

# **AGENDA**

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

Special Meeting 2019-12 September 18, 2019 – 7:00 P.M. City Hall Council Chambers

**CALL TO ORDER:** 

PLEDGE OF ALLEGIANCE:

**ROLL CALL:** 

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

1. Regular Meeting 2019-10; August 7, 2019

**ANNOUNCEMENTS:** 

#### **OLD BUSINESS:**

#### 1. CP-10-2019 - HARBOR POINTE (JAKE WISE, PE)

A large scale Comprehensive Plan Future Land Use Map amendment from Industrial Use and Commercial Use to Bayfront Mixed Use.

Tax Parcels 10, 22, and 1, Section 14, Township 28, Range 37 along with Lot 1 of Block C and Lot 1 of Block A, Huntington Terrace Subdivision, Section 11, Township 28, Range 37, Brevard County, Florida, containing 21.83 acres, more or less. (Located in the vicinity east of the Florida East Coast Railway, north of Robert J. Conlan Boulevard NE, and south of Kingswood Drive NE)

### 2. **CPZ-10-2019 – HARBOR POINTE (JAKE WISE, PE)**

A zoning amendment from an HC, Highway Commercial District and an HI, Heavy Industrial District to a BMU, Bayfront Mixed Use District.

City of Palm Bay, Florida Planning and Zoning Board/Local Planning Agency Special Meeting 2019-12 Agenda – September 18, 2019 Page 2 of 4

Tax Parcels 10, 22, and 1, Section 14, Township 28, Range 37 along with Lot 1 of Block C and Lot 1 of Block A, Huntington Terrace Subdivision, Section 11, Township 28, Range 37, Brevard County, Florida, containing 21.83 acres, more or less. (Located in the vicinity east of the Florida East Coast Railway, north of Robert J. Conlan Boulevard NE, and south of Kingswood Drive NE)

# 3. CP-9-2019 - CRICKET DRIVE APARTMENTS (CONSTRUCTION ENGINEERING GROUP, LLC)

### (WITHDRAWN)

A large scale Comprehensive Plan Future Land Use Map amendment from Single Family Residential Use to Multiple Family Residential Use.

Tax Parcel 257, Section 33, Township 28, Range 37, Brevard County, Florida, containing 20.36 acres, more or less. (Located north of and adjacent to Cricket Drive NE, in the vicinity between Nolan Street NE and Nogales Avenue NE, specifically at 825 Cricket Drive NE)

### 4. ◆PD-15-2019 - CRICKET DRIVE APARTMENTS (CONSTRUCTION ENGINEERING GROUP, LLC)

#### (WITHDRAWN)

A Preliminary Development Plan for a proposed Planned Unit Development (PUD) to allow for a 264-unit, multiple-family residential development called Cricket Drive Apartments.

Tax Parcel 257, Section 33, Township 28, Range 37, Brevard County, Florida, containing 20.36 acres, more or less. (Located north of and adjacent to Cricket Drive NE, in the vicinity between Nolan Street NE and Nogales Avenue NE, specifically at 825 Cricket Drive NE)

#### **NEW BUSINESS:**

#### 1. **CU-20-2019 – ANNA HUTSON**

A conditional use to allow a proposed retail nursery in an RR, Rural Residential District.

Lot 3, Block 3, Melbourne Poultry Colony Addition No. 1, Section 23, Township 28, Range 36, Brevard County, Florida, containing 9.16 acres, more or less. (Located north of and adjacent to Hield Road NW, in the vicinity west of Powell Road, specifically at 3835 Hield Road NW)

City of Palm Bay, Florida Planning and Zoning Board/Local Planning Agency Special Meeting 2019-12 Agenda – September 18, 2019 Page 3 of 4

# 2. CP-12-2019 – CITY OF PALM BAY (ECONOMIC DEVELOPMENT DEPARTMENT)

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

Tract G, Port Malabar Unit 13, Section 36, Township 28, Range 36, Brevard County, Florida, containing 3.19 acres, more or less. (Located north of and adjacent to Australian Road NW, in the vicinity east of Nackman Road NW)

#### 3. T-21-2019 - CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A textual amendment to the Code of Ordinances, Title III, Administration, Chapter 33: Fire Department, to transfer Section 33.27 in its entirety to Title XVII, Land Development Code, Chapter 170: Construction Codes and Regulations, by creating Section 170.160 Fire Protection and Alarm System Permit and Inspection Fees, as the function and fees are now handled by the Building Division.

#### **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)

City of Palm Bay, Florida Planning and Zoning Board/Local Planning Agency Special Meeting 2019-12 Agenda – September 18, 2019 Page 4 of 4

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 2019-10

Held on Wednesday, August 7, 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. Donny Felix led the Pledge of Allegiance to the Flag.

#### **ROLL CALL:**

CHAIRPERSON:Philip WeinbergPresentVICE CHAIRPERSON:Leeta JordanPresentMEMBER:Donald BoeremaPresent

MEMBER: Nancy Domonousky Absent (Excused)

MEMBER:Donny FelixPresentMEMBER:Khalilah MaraghPresentMEMBER:Rainer WarnerPresent

NON-VOTING MEMBER: Vacant

(School Board Appointee)

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

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

1. Special Planning and Zoning Board/Local Planning Agency Meeting No. 2019-09; July 10, 2019. Motion by Ms. Maragh, seconded by Mr. Felix to approve the minutes as presented. The motion carried with members voting unanimously.

#### ANNOUNCEMENTS:

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

City of Palm Bay Planning and Zoning Board/ Local Planning Agency Regular Meeting 2019-10 Minutes – August 7, 2019 Page 2 of 4

 Mr. Weinberg announced that the applicant for Cases CP-9-2019 and PD-15-2019 (Construction Engineering Group, LLC) had requested a continuance to the September 4, 2019 Planning and Zoning Board meeting. Board action was required to continue the cases.

Motion by Ms. Jordan, seconded by Ms. Maragh to continue Case CP-9-2019 to the September 4, 2019 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

Motion by Ms. Maragh, seconded by Mr. Felix to continue Case PD-15-2019 to the September 4, 2019 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

#### **NEW BUSINESS:**

#### 1. **CP-11-2019 – ELIZABETH J. PERSAUD**

Mr. Balter presented the staff report for Case CP-11-2019. 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-11-2019 for approval, pursuant to Chapter 163, Florida Statutes.

Ms. Elizabeth Persaud (applicant) stated that a single-family home would be built on the property for her family.

The floor was opened for public comments.

Mr. James Skinner (resident at Castile Road SE) spoke against the request. He stated that the subject site was one of the few green spaces in the area, and that the property should not be lost to more homes.

Mr. Joe Caetano (resident at Castile Road SE) spoke against the request. He stated that the open green space had attracted him to purchase in the neighborhood. He commented on how numerous homes were being built in the vicinity, and there was virtually no green space in the area. He was concerned about the tortoises and their habitation on the subject site.

City of Palm Bay Planning and Zoning Board/ Local Planning Agency Regular Meeting 2019-10 Minutes – August 7, 2019 Page 3 of 4

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke in favor of the request. He commented on how a single home would provide less density and allow more green space than the seven homes that could potentially be built on the property.

Mr. Weinberg noted that Mr. and Mrs. Gelzinis of Castile Road SE had submitted a letter in opposition to the request.

The floor was closed for public comments.

Motion by Ms. Maragh, seconded by Ms. Jordan to submit Case CP-11-2019 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, pursuant to Chapter 163, Florida Statutes.

To address environmental concerns, Mr. Weinberg stated that the staff report had specified that any listed species identified on the subject parcel would need to be mitigated as required by State and Federal regulations and the Comprehensive Plan.

Mr. Warner stated his support of the request since a single-family home would result in less density.

Mr. Felix wanted to know the size of the home proposed for the site and where it would be located on the property. Ms. Persaud indicated that a four-bedroom home would be built in the middle of the property and surrounded by fruit trees, and there would be some vegetation.

A vote was called on the motion by Ms. Maragh, seconded by Ms. Jordan to submit Case CP-11-2019 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, pursuant to Chapter 163, Florida Statutes. The motion carried with members voting unanimously.

# 2. CP-9-2019 – CRICKET DRIVE APARTMENTS (CONSTRUCTION ENGINEERING GROUP, LLC)

Case CP-9-2019 was discussed under Announcements, Item 2.

City of Palm Bay Planning and Zoning Board/ Local Planning Agency Regular Meeting 2019-10 Minutes – August 7, 2019 Page 4 of 4

# 3. ♣PD-15-2019 – CRICKET DRIVE APARTMENTS (CONSTRUCTION ENGINEERING GROUP, LLC)

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OTHER BUSINESS	0	TH	ER	Bι	JSI	N	Ε	SS	1
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There was no other business discussed.

#### **ADJOURNMENT:**

The meeting was adjourned at approximately 7:18 p.m.

	Philip Weinberg, CHAIRPERSON
Attest:	
Chandra Powell, SECRETARY	

♣Quasi-Judicial Proceeding.

#### CITY OF PALM BAY, FLORIDA

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City of Palm Bay Planning and Zoning Board/ Local Planning Agency Regular Meeting 2019-10 Minutes – August 7, 2019 Page 3 of 4

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City of Palm Bay Planning and Zoning Board/ Local Planning Agency Regular Meeting 2019-10 Minutes – August 7, 2019 Page 4 of 4

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There was no other business discussed.

#### ADJOURNMENT:

♣Quasi-Judicial Proceeding.

The meeting was adjourned at approximately 7:18	p.m.
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	Philip Weinberg, CHAIRPERSON
Attest:	
Chandra Powell, SECRETARY	



## STAFF REPORT

#### LAND DEVELOPMENT DIVISION

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

### Prepared by

Christopher Balter, Planner II

CASE NUMBER PLANNING & ZONING BOARD HEARING DATE

CP-10-2019 September 18, 2019

APPLICANT/PROPERTY OWNER PROPERTY LOCATION/ADDRESS

MLEF2-1, LLC Parcels 28-37-14-00-10, 28-37-14-00-22, 28-37-14-00-1,

28-37-11-78-C-1, 28-37-11-78-A-1

North of and adjacent to Robert J. Conlan Boulevard NE, in

the vicinity east of the Florida East Coast Railroad

**SUMMARY OF REQUEST** The applicant is requesting a large-scale Comprehensive Plan Future Land

Use (FLU) Map Amendment to change 21.83 acres of Industrial Use (IND)

and Commercial Use (COM) to Bayfront Mixed Use (BMU).

**Existing Zoning** HC, Highway Commercial; HI, Heavy Industrial

Existing Land Use Commercial Use and Industrial Use
Site Improvements Abandoned Cement Plant and Hotel

Site Acreage 21.83 acres, more or less

SURROUNDING ZONING & USE OF LAND USE

North HC, Highway Commercial and HI, Heavy Industrial; Restaurant, Single-

Family Homes, and Manufacturing Businesses

East HC, Highway Commercial; U.S.1, and the Indian River Lagoon

**South** HC, Highway Commercial and HI, Heavy Industrial; (Across R.J. Conlan)

Raytheon Technologies

West HI, Heavy Industrial; Florida East Coast Railroad

COMPREHENSIVE PLAN

Jake Wise, P.E. (Representing)

COMPATIBILITY

The current nature of the future land use designations surrounding the subject parcel is Commercial and Industrial. The proposed land use amendment would be considered compatible with the surrounding land uses

by providing a transition between the Commercial and Industrial land uses

by providing a mix of land uses.

Case CP-10-2019 September 18, 2019

#### 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.

#### FUTURE LAND USE ELEMENT

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

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

The Comprehensive Plan (Plan) FLU Element Goal FLU-3 is to provide for economically viable commercial areas which promote a sound and diversified local economy and serve the retail and service needs of the City's residents

The Comprehensive Plan (Plan) FLU Element Goal FLU-8 is to provide for a diverse and self-sustaining pattern of land uses which support the present and future population of the City of Palm Bay.

The Comprehensive Plan (Plan) FLU Element Goal FLU-9 is to create large scale, sustainable mixed-use communities.

The subject parcels are located within an existing industrial and commercial area. The intended use for the 21.83-acre parcels is a mix of a Multi-Family Residential development and commercial uses. The proposed land use amendment would be considered compatible with the surrounding land uses by providing a transition between the Commercial and Industrial land uses by, providing a high-quality diversified living environment. The development will further these goals by providing a mix of allowable uses, on a property that has been unused and blighted for many years. The City currently has 1,920.66 acres of land designated as Industrial Uses on the Comprehensive Plan Future Land Use Map. Approximately half of the designated land is undeveloped or vacant.

#### COASTAL MANAGEMENT ELEMENT

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

#### CONSERVATION ELEMENT

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

Case CP-10-2019 September 18, 2019

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

**Recreation:** The proposed FLU amendment would not exceed the existing park land or recreational level of service standards for the planning area.

#### 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. Instead, it will serve to create additional multifamily housing opportunities needed in Palm Bay.

#### 5. INFRASTRUCTURE/CAPITAL IMPROVEMENTS ELEMENTS

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

**Utilities:** The FLU change will not cause level of service to fall below the standards adopted in the Comprehensive Plan for these services for the current planning period. Public water and sewerage facilities are available at the site. If developed, the owner/developer will be responsible for extending service to the site in accordance with current City regulations.

**Drainage:** If developed, a drainage plan must be prepared in accordance with current regulations and approved by the City, along with appropriate outside agencies including the St. Johns River Water Management District. Any proposed stormwater management system will be reviewed and approved by the City during the site plan review process.

Any development of the subject property will alter the present natural site conditions as the property is partially undeveloped and therefore, would have some impact. The property is located within Flood Zone X, which is an area of minimal flood hazard outside the Special Flood Hazard Area (100-year flood) and the 500-year flood zone.

#### INTERGOVERNMENTAL COORDINATION ELEMENT

**Public Schools:** The proposed FLU amendment to Bayfront Mixed Use for a large parcel (21.83 acres) will add housing units. Some impacts to the public-school system area are anticipated and will require concurrency 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 roadway level of service and adequately serves the needs of the community. If developed, a traffic impact analysis will

Case CP-10-2019 September 18, 2019

be required to determine any negative impacts on the existing transportation system along with any suggested improvements, which will be taken under consideration during the Site Plan review/approval process.

#### CONDITIONS:

- 1. Future development will be restricted to a right-in right-out driveway connection to R.J. Conlan.
- A Traffic Study will be required and will be reviewed during the administrative staff approval process to determine any impacts to the adjacent road network and any improvements necessary to mitigate such impacts with emphasis on access management.
- 3. A Phase One environmental study will be required at the time of any development proposal.
- 4. No residential structures shall be placed within 100 feet of the existing businesses that front Rowena Drive.

#### STAFF RECOMMENDATION:

Case CP-10-2019 is recommended for approval subject to the staff comments contained in this report.



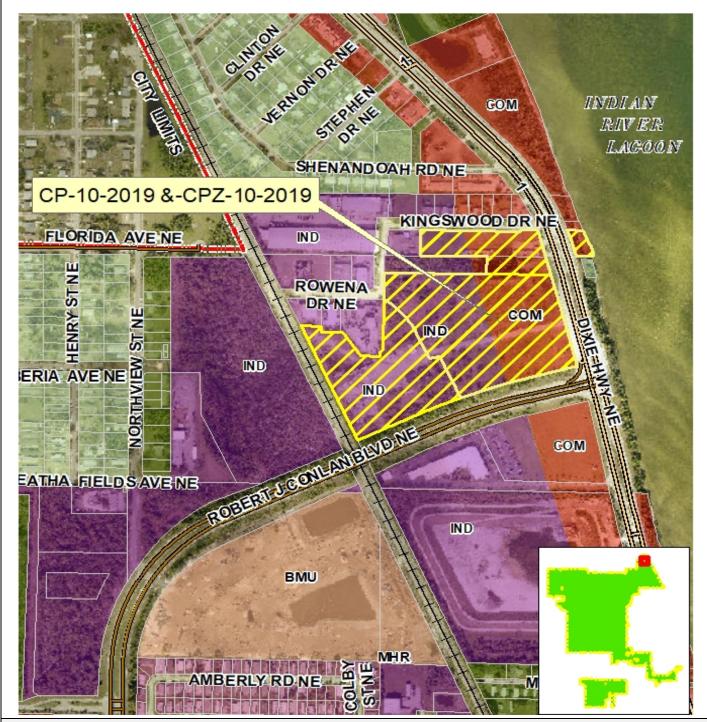
# **AERIAL LOCATION MAP CASE CP-10-2019 & CPZ-10-2019**

## **Subject Property**

Located in the vicinity east of the Florida East Coast Railway, north of Robert J. Conlan Boulevard NE, and south of Kingswood Drive NE







# FUTURE LAND USE MAP CASE CP-10-2019 & CPZ-10-2019

## **Subject Property**

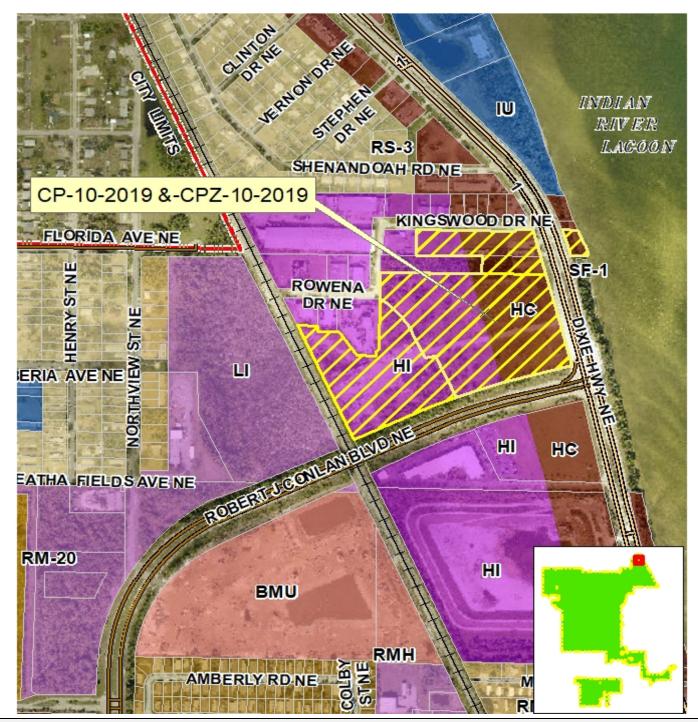
Located in the vicinity east of the Florida East Coast Railway, north of Robert J. Conlan Boulevard NE, and south of Kingswood Drive NE

### **Future Land Use Classification**

IND – Industrial Use and COM – Commercial Use







## **ZONING MAP**

# CASE CP-10-2019 & CPZ-10-2019

## **Subject Property**

Located in the vicinity east of the Florida East Coast Railway, north of Robert J. Conlan Boulevard NE, and south of Kingswood Drive NE

## **Current Zoning Classification**

HC – Highway Commercial District and HI – Heavy Industrial District







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

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

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, 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 AMENDMENT TYPE:
☐ Small Scale (Less than 10 acres) ☐ Large Scale (10 acres or more) ☐ Text Amendment (Comp. Plan)
PARCEL ID <u>28-37-14-00-10 / 28-37-14-00-22 / 28-37-14-00-1 / 28-37-11-78-C-1 / 28-37-11-78-A-1</u>
TAX ACCOUNT NO. 2826097/ 2861830/ 2826089/ 2825825/ 2825813
LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:
Multiple parcels. See additional sheets for property information
SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 21.83 acres
LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.):
Industrial and Commercial
LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE (attach additional sheets if necessary):  BMU
PRESENT USE OF THE PROPERTY: Hotel and former cement plant
STRUCTURES NOW LOCATED ON THE PROPERTY: Hotel and former cement plant
HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION: Yes

(Impacts to transportation facilities, water and sewer facilities, drainage, recreation facilities, and solid waste must be examined and justified before acceptance by the Florida Department of Economic Opportunity and the City of Palm Bay.)

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

JUSTIFICATION FOR CHANGE (attach additional sheets containing supporting documents and evidence if necessary): The current land uses on the property is split between industrial and commercial uses. This site is located at the far north reaches of the City with commercial and residential use to the north, existing industrial to the west, recently approved Bayfront mixed use property to the south and a developed, tech center to the southeast (industrial/ commercial split land use). The proposed BMU land use allows for commercial uses on the subject property as currently allowed, but also provides a transitional land use between the residential. commercial, and BMU adjacent to the site. The site is large enough to provide significant buffering to the industrial uses and railroad tracks to the west. Granting the FLU change to BMU will provide the framework to develop this highly visible property into a more aesthetically pleasing development with greater potential for increased revenue and tax base for the City of Palm Bay. SPECIFIC USE INTENDED FOR PROPERTY: The intended use for the property is predominantly multifamily residential use as required by City Code, with the remainder of the site developed as potential commercial use as allowed by the City Code. No uses are proposed at this time that would require a conditional use or any of those uses specifically forbidden as listed in the City of Palm Bay Code of Ordnances. THE FOLLOWING PROCEDURES AND ENCLOSURES ARE REQUIRED TO COMPLETE THIS APPLICATION FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP: Χ \*Application Fee. Make check payable to "City of Palm Bay." Small Scale Map \$1,200.00 **Large Scale Map** \$2,000.00 ☐ Text Amendment \$2,000.00 (Less than 10 acres) (10 acres or more) (Comp. Plan) Х Property map showing adjacent properties and clearly outlining the subject parcel (for land use amendment(s)). Χ 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.) Х School Board of Brevard County School Impact Analysis Application (if applicable). Χ Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines. X Where property is not owned by the applicant, a letter must be attached giving the notarized consent of the owner to the applicant to request the comprehensive plan or future land use map amendment.

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

I, THE UNDERSIGNED UNDERSTAND THAT THIS APPLICATION MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE 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, PDECLARE THAT I HAVE READ THE FOREGOING COMPREHENSIVE PLAN OR FUTURE LAND USE MAP AMENDMENT APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.

Signature of Ap	plicant				Date <sub>.</sub>	5.29.19	
Printed Name of	f Applicant	_Jake	Wise, PE- Constructi	on Engineering Grou	p, LLC		-
Full Address	2651 W Eau	ı Gallie	Blvd, Suite A; Melbou	irne, FL 32935			
Telephone	321-610-17	'60	Email	Jwise@cegengi	neering.	com	

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

# **LEGAL DESCRIPTION:**

A PARCEL OF LAND LYING IN GOVERNMENT LOT 1 OF SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY

DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 1 OF SECTION 14, AND RUN S. 00 DEGREES 45'58" W., ALONG THE WEST LINE OF SAID GOVERNMENT LOT 1, A DISTANCE OF 100.00 FEET; THENCE S. 88 DEGREES 24'42" E., PARALLEL WITH AND 100.00 FEET DISTANT SOUTH, BY RIGHT ANGLE MEASUREMENT, FROM THE NORTH LINE OF SAID SECTION 14, A DISTANCE OF 885.35 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1; THENCE S. 14 DEGREES 01'40" E., ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 332.61 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S. 14 DEGREES 01'40" E., ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 205.32 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF ROBERT J. CONLAN BOULEVARD (A 200 FOOT WIDE RIGHT OF WAY); THENCE S. 75 DEGREES 57'10" W., ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 317.20 FEET TO THE POINT OF CURVATURE OF A 2964.79 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE AND RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 06 DEGREES 14'56" A DISTANCE OF 323.35 FEET; THENCE DEPARTING SAID CURVE AND RIGHT OF WAY LINE, RUN N. 25 DEGREES 19'03" W., A DISTANCE OF 261.57 FEET; THENCE N. 76 DEGREES 41'26" E., A DISTANCE OF 666.47 FEET TO THE POINT OF CURVATURE OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE EASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 89 DEGREES 16'54" A DISTANCE OF 38.96 FEET TO THE POINT OF BEGINNING. DISTANCE OF 38.96 FEET TO THE POINT OF BEGINNING.

A PARCEL OF LAND LYING IN GOVERNMENT LOT 1 OF SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 1 OF SECTION 14, AND RUN S. 00 DEGREES 45'58" W., ALONG THE WEST LINE OF SAID GOVERNMENT LOT 1, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID WEST LINE, RUN S. 88 DEGREES 24'42" E., PARALLEL WITH AND 100 FEET DISTANT SOUTH, BY RIGHT ANGLE MEASUREMENT, FROM THE NORTH LINE OF SAID SECTION 14, A DISTANCE OF 885.35 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1: THENCE S. 14 DEGREES 01'40" E., ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 202.60 FEET WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1: THENCE S. 14 DEGREES 01'40" E., ALONG SAID WESTERLY, RIGHT OF WAY LINE, A DISTANCE OF 202.60 FEET TO THE POINT OF CURVATURE OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 90 DEGREES 43'06" A DISTANCE OF 645.53 FEET TO A POINT OF TANGENCY; THENCE S. 76 DEGREES 41'26" W., A DISTANCE OF 645.53 FEET TO THE POINT OF CURVATURE OF A 60.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 83 DEGREES 20'01" A DISTANCE OF 87.27 FEET TO A POINT OF REVERSE CURVATURE OF A 490.00 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 36 DEGREES 40'31" A DISTANCE OF 313.65 FEET TO A POINT OF REVERSE CURVATURE OF A 60.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 57 DEGREES 25'02" A DISTANCE OF 60.13 FEET TO A POINT OF TANGENCY ON THE AFORESAID WEST LINE OF GOVERNMENT LOT 1; THENCE N. 00 DEGREES 45'58" E., ALONG SAID WEST LINE, A DISTANCE OF 69.36 FEET TO THE POINT OF REGINNING. TO THE POINT OF BEGINNING.

TRACT "C"

A PARCEL OF LAND LYING IN GOVERNMENT LOT 1 OF SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY

COMMENCE AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 1 OF SECTION 14, AND RUN S. 00 DEGREES 45'58" W, ALONG THE WEST LINE OF SAID GOVERNMENT LOT 1, A DISTANCE OF 69.36 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S. 00 DEGREES 45'58" W. ALONG SAID WEST LINE, A DISTANCE OF 83.07 FEET TO A POINT ON A 60.00 FOOT RADIUS CURVE TO THE RIGHT HAVING A TANGENT BEARING OF S. 17 DEGREES 53'18" W.; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 16 DEGREES 57'18" A DISTANCE OF 17.76 FEET TO A POINT OF COMPOUND CURVATURE OF A 450.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 33 DEGREES 16'41" DISTANCE OF 261.41 FEET TO A POINT OF TANGENCY; THENCE S. 25 DEGREES 19'03" E., A DISTANCE OF 146.41 FEET; THENCE N. 76 DEGREES 41'26" E., A DISTANCE OF 718.00 FEET TO THE POINT OF CURVATURE OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 89 DEGREES 16'54" A DISTANCE OF 38.96 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1; THENCE N. 14 DEGREES 01'40" W., ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 130.01 FEET TO THE POINT OF CURVATURE OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT HAVING A RADIAL BEARING OF S. 75 DEGREES 58'20" W.; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 90 DEGREES 43'06" A DISTANCE OF 38.58 FEET TO A POINT OF TANGENCY; THENCE S. 76 DEGREES 41'26" W., A DISTANCE OF 645.53 FEET TO THE POINT OF CURVATURE OF A 60.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 83 DEGREES 20'01" A DISTANCE OF 87.27 FEET TO A POINT OF REVERSE CURVATURE OF A 490.00 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 36 DEGREES 40'31" A DISTANCE OF 313.65 FEET TO A POINT OF REVERSE CURVATURE OF A 60.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 57 DEGREES 25'02" A DISTANCE OF 60.13 FEET TO THE POINT OF BEGINNING.

TRACT "D"

A PARCEL OF LAND LYING IN THE NORHWEST 🖟 OF THE NORTHEAST 🇜 OF SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID NORTHWEST 🏻 OF THE NORTHEAST 1/4, AND RUN S. 00 DEGREES 45'48" W., ALONG THE EAST LINE OF SAID NORHWEST \$ OF THE NORTHEAST \$, A DISTANCE OF 252.43 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S. 00 DEGREES 45'48" W., ALONG SAID EAST LINE, A DISTANCE OF 292.20 FEET; THENCE S. 65 DEGREES 26'11" W., A DISTANCE OF 16.59 FEET TO A POINT ON THE WEST LINE OF A 15 FOOT WIDE RIGHT OF WAY RECORDED IN DEED BOX 191, PAGE 315 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S. 00 DEGREES 45'48" W., A DISTANCE OF 27.67 FEET; THENCE N. 89 DEGREES 14'02" W., A DISTANCE OF 104.04 FEET; THENCE N. 34 DEGREES 10'56" W., A DISTANCE OF 47.76 FEET; THENCE N. 36 DEGREES 11'36" W., A DISTANCE OF 117.79 FEET; THENCE N. 88 DEGREES 23'32" W., A DISTANCE OF 112.66 FEET; THENCE N. 00 DEGREES 45'48" E., A DISTANCE OF 32.46 FEET; THENCE N. 88 DEGREES 23'32" W A DISTANCE OF 110.52 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY (A 100 FOOT WIDE RIGHT OF WAY); THENCE S. 24 DEGREES 38'41" E., ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 718.87 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF ROBERT J. CONLAN BOULEVARD (A 200 FOOT WIDE RIGHT OF WAY); THENCE N. 65 DEGREES 23'47" E., ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 371.41 FEET TO THE POINT OF CURVATURE OF A 2964.79 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 04 DEGREES 18'27" A DISTANCE OF 222.90 FEET; THENCE N. 25 DEGREES 19'03" W., A DISTANCE OF 261.57 FEET; THENCE S. 76 DEGREES 41'26" W., A DISTANCE OF 51.53 FEET; THENCE N. 25 DEGREES 19'03" W., A DISTANCE OF 146.41 FEET TO THE POINT OF CURVATURE OF A 450.00 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 33 DEGREES 16'41" A DISTANCE OF 261.41 FEET TO A POINT OF COMPUOUND CURVATURE OF A 60.00 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THRU A CENTRAL ANGLE OF 16 DEGREES 57'18" A DISTANCE OF 17.76 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THAT CERTAIN NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF THE SUBJECT PROPERTY AS DESCRIBED IN OFFICIAL RECORDS BOOK 1434, PAGE 733, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

TOGETHER WITH THAT CERTAIN NON-EXLUSIVE EASEMENT FOR THE BENEFIT OF THE SUBJECT PROPERTY AS DESCRIBED IN OFFICIAL RECORDS BOOK 1921, PAGE 988, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.



Tel. 321,253,1221

COA #0008097

HARBOR POINTE

PALM BAY, FL LOCATION MAP AND LEGAL DESCRIPTION

05/28/2019 COUNTY APPROVED BY **BREVARD JTW** SCALE THIS SHEET FIG. 1 NTS

Re: Letter	of Authorization
As the prope 28-37-14-00-	rty owner of the site legally described as:  10 / 28-37-14-00-22 / 28-37-14-00-1 / 28-37-11-78-C-1 / 28-37-11-78-A-1  Ben en son = MLEF2-1, LLC, hereby authorize to represent my
	Rezoning request(s):
Rep. Name: Address: Telephone: Email:	Jake Wise, PE- Construction Engineering Group, LLC 2651 W Eau Gallie Blvd; Suite A; Melbourne, FL 32935 321-610-1760  Jwise@cegengineering.com
	(Property Owner Signature)
STATE OF COUNTY OF	FLORIDA MIAMI-DADE
May	instrument was acknowledged before me this day of, 20 19 by
(SEAL)	Alexandra Nussenbaum Commission # GG181887 Expires: February 1, 2022 Bonded thru Aaron Notary  Alexandra Nussenbaum Notary Public
Produce	ally Known or ed Identification Identification Produced:

# CASES CP-10-2019 & CPZ-10-2019

# **CORRESPONDENCE: 1**

# NOTICE OF GRIEVANCE

To: City of Palm Bay, Florida

City Clerk's Office

Re: Case Nos. CP-10-2019 & CPZ-10-2019

Applicant/Property Owner: MLEF2-1, LLC/Jake Wise, P.E. (Representing)

I, Cecelia Bonifay, Esq., am filing this notice on behalf of FAR Chemical, Inc., which is located at 2210 Wilhelmina Ct NE, Palm Bay, FL 32905/Tel: (321) 723-6160. FAR Chemical, Inc. is located adjacent to the property described in CPA-10-2019 – a/k/a Harbor Pointe which is a large scale Comprehensive Plan Future Land Use Map amendment from Industrial Use and Commercial Use to Bayfront Mixed Use and CPZ -10 -2019 – a/k/a Harbor Pointe which is a zoning amendment from HC, Highway Commercial District and HI, Heavy Industrial District to a BMU, Bayfront Mixed Use District. FAR Chemical, Inc. is an adversely affected and aggrieved person as the proposed Comprehensive Plan Amendment and the rezoning are not consistent with the City's Comprehensive Plan or Code of Ordinances and the location of multi-family residential and commercial uses will have an adverse impact on the company's operations.

Counsel for FAR Chemical, Inc. is filing this Notice in addition to testimony at the P&Z hearing of July 10, 2019 and the provision of its briefing package to the City Council on August 1, 2019 in opposition to Case Nos. CP-10-2019 & CPZ-10-2019.

Respectfully submitted,

Cecelia Bonifay, Esq.

Florida Bar Number: 0546992

Email: cecelia.bonifay@akerman.com

AKERMAN LLP

420 S. Orange Ave., Ste 1200 Orlando, FL 32802-0231

Phone: (407) 419-8540 Fax: (407) 843-6610



## STAFF REPORT

#### LAND DEVELOPMENT DIVISION

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

### Prepared by

Christopher Balter, Planner II

CASE NUMBER PLANNING & ZONING BOARD HEARING DATE

CPZ-10-2019 September 18, 2019

APPLICANT/PROPERTY OWNER PROPERTY LOCATION/ADDRESS

MLEF2-1, LLC Parcels 28-37-14-00-10, 28-37-14-00-22, 28-37-14-00-1,

28-37-11-78-C-1, 28-37-11-78-A-1

North of and adjacent to Robert J. Conlan Boulevard NE, in

the vicinity east of the Florida East Coast Railroad

**SUMMARY OF REQUEST** The applicant is requesting a rezoning of the subject parcels from HC,

Highway Commercial District and HI, Heavy Industrial District, to the BMU,

Bayfront Mixed Use District.

**Existing Zoning** HC, Highway Commercial; HI, Heavy Industrial

Existing Land Use Commercial Use and Industrial Use
Site Improvements Abandoned Cement Plant and Hotel

Site Acreage 21.83 acres, more or less

SURROUNDING ZONING & USE OF LAND USE

North HC, Highway Commercial and HI, Heavy Industrial; Restaurant, Single-

Family Homes, and Manufacturing Businesses

East HC, Highway Commercial; U.S.1, and the Indian River Lagoon

**South** HC, Highway Commercial and HI, Heavy Industrial; (Across R.J. Conlan)

Raytheon Technologies

West HI, Heavy Industrial; Florida East Coast Railroad

COMPREHENSIVE PLAN

Jake Wise, P.E. (Representing)

COMPATIBILITY

The applicant has applied for an amendment of the City's Comprehensive Plan Future Land Use Map to Bayfront Mixed Use, simultaneously with this

request. If approved the Bayfront Mixed Use zoning designation will be

consistent with the City's Comprehensive Plan.

Case CPZ-10-2019 September 18, 2019

#### ANALYSIS:

The following analysis is per Chapter 185: Zoning Code, Section 185.201(C) which states that all proposed amendments shall be submitted to the Planning and Zoning Board, which shall study such proposals in accordance with items 1 through 4 of Section 185.201(C).

**Item 1** - The need and justification for the change.

The applicant states the justification for change is "to change the zoning district to allow for a true Bayfront development on U.S.1 overlooking the Indian River." The Bayfront Mixed Zoning District will allow for a mix of commercial and multifamily uses. The change in zoning will allow for a transition between the existing single-family homes and the existing businesses and help to revitalize the Bayfront Community Redevelopment District.

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

The designation of BMU zoning district for the subject properties is compatible with the surrounding area, and is consistent with the City's desire and plan for redevelopment in the Riverview District.

**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 24.13 acres of BMU, Bayfront Mixed Use zoned land is within the City limits. Which is the Northshore project currently under construction.

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

The proposed amendment will further the purposes of Chapter 185, the Comprehensive Plan and the Bayfront Community Redevelopment Agency's plan for the Riverview District. The plan is to become a beautiful and multi-functional riverfront boulevard lined with pedestrian/bicycle facilities supported by higher intensity residential and mixed land uses.

#### STAFF RECOMMENDATION:

Case CPZ-10-2019 is recommended for approval subject to the staff comments contained in this report.



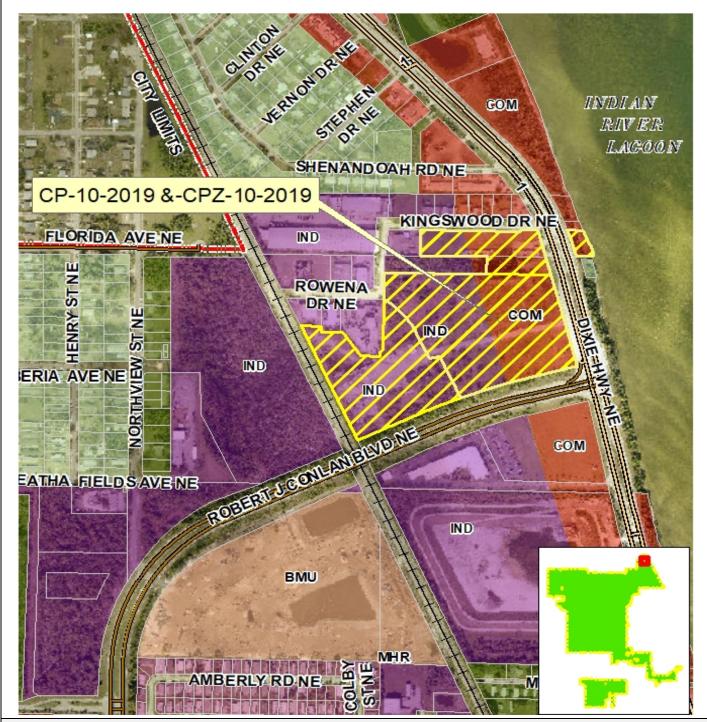
# **AERIAL LOCATION MAP CASE CP-10-2019 & CPZ-10-2019**

## **Subject Property**

Located in the vicinity east of the Florida East Coast Railway, north of Robert J. Conlan Boulevard NE, and south of Kingswood Drive NE







# FUTURE LAND USE MAP CASE CP-10-2019 & CPZ-10-2019

## **Subject Property**

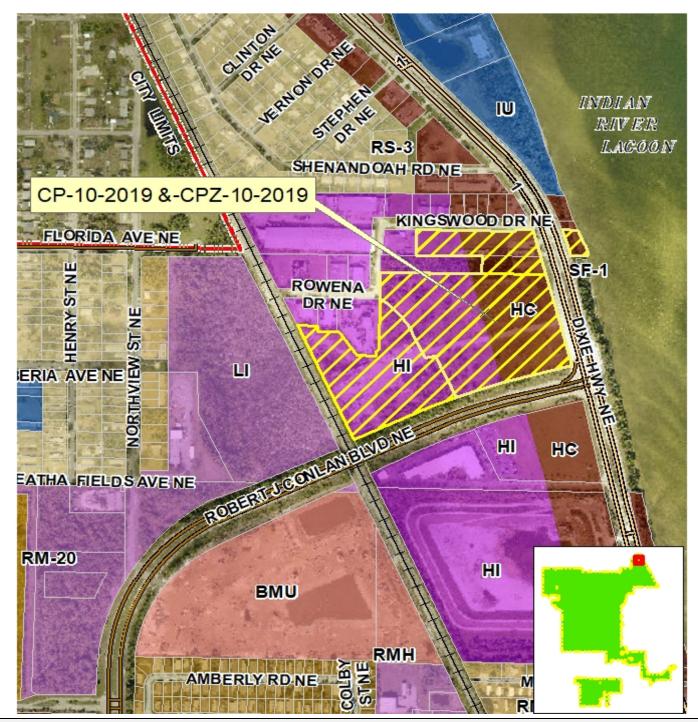
Located in the vicinity east of the Florida East Coast Railway, north of Robert J. Conlan Boulevard NE, and south of Kingswood Drive NE

### **Future Land Use Classification**

IND – Industrial Use and COM – Commercial Use







## **ZONING MAP**

# CASE CP-10-2019 & CPZ-10-2019

## **Subject Property**

Located in the vicinity east of the Florida East Coast Railway, north of Robert J. Conlan Boulevard NE, and south of Kingswood Drive NE

## **Current Zoning Classification**

HC – Highway Commercial District and HI – Heavy Industrial District







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

#### REZONING APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, 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.

28-37-14-00-10 / 28-37-14-00-22 / 28-37-14-00-1 / 28-37-11-78-C-1 / 28-37-11-78-A-1

TAX ACCOUNT NO. 2826097/ 2861830/ 2826089/ 2825825/ 2825813

BMU zoning is the Aqua Apartm ents site which also successfully changed to BMU, and is

currently under construction.

PARCEL ID

GENERAL LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:  Multiple parcels. See additional sheets for property information
SECTION 14, 11 TOWNSHIP 28 RANGE 37
PROPERTY ADDRESS (If assigned): Approx 3370 Dixie Hwy NE + adjoining parcels, Palm Bay, FL 32905
SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 21.83 acres
ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.): HC - Highway Commercial and HI - Heavy Industrial
ZONE CLASSIFICATION DESIRED (ex.: IU, LI, etc.): BMU - BayfrontMixed Use
STRUCTURES NOW LOCATED ON THE PROPERTY: Hotel and former cement plant
REZONING REQUIREMENTS FOR SUBMITTAL PER <u>SECTION 185.201(C)</u> (attach additional sheet if necessary):
THE NEEDAND JUSTFICATION FORTHE CHANGE: We are requesting a zoning changefor the assemblage of the 21.83 acres to BM U-Bayfront Mixed Use to allow a true bayfront development on US 1 overlooking the Indian River to include a multifamily component, as well as the potential to add commercial uses as allowed by CityCode for BMU zoningas well as the current zoningon the site. The proposed BMU zoning also provides a transitional landuse between the residential, commercial, and BMU adjacent to the site. The site is large enough to provide significant buffering to the industrial uses and railroad tracks to the west.
EFFECT OF THE ZONING CHANGE, IF ANY, ON THE PROPOSED PROPERTY AND SURROUNDING PROPERTIES:
The effect of this zoning change is that it will allow the property (abandoned hotel & abandoned former cement plant).  to be revitalized into an aesthetically pleasing development, and benefit the City's plan and the Bayfront Community  Redevelopment Agency's plans of making this the new downtown-stylecorridor of Palm Bay. It will create short-term and  long-term jobs and increase the City's tax base. It will bring market rate units and new residents that will shop and dine in PalmBay
AMOUNT OF UNDEVELOPED LAND WITH THE SAME REQUESTED CLASSIFICATION:
in the general area in the City

#### CITY OF PALM BAY, FLORIDA REZONING APPLICATION PAGE 2 OF 2

EXPLAIN THE RELATIONSHIP OF THE PROPOSED REQUEST WITH THE PURPOSE OF THE CITY PLAN FOR DEVELOPMENT, WITH CONSIDERATION AS TO WHETHER THE CHANGE WILL FURTHER THE PURPOSES OF CHAPTER 185.201(C) AND THE CITY PLAN:

This assemblage of properties falls within the city's BCRA (Bayfront Community Redevelopment Agency) boundaries.  Currently, this area has a lot of industrial buildings, as well as many vacant and undeveloped land or buildings that pose for
dumping, trespassing, and all the harmful things that come with that. At this moment, there is a project called Aqua that also changed their zoning from Heavy/Light Industrial to BMU, and the project is currently under construction. The BCRA and the City of Palm Bay are striving to make the Robert J. Conlan Blvd corridor and Dixie Hwy (US-1) corridor a more developed and active area of the city to generate more modern living options. Our desire would be to bring multifamily as well as the potential for commercial uses to support the City's and the BCRA's vision and desires for this area.
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 can be obtained for a fee from the Brevard County Planning and Zoning Department at 321-633-2060.)
X School Board of Brevard County School Impact Analysis Application (if applicable).
X 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 <u>letter</u> must be attached giving the notarized consent of the owner to the applicant to request the rezoning.
I, THE UNDERSIGNED UNDERSTAND THAT THIS APPLICATION MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY AND CERTIFY THAT ALL THE ANSWERS TO THE QUESTIONS IN SAID APPLICATION, AND ALL DATA AND MATTER ATTACHED TO AND MADE A PART OF SAID APPLICATION ARE HONEST AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.
UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING REZONING APPLICATION AND THAT THE FACTS STATED IN IT ARE TRUE.
Signature of Applicant Date <u>5-29-19</u>
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

# **LEGAL DESCRIPTION:**

A PARCEL OF LAND LYING IN GOVERNMENT LOT 1 OF SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY

DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 1 OF SECTION 14, AND RUN S. 00 DEGREES 45'58" W., ALONG THE WEST LINE OF SAID GOVERNMENT LOT 1, A DISTANCE OF 100.00 FEET; THENCE S. 88 DEGREES 24'42" E., PARALLEL WITH AND 100.00 FEET DISTANT SOUTH, BY RIGHT ANGLE MEASUREMENT, FROM THE NORTH LINE OF SAID SECTION 14, A DISTANCE OF 885.35 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1; THENCE S. 14 DEGREES 01'40" E., ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 332.61 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S. 14 DEGREES 01'40" E., ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 205.32 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF ROBERT J. CONLAN BOULEVARD (A 200 FOOT WIDE RIGHT OF WAY); THENCE S. 75 DEGREES 57'10" W., ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 317.20 FEET TO THE POINT OF CURVATURE OF A 2964.79 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE AND RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 06 DEGREES 14'56" A DISTANCE OF 323.35 FEET; THENCE DEPARTING SAID CURVE AND RIGHT OF WAY LINE, RUN N. 25 DEGREES 19'03" W., A DISTANCE OF 261.57 FEET; THENCE N. 76 DEGREES 41'26" E., A DISTANCE OF 666.47 FEET TO THE POINT OF CURVATURE OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE EASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 89 DEGREES 16'54" A DISTANCE OF 38.96 FEET TO THE POINT OF BEGINNING. DISTANCE OF 38.96 FEET TO THE POINT OF BEGINNING.

A PARCEL OF LAND LYING IN GOVERNMENT LOT 1 OF SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 1 OF SECTION 14, AND RUN S. 00 DEGREES 45'58" W., ALONG THE WEST LINE OF SAID GOVERNMENT LOT 1, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID WEST LINE, RUN S. 88 DEGREES 24'42" E., PARALLEL WITH AND 100 FEET DISTANT SOUTH, BY RIGHT ANGLE MEASUREMENT, FROM THE NORTH LINE OF SAID SECTION 14, A DISTANCE OF 885.35 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1: THENCE S. 14 DEGREES 01'40" E., ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 202.60 FEET WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1: THENCE S. 14 DEGREES 01'40" E., ALONG SAID WESTERLY, RIGHT OF WAY LINE, A DISTANCE OF 202.60 FEET TO THE POINT OF CURVATURE OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 90 DEGREES 43'06" A DISTANCE OF 645.53 FEET TO A POINT OF TANGENCY; THENCE S. 76 DEGREES 41'26" W., A DISTANCE OF 645.53 FEET TO THE POINT OF CURVATURE OF A 60.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 83 DEGREES 20'01" A DISTANCE OF 87.27 FEET TO A POINT OF REVERSE CURVATURE OF A 490.00 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 36 DEGREES 40'31" A DISTANCE OF 313.65 FEET TO A POINT OF REVERSE CURVATURE OF A 60.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 57 DEGREES 25'02" A DISTANCE OF 60.13 FEET TO A POINT OF TANGENCY ON THE AFORESAID WEST LINE OF GOVERNMENT LOT 1; THENCE N. 00 DEGREES 45'58" E., ALONG SAID WEST LINE, A DISTANCE OF 69.36 FEET TO THE POINT OF REGINNING. TO THE POINT OF BEGINNING.

TRACT "C"

A PARCEL OF LAND LYING IN GOVERNMENT LOT 1 OF SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY

COMMENCE AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 1 OF SECTION 14, AND RUN S. 00 DEGREES 45'58" W, ALONG THE WEST LINE OF SAID GOVERNMENT LOT 1, A DISTANCE OF 69.36 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S. 00 DEGREES 45'58" W. ALONG SAID WEST LINE, A DISTANCE OF 83.07 FEET TO A POINT ON A 60.00 FOOT RADIUS CURVE TO THE RIGHT HAVING A TANGENT BEARING OF S. 17 DEGREES 53'18" W.; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 16 DEGREES 57'18" A DISTANCE OF 17.76 FEET TO A POINT OF COMPOUND CURVATURE OF A 450.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 33 DEGREES 16'41" DISTANCE OF 261.41 FEET TO A POINT OF TANGENCY; THENCE S. 25 DEGREES 19'03" E., A DISTANCE OF 146.41 FEET; THENCE N. 76 DEGREES 41'26" E., A DISTANCE OF 718.00 FEET TO THE POINT OF CURVATURE OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 89 DEGREES 16'54" A DISTANCE OF 38.96 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1; THENCE N. 14 DEGREES 01'40" W., ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 130.01 FEET TO THE POINT OF CURVATURE OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT HAVING A RADIAL BEARING OF S. 75 DEGREES 58'20" W.; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 90 DEGREES 43'06" A DISTANCE OF 38.58 FEET TO A POINT OF TANGENCY; THENCE S. 76 DEGREES 41'26" W., A DISTANCE OF 645.53 FEET TO THE POINT OF CURVATURE OF A 60.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 83 DEGREES 20'01" A DISTANCE OF 87.27 FEET TO A POINT OF REVERSE CURVATURE OF A 490.00 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 36 DEGREES 40'31" A DISTANCE OF 313.65 FEET TO A POINT OF REVERSE CURVATURE OF A 60.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 57 DEGREES 25'02" A DISTANCE OF 60.13 FEET TO THE POINT OF BEGINNING.

TRACT "D"

A PARCEL OF LAND LYING IN THE NORHWEST 🖟 OF THE NORTHEAST 🇜 OF SECTION 14, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID NORTHWEST 🏻 OF THE NORTHEAST 1/4, AND RUN S. 00 DEGREES 45'48" W., ALONG THE EAST LINE OF SAID NORHWEST \$ OF THE NORTHEAST \$, A DISTANCE OF 252.43 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S. 00 DEGREES 45'48" W., ALONG SAID EAST LINE, A DISTANCE OF 292.20 FEET; THENCE S. 65 DEGREES 26'11" W., A DISTANCE OF 16.59 FEET TO A POINT ON THE WEST LINE OF A 15 FOOT WIDE RIGHT OF WAY RECORDED IN DEED BOX 191, PAGE 315 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S. 00 DEGREES 45'48" W., A DISTANCE OF 27.67 FEET; THENCE N. 89 DEGREES 14'02" W., A DISTANCE OF 104.04 FEET; THENCE N. 34 DEGREES 10'56" W., A DISTANCE OF 47.76 FEET; THENCE N. 36 DEGREES 11'36" W., A DISTANCE OF 117.79 FEET; THENCE N. 88 DEGREES 23'32" W., A DISTANCE OF 112.66 FEET; THENCE N. 00 DEGREES 45'48" E., A DISTANCE OF 32.46 FEET; THENCE N. 88 DEGREES 23'32" W A DISTANCE OF 110.52 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY (A 100 FOOT WIDE RIGHT OF WAY); THENCE S. 24 DEGREES 38'41" E., ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 718.87 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF ROBERT J. CONLAN BOULEVARD (A 200 FOOT WIDE RIGHT OF WAY); THENCE N. 65 DEGREES 23'47" E., ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 371.41 FEET TO THE POINT OF CURVATURE OF A 2964.79 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 04 DEGREES 18'27" A DISTANCE OF 222.90 FEET; THENCE N. 25 DEGREES 19'03" W., A DISTANCE OF 261.57 FEET; THENCE S. 76 DEGREES 41'26" W., A DISTANCE OF 51.53 FEET; THENCE N. 25 DEGREES 19'03" W., A DISTANCE OF 146.41 FEET TO THE POINT OF CURVATURE OF A 450.00 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 33 DEGREES 16'41" A DISTANCE OF 261.41 FEET TO A POINT OF COMPUOUND CURVATURE OF A 60.00 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THRU A CENTRAL ANGLE OF 16 DEGREES 57'18" A DISTANCE OF 17.76 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THAT CERTAIN NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF THE SUBJECT PROPERTY AS DESCRIBED IN OFFICIAL RECORDS BOOK 1434, PAGE 733, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

TOGETHER WITH THAT CERTAIN NON-EXLUSIVE EASEMENT FOR THE BENEFIT OF THE SUBJECT PROPERTY AS DESCRIBED IN OFFICIAL RECORDS BOOK 1921, PAGE 988, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.



Tel. 321,253,1221

COA #0008097

HARBOR POINTE

PALM BAY, FL LOCATION MAP AND LEGAL DESCRIPTION

05/28/2019 COUNTY APPROVED BY **BREVARD JTW** SCALE THIS SHEET FIG. 1 NTS

Re: Letter	of Authorization
As the prope 28-37-14-00-	rty owner of the site legally described as:  10 / 28-37-14-00-22 / 28-37-14-00-1 / 28-37-11-78-C-1 / 28-37-11-78-A-1  Ben en son = MLEF2-1, LLC, hereby authorize to represent my
	Rezoning request(s):
Rep. Name: Address: Telephone: Email:	Jake Wise, PE- Construction Engineering Group, LLC 2651 W Eau Gallie Blvd; Suite A; Melbourne, FL 32935 321-610-1760  Jwise@cegengineering.com
	(Property Owner Signature)
STATE OF COUNTY OF	FLORIDA MIAMI-DADE
May	instrument was acknowledged before me this day of, 20 19 by
(SEAL)	Alexandra Nussenbaum Commission # GG181887 Expires: February 1, 2022 Bonded thru Aaron Notary  Alexandra Nussenbaum Notary Public
Produce	ally Known or ed Identification Identification Produced:

# CASES CP-10-2019 & CPZ-10-2019

# **CORRESPONDENCE: 1**

## NOTICE OF GRIEVANCE

To: City of Palm Bay, Florida

City Clerk's Office

Re: Case Nos. CP-10-2019 & CPZ-10-2019

Applicant/Property Owner: MLEF2-1, LLC/Jake Wise, P.E. (Representing)

I, Cecelia Bonifay, Esq., am filing this notice on behalf of FAR Chemical, Inc., which is located at 2210 Wilhelmina Ct NE, Palm Bay, FL 32905/Tel: (321) 723-6160. FAR Chemical, Inc. is located adjacent to the property described in CPA-10-2019 – a/k/a Harbor Pointe which is a large scale Comprehensive Plan Future Land Use Map amendment from Industrial Use and Commercial Use to Bayfront Mixed Use and CPZ -10 -2019 – a/k/a Harbor Pointe which is a zoning amendment from HC, Highway Commercial District and HI, Heavy Industrial District to a BMU, Bayfront Mixed Use District. FAR Chemical, Inc. is an adversely affected and aggrieved person as the proposed Comprehensive Plan Amendment and the rezoning are not consistent with the City's Comprehensive Plan or Code of Ordinances and the location of multi-family residential and commercial uses will have an adverse impact on the company's operations.

Counsel for FAR Chemical, Inc. is filing this Notice in addition to testimony at the P&Z hearing of July 10, 2019 and the provision of its briefing package to the City Council on August 1, 2019 in opposition to Case Nos. CP-10-2019 & CPZ-10-2019.

Respectfully submitted,

Cecelia Bonifay, Esq.

Florida Bar Number: 0546992

Email: cecelia.bonifay@akerman.com

AKERMAN LLP

420 S. Orange Ave., Ste 1200 Orlando, FL 32802-0231

Phone: (407) 419-8540 Fax: (407) 843-6610



### **MEMORANDUM**

**TO:** Planning and Zoning Board Members

**FROM:** Patrick J. Murphy, Assistant Growth Management

**DATE:** Director September 18, 2019

**SUBJECT:** Cases CP-9-2019 and PD-15-2019

Cases CP-9-2019 and PD-15-2019 (Cricket Drive Apartments) have been withdrawn by the applicant, Construction Engineering Group, LLC. No board action is required to withdraw the cases.

PJM/cp



## STAFF REPORT

#### LAND DEVELOPMENT DIVISION

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

#### Prepared by

Patrick J. Murphy, Assistant Growth Management Director

CASE NUMBER PLANNING & ZONING BOARD HEARING DATE

CU-20-2019 September 18, 2019

APPLICANT/PROPERTY OWNER PROPERTY LOCATION/ADDRESS

Anna Hutson North of and adjacent to Hield Road NW; approximately 400'

west of Powell Road

**SUMMARY OF REQUEST** Conditional Use approval for retail sales of agricultural products.

**Existing Zoning** RR, Rural Residential

**Existing Land Use** Single Family Residential Use

Site Improvements Single-Family Home
Site Acreage 9.16, more or less

#### SURROUNDING ZONING & USE OF LAND USE

North RR, Rural Residential, Melbourne-Tillman Canal No. 65

EastRR, Rural Residential, Single-Family HomesSouthRR, Rural Residential, Single-Family HomesWestRR, Rural Residential, Single-Family Homes

#### **BACKGROUND:**

The subject property is located north of and adjacent to Hield Road NW, approximately 400' west of Powell Road. Specifically, the property is Lot 3, Block 3, of the Melbourne Poultry Colony Addition No. 1; located in Section 23, Township 28, Range 36, Brevard County, Florida. The total property includes 9.16 acres, more or less.

The property contains an existing, single-family home of approximately 3,670 square feet, and was constructed in 1969. According to the Brevard County Property Appraiser, the property is owned by the Marylou Family Trust. The applicant has provided documentation that she is the rightful trustee and is therefore authorized to submit this application.

The applicant is requesting conditional use approval for retail sales of agricultural products, as required by Section 185.031(D)(2) of the Palm Bay Code of Ordinances. The applicant for this request is Anna Hutson.

#### ANALYSIS:

The applicant proposes to construct a 400 square foot building for the sale of plants that are grown on this property. Included upon the conceptual site plan, in addition to the retail display area, is a wholesale nursery area. It shall be noted that a wholesale plant nursery is a permitted use in the RR zoning district. According to the submitted plan, the existing driveway will be the sole access point from Hield Road, and an internal driveway will loop the nursery areas.

#### **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.

According to the conceptual site plan, the site will be accessed from the existing driveway located at the SE corner of the site, which presently serves as the access point for the residence. The City's Public Works Department has reviewed the request and conceptual plan and recommends that the driveway for this operation be moved further west, to avoid conflicts with the existing driveway of the parcel to the east. The two driveways are approximately 90' apart. The new driveway must meet the commercial driveway standards.

**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.

The City's Land Development Code does not contain minimum parking standard for plant nurseries. "General Retail" uses, however, must provide a minimum of one (1) space for each two hundred (200) square feet of gross floor area. As such, the sales building would require a minimum of two (2) parking spaces, of which at least one of the spaces shall be handicap accessible.

According to the conceptual plan, a total of six (6) spaces are proposed (3 paved and 3 unpaved) adjacent to the sales building. Of the 3 paved spaces, one is proposed to be handicap accessible. A handicapped ramp is provided from the parking area into the sales building and out of the building to the display area.

Five (5) trailer parking spaces are shown adjacent to the wholesale nursery area. These spaces must be relocated, as discussed in Section 3 below.

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

Utilities are not readily available to this property. The nearest connection point to the City's water distribution system is a 6-inch water main on Anlow Road, near the intersection of Hield Road (almost one mile to the east). The nearest connection to the City's sewer collection system is a 12-inch force main at the intersection of Palm Bay Road and Minton Road (1.5 miles to the SE).

Therefore, connection to the City's water and sewer system is not required. At the time of site plan submittal, the applicant shall provide the necessary Health Department permit for on-site sewage collection/treatment (septic).

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

The parcel of land for which this development is proposed is a large lot of more than nine (9) acres. Existing vegetation along the front and west sides of the parcel will be preserved to screen the operation from adjacent property lines. The remainder of the site north of the operation is heavily wooded and no clearing has been proposed. An existing residence (3805 Hield Road NW), is located approximately 250' SE of the proposed plant display areas.

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

No signs are shown on the drawing and a lighting plan was not 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, with the exception of the trailer parking spaces.

**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.

As stated above, the City's Public Works Department has recommended moving the access to the site to avoid any conflicts with the neighboring driveway. In addition, on-site drive paths shall be designed to accommodate two-way traffic. This will be further evaluated during the administrative site plan review process.

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

The proposed retail use is permitted (via conditional use), and the wholesale use is permitted 'by right'. The Planning and Zoning Board (Board) and City Council should evaluate the request to determine if the proposed setbacks and buffering are adequate for compatibility. It shall be noted that the Hield Road area generally consists of large-acreage lots and that the RR zoning district allows for several uses of a non-residential nature.

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

In addition to the items listed above, a proposed project for retail sales of agricultural products must meet the specific criteria of the RR district. The specific criteria are as follows:

**Item (a):** No structure for sale of agricultural products grown on the same lot shall contain a floor area greater than four hundred (400) square feet.

The proposed sales area is indicated on the submitted plan to meet the maximum permitted sales area of 400 square feet.

**Item (b):** The area and structure used for sale of such products shall meet the setbacks established for principal structures.

The minimum setbacks for principal structures in the RR zoning district are 50' from the front property line, 20' from the side property lines, and 30' from the rear property line. The proposed display area of the retail plants is approximately 300' from the front property line, 85' from the closest side property line, and 850 from the rear property line. The structure used to consummate the sale of plants is located 20' north of the display area.

**Item (c):** All parking spaces, loading spaces and drives shall meet the setbacks established for principal uses.

The existing driveway is approximately 25' from the side (east) property line, at its closest point. To meet the minimum 20' side setback, all parking areas shall be located west of this driveway. The trailer parking spaces shown on the conceptual plan must therefore be relocated.

3. It shall be noted that if this request is approved by City Council the applicant is required to submit an engineered site plan for city staff review. All applicable codes must be met prior to issuance of site plan approval and building permits.

#### 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.

## **№§ 185.031 RR — RURAL RESIDENTIAL DISTRICT.**

(A) *Intent.* The provisions of this district are intended to apply to areas uniquely suited for the development and maintenance of rural single-family residential living combined with limited agricultural activities. Large- lot sizes are required to maintain the low-density rural character, prevent unsanitary conditions, and provide sufficient open space to ensure that the various principal uses are kept at a level of compatible land use intensity.

#### (B) Principal uses and structures:

- (1) Single-family dwellings.
- (2) General agricultural activities limited to farming, grove agriculture, plant nursery (wholesale only), tree farming, and flower and shrub gardening.
- (3) Keeping or raising for sale of horses, ponies, and cows; provided, that the total of all such animals shall not exceed one (1) for each one-half ( $\frac{1}{2}$ ) acre of lot area.
  - (4) Public parks, playgrounds and other public recreational facilities.
- (5) Public utility equipment and facilities on a site of one (1) acre or less or within a dedicated utility easement or right-of-way.
  - (6) Keeping or raising for sale of small domestic animals, birds, or fish.
- (7) Keeping or raising for sale of small farm animals, such as goats, chickens, pigs and other small animals typically found on a farm, provided the total of all such animals shall not exceed five (5) for each one half ( $\frac{1}{2}$ ) acre of lot area.
- (8) The acreage used in determining the number of animals that may be kept upon the premises may only be used for one (1) type of animal. For example, an acre of land would allow for two (2) horses, but it would not allow for an additional five (5) goats. The land needed to support one type of animal cannot in turn be counted to permit further animals. This provision is to protect the health of the animal(s) and to ensure the residential character of the neighborhood is maintained.

#### (C) Accessory uses and structures:

(1) Customary accessory uses of a noncommercial nature clearly incidental and subordinate to one (1) or more principal uses.

#### (D) Conditional uses:

- (1) Public or private golf courses.
- (2) Retail sales of agricultural products grown or raised on the same lot, provided the following conditions are met:
- (a) No structure for sale of such products shall contain a floor area greater than four hundred (400) square feet.
- (b) The area and structure used for sale of such products shall meet the setbacks established for principal structures.
- (c) All parking spaces, loading spaces and drives shall meet the setbacks established for principal uses.

- (3) Cemeteries (excluding crematoriums).
- (4) Churches.
- (5) Antennas and transmitters.
- (6) Clubs, lodges and similar activities.
- (7) Public and private schools.
- (8) Stables or horse-riding academy.
- (9) Commercial dog kennels providing the following conditions are met:
  - (a) Principal structure setbacks must be met for all kennel structures and activities.
- (b) All parking spaces, loading spaces and drives shall meet the setbacks established for principal uses.
- (10) Public utility equipment not within a dedicated utility easement or right-of-way and on a site of greater than one (1) acre.
  - (11) Public uses.
  - (12) Wedding venues, subject to the provisions established in § 185.088(J).

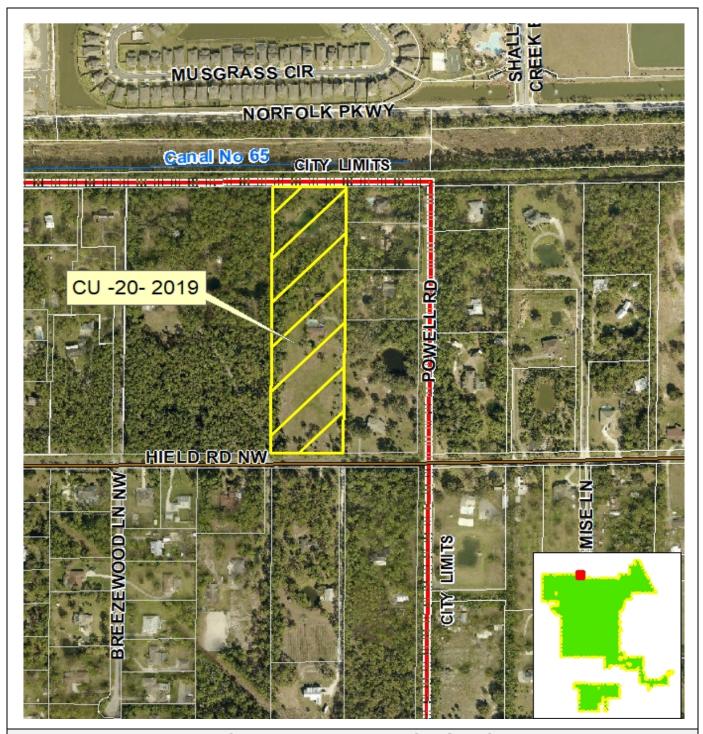
#### (E) Prohibited uses and structures:

- (1) All uses not specifically or provisionally permitted herein.
- (2) Mining.
- (3) Intense agricultural activities such as truck farming, beekeeping, fish hatcheries, poultry farms, pig farms and other agricultural activities not expressly provided for under principal uses.
  - (4) Correctional facilities.

#### (F) Lot and structure requirements:

- (1) Minimum lot area One (1) acre.
- (2) Minimum lot width one hundred and fifty (150) feet.
- (3) Minimum lot depth two hundred (200) feet.
- (4) Maximum building coverage thirty-five percent (35%).
- (5) Minimum living area one thousand two hundred (1,200) square feet.
- (6) Maximum height thirty-five (35) feet.
- (7) Minimum yard requirements:
  - (a) Front fifty (50) feet.
  - (b) Side interior twenty (20) feet.
  - (c) Side corner thirty (30) feet.
  - (d) Rear thirty (30) feet.

('74 Code, § 25-122) (Ord. 89-08, passed 4-27-89; Am. Ord. 94-51, passed 11-16-94; Am. Ord. 95-44, passed 11-2-95; Am. Ord. 2016-17, passed 4-21-16; Am. Ord. 2017-82, passed 11-16-17)



## **AERIAL LOCATION MAP** CASE CU-20-2019

## **Subject Property**

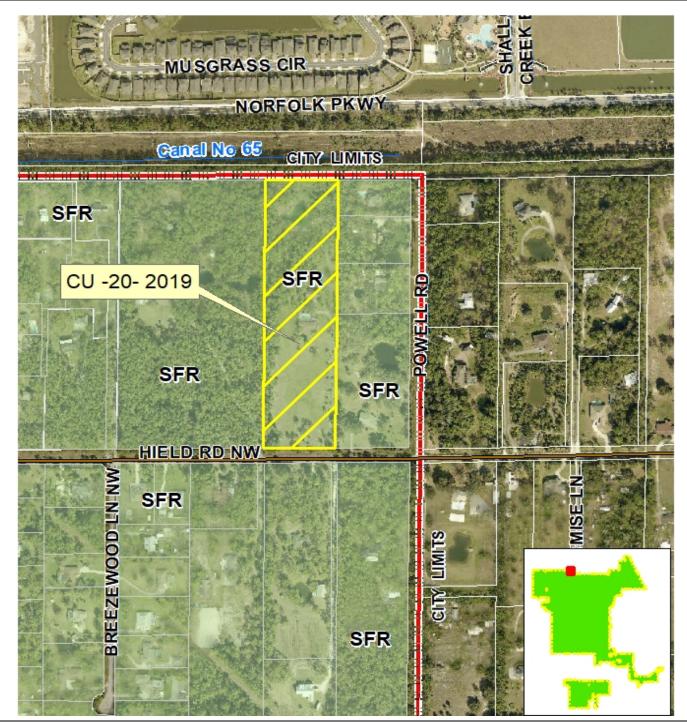
North of and adjacent to Hield Road NW, in the vicinity west of Powell Road, specifically at 3835 Hield Road NW











## **FUTURE LAND USE MAP CASE CU-20-2019**

## **Subject Property**

North of and adjacent to Hield Road NW, in the vicinity west of Powell Road, specifically at 3835 Hield Road NW

## **Future Land Use Classification**

SFR - Single Family Residential Use







## **ZONING MAP CASE CU-20-2019**

## **Subject Property**

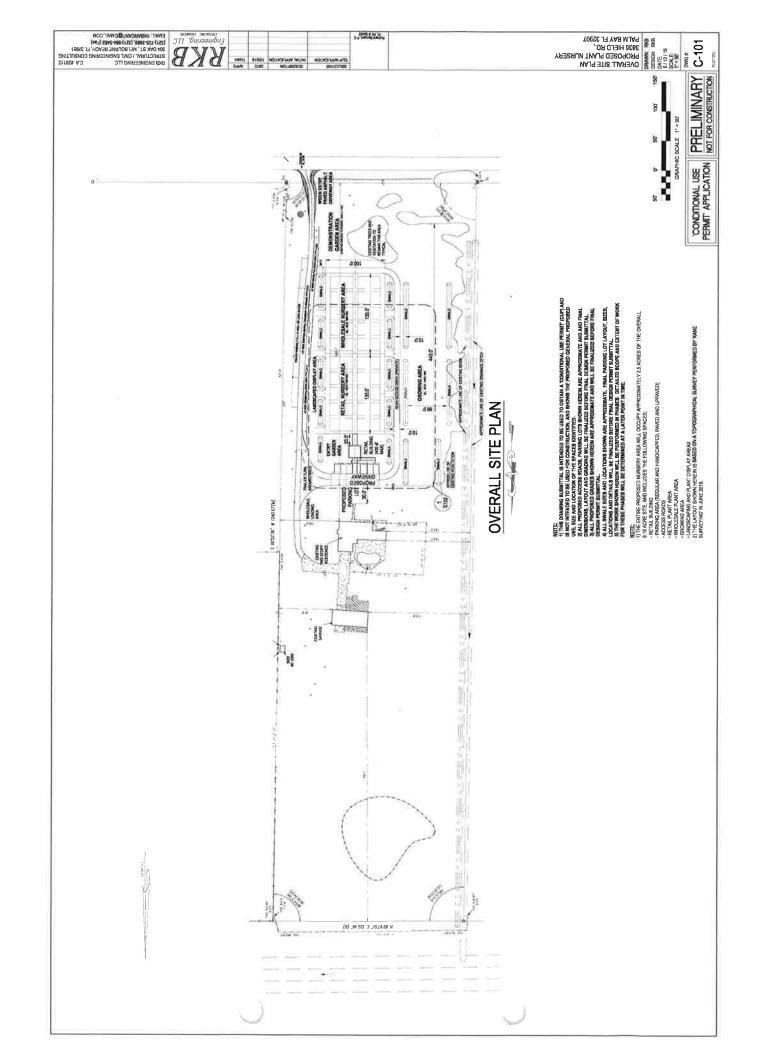
North of and adjacent to Hield Road NW, in the vicinity west of Powell Road, specifically at 3835 Hield Road NW

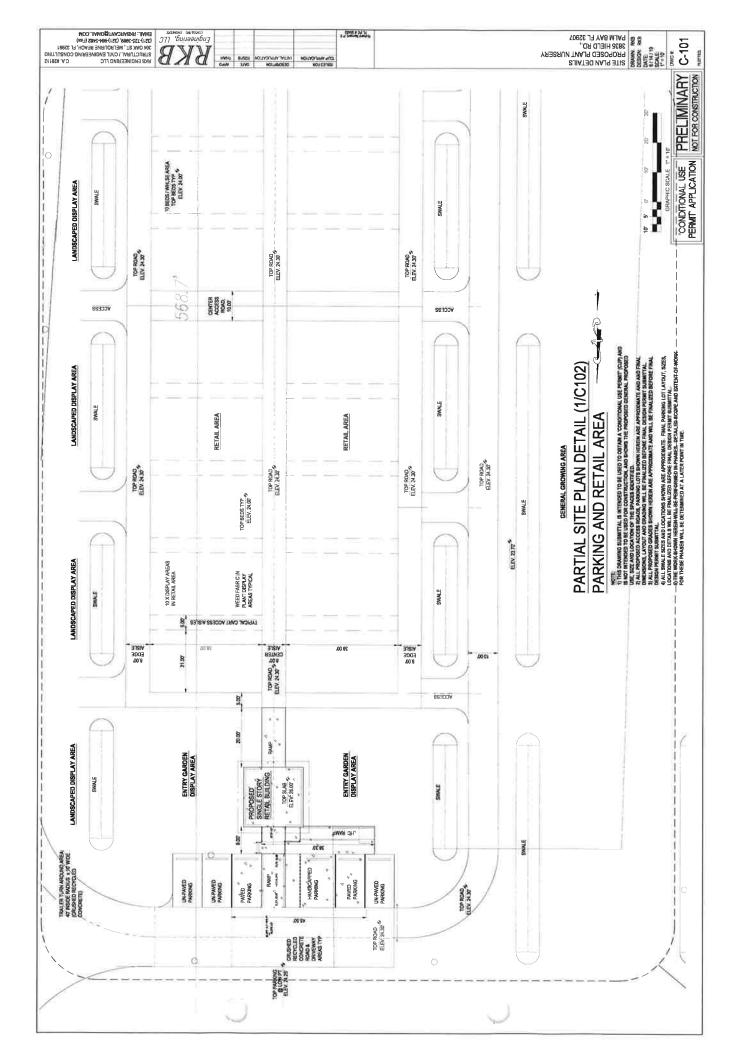
## **Current Zoning Classification**

RR - Rural Residential District











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

#### **CONDITIONAL USE APPLICATION**

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, 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 _ 28-36-23-FA-3-3
TAX ACCOUNT NO
Let 3. Block 3, Melbourne Poultry Colony Addition No. 1, according to the Plat thereof, as recorded in Plat Book 7, Page 12, Public Records of Brevard County
SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 9,16 acres
CONDITIONAL USE SOUGHT: Retail Nursery
ZONE CLASSIFICATION AT PRESENT (ex.: RS-2, CC, etc.): 0110 Single Family Residence - Rural Residente

#### 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 <u>Section 185.085</u>.

APPLICANT MUST PROVIDE A SITE SKETCH TO SCALE OF THE FOLLOWING AND <u>MUST ALSO PROVIDE</u> THE SKETCH ON MEMORY DRIVE:

- (a) Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.
- (b) Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor, or other detrimental effects upon adjoining properties.
- (c) Adequate and properly located utilities that are available or may be reasonably provided to serve the proposed development.
- (d) Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.
- (e) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties.
- (f) Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.
- (g) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation, or type of physical activity.
- (h) 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.

#### CITY OF PALM BAY, FLORIDA CONDITIONAL USE APPLICATION PAGE 2 OF 2



				ALVIE &	
☐ <b>Church</b> (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))	☐ <b>Dance club</b> (Sec. 185.088(H))	Security dwelling unit (Sec. 185.088(I))	☐ Wedding venue (Sec. 185.088(J))	
THE FOLLOWING PRO	OCEDURES AND ENCL	OSURES ARE REQUIR	ED TO COMPLETE TH	IS 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 Sketo	ch (See page 1 for requi	irements).			
Sign(s) posted on the subject property. Refer to Section 51.07(C) of the Legislative Code for guidelines.					
Citizen Participation Plan. Refer to Section 169.005 of the Land Development Code for guidelines.					
Where property is not owned by the applicant, a letter must be attached giving the notarized consent of the owner to the applicant to request the conditional use.					
I, THE UNDERSIGNED UNDERSTAND THAT THIS CONDITIONAL USE 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.					
Signature of Applica	nt Unne	1 Huters	Date	7-16-19	
Printed Name of Applicant Anna Hutson					
Full Address 38	335 Hield Ro	INW PalmB	ay FI 32907		
Telephone <u>321</u>	266 3493	Email <u>Na</u>	tive butterfly Floc	wers@gma:1.com	

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

This document prepared by: Alron Mgmt. Inc, (a wholly owned subsidiary of Alron Enterprises, Inc.) 3990 Minton Road. Melbourne, Florida 32904 (321) 951-7626 Record and Return to: Anna Iacona Hutson, Trustee MARYLOU FAMILY TRUST 3835 Hield Rd. NW Palm Bay, Florida 32907

## MEMORANDUM OF TRUST

THIS Memorandum of Trust, made and entered into this 25th of February, 2019, by **ANNA IACONA HUTSON** as Grantor and Trustee under that certain Trust Agreement dated February 25, 2019, is being recorded to memorialize and place on the public record notice of the existence of said Trust which among its assets includes real property which under the terms of the Trust provided for the present possessory right of possession to:

**Anna Iacona Hutson,** whose post office address is 3835 Hield Rd. NW, Palm Bay Florida 32907 for Homestead Purposes in accordance with appropriate Department of Revenue Rules and is recorded in compliance with appropriate Florida statutes, which may entitle the following described property to Homestead and or other applicable Exemptions status if all other requirements are met.

Lot 3, Block 3, MELBOURNE POULTRY ADDITION NO. 1, as recorded in Plat Book 7, Page 12, Public Records of Brevard County, Florida.

Parcel i.d. Number: 28-36-23-FA-B3-L3

Also Known as 3835 Hield Rd. NW, Palm Bay, Florida 32907

THIS IS THE HOMESTEAD OF ANNA IACONA HUTSON

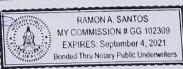
ANNA IACONA HUTSON GRANTOR/TRUSTEE MARYLOU FAMILY TRUST

STATE OF FLORIDA COUNTY OF BREVARD

Sworn to and subscribed before me this 25th day of February, 2019 by Anna Iacona Hutson, personally known to me or who produced identification

Fl. D.L. I 253-640-81-871-0

Signature of Notary Public: \_ e





Butterfly Flowers LLC 3835 Hield Rd. NW Palm Bay Fl. 32907 321-626-7386 nativebutterflyflowers@gmail.com

Dear Hield Rd. neighbors,

We are Anna Hutson and Tim Harrison and we have applied for a Conditional Use Permit (CUP) at 3835 Hield Rd. NW Palm Bay Fl. 32907 to allow the public to come to the property to purchase our Florida native plants. A CUP allows a property owner to put their property to use in a way the ordinance expressly permits. This is not a variance and we are not asking to change any zoning. We have been growing native plants, designing and installing Florida native landscaping for more than four years (<a href="www.nativebutterflyflowers.com/">www.nativebutterflyflowers.com/</a>), but are hoping to expand our operations and create an ecological landscaping showcase site and nursery that the public can visit to obtain hard to find locally sourced Florida Native Plants.

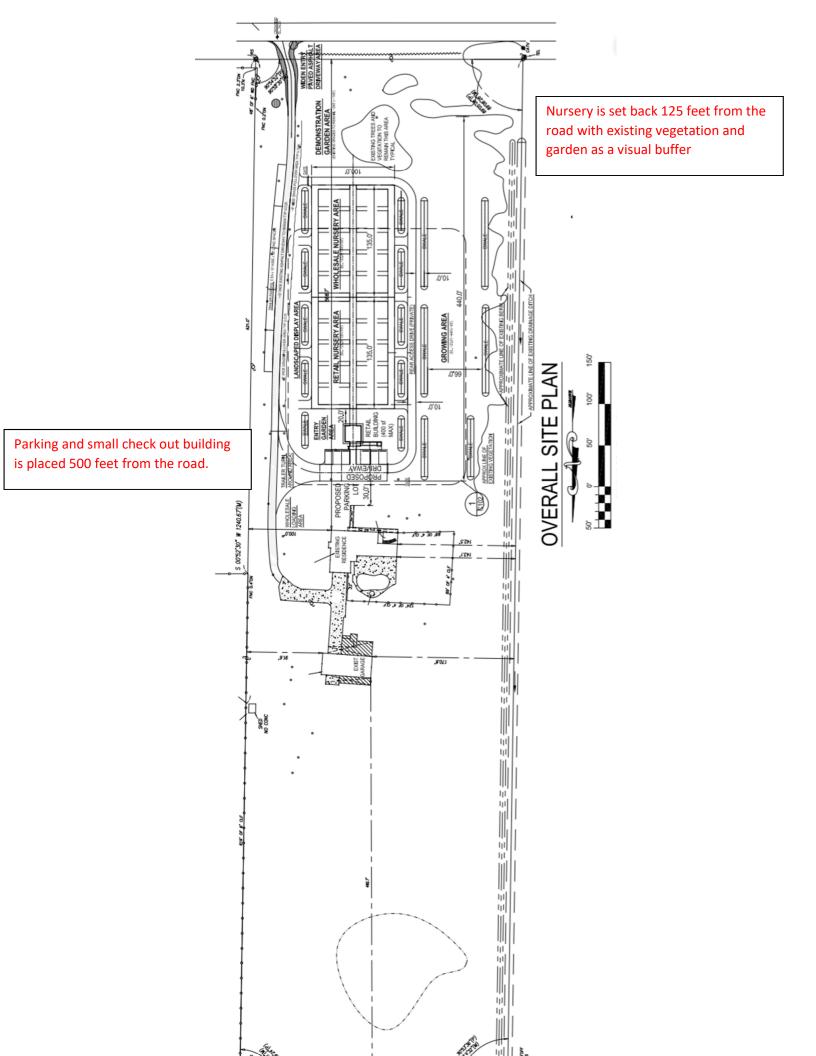
Anna is a life-time resident of Hield Road, and we both treasure the unique character of the neighborhood. You may remember Anna and her siblings riding their ponies and donkey around the neighborhood for the past 30 years. Our goal is to help uphold the unique rural features of our street and build an agriculture-based business that will let us live here for the rest of our lives.

Our vision when applying for this CUP is to develop a demonstration native plant farm and nursery that will be much more inviting and visually appealing than a traditional wholesale nursery. We plan to have a 125 foot buffer of existing vegetation planted with a demonstration garden between the road and the nursery and across the entire frontage of the property (see plan next page) in order to eliminate any view from the road. Our sign will be a farm style sign with no lighting and our parking will be 500 feet from the road in the center of the property so as to completely shield the nursery operations from the road and adjacent properties. Our hours of operation will be within traditional business hours of 9am to 5pm to prevent any excess traffic on the road at peak congestion hours, while children are at bus stops or while residents are exercising before or after work. We will always work to maintain the aesthetics and feel of our Hield Road community.

Our business is growing and selling Florida Native Plants for ecological gardening. We are members of the Florida Association of Native Nurseries, Florida Native Plant Society, Florida Wildflower Foundation and a registered nursery with the Florida Department of Agriculture. Our goal is to support our local community in implementing environmentally sound landscaping practices that reduce chemicals i.e. fertilizers and pesticides, conserve water resources and create habitat for birds, butterflies and bees, and other wildlife.

Our vision for expansion of our nursery on this site includes:

- Provide resources and information for people to have lagoon friendly landscapes.
- Bringing people together to learn about environmentally sound landscaping.
- Filling a community need for native plants in landscaping
- Educating the public on traditional ecological knowledge about plants.
- Perpetuating local heritage and wildlife resources.
- Providing the resources to restore degraded land for people and nature.
- Propagating threatened and endangered species.



# **CASE CU-20-2019**

# **CORRESPONDENCE: 6**

In Favor: 01

In Opposition: 05

#### **Chandra Powell**

From:

Cary Frisenda <cfrisenda@deximaging.com>

Sent:

Monday, August 26, 2019 2:21 PM

To:

Chandra Powell

Subject:

Re: Proposed Nursery on Heild

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Corrected typo. "Mile"

To whom it may concern. We already have two landscape companies tearing up our roads and grossly exceeding the speed limits along with their workers. I have actually clocked them at over 80 mph in a posted 30& 35.

We have no turn lane and backups of almost a mile turning onto Minton today. The road is only a little over 2.5 miles in total. This is going to create an impossible exit for the residents

Cary Frisenda 1602 Willard Rd NW 3216760400

Dex Imaging Regional VP

#### Get Outlook for iOS

From: Cary Frisenda <cfrisenda@deximaging.com>

Sent: Monday, August 26, 2019 2:17:10 PM

To: chandra.powell@pbfl.org <chandra.powell@pbfl.org>

Subject: Fwd: Proposed Nursery on Heild

August 30, 2019 – 1:51 p.m.

Telephone Message:

Re. Case CU-20-2019 – Opposed to the request. The residential road cannot handle retail business. It will add more traffic and it's already hard getting onto Minton Road. There are no sidewalks in the area. The wildlife in the area will be affected.

Marie Haymond 1680 Henley Road NW Palm Bay, FL 32907

ср

H: (321) 727-1712

September 5, 2019 – 2:18 p.m.

Telephone Message:

Re. Case CU-20-2019 — Opposed to the request. There are no retail-owned businesses in the City or County area of Hield Road. Traffic is a concern. Spoke to the County on resurfacing Hield Road—no plans to do so. City portion of road is deteriorating, more traffic means more problems. Sidewalks are a safety concern, especially when people walk at night. This will open Pandora's box to let other retail into the area. The request is not compatible with the area.

Ron Thompson 4095 Hield Road NW Palm Bay, FL 32907

ср

H: (321) 723-1530

September 6, 2019 – 10:05 a.m.

Voice Mail Message:

Re. Case CU-20-2019 – Opposed to the request.

Ron Liakos 1665 Seabury Point Rd NW Palm Bay, FL 32907

ср

H: (321) 536-6132

September 6, 2019 - 1:13 p.m.

Telephone Message:

 $\underline{\text{Re. Case CU-20-2019}}$  — Opposed to the request. Don't want retail business in the residential area. Road has potholes and is not built for heavy traffic. Lots of kids in the area, so don't want retail kind of traffic.

Stephan Gray 3998 Hield Road NW Palm Bay, FL 32907

ср

H: (321) 917-2743

September 9, 2019 – 2:39 p.m.

Telephone Message:

Re. Case CU-20-2019 – In favor of the request. After speaking with the applicant, their business plan looks good and the request won't interfere with neighbors, so void August 26, 2019 message.

Robert Deacon 1525 Masters Road NW Palm Bay, FL 32907

ср

August 26, 2019 – 12:34 p.m.

Telephone Message:



**Re. Case CU-20-2019** – Opposed to the request. Hield Road is too narrow, especially at the Brevard County section, and unable to ride a bicycle down the narrow road.

Robert Deacon 1525 Masters Road NW Palm Bay, FL 32907

ср

H: 321-419-6314



## STAFF REPORT

#### LAND DEVELOPMENT DIVISION

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

#### Prepared by

Christopher Balter, Planner II

PLANNING & ZONING BOARD HEARING DATE CASE NUMBER

CP-12-2019 September 18, 2019

PROPERTY LOCATION/ADDRESS APPLICANT/PROPERTY OWNER

City of Palm Bay Tract G, Port Malabar Unit 13 (Located north of and adjacent

to Australian Road NW, in the vicinity east of Nackman Road

NW)

SUMMARY OF REQUEST The applicant is requesting a small-scale Comprehensive Plan Future Land

Use (FLU) Map amendment to change 3.19 acres from Recreation and Open

Space Use to Single Family Residential Use.

**Existing Zoning** RS-2, Single-Family Residential

**Existing Land Use** Recreation and Open Space Use

**Site Improvements** Vacant Land

**Site Acreage** 3.19 acres, more or less

#### SURROUNDING ZONING & USE OF LAND USE

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

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

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

COMPREHENSIVE PLAN

**COMPATIBILITY** 

South

The information contained in this report should provide the Planning and Zoning Board and City Council with information to determine the need and justification for the change, the effect of the change on the subject and

surrounding properties, and the relationship of the proposed amendment to

furthering the purposes of the Comprehensive Plan.

Case CP-12-2019 September 18, 2019

#### 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 general welfare of the community.

#### FUTURE LAND USE ELEMENT

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

#### 2. FUTURE LAND USE ELEMENT

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

The Single Family Residential (SFR) Use FLU category allows for a maximum residential density of 5 units per acre, with a range of 0-5 units per acre. Typical uses permitted include single-family homes, recreational uses, and institutional uses such as schools, churches and utilities.

The subject property is bordered by single-family residential land uses on all sides. The applicant intends to construct seven (7) single-family homes, for a density of 2.19 units per acre. The applicant at the time of development must follow the City's subdivision ordinance.

#### COASTAL MANAGEMENT ELEMENT

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

#### 4. CONSERVATION ELEMENT

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

**Recreation:** Single-Family Residential Use does have more of a demand upon the parks & recreation level of service (LOS) standards than Recreation and Open Space Use. However, the number of homes 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 exceeds this requirement.

Case CP-12-2019 September 18, 2019

#### HOUSING ELEMENT

The proposed FLU amendment does not adversely impact the supply and variety of safe, decent, attractive and affordable housing within the City. The amendment will allow the site to be used for additional housing.

#### 6. INFRASTRUCTURE/CAPITAL IMPROVEMENTS ELEMENTS

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

**Utilities:** The FLU change will not cause LOS to fall below the standards adopted in the Comprehensive Plan for these services for the current planning period. Public water and sewerage facilities are available to the site. If developed, the owner/developer will be responsible for extending service to the site in accordance with current City regulations.

**Drainage:** The property contains no active drainage facilities, as it is undeveloped. The applicant proposes to construct seven single-family homes. The stormwater design, and its outfall/connection will be evaluated at the time of building permit submittal.

#### 7. INTERGOVERNMENTAL COORDINATION ELEMENT

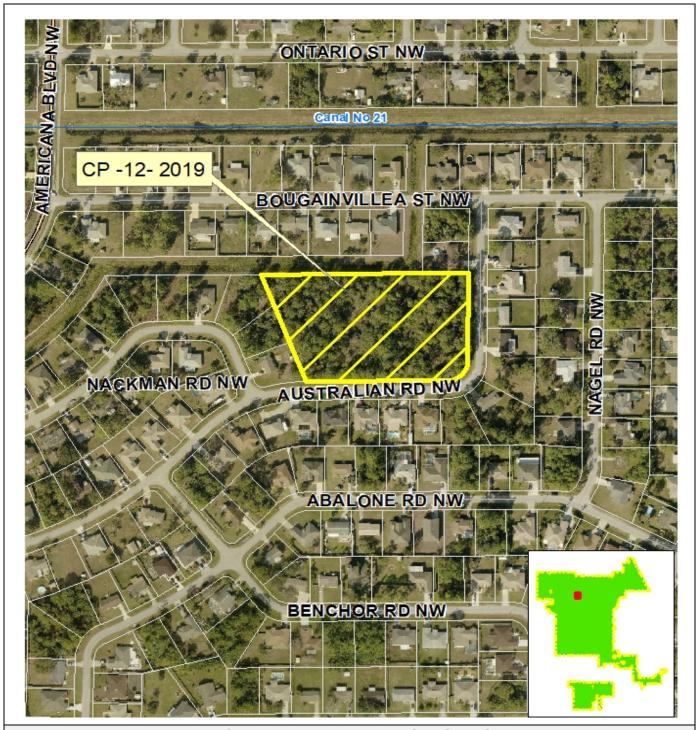
**Public Schools:** The proposed FLU amendment is requested to allow the site to be used for 7 single-family homes. The property use will have minor impacts to the public-school system. A concurrency determination with be required during the administrative minor subdivision process.

#### 8. TRANSPORTATION ELEMENT

The objectives of the Transportation Element are to provide a safe, balanced, efficient transportation system that maintains roadway LOS and adequately serves the needs of the community. The proposed development of the property will not create a burden on the transportation network, even at a maximum build-out scenario. However, should an applicant submit subdivision plans to increase development of the site, a further review of the potential traffic impact will be conducted

#### STAFF RECOMMENDATION:

Motion to approve Case CP-12-2019, pursuant to Chapter 163, Florida Statutes.



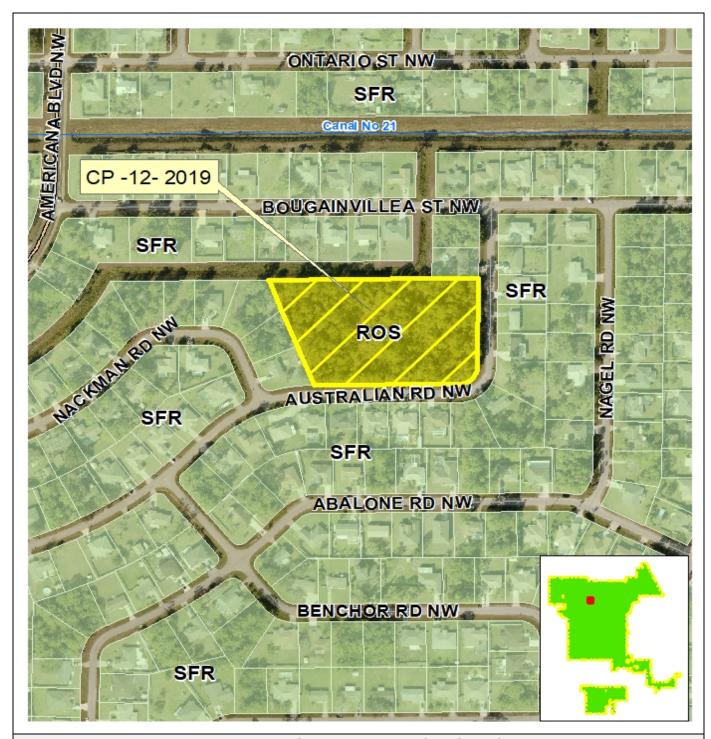
## **AERIAL LOCATION MAP** CASE CP-12-2019

## **Subject Property**

North of and adjacent to Australian Road NW, in the vicinity east of Nackman Road NW







## **FUTURE LAND USE MAP CASE CP-12-2019**

## **Subject Property**

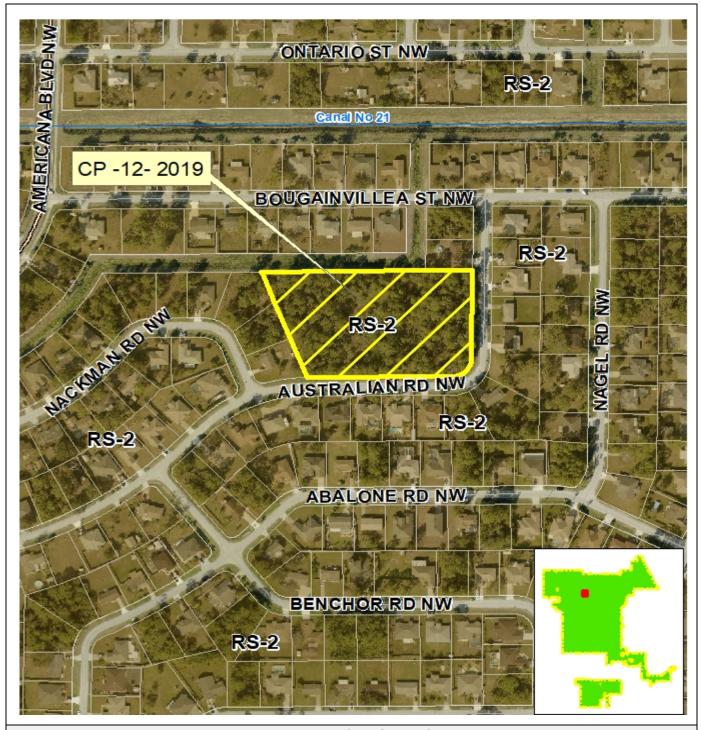
North of and adjacent to Australian Road NW, in the vicinity east of Nackman Road NW





#### **Future Land Use Classification**

ROS - Recreation and Open Space Use



## **ZONING MAP CASE CP-12-2019**

## **Subject Property**

North of and adjacent to Australian Road NW, in the vicinity east of Nackman Road NW





## **Current Zoning Classification**

RS - 2 Single Family Residential District



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

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

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, 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 AMENDMENT TYPE:
PARCEL ID 28-36-36-EX-G
TAX ACCOUNT NO. 2815426
GENERAL LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:  Plat Book/Page: 0015/0054 Subdivision Name: Port Malabar Unit 13 Land Description: Port Malabar Unit 13 Tract G
SECTION 36 TOWNSHIP 28 RANGE 36
SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): 3.19 ACRES
LAND USE CLASSIFICATION AT PRESENT OR PLAN SECTION AFFECTED (ex.: Commercial, Single Family, Policy CIE-1.1B, etc.):  ROS
LAND USE CLASSIFICATION DESIRED OR PROPOSED TEXT CHANGE (attach additional sheets if necessary):  RS-2 Single Family
PRESENT USE OF THE PROPERTY: VACANT LAND - NO CURRENT USE
STRUCTURES NOW LOCATED ON THE PROPERTY: NONE
HAS A REZONING APPLICATION BEEN FILED IN CONJUNCTION WITH THIS APPLICATION:

(Impacts to transportation facilities, water and sewer facilities, drainage, recreation facilities, and solid waste must be examined and justified before acceptance by the Florida Department of Economic Opportunity and the City of

Palm Bay.)

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

	ATION FOR CHANGE (attach additional sheets containing supporting documents and evidence if necessary):  Y CONSIDERED SURPLUS - UNDER CONTRACT FOR SALE
PROPERI	Y CONSIDERED SURPLUS - UNDER CONTRACT FOR SALE
SPECIF	IC USE INTENDED FOR PROPERTY:
BUYER	INTENDS TO BUILD A TOTAL OF 7 HOMES ON THE APPROXIMATE 3,19 ACRES
	LOWING PROCEDURES AND ENCLOSURES ARE REQUIRED TO COMPLETE THIS APPLICATION FOR NDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP:
	_*Application Fee. Make check payable to "City of Palm Bay."
	☐ Small Scale Map \$1,200.00 ☐ Large Scale Map \$2,000.00 ☐ Text Amendment \$2,000.00 ☐ (10 acres or more) ☐ (Comp. Plan)
	Property map showing adjacent properties and clearly outlining the subject parcel (for land use amendment(s)).
	List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This can 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 guidelines.
	Where property is not owned by the applicant, a <u>letter</u> must be attached giving the notarized consent of the owner to the applicant to request the comprehensive plan or future land use map amendment.

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

I, THE UNDERSIGNED UNDERSTAND THAT THIS APPLICATION MUST BE COMPLETE AND ACCURATE BEFORE CONSIDERATION BY THE 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.

Signature of Applicant  Printed Name of Applicant		Andy Anderson		97 Form Billionan (Brown Co. St. Stage States)	Date	7/17/2019
		Andy A. Anderson				
Full Address 120 Malabar Rd. NE, Palm Bay, FL 32907						
Telephone	321-952-3411		Email	andy.anderson@pbfl.	org	

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

# **CASE CP-12-2019**

# **CORRESPONDENCE: 1**

8-19-2019 Level M bluta KOWALD Biberstine 462 AUSTRALIAN Rd NW PALM BAY, FL 32907 845-641-7285 Home OWNER Accoss FROM A NOT IN FAVOR

WHEN I Purchased Proporty I WAS TOLD IT Could Never Be Built Om Rushus IT was Owend By The City.



## **STAFF REPORT**

#### LAND DEVELOPMENT DIVISION

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

#### Prepared by

Patrick J. Murphy, Assistant Growth Management Director

CASE NUMBER

**PLANNING & ZONING BOARD HEARING DATE** 

T-21-2019

September 18, 2019

APPLICANT/PROPERTY OWNER

PROPERTY LOCATION/ADDRESS

City of Palm Bay, Growth Management Not Applicable

Department

**SUMMARY OF REQUEST** Remove the ability to collect Fire Protection and Alarm System Permit Fees

from Section 33.27 and place them in Section 170.160, to be collected by

the Building Division.

**Existing Zoning** 

Not Applicable

**Existing Land Use** 

Not Applicable

**Site Improvements** 

Not Applicable

Site Acreage

Not Applicable

**APPLICABILITY** 

City Wide

**COMPREHENSIVE PLAN** 

COMPATIBILITY

Not Specifically Addressed

T-21-2019 September 18, 2019

#### **BACKGROUND:**

A textual amendment to the Code of Ordinances, Title III, Administration, Chapter 33: Fire Department, Section 33.27; and to Title XVII, Land Development Code, Chapter 170: Construction Codes and Regulations, Section 170.160, to move the codified ability to collect Fire Protection and Alarm System Permit Fees from Section 33.27 to Section 170.160.

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

Proposed language for this amendment in legislative style with <u>additions</u> underlined in blue and <del>deletions</del> in red strikethrough format, is attached.

#### ANALYSIS:

The purpose of Chapter 33 is to regulate and improve public safety by promoting the control of fire hazards; regulate the installation, use, and maintenance of equipment, the use of structures, premises, and open areas; provide for the abatement of fire hazards; establish the responsibilities and procedures for code enforcement; and set forth the standards for compliance and achievement of these objectives.

One such objective is to establish fees that ensure the necessary resources are available to perform these initiatives. Section 33.27 establishes the ability to collect permit fees for review and inspection of fire protection and alarm system installations, and to charge a fee for when work is commenced prior to issuance of a permit that is required by the Fire Prevention Code.

The function of review and inspection of fire protection and alarm systems has, historically, been performed by operational staff of the Palm Bay Fire Department. Annual inspections continue to be performed by the Fire Department however, the review and initial inspection of fire alarm systems have been completed by the Building Division staff since January of 2018.

Therefore, it is prudent to have these fees transferred from the Fire Department Code Section(s) to the applicable Building Division code section. This will enable the fees collected by Building Division staff to remain in the Building Fund (an Enterprise Fund), which is separate from the General Fund utilized by the Fire Department.

#### STAFF RECOMMENDATION:

Case T-21-2019 is recommend for approval.

#### Existing Text to be stricken from Sec. 33.27:

#### § 33.27 FIRE PROTECTION AND ALARM SYSTEM PERMIT AND INSPECTION FEES.

Permit fees shall be paid when the application is submitted. Fees for permits and inspections for fire protection and alarm system installations shall be established by resolution.

- (A) Fire protection systems. Work commenced before acquiring permit. Where work for which a permit is required by the fire prevention code or building code is started or proceeded with prior to obtaining the permit, the fees specified within the resolution establishing fees shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of all applicable code and ordinance regulations of the city in the execution of the work nor from any other penalties prescribed herein.
- (B) Fire alarm systems. Work commenced before acquiring permit. Where work for which a permit is required by the fire prevention code or building code is started or proceeded with prior to obtaining the permit, the fees specified within the resolution establishing the fees shall be doubled; but the payment of such double fee shall not relieve any persons from fully complying with the requirements of applicable code and ordinance regulations of the city in the execution of the work nor from any other penalties prescribed herein.

('74 Code, §8-59) (Ord. 93-08, passed 3-4-93; Am. Ord. 99-04, passed 2-18-99; Am. Ord. 2002-36, passed 5-16-02; Am. Ord. 2004-26, passed 5-20-04; Am. Ord. 2007-62, passed 9-6-07) Penalty, see § 10.99

New Text to be added as Sec. 170.160:

#### § 170.160 FIRE PROTECTION AND ALARM SYSTEM PERMIT AND INSPECTION FEES.

Permit fees shall be paid when the application is submitted. Fees for permits and inspections for fire protection and alarm system installations shall be established by resolution.

- (A) Fire protection systems. Work commenced before acquiring permit. Where work for which a permit is required by the fire prevention code or building code is started or proceeded with prior to obtaining the permit, the fees specified within the resolution establishing fees shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of all applicable code and ordinance regulations of the city in the execution of the work nor from any other penalties prescribed herein.
- (B) <u>Fire alarm systems</u>. Work commenced before acquiring permit. Where work for which a permit is required by the fire prevention code or building code is started or proceeded with prior to obtaining the permit, the fees specified within the resolution establishing the fees shall be doubled; but the payment of such double fee shall not relieve any persons from fully complying with the requirements of applicable code and ordinance regulations of the city in the execution of the work nor from any other penalties prescribed herein.

('74 Code, §8-59) (Ord. 93-08, passed 3-4-93; Am. Ord. 99-04, passed 2-18-99; Am. Ord. 2002-36, passed 5-16-02; Am. Ord. 2004-26, passed 5-20-04; Am. Ord. 2007-62, passed 9-6-07) Penalty, see § 10.99



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

#### CODE TEXTUAL AMENDMENT APPLICATION

This application must be completed, legible, and returned, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, 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.

ORDINANCE SECTION(S) PROPOSED TO BE CHANGED: Section 33.27 "FIRE PROTECTION AND ALARM SYSTEM PERMIT AND INSPECTION FEES" to be moved in its entirety to a new Section 170.160 "FIRE PROTECTION AND ALARM SYSTEM PERMIT AND INSPECTION FEES" PROPOSED LANGUAGE (attach addendum if necessary): See Attached JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary): This function is now performed solely by the Building Division of the Growth Management Department and the fees are collected by and go to Building. A corresponding change in the fee schedule to move these fees from Fire Department to Growth Management Building Division will also be submitted. THE APPLICATON FEE MUST BE SUBMITTED WITH APPLICATION TO PROCESS THIS REQUEST:

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

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

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

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

Signature of A	Applicant	hura Prube	1	Date	August 1, 2019
Printed Name	of Applicant	Laurence Bradley, Growth	/lanagemen	t Director	
Full Address	Palm Bay City I	Hall - Growth Management De	epartment	120 Malabar Road S	E Palm Bay, FL 32907
Telephone	321-733-3042 Email Laurence.Bradley@PalmBayFlorida.org				ida.org
PERSON TO E	BE NOTIFIED (I	f different from above	):		
Printed Name					
Full Address					
Telephone		Email			

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