approval");
- 2) The portion of the overall PUD that will be known as Phase 2, which is currently undergoing final PUD/FDP review (File No. FD-10-2020) and has been deemed sufficient to be heard at the Planning & Zoning Board hearing on September 2, 2020 and the City Council hearing on October 1, 2020 (the "Ph. 2 Final PUD Application"); and
- 3) The remaining portion of the overall PUD that is currently not designated with PUD zoning or PDP approval (the "Remaining Phases").

Although this request includes the Ph. 1A and Ph. 2 property consistent with the Initial PUD Approval, the PUD/PDP designation is only proposed to encumber the Remaining Phases of the overall PUD that are not currently approved or in the process of review. The Remaining Phases will then subsequently file for overall or phased Final PUD/FDP approval(s) as required by the City's Land Development Code, Sec. 185.067 within one (1) year of PUD/PDP approval for the Remaining Phases, or as may be extended with the City's approval.

The entire project is approximately 246.42 acres of land located off of West Malabar Road in the City of Palm Bay, Florida. See Exhibit EX-1 for a Location and Legal Map. The entire property was annexed into Palm Bay on May 16, 2006 and is located adjacent to single family development to the east, north and west, and two existing gun ranges to the east. To the south and a portion of the west is undeveloped.

### **Intended Use of the Property and Justification for PUD:**

As detailed in the Initial PUD Approval, the overall Chaparral PUD includes 786 total residential units including 711 single family (SF) and 75 multi-family (MF) townhome units on approximately 246.42 acres of property. As explained above, this PUD application is only proposed to encumber the Remaining Phases of the overall PUD. Therefore, the lot mix proposed in the PUD application and PDP plan is as follows:

- 1) SF Units: 711 SF in Initial PUD Approval - 82 SF in Ph. 1A Final PUD Approval – 27 SF Units in Ph. 2 Final PUD Application = 602 SF Units Proposed; and
- 2) MF Units: 75 MF consistent with Initial PUD Approval.

Consistent with the Initial PUD Approval, the multi-family/townhomes are proposed in the southeastern portion of the site adjacent to undeveloped land to the south, and will require a Comprehensive Plan and Future Land Use Map Amendment prior to development. The proposed density, as well as the density permitted in the Initial PUD Approval equates to 3.19 units per acre.





Development will minimize environmental impacts by maintaining proper preserved upland buffers. The overall property is currently a Community Development District (CDD) that was recently approved by Palm Bay on February 7, 2019 (Ordinance No. 2019-08). The project is not proposed to be gated and has extensive amenities including a mixture of traditional recreational tracts with amenities, as well as pocket parks throughout, and a linear trail system with enhanced wifi.

As detailed in the Initial PUD Approval and the Ph. 1A Final PUD Approval staff reports, this PUD application meets the requirements of Sec. 185.067 of the City's Land Development Code, subject to certain items that have or will be addressed (if applicable) as part of subsequent final PUD application, entitlement or permit submittals. Most notably subject to:

- A. A revised traffic study to be submitted with the Ph. 1/Ph. 1A Final PUD; the Traffic Impact Analysis was previously submitted for the entire PUD as part of the submittal for Phase 1A construction plans on October 30, 2018 and approved on September 16, 2019.
- B. Ph. 1A School Concurrency was previously submitted with the Ph. 1A Final PUD on June 30, 2017 and approved in the School Concurrency Availability Determination Letter (SCADL) dated August 23, 2017, as extended on July 25, 2019.
- C. Ph. 2 School Concurrency is being reviewed as part of the Ph. 2 Final PUD Application.

Also, this PUD application is consistent with the following sections of the City's Land Development Code:

- 185.062(A): Single-family detached and multi-family residential dwelling units (including apartments) in semi-detached, attached, and multi-storied structures are permitted uses within the City's PUD ordinance.
- 185.065 (A through L): Proposed development will meet all applicable PUD Land Use Regulations including, but not limited to: minimum parcel size, maximum density of 14 units per acre, 25% common recreation area and open space, minimum lot size and setbacks, structure length, minimum floor living area, off-street parking, underground utilities, and preservation of trees.

The proposed development is also consistent with the following criteria of the City's Comprehensive Plan:

- FLU-1.1E: Ensure compatibility of adjacent land use districts of different intensities by providing requirements for buffering and building setbacks in the Land Development Regulations. As detailed above, the PUD application is consistent with the buffering and building setbacks of the Land Use Regulations contained in the City's Land Development Code, Sec. 185.065.
- FLU-1.3A: The City shall continue to implement Land Development Regulations for Planned Unit Developments. The proposed rezoning for the property is Planned Unit Development and meets and/or exceeds the pertinent criteria of the PUD Land Development Regulations, Sec. 185.065 (A through L).
- FLU-2.1B: Continue to utilize Planned Unit Development (PUD) techniques to protect environmentally sensitive areas, protect amenities, and eliminate flood hazards. The site is partially located in flood zones X and AE and contains preserved historical resources with preserved upland buffers.





# 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

Christopher Balter, Senior Planner

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#### CASE NUMBER

CP-9-2020

#### PLANNING & ZONING BOARD HEARING DATE

October 7, 2020

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#### PROPERTY OWNER & APPLICANT

AD1 Urban Strategy PB Retail LLC  
(Bruce Moia, P.E. Representative)

#### PROPERTY LOCATION/ADDRESS

A portion of Lot 3, Bilda Executive Park, Section 20,  
Township 28 Range 37, Brevard County, Florida

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#### SUMMARY OF REQUEST

The applicant is requesting a small-scale Comprehensive Plan Future Land Use Map Amendment to change 2.49 acres of Commercial Use (COM) to Multiple Family Residential Use (MFR).

##### Existing Zoning

CC, Community Commerical

##### Existing Land Use

Commerical Use

##### Site Improvements

Parking Lots

##### Site Acreage

2.49 acres, more or less

---

#### SURROUNDING ZONING & USE OF LAND

##### North

CC, Community Commercial; Bass Pro Shops

##### East

CC, Community Commercial; Palm Bay Village Shopping Center

##### South

CC, Community Commercial; Home 2 Suites

##### West

CC, Community Commercial; Space Coast Harley-Davidson

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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 FLU Element Goal FLU-3 us to provide for economically viable commercial areas that promote a sound and diversified local economy and serve the retail and service needs of the City's residents.

If the property were changed to Multiple Family Residential Use, it would contradict this element by removing commercial land from an area of the City that has been commercial for over 40 years. The introduction of multiple-family residential land use on a property that is surrounded by commercial uses is inconsistent with the surrounding uses.

The Comprehensive Plan FLU Element Goal FLU-3.2B states that the Land Development Regulations shall contain provisions for compact Commerical development in clusters with coordinated parking and loading facilities, and/or frontage roads.

In May of 2018 an administrative site plan approval was granted to construct two, four-story hotels and four commercial buildings in a phased approach. In August of 2019 the property was subdivided into three commercial lots and recorded in public records as Bilda Executive Park. The subdivision was intended to provide commercial services to the residents and visitors of Palm Bay, and thus met the goals of the Comprehensive Plan. The proposed amendment would remove two and a half acres of needed commercial land use from an important and highly-traveled commercial corridor, which would not further this goal.

Approximately 142.53 acres of vacant Multiple Family zoned land in Palm Bay is located within 3.5 acres of the subject parcel. There are currently 948 units to come online in the next year in the City of Palm Bay. In the neighboring City of West Melbourne, there will be 1,627 units available in the next year, and in the City of Melbourne, 900 units. Although there may still be a demand for Multiple Family housing in the general area, staff believes such housing should be located on existing, vacant Multiple Family lands and that this important commercial land remain commercial.

**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 as the property is developed.

**Recreation:** Multiple Family Use does have more of a demand upon the parks & recreation level of service (LOS) standards than Commercial Use. However, the number of units that could be constructed upon the property would have a De minimis effect on the recreation LOS. It shall be noted that the Recreation and Open Space Element of the City's Comprehensive Plan sets a LOS Standard of 2 acres per 1,000 residents. The City maintains public ownership of park-designated lands that far exceed this requirement.

### 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 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 sewer are available. 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 administrative site plan approval process.

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

## 6. INTERGOVERNMENTAL COORDINATION ELEMENT

Public Schools: The proposed FLU amendment requested will allow the site to be used for a 99-unit apartment complex and will have an impact on the public-school system. The applicant will need obtain a school concurrency determination letter from the Brevard County School Board.

## 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. 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.

### **STAFF RECOMMENDATION:**

Case CP-9-2020 is recommended for denial based upon 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-9-2020 & CPZ-9-2020

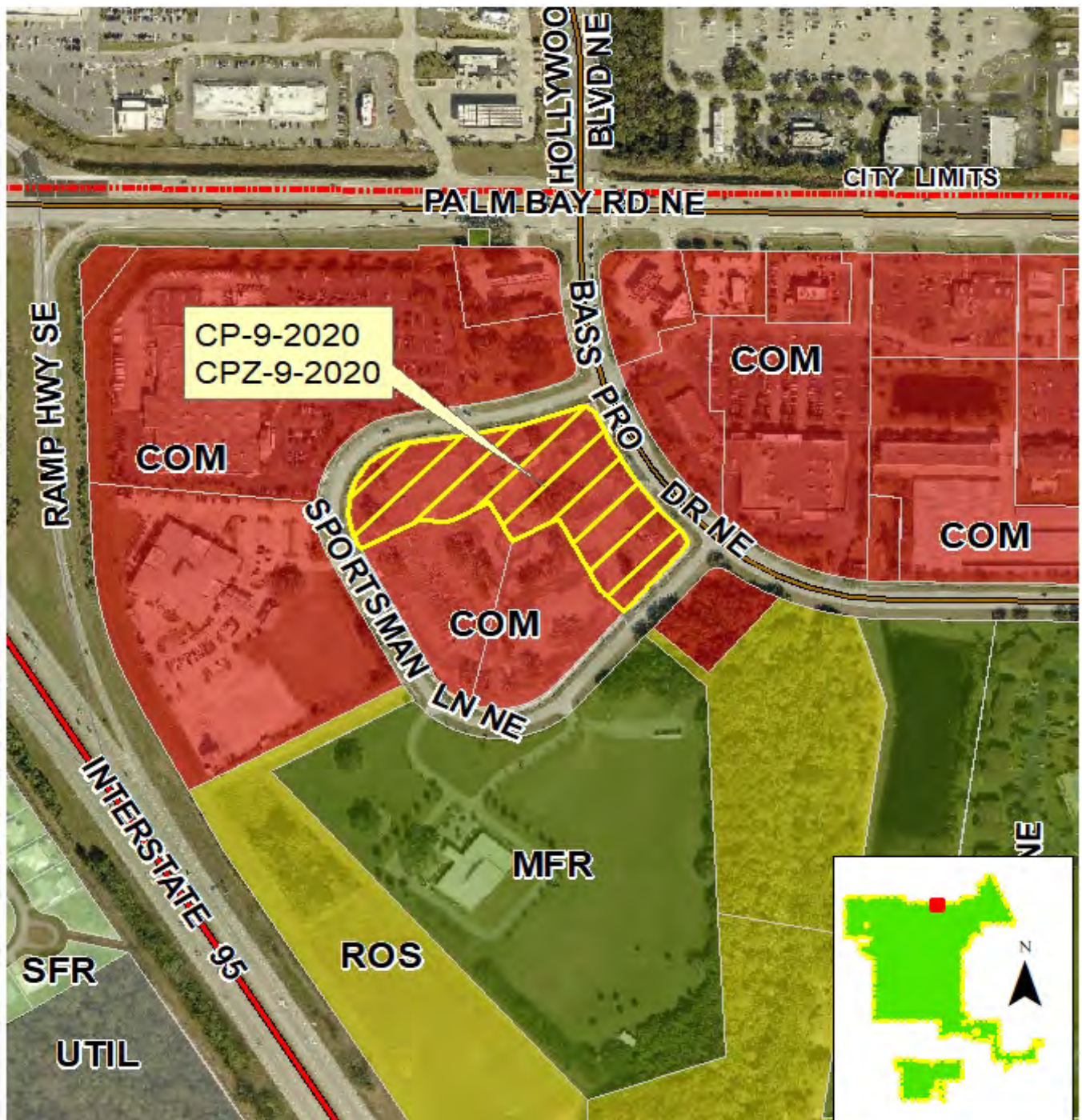
### Subject Property

Between and adjacent to Sportsman Lane NE and Bass Pro Drive 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 CP-9-2020 & CPZ-9-2020

### Subject Property

Between and adjacent to Sportsman Lane NE and Bass Pro Drive NE

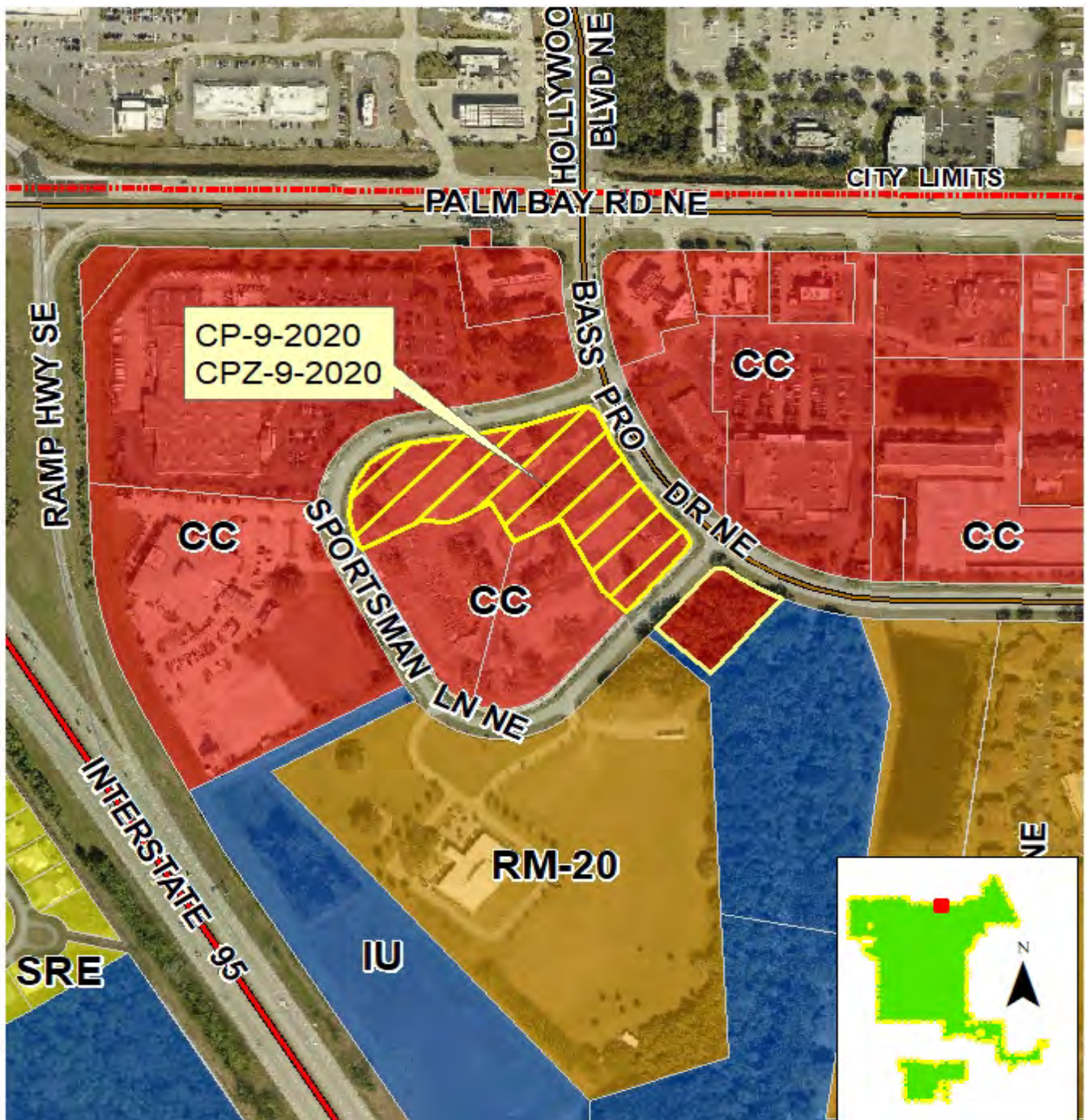
### Future Land Use Classification

COM – Commercial Use





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



## ZONING MAP

## CASE CP-9-2020 & CPZ-9-2020

### Subject Property

Between and adjacent to Sportsman Lane NE and Bass Pro Drive NE

### Current Zoning Classification

CC – Community Commercial District





**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** 28-37-20-54-\* -3 (partial)

**TAX ACCOUNT NUMBER** 3020699

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

See attached legal description and sketch for changes

**SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage):** 2.49

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

Commercial

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

Multi-Family Residential



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

PRESENT USE OF PROPERTY vacant land

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)

to allow the continued development of the property

SPECIFIC USE INTENDED FOR PROPERTY

99 unit multi family residential

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)



Boundary Survey for land use amendments.



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.

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



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 Bruce Moia, P.E., MBV Engineering, Inc.

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



Date

Printed Name

Sam Cohen for AD1 Property Mgmt and AD1 Urban Strategy PB Retail LLC

Full Address

1955 Harrison Street, Ste 200, Hollywood, FL 33020

Telephone

305-803-5564

Email

scohen1@ad1global.com

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

May 9

, 2020

Re: Letter of Authorization

As the property owner of the site legally described as:

Lot 3, Parcel K of Bilda Executive Park  
Property ID - 3020699, Parcel # 28-37-20-54-\*-3

I, Owner Name: Sam Cohen for AD1 urban Strategy Palm Bay Retail LLC  
Address: 1955 Harrison Street, Suite 20, Hollywood, FL 33020  
Telephone: 305-803-5564  
Email: scohen@ad1global.com

hereby authorize:

Representative: Bruce A. Moia, P.E. - MBV Engineering, Inc.  
Address: 1250 W. Eau Gallie Blvd, Unit H, Melbourne, FL 32935  
Telephone: 321-253-1510  
Email: brucem@mbveng.com

to represent the request(s) for:

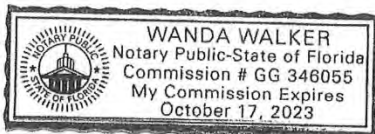
Rezoning, Land Use Amendment and Preliminary Development

(Property Owner Signature)

STATE OF Florida  
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 9th day of May, 2020 by Sam Cohen

(SEAL)



Wanda Walker

Wanda Walker, Notary Public

☒ Personally Known or

Produced the Following Type of Identification:



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

## Detail by Entity Name

Florida Profit Corporation  
AD 1 MANAGEMENT, INC.

### Filing Information

<b>Document Number</b>	P09000073235
<b>FEI/EIN Number</b>	27-0851030
<b>Date Filed</b>	08/31/2009
<b>State</b>	FL
<b>Status</b>	ACTIVE
<b>Last Event</b>	AMENDMENT
<b>Event Date Filed</b>	09/17/2018
<b>Event Effective Date</b>	NONE

### Principal Address

1955 Harrison St.  
Suite 200  
Hollywood, FL 33020

Changed: 04/01/2016

### Mailing Address

1955 Harrison St.  
Suite 200  
Hollywood, FL 33020

Changed: 04/01/2016

### Registered Agent Name & Address

E.H.G. RESIDENT AGENTS, INC.  
1141 SOUTH ROGERS CIRCLE STE 12  
BOCA RATON, FL 33487

### Officer/Director Detail

#### **Name & Address**

Title PRES

BERMAN, JOSE D  
1955 Harrison St.  
Suite 200  
Hollywood, FL 33020



## Title SECR

FRIDZON, ARIE  
1955 Harrison St.  
Suite 200  
Hollywood, FL 33020

## Title TREA

FRIDZON, ALEX A  
1955 Harrison St.  
Suite 200  
Hollywood, FL 33020

**Annual Reports**

<b>Report Year</b>	<b>Filed Date</b>
2018	03/13/2018
2019	02/21/2019
2020	01/23/2020

**Document Images**

<a href="#">01/23/2020 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/21/2019 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">09/17/2018 -- Amendment</a>	<a href="#">View image in PDF format</a>
<a href="#">03/13/2018 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
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<a href="#">03/18/2011 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/12/2010 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">08/31/2009 -- Domestic Profit</a>	<a href="#">View image in PDF format</a>

### REZONING DESCRIPTION – PARCEL 3

A PORTION OF PARCEL 3, BILDA EXECUTIVE PARK, A REPLAT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 67, PAGE 70 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF BASS PRO DRIVE (HOLLYWOOD BOULEVARD) AND SPORTSMAN LANE (EXECUTIVE CIRCLE). THENCE DEPART FROM POINT OF SAID INTERSECTION ALONG A BEARING OF S42°32'12"W, A DISTANCE OF 94.36 FEET TO A 4" X 4" PRM ON THE SOUTH RIGHT OF WAY LINE OF SAID SPORTSMAN LANE. ALSO BEING THE NORTH LINE OF SAID PARCEL 3. SAID POINT (PRM) ALSO BEING THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1082.14 FEET. FROM SAID POINT OF CURVATURE, RUN ALONG THE SAID SOUTH RIGHT-OF-WAY LINE OF SPORTSMAN LANE THROUGH A CENTRAL ANGLE OF 08°19'17", FOR AN ARC DISTANCE OF 157.16 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND DESCRIBED HEREIN:

FROM SAID POINT OF BEGINNING, DEPART ALONG A BEARING OF S13°45'03"E A DISTANCE OF 35.77 FEET, THENCE S28°32'27"E A DISTANCE OF 230.73 FEET, THENCE S61°30'34"W A DISTANCE OF 149.97 FEET, THENCE N28°27'50"W A DISTANCE OF 121.96 FEET, THENCE S61°32'08"W A DISTANCE OF 102.20 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 38.00 FEET THROUGH A CENTRAL ANGLE OF 32°34'33" ALONG AN ARC LENGTH OF 21.61 FEET. THENCE N85°53'19"W A DISTANCE OF 55.51 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 27.00 FEET THROUGH A CENTRAL ANGLE OF 32°34'33" AND ALONG AN ARC LENGTH OF 15.35 FEET. THENCE S61°32'08"W A DISTANCE OF 157.51 FEET TO A POINT ON THE SAID SOUTH RIGHT-OF-WAY OF SPORTSMAN LANE. THENCE FROM SAID POINT, RUN ALONG SAID RIGHT-OF-WAY LINE N28°27'52"W A DISTANCE OF 16.33 FEET TO A 4" X 4" PRM; SAID POINT (PRM) ALSO BEING THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 185.00 FEET. THENCE FROM SAID POINT OF CURVATURE, RUN NORTHEAST ALONG THE SAID SOUTH RIGHT-OF-WAY LINE OF SPORTSMAN LANE THROUGH A CENTRAL ANGLE OF 109°56'04" FOR AN ARC DISTANCE OF 354.96 FEET TO A 4" X 4" PRM ALSO BEING A POINT OF TANGENCY. THENCE FROM SAID POINT CONTINUE ALONG THE SAID SOUTH RIGHT-OF-WAY LINE OF SPORTSMAN LANE, N81°28'12"E FOR A DISTANCE OF 168.20 FEET TO A 4" X 4" PRM. SAID PRM ALSO BEING A POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1082.14 FEET. THENCE RUN ALONG SAID SOUTH RIGHT-OF-WAY OF SPORTSMAN LANE THROUGH A CENTRAL ANGLE OF 05°13'19" FOR AN ARC LENGTH OF 98.60 FEET AND THE AFORESAID POINT OF BEGINNING. SAID PARCEL CONTAINING 2.49 ACRES MORE OR LESS.



# 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

Christopher Balter, Senior Planner

---

#### CASE NUMBER

CPZ-9-2020

#### PLANNING & ZONING BOARD HEARING DATE

October 7, 2020

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#### PROPERTY OWNER & APPLICANT

AD1 Urban Strategy PB Retail LLC  
(Bruce Moia, P.E. Representative)

#### PROPERTY LOCATION/ADDRESS

A portion of Lot 3, Bilda Executive Park, Section 20,  
Township 28 Range 37, Brevard County, Florida

---

#### SUMMARY OF REQUEST

The applicant is requesting a rezoning of the subject parcel from CC, Community Commercial to RM-20, Multiple Family Residential.

##### Existing Zoning

CC, Community Commercial

##### Existing Land Use

Commercial Use

##### Site Improvements

Parking Lots

##### Site Acreage

2.49 acres, more or less

---

#### SURROUNDING ZONING & USE OF LAND

##### North

CC, Community Commercial; Bass Pro Shops

##### East

CC, Community Commercial; Palm Bay Village Shopping Center

##### South

CC, Community Commercial; Home 2 Suites

##### West

CC, Community Commercial; Space Coast Harley-Davidson

---

#### COMPREHENSIVE PLAN COMPATIBILITY

The future land use designations surrounding the subject parcel are Commercial. A companion application proposing a land-use amendment of this parcel from COM, Commercial Use to MFR, Multiple Family Residential Use was also submitted. (CP-9-2020).

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**BACKGROUND:**

The property is located west of and adjacent to Bass Pro Drive NE, and is bordered on all sides by Sportsman Lance NE. The applicant vacated the plat of Executive Park via Case VP-28-2017 and subsequently record a new subdivision plat in 2019 called the Bilda Executive Park. The applicant also received two variances, (V-29-2017), for reducing setbacks for the parking lot, and reducing the minimum living area for hotel units. The approved site plan that was submitted for administrative review and approval shows four (4) proposed buildings, two of which are office and retail space and two that are proposed as a restaurant; shown on Exhibit A (C-7).

**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 failed to provide a justification for this change. The applicant states the use of the property is a 99-unit multi-family apartment complex.

**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 parcel is surrounded on all four sides by commercial uses. The designation of the RM-20 zoning district for the subject property is not compatible with the surrounding area and is inconsistent with the City's desire and plan for the location as a key commercial node directly adjacent to Interstate I-95.

**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 142.53 acres of vacant Multiple Family zoned land is within 3.5 acres of the subject parcel. There are currently 948 units to come online in the next year in the City of Palm Bay. In the neighboring City of West Melbourne, there will be 1,627 units coming online in the next year, and in the City of Melbourne, 900 units.

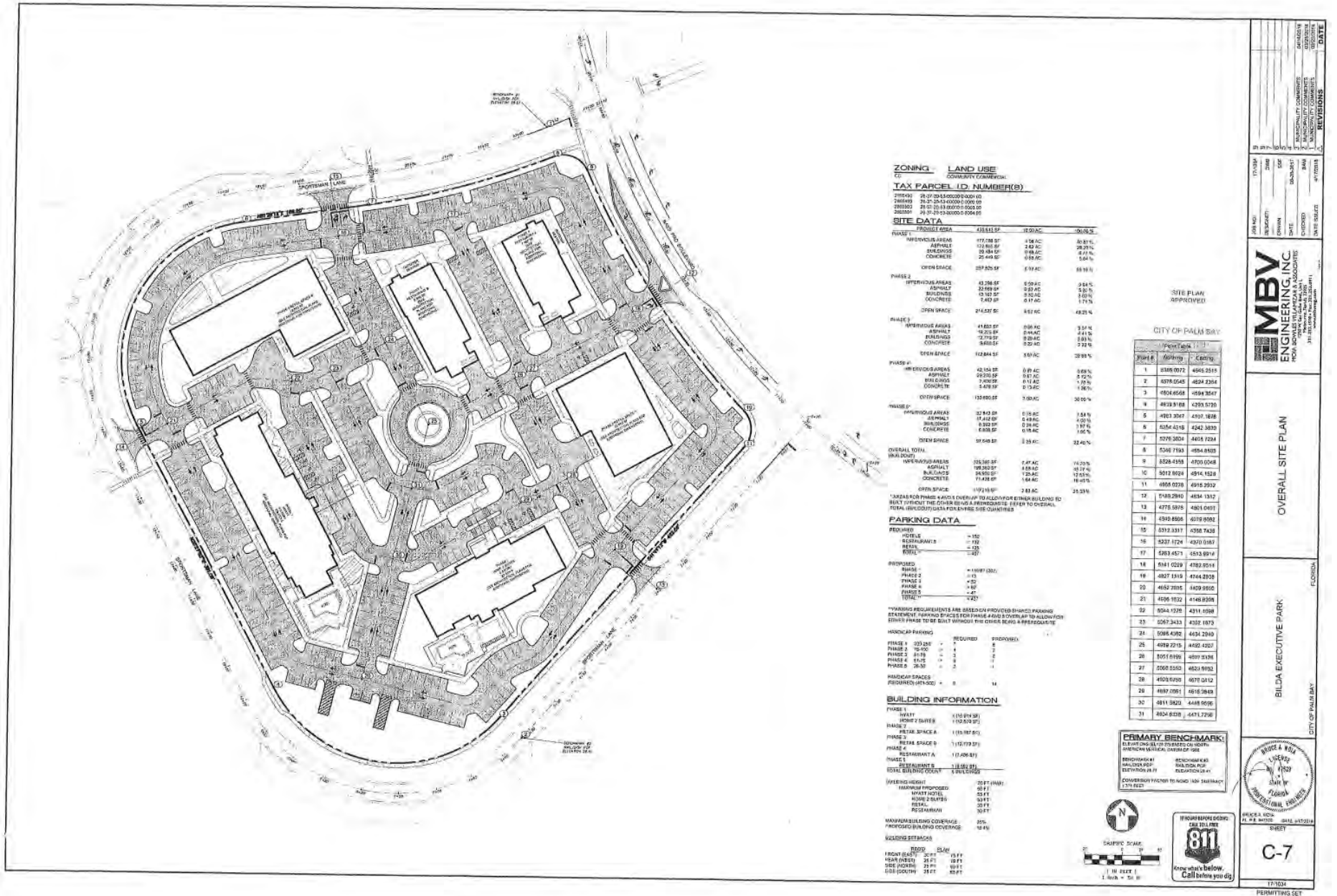
**Item 4 - *The relationship of the proposed amendment to the purpose of the city plan for development, with appropriate consideration as to whether the proposed change will further the purposes of this chapter and the Comprehensive Plan (Plan).***

The proposed amendment will not further the purposes of Chapter 185 and the Comprehensive Plan as it violates three elements of the plan.

**STAFF RECOMMENDATION:**

Case CPZ-9-2020 is recommended for denial based upon comments contained in this report.

# EXHIBIT A







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



## AERIAL LOCATION MAP CASE CP-9-2020 & CPZ-9-2020

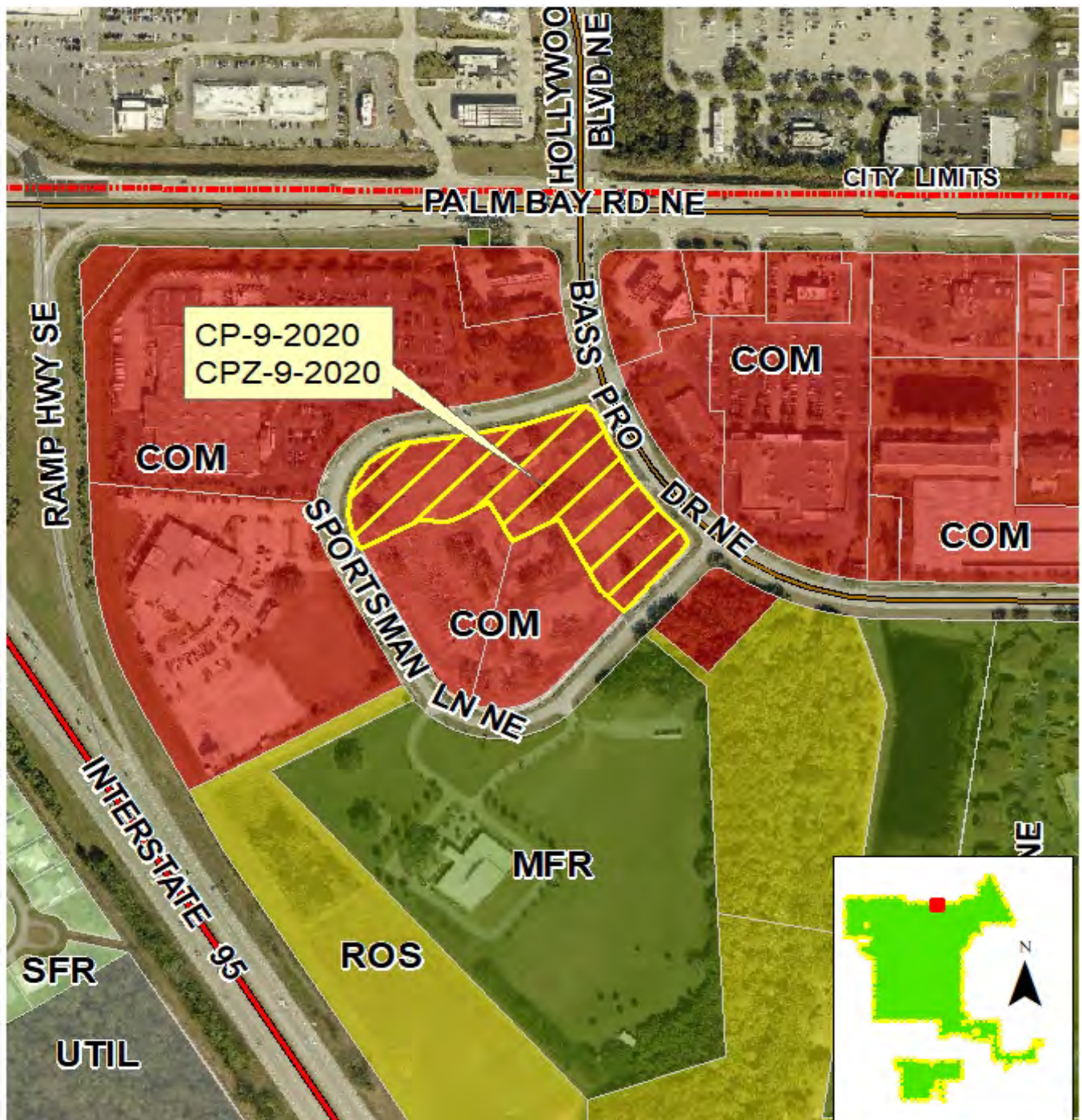
### Subject Property

Between and adjacent to Sportsman Lane NE and Bass Pro Drive 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 CP-9-2020 & CPZ-9-2020

### Subject Property

Between and adjacent to Sportsman Lane NE and Bass Pro Drive NE

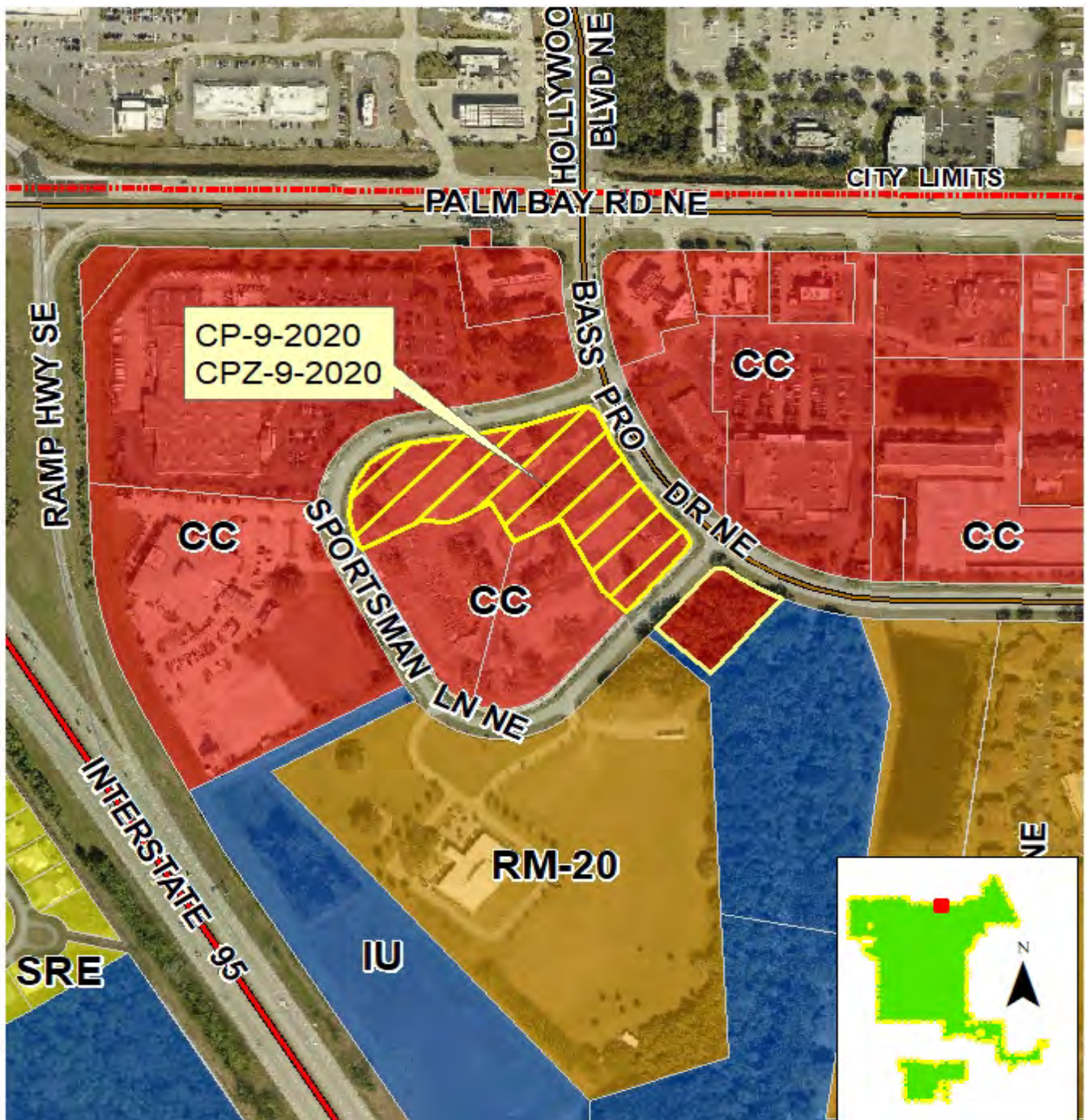
### Future Land Use Classification

COM – Commercial Use





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



## ZONING MAP

## CASE CP-9-2020 & CPZ-9-2020

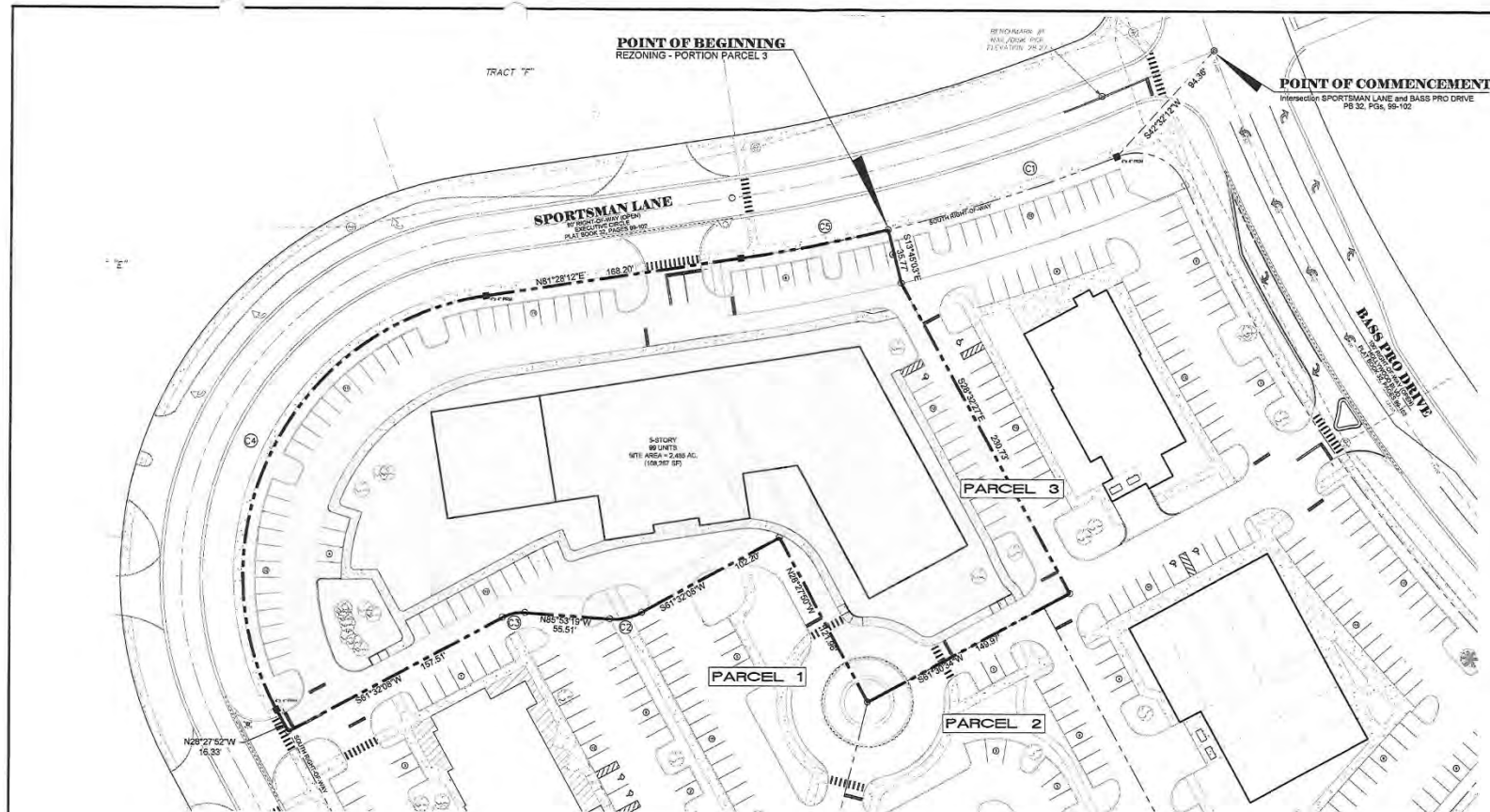
### Subject Property

Between and adjacent to Sportsman Lane NE and Bass Pro Drive NE

### Current Zoning Classification

CC – Community Commercial District





# REZONING DESCRIPTION

A PORTION OF PARCEL 3, BILDA EXECUTIVE PARK, A REPLAT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 67, PAGE 79 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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FROM SAID POINT OF BEGINNING, DEPART ALONG A BEARING OF S14°40'00\"/>

CURVE TABLE			
CURVE	RADIUS	CENTRAL ANGLE	ARC LENGTH
C1	1082.14	08°19'17"	157.16
C2	38.00	22°54'33"	21.61
C3	27.00	22°54'33"	15.36
C4	183.00	109°56'04"	354.96
C5	1082.14	08°19'17"	99.89



DATE	
REVISIONS	
NO.	DATE
1	06/02/20
<b>MBV ENGINEERING, INC.</b> CIVIL ENGINEERING & SURVEYING 1000 S. US HIGHWAY 1, SUITE 200 WEST PALM BEACH, FLORIDA 33411 PHONE: 561.833.1234 FAX: 561.833.1235 WWW.MBVENGINEERING.COM	
REZONING BOUNDARY AND LEGAL DESCRIPTION SKETCH	
BILDA EXECUTIVE PARK PARCEL 3	
FLORIDA PALM BEACH	
PROJECT NO. 47829 DATE: 06/02/20 SHEET <b>RZ-1</b> 17-1024	



**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 stated.

**PARCEL ID** 26-37-20-54-\* -3 (Partial)

**TAX ACCOUNT NUMBER** 3020699

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

See attached description and sketch

**PROPERTY ADDRESS** 1415, 1445, 1455, 1465 Sportsman Ln. NE, Palm Bay, FL 32905

**SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage):** 2.49

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

**ZONING CLASSIFICATION DESIRED (ex.: IU, LI, etc.)** RM20

**STRUCTURES LOCATED ON THE PROPERTY** none

**PRESENT USE OF THE PROPERTY:**

vacant land

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

Construction of a 99 unit multi-family residence.

**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** Bruce Moia, P.E. MBV Engineering, Inc.

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  Date \_\_\_\_\_

Printed Name Sam Cohen - Authorized Signer for AD1 Urban Strategy Palm Bay Retail LLC

Full Address 1955 Harrison Street, Suite 200, Hollywood, FL 32020

Telephone 305-803-5564 Email scohen@ad1global.com

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

May 9

, 2020

Re: Letter of Authorization

As the property owner of the site legally described as:

Lot 3, Parcel K of Bilda Executive Park  
Property ID - 3020699, Parcel # 28-37-20-54-\*3

I, Owner Name: Sam Cohen for AD1 urban Strategy Palm Bay Retail LLC  
Address: 1955 Harrison Street, Suite 20, Hollywood, FL 33020  
Telephone: 305-803-5564  
Email: scohen@ad1global.com

hereby authorize:

Representative: Bruce A. Moia, P.E. - MBV Engineering, Inc.  
Address: 1250 W. Eau Gallie Blvd, Unit H, Melbourne, FL 32935  
Telephone: 321-253-1510  
Email: brucem@mbveng.com

to represent the request(s) for:

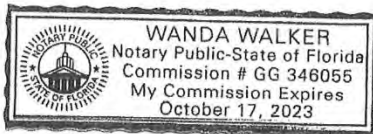
Rezoning, Land Use Amendment and Preliminary Development

(Property Owner Signature)

STATE OF Florida  
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 9th day of May, 2020 by Sam Cohen

(SEAL)



Wanda Walker, Notary Public

☒ X

Personally Known or

Produced the Following Type of Identification:



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

## Detail by Entity Name

Florida Profit Corporation  
AD 1 MANAGEMENT, INC.

### Filing Information

<b>Document Number</b>	P09000073235
<b>FEI/EIN Number</b>	27-0851030
<b>Date Filed</b>	08/31/2009
<b>State</b>	FL
<b>Status</b>	ACTIVE
<b>Last Event</b>	AMENDMENT
<b>Event Date Filed</b>	09/17/2018
<b>Event Effective Date</b>	NONE

### Principal Address

1955 Harrison St.  
Suite 200  
Hollywood, FL 33020

Changed: 04/01/2016

### Mailing Address

1955 Harrison St.  
Suite 200  
Hollywood, FL 33020

Changed: 04/01/2016

### Registered Agent Name & Address

E.H.G. RESIDENT AGENTS, INC.  
1141 SOUTH ROGERS CIRCLE STE 12  
BOCA RATON, FL 33487

### Officer/Director Detail

#### **Name & Address**

Title PRES

BERMAN, JOSE D  
1955 Harrison St.  
Suite 200  
Hollywood, FL 33020



Title SECR

FRIDZON, ARIE  
1955 Harrison St.  
Suite 200  
Hollywood, FL 33020

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FROM SAID POINT OF BEGINNING, DEPART ALONG A BEARING OF S13°45'03"E A DISTANCE OF 35.77 FEET, THENCE S28°32'27"E A DISTANCE OF 230.73 FEET, THENCE S61°30'34"W A DISTANCE OF 149.97 FEET, THENCE N28°27'50"W A DISTANCE OF 121.96 FEET, THENCE S61°32'08"W A DISTANCE OF 102.20 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 38.00 FEET THROUGH A CENTRAL ANGLE OF 32°34'33" ALONG AN ARC LENGTH OF 21.61 FEET. THENCE N85°53'19"W A DISTANCE OF 55.51 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 27.00 FEET THROUGH A CENTRAL ANGLE OF 32°34'33" AND ALONG AN ARC LENGTH OF 15.35 FEET. THENCE S61°32'08"W A DISTANCE OF 157.51 FEET TO A POINT ON THE SAID SOUTH RIGHT-OF-WAY OF SPORTSMAN LANE. THENCE FROM SAID POINT, RUN ALONG SAID RIGHT-OF-WAY LINE N28°27'52"W A DISTANCE OF 16.33 FEET TO A 4" X 4" PRM; SAID POINT (PRM) ALSO BEING THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 185.00 FEET. THENCE FROM SAID POINT OF CURVATURE, RUN NORTHEAST ALONG THE SAID SOUTH RIGHT-OF-WAY LINE OF SPORTSMAN LANE THROUGH A CENTRAL ANGLE OF 109°56'04" FOR AN ARC DISTANCE OF 354.96 FEET TO A 4" X 4" PRM ALSO BEING A POINT OF TANGENCY. THENCE FROM SAID POINT CONTINUE ALONG THE SAID SOUTH RIGHT-OF-WAY LINE OF SPORTSMAN LANE, N81°28'12"E FOR A DISTANCE OF 168.20 FEET TO A 4" X 4" PRM. SAID PRM ALSO BEING A POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1082.14 FEET. THENCE RUN ALONG SAID SOUTH RIGHT-OF-WAY OF SPORTSMAN LANE THROUGH A CENTRAL ANGLE OF 05°13'19" FOR AN ARC LENGTH OF 98.60 FEET AND THE AFORESAID POINT OF BEGINNING. SAID PARCEL CONTAINING 2.49 ACRES MORE OR LESS.



# 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

Laurence Bradley, AICP, Growth Management Director

---

**CASE NUMBER**

T-25-2020

**PLANNING & ZONING BOARD HEARING DATE**

October 7, 2020

---

**PROPERTY OWNER & APPLICANT**

City of Palm Bay; Utilities 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 171: Fair Share Impact Fees, Section 171.50, Water and Wastewater Impact Fees, revised as noted.

**Existing Zoning**

Not Applicable

**Existing Land Use**

Not Applicable

**Site Improvements**

Not Applicable

**Site Acreage**

Not Applicable

**APPLICABILITY**

Citywide

**COMPREHENSIVE PLAN  
COMPATIBILITY**

Not specifically addressed

---



**BACKGROUND:**

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 174: Floodplain and Stormwater Management. Proposed language for this amendment is attached in legislative style with additions between >>arrow<< symbols and deletions in strikethrough format.

The applicant for this amendment is the City of Palm Bay.

**ANALYSIS:**

The Fair Share Impact Fees Section of the Land Development Code provides for the establishment of Impact Fees associated with new development. Subsection 171.50 establishes the impact fees associated with water and wastewater.

The Water and Wastewater Impact fees are written into the actual ordinance rather than adopted through a fee resolution, thus any changes to these fees require the ordinance to be modified. The Utilities Department, which oversees these fees, is requesting changes to the fees. Additionally, they are seeking to strike references to the Engineering News Record (ENR), as a basis for establishing these fees. The proposed fees have been recommended by the Utilities Advisory Board (UAB).

The changes, as proposed, do not appear to have any impacts to other sections of the Land Development Code or the Comprehensive Plan.

**STAFF RECOMMENDATION:**

Motion to approve Case T-25-2020, based on the Analysis contained in this staff report.

## TITLE XVII: LAND DEVELOPMENT CODE

### WATER AND WASTEWATER IMPACT FEES

#### § 171.50 WATER AND WASTEWATER IMPACT FEES.

(A) *Adoption.* The City hereby adopts and establishes pursuant to general law, a water capital charge, and a wastewater capital charge as set forth in paragraph (1) herein below, the purpose of which will be to finance capital expenditures and the payment of City indebtedness associated with the expansion of the City's water supply, treatment and transmission system, the wastewater transmission, treatment, and effluent disposal system, and the reclaimed treatment and transmission system.

(1) *Implementation.* The amount of each capital charge per equivalent residential connection (ERC) shall be effective ~~October 1, 2015~~ >>January 1, 2021<< as follows:

<i>Date</i>	<i>Water Capital Charge</i>	<i>Wastewater Capital Charge</i>
<del>Oct. 1, 2015</del> >>January 1, 2021<<	<del>\$2,151.39</del> >>\$2,049.00<<	<del>\$3,139.20</del> >>\$3,300.00<<

~~(2) All capital charge amounts listed in subsection (1) above will be increased annually on October 1st of every year according to the Engineering News Record (ENR) City Cost Index for the Southeast region.~~

\* \* \*

(9) The amount of each capital charge recovery usage component shall be effective ~~October 1, 2015~~ >>January 1, 2021<< as follows:

<i>Date</i>	<i>Water Capital Charge Recovery Usage Component</i>	<i>Wastewater Capital Charge Recovery Usage Component</i>
<del>October 1, 2015</del> >>January 1, 2021<<	<del>\$1.34</del> >>\$1.28<<	<del>\$1.85</del> >>\$1.94<<

~~(10) All capital charge recovery usage components will be increased annually on October 1st of every year according to the Engineering News Record (ENR) City Cost Index for the Southeast region.~~

~~(11)~~>>(10)<< The above ERC Schedule applies to establishments being connected to the City of Palm Bay Utilities Water and Wastewater System.



**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 stated.

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

§ 171.50 WATER AND WASTEWATER IMPACT FEES

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

See attached

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

Changes to (A)(1) and (A)(9) - See attached Legislative Memorandum from the August 27, 2020 Utilities Advisory Board (UAB) meeting. The UAB made a motion to recommend the City Council to adopt the changes. The motion passed 4-0 with one member absent.

Changes to (A)(2) and (A)(10) - An automatic, annual increase based on the ENR CCI is not a good practice and could result in overcharging. The Utilities Department reviews the rates on an annual basis.



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

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**\*\$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 Christopher Little Digitally signed by Christopher Little  
Date: 2020.09.02 15:41:03 -04'00' Date \_\_\_\_\_

Printed Name of Applicant Christopher A. Little, PE, Utilities Director

Full Address 250 Osmosis Drive SE, Palm Bay, FL 32909

Telephone 321-952-3410 Email christopher.little@pbfl.org

PERSON TO BE NOTIFIED (If different from above):

Printed Name N/A

Full Address N/A

Telephone N/A Email N/A

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