

AGENDA  
ESCAMBIA COUNTY PLANNING BOARD  
QUASI-JUDICIAL HEARING  
February 4, 2020–8:30 a.m.  
Escambia County Central Office Complex  
3363 West Park Place, Room 104

1. Call to Order.
2. Pledge of Allegiance to the Flag.
3. Proof of Publication and Waive the Reading of the Legal Advertisement.
4. Approval of Minutes.
5. Acceptance of Rezoning Planning Board Meeting Packet.
6. Quasi-judicial Process Explanation.
  - A. Case #: Z-2020-01  
Applicant: Clint Geci, Agent for Kader, Inc., Owner  
Address: 7000 Blk Pine Forest Rd  
Property Size: 4.95 (+/-) acres  
From: Com, Commercial (25 du/acre)  
To: HC/LI-NA, Heavy Commercial and Light Industrial district,  
prohibiting the subsequent establishment of any microbreweries,  
microdistilleries, microwineries, bars, nightclubs, or adult  
entertainment uses (25 du/acre).
  - B. Case #: Z-2020-02  
Applicant: Curtis and Kelli Sumrock, Owner  
Address: 11545 Sorrento Rd  
Property Size: 18.78 (+/-) acres  
From: LDR, Low Density Residential district (4 du/acre)  
To: Com, Commercial district (25 du/acre)

7. Public Hearings.

8. Adjournment.



## Planning Board-Rezoning

6. A.

**Meeting Date:** 02/04/2020  
**CASE :** Z-2020-01  
**APPLICANT:** Clint Geci, Agent for Kader, Inc., Owner  
**ADDRESS:** 7000 Blk Pine Forest Rd (off)  
**PROPERTY REF. NO.:** 24-1S-31-4302-000-000  
**FUTURE LAND USE:** MU-U, Mixed-Use Urban  
**DISTRICT:** 1  
**OVERLAY DISTRICT:** N/A  
**BCC MEETING DATE:** 03/05/2020

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### **SUBMISSION DATA:**

#### **REQUESTED REZONING:**

FROM: Com, Commercial district (25 du/acre)

TO: HC/LI-NA, Heavy Commercial and Light Industrial district, prohibiting the subsequent establishment of any microbreweries, microdistilleries, microwineries, bars, nightclubs, or adult entertainment uses (25 du/acre)

#### **RELEVANT AUTHORITY:**

- (1) Escambia County Comprehensive Plan
- (2) Escambia County Land Development Code
- (3) Board of County Commissioners of Brevard County v. Snyder, 627 So. 2d 469 (Fla. 1993)
- (4) Resolution 96-34 (Quasi-judicial Proceedings)
- (5) Resolution 96-13 (Ex-parte Communications)

#### **APPROVAL CONDITIONS**

##### **Criterion a., LDC Sec. 2-7.2(b)(4)**

##### **Consistent with Comprehensive Plan**

The proposed zoning is consistent with the future land use (FLU) category as prescribed in LDC Chapter 3, and with all other applicable goals, objectives, and policies of the Comprehensive Plan. If the rezoning is required to properly enact a proposed FLU map amendment transmitted for state agency review, the proposed zoning is consistent with the proposed FLU and conditional to its adoption.

**CPP FLU 1.3.1** Future Land Use Categories The Mixed-Use Urban (MU-U) Future Land Use (FLU) category is intended for an intense mix of residential and nonresidential uses while promoting compatible infill development and the separation of urban and suburban land uses within the category as a whole. Range of allowable uses include: Residential, Retail and Services, Professional Office, Light Industrial, Recreational Facilities, Public and Civic. The maximum residential density is 25

dwelling units per acre.

**CPP FLU 1.5.1** New Development and Redevelopment in Built Areas. To promote the efficient use of existing public roads, utilities and service infrastructure, the County will encourage redevelopment in underutilized properties to maximize development densities and intensities located in the Mixed Use-Suburban, Mixed Use-Urban, Commercial and Industrial Future Land Use districts categories (with the exception of residential development).

## **FINDINGS**

The proposed amendment to HC/LI-NA is consistent with the intent and purpose of Future Land Use category MU-U as stated in CPP FLU 1.3.1.

### **Criterion b., LDC Sec. 2-7.2(b)(4)**

#### **Consistent with The Land Development Code**

The proposed zoning is consistent with the purpose and intent and with any other zoning establishment provisions prescribed by the proposed district in Chapter 3.

### **Sec. 3-2.10 Commercial district (Com).**

**(a) Purpose.** The **Commercial (Com)** district establishes appropriate areas and land use regulations for general commercial activities, especially the retailing of commodities and services. The primary intent of the district is to allow more diverse and intense commercial uses than the neighborhood commercial allowed within the mixed-use districts. To maintain compatibility with surrounding uses, all commercial operations within the Commercial district are limited to the confines of buildings and not allowed to produce undesirable effects on surrounding property. To retain adequate area for commercial activities, new and expanded residential development within the district is limited, consistent with the Commercial (C) future land use category.

### **Sec. 3-2.11 Heavy Commercial and Light Industrial district (HC/LI).**

**a) Purpose.** The Heavy Commercial and Light Industrial (HC/LI) district establishes appropriate areas and land use regulations for a complementary mix of industrial uses with a broad range of commercial activities. The primary intent of the district is to allow light manufacturing, large-scale wholesale and retail uses, major services, and other more intense uses than allowed in the Commercial district. The variety and intensity of non-residential uses within the HC/LI district is limited by the applicable FLU and their compatibility with surrounding uses. All commercial and industrial operations are limited to the confines of buildings and not allowed to produce undesirable effects on other property. To retain adequate area for commercial and industrial activities, other uses within the district are limited.

**(b) Permitted uses.** Permitted uses within the HC/LI district are limited to the following:

**(1) Residential.** Any residential uses outside of the Industrial (I) future land use category but if within the Commercial (C) future land use category (and not the principal single-family dwelling on an existing lot of record), only as part of a predominantly commercial development; and excluding new or expanded manufactured (mobile) home parks and subdivisions. See also conditional uses in this district.

**(2) Retail sales.** Retail sales, including Low-THC marijuana dispensing facilities, sales of alcoholic beverages, sales of automotive fuels, and sales of new and used automobiles, motorcycles, boats, and manufactured (mobile) homes.

**(3) Retail services.**

- a. Car washes, automatic or manual, full service or self-serve.
- b. Child care facilities.
- c. Hotels, motels and all other public lodging, including boarding and rooming houses.
- d. Personal services, including those of beauty shops, health clubs, pet groomers, dry cleaners and tattoo parlors.
- e. Professional services, including those of realtors, bankers, accountants, engineers, architects, dentists, physicians, and attorneys.
- f. Rental of automobiles, trucks, utility trailers and recreational vehicles.
- g. Repair services, including appliance repair, furniture refinishing and upholstery, watch and jewelry repair, small engine and motor services, and major motor vehicle and boat service and repair, but excluding outdoor work or storage.
- h. Restaurants and brewpubs, including on-premises consumption of alcoholic beverages, drive-in and drive-through service, and brewpubs with the distribution of on-premises produced alcoholic beverages for off-site sales. The parcel boundary of any restaurant or brewpub with drive-in or drive-through service shall be at least 200 feet from any LDR or MDR zoning district unless separated by a 50-foot or wider street right-of-way.
- i. Taxi and limousine services

See also conditional uses in this district.

**(4) Public and civic.**

- a. Broadcast stations with satellite dishes and antennas, including towers.
- b. Cemeteries, including family cemeteries.
- c. Community service facilities, including auditoriums, libraries, museums, and neighborhood centers.
- d. Educational facilities, including preschools, K-12, colleges, and vocational schools.
- e. Emergency service facilities, including law enforcement, fire fighting, and medical assistance.
- f. Funeral establishments.
- g. Homeless shelters.
- h. Hospitals.
- i. Offices for government agencies or public utilities.
- j. Places of worship.
- k. Public utility structures, including telecommunications towers, but excluding industrial uses not otherwise permitted.

See also conditional uses in this district.

**(5) Recreation and entertainment.**

- a. Commercial entertainment facilities, indoor or outdoor, including movie theatres, amusement parks, and stadiums, but excluding motorsports facilities.  
Carnival-type amusements shall be at least 500 feet from any residential district. Bars, nightclubs, and adult entertainment are prohibited in areas with the zoning designation HC/LI-NA or areas zoned ID-CP or ID-1 prior to adoption of HC/LI zoning.
- b. Commercial recreation facilities, passive or active, including those for walking, hiking, bicycling, camping, recreational vehicles, swimming, skateboarding,

bowling, court games, field sports, and golf, but excluding off-highway vehicle uses and outdoor shooting ranges. Campgrounds and recreational vehicle parks require a minimum lot area of five acres.

c. Marinas, private and commercial.

d. Parks, with or without permanent restrooms or outdoor event lighting.

See also conditional uses in this district.

**(6) Industrial and related.** The following industrial and related uses, except within MU-S.

a. Light industrial uses, including research and development, printing and binding, distribution and wholesale warehousing, and manufacturing, all completely within the confines of buildings and without adverse off-site impacts.

b. Marinas, industrial.

c. Microbreweries, microdistilleries, and microwineries, except in areas with the zoning designation HC/LI-NA.

See also conditional uses in this district.

**(7) Agricultural and related.**

a. Food produced primarily for personal consumption by the producer, but no farm animals.

b. Nurseries and garden centers, including adjoining outdoor storage or display of plants.

c. Veterinary clinics, excluding outside kennels.

See also conditional uses in this district.

**(8) Other uses.** Within MU-S, outside storage is permitted only when adequately screened per LDC regulations.

a. Billboards structures, excluding areas zoned ID-CP, GBD, or GID prior to adoption of HC/LI zoning.

b. Building or construction trades shops and warehouses, including on-site outside storage.

c. Bus leasing and rental facilities, not allowed within MU-S.

d. Deposit boxes for donation of used items when placed as an accessory structure on the site of a charitable organization.

e. Outdoor adjacent display of plants by garden shops and nurseries.

f. Outdoor sales.

g. Outdoor storage of trailered boats and operable recreational vehicles, excluding repair, overhaul or salvage activities.

h. Parking garages and lots, commercial, not allowed within MU-S.

i. Sales and outdoor display of prefabricated storage sheds.

j. Self-storage facilities, including vehicle rental as an accessory use

**(2) HC/LI-NA designation.** Any applicant for rezoning to the HC/LI zoning district may request a HC/LI-NA designation prohibiting the subsequent establishment of any microbreweries, microdistilleries, microwineries, bars, nightclubs, or adult entertainment uses on the rezoned property. The request shall be in the form of a notarized affidavit that acknowledges this use restriction and affirms that it is a voluntary request. Once approved according to the rezoning process of Chapter 2, the HC/LI-NA zoning designation and its prohibitions shall apply to the property, regardless of ownership, unless the parcel is rezoned.

## **FINDINGS**

The proposed amendment **is consistent** with the intent and purpose of the Land Development Code. The parcel is currently wooded and vacant, surrounded by commercial uses, public land and residential. The proposed zoning allows for light manufacturing limited to the confines of buildings, not to produce undesirable effects on other property. The subject parcel is adjacent to HC/LI parcels and if granted, the subject parcel will be an expansion of the current HC/LI property adjoining the subject parcel to the northwest. Access will be off of Pine Forest Rd.

### **Criterion c., LDC Sec. 2-7.2(b)(4)**

#### **Compatible with surrounding uses**

All the permitted uses of the proposed zoning, not just those anticipated by the rezoning applicant, are compatible, as defined in Chapter 6, with the surrounding uses. The uses of any surrounding undeveloped land shall be considered the permitted uses of the applicable district. Compatibility is not considered with potential conditional uses or with any nonconforming or unapproved uses. Also, in establishing the compatibility of a residential use, there is no additional burden to demonstrate the compatibility of specific residents or activities protected by fair housing law.

## **FINDINGS**

The proposed amendment is compatible with surrounding existing uses in the area. Within the 500 radius impact area, staff observed properties with zoning districts Com, Pub, HCLI, HC/LI-NA, HDMU. The request to HC/LI-NA is to allow the same use as the adjoining site parcel to the northwest, to allow an expansion of the 3.4 (+/-) acre; HC/LI parcel site to the west. To the south and adjacent to the subject parcel, there are many single-family homes which access Nathan Road. The primary access for the subject property is off Pine Forest Rd, and the existing buffering along the southern portion of the property is a requirement for any commercial activity adjacent to residential, which will be reviewed at the time of Site Plan Review.

### **Criterion d., LDC Sec. 2-7.2(b)(4)**

#### **Appropriate if spot zoning**

Where the proposed zoning would establish or reinforce a condition of spot zoning as defined in Chapter 6, the isolated district would nevertheless be transitional in character between the adjoining districts, or the differences with those districts would be minor or sufficiently limited. The extent of these mitigating characteristics or conditions demonstrates an appropriate site specific balancing of interests between the isolated district and adjoining lands.

**As per LDC Chapter 6, Spot Zoning is:** *Zoning applied to an area of land, regardless of its size, that is different from the zoning of all contiguous land. Such isolated or "spot" zoning is usually higher in its density or intensity of use than the adjoining zoning and may, therefore, extend privileges not generally extended to property similarly located in the area. Spot zoning is not by itself prohibited, but due to its potentially adverse impacts on adjoining zoning it carries a higher burden of demonstration that, if authorized, it will contribute to or result in logical and orderly development.*

## **FINDINGS**

The parcel is **not** considered as spot zoning due to the fact that the same zoning exists

and is adjoining the property to the north and west of the subject property.

**Criterion e., LDC Sec. 2-7.2(b)(4)**

**Appropriate with changed or changing conditions**

If the land uses or development conditions within the area surrounding the property of rezoning have changed, the changes are to such a degree and character that it is in the public interest to allow new uses, density, or intensity in the area through rezoning; and the permitted uses of the proposed district are appropriate and not premature for the area or likely to create or contribute to sprawl.

**FINDINGS**

The land uses or development conditions within the area surrounding the property of rezoning **have not** changed. The request to rezone to HC/LI-NA is in keeping with the existing HC/LI on the adjacent parcels and the request will allow the applicant to use this parcel as a continuation of his parcel adjoining to the northwest.

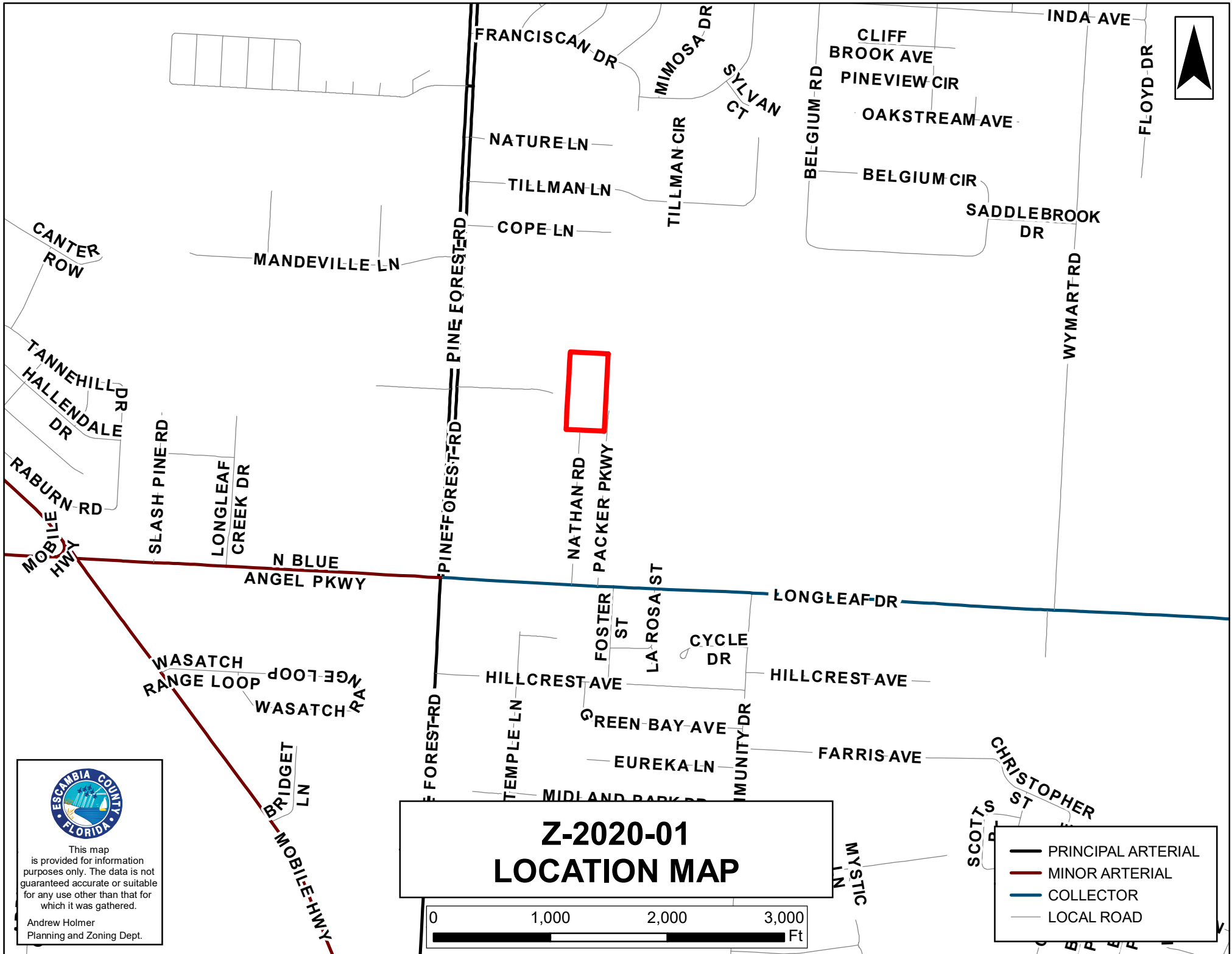
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**Attachments**

Working Case File

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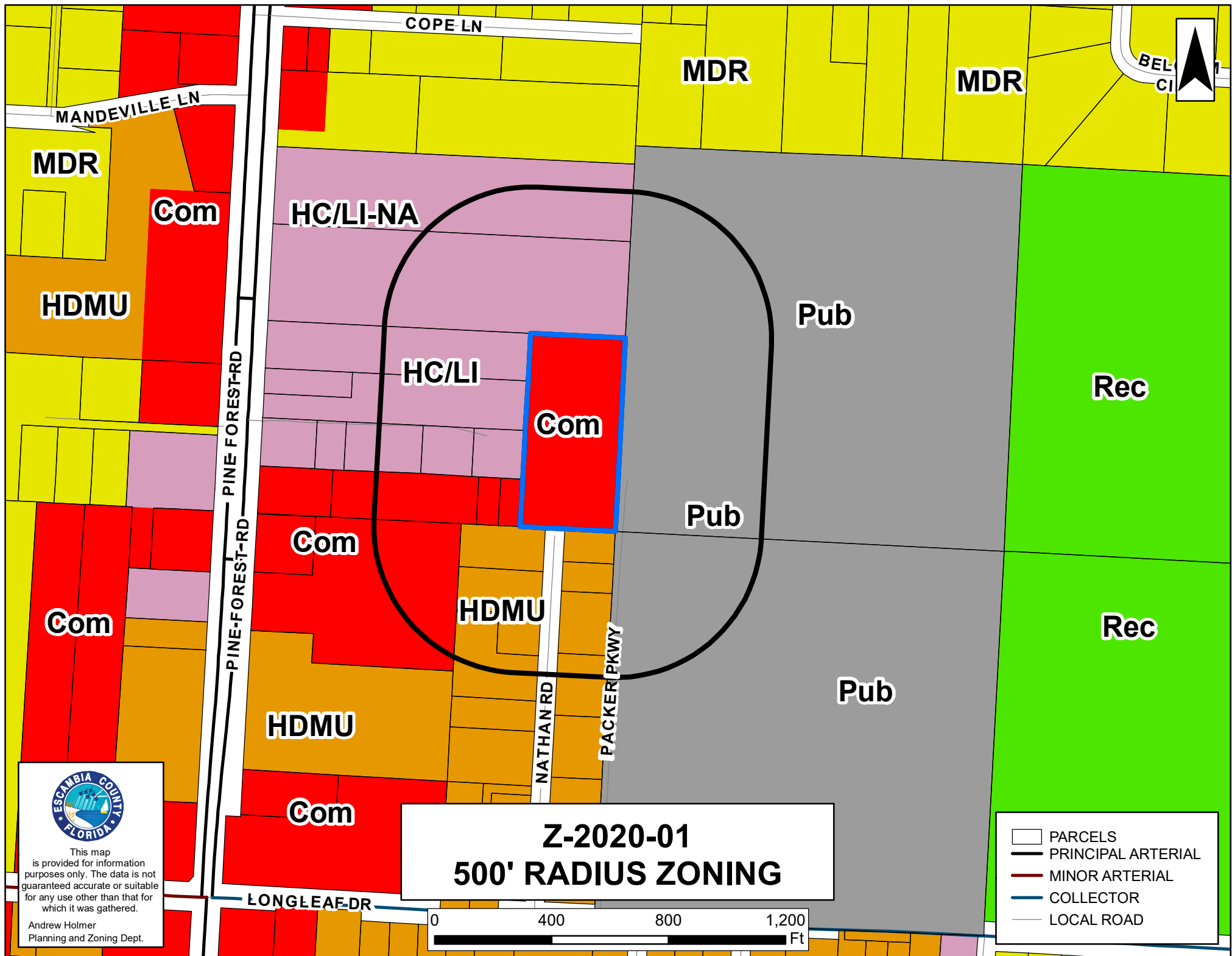
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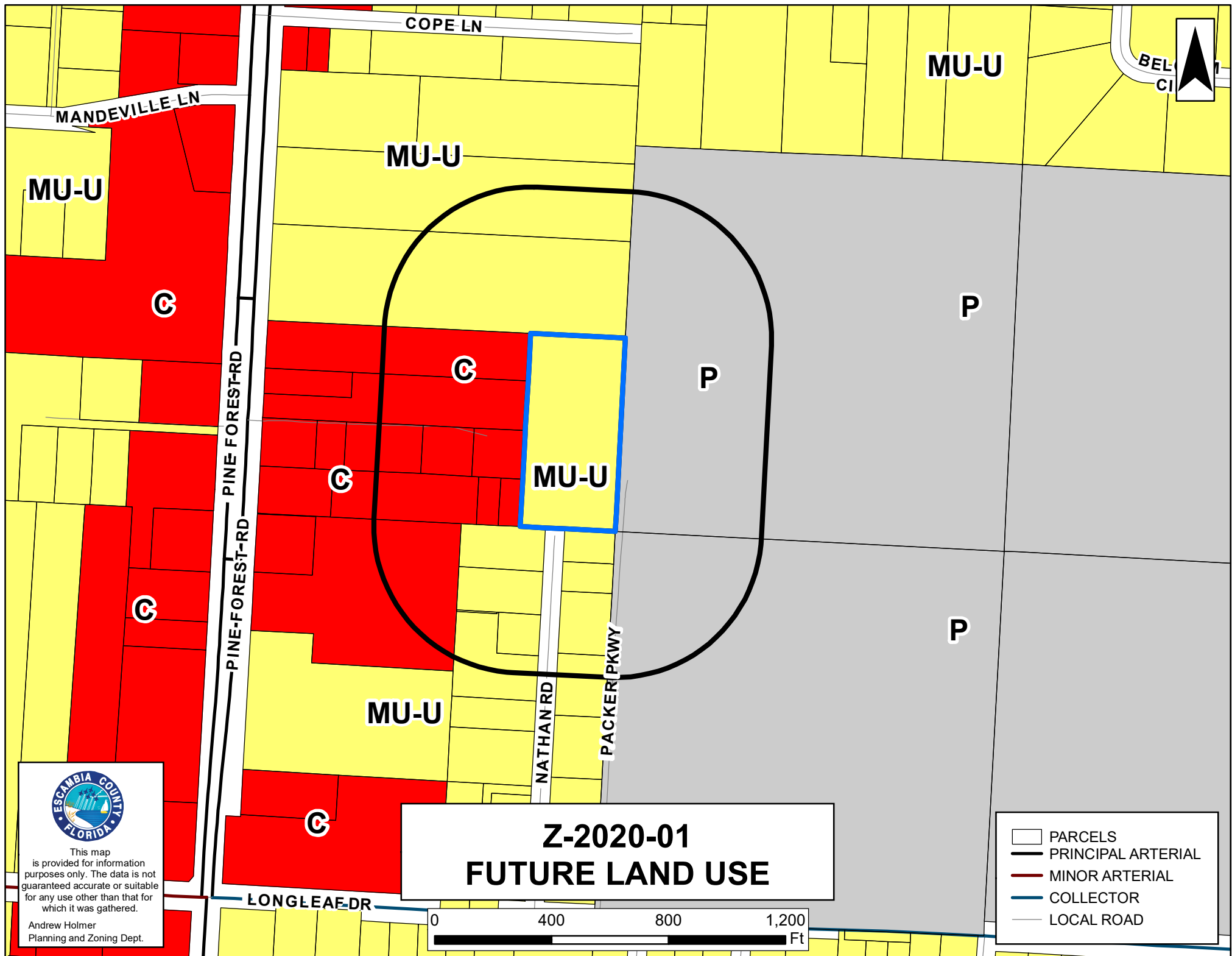


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Andrew Holmer  
Planning and Zoning Dept.

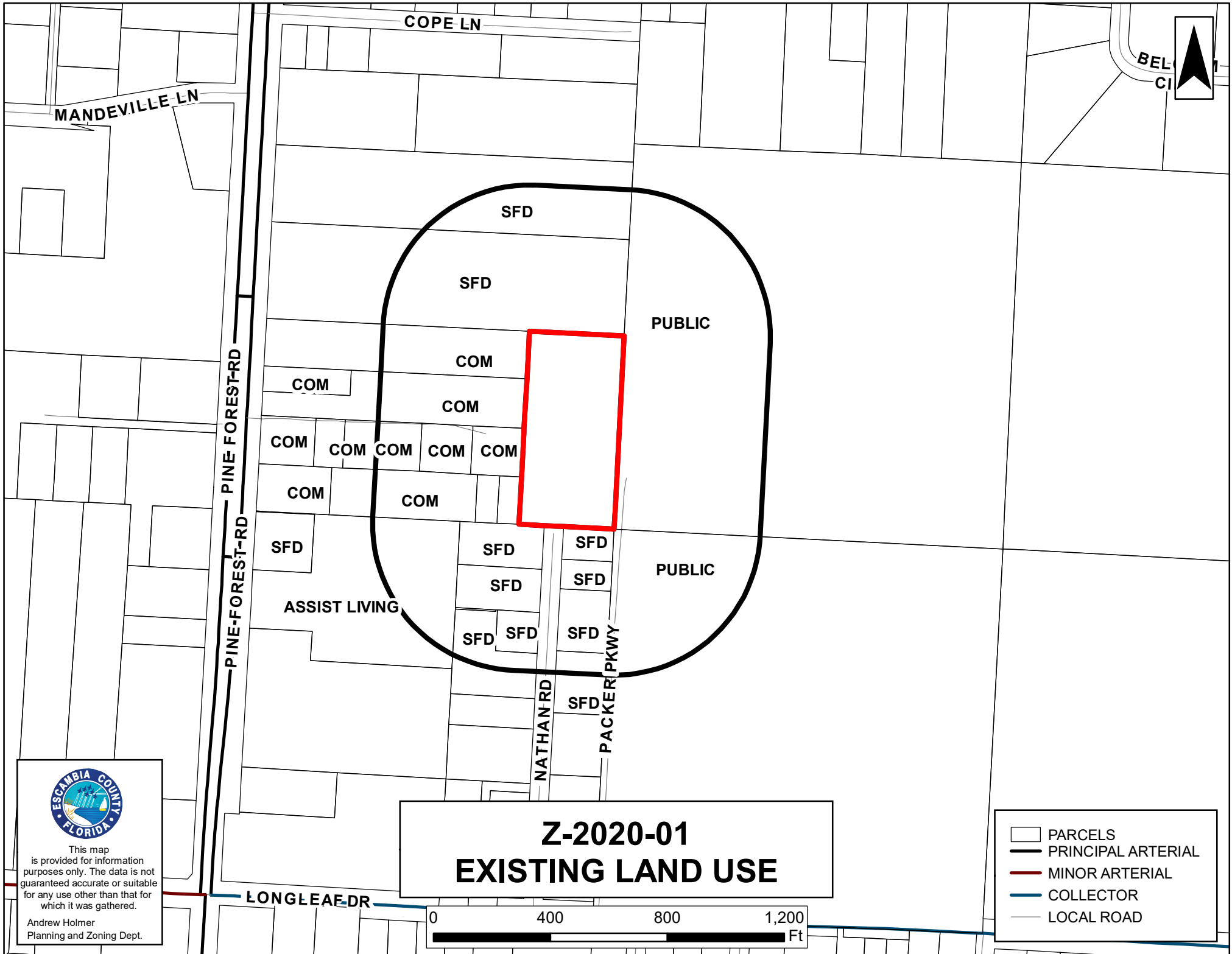






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Planning and Zoning Dept.



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Andrew Holmer  
Planning and Zoning Dept.

## Z-2020-01 EXISTING LAND USE

0 400 800 1,200  
Ft

- PARCELS
- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD





PINE FOREST RD

THAN RD

PACKER PKWY



This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

Andrew Holmer  
Planning and Zoning Dept.

# Z-2020-01 AERIAL MAP



- PARCELS
- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD





# NOTICE OF PUBLIC HEARING REZONING

CASE NO.: Z-2020-01

CURRENT ZONING: COM PROPOSED ZONING: HC/LI-NA

## PLANNING BOARD

DATE: 02/04/20 TIME: 8:30 a.m.

### LOCATION OF HEARING

ESCAMBIA COUNTY CENTRAL OFFICE COMPLEX  
3363 WEST PARK PLACE  
BOARD MEETING ROOM

## BOARD OF COUNTY COMMISSIONERS

DATE: 03/05/20 TIME: 5:45 p.m.

### LOCATION OF HEARING

ERNIE LEE MAGAHA GOVERNMENT BLDG  
221 PALAFOX PLACE  
1ST FLOOR BOARD MEETING ROOM

FOR MORE INFORMATION CALL:  
DEVELOPMENT SERVICES AT 595-3475 OR VISIT  
[WWW.MYESCAMBIA.COM](http://WWW.MYESCAMBIA.COM)

**PUBLIC HEARING SIGN OFF NATHAN ROAD**



# NOTICE OF PUBLIC HEARING REZONING

CASE NO.: Z-2020-01

CURRENT ZONING: COM PROPOSED ZONING: HC/LI-NA

## PLANNING BOARD

DATE: 02/04/20 TIME: 8:30 a.m.

### LOCATION OF HEARING

ESCAMBIA COUNTY CENTRAL OFFICE COMPLEX  
3363 WEST PARK PLACE  
BOARD MEETING ROOM

## BOARD OF COUNTY COMMISSIONERS

DATE: 03/05/20 TIME: 5:45 p.m.

### LOCATION OF HEARING

ERNIE LEE MAGAHA GOVERNMENT BLDG  
221 PALAFOX PLACE  
1ST FLOOR BOARD MEETING ROOM

FOR MORE INFORMATION CALL:  
DEVELOPMENT SERVICES AT 904-709-5500

PUBLIC HEARING SIGN ON PINE FOREST





**LOOKING NORTH FROM NATHAN ROAD**





**FROM NATHAN ROAD LOOKING NORTHWEST**









**LOOKING SOUTH ON NATHAN ROAD**





**LOOKING EAST FROM PINE FOREST ROAD**



**GECI & ASSOCIATES, INC.**  
**E N G I N E E R S**

December 17<sup>th</sup>, 2019

Ms. Allyson Lindsay  
Escambia County Engineering  
3363 West Park Place  
Pensacola, Florida 32501

RE: Parcel 24-1S-31-4302-000-000  
Rezoning Application Submittal

Dear Allyson:

On behalf of Kader, Inc., we are submitting a Rezoning Application for Parcel 24-1S-31-4302-000-000. With this letter, please find the following items:

1. One (1) complete, signed & notarized Rezoning Application
2. One (1) copy of the Warranty Deed and Corporation Info as proof of ownership
3. One (1) Certified copy of the Boundary Survey
4. One (1) check in the amount of \$1,275.50
5. One (1) CD containing all information listed above

Please let us know if you need any further information to complete your review.

Sincerely,

GECI AND ASSOCIATES ENGINEERS, INC.

A handwritten signature in blue ink, appearing to read 'Clint Geci', is written over the company name.

Clint Geci, PE  
Vice President



2-2020-01



## Escambia County Planning and Zoning

Development Services Department

3363 West Park Place

Pensacola, FL 32505

Phone: (850) 595-3475 • Fax: (850) 595-3481

<http://myescambia.com/business/ds>

### Rezoning Application

FOR OFFICE USE ONLY - Case Number: 2-2020-01 Accepted by: AL PB Meeting: 2/4/2020

#### 1. Contact Information:

A. Property Owner/Applicant: Kader, Inc.

Mailing Address: 7011 Pine Forest Road

Business Phone: 840-941-0270 Cell: \_\_\_\_\_

Email: wkader@superiorgranite.com

B. Authorized Agent (if applicable): Clint Geci (Geci & Associates Engineers, Inc.)

Mailing Address: 2950 N 12th Ave

Business Phone: 850-432-2929 Cell: \_\_\_\_\_

Email: clint@geciengineering.com

*Note: Owner must complete the attached Agent Affidavit. If there is more than one owner, each owner must complete an Agent Affidavit. Application will be voided if changes to this application are found.*

#### 2. Property Information:

A. Existing Street Address: 7000 BLK PINE FOREST RD (OFF) 32526

Parcel ID (s): 241S314302000000

B. Total acreage of the subject property: 4.95

C. Existing Zoning: Com

Proposed Zoning: HC/LI -NA; explain why necessary and/or appropriate  
Zoning to HC/LI is necessary to facilitate manufacturing warehousing  
which is the proposed land use for the subject property.

FLU Category: MU-U

D. Is the subject property developed (if yes, explain): \_\_\_\_\_  
The subject property is undeveloped.

E. Sanitary Sewer:   X   Septic:       

**3. Amendment Request**

**Approval conditions.** The applicant has the burden of presenting competent substantial evidence to the reviewing board establishing that the requested zoning district would contribute to or result in a logical and orderly development pattern. The appropriate surrounding area within which uses and conditions must be considered may vary with those uses and conditions and is not necessarily the same area required for mailed notification. A logical and orderly pattern shall require demonstration of each of the following conditions:

**Please address ALL the following approval conditions for your rezoning request. (use supplement sheets as needed)**

- a. **Consistent with Comprehensive Plan.** The proposed zoning is consistent with the future land use (FLU) category as prescribed in LDC Chapter 3, and with all other applicable goals, objectives, and policies of the Comprehensive Plan. If the rezoning is required to properly enact a proposed FLU map amendment transmitted for state agency review, the proposed zoning is consistent with the proposed FLU and conditional to its adoption.

The FLU for the subject property is Mixed-Use Urban (MU-U) which intends for an intense mix of residential and non-residential uses. MU-U allows for commercial & light industrial uses with a maximum Floor Area Ratio of 2.0. As the permitted uses of HC/LI-NA zoning are allowable under MU-U, the proposed zoning designation is consistent with the Future Land Use.

- b. **Consistent with zoning district provisions.** The proposed zoning is consistent with the purpose and intent and with any other zoning establishment provisions prescribed by the proposed district in Chapter 3

Per LDC Sec. 3-2.11, the primary intent of zoning district HC/LI-NA "is to allow light manufacturing, large-scale wholesale and retail uses, major services, and other more intense uses than allowed in the commercial district". Light industrial operations will be limited to the confines of the building(s) and will not produce undesirable effects on other property. Any proposed land use for the subject property will be consistent with the zoning district provisions.

- c. **Compatible with surroundings.** All of the permitted uses of the proposed zoning, not just those anticipated by the rezoning applicant, are compatible, as defined in Chapter 6, with the surrounding uses. The uses of any surrounding undeveloped land shall be considered the permitted uses of the applicable district. Compatibility is not considered with potential conditional uses or with any nonconforming or unapproved uses. Also, in establishing the compatibility of a residential use, there is no additional burden to demonstrate the compatibility of specific residents or activities protected by fair housing law.

The surrounding uses are single-family residential, school, & warehouse. Parcels lying to the west are zoned HC/LI and are light industrial use. The permitted uses of HC/LI are residential, retail sales, retail services, public/civic, recreation and entertainment, light industrial, & agricultural; all of the listed permitted uses of HC/LI are compatible with the existing adjacent uses. Vegetative landscape buffers and fencing will be installed to buffer different land uses. Access to Nathan Rd will be restricted to eliminate truck traffic on the residential street.

- d. **Appropriate if spot zoning.** Where the proposed zoning would establish or reinforce a condition of spot zoning as defined in Chapter 6, the isolated district would nevertheless be transitional in character between the adjoining districts, or the differences with those districts would be minor or sufficiently limited. The extent of these mitigating characteristics or conditions demonstrates an appropriate site-specific balancing of interests between the isolated district and adjoining lands.

*As per LDC Chapter 6, Spot Zoning is: Zoning applied to an area of land, regardless of its size, that is different from the zoning of all contiguous land. Such isolated or "spot" zoning is usually higher in its density or intensity of use than the adjoining zoning and may, therefore, extend privileges not generally extended to property similarly located in the area. Spot zoning is not by itself prohibited, but due to its potentially adverse impacts on adjoining zoning it carries a higher burden of demonstration that, if authorized, it will contribute to or result in logical and orderly development*

N/A - No spot Zoning will exist.

- e. **Appropriate with changed or changing conditions.** If the land uses or development conditions within the area surrounding the property of rezoning have changed, the changes are to such a degree and character that it is in the public interest to allow new uses, density, or intensity in the area through rezoning; and the permitted uses of the proposed district are appropriate and not premature for the area or likely to create or contribute to sprawl.

New uses allowed by the proposed zoning will be appropriate with the area surrounding the property given the adjacent zoning and land use types. The subject parcel is the only parcel in the vicinity undeveloped, therefore the rezoning will not create or contribute to sprawl.

4. Please complete the following Forms: Concurrency Determination Acknowledgement and Affidavit of Owner/Limited Power of Attorney (if applicable).

CONCURRENCY DETERMINATION ACKNOWLEDGMENT

Property Reference Number(s): 241S314302000000

Property Address: 7000 BLK PINE FOREST RD (OFF), 32526

I/We acknowledge and agree that no future development for which concurrency of required facilities and services must be certified shall be approved for the subject parcel(s) without the issuance of a certificate of concurrency for the development based on the actual densities and intensities proposed in the future development's permit application.

I/We also acknowledge and agree that approval of a zoning district amendment (rezoning) or Future Land Use Map amendment does not certify, vest, or otherwise guarantee that concurrency of required facilities and services is, or will be, available for any future development of the subject parcels.

I/We further acknowledge and agree that no development for which concurrency must be certified shall be approved unless at least one of the following minimum conditions of the Comprehensive Plan will be met for each facility and service of the County's concurrency management system prior to development approval:

- a. The necessary facilities or services are in place at the time a development permit is issued.
- b. A development permit is issued subject to the condition that the necessary facilities and services will be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
- c. For parks and recreation facilities and roads, the necessary facilities are under construction at the time the development permit is issued.
- d. For parks and recreation facilities, the necessary facilities are the subject of a binding executed contract for the construction of the facilities at the time the development permit is issued and the agreement requires that facility construction must commence within one year of the issuance of the development permit.
- e. The necessary facilities and services are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, F.S., or as amended, or an agreement or development order issued pursuant to Chapter 380, F.S., or as amended. For wastewater, solid waste, potable water, and stormwater facilities, any such agreement will guarantee the necessary facilities and services to be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
- f. For roads, the necessary facilities needed to serve the development are included in the first three years of the applicable Five-Year Florida Department of Transportation (FDOT) Work Program or are in place or under actual construction no more than three years after the issuance of a County development order or permit.

I HEREBY ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND AND AGREE WITH THE ABOVE STATEMENT ON THIS 16<sup>th</sup> DAY OF December, YEAR OF 2019

  
Signature of Property Owner

Waleed Kado  
Printed Name of Property Owner

12/16/19  
Date

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Printed Name of Property Owner

\_\_\_\_\_  
Date



**AFFIDAVIT OF OWNER AND LIMITED POWER OF ATTORNEY**  
(if applicable)

As owner of the property located at 7000 BLK PINE FOREST RD (OFF), 32526  
\_\_\_\_\_, Florida, property reference number(s) 241S314302000000  
\_\_\_\_\_ I hereby designate Clint Geci  
\_\_\_\_\_ for the sole purpose of completing this application and making  
a presentation to the Planning Board and the Board of County Commissioners to request a rezoning on  
the above referenced property. This Limited Power of Attorney is granted on this \_\_\_\_\_ day of \_\_\_\_\_  
the year of, \_\_\_\_\_, and is effective until the Board of County Commissioners or the Board of  
Adjustment has rendered a decision on this request and any appeal period has expired. The owner  
reserves the right to rescind this Limited Power of Attorney at any time with a written, notarized notice  
to the Development Services Bureau.

Agent Name: Clint Geci Email: clint@geciengineering.com  
Address: 2950 N 12th Ave, Pensacola, FL 32503 Phone: 850-432-2929

  
Signature of Property Owner

Walter Kader  
Printed Name of Property Owner

12/16/19  
Date

Signature of Property Owner

Printed Name of Property Owner

Date \_\_\_\_\_

STATE OF Florida COUNTY OF Escambia  
The foregoing instrument was acknowledged before me this 16th day of December 2019,  
by Waleed Kader.

Personally Known ☒ OR Produced Identification ☐. Type of Identification Produced:

Rebecca Harrell  
Signature of Notary

Deborah Harrell

Printed Name of Notary



(Notary Seal)

## 5. Submittal Requirements

- A. ☒ Completed application: All applicable areas of the application shall be filled in and submitted to the Planning and Zoning Department, 3363 West Park Place, Pensacola, FL 32505.
- B. ☒ Application Fees: To view fees visit the website:  
<http://myescambia.com/business/ds/planning-board> or contact us at 595-3547

Note: Application fees include a \$5 technical fee. Cost of the public notice mailing is to be borne by the applicant. Payments must be submitted prior to 3 pm of the closing date of acceptance of application. Please make checks payable to Escambia County. MasterCard and Visa are also accepted (a 3% fee will be added for credit card payments).

- C. ☒ Legal Proof of Ownership (ex: copy of Tax Notice or Warranty Deed) AND a Certified Boundary Survey (Include Corporation/LLC documentation if applicable.)
- D. NA Compatibility Analysis (if applicable): If the subject property does not meet the roadway requirements of Locational Criteria, a compatibility analysis prepared by the applicant is required to provide substantial evidence of unique circumstances regarding the parcel or use that were not anticipated by the alternative criteria. (See "Documented Compatibility" within the request zoning district of the LDC.)
- E. ☒ Signed and Notarized Affidavit of Owner/Limited Power of Attorney AND Concurrency Determination Acknowledgement (pages 4 and 5).

By my signature, I hereby certify that:

- 1) I am duly qualified as owner(s) or authorized agent to make such application, this application is of my own choosing, and staff has explained all procedures relating to this request; and
- 2) All information given is accurate to the best of my knowledge and belief, and I understand that deliberate misrepresentation of such information will be grounds for denial or reversal of this application and/or revocation of any approval based upon this application; and
- 3) I understand that there are no guarantees as to the outcome of this request, and that the application fee is non-refundable; and
- 4) I authorize County staff to enter upon the property referenced herein at any reasonable time for purposes of site inspection and authorize placement of a public notice sign(s) on the property referenced herein at a location(s) to be determined by County staff; and
- 5) I am aware that Public Hearing notices (legal ad and/or postcards) for the request shall be provided by the Development Services Bureau.

Signature of Owner/Agent

Printed Name Owner/Agent

Date

Signature of Owner

Printed Name of Owner

Date

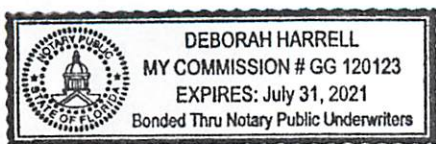
STATE OF Florida COUNTY OF Escambia The foregoing instrument was acknowledged before me this 16th day of December 20 19, by Waleed Kader.

Personally Known ☒ OR Produced Identification ☐ Type of Identification Produced: \_\_\_\_\_

Signature of Notary

Printed Name of Notary

(notary seal)





**Development Services Department**  
Escambia County, Florida

FOR OFFICE USE:

CASE #:

**AFFIDAVIT OF ACKNOWLEDGEMENT**

As applicant for rezoning of the property located at 7000 Blk Pine Forest Road (Off) 32526  
, Florida, property reference number(s) 24-1S-31-4302-000-000

I affirm this to be a voluntary request and hereby acknowledge if  
this parcel is designated HC/LI-NA, then notwithstanding any other provision of LDC Chapter 3  
Sec. 3-2.11, bars, nightclubs, and adult entertainment uses shall be prohibited uses for this  
parcel.

Applicant Name: Clint Geci Email: clint@geciengineering.com  
Address: 2950 N 12th Ave, Pensacola, FL 32503 Phone: 850-432-2929

Signature of Applicant

Clint Geci

Printed Name of Applicant

Waleed Kader

Date

1/8/2020

Signature of Property Owner

Printed Name of Property Owner

Date

STATE OF Florida

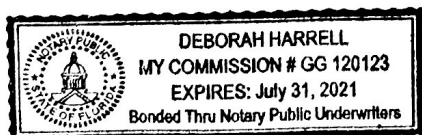
COUNTY OF Escambia

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of Jan 2020,  
by Waleed Kader.

Personally Known ☒ Or Produced Identification ☐. Type of Identification Produced:

Deborah Harrell  
(Notary Seal)  
Signature of Notary

Deborah Harrell  
Printed Name of Notary



Prepared by:  
Mark A. Violette, an employee of  
Mark A. Violette, P.A.,  
36008 Emerald Coast Parkway, Suite 201  
Destin, Florida 32541

File Number: 19-136KW

## Warranty Deed

**This Warranty Deed** is made this November 8, 2019 A.D. between Pensacola Properties Investments Group, LLC, a Florida limited liability company whose post office address is: 36008 Emerald Coast Pkwy, Suite 201, Destin, Florida 32541 a corporation existing under the laws of the State of Florida, (hereinafter referred to as "Grantor") and Kader, Inc., Florida corporation whose post office address is: 7011 Pine Forest Road, Pensacola, Florida 32526, (hereinafter referred to as "Grantee"),

**Witnesseth**, that the said Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), to it in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee forever, the following described land, situate, lying and being in the County of Escambia, State of Florida, to wit:

A PORTION OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 1 SOUTH, RANGE 31 WEST, ESCAMBIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: BEGINNING AT AN IRON PIPE AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 24; THENCE NORTH 88°18'42" WEST, ALONG THE SOUTH LINE OF SAID SECTION 326.78 FEET; THENCE NORTH 1°42'40" EAST, 665.56 FEET; THENCE SOUTH 88°18'28" EAST, 327.72 FEET TO THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION; THENCE SOUTH 1°47'30" WEST ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 665.54 FEET TO THE POINT OF BEGINNING.

Subject to taxes for the current year, covenants, restrictions and easements of record, if any.  
Parcel Identification Number: 241S314302000000

**And** the said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

**In Witness Whereof**, the said Grantor has caused this instrument to be executed in its name by its duly authorized officer and caused its corporate seal to be affixed the day and year first above written.

Pensacola Properties Investments Group, LLC

By: \_\_\_\_\_

Jay Patel  
Its: Manager

**Signed and Sealed in Our Presence:**

*M. Violette*

First Witness Signature above  
Witness Print Name: \_\_\_\_\_

*Kelly Helmsstetter*

Second Witness Signature above  
Witness Print Name: \_\_\_\_\_

*Kelly Helmsstetter*

State of Florida  
County of Okaloosa

(Corporate Seal)

The foregoing instrument was acknowledged before me this 8th day of November, 2019, by Jay Patel, the Manager of Pensacola Properties Investments Group, LLC, a Florida limited liability company, on behalf of the company. He is personally known to me.



MARK VIOLETTE  
MY COMMISSION # GG 012320  
EXPIRES: November 15, 2020  
Bonded Thru Budget Notary Services

*M. Violette*

Notary Public

Notary Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

(Seal)



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

## Detail by Entity Name

Florida Profit Corporation

KADER, INC.

### Filing Information

**Document Number** P04000051379  
**FEI/EIN Number** 77-0628176  
**Date Filed** 03/19/2004  
**Effective Date** 04/01/2004  
**State** FL  
**Status** ACTIVE

### Principal Address

7011 PINE FOREST ROAD  
PENSACOLA, FL 32526

Changed: 01/13/2015

### Mailing Address

7011 PINE FOREST ROAD  
PENSACOLA, FL 32526

Changed: 04/18/2011

### Registered Agent Name & Address

KADER, SAED  
8544 FOXTAIL LOOP  
PENSACOLA, FL 32526

Address Changed: 04/18/2014

### Officer/Director Detail

#### **Name & Address**

Title D

KADER, SAED  
8544 FOXTAIL LOOP  
PENSACOLA, FL 32526

Title D

KADER, MAHER  
8871 SPIDER HILL WAY

PENSACOLA, FL 32526

Title D

KADER, WALEED  
5900 DAHOON DRIVE  
PENSACOLA, FL 32526

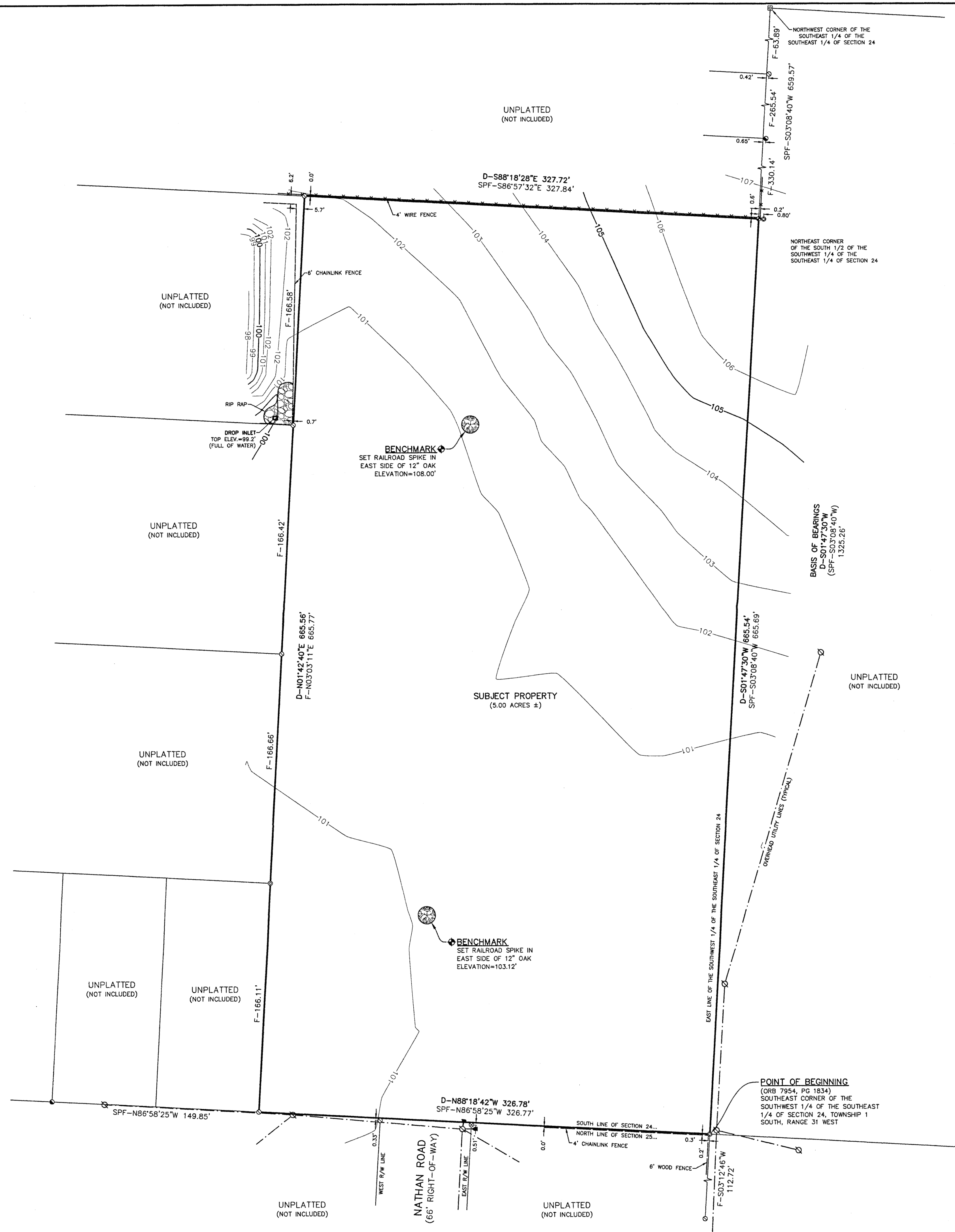
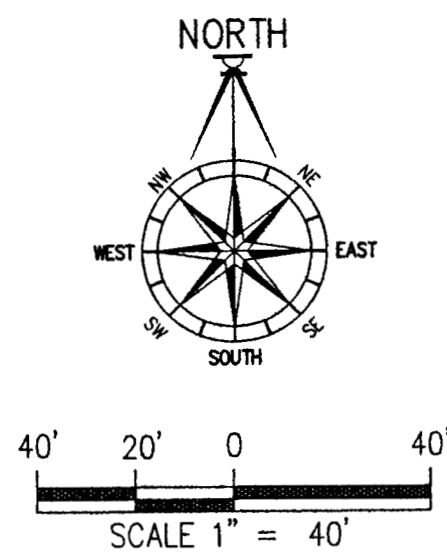
#### Annual Reports

Report Year	Filed Date
2017	03/01/2017
2018	02/13/2018
2019	02/11/2019

#### Document Images

<a href="#">02/11/2019 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/13/2018 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/01/2017 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/24/2016 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">01/13/2015 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/18/2014 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">01/25/2013 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/26/2012 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/18/2011 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/30/2010 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/23/2009 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/03/2008 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/26/2007 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/28/2006 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/15/2005 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/19/2004 -- Domestic Profit</a>	<a href="#">View image in PDF format</a>





DESCRIPTION: (OFFICIAL RECORDS BOOK 7954, PAGE 1834)

A PORTION OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 1 SOUTH, RANGE 31 WEST, ESCAMBA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:  
BEGINNING AT AN IRON PIPE AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 24;  
THENCE NORTH 88°18'42" WEST, ALONG THE SOUTH LINE OF SAID SECTION 326.78 FEET;  
THENCE NORTH 142°40' EAST, 665.56 FEET;  
THENCE SOUTH 88°18'28" EAST, 327.72 FEET OF THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION;  
THENCE SOUTH 142°30' WEST ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 665.54 FEET TO THE POINT OF BEGINNING.

SURVEYORS NOTES:

-THE MAP OF SURVEY AS SHOWN HEREON IS A BOUNDARY AND TOPOGRAPHIC SURVEY FOR WHICH PURPOSE IS TO DEFINE THE RECORD BOUNDARY ON THE GROUND BY RETRACEMENT OF THE RECORD DEED, RECOVERY, AND/OR PLACEMENT OF MONUMENTATION OF SAID BOUNDARY, AND ALSO; VERTICALLY DEPICT GROUND SURFACE ELEVATIONS BY SPOT ELEVATIONS, AND/OR 1.0 FOOT CONTOUR INTERVALS RELATIVE TO MEAN SEA LEVEL, AND ALSO; LOCATE HORIZONTALLY AND VERTICALLY, DIMENSIONALLY MEASURED FIXED PERTINENT STORMWATER STRUCTURES AND VISIBLE SURFACE FEATURE UTILITIES AND ALSO; GRAPHICALLY DEPICT FIXED NON-PERTINENT VISIBLE SURFACE FEATURE IMPROVEMENTS TO SCALE AND THEIR RELATIONSHIP TO THE BOUNDARY, PREPARED FOR THE CLIENT AS SHOWN AND IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT PRIOR CONSENT FROM THIS SURVEYOR.  
-BASIS OF STATE PLANE FIELD BEARINGS, GRID NORTH AND THOSE BEARINGS AS SHOWN HEREON ARE REFERENCED TO THE STATE PLANE GRID BEARING OF S03°08'40"W ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 24 AS MONUMENTED. THE SURVEY DATUM SHOWN HEREON IS BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM (FLORIDA NORTH ZONE) - (NAD83) - (2011) - (EPOCH 2010.0000).  
-BASIS OF RECORD BEARINGS, NORTH AND THOSE RECORD BEARINGS AS SHOWN HEREON ARE REFERENCED TO THE RECORD BEARING OF S01°47'30"W ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 24 AS MONUMENTED.  
-THE BEARING EQUATION, DIFFERENCE BETWEEN STATE PLANE GRID AND RECORD OF THE SURVEY AS SHOWN HEREON IS 01°21'10". AS BOTH CANNOT RETAIN THEIR INTEGRITY BY ROTATION OF ONE INTO THE OTHER ARE DIFFERENTIATED FOR CLIENTS NEEDS AND DUE DILIGENCE TO THE LATTER, FOR RECORD INTENTS AND PURPOSES.  
-VERTICAL DATA AS SHOWN HEREON ARE BASED ON STATIC GPS/GNSS OBSERVATIONS AND IN PART, THROUGH THE FFRN, CORS REFERENCE STATION NETWORK, PROCESSED UTILIZING THE NGS OPUS SOFTWARE. DATA REDUCED IN METERS AND CONVERTED TO THE UNITED STATES STANDARD SURVEY FEET. ELEVATIONS ARE DETERMINED USING THE GEOID 12B MODEL, AND ARE RELATIVE TO NAVD 88 WITH ACCURACIES TO 2-3 CM. ELEVATIONS DEPICTED WITHIN THIS SURVEY ARE SUB-CM INFORMATIONAL PURPOSES ONLY AND MAY NOT MEET THE ACCURACY REQUIREMENTS TO SURVEY STANDARDS.  
-ALL MEASUREMENTS WERE MADE IN ACCORDANCE WITH THE UNITED STATES STANDARD SURVEY FOOT.  
-NO TITLE SEARCH WAS PERFORMED BY THIS SURVEYOR, NOR WAS KJM LAND SURVEYING, LLC PROVIDED WITH SAME.  
-NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHTS-OF-WAYS, AND/OR OWNERSHIPS WERE PROVIDED TO THIS SURVEYOR, EXCEPT AS SHOWN.  
-NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED, EXCEPT AS SHOWN.  
-UNLESS OTHERWISE NOTED RECORD AND MEASURED CALLS AGREE.  
-THE SURVEY ERROR OF CLOSURE MEETS THE SURVEY STANDARDS OF PRACTICE.  
-THERE MAY BE ADDITIONAL RESTRICTIONS AFFECTING THE SUBJECT PROPERTY THAT MAY BE FOUND RECORDED IN THE PUBLIC RECORDS OF ESCAMBA COUNTY, FLORIDA THAT DO NOT APPEAR ON THE FACE OF THIS MAP.  
-REFERENCE SOURCE: IN FIELD DATA GATHERING OF EXISTING PROJECT SITE FIELD MONUMENTATION; COPY OF ESCAMBA COUNTY PROPERTY APPRAISERS MAP OF SECTION 24.  
-ENCROACHMENTS ARE AS SHOWN.  
-FENCES MAY BE EXAGGERATED FOR CLARITY PURPOSES.  
-THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP NOR AN ENCROACHMENT OF FENCES, WALLS, ETC.  
-THE CERTIFICATE OF AUTHORIZATION NUMBER FOR KJM LAND SURVEYING, LLC, IS L.B. 8298.  
-THIS SURVEY MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS & MAPPERS IN CHAPTER 5J-17.050, 5J-17.051 AND 5J-17.052, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.  
-IT IS OF THE OPINION OF THE UNDERSIGNED SURVEYOR THAT THE PARCEL OF LAND SHOWN HEREON IS AS PER THE FLOOD INSURANCE RATE MAP INFORMATION IS AS FOLLOWS:

NFIP COMMUNITY NAME: ESCAMBA COUNTY UNINCORPORATED AREAS  
COMMUNITY NUMBER: 120080  
ZONE: "X"  
ELEVATION: N/A  
PANEL NUMBER: 12033C 0360 G  
AS DATED: 09/29/2008

LEGEND:

- - FOUND PLAIN 4"x4" CONCRETE MONUMENT
- - FOUND 5/8" D.O.T. CAPPED IRON ROD
- - FOUND 1/2" CAPPED IRON ROD #4082
- - FOUND ILLEGIBLE 1/2" CAPPED IRON ROD
- - FOUND PLAIN 1/2" IRON ROD
- - FOUND PLAIN 1" IRON PIPE
- - FOUND PLAIN 1/2" IRON PIPE
- - SET 1/2" CAPPED IRON ROD L.B. #7919
- - POWER POLE WITH GUY ANCHOR
- - OVERHEAD UTILITY LINES

ABBREVIATIONS:

- PSM - PROFESSIONAL SURVEYOR
- AND MAPPER
- L.B. - LICENSED BUSINESS
- R/W - RIGHT-OF-WAY
- D - DEED
- F - FIELD
- NFIP - NATIONAL FLOOD INSURANCE PROGRAM
- N/A - NOT APPLICABLE
- D.O.T. - DEPARTMENT OF TRANSPORTATION
- RCP - REINFORCED CONCRETE PIPE
- CPP - CORRUGATED PLASTIC PIPE
- FFRN - FLORIDA FERNETWORK REFERENCE NETWORK
- CORS - CONTINUOUSLY OPERATING REFERENCE STATION
- NAVD - NORTH AMERICAN VERTICAL DATUM
- CM - CENTIMETER
- GPS - GLOBAL POSITIONING SYSTEM
- GNSS - GLOBAL NAVIGATIONAL SATELLITE SYSTEM
- SPF - STATE PLANE FIELD
- NGS - NATIONAL GEODETIC SURVEY
- OPUS - ONLINE USER POSITIONING SERVICE

ADDRESS: NATHAN ROAD	
REQUESTED BY: WALLY KADER	
TYPE: BOUNDARY AND TOPOGRAPHIC SURVEY	
SECTION 24, TOWNSHIP 1 SOUTH, RANGE 31 WEST, ESCAMBA COUNTY, FLORIDA	
SCALE: 1"=40'	FIELD BOOK: 665
DATE: 05/02/19	PAUSE: 21-24
NO.:	REVISIONS:
1	12/11/19
TOPOGRAPHIC SURVEY - F.B. #178, PG. 12-11-19	
APPROVED BY: [Signature]	
MICHAEL WATTS, PSM #5458	
CORPORATE NO. LB 0008298	
STATE OF FLORIDA	
12-11-19	
DRAWING NUMBER: 19-18198	



## Planning Board-Rezoning

6. B.

**Meeting Date:** 02/04/2020  
**CASE :** Z-2020-02  
**APPLICANT:** Curtis and Kelli Sumrock, Owners  
**ADDRESS:** 11545 Sorrento Rd  
**PROPERTY REF. NO.:** 12-3S-31-3301-000-000  
**FUTURE LAND USE:** MU-S, Mixed-Use Suburban  
**DISTRICT:** 2  
**OVERLAY DISTRICT:** N/A  
**BCC MEETING DATE:** 03/05/2020

---

### **SUBMISSION DATA:**

#### **REQUESTED REZONING:**

**FROM:** LDR, Low Density Residential district (4 du/acre)

**TO:** Com, Commercial district (25 du/acre)

#### **RELEVANT AUTHORITY:**

- (1) Escambia County Comprehensive Plan
- (2) Escambia County Land Development Code
- (3) Board of County Commissioners of Brevard County v. Snyder, 627 So. 2d 469 (Fla. 1993)
- (4) Resolution 96-34 (Quasi-judicial Proceedings)
- (5) Resolution 96-13 (Ex-parte Communications)

#### **APPROVAL CONDITIONS**

##### **Criterion a., LDC Sec. 2-7.2(b)(4)**

##### **Consistent with Comprehensive Plan**

The proposed zoning is consistent with the future land use (FLU) category as prescribed in LDC Chapter 3, and with all other applicable goals, objectives, and policies of the Comprehensive Plan. If the rezoning is required to properly enact a proposed FLU map amendment transmitted for state agency review, the proposed zoning is consistent with the proposed FLU and conditional to its adoption.

**CPP FLU 1.3.1 Future Land Use Categories.** The MU-S category is intended for a mix of residential and non-residential uses while promoting compatible infill development and the separation of urban and suburban land uses.

Range of Allowable Uses: Residential, retail sales & services, professional office, recreational facilities, public and civic, limited agriculture. The maximum residential



density is 25 dwelling units per acre.

**CPP FLU 1.5.1 New Development and Redevelopment in Built Areas.** To promote the efficient use of existing public roads, utilities and service infrastructure, the County will encourage redevelopment in underutilized properties to maximize development densities and intensities located in the Mixed Use-Suburban, Mixed Use-Urban, Commercial and Industrial Future Land Use districts categories (with the exception of residential development).

## **FINDINGS**

From an objective point of view, the proposed amendment to Commercial is **consistent** with the intent and purpose of Future Land Use category MU-S, as stated in CPP FLU 1.3.1., since it does allow for retail sales and services; however, it must be noted that the range of allowable uses, as listed in CPP FLU 1.3.1 does not mention "commercial or general commercial activities, nor does it mention light industrial type uses within the specified range of uses. With sound planning principles, these type of uses are more suitable for a more urbanized area and not for a suburban area, which is defined as a "predominantly low-density residential area immediately outside of an urban area or a city and associated with it physical and socioeconomically", per Comprehensive Plan, Chapter 3, Definitions.

In reviewing the existing land use maps and from staff's site visit, this is clearly a suburban area. Thus, allowing for an up zoning with more intense commercial uses within the existing suburban area has the potential of having an adverse impact on established suburban areas.

The proposed amendment will be consistent with CPP FLU 1.5.1 by redeveloping an under-utilized property and promoting the efficient use of existing utilities and infrastructure.

## **Criterion b., LDC Sec. 2-7.2(b)(4)**

### **Consistent with The Land Development Code**

The proposed zoning is consistent with the purpose and intent and with any other zoning establishment provisions prescribed by the proposed district in Chapter 3.

### **Sec. 3-2.10 Commercial district (Com).**

(a) Purpose. The Commercial (Com) district establishes appropriate areas and land use regulations for general commercial activities, especially the retailing of commodities and services. The primary intent of the district is to allow more diverse and intense commercial uses than the neighborhood commercial allowed within the mixed-use districts. To maintain compatibility with surrounding uses, all commercial operations within the Commercial district are limited to the confines of buildings and not allowed to produce undesirable effects on surrounding property. To retain adequate area for commercial activities, new and expanded residential development within the district is limited, consistent with the Commercial (C) future land use category.

(b) Permitted uses. Permitted uses within the Commercial district are limited to the following:

(1) Residential. The following residential uses are allowed throughout the district, but if within the Commercial (C) future land use category they are permitted only if part of a predominantly commercial development:

a. Group living, excluding dormitories, fraternity and sorority houses, and residential

facilities providing substance abuse treatment, post-incarceration reentry, or similar services.

b. Manufactured (mobile) homes, including new or expanded manufactured home parks or subdivisions.

c. Single-family dwellings (other than manufactured homes), detached or attached, including townhouses and zero lot line subdivisions.

d. Two-family and multi-family dwellings.

See also conditional uses in this district.

(2) Retail sales. Retail sales, including medical marijuana dispensing facilities, sales of alcoholic beverages and automotive fuels, but excluding motor vehicle sales and permanent outdoor storage. See also conditional uses in this district.

(3) Retail services. The following retail services, excluding permanent outdoor storage:

a. Car washes, automatic or manual, full service or self-serve.

b. Child care facilities.

c. Hotels, motels and all other public lodging, including boarding and rooming houses.

d. Personal services, including those of beauty shops, health clubs, pet groomers, dry cleaners and tattoo parlors.

e. Professional services, including those of realtors, bankers, accountants, engineers, architects, dentists, physicians, and attorneys.

f. Repair services, including appliance repair, furniture refinishing and upholstery, watch and jewelry repair, small engine and motor services, but excluding major motor vehicle or boat service or repair, and outdoor work.

g. Restaurants and brewpubs, including on-premises consumption of alcoholic beverages, drive-in and drive-through service, and brewpubs with the distribution of on-premises produced alcoholic beverages for off-site sales. The parcel boundary of any restaurant or brewpub with drive-in or drive-through service shall be at least 200 feet from any LDR or MDR zoning district unless separated by a 50-foot or wider street right-of-way.

See also conditional uses in this district.

(4) Public and civic.

a. Broadcast stations with satellite dishes and antennas, including towers.

b. Cemeteries, including family cemeteries.

c. Community service facilities, including auditoriums, libraries, museums, and neighborhood centers.

d. Educational facilities, including preschools, K-12, colleges, and vocational schools.

e. Emergency service facilities, including law enforcement, fire fighting, and medical assistance.

f. Foster care facilities.

g. Funeral establishments.

h. Hospitals.

i. Offices for government agencies or public utilities.

j. Places of worship.

k. Public utility structures, including telecommunications towers, but excluding any industrial uses.

l. Warehousing or maintenance facilities for government agencies or for public utilities.

See also conditional uses in this district.

(5) Recreation and entertainment.

a. Campgrounds and recreational vehicle parks on lots five acres or larger.

b. Indoor recreation or entertainment facilities, including movie theaters, bowling alleys, skating rinks, arcade amusement centers, bingo facilities and shooting ranges, but excluding bars, nightclubs or adult entertainment facilities.

c. Marinas, private and commercial.

d. Parks without permanent restrooms or outdoor event lighting.

See also conditional uses in this district.

(6) Industrial and related.

a. Printing, binding, lithography and publishing.

b. Wholesale warehousing with gross floor area 10,000 sq.ft. or less per lot.

See also conditional uses in this district.

(7) Agricultural and related.

a. Agricultural food production primarily for personal consumption by the producer, but no farm animals.

b. Nurseries and garden centers, including adjoining outdoor storage or display of plants.

c. Veterinary clinics.

See also conditional uses in this district.

(8) Other uses.

a. Billboard structures.

b. Outdoor storage if minor and customarily incidental to the allowed principal use, and if in the rear yard, covered, and screened from off-site view, unless otherwise noted.

c. Parking garages and lots, commercial.

d. Self-storage facilities, excluding vehicle rental.

## FINDINGS

The proposed amendment **is not consistent** with the intent and purpose of the Land Development Code. The determination of not consistent is based on several factors: The primary intent of the LDR zoning category is to allow for single-family homes and low-density residential developments with an maximum allowed density of four dwelling units per acre. The LDR zoning district establishes appropriate areas and regulates residential densities within the suburban areas. Section 3-2.5 of the LDC affirms that the district is appropriate to provide transition between areas zoned or used for rural residential or rural mixed-use and areas zoned for low-density mixed-use or medium density residential. Based upon this provision, staff determines that changing the zoning from LDR, clearly a single-family residential area, to Commercial, that allows for various and intense commercial operations and activities is not appropriate transitional zoning. Section 3-2.10(e) **Location criteria**. All new non-residential uses proposed within the Commercial district that are not part of a planned unit development or not identified as exempt by the district shall be on parcels that satisfy at least one of the following location criteria:

(1) Proximity to intersection. Along an arterial or collector street and within one-quarter mile of its intersection with an arterial street.

(2) Proximity to traffic generator. Along an arterial or collector street and within a one-quarter mile radius of an individual traffic generator of more than 600 daily trips, such as an apartment complex, military base, college campus, hospital, shopping mall or similar generator.

(3) Infill development. Along an arterial or collector street, in an area where already established non-residential uses are otherwise consistent with the Commercial district, and where the new use would constitute infill development of similar intensity as the

conforming development on surrounding parcels. Additionally, the location would promote compact development and not contribute to or promote strip commercial development.

(4) Site design. Along an arterial or collector street, no more than one-half mile from its intersection with an arterial or collector street, not abutting a single-family residential zoning district (RR, LDR or MDR), and all of the following site design conditions:

- a. Any Intrusion into a recorded subdivision is limited to a corner lot.
- b. A system of service roads or shared access is provided to the maximum extent made feasible by lot area, shape, ownership patterns, and site and street characteristics.
- c. Adverse impacts to any adjoining residential uses are minimized by placing the more intensive elements of the use, such as solid waste dumpsters and truck loading/unloading areas, furthest from the residential uses.

(5) Documented compatibility. A compatibility analysis prepared by the applicant provides competent substantial evidence of unique circumstances regarding the potential uses of parcel that were not anticipated by the alternative criteria, and the proposed use, or rezoning as applicable, will be able to achieve long-term compatibility with existing and potential uses. Additionally, the following conditions exist:

- a. The parcel has not been rezoned by the landowner from the mixed-use, commercial, or industrial zoning assigned by the county.
- b. If the parcel is within a county redevelopment district, the use will be consistent with the district's adopted redevelopment plan, as reviewed and recommended by the Community Redevelopment Agency (CRA).

The parcel location **does not** satisfy the location criteria and the applicant did not provide a compatibility analysis presenting evidence of unique circumstances regarding the potential uses of the parcel that were not anticipated by the alternative criteria. Based upon the factors and regulations as presented above, staff concludes that this criteria is not meet.

### **Criterion c., LDC Sec. 2-7.2(b)(4)**

#### **Compatible with surrounding uses**

All the permitted uses of the proposed zoning, not just those anticipated by the rezoning applicant, are compatible, as defined in Chapter 6, with the surrounding uses. The uses of any surrounding undeveloped land shall be considered the permitted uses of the applicable district. Compatibility is not considered with potential conditional uses or with any nonconforming or unapproved uses. Also, in establishing the compatibility of a residential use, there is no additional burden to demonstrate the compatibility of specific residents or activities protected by fair housing law.

### **FINDINGS**

The proposed amendment **is not compatible** with surrounding existing uses in the area. Parcels located immediately to the East and West are zoned low-density residential with some large tracks of Conservation zoning. Within the 500 foot radius, there are properties with zoning districts Commercial, Low-Density Residential and Conservation. One storage-warehouse business zoned Commercial, across Lillian Hwy to the North; five vacant residential parcels, two single-family residences, two large parcels owned by the State of Florida and one mineral processing plant parcel, zoned Low-Density

Residential in place since 1993, based on public records from the Escambia County Property Appraiser; therefore, compatibility with the processing plant nonconforming use is not considered, as the maintained use is addressed under Section 1-1.7(3) of the LDC. The current structures within the parcel are non-conforming due to the fact that the business has not been in operation. Based on LDC Section 1-2.2(b), once a non-conforming status is lost, the use, structure, lot or condition shall comply with current LDC regulations, reverting back to the existing LDR zoning.

#### **Criterion d., LDC Sec. 2-7.2(b)(4)**

##### **Appropriate if spot zoning**

Where the proposed zoning would establish or reinforce a condition of spot zoning as defined in Chapter 6, the isolated district would nevertheless be transitional in character between the adjoining districts, or the differences with those districts would be minor or sufficiently limited. The extent of these mitigating characteristics or conditions demonstrates an appropriate site specific balancing of interests between the isolated district and adjoining lands.

**As per LDC Chapter 6, Spot Zoning is:** *Zoning applied to an area of land, regardless of its size, that is different from the zoning of all contiguous land. Such isolated or “spot” zoning is usually higher in its density or intensity of use than the adjoining zoning and may, therefore, extend privileges not generally extended to property similarly located in the area. Spot zoning is not by itself prohibited, but due to its potentially adverse impacts on adjoining zoning it carries a higher burden of demonstration that, if authorized, it will contribute to or result in logical and orderly development.*

#### **FINDINGS**

The proposed zoning **will create spot zoning**. Based on the LDC definition in Chapter 6, Spot Zoning is zoning applied to an area of land, regardless of its size, that is different from the zoning of all contiguous land. Such isolated or “spot” zoning is usually higher in its density or intensity of use than the adjoining zoning and may, therefore, extend privileges not generally extended to property similarly located in the area. Spot zoning is not by itself prohibited, but due to its potentially adverse impacts on adjoining zoning it carries a higher burden of demonstration that, if authorized, it will contribute to or result in logical and orderly development. The applicant's request to Commercial zoning is different from the zoning of all contiguous land. Although the LDC does not specifically define contiguous, staff relies on the professional planning definitions contained in the Planning Advisory Service Report 521/522, A Planners Dictionary, from the American Planning Association.

Contiguous is defined as: Properties sharing a property line; (A) Touching along a common boundary for at least 15 feet; (B) The contiguity of land areas shall not be affected by the existence between them of a road or alley; a public or private right-of-way; a public or private transportation or utility right-of-way; a river, creek, stream, or other natural or artificial waterway; or an intersecting mining claim. (C) The contiguity of land areas shall be assumed to be disrupted by the existence of a freeway, expressway, principal arterial, and minor arterial, and by lands contained within the legal boundaries of any municipality.

Based on that language, the contiguous zoning is LDR, the proposed zoning would create spot zoning. Site visit reveals the parcel's location about midway between Bauer and Blue Angel to be sparsely developed as compared to the East and West major

intersections. Due to the parcel's location, the proposed zoning request would not create a logical zoning transition between the low-residential districts and other existing zoning districts in the adjacent area.

**Criterion e., LDC Sec. 2-7.2(b)(4)**

**Appropriate with changed or changing conditions**

If the land uses or development conditions within the area surrounding the property of rezoning have changed, the changes are to such a degree and character that it is in the public interest to allow new uses, density, or intensity in the area through rezoning; and the permitted uses of the proposed district are appropriate and not premature for the area or likely to create or contribute to sprawl.

**FINDINGS**

The land uses or development conditions within the area surrounding the property of rezoning **have not** changed. Based on public records, both current commercial uses have existed since 1984 and 1993. The site is located midway between Blue Angel and Bauer roads in an area that is currently scarcely developed. For general information, the parcel in question had a recommendation for denial by the Planning Board on 8-6-19 for the same rezoning request from LDR to Commercial. It must be noted that there has been no changes in the site conditions within the area surrounding the parcel.

Based on the LDC definitions, under Chapter 6:

**Sprawl or urban sprawl.** A haphazard development pattern of dispersed and strip growth in suburbs and rural areas and along highways that is characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses. The requested Commercial zoning would contribute to commercial development sprawl and therefore, the request is inconsistent with Criterion e.

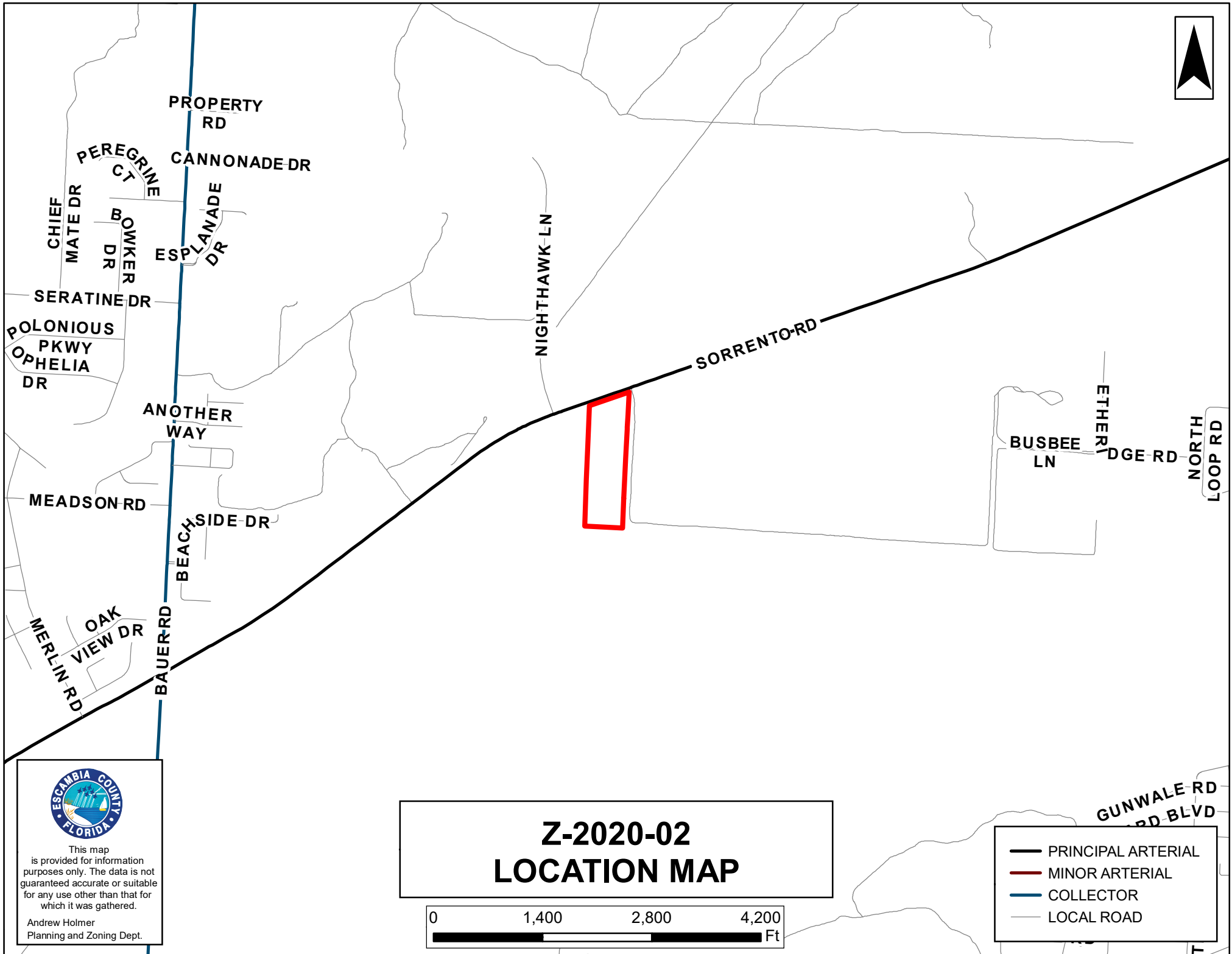
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**Attachments**

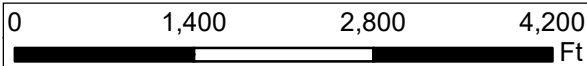
Working Case File02

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**7-2020-02**



# Z-2020-02 LOCATION MAP

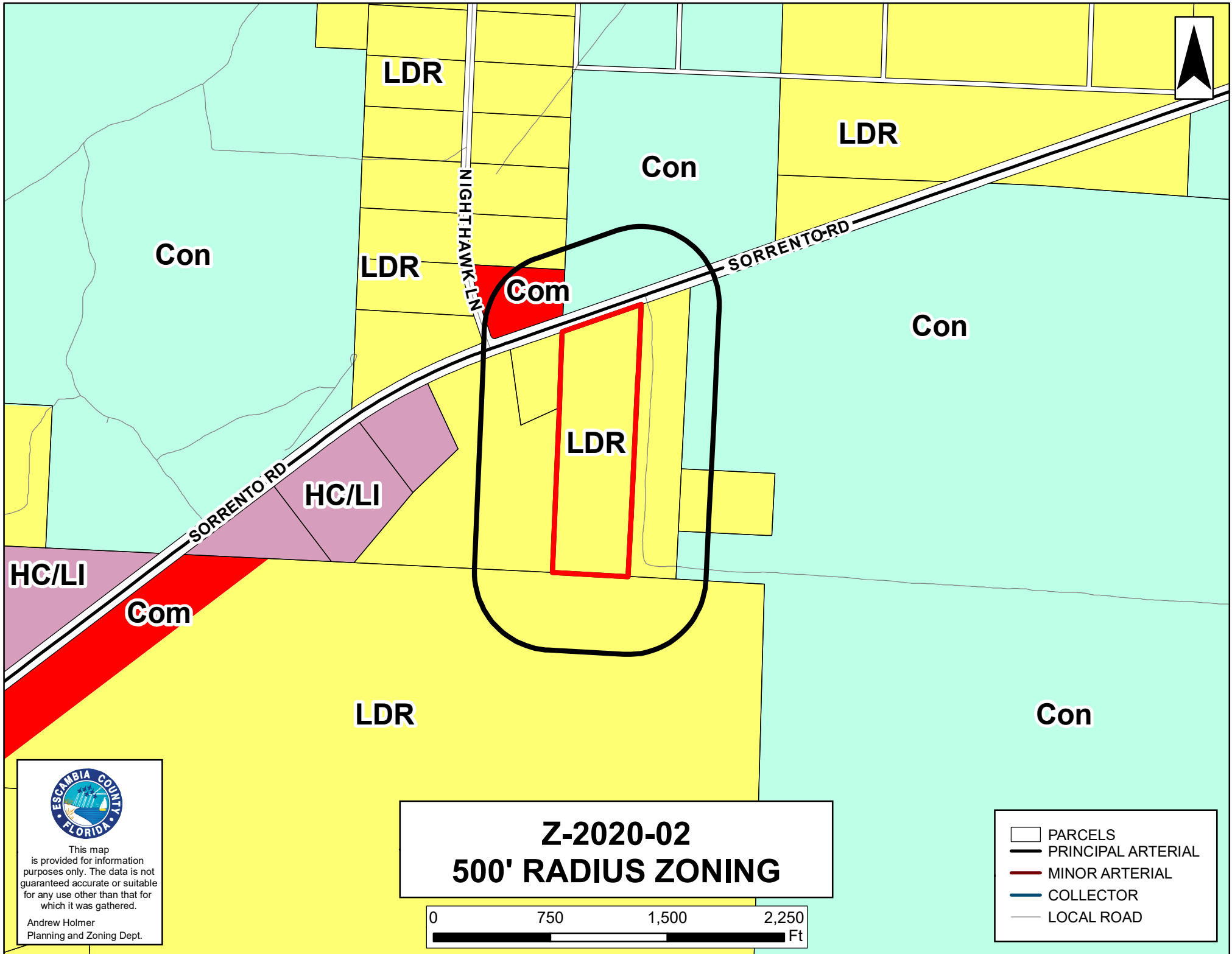


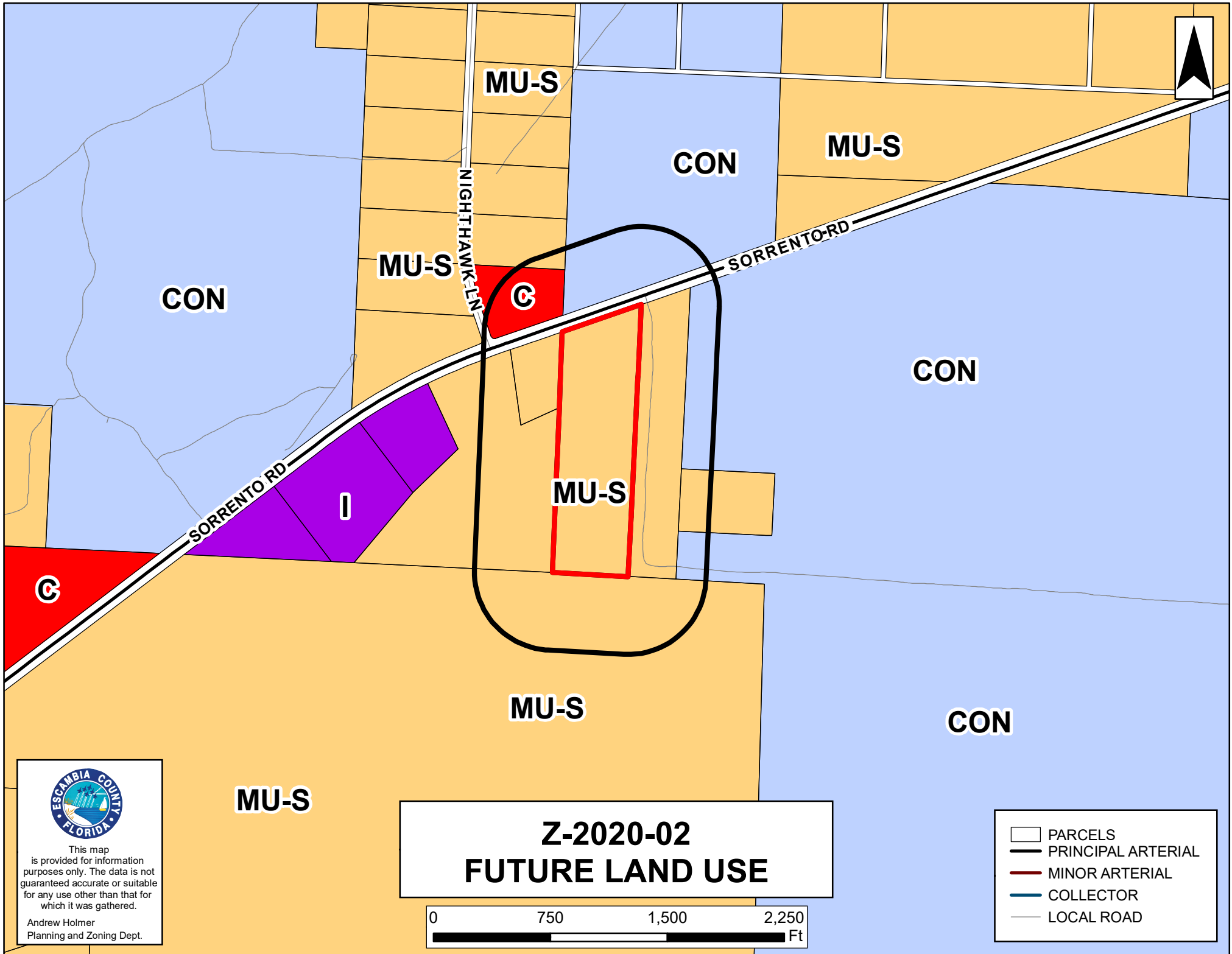
This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

Andrew Holmer  
Planning and Zoning Dept.

- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD

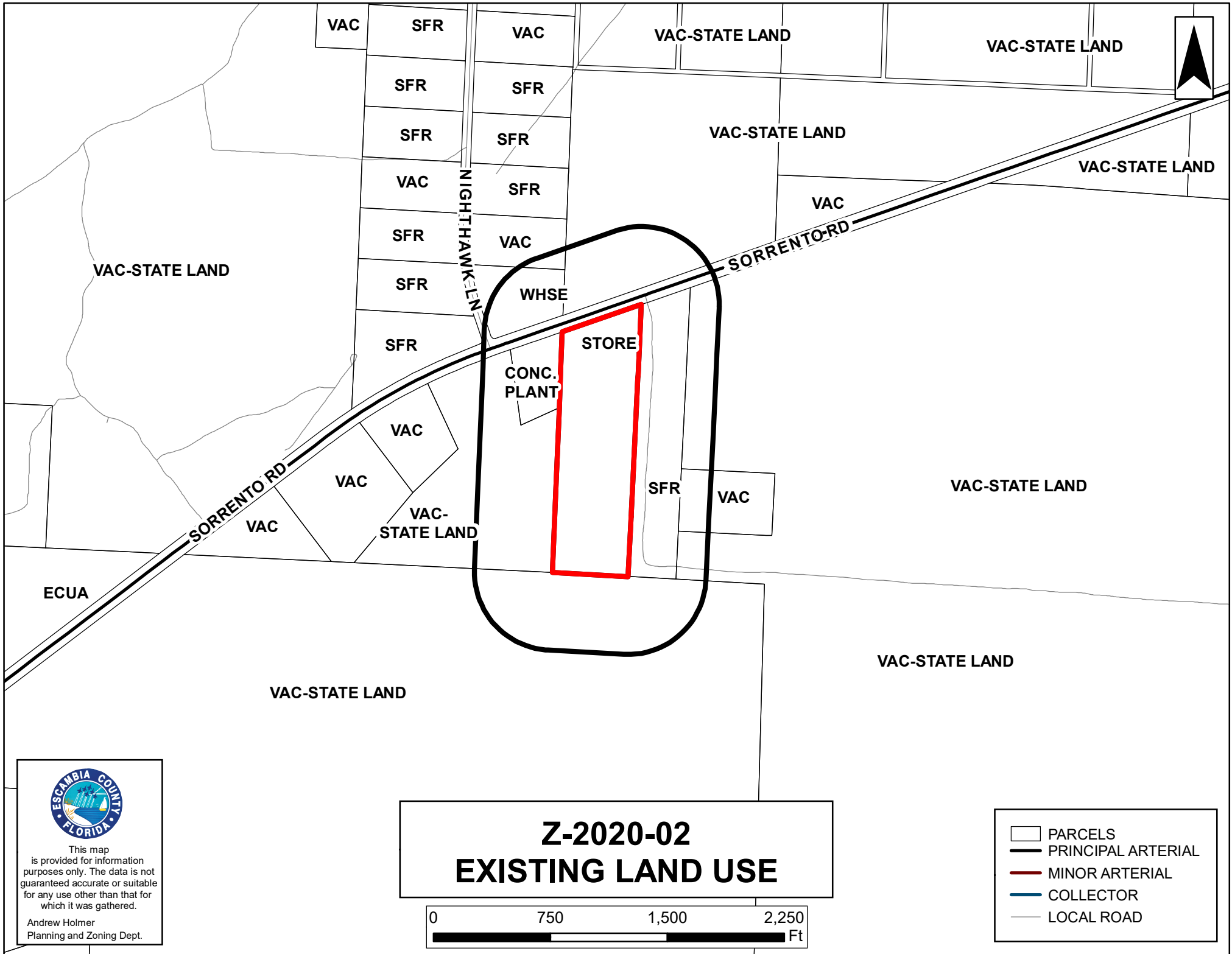






This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

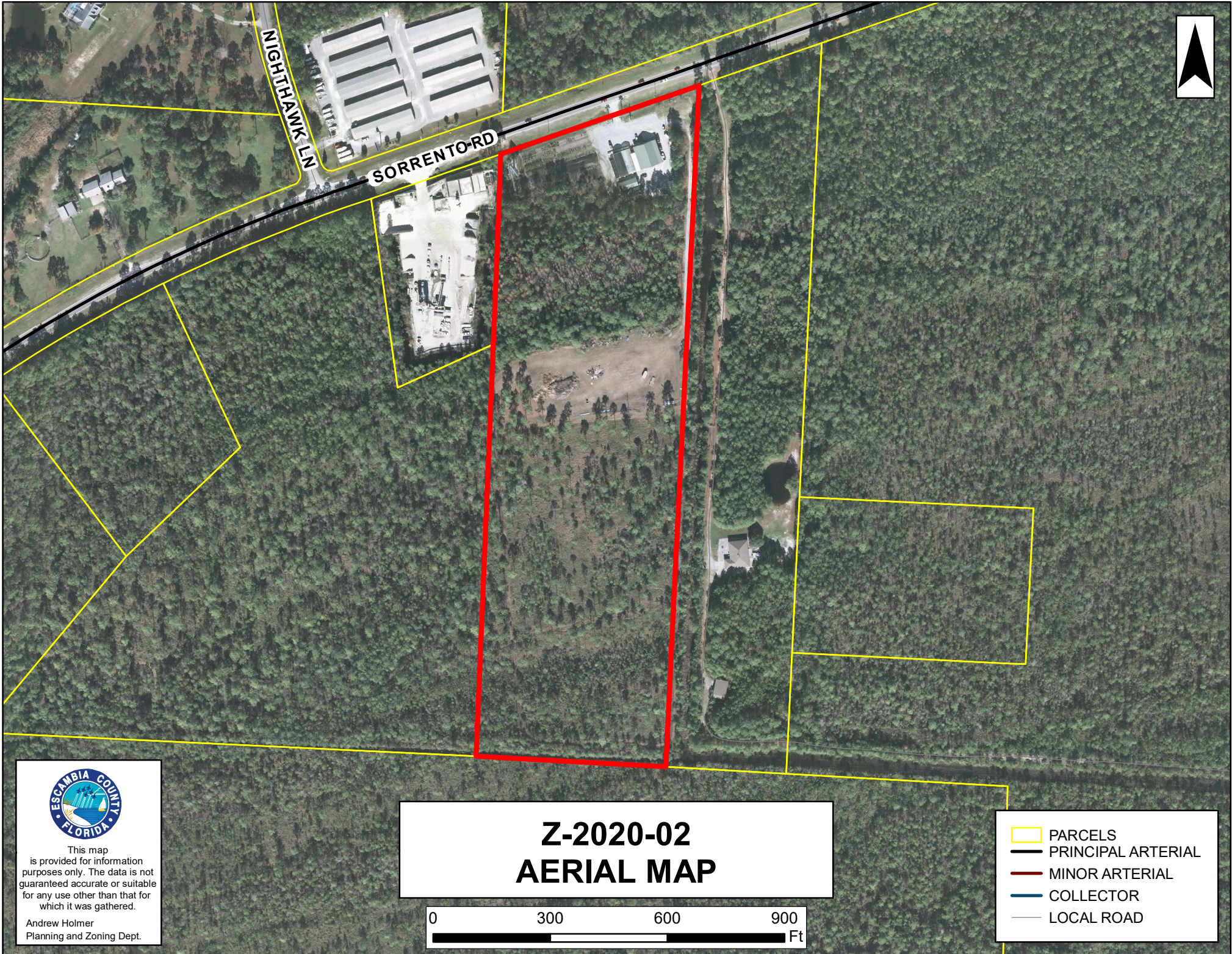
Andrew Holmer  
Planning and Zoning Dept.



This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

Andrew Holmer  
Planning and Zoning Dept.

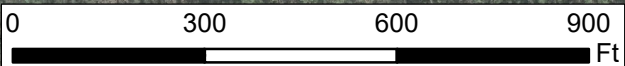




This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

Andrew Holmer  
Planning and Zoning Dept.

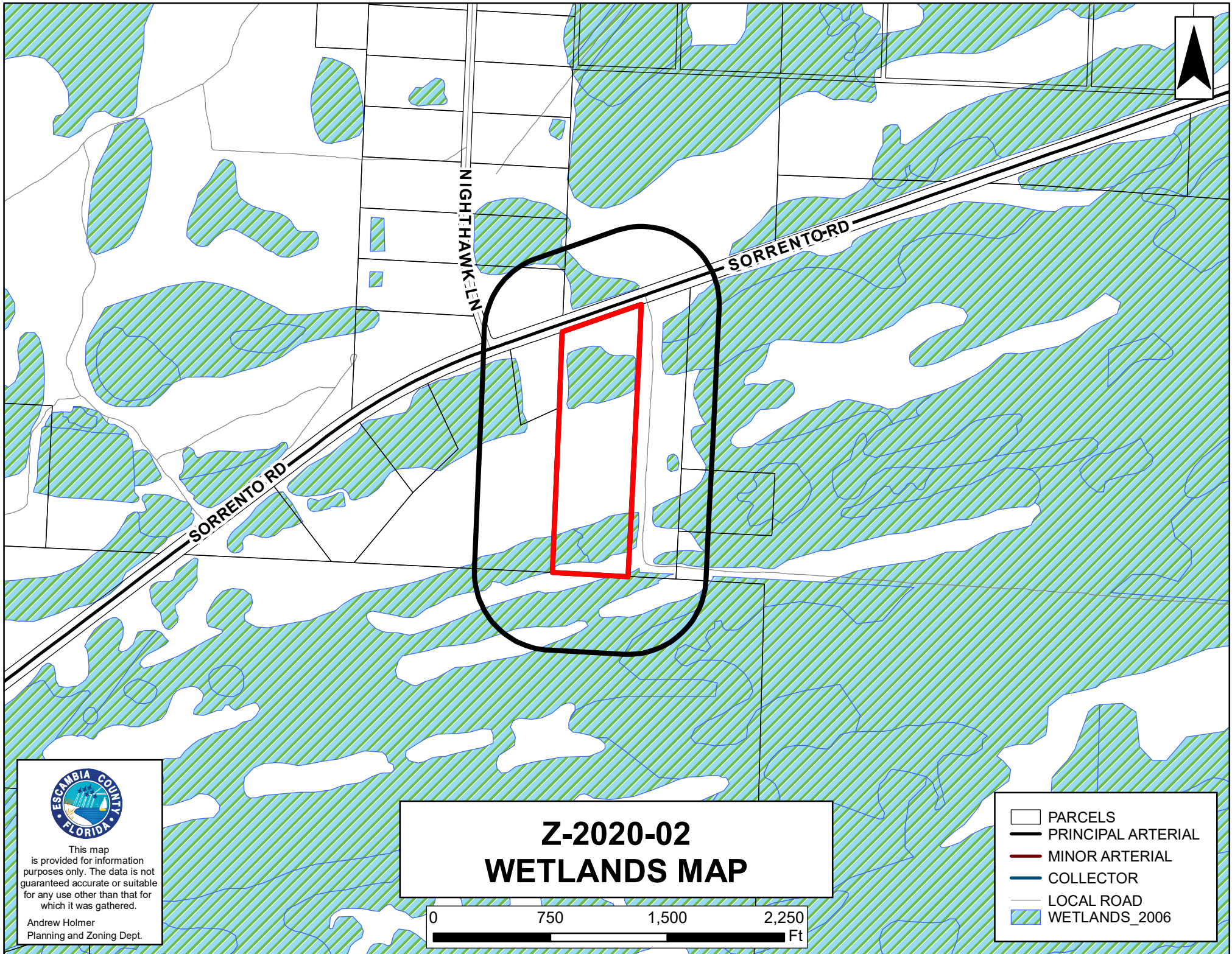
# Z-2020-02 AERIAL MAP



- PARCELS
- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD







This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

Andrew Holmer  
Planning and Zoning Dept.

## Z-2020-02 WETLANDS MAP

0 750 1,500 2,250  
Ft

- PARCELS
- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD
- WETLANDS\_2006





# NOTICE OF PUBLIC HEARING REZONING

CASE NO.: Z-2020-02

CURRENT ZONING: LDR PROPOSED ZONING: COM

## PLANNING BOARD

DATE: 02/04/20 TIME 8:30 a.m.

### LOCATION OF HEARING

ESCAMBIA COUNTY CENTRAL OFFICE COMPLEX  
3363 WEST PARK PLACE  
BOARD MEETING ROOM

## BOARD OF COUNTY COMMISSIONERS

DATE: 03/05/20 TIME 5:45 p.m.

### LOCATION OF HEARING

ERNIE LEE MAGAHA GOVERNMENT BLDG  
221 PALAFOX PLACE  
1ST FLOOR BOARD MEETING ROOM

FOR MORE INFORMATION CALL:  
DEVELOPMENT SERVICES AT 595-3475 OR VISIT  
[WWW.MYESCAMBIA.COM](http://WWW.MYESCAMBIA.COM)

PLEASE DO NOT REMOVE THIS SIGN  
PROPERTY OF ESCAMBIA COUNTY

Public Hearing Sign





Looking onto property





Looking southeast onto property





Looking southwest onto Sorrento





Looking southwest onto property





Looking southwest onto Sorrento





Looking north across Sorrento



## Escambia County Planning and Zoning

Development Services Department

3363 West Park Place

Pensacola, FL 32505

Phone: (850) 595-3475 • Fax: (850) 595-3481

<http://myescambia.com/business/ds>

### Rezoning Application

FOR OFFICE USE ONLY - Case Number: \_\_\_\_\_ Accepted by: \_\_\_\_\_ PB Meeting: \_\_\_\_\_

#### 1. Contact Information:

##### A. Property Owner/Applicant:

Curtis and Kelli Sumrok  
Mailing Address: 205 Ratto Rd, Alameda CA, 94502  
Business Phone: 90-206-0719 Cell: same  
Email: C.SUMROK@yahoo.com

##### B. Authorized Agent (if applicable):

Mailing Address: \_\_\_\_\_  
Business Phone: \_\_\_\_\_ Cell: \_\_\_\_\_  
Email: \_\_\_\_\_

*Note: Owner must complete the attached Agent Affidavit. If there is more than one owner, each owner must complete an Agent Affidavit. Application will be voided if changes to this application are found.*

#### 2. Property Information:

##### A. Existing Street Address:

11545 Sorrento Rd Pensacola FL 32507  
Parcel ID (s): 12-35-31-3301-000-000

##### B. Total acreage of the subject property:

18+

##### C. Existing Zoning:

LDR

Proposed Zoning: Comm; explain why necessary and/or appropriate

Proposed office space use not allowed in LDR

FLU Category: mu-5



- D. Is the subject property developed (if yes, explain): Yes, two pre-existing commercial steel buildings and a concrete foundation greenhouse.
- E. Sanitary Sewer: \_\_\_\_\_ Septic: X

### 3. Amendment Request

**Approval conditions.** The applicant has the burden of presenting competent substantial evidence to the reviewing board establishing that the requested zoning district would contribute to or result in a logical and orderly development pattern. The appropriate surrounding area within which uses and conditions must be considered may vary with those uses and conditions and is not necessarily the same area required for mailed notification. A logical and orderly pattern shall require demonstration of each of the following conditions:

**Please address ALL the following approval conditions for your rezoning request. (use supplement sheets as needed)**

- a. **Consistent with Comprehensive Plan.** The proposed zoning is consistent with the future land use (FLU) category as prescribed in LDC Chapter 3, and with all other applicable goals, objectives, and policies of the Comprehensive Plan. If the rezoning is required to properly enact a proposed FLU map amendment transmitted for state agency review, the proposed zoning is consistent with the proposed FLU and conditional to its adoption.

See Supplement sheet attached

- b. **Consistent with zoning district provisions.** The proposed zoning is consistent with the purpose and intent and with any other zoning establishment provisions prescribed by the proposed district in Chapter 3

See Supplement sheet attached

- c. **Compatible with surroundings.** All of the permitted uses of the proposed zoning, not just those anticipated by the rezoning applicant, are compatible, as defined in Chapter 6, with the surrounding uses. The uses of any surrounding undeveloped land shall be considered the permitted uses of the applicable district. Compatibility is not considered with potential conditional uses or with any nonconforming or unapproved uses. Also, in establishing the compatibility of a residential use, there is no additional burden to demonstrate the compatibility of specific residents or activities protected by fair housing law.

See Supplement Sheet Attached

- d. **Appropriate if spot zoning.** Where the proposed zoning would establish or reinforce a condition of spot zoning as defined in Chapter 6, the isolated district would nevertheless be transitional in character between the adjoining districts, or the differences with those districts would be minor or sufficiently limited. The extent of these mitigating characteristics or conditions demonstrates an appropriate site-specific balancing of interests between the isolated district and adjoining lands.

*As per LDC Chapter 6, Spot Zoning is: Zoning applied to an area of land, regardless of its size, that is different from the zoning of all contiguous land. Such isolated or "spot" zoning is usually higher in its density or intensity of use than the adjoining zoning and may, therefore, extend privileges not generally extended to property similarly located in the area. Spot zoning is not by itself prohibited, but due to its potentially adverse impacts on adjoining zoning it carries a higher burden of demonstration that, if authorized, it will contribute to or result in logical and orderly development*

See Supplement sheet Attached

- e. **Appropriate with changed or changing conditions.** If the land uses or development conditions within the area surrounding the property of rezoning have changed, the changes are to such a degree and character that it is in the public interest to allow new uses, density, or intensity in the area through rezoning; and the permitted uses of the proposed district are appropriate and not premature for the area or likely to create or contribute to sprawl.

See Supplement Sheet Attached



**4. Please complete the following Forms: Concurrency Determination Acknowledgement and Affidavit of Owner/Limited Power of Attorney (if applicable).**

**CONCURRENCY DETERMINATION ACKNOWLEDGMENT**

Property Reference Number(s): 12-35-31-3301-000-000

Property Address: 11545 Sorrento Rd, Pensacola FL 32507

I/We acknowledge and agree that no future development for which concurrency of required facilities and services must be certified shall be approved for the subject parcel(s) without the issuance of a certificate of concurrency for the development based on the actual densities and intensities proposed in the future development's permit application.

I/We also acknowledge and agree that approval of a zoning district amendment (rezoning) or Future Land Use Map amendment does not certify, vest, or otherwise guarantee that concurrency of required facilities and services is, or will be, available for any future development of the subject parcels.

I/We further acknowledge and agree that no development for which concurrency must be certified shall be approved unless at least one of the following minimum conditions of the Comprehensive Plan will be met for each facility and service of the County's concurrency management system prior to development approval:

- a. The necessary facilities or services are in place at the time a development permit is issued.
- b. A development permit is issued subject to the condition that the necessary facilities and services will be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
- c. For parks and recreation facilities and roads, the necessary facilities are under construction at the time the development permit is issued.
- d. For parks and recreation facilities, the necessary facilities are the subject of a binding executed contract for the construction of the facilities at the time the development permit is issued and the agreement requires that facility construction must commence within one year of the issuance of the development permit.
- e. The necessary facilities and services are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, F.S., or as amended, or an agreement or development order issued pursuant to Chapter 380, F.S., or as amended. For wastewater, solid waste, potable water, and stormwater facilities, any such agreement will guarantee the necessary facilities and services to be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
- f. For roads, the necessary facilities needed to serve the development are included in the first three years of the applicable Five-Year Florida Department of Transportation (FDOT) Work Program or are in place or under actual construction no more than three years after the issuance of a County development order or permit.

I HEREBY ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND AND AGREE WITH THE ABOVE STATEMENT ON THIS 02 DAY OF January, YEAR OF 2020

Curt Sumrok

Signature of Property Owner

Curtis Sumrok

Printed Name of Property Owner

1/02/20  
Date

Kelli Sumrok

Signature of Property Owner

Kelli Sumrok

Printed Name of Property Owner

1/02/20  
Date

## Supplement to Rezoning Application for 11545 Sorrento Rd

### **Criterion A., LDC Sec. 2-7.2(b)(4)**

The requested Commercial zoning is consistent with the FLU Mixed Use category as identified on the chart at LDC Sec. 3-1.3(h). It should also be noted that this parcel is currently zoned Limited Density Residential (LDR) but Escambia County approved a Special Development District (SDD) Density and Uses Savings Clause per LDC Sec. 3-1.8.

### **Criterion B., LDC Sec. 2-7.2(b)(4)**

The proposed amendment is consistent with the intent and purpose of the Land Development Code. Sec. 3-2.10 of the LDC states: "The primary intent of the district is to allow more diverse and intense commercial uses than the neighborhood commercial allowed within the mixed use districts." Along this section of Sorrento Road, there are other parcels zoned Commercial and HC/LI. Land directly to the East and Northeast of this parcel cannot be developed because they are zoned as State Conservation land. The adjoining land to the Northwest is a mini-storage facility that is zoned Commercial. The adjoining land to the West is a concrete plant that is operating HC/LI but zoned LDR. The current zoning of the surrounding parcels and geographic restrictions along Sorrento Road preclude any furtherance of a continuous strip commercial development. In other words, there is simply no more land that is available for commercial or industrial zoning. This cluster of businesses along Sorrento Road are not near a major traffic intersection and are consistent with desirable transitions to small-scale dispersed neighborhood commercial uses in proximity to residential areas, in accordance with Sec. 3-1.6(b).

### **Criterion C., LDC Sec. 2-7.2(b)(4)**

The proposed amendment is compatible with surrounding existing uses in the area. The definition of "Compatible" in Chapter 6 of the LDC states: "A condition in which land uses, activities or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use, activity, or condition is unduly negatively impacted directly or indirectly by another use, activity, or condition."

As previously noted, there are clearly other commercial and industrial land uses and activities in the surrounding area adjoining to this parcel that are obviously similar and commensurate with commercial zoning. Within a 500 foot radius, there is a

mini-storage facility zoned Commercial and a concrete plant zoned LDR but operating HC/LI.

In addition, the subject parcel of land was previously zoned as a Special Development District (SDD). In the late 1990's, the southern portion of the parcel, consisting of approximately 9.68 acres, was surrendered and placed in a conservation easement in an agreement with the Florida Department of Environmental Protection in exchange for developing approximately one acre of wetlands along the frontage of Sorrento Road. Escambia County approved and issued permits for the construction of 2 steel commercial buildings and 2 other supporting structures. A nursery and garden center business was operated harmoniously as a commercial entity on the parcel from around 1999 to 2015.

#### **Criterion D., LDC Sec. 2-7.2(b)(4)**

The proposed amendment may or may not create spot zoning based on which definitions are used for the terms contiguous and adjoining, which are not further defined in Chapter 6 of the LDC. However, the definition in the Merriam-Webster dictionary is: “being in actual contact or touching along a boundary or at a point.” The subject parcel clearly shares a property corner point with the mini-warehouse to the Northwest that is zoned Commercial, although it is separated by a public right-of-way. In addition, it shares a border on the western boundary with the concrete plant that is operating as HC/LI. A common sense approach may also conclude that any two parcels can be considered to be contiguous or adjoining if they are not separated by another zoned parcel of land.

Nonetheless, even if this zoning created a “spot zoning” case, the commercial activity is “appropriate” because it is consistent with and furthers the purposes of the Escambia County comprehensive plan and FLU category, as referenced previously in Criterion A, above. Therefore, rezoning of this parcel to Commercial will result in no adverse impacts on adjoining parcels and contribute to logical and orderly development. It should be acknowledged that “spot zoning” is considered inappropriate only if the use classification is totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners. Shapiro, D, Esq. 2013. Understanding Spot Zoning, accessed 01 January 2020, <<http://plannersweb.com/2013/11/understanding-spot-zoning-2/#return-note-10779-1>>

**Criterion E., LDC Sec. 2-7.2(b)(4)**

The land uses and development conditions within the area surrounding the property of rezoning have not significantly changed. The surrounding commercial businesses have been operating for an extended period of time. Development sprawl has not taken place and is not possible because there is simply no more land available in the surrounding area that can be zoned to support commercial or industrial uses.

Escambia County approved a Site and Development Plan for this property around 1999 to include commercial business operations and retail sales. In 2015, the property was down-zoned involuntarily as a result of a county-wide administrative rezoning action. This replaced the original Special Development District (SDD) zoning with LDR zoning that is ultimately inconsistent with the historical use of the parcel and inconsistent with the pre-existing commercial structures.

Furthermore, a commercial billboard that is owned and operated by Lamar Advertising, permanently resides on the Northwest corner of the subject parcel. These massive advertising structures are generally not allowed to be constructed on LDR zoned property but rather are reserved for commercially zoned parcels, in accordance with the LDC Sec. 3-2.10(b)(8). This is further evidence that the proposed zoning was once deemed to be appropriate and compatible by Escambia County and the action to down-zone the property to residential was arbitrary and capricious.



Recorded in Public Records 2/1/2018 12:41 PM OR Book 7847 Page 474,  
Instrument #2018008141, Pam Childers Clerk of the Circuit Court Escambia  
County, FL Deed Stamps \$1.40

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT  
IN AND FOR ESCAMBIA COUNTY, FLORIDA  
CIVIL ACTION**

CASE NO. 2017 CA 000872

SUMROK, CURTIS SUMROK, KELLI  
Plaintiff

VS.

STEPHENSON RESORT MANAGEMENT REAL ESTATE, LLC A FLORIDA LIMITED  
LIABILITY COMPANY; STEPHENSON, SAMUEL B ; STEPHENSON, AMANDA R ;  
BERRY, CHESTER R ; BERRY, SHARON P  
Defendant

**CERTIFICATE OF TITLE**

The undersigned, Pam Childers, Clerk of the Circuit Court, hereby certifies that a certificate of sale has been  
executed and filed in this action on January 16, 2018, for the property described herein and that no objections to  
the sale have been filed within the time allowed for filing objections.

The following property in Escambia County, Florida was sold to

CURTIS SUMROK AND KELLI SUMROK  
811 N SPRING STREET PENSACOLA, FL, 32501

- SEE ATTACHMENT -

The successful bid was in the amount of \$200.00.

WITNESS my hand and the official seal on this 29 day of January, 2018, as Clerk of the Circuit Court.



Pam Childers  
Clerk of the Circuit Court

BY: *Beth Phelps*  
Deputy Clerk

Conformed copies to all parties


BK: 7847 PG: 475 Last Page

**The West 500 feet of that part of the South one-half of Section 12, Township 3 South, Range 31 West, Escambia County, Florida, lying South of the unnamed and unnumbered road and road right of way, sometimes referred to as Re-Location of Gulf Beach Highway which road or road right of way is particularly described in Special Warranty Deed from Gulf Diversified Investment Company to the State of Florida dated January 28, 1969, recorded in O.R. Book 426, Page 922 of the public records of Escambia County, Florida.**

**Parcel Identification Number: 12-38-31-3301-050-000**

Source: Escambia County Property Appraiser

[Restore Full Version](#)


<b>General Information</b> <b>Reference:</b> 123S313301000000 <b>Account:</b> 101771250 <b>Owners:</b> SUMROK CURTIS SUMROK KELLI <b>Mail:</b> 205 RATTO RD ALAMEDA, CA 94502 <b>Situs:</b> 11545 SORRENTO RD 32507 <b>Use Code:</b> STORE, 1 STORY  Cod <b>Taxing Authority:</b> COUNTY MSTU <b>Tax Inquiry:</b> <a href="#">Open Tax Inquiry Window</a> Tax Inquiry link courtesy of Scott Lunsford Escambia County Tax Collector						<b>Assessments</b> <table><tr><th>Year</th><th>Land</th><th>Imprv</th><th>Total</th><th><a href="#">Cap Val</a></th></tr><tr><td>2019</td><td>\$29,705</td><td>\$137,359</td><td>\$167,064</td><td>\$167,064</td></tr><tr><td>2018</td><td>\$46,598</td><td>\$130,262</td><td>\$176,860</td><td>\$176,860</td></tr><tr><td>2017</td><td>\$46,598</td><td>\$126,215</td><td>\$172,813</td><td>\$172,813</td></tr></table> <p><a href="#">Disclaimer</a></p> <p><a href="#">Tax Estimator</a></p> <p><input checked="" type="checkbox"/> <a href="#">File for New Homestead Exemption Online</a></p>					Year	Land	Imprv	Total	<a href="#">Cap Val</a>	2019	\$29,705	\$137,359	\$167,064	\$167,064	2018	\$46,598	\$130,262	\$176,860	\$176,860	2017	\$46,598	\$126,215	\$172,813	\$172,813																						
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[Launch Interactive Map](#)

**Section Map Id:**  
[12-3S-31](#)

**Approx. Acreage:**  
18.6040

**Zoned:**  Cod  
LDR



**Evacuation & Flood Information**  
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**Buildings**

Address: 11545 SORRENTO RD, Year Built: 1998, Effective Year: 1998

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<b>CANOPY - 1200</b>	
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<b>PATIO - 50</b>	

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Images



5/20/19

The primary use of the assessment data is for the preparation of the current year tax roll. No responsibility or liability is assumed for inaccuracies or errors.




BK: 7847 PG: 475 Last Page

**The West 500 feet of that part of the South one-half of Section 12, Township 3 South, Range 31 West, Escambia County, Florida, lying South of the unnamed and unnumbered road and road right of way, sometimes referred to as Re-Location of Gulf Beach Highway which road or road right of way is particularly described in Special Warranty Deed from Gulf Diversified Investment Company to the State of Florida dated January 28, 1969, recorded in O.R. Book 426, Page 922 of the public records of Escambia County, Florida.**

**Parcel Identification Number: 12-38-31-3301-050-000**

Source: Escambia County Property Appraiser

[Restore Full Version](#)


<b>General Information</b> <b>Reference:</b> 123S313301000000 <b>Account:</b> 101771250 <b>Owners:</b> SUMROK CURTIS SUMROK KELLI <b>Mail:</b> 205 RATTO RD ALAMEDA, CA 94502 <b>Situs:</b> 11545 SORRENTO RD 32507 <b>Use Code:</b> STORE, 1 STORY  Cod <b>Taxing Authority:</b> COUNTY MSTU <b>Tax Inquiry:</b> <a href="#">Open Tax Inquiry Window</a> Tax Inquiry link courtesy of Scott Lunsford Escambia County Tax Collector						<b>Assessments</b> <table><tr><th>Year</th><th>Land</th><th>Imprv</th><th>Total</th><th><a href="#">Cap Val</a></th></tr><tr><td>2019</td><td>\$29,705</td><td>\$137,359</td><td>\$167,064</td><td>\$167,064</td></tr><tr><td>2018</td><td>\$46,598</td><td>\$130,262</td><td>\$176,860</td><td>\$176,860</td></tr><tr><td>2017</td><td>\$46,598</td><td>\$126,215</td><td>\$172,813</td><td>\$172,813</td></tr></table> <p><a href="#">Disclaimer</a></p> <p><a href="#">Tax Estimator</a></p> <p><input checked="" type="checkbox"/> <a href="#">File for New Homestead Exemption Online</a></p>					Year	Land	Imprv	Total	<a href="#">Cap Val</a>	2019	\$29,705	\$137,359	\$167,064	\$167,064	2018	\$46,598	\$130,262	\$176,860	\$176,860	2017	\$46,598	\$126,215	\$172,813	\$172,813																						
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**Section Map Id:**  
[12-3S-31](#)

**Approx. Acreage:**  
18.6040

**Zoned:**  Cod  
LDR



**Evacuation & Flood Information**  
[Open Report](#)

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Images

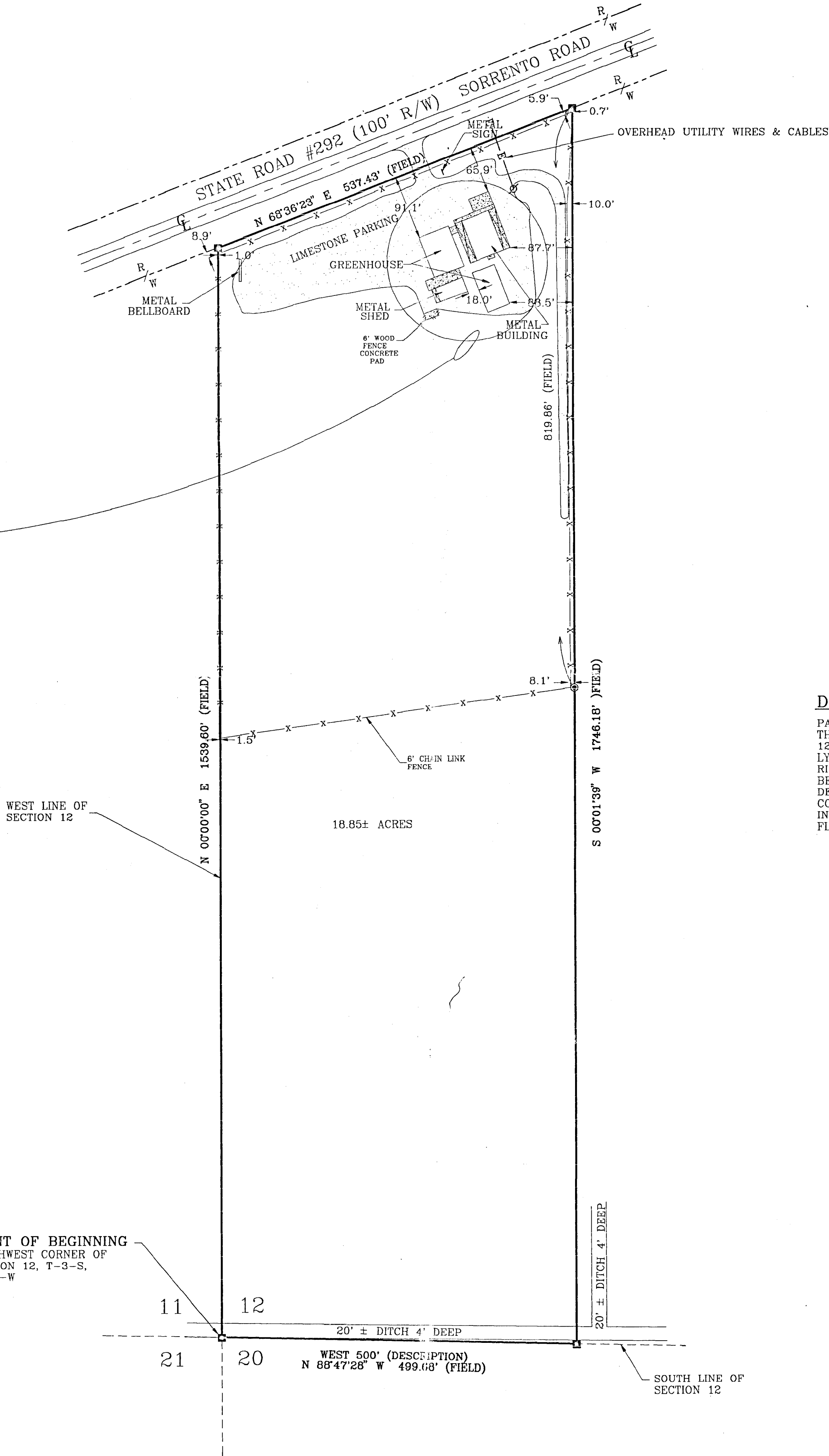
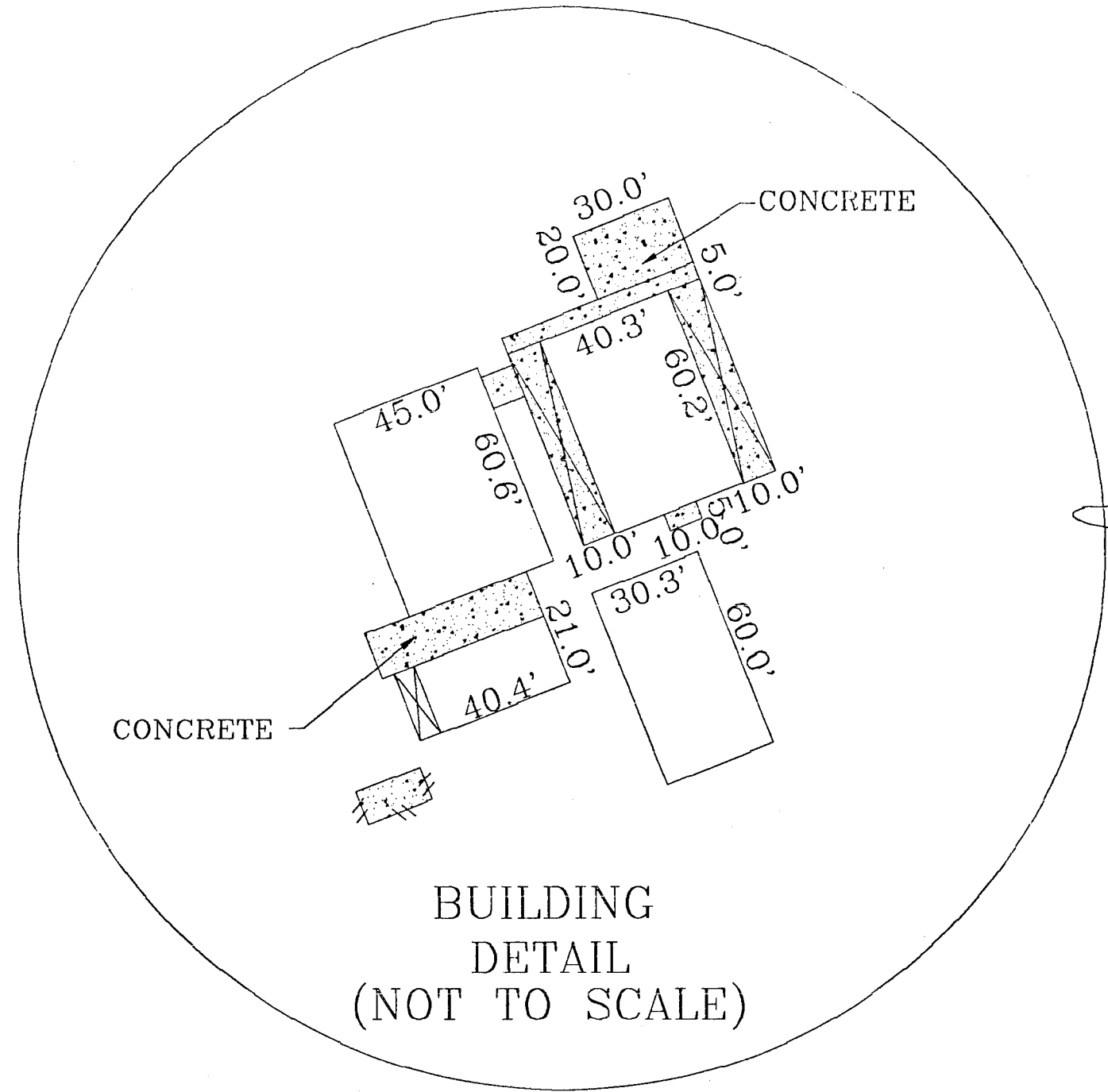
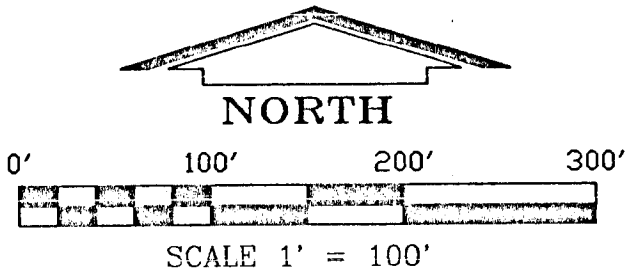


5/20/19

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A BOUNDARY SURVEY



- LEGEND
- = FOUND 4X4 CONCRETE MONUMENT PATTERSON & ASSOC.
  - = FOUND CAPPED IRON ROD (MUTILATED)
  - ⊙ = POWER POLE
  - R/W = RIGHT-OF-WAY
  - C = CENTERLINE
  - T = TOWNSHIP
  - R = RANGE
  - O.R. = OFFICIAL RECORDS

DESCRIPTION: (AS FURNISHED O.R. BOOK 4293, PAGE 1848)

PARCEL 1  
THE WEST 500 FEET OF THAT PART OF THE SOUTH ONE-HALF OF SECTION 12, TOWNSHIP 3 SOUTH, RANGE 31 WEST, ESCAMBIA COUNTY, FLORIDA, LYING SOUTH OF THE UNNAMED AND UNNUMBERED ROAD AND ROAD RIGHT-OF-WAY, SOMETIMES REFERRED TO AS RE-LOCATION OF GULF BEACH HIGHWAY, WHICH ROAD OR ROAD RIGHT-OF-WAY IS PARTICULARLY DESCRIBED IN SPECIAL WARRANTY DEED FROM GULF DIVERSIFIED INVESTMENT COMPANY TO THE STATE OF FLORIDA, DATED 28 JANUARY 1969, RECORDED IN O.R. BOOK 426, PAGE 922, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA.

CERTIFIED TO:

SMITH, SAUER & DEMARIA, P.A.  
ATTORNEYS TITLE INSURANCE FUND, INC.  
CURTIS SUMROK & KELLY SUMROK

SURVEYOR CERTIFICATE:

THIS SURVEY IS "NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER." ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES. I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

REGISTERED SURVEYOR NUMBER 6530, STATE OF FLORIDA

H. Michael Jones  
H. MICHAEL JONES PSM#5530 LB#7110

GENERAL NOTES

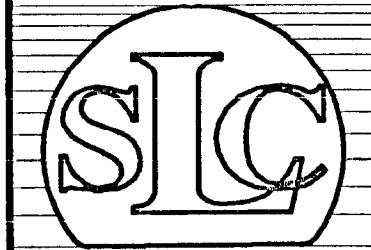
1. SOUTHERN LAND CONCEPTS, INC. HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS OR ANY UNDERGROUND IMPROVEMENTS THAT MIGHT EXIST. VISIBLE EVIDENCE OF EASEMENTS WILL BE SHOWN HEREON.
2. MEASUREMENTS ARE MADE TO U.S. STANDARDS.
3. PROPERTY IS SUBJECT TO ZONING SETBACKS AND RESTRICTIONS OF RECORD.
4. THE ACCURACY OF MEASUREMENTS PERFORMED MEETS THE RELATIVE ERROR OF CLOSURE PERMISSIBLE IN A SUBURBAN LAND AREA.
5. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
6. BEARING REFERENCE, WEST LINE OF SECTION 12 BEING N 00°00'00" E (ASSUMED)
7. INFORMATION SOURCE, PREVIOUS SURVEY BY THIS FIRM JOB#970331A, EXISTING FIELD MONUMENTATION
8. THIS SURVEY DOES NOT DETERMINE OWNERSHIP.

DRAWN BY: NW  
DATE: 11-14-02  
SCALE: 1" = 100'  
FLD. BK 234/50-52  
PROJECT NO. 021107A

REVISIONS
REVISED DRAWING
11-19-02 BY NW

SOUTHERN LAND CONCEPTS, INC.  
ENGINEERING PLANNING SURVEYING  
9909 N. COVE AVENUE  
PENSACOLA, FLORIDA 32534  
PHONE (850) 478-6783 FAX (850) 484-8576

A BOUNDARY SURVEY OF A PORTION OF  
SECTION 12, TOWNSHIP 3 SOUTH, RANGE  
31 WEST, ESCAMBIA COUNTY, FLORIDA  
FOR: MR. DAVID VALETTO



SHEET  
NUMBER 1 OF 1




## Board of County Commissioners • Escambia County, Florida

Horace L. Jones, Director  
Development Services

### **MEMORANDUM**

TO: Planning Board Members

FROM: Horace L. Jones, Director, Development Services Department 

DATE: January 27, 2020

RE: **Z-2020-02 11545 Sorrento Rd**

### **Introduction**

Because of the various issues or points that may be discussed in this rezoning case by Mr. Curtis Sumrock [property owner/applicant] that will be heard on February 4, 2020, here is a brief overview of the staff's previous and numerous discussions with Mr. Curtis Sumrock concerning his property and the potential processes for relief that were discussed as provided for in the Land Development Code (LDC) of Escambia County.

### **Brief History**

On August 6, 2019, Rezoning Case #2019-12 (Z-2019-12) from Low Density Residential (LDR) to Commercial (COM) with a future land category of Mixed-Use Suburban (MU-S) of the parcel in question located at 11545 Sorrento Road was heard by the Planning Board. The Planning Board made a recommendation to deny the rezoning request to the Escambia County Board of County Commissioners (BCC). On September 5, 2019, Z-2019-12, located at 11545 Sorrento Road, was dropped according to the BCC official recorded minutes dated September 5, 2019 (*at the request of the Agent, Wiley C. "Buddy" Page, who requested the item be withdrawn*).

Following that, Mr. Sumrock continued to raise and discuss various points on the parcel in question with staff. For the record, he discussed the issue of his Savings Clause Documents which were approved and recorded in the official records of Escambia County in 2018. Now, it must be noted that if the property owner would have followed the provisions of the Savings Clause Provision of the Land Development Code (LDC), there would not have been a need for a rezoning request in 2019 (Z-2019-12) nor would there have been a need for the pending rezoning request (Z-2020-02) for the same parcel with the same request from LDR to COM. The previous facts concerning the lot in question and the facts to be presented by staff on February 4, 2020 remain the same. In other words, the applicability of the Savings Clause is not relevant or germane to the pending rezoning case-Z-2020-02. By the way, there is an e-mail dated October 10, 2019, within

your rezoning request packet, from myself to Mr. Sumrock as a response for additional information on the Savings Clause Provision of the LDC as it relates to the property in question.

Following that e-mail that was forwarded to the property owner/applicant, there were other discussions with Mr. Sumrock concerning other Land Development Code (LDC) provisions such as vested rights and non-conforming provisions that could have been applicable or pertinent to address his concerns. These are governed by other rules, provisions and processes within the LDC. However, it was his decision to pursue the rezoning process again. To reiterate: the intent of the letter is to provide information only on the many discussions on various topics that were previously discussed with staff and Mr. Sumrock.

### **Conclusion**

To conclude, the subject parcel with the surrounding area have not changed. The testimony and presentation may be different; but, staff's findings, to be presented, will address criteria for meeting rezoning request accordingly.

cc: Kia Johnson, Assistant County Attorney



Page 1	Page 3																		
<p style="text-align: center;">ESCAMBIA COUNTY PLANNING BOARD QUASI-JUDICIAL HEARING</p> <hr/> <p>Case #: Z-2019-12 Applicant: Wiley C. "Buddy" Page, Agent for Curtis and Kelli Sumrock</p> <p>Address: 11545 Sorrento Rd. Property Size: 18.78 (+/-) acres From: LDR, Low Density Residential District (4 du/acre)</p> <p>To: Com, Commercial district (25 du/acre)</p> <p>A quasi-judicial hearing was held in the above-styled cause before the Escambia County Planning Board on the 6th day of August 2019, commencing at approximately 10:45 a.m., at the Escambia County Central Office Complex, 3363 West Park Place, Room 104, Governmental Center, Pensacola, Florida, reported by David A. Deik, CP, CPE, Professional Reporter.</p>	<p style="text-align: center;">INDEX</p> <table> <tr> <th>WITNESSES</th><th>PAGE</th></tr> <tr> <td>WILEY C. "BUDDY" PAGE.....</td><td>10</td></tr> <tr> <td>SUZANNE WELLS.....</td><td>36</td></tr> <tr> <td>ALICE MADURA MULLINS.....</td><td>42</td></tr> <tr> <td>CATHERINE BUCK.....</td><td>45</td></tr> <tr> <td>CAROLE TEBAY.....</td><td>56</td></tr> <tr> <td>---</td><td></td></tr> <tr> <td>PROCEEDINGS.....</td><td>4</td></tr> <tr> <td>CERTIFICATE OF REPORTER.....</td><td>72</td></tr> </table>	WITNESSES	PAGE	WILEY C. "BUDDY" PAGE.....	10	SUZANNE WELLS.....	36	ALICE MADURA MULLINS.....	42	CATHERINE BUCK.....	45	CAROLE TEBAY.....	56	---		PROCEEDINGS.....	4	CERTIFICATE OF REPORTER.....	72
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Page 2	Page 4																		
<p style="text-align: center;">PLANNING BOARD</p> <p>BOARD MEMBERS PRESENT:</p> <p>WAYNE BRISKE, Chairman     ALAN GRAY District 5                      At Large</p> <p>TIM PYLE, Vice Chairman     REID RUSHING District 2                      At Large</p> <p>ERIC FEARS                      JAY INGWELL District 4                      District 1</p> <p>PLANNING BOARD STAFF PRESENT:</p> <p>KIA JOHNSON, ESQUIRE Assistant County Attorney</p> <p>HORACE JONES, Director JUAN LEMOS ALLYSON LINDSAY JON FISHER</p> <p>FOR THE HOMEOWNERS ASSOCIATION</p> <p>JOE A. SCHILLER, ESQUIRE 10407 Rawlings Drive Pensacola, Florida 32514 schiller49@hotmail.com</p>	<p style="text-align: center;">PROCEEDINGS</p> <p>THE CHAIRMAN: All right. And our final case, which we do have quite a few speakers on. Thank you all for being patient.</p> <p>As you can see, it's arduous sometimes. Z-2019-12, Buddy Page, the agent for Curtis and Kelli Sumrock, 11545 Sorrento Road, 18.78 acres, from LDR low-density residential to commercial.</p> <p>Members of the board, has there been any ex parte communication with any of the parties in this case?</p> <p>Have you visited the subject site? And are you a business associate or relative of any of the parties?</p> <p>MR. GRAY: No to all, Mr. Chair.</p> <p>MR. PYLE: No to all, other than I'm very familiar with this particular location.</p> <p>THE CHAIRMAN: Chairman, no to all.</p> <p>MR. FEARS: No to all.</p> <p>MR. INGWELL: No to all.</p> <p>MR. RUSHING: And no to all.</p> <p>THE CHAIRMAN: Okay. Thank you.</p> <p>Mr. Page, are you okay with the pictures?</p> <p>MR. PAGE: Yes.</p>																		

<p style="text-align: right;">Page 5</p> <p>1 THE CHAIRMAN: All right.</p> <p>2 MR. PAGE: Yes, sir.</p> <p>3 THE CHAIRMAN: We'll go with the maps and</p> <p>4 photography.</p> <p>5 MR. FISHER: Jon Fisher, senior planner.</p> <p>6 Juan is going to take care of this one.</p> <p>7 THE CHAIRMAN: Okay.</p> <p>8 MR. LEMOS: The boss had me out there</p> <p>9 talking to a customer.</p> <p>10 Once again, Juan Lemos, development</p> <p>11 services planner.</p> <p>12 Z-2019-12.</p> <p>13 This is the location map for the parcel in</p> <p>14 question off Sorrento Road.</p> <p>15 This is a map of the wetlands surrounding</p> <p>16 the area and within the parcel.</p> <p>17 This is the 500-foot radius for the zoning</p> <p>18 which shows LDR. Conservation, commercial</p> <p>19 across the street and HC/LI towards the west</p> <p>20 side of the property.</p> <p>21 The 500-foot radius for the future land</p> <p>22 use which shows mixed-use suburban on the</p> <p>23 property and commercial across the street.</p> <p>24 This is the actual existing land use for</p> <p>25 the property within the 500-foot radius.</p>	<p style="text-align: right;">Page 7</p> <p>1 type of nursery some time ago. I'm sure the</p> <p>2 applicant is going to address that.</p> <p>3 So that's what I wanted to depict on that</p> <p>4 picture of the structures that are still</p> <p>5 standing in there.</p> <p>6 And it is obvious -- obviously a review of</p> <p>7 historical area photographs, that there's always</p> <p>8 been some type of business on that parcel.</p> <p>9 Always been. Not something -- a nursery</p> <p>10 business, some type of plant studying business</p> <p>11 on that parcel.</p> <p>12 And that concludes the photographs and the</p> <p>13 maps.</p> <p>14 Okay.</p> <p>15 THE CHAIRMAN: Mr. Page.</p> <p>16 Sir, you are still under oath. Please</p> <p>17 state your name and address for this case.</p> <p>18 MR. SCHILLER: Mr. Chairman, for the</p> <p>19 record, my name is Joe Schiller. I represent</p> <p>20 the board of directors -- I mean, the homeowners</p> <p>21 association for Grand Lagoon Subdivision across</p> <p>22 the street.</p> <p>23 I also personally own property within 500</p> <p>24 feet. I'm an attorney representing the board.</p> <p>25 I -- I object to Mr. Page acting as an</p>
<p style="text-align: right;">Page 6</p> <p>1 Single-family residences, warehouses</p> <p>2 across the street, an existing concrete plant</p> <p>3 adjacent to the southwest. Single-family</p> <p>4 residence to the -- to the southeast -- or to</p> <p>5 the east. I'm sorry.</p> <p>6 The actual aerial photograph of the site</p> <p>7 in question, the concrete plant, you can see it</p> <p>8 right there on the -- on the south side -- on</p> <p>9 the southwest side.</p> <p>10 This is the actual public hearing sign</p> <p>11 posted on site.</p> <p>12 This is looking onto the property from</p> <p>13 Sorrento Road.</p> <p>14 Once again, this is looking onto the</p> <p>15 property towards the southeast.</p> <p>16 Looking southwest onto Sorrento Road from</p> <p>17 the property entrance.</p> <p>18 And looking southwest onto the actual</p> <p>19 property.</p> <p>20 Looking southwest onto Sorrento Road.</p> <p>21 Looking north across from Sorrento Road.</p> <p>22 And if you stop on that -- I'm sorry. Go</p> <p>23 back. Yes. For the -- Right there. That's</p> <p>24 fine.</p> <p>25 So this at one point this used to be some</p>	<p style="text-align: right;">Page 8</p> <p>1 attorney.</p> <p>2 THE CHAIRMAN: We're recording all of the</p> <p>3 proceedings.</p> <p>4 MR. SCHILLER: Okay.</p> <p>5 THE CHAIRMAN: So if you'll please come</p> <p>6 forward.</p> <p>7 MR. SCHILLER: I would object to Mr.</p> <p>8 Page --</p> <p>9 THE CHAIRMAN: Come forward. And let's</p> <p>10 first start over again.</p> <p>11 MR. SCHILLER: All right.</p> <p>12 THE CHAIRMAN: Are you an attorney here in</p> <p>13 the State of Florida?</p> <p>14 MR. SCHILLER: That's correct.</p> <p>15 THE CHAIRMAN: Yes, sir. Okay.</p> <p>16 MR. SCHILLER: 46 years.</p> <p>17 THE CHAIRMAN: Okay. Sir, so please again</p> <p>18 state your name and --</p> <p>19 MR. SCHILLER: Joe Schiller, 10407</p> <p>20 Rawlings Drive.</p> <p>21 THE CHAIRMAN: Okay. All right. We want</p> <p>22 to make sure we get everything --</p> <p>23 MR. SCHILLER: Right.</p> <p>24 THE CHAIRMAN: -- because we are in</p> <p>25 quasi-judicial here --</p>

<p style="text-align: right;">Page 9</p> <p>1 MR. SCHILLER: Right.</p> <p>2 THE CHAIRMAN: -- so that --</p> <p>3 MR. SCHILLER: And since this is</p> <p>4 quasi-judicial, I would object to a nonattorney</p> <p>5 representing a party in this case in a</p> <p>6 quasi-judicial proceeding.</p> <p>7 He's getting paid for this. I think the</p> <p>8 law requires or at least the Florida Bar</p> <p>9 requires him to be an attorney to represent an</p> <p>10 owner in this proceeding.</p> <p>11 Thank you.</p> <p>12 THE CHAIRMAN: Thank you.</p> <p>13 I'm going to refer to our legal here, Ms.</p> <p>14 Johnson. Your opinion in this matter, as Mr.</p> <p>15 Page acting as the agent for the property owner?</p> <p>16 MS. JOHNSON: No. It's okay that he acts</p> <p>17 as the agent for the property owner, as long as</p> <p>18 he didn't delve into providing legal advice or</p> <p>19 giving legal analysis that would require a law</p> <p>20 license.</p> <p>21 THE CHAIRMAN: Okay. All right.</p> <p>22 Board members, do you have any questions</p> <p>23 of the attorney about hearing Mr. Page's</p> <p>24 testimony?</p> <p>25 You've heard the objection from the</p>	<p style="text-align: right;">Page 11</p> <p>1 of Escambia County?</p> <p>2 MR. PAGE: I do.</p> <p>3 THE CHAIRMAN: All right.</p> <p>4 Go ahead, sir, please.</p> <p>5 MR. PAGE: Mr. Chairman, my presentation</p> <p>6 this morning will also include a number of</p> <p>7 documents that which make up our -- our</p> <p>8 compatibility study that's referenced in the</p> <p>9 report itself or in the application itself.</p> <p>10 And to start that off, I have a handout</p> <p>11 I'd like to present.</p> <p>12 THE CHAIRMAN: Okay. Has this been</p> <p>13 previously provided to the staff or is this a</p> <p>14 new document?</p> <p>15 MR. PAGE: This is a new document.</p> <p>16 THE CHAIRMAN: Okay. Please explain to us</p> <p>17 what the document is and who prepared it.</p> <p>18 MR. PAGE: Mr. Chairman, I prepared this.</p> <p>19 This is a copy of a wetlands area from the</p> <p>20 Escambia County Web page.</p> <p>21 It also includes two documents</p> <p>22 representing a mitigation with Florida DOT</p> <p>23 regarding a small entrance road down the side of</p> <p>24 the property, and it also establishes a wetland</p> <p>25 and jurisdictional area that's different from</p>
<p style="text-align: right;">Page 10</p> <p>1 gentleman.</p> <p>2 (No response.)</p> <p>3 THE CHAIRMAN: Okay. Hearing none, we</p> <p>4 will allow him to speak.</p> <p>5 Mr. Schiller, we will give you an</p> <p>6 opportunity to present as well. Okay.</p> <p>7 Mr. Page. All right.</p> <p>8 Would you state your name and address for</p> <p>9 the record, please.</p> <p>10 ---</p> <p>11 WILEY C. "BUDDY" PAGE, having been</p> <p>12 previously duly sworn, was examined and</p> <p>13 testified further as follows:</p> <p>14 ---</p> <p>15 MR. PAGE: Mr. Chairman, Buddy Page, 5337</p> <p>16 Hamilton Lane in Pace.</p> <p>17 THE CHAIRMAN: Mr. Page, on this case,</p> <p>18 have you received a copy of the staff's</p> <p>19 findings?</p> <p>20 MR. PAGE: I have.</p> <p>21 THE CHAIRMAN: Okay. And in this case,</p> <p>22 you understand that you have the burden of</p> <p>23 presenting competent and substantial evidence</p> <p>24 that's in no way in conflict with the</p> <p>25 Comprehensive Plan or the Land Development Code</p>	<p style="text-align: right;">Page 12</p> <p>1 what the state -- the aerial photo is from the</p> <p>2 county. And I want to point out that</p> <p>3 distinction.</p> <p>4 THE CHAIRMAN: Okay. So this is</p> <p>5 information that you researched electronically.</p> <p>6 And is this a true and accurate copy of</p> <p>7 what your research found online?</p> <p>8 MR. PAGE: It is.</p> <p>9 THE CHAIRMAN: Okay. If you'll present it</p> <p>10 to the staff here.</p> <p>11 Chair will entertain a motion to accept</p> <p>12 Mr. Page's evidence into the record.</p> <p>13 MR. GRAY: Mr. Chair, I make a motion to</p> <p>14 accept this evidence into the record for this</p> <p>15 hearing.</p> <p>16 MR. PYLE: Second.</p> <p>17 THE CHAIRMAN: Motion and a second.</p> <p>18 Any further discussion?</p> <p>19 (No response.)</p> <p>20 THE CHAIRMAN: All those in favor say aye.</p> <p>21 (Chorus of "ayes.")</p> <p>22 THE CHAIRMAN: Opposed?</p> <p>23 (No response.)</p> <p>24 THE CHAIRMAN: All right. We will label</p> <p>25 this as Applicant's Exhibit 1.</p>



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<p>1 Will you provide a copy to the attorney 2 that's representing, Mr. Page? 3 MR. LEMOS: Yes, sir, I did. 4 THE CHAIRMAN: Okay. Thank you. 5 Applicant Exhibit 1. 6 All right. Go ahead, sir. 7 MR. PAGE: Mr. Chairman, the cover -- the 8 cover of the handout shows the location of the 9 property. 10 Basically, if you look for the words 11 "Sorrento Road" just under the letter "S," 12 you'll see four buildings there that constitute 13 the site of concern here today. 14 I would also point out to you that 15 directly across the street from the site is a 16 wetlands indicator. 17 And to the left of that or to the west is 18 a miniwarehouse park. To the south of that 19 directly across the street from the 20 miniwarehouse is a batch concrete facility. 21 To the west of that facility and to the 22 east of the facility are wetland indicators. 23 And if you move east of the site itself, 24 back up under Sorrento Road, you'll note that 25 there are additional wetlands in that area as</p>	<p>1 aerial up front, you'll see that there is a 2 difference in the location of the wetland 3 boundary lines at that particular -- or in that 4 particular area. 5 The survey was done by Dr. Joe Edmiston, 6 who used to be the head of the biology 7 department out at the University of West 8 Florida, and it also has been surveyed by a 9 professional land surveyor. Both seals are 10 present on the map. 11 MR. GRAY: Mr. Chairman, may I ask a 12 question, please? 13 THE CHAIRMAN: Yes. 14 MR. GRAY: Mr. Page, who's the custodian 15 of the first document that we have in this 16 packet that has the pictorial representation of 17 the wetlands? Who owns -- Who preserves this? 18 MR. PAGE: That's from the county Web 19 page. 20 MR. GRAY: Okay. And this one you found a 21 record of . . . 22 MR. PAGE: That's been provided by the 23 owner who had a mitigation confrontation with 24 DEP. 25 MR. GRAY: Okay.</p>
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<p>1 well. 2 I would also point out in particular, to 3 the south of the buildings, the four buildings 4 that I referenced that are subject to our 5 application here today, you'll see that the 6 aerial photo itself does not carry the wetlands 7 indicator all the way up to the rear property 8 line of the rear of the parking lot, rather, 9 that you'll see in white. It meanders somewhat 10 beneath that. 11 I point that out and also point out that 12 all of these wetland areas that we see on here 13 contain wetland indicators, including Florida 14 rosemary, spartina, wire marsh grass, silver 15 leaf magnolia, and a considerable amount of 16 hydric soils in the area. 17 Mr. Chairman, referencing now page two, 18 page two, you'll see the very top portions of 19 all of these configurations and lines, dark 20 hatched. 21 And you'll notice that the area that's 22 classified as a wetland comes straight across 23 the rear of the property or the rear of the 24 parking lot where the building is located. 25 And if you compare that back with the</p>	<p>1 MR. PAGE: That's the settlement 2 agreement. 3 MR. GRAY: Okay. Thank you very much. 4 MR. PAGE: Mr. Chairman, page 3, then, 5 shows the results of the separation of the core 6 engineer wetlands, Florida DEP wetlands, where 7 the owner at the time agreed to have both of 8 those areas classified as jurisdictional 9 wetlands and be preserved so that no 10 construction could ever occur on it, regardless 11 of whether we zone it -- anything the board 12 might choose today. It's precluded by this 13 arrangement with Florida DEP. 14 Mr. Chairman, moving, then, back to the 15 application itself, I wanted to establish the 16 fact that those environmental areas in that 17 particular location were such as shown. 18 I might go back to the very first front 19 map again under the word "Sorrento." We were 20 out yesterday morning early. 21 And right at the very gate itself, which 22 is, oh, maybe 100 feet under the words -- the 23 letter "r" in Sorrento as you see in that map, 24 we stopped at the front gate and looked to the 25 east and to the area on that aerial that's shown</p>

<p style="text-align: right;">Page 17</p> <p>1 as a nonwetland area.</p> <p>2 But we found the Florida rosemary. We</p> <p>3 found spartina. We found silver leaf magnolia.</p> <p>4 And, of course, the hydric soils are very</p> <p>5 abundant and wet in that area. You can hardly</p> <p>6 step off the road without at least going up to</p> <p>7 your ankle.</p> <p>8 And my reason in mentioning that is, the</p> <p>9 aerial, again, that's shown -- the</p> <p>10 differentiation between a wetland area and what</p> <p>11 appears to be a dry area under "Sorrento" is in</p> <p>12 error, as it was underneath the building itself</p> <p>13 over on the westerly side.</p> <p>14 Mr. Chairman, in the application itself,</p> <p>15 under approval conditions, Criterion A, we</p> <p>16 appear to be consistent with the staff's</p> <p>17 findings as well.</p> <p>18 Criterion B indicates that it is not</p> <p>19 consistent with Land Development Code. All new,</p> <p>20 nonresidential uses proposed within the</p> <p>21 commercial district.</p> <p>22 And it goes on to read -- And then at the</p> <p>23 bottom it says, "If the zoning -- rezoning is</p> <p>24 approved, it would encourage the creation of</p> <p>25 strip commercial development."</p>	<p style="text-align: right;">Page 19</p> <p>1 So we don't feel that item B is accurately</p> <p>2 recorded. Our position on it is, as I've just</p> <p>3 stated, there's no other room for anything to be</p> <p>4 a strip commercial of any sort.</p> <p>5 And after hearing the presentation</p> <p>6 preceding this regarding the freeboard and the</p> <p>7 flood areas, I'm not so sure that anything could</p> <p>8 be constructed along any of this area out there</p> <p>9 anymore.</p> <p>10 The subdivision that's to the northwest of</p> <p>11 this across the street from the miniwarehouses,</p> <p>12 I had some involvement in that back in the day</p> <p>13 with that. And it was a considerable effort to</p> <p>14 design and construct that to a standard for</p> <p>15 flood zones as it appeared back in the day.</p> <p>16 So, Mr. Chairman, we feel like that our</p> <p>17 information regarding B is more consistent</p> <p>18 rather than what has been offered by the staff's</p> <p>19 finding.</p> <p>20 Under item C, compatibility with</p> <p>21 surrounding areas, the findings there again say</p> <p>22 that it is not compatible with surrounding</p> <p>23 existing uses.</p> <p>24 Mr. Chairman, right next door, as you saw</p> <p>25 in the overheads here, right next door to the</p>
<p style="text-align: right;">Page 18</p> <p>1 If it's going to create a condition of</p> <p>2 encouraging strip commercial development, Mr.</p> <p>3 Chairman, we're of the position that you've got</p> <p>4 to have some land somewhere in order for that</p> <p>5 additional strip commercial development to be</p> <p>6 constructed.</p> <p>7 It cannot be constructed anywhere across</p> <p>8 the street. That's all owned by IITF, the</p> <p>9 Internal Improvement Trust Fund in Tallahassee.</p> <p>10 The area to the east we've just described</p> <p>11 as being wetland all the way up to the roadway.</p> <p>12 The area to the west is a batch concrete</p> <p>13 plant. And the area to the south of these</p> <p>14 buildings has been designated and agreed to in a</p> <p>15 settlement between the owner at the time and</p> <p>16 Florida DEP as being an area that would not be</p> <p>17 constructed in.</p> <p>18 So, Mr. Chairman, we do not agree with</p> <p>19 item B, only because there's no place to build</p> <p>20 anything that would resemble a strip commercial</p> <p>21 development.</p> <p>22 The only commercial that's out there now</p> <p>23 is an existing ministorage facility, which is</p> <p>24 kitty-cornered and across the street from this</p> <p>25 proposed rezoning change.</p>	<p style="text-align: right;">Page 20</p> <p>1 west is a batch concrete plant. It's stated in</p> <p>2 here that it is a mineral processing parcel. I</p> <p>3 don't know what -- That sounds rather innocent,</p> <p>4 mineral processing.</p> <p>5 It's actually, Mr. Chairman, out of the</p> <p>6 Land Development Code under 3-2.12, industrial,</p> <p>7 the uses that are allowed under the industrial</p> <p>8 category under D says, "Industrial uses, light,</p> <p>9 heavy" -- It goes on and on and on. It says,</p> <p>10 "Landfills and concrete and asphalt batch</p> <p>11 plants." That's really what that is. A mineral</p> <p>12 processing? I'm not sure what that is.</p> <p>13 So in taking a look at that, then, in</p> <p>14 terms of compatibility with surrounding uses, we</p> <p>15 certainly think it's very compatible with the</p> <p>16 concrete plant to the west.</p> <p>17 It's certainly compatible with the</p> <p>18 miniwarehouses to the northwest. And then due</p> <p>19 north the property is restricted because it's</p> <p>20 owned by IITF in Tallahassee.</p> <p>21 And the area immediately adjacent and to</p> <p>22 the east we think is a wetland area that</p> <p>23 probably would not be allowed to be constructed</p> <p>24 or filled in, as some of these parcels have been</p> <p>25 done back in the day.</p>

<p style="text-align: right;">Page 21</p> <p>1 So we feel like we're consistent with item</p> <p>2 D in terms of compatibility with surrounding</p> <p>3 uses.</p> <p>4 We think that there's an error in terms of</p> <p>5 the first sentence that says "not compatible</p> <p>6 with surrounding existing uses." Well, that</p> <p>7 existing use pulls in at that point, Mr.</p> <p>8 Chairman, the concrete batch plant.</p> <p>9 Item d, appropriate if spot zoning.</p> <p>10 Findings would create spot zoning. Let's</p> <p>11 see. As requested, commercial zoning is</p> <p>12 different from all contiguous land. Mr.</p> <p>13 Chairman, the . . . all contiguous land -- And</p> <p>14 perhaps I left that in the back here.</p> <p>15 Mr. Chairman, contiguous land takes on --</p> <p>16 the word "contiguous" takes on several</p> <p>17 definitions. Black's Law Dictionary says,</p> <p>18 "Contiguous first is in --</p> <p>19 MR. SCHILLER: Object to him giving legal</p> <p>20 opinions.</p> <p>21 MR. PAGE: Not a legal opinion, Mr.</p> <p>22 Chairman. I'm reading from a book.</p> <p>23 THE CHAIRMAN: Yes, sir. We're going to</p> <p>24 allow it. He's just reading the definition out</p> <p>25 of a book.</p>	<p style="text-align: right;">Page 23</p> <p>1 And, Mr. Chairman, it says the land -- the</p> <p>2 land uses or development conditions within the</p> <p>3 areas surrounding the property have not changed.</p> <p>4 We agree with that, but we think that our</p> <p>5 compatibility analysis that we have where there</p> <p>6 are existing commercial areas there now, that is</p> <p>7 a condition of which we are compatible with.</p> <p>8 So, Mr. Chairman, out of all of the five</p> <p>9 criteria, we would ask the board to consider</p> <p>10 adopting the staff's findings on A. And then</p> <p>11 the balance of each individual findings, B, C,</p> <p>12 D, and E, that the board substitute the</p> <p>13 information that I've provided here today, which</p> <p>14 we think makes us compatible with all of those.</p> <p>15 We ask that you replace the staff findings with</p> <p>16 those as presented here today.</p> <p>17 THE CHAIRMAN: Thank you, Mr. Page.</p> <p>18 Questions of Mr. Page?</p> <p>19 MR. GRAY: I had a question.</p> <p>20 So are you trying to contend that -- I'm</p> <p>21 going to use a visual aid. For the record, this</p> <p>22 might be difficult.</p> <p>23 Are you contending that these are</p> <p>24 contiguous pieces of paper? That these are</p> <p>25 parcels and they're by a piece of road?</p>
<p style="text-align: right;">Page 22</p> <p>1 MR. PAGE: Mr. Chairman, the book reads</p> <p>2 "contiguous: In close proximity, neighboring,</p> <p>3 adjoining, near in succession or in actual close</p> <p>4 contact."</p> <p>5 There are a number of definitions there</p> <p>6 that describe what would be contiguous.</p> <p>7 We think that we are not spot zoning</p> <p>8 because we are contiguous to things that are</p> <p>9 fairly heavy construction in terms of land use</p> <p>10 at the present time. So we don't think we're</p> <p>11 doing any spot zoning at all.</p> <p>12 The commercial we're asking for is the</p> <p>13 same as right across the street with the</p> <p>14 miniwarehouse.</p> <p>15 So, Mr. Chairman, under item E, in terms</p> <p>16 of appropriate with changed conditions, it says</p> <p>17 here that if land uses or development conditions</p> <p>18 for the surrounding area of property for</p> <p>19 rezoning have changed.</p> <p>20 And the area out there has not changed.</p> <p>21 The buildings that we have there now, the four</p> <p>22 buildings, were constructed in the early '90s</p> <p>23 and have been used for fairly heavy commercial</p> <p>24 activity since that period of time until they</p> <p>25 closed.</p>	<p style="text-align: right;">Page 24</p> <p>1 MR. PAGE: I could read the definition</p> <p>2 again. It certainly would include that they are</p> <p>3 contiguous.</p> <p>4 MR. GRAY: So . . . And in my, I guess</p> <p>5 short 20 years of experience in urban planning,</p> <p>6 compared to some of those in the room, we're</p> <p>7 able to call this contiguous, this contiguous.</p> <p>8 And this is considered a hopscotch move. Does</p> <p>9 that make sense to you?</p> <p>10 MR. PAGE: It's considered to be what?</p> <p>11 MR. GRAY: Well, I'm using a layman's</p> <p>12 term.</p> <p>13 It's considered noncontiguous. It's</p> <p>14 considered like a checker move, going hopscotch,</p> <p>15 ticking across a . . . In other words, if I was</p> <p>16 to say that this was commercial and this was,</p> <p>17 you know, low-density residential, that these</p> <p>18 aren't -- these aren't contiguous parcels --</p> <p>19 and, again, they're split by a piece of road.</p> <p>20 A road doesn't make them noncontiguous.</p> <p>21 If there's a road between those two, they're</p> <p>22 still considered contiguous. If they're next to</p> <p>23 each other, they're obviously . . .</p> <p>24 MR. PAGE: Mr. Chairman, I would simply</p> <p>25 refer to --</p>



<p style="text-align: right;">Page 25</p> <p>1 MR. GRAY: Is that your contention?</p> <p>2 MR. PAGE: -- the staff's own findings.</p> <p>3 MR. GRAY: Are you -- are you saying that</p> <p>4 because their corners are across, that the</p> <p>5 parcels are contiguous?</p> <p>6 MR. PAGE: It could or could not be, based</p> <p>7 on the -- based on the definition that I've read</p> <p>8 to you, and also rereading again under Criterion</p> <p>9 C, the proposed amendment is not compatible with</p> <p>10 surrounding existing uses. Surrounding.</p> <p>11 MR. GRAY: It certainly is surrounding.</p> <p>12 It certainly is surrounding. It's not quite</p> <p>13 adjacent. My experience has told me I haven't</p> <p>14 been able to consider this contiguous in the</p> <p>15 past. Right. I understand what you're saying.</p> <p>16 MR. PYLE: Can we go to the existing</p> <p>17 land-use map? Can you put that up there? Can</p> <p>18 we go back to the -- Thank you. Zoning map.</p> <p>19 I'm sorry. One more. Thank you.</p> <p>20 And . . . I'm sorry. So the concrete</p> <p>21 plant would be recognized by that.</p> <p>22 MR. LEMOS: LDR. Concrete batch plant --</p> <p>23 and I was going to say that on my -- I'm sorry,</p> <p>24 Mr. Page -- under my findings.</p> <p>25 MR. PYLE: Use the microphone.</p>	<p style="text-align: right;">Page 27</p> <p>1 MR. LEMOS: Yes, sir.</p> <p>2 MR. GRAY: I'm looking at Google street</p> <p>3 view. And I don't know if we've -- if I've</p> <p>4 stressed, we -- I was requesting the county</p> <p>5 purchase a 360 camera. Remember this, Horace?</p> <p>6 MR. JONES: Yes.</p> <p>7 MR. GRAY: For the purpose of being able</p> <p>8 to zoom and to move around really well.</p> <p>9 But for now, Google gave us a free 360</p> <p>10 camera, to show us conditions on that Sorrento</p> <p>11 Road. And I -- I do remember this being kind of</p> <p>12 an odd . . . There's a USA Ready-Mix -- like,</p> <p>13 not your -- not your subject parcel -- which is</p> <p>14 contiguous to your property, as being sort of an</p> <p>15 odd-located, but obviously it's there. It's</p> <p>16 under LDR.</p> <p>17 And if we were to be asked permission</p> <p>18 today for it to be there . . .</p> <p>19 MR. JONES: No.</p> <p>20 MR. GRAY: Right, would have been the</p> <p>21 answer. However --</p> <p>22 MR. JONES: Wholeheartedly no. No. No.</p> <p>23 And just because there's a nonconforming use</p> <p>24 there, you cannot legitimize a zoning request.</p> <p>25 MR. GRAY: There's -- Actually, we have</p>
<p style="text-align: right;">Page 26</p> <p>1 MR. LEMOS: So under my findings --</p> <p>2 THE CHAIRMAN: State your name.</p> <p>3 MR. LEMOS: So under my findings -- Juan</p> <p>4 Lemos, development services planner.</p> <p>5 Under the findings, you'll see that --</p> <p>6 that that's -- that's an existing concrete batch</p> <p>7 plant that's been there for a long time, since</p> <p>8 the early '90s, according to the records we</p> <p>9 could find. So it's grandfathered, but it is on</p> <p>10 LDR.</p> <p>11 The parcel itself is on LDR. The use,</p> <p>12 absolutely. I've been out there to the site.</p> <p>13 It is -- it is . . . Yeah, it is a heavy use. I</p> <p>14 don't know that it's an industrial use, but they</p> <p>15 do have concrete trucks that go in there and</p> <p>16 pick up stuff.</p> <p>17 MR. PYLE: So let me ask you this: The</p> <p>18 current -- the previous owner, would they be --</p> <p>19 when they were -- let's say when there was a</p> <p>20 nursery and gift shop, was that a nonconforming</p> <p>21 use for LDR?</p> <p>22 MR. LEMOS: Oh, absolutely. For LDR,</p> <p>23 absolutely.</p> <p>24 MR. PYLE: So it's never actually . . .</p> <p>25 Okay.</p>	<p style="text-align: right;">Page 28</p> <p>1 wording in our -- our documentation that just</p> <p>2 because something is a nonconformer in there</p> <p>3 does not make it . . .</p> <p>4 MR. JONES: Right.</p> <p>5 MR. GRAY: What is it? Two wrongs don't</p> <p>6 make a right in this case. I'm just going to</p> <p>7 lean back on that again.</p> <p>8 MR. PAGE: Mr. Chairman, we also would</p> <p>9 counter that by saying, who made it wrong?</p> <p>10 In the early '80s, when the assessment of</p> <p>11 the various uses was done by windshield survey</p> <p>12 and put on a map?</p> <p>13 That particular site was there. It was</p> <p>14 missed. I can't imagine that it being</p> <p>15 overlooked or someone saying we don't like that</p> <p>16 concrete plant there. And for that reason,</p> <p>17 we're just going to ignore its presence, and</p> <p>18 we'll classify it as a residential or mixed use.</p> <p>19 I have another one that will be before</p> <p>20 this board probably next month in the same</p> <p>21 situation, where it was missed in the early</p> <p>22 '80s.</p> <p>23 And now do you go back and tell them,</p> <p>24 well, you're nonconforming? Well, I didn't make</p> <p>25 myself nonconforming. You guys came out here</p>

<p style="text-align: right;">Page 29</p> <p>1 and did a survey, and you missed me.</p> <p>2 It puts both of the landowners in a very</p> <p>3 difficult situation, Mr. Chairman. So I</p> <p>4 understand that, the question.</p> <p>5 THE CHAIRMAN: Okay. What I'd like to do</p> <p>6 at this point, let's go ahead and get on the</p> <p>7 record the staff's findings.</p> <p>8 And, Juan, if you would, please, just</p> <p>9 summarize -- I know that Mr. Schiller has a</p> <p>10 presentation. And he'll be next after you get</p> <p>11 these findings on.</p> <p>12 But when you give each criteria, just give</p> <p>13 a very brief summary so we can keep moving.</p> <p>14 MR. LEMOS: No problem. Yes, sir.</p> <p>15 So the first criterion, consistent with</p> <p>16 the Comprehensive Plan.</p> <p>17 We found that it is consistent with the</p> <p>18 Comp -- with the future land use.</p> <p>19 Under Criterion B, consistent with the</p> <p>20 Land Development Code, it is inconsistent.</p> <p>21 Again, the code is very specific about what is</p> <p>22 allowed under the commercial development and</p> <p>23 what type of development is supposed to be</p> <p>24 allowed in there.</p> <p>25 Let me clarify that at this point</p>	<p style="text-align: right;">Page 31</p> <p>1 that -- that -- that probably have prevented</p> <p>2 this little corridor from being highly developed</p> <p>3 because it is highly traffic -- it's traffic --</p> <p>4 the traffic count is through probably the roof.</p> <p>5 I mean, I sat there for 20 minutes in the</p> <p>6 parcel. And, I mean, it's constant traffic. I</p> <p>7 got it.</p> <p>8 But there is a reason that has never been</p> <p>9 developed ahead of the commercial. And, yes,</p> <p>10 environmental aspects, both the flood zones and</p> <p>11 the wetlands is absolutely one of the things</p> <p>12 that anybody who knows properties would have a</p> <p>13 challenge with. And that's it.</p> <p>14 Do we have any questions?</p> <p>15 THE CHAIRMAN: Okay. Thank you.</p> <p>16 We'll bring you back up if we have</p> <p>17 additional questions.</p> <p>18 Mr. Schiller.</p> <p>19 MR. SCHILLER: Mr. Chairman.</p> <p>20 THE CHAIRMAN: Sir, we haven't had the</p> <p>21 pleasure of meeting in this forum before, so I'd</p> <p>22 like to just have you basically share your</p> <p>23 qualifications, your education and your</p> <p>24 certification, licenses with the board so that</p> <p>25 they know who you are and everything.</p>
<p style="text-align: right;">Page 30</p> <p>1 obviously during the application, I did not have</p> <p>2 an actual compatibility analysis that Mr. Page</p> <p>3 has presented to the board now.</p> <p>4 So I did mention that in some of my</p> <p>5 findings. So I'm going to refrain from</p> <p>6 mentioning that every single time at the point</p> <p>7 of submittal I did not have that to review.</p> <p>8 Criterion C, compatible with the</p> <p>9 surrounding uses. I say not compatible with the</p> <p>10 surrounding uses in the area.</p> <p>11 Under Criterion D, appropriate if spot</p> <p>12 zoning. Based on the definition of spot zoning,</p> <p>13 the Land Development Code, this will be -- this</p> <p>14 will create a spot zoning situation.</p> <p>15 Criterion D. I'm sorry. Criterion E, if</p> <p>16 it's appropriate with changed or changing</p> <p>17 conditions.</p> <p>18 Basically, we say if you drive between</p> <p>19 those two roads, Bauer and Blue Angel, that's a</p> <p>20 really very low development area. There are</p> <p>21 some existing commercials, in fact, businesses</p> <p>22 along Sorrento Road, but it is not highly</p> <p>23 developed.</p> <p>24 And Mr. Page cannot point it out that</p> <p>25 there are a lot of environmental land conditions</p>	<p style="text-align: right;">Page 32</p> <p>1 MR. SCHILLER: I'm a member of the Florida</p> <p>2 Bar since January 1973.</p> <p>3 THE CHAIRMAN: Okay.</p> <p>4 MR. SCHILLER: And I'm employed from the</p> <p>5 State Attorney's Office here.</p> <p>6 THE CHAIRMAN: Okay.</p> <p>7 MR. SCHILLER: The Florida board . . .</p> <p>8 THE CHAIRMAN: Have you had experience</p> <p>9 working with land usages and --</p> <p>10 MR. SCHILLER: Only dealing with --</p> <p>11 THE CHAIRMAN: -- views and property</p> <p>12 values, and --</p> <p>13 MR. SCHILLER: This subdivision over the</p> <p>14 last 30 years.</p> <p>15 THE CHAIRMAN: Okay.</p> <p>16 MR. SCHILLER: And it's been an</p> <p>17 experience, I can tell you.</p> <p>18 THE CHAIRMAN: Okay.</p> <p>19 MR. SCHILLER: And I would like to call a</p> <p>20 witness out of order, Mr. Chairman.</p> <p>21 THE CHAIRMAN: Okay. Let me just do one</p> <p>22 more housekeeping item here. For qualification</p> <p>23 of an attorney representing a homeowners</p> <p>24 association, do we have documentaiton that's</p> <p>25 required to be submitted for quasi-judicial</p>

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<p>1 or --</p> <p>2 MS. JOHNSON: No, no specific</p> <p>3 documentaiton.</p> <p>4 THE CHAIRMAN: Okay. So the members of</p> <p>5 the homeowners association just appoint him as a</p> <p>6 spokesman, and then he can call individuals as</p> <p>7 witnesses in the case.</p> <p>8 MS. JOHNSON: That's correct.</p> <p>9 THE CHAIRMAN: Okay. All right.</p> <p>10 Mr. Gray, did you have a question?</p> <p>11 MR. GRAY: I did.</p> <p>12 I would love for you to orient me to the</p> <p>13 subdivision with which you represent in relation</p> <p>14 to this.</p> <p>15 Do we have a map --</p> <p>16 MR. SCHILLER: Yes, sir.</p> <p>17 MR. GRAY: -- that might show you in it?</p> <p>18 MR. SCHILLER: Yes. Yes. Yes, I do, sir.</p> <p>19 MR. GRAY: It might be on the screen, that</p> <p>20 the staff can probably pull it for you, if you</p> <p>21 have a larger scope.</p> <p>22 MR. SCHILLER: I have a handout, too. 13</p> <p>23 copies there.</p> <p>24 THE CHAIRMAN: Okay. Sir, you're an</p> <p>25 attorney, so you're familiar with bringing those</p>	<p>1 (Chorus of "ayes.")</p> <p>2 THE CHAIRMAN: Opposed?</p> <p>3 (No response.)</p> <p>4 THE CHAIRMAN: All right. They're entered</p> <p>5 into evidence as 1 and 2.</p> <p>6 Is there a preference to which one you'll</p> <p>7 be using first, sir?</p> <p>8 MR. SCHILLER: We'll use A.</p> <p>9 THE CHAIRMAN: Okay.</p> <p>10 MR. SCHILLER: I forgot which one A was.</p> <p>11 THE CHAIRMAN: You've already got them</p> <p>12 labeled. Great. Thank you, sir.</p> <p>13 THE CHAIRMAN: Yes, sir.</p> <p>14 You've already labeled them, which is</p> <p>15 great. Thank you.</p> <p>16 MR. SCHILLER: And, Mr. Chairman, I'd hate</p> <p>17 to go out of order, but I have a witness that</p> <p>18 has a doctor's appointment, and she would like</p> <p>19 to testify.</p> <p>20 THE CHAIRMAN: Yes, sir. Bring her</p> <p>21 forward.</p> <p>22 MR. SCHILLER: Yes, sir. Ms. Wells.</p> <p>23 THE CHAIRMAN: Ms. Wells?</p> <p>24 MR. SCHILLER: Yes, sir.</p> <p>25 THE CHAIRMAN: Okay. We'll have her sworn</p>
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<p>1 into evidence. You have to explain what the</p> <p>2 documents are and where they came from.</p> <p>3 MR. SCHILLER: These are the original</p> <p>4 plats of Grand Lagoon Ranches Homeowners</p> <p>5 Association -- Grand Lagoon Ranches subdivision.</p> <p>6 THE CHAIRMAN: These are accurate and true</p> <p>7 copies of --</p> <p>8 MR. SCHILLER: These are recorded plats --</p> <p>9 recorded plats.</p> <p>10 THE CHAIRMAN: Okay.</p> <p>11 MR. SCHILLER: And I have copies for -- I</p> <p>12 think it's 13, so if you look at these, I think</p> <p>13 it can help you a little bit.</p> <p>14 THE CHAIRMAN: How many documents do we</p> <p>15 have there?</p> <p>16 MR. SCHILLER: There's two.</p> <p>17 THE CHAIRMAN: Two. All right.</p> <p>18 MR. SCHILLER: Exhibit A and Exhibit B.</p> <p>19 THE CHAIRMAN: Okay. All right. The</p> <p>20 Chair will now entertain a motion to accept the</p> <p>21 Defense Exhibit 1 and 2 into evidence.</p> <p>22 MR. GRAY: Motion.</p> <p>23 MR. PYLE: Second.</p> <p>24 THE CHAIRMAN: Motion and a second.</p> <p>25 All those in favor say aye.</p>	<p>1 in, and state her name and address for the</p> <p>2 record, please.</p> <p>3 ---</p> <p>4 SUZANNE WELLS, upon being duly sworn, was</p> <p>5 examined and testified as follows:</p> <p>6 ---</p> <p>7 MS. WELLS: My name is Suzanne Wells, 3298</p> <p>8 Nighthawk Lane.</p> <p>9 MR. SCHILLER: And, Ms. Wells, are you the</p> <p>10 president of the homeowners association?</p> <p>11 MS. WELLS: Yeah, I'm the president of the</p> <p>12 homeowners association.</p> <p>13 MR. SCHILLER: And you're looking at</p> <p>14 Exhibit B there in front of you.</p> <p>15 MR. GRAY: The recording is being done.</p> <p>16 If you'll get in front of the microphone.</p> <p>17 THE CHAIRMAN: Yes, sir. If you'll get in</p> <p>18 front of the microphone.</p> <p>19 MR. SCHILLER: Exhibit B represents a plat</p> <p>20 of your subdivision. That's correct?</p> <p>21 MS. WELLS: Yes.</p> <p>22 MR. SCHILLER: And you live at --</p> <p>23 actually, there's another addition to this</p> <p>24 that's not here.</p> <p>25 MS. WELLS: Yes. This is unit one.</p>

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<p>1 MR. SCHILLER: All right.</p> <p>2 MS. WELLS: I live in unit one.</p> <p>3 MR. SCHILLER: How many homeowners or lot</p> <p>4 owners are in --</p> <p>5 MR. GRAY: I'm sorry. I can't hear what</p> <p>6 you're saying, and you're only 15 feet away.</p> <p>7 MR. JONES: Here's a microphone. Go to</p> <p>8 the mic. If you can pass the mic behind you.</p> <p>9 THE CHAIRMAN: Or we can use Horace's.</p> <p>10 MR. JONES: We got one.</p> <p>11 MR. SCHILLER: Okay. That will work.</p> <p>12 THE CHAIRMAN: It's for the record and for</p> <p>13 your board. Thank you.</p> <p>14 MR. SCHILLER: Ms. Wells, how many lot</p> <p>15 owners -- lot owners are there in that</p> <p>16 subdivision?</p> <p>17 MS. WELLS: 14.</p> <p>18 MR. SCHILLER: So you're a small</p> <p>19 subdivision; is that correct?</p> <p>20 MS. WELLS: Well, 14 in unit one.</p> <p>21 MR. SCHILLER: And there's another unit?</p> <p>22 Three or four more?</p> <p>23 MS. WELLS: Maybe seven.</p> <p>24 MR. SCHILLER: All right. You're in that</p> <p>25 one; is that correct?</p>	<p>1 MS. WELLS: Okay. I just want to say if</p> <p>2 this is rezoned, it's my opinion that the</p> <p>3 quality of life -- our quality of life will be</p> <p>4 impacted.</p> <p>5 On -- Just on June 18th this year there</p> <p>6 was a fatal accident near Sorrento and Bauer,</p> <p>7 which is only one mile from the area that we're</p> <p>8 talking about here.</p> <p>9 And unfortunately, one person was killed</p> <p>10 and one was in critical condition. And this</p> <p>11 happens all the time on Sorrento. There have</p> <p>12 been numerous other wrecks and several</p> <p>13 fatalities.</p> <p>14 I personally have had several close calls</p> <p>15 trying to turn left from Sorrento onto</p> <p>16 Nighthawk.</p> <p>17 This intersection is within 500 feet of</p> <p>18 the property being considered. And I've had</p> <p>19 cars and even a motorcycle almost rear-end me.</p> <p>20 And they end up going into the ditch because</p> <p>21 they're not paying attention.</p> <p>22 The speed limit's 45 there. They're going</p> <p>23 60. They aren't paying attention. They're</p> <p>24 texting, whatever they're doing. And then all</p> <p>25 of a sudden they see me, even though I slow down</p>
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<p>1 MS. WELLS: Yes.</p> <p>2 MR. SCHILLER: Okay. And did you have a</p> <p>3 comment you want to make to the board about this</p> <p>4 rezoning?</p> <p>5 MS. WELLS: I do.</p> <p>6 MR. SCHILLER: And how long have you lived</p> <p>7 there?</p> <p>8 MS. WELLS: Wow. 1986. Since 1986.</p> <p>9 MR. SCHILLER: And you have horses out</p> <p>10 there?</p> <p>11 MS. WELLS: Yes.</p> <p>12 MR. SCHILLER: And is that the -- each lot</p> <p>13 in there is five acres?</p> <p>14 MS. WELLS: Yes.</p> <p>15 MR. SCHILLER: With one house for five</p> <p>16 acres; is that correct?</p> <p>17 MS. WELLS: Mm-hmm.</p> <p>18 MR. SCHILLER: And you go down Sorrento</p> <p>19 Road at least daily; is that correct?</p> <p>20 MS. WELLS: Yes.</p> <p>21 MR. SCHILLER: And are you familiar with</p> <p>22 the Perdido pitcher plant prairie preserve . . .</p> <p>23 MS. WELLS: Yes.</p> <p>24 MR. SCHILLER: . . . park? Okay.</p> <p>25 Go ahead with your comments that you have.</p>	<p>1 to 35 miles an hour to try to, you know, get</p> <p>2 people to slow down. They end up in the ditch.</p> <p>3 MR. SCHILLER: So you're talking coming</p> <p>4 westward towards --</p> <p>5 MS. WELLS: Going -- I'm going --</p> <p>6 MR. SCHILLER: East from the west --</p> <p>7 MS. WELLS: East. Trying to turn left</p> <p>8 onto Sorrento.</p> <p>9 MR. PAGE: Mr. Chairman, could I ask that</p> <p>10 she identify what criteria she's speaking to,</p> <p>11 please?</p> <p>12 THE CHAIRMAN: I think -- I think that is</p> <p>13 important because the board here only can</p> <p>14 identify or vote on the criteria that we have up</p> <p>15 there. So we would --</p> <p>16 MS. WELLS: Okay.</p> <p>17 THE CHAIRMAN: -- we would like for --</p> <p>18 MS. WELLS: Well, it's about quality of</p> <p>19 life.</p> <p>20 THE CHAIRMAN: That's not one of our</p> <p>21 criteria.</p> <p>22 MS. WELLS: I thought it was on there</p> <p>23 toward . . .</p> <p>24 MR. SCHILLER: It's in the board's public,</p> <p>25 down here, quality of life.</p>



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<p>1 MS. WELLS: Board action. Oh, guys 2 consider the quality of life. 3 THE CHAIRMAN: Well, right, but we have to 4 base our decision on competent and substantial 5 evidence that is one of these categories. 6 MS. WELLS: Okay. Well, impact on the 7 wetlands. No? Yes? Okay. I mean, I don't 8 have to give you-all a lecture about how 9 important wetlands are. 10 But it will greatly impact our wetlands. 11 The whole area has been designated for -- as 12 Perdido pitcher plant prairie. 13 And I just feel that with the traffic, 14 increased traffic, it's already too much. And 15 the impact on our environment, it would be -- 16 would truly impact our quality of life. 17 MR. SCHILLER: Okay. And for the record, 18 Sorrento Road is a two-lane road; is that 19 correct? 20 MS. WELLS: Yes. No shoulder, by the way. 21 MR. SCHILLER: No bike path, no shoulder. 22 MS. WELLS: No. There's nothing. 23 And I'm going to have to leave. I have an 24 appointment. So I appreciate you letting me go 25 first.</p>	<p>1 the paper here, you gave Alice. I wanted to 2 make sure the record that is preserved, that 3 you're the one speaking. 4 MS. MULLINS: Okay. Alice -- My name is 5 Alice Madura Mullins. 6 THE CHAIRMAN: Okay. 7 MS. MULLINS: So Alice is part of my legal 8 name. 9 THE CHAIRMAN: Yes, ma'am. 10 MS. MULLINS: Thank you. Sorry for the 11 confusion. 12 THE CHAIRMAN: No problem. 13 MS. MULLINS: Okay. I would like to state 14 that I do agree with staff's findings. 15 Instead of repeating all of what they 16 said, I agree with that for you to not approve 17 this zoning request. 18 If you make it commercial, it would open 19 the door to a lot of inappropriate things. I 20 know Mr. Page addressed they're limited in what 21 they can do. 22 But even at that, there's stuff that could 23 be put in that would not be appropriate for 24 residences across the street or next door to it. 25 Now, as far as the concrete batch house is</p>
Page 42	Page 44
<p>1 MR. FEARS: Thank you for waiting this 2 morning. 3 MR. SCHILLER: Madura Mullins. 4 THE CHAIRMAN: Mr. Schiller, I would ask 5 that you try to ask them to stay focused on the 6 criteria that we have here because that's the 7 only thing that we can really vote on for this 8 board. 9 --- 10 ALICE MADURA MULLINS, upon being duly 11 sworn, was examined and testified as follows: 12 --- 13 MS. MULLINS: My name is Madura Mullins, 14 and I live at 11557 Sorrento Road. 15 I am diagonally across. My property -- 16 Apparently from -- from the maps, I barely 17 missed getting a letter. I saw the sign on the 18 road. 19 I may be within 500 feet. I don't know. 20 I didn't mark it, because traffic is too busy on 21 Sorrento. 22 THE CHAIRMAN: Ms. Mullins, before you go 23 on, do you also go by the name Alice? 24 MS. MULLINS: Yes. It's Alice Madura. 25 THE CHAIRMAN: Okay. So you just -- on</p>	<p>1 concerned, that originally was part of the 2 subdivision that I'm in on the wrong side of the 3 road. So that's the reason -- a good thing 4 years ago back in the '80s that there was no 5 zoning. 6 It was sold as residential property, but 7 the new owner took that portion and turned it 8 into a concrete plant. 9 It is a nonconforming property within the 10 residential zoning. Sorrento has not been 11 four-laned yet. They don't have sewer available 12 on the property in question. It's septic tank. 13 All of that needs to be taken into 14 consideration whether it would be appropriate to 15 make it commercial. 16 That's about all I have to say. I do 17 agree with staff's findings. 18 MR. GRAY: Sorry to interrupt you. 19 MS. MULLINS: Yes. 20 MR. GRAY: How are we handling time on 21 this, staff? Jon? How are we handling time on 22 each of these speakers? I'm not really seeing 23 it displayed. 24 THE CHAIRMAN: These are witnesses being 25 called by the attorney, so they are given</p>

<p style="text-align: right;">Page 45</p> <p>1 latitude.</p> <p>2 MR. GRAY: Oh, is that right? Okay. My</p> <p>3 mistake. I apologize.</p> <p>4 MS. MULLINS: Thank you.</p> <p>5 THE CHAIRMAN: That's all you have?</p> <p>6 Questions by the board?</p> <p>7 (No response.)</p> <p>8 THE CHAIRMAN: No?</p> <p>9 Thank you.</p> <p>10 MR. SCHILLER: Call Ms. Buck, Cathy Buck.</p> <p>11 ---</p> <p>12 CATHERINE BUCK, upon being duly sworn, was</p> <p>13 examined and testified as follows:</p> <p>14 ---</p> <p>15 MS. BUCK: My name is Cathy Buck. My</p> <p>16 address, 3351 Nighthawk Lane.</p> <p>17 THE CHAIRMAN: Thank you.</p> <p>18 MR. SCHILLER: And, Ms. Buck, did you get</p> <p>19 one of those orange flyers here in the mail?</p> <p>20 MS. BUCK: I did not. I am not within the</p> <p>21 500 feet.</p> <p>22 MR. SCHILLER: Okay. And you have some</p> <p>23 comments you'd like to make to the board.</p> <p>24 MS. BUCK: I do.</p> <p>25 MR. SCHILLER: Concerning the criteria.</p>	<p style="text-align: right;">Page 47</p> <p>1 I -- I believe that the property owner should</p> <p>2 have an opportunity to make use of their</p> <p>3 property.</p> <p>4 However, it should fall within the LDR</p> <p>5 with an eye to the future, which is 11 years</p> <p>6 coming, so the 18 acres obviously have already</p> <p>7 been pointed out as riddled with wetlands.</p> <p>8 They're sensitive and protected by the State of</p> <p>9 Florida.</p> <p>10 The existing uses and structures, as we</p> <p>11 have already said, are nonconforming.</p> <p>12 The original handwritten application said</p> <p>13 that they were interested in having a</p> <p>14 microbrewery. I don't know if you were privy to</p> <p>15 that.</p> <p>16 Suddenly it changed to an office. I don't</p> <p>17 know if either would be . . . Certainly an</p> <p>18 office would not -- If -- if it was a</p> <p>19 nanobrewery with a very limited special-use</p> <p>20 condition or conditional use, I think that could</p> <p>21 potentially be a use for the property. It could</p> <p>22 also be a driving range or -- or something of</p> <p>23 that that would be conforming with the LDR.</p> <p>24 So I believe that spot zoning is a no-no</p> <p>25 and should be prevented at any rate.</p>
<p style="text-align: right;">Page 46</p> <p>1 MS. BUCK: Yes.</p> <p>2 I'm sorry. My first time at this rodeo.</p> <p>3 In another life, I was a local official,</p> <p>4 participated in planning and zoning. And I was</p> <p>5 you in another state in another time.</p> <p>6 So I'm not familiar with your format.</p> <p>7 Forgive me. I did not go A, B, C, D. So if you</p> <p>8 just give me a little latitude, I'll try to be</p> <p>9 very brief.</p> <p>10 I certainly reiterate what Madura Dora had</p> <p>11 to say. I believe that traffic, although it's</p> <p>12 not considered here specifically, in the -- in</p> <p>13 the back -- backup readings from your staff,</p> <p>14 they did talk about the traffic differential</p> <p>15 between Nine Mile Road and Sorrento Road.</p> <p>16 We are only 200 vehicle trips a day below</p> <p>17 Nine Mile Road. So that gives you, if you're</p> <p>18 not familiar with Sorrento, an idea of the kind</p> <p>19 of traffic volume that we face on a daily basis.</p> <p>20 And that was in 19 -- in 2018, I should say.</p> <p>21 I would say that any rezoning from LDR to</p> <p>22 commercial is tantamount to spot zoning. And I</p> <p>23 agree with staff that this would be absolutely</p> <p>24 spot zoning.</p> <p>25 And, again, two wrongs don't make a right.</p>	<p style="text-align: right;">Page 48</p> <p>1 Thank you.</p> <p>2 THE CHAIRMAN: I did have one question for</p> <p>3 you, Mr. Schiller.</p> <p>4 Ms. Buck indicated her past expertise in</p> <p>5 the area of land use and planning.</p> <p>6 Are you qualifying her as an expert</p> <p>7 witness?</p> <p>8 MR. SCHILLER: No, no.</p> <p>9 THE CHAIRMAN: Or just as a layperson?</p> <p>10 MR. SCHILLER: I didn't know that. That's</p> <p>11 the first time I heard that.</p> <p>12 THE CHAIRMAN: Okay. Okay. So -- so --</p> <p>13 MS. BUCK: I'm -- I'm -- I've only lived</p> <p>14 here five years, so . . .</p> <p>15 THE CHAIRMAN: Okay. Because we would</p> <p>16 have to voir dire the witness and get all of</p> <p>17 that out if she's going to be an expert.</p> <p>18 MS. BUCK: No. You'll just have to take</p> <p>19 my word for it. I have 19 years --</p> <p>20 THE CHAIRMAN: Yes, ma'am. Okay.</p> <p>21 We just want to make sure because in</p> <p>22 quasi-judicial, if you're going to be an expert</p> <p>23 witness, we have to go through a few more</p> <p>24 steps --</p> <p>25 MS. BUCK: I understand . . .</p>

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<p>1 THE CHAIRMAN: -- to do that.</p> <p>2 MS. BUCK: . . . yes.</p> <p>3 THE CHAIRMAN: Okay. I don't have any</p> <p>4 questions.</p> <p>5 Any questions of this witness?</p> <p>6 (No response.)</p> <p>7 THE CHAIRMAN: Okay.</p> <p>8 MS. BUCK: Thank you.</p> <p>9 THE CHAIRMAN: Thank you, ma'am.</p> <p>10 Go ahead, sir.</p> <p>11 MR. SCHILLER: I'd like to -- I have some</p> <p>12 questions for Mr. Page, but I'd like to testify</p> <p>13 briefly about the . . .</p> <p>14 THE CHAIRMAN: Before we do that, is Ms.</p> <p>15 Carole Tebay -- Is she one of your witnesses as</p> <p>16 well or -- No. She just wants to testify.</p> <p>17 Okay. So we give you the opportunity, once the</p> <p>18 gentleman has finished his presentation.</p> <p>19 MR. SCHILLER: Well, as I say, I have some</p> <p>20 questions for Mr. Page.</p> <p>21 But on my Exhibits A and B, Exhibit B is</p> <p>22 our subdivision. Since this -- We have another</p> <p>23 unit which is about six houses more. Goes down</p> <p>24 that street and dead-ends at a creek called</p> <p>25 Sandy Creek.</p>	<p>1 One night I got a call from one of the</p> <p>2 people who owned. Went out there at 7:30 at</p> <p>3 night.</p> <p>4 Says, "Look at this." Goes, "A meeting to</p> <p>5 be held at Bratt Middle School, a special</p> <p>6 meeting set by the Board of County Commissions</p> <p>7 to deal with the zoning." Well, that was the</p> <p>8 same night we looked at it. And we sent</p> <p>9 somebody up there to object, but they couldn't</p> <p>10 find Bratt Middle School.</p> <p>11 The developer got the County -- Board of</p> <p>12 County Commission, the people that appointed</p> <p>13 you, in theory --</p> <p>14 MR. PAGE: Mr. Chairman, I'm sorry. I</p> <p>15 can't follow 1 through 6. If he could tell me</p> <p>16 where he is in that criteria outline, please.</p> <p>17 MR. SCHILLER: I'm explaining to Mr.</p> <p>18 Gray -- he asked how that plant got there. I'm</p> <p>19 trying to explain that. That's a question the</p> <p>20 board raised, Mr. Page.</p> <p>21 THE CHAIRMAN: Okay. Mr. Schiller, I'm</p> <p>22 going to ask you just to hold for one second.</p> <p>23 The reason is, I have to exit the meeting.</p> <p>24 I've got a meeting that I cannot get out</p> <p>25 of. And I'm going to have to turn it over to</p>
Page 50	Page 52
<p>1 And Sandy Creek runs under Bauer Road.</p> <p>2 And there's another part of our subdivision over</p> <p>3 there that's smaller one-acre lots.</p> <p>4 And so Exhibit A is part of the original</p> <p>5 Grand Lagoon Ranches. And it's broken into</p> <p>6 10-to 20-acre parcels for homes.</p> <p>7 And as you can see, it's platted there.</p> <p>8 It's right in the middle. The concrete plant</p> <p>9 sits right in the middle of that.</p> <p>10 When we first moved out there and bought</p> <p>11 out there in the early 1980s, '79, '80s, there</p> <p>12 was nothing out there. There was one house on</p> <p>13 that whole place. And none of this was there.</p> <p>14 No miniwarehouses.</p> <p>15 Walmart wasn't there. Blue Angel Parkway</p> <p>16 wasn't there. Bauer Road was just a little</p> <p>17 country road that crossed there. And the only</p> <p>18 other thing out there was Periodo Bay Country</p> <p>19 Club.</p> <p>20 The developer of Grand Lagoon Ranches</p> <p>21 decided he was going to convert this back to raw</p> <p>22 acreage unbeknownst to us, and put a sign out</p> <p>23 there, one of these -- little sign. No letters</p> <p>24 went out to anybody. A little -- a little --</p> <p>25 Not even as big as this, a little white sign.</p>	<p>1 the Vice Chairman, who's my best buddy right</p> <p>2 now. I'm sure to get a note from him.</p> <p>3 But if you'll just allow me a moment to</p> <p>4 just kind of orient him with what documents I</p> <p>5 have here. Hold on just a moment.</p> <p>6 (The Chairman left the hearing room.)</p> <p>7 MR. PYLE: I ask we set timing on</p> <p>8 speakers. Is there some reason there's -- I</p> <p>9 understand that he's calling witnesses, but on</p> <p>10 speakers, is he not subject to the three</p> <p>11 minutes?</p> <p>12 MR. GRAY: That's up to the board's call.</p> <p>13 MR. SCHILLER: I'm only responding to a</p> <p>14 question he had about the concrete plant. I'm</p> <p>15 trying to explain it, but . . .</p> <p>16 MR. PYLE: Proceed.</p> <p>17 MR. SCHILLER: If you're ready to vote on</p> <p>18 this, if you want to affirm what staff</p> <p>19 recommends, then we'll rest right now. I mean,</p> <p>20 I . . .</p> <p>21 MR. PYLE: Sir, you understand the</p> <p>22 criteria that we have to judge by.</p> <p>23 So the applicant has the right to ask</p> <p>24 what -- if you are speaking in opposition, which</p> <p>25 criteria you are utilizing for your opposition.</p>

<p style="text-align: right;">Page 53</p> <p>1 MR. SCHILLER: Okay. Well, it's not that</p> <p>2 we've answered the question, then, that Mr. Gray</p> <p>3 had.</p> <p>4 MR. GRAY: I don't mind allowing the -- a</p> <p>5 little bit of time to talk about the origin of</p> <p>6 what we have as nonconforming used as a</p> <p>7 comparative analysis.</p> <p>8 MR. SCHILLER: Okay. And staff raised</p> <p>9 that question anyway.</p> <p>10 They had that meeting. It was converted</p> <p>11 back to raw acreage.</p> <p>12 And about a month later, the owner sold it</p> <p>13 to the concrete plant owner up at Century to put</p> <p>14 that plant in.</p> <p>15 This was all done secretly on the sly at</p> <p>16 night at Bratt Middle School. And we didn't get</p> <p>17 any written notice of it. And we've had to live</p> <p>18 with that plant for 30-something years now. And</p> <p>19 it is the highest industrial use you can have on</p> <p>20 property.</p> <p>21 They had to fill in big trenches. I don't</p> <p>22 think they got permits. They dug trenches to</p> <p>23 drain it and fill it in with concrete washout</p> <p>24 and gravel. It's a big dusty eyesore. Noisy.</p> <p>25 And since that happened, the homeowners</p>	<p style="text-align: right;">Page 55</p> <p>1 MR. SCHILLER: So, again, on Mr. Page's</p> <p>2 handout, I'm not sure of what -- what page --</p> <p>3 page three he's trying to show us. He's trying</p> <p>4 to show that these first two sections are going</p> <p>5 to be preserved wetlands? Is that it?</p> <p>6 MR. PYLE: He's simply, I think, stating</p> <p>7 what the existing condition, in contrast to what</p> <p>8 we were provided.</p> <p>9 MR. SCHILLER: He's trying to get this</p> <p>10 parcel here rezoned? As well as this parcel?</p> <p>11 MR. PAGE: Yes.</p> <p>12 MR. SCHILLER: And connect them somehow?</p> <p>13 MR. PAGE: Yes.</p> <p>14 MR. SCHILLER: Okay. Well, anyway, for</p> <p>15 these -- for these reasons, we -- we recommend</p> <p>16 that you follow the staff's recommendations.</p> <p>17 We've had nothing but -- We've had to</p> <p>18 fight the county at every turn. We've been to</p> <p>19 Circuit Court. We had two or three</p> <p>20 administrative hearings.</p> <p>21 The concrete plant tried to expand and go</p> <p>22 west. And we had to -- had to go to Circuit</p> <p>23 Court to stop them.</p> <p>24 And they finally -- The County</p> <p>25 Commissioners agreed with us on that. And the</p>
<p style="text-align: right;">Page 54</p> <p>1 have agreed to fight everything that goes out</p> <p>2 there that's inconsistent -- you know,</p> <p>3 opposition on this -- on this property out</p> <p>4 there.</p> <p>5 We fought hard to get this whole area</p> <p>6 converted to park by the state for the Perdido</p> <p>7 pitcher plant prairie. This is part of a state</p> <p>8 park here. There isn't just county land. This</p> <p>9 is a state park to the east and to the south of</p> <p>10 this property, and to the north and the</p> <p>11 northwest and the northeast. It goes all the</p> <p>12 way to Tarklin Bayou, 3,500 acres.</p> <p>13 Okay. A large part of that was done by</p> <p>14 Grand Lagoon Ranches homeowners. All right. So</p> <p>15 that's how that concrete plant got there.</p> <p>16 And I think if you look at Mr. Page's</p> <p>17 handout, they filled in the wetlands to do that.</p> <p>18 I don't know how they got a permit to do that.</p> <p>19 But you can see the wetlands was joined</p> <p>20 right there until they put -- they filled it in</p> <p>21 and dug their ditches out there.</p> <p>22 They dug a ditch down here to drain it.</p> <p>23 These ditches are -- I don't know who put it in,</p> <p>24 but they're trying to drain this property out</p> <p>25 there.</p>	<p style="text-align: right;">Page 56</p> <p>1 owners appealed and we won in Circuit Court.</p> <p>2 Anyway, it's been a fight for 35 years,</p> <p>3 and that's -- that's the history of that area</p> <p>4 out there.</p> <p>5 MR. PYLE: Thank you.</p> <p>6 MR. SCHILLER: We recommend that you</p> <p>7 follow their recommendations.</p> <p>8 Thank you.</p> <p>9 MR. GRAY: Thank you. Thanks for the</p> <p>10 chart.</p> <p>11 MR. PYLE: Do we have a Carole Tebay,</p> <p>12 please?</p> <p>13 MR. PYLE: You have something for us you</p> <p>14 need to hand up to staff.</p> <p>15 MS. TeBAY: Thank you.</p> <p>16 ---</p> <p>17 CAROLE TeBAY, upon being duly sworn, was</p> <p>18 examined and testified as follows:</p> <p>19 ---</p> <p>20 THE CHAIRMAN: Ms. Tebay, if you can state</p> <p>21 your name and address, and then briefly explain</p> <p>22 what it is you're handing the board, and see if</p> <p>23 we can submit that into evidence.</p> <p>24 MS. TeBAY: I'm Carol Tebay, 4060 Indigo</p> <p>25 Drive.</p>



<p style="text-align: right;">Page 57</p> <p>1 This is a map from the DEP Web site, which</p> <p>2 shows the Perdido pitcher plant prairie.</p> <p>3 And in the center you'll see the end</p> <p>4 holding, which is the development that the</p> <p>5 citizens have been -- And the property that</p> <p>6 wants to be rezoned.</p> <p>7 So it shows that to the north and east and</p> <p>8 a little to the west are conservation lands. To</p> <p>9 the south is the Garcon Swamp, which is -- Those</p> <p>10 are acquired lands for the Perdido pitcher</p> <p>11 plant.</p> <p>12 MR. PYLE: So if I understand, you're</p> <p>13 basically talking about surroundings.</p> <p>14 Is this something you'd like to submit</p> <p>15 into this case into evidence?</p> <p>16 MS. TEBAY: Yes.</p> <p>17 MR. PYLE: Okay. If anybody has any</p> <p>18 questions or they'd like to . . .</p> <p>19 MR. GRAY: I think we should introduce</p> <p>20 this into evidence.</p> <p>21 MR. PYLE: Do we have a motion and do we</p> <p>22 have a second?</p> <p>23 MR. GRAY: Motion.</p> <p>24 MR. FEARS: Second.</p> <p>25 MR. PYLE: We have a motion and a second.</p>	<p style="text-align: right;">Page 59</p> <p>1 owners -- I live on Big Lagoon.</p> <p>2 MR. GRAY: I'm sorry.</p> <p>3 MS. TEBAY: Those property owners --</p> <p>4 MR. GRAY: This subdivision.</p> <p>5 MS. TEBAY: Subdivision.</p> <p>6 MR. GRAY: The subdivision.</p> <p>7 MS. TEBAY: And the land across that 292</p> <p>8 is Sorrento.</p> <p>9 So the property south, the little piece</p> <p>10 south of Sorrento is the concrete plant and the</p> <p>11 parcel that's being discussed today.</p> <p>12 MR. GRAY: Thank you for helping me</p> <p>13 orient. Thank you.</p> <p>14 MR. JONES: May I ask a question? Because</p> <p>15 I know we -- if this going to be in evidence, I</p> <p>16 don't -- this map, is this a county-done map</p> <p>17 or --</p> <p>18 MS. TEBAY: This is a state map.</p> <p>19 MR. JONES: State map.</p> <p>20 MS. TEBAY: I got it from the DEP Web</p> <p>21 site.</p> <p>22 MR. JONES: okay.</p> <p>23 MS. TEBAY: It's for the Florida Forever.</p> <p>24 And this is the Perdido pitcher plant prairie,</p> <p>25 which is conservation land.</p>
<p style="text-align: right;">Page 58</p> <p>1 All those in favor say aye.</p> <p>2 (Chorus of "ayes.")</p> <p>3 MR. PYLE: Any opposed?</p> <p>4 (No response.)</p> <p>5 MS. TEBAY: Yes. I'm just hoping to show</p> <p>6 that this property is an end holding within</p> <p>7 conservation area.</p> <p>8 And the green to the south of it is</p> <p>9 essential parcels remaining to be purchased as</p> <p>10 part of Florida Forever. And I don't know when</p> <p>11 it will be eventually, but it's on the Florida</p> <p>12 Forever wish list of property that the</p> <p>13 sellers -- of willing sellers. So that would</p> <p>14 make it completely surrounded by conservation</p> <p>15 land.</p> <p>16 MR. GRAY: I think I'm trying to -- If I</p> <p>17 may ask, Mr. Chair, to orient myself on this</p> <p>18 graphic, this map that you've shown.</p> <p>19 MS. TEBAY: Yeah. You'll see the small</p> <p>20 yellow in between in the middle.</p> <p>21 MR. GRAY: That is an enclave of</p> <p>22 nonconservation --</p> <p>23 MS. TEBAY: Correct.</p> <p>24 MR. GRAY: -- is you folks.</p> <p>25 MS. TEBAY: Yes. That -- Those property</p>	<p style="text-align: right;">Page 60</p> <p>1 MR. JONES: Right.</p> <p>2 MS. TEBAY: And so the green is land that</p> <p>3 they hope to purchase.</p> <p>4 MR. JONES: So this land is -- Is this not</p> <p>5 adopted by them, or they just -- they're hoping</p> <p>6 to -- I don't want to . . . Are they hoping to</p> <p>7 get it?</p> <p>8 MS. TEBAY: This is their information map</p> <p>9 on the DEP Web site of what the Perdido pitcher</p> <p>10 plant prairie is.</p> <p>11 MR. PYLE: You obtained this from a state</p> <p>12 Web site, correct?</p> <p>13 MS. TEBAY: Correct.</p> <p>14 MR. PYLE: And you copied it yourself and</p> <p>15 are submitting it?</p> <p>16 MS. TEBAY: Correct.</p> <p>17 MR. PYLE: This is existing as the pitcher</p> <p>18 prairie plant.</p> <p>19 MR. GRAY: And the plant also concludes</p> <p>20 their targeting of . . . Is that correct?</p> <p>21 MS. TEBAY: Correct.</p> <p>22 MR. GRAY: Essential parcels remaining,</p> <p>23 which are targeted areas.</p> <p>24 MS. TEBAY: Correct. It's on their wish</p> <p>25 list, so . . .</p>

<p style="text-align: right;">Page 61</p> <p>1 MR. GRAY: And to be clear again, does 2 their target -- This kind of gets blurry in 3 there. Does their target parcels include the 4 parcel with which we're looking at on the 5 rezoning case today or just -- 6 MS. TEBAY: No, because that would not be 7 a willing seller. 8 MR. GRAY: I see. 9 MS. TEBAY: The green is willing sellers. 10 It's just the state coming through with the 11 money to purchase it. 12 MR. GRAY: Okay. And the concrete 13 plant -- 14 MS. TEBAY: Is not a willing seller. So 15 they're all in holding within conservation 16 lands. 17 MR. GRAY: And this subdivision itself 18 also is not wishing to become part of 19 conservation. 20 MS. TEBAY: Correct. And to become part 21 of the pitcher plant prairie, you have to be 22 willing sellers. 23 MR. GRAY: Got it. Okay. Thank you 24 again. 25 MS. TEBAY: Thank you.</p>	<p style="text-align: right;">Page 63</p> <p>1 environmental concerns out that way, Mr. 2 Chairman. 3 But in any event, the other concerns that 4 we heard, one that particularly caught my 5 attention, was highway safety. 6 And as speaker turned and walked away from 7 the podium, she said that there's no shoulder 8 out there. It's a two-lane road with no 9 shoulder. 10 Well, yesterday morning we had four trucks 11 and a car parked on the shoulder in front of 12 this facility that -- this piece of property 13 that we're talking about here now, very well 14 maintained and mowed, apparently by the concrete 15 company, as I understand it. They mow all the 16 way down in both directions. 17 And the miniwarehouse across the way mows 18 probably about a 30- or 40-foot strip all in 19 front of it. 20 Gentlemen, there's plenty of shoulder out 21 that way. And if there is a safety issue, it's 22 certainly not the -- anything that the owner of 23 the piece of property that I represent can 24 enforce. 25 That type of thing, as you clearly know,</p>
<p style="text-align: right;">Page 62</p> <p>1 MR. PYLE: All right. Any other speakers 2 on this case? 3 Mr. Page, would you like to comment on any 4 of these? 5 MR. PAGE: Thank you, Mr. Chairman. 6 Out of the four speakers, there was a 7 number of things that they were concerned about, 8 least of which and last was this pitcher plant 9 map. 10 Even with my bifocals on, I'm thinking 11 that the area that is south of the highway 12 probably is this piece of property. 13 And if it is this piece of property, the 14 map is out of date because Florida DEP, 15 according to what I've already handed out to 16 you, has agreed to take two parcels of that 17 because they feel like it is wetlands. And the 18 owner at the time did the same thing. So 19 they're in conservation. 20 So I would suggest to you that the map 21 perhaps is not completely up to date. And if 22 the homeowners in that area that have the five 23 acres with horses, if they aren't willing to be 24 a part of the pitcher plant preservation 25 designation, I'm not sure how that speaks to</p>	<p style="text-align: right;">Page 64</p> <p>1 that's something the Sheriff's Department would 2 certainly handle. 3 Less quality of life. I'm not sure how -- 4 what quality that would be. If a -- if a 5 commercial establishment, small, especially 6 given the size of this -- it's an existing 7 building -- would have on the quality of life in 8 that area. 9 I'm sure that there could be some 10 environmental biologist somewhere that would say 11 that that 14-acre subdivision that's out there 12 affected the quality of life, the quality of all 13 the flora and fauna that were part of what was 14 removed in order to put those 14 lots in there. 15 So this goes -- this goes back and forth. 16 A microbrewery that I heard mentioned, 17 that absolutely was an early consideration, but 18 the need for the zoning for that was a very high 19 plumb to reach, because you had to have a zoning 20 category above where we're requesting in order 21 to put that type of thing in. 22 The interested buyer in this piece of 23 property is in the air-conditioning business, 24 not in the installation of air conditioning, but 25 inasmuch as the tweaking of the baffles and what</p>

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<p>1 have you, to allow certain cubic feet and what</p> <p>2 have you to come in.</p> <p>3 As a matter of fact, my understanding is</p> <p>4 he has a contract with the county to do this</p> <p>5 building, and the courthouse, and perhaps other</p> <p>6 government buildings.</p> <p>7 That's who is proposing to occupy this,</p> <p>8 Mr. Chairman, as an office place they could meet</p> <p>9 in the morning and then go out to the various</p> <p>10 buildings and do whatever you do to manage these</p> <p>11 air-conditioning systems.</p> <p>12 The pitcher plant, I still am not all that</p> <p>13 conversant with -- with -- with what problems</p> <p>14 that this would present with that, only because</p> <p>15 DEP identified the environmentally sensitive</p> <p>16 lands.</p> <p>17 And the owner at the time agreed to make</p> <p>18 that donation, as I previously said. So we</p> <p>19 think that that perhaps might be a moot point on</p> <p>20 this particular piece of property and for this</p> <p>21 application process this morning.</p> <p>22 So, Mr. Chairman, based upon the staff's</p> <p>23 findings, that we concurred with A, I would ask</p> <p>24 the board to consider all the testimony and the</p> <p>25 information that I presented as competent and</p>	<p>1 MR. GRAY: I don't know that I have any</p> <p>2 questions. I do, you know, probably have some</p> <p>3 discussion among us for a few minutes, but I'll</p> <p>4 pause to do that.</p> <p>5 MR. PYLE: I think we're there. I think</p> <p>6 we're there.</p> <p>7 MR. GRAY: Yeah. Again, I think we were</p> <p>8 looking at one of the criteria being the spot</p> <p>9 zoning. So if we go to D.</p> <p>10 And I'll just -- Maybe I should ask staff.</p> <p>11 Do you remember the physical representation of</p> <p>12 my two sheets of paper being catty-corner or</p> <p>13 kitty-corner, however you say it, in the region</p> <p>14 as not considered contiguous? That's the</p> <p>15 question.</p> <p>16 So if we look at the map we just passed --</p> <p>17 if we can go back down. Sorry. That was a</p> <p>18 great representation -- graphic on the screen.</p> <p>19 The commercial that's across and to the</p> <p>20 west, are we allowed to hop across the road like</p> <p>21 that and consider ourselves not spot zoning?</p> <p>22 That's the question, staff.</p> <p>23 Have you been . . . I was -- I was</p> <p>24 directed by the former DCA that I can't do that</p> <p>25 when I was trying to accomplish some things back</p>
Page 66	Page 68
<p>1 substantial information concerning the</p> <p>2 information required on B, C, D and E, and ask</p> <p>3 that you adopt our findings for each of those,</p> <p>4 together with the staff's findings of item A.</p> <p>5 Thank you.</p> <p>6 MR. PYLE: Thank you, Mr. Page.</p> <p>7 And I will just say, as a resident of that</p> <p>8 area, this is the -- these are the cases that</p> <p>9 drive me nuts, this transitory Gulf Beach</p> <p>10 Highway, Sorrento. It's terrible because I</p> <p>11 think the benefit of the map that the last</p> <p>12 speaker brought up was simply to show the size</p> <p>13 of the pitcher prairie plant was a big deal for</p> <p>14 a long time and hard-fought battle, if I'm not</p> <p>15 mistaken, that was -- I just think it simply</p> <p>16 stands to show the quantity of area that is</p> <p>17 preserved under that.</p> <p>18 Mr. Page would have an argument for or</p> <p>19 against that. I get it. And I think, Mr. Page,</p> <p>20 you represented your . . . the applicant as best</p> <p>21 as you possibly could, especially given that the</p> <p>22 county's findings were contrary to that.</p> <p>23 But do any of the board members have any</p> <p>24 questions for Mr. Page or any of the other</p> <p>25 speakers?</p>	<p>1 in -- I don't know -- '06 or '05, something like</p> <p>2 that. Is that the same finding with the county?</p> <p>3 Do we consider those contiguous and would that</p> <p>4 be spot zoning in any other situation if those</p> <p>5 were adjacent but not connected?</p> <p>6 Do they have to share an edge is the</p> <p>7 question. Can they share a corner?</p> <p>8 MR. JONES: Yeah. The road -- the road is</p> <p>9 a dividing point. It's a separation. And we</p> <p>10 still -- we still would consider this as spot</p> <p>11 zoning.</p> <p>12 MR. GRAY: Okay. So that was my -- that</p> <p>13 was my one question. So that one has kind of</p> <p>14 been answered.</p> <p>15 So your customary understanding of this is</p> <p>16 the road's the divider, but furthermore, it has</p> <p>17 to share an edge.</p> <p>18 MR. JONES: Yeah.</p> <p>19 MR. GRAY: Yeah. Okay.</p> <p>20 So I guess that's been cleared up, one of</p> <p>21 the questions I had.</p> <p>22 My other question might be, you know,</p> <p>23 for -- Well, it's not really a question. It's</p> <p>24 more of a statement.</p> <p>25 And that is the idea that we've got a</p>

<p style="text-align: right;">Page 69</p> <p>1 community that's been suffering a neighbor for</p> <p>2 so long that, sure, next to that neighbor,</p> <p>3 anything looks probably okay.</p> <p>4 But you can't compare that neighbor</p> <p>5 because they're a legal nonconformer, right?</p> <p>6 MR. JONES: Correct.</p> <p>7 MR. GRAY: So as against a concrete plant,</p> <p>8 I'm sure, you know . . . I don't know . . . a</p> <p>9 firework testing site might look okay, you know.</p> <p>10 I don't know what it would take to make that --</p> <p>11 That's just obnoxious. I really do feel for the</p> <p>12 residents over there. It just seems like the</p> <p>13 system has failed you, if that was what I was</p> <p>14 surviving next to.</p> <p>15 And I -- you know, I know the efforts</p> <p>16 you've been undergoing. I don't know what role</p> <p>17 you've played in the different plans and the</p> <p>18 preservation and conservation areas. But</p> <p>19 applaud -- applaud you guys for that insight to</p> <p>20 make that work.</p> <p>21 So, you know, I -- I feel bad that you</p> <p>22 feel like -- you probably feel like the system</p> <p>23 doesn't work.</p> <p>24 And I think if we vote in favor of this,</p> <p>25 that you'll probably be in further in that</p>	<p style="text-align: right;">Page 71</p> <p>1 MR. PYLE: We have a motion and second.</p> <p>2 All those in favor signify by saying aye.</p> <p>3 (Chorus of "ayes.")</p> <p>4 MR. PYLE: All those opposed say nay.</p> <p>5 (No response.)</p> <p>6 MR. PYLE: The ayes have it.</p> <p>7 And it does not pass.</p> <p>8 Adjourns the quasi-judicial meeting.</p> <p>9 (Hearing concluded at 11:52 a.m.)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 70</p> <p>1 assumption that the system doesn't work.</p> <p>2 So I mean, I guess you guys can understand</p> <p>3 where I'm coming from on this. That's all I</p> <p>4 have for the statement.</p> <p>5 MR. PYLE: Do you have a question or</p> <p>6 comments, board members?</p> <p>7 (No response.)</p> <p>8 MR. PYLE: Hearing none, entertain a</p> <p>9 motion.</p> <p>10 MR. GRAY: Let's see if this works. I'm</p> <p>11 going to move to deny the application and going</p> <p>12 along with staff's findings.</p> <p>13 Again, I might need some help on this.</p> <p>14 Which criteria they were -- that it was -- it</p> <p>15 was.</p> <p>16 It was D was nonconforming or didn't -- C,</p> <p>17 B.</p> <p>18 MR. RUSHING: C, D, and E.</p> <p>19 MR. GRAY: C, D, and E.</p> <p>20 MR. RUSHING: Based on C, D, and E.</p> <p>21 MR. GRAY: C, D, and E. Thank you.</p> <p>22 So based on C, D, and E, that this is a no</p> <p>23 vote for me. This does not pass.</p> <p>24 MR. PYLE: We have a motion.</p> <p>25 MR. FEARS: Second.</p>	<p style="text-align: right;">Page 72</p> <p>1</p> <p>2</p> <p>3 CERTIFICATE OF REPORTER</p> <p>4</p> <p>5</p> <p>6 STATE OF FLORIDA )</p> <p>7 )</p> <p>8 COUNTY OF ESCAMBIA )</p> <p>9</p> <p>10 I, DAVID A. DEIK, CP, CPE, Professional Court</p> <p>11 Reporter, certify that I was authorized to and did</p> <p>12 stenographically report the foregoing Planning Board</p> <p>13 proceedings; and that the transcript is a true record,</p> <p>14 to the best of my ability, of the proceedings contained</p> <p>15 herein.</p> <p>16 I further certify that I am not a relative,</p> <p>17 employee, attorney, or counsel to any of the parties,</p> <p>18 nor am I a relative or employee of any of the parties'</p> <p>19 attorney or counsel connected with the action, nor am I</p> <p>20 financially interested in the action.</p> <p>21</p> <p>22</p> <p>23 s/ David A. Deik</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p> <p>54</p> <p>55</p> <p>56</p> <p>57</p> <p>58</p> <p>59</p> <p>60</p> <p>61</p> <p>62</p> <p>63</p> <p>64</p> <p>65</p> <p>66</p> <p>67</p> <p>68</p> <p>69</p> <p>70</p> <p>71</p> <p>72</p> <p>73</p> <p>74</p> <p>75</p> <p>76</p> <p>77</p> <p>78</p> <p>79</p> <p>80</p> <p>81</p> <p>82</p> <p>83</p> <p>84</p> <p>85</p> <p>86</p> <p>87</p> <p>88</p> <p>89</p> <p>90</p> <p>91</p> <p>92</p> <p>93</p> <p>94</p> <p>95</p> <p>96</p> <p>97</p> <p>98</p> <p>99</p> <p>100</p> <p>101</p> <p>102</p> <p>103</p> <p>104</p> <p>105</p> <p>106</p> <p>107</p> <p>108</p> <p>109</p> <p>110</p> <p>111</p> <p>112</p> <p>113</p> <p>114</p> <p>115</p> <p>116</p> <p>117</p> <p>118</p> <p>119</p> <p>120</p> 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**Planning Board-Rezoning**

**6. E.**

**Meeting Date:** 08/06/2019

**CASE :** Z-2019-12

**APPLICANT:** Wiley C. "Buddy" Page, Agent for Curtis and Kelli Sumrock, Owners

**ADDRESS:** 11545 Sorrento Rd

**PROPERTY REF. NO.:** 12-3S-31-3301-000-000

**FUTURE LAND USE:** MU-S, Mixed-Use Suburban

**DISTRICT:** 2

**OVERLAY DISTRICT:** N/A

**BCC MEETING DATE:** 09/05/2019

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**SUBMISSION DATA:**

**REQUESTED REZONING:**

**FROM:** LDR, Low Density Residential district (4 du/acre)

**TO:** Com, Commercial district (25 du/acre)

**RELEVANT AUTHORITY:**

- (1) Escambia County Comprehensive Plan
- (2) Escambia County Land Development Code
- (3) Board of County Commissioners of Brevard County v. Snyder, 627 So. 2d 469 (Fla. 1993)
- (4) Resolution 96-34 (Quasi-judicial Proceedings)
- (5) Resolution 96-13 (Ex-parte Communications)

**APPROVAL CONDITIONS**

**Criterion a., LDC Sec. 2-7.2(b)(4)**

**Consistent with Comprehensive Plan**

The proposed zoning is consistent with the future land use (FLU) category as prescribed in LDC Chapter 3, and with all other applicable goals, objectives, and policies of the Comprehensive Plan. If the rezoning is required to properly enact a proposed FLU map amendment transmitted for state agency review, the proposed zoning is consistent with the proposed FLU and conditional to its adoption.

**CPP FLU 1.3.1 Future Land Use Categories.** The MU-S category is intended for a mix of residential and non-residential uses while promoting compatible infill development and the separation of urban and suburban land uses.

Range of Allowable Uses: Residential, retail sales & services, professional office, recreational facilities, public and civic, limited agriculture. The maximum residential density is 25 dwelling units per acre.

**CPP FLU 1.5.1 New Development and Redevelopment in Built Areas.** To promote the efficient use of existing public roads, utilities and service infrastructure, the County will encourage redevelopment in underutilized properties to maximize development densities and intensities located in the Mixed Use-Suburban, Mixed Use-Urban, Commercial and Industrial Future Land Use districts categories (with the exception of residential development).

## **FINDINGS**

The proposed amendment to Commercial **is consistent** with the intent and purpose of Future Land Use category MU-S, as stated in CPP FLU 1.3.1. Based on public records, the parcel was previously developed and used as an operational plant nursery/landscape business, a listed use under the retail sales and services of the MU-S FLU category. Redevelopment of this property will promote the efficient use of utilities and infrastructure and redevelopment of an under-utilized property making the proposed use compatible with the intent of CPP FLU 1.5.1.

### **Criterion b., LDC Sec. 2-7.2(b)(4)**

#### **Consistent with The Land Development Code**

The proposed zoning is consistent with the purpose and intent and with any other zoning establishment provisions prescribed by the proposed district in Chapter 3.

## **FINDINGS**

The proposed amendment **is not consistent** with the intent and purpose of the Land Development Code. All new non-residential uses proposed within the Commercial district that are not part of a planned unit development or not identified as exempt by the district shall be on parcels that satisfy the location criteria requirements. The proposed location, if the rezoning is approved, would encourage the creation of strip commercial development. The applicant did not provide a compatibility analysis for review.

### **Criterion c., LDC Sec. 2-7.2(b)(4)**

#### **Compatible with surrounding uses**

All the permitted uses of the proposed zoning, not just those anticipated by the rezoning applicant, are compatible, as defined in Chapter 6, with the surrounding uses. The uses of any surrounding undeveloped land shall be considered the permitted uses of the applicable district. Compatibility is not considered with

potential conditional uses or with any nonconforming or unapproved uses. Also, in establishing the compatibility of a residential use, there is no additional burden to demonstrate the compatibility of specific residents or activities protected by fair housing law.

## **FINDINGS**

The proposed amendment **is not compatible** with surrounding existing uses in the area. Adjacent parcels are zoned low-density residential with some large tracks of Conservation zoning. Within the 500 foot radius, there are properties with zoning districts Commercial, Low-Density Residential and Conservation. One storage-warehouse business across Lillian Hwy to the North, five vacant residential parcels, two single-family residences, two large parcels owned by the State of Florida and one mineral processing plant parcel, zoned low-density residential in place since 1993, based on public records. The applicant did not provide a compatibility analysis for review.

### **Criterion d., LDC Sec. 2-7.2(b)(4)**

**Appropriate if spot zoning.** Where the proposed zoning would establish or reinforce a condition of spot zoning as defined in Chapter 6, the isolated district would nevertheless be transitional in character between the adjoining districts, or the differences with those districts would be minor or sufficiently limited. The extent of these mitigating characteristics or conditions demonstrates an appropriate site specific balancing of interests between the isolated district and adjoining lands.

**As per LDC Chapter 6, Spot Zoning is:** *Zoning applied to an area of land, regardless of its size, that is different from the zoning of all contiguous land. Such isolated or “spot” zoning is usually higher in its density or intensity of use than the adjoining zoning and may, therefore, extend privileges not generally extended to property similarly located in the area. Spot zoning is not by itself prohibited, but due to its potentially adverse impacts on adjoining zoning it carries a higher burden of demonstration that, if authorized, it will contribute to or result in logical and orderly development*

## **FINDINGS**

The proposed zoning **will create spot zoning**, based on the LDC definition in Chapter 6, as the requested Commercial zoning is different from the zoning of all contiguous land. Site visit reveals the parcel's location about midway between Bauer and Blue Angel to be sparsely developed as compared to the East and West major intersections. Due to the parcel's location, the proposed zoning request would not create a logical zoning transition between the low-residential districts and other existing zoning districts in the adjacent area. The applicant did not provide a compatibility analysis for review.

### **Criterion e., LDC Sec. 2-7.2(b)(4)**

**Appropriate with changed or changing conditions.**

If the land uses or development conditions within the area surrounding the property of rezoning have changed, the changes are to such a degree and character that it is in the public interest to allow new uses, density, or intensity in the area through rezoning; and the permitted uses of the proposed district are appropriate and not premature for the area or likely to create or contribute to sprawl.

**FINDINGS**

The land uses or development conditions within the area surrounding the property of rezoning **have not** changed. Based on public records, both of the current commercial uses have existed since 1984 and 1993. The site is located midway between Blue Angel and Bauer roads in an area that is currently scarcely developed. Allowing a commercial zoning for the property would contribute to commercial development sprawl. The applicant did not provide a compatibility analysis for review.

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**Attachments**

Working case file12

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**From:** [Horace L Jones](#)  
**To:** [Juan C. Lemos](#)  
**Subject:** FW: Sumrok email  
**Date:** Friday, January 24, 2020 8:35:34 AM  
**Attachments:** [SDD Density and Uses Savings Clause.pdf](#)  
[SDD Zoning Reg.pdf](#)

---

Juan,

Please include this e-mail chain of e-mails with my response for the rezoning packet. . The purpose of this e-mail is provide evidence to the record that an interpretation of the Saving Clause and its purposes was addressed.

---

**From:** Horace L Jones  
**Sent:** Wednesday, October 23, 2019 1:53 PM  
**To:** curtis sumrok <csumrok@yahoo.com>  
**Cc:** Andrew D. Holmer <ADHOLMER@myescambia.com>; Allyson Lindsay <malindsay@myescambia.com>; 'Buddy Page' <budpage1@att.net>  
**Subject:** FW: Sumrok email

Good Afternoon,

Mr. Sumrock,

Here is a copy of the Savings Clause for the property that was signed and recorded with the County as well as an excerpt from the Old Land Development Code zoning designation of SDD. The Signed Savings Clause form as recorded and the e-mail that was forwarded to you October 10<sup>th</sup> provides the information as requested below.

Respectfully,

---

**From:** Horace L Jones <[HLJONES@myescambia.com](mailto:HLJONES@myescambia.com)>  
**Sent:** Wednesday, October 23, 2019 1:38 PM  
**To:** Horace L Jones <[HLJONES@myescambia.com](mailto:HLJONES@myescambia.com)>  
**Subject:** Fwd: Sumrok email

Sent from my iPhone

Begin forwarded message:

**From:** [csumrok@yahoo.com](mailto:csumrok@yahoo.com)  
**Date:** October 16, 2019 at 12:31:16 PM CDT  
**To:** Horace L Jones <[HLJONES@myescambia.com](mailto:HLJONES@myescambia.com)>  
**Cc:** Buddy Page <[budpage1@att.net](mailto:budpage1@att.net)>, "Andrew D. Holmer"

<[ADHOLMER@myescambia.com](mailto:ADHOLMER@myescambia.com)>, Allyson Lindsay <[malindsay@myescambia.com](mailto:malindsay@myescambia.com)>

**Subject: Re: Sumrok email**

Hello Mr. Jones,

First of all, thank you for the reply.

Around 1999, Escambia County and other government agencies approved and permitted the construction of two commercial steel buildings and other supporting structures on this parcel in addition to customer and employee parking and bathrooms accessible to the public. The Site and Utility Plan approved by Escambia County was submitted by the owners of Evergreen Gardens and Nursery, Inc. Escambia County issued building permits and approved this company to perform retail sales from this location including infrastructure for general office space, product displays and storage. The development plan was approved and constructed while zoned SDD.

As you reference below, in 2015 the SDD zoning was eliminated and subsequently the zoning changed to LDR despite the permitted use of the property for over 15 years being commercial in nature.

So please confirm that according to your determination below, the Savings Clause restores permitted land uses that were omitted and that the site can continue to operate as a retail business and utilize the existing steel buildings for commercial business purposes including general office space, product display, and storage, etc.

Sent from my iPhone

On Oct 10, 2019, at 7:53 AM, Horace L Jones  
<[HLJONES@myescambia.com](mailto:HLJONES@myescambia.com)> wrote:

Good Morning , Mr. Sumrock

Here is the response as requested from my phone conversation with you indicated below.

Briefly, the savings clause (Land Development Code (LDC) Sec. 3-1.8) states, in part, that a landowner who had any “**permitted land uses**” of the previously applicable zoning district eliminated as a result of the consolidation of zoning districts in the 2015 adoption of a new LDC could

apply to have the previously permitted uses reinstated.

Within the former SDD zoning and several other districts there had been a provision allowing “other uses which are similar or compatible to the uses permitted herein that would promote the intent and purposes of this district. Determination on other permitted uses shall be made by the planning board (LPA)”

By that wording, no uses other than those specifically enumerated by the district were established as the permitted uses of the district. The allowance of any other use would require a determination by the Planning Board – a process that was eliminated by the zoning consolidation and not retained, referenced, or replaced within the savings clause.

A non-enumerated use did not exist as a permitted use in any former zoning; it was conditional to a determination of the Planning Board if the district authorized that process. Accordingly, a non-enumerated use is not within the permitted land uses available by savings clause. The savings clause only refers to uses permitted by right, not uses that could have been requested to be found similar to or compatible with those permitted uses.

Horace Jones  
Department Director  
Development Services Department  
33363 West Park Place, Pensacola, FL  
850-595-3625 or 554-8210  
[hljones@myescambia.com](mailto:hljones@myescambia.com)

-----Original Message-----

From: curtis sumrok <[csumrok@yahoo.com](mailto:csumrok@yahoo.com)>  
Sent: Tuesday, October 01, 2019 4:19 PM  
To: 'Buddy Page' <[budpage1@att.net](mailto:budpage1@att.net)>; Horace L Jones  
<[HLJONES@myescambia.com](mailto:HLJONES@myescambia.com)>  
Cc: Andrew D. Holmer <[ADHOLMER@myescambia.com](mailto:ADHOLMER@myescambia.com)>  
Subject: Re: Sumrok email

Buddy,

Mr. Jones called me today and he agreed to provide me a written response to my original letter dated 14 Sept 19 by next week.

Regards

Curtis

On Tuesday, October 1, 2019, 12:30:17 PM PDT, Buddy Page  
<[budpage1@att.net](mailto:budpage1@att.net)> wrote:

Horace, please check your email dated September 14, 2019 from Sumrok.  
Buddy

From: Buddy Page [<mailto:budpage1@att.net>]  
Sent: Tuesday, October 01, 2019 1:29 PM  
To: 'Horace L Jones'  
Cc: 'Andrew D. Holmer'; 'curtis sumrok'  
Subject: Sumrok email

Horace, I have a copy of Sumrok's email dated September 14, 2019 to you regarding his property on Sorrento Road. He asks that you provide guidelines to be utilized in order to determine what other environmentally compatible uses that may be allowed. He asked that you provide information within 10 days. This is woefully overdue. Please provide us with your written reply. Thank you. Buddy

Wiley C."Buddy" Page, MPA, APA



Professional Growth Management Services, LLC

Land Use Zoning Litigation Support Due Diligence

5337 Hamilton Lane - Pace, Florida 32571

Cell 850.232.9853 - [budpage1@att.net](mailto:budpage1@att.net)

Florida has a very broad public records law. Under Florida law, both the content of emails and email addresses are public records. If you do not want the content of your email or your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in person.

DRAFT MINUTES – SEPTEMBER 5, 2019

GROWTH MANAGEMENT REPORT – Continued

I. PUBLIC HEARINGS – Continued

1. Continued...

B. Continued...

**4. Case No.:** Z-2019-12  
**Address:** 11545 Sorrento Road  
**Property Reference No.:** 12-3S-31-3301-000-000  
**Property Size:** 18.78 (+/-) acres  
**From:** LDR, Low Density Residential district (four du/acre)  
**To:** Com, Commercial district (25 du/acre)  
**FLU Category:** MU-S, Mixed-Use Suburban  
**Commissioner District:** 2  
**Requested by:** Wiley C. "Buddy" Page, Agent for Curtis and Kelli Sumrok, Owners  
**Planning Board Recommendation:** Denial  
**Speakers:** Buddy Page, Suzanne Wells, Alice Mullins, Catherine Buck, Carole Tebay, Joe Schiller

<b>Motion:</b> Move that we drop Case Z-2019-12
<b>Made by:</b> Commissioner Underhill
<b>Seconded by:</b> Commissioner Bergosh
<b>Disposition:</b> Carried unanimously
<b>Speaker(s):</b> Joe Schiller

2. Recommendation: That the Board adopt an Ordinance [Number 2019-27] to amend the Official Zoning Map to include the Rezoning Cases [Z-2019-09, Z-2019-10, and Z-2019-11] heard by the Planning Board on August 6, 2019, and approved during the previous agenda item and to provide for severability, inclusion in the code, and an effective date.

<b>Motion:</b> Move the 5:45 without the Z-2019-12 item that was dropped
<b>Made by:</b> Commissioner Barry
<b>Seconded by:</b> Commissioner Bender
<b>Disposition:</b> Carried 4-0, with Commissioner Underhill temporarily out of Board Chambers
<b>Speaker(s):</b> None



**BOARD OF COUNTY COMMISSIONERS  
ESCAMBIA COUNTY, FLORIDA**

Development Services Department  
3363 West Park Place  
Pensacola, FL 32505  
www.myescambia.com

Pam Childers  
CLERK OF THE CIRCUIT COURT  
ESCAMBIA COUNTY FLORIDA  
INST# 2018068251 8/28/2018 9:22 AM  
OFF REC BK: 7956 PG: 1770 Doc Type: MISCR  
Recording \$27.00

**DENSITY AND USES SAVINGS CLAUSE  
DETERMINATION**

An official review concerning the applicability of LDC Sec. 3-1.8, Density and Uses Savings Clause, to the property described below has been completed by the Planning Official or his designee. Approval to apply the Density and Uses Savings Clause shall operate to reinstate residential density that was decreased or land uses that were eliminated on the subject parcel as a result of the adoption of the LDC on April 16, 2015, or authorize the processing of a FLU Amendment at no cost to the owner as indicated herein. Only residential density and permitted land uses listed on the date of adoption shall be eligible for reinstatement. **This Determination AND legal description must be filed in the Official Records of Escambia County, Florida, in order to preserve any density or land uses authorized herein.** FLU Amendments must be approved by the Board of County Commissioners (BCC) and may require approval from the Florida Department of Economic Opportunity (DEO) as required by Chapter 163, Florida Statutes. Authorization to process a FLU Amendment shall not constitute BCC approval and does not guarantee that BCC or DEO approval will be granted.

Curtis Sumrok      11545 Sorrento Rd      12-35-31-3301-000-000  
Name of Property Owner      Property Address      Parcel Reference Number

Current Zoning LDR      Current FLU MU-S

A legal description is attached as Exhibit A to this Determination.

**Official Determination:** The application concerning the above property is hereby:

- ☐ Approved as to:
- ☐ Residential density listed in the \_\_\_\_\_ zoning district prior to April 16, 2015.
  - ☒ Land uses listed in the SDD zoning district prior to April 16, 2015.
  - ☐ FLU Amendment processing at no cost.
- ☐ Denied:
- ☐ Density and Uses Savings Clause does not apply to the subject property.
- Explanation: \_\_\_\_\_
- ☐ Other \_\_\_\_\_

Margaret A Cain      8/27/18  
Planning Official or Designee      Date

**STATE OF FLORIDA, COUNTY OF ESCAMBIA**

The foregoing instrument was acknowledged before me, the undersigned notary, this 27 day of August, 2018 by Margaret A Cain, in his official capacity as the Planning Official for Escambia County, Florida, or his designee, who is personally known to me or who produced \_\_\_\_\_ as identification.

SEAL:



[Signature]  
Notary Public  
Commission Number: FF935239  
My Commission Expires: 11/11/19



BOARD OF COUNTY COMMISSIONERS  
ESCAMBIA COUNTY, FLORIDA

Development Services Department  
3363 West Park Place  
Pensacola, FL 32505  
www.myescambia.com

**DENSITY AND USES SAVINGS CLAUSE**  
**APPLICATION FORM**

**Sec. 3-1.8 Density and uses savings clause.**

**General.** The owner of any parcel of land that had the residential density of its applicable zoning district decreased or had permitted land uses of that district eliminated as a result of the April 16, 2015 adoption of the LDC, may apply to have the previous residential density or permitted land uses reinstated. Only residential density and permitted land uses listed on the date of adoption shall be eligible for reinstatement pursuant to this section. Applications shall be approved, unless reinstating the previous residential density or land uses would cause the parcel's density or uses to become inconsistent with the existing applicable future land use (FLU) category. If the density or land uses would become inconsistent with the existing applicable FLU, approval for reinstatement shall be granted only after a FLU amendment consistent with the previous density and uses has been approved and adopted according to the amendment provisions in Article 7 of Chapter 2. All applications for reinstatement and FLU amendments made pursuant to this section shall be submitted to the Planning Official and processed at no cost to the land owner.

**(b) Applicability.** This section is not intended to authorize density or land uses that are otherwise limited by the LDC. These limitations include, but are not limited to, the provisions of the overlay zoning districts, the airport/airfield environs, floodplain management, or location criteria.

Curtis Sumrok      11545 Sorrento Rd      12-35-31-3301-000-000  
Name of Property Owner      Property Address      Parcel Reference  
Number

Current Zoning LDR      Current FLU MU-S      Previous Zoning SDD

**Proof of ownership and a legal description of the property must be provided prior to approval.**

Proof of ownership and legal description attached ☒ Yes ☐ No

List density decreased

List land uses eliminated HORTICULTURE, FLORACULTURE & GREEN HOUSE,

Is the current FLU consistent with the requested density or land uses ☒ Yes ☐ No

Explain: \_\_\_\_\_

If the current FLU is not consistent, do you wish to have a FLU Amendment processed? ☐ Yes ☐ No

I, Curtis Sumrok, owner of the above referenced property, hereby submit this application to the Planning Official (or his designee) to request an official review of the Density and Uses Savings Clause provision of the LDC with respect to my property above. I understand that approval to reinstate residential density and/or permitted land uses listed on April 16, 2015, will be granted only if reinstatement is consistent with the Future Land Use (FLU) for the parcel. I understand that a FLU Amendment will be required **prior to** approval if the request is not consistent with the FLU. I further understand that FLU Amendments must be approved by the Board of County Commissioners (BCC) and may require approval from the Florida Department of Economic Opportunity (DEO) as required by Chapter 163, Florida Statutes. Authorization to process a FLU Amendment shall not constitute BCC approval and does not guarantee that BCC or DEO approval will be granted. I also understand that any approval must be recorded in the official records of Escambia County, Florida, and that I will be responsible for filing such approval with the Clerk of the Circuit Court.

Curtis Sumrok  
Owner Signature

8/23/18  
Date





# BOARD OF COUNTY COMMISSIONERS ESCAMBIA COUNTY, FLORIDA

Development Services Department  
3363 West Park Place  
Pensacola, FL 32505  
www.myescambia.com

## DENSITY AND USES SAVINGS CLAUSE APPLICATION FORM

### Sec. 3-1.8 Density and uses savings clause.

**General.** The owner of any parcel of land that had the residential density of its applicable zoning district decreased or had permitted land uses of that district eliminated as a result of the April 16, 2015 adoption of the LDC, may apply to have the previous residential density or permitted land uses reinstated. Only residential density and permitted land uses listed on the date of adoption shall be eligible for reinstatement pursuant to this section. Applications shall be approved, unless reinstating the previous residential density or land uses would cause the parcel's density or uses to become inconsistent with the existing applicable future land use (FLU) category. If the density or land uses would become inconsistent with the existing applicable FLU, approval for reinstatement shall be granted only after a FLU amendment consistent with the previous density and uses has been approved and adopted according to the amendment provisions in Article 7 of Chapter 2. All applications for reinstatement and FLU amendments made pursuant to this section shall be submitted to the Planning Official and processed at no cost to the land owner.

**(b) Applicability.** This section is not intended to authorize density or land uses that are otherwise limited by the LDC. These limitations include, but are not limited to, the provisions of the overlay zoning districts, the airport/airfield environs, floodplain management, or location criteria.

Kelli Sumrok 11545 Sorrento Rd 12-35-31-3301-000-000  
Name of Property Owner Property Address Parcel Reference  
Number

Current Zoning LDR Current FLU MU-S Previous Zoning SDP

### **Proof of ownership and a legal description of the property must be provided prior to approval.**

Proof of ownership and legal description attached ☒ Yes ☐ No

List density decreased \_\_\_\_\_

List land uses eliminated Horticulture, Floraculture, green houses

Is the current FLU consistent with the requested density or land uses ☒ Yes ☐ No

Explain: \_\_\_\_\_

If the current FLU is not consistent, do you wish to have a FLU Amendment processed? ☐ Yes ☐ No

I, Kelli Sumrok, owner of the above referenced property, hereby submit this application to the Planning Official (or his designee) to request an official review of the Density and Uses Savings Clause provision of the LDC with respect to my property above. I understand that approval to reinstate residential density and/or permitted land uses listed on April 16, 2015, will be granted only if reinstatement is consistent with the Future Land Use (FLU) for the parcel. I understand that a FLU Amendment will be required prior to approval if the request is not consistent with the FLU. I further understand that FLU Amendments must be approved by the Board of County Commissioners (BCC) and may require approval from the Florida Department of Economic Opportunity (DEO) as required by Chapter 163, Florida Statutes. Authorization to process a FLU Amendment shall not constitute BCC approval and does not guarantee that BCC or DEO approval will be granted. I also understand that any approval must be recorded in the official records of Escambia County, Florida, and that I will be responsible for filing such approval with the Clerk of the Circuit Court.

Kelli Sumrok  
Owner Signature

8/23/18  
Date

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT  
IN AND FOR ESCAMBIA COUNTY, FLORIDA  
CIVIL ACTION**

CASE NO. 2017 CA 000872

SUMROK, CURTIS SUMROK, KELLI  
Plaintiff

VS.

STEPHENSON RESORT MANAGEMENT REAL ESTATE, LLC A FLORIDA LIMITED  
LIABILITY COMPANY; STEPHENSON, SAMUEL B ; STEPHENSON, AMANDA R ;  
BERRY, CHESTER R ; BERRY, SHARON P  
Defendant

**CERTIFICATE OF TITLE**

The undersigned, Pam Childers, Clerk of the Circuit Court, hereby certifies that a certificate of sale has been executed and filed in this action on January 16, 2018, for the property described herein and that no objections to the sale have been filed within the time allowed for filing objections.

The following property in Escambia County, Florida was sold to

CURTIS SUMROK AND KELLI SUMROK  
811 N SPRING STREET PENSACOLA, FL, 32501

- SEE ATTACHMENT -

The successful bid was in the amount of \$200.00.

WITNESS my hand and the official seal on this 29 day of January, 2018, as Clerk of the Circuit Court.



Pam Childers  
Clerk of the Circuit Court

BY: \_\_\_\_\_

Deputy Clerk

Conformed copies to all parties

**The West 548 feet of that part of the South one-half of Section 12, Township 3 South, Range 31 West, Escambia County, Florida, lying South of the unnamed and unnumbered road and road right of way, sometimes referred to as Re-Location of Gulf Beach Highway which road or road right of way is particularly described in Special Warranty Deed from Gulf Diversified Investment Company to the State of Florida dated January 28, 1969, recorded in O.R. Book 426, Page 922 of the public records of Escambia County, Florida.**

**Parcel Identification Number: 12-38-31-3301-000-000**

**Article 6 ZONING DISTRICTS**

E. *Landscaping.* See section 7.01.00.

F. *Screening adjacent to residential areas.* See section 7.01.06.

G. *Roadway access.* South of Well Line Road, direct access must be provided from a collector or arterial roadway and such access may be provided by curb cuts on the collector or arterial roadway or a private or public road linking the use with a collector or arterial roadway provided that such private or public road does not traverse a predominately residential neighborhood or subdivision between the use and the collector or arterial roadway. No permit shall be issued for any proposed use which requires access through a residential neighborhood or subdivision.

H. *Signs.* See article 8.

I. *Locational criteria.* See article 7 and Comprehensive Plan Policies 7.A.4.13 and 8.A.1.13.

**~~6.05.20: S-1 and S-1PK outdoor recreational district (noncumulative).~~**

A. *Intent and purpose of district.* This district is intended to preserve and maintain the land for outdoor recreational uses and open space. Refer to article 11 for uses, heights and densities allowed in S-1, outdoor-recreational areas located in the Airport/Airfield Environs.

B. *Permitted uses.*

1. Golf courses.
2. Country clubs and their customary accessory uses.
3. Bird and wildlife sanctuaries.
4. Parks and greenbelt areas.
5. Reclamation of borrow pits that existed prior to September 16, 2004 (subject to local permit and development review requirements per Escambia County Code of Ordinances, Part I, Chapter 42, article VIII, and performance standards in Part III, the Land Development Code, article 7).

C. *Conditional uses.*

1. Public utility and service structures (see section 6.08.02).

D. *Lot coverage.* The amount of impervious surface shall not exceed 20 percent of the total area.

E. *Signs.* See article 8.

**~~6.05.21: SDD special development district, (noncumulative) low density.~~**

A. *Intent and purpose.* This district is intended to conserve and protect environmentally sensitive areas that have natural limitations to development. These areas have certain ecological functions which require performance standards for development. SDD is to be phased out over time and no property not now zoned SDD will be zoned SDD in the future. The maximum density of this district is three dwelling units per acre. Refer to article 11 for uses, heights and densities allowed in SDD, special development areas located in the Airport/Airfield Environs.

B. *Permitted uses.*

**DISCLAIMER:**

This is an unofficial reproduction of the Escambia County Land Development Code (LDC) and is intended to be for general information only. The official (codified) Escambia County Code of Ordinances may be viewed at [www.municode.com](http://www.municode.com). 8/2013



## Article 6 ZONING DISTRICTS

1. Single-family dwelling units and their customary accessory structures (including single-family detached, duplex and triplex structures and mobile homes).
2. Home occupations.
3. Horticulture, floriculture and greenhouses.
4. Mariculture and aquaculture.
5. Areas for display and sale of fruit, vegetables and similar agricultural products.
6. The growing of crops and plants.
7. The keeping of horses and private stables.
8. Silviculture.
9. Public utility.
10. Public facilities provided that the construction of such facilities meets the following conditions:
  - a. They are consistent with the county's Comprehensive Plan.
  - b. It is determined that the proposed project will not adversely affect the environment, through review by all federal and state regulatory agencies with jurisdiction over the project.
  - c. Construction is undertaken and completed in a manner and to a specification which protects, conserves or preserves the natural resources in the area to the maximum reasonable extent.
11. Family day care homes and family foster homes.
12. Reclamation of borrow pits that existed prior to September 16, 2004 (subject to local permit and development review requirements per Escambia County Code of Ordinances, Part I, Chapter 42, article VIII, and performance standards in Part III, the Land Development Code, article 7).
13. Other uses which are similar or compatible to the uses permitted herein that would promote the intent and purposes of this district. Determination on other permitted uses shall be made by the planning board (LPA).

C. *Conditional uses.*

1. Public riding stables.
2. Public utility and service structures (see section 6.08.02).

D. *Site and building requirements.* (Requirements apply to the total area of the lot or parcel.)1. *Lot area, minimum.*

Horses and private stables . . . 2 acres

Public stables . . . 10 acres

Keeping of domestic farm animals . . . 2 acres

(not including household pets)

2. *Lot coverage.* As permitted in the R-1 district.

## DISCLAIMER:

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