



CITY COUNCIL MEETING ZEPHYRHILLS, FLORIDA

**Monday, April 24, 2023
6:00 PM**

The City of Zephyrhills will maintain a quorum at the dais and host a GoToMeeting to allow the public to attend remotely.

**Please join the GoToMeeting
from your computer, tablet or smartphone:**

<https://meet.goto.com/529466589>

or dial in using your phone:

+1 (872) 240-3412 - Access Code: 529-466-589

(Please mute your phone unless you wish to speak on a specific item)

**Zephyrhills
City Hall**

**Council
Chambers**

Call to Order – Council President Jodi Wilkeson

Roll Call – City Clerk Lori Hillman

Invocation – Senior Code Support Specialist Jacqueline Boges

Pledge of Allegiance – Council President Jodi Wilkeson

1. MAYOR

1.1 Accept the Canvassing of Votes for Mayor.

1.2 Accept the Canvassing of Votes Council Seat 2.

1.3 City Clerk Lori Hillman Administers Oath of Office:
Mayor
City Council Seat 2

1.4 Reorganization of Council Officers
Council President
Council Vice President

- 1.5 Councilmember Liaison Appointments to the Ridge League of Cities, Chamber of Commerce, Main Street Zephyrhills, Metropolitan Planning Organization (MPO) and Metropolitan Planning Organization (MPO) Alternate and Tourist Development Council (TDC).
 - 1.6 Men and Women of the Zephyrhills Police Department "Special Recognition" Proclamation
 1. April 13, 2023 Recognition of ZPD Men and Women
 - 1.7 Special Presentation
2. CONSENT ITEMS
- 2.1 Approval of April 10, 2023 Regular Meeting Minutes
 1. M04-10-2023
 - 2.2 Approval of March 27, 2023 Regular Meeting Minutes
 1. M03-27-2023
 - 2.3 Jones Edmunds Amendment 1 - TA JE 22-02 North Side Lift Station/Force Main Project
 1. JE-22-02-Amendment 1-Northside Lift Station
 - 2.4 Memorandum of Understanding #41-23-15 - City of Zephyrhills/Fraternal Order of Police
 1. FOP MOU
 2. Article 28 - Amendment
 - 2.5 Reassignment of JJ Aeronautics, Inc.(assignor) to Posada Aviation, LLC (assignee) #29-23-02
 1. #29-23-02 Reassignment of JJ Aeronautics, Inc. (Assignor) to Posada Aviation, LLC (Assignee)
3. BUSINESS ITEMS/PUBLIC HEARING
- 3.1 Florida Water Star - Water Conservation

Second Reading **ORDINANCE NO. 1457-23 - "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS, FLORIDA, CREATING A NEW SECTION TO CHAPTER 156 OF THE CITY OF ZEPHYRHILLS CODE OF ORDINANCES, SECTION 156.30-156.36 ESTABLISHING FLORIDA WATER STARSM CERTIFICATION REQUIREMENTS FOR NEW CONSTRUCTION; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE."**

 - A. Council President opens Public Hearing
 - B. Council President closes Public Hearing
 - C. City Council considers Ordinance No. 1457-23 on the Second Reading
 1. Ordinance 1457-23 Florida Water Star - Water Conservation
4. PLANNING DIRECTOR'S REPORT
- 4.1 ANX 0014-22 Blue Triton Brands (FKA Nestle Water) Annexation - Future Land Use Map Amendment (FLUMA) - Rezoning Planning Report
 1. ANX 14-22 Staff Report for Blue Triton ANX REZONE FLUMA
 2. ANX 14-22 Attachments for Blue Triton ANX REZONE FLUMA

4.2 USE-0013-23: Premium Stone Gallery Warehouse & RV Storage. Request for Conditional Use

1. Staff Report(R)_USE-0013-22
2. USE-0013-23_Survey
3. USE-0013-23_Statement of Use (Boggs Engineering)
4. USE-0013-23_Justification Report (Boggs Engineering)
5. Building Floor Plan & Elevations
6. 22145 Conditional Use Plan
7. USE-0013-23_City Council

5. CITY MANAGER'S REPORT

5.1 37-23-01 Second Amendment to the Amended Tennis Pro Florida, LLC Agreement

1. 37-23-01 Second Addendum to the Amended Tennis Center Management Agreement 4-10-23
2. 37-22-08 First Addendum to the Amended Tennis Center Management Agreement 7-25-22
3. 37-20-05 Amended Sarah Vande Berg Tennis Center Agreement
4. 41-17-31 First Addendum to Sarah Vande Berg Tennis Center Management Agreement
5. 41-17-24 Sarah Vande Berg Tennis Center Management Agreement

6. CITIZEN COMMENTS

MAYOR ANNOUNCEMENTS

CITY MANAGER ANNOUNCEMENTS

CITY ATTORNEY ANNOUNCEMENTS

CITY COUNCIL COMMENTS

7. NOTED ITEMS

7.1 41-23-12 ATS Service Support Agreement

1. 41-23-12 ATS Service Support Agreement

7.2 41-23-14 Driftwood Condominiums Hold Harmless and Cost Recovery Agreement

1. 41-23-14 Driftwood Condominiums

ADJOURN

*** PLEASE NOTE: This is a Public Meeting. Should any interested party seek to appeal any decision made by the Council with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. F.S. 286.0105. If you are a person with a disability which requires reasonable accommodation in order to participate in this meeting, please contact the City Clerk at 813/780-0000 at least 48 hours prior to the public hearing. A.D.A. and F.S. 286.26.**



PROCLAMATION

WHEREAS, law enforcement officers face many different dangerous and stressful situations in the line of duty; and

WHEREAS, on April 13, 2023, officers of the Zephyrhills Police Department responded to a subject armed with a firearm at 8th Street and North Avenue; and

WHEREAS, the armed subject was in crisis and attempted to get ZPD officers to shoot him and commit "Suicide by Cop;" and

WHEREAS, the officers on-scene tried to de-escalate the incident and get the armed subject to drop the gun but were unsuccessful; and

WHEREAS, the officers on scene transitioned to less-lethal use-of-force tactics, including beanbag rounds, and conducted energy weapons to incapacitate the subject temporarily. However, he was able to keep the firearm in his hand; and

WHEREAS, the officers, within seconds, put their own lives in danger to disarm the man in crisis and safely secured him and the weapon; and

WHEREAS, the officers immediately began rendering aid to the man until Pasco Fire Rescue transported him to the hospital with minor injuries; and

WHEREAS, even in the face of danger, the officers stayed true to the department's mission by providing exemplary service to the citizens while showing respect and preserving the subject's dignity.

NOW, THEREFORE, I, Melonie Bahr Monson, the Mayor of the City of Zephyrhills, do hereby proclaim April 13, 2023, as a day of special recognition to the men and women of the Zephyrhills Police Department who, on this day, disregarded their safety to save the lives of others.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Zephyrhills, Pasco County, Florida on this 24th day of April, 2023.

Melonie Bahr Monson, Mayor

Attest:

Lori L. Hillman, MMC, City Clerk

REGULAR COUNCIL MEETING

A Regular Council Meeting was held on April 10, 2023 at 6:00 p.m. in the Council Chambers of City Hall and via GoToMeeting (872) 240-3212 - Access Code: 553-776-965.

Council President Jodi Wilkeson called the meeting to order. Roll call was taken. Present were members Jodi Wilkeson, Alan Knight, Charles Proctor, Kenneth Burgess and Mayor Whitfield. Lance Smith was absent. City Manager William Poe and City Attorney Matthew Maggard were present.

Staff present: Police Chief Derek Brewer, Public Works Director Shane LeBlanc, Public Information Officer Kevin Weiss, IT Director Mike Panak, Utilities Director John Bostic, Finance Director Ted Beason, Senior Planner Rodney Corriveau, Streets Superintendent Rob Funnell, Water Treatment Plant Operator Eric Martin and City Clerk Lori Hillman.

Alan Knight delivered the innovation. The Pledge of Allegiance followed.

1. MAYOR

1.1 Water Conservation Proclamation

City Clerk Lori Hillman read aloud a Water Conservation Proclamation presented to Utilities Director John Bostic by Mayor Whitfield.

1.2 Special Recognition – Lonnie Cooper and Michael Sheffler

Utilities Director John Bostic presented a synopsis of a situation where a gentleman in the Sundance community collapsed and hit his head. Lonnie Cooper and Michael Sheffler rendered aid to the gentleman until Pasco County Fire Rescue arrived. Mr. Bostic presented a “Special Award” to the two employees on behalf of City Council.

1.3 Kerney Pelfrey Retirement Plaque

Public Works Director Shane LeBlanc presented Kerney Pelfrey with a Retirement Plaque in recognition of 35 dedicated years of service. Streets Superintendent Rob Funnell along with employees from the streets department were present to support Kerney.

2. CONSENT ITEMS

2.1 Approval of BGE Task Order 101-23 – South Avenue Extension Project

2.2 Approval of Amici Engineering Contractors Agreement 25-23-02 for Northside Lift Station and Force Main Project

Charles Proctor moved to approve all Consent Items. Seconded by Kenneth Burgess. Motion passed unanimously, 4-0.

3. BUSINESS ITEMS/PUBLIC HEARING

3.1 Vacation of Right-of-Way Along a Portion of Henry Drive Abutting the Tyson Townhome Project

First Reading **RESOLUTION NO. 814-23 – “A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS, FLORIDA RELATED TO VACATION OF RIGHT-OF-WAY OF A PORTION OF HENRY DRIVE.”**

City Attorney Matthew Maggard read Resolution No. 814-23 by title. Senior Planner Rodney Corriveau said staff worked with the developer, the developer’s representative and surveyor, the City’s surveyor of record, the City’s attorney, and the CRA Director on the vacation of right-of-way and the Tyson Townhome final plat that are inextricably tied. The underlying, original plat on the Tyson Townhome subdivision, platted in 1957, was named the Tyson Subdivision and featured private right-of-ways that were conveyed to the City in the 1970’s. The right-of-way to be vacated will rectify existing legal description errors and is a 6’ wide by 505’ long portion of Henry Drive abutting the Tyson Townhome Subdivision that will be incorporated into the northern portion of the Tyson Townhome property. The vacation of right-of-way will not cause problems to the City’s Comprehensive Plan, does not provide sole access to any property, will not jeopardize the current or future location of utilities, is not detrimental to the public’s interest and will not have a negative impact to the City. The point of commencement for the vacation begins at the corner of 8th Street and Henry Drive, runs along the entire length of Henry Drive, and terminates on the western portion of Sun State Aluminum.

A public hearing was held and there were no comments from the floor.

Kenneth Burgess moved to approve Resolution No. 814-23 on the First Reading. Seconded by Charles Proctor. Motion passed unanimously, 4-0.

4. PLANNING DIRECTOR'S REPORT

4.1 Tyson Townhome Final Plat

Senior Planner Rodney Corriveau narrated a PowerPoint presentation of staff's vision for one of the larger developments in the core of the City with approximately 140 single-family attached townhomes that fulfills the City's objectives for attainable housing. The location is next to Hercules Park with the ability for the homeowner to live, work, play and go to school steps from their home. The final plat is in conformance with the City's Land Development Code and the City's surveyor of record has reviewed the final plat for conformance and cost estimate accuracy and compliance with state statutes. The City's attorney has reviewed the final plat for legal sufficiency. A full access main entrance will be located on Fort King Road, with two additional entrances on Henry Drive and 8th Street. The concern of parents queuing up to pick-up children from elementary school and circumventing the intersection at North Avenue and 8th Street to drive thru the townhomes to access Fort King Road was incorporated into the traffic analysis that was reviewed by the City's Traffic Engineer Kimley Horn. In an effort to alert homeowners of their townhome's proximity to the school, it may be possible to add a notice to the HOA documents and work with the Pasco County School Board to address the concern for safety. If Council chooses to move forward, a mylar and subdivider's agreement (inclusive of performance and maintenance bonds) were available for Council's signature.

Alan Knight moved to approve the Tyson Townhome Final Plat. Seconded by Charles Proctor. Motion passed unanimously, 4-0.

5. CITY MANAGER'S REPORT

5.1 Tyler Utility Customer Service Module

Finance Director Ted Beason said the City invested \$680,000 in 2016 to obtain Enterprise Resource Planning Software through Tyler Technology and requested Council's approval to invest in the integration of a Utility Customer Service module. He said the software will streamline the new customer onboarding and disconnection service processes. The plan moving forward is to bring Utility Customer Service in-house and hiring a maximum of four employees.

Kenneth Burgess moved to approve the purchase of the Utility Customer Service Module through Tyler Technology using a Cooperative Purchasing Agreement with Sourcewell. Seconded by Alan Knight. Motion passed unanimously, 4-0.

6. CITY ATTORNEY'S REPORT

6.1 May 4, 2023 Municipal Association of Pasco Meeting in New Port Richey, FL

First Reading **RESOLUTION 813-23 – "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS, FLORIDA, AUTHORIZING THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS TO PARTICIPATE IN A JOINT MEETING OF THE MUNICIPAL ASSOCIATION OF PASCO TO DISCUSS MATTERS OF MUTUAL INTEREST; AND PROVIDING FOR AN EFFECTIVE DATE."**

City Attorney Matthew Maggard read Resolution No. 813-23 by title. City Manager William Poe said the quarterly Municipal Association of Pasco meeting will be held May 4, 2023 at 6:30 p.m. in Port Richey at Catches Waterfront Grille.

Alan Knight moved to approve Resolution No. 813-23 on the First Reading. Seconded by Charles Proctor. Motion passed unanimously, 4-0.

6.2 Florida Water Star Water Conversation

First Reading **ORDINANCE NO. 1457-23 – “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS, FLORIDA, CREATING A NEW SECTION TO CHAPTER 156 OF THE CITY OF ZEPHYRHILLS CODE OF ORDINANCES SECTION 156.30-156.36 ESTABLISHING FLORIDA WATER STARSM CERTIFICATION REQUIREMENTS FOR NEW CONSTRUCTION; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.”**

City Attorney Matthew Maggard read Ordinance No. 1457-23 by title. City Manager William Poe said the Florida Water Star Program is sponsored by the Southwest Florida Water Management District (SWFWMD) as a tool to save on residential use of potable water. This program states what needs to be installed in new and/or existing developments such as energy efficient appliances, water fixtures, low flow toilets, Florida Friendly Landscaping, and high efficiency irrigation systems. The program is estimated to save the City up to 140,000 gallons of water per day with the implementation of the program. The estimated cost to the developer is approximately \$1,000 – \$2,000 per home. Once the developer receives a certification that the home has been built to the required standards, the developer will receive a Certificate of Occupancy (CO).

Councilman Burgess said he met with Government Liaison Amber Smith with SWFWMD to discuss the Florida Water Star Program and attended a Ridge League of Cities meeting where representatives of other cities were raving about the program. He clarified the approximate cost of \$1,000 to \$2,000 per home relates to new development. He said there is a tremendous amount of water used on irrigation and the Water Star Program will assist in eliminating usage. He said this is a great first step in addressing the water issue and respectfully requested Council look at density levels, lot sizes and police personnel. He said the City’s residential percentages exceed what is recommended by a fair amount.

Charles Proctor moved to approve Ordinance No. 1457-23 on the First Reading. Seconded by Kenneth Burgess. Motion passed unanimously, 4-0.

CITIZEN COMMENTS

Spoke from the floor: Warren Earle – 3822 Florida Ranch Blvd. – Zephyrhills, FL

Mr. Earle thanked the Mayor for his service to the City of Zephyrhills and recognized the mayor’s wife for allowing the City to share her husband’s time.

MAYOR ANNOUNCEMENTS – Mayor Whitfield encouraged everyone to vote in the Municipal Election on April 11th at Alice Hall from 7:00 a.m. to 7:00 p.m. He thanked candidates Melonie Bahr Monson, Steve Spina, Martin Harm, Nick Deford and Alan Knight for their campaigning and wished them the best. He thanked Council for an evening of dining and said the guitar player and choice of song were special to he and his wife. He thanked City Manager William Poe, all Department Heads and PIO Kevin Weiss for conducting themselves in a professional manner with civility among each other. He said it has been a great nine years serving the City.

CITY MANAGER ANNOUNCEMENTS – City Manager William Poe said he and Councilman Burgess traveled to Tallahassee to attend the Florida Legislative Action Days and met with Representative Maggard, Senator Burgess and the legislative delegation for Pasco County. Music and Motorcycles will be held Saturday, April 15, 2023, 4:00 p.m. to 9:00 p.m. and the Sports Coast Open Tennis Tournament will be held Saturday, April 15, 2023 through Sunday, April 23, 2023 at the Sarah Vande Berg Tennis Center. He thanked Mayor Whitfield for his commitment and service to the City.

CITY ATTORNEY ANNOUNCEMENTS – City Attorney Matthew Maggard thanked Mayor Whitfield for his service to the City and said the candidates running for Mayor have big shoes to fill.

CITY COUNCIL COMMENTS – Councilman Burgess said it was great to build relationships in Tallahassee. He said the Main Street position has been a revolving door of people and the position needs to be reevaluated. He said if the City is going to be hiring a new person every six months he would rather put the money toward a police officer position. He recognized Mayor Whitfield and said he will be missed.

Councilman Proctor agreed with Councilman Burgess' earlier request to look at the density and lot sizes. He said it has been an honor to work with Mayor Whitfield who will be missed dearly.

Councilman Knight agreed with Councilman Burgess to reevaluate the Main Street position. He thanked Mayor Whitfield and his wife for their support and friendship.

Council President Wilkeson said affordable housing and housing designed for low income people needs to be addressed. As the City Council's Main Street liaison, she has an in-depth understanding of the challenges Main Street has faced. The director needs to have an outgoing personality, the ability to connect with business owners, sell sponsorships, follow-through on commitments, and perform administrative functions to include QuickBooks and data entry. She said Main Street overall has been very successful in preserving the City's small town charm and has a rich history within our community. She said an intern is currently managing the social media aspect of the position which has generated growth and a social media presence. She would like to host a Workshop to discuss how we can make Main Street better in the future.

7. NOTED ITEMS

8.1 Depository Deposit Listing

Meeting adjourned: 7:13 p.m.
Submitted by Lori L. Hillman

REGULAR COUNCIL MEETING

A Regular Council Meeting was held on March 27, 2023 at 6:00 p.m. in the Council Chambers of City Hall and via GoToMeeting (224) 501-3412 - Access Code: 117-347-797.

Council President Jodi Wilkeson called the meeting to order. Roll call was taken. Present were members Jodi Wilkeson, Lance Smith, Alan Knight, Charles Proctor, Kenneth Burgess and Mayor Whitfield. City Manager William Poe and City Attorney Matthew Maggard were present.

Staff present: Police Chief Derek Brewer, Public Works Director Shane LeBlanc, CRA Director Gail Hamilton, Public Information Officer Kevin Weiss, IT Director Mike Panak, Building Official Bill Burgess, Utilities Director John Bostic, Finance Director Ted Beason, Planning Director Todd Vande Berg, Airport Manager Nathan Coleman, Senior Planner Rodney Corriveau and City Clerk Lori Hillman.

Senior Planner Rodney Corriveau delivered the innovation. The Pledge of Allegiance followed. Councilman Knight asked for a moment of silence in honor of the families of the Nashville, TN shooting, Mississippi tornado devastation and traffic accident on Eiland Blvd.

1. MAYOR

1.1 Nelson Ryman Proclamation

City Clerk Lori Hillman read aloud a proclamation in Honor of Nelson Ryman that was presented to Nelson's family by Mayor Whitfield.

Council President Jodi Wilkeson said Nelson Ryman was a founding member of the Daybreak Rotary Club and introduced Bill Castle, a fifty year plus member of Rotary International.

Bill Castle – 6711 Pistachio Street – Zephyrhills, FL 33542

Mr. Castle said Nelson Ryman was a true and a wonderful friend to everyone who knew him. He suggested the City of Zephyrhills seriously consider naming the restroom at Hercules Park or one of the many new streets coming into our community in honor of Nelson Ryman for perpetuity.

2. CONSENT ITEMS

2.1 Approval of March 13, 2023 Regular Meeting Minutes

2.2 State of Florida, Department of Transportation, State Financial Assistance Agreement No. 25-23-03 (Construction of Two New Box Hangars, Taxiway F Airfield with New 8,000 sq. ft. FBO/Terminal Building).

2.3 AID Task Order 6 – Amendment No. 3 to Runway 1-19 Extension Phase 2 – Additional Construction Phase Services

2.4 Jones Edmunds/Killibrew, Inc. Final Change Order No. 2 – Fort King Water Main Project

2.5 Jones Edmunds Task Assignment 23-08 Wastewater GPS Locations

2.6 Larson Consulting Services, LLC Professional Services Agreement No. 37-23-02

2.7 Kerns Family Construction Professional Services Agreement No. 37-23-01 for Building and Construction Continuing Services

Alan Knight moved to approve the Consent Items. Seconded by Charles Proctor. Motion passed unanimously.

3. BUSINESS ITEMS/PUBLIC HEARING

3.1 Disposal of Pet Waste

Second Reading **ORDINANCE NO. 1456-23 – “AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS, FLORIDA CREATING A NEW SECTION TO CHAPTER 93 OF THE CITY OF ZEPHYRHILLS CODE OF ORDINANCES, SECTION 93.03 ESTABLISHING REQUIREMENTS FOR THE PROPER DISPOSAL OF PET WASTE; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING AN EFFECTIVE DATE.”**

City Attorney Matthew Maggard read Ordinance No. 1456-23 by title. A public hearing was held and there were no comments from the floor.

Charles Proctor moved to approve Ordinance No. 1456-23 on the Second Reading. Seconded by Lance Smith. Motion passed unanimously.

3.2 Water Supply Facilities Work Plan

First Reading **ORDINANCE NO. 1454-23 - "AN ORDINANCE OF THE CITY OF ZEPHYRHILLS, FLORIDA, AMENDING ITS COMPREHENSIVE PLAN TO ADOPT BY REFERENCE AN UPDATED 10-YEAR WATER SUPPLY FACILITIES WORK PLAN AS REQUIRED BY 163.3177, FLORIDA STATUTES; PROVIDING FOR THE ADOPTION OF AMENDMENTS TO THE CITY'S COMPREHENSIVE PLAN TO IMPLEMENT THE UPDATED WATER SUPPLY FACILITIES WORK PLAN; PROVIDING FOR ADOPTION OF UPDATED POLICIES WITHIN THE COMPREHENSIVE PLAN PUBLIC FACILITIES, CONSERVATION, FUTURE LAND USE, INTERGOVERNMENTAL COORDINATION, AND CAPITAL IMPROVEMENT ELEMENTS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE."**

City Attorney Matthew Maggard read Ordinance No. 1454-23 by title. Planning Director Todd Vande Berg said the City is amending the Comprehensive Plan. He said Michelle Hays with Jones Edmunds will provide an Overview Executive Summary of the Water Supply Facilities Work Plan followed with a PowerPoint Presentation by Tammy Vrana. If Council chooses to move forward, the documents will be transmitted to the State of Florida, Department of Economic Opportunity for review and approval, followed by a final adoption public hearing.

Michelle Hays, Geologist III with Jones Edmunds – 730 N.E. Waldo Road – Gainesville, FL 32641

Michelle Hays said Jones Edmunds created a Water Supply Facilities Work Plan as a requirement of Florida Statutes. She said the Water Management District updates their Regional Water Supply Plan every five years to identify areas having shortages of traditional water sources. The identified areas must update their Water Supply Facilities Work Plan to show how they will meet their water supply needs over the next ten years. They must identify any shortages and come up with a conversion, alternative water supply options or projects that show they can meet the future demand. She said Jones Edmunds reviewed the City's utility service area and created demand projections based on the planned developments in the City along with some estimates of infill. The work plan looks at the facility's capacity, water use permit, and demand and impact to natural resources. The City's withdrawals sustained from the Hillsborough River Ground Water Basin are limited due to the close proximity of the City's wells. Currently, the City can treat and pump a capacity of 4.58 GPD but are limited to 3.308 GPD through the water use permit with SWFWMD. Modeling shows if the City exceeds these limits, there could be potential impacts to natural resources. Additional quantities will require an alternative water supply. Kimley Horn created water demand projections for three different scenarios: approved developments, developments under review and additional developments. All three scenarios would exceed the Water Use Permit (WUP) capacity in five (5) to seven (7) years meaning the City needs to increase their WUP with the water management district; however, the public water supply capacity is sufficient at this time. Jones Edmunds is currently looking at transferring water from other permits to reach the needed quantity along with water conservation to assure the City can continue to provide for the planned developments projected through 2040.

Tammy Vrana – Vrana Consulting – 260 Tucker Street – Safety Harbor, FL 34695

Ms. Vrana said minor changes have been made to the City's Comprehensive Plan and staff is currently working on a significant update to include a public facilities element with water supply discussions.

Ms. Vrana said the first proposed change was a new policy, LU-1-1-3, that affords City Council with the opportunity to reserve public facility capacity for a specific land use provided

the reservation is in accordance with a specific development or redevelopment strategy identified in the Comprehensive Plan to potentially set aside water supply capacity for specific projects such as job creation, workforce housing development, and tax base diversification. The second proposed change was a revision to an existing level of service standard to clarify that it is for portable water supply, PUB-1-1-1. The current level of service standard of 126 gallons per capita per day was lowered to 114 gallons per capita per day or lower because the City has been doing a great job of reducing the per capita water demand over time. The 114 gallons per capita per day is closer to the maximum peak demand. The City is currently at 87 gallons per capita per day. The third proposed change related to not facility water but water facilities, PUB-1-2-1. The City's level of service standard for determining the ability to provide adequate portable water facilities to potential customers is 300 gallons per day per dwelling unit or equivalent residential unit. The remaining policy amendments were very minor or housekeeping related. The next steps are to receive public comments, transmit to the Department of Economic Opportunity (DEO), SWFWMD and other reviewing agencies, adoption of final public hearing and submittal to the state for a finding of compliance with those state agencies. She said staff will continue to work on the water sub-element and will bring back more information and additional policy revisions. A transmittal public hearing was held and Martin Harm of 5239 10th Street – Zephyrhills, FL requested the City provide reclaimed water to citizens that are currently using potable water to help over the years toward the end goal.

City Manager William Poe clarified the City must send 85% of their reuse water back into the aquifer via the Rapid Infiltration Basin System (RIBS) located on airport property and utilize 15% for residents per the City's Water Use Permit (WUP) through the Southwest Florida Water Management District (SWFWMD). He said if a yard is being irrigated, water will evaporate as it is being disbursed as opposed to the RIBS where the water rapidly charges the aquifer. He said the City is working on Florida Water Star Conservation Certification through SWFWMD and looking at Florida-friendly landscaping. He said the City is not running out of water, we are running out of cheap water. There are some very expensive options the City has to explore to withdraw more water. The City is also looking at partnerships and additional withdrawals from wells on the northern end of the Hillsborough River Basin. Staff is working with Jones Edmunds to submit a modification request to SWFWMD the end of April 2023 to increase the City's capacity.

Lance Smith moved to approve Ordinance No. 1454-23 on the First Reading. Seconded by Kenneth Burgess. Motion passed unanimously.

4. PUBLIC WORKS DIRECTOR'S REPORT

4.1 Kimley-Horn Stormwater Master Plan Presentation

Public Works Director Shane LeBlanc said the City entered into an agreement with Kimley-Horn in November 2020 to review the City's Stormwater Master Plan that was last updated in 1999.

Spoke from the floor: Christopher Niforatos, P.E. – Kimley-Horn – 600 St. Petersburg, FL

Mr. Niforatos narrated a PowerPoint presentation of the Stormwater Master Plan update recently delivered to the City highlighting two main goals and objectives: updated inventory and a project list of Best Management Practices to reduce flooding and improve water quality. He presented an overview of the project timeline which began with data collection and review, generation of the floodplains, a public meeting held in November 2021, the development of a pollutant load model, creation of a flooding level of service determination, and the development of a list of Best Management Practices (BMPs) to create a final report. He displayed a map of the City's 100-year floodplain project site based on 12' of rainfall, and BMP alternatives.

BMP Alternative 1 looked at diverting floodwaters from Zephyr Lake and Sites 2, 3, 4, and 5 to a new 22-acre storage facility down the former legacy railroad bed which removes about seven (7) homes from the finished floor elevation and removed 5,275 feet of roadway that was impacted by the 25-year floodplain - \$9M.

BMP Alternative 1.1 was a slight variation of BMP Alternative 1 that included utilizing the airport canal to the east with additional piping from Gall Blvd. and South Avenue. While this instance removed an additional home and removed 3,425 feet of roadway, it wasn't cost effective - \$14.5M.

BMP Alternative 2 looked at diverting floodwaters from Site 15 to a new 2.5-acre pond located west of West Zephyrhills Elementary School. A new storage facility consisting of two ponds connected via an equalizer pipe and upsizing the crossing at 8th Avenue, 1st Street and 5th Avenue to match the capacity of pedestrian bridge culverts to Zephyr Lake. This removes seven (7) homes from the 100-year floodplain and 1,625 feet of roadway from the 25-year floodplain - \$1.6M.

BMP Alternative 2.1 was similar to BMP Alternative 2, pushing it further east along 14th Avenue to the existing FDOT pond at Gall Blvd. and picking up the flooding from sites 8 and 9, and taking them down to site 15. This alternative is not as effective in terms of removing finished floor elevations because it is introducing more flow downstream; although, it removes more roadway from flooding impacts - \$2.9M.

BMP Alternative 3 looked at diverting floodwaters from Site 13 to a proposed .044 acre pond southeast of 7th Avenue and 1st Street. Removed one (1) home from the floodplain and removed 200 feet of roadway from the 25-year floodplain - \$216,000.

BMP Alternative 4 looked at diverting floodwaters from Site 1 and bringing a 36' pipe to the east along C Avenue and did not result in any finished floors being removed from the floodplain but it did reduce the floodplain about a quarter of an acre in and around some of the sites - \$1.3M.

BMP Alternative 5 was interesting because there is a 60" RCP that connects Zephyr Lake to the canal south of C Avenue with a 6' x 9' box culvert. In theory this sounds fantastic because you are opening up the upstream and the flood waters obviously decrease. The issue becomes, you opened it up, and what happens to the water downstream - \$104,000.

BMP Alternative 5.1 - Pasco County has an ERP application for downstream water with some channel widening and culvert replacements. This would be a great opportunity for the City to partner with Pasco County to flange the projects together depending on where Pasco County is in the process - \$104,000.

BMP Alternative 6 was a special request from the City to look at diverting floodwaters from 5th Avenue and 20th Street to the existing pond on the northeast corner of 7th Avenue and 20th Street with very little improvements in and around those areas. He said in this area, the water table is a little bit high so the recovery in those ponds were not as pronounced as you would think they would be and had a minimal effect - \$1.0M.

Mr. Niforatos said a total of the combined BMP alternatives was \$13.3M and are aligned on the west side where the water is brought to Zephyr Lake through the channel system. He looked at combining several alternatives to create a matrix of what ifs. He said if improvements are made upstream, you can tackle some of the improvements downstream. The next steps would be to consider a Stormwater Utility Assessment to evaluate funding mechanisms and refine project details. He said the City gets involved with jurisdictional issues with Pasco County relative to the ditch for instance along Funk Street and anything south of C Avenue. He suggested the City work with Pasco County and come up with a plan.

Public Works Director Shane LeBlanc addressed the flooding between 4th Avenue and 5th Avenue on 20th Street, a closed basin where the road will be under water from a heavy rain event and there is no place for the water to drain until it eventually perks out. In Public Works, the definition of flooding is water inside your house. He said the beauty of an updated StormWater Master Plan is the updated inventory can be used as a tool to start planning with a funding mechanism.

Council Vice President Smith prioritized the plan by stating if water is getting into someone's house that is an issue that needs to be corrected. If a project is \$9M and it affects five houses, it doesn't make economic sense to spend \$9M, just buy the five houses. He said teaming up with the County on the ditch is a good idea. He said he would have to be convinced the City had enough of a water problem to impose any type of a drainage tax.

Council President Wilkeson said the important Best Management Practices were BMP 5 and 5.1. She suggested opening up the culvert at Zephyr Park, head south and take advantage of the county program before it expires. She said the City also needs a Plan B to set aside money

out of the General fund or some other funding source. She agreed with Council Vice President Smith, buy the houses, create retention ponds, and make them an asset to the community.

City Manager William Poe said there are stormwater diversion, handling and retention grants available with a 50/50 match which is the reason the Stormwater Utility Fee was mentioned. The idea of the Stormwater Utility Fee is to add a small fee to the tax bill each year to use toward matching grant funding for projects. He said the City has funds that are increasing each year from the fire department merger. Staff will have conversations with Kimley Horn to determine the City's level of service to determine where we go from here.

Mayor Whitfield suggested reconfiguring the Zephyr Park Conceptual Plan for water retention.

5. CITY MANAGER'S REPORT

5.1 Website Redesign Presentation

Public Information Officer Kevin Weiss presented a simplified rundown of the new website design that launched officially on March 20, 2023 highlighting announcements, mega drop-down menus, social media with static fixed buttons (Facebook, Twitter, Instagram, LinkedIn Youtube and Nextdoor), text messaging platform and See, Click, Fix It. A banner video highlights the amenities of Zephyrhills along with a promotional video series. He considered the update a soft launch as staff continues to work out glitches. He said the website is strong, appealing and presentable for residents and visitors. The website is ADA compliant and contains a google translate to choose any language of your choice. The website is easier to navigate and more visually appealing.

6. CITIZEN COMMENTS

Spoke from the floor: Martin Harm - 5239 10th Street - Zephyrhills, FL

Mr. Harm said a Candidate Forum was held on March 20th for the upcoming Municipal Election and there is no information on the City's website. He said there are only ten (10) days remaining before the election and requested the voting information be available to citizens on the City's website.

Spoke from the floor: Rosie Paulsen – 4730 Timberway – Zephyrhills, FL

Ms. Paulsen said she watched the videos on the City's website and most of them begin with the Chamber of Commerce and asked if this was because the Chamber of Commerce is also the Visitor Center. She asked if the City's rebranding will mirror the colors of the City's Website Redesign. As a marketing suggestion, she suggested a scavenger hunt event to include the murals for people that visit the City to take pictures and selfies.

Public Information Officer Kevin Weiss said CGI Digital provided the promotional videos free of charge to the City and the City had limited influence on the content. He said a color pallet and elements will be submitted to CivicPlus to update the City's website and swap out the logo which will not be a huge undertaking when the rebranding is complete.

MAYOR ANNOUNCEMENTS – Mayor Whitfield acknowledged the talents of staff and said when you call on them, they are always willing to help and recognized Senior Planner Rodney Corriveau who delivered the invocation.

CITY MANAGER ANNOUNCEMENTS – City Manager William Poe said he was not present at the last meeting although he did attend via GoToMeeting and listened to the conversation relating to the Duke Energy Pole on Kossik Road. The City is holding several plats, at staff level, that will not be approved pending resolution. He said he reached out to Duke Energy to discuss what poles need to be moved and the associated cost. The Pasco County Economic Development Council Netfest Event will be held Thursday, April 30th. He and Councilman Burgess will be attending the Florida Legislative Action Days in Tallahassee April 3rd through April 5th to encourage representatives and legislators to continue their support of Zephyrhills.

CITY ATTORNEY ANNOUNCEMENTS - N/A

CITY COUNCIL COMMENTS – Councilman Knight congratulated the Ryman family, stating Nelson Ryman was one of his very best friends. He acknowledged Police Chief Brewer for his department’s busy day and efforts by staff.

Councilman Proctor said Nelson Ryman was a good man who did a lot for the people within our community. He thanked Kevin Weiss for the amazing improvements to the City’s website and thanked Government Liaison Amber Smith with SWFWMD for attending meetings to lead and guide the City.

Council Vice President Smith said he called to initiate water service which was very cumbersome and said the process needs to be streamlined. He said staff has to start expediting and pushing projects.

Councilman Burgess agreed with Council Vice President Smith for staff to prioritize and push their projects. He said he has been voicing his concern for three years on Kossik Road that is not yet complete. He acknowledged Kevin Weiss for his work with the City’s website and recognized Erin Beasley for the great job in pushing out Main Street information. He said Nelson Ryman, his dad, and several others were instrumental in initiating the Bulldog Booster Club and he grew up with Kerry and Kevin Ryman.

Council President Wilkeson expressed her appreciation to City Clerk, Lori Hillman, who put together a proclamation in honor of Nelson Ryman and made it meaningful for the family. She directed staff to set an internal deadline to automatically track projects. She said the City is behind times for submitting plan reviews online and resources need to be secured. She thanked Kevin Weiss for his work on the City’s website. As the Council Liaison to Main Street, she said Erin Beasley’s resignation was unexpected but there were some extenuating circumstances. She said it has been a challenge to keep the position filled for a long period of time. She thanked Main Street President Linda Kerns and the Main Street board for stepping in to fill the void. Ms. Hamilton and Ms. Amerson are working on a plan of action to fill the position. The person who makes social media posts for Main Street is intern, Jayleen, who is doing a great job.

7. NOTED ITEMS

7.1 Depository Deposit Listing

Meeting adjourned: 8:05 p.m.
Submitted by Lori L. Hillman

CONSENT ITEMS 2.3

Jones Edmunds Amendment 1 - TA JE 22-02 North Side Lift Station/Force Main Project

Issue:

Jones Edmunds Amendment 1 For the North Side Lift Station/Force Main Project (Project) for Engineering Services During Construction (ESDC), limited on-site Project Representation, and Contract Closeout Services.

Background:

The Project is awaiting the award of a bid to the construction contractor and these services are necessary before, during, and after construction of the project to ensure all documentation is correct, inspections are performed correctly, and the work continues in as efficiently as possible. At certain times during construction activities, if city employees are able to complete some of the inspections, the costs of the services will be reduced.

Attachment(s):

1. JE-22-02-Amendment 1-Northside Lift Station

Fiscal Impact:

Costs for these services are based on time and materials, not to exceed \$129,650.

Staff Recommendation:

It is the recommendation by staff to the City Council to approve Jones Edmunds JE 22-02 Amendment 1 in an amount not to exceed \$129,650.

AMENDMENT NO. 1
to

City of Zephyrhills
Engineering Services Agreement RFP 35-18-03

Task Assignment JE 22-02
Northside Lift Station and Force Main Final Design

Engineer's Project Number 26110-045-01

This Amendment, by mutual agreement of the parties hereto, is made a part of the referenced Task Assignment JE 22-02 dated November 18, 2021, by and between the City of Zephyrhills (City) and Jones Edmunds & Associates, Inc. (Consultant), and by being made a part of said Agreement is therefore subject to the conditions and considerations contained therein, unless otherwise provided herein.

This Amendment hereby amends the referenced Task Assignment between the parties as follows:

- Provide Additional Services as outlined in the attached Scope of Services for ESDC and limited Project Representative (PR).
- The Time & Materials not-to-exceed fee for these Additional Services shall be \$129,650.
- Execution of this Amendment 1 will result in a new contract value of:

Contract	Fee
Engineering Services Agreement	\$ 187,515
Amendment 1 (ESDC and PR)	\$ 129,650
Revised Total	\$ 317,165

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Amendment 1 to JE 22-02 upon the terms and conditions stated herein, effective as of the date of the last signature shown below. All other provisions of the referenced Agreement shall remain in effect unless subsequently changed in writing and signed by both parties.

City:
City of Zephyrhills

By: _____

Name: Lance A. Smith

Title: City Council President

Date: April 24, 2023

Consultant:
Jones Edmunds & Associates, Inc.

By: Stanley F. Ferreira, Jr.
Stanley F. Ferreira, Jr. (Jan 17, 2023 11:13 EST)

Name: Stanley F. Ferreira, Jr., PE

Title: President & CEO

Date: January 17, 2023

Alan Foley
Alan Foley (Jan 17, 2023 11:02 EST)

**Amendment 1
to
Task Assignment JE 22-02
Northside Lift Station and Force Main Final Design
Engineer's Project Number 26110-045-01**

SCOPE OF SERVICES

A 15-month construction schedule is proposed for this project. The schedule consists of a 3-month submittal and material acquisition period followed by 12 months of on-site activities. This approach will reduce the likelihood of delays during on-site construction activities. Construction-phase services are based on this 15-month construction schedule.

Construction administration is the office support required to complete the project and includes work items necessary to maintain the project's performance. The CONSULTANT will provide the following limited construction-administration services:

- Receive, log, review, and issue comments for Requests for Information (RFI).
- Prepare, log, and issue Construction Field Orders (CFO), as requested by the CITY.
- Prepare, log, and issue responses to Proposed Contract Modifications (PCM).
- Review PCMs for conformance with the Contract Documents and make recommendations.
- Prepare, log, and issue Change Orders (CO).
- Prepare, log, and issue Notices of Non-Compliance.
- Attend up to nine monthly on-site construction progress meetings.
- Prepare agendas, sign-in sheets, and meeting minutes and distribute meeting minutes associated with the progress meetings to the Contractor and the CITY electronically.
- Receive, review, and file field correspondence.
- Coordinate construction activities and issues with the CITY's Inspector.
- Assist the CITY in reviewing pay applications.
- Set up and maintain project files. Files may include miscellaneous letters/emails, submittals, RFIs, pay applications, meeting minutes, CFOs, PCMs, COs, Notices of Non-Compliance, submittals, review of Contractor-supplied Operation and Maintenance (O&M) manuals, warranties, punch lists, and testing results.

SUBMITTAL REVIEW

The CONSULTANT will receive, log, review, and issue comments on project submittals, including administrative submittals (i.e., construction schedules and work plans), shop drawings, and product data for the materials to be incorporated into the project warranties, samples, and O&M manuals. The CONSULTANT expects 20 submittals for this project. This Scope of Services includes an initial review and one resubmittal review for the expected submittals. Submittals will be immediately returned to the Contractor if all deviations are not listed as requested on the project forms.

LIMITED CONSTRUCTION OBSERVATION

The CONSULTANT will provide a Project Representative (PR) during the 9-month period when on-site construction activities occur. The duties of the PR will include:

- Visit the site not more than 3 days (8 hours per day) per week during on-site construction activities (up to 1200 hours total) to assist the CITY in observing the Contractor's work and assist the CITY in monitoring that construction is being completed in accordance with the Contract Documents.
- Document testing, including coordinating with the Contractor in advance of scheduled tests.
- Take progress photographs to document construction progress.
- Work in partnership with the CITY to prepare an observation report after each on-site visit and record weather conditions, the day's activities, decisions, and other general observations.
- Confirm that materials delivered to the site are consistent with submitted materials.
- Report when clarifications and interpretations of the Contract Documents are necessary.

The CITY will provide the remaining full-time (as necessary) Construction Inspector to provide daily observation of the Contractor's work, including all PR tasks described above. In addition to the tasks above, the CITY's Construction Inspector will track quantities placed, including stored materials, and verify the quantities billed on monthly pay applications. The CITY will submit daily observation reports and progress photographs to the CONSULTANT weekly.

CONTRACT CLOSEOUT SERVICES

When the Contractor notifies the CITY/CONSULTANT that the project is Substantially Complete, the CONSULTANT will begin contract closeout, which includes:

- Conduct a Substantial Completion site visit with the CITY and the Contractor, and provide a punch list (an initial list of items to be corrected or completed) to the Contractor and the CITY.
- Issue a Certificate of Substantial Completion to the CITY and the Contractor for signatures, with the final punch list attached.
- Conduct a Final Completion site visit with the CITY and the Contractor and document any remaining deficiencies.
- Assist the CITY with preparing, reviewing, and executing final documentation required by the Contract Documents for Final Completion.
- Coordinate closeout of the Pasco County Right-of-Way Use permit.
- Review the Contractor's provided as-built Construction Drawings and CAD-based Record Drawings. This Scope of Services includes two reviews of the Record Drawings.

AMENDMENT FEE (T&M):

ESDC services: \$ 39,650

Project Representative (PR): \$ 90,000

Amendment total: \$ 129,650

CONSENT ITEMS 2.4

Memorandum of Understanding #41-23-15 - City of Zephyrhills/Fraternal Order of Police

Issue:

The Zephyrhills Police Department constantly evaluates recruitment and retention policies and methods. While benefits and agency culture are essential to potential candidates, pay is often at the top of the reasons applicants choose an agency. Therefore, to attract certified officers with law enforcement experience, I propose an amendment to Article 28 of the union contract for officers, detectives, and SROs. The proposed language is, "Law enforcement officers with three (3) or more years of service with another agency shall start at step two (2) of the compensation plan."

Background:

The amendment was proposed to the members of the FOP for a vote and ratification on April 13, 2023. The membership voted unanimously to approve the language change to the contract.

Attachment(s):

1. FOP MOU
2. Article 28 - Amendment

Fiscal Impact:

Newly hired officers with three years or more experience would receive \$2,711.15 more than the starting pay.

Staff Recommendation:

Staff recommends approval.



FLORIDA STATE
FRATERNAL ORDER
OF POLICE

LABOR COUNCIL COMMITTEE

This memorandum of understanding made and entered into this ____ day of April 2023, by and between The City of Zephyrhills, Florida, (hereafter "City"), and The Fraternal Order of Police Florida State Lodge (hereinafter "FOP").

WHEREAS, the FOP has ratified the contract between the City and FOP for the Police Officers, Detectives and SROs dated October 01, 2021 to September 31, 2024; and

WHEREAS, Article 28 WAGES defines Annual STEP increases for members, but fails to allow for an increase in STEPS for which a newly hired Officer with prior law enforcement experience may be started at; and

WHEREAS, the CITY and FOP have mutually agreed to add a section to Article 28 to allow, at the CITY's discretion, for a newly hired law enforcement officer with a minimum of three (3) years prior law enforcement experience to be started at a pay rate up to STEP 2; and

WHEREAS, the CITY and the FOP desire to memorialize this understanding and its impact on Article 28 for the duration of the aforementioned agreements.

ENDORSEMENTS

IN WITNESS WHEREOF, the parties have caused this memorandum of understanding to be signed by their authorized representatives on the ____ day of April, 2023:

Council President

City Manager

FOP Labor Representative

Emile Limoges Jr.

Labor Unit Representative



Article 28

Wages

I Fiscal Year 2021/2022:

- A. Beginning October 1, 2021, the City agrees to implement a compensation plan (step plan) in which officers receive pay based on the step in which the officer falls. Each step shall be defined as a period of one (1) year, and steps shall progress based on longevity with the agency.

II Fiscal Year 2022-2023:

- A. Each step will receive a \$0.82 per hour increase, based on the 2184-hour work schedule, effective the first pay period after October 1, 2022.
- B. Each step is based on the officer's anniversary from the date of hire. Officers shall progress to the next highest step of the compensation plan on their anniversary date each additional year. For the fiscal year 2022-2023, Officers will advance one additional step on their anniversary date.
 - 1. For example, an Officer with a hire date of December 1st in Step 3 at the start of the fiscal year 2022-2023 will advance, on December 1st, 2022, to Step 5.
- C. Officers will not be eligible for any wage increases, including but not limited to step increases, in the fiscal year 2021-2022 or in any subsequent years unless the City Council first votes to specifically fund the wage and/or step increase for the fiscal year 2021-2022 or subsequent years.
- D. The parties agree that no wage increases, including but not limited to step increases, shall be given to any bargaining unit employees after the expiration of this or any future collective bargaining agreement unless and until the parties ratify a successor collective bargaining agreement. Wage increases, if any, following the expiration of the collective bargaining agreement shall be subject to negotiations between the parties.

III Bonus for Topped Out Employees:

- A. The maximum base salary for officers shall be \$64,116. Officers who reach the maximum salary will receive a bonus in lieu of any City Council-approved wage increase, with the amount of the bonus equal to the City Council-approved percentage for non-bargaining agreement employees.

IV Experience Pay:

- A. Beginning April 24, 2023, law enforcement officers with three (3) or more years of service with another agency shall start at step two (2) of the compensation plan.

CONSENT ITEMS 2.5

Reassignment of JJ Aeronautics, Inc.(assignor) to Posada Aviation, LLC (assignee) #29-23-02

Issue:

N/A

Background:

Zephyrhills Municipal Airport Operating Agreement between Zephyrhills Municipal Airport Authority, a dependent authority of the City of Zephyrhills, Florida, a Municipal Corporation, as Lessor, agrees to execute the attached Assignment of Lease. Please refer to the Consent to Assignment of Lease and Exhibit A for full details. This item went before the Airport Advisory Board on April 17, 2023 and passed unanimously.

Attachment(s):

1. #29-23-02 Reassignment of JJ Aeronautics, Inc. (Assignor) to Posada Aviation, LLC (Assignee)

Fiscal Impact:

N/A

Staff Recommendation:

Staff recommends City Council's consideration of approval on the Assignment of Lessee's interest to POSADA AVIATION, LLC, A Florida Limited Liability Company.

CONSENT TO ASSIGNMENT OF LEASE

This Consent to Assignment of Lease (“**Consent**”), is entered into among the CITY OF ZEPHYRHILLS, a Florida municipal corporation (“**Landlord**”), JJ AERONAUTICS, INC., a Florida corporation (“**Assignor**”) and POSADA AVIATION, LLC, a Florida limited liability company (“**Assignee**”).

RECITALS

WHEREAS, Landlord is the owner and landlord of the real property located in Zephyrhills Municipal Airport (“**ZPH**”).

WHEREAS, Landlord and PROFESSIONAL AIRCRAFT MAINTENANCE, INC., a Florida corporation (“**PAM**”), entered into that certain Lease Agreement dated January 24, 2000 (the “**Lease**”), for 4.435 acres (the “**Demised Premises**”) of ZPH, which Demised Premises is more particularly described in the Lease.

WHEREAS, the Lease was lawfully assigned by PAM to THE NASWORTHY CORPORATION, a Florida corporation (“**NAS**”), then lawfully assigned by NAS to Assignor.

WHEREAS, pursuant to Section 7 of the Lease, the Assignor must obtain written consent from the Landlord prior to an effective assignment of the Lease.

WHEREAS, Assignor desires to assign all of its rights and obligations as tenant under the Lease to Assignee and Assignee wishes to accept the assignment of the Lease and assume all of the obligations as tenant under the Lease pursuant to the terms and conditions of that certain Assignment and Assumption of Lease, a copy of which is attached to this Consent as Exhibit A (the “**Assignment**”).

WHEREAS, Landlord is willing to consent to the Assignment subject to the terms and conditions set forth in this Consent.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed to as follows:

1. Recitals. The Recitals to this Consent are incorporated by reference into and shall constitute a part of this Consent.
2. Consent to Assignment. In compliance with Section 7 of the Lease, Landlord hereby consents to: (a) Assignor’s assignment of its rights and obligations under the Lease to Assignee; and (b) Assignee’s assumption of Assignor’s rights and obligations under the Lease, both pursuant to and in accordance with the Assignment.
3. Release. Landlord hereby releases Assignor, JJ AERONAUTICS, INC., from all of the terms and obligations under the Lease, related to the period after the Closing Date of the Assignment, in consideration for the assumption by the Assignee, POSADA AVIATION, LLC, of all of the duties and obligations and its agreement to abide by all of the terms and conditions of the Lease.

4. No Further Assignment. This Consent shall not be construed as a consent by Landlord to, or as permitting, any other or further assignment. Any subsequent assignment must be noticed to the Landlord and receive prior written consent.

IN WITNESS WHEREOF, the undersigned has executed this Consent on the 24th day of April, 2023.

Witness Signature

CITY OF ZEPHYRHILLS, A FLORIDA
MUNICIPAL CORPORATION

Witness Name

By:_____

Name: Lance A. Smith

Title: Council President

Witness Signature

Witness Name

STATE OF FLORIDA

)

) ss.

COUNTY OF PASCO

)

The foregoing Consent was acknowledged before me this 24th day of April, 2023 by Lance A. Smith, the Council President, of the City of Zephyrhills, a Florida municipal corporation, on behalf of said corporation, and who declared his corporate title and has produced _____ as identification, and who says he signed the Consent for the purposes contained therein.

Name: _____

Notary Public State of Florida

Commission Expires: _____

Exhibit A

ASSIGNMENT AND ASSUMPTION OF LEASE

FOR VALUE RECEIVED, JJ AERONAUTICS, INC., a Florida corporation (“**Assignor**”) as of the Closing Date (defined in the Agreement) assigns, conveys, transfers, and sets over to POSADA AVIATION, LLC, a Florida limited liability company (“**Assignee**”), its successors and assigns, all of Assignor's right, title, and interest in, to, and under that certain Lease Agreement dated January 24, 2000 (the “**Lease**”) by CITY OF ZEPHYRHILLS, a Florida municipal corporation (“**Landlord**”). This Assignment and Assumption of Lease (this “**Assignment**”) is subject to the terms and conditions of that certain Purchase and Sale Agreement dated January 29, 2023, between Assignor and Assignee (the “**Agreement**”).

Assignee hereby accepts the foregoing assignment and assumes all of the obligations of Assignor as tenant under the Lease accruing from and after the Closing Date and agrees, for the benefit of Assignor, its successors and assigns, and for the benefit of Landlord, its successors and assigns, to pay, perform, discharge when due, and otherwise satisfy in due course all of such obligations and liabilities of the tenant under and in accordance with the provisions of the Lease.

The terms of the Agreement including, without limitation, all covenants, agreements, conditions, representations, warranties, and indemnities, are incorporated herein by this reference. Assignor and Assignee acknowledge and agree that the terms, covenants, agreements, conditions, representations, warranties, and indemnities contained in the Agreement shall not be superseded by this Assignment but shall remain in full force and effect to the full extent provided therein. In the event of any conflict or inconsistency between the terms of the Agreement and the terms of this Assignment, the terms of the Agreement shall control. Any capitalized terms not defined in this Assignment shall have the meanings assigned to them in the Agreement.

IN WITNESS WHEREOF, the Assignor and Assignee have duly executed this Assignment and Assumption of Lease as of the _____.

ASSIGNOR:

JJ AERONAUTICS, INC., A FLORIDA CORPORATION

By:_____

Name: Ana M. Franco

Title: President

ASSIGNEE:

POSADA AVIATION, LLC, A FLORIDA LIMITED LIABILITY COMPANY

By:_____

Name: Nicolas Posada

Title: Owner

BUSINESS ITEMS/PUBLIC HEARING 3.1

Florida Water Star - Water Conservation

Second Reading **ORDINANCE NO. 1457-23 - "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS, FLORIDA, CREATING A NEW SECTION TO CHAPTER 156 OF THE CITY OF ZEPHYRHILLS CODE OF ORDINANCES, SECTION 156.30-156.36 ESTABLISHING FLORIDA WATER STARSM CERTIFICATION REQUIREMENTS FOR NEW CONSTRUCTION; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE."**

- A. Council President opens Public Hearing
- B. Council President closes Public Hearing
- C. City Council considers Ordinance No. 1457-23 on the Second Reading

Issue:

The City of Zephyrhills has come to the time when inexpensive potable water may be in question for the future development of the city. The Florida WaterStar Program is sponsored by the SWFWMD and is a tool to save on current residential uses of potable water. This program states what needs to be installed in new and/or existing developments and/or homes. Such as water and energy efficient appliances, water fixtures, toilets, and landscaping. To include Florida Friendly Landscaping, high efficiency irrigation, to name a few.

Background:

The Florida WaterStar Program is sponsored by the SWFWMD and is a tool to save on current residential uses of potable water. This program states what needs to be installed in new and/or existing developments and/or homes. Such as water and energy efficient appliances, water fixtures, toilets, and landscaping. To include Florida Friendly Landscaping, high efficiency irrigation, to name a few.

The Florida WaterStar Program is estimated to save the city 140,000 gallons of water per day with the implementation of the Program along with any additional conservation practices we put in place.

Attachment(s):

1. Ordinance 1457-23 Florida Water Star - Water Conservation

Fiscal Impact:

No foreseen impacts to the city. Any financial impact will be borne by the developer/homeowner. The estimated cost to a developer, per home, will be approximately \$1,000 - \$2,000.

Staff Recommendation:

It is the recommendation of staff to the City Council to approve the Florida WaterStar Program Ordinance.

ORDINANCE 1457-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS, FLORIDA, CREATING A NEW SECTION TO CHAPTER 156 OF THE CITY OF ZEPHYRHILLS CODE OF ORDINANCES, SECTION 156.30-156.36 ESTABLISHING FLORIDA WATER STARSM CERTIFICATION REQUIREMENTS FOR NEW CONSTRUCTION; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, as provided in section 2(b), Article VIII of the Constitution of the State of Florida, and section 166.021(1), Florida Statutes, the City of Zephyrhills, Florida (the “City”), a municipal corporation, enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, the City of Zephyrhills has the desire to reduce the unnecessary use of potable water within the City limits; and

WHEREAS, the purpose and intent of this ordinance is to implement uniform procedures that promote water conservation through the mandatory installation of more efficient plumbing fixtures and appliances and installation of more efficient landscapes and irrigation systems and methods within the City of Zephyrhills; and

WHEREAS, the City Council of the City of Zephyrhills, Florida hereby finds that this ordinance advances an important government purpose by reducing the likelihood of the unregulated negative secondary effects of cannabis dispensing facilities; and

WHEREAS, the City Council of the City of Zephyrhills, Florida hereby finds that this ordinance is in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Zephyrhills, Florida, as follow:

SECTION 1. This Ordinance is enacted pursuant to Chapter 163, Florida Statutes, and under the home rule powers of the City.

SECTION 2. Chapter 156 Construction Standards, City of Zephyrhills Code of Ordinances is hereby amended to add the following Section:

Florida Water StarSM Certification Required

Section 156.30 Purpose and Intent

It is the intent and purpose of this Section to implement uniform procedures that promote water conservation through the MANDATORY installation of more efficient plumbing fixtures and appliances and installation of more efficient landscapes and irrigation systems and methods.

Section 156.31Applicability.

MANDATORY Water Conservation for ALL NEW CONSTRUCTION WITHIN THE CITY OF ZEPHYRHILLS FOR efficient Indoor Plumbing Requirements, Landscape Design and Installation Standards, and Irrigation System Design and Installation Standards. Verification of the installation of efficient indoor and outdoor Florida Water Star fixtures, appliances, landscapes and irrigation systems is completed by a Florida Water Star inspector. Official Florida Water Star Certificate of Compliance must be submitted to obtain

the Certificate of Occupancy.

Section 156.32 Definitions

For the purposes of this Section, the following words, and terms shall have the meaning given herein:

- (1) *Automatic irrigation system.* An irrigation system designed to operate following a preset program entered into an automatic controller.
- (2) *Automatic controller.* A mechanical or electrical device capable of automated operation of valve stations to set the time, duration and frequency of a water application (Florida Department of Environmental Protection [DEP] Model Ordinance).
- (3) *Certificate of Occupancy (CO).* A document issued by the Building Official allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all of the applicable municipal codes and ordinances.
- (4) *Distribution equipment.* The water emitters on irrigation systems, including but not limited to sprinklers, rotors, spray heads and micro-irrigation devices.
- (5) *ENERGY STAR®.* A joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy, with the purpose of reducing energy costs and protecting the environment, through energy- and water-efficient products and practices
- (6) *Florida Water StarSM Certificate of Compliance.* A Florida water conservation certification program that is mandatory for new residential and commercial construction in Lake Wales which shall include indoor and outdoor water-efficient criteria and prevent leaks.
- (7) *Florida Water Star Inspector.* Person that verifies Florida Water Star program criteria in accordance with program documents. Inspectors demonstrate sufficient knowledge to verify appropriate subcategories (irrigation, landscape and plumbing). Inspectors are permitted to use construction documents, affidavits, and field verification during the verification period. See Florida Water Star certification program process web page at *FloridaWaterStar.com* (Florida Water Star).
- (8) *Florida Water Star Irrigation and Landscape Accredited Professional (AP).* A landscape or irrigation professional who has successfully passed the Florida Water Star AP exam and is in good standing with the program (Florida Water Star).
- (9) *Head-to-head spacing.* Spacing of sprinkler heads so that each sprinkler throws water to the adjacent sprinkler (Irrigation Association [IA] Glossary).
- (10) *High-volume irrigation.* An irrigation system with a minimum flow rate per emitter of more than 30 gallons per hour (gph) or higher than 0.5 gallons per minute (gpm). High-volume is usually measured as gpm (Florida Water Star).
- (11) *Irrigation professional.* Any person installing or maintaining an irrigation system in the City of Lake Wales for payment from a customer.
- (12) *Irrigation design professional.* An irrigation design professional shall include state-licensed plumbers operating within the limits of the Florida Building Code, professional engineers or landscape architects licensed by the State of Florida, Florida Water Star Irrigation and Landscape Accredited Professionals and irrigation designers certified by the Irrigation Association or the Florida Irrigation Society.
- (13) *Irrigation system.* A set of components that may include the water source, water distribution network, control components, and other general irrigation equipment

which has been installed to provide irrigation (Florida Water Star).

- (14) *Landscaped area*. The entire parcel less the building footprint, driveways, hardscapes, decks and patios, and nonporous areas (DEP Model Ordinance).
- (15) *Licensed Irrigation Professional*. An irrigation specialty contractor who obtains the irrigation specialty license from The Florida Construction Industry Licensing Board and maintains continuing education requirements.
- (16) *Low-volume irrigation*. Any emitter or sprinkler that applies less than 30 gallons per hour (gph) or 0.5 gallons per minute (gpm) (Florida Water Star).
- (17) *Matched precipitation*. Expressed in inches per hour, precipitation rate is the rate at which sprinklers apply water. Matched precipitation usually implies that all the sprinklers in a particular zone apply similar amounts of water to a given area (Florida Water Star).
- (18) *Micro-irrigation*. The application of small quantities of water directly on or below the soil surface or plant root zone, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). Micro-irrigation encompasses a number of methods or concepts, including drip, subsurface, micro-bubbler, and micro-spray irrigation, previously known as trickle irrigation, low volume or low-flow irrigation (Appendix F, Florida Building Code).
- (19) *Rotor*. Sprinkler that rotates and specifically, a gear-driven sprinkler. Often delivers a thin stream of water in a circular pattern over a longer distance with a precipitation rate from 0.1 inches per hour to 1.5 inches per hour (Florida Water Star).
- (20) *Side-strip sprinkler*. Sprinkler nozzle that sprays a long, but narrow pattern.
- (21) *Spray head*. Sprinkler head with a fixed orifice that does not rotate (Florida Water Star).
- (22) *Substantial modification*. Any modification to an existing irrigation system such that 50 percent or more of the irrigation system (by area) is replaced or altered.
- (23) *Temporary establishment irrigation*. The temporary use of irrigation for the establishment of new vegetation that shall be removed once the plants are established or within two years, which occurs first.
- (24) *WaterSense®*. A program sponsored by the U.S. Environmental Protection Agency to promote the use of water-efficient products and services (Florida Water Star).

Section 156.33 Efficient Plumbing Requirements

- (A) Contractors obtaining City of Zephyrhills Building Permits, for all new residential, commercial and institutional construction, no more than 60 days after the effective date of this Ordinance, shall incorporate WaterSense plumbing fixtures (faucets, showerheads and toilets) and ENERGY STAR appliances (clothes washer and dishwasher) into said construction. All new construction shall incorporate WaterSense plumbing fixtures and ENERGY STAR appliances prior to issuance of certificate of occupancy.
- (B) In appliances where WaterSense plumbing fixtures and ENERGY STAR appliances are not available, the fixture or appliance must meet the same flow rate as WaterSense or ENERGY STAR specs, or a written request for an exception must be submitted with the building permit application and approved by the City. For exception to be approved, a best alternative water and/or energy conservative fixture and/or appliance must be identified in the submittal.

Section 156.34 Irrigation System

(A) Design and Installation Standards

- (A) Applicability. Irrigation system design and installation standards shall apply to the following:
 - (1) All new residential, commercial, and institutional construction where a new landscape irrigation system is required.
 - (2) Where significant rehabilitation (50% or greater) of an existing landscape irrigation system will be conducted.
- (B) General.
 - (1) Nothing within this Section shall require the installation of an irrigation system. Requirements for installing irrigation systems are specified in other Articles within Chapter 23 of the Zoning, Land Use and Development Regulation and Chapter 21 of the Utilities Code.
 - (2) All irrigation systems shall be designed by an irrigation professional consistent with the irrigation systems standards and as set forth in this Section.
 - (3) All irrigation systems must be properly installed and maintained and must operate technology such as rain and/or soil moisture sensors that inhibit or interrupt operation of the irrigation systems during periods of sufficient moisture.
 - (4) Compliance with this Section shall not exempt an individual from any other local, state or federal requirements.
- (C) *System Design and Installation Standards*. Irrigation system design and installation shall be consistent with the irrigation system standards and the following requirements:
 - (1) The maximum total irrigated area on residential lots, regardless of lot size, shall not exceed 0.5 acres. This provision does not apply to temporary irrigation such as portable hoses and sprinklers.
 - (2) High-volume irrigation area shall not exceed 60 percent of the landscaped area. This standard is applicable on residential lots over 1/8 acre and commercial lots over 1/8 acre. This standard applies to common areas and open space in developments. This standard excludes vegetable gardens and fruit or nut trees on individual lots or community gardens.
 - (3) Narrow areas, four feet wide or less, shall not be irrigated unless correctly installed low-volume irrigation or correctly installed side-strip irrigation are used.
 - (4) High-volume irrigation shall not be used for trees, shrubs, or groundcover beds. Permanent micro-irrigation may be used in these areas. The City encourages the use of temporary establishment irrigation.
 - (5) Irrigation zones shall be divided according to vegetated groupings (e.g., turfgrass, shrubs, native plants, trees) and the water requirements of the plants. Turf grass and landscaped beds, such as trees, shrubs, and groundcover beds, shall not be irrigated in the same zone as each other.
 - (6) Sprinkler head types, such as spray heads and rotors, shall not be mixed in the same zone.
 - (7) Distribution equipment in each zone shall have matched precipitation rates.
 - (8) Rotors and spray sprinkler heads in turfgrass areas shall be spaced to provide head-to-head coverage.
 - (9) A minimum separation of four inches shall be required between distribution equipment and pavement.
 - (10) A minimum separation of 24 inches shall be required between distribution equipment and buildings and other vertical structures, except fences.
 - (11) Technology that inhibits or interrupts operation of the irrigation system during

periods of sufficient moisture shall be required on all irrigation systems to avoid irrigation during periods of sufficient rainfall. Examples of such devices include soil moisture sensors, weather stations, and rainfall shut off devices. The technology shall override the irrigation cycle when adequate rainfall has occurred. Technology that depends on rainfall for bypassing irrigation shall be placed where it is exposed to unobstructed natural rainfall and in compliance with section 373.62, Fla. Stat., as amended.

- (12) Permanent irrigation systems shall be equipped with an automatic control system to provide the following minimum capabilities:
 - a. Ability to be programmed in minutes, by day of week, season, and time of day;
 - b. Ability to accommodate multiple start times and programs;
 - c. Automatic shut off after adequate rainfall;
 - d. Ability to maintain time during power outages; and
 - e. Operational flexibility to meet applicable year-round water conservation requirements.
- (13) Sprinklers in low-lying areas have check valves to prevent head drainage.
- (14) Irrigation system equipment shall be installed in accordance with manufacturer's specifications.
- (15) No direct spray shall be allowed onto walkways, buildings, roadways, drives and impervious surfaces.
- (16) Pipelines shall be designed to provide the system with the appropriate pressure required for maximum irrigation uniformity.
- (17) All sprinkler heads with spray nozzles (non-rotary) shall be pressure-regulated at the head or zone valve.
- (18) All irrigation system underground piping shall have minimum soil cover of six inches.
- (19) Sprinklers shall rise above turfgrass height: a minimum of 6-inch pop-up for sprays and 4-inch pop-up for rotors for St. Augustine, Zoysia and Bahia grasses; a minimum of a 4-inch pop-up for sprays and rotors for Centipede, Bermuda and Seashore Paspalum grasses.

(B) Maintenance of Irrigation Systems

- (A) An irrigation professional responsible for installing or substantially modifying an irrigation system shall provide the property owner with a maintenance checklist affixed to or near the controller and accompanied by a recommended maintenance schedule, proper irrigation system settings according to season, recommendations for checking technology that inhibits or interrupts operation of the system during periods of sufficient moisture, filter cleaning recommendations, if applicable, and information on the current water restrictions.
- (B) A property owner shall ensure that irrigation systems on their property are inspected at least annually for leaks, overspray, maladjusted heads, and heads that may be capped due to changes in the landscape, such as maturity or changes in plants. Technology that inhibits or interrupts operation of the system during periods of sufficient moisture may need to be replaced every few years and shall be correctly functioning to be in compliance with this article. Irrigation systems with known leaks shall not be operated until the leaks are repaired, except for testing purposes.
- (C) Within 60 calendar days after landscape installation, the property owner shall ensure that the irrigation controller is adjusted to operate according to normal, established landscape conditions or irrigation restrictions, if the irrigation system is installed as part of newly established landscaping.

Section (C) Exemptions

The following are exempted from the provisions of this article, but should follow the Florida Department of Environmental Protection's applicable "Florida-Friendly Best Management Practices for the Protection of Water Resources by the Green Industries":

- (1) Bona fide agricultural activities;
- (2) Vegetable gardens and fruit and nut trees;
- (3) Athletic fields;
- (4) Golf course play areas;
- (5) Cemeteries;
- (6) Nurseries; and
- (7) Temporary establishment irrigation.

Section (D) Alternative Compliance

- (A) An applicant may submit a proposal that varies from the strict application of the requirements of this Section (also known as "alternative compliance") in order to accommodate unique site features or characteristics, utilize innovative design, prevent extraordinary hardship, or to promote the overriding public interest or general public welfare. Diminished value of property or inconvenience is not an extraordinary hardship.
- (B) An applicant seeking authorization for alternative compliance shall have the burden of demonstrating to the City the reasons why the strict application of the requirements of this Section should not apply.
- (C) Requests for alternative compliance shall be submitted as part of the irrigation system approval process.
- (D) The City may approve an alternative compliance plan upon finding that the alternative compliance plan fulfills the purpose and intent of this Section at least as well as a plan that strictly adheres to the requirements of this Section.
- (E) The City may require a site inspection and corresponding site inspection fee for systems which are installed according to a department-approved alternative compliance plan.

Section 56.35 Florida Water Star Certification Effect

Florida Water Star is a water conservation certification program for new and existing homes and commercial developments that meet specific water-efficiency criteria for indoor fixtures and appliances, landscape design and irrigation systems. Residential and commercial properties obtaining the Florida Water Star Certification will exceed conservation requirements imposed by this Section.

Upon receipt of certification from the Florida Water Star program that a residential or commercial property has obtained the Florida Water Star Certification, the City will issue the certificate of occupancy.

Section 156.3623-638 Enforcement

Violation of any provision of this article shall be subject to penalties as provided for by this Code or by local law and compliance with this article may be enforced by any remedy available to the City at law or equity.

SECTION 4. Chapter 150, Land Development Code, City of Zephyrhills Code of Ordinances; Article VII, Subsection 7.06.04.03, Irrigation Design Standards is hereby amended to include the following language:

§ 7.06.04.03 Irrigation Design Standards

The following irrigation standards shall apply to all new development, including residential (single-family, two-family and multi-family), commercial, institutional and industrial development; and where significant rehabilitation (50% or greater) of an existing landscape irrigation system will be conducted. In addition to the standards of this subsection, the requirements of Section 156.30-156.36, *Florida Water Smart Certification Required*, of the Code of Ordinances shall be applicable to all residential, commercial and institutional development. Where in conflict, the more restrictive shall apply. The following irrigation standards shall apply to all new development, including residential, commercial, institutional and industrial development, and where significant rehabilitation (50% or greater) of an existing landscape irrigation system will be conducted. In addition to these

SECTION 5. Repealer.

All ordinances and resolutions or parts thereof of the City in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 6. Severability.

It is declared to be the intent of the City Council of the City of Zephyrhills, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding.

SECTION 7. Inclusion in Code.

It is the intent of the City Council of the City of Zephyrhills, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Zephyrhills Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 8. Effective Date.

This Ordinance shall become effective upon passage on the second reading and signing by the Mayor.

The Ordinance 1457-23 was read and passed on the first reading in an open and regular meeting of the City Council of the City of Zephyrhills, Florida, on this 10th day of April 2023.

Attest: _____
Lori L. Hillman, City Clerk

Jodi Wilkeson, Council President

The foregoing Ordinance 1457-23 was read and passed on the second reading, following a public hearing, in an open and regular meeting of the City Council of the City of Zephyrhills, Florida, on this 24th day of April, 2023.

Attest: _____
Lori L. Hillman, City Clerk

Lance A. Smith, Council President

The foregoing Ordinance 1457-23 was approved by me this 24th day of April, 2023.

Melonie Bahr Monson, Mayor

Approved as to legal form and legal content

Matthew E. Maggard, City Attorney

PLANNING DIRECTOR'S REPORT 4.1

ANX 0014-22 Blue Triton Brands (FKA Nestle Water) Annexation - Future Land Use Map Amendment (FLUMA) - Rezoning Planning Report

Issue:

The applicant plans an expansion to the existing water plant. The building improvements will be located on the parent tract that is located north of the subject property. The new building construction will take place adjacent to the east side of the existing facility. The parking lot will be extended in a southerly direction and a sound attenuation barrier is proposed at the perimeter of the parking lot. The balance of the annexed land will be utilized for an expanded retention area. Additionally, increased buffering and landscaping is proposed to help mitigate the effects of the expansion on the adjacent Woodland Acres neighborhood.

Background:

The applicant obtained the neighborhood's input (at a neighborhood meeting held on January 16, 2023) and incorporated that input into the project scope, including the landscape/buffering plan and sound attenuation barrier presented this evening.

Attachment(s):

1. ANX 14-22 Staff Report for Blue Triton ANX REZONE FLUMA
2. ANX 14-22 Attachments for Blue Triton ANX REZONE FLUMA

Fiscal Impact:

Staff Recommendation:

Staff recommends approval of this petition for annexation, rezoning (to LI (Light Industrial)) and FLUMA (to I (Industrial)).

Staff Report Memorandum

To: City Council and Honorable Mayor
From: Rod Corriveau, AICP – Senior Planner
RE: ANX 14-22 – Blue Triton Annexation, Land Use Map Amendment, and Rezoning Planning Director’s Report
Date: April 24, 2023

I. BACKGROUND & INFORMATION

A. History | Application Summary

This Annexation, Future Land Use Map Amendment (FLUMA), and Rezoning Petition was presented to the City by Linda Pearson, Land Planner on behalf of the property owner, Blue Triton Brands, Inc. The subject site is 7.64 acres (More or Less (mol)) and located on 20th Street immediately south of the existing facility. See Figure 1 – Aerial Map and Figure 2 – Location Map.¹

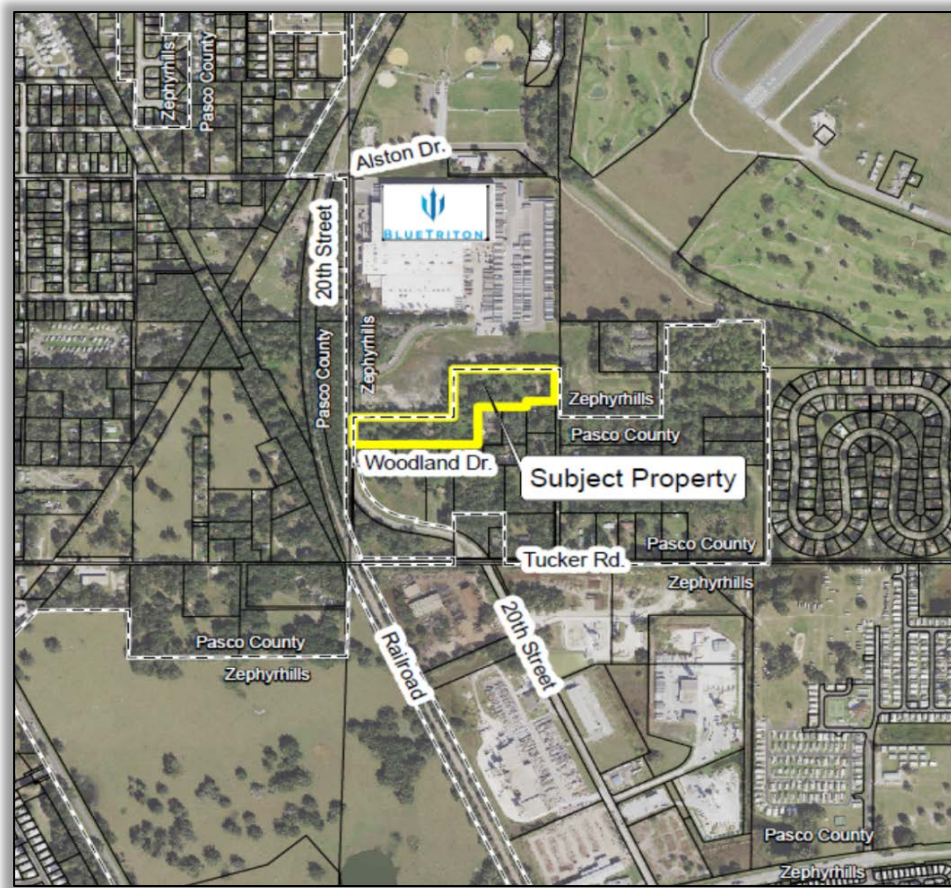


Figure 1 – Aerial Map

Courtesy Diaz Pearson & Associates

¹ 'Figures' contained herein are attached in original format.

The Planning Department has coordinated with several concerned residents regarding landscaping and buffering along the subject area and adjacent residential neighborhood of Woodland Acres. Those landscaping and buffering concerns are being addressed with the applicant and the neighbors as the applicant drafts the necessary site landscaping plans. Please see Section IV – Data and Analysis Review, subsection B. Compatibility Analysis/Annexation of FLU and Zoning for more details.

ACCORDING TO THE APPLICANT AND THE UTILITIES DEPARTMENT, THE ANTICIPATED IMPACT ON THE CITY'S WATER SUPPLY IS: 128,632 GPD AT PROJECT BUILD-OUT OVER A FIVE YEAR PERIOD. THE UTILITIES DEPARTMENT HAS DEEMED THIS APPLICATION 'BENEFICIAL' TO THE CITY AND ITS REQUEST FOR AN INCREASE TO THE WUP (WATER USE PERMIT) WITH THE SWFWMD. THE PLANNING DEPARTMENT HAS FIELDDED CONCERNS AND QUESTIONS FROM SEVERAL RESIDENTS IN THE ABUTTING SUBDIVISION REGARDING THE INCREASED WATER USAGE. THOSE CONCERNED RESIDENTS HAVE BEEN DIRECTED TO THE UTILITIES DEPARTMENT FOR ANSWERS TO WATER-RELATED QUESTIONS. PLEASE SEE IMPORTANT INFORMATION REGARDING THE WUP UNDER SECTION D., PUBLIC SERVICES ANALYSIS IMPACT.

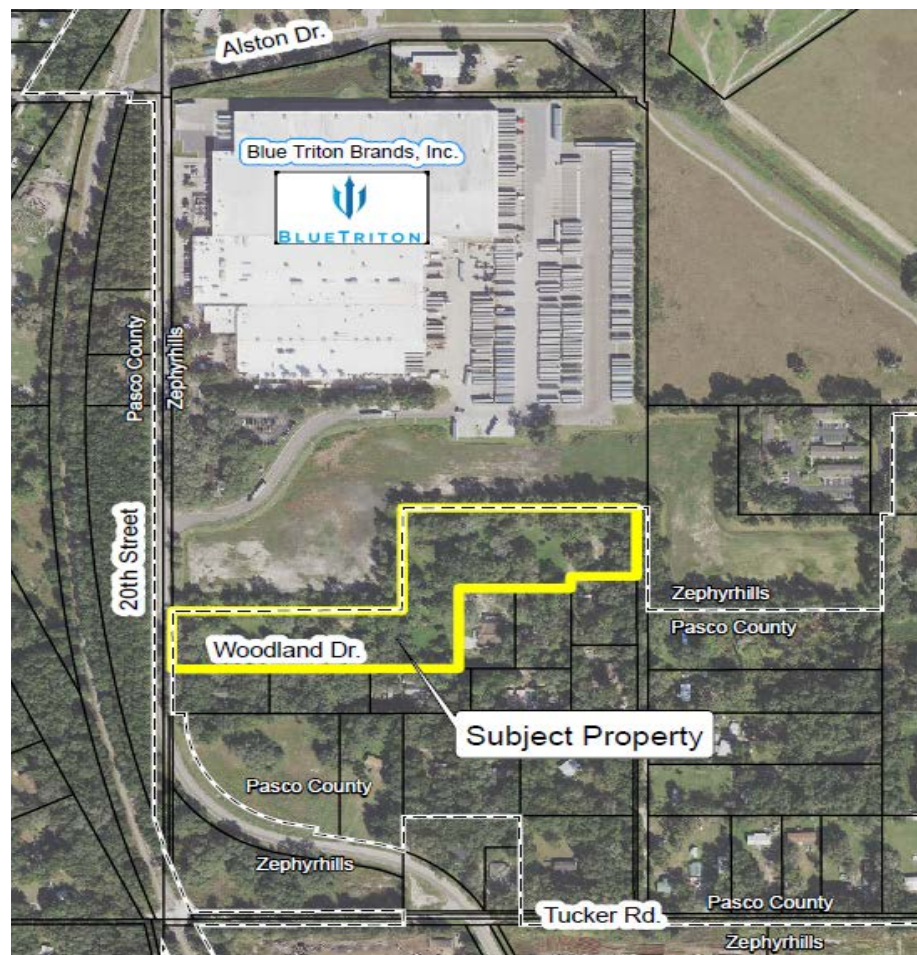


Figure 2 – Location Map

Courtesy Diaz Pearson & Associates

Light Industrial

Figure 3 – Proposed Properties Annexation Area Map *Courtesy ServTech Solutions and Whiting-Turner – Highlighted by Staff*

Properties. Please see Figure 3 – Proposed Property Annexation Area Map for the configuration. The existing water plant operation is directly north, and to the west of the subject property is 20th Street. The property on the east is improved by the plant operations and utilized for retention.

This application identifies Parcel ID Number 13-26-21-0110-00000-0100 and includes the six individually addressed lots listed below within its boundary. 4210 and 4211 Breezewood Drive, 4210 and 4211 Camphorwood Lane, 39101, and 39119 Woodland Acres. All properties fall under the same Parcel ID Number.

The Zephyrhills future land use map indicates the subject area to the north, east, and west of the subject property as Industrial. The City Zoning Map assigns the Light Industrial Zoning District to the surrounding areas of the subject. The applicant proposes to annex these lots from unincorporated Pasco County into the City of Zephyrhills.

The general area of southeastern Zephyrhills contains a blend of Industrial, Mixed Use and Residential uses. The County jurisdiction is generally approximately 800 feet (MOL) in depth from the south side of the subject property before reaching the existing city boundary along Tucker Road. The properties in this area contain Future Land Use Map Plan categories of Industrial and General Commercial within the Zephyrhills city boundary. The unincorporated county lands that abut the south side of the subject property are platted for large lot residential uses.

III. Proposed Development:

The applicant plans an expansion to the existing water plant. These building improvements will be located on the parent tract that is located north of the subject property, see Figure 4 – Proposed Plant Expansion. The new building construction will take place adjacent to the east side of the plant operation. The existing parking lot will be extended in a southerly direction to provide additional plant parking for the expanded operations. The balance of the land being annexed will be utilized for an expanded retention area and buffering/landscaping. The annexation and vacation of unused and unimproved platted rights-of-way will be used to connect to and provide an enlarged retention to serve the existing and proposed plant facility.²

² Please note that this application for Annexation, FLUMA, and Rezoning coincides with an independent application with Pasco County to remove an access easement along the unrecorded and unimproved rights-of-way in the Woodland Acres subdivision that are currently owned by the applicant (Breezeway Drive and Camphorwood Lane). Additionally, the northern portion of Leaf Land that lies between the subject annexation area and the proposed pond area of the expansion plans is the subject of a proposed ROW vacation as well. The vacation request does not include the balance of the rights-of-way that currently serve and shall continue to serve and provide ingress/egress access to the existing residential properties within the subdivision or along Leaf Lane. No land-locking will be permitted to occur for the remainder of the properties within the subdivision or along Leaf Lane. The application for a ROW vacation was approved by the BOCC at its regularly scheduled meeting on January 10th 2023, please see attached Resolution Number 23-058 and supporting information.

*As part of the JPA process between the City and the County, the County facilities department coordinated with the City utilities department for comment. The City utilities department noted that no City of Zephyrhills utilities exists within the subject area subject to the vacation or easement removal. **The information regarding the vacation of right of way is provided by Staff to the City Council as background information.***

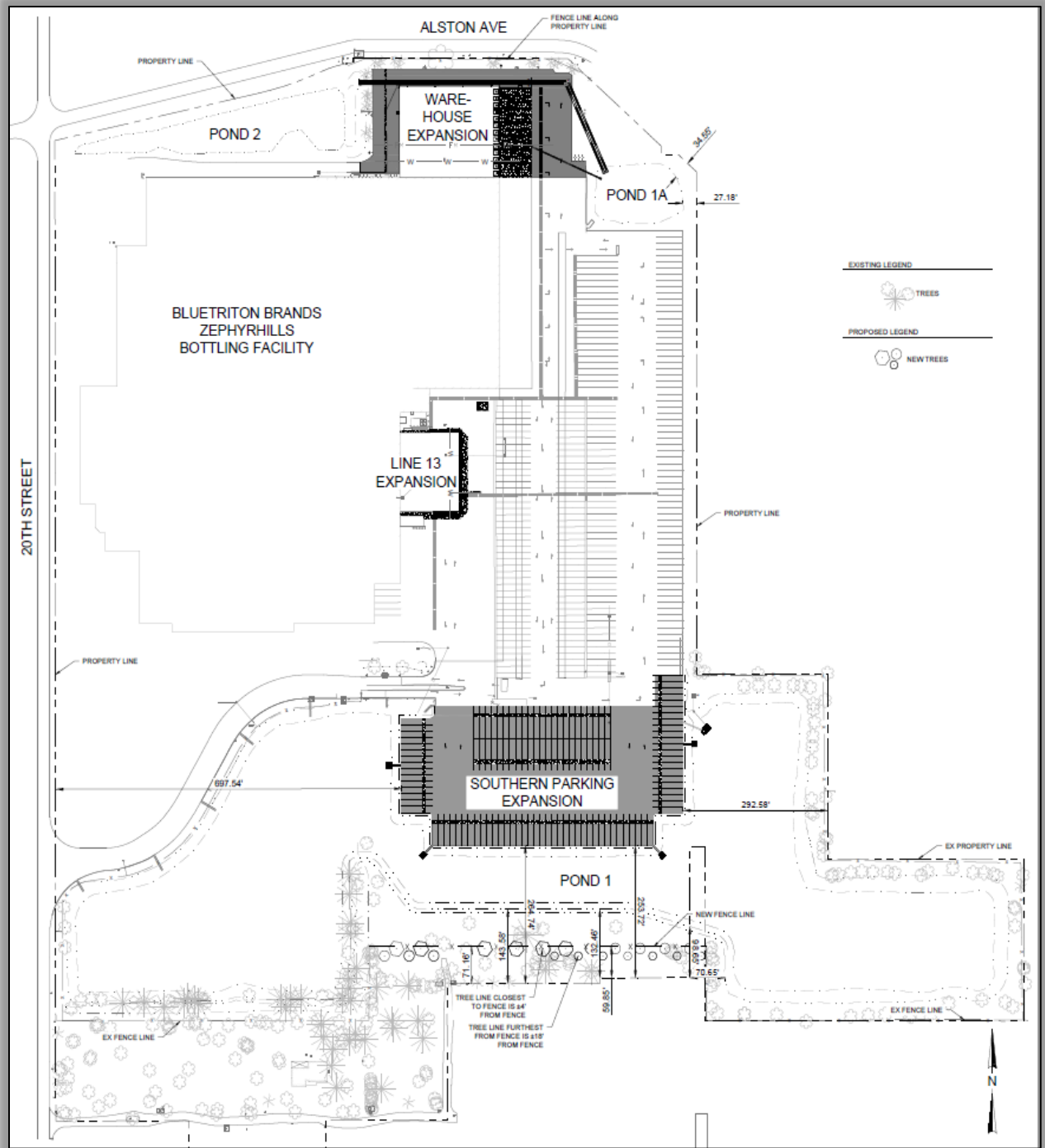


Figure 4 – Proposed Plant Expansion

Courtesy Whiting-Turner

IV. DATA & ANALYSIS REVIEW

A. Character Analysis

East – Vacant land and various City land utilized as golf course, airport and waste water treatment plant.

West – Rail road tracks and various residential uses.

North – Existing water plant and Alston Ave/Public Parks.

South – Residential, and further south various industrial uses.

B. Compatibility Analysis/Annexation:

Annexation: The proposed annexation portion of the three-pronged petition meets the following criteria set forth under State Statutes, and complies with the Joint Planning Area agreement between the County of Pasco and City of Zephyrhills (Please see Figure 3 – Proposed Properties Annexation Area Map):

State Statutes Chapter - 171.043 Character of the area to be annexed. A municipal governing body may propose to annex an area only if it meets the general standards of subsection (1) and the requirements of either subsection (2) or subsection (3).

1. The total area to be annexed must be contiguous to the municipality's boundaries at the time the annexation proceeding is begun and reasonably compact, and no part of the area shall be included within the boundary of another incorporated municipality.

2. Part or all of the area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which meets any one of the following standards:

(a) It has a total resident population equal to at least two persons for each acre of land included within its boundaries;

(b) It has a total resident population equal to at least one person for each acre of land included within its boundaries and is subdivided into lots and tracts so that at least 60 percent of the total number of lots and tracts are 1 acre or less in size; or

(c) It is so developed that at least 60 percent of the total number of lots and tracts in the area at the time of annexation are used for urban purposes, and it is subdivided into lots and tracts so that at least 60 percent of the total acreage, not counting the acreage used at the time of annexation for nonresidential urban purposes, consists of lots and tracts 5 acres or less in size.

3. In addition to the area developed for urban purposes, a municipal governing body may include in the area to be annexed any area which does not meet the requirements of subsection (2) if such area either:

(a) Lies between the municipal boundary and an area developed for urban purposes, so that the area developed for urban purposes is either not adjacent to the municipal boundary or cannot be served by the municipality without extending services or water or sewer lines through such sparsely developed area; or

(b) Is adjacent, on at least 60 percent of its external boundary, to any combination of the municipal boundary and the boundary of an area or areas developed for urban purposes as defined in subsection (2).

Currently the subject property is surrounded on three sides (north, east, and west) by plant properties that are already located within the city limits. Staff feels that an annexation at this location is reasonable and meets the legal requirements for inclusion into the City boundary. Furthermore, the proposal meets the guidelines as prescribed above.

Compatibility: The immediate area of southeastern Zephyrhills includes lands that are publicly owned tracts owned by both the city and the county. The Pasco County owned land is on the south side of Tucker Road which provides mixed uses until the pavement terminates near the Samuel W. Pasco Recreation Park.

The general area of this portion of the city includes the existing water plant, offices, general businesses, and single family detached residential. Other uses in the vicinity include the City of Zephyrhills Airport, city golf course, and various city utility wastewater infrastructure operations. To the immediate west is a strip of land owned by the city, which appears to be the previously vacated ACL railroad right-of-way that parallels that portion of 20th Street.

The subject property abuts 20th Street at the Woodland Drive intersection. At this location, the west side of 20th Street contains city and county owned parcels and additional unincorporated mixed use county parcels. It is at this intersection that all the residential lots immediately south of the subject property gain access to their properties from the 20th Street public right-of-way. There are no changes proposed to Woodland Drive or to the various areas of Leaf Lane, Breezewood Drive or Camphorwood Lane that have historically served this area.

1. Future Land Use Map (FLUMA) Amendment

- (a) The subject property (7.64 acres) qualifies as a small-scale plan amendment;
- (b) The request is to change the subject property's future land use designation from Res-3 to Industrial and is consistent with the abutting properties, which are:
 - i. Industrial to the north
 - ii. Public/Semi-Public to the east
 - iii. Various residential land use assigned properties to the south (County)
 - iv. Various residential land use assigned properties to the west (County)
- (c) The proposed change is consistent with the City of Zephyrhills Comprehensive Plan Goals, Objectives, and Policies;
- (d) Utility capacity is available for the proposed petition. As indicated by the applicant and verified by Planning Staff "[John Bostic] ...further added that capacity should not be an issue since the proposed improvements on the subject property is basically planned for parking and stormwater retention" (Please contact Mr. Bostic of the Utilities Department for specific questions on usage and the water use permit (WUP));
- (e) Transportation:
 - (1) Subject parcel abuts 20th St and a City ROW use permit will be required at the time of site plan review;
 - (2) The Industrial expansion of the facility is projected to have a de minimus traffic impact, as presented to the Director in an email dated May 25, 2022. City of

Zephyrhills LDC defines de minimum at less than 1,200 average daily trips. The existing usage is currently operating under a de minimus impact. As a reminder the City is currently updating its de minimus, as well as other traffic impact regulation in coordination with its consultant and the County.

The proposed future land use map amendment (FLUMA) is consistent with Chapter 163, Part II, FS, the City of Zephyrhills Comprehensive Plan, and the City's Land Development. It is also consistent and compatible with the land use/development trends of the area as it provides an essential industrial element. See Figure 5 – Proposed FLU Map.³

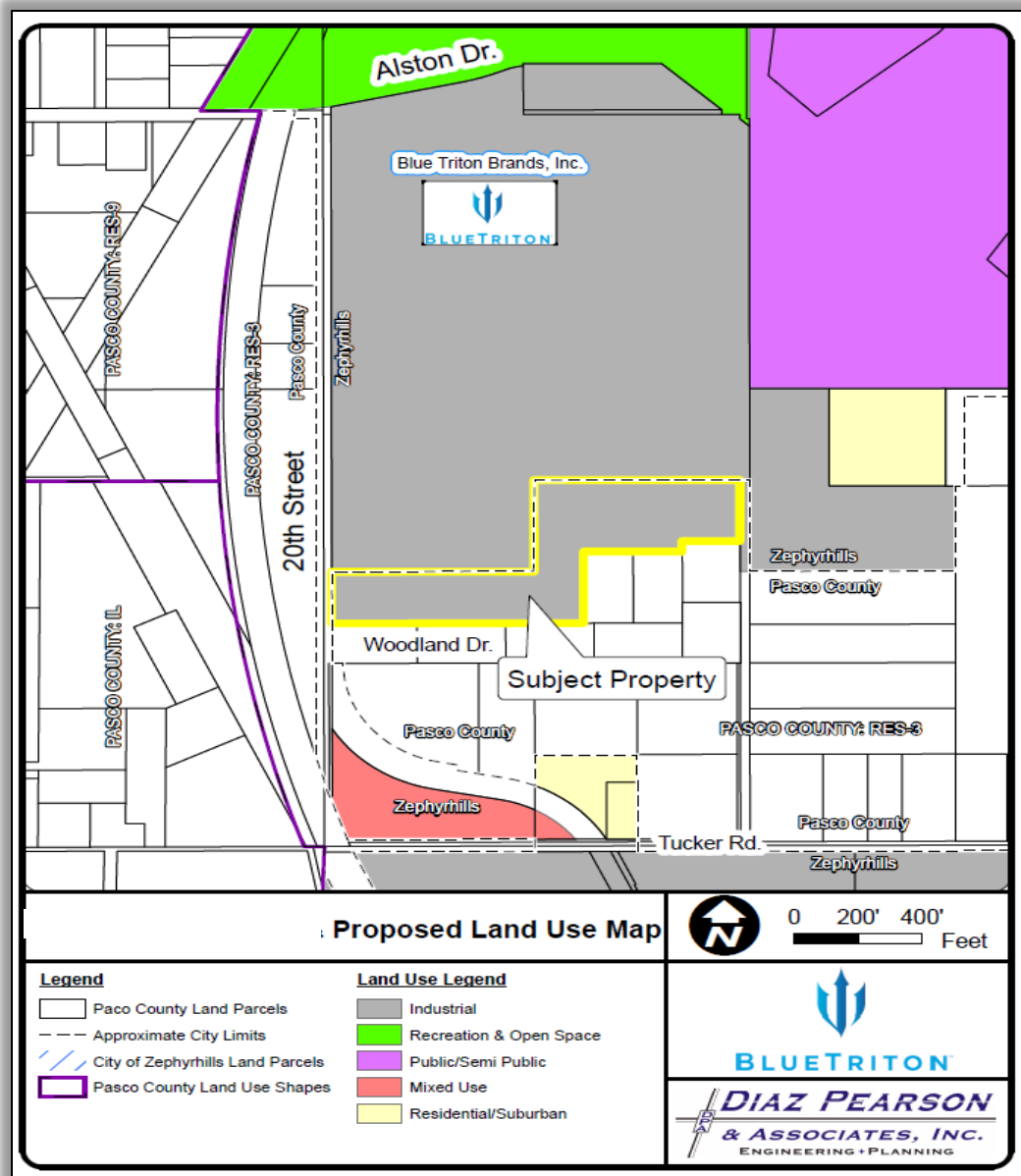


Figure 5 – Proposed FLU Map

Courtesy Diaz Pearson & Associates

³ Existing FLU Map attached

2. Rezoning

- (a) The request is to change the subject property's zoning classification from County Res-3 to LI;
- (b) The requested zoning designation is consistent with the development patterns and zoning designations of the area and surrounding properties. The surrounding properties are:
 - i. LI to the north
 - ii. AP-1 and AP-2 to the east
 - iii. Various residentially zoned properties to the south (County)
 - iv. Various residentially zoned properties to the west (County);

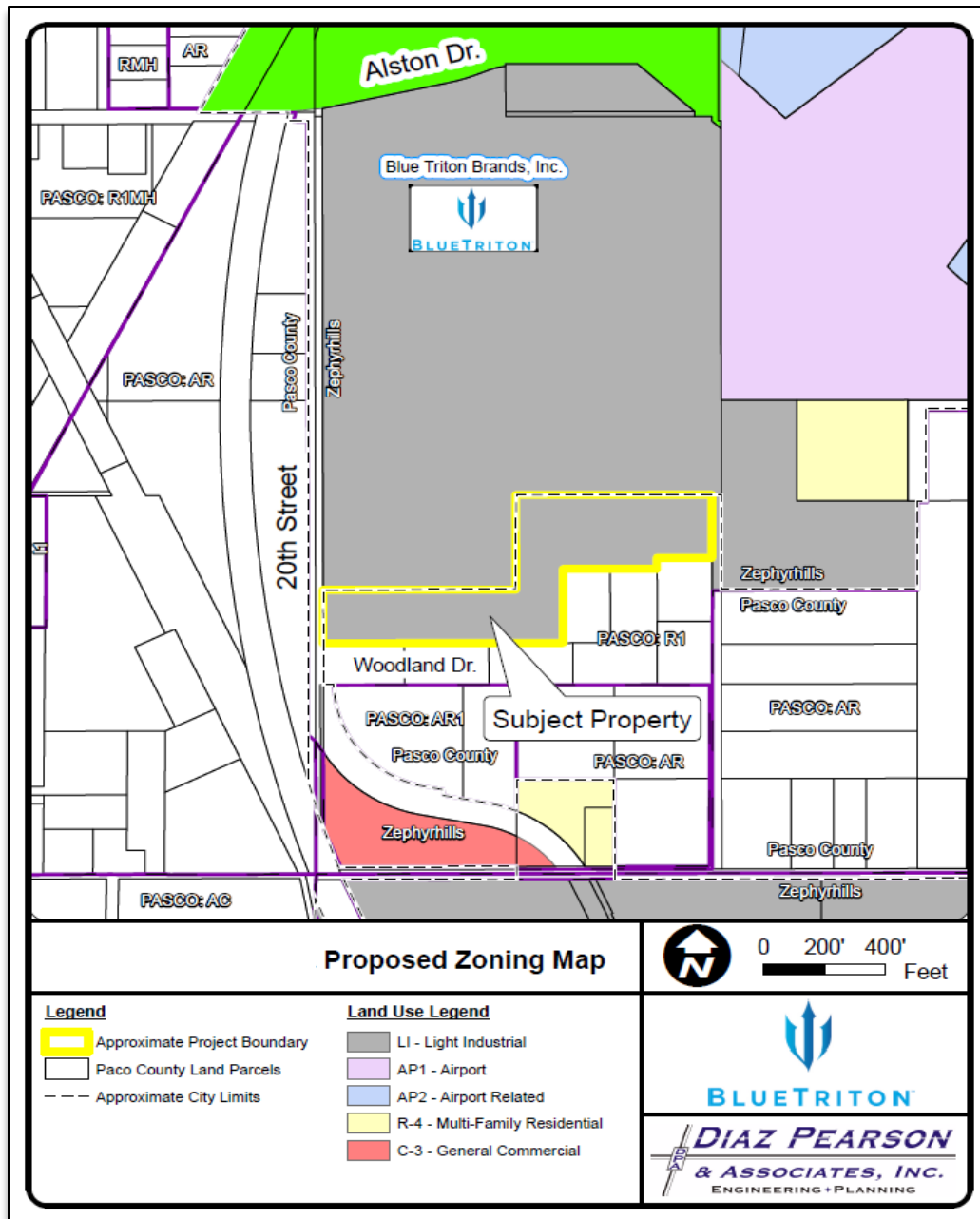


Figure 6 – Proposed Zoning Map

Courtesy Linda Pearson, Land Planner

- (c) The subject petition and subsequent development will not exhibit premature development based on the development patterns in the general vicinity and utility infrastructure availability.

The proposed zoning is consistent with the City of Zephyrhills Comprehensive Plan, Land Development Code, and City codes and ordinances. It is also compatible/consistent with the growth and development trends of the area. As the City grows, the need for industrially zoned properties becomes greater. This rezoning and FLUMA furthers these goals and objectives of the Comprehensive Plan while remaining consistent with the adjacent zoning, while providing for employment opportunities and increased tax base. See Figure 6 – Proposed Zoning Map.⁴

C. Natural & Historic Resources Analysis

The following site characteristics are provided (An Ecological Due Diligence Report produced by ECS dated August 19th 2022 has been submitted by the applicant and is available upon request):

1. Soil Types – Various well-drained soils (Pomona, Tavares and Sparr, Zero to 5 percent) that are generally well-suited for development. See ECS report
2. Flood Plain – The subject property is located in Flood Zone “X” and is outside the 100-year flood zone. There is no identified apparent flood related threat.
3. Wetlands | Water Bodies – Per the ECS report, there are no wetlands, but a manmade body of water does exist on the subject property.
4. Historic | Archaeological Resources – The subject property is located outside of the Zephyrhills Historic District and is not projected to impact any identified historic resources. If archaeological resources are found onsite during development, notification should be made to the Florida Department of Historical Resources.
5. Natural Resources – There appears to be several potential qualifying habitat areas including but not limited to gopher tortoises. Proper permits shall be obtained prior to construction activities, as well as a full report and mitigation and/or relocation plan shall be submitted to the City if such activities are found on site.

D. Public Services Analysis | Impact

POLICE	Projected general police service demand is within the City’s existing service capabilities.
FIRE	It is anticipated that the projected general fire service demand is within the County’s existing service capabilities. The City is currently coordinating with the County.
WATER	ACCORDING TO THE APPLICANT AND THE UTILITIES DEPARTMENT, THE ANTICIPATED IMPACT ON THE CITY’S WATER SUPPLY IS: 128,632 GPD AT PROJECT BUILD-OUT OVER A FIVE YEAR PERIOD. THE UTILITIES DEPARTMENT HAS DEEMED THIS APPLICATION ‘BENEFICIAL’ TO THE CITY AND ITS REQUEST FOR AN INCREASE TO THE WUP (WATER USE PERMIT) WITH THE SWFWMD.

⁴ Existing Zoning Map attached

	In an email received by the Planning Department through John Bostic, Utilities Department Director from Michelle R. Hays, MS, PG, Senior Scientist with Jones Edmunds ⁵ , “The projected commercial using SWFWMD’s method assumes the percentage will remain the same. They didn’t allow us to claim additional industrial at the last renewal because we didn’t have anything definitive. The projections in the Work Plan assume 700,000 gpd demand to account for redevelopment of the industrial area and Blue Triton projected water use. We looked at the projected commercial from the historical percentage and if it was less than existing commercial + 700,000 gpd we increased it for the various development scenarios. If you have significant commercial/industrial users in the service area they can be claimed outside the per capita numbers, but SWFWMD likes to see letters of commitment or approved plans before they grant it.”
SEWER	Anticipated minimal impact according to the Utilities Department.
SANITATION	Future development will be required to utilize City Sanitation services. The City partners with Pasco County for use of their landfill site. Anticipated impact is minimal.
TRANSPORTATION	The proposal does not require a formal traffic impact study because it meets the City’s de-minimus threshold. ⁶ City of Zephyrhills LDC defines de minimum at less than 1,200 average daily trips, the applicant has presented supporting information.
SCHOOL	Industrial impacts on the school system are typically negligible.

E. Comp Plan and LDC Analysis and Verified Applicant Response

The requested annexation, re-zoning, and future land use amendment appears to be consistent with the Goals, Objectives, and Policies of the City of Zephyrhills Comprehensive Plan. A review of the Comprehensive Plan and the Land Development Code has been conducted by the applicant and verified by City Staff. Relevant goals, objectives, and policies are identified below and a brief statement regarding consistency of the proposed amendment has been provided.

Implementation

Goal LU-1: To achieve an economically and diversified tax base that ensures:

- a. *The residential/family character of the City of Zephyrhills is maintained and protected while recognizing the economic benefits of a diversified economic base;...*

The proposed Blue Triton Brands development shall meet this goal as it refers to the considerations and requirements of the Land Development Code for the adjoining residential lots to the south. According to the applicant, in 2021, the existing Blue Triton Brands facilities provided combined taxes of approximately \$442,000.00 for the two city properties and the subject parcel.

⁵ Jones Edmunds is under a continuing services contract for engineering services associated with the Utilities Department at the City of Zephyrhills.

⁶ Per an email string between Todd Vandeberg and Luke Schneider, May 2022.

LAND DEVELOPMENT REGULATION

Objective LU-1-1 *To encourage efficient development in areas which will have the capacity to contribute more to the City in revenue than it will consume in services that meet the above-mentioned goals and consistent with this adopted plan.*

It is Planning Staffs' understanding that approval for the requests contained herein will not overburden the demand for public services, please direct specific questions regarding water usage to the Utilities Department. However, the planned improvements are expected to experience an increase in ad valorem property taxes. The proposal should, under Staff's understanding, represent no gross or net taxation on the services offered by the City.

Further, this expansion will potentially serve additional residents with employment. It will not create urban sprawl as it is considered an infill light industrial project located in a community with a varied development pattern. As previously stated, the annual property tax paid by the existing facility on its local properties was approximately \$442,000.00 in 2021.

POLICY

Objective LU-1-1: *The City shall continue to enforce land development regulations to ensure orderly development, that at a minimum, contain provisions which:*

- a. *regulate the subdivision of land;*
- b. *regulate signage;*
- c. *provide for drainage and storm water management;*
- d. *provide requirements for the provision of open space, and safe and convenient on site traffic flow and parking requirements;*
- e. *coordinate future land uses with soil conditions, topography, and availability of facilities and services;*
- f. *ensure that development orders and permits are issued only when it is documented that such development is consistent with the adopted level of service standards and that facilities and services are available concurrent with the impacts of development;*
- g. *protect the limited amount of wetlands and other environmentally sensitive natural resources;*
- h. *protect the potable well fields by designating appropriate activities and land uses*
- i. *within well-head protection areas and environmentally sensitive land;*
- j. *provision of mixed land use designations....*
- k. *discourage the proliferation of urban sprawl.*

The proposed Blue Triton Brand project shall comply with each of the above criteria. The owners/contractors shall submit all plans to the appropriate governmental agency for review and comment. The proposed project shall comply with all applicable regulations and requirements as required by the reviewing agencies, departments, and adopted codes, ordinances, and regulations as required by city, county, and state regulations. Any revision or amendments necessary shall be positively acted upon to assure compliance in each instance.

URBAN SUPPORT CLASSIFICATION

Industrial (IN)

The purpose of this category to depict those areas of the city that are now developed, or appropriate to be developed, in an industrial manner; and so as to encourage the reservation and use of

consolidated areas for industrial use in a manner and location consistent with surrounding use, transportation facilities, and natural resource characteristics.

Use Characteristics: Those uses appropriate to and consistent with this category include:

Primary Uses: Research/Development; Light Manufacturing/Assembly; Wholesale/Distribution; Storage/Warehouse;

Secondary Uses: Office; Retail Commercial; Personal Business Service; Commercial/Business Service; Transient Accommodations; Public/Semi-Public.

Locational Characteristic: This category is generally appropriate to locations with sufficient size to encourage an industrial park type arrangement with provisions for internal service access in locations suitable for light industrial use with minimal adverse impact on adjoining uses, and with good access to transportation and utility facilities such as the major collector, arterial roadway network, rail facilities, airports, and mass transit.

Buffering: An appropriate buffer as determined by the Zephyrhills Land Development Code and verified by Staff shall be provided in and between the IN designated land and adjoining Residential designated land. This was a source of contention at the Planning Commission meeting when the development was presented. Several members of the adjacent community voiced their concerns. Please see below discussion for full details.

Zoning Compatibility The following zoning districts are compatible with the IN land use category:
LI – Light Industrial **PUD** – Planned Development

Each of the above-referenced criteria will be accomplished with the approval of the accompanying applications and construction development plans proposed for the subject property. The applicant shall, at the time of development, provide adequate landscaping and buffering to protect the adjacent land uses to Staff and the SPRC (Site Plan Review Committee), see below discussion as part of Policy LU-1-2-3-4. Figure 7- Expansion Buffering Proposal is provided for illustrative purposes and a LDC compliance review has not been performed. Please see Figure 7a and 7b.

According to the City of Zephyrhills LDC, a Type C buffer shall be installed. A Type C buffer includes a 20-foot wide buffer planted with two staggered rows of shade trees with a maximum spacing of 50 feet on center. There is to be 100 feet between trees in the same row, but the two rows are to be staggered such that the second row of trees is to be placed halfway (50 feet) between the trees of the top row. A visual screen designed to be 80 percent opaque within one year and a minimum of six feet in height at installation shall also be provided within the buffer. The screen may include an opaque fence, wall, hedge, berm, or any combination thereof. Wooden fences shall be prohibited.

According to Section 7.07.06 (C), a fence, wall or hedge of a height not exceeding eight (8) feet may be permitted provided the clear sight triangle is maintained, and in Section 7.07.06 (D) For security purposes, fences in C3, LI, AP1 and AP2 may be topped with barbed wire of not more than three strands, provided the lowest strand is not less than six and one-half feet above grade. (Please note this section of the LDC refers to property perimeter boundaries and does not prohibit a property owner from installing said appurtenances within or inside the property.)

Additional Standards in Non-Residential Districts, Walls and fences shall not exceed eight feet in height. Shrubs that are used to provide a visual screen shall be placed a maximum of five feet on center. Please refer to Figure 7a and 7b – Expansion Buffer Proposal for proposed landscape and buffering proposal. Additionally, see full-size proposal in attachments section. Please note the proposal is not the subject of approval with this annexation, rezoning and FLUMA application. The actual plan will be approved through the site plan review committee (SPRC) at a later date if the City Council decides to move forward with the annexation, rezoning and FLUMA application.

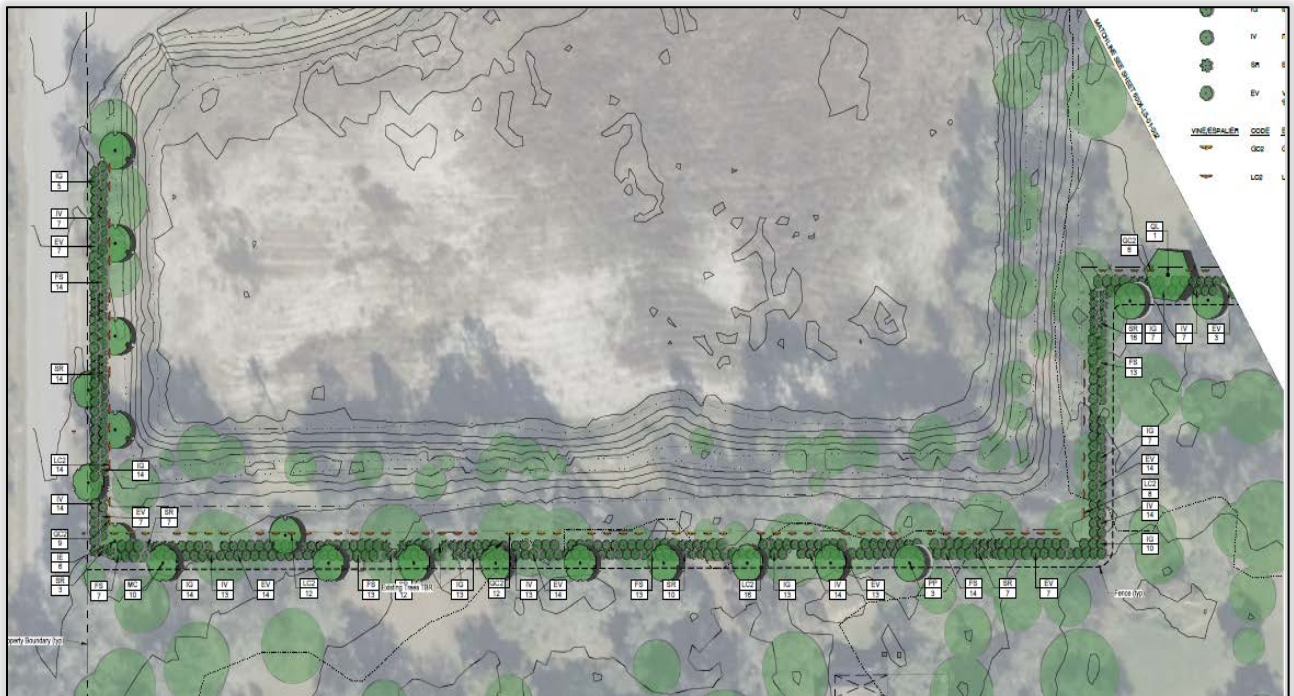


Figure 7a – Expansion Buffer Proposal

Courtesy of Whiting-Turner

OBJECTIVE

LU-1-2: *The integrity and quality of life will continue to be maintained in existing and future residential neighborhoods.*

The proposed expanded Blue Triton Brands project shall be compatible with the surrounding area and shall not interfere with the integrity of the areas established neighborhoods or quality of life of current residents. Landscaping and buffering/berming shall address all necessary issues stemming from the expansion, see response to Policy LU-1-2-3-4, below.

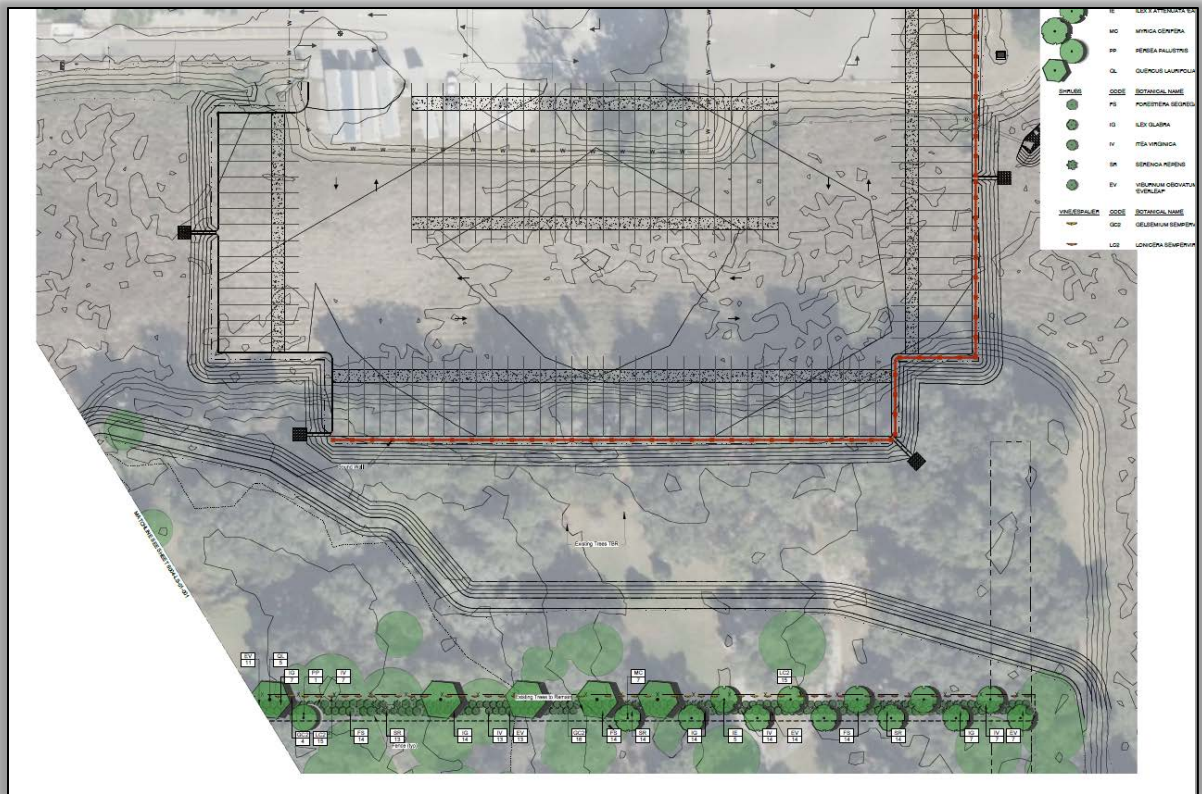


Figure 7b – Expansion Buffer Proposal

Courtesy of Whiting-Turner

POLICY

LU-1-2-3-4: *Land development shall take place in a manner that is compatible with the type and scale of surrounding land uses.*

The proposed development on the subject property shall be in compliance with the city's Land Development Code. It shall be developed with supporting uses for expanded parking and retention pond associated with the plant modifications. All construction shall comply with current standards in order to take into consideration the company needs and those of the residential properties to the south that will be remaining in unincorporated Pasco County.

The subject site is surrounded on three sides with an Industrial future land use category and well-established Light Industrial zoned property of the parent tract and current owner, Blue Triton Brands. Staff considers it to be compatible with the surrounding Industrial land use category, surrounding Light Industrial zoning district sites, and the established development pattern of the area, as well as the city's adopted Industrial Corridor Master Plan. The applicant/developer shall provide adequate screening and buffering to adjacent properties. A landscape/buffering plan that demonstrates compliance with all applicable sections of the City's LDC, and is designed in sympathy, to the greatest reasonable extent possible, with the adjacent residents' concerns shall be presented to the City for review and approval, see discussion in Section Five – Recommendations for a full discussion. Please see Photo 1 – Subject Property at 20th St. and Woodland Dr. for portion of buffer and landscape area illustrated in Figure 7a and 7b – Expansion Buffer Proposal.

Additionally, please see discussion of the sound attenuation barrier proposed to be placed within the property immediately next to the truck parking lot in Section V - Recommendation.

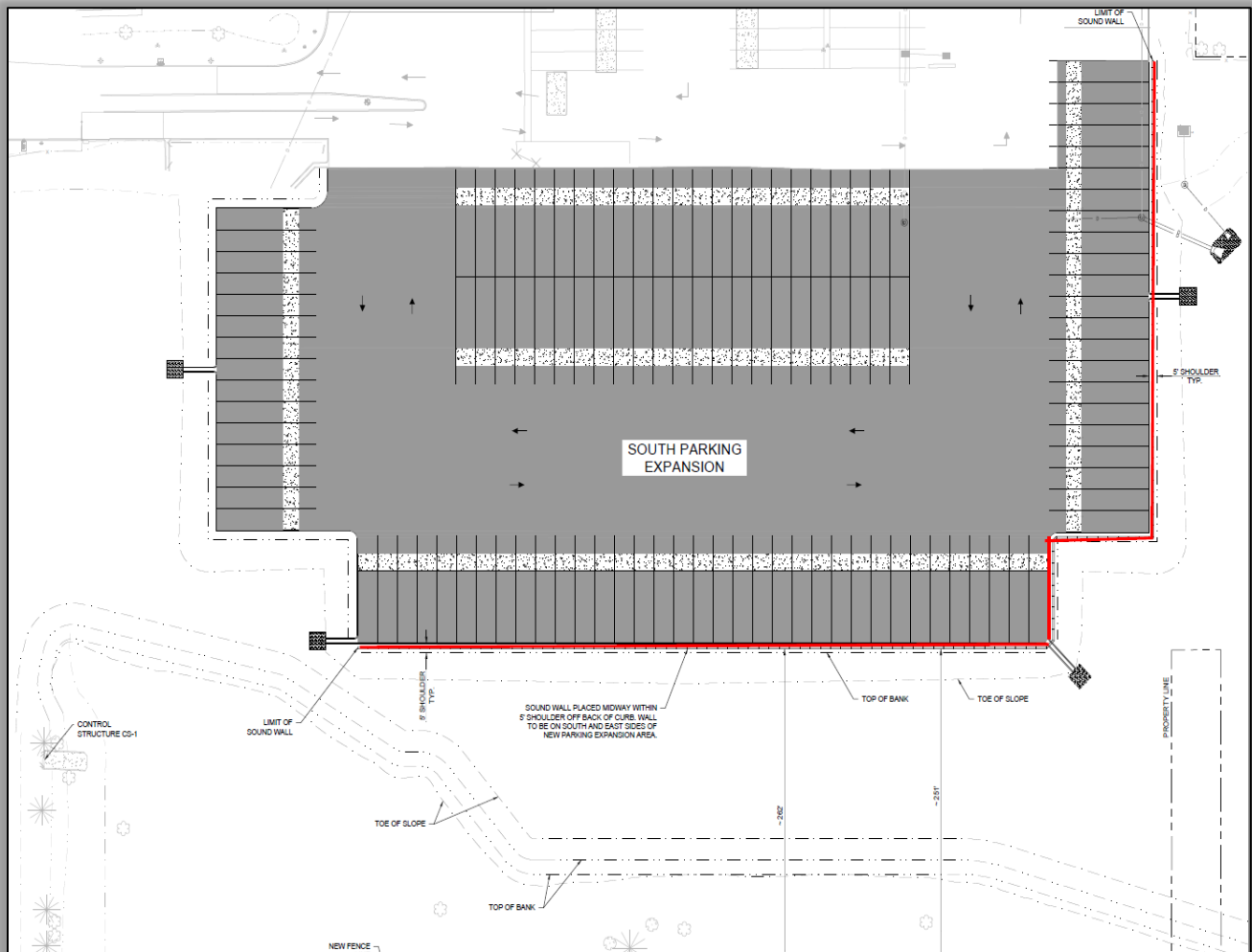


Figure 8 – South Parking Expansion with Sound Attenuation Barrier highlighted in RED Courtesy Whiting-Turner

ARCHAEOLOGICAL AND HISTORICAL RESOURCES

OBJECTIVE

LU-1-4: *The City will develop mechanisms to ensure the protection of archaeological and historical resources.*

The subject property lies outside the historical district and that there are no historical structures or archaeological areas identified within the boundaries of the subject property. The applicant has provided documentation that the Florida Master Site File search for Recorded Cultural and Historic Resources was performed



Photo 1 – Subject Property at 20th St. and Woodland Dr.

Google Imagery March 2021

NATURAL RESOURCES

OBJECTIVE

LU-1-7: *All development activities shall ensure the protection of natural resources and potable well fields.*

LU-1-7-1: *The clearing of trees and wetland vegetation shall be prohibited unless permits are obtained from the property government entities.*

LU-1-7-2: *Species of flora and fauna identified as endangered, threatened, or species of special concern, as defined by Federal Law or Florida Statutes, and found to exist in Zephyrhills by the Florida Game Fresh Water Fish commission, shall be protected through compliance with appropriate Federal and State regulations.*

LU-1-7-3: *Consider in land use planning and regulation, the impact of land use on water quality and quantity; the availability of land water and other natural resources to meet demands; and the potential for flooding.*

LU-1-7-4: *The clearing of trees and wetland vegetation shall be prohibited unless permits are received from appropriate governmental entities.*

LU-1-7-5: *The developer/owner of any new development or redevelopment shall be responsible for on-site management of stormwater run-off in a manner so that post-development run-off rates, volumes and pollutant loads do not exceed existing conditions.*

The owner and its contractor shall comply with each of these provisions during the planning, design, engineering, staff review, permitting, construction, and inspection process of the Blue Triton Brands, Inc. expansion project. The Ecological Due Diligence Report provided by the

applicant provides details on findings such as gopher tortoises and wood stork nesting sites. Further research/review and possible mitigation/relocation shall be required at the time of site plan review and approval, and prior to commencement of construction.

V. RECOMMENDATION

Site Plan Review Committee – The SPRC recommended approval of the annexation, rezoning and Future Land Use Map Amendment at its regularly scheduled meeting on September 20, 2022. The SPRC moved the request forward to the Planning Commission.

Planning Commission⁷ – At its regularly scheduled monthly meeting on October 18, 2022, the Planning Commission voted to move the project forward to the City Council without a recommendation. As previously discussed, members of the adjacent neighborhood voiced concerns regarding traffic, noise, lighting, and landscaping/buffering during the meeting. As a result of the Planning Commission meeting and the concerns discussed by the neighbors at that meeting, the applicant reached out on an individual basis to those concerned, and held a neighborhood meeting on January 16th, 2023⁸. The applicants obtained the neighborhood's input and incorporated that input into the project scope including the landscape/buffering plan before you this evening. Furthermore, as a direct result of that neighborhood meeting held in January, the applicant agreed to install a sound attenuation barrier adjacent to the proposed parking expansion area. It is anticipated that the 14-foot attenuation barrier will help buffer site-sounds from the neighborhood and will be of similar construction and appearance as sound barriers placed along the interstate highways. Please refer to Figure 8 - South Parking Expansion with Sound Attenuation Barrier highlighted in RED for a depiction of the wall. Finally, after the neighborhood's input, the owner decided to reduce by approximately .8 acre the total area being annexed within the City. As such, all subject property proposed to be annexed now lies north of Woodland Drive and will not inject a City boundary line between County parcels.

Staff - Based upon the analysis contained herein, along with supporting documentation and neighborhood involvement addressing such concerns with the property owner, Staff recommends approval of this petition for annexation, rezoning (to LI (Light Industrial)) and FLUMA (to I (Industrial)).

A landscape/buffering plan and development proposal that demonstrates compliance with all applicable sections of the City's LDC, and shall address, to the greatest reasonable extent possible, the adjacent residents' concerns as a result of the neighborhood meeting held on January 16th, 2023 shall be presented to the City for review and approval by the Site Plan Review Committee (SPRC) as part *Plans Review SPR-0045-22 Nestle [Blue Triton] Truck Parking and Pond 1 Expansion pending final approval with the City.*

⁷ Please see Attachment 1 –Planning Commission Meeting Minutes - Tuesday, October 18, 2022 for full details.

⁸ Please see Attachment 2 - Neighborhood Meeting Summary of January 16, 2023 - provided by Linda Pearson, Land Planner.



FIGURE ONE - AERIAL MAP



0 400' 800'
Feet

Legend

-  Approximate Project Boundary
-  Paco County Land Parcels
-  Approximate City Limits



BLUETRITON

DIAZ PEARSON
& ASSOCIATES, INC.
ENGINEERING + PLANNING

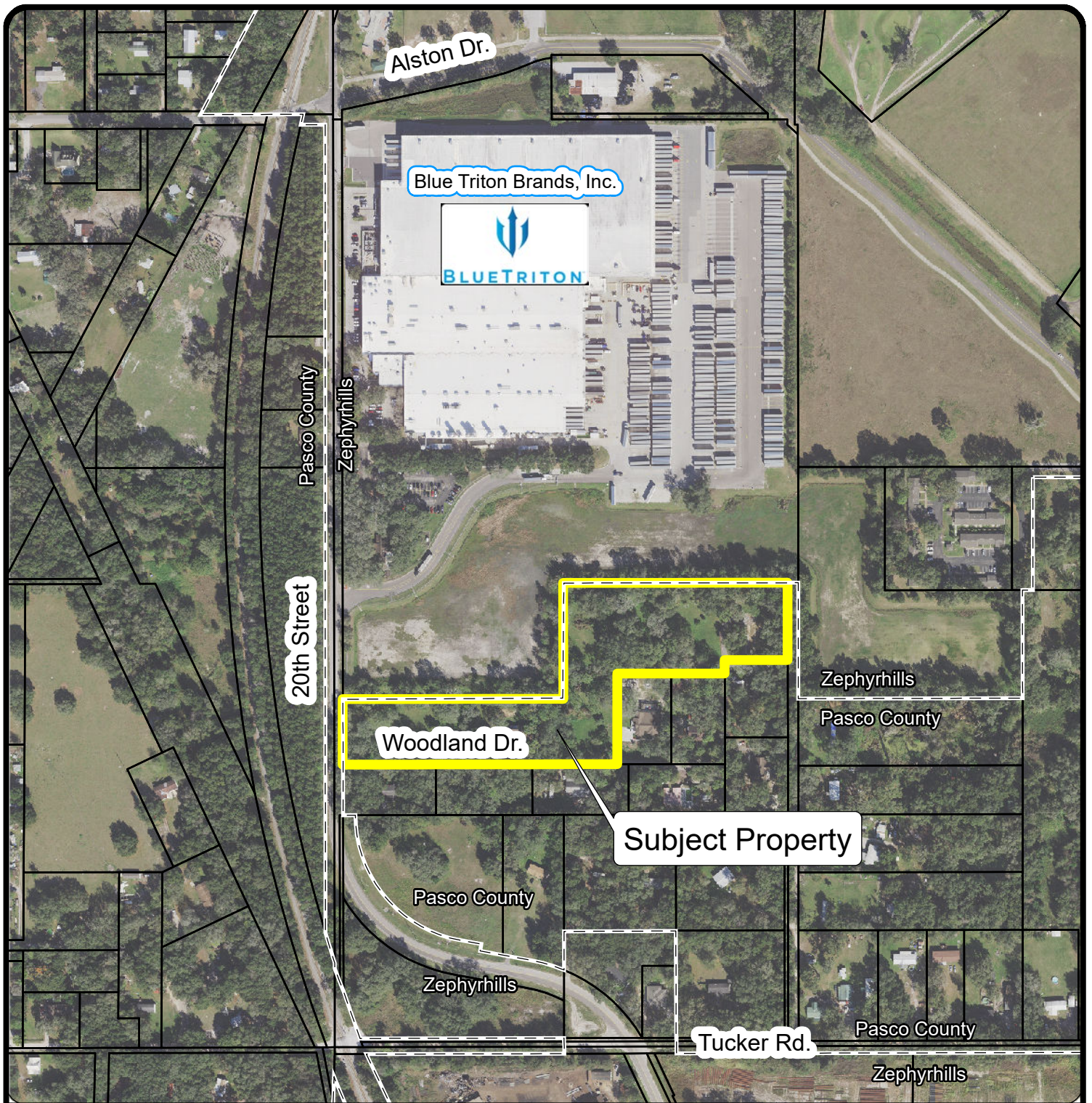


FIGURE TWO - LOCATION MAP



0 200' 400'
Feet

Legend

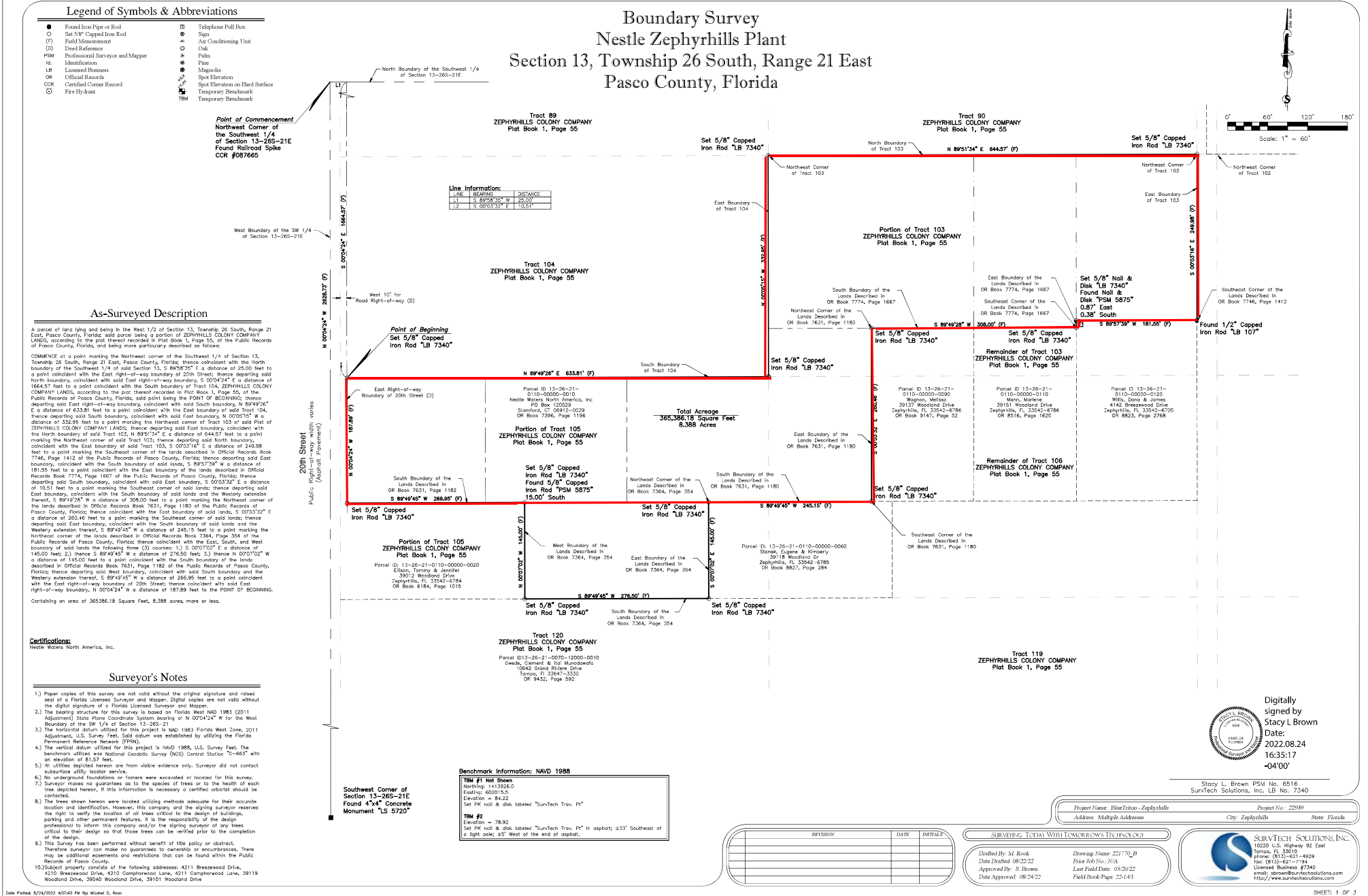
-  Approximate Project Boundary
-  Paco County Land Parcels
-  Approximate City Limits



BLUETRITON

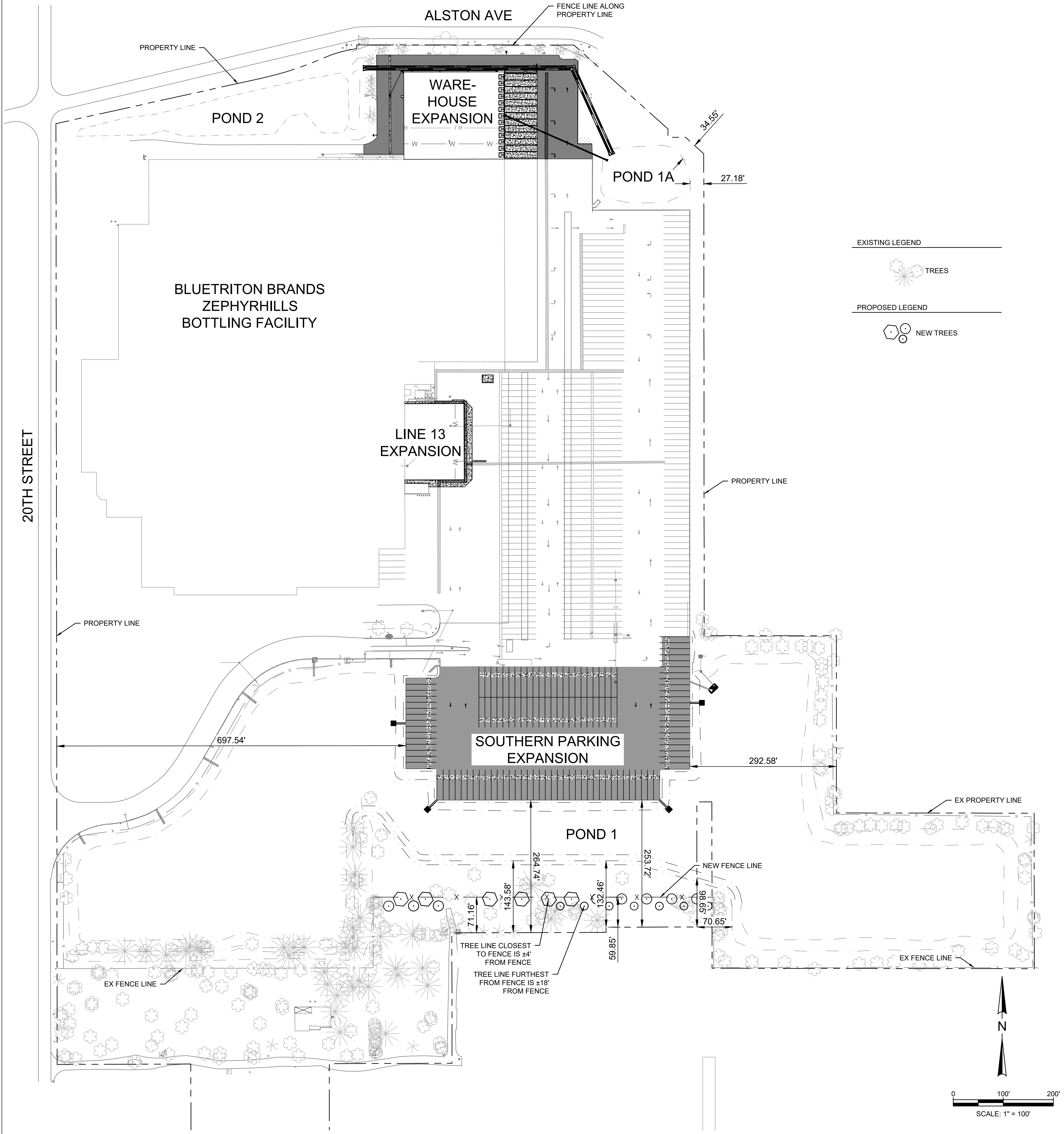
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& ASSOCIATES, INC.
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FIGURE THREE - PROPOSED PROPERTIES ANNEXATION AREA MAP



OVERALL SITE PLAN

FIGURE FOUR - PROPOSED PLANT EXPANSION AREA
NOTE: FOR ILLUSTRATIVE PURPOSES ONLY



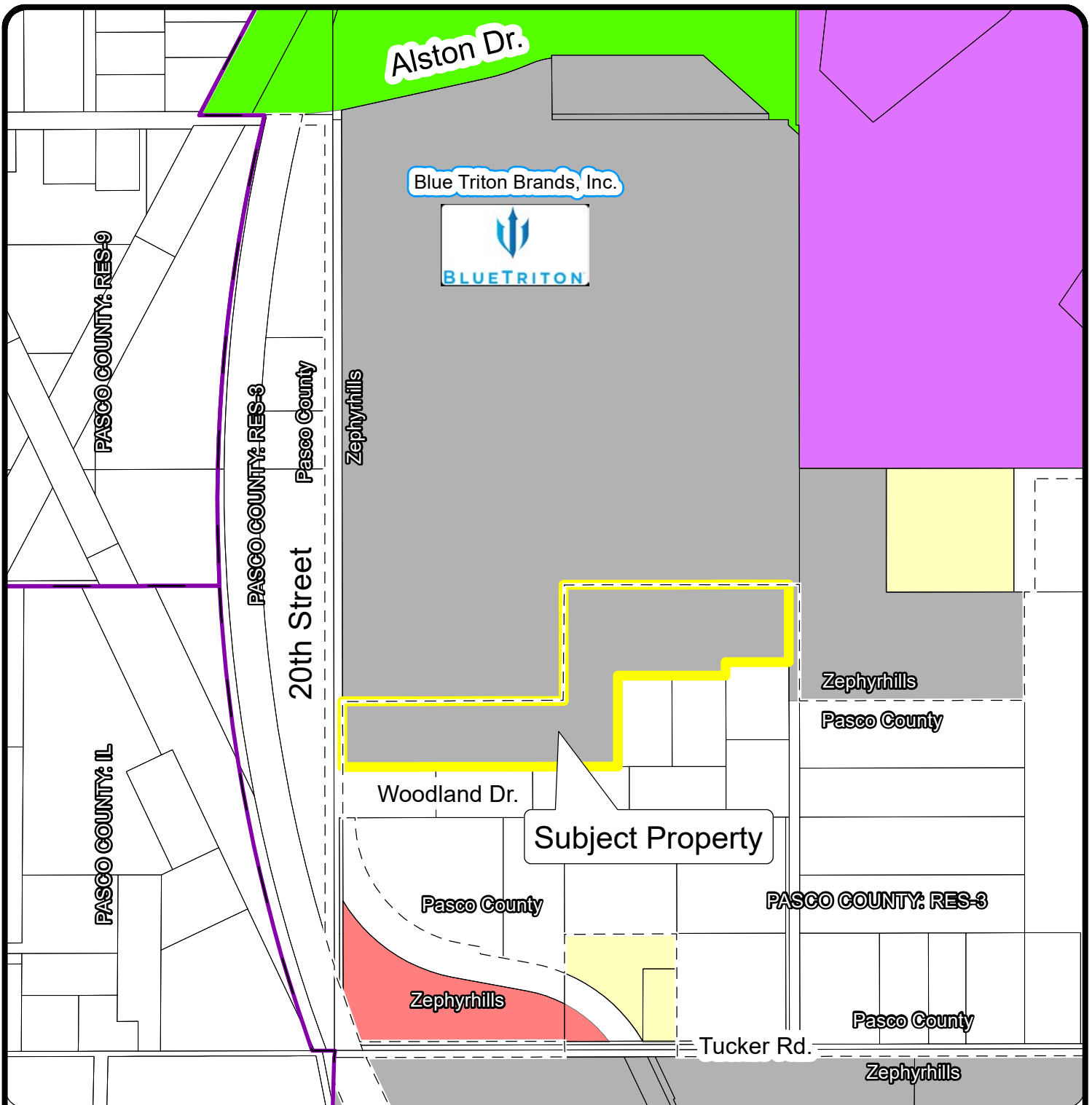


FIGURE FIVE - PROPOSED FUTURE LAND USE MAP



0 200' 400'
Feet

Legend

- Paco County Land Parcels
- Approximate City Limits
- City of Zephyrhills Land Parcels
- Pasco County Land Use Shapes

Land Use Legend

- Industrial
- Recreation & Open Space
- Public/Semi Public
- Mixed Use
- Residential/Suburban



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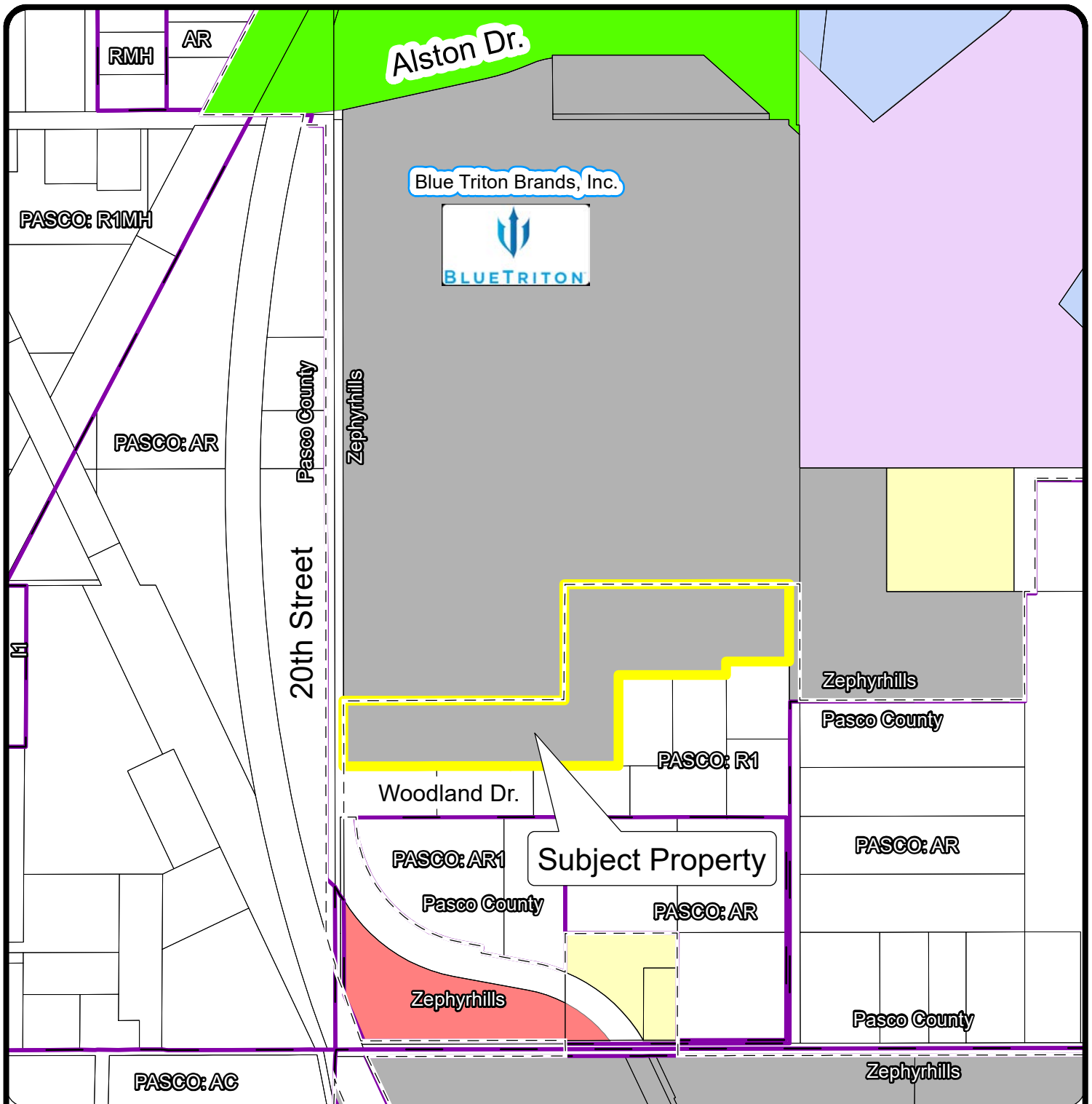


FIGURE SIX - PROPOSED ZONING MAP



0 200' 400'
Feet

Legend

- Approximate Project Boundary
- Paco County Land Parcels
- Approximate City Limits

Land Use Legend

- LI - Light Industrial
- AP1 - Airport
- AP2 - Airport Related
- R-4 - Multi-Family Residential
- C-3 - General Commercial

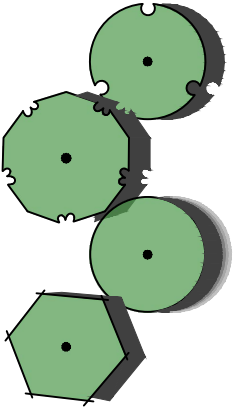
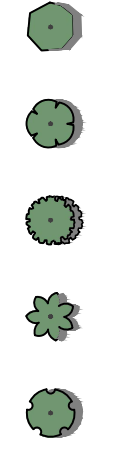
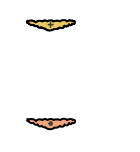


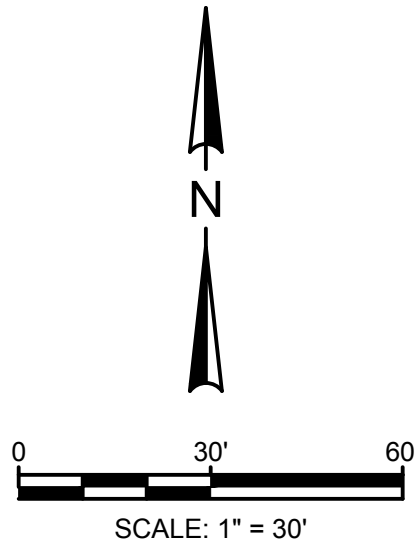
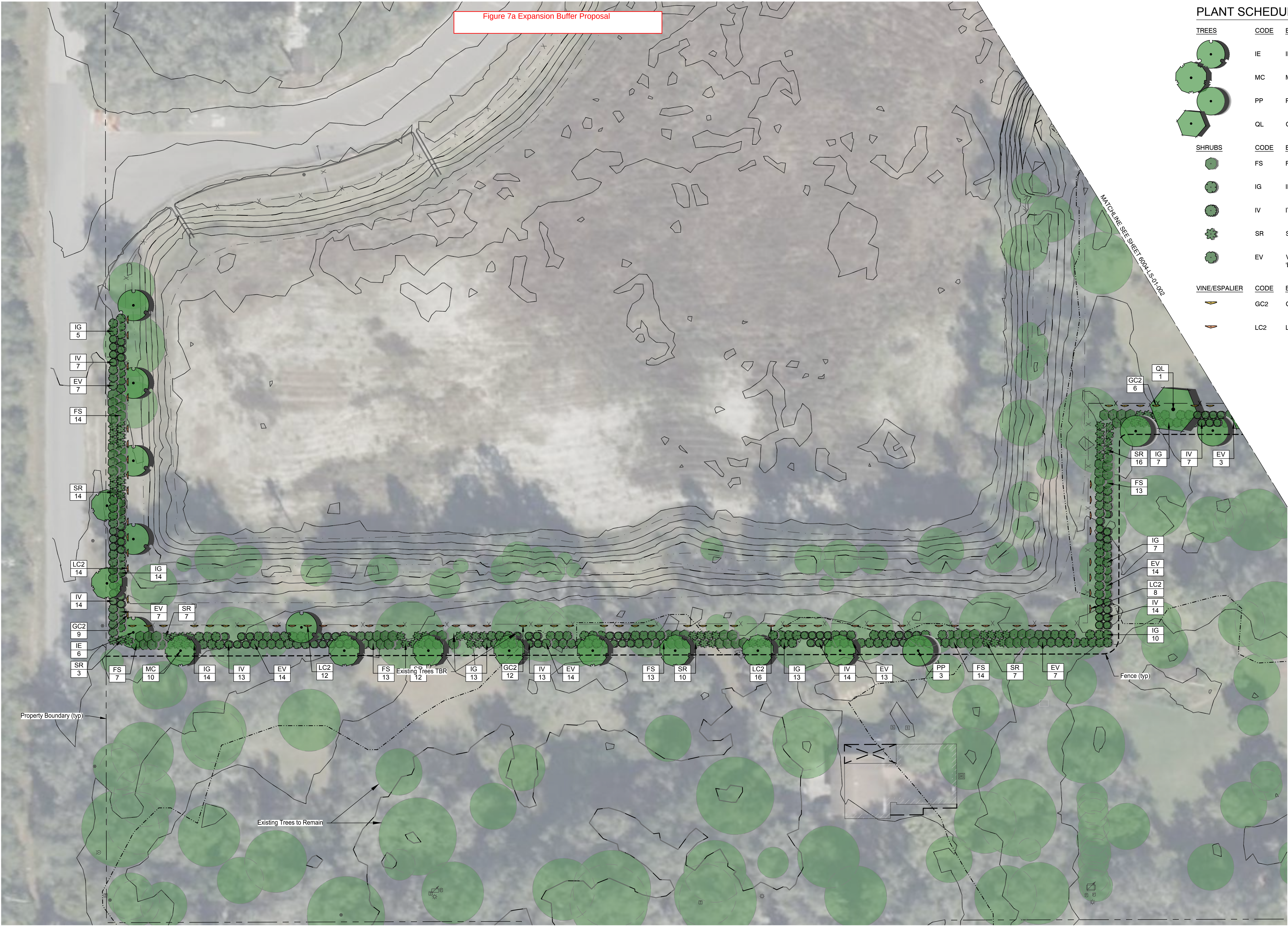
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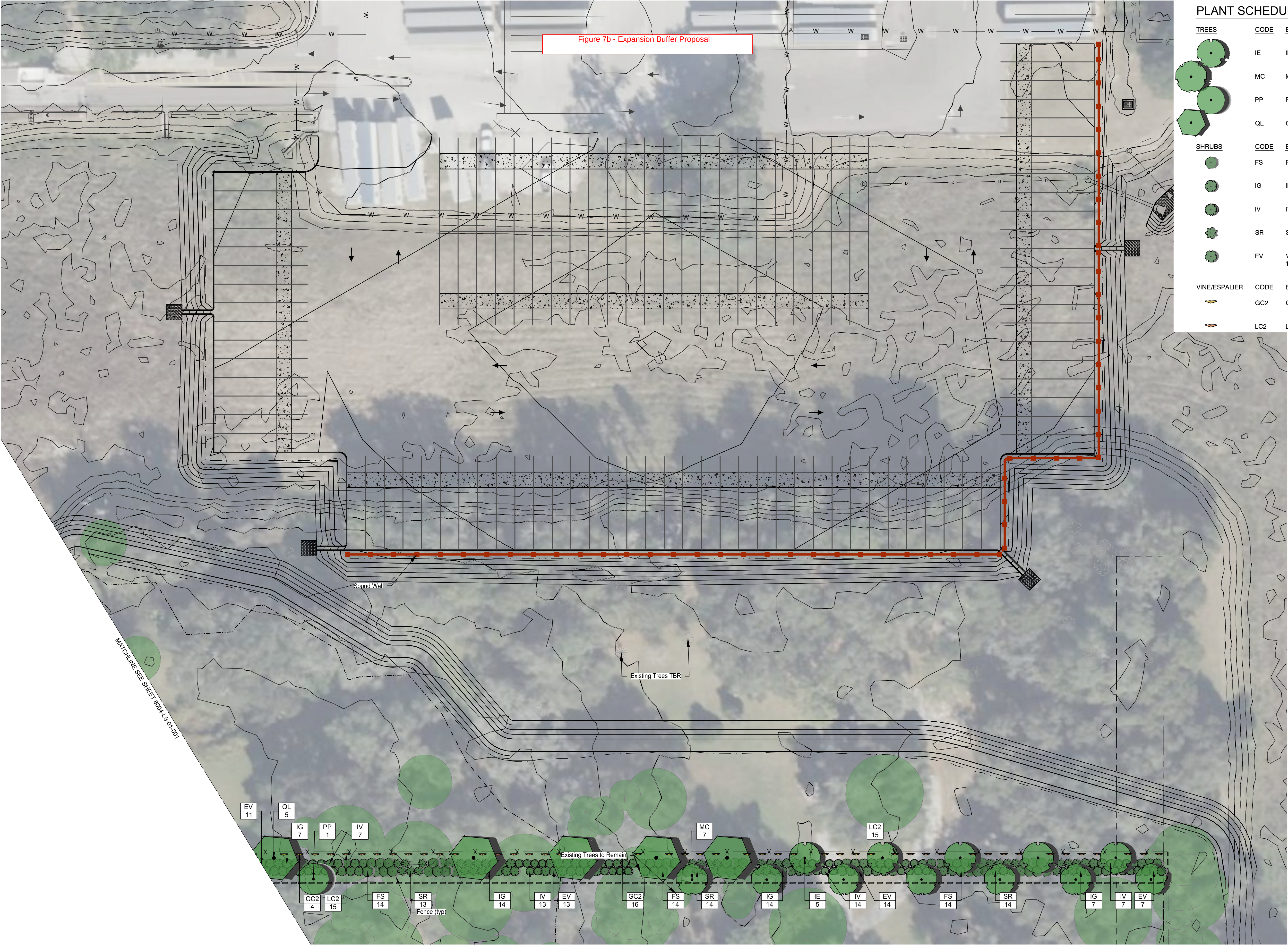
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Figure 7a Expansion Buffer Proposal

PLANT SCHEDULE

TREES	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY	REMARKS
	IE	ILEX X ATTENUATA 'EAST PALATKA'	EAST PALATKA HOLLY	3" CAL.	11	
	MC	MYRICA CERIFERA	WAX MYRTLE	3" CAL.	17	
	PP	PERSEA PALUSTRIS	SWAMP BAY	3" CAL.	4	
	QL	QUERCUS LAURIFOLIA	LAUREL-LEAVED OAK	3" CAL.	6	
SHRUBS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY	REMARKS
	FS	FORESTIERA SEGREGATA	FLORIDA PRIVET	3 GAL.	116	
	IG	ILEX GLABRA	INKBERRY HOLLY	3 GAL.	125	
	IV	ITEA VIRGINICA	VIRGINIA SWEETSPIRE	3 GAL.	123	
	SR	SERENOA REPENS	SAW PALMETTO	3 GAL.	110	
	EV	VIBURNUM OBOVATUM 'EVERLEAF'	EVERLEAF WALTER'S VIBURNUM	3 GAL.	124	
VINE/ESPALIER	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY	REMARKS
	GC2	GELSEMIUM SEMPERVIRENS	CAROLINA JESSAMINE ESPALIER	QUART	47	
	LC2	LONICERA SEMPERVIRENS	TRUMPET HONEYSUCKLE	QUART	80	





PLANT SCHEDULE						
TREES	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY	REMARKS
	IE	ILEX X ATTENUATA 'EAST PALATKA'	EAST PALATKA HOLLY	3" CAL.	11	
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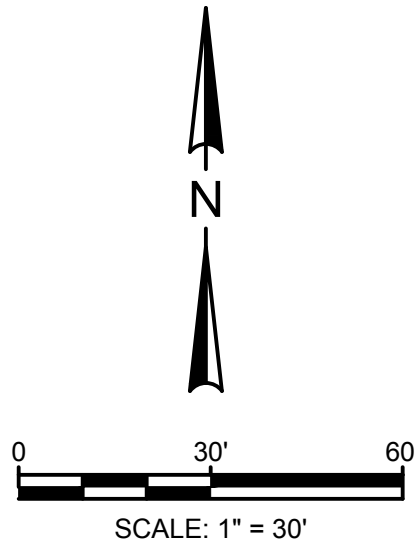
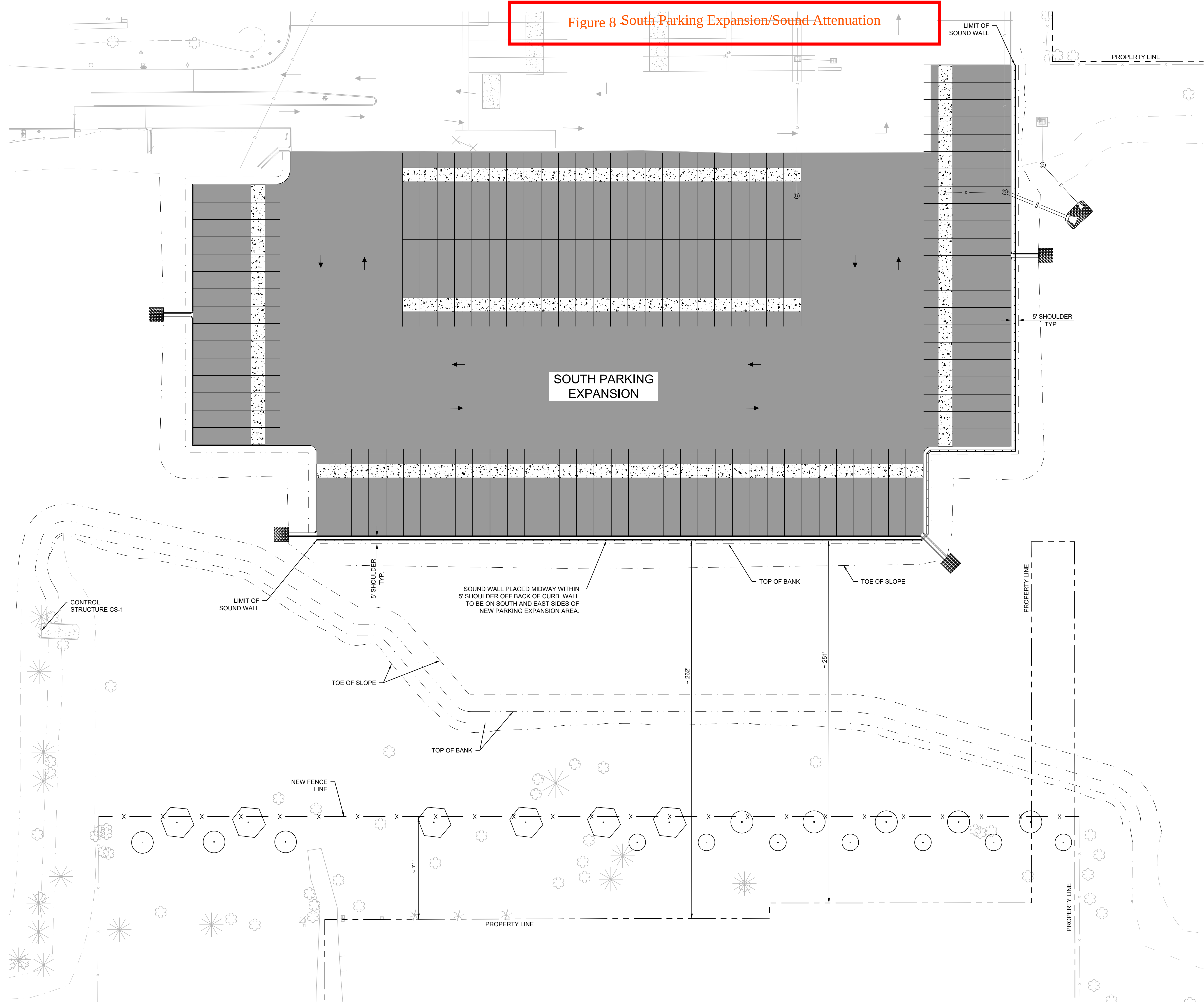


EXHIBIT
SOUTH PARKING EXPANSION LANDSCAPE PLAN 2

Figure 8 South Parking Expansion/Sound Attenuation



- EXISTING LEGEND

 - CURB AND GUTTER
 - CHAIN LINK FENCE
 - PROPERTY LINE
 - STORM DRAIN PIPE
 - FLOW LINE
 - TOP OF BANK
 - TOE OF SLOPE
 - BUILDING
 - TREES
- PROPOSED LEGEND

 - 6" CONCRETE HEADER CURB
 - STORM DRAIN PIPE
 - SOUND WALL
 - FLARED END SECTIONS
 - STORM DRAIN MANHOLE
 - TOP OF SLOPE
 - TOE OF SLOPE
 - CONCRETE
 - ASPHALT
 - CONCRETE FLUME W/RIP-RAP
 - TREES

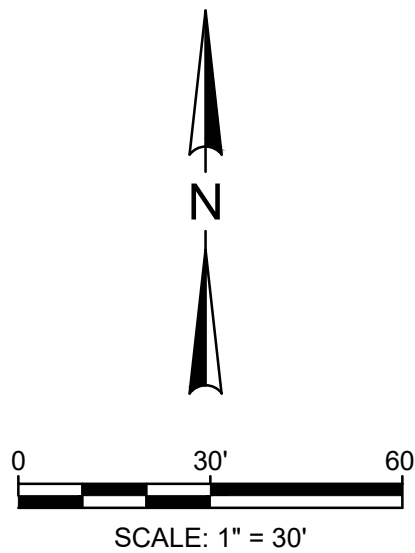


EXHIBIT
SOUTH PARKING EXPANSION SOUND WALL

FEBRUARY 10, 2023

Attachment 1 - Planning Commission Meeting Minutes



City of Zephyrhills

Planning Commission

Council Chambers – City Hall | 5335 8th Street, Zephyrhills, FL 33542

Tuesday, October 18, 2022

- MINUTES-

I. CALL TO ORDER

A Regular meeting of the Planning Commission was called to order by Mayor Gene Whitfield at 6:00 PM in Council Chambers of City Hall, 5335 8th Street, Zephyrhills.

II. ROLL CALL

Commission: Mayor Gene Whitfield, David Armstrong, Tracy Sullivan, Beth Aker, Christian Ryman, Thomas Vanater, Christa Remington (Alt. 1), Dr. Randy Stovall (Alt. 2), Matt Maggard (City Attorney)

Staff Present: Todd Vande Berg, Rodney Corriveau, Kevin Kelley, Audrey McGuire, Carlos Maldonado

III. PLEDGE OF ALLEGIANCE

IV. INVOCATION

Christian Ryman

V. BUSINESS ITEM(S)

1. ANX/FLU/RZ - 0012-22 ACME Development Corp

Application submitted by ACME Development Corp for simultaneous review of petitions to annex 9.98 acres; Large scale future land use map amendment, changing the FLU classification of 110.32 acres from City IN (Industrial) to City MU (Mixed Use); and rezoning from City LI (Light Industrial) to City PUD (Planned Unit Development) pertaining to +/-120 acres of real property generally located north of Chancey Road on the east side of SR 39.

Commissioners Christian Ryman and Thomas Vanater recused themselves from this item.

Justina Gale of Florida Design Consultants addressed the Commission on behalf of the applicants. Ms. Gale gave a presentation on the project, which included a rezoning from industrial to mixed-use residential, and discussed the potential benefits of the project. She also addressed the annexation and future land use map amendments, as well as the compatibility analysis for the PUD which focused on mixed-use as a benefit to the city by providing more opportunities for employment and increasing the tax base. Ms. Gale stated the project was compatible due to other residential projects approved in the area. The proposed PUD project includes 30,000 square feet of non-residential, 400 multi-family units, 110 townhomes, and 200 single-family units. The PUD will feature a park system (3-acres), trail and enhanced buffering along the CSX corridor and SR 39. Ms. Gale stated that a utility impact analysis was conducted and found that the proposed land use would generate less demand for water and wastewater at buildout than potential industrial uses. It was stated that a traffic study was conducted

and showed the project will not increase traffic for the area, and that a buildout, the project was anticipated to generate fewer trips than industrial uses. The traffic study indicated turn lanes into the project would likely be warranted.

Clark Hobby of Hobby and Hobby, PA, attorney for the applicants, addressed the Commission. He stated that the proposed project was possible as the zoning for the subject property was residential back in 2005. He stated the applicants were approached by the City and agreed to rezone the subject property to industrial. He noted that the site had not had an interested buyer since 2007 and that the rezoning could benefit the city by providing affordable housing for workers nearby.

Todd Vande Berg, Planning Director, addressed the Commission and gave a presentation on the project. Mr. Vane Berg discussed compatibility issues with the site, including proximity to the CSX Railroad. He stated he had reached out to CSX Railroad Manager Aubrey Brown he expressed concerns with the proximity of residential to the railroad and potential noise-related issues as the main line is seeing an increasing number of trips, and two crossings are adjacent to the site. Another compatibility concern noted by Mr. Vande Berg was the project's proximity to the airport. Noise from adjacent industrial businesses was of a concern, with audio video being shown of the noise. Morrow Steel, Old Castle Stone, and Wheel Blast (adjacent businesses) all expressed their concern with intrusion of residential and potential noise complaints. It was noted that the nearby new Pasco County development, Bristol Meadows, had made several complaints of noises coming from the industrial uses along Copeland Drive.

Mr. Vande Berg stated that another key concern for the city with regards to land use was the inundation of residential (now at 44% of total lands in the city), and lack of jobs being created.

Mr. Vande Berg addressed city service concerns. He stated that the applicants were using a calculation of 215 gallons per unit per day, while the city utilizes a standard of 300 gallons per unit per day, which increases the potential potable water impact shown by the applicants. Mr. Vande Berg also noted the impacts on the police department, requiring an additional 5 officers to cover the project alone, and sanitation department. The potential impact to the Pasco County School District, and nearby elementary, middle and high schools, was also of concern.

Todd Vande Berg stated that the recommendation of staff and the Site Plan Review Committee was for denial of the project.

Richard Tonnello, Pasco County School Board Planner, addressed the Commission. Mr. Tonnello described the school concurrency process. He commented on the proposed development and solutions for high-capacity schools, with new school sites being proposed which could be built within 2 to 3 years. He stated other considerations for increasing school capacity were additions to existing schools. Mr. Tonnello stated that student generation rates determine a rough estimate of 400 children out of every 1,000 new homes. Commissioner Aker inquired about the likelihood of an increase in school development within the next 5 years, what is the timeframe? Mr. Tonnello stated the School Board has property on Otis Allen Road for another school to be built. He again noted the school concurrency review and stated that the increase in students would be phased over several years. He also noted that charter schools also come into play. Commissioner Sullivan inquired how the School Board determines how many students a development generates. Mr. Tonnello stated it is the school generation rates, and utilizing GIS data and historical information, are able to determine an estimate for new development. He stated that the generation rate for elementary is 0.18, middle school is 0.95, and high school is 1.23.

Clark Hobby addressed the Commission again, stating for the record that Mr. Vande Berg had indicated the proposed project was massive, but that Abbott Square was an approved PUD of a similar size development. He also inquired that if industrial uses across the tracks are such an issue, does the city want more of that type of industrial uses? Mr. Hobby also stated that city staff had recommended

approval of the Gagne PUD immediately south of the subject property for residential purposes. He stated he felt that that Pasco County Economic Development and city staff wanted to keep the area industrial because they believe it may generate jobs, but that industrial uses are locating near interstate 75 instead and questioned the importance of rail. Mr. Hobby stated the closes part of the subject property to the airport was over 4,000 feet away from, and was not really an issue.

Commissioner Sullivan inquired about the potable water rates shown by Florida Design Consultants. Mr. Hobby stated that during planning purposes, assumptions were made, and their analysis showed what the potential buildout scenarios were. Commissioner Sullivan expressed her concern with the potential water usage. Mr. Hobby stated that they are aware the city has water issues and the applicants are willing to pay 100% of their water fees upfront. He noted he was aware the city had put time and effort into designating the subject property as a Readiness Site and that they were willing to pay back the city a quarter of a million dollars for their effort over the years.

Commissioner Aker inquired why the developer would want to subject potential homebuyers to some of the compatibility issues brought up and commented on by utility companies and surrounding neighbors. Mr. Hobby stated that the planning decisions should not be a popularity contest and that for all they knew, adjacent properties may not be meeting city noise ordinance requirements. He stated you had to consider the totality of the circumstances, but that it is not about the opinion of the neighbors and their business versus others. Commissioner Aker noted that she has to look at the totality of the project and that they a responsibility to potential homebuyers ensure their due diligence is conducted. Mr. Hobby stated that if the subject property develops for industrial uses, it will be introducing uses which staff thinks are improper for the existing uses already in place.

Kevin Ryman, 6814 Oakcrest Way, on behalf of ACME Development Corp., addressed the Commission stating that the subject property was once zoned for residential and that the developer was willing to work with the city to meet all its needs. He noted that the property was zoned residential in the past and that they had been approached to rezone it to industrial, and since then they had not had any offers on the property. Mr. Ryman asked how much longer he has to hold on to the property and felt industrial uses were more suited east of the railroad tracks. He added that he believes it to be more appealing for people driving into the city to see residential than industrial uses. Commissioner Aker inquired how he had been approached to rezone in the past. Mr. Ryman stated that he believed it was the city, and late the county who had approached him. Commissioner Aker inquired whether the businesses [business along Copeland drive] were already in existence to which Mr. Ryman stated yes.

Mayor Whitfeld opened the meeting for public comment.

Ed Boudreau, 3749 Copeland Drive, addressed the Commission on behalf of Old Castle. Mr. Boudreau discussed the operations of Old Castle. Mr. Boudreau stated that when Bristol Meadows developed, they received noise complaints. Old Castle worked with the city Code Enforcement on testing and it was found they did not exceed permitted levels. He stated even though they were within permitted levels, Old Castle spent over \$200,000 on noise reduction in an effort to be a good neighbor. He stated he feels property owners should be made aware of existing industrial uses in the area. He stated that Old Castle would like to grow and improve, and work with the city and surrounding uses. Mr. Boudreau stated he objected to the rezoning.

Craig Henry, VP of operations for Old Castle, 3749 Copeland Drive, addressed the Commission. He stated Oldcastle was under their permitted noise levels and welcomed dust testing. He stated one of Old Castle's values was to be a good neighbor. Mr. Henry stated they objected to residential uses as the business produced noise 24/7 and that noise could still travel. He discussed business operations and noted that they may not further invest in Zephyrhills if additional residential were to be introduced into the area. He stated he supports commercial uses but that, from experience in other areas of the

country, residential could cause reductions in their operations which may lead to relocation of the business. Mr. Henry stated he was opposed to residential.

Daniel Germond, 38936 Tucker Road, addressed the Commission stating his concerns for noise and emissions produced by Wheel Blast and Old Castle on Copeland Drive. He stated his concern for potential flooding and privacy with the introduction of residential uses.

Todd Vande Berg stated that land use decisions are not short term, they're long-term decision and its important to consider all the facts.

Mayor Whitfield asked if anyone else would like to speak to the item.

Joan Wikel, Cogg Hill Loop, Majestic Oaks, addressed the Commission stating that although it had improved greatly over the past few years, the 24/7 industrial operations were noisy and dusty. She expressed concern for potential residential uses.

Commissioner Stovall shared conversations had with PEDC who helped the city with the Site Readiness project and working with industrial developers. He stated you can't get more land and once you get rid of the land use for another purpose, then the city can never generate the additional jobs it may create. He stated he believes the city's time is coming for industrial.

Commissioner Aker stated she was not supportive of residential nor industrial uses on the property, and felt for Mr. Ryman's position.

Commissioner Armstrong noted this was a hard decision, but he did not want to see several hundred more families coming in to complain.

Commissioner Armstrong moved to recommend denial. Motion seconded by Commissioner Sullivan. Motion carried unanimously.

2. RZ-0014-22 Agape Baptist Rezoning

Application to rezone from OP (Office Professional) to C3 (General Commercial) submitted by Gulf Coast Construction for a 10 acre parcel at Chancey Road and Laurel Valley Boulevard, approximately 1,500 feet east of Copeland Drive.

Rodney Corriveau, Senior Planner (staff) introduced the item. He stated the application was for a rezoning only, converting the property from OP to C3, [General] Commercial, noting that the subject property was in an industrial area and abutting a mobile home and RV park. Staff provided a description of industrial flex space, such as a solar business with office and staging, shipping facilities and medical supply facilities which would be allowed under code. He noted that uses like publishing and printing could also be considered. Mr. Corriveau stated pedestrian and vehicle traffic would be minimal, and that the water study showed a low potable water usage. Connection to Laurel Valley Boulevard warranted further review.

Commissioner Armstrong inquired whether there was a list of allowed C3 uses included in the package and whether "noise makers" were on the list. Mr. Corriveau gave an example of a use that could be considered and noted that any heavier uses would have to be approved as a conditional use. He noted the proposed uses were generally low-traffic generators and referenced the proposed storage use at the back of the property. He stated that a traffic study would be required to further analyze turn lanes and roadway improvements.

Commissioner Sullivan asked if water usage would be similar to the existing use as a church? Mr. Corriveau stated staff coordinated with the Utilities Department and that a use like this was typically less than residential use, noting that self-storage uses are generally low water users. He stated the Utilities Department did not have any issues with the potential growth of the subject property.

Mayor Whitfield opened the floor for public comment.

Mike Chaney, 3818 Royal Troon Way, Majestic Oaks, addressed the Commission. He stated he was against the change from Office Professional to General Commercial. He expressed concern with being adjacent to the industrial on both sides of Majestic Oaks, light and noise pollution, stormwater, and access to the site. He stated he would like to see it stay office professional.

Sandra Pratt, addressed the Commission and expressed concern with access to the site. Commissioner Sullivan inquired if the road in question was Laurel Valley Boulevard to which Ms. Pratt stated yes and that it was a private road. Mr. Corriveau stated it was staff's understanding it was a public road, but that they would have to do further research. He noted that if it was a public right-of-way, the property owner would have all rights to utilize it; however, if it was private, the applicant would have to design ingress/egress based upon a private right-of-way or off of Chancey which would require a County Right-of-Way Use permit.

Commissioner Aker inquired if there were interested parties in developing the concept plan? Shelly Johnson of Shelly Johnson, PA, 6400 Madison Street, New Port Richey, addressed the Commission on behalf of the applicants. Ms. Johnson noted there were not currently any buyers for the property and that the rezoning request was to position the property for future infill development.

Ms. Johnson stated the applicants would look into the issue with Laurel Valley Boulevard before the City Council meeting and felt there would be no issue providing access to the site whether by easement on the private road or via Chancey Road.

Matt Maggard, City Attorney, noted that this application was for rezoning only and that a plan would not come back to the Commission if permitted by right, only Conditional Uses would go back.

Commissioner Armstrong stated that the Commission would not see the project back with Euclidean Zoning. Staff clarified that if a conditional use was required by the land use table, or a use exceeded the height limitations of the zoning/use, it could come back to the Commission.

Craig Randy, resident of Majestic Oaks RV Park, addressed the Commission stating his concern that if the area gets approved for warehouse uses, increased noise from trucks and traffic was possible. Mr. Randy stated he was not in favor of the rezoning.

Terry Lockner, resident of Majestic Oaks addressed the Commission, inquiring if it would be all buildings and asphalt, and where drainage would be. He stated concerns with existing flooding in the area. Mayor Whitfield stated the applicants would be required to retain the water on their property and a drainage plan would be required.

Commissioner Vanater moved to recommend approval. Motion seconded. Motion passed unanimously.

3. **ANX/FLU/RZ-0014-22 Blue Triton**

Application submitted by Blue Triton for simultaneous review of petitions for annexation; Small scale future land use map amendment, changing the FLU classification from Pasco County RES-3 to City IN (Industrial); and rezoning from Pasco County R1 to City LI (Light Industrial) pertaining to +/-8.43 acres of real property generally located on 20th Street immediately south of the existing facility.

Rodney Corriveau, Senior Planner (staff) addressed the commission. He gave a brief overview of the applications, noting that Blue Triton, formerly known as Nestler Waters, were proposing to annex, amend the future land use and rezone for the purpose of expanding their existing parking area. Mr. Corriveau noted the applicant was willing to work with the adjacent residential community on additional buffering and noted the city's minimum code requirement. He stated the applicants had submitted an application to Pasco County to vacate a portion of Leaf Lane.

Commissioner Sullivan inquired about the height of the proposed fence. Staffs stated the LDC required a 6-foot-high fence.

Linda Pierson, Planner representing the applicants, addressed the Commission beginning with a history and business information of the plant itself, benefits of the expansion, proposed project and criteria for annexation, FLU and rezoning. Ms. Pierson stated the expansion for the parking lots was related to parking for trailers and that any future building expansion would occur to the east of the existing building. Referencing Leaf Lane, she stated that the right-of-way was originally platted over 100 years ago and never accepted by Pasco County. She stated the application for right-of-way vacation (through Pasco County) does not have anything to do with what current and historical access to and used by the nearby residents, it is just housekeeping.

Ms. Pierson described the type C landscape buffer and indicated the actual design was being conducted by the landscape architect and the city. She stated a 20-foot buffer with two rows of trees and shrubs was required. She stressed the need for security on the site, stating that a solid buffer was needed and wood fence would not suffice.

Ms. Pierson addressed the concern for water. Referencing a study by George Mason University entitled "Does Land Development Pay for Itself?", she stated the findings showed that industrial users showed the lowest demand on city services/facilities.

Ms. Pierson stated that stormwater layout and sizing shown was what was believed to be the maximum needed, but had not yet been finalized.

Commissioner Sullivan inquired what type of fencing would be proposed. Ms. Pierson described the types of screening, including a wall, that would likely be used.

Commissioner Sullivan inquired about lighting at night for the proposed parking area. *[Public comment from the audience stated it was very bright.]* Ms. Pierson stated improved lighting design could be directed down into the parking lot versus out onto adjacent properties.

Ms. Pierson stated that the applicants are willing to work with the residents to determine if either fence or wall would be installed, and other landscape improvements were discussed. It was noted that potable water and wastewater demands were anticipated to be lower than for residential uses.

Commissioner Vanater asked for clarification on where the building expansion would be. Ms. Pierson stated it was not a part of the subject properties and would occur on the north east side of the plant. Parking would be expanded on a portion of the existing site.

Commissioner Vanater inquired about water usage. Ms. Pierson stated they purchase water from the City and a portion came from Crystal Springs. Matthew Maggard, City Attorney, noted that the purified water came from the city.

Ms. Pierson stated they had not finalized the design of the wall (solid buffer) because they were waiting to hear from the community. Mr. Corriveau clarified that chain-link fencing was allowed in LI zoning but that the location of the wall or fence (inside or outside the buffer) could be worked out with the community.

Mr. Corriveau noted there were conditions in the City's code for light pollution.

Mr. Corriveau stated that the anticipated project buildout is 5 years and that the applicants were working with the city to increase the water use permit. He noted that water usage for industrial and residential uses fall within different categories for usage. Mr. Corriveau stated the projected water use at buildout would be 128,000 gallons per day. Commissioner Armstrong inquired whether the 128,000 gallons per day was the additional, or entire plant. Staff stated it was for the additional. Mr. Maggard stated that industrial uses were calculated on the permit differently than residential.

Commissioner Sullivan inquired whether trees would be maintained. Ms. Pierson stated yes.

Jim Willis, 4142 Breezewood Drive, addressed the Commission with his concerns.

[LOSS OF AUDIO]

Discussion was had [*Public comment from the audience*] on the concerns of nearby residents who complained of noise, light, and littering issues resulting from the plant.

Commissioner Sullivan inquired how much room was between the fence and parking expansion area. Mayor Whitfield inquired whether they could provide a double buffer around the parking lot and stated his concerns with lighting intrusion onto nearby residents.

Vincent Stokes, 4128 Breezewood Drive, addressed the Commission with his concerns on the project.

[LOSS OF AUDIO]

Commissioner Ryman left the meeting at 9:18 PM.

Commissioner Aker addressed a resident's concern with mosquitos resulting from existing and proposed retention ponds. Ms. Pierson recommended that they contact Pasco County Mosquito Control. Commissioner Aker also asked that residents' concerns, specifically with litter from truck drivers be addressed and suggested installation of security cameras. Ms. Pierson stated that to her knowledge the company had not received those types of complaints, and residents [*from the audience*] indicated the company was not easily reached.

Mayor Whitfield called for a motion. A motion was made to approve. Motion died from lack of second.

Motion to move forward without a recommendation. Motion seconded. Motion carried unanimously.

VI. ADJOURNMENT

Mayor Whitfield adjourned the meeting at 9:29 PM.

Attachment 2 - Neighborhood Meeting Summary

Date: February 2, 2023

To: Rodney Corriveau, Senior Planner, City of Zephyrhills

From: Linda Pearson, Land Use Consultant, Blue Triton Brands, Inc.

Subject: Neighborhood Meeting Summary of January 16, 2023

The information below provides a summary of the issues discussed and/or requested by residents at the neighborhood meeting held on Monday, January 16, 2023 at Alice Hall.

We followed the following agenda for this meeting:

1. Introduction
2. Updates to the site plan
3. Updates to landscaping plan
4. Review of previously voiced resident concerns
5. Open discussion of questions/issues
6. Wrap Up

Each of the specific issues are enumerated below. Follow-up comments that were provided either at the meeting or subsequent to that meeting are provided in italics.

1. Site Plan and Landscape/Buffering Plans: *Updated plans were presented in response to issues raised at the October 18, 2022 planning commission meeting and/or subsequent contacts with interested residents. Residents were pleased to see and hear that the proposed expanded parking lot has been reconfigured from the initial proposed distance of 135' to their property and has been increased to 265+/- feet. Residents have specifically requested that there be no solid buffer between their property line and the new landscape buffer. They prefer that any proposed chain-length fence be provided on the north side of the buffer so that they can see and enjoy the new landscaping and trees, etc., without visual interruption. **The applicant has agreed to that pending staff review and approval.***
2. Waste Connection Inc.: *Residents were again reminded that the use of BTB property by garbage trucks will be required to be modified at such time as construction begins. Maneuvering the large trucks on private property is not currently permitted. Modifying the trucks turning movements should not have any negative effect for their continued garbage service.*
3. Mosquito Control: *Neighbors were advised that the Pasco County Mosquito Control website : (pascomosquito.org) is available where service requests can be made online. An alternative method can be made by calling the office directly at 727-376-4568. This*

service is provided free to all Pasco residents and can be used at any time to report a need for service.

4. Mowing/Landscaping/General Cleanup: Street littering is a big nuisance. Will BTB help with picking up the trash along 20th Street from the truck entrance to Woodland (on BTB property). *Aaron Mitchell, BTB Plant Manager, was present and has advised that he is coordinating this activity with his company to provide this service on both sides of 20th Street abutting their property.*
5. Truck Traffic on 20th Street: Truck traffic, along with additional commercial and residential traffic blocks their ingress/egress from Woodland Drive. They have difficulty getting in and out of their streets during high traffic periods, which results in delays and additional time waiting to leave or enter their street. *The BTB planner, Linda Pearson, offered to draft a letter to Commissioner Oakley who represents District 1 in which their property is located. The letter will request traffic signage be installed to "Do Not Block Intersection" or some other appropriate language. Letter was emailed to Mrs. Mann and Mr. Stanek this date for them to get signatures of residents to be included with the request."*
6. BTB Truck Entrance Signs Relocation: Comments were expressed with a suggestion that BTB relocate the directional signage for semi-trucks to use the truck entrance in order to give more notice to slow down and turn at the right location. *Subsequent to the neighborhood meeting, Mr. Mitchell advised that the signage has been modified to better serve the truckers and residents.*
7. BTB Vacant Residence on North Side of Woodland Drive: Residents inquired of Mr. Mitchell as to the plans and intent for the vacant residence. *Mr. Mitchell advised that he was aware of the current status of roof damage, etc. to that residence, but that he has received no information or direction, at present, as to future plans for the structure at this time.*
8. Annexation of BTB Vacant Lot on South Side of Woodland Drive: Residents are requesting for the vacant lot on the south side of Woodland Drive to be deleted from the annexation, comprehensive plan amendment, and rezoning application. Their reasoning is that because BTB has no plans for this lot in its current development plan, that it be removed in order for it to remain in unincorporated Pasco County . As such, its land use designations will continue to match all the other lots on the south side of Woodland Drive. Further, it will not create an "enclave" of a city lot between the two county lots with unincorporated resident-occupied homes on either side of it. ***Updated information relating to this request has confirmed that the applicant, BTB, Inc., has no objection to this request. We wish to officially advise city staff and seek direction as to how and what should be prepared, if anything, to grant this resident request.***
9. Residents at 39012 Woodland Drive (Ellison) Reports of Flooding. They expressed issues after heavy rain events. Water runs from the north toward their property. It has previously been so severe that Duke Energy has had to pour a concrete slab to raise the transformer that is at the corner of their property in order to control the water and keep the transformer dry. *The BTB construction project manager, Luke Schneider, has requested the civil engineer to investigate this concern and to report back his findings to determine the cause for this issue and report any suggestions that BTB might make to*

prevent it in the future. If it is determined that the cause is off the BTB site, further action by other others may be recommended.

10. Neighbors Request Modified Location of Solid Fence/Wall: There are several reasons the residents requested that any solid buffer be relocated to the south and east side of the proposed parking lot instead of at the shared property line.

- a. The location of a solid buffer at or near the shared property line would block their view and enjoyment of the new landscape buffer.
- b. The reason for a solid buffer is to decrease any disturbance, view, lighting, noise, activity, etc., from adjacent property owners.
- c. They expressed the preference that this buffer (detail yet to be determined) be placed near the actual location of the activities that may cause them disturbance.

Further, the location of the buffer nearer to the activity area would be a better choice in which to contain any potential disturbance within the actual site instead of allowing it to travel to the edge of the property line (approximately 265 + feet away from the source) before trying to contain it. ***The clients have no objection to the location of said buffer at this proposed location.*** *They are currently undergoing further investigation and analysis as to the most efficient and cost-effective way to accomplish this request in the way of construction types, size, width, and height options.*

11. Wells and Septic Tank Questions: A question was asked about a well for landscaping the new buffer and how that might affect the existing resident wells and septic tanks. *Linda responded that all wells are required to be permitted by SWFWMD and they must meet a 75-foot distance between it and any operating septic tank. Septic tanks are permitted by the Environmental Health section of the county health department. A site plan is required to confirm the distance between the proposed septic tank and any wells within 75 feet. BTB, as well as any applicant for either a well and/or septic tank, must meet these state requirements at the time of permitting. Well drillers and septic tank installers are aware of and must adhere to these permitting requirements before any construction is commenced.*

End of Night Summary

1. Buffer/Barrier Wall
 - a. No Opposition
 - b. The Taller the Better
2. Chain-link Fence
 - a. On BTB side of buffer
 - b. Neighbors want to see landscaping
3. Lot at S/S Woodland
 - a. Leave in County
 - b. Remove from annexation, etc.
4. Well/Septic Setback
 - a. Impact to BTB owned properties

- b. How close can these be to neighbor systems
- 5. Letter to County Commissioner
 - a. Linda has drafted and provided to residents for signatures and direct mailing or delivery to Commissioner Oakley

We believe that these revisions and the interaction with the community and applicant were successful. We look forward to hearing from you and bringing this project to a successful conclusion.

Please contact me if you have any questions or concerns.

PLANNING DIRECTOR'S REPORT 4.2

USE-0013-23: Premium Stone Gallery Warehouse & RV Storage. Request for Conditional Use

Issue:

Request for Conditional Use submitted by 4014 20th Street, LLC (Jose Lucas) for an accessory recreational vehicle storage facility on a portion of real property generally located at 4069 20th Street, currently zoned C3 (General Commercial).

Background:

Recreational vehicle storage may be considered a conditional use in C3 (General Commercial) zoning, per Table 2.02.01 of the Land Development Code (LDC), in accordance with the standards for issuance found in 11.10.01(B), LDC. Recreational vehicle storage on the property is proposed to be accessory to the principal granite wholesale retail/warehouse business - Premium Stone Gallery Warehouse.

Ordinance No. 1455-23 - Indoor/Outdoor Storage Moratorium. On February 27, 2023, City Council approved a 12-month moratorium on the approval of plans and permitting of indoor and outdoor storage uses, including recreational vehicle storage. This moratorium provides and exemption when pre-application meetings are held prior to the effective date of the ordinance. The applicants held a pre-application meeting with City staff on February 8, 2023 and submitted a complete application on February 24, 2023, prior to the effective date of the ordinances, and are therefore exempt from the moratorium.

Attachment(s):

1. Staff Report(R)_USE-0013-22
2. USE-0013-23_Survey
3. USE-0013-23_Statement of Use (Boggs Engineering)
4. USE-0013-23_Justification Report (Boggs Engineering)
5. Building Floor Plan & Elevations
6. 22145 Conditional Use Plan
7. USE-0013-23_City Council

Fiscal Impact:

N//A

Staff Recommendation:

On March 21, 2023, the SPRC did recommend approval with the condition that the establishment of the recreational vehicle storage use be tied to the construction and establishment of the wholesale retail/warehouse business.

On April 18, 2023, the Planning Commission did recommend approval with the condition that the establishment of the recreational vehicle storage use be tied to the construction and establishment of the wholesale retail/warehouse business.



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STAFF REPORT

PLANNING REPORT 4.2

To: City Council
From: Audrey McGuire, AICP – *Historic Preservation Specialist/Community Planner*
Re: USE-0013-23, Premium Stone Gallery Warehouse & RV Storage
Request for Conditional Use

...

I. BACKGROUND INFORMATION

Request for Conditional Use submitted by 4014 20th Street, LLC (Jose Lucas) for an accessory recreational vehicle storage facility on approximately 2.91 acres of real property, generally located at 4069 20th Street. Recreational vehicle storage proposed on the property will be accessory to the principal granite wholesale retail/warehouse business – Premium Stone Gallery Warehouse.

Subject Property

Address: 4069 20th Street
Parcel #: 13-26-21-0070-12100-0010
Location: NW Corner of 20th St and Tucker Rd
Property Size: 2.91 Acres
FLU Classification: MU (Mixed Use)
Zoning District: C3 (General Commercial)

Property Owner/Applicant

4014 20TH STREET, LLC (Jose Lucas)
4069 20th Street, Zephyrhills, FL 33542





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II. DATA & ANALYSIS

A. Ordinance No. 1455-23, Indoor/Outdoor Storage Moratorium

On February 27, 2023, City Council approved a 12-month moratorium on the approval of plans and permitting of indoor/outdoor storage uses, including recreational vehicle storage. This moratorium provides an exemption when official pre-application meetings are held with City staff prior to the effective date of the moratorium. The applicants held a pre-application meeting with staff on February 8, 2023 and submitted a complete application on February 24, 2023, prior to the effective date of the moratorium; therefore, this application is exempt from the moratorium and may be processed in accordance with Land Development Code requirements.

B. Character of Surrounding Area

The term character, as it relates to land use, can be defined as the “image and perception of a community as defined by its built environment, landscaping, natural features and open space, types and styles of housing, and number and size of roads and sidewalks.”¹

The subject property is located at the northwest corner of Tucker Road and 20th Street, and is currently zoned for C3 (General Commercial) use. This zoning district is intended to support commercial uses with potential land use conflicts (e.g., truck traffic, material storage, noise, odor, air pollutants, etc.). The C3 zoning district provides for uses which are more intense than would be supported in C2 (Community Commercial) are not strictly industrial uses, but could be accommodated within an industrial zoning (I.e., wholesale retail, warehousing, storage, distribution, etc.)

The surrounding area is characterized by a mix of industrial and low-density residential uses. The subject property is the only commercial-parcel in the area and may serve as a transition between heavier industrial users to the south and nearby residential uses. Below is a breakdown of surrounding area land uses and zoning districts:

	Zoning District	Future Land Use Classification	Current Use
North	Pasco AR & R1 City LI	Pasco RES-3 City IN	Low-Density SF Residential Light Industry (Water Plant)
South	City LI	City IN	Heavy Industrial
East	Pasco AR City R1	Pasco RES-3 City RS	Low-Density SF Residential
West	Pasco AR, AC & I1	Pasco IL	Low-Density Residential
	Pasco AC = Agriculture Pasco AR = Agriculture/Residential Pasco R1 = Pasco I1 = City LI = Light Industrial City R1 = Low-Density Residential	Pasco RES-3 = Residential (3 u/a) City RS = Residential Suburban (2-7.5 u/a) City IN = Industrial <i>Pasco Industrial Light</i>	

Zoning Districts

Pasco AC = Agricultural
Pasco AR = Agriculture/Residential
Pasco R1 = Rural Density Residential
Pasco I1 = Light Industrial Park
City R1 = Low Density Residential
City LI = Light Industrial

FLU Classifications

Pasco RES-3 = Residential, 3 du/ga
Pasco IL = Industrial-Light
City RS = Residential Suburban (2.0 - 7.5 du/ga)
City IN = Industrial

¹ A Planner’s Dictionary, PAS Report #521/522, American Planning Association, Chicago, IL, 2004, page 109



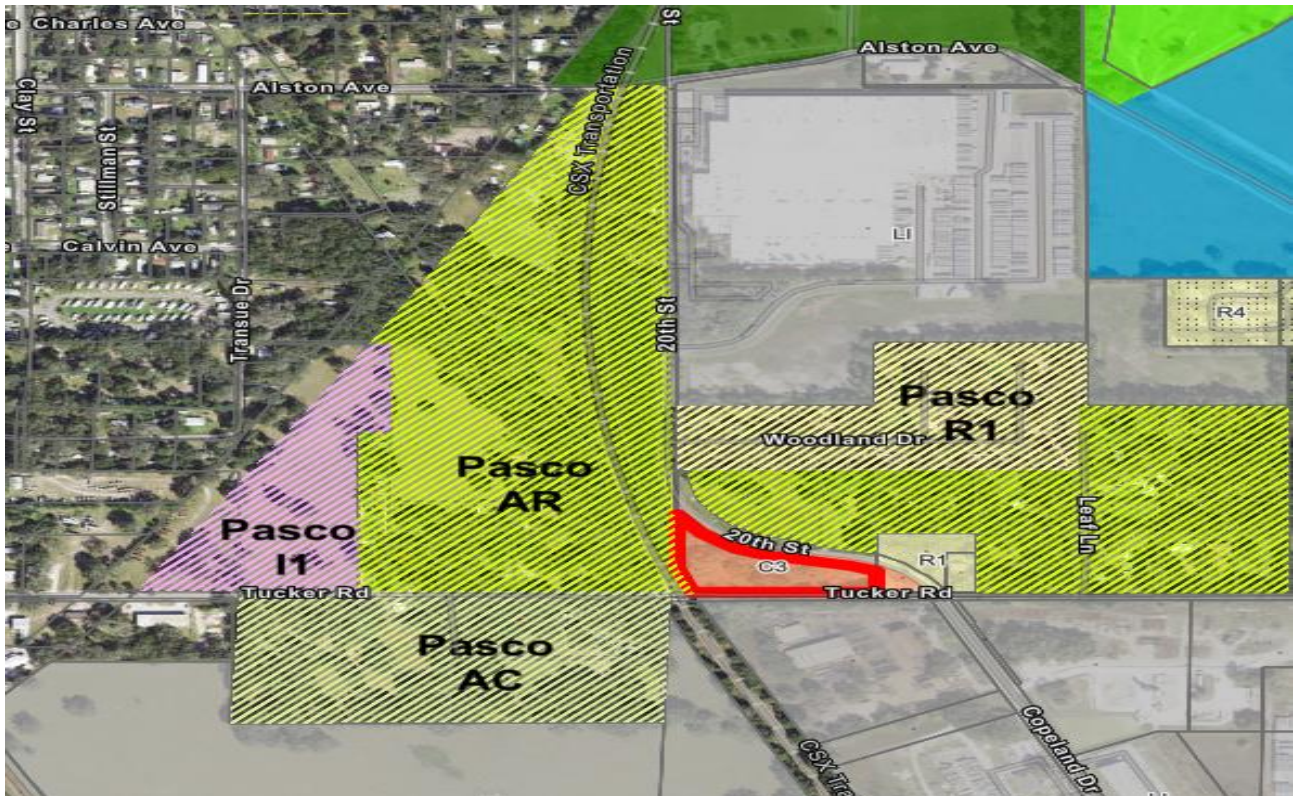
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Parcels located to the west of the subject property in unincorporated Pasco County are currently zoned and used for residential purposes; however, they are currently slated for future redevelopment as industrial uses, with an established Future Land Use Classification of Pasco IL (Industrial-Light).

Map 2: Existing Zoning Districts



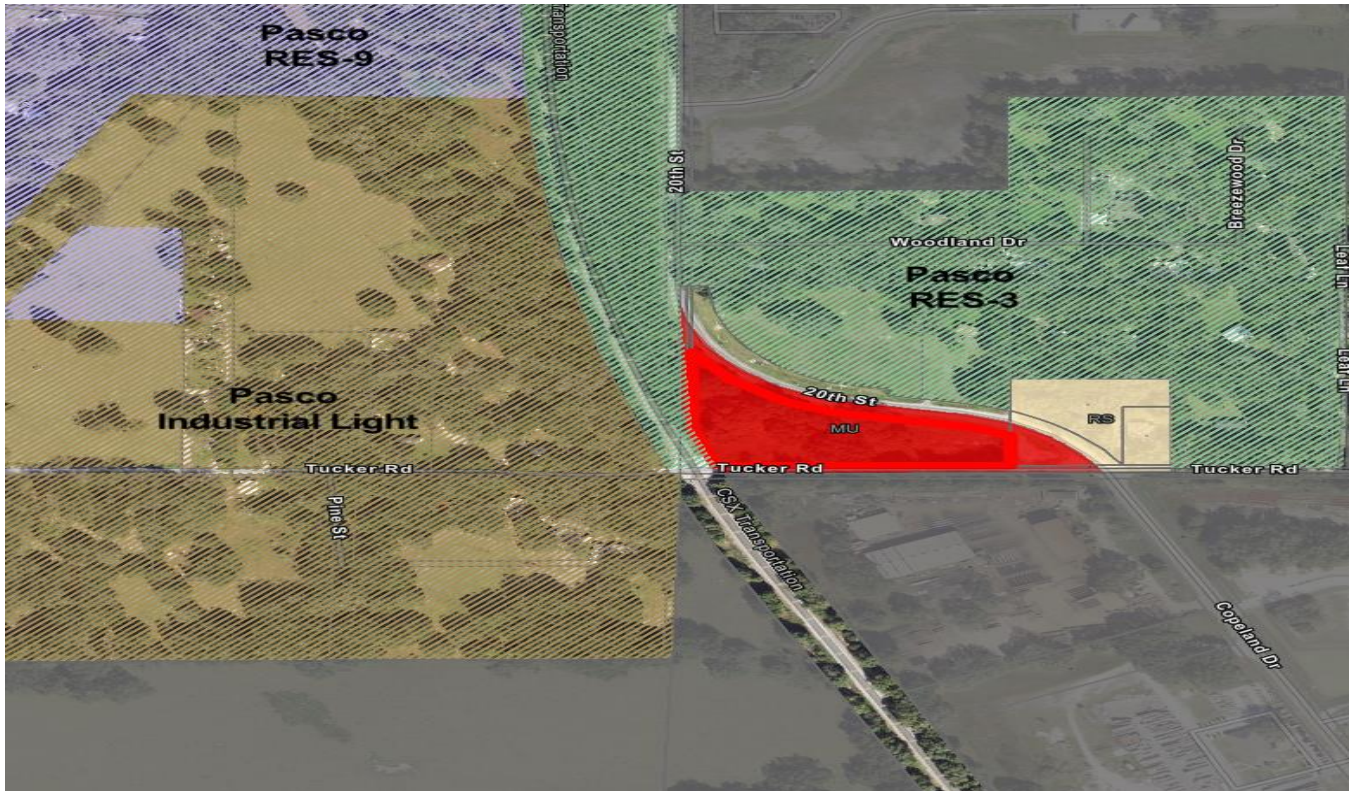
Map 3: Existing Future Land Use Classifications



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C. Standards for Issuance – 11.10.01(B), LDC

Section 11.10.01(B) of the Land Development Code establishes review standards for conditional uses. These standards are outlined below with staff's findings. The applicant's statement of compliance can be found on page 4 of the attached justification report (Exhibit B) provided by Boggs Engineering.

1. The proposed conditional use will not adversely affect or contribute to the deterioration of property values in the immediate neighborhood.
 - a. **STAFF FINDINGS:** The proposed recreational vehicle storage, as an accessory use, will have no impact industrial properties to the south. The following was assessed to review potential impact to existing nearby residential:
 - i. The proposed recreational vehicle storage use is anticipated to generate less vehicle trips per day than the primary wholesale retail/warehouse business, and combined, both uses will not excessively increase traffic on 20th Street or Tucker Road (see division 3 below).
 - ii. The proposed recreational vehicle storage use is not anticipated to generate noise, odor, dust, glare, smoke, vibration or other negative impacts.
 - iii. The proposed recreational vehicle storage use will be ancillary to the primary wholesale retail/warehouse business, in which development includes a +/-5,000 square foot retail/warehouse building.
 - iv. Potential negative visual impacts of the site will be buffered from existing nearby residential. (See division B below).
2. The proposed conditional use is consistent with the character of and existing land use patterns in the surrounding area.
 - a. **STAFF FINDINGS:** *Refer to Division B Above.* Recreational vehicle storage is consistent with the existing industrial land uses to the south and future industrial uses to the west.



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- i. Recreational vehicle storage may be considered as a conditional use in both C3 (subject property) and LI (adjacent properties to the south).
 - ii. Adjacent existing residential properties to the west, separated from the subject property by the CSX railroad, are slated for future redevelopment as industrial uses, per the assigned Pasco County Future Land Use classification of Industrial-Light.
3. The proposed conditional use will not create or excessively increase traffic or parking congestion or otherwise affect public safety.
 - a. STAFF FINDINGS: The anticipated number of daily trips generated from the accessory recreational vehicle storage will be considered de minimis² (City = 1,000 daily trips, County = 500 daily trips). The applicants will be required to review access management and potential turn lanes prior to issuance of a County Right-of-Way Use permit (access management needs will be determined by study and Pasco County).
4. The site upon which the proposed conditional use is to be located has suitable drainage, access, ingress and egress, off-street parking and loading areas.
 - a. STAFF FINDINGS: The subject property is suitable for development:
 - i. The subject property is not located within a basin of special concern, nor are there any identified wetlands on site.
 - ii. The subject property is located within FEMA Flood Zone X [area of minimal flood concern.
 - iii. Per Pasco County GIS data, the subject property contains Taveres Sand [Moderately Well-Draining].
 - iv. Access is available to the site via 20th Street and Tucker Road. Both roadways are owned/maintained by Pasco County. The applicants will be required to submit a substandard roadway analysis and access management review with Pasco County prior to receiving a County Right-of-Way Use Permit.
 - v. Adequate parking/storage for recreational vehicle storage will be provided. The City does not have specified standards for off-street parking of passenger vehicles related to recreational vehicle storage uses; however, any off-street parking necessary can be accommodated at the primary wholesale/retail warehouse use on site.
5. The site upon which the conditional use is to be located has or may have screening or buffering to prevent interference with the enjoyment of surrounding areas.
 - a. STAFF FINDINGS: The subject property will be fenced and is required to meet the minimum landscape requirements established in Part 7.06.00, LDC. The applicants are proposing to mitigate potential impacts to nearby residential uses in accordance with the following:
 - i. Increasing the required 15-foot type D buffer along 20th Street to a 20-foot wide type C buffer to better screen the property from existing low-density residential uses to the north/east. The type C buffer will include an opaque vinyl fence, a staggered double row of trees, and shrubs.
 - ii. Placement of the stormwater retention pond to the northeast of the site, providing greater separation for the recreational vehicle storage use from adjacent residential properties.
 - iii. Adjacent residential properties to the west, slated for future industrial redevelopment, are separated from the subject property by the CSX railroad and existing heavy mature tree line along said right-of-way. The applicants will be providing a 15-foot wide type D landscape buffer (1 tree per 50 linear feet, shrubs and groundcover) along the perimeter vinyl fence.
6. The proposed site meets the applicable requirements of the zoning district in which it is located.
 - a. STAFF FINDINGS: The subject property meets the minimum size criteria of the C3 zoning district. The subject property is not considered a non-conforming lot and may be developed in accordance with LDC and Building Code Standards.
7. Any existing or proposed signs or lighting will not adversely affect surrounding areas or vehicular traffic.
 - a. STAFF FINDINGS: All lighting will be reviewed with the site development plans. Lighting shall not interfere with the approach zones of the nearby Zephyrhills Municipal Airport, nor be designed to spill onto

² Definition = lacking significance or importance; so small/minor as to merit disregard.



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adjacent properties or interfere with traffic along 20th Street and Tucker Road. The location of proposed monument signs will be reviewed with the site development plans. Signs are reviewed for conformance with Article VIII of the Land Development Code and permitted separately by the Building Department.

8. The proposed conditional use will not interfere with or adversely affect the health, safety or welfare of the surrounding community area.
 - a. **STAFF FINDINGS:** The proposed recreational vehicle storage use will be ancillary to the primary wholesale retail/warehousing business (which is allowed by right in the zoning district), will be adequately screened landscaping above code-minimum requirements, and is not anticipated to otherwise affect the health, safety or welfare of the community.

D. Land Use Compatibility

A land use may be considered conflicting if incompatible with the one or more adjacent uses and/or if transferring negative economic or environmental impacts to another property, such as increased traffic; vibration, noise, odor, dust, smoke and air pollutants; mismatched land uses or density, height or massing; loss of privacy; and unsightly views.

The area surrounding the subject property primarily consists of a mix of industrial and low-density residential uses, which may be in conflict with one another. The proposed use of the subject property for recreational vehicle storage is compatible with industrial users to the south and is not anticipated to have greater negative impact on nearby residential than already exists in the area. The applicants have taken steps to mitigate potential negative impacts to residential properties to the east by increasing the minimum landscape buffering requirements, placement of the retention pond, and providing an opaque vinyl fence around the entire perimeter.

Recreational vehicle storage as an accessory use on the subject property is compatible with existing industrial land uses to the south and future industrial land use classifications to the west, and the applicants will mitigate potential impacts to existing residential in the area.

III. PRIOR ACTION & RECOMMENDATION

Recommendation of Approval with Condition that the recreational vehicle storage use be established either in conjunction with or after development of the primary wholesale retail/warehouse use.

Site Plan Review Committee – The SPRC recommended approval with the above-stated condition on March 21, 2023.

Planning Commission – The Planning Commission recommended approval with the above-stated condition on April 18, 2023.

Statement of Use 20th Street Recreational Vehicle Storage

4014 20th Street, LLC (Owner) is requesting conditional use approval from the City of Zephyrhills to operate a recreational vehicle storage facility at 4069 20th Street, Zephyrhills (Subject Property). The Subject Property is currently zoned C3 – General Commercial and has a Future Land Use of Mixed Use.

The Owner is planning to construct a granite wholesale facility on half of the Subject property. This use is permittable under the site's current zoning and future land use and does not require conditional use approval. The Owner is also planning to construct a recreational vehicle storage yard on the remaining half of the Subject Property if this Conditional Use application is approved by Zephyrhills. The Zephyrhills allows C3-zoned properties to operate recreational vehicle storage facilities if conditionally approved by Zephyrhills. If approved, the Owner will construct a recreational storage yard in conformance with Zephyrhills site, stormwater, and utility infrastructure requirements. Once constructed, the Owner will lease storage area for boats, jet skis, campers, etc. The Owner will operate and maintain the facility in conformance with Zephyrhills' open storage requirements.

The Subject Property is surrounded by industrial and residential properties within the vicinity of the Subject Property. The Subject Property is separated from the residential properties either by railroad right-of-way or 20th Street right-of-way. The proposed use would not detract from the characteristics of the developed areas surrounding the Subject Property. Furthermore, the Owner will screen and buffer the use from any adjacent properties as required by Zephyrhills' land development code. The Conditional Use Justification Report further details the compatibility of this request with the surrounding community.

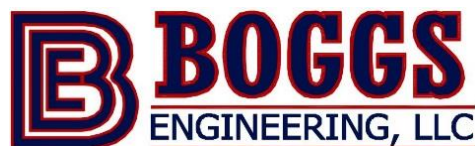
Conditional Use Justification Report

Prepared For:
4014 20th Street, LLC



4069 20th St, Zephyrhills, FL 33542

Prepared By:



BBE Project No. 22145
February 24, 2023

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- 2.0 COMPREHENSIVE PLAN COMPATIBILITY
- 3.0 CODE COMPATIBILITY
- 4.0 SURROUNDING FUTURE LAND USE AND ZONING ANALYSIS
- 5.0 STATEMENT OF COMPLIANCE

Appendix A: Subject Property Aerial

Appendix B: Zephyrhills Future Land Use Map

Appendix C: Pasco County Future Land Use Map

Appendix D: Zephyrhills Zoning Map

Appendix E: Pasco County Zoning Map

1.0 PROJECT OVERVIEW

4014 20th Street, LLC (Owner) is requesting a conditional use approval to allow recreational vehicle storage on its property located at 4069 20th Street, Zephyrhills, FL 33542 (Subject Property). Refer to Appendix A for an aerial of the Subject Property. The Subject Property is zoned C-3, General Commercial and has a Future Land Use (FLU) of Mixed Use (MU). All applicable Future Land Use and Zoning Maps are included as appendices to this report.

2.0 COMPREHENSIVE PLAN COMPATIBILITY

The Subject Property's Mixed Use FLU category delineates urban areas appropriate for intensive residential, office, and retail commercial uses. The proposed open storage would be compatible with the commercial/industrial uses that are prevalent on and within the vicinity of the Subject Property.

3.0 CODE COMPATIBILITY

The Zephyrhills Land Development Code (LDC) allows C-3 properties to have recreational vehicle storage as a conditional use if approved by Zephyrhills. The Owner is requesting approval to operate a recreational vehicle storage facility on a portion of the Subject Property. The Owner would like to rent space for customers to temporarily park boats, jet skis, campers, motorhomes, etc. The Owner will not store dilapidated/deteriorated vehicles if the conditional use application is approved by Zephyrhills. The Owner also plans to operate his granite wholesale business on the remainder of the Subject Property. Refer to the Conditional Use Conceptual included with the application. Therefore, the Owner would maintain the open storage area and ensure the storage area is presentable and will not undermine the aesthetic appeal of his granite wholesale operation. The open storage area would be operated in accordance with the conditions/restrictions outlined in the Zephyrhills' LDC and City Ordinances.

4.0 SURROUNDING FUTURE LAND USE AND ZONING ANALYSIS

The neighboring properties surrounding the Subject Property have varied future land use, zoning, and jurisdiction.

The properties immediately south of the Subject Property are within Zephyrhills' jurisdiction. The southern properties form a large enclave having an Industrial Future Land Use. The Industrial FLU is located on both sides of Copeland Drive/20th Street (the main road approaching the Subject Property from the South). These properties are all zoned as Light Industrial (LI). LI-zoned properties are allowed to have recreational vehicle storage as a conditional use.

The Subject Property is separated from the majority of the adjacent properties to the west by railroad right-of-way. The neighboring properties immediately adjacent to the Subject property are vacant maintenance parcels that are connected to the 20th Street right-of-way. The

neighboring properties on the opposite side of the railroad track are within Pasco County's jurisdiction. These properties have a Light Industrial FLU with Pasco County. However, the current zoning of the properties to the west of the Subject Property are zoned Agricultural Residential. The zoning of the area does not change to Industrial 1 until approximately 1,000 feet past the Subject Property as Tucker Road approaches State Road 39. Though the western properties are currently zoned as Agricultural Residential, these properties are separated from the Subject Property by the railroad. The Owner would screen the requested recreational vehicle storage area in accordance with the Land Development Code.

The Subject Property is separated from the adjacent properties to the north by 20th Street. The northern-adjacent properties are within Pasco County's jurisdiction. These properties have a Residential 3 FLU. These properties are zoned Agricultural Residential. The residential area is bordered by industrial properties to the north and south.

The adjacent parcel to the east of the Subject Property is a small parcel owned by Pasco County's facility management property. It has the same FLU and zoning as the Subject Property. This parcel includes a portion of 20th Street. Given its small size and irregular shape, Pasco County is unlikely to develop the parcel or sell the parcel to another developer.

5.0 STATEMENT OF COMPLIANCE

The Owner seeks a conditional use approval from the City of Zephyrhills which would allow recreational vehicle storage on the Subject Property. The Staff at Boggs Engineering believes this request meets the City's criteria for conditional use approval as details in Section 11.10.01 of the Land Development Code.

The recreational vehicle storage is a consistent use with the surrounding area given the industrial areas either immediately adjacent to or within the vicinity of the Subject Property. The proposed use will also respect the neighboring residential areas by providing any screening/buffering required by Zephyrhills. Additionally, the Owner will operate the facility in a manner that avoids the storage of deteriorated and abandoned vehicles. The Owner desires to provide a service to the surrounding neighborhoods in the event that any residents want to temporarily store any of their recreational vehicles. The proposed use will not generate excessive traffic. The storage area will be constructed with suitable access, stormwater, utility, and screening infrastructure. The Owner will ensure that any signage or lighting (if constructed) will not adversely affect the surrounding areas. This proposed use is allowed as a conditional use- if approved by Zephyrhills- and conforms to the conditional use requirements detailed in Section 11.10.01(B) as listed below:

- (a) The proposed use will not adversely affect or contribute to the deterioration of quality of life or property values in the immediate neighborhood;
- (b) The proposed use is consistent with the character of and existing land use patterns in the surrounding area;
- (c) The proposed use will not create or excessively increase traffic or parking congestion, or otherwise affect public safety;

- (d) The site upon which the proposed use is to be located has suitable drainage, access, ingress and egress, off-street parking and loading areas;
- (e) The site upon which the proposed use is to be located has or may have screening or buffering to prevent interference with the enjoyment of surrounding areas;
- (f) The proposed site meets the applicable requirements of the zoning district in which it is located;
- (g) Any existing or proposed signs or lighting will not adversely affect surrounding areas or vehicular traffic;
- (h) The proposed use will not interfere with or adversely affect the health, safety or welfare of the surrounding community area.

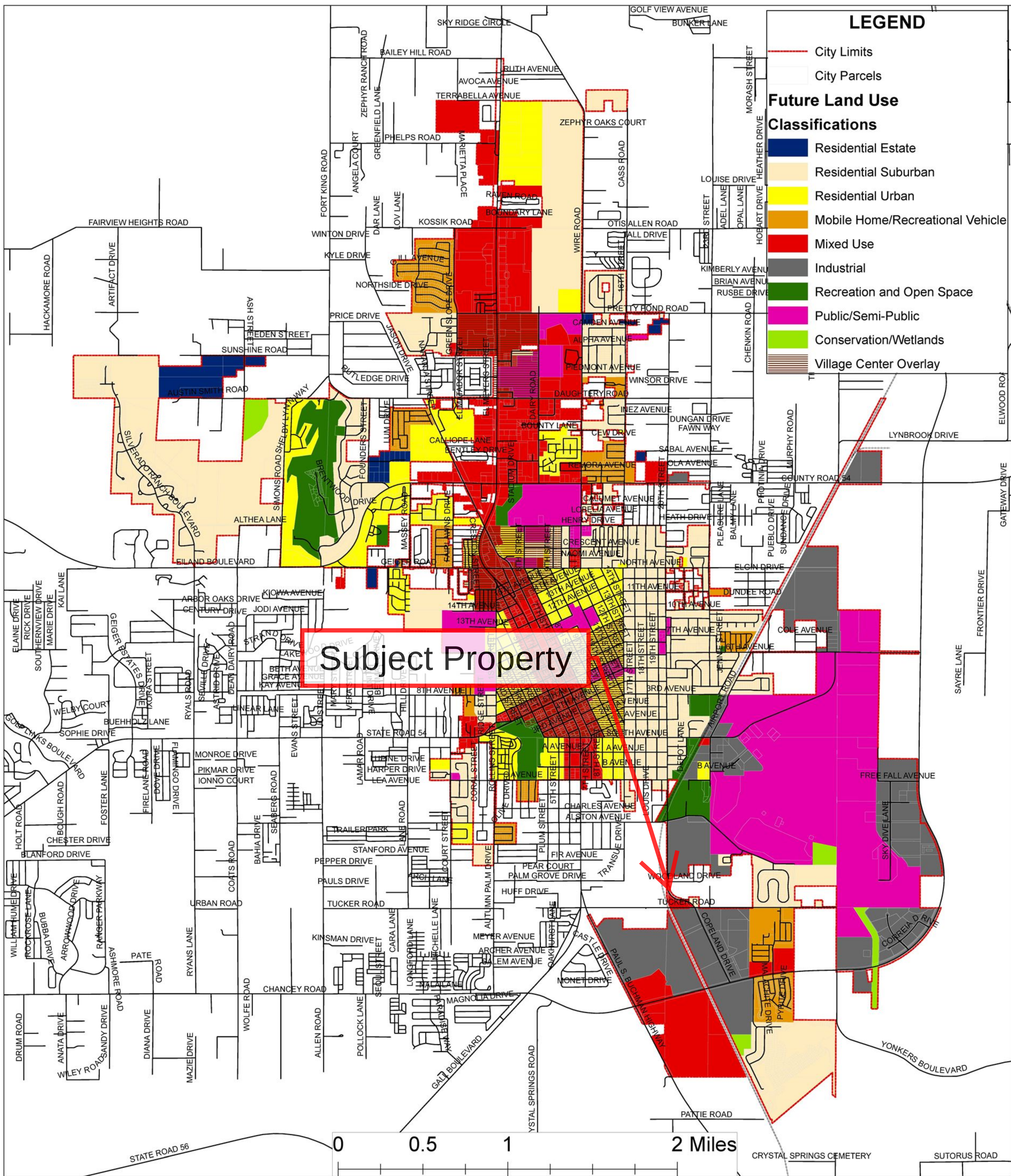
Appendix A: Aerial of the Subject Property



- Legend**
- Street (Labels)
 - Parcel (Lines)
 - Owner Name (Label)
 - Subdivision (Boundaries and Labels)
 - Parcels (Clickable Info)
 - Parcels (Hyphenated ID)
 - Blocks (Boundaries and Labels)
 - Lot (Labels)



Appendix B: City of Zephyrhills Future Land Use (FLU) Map



City of Zephyrhills Future Land Use August 2019

NOTE: For Planning Purposes Only And Updated FLU Changes In Process For Annexed Properties



Source: Pasco County GIS, Property Appr.
Updated 8/28/19 by R.Corniveau & K. Defranc

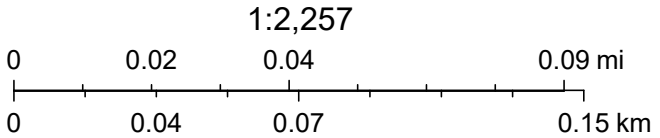
Appendix C: Pasco County Future Land Use (FLU) Map

Pasco County Future Land Use



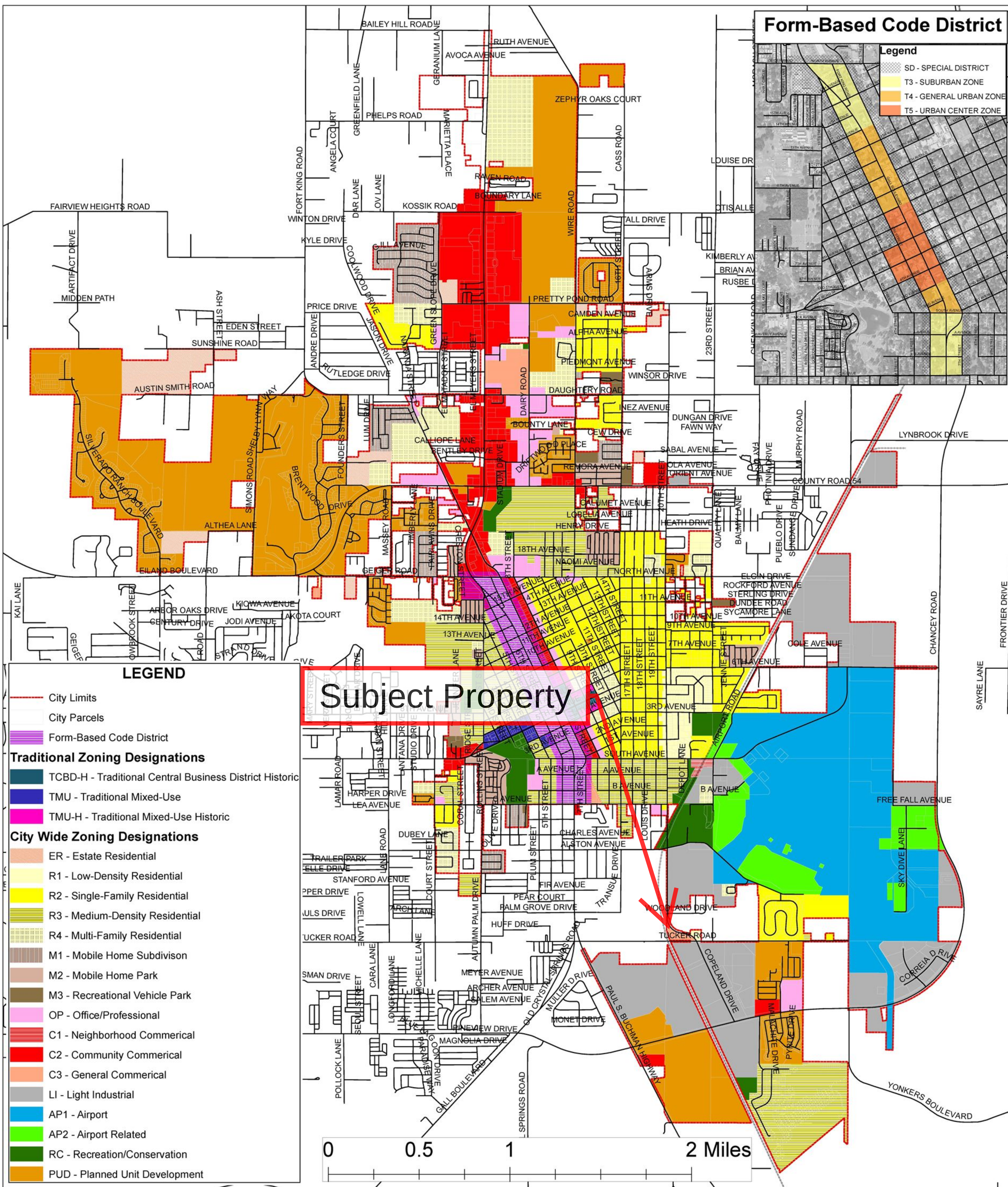
2/17/2023, 10:38:06 AM

- | | | | | |
|------------------------|------------------------------|-----------------------------|----------------------|---------------------------|
| Parcels | AGRICULTURAL/RURAL-.2 du/ga* | INDUSTRIAL-HEAVY | NEW PORT CORNERS | RESIDENTIAL-12 du/ga* |
| Railroad | COASTAL LAND .025 du/ga** | INDUSTRIAL-LIGHT | NEWTOWN | RESIDENTIAL-24 du/ga* |
| Roads | COMMERCIAL | LIGHT INDUSTRIAL | OFFICE | RESIDENTIAL-3 du/ga* |
| Footprints | COMMERCIAL | MAJOR ATTRACTORS | OFFICE | RESIDENTIAL-6 du/ga* |
| STRUCTURE | CONSERVATION LANDS | MAJOR PUBLIC/SEMI-PUBLIC | OFFICE | RESIDENTIAL-9 du/ga* |
| Future Landuse | EMPLOYMENT CENTER | MAJOR RECREATION/OPEN SPACE | OFFICE | RETAIL/OFFICE/RESIDENTIAL |
| AGRICULTURAL-.1 du/ga* | GATEWAY HUB | MIXED USES | PLANNED DEVELOPMENT | TOWN CENTER |
| | | | RESIDENTIAL-1 du/ga* | |



J Edwards, SWFWMD

Appendix D: City of Zephyrhills Zoning Map



City of Zephyrhills Zoning August 2019

NOTE: For Planning Purposes Only And Updated Zoning Changes In Process For Annexed Properties



Source: Pasco County GIS, Property Appr.
Updated 8/28/19 by R. Corriveau, K. Defranc, J. Hackett

Appendix E: Pasco County Zoning Map

Pasco County Zoning



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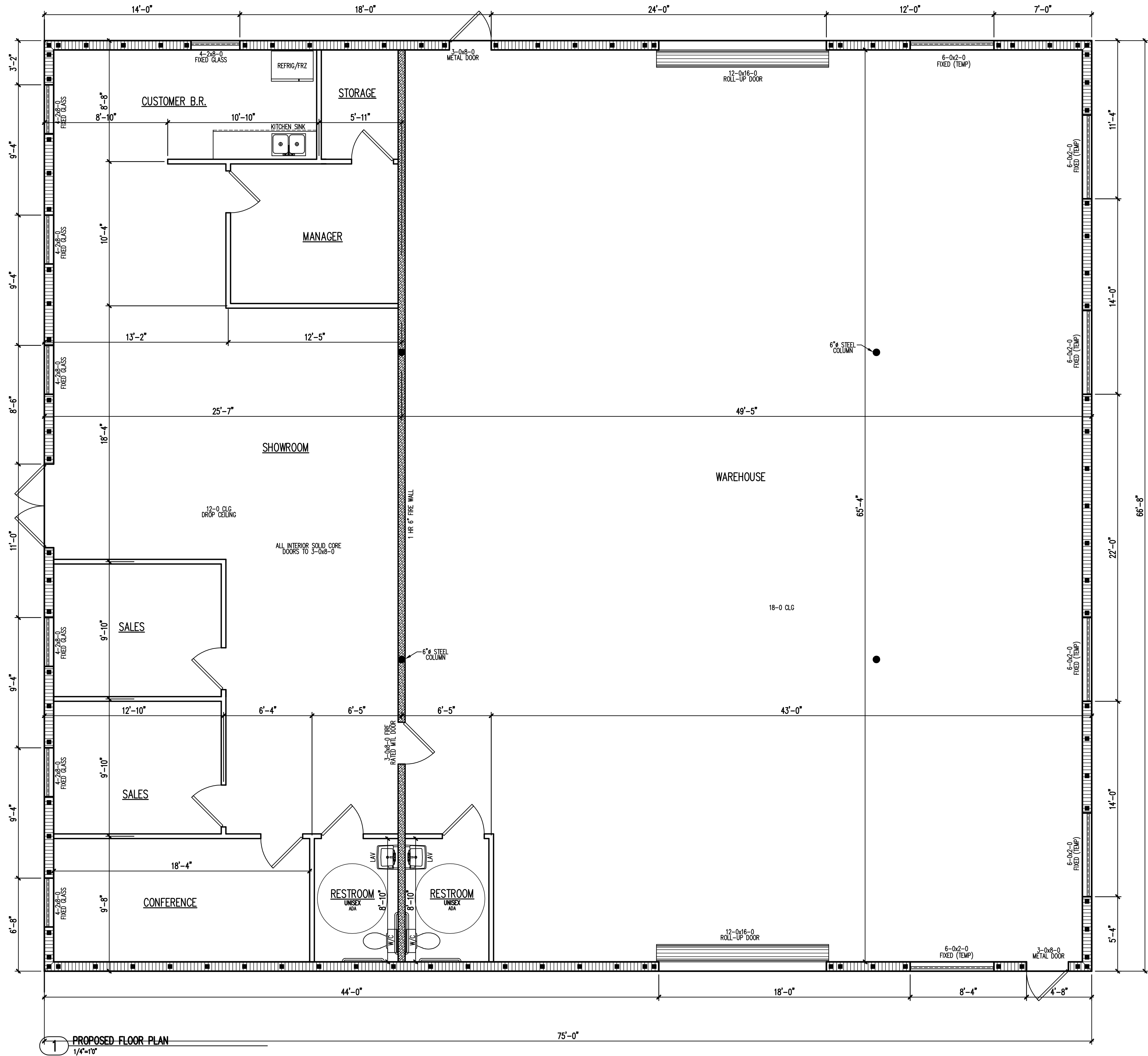
Legend:

- Parcels (Red outline)
- Railroad (Black line with cross-ticks)
- Roads (Black line)
- Footprints (Gray fill)
- STRUCTURE (Red house icon)
- Zoning:
 - AC (Light green fill)
 - AC1 (Green with diagonal lines)
 - AR (Light green fill)
 - AR1 (Green with diagonal lines)
 - AR5 (Green with vertical lines)
 - AR5MH (Green with vertical lines)
 - C1 (Orange fill)
 - C2 (Orange with diagonal lines)
 - C3 (Orange with diagonal lines)
 - ER (Light green fill)
 - ER2 (Green with diagonal lines)
 - I1 (Light purple fill)
 - I2 (Purple fill)
 - MF1 (Orange fill)
 - MF2 (Orange with diagonal lines)
 - MF3 (Orange with diagonal lines)
 - MPUD (Yellow fill)
 - PO1 (Red fill)
 - PO2 (Red with diagonal lines)
 - PUD (Yellow with diagonal lines)
 - R1 (Light yellow fill)
 - R1MH (Orange with diagonal lines)
 - R2 (Yellow with diagonal lines)
 - R2MH (Orange with diagonal lines)
 - R3 (Yellow with vertical lines)
 - R4 (Yellow with diagonal lines)
 - RMH (Light orange fill)

1:2,257

A horizontal number line with two scales. The top scale is in miles (mi) with major ticks at 0, 0.02, 0.04, and 0.09. The bottom scale is in kilometers (km) with major ticks at 0, 0.04, 0.07, and 0.15. The line is divided into 10 equal segments by 11 tick marks.

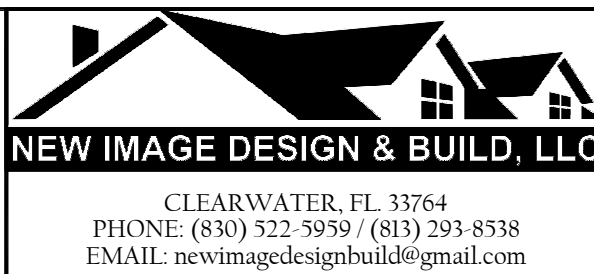
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CONSULTANT
LANENGINEERING
CA#32690
4801 48th AVE. N.
ST. PETERSBURG, FLORIDA 33714
PHONE: (727) 688-7612

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DATE:

PROJECT#NIDB035-21

NEW HOME FOR PREMIUM STONE

ADDRESS:

CITY:
ZEPHYRHILLS

STATE:
FL

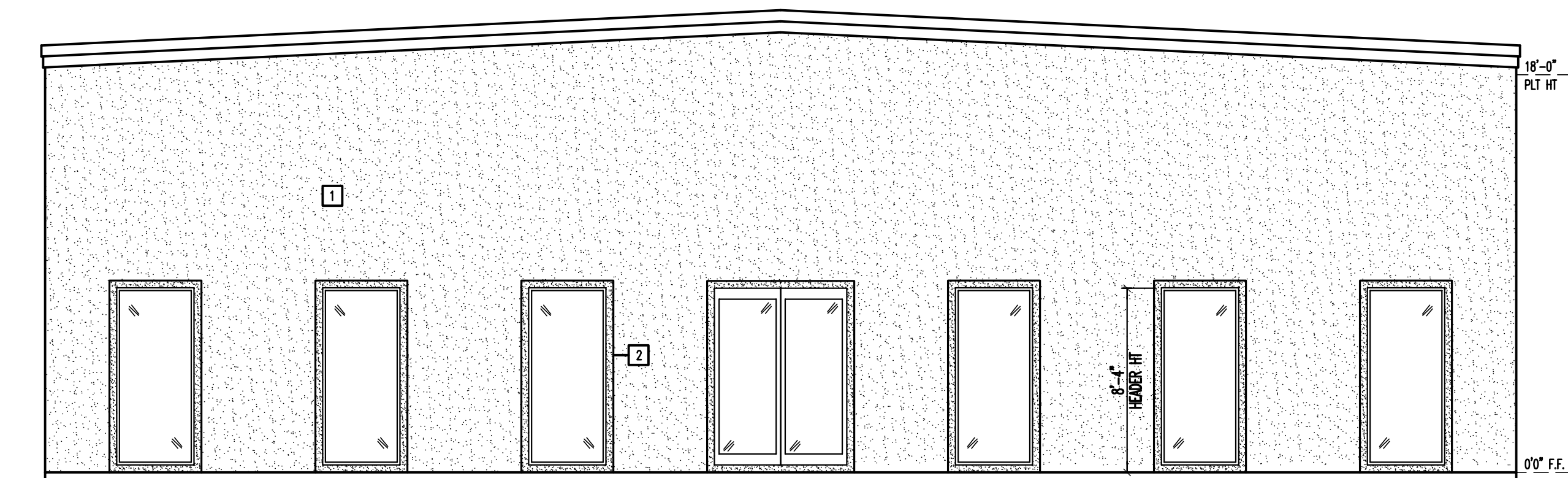
DATE
5/8/2022

DRAWN BY
G.S.

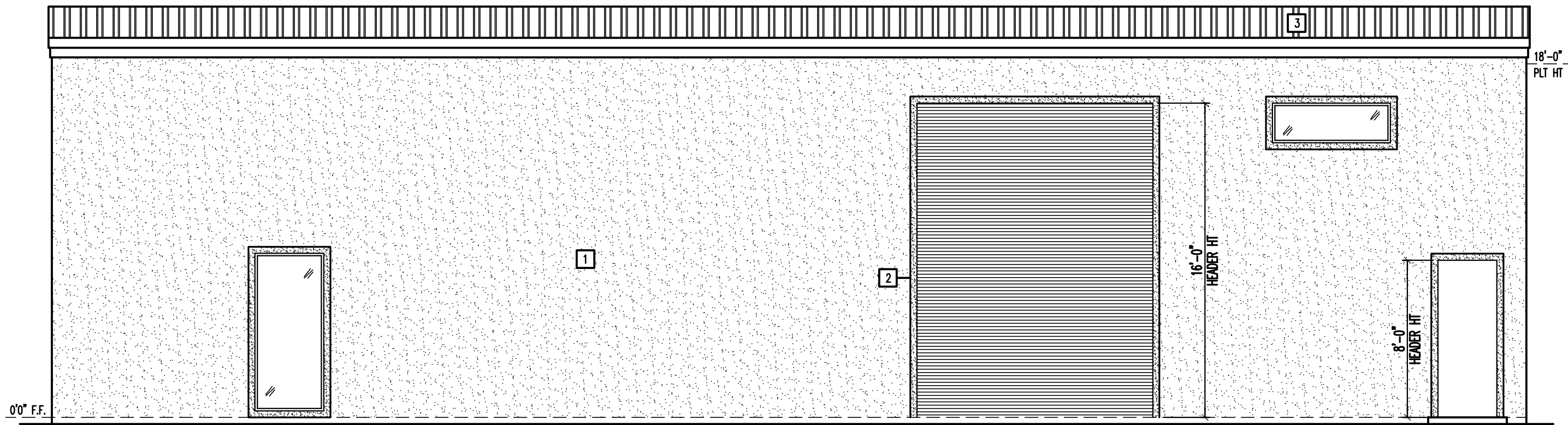
CHECKED BY
J.L.

SCALE
AS NOTED

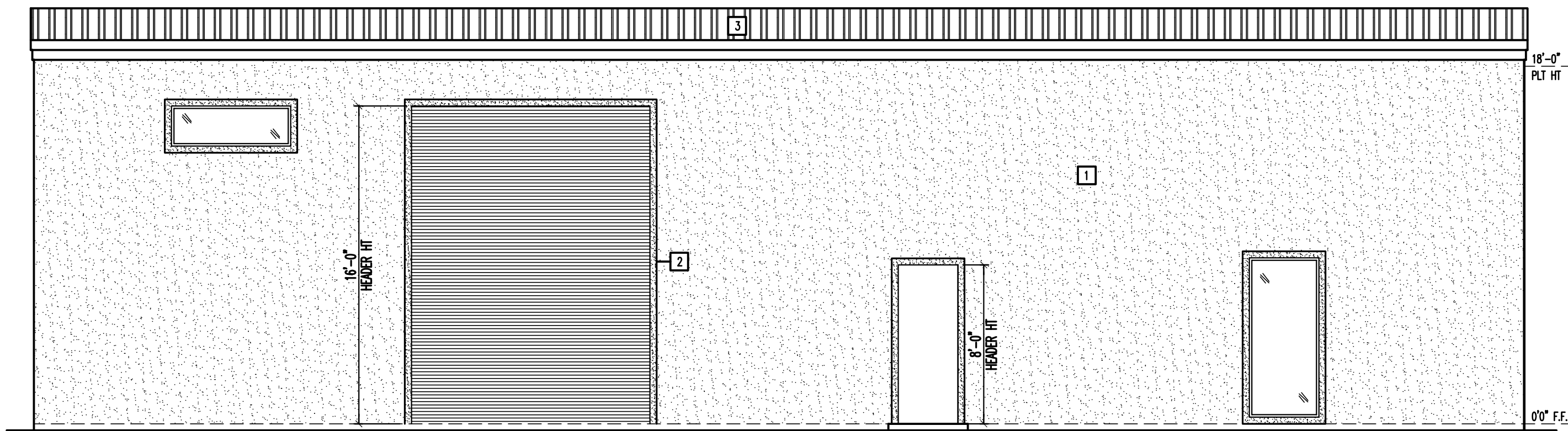
SHEET
3
OF 4



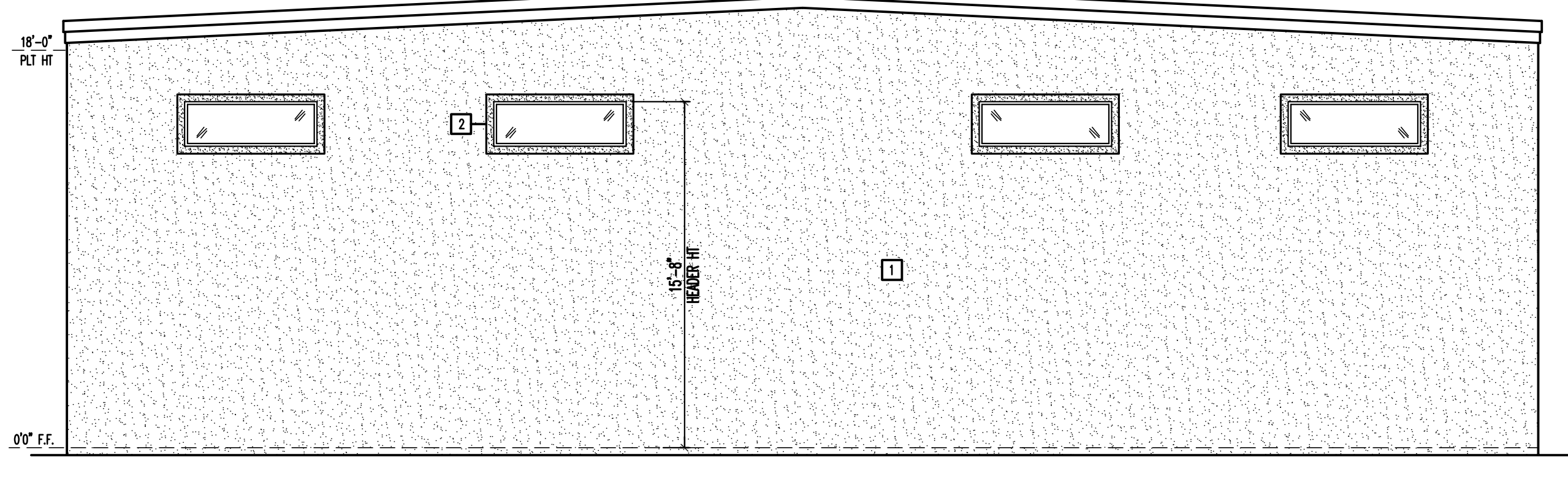
1 PROPOSED EXTERIOR ELEVATION
1/4"=1'-0"
FRONT



2 PROPOSED EXTERIOR ELEVATION
1/4"=1'-0"
LEFT



3 PROPOSED EXTERIOR ELEVATION
1/4"=1'-0"
RIGHT



4 PROPOSED EXTERIOR ELEVATION
1/4"=1'-0"
REAR

EXTERIOR ELEVATION KEY NOTES

MARK	INDICATION
1	STUCCO FINISH - STYLE & COLOR TO MATCH EXISTING.
2	1x4 STUCCO BANDING - STYLE & COLOR TO MATCH EXISTING.
3	METAL ROOF - STYLE TO MATCH EXISTING & INSTALLED PER MANUFACTURES SPECIFICATIONS.
4	
5	

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DATE:

PROJECT# NIDB035-21

NEW HOME FOR PREMIUM STONE

ADDRESS:

CITY:
ZEPHYRHILLS

STATE:
FL

DATE
5/8/2022

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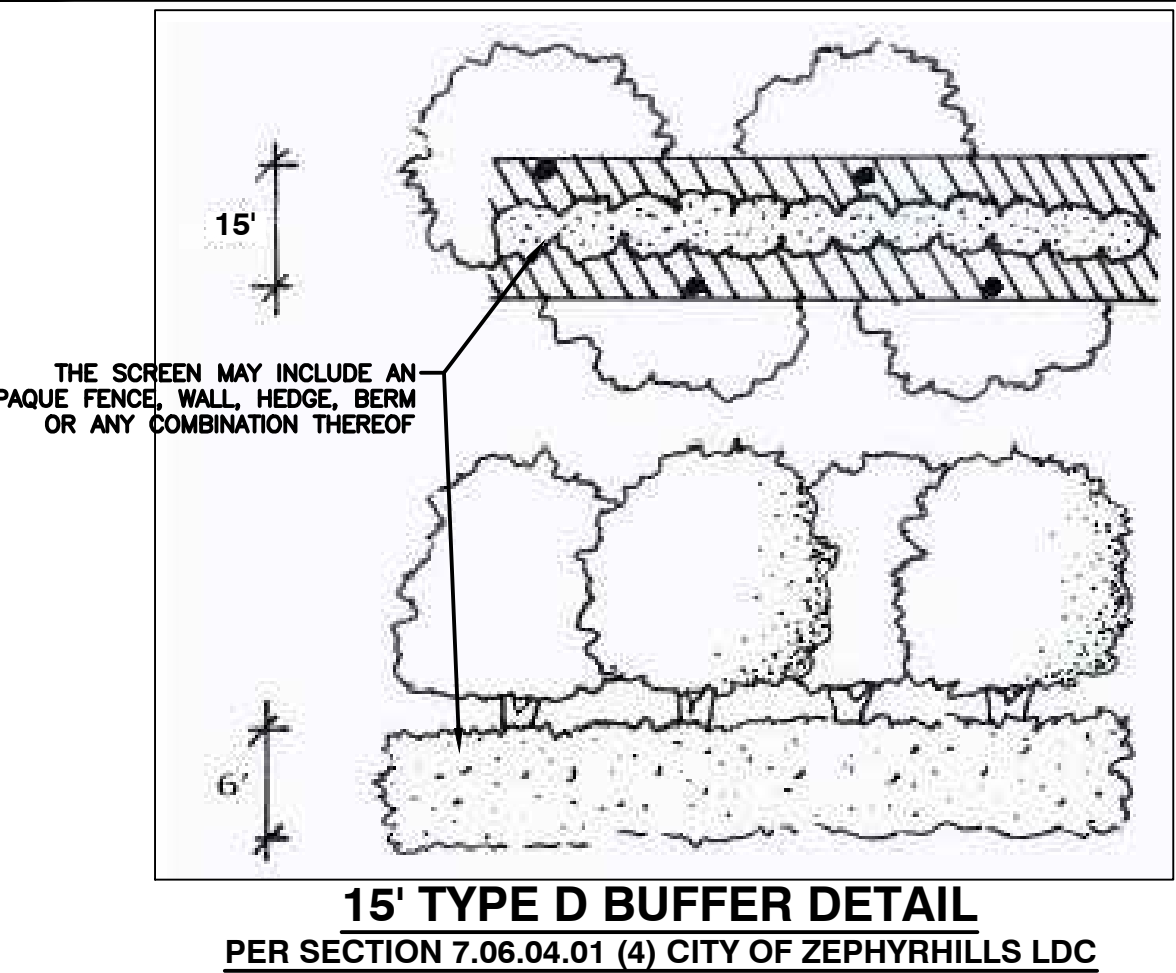
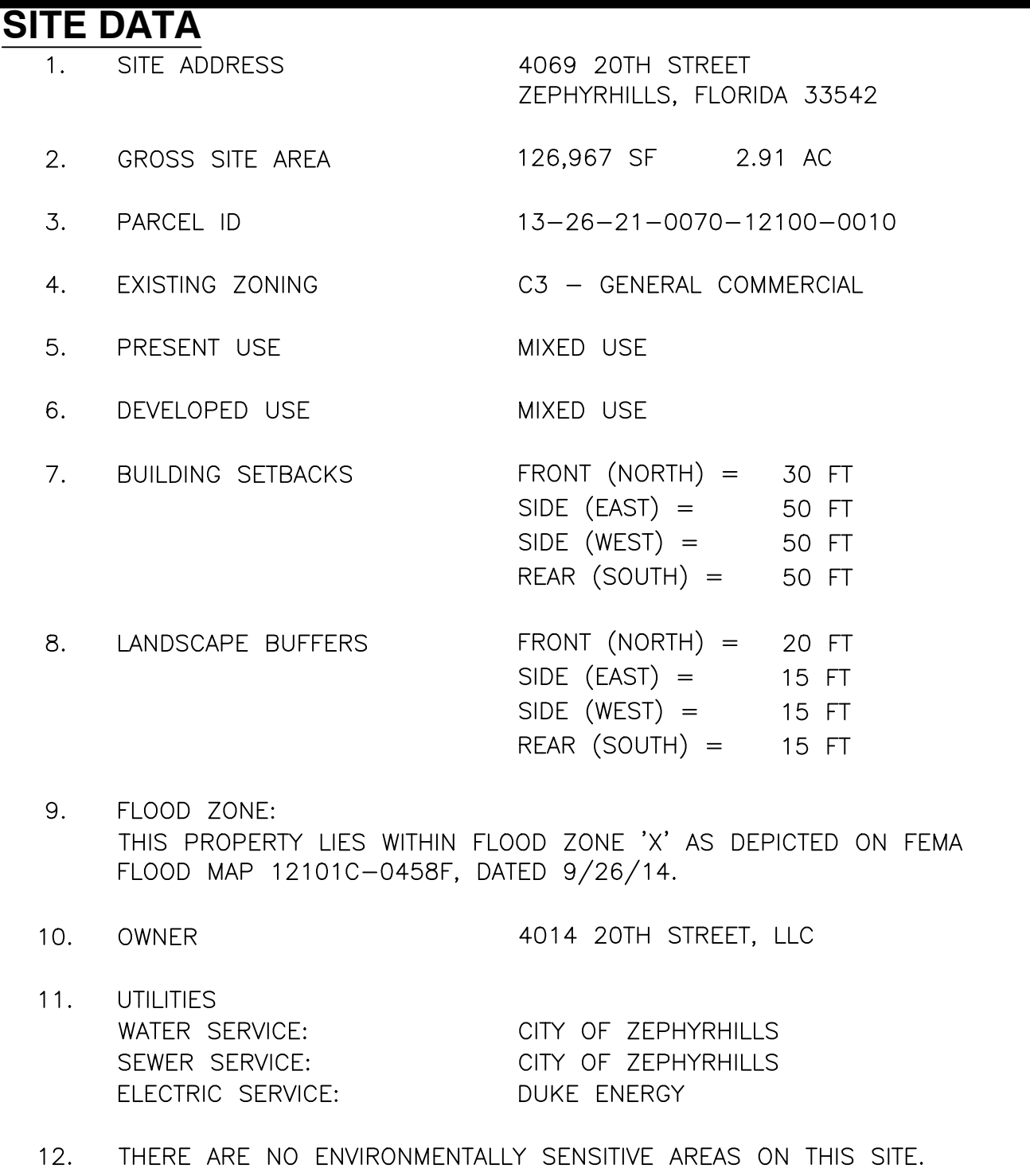
CHECKED BY
J.L.

SCALE
AS NOTED

SHEET

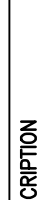
3

OF 4



LEGEND

	HANDICAP PARKING
	PROPOSED CURB
	PROPERTY LINE
	RIGHT-OF-WAY
	EXISTING EDGE OF PAVEMENT
	PROPOSED CONCRETE PAVEMENT
	PROPOSED ASPHALT PAVEMENT
	PROPOSED GRAVEL
	EXISTING ASPHALT PAVEMENT
	BUFFER TREE


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ENGINEERING, LLC

607 S. Alexander Street, Suite 101
 Chicago, IL 60607
 Phone: 813-747-9100
www.boggseng.com | info@boggseng.com
 COX-25867

PREMIUM STONE GALLERY
4069 20TH STREET
ZEPHYRHILLS, FLORIDA 33542

DATE: 4/18/23
STEVEN C. BOGGS, P.E.
FL REG. NO. 55410
PROJECT NO:
22145
DATE: 1/27/23
DESIGNED BY: MCN
DRAWN BY: MCN
CHECKED BY: MCN



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CU

USE-0013-23

Premium Stone Gallery Warehouse RV Storage

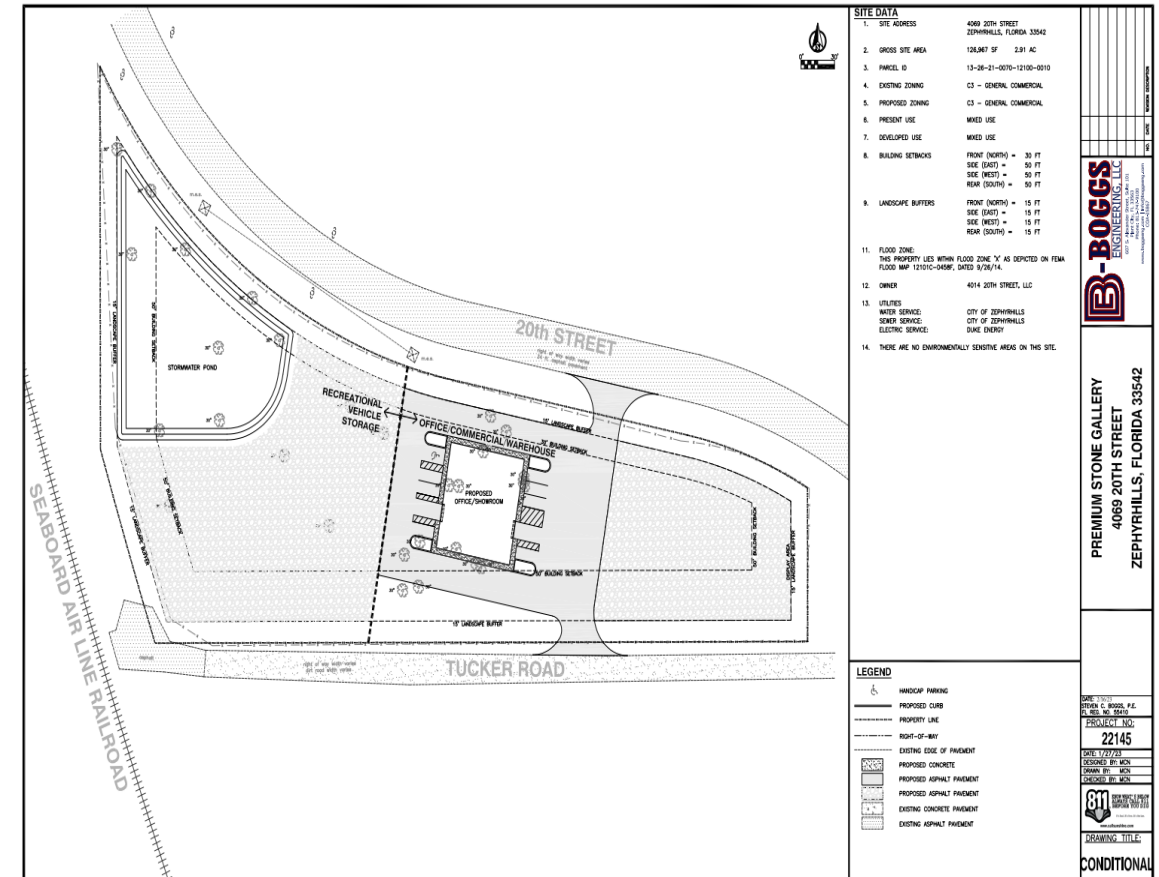


Audrey McGuire, AICP

REQUEST FOR CONDITIONAL USE

Request to establish RV Storage facility in C3 (General Commercial) zoning district.

- Table 2.02.01, LDC allows RV Storage in C3 to be considered as a CU;
- Proposed RV Storage to be accessory use to primary wholesale retail & warehousing business.



SUBJECT PROPERTY

Address: 4069 20th Street

Tax ID #: 13-26-21-0070-12100-0010

Size: 2.91 Acres

Zoning: C3 (General Commercial)

FLU: MU (Mixed Use)



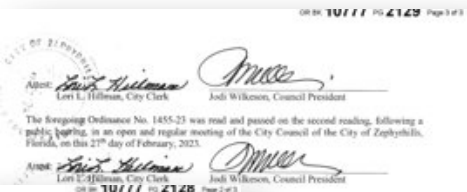
ORD. 1455-23

Indoor/Outdoor Storage Moratorium

Ord. 1455-23 established 1-year moratorium on indoor/outdoor storage uses, effective Feb. 27, 2023.

- Provides exemption where a pre-app is held and/or applications received prior to effective date.

Application Exempt: Held Pre-App w/ staff on Feb. 08, 2023 & submitted complete application on Feb. 24, 2023 prior to the effective date of the moratorium



Section 3. Temporary Moratorium

Beginning on the effective date of this ordinance and continuing through February 27, 2024, or sooner if provided pursuant to Section 5 of this ordinance, a moratorium is hereby imposed on the substantial of plans - permits for recreational vehicle storage, material laydown areas and indoor storage facilities.

Section 4. Exemptions

The following are hereby exempt from this Ordinance: (1) developments which have been issued a Conditional Use by City Council for recreational vehicle storage, material laydown areas, or indoor storage facilities prior to the effective date of this ordinance; and (2) developments which have held a pre-application meeting with city staff prior to the effective date of this ordinance; (3) developments which have submitted site development plans prior to the effective date of this ordinance; and (4) developments which are an (PUD) Master Plan prior to the effective date of this ordinance.

Section 5. Expiration of the Temporary M

The temporary moratorium imposed by 5 of the following occurrences:

- February 27, 2024; or
- A date before February 27, Council of the City of Zephyrhills

Section 6. Repeals

Any and all ordinances in conflict herewith

Section 7. Penalties

Any and all violation of the Ordinance is forth in the Uniform Fine and Citation Schedule; be prosecuted as provided in Section 146.21; constituting a violation shall be fined and process

Section 8. Severability

It is declared to be the intent of the City of any section, subsection, sentence, clause, or a remainder of the ordinance shall be construed as sentence, clause, or provision and shall not be af

Section 9. Inclusion into the Code

It is the intent of the City Council that 6 be made a part of the City of Zephyrhills code, renumbered as no lettered and the word "code" "regulation," or such other appropriate word or j

Section 10. Effective Date

This Ordinance shall become effective on the Mayor.

The foregoing Ordinance No. 1455-23 is and regular meeting of the City Council of the February, 2023.

ORDINANCE NO. 1455-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS, FLORIDA ESTABLISHING A 12 MONTH MORATORIUM ON RECEIVING AND PROCESSING PLANS; PERMIT APPLICATIONS FOR RECREATIONAL VEHICLE STORAGE, MATERIAL LAYDOWN AREAS AND INDOOR STORAGE FACILITIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, as provided in section 2(b), Article VIII of the Constitution of the State of Florida, and section 146.02(1), Florida Statutes, the City of Zephyrhills, Florida (the "City"), a municipal corporation, enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in section 146.02(1), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, the City has an industrial corridor with land available for industry and the creation of local jobs. Economic impact is provided when industry with buildings are constructed to provide ad valorem revenue to the City of Zephyrhills and generally require a smaller amount of City services; and

WHEREAS, the City is receiving applications for a variety of storage uses with no permanent structures, thereby creating limited ad valorem / jobs and reducing the potential economic impacts on land undeveloped properties in the City. The City's Comprehensive Plan Economic Development Element encourages manufacturing / industry and job creation; and

WHEREAS, the City is also receiving applications for indoor storage facilities that also create little / few jobs and the City has realized other governmental entities establishing standards to require indoor storage facilities required to be included as part of a mixed use development / effect from public right-of-ways; and

WHEREAS, the City Council desires to establish a moratorium for a period of 12 months so that a study can be completed to determine the effects these types of uses would have on adjacent land uses in the City; the local impacts and if additional standards are warranted;

WHEREAS, the City Council of the City of Zephyrhills, Florida hereby finds that the temporary moratorium imposed by this ordinance is being imposed for a reasonable duration intended to give the City the time reasonably necessary to investigate the impacts / development standards necessary for recreational vehicle storage, material laydown areas and indoor storage facilities, and if necessary, to promulgate reasonable regulations relating to such uses; and

WHEREAS, the City Council of the City of Zephyrhills, Florida hereby finds that this ordinance is in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Zephyrhills, Florida, as follows:

Section 1. Authority

This Ordinance is enacted pursuant to Chapter 163, Florida Statutes, and under the home rule powers of the City.

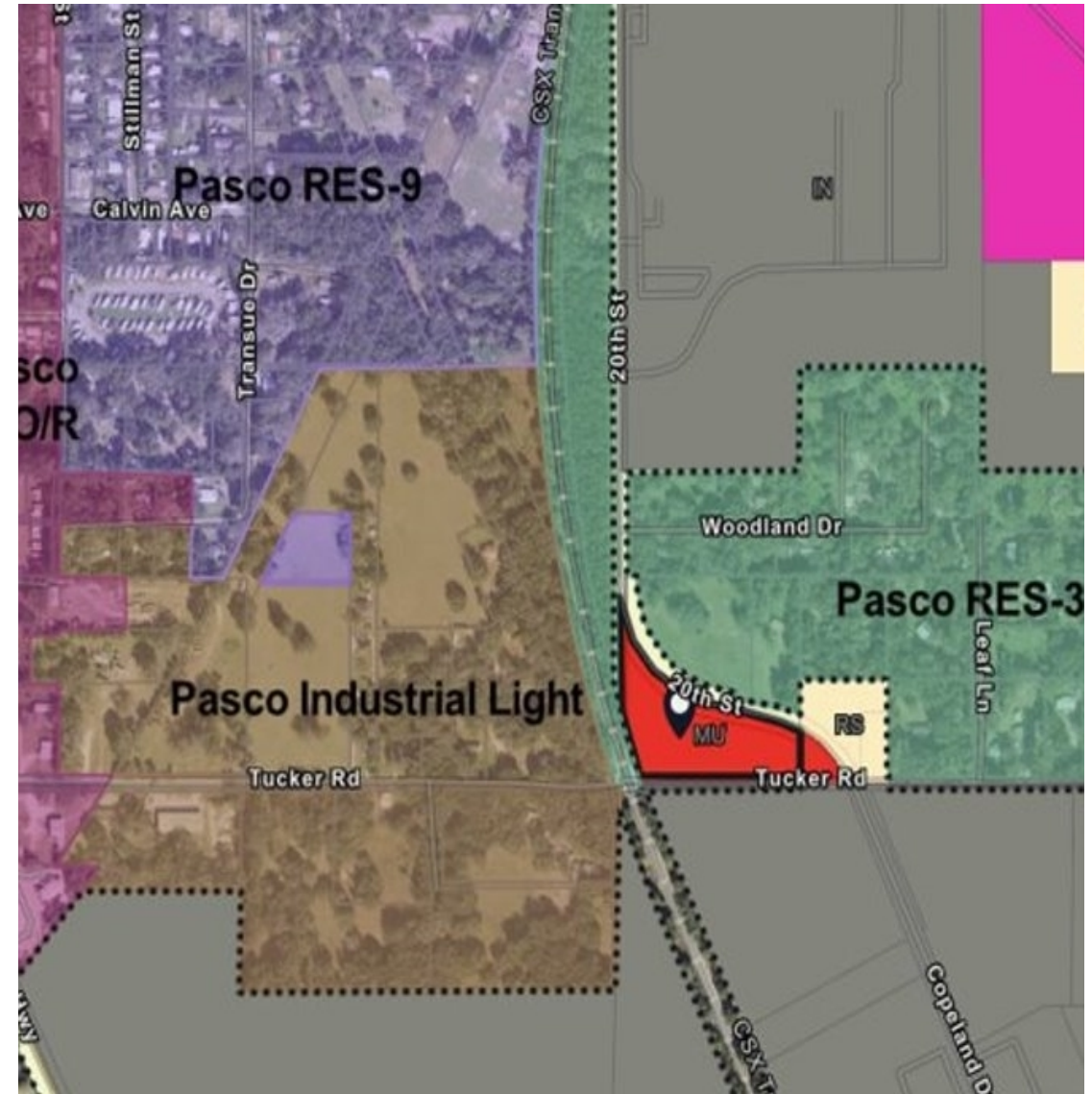
Section 2. Legislative Findings of Fact

The foregoing wherein clauses are hereby adopted as legislative findings of the City Council of the City of Zephyrhills and are ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SURROUNDING LAND USES

FLU Classifications of Adjacent Properties:

- NORTH: City IN, Pasco RES-3
- SOUTH: City IN
- EAST: Pasco RES-3, City RS
- WEST: Pasco Industrial-Light



CHARACTER OF SURROUNDING AREA

The area surrounding the Subject Property is characterized by predominantly **industrial and low-density residential** uses.

- Existing residential properties to the west of the Subject Property, separated by the CSX Rail, have an established FLU classification of Pasco County I1 (Industrial);
- Existing residential properties to the west of the Subject Property, separated by 20th Street, is considered an enclave area and expected to remain large-lot, single-family residences;
- Existing industry to the south is heavy industrial in nature;
- Existing industry to the north is light-industry/manufacturing (Nestle Water Plant).



STANDARDS FOR ISSUANCE LDC Sec. 11.10.01(B)

- 1) Use will not adversely affect/contribute to deterioration of quality of life or property values in the immediate neighborhood.
- 2) Use is consistent with the character & existing land use patterns in the surrounding area.
- 3) Use will not create/excessively increase traffic or parking congestion, or otherwise affect public safety.
- 4) Project site has suitable drainage, access, ingress, off-street parking, and loading areas.
- 5) Project site has or may have screening/buffering to prevent interference with surrounding areas;
- 6) Project site meets applicable requirements of the zoning district;
- 7) Signage or lighting will not adversely affect surrounding areas or vehicular travel;
- 8) Proposed use will not adversely affect health, safety or welfare of surrounding community area.

CONSISTENCY

Land Development Code

- 2.01.03.07, LDC – C3 Zoning District
 - Land-Intensive, Storage Use;
 - Minimal truck traffic, noise, odor & air pollutants
- 11.10.01(B) - Standards of CU
 - Meets standards for issuance of CU.

Comprehensive Plan

- MU (Mixed Use) FLU Classification
 - C3 Zoning is permissible under the MU & allows for storage uses to be considered as a CU;
 - MU supports a mix of uses.

PRIOR ACTION



Site Plan Review Committee (SPRC)

Recommendation of Approval w/ Condition that the establishment of the RV Storage Use be tied to the construction/improvement of the primary wholesale retail/warehouse use onsite.



Planning Commission

Recommendation of Approval w/ Condition that the establishment of the RV Storage Use be tied to the construction/improvement of the primary wholesale retail/warehouse use onsite.

CITY MANAGER'S REPORT 5.1

37-23-01 Second Amendment to the Amended Tennis Pro Florida, LLC Agreement

Issue:

Approval of the amended contract with Tennis Pro Florida, LLC for the management/operations of the Sarah Vande Berg Tennis Center

Background:

Staff and the City Attorney met with Pascal Collard on the drafting of the attached contract for the management of the SVB Tennis Center. The below is the noted change from the September 2020 agreement:

- Article 13. Miscellaneous 13.4 - This section requires that Pascal Collard retain majority ownership of Tennis Pro Florida, LLC., if he owns less, the City may deem it a breach of contract and immediately terminate. The language requires that Pascal Collard remain the CEO of Tennis Pro Florida and Operating Manager of SVB Tennis Center. However, additional language is added to transfer the title and duties to Andrew Sorrentino should Pascal be unable to perform the duties as the Director of SVB or become temporarily incapacitated.

Attachment(s):

1. 37-23-01 Second Addendum to the Amended Tennis Center Management Agreement 4-10-23
2. 37-22-08 First Addendum to the Amended Tennis Center Management Agreement 7-25-22
3. 37-20-05 Amended Sarah Vande Berg Tennis Center Agreement
4. 41-17-31 First Addendum to Sarah Vande Berg Tennis Center Management Agreement
5. 41-17-24 Sarah Vande Berg Tennis Center Management Agreement

Fiscal Impact:

The proposed amendment has no fiscal impact on the City.

Staff Recommendation:

Staff recommends approval of the proposed amendment to the Tennis Pro Florida, LLC agreement

SECOND ADDENDUM TO THE AMENDED
SARAH VANDE BERG TENNIS CENTER MANAGEMENT AGREEMENT

THIS ADDENDUM is made and entered into this 24th day of April, 2023, by and between the **CITY OF ZEPHYRHILLS**, a Florida municipal corporation (hereinafter "CITY"), and **TENNIS PRO FLORIDA, LLC**, a Florida limited liability company ("CONTRACTOR").

WHEREAS, the parties hereto entered into an Amended Agreement on **September 14, 2020**, entitled ***Amended Sarah Vande Berg Tennis Center Management Agreement***; and

WHEREAS, the parties hereto entered into a First Addendum to the Amended Agreement on **July 21, 2022**, entitled ***First Addendum to the Amended Sarah Vande Berg Tennis Center Management Agreement***; and

WHEREAS, the parties desire to repeal and replace the First Addendum to the Amended Agreement with this Second Addendum to the Amended Agreement.

NOW THEREFORE, the parties hereby stipulate and agree to enter into this Second Addendum to the ***Amended Sarah Vande Berg Tennis Center Management Agreement*** dated **September 14, 2020**, as follows:

1. Section 3.1 entitled "Term" shall be replaced with the following:

§3.1 Term. The term of this Agreement shall be for Twenty (20) years commencing on or before October 1, 2020 and expiring on September 30, 2040. There is two (2) subsequent, ten (10) year renewal option, unless terminated earlier under one of the provisions of Article 10 of the Agreement. Nothing in this Article shall be construed as a limitation on either party's right to terminate this Agreement in

accordance with Section 10. 7 hereof. Both Parties shall issue its decision, in writing, to renew the Agreement, or allow the Agreement to expire a minimum of two (2) years in advance of the expiration date, to ensure a smooth transition if a change is to occur following the end of the then current term. Section 13.3 entitled "Ownership of Tennis Pro Florida, LLC" shall be added with the following:

§13.3 Ownership of Tennis Pro Florida, LLC. Pascal Collard shall remain the owner and manager of Tennis Pro Florida, LLC. Furthermore, in the event Pascal Collard is unable to perform his duties as the Director of The Sarah Vande Berg Tennis and Wellness Center, the title would automatically be transferred to Andrew Sorrentino, Pascal Collard's partner in Tennis Pro Florida, LLC.

If Pascal Collard is temporarily incapacitated by injury or illness, Andrew Sorrentino will be acting as Managing Director for the required time period.

If at any time, Pascal Collard or Andrew Sorrentino fail to maintain majority ownership interest in Tennis Pro Florida, LLC due to sale of shares, the new majority shareholder is entitled to assume responsibility of the obligations of "Contractor" identified in the Contract; provided that new operator meets all mutually agreed upon standards set forth in the Contract.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the 10th day of April, 2023.

CITY OF ZEPHYRHILLS, FLORIDA

ATTEST:

By: _____
Lori L. Hillman, MMC, City Clerk

By: _____
Lance A. Smith, Council President

Approved as to Legal Form and Content

Matthew E. Maggard, City Attorney

Witnesses:

TENNIS PRO FLORIDA, LLC

Signature

By: _____
Printed Name: _____
Title: _____

Printed Name

Signature

Printed Name

FIRST ADDENDUM TO THE AMENDED

SARAH VANDE BERG TENNIS CENTER MANAGEMENT AGREEMENT

THIS ADDENDUM is made and entered into this 25th day of July, 2022, by and between the **CITY OF ZEPHYRHILLS**, a Florida municipal corporation (hereinafter "CITY"), and **TENNIS PRO FLORIDA, LLC**, a Florida limited liability company ("CONTRACTOR").

WHEREAS, the parties hereto entered into an Amended Agreement on **September 14, 2020**, entitled ***Amended Sarah Vande Berg Tennis Center Management Agreement***; and

WHEREAS, the parties desire to amend and modify the Amended Agreement.

NOW THEREFORE, the parties hereby stipulate and agree to enter into this First Addendum to the ***Amended Sarah Vande Berg Tennis Center Management Agreement*** dated **September 14, 2020**, as follows:

1. Section 3.1 entitled "Term" shall be replaced with the following:

§3.1 Term. The term of this Agreement shall be for Twenty (20) years commencing on or before October 1, 2020 and expiring on September 30, 2040. There is two (2) subsequent, ten (10) year renewal option, unless terminated earlier under one of the provisions of Article 10 of the Agreement. Nothing in this Article shall be construed as a limitation on either party's right to terminate this Agreement in accordance with Section 10.7 hereof. Both Parties shall issue its decision, in writing, to renew the Agreement, or allow the Agreement to expire a minimum of two (2) years in advance of the expiration date, to ensure a smooth transition if a change is to occur following the end of the then current term.

2. Section 13.3 entitled "Ownership of Tennis Pro Florida, LLC" shall be added with the following:

§13.3 Ownership of Tennis Pro Florida, LLC. Pascal Collard shall remain the owner and manager of Tennis Pro Florida, LLC. Furthermore, Pascal Collard shall, remain the director of the Sarah Vande Berg Tennis Center. If at any time Pascal Collard fails to maintain an ownership interest in, and/or fails to be the Manager of Tennis Pro Florida, LLC, CITY can deem such event a material breach of this Agreement and can immediately terminate same. Additionally, if Pascal Collard discontinues the day-to-day operation or ceases to act as the director of the Sarah Vande Berg Tennis Center, CITY can deem such event a material breach of this Agreement and can immediately terminate same.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the 25th day of July, 2022.

CITY OF ZEPHYRHILLS, FLORIDA

ATTEST:

By: _____
Lori L. Hillman, MMC, City Clerk

By: _____
Jodi Wilkeson, Council President

Approved as to Legal Form and Content

Matthew E. Maggard, City Attorney

Witnesses:

TENNIS PRO FLORIDA, LLC

Signature

Printed Name

Signature

Printed Name

By: _____

Printed Name: _____

Title: _____

**AMENDED SARAH VANDE BERG
TENNIS CENTER MANAGEMENT
AGREEMENT**

This AMENDED SARAH VANDE BERG TENNIS CENTER MANAGEMENT AGREEMENT (hereinafter "AGREEMENT") is made between the **CITY OF ZEPHYRHILLS**, a Florida municipal corporation (hereinafter "CITY"), and **TENNIS PRO FLORIDA, LLC**, a Florida limited liability company ("CONTRACTOR").

WHEREAS, CITY desires to amend its agreement with CONTRACTOR to manage the operation of the CITY'S SARAH VANDE BERG TENNIS CENTER (hereinafter "Tennis Center") as specifically described below;

WHEREAS, the CITY and CONTRACTOR agree that the Tennis Center shall, at all times, operate as the SARAH VANDE BERG TENNIS CENTER;

WHEREAS, the CITY and CONTRACTOR agree to repeal and replace the SARAH VANDE BERG TENNIS CENTER MANAGEMENT AGREEMENT dated October 11, 2017 with this Agreement.

NOW, THEREFORE, CITY and CONTRACTOR, for and in consideration of the provisions, mutual promises, covenants and conditions hereinafter set forth or recited, agree as follows:

ARTICLE 1. DEFINITIONS

1. The Effective Date of this Agreement shall be the date when the last party has signed and delivered this Agreement. BEGINNING DATE shall mean on or Before October 1, 2020.
2. EXPIRATION DATE shall September 30, 2040, or if the Agreement is automatically

renewed, the renewal expiration date as provided in Section 3.1.

3. FISCAL YEAR shall mean the period beginning October 1st of any year through September 30th of the following year.

4. SARAH VANDE BERG TENNIS CENTER means the property and all improvements located on the Property that the CITY may make available to the CONTRACTOR as provided herein.

5. PROPERTY means the land on which the Tennis Center is located which has a street address of 6585 Simons Rd, Zephyrhills, FL 33541 and a Parcel ID Number of 04-26-21-0000-39900-0010.

ARTICLE 2. GENERAL REQUIREMENTS

§2.1 Management of the Tennis Center. CITY hereby hires CONTRACTOR to manage, supervise, and operate the Tennis Center in accordance with this Agreement. CONTRACTOR has the responsibility and authority to implement operating policies that adhere to policies that are customary with similar types of facilities where applicable and shall take all actions necessary to manage and operate the Tennis Center in a manner that meets standards which are customary with other similar facilities.

§2.2 Independent Contractor. CONTRACTOR is, at all times and for all purposes, an independent contractor with respect to the CITY and the CITY shall not have the authority or responsibility to supervise the day-to-day activities of the CONTRACTOR or CONTRACTOR'S employees. Nothing in this Agreement and its performance shall create an employment or agency relationship between CITY and CONTRACTOR. Nevertheless, CONTRACTOR agrees to seek advice from CITY and cooperate with CITY in its management of the Tennis Center, and the parties both agree to cooperate with each other regarding the management of the

Tennis Center.

§2.3 Use of the Property. CITY grants to CONTRACTOR the use and possession of the Property during the term of this Agreement for the purposes of managing and operating the Tennis Center, subject to the rights of CITY under this Agreement. The CITY has the right to utilize the facility for special events at no cost to the CITY. Examples of special events include but are not limited to, City Christmas Party, Zephyrhills Economic Summit, Municipal Association of Pasco Meetings and Joint Meetings with Pasco County Board of County Commissioners.

§2.4 CITY'S Right to Inspection. CITY and its representatives have the right at all reasonable times to enter upon and to examine and inspect the Tennis Center for any reason. In the event of a default, CITY has the right of access to the Tennis Center that is reasonably necessary to cause the proper maintenance of the Tennis Center.

§2.5 ALTERATIONS to Property. CONTRACTOR shall not make any material alterations to the Property without the express written consent of CITY. A material alteration shall be defined by an action by CONTRACTOR that would require a permit to perform.

ARTICLE 3. TERM

§3.1 Term.. The term of this Agreement shall be for Twenty (20) years commencing on or before October 1, 2020 and expiring on September 30, 2040. There are two (2) subsequent, ten (10) year renewal option, unless terminated earlier under one of the provisions of Article 10 of the Agreement. Nothing in this Article shall be construed as a limitation on either party's right to terminate this Agreement in accordance with Section 10.7 hereof. Both Parties shall issue its decision, in writing, to renew the Agreement, or allow the Agreement to expire a minimum of six (6) months in advance of the expiration date, to ensure a smooth transition if

a change is to occur following the end of the then current term.

ARTICLE 4. RESPONSIBILITIES OF CONTRACTOR

§4.1 Operation of the Tennis Center. In the management, supervision and operation of the Tennis Center, CONTRACTOR shall:

- a) operate the Tennis Center as a municipal Tennis Center which is open to the general public without discrimination on any basis prohibited by applicable law, regulation or ordinance, subject to fees, rules, and policies approved by the CITY, and within this Agreement;
- b) fees shall be mutually agreed upon but based on comparable market rates for similar facilities;
- c) operate the Tennis Center in a professional, efficient and cost-effective manner and provide quality programs, services, and retail sales;
- d) adhere to best practice financial management principles, and maintain efficient and accurate accounting records in accordance with generally accepted accounting principles in the format defined by the CITY'S Finance Director. CONTRACTOR must provide audited financial statements to the CITY at the end of each fiscal year.
- e) comply with all applicable federal, state and local laws, ordinances, rules, policies, and regulations;
- f) operate and maintain a clean, well-organized, efficient, customer friendly pro shop, which offers merchandise, a stringing machine and provides quality customer service;
- g) Pro shop to maintain an annual minimum wholesale inventory of \$15,000 of merchandise;
- h) maintain a minimum of Eighty (80) open hours weekly as weather permits and

operate the tennis center during designated days and hours of operation to be determined by CONTRACTOR with approval by the CITY MANAGER;

- i) establish, develop and implement ongoing, year-round programs and events for all ages, including, but not limited to, instruction, clinics, drills, camps, leagues, tennis socials, fundraisers and tournaments;
- j) ensure quality customer service in the delivery of all aspects of tennis services provided and ensure 100% of both employee and contract staff who are employed at the time of the annual training participate in annual customer service training approved by the CITY;
- k) maintain the Tennis Center in a quality and safe condition;
- l) maintain all personal property, tennis equipment and tennis program supplies owned by CONTRACTOR in good working order;
- m) maintain an organizational membership with the United States Tennis Association (USTA), and either the United States Professional Tennis Association (USPTA), or the Professional Tennis Registry (PTR);
- n) pay all operating expenses of the Tennis Center, except for those expenses which the CITY agrees herein to pay;
- o) limit sales of alcohol on the Tennis Center premises to beer and wine and ensure that the gross sales of alcohol does not exceed 49% of the total food and beverage sales;
- p) reserve two (2) tennis courts within the Tennis Center for members to participate in open (non-tournament) play at all times except for specific dates/times preapproved by the CITY MANAGER on an individual basis;

- q) CONTRACTOR shall not conduct tournaments which occupy all tennis courts without CITY approval;
- r) submit all proposed tournaments that will use 4 or more courts to the CITY MANAGER or designee for approval a minimum of 30 days in advance of the tournament date, with no more than two tournaments to be scheduled per month that use the entire facility;
- s) maintain the tennis courts surface using brooms and squeegees/water brooms daily in a clean and safe condition, free of debris, and leaves;
- t) provide and maintain tennis court amenities including items such as: court benches, water and scoring devices;
- u) notify CITY when, in the opinion of CONTRACTOR, any part of the Tennis Center maintained by CITY requires maintenance. Notification should be made in writing, to the CITY MANAGER or his/her designee. If, however, the parties disagree about the condition and/or required maintenance of the CITY maintained facilities, CONTRACTOR will notify CITY in writing of the reasons behind CONTRACTOR'S request. CITY will respond to CONTRACTOR in writing within ten (10) business days of receipt of CONTRACTOR'S written request along with a response and reasoning for any denial of requested maintenance. CITY'S determination regarding the need for maintenance will be final but will not be unreasonable in denying any request for maintenance. Any maintenance requests which were not denied, but failed to uphold in a reasonable time, may be resolved by CONTRACTOR so long as the repair does not exceed \$2,500.00 and costs shall be reimbursed to CONTRACTOR. An annual inspection by both parties will be

made to determine any on-going maintenance and long-term improvements.

- v) CONTRACTOR shall not operate a tennis center or any tennis programming that competes with the Sarah Vande Berg Tennis Center as of the BEGINNING date without specific written permission from the CITY, but CONTRACTOR may collaborate with competing facilities if beneficial to the success of the Tennis Center.

§4.2 Improvements and Equipment Provided by Contractor.

- (a) CONTRACTOR agrees to make a contribution of \$300,000.00 which shall be payable over the course of three (3) years and is to be used for capital improvements to the Tennis Center. All capital improvements shall be permanent and shall become property of the CITY. The capital improvements will be:

- i. Restaurant Equipment;
- ii. Benches;
- iii. Padel Courts;
- iv. If \$300,000 contribution is not exhausted, other capital improvements, are to be provided by CONTRACTOR subject to CITY approval.

- (b) CONTRACTOR agrees to provide adequate equipment to the Tennis Center which shall be maintained by CONTRACTOR:

- i. A list of all fitness equipment provided by CONTRACTOR is attached hereto as Exhibit "A".
- ii. The fitness equipment shall be replaced by CONTRACTOR periodically according to generally accepted industry standards.

§4.3 Rules and Policies. CONTRACTOR agrees to conduct business at the

Tennis Center in accordance with policies similar to other like facilities. Additionally, the CONTRACTOR shall provide written notice to the CITY MANAGER when CONTRACTOR makes any substantial changes to its operating procedures or policies affecting the public's use of the Tennis Center, including changes to hours of operation. CONTRACTOR agrees not to utilize the Property without the CITY's prior written approval for any purpose other than for conducting tennis programs, fitness center, retail pro shop, food/snack/beverage sales, tennis tournaments and tennis camps, provided, however, that the CITY's approval shall not unreasonably be withheld.

CONTRACTOR will be permitted to close or partially close the Tennis Center on designated CITY holidays, designated Tennis Center holidays and for inclement weather (on-going rain, temperatures below 40 F, for severe heat or approaching severe weather such as tornadoes). CITY reserves the right to approve the closing of the Tennis Center at times other than as provided in this Agreement.

CONTRACTOR agrees not to make any permanent physical improvements without written approval from the CITY MANAGER. All proposed projects/improvements will be considered on a project by project basis and must be consistent with the overall intended use of the Tennis Center. Requests for CITY MANAGER approval must be made a minimum of ninety (90) days in advance of the proposed installation date of any proposed improvement. The CITY MANAGER is the point of contact for any desired improvements or modification, and will determine the appropriate course of action for CITY approval.

CITY owned property and fixtures located at the Tennis Center as of the beginning date of this Agreement will remain at the Tennis Center for the use of the

CONTRACTOR in the operation of the Tennis Center. However, said property will remain CITY property and shall be returned to the CITY upon request.

§4.4 Promotion of Tennis Center Activities.

- (a) CONTRACTOR agrees to use reasonable efforts to conduct a continuous program of marketing which will include, but is not limited to, maintaining a website, advertising, public relations, and promotional activities to assure that the Tennis Center has an appropriate and ongoing marketing campaign.
- (b) CONTRACTOR may be required to offer Zephyrhills residents the opportunity to register early for all Tennis Center activities if deemed necessary by the CITY MANAGER.
- (c) CITY will provide a specific section on the City's website for marketing of the Tennis Center and Tennis Center programs and events.
- (d) CITY will provide links to the CONTRACTOR website and post events and press releases as content is approved by the CITY. CONTRACTOR will not determine any CITY website written or visual content, nor any CITY press release content. The CITY will work with CONTRACTOR to provide reasonable coverage. CONTRACTOR shall provide CITY content for placement on the CITY website and/or for CITY press release 30 days prior to the proposed date for posting or release, unless otherwise approved by the CITY MANAGER. CONTRACTOR may determine its own website content and content for CONTRACTOR'S press releases.
- (e) CONTRACTOR may develop its own sponsorship programs which are to be sold to advertisers to generate revenue for the Tennis Center. However, any

permanent signs are to be uniform with the Tennis Center design and will require CITY approval.

§4.5 Tennis Center Personnel.

- (a) CONTRACTOR shall provide employees and/or contractors for the Tennis Center, including management and other necessary staff determined by CONTRACTOR to be necessary for the operation of the Tennis Center to the standards customary with similar facilities. All personnel shall be employees of CONTRACTOR or independent sub-contractors of CONTRACTOR, and not employees or independent sub-contractors of CITY.
- (b) CONTRACTOR shall attract and develop professional tennis instructors, which can be employees and/or contractors, who are capable of providing quality tennis instruction services which are generally expected of a quality Tennis Center.
- (c) CONTRACTOR shall ensure that its employees and contractors maintain a professional appearance and demeanor at all times.
- (d) CONTRACTOR shall establish requirements for employees and contractors at least as stringent as those established by the CITY'S personnel policies with respect to CONTRACTOR'S employees and contractors assigned to the Tennis Center, including the responsibility to conduct pre-employment and annual criminal background checks and pre-employment and for-cause drug screenings. CONTRACTOR shall not assign to the Tennis Center, even on a temporary basis, including during the interview process, any person who has not successfully passed or who fails a criminal background check. CONTRACTOR shall make available results of such screenings to CITY. CITY will provide a copy of the CITY'S personnel policies to CONTRACTOR and arrange for CITY'S

Director of Human Resources to meet with and review all applicable policies with CONTRACTOR on an annual basis and upon request of CONTRACTOR. CITY will also inform CONTRACTOR regarding CITY'S current testing and screening procedures and vendors.

- (e) CONTRACTOR shall keep the CITY MANAGER informed about employee and contractor turnover, and policy changes that affect staffing of the Tennis Center.
- (f) CONTRACTOR shall immediately notify the CITY MANAGER of any personnel or other issues that impacts the health, safety or welfare of Tennis Center patrons, or that could prove detrimental to the public image of the Tennis Center and/or the CITY.
- (g) CONTRACTOR shall provide at all times a minimum one full-time tennis professional to provide lessons and coordinate events in accordance with USPTA and/or PTR standards. All Full-time tennis professionals that are hired by the CONTRACTOR shall be required to receive certification through USPTA and/or PTR within one year from date of hire.
- (h) CONTRACTOR shall have a minimum of one staff member or contractor with current CPR Certification on site during tennis-playing hours.

§4.6 Operations Review.

Periodically, but not less than every six months, CONTRACTOR shall meet with CITY (CITY MANAGER or his/her designee and Finance Director) to review the CONTRACTOR'S management, promotional activities, programs, finances, and policy recommendations concerning the Tennis Center. Each six (6) months, CONTRACTOR will provide monthly compiled financial statements without disclosures compiled by an independent Certified Public

Accountant licensed in the State of Florida, and a monthly attendance and program participation report.

§4.7 Performance Measures.

- (a) Participation Levels: The CONTRACTOR must develop and maintain participation levels in overall tennis instruction for various aged players, youth through seniors. Monthly program participation reports shall be provided by CONTRACTOR to CITY MANAGER every six (6) months.
- (b) Complaints: The CONTRACTOR must respond to all written inquiries (complaint form or email) and complaints from users within seven (7) business days and produce a bi-annual report to the CITY MANAGER regarding the complaints and the CONTRACTOR'S responses. The CITY agrees to also forward any inquiries and complaints it receives to the Tennis Center in writing within two (2) business days.
- (c) Cleanliness of Facility: The CITY will inspect the Tennis Center on a monthly basis.

§4.8 Licenses and Permits. CONTRACTOR shall obtain all licenses and permits required by governmental entities for activities conducted at the Tennis Center. CONTRACTOR will provide a copy of all licenses to the CITY MANAGER.

§ 4.9 Information Technology.

- (a) CONTRACTOR will be responsible for all technical support for software and hardware utilized in the management of the Tennis Center.
- (b) CONTRACTOR will be responsible for obtaining private internet service necessary for the operation of the Tennis Center.
- (c) CONTRACTOR will be responsible for obtaining the phone service

necessary for the operation of the Tennis Center.

§4.10 CONTRACTOR'S Responsibility for Furnishings and Equipment.

CONTRACTOR shall provide all necessary equipment and furnishings for the operation of the tennis center, including, but not limited to, office furniture and supplies, and other equipment needed for the successful operation of the Tennis Center. Said items shall be permanent and owned by CITY. However, if CONTRACTOR provides any sports memorabilia for the Tennis Center, the memorabilia will remain the property of the CONTRACTOR.

ARTICLE 5. CITY / CONTRACTOR RIGHTS AND RESPONSIBILITIES

§ 5.1 CITY / CONTRACTOR responsibilities.

- (a) CITY will review and provide all signage to be placed on and around the Tennis Center with the goal to ensure the consistency of all signage. CONTRACTOR will help CITY determine signage needs prior to creation of and placement of signage.
- (b) CONTRACTOR will identify and determine standards and provide for Tennis Center amenities such as benches (including on-court benches) and tables, with the goal to ensure consistency. All standards and amenities shall be mutually approved by CONTRACTOR and the CITY MANAGER or his/her designee.
- (c) CITY shall be responsible for the construction and maintenance/repair of major Building/Site elements (including, but not limited to, the roof, utilities, HVAC, parking lot, sidewalks, landscape installation, parking lot and landscape lighting on the exterior of the complex) hard/concrete tennis

courts, on-court fencing, court fencing and perimeter fencing) and pay for all related necessary repairs to the physical conditions of the Tennis Center

- (d) CONTRACTOR shall be responsible for the maintenance of tennis related items including, but not limited to, the clay and grass tennis courts, tennis court nets, shade structures, walls, doors, flooring, turf and landscape areas (including landscape lighting), hardscape areas, permanent seating, trails and walkways. CONTRACTOR shall also be responsible for all general clean-up, including providing for interior janitorial services.
- (e) CONTRACTOR shall be responsible for the maintenance of all landscaping and sod, including routine cutting, pruning, mowing, and fertilizing. Any plants, shrubs, trees, etc. that die, must be replaced by CONTRACTOR within a reasonable time.
- (f) CITY shall be responsible for maintaining and repairing all plumbing, electrical, lighting fixtures, heating, ventilating and air conditioning, natural gas, systems and fixtures (light bulbs, lamps and air conditioning filters shall be provided by CONTRACTOR).
- (g) CONTRACTOR will provide day-to-day general clean-up in preparation for and following, all Tennis Center related classes, programs, events, and activities. CONTRACTOR agrees to maintain the Tennis Center in a good and operational condition. CONTRACTOR shall assist the CITY by notifying the CITY in writing of any specific needs for repair, and the CITY will respond to the CONTRACTOR in writing with an estimated timeline for repair.

- (h) CONTRACTOR shall be responsible for monthly statements for services for water, sewer, electricity, natural gas, and security (alarm monitoring) expenses. CONTRACTOR is not responsible for the maintenance or repairs of said items.
- (i) CITY shall install and maintain an automated external defibrillator (AED) at the Tennis Center.
- (j) Except as provided in Section 5.2(b), CITY grants CONTRACTOR the exclusive right to conduct all intended activities at the Tennis Center (including but not limited to fitness, instruction, leagues and tournaments), unless otherwise waived by CONTRACTOR, and the CITY will not compete with the Tennis Center and will not permit the use of CITY owned tennis courts by other individuals or entities for profit-making purposes.

§ 5.2 CITY RIGHTS

- (a) CITY shall prominently display signage, provided by the CITY that highlights the Tennis Center as a CITY facility; provides contact information for Tennis Center user comments, questions and concerns;
- (b) CITY may utilize the Tennis Center for CITY meetings at no charge. CITY will provide CONTRACTOR with at least thirty (30) days' notice of requested upcoming usage and will coordinate with CONTRACTOR to schedule joint functions and use of meeting space to avoid scheduling conflicts with previously scheduled tournaments, events or programs.
- (c) CITY may conduct interim surveys as needed to regularly benchmark user satisfaction on programs, services and facilities.

ARTICLE 6. CONSIDERATION

§6.1 Revenues Due to CITY. During the first three (3) years of this agreement, from the date of opening of the Tennis Center, there shall be no revenues due to the CITY. Subsequent to year three (3), CONTRACTOR shall pay CITY fifteen percent (15%) of the Tennis Center's first \$100,000.00 net income. For net income of \$100,000.01 through \$200,000.00, CONTRACTOR shall pay CITY twelve percent (12%) of the Tennis Center's net income. For net income of \$200,000.01 and above, CONTRACTOR shall pay CITY eight percent (8%) of the Tennis Center's net income. Beginning in the fourth year, CONTRACTOR shall tender quarterly payments to CITY on or before April 15th, July 15th, October 15th, and January 15th each year. Revenues due to the CITY for year four (4) shall be paid in equal monthly installments through years five (5) and six (6) along with revenues from those respective years. In determining the amount of the 4th year quarterly payments, CONTRACTOR shall use the net income from year three as a revenue estimate. After final net income is calculated each fiscal year, any adjustments for underpayment or overpayment, shall be factored into the next quarterly payment. The following areas of sales of the Tennis Center are excluded from being including in the income calculations for this subsection: (a) alcoholic beverage revenue, (b) retail/merchandise revenue, and (c) revenue from advertising/sponsorship sales. All other revenues generated from the Tennis Center, including but not limited, Food sales, Tutoring Tuition, Lessons, Rentals, and Memberships. For purposes of calculating net income, each equity owner's salary shall not exceed \$100,000.00 per year. After the appropriate percentage of net income is paid to CITY, the CONTRACTOR is free to provide additional salaries to the equity owner's if funds are available.

ARTICLE 7. FINANCES

§7.1 Fees and Charges.

- a) Court rental fees to be charged at the Tennis Center shall be recommended by the Contractor and any future subsequent changes with approved by the CITY Council. CITY and CONTRACTOR agree that fees should be sufficient to pay operating expenses, but also be competitive with an emphasis to provide everyone an opportunity to participate.
- b) All patrons of the Tennis Center shall be charged according to a published schedule of court fees and charges. CONTRACTOR does not have to charge court fees for the use of the tennis courts at the Tennis Center by (i) guests playing with employees of CONTRACTOR, (ii) touring pros, former pros, and/or (iii) participants in charity events. Otherwise, neither CONTRACTOR nor CONTRACTOR'S employees, agents or sub-contractors shall waive any court fees without CITY MANAGER approval.

§7.2 Annual Operating Budget.

- a) CONTRACTOR shall submit any proposed improvements and budget requests to the CITY MANAGER by April 1st of each year for review of potential impact to the CITY'S operating budget and capital improvements budget after an annual inspection and review of facility.

ARTICLE 8. ACCOUNTING, REPORTS, AND AUDITS

§8.2 Annual Financial Review. Within 90 days after the close of each fiscal year of the CITY, CONTRACTOR shall submit to CITY Finance Director a financial review certified by CONTRACTOR, covering the specific financial condition and performance of the Tennis Center. The financial review must span the fiscal year then ended. Included with the financial review must be statements for the fiscal year reviews by an independent

CPA licensed in the State of Florida. CITY reserves the right to require audited financial statements in lieu of reviewed financial statements, with the difference in cost paid for by the CITY. If an audit is required and the audit report does not contain an "unqualified opinion," the Contractor will provide a written plan for correcting the cause that prevented an unqualified opinion within ten business days, to be reviewed and approved by the CITY'S Finance Director.

§8.3 CITY'S Right to Inspect and Audit. CITY has the right to inspect the books, records, invoices, deposits, sales slips, canceled checks, and other financial data or transactions of CONTRACTOR'S operation of the Tennis Center at reasonable times during normal business hours.

§8.4 Location of Records. CONTRACTOR shall store all current fiscal year Tennis Center records at the Tennis Center.

§8.5 Fiduciary Relationship. CONTRACTOR has a fiduciary duty to CITY in all of CONTRACTOR'S financial obligations to CITY in accordance with this Agreement, including, but not limited to, faithfully accounting, depositing, and reporting all payments hereunder.

ARTICLE 9. INDEMNITY AND INSURANCE.

§9.1 INDEMNITY BY CONTRACTOR. CONTRACTOR ASSUMES ALL LIABILITY AND RESPONSIBILITY FOR AND AGREES TO FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF A PERSON OR DAMAGE TO PROPERTY, ARISING OUT OF OR IN CONNECTION WITH, DIRECTLY OR INDIRECTLY, THE OPERATION OF THE TENNIS CENTER, AND THE PERFORMANCE,

ATTEMPTED PERFORMANCE OR NONPERFORMANCE OF THE WORK AND SERVICES DESCRIBED HEREUNDER OR IN ANY WAY RESULTING FROM OR ARISING OUT OF THE MANAGEMENT, SUPERVISION, AND OPERATION OF THE TENNIS CENTER UNDER THIS AGREEMENT, INCLUDING THE WORK, SERVICES, OPERATIONS AND LEGAL DUTIES OF CONTRACTOR, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, SUBCONTRACTORS, OR LICENSEES, IF ANY, REGARDLESS OF WHETHER SUCH INJURY, DEATH, OR DAMAGE IS CAUSED IN PART BY THE CITY'S NEGLIGENCE. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED AS WAIVING ANY DEFENSE OF THE PARTIES UNDER FLORIDA LAW, INCLUDING THE DEFENSE OF SOVERIGN IMMUNITY FROM SUIT OR LIABILITY. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

§9.2 Insurance.

- (a) **WORKERS' COMPENSATION:** Coverage is to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include Employers' Liability with a limit of \$500,000 each accident, \$500,000 each employee, \$500,000 policy limit for disease.
- (b) **COMMERCIAL GENERAL LIABILITY - OCCURRENCE FORM REQUIRED:** CONTRACTOR shall maintain commercial general liability (CGL) insurance with a limit of not less than \$500,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location/project in the amount of \$1,000,000. Products

and completed operations aggregate shall be \$1,000,000. CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury and advertising injury. Damage to premises shall be included at \$100,000.

- (c) **COMMERCIAL AUTOMOBILE LIABILITY INSURANCE:** CONTRACTOR shall maintain automobile liability insurance for any business vehicles with a limit of not less than \$1,000,000 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos, but not personal vehicles), if any. The policy shall be endorsed to provide contractual liability coverage.
- (d) **EVIDENCE OF INSURANCE:** The CONTRACTOR shall furnish the CITY with Certificates of Insurance. The Certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. The CITY is to be specifically included as an additional insured on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued 30-days prior to said expiration date. The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the CITY

before the commencement of any work activities.

§9.3 No Liens or Mortgages by Contractor. CONTRACTOR agrees to pay for all materials, equipment, and labor used in connection with the performance of this Agreement when and as bills or claims become due. CONTRACTOR agrees not to allow any lien or mortgage to be placed on the Property, fixtures, equipment, or other improvements at the Tennis Center regardless of whether said fixtures, equipment or improvements were provided by the CONTRACTOR without the prior written consent of CITY. CONTRACTOR shall indemnify, hold harmless and protect the premises, fixtures, equipment and the CITY from and against any claims, liens or mortgages.

ARTICLE 10. TERMINATION

§10.1 For Default. Either party may terminate this Agreement in accordance with this article for a default by the other party.

§10.2 What Constitutes a Default.

- (1) The following events constitute a default by CONTRACTOR:
 - (a) a breach of the fiduciary obligations of CONTRACTOR including, but not limited to, those under Sections 6.1, 7.1, and 8.5 of this Agreement;
 - (b) filing by CONTRACTOR of a voluntary petition for protection under federal bankruptcy laws, or the failure to obtain the dismissal of an involuntary petition under federal bankruptcy laws within 30 days after filing;
 - (c) the inability of CONTRACTOR to provide an unqualified opinion in any required annual audit report as described in Article 8;
 - (d) a failure of CONTRACTOR to perform its duties under this Agreement; or
 - (e) The commission by CONTRACTOR or any of CONTRACTOR'S

employees or contractors of a felony or crime of moral turpitude if the CITY, in its sole discretion, reasonably believes that the act suggests that the employee constitutes a threat to the users of the Tennis Center or the public at large, or that the act could, on becoming public knowledge, impair the public's confidence or trust in the CITY or CONTRACTOR or the personnel at the Tennis Center or in the operation of CITY government in general.

- (f) The failure to cure a default of any term of this agreement after being provided thirty (30) days written notice.
- (2) The following events constitute a default by CITY:
 - (a) A failure on the part of the City to maintain the Tennis Center in a good and operational condition, fulfill all of its obligations under this agreement regarding the physical maintenance of the Tennis Center, and make timely repairs as requested by Contractor in accordance with 5.1(c) of this Agreement.
 - (b) A failure of CITY to perform any of its duties under this Agreement.

§10.3 Correction.

- (1.) CONTRACTOR shall have 30 days after written notice from CITY specifying the nature of a default under Section 10.2(1)(a)(c) or (d) or Section 10.2(1)(e) because of the commission of an offense by an employee of CONTRACTOR, to correct the default (including without limitation, terminating the employment of an employee who causes a default of the agreement under Section 10.2(1)(e) by committing a felony or crime of moral turpitude), provided that this provision shall

not apply unless CONTRACTOR shall immediately place such employee on leave or re-assign such employee to another location. If the default is of such a nature that it cannot reasonably be corrected within 30 days, the CITY may grant CONTRACTOR additional time as may be reasonably necessary to correct the default so long as CONTRACTOR diligently pursues the correction, and takes all reasonable measures to insure the safety of the public and fulfillment of CONTRACTOR'S other obligations hereunder.

- (2) CITY shall have 30 days after written notice from CONTRACTOR specifying the nature of a default under Section 10.2(2) to cure the default. If the default is of such a nature that it cannot reasonably be corrected within 30 days, the CONTRACTOR may grant CITY additional time as may be reasonably necessary to correct the default so long as CITY diligently pursues the correction, and takes all reasonable measures to insure the safety of the public and fulfillment of CITY'S other obligations hereunder.

§10.4 Election to Terminate.

- (1) If CONTRACTOR is in default, CITY may elect to terminate this Agreement pursuant to this article by giving written notice of default to CONTRACTOR subject to the following: If the default is under Section 10.2(1)(b) or is under Section 10.2(1)(e) because of the commission of an offense by CONTRACTOR, this agreement shall terminate immediately upon delivery of written notice from CITY to CONTRACTOR of its election to terminate the agreement. If the default is under Section 10.2(d) or is under Section 10.2(e) because of the commission of an offense by an employee of CONTRACTOR, this Agreement shall terminate upon expiration of the correction

period if correction has not been made pursuant to Section 10.3, and CITY delivers to CONTRACTOR written notice of its election to terminate the Agreement via certified mail.

- (2) CONTRACTOR may elect to terminate this Agreement pursuant to this article by giving written notice of default to CITY. This Agreement shall terminate upon expiration of the correction period if correction has not occurred pursuant to Section 10.3 and CONTRACTOR delivers written notice to City of its election to terminate the Agreement via certified mail.

§10.5 Remedy for Certain Defaults.

- (a) If CONTRACTOR defaults under Section 10.2(1)(a), CONTRACTOR shall pay all amounts due CITY at the time of its default under the terms of this Agreement.
- (b) CONTRACTOR may withhold fees owed to CITY if CITY fails to maintain the Tennis Center per this Agreement.

§10.6 Lien. CITY has, at all times, a valid security interest to secure payment of all fees and other sums of money becoming due under this Agreement from CONTRACTOR and to secure payment of any damages or loss that CITY may suffer by reason of CONTRACTOR'S breaching any covenant, agreement, or condition contained in this Agreement. The security interest covers all goods, wares, equipment, fixtures, furniture, and other personal property of CONTRACTOR that is now on the Property or placed on the Property at some later date, and all proceeds attributable to them. This property may not be removed from the premises without CITY'S consent until all arrearages in fees and all other sums of money then due the CITY under this Agreement have been paid and discharged, and all the covenants, agreements, and

conditions of this lease have been fully complied with and performed by CONTRACTOR.

If CONTRACTOR is in default, CITY may, in addition to any other remedies provided in this Agreement or by law, after giving reasonable notice of the intent to take possession and giving an opportunity for a hearing on the issue, enter on the Property and take possession of any goods, wares, equipment, fixtures, furniture, and other personal property, but not including any sports memorabilia provided by CONTRACTOR, situated on the premises, without liability for trespass or conversion, and sell the property at public or private sale, with or without having the property at the sale, after giving CONTRACTOR reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made. CITY or its assigns may buy any items to be sold at such a sale unless they are prohibited from doing so by law. Unless otherwise provided by law, and without excluding any other manner of giving CONTRACTOR reasonable notice, the reasonable notice requirement is met if notice is given at least ten (10) days before the time of sale. The proceeds from any such disposition, less any expenses connected with taking possession, holding, and selling the property (including reasonable attorney's fees and other expenses), will be applied as a credit against the indebtedness secured by the security interest granted in this section. Any surplus will be paid to CONTRACTOR or as otherwise required by law, and CONTRACTOR will pay any deficiencies immediately.

ARTICLE 11. ASSIGNMENT AND DELEGATION

Neither party shall assign or delegate this agreement without the prior written consent of the other party.

ARTICLE 12. NOTICES

All notices to the parties shall be in writing and shall be sent by certified mail, return

receipt requested, to the addressees and addresses specified below:

All notices to CONTRACTOR shall be sent to:

**Tennis Pro Florida, LLC
3988 Aldea Way
Wesley Chapel, FL 33543**

All notices to CITY shall be sent to:

**City Manager
City of Zephyrhills
5335 Eighth Street
Zephyrhills, FL 33542**

ARTICLE 13. MISCELLANEOUS

§13.1 Construction. This Agreement shall not be construed against the drafting party.

§13.2 Non-Waiver. No waiver of any breach of any term or condition of this Agreement shall be construed to waive any subsequent breach of the same or any other term or condition of this Agreement.

§13.3 Partnerships with CONTRACTOR. Any proposed partnerships with CONTRACTOR and a Third Party must be approved by CITY in advance. All agreements between CONTRACTOR and Third Parties are subject to, and shall be bound by, this agreement. CONTRACTOR shall ensure that all agreements entered into with Third Parties shall include a provision informing the Third Party that they are bound by this Agreement.

§13.4 Ownership of TENNIS Pro Florida, LLC. Pascal Collard shall retain majority ownership of Tennis Pro Florida, LLC. If at any time Pascal Collard owns less a majority ownership interest in Tennis Pro Florida, LLC, CITY can deem such event a material breach of this Agreement and can immediately terminate same.

ARTICLE 14. SEVERABILITY

If any provision of this Agreement is held to be invalid or unenforceable as applied in a particular case for any reason, those circumstances shall not have the effect of rendering the provision invalid or unenforceable in any other case. The invalidity of one or more phrases, sentences, clauses, or sections in this Agreement shall not affect the remaining portions of the Agreement.

ARTICLE 15. GOVERNING LAW

This Agreement shall be governed by and construed under the laws of the State of Florida, and venue in any proceeding relating to this Agreement shall be in Dade City, Pasco County, Florida.

ARTICLE 16. BINDING CLAUSE

This Agreement shall be binding upon the parties, their heirs, executors, administrators, devisees, legatees, trustees, successors, and assigns.

ARTICLE 17. PUBLIC RECORDS

Pursuant to section 119.0701, Florida Statutes, for any tasks performed by CONTRACTOR on behalf of the CITY, CONTRACTOR shall: (a) keep and maintain all public records, as that term is defined in chapter 119, Florida Statutes ("Public Records"), required by the CITY to perform the work contemplated by this Agreement; (b) upon request from the CITY'S custodian of public records, provide the CITY with a copy of the requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the costs provided in chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion or termination of this Agreement, if Contractor does not transfer the

records to the CITY in accordance with (d) below; and (d) upon completion or termination of this Agreement, (i) if the CITY, in its sole and absolute discretion, requests that all Public Records in possession of Contractor be transferred to the CITY, Contractor shall transfer, at no cost, to the CITY, all Public Records in possession of CONTRACTOR within thirty (30) days of such request or (ii) if no such request is made by the CITY, CONTRACTOR shall keep and maintain the Public Records required by the CITY to perform the work contemplated by this Agreement. If CONTRACTOR transfers all Public Records to the CITY pursuant to (d)(i) above, CONTRACTOR shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements within thirty (30) days of transferring the Public Records to the CITY and provide the CITY with written confirmation that such records have been destroyed within thirty (30) days of transferring the Public Records. If CONTRACTOR keeps and maintains Public Records pursuant to (d)(ii) above, CONTRACTOR shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the CITY, upon request from the CITY'S custodian of public records, in a format that is compatible with the information technology of the CITY. If CONTRACTOR does not comply with a Public Records request, or does not comply with a Public Records request within a reasonable amount of time, the CITY may pursue any and all remedies available in law or equity including, but not limited to, specific performance. The provisions of this section only apply to those tasks in which CONTRACTOR is acting on behalf of CITY.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 813-780-000, EXT. 3543 OR CITYCLERK@ZEPHYRHILLS.FL.US OR CITY CLERK – CITY OF

ZEPHYRHILLS – 5335 EIGHTH STREET – ZEPHYRHILLS, FLORIDA 33542.

ARTICLE 18. ENTIRE AGREEMENT

This Agreement and the attached exhibit(s) listed below constitute the entire agreement between the parties and, unless otherwise provided herein, may be amended only in writing, signed by all parties to this Agreement.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the

14th day of September 2020.

CITY OF ZEPHYRHILLS, FLORIDA

ATTEST:

By:

Lori L. Hillman

Lori L. Hillman, City Clerk

By:

Charles E. Proctor

Charles E. Proctor, Council President

Approved as to Legal Form and Content

Matthew E. Maggard

Matthew E. Maggard, City Attorney

Witnesses:

Lori L. Hillman

Signature

Lori L. Hillman

Printed Name

Thomas Shotts

Signature

Thomas Shotts

Printed Name

TENNIS PRO FLORIDA, LLC

By:

Pascal Collard

Printed Name:

Pascal Collard

Title:

CEO

[Signature]

FIRST ADDENDUM TO

SARAH VANDE BERG TENNIS CENTER MANAGEMENT AGREEMENT

THIS ADDENDUM is made and entered into this 13th day of November, 2017, by and between the **CITY OF ZEPHYRHILLS**, a Florida municipal corporation (hereinafter "CITY"), and **TENNIS PRO FLORIDA, LLC**, a Florida limited liability company ("CONTRACTOR").

WHEREAS, the parties hereto entered into an Agreement on **October 11, 2017**, entitled ***Sarah Vande Berg Tennis Center Management Agreement***; and

WHEREAS, the parties desire to amend and modify the original Agreement.

NOW THEREFORE, the parties hereby stipulate and agree to amend the ***Sarah Vande Berg Tennis Center Management Agreement*** dated **October 11, 2017**, as follows:

1. Section 3.1 entitled "Term" shall be replaced with the following:

§3.1 Term. The term of this Agreement shall be for Twenty (20) years commencing on the BEGINNING DATE and expiring on October 10, 2039. There is one (1) subsequent, ten (10) year renewal option, unless terminated earlier under one of the provisions of Article 10 of the Agreement. Nothing in this Article shall be construed as a limitation on either party's right to terminate this Agreement in accordance with Section 10.7 hereof. Both Parties shall issue its decision, in writing, to renew the Agreement, or allow the Agreement to expire a minimum of six (6) months in advance of the expiration date, to ensure a smooth transition if a change is to occur following the end of the then current term.

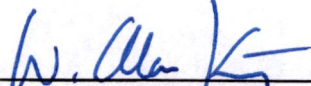
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IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the
13th day of November, 2017.

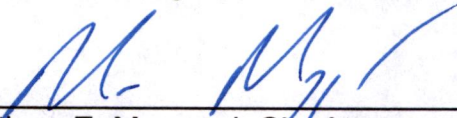
ATTEST:

By: 
Lori L. Hillman, CMC, City Clerk

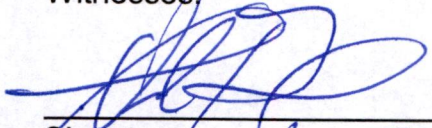
CITY OF ZEPHYRHILLS, FLORIDA

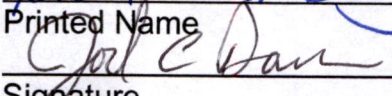
By: 
W. Alan Knight, Council President

Approved as to Legal Form and Content

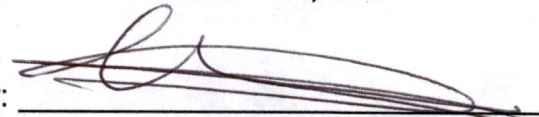

Matthew E. Maggard, City Attorney

Witnesses:


Signature
Todd H. Carter
Printed Name


Signature
JOEL E. BACON
Printed Name

TENNIS PRO FLORIDA, LLC

By: 
Printed Name: COLLIARD PASCAL
Title: president

**SARAH VANDE BERG TENNIS
CENTER MANAGEMENT AGREEMENT**

This SARAH VANDE BERG TENNIS CENTER MANAGEMENT AGREEMENT (hereinafter "AGREEMENT") is made between the **CITY OF ZEPHYRHILLS**, a Florida municipal corporation (hereinafter "CITY"), and **TENNIS PRO FLORIDA, LLC**, a Florida limited liability company ("CONTRACTOR").

WHEREAS, CITY desires for CONTRACTOR manage the operation of the CITY'S SARAH VANDE BERG TENNIS CENTER (hereinafter "Tennis Center") as specifically described below;

WHEREAS, the CITY and CONTRACTOR agree that the Tennis Center shall, at all times, operate as the SARAH VANDE BERG TENNIS CENTER.

NOW, THEREFORE, CITY and CONTRACTOR, for and in consideration of the provisions, mutual promises, covenants and conditions hereinafter set forth or recited, agree as follows:

ARTICLE 1. DEFINITIONS

1. The Effective Date of this Agreement shall be the date when the last party has signed and delivered this Agreement. BEGINNING DATE shall mean the date on which CITY gives CONTRACTOR written notice to open and begin management of the Tennis Center and CONTRACTOR gives CITY written acceptance of completed construction of the Tennis Center.
2. EXPIRATION DATE shall be no less than twenty (20) years from BEGINNING DATE, or if the Agreement is automatically renewed, the renewal expiration date as provided in Section 3.1.

3. FISCAL YEAR shall mean the period beginning October 1st of any year through September 30th of the following year.

4. SARAH VANDE BERG TENNIS CENTER means the property and all improvements located on the Property that the CITY may make available to the CONTRACTOR as provided herein.

5. PROPERTY means the land on which the Tennis Center is located which will be on the Northwest corner of Dean Dairy Road and Althea Lane in Zephyrhills, Pasco County, Florida.

6. CITY ADMINISTRATOR means City Manager or his/her designee.

ARTICLE 2. GENERAL REQUIREMENTS

§2.1 Management of the Tennis Center. CITY hereby hires CONTRACTOR to manage, supervise, and operate the Tennis Center in accordance with this Agreement. CONTRACTOR has the responsibility and authority to implement operating policies that adhere to policies that are customary with similar types of facilities where applicable and shall take all actions necessary to manage and operate the Tennis Center in a manner that meets standards which are customary with other similar facilities.

§2.2 Independent Contractor. CONTRACTOR is, at all times and for all purposes, an independent contractor with respect to the CITY and the CITY shall not have the authority or responsibility to supervise the day-to-day activities of the CONTRACTOR or CONTRACTOR's employees. Nothing in this Agreement and its performance shall create an employment or agency relationship between CITY and CONTRACTOR. Nevertheless, CONTRACTOR agrees to seek advice from CITY and cooperate with CITY in its management of the Tennis Center, and the parties both agree to cooperate with each other regarding the management of the Tennis Center.

§2.3 Use of the Property. CITY grants to CONTRACTOR the use and possession of the Property during the term of this Agreement for the purposes of managing and operating the Tennis Center, subject to the rights of CITY under this Agreement.

§2.4 CITY'S Right to Inspection. CITY and its representatives have the right at all reasonable times to enter upon and to examine and inspect the Tennis Center for any reason. In the event of a default, CITY has the right of access to the Tennis Center that is reasonably necessary to cause the proper maintenance of the Tennis Center.

ARTICLE 3. TERM

§3.1 Term. The term of this Agreement shall be for Twenty (20) years commencing on the BEGINNING DATE and expiring on October 10, 2039. There are subsequent _____-year renewal options unless terminated earlier under one of the provisions of Article 10 of the Agreement. Both Parties shall issue its decision, in writing, to renew the Agreement, or allow the Agreement to expire a minimum of six (6) months in advance of the expiration date, to ensure a smooth transition if a change is to occur following the end of the then current term.

ARTICLE 4. RESPONSIBILITIES OF CONTRACTOR

§4.1 Operation of the Tennis Center. In the management, supervision and operation of the Tennis Center, CONTRACTOR shall:

- a) operate the Tennis Center as a municipal Tennis Center which is open to the general public without discrimination on any basis prohibited by applicable law, regulation or ordinance, subject to fees, rules, and policies approved by the CITY, and within this Agreement;
- b) fees shall be mutually agreed upon but based on comparable market rates for similar facilities;

- c) operate the Tennis Center in a professional, efficient and cost-effective manner and provide quality programs, services, and retail sales;
- d) adhere to best practice financial management principles, and maintain efficient and accurate accounting records in accordance with generally accepted accounting principles in the format defined by the CITY'S Finance Director, which are attached hereto as Exhibit "A";
- e) comply with all applicable federal, state and local laws, ordinances, rules, policies, and regulations;
- f) operate and maintain a clean, well-organized, efficient, customer friendly pro shop, which offers merchandise, a stringing machine and provides quality customer service;
- g) Pro shop to maintain an annual minimum wholesale inventory of \$15,000 of merchandise;
- h) maintain a minimum of Eighty (80) open hours weekly as weather permits and operate the tennis center during designated days and hours of operation to be determined by CONTRACTOR with approval by the CITY ADMINISTRATOR;
- i) establish, develop and implement ongoing, year-round programs and events for all ages, including, but not limited to, instruction, clinics, drills, camps, leagues, tennis socials, fundraisers and tournaments;
- j) ensure quality customer service in the delivery of all aspects of tennis services provided and ensure 100% of both employee and contract staff who are employed at the time of the annual training participate in annual customer service training approved by the CITY;
- k) maintain the Tennis Center in a quality and safe condition;
- l) maintain all personal property, tennis equipment and tennis program supplies

owned by CONTRACTOR in good working order;

- m) maintain an organizational membership with the United States Tennis Association (USTA), and either the United States Professional Tennis Association (USPTA), or the Professional Tennis Registry (PTR);
- n) pay all operating expenses of the Tennis Center, except for those expenses which the CITY agrees herein to pay;
- o) prohibit sales, possession and consumption of alcohol on the Tennis Center premises at any time unless proper permits are applied for and received;
- p) reserve two (2) tennis courts within the Tennis Center for members to participate in open (non- tournament) play at all times except for specific dates/times preapproved by the CITY ADMINISTRATOR on an individual basis;
- q) CONTRACTOR shall not conduct tournaments which occupy all tennis courts without CITY approval;
- r) submit all proposed tournaments that will use 4 or more courts to the CITY ADMINISTRATOR or designee for approval a minimum of 30 days in advance of the tournament date, with no more than two tournaments to be scheduled per month that use the entire facility;
- s) maintain the tennis courts surface (using brooms and squeegees/water brooms daily in a clean and safe condition, free of debris, and leaves;
- t) provide and maintain tennis court amenities including items such as: court benches, water and scoring devices;
- u) notify CITY when, in the opinion of CONTRACTOR, any part of the Tennis Center maintained by CITY requires maintenance. Notification should be made in writing, to the CITY ADMINISTRATOR or his/her designee. If, however, the parties

disagree about the condition and/or required maintenance of the CITY maintained facilities, CONTRACTOR will notify CITY in writing of the reasons behind CONTRACTOR'S request. CITY will respond to CONTRACTOR in writing within ten (10) business days of receipt of CONTRACTOR'S written request along with a response and reasoning for any denial of requested maintenance. CITY'S determination regarding the need for maintenance will be final, but will not be unreasonable in denying any request for maintenance. Any maintenance requests which were not denied, but failed to uphold in a reasonable time, may be resolved by CONTRACTOR so long as the repair does not exceed \$2,500.00 and costs shall be reimbursed to CONTRACTOR. An annual inspection by both parties will be made to determine any on-going maintenance and long-term improvements.

- v) CONTRACTOR shall not operate a tennis center or any tennis programming that competes with the Sarah Vande Berg Tennis Center as of the BEGINNING date without specific written permission from the CITY, but CONTRACTOR may collaborate with competing facilities if beneficial to the success of the Tennis Center

§4.2 Improvements and Equipment Provided by Contractor.

- (a) CONTRACTOR agrees to make a contribution of \$300,000.00 which shall be payable over the course of three (3) years and is to be used for capital improvements to the Tennis Center. All capital improvements shall be permanent and shall become property of the CITY. The capital improvements will be:

- i. Covered court;
- ii. Hitting walls;
- iii. Indoor and Outdoor Playground for children;

- iv. If \$300,000 contribution is not exhausted, other capital improvements, such as Benches and Tables, are to be provided by CONTRACTOR subject to CITY approval.

(b) CONTRACTOR agrees to provide the following equipment to the Tennis Center which shall be permeant and shall become property of the CITY:

- i. All fitness equipment on the proposed invoice attached hereto as Exhibit "B".

§4.3 Rules and Policies. CONTRACTOR agrees to conduct business at the Tennis Center in accordance with policies similar to other like facilities. Additionally, the CONTRACTOR shall provide written notice to the CITY ADMINISTRATOR when CONTRACTOR makes any substantial changes to its operating procedures or policies affecting the public's use of the Tennis Center, including changes to hours of operation. CONTRACTOR agrees not to utilize the Property without the CITY's prior written approval for any purpose other than for conducting tennis programs, fitness center, retail pro shop, food/snack/beverage sales, tennis tournaments and tennis camps, provided, however, that the CITY's approval shall not unreasonably be withheld.

CONTRACTOR will be permitted to close or partially close the Tennis Center on designated CITY holidays, designated Tennis Center holidays and for inclement weather (on-going rain, temperatures below 40 F, for severe heat or approaching severe weather such as tomadoes). CITY reserves the right to approve the closing of the Tennis Center at times other than as provided in this Agreement.

CONTRACTOR agrees not to make any permanent physical improvements without written approval from the CITY ADMINISTRATOR. All proposed projects/improvements will be considered on a project by project basis and must be consistent with the overall intended use of the Tennis Center. Requests for CITY

ADMINISTRATOR approval must be made a minimum of ninety (90) days in advance of the proposed installation date of any proposed improvement. The CITY ADMINISTRATOR is the point of contact for any desired improvements or modification, and will determine the appropriate course of action for CITY approval.

CITY owned property and fixtures located at the Tennis Center as of the beginning date of this Agreement will remain at the Tennis Center for the use of the CONTRACTOR in the operation of the Tennis Center. However, said property will remain CITY property and shall be returned to the CITY upon request.

§4.4 Promotion of Tennis Center Activities.

- (a) CONTRACTOR agrees to use reasonable efforts to conduct a continuous program of marketing which will include, but is not limited to, maintaining a website, advertising, public relations, and promotional activities to assure that the Tennis Center has an appropriate and ongoing marketing campaign.
- (b) CONTRACTOR may be required to offer Zephyrhills residents the opportunity to register early for all Tennis Center activities if deemed necessary by the CITY ADMINISTRATOR.
- (c) CITY will provide a specific section on the City's website for marketing of the Tennis Center and Tennis Center programs and events.
- (d) CITY will provide links to the CONTRACTOR website and post events and press releases as content is approved by the CITY. CONTRACTOR will not determine any CITY website written or visual content, nor any CITY press release content. The CITY will work with CONTRACTOR to provide reasonable coverage. CONTRACTOR shall provide CITY content for placement on the CITY website and/or for CITY press release 30 days prior to the proposed date for posting or

release, unless otherwise approved by the CITY ADMINISTRATOR. CONTRACTOR may determine its own website content and content for CONTRACTOR'S press releases.

- (e) CONTRACTOR agrees to work with the CITY in developing a sponsorship program which promotes the Tennis Center addressing type, duration of display, and location specifically for all Tennis Center programs, events, and tournaments. Budget for the sponsorship program shall be appropriate for the intent for a successful Tennis Center and is to be paid by CITY.
- (f) CONTRACTOR may develop its own sponsorship programs which are to be sold to advertisers to generate revenue for the Tennis Center. However, any permanent signs are to be uniform with the Tennis Center design and will require CITY approval.

§4.5 Tennis Center Personnel.

- (a) CONTRACTOR shall provide employees and/or contractors for the Tennis Center, including management and other necessary staff determined by CONTRACTOR to be necessary for the operation of the Tennis Center to the standards customary with similar facilities. All personnel shall be employees of CONTRACTOR or independent sub-contractors of CONTRACTOR, and not employees or independent sub-contractors of CITY.
- (b) CONTRACTOR shall attract and develop professional tennis instructors, which can be employees and/or contractors, who are capable of providing quality tennis instruction services which are generally expected of a quality Tennis Center.
- (c) CONTRACTOR shall ensure that its employees and contractors maintain a professional appearance and demeanor at all times.

- (d) CONTRACTOR shall establish requirements for employees and contractors at least as stringent as those established by the CITY'S personnel policies with respect to CONTRACTOR's employees and contractors assigned to the Tennis Center, including the responsibility to conduct pre-employment and annual criminal background checks and pre-employment and for-cause drug screenings. CONTRACTOR shall not assign to the Tennis Center, even on a temporary basis, including during the interview process, any person who has not successfully passed or who fails a criminal background check. CONTRACTOR shall make available results of such screenings to CITY. CITY will provide a copy of the CITY'S personnel policies to CONTRACTOR and arrange for CITY'S Director of Human Resources to meet with and review all applicable policies with CONTRACTOR on an annual basis and upon request of CONTRACTOR. CITY will also inform CONTRACTOR regarding CITY'S current testing and screening procedures and vendors.
- (e) CONTRACTOR shall keep the CITY ADMINISTRATOR informed about employee and contractor turnover, and policy changes that affect staffing of the Tennis Center.
- (f) CONTRACTOR shall immediately notify the CITY ADMINISTRATOR of any personnel or other issues that impacts the health, safety or welfare of Tennis Center patrons, or that could prove detrimental to the public image of the Tennis Center and/or the CITY.
- (g) CONTRACTOR shall provide at least one full-time tennis professional to provide lessons and coordinate events in accordance with USPTA and/or PTR standards. Full-time tennis professionals that are hired by the CONTRACTOR shall be required to receive certification through USPTA and/or PTR within one year from date of hire.

- (h) CONTRACTOR shall have a minimum of one staff member or contractor with current CPR Certification on site during tennis-playing hours..

§4.6 Operations Review.

Periodically, but not less than every six months, CONTRACTOR shall meet with CITY (CITY ADMINISTRATOR or his/her designee and Finance Director) to review the CONTRACTOR's management, promotional activities, programs, finances, and policy recommendations concerning the Tennis Center. Each six (6) months, CONTRACTOR will provide monthly compiled financial statements without disclosures compiled by an independent Certified Public Accountant licensed in the State of Florida, and a monthly attendance and program participation report.

§4.7 Performance Measures.

- (a) Participation Levels: The CONTRACTOR must develop and maintain participation levels in overall tennis instruction for various aged players, youth through seniors. Monthly program participation reports shall be provided by CONTRACTOR to CITY ADMINISTRATOR every six (6) months.
- (b) Complaints: The CONTRACTOR must respond to all written inquiries (complaint form or email) and complaints from users within seven (7) business days and produce a bi-annual report to the CITY ADMINISTRATOR regarding the complaints and the CONTRACTOR's responses. The CITY agrees to also forward any inquiries and complaints it receives to the Tennis Center in writing within two (2) business days.
- (c) Cleanliness of Facility: The CITY will inspect the Tennis Center on a monthly basis

§4.8 Licenses and Permits. CONTRACTOR shall obtain all licenses and permits required by governmental entities for activities conducted at the Tennis Center. CONTRACTOR will provide a copy of all licenses to the CITY ADMINISTRATOR.

§ 4.9 Information Technology.

- (a) CONTRACTOR will be responsible for all technical support for software and hardware utilized in the management of the Tennis Center.
- (b) CONTRACTOR will be responsible for obtaining private internet service necessary for the operation of the Tennis Center.
- (c) CONTRACTOR will be responsible for obtaining the phone service necessary for the operation of the Tennis Center.

§4.10 CONTRACTOR'S Responsibility for Furnishings and Equipment.

CONTRACTOR shall provide all necessary equipment and furnishings for the operation of the tennis center, including, but not limited to, office furniture and supplies, and other equipment needed for the successful operation of the Tennis Center. Said items shall be permanent and owned by CITY. However, if CONTRACTOR provides any sports memorabilia for the Tennis Center, the memorabilia will remain the property of the CONTRACTOR.

ARTICLE 5. CITY / CONTRACTOR RIGHTS AND RESPONSIBILITIES

§ 5.1 CITY / CONTRACTOR responsibilities.

- (a) CITY will review and provide all signage to be placed on and around the Tennis Center with the goal to ensure the consistency of all signage. CONTRACTOR will help CITY determine signage needs prior to creation of and placement of signage. For any advertisements which CONTRACTOR would like to obtain, such as signs or billboards outside of

the Tennis Center, CONTRACTOR will be liable for this expense. CITY will assist CONTRACTOR, however possible, in seeking grants from Pasco County Department of Tourism.

- (b) CONTRACTOR will identify and determine standards and provide for Tennis Center amenities such as benches (including on-court benches) and tables, with the goal to ensure consistency. All standards and amenities shall be mutually approved by CONTRACTOR and the CITY ADMINISTRATOR or his/her designee.
- (c) CITY shall be responsible for the construction and maintenance/repair of major Building/Site elements (including, but not limited to, the roof, utilities, HVAC, parking lot, sidewalks, landscape installation, parking lot and landscape lighting on the exterior of the complex) hard/concrete tennis courts, on-court fencing, court fencing and perimeter fencing) and pay for all related necessary repairs to the physical conditions of the Tennis Center
- (d) CONTRACTOR shall be responsible for the maintenance of tennis related items including, but not limited to, the clay and grass tennis courts, tennis court nets, shade structures, walls, doors, flooring, turf and landscape areas (including landscape lighting), hardscape areas, permanent seating, trails and walkways. CONTRACTOR shall also be responsible for all general clean-up, including providing for interior janitorial services.
- (e) CITY shall be responsible for maintaining and repairing all plumbing, electrical, lighting fixtures, heating, ventilating and air conditioning, natural gas, systems and fixtures (light bulbs, lamps and air conditioning filters shall be provided by

CONTRACTOR).

- (f) CONTRACTOR will provide day-to-day general clean-up in preparation for and following, all Tennis Center related classes, programs, events and activities. CONTRACTOR agrees to maintain the Tennis Center in a good and operational condition. CONTRACTOR shall assist the CITY by notifying the CITY in writing of any specific needs for repair, and the CITY will respond to the CONTRACTOR in writing with an estimated timeline for repair.
- (g) CONTRACTOR shall be responsible for monthly statements for services for water, sewer, electricity, natural gas, and security (alarm monitoring) expenses. CONTRACTOR is not responsible for the maintenance or repairs of said items.
- (h) CITY shall install and maintain an automated external defibrillator (AED) at the Tennis Center.
- (i) Except as provided in Section 5.2(b), CITY grants CONTRACTOR the exclusive right to conduct all intended activities at the Tennis Center (including but not limited to fitness, instruction, leagues and tournaments), unless otherwise waived by CONTRACTOR, and the CITY will not compete with the Tennis Center and will not permit the use of CITY owned tennis courts by other individuals or entities for profit-making purposes.

§ 5.2 CITY RIGHTS

- (a) CITY shall prominently display signage, provided by the CITY that highlights the Tennis Center as a CITY facility; provides contact information for Tennis Center user comments, questions and concerns;
- (b) CITY may utilize the Tennis Center for CITY meetings at no charge. CITY will provide CONTRACTOR with at least thirty (30) days notice of

requested upcoming usage and will coordinate with CONTRACTOR to schedule joint functions and use of meeting space to avoid scheduling conflicts with previously scheduled tournaments, events or programs.

- (c) CITY may conduct interim surveys as needed to regularly benchmark user satisfaction on programs, services and facilities.

ARTICLE 6. CONSIDERATION

§6.1 Revenues Due to CITY. During the first three (3) years of this agreement, from the date of opening of the Tennis Center, there shall be no revenues due to the CITY. Subsequent to year three (3), CONTRACTOR shall pay CITY fifteen percent (15%) of the Tennis Center's first \$100,000.00 net income. For net income of \$100,000.01 through \$200,000.00, CONTRACTOR shall pay CITY twelve percent (12%) of the Tennis Center's net income, and then for net income of \$200,000.01 through \$300,000.00, CONTRACTOR shall pay CITY eight percent (8%) of the Tennis Center's net income. Beginning in the fourth year, CONTRACTOR shall tender quarterly payments to CITY on or before April 15th, July 15th, October 15th, and January 15th each year. In determining the amount of the 4th year quarterly payments, CONTRACTOR shall use the net income from year three as a revenue estimate. After final net income is calculated each fiscal year, any adjustments for underpayment or overpayment, shall be factored into the next quarterly payment.

ARTICLE 7. FINANCES

§7.1 Fees and Charges.

- a) Court rental fees to be charged at the Tennis Center shall be recommended by the Contractor and any future subsequent changes with approved by the CITY Council. CITY and CONTRACTOR agree that fees should be sufficient to pay operating expenses, but also be competitive with an emphasis to provide everyone an

opportunity to participate.

- b) All patrons of the Tennis Center shall be charged according to a published schedule of court fees and charges. CONTRACTOR does not have to charge court fees for the use of the tennis courts at the Tennis Center by (i) guests playing with employees of CONTRACTOR, (ii) touring pros, former pros, and/or (iii) participants in charity events. Otherwise, neither CONTRACTOR nor CONTRACTOR's employees, agents or sub-contractors shall waive any court fees without CITY ADMINISTRATOR approval.
- c) Prices charged for food and beverage sales, retail/merchandise sales, and advertising/marketing spots at Tennis Center shall be determined by CONTRACTOR. CONTRACTOR shall receive 100% of food, beverage and retail/merchandise, and advertising sales.

§7.2 Annual Operating Budget.

- a) CONTRACTOR shall submit any proposed improvements and budget requests to the CITY ADMINISTRATOR by April 1st of each year for review of potential impact to the CITY'S operating budget and capital improvements budget after an annual inspection and review of facility.

ARTICLE 8. ACCOUNTING, REPORTS, AND AUDITS

§8.2 Annual Financial Review. Within 90 days after the close of each fiscal year of the CITY, CONTRACTOR shall submit to CITY Finance Director a financial review certified by CONTRACTOR, covering the specific financial condition and performance of the Tennis Center. The financial review must span the fiscal year then ended. Included with the financial review must be statements for the fiscal year reviews by an independent CPA licensed in the State of Florida. CITY reserves the right to require audited financial statements in lieu of reviewed financial statements, with the difference in cost paid for by

the CITY. If an audit is required and the audit report does not contain an "unqualified opinion," the Contractor will provide a written plan for correcting the cause that prevented an unqualified opinion within ten business days, to be reviewed and approved by the CITY's Finance Director.

§8.3 CITY'S Right to Inspect and Audit. CITY has the right to inspect the books, records, invoices, deposits, sales slips, canceled checks, and other financial data or transactions of CONTRACTOR's operation of the Tennis Center at reasonable times during normal business hours.

§8.4 Location of Records. CONTRACTOR shall store all current fiscal year Tennis Center records at the Tennis Center.

§8.5 Fiduciary Relationship. CONTRACTOR has a fiduciary duty to CITY in all of CONTRACTOR'S financial obligations to CITY in accordance with this Agreement, including, but not limited to, faithfully accounting, depositing, and reporting all payments hereunder.

ARTICLE 9. INDEMNITY AND INSURANCE.

§9.1 INDEMNITY BY CONTRACTOR. CONTRACTOR ASSUMES ALL LIABILITY AND RESPONSIBILITY FOR AND AGREES TO FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF A PERSON OR DAMAGE TO PROPERTY, ARISING OUT OF OR IN CONNECTION WITH, DIRECTLY OR INDIRECTLY, THE OPERATION OF THE TENNIS CENTER, AND THE PERFORMANCE, ATTEMPTED PERFORMANCE OR NONPERFORMANCE OF THE WORK AND SERVICES DESCRIBED HEREUNDER OR IN ANY WAY RESULTING FROM OR ARISING OUT OF

THE MANAGEMENT, SUPERVISION, AND OPERATION OF THE TENNIS CENTER UNDER THIS AGREEMENT, INCLUDING THE WORK, SERVICES, OPERATIONS AND LEGAL DUTIES OF CONTRACTOR, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, SUBCONTRACTORS, OR LICENSEES, IF ANY, REGARDLESS OF WHETHER SUCH INJURY, DEATH, OR DAMAGE IS CAUSED IN PART BY THE CITY'S NEGLIGENCE. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED AS WAIVING ANY DEFENSE OF THE PARTIES UNDER FLORIDA LAW, INCLUDING THE DEFENSE OF SOVERIGN IMMUNITY FROM SUIT OR LIABILITY. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

§9.2 Insurance.

- (a) **WORKERS' COMPENSATION:** Coverage is to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include Employers' Liability with a limit of \$500,000 each accident, \$500,000 each employee, \$500,000 policy limit for disease.
- (b) **COMMERCIAL GENERAL LIABILITY - OCCURRENCE FORM REQUIRED:** CONTRACTOR shall maintain commercial general liability (CGL) insurance with a limit of not less than \$500,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location/project in the amount of \$1,000,000. Products and completed operations aggregate shall be \$1,000,000. CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent

contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury and advertising injury. Damage to premises shall be included at \$100,000.

- (c) **COMMERCIAL AUTOMOBILE LIABILITY INSURANCE:** CONTRACTOR shall maintain automobile liability insurance for any business vehicles with a limit of not less than \$1,000,000 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos, but not personal vehicles), if any. The policy shall be endorsed to provide contractual liability coverage.
- (d) **EVIDENCE OF INSURANCE:** The CONTRACTOR shall furnish the CITY with Certificates of Insurance. The Certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. The CITY is to be specifically included as an additional insured on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued 30-days prior to said expiration date. The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the CITY before the commencement of any work activities.

§9.3 No Liens or Mortgages by Contractor. CONTRACTOR agrees to pay for all materials, equipment, and labor used in connection with the performance of this Agreement

when and as bills or claims become due. CONTRACTOR agrees not to allow any lien or mortgage to be placed on the Property, fixtures, equipment or other improvements at the Tennis Center regardless of whether said fixtures, equipment or improvements were provided by the CONTRACTOR. CONTRACTOR shall indemnify, hold harmless and protect the premises, fixtures, equipment and the CITY from and against any claims, liens or mortgages.

ARTICLE 10. TERMINATION

§10.1 For Default. Either party may terminate this Agreement in accordance with this article for a default by the other party.

§10.2 What Constitutes a Default.

- (1) The following events constitute a default by CONTRACTOR:
 - (a) a breach of the fiduciary obligations of CONTRACTOR including, but not limited to, those under Sections 6.1, 7.1, and 8.5 of this Agreement;
 - (b) filing by CONTRACTOR of a voluntary petition for protection under federal bankruptcy laws, or the failure to obtain the dismissal of an involuntary petition under federal bankruptcy laws within 30 days after filing;
 - (c) the inability of CONTRACTOR to provide an unqualified opinion in any required annual audit report as described in Article 8;
 - (d) a failure of CONTRACTOR to perform its duties under this Agreement; or
 - (e) The commission by CONTRACTOR or any of CONTRACTOR's employees or contractors of a felony or crime of moral turpitude if the CITY, in its sole discretion, reasonably believes that the act suggests that the employee constitutes a threat to the users of the Tennis Center or the public at large, or that the act could, on becoming public knowledge, impair the public's confidence or trust in the CITY or

CONTRACTOR or the personnel at the Tennis Center or in the operation of CITY government in general.

- (2) The following events constitute a default by CITY:
- (a) A failure on the part of the City to maintain the Tennis Center in a good and operational condition, fulfill all of its obligations under this agreement regarding the physical maintenance of the Tennis Center, and make timely repairs as requested by Contractor in accordance with 5.1(c) of this Agreement.
 - (b) A failure of CITY to perform any of its duties under this Agreement.

§10.3 Correction.

- (1.) CONTRACTOR shall have 30 days after written notice from CITY specifying the nature of a default under Section 10.2(1)(a)(c) or (d) or Section 10.2(1)(e) because of the commission of an offense by an employee of CONTRACTOR, to correct the default (including without limitation, terminating the employment of an employee who causes a default of the agreement under Section 10.2(1)(e) by committing a felony or crime of moral turpitude), provided that this provision shall not apply unless CONTRACTOR shall immediately place such employee on leave or re-assign such employee to another location. If the default is of such a nature that it cannot reasonably be corrected within 30 days, the CITY may grant CONTRACTOR additional time as may be reasonably necessary to correct the default so long as CONTRACTOR diligently pursues the correction, and takes all reasonable measures to insure the safety of the public and fulfillment of CONTRACTOR'S other obligations hereunder.

- (2) CITY shall have 30 days after written notice from CONTRACTOR specifying the nature of a default under Section 10.2(2) to cure the default. If the default is of such a nature that it cannot reasonably be corrected within 30 days, the CONTRACTOR may grant CITY additional time as may be reasonably necessary to correct the default so long as CITY diligently pursues the correction, and takes all reasonable measures to insure the safety of the public and fulfillment of CITY'S other obligations hereunder.

§10.4 Election to Terminate.

- (1) If CONTRACTOR is in default, CITY may elect to terminate this Agreement pursuant to this article by giving written notice of default to CONTRACTOR subject to the following: If the default is under Section 10.2(1)(b) or is under Section 10.2(1)(e) because of the commission of an offense by CONTRACTOR, this agreement shall terminate immediately upon delivery of written notice from CITY to CONTRACTOR of its election to terminate the agreement. If the default is under Section 10.2(d) or is under Section 10.2(e) because of the commission of an offense by an employee of CONTRACTOR, this Agreement shall terminate upon expiration of the correction period if correction has not been made pursuant to Section 10.3, and CITY delivers to CONTRACTOR written notice of its election to terminate the Agreement via certified mail.
- (2) CONTRACTOR may elect to terminate this Agreement pursuant to this article by giving written notice of default to CITY. This Agreement shall terminate upon expiration of the correction period if correction has not occurred pursuant to Section 10.3 and CONTRACTOR delivers written notice to City of its election to terminate the Agreement via certified mail.

§10.5 Remedy for Certain Defaults.

- (a) If CONTRACTOR defaults under Section 10.2(1)(a), CONTRACTOR shall pay all amounts due CITY at the time of its default under the terms of this Agreement.
- (b) CONTRACTOR may withhold fees owed to CITY if CITY fails to maintain the Tennis Center per this Agreement.
- (c) Construction of Tennis Center is anticipated to begin in the Spring of 2018 and anticipates a completion date in the first quarter of 2019. If construction and opening of Tennis Center is later than January 1, 2020, then CONTRACTOR may void this Agreement and recoup any monies paid towards capital improvements.

§10.6 Lien. CITY has, at all times, a valid security interest to secure payment of all fees and other sums of money becoming due under this Agreement from CONTRACTOR and to secure payment of any damages or loss that CITY may suffer by reason of CONTRACTOR'S breaching any covenant, agreement, or condition contained in this Agreement. The security interest covers all goods, wares, equipment, fixtures, furniture, and other personal property of CONTRACTOR that is now on the Property or placed on the Property at some later date, and all proceeds attributable to them. This property may not be removed from the premises without CITY'S consent until all arrearages in fees and all other sums of money then due the CITY under this Agreement have been paid and discharged, and all the covenants, agreements, and conditions of this lease have been fully complied with and performed by CONTRACTOR.

If CONTRACTOR is in default, CITY may, in addition to any other remedies provided in this Agreement or by law, after giving reasonable notice of the intent to take possession and

giving an opportunity for a hearing on the issue, enter on the Property and take possession of any goods, wares, equipment, fixtures, furniture, and other personal property, but not including any sports memorabilia provided by CONTRACTOR, situated on the premises, without liability for trespass or conversion, and sell the property at public or private sale, with or without having the property at the sale, after giving CONTRACTOR reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made. CITY or its assigns may buy any items to be sold at such a sale unless they are prohibited from doing so by law. Unless otherwise provided by law, and without excluding any other manner of giving CONTRACTOR reasonable notice, the reasonable notice requirement is met if notice is given at least ten (10) days before the time of sale. The proceeds from any such disposition, less any expenses connected with taking possession, holding, and selling the property (including reasonable attorney's fees and other expenses), will be applied as a credit against the indebtedness secured by the security interest granted in this section. Any surplus will be paid to CONTRACTOR or as otherwise required by law, and CONTRACTOR will pay any deficiencies immediately.

ARTICLE 11. ASSIGNMENT AND DELEGATION

Neither party shall assign or delegate this agreement without the prior written consent of the other party.

ARTICLE 12. NOTICES

All notices to the parties shall be in writing and shall be sent by certified mail, return receipt requested, to the addressees and addresses specified below:

All notices to CONTRACTOR shall be sent to:

Tennis Pro Florida, LLC

c/o

All notices to CITY shall be sent to:

**City Manager
City of Zephyrhills
5335 Eighth Street
Zephyrhills, FL 33542**

ARTICLE 13. MISCELLANEOUS

§13.1 Construction. This Agreement shall not be construed against the drafting party.

§13.2 Non-Waiver. No waiver of any breach of any term or condition of this Agreement shall be construed to waive any subsequent breach of the same or any other term or condition of this Agreement.

ARTICLE 14. SEVERABILITY

If any provision of this Agreement is held to be invalid or unenforceable as applied in a particular case for any reason, those circumstances shall not have the effect of rendering the provision invalid or unenforceable in any other case. The invalidity of one or more phrases, sentences, clauses, or sections in this Agreement shall not affect the remaining portions of the Agreement.

ARTICLE 15. GOVERNING LAW

This Agreement shall be governed by and construed under the laws of the State of Florida, and venue in any proceeding relating to this Agreement shall be in Dade City, Pasco County, Florida.

ARTICLE 16. BINDING CLAUSE

This Agreement shall be binding upon the parties, their heirs, executors, administrators, devisees, legatees, trustees, successors, and assigns.

ARTICLE 17. PUBLIC RECORDS

Pursuant to section 119.0701, Florida Statutes, for any tasks performed by CONTRACTOR on behalf of the CITY, CONTRACTOR shall: (a) keep and maintain all public records, as that term is defined in chapter 119, Florida Statutes ("Public Records"), required by the CITY to perform the work contemplated by this Agreement; (b) upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the costs provided in chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion or termination of this Agreement, if Contractor does not transfer the records to the CITY in accordance with (d) below; and (d) upon completion or termination of this Agreement, (i) if the CITY, in its sole and absolute discretion, requests that all Public Records in possession of Contractor be transferred to the CITY, Contractor shall transfer, at no cost, to the CITY, all Public Records in possession of CONTRACTOR within thirty (30) days of such request or (ii) if no such request is made by the CITY, CONTRACTOR shall keep and maintain the Public Records required by the CITY to perform the work contemplated by this Agreement. If CONTRACTOR transfers all Public Records to the CITY pursuant to (d)(i) above, CONTRACTOR shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements within thirty (30) days of transferring the Public Records to the CITY and provide the CITY with written confirmation that such records have been destroyed within thirty (30) days of transferring the Public Records. If

CONTRACTOR keeps and maintains Public Records pursuant to (d)(ii) above, CONTRACTOR shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology of the CITY. If CONTRACTOR does not comply with a Public Records request, or does not comply with a Public Records request within a reasonable amount of time, the CITY may pursue any and all remedies available in law or equity including, but not limited to, specific performance. The provisions of this section only apply to those tasks in which CONTRACTOR is acting on behalf of CITY.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 813-780-000, EXT. 3543 OR CITYCLERK@ZEPHYRHILLS.FL.US OR CITY CLERK – CITY OF ZEPHYRHILLS – 5335 EIGHTH STREET – ZEPHYRHILLS, FLORIDA 33542.

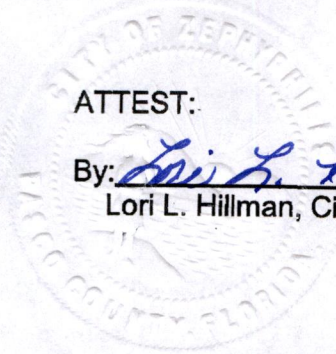
ARTICLE 18. ENTIRE AGREEMENT

This Agreement and the attached exhibit(s) listed below constitute the entire agreement between the parties and, unless otherwise provided herein, may be amended only in writing, signed by all parties to this Agreement.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the

11th day of October, 2017.



ATTEST:

By: Lori L. Hillman

Lori L. Hillman, City Clerk

CITY OF ZEPHYRHILLS, FLORIDA

By: W. Alan Knight

W. Alan Knight, Council President

Approved as to Legal Form and Content

Matthew E. Maggard
Matthew E. Maggard, City Attorney

Witnesses:

Steven F Spina
Signature
Steven F Spina
Printed Name

Jessica Carter
Signature
Jessica Carter
Printed Name

TENNIS PRO FLORIDA, LLC

By: [Signature]

Printed Name: COLLARD

Title: PRESIDENT



DDC Controls Support Agreement with Energy Services

March 1, 2023 through February 28, 2027

**Prepared By:
Brett Newberry
Date: February 27, 2023**



Introduction:

The Zephyrhills Police Department is a critical component in the City of Zephyrhills. The City of Zephyrhills' operations staff is responsible for critical equipment that is sensitive to temperature and other environmental influences. The facility staff is experienced in all areas of HVAC and temperature controls and does not require a high level of support from vendors but uses support plans to augment their current knowledge and protect their equipment investment over the long term.

About ATS

ATS designs, installs, and services building automation systems to optimize control schemes for buildings' mechanical and electrical systems. This allows owners to reduce their energy consumption and maximize the effects of facilities management personnel. We keep your HVAC system and other building technology systems running effectively, while working with you to meet your unique needs. We strive to assist customers in meeting their business objectives through controlling occupants' comfort, energy efficiency, systems operations, and cyber-security.

What do we do?

ATS can enhance your facility's environment to meet your specific needs. Our knowledge of leading products and cutting-edge technologies will help create solutions that enhance the safety, energy efficiency and sustainability of your facility. We provide safer, more comfortable, and more efficient building environments through innovative HVAC solutions, building technology solutions, energy services, on-site service and training.

Why a service agreement?

Service agreements augment your staffs' current knowledge and protect your equipment investment over the long term. The goals of this service agreement are to update and maintain your system software and hardware to keep it up-to-date, support your facility staff with pre-season inspections and maintenance, and to develop a regular maintenance relationship with you to promote automated operation of controls and make sure you get the most from your buildings' systems.

Support Agreement Goals:

The goals with this proposal are:

1. Update and maintain system software and hardware to current revisions. Also, provide cybersecurity services to protect building automation system network.
2. Support facility staff with pre-season inspections/maintenance.
3. Develop a regular maintenance relationship with (building name) to promote automated operation of controls and maximum facility uptime.
4. Drive building efficiency by leveraging your building management system and ATS' controls expertise.
5. Support your long-term asset protection by providing system life cycle management.



ATS Customer Support Agreement

Following is a comprehensive list of the Support Services we can perform to maximize the value of your investment in your Building Automation System (BAS). Following the list of Support Services is a detailed description of each service.

Building Automation Control System Services:

1. System Technology Updates & Operational Technology (OT) Services

- BAS Software and Firmware Updates (with cyber-security enhancements)
- Building Automation System Operational (OT) Services
 - Facility Shield
 - Facility Host

2. Equipment Functional Performance Testing & Analytics

- Air Handler Functional Performance Testing
- Chiller/Chilled Water System Functional Performance Testing
- Boiler/Hot Water System Functional Performance Testing
- Facility Zone – Box Level Functional Performance Testing

3. System Performance & Optimization Services

- Troubleshooting and Diagnostics
- Control System Database Protection
- Control System Analysis
- BAS Network Health Analysis & Optimization – Troubleshooting
- BAS Network Health Analysis – Continuous Monitoring
- ATS energyOptimization
- Flex-Hours
- On-Site Operator Training/Software Consultation

4. Emergency Response Services (Standard or Premium)

- On-Line Response (Telephone and/or Remote Connect)
- On-Site Response

5. General Services; Included in All Support Agreements

- Account Management
- Quality Assurance Program
- Documentation of All Services Provided
- Discounted Material & Labor Rates
- Preliminary Calendar of Services

6. Equipment List

- List of equipment to be serviced as part of this support agreement



ATS Customer Support Agreement Features

1. System Technology Updates & Operational Technology (OT) Services

Technology Updates – Software and Firmware Updates (with Cyber-Security Enhancements)

Delta Controls periodically releases software updates that provide added features, increase communications and processing speed for your BAS. ATS will provide these updates including software licensing as they become available or expire, always keeping your system software state-of-the-art. Please note: No platform upgrades, hardware, operating system or other peripheral software updates or upgrades are included with this service.

- ☐ Included with this Support Agreement – As Released
- ☒ Not included with this Support Agreement

Building Automation System Operational (OT) Services

ATS Facility Shield

Your building automation system's dedicated server and software are essential elements needed to keep your facility operating safely and smoothly. These components require maintenance like any other computer system. For facilities that do not have the resources or expertise on-hand to service these systems, ATS offers Facility Shield.

Facility Shield from ATS is a low-cost method to ensure your BAS server is healthy, optimized, and up to date with the latest cybersecurity software and security patches. Facility Shield is an online service ensuring your BAS is continually up to date with security patches. This service includes system vulnerability monitoring, activity reporting, security patches, and anti-virus software updates.

- ☐ Facility Shield - Included with this Support Agreement
- ☒ Facility Shield - Not included with this Support Agreement



ATS Facility Host

Your building automation system's server keeps your facility operating smoothly by running the software that controls your mechanical and related equipment. Often this server can be neglected or even off the books of a facility's IT department. An unattended server is prone to cyber-security and maintenance issues if not properly maintained and secured.

Facility Host from ATS provides a secure manner to remotely host your BAS by moving your server from a physical PC located in your building to a private cloud network. Secure cloud networks increase security by removing physical access to critical facility systems that unauthorized users may access. Remote hosting removes server maintenance from your employee's to-do-list, and it ensures your equipment is right-sized – storage and processing power only increase when needed. Early termination fees may apply. Facility Host also includes ATS Facility Shield service (described above)

- ☐ Facility Host – Included with this Support Agreement
- ☒ Facility Host - Not included with this Support Agreement

2. Equipment Functional Performance Testing & Analytics

Air Handler Functional Performance Testing

Using our software tools, we will analyze the performance of your HVAC air handling systems. This service is delivered one (1) time per year, Spring. During the spring service we will focus on the operation of the air handler cooling system control loops: outside air dampers, mixed air dampers, chilled water valve actuators, temperature sensors. See Section 8 (Equipment List) for details.

- ☒ Included with this Support Agreement – 2 (two) AHU's per year
- ☐ Not included with this Support Agreement

Chiller/Chilled Water System Functional Performance Testing

Reliable and Optimized performance of your chiller plant is critical to the operations of your facility. As part of this performance service one (1) time per year we will run an operational controls sequence to test the full range of the chiller and chilled water distribution system. We will analyze the chilled water supply temperatures at low and full-load conditions; verify temperature set point reset operations, chiller alarm interface to the DDC system, and the lead/lag operations of the chilled water system. See Section 8 (Equipment List) for details.

- ☐ Included with this Support Agreement – XX (spell the number) Chillers/Chilled Water systems per year
- ☒ Not included with this Support Agreement

Boiler/Hot Water System Functional Performance Testing

Reliable and Optimized performance of your heating plant is also critical to the operations of your facility. As part of this performance service one (1) time per year we will run an operational controls sequence to test the full range of the boiler and hot water distribution system. We will analyze the hot water supply temperatures at low and full-fire conditions; verify temperature set point reset operations, boiler alarm interface to the DDC system, and the lead/lag operations of the hot water system. See Section 8 (Equipment List) for details.

- ☐ Included with this Support Agreement – XX (spell the number) Boilers/Hot Water systems per year
- ☒ Not included with this Support Agreement



ATS Facility Zone: Zone-Level Functional Performance Testing

Facility Zone from ATS is an automated functional performance service that tests the physical operation of your zone-level controllers and their associated devices (i.e. damper actuators and control valves). Facility Zone is important for two reasons: First, gone undetected, a rogue, poorly functioning zone can cause the AHU, Chiller and Boiler associated with that zone to run unnecessarily. This single, poorly functioning zone can waste significant amounts of energy and money. Second, the zone-level controller is responsible for maintaining a comfortable environment for your occupants. A poorly functioning zone controller leads to occupant dissatisfaction. Once the functional performance testing is completed, we will spend up to XX hours addressing identified issues. ATS will provide a quoted if their additional work required beyond these hours.

- ☒ Included with this Support Agreement - 25 (Twenty-Five) zone controllers
- ☐ Not Included with this Support Agreement



3. System Performance Services; On-Line/ On-Site Services

Online Services

Troubleshooting and Diagnostics Assistance. If your operators need technical support, simply contact us during normal working hours. We will provide remote troubleshooting and diagnostics assistance via the telephone. If your organization allows us to access your Delta system via the internet (VPN or screen-sharing software), we will sign-on to your system and attempt to resolve the problem or, at a minimum, scope the problem down to a specific item or group of items. This service does not include after-hours support. For afterhours support, please see the Emergency Response Services section below.

☒ Included with all Support Agreements – Limited Service

Onsite Services

Building Control System Database Protection

Delta Workstation Database and Graphics backups safeguard your Delta system's vital databases of business information from unforeseen and costly catastrophic events (lightning strike, electrical power surge, flood, physical damage, etc.). We will back-up your Delta system database, software and graphics a minimum of two (2) times per year, and provide safe storage of this critical business information. Should a catastrophic event occur, we will respond onsite (or online if such service is included in this Agreement) to reload the databases and system files from our stored backup copy and to ensure proper operation and performance. Repair costs and the costs to reload the databases and system file will be at the preferred material and labor rate stated below.

☒ Included with all Support Agreements – Semi-Annually (two times per year)

Building Control System Analysis

Your DDC control system is a very dynamic and interactive system. As such its operations, graphics and programming intentionally and unintentionally change over time. With Control System Analysis we will

1. Inspect the physical and electrical condition of each global controller.
2. Perform a sequence of operations review
3. File & database analysis
4. Review alarms, trend logs, schedules and energy log reporting.
5. Perform BAS server computer performance optimization.

We will then compare them to the prior status report and meet with you to discuss the effects of the changes on the operation of your BAS. See Section 8 (Equipment List) for details.

- ☒ Included with this Support Agreement – 2 (Two) times per year per global, 1 (One) number of global controllers
- ☐ Not included with this Support Agreement



System Performance Services; On-Line/ On-Site Services (cont.)

BAS Network Health Analysis & Optimization

For all the HVAC equipment in your facility to work seamlessly and quickly together, the BAS communication network needs to be fully operational, and its performance is optimized. Utilizing this service, we identify network issues such as circular networks, duplicate networks, duplicate device IDs, unresponsive routers, unresponsive devices, and missing acknowledgements which all can lead to a deterioration of network performance. We will run a pre-corrections health network analysis before we begin our repairs. Then we will spend up to XX hours addressing identified issues. ATS will provide a quoted if their additional work required beyond these hours. At the conclusion of this service, we will run a post-corrections report to show you the improvement we had made to the health of your BAS network.

- ☐ Included with this Support Agreement – XX (spell the number) times per year, XX (spell the number) number of devices.
- ☒ Not included with this Support Agreement

BAS Network Health Analysis – Continuous Monitoring (24/7)

This is an add-on service to the BAS Network Health Analysis & Optimization service described above. With this service we continuously monitor the health of your BAS network. If the network health changes more than a predetermine amount, we will notify you, during normal working hours, of this change and discuss the reason for change in you BAS network's performance. We will also notify you if your Internet, Network or BAS Server goes offline and we can provide regularly scheduled Network Health reports.

- ☐ Included with this Support Agreement
- ☒ Not included with this Support Agreement

Flex-Hours Support Services

Flex-hours support, as you need it, whether it is online support from our office, or for an on-site visit from a service technician. Prepaying for these hours allows you to budget for emergency calls or special projects and spread the payments on your terms. We will provide an agreed upon number hours of Flex-Hours Support per year. NOTE: It is our policy to roll a maximum of 25% of any un-used flex hours into the upcoming contract year.

- ☐ Included with this Support Agreement – XX (spell the number) hours per year
- ☒ Not included with this Support Agreement



On-Site Training/Operator Coaching

Through our individual On-Site Training/Operator Coaching, we will introduce, review, and reinforce skills, leading to greater utilization of HVAC Control System applications implemented in your facility. Annually, we will provide an agreed upon number of hours per year of coaching for your facility staff, Monday through Friday 8:00 a.m. to 5:00 p.m. Our systems experts assist your operators in identifying, verifying, and resolving problems found in executing tasks. During the training/coaching sessions, we can address logbook issues, assist your operators in becoming more self-sufficient, and tailor HVAC Control System applications to the needs of your facility and to your operators' specific job responsibilities.

- ☐ Included with this Support Agreement – XX (spell the number) hours per year
- ☒ Not included with this Support Agreement



4. Emergency Response Services

On-line Emergency Response

To quickly respond to emergency service requests and to reduce the costs and disruptions of downtime we will provide phone support and if available, we will also use our Direct Connect technology. On-Line response is our default first action to a request for emergency response. For direct connect, you simply need to supply the necessary equipment and internet access to enable our local office to remotely log-on to your system. Note: Internet access to be provided and maintained by the customer.

We will sign-on to your system as a first step to your request or inquiry. Our operations personnel will contact you and will attempt to fix the problem or at a minimum scope the problem down to a specific item or group of items. The operations group contacts you when the sign-on is completed and conclusions have been reached. Emergencies will be determined by your staff and ATS.

Priority Emergency On-line Response Time (Included with all Customer Support Agreements) - - - within 2 business hours; Monday through Friday; 8:00 AM to 5:00PM, excluding holidays

☐ **Premium Emergency On-line Response Time** – within 1 business hour; 24 hours/day, 7 days/week, including holidays

Note: Our first action to a request for emergency response will be to attempt to resolve the situation on-line via a remote connection to your server. There may be a one (1) hour minimum charged for each on-line service. If on-line diagnosis determines a site visit is required to complete troubleshooting and problem resolution procedures, we will be on-site based on the level of Emergency Onsite Response selected (described below).

On-site Emergency Response

If during our On-line Emergency response, we are unable to resolve the situation we will dispatch a Service Technician to your facility. Non-emergency calls, as determined by your staff and ATS will be incorporated into the next scheduled service call.

Priority Emergency On-site Response Time (Included with all Customer Support Agreements)

We will be on site by the end of the next business day; Monday through Friday; 8:00 AM to 5:00PM, excluding holidays

☐ **Premium Emergency On-site Response Time** – We will be on site within four (4) hours, 24 hours/day, 7 days/week, including holidays (after the completion of the telephone and direct connect response).

Emergency Response Services listed above guarantee ATS' response time to an emergency only. The use of on-line and/or on-site emergency service is not included in the scope of this contract and will be billed at the applicable time & material rates. The labor and material rates for 2021 are listed below. Prices are subject to change.



4. Emergency Response Services (cont.)

After-Hours Support: Emergencies can and usually happen when you least expect it and many times on the weekends or after 5:00 PM. It is very important to ATS to provide support in all emergency situations for all our customers. We have available a 24-7 emergency answering service. You can utilize this service in an after-hours emergency by calling (425) 251-9680. After receiving the call, we will first attempt to solve the issue on-line as described in the On-line Emergency Response section of this proposal. If the problem persists, we will discuss it with you and upon your approval dispatch a service technician to your site.

As a Standard Emergency Response customer, we do not guarantee the after-hours response time in an emergency. All after-hours labor will be billed as listed in the General ATS Customer Support Agreement Features section of this proposal.

5. General ATS Customer Support Agreement Features (Included with all Support Agreement)

- **Account Manager** - A dedicated Account Manager will be responsible for your total service satisfaction. Your Account Manager will provide the designated services, monitor equipment performance, track equipment service history, and consult with you to meet your objectives. Towards the end of each contract year, your ATS Account Manager will schedule a re-cap meeting with you to review all the service that have been performed that year.
- **Quality Assurance Program** – At the conclusion of the re-cap meeting, your account manager will conduct a brief customer satisfaction survey with you regarding all the touch points you have with ATS (sales, operations, dispatch, warehouse, accounts receivable, etc.).
- **Dedicated Service Team** - Our Service Team knows BAS systems. A Primary and a Secondary ATS Service Technician will be assigned to your support agreement account. All our service technicians are factory trained on Delta equipment and are specialists in maintaining and troubleshooting your system.
- **Documentation** - All service visits will be documented by a work order detailing the service performed, materials used, and hours spent.
- **Price Advantage- Discounted Labor and Material** - As Support Agreement customer; you will receive a discount off the normal labor and material prices. You will receive approximately a 28% discount on labor and an additional 10% discount on material. Following are the prices for 2023. Please note that prices are subject to change without written notice.

Labor Rates:

	Standard Time & Material Rate (M-F 8 AM to 5 PM) excl. Holidays	Preferred Time & Material Rate (M-F 8 AM to 5 PM) excl. Holidays	Standard Evenings and/or Saturday	Preferred Evenings and/or Saturday	Standard Sunday and/or Holiday Rate	Preferred Sunday and/or Holiday Rate
Service Technician	\$ 128	\$ 92	\$ 192	\$ 138	\$ 256	\$ 184
Account Manager	\$ 128	\$ 92	\$ 192	\$ 138	\$ 256	\$ 184



ATS - Suggested Calendar of Services

Customer:

Checked items are included as detailed in "Support Agreement Features"

		2023-2025 Support Agreement											
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
X	Database Protection (Included)	X					X						
X	AHU Performance Testing		X					X					
	Chilled Water System Testing												
	Hot Water System Testing			X					X				
X	Zone-Level Testing												
X	Control System Analysis		X					X					
	BAS Network Health Analysis – Troubleshooting												
	BAS Network Health Analysis – Continuous Monitoring												
	ATS energyOptimization												

Other Services:

	Technology Updates	Not Included
	ATS Facility Shield	Not Included
	ATS Facility Host	Not Included
X	Limited Troubleshooting and Diagnostics	Included
	Flex Hours	Hours per Year
	Customer Training	Not Included
X	Emergency Response Services	Premium Included
X	Account Management	Included
X	Material & Labor Discounts	Included



9. Equipment List

Front End Server, Clients and BAS Software			
Server	Info	Location	Frequency/Year
	Dell	Communication/Dispatch Room 119	
Mechanical Equipment			
AHU-1/AHU-2	Info	Location	Frequency/Year
	DSC-1212E	Mezzanine	
Other Equipment/Integration			
VAV 1-1 through VAV 2- 10 (25)	Info	Location	Frequency/Year
	DAC-V304A VAV Controller	Throughout Building	



Support Plan Pricing Summary:

We have included the following Custom Service Plan Features in this agreement as detailed in the previous section:

- **Technology Updates – Software and Hardware**
- **Building Automation System Operational Technology Services**
- **Equipment Performance Verification**
- **On-Line & On-Site Services**
 - **Troubleshooting & Diagnostics**
 - **Database Protection**
 - **Control System Analysis**
 - **BAS Network Health Analysis & Optimization**
 - **Flex Hours Support**
 - **Customer Training**
- **Emergency Response Services**

Pricing for these features is based on a 5-year program, billed annually at the beginning of the contract year. Pricing stated does not include sales tax, if applicable

Year 1: \$ 3,538.00 beginning March 1, 2023

Year 2: \$ 3,707.00

Year 3: \$ 3,875.00

Year 4: \$ 4,100.00

Year 5: \$ 4,324.00

ATS believes that this proposal includes the best interests of (building name) and is based on your input. Please feel free to contact me if you have any changes. If accepted, sign and date below and return to ATS with purchase order information. The other copy is for your records. The pricing stated in this proposal is valid for sixty (60) days. Prices stated do not include applicable taxes.

We understand budget constraints are an ongoing concern, as such this agreement may be modified or cancelled due to future financial constraints. Modification/Cancellation conditions are detailed in the "Terms and Conditions" section 1, paragraph 2 (attached).

Sincerely,
Brett Newberry
Service Manager

Proposal Accepted


os, J.

Signature,

4/11/2023

Date

William C. Poe, Jr.

Please Print Name

City Manager

Title



Terms and Conditions for ATS Service Support Agreement

The following Terms and Conditions are attached to and form an integral part of the Service Support Agreement or Customer Support Agreement or Service Support Program for ATS Automation, ATS Inland NW, ATS Alaska, ATS Rocky Mountain and ATS Facility Systems (referred to here as "ATS"). The Agreement or Program, together with these Terms and Conditions, are collectively referred to as the "ATS SSA."

1. The Scope

This ATS SSA, when accepted in writing by the Customer and approved by an authorized representative of ATS, shall constitute the entire agreement between the parties. It may only be amended by a written document signed by both ATS and Customer. If any provision of this agreement is held to be invalid or unenforceable, the remaining provisions of this agreement shall remain in full force. The terms and conditions set forth herein shall supersede, govern and control any conflicting terms found elsewhere in the ATS SSA. Neither party may assign this Agreement without the prior written consent of the other party; however, this ATS company may assign this agreement to any of its affiliated ATS companies.

The term of this agreement will begin on the Start Date as specified in the ATS SSA and continue for the period of time as agreed to in the SSA. At the end of the term of the agreement, the SSA will automatically renew for successive one-year periods with an annual increase of 3% unless otherwise stated in the SSA, or, as otherwise agreed to by ATS and the customer in writing at least 30 days prior to the end of the term. Either party may terminate or amend this agreement at any time by giving the other party at least 30 days written notice of such amendment or termination.

This agreement only relates to the systems, equipment and software identified in the List of Covered Equipment or List of Covered Systems in the SSA and it assumes the systems, software and equipment covered are in maintainable condition. If upon initial inspection by ATS, it is found that repairs are required, ATS will propose a scope of work to make the repairs. If Customer declines to have ATS make the repairs, that equipment will be removed from the equipment covered in the ATS SSA and an adjustment in price to the SSA will be made.

Customer, at no cost to ATS, agrees to:

- A. allow ATS to control/operate all equipment necessary to perform the services.
- B. provide access to all areas of the facility as necessary to complete the Work.
- C. provide suitable electrical service as required by ATS.
- D. take immediate action in the event of a system failure to reasonably and safely protect life and property and until such time that ATS has remedied the situation and notifies the customer that the systems are operational.
- E. designate a contact person with authority to make decisions for Customer regarding the SSA and provide sufficient information for ATS to contact such person in an emergency. If such person cannot be reached, any request for Service or any decision made from a person at Customer's premises will be deemed authorized by Customer, and ATS will, at its discretion, act accordingly.

2. Pricing, Invoices and Payments.

- Pricing is good for 30 days unless otherwise stipulated.
- Payments are due within 30 days of invoice.
- Sales tax is not included in the price and will be added to the price on the invoice.
- If payment is not received when due, then ATS may suspend any further work until payment is made. ATS may charge 1.5% interest per month (or the maximum allowed by law) plus any related costs such as collection or attorney fees and pursue any legal remedies to collect what is owed.
- All other services performed but not included in the scope of the SSA will be billed on a time and materials basis at labor rates that are in effect at the time that the work is performed.

3. Warranty

Equipment or products installed by ATS in the scope of performing these services shall only carry the warranty as is provided by manufacturer which ATS assigns to the Customer. ATS will use all reasonable efforts to assist Customer in enforcing any such third-party warranties. Labor provided by ATS for all services under this SSA is warranted for a period of 90 days after the work is performed.

The warranty will be void if the work or related equipment is:

- A. repaired or altered by any person other than an ATS employee or its authorized representative.
- B. subjected to unreasonable or improper use or storage, used beyond rated conditions, operated other than per ATS's or the manufacturer's instructions or otherwise subjected to improper maintenance, negligence or accident.
- C. damaged because of any use of the equipment after customer has, or should have had, knowledge of any defect in the equipment.

4. Insurance

ATS shall provide the following insurance coverages during the term of this agreement:

- Commercial General Liability \$1M/occurrence & \$2M aggregate
- Automobile Liability \$1M combined single limit
- Worker's Comp & Employer's Liability Statutory Limits
- Excess Liability \$4M/occurrence & \$4M aggregate

5. Indemnification

- A. Indemnification. The indemnification obligations set forth in this Section shall be the parties' exclusive rights and remedies with respect to this Agreement.
- B. Reciprocal Indemnification. Each party shall indemnify and hold harmless the other party, the other party's affiliates, and each of their respective officers, directors, members, agents and employees from and against any and all claims, demands, liabilities, obligations, losses, damages, penalties and fines of any kind and nature whatsoever (including reasonable attorneys' fees) brought by a third party under any theory of legal liability arising out of or related to the indemnifying party's actual or alleged: (i) gross negligence, (ii) willful misconduct or (iii) infringement or misappropriation of a third party's copyright, trade secret, patent, trademark or other intellectual property right.

6. Limitation of Liability

1. NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE EITHER PARTY'S LIABILITY FOR (I) DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE, OR THE NEGLIGENCE OF ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS; (II) FRAUD OR FRAUDULENT MISREPRESENTATION; OR (III) ANY OTHER LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED BY LAW.
2. SUBJECT TO SECTION 6.1, IN NO EVENT WILL ATS AUTOMATION OR ITS SUPPLIERS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF THE SERVICES OR ANYTHING PROVIDED IN CONNECTION WITH THIS AGREEMENT, THE DELAY OR INABILITY TO USE THE SERVICES OR ANYTHING PROVIDED IN CONNECTION WITH THIS AGREEMENT OR OTHERWISE ARISING FROM THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, (I) LOSS OF REVENUE OR ANTICIPATED PROFITS (WHETHER DIRECT OR INDIRECT) OR (II) LOST BUSINESS OR (III) LOST SALES, WHETHER BASED IN CONTRACT, TORT (INCLUDING ACTIVE AND PASSIVE NEGLIGENCE AND STRICT LIABILITY) BREACH OF STATUTORY DUTY OR OTHERWISE, EVEN IF ATS AUTOMATION HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES.
3. SUBJECT TO SECTION 6.1, THE TOTAL LIABILITY OF ATS AUTOMATION OR ITS SUPPLIERS, WHETHER BASED IN CONTRACT, TORT (INCLUDING ACTIVE AND PASSIVE NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, WILL NOT EXCEED, IN THE AGGREGATE, FIVE (5) TIMES THE FEES PAID TO ATS AUTOMATION HEREUNDER IN THE TWELVE MONTH PERIOD ENDING ON THE DATE THAT SUCH CLAIM IS FIRST ASSERTED. THE FOREGOING LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

7. Disputes

This agreement shall be governed by the laws of the state in which the work is performed. In the event of any dispute between ATS and Customer, the parties shall first attempt to resolve the dispute in the field. If that is not successful, then a meeting shall take place between authorized officers of each company to settle the dispute. If that is not successful, then the dispute shall be decided by binding resolution using mediation or arbitration conducted in accordance with the Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association.

HOLD HARMLESS AND COST RECOVERY AGREEMENT

This Hold Harmless and Cost Recovery Agreement ("Agreement"), is entered into on this 20th day of April, 2023 by and between the City of Zephyrhills, a Florida municipal corporation (hereinafter referred to as "City"), and Driftwood Condominiums and on behalf of its residents, visitors, guests, and assigns (hereinafter referred to as "Recipient").

In consideration of the promises and mutual covenants set forth in this Agreement, the sufficiency of which is acknowledged by the parties, the parties agree as follows:

1. The Recipient is the consumer of City water and/or City sewer services. However, the water and sewer lines are owned by the Recipient and as such maintenance and repair of said water and sewer lines is the responsibility of the Recipient.
2. That the City is contacted from time to time to respond to a water or sewer leaks or breaks, fire hydrant damage, etc. due to an accident, vandalism, natural causes, material failure, etc., prior to, during, or after normal working hours at the Recipients subdivision.
3. The City shall have the option but not the obligation to respond to Recipient's address to repair water or sewer leaks and/or breaks or fire hydrant damage. The decision to respond shall be made by the City in its sole discretion.
4. Recipient agrees to compensate the City for the costs incurred for any incident in which City responds as outlined in paragraphs 2 and 3 above. The costs for responding are outlined on ***Exhibit "A"*** attached hereto and made apart hereof. The costs outlined on ***Exhibit "A"*** are subject to change and Recipient agrees to reimburse City for the Costs expended based on the rates at the time of the response.
5. Recipient shall defend, indemnify and hold harmless the City of Zephyrhills and all of the City of Zephyrhills's officers, agents, and employees from and against all claims, liability, loss and expense, including reasonable costs, collection expenses, attorneys' fees, and court costs which may arise because of the negligence (whether active or passive), misconduct, or other fault, in whole or in part (whether joint, concurrent, or contributing), of Recipient, its officers, agents or employees in performance or non-performance of its obligations under the Agreement. Recipient recognizes the broad nature of this indemnification and hold harmless clause, as well as the provision of a legal defense to the City of Zephyrhills when necessary, and voluntarily makes this covenant and expressly acknowledges the receipt of such good and valuable consideration provided by the City of Zephyrhills in support of these indemnification, legal defense and hold harmless contractual obligations in accordance with the laws of the State of Florida. This clause shall survive the termination of this Agreement. Compliance with any insurance requirements required elsewhere within this Agreement shall not relieve Recipient of its liability and obligation to defend, hold harmless and indemnify the City of Zephyrhills as set forth in this article of the Agreement. Nothing herein shall be construed to extend the City of Zephyrhills's liability beyond that provided in section 768.28, Florida Statutes.

6. In consideration of the provisions, promises, terms and conditions of this Agreement, Recipient UNCONDITIONALLY, FULLY AND FINALLY RELEASES AND FOREVER DISCHARGES the City from any and all lawsuits, claims, rights, damages, debts, obligations, liabilities, and causes of action, of any and every kind, nature, and character whatsoever, whether known or unknown, which he has, had, or may in the future claim to have based on any act or omission concerning any matter, cause, or thing arising out of this agreement.

7. Nothing in this Agreement shall be construed as an admission of wrongdoing by either party.

8. This Agreement constitutes the complete understanding between the Recipient and the City. Recipient acknowledges and declares that no other contract, promise or inducement has been made, whether oral or written. This Agreement shall supersede any and all other agreements, whether oral or written, made prior to the date of execution herein.

9. Recipient acknowledges that this Agreement voluntarily and on their own free will; fully understands all the terms of the Agreement; and that she has had sufficient and reasonable time to review the Agreement. Recipient further acknowledges that she is advised to consult an attorney prior to signing this Agreement. Recipient understands that whether or not they consult with an attorney is their decision.

10. If any provision of this Agreement is found invalid, or incapable of being enforced by reason of any law, rule or public policy, all other provisions shall, nevertheless, remain in full force and effect, and no provision herein shall be dependent upon any other provision.

11. This Agreement shall be construed and governed in accordance with the laws of Florida.

12. No ambiguity in this Agreement shall be construed against any party based upon a claim that the party drafted the ambiguous language.

13. This Agreement may only be modified, altered or rescinded pursuant to a subsequent written agreement, signed by both parties.

14. IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 813-780-000, EXT. 3543 OR CITYCLERK@ZEPHYRHILLS.FL.US OR CITY OF ZEPHYRHILLS, 5335 EIGHTH STREET, ZEPHYRHILLS, FLORIDA 33542.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

CITY OF ZEPHYRHILLS

RECIPIENT:

William C. Poe, Jr.
Signature

By: William C. Poe, Jr.
City Manager

Barbara R. Edyburn
Authorized Representative Signature

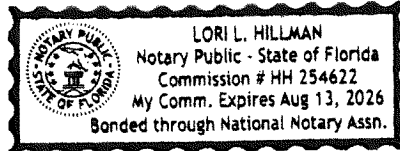
BARBARA EDYBURN
Print Name
DRIFTWOOD of ZEPHYRHILLS
By: CONDOMINIUM ASSOCIATION, INC.
Organization

Its: PRESIDENT-BOARD OF DIRECTORS
Representative Title

State of Florida

County of Tasco

The foregoing instrument was acknowledged before me this 20th day of April, 2013, by Barbara Ruth Edyburn who is personally known to me or has produced Florida Driver's License as identification.



Lori L. Hillman
Notary Public

Exhibit A

Costs/Charges:

- Normal Working Hours - Monday through Friday, 7am-3:30pm, excluding City Holidays
- Non-Normal Working Hour charges are to be calculated at 1 ½ (one and one half) times the Normal Working Hour Rates
- Minimum 1 (one) hour charge beginning at time of call out, and ending at completion of task, such as the return of vehicles and/or equipment and/or personnel to starting location

Employee:

- Normal working hour rate - \$25.00 per hour, per employee. Charged in half-hour increments

Equipment (employee(s) NOT included in cost):

- Vehicles (car, standard and/or utility truck, or similar) \$20.00 per hour, per vehicle. Charged in half-hour increments.
- Specialty Vehicles (Crane Truck, TV Truck, Flat Bed Truck, or similar) \$75.00 per hour. Charged in half-hour increments.
- Heavy Equipment (VacCon, Mini-Excavator, Backhoe, Loader, or similar) \$100.00 per hour, per piece of equipment. Charged in half-hour increments.

Materials:

- All materials used for repair, replacement, etc. shall be charged to the organization, resident, insurance company, etc. at the City's cost(s), plus 10% (ten percent) for administrative purposes.

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