

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

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.

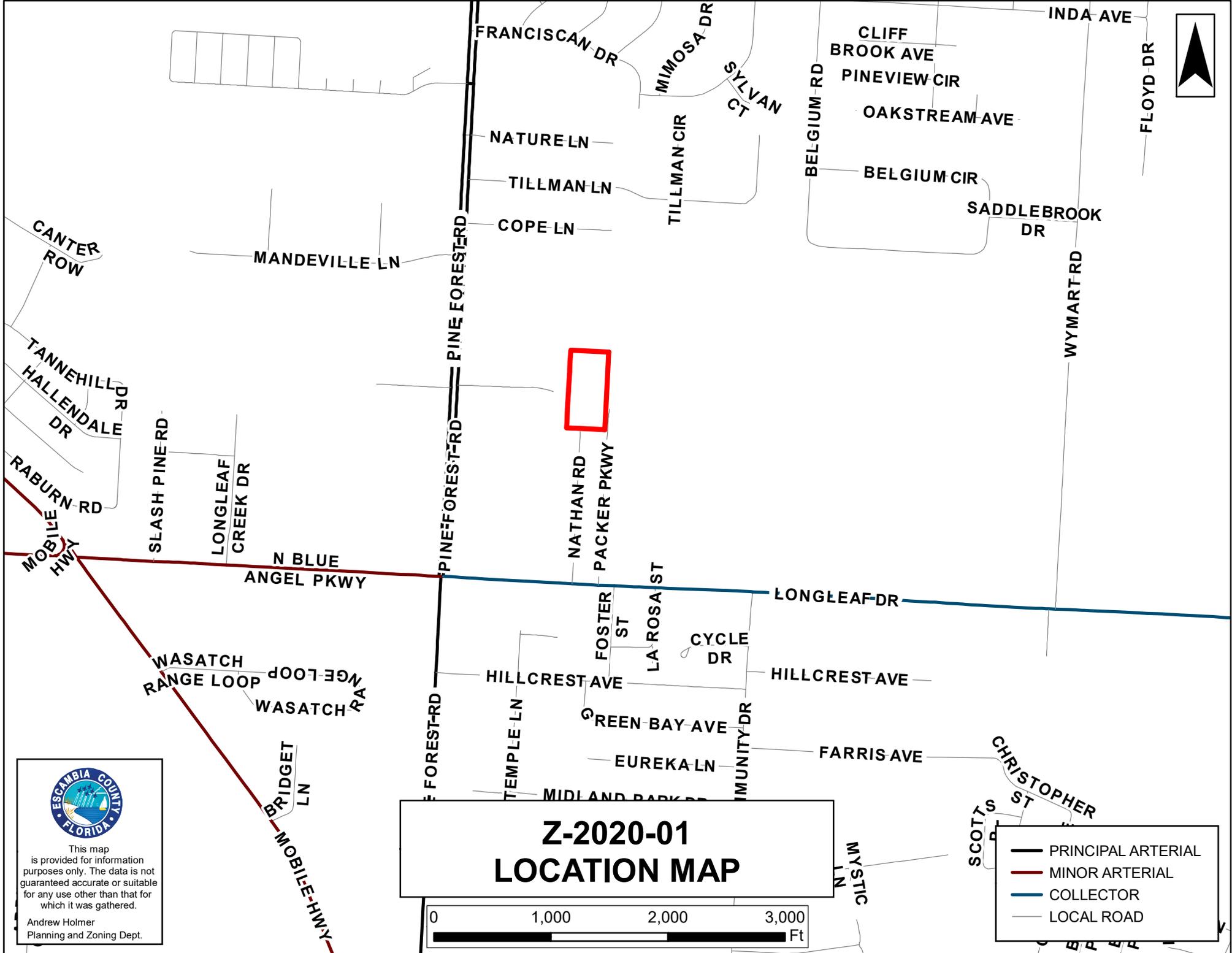
FINDINGS

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.

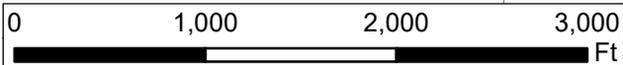
Attachments

Working Case File

Z-2020-01



Z-2020-01 LOCATION MAP

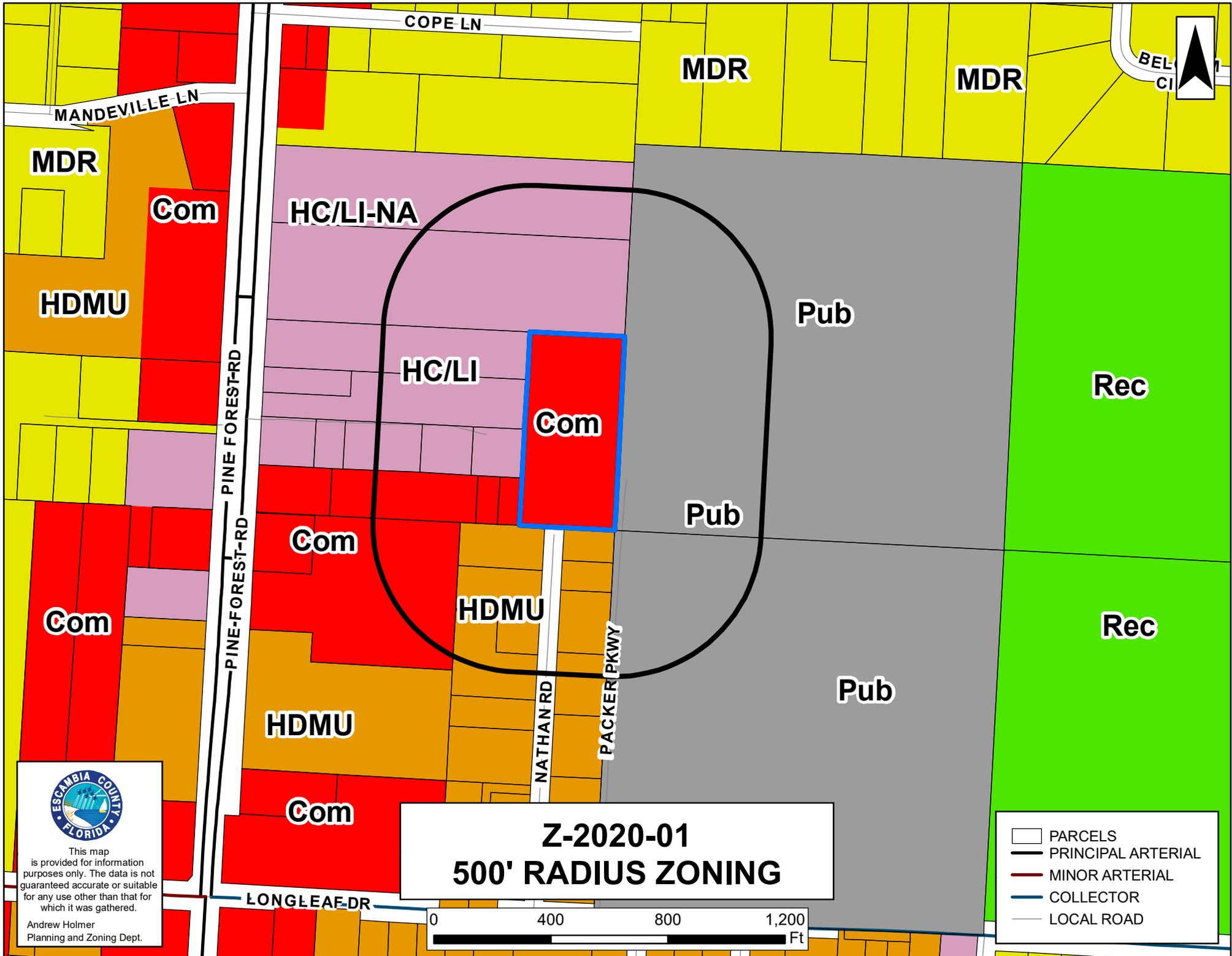


-  PRINCIPAL ARTERIAL
-  MINOR ARTERIAL
-  COLLECTOR
-  LOCAL ROAD

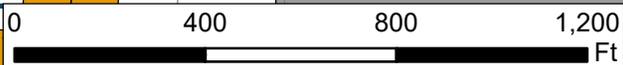


This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

Andrew Holmer
Planning and Zoning Dept.

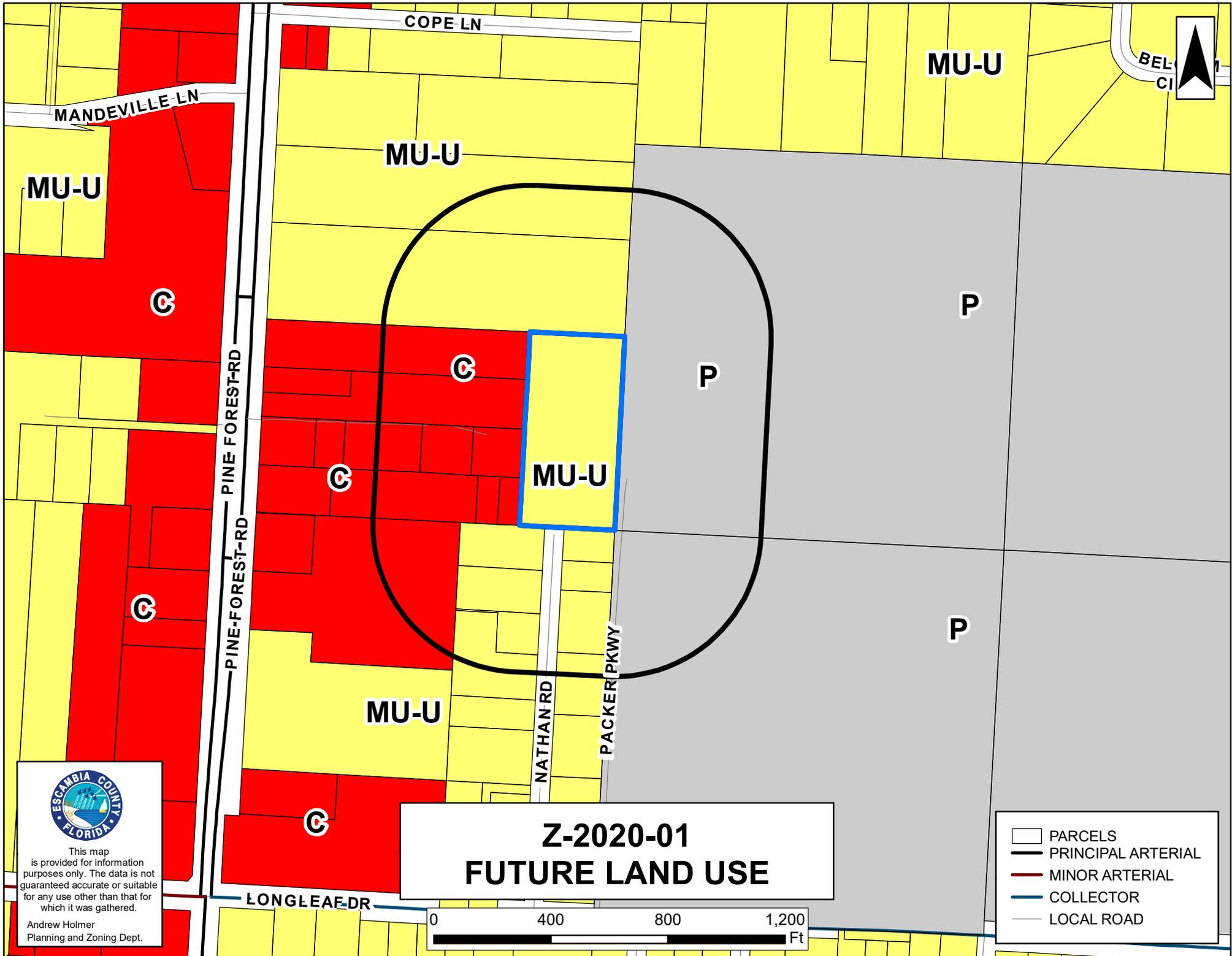


Z-2020-01
500' RADIUS ZONING



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


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 Andrew Holmer
 Planning and Zoning Dept.

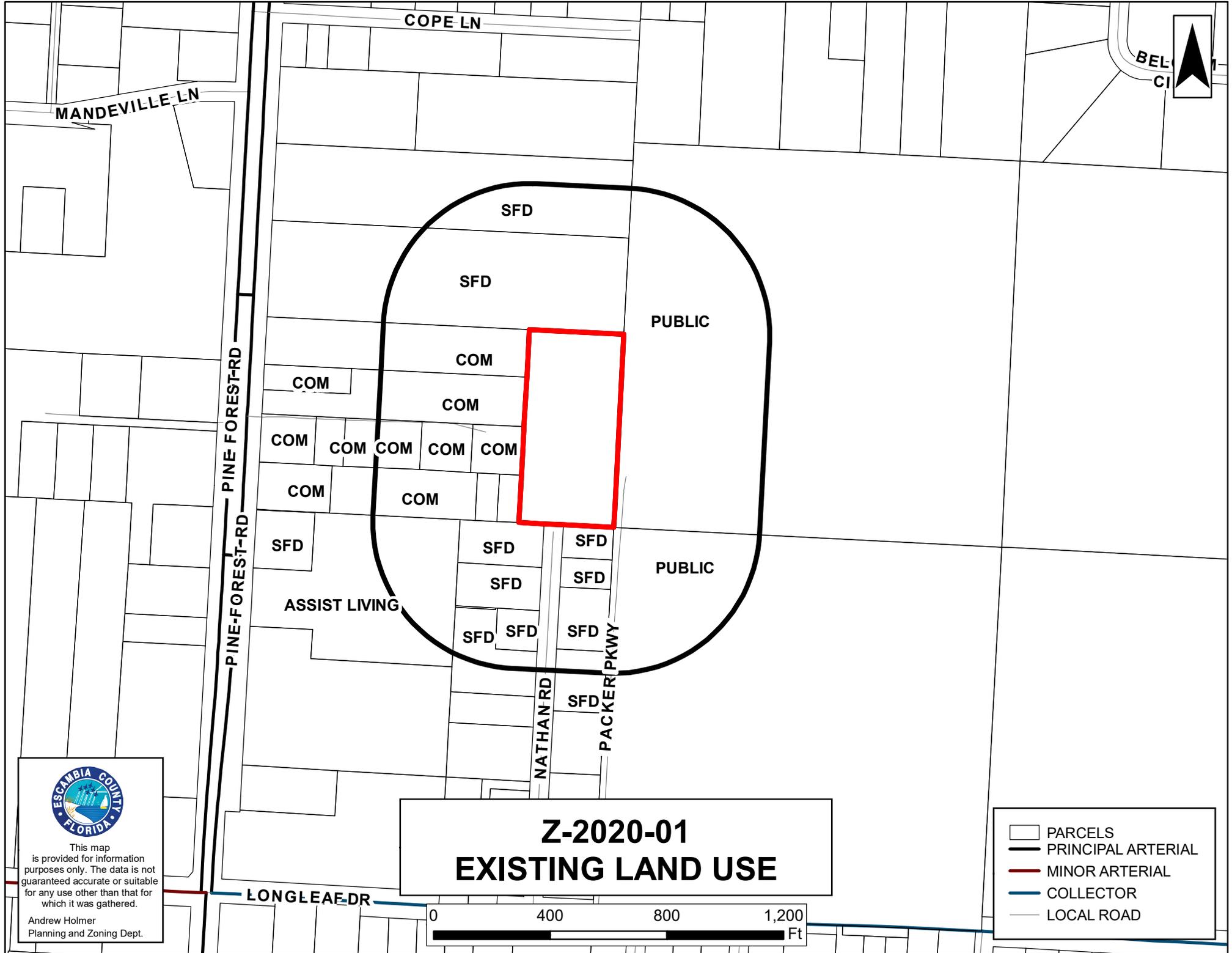



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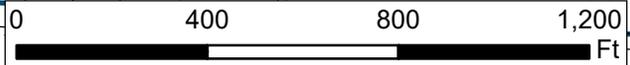
Andrew Holmer
Planning and Zoning Dept.

**Z-2020-01
FUTURE LAND USE**

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



Z-2020-01 EXISTING LAND USE



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



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Andrew Holmer
Planning and Zoning Dept.



PINE FOREST RD

THAN RD

PACKER PKWY



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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

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

PUBLIC HEARING SIGN ON PINE FOREST



LOOKING NORTH FROM NATHAN ROAD



FROM NATHAN ROAD LOOKING NORTHWEST





FROM PARCEL LOOKING EAST



LOOKING SOUTH ON NATHAN ROAD



LOOKING EAST FROM PINE FOREST ROAD



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

December 17th, 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

Z-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: Z-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 16th DAY OF December, YEAR OF 2019

[Signature]
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

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]
Signature of Owner/Agent

[Signature]
Signature of Owner

Clint Geci
Printed Name Owner/Agent

12/16/19
Date

Waleed Kader
Printed Name of Owner

12/16/19
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] Deborah Harrell
Signature of Notary Printed Name of Notary (notary seal)



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: Mark Violette
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 (Seal)
Notary Public
Notary Printed Name: _____
My Commission Expires:: _____



[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

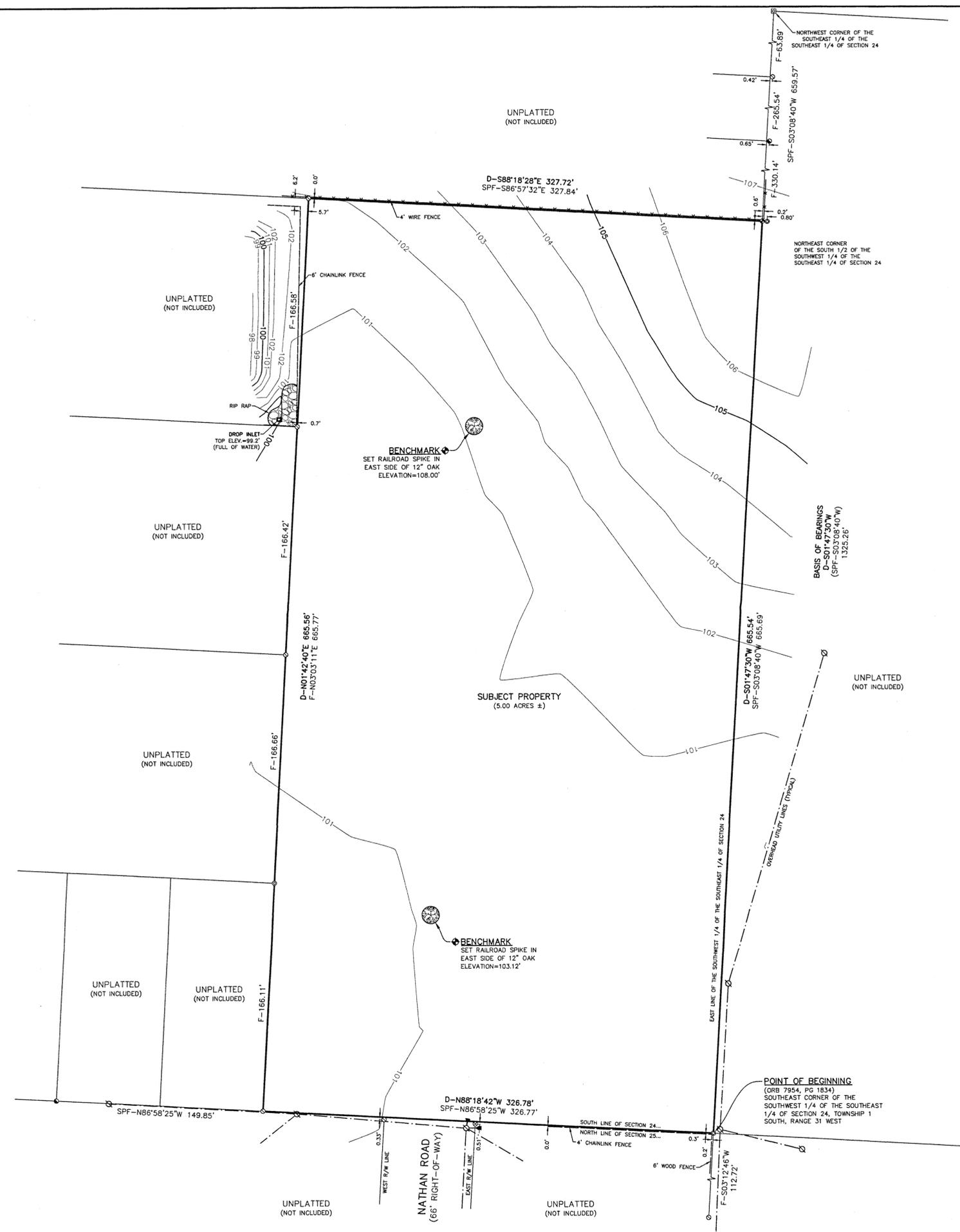
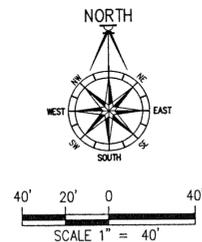
KADER, WALEED
 5900 DAHOON DRIVE
 PENSACOLA, FL 32526

Annual Reports

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

Document Images

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



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 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.

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 0°12'10", 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 INTENT 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 98 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 SOURCES 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. 9298.
- 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 AS PER THE FLOOD INSURANCE RATE MAP INFORMATION IS AS FOLLOWS:

NFIP COMMUNITY NAME: ESCAMBA COUNTY UNINCORPORATED AREAS
 ZONE: X
 ELEVATION: N/A

COMMUNITY NUMBER: 120080
 PANEL NUMBER: 203530 0360 G
 AS DATED: 09/29/2006

- LEGEND:**
- ⊕ - FOUND PLAN 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 PLAN 1/2" IRON ROD
 - ⊙ - FOUND PLAN 1" IRON PIPE
 - ⊙ - FOUND PLAN 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 FERNAMENT 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	PAGE: 21-24	FIELD DATE: 05/02/19
DATE: 05/02/19	665	21-24	05/02/19
NO. DATE REVISIONS		APPROVED BY:	
1	12/11/19	[Signature]	
MICHAEL WATTS AUSTIN, PSM #5458 STATE OF FLORIDA			
12-11-19			
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.

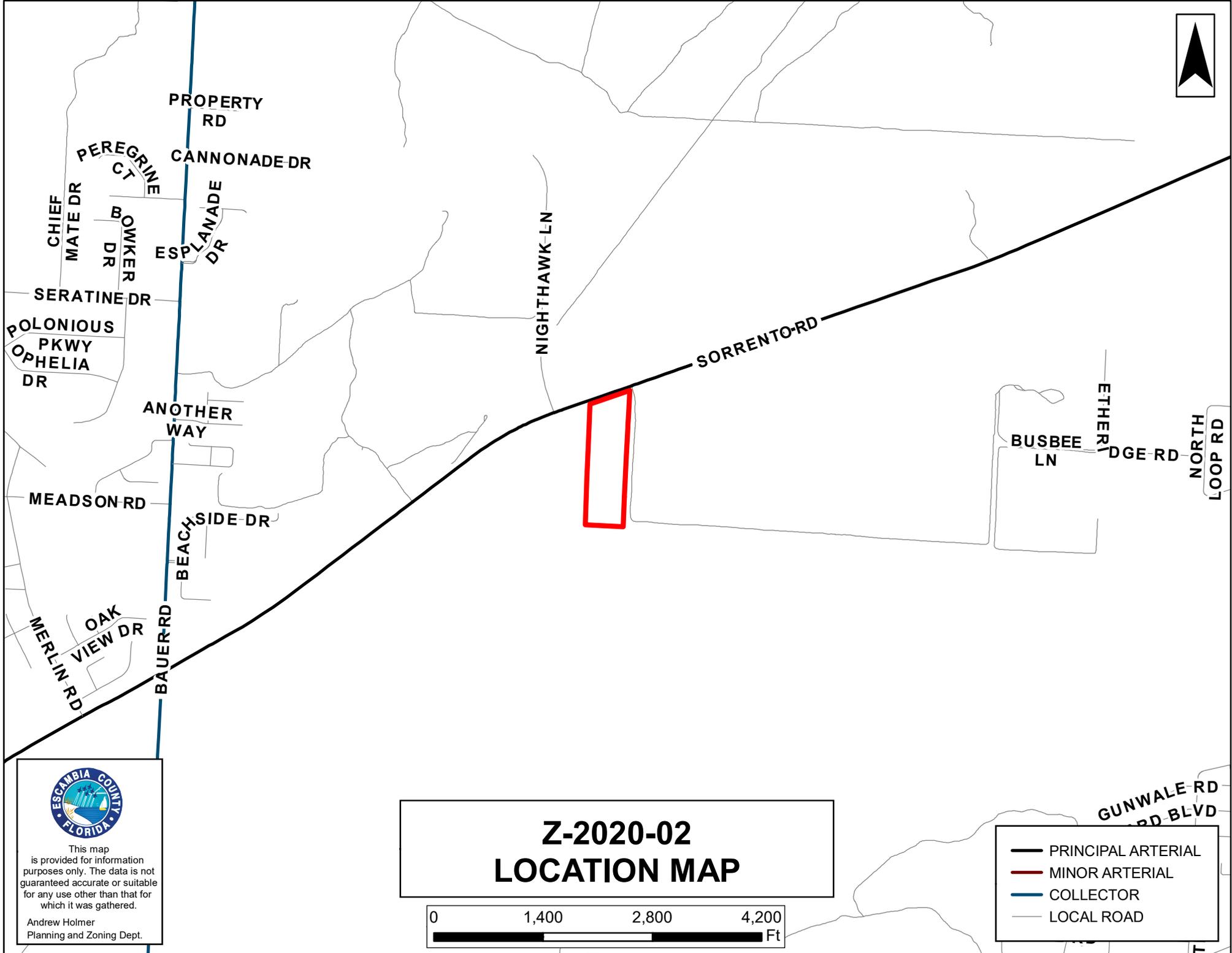
Based on the LDC definitions, under Chapter 6:

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.

Attachments

Working Case File02

Z-2020-02



PROPERTY RD

CANNO NADE DR

PEREGRINE CT

CHIEF MATE DR

BOWKER DR

ESPLANADE DR

SERATINE DR

POLONIOUS PKWY
OPHELIA DR

NIGHTHAWK LN

SORRENTO RD

ANOTHER WAY

BUSBEE LN

ETHERIDGE RD

NORTH LOOP RD

MEADSON RD

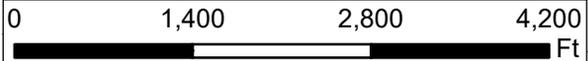
BEACHSIDE DR

MERLIN RD
OAK VIEW DR

BAUER RD

GUNWALE RD
RD BLVD

Z-2020-02 LOCATION MAP

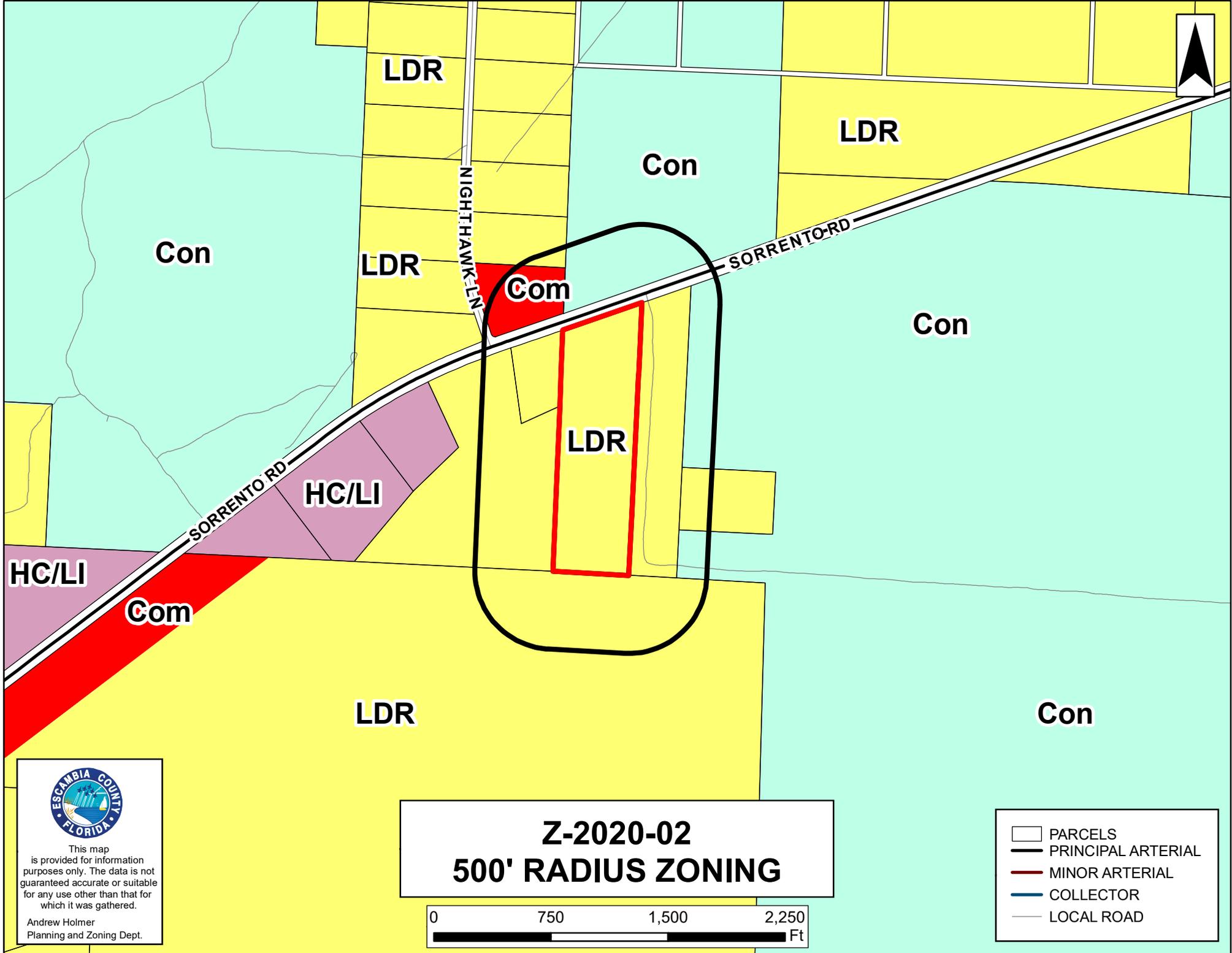


- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD



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.



LDR

LDR

Con

Con

LDR

NIGHTHAWK LN

Com

SORRENTO RD

Con

LDR

HC/LI

HC/LI

Com

LDR

Con

Z-2020-02 500' RADIUS ZONING

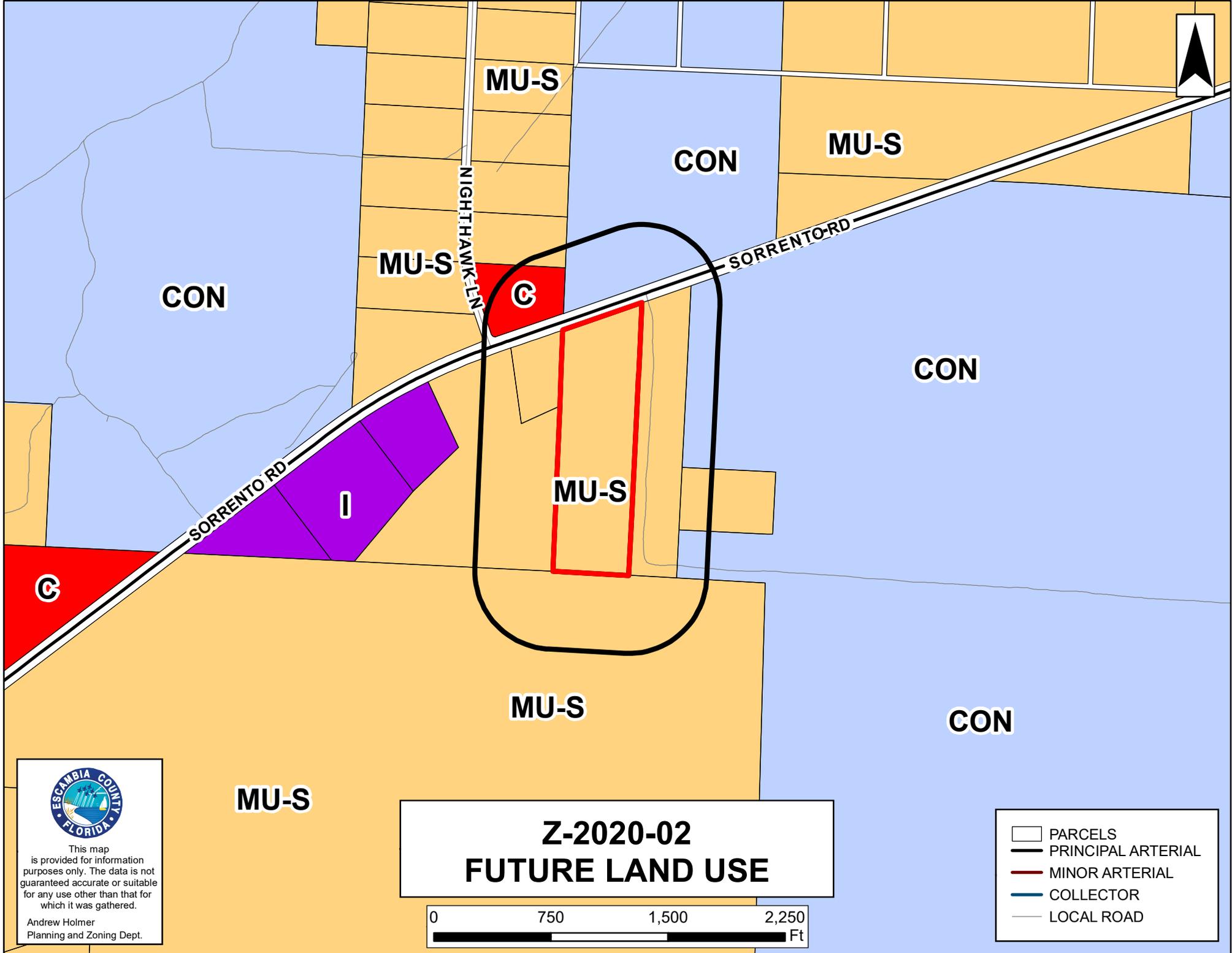


- PARCELS
- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD



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.

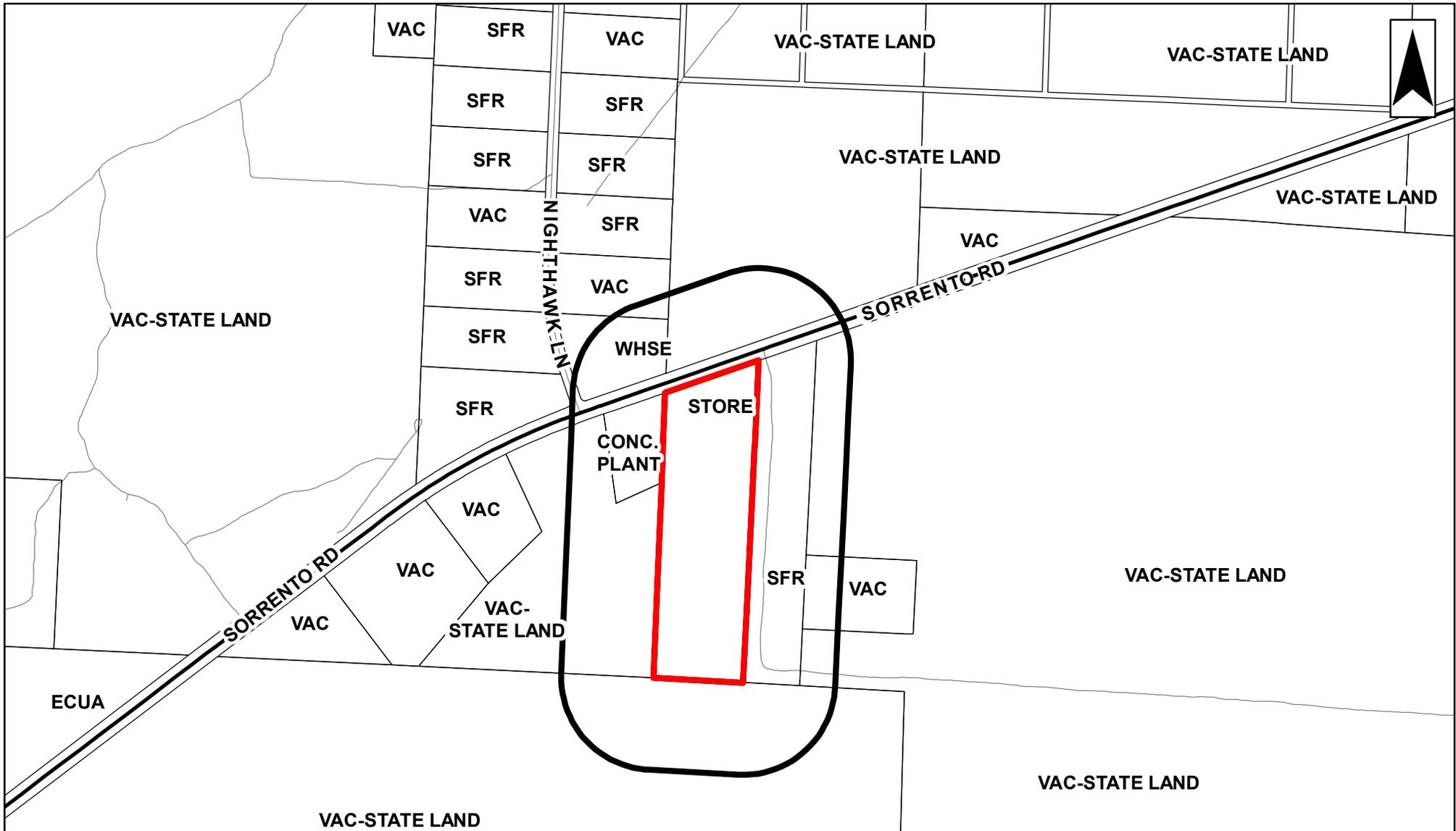


**Z-2020-02
FUTURE LAND USE**

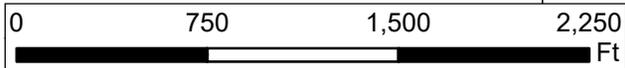


- PARCELS
- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD


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
EXISTING LAND USE**

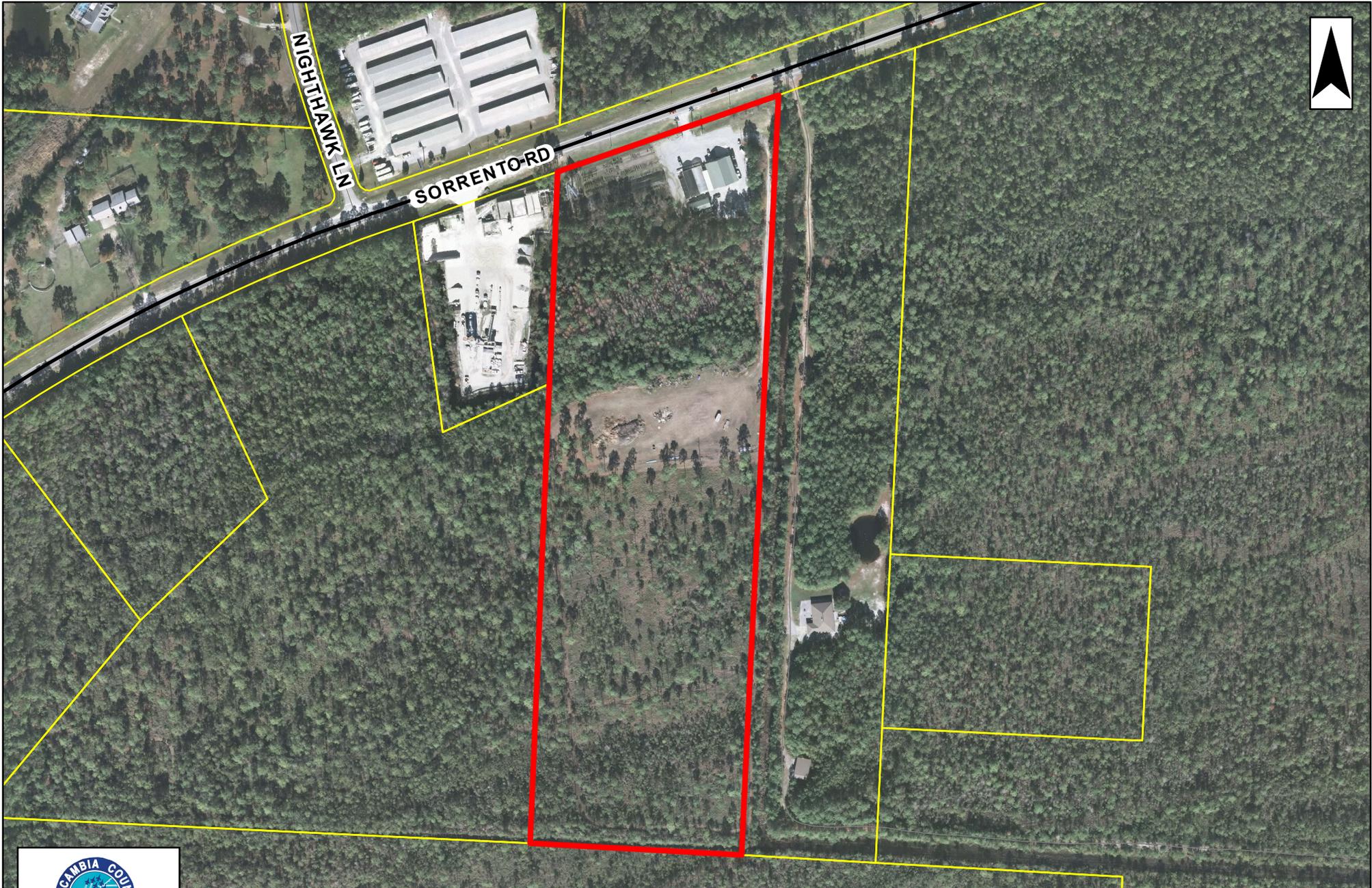


- PARCELS
- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD



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Andrew Holmer
Planning and Zoning Dept.



SORRENTO RD

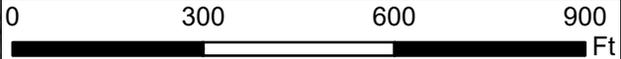
NIGHTHAWK LN



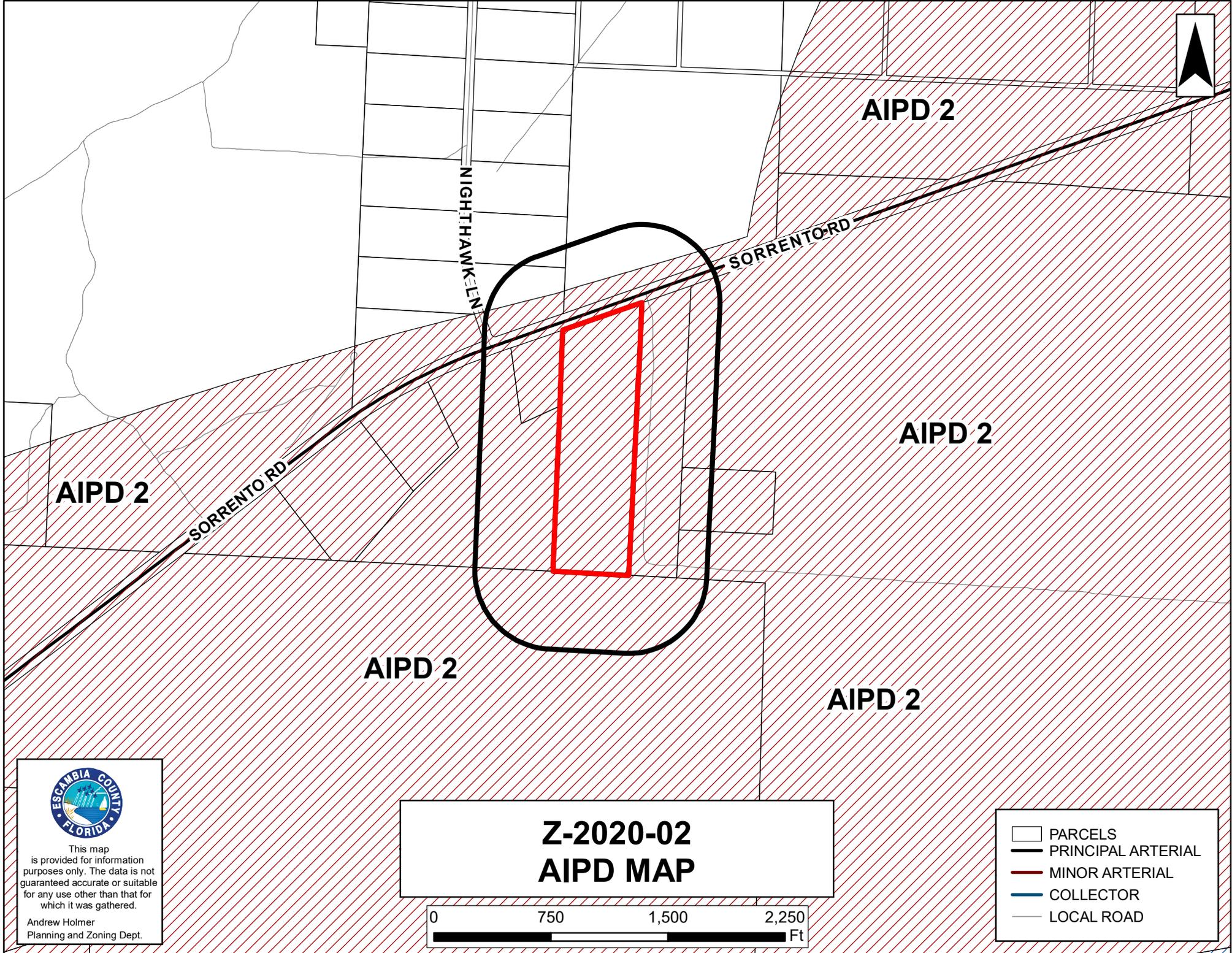
This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

Andrew Holmer
Planning and Zoning Dept.

Z-2020-02 AERIAL MAP



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



AIPD 2

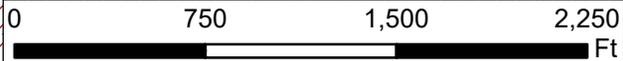
AIPD 2

AIPD 2

AIPD 2

AIPD 2

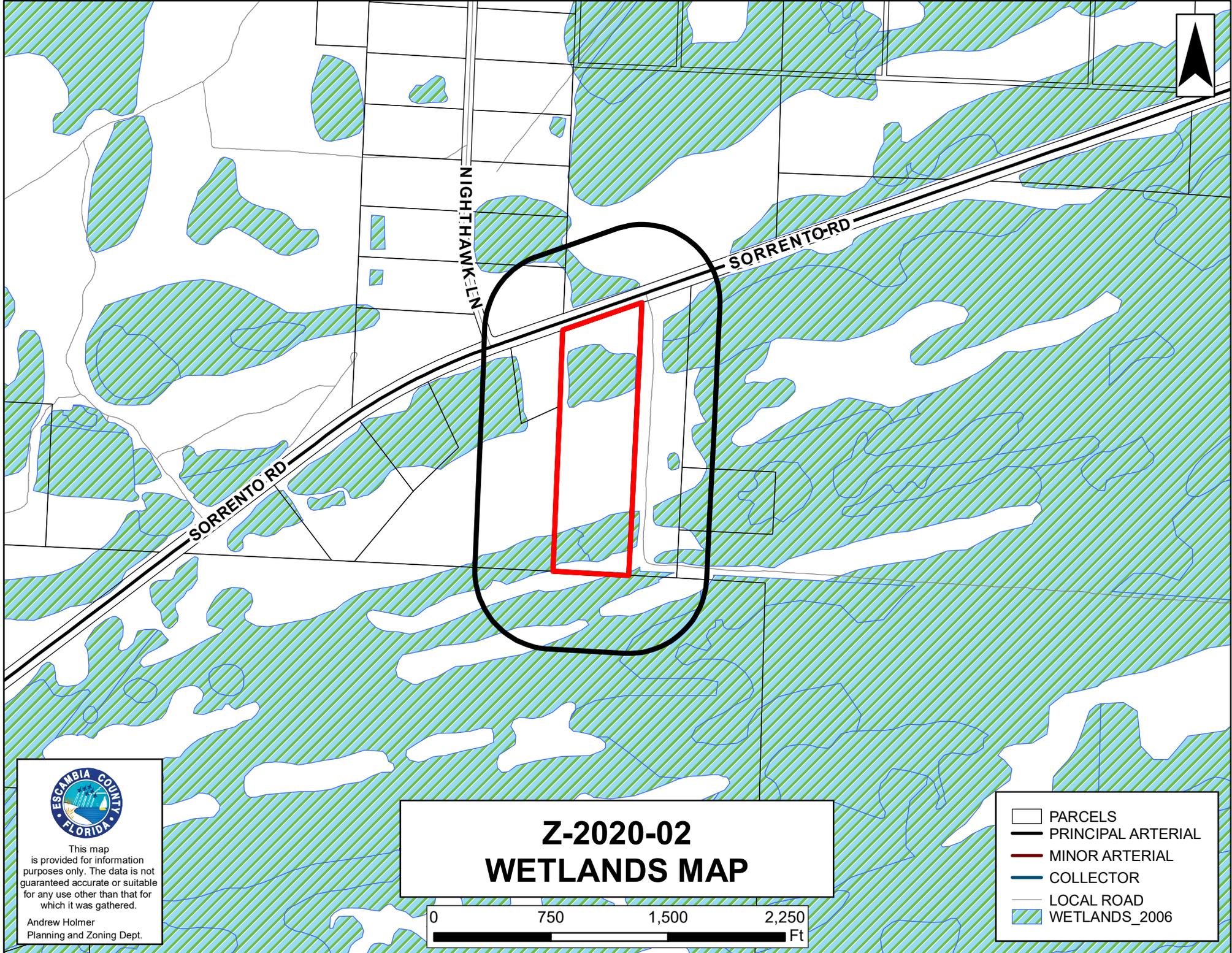
**Z-2020-02
AIPD MAP**



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.

	PARCELS
	PRINCIPAL ARTERIAL
	MINOR ARTERIAL
	COLLECTOR
	LOCAL ROAD



**Z-2020-02
WETLANDS 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.


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

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

Curtis 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](#)

General Information

Reference: 123S313301000000
Account: 101771250
Owners: SUMROK CURTIS
 SUMROK KELLI
Mail: 205 RATTO RD
 ALAMEDA, CA 94502
Situs: 11545 SORRENTO RD 32507
Use Code: STORE, 1 STORY  Cod
Taxing Authority: COUNTY MSTU
Tax Inquiry: [Open Tax Inquiry Window](#)
 Tax Inquiry link courtesy of Scott Lunsford
 Escambia County Tax Collector

Assessments

Year	Land	Imprv	Total	<u>Cap Val</u>
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

[Disclaimer](#)

[Tax Estimator](#)

[File for New Homestead Exemption Online](#)

Sales Data

Sale Date	Book	Page	Value	Type	Official Records (New Window)
01/29/2018	7847	474	\$200	CT	View Instr
09/2005	5724	453	\$990,000	WD	View Instr
11/2002	5018	1766	\$145,000	WD	View Instr
12/2001	4831	205	\$300,000	CT	View Instr
07/1998	4280	1083	\$100	QC	View Instr
07/1998	4293	1846	\$280,000	WD	View Instr

Official Records Inquiry courtesy of Pam Childers
 Escambia County Clerk of the Circuit Court and Comptroller

2019 Certified Roll Exemptions
 None

Legal Description
 W 500 FT OF S1/2 OF SEC LYING S OF RD R/W OR 7847
 P 474 CONSERVATION ESMT OR 4280 P 1083

Extra Features
 CHAINLINK FENCE
 CONCRETE PAVING
 CONCRETE WALKS
 GREENHOUSE

Parcel Information

[Launch Interactive Map](#)

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

Approx. Acreage:
 18.6040

Zoned:  Cod
 LDR

Evacuation & Flood Information
[Open Report](#)

Can't reach this page

- Make sure the web address is correct
- Search for this site on Bing
- [Refresh the page](#)

Buildings

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

Structural Elements DECOR/MILLWORK-AVERAGE DWELLING UNITS-0 EXTERIOR WALL-METAL-MODULAR FLOOR COVER-CONCRETE-FINISH FOUNDATION-SLAB ON GRADE HEAT/AIR-NONE INTERIOR WALL-DRYWALL-PLASTER NO. PLUMBING FIXTURES-2 NO. STORIES-1 ROOF COVER-METAL/MODULAR ROOF FRAMING-STEEL TRUSS/FRM STORY HEIGHT-12 STRUCTURAL FRAME-RIGID FRAME	
 Subare Areas - 4098 Total SF BASE AREA - 2400 CANOPY - 1200 OFFICE AVG - 448 PATIO - 50	

Year Built: 1998, Effective Year: 1998

Structural Elements DECOR/MILLWORK-AVERAGE DWELLING UNITS-0 EXTERIOR WALL-METAL-MODULAR FLOOR COVER-CONCRETE-FINISH FOUNDATION-SLAB ON GRADE HEAT/AIR-NONE INTERIOR WALL-UNFINISHED NO. STORIES-1 ROOF COVER-METAL/MODULAR ROOF FRAMING-STEEL TRUSS/FRM STORY HEIGHT-12 STRUCTURAL FRAME-RIGID FRAME	
 Subare Areas - 920 Total SF BASE AREA - 800 UTILITY UNF - 120	

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.

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[Restore Full Version](#)

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Mail:	205 RATTO RD ALAMEDA, CA 94502
Situs:	11545 SORRENTO RD 32507
Use Code:	STORE, 1 STORY  Cod
Taxing Authority:	COUNTY MSTU
Tax Inquiry:	Open Tax Inquiry Window
Tax Inquiry link courtesy of Scott Lunsford Escambia County Tax Collector	

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Disclaimer				
Tax Estimator				
<input checked="" type="checkbox"/> File for New Homestead Exemption Online				

Sales Data						
Sale Date	Book	Page	Value	Type	Official Records (New Window)	
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12/2001	4831	205	\$300,000	CT	View Instr	
07/1998	4280	1083	\$100	QC	View Instr	
07/1998	4293	1846	\$280,000	WD	View Instr	
Official Records Inquiry courtesy of Pam Childers Escambia County Clerk of the Circuit Court and Comptroller						

2019 Certified Roll Exemptions
None
Legal Description
W 500 FT OF S1/2 OF SEC LYING S OF RD R/W OR 7847 P 474 CONSERVATION ESMT OR 4280 P 1083
Extra Features
CHAINLINK FENCE CONCRETE PAVING CONCRETE WALKS GREENHOUSE

Parcel Information

[Launch Interactive Map](#)

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

Approx. Acreage:
18.6040

Zoned:  Cod
LDR

Evacuation & Flood Information
[Open Report](#)

Can't reach this page

- Make sure the web address is correct
- Search for this site on Bing
- [Refresh the page](#)

Buildings

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

Structural Elements DECOR/MILLWORK-AVERAGE DWELLING UNITS-0 EXTERIOR WALL-METAL-MODULAR FLOOR COVER-CONCRETE-FINISH FOUNDATION-SLAB ON GRADE HEAT/AIR-NONE INTERIOR WALL-DRYWALL-PLASTER NO. PLUMBING FIXTURES-2 NO. STORIES-1 ROOF COVER-METAL/MODULAR ROOF FRAMING-STEEL TRUSS/FRM STORY HEIGHT-12 STRUCTURAL FRAME-RIGID FRAME	
 Subare Areas - 4098 Total SF BASE AREA - 2400 CANOPY - 1200 OFFICE AVG - 448 PATIO - 50	

Year Built: 1998, Effective Year: 1998

Structural Elements DECOR/MILLWORK-AVERAGE DWELLING UNITS-0 EXTERIOR WALL-METAL-MODULAR FLOOR COVER-CONCRETE-FINISH FOUNDATION-SLAB ON GRADE HEAT/AIR-NONE INTERIOR WALL-UNFINISHED NO. STORIES-1 ROOF COVER-METAL/MODULAR ROOF FRAMING-STEEL TRUSS/FRM STORY HEIGHT-12 STRUCTURAL FRAME-RIGID FRAME	
 Subare Areas - 920 Total SF BASE AREA - 800 UTILITY UNF - 120	

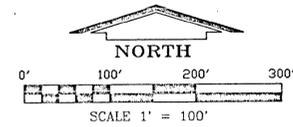
Images



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.

A BOUNDARY SURVEY



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

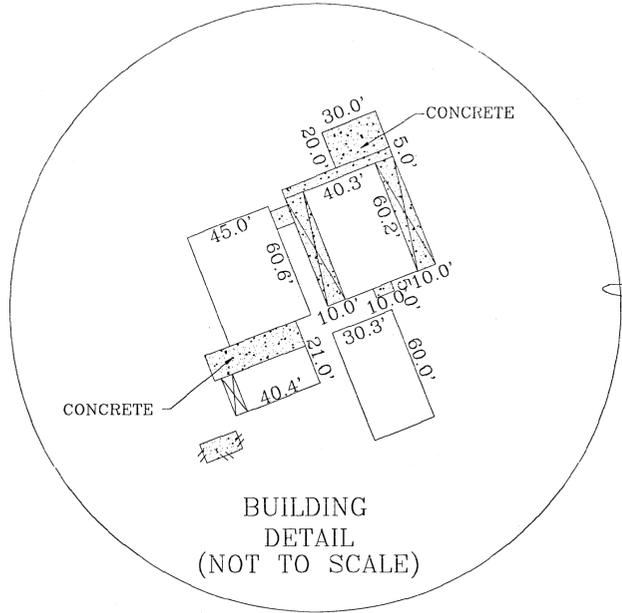
REVISIONS
 REVISED DRAWING
 11-19-02 BY NW

SOUTHERN LAND CONCEPTS, INC.
 ENGINEERING PLANNING SURVEYING
 9909 N. COVE AVENUE
 PENSACOLA, FLORIDA 32504
 PHONE (850) 478-6783 FAX (850) 484-8576

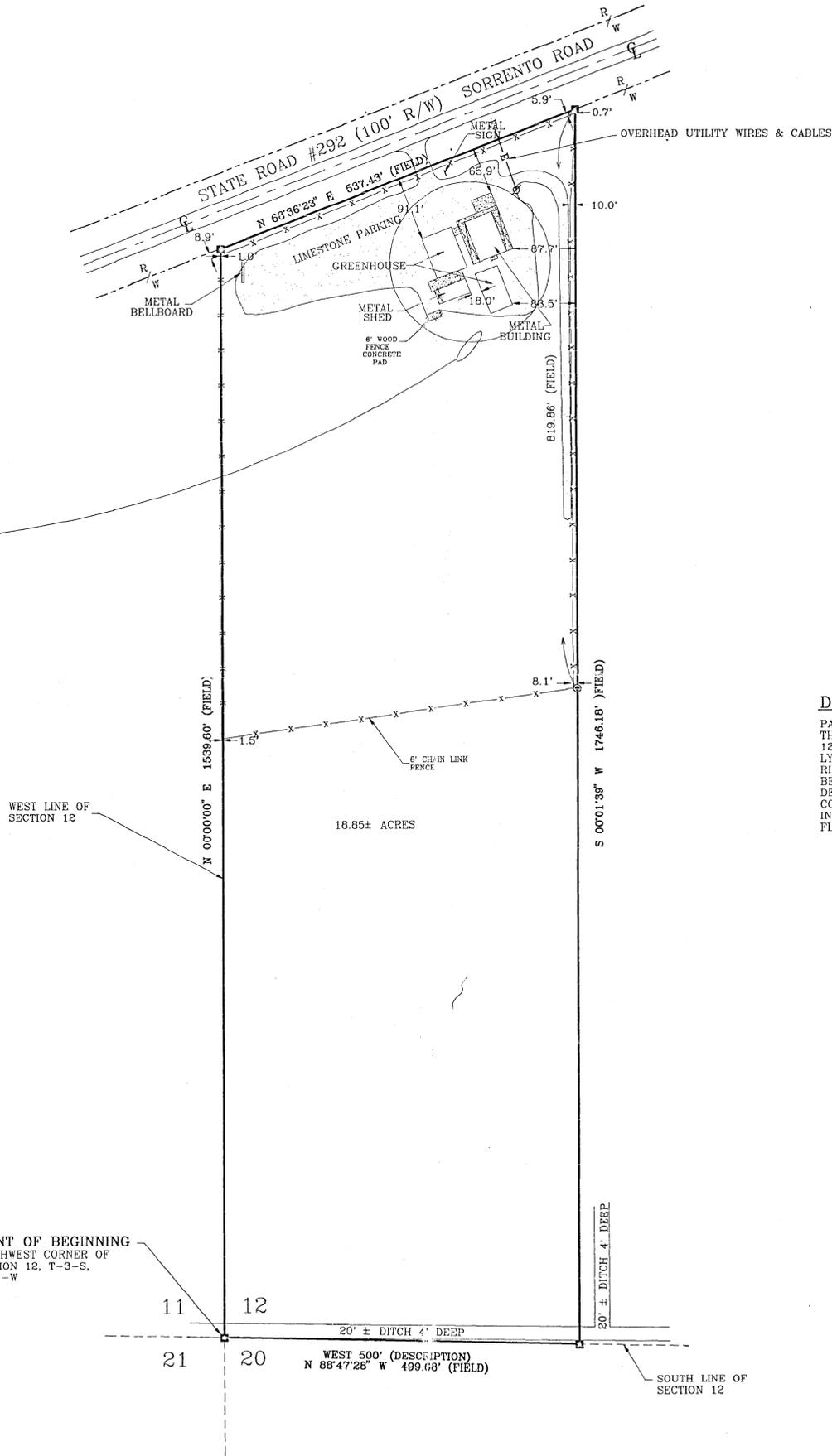
A BOUNDARY SURVEY OF A PORTION OF
 SECTION 12, TOWNSHIP 3 SOUTH, RANGE
 31 WEST, ESCAMBIA COUNTY, FLORIDA
 FOR: MR. DAVID VALETTO



SHEET NUMBER 1 OF 1



BUILDING
DETAIL
(NOT TO SCALE)



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 & KELI 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.

H. Michael Jones
 H. MICHAEL JONES PSM 5536 LB# 110

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.



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

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ESCAMBIA COUNTY PLANNING BOARD
QUASI-JUDICIAL HEARING

Case #: Z-2019-12
 Applicant: Wiley C. "Buddy" Page, Agent for
 Curtis and Kelli Sumrock

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)

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.

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PLANNING BOARD

BOARD MEMBERS PRESENT:
 WAYNE BRISKE, Chairman ALAN GRAY
 District 5 At Large

TIM PYLE, Vice Chairman REID RUSHING
 District 2 At Large

ERIC FEARS JAY INGWELL
 District 4 District 1

PLANNING BOARD STAFF PRESENT:
 KIA JOHNSON, ESQUIRE
 Assistant County Attorney

HORACE JONES, Director
 JUAN LEMOS
 ALLYSON LINDSAY
 JON FISHER

FOR THE HOMEOWNERS ASSOCIATION
 JOE A. SCHILLER, ESQUIRE
 10407 Rawlings Drive
 Pensacola, Florida 32514
 schiller49@hotmail.com

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PROCEEDINGS

THE CHAIRMAN: All right. And our final case, which we do have quite a few speakers on. Thank you all for being patient.

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.

Members of the board, has there been any ex parte communication with any of the parties in this case?

Have you visited the subject site? And are you a business associate or relative of any of the parties?

MR. GRAY: No to all, Mr. Chair.
 MR. PYLE: No to all, other than I'm very familiar with this particular location.

THE CHAIRMAN: Chairman, no to all.
 MR. FEARS: No to all.
 MR. INGWELL: No to all.
 MR. RUSHING: And no to all.

THE CHAIRMAN: Okay. Thank you. Mr. Page, are you okay with the pictures?
 MR. PAGE: Yes.

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1 THE CHAIRMAN: All right.
 2 MR. PAGE: Yes, sir.
 3 THE CHAIRMAN: We'll go with the maps and
 4 photography.
 5 MR. FISHER: Jon Fisher, senior planner.
 6 Juan is going to take care of this one.
 7 THE CHAIRMAN: Okay.
 8 MR. LEMOS: The boss had me out there
 9 talking to a customer.
 10 Once again, Juan Lemos, development
 11 services planner.
 12 Z-2019-12.
 13 This is the location map for the parcel in
 14 question off Sorrento Road.
 15 This is a map of the wetlands surrounding
 16 the area and within the parcel.
 17 This is the 500-foot radius for the zoning
 18 which shows LDR. Conservation, commercial
 19 across the street and HC/LI towards the west
 20 side of the property.
 21 The 500-foot radius for the future land
 22 use which shows mixed-use suburban on the
 23 property and commercial across the street.
 24 This is the actual existing land use for
 25 the property within the 500-foot radius.

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1 Single-family residences, warehouses
 2 across the street, an existing concrete plant
 3 adjacent to the southwest. Single-family
 4 residence to the -- to the southeast -- or to
 5 the east. I'm sorry.
 6 The actual aerial photograph of the site
 7 in question, the concrete plant, you can see it
 8 right there on the -- on the south side -- on
 9 the southwest side.
 10 This is the actual public hearing sign
 11 posted on site.
 12 This is looking onto the property from
 13 Sorrento Road.
 14 Once again, this is looking onto the
 15 property towards the southeast.
 16 Looking southwest onto Sorrento Road from
 17 the property entrance.
 18 And looking southwest onto the actual
 19 property.
 20 Looking southwest onto Sorrento Road.
 21 Looking north across from Sorrento Road.
 22 And if you stop on that -- I'm sorry. Go
 23 back. Yes. For the -- Right there. That's
 24 fine.
 25 So this at one point this used to be some

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1 type of nursery some time ago. I'm sure the
 2 applicant is going to address that.
 3 So that's what I wanted to depict on that
 4 picture of the structures that are still
 5 standing in there.
 6 And it is obvious -- obviously a review of
 7 historical area photographs, that there's always
 8 been some type of business on that parcel.
 9 Always been. Not something -- a nursery
 10 business, some type of plant studying business
 11 on that parcel.
 12 And that concludes the photographs and the
 13 maps.
 14 Okay.
 15 THE CHAIRMAN: Mr. Page.
 16 Sir, you are still under oath. Please
 17 state your name and address for this case.
 18 MR. SCHILLER: Mr. Chairman, for the
 19 record, my name is Joe Schiller. I represent
 20 the board of directors -- I mean, the homeowners
 21 association for Grand Lagoon Subdivision across
 22 the street.
 23 I also personally own property within 500
 24 feet. I'm an attorney representing the board.
 25 I -- I object to Mr. Page acting as an

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1 attorney.
 2 THE CHAIRMAN: We're recording all of the
 3 proceedings.
 4 MR. SCHILLER: Okay.
 5 THE CHAIRMAN: So if you'll please come
 6 forward.
 7 MR. SCHILLER: I would object to Mr.
 8 Page --
 9 THE CHAIRMAN: Come forward. And let's
 10 first start over again.
 11 MR. SCHILLER: All right.
 12 THE CHAIRMAN: Are you an attorney here in
 13 the State of Florida?
 14 MR. SCHILLER: That's correct.
 15 THE CHAIRMAN: Yes, sir. Okay.
 16 MR. SCHILLER: 46 years.
 17 THE CHAIRMAN: Okay. Sir, so please again
 18 state your name and --
 19 MR. SCHILLER: Joe Schiller, 10407
 20 Rawlings Drive.
 21 THE CHAIRMAN: Okay. All right. We want
 22 to make sure we get everything --
 23 MR. SCHILLER: Right.
 24 THE CHAIRMAN: -- because we are in
 25 quasi-judicial here --

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1 MR. SCHILLER: Right.
 2 THE CHAIRMAN: -- so that --
 3 MR. SCHILLER: And since this is
 4 quasi-judicial, I would object to a nonattorney
 5 representing a party in this case in a
 6 quasi-judicial proceeding.
 7 He's getting paid for this. I think the
 8 law requires or at least the Florida Bar
 9 requires him to be an attorney to represent an
 10 owner in this proceeding.
 11 Thank you.
 12 THE CHAIRMAN: Thank you.
 13 I'm going to refer to our legal here, Ms.
 14 Johnson. Your opinion in this matter, as Mr.
 15 Page acting as the agent for the property owner?
 16 MS. JOHNSON: No. It's okay that he acts
 17 as the agent for the property owner, as long as
 18 he didn't delve into providing legal advice or
 19 giving legal analysis that would require a law
 20 license.
 21 THE CHAIRMAN: Okay. All right.
 22 Board members, do you have any questions
 23 of the attorney about hearing Mr. Page's
 24 testimony?
 25 You've heard the objection from the

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1 gentleman.
 2 (No response.)
 3 THE CHAIRMAN: Okay. Hearing none, we
 4 will allow him to speak.
 5 Mr. Schiller, we will give you an
 6 opportunity to present as well. Okay.
 7 Mr. Page. All right.
 8 Would you state your name and address for
 9 the record, please.
 10 ---
 11 WILEY C. "BUDDY" PAGE, having been
 12 previously duly sworn, was examined and
 13 testified further as follows:
 14 ---
 15 MR. PAGE: Mr. Chairman, Buddy Page, 5337
 16 Hamilton Lane in Pace.
 17 THE CHAIRMAN: Mr. Page, on this case,
 18 have you received a copy of the staff's
 19 findings?
 20 MR. PAGE: I have.
 21 THE CHAIRMAN: Okay. And in this case,
 22 you understand that you have the burden of
 23 presenting competent and substantial evidence
 24 that's in no way in conflict with the
 25 Comprehensive Plan or the Land Development Code

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1 of Escambia County?
 2 MR. PAGE: I do.
 3 THE CHAIRMAN: All right.
 4 Go ahead, sir, please.
 5 MR. PAGE: Mr. Chairman, my presentation
 6 this morning will also include a number of
 7 documents that which make up our -- our
 8 compatibility study that's referenced in the
 9 report itself or in the application itself.
 10 And to start that off, I have a handout
 11 I'd like to present.
 12 THE CHAIRMAN: Okay. Has this been
 13 previously provided to the staff or is this a
 14 new document?
 15 MR. PAGE: This is a new document.
 16 THE CHAIRMAN: Okay. Please explain to us
 17 what the document is and who prepared it.
 18 MR. PAGE: Mr. Chairman, I prepared this.
 19 This is a copy of a wetlands area from the
 20 Escambia County Web page.
 21 It also includes two documents
 22 representing a mitigation with Florida DOT
 23 regarding a small entrance road down the side of
 24 the property, and it also establishes a wetland
 25 and jurisdictional area that's different from

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1 what the state -- the aerial photo is from the
 2 county. And I want to point out that
 3 distinction.
 4 THE CHAIRMAN: Okay. So this is
 5 information that you researched electronically.
 6 And is this a true and accurate copy of
 7 what your research found online?
 8 MR. PAGE: It is.
 9 THE CHAIRMAN: Okay. If you'll present it
 10 to the staff here.
 11 Chair will entertain a motion to accept
 12 Mr. Page's evidence into the record.
 13 MR. GRAY: Mr. Chair, I make a motion to
 14 accept this evidence into the record for this
 15 hearing.
 16 MR. PYLE: Second.
 17 THE CHAIRMAN: Motion and a second.
 18 Any further discussion?
 19 (No response.)
 20 THE CHAIRMAN: All those in favor say aye.
 21 (Chorus of "ayes.")
 22 THE CHAIRMAN: Opposed?
 23 (No response.)
 24 THE CHAIRMAN: All right. We will label
 25 this as Applicant's Exhibit 1.

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

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

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.

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

1 as a nonwetland area.
 2 But we found the Florida rosemary. We
 3 found spartina. We found silver leaf magnolia.
 4 And, of course, the hydric soils are very
 5 abundant and wet in that area. You can hardly
 6 step off the road without at least going up to
 7 your ankle.
 8 And my reason in mentioning that is, the
 9 aerial, again, that's shown -- the
 10 differentiation between a wetland area and what
 11 appears to be a dry area under "Sorrento" is in
 12 error, as it was underneath the building itself
 13 over on the westerly side.
 14 Mr. Chairman, in the application itself,
 15 under approval conditions, Criterion A, we
 16 appear to be consistent with the staff's
 17 findings as well.
 18 Criterion B indicates that it is not
 19 consistent with Land Development Code. All new,
 20 nonresidential uses proposed within the
 21 commercial district.
 22 And it goes on to read -- And then at the
 23 bottom it says, "If the zoning -- rezoning is
 24 approved, it would encourage the creation of
 25 strip commercial development."

1 If it's going to create a condition of
 2 encouraging strip commercial development, Mr.
 3 Chairman, we're of the position that you've got
 4 to have some land somewhere in order for that
 5 additional strip commercial development to be
 6 constructed.
 7 It cannot be constructed anywhere across
 8 the street. That's all owned by IITF, the
 9 Internal Improvement Trust Fund in Tallahassee.
 10 The area to the east we've just described
 11 as being wetland all the way up to the roadway.
 12 The area to the west is a batch concrete
 13 plant. And the area to the south of these
 14 buildings has been designated and agreed to in a
 15 settlement between the owner at the time and
 16 Florida DEP as being an area that would not be
 17 constructed in.
 18 So, Mr. Chairman, we do not agree with
 19 item B, only because there's no place to build
 20 anything that would resemble a strip commercial
 21 development.
 22 The only commercial that's out there now
 23 is an existing ministorage facility, which is
 24 kitty-cornered and across the street from this
 25 proposed rezoning change.

1 So we don't feel that item B is accurately
 2 recorded. Our position on it is, as I've just
 3 stated, there's no other room for anything to be
 4 a strip commercial of any sort.
 5 And after hearing the presentation
 6 preceding this regarding the freeboard and the
 7 flood areas, I'm not so sure that anything could
 8 be constructed along any of this area out there
 9 anymore.
 10 The subdivision that's to the northwest of
 11 this across the street from the miniwarehouses,
 12 I had some involvement in that back in the day
 13 with that. And it was a considerable effort to
 14 design and construct that to a standard for
 15 flood zones as it appeared back in the day.
 16 So, Mr. Chairman, we feel like that our
 17 information regarding B is more consistent
 18 rather than what has been offered by the staff's
 19 finding.
 20 Under item C, compatibility with
 21 surrounding areas, the findings there again say
 22 that it is not compatible with surrounding
 23 existing uses.
 24 Mr. Chairman, right next door, as you saw
 25 in the overheads here, right next door to the

1 west is a batch concrete plant. It's stated in
 2 here that it is a mineral processing parcel. I
 3 don't know what -- That sounds rather innocent,
 4 mineral processing.
 5 It's actually, Mr. Chairman, out of the
 6 Land Development Code under 3-2.12, industrial,
 7 the uses that are allowed under the industrial
 8 category under D says, "Industrial uses, light,
 9 heavy" -- It goes on and on and on. It says,
 10 "Landfills and concrete and asphalt batch
 11 plants." That's really what that is. A mineral
 12 processing? I'm not sure what that is.
 13 So in taking a look at that, then, in
 14 terms of compatibility with surrounding uses, we
 15 certainly think it's very compatible with the
 16 concrete plant to the west.
 17 It's certainly compatible with the
 18 miniwarehouses to the northwest. And then due
 19 north the property is restricted because it's
 20 owned by IITF in Tallahassee.
 21 And the area immediately adjacent and to
 22 the east we think is a wetland area that
 23 probably would not be allowed to be constructed
 24 or filled in, as some of these parcels have been
 25 done back in the day.

1 So we feel like we're consistent with item
2 D in terms of compatibility with surrounding
3 uses.

4 We think that there's an error in terms of
5 the first sentence that says "not compatible
6 with surrounding existing uses." Well, that
7 existing use pulls in at that point, Mr.
8 Chairman, the concrete batch plant.

9 Item d, appropriate if spot zoning.
10 Findings would create spot zoning. Let's
11 see. As requested, commercial zoning is
12 different from all contiguous land. Mr.
13 Chairman, the . . . all contiguous land -- And
14 perhaps I left that in the back here.

15 Mr. Chairman, contiguous land takes on --
16 the word "contiguous" takes on several
17 definitions. Black's Law Dictionary says,
18 "Contiguous first is in --

19 MR. SCHILLER: Object to him giving legal
20 opinions.

21 MR. PAGE: Not a legal opinion, Mr.
22 Chairman. I'm reading from a book.

23 THE CHAIRMAN: Yes, sir. We're going to
24 allow it. He's just reading the definition out
25 of a book.

1 MR. PAGE: Mr. Chairman, the book reads
2 "contiguous: In close proximity, neighboring,
3 adjoining, near in succession or in actual close
4 contact."

5 There are a number of definitions there
6 that describe what would be contiguous.

7 We think that we are not spot zoning
8 because we are contiguous to things that are
9 fairly heavy construction in terms of land use
10 at the present time. So we don't think we're
11 doing any spot zoning at all.

12 The commercial we're asking for is the
13 same as right across the street with the
14 miniwarehouse.

15 So, Mr. Chairman, under item E, in terms
16 of appropriate with changed conditions, it says
17 here that if land uses or development conditions
18 for the surrounding area of property for
19 rezoning have changed.

20 And the area out there has not changed.
21 The buildings that we have there now, the four
22 buildings, were constructed in the early '90s
23 and have been used for fairly heavy commercial
24 activity since that period of time until they
25 closed.

1 And, Mr. Chairman, it says the land -- the
2 land uses or development conditions within the
3 areas surrounding the property have not changed.

4 We agree with that, but we think that our
5 compatibility analysis that we have where there
6 are existing commercial areas there now, that is
7 a condition of which we are compatible with.

8 So, Mr. Chairman, out of all of the five
9 criteria, we would ask the board to consider
10 adopting the staff's findings on A. And then
11 the balance of each individual findings, B, C,
12 D, and E, that the board substitute the
13 information that I've provided here today, which
14 we think makes us compatible with all of those.
15 We ask that you replace the staff findings with
16 those as presented here today.

17 THE CHAIRMAN: Thank you, Mr. Page.
18 Questions of Mr. Page?

19 MR. GRAY: I had a question.

20 So are you trying to contend that -- I'm
21 going to use a visual aid. For the record, this
22 might be difficult.

23 Are you contending that these are
24 contiguous pieces of paper? That these are
25 parcels and they're by a piece of road?

1 MR. PAGE: I could read the definition
2 again. It certainly would include that they are
3 contiguous.

4 MR. GRAY: So . . . And in my, I guess
5 short 20 years of experience in urban planning,
6 compared to some of those in the room, we're
7 able to call this contiguous, this contiguous.
8 And this is considered a hopscotch move. Does
9 that make sense to you?

10 MR. PAGE: It's considered to be what?

11 MR. GRAY: Well, I'm using a layman's
12 term.

13 It's considered noncontiguous. It's
14 considered like a checker move, going hopscotch,
15 ticking across a . . . In other words, if I was
16 to say that this was commercial and this was,
17 you know, low-density residential, that these
18 aren't -- these aren't contiguous parcels --
19 and, again, they're split by a piece of road.

20 A road doesn't make them noncontiguous.
21 If there's a road between those two, they're
22 still considered contiguous. If they're next to
23 each other, they're obviously . . .

24 MR. PAGE: Mr. Chairman, I would simply
25 refer to --

1 MR. GRAY: Is that your contention?
 2 MR. PAGE: -- the staff's own findings.
 3 MR. GRAY: Are you -- are you saying that
 4 because their corners are across, that the
 5 parcels are contiguous?
 6 MR. PAGE: It could or could not be, based
 7 on the -- based on the definition that I've read
 8 to you, and also rereading again under Criterion
 9 C, the proposed amendment is not compatible with
 10 surrounding existing uses. Surrounding.
 11 MR. GRAY: It certainly is surrounding.
 12 It certainly is surrounding. It's not quite
 13 adjacent. My experience has told me I haven't
 14 been able to consider this contiguous in the
 15 past. Right. I understand what you're saying.
 16 MR. PYLE: Can we go to the existing
 17 land-use map? Can you put that up there? Can
 18 we go back to the -- Thank you. Zoning map.
 19 I'm sorry. One more. Thank you.
 20 And . . . I'm sorry. So the concrete
 21 plant would be recognized by that.
 22 MR. LEMOS: LDR. Concrete batch plant --
 23 and I was going to say that on my -- I'm sorry,
 24 Mr. Page -- under my findings.
 25 MR. PYLE: Use the microphone.

1 MR. LEMOS: So under my findings --
 2 THE CHAIRMAN: State your name.
 3 MR. LEMOS: So under my findings -- Juan
 4 Lemos, development services planner.
 5 Under the findings, you'll see that --
 6 that that's -- that's an existing concrete batch
 7 plant that's been there for a long time, since
 8 the early '90s, according to the records we
 9 could find. So it's grandfathered, but it is on
 10 LDR.
 11 The parcel itself is on LDR. The use,
 12 absolutely. I've been out there to the site.
 13 It is -- it is . . . Yeah, it is a heavy use. I
 14 don't know that it's an industrial use, but they
 15 do have concrete trucks that go in there and
 16 pick up stuff.
 17 MR. PYLE: So let me ask you this: The
 18 current -- the previous owner, would they be --
 19 when they were -- let's say when there was a
 20 nursery and gift shop, was that a nonconforming
 21 use for LDR?
 22 MR. LEMOS: Oh, absolutely. For LDR,
 23 absolutely.
 24 MR. PYLE: So it's never actually . . .
 25 Okay.

1 MR. LEMOS: Yes, sir.
 2 MR. GRAY: I'm looking at Google street
 3 view. And I don't know if we've -- if I've
 4 stressed, we -- I was requesting the county
 5 purchase a 360 camera. Remember this, Horace?
 6 MR. JONES: Yes.
 7 MR. GRAY: For the purpose of being able
 8 to zoom and to move around really well.
 9 But for now, Google gave us a free 360
 10 camera, to show us conditions on that Sorrento
 11 Road. And I -- I do remember this being kind of
 12 an odd . . . There's a USA Ready-Mix -- like,
 13 not your -- not your subject parcel -- which is
 14 contiguous to your property, as being sort of an
 15 odd-located, but obviously it's there. It's
 16 under LDR.
 17 And if we were to be asked permission
 18 today for it to be there . . .
 19 MR. JONES: No.
 20 MR. GRAY: Right, would have been the
 21 answer. However --
 22 MR. JONES: Wholeheartedly no. No. No.
 23 And just because there's a nonconforming use
 24 there, you cannot legitimize a zoning request.
 25 MR. GRAY: There's -- Actually, we have

1 wording in our -- our documentation that just
 2 because something is a nonconformer in there
 3 does not make it . . .
 4 MR. JONES: Right.
 5 MR. GRAY: What is it? Two wrongs don't
 6 make a right in this case. I'm just going to
 7 lean back on that again.
 8 MR. PAGE: Mr. Chairman, we also would
 9 counter that by saying, who made it wrong?
 10 In the early '80s, when the assessment of
 11 the various uses was done by windshield survey
 12 and put on a map?
 13 That particular site was there. It was
 14 missed. I can't imagine that it being
 15 overlooked or someone saying we don't like that
 16 concrete plant there. And for that reason,
 17 we're just going to ignore its presence, and
 18 we'll classify it as a residential or mixed use.
 19 I have another one that will be before
 20 this board probably next month in the same
 21 situation, where it was missed in the early
 22 '80s.
 23 And now do you go back and tell them,
 24 well, you're nonconforming? Well, I didn't make
 25 myself nonconforming. You guys came out here

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1 and did a survey, and you missed me.
 2 It puts both of the landowners in a very
 3 difficult situation, Mr. Chairman. So I
 4 understand that, the question.
 5 THE CHAIRMAN: Okay. What I'd like to do
 6 at this point, let's go ahead and get on the
 7 record the staff's findings.
 8 And, Juan, if you would, please, just
 9 summarize -- I know that Mr. Schiller has a
 10 presentation. And he'll be next after you get
 11 these findings on.
 12 But when you give each criteria, just give
 13 a very brief summary so we can keep moving.
 14 MR. LEMOS: No problem. Yes, sir.
 15 So the first criterion, consistent with
 16 the Comprehensive Plan.
 17 We found that it is consistent with the
 18 Comp -- with the future land use.
 19 Under Criterion B, consistent with the
 20 Land Development Code, it is inconsistent.
 21 Again, the code is very specific about what is
 22 allowed under the commercial development and
 23 what type of development is supposed to be
 24 allowed in there.
 25 Let me clarify that at this point

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1 obviously during the application, I did not have
 2 an actual compatibility analysis that Mr. Page
 3 has presented to the board now.
 4 So I did mention that in some of my
 5 findings. So I'm going to refrain from
 6 mentioning that every single time at the point
 7 of submittal I did not have that to review.
 8 Criterion C, compatible with the
 9 surrounding uses. I say not compatible with the
 10 surrounding uses in the area.
 11 Under Criterion D, appropriate if spot
 12 zoning. Based on the definition of spot zoning,
 13 the Land Development Code, this will be -- this
 14 will create a spot zoning situation.
 15 Criterion D. I'm sorry. Criterion E, if
 16 it's appropriate with changed or changing
 17 conditions.
 18 Basically, we say if you drive between
 19 those two roads, Bauer and Blue Angel, that's a
 20 really very low development area. There are
 21 some existing commercials, in fact, businesses
 22 along Sorrento Road, but it is not highly
 23 developed.
 24 And Mr. Page cannot point it out that
 25 there are a lot of environmental land conditions

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1 that -- that -- that probably have prevented
 2 this little corridor from being highly developed
 3 because it is highly traffic -- it's traffic --
 4 the traffic count is through probably the roof.
 5 I mean, I sat there for 20 minutes in the
 6 parcel. And, I mean, it's constant traffic. I
 7 got it.
 8 But there is a reason that has never been
 9 developed ahead of the commercial. And, yes,
 10 environmental aspects, both the flood zones and
 11 the wetlands is absolutely one of the things
 12 that anybody who knows properties would have a
 13 challenge with. And that's it.
 14 Do we have any questions?
 15 THE CHAIRMAN: Okay. Thank you.
 16 We'll bring you back up if we have
 17 additional questions.
 18 Mr. Schiller.
 19 MR. SCHILLER: Mr. Chairman.
 20 THE CHAIRMAN: Sir, we haven't had the
 21 pleasure of meeting in this forum before, so I'd
 22 like to just have you basically share your
 23 qualifications, your education and your
 24 certification, licenses with the board so that
 25 they know who you are and everything.

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1 MR. SCHILLER: I'm a member of the Florida
 2 Bar since January 1973.
 3 THE CHAIRMAN: Okay.
 4 MR. SCHILLER: And I'm employed from the
 5 State Attorney's Office here.
 6 THE CHAIRMAN: Okay.
 7 MR. SCHILLER: The Florida board . . .
 8 THE CHAIRMAN: Have you had experience
 9 working with land usages and --
 10 MR. SCHILLER: Only dealing with --
 11 THE CHAIRMAN: -- views and property
 12 values, and --
 13 MR. SCHILLER: This subdivision over the
 14 last 30 years.
 15 THE CHAIRMAN: Okay.
 16 MR. SCHILLER: And it's been an
 17 experience, I can tell you.
 18 THE CHAIRMAN: Okay.
 19 MR. SCHILLER: And I would like to call a
 20 witness out of order, Mr. Chairman.
 21 THE CHAIRMAN: Okay. Let me just do one
 22 more housekeeping item here. For qualification
 23 of an attorney representing a homeowners
 24 association, do we have documentaiton that's
 25 required to be submitted for quasi-judicial

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1 or --

2 MS. JOHNSON: No, no specific

3 documentaiton.

4 THE CHAIRMAN: Okay. So the members of

5 the homeowners association just appoint him as a

6 spokesman, and then he can call individuals as

7 witnesses in the case.

8 MS. JOHNSON: That's correct.

9 THE CHAIRMAN: Okay. All right.

10 Mr. Gray, did you have a question?

11 MR. GRAY: I did.

12 I would love for you to orient me to the

13 subdivision with which you represent in relation

14 to this.

15 Do we have a map --

16 MR. SCHILLER: Yes, sir.

17 MR. GRAY: -- that might show you in it?

18 MR. SCHILLER: Yes. Yes. Yes, I do, sir.

19 MR. GRAY: It might be on the screen, that

20 the staff can probably pull it for you, if you

21 have a larger scope.

22 MR. SCHILLER: I have a handout, too. 13

23 copies there.

24 THE CHAIRMAN: Okay. Sir, you're an

25 attorney, so you're familiar with bringing those

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1 into evidence. You have to explain what the

2 documents are and where they came from.

3 MR. SCHILLER: These are the original

4 plats of Grand Lagoon Ranches Homeowners

5 Association -- Grand Lagoon Ranches subdivision.

6 THE CHAIRMAN: These are accurate and true

7 copies of --

8 MR. SCHILLER: These are recorded plats --

9 recorded plats.

10 THE CHAIRMAN: Okay.

11 MR. SCHILLER: And I have copies for -- I

12 think it's 13, so if you look at these, I think

13 it can help you a little bit.

14 THE CHAIRMAN: How many documents do we

15 have there?

16 MR. SCHILLER: There's two.

17 THE CHAIRMAN: Two. All right.

18 MR. SCHILLER: Exhibit A and Exhibit B.

19 THE CHAIRMAN: Okay. All right. The

20 Chair will now entertain a motion to accept the

21 Defense Exhibit 1 and 2 into evidence.

22 MR. GRAY: Motion.

23 MR. PYLE: Second.

24 THE CHAIRMAN: Motion and a second.

25 All those in favor say aye.

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1 (Chorus of "ayes.")

2 THE CHAIRMAN: Opposed?

3 (No response.)

4 THE CHAIRMAN: All right. They're entered

5 into evidence as 1 and 2.

6 Is there a preference to which one you'll

7 be using first, sir?

8 MR. SCHILLER: We'll use A.

9 THE CHAIRMAN: Okay.

10 MR. SCHILLER: I forgot which one A was.

11 THE CHAIRMAN: You've already got them

12 labeled. Great. Thank you, sir.

13 THE CHAIRMAN: Yes, sir.

14 You've already labeled them, which is

15 great. Thank you.

16 MR. SCHILLER: And, Mr. Chairman, I'd hate

17 to go out of order, but I have a witness that

18 has a doctor's appointment, and she would like

19 to testify.

20 THE CHAIRMAN: Yes, sir. Bring her

21 forward.

22 MR. SCHILLER: Yes, sir. Ms. Wells.

23 THE CHAIRMAN: Ms. Wells?

24 MR. SCHILLER: Yes, sir.

25 THE CHAIRMAN: Okay. We'll have her sworn

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1 in, and state her name and address for the

2 record, please.

3 ---

4 SUZANNE WELLS, upon being duly sworn, was

5 examined and testified as follows:

6 ---

7 MS. WELLS: My name is Suzanne Wells, 3298

8 Nighthawk Lane.

9 MR. SCHILLER: And, Ms. Wells, are you the

10 president of the homeowners association?

11 MS. WELLS: Yeah, I'm the president of the

12 homeowners association.

13 MR. SCHILLER: And you're looking at

14 Exhibit B there in front of you.

15 MR. GRAY: The recording is being done.

16 If you'll get in front of the microphone.

17 THE CHAIRMAN: Yes, sir. If you'll get in

18 front of the microphone.

19 MR. SCHILLER: Exhibit B represents a plat

20 of your subdivision. That's correct?

21 MS. WELLS: Yes.

22 MR. SCHILLER: And you live at --

23 actually, there's another addition to this

24 that's not here.

25 MS. WELLS: Yes. This is unit one.

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1 MR. SCHILLER: All right.
 2 MS. WELLS: I live in unit one.
 3 MR. SCHILLER: How many homeowners or lot
 4 owners are in --
 5 MR. GRAY: I'm sorry. I can't hear what
 6 you're saying, and you're only 15 feet away.
 7 MR. JONES: Here's a microphone. Go to
 8 the mic. If you can pass the mic behind you.
 9 THE CHAIRMAN: Or we can use Horace's.
 10 MR. JONES: We got one.
 11 MR. SCHILLER: Okay. That will work.
 12 THE CHAIRMAN: It's for the record and for
 13 your board. Thank you.
 14 MR. SCHILLER: Ms. Wells, how many lot
 15 owners -- lot owners are there in that
 16 subdivision?
 17 MS. WELLS: 14.
 18 MR. SCHILLER: So you're a small
 19 subdivision; is that correct?
 20 MS. WELLS: Well, 14 in unit one.
 21 MR. SCHILLER: And there's another unit?
 22 Three or four more?
 23 MS. WELLS: Maybe seven.
 24 MR. SCHILLER: All right. You're in that
 25 one; is that correct?

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1 MS. WELLS: Yes.
 2 MR. SCHILLER: Okay. And did you have a
 3 comment you want to make to the board about this
 4 rezoning?
 5 MS. WELLS: I do.
 6 MR. SCHILLER: And how long have you lived
 7 there?
 8 MS. WELLS: Wow. 1986. Since 1986.
 9 MR. SCHILLER: And you have horses out
 10 there?
 11 MS. WELLS: Yes.
 12 MR. SCHILLER: And is that the -- each lot
 13 in there is five acres?
 14 MS. WELLS: Yes.
 15 MR. SCHILLER: With one house for five
 16 acres; is that correct?
 17 MS. WELLS: Mm-hmm.
 18 MR. SCHILLER: And you go down Sorrento
 19 Road at least daily; is that correct?
 20 MS. WELLS: Yes.
 21 MR. SCHILLER: And are you familiar with
 22 the Perdido pitcher plant prairie preserve . . .
 23 MS. WELLS: Yes.
 24 MR. SCHILLER: . . . park? Okay.
 25 Go ahead with your comments that you have.

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1 MS. WELLS: Okay. I just want to say if
 2 this is rezoned, it's my opinion that the
 3 quality of life -- our quality of life will be
 4 impacted.
 5 On -- Just on June 18th this year there
 6 was a fatal accident near Sorrento and Bauer,
 7 which is only one mile from the area that we're
 8 talking about here.
 9 And unfortunately, one person was killed
 10 and one was in critical condition. And this
 11 happens all the time on Sorrento. There have
 12 been numerous other wrecks and several
 13 fatalities.
 14 I personally have had several close calls
 15 trying to turn left from Sorrento onto
 16 Nighthawk.
 17 This intersection is within 500 feet of
 18 the property being considered. And I've had
 19 cars and even a motorcycle almost rear-end me.
 20 And they end up going into the ditch because
 21 they're not paying attention.
 22 The speed limit's 45 there. They're going
 23 60. They aren't paying attention. They're
 24 texting, whatever they're doing. And then all
 25 of a sudden they see me, even though I slow down

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1 to 35 miles an hour to try to, you know, get
 2 people to slow down. They end up in the ditch.
 3 MR. SCHILLER: So you're talking coming
 4 westward towards --
 5 MS. WELLS: Going -- I'm going --
 6 MR. SCHILLER: East from the west --
 7 MS. WELLS: East. Trying to turn left
 8 onto Sorrento.
 9 MR. PAGE: Mr. Chairman, could I ask that
 10 she identify what criteria she's speaking to,
 11 please?
 12 THE CHAIRMAN: I think -- I think that is
 13 important because the board here only can
 14 identify or vote on the criteria that we have up
 15 there. So we would --
 16 MS. WELLS: Okay.
 17 THE CHAIRMAN: -- we would like for --
 18 MS. WELLS: Well, it's about quality of
 19 life.
 20 THE CHAIRMAN: That's not one of our
 21 criteria.
 22 MS. WELLS: I thought it was on there
 23 toward . . .
 24 MR. SCHILLER: It's in the board's public,
 25 down here, quality of life.

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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.

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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

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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

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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

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1 latitude.

2 MR. GRAY: Oh, is that right? Okay. My

3 mistake. I apologize.

4 MS. MULLINS: Thank you.

5 THE CHAIRMAN: That's all you have?

6 Questions by the board?

7 (No response.)

8 THE CHAIRMAN: No?

9 Thank you.

10 MR. SCHILLER: Call Ms. Buck, Cathy Buck.

11 ---

12 CATHERINE BUCK, upon being duly sworn, was

13 examined and testified as follows:

14 ---

15 MS. BUCK: My name is Cathy Buck. My

16 address, 3351 Nighthawk Lane.

17 THE CHAIRMAN: Thank you.

18 MR. SCHILLER: And, Ms. Buck, did you get

19 one of those orange flyers here in the mail?

20 MS. BUCK: I did not. I am not within the

21 500 feet.

22 MR. SCHILLER: Okay. And you have some

23 comments you'd like to make to the board.

24 MS. BUCK: I do.

25 MR. SCHILLER: Concerning the criteria.

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1 MS. BUCK: Yes.

2 I'm sorry. My first time at this rodeo.

3 In another life, I was a local official,

4 participated in planning and zoning. And I was

5 you in another state in another time.

6 So I'm not familiar with your format.

7 Forgive me. I did not go A, B, C, D. So if you

8 just give me a little latitude, I'll try to be

9 very brief.

10 I certainly reiterate what Madura Dora had

11 to say. I believe that traffic, although it's

12 not considered here specifically, in the -- in

13 the back -- backup readings from your staff,

14 they did talk about the traffic differential

15 between Nine Mile Road and Sorrento Road.

16 We are only 200 vehicle trips a day below

17 Nine Mile Road. So that gives you, if you're

18 not familiar with Sorrento, an idea of the kind

19 of traffic volume that we face on a daily basis.

20 And that was in 19 -- in 2018, I should say.

21 I would say that any rezoning from LDR to

22 commercial is tantamount to spot zoning. And I

23 agree with staff that this would be absolutely

24 spot zoning.

25 And, again, two wrongs don't make a right.

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1 I -- I believe that the property owner should

2 have an opportunity to make use of their

3 property.

4 However, it should fall within the LDR

5 with an eye to the future, which is 11 years

6 coming, so the 18 acres obviously have already

7 been pointed out as riddled with wetlands.

8 They're sensitive and protected by the State of

9 Florida.

10 The existing uses and structures, as we

11 have already said, are nonconforming.

12 The original handwritten application said

13 that they were interested in having a

14 microbrewery. I don't know if you were privy to

15 that.

16 Suddenly it changed to an office. I don't

17 know if either would be . . . Certainly an

18 office would not -- If -- if it was a

19 nanobrewery with a very limited special-use

20 condition or conditional use, I think that could

21 potentially be a use for the property. It could

22 also be a driving range or -- or something of

23 that that would be conforming with the LDR.

24 So I believe that spot zoning is a no-no

25 and should be prevented at any rate.

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1 Thank you.

2 THE CHAIRMAN: I did have one question for

3 you, Mr. Schiller.

4 Ms. Buck indicated her past expertise in

5 the area of land use and planning.

6 Are you qualifying her as an expert

7 witness?

8 MR. SCHILLER: No, no.

9 THE CHAIRMAN: Or just as a layperson?

10 MR. SCHILLER: I didn't know that. That's

11 the first time I heard that.

12 THE CHAIRMAN: Okay. Okay. So -- so --

13 MS. BUCK: I'm -- I'm -- I've only lived

14 here five years, so . . .

15 THE CHAIRMAN: Okay. Because we would

16 have to voir dire the witness and get all of

17 that out if she's going to be an expert.

18 MS. BUCK: No. You'll just have to take

19 my word for it. I have 19 years --

20 THE CHAIRMAN: Yes, ma'am. Okay.

21 We just want to make sure because in

22 quasi-judicial, if you're going to be an expert

23 witness, we have to go through a few more

24 steps --

25 MS. BUCK: I understand . . .

1 THE CHAIRMAN: -- to do that.
 2 MS. BUCK: . . . yes.
 3 THE CHAIRMAN: Okay. I don't have any
 4 questions.
 5 Any questions of this witness?
 6 (No response.)
 7 THE CHAIRMAN: Okay.
 8 MS. BUCK: Thank you.
 9 THE CHAIRMAN: Thank you, ma'am.
 10 Go ahead, sir.
 11 MR. SCHILLER: I'd like to -- I have some
 12 questions for Mr. Page, but I'd like to testify
 13 briefly about the . . .
 14 THE CHAIRMAN: Before we do that, is Ms.
 15 Carole Tebay -- Is she one of your witnesses as
 16 well or -- No. She just wants to testify.
 17 Okay. So we give you the opportunity, once the
 18 gentleman has finished his presentation.
 19 MR. SCHILLER: Well, as I say, I have some
 20 questions for Mr. Page.
 21 But on my Exhibits A and B, Exhibit B is
 22 our subdivision. Since this -- We have another
 23 unit which is about six houses more. Goes down
 24 that street and dead-ends at a creek called
 25 Sandy Creek.

1 And Sandy Creek runs under Bauer Road.
 2 And there's another part of our subdivision over
 3 there that's smaller one-acre lots.
 4 And so Exhibit A is part of the original
 5 Grand Lagoon Ranches. And it's broken into
 6 10-to 20-acre parcels for homes.
 7 And as you can see, it's platted there.
 8 It's right in the middle. The concrete plant
 9 sits right in the middle of that.
 10 When we first moved out there and bought
 11 out there in the early 1980s, '79, '80s, there
 12 was nothing out there. There was one house on
 13 that whole place. And none of this was there.
 14 No miniwarehouses.
 15 Walmart wasn't there. Blue Angel Parkway
 16 wasn't there. Bauer Road was just a little
 17 country road that crossed there. And the only
 18 other thing out there was Periodo Bay Country
 19 Club.
 20 The developer of Grand Lagoon Ranches
 21 decided he was going to convert this back to raw
 22 acreage unbeknownst to us, and put a sign out
 23 there, one of these -- little sign. No letters
 24 went out to anybody. A little -- a little --
 25 Not even as big as this, a little white sign.

1 One night I got a call from one of the
 2 people who owned. Went out there at 7:30 at
 3 night.
 4 Says, "Look at this." Goes, "A meeting to
 5 be held at Bratt Middle School, a special
 6 meeting set by the Board of County Commissions
 7 to deal with the zoning." Well, that was the
 8 same night we looked at it. And we sent
 9 somebody up there to object, but they couldn't
 10 find Bratt Middle School.
 11 The developer got the County -- Board of
 12 County Commission, the people that appointed
 13 you, in theory --
 14 MR. PAGE: Mr. Chairman, I'm sorry. I
 15 can't follow 1 through 6. If he could tell me
 16 where he is in that criteria outline, please.
 17 MR. SCHILLER: I'm explaining to Mr.
 18 Gray -- he asked how that plant got there. I'm
 19 trying to explain that. That's a question the
 20 board raised, Mr. Page.
 21 THE CHAIRMAN: Okay. Mr. Schiller, I'm
 22 going to ask you just to hold for one second.
 23 The reason is, I have to exit the meeting.
 24 I've got a meeting that I cannot get out
 25 of. And I'm going to have to turn it over to

1 the Vice Chairman, who's my best buddy right
 2 now. I'm sure to get a note from him.
 3 But if you'll just allow me a moment to
 4 just kind of orient him with what documents I
 5 have here. Hold on just a moment.
 6 (The Chairman left the hearing room.)
 7 MR. PYLE: I ask we set timing on
 8 speakers. Is there some reason there's -- I
 9 understand that he's calling witnesses, but on
 10 speakers, is he not subject to the three
 11 minutes?
 12 MR. GRAY: That's up to the board's call.
 13 MR. SCHILLER: I'm only responding to a
 14 question he had about the concrete plant. I'm
 15 trying to explain it, but . . .
 16 MR. PYLE: Proceed.
 17 MR. SCHILLER: If you're ready to vote on
 18 this, if you want to affirm what staff
 19 recommends, then we'll rest right now. I mean,
 20 I . . .
 21 MR. PYLE: Sir, you understand the
 22 criteria that we have to judge by.
 23 So the applicant has the right to ask
 24 what -- if you are speaking in opposition, which
 25 criteria you are utilizing for your opposition.

1 MR. SCHILLER: Okay. Well, it's not that
 2 we've answered the question, then, that Mr. Gray
 3 had.
 4 MR. GRAY: I don't mind allowing the -- a
 5 little bit of time to talk about the origin of
 6 what we have as nonconforming used as a
 7 comparative analysis.
 8 MR. SCHILLER: Okay. And staff raised
 9 that question anyway.
 10 They had that meeting. It was converted
 11 back to raw acreage.
 12 And about a month later, the owner sold it
 13 to the concrete plant owner up at Century to put
 14 that plant in.
 15 This was all done secretly on the sly at
 16 night at Bratt Middle School. And we didn't get
 17 any written notice of it. And we've had to live
 18 with that plant for 30-something years now. And
 19 it is the highest industrial use you can have on
 20 property.
 21 They had to fill in big trenches. I don't
 22 think they got permits. They dug trenches to
 23 drain it and fill it in with concrete washout
 24 and gravel. It's a big dusty eyesore. Noisy.
 25 And since that happened, the homeowners

1 have agreed to fight everything that goes out
 2 there that's inconsistent -- you know,
 3 opposition on this -- on this property out
 4 there.
 5 We fought hard to get this whole area
 6 converted to park by the state for the Perdido
 7 pitcher plant prairie. This is part of a state
 8 park here. There isn't just county land. This
 9 is a state park to the east and to the south of
 10 this property, and to the north and the
 11 northwest and the northeast. It goes all the
 12 way to Tarklin Bayou, 3,500 acres.
 13 Okay. A large part of that was done by
 14 Grand Lagoon Ranches homeowners. All right. So
 15 that's how that concrete plant got there.
 16 And I think if you look at Mr. Page's
 17 handout, they filled in the wetlands to do that.
 18 I don't know how they got a permit to do that.
 19 But you can see the wetlands was joined
 20 right there until they put -- they filled it in
 21 and dug their ditches out there.
 22 They dug a ditch down here to drain it.
 23 These ditches are -- I don't know who put it in,
 24 but they're trying to drain this property out
 25 there.

1 MR. SCHILLER: So, again, on Mr. Page's
 2 handout, I'm not sure of what -- what page --
 3 page three he's trying to show us. He's trying
 4 to show that these first two sections are going
 5 to be preserved wetlands? Is that it?
 6 MR. PYLE: He's simply, I think, stating
 7 what the existing condition, in contrast to what
 8 we were provided.
 9 MR. SCHILLER: He's trying to get this
 10 parcel here rezoned? As well as this parcel?
 11 MR. PAGE: Yes.
 12 MR. SCHILLER: And connect them somehow?
 13 MR. PAGE: Yes.
 14 MR. SCHILLER: Okay. Well, anyway, for
 15 these -- for these reasons, we -- we recommend
 16 that you follow the staff's recommendations.
 17 We've had nothing but -- We've had to
 18 fight the county at every turn. We've been to
 19 Circuit Court. We had two or three
 20 administrative hearings.
 21 The concrete plant tried to expand and go
 22 west. And we had to -- had to go to Circuit
 23 Court to stop them.
 24 And they finally -- The County
 25 Commissioners agreed with us on that. And the

1 owners appealed and we won in Circuit Court.
 2 Anyway, it's been a fight for 35 years,
 3 and that's -- that's the history of that area
 4 out there.
 5 MR. PYLE: Thank you.
 6 MR. SCHILLER: We recommend that you
 7 follow their recommendations.
 8 Thank you.
 9 MR. GRAY: Thank you. Thanks for the
 10 chart.
 11 MR. PYLE: Do we have a Carole Tebay,
 12 please?
 13 MR. PYLE: You have something for us you
 14 need to hand up to staff.
 15 MS. TeBAY: Thank you.
 16 ---
 17 CAROLE TeBAY, upon being duly sworn, was
 18 examined and testified as follows:
 19 ---
 20 THE CHAIRMAN: Ms. Tebay, if you can state
 21 your name and address, and then briefly explain
 22 what it is you're handing the board, and see if
 23 we can submit that into evidence.
 24 MS. TeBAY: I'm Carol Tebay, 4060 Indigo
 25 Drive.

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1 This is a map from the DEP Web site, which
 2 shows the Perdido pitcher plant prairie.
 3 And in the center you'll see the end
 4 holding, which is the development that the
 5 citizens have been -- And the property that
 6 wants to be rezoned.
 7 So it shows that to the north and east and
 8 a little to the west are conservation lands. To
 9 the south is the Garcon Swamp, which is -- Those
 10 are acquired lands for the Perdido pitcher
 11 plant.
 12 MR. PYLE: So if I understand, you're
 13 basically talking about surroundings.
 14 Is this something you'd like to submit
 15 into this case into evidence?
 16 MS. TEBAY: Yes.
 17 MR. PYLE: Okay. If anybody has any
 18 questions or they'd like to . . .
 19 MR. GRAY: I think we should introduce
 20 this into evidence.
 21 MR. PYLE: Do we have a motion and do we
 22 have a second?
 23 MR. GRAY: Motion.
 24 MR. FEARS: Second.
 25 MR. PYLE: We have a motion and a second.

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1 All those in favor say aye.
 2 (Chorus of "ayes.")
 3 MR. PYLE: Any opposed?
 4 (No response.)
 5 MS. TEBAY: Yes. I'm just hoping to show
 6 that this property is an end holding within
 7 conservation area.
 8 And the green to the south of it is
 9 essential parcels remaining to be purchased as
 10 part of Florida Forever. And I don't know when
 11 it will be eventually, but it's on the Florida
 12 Forever wish list of property that the
 13 sellers -- of willing sellers. So that would
 14 make it completely surrounded by conservation
 15 land.
 16 MR. GRAY: I think I'm trying to -- If I
 17 may ask, Mr. Chair, to orient myself on this
 18 graphic, this map that you've shown.
 19 MS. TEBAY: Yeah. You'll see the small
 20 yellow in between in the middle.
 21 MR. GRAY: That is an enclave of
 22 nonconservation --
 23 MS. TEBAY: Correct.
 24 MR. GRAY: -- is you folks.
 25 MS. TEBAY: Yes. That -- Those property

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1 owners -- I live on Big Lagoon.
 2 MR. GRAY: I'm sorry.
 3 MS. TEBAY: Those property owners --
 4 MR. GRAY: This subdivision.
 5 MS. TEBAY: Subdivision.
 6 MR. GRAY: The subdivision.
 7 MS. TEBAY: And the land across that 292
 8 is Sorrento.
 9 So the property south, the little piece
 10 south of Sorrento is the concrete plant and the
 11 parcel that's being discussed today.
 12 MR. GRAY: Thank you for helping me
 13 orient. Thank you.
 14 MR. JONES: May I ask a question? Because
 15 I know we -- if this going to be in evidence, I
 16 don't -- this map, is this a county-done map
 17 or --
 18 MS. TEBAY: This is a state map.
 19 MR. JONES: State map.
 20 MS. TEBAY: I got it from the DEP Web
 21 site.
 22 MR. JONES: okay.
 23 MS. TEBAY: It's for the Florida Forever.
 24 And this is the Perdido pitcher plant prairie,
 25 which is conservation land.

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1 MR. JONES: Right.
 2 MS. TEBAY: And so the green is land that
 3 they hope to purchase.
 4 MR. JONES: So this land is -- Is this not
 5 adopted by them, or they just -- they're hoping
 6 to -- I don't want to . . . Are they hoping to
 7 get it?
 8 MS. TEBAY: This is their information map
 9 on the DEP Web site of what the Perdido pitcher
 10 plant prairie is.
 11 MR. PYLE: You obtained this from a state
 12 Web site, correct?
 13 MS. TEBAY: Correct.
 14 MR. PYLE: And you copied it yourself and
 15 are submitting it?
 16 MS. TEBAY: Correct.
 17 MR. PYLE: This is existing as the pitcher
 18 prairie plant.
 19 MR. GRAY: And the plant also concludes
 20 their targeting of . . . Is that correct?
 21 MS. TEBAY: Correct.
 22 MR. GRAY: Essential parcels remaining,
 23 which are targeted areas.
 24 MS. TEBAY: Correct. It's on their wish
 25 list, so . . .

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.

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,

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

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 insomuch as the tweaking of the baffles and what

1 have you, to allow certain cubic feet and what
 2 have you to come in.
 3 As a matter of fact, my understanding is
 4 he has a contract with the county to do this
 5 building, and the courthouse, and perhaps other
 6 government buildings.
 7 That's who is proposing to occupy this,
 8 Mr. Chairman, as an office place they could meet
 9 in the morning and then go out to the various
 10 buildings and do whatever you do to manage these
 11 air-conditioning systems.
 12 The pitcher plant, I still am not all that
 13 conversant with -- with -- with what problems
 14 that this would present with that, only because
 15 DEP identified the environmentally sensitive
 16 lands.
 17 And the owner at the time agreed to make
 18 that donation, as I previously said. So we
 19 think that that perhaps might be a moot point on
 20 this particular piece of property and for this
 21 application process this morning.
 22 So, Mr. Chairman, based upon the staff's
 23 findings, that we concurred with A, I would ask
 24 the board to consider all the testimony and the
 25 information that I presented as competent and

1 substantial information concerning the
 2 information required on B, C, D and E, and ask
 3 that you adopt our findings for each of those,
 4 together with the staff's findings of item A.
 5 Thank you.
 6 MR. PYLE: Thank you, Mr. Page.
 7 And I will just say, as a resident of that
 8 area, this is the -- these are the cases that
 9 drive me nuts, this transitory Gulf Beach
 10 Highway, Sorrento. It's terrible because I
 11 think the benefit of the map that the last
 12 speaker brought up was simply to show the size
 13 of the pitcher prairie plant was a big deal for
 14 a long time and hard-fought battle, if I'm not
 15 mistaken, that was -- I just think it simply
 16 stands to show the quantity of area that is
 17 preserved under that.
 18 Mr. Page would have an argument for or
 19 against that. I get it. And I think, Mr. Page,
 20 you represented your . . . the applicant as best
 21 as you possibly could, especially given that the
 22 county's findings were contrary to that.
 23 But do any of the board members have any
 24 questions for Mr. Page or any of the other
 25 speakers?

1 MR. GRAY: I don't know that I have any
 2 questions. I do, you know, probably have some
 3 discussion among us for a few minutes, but I'll
 4 pause to do that.
 5 MR. PYLE: I think we're there. I think
 6 we're there.
 7 MR. GRAY: Yeah. Again, I think we were
 8 looking at one of the criteria being the spot
 9 zoning. So if we go to D.
 10 And I'll just -- Maybe I should ask staff.
 11 Do you remember the physical representation of
 12 my two sheets of paper being catty-corner or
 13 kitty-corner, however you say it, in the region
 14 as not considered contiguous? That's the
 15 question.
 16 So if we look at the map we just passed --
 17 if we can go back down. Sorry. That was a
 18 great representation -- graphic on the screen.
 19 The commercial that's across and to the
 20 west, are we allowed to hop across the road like
 21 that and consider ourselves not spot zoning?
 22 That's the question, staff.
 23 Have you been . . . I was -- I was
 24 directed by the former DCA that I can't do that
 25 when I was trying to accomplish some things back

1 in -- I don't know -- '06 or '05, something like
 2 that. Is that the same finding with the county?
 3 Do we consider those contiguous and would that
 4 be spot zoning in any other situation if those
 5 were adjacent but not connected?
 6 Do they have to share an edge is the
 7 question. Can they share a corner?
 8 MR. JONES: Yeah. The road -- the road is
 9 a dividing point. It's a separation. And we
 10 still -- we still would consider this as spot
 11 zoning.
 12 MR. GRAY: Okay. So that was my -- that
 13 was my one question. So that one has kind of
 14 been answered.
 15 So your customary understanding of this is
 16 the road's the divider, but furthermore, it has
 17 to share an edge.
 18 MR. JONES: Yeah.
 19 MR. GRAY: Yeah. Okay.
 20 So I guess that's been cleared up, one of
 21 the questions I had.
 22 My other question might be, you know,
 23 for -- Well, it's not really a question. It's
 24 more of a statement.
 25 And that is the idea that we've got a

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1 community that's been suffering a neighbor for
 2 so long that, sure, next to that neighbor,
 3 anything looks probably okay.
 4 But you can't compare that neighbor
 5 because they're a legal nonconformer, right?
 6 MR. JONES: Correct.
 7 MR. GRAY: So as against a concrete plant,
 8 I'm sure, you know . . . I don't know . . . a
 9 firework testing site might look okay, you know.
 10 I don't know what it would take to make that --
 11 That's just obnoxious. I really do feel for the
 12 residents over there. It just seems like the
 13 system has failed you, if that was what I was
 14 surviving next to.
 15 And I -- you know, I know the efforts
 16 you've been undergoing. I don't know what role
 17 you've played in the different plans and the
 18 preservation and conservation areas. But
 19 applaud -- applaud you guys for that insight to
 20 make that work.
 21 So, you know, I -- I feel bad that you
 22 feel like -- you probably feel like the system
 23 doesn't work.
 24 And I think if we vote in favor of this,
 25 that you'll probably be in further in that

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1 assumption that the system doesn't work.
 2 So I mean, I guess you guys can understand
 3 where I'm coming from on this. That's all I
 4 have for the statement.
 5 MR. PYLE: Do you have a question or
 6 comments, board members?
 7 (No response.)
 8 MR. PYLE: Hearing none, entertain a
 9 motion.
 10 MR. GRAY: Let's see if this works. I'm
 11 going to move to deny the application and going
 12 along with staff's findings.
 13 Again, I might need some help on this.
 14 Which criteria they were -- that it was -- it
 15 was.
 16 It was D was nonconforming or didn't -- C,
 17 B.
 18 MR. RUSHING: C, D, and E.
 19 MR. GRAY: C, D, and E.
 20 MR. RUSHING: Based on C, D, and E.
 21 MR. GRAY: C, D, and E. Thank you.
 22 So based on C, D, and E, that this is a no
 23 vote for me. This does not pass.
 24 MR. PYLE: We have a motion.
 25 MR. FEARS: Second.

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1 MR. PYLE: We have a motion and second.
 2 All those in favor signify by saying aye.
 3 (Chorus of "ayes.")
 4 MR. PYLE: All those opposed say nay.
 5 (No response.)
 6 MR. PYLE: The ayes have it.
 7 And it does not pass.
 8 Adjourns the quasi-judicial meeting.
 9 (Hearing concluded at 11:52 a.m.)
 10
 11
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 24
 25

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1
 2
 3 CERTIFICATE OF REPORTER
 4
 5
 6 STATE OF FLORIDA)
 7)
 8 COUNTY OF ESCAMBIA)
 9
 10 I, DAVID A. DEIK, CP, CPE, Professional Court
 11 Reporter, certify that I was authorized to and did
 12 stenographically report the foregoing Planning Board
 13 proceedings; and that the transcript is a true record,
 14 to the best of my ability, of the proceedings contained
 15 herein.
 16 I further certify that I am not a relative,
 17 employee, attorney, or counsel to any of the parties,
 18 nor am I a relative or employee of any of the parties'
 19 attorney or counsel connected with the action, nor am I
 20 financially interested in the action.
 21
 22
 23 s/ David A. Deik
 24 _____
 25 DAVID A. DEIK, CP, CPE
 Professional Court Reporter

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

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.

Attachments

Working case file12

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 it 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 10th provides the information as requested below.

Respectfully,

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

Sent from my iPhone

Begin forwarded message:

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

<ADHOLMER@myescambia.com>, Allyson Lindsay <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> 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

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

From: curtis sumrok <csumrok@yahoo.com>
Sent: Tuesday, October 01, 2019 4:19 PM
To: 'Buddy Page' <budpage1@att.net>; Horace L Jones
<HLJONES@myescambia.com>
Cc: Andrew D. Holmer <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> 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

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

Motion: Move that we drop Case Z-2019-12
Made by: Commissioner Underhill
Seconded by: Commissioner Bergosh
Disposition: Carried unanimously
Speaker(s): 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.

Motion: Move the 5:45 without the Z-2019-12 item that was dropped
Made by: Commissioner Barry
Seconded by: Commissioner Bender
Disposition: Carried 4-0, with Commissioner Underhill temporarily out of Board Chambers
Speaker(s): 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.

(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.

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

Current Zoning: LDR
Current FLU: MU-5
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 [X] 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 [X] 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.

Owner Signature: Kelli Sumrok

Date: 8/23/18

**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

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. 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:**

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. 8/2013