



AGENDA
BOARD OF ADJUSTMENT
March 16, 2016
5:00 PM
CITY HALL COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034

1. CALL TO ORDER

2. ROLL CALL / DETERMINATION OF A QUORUM

3. APPROVAL OF MINUTES

Documents: [2016 02-17 BOA RM Minutes Draft.pdf](#)

4. NEW BUSINESS

4.1. BOA 2016-09, LLMM LLC & WINDDOG LLC, TWO PARCELS AT THE SOUTH END OF PHEASANT LANE

Variance from LDC Section 4.04.04(D) **Requirements for Infrastructure**; 7.02.01(B)(5) **Requirements for All Utilities**; 7.02.02 (B) **Standards for Installation of Potable Water and Sanitary Sewer Facilities**

Documents: [LLMM LLC WINDDOG LLC BOA 2016-09.pdf](#)

4.2. BOA 2016-10, VYSTAR CREDIT UNION REDEVELOPMENT, 1900 S. 14TH STREET VARIANCE from LDC Sections 4.05.12(A), 4.05.12(C), 4.05.12(H)(1), 4.05.12(2) and 4.05.12(I) **Buffer Requirements**; 4.05.07(C)(6), 4.05.07(C)(11), 4.05.07(C)(12) **Perimeter Landscaping**; 7.01.04(A) (7) **Parking Space Requirements**; 7.01.04(C)(2), 7.01.04(C)(4), 7.01.04(D)(4) **Parking Standards and Parking Lot Design**; 7.01.07 (C) **Drive-Through Facilities and Stacking Lanes**

Documents: [Vystar Redevelopment BOA 2016-10.pdf](#)

5. COMMENTS BY THE PUBLIC

Members of the public are invited to address the BOA on items of concern not listed on the agenda.

6. BOARD BUSINESS

Ms. Dadd needs to be reappointed for a 3 year term.

7. ADJOURNMENT

THE NEXT BOARD OF ADJUSTMENT REGULAR MEETING IS SCHEDULED FOR
WEDNESDAY, APRIL 20, 2016

Quasi-Judicial – Denotes that the item must be conducted as a Quasi-Judicial hearing in accordance with City Commission established procedure and Florida Statutes.

All members of the public are invited to be present and be heard. Persons with disabilities requiring accommodations in order to participate in this program or activity should contact the City Clerk at (904) 310-3115 or TTY/TDD 711 (for the hearing or speech impaired).

All interested parties may appear at said meeting and be heard as to the advisability of any action, which may be considered with respect to such matter. For information regarding this matter, please contact the Community Development Department (904) 310-3135. If any person decides to appeal any decision made by the Board of Adjustment with respect to any matter considered at such meeting he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be made.

MINUTES

1. **Call to Order** – The meeting was called to order at 5:00 pm.

2. **Roll Call / Determination of a Quorum**

Board Members Present

Charles Burns, Chair
Marcy Mock
Lynn Williams

Tisha Dadd
Michael Spino
Matt Miller (alternate)

Others Present

Tammi Bach, City Attorney
Jacob Platt, City Planner
Brad Franklin, Recording Secretary

There were no ex parte communications to be disclosed by the board members. City Attorney Bach briefly explained the quasi-judicial procedures. Recording Secretary Franklin administered the oath to the parties that were about to present testimony.

3.1 Review and Approval of the January 20, 2016 Meeting Minutes – A motion was made by Member Williams, seconded by Member Spino, to approve the Minutes. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.

4. **New Business** - Mr. Platt announced that the required application materials were received, all fees were paid, and required notices were made.

4.1. BOA 2016-07, BRIGHT VISION INVESTMENTS LLC, NATURES GATE - Lot 8
Variance from LDC Section 4.02.03(E) Front Yard Setback

Mr. Platt reported there are two separate variance applications tonight. He explained May 26, 1988 the St. Johns River Water Management District (SJRWMD) issued a single permit for the development of a single-family residential subdivision known as “Natures Gate”. He stated to avoid impacts to district regulated wetlands several lots were not included in the permitted project, and lots 8, 9, and 10 were included in the list of undeveloped lots. He provided further history of these lots as contained in the staff report relating to the permits obtained from the SJRWMD. He stated this case was for lot 8 requesting a variance from LDC Section 4.02.03(E) to reduce the 25 foot front yard setback to 5 feet from the property line. He explained that lot 8 is a platted lot of record and wetlands are present on the rear portion of the property. He pointed out the variance was being sought to avoid wetland buffer requirement encroachments. He stated lot 10 is the eastern lot and the variance requested was from LDC Section 3.03.03(B)(1) wetland buffer requirement of 25 feet to be reduced by 10 feet. He pointed out new development and redevelopment adjacent to jurisdictional wetlands shall be required to provide a buffer zone of native vegetation of at least 25 feet.

Member Williams commented the SJRWMD permit really has nothing to do with the case. He pointed out in the application it says no impact on wetlands and therefore there was no mitigation. He explained the SJRWMD permit does not override or supersede any local authority. He commented if the houses were not so large they could squeeze a couple of small houses in within the buffers. He referred to the idea of storm water storage tanks and stated for homeowners the business of having a storage tank doesn't work very well and it doesn't have to do with the variance being requested. Mr. Platt explained he provided the history to show that not all lots

were included in that SJRWMD permit, and that they had to go back to get SJRWMD approval to build on those lots. Member Spino inquired about the criteria for the variance and staff's recommendation. Mr. Platt explained for lot 8 the applicant appears to meet criteria 1, 3, and 4 but does not meet criteria 2, 5, and 6 therefore staff recommends denial. He provided specifics of each of these criteria from the findings for granting a variance as outlined in the staff report. Member Williams disagreed with staff's finding for criteria 3 (literal interpretation of the provisions of the LDC would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district) and commented the applicant could build a small home. Chair Burns pointed out that staff has to make findings based on the application not what could have been done. Member Spino referred to criteria 4 and questioned if this was the minimum variance. Mr. Platt replied yes and briefly explained the applicant was only requesting a variance from the front yard setback. He provided details from the staff report that this request did not meet #5 general harmony (it would be substantially different from existing homes) and #6 public interest (not compatible with nearby development). He pointed out SJRWMD issued a permit for these three lots, and there are two variance requests before the board.

Mr. Matt Lahti, Gulf Stream Design Group, referred to house size and explained the covenants and restrictions restrict the minimum house size to 1,400 square feet. He pointed out the proposed homes are 100 square feet above that minimum. He stated in the previous plat lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 20, 21, 22, and 23 contained jurisdictional wetland impacts during the original construction. He commented fill was brought in to build the houses currently on lots 6 and 7; and fill was also brought in to establish the house finish floor elevations on lots 4 and 5. He explained although the platted lots were not a part of the original storm water system there are still buildings on them. He pointed out lots 8 and 10 go far above and beyond the actual requirement; and technically lots 4, 5, 6, and 7 are out of compliance with the SJRWMD. He presented a plat showing lots 8, 9, and 10 as well as a copy of the paving and drainage plan. He stated the original conservation easements were erected on lots 3, 8, 9, 10, 21, and 22. He explained conservation easements or payment fines were the only two ways for the original developer to alleviate compliance issues. He commented upon acquiring lots 8, 9, and 10 Bright Vision Investments was unable to protect those conservation easements, because they were actually mowed and maintained and encroached upon by the adjacent property owners. He stated Bright Vision worked with the Florida Department of Environmental Protection (FDEP) to provide mitigation for these lots and had the conservation easements released. He pointed out Bright Vision feels they are improving the situation with providing treatment, and it would reduce the runoff going to the current drainage ditch. He explained the remaining conservation easements of 3, 21, and 22 were not being fully maintained as conservation easements because there was nobody responsible for them. He stated there isn't a homeowners association established for Natures Gate and no one to maintain the storm water system. He presented a slide showing the lots in question. He explained the drawings prepared by Bright Vision placed houses on all three lots by piping the ditch and impacted all the wetlands. He pointed out they felt it was best to leave the ditch in its existing state and maintain the volumes that are being carried through it and put these storm water systems on lot 8 and lot 10 that would retain some of the runoff and provide a recycled irrigation source for the homeowners. He stated homes were built in 2003 on lots 4 and 5, but they were not included in the original storm water system and they don't have a storm water system. He questioned how a building permit was issued. He referred to lot 8 and explained there are wetlands at the rear of the lot that they were trying to protect. He commented they might be able to put a smaller house pad in on lot 10. He stated the developer with Bright Vision can't predict what that end user might want so the house pad could change. He explained they were trying to produce a lot for Bright Vision to go to a potential homeowner, and requested

a 5 foot setback. He stated the front of the setback was still 25 feet from the street. He expressed his opinion that it would not be too far out of character to grant this variance for lot 8.

Member Spino questioned Mr. Platt if there were inconsistencies with the setbacks in this subdivision. Mr. Platt replied he has not seen every single survey for houses in there. He stated the few he did see had varying setbacks, but they were consistent at 25 feet. Member Spino questioned Mr. Lahti within the covenants and the LDC could he build on this lot without a variance. Mr. Lahti replied lot 8 would be very tough to develop a house, because it would be a long skinny house otherwise there would be wetland impacts. He stated you could build on this lot without a variance.

Ms. Gwen Cowart, 2128 Natures Gate Court South, explained her single-family home was on lots 4 and 5 and the rear of both lots was a conservation easement. She commented the watershed being discussed is her entire backyard. She stated they purchased their home in 2013 and at the time they invested because of the aesthetics of the neighborhood (open and green space). She referred to the proposed 5 foot setback and pointed out this would put the home in front of all the homes and it would look like a wall. She expressed her opinion that aesthetically it was not consistent.

Ms. Cathy Decou, lot 7, stated they purchased their property July 2015. She explained they made inquiries about what would be happening with lots 8, 9, and 10 and were advised there was a history of conservation status. She requested the board to not grant the variance based on the public interest and the City's code. She commented with the setback this house would be close to the road, and would not be consistent with the character and would block visibility down the street. She provided further comments in opposition to the proposed variance.

Ms. Dorothy Swartwood, 2152 Natures Gate Court, lot 11, explained the entire back portion of the Natures Gate development on the south side has extensive wetlands that run behind the current homes. She stated residents of Natures Gate are concerned that if these lots are filled for residential construction it would cause serious erosion and flooding issues for their properties as well as damage to their homes. She commented if drainage of the waters was reduced or impeded by construction on lots 8, 9, and 10 this would worsen and there was the likelihood of physical and financial damage. She pointed out this conservation area invites mother nature with extraordinary sightings of birds and wildlife. She provided further comments expressing concerns if these homes are built as outlined in her letter to the board.

Ms. Bonnie Eisele DeMerle, 2139 Natures Gate Court, stated she has owned lot 25 for 21 years and was across from lot 8. She commented the variances have several basic problems as Mr. Platt described. She expressed her opinion that the requested variance does not meet the requirements upholding the LDC. She pointed out the requestor was asking to develop this marshy low land that has been used as a wetlands buffer for 35 years, and to employ a mechanical system of cisterns to handle any excess water. She expressed her opinion the system would not function for this area. She noted the maintenance of the cisterns would be the responsibility of the homeowner, and questioned what would happen if the homeowner was away from their home for several months at a time. She referred to the proposed 5 foot setback and expressed her opinion that this would not blend with the aesthetic harmony of the neighborhood. She requested the board to uphold the LDC and not allow these variance requests. She provided further comments in support of upholding the LDC.

Mr. John Carr, 2166 Natures Gate Court, explained the homeowners try to use the covenants to keep things square. He noted that Bright Vision bought these lots at a tax sale, and commented the citations that he was able to find said if you are aware and you buy into such a holding before any changes are made you are stepping into the shoes of the previous owner. He stated afterwards they went in to make changes to the lots through the Florida Department of Environmental Protection (FDEP) and SJRWMD. He noted that half of Natures Gate residents were present at this meeting, and even though they don't have a homeowners association they do have a bond.

Mr. Bob Warner, 2116 Natures Gate Court, lots 2 and 3, stated he purchased lot 3 as a buffer. He read a portion of the permit into the record with regard to inspecting the storm water management system to determine if it was functioning as designed and permitted. He commented the neighborhood has issues in storm drainage coming from the hospital, from Quality Health, and from Citrona that drains back through that area. He noted there is a new flood zone plan, and it indicates water flowing from the ocean side into the neighborhood. He provided further comments about this.

Mr. Matt Lahti referred to drainage and explained he did a thorough drainage study of the site. He concurred with the previous speaker that this area is the headwaters to Egans Creek, and the area receives other flow. He stated the system on lots 8 and 10 is a rainwater harvesting system, which is used in a lot of urban areas to incorporate rainwater in lieu of potable water or well water to irrigate yards. He commented this retains additional runoff on the lot, and these tanks have emergency overflows associated with them. He explained the system was calculated to draw down based on the landscape area in each of the yards. He stated they were going above and beyond numerous other lots within the neighborhood, and there are fail safes involved with the system. He pointed out there are two massive oak trees in the landscape buffer, and additional landscape would be provided by the developer of lot 8. He expressed his opinion there wouldn't be any view shed issues, and they are not taking out a tree in the middle of the City right-of-way. He commented site constraints have to be adapted to any home by developers in any neighborhood. He expressed his opinion that this does not create a special exception or creates an advantage over any house in the neighborhood. He provided further comments in support of the proposed variance and that these would be quality developments controlled within the realms of the covenants and restrictions.

City Attorney Bach briefly explained that it takes a supermajority of the board (4 votes) to grant a variance. She stated if there is a motion to deny the variance it takes 3 votes to pass that vote. She pointed out any appeals would be taken directly to the circuit court. Member Williams stated the board was voting on the setbacks based on the City's Land Development Code (LDC). He pointed out the City has a tighter wetland ordinance than SJRWMD, and even though the applicant has a permit from SJRWMD it is subject to the approval of the City. Chair Burns pointed out the setback was not from the roadbed, but the right-of-way line which is quite different from where the asphalt lies. After a brief discussion about the wording of the motion, **a motion was made by Member Spino, seconded by Member Dadd, to deny BOA 2016-07; and that the BOA make the following findings of fact and conclusions of law part of the record that BOA case 2016-07 as presented is not substantially compliant with the Comprehensive Plan and the Land Development Code to warrant approval at this time. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

4.2. BOA 2016-08, BRIGHT VISION INVESTMENTS LLC, NATURES GATE - Lot 10
Variance from LDC 3.03.03(B)(1) Wetland Buffer

Mr. Platt explained the requested variance was to reduce the wetland buffer requirement by 10 feet. He pointed out all new development and redevelopment adjacent to jurisdictional wetlands shall be required to provide a buffer zone of native vegetation at least 25 feet wide. He stated the applicant appears to meet criteria 1, 3, 4, and 6 but does not meet criteria 2 and 5 therefore staff recommends denial. He clarified criteria 2 is special privilege, and granting the variance does confer upon the applicant a special privilege that is denied by the LDC to other lands, structures, or buildings in the same zoning district. He explained criteria 5 is general harmony and granting the variance would not be in general harmony with the LDC and Comprehensive Plan, because buffer zones of native vegetation are required around wetlands to prevent erosion, retard runoff, and provide habitat.

Mr. Matt Lahti, Gulf Stream Design Group, stated they were requesting 10 foot variance to the buffer, which would be on the west side of the house. He explained on the east side of lot 10 there is an existing 15 foot wide City access easement to access the Lime Street right-of-way. He commented on the west side of lot 10 is lot 9 with the ditch/wetland that conveys runoff to the south of Nature Gate Court. He pointed out lot 11 has put grass and maintained a portion of this buffer already. He presented a slide to show the property in question and indicated the portion they were requesting a variance for. He explained this house was proposed to be about 58 feet from the edge of pavement and about 20 feet off the rear property line. He pointed out the proposed home would comply with the 7 ½ foot side yard setback on the eastern side. He stated this house would have the same rainwater harvesting system to be recycled for irrigation, storm water treatment, and to reduce the post-development runoff. He presented additional slides to the board to further clarify the requested variance for lot 10.

Member Spino referred to section 3 of the application and commented there was a point that Mr. Lahti didn't think the City's code adequately addresses or classifies types of wetlands. Mr. David Beddard, 516 Weatherby Lane, St. Augustine, stated it was brought to his attention that the City was considering a different classification for wetlands, but he guessed that was no longer on the table. He explained that was his interpretation from when the LDC was being reviewed. He pointed out there are a variety of wetlands and this was basically a drainage ditch. City Attorney Bach explained at one time there was a discussion with the City Commission about an option to classify wetlands based on the classification system that SJRWMD and others use, but the City Commission did not show an interest in pursuing such an ordinance. She pointed out such an ordinance requires expertise on City staff or hiring a consultant to be able to apply those classifications to wetlands.

Ms. Gwen Cowart, 2128 Natures Gate Court South, commented what is repeatedly being called a ditch by the applicant is essentially a free flowing creek. She presented the board with some pictures to illustrate this. She stated this creek still flows even when there are extended periods of no rain. She expressed her concern with the request to reduce the wetland buffer, because that will increase the opportunity for runoff, erosion, and impede water flow due to erosion. She reminded the board of the concerns of what it would take to maintain the system. She also expressed her concern that if the variance was granted with the reduced buffers that the creek would back up waters onto her property. She provided further comments against the proposed variance.

Ms. Cathy Decou, 2136 Natures Gate, explained she took a short video to show the extent of the current that flow through this area, and commented lot 10 has amazing flow. She pointed out this flow is where they were proposing to put the driveway, which would need a considerable amount of fill and would alter the ecology and the terrain. She expressed her concern for all of the lots on the Lime Street side. She provided further comments expressing her concerns with the proposed variance.

Mr. Chris Noe, 2170 Natures Gate, briefly commented that a house sitting 8-10 feet off the road is not going bring any value or beauty to the neighborhood. He explained he believed the flood plan runs straight across the road through lots 8, 9, and 10 and those 5 tanks aren't going to stop storm surge.

Mr. Jimmy Stone, 2159 Natures Gate Court South, explained he moved to Natures Gate in 2009 and they were impressed by the well maintained homes and the canopy of trees. He briefly commented about the plentiful wildlife and pointed out these plats are contiguous with Egans Creek and the Greenway. He explained in 2013 he purchased the properties that abut his (lots 21 and 22), and with that purchase his wife and he felt secure it would increase the value of their home allow them to leave it in its natural state. He expressed his opinion that it was a creek not a drainage ditch, and was a wetland based on the City's definition. He provided further comments about the subject property, and stated there should be thoughtful development of the town that improves and enhances the community while preserving as much wooded habitat as possible. He presented further arguments against the proposed variance, and that Bright Investments was acting contrary to the City's Comprehensive Plan. He urged the board to not approve this variance.

Mr. John Carr, 2166 Natures Gate Court North, presented a handout to the board and explained lot 8 and lot 10 have a lot in common. He stated in order to build a house on either lot you would have to take out a couple ancient trees. He pointed out with the removal of trees that takes away ground water absorption and puts in its place a hard cover to cause excessive runoff. He commented his handout included pictures to get the board familiar with the area. He expressed his opinion that a hardship cannot be placed upon something that you knew about before you bought it. He also expressed his concern with buying mitigation credits for development.

Member Williams noted the County has a less stringent Ordinance on wetland development than the City. He briefly commented about the City's Ordinance.

Mr. David Beddard, 516 Weatherby Lane, St. Augustine, commented he has been doing tax deeds for a long time and he fully knows what he is getting into when he buys something. He referred to the storm water harvesting system and explained it was something that was already approved. He pointed out SJRWMD is responsible for the storm water for the neighborhood and that is why he had to go to them, and they are the ones that approved this system. He stated the conservation easements that are there are being violated. He commented the buffer that we are talking about doesn't exist anymore and pointed out the area in question showing that it has been sodded. He explained he contacted the FDEP regarding these easements and he had legal involvement to try to get the owners to stop violating the easements. He stated when the idea to fence the area to protect the easements was met with resistance he made the decision to get the easements lifted. He pointed out lot 10 is a buildable lot and has been for 30 years.

Mr. Jody Siss, St. Augustine, explained he is a biologist that has worked on this project from the beginning with the FDEP and SJRWMD. He pointed out he has met with City staff to talk about the issues. He stated most of the vegetation in this buffer was not native vegetation. He commented it doesn't fit the LDC, because it is not native and it has been affected. He stated the wetland was delineated and it was reviewed by the SJRWMD and approved. He explained it was a low quality wetland, and the SJRWMD actually wanted the area piped. He stated the bottom was being affected by the pipe so it's scoured and it is continuing to scour down because the amount of water which used to come through the other lots is being pushed into a pipe. He explained the 10 foot buffer they were asking for is predominantly non-native vegetation, and it is not in a natural state.

Mr. John Carr pointed out the picture shown was part of the City right-of-way that was built by the City to be able to get to a fire on the Lime Street extension. He stated the City filled part of the wetland with dirt in order to be able to take care of the fire.

Ms. Josie Barber, 2109 Natures Lane East, briefly explained that she has raised three boys and now there is no place for her youngest boy and neighborhood children to go enjoy the woods. She commented about the variety of wildlife she has seen with her children. She requested the board consider the younger generation and try to preserve the natural area.

The public hearing was closed at this time.

Mr. Beddard stated he was sympathetic to children and pointed out this was not a community park. He explained these are private lots that were platted for homes, and they have been that way for 30 years.

Member Williams noted the question before the board was whether to go away from a 25 foot setback or not. **A motion was made by Member Williams, seconded by Member Mock, to deny BOA 2016-08; and that the BOA make the following findings of fact and conclusions of law part of the record that BOA case 2016-08 as presented is not substantially compliant with the Comprehensive Plan and the Land Development Code to warrant approval at this time.** City Attorney Bach clarified that a yes vote was to deny the variance. **Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

5. Board Business

5.1. BOARD ELECTIONS - Chairperson and Vice-Chairperson – Mr. Platt briefly explained it was time to elect a new Chair and Vice-Chair, since Mr. Burns and Ms. Mock have served two consecutive terms. After a brief discussion, *a motion was made by Member Dadd, seconded by Member Mock, to make Mr. Williams Chair.* After some discussion about the motion on the floor, Member Spino offered to serve as Vice-Chair and suggested Ms. Dadd serve as Chair. Member Dadd withdrew her motion.

A motion was made by Member Williams, seconded by Chair Burns, to have Ms. Tisha Dadd serve as Chair and Mr. Mike Spino serve as Vice-Chair. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.

Mr. Platt reported that Mr. Barry Hertslet was appointed by the City Commission to the board and he would be at the next meeting. He commented there were two applications for next month's meeting (March 16th).

6. **Comments by the public** – There were no comments from the public at this time.
7. **Adjournment** - There being no further business to come before the Board of Adjustment the meeting was adjourned 7:04 pm.

Brad Franklin, Secretary

Tisha Dadd, Chair



BOARD OF ADJUSTMENT STAFF REPORT

Case Number 2016-09

Meeting Date March 16, 2016

Owner/Applicant LLMM LLC & WINDOG LLC / Simmons 9 LLC

Property Location: South end of Pheasant Lane

Parcel Number: 29-3N-28-0000-0002-0020 & 29-3N-0000-0002-0050

Requested action: Variance from LDC Section 4.04.04(D) **Requirements for Infrastructure;** 7.02.01(B)(5) **Requirements for All Utilities;** 7.02.02(B) **Standards for Installation of Potable Water and Sanitary Sewer Facilities**

Current zoning: R-1

FLUM land use category: Low Density Residential

Existing uses on the site: Vacant

All required application materials have been received. All fees have been paid. All required notices have been made.

I. SUMMARY OF REQUEST AND BACKGROUND INFORMATION:

The requested variance is to allow for the installation of septic tanks and drain fields for nine (9) new single family homes. Comprehensive Plan Policy 4.02.03 states, "All new residential and non-residential development and redevelopment shall be required to connect to the central sewer system. No new septic tanks will be permitted." Land Development Code section 7.02.02(B) requires all infill development to connect the City's sanitary sewer system if it is within a 1,000 foot radius of the property line. According to the Utilities Department, manhole 30-03 in the Egmont Professional development is the nearest connection point¹. That manhole is within the 1,000 foot radius but will require more than 1,000 feet of sewer lines to reach the proposed development.

The two parcels totaling approximately 5.25 acres are located at the south end of Pheasant Lane. The proposed development is bound on all sides by residential properties. Island Grove to the west, Island Bluff to the North, and Drury Homes were platted in unincorporated Nassau County and do not have City sewer. The Cape Sound planned unit development to the south has a centralized sanitary sewer system with a stub out on the north side. However, the City did not accept that system because it was not built to the City's standards. The Cape Sound system remains privately owned and maintained. According to the applicant, Cape Sound was approached about connecting to the system but they were denied access.

The St. Johns River Water Management District recently mapped the number of estimated septic tanks per acre in the Northern Coastal Basin². Approving the variance increases the number of septic tanks within close proximity of Egan's Creek. Comprehensive Plan Policy 5.07.07 states that, "The City shall encourage elimination of septic tanks as outlined in the Public Facilities element, especially in areas adjacent to the beach, river and Egan's Creek in order to maintain healthy, functioning waterways. Testing of septic tanks shall be in accordance with state law requirements." Approving the variance is also in conflict with Land Development Code section 4.05.01, the general intent of the City's landscaping and tree protection requirement in minimizing the loss of trees to development. Drain fields will require site to be cleared more than we would allow with a general building permit for a new single family home

¹ Cape Sound area sewer (Exhibit A)

² Northern Coastal Basin estimated septic tanks per acre(Exhibit B)



II. CONSISTENCY WITH THE COMPREHENSIVE PLAN:

The following Comprehensive Plan statements are applicable in this case:

- Policy 1.02.07 – The City shall implement the Fernandina Beach Comprehensive Plan in a manner that acknowledges private property rights.
- Policy 1.02.10 – The City shall protect privacy and access to light, air, and open space. The City shall consider regulations such as building placement on a site, building design, and building orientation as one means to achieve this policy.

III. CONSISTENCY WITH THE LAND DEVELOPMENT CODE:

Variance procedures and criteria are set forth in Sections 10.02.01 through 10.02.04.

- Section 10.02.01(B) states that the BOA may authorize a variance from the design and improvement standards of the LDC, except for areas within the Historic District Overlay or the CRA Overlay, where requirements of Section 10.02.00 are met.
- Section 10.02.02(B) states that the applicant for a variance has the burden of proof of demonstrating that the variance application complies with each of the requirements of Section 10.02.02(A).
- Section 10.02.04 sets forth the application requirements. This application includes information necessary for the BOA to make the required findings.
- Section 10.02.01(C) sets forth the limitations on the grant of a variance:
 1. A variance shall not be granted which authorizes a use that is not permissible in the zoning district in which the property subject to the variance is located.
 2. A variance shall not be granted which authorizes any use or standard that is prohibited by the City's Comprehensive Plan.
 3. No nonconforming use of adjacent lands, structures, or buildings in the same zoning district, and no permitted use of land, structures, or buildings in other zoning districts, shall be considered grounds for the authorization of a variance.
 4. A variance shall not change the requirements for concurrency.
 5. A variance shall not be granted to permit the use of a single media peonia for the construction of a dwelling unit.
 6. A variance shall not be granted if the evidence submitted by an applicant is a demonstration of financial hardship or economic considerations.
 7. A variance shall not be granted for procedure or process components of this Land Development Code.
 8. A variance shall not be granted to deviate from LDC section 4.02.02 to combine two (2) or more lots which would result in a lot width greater than 100 feet for lots or parcels that abut Ocean Avenue, North Fletcher Avenue, or South Fletcher Avenue.

Staff's review of this application finds it is not subject to any of these limitations and can therefore be considered by the Board.



I. SECTION 10.02.02(A) – REQUIRED FINDINGS FOR GRANTING OF A VARIANCE

In order for an application for a variance to be approved or approved with conditions, the BOA shall make a positive finding with regard to each of the following provisions:

Consistent with Criteria?

All questions must be answered in the affirmative in order for staff to recommend approval of a variance. Negative answers must be addressed in the findings.

<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>1. <u>Special Conditions</u>: <i>Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. Special conditions or circumstances do not result from actions of the applicant and are not based on a desire to reduce development costs.</i></p> <p>Yes. Special conditions <u>do</u> exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. The proposed development is bound on three sides by unincorporated Nassau County. None of those properties are connected to the City’s centralized sanitary sewer system. The one City property adjoining to the south did not build their sewer system to the City’s standards and therefore was not accepted. If that sewer system was built correctly and accepted by the City, these parcels could easily connect to the centralized sewer system.</p>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>2. <u>Special Privilege</u>: <i>Granting the variance does not confer upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district.</i></p> <p>No. Granting the variance <u>does confer</u> upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district. All new development and redevelopment within a 1,000-foot radius of the City’s sewer system are required to connect at the property owner’s expense.</p>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>3. <u>Literal Interpretation</u>: <i>Literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.</i></p> <p>No. Literal interpretation of the Land Development Code <u>would not deprive</u> the applicant of rights enjoyed by others properties because all infill development is required to connect to the City’s sewer system if it is within 1,000-feet of the nearest connection point</p>
<input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>4. <u>Minimum Variance</u>: <i>The variance requested is the minimum variance needed that will make possible the reasonable use of the land, structure, or building.</i></p> <p>Yes. The variance requested <u>is</u> the minimum variance needed to make possible the reasonable use of the land. The 9 proposed single family homes is under the maximum allowed given the density and the lot sizes are consistent with surrounding subdivisions.</p>



<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>5. <u>General Harmony</u>: Granting the variance will be in harmony with the general intent and purpose of the Land Development Code and Comprehensive Plan.</p> <p>No. This request for a variance is <u>not</u> in general harmony with the Land Development Code and Comprehensive Plan because both require that new development connect to the City's sewer system.</p>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>6. <u>Public Interest</u>: Granting the variance is compatible with surrounding properties, will not cause injury to the area involved, or otherwise be detrimental to the public health, safety, welfare or environment.</p> <p>No. Granting of a variance is compatible with surrounding properties; however increasing the number of septic tanks in the area is not beneficial to the public health, safety, welfare or the environment.</p>

V. ANALYSIS:

The variance requested is consistent/inconsistent with the criteria for granting a variance as follows:

	Consistent	Inconsistent
1. Special Conditions	X	
2. Special Privilege		X
3. Literal Interpretations		X
4. Minimum Variance	X	
5. General Harmony		X
6. Public Interest		X

The applicant appears to meet criteria 1 and 4 but does not meet 2, 3, 5 and 6 therefore staff recommends denial.



BOA 2016-09
South end of Pheasant Lane
March 9, 2016

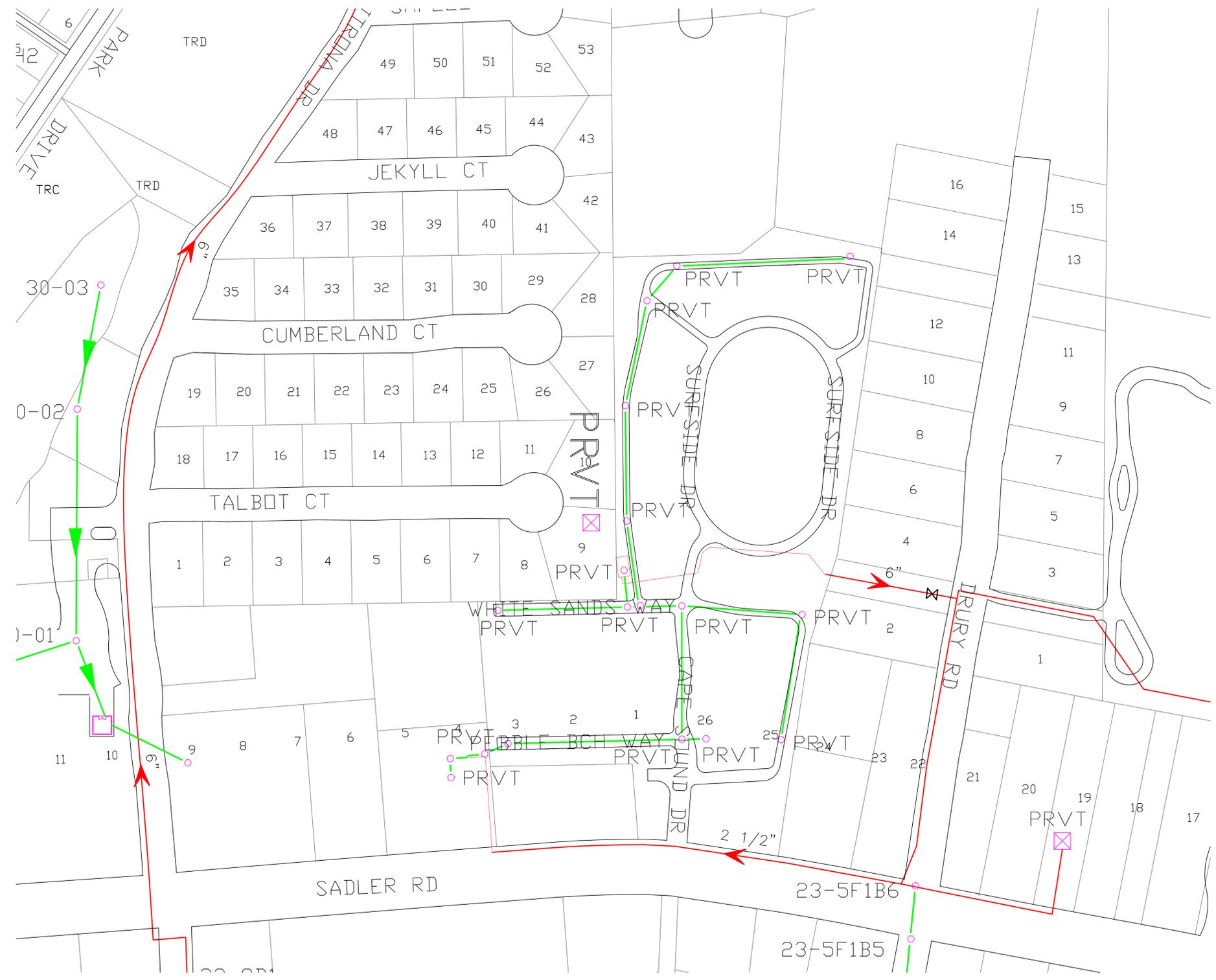
Page 6 of 6

VI. MOTION TO CONSIDER:

I move to approve or deny BOA case number 2016-09; AND I move that the BOA make the following findings of fact and conclusions of law part of the record: That BOA case 2016-09, item, as presented, is or is not substantially compliant with the Comprehensive Plan and Land Development Code to warrant approval at this time.

A handwritten signature in blue ink, appearing to read "J. Platt", is written over a horizontal line.

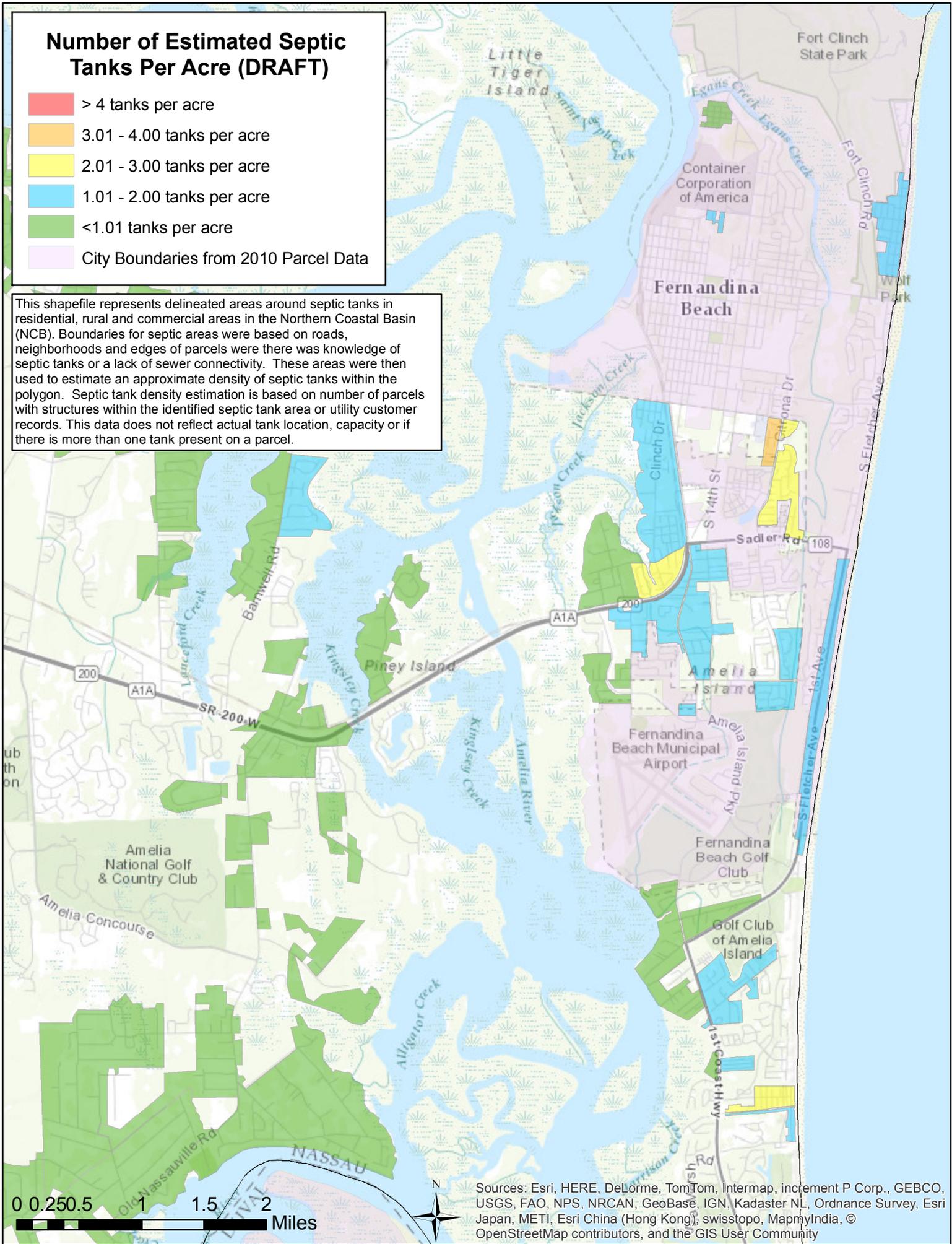
Jacob M. Platt, Planner I
Community Development Department



Number of Estimated Septic Tanks Per Acre (DRAFT)

- > 4 tanks per acre
- 3.01 - 4.00 tanks per acre
- 2.01 - 3.00 tanks per acre
- 1.01 - 2.00 tanks per acre
- <1.01 tanks per acre
- City Boundaries from 2010 Parcel Data

This shapefile represents delineated areas around septic tanks in residential, rural and commercial areas in the Northern Coastal Basin (NCB). Boundaries for septic areas were based on roads, neighborhoods and edges of parcels where there was knowledge of septic tanks or a lack of sewer connectivity. These areas were then used to estimate an approximate density of septic tanks within the polygon. Septic tank density estimation is based on number of parcels with structures within the identified septic tank area or utility customer records. This data does not reflect actual tank location, capacity or if there is more than one tank present on a parcel.



0 0.250.5 1 1.5 2 Miles



Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

OFFICE USE ONLY

REC'D: 2-16-16 BY: xa

PAYMENT: \$ USD- TYPE: CK1041

APPLICATION #: 2016-0000255

CASE #: 2016-09

BOARD MEETING DATE: 3/16/16



APPLICATION FOR VARIANCE FROM THE LDC

APPLICANT INFORMATION

Owner Name: LLMM LLC & WINDDOG, LLC

Mailing Address: c/o LAW OFFICE OF TOMASSETTI 406 Ash St.

Telephone: _____ Fax: N/A Fernandina Bch, FL

Email: jeff@tpislandlaw.com 32034

Agent Name: Simmons 9, LLC

Mailing Address: 1890 South 14th St. Fernandina Beach, FL 32034

Telephone: 904-261-8822 Fax: N/A

Email: jay@jaymocc.com / nick@gilletteassociates.com

PROPERTY INFORMATION

Street Address: AButs Drury ROAD (Behind Cape Sound)

Parcel Identification Number(s): 29-3N-28-0000-0002-0050; 29-3N-28-0000-0002-0020

Lot Number: _____ Block Number: _____

PROJECT INFORMATION

Variance(s) requested from LDC Section(s): 7.02.01 B (5) and 7.02.02 B & 4.04.04 (0)

Brief description of work proposed (use additional sheets if necessary):

Install septic and drainfields for nine (9) single family lots that require installation of sanitary sewer within 1,000 SF of existing infrastructure.

In order for an application for a variance to be approved or approved with conditions, the BOA or the HDC must make a positive finding with regard to each of the provisions below. The applicant has the burden of proof of demonstrating that the application for a variance complies with each of the requirements. Please explain in detail how your case meets the following requirements:

1. Special Conditions: Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. Special conditions or circumstances do not result from actions of the applicant and are not based on a desire to reduce development costs.

This property is situated where public sewer is not present within 1,000 feet of the property, as measured along public rights of ways. City sewer is currently located approximately 1,300 feet from the site via the route it could be extended through public rights of ways. What is unique to the property is that sewer was stubbed to the property from the adjacent development, Cape Sound. The City mandated this stub as part of the development of Cape Sound recognizing that sewer was not readily available from any other direction. However, the City never accepted the sewer system within Cape Sound and it remains privately owned and maintained today. The Applicant approached Cape Sound about connecting to this stub, but was denied access to the system. After consultation with the City, it was determined that the Developers Agreement for Cape sound did not mention or mandate that Cape sound provide a sewer connection to this property. As a result, the city cannot mandate Cape Sound to provide sewer to the property.

This is unique because the City and the owner contemplated sewer service to this property via this stub, yet the agreement did not memorialize this proposed service connection, which penalizes the current property owner. This is a unique circumstance to this property.

2. Special Privilege: Granting the variance does not confer upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district.

It is rare that such a unique circumstance exists where a sewer stub has been provided to a site, but the Developer's Agreement does not have the ability to mandate a connection. It is also rare that a property has publicly-owned sewer located this far from a property located within the City Limits. The City does a very good job of placing City owned infrastructure within proximity of properties located within the City Limits.

3. Literal Interpretation: Literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed other properties in the same zoning district.

The fact that it has been interpreted that a connection to sewer is mandated when located within 1,000 feet, as measured in airline distance, versus measured via the route it would be extended to the property penalizes this property. It is almost always measured via an extension within public rights of ways, not through privately owned, single family lots that the applicant or City does not control. Also, even if one home were to be proposed for construction on this 5+ acre lot, the City code would mandate this same sewer extension. This greatly burdens the subject property.

4. Minimum Variance: The variance requested is the minimum variance needed that will make possible the reasonable use of the land, structure, or building.

The development has been scaled back to 9 single family lots; consequently, the installation of 9 septic systems is requested. The Future Land Use Map currently allows for 21 lots. The development has been scaled back to less than 43% of what is allowed.

5. General Harmony: Granting the variance will be in harmony with the general intent and purpose of the Land Development Code and Comprehensive Plan.

We believe that is the 1,000 foot distance outlined in the code is measured along the route that sewer would be extended, not through private property, this request is in general compliance with the LDC.

6. **Public Interest:** Granting the variance is compatible with surrounding properties, will not cause injury to the area involved, or otherwise be detrimental to the public health, safety, welfare or environment.

All lots that abut this property to the east, west and north currently utilize septic tanks and drainfields. This request is in complete harmony with surrounding properties.

If your property is located within the Historic Districts or the Community Redevelopment Area, please fill out responses to the supplemental variance criteria, attached as Appendix A, on a separate sheet of paper.

SIGNATURE/NOTARY

The undersigned states the above information is true and correct as (s)he is informed and believes.

2-12-16
Date

[Signature]
Signature of Applicant

STATE OF FLORIDA }
 ss }
COUNTY OF NASSAU }

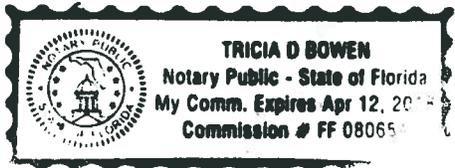
Subscribed and sworn to before me this 12 day of February, 2016.

[Signature]
Notary Public: Signature

Tricia D Bowen
Printed Name

4/12/18
My Commission Expires

Personally Known OR Produced Identification _____ ID Produced: _____





**OWNER'S AUTHORIZATION
FOR AGENT REPRESENTATION**

I/WE WINDDOG, LLC
(print name of property owner(s))

hereby authorize: SIMMONS 9, LLC
(print name of agent)

to represent me/us in processing an application for: Variance
(type of application)

on our behalf. In authorizing the agent to represent me/us, I/we, as owner/owners, attest that the application is made in good faith and that any information contained in the application is accurate and complete.

Carol A Carson
(Signature of owner)

Carol A Carson
(Print name of owner)

N. James Tomassetti
(Signature of owner)

N. JAMES TOMASSETTI
(Print name of owner)

NEW YORK
STATE OF FLORIDA }
ULSTER SS }
COUNTY OF NASSAU }

Subscribed and sworn to before me this 11TH day of FEBRUARY, 2016.

Joan E Geuss
Notary Public: Signature

Joan E Geuss
Printed Name

3/24/16
My Commission Expires

Personally Known _____ OR Produced Identification X ID Produced: NYS Driver License

JOAN E. GEUSS
Notary Public, State of New York
Reg. #01GE8184029
Qualified in Ulster County
Commission Expires 3/24/16



**OWNER'S AUTHORIZATION
FOR AGENT REPRESENTATION**

I/WE LLMM, LLC
(print name of property owner(s))

hereby authorize: SIMMONS 9, LLC
(print name of agent)

to represent me/us in processing an application for: Variance
(type of application)

on our behalf. In authorizing the agent to represent me/us, I/we, as owner/owners, attest that the application is made in good faith and that any information contained in the application is accurate and complete.

[Signature]
(Signature of owner)
manager

A-J. Tomassetti
(Print name of owner)

(Signature of owner)

(Print name of owner)

STATE OF FLORIDA }
COUNTY OF NASSAU }
ss

Subscribed and sworn to before me this 12th day of February, 2016.

Jaime Herrmann
Notary Public: Signature

Jaime Herrmann
Printed Name

2/21/19
My Commission Expires

Personally Known X OR Produced Identification _____ ID Produced: _____



3) HN

In the Circuit Court
Nassau County, Florida
Fourth Judicial Circuit
Case No: 10-CA-217

LLMM, LLC & WIN DDOG, LLC
VS

Plaintiff

Kerilee Werder Duffy, Tawn Christopher Duffy,
Jeffrey J. E. Werder and Svetlana K. Werder;

Defendant

Amended Certificate of Title

I John A. Crawford, Clerk of the above entitled court, do hereby certify that heretofore, on the 21st day of September, 2010. I executed and filed herein my Certificate of Sale of the mortgaged property, and that no objections to such sale have been filed herein on or before the date hereof, and that 10 days have elapsed since the filing of said certificate of sale.

FILED
OCT 15 AM 10:30
CLERK OF CIRCUIT COURT
JOHN A. CRAWFORD
NASSAU COUNTY, FLORIDA

That, as recited in said Certificate of Sale, the mortgaged property described as follows, to wit:

See Attached

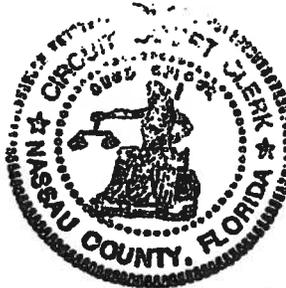
was sold by me to

LLMM, LLC & WINDDOG, LLC, P.O. Box 1443, Fernandina Beach, Fl 32035

who now has title thereto.

FILED
OCT 15 AM 10:30

Witness my hand and the official seal of this honorable court, this 15th day of October, 2010.



John A. Crawford
Clerk of Circuit Court

[Signature]
Deputy Clerk



A CERTIFIED TRUE COPY

[Signature]
CLERK CIRCUIT/COUNTY COURT
NASSAU COUNTY, FLORIDA

EXHIBIT "A"

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN THE COUNTY OF NASSAU AND THE STATE OF FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 1

A PORTION OF GOVERNMENT LOT 1, SECTION 29, TOWNSHIP 3 NORTH, RANGE 28 EAST, NASSAU COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF LOT 14, DRURY HOMES, AS RECORDED IN PLAT BOOK 5, PAGE 3, OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA; THENCE NORTH 08 DEGREES 51 MINUTES 06 SECONDS EAST (NORTH 08 DEGREES 48 MINUTES 00 SECONDS EAST PER PLAT) ALONG THE WESTERLY LINE OF LOTS 14 AND 18 OF SAID DRURY HOMES AND A NORTHERLY PROJECTION THEREOF, A DISTANCE OF 230.60 FEET TO A POINT; ~~THENCE NORTH 81 DEGREES 08 MINUTES 54 SECONDS WEST, A DISTANCE OF 29.40 FEET TO A POINT; THENCE NORTH 08 DEGREES 51 MINUTES 06 SECONDS EAST, A DISTANCE OF 29.00 FEET TO A POINT; THENCE SOUTH 81 DEGREES 08 MINUTES 54 SECONDS EAST, A DISTANCE OF 29.40 FEET TO A POINT; THENCE NORTH 08 DEGREES 51 MINUTES 06 SECONDS EAST, A DISTANCE OF 289 FEET, MORE OR LESS TO THE CENTERLINE OF A DITCH.~~ SAID POINT BEING DESIGNATED AS REFERENCE POINT "A" FOR THIS DESCRIPTION; THENCE RETURN TO THE POINT OF BEGINNING AND RUN NORTH 78 DEGREES 08 MINUTES 54 SECONDS WEST, A DISTANCE OF 199.77 FEET (NORTH 78 DEGREES 14 MINUTES 00 SECONDS WEST, 200.00 FEET PER DEED) TO A POINT LOCATED ON THE EASTERLY LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1033, PAGES 863-865; THENCE NORTH 03 DEGREES 07 MINUTES 22 SECONDS EAST, A DISTANCE OF 391.61 FEET, MORE OR LESS, TO THE APPROXIMATE CENTERLINE OF THE DITCH, AFOREMENTIONED, SAID POINT ALSO BEING ON THE SOUTHERLY LINE OF ISLAND GROVE SUBDIVISION AS RECORDED IN PLAT BOOK 5, PAGE 92 OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE RUN IN AN EASTERLY DIRECTION ALONG SAID SOUTHERLY LINE AND CENTERLINE OF SAID DITCH, A DISTANCE OF 291 FEET, MORE OR LESS, TO REFERENCE POINT "A" AND THE CLOSE OF THIS DESCRIPTION.

PARCEL 2

A PORTION OF GOVERNMENT LOT ONE (1), SECTION TWENTY-NINE (29), TOWNSHIP THREE (3) NORTH, RANGE TWENTY-EIGHT (28) EAST, NASSAU COUNTY, FLORIDA, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF LOT 36, ISLAND BLUFF SUBDIVISION, AS RECORDED IN PLAT BOOK 5, PAGE 92 OF THE PUBLIC RECORDS OF SAID NASSAU COUNTY; THENCE NORTH 84 DEGREES 15 MINUTES 20 SECONDS EAST ALONG THE SOUTHERLY LINE OF SAID ISLAND BLUFF SUBDIVISION, A DISTANCE OF 262.02 FEET (261.09 FEET PER DEED) TO A POINT; THENCE SOUTH 80 DEGREES 29 MINUTES 40 SECONDS EAST CONTINUING ALONG SAID SOUTHERLY LINE OF ISLAND BLUFF SUBDIVISION, A DISTANCE OF 60.37 FEET TO A POINT; THENCE SOUTH 03 DEGREES 07 MINUTES 22 SECONDS WEST, A DISTANCE OF 391.61 FEET (SOUTH 03 DEGREES 07 MINUTES 00 SECONDS WEST, 392.05 FEET PER DEED) TO A POINT; THENCE SOUTH 52 DEGREES 33 MINUTES 23 SECONDS WEST, A DISTANCE OF 78.86 FEET (SOUTH 52 DEGREES 39 MINUTES 48 SECONDS WEST, 79.00 FEET PER DEED) TO A POINT; THENCE SOUTH 88 DEGREES 50 MINUTES 53 SECONDS WEST, A DISTANCE OF 238.17 FEET (SOUTH 88 DEGREES 43 MINUTES 51 SECONDS WEST, 239.60 FEET PER DEED) TO A POINT LOCATED ON THE EASTERLY LINE OF LOT 28, ISLAND GROVE PHASE TWO, AS RECORDED IN PLAT BOOK 5, PAGE 49 OF THE PUBLIC RECORDS OF SAID NASSAU COUNTY; THENCE NORTH 00 DEGREES 14 MINUTES 40 SECONDS EAST (NORTH 00 DEGREES 44 MINUTES 30 SECONDS WEST PER PLAT BOOK 5, PAGE 49 AND NORTH 00 DEGREES 00 MINUTES 31 SECONDS EAST PER DEED) ALONG THE EASTERLY LINE OF LOTS 28, 42, 43 AND 53, SAID ISLAND GROVE PHASE TWO, A DISTANCE OF 427.52 FEET (427.97 FEET PER DEED) TO THE POINT OF BEGINNING.

FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS



Detail by Entity Name

Florida Limited Liability Company

LLMM, LLC

Filing Information

Document Number L06000102495
FEI/EIN Number 20-5800688
Date Filed 10/17/2006
State FL
Status ACTIVE

Principal Address

406 ASH ST.
FERNANDINA BEACH, FL 32034

Mailing Address

406 ASH ST.
FERNANDINA BEACH, FL 32034

Registered Agent Name & Address

TOMASSETTI, ARMOND JESQ.
406 ASH ST.
FERNANDINA BEACH, FL 32034

Authorized Person(s) Detail

Name & Address

Title MGRM

TOMASSETTI, ARMOND J
406 ASH STREET
FERNANDINA BEACH, FL 32034

Annual Reports

Report Year	Filed Date
2013	01/24/2013
2014	01/14/2014
2015	01/20/2015

Document Images

01/20/2015 -- ANNUAL REPORT

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01/14/2014 -- ANNUAL REPORT	View image in PDF format
01/24/2013 -- ANNUAL REPORT	View image in PDF format
02/17/2012 -- ANNUAL REPORT	View image in PDF format
05/03/2011 -- ANNUAL REPORT	View image in PDF format
03/30/2010 -- ANNUAL REPORT	View image in PDF format
04/15/2009 -- ANNUAL REPORT	View image in PDF format
02/06/2008 -- ANNUAL REPORT	View image in PDF format
04/18/2007 -- ANNUAL REPORT	View image in PDF format
10/17/2006 -- Florida Limited Liability	View image in PDF format
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FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS



Detail by Entity Name

Florida Limited Liability Company

WINDDOG, LLC

Filing Information

Document Number	L06000102494
FEI/EIN Number	20-8291406
Date Filed	10/17/2006
State	FL
Status	ACTIVE

Principal Address

406 ASH ST.
FERNANDINA BEACH, FL 32034

Mailing Address

406 ASH ST.
FERNANDINA BEACH, FL 32034

Registered Agent Name & Address

TOMASSETTI, ARMOND JESQ.
406 ASH ST.
FERNANDINA BEACH, FL 32034

Authorized Person(s) Detail

Name & Address

Title MGRM

TOMASSETTI, NORTON J
169 Parsell St
Kingston, NY 12401

Title Manager

Carson, Carol A
169 Parsell St
Kingston, NY 12401

Annual Reports

Report Year	Filed Date
2013	03/11/2013

2014 01/13/2014
2015 03/23/2015

Document Images

03/23/2015 -- ANNUAL REPORT

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01/13/2014 -- ANNUAL REPORT

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03/11/2013 -- ANNUAL REPORT

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04/10/2012 -- ANNUAL REPORT

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04/05/2010 -- ANNUAL REPORT

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04/19/2009 -- ANNUAL REPORT

View image in PDF format

04/14/2008 -- ANNUAL REPORT

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04/16/2007 -- ANNUAL REPORT

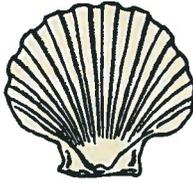
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10/17/2006 -- Florida Limited Liability

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State of Florida, Department of State



SIMMONS 9, LLC

February 15, 2016

Mr. Jacob Platt, Planner I
City of Fernandina Beach
204 Ash Street
Fernandina Beach, Florida 32034

**Re: Synopsis Letter
LLMM, LLC & WINDDOG, LLC
29-3N-28-0000-0002-0050
29-3N-28-0000-0002-0020**

Dear Mr. Platt:

Simmons 9, LLC, on behalf of our client, is pleased to submit the attached application for a variance for the above-referenced project. The variance is being sought from the Land Development Code, Section 7.02.01 A (5) and 7.02.02 B.

The applicant is seeking relief from the Land Development Code provisions that require the installation of sanitary sewer for a new single family development. The code states that a new development within 1,000 feet of existing sewer infrastructure must connect to sewer. As an alternative, the applicant would like to install septic tanks and drainfields for nine (9) single family lots.

The subject property is located within a fully developed area, which is mostly served by septic systems. A majority of the surrounding property is also located outside of the City Limits. As a result, a City-owned public sewer system is not located within proximity of the site and the accessible route necessary for access to a public sewer system is well over 1,000 feet from the site. Unfortunately, the Land Development Code does not consider the accessible route to public sewer, only airline distance ("as the crow flies").

We are seeking relief because we feel we comply with the intent of the code; however, not the general language as interpreted by Staff. Thank you for your time and consideration on this application, and please contact me at your earliest convenience with any questions that you may have.

Sincerely,

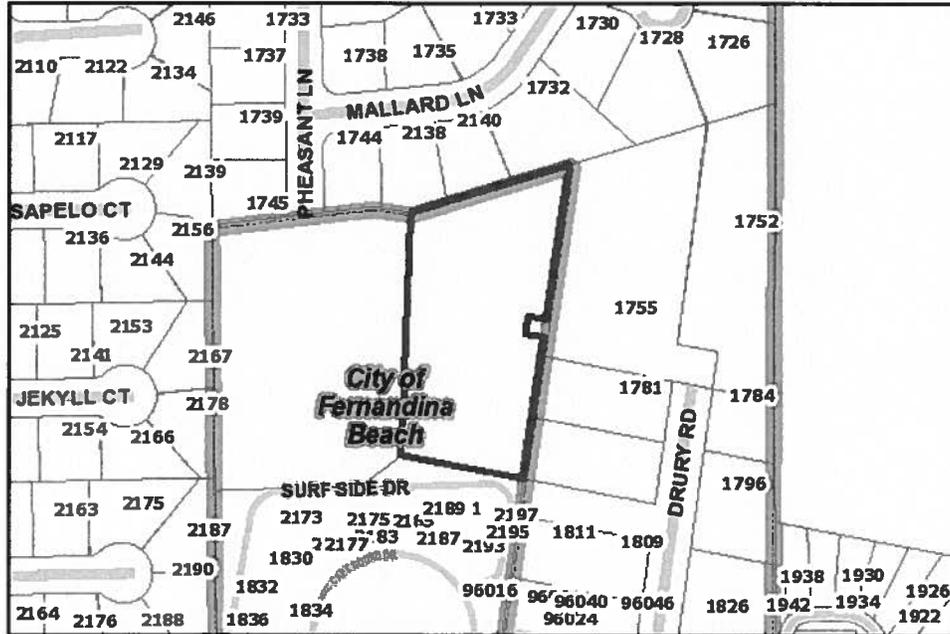
Nick Gillette
Manager

904-491-7300

www.NassauFLPA.com



A. Michael Hickox
 Nassau County Property Appraiser



Parcel Report
 Parcel ID 29-3N-28-0000-0002-0050
 Owner Information LLMM LLC &
 WINDDOG LLC
 C/O LAW OFFICE OF
 TOMASSETTI
 Mailing Address 406 ASH ST
 FERNANDINA BEACH, FL 32034

Site Address
 Previous Site Address (if
 Changed by 911)
 Deed Acre 2.27
 Approximate Acres (GIS
 Calculated) 2.28
 Property Use Code 000000
 Municipality City of Fernandina Beach
 Census Tract
 MLS Zone 4 - Island
 Subdivision Not in a Subdivision

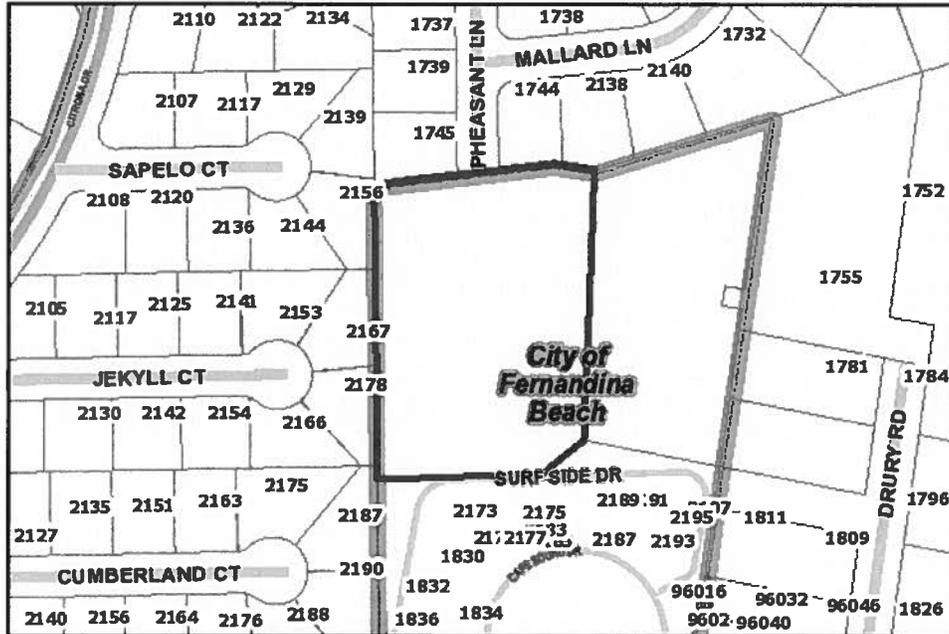
Land Use Report
 Zoning R-1 Note: (Must be verified with Municipality)
 Future Land Use LOW DENSITY RESIDENTIAL Note: (Must be verified with Municipality)
 Community Development

904-491-7300

www.NassauFLPA.com



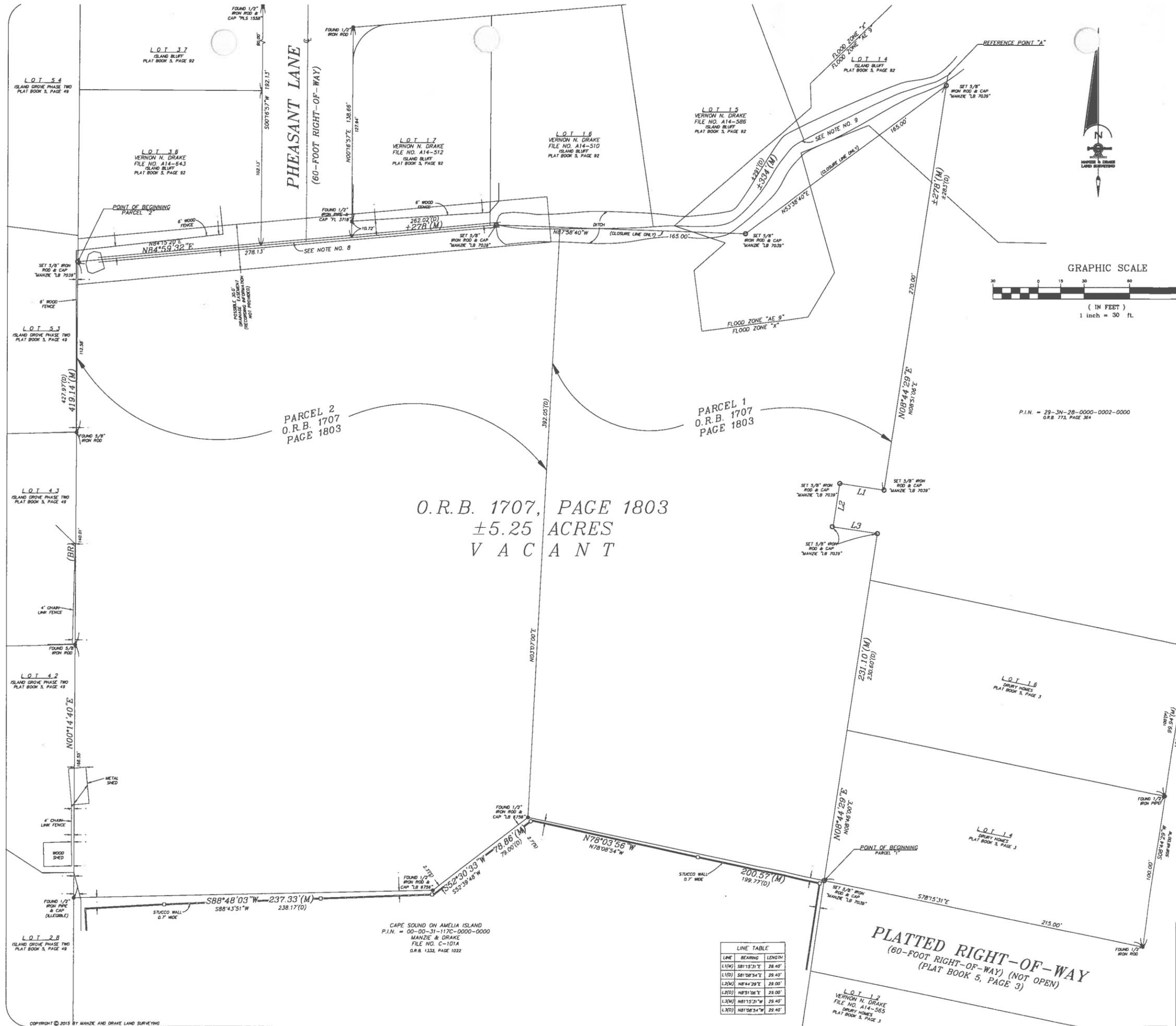
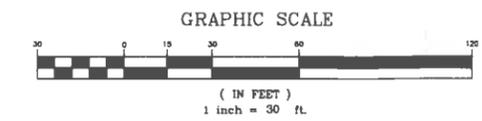
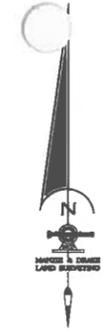
A. Michael Hickox
Nassau County Property Appraiser



Parcel Report	Results	
Parcel ID	29-3N-28-0000-0002-0020	
Owner Information	LLMM LLC & WINDDOG LLC C/O LAW OFFICE OF TOMASSETTI	
Mailing Address	406 ASH ST FERNANDINA BEACH, FL 32034	
Site Address		
Previous Site Address (if Changed by 911)		
Deed Acre	3.08	
Approximate Acres (GIS Calculated)	3.08	
Property Use Code	000000	
Municipality	City of Fernandina Beach	
Census Tract		
MLS Zone	4 - Island	
Subdivision	Not in a Subdivision	
Land Use Report	Results	
Zoning	R-1	Note: (Must be verified with Municipality)
Future Land Use	LOW DENSITY RESIDENTIAL	Note: (Must be verified with Municipality)
Community Development		

MAP OF BOUNDARY SURVEY
OF LANDS DESCRIBED IN OFFICIAL RECORDS
BOOK 1707, PAGE 1803 OF THE PUBLIC
OF NASSAU COUNTY, FLORIDA.

PREPARED FOR:
ROBINSON CREEK 34



O.R.B. 1707, PAGE 1803
±5.25 ACRES
V A C A N T

P.I.N. = 29-3N-28-0000-0002-0000
O.R.B. 773, PAGE 364

- LEGEND**
- CENTERLINE
 - CHAIN LINK OR WIRE FENCE
 - (D) = DEED
 - (M) = MEASURED
 - O.R.B. = OFFICIAL RECORDS BOOK
 - P.I.N. = PARCEL IDENTIFICATION NUMBER
 - WOOD OR VINYL FENCE
 - 5/8" IRON ROD & CAP
 - (LB 7039) SET

- SURVEY NOTES:**
- 1) The "Legal Description" hereon was prepared by the surveyor.
 - 2) Underground improvements were not located or shown.
 - 3) Lands shown hereon were not obstructed by this office for easements, rights-of-way, ownership or other instruments of record.
 - 4) Boundaries shown hereon are based on NOD1730'E for the Eastern boundary of subject property. The bearing reference line is indicated as true (BT).
 - 5) Unless it bears the signature and the original raised seal of a Florida licensed surveyor and mapper, this map/report is for informational purposes only and is not valid.
 - 6) The property shown hereon lies within Flood Zone "AE-9" as per F.L.M.A. Flood Insurance Rate Map, Panel 12082C-0233E, Dated 12/22/2010. Flood Zone information listed above and shown on this survey is provided as a courtesy and is approximate to best of our ability and should be verified by Nassau County Building Department for accuracy. We assume no liability for its accuracy. Flood Zone information is not covered by the certification hereon and is not required to be shown per Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.
 - 7) This survey is protected by copyright and is certified only to the entities listed and only for the particular transaction. Any use or reproduction of this survey without the express written permission of the surveyor is prohibited. Use of this survey in any subsequent transactions is expressly prohibited and is not authorized. The surveyor expressly disclaims any certification to any parties in future transactions. No entity other than those listed should rely upon this survey.
 - 8) The current deed of record describes this section of the north property line as the southerly line of "Honey Bluff" (Plat Book 5, Page 92), which is shown on said plat as the centerline of a ditch. All that currently exists in this vicinity is an underground drainage pipe, presumably placed in the original ditch location.
 - 9) The current deed of record describes this section of the north property line as the southerly line of "Honey Bluff" (Plat Book 5, Page 92), which is shown on said plat as the centerline of a ditch and currently exists as shown.

LINE TABLE

LINE	BEARING	LENGTH
L1(M)	S81°53'1"E	38.40'
L1(D)	S81°08'54"E	39.40'
L2(M)	N84°42'39"E	39.00'
L2(D)	N83°1'06"E	39.00'
L3(M)	N87°15'31"W	29.40'
L3(D)	N87°08'34"W	29.40'

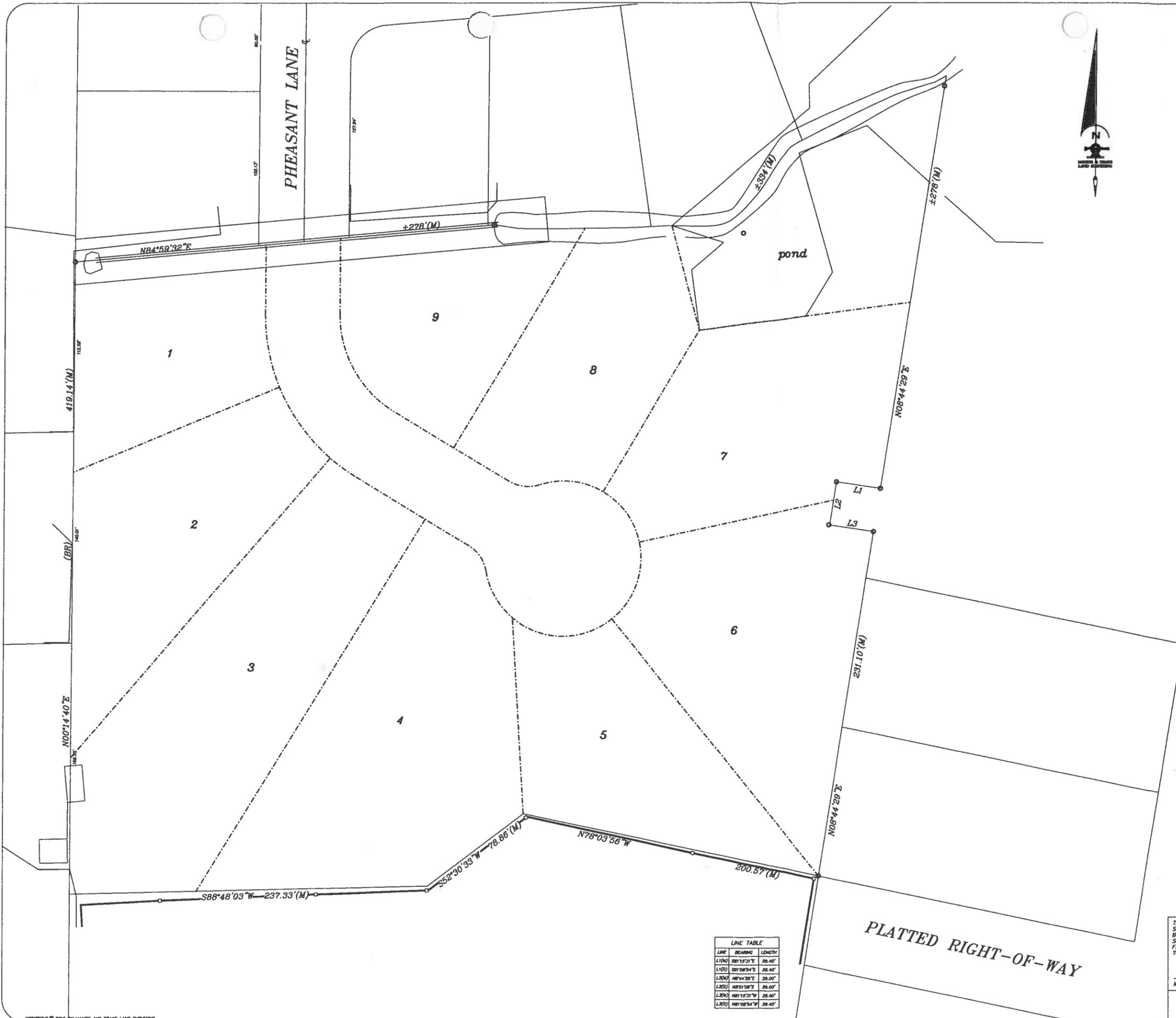
THE INFORMATION SHOWN HEREON MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

MANZIE & DRAKE LAND SURVEYING
117 South Ninth Street, Fernandina Beach, FL 32034
(904) 491-5700 FAX (904) 491-5777
Certificate of Authorization Number "LB 7039"
"OUR SIGHTS ARE ON THE FUTURE, SET YOUR SITES ON US."

MICHAEL A. MANZIE, P.L.S. 4069

SCALE: 1"=30' JOB NO: 19417 DATE: 12/14/15 CADD: BH
F.B. NO: X-281 PAGE NO: 16 FIELD CREW: GS FILE NO: C-692

MAP OF BOUNDARY SURVEY



LEGEND
 E = CENTERLINE
 --- CHAIN LINK OR WIRE FENCE
 (D) = DEED
 (M) = MEASURED
 D.A.R. = OFFICIAL RECORDS BOOK
 P.L.A. = PARCEL IDENTIFICATION NUMBER
 --- WOOD OR WIRE FENCE
 O = 5.00' FROM ROAD & CAP
 O = (L.S. 7039) SET

This survey is protected by copyright and is certified only to the parties listed and only for the particular transaction. Any use or reproduction of this survey without the express written permission of the surveyor is prohibited. Use of this survey in any subsequent transaction is expressly prohibited and is not authorized. The surveyor expressly disclaims any certification to any parties in future transactions. No entity other than those listed should rely upon this survey.

LINE	BEARING	LENGTH
L1(N)	S87°15'31"E	28.42'
L1(S)	S87°08'54"E	28.42'
L2(N)	N8°44'29"E	28.00'
L2(S)	N8°51'06"E	28.00'
L3(N)	N81°15'31"W	28.42'
L3(S)	N81°08'54"W	28.42'

THE INFORMATION SHOWN HEREON MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 54-17 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

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MICHAEL A. MANZIE, P.L.S. 4069

SCALE: 1"=30' JOB NO: 19417 DATE: 12/14/15 CADD: BH
 F.B. NO: X-281 PAGE NO: 16 FIELD CREW: GS FILE NO: C-697



BOARD OF ADJUSTMENT STAFF REPORT

Case Number 2016-10

Meeting Date March 16, 2016

Owner/Applicant Jax Navy Credit Union / Processer Inc.

Property Location: 1900 S. 14th Street

Parcel Number: 00-00-31-127A-0012-0000

Requested action: VARIANCE from LDC Sections 4.05.12(A), 4.05.12(C), 4.05.12(H)(1), 4.05.12(2) and 4.05.12(I) **Buffer Requirements;** 4.05.07(C)(6), 4.05.07(C)(11), 4.05.07(C)(12) **Perimeter Landscaping;** 7.01.04(A)(7) **Parking Space Requirements;** 7.01.04(C)(2), 7.01.04(C)(4), 7.01.04(D)(4) **Parking Standards and Parking Lot Design;** 7.01.07(C) **Drive-Through Facilities and Stacking Lanes**

Current zoning: C-1

FLUM land use category: General Commercial

Existing uses on the site: Financial Institution

All required application materials have been received. All fees have been paid. All required notices have been made.

I. SUMMARY OF REQUEST AND BACKGROUND INFORMATION:

The requested variance is to allow for the redevelopment of the existing Vystar Branch without meeting all of the site design requirements. The applicant is seeking to modernize the branch with their new building prototype reflecting their current needs and requirements. Originally developed in 1987 the existing branch is approximately 5,719 square feet, whereas the new building will be generally located inside the existing footprint totaling at about 4,000 square feet. The majority of the proposed work will be limited to the existing building and drive through facilities leaving most of the site undisturbed.

Currently Financial Institutions are not permissible in the C-1 zoning district, making this Vystar Branch an existing non-conforming use. Staff believes that financial institutions should be allowed in the Community Commercial land use category and is in the process of correcting this problem. The existing non-conforming use in this case will not be discontinued for more than 180 days so it will be allowed to continue.

There are several sections of code for which the applicant is seeking a variance. Because the building is being demolished it triggers the entire site for compliance with the Land Development Code. First, the section of code in Chapter 4 site design requirements. The landscape code was revised and passed second reading on February 16, 2016, two days prior to the submission of this application¹.

In order to minimize negative effects between adjacent zoning districts, landscape buffers are required. The rear of this Vystar Branch is adjacent to R-2 zoned Amelia Park. A 15 foot "type C" landscape buffer is required there. Prohibited uses in the buffer area include any building, parking, storage or loading area.

At least 20% of the total gross land area shall be landscaped; the proposed project will have approximately 33% of the site landscaped. The Land Development Code requires a minimum landscape area of not less than 10 feet in width around the perimeter of parking lots to provide visual screening. Perimeter landscaping shall

¹ Updated Chapter 4 Landscaping, Buffers and Tree Protection



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March 9, 2016

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include one shade tree for each 20 linear feet of required landscaping, with no less than 75% being shade trees.

The existing site has a total of 41 parking spaces, 27 more spaces than would be permitted with today's Land Development Code. Financial institutions are required to have 1 space per 300 square feet with off street parking not exceeding 10% of the required parking amount on any site. The applicant is seeking to keep all 41 parking spaces it currently has, relocating the spaces along the front of the building to the north side of the building.

All new and redeveloping properties shall incorporate the use of pervious parking materials for a minimum of 75% of the required parking. The applicant has proposed reducing the percentage to 24% which would be the new spaces generated from the redevelopment activity. The ten reconfigured spaces will be pervious parking materials.

The Land Development Code's parking lot design requirements direct that parking areas shall be designed with consideration for future shared parking arrangements. All non-residential site development shall be designed to allow for vehicular cross accesses. New and redeveloping non-residential properties shall, where feasible, be required to provide or enhance pedestrian connectivity to adjacent residential neighborhoods.

The drive-through facilities are to be relocated to the rear of the site with one additional lane. 4 drive-through lanes require accommodation for 20 vehicles. The applicant is seeking to reduce this requirement to 13 vehicles.



II. CONSISTENCY WITH THE COMPREHENSIVE PLAN:

The following Comprehensive Plan statements are applicable in this case:

- Policy 1.02.07 – The City shall implement the Fernandina Beach Comprehensive Plan in a manner that acknowledges private property rights.
- Policy 1.02.10 – The City shall protect privacy and access to light, air, and open space. The City shall consider regulations such as building placement on a site, building design, and building orientation as one means to achieve this policy.

III. CONSISTENCY WITH THE LAND DEVELOPMENT CODE:

Variance procedures and criteria are set forth in Sections 10.02.01 through 10.02.04.

- Section 10.02.01(B) states that the BOA may authorize a variance from the design and improvement standards of the LDC, except for areas within the Historic District Overlay or the CRA Overlay, where requirements of Section 10.02.00 are met.
- Section 10.02.02(B) states that the applicant for a variance has the burden of proof of demonstrating that the variance application complies with each of the requirements of Section 10.02.02(A).
- Section 10.02.04 sets forth the application requirements. This application includes information necessary for the BOA to make the required findings.
- Section 10.02.01(C) sets forth the limitations on the grant of a variance:
 1. A variance shall not be granted which authorizes a use that is not permissible in the zoning district in which the property subject to the variance is located.
 2. A variance shall not be granted which authorizes any use or standard that is prohibited by the City's Comprehensive Plan.
 3. No nonconforming use of adjacent lands, structures, or buildings in the same zoning district, and no permitted use of land, structures, or buildings in other zoning districts, shall be considered grounds for the authorization of a variance.
 4. A variance shall not change the requirements for concurrency.
 5. A variance shall not be granted to permit the use of a single media peonia for the construction of a dwelling unit.
 6. A variance shall not be granted if the evidence submitted by an applicant is a demonstration of financial hardship or economic considerations.
 7. A variance shall not be granted for procedure or process components of this Land Development Code.
 8. A variance shall not be granted to deviate from LDC section 4.02.02 to combine two (2) or more lots which would result in a lot width greater than 100 feet for lots or parcels that abut Ocean Avenue, North Fletcher Avenue, or South Fletcher Avenue.

Staff's review of this application finds it is not subject to any of these limitations and can therefore be considered by the Board.



I. SECTION 10.02.02(A) – REQUIRED FINDINGS FOR GRANTING OF A VARIANCE

In order for an application for a variance to be approved or approved with conditions, the BOA shall make a positive finding with regard to each of the following provisions:

Consistent with Criteria?

All questions must be answered in the affirmative in order for staff to recommend approval of a variance. Negative answers must be addressed in the findings.

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>1. <u>Special Conditions</u>: <i>Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. Special conditions or circumstances do not result from actions of the applicant and are not based on a desire to reduce development costs.</i></p> <p>No. Special conditions <u>do not</u> exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. The property was developed in 1987 prior to the current Land Development Code. However, all redeveloping properties are required to comply with the Land Development Code.</p>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>2. <u>Special Privilege</u>: <i>Granting the variance does not confer upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district.</i></p> <p>No. Granting the variance <u>does confer</u> upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district. New developments as well as redevelopment projects are required to comply with Land Development Code.</p>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>3. <u>Literal Interpretation</u>: <i>Literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.</i></p> <p>No. Literal interpretation of the Land Development Code <u>would not</u> deprive the applicant of rights enjoyed by others properties because all redeveloping sites are required to come into full compliance with the Land Development Code.</p>
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>4. <u>Minimum Variance</u>: <i>The variance requested is the minimum variance needed that will make possible the reasonable use of the land, structure, or building.</i></p> <p>Yes. The variance requested <u>is</u> the minimum variance needed to make possible the reasonable use of the land, structure, or building. The proposed redevelopment is bringing into compliance a number of Land Development Code requirements. To meet the other requirements the site would have to be completely reconfigured.</p>



<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>5. <u>General Harmony</u>: Granting the variance will be in harmony with the general intent and purpose of the Land Development Code and Comprehensive Plan.</p> <p>No. Granting the variance <u>will not</u> be in harmony with the general intent and purpose of Land Development Code and Comprehensive Plan, the code was requires redeveloping properties to meet the requirements of the Land Development Code. The intent is to have properties come into compliance as they redevelop.</p>
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>6. <u>Public Interest</u>: Granting the variance is compatible with surrounding properties, will not cause injury to the area involved, or otherwise be detrimental to the public health, safety, welfare or environment.</p> <p>Yes. Granting of a variance <u>is</u> compatible with surrounding properties, will not cause injury to the area involved, or otherwise be detrimental to the public health, safety, welfare or environment.</p>

V. ANALYSIS:

The variance requested is consistent/inconsistent with the criteria for granting a variance as follows:

	Consistent	Inconsistent
1. Special Conditions		X
2. Special Privilege		X
3. Literal Interpretations		X
4. Minimum Variance	X	
5. General Harmony		X
6. Public Interest	X	

The applicant appears to meet criteria 4 and 6 but does not meet 1, 2, 3 and 5 therefore staff recommends denial.



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VI. MOTION TO CONSIDER:

I move to approve or deny BOA case number 2016-10; AND I move that the BOA make the following findings of fact and conclusions of law part of the record: That BOA case 2016-10, item, as presented, is or is not substantially compliant with the Comprehensive Plan and Land Development Code to warrant approval at this time.

A handwritten signature in blue ink, appearing to read "J. Platt", is written over a horizontal line.

Jacob M. Platt, Planner I
Community Development Department

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, phrase of this Ordinance, or the particular application thereof, shall be held invalid by any court, administrative agency or other body with appropriate jurisdiction, the remaining sections, subsections, sentences, clauses and phrases under application shall not be affected thereby.

SECTION 3. This Ordinance shall become effective immediately upon adoption.

ADOPTED this 16th day of February, 2016.

CITY OF FERNANDINA BEACH

John A. Miller
Mayor - Commissioner

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

CAROLINE BEST
City Clerk

TAMMI E. BACH
City Attorney

ORDINANCE 2015-36
EXHIBIT "A"

CHAPTER 1 DEFINITIONS – ADDED OR MODIFIED IN SECTION 1.07.00

Protected Tree means any existing, healthy tree having a five (5) inch DBH, or greater and not identified on the most recent Florida Exotic Pest Plant Council Invasive Plant list (Category I or II) and any tree that was planted or preserved in compliance with an approved development order or to mitigate removal of a protected tree. on the list of prohibit or invasive trees set for the in Table 4.05.03(A)(3).

Shade Tree means any self-supporting woody plant of a species that is generally well-shaped, well-branched, and well-foliated which normally grows to an overall minimum height of thirty-five (35) feet with a minimum average mature crown spread of thirty (30) thirty feet, and which is commonly accepted by the local horticultural and arboricultural professionals as a species which can be expected to survive for at least fifteen (15) years in a healthy and vigorous growing condition over a wide range of environmental conditions.

Tree means any self-supporting woody plant having at least one well-defined stem and a minimum of two and a half (2.5) in DBH, and which normally grows to a minimum height of 25 feet in an urban area.

Arborist means a person who holds a current certification as an arborist by International Society of Arboriculture (ISA).

"Florida-Friendly Landscaping" or "Xeriscape" means quality landscapes those conserves water and protects the environment and are adaptable to local conditions and which are drought tolerant. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance. (Ref. §373.185 F.S.)

"Fertilizer" means any substance or mixture of substances, except pesticide/fertilizer mixtures such as "weed and feed" products, that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil. [Guidance: Regulation of pest control businesses and applicators, and of pesticide use, is preempted to the Florida Department of Agriculture and Consumer Services (FDACS) by Chapters 482.242, and 487.051 (2), F.S. and suspected pesticide misuse should be reported to FDACS. Weed and feed products are registered pesticides. The Limited Commercial Landscape Maintenance Certification Program does not allow landscape maintenance workers to make any kind of pesticide applications (including weed control and/or weed and feed products) to any turf areas. Per 482.165(3) F.S., a civil penalty for unlicensed application of pesticides, including weed and feed products, may not be less than \$500 or more than \$5,000 for each offense.]

Hydrozone means a distinct grouping of plants with similar water needs and climatic requirements.

Landscape means any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and non-living landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).

Irrigation System means constructed watering systems designed to transport and distribute water to plants.

Irrigated landscape area means all outdoor areas that require a permanent irrigation system.

Microirrigation (low volume) means the application of small quantities of water directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). Microirrigation encompasses a number of methods or concepts including drip, subsurface, bubbler, and spray irrigation, previously referred to as trickle irrigation, low volume, or low flow irrigation.

Landscape Design means consultation for and preparation of planting plans drawn for compensation, including specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar materials. Such plans may include only recommendations for the conceptual placement of tangible objects for landscape design projects. Construction documents, details, and specifications for placement of tangible objects and irrigation systems shall be designed or approved by licensed professionals as required by law.

Mulch means Non-living, organic or synthetic materials customarily used in landscape design to retard erosion and retain moisture

Native plant material means any plant material indigenous to northeast Florida or the City of Fernandina Beach.

Pervious Paving Materials means porous asphaltic, concrete or other surface (pavers or grass pave) and a high-void aggregate base which allows for rapid infiltration and temporary storage of rain on, or runoff delivered to, paved surfaces.

Plant Bed means a grouping of trees, shrubs, ground covers, perennials or annuals growing together in a defined area devoid of turfgrass, normally using mulch around the plants.

Plant material means any ground covers, shrubs, turf or vines which are commercially propagated or cultivated for the nursery or landscaping industry.

Runoff means the water that results from and occurs following a rain event, or following an irrigation event, because the water is not absorbed by the soil or landscape and flows from the area.

Shrub means a multi-stemmed plant with a spread and height characteristic of its species and with a minimum of two (2) feet when planted.

Trimming (or Pruning) means to selectively remove branches without irreversibly altering the natural shape or form of a tree and without irreversibly damaging or destroying the tree.

Tree Hazard means any potential tree failure due to a structural defect that may result in property damage or personal injury.

4.05.01 Generally

- A. It is the intent of the City to provide ~~those~~ standards and regulations ~~that will which~~ protect and preserve native tree species, ~~protect and preserve~~ and the natural landscape; foster and encourage maintenance of natural vegetation; and minimize loss of trees to development; ~~reduce disturbance of native soil, improve ground and surface water quality; and promote energy and water conservation through use of native and Florida-Friendly landscaping principles.~~
- B. The intent of Section 4.05.00 is to provide minimum standards for landscaping, buffers, and tree protection within the City. These standards are provided to meet the following specific purposes:
1. Improving the appearance of the City;
 2. Providing shade for the ground surfaces ~~and reducing heat island effects;~~
 3. ~~Buffering and protection from wind and storm damage;~~
 4. Buffering adjacent potentially incompatible land uses;
 5. Screening vehicular movement from pedestrian and public view;
 6. Providing for the protection and preservation of trees and native vegetation;
 7. ~~Ensuring the local stock of native trees and vegetation is replenished;~~
 8. ~~Improving ground and surface water quality through reduced run-off and decreased use of fertilizers and pesticides; and~~
 9. ~~Encouraging Florida-Friendly landscaping principles into landscape design.~~

4.05.02 Applicability

- A. The types of development listed below shall provide a landscaped buffer between uses, provide landscaping for parking lots, submit a tree survey prepared by a licensed Florida surveyor ~~or a tree inventory prepared by a certified arborist~~ with an application for site plan approval, obtain a tree permit prior to receipt of a building permit, and submit a landscape plan with any application for a development order for the situations listed below. The required landscape plan shall demonstrate compliance with the standards of Section 4.05.00.
1. All new construction;
 2. All development of regional impact; ~~and~~
 3. Any change of use ~~that which~~ results in any increase in the required off-street parking, as determined by the standards in Section 7.01.04;
 4. ~~All commercial redevelopment which results in an increased building footprint, reconfiguration of existing parking, parking lot expansions, or development of outparcels within an existing shopping center.~~
- B. Clearing of any site, including root-rake clearing, shall be subject to the requirements for tree protection, submittal of a tree ~~survey or a tree inventory prepared by a certified arborist~~, and obtaining a tree removal permit.
- C. An application for a building permit for a single-family or two-family dwelling proposed on an existing platted lot shall include a tree survey ~~or a tree inventory prepared by a certified arborist~~. The tree survey ~~or a tree inventory prepared by a certified arborist~~ shall comply with the requirements of Section 4.05.04 regarding landscaping, but shall not be required to provide a buffer or landscaping for a parking area.
- D. The following situations are exempt from the requirements of Section 4.05.00:
1. Any interior construction, renovation, or remodeling, ~~provided that such interior construction, renovation, or remodeling shall~~ ~~which does~~ not increase the footprint of the building.
 2. Licensed plant or tree nurseries or botanical gardens with respect to those plants and trees ~~that are planted and~~ grown for sale to the general public in the ordinary course of the licensed business or for public purposes.
 3. The removal of underbrush and removal of trees which are ~~less than~~ four (4) inches ~~Diameter at Breast Height (DBH) or less.~~

4. The removal of an prohibited invasive or prohibited trees listed identified on the most recent Florida Exotic Pest Plant Council Invasive Plant list in Table 4.05.03(A)(3).
5. Property owned by Rayonier Advanced Materials and Smurfit Stone WestRock in the I-1 zoning district is exempt from the requirements of Section 4.05.00, provided that the new construction, renovation, alteration or remodeling occurs more than 75 feet from an adjoining non-complementary land use.

4.05.03 Landscape Materials Standards

A. Plant materials

1. Trees, Shrubs, and groundcovers shall be selected by using the Florida-friendly Plant Database.

1. Trees and shrubs shall be selected from the species listed in Table 4.05.03(A)(1). In addition to the trees listed in table 4.05.03(A)(1), the following species of palms are permissible: needle palm and sabal /cabbage palm.

Table 4.05.03(A)(1). Permissible Trees and Shrubs

Canopy Trees	Understory Trees	Shrubs
<i>(Typical mature height is 40 feet or more)</i>	<i>(Typical mature height is less than 40 feet)</i>	
Bald cypress	American holly	American beautybush (beautyberry)
Black walnut	Chaste tree	Bluestem palmetto
Blue beech (hornbeam, ironwood, musclewood, broomwood)	Chickasaw plum	Cherry laurel
Chinese elm	Crape myrtle	Fetterbrush
Dawn redwood	Dahoon holly	Florida privet
Deodora cedar	Devil's walking stick	Gallberry
Eastern cottonwood	Devilwood (wild olive)	Juniper
Florida basswood (linden, Carolina basswood, Carolina linden, Florida linden)	East Palatka holly	Schillings holly (yaupun holly)
Florida elm	Flowering dogwood	Southern wax myrtle
Florida maple	Flowering pear	Star anise (anise, yellow anise)
Ginkgo	Fringe tree	Strawberry bush
Green ash	Goldenrain tree	Sweetshrub
Hickory	Hop hornbeam	
Live oak	Japanese maple	
Loblolly bay	Jerusalem thorn	
Longleaf pine	Leyland cypress	
Maple	Loquat	
Oak	Palm (Pindo, Chinese fan, Washington, cabbage, Canary Island Date)	
Pecan	Myrtle oak	
Pignut hickory	Redbay	
Red maple	Redbud (Judas tree)	
River birch (black birch)	Shining sumac (winged sumac)	

Canopy Trees	Understory Trees	Shrubs
Shumard oak	Red cedar	
Southern magnolia	Silverbells	
Southern red cedar	Southern red cedar	
Spruce pine	Southern wax myrtle	
Sugarberry (hackberry)	Tough buckhorn	
Swamp bay	Walter's viburnum	
Sweetbay magnolia		
Sweetgum		
Sycamore		
Tulip poplar (yellow poplar, tulip magnolia, whitewood, tulip tree)		
Water oak		
Weeping Willow		
Winged elm		
Zelkona		

1. Ground cover and vines shall be selected from the species listed in Table 4.05.03(A) (2).

Table 4.05.03(A) (2). Permissible Ground Cover and Vines

Ground Cover	Coastal Dune Area Ground Cover	Vines
Asiatic jasmine	Fiddle leaf morning glory (beach morning glory)	Carolina yellow Jessamine
Beach sunflower (cucumber-leaved sunflower)	Partridge pea	Coral honeysuckle
Blanket flower	Sea oats	Trumpet creeper (trumpet vine)
Blue-eyed grass	Sea purslane	Virginia creeper
Coontie	Seashore bluestem (seaside bluestem)	
Crinum lily	Seashore dropseed	
Eastern coral bean	Seashore paspalum (knotgrass)	
Gopher apple (ground oak)	Seashore saltgrass	
Lantana species	Silverleaf croton (beach croton)	
Liriope spp	Stilleaf eustachys (pinewoods finger grass)	
Partridgeberry	Water pennywort	
Purple coneflower		
Rain lily (zephyr lily, fairy lily)		
Saltmeadow cordgrass		
Sea oats		
Sea Oxeye daisy		
Seashore elder (beach elder)		

Ground Cover	Coastal Dune Area Ground Cover	Vines
Stokes aster		

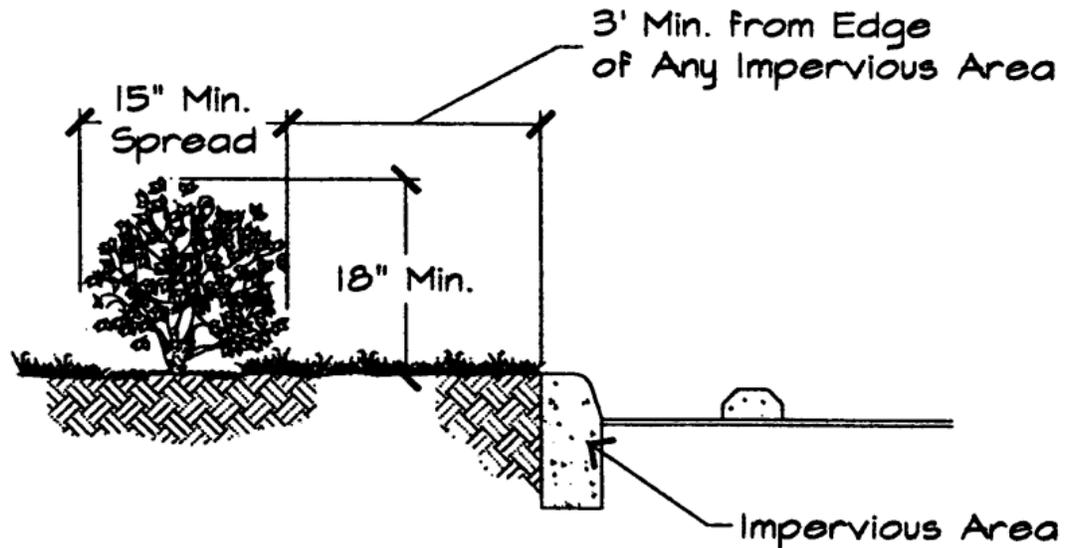
3. Plants listed in Table 4.05.03(A) (3) are prohibited or invasive. Plants identified as “prohibited” or “noxious weeds” species on the most recent Florida Exotic Pest Plant Council Invasive Plant list shall be removed as part of the site development process. Plants that are identified as “invasive” may be retained on a development site, but shall not count toward meeting landscaping and buffering requirements.

Table 4.05.03(A)(3). Prohibited and Invasive Species

Invasive Species (may be retained but shall not count toward meeting minimum standards for trees in landscaped areas and buffers)	Prohibited Species (shall be removed during the site development process)
Arrow bamboo	Australian pine
Camphor tree	Brazilian pepper
Chinaberry	Chinese tallow (popcorn tree)
Chinese privet (hedge privet)	Cogon grass
Chinese wisteria	Eucalyptus tree
Citrus	Kudzu
Ear tree	Maleleuca (punk tree)
Henon bamboo (giant gray bamboo)	
Japanese paper mulberry	
Palm leaf bamboo (broadleaf bamboo)	
Silk oak	
Woman’s tongue	

B. Minimum specifications for plant materials

1. All plants used as part of any landscape plan shall be healthy, well proportioned, disease-free, pest-free, and hardy for the North Florida Region. Plant materials shall meet the standards for Florida No. 1 or better, as set out in *Grades and Standards for Nursery Plants*, Department of Agriculture, State of Florida.
2. Shrubs shall be at least eighteen (18) inches in height and have a minimum spread of at least fifteen (15) inches at the time of installation. ~~3.~~ Shrubs shall be installed at least thirty-six (36) inches apart, measured on center and may not be placed closer than three feet from the edge of any impervious area. Example:

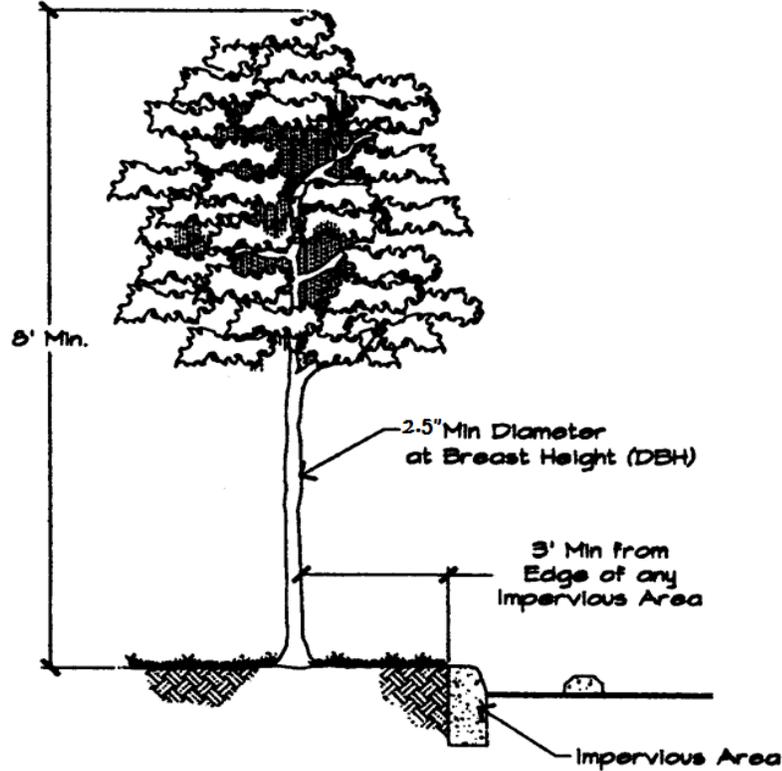


3. Hedges shall be planted in double staggered rows to create a continuous, unbroken, solid visual screen within one (1) year of planting allowing for full mature height and spread.
4. All landscaped areas shall be sodded or covered with ground cover. Grassed areas shall be consolidated and limited to those areas on the site which receive pedestrian traffic, provide for recreational use, provide cover for required drain fields or retention areas, or provide soil erosion control such as on slopes or in swales; and where grass is used as a design unifier or other similar practical use. Grassed areas shall be planted with warm season grass species normally grown on permanent lawns in Nassau County. Special care should be taken when selecting turf grasses for shaded sites. A soil sample should be tested specifically for pH to determine which grass species is most suitable for the site. Grassed areas may be sodded, plugged, sprigged, or seeded, to provided that full coverage shall be achieved within one (1) year after planting. Solid sod shall be used in swales or areas subject to erosion. Grass sod shall be clean and reasonably free of weeds and noxious pests or diseases. Grass seed shall be delivered to the job site in bags with Florida Department of Agriculture tags attached indicating the quality control program.
5. Ground cover used in lieu of grss shall be planted so as to present a finished appearance and reasonably complete coverage within three (3) months of installation.
6. Vines shall be a minimum of thirty (30) inches in height at planting and may be used in conjunction with fences, screens, or walls.
7. Natural mulch shall be designed and installed in all planting areas to a depth of two (2) to three (3) inches. The type of mulch shall be specified on the landscape plan. Use of an artificial mulch shall not be permissible within required planting areas. Cypress mulch is strongly discouraged. Mulches are typically wood bark chips, wood grindings, pine straw, nut shells, small gravel, and shredded landscape clippings. Mulch is not required in identified annual beds. Mulch rings should extend to at least three (3) feet around freestanding trees and shrubs. All mulch should be renewed periodically. Mulches should

be kept six (6) inches away from any portion of a building or structure, or trunks of trees. Plastic sheeting and other impervious materials shall not be used under mulched areas.

8. Retention of native and drought tolerant species is preferred. At least fifty (50) percent of the required plants installed in landscaped buffers, landscaped parking areas, and for replacement shall be native species.
9. At least fifty (50) percent of the required trees installed in landscaped buffers, landscaped parking areas, and to meet tree planting requirements shall be canopy shade trees. Existing trees, other than invasive or prohibited species, which are four (4)-five(5) inches DBH or larger, and shrubs may be counted toward meeting the requirements for landscaped buffers, landscaped parking areas, and tree retention.
10. Trees shall be a minimum of four (4) two and a half (2.5) inches DBH and no less than eight (8) feet tall at the time of installation. Trees shall not be planted closer than three (3) feet from the edge of any impervious area. Planted trees must be a species with an average mature spread of at least twenty (20) feet, or they must be grouped so as to create a crown spread of at least twenty (20) feet.

Example:



11. When palm trees are used to satisfy minimum landscape requirements, ~~two (2)~~ three (3) palm trees shall count as one (1) canopy shade tree. Palm trees must be a minimum of 8 feet tall at time of installation.
 12. Canopy-Shade trees shall not be installed under any overhead utility line, over any buried utilities, or within a utility easement.
 13. Where utilities conflict with proposed plantings, trees shall be selected from a list provided by the City. Where underground utilities conflict with proposed plantings, tree placement shall be a minimum of ten feet from the underground utility and a root barrier of two (2) feet deep shall be installed.
- C. Specific requirements for drought tolerant or xeriscape landscape materials
1. All development for which landscaping is required by Section 4.05.00 shall comply with the xeriscape requirements set forth in Table 4.05.03(C). The selected design options listed below and the accompanying points necessary to meet the following xeriscape requirements shall be clearly tabulated on the landscape plan.
 2. A minimum of fifty (50) points shall be accumulated by choosing from the following table of design options. As used in Table 4.05.03(C), "list" means the list of drought tolerant species set forth in the SJRWMD edition of the *Xeriscape Plant Guide*.

Table 4.05.03(C). Design Options for Xeriscape Landscaping

Design Feature	Standard	Points
Irrigation	Moisture sensing controller other than rain switch	5
	Landscape plan depicts low, moderate, and high water usage zones <u>and grouping of plants into hydrozones</u>	5
Grass	25% to 50% of the grass areas use drought tolerant species	5
	51% or more of the grass areas use drought tolerant species	10
	Less than 50% <u>75%</u> of the landscaped area contains sod	10
	Compacted mulched planting beds at least 3” deep are used in all planting areas except ground cover	10
Shrubs	25% to 50% of the required shrubs are drought tolerant species	5
	51% or more of the required shrubs are drought tolerant species	10
Trees	25% to 50% of the required trees are drought tolerant species	5
	51% or more of the required trees are drought tolerant species	10
	25% increase over the required number of <u>canopy shade</u> trees in vehicular use areas, provided that the planting area is large enough to ensure that the additional trees will thrive	5
	50% increase over the required number of <u>canopy shade</u> trees in vehicular use areas, provided that the planting area is large enough to ensure that the additional trees will thrive	10

D. Installation

1. All required landscaping installed pursuant to this section shall be installed according to accepted horticultural practice.
2. Trees may not need to be staked if appropriate canopy to root ratio is achieved. However, Trees shall be properly guyed, braced, and/or staked at the time of planting to ensure establishment of the tree and erect growth, as specified by the landscape designer or architect and compliant with the ISA staking and guying guidelines. Nail staking or other methods that cause cosmetic or biological damage to the tree are prohibited. Trees shall be re-staked within twenty-four (24) hours in the event of a failure in the staking or guying. Stakes shall be removed not later than twelve (12) months after installation. All areas where trees are to be planted shall be excavated to the width and depth of the rootball with the upper twelve (12) inches excavated to at least three (3) times the width of the rootball prior to being backfilled with the required topsoil mix.
3. CanopyShade trees shall be provided with at least ~~400~~ 250 square feet of planting area per tree.
4. Understory trees shall be provided with at least ~~200~~ 100 square feet of planting area.
5. Landscaped areas shall be protected from vehicular encroachment by car stops, curbs, or other appropriate means.
6. Trees shall be installed a minimum of ~~five (5)~~ three (3) feet from a paved area. A root barrier shall be required prior to installation of replacement trees.
7. Landscaped areas shall be provided with an irrigation system of sufficient capacity to maintain the landscaping in a healthy growing condition. All irrigation systems shall be designed, installed, and maintained in such a manner as not to be a nuisance to adjacent properties and uses and to the general public. Irrigation systems shall include moisture sensors.
8. Irrigation systems shall be designed to “Standards and Specifications for Turf and Landscape Irrigation Systems”, Fifth Edition, 2005, Florida Irrigation Society, Inc and as subsequently amended.

9. ~~8.~~ Xeriscape areas must have a readily available water supply to provide temporary irrigation until plantings are established.
 10. ~~9.~~ Natural areas and native vegetation left undisturbed by development may be excluded from the irrigation system.
- E. Maintenance requirements
1. All plantings shall be continually maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to, watering, tilling, fertilizing and spraying, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.
 2. Required plants that become diseased or die shall be replaced not later than three (3) months following the loss of the plant.
 3. Replacement trees shall be maintained and warranted to survive for a period of one (1) year from installation. Trees which do not survive one (1) year must be replaced with new trees of the same size. Replacement trees shall comply with the same maintenance and replacement warranty as the original replacement tree(s) and the warranty period will restart at the date of planting.
 4. All trees may be pruned to maintain shape and promote their shade-giving qualities and to remove diseased or dying portions in areas where falling limbs could be a hazard. The property owner is responsible for the maintenance of all required landscaping in a healthy, thriving condition. Trees shall be pruned only as necessary to promote healthy growth or to avoid power lines. Trees shall not be severely pruned or "hatracked," "lionstailed," or "topped" in order to permanently maintain growth at a reduced height. Pruning shall comply with current ~~National Arborists' Society~~ International Society of Arboriculture (ISA) standards. No more than 20% of the crown shall be removed within a one (1)-year period.
 5. Fertilizers: It shall be the goal of each landscape plan to select plant materials capable of thriving without regular fertilizer application, with exception of palms which need quarterly fertilizer to avoid nutrient deficiencies.
 6. Pesticides: It shall be the goal of each landscape plan to establish an Integrated Pest Management approach and reduce or eliminate the need for pesticide application.

4.05.04 Requirements for Landscaping Plans

- A. A landscaping plan shall be provided to demonstrate compliance with the standards of this section and prepared in accordance with all applicable Florida Statutes. Landscaping plans shall utilize the principles for creating a Florida Friendly landscape, utilize native drought tolerant plant materials to conserve water, avoid invasive exotic species, reduce need for fertilizers, and establish integrated pest management to reduce or eliminate pesticide use. The use of plant material, site design techniques, and planting design techniques which enhance wildlife habitat benefits is strongly encouraged. The publication "Planting a Refuge for Wildlife," available from the Florida Fish and Wildlife Conservation Commission, may be used as a guide.
- B. The landscape plan shall include the following elements:
 1. The name, address, and telephone number of the applicant, as well as the registered landscape architect or landscape designer.
 2. A plan showing the location, size, description, and specifications of landscaping, grade of plantings, mulch specifications, landscape area protection structures (e.g., curbs and planters), number of interior parking spaces, and perimeter and interior landscape area plantings, existing trees and planting areas. The plan shall illustrate the proposed irrigation hydrozones. The plan shall also include property boundaries and dimensions, existing and proposed structures, pools, walks, patios, vehicular use areas, lot orientation, utility services, light poles, pad-mounted transformers, fire hydrants, existing and proposed elevations, and any other factors affecting the proposed use of the property (including the land use and zoning of adjacent properties).

3. New landscape plans shall account for plant watering needs and group plants into "hydrozones." Hydrozones and their corresponding irrigation category shall be identified on the landscape plan.
- C. Existing plant materials, other than invasive species, may be counted toward meeting the landscaping requirements set forth in this section. **(RELOCATED TO POLICY 4.05.05)**
- D. ~~Except within the Central Business District (CBD)/ C-3 zoned properties,~~ at least twenty (20) percent of the total gross land area of a development site shall be landscaped. The landscaped areas shall be located on the site in such manner as to maximize preservation of existing trees with priority given to specimen trees. **RELOCATED POLICY TO 4.05.06**
- E. **RELOCATED POLICY TO 4.05.05**—Single family and two family development shall include, at a minimum, one (1) canopy tree for every 2,500 square feet of lot area or fraction thereof. At least one (1) trees shall be located in the front yard and at least one (1) trees shall be located in the rear yard. Tree identification and placement shall be shown on a site plan but shall not be required to meet the requirements of 4.05.04(A) above.
- F. **RELOCATED POLICY TO 4.05.05**—Multi family residential development sites shall meet the following standards, in addition to the requirements set forth in Section 4.05.04(A) above:
3. There shall be not less than one (1) canopy tree for each 1,500 square feet, or fraction thereof, of development site.
 4. There shall be a planting area not less than ten (10) feet in width between the building walls and parking areas. Landscape materials shall be provided as follows:
One (1) tree for every 200 square feet of planting area or fraction thereof;
At least fifty (50) percent of the trees shall be canopy shade trees; and
A continuous hedge shall be placed along the building walls.
 5. There shall be a planting area not less than ten (10) feet in width between an abutting right of way and parking areas. Landscape materials shall meet the following standards:
One (1) tree shall be provided for every 250 square feet of planting area or fraction thereof;
At least seventy five (75) percent of the trees shall be canopy trees;
A continuous hedge or a berm, at least three (3) feet in height, shall be provided; and
The entire site, outside of the planting areas immediately surrounding the trees and shrubs, shall contain grass or ground cover.
- G. **RELOCATED POLICY TO 4.05.06**—Nonresidential development shall provide one (1) canopy shade tree for each 1,500 ~~1,250~~ square feet of gross site area, or fraction thereof.

4.05.05 Minimum Landscape Requirements for Residential Development

It is the intent of this section to provide minimum landscaping requirements for residential development. Existing plant materials, other than invasive species, may be counted toward meeting the landscaping requirements set forth in this section (RELOCATED POLICY FROM 4.05.04(C)).

A. Single-family and Two-family Residential Development (RELOCATED POLICIES FROM SECTION 4.05.04(E+F))

Single-family and two-family development shall include, at a minimum, one (1) canopy shade tree for every 2,500 square feet of lot area or fraction thereof. At least one (1) two (2) trees shall be located in the front yard and at least one (1) two (2) trees shall be located in the rear yard. Tree identification and placement shall be shown on a site plan but shall not be required to meet the requirements of 4.05.04(A) above.

B. Multi-family Residential Development

Multi-family residential development sites shall meet the following standards, in addition to the requirements set forth in Section 4.05.04(A) above:

1. There shall be not less than one (1) canopy shade tree for each 1,500 square feet, or fraction thereof, of development site. There shall be a planting area not less than ten (10) feet in width between the building walls and parking areas. Landscape materials shall be provided as follows:
 - a. One (1) tree for every 200 square feet of planting area or fraction thereof;
 - b. At least fifty (50) percent of the trees shall be canopy shade trees; and
 - c. A continuous hedge shall be placed along the building walls.
2. There shall be a planting area not less than ten (10) feet in width between an abutting right-of-way and parking areas. Landscape materials shall meet the following standards:
 - a. One (1) tree shall be provided for every 250 square feet of planting area or fraction thereof;
 - b. At least seventy-five (75) percent of the trees shall be canopy shade trees;
 - c. A continuous hedge or a berm with native plantings, at least three (3) feet in height, shall be provided; and
 - d. The entire site, outside of the planting areas immediately surrounding the trees and shrubs, shall contain grass or ground cover.

4.05.06 Non-Residential and Mixed Use Development

A. Minimum Landscaped Area (relocated policy from section 4.05.04(D))

At least twenty (20) percent of the total gross land area of a development site shall be landscaped except within the Central Business District/ C-3 zoned properties where a minimum of 10% of the total gross land area shall be landscaped. New construction and The landscaped areas shall be located on the site in such manner as to maximize preservation of existing trees with priority given to specimen trees. Minimum landscaped area requirements may be achieved through use planters and rooftop gardens. Planting areas which fulfill landscape design strategies located within public rights-of-way shall count towards the minimum planting area, if installed and paid for by the developer or property owner.

B. Minimum Tree Planting (relocated policy from section 4.05.04(G))

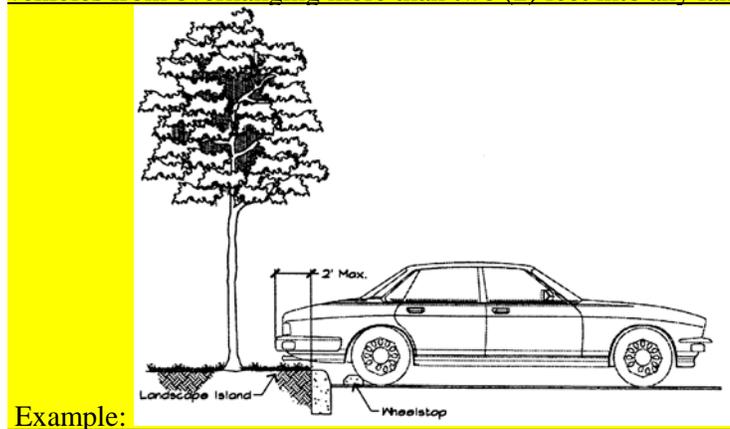
Nonresidential development shall provide one (1) canopy shade tree for each 1,500 square feet of gross site area, or fraction thereof.

4.05.07.06. Parking Lot Landscaping

- A. Intent:** It is the intent of this section to promote vehicular and pedestrian safety; limit physical site access to established points of ingress and egress; delineate and buffer the bounds of abutting vehicular use areas so that distractions of movement, noise and glare from one area do not adversely affect the activity in another area; break up large expanses of pavement; and to reduce heat island effect within the vehicular use areas of a site.

- B. **A. Off-Street Parking:** All off-street parking lots with six (6) or more required parking spaces and vehicular use areas (access driveways, service drives, and loading areas) are required to include landscaping. Required parking lot landscaping shall be in addition to requirements for protection of existing trees.
- C. **Perimeter Landscaping:**
6. A landscaped area not less than ten (10) feet in width, exclusive of impervious area, using vertical layering of landscape materials shall be located around the perimeter of the parking lot in order to provide visual screening from the right-of-way. Perimeter landscape area requirements shall not apply to shared vehicular access areas or to the portion of the perimeter areas where physical interconnections exist.
 7. When perimeter landscape areas are required on adjacent properties, the owners of such adjacent properties may agree to the installation of only one such landscape area on the adjacent boundary, as long as such agreement is binding on both property owners and their successors in the interest and is approved as part of the site plan review process.
 8. ~~2.~~ Where the parking lot is in a side or rear yard and a buffer “C” or “D” is provided pursuant to Section 4.05.05, the buffer shall satisfy the requirement for providing landscaping between the parking lot and the abutting street.
 9. Where a buffer “A” or “B” is required pursuant to Section 4.05.05, the landscaped area shall also include a continuous unbroken hedge, planted in a double-staggered row to form a solid visual screen within one (1) year of planting.
 10. An access, not exceeding four (4) feet in width, may be provided through the buffer to an adjacent sidewalk public street or sidewalk.
 11. One (1) canopy tree shall be installed for each 400 square feet of required planting area. Trees within the perimeter landscaped area shall be determined using a ratio of one (1) tree for each 20 linear feet of required landscape perimeter area, or major portion thereof, with no less than 75% of said trees being shade trees. Creative design and spacing is encouraged
 12. A visual screen is required within perimeter landscape areas, running the entire length of such areas excluding areas of ingress and egress. The visual screen may be provided using:
 - a. Shrubs or Ornamental Grasses. Shrubs or Ornamental Grasses shall be spaced a minimum of three feet to a maximum of six feet on center dependent on the inherent growth of the species. Creative design and spacing is encouraged.
 - b. Contoured berms or embankments. Contoured berms or embankments shall be a minimum of twenty-four (24) inches in height, measured from the adjacent parking surface level, at the time of planting and landscaped appropriately.
 - c. Plant material must be non-deciduous for full year round screening.
- D. **Interior Parking Lot Landscaping:**
1. Planting areas within parking lots and vehicular use areas shall equal not less than ten (10) percent of the gross area devoted to vehicular use. The perimeter landscaping shall not count toward meeting the required interior landscaping.
 2. Interior planting areas shall be located in tree islands, at the end of parking bays, and between rows of parking spaces. There shall be not more than ten (10) contiguous parking spaces (or twenty (20) parking spaces in a double row) between planting areas.
 - a. Planting areas may also be located within driveway medians, provided the median is a minimum of twelve (12) feet wide.
 - b. **(RELOCATED FROM SECTION 4.05.07(D)(7))** One (1) canopy shade tree shall be installed for each 400 square feet of required planting area. Alternatively, a minimum of two, three-inch or three, two-inch, caliper shade trees together with other landscape material shall be planted within each required planting area. Spacing shall be no closer than fifteen (15) feet on center and no greater than eighteen (18) feet on center.

3. Interior planting areas shall be located to effectively accommodate stormwater runoff, as well as to provide shade in large expanses of paved areas. Use of swales, vegetated filter strips, and bioretention areas (rain gardens) shall be incorporated into the overall stormwater plan, grading plan, and landscape strategy for the entire parking area. Plant species should be selected based on their ability to tolerate urban stresses such as expected pollutant loadings, highly variable soil moisture conditions, ponding water fluctuations, and Soil pH and texture.
4. If stabilized grass parking is utilized, the parking spaces shall be delineated with parking stops and the required landscape islands with trees and stubs installed to break up rows of ten (10) consecutive parking spaces.
5. The design of interior landscaped areas shall comply with the specifications set forth in Section 4.05.03 and 7.01.04(C).
6. A continuous curb or other means of protection shall be provided to prevent injury to vegetation within the planting areas.
 - a. The eCurbs shall be designed to allow percolation of water to the root systems of the plants. Where existing trees are preserved, tree wells, tree islands, or a continuous curb shall be installed to protect the trunk and root system from damage. A drainage system shall be provided within the area defined by the drip line of the tree(s).
 - b. Vehicle stops or other design features shall be used to prevent parked vehicles from overhanging more than two (2) feet into any landscape area.



7. One (1) canopy shade tree shall be installed for each 400 square feet of required planting area ~~(RELOCATED TO SECTION 4.05.07(D)(2)(b))~~
- E. In order to allow for flexibility and creativity in design standards, hedges may be replaced or interrupted in areas which provide for a decorative wall and berms and other creative landscape features, and landscape materials may be clustered so long as the parking area remains screened from the public right-of-way and adjacent private property, as set forth in Section 4.05.06 4.05.12.

4.05.08 Freestanding Sign Landscaping

1. All monument signs shall have shrubbery or flowers planted around the perimeter of the sign. Signs shall be located so as to provide both adequate visibility from the public rights-of-way and to preserve protected trees.
2. If a freestanding sign cannot be shifted to allow the required room for perimeter plantings between the sign and the parking area without obscuring visibility to the sign, then the City shall allow a five (5) foot radius from the base of the freestanding sign in which lower accent plantings are allowed in lieu of perimeter plantings.

4.05.09 Mechanical Equipment Screening Plantings

Structures such as dumpster enclosures, mechanical equipment, backflow preventers, wells, pumps, tanks, buffer walls, HVAC units, transformers, lift stations, utility cabinets, electrical

panels, or cable television equipment shall be fully screened with planting beds in areas visible from the public rights-of-way.

- A. The height of such screening shall be a minimum of 30 inches at the time of installation.
- B. ~~(THE FOLLOWING SENTENCES ARE RELOCTED SECTION FROM 4.05.05(H))~~ Required access ways to these utilities are exempt from the screening provisions. Other uses which require high visibility and easy access, such as fire hydrants, public and emergency telephones, mail boxes, and school bus shelters/benches, are exempt from these provisions.

4.05.10 Retention and Detention Ponds

Stormwater retention/detention ponds shall be naturally shaped (without geometric straight sides) and shall meet the following minimum requirements:

- a. All wet detention ponds shall incorporate a combination of aquatic and non-aquatic native plants to completely surround the perimeter to filter runoff of fertilizers, herbicides, and pesticides.
- b. Wet detention ponds shall incorporate, at a minimum, a littoral zone or a littoral zone alternative Per Chapter 40C-42, Florida Administrative Code.

4.05.07 11. Requirements for Street Trees

- A. Trees planted near the street curb line or within swales near the curb line of streets are called street trees. Trees planted in a median between traffic lanes are also called street trees. Street trees are intended to provide:
 - 1. Security to pedestrians crossing wide streets;
 - 2. A screen for drivers from headlight glare of oncoming traffic;
 - 3. Blockage of direct sun into the eyes of drivers, especially commuters traveling east and west;
 - 4. An indication of the course of the roadway in the distance; and
 - 5. A protective barricade to head-on collisions with out-of-control vehicles which cross into the median.
- B. In all subdivisions and any other developments involving the creation of new streets, street trees shall be planted in the rights-of-way or a median, unless it is determined that a conflict exists between trees and utilities located in the rights-of-way or site distances are not in compliance with sound and generally accepted engineering practices and principles. In such cases, the street trees shall be planted outside of the rights-of-way.
- C. If street trees are located to be outside of the rights-of-way, trees shall be planted no farther than five feet outside the right-of-way line, and shall be perpetually maintained. Street plantings shall be in accordance with minimum planting standards.
- D. Buffer plantings consistent with LDC Section 4.05.12 (E) – (G) shall be established to surround new residential subdivisions.
- E. Street trees planted to meet requirements of this section must be shade trees, and shall be planted at a rate of one (1) tree for every 50 feet of site/lot frontage along the right-of-way or every 30 feet on center in medians. If planted medians and/or cul-de-sac islands are provided with trees, street trees along the outside of the roadway are not required. Use of understory trees are permitted in lieu of shade trees as determined to be practical because of overhead utility lines or other infrastructure conflicts, may be permitted at a rate of one (1) tree for every 25 feet of site/lot frontage along the right-of-way. Preserved or retained trees on-site shall count towards satisfying this requirement in newly established residential subdivisions.
- F. A root barrier shall be installed for all street trees to avoid future root conflicts.
- G. ~~B. Street trees are not required. However, a~~ A majority of the property owners abutting any street may request the establishment of an arbor street. An arbor street is one determined by the City to be suitable for extensive planting of street trees. Requests shall be writing and submitted to the City. Required information includes:
 - 1. Designation of the areas proposed for street trees on a planting plan;
 - 2. Agreement from property owners for trees to be planted adjacent to or on their properties; and
 - 3. Commitment from property owners to provide care and maintenance of the street trees.

H. Trimming of street trees by adjacent property owners is permitted, provided that all work adheres to **National Arborists Society International Society of Arboriculture (ISA) standards and no more than 20% of the tree canopy is removed within a one (1)- year period.** No trees authorized pursuant to the arbor street agreement shall be removed without obtaining a tree removal permit, according to the requirements of Chapter 11.

4.05.05.12 Buffer Requirements

- A. The use of properly landscaped and maintained buffer areas can reduce the potential incompatibility of adjacent land uses, maintain open space, protect established residential neighborhoods, and enhance community identity. In order to minimize negative effects between adjacent zoning districts, this section requires **that** a landscaped buffer area **to** be provided. The separation of land uses and the provision of landscaping along public rights-of-way through a buffer are designed to minimize potential nuisances, and to enhance community beautification.
- B. Four (4) types of buffers are provided, as set forth in Table 4.05.05.12(B).

Table 4.05.05.12 (B). Types and Plant Requirements for Buffers

Buffer Type	Minimum Width (ft.)	Required Plants per 100 Linear Feet of Property Line
A	10	Two (2) understory trees
B	15	Four (4) understory trees
C	15	Two (2) canopy shade trees Four (4) understory trees Continuous unbroken hedge, planted in a double-staggered row to form a solid visual screen within one (1) year of planting
D	20	Four (4) canopy shade trees Four (4) understory trees A solid masonry wall at least four (4) feet high with a continuous unbroken hedge, planted in a double-staggered row to form a solid visual screen within one (1) year of planting , planted on the outside of the wall on the side of least intensity.

C. A buffer shall be required between zoning districts according to the standards set forth in Table 4.05.05.12 (C). The existence of a road along a property boundary shall not be construed as meeting any part of the buffer requirement, nor as relieving the applicant from providing the required buffer.

Table 4.05.05.12 (C). Buffer Requirements between Zoning Districts.

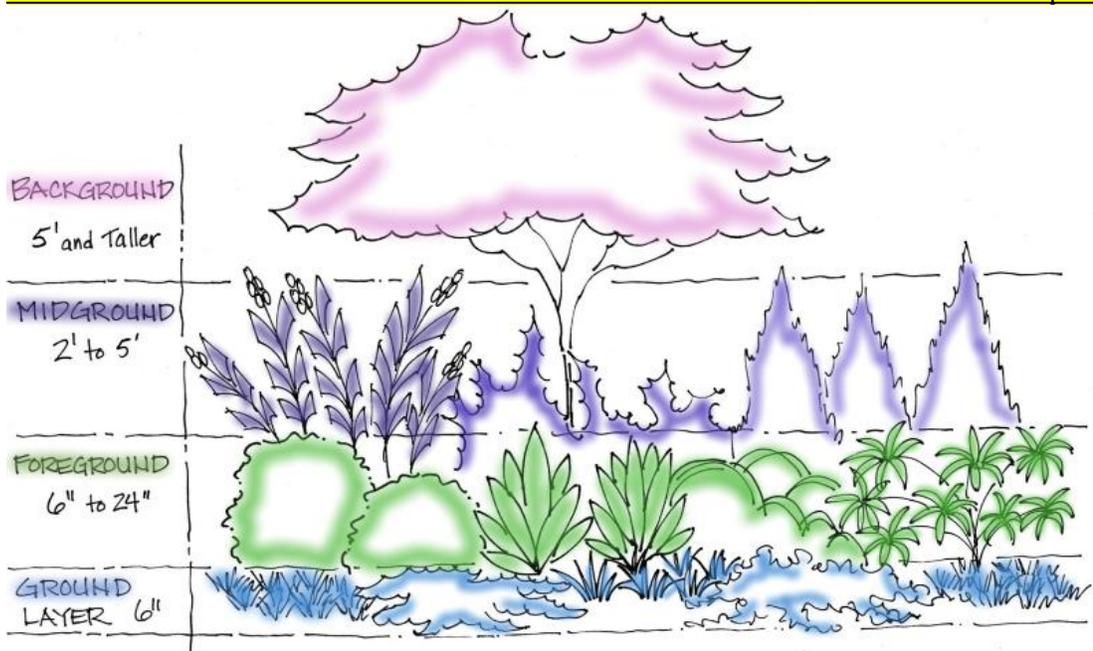
Zoning District of Proposed Development	ADJACENT ZONING DISTRICT																
	R-E	R1-G	R-1	R-2	R-3	OT-1	OT-2	MU-1	C-1	C-2	C-3	I-1	IA	I-W	W-1	PI-1	CON
R-E	No Buffer Required																
R1-G	No Buffer Required																
R-1	No Buffer Required																
RLM	No Buffer Required																
R-2	No Buffer Required																
R-3	A	A	A	A	N	N	N	A	N	N	N	B	B	B	B	N	N

ADJACENT ZONING DISTRICT																	
OT-1	N	N	N	N	N	N	N	A	N	N	N	B	B	B	B	N	N
OT-2	N	N	N	N	N	N	N	A	N	N	N	B	B	B	B	N	N
MU-1	B	B	B	B	A	A	N	N	N	A	A	B	B	C	C	A	N
C-1	C	C	C	C	B	B	B	A	N	N	N	B	B	B	B	N	N
C-2	C	C	C	C	B	B	B	B	N	N	N	B	B	B	B	N	N
C-3	C	C	C	C	B	B	B	B	N	N	N	A	A	A	A	N	N
I-1 Downtown	N	N	N	A	N	N	N	A	N	A	A	N	N	N	N	N	N
I-A Airport	D	D	D	D	D	D	D	D	D	D	D	D	N	D	D	D	N
I-1 Mills	D	D	D	D	D	D	D	D	D	D	D	N	N	N	N	N	N
I-W	D	D	D	D	D	D	D	D	D	C	C	N	N	N	N	C	N
W-1	See Specific Standards in Section 4.03.03-8.01.02																
PI-1	C	C	C	C	B	B	B	A	N	N	N	B	B	B	B	N	N
CON	No Buffer Required																
REC	No Buffer Required																

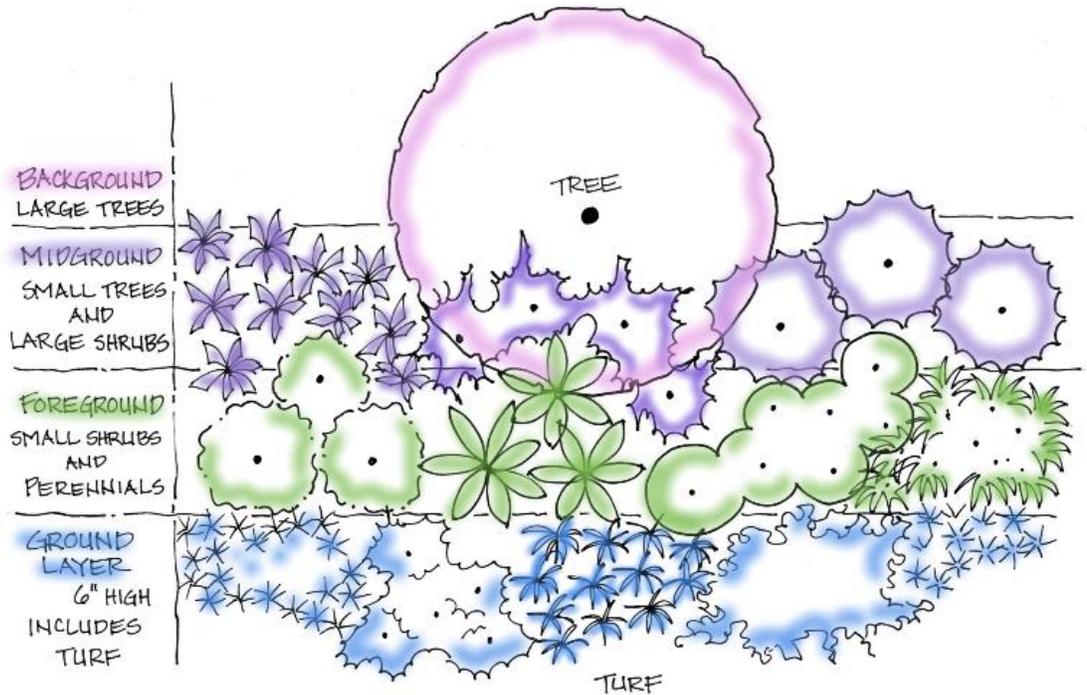
N = No buffer required

- D. Properties abutting the Amelia Island Parkway are required to maintain a 15 foot landscaped buffer. The area between preserved and planted trees can be supplemented with native or naturalized shrubs to provide screening adjacent to any parking areas.
- E. Buffer plantings are required to create vertical layers of plant material in repeating patterns. The examples provided describe vertical layering of plants in the landscape through staggered heights, with low plants in the front interconnecting plant massing layers with taller plants in the back.

Examples:



Credit: Gail Hansen, University of Florida IFAS Extension, EP449



Credit: Gail Hansen, University of Florida IFAS Extension, EP449

- F. A fence or wall included in a buffer screen shall be constructed with the side of the fence or wall with the finished appearance facing the use of lesser intensity or rights-of-way.
- G. An opening through a buffer area may be provided to facilitate pedestrian or vehicular traffic between developments.
- H. **Buffer requirements for utilities and public facilities and structures**
~~Above ground utilities and accessories to underground utilities which require above ground installation shall be buffered by a continuous planting of shrubs, with a minimum mature height equal to that of the structure, or a maximum height of six (6) feet. Required access ways to these utilities are exempt from the screening provisions. Other uses which require high visibility and easy access, such as fire hydrants, public and emergency telephones, mail boxes, and school bus shelters/benches, are exempt from these provisions.~~ **(PORTIONS ARE RELOCATED TO NEW SECTION 4.05.10)**
- I. **H.** Permitted use of buffer area
 1. A buffer may be used for passive recreation and picnic facilities. It may contain pedestrian paths or bike trails, provided that the path or trail is not paved. These paths may cross a required continuous hedge provided that openings to allow such crossing points shall be a maximum of six (6) feet in width and shall be spaced not less than 100 feet apart.
 2. **Except along the Amelia Island Parkway,** a buffer may incorporate water resources including stormwater detention/retention facilities. However, a minimum of ten (10) feet width of the buffer shall be preserved as a planting area without stormwater facilities.
 3. Ingress and egress to the proposed development and utilities may cross the buffer provided they minimize the amount of buffer devoted to this use. Ingress and egress shall not be subtracted from the linear dimensions used to determine the minimum amount of landscaping required.
 4. The buffer area may be included as part of the calculation of any required open space or as part of the required front, side, or rear yard.
 5. Identification signs as specifically allowable pursuant to Section 5.03.00.
 6. **Except along the Amelia Island Parkway, street** **L**ighting may be incorporated in to the buffer area.
- J. **I.** Prohibited use of buffer area.

A buffer area shall not be used for any building, parking, storage, or loading area.

4.05.08 **4.05.13** **Hardship Relief**

- A. Where a landowner is unduly burdened by the strict application of this chapter, said landowner may apply in writing to the community development department director for hardship relief. (Note: A prime example where hardship relief might be applied is the C-3 Zoning District, Central Business District portion of the Historic District.)

4.05.09 4.05.14 Tree Protection Requirements

- A. **Intent:** The intent of this section is to provide standards and regulations that will to ensure a minimum number of trees on any lot or parcel, protect and preserve native tree species, protect and preserve the natural landscape, foster and encourage maintenance of natural vegetation, and minimize loss of trees to development. It is the intent of the City that:
1. There shall be no net loss of trees canopy within the City;
 2. Preservation of the City's existing canopy is achieved by managing the impact of development and preventing unreasonable or unnecessary damage to the community's existing native tree canopy and vegetative understory;
 3. The diversity of tree species indigenous to Amelia Island shall be maintained;
 4. Existing mature growth native trees important to the City's tree canopy are protected and maintained to the fullest extent possible;
 5. Structures and all impervious surfaces will be placed in such a way as to protect the survivability and substantial growth of the healthiest native shade trees on the property;
 6. The natural environment is preserved, enhanced, and restored through the protection and establishment of native trees and existing natural systems for the enjoyment of present and future populations; and
 7. Achieving greater energy conservation by maximizing the shading and cooling effects of existing native, healthy trees and native replacement trees;
 8. The health and well-being of Fernandina Beach residents and visitors is protected by providing shade and otherwise moderating potential dangerous summer temperatures; and
 9. ~~6.~~The unique aesthetic character of the City is preserved, enhanced, or restored.
- B. **Permitting Requirements:** Protected Trees are any existing, healthy tree having a five (5) inch DBH, or greater and not identified on the most recent Florida Exotic Pest Plant Council Invasive Plant list (Category I or II). ~~Protected trees are existing, healthy trees which are five (5) inches DBH or greater and are not on the list of prohibited or invasive trees set forth in Table 4.05.03(A)(3).~~ A tree removal permit is required for the removal of any protected tree, except as set forth below. There shall be three categories of exemptions or partial exemptions, as follows:
1. *Exemption from permit, permit fee and replacement requirements:*
 - a. Trees and landscaping specifically grown as landscape material for resale by duly approved and licensed plant nurseries and botanical gardens.
 - b. Damaged or hazardous trees during and for a one (1) month period following a declared emergency disaster.
 - c. Minor maintenance activities such as removal of sucker growth, water sprouts, and overhanging branches on mature trees. All work shall be performed in compliance with the current ISA Arborist standards and best practices.
 2. *Exemption from fee and replacement requirements.* A permit shall be required for removal of the following trees, however, removal of these shall be exempt from the permit fee and replacement and replacement plan requirements of this article as follows unless the removal of such tree results in the property not achieving the City's minimum landscape standards as specified in LDC Sections 4.05.05:
 - a. Any tree other than a protected or heritage tree;
 - b. Trees damaged by disease, fire, windstorm, lightning, insect infestation or other acts of nature, which pose an imminent danger to life, ~~or~~ property ~~or~~ other protected trees; The administrative official may require a written certification of the need to remove such a tree or trees, at the property owner's expense, from an ISA certified Arborist prior to authorizing such a removal.
 - c. Removal of trees (thinning) within a forested area in order to reduce overcrowding and competition and to promote the health, growth, and resistance to stress may be permitted only when accompanied by written certification of the need to remove such tree(s) at the property owner's expense, from an ISA certified Arborist prior to authorizing such removal.

- d. e. Major and minor maintenance of trees located adjacent to utility lines; and
- e. d. Removal of trees by the City on City rights of way.
- f. The tree prevents access to a lot and no feasible alternative access points exist.

(RELOCATED FROM SECTION 4.05.09D)

3. **Partial Exemptions** from replacement requirements **for site development**. A permit and permit fee shall be required for removal of **the following** protected trees **for purposes of site development provided that mitigation requirements have been met through either on-site retention of existing healthy native trees or through the planting of replacement trees required as follows**; however, removal of these shall be partially exempt from the replacement and replacement plan requirements of this article as follows:
 - a. For one- and two-family residential properties: **e**Eighty (80) percent of the total DBH of the protected trees shall be exempt **from replacement**; ~~however, r~~Replacement of twenty (20) of the total DBH of the protected trees located within the area of the building footprint, **or within five (5) feet thereof**, to be constructed on the property, when such improvements have been authorized by a duly approved and issued building permit **shall be required**.
 - b. For affordable housing units, the City Manager **or designee** is authorized to issue an administrative waiver pursuant to the procedures set forth in Chapter 10.
 - c. For **commercial non-residential** and **other mixed use or multi-family** residential properties: ~~the exemption shall apply to s~~Seventy-five (75) percent of the total DBH of the protected trees **shall be exempt from replacement**. ~~located within the area of the impervious improvements, or within five (5) feet thereof, to be constructed on the property, when such improvements have been authorized by a duly approved and issued building permit.~~ **Replacement of twenty-five (25) percent of the total DBH of protected trees located within the area of the impervious improvements, or within five (5) feet thereof, to be constructed on the property, when such improvements have been authorized by a duly approved and issued building permit shall be required.**
- C. **Tree Survey or Inventory**: All protected trees shall be shown on a tree survey **or a tree inventory prepared by a certified arborist**, submitted with an application for a tree removal permit or with an application for development approval as set forth in Chapter 11.
- D. **One (1) or more of the following criteria shall be met for removal of a protected tree**:
 10. The tree is a hazard to traffic, public utilities, existing buildings, or structures;
 11. The tree is injured, diseased, or insect infested such that it is a hazard to people, structures, or other trees; or
 12. The tree prevents access to a lot and no feasible alternative access points exist.

Contained as part of sub-section B.
- E. **D. Replacement trees Requirements**:
 1. When authorization has been granted to remove protected trees, replacement trees shall be planted. The combined DBH of replacement trees shall equal or exceed the combined DBH of trees authorized for removal subject to any preservation credits **that are** available **due to from** the **preservation retention** of protected trees on the site. Preservation credits are set forth in Section 4.05.~~0914~~ (E)(5).
 2. Replacement trees shall meet the standards set forth in Section 4.05.03, and shall be balled and burlapped or container-grown.
 3. Protected trees authorized for removal may be relocated to locations **that comply compliant** with the specifications set forth in Section 4.05.03 and approved by the City Manager **or designee**.
 4. An applicant shall be permitted to pay a fee to the City Tree Replacement Fund for up to fifty (50) percent of the cumulative DBH of protected trees removed, less the credits accumulated from preservation of trees on the site. The fee will be set by resolution of the City Commission and will be based on the average cost for the City to replace the tree with the same species, excluding invasive species, the fiscal year in which the permit is issued.
- F. **E. Preservation Credits**

(RELOCATED FROM SECTION 4.05.06 REQUIREMENTS FOR NON-RESIDENTIAL LANDSCAPE –NEW LANGUAGE PREVIOUSLY REVIEWED)

1. On-site retention of native, healthy trees shall receive benefit of tree preservation credits to reduce the overall tree replacement requirements as follows:

- a. Trees equaling 8” – 13” shall receive a 1.5x credit
- b. Trees equaling 14”-20” shall receive a 2x credit
- c. Trees equaling 20” or greater shall receive a 3x credit

In order to qualify for on-site tree preservation credits, each tree proposed for retention must be evaluated by a certified arborist to ensure that the tree is healthy and compatible with the proposed development of the site.

2. Applicants will receive a preservation credits for retaining protected trees on the site. These credits shall only be applied towards tree replacement requirements created by the removal of protected trees as set forth in 4.05.0914(B)(3). These credits may be transferred only on unified multiple lot developments.

3. Preservation credits for the total DBH of protected trees retained on the site will be applied during the review of the replacement plan.

G. F. Protection of Trees During Development Activities:

5. Protective measures are required during site development in order to assure the health and survival of protected trees. Storage of construction materials or fill dirt is expressly prohibited within the tree protection area. Protective measures are required to avoid:

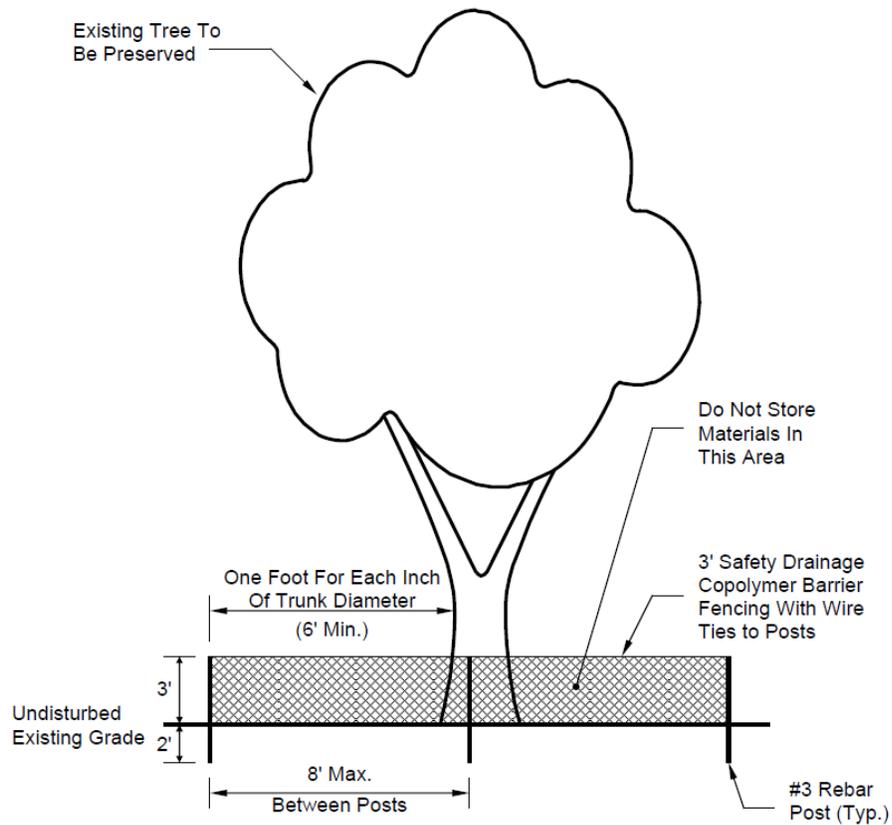
- a. Mechanical injuries to roots, trunk, and branches;
- b. Injuries by chemical poisoning;
- c. Injuries by grade changes;
- d. Injuries by excavations; and
- e. Injuries by paving.

2. A tree protection zone shall be established around each protected tree(s) as follows:

- a. If the drip line is less than six (6) feet from the trunk of the tree, the zone shall be that area within a radius of six (6) feet around the tree.
- b. If the drip line is more than six (6) feet from the trunk of the tree, but less than twenty (20) feet, the zone shall be that area within a radius of the full drip line around the tree.
- c. If the drip line is twenty (20) feet or more from the trunk of the tree, the zone shall be that area within a radius of twenty (20) feet around the tree.

d. Prior to commencement of construction, the tree protection area shall be enclosed and installed as required in the detail provided and described herein. The tree protection barricade shall be at least three (3) feet tall. The barrier shall consist of either a wood fence with 2x4 posts placed at a maximum of eight (8) feet apart, with a 2x4 minimum top rail, or a temporary wire mesh fence, chain link or other similar barrier which limits access to the protected area. The fence must remain in place through the duration of construction activities. Beyond the dripline of the canopy, a 3” mulch bed shall be established to avoid compaction from heavy machinery. Trenching close to a preserved tree on-site must be done by hand or air spading only. Preserved trees that may have root impacts resulting from the surrounding development shall be handled through hand cut root pruning practices only. Root ripping equipment is not permitted.

e. An exception shall be granted if the required protection zone prohibits access to the site. Consultation with a certified arborist is required to determine a proper access plan and provide measures to ensure protection of the tree during construction activities.



3. All development activities, except those specifically permitted by Section 4.05.0914(F)(5) 4), shall be prohibited within the tree protection zone, including any construction of buildings, structures, paving surfaces, stormwater retention or detention ponds, and temporary construction activities, including all digging, storage of construction material, and parking of construction vehicles.
4. Prior to the commencement of construction, the tree protection zone shall be enclosed within a fence or similar barrier as follows:
 - a. Wooden posts, at least one and one half (1½) by three and one half (3½) inches, shall be implanted in the ground deep enough to be stable and with at least three (3) feet visible above ground.

The wooden posts shall be placed not more than six (6) feet apart, and shall be linked together by a rope or chain.
- 4.5. Permitted activities within the tree protection zone:
 - a. Excavating or trenching by utilities service providers for installation of underground utilities. Underground utilities shall be no closer to the tree than ten (10) feet.

Placement of sod or other ground covers, and the preparation of the ground surface for such covers.
- 5.6. The root systems of protected trees shall be preserved when installing fences and walls. Postholes and trenches located close to trees shall be dug and adjusted as necessary to avoid damage to major roots. Continuous footers for masonry walls shall be ended at the point larger roots are encountered and the roots bridged.
6. In order to control air and water pollution from dust from traveling across the landscape, a detailed and site specific plan for dust control measures is required. Control measures may include, but are not limited to: sprinkling or irrigation, vegetative cover, mulch, wind breaks, or soil treatments.
- H. **G. Abused Trees:** Abused trees shall not be counted toward fulfilling tree replacement or preservation requirements. The City may require the abused trees to be replaced and are subject to penalties provided for in LDC section 11.08.04. A tree shall be considered abused if one (1) or more the following actions have taken place:

1. Significant damage has been inflicted upon any part of a tree, including the root system by machinery, storage of materials, soil compaction, excavation, vehicle accidents, chemical application, or change to the natural grade;
2. Damage inflicted to or cutting upon a tree ~~that permits~~ **which causes** infection or pest infestation;
3. ~~Cutting upon~~ **Pruning** any tree ~~that~~ **to** permanently reduces the function of the tree or causes it to go into shock;
4. ~~Cutting upon~~ **Pruning** a tree ~~that~~ **to** destroys its natural shape;
5. Hatracking;
6. Removal of bark which is detrimental to the tree;
7. Tears and splitting of limb ends or peeling and stripping of bark;
8. Use of climbing spikes, or cutting into the tree for the purposes of climbing on any species of tree for any purpose other than total removal, except as the same may be required to comply with federal, state or local laws and regulations, including, but not limited to, the Occupational Safety and Health Act; and
9. Girdling a tree with the use of wires (e.g., use of weed eater, mower damage, **or improper cabling around branches**).

4.05.15 Heritage Trees

A heritage tree is a tree designated by the City as irreplaceable due to its size, age, and its historic, aesthetic, or cultural significance.

A. Designation Criteria

To be designated a heritage tree; the following criteria must be met

1. The tree must be indigenous to the region.
2. The tree must be in apparently healthy growing condition
3. The tree must have a DBH of at least 36" and;
4. The tree must possess significance by meeting one or more of the following criteria:
 - a. The tree has a documented association with a historical figure, property, or significant historical event.
 - b. The tree is associated with a historic landmark or site as defined in this LDC.
 - c. The tree was planted as a commemorative, memorial or tribute;
 - d. The tree was planted during a particularly significant historical era.
 - e. The tree is distinctive due to a functional or aesthetic relationship to a natural resource, such as trees located along stream banks or trees located along dune or ridge lines
 - f. The tree is of exceptional or unique architecture.
 - g. The tree is identified by the city as having significant arboricultural or horticultural value to the citizens of the city.
 - h. The tree is identified as playing a significant role in the landscape or architecture of a specific location.

B. Categories

There shall be 2 categories of heritage trees: Designated Heritage Tree and Protected Heritage Tree

1. *Designated Heritage Tree (Private Property)*: The City shall provide the following incentives to encourage private property owners (Owner) to preserve and protect Designated Heritage Trees.
 - a. The City may provide to the Owner recommendations regarding the proper care and maintenance of a Designated Heritage Tree.
 - b. The City shall provide aid in the evaluation of a Designated Heritage Tree every four years. The evaluation shall be conducted by City staff and an International Society of Arboriculture (ISA) Standards certified arborist for the purposes of determining health and wellness of the tree, evaluating and diagnosing potential biotic or abiotic disorders and recommending

appropriate treatments. The City shall pay 25% of the reasonable costs of this evaluation and findings shall be provided to both parties.

- c. A Designated Heritage Tree may be pruned by the Owner. The Owner is encouraged to trim a Designated Heritage Tree in accordance with ISA standards so ~~that~~ the pruning ~~would~~ **does** not reduce the tree's height or crown diameter, such that it alters the tree's general appearance, increase the tree's susceptibility to insects or disease, or otherwise increase its risk of mortality. Upon request, the City **or a qualified designee** will consult with the Owner regarding acceptable pruning methods and techniques.

If considering removal or ~~an~~ **actions which result in that would** damage **of** a Designated Heritage Tree, the City will, upon request, consult with the Owner regarding possible alternatives to address the condition(s) necessitating remove or potential damage to the tree.

2. *Protected Heritage Tree:* A Protected Heritage Tree is any Designated Heritage Tree located on public property or one located on private property where the property owner (Owner) has encumbered his/her property with an instrument provided by the City and recorded by the Owner with the County of Nassau. The purpose of the instrument is to inform future Owners that the property contains a Designated Heritage Tree. The recorded instrument shall reference the City of Fernandina Beach Heritage Tree Program and include a statement that prior approval is required by the Owner from the City of Fernandina Beach for any act that may result in potential damage or removal of the Protected Heritage Tree. Such tree shall be classified as a Protected Heritage Tree. Said instrument cannot be revoked without consent of the Fernandina Beach City Commission. In cases where the proposed Protected Heritage Tree is **planted located** on or near the property line, the Owners of both properties must be in agreement as to the designation of the tree as a Protected Heritage Tree.

The following are incentives or benefits, in addition to those listed under Designated Heritage Tree (Private Property), above, bestowed upon the Owners of those trees designated as Protected Heritage Trees. The owner of a Protected Heritage Tree is eligible for percent matching funds from the City of Fernandina Beach Tree Trust Fund relating to proper care and maintenance of a Protected Heritage Tree. Matching funds may be applied for the following:

- a. **Removing diseased or insect-infested wood, removing broken or damaged limbs and by engaging in regular maintenance pruning to promote continued vigor of the tree under advisement by an ISA certified Arborist.** Pruning of a Protected Heritage Tree every five years to ISA standards. The City shall pay 25% of the reasonable costs for pruning of a Protected Heritage Tree, as determined by the City Manager **or designee.**
- b. Evaluation of a Protected Heritage Tree every ~~2~~ **3-4** years or in emergency situations as deemed by the City Manager. The City shall pay ~~50%~~ **100%** of the reasonable costs for an evaluation by an ISA certified Arborist for the purposes of determining health and wellness of the tree, evaluating and diagnosing potential biotic or abiotic disorders and recommending appropriate treatments.
 1. Treatment of a Protected Heritage Tree as necessary. The City shall pay 25% of the reasonable costs of applying treatments or other remedial actions necessary to maintain the health of a Protected Heritage tree, manage pests or complete other Plant Health Care (PHC) relating to the Protected Heritage Tree
 2. A heritage tree shall not be removed except by specific authorization from the City Commission.

3. Any person who owns, controls, has custody or possession of any real property within the city shall maintain and preserve all heritage trees located thereon in a state of good. Failure to do so shall constitute a violation of this section.
4. No person shall willfully damage, injure, destroy, move or remove a heritage tree except pursuant to the terms and conditions of a permit granted pursuant to this article.

C. Construction/grading activity

Any owner or person who conducts any grading or construction activity on property shall do so in such a manner as to not threaten the health or viability or cause the removal of any heritage tree. The City Manager **or designee** may impose conditions on any development permit to require construction fencing and/or the use of protective grading methods to assure compliance with this section. In addition to said conditions, the following shall apply:

1. Except as otherwise provided in this section, excavation adjacent to any heritage tree shall not be permitted where material damage to the root system may result. When proposed developments encroach into the drip line of any heritage tree, special construction techniques to allow the roots to breathe and obtain water may be required as a condition(s) to the approval of any application for a building, zoning permit or removal permit.
2. The existing ground surface within the drip line of any heritage tree shall not be cut, filled, compacted or pared except for existing, permitted encroachments such as sidewalks or as otherwise expressly approved by the City Manager **or designee** pursuant to an approved arborist's report. Tree wells may be used where advisable.

D. Nominations

Any citizen, property owner, or City official may nominate a tree to be designated as a heritage tree. **Nominations must be accompanied with permission from the property owner where the tree stands.** Consideration of the nomination shall follow the procedures set forth in Chapter 11.

E. Recognition

Every designated heritage tree may be permanently marked identifying it as such and advising that ~~penalty for~~ unauthorized removal will result in a fine as stated in Section 11.08.04. The requirement to permanently mark each designated heritage tree is advisory only and not a legislated mandate. Failure of the City to mark such tree shall not adversely impact the City in enforcing the provisions of this section.

CHAPTER 11

11.08.04 Specific Penalties for Violation of Tree Permit Requirements

- A. When unauthorized removal of trees has occurred, the owner **and/or developer or contractor** shall submit a restoration plan within thirty (30) days after being cited for the violation. At a minimum, the owner or developer **or contractor** shall replace, "one for one" (one (1) inch for every inch of DBH), any and all trees that are removed without authorization. No preservation credits shall be applicable for the unauthorized removal of trees. Failure to submit a restoration plan within thirty (30) days shall result in a double fine. In the event that an insufficient trunk of the removed tree exists to determine replacement requirements, including the size and number of required replacement trees, these facts shall be determined by the City Manager based upon any available information, including photographs or a survey of trees of the same species existing within the City. In making such determinations, the opinion of the City Manager shall control. If the City Manager cannot determine with reasonable certainty the number of protected trees removed, the violation shall be corrected by paying a civil fine of up to one dollar (\$1.00) per square foot of land cleared. All amounts received by the City pursuant to this section shall be deposited in the Tree Replacement Fund.
- B. In evaluating a proposed restoration plan, the City shall consider the following:
1. The cross-sectional area of trunk(s) removed;
 2. The specific aesthetic character of the tree removed;
 3. Any special function the tree carried out as a screen or buffer;
 4. Amount of other trees preserved on the site, and the opportunities for planting additional trees;
 5. Any short-term or long-term negative environmental impacts from the unauthorized tree removal, including, but not limited to, erosion, siltation, impacts on listed plant and/or animal species, water circulation patterns, water quality standards, and floodplain capacity or conveyance (including, but not limited to, swales or overland sheet flow, where pertinent).
- C. The City Manager shall review the proposed restoration plan. The City Manager may require any bonding or other guarantees deemed necessary to insure the performance and completion of the restoration plan, and/or the maintenance and survival of the implemented restoration plan. If a bond is required, the bond amount shall be one dollar (\$1.00) for every square foot of land cleared in violation of this section, or \$12,500 if a heritage tree has been removed.
- D. The City Manager shall, within 30 days of submission of a restoration plan, either:
1. Approve the restoration plan after rendering a finding that implementation of the restoration plan, will ensure restoration of the quality and screening functions previously provided on site, according to the criteria set forth herein by the removed or otherwise destroyed trees; or
 2. Deny the restoration plan and levy appropriate fines based on a finding that said restoration plan, upon implementation, cannot restore the quality and screening functions previously provided by the removed or otherwise destroyed trees; or
 3. Deny said plan and inform the owner or developer **or contractor** of what the City requires in order to approve said restoration plan. Such plans shall be resubmitted within thirty (30) days of the denial. Failure to resubmit or appeal within this time period shall subject the property owner to a fine of \$100.00 per day.
- E. If the City Manager determines that implementation of a restoration plan cannot replace the quality and screening functions of the trees removed or otherwise destroyed then the City Manager may assess the following fines for the unauthorized removal of trees in addition to any other fines required pursuant to other City ordinances or by state or federal rules and laws:
1. \$125.00 per inch DBH for each tree removed that was not located in a designated wetland, coastal upland protection zone, approved upland landscaped buffer areas or conservation easement, tract or similarly designated area; and

2. \$250.00 per inch DBH for each tree removed that was located within a designated wetlands, coastal upland protection zone, approved landscape buffer areas or conservation easement, tract or similarly designated area. This shall include landscape buffer areas previously required as part of an approved landscape plan or other development plan or order, upland buffers around wetlands and habitat or riparian protection zones; and
 3. \$12,500.00 for each heritage tree removed.
- F. No further City permits for the subject property or project shall be issued or inspections provided until all violations of this article are corrected or a restoration plan has been accepted by the City Manager. No certificate of occupancy shall be granted unless and until the restoration plan is implemented or a performance bond satisfactory to the City and its attorney is submitted and approved by the City.

OFFICE USE ONLY

REC'D: 2/18/16 BY: KG

PAYMENT: \$ 050 TYPE: #52160

APPLICATION #: 2016-000267

CASE #: 2016-09

BOARD MEETING DATE: March 16



APPLICATION FOR VARIANCE FROM THE LDC

APPLICANT INFORMATION

Owner Name: VyStar Credit Union f.k.a. Jax Navy Credit Union (Attention: Brian Kitchens)

Mailing Address: 4949 Blanding Blvd, Jacksonville FL 32210

Telephone: 904.908.2708 **Fax:** NA

Email: kitchensb@vystarcu.org

Agent Name: Prosser, Inc. (Attention: Duncan Ross)

Mailing Address: 13901 Sutton Park Drive South, Suite 200, Jacksonville Florida 32224

Telephone: 904.739.3655 **Fax:** 904.730.3413

Email: dross@prosserinc.com

PROPERTY INFORMATION

Street Address: 1900 S. 14th Street, Fernandina Beach, Florida 32034

Parcel Identification Number(s): 00-00-31-127A-0012-0000

Lot Number: 12 **Block Number:** First Coast Estates, Book 5 Page 205

PROJECT INFORMATION

Variance(s) requested from LDC Section(s): See attached List of Requests/Justifications - Exhibit 1

Brief description of work proposed (use additional sheets if necessary):

VyStar has owned the Fernandina Beach Branch since 2002. The site and building was originally developed in 1987. VyStar seeks to redevelop and modernize the building on the property with their new building prototype that reflects their current needs and requirements. The limits of the redevelopment activity is the existing building and drive-through facilities. The existing building and drive through facilities will be demolished to accommodate a smaller Branch building and relocated drive-through facilities. A majority of the existing undisturbed vegetation on the site will remain undisturbed.

In order for an application for a variance to be approved or approved with conditions, the BOA or the HDC must make a positive finding with regard to each of the provisions below. The applicant has the burden of proof of demonstrating that the application for a variance complies with each of the requirements. Please explain in detail how your case meets the following requirements:

City of Fernandina Beach Community Development Department · 204 Ash Street Fernandina Beach, FL 32034

P: 904.310.3135 F: 904.310.3460 www.fbfl.us/cdd

Revised June 2015

Page 3 of 7

1. **Special Conditions:** Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. Special conditions or circumstances do not result from actions of the applicant and are not based on a desire to reduce development costs.

See Exhibit 2 attached

2. **Special Privilege:** Granting the variance does not confer upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district.

See Exhibit 2 attached

3. **Literal Interpretation:** Literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.

See Exhibit 2 attached

4. **Minimum Variance:** The variance requested is the minimum variance needed that will make possible the reasonable use of the land, structure, or building.

See Exhibit 2 attached

5. **General Harmony:** Granting the variance will be in harmony with the general intent and purpose of the Land Development Code and Comprehensive Plan.

See Exhibit 2 attached

6. Public Interest: Granting the variance is compatible with surrounding properties, will not cause injury to the area involved, or otherwise be detrimental to the public health, safety, welfare or environment.

See Exhibit 2 attached

If your property is located within the Historic Districts or the Community Redevelopment Area, please fill out responses to the supplemental variance criteria, attached as Appendix A, on a separate sheet of paper.

SIGNATURE/NOTARY

The undersigned states the above information is true and correct as (s)he is informed and believes.

2/17/16 _____
Date Signature of Applicant

STATE OF FLORIDA }
COUNTY OF Duval ss }
NASSAU

Subscribed and sworn to before me this 17 day of February, 2016
Carrie L. Smith _____ Carrie L. Smith _____ 12/28/18
Notary Public: Signature Printed Name My Commission Expires

Personally Known OR Produced Identification _____ ID Produced: _____





OWNER'S AUTHORIZATION FOR AGENT REPRESENTATION

I /WE Lystar Credit Union
(print name of property owner(s))

hereby authorize: Prosser, Inc.
(print name of agent)

to represent me/us in processing an application for: _____
(type of application)

on our behalf. In authorizing the agent to represent me/us, I/we, as owner/owners, attest that the application is made in good faith and that any information contained in the application is accurate and complete.

[Signature]
(Signature of owner)

(Signature of owner)

Bryan J. Kitchen
(Print name of owner)

(Print name of owner)

VP - Purchasing of Facilities

STATE OF FLORIDA }
 ss }
COUNTY OF NASSAU }

Subscribed and sworn to before me this 17 day of December, 2015.

[Signature]
Notary Public: Signature

Daniel Hicks
Printed Name

4-20-17
My Commission Expires

Personally Known X OR Produced Identification _____ ID Produced: FDL

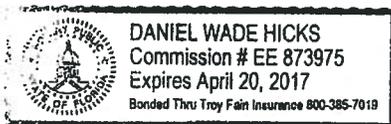


Exhibit 1

LIST OF VARIANCE REQUESTS & JUSTIFICATION FOR RELIEF TO THE LDC

Revised March 2, 2016

VyStar Credit Union

1900 S. 14th Street, Fernandina Beach, 32034

Parcel ID#: 00-00-31-127A-0012-0000

General Statement/Synopsis

These variances are required to support the redevelopment of an existing building/site located at 1900 S. 14th Street which was originally developed in 1987. The proposed redevelopment of the site involves the demolition of the existing VyStar Branch which is ±5,719 square feet of enclosed area. The new building development will be constructed generally within the footprint of the demolished existing building and comprise ±4,000 square feet of enclosed area. The proposed redevelopment project as depicted herein exceeds the LDC's requirement for at least 20 percent of the gross land area be landscaped and maximizes the preservation of existing trees. The amount of landscaped area in the proposed redevelopment project is approximately 33 percent of the gross land area. In order to redevelop the Property and avoid the substantial loss of useable area, parking, drive-through lanes and internal driveway width for circulation, a number of variances to seek relief from certain LDC standards is required.

The strict interpretation of the LDC impedes the ability to redevelop the Property, and it is impractical to meet all current development standards for perimeter and landscape area while simultaneously maximizing the utility of the Property for the proposed use. It is not practical to remove existing pavement to meet LDC requirements for a site which is already significantly constrained and has been developed in its current configuration since 1987. These variances include relief for the entire Property; however, the proposed redevelopment activity is limited to a portion of the Property.

Please find below the list of variance requests for the property.

1. 4.05.12.A; 4.05.12.C; Table 4.05.12(C), 4.05.12.H.1&2 & 4.05.12.I – Buffer Requirements

The current LDC requires a minimum landscaped buffer of 15 feet on the property along the eastern (rear) boundary and the adjacent R-2 Zoning District. The landscape buffer requires a minimum amount of plant material to be installed and certain uses are not permitted within the buffer. It is impractical to demolish and/or modify existing site improvements which are not part of the redevelopment construction activity and which has been in there current configuration since 1987. There is a pond embankment and parking lot drive aisle along the eastern property boundary located within the required buffer area. Further, there is an existing underground sanitary sewer line along the eastern property line (where the 15 foot buffer is required) which prevents the installation of trees due to conflicts with the underground utility line. There is no change in use or intensity along the eastern property boundary and the adjacent property includes an undisturbed vegetative screen which provides an adequate buffer area between the properties. **This variance request seeks to eliminate the 15 foot buffer and landscape requirements along the eastern boundary line and allow the existing conditions which are not compliant with the LDC to remain.**

Exhibit 1

2. **4.05.07.C.6; 4.05.07.C.11 & 4.05.07.C.12 – Perimeter landscaping**

The current LDC requires a minimum landscaped area of not less than ten (10) feet in width around the perimeter of the parking lot to provide visual screening from the right-of-way; one (1) shade tree for each 20 linear feet of required landscape perimeter area and a visual screen running the entire length of the perimeter landscaped area. The existing drive aisle and parking area improvements are located within 10 feet of the north and south property boundary. These improvements also reduce the amount of landscape area used to determine and meet the LDC's tree and screening requirements. There is a significant amount of established landscaping along the south property boundary which is proposed to remain generally undisturbed as part of the redevelopment project. Along the north property boundary there is 15 foot perpetual drainage easement of which 7.5 feet is located on the property and any new landscape material and irrigation would be subject to removal in the event the easement is disturbed to access the underground infrastructure for repair or maintenance. Further, to meet the intent of the LDC and accommodate safe pedestrian circulation on the property, a separate concrete sidewalk is identified along a portion of the south property boundary to provide connectivity between the rear parking area and the building. This sidewalk is located within the required 10 foot landscape area and is of a higher priority than meeting landscape requirements of the LDC. **This variance request seeks to reduce the landscape area along the north and south property boundary from 10 foot in width to at least 7 feet in width; allow for a sidewalk within the landscaped area along the south property boundary; reduce the tree requirements along the north and south property boundary from one (1) shade tree for each 20 linear feet to one (1) shade tree for each 50 linear feet of required landscape perimeter area; and, eliminate the visual screen requirements in areas which are not developed as part of the redevelopment project.**

3. **7.01.04.A.7 – Parking Space Requirements**

Per the LDC, the number of parking spaces allowed on the property for the proposed use is calculated at 14 spaces (includes 10% overage). This amount of parking is not economically or operationally viable to support the use and would require a large part of the site to be set-a-side and utilized for no productive uses to accommodate the redevelopment project. Over 50 percent of the 14 parking spaces would be utilized for branch employees. The current number of parking spaces on the property is 41, which includes two (2) ADA accessible parking spaces. The existing building and site improvements were constructed in 1987 prior to the current regulations in the LDC. The property is a separate parcel and all off-street parking must be accommodated on-site to serve the maximum parking demand which is generated by the establishment. There is no ability to provide on-street or off-site parking to accommodate customer parking requirements. **This variance request seeks to increase the number of minimum parking spaces for the proposed building above the 10% overage from 14 to 41 which equates to the amount of parking provided today.**

Exhibit 1

4. 7.01.04.C.2 – Parking lot design requirements: Parking Material

The redevelopment project will maintain certain site improvements including 31 of the 41 parking spaces. Only 10 of the 41 parking spaces are a result of new construction activity. The LDC requires the use of pervious parking materials for a minimum of 75% of the required parking. It is impractical to demolish existing site improvements which are not part of the redevelopment construction activity and which have been in its current configuration since 1987. The proposed redevelopment activity is limited to a portion of the property. **This variance request seeks to decrease the amount of pervious parking from 75% to 24% of the required parking and make it applicable to the 10 new spaces to be constructed as part of the redevelopment project.**

5. 7.01.04.C.4. – Parking lot design requirements: Future Shared Parking

The LDC requires that all non-residential site development shall be designed to allow for vehicular cross access to adjacent non-residential properties. It is impractical to demolish existing site improvements which are not part of the redevelopment construction activity and which have been in its current configuration since 1987. The proposed redevelopment activity is limited to a portion of the property and the site is not designed to accommodate cross access with adjoining properties. This requirement would require the reconfiguration of existing circulation, parking areas and the removal of established trees and landscaping which would be detrimental to the redevelopment of the property. In addition, the adjoining non-residential properties are both developed and do not accommodate reciprocal stub-outs for cross access connectivity. The future redevelopment of the adjoining non-residential properties is unknown and it is unreasonable for VyStar to make these improvements which alters their site configuration under these circumstances. **This variance request seeks to eliminate the requirement to provide for vehicle cross access to adjacent non-residential properties.**

6. 7.01.04.D.4. – Pedestrian Circulation

The LDC requires that new and redeveloping non-residential properties shall, where feasible, be required to provide or enhance pedestrian connectivity to adjacent residential neighborhoods. The proposed redevelopment activity is limited to a portion of the property and the site is not designed to accommodate pedestrian connectivity from the residential neighborhood to the east. In addition, there is no existing pedestrian connection or accessible route from the adjoining residential property boundary and the nearest public street which is Perimeter Park Road West. The VyStar property is immediately adjacent to an alley that serves residential homes that front on Perimeter Park Road West. The alley and adjoining land are not public rights-of-way and it is unknown if public access across these lands is permitted. It is not feasible to provide a pedestrian connection to the adjoining residential neighborhoods due to the reasons stated above. **This variance seeks to eliminate the requirement to provide for pedestrian connectivity to adjacent residential neighborhoods.**

Exhibit 1

7. 7.01.07.C. – Drive-Through Facilities and Stacking Lanes

The proposed building provides four (4) drive-through lanes for customer banking. The LDC requires the proposed development to accommodate 20 vehicles in stacking lanes for the drive through facilities. The existing building and site improvements were constructed in 1987 prior to the current LDC regulations pertaining to stacking lane requirements. The property's irregular shape accommodated the original development plan based on the LDC requirements at the time, but does not today due to the changes in LDC requirements since 1987. Further, the drive-through lanes have been relocated to the rear of the building to meet the LDC intent to mask parking areas from public view and create a more pedestrian friendly environment. The proposed site design and drive-through facilities accommodates up to 13 vehicles in designated stacking lanes. **This variance request seeks to decrease the number of vehicles stacking spaces from 20 to 13.**

Exhibit 2

Please find below responses in italics to the Variance questions.

1. **Special Conditions: Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. Special conditions or circumstances do not result from actions of the applicant and are not based on a desire to reduce development costs.**

The Property is irregularly-shaped and has the characteristic of a parallelogram with the existing buildings located in the center of the site with vehicle circulation surrounding the building. The Property was originally developed in 1987 and is built-out. The building's placement causes a constraint to accommodate redevelopment activity while still meeting driveway aisle width and traffic circulation. The intent of the redevelopment project is to minimize impact to the existing mature landscaping and maximize reuse of the existing site infrastructure and improvements. Modern development typically requires a developable parcel which is equally wide as its depth. The Property has greater depth than width and limits the size and placement of the building while still accommodating efficient circulation and location of drive through facilities. The existing site improvements (i.e., parking/vehicle use areas/stormwater pond) generally extend to the north, east, south and west Property boundaries resulting in minimal/no area to provide perimeter landscape area/buffers required by the current LDC. These conditions are specific and unique this Property.

The safe and efficient maneuvering of vehicles and pedestrians throughout the Property is of a higher priority than meeting landscape requirements of the Land Development Code (LDC). These variances are necessary to allow for the successful and continued use of the Property and support private investment/redevelopment within an older commercial corridor. Therefore, this request is specific to the Property and cannot be construed as a common issue to sites throughout the city in the zoning district or a desire to reduce development costs.

2. **Special Privilege: Granting the variance does not confer upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district.**

The practical difficulty is that the conditions warranting Variances have existed for some time and are currently grandfathered under the current LDC. However, grandfathering only provides for limited exemptions to the current LDC and do not extend to redevelopment projects. The Property has been in continual operation since its establishment in 1987. The existing site improvements (i.e., parking/vehicle use area/stormwater ponds) extend to the

Exhibit 2

north, east, south and west Property boundary resulting in minimal/no area to install perimeter landscape area/buffers required under the current LDC without removing existing useable area. Without being granted relief for the required perimeter landscape/buffer requirements, it would not be possible to provide adequate parking spaces for the establishment and vehicle circulation to meet driveway/aisle standards while utilizing the Property to maximize its long-term use and without negatively affecting the ability to accommodate its reuse. There is no special privilege granted or conferred upon the Property by the request of these variances.

- 3. Literal Interpretation: Literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.**

The requested variances to the perimeter and landscape areas will permit the VyStar to redevelop the Property while ensuring adequate parking spaces and circulation which meets LDC standards and landscape requirements as much as practical. The variance requests are not based on the desire to reduce the cost of redeveloping the Property. The proposed redevelopment project as depicted herein exceeds the LDC's requirement for at least 20 percent of the gross land area be landscaped and maximizes the preservation of existing trees. The amount of landscaped area in the proposed redevelopment project is approximately 33 percent of the gross land area.

The proposed redevelopment effort represents a significant cost by demolishing an existing building and rebuilding a new structure as well as making site improvements to maintain circulation, access and parking. Without the requested variances the proposed redevelopment of the Property would not be economically feasible as it reduces the site's useable area to support the use of the Property. It is in the public interest to allow for existing conditions to be brought into compliance with current regulations via the City's Variance process. It would be impractical to require the Property to be in strict compliance with the LDC and the additional redevelopment costs would not provide a proportionate increase to the public benefit.

- 4. Minimum Variance: The variance requested is the minimum variance needed that will make possible the reasonable use of the land, structure, or building.**

The requested variances reflect the minimum number necessary to allow VyStar to redevelop the Property and bring into compliance a number of zoning, building and life safety code requirements. The redevelopment of the Property is in the public interest and does not endanger the health, safety and welfare of the public, current or future area residents or workers. VyStar is proposing to keep undisturbed a significant amount of mature landscaping

Exhibit 2

and will not disturb a majority of the existing site improvements as depicted on the Conceptual Site Plan which is attached herein.

- 5. General Harmony: Granting the variance will be in harmony with the general intent and purpose of the Land Development Code and Comprehensive Plan.**

Since 1987, the LDC has been modified resulting in the site no longer being compliant with certain standards. The redevelopment of the Property is consistent with the Comprehensive Plan. The intent of the LDC is to allow relief of specific requirements from the LDC via the Variance provision when certain development requirements cannot be satisfied. The variances sought are in harmony with the spirit and intent of the type of relief permissible under the LDC.

The LDC through its landscape regulations, attempts to improve the aesthetic and economic viability of existing sites by requiring that new improvements comply with the current LDC. In this case, VyStar is proposing to comply with the LDC as much as is reasonably practical on an existing developed site. A significant amount of mature landscaping is proposed to remain undisturbed. The variances requested allow the Property to be brought up to the current LDC standards and rectifies issues surrounding past site improvements that were compliant with the Zoning Code at the time of the original development.

- 6. Public Interest: Granting the variance is compatible with surrounding properties, will not cause injury to the area involved, or otherwise be detrimental to the public health, safety, welfare or environment.**

The requested variances will not be detrimental to the health, safety, or welfare of the general public. The requested variances will not create additional public expense, create nuisances or cause conflict with any other applicable governing laws. The proposed redevelopment of the Property is consistent with the surrounding area and will not alter the essential character of the surroundings. The proposed redevelopment will stabilize the immediate vicinity and promote private reinvestment. The redevelopment project will provide positive and long-term benefits to the surrounding properties. The granting of the requested variances will assist in promoting the re-use and redevelopment of existing developed Property that would otherwise be unable to accommodate the full requirements of the current LDC. The redevelopment of the Property is a positive investment activity for the area.

Dec 7000.00
7010.50

SPECIAL WARRANTY DEED
Parcel #00-00-30-127A-0012-0000

Doc# 200212606
Book: 1049
Pages: 1004 - 1005
Filed & Recorded
04/16/2002 12:42:30 PM
J. M. OXLEY JR
CLERK OF CIRCUIT COURT
NASSAU COUNTY, FLORIDA
DEED DOC STAMP \$ 7,000.00
RECORDING \$ 9.00
TRUST FUND \$ 1.50

Book 1049 Page 1004

THIS SPECIAL WARRANTY DEED, Made this 15th day of April, 2002, between **FIRST COAST COMMUNITY BANK**, a Florida banking association, and having its place of business at 1900 S. 14th Street, Fernandina Beach, Florida 32034, hereinafter called the grantor, and **JAX NAVY CREDIT UNION**, a credit union chartered under the laws of the State of Florida,, whose address is 4949 Blanding Boulevard, Jacksonville, Florida 32210, hereinafter called grantee,

The Above Space for Official Use Only

WITNESSETH: That the grantor, for and in consideration of the sum of **TEN AND NO/100 DOLLARS** and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee all that certain land, situate in Nassau County, Florida, viz:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.
Subject to easements, covenants and restrictions of record and taxes levied subsequent to December 31, 2001.
TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.
TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor hereby covenants with said grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the said grantor.

IN WITNESS WHEREOF, the grantor has caused these presents to be executed in its name, and its Corporate Seal to be hereto affixed by its proper officer thereunto duly authorized, the day and year first above written.

Signed, Sealed and Delivered
in the Presence of:

First Coast Community Bank, a Florida
banking association

Mary E. Jordan
Mary E. Jordan
Calvin E. Hayden
Calvin E. Hayden

James M. Townsend
By: James M. Townsend, President

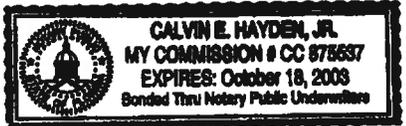
STATE OF FLORIDA
COUNTY OF NASSAU

The foregoing instrument was acknowledged before me this 15th day of April, 2002, by James M. Townsend, the President of First Coast Community Bank, a Florida banking association, on behalf of the bank, and who did/did not take an oath.

Calvin E. Hayden, Jr.
NOTARY PUBLIC

(SEAL)

- Personally known
- Identification Produced



RECORD AND RETURN TO:
Calvin E. Hayden, Esquire
200 W. Forsyth Street, Suite 417
Jacksonville, Florida 32202

THIS INSTRUMENT PREPARED BY:
Calvin E. Hayden, Esquire
200 W. Forsyth Street, Suite 417
Jacksonville, Florida 32202

EXHIBIT "A"

A portion of Cashen Lot Twenty-eight (28), Section Thirty (30), Township Three (3) North, Range Twenty-eight (28) East, Nassau County, Florida. According to plats recorded in the public records of said county in Plat Book "O", page 59 and Plat Book 1, page 5. Said portion being more particularly described as follows:

For a POINT OF REFERENCE commence at a point where the Northerly right of way line of Sadler Road, (a One Hundred (100.0) foot right of way) intersects with the Easterly right of way line of South Fourteenth Street Extension, (a One Hundred (100.0) foot right of way) and run North Six (06) degrees, Thirty-seven (37) minutes, Forty-two (42) seconds East along said Easterly right of way a distance of Eight Hundred Seventy-seven and Seventy-four Hundredths (877.74) feet to the Southerly line of Lot Twenty-eight (28) aforementioned for the POINT OF BEGINNING.

From the POINT OF BEGINNING thus described continue North Six (06) degrees, Thirty-seven (37) minutes, Forty-two (42) seconds East along said right of way a distance of Two Hundred (200.0) feet; run thence North Eighty-four (84) degrees, Fifty (50) minutes, Nine (09) seconds East a distance of Three Hundred Six and Forty-seven Hundredths (306.47) feet; run thence South Six (06) degrees, Thirty-seven (37) minutes, Forty-two (42) seconds West a distance of Two Hundred (200.0) feet to the Southerly line of Lot Twenty-eight (28) aforementioned; run thence South Eighty-four (84) degrees, Fifty (50) minutes, Nine (09) seconds West along said Southerly line, a distance of Three Hundred Six and Forty-seven Hundredths (306.47) feet to the POINT OF BEGINNING.

The bearings used in the foregone description refer to Charles E. Bassett and Associates map as North Six (06) degrees, Thirty-seven (37) minutes, Forty-two (42) seconds East along South Fourteenth Street Extension.

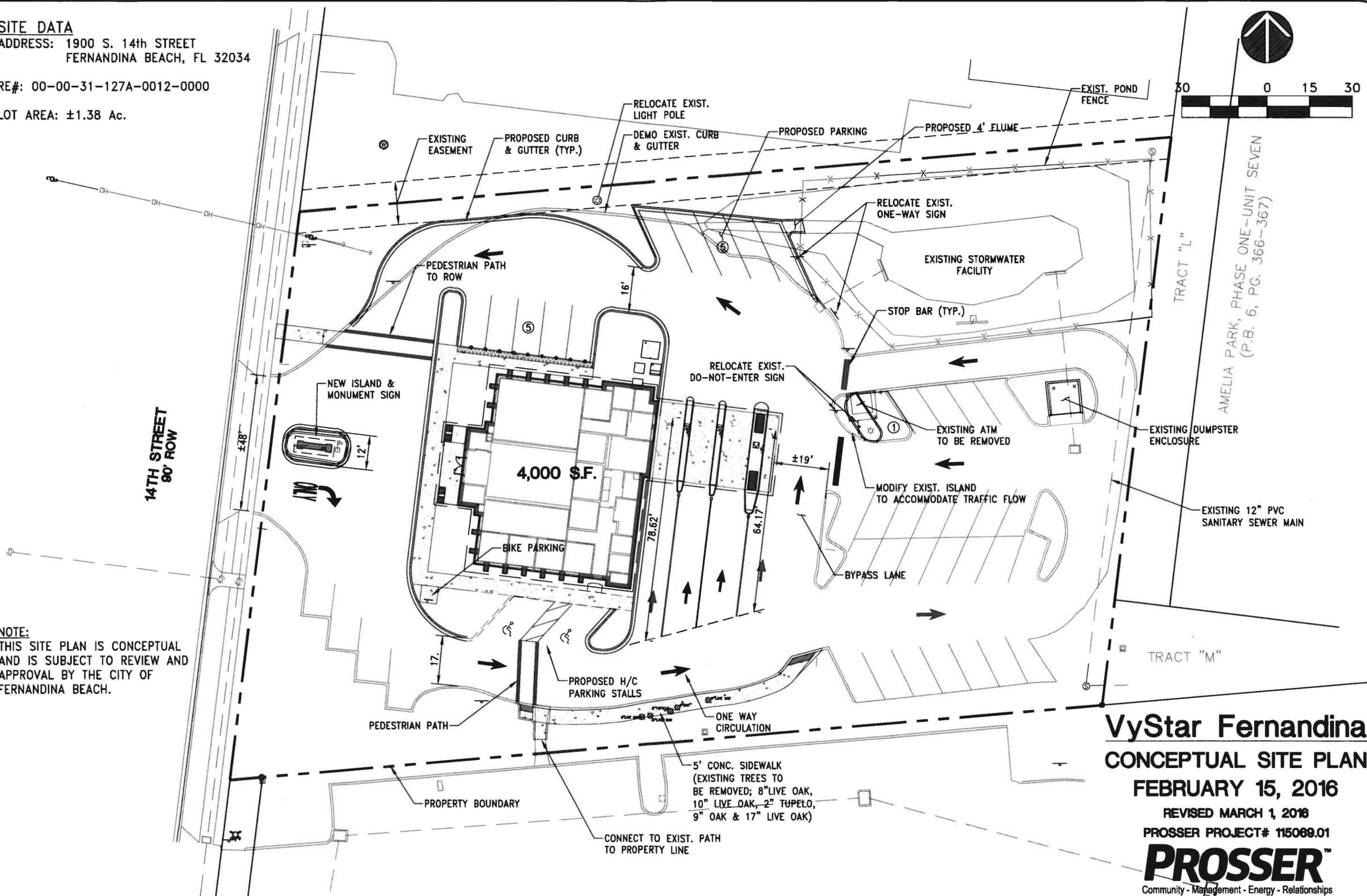
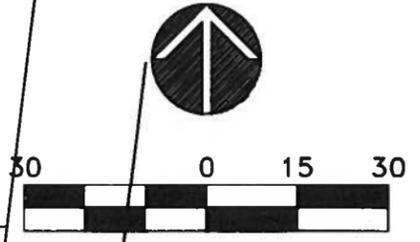
OTHERWISE KNOWN AS LOT 12, FIRST COAST ESTATES, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 5, PAGE 205 OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA.

SITE DATA

ADDRESS: 1900 S. 14th STREET
FERNANDINA BEACH, FL 32034

RE#: 00-00-31-127A-0012-0000

LOT AREA: ±1.38 Ac.



NOTE:
THIS SITE PLAN IS CONCEPTUAL
AND IS SUBJECT TO REVIEW AND
APPROVAL BY THE CITY OF
FERNANDINA BEACH.

**VyStar Fernandina
CONCEPTUAL SITE PLAN
FEBRUARY 15, 2016**

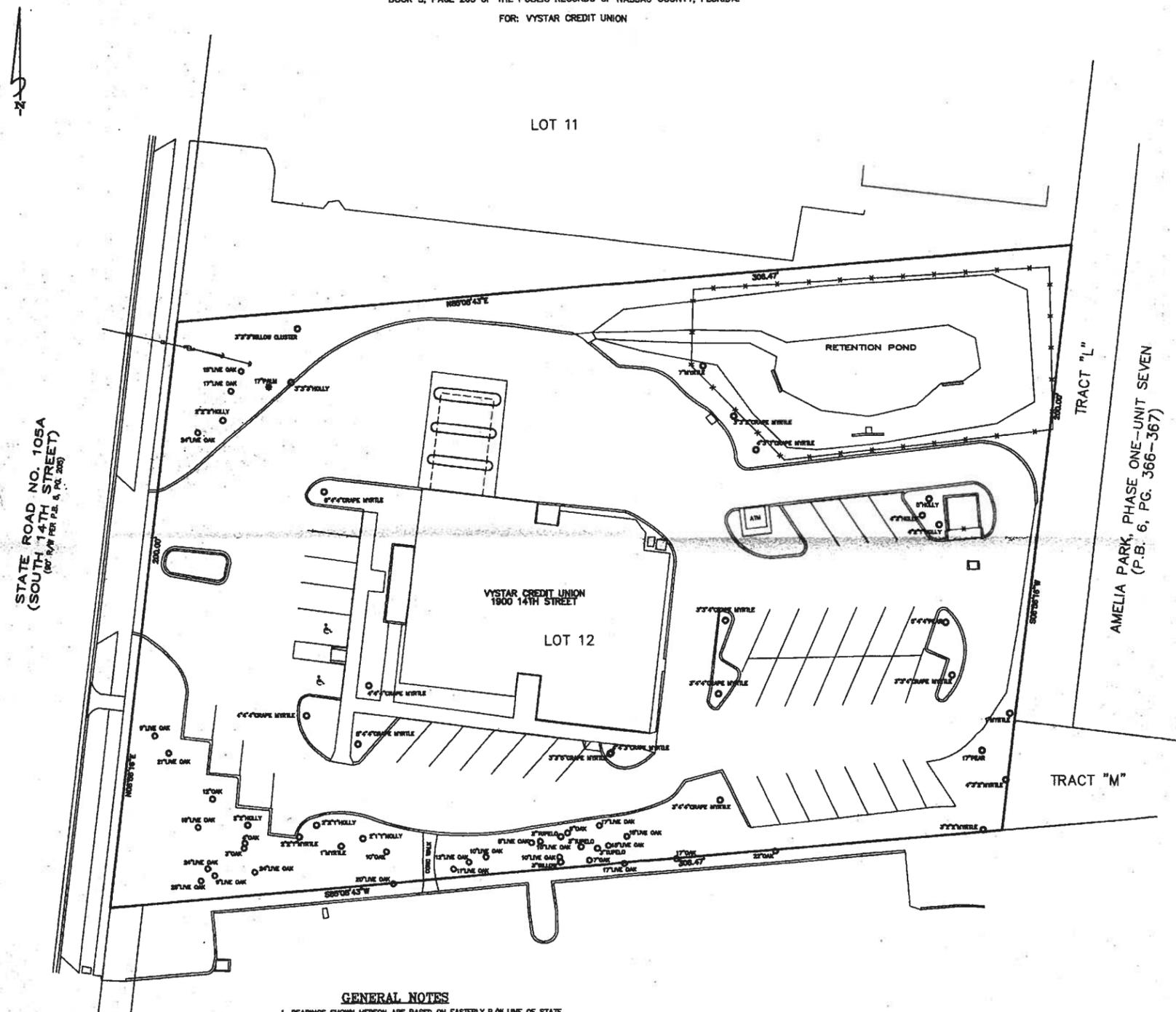
REVISED MARCH 1, 2016
PROSSER PROJECT# 115069.01



Map Showing A Specific purpose Survey

LOT 12, AS SHOWN ON THE PLAT OF FIRST COAST ESTATES, RECORDED IN PLAT BOOK 5, PAGE 205 OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA.

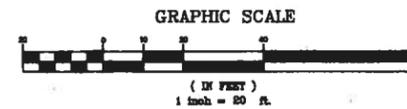
FOR: VYSTAR CREDIT UNION



GENERAL NOTES

1. BEARINGS SHOWN HEREON ARE BASED ON EASTERLY R/W LINE OF STATE ROAD NO. 105A (SOUTH 14TH STREET) AS N08°30'16"E PER STATE PLANE COORDINATE SYSTEM, FLORIDA EAST ZONE, NORTH AMERICAN DATUM 1983/1990 NAD ADJUSTMENT.
2. THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY. ITS SPECIFIC PURPOSE IS TO SHOW TREES LOCATED ON THE SITE.
3. IMPROVEMENTS NOT LOCATED EXCEPT AS SHOWN.
4. THIS SURVEY WAS MADE WITHOUT THE BENEFIT OF A TITLE COMMITMENT. THERE COULD BE ADDITIONAL EASEMENTS, COVENANTS AND RESTRICTIONS, OR OTHER MATTERS OF PUBLIC RECORD NOT SHOWN HEREON THAT MAY AFFECT THIS PARCEL.
5. DIMENSIONS SHOWN ON TREES ARE DIAMETER DIMENSIONS IN INCHES AT BREAST HEIGHT LEVEL (DBH).

LEGEND
 R/W = RIGHT OF WAY
 O.R. = OFFICIAL RECORDS
 P.B. = PLAT BOOK
 ○ = POWER POLE
 → = GUY ANCHOR



FILE No. SF-3158A

REVISION DATE	DRAWN	SCALE	DATE	BY

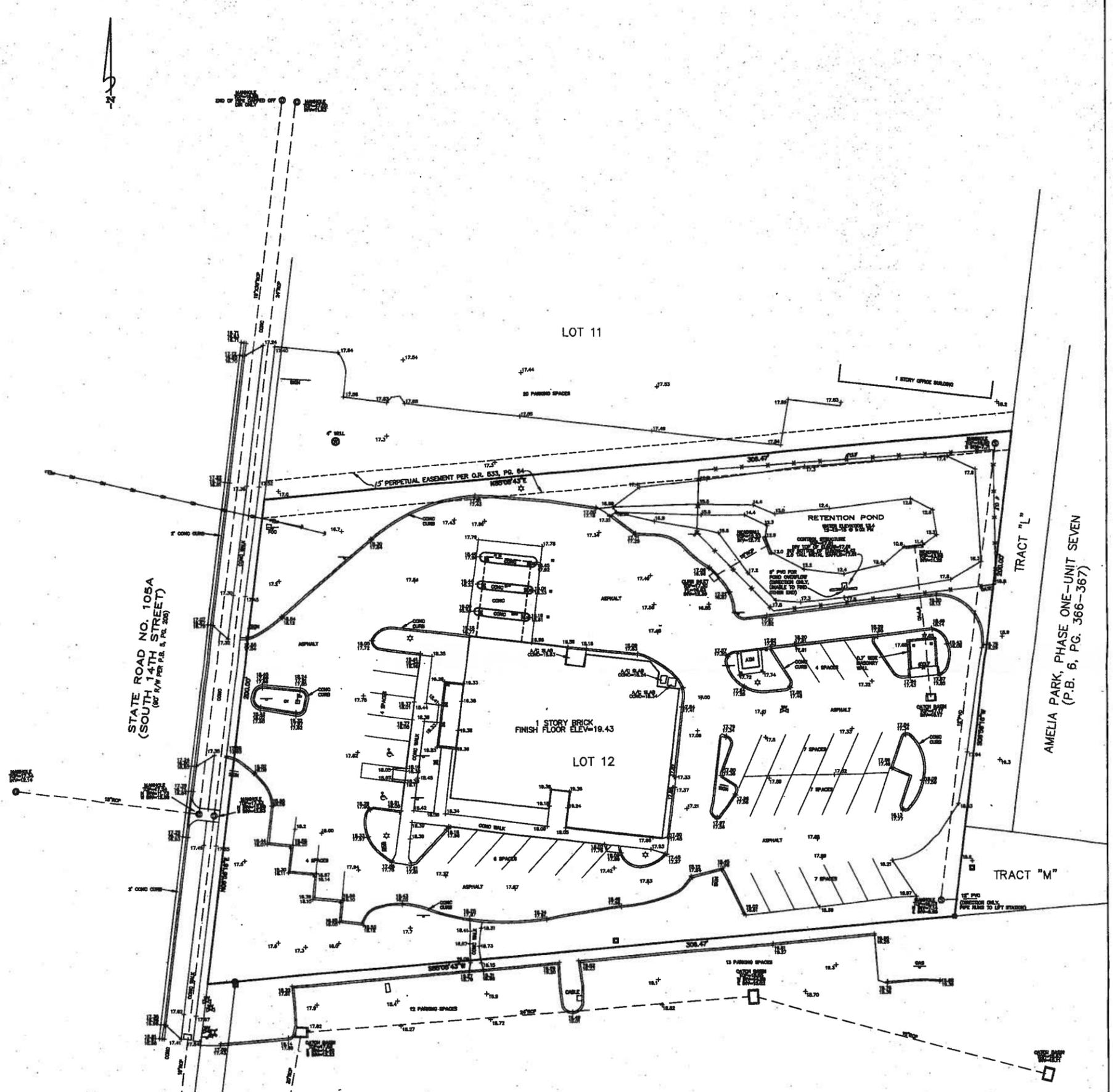
THIS MAP OR SURVEY WITH THE EXCEPTED EXCEPTIONS, IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF CLARY & ASSOCIATES. ANY CHANGES TO THIS MAP OR SURVEY SHALL BE MADE BY A SUPPLEMENTAL SURVEY AND PLAT BOOK. THIS SURVEY IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF CLARY & ASSOCIATES.

Clary & Associates
 PROFESSIONAL SURVEYORS & MAPPERS
 1800 N.W. 37TH STREET
 SUITE 200
 BOCA RATON, FLORIDA 33437
 (561) 995-2100
 WWW.CLARYANDASSOCIATES.COM

FILE No. SF-3158A

Map Showing A Topographic Survey

LOT 12, AS SHOWN ON THE PLAT OF FIRST COAST ESTATES, RECORDED IN PLAT BOOK 5, PAGE 205 OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA.
FOR: VYSTAR CREDIT UNION

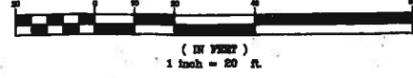


GENERAL NOTES

1. BEARINGS SHOWN HEREON ARE BASED ON EASTERLY R/W LINE OF STATE ROAD NO. 105A (SOUTH 14TH STREET) AS NOTED '19'E PER STATE PLANE COORDINATE SYSTEM, FLORIDA EAST ZONE, NORTH AMERICAN DATUM 1983/1989 NOS ADJUSTMENT.
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3. IMPROVEMENTS NOT LOCATED EXCEPT AS SHOWN.
4. THIS SURVEY WAS MADE WITHOUT THE BENEFIT OF A TITLE COMMITMENT. THERE COULD BE ADDITIONAL EASEMENTS, COVENANTS AND RESTRICTIONS, OR OTHER MATTERS OF PUBLIC RECORD NOT SHOWN HEREON THAT MAY AFFECT THIS PARCEL.
5. ELEVATIONS SHOWN HEREON ARE PER NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988).
6. REFERENCE BENCHMARK STAMPED DISK "MS 27 1988" SET IN CENTER OF A CULVERT THAT RUNS UNDER THE SEABOARD COAST LINE RAILROAD, 0.29 MILES NORTH OF INTERSECTION OF THE RAILROAD AND BONHUEV DRIVE. ELEVATION = 6.73' NAVD 1988

- ### LEGEND
- R/W = RIGHT OF WAY
 - O.R. = OFFICIAL RECORDS
 - P.B. = PLAT BOOK
 - RCP = REINFORCED CONCRETE PIPE
 - PVC = POLYVINYL CHLORIDE
 - CLF = CHAIN LINK FENCE
 - CONC = CONCRETE
 - BNV = BENCHMARK
 - DIR = DIRECTION
 - FOC = FIBER OPTIC CABLE
 - A/C = AIR CONDITIONER
 - ELEV = ELEVATION
 - ELL BOX = ELL BOX
 - PO = POWER POLE
 - SN = SIGN
 - CA = CITY ANCHOR
 - W = WELL
 - FL = FLOOD LIGHT
 - WC = 1" X 1" WOOD COLLUM
 - P = POST
 - CS = CABLE TELEVISION SERVICE
 - WV = WATER VALVE
 - MLP = METAL LIGHT POLE
 - SSM = SANITARY SEWER MANHOLE
 - DM = DRAINAGE MANHOLE
 - FP = FLAG POLE
 - FH = FIRE HYDRANT
 - HP = HANDICAP PARKING SPACE
 - FC = FOUND 4" X 4" CONCRETE MONUMENT - NO ID
 - IR = FOUND 3/8" IRON ROD - NO ID

GRAPHIC SCALE



3-12-11	JRS	R/A	REVISION CHECKED BY, NO FIELD WORK THIS DATE
REVISION DATE	DRAWN	DATE CHECKED BY	REVISION FOR REVISION

THIS MAP IS A PART OF THE SURVEY OF THE FIRST COAST ESTATES, RECORDED IN PLAT BOOK 5, PAGE 205 OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA. THE SURVEY WAS MADE BY GREGORY A. CLARY, P.E., AND HIS ASSOCIATES, INC., IN 2011. THE SURVEY WAS MADE WITHOUT THE BENEFIT OF A TITLE COMMITMENT. THERE COULD BE ADDITIONAL EASEMENTS, COVENANTS AND RESTRICTIONS, OR OTHER MATTERS OF PUBLIC RECORD NOT SHOWN HEREON THAT MAY AFFECT THIS PARCEL.

GREGORY A. CLARY, P.E.
PROFESSIONAL SURVEYORS & MAPPERS

1800 W. 11TH AVENUE, SUITE 100
TALLAHASSEE, FLORIDA 32304
(904) 833-2233
WWW.CLARYANDASSOCIATES.COM