



## **AGENDA**

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

Regular Meeting 2019-05  
April 3, 2019 – 7:00 P.M.  
City Hall Council Chambers

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

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

#### **ROLL CALL:**

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

1. Special Meeting No. 2019-04; March 18, 2019

#### **ANNOUNCEMENTS:**

#### **NEW BUSINESS:**

##### **1. ♠V-7-2019 - JUAN CARLOS BLANCO, JR.**

A variance to allow a proposed fence to encroach 12.8 feet into the 15-foot side corner setback, as established by Section 170.114(A) of the Palm Bay Code of Ordinances.

Tax Parcel 519, Section 22, Township 28, Range 37, Brevard County, Florida, containing .85 acres, more or less. (Located at the northeast corner of Knecht Road NE and Roc Rosa Drive NE, specifically at 1261 Knecht Road NE)

##### **2. ♠FD-8-2019 – WILLIAM H. BENSON (CONTINUED)**

A final development plan for a proposed Planned Unit Development (PUD) to allow a 77-lot, single-family residential development called Gulfport Key.

Lots 1 through 3 of Block 474 and Lots 5 through 7 of Block 677, Port Malabar Unit 11, a portion of Lot 15, Florida Indian River Land Company, along with Tax Parcels 750 and 752, all within Section 8, Township 29, Range 37, Brevard County, Florida, containing 20.76 acres, more or less. (Located north of and adjacent to Gulfport Road SE, in the vicinity between Grapefruit Road SE and Sable Circle SE)

**OTHER BUSINESS:**

**ADJOURNMENT:**

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

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

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

**♣ Quasi-Judicial Proceeding.**

**CITY OF PALM BAY, FLORIDA**  
**PLANNING AND ZONING BOARD/**  
**LOCAL PLANNING AGENCY**  
**SPECIAL MEETING NO. 2019-04**

Held on Monday, March 18, 2019, in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida.

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

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

Mr. Rainer Warner led the Pledge of Allegiance to the Flag.

**ROLL CALL:**

<b>CHAIRPERSON:</b>	Philip Weinberg	Present
<b>MEMBER:</b>	Leeta Jordan	Present
<b>MEMBER:</b>	Nancy Domonousky	Present
<b>MEMBER:</b>	Khalilah Maragh	Present
<b>MEMBER:</b>	Rainer Warner	Present
<b>MEMBER:</b>	Vacant	
<b>MEMBER:</b>	Vacant	
<b>MEMBER:</b>	Donny Felix (School Board Appointee)	Present

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

Other Business, Item No. 1, Amendment to the Planning and Zoning Board By-Laws, was discussed at this time.

**1. AMENDMENT TO THE PLANNING AND ZONING BOARD BY-LAWS**

The board had no comments regarding the proposed amendment to the Planning and Zoning Board By-Laws.

Motion by Ms. Domonousky, seconded by Ms. Maragh to submit to City Council approval of the proposed amendment to the Planning and Zoning Board By-Laws, Title IV, Officers, to clarify appointment and succession of the Chairperson and Vice Chairperson. The motion carried with members voting unanimously.

The board resumed consideration of items in the order that was set by the agenda.

#### **ELECTION OF VICE CHAIRPERSON:**

1. Motion by Ms. Maragh, seconded by Mr. Warner to elect Ms. Leeta Jordan as Vice Chairperson of the Planning and Zoning Board. The motion carried with members voting unanimously.

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

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2019-02; February 6, 2019.

Mr. Weinberg synopsisized Form 8B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers that was submitted for Case CU-2-2019 for the abstention by Mr. Wendall Stroderd.

Staff noted that for Case CU-2-2019, the fifth paragraph on page 3 should reflect that Mr. Stroderd had disclosed that the company he owned did business with Southeast Petroleum Distributors, and he recused himself from voting on the request. Motion by Ms. Jordan, seconded by Ms. Maragh to approve the minutes as corrected. The motion carried with members voting unanimously.

#### **ANNOUNCEMENTS:**

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

#### **NEW BUSINESS:**

##### **1. CP-2-2019 - VACATION FINANCE LLC (WILLIAM E. ROCKER)**

Mr. Murphy presented the staff report for Case CP-2-2019. The applicant had requested a large scale Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Commercial Use. Staff recommended Case CP-2-2019 for approval with conditions and for transmittal to the Florida Department of Economic Opportunity for review, pursuant to Chapter 163, Florida Statutes.

Ms. Domonousky inquired whether the proposed change would permit automotive services and repair shops at the site. Mr. Murphy indicated that automotive repair shops would be allowed; however, automotive body shops would require conditional use approval.

Mr. Warner asked about future plans to four-lane Malabar Road and if the developer for the subject site would be involved with the road widening. Mr. Murphy explained that the City was working on acquiring additional right-of-way to four-lane that section of Malabar Road, and funding for the improvement was not available. The applicant would have to comply with roadway improvements that a required traffic study for the site would determine based on buildout. Staff anticipated modifications such as a dedicated left-turn lane.

Ms. Maragh questioned whether the board should place a condition on the project to require right-of-way for the Malabar Road widening. Mr. Murphy stated that the Public Works Department would request the right-of-way when the property was submitted for development, and a transportation impact fee agreement would be implemented toward acquiring the right-of-way improvement.

Ms. Domonousky inquired whether the proposed 100-foot buffer could be increased. Mr. Murphy noted that the applicant had agreed to the 100-foot buffer along the southern residential property line beyond the six-foot high, opaque wall or fence requirement.

Mr. John Porter with Osceola Engineering, Inc. (representative for the applicant) stated that the 25-foot rear setback had been increased to a 100-foot natural buffer of undisturbed land to protect the view and provide space for the existing abutting residents. A six-foot high perimeter fence would still be installed.

Ms. Maragh asked if there had been a meeting about the proposal with the area residents. Mr. Porter remarked that a meeting had been held with the residents for the original residential subdivision proposal before the market had dropped. Concerns from that meeting were addressed in the subject proposal regarding the view of the site.

Mr. Warner asked for further elaboration of the proposal. Mr. Porter explained that there was not a market for the type of residential subdivision originally planned for the site. A market analysis within a five-mile radius had determined that more commercial development was needed.

The floor was opened for public comments.

Mr. William Batten (resident at Ocean Spray Street SW) spoke in favor of the request. The change from residential use to commercial use would balance the recent land use change for a commercial property on Robert J. Conlan Boulevard NE to residential. He wanted the developer to verbally commit to providing land for the future road widening, and he was pleased about the 100-foot natural buffer.

Ms. Brenda Chrieki (treasurer of Malabar West Subdivision Phases I and II) spoke against the request. The change would disrupt the community's quiet and safe way of life, decrease property and home values, and impact the privacy and abundant wildlife in the neighborhood. The applicant had not met with the residents for the commercial request. She commented on how commercial development of the site would irresponsibly increase traffic problems on Malabar Road since the widening would not occur within the foreseeable future. One property owner's dream should not outweigh the dreams of the current residents when commercial uses could be reached with less than a ten-minute drive down the St. Johns Heritage Parkway.

The floor was closed for public comments.

Motion by Ms. Jordan, seconded by Ms. Domonousky to submit Case CP-2-2019 to City Council for approval of a large scale Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Commercial Use for transmittal to the Florida Department of Economic Opportunity for review, pursuant to Chapter 163, Florida Statutes.

Ms. Domonousky suggested that the conditions by staff and additional language for the 100-foot buffer should be included in the motion.

Motion amended by Ms. Jordan, seconded by Ms. Domonousky to submit Case CP-2-2019 to City Council for approval of a large scale Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Commercial Use for transmittal to the Florida Department of Economic Opportunity for review, pursuant to Chapter 163, Florida Statutes, with the conditions that 1) Access to the site shall be from Malabar Road SW only; 2) There shall be a 100-foot deep preservation buffer along the southern property line of the subject property for which no development shall take place in order to preserve the existing vegetation; and 3) There shall be 25-foot wide preservation buffers along the east and west sides of the subject property. The motion carried with members voting unanimously.

There was one correspondence of opposition to the request in the file.

## **2. ♣CPZ-2-2019 - VACATION FINANCE LLC (WILLIAM E. ROCKER)**

Mr. Murphy presented the staff report for Case CPZ-2-2019. The applicant had requested a zoning amendment from an RS-1, Single Family Residential District to a CC, Community Commercial District. Staff recommended Case CPZ-2-2019 for approval to be consistent and compatible with the Future Land Use designation of Case CP-2-2019.

Ms. Domonousky asked about the applicant's plans for the subject site. Mr. John Porter with Osceola Engineering, Inc. (representative for the applicant) stated that future plans for the site would be market driven, and that the change in the land use and a rezoning would set the property up for marketing.

The floor was opened for public comments.

Mr. William Batten (resident at Ocean Spray Street SW) spoke in favor of the request. As he commented during the review of the companion land use application, the proposed change from residential use to commercial use would balance the recent land use change for a commercial site on Robert J. Conlan Boulevard NE to residential. He noted that Malabar Road was an arterial roadway where residential-type activity would be inappropriate.

Mr. Scott Virgin (president of Malabar Lakes West Subdivision Phase II) spoke against the request. He stated that the community would rather drive to commercial sites instead of being buried in commercial development. The area was already impacted by traffic from Heritage High School, Fred Poppe Regional Park, and the St. Johns Heritage Parkway where more commercial development would occur.

The floor was closed for public comments, and there was one correspondence in opposition of the request in the file.

Motion by Mr. Warner, seconded by Ms. Domonousky to submit Case CPZ-2-2019 to City Council for approval of a zoning amendment from an RS-1, Single Family Residential District to a CC, Community Commercial District to be consistent and compatible with the Future Land Use designation of Case CP-2-2019. The motion carried with members voting unanimously.

### **3. CP-3-2019 – WALTER G. AND EUGENIA C. CAMPBELL, TRUSTEES**

Mr. Murphy presented the staff report for Case CP-3-2019. 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-3-2019 for approval with a condition.

Ms. Maragh asked if the subject property was under contract with the City. Mr. Murphy stated that the site was privately owned by the applicants.

Ms. Eugenia Campbell (applicant) explained that she and her husband wanted to subdivide the property into two lots and build a home on each lot to accommodate them and their children.

Ms. Maragh inquired whether the applicants would go on record to confirm that the site would be restricted to two homes. Ms. Campbell confirmed that only two homes would be built on the property.

The floor was opened for public comments.

Mr. Eugene Adler (resident at Ravel Road SE) spoke against the request. He was concerned that government subsidized housing was planned for the property, which would devalue the existing properties in the area.

The floor was closed for public comments.

Motion by Ms. Maragh, seconded by Ms. Jordan to submit Case CP-3-2019 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, with the condition that a maximum of two (2) single-family lots may be created from the subject property. The motion carried with members voting unanimously.

Mr. Weinberg stated that the site was privately owned by the applicant and would be restricted to two single-family homes.



**OTHER BUSINESS:**

**1. AMENDMENT TO THE PLANNING AND ZONING BOARD BY-LAWS**

The Amendment to the Planning and Zoning Board By-Laws was discussed prior to the Election of Vice Chairperson.

**ADJOURNMENT:**

The meeting was adjourned at approximately 7:46 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.



LAND DEVELOPMENT DIVISION  
120 MALABAR ROAD SE  
PALM BAY, FL 32907  
T: 321-733-3042 F: 321-953-8920

STAFF REPORT  
PREPARED BY:  
Christopher Balter  
Planner II

**CASE NUMBER**  
V-7-2019

**APPLICANT/PROPERTY OWNER**  
Juan Blanco Jr.

**PLANNING & ZONING BOARD HEARING DATE**  
April 3, 2019

**PROPERTY LOCATION/ADDRESS**  
Northeast corner of Knecht Road NE and Roc Rosa Drive NE, specifically at 1261 Knecht Road NE, Palm Bay, Florida

**SUMMARY OF REQUEST**

A variance request to allow an existing fence to encroach the 15-foot side corner setback by a maximum of 12.8 feet, as provided in Section 170.114 of the Palm Bay Code of Ordinances.

EXISTING ZONING	EXISTING LAND USE	SITE IMPROVEMENTS	SITE ACREAGE	SURROUNDING ZONING & LAND USE
RR- Rural Residential	SFR Single-Family Residential	Single-Family Home	.85 +/-	<b>N:</b> RR, Rural Residential; Single Family Home <b>E:</b> RR, Rural Residential; Single Family Home <b>S:</b> RR, Rural Residential; Single Family Home <b>W:</b> RS-1, Single-Family Residential; Single Family Home

**PROPERTY HISTORY**

The single-family home was originally built in 1959 and has had minor modifications since then.

**COMPATIBILITY with the COMPREHENSIVE PLAN**  
No effect on adopted Comprehensive Plan

**COMPATIBILITY with the CODE OF ORDINANCES**  
The current height and location of the fence, if not removed, would require a variance to be compatible with the Code of Ordinances.

**ANALYSIS:**

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

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

The applicant has stated "the existing fence was installed by the previous property owner." The applicant is requesting relief from the 15ft side corner setback to allow the existing fence to encroach the setback by a maximum of 12.8ft.

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

The special conditions and circumstances identified in item 1 are not a direct result of the actions of the applicant. The existing fence was installed by the previous property owner, however the fence was never properly permitted and inspected.

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

Literal interpretation and enforcement of the Land Development Code would require the applicant to remove the existing fence and, build within the required setbacks or construct a fence that is no taller than 4'.

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

The applicant would require 12.8 feet of relief from the 15-foot side corner setback, for the existing fence to remain "as-is".

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

Granting of the variance would confer to the applicant a special privilege for the encroachment of the side corner setback.

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

Staff has not identified any detrimental effect to public welfare; however, granting the variance would provide relief from Section 170.114 of the Palm Bay Code of Ordinances.

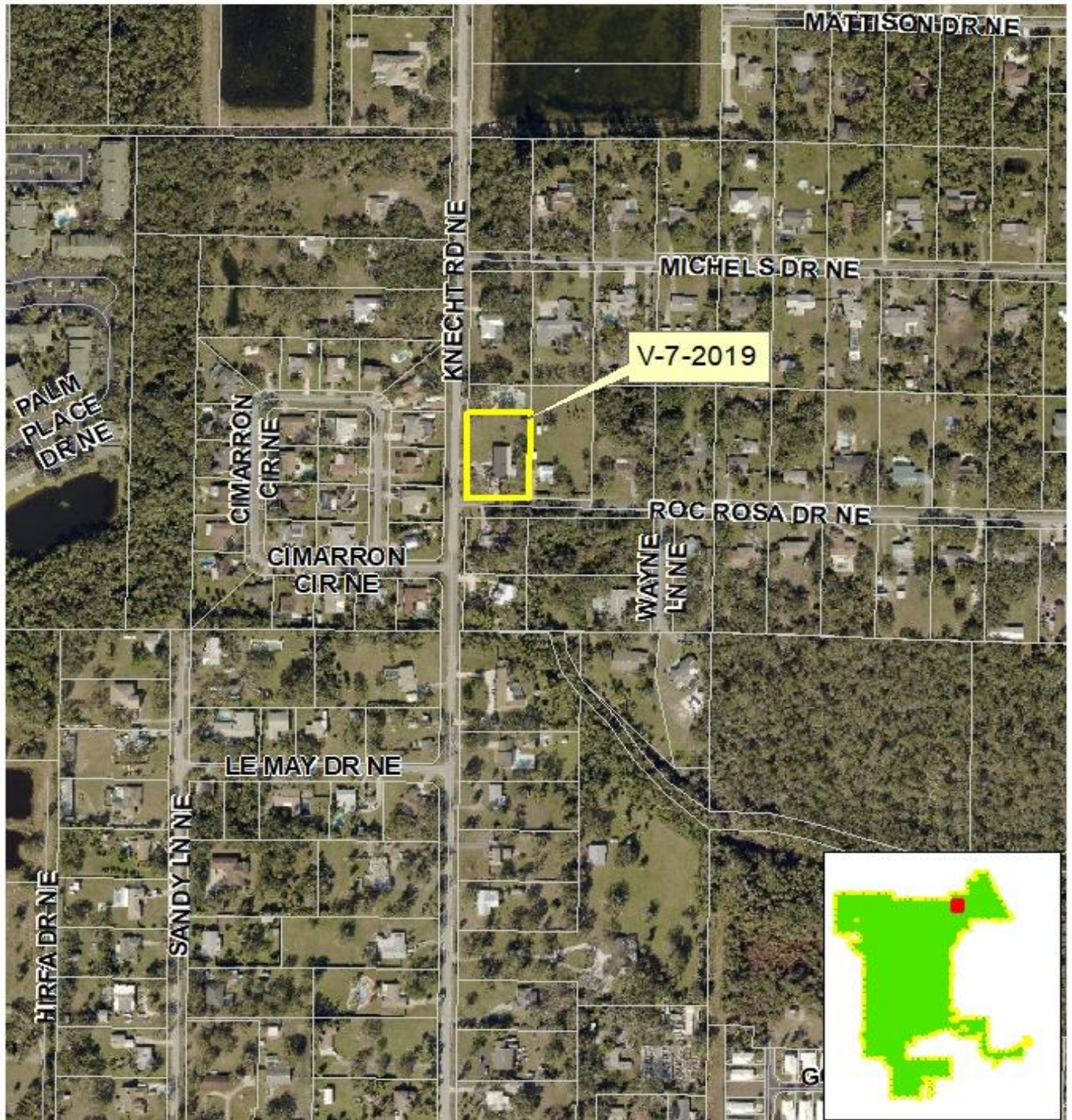
***Item 7 - "The variance represents a reasonable disposition of a claim brought under the Bert J. Harris Private Property Rights Protection Act, chapter 95-181, Laws of Florida, that a development order of the city has reasonably burdened the applicant's property, based on the recommendations of the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

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

**STAFF RECOMMENDATION:**

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





## AERIAL LOCATION MAP

CASE V-7-2019

### Subject Property

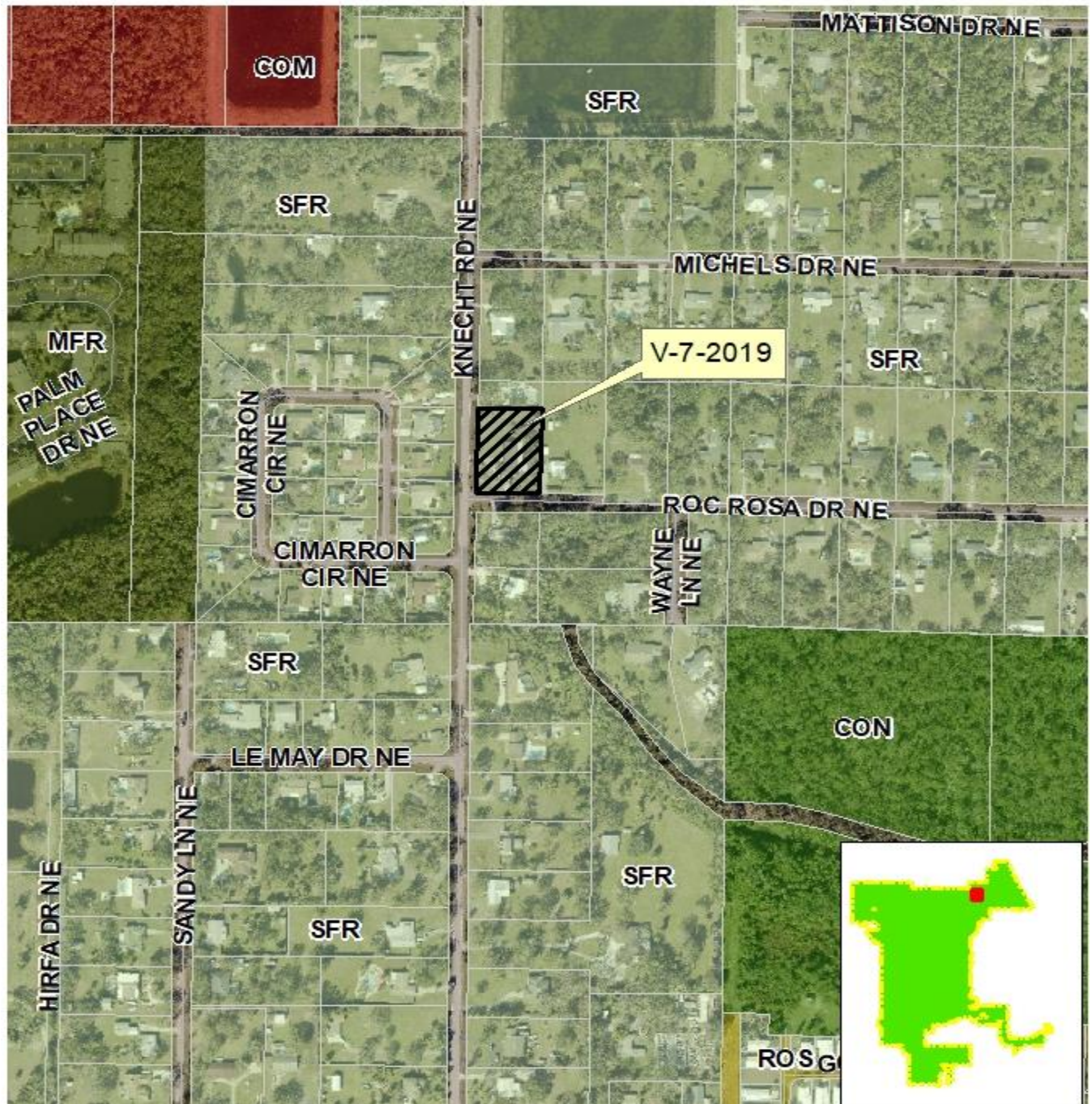
Northeast corner of Knecht Road NE and Roc Rosa Drive NE,  
specifically at 1261 Knecht Road NE, Palm Bay, Florida



Not to Scale

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





## FUTURE LAND USE MAP

## CASE V-7-2019

### Subject Property

Northeast corner of Knecht Road NE and Roc Rosa Drive NE,  
specifically at 1261 Knecht Road NE, Palm Bay, Florida

### Future Land Use Classification

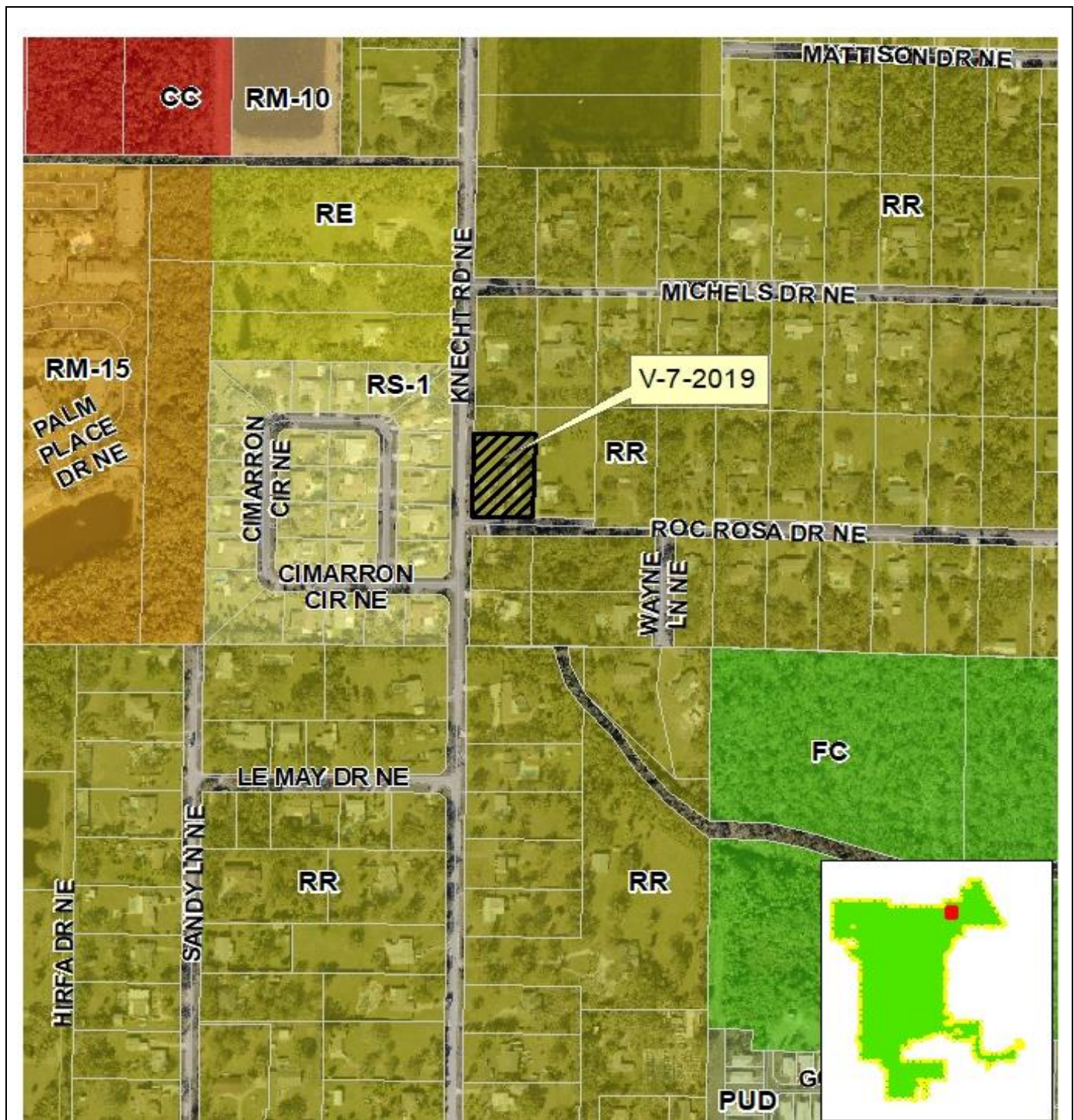
SFR – Single Family Residential Use

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



Not to Scale





## ZONING MAP

## CASE V-7-2019

### Subject Property

Northeast corner of Knecht Road NE and Roc Rosa Drive NE,  
specifically at 1261 Knecht Road NE, Palm Bay, Florida

### Current Zoning Classification

RR – Rural Residential District



Not to Scale

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



ORDERED BY:



PROPERTY ADDRESS: 1261 NE KNECHT ROAD MELBOURNE, FLORIDA 32905

SURVEY NUMBER: FL1304.1995

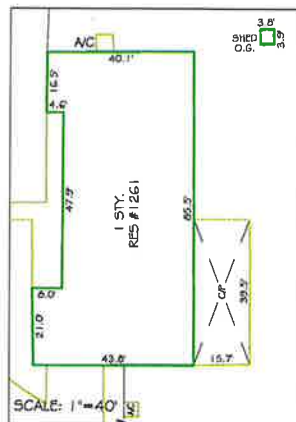
FIELD WORK DATE: 5/1/2013

REVISION DATE(S): (REV. 1 5/1/2013)

**FL1304.1995  
BOUNDARY SURVEY  
BREVARD COUNTY**

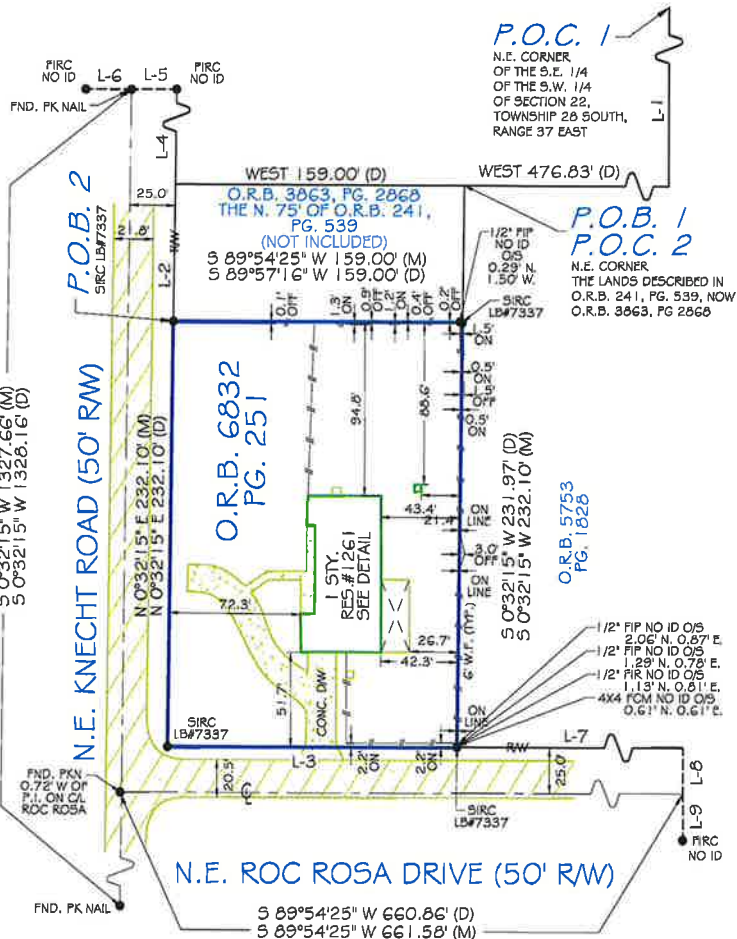
**TABLE:**

L-1 SOUTH	664.20' (D)
L-2 S 00°32'15" W	75.00' (D)
L-3 N 89°59'55" E	159.00' (D)
L-4 N 89°54'25" E	159.00' (M)
L-5 N 00°32'15" E	738.80' (D)
L-6 S 89°27'45" E	25.00' (D)
L-7 S 89°28'36" W	25.33' (M)
L-8 S 89°27'45" E	25.00' (D)
L-9 N 89°50'34" W	24.76' (M)
L-10 S 89°54'25" W	476.58' (D)
L-11 S 89°54'25" W	476.58' (M)
L-12 S 00°05'35" E	25.00' (D)
L-13 S 00°05'35" E	25.00' (M)
L-14 S 00°05'35" E	25.00' (D)
L-15 S 00°05'35" E	25.00' (M)

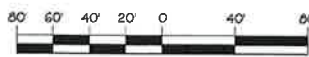


I hereby certify that this Sketch of Survey of the hereon described property has been made under my direction, and to the best of my knowledge and belief, it is a true and accurate representation of a survey that meets the minimum technical standards set forth by the Florida Board of Professional Land Surveyors as described in Chapter 5J-17 of the Florida Administrative Code.

Wesley B. Haas  
State of Florida Professional Surveyor and Mapper  
License No. 3708



NOTES:  
FENCE OWNERSHIP NOT DETERMINED



GRAPHIC SCALE  
1 inch = 80 feet



Use of This Survey for Purposes other than Intended, Without Written Verification, will be at the User's Sole Risk and Without Liability to the Surveyor.  
Nothing hereon shall be Construed to Give ANY Rights or Benefits to Anyone Other than those Certified.

**FLOOD INFORMATION:**

BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE X. THIS PROPERTY WAS FOUND IN THE CITY OF PALM BAY, COMMUNITY NUMBER 120404, DATED 08/18/92.

POINTS OF INTEREST  
NONE VISIBLE

CLIENT NUMBER: TPA13-34397

DATE: 5/1/2013

BUYER: MICHAEL M. COOPER

SELLER: FNMA

CERTIFIED TO: MICHAEL M. COOPER; ALBERTELLI LAW; FIDELITY NATIONAL TITLE; PROSPECT MORTGAGE, LLC; ITS SUCCESSORS AND/OR ASSIGNS

This is page 1 of 2 and is not valid without all pages.



**AFFILIATE  
MEMBERS**



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## LEGAL DESCRIPTION:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 22, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, THENCE SOUTH 664.2 FEET; THENCE WEST, 476.83 FEET, TO THE POINT OF BEGINNING; THENCE SOUTH 0°32'15" WEST, 307.1 FEET; THENCE EAST, 159 FEET; THENCE NORTH, 307.1 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPT: LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 771, PAGE 250, TO WIT: THE NORTH 75 FEET OF LOT 5, BLOCK 8, UNRECORDED PLAT OF TROPICANA, DATED OCTOBER 30, 1957, LYING IN THE SW 1/4 OF SECTION 22, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA; FURTHER DESCRIBED AS: THE NORTH 75 FEET OF THE PROPERTY DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 241, PAGE 539, PUBLIC RECORDS OF BREVARD COUNTY FLORIDA, SAID LANDS BEING MORE PARTICULARLY DESCRIBED IN TOTAL AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 241, PAGE 539, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, THENCE RUN WEST, A DISTANCE OF 159.00 FEET, TO THE EAST RIGHT-OF-WAY LINE OF KNECHT ROAD N.E., AS PRESENTLY OCCUPIED; THENCE RUN SOUTH 0°32'15" WEST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 75.00 FEET, TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 0°32'15" WEST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 232.10 FEET, TO THE NORTH RIGHT-OF-WAY LINE OF ROC-ROSA DRIVE, N.E., AS PRESENTLY OCCUPIED; THENCE RUN NORTH 89°59'55" EAST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 159.00 FEET; THENCE RUN NORTH 0°32'15" EAST, A DISTANCE OF 231.97 FEET; THENCE RUN NORTH 89°57'16" WEST, A DISTANCE OF 159.00 FEET, TO THE POINT OF BEGINNING.

## JOB SPECIFIC SURVEYOR NOTES:

THE DEED BEARING REFERENCE OF SOUTH 0°32'15" WEST IS BASED ON THE CENTER LINE OF N.E. KNECHT ROAD, A RIGHT-OF-WAY 50 FEET IN WIDTH, LOCATED WITHIN SECTION 22, TOWNSHIP 28 SOUTH, RANGE 37 EAST, WITH THE EASTERLY RIGHT-OF-WAY LINE THEREOF BEING DESCRIBED IN OFFICIAL RECORD BOOK 6832, PAGE 251, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

## GENERAL SURVEYOR NOTES:

1. The Legal Description used to perform this survey was supplied by others. This survey does not determine or imply ownership.
2. This survey only shows improvements found above ground. Underground footings, utilities and encroachments are not located on this survey map.
3. If there is a septic tank, or drain field shown on this survey, the location is approximate, and was determined by visual above ground inspection only, and cannot be relied on for accuracy.
4. This survey is exclusively for the use of the parties to whom it is certified.
5. Additions or deletions to this survey map and report by other than the signing party or parties is prohibited without written consent of the signing party or parties.
6. Dimensions are in feet and decimals thereof.
7. Due to varying construction standards, house dimensions are approximate.
8. Any FEMA flood zone data contained on this survey is for informational purposes only. Research to obtain such data was performed at [www.fema.gov](http://www.fema.gov).
9. All corners marked as set are at a minimum a 1/2" diameter, 18" iron rebar with a cap stamped LB#7337.
10. If you are reading this survey in an electronic format, the information contained on this document is only valid if this document is electronically signed as specified in Chapter SJ-17.062 (3) of the Florida Administrative Code. The Electronic Signature File related to this document is prominently displayed on the invoice for this survey which is sent under separate cover. Manually signed and sealed logs of all survey signature files are kept in the office of the performing surveyor. If this document is in paper format, it is not valid without the signature and original raised seal of a Florida Licensed Surveyor.
11. Unless otherwise noted, an examination of the abstract of title was NOT performed by the signing surveyor to determine which Instruments, if any, are affecting this property.
12. The symbols reflected in the legend and on this survey may have been enlarged or reduced for clarity. The symbols have been plotted at the center of the field location, and may not represent the actual shape or size of the feature.
13. Points of Interest (POI's) are selected above-ground improvements which may be in conflict with boundary, building setback or easement lines, as defined by the parameters of this survey. There may be additional POI's which are not shown, not called-out as POI's, or which are otherwise unknown to the surveyor. These POI's may not represent all items of interest to the viewer.
14. Utilities shown on the subject property may or may not indicate the existence of recorded or unrecorded utility easements.
15. The information contained on this survey has been performed exclusively, and is the sole responsibility, of Exacta Surveyors. Additional logo or references to third party firms are for informational purposes only.

## LEGEND:

## SURVEYOR'S LEGEND

BOUNDARY LINE	AC	AIR CONDITIONING	ID.	IDENTIFICATION	SDW.	SEWER
B.R.	B.R.	BEARING REFERENCE	INT.	INTERSECTION	S.F.	SQUARE FEET
B.K.	B.K.	BLOCK	IR	IRON ROD	SDH	SET DRILL HOLE
B.C.	B.C.	BLOCK CORNER	IP	IRON PIPE	SRG	SET IRON ROD & CAP
B.R.L.	B.R.L.	BUILDING RESTRICTION LINE	L	LENGTH	SN	SET NAIL
BSMT.	BSMT.	BASEMENT	LB#	LICENSE # - BUSINESS	SN&D	SET NAIL & DISC
BW	BW	BAYBOX WINDOW	LS#	LICENSE # - SURVEYOR	STY.	STORY
(C)	(C)	CALCULATED	(M)	MEASURED	S.T.L.	SURVEY TIE LINE
C	C	CURVE	N.R.	NON RADIAL	SV	SEWER VALVE
CATV	CATV	CABLE TV. RISER	N.T.S.	NOT TO SCALE	SW	SIDEWALK
C.B.	C.B.	CONCRETE BLOCK	O.C.S.	ON CONCRETE SLAB	S.W.	SEAWALL
CHIM.	CHIM.	CHIMNEY	O.G.	ON GROUND	T	TELEPHONE FACILITIES
C.L.F.	C.L.F.	CHAIN LINK FENCE	O.H.L.	OVERHEAD LINE	T.O.B.	TOP OF BANK
C.O.	C.O.	CLEAN OUT	O.R.B.	OFFICIAL RECORD BOOK	TX	TRANSFORMER
CONC.	CONC.	CONCRETE	OH.	OVERHANG	TYP.	TYPICAL
C.V.G.	C.V.G.	CONCRETE VALLEY GUTTER	O.A.	OVERALL	W/C	WITNESS CORNER
CV	CV	CENTER LINE	OS	OFFSET	WP	WATER FILTER
CS	CS	CONCRETE SLAB	OS	OFFSET	WM	WOODEN FENCE
CP	CP	COVERED PORCH	PSM	PARKER-KALON NAIL	WM	WATER METER VALVE BOX
CSW	CSW	CONCRETE SIDEWALK	PLS	PROFESSIONAL LAND SURVEYOR	WV	WATER VALVE
COR	COR	CORNER	PLT	PLANT	V.F.	VINYL FENCE
(D)	(D)	DEED	PLT	PLANT		
DW	DW	DRIVEWAY	PLT	PLANT		
D.F.	D.F.	DRAIN FIELD	PP	PINGED PIPE		
EUB	EUB	ELECTRIC UTILITY BOX	P.B.	PLAT BOOK		
ENC.	ENC.	ENCLOSURE	P.I.	POINT OF INTERSECTION	A.E.	ANCHOR EASEMENT
ENT.	ENT.	ENTRANCE	P.O.B.	POINT OF BEGINNING	C.M.E.	CANAL MAINTENANCE ESMT.
E.O.P.	E.O.P.	EDGE OF PAVEMENT	P.O.C.	POINT OF COMMENCEMENT	C.U.E.	COUNTY UTILITY ESMT.
E.O.W.	E.O.W.	EDGE OF WATER	P.T.	POINT OF TANGENCY	D.E.	DRAINAGE EASEMENT
F/L	F/L	FENCE LINE	P.C.	POINT OF CURVATURE	ESMT.	EASEMENT
F.P.	F.P.	FENCE POST	P.C.C.	POINT OF COMPOUND CURVATURE	I.E.E.	INGRESS/EGRESS ESMT.
(F)	(F)	FIELD	P.R.C.	POINT OF REVERSE CURVATURE	IR.E.	IRRIGATION EASEMENT
F.F.	F.F.	FINISHED FLOOR	P.C.P.	PERMANENT CONTROL POINT	L.A.E.	LIMITED ACCESS ESMT.
FPL	FPL	FLORIDA POWER & LIGHT	P.R.M.	PERMANENT REFERENCE MONUMENT	L.B.E.	LANDSCAPE BUFFER ESMT.
FPH	FPH	FOUND DRILL HOLE	R.	RADIUS OF RADIAL	L.M.E.	LAKE OR LANDSCAPE
FIRC	FIRC	FOUND IRON ROD & CAP	RECORD	RECORD	M.E.	MAINTENANCE EASEMENT
FIR	FIR	FOUND IRON ROD	RES.	RESIDENCE	M.E.	MAINTENANCE EASEMENT
FIP	FIP	FOUND IRON PIPE	RW	RIGHT OF WAY	F.U.E.	PUBLIC UTILITY EASEMENT
PCM	PCM	PND. CONCRETE MONUMENT	(S)	SURVEY	R.O.E.	ROOF OVERHANG ESMT.
PN	PN	FOUND NAIL	S.B.L.	SETBACK LINE	S.W.E.	SIDEWALK EASEMENT
PND	PND	FOUND NAIL & DISC	S.C.L.	SURVEY CLOSURE LINE	S.W.M.E.	STORM WATER
PND	PND	FOUND	SCR.	SCREEN	MANAGEMENT ESMT.	
GAR.	GAR.	GARAGE	SDH	SET DRILL HOLE	T.U.E.	TECHNOLOGICAL UTILITY ESMT.
GM	GM	GAS METER	SEP.	SEPTIC TANK	U.E.	UTILITY EASEMENT

## ELECTRONIC SIGNATURE:

In order to "Electronically Sign" all of the PDFs sent by STARS, you must use a hash calculator. A free online hash calculator is available at <http://www.fileformat.info/tool/md5sum.htm>

To Electronically Sign any survey PDF:

1. Save the PDF onto your computer.
2. Use the online tool at <http://www.fileformat.info/tool/md5sum.htm> to browse for the saved PDF on your computer.
3. Select the Hash Method as SHA.
4. Click Submit.

Your PDF is electronically signed if all of the characters in the SHA-1 code submitted by STARS matches the code which is produced by the hash calculator. If they match exactly, your PDF is electronically signed. If the codes do not match exactly, your PDF is not authentic.

## PRINTING INSTRUCTIONS:

1. While viewing the survey in Adobe Reader, select the "Print" button under the "File" tab.
2. Select a printer with legal sized paper.
3. Under "Print Range", click select the "All" toggle.
4. Under the "Page Handling" section, select the number of copies that you would like to print.
5. Under the "Page Scaling" selection drop down menu, select "None."
6. Uncheck the "Auto Rotate and Center" checkbox.
7. Check the "Choose Paper size by PDF" checkbox.
8. Click OK to print.

## TO PRINT IN BLACK + WHITE:

1. In the main print screen, choose "Properties".
2. Choose "Quality" from the options.
3. Change from "Auto Color" or "Full Color" to "Gray Scale".

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

## VARIANCE APPLICATION

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

PARCEL ID 28-37-22-00-519

TAX ACCOUNT NO. 2831722

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

See Deed, attached as Exhibit B

### STREET ADDRESS OF PROPERTY COVERED BY APPLICATION:

1261 Knecht Rd NE

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): .85 acres

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

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

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

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

To our knowledge, no previous variance has been applied for on this property

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

See attached answer 1

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

See attached answer 2

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

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

See attached answer 3.

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

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

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

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

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

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

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

\_\_\_\_\_ A listing of legal descriptions of all properties within a 500 foot radius of the boundaries of the property 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.)

\_\_\_\_\_ A site plan drawn to scale which shows all property and yard dimensions, its structures (if any) and the variance desired, including abutting highway or road boundaries. The site plan shall also be provided on Memory Drive.

\_\_\_\_\_ Site plan data may be shown on a copy of the survey and must also be provide on Memory Drive.

\_\_\_\_\_ A survey prepared by a registered surveyor showing all property lines and structures. The survey shall also be provided on Memory Drive.

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

\_\_\_\_\_ **Where property is not owned by the applicant, a [letter](#) must be attached giving the notarized consent of the owner for the applicant to request the variance.**

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

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

Signature of Applicant

Date

3/7/2019

Printed Name of Applicant

Juan C. Blanco

Full Address

1261 Kneek Rd NE, Palm Bay, FL 32905

Telephone

321-480-9126

Email

jcb blanco 94@yahoo.com

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

1. The variance is requested because, when Mr. Blanco bought the house, the portion of the fence in question was in the same shape and location it was today. When the prior owner put up the fence, in, or around, 2004, the prior owner failed to get a final inspection after the fence was put up. Other than that mistake on the part of the prior owner, the proper permits were obtained. The property will be continued to be used for residential purposes. The fence will encroach 12.8 feet into the setback. As the pictures, attached in **Composite Exhibit "A"** show, this fence has been like this for many years prior to the purchase by Mr. Blanco. Additionally, the fence is not encroaching into any specific setbacks nor is it violating any height restrictions.

2. The variance requested is from the below sections of the code.

Section 170.114 – (A) – Fence Residential Area Limitations and Restrictions on Height

Section 185.181 (A) – Building or structure erected, moved, added to or altered without required permit.

Section 185.185 – Construction not in accordance with approved plans.

3.

a. SPECIAL CONDITIONS Mr. Blanco purchased the property in 2017. The deed is attached here as **Exhibit "B"**. Mr. Blanco put up a fence on the west side of his property. He obtained the proper permits and has had it signed off by the Building Division. However, in, or around, the summer of 2018, Palm Bay Code Compliance Officers were called to his property regarding the fence. Nothing was found to be a violation with the new fence, however, they noticed that the old fence on the east side of the property did not receive the final inspection when it was built in approximately 2004. Furthermore, the pictures taken by the City of Palm Bay, and attached here as **Composite Exhibit "C"**. This clearly shows that the fence in question was installed and at the property more than seven (7) years prior to purchasing the house and properly installing a new fence.

b. Mr. Blanco did not cause these special conditions and circumstances. Mr. Blanco was not aware of the issues when he purchased the property. Additionally, when Mr. Blanco put up an unrelated section of fence, he properly permitted that fence and received an inspection after the work was done. Said permit is attached to this application as **Exhibit "D"**.

c. If the code were interpreted and enforced literally, it would cause Mr. Blanco to have to go to great expense to replace the fence with proper permitting. This would cause Mr. Blanco unnecessary and undue hardship. Mr. Blanco does not have unclean hands. All he is asking is to allow him to have his property the way that he purchased it.

d. This variance would be the minimum necessary variance to make possible the reasonable use of the land, building and structure. This variance, if approved, would keep the status quo and would not disrupt or interfere with any neighbor's property and would allow Mr. Blanco's reasonable use of the property. Again, the granting of this variance would allow Mr. Blanco to use his property in the way that he purchased it. Mr. Blanco did not install nor alter the fence on the southeast corner of his property.

e. Mr. Blanco will not receive any special privileges through receiving this variance. As stated above, the granting of this variance would keep the status quo. Additionally, Mr. Blanco applied for, and received, a permit for the new fence that he installed at his property. This new fence was properly

permitted by the City of Palm Bay. Moreover, it was suggested to Mr. Blanco, when he was before the Code Enforcement Board, to apply for a variance.

f. The granting of this variance will be in harmony with the general intent and purpose of this code. Additionally, it will not be injurious to any of the surrounding properties nor will it be detrimental to the public welfare. Additionally, many of the surrounding properties have fences and this would keep with the character of the surrounding properties.



**MEMO TO:** PLANNING AND ZONING BOARD MEMBERS

**FROM:** CHRISTOPHER BALTER, PLANNER II

**DATE:** APRIL 3, 2019

**SUBJECT:** CASE FD-8-2019 - WILLIAM H. BENSON

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Staff requests a continuance of Case FD-8-2019 to the May 1, 2019 Planning and Zoning Board Meeting as the applicant has made changes to the Final Development Plan that necessitates further review. Board action is required to continue the case.

CB/cp