



AGENDA

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Special Meeting 2020-06
May 20, 2020 – 7:00 P.M.
City Hall Council Chambers

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ADOPTION OF MINUTES:

1. Regular Meeting 2020-03; March 4, 2020

ANNOUNCEMENTS:

NEW BUSINESS:

1. CP-5-2020 – BRANDON AND CARISSA STRANZ

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

Tract B, Port Malabar Unit 23, Section 33, Township 29, Range 37, Brevard County, Florida, containing 5.5 acres, more or less. (Located south of and adjacent to Torgerson Road SE, in the vicinity west of Torgerson Road SE)

2. CP-6-2020 – MASONE PROPERTIES AND DEVELOPMENT (TONY MASONE, REP.)

(CONTINUED)

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

Lots 6 and 7, Block 277, Port Malabar Unit 8, Section 32, Township 28, Range 37, Brevard County, Florida, containing .54 acres, more or less. (Located west of and adjacent to Goldcoast Road NE, in the vicinity north of Malabar Road NE, specifically at 114 and 108 Goldcoast Road NE)

**3. ♣CPZ-6-2020 – MASONE PROPERTIES AND DEVELOPMENT
(TONY MASONE, REP.)**

(CONTINUED)

A zoning amendment from an RS-2, Single Family Residential District to an RC, Restricted Commercial District.

Lots 6 and 7, Block 277, Port Malabar Unit 8, Section 32, Township 28, Range 37, Brevard County, Florida, containing .54 acres, more or less. (Located west of and adjacent to Goldcoast Road NE, in the vicinity north of Malabar Road NE, specifically at 114 and 108 Goldcoast Road NE)

4. ♣V-9-2020 – THOMAS GEORGE MARSHALL

A variance to allow a proposed detached workshop relief from the requirement that no accessory structure shall exceed the size of the principal structure's living area, as established by Section 185.118(C) of the Palm Bay Code of Ordinances.

Lot 26, Block 588, Port Malabar Unit 14, Section 35, Township 28, Range 36, Brevard County, Florida, containing .24 acres, more or less. (Located west of and adjacent to Jupiter Boulevard NW, in the vicinity south of Altamira Street NW)

**5. ♣FD-10-2020 – CHAPARRAL SUBDIVISION PHASE II (JAKE WISE, PE, REP.)
*(REQUEST TO CONTINUE)***

A Final Development Plan for a PUD, Planned Unit Development to allow a proposed 192-lot, single-family residential development called Chaparral Phase II.

Part of Tax Parcel 1, Section 4, Township 29, Range 36, Brevard County, Florida, containing 82.14 acres, more or less. (Located south of Malabar Road SW and west of Brentwood Lakes Subdivision)

6. ♣V-11-2020 – STEAMBOAT LANDING, LLC (CURTIS J. MCKINNEY, REP.)

A variance to allow a proposed sign to locate offsite in a BMUV, Bayfront Mixed Use Village District, as established by Section 185.053(f)(12) of the Palm Bay Code of Ordinances.

Lot 29, Block 2, Plat of Tillman, Section 24, Township 28, Range 37, Brevard County, Florida, containing .60 acres, more or less. (Located at the southeast corner of Dixie Highway NE and Kirkland Road NE, specifically at 4001 Dixie Highway, NE)

7. T-7-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A textual amendment to the Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 70: General Provisions, Section 70.04; Title IX, General Regulations, Chapter 93: Real Property Nuisances, Section 93.044; Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.006 and Section 185.123. The purpose of this amendment is to update provisions for the parking of vehicles in residential areas and to revise definitions within the applicable sections of the referenced codes.

8. T-8-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.136, 185.137, and 185.138. The purpose of this amendment is to exempt multi-family development of less than 5 units from the additional zoning provisions currently provided in the applicable districts.

OTHER BUSINESS:

ADJOURNMENT:

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

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

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

♣ Quasi-Judicial Proceeding.

CITY OF PALM BAY, FLORIDA

**PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2020-03**

Held on Wednesday, March 4, 2020, in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida.

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

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

Mr. Richard Hill led the Pledge of Allegiance to the Flag.

ROLL CALL:

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

Mr. Felix's absence was excused.

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. Regular Planning and Zoning Board/Local Planning Agency Meeting 2020-02; February 5, 2020. Motion by Ms. Maragh, seconded by Ms. Jordan 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.

NEW BUSINESS:

**1. ♠V-6-2020 – PALM BAY PARTNERS HOLDING, LLC (JAKE WISE, PE, REP.)
(WITHDRAWN)**

Mr. Weinberg announced that Case V-6-2020 was withdrawn by the applicant. No board action was required.

2. ♠PS-1-2020 – PALM BAY GREENS, LLC (JACK SPIRA, REP.)

Mr. Murphy presented the staff report for Case PS-1-2020. The applicant had requested Preliminary Subdivision Plan approval of a proposed 68-lot, single-family subdivision called Country Club Lakes Estates Phase 4. Staff recommended Case PS-1-2020 for approval, subject to the conditions listed in the staff report.

Ms. Maragh noted that the required tree survey was not included in the staff report's itemized conditions. Mr. Murphy stated that the tree survey would be added for clarification.

Mr. Warner asked if the requirement to accommodate and design the historical drainage outside the subject property should also be included as an itemized condition. Mr. Murphy explained that the requirement was a condition of Phase 4 and consistent with the previous development phases. He stated that the condition would have to be accommodated in the stormwater system.

Mr. Jack Spira (representative for the applicant) commented on his involvement with Phases 1 and 2 of the subdivision. The former golf course had become an attractive residential development, and staff was satisfied with the amount of specimen trees preserved at the entrance. A benefit of an infill development was that services were already present. He noted that the proposal for two units per acre was less than the five units allowed by code. He agreed to all staff requirements and conditions.

The floor was opened for public comments.

Mr. Sam Tully (resident at Meadowbrook Road NE) spoke against the request. Drainage was a continual issue. Fill was added to elevate homes in earlier phases, so he was concerned that he and his neighbors would be downstream from elevated homes in Phase 4.

Mr. Russell Wood (resident at Waialae Circle NE and president of the volunteer homeowner's association) spoke against the request. He was concerned about the maintenance of Port Malabar Boulevard NE, Meadowbrook Road NE, and Pebble Beach Avenue NE. The roads had all been repeatedly patched and still struggled to support traffic. The roads would be impacted by the 400 vehicles the overall subdivision would likely generate. He suggested a moratorium on Phase 4 until the roads could be resurfaced. He asked that two-story homes be prohibited from abutting the back of his property and the adjacent neighboring lots.

Mr. Larry Hyland (resident at Seymour Road NE) spoke against the request. He wanted a fence erected to buffer his property from the nuisance of headlights spilling into his home because of the cul-de-sac proposed behind his lot.

In response to comments from the audience, Mr. Spira explained that the subject site was obligated to continue to receive stormwater from Riviera Drive NE for Country Club Drive NE, and the required drainage plan would have to be approved by the City and the St. Johns River Water Management District. The project would improve area drainage. He stated that a traffic study was required for the subdivision; however, traffic would not go through Meadowbrook Road or Pebble Beach Avenue. The access would be from Riviera Drive NE and Country Club Drive NE. He confirmed that during the Citizen Participation Plan (CPP) meeting, he had recommitted to single-story homes adjacent to the existing residences, and that a fence would be erected so that the existing home that would abut the cul-de-sac would not be impacted by vehicle headlights.

Ms. Maragh inquired whether there were any other residents with issues. Mr. Spira specified no other issues from area residents.

Mr. Warner asked if the requested fence would be restricted to the cul-de-sac property. Mr. Spira clarified that only the existing home that would abut the cul-de-sac would be buffered with fencing.

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

Motion by Ms. Jordan, seconded by Mr. Boerema to submit Case PS-1-2020 to City Council for Preliminary Subdivision Plan approval of a proposed 68-lot, single-family subdivision called Country Club Lakes Estates Phase 4, subject to the conditions listed in the staff report.

Mr. Warner asked that the motion be modified to include the voluntary conditions agreed upon by Mr. Spira.

Motion amended by Ms. Jordan, seconded by Mr. Boerema to submit Case PS-1-2020 to City Council for Preliminary Subdivision Plan approval of a proposed 68-lot, single-family subdivision called Country Club Lakes Estates Phase 4, subject to the conditions listed in the staff report and to the voluntary condition that perimeter lots to abut existing properties outside Country Club Lakes Estates be restricted to no more than one-story in height, and that a six-foot high opaque fence be erected along the common property line of Lot 21, Block 102, Port Malabar Country Club Unit 10 prior to the construction of the cul-de-sac on Killian Drive NE. The motion carried with members voting unanimously.

**3. CP-3-2020 – M. DAVID MOALLEM AND JOAN P. MOALLEM
(TRACEY PARRISH, REP.)**

Mr. Balter presented the staff report for Case CP-3-2020. The applicant had requested a small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single-Family Residential Use. Staff recommended Case CP-3-2020 for approval, subject to the staff report comments.

Mr. Tracey Parrish (representative for the applicant) stated that he intended to build a four-bedroom home on the subject property for retirement and his family. The home would be built on .5 acres.

Ms. Jordan noted that the subject proposal was for 1.7 acres. Mr. Parrish explained that he was purchasing .5 acres of the site, and that the Moallems owned the other portion of land.

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

Motion by Mr. Boerema, seconded by Ms. Maragh to submit Case CP-3-2020 to City Council for approval of a small-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single-Family Residential Use, subject to the staff report comments. The motion carried with members voting unanimously.

OTHER BUSINESS:

There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 7:35 p.m.

Philip Weinberg, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

♣Quasi-Judicial Proceeding.



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

CP-5-2020

PLANNING & ZONING BOARD HEARING DATE

May 20, 2020

PROPERTY OWNER & APPLICANT

Brandon and Carissa Stranz

PROPERTY LOCATION/ADDRESS

Port Malabar Unit 23, Tract B, Section 33, Township 29,
Range 37, Brevard County, Florida

SUMMARY OF REQUEST

The applicant is requesting a small-scale Comprehensive Plan Future Land Use Map Amendment to change 5.50 acres of Recreation and Open Space Use (ROS) to Single-Family Residential Use (SFR).

Existing Zoning

RS-2, Single-Family Residential

Existing Land Use

Recreation and Open Space Use

Site Improvements

Vacant Land

Site Acreage

5.50 acres, more or less

SURROUNDING ZONING & USE OF LAND USE

North

RS-2, Single-Family Residential; Torgerson Road SE

East

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

South

Melbourne Tillman Water Control District Canal Number 38

West

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

ANALYSIS:

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

1. FUTURE LAND USE ELEMENT

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 one (1) single-family home. It shall be noted that the parcel may only be split one time (to create two properties) without having to follow the City's subdivision ordinance. Any further splits will require compliance and legislative review.

2. COASTAL MANAGEMENT ELEMENT

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

3. CONSERVATION ELEMENT

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

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

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 exceed this requirement. Furthermore, privately-owned land with a Recreation and Open Space Land Use designation may not be used to meet this LOS.

4. HOUSING ELEMENT

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

5. INFRASTRUCTURE ELEMENT

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

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

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

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

6. INTERGOVERNMENTAL COORDINATION ELEMENT

Public Schools: The proposed FLU amendment is requested to allow the site to be used for a single-family home. The property use will have no adverse impacts on the public school system.

7. TRANSPORTATION ELEMENT

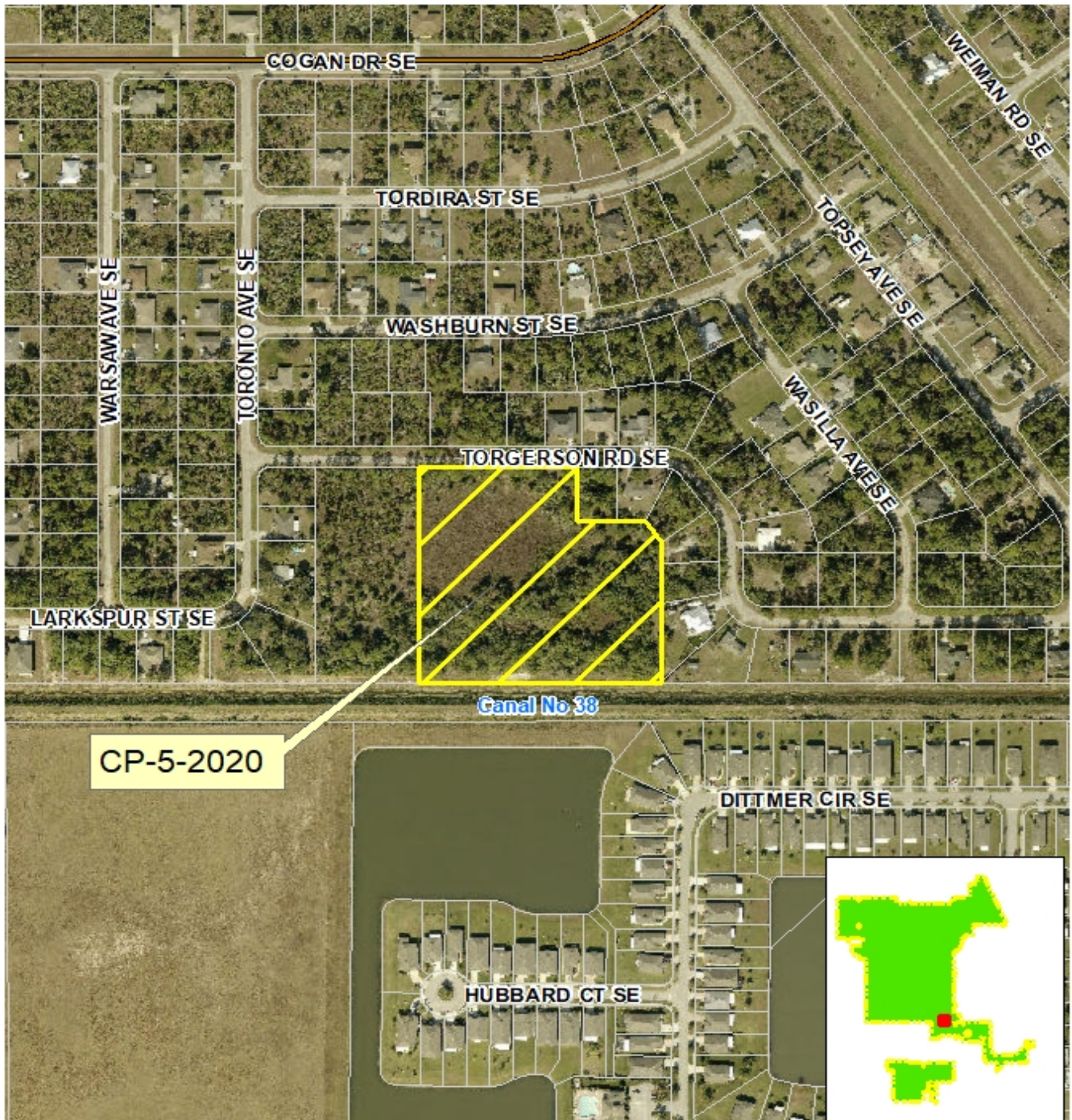
The objectives of the Comprehensive Plan's Transportation Element are to provide a safe, balanced, efficient transportation system that maintains the roadway level of service and adequately serves the needs of the community.

STAFF RECOMMENDATION:

Motion to approve Case CP-5-2020, subject to the staff comments.



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



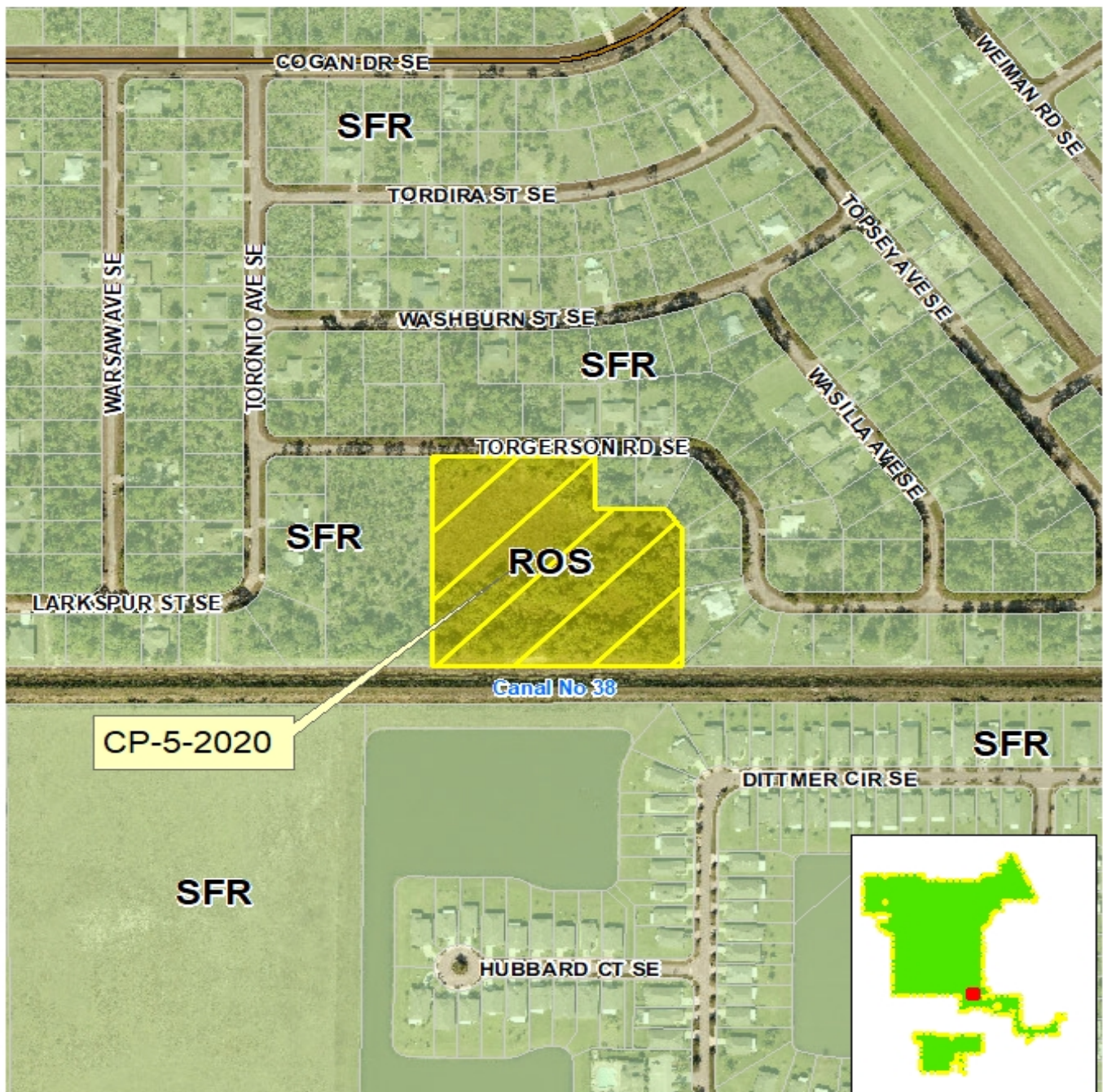
AERIAL LOCATION MAP CASE CP-5-2020

Subject Property

South of and adjacent to Torgerson Road SE, in the vicinity west of Torgerson Road SE



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



FUTURE LAND USE MAP CASE CP-5-2020

Subject Property

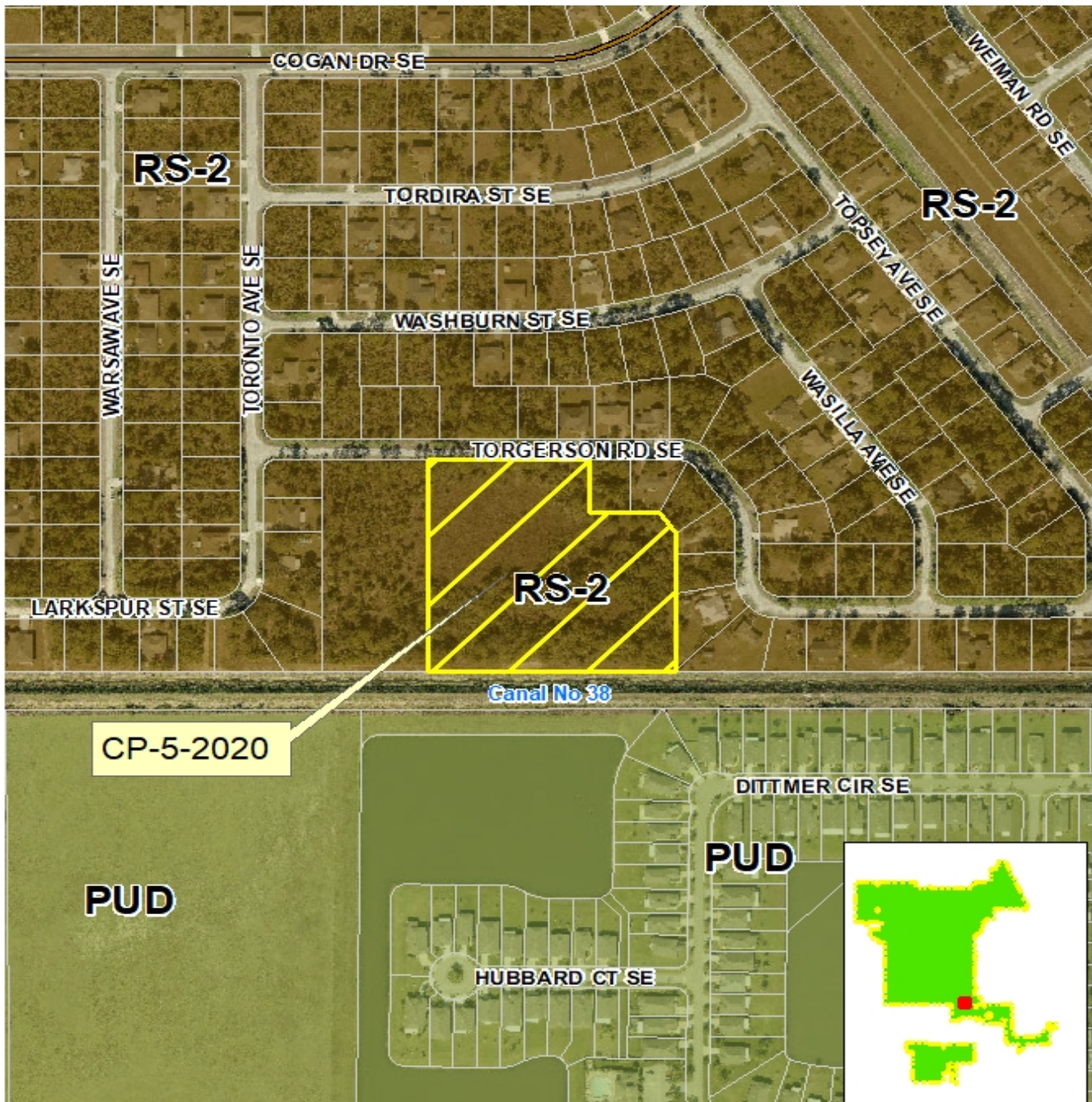
South of and adjacent to Torgerson Road SE, in the vicinity west of Torgerson Road SE

Future Land Use Classification

ROS – Recreation Open Space Use



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



ZONING MAP

CASE CP-5-2020

Subject Property

South of and adjacent to Torgerson Road SE, in the vicinity west of Torgerson Road SE

Current Zoning Classification

RS-2 – Single Family Residential District



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

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

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

APPLICATION AMENDMENT TYPE:



Small Scale (Less than 10 acres)



Text Amendment (Comp. Plan)



Large Scale (10 acres or more)

PARCEL ID

29-37-33-GT-B

TAX ACCOUNT NUMBER

2950252

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

Tract "B" Part Malabar Unit twenty three as recorded in plat book
No Page 19-28 Public record of Brevard County, Florida

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

5.5

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

ROS - Recreation and Open Space

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

SFR - Single Family Residential

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

PRESENT USE OF PROPERTY Vacant Land

STRUCTURES LOCATED ON THE PROPERTY None

REZONING FILED IN CONJUNCTION WITH THIS APPLICATION

N/A

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

To build a single family home

SPECIFIC USE INTENDED FOR PROPERTY

build a single family home

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



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



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



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



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



Property map showing adjacent properties and clearly outlining the subject parcel (for land use amendment(s)).



List of legal descriptions of all properties within a 500-foot radius of the boundaries of the property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This should be obtained for a fee from the **Brevard County Planning and Zoning Department** at (321) 633-2060.)



School Board of Brevard County [School Impact Analysis Application](#) (if applicable).



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

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

☐

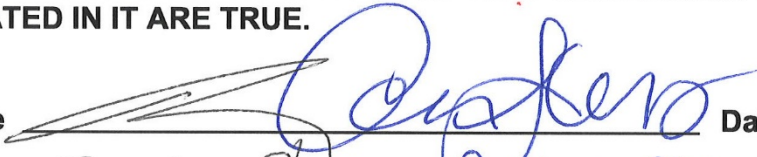
Where the property owner is not the representative for the request, a LETTER must be attached giving the notarized consent of the property owner(s) to a representative.

Name of Representative _____

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

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

Owner Signature



Date

2/20/20

Printed Name

Brandon Stranz

Carissa Stranz

Full Address

967 Lamplighter Dr NW Palm Bay FL 32909

Telephone

321-505-2095

Email

bstranz1008@gmail.com

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

CITY OF PALM BAY
RECEIVED

FEB 20 2020

LAND DEVELOPMENT



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Christopher Balter, Senior Planner

DATE: May 20, 2020

SUBJECT: CP-6-2020 and CPZ-6-2020 - Continuance

Cases CP-6-2020 and CPZ-6-2020 (Masone Properties and Development - Tony Masone Rep.) have been continued to the June 3, 2020 Planning and Zoning Board meeting as the applicant did not meet the Public Hearing Notices requirement. Board action is not required to continue the cases.

CB/cp



STAFF REPORT

LAND DEVELOPMENT DIVISION

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

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

V-9-2020

PLANNING & ZONING BOARD HEARING DATE

May 20, 2020

PROPERTY OWNER & APPLICANT

Thomas Marshall

PROPERTY LOCATION/ADDRESS

1460 Jupiter Blvd NW Palm Bay, FL 32907

SUMMARY OF REQUEST

A variance to allow a proposed detached workshop relief from the requirement that no accessory structure shall exceed the size of the principal structure's living area as established by Section 185.118(C) of the Palm Bay Code of Ordinances.

Existing Zoning

RS-2, Single-Family Residential

Existing Land Use

Single-Family Residential

Site Improvements

Vacant Land

Site Acreage

0.24 acres, more or less

SURROUNDING ZONING & USE OF LAND USE

North

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

East

RS-2, Single-Family Residential; Jupiter Blvd NW

South

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

West

RS-2, Single-Family Residential; Vacant Land

COMPREHENSIVE PLAN COMPATIBILITY

No effect on adopted Comprehensive Plan

ANALYSIS:

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

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

The applicant lives at 1478 Jupiter Blvd NW, which is Lot 27, of Block 588, PMU 14. Upon this lot exists a single-family residence of 1,056 square feet. Also, on this lot is a detached accessor structure of 792 square feet. The applicant owns the adjacent vacant lot to the North (Lot 26), for which he proposes to construct a 1,748 square foot workshop. Section 185.118(c) provides that no accessory structure shall exceed the size of the principal structure's living area. Staff is unable to determine any special circumstances in regard to the applicant's property.

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

There does not appear to be any special circumstances.

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

Literal interpretation and enforcement of the Land Development Code would require the applicant to not exceed the living square footage of the principal structure.

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

A maximum of 692 square feet of relief from the requirement of not exceeding the living square footage of the principal structure.

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

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

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

Staff has not identified any detrimental effect to public welfare.

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

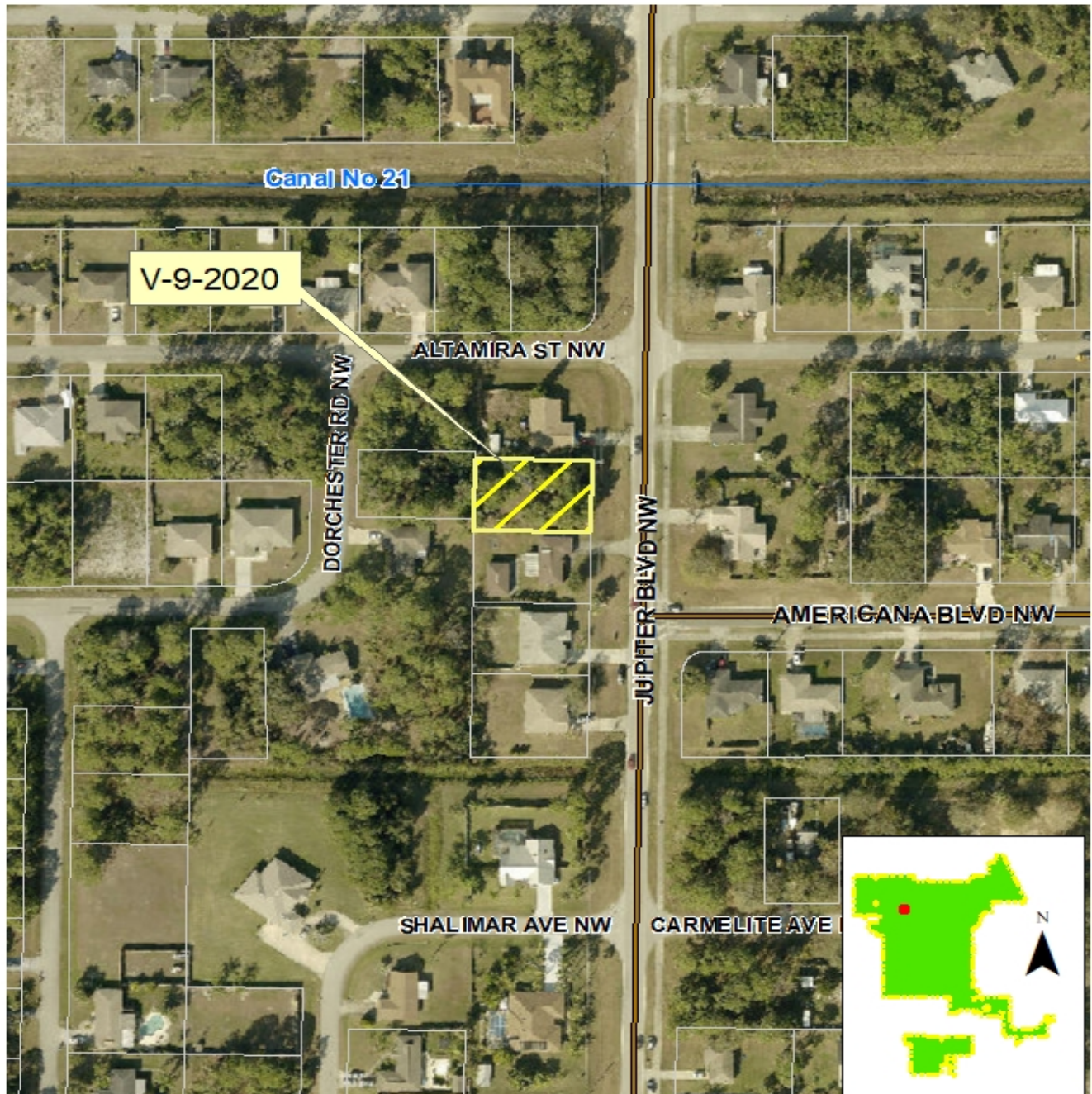
Staff has not received a claim made upon this property, with respect to the "Bert J. Harris Act," or any development order, as indicated above. Therefore, Item 7 is not applicable to the variance request.

STAFF CONCLUSION:

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



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



AERIAL LOCATION MAP CASE V-9-2020

Subject Property

West of and adjacent to Jupiter Boulevard NW, in the vicinity south of Altamira Street NW



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



FUTURE LAND USE MAP

CASE V-9-2020

Subject Property

West of and adjacent to Jupiter Boulevard NW, in the vicinity south of Altamira Street NW

Future Land Use Classification

SFR – Single Family Residential Use



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



ZONING MAP

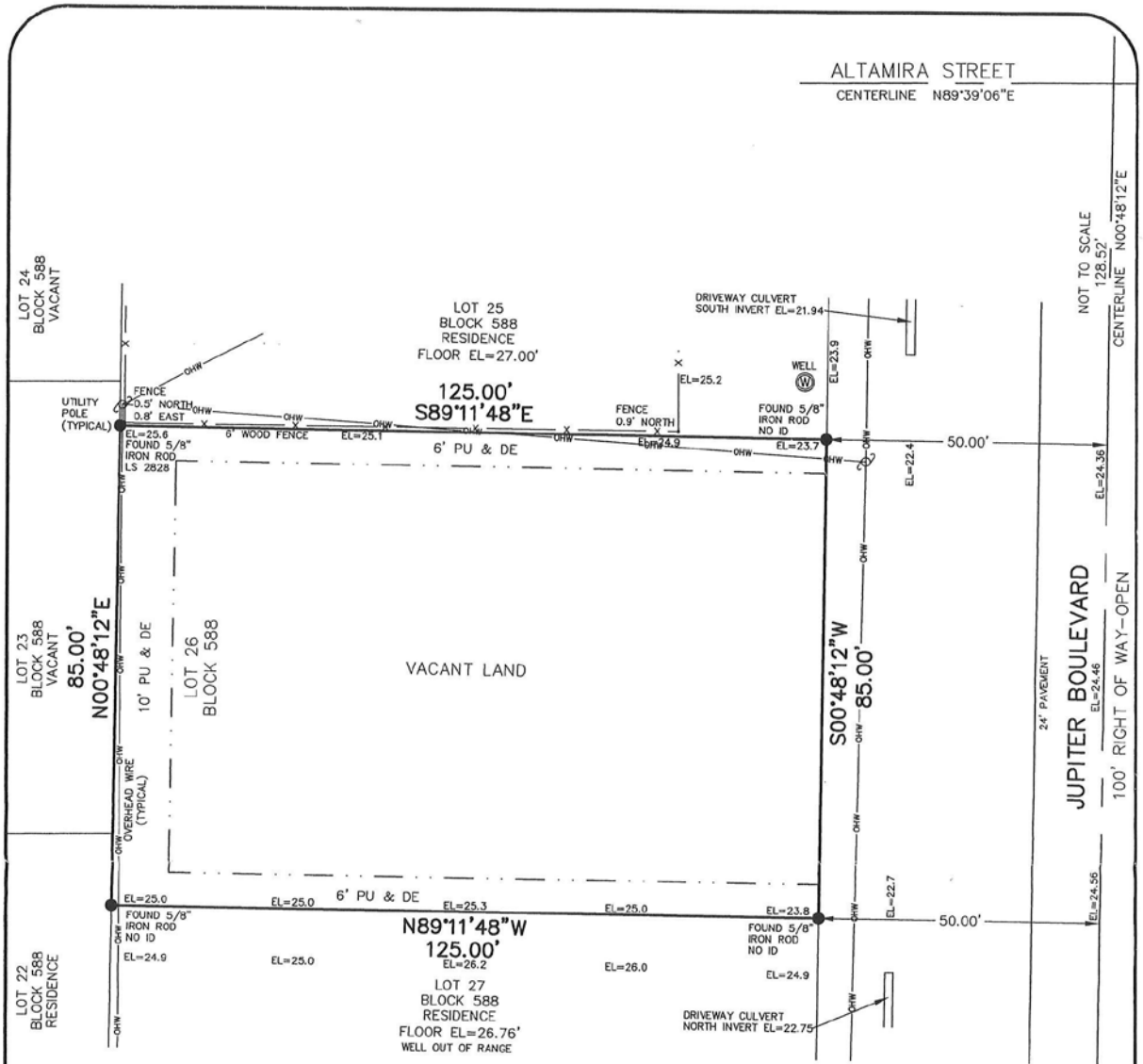
CASE V-9-2020

Subject Property

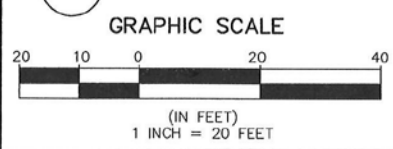
West of and adjacent to Jupiter Boulevard NW, in the vicinity south of Altamira Street NW

Current Zoning Classification

RS-2 – Single Family Residential District



MAP OF
BOUNDARY
SURVEY
F.A.C.
CHAPTER 5J-17



CERTIFIED TO:
SPRINGWATER HOMES

DESCRIPTION

LOT 26, BLOCK 588, PORT MALABAR UNIT FOURTEEN, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 15, PAGES 64 THRU 71 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

NOTES:

- 1.) BEARINGS BASED ON THE ASSUMPTION THAT THE CENTERLINE OF JUPITER BOULEVARD BEARS N00°48'12"E PER PLAT OF PORT MALABAR UNIT 14.
- 2.) LOT DIMENSIONS ARE AS PLATTED(P) AND SURVEYED(S) UNLESS OTHERWISE NOTED.
- 3.) PROPERTY LIES WITHIN SECTION 35, TOWNSHIP 28 SOUTH, RANGE 36 EAST.
- 4.) PU & DE DENOTES PUBLIC UTILITY AND DRAINAGE EASEMENT.
- 5.) ELEVATIONS (EL=24.46) BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929.
- 6.) NO ID DENOTES NO IDENTIFICATION.

WJS WILLIAM J. SUITER
LAND
SURVEYING, INC.

1849 CANOVA STREET S.E.
PALM BAY, FLORIDA 32909
WSUITER@ATT.NET
WJSUITER.COM
(321) 728-0553

FLOOD ZONE X FLOOD INSURANCE RATE MAP NUMBER 12009C0590G.

REVISIONS

| |
|--|
| |
| |
| |
| |
| |
| |

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

PROFESSIONAL SURVEYOR AND MAPPER IN RESPONSIBLE CHARGE
WILLIAM J. SUITER
FLORIDA CERTIFICATE NO. 4210
CERTIFICATE OF AUTHORIZATION #LB 5419

1-23-2020
DATE OF SIGNATURE

COPYRIGHT © 2020 WILLIAM J. SUITER LAND SURVEYING, INC. ALL RIGHTS RESERVED

SURVEY DATE: JANUARY 21, 2020

SCALE: 1" = 20'

FIELD BOOK: N/A

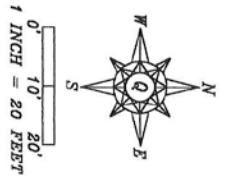
PAGE: N/A

JOB NUMBER: 20-1

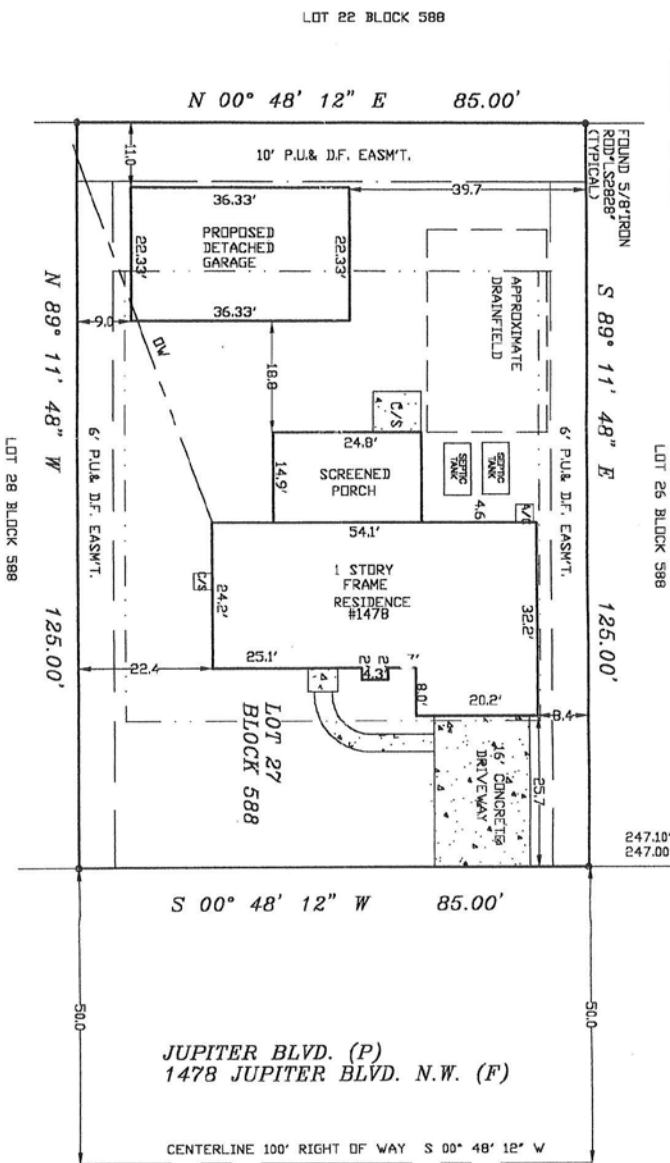
MAP OF BOUNDARY AND PROVEMENT SURVEY & PLOT PLAN

LEGAL DESCRIPTION:
LOT 27 BLOCK 588 OF PORT MALABAR UNIT FOURTEEN
ACCORDING TO THE PLAT THEREOF AS RECORDED IN
PLAT BOOK 15, PAGES 64 THROUGH 71,
OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

CERTIFIED TO: THOMAS G. MARSHALL
SWEETWATER BUILDERS, INC.



BUILDING SET-BACK LINES
FRONT = 25'
REAR = 25'
SIDES = 8'
ACCESSORY STRUCTURES
REAR = 10'



- NOTE:
- 1) NO TITLE OR ABSTRACT RESEARCH WAS PERFORMED BY OR PROVIDED TO THE UNDERSIGNED SURVEYOR.
 - 2) DIMENSIONS ARE AS PLATTED AND SURVEYED UNLESS OTHERWISE NOTED.
 - 3) NO UNDERGROUND IMPROVEMENTS LOCATED UNLESS SHOWN ON DRAWING.
 - 4) BEARINGS BASED ON THE ASSUMPTION THAT THE CENTERLINE OF JUPITER BLVD. BEARS S 00° 48' 12" W ASSUMED PER PLAT OF PORT MALABAR UNIT FOURTEEN.
 - 5) PROPERTY LIES IN SECTION 35, TOWNSHIP 28 SOUTH RANGE 36 EAST.
 - 6) PROPERTY LIES IN FLOOD ZONE X, FLOOD INSURANCE RATE MAP NUMBER 120090C 515 E DATED 4/3/89.
 - 7) MONUMENTATION HAS NO LEGIBLE NUMBER UNLESS NOTED.

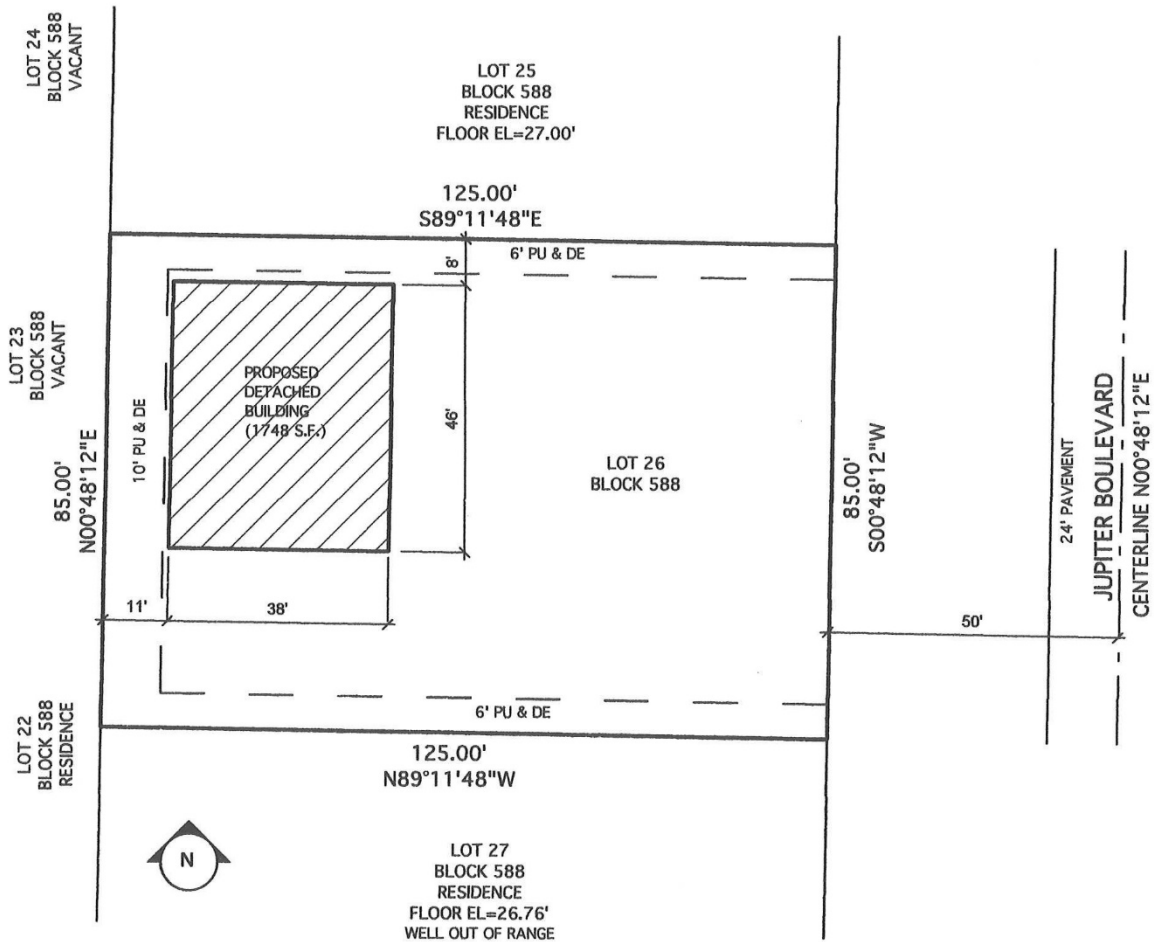
LEGEND:

- CS DENOTES CONCRETE SLAB
AC DENOTES AIR CONDITIONER ON CS
DW DENOTES OVERHEAD WIRE
P.U. & D.F. DENOTES PUBLIC UTILITIES AND DRAINAGE FACILITIES EASEMENT
CP DENOTES PLAT
CF DENOTES FIELD

NOT VALID UNTIL THE SURVEYOR'S FEE IS PAID.
NOT VALID WITHOUT THE SIGNATURE
AND ORIGINAL RAISED SEAL OF A
FLORIDA LICENSED SURVEYOR & MAPPER
Stephen W. Guesnel 12/7/99
Stephen W. Guesnel, L.S.
Florida Licensed Surveyor and Mapper #5306

| | | |
|---|------------|-----------|
| P.L.S. Inc. | | |
| Professional Land Services, Inc. | | |
| Land Surveying - Land Planning | | |
| 2550 Palm Bay Road N.E. Suite 214 | | |
| Palm Bay, Florida 32905 | | |
| 407-723-0702 | | |
| FLORIDA LICENSED SURVEYING & MAPPING BUSINESS #6847 | | |
| 12/7/99 | 99246 | COPYRIGHT |
| DATE | MAP NUMBER | MATERIAL |

1460 Jupiter Blvd NW Site Plan



PLOT PLAN 1"=20'

DESCRIPTION:

LOT 26, BLOCK 588, PORT MALABAR UNIT FOURTEEN, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 15, PAGES 64 THRU 71 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.



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

VARIANCE APPLICATION

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

PARCEL ID 28-36-35-EY-588-26

TAX ACCOUNT NO. 2815013

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

Port Malabar Unit 14 Lot 26 Block 588

STREET ADDRESS OF PROPERTY COVERED BY APPLICATION:

1460 Jupiter Blvd NW, 32907

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

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

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

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

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

N/A

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

Request to build a detached building on vacant property (adjacent to my residence) for private personal use as a workshop.
Proposed building would not exceed 1750 sq ft. Asking for relief from calculated limitation of 321 sq ft (1056 adjacent residence
living area -735 for existing detached building on residence property, per 185.118 C) All setbacks/easements to be observed.

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

185.118 (C) "no accessory structure shall exceed the size of the principal structure's living area"

CITY OF PALM BAY, FLORIDA
VARIANCE APPLICATION
PAGE 2 OF 3

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

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

a) Requesting relief from square footage limitation for a detached accessory building on subject vacant land which borders my residence. Proposed building would be at the rear of the property, observe all setbacks and easements. Proposed location is the only location available adjacent to my residence.

b) Special circumstance above caused by proximity in location of subject vacant property (adjacent) to applicants residence

c) Literal interpretation would deprive applicant from constructing a suitable sized building that would not otherwise violate any zoning codes including setbacks or easements, the described building's placement at the rear of the property would be in character with any similar residential property in the neighborhood.

d) A maximum relief of 1750 sq ft (from the current calculated limit of ~321 sq ft) would be needed to meet this request.

e) Granting relief may be interpreted as not constituting a special privilege, as the proposed detached building would not require a variance if a residence had been previously constructed at the front of the property (the applicant does not require a residence at the front of the property at this time.) Given the square footage limitation would be moot if a residence was constructed on the front of the property, the limitation here appears to be a technicality.

f) Granting this square footage variance for a stucco on block detached building at the rear of the property, is in character with other buildings in the neighborhood, proposed building would otherwise be fully compliant with code requirements

CITY OF PALM BAY
RECEIVED

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

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

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

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

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

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

x A listing of legal descriptions of all properties within a 500 foot radius of the boundaries of the property property covered by this application, together with the names and mailing addresses (including zip codes) of all respective property owners within the above referenced area. (This should be obtained for a fee from the Brevard County Planning and Zoning Department at 321-633-2060.)

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

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

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

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

Where property is not owned by the applicant, a letter must be attached giving the notarized consent of the owner for the applicant to request the variance.

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

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

Signature of Applicant



Date

3/16/20

Printed Name of Applicant Thomas George Marshall

Full Address 1478 Jupiter Blvd NW, Palm Bay Fl 32907

Telephone (321) 725-6798

Email sc4ram@yahoo.com

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



MEMORANDUM

TO: Planning and Zoning Board Members

FROM: Patrick Murphy, Assistant Growth Management Director

DATE: May 20, 2020

SUBJECT: FD-10-2020 - Continuance

The applicant for Case FD-10-2020 (Chaparral Subdivision Phase II - Jake Wise, PE, Rep.) has requested a continuance to the July 1, 2020 Planning and Zoning Board meeting to permit further revisions. Board action is required to continue the case.

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

V-11-2020

PLANNING & ZONING BOARD HEARING DATE

May 20, 2020

PROPERTY OWNER & APPLICANT

Curtis J. McKinney

PROPERTY LOCATION/ADDRESS

4001 Dixie Highway NE 32905

SUMMARY OF REQUEST

Variance from Section 185.053(F)(12), and Chapter 178, Appendix A, to exceed the maximum height and area of a proposed sign.

Existing Zoning

BMUV, Bayfront Mixed Use Village

Existing Land Use

Bayfront Mixed Use Village Use

Site Improvements

Former Retail Establishment

Site Acreage

0.60 acres

SURROUNDING ZONING & USE OF LAND USE

North

HC, Highway Commercial, Convenience Store

East

BMUV, Bayfront Mixed Use Village; Vacant Land

South

BMUV, Bayfront Mixed Use Village; Commercial Building

West

BMUV, Bayfront Mixed Use Village; Dixie Highway NE

COMPREHENSIVE PLAN COMPATIBILITY

Not Specifically Addressed

BACKGROUND:

The subject property contains a 4,750 square foot building that has been occupied by several different retail uses since it was constructed in 1986. Currently, the structure is vacant. The future use of this building is for a 24-hour Emergency Care and Pharmacy.

ANALYSIS:

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

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

The Applicant, Mr. Curt McKinney, recently received site plan approval for an Assisted Living Facility (ALF) called Harmony Landing. This facility will occupy the property east of and adjacent to the subject parcel (Lots 7 & 33, Block 2, Plat of Tillman). A future Phase Two of the Harmony Landing ALF will occupy the property further east, at the SW corner of Kirkland Road and Bay Boulevard. A 3rd phase of the project is planned for development upon the 1-acre waterfront property on Bay Boulevard.

The property where the sign is proposed (Lot 29) will become a 24-hour Emergency Care and Pharmacy. This property, and the future use of it, is owned and controlled by the Applicant. Per the attached sign Exhibit, the Applicant proposes to construct a detached sign at the NW corner of Lot 29 that will contain signage for all phases of the Applicant's development. By doing so, the overall number of detached signs will be decreased.

The BMUV zoning district, for which the property is zoned, sets a maximum sign height of ten (10) feet. This restriction was implemented to curtail taller signs that may not be *in keeping* with the BMUV district, a zoning category located within the "Bayfront Village". The Bayfront Village is 1 of 5 special character subdistricts that compose the City's Bayfront Redevelopment District. The goal of this District was to create a pedestrian-friendly waterfront community. Typical development would be compact buildings, on relatively small parcels. Thus, the building height (35') and sign height (10') restrictions.

To combine multiple signs from an assemblage of properties, that would allow for visibility of the sign from a highway with a speed limit of 45 MPH, it appears that a sign which is taller than 10' would be necessary. In addition, the City's Sign Code sets a maximum sign area for detached, commercial signage of 64 square feet. The Applicant has stated to Staff that due to the geometry of the adjacent roadway (U.S. Highway 1) and the speed of traffic, that a larger area sign is needed to safely view the contents of the sign face.

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

The special conditions and circumstances identified above may be viewed as a partial result of the actions of the Applicant in that the signage is proposed. However, the reduction in the overall number of signage, and the fact that the sign will be located on the curve of Dixie Highway, should be considered.

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

Literal interpretation and enforcement of the LDC will require the Applicant construct a 10-foot tall sign, or no more than 64 square feet in sign area. The Planning and Zoning Board (Board) and City Council must determine if this would create a hardship.

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

Per the attached Sign Exhibit, the Applicant proposes a 10-foot tall sign with a sign face of approximately 99 square feet. This results in a request to exceed the maximum sign height by an additional 10' and to exceed the maximum allowable sign area by an additional 35 square feet.

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

The intent of this item is that of equity. That is, standards in the Zoning Code are intended to be administered fairly. Variances from such codes are issued to provide relief to a property which is unfairly burdened. The Applicant contends that denial of the sign variance will require each property, and each phase of development, to construct a separate, detached sign per property. In doing so, the separate, detached signs would not be seen by the motoring public on Dixie Highway. The Applicant believes this would unfairly burden each phase of the project. The Board and Council should consider such perspective and weigh the overall intent of the City's Sign Code.

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

The Board and Council shall determine if the variances requested in this Application comply with the general intent of the applicable sections of the Land Development Code.

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

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

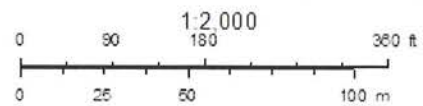
STAFF CONCLUSION:

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

Brevard County Property Appraiser



May 13, 2020



2346880

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



AERIAL LOCATION MAP CASE V-11-2020

Subject Property

Southeast corner of Dixie Highway NE and Kirkland Road NE, specifically at 4001 Dixie Highway NE



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



ZONING MAP

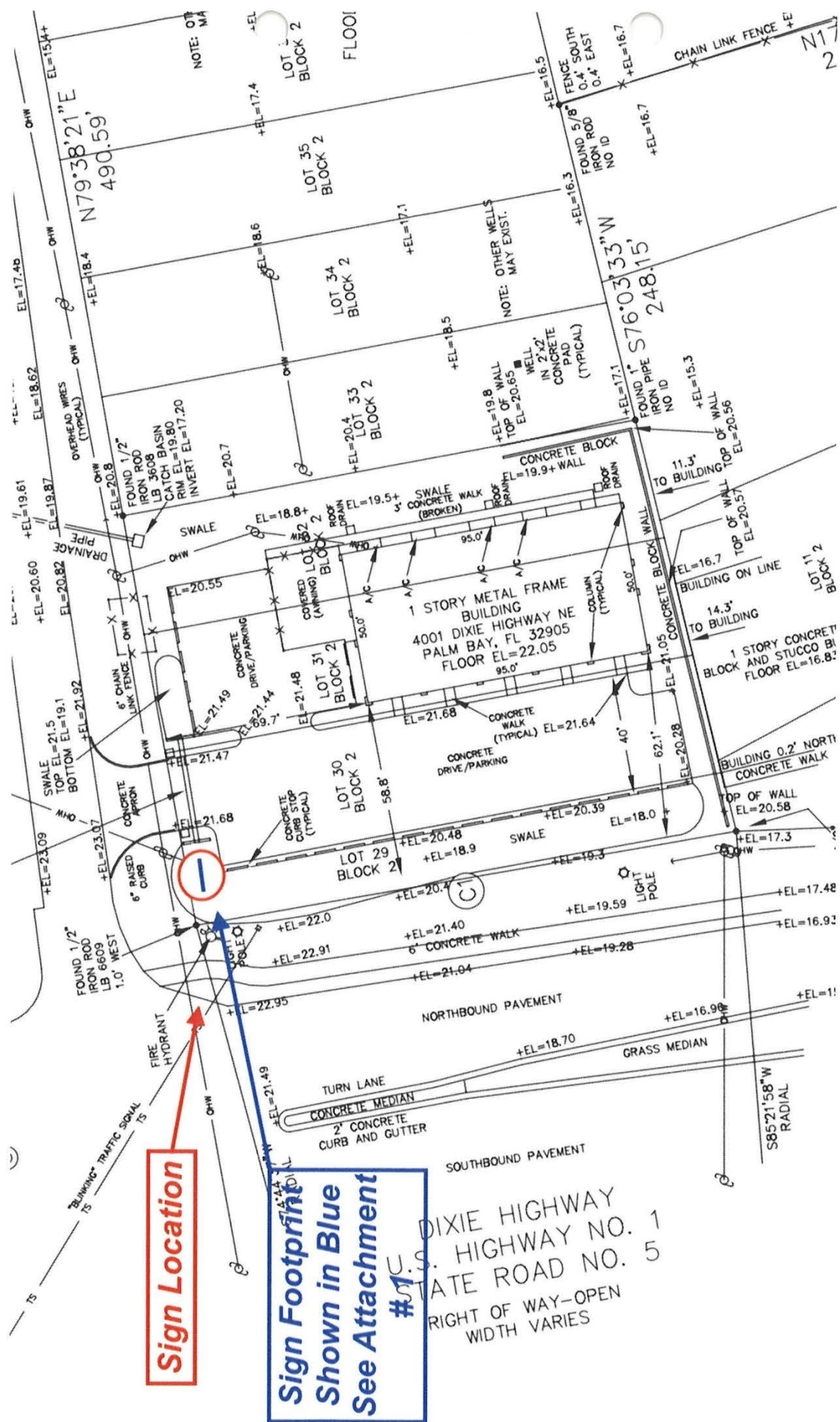
CASE V-11-2020

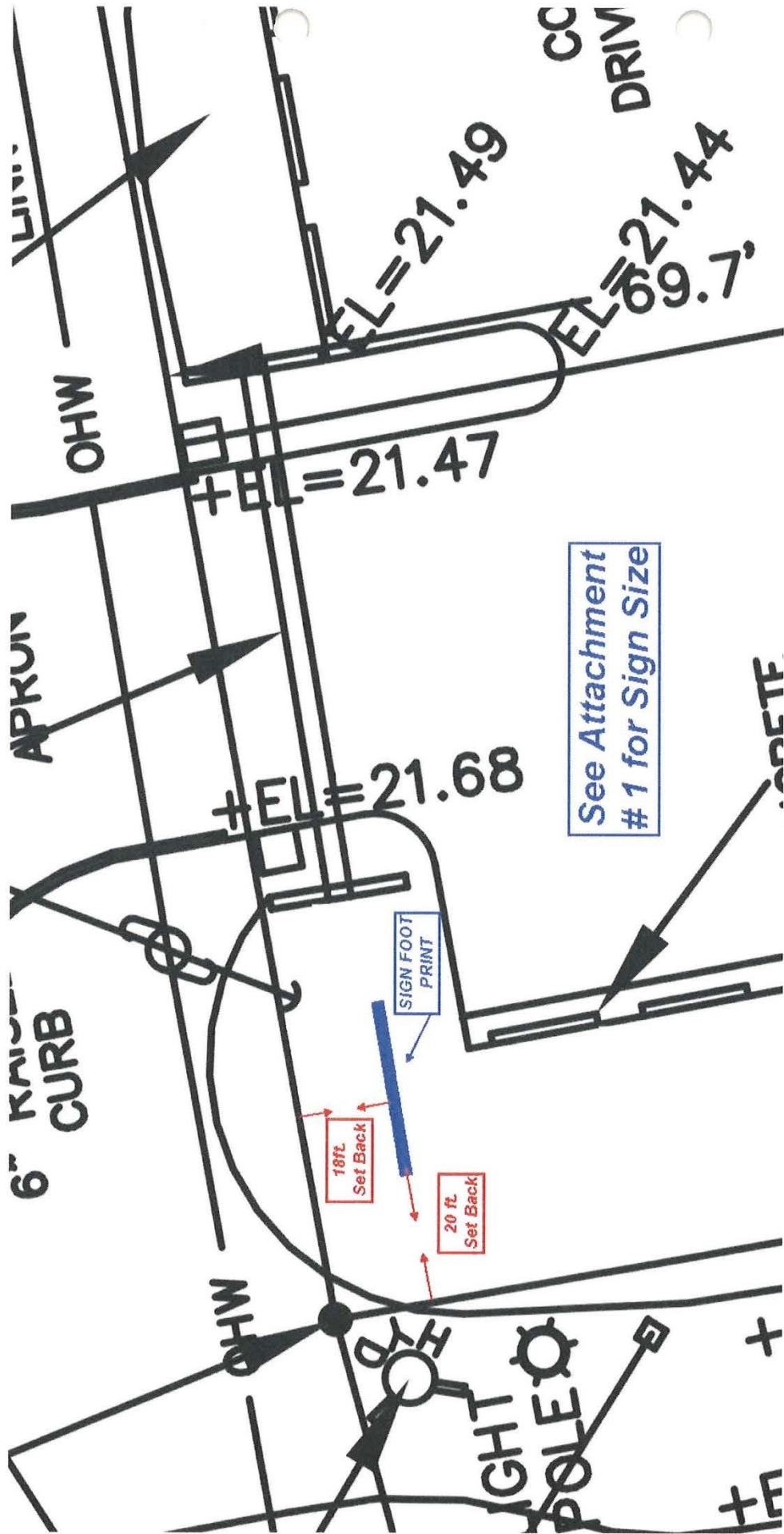
Subject Property

Southeast corner of Dixie Highway NE and Kirkland Road NE, specifically at 4001 Dixie Highway NE

Current Zoning Classification

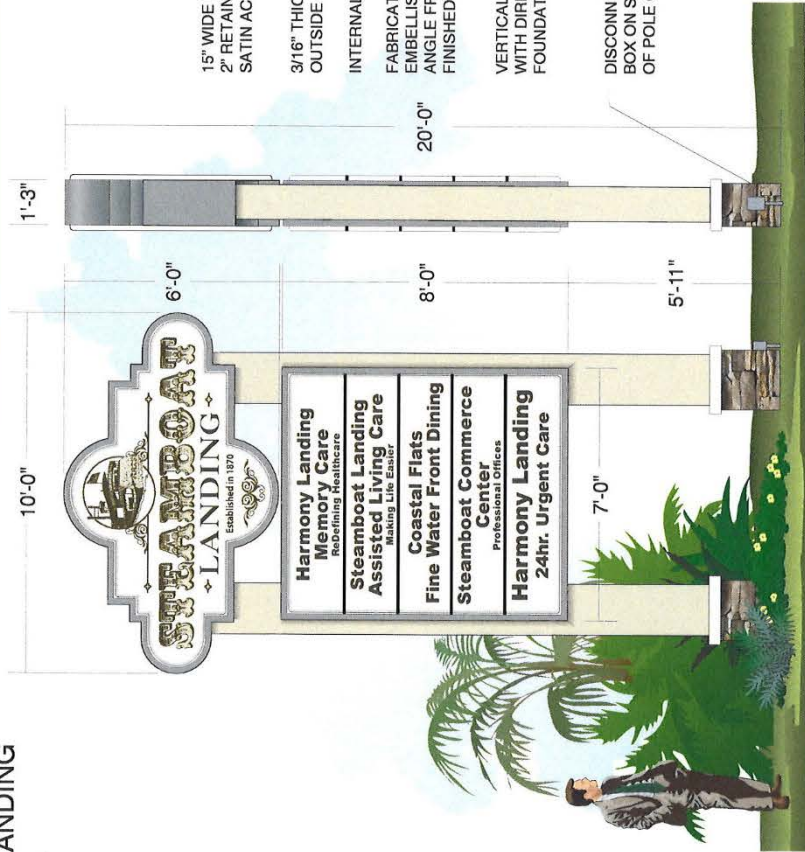
BMUV - Bayfront Mixed Use Village District





See Attachment
1 for Sign Size

STEAMBOAT LANDING
KIRKLAND RD.
PALM BAY, FL



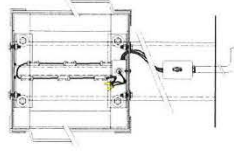
INTERNALLY ILLUMINATED DOUBLE SIDED FREESTANDING SIGN

SCALE 1/4" = 1'-0"



| FREESTANDING SIGN | |
|-------------------------|---|
| COLOR SCHEDULE: | |
| EXTERIOR METAL SURFACES | |
| CAP & CABINET | SW 6220 INTERESTING AQUA (MATCH SIDING) |
| EMBEL | SW 7006 EXTRA WHITE |
| COVER | SW 7011 NATURAL CHOICE |
| STONE BASE | CORONADO IDAHO DRYSTACK SMOKEY GREY (BY OTHERS) |

| FACE DECORATION | |
|-----------------|--------------------------|
| COPY | 3530-59 DURANODIC BRONZE |
| COPY | TO MATCH SW 7011 |
| TENANT COPY | 3530-59 DURANODIC BRONZE |



Celebrating 51 years of Quality Manufacturing and Service
ORIGINAL DESIGN NO. 00000

ART-KRAFT SIGN COMPANY, INC.

ART-KRAFT SIGN COMPANY IS NOT RESPONSIBLE FOR PRIMARY ELECTRICAL HOOKUP OF SIGN

www.Art-Kraft.com
f ArtKraftSigns

| | | | | |
|----------------------------|-----------------|----------------|-------------------|------|
| CUSTOMER STEAMBOAT LANDING | DESIGN NO. 8926 | REVISION | CUSTOMER APPROVAL | DATE |
| SALES REP. DON | DESIGNER WAYNE | SCALE AS SHOWN | DATE 2-21-20 | |

2675 Kirby Circle N.E. Palm Bay Fl., 32905 (321) 727-7324 FAX (321) 951-2466 This Design, in whole or in part, is the property of Art-Kraft Sign Company, and may not be used without the expressed written permission of Art-Kraft Sign Company, Inc.



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

VARIANCE APPLICATION

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

PARCEL ID 28-37-24-25-2-29

TAX ACCOUNT NO. 2832558

LEGAL DESCRIPTION OF THE PROPERTY COVERED BY THIS APPLICATION:

LOT: 29

STREET ADDRESS OF PROPERTY COVERED BY APPLICATION:

4001 Dixie Hwy. NE Palm Bay Fla. 32905

SIZE OF AREA COVERED BY THIS APPLICATION (calculate acreage): .60 AC.

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

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

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

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

N/A

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

Off Site Sign Location

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

BMUV Sedction 185.053 (F) (12)

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

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

A) Current signage code BMUV section 185.053 (f) (12) limits signage and or frontage for 4 businesses of same development.

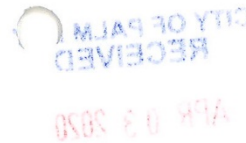
B) No impact to adjoining businesses or public

C) Current code would only allow for 1 sign and other businesses would have no roadway signage.

D) 1 single pylon sign would provide service to all 4 businesses.

E) No special privileges would be afforded by professional signage to recent business.

F) Allowing pylon signage will have no negative affect to the surrounding community, bring a professional and business appearance to the new development and enhance overall look in BayFRont Community/District.



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

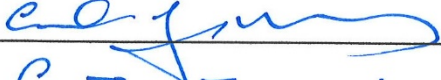
- ☒ BERT J. HARRIS PRIVATE PROPERTY RIGHTS PROTECTION ACT, Chapter 95-181, Laws of Florida.
Provide a copy of one of the following:
☒ Special master appointed in accordance with the act. ☐ Court order as described in the act.
- ☐ AMERICANS WITH DISABILITIES ACT. Cite the section of the act from which the variance request will provide relief: _____

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

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

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

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

Signature of Applicant  Date 3/25/20

Printed Name of Applicant CURTIS S. MCKINNEY

Full Address 2112 W. NEW HAVEN AVE. W. MELBOURNE, FLA. 32904

Telephone 321-727-0059 Email MCKINNEYCONSTRUCT@ATT.NET

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



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Detail By Document Number](#) /

[Previous On List](#) [Next On List](#) [Return to List](#)

Steamboat landing

Search

[Events](#) **No Name History**

Detail by Entity Name

Florida Limited Liability Company
STEAMBOAT LANDING, LLC.

Filing Information

| | |
|----------------------|---------------------|
| Document Number | L14000094690 |
| FEI/EIN Number | 47-1024485 |
| Date Filed | 06/12/2014 |
| State | FL |
| Status | ACTIVE |
| Last Event | LC DISSOCIATION MEM |
| Event Date Filed | 04/29/2019 |
| Event Effective Date | NONE |

Principal Address

4975 DIXIE HWY NE
UNIT 503
Palm Bay, FL 32905

Changed: 01/02/2019

Mailing Address

4975 DIXIE HWY NE
UNIT 503
Palm Bay, FL 32905

Changed: 01/02/2019

Registered Agent Name & Address

WHITE, RODNEY S, CPA

4650 LIPSCOMB ST NE
SUITE 20
Palm Bay, FL 32905

Name Changed: 02/26/2020

Address Changed: 02/26/2020

Authorized Person(s) Detail

Name & Address

Title MGR

MAYES, JAMES A
204 TIMPOOCHIE DR.
INDIAN HARBOR BEACH, FL 32937

Title MBR

MCKINNEY, CURTIS J
3800 BURTON RD.
MALABAR, FL 32950

Title MGR

STURM, WILLEM J
4975 DIXIE HWY NE #503
Palm Bay, FL 32905

Title MGR

HEGYI, MIKLOS J
4975 Dixie Hwy NE #503
Palm Bay, FL 32905

Title AMBR

GIBRALTAR CORPORATE CAPITAL INC
4975 DIXIE HWY NE #503
Palm Bay, FL 32905

Annual Reports

| Report Year | Filed Date |
|--------------------|-------------------|
| 2018 | 04/30/2018 |
| 2019 | 01/02/2019 |
| 2020 | 02/26/2020 |



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

T-7-2020

PLANNING & ZONING BOARD HEARING DATE

May 20, 2020

PROPERTY OWNER & APPLICANT

City of Palm Bay; Growth Management
Department

PROPERTY LOCATION/ADDRESS

Not Applicable

SUMMARY OF REQUEST

A textual amendment to the Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 70: General Provisions, Section 70.04; Title IX, General Regulations, Chapter 93: Real Property Nuisances, Section 93.044; Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.006 and Section 185.123. The purpose of this amendment is to update provisions for the parking of vehicles in residential areas and to revise definitions within the applicable sections of the referenced codes.

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

BACKGROUND:

A textual amendment to the Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 70: General Provisions, Section 70.04; Title IX, General Regulations, Chapter 93: Real Property Nuisances, Section 93.044; Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.006 and Section 185.123.

The purpose of this amendment is to update provisions for the parking of vehicles in residential areas and to revise definitions within the applicable sections of the referenced codes. The applicant for this amendment is the City of Palm Bay. Proposed language for this amendment is attached in legislative style with additions between >>arrow<< symbols and deletions in ~~strikethrough~~ format.

ANALYSIS:

This amendment was drafted at the direction of the Palm Bay City Council. A public workshop on the content of this report will follow the Planning and Zoning Board.

The purpose of Chapter 70 is to incorporate certain provisions of the Florida Uniform Traffic Control Law, contained in Florida Statute Chapter 316. Within Chapter 70 is a definition for commercial vehicles that contains the basic elements from the statute. The definition was adopted in 1989 and later amended in 1992. Staff is proposing a further revision to this definition to provide clarity and consistency.

The purpose of Chapter 93 is to establish provisions for the use of Real Property within the City of Palm Bay and to include procedures for enforcement of the requirements of this subchapter that are necessary for abatement of nuisances that are dangerous to public health and safety. The amendment seeks to add restrictions to the parking of vehicles on unimproved real property (Section 93.04), and to remove the private property parking regulations currently found in Section 93.044.

To further clarify, the provisions of Section 93.044 are not being removed from the Code of Ordinances entirely, rather, they are being moved to Section 185.123, which staff believes is the proper location for such provisions. An additional restriction has been proposed within this subchapter that restricts the total number of vehicles that may be parked upon an improved property, to what staff believes is reasonable. The current regulations do not contain a maximum number of vehicles that may be kept.

The purpose of Chapter 185: Zoning Code, is to effectuate and implement the policies of the City's comprehensive plan in order to protect, preserve, and improve the public health, safety, and welfare of the inhabitants of the City. Specifically, Section 185.005 (F) seeks to preserve the character and stability of residential areas of the City. One such subsection that exists in this Chapter, to further this purpose, is Section 185.123, Regulation of Commercial and Recreational Vehicles in Residential Areas.

Section 185.123 was adopted in 1989 and has had six (6) amendments since. These amendments included such items as the definition of a commercial vehicle (and further revision of such), the allowance of temporary parking of commercial vehicles that were performing repairs or engaged in construction activities, and the allowance of Class “A” wreckers, meeting certain standards. Staff proposes to retitle this subsection, include the provisions from Section 93.044, and redefine commercial vehicles to a standard that is much for clear, concise, and consistent with parallel sections of Code.

Furthermore, the amendment identifies acceptable materials for improved parking surfaces, includes a definition for inoperable vehicle, and exempts farm equipment used in the operation of a bona fide agricultural activity.

STAFF RECOMMENDATION:

Case T-7-2020 is recommended for approval.

**§ 70.04 LARGE COMMERCIAL VEHICLES ON RESIDENTIAL STREETS;
COMPREHENSIVE PLAN, TRANSPORTATION ELEMENT ADOPTED.**

(B) Definitions.

COMMERCIAL VEHICLES. Any truck, bus, trailer, portable equipment, machinery, or similar vehicle or combination thereof used or intended to be used for any commercial enterprise or business purpose, >>and is considered a Class 4 Truck or higher, as determined by the Federal Highway Administration. A Class 1-3 Truck, regardless of its intended use, shall not be considered a commercial truck.<< ~~or which has over four (4) wheels, more than two (2) axles, a height greater than eight (8) feet or has an overall length of more than twenty two (22) feet, excluding self-propelled roadway vehicles less than six thousand (6,000) pounds net weight and pickup trucks with a standard pickup truck bed with a carrying capacity no greater than one and one half (1.5) ton gross weight.~~

~~§ 93.044 PRIVATE PROPERTY PARKING REGULATIONS.~~

~~No inoperable motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.~~

~~(A) No vehicle shall be parked:~~

~~(1) In front of a residence, except within the paved driveway or adjacent to the driveway (on the side opposite the front door of the residence) upon an improved surface;~~

~~(2) In the rear yard of a residence, unless the rear yard is enclosed by a 6-foot tall opaque fence.~~

~~(B) A maximum of two (2) vehicles (per property) are permitted to be parked on the sides of a residence and shall be parked upon an improved surface.~~

~~(1) Vehicles parked on the side of a residence located on a corner lot must be screened from the street adjacent to the side of the residence by a 6-foot tall opaque fence.~~

~~(C) Exceptions:~~

~~(1) One (1) vehicle may be unlicensed and/or inoperable in the rear yard, provided the rear yard is enclosed by a 6-foot tall opaque fence.~~

~~(2) A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.~~

~~(3) Properly licensed and approved commercial activities being conducted on commercial property.~~

§ 185.006 DEFINITIONS.

COMMERCIAL VEHICLE. Any truck, bus, trailer, portable equipment, machinery, or similar vehicle or combination thereof used or intended to be used for any commercial enterprise or business purpose, >>and is considered a Class 4 Truck or higher, as determined by the Federal Highway Administration. A Class 1-3 Truck, regardless of its intended use, shall not be considered a commercial truck.<< ~~or which has over four (4) wheels, more than two (2) axles, a height greater than eight (8) feet or has an overall length of more than twenty-two (22) feet, excluding self-propelled roadway vehicles less than six thousand (6,000) pounds net weight and pickup trucks with a standard pickup truck bed with a carrying capacity no greater than one and one-half (1.5) ton gross weight.~~

§ 185.123 REGULATION OF ~~COMMERCIAL AND RECREATIONAL~~ VEHICLES IN RESIDENTIAL AREAS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CLASS A WRECKER. For the removal of cars and light duty trucks and vehicles weighing 10,000 pounds gross vehicle weight or less.

COMMERCIAL VEHICLE. Any truck, bus, trailer, portable equipment, machinery or similar vehicle or combination thereof, used or intended to be used for any commercial enterprise or business purpose, >>and is considered a Class 4 Truck or higher, as determined by the Federal Highway Administration. A Class 1-3 Truck, regardless of its intended use, shall not be considered a commercial truck.<< ~~or which has over four (4) wheels, more than two (2) axles, a height greater than eight (8) feet or has an overall length of more than twenty-two (22) feet, excluding self-propelled roadway vehicles less than six thousand (6,000) pounds net weight and pickup trucks with a standard pickup truck bed with a carrying capacity no greater than one and one-half (1.5) ton gross weight.~~

>>INOPERABLE VEHICLE. A vehicle which cannot be driven upon the public or private streets for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.<<

RECREATIONAL VEHICLE. Any boat, boat trailer, cargo trailer, house trailer, motor home, camper, bus, or similar vehicle or equipment, including any vehicle or part of a vehicle or equipment designed for temporary living quarters for recreation, camping, or travel, >>or is licensed and registered as a recreational vehicle by the Department of Motor Vehicles<< ~~excluding self-propelled roadway vehicles less than twenty-two (22) feet in length.~~

RESIDENTIAL AREA. Any lot, right-of-way, or other land designated as residential in this chapter and in any other applicable ordinance of the city.

NET WEIGHT. ~~The actual weight of the vehicle, including any attachments or equipment which has been added, excluding any load.~~

(B) *Parking vehicles in residential areas.* It shall be unlawful for any person, either as agent, owner, occupant, lessee, tenant or otherwise, to park, store, stop, deposit or allow, cause or permit to be parked, stored, stopped, or deposited on any public or private property of the RR, RE, RS-1, RS-2, RS-3, SF-1, ~~SF-2~~, SRE, RM-10, RM-15, RM-20, >>BMUV<<, RMH or RVP zoning districts of the city, any commercial vehicle at any time.

>>(1) No vehicle shall be parked:<<

>>(a) In front of a residence, except within the paved driveway or adjacent to the driveway (on the side opposite the front door of the residence) upon an improved surface. Grass, dirt, and/or mulch are not considered improved surfaces. Examples of improved surfaces are concrete, pavers, brick, gravel, or other material as may be approved by the Growth Management Director, or his designee. Any loose material, such as gravel or stone, shall be contained by solid borders, such as landscape timbers, landscape edging, railroad ties, etc.;<<

>>(b) In the rear yard of a residence, unless the rear yard is enclosed by a 6-foot tall opaque fence.<<

>> (2) A maximum of two (2) vehicles (per property) are permitted to be parked on the sides of a residence and shall be parked upon an improved surface. The vehicles shall not exceed two on a single side or one on each side. This shall exclude the front and rear sides of property.<<

>>(a) Vehicles parked on the side of a residence located on a corner lot must be screened from the street adjacent to the side of the residence by a 6-foot tall opaque fence.<<

(4>>3<<) Exceptions. The provisions of this section shall not apply to:

(a) Private property in any residential district whereon construction is underway, for which a current and valid building permit has been issued by the city, as to those vehicles actively engaged in such construction, between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday;

(b) Those persons performing lawful and authorized work upon property in a residential district where the vehicle is parked or stopped;

(c) The emergency parking of a disabled vehicle in a residential district. However, any such vehicle shall be removed from the residential district within twenty-four (24) hours by wrecker towing or other available means regardless of the nature of the emergency;

(d) Those vehicles parked in a residential district for a period not to exceed eight (8) hours rendering business, commercial or medical services to property at the location where parked or stopped.

(e) Class A Wreckers which are less than thirty-six (36) feet in length are prohibited from parking in residential areas between the hours of 8:00 a.m. and 5:00 p.m., excluding

weekends and holidays. This provision does not prevail over deed restrictions or Homeowner Association restrictions in residential areas. Such wreckers shall be properly parked as per ordinance and state law, shall not obstruct sidewalks, drainage or flow of traffic, and shall not be actively towing a vehicle when parked at a residence. All parked wreckers shall maintain a minimum of ten (10) feet of clearance from the adjacent road surface.

>>(f) Farm equipment used in the operation of an agricultural activity shall be exempt from the provisions of this subchapter. The property for which this equipment is exempt shall have a current agricultural exemption from the Brevard County Tax Collector.<<

>>(g) One (1) vehicle may be unlicensed and/or inoperable in the rear yard, provided the rear yard is enclosed by a 6-foot tall opaque fence.<<

(2>>4<<) For the purpose of this section, the words park, store, stop, and deposit shall mean the cessation of movement of a vehicle.

(C) *Parking recreational vehicles in residential areas.* It shall be unlawful for any person to park or store a recreational vehicle in a residential area for longer than twenty-four (24) consecutive hours or forty-eight (48) hours in any one (1) month period, except on residential lots behind the front >>face of the residence<< and ~~side corner building setback line.~~ >>Recreational vehicles parked on the street side of a corner lot (opposite the side interior property line) must be screened by a 6' tall opaque fence.<< No vehicle shall be used for living, sleeping or housekeeping purposes in any location not approved for such use under the zoning requirements of this chapter. Any such vehicles shall have attached, at all times, a current vehicle registration license plate. >>Parking of recreational vehicles are exempt from having to be placed upon an improved surface.<<

>>(D) No vehicle shall be parked or stored upon an unimproved parcel of land. Parking of vehicles is considered an accessory use as there must be a principal use (such as a residence) for the parking of vehicles to be accessory to.<<



































>>(E) No inoperable motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled, unless such work is being performed inside a garage or similarly enclosed area designed for such purposes. Painting of vehicles is prohibited unless conducted inside an approved spray booth.<<

~~(D) *Prima facie evidence.* It shall be prima facie evidence that a self-propelled commercial vehicle exceeds six thousand (6,000) pounds net weight if the vehicle exceeds the number of wheels, number of axles, height, or length limitations of division (A) above.~~

~~(E) *Authority of city to enter property.* The city shall, through its employees, be authorized to enter upon any property where a suspected violation of this section is observed, to conduct a reasonable inspection, and/or to determine the validity of the suspected violation.~~

*The below Figure is for illustration purposes only; it will not be inserted into the Code.

FIGURE C-1 FHWA 13 VEHICLE CATEGORY CLASSIFICATION

| | | | |
|---|---|--|--|
| Class 1 Motorcycles |  | Class 7 Four or more axle, single unit |  |
| Class 2 Passenger cars |  | Class 8 Four or less axle, single trailer |  |
| |  | |  |
| |  | |  |
| |  | |  |
| Class 3 Four tire, single unit |  | Class 9 5-Axle tractor semitrailer |  |
| |  | |  |
| |  | |  |
| Class 4 Buses |  | Class 10 Six or more axle, single trailer |  |
| |  | Class 11 Five or less axle, multi trailer |  |
| |  | |  |
| Class 5 Two axle, six tire, single unit |  | Class 12 Six axle, multi-trailer |  |
| |  | Class 13 Seven or more axle, multi-trailer |  |
| |  | |  |
| Class 6 Three axle, single unit |  | |  |
| |  | |  |
| |  | |  |



LAND DEVELOPMENT DIVISION

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

CODE TEXTUAL AMENDMENT APPLICATION

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

ORDINANCE SECTION(S) PROPOSED TO BE CHANGED:

Sections 70.04; 93.04 and 93.044; 185.006 and 185.123

PROPOSED LANGUAGE (attach addendum if necessary):

See attached.

JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary)

The purpose of this amendment is to update provisions for the parking of vehicles in residential areas and to revise definitions within the applicable sections of the referenced codes.

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

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

☐

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

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

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

Signature of Applicant Laurence Bradley Digitally signed by Laurence Bradley
DN: dc=org, dc=palmbayflorida, ou=Community
Planning & Economic Development, ou=Land
Development, cn=Laurence Bradley
Date: 2020.03.12 15:50:58 -04'00' Date 3/12/2020

Printed Name of Applicant Laurence Bradley, AICP, Director of Growth Management

Full Address 120 Malabar Road SE, Palm Bay, FL 32909

Telephone 321-733-3042 Email laurence.bradley@palmbayflorida.org

PERSON TO BE NOTIFIED (If different from above):

Printed Name _____

Full Address _____

Telephone _____ Email _____

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



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

T-8-2020

PLANNING & ZONING BOARD HEARING DATE

May 20, 2020

PROPERTY OWNER & APPLICANT

City of Palm Bay; Growth Management
Department

PROPERTY LOCATION/ADDRESS

Not Applicable

SUMMARY OF REQUEST

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.036 through 185.038. The purpose of this amendment is to exempt multiple-family residential developments that create less than five (5) units, from specific development standards. The amendment also revises the building setback criteria for the RM-15 and RM-20 zoning districts.

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

BACKGROUND:

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.036 through 185.038. The purpose of this amendment is to exempt multiple-family residential developments that create less than five (5) units, from specific development standards.

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

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

ANALYSIS:

This amendment was drafted at the direction of the Palm Bay City Council.

The provisions of the RM-10, RM-15, and RM-20 districts are intended to apply to areas of medium and high-density residential development with a variety of housing types. Lot sizes and other restrictions are intended to promote varying degrees of residential density, while maintaining an adequate amount of open space for such development.

The RM-10 and RM-15 districts allow for single-family and two-family dwellings, as well as a few non-residential uses (i.e. public or private schools, churches, and parks). The RM-20 district does not permit single- or two-family dwellings, rather it focuses on more intense multiple-family residential development. The RM-20 district, in addition to the non-residential uses allowed in the RM-10 and RM-15 districts, permits private clubs or lodges, and private marinas.

In 2005 (via Ord 2005-16) Palm Bay City Council approved a staff initiative to adopt standards for multiple-family residential development in the RM-10 and RM-15 districts that consisted of a management plan to address maintenance procedures, outdoor lighting, and tenant selection criteria; the submission of a tree survey; the requirement of a perimeter fence surrounding the project; identification of amenities for the project's residents; sidewalks connecting all buildings; and minimum 5' of depth for all balconies.

That same amendment further included provisions for multiple-family developments in the RM-20 district to include a traffic enforcement agreement with the City; variations in building height to break up the monotony of multiple buildings of equal height; variations in building facades to create a "shade-and-shadow" effect; and to require development with 100 or more units to obtain Conditional Use approval from City Council.

Many of these development standards were removed in 2016 (via Ord 2016-17), including the provision of Conditional Use approval for 100+ unit projects. What remains today for the RM-10 and RM-15 districts are the requirements of a tree survey; perimeter fencing; sidewalks; and minimum balcony depth. In addition to these standards, the RM-20 district also requires variations in building heights and facades.

This amendment will remove these requirements from the development of multiple-family projects that contain less than five (5) units (i.e. duplexes, triplexes and quadplexes). All other provisions of the respective zoning districts shall remain; such as minimum lot width, depth, and size; minimum setbacks; and maximum building heights.

The reason for the proposed exemption is that the above development standards are intended for multiple-family residential developments that contain several buildings with higher density. It is not intended for single buildings or developments of low-density.

The RM-15 zoning district requires new residential buildings to be setback from their respective property lines based upon the building height. That is, a new residential building shall be setback 25 feet, plus one (1) additional foot of setback for each one (1) foot in height over twenty-five feet of building height. For example, a 40' tall building would be setback 40 feet from these property lines. The side interior setback includes the same height provisions but has a lesser starting point of ten (10) feet i.e. a 40-foot tall building would be setback 25 feet from the side interior property line (10' + an additional 15').

These same provisions were included in the RM-20 zoning district, except that the starting point for the side interior setback was fifteen (15) feet. The RM-20 was given a higher starting point for building setback because this district allows for taller buildings than the RM-15 district. Ordinance 2016-17 amended the starting point of the RM-20 side interior setback from fifteen (15) feet to twenty-five (25) feet and removed the additional setback for buildings that exceeded twenty (25) feet in height. However, the RM-15 setback provisions were not amended by this ordinance.

In January of this year, staff inadvertently transposed the side interior building setback from the RM-10 zoning district to the RM-20 district when the multiple-family residential districts were being amended (via Ordinance 2020-12). For the purpose of consistency and to allow for sensible development, the RM-15 and RM-20 districts shall contain building setbacks commensurate with building height that are sympathetic to adjacent properties.

STAFF RECOMMENDATION:

Motion to approve Case T-8-2020, based on the Analysis contained in this staff report.

§ 185.036 RM-10 — SINGLE-, TWO-, MULTIPLE-FAMILY RESIDENTIAL DISTRICT.

(A) *Intent.* The provisions of this district are intended to apply to an area of medium density residential development with a variety of housing types. Lot sizes and other restrictions are intended to promote medium density residential development, maintaining an adequate amount of open space for such development.

(B) Principal uses and structures:

(3) Multiple-family dwellings provided that in no case shall there be more than ten (10) dwelling units per gross residential acre. >>For multiple-family residential development that includes five (5) or more units, the provisions of (a) through (d) below, shall apply. Multiple-family developments of less than five (5) units shall be exempt from these provisions.<<

(a) A tree survey shall be submitted, where applicable, showing the types, locations, and sizes of existing trees.

(b) The perimeter of the project shall be provided with a six (6) foot high wall or fence of wood, masonry, brick, PVC, or wrought iron material. For perimeter fences adjacent to road right-of-ways, landscaping shall be provided between the road right-of-way and the perimeter fence. A minimum of one (1) tree for each fifty (50) linear feet of fence shall be provided. In addition to the tree requirement, a minimum of two (2) foot tall, continuous and unbroken row of shrubs shall be planted between the wall/fence and the right-of-way to provide relief from the wall/fence. Ivy or clinging vines may be used in lieu of the shrub requirement on masonry or brick fences. Earthen berms may be approved in lieu of the wall or fence provided the berm is six (6) feet in height with landscaping provided as identified in this subsection.

(c) Sidewalks required.

1. All buildings, parking areas and amenities shall be connected by sidewalks or interior walkways, and sidewalks along interior circulation drives shall connect with off-site sidewalks.

2. When parking is provided in front, behind or on the side, of a building along an interior circulation drive, a concrete sidewalk with raised curb shall be constructed between the parking spaces and the building, with connecting sidewalks to the building entrance. If such sidewalk is provided on only one side of an interior circulation drive, it shall be at least five (5) feet in width. If sidewalks are provided on both sides of the interior circulation drive, they shall be a minimum of four (4) feet wide.

(d) Balconies. Balconies designed for other than purely ornamental purposes shall be a minimum of five (5) feet in depth.

(4) Public parks, playgrounds or other public recreational facilities.

§ 185.037 RM-15 — SINGLE-, TWO-, MULTIPLE-FAMILY RESIDENTIAL DISTRICT.

(A) *Intent.* The provisions of this district are intended to apply to an area of medium density residential development with a variety of housing types. Lot sizes and other restrictions are intended to promote medium density development while maintaining an adequate amount of open space for such development.

(B) *Principal uses and structures:*

(3) Multiple-family dwellings provided that in no case shall there be more than fifteen (15) dwelling units per gross residential acre. >>For multiple-family residential development that includes five (5) or more units, the provisions of (a) through (d) below, shall apply. Multiple-family developments of less than five (5) units shall be exempt from these provisions.<<

(a) A tree survey shall be submitted, where applicable, showing the types, locations, and sizes of existing trees.

(b) The perimeter of the project shall be provided with a six (6) foot high wall or fence of wood, masonry, brick, PVC, or wrought iron material. For perimeter fences adjacent to road right-of-ways, landscaping shall be provided between the road right-of-way and the perimeter fence. A minimum of one (1) tree for each fifty (50) linear feet of fence shall be provided. In addition to the tree requirement, a minimum of two (2) foot tall, continuous and unbroken row of shrubs shall be planted between the wall/fence and the right-of- way to provide relief from the wall/fence. Ivy or clinging vines may be used in lieu of the shrub requirement on masonry or brick fences. Earthen berms may be approved in lieu of the wall or fence provided the berm is six (6) feet in height with landscaping provided as identified in this subsection.

(c) Sidewalks required.

1. All buildings, parking areas and amenities shall be connected by sidewalks or interior walkways, and sidewalks along interior circulation drives shall connect with off-site sidewalks.

2. When parking is provided in front, behind or on the side, of a building along an interior circulation drive, a concrete sidewalk with raised curb shall be constructed between the parking spaces and the building, with connecting sidewalks to the building entrance. If such sidewalk is provided on only one side of an interior circulation drive, it shall be at least five (5) feet in width. If sidewalks are provided on both sides of the interior circulation drive, they shall be a minimum of four (4) feet wide.

(d) Balconies. Balconies designed for other than purely ornamental purposes shall be a minimum of five (5) feet in depth.

(H) *Lot and structure requirements, multiple- family:*

(7) Minimum yard requirements:

(a) Front — twenty-five (25) feet, ~~plus one (1) foot for each one (1) foot in height over twenty-five (25) feet >>~~or equal to the height of the building, whichever is greater.<<

(b) Side interior — ten (10) feet, ~~plus one (1) foot for each one (1) foot in height over twenty-five (25) feet >>~~or equal to the height of the building, whichever is greater.<<

(c) Side corner — twenty-five (25) feet, ~~plus one (1) foot for each one (1) foot in height over twenty-five (25) feet >>~~or equal to the height of the building, whichever is greater.<<

(d) Rear — twenty-five (25) feet, ~~plus one (1) foot for each one (1) foot in height over twenty-five (25) feet >>~~or equal to the height of the building, whichever is greater.<<

(e) Parking may be located in a required front, rear or side yard for multifamily dwellings, provided such parking maintain at least a ten (10) foot setback from all front, side, and rear lot lines.

§ 185.038 RM-20 — MULTIPLE-FAMILY RESIDENTIAL DISTRICT.

(A) *Intent.* The provisions of this district are intended to apply to an area of high density residential development. Lot, height, and other restrictions are intended to accommodate an intense degree of development, maintaining adequate amounts of open space for residential uses. Some nonresidential uses compatible with the character of the district are allowed.

(B) *Principal uses and structures:*

(1) Multiple-family dwellings, provided that in no case shall there be more than twenty (20) dwelling units per gross residential acre. >>For multiple-family residential development that includes five (5) or more units, the provisions of (a) through (f) below, shall apply. Multiple-family developments of less than five (5) units shall be exempt from these provisions<<.

(a) A tree survey shall be submitted, where applicable, showing the types, locations, and sizes of existing trees.

(b) The perimeter of the project shall be provided with a six (6) foot high wall or fence of wood, masonry, brick, PVC, or wrought iron material. For perimeter fences adjacent to road right-of-ways, landscaping shall be provided between the road right-of-way and the perimeter fence. A minimum of one (1) tree for each fifty (50) linear feet of fence shall be provided. In addition to the tree requirement, a minimum of two (2) foot tall, continuous and unbroken row of shrubs shall be planted between the wall/fence and the right-of-way to provide relief from the wall/fence. Ivy or clinging vines may be used in lieu of the shrub requirement on masonry or brick fences. Earthen berms may be approved in lieu of the wall or fence provided the berm is six (6) feet in height with landscaping provided as identified in this subsection.

(c) Sidewalks required.

1. All buildings, parking areas and amenities shall be connected by sidewalks or interior walkways, and sidewalks along interior circulation drives shall connect with off-site sidewalks.

2. When parking is provided in front, behind or on the side, of a building along an interior circulation drive, a concrete sidewalk with raised curb shall be constructed between the parking spaces and the building, with connecting sidewalks to the building entrance. If such sidewalk is provided on only one side of an interior circulation drive, it shall be at least five (5) feet in width. If sidewalks are provided on both sides of the interior circulation drive, they shall be a minimum of four (4) feet wide.

(d) Variations in building height.

1. For building of two (2) or three (3) stories in height and not exceeding one hundred (100) feet in length, at least fifteen (15) percent of the roof line shall have a variation in height, or an average variation in height, of at least five (5) feet.

2. For buildings of two (2) or three (3) stories in height and in excess of one hundred (100) feet in length, at least two (2) portions of the building shall have a variation in height, or an average variation in height, of at least five (5) feet. The combination of said required variations in height shall amount to not less than fifteen (15) percent of the length of the building.

3. For buildings of four (4) or more stories in height at least fifteen (15) percent of the roof line shall have a variation in height, or an average variation in height, of at least ten (10) feet.

(e) Variations in building facade.

1. For buildings not exceeding one hundred (100) feet in length, at least fifteen (15) percent of the building face shall have a variation in setback of at least five (5) feet.

2. For buildings in excess of one hundred (100) feet in length, at least two (2) portions of the building shall have variation in setback of at least five (5) feet. Variations of less than five (5) feet shall not count toward this requirement. The combination of said required variations in setback shall amount to not less than fifteen (15) percent of the length of the building.

(f) Balconies. Balconies designed for other than purely ornamental purposes shall be a minimum of five (5) feet in depth.

(F) *Lot and structure requirements:*

(7) Minimum yard requirements:

(a) Front — twenty-five (25) feet minimum building setback >>, or equal to the height of the building, whichever is greater<<.

(b) Side interior — ~~eight (8)~~ >>fifteen (15)<< feet minimum building setback >>, or equal to the height of the building, whichever is greater<<.

(c) Side corner — twenty-five (25) feet minimum building setback >>, or equal to the height of the building, whichever is greater<<.

(d) Rear — twenty-five (25) feet minimum building setback >>, or equal to the height of the building, whichever is greater<<.

>>(e) The minimum separation distance between multiple family residential buildings on the same property shall be thirty (30) feet<<.

(e) >>(f)<< Parking may be located in a required front, rear or side yard for multifamily dwellings, provided such parking maintain at least a ten (10) foot setback from all front, side, and rear lot lines.



LAND DEVELOPMENT DIVISION

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

CODE TEXTUAL AMENDMENT APPLICATION

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

ORDINANCE SECTION(S) PROPOSED TO BE CHANGED:

Section 185.136, 185.137, and 185.138

PROPOSED LANGUAGE (attach addendum if necessary):

See attached.

JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary)

The purpose of this amendment is to exempt multi-family development of less than 5 units from the additional zoning provisions currently provided in the applicable districts.

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

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

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

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

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

Signature of Applicant Laurence Bradley Digitally signed by Laurence Bradley
DN: dc=org, dc=palmbayflorida, ou=Community
Planning & Economic Development, ou=Land
Development, cn=Laurence Bradley
Date: 2020.03.12 15:58:39 -04'00' Date 3/12/2020

Printed Name of Applicant Laurence Bradley, AICP, Director of Growth Management

Full Address 120 Malabar Road SE, Palm Bay, FL 32909

Telephone 321-733-3042 Email laurence.bradley@palmbayflorida.org

PERSON TO BE NOTIFIED (If different from above):

Printed Name _____

Full Address _____

Telephone _____ Email _____

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