

**AGENDA
CITY COMMISSION MEETING
CITY HALL, 501 W MEADOW STREET
MONDAY, MARCH 25, 2024 5:30 PM**

1. CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

2. PROCLAMATIONS:

A. None

3. PRESENTATIONS:

A. None

4. PUBLIC COMMENTS:

This section is reserved for members of the public to bring up matters of concern or opportunities for praise. Issues brought up will not be discussed in detail at this meeting. Issues will either be referred to the proper staff or will be scheduled for consideration at a future City Commission Meeting. Comments are limited to three minutes.

5. CONSENT AGENDA:

Routine items are placed on the Consent Agenda to expedite the meeting. If the Commission/Staff wish to discuss any item, the procedure is as follows: (1) pull the item(s) from the Consent Agenda; (2) vote on remaining items with one roll call vote, (3) discuss each pulled item and vote by roll call

A. CITY COMMISSION MEETING MINUTES:

1. Regular meeting held March 11, 2024

B. PURCHASING ITEMS:

1. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute Amendment One to an

Existing Task Order with Dewberry Engineers, Inc. for additional permitting services; and providing an effective date.

C. RESOLUTIONS:

- 1. Resolution of the City Commission and the City of Leesburg to authorize the Leesburg Police Department to purchase replacement ballistic protective vests, ballistic protective helmets, and a full service K-9 with training through the use of the Police Forfeiture funds; and providing an effective date.**
- 2. Resolution of the City Commission of the City of Leesburg, Florida, accepting a Utility Easement to the City of Leesburg from Kane Roman Distributors, LLC, for the purpose of granting the City an Easement over the property described therein; and providing an effective date.**
- 3. Resolution of the City Commission of the City of Leesburg, Florida, accepting a Utility Easement to the City of Leesburg from Silver Lake Pointe Community Association, Inc. and Stanley Martin Homes, LLC, for the purpose of granting the City an Easement over the property described therein; and providing an effective date.**

6. PUBLIC HEARINGS AND NON-ROUTINE ITEMS:

A. SECOND READING OF ORDINANCES

- 1. None**

B. FIRST READING OF ORDINANCES

- 1. An Ordinance of the City of Leesburg, Florida, in accordance with the Special Magistrate's recommendation pursuant to the Sunnyside Lake Landing Holding, LLC, and Cenizo Ventures Florida, LLC v. City of Leesburg, dated January 15, 2024, rezoning approximately 120.5 +/- acres, from PUD (Planned Unit Development) to PUD (Planned Unit Development) to allow for 150 detached single family residential dwelling units on a property located south of U.S. Highway 441 and west of Sunnyside Drive as legally described in Sections 29 and 32, Township 19 South, Range 25 East, Lake County, Florida; and providing an effective date. (Sunnyside/Magistrate PUD)**
- 2. An Ordinance of the City of Leesburg, Florida, adding a PDO (Planned Development Overlay), with a waiver from Section 25-282 (a) (1) PDO five-**

acre minimum, to the existing R-3 (High Density Residential) zoning, on approximately 0.22 +/- acres to allow for an office, retail, and classroom uses for a property generally located south of East Main Street and west of Mike Street, lying in Section 25, Township 19 South, Range 24 East, Lake County, Florida; and providing an effective date. (CDC Office Mike Street PDO)

3. **An Ordinance of the City of Leesburg, Florida, amending the City Code of Ordinances, by amending Article IV, Chapter 9 - Elections; providing for five single member commissioner districts; providing for severability; providing for conflicts; and providing an effective date.**
4. **An Ordinance of the City of Leesburg, Florida, amending the boundary lines of the Village Community Development District No. 14, pursuant to chapter 190, Florida Statutes; and providing an effective date. (Villages CDD 14 Amendment)**

C. NON-ROUTINE ITEMS

1. **Resolution of the City Commission of the City of Leesburg, Florida accepting the settlement agreement with Sunnyside Lake Land Holding, LLC and Cenizo Ventures, LLC; and providing an effective date.**

7. INFORMATIONAL REPORTS:

The following reports are provided to the Commission in accordance with the Charter/Ordinances. No action required.

A. None

8. CITY ATTORNEY ITEMS:

9. CITY MANAGER ITEMS:

10. ROLL CALL:

11. ADJOURN:

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE HUMAN RESOURCES DEPARTMENT, ADA COORDINATOR, AT 728-9740, 48 HOURS IN ADVANCE OF THE MEETING.

F.S.S. 286.0105 "If a person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting, they will need a record of the proceedings, and that for such purpose they may 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 based." The City of Leesburg does not provide this verbatim record.

**AGENDA MINUTES
CITY COMMISSION MEETING
CITY HALL, 501 W MEADOW STREET
MONDAY, MARCH 11, 2024 5:30 PM**

1. CALL TO ORDER

The City of Leesburg Commission held a regular meeting on Monday, March 11, 2024, at Leesburg City Hall. Mayor Burry called the meeting to order at 5:30 p.m. with the following members present:

Commissioner Allyson Berry
Commissioner Jay Connell
Commissioner Mike Pederson
Commissioner Alan Reisman
Mayor Jimmy Burry

Also present, were City Manager (CM) Al Minner, City Clerk (CC) J. Andi Purvis, City Attorney (CA) Grant Watson, the news media, and others.

INVOCATION

Mayor Burry gave the invocation followed by the Pledge of Allegiance to the Flag of the United States of America.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

2. PROCLAMATIONS

None

3. PRESENTATIONS:

A. Employee Service Award Recognitions:

Five Years: Samuel Britton, Public Works; Shyann Hubbard, Police; Ann Kinsey, Building; and Willie Porter, Public Works
Ten Years: Alicia Poth, Information Technology; and John Snow, Police
Fifteen Years: Israel Rolon, Public Works
Twenty Years: James Pew, Electric; Tino Anthony, Information Technology; Julie "Andi" Purvis, City Clerk; and James Williams, Accounting
Thirty Years: Barrie "Tracie" Hodge, Housing
Thirty-five Years: Stephen Strickland, Recreation

Director of Human Resources, (HRD) Arriaga and **CM Minner** recognized each employee and presented them with their years of service award.

4. **PUBLIC COMMENTS:**

This section is reserved for members of the public to bring up matters of concern or opportunities for praise. Issues brought up will not be discussed in detail at this meeting. Issues will either be referred to the proper staff or will be scheduled for consideration at a future City Commission Meeting. Comments are limited to three minutes.

Rick Rojas of 9455 Silver Lake Drive said he was there on behalf of the residents in the Silver Lake area. He had submitted emails to the city, but wanted to put it on record that they were contesting the activity going on at the prior golf course with the KB Homes subdivision being developed. He wanted to bring it to the commission's attention because he was not aware if they were privy to the information he sent.

Mayor Burry said yes, they were aware of his emails. There is a meeting scheduled for tomorrow about it. **CM Minner** stated all emails have been privy to the commission, and they are a public record. If they were addressed to the commission, they found their way to the commissioners' email. There are three major issues that need to be discussed. There have been interpretations of where we are and what has happened. It has been outlined and they will have that discussion tomorrow. The city attorney and the mayor will be attending along with the planning and zoning director and the director of public works. **Mr. Rojas** asked if he could bring a videographer. **CM Minner** said yes, if he wanted to take care of that. **Mr. Rojas** said he would unless the city had someone lined up. **CM Minner** commented that he would be happy to record the meeting. He was going to have a tape recorder unless he wanted to bring a videographer. **Mr. Rojas** said that was fine. He looked forward to the meeting tomorrow.

Richard Calvin, Director of the Arts Center, said he was there on behalf of the board of directors to thank the commission, city staff, and the city manager for all the help they received at the 47th Leesburg Art Festival.

A few members of the Pine Street business district voiced concerns regarding the construction on Pine Street. They wanted to find out how the process worked because they had heard different dates for completion. There are days when no one is working and the project has stopped several times. They would like more updates about what is happening. It is frustrating for them and their customers. There are times they have to walk to the end of the road to flag their customers and direct them in because they could not find their businesses. They are excited about the project and anxious for it to be completed. However, they would like more updates about what is happening. There is a national church that comes to Leesburg every year and this year they were not able to have them come due to the construction.

CM Minner said they have been through this publicly a few times and there have been different meetings. Essentially, the city has tried to visit all businesses to provide periodic updates. There are two dates to keep in mind; first, the contractual completion date with Wharton Smith is August 2024. That date gave them about 365 days to complete the project. If we come up to that contractual completion date and the project is not finished, we will go into the process called liquidated damages. Typically, when a contract is not completed by the construction deadline, contractually, contractors will always argue and come up with reasonable excuses for why they could not meet that deadline. For example, they could say they did not anticipate the water and sewer lines being located incorrectly. If they do not make the August deadline, they will probably have some built-in days into the contract because of that. August is the contractual deadline, but we are trying to shoot for mid-May being the completion date. That would be about ninety days early. The latest update from public works was the May date. He would confirm the

date, since they heard otherwise. However, if it does go longer, it is probably due to the relocation of the water and sewer mains. That was a big delay based on old asbuilt maps, which were accurate, but not perfect because the depth of the water and sewer mains were deeper than the plans actually showed. When they started digging, they anticipated the water and sewer lines being higher, which meant they had to lower them before they could build the road. That was a delay, but they are still anticipating to beat the August deadline. They are still aiming for May. If it changes, the public works director will visit the businesses and the city will give a public notice to keep them informed. With the disruption, the city did a number of things to try and help with the disruption. We put up blue relocation signs and temporary lighting in the parking lot. We provided a waiver of trash fees and the abeyance of the utility bills. To date, no one has taken advantage of those things, but they are still offered. He would get with the public works director to make sure they stop by the businesses to give a personal update.

A member of the Pine Street business district stated the lights in the parking lot are not done. There are wires still hanging. She is in the parking lot at night, and they are not done. **Electric Director (ED), Brad Chase**, said from the audience that the permanent lights are not done, but the temporary lights are on. **CM Minner** added he would follow up on that. The city has invested over five million dollars into Pine Street doing capital improvement projects. It is hard due to disruption, especially in a business corridor. The city has done everything we can to inform folks. We have held different public meetings, posted it on the website, and different advertisements to get the word out. He apologized if that was not enough. The city would endeavor to do better and make personal contact. The city cannot tell the contractor that they have to have ten people on site every day. We cannot dictate ways and means. We can only make sure things are posted to keep people notified. The frustration is that this is affecting the businesses, and we understand that. The project on Pine Street would be no different than how FDOT would treat any other business on US 27. The overall investment in the Pine Street community is huge and that is being overlooked due to delays. When the contractors stopped working on the project, that was due to the lowering of water and sewer mains. When the project is done, it will bring more people in and boost the community. We will return to business better than it was before. That was the aim and purpose of this investment. We will continue to work with the contractor because the contractor has worked with the city in good faith. If there are financial concerns, there are incentives to delay and to put off some of those expenses. That was publicized and talked about publicly. He apologized for the delays, but it will be better when it is done.

A member of the Pine Street business district stated she understood the contractual end date, but she wanted to know if there were different phases where someone goes out and assesses the work that has been done because she believed they were not on track. They would like someone from the city to walk this with them, because there is no work being done. **CM Minner** remarked that all opinions differ, but the one that is legal and binding is the contractual date and the contractors are working within the contractual date. A lot of work for the naked eye has been done underground. It may not look like a lot of work has been done, but it is a boatload of work.

John Christian of the Community Development Corporation said they own most of the buildings on Pine Street. It may help to put an email list together to send updates to the business owners. They call the CDC for information, but he has no idea and cannot tell them anything. No one had worked in three weeks, and he called the public works director and was told about the permits. He tried to explain that to them. If there was an email list for the business owners, that would be best because some business owners work out of town during the weekdays. The fastest, most efficient way is to get everyone's email and treat them as a high priority. The email could say "this is what is happening this week on Pine Street". If they give them updates, it would alleviate many of the problems.

The owner of Cotton's kitchen said her business is on Pine Street. Originally, they were to have access

from the swimming pool to the businesses and that has not happened. Many of her customers are going to the Aquatic Center, and they have to direct them in. Until there is access from the pool to the businesses, could they get a sign, so they do not have to flag people down. They should have access from the pool to the business because she remembered at the meeting at the Venetian Center they were told that would happen.

5. CONSENT AGENDA:

Routine items are placed on the Consent Agenda to expedite the meeting. If the Commission/Staff wish to discuss any item, the procedure is as follows: (1) pull the item(s) from the Consent Agenda; (2) vote on remaining items with one roll call vote, (3) discuss each pulled item and vote by roll call

Items pulled for discussion:

5.C.1 - Execution of an Agreement with the Florida Department of Transportation Shared-Use Non-Motorized (SUN) Trail Program, supporting a Sun Trails grant application for the design and construction portion of the Tav-Lee connector trail.

Commissioner Reisman moved to adopt the Consent Agenda except for 5.C.1, and Commissioner Berry seconded the motion.

The roll call vote was:

Commissioner Connell	Yes
Commissioner Reisman	Yes
Commissioner Pederson	Yes
Commissioner Berry	Yes
Mayor Burry	Yes

Five yeas, no nays, the Commission adopted the Consent Agenda, as follows:
(Each item has its coordinated resolution number listed below the header)

A. CITY COMMISSION MEETING MINUTES:

- 1. Regular meeting held February 26, 2024**

B. PURCHASING ITEMS:

- 1. None**

C. RESOLUTIONS:

- 1. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute an agreement with Florida Department of Transportation Shared-Use Nonmotorized (SUN) Trail Program, supporting a Sun Trails grant application for the design**

and construction portion of the Tav-Lee connector trail; and providing an effective date.

ADOPTED RESOLUTION 11,794

Commissioner Reisman introduced the resolution to be read by title only. CC Purvis read the resolution by title only.

Commissioner Reisman made a motion to adopt the resolution and Commissioner Berry seconded the motion.

Mayor Burry requested comments from the Commission and the audience.

Commissioner Connell stated he had not been in favor of this project from the start. When this came up about a year or two ago, he voted against it. He knows there is a grant that alludes to the state providing some money. However, this will still cost the city two hundred and seventy thousand dollars for a trail that he does not see ever being used. It is two hundred and seventy thousand dollars, and it may look good on paper because the state is taking care of the lions share through a grant, but it is still two hundred and seventy thousand dollars of taxpayer money. That money could be kept, reserved, and used for a better purpose that benefits the majority of the citizens and not just a select few who want to ride a bicycle to Tavares. He pulled this because he wanted to put his comments on record. **Mayor Burry** asked if there were any further comments. There were none.

The roll call vote was:

Commissioner Reisman	Yes
Commissioner Pederson	Yes
Commissioner Berry	Yes
Commissioner Connell	No
Mayor Burry	Yes

Four yeas, one nay, the Commission adopted the resolution.

2. **City Commission approval of the budget calendar for Fiscal Year 2024-25, which includes dates for Commission workshops.**

6. PUBLIC HEARINGS AND NON-ROUTINE ITEMS:

Mayor Burry asked the city attorney to handle the swearing in. **CA Watson** asked if anyone wished to provide testimony on any agenda item under 6A to stand. He then swore them all in.

A. SECOND READING OF ORDINANCES

1. **An Ordinance amending the Future Land Use Map of the Comprehensive Plan of the City of Leesburg, changing the Future Land Use Map Designation of certain property containing 464 +/- acres from City of Leesburg Neighborhood Mixed Use to City of Leesburg Estate Residential,**

for a property generally located west of County Road 33, south of Florida's Turnpike, and east of County Road 48, lying in Sections 32 and 33, Township 20 South, Range 24 East, Lake County, Florida; and providing an effective date. (LSCP Banning Ranch PH III and IV)

ADOPTED ORDINANCE 24-12

Commissioner Reisman introduced the ordinances 6.A.1 and 6.A.2 to be read by title only. CC Purvis read the ordinances by title only.

Commissioner Reisman made a motion to adopt the ordinance and Commissioner Pederson seconded the motion.

Mayor Burry requested comments from the Commission and the audience.

PZD Miller stated this was for the Banning Ranch project, phases three and four. The request was for a large scale comprehensive plan and rezoning of approximately four hundred and sixty-four acres. It is generally located west of County Road 33, south of the Florida Turnpike and east of County Road 48. Originally, this property was one large PUD with one thousand three hundred and seventy-five residential units on six hundred and twenty-four acres. On a rendering, he showed the current subject property with the additional property going out to County Road 33. The property was sold, and it had one PUD on it. It was sold and broken down into two PUD's. One of the PUD's was recently approved under Ordinance 21-29, which was the property to the east. That was phase one and two, which allowed for two hundred and seventy-eight units on one hundred and sixty acres. The project before them is for phases three and four on four hundred and thirty-four acres with five hundred and thirty units. To sum up, they originally had thirteen hundred and seventy-five units on one PUD. The same property is now broken down into two PUD's with a total of eight hundred and eight units. That is a reduction of five hundred and sixty-seven units from the original PUD. The overall proposal goes from a large scale comp plan, neighborhood mixed use to estate residential. Both allow for a maximum of four units per acre. There would be a rezoning from the old PUD to the current one. The specific request was for five hundred and thirty detached homes on four hundred and thirty-four acres, which is one point one five gross units per gross acre. It will be all single-family residential in the development. There will be no commercial or industrial uses. The standard prohibited uses are written into this. It would consist of fifty, sixty, and seventy-foot wide lots. All lots will have twenty-five-foot setbacks and gutter requirements for any side setback less than seven and half feet. There will be dark sky lighting, two trees in each yard, architectural standards, and two car garages. There was additional guest parking provided on the site plan and more than thirty-five percent of open space. There is a twenty-five-foot buffer surrounding the exterior boundary of the property. Two access points, one contiguous to the east and one contiguous to the west. There will be two point four-three acres of recreational areas such as fenced in playgrounds for children, separate dog park areas, and other recreational type amenities. All the other standard PUD language is in there, including protection for wetlands and restrictions on the types of grass. They would not use St. Augustine grass, which requires a lot of water. This is a standard PUD. The total reduction from the combination of the old PUD is reduced by five hundred and sixty-seven units. It would all be single family instead of having some town homes. This is the same PUD they saw before. Mike Ranken of LPG, Mount Dora is here to answer any questions.

Mayor Burry inquired about access to the west. **PZD Miller** replied there would be access to the west, but that depends on what happens to the west. The properties to the west are under consideration by other developers, and they would have to punch out over to County Road 48. It will have access once it is built. They will also have access to County Road 33. **Commissioner Reisman** asked about large developments

like this. Do we require the developer to put in covered school bus drop locations? **PZD Miller** answered the city works with the school board. We send the information to them, and we make suggestions. There are times when they do not want them and other times they do. We let the school board make that decision, but he would be happy to make that recommendation to the county. **Commissioner Reisman** asked if costs were passed on to the developer. **PZD Miller** agreed. If the school board chooses to do that. In most cases, they have to do mitigate agreements with the school board to fund money for school seats. That is very common.

Michael Rankin of Land Planning Group, Mount Dora thanked the commission for the opportunity to speak. The planning and zoning director did a great job covering the project. He wanted to reiterate that the properties were contiguous, and they would have ingress/egress. They will make sure they have continuity between developments. This is a reduction in rooftops and they are all single family homes. We meet the open space requirements, and we fully agree with the design standard and architectural standards that city staff recommended.

Commissioner Connell stated this was as good a time as any to speak. There is smart growth and out of control growth. He believed the city had hit the out of control button with the amount of land that it annexes and rezones every month. It is tremendous. We have over thirty thousand lots on the books that have been approved, but not developed. That is more than double the amount of single family homes we currently have in this city. We are over double that already on the books for development. We need to take a step back and think about annexation and rezoning. We have a tremendous amount of property and there is no supply and demand problem. There is plenty of property that can be developed that has already been approved. We need to think about slowing down on development. We all know that transportation and roads lag way behind development. We are talking about over thirty thousand rooftops. We cannot handle another four or five thousand rooftops. When he was driving into the city the other day, it took thirty minutes to drive a five-mile stretch. Nothing against FDOT or the county, but it lags behind development. We already have over thirty thousand lots sitting on the books. We really need to consider not doing annexations or rezonings. He has heard the argument about if we do not do it, somebody else will. It was his understanding that if it was in our ISBA, they cannot do that unless all fourteen jurisdictions and the county agree that the other jurisdiction can take it. It is not like somewhere down the road, we are going to miss out on some annexation or rezoning, because if we do not do it, Groveland or Clermont will. They cannot do it because the property is located in our ISBA. We need to consider slowing down on handing out these annexations, rezonings, and PUD's. We are like Santa handing out Christmas gifts, and we really need to reconsider this. He has been thinking about it, but now is the time. There is another PUD with what eight hundred homes. **Mayor Burry** pointed out that this PUD actually decreases from the original PUD. **Commissioner Connell** said he understood it was a decrease, but this PUD is well expired. That is why they are back because their PUD that was approved is expired. The commission ought to think about this because there are over thirty thousand units on the books. That is over double the amount of single family rooftops we currently have in the city. How many more are we going to bring in?

Rick Rojas of 9455 Silver Lake Drive, Leesburg commended Commissioner Connell for his comments. He mentioned this back in December 2021 when another project was irresponsibly being developed on County Road 44 with two-way roads that cannot support what is already there. There is a fine line, and he makes a career out of this. He has been in this business for thirty-eight years and there is a fine line between responsible development and irresponsible development and the City of Leesburg crossed that line many years ago.

Mayor Burry asked if there were any other comments. There were none.

The roll call vote was:

Commissioner Pederson	Yes
Commissioner Berry	Yes
Commissioner Connell	No
Commissioner Reisman	Yes
Mayor Burry	Yes

Four yeas, one nay, the Commission adopted the ordinance.

2. **An Ordinance of the City of Leesburg, Florida, changing the zoning on approximately 464 +/- acres from City of Leesburg PUD (Planning Unit Development) to City of Leesburg PUD (Planned Unit Development) to allow for a residential subdivision for a property generally located west of County Road 33, south of Florida's Turnpike, and east of County Road 48, lying in Sections 32 and 33, Township 20 South, Range 24 East, Lake County, Florida; and providing an effective date. (PUD Banning Ranch PH III and IV)**

ADOPTED ORDINANCE 24-13

Commissioner Reisman made a motion to adopt the ordinance and Commissioner Pederson seconded the motion.

The roll call vote was:

Commissioner Berry	Yes
Commissioner Connell	No
Commissioner Reisman	Yes
Commissioner Pederson	Yes
Mayor Burry	Yes

Four yeas, one nay, the Commission adopted the ordinance.

3. **An Ordinance of the City of Leesburg, Florida, establishing the Dewey Robbins Community Development District pursuant to Chapter 190, Florida Statutes; providing for authority and power of the district; establishing the district; providing for the Board of Supervisors of the district; providing for the district budget; providing for functions of the district; providing for miscellaneous provisions; and providing an effective date. (Dewey Robbins CDD)**

ADOPTED ORDINANCE 24-12

Commissioner Reisman introduced the ordinance to be read by title only. CC Purvis read the ordinance by title only.

Commissioner Reisman made a motion to adopt the ordinance and Commissioner Pederson seconded the motion.

Mayor Burry asked if there was any discussion. There was none.

The roll call vote was:

Commissioner Connell	Yes
Commissioner Reisman	Yes
Commissioner Pederson	Yes
Commissioner Berry	Yes
Mayor Burry	Yes

Five yeas, no nays, the Commission adopted the ordinance.

B. FIRST READING OF ORDINANCES

1. None

C. NON-ROUTINE ITEMS

1. Resolution of the City Commission of the City of Leesburg, Florida, authorizing the Mayor and City Clerk to execute a Property Sales Contract in order to purchase 120 and 122 West Main Street, Leesburg, Florida; and providing an effective date.

ADOPTED RESOLUTION 11,795

Commissioner Reisman introduced the resolution to be read by title only. CC Purvis read the resolution by title only.

Commissioner Reisman made a motion to adopt the resolution and Commissioner Pederson seconded the motion.

Mayor Burry requested comments from the Commission and the audience.

Commissioner Connell questioned the consideration of purchasing the Tropic Theater for two million three hundred and ninety-five thousand dollars to house, potentially, the Center for the Arts and Melon Patch. They are two nonprofit organizations that will pay absolutely zero rent, yet we would pay two point four million dollars. Then, we would tear down the Center for the Arts building. He went out and did an inspection of the Center for the Arts building earlier this morning and found nothing wrong with the building. The sprinkler system is properly tagged and up-to-date, which tells him it is functional. The fire alarm system is properly tagged so that means it is up-to-date. He found nothing wrong with the interior of the building. He was informed of a roof leak on one corner and some water intrusion at the front door. That is a grade problem from the outside and the concrete could be readjusted, so it does not drain into the front door. Maybe some weather stripping would help, but at a cost to tear down a perfectly good building is one hundred and fifty thousand dollars. We also have all kinds of stuff stored in there, so we will build a building for four hundred and fifty thousand dollars to house the stuff that is currently stored in a perfectly good building. Then, we would spend four hundred and fifty thousand dollars to do a design improvement plan of downtown for a total cost of three million four hundred and forty-five thousand dollars. That is absurd. There is nothing wrong with the present building the Center for the Arts is in. We do not need a theater building for two point four million dollars. We do not need to tear down a

perfectly good building for one hundred and fifty thousand dollars. We do not need to build another building to house the stuff that is currently in that building. This is craziness. **Mayor Burry** inquired if his contention was that the building was fine. **Commissioner Connell** stated he found nothing wrong with that building.

CM Minner mentioned that he put together a PowerPoint presentation he would like to share. He wanted to share the philosophies behind this with all due respect to Commissioner Connell's objection to the project. Referring to a slide, he said the purchase would be for two point four million dollars. That cost is the difference between two appraisals, which are required by state statutes to purchase anything over half a million bucks. That is how the base cost was determined of two point four. It was the middle price of the two appraisals from separate certified appraisers.

The reason for the purchase, is it supports the arts. Currently, the Leesburg Center for the Arts building or the old Partnership building, but so there is no confusion, the purpose is to support the arts. The building used to house The Partnership before they passed the baton to the city, and it also houses the Leesburg Center for the Arts for art programs. He appreciated where Commissioner Connell was coming from, but the reports the city received say otherwise, and the commission has previously determined that we wanted to reinvest in this. We allocated two hundred and fifty grand for it. If he remembered correctly, in 2015 or 2016 we put fifty or sixty grand into the building to upgrade the electric panels. That building went on for some time, but over the past couple years we have received complaints from the Center for the Arts as well as from The Partnership before it was defunct. We received complaints about all the problems; the aesthetic appearance of the outside, the roof leaks, and the walls dripping. Wharton Smith has gone through the numbers. Now, is the building in tear-down condition, probably not, but it is in need of some upgrades. In any case, we would come back to the that question momentarily.

Supporting the arts was the concept, and we are trying to create synergies to move in different ways to make other things happen in downtown. This body set that as a priority goal this past summer. The Melon Patch and the Arts are the core of what we do for the arts. If we can get those organizations in a facility that better supports them and better supports the downtown, then our investment is not just financial, it is long-term. It is the non-tangible things that bring people to our downtown, and it promotes Leesburg and local businesses. We want feet on the ground and part of this body's job is to think of things that enhance our community. By putting the Arts and the Melon Patch in a facility that represents Leesburg and those organizations better, accomplishes the building of commerce, it boasts our downtown, and it supports the arts. Supporting the arts and supporting downtown commerce are the two primary reasons. We have a number of issues downtown that we have tackled or grappled over for a long time and parking is one of them. In July 2003, city manager, Ron Stock wrote a memo to the City Commission saying they should buy that facility for a parking lot. They recommended a transfer of two hundred and fifty thousand dollars from the electric fund to do it. That is The Partnership building. Mind you, we did this when the parking garage was under construction. Then, a few months later, we passed a seventeen million dollar bond. In 2003, we said we needed to knock down the building for a parking lot. Then, ten months later, the city manager, Ron Stock, wrote another memo to the City Commission saying we needed to keep the building and put eighty grand into it to put The Partnership there. At that time, staff did not even give a recommendation. We bought the facility for a parking lot, and then we put the Center for the Arts and The Partnership in the building. Now, twenty years later we are revisiting this. One objective is that we are trying to do the downtown, and that is the purpose for bringing this up. There are objectives that we are trying to accomplish, and one is parking. We have been talking about parking since he has been with the city. Parking has been an issue. In December the consultant said one problem with parking is where the parking garage is located. That was not an ideal location for a parking garage, it needed to be centralized in the downtown. He was not sure about what the number would be to build that parking garage in today's dollars. However, he would guarantee it would be at least fifteen million, if not

more. Going back to the 2018 master plan with the pocket park concepts and the Market Street concept, Commissioner Reisman brought in the need to get rid of our nonconforming on-street parking and the consultant said if we use this location we could address those things. There are probably three underlying subreasons; investing in the building and the arts, and it also invests in our downtown. We have slum and blight issues and, with all due respect to the Melon Patch Theater and The Players, that building is blight. That is blight on 12th Street, it affects the Baptist Church and it lacks parking. We can do better. The Partnership/Arts building is blighted and while it may be a doable building it is old, outdated, and ugly. It does not represent the downtown well because it is blight. Removing both facilities helps move our core downtown forward and even a little bit outstretch of our core downtown by tackling the Melon Patch, which hopefully will be under contract, purchased, and removed. Then a new use plan will be developed for that. Finally, the events division is an ancillary reason and with the city picking up the baton from The Partnership, we necessitated an events division who are currently housed in The Partnership building. This would be an easy location for them to relocate to, and they would have more of a touch in the downtown. Of course, as Commissioner Connell said if we knock down the building that houses stuff already we have to find another location. We have another blighted area which is Hall Circle, we have a storage shed there that is underutilized, and if we push on it hard enough it will fall over. We do have blight issues and he understands the price tag being heavy. In the ten years he has been city manager, he believes it is totally reasonable for people to question concepts and ideas to figure out if it is a good or bad plan. Those are matters of opinion and, for this body when you vote on something you have the majority and that is accepted as consensus of the collective wisdom of the body.

One of the greatest things that we have done when it comes to general fund projects, under his leadership, is we have been excellent stewards of money. The definition of an excellent steward of money means, we have not issued one single penny of debt on a general fund project and everybody understands a caveat, so when it comes to the general fund and projects that depend on taxpayer money, zero debt has been issued. Now that was not always the case and not saying the investments were bad, but in past years we probably spent upwards of twenty to thirty million dollars on different projects from the pool, to Pine Street, the Resource Center, and the Venetian Center with zero debt. This is another one of those projects and it is affordable. Every time we do a project like this we have to allocate our scarce resources and we spend them wisely. We have talked about this since 2003. Right now, if we count our available cash allocations we have The Partnership building rehab allocation of two hundred and forty three thousand. We allocated seven thousand dollars for that, but we only did a couple of things. It may have been the air conditioner and sealing windows. However, we still have two hundred and forty-three thousand left from that. We have the remaining American Recovery Act funds of three hundred and nine thousand dollars and the remaining Market Street allocation of three hundred and twenty one thousand dollars. We also had allocated CRA money, but we did not like where that design was going, then covid hit, and we stopped. We have not spent any more of that money, so that money is still available. The capital improvement (CIP) account interest earnings is four hundred and forty-one thousand dollars. As you know, accounting wise, when we do capital improvement projects we take money from the general fund and shift it into the capital improvements fund before we spend it. That is the Gatsby rule. When that money is shifted over, we may or may not get the project done, but that money goes into that account and earns interest. We can spend it where we see fit. Over the years, we have generated about four hundred and forty-one thousand dollars in interest monies on CIP projects. We have one million dollars of unspent fiber sale proceeds left. It is exactly nine hundred and thirty-four thousand dollars. When we sold the fiber system, the best thing that asset did for us was with the right of use for thirty years. We are now in about year twenty-three. We were able to get what we needed out of the fiber by selling it. The perpetual use thirty-year deal lined us with about eight million dollars and of that eight million dollars, we have one million left. We also have FY 24 unallocated discretionary sales tax (DST) revenue. When we did the budget this year, we knew going in that it was an interesting year. We were shifting goals and priorities, so we did not allocate everything from FY 24. We bring in roughly two and a half million dollars a year

in DST money, which is the penny sales tax we get from the county based on a formula. At the end of the year, we said we were not going to spend it. We also have some other unspent DST monies of one point six million dollars. That, one point six million, has accumulated due to our approach. Since he has been city manager our approach has been to budget revenues low and spend even less, which creates cash.

Commissioner Berry wanted to know what the time frame was on the unallocated funds. **CM Minner** answered that was the unallocated DST revenue for FY 24 was the past twelve months. The one point six DST reserve started roughly 2020/2021 when covid hit. When covid hit we anticipated that it would hurt our DST revenues, so in the summer of 2020 during the budget we were extremely conservative and we cut the DST revenue projections because that was the time we saw people closing up shops. Although Florida is a free state, we were still closed for a little while. There was a lot of uncertainty when we did that budget so we were extremely conservative and we have kept that approach. Since then we have opened it up a little bit. So, those two together make two point nine million dollars. If we put all the numbers together that equals five point one four eight million dollars. This project would not hit the general fund reserves. We would not tap into general fund reserve monies and in out years we still have sources, primarily the DST revenues. This is allocating how to do this without spending one single penny in out years. It is all cash, no debt. Comparing it to a home budget, if you want to buy a home you squirrel away money and when you have what is needed to afford a home, you go out and purchase it. The pay as you go system has been the city's philosophy for the general fund over the past ten years. We have not taken it from the electric fund. However, we have done it with the gas and solid waste funds. We endeavored to do that for different reasons, but he would not get into it. He appreciates everybody's opinion. As the manager, this is a good project, and this is a priority type item. If you agree that it accomplishes the goals of marrying organizations, putting a better foot forward, investing in downtown, helping commerce, getting rid of blight, and tackling other projects, then this is an expense you may want to do. We can afford it because it uses roughly half of the five point four million dollars without going to future monies. He believes we can accomplish this with the monies we have available before tapping into allocations in FY 25. At the end of the day, this is really a priority item. If you feel this is a worthy project or a worthy expenditure then vote yes. If you think we can spend the money in other places than vote no. The staff recommendation is yes. This is a good plan and it fits with the directives given during the goal setting session from this past summer. It matches with the downtown business plan and it is affordable.

Commissioner Connell said he wanted to retouch on what the city manager brought up. With the leaks, there was a small portion of the roof that leaks, which is an easy fix. As far as the water weeping into some of the walls, we have planters that the city built along the exterior walls which is about two and a half foot of block walls that the city built planters in. There are no weed bowls in them, so any water that goes in there from rain has nowhere to go and no where for the water to escape. That is easy to fix. They could drill some holes for the water to go somewhere else so it does not weep into the building. At what cost to the city, as a whole, are we going to put into the Center for the Arts and the Melon Patch, three and half million dollars? That is craziness. We talked about bringing traffic to the downtown and the arts building is only one block off downtown. He did not know if we would see any more foot traffic downtown if we were to move them to the old Tropic building. That does not hold a lot with him, and we do not have a parking problem downtown. He keeps hearing about parking issues, but he could guarantee on any given day if you went to the parking garage there would be a few, if any, people parked on the second or the third floor. We have parking. We do not need to spend this kind of money to develop more parking spaces downtown. Even when we hold events, we do not run out of parking spaces. If we have a major event, most people that own property around Main Street sell their property for ten to fifteen dollars a car for parking. People can find a place to park if they want to come downtown for special events. On a regular basis, we do not have a parking issue. With the looks of the Partnership/Center for the Arts building, it does not look any different from other buildings downtown. It is not blighted and it is not an

eyesore. A good coat of paint goes a long way, so it does not stand out like a sore thumb. As far as the arts building, the electric was recently redone by Prime Electric. They did a beautiful job, and he would guarantee that upgrade with the inside panels, metallic tubing, and everything else that was put in it was not cheap. We also just replaced one or two units a couple of years ago. If it is such a disaster, why did we spend that kind of money on a building we are just going to tear down. Plus, is the Tropic building turnkey or are we going to have to spend two point four million dollars to turn around and dump hundreds of thousands more to accommodate these two new tenants. Is it turnkey and ready to go or is it going to cost more money to renovate it once we have ownership. Without arguing the point, if we have the kind of money to spend on Tav-Lee bicycle trails and three point five million dollars to have this dream happen downtown, he would make motions at budget time that we no longer just roll back the millage to adjust to the cost of what people's property values have gone up to, but we should actually reduce the millage rate significantly because apparently we have more money than we know what to do with.

Commissioner Pederson pointed out that some people call this progress. Twenty-five years ago our downtown was truly blight. He moved here twenty-six years ago and our downtown was two thirds empty. The major businesses were pawn shops. This city has come a long way. We did the Main Street design in conjunction with the Leesburg Partnership. The city has invested in the downtown and, as a result of that, the private sectors have invested substantially in the downtown. He brags about the downtown all the time because it continually improves every year. Some may wish it improved faster over the years, but it has not gone in the wrong direction. It continually goes in the right direction, and he is very proud of that. It is time for the city to invest in the downtown. We are moving forward with a downtown master plan, and we are budgeting money bigger than that. We were responsible because we put that money on hold due to covid. Money has been spent elsewhere through our town. We spent money all over town during the five years he has been on the commission. He has supported just about every one of them because that is progress. We are investing in our city, and it is time for the city to invest in the downtown. Two years ago he was against knocking down the current Partnership building, but he has reassessed that building. With parking, in the downtown master plan that was either number one or two by the residents of the city for where to spend money downtown. It was ranked high by the residents. It was the residents who came forward and ranked the priorities downtown. He was positive parking was either the number one or number two. When the parking garage was built, he shook his head because it was not in a good location. People complain about parking and we do have a parking problem. This is a great opportunity to do projects right. He supports the arts, it is good for the downtown, and it will draw people downtown. He was excited about parking, because we need to create more parking in a central location. To piggy back off of the study we did downtown, we have other parking problems that need to be fixed. Yes, it will cost a lot of money, but it is time for the city to invest in the downtown. He hoped the commission approves this because it would be good for the downtown. If people complain about parking after this, then they will just have to complain. This is a good move by our city.

Commissioner Berry said with all due respect to Commissioner Connell, he made some valid points that made her think differently. She knows the importance of what we need downtown as far as an arts theater. Right now, we cannot accommodate the arts organization, theater group or artists that may want to come and display paintings in our downtown. We need to fix this so we can draw people in who want to see it. It is important and it is needed. We have many people moving and relocating to this area, and they want to see the arts in the downtown. Right now, we are utilizing churches like Morrison United and First Baptist. Our downtown needs to be an inviting spot for all. When she says all, she means very diverse. It would up more job opportunities, which are definitely needed. She could question the dollar amount, but it has been laid out. It is simple to understand the costs to make sure we have representation to make our downtown look nice and inviting. When people buy homes or buildings they are never turnkey, ready to go. She does not care what you invest, there will always be some form of changes

needed to make it your own. There was a mention of The Partnership. She remembers going in there to look around, and the offices were okay. However, this would be a place to hold events, to bring business and people in. We need to step it up. We need to make it inviting for people who want to come downtown. It would be a big plus and change. We need to draw people to the area and we need to let them know we are stuck back in the 21st century. We are moving forward and this would be the first step.

Commissioner Connell said the Center for the Arts is only a block off of Main Street. It is not miles away. Moving it a block may not make that big of a difference one way or the other as far as bringing people downtown. They are already downtown and Magnolia is considered as part of the downtown. For the building itself, it is perfectly fine, there is nothing wrong with it. If we do not think it is pleasing to the arts people once they go in there he could assure that for a fraction of three point four five million dollars we could make some significant improvements to make it look beautiful. We are going overboard here to create something downtown that is already downtown because it is located one block away.

Commissioner Berry pointed out that the building is not accommodating. **Commissioner Connell** stated for the three-point five-four million dollars we could make that building very attractive for a fraction of the cost. They could make the most beautiful art center in Lake County maybe even Central Florida. We have parking for the building already, so it would not need any additional parking downtown.

Commissioner Reisman mentioned that this was exciting for the city. We as a city have supported a lot of things and we have invested in a lot of different areas around our city; whether it be sports complexes or trails. Not everyone is into trails and not everyone is into sports complexes. Some people are into arts, so it is exciting that we are diversifying and offering another opportunity for residents to have fun and enjoy our city. This would be a great thing for our downtown.

Mayor Burry pointed out that we can purchase it or not purchase it. If we do not purchase it, what happens to the building? Someone else will purchase it, and it would most likely be a local non-profit, so we would not see anything out of that deal. **Commissioner Connell** added by purchasing the building we are taking a big property value-wise off the tax roll. It would be a reoccurring cost by losing ad valorem taxes on the building every single year. If someone bought it, hopefully they would not be a non-profit. **Mayor Burry** said the chances of that happening are slim. His best guess is that a nonprofit located in close proximity to the area would purchase it, so we would still not see the ad valorem tax. We have a responsibility, as the other commissioners have mentioned. We need to support the arts. The current Melon Patch Players Theater is in terrible shape and it only supports about two hundred seats. The Tropic would have two hundred and fifty seats, so that is an improvement. The audience that already goes there will come to the Tropic. We could have at least two hundred and fifty people in the downtown on a Saturday night. We can expect them to eat the local restaurants, so that is a benefit to the downtown. He is not a great fan of the money. He gets it is expensive, but doing things for the city makes it better for everybody. This will improve the quality of life in Leesburg and he supports it.

Mr. Rojas said he did not realize this item was on the agenda. He was a prior owner of the Tropic Theater and Commissioner Pederson helped finance that mortgage. He struggled to finance that building at two hundred and fifty thousand dollars. They had to fight tooth and nail to make it happen by injecting over one hundred and fifty thousand dollars into it. He asked if that building had been assessed and how was it presented because it was not listed for sale. He knows the non-profit being talked about is Beacon College and they could certainly use it. He has said it for years, that the parking garage was not placed in a suitable spot. It should have been placed between fifth and sixth street. The city owns three properties that boarder the parking lot between fifth and sixth street, so they do not need to tear anything down. There is enough land space to build a parking garage there. He was well familiar with the infrastructure

of the theater and there are two hundred and thirty-eight seats in theater number two, which meets the requirement. However, it was renovated back in 1978. The city is looking at another million to a million and a half at best to rehab the Tropic Theater. He owned it for years and sold it because it was a money pit. When he moved here in 1979, the Arts Festival was held at Venetian Gardens. The city used to draw about the same crowd as Mount Dora. It was the thing to do. The year they moved it downtown, it killed the Arts Festival for Leesburg. That was when Mount Dora jumped on the opportunity. We have a beautiful, huge, triple the size of what the community center used to be that could house an annual event for the arts. We have a building on Magnolia and if a parking garage was next to it, it could be rehabbed for less money. He would be willing to put in a bid for it. This is wasteful dollars. He had to speak up because he used to own the Tropic. His girls performed at the current Melon Patch Theater and with a little bit of a touchup, for a lot less money, it could be a beautiful theater.

Bert Boliek of 126 South 8th Street said his family was celebrating their 106th anniversary of being in this community. They have a lot of experience here. With moving the Arts Center to Main Street, he wanted to provide a quote from the Americans for the Arts, "a summary of the investment in the arts community across the nation. Nationally, nonprofit arts and cultural sections generated one hundred and fifty-one point seven billion dollars of economic activity in 2022, seventy-three point three billion in spending by the arts and culture organizations and an additional seventy-eight point four billion in event related expenditures by their audiences. The industry supported over two point six million jobs and provided one hundred and one billion dollars in personal income to residents. It generated twenty-nine point one billion dollars in tax revenue to local, state, and federal governments." Now, let's compare that to Florida, Florida did a really nice report. With the national total spending of one hundred and fifty-one point seven billion, the State of Florida had five point seven billion in total spending for the arts. The total jobs created were two point six million nationally and ninety-one million two hundred and seventy thousand jobs were created in the State of Florida. Personal income one hundred and one billion nationally and three point seven billion dollars of personal income in the State of Florida. With individual spending, that is the big number that needs to be looked at, because it is important to move it downtown. On a national basis, individual spending is above and beyond the cost of a ticket to get into the event, it is thirty-eight dollars and forty-six cents per person. That is above and beyond the cost of the ticket. In Florida it is forty-four dollars and ninety-two cents per person spent above and beyond the cost of the ticket in a downtown. That covers food, drinks, shopping, lodging, transportation, clothing, groceries, child care, and other items with local merchants beyond the cost of admission. This is a critical piece to the puzzle. By investing in the arts and culture it attracts new populations and businesses to local areas according to research by the Arts Council. The industry is known to boost tourism both domestically and foreign. Acting studios in Chicago say live theater helps promote social discourse and theater is a cultural phenomenon that demands that society examine itself in the mirror. We can study societal problems and attempt to find solutions, but coming together as a community to listen to opposing points of view is necessary and we need that more now than ever in our nation.

Elliot Ward of Blue Island Sportswear thanked the commission for what they were doing. The different views are good to see. With that being said, we do have a huge parking problem in the downtown. He is a business owner, so he knows there is a big parking problem. Anything the city can do to help bring people downtown he is for it. He is for tearing it down and buying the Tropic because we definitely need parking.

James Hargood owner of Breakfast at Tiffany's on Fifth Street said his business is right where they are discussing. He sees that parking lot full every day. It is shared with Lifestream. If you go down there around ten thirty in the morning that parking lot is full. To say the city does not have a parking problem is really irresponsible. If you spent anytime downtown, you would realize very quickly that there is a major parking problem. Signage would be a big help, because people do not always know where to park.

He knows the chief and others have been doing some policing on the three-hour parking, because that is another huge problem. There is no other parking for business owners or employees. The workers would have to walk six blocks with totes and backpacks if they parked in the garage. He sees them park where patrons should be parking park, so when people come to eat or shop there is no place to park. The current parking garage is on the other side of downtown. It is over by the Beacon College. That is the only real business on that side of town other than RoMac and the Library, and that is why it was put there. It was to draw people to the library. He wanted to know if the city has explored all the options other than just tearing down the building. He did not disagree with Commissioner Connell because if it is a good functioning building, and it could be rehabbed and used. He has been here since the first grade and this was the first time he has owned a business in the downtown. He was concerned about wasteful spending because he is conservative minded. He wants to make sure the city is saving money and using taxpayer money correctly. However, we need to move the city forward. That building is blight, it has so many structural cracks on it. He was in construction, so he knows it has a lot of external structural cracks that stair step up and down the whole building. That is a sign of foundational shifting, which is normal because Florida is a beach, so it could be fixed. He questioned if the city had explored an option of partnering with Lifestream to utilize a piece of their property because their parking lot would make a really nice parking garage. The city could tell them that they can have the prime parking spots, if they allow everyone else to use it.

Dina Simpson of Renew Day Spa said she has been in business for almost eight years. They have seen wonderful improvements in downtown. She also sits on the board for the Arts Center. If they want to know how this would benefit them as a business in downtown, first it would be bringing new life to the downtown. There has been a lot of empty buildings sitting for a very long time. We have a lot of buildings that are worn and run down. She appreciated the commission trying to improve the downtown. For years, she has been on the board for the Art Center, and she cannot tell them how many times she has had to mop up the floor, over and over again. She cannot say how many times they have had artists put their possessions in that building for it to be damaged or destroyed by rainstorms. Part of the responsibility of the art board is to consider every rainstorm comes through, so the art does not get damaged or ruined. She has seen the look on the artists' face when their art has been ruined and that hurts her heart. She knows the time and effort that goes into art. Not to mention, how it reflects on them because they are responsible of taking care of that art. She understands art might not be for everybody, but sports may not be for everybody. We have to be inclusive. It adds culture to our downtown and it does not segregate. With the Melon Patch she did not know the last time a member of the commission has been there. Years ago, her husband was asked to be in a performance at the Melon Patch and she was like, where the heck is the Melon Patch. When you go in and sit down your nose fills up with the smell of mold and mildew, and everything else that is in that building and that is coming from an outsider. She does not know anything about construction, but that building is old, and it needs to be redone. She is tired of Arts Center and the theater being looked at as art, yet they are not under the same roof. They all get along, so why is it that the art people who work on the backdrops for the theater in a different building? That is very inconvenient. They need to look at the whole picture because they need to be inclusive of everybody. With the parking situation, speaking on behalf of Renewed Day Spa, she has clients that will not book an appointment between the hours of ten and two because lunchtime is too stinking busy. They cannot turn around or find a parking spot and good luck trying to find a handicap parking spot. Has anybody been out in The Villages to see the Sharon Building? They put in a lot of money to refurbish the Sharon because it used to be a church. It brings in a lot of people and it looks great. They really need to go look at that.

Mayor Burry asked for any other public comment. There were none. He asked for any further commission comments. **Commissioner Connell** said someone spoke about the theater and how much money the average person spends when they go see a play. Did Dance Dynamics have theater shows

where they brought people downtown? There are people downtown already coming to the Tropic. With somebody having their painting ruined, that is a new roof. That would be a lot cheaper than three point four million dollars. One gentleman talked about the parking issue and Mr. Rojas brought up other options for parking. If one of the main driving forces is parking, then we should find cheaper options to create additional parking spaces rather than spending three and a half million dollars.

The roll call vote was:

Commissioner Reisman	Yes
Commissioner Pederson	Yes
Commissioner Berry	Yes
Commissioner Connell	No
Mayor Burry	Yes

Four yeas, one nay, the Commission adopted the resolution.

7. INFORMATIONAL REPORTS:

The following reports are provided to the Commission in accordance with the Charter/Ordinances. No action required.

A. None

8. CITY ATTORNEY ITEMS:

CA Watson had no reports this evening.

9. CITY MANAGER ITEMS:

CM Minner had no items to address.

10. ROLL CALL:

Commissioner Pederson had no further comment.

Commissioner Berry thanked the Housing Director for her kindness and experience while working this week. She appreciated it.

Commissioner Reisman pointed out that they needed to go back and redo item 6.A.3, there needed to be public comment. **CM Minner** agreed, but at the moment Commissioner Connell was not in the room. (Commissioner Connell left between 7:02 p.m. and 7:05 p.m.) **Commissioner Reisman** said he would bring it back up after roll call. He invited everyone out for the Shamrockin' BBQ & Beer Festival this weekend. It starts on Friday afternoon and runs through Saturday night. Head downtown and enjoy yourself.

CM Minner said going back to the Community Development District (CDD) issue. They approved that item, but a procedural item was missed. **PZD Miller** stated their attorney, Ms. Michelle Rigoni of Kutack Rock Attorneys of Tallahassee reminded him that they should have allowed for public comment, but they

went through that one rather quickly. He noted the addition of pre-filed testimony from the district representative, district manager, financial consultant, and engineer, which provided support for the statutory findings in Chapter 190. This is the CDD for the Dewey Robbins Community, Lakewood Reserve and Hodges Reserve located on Dewey Robbins Road. This is a standard CDD, and it will be the seventh one in this city. **Mayor Burry** asked if there were any public comments about the Community Development District. There were none. **CM Minner** inquired if they should revote on this item. **CA Watson** suggested they revote to avoid any future problems.

Commissioner Reisman made a motion to approve the resolution for item 6.A.3 and Commissioner Pederson seconded the motion.

The roll call vote was:

Commissioner Reisman	Yes
Commissioner Pederson	Yes
Commissioner Berry	Yes
Commissioner Connell	Yes
Mayor Burry	Yes

Five yeas, no nays, the Commission adopted the resolution.

Commissioner Connell had nothing further to comment on.

Mayor Burry had no comment.

11. ADJOURN:

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE HUMAN RESOURCES DEPARTMENT, ADA COORDINATOR, AT 728-9740, 48 HOURS IN ADVANCE OF THE MEETING.

F.S.S. 286.0105 "If a person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting, they will need a record of the proceedings, and that for such purpose they may 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 based." The City of Leesburg does not provide this verbatim record.

With a motion by Commissioner Reisman and a second by Commissioner Pederson, the meeting adjourned at 7:08 p.m.

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.B.1.

Meeting Date: March 25, 2024

From: Aaliyah Davis, (Purchasing Manager), Cliff Kelsey, (Public Works Director)

Subject: Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute Amendment One to an Existing Task Order with Dewberry Engineers, Inc. for additional permitting services; and providing an effective date.

Staff Recommendation:

Staff recommends execution of Amendment One to an Existing Task Order and approval of the resolution authorizing execution of the amendment for additional permitting services for the Consumptive Use Permit (CUP) Modification with Dewberry Engineers, Inc. for an amount not to exceed \$87,937.36.

Analysis:

By Resolution 11,105, dated June 27, 2022 for permitting services for a formal modification application to be submitted to St. Johns River Water Management District (SJRWMD) to request a modification to increase the current CUP that expires. The project included reviewing existing projections and proposed growth to develop future water use for the area. The additional permitting services will address the questions posed by SJRWMD which includes groundwater modeling with SJRWMD accepted model and the East Central Florida Transient Model Version to demonstrate impacts to minimum flow levels (MFLs).

Procurement Analysis:

The City has an existing Agreement for Professional Services on a Continuing Basis previously awarded by the Leesburg City Commission. The City Commission approved a Task Order under the existing Professional Services Agreement for permitting services. This Amendment is made under the terms and conditions of that Agreement.

Options:

1. Approve Resolution authorizing execution of Amendment 1 to the Task Order under the Continuing Professional Services Contract; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

The current Water budget does not include these funds. A budget adjustment will need to be processed

using available Water Cash Reserves.

Account No. 043-3051-533-3130

Project No. 436013

Requisition 56347

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE
AMENDMENT ONE TO AN EXISTING TASK ORDER WITH DEWBERRY
ENGINEERS, INC. FOR ADDITIONAL PERMITTING SERVICES; AND
PROVIDING AN EFFECTIVE DATE.**

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

THAT the Mayor and City Clerk are hereby authorized to execute an agreement with DEWBERRY ENGINEERS, INC. d/b/a DEWBERRY | HYDRO whose address is 202 Lake Miriam Drive, Suite E1, Lakeland, FL 33813 for additional permitting services for the Consumptive Use Permit (CUP).

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held on the 25th day of March 2024.

Mayor

ATTEST:

City Clerk

**AMENDMENT ONE TO A
TASK ORDER UNDER AN
AGREEMENT FOR PROFESSIONAL SERVICES
ON A CONTINUING BASIS**

THIS TASK ORDER is made as of the 25th day of March in the year 2024, between **THE CITY OF LEESBURG, FLORIDA**, a Florida Municipal Corporation, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the “CITY”, or “SPONSOR”, or “OWNER”), and **DEWBERRY ENGINEERS, INC. d/b/a DEWBERRY | HYDRO** whose address is 202 Lake Miriam Drive, Suite E1, Lakeland, FL 33813 (hereinafter referred to as the “PROFESSIONAL”, or “CONSULTANT”).

WITNESSTH:

WHEREAS, on June 13, 2022, pursuant to resolution 11093 the CITY and PROFESSIONAL entered into an Agreement for professional engineering services on a continuing basis (hereinafter referred to as the “Master Agreement”). The Master Agreement is referenced herein as though set forth in full text.

WHEREAS, on June 22, 2022, the CITY and the PROFESSIONAL entered into a Written Task Order for professional services providing permitting services for the Consumptive Use Permit (CUP) Modifications 94-16.

WHEREAS, the CITY and the PROFESSIONAL desire to enter into Amendment 1 for the existing Task Order (hereinafter referred to as “Task Order”) for additional permitting services to modify the existing CUP on the below referenced Project.

NOW THEREFORE, for and in consideration of the mutual covenants and promises contained in this Task Order, the CITY and the PROFESSIONAL do hereby agree as set forth below:

1. **Recitals.**

The above recitals are true and correct and are incorporated herein.

2. **Scope of Services.**

The Parties agree to the Scope of Services and Fee pursuant to the terms and conditions set forth in the PROFESSIONAL’s Amendment included as ATTACHMENT ‘A’ for the project generally described as:

**Project:
CONSUMPTIVE USE PERMIT (CUP) MODIFICATIONS 94-16
(ADDITIONAL PERMITTING SERVICES)**

3. **Compensation.**

The PROFESSIONAL shall perform the Scope of Services for an amount of **\$87,937.36**. The cost of these services shall not exceed this amount unless the CITY has executed a written Change Order approving additional Services and additional compensation.

IN WITNESS WHEREOF, the parties hereto have executed this Task Order on the date stated in the preamble.

DEWBERRY ENGINEERING d/b/a Dewberry | Hydro

By: _____

Printed: _____

Its: _____
(Title)

THE CITY OF LEESBURG, FLORIDA

By: _____
James A. Burry Jr., Mayor

ATTEST:

J. Andi Purvis, City Clerk

APPROVED AS TO FORM:

William Watson, City Attorney

**AMENDMENT FOR SCOPE OF SERVICES for the
CONSUMPTIVE USE PERMIT (CUP) MODIFICATION 94-16
CITY OF LEESBURG (CITY)**

A. SCOPE OF SERVICES

Upon authorization to proceed from the CITY, the CONSULTANT will provide the following services to modify the existing CUP.

The previous Scope of Services anticipated submittal of the CUP Modification within three months of authorization to proceed from the City. Determining the City's additional developments and projected population was an extensive process while staff at the City found the approved ordinances for each of the developments as requested at one of four meetings held with the St. Johns River Water Management District (SJRWMD) on demand projections. Additional unanticipated delays took place while CONSULTANT verified the various historic water uses which necessitated a visit to City staff to determine appropriate numbers and measuring units. The anticipated project length was six months from Notice to Proceed, however obtaining feedback from the District and responding to their request outside of the submittal process took eighteen months prior to submittal in February 2024 exceeding the budgeted costs.

Phase 100 – Response to Request for Additional Information

Task 101 – Response to Request for Additional Information

Through four rounds of meetings with the SJRWMD, CONSULTANT submitted a technical memorandum addressing all the questions posed to date on the demand projections. However, the SJRWMD has not committed to the requested quantities and it is expected that they will have follow up questions. The CONSULTANT will work with the CITY's staff to make any required modifications to the projections.

At the end of January 2024, SJRWMD released a guidance document which will require seven additional model simulations at steady state. It is expected that the Request for Additional Information will require these additional simulations and that running the model at steady state will result in impacts which will require modifications of the withdrawals. The CONSULTANT will perform groundwater modeling with SJRWMD accepted model, the East Central Florida Transient Model Version 2t to demonstrate no impacts to MFLs or existing legal users.

This task will address all questions on the Request for Additional Information.

C. DELIVERABLES

The CONSULTANT shall prepare and submit to the CITY, including electronic format when applicable, the following deliverables:

TASK	ACTIVITY	DELIVERABLE
101	Request for Additional Information	Response to Request for Additional Information and Supporting Documentation

D. SCHEDULE

The CONSULTANT shall proceed with the services identified in this AGREEMENT immediately upon receipt of an executed copy of this AGREEMENT and a formal Notice-to-Proceed from the CITY. The scope anticipates that the application will be submitted within the next 3 months, and the overall project schedule will take up to six (6) months.

E. COMPENSATION

This Agreement establishes a lump-sum cost of **\$87,937.36** (See Table). Compensation for the services performed under this Agreement shall be on a lump sum basis. Additional documentation may be requested by the CITY and, if so requested, shall be furnished by the CONSULTANT to the CITY Auditor's satisfaction. In addition, all invoices shall be submitted with the Agreement number, purchase order (PO) number, and the CITY Project Identification on the invoice.

Task	Compensation
Task 101 – Response to Request for Additional Information	\$87,937.36
	\$87,937.36

F. CITY'S RESPONSIBILITIES

The CITY will provide the following information to the CONSULTANT and/or perform the following services related to the Project:

1. Provide the CONSULTANT the required data in an electronic form.
2. The CITY shall furnish CONSULTANT available studies, reports and other data pertinent to CONSULTANT's services; obtain or authorize CONSULTANT to obtain or provide additional reports and data as required.
3. Permit Fees

G. SERVICES NOT INCLUDED

The following services are not included in this phase of the Project and shall be added at a later date by subsequent addendum(s) to this Agreement:

1. Response to Request(s) for Clarification (RC) that address(es) matters other than clarification of the information.

H. ASSUMPTIONS

The Scope of Services and compensation arrangement outlined in this AGREEMENT are based on the following assumptions:

1. CONSULTANT has assumed one (1) RAI response if further clarification or information is required additional services and compensation will be requested.
2. The CONSULTANT will assume that the withdrawal points will have sufficient physical capacity (hydrogeological capacity) to meet the required permitted quantities. If after further design of if further clarification or individual facilities, the individual withdrawals do not meet the permitted capacities then design alternations may be required and are not part of this authorization.

**THE REMAINDER OF THE PAGE.HAS BEEN INTENTIONALLY
LEFT BLANK**

		Principal	Admin II	Sr. Sci.	Prof VI	Eng VI	Eng VII	Eng III	Total Hours		TOTAL DEWBERRY
Phase/Task	Task Description	\$ 303.00	\$ 92.03	\$ 151.54	\$ 204.00	\$ 210.00	\$ 247.00	\$ 145.00			
Phase 100	Response to Request for Additional Information	12	12	50	206	80	68	0	428		\$ 87,937.36
Task 101	RAI Response	12	12	50	206	80	68		428		\$ 87,937.36
Totals		12	12	50	206	80	68	0	428		\$ 87,937.36
Grand Total		\$ 3,636.00	\$ 1,104.36	\$ 7,577.00	\$ 42,024.00	\$ 16,800.00	\$ 16,796.00	\$ -			\$ 87,937.36

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.C.1.

Meeting Date: March 25, 2024

From: Robert Hicks, (Police Chief)

Subject: Resolution of the City Commission and the City of Leesburg to authorize the Leesburg Police Department to purchase replacement ballistic protective vests, ballistic protective helmets, and a full service K-9 with training through the use of the Police Forfeiture funds; and providing an effective date.

Staff Recommendation:

Staff recommends approval of the resolution of the City of Leesburg, Florida authorizing the Leesburg Police Department to purchase replacement ballistic protective vests, helmets and a full service K-9 with training through the use of Police Forfeiture monies.

<u>Item</u>	<u>Unit Price</u>	<u>Quantity</u>	<u>Cost</u>
ORIGIN level BIIIA ballistic vests, with ballistic attachments and plates.	\$4,739.84	6	\$28,439.04
Level II ballistic helmets	\$806.40	12	\$9,676.80
Full service K-9, training and equipment	\$15,000.00	1	\$15,000.00
		Total	\$53,115.84
Total Forfeiture Amount			\$53,115.84

Analysis:

The current protective equipment is expired, or will be expiring soon, and requires replacement to ensure the safety of our officers and to comply with current accreditation standards. Expired protective equipment of this nature is no longer covered by the 5-year manufacturer warranty, and creates liability for the City should an injury occur while wearing expired protective equipment. Additionally, at this time a replacement full service K-9 is necessary.

Procurement Analysis:

N/A

Options:

1. Approve the resolution authorizing the use of Police Forfeiture monies of approximately **\$53,115.84** to purchase protective equipment and a full service K-9 with training; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

The use of forfeiture monies for this purpose is one of the authorized selected uses, and will not affect the general fund, or taxpayers. The current balance in the Police Forfeiture fund is just over \$144,000.00. A budget adjustment will be necessary to add these expenditures to the current budget.

Account No. 121-2111-521-5215
 121-2111-521-5182

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION AND THE CITY OF LEESBURG
TO AUTHORIZE THE LEESBURG POLICE DEPARTMENT TO PURCHASE
REPLACEMENT BALLISTIC PROTECTIVE VESTS, BALLISTIC
PROTECTIVE HELMETS, AND A FULL SERVICE K-9 WITH TRAINING
THROUGH THE USE OF THE POLICE FORFEITURE FUNDS; AND
PROVIDING AN EFFECTIVE DATE.**

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

THAT the City Commission hereby authorizes the Leesburg Police Department to purchase replacement ballistic protective vests, ballistic protective helmets, and a full service K-9 with training in the amount of \$53,115.84 through the use of Police Forfeiture funds. The use of forfeiture monies for this purpose is one of the authorized selected uses, and will not affect the general fund, or taxpayers.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held on the 25th day of March 2024.

Mayor

ATTEST:

City Clerk



FEDERAL EASTERN INTERNATIONAL
135 W ADAMS ST
JACKSONVILLE, FL 32202
WWW.FEDEASTINTL.COM

QUOTE
564794

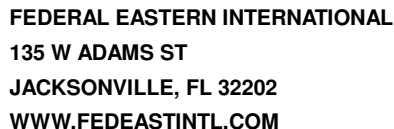
BILL TO: LEESBURG POLICE DEPARTMENT
115 E. MAGNOLIA STREET
LEESBURG FL 34749

SHIP TO: LEESBURG POLICE DEPARTMENT
115 E. MAGNOLIA STREET
LEESBURG FL 34749

SALES REP	SALES EMAIL	SALES PHONE
STAN REYZIN	SREYZIN@FEDEASTINTL.COM	727-542-0190

DATE	QUOTE	ACCT	CUSTOMER PO	TERMS	REP ID	OPERATOR	SHIP VIA
02/21/24	564794	FE1543		NET 30	102	REY	UPS GROUND

UNITS	U/M	DESCRIPTION	DISC	UNIT PRICE	AMOUNT
1	EA	NASOG1ZB8PCZ5 ORIGIN BIIIA PLATE CARRIER, INCLUDES BALLSTIC STOP GAPS AND SIDE ARMOR, NMB COLOR : BLACK PLACARD: POLICE IN SUB GRAY		1,163.12	1,163.12
1	EA	NASHC6B22BD0H PLATE BACKERS, BIIIA-2 SET OF 2 NMB		363.44	363.44
1	EA	NASOG1ZB8A2Z5 PHASE 2 BIIIA: MANTLE, THROAT, BICEPS, GROIN, LOWER AB/BACK COLOR : BLACK		1,738.80	1,738.80
2	EA	NASPLT020ECSN 10X12 OMEGA PLATE NMB		636.16	1,272.32
1	EA	NASOG1000FPZ5 ORIGIN FRONT TANK TRACK FRONT PANEL NMB COLOR : BLACK		57.68	57.68
1	EA	NASOG1000BPZ5 ORIGIN TANK TRACK BACK PANEL NMB COLOR : BLACK		57.68	57.68
1	EA	NASOG1000WPZ5 ORIGIN WING POUCH SET, R/L NMB		86.80	86.80
**** CONTINUED ON PAGE 2					



Q U O T E
564794

SHIP TO: LEESBURG POLICE DEPARTMENT
115 E. MAGNOLIA STREET
LEESBURG FL 34749

UNITS	U/M	DESCRIPTION	DISC	UNIT PRICE	AMOUNT
		***** QUOTATION ***** ***** PAGE 2 ***** COLOR : BLACK SUBTOTAL 4,739.84 QUOTE TOTAL 4,739.84 TERMS : PRICES ARE EFFECTIVE FOR 30 DAYS FROM THE DATE OF THIS QUOTE UNLESS OTHERWISE NOTED. ITEMS LISTED ON THIS DOCUMENT MAY REQUIRE A UNITED STATES GOVERNMENT LICENSE FOR EXPORT. EXPORTING CONTROLLED ITEMS WITHOUT A LICENSE IS PROHIBITED BY LAW.			



FEDERAL EASTERN INTERNATIONAL
135 W ADAMS ST
JACKSONVILLE, FL 32202
WWW.FEDEASTINTL.COM

Q U O T E
565778

BILL TO: LEESBURG POLICE DEPARTMENT
115 E. MAGNOLIA STREET
LEESBURG FL 34749

SHIP TO: LEESBURG POLICE DEPARTMENT
115 E. MAGNOLIA STREET
LEESBURG FL 34749

SALES REP	SALES EMAIL	SALES PHONE
STAN REYZIN	SREYZIN@FEDEASTINTL.COM	727-542-0190

DATE	QUOTE	ACCT	CUSTOMER PO	TERMS	REP ID	OPERATOR	SHIP VIA
03/13/24	565778	FE1543		NET 30	102	REY	UPS GROUND

UNITS	U/M	DESCRIPTION	DISC	UNIT PRICE	AMOUNT
1	EA	NASHLMBOAD201 OPERATOR ELITE HELMET W/ 4D PADS, NVR, RAILS DIAL HARNESS		806.40	806.40
		SUBTOTAL			806.40
		QUOTE TOTAL			806.40
		CREDIT CARD SURCHARGE NOTICE: EFFECTIVE 4/1/24, WE WILL START TO IMPOSE A 2.75% SURCHARGE ON CREDIT CARD AND PURCHANSING CARD PAYMENTS WHERE APPLICABLE BY LAW AND IS NOT GREATER THAN OUR COST OF ACCEPTANCE. AS AN ALTERNATIVE WE ALSO ACCEPT ACH PAYMENTS ONLINE WITHOUT ANY ASSOCIATED FEES. YOU MAY PAY ONLINE WITH ACH, VISA OR MASTERCARD AT: HTTPS://PORTAL.FEDEASTINTL.COM TERMS: PRICES ARE EFFECTIVE FOR 30 DAYS FROM THE DATE OF THIS QUOTE UNLESS OTHERWISE NOTED. ITEMS LISTED ON THIS DOCUMENT MAY REQUIRE A UNITED STATES GOVERNMENT LICENSE FOR EXPORT. EXPORTING CONTROLLED ITEMS WITHOUT A LICENSE IS PROHIBITED BY LAW.			

**Police Service Dogs, Inc.**

P.O. Box 152 • Oxford, FL 34484
Office: 305-986-5824
Contact: Maria Cabrera
Website: psdk-9.com
Email: psdk9@aol.com

Date: 03/14/2024
Invoice No.: 20240435
PO No.:

Bill To:

Leesburg PD
115 E. Magnolia Street
Leesburg, FL 34748

Ship To:

N/A

Qty	Item	Description	Unit	Total
1	PSGDP	European imported green German Shepherd named "MARKO"; solid black in color; DOB: 10/19/2022; to be used for dual purpose	\$14,000.00	\$14,000.00
1	PSTRNG	Twelve (12) week basic handler course at PSD facility; lodging included	\$6,000.00	\$6,000.00
1	PSCREDIT	Credit for German Shepherd named "QUKI aka CLYDE"; black and tan in color; DOB: 03/15/2022; Chip #900182002172872	-\$5,000.00	-\$5,000.00

Total **\$15,000.00**

Balance Due **\$15,000.00**

- CREDIT CARD PURCHASES OVER \$500 WILL INCUR A 3.5% FEE

Thank you for your business.

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.C.2.

Meeting Date: March 25, 2024

From: Andi Purvis, (City Clerk)

Subject: Resolution of the City Commission of the City of Leesburg, Florida, accepting a Utility Easement to the City of Leesburg from Kane Roman Distributors, LLC, for the purpose of granting the City an Easement over the property described therein; and providing an effective date.

Staff Recommendation:

Staff recommends accepting and approving the Resolution for a Utility Easement from Kane Roman Distributors, LLC, for the property described therein.

Analysis:

Kane Roman Distributors, LLC is granting a Utility Easement to the City of Leesburg, Florida for the purpose of construction, installation, repair, maintenance, replacement, and improvement of underground or above ground utilities, including but not limited to water, sewer, reuse water, natural gas, and electricity.

Procurement Analysis:

N/A

Options:

1. Approve as presented; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

None

RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, ACCEPTING A UTILITY EASEMENT TO THE CITY OF LEESBURG FROM KANE ROMAN DISTRIBUTORS, LLC, FOR THE PURPOSE OF GRANTING THE CITY AN EASEMENT OVER THE PROPERTY DESCRIBED THEREIN; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

THAT the Utility Easement granted to the City of Leesburg by Kane Roman Distributors, LLC, for the purpose of granting the City a Utility Easement over, under, upon, across, through and within the real property described in the document, is hereby accepted.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held on the 25th day of March 2024.

Mayor

ATTEST:

City Clerk

Prepared by/return to:
Jennifer M. Cotch, Esq.
Stone & Gerken, P.A.
4850 N. Highway 19A
Mount Dora, Florida 32757

UTILITY EASEMENT

THIS PERMANENT UTILITY EASEMENT ("**Easement**") is hereby granted by **KANE ROMAN DISTRIBUTORS, LLC**, a Florida limited liability company, whose mailing address is 105 Park Center Street, Leesburg, Florida 34748, ("**GRANTOR,**") to **THE CITY OF LEESBURG, FLORIDA**, whose mailing address is P.O. Box 490630, Leesburg, Florida 34749-0630, and its successors and assigns ("**GRANTEE**");

WITNESSETH:

THAT **GRANTOR**, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant unto **GRANTEE**, its successors and assigns forever, a perpetual non-exclusive easement for the construction, installation, alteration, operation, repair, maintenance, and replacement of utility improvements, including but not limited to water, wastewater, reclaimed water lines, natural gas and electricity and related facilities (the "**Facilities**"), over, under, upon, across, through and within the following described lands in Lake County, Florida, and referred to hereinafter as the "**Easement Area**" to wit:

SEE THE SKETCH OF DESCRIPTION ATTACHED HERETO AS EXHIBIT "A"

The easement rights specifically include: (a) the right of perpetual ingress and egress to patrol, inspect, alter, improve, construct, repair, maintain, rebuild, relocate, remove and provide access and service to the Facilities; (b) the right to decrease or increase, or to change the quantity and type of, the Facilities; (c) the right to clear the Easement Area of trees, limbs, undergrowth, and other physical objects (regardless of the location of such trees, limbs, undergrowth and other objects) which, in the opinion of Grantee, endanger or interfere with the safe and efficient installation, operation, or maintenance of the Facilities; and (e) all other rights and privileges reasonably necessary or convenient for the safe and efficient installation, operation, and maintenance of the facilities and for the enjoyment and use of such Easement for the purposes described above. Such easement rights shall include any temporary construction easement over and across such property as is necessary to the proper use and enjoyment of any right granted herein.

GRANTOR shall not erect, construct, or create any buildings, structures, or obstacles within the Easement Area that interfere with **GRANTEE'S** rights as described herein or install any landscaping with root systems that may damage the Facilities; however, **GRANTOR** may use the surface of the Easement Area in any manner that does not interfere with the rights granted to **GRANTEE** herein, which shall specifically include usage as and for roadways, parking areas, sidewalks, curbs, and sodding. **GRANTEE** will repair and/or replace any roadways, parking areas, sidewalks, curbs, and sodding in the Easement Area that is damaged in connection with any maintenance or repairs made by **GRANTEE** to the Facilities. **GRANTOR** reserves the right to grant rights to others affecting said Easement Area provided that such rights do not create an unsafe condition or conflict with the rights granted to **GRANTEE** herein. Failure to exercise the rights herein granted to **GRANTEE** shall not constitute a waiver or abandonment.

GRANTOR warrants and covenants that **GRANTOR** is lawfully seized and in possession of the real property underlying the Easement Area, as specifically described and depicted in Exhibit "A" attached hereto, and has the right to convey this Easement, and that **GRANTEE**, its successors, successors-in-title and assignees shall have quiet and peaceful possession, use, and enjoyment of this Easement. The rights, privileges, and burden of the Easement granted herein shall be a covenant running with the land and the rights and duties shall descend to the parties' successors and assigns. **GRANTEE** shall include **GRANTEE'S** agents, contractors, subcontractors, licensees, franchisees, employees, and other parties associated with Grantee in furtherance of the purposes herein set forth.

IN WITNESS WHEREOF, this Easement has been executed by **GRANTOR** on the day and year first above written.

WITNESSES:

GRANTOR:

KANE ROMAN DISTRIBUTORS, LLC, a
Florida limited liability company

[Signature]
Signature
Litza Rodriguez
Printed Name

By: [Signature]
Print: Loures McAgay
Title: Manager

[Signature]
Signature
Vanessa Voutsinas
Printed Name

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 10th day of JANUARY, 2023, by LOURDES McAGAY, Manager of Kane Roman Distributors, LLC, a Florida limited liability company, who is ☒ personally known to me or ☐ who produced the following identification:

[Signature]
Notary Public Signature
JIMMY L KNAUB
Notary Public Name

My Commission Number:
My Expiration Date:

(seal)

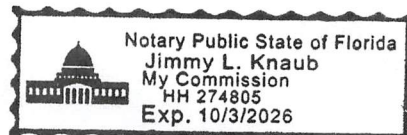


EXHIBIT "A"

SKETCH OF DESCRIPTION

SECTION 21
TOWNSHIP 19 SOUTH
RANGE 24 EAST
LAKE COUNTY, FLORIDA
ELECTRICAL EASEMENT

DESCRIPTION

COMMENCE at the Southwest Corner of the Southwest 1/4 of the Southeast 1/4 of Section 21, Township 19 South, Range 24 East, Lake County, Florida; thence N89°23'48"W 222.00 feet along the South boundary of the Southeast 1/4; thence N00°31'37"E 348.66 feet to the POINT OF BEGINNING; thence N89°27'57"W 86.20 feet to the beginning of a tangent curve concave Southerly and having a radius of 150.00 feet and a central angle of 12°00'34"; thence run Westerly 31.44 feet along the arc of said curve to the end of said curve; thence S78°31'28"W 31.19 feet to the beginning of a tangent curve concave Southeasterly and having a radius of 150.00 feet and a central angle of 33°48'19"; thence run Southwesterly 88.50 feet along the arc of said curve to the end of said curve; thence S44°43'09"W 103.89 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 50.00 feet and a central angle of 29°28'17"; thence run Southwesterly 25.72 feet along the arc of said curve to the end of said curve; thence S74°50'20"W 211.44 feet; thence S74°45'42"W 232.53 feet; thence N15°14'09"W 98.85 feet; thence S74°45'51"W 4.00 feet; thence N15°14'09"W 18.00 feet; thence N74°45'51"E 18.00 feet; thence S15°14'09"E 18.00 feet; thence S74°45'51"W 4.00 feet; thence S15°14'09"E 88.85 feet; thence N74°45'42"E 222.54 feet; thence N74°50'20"E 211.33 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 40.00 feet and a central angle of 29°28'17"; thence run Northeastly 20.58 feet along the arc of said curve to the end of said curve; thence N44°43'09"E 103.89 feet to the beginning of a tangent curve concave Southeasterly and having a radius of 160.00 feet and a central angle of 33°48'19"; thence run Northeastly 94.40 feet along the arc of said curve to the end of said curve; thence N78°31'28"E 31.19 feet to the beginning of a tangent curve concave Southerly and having a radius of 160.00 feet and a central angle of 12°00'34"; thence run Easterly 33.54 feet along the arc of said curve to the end of said curve; thence S89°27'57"E 86.20 feet; thence S00°31'37"W 10.00 feet to the Point of Beginning.

CONTAINING: 9335 square feet, more or less.

NOTES:

1. THIS IS NOT A SURVEY
2. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH BOUNDARY OF S. 1/2 OF SE. 1/4 OF SW. 1/4 OF SECTION 21, TOWNSHIP 19 SOUTH, RANGE 24 EAST AS BEARING N89°23'48"W PER FLORIDA STATE PLANE COORDINATE SYSTEM FLORIDA ZONE EAST

CERTIFICATION:

I HEREBY CERTIFY THAT THE SKETCH OF DESCRIPTION REPRESENTED 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.


DANIEL E. GENTRY, JR.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA REGISTRATION NUMBER 5047
DRAWING INVALID UNLESS SIGNED DATED
& SEALED BY REGISTERED PROFESSIONAL

LEGEND

Δ = DELTA
R = RADIUS
L = ARC LENGTH
CH = CHORD DISTANCE
CB = CHORD BEARING

SHEET 1 OF 3 SHEETS



ON POINT SURVEYING, INC.
2827 MIDDLETON CIRCLE
KISSIMMEE, FLORIDA 34743
407-989-8102
WWW.ON-POINTSURVEYING.COM

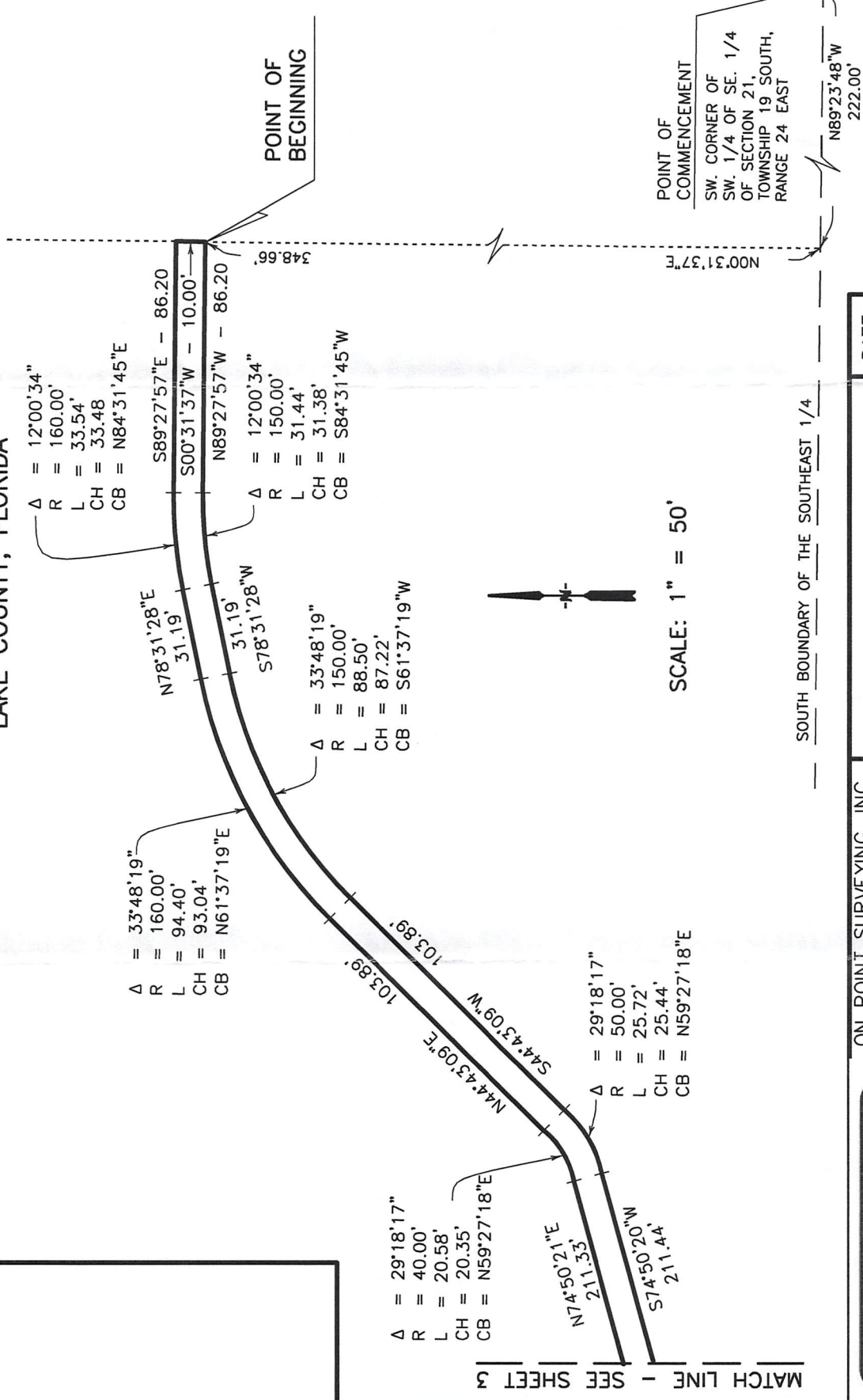
SKETCH OF DESCRIPTION

PREPARED FOR AND CERTIFIED TO:
KANE ROMAN

DATE
11/10/23
JOB NO.
K003-04

SKETCH OF DESCRIPTION

SECTION 21, TOWNSHIP 19 SOUTH, RANGE 24 EAST
LAKE COUNTY, FLORIDA



POINT OF COMMENCEMENT
SW. CORNER OF
SW. 1/4 OF SE. 1/4
OF SECTION 21,
TOWNSHIP 19 SOUTH,
RANGE 24 EAST

SKETCH OF DESCRIPTION
** NOT A SURVEY **
SHEET 2 OF 3 SHEETS

SKETCH OF DESCRIPTION	DATE
	11/10/23
PREPARED FOR AND CERTIFIED TO: KANE ROMAN	JOB NO.
	K003-04

ON POINT SURVEYING, INC.
2827 MIDDLETON CIRCLE
KISSIMMEE, FLORIDA 34743
407-989-8102
WWW.ON-POINTSURVEYING.COM



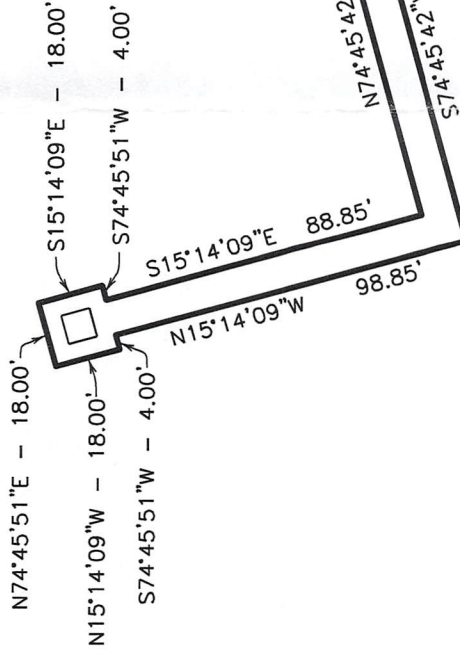
SKETCH OF DESCRIPTION

SECTION 21, TOWNSHIP 19 SOUTH, RANGE 24 EAST
LAKE COUNTY, FLORIDA



SCALE: 1" = 50'

MATCH LINE - SEE SHEET 2



ON POINT SURVEYING, INC.
2827 MIDDLETON CIRCLE
KISSIMMEE, FLORIDA 34743
407-989-8102
WWW.ON-POINTSURVEYING.COM

SKETCH OF DESCRIPTION

PREPARED FOR AND CERTIFIED TO:
KANE ROMAN

DATE

11/10/23

JOB NO.

K003-04

SKETCH OF DESCRIPTION
** NOT A SURVEY **

SHEET 3 OF 3 SHEETS

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 5.C.3.

Meeting Date: March 25, 2024

From: Andi Purvis, (City Clerk)

Subject: Resolution of the City Commission of the City of Leesburg, Florida, accepting a Utility Easement to the City of Leesburg from Silver Lake Pointe Community Association, Inc. and Stanley Martin Homes, LLC, for the purpose of granting the City an Easement over the property described therein; and providing an effective date.

Staff Recommendation:

Staff recommends accepting and approving the Resolution for a Utility Easement from Silver Lake Pointe Community Association, Inc. and Stanley Martin Homes, LLC, for the property described therein.

Analysis:

Silver Lake Pointe Community Association, Inc. and Stanley Martin Homes, LLC is granting a Utility Easement to the City of Leesburg, Florida for the purpose of construction, installation, repair, maintenance, replacement, and improvement of underground or above ground utilities, including but not limited to water, sewer, reuse water, natural gas, and electricity.

Procurement Analysis:

N/A

Options:

1. Approve as presented; or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

None

RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, ACCEPTING A UTILITY EASEMENT TO THE CITY OF LEESBURG FROM SILVER LAKE POINTE COMMUNITY ASSOCIATION, INC. AND STANLEY MARTIN HOMES, LLC, FOR THE PURPOSE OF GRANTING THE CITY AN EASEMENT OVER THE PROPERTY DESCRIBED THEREIN; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

THAT the Utility Easement granted to the City of Leesburg by Silver Lake Pointe Community Association, Inc. and Stanley Martin Homes, LLC, for the purpose of granting the City a Utility Easement over, under, upon, across, through and within the real property described in the document, is hereby accepted.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held on the 25th day of March 2024.

Mayor

ATTEST:

City Clerk

Prepared by/return to:
William Grant Watson, Esq.
Stone & Gerken, P.A.
4850 N. Highway 19A
Mount Dora, Florida 32757

UTILITY EASEMENT

THIS PERMANENT UTILITY EASEMENT ("**Easement**") is hereby granted by **SILVER LAKE POINTE COMMUNITY ASSOCIATION, INC.**, a Florida not for profit corporation, whose mailing address is 4700 Millenia Blvd., Ste 290, Orlando, Florida 32839 and **STANLEY MARTIN HOMES, LLC**, a foreign limited liability company, whose address is 11710 Plaza America Drive, Suite 1100, Reston, VA 20190, (collectively "**GRANTOR**,") to **THE CITY OF LEESBURG, FLORIDA**, a Florida municipal corporation, whose mailing address is P.O. Box 490630, Leesburg, Florida 34749-0630, and its successors and assigns ("**GRANTEE**");

WITNESSETH:

THAT GRANTOR, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant unto **GRANTEE**, its successors and assigns forever, a perpetual non-exclusive easement for the construction, installation, alteration, operation, repair, maintenance, and replacement of utility improvements, including but not limited to water, wastewater, reclaimed water lines, natural gas and electricity and related facilities (the "**Facilities**"), over, under, upon, across, through and within the following described lands in Lake County, Florida, and referred to hereinafter as the "**Easement Area**" to wit:

SEE THE SKETCH OF DESCRIPTION ATTACHED HERETO AS EXHIBIT "A"

The easement rights specifically include: (a) the right of perpetual ingress and egress to patrol, inspect, alter, improve, construct, repair, maintain, rebuild, relocate, remove and provide access and service to the Facilities; (b) the right to decrease or increase, or to change the quantity and type of, the Facilities; (c) the right to clear the Easement Area of trees, limbs, undergrowth, and other physical objects (regardless of the location of such trees, limbs, undergrowth and other objects) which, in the opinion of Grantee, endanger or interfere with the safe and efficient installation, operation, or maintenance of the Facilities; and (e) all other rights and privileges reasonably necessary or convenient for the safe and efficient installation, operation, and maintenance of the facilities and for the enjoyment and use of such Easement for the purposes described above. Such easement rights shall include any temporary construction easement over and across such property as is necessary to the proper use and enjoyment of any right granted herein.

GRANTOR shall not erect, construct, or create any buildings, structures, or obstacles within the Easement Area that interfere with **GRANTEE'S** rights as described herein or install any landscaping with root systems that may damage the Facilities; however, **GRANTOR** may use the surface of the Easement Area in any manner that does not interfere with the rights granted to **GRANTEE** herein, which shall specifically include usage as and for roadways, parking areas, sidewalks, curbs, and sodding. **GRANTEE** will repair and/or replace any roadways, parking areas, sidewalks, curbs, and sodding in the Easement Area that is damaged in connection with any maintenance or repairs made by **GRANTEE** to the Facilities. **GRANTOR** reserves the right to grant rights to others affecting said Easement Area provided that such rights do not create an unsafe condition or conflict with the rights granted to **GRANTEE** herein. Failure to exercise the rights herein granted to **GRANTEE** shall not constitute a waiver or abandonment.

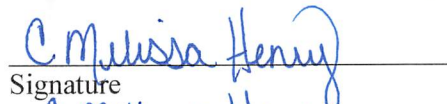
GRANTOR warrants and covenants that **GRANTOR** is lawfully seized and in possession of the real property underlying the Easement Area, as specifically described and depicted in Exhibit "A" attached hereto, and has the right to convey this Easement, and that **GRANTEE**, its successors, successors-in-title and assignees shall have quiet and peaceful possession, use, and enjoyment of this Easement. The rights, privileges, and burden of the Easement granted herein shall be a covenant running with the land and the rights and duties shall descend to the parties' successors and assigns. **GRANTEE** shall include **GRANTEE'S** agents, contractors, subcontractors, licensees, franchisees, employees, and other parties associated with Grantee in furtherance of the purposes herein set forth.

GRANTOR warrants that it has full right, power and authority to enter into this Easement and has obtained all necessary consents and approvals from its board members as required under the documents governing its affairs in order to execute and deliver this Easement.

IN WITNESS WHEREOF, this Easement has been executed by **GRANTOR** on the day and year first above written.

WITNESSES:


Signature
Christopher Dinklage
Printed Name


Signature
C. Melissa Henry
Printed Name

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 20 day of November, 2023, by Richard A. Browning as President of Silver Lake Pointe Community Association, Inc., a Florida not for profit corporation, who is ☒ personally known to me or ☐ who produced the following identification:

GRANTOR:

SILVER LAKE POINTE COMMUNITY
ASSOCIATION, INC., a Florida not for profit
corporation

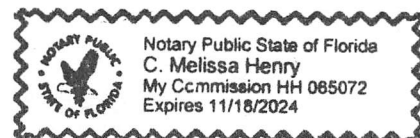
By: 
Richard A. Browning, President


Notary Public Signature

Notary Public Name

My Commission Number: HH 065072
My Expiration Date: 11-18-2024

(seal)



Christopher Dinklage
Signature
Christopher Dinklage
Printed Name

C. Melissa Henry
Signature
C. Melissa Henry
Printed Name

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 20 day of November, 2023, by Eric B. Marks as Orlando Division President of Stanley Martin Homes, LLC, a foreign limited liability company, who is ☒ personally known to me or ☐ who produced the following identification:

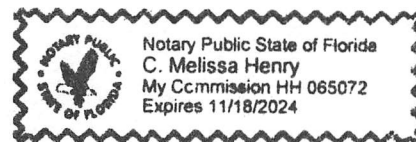
STANLEY MARTIN HOMES, LLC., a
Delaware limited liability company

By: Eric B. Marks
Eric B. Marks, Orlando Division President

C. Melissa Henry
Notary Public Signature
C. Melissa Henry
Notary Public Name

My Commission Number: #065072
My Expiration Date: 11/18/2024

(seal)



SKETCH OF DESCRIPTION

(UTILITY EASEMENT)

SHEET 1 OF 2

EXHIBIT "A"

DESCRIPTION: (10.00' wide Utility Easement)

That part of the Tract OS-1, Tract SW-3 and Tract P-2, SILVER LAKE POINTE PHASE 1, as recorded in Plat Book 81, Pages 47 through 51, Public records of Lake County, Florida, being more particularly described as follows:

Commence at the Southwest corner of the Northwest 1/4 of the Southwest 1/4, of Section 10, Township 19 S, Range 25 E; thence run South 89°21'46" East along the North line of SILVER LAKE POINTE PHASE 1, as recorded in Plat Book 81, Pages 47 through 51, Public records of Lake County, Florida, 351.22 feet to the POINT OF BEGINNING, said point being at the East end of a 10.00 foot wide Utility Easement as shown on said plat of SILVER LAKE POINTE PHASE 1; thence continue along the North line of said SILVER LAKE POINTE PHASE 1 the following (2) two courses, (1) South 89°21'46" East, 309.00 feet; (2) thence South 89°26'57" East, 1344.22 feet to the West line of a 30.00 wide Drainage Easement as shown on said plat of SILVER LAKE POINTE PHASE 1; thence departing said North line run South 06°18'22" East along said West line, 101.11 feet to the North line of a 10.00 wide Utility Easement as shown on said plat of SILVER LAKE POINTE PHASE 1 and to the beginning of a non-tangent curve concave Southerly having a radius of 310.00 feet, a chord bearing of South 86°46'20" West, a chord length of 10.01 feet; thence run along said North line and the arc of said curve through a central angle of 01°51'04", an arc length of 10.01 feet; thence departing said North line run North 06°18'22" West, 91.70 feet; thence North 89°26'57" West, 1335.36 feet; thence North 89°21'46" West, 309.01 feet; thence North 00°38'14" East, 10.00 feet to the POINT OF BEGINNING.

Containing 17452 square feet, 0.401 acres, more or less.

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF SILVER LAKE PONTE PHASE 1, PLAT BOOK 81 PAGES 47-51, AS BEING S89°21'46"E AS SHOWN HEREON. BEARINGS ARE RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983 (NAD-83-2011 ADJUSTMENT), EAST ZONE. REFERENCED TO THE GEODETIC CONTROL POINTS ESTABLISHED WITHIN THE LAKE COUNTY CONTROL NETWORK, CONTROL POINTS "LK 254 2006" AND "LK 253 2006".
2. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER AND/OR ELECTRONIC SIGNATURE AS SET FORTH IN F.A.C. 5J-17.602(3).
3. DELINEATION OF LANDS SHOWN HEREON IS ACCORDING TO THE CLIENT'S INSTRUCTIONS.
4. THIS IS NOT A SURVEY.

LEGEND AND ABBREVIATIONS:

D.E.	DRAINAGE EASEMENT
PB	PLAT BOOK
PG(S)	PAGE OR PAGES
R	RADIUS
A	ARC LENGTH
D	DELTA ANGLE
CH	CHORD DISTANCE
CB	CHORD BEARING
NT	NON-TANGENT
RP	RADIUS POINT
U.E.	UTILITY EASEMENT

DATE: 9/7/23

SCALE: N/A

CAL BY: SEB

DRAWN BY: SEB

JOB NO. 122028

Date

Revisions

ATLANTIC SURVEYING

308 S. DILLARD STREET
WINTER GARDEN, FLORIDA 34787
(407) 656-4993/FAX (407) 656-4437
LICENSED BUSINESS #8060

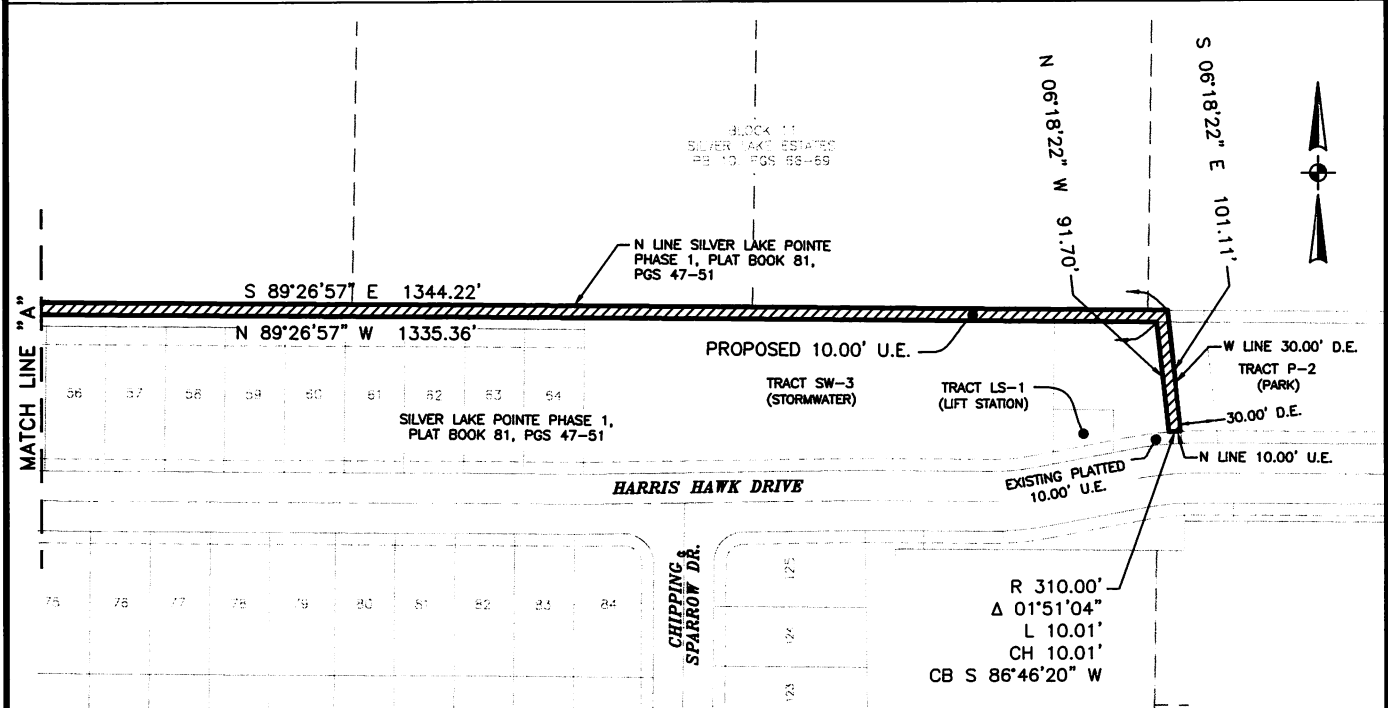
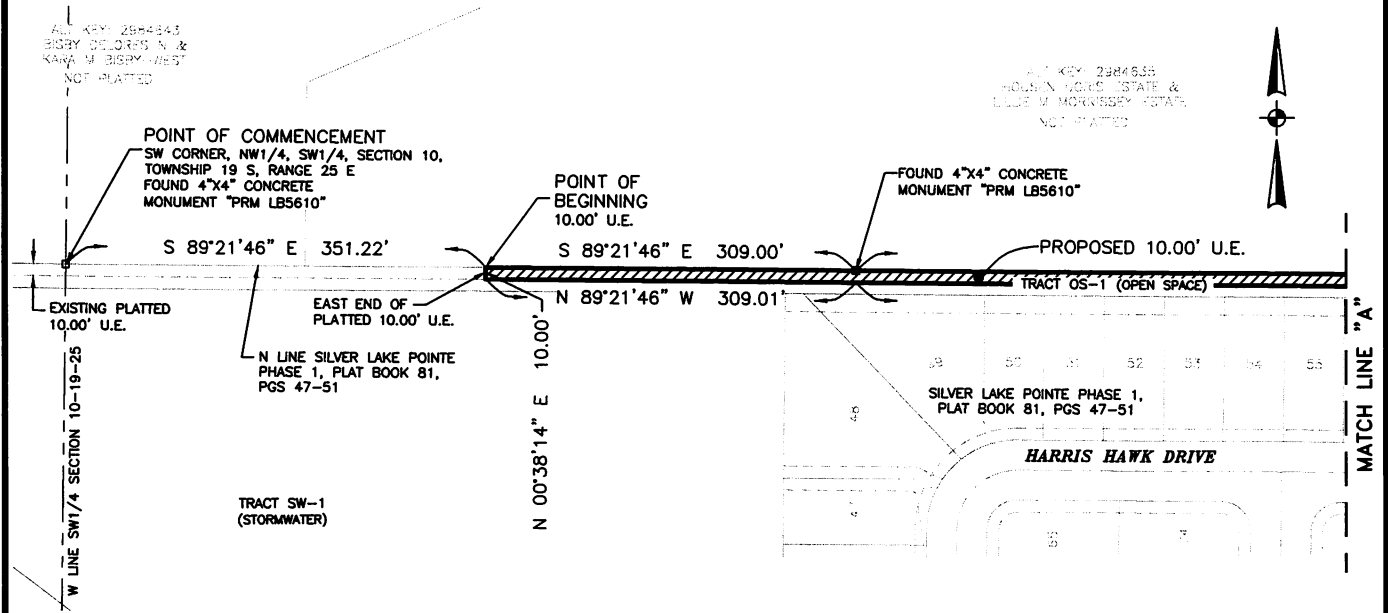
I HEREBY CERTIFY THAT THIS SKETCH OF DESCRIPTION WAS PREPARED IN ACCORDANCE WITH THE STANDARDS OF PRACTICE FOR THE PROFESSION OF SURVEYING AND MAPPING AS SET FORTH IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.


STEVEN E. BLANKENSHIP P.S.M. #5361
STATE OF FLORIDA

SKETCH OF DESCRIPTION

(UTILITY EASEMENT)

SHEET 2 OF 2



DATE: 9/7/23

SCALE: 1" = 150'

CAL. BY: SEB

DRAWN BY: SEB

JOB NO. 122028

Date

Revisions

ATLANTIC SURVEYING

308 S. DILLARD STREET
WINTER GARDEN, FLORIDA 34787
(407) 656-4993/FAX (407) 656-4437
LICENSED BUSINESS #8060

I HEREBY CERTIFY THAT THIS SKETCH OF DESCRIPTION WAS PREPARED IN ACCORDANCE WITH THE STANDARDS OF PRACTICE FOR THE PROFESSION OF SURVEYING AND MAPPING AS SET FORTH IN CHAPTER 65-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

Steven E. Blankenship
STEVEN E. BLANKENSHIP P.S.M. #5361
STATE OF FLORIDA

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 6.B.1.

Meeting Date: March 25, 2024

From: Dan Miller, (Planning and Zoning Director)

Subject: An Ordinance of the City of Leesburg, Florida, in accordance with the Special Magistrate's recommendation pursuant to the Sunnyside Lake Landing Holding, LLC, and Cenizo Ventures Florida, LLC v. City of Leesburg, dated January 15, 2024, rezoning approximately 120.5 +/- acres, from PUD (Planned Unit Development) to PUD (Planned Unit Development) to allow for 150 detached single family residential dwelling units on a property located south of U.S. Highway 441 and west of Sunnyside Drive as legally described in Sections 29 and 32, Township 19 South, Range 25 East, Lake County, Florida; and providing an effective date. (Sunnyside/Magistrate PUD)

Staff Recommendation:

Staff recommends approval of the rezoning of the subject property, in accordance and consistency with the recommendation of the Special Magistrate under the Sunnyside Landing v. City of Leesburg, Section 70.51, Florida Statutes proceeding, dated January 15, 2024.

Analysis:

The project site is approximately 120 acres and is generally located south of U.S. Highway 441 and west of Sunnyside Drive as shown on the attached maps. At this time, the property is undeveloped. This request will comply with the recommendation of the Special Magistrate, as attached hereto.

Procurement Analysis:

N/A

Options:

1. Approve the rezoning of the subject property from PUD (Planned Unit Development) to PUD (Planned Unit Development) per the Special Magistrate's recommendation; or
2. Other action as the Commission may choose.

Fiscal Impact:

No immediate fiscal impact is anticipated as a result of this action. Future development of the property will have a positive fiscal impact in the form of ad valorem taxes, impact fees and utility fees.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, IN ACCORDANCE WITH THE SPECIAL MAGISTRATE'S RECOMMENDATION PURSUANT TO THE SUNNYSIDE LAKE LANDING HOLDING, LLC, AND CENIZO VENTURES FLORIDA, LLC V. CITY OF LEESBURG, DATED JANUARY 15, 2024, REZONING APPROXIMATELY 120.5 +/- ACRES, FROM PUD (PLANNED UNIT DEVELOPMENT) TO PUD (PLANNED UNIT DEVELOPMENT) TO ALLOW FOR 150 DETACHED SINGLE FAMILY RESIDENTIAL DWELLING UNITS ON A PROPERTY LOCATED SOUTH OF U.S. HIGHWAY 441 AND WEST OF SUNNYSIDE DRIVE AS LEGALLY DESCRIBED IN SECTIONS 29 AND 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. (SUNNYSIDE/MAGISTRATE PUD)

BE IT ENACTED BY THE PEOPLE OF THE CITY OF LEESBURG, FLORIDA, that:

Section 1.

Based upon the petition of Cenizo Ventures, LLC (Greg Beliveau, Land Planning Group 1152 Camp Avenue, Mt. Dora, Florida, 32757, Petitioner) for the property hereinafter described, which petition has heretofore been approved by the City Commission of the City of Leesburg, pursuant to the provisions of the Laws of Florida, the said property located in Lake County, Florida, is hereby rezoned from PUD (Planned Unit Development) to PUD (Planned Unit Development), to-wit:

**(Legal Description)
(See Exhibit A)**

Section 2.

This ordinance shall become effective upon its passage and adoption, according to law.

PASSED AND ADOPTED at the regular meeting of the City Commission of the City of Leesburg, Florida, held on the _____ day of _____ 2024.

THE CITY OF LEESBURG, FLORIDA

Mayor

ATTEST:

City Clerk

Sunnyside Landings – Special Magistrate’s Recommendations, January 15, 2024
REVISED LEGAL DESCRIPTION – EXCLUDES 18 +/- acres contiguous to Lake Harris

LEGAL DESCRIPTION: (FROM TITLE COMMITMENT)

BEGINNING AT A POINT 220 YARDS WEST AND 153 YARDS SOUTH OF THE NORTHEAST CORNER
OF THE SOUTHEAST QUARTER OF SE 1/4 OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25
EAST, RUN THENCE SOUTH 177 YARDS, THENCE WEST 220 YARDS, THENCE NORTH 30 YARDS,
THENCE WEST 64 1/2 YARDS, THENCE NORTH 147 YARDS, THENCE EAST 284 1/2 YARDS TO
POINT OF BEGINNING.

BEGINNING 1660 FEET WEST AND 422 3/4 FEET NORTH OF THE SOUTHEAST CORNER OF SAID
SECTION 29, RUN THENCE NORTH 897.76 FEET TO THE NORTH BOUNDARY OF SOUTHWEST
QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 29, THENCE WEST 660 FEET,
THENCE SOUTH 36.75° EAST 1117 FEET TO POINT OF BEGINNING.

BEGINNING 7 1/2 CHAINS NORTH OF SOUTHEAST CORNER OF SAID SECTION 29, RUN THENCE
NORTH 37.50 FEET, THENCE WEST 220 YARDS, THENCE SOUTH 37.50 FEET, THENCE EAST
220 YARDS TO THE POINT OF BEGINNING.

BEGIN ON EASTERN BOUNDARY OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 26 EAST, AT A
POINT 10 CHAINS NORTH OF THE SOUTHEAST CORNER THEREOF, RUN SOUTH 2 CHAINS MORE
OR LESS TO POINT HALF WAY BETWEEN 2 ROWS OF ORANGE TREES; THENCE WEST BETWEEN
SAID ROWS OF ORANGE TREES 10 CHAINS, NORTH 12 CHAINS, THENCE SOUTH OF EAST TO A
STAKE 16 CHAINS NORTH OF THE SOUTHEAST CORNER OF SAID SECTION, THENCE SOUTH TO
POINT OF BEGINNING.

BEGIN AT A POINT 495 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP
19 SOUTH, RANGE 25 EAST, RUN THENCE WEST 660 FEET; THENCE SOUTH 495 FEET;
THENCE SOUTH 89° AND 08' E. 660 FEET TO THE EAST LINE OF SAID SECTION 29,

Sunnyside Landings – Special Magistrate’s Recommendations, January 15, 2024
REVISED LEGAL DESCRIPTION – EXCLUDES 18 +/- acres contiguous to Lake Harris

THENCE NORTH 10 FEET TO THE POINT OF BEGINNING.

BEGIN AT THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST,
LAKE COUNTY, FLORIDA, RUN S 400.8 FT, WEST 1320 FT, SOUTH 488.4 FT, SOUTH 75
DEG 50 MIN W 885FT, NORTH 115.7FT, WEST 462 FT, NORTH TO THE NORTHWEST CORNER
OF THE NE 1/4 EAST 2640 FT TO THE POB, AND, FROM THE NORTHEAST CORNER OF
SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, SOUTH ALONG
THE EAST LINE 400.8 FT, WEST 1320 FT TO WEST LINE OF THE NE 1/4 OF NE 1/4,
SOUTH ALONG SAID WEST LINE OF THE NE 1/4 OF THE NE 1/4 A DISTANCE OF 488.4 FT
FOR POB, RUN S 75-50-0 W 885 FT TO PT A, RETURN TO THE POB, RUN SOUTH TO A
POINT 894.4 FT SOUTH OF THE NORTHWEST CORNER OF THE NE 1/4 OF THE NE 1/4,
CONTINUE SOUTH 0-43-01 W 20.78FT, S 76-23-48 W 880.64 FT, NORTH TO POINT A.

BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST
RUN THENCE NORTH 7 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 2 1/2
CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 5 CHAINS, THENCE EAST 20 CHAINS TO
POINT OF BEGINNING, CONTAINING 12.5 ACRES; ALSO THE SOUTHWEST QUARTER (SW 1/4)
OF THE SOUTHEAST 1/4 (SE 1/4) OF SAID SECTION 29, LESS THE LAND CONVEYED TO
R.T. GARDNER BY DEED RECORDED AT PAGE 349 IN DEED BOOK U, IN OFFICE OF THE
CLERK OF THE CIRCUIT COURT OF SUMTER COUNTY, FLORIDA, AND LESS THE LAND
CONVEYED TO J. J. GARDNER BY DEED RECORDED IN DEED BOOK 8, PAGE 139 IN THE
OFFICE OF THE CLERK OF CIRCUIT COURT OF LAKE COUNTY, FLORIDA, AND LESS THE
LAND CONVEYED TO ERNEST KINZIE BY DEED RECORDED AT PAGE 275 OF DEED BOOK 14, IN
OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LAKE COUNTY, FLORIDA;

ALSO LESS: BEGIN AT A POINT 495 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION
29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE WEST 660 FEET; THENCE SOUTH

Sunnyside Landings – Special Magistrate’s Recommendations, January 15, 2024
REVISED LEGAL DESCRIPTION – EXCLUDES 18 +/- acres contiguous to Lake Harris

89°08' EAST 660 FEET TO THE EAST LINE OF SAID SECTION 29, THENCE NORTH 10 FEET
TO THE POINT OF BEGINNING. THIS SAME PIECE OF PROPERTY IS ALSO DESCRIBED AS: S
BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST
RUN THENCE NORTH 7 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 2 ½
CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 5 CHAINS, THENCE EAST 20 CHAINS TO
POINT OF BEGINNING, CONTAINING 12.5 ACRES MORE OR LESS.

ALSO THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 29 LESS: BEGIN AT A POINT ON THE
EAST LINE OF SW1/4 OF THE SE 1/4 420 FEET NORTH OF THE SE CORNER OF SAID SW ¼
OF THE SE 1/4 RUN THENCE NORTH 900 FEET TO THE NE CORNER OF SW 1/4 OF SE 1/4,
THENCE ALONG THE NORTH LINE OF SAID SW 1/4 OF SE 1/4 857.5 FEET. THENCE
SOUTHEASTERLY TO A POINT 193.5 FEET WEST AND 897.75 FEET SOUTH OF THE NE CORNER
OF SW 1/4 OF SE 1/4 THENCE SOUTH 2.25 FEET THENCE EAST TO POINT OF BEGINNING.

ALL LANDS IN THE NE 1/4 OF THE NE 1/4 OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE
25 EAST LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE.

COMMENCE AT THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25
EAST, LAKE COUNTY, FLORIDA, THENCE S.00 DEGREES 01'15"W. ALONG THE EAST LINE OF
SAID SECTION 32, A DISTANCE OF 574.70 FEET TO A NAIL AND CAP ON A PROJECTION OF
A ROW OF CITRUS TREES FOR THE POINT OF BEGINNING THENCE S 77°39'09"W ALONG SAID
PROJECTION AND THE ROW OF CITRUS TREES , THENCE 1162.02 FEET TO A IRON ROD ON
THE EDGE OF SWAMP, THENCE SOUTHWESTERLY TO A POINT ON THE WEST LINE OF THE NE
1/4 OF SAID SECTION 32 THAT IS 894.40 FEET SOUTHERLY OF THE NORTHWEST CORNER OF
SAID NE 1/4 OF THE NE 1/4, SAID POINT ALSO BEING THE TERMINUS OF THE
DESCRIPTION LINE.

Sunnyside Landings – Special Magistrate’s Recommendations, January 15, 2024
REVISED LEGAL DESCRIPTION – EXCLUDES 18 +/- acres contiguous to Lake Harris

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; (A COMPILATION OF THE ABOVE
DESCRIBED PARCELS AS WRITTEN BY SURVEYOR.)

A PORTION OF SECTIONS 29 AND 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE
COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS;

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 29, ALSO BEING THE NORTHEAST CORNER
OF SECTION 32; THENCE RUN S89°55'30"W ALONG THE NORTH LINE OF THE NORTHEAST ¼
OF SECTION 32, 25.00 FEET TO THE WEST RIGHT OF WAY LINE OF SUNNYSIDE DRIVE, A
MAINTENANCE RIGHT OF WAY, FOR THE POINT OF BEGINNING; THENCE RUN S00°43'05"W
ALONG SAID WEST RIGHT OF WAY LINE, 580.16 FEET TO A CONCRETE MONUMENT MARKED
"PSM 3715" ON A PROJECTION OF A ROW OF CITRUS TREES; THENCE RUN S77°47'19"W
ALONG SAID PROJECTION, 1355.23 FEET; THENCE RUN S02°05'35"W, 20.78 FEET; THENCE
RUN S80°31'58"W, 870.15 FEET; THENCE RUN N00°46'47"E, 132.85 FEET; THENCE RUN
N89°13'13"W, 457.71 FEET TO THE MONUMENT WEST LINE OF THE NORTHEAST 1/4 OF
SECTION 32; THENCE RUN N00°40'34"E ALONG SAID MONUMENT WEST LINE, 895.11 FEET
TO A CONCRETE MONUMENT MARKING THE NORTHWEST CORNER OF THE NORTHEAST 1/4;
THENCE RUN N01°13'37"E ALONG THE MONUMENT WEST LINE OF THE SOUTHEAST 1/4 OF
SECTION 29, 1370.86 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE
SOUTHEAST 1/4 OF SECTION 29; THENCE RUN S89°02'16"E ALONG THE SOUTHWEST 1/4 OF
THE SOUTHEAST 1/4, 1133.47 FEET TO A CONCRETE MONUMENT; THENCE RUN S00°49'36"W,
459.00 FEET; THENCE RUN S83°20'05"E, 861.44 FEET; THENCE RUN N00°55'10"E,
506.66 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF SUNNYSIDE DRIVE, A
MAINTENANCE RIGHT OF WAY; THENCE RUN S67°12'42"E ALONG SAID SOUTHERLY RIGHT OF
WAY LINE, 586.83 FEET TO A CURVE ON THE WEST RIGHT OF WAY LINE, SAID CURVE
BEING CONCAVE TO THE SOUTHWEST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE
HAVING A CENTRAL ANGLE OF 68°13'25", A RADIUS OF 150.00 FEET, AN ARC LENGTH OF

Sunnyside Landings – Special Magistrate’s Recommendations, January 15, 2024
REVISED LEGAL DESCRIPTION – EXCLUDES 18 +/- acres contiguous to Lake Harris

178.61 FEET, A CHORD BEARING OF S33°06'00"E AND A CHORD DISTANCE OF 168.24

FEET; THENCE RUN S01°00'43"W ALONG SAID WEST RIGHT OF WAY LINE, 934.51 FEET TO

THE POINT OF BEGINNING.

IN AND BEFORE A SPECIAL MAGISTRATE
SUNNYSIDE LANDING/CITY OF LEESBURG
SECTION 70.51 F.S. PROCEEDING

SUNNYSIDE LAKE LANDING HOLDING,
LLC, and CENIZO VENTURES FLORIDA,
LLC,

Petitioners,

v.

CITY OF LEESBURG,

Respondent.

_____ /

Special Magistrate Recommendation

Pursuant to the Florida Land Use and Environmental Dispute Resolution Act, Section 70.51, Florida Statutes (2023), (“Dispute Resolution Act”) and more specifically, Section 70.51(19), Florida Statutes (2023), and after a one day evidentiary hearing held on July 19, 2023, pursuant to Section 70.51(15), Florida Statutes (2023), and a site visit to the property at issue and surrounding areas by the Special Magistrate in the above-captioned special magistrate proceeding, the Special Magistrate enters this Special Magistrate Recommendation (“SM Recommendation”) pursuant to the guidelines set forth in Sections 70.51(18) and (19), Florida Statutes (2023).

STATEMENT OF THE ISSUE

The issue in this special magistrate proceeding is whether the denial of Petitioners Sunnyside Lake Land Holding Company, LLC, and Cenizo Ventures Florida, LLC (“Petitioners”) rezoning application for the Sunnyside Landing Planned Unit Development in Case No. PUD 21-78 (“Sunnyside PUD”) by Respondent City of Leesburg (“City”) (Petitioners and the City are jointly referred to as the “Parties”) was “unreasonable” or “unfairly burdens” the Petitioners’ use of real property pursuant to the Dispute Resolution Act. In making this determination, the Special Magistrate is guided by the criteria listed in Section 70.51(18)(a)-(h) and (19), Florida Statutes (2023).

EXHIBITS & TRANSCRIPT

Exhibits admitted into evidence during the special magistrate hearing are referred to in this SM Recommendation by the exhibit number followed by the appropriate page number – e.g., Pet. Ex. 1 at 5. References to the July 19 hearing transcript are denoted herein as “T.” followed by the appropriate page number – e.g., T. 10.

During the special magistrate evidentiary hearing, the Petitioners introduced pre-marked Exhibits 2, 3, 5A, 5B, 5C, 6A, 6B, 6C, 7, 10C, 10D, 11, 12A, 12B, 13, 14, 17, 19, 21, 21A, 21B, 22, 23, 24, 25, 26, 27, and 27A. The City did not introduce any exhibits, but instead relied upon the Petitioners’ exhibits. Copies of all the exhibits introduced into evidence during the special magistrate evidentiary hearing are on file with the Special Magistrate and are listed on pages 4 and 5 of the hearing transcript and the Parties have copies of the exhibits. On August 2, 2023, the original hearing transcript was filed with the Special Magistrate and a copy was provided to each of the Parties.

ATTENDEES AND RELATED MATTERS

Attorney Brent Spain of Theriaque & Spain represented the Petitioners at the evidentiary hearing and presented the following witnesses: Greg Beliveau, AICP – who was qualified and testified as an expert in land use, comprehensive planning, and urban planning. (Pet. Ex. 7; T. 5).

Attorneys Stephanie Brionez and Mark Brionez of Brionez & Brionez represented the City at the evidentiary hearing and presented one witness: Dan Miller – the City’s Planning Director.

Several members of the public attended the evidentiary hearing and were given the opportunity to testify on the issues relevant to this special magistrate proceeding. No member of the public requested to make any comments or introduce any documents or other exhibits into the record for the Special Magistrate’s consideration. (T. 188).

Additionally, as disclosed at the outset of the July 19 special magistrate hearing, the Special Magistrate on July 18, 2023, conducted a site visit of the subject property and the surrounding area on Sunnyside Drive. (T. 12).

As requested by the Special Magistrate at the end of the special magistrate hearing, Petitioners and the City through their counsel filed Proposed Recommended Orders on October 23, 2023. (Referred to herein individually as “Petitioners PRO” and “City PRO”)

All of the exhibits, testimony presented at the evidentiary hearing, and the Special Magistrate’s site visit provide the necessary basis for this SM Recommendation.

INTRODUCTION AND PREFACE

The Special Magistrate is adopting most of the Petitioners PRO with some changes as part of the SM Recommendation. Most of these are found in the Findings of Facts, Conclusions of Law and Recommendation sections of this SM Recommendation. These sections along with this “Introduction and Preface” section constitute the SM Recommendation.

This “Introduction and Preface” is a brief discussion of some, not all, key factual and legal matters considered by the Special Magistrate in reaching a recommendation in this matter. It addresses the four areas the City asserts were the basis for denial of the Sunnyside PUD. As noted in the City PRO: “The City’s denial (of the Sunnyside PUD) was based upon **non-compliance with the Sunnyside Task Force Study Report (“Sunnyside Task Force Study Report”), poor condition of the roads, citizen/resident complaints, and concerns regarding water supply.**” City PRO, Paragraph (f), Pg. 7 (Emphasis added). This summary will briefly address each of those items in addition to the issue of land use compatibility of the Sunnyside PUD.

A full discussion of these items and other significant facts and law are found in the Findings of Facts and Conclusions of Law sections of this SM Recommendation.

The facts in this special magistrate proceeding are relatively straight forward and found in more detail in the Findings of Facts section in this SM Recommendation. Importantly, there are no significant facts in dispute between the Parties. There are no significant discrepancies between the Findings of Facts of Petitioners PRO and the City PRO although there are some facts in each not mentioned in the other. The core of the dispute between the Parties is the legal significance of those facts. Upon review and analysis, Petitioners are clearly correct on the legal significance of those facts based on established Florida law and as detailed in the Conclusions of Law section in this SM Recommended Order.

A. **Non-Compliance With Sunnyside Task Force Study Report**

This factor was clearly the most important factor cited by the City for the denial of the Sunnyside PUD.

A key factual finding that was undisputed at the Special Magistrate Hearing was noted as follows in the Petitioners PRO:

“Since the adoption of Resolution No. 7158, (Sunnyside Task Force Study Report) it is undisputed that the City has not adopted or incorporated any of the density level recommendations from the Sunnyside Task Force Study Report (Sunnyside Task Force Study Report) into the City’s Comprehensive Plan or the City’s LDC. (T. 39-40, 139, 177). In other words, the City has never formally codified the recommendations of the Sunnyside Task Force Study Report. (T. 115). Additionally, there is no notation or asterisk on the City’s Future Land Use Map indicating that properties within the Sunnyside Study Area are subject to density limitations other than those prescribed for the assigned future land use category. (T. 24-25).” Petitioners PRO, Pg. 9, Paragraph 21.

Not surprising given this present status of the Sunnyside Task Force Study Report is the admission by the City and Petitioners that the critical legal requirements for allowing the Sunnyside PUD to proceed have been met. The City PRO states, and it was undisputed at the Special Magistrate Hearing, that the following is correct: “**Although the Land Development Regulations and the City’s Comprehensive Plan would permit the Petitioners’ proposed PUD....**” City PRO, Pg. 6, Paragraph (c) (Emphasis added) The Petitioners PRO notes: “In 2021, Petitioners submitted the 2019 Sunnyside PUD application, proposing 159 units on 139 acres for approval. **This density was consistent with the City’s Comprehensive Plan and their Land Development Code.**” Petitioners PRO Pg.12, Paragraph 29 (Emphasis added) As will be

discussed later in this SM Recommendation, Petitioners now seek even lower density for the Sunnyside PUD.

Also, the City contends it does not need to abide by the Sunnyside Task Force Study Report even though the Petitioners do have to abide by it if the City decides to apply it. The City PRO asserts: “The Sunnyside Report was adopted by the City by resolution in such a way that future City Commissions **could choose to apply it or not, but would not be bound by the requirements.**” City PRO, Pg. 3, Paragraph 7 (Emphasis added) A former Leesburg City attorney has also publicly noted that the Sunnyside Task Force Study Report does not bind the City of Leesburg in any manner. (Pet. Ex. 25 at 5)

No criteria have ever been adopted and/or published by the City to specify when or when it will not apply the Sunnyside Task Force Study Report or when it “would not be bound by the requirements.” And no evidence was presented at the special magistrate hearing as to what criteria are being used to apply the Sunnyside Task Force Study Report. It is not surprising that the City PRO cites no authority, either case law or statutory law, that allows for the discretionary enforcement of the Sunnyside Task Force Study Report that has never been codified.

The City correctly asserts that Petitioners had notice of the Sunnyside Task Force Study Report before submitting the rezoning application for the Sunnyside PUD. The City argues that because Petitioners had “notice”, Petitioners are therefore bound by the Sunnyside Task Force Study Report if the City, at its sole discretion, without any criteria and without any codification of the Sunnyside Task Force Study Report, decided to enforce the recommendations of the Sunnyside Task Force Study Report. No legal authority has been cited by the City and none has been found to support this assertion. There is no land use regulation in Florida, and likely in any state, that is enforceable or valid under such circumstances. Such a scenario is the definition of “unreasonable”

and “arbitrary” and certainly “unfairly burdens” the use of property. Section 70.51(19)(b), Florida Statutes (2023). See Conclusions of Law section in this SM Recommendation

The mistaken notion of legal enforceability of the Sunnyside Task Force Study Report by simply “notice” of it has no better illustration than the undisputed fact that the City’s Planning Staff, with full “notice” of the Sunnyside Task Force Study Report, recommended approval of an even higher density Sunnyside PUD than the one presently proposed as part of this special magistrate proceeding. And the City’s Planning Director testified that “As a professional planner, I viewed [the Sunnyside PUD] as a project that is consistent with the City of Leesburg comp plan and land development regulations” and reaffirmed that he had applied the City’s “adopted criteria.” (T. 162, 180). The City’s Planning Staff also concluded that this higher density project than the one now proposed was compatible with the surrounding land uses.

Almost without exception at the local government level in Florida, there is no governmental group more familiar with the legal regulatory framework affecting land use than a City’s Planning Staff since the planning staff is tasked as the primary source for information and enforcement of local land use laws and regulations. If the Sunnyside Task Force Study Report determines the outcome, why didn’t the City’s Planning Staff apply it in its recommendation? The fact that the City Planning staff was unaware of the City Commission’s position on the applicability and enforcement of provisions in the Sunnyside Task Force Study Report underscores the “unreasonable”, “arbitrary” and “unfair burden on property” nature of enforcing the Sunnyside Task Force Study Report whenever the City Commission decides to do it. This is the case not only in regard to the Sunnyside PUD, but any development supposedly affected by the Sunnyside Task Force Study Report until the Sunnyside Task Force Study Report is properly added as enforceable provisions to the City’s comprehensive land use plan and land development code, as applicable.

Finally, it is significant that unlike the City, Lake County, the other local government entity affected by the Sunnyside Task Force Study Report, has implemented the Sunnyside Task Force Study Report by appropriate amendments to its comprehensive plan.¹

Details of this item appear later in this SM Recommendation.

B. Citizen/Resident Complaints

Equally as invalid and troublesome is the rationale that some nearby residents (despite notice of the special magistrate hearing and provided an opportunity to do so, no nearby resident or other persons testified or made a presentation at the special magistrate hearing) objected to the Sunnyside PUD. It is extremely salient and valuable to hear members of the public state objections or support for a particular land use matter. Such objections or support, however, must be based on applicable law and relevant facts for a governmental body (or a special magistrate) to consider it in making a decision. For obvious reasons, mere conjecture or unsupported opinion are a dangerous and legally invalid rationale to use to determine the legality of any legal matter and sets a baseless, perilous precedent. As noted, there were no presentations on any issues by neighbors or other individuals at the special magistrate hearing.

Details of this item appear later in this SM Recommendation.

¹ The mistaken belief that the Sunnyside Task Force Study Report carries the same legal status as comprehensive plans or land development codes is shown in the “Recommendation” within the City PRO that the City suggests the special magistrate enter in the SM Recommendation. In part, the City PRO suggest that the Special Magistrate recommend that: “If Petitioners submit a PUD application consistent with the Sunnyside Task Force Report, ... (the special magistrate) recommend that the City approve such application, so long as it is otherwise compliant with all **other** City Land Development Regulations and Comprehensive Plan.” City PRO. Pg. 8 (Emphasis added) The word “other” suggests that the Sunnyside Task Force Study Report carries the same legal significance as comprehensive plans and land development codes. It does not and no legal authority has been cited to support such treatment.

C. **Poor Condition of Roads**

Poor conditions of roads impacted by the Sunnyside PUD is another basis cited by the City to deny the Sunnyside PUD. No evidence was presented at the special magistrate hearing that either such impacts would be contrary to applicable law or standards or that such impacts would not be adequately addressed during the normal regulatory approval process for the Sunnyside PUD.

Details of this item appear later in this SM Recommendation.

D. **Concerns Regarding the Water Supply**

Neither the City PRO nor the Petitioners PRO provided any detail or argument on this item. It does not seem to be a material concern in terms of this special magistrate proceeding and cannot be relied upon to support any type of recommendation.

E. **Land Use Compatibility of the Sunnyside PUD**

Besides the above four items cited by the City as the reasons for the denial of the Sunnyside PUD, one other item deserves to be addressed, the compatibility of the Sunnyside PUD with surrounding land uses. The Petitioners PRO stated the following that, as correctly noted, was undisputed in the special magistrate hearing:

“It is also undisputed that the City’s Planning Staff reviewed the Sunnyside PUD for compatibility and concluded that “[t]he proposed request for a PUD (Planned Unit Development) zoning is compatible with the current surrounding zoning districts” and “is consistent with the City’s Growth Management Plan, Future Land Use Element, Goal I, Objective 1.6” – i.e., “Land Use Compatibility.” (T. 47-49; Pet. Ex. 5A at 58; Pet. Ex. 3 at I-45). Moreover, on cross-examination during the evidentiary hearing, the City’s Planning Director confirmed that the Sunnyside PUD with 159 units is “compatible” with the surrounding area.

In so doing, the City’s Planning Director confirmed that in his opinion “[t]he parcel is suitable for the proposed use” and that “[t]he proposed use will not alter the character of the surrounding area.” (T. 145-46). Further, when asked whether he had concluded that the proposal is compatible with the surrounding area, the City’s Planning Director confirmed he had:

Q. [I]s it correct to say that you had concluded that the proposal was compatible with the surrounding area?

A. Yes, it is.

Q. And that would be at 159 units?

A. Yes.

(Emphasis added)

The present proposed density for the Sunnyside PUD is lower at 150 units.

The Special Magistrate's site visit to the general area where the Sunnyside PUD is located did not disclose any grounds why the residential nature and density of the Sunnyside PUD (consistent with the Revised Sunnyside PUD Concept Plan that the Petitioners introduced during the evidentiary hearing and subject to all conditions in the prior Staff Report for the Sunnyside PUD) would not be compatible with the surrounding residential land uses. The Special Magistrate has been practicing in the areas of environmental and land use law in Florida for over 48 years.

Details of this item appear later in this SM Recommendation.

FINDINGS OF FACT

Based upon the testimony and evidence introduced during the evidentiary hearing, the Special Magistrate makes the following findings of fact:

A. **The Parties**

1. The Petitioners are the owners of approximately 139± acres of real property generally located south of U.S. Highway 441 and west and east of Sunnyside Drive in Lake County, Florida ("Property"), as depicted on the maps in the record. (Pet. Ex. 5C at 5). The Petitioners were the parties that filed the application for the Sunnyside PUD. (Pet. Ex. 5A).

2. The City is a Florida municipal corporation and is the entity responsible for reviewing and approving or denying the Sunnyside PUD.

B. The Petitioners' Property

3. The Petitioners' Property consists of two (2) tracts of land. (Pet. Ex. 12A). The first tract consists of approximately 120± acres of land located to the south and west of Sunnyside Drive ("Parent Tract"). (Id.; T. 17). The second tract consists of 18.5± acres of land located to the east of Sunnyside Drive ("Additional Tract"). (Pet. Ex. 12A; T. 27).

4. The current future land use designation of the Parent Tract on the City's Future Land Use Map is "Estate Residential" with the wetland areas designated as "Conservation." (Pet. Ex. 14; T. 24). The current zoning of the Parent Tract on the City's Zoning Map is PUD (Planned Unit Development). (Pet. Ex. 13; T. 22).

5. Pursuant to Objective 1.1.a of the City's Future Land Use Element ("FLU"), the Estate Residential future land use category is "intended for single family detached residences in urbanized areas and some rural communities that have adequate infrastructure and public facilities to support the density of up to four (4) units per acre." (Pet. Ex. 3 at I-34). Similarly, FLU Policy 1.1.1 provides that "[t]he adopted Future Land Use Map shall contain and identify appropriate locations for the following land use categories" and specifies "Estate Density Residential" as "Up to 4 units/gross acre." (Id. at I-38 to I-39). In addition, FLU Policy 1.4.9 provides that "[d]evelopments may be allowed to transfer densities on the site from environmentally sensitive areas to upland areas that are more suitable for development permitted the project goes through the planned unit development process and does not exceed a transfer of density of 1 unit per acre." (Id. at I-43).

6. Section 25-274(b) of the City's Land Development Code ("LDC") provides that the purpose of the PUD zoning district is "to provide for proper private development of infill areas, as well as the comprehensive development of large areas of vacant or substantially vacant land that requires a flexible approach to development." (Pet. Ex. 2 at 4). The PUD zoning district is a standalone zoning district which "establishes the permitted uses, densities and intensities of the site as well as the basic district development standards as part of the rezoning process and the issuance of a development order." (Id.; T. 23).

7. The Additional Tract is in unincorporated Lake County, Florida. The current future land use designation of the Additional Tract on Lake County's Future Land Use Map is "Rural." (Pet. Ex. 14). The current zoning of the Additional Tract on Lake County's Zoning Map is R-1 (Rural Residential). (Pet. Ex. 13).

C. **Zoning And Land Use History of The Petitioners' Property**

8. In May 2005, the Petitioners' predecessor – William Herlong Jr., Baw Inc. – filed an annexation application with the City for the Parent Tract. (Pet. Ex. 21 at 1, 16). At the same time, the Petitioners' predecessor also filed an application seeking to rezone the Parent Tract from Lake County "Agriculture" to City of Leesburg "Planned Unit Development." (Id. at 1, 33). The proposed PUD consisted of 120 units on the Parent Tract, equating to a gross density of 1.0 dwelling units per acre and a net density of 1.7 dwelling units per acre. (Id. at 55).

9. The City's Planning Staff recommended approval of the annexation and the proposed PUD rezoning. (Id. at 16, 19). The City's Planning Commission held a public hearing on the proposed PUD on July 7, 2005, and, at the conclusion thereof, voted unanimously to approve the proposed PUD. (Id. at 32-34).

10. On December 12, 2005, the City Commission held a public hearing on the annexation. (Id. at 36-37). By a vote of 5-to-0, with no public comment in opposition, the City Commission approved the annexation. (Id. at 36). The City Commission's approval of the annexation of the Parent Tract is memorialized in Ordinance No. 05-123 ("Annexation Ordinance"). (Id. at 38-40). The Annexation Ordinance imposes no restrictions on the development of the Parent Tract.

11. At its meeting on December 12, 2005, the City Commission also held a public hearing on the proposed PUD. (Id. at 51-52). By a vote of 5-to-0, with no public comment in opposition, the City Commission approved the proposed PUD. (Id. at 52). The City Commission's approval of the proposed PUD is memorialized in Ordinance No. 05-124 ("2005 PUD"). (Id. at 53-62; Pet. Ex 23). The 2005 PUD authorized the Parent Tract to be developed with 120 units, which, as previously noted, equates to a gross density of 1.0 dwelling units per acre and a net density of 1.7 dwelling units per acre. (Pet. Ex. 21 at 55).

12. Subsequent to the City Commission's approval of the 2005 PUD, the Petitioners' predecessor filed an application for preliminary subdivision plan approval for the Parent Tract. (Id. at 83). The preliminary subdivision plan was for the development of 120 units on the Parent Tract. (Pet. Ex. 21B).

13. On June 22, 2006, the City's Planning Commission held a public hearing on the proposed preliminary subdivision plan. (Pet. Ex. 21 at 82-83). The City's Planning Staff recommended approval of the proposed preliminary subdivision plan. (Id. at 83). By a vote of 6-to-0, the City's Planning Commission approved the proposed preliminary subdivision plan ("2006 PSP"). (Id.).

14. The Planning Commission's approval of the 2006 PSP is memorialized in a letter from the City's former Planning and Zoning Manager to the project engineer dated July 17, 2006. (Id. at 66). The approval letter does not specify any expiration date for the 2006 PSP. (Id.; T. 156). Additionally, as attested to by the Petitioners' planning expert and the City's Planning Director at the evidentiary hearing in this matter, Section 25-443 of the City's LDC, which governs preliminary subdivision plans, does not impose an expiration date for approved plans. (T. 21, 174; Pet. Ex. 2 at § 25-443).

15. On December 18, 2006, the City Commission held a public hearing on a proposed large-scale comprehensive plan amendment to change the future land use designation of the Parent Tract from Lake County "Urban Expansion" and Lake County "Suburban" to City "Estate Residential" and "Conservation." (Pet. Ex. 21 at 94-95). The City's Planning Staff recommended approval of the proposed comprehensive plan amendment. (Id. at 91). By a vote of 4-to-0, with no public comment in opposition, the City Commission approved the proposed plan amendment. (Id. at 95). The City Commission's approval of the plan amendment is memorialized in Ordinance No. 06-149 ("2006 Plan Amendment"). (Id. at 86-90). The 2006 Plan Amendment does not contain any language restricting the density on the Parent Tract lower than the allowable density in the Estate Residential future land use category – i.e., up to four (4) dwelling units per acre. (T. 152).

16. Notwithstanding the above-referenced approvals and presumably because of the housing market crash in 2008, the Petitioners' predecessor did not construct the development authorized by the 2005 PUD and the 2006 PSP on the Parent Tract. (T. 19). The Petitioners acquired the Parent Tract subsequent to the City's approval of the 2005 PUD, 2006 PSP, and 2006 Plan Amendment.

D. Sunnyside Task Force Study Report

17. In 2003, the City Commission adopted Resolution No. 6983 directing the City's Planning Staff to "begin a study of the development patterns in the Sunnyside area and formulate a plan to guide future annexation and development in the area." (Pet. Ex. 21A at 3). In so doing, the City Commission authorized the formation of a "Task Force" to prepare a study with "recommendations on appropriate levels of density, infrastructure, and transportation design for the Sunnyside area." (Id.). The parties do not dispute that the Petitioners' Property is located within the Sunnyside Study Area.

18. With respect to the issue of density, the Sunnyside Task Force Study Report recommended the following density levels within the Sunnyside Study Area: High (8 du/ac), Medium (3 du/ac), Low (1 du/ac), and Very Low (3 ac/du). (Id. at 6). Pursuant to Figure 4 (Recommended Density Levels) in the Sunnyside Task Force Study Report, the Parent Tract is split between the "Low" and "Very Low" recommended density levels. (Id.; T. 138). The northern portion of the Parent Tract – roughly 60 acres – is located in the "Low (1 du/ac)" recommended density level, and the southern portion – roughly 60 acres – is located in the "Very Low (3 ac/du)" recommended density level. (T. 138). According to the City's Planning Director, if the Sunnyside Task Force Study Report were applied to the Parent Tract, it would authorize a maximum of eighty (80) dwelling units. (T. 138).

19. The Sunnyside Task Force Study Report stated that the recommendations therein would be forwarded to both the Leesburg City Commission and the Lake County Board of County Commissioners for their consideration. (Pet. Ex. 21A at 10).

20. On June 28, 2004, the City Commission approved Resolution No. 7158, thereby purporting to accept the recommendations of the Sunnyside Task Force Study Report and directing City Staff to implement those recommendations in considering any proposed annexation or proposed development within the study area. (Pet. Ex. 22). In so doing, Resolution No. 7158 provided that “development within the study area, over which the City of Leesburg has control, will proceed in accordance with the recommendations set forth in the Sunnyside Task Force Study Report, unless otherwise approved by the City Commission.” (Id.).

21. Since the adoption of Resolution No. 7158, it is undisputed that the City has not adopted or incorporated any of the density level recommendations from the Sunnyside Task Force Study Report into the City’s Comprehensive Plan or the City’s LDC. (T. 39-40, 139, 177). In other words, the City has never formally codified the recommendations of the Sunnyside Task Force Study Report. (T. 115). Additionally, there is no notation or asterisk on the City’s Future Land Use Map indicating that properties within the Sunnyside Study Area are subject to density limitations other than those prescribed for the assigned future land use category. (T. 24-25).

22. Unlike the City, Lake County specifically adopted guidelines into the Lake County Comprehensive Plan pursuant to the Sunnyside Task Force Study Report. (T. 41; Pet. Ex. 17 at 61-62). To establish a density reducing gradient of residential development from U.S. 441 to Lake Harris, Lake County’s Comprehensive Plan authorizes the following future land use categories in the Sunnyside Study Area: Urban Low Density (4 du/ac), Urban Medium Density (7 du/ac), Urban High Density (min. 4 du/ac, max. 12 du/ac), and Rural Transition (1 du/5 ac, 1 du/3 ac, and 1 du/1 ac). (Id. at 20-21, 62; T. 41-42).

E. **The Sunnyside PUD**

23. In 2018, the Petitioners retained Greg Beliveau, AICP, of LPG Urban & Regional Planners, Inc., to assist with development entitlements for the Property. (T. 16). During the application process, the City’s Planning Staff advised Mr. Beliveau that the 2005 PUD had expired pursuant to Section 6.F of the Sunnyside Landing Planned Unit Development Conditions (“2005 PD Conditions”). (T. 25).

24. Section 6.F of the 2005 PD Conditions states in its entirety:

Implementation of the project shall substantially commence within 24 months of approval of this Planned Unit Development. In the event, [sic] the conditions of the PUD have not been implemented during the required time period, the PUD shall be scheduled with due notice for reconsideration by the Planning Commission at their [sic] next available regular meeting. The Planning Commission will consider whether to extend the PUD approval or rezone the property to RE-1 (Estate Density Residential) or another appropriate zoning classification less intense than the development permitted by these PUD Conditions.

(Pet. Ex. 23 at § 6.F).

25. According to the City’s Planning Director, the City interpreted the above-quoted language to mean that an approved PUD automatically expired after twenty-four (24) months if the project had not substantially commenced – which the City’s Planning Director indicated the City viewed as “turning dirt and spending a significant amount of money” or “beginning physical construction.” (T. 179). On cross-examination, however, the City’s Planning Director admitted that there is no language in Section 6.F of the 2005 PD Conditions stating that the PUD would automatically expire after twenty-four (24) months if physical construction had not started. (T. 149, 179). The City’s Planning Director further admitted that the City never took any of the steps specified in Section 6.F of the 2005 PD Conditions to formally rescind or terminate the 2005 PUD.

(T. 149-50). Moreover, when asked by the City's counsel on redirect whether the predecessor owner "was ever noticed of the expiration of the PUD itself," the City's Planning Director stated, "No, I do not think they were ever noticed – I don't think they were ever noticed of any expiration." (T. 184). The City Planner also admitted that he had "no evidence" that the 2006 PSP ever expired. (T. 156).

26. The Petitioners' planning expert and the City's Planning Director both confirmed during the evidentiary hearing that the Parent Tract has continued to be designated PUD on the City's Zoning Map. (T. 22, 137). However, when asked whether the Petitioners "could walk into the building department today and pull a building permit on this property" the City's Planning Director stated, "No, sir." (T. 153). Rather, to do any development on the Parent Tract, the City's Planning Director indicated that the Petitioners would need to obtain a new PUD approval. (Id.).

27. Based upon the City's position that the 2005 PUD had expired and a new development application was needed, the Petitioners filed an application for approval of a new PUD in 2019 – i.e., the Sunnyside PUD. (T. 27). In conjunction with the application for the Sunnyside PUD, the Petitioners also filed applications to annex the Additional Tract and to change the future land use designation of the Additional Tract from Lake County "Rural" to City of Leesburg "Estate Residential." (Pet. Ex. 5A at 1-2, 9-10). The initial 2019 submittal for the Sunnyside PUD proposed more than 200 units but was subsequently reduced to 159 units on 139 acres – equating to a density of 1.14 dwelling units per acre. (T. 28). The City's Planning Staff reviewed the 2019 Sunnyside PUD submittal and recommend approval of the same, concluding the proposal was consistent with the City's Comprehensive Plan and the City's LDC. (Id.).

28. During the review of the 2019 Sunnyside PUD submittal, the applicability of the Sunnyside Task Force Study Report to the project was raised. (T. 29). On this point, the City's

late attorney – Fred Morrison – advised the City’s Planning Commission at its meeting on August 13, 2020, that, “although the study was adopted in 2004, it is not considered binding on future City Commissions.” (Pet. Ex. 25 at 5). Similarly, when the City Commission considered the 2019 Sunnyside PUD submittal at its meeting on December 21, 2020, attorney Morrison advised the City Commission that “[t]his Commission has the authority notwithstanding the Task Force report to approve this if that is the desire of the Commission.” (Pet. Ex. 26 at 15). Ultimately, the City Commission took no formal action on the 2019 Sunnyside PUD submittal. (T. 34).

29. Thereafter, the Petitioners resubmitted for the Sunnyside PUD in 2021. (T. 43-44). Like the 2019 submittal, the 2021 Sunnyside PUD submittal proposed 159 units on 139 acres – equating to a density of 1.14 dwelling units per acre. (T. 45; Pet. Ex. 5B). The City’s Planning Staff recommend approval of the 2021 Sunnyside PUD, concluding the revised proposal was consistent with the City’s Comprehensive Plan and the City’s LDC and compatible with the surrounding area and land uses. (T. 45; Pet. Ex. 5A at 31). The City’s Planning Staff also recommended approval of the proposed annexation and land use change for the Additional Tract. (Pet. Ex. 5A at 1, 13). At no time did the City’s Planning Staff recommend denial upon or otherwise indicate that the proposed Sunnyside PUD was inconsistent with the Sunnyside Task Force Study Report. (T. 143, 147, 162).

30. On March 28, 2022, the City Commission held a public hearing on the 2021 Sunnyside PUD submittal. (Pet. Ex. 19). Notwithstanding the City Planning Staff’s recommendation of approval and the absence of any testimony or evidence in opposition, the City Commission, by a vote of 3-to-1, denied the proposed annexation and land use change of the Additional Tract at the outset of the March 28 public hearing. (Id. at 6-7). As result thereof, the

Additional Tract was removed from the proposed Sunnyside PUD and the number of units was reduced to 155 units on 120 acres – equating to a density of 1.29 units per acre. (T. 112).

31. At the conclusion of the March 28 meeting, the City Commission voted 2-to-2 on the motion to approve the proposed Sunnyside PUD with 155 units on the Parent Tract. (Id.; Pet. Ex. 19 at 22). The acting City Attorney advised the City Commission that “a tie vote is an effective denial.” (Id.).

32. On April 26, 2022, the Petitioners timely filed their Request for Relief with the City. Pursuant to the Dispute Resolution Act, a mediation conference was held on August 16, 2022, between the Petitioners and the City with the undersigned Special Magistrate acting as a mediator to discuss potential negotiated settlement solutions to the issues in this matter. A mediated settlement, however, was not reached. Accordingly, pursuant to the Dispute Resolution Act, the undersigned Special Magistrate conducted the required evidentiary hearing in this matter on July 19, 2023, to gather the information “necessary to understanding” the facts and law applicable to this matter and to be able to develop this Report and Recommendation.²

ANALYSIS AND CONCLUSIONS OF LAW

In their Request for Relief, the Petitioners assert that the City Commission’s denial of the Sunnyside PUD was unreasonable and unfairly burdens the use of the Parent Tract. The evidence and testimony introduced during the public hearing focused on three primary issues: (1) traffic concerns on Sunnyside Drive; (2) compatibility; and (3) the Sunnyside Task Force Study Report. Each of these issues is addressed separately below.

² The City Commission’s denial of the annexation and future land use change of the Additional Tract does not constitute a “development order” for purposes of the Dispute Resolution Act, and, thus, is not part of this Report and Recommendation. *See* § 70.51(2)(a), Fla. Stat. (2022).

A. **Purpose And Scope Of The Dispute Resolution Act**

The Dispute Resolution Act requires that a special magistrate make the following determination:

[T]he special magistrate shall consider the facts and circumstances set forth in the request for relief and any responses and any other information produced at the hearing in order to determine whether the action by the governmental entity or entities is unreasonable or unfairly burdens the real property.

§ 70.51(17)(b), Fla. Stat. (2022) (emphasis supplied).

The terms “action by the governmental entity,” “unreasonable,” and “unfairly burdens the real property” are not defined in the Dispute Resolution Act. The Dispute Resolution Act intends for a special magistrate to weigh and balance all relevant facts and law involving the action by the governmental entity and the land use at issue and make a decision based upon an “unreasonable” or “unfairly burdens the real property” standard.

This weighing and balancing approach is indicated by the broad array of “circumstances” the Dispute Resolution Act permits a special magistrate to consider pursuant to Section 70.51(18)(a)-(h), Florida Statutes, in making the determination of whether the governmental entity’s action was “unreasonable” or “unfairly burdens” the real property at issue. In this regard, it is important to emphasize that while the facts presented and conclusions reached in the hearings that preceded the special magistrate proceeding may be relevant for a special magistrate to review, the special magistrate proceeding is a de novo process to consider the wide array of matters detailed in the Dispute Resolution Act.

Ultimately, the underlying purpose of the Dispute Resolution Act is to determine whether an owner should be permitted to make use of its property subject to such conditions and limitations which would minimize intrusion or impact upon adjoining or nearby properties – which, in essence, would ensure the compatibility of the proposed use with the surrounding land uses. To that end, Section 70.51(17), Florida Statutes, states:

The object of the hearing is to focus attention on the impact of the governmental action giving rise to the request for relief and to explore alternatives to the development order or enforcement action and other regulatory efforts by the governmental entities in order to recommend relief, when appropriate, to the owner.

(Emphasis supplied).

Lastly, the Florida Legislature has specifically instructed that the Dispute Resolution Act “shall be liberally construed to effect fully its obvious purposes and intent, and governmental entities shall direct all available resources and authorities to effect fully the obvious purposes and intent of this section in resolving disputes.” See *id.* at § 70.51(29). Accordingly, the Special Magistrate interprets and applies the Dispute Resolution Act with that legislative directive in mind. See *Nettles v. State*, 850 So. 2d 487, 493 (Fla. 2003) (noting that legislative intent is the “polestar that guides the Court’s inquiry”).

B. Alternatives To The Sunnyside PUD

At the evidentiary hearing, the Petitioners’ planning expert discussed the Sunnyside Landing Concept Plan dated January 21, 2022, that was submitted as part of the 2021 Sunnyside PUD submittal that the City Commission ultimately denied. (T. 49; Pet. Ex. 5B). The Petitioners, however, also introduced a revised conceptual plan for the proposed Sunnyside PUD during the evidentiary hearing (“Revised Sunnyside PUD Concept Plan”). (T. 69-71; Pet. Ex. 11).

The Revised Sunnyside PUD Concept Plan is appropriate for consideration in this special magistrate proceeding. The Dispute Resolution Act encourages such revisions to an original development proposal and provides that, in determining whether a development order is unreasonable or unfairly burdens the use of the property, a special magistrate may consider “alternative development orders or enforcement action conditions that would achieve the public purpose and allow for reduced restrictions on the use of the property.” See § 70.51(18)(f), Fla. Stat. (2022). In other words, given the land use regulatory concerns of the City and other interested persons, is there some alternative to the original development plan proposed by the Petitioners that satisfies those concerns?

Briefly summarized, the Revised Sunnyside PUD Concept Plan does the following: (1) removes the Additional Tract from the Sunnyside PUD; (2) reduces the number of dwelling units to 150; and (3) increases perimeter buffers and distances to the nearest existing residential uses. (T. 69-75; Pet. Exs. 11, 24). The overall density pursuant to the Revised Sunnyside PUD Concept Plan is 1.25 dwelling units per acre. (T. 71-72).

C. **Traffic Concerns Regarding Sunnyside Drive**

First, to the extent the City Commission’s denial of the Sunnyside PUD was premised upon traffic concerns or the condition of Sunnyside Drive, the Petitioners maintain that such determination was unreasonable or unfairly burdens the use of the Parent Tract. The Petitioners’ argument is well taken based upon the evidence and testimony presented during the evidentiary hearing.

As part of the Sunnyside PUD application, it is undisputed that the Petitioners submitted a traffic impact study which evaluated the impacts of the proposed development on the surrounding

roadway network, including Sunnyside Drive. (T. 58-60; Pet. Ex. 6C). The traffic impact study, which was based upon a development program of 219 single-family dwelling units, concluded that “the studied roads will have sufficient capacity to accommodate background growth and project traffic in the future condition.” (Pet. Ex. 6C at 1, 12). During the PUD review process, the Petitioners also submitted updated 2021 traffic counts utilizing a revised development program of 159 single-family dwelling units. (T. 59-60; Pet. Ex. 5C at 19-20). The updated 2021 traffic data also showed no deficiencies on the roadway network, including Sunnyside Drive. (T. 60).

The Petitioners’ traffic impact study was reviewed by the City as well as Lake County and the Lake-Sumter Metropolitan Planning Organization. (T. 117). Significantly, neither the City nor the other reviewing entities raised any issue with the Petitioners’ traffic impact study. (Id.).

During the evidentiary hearing, the City’s counsel asked the Petitioners’ planning expert whether the Petitioners’ traffic impact study analyzed the number of accidents on roadways, including Sunnyside Drive. (T. 102-03). According to the Petitioners’ planning expert, traffic engineers are not required to analyze accidents in a traffic impact study. (T. 117). However, even if that were not the case, the City introduced no evidence or testimony during the special magistrate hearing to substantiate any alleged accident history on the surrounding roadway network that would somehow be relevant to this case. It is well settled that speculation and conjecture do not constitute competent substantial evidence pursuant to Florida law. See *Dep’t of Highway Safety & Motor Vehicles v. Trimble*, 821 So. 2d 1084, 1087 (Fla. 1st DCA 2002) (“Surmise, conjecture or speculation have been held not to be substantial evidence” and “findings must be based on something more than mere probabilities, guesses, whims, or caprices.”).

Lastly, the Petitioners offered unrefuted evidence during the evidentiary hearing regarding the current road ratings of Sunnyside Drive. (T.61-67; Pet. Exs. 27, 27A). Such evidence

establishes that Sunnyside Drive is a county road and is designated as a “urban collector,” not a “local road.” (T. 62-63). Further, such evidence establishes that almost all segments of Sunnyside Drive have a sufficient pavement rating. (T. 63). The only segment of Sunnyside Drive that currently does not have a sufficient pavement rating is the segment that fronts the proposed Sunnyside PUD. (T. 64). It is undisputed, however, that the Petitioners would be required to repave this segment of Sunnyside Drive as a condition of the proposed PUD, thereby eliminating such pavement deficiency. (T. 64, 118). In fact, the City’s Planning Director confirmed on cross-examination that the Petitioners would be required to repave this portion of Sunnyside Drive as part of the proposed PUD and, as such, Sunnyside Drive would be adequate to support the anticipated traffic from the proposed development. (T. 145).

In sum, the unrefuted testimony and evidence introduced at the evidentiary hearing, including from the City’s Planning Director, establish that Sunnyside Drive has sufficient capacity to accommodate the anticipated traffic from the Sunnyside PUD and that all segments of Sunnyside Drive will have a sufficient pavement rating following the development of the Sunnyside PUD, as conditioned. Accordingly, to the extent the City Commission’s denial of the Sunnyside PUD was based upon traffic concerns or the perceived condition of Sunnyside Drive, such denial is “unreasonable” or “unfairly burdens” the Petitioners’ use of the Parent Tract pursuant to the Dispute Resolution Act.

D. **Compatibility With the Surrounding Area**

Next, to the extent the City Commission’s denial of the Sunnyside PUD was premised upon “compatibility” concerns with the surrounding area, the Petitioners maintain that such determination was unreasonable or unfairly burdens the use of the Parent Tract. The Petitioners’

argument is well taken based upon the evidence and testimony presented during the evidentiary hearing.

The term “compatibility” is not defined in the City’s Comprehensive Plan or the City’s LDC. Rather, as attested to by the Petitioners’ planning expert, such term is defined in Section 163.3164(9), Florida Statutes, as follows:

“Compatibility” means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

(Pet. Ex. 10D; T. 81). By definition, “compatibility” does not require that a proposed development result in no negative impacts upon another use. Rather, a project can have some negative impact on another use and still be compatible.

With respect to compatibility, FLU Policy 1.6.5 of the City’s Comprehensive Plan states:

Compatibility. Compatibility with surrounding established neighborhoods shall be considered during the Comprehensive Plan amendment process. This compatibility will include consideration of surrounding housing types, neighborhood stability, transitional uses and scheduled infrastructure improvements, including those planned improvements stated in the city’s 10-Year Water Supply Facilities Work Plan.

(Pet. Ex. 3 at I-46) (emphasis supplied).

As previously discussed, pursuant to the 2006 Plan Amendment, the City changed the future land use designation of the Parent Tract from Lake County “Urban Expansion” and Lake County “Suburban” to City “Estate Residential” and “Conservation.” (Pet. Ex. 21 at 86-90). The

City's Estate Residential future land use designation allows "up to 4 units per gross acre." (Pet. Ex. 3 at I-34). Thus, pursuant to FLU 1.6.5, the City presumably determined that development of "up to 4 units per gross acre" on the Parent Tract is "compatible" with the surrounding area in adopting the 2006 Plan Amendment. (Pet. Ex. 3 at I-46).

Even assuming the City had not already determined that a density of "up to 4 units per gross acre" on the Parent Tract is compatible with the surrounding area, the unrefuted expert testimony establishes that the Sunnyside PUD is compatible with the surrounding area. In this regard, the Petitioners' planning expert testified that he had reviewed the Sunnyside PUD, which involved 159 units, and it was his opinion that the Sunnyside PUD was consistent with the City's Comprehensive Plan and the City's LDC. (T. 28). The Petitioners' planning expert also reiterated that the Sunnyside PUD and the proposed densities were consistent and compatible with existing development in the Sunnyside area.³ (T. 68-69; Pet. Ex. 5C at 24-34).

³ On cross-examination, the City's counsel asked whether the existing, surrounding residential developments that the Petitioners' planning expert examined were located in the City or Lake County. (T. 93-94). The Petitioners' planning expert acknowledged that such developments were in Lake County. (T. 93-94). However, when asked, "[a]s a land use planner in evaluating compatibility, do you just ignore existing developments based on their jurisdictional boundaries?," the Petitioners' planning expert responded:

No, I do not. They exist where they exist, and you can't ignore what jurisdiction they're in because they're existing in proximity to the project. You can't draw a line that says, okay, if these projects are in one jurisdiction, they exist; and if they exist on another jurisdiction, they don't exist. You can't. They exist in – in fact, that's where they are. And, you know, their existence and the type of the development that exists, they're there. That's – that's a fact. They don't disappear. They exist, and the type of developments that exists are facts. . . ."

(T. 119).

It is also undisputed that the City's Planning Staff reviewed the Sunnyside PUD for compatibility and concluded that "[t]he proposed request for a PUD (Planned Unit Development) zoning is compatible with the current surrounding zoning districts" and "is consistent with the City's Growth Management Plan, Future Land Use Element, Goal I, Objective 1.6" – i.e., "Land Use Compatibility." (T. 47-49; Pet. Ex. 5A at 58; Pet. Ex. 3 at I-45). Moreover, on cross-examination during the evidentiary hearing, the City's Planning Director confirmed that the Sunnyside PUD with 159 units is "compatible" with the surrounding area.

In so doing, the City's Planning Director confirmed that in his opinion "[t]he parcel is suitable for the proposed use" and that "[t]he proposed use will not alter the character of the surrounding area." (T. 145-46). Further, when asked whether he had concluded that the proposal is compatible with the surrounding area, the City's Planning Director confirmed he had:

Q. [I]s it correct to say that you had concluded that the proposal was compatible with the surrounding area?

B. Yes, it is.

Q. And that would be at 159 units?

A. Yes.

(T. 161) (emphasis supplied). The City's Planning Director further acknowledged on cross-examination, "As a professional planner, I viewed [the Sunnyside PUD] as a project that is consistent with the City of Leesburg comp plan and land development regulations" and reaffirmed that he had applied the City's "adopted criteria." (T. 162, 180).

Simply put, no evidence or testimony was introduced during the evidentiary hearing that would support a finding that the Sunnyside PUD would create a legitimate compatibility concern regarding any surrounding land uses. Further, as the Petitioners' planning expert detailed during his testimony, the Revised Sunnyside PUD Concept Plan increases perimeter buffers and distances to the nearest existing residential uses, thereby further enhancing compatibility with the surrounding area. (T. 70-77, 80; Pet. Ex. 24).

In this regard, the Petitioners' planning expert explained how the Revised Sunnyside PUD Concept Plan reconfigured or removed lots in order to have the same or fewer residential lots next to properties with existing residential homes than the approved 2006 PSP. (T. 78-79). For example, along the western side of the northern cul-de-sac, the Revised Sunnyside PUD Concept Plan has four (4) lots – the same number as the approved 2006 PSP. (T. 78). Along the northern boundary, the Revised Sunnyside PUD Concept Plan has four (4) lots, whereas the approved 2006 PSP had five (5) lots. (T. 79). Lastly, along the southern boundary, the Revised Sunnyside PUD Concept Plan has four (4) lots, whereas the approved 2006 PSP had six (6) lots. (Id.). Thus, from a strict compatibility standpoint, the Revised Sunnyside PUD Concept Plan is not only an improvement over the 2021 Sunnyside PUD submittal with 159 units – which the City's Planning Staff deemed compatible with the surrounding area – but it is an improvement over the 2006 PSP that the City approved.

In sum, the unrefuted testimony and evidence introduced at the evidentiary hearing, including from the City's Planning Director, establishes that the Sunnyside PUD is compatible with the surrounding area and uses. Accordingly, to the extent the City Commission's denial of the Sunnyside PUD was based upon compatibility concerns, such denial is "unreasonable" or "unfairly burdens" the Petitioners' use of the Parent Tract pursuant to the Dispute Resolution Act.

E. **The Sunnyside Task Force Study Report**

Lastly, to the extent the City Commission's denial of the Sunnyside PUD was premised upon the Sunnyside Task Force Study Report, the Petitioners maintain that such determination was unreasonable or unfairly burdens the use of the Parent Tract. The Petitioners' argument is well taken based upon the testimony and evidence introduced during the evidentiary hearing, as well as the City's prior land use and zoning approvals for the Parent Tract. Further, as discussed below, the Petitioners' argument is supported by well-established Florida law.

First and foremost, the testimony and historical evidence introduced during the evidentiary hearing establish that the City did not apply the Sunnyside Task Force Study Report to the Parent Tract in approving the 2005 PUD and the 2006 PSP. Indeed, the Petitioners' planning expert and the City's Planning Director both testified that the approved 2005 PUD did not comply with the Sunnyside Task Force Study Report. (T. 112-13, 137). Significantly, the City Commission approved the 2005 PUD in December 2005 more than a year and a half after the City Commission's adoption of Resolution No. 7158, which purported to "accept" the recommendations of the Sunnyside Task Force Study Report. (Pet. Exs. 22 and 23).

Likewise, as previously discussed, the City adopted a future land use map amendment in December 2006 – more than two and a half years after the City Commission's adoption of Resolution No. 7158 – changing the future land use classification of the Parent Tract to Estate Residential, which allows up to four (4) units per acre. (T. 39; Pet. Ex. 21 at 86-90). Notably, the 2006 Plan Amendment contains no language restricting the density on the Parent Tract below the maximum allowable density in the Estate Residential future land use category or otherwise subjecting the Parent Tract to the Sunnyside Study Task Force Report. (T. 152; Pet. Ex. 21 at 86-87).

Additionally, the historical evidence introduced during the evidentiary hearing reflects that the Sunnyside Study Task Force Report was never intended to restrict the density of the Parent Tract below the amount of density otherwise allowed in June 2004. For example, during the Planning Commission on the 2005 PUD, the City's former Director of Planning – Laura McElhanon – explained that “the density in place at the time the Sunnyside report was approved are still valid.” (Pet. Ex. 21 at 33; T. 157-60). At the time of the Sunnyside Task Force Study Report, it is undisputed that the Parent Tract had a future land use designation of Lake County “Urban Expansion” on the northern half, which authorized four (4) dwelling units per acre, and Lake County “Suburban” on the southern half, which allowed up to three (3) dwelling units per acre if certain so-called “timeliness” requirements were met. (T. 42-43, 157-58; Pet. Ex. 21 at 33-34; Pet. Ex. 21A at 5). Thus, it is irrefutable that the “density in place at the time the Sunnyside report was approved” greatly exceeded the density level recommendations in the Sunnyside Task Force Study Report. Indeed, both the Petitioners’ planning expert and the City’s Planning Director agreed that the density in place on the Parent Tract when the Sunnyside Task Force Study Report was accepted would allow more than the 150 dwelling units proposed on the Revised Sunnyside PUD Concept Plan – which equates to only 1.25 dwelling units per acre. (T. 43, 72, 161).

Based upon the above-referenced testimony and historical evidence, the Special Magistrate finds that the density level recommendations in the Sunnyside Task Force Study Report were never intended to govern or limit the density of the Parent Tract. Consistent with this finding, it bears noting that the City’s Planning Staff never recommended denial of the Sunnyside PUD based upon the Sunnyside Task Force Study Report during more than two (2) years and multiple reviews of the project. (T. 143, 147). Moreover, when asked by the City’s counsel during the evidentiary

hearing if he believed the City's Planning Staff made a mistake in recommending approval of the Sunnyside PUD, the City's Planning Director replied, "No." (T. 168).

Second, even assuming the Sunnyside Task Force Study Report was intended to apply to development of the Parent Tract, it would be unlawful to apply them because the density level limitations recommended therein are not codified in the City's Comprehensive Plan or the City's LDC, or otherwise delineated on the City's Future Land Use Map. By statute, a local government's comprehensive plan is required to include a future land use element "designating proposed future general distribution, location, and extent of the uses of land for residential uses" and specifying the "general range of density or intensity of use . . . in each existing land use category." See § 163.3177(6)(a), Fla. Stat. (2022). Further, "[t]he proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives." See *id.* at § 163.3177(6)(a)1. Additionally, by statute, "each county and each municipality shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan." See § 163.3202(1), Fla. Stat. (2022).

In the instant case, it is undisputed that the City has not adopted or incorporated any of the density level recommendations from the Sunnyside Task Force Study Report into the City's Comprehensive Plan or the City's LDC. (T. 39-40, 115, 139, 177). Likewise, nothing on the City's Future Land Use Map indicates that property within the Sunnyside Study Area, including the Parent Tract, is subject to any density limitations other than those established for the assigned future land use category. (T. 24-25). The absence of such formal adoption begs the question of how property owners, like the Petitioners, would know or have notice that the density level

recommendations from the Sunnyside Task Force Study Report would or could apply to their property.

Rather than formally codifying the recommendations of the Sunnyside Task Force Study Report, the City purported to accept the recommendations by virtue of Resolution No. 7158. A “resolution,” however, is “an expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.” See § 166.041(1)(b), Fla. Stat. (2022). An “ordinance,” by contrast, is “an official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law.” See *id.* at § 166.041(1)(a).

In broad terms, “an ordinance differs from a resolution in that the latter is often nonbinding in nature.” See Patrick John McGinley, *Florida Municipal Law and Practice* § 3.3 (West 2023 ed.). Moreover, “[a] resolution cannot be substituted for and have the force and effect of an ordinance, nor can a resolution supply initial authority which is required to be vested by ordinance.” *Wallace v. Leahy*, 496 So. 2d 970, 971 (Fla. 3d DCA 1986). In this regard, it bears emphasizing that a comprehensive plan, comprehensive plan amendments, and land development regulations are required to be adopted by ordinance. See, e.g., § 163.3187(11)(a), Fla. Stat. (2022) (“The adoption of a comprehensive plan or plan amendment shall be by ordinance.”).

Given the undisputed fact that the City has never formally codified the recommendations of the Sunnyside Task Force Study Report into the City’s Comprehensive Plan or the City’s LDC, the density level limitations set forth therein are not legally binding and do not apply to the Parent Tract. Rather, the Parent Tract is governed by the maximum allowable density in the Estate Residential future land use category assigned to the property – i.e., “up to four (4) units per acre.”

(Pet. Ex. 3 at I-34). On this point, it deserves emphasis that the late City Attorney similarly opined during the City's review of the Sunnyside PUD that, "although the study was adopted in 2004, it is not considered binding on future City Commissions." (Pet. Ex. 5C at 23).

Third, even assuming the Sunnyside Task Force Study Report was applicable to the Parent Tract or could somehow be viewed as binding, the City Commission's reliance upon the Sunnyside Task Force Study Report as grounds to deny the Sunnyside PUD would be improper under Florida law. Accordingly, on this additional basis, the Special Magistrate concludes that the Sunnyside Task Force Study Report does not govern the use and development of the Parent Tract.

As discussed at the evidentiary hearing, Resolution No. 7158 reads, in pertinent part, that "all further development within the study area, over which the City of Leesburg has control, will proceed in accordance with the recommendations set forth in the Sunnyside Task Force Study Report, unless otherwise approved by the City Commission." (Pet. Ex. 22) (emphasis supplied). Both the Petitioners' planning expert and the City's Planning Director agreed that there are no objective criteria in Resolution No. 7158 for when the Sunnyside Task Force Study Report would or would not apply. (T. 127, 139-40). In fact, when asked on cross-examination "how would a private property owner know what the city commission is going to do?," the City's Planning Director candidly admitted, "They wouldn't." (T. 147). Rather, based upon his conversations with the late City Attorney, the City's Planning Director stated, "it's the city commission's decision to use it or not use it." (T. 176; see also T. 146).

As observed in *City of Homestead v. Schild*, 227 So. 2d 540, 543 (Fla. 3d DCA 1969), "the law of Florida is committed to the doctrine of the requirement that zoning ordinances . . . must be predicated upon legislative standards which can be applied to all cases, rather than to the theory of granting an administrative board or even a legislative body the power to arbitrarily decide each

case entirely within the discretion of the members of the administrative board of legislative body.” See *id.* at 543; see also *Delta Truck Brokers, Inc. v. King*, 142 So. 2d 273, 275 (Fla. 1962) (noting that a zoning code, like other legislation, “cannot delegate to an administrative agency, even one clothed with certain quasi-judicial powers, the unbridled discretion to adjudicate private rights”).

Rather, for regulations which provide decisional authority to pass constitutional muster, they must have objective criteria that the governmental entity must follow when making a decision. See *N. Bay Village v. Blackwell*, 88 So. 2d 524, 526 (Fla. 1956) (“An ordinance whereby the city council delegates to itself the arbitrary and unfettered authority to decide where and how a particular structure shall be built or where located without at the same time setting up reasonable standards which would be applicable alike to all property owners similarly conditioned, cannot be permitted to stand as a valid municipal enactment.”); *City of Miami v. Save Brickell Ave., Inc.*, 426 So.2d 1100, 1104 (Fla. 3d DCA 1983) (“[I]f definite standards are not included in the ordinance, it must be deemed unconstitutional as an invalid delegation of legislative power to an administrative board.”). Consistent with the above-cited authority, Florida courts have steadfastly held that “[a]ny standards, criteria or requirements which are subject to whimsical or capricious application or unbridled discretion will not meet the test of constitutionality.” See *ABC Liquors, Inc. v. City of Ocala*, 366 So. 2d 146, 149 (Fla. 1st DCA 1979).

Here, it is indisputable that Resolution No. 7158 contains no objective criteria or standards to govern when the Sunnyside Task Force Study Report would or would not apply to a particular parcel of land. Rather, the decision of whether the Sunnyside Task Force Study Report will or will not apply to a particular parcel of land is left entirely to the unfettered discretion of the City Commission. Pursuant to Florida law, however, “[t]he granting or withholding of a permit . . . should not depend on the whim or caprice of the permitting authority.” See *Effie, Inc. v. City of*

Ocala, 438 So. 2d 506, 508 (Fla. 5th DCA 1983); see also *Kash N' Karry Food Stores, Inc. v. City of Temple Terrace*, 19 Fla. L. Weekly Supp. 425, 428 (Fla. 13th Cir. Ct. 2012) (“A case by case decision based on the various council members’ view of what constitutes a best use” violates the essential requirements of law and “subjects the application to a whimsical or capricious review which ‘will not meet the test of constitutionality.’”).

To the extent Resolution No. 7158 grants the City Commission unbridled discretion to decide on a case-by-case without any objective criteria whether or not to apply the recommendations of the Sunnyside Task Force Study Report to a particular parcel, the Resolution is contrary to established law and ineffectual. See *Effie, Inc.*, 438 So. 2d at 510 (“Clearly, the opportunity for the exercise of unbridled discretion is present here, and whether so exercised or not, renders the ordinance unconstitutional.”). Simply put, an applicant “has a right to know what the requirements are that he must comply with in order to implement the permitted use,” otherwise “councilmen can act upon whim, caprice or in response to pressures which do not permit of ascertainment or correction.” See *id.* at 509.

Finally, the Special Magistrate also considers the Petitioners’ reasonable expectation when they acquired the Parent Tract to be able to develop the property in accordance with its assigned future land use designation which allows “up to four (4) units per acre.” (Pet. Ex. 3 at I-34). As previously discussed, the unrefuted evidence introduced during the evidentiary hearing establishes that the City did not apply the Sunnyside Task Force Study Report to the Parent Tract when it approved the 2005 PUD or the 2006 PSP. Additionally, the record is devoid of any credible evidence that the 2005 PUD and the 2006 PSP were ever lawfully rescinded or that the City ever provided notice to the Petitioners’ predecessor that such development approvals were deemed “expired.” Moreover, PUDs are not static approvals and are frequently amended based upon

changes in market preferences, new ownership, or increases in the costs of construction. (T. 82-83). Given the significant increase in the costs of construction in recent years and the fact that the developer of the Sunnyside PUD would be required to extend central water and sewer lines to service the Parent Tract as a condition of the PUD, it is not surprising that the Petitioners would seek to modify the prior development approvals to increase the number of units to help offset this cost and make the project more financially viable.⁴

In sum, for the reasons detailed above, the Sunnyside Task Force Study Report does not govern the development of the Parent Tract or otherwise reduce the maximum allowable density on such property. Accordingly, to the extent the City Commission's denial of the Sunnyside PUD was premised upon the Sunnyside Task Force Study Report, such denial is "unreasonable" or "unfairly burdens" the Petitioners' use of the Parent Tract pursuant to the Dispute Resolution Act.

CONCLUSION & RECOMMENDATION

A. Standard For Recommendation

A special magistrate is charged by Section 70.51(19)(b), Florida Statutes (2023) with making a recommendation to the Petitioners and the City. As in the matters to consider, a special magistrate is given broad authority to craft that recommendation:

If the special magistrate finds that the development order or enforcement action, or the development order or enforcement action in combination with the actions or regulations of other governmental entities, is unreasonable or unfairly burdens use of the owner's property, the special magistrate, with the owner's consent to proceed, may recommend one or more alternatives that protect the

⁴ Even the Sunnyside Task Force Study Report acknowledges that, "once density levels drop to less than three (3) units per acre, the cost of extending water and wastewater lines becomes a financial burden." (Pet. Ex. 21A at 7).

public interest served by the development order or enforcement action and regulations at issue but allow for reduced restraints on the use of the owner's real property, including, but not limited to:

1. An adjustment of land development or permit standards or other provisions controlling the development or use of land.
2. Increases or modifications in the density, intensity, or use of areas of development.
3. The transfer of development rights.
4. Land swaps or exchanges.
5. Mitigation, including payments in lieu of onsite mitigation.
6. Location on the least sensitive portion of the property.
7. Conditioning the amount of development or use permitted.
8. A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.
9. Issuance of the development order, a variance, special exception, or other extraordinary relief, including withdrawal of the enforcement action.
10. Purchase of the real property, or an interest therein, by an appropriate governmental entity.

§ 70.51(19)(b), Fla. Stat. (2023) (emphasis supplied).

B. Recommendation

1. Based on the totality of the facts and law applicable to this special magistrate proceeding as discussed in this SM Recommendation, the Special Magistrate respectfully recommends that:

A. The City approve the Sunnyside PUD consistent with the Revised Sunnyside PUD Concept Plan that the Petitioners introduced during the evidentiary hearing and subject to all conditions in the prior Staff Report for the Sunnyside PUD. The Revised Sunnyside PUD Concept Plan, which reduces the number of lots to 150, removes the Additional Tract, increases the size of certain open space areas or buffers adjacent to the nearest properties with existing residential

homes, and increases the distances of homes within the Sunnyside PUD from the nearest existing residential homes in the area, is compatible with the surrounding area land uses and complies with the City's Comprehensive Plan and the City's LDC.

B. The City implement, as has Lake County, the portions of the Sunnyside Task Force Study Report that it wants to have applied to future developments by adopting comprehensive plan amendments and land development regulations, as appropriate.

I want to thank the attorneys in this matter as well as City staff for their presentations and cooperation throughout this special magistrate proceeding and the mediation that preceded it. Both sides presented their case in a professional and ethical manner and given the totality of this case, especially the undisputed facts, both sides presented the best possible case for their respective sides.

This Special Magistrate Recommendation was entered and provided to the attorneys for Petitioners and the City by electronic mail on this 15th day of January 2024.

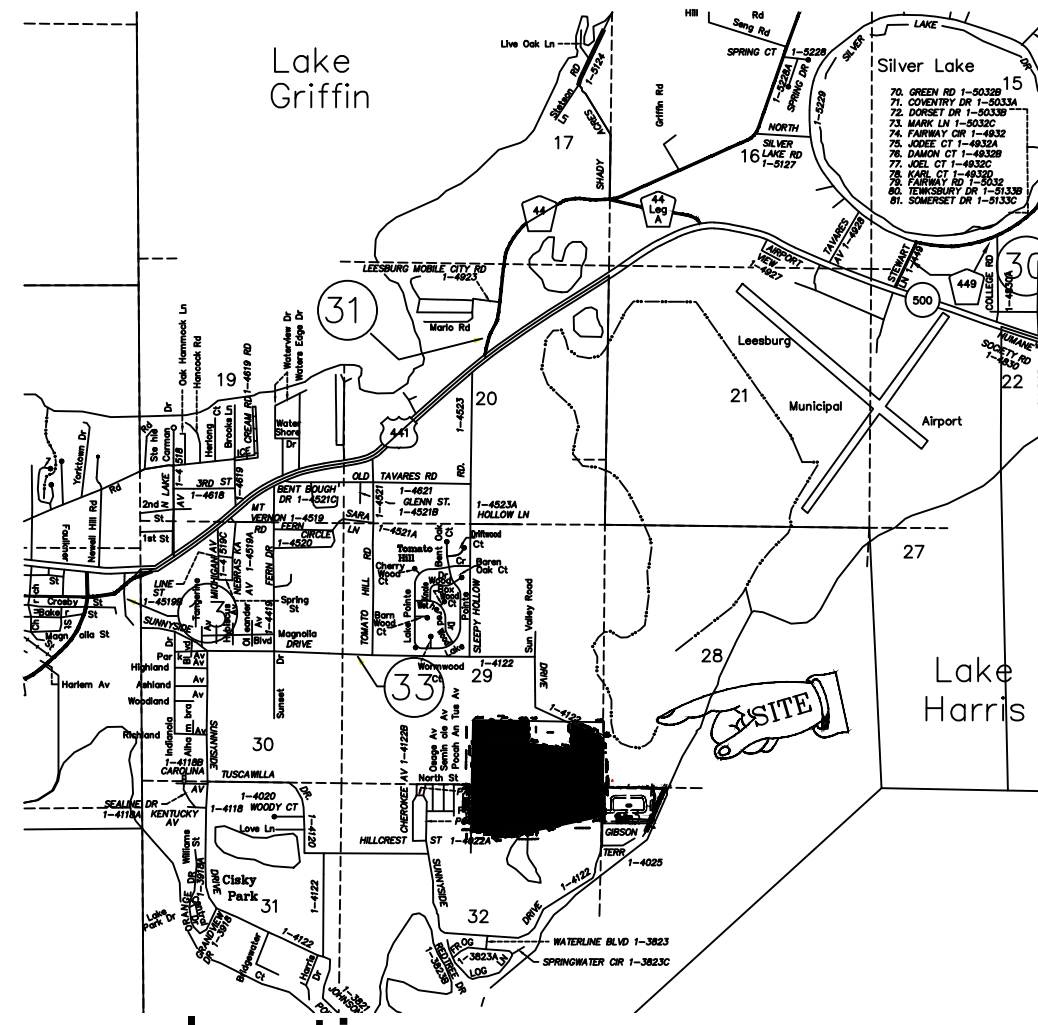
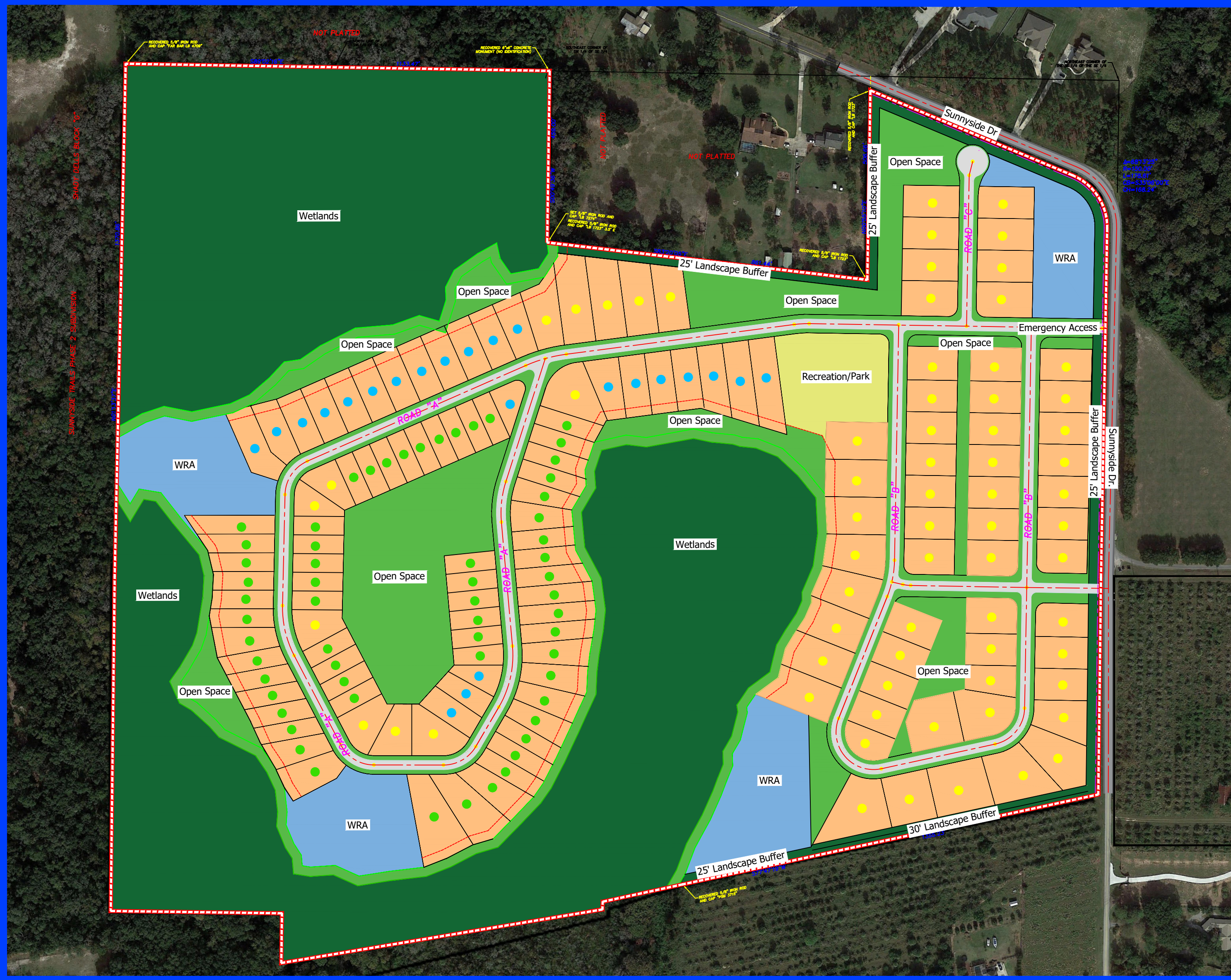
Carlos Alvarez
CARLOS ALVAREZ, ESQUIRE
SPECIAL MAGISTRATE
309 Belmont Road
Tallahassee, Florida 32301
Telephone: (850) 567-7223
Email: alvarezmediations@gmail.com
Florida Bar No. 205214
Sup. Ct. Cert. No. 10435CR

For Petitioners:

S. Brent Spain, Esquire
David A. Theriaque, Esquire
Theriaque & Spain
1809 Edgewater Drive
Orlando, Florida 32804
sbs@theriaquelaw.com
dat@theriaquelaw.com

For Respondent:

Stephanie Brionez, Esquire
Mark Brionez, Esquire
Brionez + Brionez, P.A.
Post Office Box 985
322 W. Burleigh Blvd.
Tavares, Florida 32778
Stephb@bblawfl.com
Markb@bblawfl.com



location map
no scale

RECEIVED February 29, 2024 (1:30 AM Revision)
City of Leesburg
Sunnyside Mediation
Special Magistrate's Recommendations
REVISED Concept Plan

LEGAL DESCRIPTION: (FROM TITLE COMMITMENT)

BEGINNING AT A POINT 220 YARDS WEST AND 153 YARDS SOUTH OF THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SE 1/4 OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE SOUTH 177 YARDS, THENCE WEST 220 YARDS, THENCE NORTH 30 YARDS, THENCE WEST 64 1/2 YARDS, THENCE NORTH 147 YARDS, THENCE EAST 284 1/2 YARDS TO POINT OF BEGINNING.

BEGINNING 1660 FEET WEST AND 422 3/4 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 29, RUN THENCE NORTH 897.76 FEET TO THE NORTH BOUNDARY OF SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 29, THENCE WEST 660 FEET, THENCE SOUTH 36.75' EAST 1117 FEET TO POINT OF BEGINNING.

BEGINNING 7 1/2 CHAINS NORTH OF SAID SECTION 29, RUN THENCE NORTH 37.50 FEET, THENCE WEST 220 YARDS, THENCE SOUTH 37.50 FEET, THENCE EAST 220 YARDS TO THE POINT OF BEGINNING.

BEGIN ON EASTERN BOUNDARY OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 26 EAST, AT A POINT 10 CHAINS NORTH OF THE SOUTHEAST CORNER THEREOF, RUN SOUTH 2 CHAINS MORE OR LESS TO POINT HALF WAY BETWEEN 2 ROWS OF ORANGE TREES, THENCE WEST BETWEEN SAID ROWS OF ORANGE TREES TO CHAINS, NORTH 12 CHAINS, THENCE SOUTH OF EAST TO A STAKE 16 CHAINS NORTH OF THE SOUTHEAST CORNER OF SAID SECTION, THENCE SOUTH TO POINT OF BEGINNING.

BEGIN AT A POINT 495 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE WEST 860 FEET, THENCE SOUTH 495 FEET, THENCE SOUTH 89' AND 08' E. 660 FEET TO THE EAST LINE OF SAID SECTION 29, THENCE NORTH 10 FEET TO THE POINT OF BEGINNING.

BEGIN AT THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, RUN S 400.8 FT, WEST 1320 FT, SOUTH 488.4 FT, SOUTH 75 DEG 50 MIN W 889.7 FT, NORTH 115.7 FT, WEST 482 FT, NORTH TO THE NORTHWEST CORNER OF THE NE 1/4 EAST 2840 FT TO THE POB, AND, FROM THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, SOUTH ALONG THE EAST LINE 400.8 FT, WEST 1320 FT TO WEST LINE OF THE NE 1/4 OF NE 1/4, SOUTH ALONG SAID WEST LINE OF THE NE 1/4 OF THE NE 1/4 A DISTANCE OF 488.4 FT FOR POB, RUN S 75-50-0 W 885 FT TO PT A, RETURN TO THE POB, RUN SOUTH TO A POINT 894.4 FT SOUTH OF THE NORTHWEST CORNER OF THE NE 1/4 OF THE NE 1/4, CONTINUE SOUTH 0-43-01 W 20.78 FT, S 76-23-48 W 880.64 FT, NORTH TO POINT A.

BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE NORTH 7 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 2 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 5 CHAINS, THENCE EAST 20 CHAINS TO POINT OF BEGINNING, CONTAINING 12.5 ACRES; ALSO THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST 1/4 (SE 1/4) OF SAID SECTION 29, LESS THE LAND CONVEYED TO R. J. GARDNER BY DEED RECORDED AT PAGE 149 IN DEED BOOK 11, IN OFFICE OF THE CLERK OF THE CIRCUIT COURT OF SUMTER COUNTY, FLORIDA, AND LESS THE LAND CONVEYED TO J. J. GARDNER BY DEED RECORDED IN DEED BOOK 8, PAGE 139 IN THE OFFICE OF THE CLERK OF CIRCUIT COURT OF LAKE COUNTY, FLORIDA, AND LESS THE LAND CONVEYED TO ERNEST KINZE BY DEED RECORDED AT PAGE 275 OF DEED BOOK 14, IN OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LAKE COUNTY, FLORIDA;

ALSO LESS: BEGIN AT A POINT 495 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE WEST 660 FEET, THENCE SOUTH 89'08' EAST 660 FEET TO THE EAST LINE OF SAID SECTION 29, THENCE NORTH 10 FEET TO THE POINT OF BEGINNING. THIS SAME PIECE OF PROPERTY IS ALSO DESCRIBED AS: S BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE NORTH 7 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 2 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 5 CHAINS, THENCE EAST 20 CHAINS TO POINT OF BEGINNING, CONTAINING 12.5 ACRES MORE OR LESS.

ALSO THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 29 LESS: BEGIN AT A POINT ON THE EAST LINE OF SW 1/4 OF THE SE 1/4 420 FEET NORTH OF THE SE CORNER OF SAID SW 1/4 OF THE SE 1/4 RUN THENCE NORTH 900 FEET TO THE NE CORNER OF SW 1/4 OF SE 1/4, THENCE ALONG THE NORTH LINE OF SAID SW 1/4 OF SE 1/4 857.5 FEET, THENCE SOUTHEASTERLY TO A POINT 183.5 FEET WEST AND 897.75 FEET SOUTH OF THE NE CORNER OF SW 1/4 OF SE 1/4 THENCE SOUTH 2.25 FEET THENCE EAST TO POINT OF BEGINNING.

ALL LANDS IN THE NE 1/4 OF THE NE 1/4 OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE.

COMMENCE AT THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, THENCE S 00 DEGREES 01'15" W, ALONG THE EAST LINE OF SAID SECTION 32, A DISTANCE OF 574.70 FEET TO A NAIL AND CAP ON A PROJECTION OF A ROW OF CITRUS TREES FOR THE POINT OF BEGINNING THENCE S 77°39'09" W ALONG SAID PROJECTION AND THE ROW OF CITRUS TREES, THENCE 1162.02 FEET TO A IRON ROD ON THE EDGE OF SWAMP, THENCE SOUTHWESTERLY TO A POINT ON THE WEST LINE OF THE NE 1/4 OF SAID SECTION 32 THAT IS 894.40 FEET SOUTHERLY OF THE NORTHWEST CORNER OF SAID NE 1/4 OF THE NE 1/4, SAID POINT ALSO BEING THE TERMINUS OF THE DESCRIPTION LINE.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: (A COMPILATION OF THE ABOVE DESCRIBED PARCELS AS WRITTEN BY SURVEYOR.)

A PORTION OF SECTIONS 29 AND 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 29, ALSO BEING THE NORTHEAST CORNER OF SECTION 32; THENCE RUN S89°55'30" W ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 32, 25.00 FEET TO THE WEST RIGHT OF WAY LINE OF SUNNYSIDE DRIVE, A MAINTENANCE RIGHT OF WAY, FOR THE POINT OF BEGINNING; THENCE RUN S00°43'05" W ALONG SAID WEST RIGHT OF WAY LINE, 580.16 FEET TO A CONCRETE MONUMENT MARKED "PSM 3715" ON A PROJECTION OF A ROW OF CITRUS TREES; THENCE RUN S77°47'19" W ALONG SAID PROJECTION, 1355.23 FEET, THENCE RUN S02°05'35" W, 20.78 FEET; THENCE RUN S80°31'58" W, 870.15 FEET; THENCE RUN N00°46'47" E, 132.85 FEET; THENCE RUN N89°13'13" W, 457.71 FEET TO THE MONUMENT WEST LINE OF THE NORTHEAST 1/4 OF SECTION 32; THENCE RUN N00°40'34" E ALONG SAID MONUMENT WEST LINE, 895.11 FEET TO A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER OF THE NORTHEAST 1/4 THENCE RUN N01°13'37" E ALONG THE MONUMENT WEST LINE OF THE SOUTHEAST 1/4 OF SECTION 29, 1370.86 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 29; THENCE RUN S89°02'16" E ALONG THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, 1133.47 FEET TO A CONCRETE MONUMENT; THENCE RUN S00°49'36" W, 458.00 FEET; THENCE RUN S83°20'05" E, 861.44 FEET; THENCE RUN N03°05'10" E, 506.66 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF SUNNYSIDE DRIVE, A MAINTENANCE RIGHT OF WAY; THENCE RUN S67°12'42" E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 586.83 FEET TO A CURVE ON THE WEST RIGHT OF WAY LINE, SAID CURVE BEING CONCAVE TO THE SOUTHWEST, THENCE RUN SOUTHEASTERLY ALONG SAID CURVE HAVING A CENTRAL ANGLE OF 68°13'25", A RADIUS OF 150.00 FEET, AN ARC LENGTH OF 178.61 FEET, A CHORD BEARING OF S33°06'00" E AND A CHORD DISTANCE OF 168.24 FEET; THENCE RUN S01°00'43" W ALONG SAID WEST RIGHT OF WAY LINE, 934.51 FEET TO THE POINT OF BEGINNING.

Notes

Total Project Acreage: 120 Acres± (5,227,200 sq ft±)
Existing Zoning: City of Leesburg PUD, Lake County A
Proposed Zoning: City of Leesburg PUD
Adjacent Zoning: North - Lake County R-1
South - Lake County R-1
East - Lake County R-1
West - City of Leesburg R1-A

Existing Future Land Use: Estate Residential and LC Rural
Proposed Future Land Use: Estate Residential
Proposed Use: 150 single family residential lots

Gross density 1.25 DU/AC
Flood Zone: As noted on survey
Wetlands: 41.9 acres
Soils as noted
Sewer and water service from the City of Leesburg, re-use water service when it becomes available.

Landscape buffers as required
City of Leesburg Electric
All Easements will be maintained by the POA
Stormwater management will be through a system of swales and dry retention ponds.

Maximum allowable building height 35'

Buffers:
North - 25'
South - 25'
East - 25'
West - 25'

Utilities, police, water, sewer and fire protection will be provided by City of Leesburg.
Stormwater management will be through a system of swales, wet and dry bottom retention ponds as required.

Landscape and buffers to meet City of Leesburg Ordinance 11-89

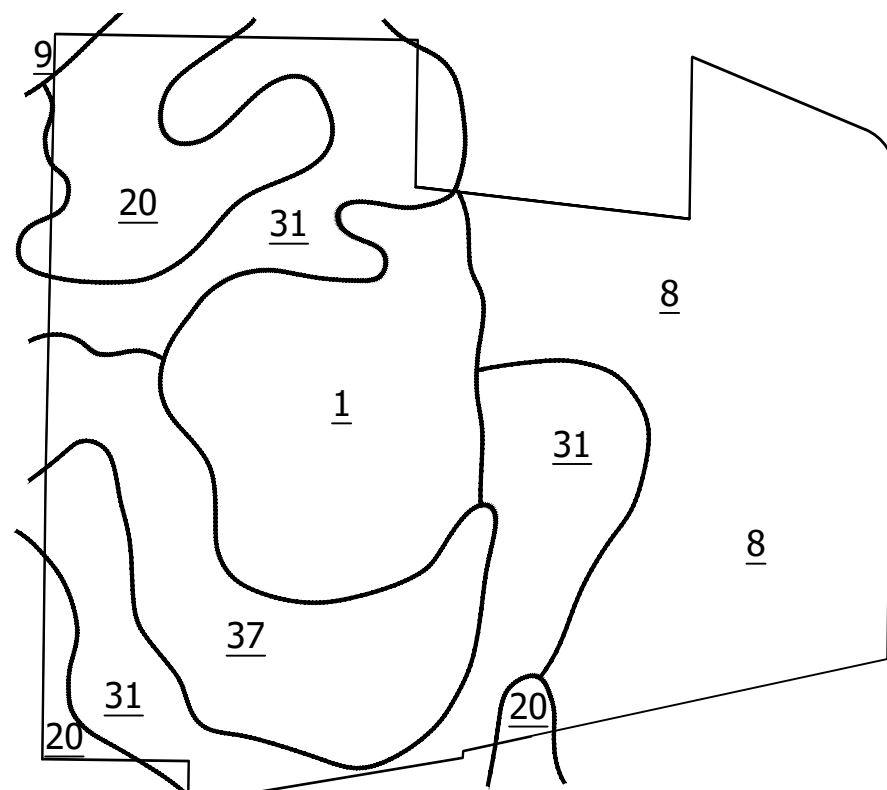
Existing vegetation to be utilized in landscape buffers

Wherever possible

Minimum living area 1,500 sf
This plan is conceptual in nature and is subject to change due to engineering and other influences.

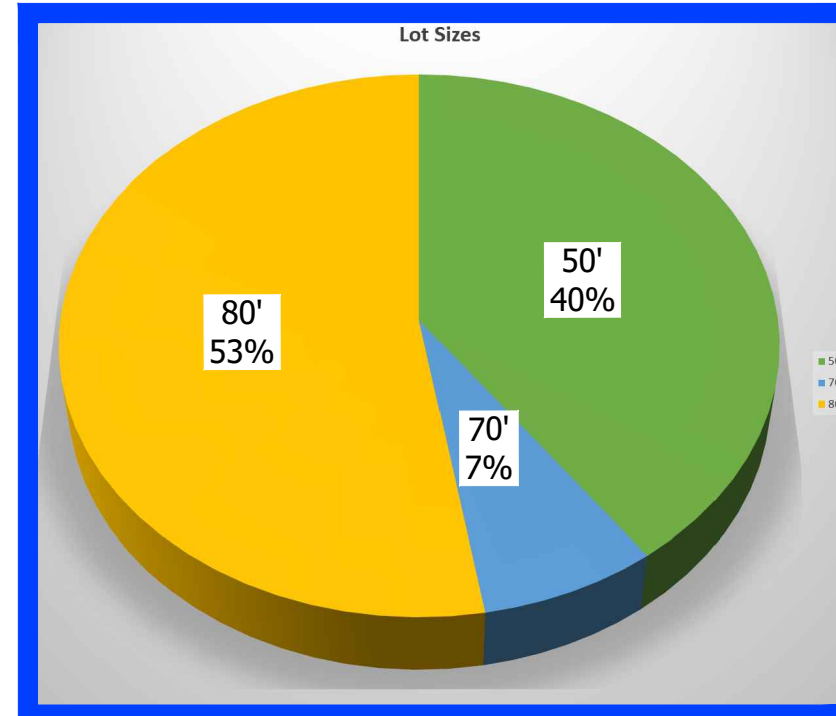
Soils:

1
8
9
20
31
37
44
99
Sparr Sand, 0 to 5% slopes
Candler sand, 0 to 5% slopes
Candler sand, 5 to 12% slopes
Immokalee sand
Ocoee mucky peat
Elizay sand
Swamp water

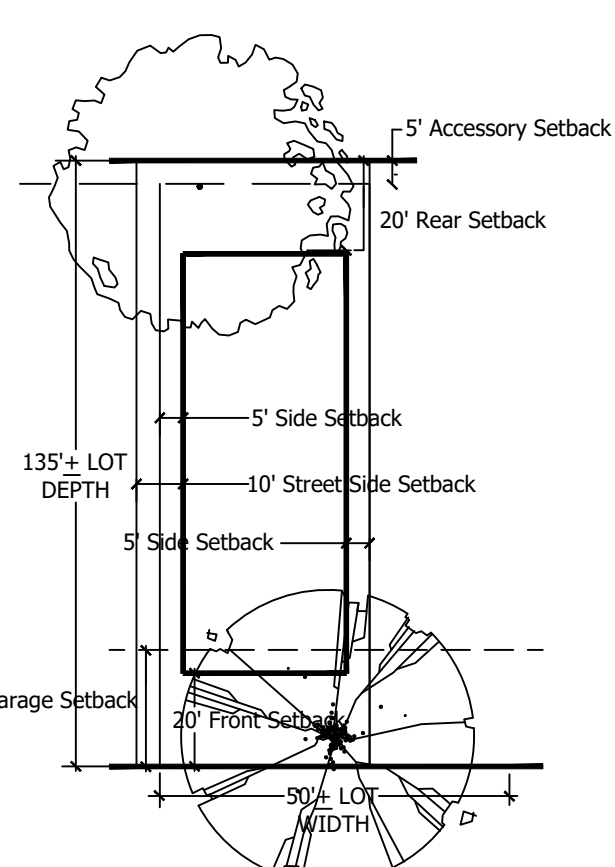


general soils map

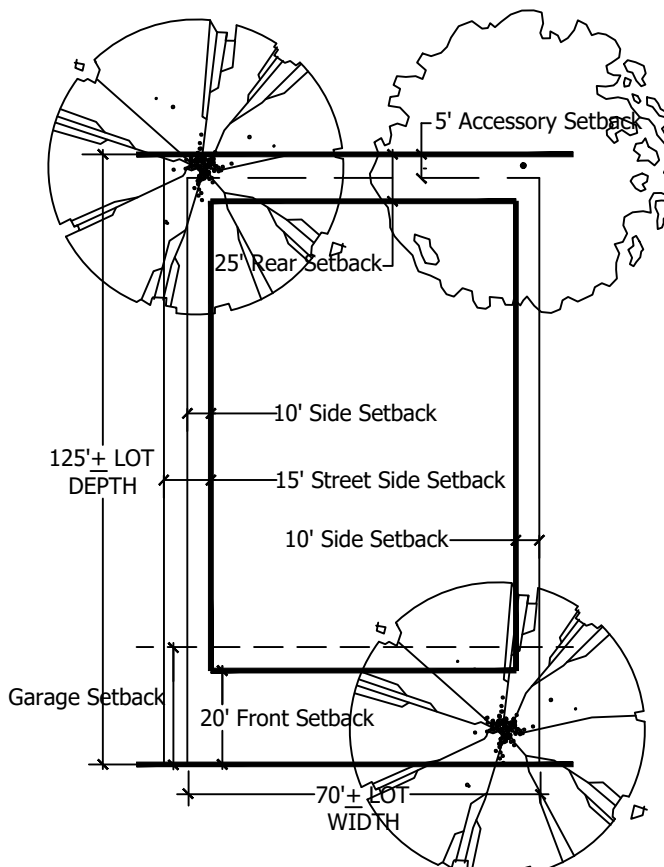
no scale



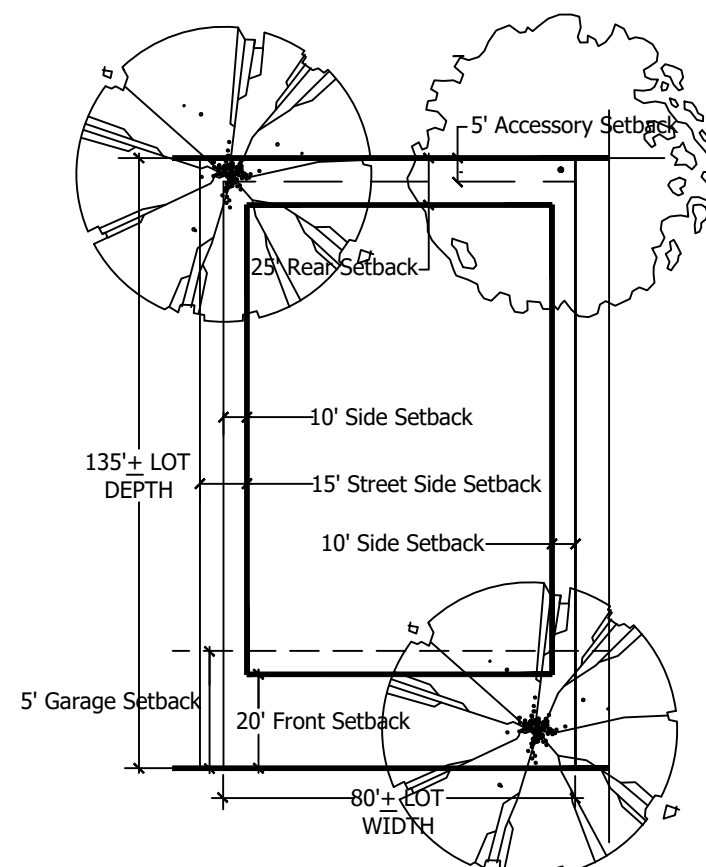
Uplands: 80 ac
Wetlands: 40 ac
Recreation: 1.64
Buffers: 6.28
WRA: 7.78
Other Open Space: 6.88
Total Open Space: 62.58
Total Acreage: 120+/- Acres



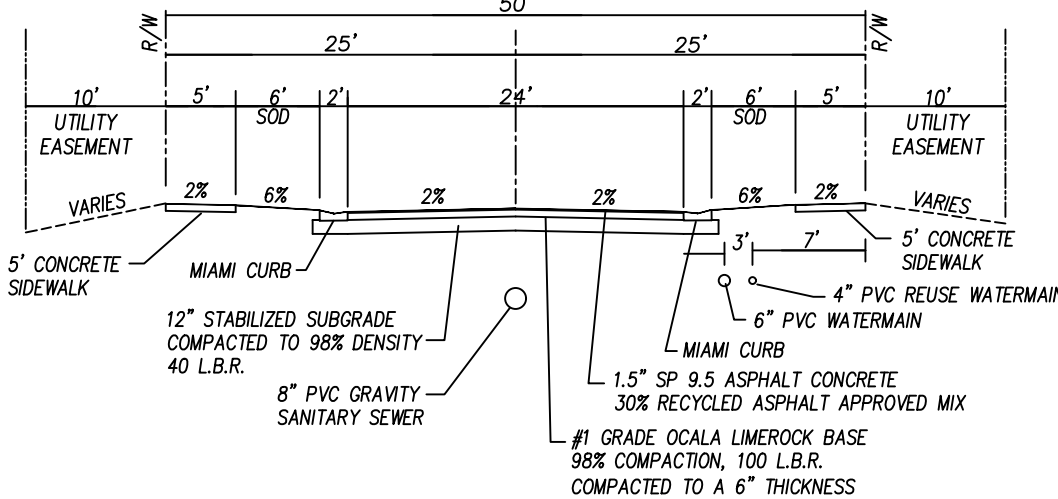
TYPICAL 50' SINGLE FAMILY LOT
6,750 SQ FT±



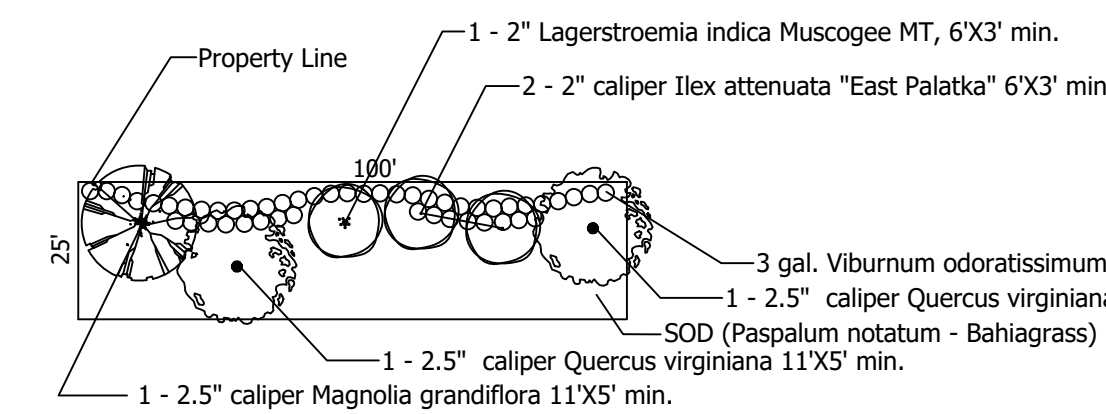
TYPICAL 70' SINGLE FAMILY LOT
8,750 SQ FT±



TYPICAL 80' SINGLE FAMILY LOT
10,800 SQ FT±

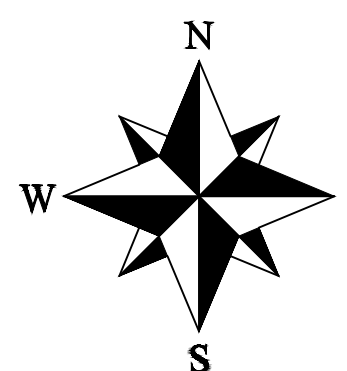


TYPICAL ROADWAY SECTION



Buffer detail is to illustrate plant material quantity and specifications only.
Actual plant material placement may vary.
Landscape buffer irrigated with automatic system
Illustrated buffer does not reflect credited existing plant material

100 Feet of
Typical 25' Landscape Buffer
not to scale



Scale: 1:150

Owner:
Cenizo Ventures, LLC and
Sunnyside Lake Land Holding, LLC
Dr. Eric Coe
114 Sleepy Hollow Road
Leesburg, Florida 34748

Agent:
LPG Urban and Regional Planners, LLC.
Mike Rankin
1162 Camp Avenue
Mount Dora, Florida, 34757
(352) 385-1940

Sunnyside Landing

Conceptual Plan

Leesburg, FL

LPG Urban & Regional Planners, LLC.

1162 Camp Avenue Mount Dora, Florida 32757

Office: (352) 385-1940 / Fax: (352) 385-4824

July 20th, 2023

Previous Cases: 068-1-062305/Ord. 05-124/PUD 19-222
Current Case PUD 21-78

EXHIBIT A
SUNNYSIDE LANDING
PLANNED UNIT DEVELOPMENT CONDITIONS
August 19, 2021

These Planned Unit Development Conditions for a PUD (Planned Unit Development) zoning district are granted by the City of Leesburg Planning Commission, Lake County, Florida to **Cenizo Ventures, LLC and Sunnyside Lake Land Holding, LLC**, (Greg Beliveau, LPG, Petitioner), "Permittee" for the purposes described herein, and subject to the terms and conditions as set forth in this document, pursuant to authority contained in Chapter 25 "Zoning", Section 25-278 "Planned Unit Development" of the City of Leesburg Code of Ordinances, as amended.

BACKGROUND

The "Permittee" is requesting a Planned Unit Development (PUD) zoning district to allow future construction of a proposed residential development consisting of a maximum of ~~464~~ 150 single family residential units on approximately ~~137.35~~ 120.549 +/- acres, generally located ~~on east and west of Sunnyside Drive~~ on a site within the City of Leesburg in accordance with their PUD application and supplemental information.

PURPOSE

The purpose of this document is to provide appropriate zoning standards for a high-quality built environment through the application of flexible and diversified land development requirements, which shall be implemented in conjunction with a master site development plan and the City of Leesburg Code of Ordinances, therefore allowing for more efficient and optimal use of the subject property, and to increase the overall economic opportunity and employment base of Leesburg, Florida.

CONDITIONS

The following conditions shall apply to the development proposed herein. In any instance where the conditions of this document may conflict with the City of Leesburg Code of Ordinances, this document shall prevail as the determining requirement.

1. **PERMISSION** is hereby granted to **Cenizo Ventures, LLC and Sunnyside Lake Land Holding, LLC**, (Greg Beliveau, LPG, Petitioner), "Permittee" to construct, operate, and maintain a Planned Unit Development in and on real property in the City of Leesburg, in accordance with the requirements set forth herein. The property is more particularly described below.
2. **LEGAL DESCRIPTION**
See attached **Exhibit C, Legal Description**.

3. **LAND USE**

The above-described property, containing approximately ~~439~~ 120.549 +/- acres, shall be used for platted single-family residential development, pursuant to City of Leesburg development codes and standards.

A. Permitted Uses

1. Detached single family residential units
2. Accessory structures for residential uses
3. Sales office in a single family unit
4. Accessory retail within a recreation center or clubhouse, intended for the primary use of residents, such as a snack bar.
5. Temporary modular sales center office (during construction and sales of new units) not to exceed one year, and construction office not to exceed two years from the approval of the final plat of the final phase for the subdivision. Model homes may be used as sales centers during the duration of the project.

B. Prohibited Uses

1. Townhouses
2. Condominium units
3. Multi-family units (Apartments)
4. Commercial uses (as a primary use)
5. All other uses not specifically permitted within these conditions under Permitted Uses above shall be prohibited.

4. **DEVELOPMENT STANDARDS**

A. The project shall contain a maximum of ~~464~~ 150 single family residential units, at a gross density not to exceed 1.25 units per acre on the approximately ~~439~~ 120.549 +/- acre site, as shown on **Exhibit B, Master Development Plan**.

B. Lot sizes shall be varied, to include 50, 70- and 80-foot widths on the west side of Sunnyside Drive, as shown on the attached **Exhibit B, Master Development Plan**. ~~All lots east of Sunnyside Drive shall be a minimum of 43,560 square feet.~~ with a minimum size of 43,560 square feet.

C. All lots west of, and immediately adjacent to Sunnyside Drive, shall be a minimum of 80 feet wide.

D. Along each street, homes with the same architectural design shall not be immediately adjacent (side by side) or directly across from a lot with the same design. Facades may be varied to meet this requirement. The maximum impervious surface for the project shall be 70%. Community and private swimming pools shall not count toward the impervious surface calculation.

E. The minimum lot development standards shall be:

1. For 50-foot lots:

- a. 50 foot lots shall be located on the interior of the subdivision or in areas that are adjacent to Conservation/Open Space as shown on the Conceptual Master Plan, Exhibit B. These lots shall not be located anywhere which is directly adjacent to the required 25-foot landscape buffer as required in Section 6, *Landscape & Buffer Requirements* this document, or in areas directly adjacent to existing single-family residential development
 - b. Minimum house size: 1,600 square feet.
 - c. Each additional bedroom added to the above minimum house size shall be a minimum of 120 square feet.
 - d. Minimum lot size shall be 6,500 square feet.
 - e. Minimum width 50 feet
 - f. Minimum depth 125 feet
 - g. Minimum building setbacks:
Front – 25 feet setback to the garage, 20 feet setback to the residence
Rear – 18 feet;
Side – 7.5 feet;
Corner Side – 15 feet; and
Porch – 20 feet (porch must be a minimum width of 6 feet).
2. For 70-foot lots:
- a. 70 foot lots shall be located on the interior of the subdivision or in areas that are adjacent to Conservation/Open Space as shown on the Conceptual Master Plan, Exhibit B. They shall not be located anywhere which is directly adjacent to the required 25-foot landscape buffer as required in Section 6, *Landscape & Buffer Requirements* of this document, or in areas directly adjacent to existing single-family residential development
 - b. Minimum house size: 1,800 square feet.
 - c. Each additional bedroom added to the above minimum house size shall be a minimum of 120 square feet.
 - d. Minimum lot size shall be 8,750 square feet.
 - e. Minimum width 70 feet
 - f. Minimum depth 125 feet
 - g. Minimum building setbacks:
Front – 25 feet setback to the garage, 20 feet setback to the residence
Rear – 18 feet;
Side – 7.5 feet;
Corner Side – 15 feet; and
Porch – 20 feet (porch must be a minimum width of 6 feet).
3. For 80-foot lots:
- a. 80 foot lots shall be permitted anywhere within the subdivision, and shall be required on all lots immediately west of Sunnyside Drive.
 - b. Minimum house size: 2,000 square feet.

- c. Each additional bedroom to the above the minimum house size shall be a minimum of 120 square feet.
 - d. Minimum lot size shall be 8,000 square feet.
 - e. Minimum width 80 feet
 - f. Minimum depth 100 feet
 - g. Minimum building setbacks:
 Front – 25 feet setback to the garage, 20 feet setback to the residence
 Rear – 18 feet;
 Side – 7.5 feet;
 Corner Side – 15 feet.
 Porch – 20 feet (porch must be a minimum width of 6 feet).
3. For 140-foot lots:
- ~~a. 140-foot lots shall be permitted anywhere within the subdivision. For all property east of Sunnyside Drive, a maximum of four lots shall be permitted. The minimum lot size shall be one acre. The minimum house size on these lots shall be 2,600 square feet.~~
 - ~~b. Each additional bedroom added to the above minimum house size shall be a minimum of 120 square feet.~~
 - ~~c. Minimum lot size shall be 43,560 square feet.~~
 - ~~d. Minimum width 140 feet~~
 - ~~e. Minimum depth 400 feet~~
 - ~~f. Minimum building setbacks:
 Front – 30 feet;
 Rear – 18 feet;
 Side – 7.5 feet;
 Corner Side – 15 feet.
 Porch – 25 feet (porch must be a minimum width of 6 feet).~~
4. For all structures:
- a. Each residential structure shall have a minimum two car garage.
 - b. Minimum distance between structures shall be 15 feet; measured from building wall to building wall, and the roof overhang shall not exceed forty (40) percent of the distance between the building wall and the property line.
 - c. Maximum building height: two (2) stories or 35 feet.
 - d. Accessory structures shall have a minimum rear and side setback of 5 feet and single accessory structures that are not attached to the principal structure shall not occupy more than 30 percent of the required rear yard.
 - e. Attached screened enclosures (no solid roof) must maintain a minimum setback of five (5) feet from the side and rear property line. Attached swimming pool screened enclosure shall also maintain a minimum setback of five (5) feet from the side or rear property lines.
 - f. Solid roof structures attached to the residence must meet the required rear setback as noted under “Minimum building setbacks.”

- g. As part of the site plan approval process, city staff shall review final site design standards in accordance with the approved PUD (Planned Unit Development) zoning conditions set forth herein.

5. DESIGN/ARCHITECTURAL STANDARDS

- A. All buildings shall utilize at least three of the following design features to provide visual relief along all elevations of the single family units. Designs may vary throughout the development.
 - 1) Dormers
 - 2) Gables
 - 3) Recessed or raised entries
 - 4) Covered porch entries
 - 5) Cupolas
 - 6) Pillars or decorative posts
 - 7) Bay window (minimum 12 inch projections)
 - 8) Eaves (minimum 6-inch projections)
 - 9) Front windows with arched glass tops and minimum 4-inch trim.
 - 10) Garage vehicle doors shall incorporate the following elements: raised decorative panels, decorative glass panels or panes, decorative hinges, etc.
 - 11) Front doors shall incorporate the following decorative elements: raised decorative panels, decorative glass panels or panes, decorative handles, etc.
 - 12) Stone accents
 - 13) Shutters
 - 14) Board and batten siding
 - 15) Hardy board siding
 - 16) Raised banding
 - 17) Craftsman style garage doors
- B. Exterior building materials contribute significantly to the visual impact of a building on the community. These materials shall be well designed and integrated into a comprehensive design style for the project. The total exterior wall area of each building elevation shall be composed of one of the following:
 - 1) At least thirty-five percent (35%) full-width brick or stone (not including window and door areas and related trim areas), with the balance being any type of lap siding and/or stucco.
 - 2) At least thirty percent (30%) full-width brick or stone, with the balance being stucco and/or a “cementitious” lap siding. (A “cementitious” lap siding product is defined as a manufactured strip siding composed of cement-based materials rather than wood fiber-based or plastic-based materials. For example, Masonite or vinyl lap siding would not be allowed under this option.).
 - 3) All textured stucco, provided there are unique design features such as recessed garages, tile or metal roofs, arched windows, porches, etc. in the elevations of the buildings or the buildings are all brick stucco. Unique design features shall be reviewed by the Community Development Director for compliance.

- C. Other similar design variations meeting the intent of this section may be approved by the Community Development Director or designee.

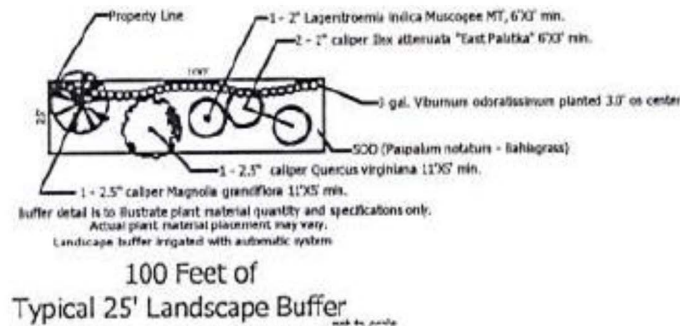
6. LANDSCAPING & BUFFER REQUIREMENTS

- A. A minimum twenty-five (25) foot buffer planted as shown in Figure A below, shall be provided along the east and west side of the Sunnyside Road boundary of the property, unless otherwise provided for within these standards.
- B. Land uses allowed within the upland buffers are limited to hiking trails, walkways, passive recreation activities and stormwater facilities as permitted by St. Johns River Water Management District.
- C. All landscaping and buffering shall be in accordance with regulations contained within the City of Leesburg Code of Ordinances, Section 25-329, and at a minimum shall contain the following plantings as noted in Figures A and B below:

Figure A

Canopy Trees (per 100 l.f.)	2 per 100 linear ft
Tree CAL/Height	2" cal, 12' overall height
Optional Ornamental Trees (per 100 l.f.)	3 per 100 linear ft
Tree CAL/Height	2" cal, 7' overall height
Shrub Screen (per 100 l.f.)	
Square Ft. of Shrubs	(33) 3 gal plants, 18"—24" minimum at installation (depending on species); hedges to be 36"—42" high by thirty-six (36) inches wide hedge or continuous landscape screen with a ninety (90) percent opacity within one (1) year of planting
Container size	3 gal

Figure B



H.D. Variations to the landscape requirements of the code may be approved by the Community Development Director or designee, as long as the intent of the PUD and the Landscaping Code are maintained, including consideration of existing fencing on adjacent properties and existing natural vegetative buffers.

- I.** **E.** The surveying of trees on the property shall be conducted as follows:
- 1) If existing on the property, all specimen, heritage and historic trees shall be surveyed. Staff will review the tree survey and such trees shall be saved where possible during the site plan review process. This may include amending the site plan to save specimen, heritage and historic trees.
 - 2) A survey of 100 feet by 100 feet plots, indicating all protected trees 4" DBH and larger, shall be surveyed for each distinct vegetative area, for use in replacement calculations.
 - 3) Site areas that are to preserve existing trees do not need to be included in the survey plots unless the trees are to be used in preservation/replacement requirements.
 - 4) The tree survey shall be completed by a licensed surveyor.
 - 5) Tree sample plots shall be located and trees identified by a registered landscape architect, certified arborist, or certified forester.

7. SITE ACCESS AND SIGNAGE

- A.** To meet Lake County access management requirements the main vehicular access to the project site shall be provided by an access point from Sunnyside Road. This access point shall be a divided boulevard type entrance road with one lane in each direction. For the property on the west side of Sunnyside Road, a secondary emergency only access point shall be provided from Sunnyside Road. Actual location and design of the roads shall be determined at the site plan review process and shall include consideration of, and connection to existing or planned sidewalks, recreation paths, etc. All other access shall be reviewed for necessity and requirements through the City of Leesburg development and permitting processes. Any additional access points shall be subject site plan application review process.
- 1) Adequate right of way along Sunnyside Road shall be required to ensure adequate roadway paving and access.
 - 2) Additional improvements on Sunnyside Road may be required to accommodate the increase in the additional trips the site will produce per Lake County requirements.
 - 3) Prior to completion of the subdivision design plans, the developer shall work with the Lake County Department of Public Works to ensure all appropriate required roadway and access improvements for the development are made part of the plans submitted to the City of Leesburg.
 - 4) The conceptual plan exhibits, and the access points proposed thereon, are considered conceptual until the appropriate engineering and site plan reviews, along with any required upgrades are completed for the project.
- B.** All access points are subject to review and approval by the appropriate permitting agency, including FDOT, Lake-Sumter Metropolitan Planning Organization, Lake County and the City of Leesburg as applicable. The developer shall be responsible

for on and offsite improvements required as a result of any access points. The developer shall be responsible for all on and offsite improvements required as a result of any access points.

- C. Each required access point shall provide a decorative entry feature to include a concrete, brick or stucco wall at least five (5) feet in height, on each side of the entryway. This may be used for signage per City of Leesburg Code of Ordinances, as amended.
- D. Alternative designs for the ground enclosure support and base of monument/entryway signs may be approved by the Community Development Director or designee, where the architectural style would be in keeping with the intent of these sign regulations.

8. TRANSPORTATION IMPROVEMENTS

- A. Any transportation improvements or rights-of-way that may be required shall be based on projected needs and shall be contingent upon site plan approval by City staff during the development review and permitting process. The plan review process shall include consideration of sidewalks, recreation paths etc.
- B. A traffic/transportation study shall be submitted prior to site plan approval for review and determination of any necessary access improvements, including any off-site improvements required by Lake County, the Lake-Sumter MPO or the City of Leesburg. Said improvements will be the responsibility of the Permittee.
- C. The Permittee shall provide necessary traffic improvements within and adjacent to the development as required by Lake County, the Lake-Sumter MPO and City of Leesburg.
- D. All roads within the development shall be designed and constructed to meet the City of Leesburg requirements.
- E. The Permittee shall be responsible for obtaining all necessary Lake County permits and a copy of all permits shall be provided to the City of Leesburg.
- F. The City of Leesburg will not be responsible for the maintenance or repair of any of the roads or transportation improvements. The Permittee shall establish an appropriate legal entity that will be responsible to pay the cost and perform the services to maintain the roads and transportation improvements. Should the Permittee desire to dedicate the proposed project's internal road system to the City of Leesburg; the City, at its discretion, may accept or not accept the road system. Prior to acceptance, the Permittee shall demonstrate to the City that the road system is in suitable condition and meets City of Leesburg requirements. As a condition of accepting the roadway system the City may create a special taxing district or make other lawful provisions to assess the cost of maintenance of the system to the

residents of the project, and may require bonds or other financial assurance of maintenance for some period of time.

- G. Sidewalks shall be provided on both sides of the boulevard entrance road and shall provide cross connections to all recreation and residential areas. Internal road rights-of-ways shall be of sufficient width to contain one sidewalk. All sidewalks shall be constructed in accordance with City of Leesburg Codes.

9. UTILITIES

Prior to receiving final development approval, the Permittee shall submit a stormwater management plan and utility plan acceptable to the City of Leesburg. Water, wastewater and natural gas services will be provided by the City of Leesburg. Prior to any clearing, grubbing, or disturbance of natural vegetation in any phase of the development, the Permittee shall provide:

- A. A detailed site plan that indicates all the provisions for electric, water, sewer, and/or natural gas in accordance with the City of Leesburg Land Development Codes.
- B. Developer shall bear all responsibility, financial and otherwise, for the construction and installation of all utility infrastructure and other improvements related to the use and development of the property, including such off-site improvements required by the City and all other appropriate government agencies. All such requirements shall be constructed to the applicable specifications imposed by the ordinances and regulations of the City in effect at the time of construction.
- C. Developer shall be responsible for the installation of a natural gas water heater and natural gas furnace in eighty percent (80%) of all homes in the development.
- D. The City of Leesburg intends to service the property with water and wastewater services at this time. At the time of connection, all regulations in place at the time of the request shall be required, including but not limited to impact fees, connection and utility service deposit charges. The cost of supplying water and wastewater lines and other necessary infrastructure such as lift stations to the development shall be the responsibility of the applicant.

10. STORMWATER/DRAINAGE MANAGEMENT

All drainage shall be designed and constructed in a manner to meet all State of Florida and City of Leesburg codes, including the requirement that all stormwater runoff is contained within the boundaries of the properties, and does not create a detriment to surrounding properties. Prior to receiving final development approval, the Permittee shall submit a stormwater management plan and utility plan acceptable to the City of Leesburg. Prior to any clearing, grubbing, or disturbance of natural vegetation in any phase of the development, the Permittee shall provide:

- A. A detailed site plan that demonstrates no direct discharge of stormwater runoff generated by the development into any wetlands or onto adjacent properties.

- B. A stormwater management system designed and implemented to meet all applicable St. Johns River Water Management District and City of Leesburg requirements.
- C. A responsible legal entity for the maintenance of the stormwater management system on the plat prior to the approval of the final plat of record. A homeowners association is an acceptable maintenance entity.
- D. The existing 100-year flood plain shown shall be shown on all plans and lots.
- E. The appropriate documentation that any flood hazard boundary has been amended in accordance with Federal Emergency Management Agency requirements, if the 100-year flood plain is altered and /or a new 100-year flood elevation is established in reference to the applicable flood insurance rate map.
- F. A copy of the Management and Storage of Surface Waters permit obtained from St. Johns River Water Management District shall be provided to the City during the site plan review process.
- G. Should the Permittee desire to dedicate the proposed project's stormwater management system to the City of Leesburg; the City, at its discretion, may accept or not accept the stormwater management system. Prior to acceptance, the Permittee shall demonstrate to the City the stormwater management system is in a suitable condition and meets City of Leesburg and St. Johns River Water Management District requirements. As a condition of accepting the system the City may create a special taxing district or make other lawful provisions to assess the cost of maintenance of the system to the residents of the project.

11. WETLANDS, FLOOD ZONES & WILDLIFE

- A. All wetlands on the project site shall be identified by a jurisdictional wetland boundary line, and the location and extent of each wetland shall be determined by the Department of Environmental Protection, St. Johns River Water Management District and/or U.S. Army Corp of Engineers. Each wetland shall be placed on a suitable map, signed and sealed by a surveyor registered to practice in Florida and shall be submitted as part of the site plan application process.
- B. To the extent practicable, wetlands shall be placed in a conservation easement, which shall run in favor of, and be enforceable by, the St. Johns River Water Management District or another legal entity such as a homeowners association. The conservation easement shall require that the wetlands be maintained in their natural and unaltered state. Wetlands shall not be included as a part of any platted lot, other than a lot platted as a common area, which shall be dedicated to the St. Johns River Water Management District or another legal entity such as a homeowners association for ownership and maintenance.

- C. Buildings or structures shall be a minimum of 50 feet from any wetland jurisdiction boundary.
- D. Wetlands shall have an average upland buffer of 25 feet, with a minimum of 15 feet or the upland buffer established by St. Johns River Water Management District and/or U.S. Army Corp of Engineers; whichever is more restrictive. All upland buffers shall be naturally vegetated and upland buffers that are devoid of natural vegetation shall be re-planted with native vegetation or as required by St. Johns River Water Management District and/or U.S. Army Corp of Engineers.
- E. Except as otherwise provided herein, ~~land~~ uses allowed within the upland buffers for wetlands are limited to stormwater facilities as permitted by St. Johns River Water Management District.
- F. If wetland alteration is permitted by St. Johns River Water Management District and/or U.S. Army Corp of Engineers, wetland mitigation shall be required in accordance with permit approvals from St. Johns River Water Management District or U.S. Army Corp of Engineers, whichever is more restrictive.
- G. A wildlife management plan for the project site shall be prepared based on the results of an environmental assessment of the site and any environmental permit required from applicable governmental agencies. The wildlife management plan shall be submitted to the City as part of the site plan application process.
- H. A map indicating the location of the 100-year flood plain.
- I. The appropriate documentation that any flood hazard boundary has been amended in accordance with Federal Emergency Management Agency requirements, if the 100~~-~~year flood plain is altered and/or a new 100~~-~~year flood elevation is established in reference to the applicable flood insurance rate map.
- J. There are currently FEMA flood zones located throughout the parcel. Through the site plan review process, the developer shall coordinate with the City of Leesburg, Lake County and all impacted government agencies regarding elevation determinations, compensatory storage and overall design of the subdivision within and near flood hazard boundary areas, to ensure compliance with all regulations.

12. IRRIGATION & WATER USEAGE

- A. All landscaped areas shall be irrigated and designed to meet Section 25-337, Waterwise and Florida Friendly Landscaping, City of Leesburg Code of Ordinances.
- B. The use of St. Augustine grass, or other varieties of grass which require significant amounts of water are prohibited. The use of Bahia, Bermuda, Zoysia or other grasses which are more drought tolerant are permitted.

13. RECREATIONAL REQUIREMENTS

- A. Recreational development provided on the site may include active and passive uses, as well as enclosed or unenclosed recreational space, devoted to the joint use of the residents. Such recreational space shall consist of not less than 200 square feet of space per dwelling unit or 0.75 total acres, whichever is greater.
- B. Recreational requirements shall include at least one primary active recreation area, to include two of the following recreation amenities such as BBQ grills, picnic tables, equipped play area, or a basketball court.
- C. Credit for recreational space shall be given for areas dedicated to recreational space, to include items such as a clubhouse with recreation room, swimming pool, outdoor cooking facilities such as grills, youth playgrounds, play courts, dog parks or other similar uses which will meet the intent of this document. Other similar uses which will meet the intent of this document may be supplied by the developer.
- D. Credits for Active recreational activity space shall be calculated at a rate of 1.25 times the square feet provided in the concept plan for activities such as, but not limited to:
 - 1) Trails, playgrounds, basketball, tennis, handball courts, etc.
 - 2) Community swimming pool, including the deck area surrounding such pools.
 - 3) Indoor recreation rooms provided such rooms are permanently maintained for the use of residents for recreational purposes.
 - 4) Other active recreational activities may be used for credit, subject to approval by the City of Leesburg.

Commented [LM1]: How is this calculated?

14. MAINTENANCE

- A. With the exception of any public utilities, maintenance of all site improvements, including but not limited to roadways, drives, internal sidewalks, landscaping and drainage shall be the responsibility of the property owner. A homeowners association shall serve as an appropriate entity for all common properties within the development.

15. DEVELOPMENT PHASING & IMPLEMENTATION

- A. The proposed project may be constructed in phases in accordance with the Planned Unit Development Conditions and Conceptual Plan. Changes to the development conditions or conceptual plan, other than those conditions described in this agreement, shall be revised in accordance with the Planned Development review process, City of Leesburg Code of Ordinances.
- B. As part of the overall development review process, if the project is constructed in phases, the plat of the lots for each approved phase shall contain only portions of the development approved under the Site Plan Review Process, i.e. each phase platted shall match each phase submitted for site plan review.

- C. The terms of this PUD (Planned Unit Development) zoning agreement shall be substantially implemented within one hundred twenty (120) months. If the terms of this agreement have not been substantially implemented within this time period, this PUD shall expire of its own accord, without further action by the City, and the City shall initiate the public hearing process to rezone the property to its prior classification, or if that classification is no longer available, the closest available zoning classification. In the interim, after this PUD expires but prior to completion of the rezoning to prior classification, no applications for the use of, or construction of improvements on, the property shall be accepted.

16. MISCELLANEOUS CONDITIONS

- A. The uses of the proposed project shall only be those uses identified in the approved Planned Unit Development Conditions. Any other proposed use must be specifically authorized in accordance with the Planned Development amendment process.
- B. No person, firm or corporation shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building structure, or alter the land in any manner without first submitting the necessary plans and obtaining appropriate approvals in accordance with the City of Leesburg Codes.
- C. Construction and operation of the proposed use(s) shall at all times comply with the Planned Unit Development conditions set forth herein, and with all City and other governmental agencies rules and regulations.
- D. The transfer of ownership or lease of any or all of the property described in this PUD Agreement shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to the Planned Unit Development established and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following the procedures as described in the City of Leesburg Land Development Code, as amended.
- E. These PUD Conditions shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor, and shall be subject to each and every condition as set forth herein.

17. LEVELS OF SERVICE

- A. Levels of Service
 - 1) As submitted, the development resulting from the proposed zoning change may result in demands on public facilities which would exceed the current capacity of some public facilities, such as, but not limited to water, wastewater, roads, drainage, and solid waste. However, no final development order (site plan and building permits) shall be granted for

proposed development until there is a finding that all public facilities and services required for the development have sufficient capacity at or above the adopted level of service (LOS) to accommodate the impacts of the development, or that improvements necessary to bring facilities up to their adopted LOS will be in place concurrent with the impacts of the development.

B. Utilities

1) Projected Capacities

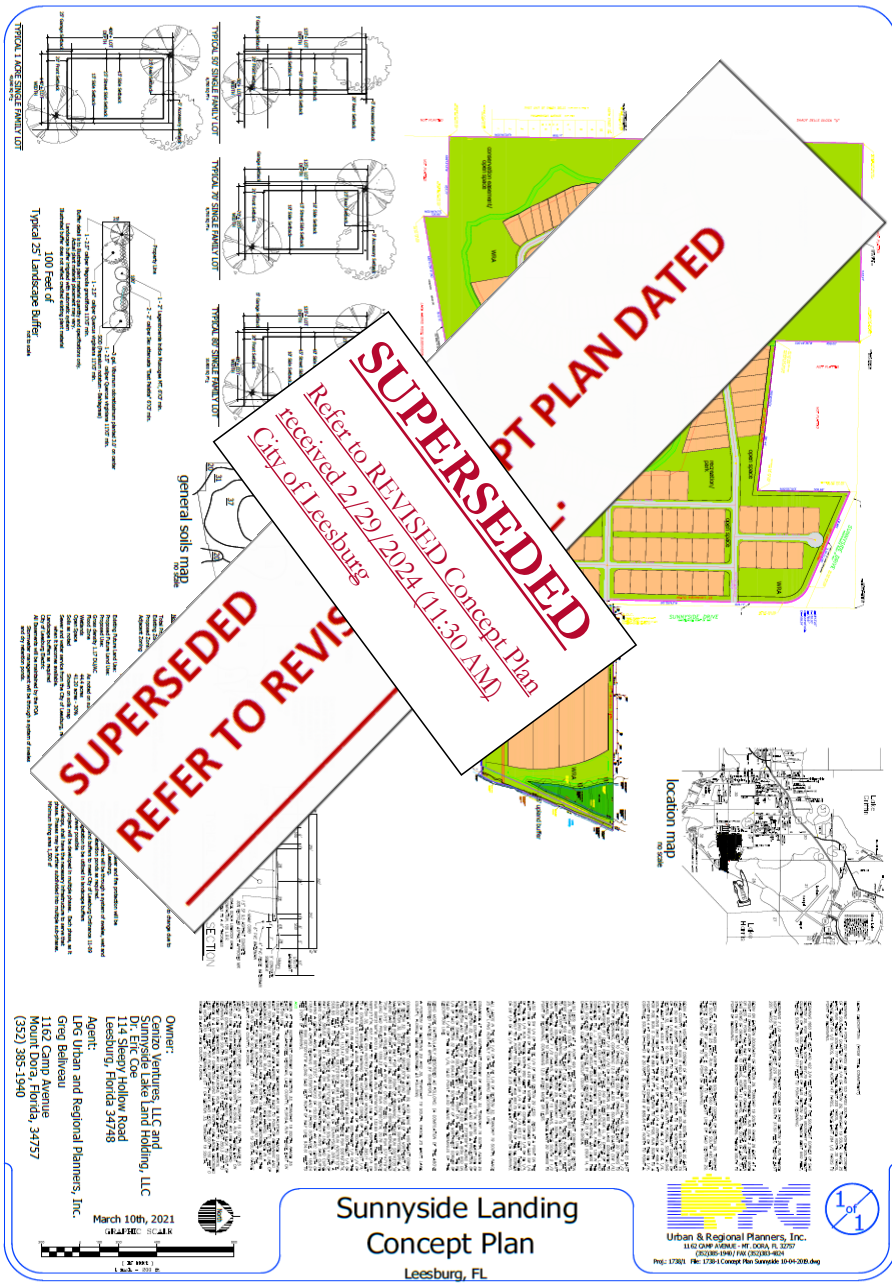
- a. The City's utility planning efforts draw upon phasing, capacity and service requirements, based upon information provided by the applicant. The City develops its plans consistent with sound engineering principles, prudent fiscal practices and due regard for regulatory compliance.
- b. If the development requires construction of new distribution or collection lines, the developer will be required to construct such facilities to provide service. The developer will bear the cost of design, permitting and construction. Any such facilities must be constructed in a fashion consistent with the City's master plans and to the City standards and specifications.

2) Commitment of Capacity

- a. There are no previous commitments of any existing or planned excess capacity for this property.

3) Ability to Provide Services

- a. At this time, the City intends to provide water, wastewater and reclaimed water services within its service area for the foreseeable future.
- b. Future development within the City of Leesburg utility service areas may impact the provision of utility services.

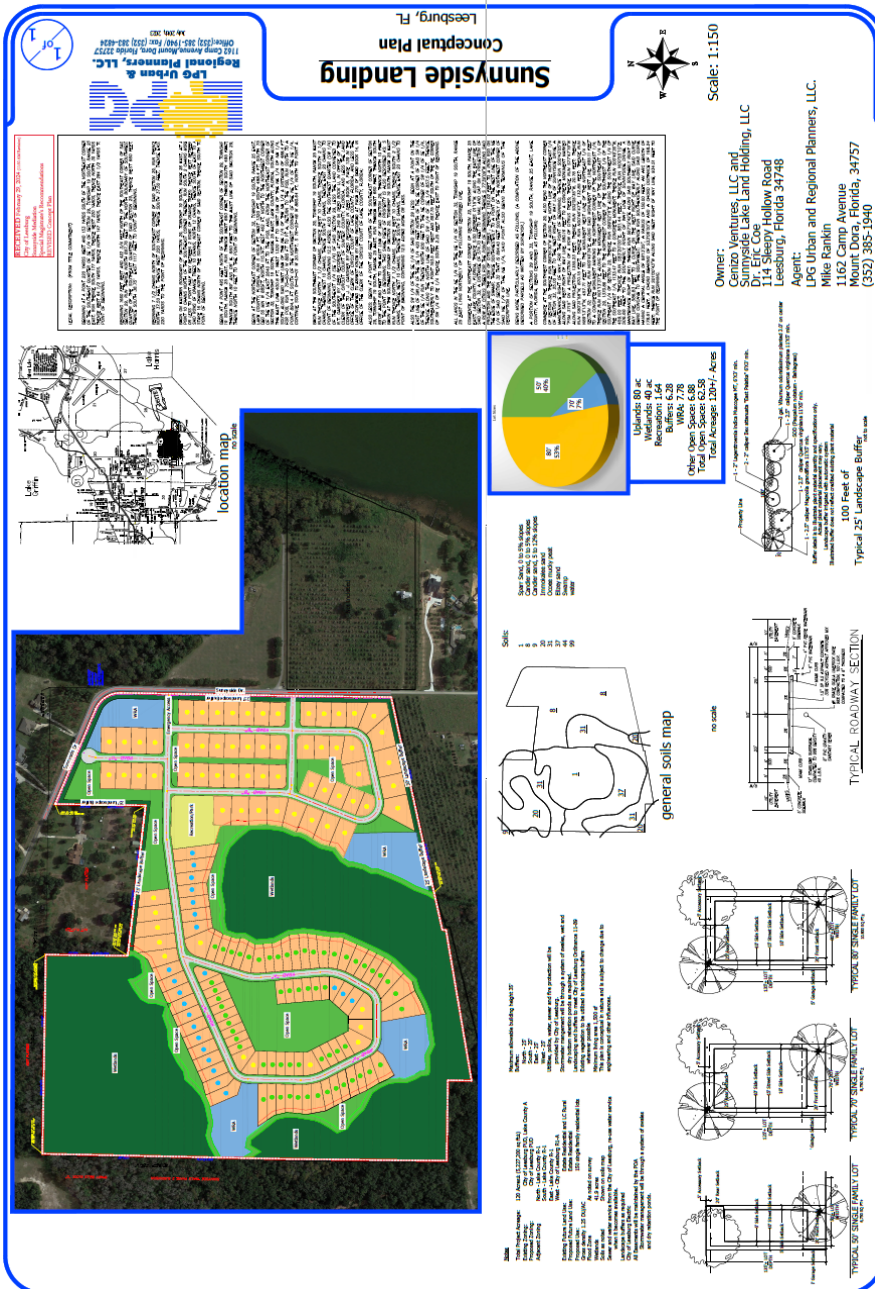


REVISED MASTER DEVELOPMENT PLAN
Special Magistrate's Recommendations of 1/15/2024
RECEIVED City of Leesburg 2/29/2024 (11:30 AM)

REVISÉD MASTER DEVELOPMENT PLAN

Special Magistrate's Recommendations of 1/15/2024

RECEIVED City of Leesburg 2/29/2024 (11:30 AM)



REVISED, ~~February 13~~March 4, 2024, per Special Magistrate Recommendation, entered on January 15th, 2024. (Legislative format)

EXHIBIT B

LEGAL DESCRIPTION

Page 1 of 2

LEGAL DESCRIPTION: (FROM TITLE COMMITMENT)

BEGINNING AT A POINT 220 YARDS WEST AND 153 YARDS SOUTH OF THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SE 1/4 OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE SOUTH 177 YARDS, THENCE WEST 220 YARDS, THENCE NORTH 30 YARDS, THENCE WEST 64 1/2 YARDS, THENCE NORTH 147 YARDS, THENCE EAST 284 1/2 YARDS TO POINT OF BEGINNING.

BEGINNING 1660 FEET WEST AND 422 3/4 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 29, RUN THENCE NORTH 897.76 FEET TO THE NORTH BOUNDARY OF SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 29, THENCE WEST 660 FEET, THENCE SOUTH 36.75' EAST 1117 FEET TO POINT OF BEGINNING.

BEGINNING 7 1/2 CHAINS NORTH OF SOUTHEAST CORNER OF SAID SECTION 29, RUN THENCE NORTH 37.50 FEET, THENCE WEST 220 YARDS, THENCE SOUTH 37.50 FEET, THENCE EAST 220 YARDS TO THE POINT OF BEGINNING.

BEGIN ON EASTERN BOUNDARY OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 26 EAST, AT A POINT 10 CHAINS NORTH OF THE SOUTHEAST CORNER THEREOF, RUN SOUTH 2 CHAINS MORE OR LESS TO POINT HALF WAY BETWEEN 2 ROWS OF ORANGE TREES; THENCE WEST BETWEEN SAID ROWS OF ORANGE TREES 10 CHAINS, NORTH 12 CHAINS, THENCE SOUTH OF EAST TO A STAKE 16 CHAINS NORTH OF THE SOUTHEAST CORNER OF SAID SECTION, THENCE SOUTH TO POINT OF BEGINNING.

BEGIN AT A POINT 495 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE WEST 660 FEET; THENCE SOUTH 495 FEET; THENCE SOUTH 89' AND 0" TO THE EAST LINE OF SAID SECTION 29, THENCE NORTH 10 FEET TO POINT OF BEGINNING.

BEGIN AT THE NORTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, RUN THENCE SOUTH 488.4 FT, SOUTH 75 DEG 50 MIN W 885 FT, NORTH 10 CHAINS TO THE NORTHWEST CORNER OF THE NE 1/4 EAST 26 CHAINS TO THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, SOUTH ALONG THE EAST LINE 400.8 FT, WEST 10 CHAINS TO THE NE 1/4 OF NE 1/4, SOUTH ALONG SAID WEST LINE 400.8 FT, WEST 10 CHAINS TO THE NE 1/4 OF NE 1/4, FOR POB, RUN S 75-50-0 W 885 FT, SOUTH 488.4 FT TO THE NE 1/4 OF THE NE 1/4, CONTINUE SOUTH 0-43-01 W 20 CHAINS TO POINT A.

BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE NORTH 7 1/2 CHAINS, THENCE SOUTH 2 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 5 CHAINS, THENCE EAST 20 CHAINS TO POINT OF BEGINNING, CONTAINING 12.5 ACRES MORE OR LESS. LESS THE LAND CONVEYED TO R.T. GARDNER BY DEED RECORDED AT PAGE 139 OF DEED BOOK U, IN OFFICE OF THE CLERK OF THE CIRCUIT COURT OF SUMTER COUNTY, FLORIDA, AND LESS THE LAND CONVEYED TO J. J. GARDNER BY DEED RECORDED IN DEED BOOK 8, PAGE 139 IN THE OFFICE OF THE CLERK OF CIRCUIT COURT OF LAKE COUNTY, FLORIDA, AND LESS THE LAND CONVEYED TO ERNEST KINZIE BY DEED RECORDED AT PAGE 275 OF DEED BOOK 14, IN OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LAKE COUNTY, FLORIDA;

ALSO LESS: BEGIN AT A POINT 495 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE WEST 660 FEET, THENCE SOUTH 89'08" EAST 660 FEET TO THE EAST LINE OF SAID SECTION 29, THENCE NORTH 10 FEET TO THE POINT OF BEGINNING. THIS SAME PIECE OF PROPERTY IS ALSO DESCRIBED AS: S BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST RUN THENCE NORTH 7 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 2 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 5 CHAINS, THENCE EAST 20 CHAINS TO POINT OF BEGINNING, CONTAINING 12.5 ACRES MORE OR LESS.

ALSO THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 29 LESS: BEGIN AT A POINT ON THE EAST LINE OF SW 1/4 OF THE SE 1/4 420 FEET NORTH OF THE SE CORNER OF SAID SW 1/4 OF THE SE 1/4 RUN THENCE NORTH 900 FEET TO THE NE CORNER OF SW 1/4 OF SE 1/4, THENCE ALONG THE NORTH LINE OF SAID SW 1/4 OF SE 1/4 857.5 FEET. THENCE SOUTHEASTERLY TO A POINT 193.5 FEET WEST AND 897.75 FEET SOUTH OF THE NE CORNER OF SW 1/4 OF SE 1/4 THENCE SOUTH 2.25 FEET THENCE EAST TO POINT OF BEGINNING.

EXHIBIT B

LEGAL DESCRIPTION

Page 2 of 2

ALL LANDS IN THE NE 1/4 OF THE NE 1/4 OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE.

COMMENCE AT THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, THENCE S.00 DEGREES 01'15" W. ALONG THE EAST LINE OF SAID SECTION 32, A DISTANCE OF 574.70 FEET TO A NAIL AND CAP ON A PROJECTION OF A ROW OF CITRUS TREES FOR THE POINT OF BEGINNING THENCE S 77°39'09" W ALONG SAID PROJECTION AND THE ROW OF CITRUS TREES, THENCE 1162.02 FEET TO A IRON ROD ON THE N. 1/4 CORNER OF SAID SECTION 32, THENCE S 24°00'00" W ALONG THE WEST LINE OF THE N. 1/4 OF SAID SECTION 32 THAT IS 894.40 FEET SOUTHERLY OF THE NORTHWEST CORNER OF SAID NE 1/4 OF THE NE 1/4, SAID POINT ALSO BEING THE TERMINUS OF THE DESCRIPTION LINE.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; (A COMPILATION OF THE ABOVE DESCRIBED PARCELS AS WRITTEN BY SURVEYOR.)

A PORTION OF SECTIONS 29 AND 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS;

SUPERSEDED
Refer to REVISED Legal
Description received 2/29/2024
City of Leesburg

AND
BEGIN AT THE NORTHWEST CORNER OF SEC. 19 SOUTH, RANGE 25
EAST, OF THE TALLAHASSEE MERIDIAN, LAKE
SECTION LINE

1263.8 FEET TO THE CENTER LINE OF SEABOARD AIR LINE RAILROAD; THENCE CONTINUE EAST ON SECTION LINE TO LAKE HARRIS; THENCE BACK TO POINT OF BEGINNING AND RUN SOUTH ON SECTION LINE 870 FEET; THENCE EAST 850.3 FEET TO CENTER LINE OF SEABOARD AIR LINE RAILROAD; RUN THENCE EAST TO LAKE HARRIS; THENCE IN A NORTHEASTERLY DIRECTION ALONG LAKE TO NORTH LINE ABOVE DESCRIBED; LESS THE WEST 10 FEET FOR ROAD RIGHT-OF-WAY, AND LESS; THE SOUTH 150 FEET OF THE NORTH 870 FEET OF GOVERNMENT LOT 1 OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA.

AND BEGIN AT THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 25 EAST, OF THE TALLAHASSEE MERIDIAN, LAKE COUNTY, FLORIDA, RUN THENCE EAST ON SECTION LINE 1263.8 FEET TO THE CENTER LINE OF SEABOARD AIR LINE RAILROAD; THENCE CONTINUE EAST ON SECTION LINE TO LAKE HARRIS; THENCE BACK TO POINT OF BEGINNING; SOUTH ON SECTION LINE 870 FEET, THENCE EAST 840.3 FEET TO CENTER LINE OF SEABOARD AIR LINE RAILROAD; RUN THENCE EAST TO LAKE HARRIS; THENCE IN A NORTHEASTERLY DIRECTION ALONG LAKE TO NORTH LINE ABOVE DESCRIBED, LESS THE WEST 10 FEET FOR ROAD RIGHT-OF-WAY, AND LESS; THE SOUTH 150 FEET OF THE NORTH 870 FEET OF GOVERNMENT LOT 1 OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA.

EXHIBIT C

REVISED LEGAL DESCRIPTION

Special Magistrate's Recommendations of 1/15/2024

RECEIVED City of Leesburg 2/29/2024

LEGAL DESCRIPTION: (FROM TITLE COMMITMENT)

BEGINNING AT A POINT 220 YARDS WEST AND 153 YARDS SOUTH OF THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SE 1/4 OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE SOUTH 177 YARDS, THENCE WEST 220 YARDS, THENCE NORTH 30 YARDS, THENCE WEST 64 1/2 YARDS, THENCE NORTH 147 YARDS, THENCE EAST 284 1/2 YARDS TO POINT OF BEGINNING.

BEGINNING 1660 FEET WEST AND 422 3/4 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 29, RUN THENCE NORTH 897.76 FEET TO THE NORTH BOUNDARY OF SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 29, THENCE WEST 660 FEET, THENCE SOUTH 36.75° EAST 1117 FEET TO POINT OF BEGINNING.

BEGINNING 7 1/2 CHAINS NORTH OF SOUTHEAST CORNER OF SAID SECTION 29, RUN THENCE NORTH 37.50 FEET, THENCE WEST 220 YARDS, THENCE SOUTH 37.50 FEET, THENCE EAST 220 YARDS TO THE POINT OF BEGINNING.

BEGIN ON EASTERN BOUNDARY OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 26 EAST, AT A POINT 10 CHAINS NORTH OF THE SOUTHEAST CORNER THEREOF, RUN SOUTH 2 CHAINS MORE OR LESS TO POINT HALF WAY BETWEEN 2 ROWS OF ORANGE TREES; THENCE WEST BETWEEN SAID ROWS OF ORANGE TREES 10 CHAINS, NORTH 12 CHAINS, THENCE SOUTH OF EAST TO A STAKE 16 CHAINS NORTH OF THE SOUTHEAST CORNER OF SAID SECTION, THENCE SOUTH TO POINT OF BEGINNING.

BEGIN AT A POINT 495 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE WEST 660 FEET; THENCE SOUTH 495 FEET;

THENCE SOUTH 89° AND 08' E. 660 FEET TO THE EAST LINE OF SAID SECTION 29,
THENCE NORTH 10 FEET TO THE POINT OF BEGINNING.

BEGIN AT THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST,
LAKE COUNTY, FLORIDA, RUN S 400.8 FT, WEST 1320 FT, SOUTH 488.4 FT, SOUTH 75
DEG 50 MIN W 885FT, NORTH 115.7FT, WEST 462 FT, NORTH TO THE NORTHWEST CORNER
OF THE NE 1/4 EAST 2640 FT TO THE POB, AND, FROM THE NORTHEAST CORNER OF
SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, SOUTH ALONG
THE EAST LINE 400.8 FT, WEST 1320 FT TO WEST LINE OF THE NE 1/4 OF NE 1/4,
SOUTH ALONG SAID WEST LINE OF THE NE 1/4 OF THE NE 1/4 A DISTANCE OF 488.4 FT
FOR POB, RUN S 75-50-0 W 885 FT TO PT A, RETURN TO THE POB, RUN SOUTH TO A
POINT 894.4 FT SOUTH OF THE NORTHWEST CORNER OF THE NE 1/4 OF THE NE 1/4,
CONTINUE SOUTH 0-43-01 W 20.78FT, S 76-23-48 W 880.64 FT, NORTH TO POINT A.

BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST
RUN THENCE NORTH 7 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 2 1/2
CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 5 CHAINS, THENCE EAST 20 CHAINS TO
POINT OF BEGINNING, CONTAINING 12.5 ACRES; ALSO THE SOUTHWEST QUARTER (SW 1/4)
OF THE SOUTHEAST 1/4 (SE 1/4) OF SAID SECTION 29, LESS THE LAND CONVEYED TO
R.T. GARDNER BY DEED RECORDED AT PAGE 349 IN DEED BOOK U, IN OFFICE OF THE
CLERK OF THE CIRCUIT COURT OF SUMTER COUNTY, FLORIDA, AND LESS THE LAND
CONVEYED TO J. J. GARDNER BY DEED RECORDED IN DEED BOOK 8, PAGE 139 IN THE
OFFICE OF THE CLERK OF CIRCUIT COURT OF LAKE COUNTY, FLORIDA, AND LESS THE
LAND CONVEYED TO ERNEST KINZIE BY DEED RECORDED AT PAGE 275 OF DEED BOOK 14, IN
OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LAKE COUNTY, FLORIDA;

ALSO LESS: BEGIN AT A POINT 495 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION
29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE WEST 660 FEET; THENCE SOUTH
89°08' EAST 660 FEET TO THE EAST LINE OF SAID SECTION 29, THENCE NORTH 10 FEET

TO THE POINT OF BEGINNING. THIS SAME PIECE OF PROPERTY IS ALSO DESCRIBED AS: S
BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST
RUN THENCE NORTH 7 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 2 ½
CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 5 CHAINS, THENCE EAST 20 CHAINS TO
POINT OF BEGINNING, CONTAINING 12.5 ACRES MORE OR LESS.

ALSO THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 29 LESS: BEGIN AT A POINT ON THE
EAST LINE OF SW1/4 OF THE SE 1/4 420 FEET NORTH OF THE SE CORNER OF SAID SW ¼
OF THE SE 1/4 RUN THENCE NORTH 900 FEET TO THE NE CORNER OF SW 1/4 OF SE 1/4,
THENCE ALONG THE NORTH LINE OF SAID SW 1/4 OF SE 1/4 857.5 FEET. THENCE
SOUTHEASTERLY TO A POINT 193.5 FEET WEST AND 897.75 FEET SOUTH OF THE NE CORNER
OF SW 1/4 OF SE 1/4 THENCE SOUTH 2.25 FEET THENCE EAST TO POINT OF BEGINNING.

ALL LANDS IN THE NE 1/4 OF THE NE 1/4 OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE
25 EAST LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE.

COMMENCE AT THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25
EAST, LAKE COUNTY, FLORIDA, THENCE S.00 DEGREES 01'15"W. ALONG THE EAST LINE OF
SAID SECTION 32, A DISTANCE OF 574.70 FEET TO A NAIL AND CAP ON A PROJECTION OF
A ROW OF CITRUS TREES FOR THE POINT OF BEGINNING THENCE S 77°39'09"W ALONG SAID
PROJECTION AND THE ROW OF CITRUS TREES, THENCE 1162.02 FEET TO A IRON ROD ON
THE EDGE OF SWAMP, THENCE SOUTHWESTERLY TO A POINT ON THE WEST LINE OF THE NE
1/4 OF SAID SECTION 32 THAT IS 894.40 FEET SOUTHERLY OF THE NORTHWEST CORNER OF
SAID NE 1/4 OF THE NE 1/4, SAID POINT ALSO BEING THE TERMINUS OF THE
DESCRIPTION LINE.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; (A COMPILATION OF THE ABOVE
DESCRIBED PARCELS AS WRITTEN BY SURVEYOR.)

A PORTION OF SECTIONS 29 AND 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS;

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 29, ALSO BEING THE NORTHEAST CORNER OF SECTION 32; THENCE RUN S89°55'30"W ALONG THE NORTH LINE OF THE NORTHEAST ¼ OF SECTION 32, 25.00 FEET TO THE WEST RIGHT OF WAY LINE OF SUNNYSIDE DRIVE, A MAINTENANCE RIGHT OF WAY, FOR THE POINT OF BEGINNING; THENCE RUN S00°43'05"W ALONG SAID WEST RIGHT OF WAY LINE, 580.16 FEET TO A CONCRETE MONUMENT MARKED "PSM 3715" ON A PROJECTION OF A ROW OF CITRUS TREES; THENCE RUN S77°47'19"W ALONG SAID PROJECTION, 1355.23 FEET; THENCE RUN S02°05'35"W, 20.78 FEET; THENCE RUN S80°31'58"W, 870.15 FEET; THENCE RUN N00°46'47"E, 132.85 FEET; THENCE RUN N89°13'13"W, 457.71 FEET TO THE MONUMENT WEST LINE OF THE NORTHEAST 1/4 OF SECTION 32; THENCE RUN N00°40'34"E ALONG SAID MONUMENT WEST LINE, 895.11 FEET TO A CONCRETE MONUMENT MARKING THE NORTHWEST CORNER OF THE NORTHEAST 1/4; THENCE RUN N01°13'37"E ALONG THE MONUMENT WEST LINE OF THE SOUTHEAST 1/4 OF SECTION 29, 1370.86 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 29; THENCE RUN S89°02'16"E ALONG THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, 1133.47 FEET TO A CONCRETE MONUMENT; THENCE RUN S00°49'36"W, 459.00 FEET; THENCE RUN S83°20'05"E, 861.44 FEET; THENCE RUN N00°55'10"E, 506.66 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF SUNNYSIDE DRIVE, A MAINTENANCE RIGHT OF WAY; THENCE RUN S67°12'42"E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 586.83 FEET TO A CURVE ON THE WEST RIGHT OF WAY LINE, SAID CURVE BEING CONCAVE TO THE SOUTHWEST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE HAVING A CENTRAL ANGLE OF 68°13'25", A RADIUS OF 150.00 FEET, AN ARC LENGTH OF 178.61 FEET, A CHORD BEARING OF S33°06'00"E AND A CHORD DISTANCE OF 168.24 FEET; THENCE RUN S01°00'43"W ALONG SAID WEST RIGHT OF WAY LINE, 934.51 FEET TO THE POINT OF BEGINNING.

EXHIBIT A
SUNNYSIDE LANDING
PLANNED UNIT DEVELOPMENT CONDITIONS
August 19, 2021

These Planned Unit Development Conditions for a PUD (Planned Unit Development) zoning district are granted by the City of Leesburg Planning Commission, Lake County, Florida to **Cenizo Ventures, LLC and Sunnyside Lake Land Holding, LLC**, (Greg Beliveau, LPG, Petitioner), "Permittee" for the purposes described herein, and subject to the terms and conditions as set forth in this document, pursuant to authority contained in Chapter 25 "Zoning", Section 25-278 "Planned Unit Development" of the City of Leesburg Code of Ordinances, as amended.

BACKGROUND

The "Permittee" is requesting a Planned Unit Development (PUD) zoning district to allow future construction of a proposed residential development consisting of a maximum of ~~464~~ 150 single family residential units on approximately ~~137.35~~ 120.519 +/- acres, generally located ~~on east and~~ west of Sunnyside Drive on a site within the City of Leesburg in accordance with their PUD application and supplemental information.

PURPOSE

The purpose of this document is to provide appropriate zoning standards for a high-quality built environment through the application of flexible and diversified land development requirements, which shall be implemented in conjunction with a master site development plan and the City of Leesburg Code of Ordinances, therefore allowing for more efficient and optimal use of the subject property, and to increase the overall economic opportunity and employment base of Leesburg, Florida.

CONDITIONS

The following conditions shall apply to the development proposed herein. ~~In~~ any instance where the conditions of this document may conflict with the City of Leesburg Code of Ordinances, this document shall prevail as the determining requirement.

1. **PERMISSION** is hereby granted to **Cenizo Ventures, LLC and Sunnyside Lake Land Holding, LLC**, (Greg Beliveau, LPG, Petitioner), "Permittee" to construct, operate, and maintain a Planned Unit Development in and on real property in the City of Leesburg, in accordance with the requirements set forth herein. The property is more particularly described below.
2. **LEGAL DESCRIPTION**
See attached **Exhibit C, Legal Description**.

3. LAND USE

The above-described property, containing approximately ~~439~~ 120.549 +/- acres, shall be used for platted single-family residential development, pursuant to City of Leesburg development codes and standards.

A. Permitted Uses

1. Detached single family residential units
2. Accessory structures for residential uses
3. Sales office in a single family unit
4. Accessory retail within a recreation center or clubhouse, intended for the primary use of residents, such as a snack bar.
5. Temporary modular sales center office (during construction and sales of new units) not to exceed one year, and construction office not to exceed two years from the approval of the final plat of the final phase for the subdivision. Model homes may be used as sales centers during the duration of the project.

B. Prohibited Uses

1. Townhouses
2. Condominium units
3. Multi-family units (Apartments)
4. Commercial uses (as a primary use)
5. All other uses not specifically permitted within these conditions under Permitted Uses above shall be prohibited.

4. DEVELOPMENT STANDARDS

A. The project shall contain a maximum of ~~464~~ 150 single family residential units, at a gross density not to exceed 1.25 units per acre on the approximately ~~439~~ 120.549 +/- acre site, as shown on **Exhibit B, Master Development Plan**.

B. Lot sizes shall be varied, to include 50, 70- and 80-foot widths on the west side of Sunnyside Drive, as shown on the attached **Exhibit B, Master Development Plan**. ~~All lots east of Sunnyside Drive shall be a minimum size of 43,560 square feet.~~

C. All lots west of, and immediately adjacent to Sunnyside Drive, shall be a minimum of 80 feet wide.

D. Along each street, homes with the same architectural design shall not be immediately adjacent (side by side) or directly across from a lot with the same design. Facades may be varied to meet this requirement. The maximum impervious surface for the project shall be 70%. Community and private swimming pools shall not count toward the impervious surface calculation.

E. The minimum lot development standards shall be:

1. For 50-foot lots:

- a. 50 foot lots shall be located on the interior of the subdivision or in areas that are adjacent to Conservation/Open Space as shown on the Conceptual Master Plan, Exhibit B. These lots shall not be located anywhere which is directly adjacent to the required 25-foot landscape buffer as required in Section 6, *Landscape & Buffer Requirements* this document, or in areas directly adjacent to existing single-family residential development
- b. Minimum house size: 1,600 square feet.
- c. Each additional bedroom added to the above minimum house size shall be a minimum of 120 square feet.
- d. Minimum lot size shall be 6,500 square feet.
- e. Minimum width 50 feet
- f. Minimum depth 125 feet
- g. Minimum building setbacks:
Front – 25 feet setback to the garage, 20 feet setback to the residence
Rear – 18 feet;
Side – 7.5 feet;
Corner Side – 15 feet; and
Porch – 20 feet (porch must be a minimum width of 6 feet).

2. For 70-foot lots:

- a. 70 foot lots shall be located on the interior of the subdivision or in areas that are adjacent to Conservation/Open Space as shown on the Conceptual Master Plan, Exhibit B. They shall not be located anywhere which is directly adjacent to the required 25-foot landscape buffer as required in Section 6, *Landscape & Buffer Requirements* of this document, or in areas directly adjacent to existing single-family residential development
- b. Minimum house size: 1,800 square feet.
- c. Each additional bedroom added to the above minimum house size shall be a minimum of 120 square feet.
- d. Minimum lot size shall be 8,750 square feet.
- e. Minimum width 70 feet
- f. Minimum depth 125 feet
- g. Minimum building setbacks:
Front – 25 feet setback to the garage, 20 feet setback to the residence
Rear – 18 feet;
Side – 7.5 feet;
Corner Side – 15 feet; and
Porch – 20 feet (porch must be a minimum width of 6 feet).

3. For 80-foot lots:

- a. 80 foot lots shall be permitted anywhere within the subdivision, and shall be required on all lots immediately west of Sunnyside Drive.
- b. Minimum house size: 2,000 square feet.

- c. Each additional bedroom to the above the minimum house size shall be a minimum of 120 square feet.
- d. Minimum lot size shall be 8,000 square feet.
- e. Minimum width 80 feet
- f. Minimum depth 100 feet
- g. Minimum building setbacks:
Front – 25 feet setback to the garage, 20 feet setback to the residence
Rear – 18 feet;
Side – 7.5 feet;
Corner Side – 15 feet.
Porch – 20 feet (porch must be a minimum width of 6 feet).

3. For 140-foot lots:

- ~~a. 140-foot lots shall be permitted anywhere within the subdivision. For all property east of Sunnyside Drive, a maximum of four lots shall be permitted. The minimum lot size shall be one acre. The minimum house size on these lots shall be 2,600 square feet.~~
- ~~b. Each additional bedroom added to the above minimum house size shall be a minimum of 120 square feet.~~
- ~~c. Minimum lot size shall be 43,560 square feet.~~
- ~~d. Minimum width 140 feet~~
- ~~e. Minimum depth 400 feet~~
- ~~f. Minimum building setbacks:
Front – 30 feet;
Rear – 18 feet;
Side – 7.5 feet;
Corner Side – 15 feet.
Porch – 25 feet (porch must be a minimum width of 6 feet).~~

4. For all structures:

- a. Each residential structure shall have a minimum two car garage.
- b. Minimum distance between structures shall be 15 feet; measured from building wall to building wall, and the roof overhang shall not exceed forty (40) percent of the distance between the building wall and the property line.
- c. Maximum building height: two (2) stories or 35 feet.
- d. Accessory structures shall have a minimum rear and side setback of 5 feet and single accessory structures that are not attached to the principal structure shall not occupy more than 30 percent of the required rear yard.
- e. Attached screened enclosures (no solid roof) must maintain a minimum setback of five (5) feet from the side and rear property line. Attached swimming pool screened enclosure shall also maintain a minimum setback of five (5) feet from the side or rear property lines.
- f. Solid roof structures attached to the residence must meet the required rear setback as noted under “Minimum building setbacks.”

- g. As part of the site plan approval process, city staff shall review final site design standards in accordance with the approved PUD (Planned Unit Development) zoning conditions set forth herein.

5. DESIGN/ARCHITECTURAL STANDARDS

- A. All buildings shall utilize at least three of the following design features to provide visual relief along all elevations of the single family units. Designs may vary throughout the development.
 - 1) Dormers
 - 2) Gables
 - 3) Recessed or raised entries
 - 4) Covered porch entries
 - 5) Cupolas
 - 6) Pillars or decorative posts
 - 7) Bay window (minimum 12 inch projections)
 - 8) Eaves (minimum 6-inch projections)
 - 9) Front windows with arched glass tops and minimum 4-inch trim.
 - 10) Garage vehicle doors shall incorporate the following elements: raised decorative panels, decorative glass panels or panes, decorative hinges, etc.
 - 11) Front doors shall incorporate the following decorative elements: raised decorative panels, decorative glass panels or panes, decorative handles, etc.
 - 12) Stone accents
 - 13) Shutters
 - 14) Board and batten siding
 - 15) Hardy board siding
 - 16) Raised banding
 - 17) Craftsman style garage doors
- B. Exterior building materials contribute significantly to the visual impact of a building on the community. These materials shall be well designed and integrated into a comprehensive design style for the project. The total exterior wall area of each building elevation shall be composed of one of the following:
 - 1) At least thirty-five percent (35%) full-width brick or stone (not including window and door areas and related trim areas), with the balance being any type of lap siding and/or stucco.
 - 2) At least thirty percent (30%) full-width brick or stone, with the balance being stucco and/or a “cementitious” lap siding. (A “cementitious” lap siding product is defined as a manufactured strip siding composed of cement-based materials rather than wood fiber-based or plastic-based materials. For example, Masonite or vinyl lap siding would not be allowed under this option.).
 - 3) All textured stucco, provided there are unique design features such as recessed garages, tile or metal roofs, arched windows, porches, etc. in the elevations of the buildings or the buildings are all brick stucco. Unique design features shall be reviewed by the Community Development Director for compliance.

- C. Other similar design variations meeting the intent of this section may be approved by the Community Development Director or designee.

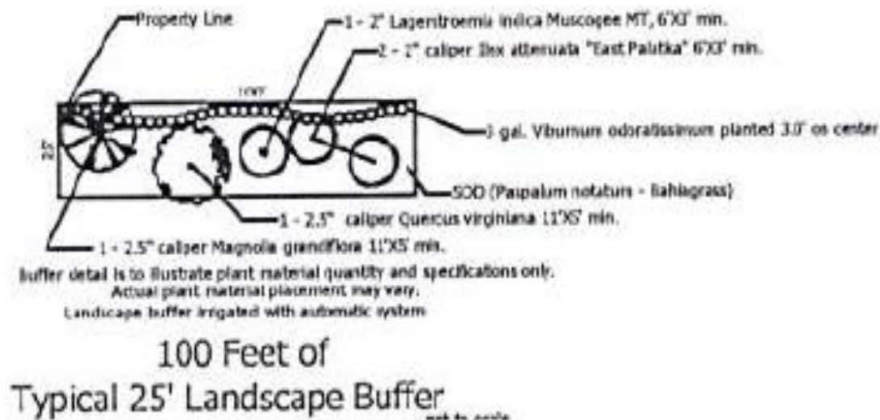
6. LANDSCAPING & BUFFER REQUIREMENTS

- A. A minimum twenty-five (25) foot buffer planted as shown in Figure A below, shall be provided along the east and west side of the Sunnyside Road boundary of the property, unless otherwise provided for within these standards.
- B. Land uses allowed within the upland buffers are limited to hiking trails, walkways, passive recreation activities and stormwater facilities as permitted by St. Johns River Water Management District.
- C. All landscaping and buffering shall be in accordance with regulations contained within the City of Leesburg Code of Ordinances, Section 25-329, and at a minimum shall contain the following plantings as noted in Figures A and B below:

Figure A

Canopy Trees (per 100 l.f.)	2 per 100 linear ft
Tree CAL/Height	2" cal, 12' overall height
Optional Ornamental Trees (per 100 l.f.)	3 per 100 linear ft
Tree CAL/Height	2" cal, 7' overall height
Shrub Screen (per 100 l.f.)	
Square Ft. of Shrubs	(33) 3 gal plants, 18"—24" minimum at installation (depending on species); hedges to be 36"—42" high by thirty-six (36) inches wide hedge or continuous landscape screen with a ninety (90) percent opacity within one (1) year of planting
Container size	3 gal

Figure B



HD. Variations to the landscape requirements of the code may be approved by the Community Development Director or designee, as long as the intent of the PUD and the Landscaping Code are maintained, including consideration of existing fencing on adjacent properties and existing natural vegetative buffers.

- E.** The surveying of trees on the property shall be conducted as follows:
- 1) If existing on the property, all specimen, heritage and historic trees shall be surveyed. Staff will review the tree survey and such trees shall be saved where possible during the site plan review process. This may include amending the site plan to save specimen, heritage and historic trees.
 - 2) A survey of 100 feet by 100 feet plots, indicating all protected trees 4" DBH and larger, shall be surveyed for each distinct vegetative area, for use in replacement calculations.
 - 3) Site areas that are to preserve existing trees do not need to be included in the survey plots unless the trees are to be used in preservation/replacement requirements.
 - 4) The tree survey shall be completed by a licensed surveyor.
 - 5) Tree sample plots shall be located and trees identified by a registered landscape architect, certified arborist, or certified forester.

7. SITE ACCESS AND SIGNAGE

A. To meet Lake County access management requirements the main vehicular access to the project site shall be provided by an access point from Sunnyside Road. This access point shall be a divided boulevard type entrance road with one lane in each direction. For the property on the west side of Sunnyside Road, a secondary emergency only access point shall be provided from Sunnyside Road. Actual location and design of the roads shall be determined at the site plan review process and shall include consideration of, and connection to existing or planned sidewalks, recreation paths, etc. All other access shall be reviewed for necessity and requirements through the City of Leesburg development and permitting processes. Any additional access points shall be subject site plan application review process.

- 1) Adequate right of way along Sunnyside Road shall be required to ensure adequate roadway paving and access.
- 2) Additional improvements on Sunnyside Road may be required to accommodate the increase in the additional trips the site will produce per Lake County requirements.
- 3) Prior to completion of the subdivision design plans, the developer shall work with the Lake County Department of Public Works to ensure all appropriate required roadway and access improvements for the development are made part of the plans submitted to the City of Leesburg.
- 4) The conceptual plan exhibits, and the access points proposed thereon, are considered conceptual until the appropriate engineering and site plan reviews, along with any required upgrades are completed for the project.

B. All access points are subject to review and approval by the appropriate permitting agency, including FDOT, Lake-Sumter Metropolitan Planning Organization, Lake County and the City of Leesburg as applicable. The developer shall be responsible

for on and offsite improvements required as a result of any access points. The developer shall be responsible for all on and offsite improvements required as a result of any access points.

- C. Each required access point shall provide a decorative entry feature to include a concrete, brick or stucco wall at least five (5) feet in height, on each side of the entryway. This may be used for signage per City of Leesburg Code of Ordinances, as amended.
- D. Alternative designs for the ground enclosure support and base of monument/entryway signs may be approved by the Community Development Director or designee, where the architectural style would be in keeping with the intent of these sign regulations.

8. **TRANSPORTATION IMPROVEMENTS**

- A. Any transportation improvements or rights-of-way that may be required shall be based on projected needs and shall be contingent upon site plan approval by City staff during the development review and permitting process. The plan review process shall include consideration of sidewalks, recreation paths etc.
- B. A traffic/transportation study shall be submitted prior to site plan approval for review and determination of any necessary access improvements, including any off-site improvements required by Lake County, the Lake-Sumter MPO or the City of Leesburg. Said improvements will be the responsibility of the Permittee.
- C. The Permittee shall provide necessary traffic improvements within and adjacent to the development as required by Lake County, the Lake-Sumter MPO and City of Leesburg.
- D. All roads within the development shall be designed and constructed to meet the City of Leesburg requirements.
- E. The Permittee shall be responsible for obtaining all necessary Lake County permits and a copy of all permits shall be provided to the City of Leesburg.
- F. The City of Leesburg will not be responsible for the maintenance or repair of any of the roads or transportation improvements. The Permittee shall establish an appropriate legal entity that will be responsible to pay the cost and perform the services to maintain the roads and transportation improvements. Should the Permittee desire to dedicate the proposed project's internal road system to the City of Leesburg; the City, at its discretion, may accept or not accept the road system. Prior to acceptance, the Permittee shall demonstrate to the City that the road system is in suitable condition and meets City of Leesburg requirements. As a condition of accepting the roadway system the City may create a special taxing district or make other lawful provisions to assess the cost of maintenance of the system to the

residents of the project, and may require bonds or other financial assurance of maintenance for some period of time.

- G. Sidewalks shall be provided on both sides of the boulevard entrance road and shall provide cross connections to all recreation and residential areas. Internal road rights-of-ways shall be of sufficient width to contain one sidewalk. All sidewalks shall be constructed in accordance with City of Leesburg Codes.

9. UTILITIES

Prior to receiving final development approval, the Permittee shall submit a stormwater management plan and utility plan acceptable to the City of Leesburg. Water, wastewater and natural gas services will be provided by the City of Leesburg. Prior to any clearing, grubbing, or disturbance of natural vegetation in any phase of the development, the Permittee shall provide:

- A. A detailed site plan that indicates all the provisions for electric, water, sewer, and/or natural gas in accordance with the City of Leesburg Land Development Codes.
- B. Developer shall bear all responsibility, financial and otherwise, for the construction and installation of all utility infrastructure and other improvements related to the use and development of the property, including such off-site improvements required by the City and all other appropriate government agencies. All such requirements shall be constructed to the applicable specifications imposed by the ordinances and regulations of the City in effect at the time of construction.
- C. Developer shall be responsible for the installation of a natural gas water heater and natural gas furnace in eighty percent (80%) of all homes in the development.
- D. The City of Leesburg intends to service the property with water and wastewater services at this time. At the time of connection, all regulations in place at the time of the request shall be required, including but not limited to impact fees, connection and utility service deposit charges. The cost of supplying water and wastewater lines and other necessary infrastructure such as lift stations to the development shall be the responsibility of the applicant.

10. STORMWATER/DRAINAGE MANAGEMENT

All drainage shall be designed and constructed in a manner to meet all State of Florida and City of Leesburg codes, including the requirement that all stormwater runoff is contained within the boundaries of the properties, and does not create a detriment to surrounding properties. Prior to receiving final development approval, the Permittee shall submit a stormwater management plan and utility plan acceptable to the City of Leesburg. Prior to any clearing, grubbing, or disturbance of natural vegetation in any phase of the development, the Permittee shall provide:

- A. A detailed site plan that demonstrates no direct discharge of stormwater runoff generated by the development into any wetlands or onto adjacent properties.

- B. A stormwater management system designed and implemented to meet all applicable St. Johns River Water Management District and City of Leesburg requirements.
- C. A responsible legal entity for the maintenance of the stormwater management system on the plat prior to the approval of the final plat of record. A homeowners association is an acceptable maintenance entity.
- D. The existing 100-year flood plain shown shall be shown on all plans and lots.
- E. The appropriate documentation that any flood hazard boundary has been amended in accordance with Federal Emergency Management Agency requirements, if the 100-year flood plain is altered and /or a new 100-year flood elevation is established in reference to the applicable flood insurance rate map.
- F. A copy of the Management and Storage of Surface Waters permit obtained from St. Johns River Water Management District shall be provided to the City during the site plan review process.
- G. Should the Permittee desire to dedicate the proposed project's stormwater management system to the City of Leesburg; the City, at its discretion, may accept or not accept the stormwater management system. Prior to acceptance, the Permittee shall demonstrate to the City the stormwater management system is in a suitable condition and meets City of Leesburg and St. Johns River Water Management District requirements. As a condition of accepting the system the City may create a special taxing district or make other lawful provisions to assess the cost of maintenance of the system to the residents of the project.

11. **WETLANDS, FLOOD ZONES & WILDLIFE**

- A. All wetlands on the project site shall be identified by a jurisdictional wetland boundary line, and the location and extent of each wetland shall be determined by the Department of Environmental Protection, St. Johns River Water Management District and/or U.S. Army Corp of Engineers. Each wetland shall be placed on a suitable map, signed and sealed by a surveyor registered to practice in Florida and shall be submitted as part of the site plan application process.
- B. To the extent practicable, wetlands shall be placed in a conservation easement, which shall run in favor of, and be enforceable by, the St. Johns River Water Management District or another legal entity such as a homeowners association. The conservation easement shall require that the wetlands be maintained in their natural and unaltered state. Wetlands shall not be included as a part of any platted lot, other than a lot platted as a common area, which shall be dedicated to the St. Johns River Water Management District or another legal entity such as a homeowners association for ownership and maintenance.

- C. Buildings or structures shall be a minimum of 50 feet from any wetland jurisdiction boundary.
- D. Wetlands shall have an average upland buffer of 25 feet, with a minimum of 15 feet or the upland buffer established by St. Johns River Water Management District and/or U.S. Army Corp of Engineers; whichever is more restrictive. All upland buffers shall be naturally vegetated and upland buffers that are devoid of natural vegetation shall be re-planted with native vegetation or as required by St. Johns River Water Management District and/or U.S. Army Corp of Engineers.
- E. Except as otherwise provided herein, Hland uses allowed within the upland buffers for wetlands are limited to stormwater facilities as permitted by St. Johns River Water Management District.
- F. If wetland alteration is permitted by St. Johns River Water Management District and/or U.S. Army Corp of Engineers, wetland mitigation shall be required in accordance with permit approvals from St. Johns River Water Management District or U.S. Army Corp of Engineers, whichever is more restrictive.
- G. A wildlife management plan for the project site shall be prepared based on the results of an environmental assessment of the site and any environmental permit required from applicable governmental agencies. The wildlife management plan shall be submitted to the City as part of the site plan application process.
- H. A map indicating the location of the 100-year flood plain.
- I. The appropriate documentation that any flood hazard boundary has been amended in accordance with Federal Emergency Management Agency requirements, if the 100-year flood plain is altered and/or a new 100-year flood elevation is established in reference to the applicable flood insurance rate map.
- J. There are currently FEMA flood zones located throughout the parcel. Through the site plan review process, the developer shall coordinate with the City of Leesburg, Lake County and all impacted government agencies regarding elevation determinations, compensatory storage and overall design of the subdivision within and near flood hazard boundary areas, to ensure compliance with all regulations.

12. IRRIGATION & WATER USAGE

- A. All landscaped areas shall be irrigated and designed to meet Section 25-337, Waterwise and Florida Friendly Landscaping, City of Leesburg Code of Ordinances.
- B. The use of St. Augustine grass, or other varieties of grass which require significant amounts of water are prohibited. The use of Bahia, Bermuda, Zoysia or other grasses which are more drought tolerant are permitted.

13. RECREATIONAL REQUIREMENTS

- A. Recreational development provided on the site may include active and passive uses, as well as enclosed or unenclosed recreational space, devoted to the joint use of the residents. Such recreational space shall consist of not less than 200 square feet of space per dwelling unit or 0.75 total acres, whichever is greater.
- B. Recreational requirements shall include at least one primary active recreation area, to include two of the following recreation amenities such as BBQ grills, picnic tables, equipped play area, or a basketball court.
- C. Credit for recreational space shall be given for areas dedicated to recreational space, to include items such as a clubhouse with recreation room, swimming pool, outdoor cooking facilities such as grills, youth playgrounds, play courts, dog parks or other similar uses which will meet the intent of this document. Other similar uses which will meet the intent of this document may be supplied by the developer.
- D. Credits for Active recreational activity space shall be calculated at a rate of 1.25 times the square feet provided in the concept plan [LM1] for activities such as, but not limited to:
 - 1) Trails, playgrounds, basketball, tennis, handball courts, etc.
 - 2) Community swimming pool, including the deck area surrounding such pools.
 - 3) Indoor recreation rooms provided such rooms are permanently maintained for the use of residents for recreational purposes.
 - 4) Other active recreational activities may be used for credit, subject to approval by the City of Leesburg.

14. MAINTENANCE

- A. With the exception of any public utilities, maintenance of all site improvements, including but not limited to roadways, drives, internal sidewalks, landscaping and drainage shall be the responsibility of the property owner. A homeowners association shall serve as an appropriate entity for all common properties within the development.

15. DEVELOPMENT PHASING & IMPLEMENTATION

- A. The proposed project may be constructed in phases in accordance with the Planned Unit Development Conditions and Conceptual Plan. Changes to the development conditions or conceptual plan, other than those conditions described in this agreement, shall be revised in accordance with the Planned Development review process, City of Leesburg Code of Ordinances.
- B. As part of the overall development review process, if the project is constructed in phases, the plat of the lots for each approved phase shall contain only portions of the development approved under the Site Plan Review Process, i.e. each phase platted shall match each phase submitted for site plan review.

- C. The terms of this PUD (Planned Unit Development) zoning agreement shall be substantially implemented within one hundred twenty (120) months. If the terms of this agreement have not been substantially implemented within this time period, this PUD shall expire of its own accord, without further action by the City, and the City shall initiate the public hearing process to rezone the property to its prior classification, or if that classification is no longer available, the closest available zoning classification. In the interim, after this PUD expires but prior to completion of the rezoning to prior classification, no applications for the use of, or construction of improvements on, the property shall be accepted.

16. MISCELLANEOUS CONDITIONS

- A. The uses of the proposed project shall only be those uses identified in the approved Planned Unit Development Conditions. Any other proposed use must be specifically authorized in accordance with the Planned Development amendment process.
- B. No person, firm or corporation shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building structure, or alter the land in any manner without first submitting the necessary plans and obtaining appropriate approvals in accordance with the City of Leesburg Codes.
- C. Construction and operation of the proposed use(s) shall at all times comply with the Planned Unit Development conditions set forth herein, and with all City and other governmental agencies rules and regulations.
- D. The transfer of ownership or lease of any or all of the property described in this PUD Agreement shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to the Planned Unit Development established and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following the procedures as described in the City of Leesburg Land Development Code, as amended.
- E. These PUD Conditions shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor, and shall be subject to each and every condition as set forth herein.

17. LEVELS OF SERVICE

- A. Levels of Service
 - 1) As submitted, the development resulting from the proposed zoning change may result in demands on public facilities which would exceed the current capacity of some public facilities, such as, but not limited to water, wastewater, roads, drainage, and solid waste. However, no final development order (site plan and building permits) shall be granted for

proposed development until there is a finding that all public facilities and services required for the development have sufficient capacity at or above the adopted level of service (LOS) to accommodate the impacts of the development, or that improvements necessary to bring facilities up to their adopted LOS will be in place concurrent with the impacts of the development.

B. Utilities

1) Projected Capacities

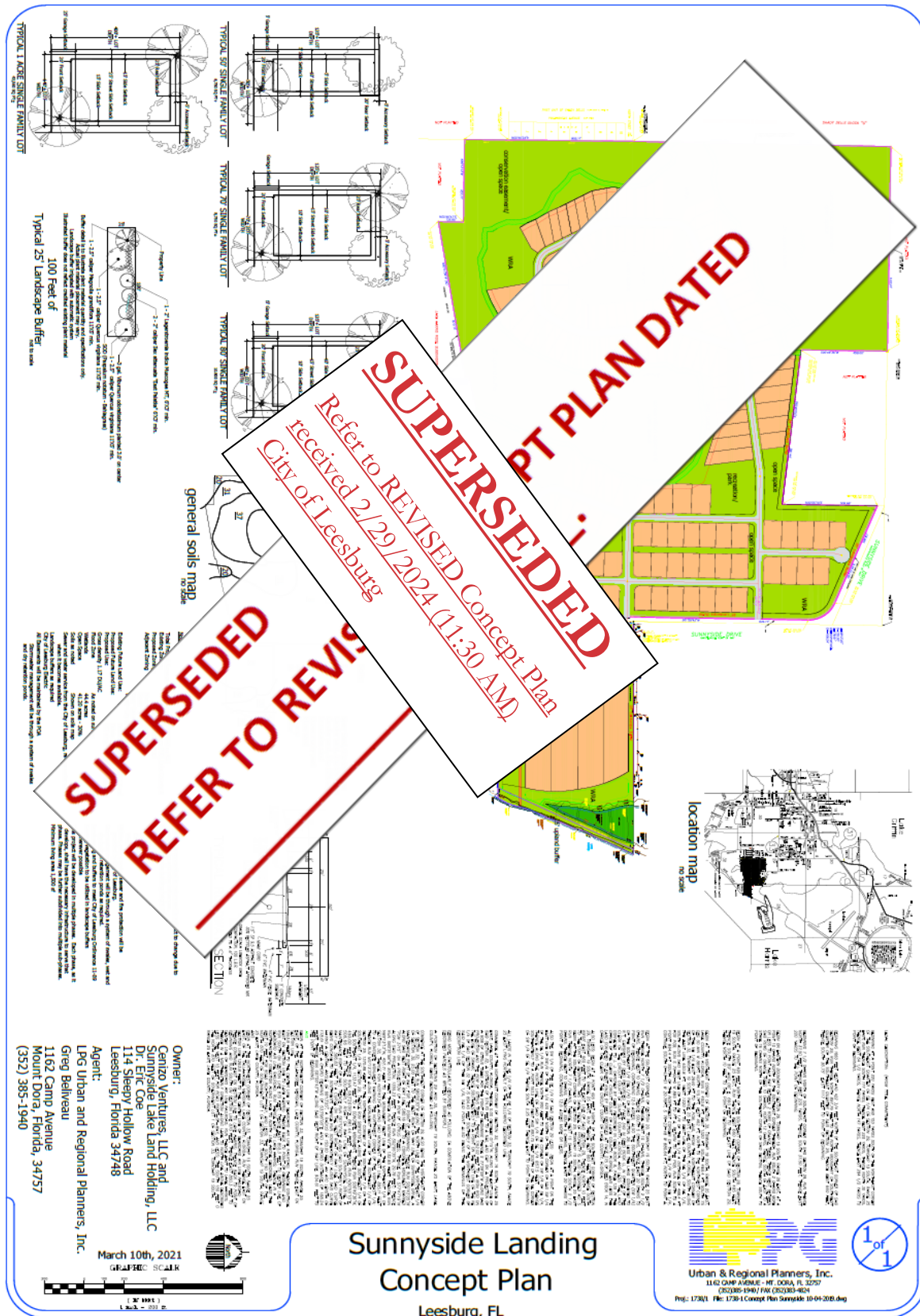
- a. The City's utility planning efforts draw upon phasing, capacity and service requirements, based upon information provided by the applicant. The City develops its plans consistent with sound engineering principles, prudent fiscal practices and due regard for regulatory compliance.
- b. If the development requires construction of new distribution or collection lines, the developer will be required to construct such facilities to provide service. The developer will bear the cost of design, permitting and construction. Any such facilities must be constructed in a fashion consistent with the City's master plans and to the City standards and specifications.

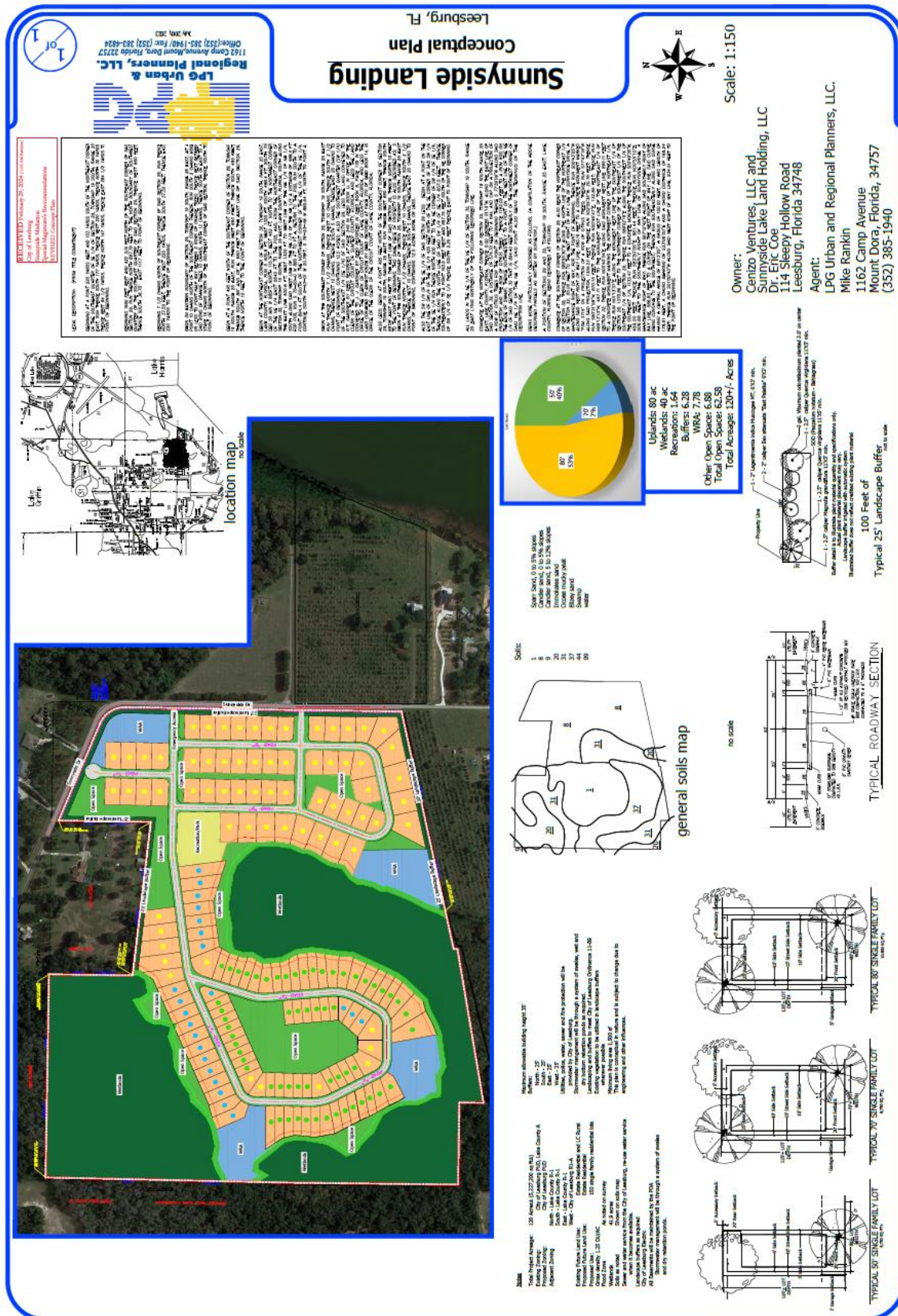
2) Commitment of Capacity

- a. There are no previous commitments of any existing or planned excess capacity for this property.

3) Ability to Provide Services

- a. At this time, the City intends to provide water, wastewater and reclaimed water services within its service area for the foreseeable future.
- b. Future development within the City of Leesburg utility service areas may impact the provision of utility services.





LEGAL DESCRIPTION: (FROM TITLE COMMITMENT)

BEGINNING AT A POINT 220 YARDS WEST AND 153 YARDS SOUTH OF THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SE 1/4 OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE SOUTH 177 YARDS, THENCE WEST 220 YARDS, THENCE NORTH 30 YARDS, THENCE WEST 64 1/2 YARDS, THENCE NORTH 147 YARDS, THENCE EAST 284 1/2 YARDS TO POINT OF BEGINNING.

BEGINNING 1660 FEET WEST AND 422 3/4 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 29, RUN THENCE NORTH 897.76 FEET TO THE NORTH BOUNDARY OF SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 29, THENCE WEST 660 FEET, THENCE SOUTH 36.75' EAST 1117 FEET TO POINT OF BEGINNING.

BEGINNING 7 1/2 CHAINS NORTH OF SOUTHEAST CORNER OF SAID SECTION 29, RUN THENCE NORTH 37.50 FEET, THENCE WEST 220 YARDS, THENCE SOUTH 37.50 FEET, THENCE EAST 220 YARDS TO THE POINT OF BEGINNING.

BEGIN ON EASTERN BOUNDARY OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 26 EAST, AT A POINT 10 CHAINS NORTH OF THE SOUTHEAST CORNER THEREOF, RUN SOUTH 2 CHAINS MORE OR LESS TO POINT HALF WAY BETWEEN 2 ROWS OF ORANGE TREES; THENCE WEST BETWEEN SAID ROWS OF ORANGE TREES 10 CHAINS, NORTH 12 CHAINS, THENCE SOUTH OF EAST TO A STAKE 16 CHAINS NORTH OF THE SOUTHEAST CORNER OF SAID SECTION, THENCE SOUTH TO POINT OF BEGINNING.

BEGIN AT A POINT 495 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE WEST 660 FEET; THENCE SOUTH 495 FEET; THENCE SOUTH 89° AND 08' WEST 10 FEET TO THE EAST LINE OF SAID SECTION 29, THENCE NORTH 10 FEET TO POINT OF BEGINNING.

BEGIN AT THE NORTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, RUN THENCE SOUTH 488.4 FT, SOUTH 75 DEG 50 MIN W 885 FT, NORTH TO THE NORTHWEST CORNER OF THE NE 1/4 EAST 26 CHAINS TO THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, SOUTH ALONG THE EAST LINE 400.8 FT, WEST 10 CHAINS TO THE NE 1/4 OF NE 1/4, SOUTH ALONG SAID WEST LINE A DISTANCE OF 488.4 FT TO A POINT OF BEGINNING, RUN S 75-50-0 W 885 FT TO A POINT 894.4 FT SOUTH OF THE SOUTHEAST CORNER OF THE NE 1/4 OF THE NE 1/4, CONTINUE SOUTH 0-43-01 W 20.1 CHAINS TO POINT A.

BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE NORTH 7 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 2 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE EAST 20 CHAINS TO POINT OF BEGINNING, CONTAINING 12.5 ACRES MORE OR LESS THE LAND CONVEYED TO R.T. GARDNER BY DEED RECORDED AT PAGE 139 OF DEED BOOK U, IN OFFICE OF THE CLERK OF THE CIRCUIT COURT OF SUMTER COUNTY, FLORIDA, AND LESS THE LAND CONVEYED TO J. J. GARDNER BY DEED RECORDED IN DEED BOOK 8, PAGE 139 IN THE OFFICE OF THE CLERK OF CIRCUIT COURT OF LAKE COUNTY, FLORIDA, AND LESS THE LAND CONVEYED TO ERNEST KINZIE BY DEED RECORDED AT PAGE 275 OF DEED BOOK 14, IN OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LAKE COUNTY, FLORIDA;

ALSO LESS: BEGIN AT A POINT 495 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE WEST 660 FEET; THENCE SOUTH 89°08' EAST 660 FEET TO THE EAST LINE OF SAID SECTION 29, THENCE NORTH 10 FEET TO THE POINT OF BEGINNING. THIS SAME PIECE OF PROPERTY IS ALSO DESCRIBED AS: S BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST RUN THENCE NORTH 7 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 2 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 5 CHAINS, THENCE EAST 20 CHAINS TO POINT OF BEGINNING, CONTAINING 12.5 ACRES MORE OR LESS.

ALSO THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 29 LESS: BEGIN AT A POINT ON THE EAST LINE OF SW 1/4 OF THE SE 1/4 420 FEET NORTH OF THE SE CORNER OF SAID SW 1/4 OF THE SE 1/4 RUN THENCE NORTH 900 FEET TO THE NE CORNER OF SW 1/4 OF SE 1/4, THENCE ALONG THE NORTH LINE OF SAID SW 1/4 OF SE 1/4 857.5 FEET. THENCE SOUTHEASTERLY TO A POINT 193.5 FEET WEST AND 897.75 FEET SOUTH OF THE NE CORNER OF SW 1/4 OF SE 1/4 THENCE SOUTH 2.25 FEET THENCE EAST TO POINT OF BEGINNING.

LEGAL DESCRIPTION

Page 2 of 2

ALL LANDS IN THE NE 1/4 OF THE NE 1/4 OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE.

COMMENCE AT THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, THENCE S.00 DEGREES 01'15"W. ALONG THE EAST LINE OF SAID SECTION 32, A DISTANCE OF 574.70 FEET TO A NAIL AND CAP ON A PROJECTION OF A ROW OF CITRUS TREES FOR THE POINT OF BEGINNING THENCE S 77°39'09"W ALONG SAID PROJECTION AND THE ROW OF CITRUS TREES, THENCE 1162.02 FEET TO A IRON ROD ON THE EDGE OF SWAMP, THENCE SOUTHWESTERLY TO A POINT ON THE WEST LINE OF THE NE 1/4 OF SAID SECTION 32 THAT IS 894.40 FEET SOUTHERLY OF THE NORTHWEST CORNER OF SAID NE 1/4 OF THE NE 1/4, SAID POINT ALSO BEING THE TERMINUS OF THE DESCRIPTION LINE.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; (A COMPILATION OF THE ABOVE DESCRIBED PARCELS AS WRITTEN BY SURVEYOR.)

A PORTION OF SECTIONS 29 AND 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 29, ALSO BEING THE NORTHEAST CORNER
OF SECTION 32; THENCE RUN S89°55'11"W ALONG THE NORTH LINE OF THE NORTHEAST 1/4
OF SECTION 32, 25.00 FEET TO THE POINT OF BEGINNING; THENCE RUN S00°43'05"W
ALONG SAID WEST RIGHT OF WAY, 895.11 FEET TO A CONCRETE MONUMENT MARKED
"PSM 3715" ON A PROJECTIONS OF THE LINE OF BEGINNING; THENCE RUN S77°47'19"W
ALONG SAID PROJECTIONS OF THE LINE OF BEGINNING, 20.78 FEET; THENCE
RUN S80°31'58"W, 87.46'47"E, 132.85 FEET; THENCE RUN
N89°13'13"W, 457.71 FEET TO THE LINE OF THE NORTHEAST 1/4 OF
SECTION 32; THENCE RUN S01°00'43"W ALONG THE MONUMENT WEST LINE, 895.11 FEET
TO A CONCRETE MONUMENT MARKED "PSM 3715" AT THE CORNER OF THE NORTHEAST 1/4;
THENCE RUN N01°13'37"E, 132.85 FEET TO THE LINE OF THE SOUTHEAST 1/4 OF
SECTION 29, 1370.86 FEET TO THE CORNER OF THE SOUTHWEST 1/4 OF THE
SOUTHEAST 1/4 OF SECTION 29, 1133.47 FEET TO THE CORNER OF THE SOUTHWEST 1/4 OF THE
THE SOUTHEAST 1/4, 1133.47 FEET TO THE CORNER OF THE SOUTHWEST 1/4 OF THE
459.00 FEET; THENCE RUN S00°49'36"W, 132.85 FEET TO THE CORNER OF THE
506.66 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE
MAINTENANCE RIGHT OF WAY; THENCE RUN S00°55'10"E, 132.85 FEET TO THE
WAY LINE, 586.83 FEET TO A CURVE BEARING OF 88°13'21"W, SAID CURVE
BEING CONCAVE TO THE SOUTHWEST, HAVING A CENTRAL ANGLE OF 68°13'21"W
178.61 FEET, A CHORD BEARING OF 88°13'21"W, A CHORD LENGTH OF 168.24
FEET; THENCE RUN S01°00'43"W ALONG THE LINE OF BEGINNING, 934.51 FEET TO
THE POINT OF BEGINNING.

AND

BEGIN AT THE NORTHWEST CORNER OF SECTION 19 SOUTH, RANGE 25
EAST, OF THE TALLAHASSEE MERIDIAN, LAKE FLORIDA, RUN THENCE EAST ON
SECTION LINE

1263.8 FEET TO THE CENTER LINE OF SEABOARD AIR LINE RAILROAD; THENCE CONTINUE EAST ON SECTION LINE TO LAKE HARRIS; THENCE BACK TO POINT OF BEGINNING AND RUN SOUTH ON SECTION LINE 870 FEET; THENCE EAST 850.3 FEET TO CENTER LINE OF SEABOARD AIR LINE RAILROAD; RUN THENCE EAST TO LAKE HARRIS; THENCE IN A NORTHEASTERLY DIRECTION ALONG LAKE TO NORTH LINE ABOVE DESCRIBED; LESS THE WEST 10 FEET FOR ROAD RIGHT-OF-WAY, AND LESS; THE SOUTH 150 FEET OF THE NORTH 870 FEET OF GOVERNMENT LOT 1 OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA.

AND

BEGIN AT THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 25 EAST, OF THE TALLAHASSEE MERIDIAN, LAKE COUNTY, FLORIDA, RUN THENCE EAST ON SECTION LINE 1263.8 FEET TO THE CENTER LINE OF SEABOARD AIR LINE RAILROAD; THENCE CONTINUE EAST ON SECTION LINE TO LAKE HARRIS; THENCE BACK TO POINT OF BEGINNING AND RUN SOUTH ON SECTION LINE 870 FEET; THENCE EAST 850.3 FEET TO CENTER LINE OF SEABOARD AIR LINE RAILROAD; RUN THENCE EAST TO LAKE HARRIS; THENCE IN A NORTHEASTERLY DIRECTION ALONG LAKE TO NORTH LINE ABOVE DESCRIBED LESS THE WEST 10 FEET FOR ROAD RIGHT-OF-WAY, AND LESS; THE SOUTH 150 FEET OF THE NORTH 870 FEET OF GOVERNMENT LOT 1 OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA.

LEGAL DESCRIPTION: (FROM TITLE COMMITMENT)

BEGINNING AT A POINT 220 YARDS WEST AND 153 YARDS SOUTH OF THE NORTHEAST CORNER
OF THE SOUTHEAST QUARTER OF SE 1/4 OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25
EAST, RUN THENCE SOUTH 177 YARDS, THENCE WEST 220 YARDS, THENCE NORTH 30 YARDS,
THENCE WEST 64 1/2 YARDS, THENCE NORTH 147 YARDS, THENCE EAST 284 1/2 YARDS TO
POINT OF BEGINNING.

BEGINNING 1660 FEET WEST AND 422 3/4 FEET NORTH OF THE SOUTHEAST CORNER OF SAID
SECTION 29, RUN THENCE NORTH 897.76 FEET TO THE NORTH BOUNDARY OF SOUTHWEST
QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 29, THENCE WEST 660 FEET,
THENCE SOUTH 36.75° EAST 1117 FEET TO POINT OF BEGINNING.

BEGINNING 7 1/2 CHAINS NORTH OF SOUTHEAST CORNER OF SAID SECTION 29, RUN THENCE
NORTH 37.50 FEET, THENCE WEST 220 YARDS, THENCE SOUTH 37.50 FEET, THENCE EAST
220 YARDS TO THE POINT OF BEGINNING.

BEGIN ON EASTERN BOUNDARY OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 26 EAST, AT A
POINT 10 CHAINS NORTH OF THE SOUTHEAST CORNER THEREOF, RUN SOUTH 2 CHAINS MORE
OR LESS TO POINT HALF WAY BETWEEN 2 ROWS OF ORANGE TREES; THENCE WEST BETWEEN
SAID ROWS OF ORANGE TREES 10 CHAINS, NORTH 12 CHAINS, THENCE SOUTH OF EAST TO A
STAKE 16 CHAINS NORTH OF THE SOUTHEAST CORNER OF SAID SECTION, THENCE SOUTH TO
POINT OF BEGINNING.

BEGIN AT A POINT 495 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP
19 SOUTH, RANGE 25 EAST, RUN THENCE WEST 660 FEET; THENCE SOUTH 495 FEET;

THENCE SOUTH 89° AND 08' E. 660 FEET TO THE EAST LINE OF SAID SECTION 29,
THENCE NORTH 10 FEET TO THE POINT OF BEGINNING.

BEGIN AT THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST,
LAKE COUNTY, FLORIDA, RUN S 400.8 FT, WEST 1320 FT, SOUTH 488.4 FT, SOUTH 75
DEG 50 MIN W 885FT, NORTH 115.7FT, WEST 462 FT, NORTH TO THE NORTHWEST CORNER
OF THE NE 1/4 EAST 2640 FT TO THE POB, AND, FROM THE NORTHEAST CORNER OF
SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, SOUTH ALONG
THE EAST LINE 400.8 FT, WEST 1320 FT TO WEST LINE OF THE NE 1/4 OF NE 1/4,
SOUTH ALONG SAID WEST LINE OF THE NE 1/4 OF THE NE 1/4 A DISTANCE OF 488.4 FT
FOR POB, RUN S 75-50-0 W 885 FT TO PT A, RETURN TO THE POB, RUN SOUTH TO A
POINT 894.4 FT SOUTH OF THE NORTHWEST CORNER OF THE NE 1/4 OF THE NE 1/4,
CONTINUE SOUTH 0-43-01 W 20.78FT, S 76-23-48 W 880.64 FT, NORTH TO POINT A.

BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST
RUN THENCE NORTH 7 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 2 1/2
CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 5 CHAINS, THENCE EAST 20 CHAINS TO
POINT OF BEGINNING, CONTAINING 12.5 ACRES; ALSO THE SOUTHWEST QUARTER (SW 1/4)
OF THE SOUTHEAST 1/4 (SE 1/4) OF SAID SECTION 29, LESS THE LAND CONVEYED TO
R.T. GARDNER BY DEED RECORDED AT PAGE 349 IN DEED BOOK U, IN OFFICE OF THE
CLERK OF THE CIRCUIT COURT OF SUMTER COUNTY, FLORIDA, AND LESS THE LAND
CONVEYED TO J. J. GARDNER BY DEED RECORDED IN DEED BOOK 8, PAGE 139 IN THE
OFFICE OF THE CLERK OF CIRCUIT COURT OF LAKE COUNTY, FLORIDA, AND LESS THE
LAND CONVEYED TO ERNEST KINZIE BY DEED RECORDED AT PAGE 275 OF DEED BOOK 14, IN
OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LAKE COUNTY, FLORIDA;

ALSO LESS: BEGIN AT A POINT 495 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION
29, TOWNSHIP 19 SOUTH, RANGE 25 EAST, RUN THENCE WEST 660 FEET; THENCE SOUTH
89°08' EAST 660 FEET TO THE EAST LINE OF SAID SECTION 29, THENCE NORTH 10 FEET

TO THE POINT OF BEGINNING. THIS SAME PIECE OF PROPERTY IS ALSO DESCRIBED AS: S
BEGIN AT THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 25 EAST
RUN THENCE NORTH 7 1/2 CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 2 1/2
CHAINS, THENCE WEST 10 CHAINS, THENCE SOUTH 5 CHAINS, THENCE EAST 20 CHAINS TO
POINT OF BEGINNING, CONTAINING 12.5 ACRES MORE OR LESS.

ALSO THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 29 LESS: BEGIN AT A POINT ON THE
EAST LINE OF SW1/4 OF THE SE 1/4 420 FEET NORTH OF THE SE CORNER OF SAID SW 1/4
OF THE SE 1/4 RUN THENCE NORTH 900 FEET TO THE NE CORNER OF SW 1/4 OF SE 1/4,
THENCE ALONG THE NORTH LINE OF SAID SW 1/4 OF SE 1/4 857.5 FEET. THENCE
SOUTHEASTERLY TO A POINT 193.5 FEET WEST AND 897.75 FEET SOUTH OF THE NE CORNER
OF SW 1/4 OF SE 1/4 THENCE SOUTH 2.25 FEET THENCE EAST TO POINT OF BEGINNING.

ALL LANDS IN THE NE 1/4 OF THE NE 1/4 OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE
25 EAST LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE.

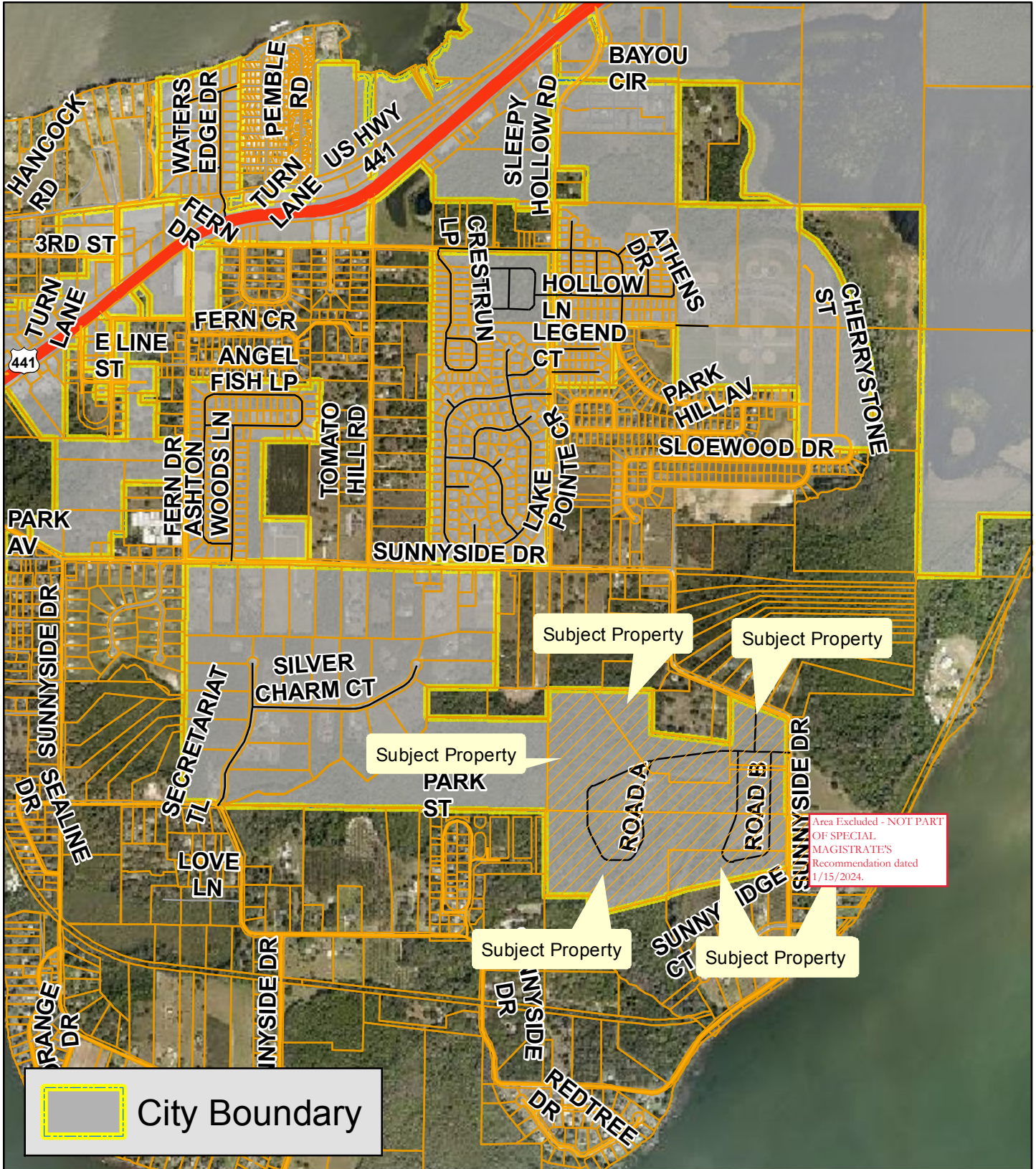
COMMENCE AT THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 19 SOUTH, RANGE 25
EAST, LAKE COUNTY, FLORIDA, THENCE 5.00 DEGREES 01'15"W. ALONG THE EAST LINE OF
SAID SECTION 32, A DISTANCE OF 574.70 FEET TO A NAIL AND CAP ON A PROJECTION OF
A ROW OF CITRUS TREES FOR THE POINT OF BEGINNING THENCE S 77°39'09"W ALONG SAID
PROJECTION AND THE ROW OF CITRUS TREES, THENCE 1162.02 FEET TO A IRON ROD ON
THE EDGE OF SWAMP, THENCE SOUTHWESTERLY TO A POINT ON THE WEST LINE OF THE NE
1/4 OF SAID SECTION 32 THAT IS 894.40 FEET SOUTHERLY OF THE NORTHWEST CORNER OF
SAID NE 1/4 OF THE NE 1/4, SAID POINT ALSO BEING THE TERMINUS OF THE
DESCRIPTION LINE.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; (A COMPILATION OF THE ABOVE
DESCRIBED PARCELS AS WRITTEN BY SURVEYOR.)

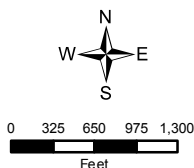
A PORTION OF SECTIONS 29 AND 32, TOWNSHIP 19 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS;

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 29, ALSO BEING THE NORTHEAST CORNER OF SECTION 32; THENCE RUN S89°55'30"W ALONG THE NORTH LINE OF THE NORTHEAST ¼ OF SECTION 32, 25.00 FEET TO THE WEST RIGHT OF WAY LINE OF SUNNYSIDE DRIVE, A MAINTENANCE RIGHT OF WAY, FOR THE POINT OF BEGINNING; THENCE RUN S00°43'05"W ALONG SAID WEST RIGHT OF WAY LINE, 580.16 FEET TO A CONCRETE MONUMENT MARKED "PSM 3715" ON A PROJECTION OF A ROW OF CITRUS TREES; THENCE RUN S77°47'19"W ALONG SAID PROJECTION, 1355.23 FEET; THENCE RUN S02°05'35"W, 20.78 FEET; THENCE RUN S80°31'58"W, 870.15 FEET; THENCE RUN N00°46'47"E, 132.85 FEET; THENCE RUN N89°13'13"W, 457.71 FEET TO THE MONUMENT WEST LINE OF THE NORTHEAST 1/4 OF SECTION 32; THENCE RUN N00°40'34"E ALONG SAID MONUMENT WEST LINE, 895.11 FEET TO A CONCRETE MONUMENT MARKING THE NORTHWEST CORNER OF THE NORTHEAST 1/4; THENCE RUN N01°13'37"E ALONG THE MONUMENT WEST LINE OF THE SOUTHEAST 1/4 OF SECTION 29, 1370.86 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 29; THENCE RUN S89°02'16"E ALONG THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, 1133.47 FEET TO A CONCRETE MONUMENT; THENCE RUN S00°49'36"W, 459.00 FEET; THENCE RUN S83°20'05"E, 861.44 FEET; THENCE RUN N00°55'10"E, 506.66 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF SUNNYSIDE DRIVE, A MAINTENANCE RIGHT OF WAY; THENCE RUN S67°12'42"E ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 586.83 FEET TO A CURVE ON THE WEST RIGHT OF WAY LINE, SAID CURVE BEING CONCAVE TO THE SOUTHWEST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE HAVING A CENTRAL ANGLE OF 68°13'25", A RADIUS OF 150.00 FEET, AN ARC LENGTH OF 178.61 FEET, A CHORD BEARING OF S33°06'00"E AND A CHORD DISTANCE OF 168.24 FEET; THENCE RUN S01°00'43"W ALONG SAID WEST RIGHT OF WAY LINE, 934.51 FEET TO THE POINT OF BEGINNING.

City Boundary



**Planning
& Zoning
Division**



PUD-19-222

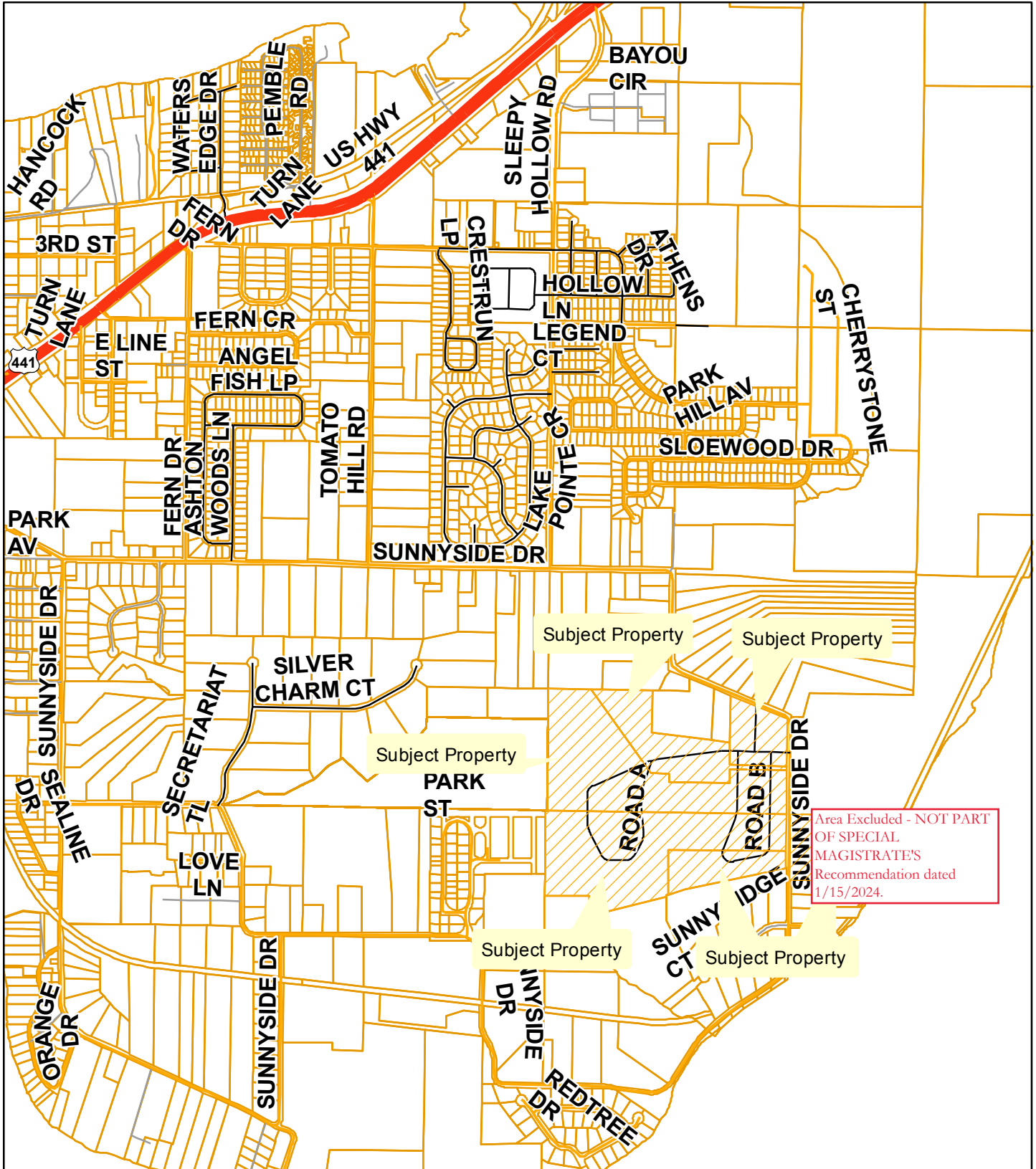
Sunnyside Lake Land Holding, LLC

AK#'s: 1207100, 1207118, 1207185, 1207789, 1207819, 1704006

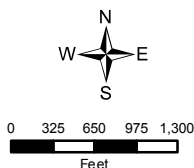
Sections 29, 32, 33, Township 19 South, Range 25 East

October 8, 2019

Locator



**Planning
& Zoning
Division**



PUD-19-222

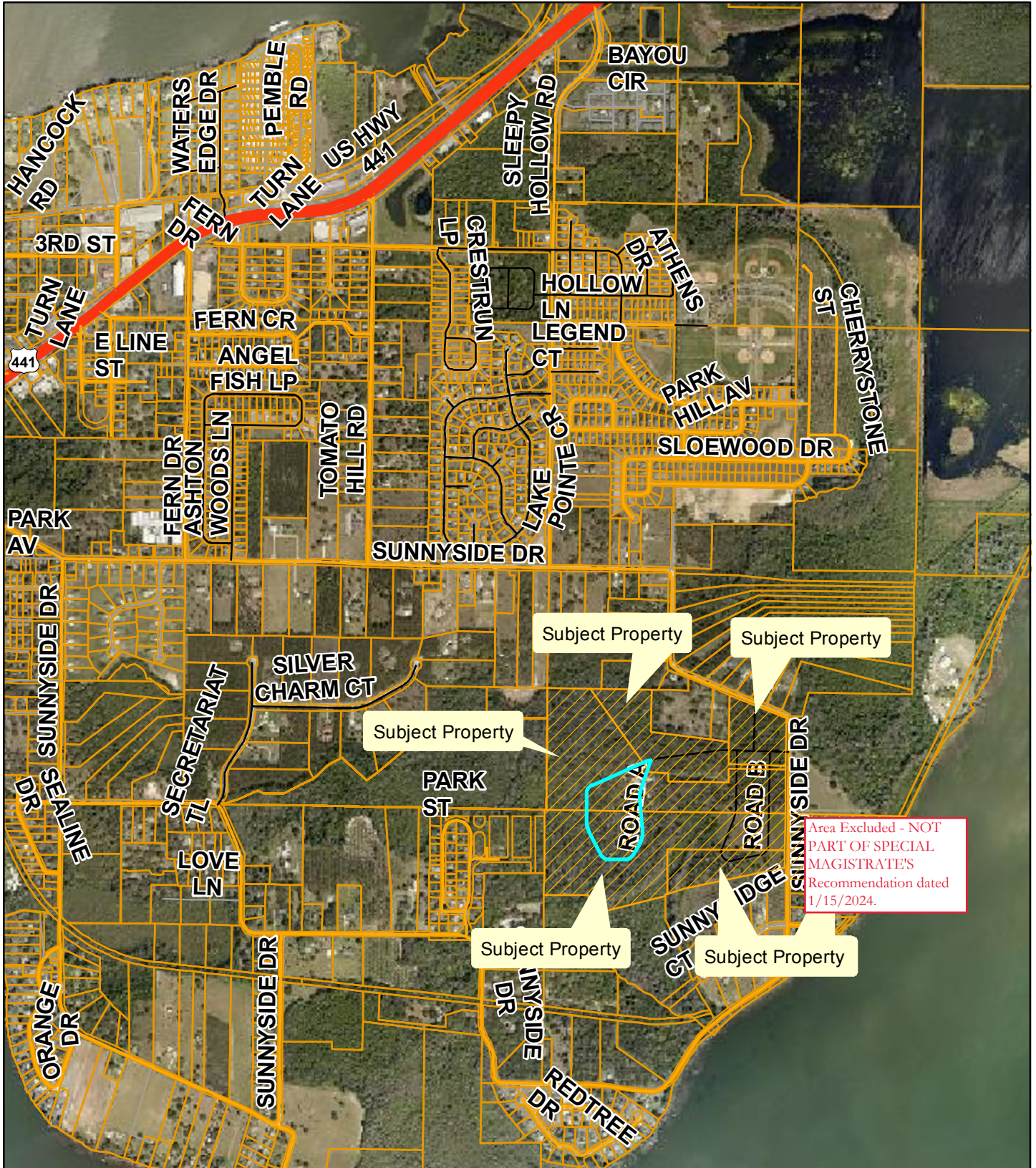
Sunnyside Lake Land Holding, LLC

AK#'s: 1207100, 1207118, 1207185, 1207789, 1207819, 1704006

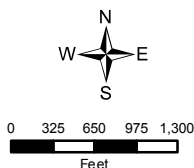
Sections 29, 32, 33, Township 19 South, Range 25 East

October 8, 2019

Aerial



**Planning
& Zoning
Division**



PUD-19-222

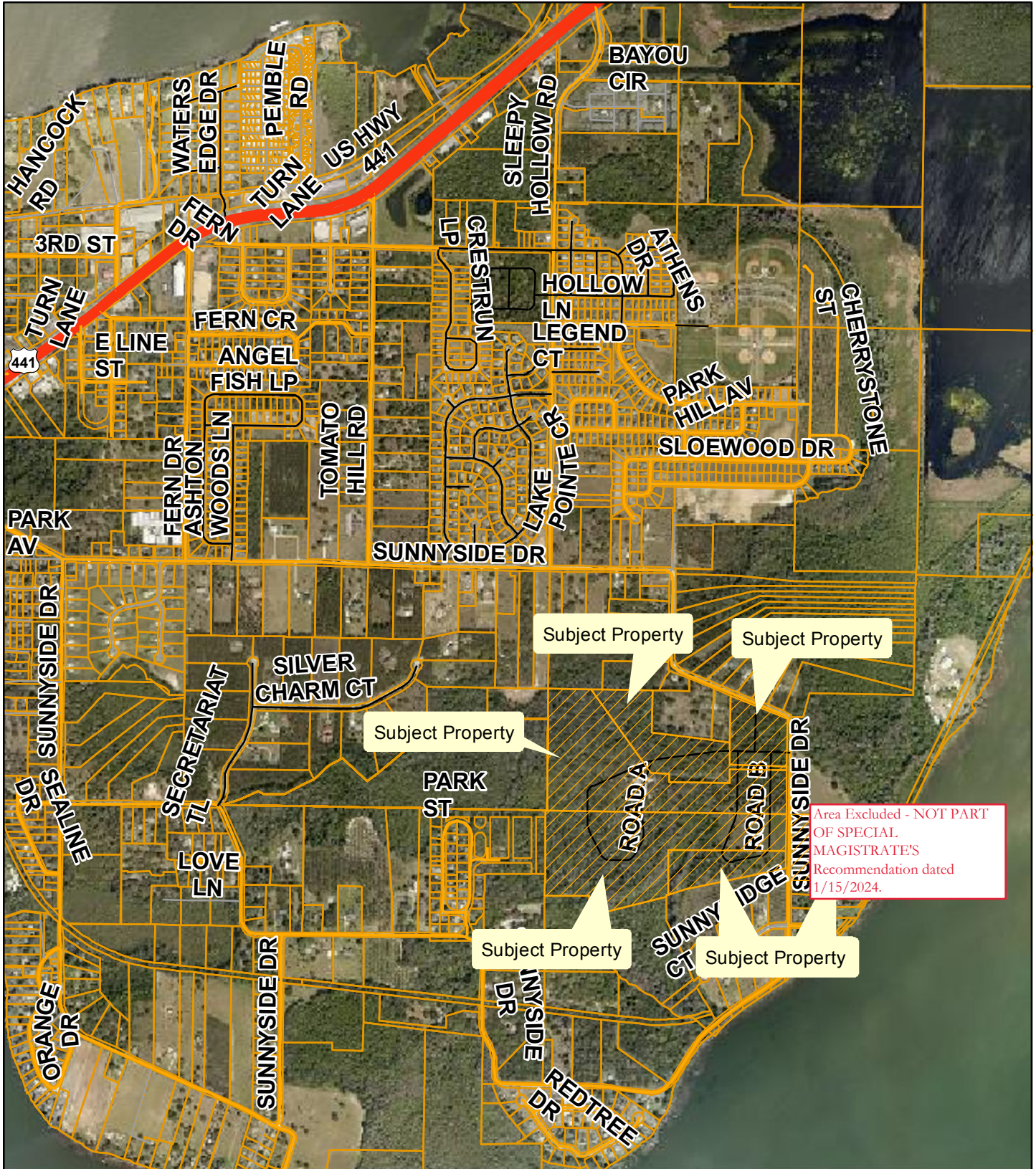
Sunnyside Lake Land Holding, LLC

AK#s: 1207100, 1207118, 1207185, 1207789, 1207819, 1704006

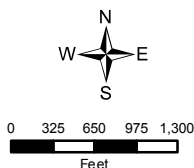
Sections 29, 32, 33, Township 19 South, Range 25 East

October 8, 2019

Aerial



**Planning
& Zoning
Division**



PUD-19-222

Sunnyside Lake Land Holding, LLC

AK#s: 1207100, 1207118, 1207185, 1207789, 1207819, 1704006

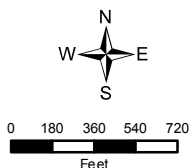
Sections 29, 32, 33, Township 19 South, Range 25 East

October 8, 2019

Zoning



**Planning
& Zoning
Division**



PUD-19-222

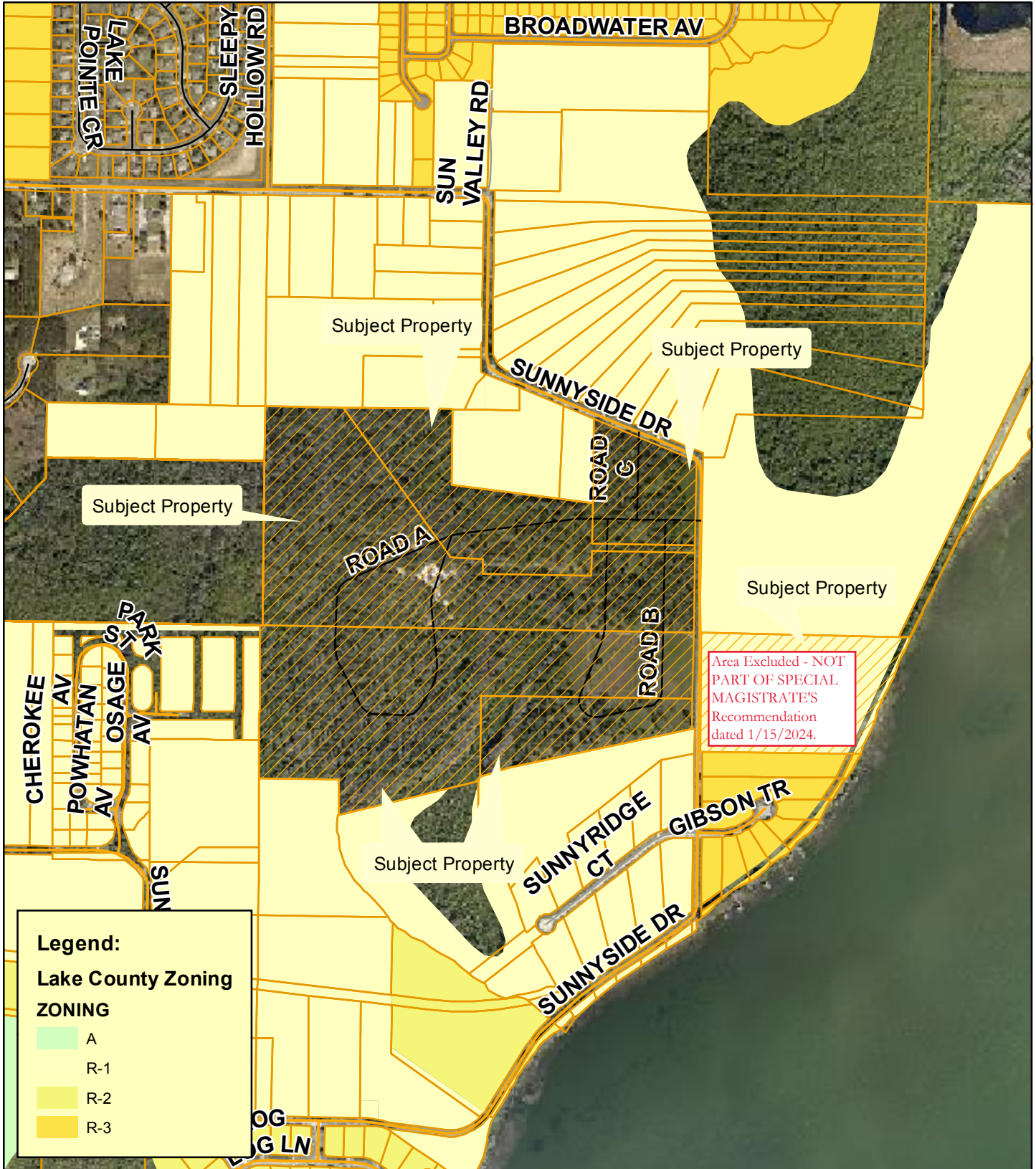
Sunnyside Lake Land Holding, LLC

AK#'s: 1207100, 1207118, 1207185, 1207789, 1207819, 1704006

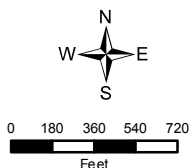
Sections 29, 32, 33, Township 19 South, Range 25 East

October 8, 2019

Lake County Zoning



**Planning
& Zoning
Division**



PUD-19-222

Sunnyside Lake Land Holding, LLC

AK#'s: 1207100, 1207118, 1207185, 1207789, 1207819, 1704006

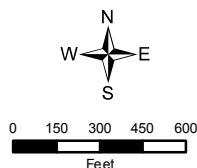
Sections 29, 32, 33, Township 19 South, Range 25 East

October 8, 2019

Surrounding Land Uses



**Planning
& Zoning
Division**



PUD-19-222

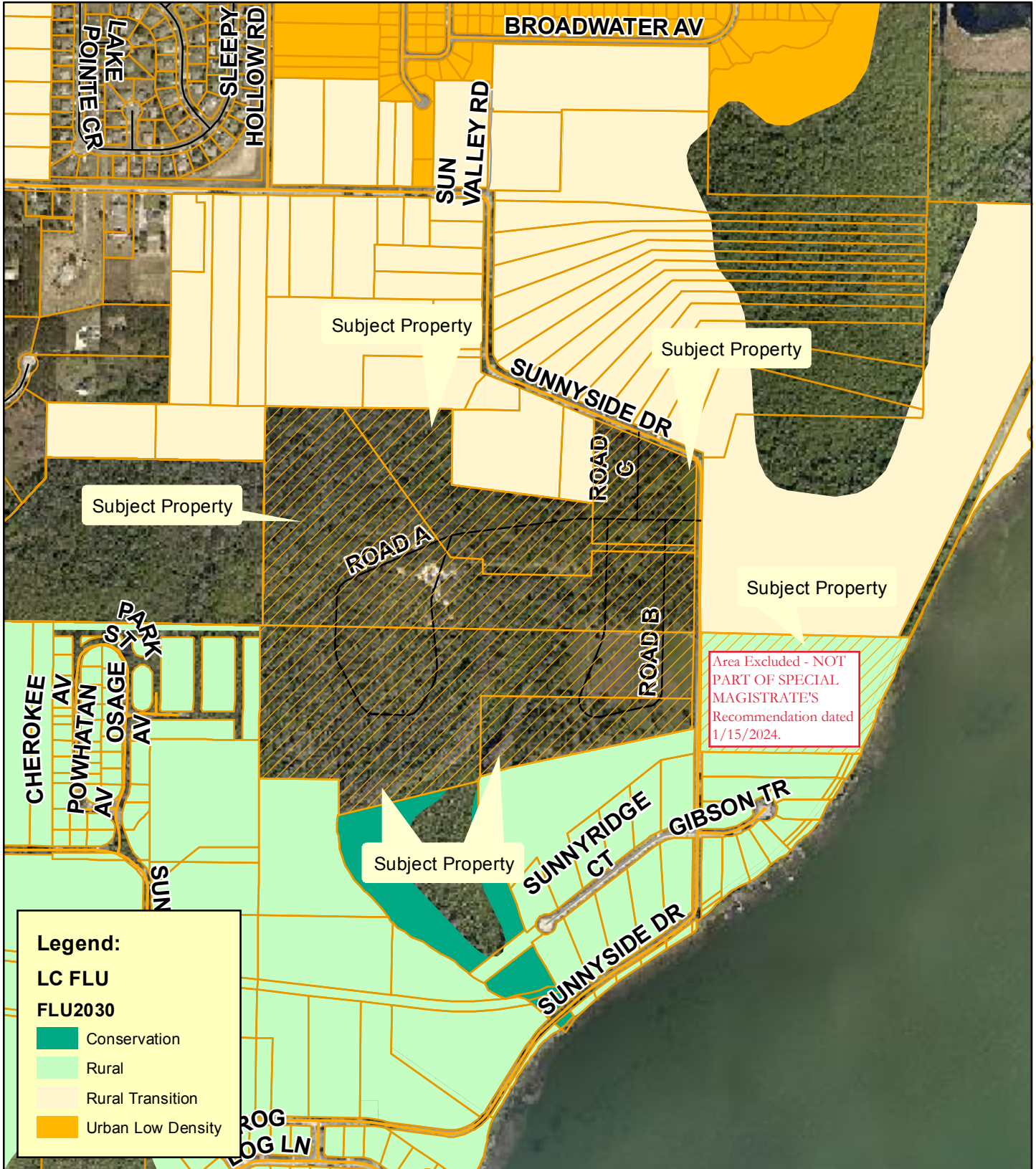
Sunnyside Lake Land Holding, LLC

AK#s: 1207100, 1207118, 1207185, 1207789, 1207819, 1704006

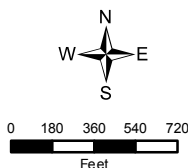
Sections 29, 32, ~~33~~, Township 19 South, Range 25 East

October 8, 2019

Lake County Future Land Use



**Planning
& Zoning
Division**



PUD-19-222

Sunnyside Lake Land Holding, LLC

AK#'s: 1207100, 1207118, 1207185, 1207789, 1207819, 1704006

Sections 29, 32, 33, Township 19 South, Range 25 East

October 8, 2019

Document Path: G:\Community Development\Planning and Zoning Division\PLANNING COMMISSION\IP & Z Cases\2019\Sunnyside Lake Land Holdings, LLC\IPUD-19-222 Sunnyside Lake Land Holdings, LLC\COL Maps\Aerial.mxd



October 8, 2019

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 6.B.2.

Meeting Date: March 25, 2024

From: Dan Miller, (Planning and Zoning Director), Christine Rock, (Senior Planner)

Subject: An Ordinance of the City of Leesburg, Florida, adding a PDO (Planned Development Overlay), with a waiver from Section 25-282 (a) (1) PDO five-acre minimum, to the existing R-3 (High Density Residential) zoning, on approximately 0.22 +/- acres to allow for an office, retail, and classroom uses for a property generally located south of East Main Street and west of Mike Street, lying in Section 25, Township 19 South, Range 24 East, Lake County, Florida; and providing an effective date. (CDC Office Mike Street PDO)

Staff Recommendation:

Planning and Zoning Staff and Planning Commission recommend approval of the request to add a PDO (Planned Development Overlay), with a waiver from Section 25-282 (a) (1) PDO five-acre minimum, to the existing R-3 (High Density Residential) zoning, to allow for office, retail, and classroom uses.

Analysis:

A Planned Development Overlay (PDO) allows an additional use or uses but keeps the underlying zoning district. PDOs are a tool for adding appropriate uses, where applicable, with the appropriate conditions.

The project site is approximately 0.22 +/- acres, and is generally located south of East Main Street and west of Mike Street as shown on the attached maps. At this time, the property is developed with an existing commercial building. The proposal will allow for office, retail, and classroom uses. Uses in this area include commercial, multifamily and single family residential, the Dabney Aquatic Center, museum, and the City of Leesburg.

The Planning Commission held a public hearing on the application on February 22, 2024 and recommended approval.

Procurement Analysis:

N/A

Options:

1. Approve the request for a Planned Development Overlay on the subject property; or

2. Other action as the Commission may choose.

Fiscal Impact:

A small positive fiscal impact will result from the creation of new jobs and businesses at this location.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, ADDING A PDO (PLANNED DEVELOPMENT OVERLAY), WITH A WAIVER FROM SECTION 25-282 (A) (1) PDO FIVE-ACRE MINIMUM, TO THE EXISTING R-3 (HIGH DENSITY RESIDENTIAL) ZONING, ON APPROXIMATELY 0.22 +/- ACRES TO ALLOW FOR AN OFFICE, RETAIL, AND CLASSROOM USES FOR A PROPERTY GENERALLY LOCATED SOUTH OF EAST MAIN STREET AND WEST OF MIKE STREET, LYING IN SECTION 25, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. (CDC OFFICE MIKE STREET PDO)

BE IT ENACTED BY THE PEOPLE OF THE CITY OF LEESBURG, FLORIDA, that:

Section 1.

Based upon the petition of the Community Development Corporation of Leesburg, 314 South Canal Street, Leesburg Florida, 34748, (John Christian (Agent) of the property hereinafter described, which petition has heretofore been approved by the City Commission of the City of Leesburg Florida, pursuant to the provisions of the Laws of Florida, the PDO (Planned Development Overlay), with a waiver from Section 25-282 (a) (1), PDO five-acre requirement, to allow an office, retail, and classroom uses on said property located in Lake County Florida, is hereby added to the existing City of Leesburg R-3 (High Density Residential) zoning, to-wit:

**(Legal Description)
(See Exhibit A)**

Section 2.

This ordinance shall become effective upon its passage and adoption, according to law.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held on the _____ day of _____ 2024.

THE CITY OF LEESBURG, FLORIDA

Mayor

ATTEST:

City Clerk

Exhibit A – Legal Description

Lot 3 in J.W. Lee's Subdivision of Lots 6, 8, 9 and 10, Block 57, of the CITY OF LEESBURG, FLORIDA, according to the Official Map thereof recorded in Plat Book 2, Page 19, Public Records of Lake County, Florida.

CDC Office Mike Street
PLANNED DEVELOPMENT OVERLAY CONDITIONS
In a R-3 (High Density Residential) Zoning District
February 22, 2024

These Planned Development Conditions for a PDO (Planned Development Overlay) District, with a waiver from City of Leesburg Code of Ordinances Section 25-282 (a) (1), PDO five acre minimum, are granted by the City of Leesburg, Florida to **Community Development Corporation of Leesburg**, whose address is **314 S. Canal Street, Leesburg, Florida 34748, "Permittee" (John Christian, 314 S. Canal Street, Leesburg, Florida 34748, Petitioner/Agent)** for the purposes, terms and conditions set forth herein pursuant to authority contained in Chapter 25 "Zoning", Section 25-278 *Planned Development Process* of the City of Leesburg Code of Ordinances, as amended.

PURPOSE

The purpose of this document is to provide appropriate zoning standards to maintain a high quality built environment through the application of flexible and diversified land use and development requirements.

BACKGROUND

The "Permittee" has submitted an application to request a PDO (Planned Development Overlay) zoning district, with waiver from Section 25-282 (a) (1), on an approximately 0.22 acre site within the City of Leesburg in accordance with their Planned Development Overlay application and supplemental information. The property is currently zoned R-3 (High Density Residential), with a Future Land Use designation of Institutional. The property is developed with a building with a present use of office and retail. The purpose is to continue the existing office and retail uses and allow the additional use of classroom.

REQUEST

1. Add a Planned Development Overlay (PDO) to a R-3 (High Density Residential) zoning to permit office, retail, and classroom uses in the Institutional Future Land Use.
2. A waiver from Section 25-282(a)(1), PDO 5-acre minimum requirement.

1. PERMISSION

Permission is hereby granted to the **Community Development Corporation of Leesburg**, whose address is **314 S. Canal Street, Leesburg, Florida 34748, "Permittee" (John Christian, 314 S. Canal Street, Leesburg, Florida 34748, Petitioner/Agent)** to operate and maintain a PDO (Planned Development Overlay) in and on real property in the City of Leesburg, subject the conditions described in this document. The property is generally located south of East Main Street and west of Mike Street and is more particularly described as shown in the attached legal description below.

2. LEGAL DESCRIPTION

See attached legal Exhibit "B"

3. **LAND USES**

The above-described property shall be used for R-3 (High Density Residential) uses with a PDO (Planned Development Overlay) as limited herein, and pursuant to City of Leesburg development codes and standards.

A. **Uses**

- 1) Uses shall be those listed as permitted uses in this document and shall occupy the approximate area as shown on the Conceptual Site Plan, Exhibit C.
- 2) Permitted uses:
 - a. Uses which are permitted within the R-3 (High Density Residential), subject to site review
 - b. Office uses, including general, professional and medical
 - c. Retail uses
 - d. Classroom uses
- 3) Uses prohibited shall be as follows:
 - a. All other uses not specifically approved herein or under the R-3 (High Density Residential) zoning district.

4. **SITE ACCESS**

- A. Existing access shall be maintained and shall be subject to permitting through the City of Leesburg, Lake County or the Florida Department of Transportation as required by law.

5. **DEVELOPMENT STANDARDS AND OPERATIONS**

- A. The minimum development standards, including, but not limited to, setbacks, maximum building height, impervious surface, open space, and parking requirements shall be those required for the C-1 (Neighborhood Commercial) zoning district except as amended by these conditions, which may limit the permitted uses based on site plan and parking requirements.
- B. All signs placed or constructed on the property shall comply with *Article VI- Sign Regulations, Section 25-421 through Section 25-426*, City of Leesburg Code of Ordinances, as amended.
 - 1) May utilize *Section 25-424(c) Commercial Districts*, consistent with 5A.

6. **MISCELLANEOUS CONDITIONS**

- A. The uses of the proposed project shall only be those uses identified in these approved Planned Development Overlay Conditions, or as set forth in the underlying zoning district. Any other proposed use must be specifically authorized through rezoning the property, or in accordance with the Planned Development amendment process.
- B. No person, firm or corporation shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building structure, or alter the land in any manner without first submitting the necessary plans and obtaining appropriate approvals in accordance with the City of Leesburg Code of Ordinances.
- C. Construction and operation of the proposed use(s) shall at all times comply with City and other governmental agencies rules and regulations.
- D. The transfer of ownership or lease of any or all of the property described in this agreement shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to this agreement as established herein and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following the procedures as described in the City of Leesburg Land Development Code, as amended.

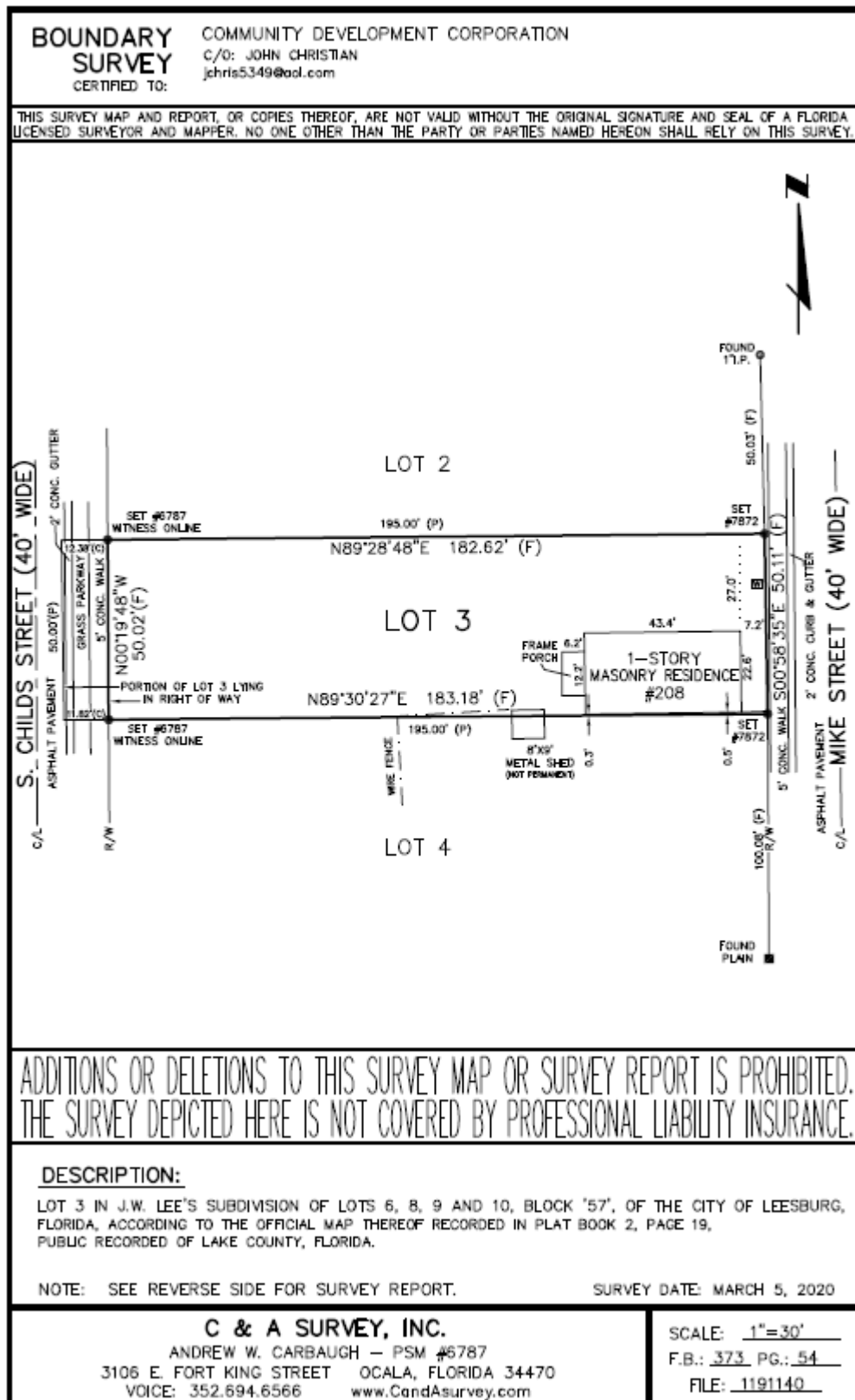
- E. These Planned Development Overlay Conditions shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor, and shall be subject to each and every condition herein set out.
- F. The granting of this Planned Development Overlay does not exempt the applicant from any other applicable regulations of the City of Leesburg and other governmental agencies and assessment of impact fees as required by ordinance.
- G. On December 14, 2023, the Planning Commission has granted a waiver from City of Leesburg Code of Ordinances Section 25-282 (a) (1), which requires a subject property with minimum of five (5) acres of continuous land for a Planned Development Overlay.

LEGAL DESCRIPTION
PUD-23-592

EXHIBIT B
(from Deed)

Lot 3 in J.W. Lee's Subdivision of Lots 6, 8, 9 and 10, Block 57, of the CITY OF LEESBURG, FLORIDA, according to the Official Map thereof recorded in Plat Book 2, Page 19, Public Records of Lake County, Florida.

Parcel ID#2519240600-000-00300





CITY OF LEESBURG PLANNING & ZONING DIVISION RECOMMENDATIONS

DATE: February 22, 2024
OWNER: Community Development Corporation of Leesburg
PETITIONER: John Christian
PROJECT: CDC Office Mike Street PDO (Planned Development Overlay)
CASE NO.: PUD-23-592

REQUEST

1. Add a Planned Development Overlay (PDO) to a R-3 (High Density Residential) zoning that allows retail, office, and classroom uses with Institutional Future Land Use.
2. A waiver from Section 25-282(a)(1), PDO 5-acre minimum requirement.

BACKGROUND

The property is currently zoned R-3 (High Density Residential) with an Institutional future land use and is located in close proximity to the Pine Street Commercial Corridor. The present use of the property is office and retail. The proposed PDO will allow the existing uses as well as classroom use. As currently zoned, changes to the underlying R-3 (High Density Residential) zoning district or Institutional Future Land Use could constitute a “spot zoning,” or an inconsistent land use amendment, and thus be incompatible with City of Leesburg Comprehensive Plan, *Future Land Use Element*, Objective 1.6, Policy 1.6.1. 5.

Per City of Leesburg Code of Ordinances Section 25-282 (a)(1), unless waived by the Planning Commission, a PDO shall include less than 5 acres of contiguous land. The subject property is 0.22 +/- acres, therefore, if the Planning Commission wishes to approve the request, the project will require a waiver.

Staff recognizes that the proposed uses are consistent with the existing uses in the area and with the nearby Pine Street upgrades that are currently underway.

THE PLANNING & ZONING DIVISION RECOMMENDS:

APPROVAL of the request for the following reason(s):

1. The proposed requests are compatible with the existing zoning district of R-3 (High Density Residential), and the surrounding zoning districts of C-1 (Neighborhood Commercial), R-3

(High Density Residential), P (Public), and PSC (Pine Street Commercial).

2. There is no change proposed to the Future Land Use designation of Institutional. Allowed within in the future land use are not-for-profit and semi-public uses as well as educational facilities.
3. The request for the addition of a Planned Development Overlay, with request for waiver from Section 25-282(a)(1), is compatible with the current surrounding Future Land Use designations, including Institutional, General Commercial, and Transitional.
4. The requests will allow office, retail, and classroom uses consistent with the surrounding land uses, while maintaining the existing Zoning and Future Land Use designation.
5. The proposed requests do not appear to create a detriment to surrounding properties, based on the location and proximity to compatible development.

Action Requested:

1. Vote to **approve** the addition of a Planned Development Overlay on a R-3 (High Density Residential) zoning, with a waiver from Section 25-282(a)(1), and forward this recommendation to the City Commission for consideration.

**CITY OF LEESBURG PLANNING & ZONING DIVISION
STAFF SUMMARY**

DATE: January 29, 2024
OWNER: Community Development Corporation of Leesburg
PETITIONER: John Christian
PROJECT: CDC Office Mike Street PDO
REQUEST: PDO with waiver from Sec. 25-282 (a) (1)
CASE NO.: PUD-23-592

GENERAL LOCATION: South of E. Main Street and west of Mike Street

FUTURE LAND USE DESIGNATION: Institutional

SURROUNDING FUTURE LAND USE DESIGNATION:

North – Institutional, Transitional
South – Institutional
East – Transitional
West – General Commercial

PROPOSED FUTURE LAND USE DESIGNATION: No change.

EXISTING ZONING DESIGNATION: R-3 (High Density Residential)

SURROUNDING ZONING DESIGNATIONS:

North – R-3 (High Density Residential), P (Public)
South – R-3 (High Density Residential), P (Public)
East – R-3 (High Density Residential)
West – R-3 (High Density Residential)

PROPOSED ZONING DESIGNATION: R-3 (High Density Residential), with a PDO permitting office, retail, and classroom uses.

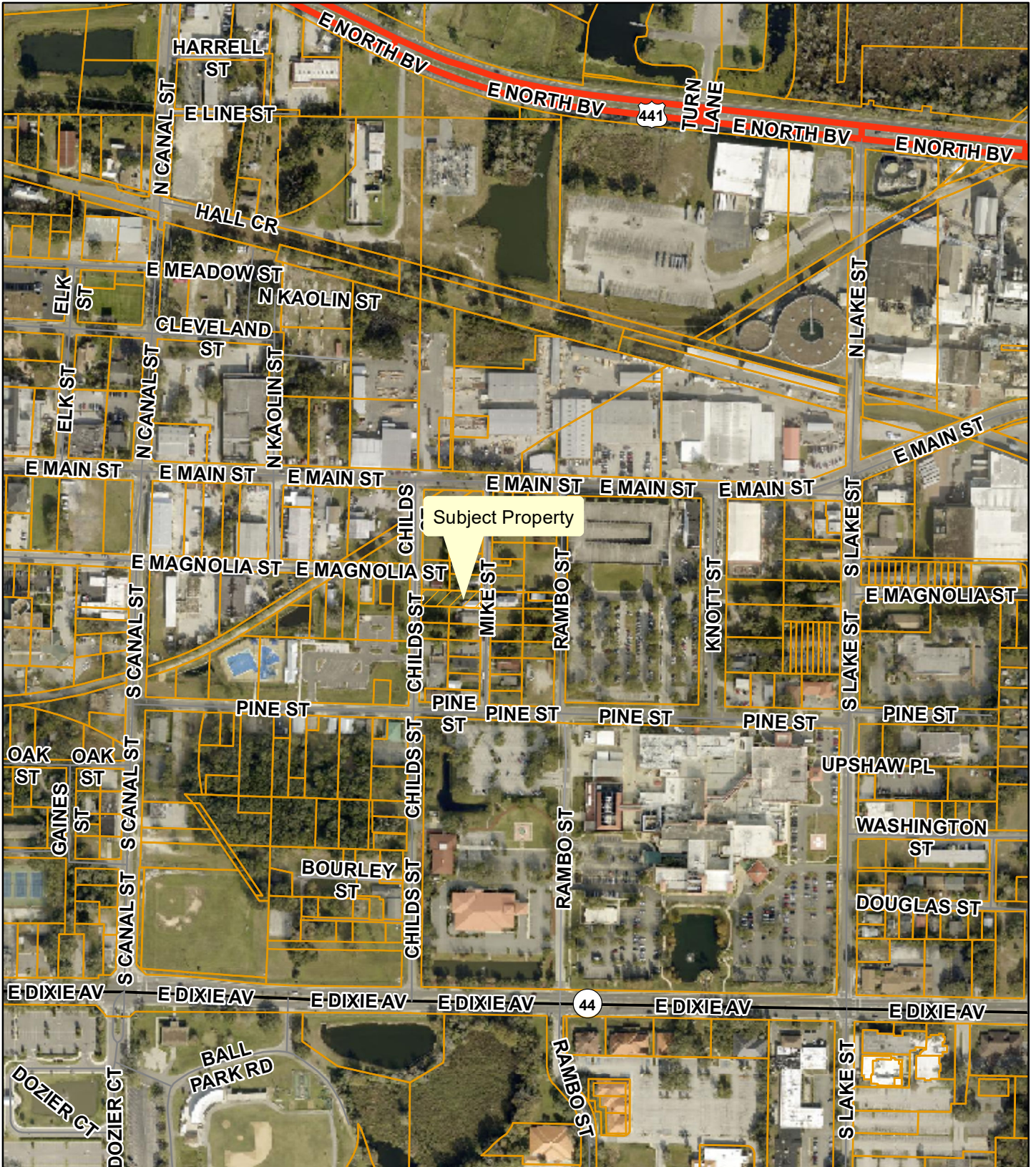
EXISTING LAND USE: Office, Retail

SURROUNDING EXISTING LAND USE:

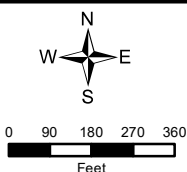
North – Single-family, Government
South – Single-family, Government
East – Single-family, Vacant Residential
West – Government

PROPOSED LAND USE: Office, Retail, Classroom

Locator



**Planning
& Zoning
Division**



CDC Office Mike Street PDO

PUD-23-592

207 Mike Street

AK #1231361

Section 25, Township 19 South, Range 24 East

January 9, 2024

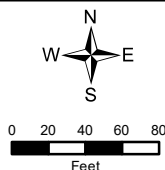
Aerial



Subject Property



**Planning
& Zoning
Division**



CDC Office Mike Street PDO

PUD-23-592

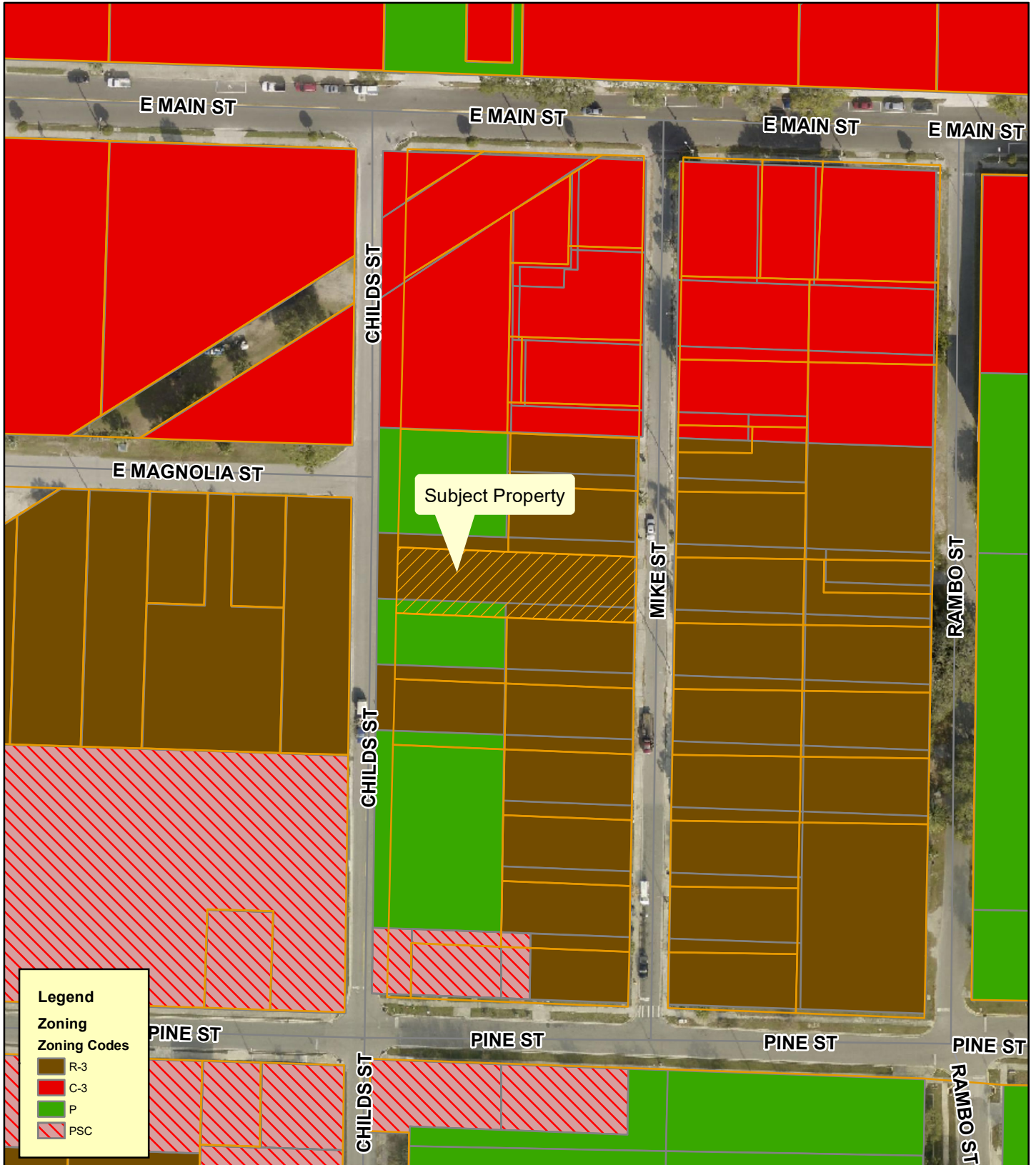
207 Mike Street

AK #1231361

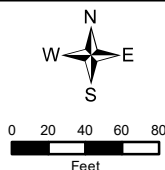
Section 25, Township 19 South, Range 24 East

January 9, 2024

Zoning



**Planning
& Zoning
Division**

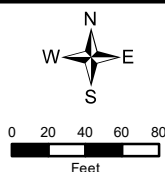


CDC Office Mike Street PDO
PUD-23-592
207 Mike Street
AK #1231361
Section 25, Township 19 South, Range 24 East
January 9, 2024

Surrounding Land Uses



**Planning
& Zoning
Division**



CDC Office Mike Street PDO

PUD-23-592

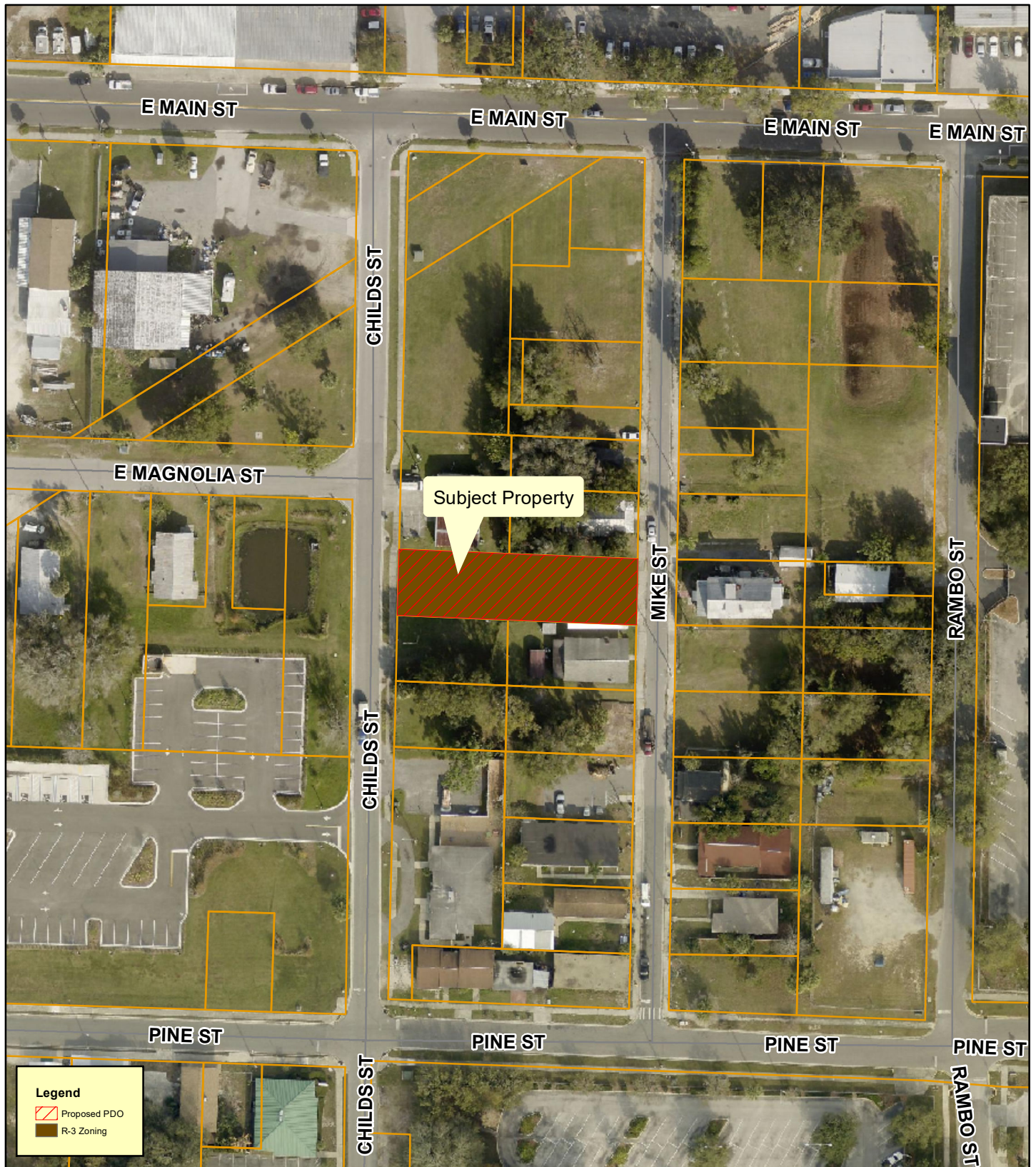
207 Mike Street

AK #1231361

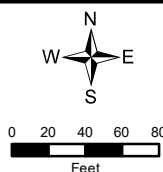
Section 25, Township 19 South, Range 24 East

January 9, 2024

Proposed Planned Development Overlay



**Planning
& Zoning
Division**



CDC Office Mike Street PDO

PUD-23-592

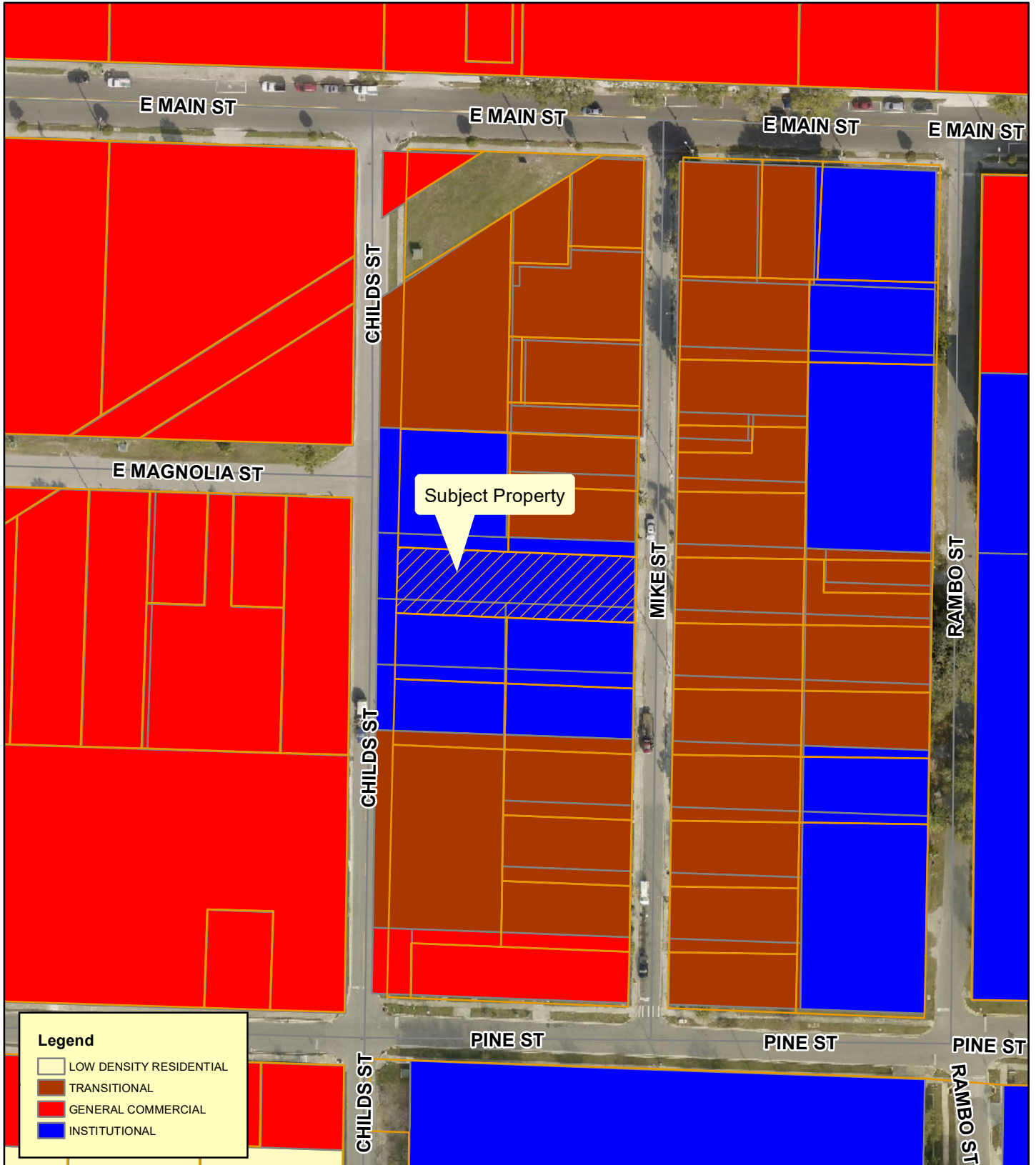
207 Mike Street

AK #1231361

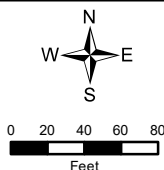
Section 25, Township 19 South, Range 24 East

January 9, 2024

Future Land Use

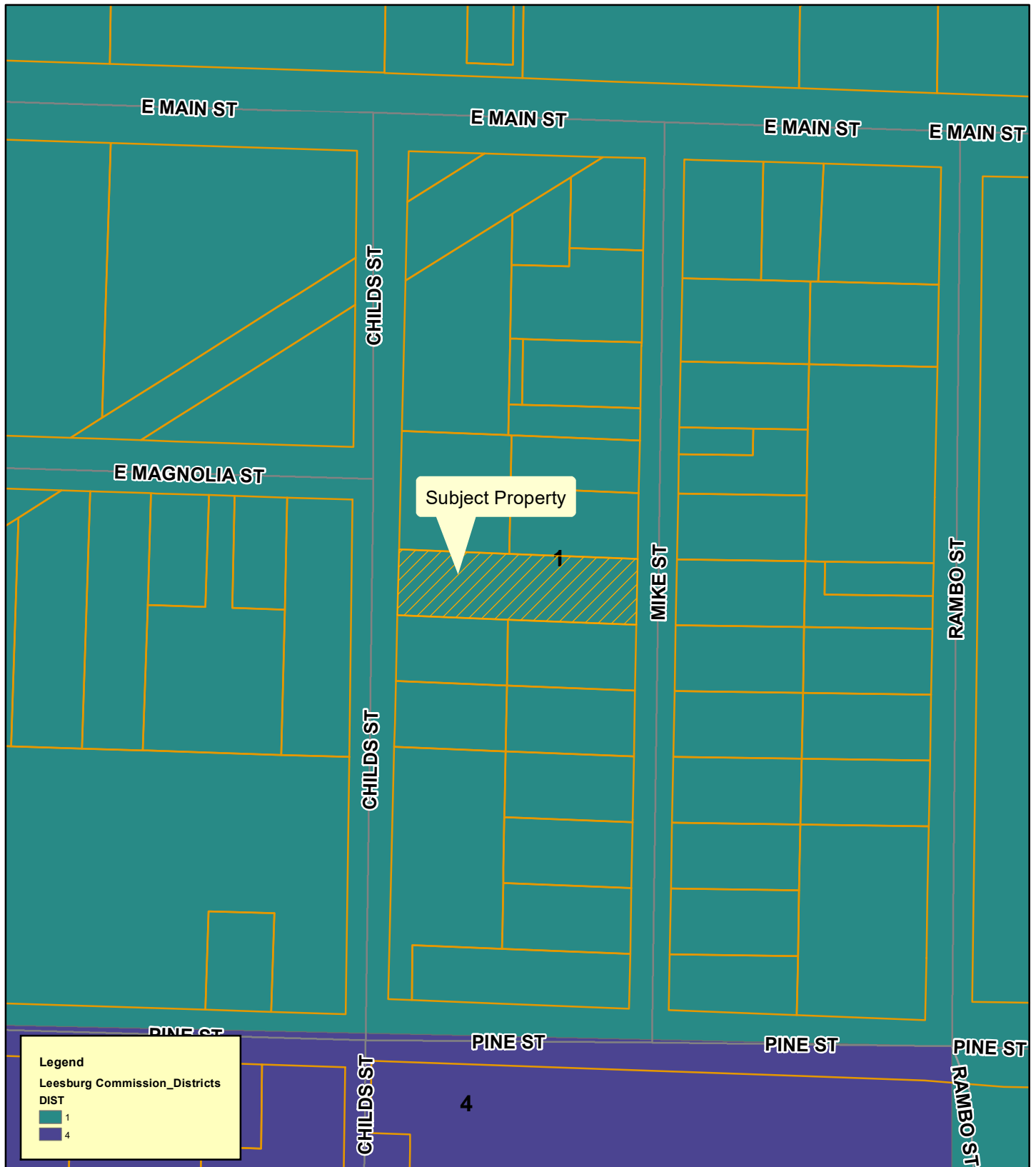


**Planning
& Zoning
Division**

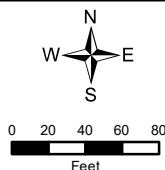


CDC Office Mike Street PDO
 PUD-23-592
 207 Mike Street
 AK #1231361
 Section 25, Township 19 South, Range 24 East
 January 9, 2024

Commission District



**Planning
& Zoning
Division**



CDC Office Mike Street PDO

PUD-23-592

207 Mike Street

AK #1231361

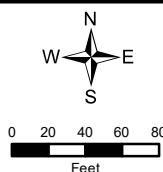
Section 25, Township 19 South, Range 24 East

January 9, 2024

Community Redevelopment Area



**Planning
& Zoning
Division**



CDC Office Mike Street PDO
PUD-23-592
207 Mike Street
AK #1231361
Section 25, Township 19 South, Range 24 East
January 9, 2024

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 6.B.3.

Meeting Date: March 25, 2024

From: Andi Purvis, (City Clerk)

Subject: An Ordinance of the City of Leesburg, Florida, amending the City Code of Ordinances, by amending Article IV, Chapter 9 - Elections; providing for five single member commissioner districts; providing for severability; providing for conflicts; and providing an effective date.

Staff Recommendation:

Staff recommends approval of the proposed ordinance.

Analysis:

Ordinance 21-10 amended the City Charter of the City of Leesburg, Florida, the Ordinance failed to address the election related policies in the City' Code of Ordinances ("Code"); and the City Commission of the City of Leesburg wishes to amend the City's Code as it pertains to elections to be consistent with the City's Charter.

Procurement Analysis:

N/A

Options:

1. Adopt the Ordinance as presented, or
2. Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

None

ORDINANCE NO. 2024-_____

**AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA
AMENDING THE CITY CODE OF ORDINANCES BY
AMENDING ARTICLE IV, CHAPTER 9 – ELECTIONS;
PROVIDING FOR FIVE SINGLE MEMBER
COMMISSIONER DISTRICTS; PROVIDING FOR
SEVERABILITY; PROVIDING FOR CONFLICTS; AND
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City Commission of the City of Leesburg passed Ordinance 21-10 that implemented the will of the electors of Leesburg to create five single member districts for City Commissioners and establish new district boundaries; and

WHEREAS, Ordinance 21-10 amended the City Charter of the City of Leesburg, Florida, the Ordinance failed to address the election related policies in the City’ Code of Ordinances (“Code”); and

WHEREAS, the City Commission of the City of Leesburg wishes to amend the City’s Code as it pertains to elections to be consistent with the City’s Charter.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE
CITY OF LEESBURG, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The above recitals are adopted and incorporated herein by reference.

Section 2. Text Amendment. Chapter 9, Article IV, of the City of Leesburg Code of Ordinances is hereby amended to read as follows:

(Words in ~~struck through~~ are deletions from existing law; Words in underscored type are additions)

Sec. 9-2. Nomination of candidates; form of statement and oath of candidate; qualifying fees.

- (a) Candidates for election to a municipal office may be nominated by a duly organized political party or by petition, or by statement and oath of the candidate in person. If nominated by political party or petition, the procedure as provided by the applicable statutes of the state shall be followed. If nomination by statement of the candidate the statement shall be substantially as follows:

"To the City Clerk of the City of Leesburg, Florida:

I, _____, do hereby declare myself to be a candidate for the office of _____
in Group _____ at the city election to be held on the _____ day of _____, 1920____. "

State of Florida
County of

Before me, an officer authorized to administer oaths, personally appeared (please print name as you wish it to appear on the ballot), to me well know, who, being sworn, says that he is a candidate for the office of _____; that he is a qualified elector of Lake County, Florida; that he is qualified under the Constitution and the laws of Florida and the Charter and ordinance of the City of Leesburg to hold the office to which he desires to be nominated or elected; that he has taken the oath required by §§ 876.05 through 876.10, Florida Statutes; that he has not violated any of the laws of the state relating to elections or the registration of electors; that he has qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with that of the office he seeks; that he has resigned from any office from which he is required to resign pursuant to § 99.012, Florida Statutes; and that he is a duly qualified elector of the City of Leesburg, Florida.

(Signature of candidate)

(Address)

"Sworn to and subscribed before me this _____ day of _____, 1920 at _____ County, Florida.

(Signature and title of officer administering oath)"

- (b) Except for those persons seeking to qualify under § 99.095 Florida Statutes, each candidate for city commission shall pay a qualifying fee. The qualifying fee shall be 6.5% of the annual compensation provided by the city to its commissioners and shall be proportioned with 1.5% forwarded to the State of Florida Division of Elections pursuant to state law and 5.0% retained by the city.
- (c) ~~If the~~ Each candidate is running for election to Seat 1, 2, or 3, ~~then the sworn statement of the candidate~~ shall also set forth that (s)he is an actual, bona-fide resident living within the boundaries of District _____, as they currently exist in the City of Leesburg, Florida.

Sec. 9-3. Candidate residency requirements.

- (a) All candidates for city commission shall reside within the municipal limits of the City of Leesburg, Florida. In addition, the following requirements shall apply for each seat:
 - (1) Candidates for Seat 1 each must reside within Commission District One.
 - (2) Candidates for Seat 2 each must reside within Commission District Two.
 - (3) Candidates for Seat 3 each must reside within Commission District Three.
 - (4) Candidates for Seat 4 each must reside within Commission District Four ~~and Seat 5 may reside anywhere within the municipal limits.~~
 - (5) Candidates for Seat 5 each must reside within Commission District Five.

Sec. 9-4. District boundaries.

The boundaries of Districts 1, 2, 3, 4, and 5 ~~and 3~~ shall be adjusted, based on the 20240 Census Data, as set forth on the map attached to Ordinance ~~21-1011-108~~, in keeping with the requirements of the one (1) person, one (1) vote rule and the standards set forth in that certain final judgment entered in Case No. 83-66-CIV-OC-14 in the United States District Court for the Middle District of Florida, on October 15, 1985, by the United States District Court for the Middle District of Florida.

Sec. 9-5. Adjustments to district boundaries.

Commission district boundaries shall be adjustment by ordinance only in accordance with the following guidelines:

- (1) Upon the release of the ~~1990~~2020 census, and upon the release of census data every ten (10) years thereafter, district boundaries shall be adjusted so that each district has a constitutionally equal population of persons eligible to vote (whether or not registered), in order to conform with the one-person, one-vote rule.
- (2) If the districts should fall out of substantial conformity with the one-person, one-vote rule between census dates, due to population growth or shift, or annexation, or contracting of municipal limits, then district boundaries may be adjusted so as to equalize, as nearly as possible, the populations of eligible voters in each district.
- (3) In redefining district boundaries, the city commission shall ensure that the changes do not lead to a retrogression in the position of minorities with respect to their effective exercise of the electoral process, and that no such change violates, or results in a violation of, the Federal Voting Rights Act.

Sec. 9-6. Voting residency requirements.

In addition to any other requirements imposed by state or federal law or this Code, in regular or special elections for city commissioners for Seats 1, 2, 3, 4 and 35, only registered voters who are actual, bona-fide residents of the particular commission district or districts for which the election is being held shall vote for candidates seeking the commission seat assigned to that respective district. ~~Any registered voter living within the municipal limits of the City of Leesburg may vote for candidates seeking election to Seats 4 and 5.~~

Sec. 9-10. Specifying seats.

Each certificate on nomination, petition of nomination or declaration of nomination shall specify the seat and district in which the candidate is seeking office, ~~or that the candidate is seeking election to either Seat 4 or 5.~~ The person seeking election to each seat who receives a majority of the votes cast shall be declared elected.

Section 3. Severability and Conflicts. The provisions of this ordinance are severable, and it is the intention of the City Commission of the City of Leesburg, Florida, to confer the whole or

any part of the powers herein provided. If any court of competent jurisdiction shall hold any of the provisions of this ordinance unconstitutional, the decision of such court shall not impair any remaining provisions of this ordinance.

Section 4. Effective Date. This Ordinance shall be in effect immediately after its final adoption by the City of Leesburg Commission.

PASSED AND ADOPTED this ____ day of _____, 2024 by the City Commission of the City of Leesburg, Florida.

James A. Burry, Jr., Mayor

ATTEST:

J. Andi Purvis, City Clerk

Approved as to form:

William Grant Watson, City Attorney

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 6.B.4.

Meeting Date: March 25, 2024

From: Dan Miller, (Planning and Zoning Director)

Subject: An Ordinance of the City of Leesburg, Florida, amending the boundary lines of the Village Community Development District No. 14, pursuant to chapter 190, Florida Statutes; and providing an effective date. (Villages CDD 14 Amendment)

Staff Recommendation:

The Planning and Zoning Staff recommend approval of the request to amend the boundaries of the Villages of West Lake CDD No. 14.

Analysis:

This item is a request from the Villages of West Lake to amend the current boundaries of Community Development District No. 14, which was created under Ordinance 21-20. This action will reduce the overall size of the district from 2,385.2 +/- acres, to 1,013.1 acres, a reduction of 1,372.1 acres, more or less. Attached are maps under exhibits 1, 2, and 3, showing the current land area of CDD No. 14, the area to be removed from the district, and the revised area.

Community Development Districts are permitted under Chapter 190, Florida statutes, and are a form of special purpose district which can be created to manage, finance and deliver basic community development services. These services can include, but are not limited to, the financing, finding, construction and operation of water and wastewater systems, roads, bridges, transit shelters, environmental, conservation mitigation areas and parks, plus schools and security measures. Each CDD is specific to a described area, with no zoning, development permitting or police power, and has no authority to encumber debt to a local government. Each district must remain in compliance with the local governments' comprehensive plan.

Procurement Analysis:

N/A

Options:

1. Approve the proposed amendment to the boundary of CDD No. 14 or,
2. Other such action as the Commission may deem appropriate.

Fiscal Impact:

No fiscal impact is anticipated as a result of this action. CDD's have no authority to encumber debt to a local government.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, AMENDING THE
BOUNDARY LINES OF THE VILLAGE COMMUNITY DEVELOPMENT
DISTRICT NO. 14, PURSUANT TO CHAPTER 190, FLORIDA STATUTES;
AND PROVIDING AN EFFECTIVE DATE. (VILLAGES CDD 14
AMENDMENT)**

WHEREAS, on July 26, 2021, the City Commission adopted Ordinance No. 21-30 establishing the Village Community Development District No. 14, pursuant to Chapter 190, Florida Statutes, providing for authority and power of the District, providing for the Board of Supervisors of the District, providing for the District budget, providing for functions of the District, providing for miscellaneous provisions, and providing for an effective date; and

WHEREAS, The Village Community Development District No. 14 (the "Petitioner") has petitioned the City Commission for the City of Leesburg, Florida, (the "City") to adopt an ordinance amending the District Boundary Lines, pursuant to Chapter 190, Florida Statutes; and

WHEREAS, the City has considered and finds that the proposed amended boundary lines are not inconsistent with any element or portion of the applicable Comprehensive Plan; and

WHEREAS, the City has considered and finds that the area of land within the amended District is a sufficient size, and is sufficiently compact, and is sufficiently contiguous to be developed as a functional interrelated community; and

WHEREAS, the City has considered and finds that the amended District is the best alternative for delivering the community development services and facilities to the area that will be served by the District; and

WHEREAS, the City has considered and finds that the community development services and facilities of the amended District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities; and

WHEREAS, the duly noted public hearing on the petition was held prior to the adoption of this Ordinance amending the District boundary lines.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Leesburg, Florida, as follows:

SECTION 1. AUTHORITY. This ordinance is adopted in compliance with and pursuant to the Uniform Community Development Act of 1980, Chapter 190, Florida Statutes, (2024) as amended.

SECTION 2. EXTERNAL BOUNDARIES OF THE DISTRICT. The external boundaries of the District are amended and described in the exhibits attached hereto, including Exhibits 1-8.

SECTION 3. SEVERABILITY. If any provision of this ordinance, or application therefore, is finally determined by a Court of competent jurisdiction to be invalid, illegal or unenforceable, such provision

shall be deemed to be severable, and the remaining provisions shall continue in full force and effect provided that the invalid, illegal, or unenforceable provision is not material to the logical and intended interpretation of this Ordinance.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect upon its passage and adoption pursuant to general law.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida at a regular meeting held on the ____ day of _____, 2024.

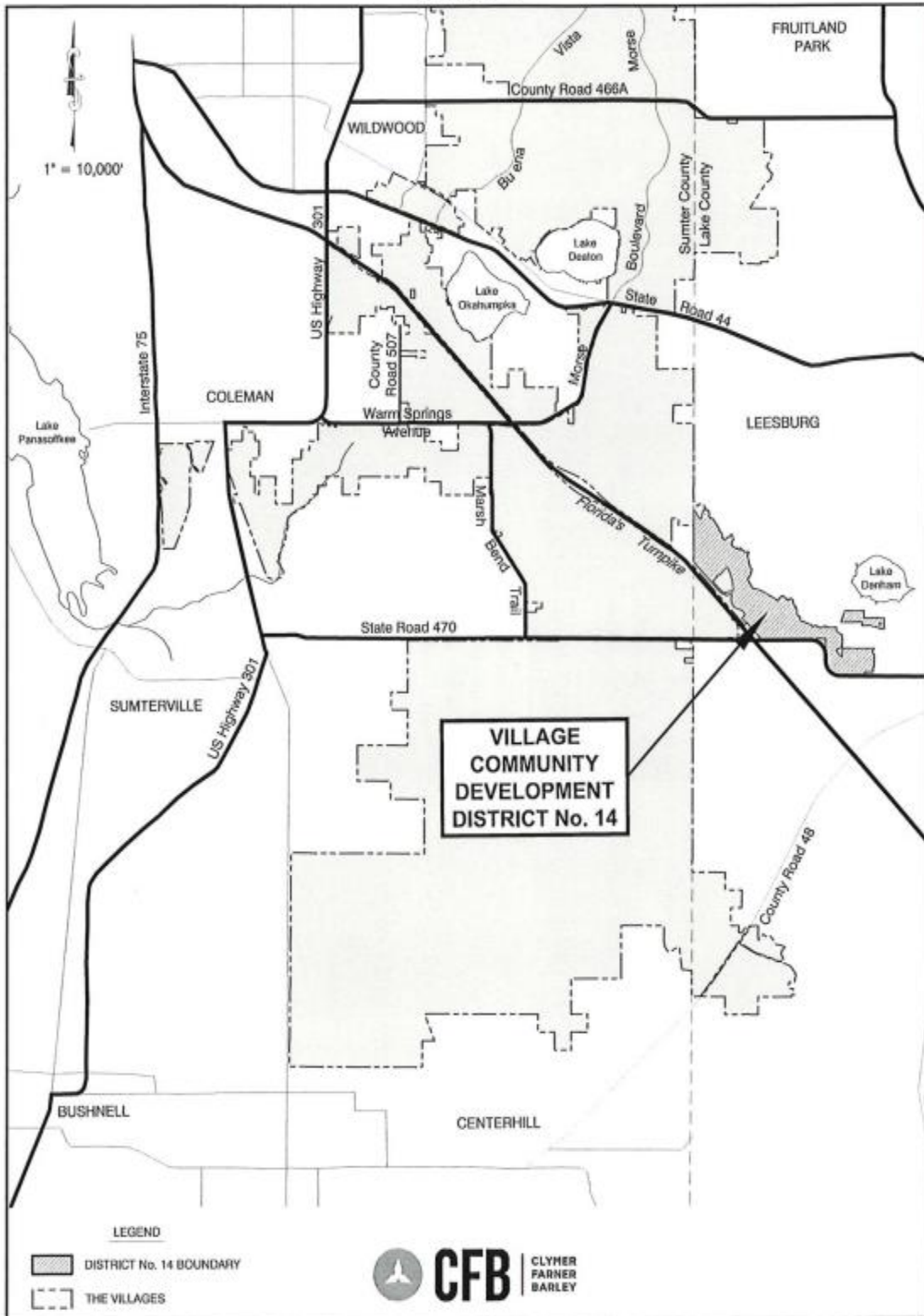
THE CITY OF LEESBURG, FLORIDA

Mayor

ATTEST:

City Clerk

EXHIBIT 1



GENERAL LOCATION MAP

EXHIBIT 2



VILLAGE COMMUNITY DEVELOPMENT DISTRICT No. 14

EXHIBIT 3



NET AREAS TO BE DELETED FROM VILLAGE COMMUNITY DEVELOPMENT DISTRICT No. 14

RESOLUTION NO. 2024-04

A RESOLUTION OF VILLAGE COMMUNITY DEVELOPMENT DISTRICT NO. 14 DIRECTING THE CHAIRMAN AND DISTRICT STAFF TO FILE A PETITION WITH THE CITY OF LEESBURG, FLORIDA REQUESTING THE PASSAGE OF AN ORDINANCE AMENDING THE DISTRICT'S BOUNDARIES, AND AUTHORIZING SUCH OTHER ACTIONS AS ARE NECESSARY IN FURTHERANCE OF THE BOUNDARY AMENDMENT PROCESS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Village Community Development District No. 14 (the "District") is a unit of special-purpose government established pursuant to the Uniform Community Development District Act of 1980, as codified in Chapter 190, *Florida Statutes* ("Uniform Act"), by the City of Leesburg, Florida ("County") by passage of Ordinance No. 21-30 and subsequently amended by Ordinance No. 22-10;

WHEREAS, pursuant to the Uniform Act, the District is authorized to construct, acquire, and maintain infrastructure improvements and services including, but not limited to, roads, drainage collection and water management systems, bridges, water supply and distribution systems, wastewater and reuse systems;

WHEREAS, the District presently consists of 2,385.20 acres, more or less, as more fully described in the Ordinance;

WHEREAS, The Villages Land Company, LLC, ("Developer"), and its affiliates are presently developing real property within and adjacent to the District; and

WHEREAS, the Developer has approached the District and requested the District petition to amend its boundaries to comprise the area described in the attached **Exhibit 6**, in an effort to facilitate development of the overall lands as a functionally interrelated community and to promote compact and economical development of lands; and

WHEREAS, the proposed amendment to the District's boundaries would result 1,013.10 acres more or less, a deletion of 1,372.10 acres, more or less, the amendment size restrictions contained within §190.046(1), *Florida Statutes*; and

WHEREAS, the proposed boundary amendment is in the best interests of the District and the area of land within the proposed amended boundaries of the District will continue to be of sufficient size, sufficiently compact, and sufficiently contiguous to be developable as one functionally related community; and

WHEREAS, for the area of land that will lie in the amended boundaries of the District, the District is the best alternative available for delivering community development services and facilities; and

WHEREAS, the area of land that will lie in the amended boundaries of the District is amendable to separate special district government; and

WHEREAS, in order to seek boundary amendment pursuant to Chapter 190, *Florida Statutes*, the District desires to authorize District Staff, including but not limited to legal, engineering, and managerial staff, to provide such services as are necessary throughout the pendency of the boundary amendment process; and

WHEREAS, the retention of any necessary consultants and the work to be performed by District Staff may require the expenditure of certain fees, costs, and other expenses by the District as authorized by the District's Board; and

WHEREAS, the Developer has agreed to provide sufficient funds to the District to reimburse the District for any expenditures including, but not limited to, legal, engineering and other consultant fees, filing fees, administrative, and other expenses, if any; and

WHEREAS, the District desires to petition to amend its boundaries in accordance with the procedures and processes described in Chapter 190, *Florida Statutes*, which processes include the preparation of a petition to the County, the holding of a local hearing in accordance with §190.046(1), *Florida Statutes*, and such other actions as are necessary in furtherance of the boundary amendment process.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF VILLAGE COMMUNITY DEVELOPMENT DISTRICT NO. 14, THAT:

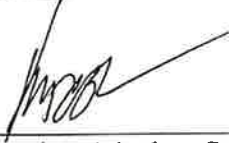
SECTION 1. The recitals as stated above are true and correct and by this reference are incorporated into and form a material part of this Resolution.

SECTION 2. The Board hereby directs the Chairman of the Board of Supervisors and District Staff to proceed in an expeditious manner with the preparation and filing of a petition and related materials with the County to seek the amendment of the District's boundaries to comprise the lands described in **Exhibit 6**, pursuant to Chapter 190, *Florida Statutes*, and authorizes the prosecution of the procedural requirements detailed in Chapter 190, *Florida Statutes*, for the amendment of the District's boundaries.

SECTION 3. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this 11th day of January, 2024.

ATTEST:



Kenneth C. Blocker, Secretary

**VILLAGE COMMUNITY
DEVELOPMENT DISTRICT NO 14**

By: 

Dale Borrowman, Chairman

**PETITION TO AMEND THE BOUNDARY LINE OF
VILLAGE COMMUNITY DEVELOPMENT DISTRICT NO. 14**

Petitioner, Village Community Development District No. 14, a Florida Community Development District, petitions the City of Leesburg (hereinafter referred to as "City") pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, to adopt an ordinance to amend the boundary line of Village Community Development District No. 14 (the "District") and states as follows:

1. Petitioner is a Florida Community Development District with its principal place of business at 984 Old Mill Run, The Villages, Florida 32162.

2. The District presently comprises 2,385.2 acres. The amendment will decrease the District's size to 1,013.1 acres. A map showing the location of the amended boundary lines of the District is attached as **Exhibit 1**. All of the land in the existing District and in the amended boundary is within the City of Leesburg, Florida.

3. A metes and bounds legal description and sketch of the existing boundary of the District is attached as **Exhibit 2**.

4. A metes and bounds legal description and sketch of the external boundaries of the areas to be deleted from the District is attached as **Exhibit 3**.

5. Attached as **Exhibit 4** is documentation constituting written consent to amendment of the District Boundary by the owners of the real property to be deleted from the District.

6. The five (5) persons designated to serve as the Board of Supervisors of the District are named in **Exhibit 5**.

7. A metes and bounds legal description and sketch of the new boundary of the District is attached as **Exhibit 6**.

8. The name of the District remains Village Community Development District No. 14.

9. The proposed timetables and related estimates of cost to construct the District services and facilities, based upon available data, are attached as **Exhibit 7**.

10. The major trunk water mains, sewer interceptors, and outfalls currently in existence on the property to be serviced by the District are identified on **Exhibit 8** attached hereto.

11. All of the property to be included in the amended District, will be designated Age Restricted Development (ARD) pursuant to the approved development plan of the Villages of West Lake.

9. 12. The Statement of Estimated Regulatory Costs of the District is attached as Exhibit

WHEREFORE, Petitioner respectfully requests the City of Leesburg to:

A. Schedule a public hearing on _____ to consider this Petition filed pursuant to the uniform procedures set forth in Section 190.005(2), Florida Statutes.

B. Grant the Petition and adopt an ordinance to amend the boundary line of the District.

RESPECTFULLY SUBMITTED this 11th day of January, ²⁰²¹~~2023~~.

**VILLAGE COMMUNITY DEVELOPMENT
DISTRICT NO. 14**

By: C. Dale Borrowman
Dale Borrowman, Chairman

EXHIBIT 1

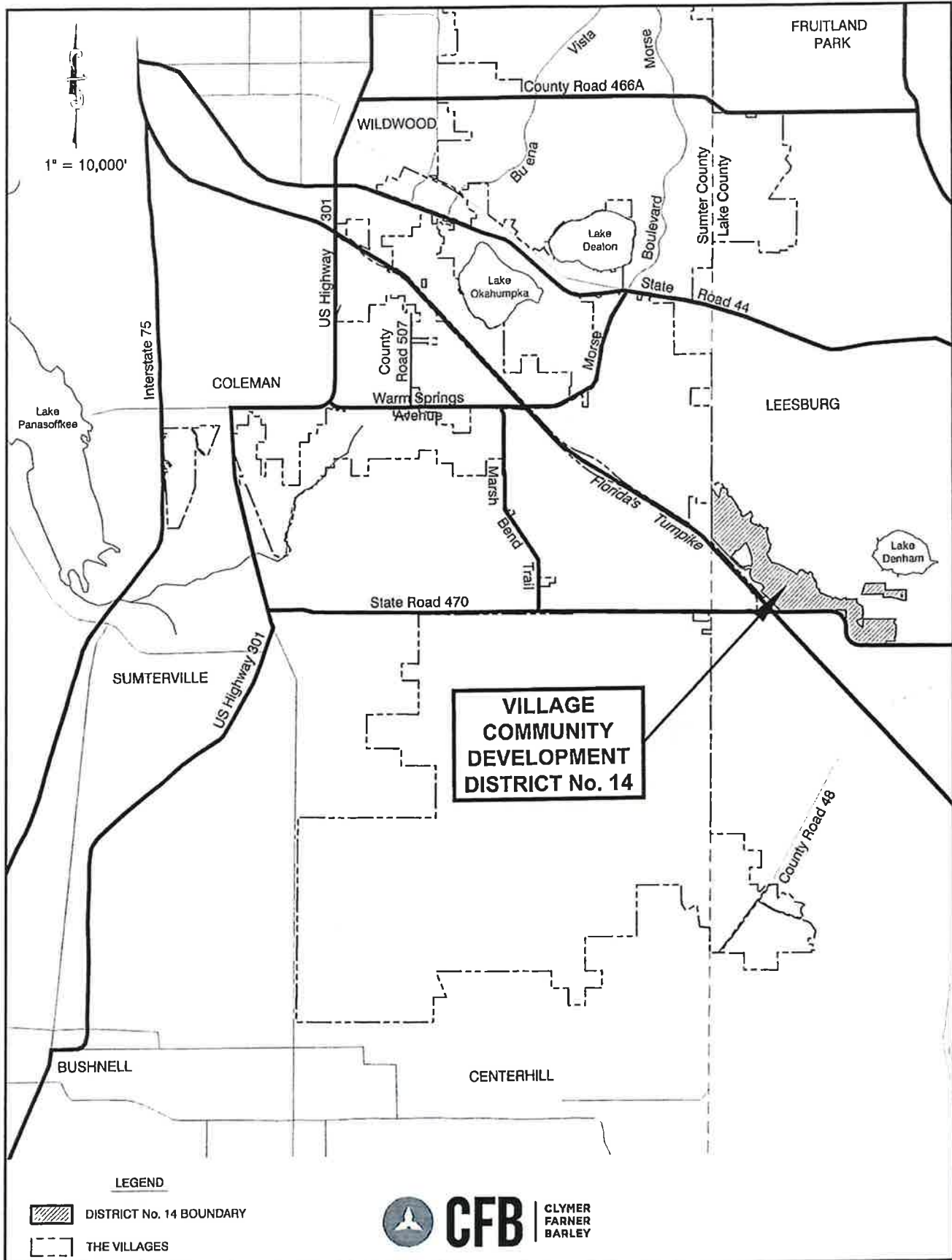
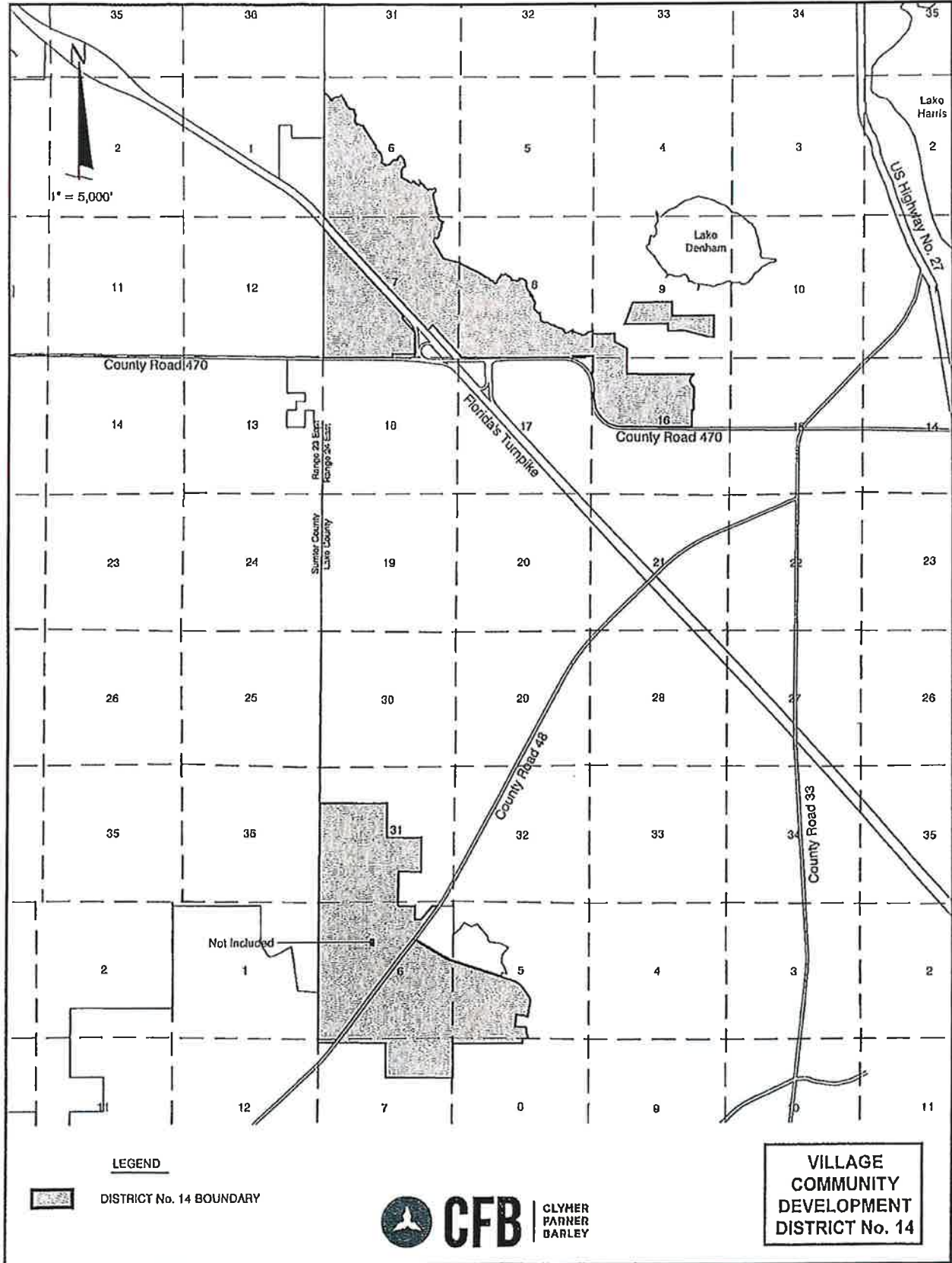


EXHIBIT 2



VILLAGE COMMUNITY DEVELOPMENT DISTRICT No. 14

EXHIBIT "2"

DESCRIPTION OF THE EXISTING VILLAGE COMMUNITY DEVELOPMENT DISTRICT NO. 14 APPROXIMATELY 2,385.2 ACRES

A PORTION OF SECTION 7, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF AFORESAID SECTION 7; THENCE ALONG THE WEST LINE THEREOF RUN N00°36'58"E, 2,377.49 FEET TO THE WESTERLY RIGHT OF WAY LINE OF FLORIDA'S TURNPIKE; THENCE DEPARTING SAID WEST LINE AND ALONG SAID WESTERLY RIGHT OF WAY LINE RUN S42°26'19"E, 4,618.14 FEET TO THE BOUNDARY LINE OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1719, PAGE 874, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THE FOLLOWING FIVE (5) COURSES BEING ALONG THE BOUNDARY LINE OF SAID LANDS: DEPARTING SAID WESTERLY RIGHT OF WAY LINE RUN S47°33'41"W, 100.00 FEET; THENCE S40°22'13"E, 738.95 FEET; THENCE S00°35'33"W, 850.09 FEET; THENCE N89°24'47"W, 850.00 FEET; THENCE S00°35'13"W, 130.00 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD NO. 470; THE FOLLOWING TWO (2) COURSES BEING ALONG SAID NORTHERLY RIGHT OF WAY LINE: RUN N89°24'47"W, 65.18 FEET; THENCE N89°23'45"W, 2,649.62 FEET TO THE WEST LINE OF THE SOUTHWEST 1/4 OF AFORESAID SECTION 7; THENCE DEPARTING SAID NORTHERLY RIGHT OF WAY LINE AND ALONG SAID WEST LINE RUN N00°36'58"E, 2,604.18 FEET TO THE POINT OF BEGINNING.

AND

A PORTION OF SECTIONS 6, 7, 8, 9, 16 AND 17, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE WEST 1/4 CORNER OF SAID SECTION 6; THENCE RUN NORTH 00°39'41" EAST, ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 1646.12 FEET TO A POINT OF CURVATURE OF A 533.18 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST WHOSE RADIUS POINT BEARS SOUTH 31°46'39" WEST; THENCE DEPARTING SAID WEST LINE, RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06°10'34" AN ARC DISTANCE OF 57.47 FEET; THENCE ALONG A NON-TANGENT LINE RUN SOUTH 52°02'45" EAST, A DISTANCE OF 47.57 FEET TO A POINT OF CURVATURE OF A 471.50 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 33°47'25" AN ARC DISTANCE OF 278.07 FEET TO A POINT OF REVERSE CURVE OF A 478.50 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 40°38'06" AN ARC DISTANCE OF 339.36 FEET TO A POINT OF REVERSE CURVE OF A 521.50 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°29'45" AN ARC DISTANCE OF 131.94 FEET; THENCE ALONG A RADIAL LINE RUN NORTH 45°36'19" EAST, A DISTANCE OF 38.00 FEET; THENCE RUN NORTH 14°28'59" EAST, A

DISTANCE OF 685.20 FEET; THENCE RUN SOUTH 80°46'10" EAST, A DISTANCE OF 345.42 FEET; THENCE RUN SOUTH 82°49'12" EAST, A DISTANCE OF 85.20 FEET; THENCE RUN SOUTH 39°42'02" EAST, A DISTANCE OF 45.75 FEET; THENCE RUN SOUTH 14°23'50" WEST, A DISTANCE OF 70.58 FEET; THENCE RUN SOUTH 29°58'34" EAST, A DISTANCE OF 76.07 FEET; THENCE RUN SOUTH 23°08'46" EAST, A DISTANCE OF 39.04 FEET; THENCE RUN SOUTH 11°00'19" WEST, A DISTANCE OF 95.71 FEET; THENCE RUN SOUTH 09°22'14" WEST, A DISTANCE OF 123.51 FEET; THENCE RUN SOUTH 09°41'56" EAST, A DISTANCE OF 80.26 FEET; THENCE RUN SOUTH 43°34'44" EAST, A DISTANCE OF 98.73 FEET; THENCE RUN NORTH 76°35'25" EAST, A DISTANCE OF 50.82 FEET; THENCE RUN SOUTH 62°33'16" EAST, A DISTANCE OF 86.58 FEET; THENCE RUN SOUTH 64°36'42" EAST, A DISTANCE OF 71.30 FEET; THENCE RUN NORTH 76°42'30" EAST, A DISTANCE OF 44.48 FEET; THENCE RUN SOUTH 32°12'12" EAST, A DISTANCE OF 957.86 FEET; THENCE RUN SOUTH 07°10'01" WEST, A DISTANCE OF 91.08 FEET; THENCE RUN SOUTH 61°21'16" EAST, A DISTANCE OF 47.28 FEET; THENCE RUN SOUTH 40°28'15" EAST, A DISTANCE OF 120.86 FEET; THENCE RUN SOUTH 44°33'11" EAST, A DISTANCE OF 69.24 FEET; THENCE RUN SOUTH 37°26'37" EAST, A DISTANCE OF 89.41 FEET; THENCE RUN SOUTH 07°06'18" EAST, A DISTANCE OF 113.64 FEET; THENCE RUN SOUTH 09°52'34" EAST, A DISTANCE OF 113.85 FEET; THENCE RUN SOUTH 35°28'16" WEST, A DISTANCE OF 89.69 FEET; THENCE RUN SOUTH 64°22'33" EAST, A DISTANCE OF 118.81 FEET; THENCE RUN SOUTH 52°22'56" EAST, A DISTANCE OF 90.58 FEET; THENCE RUN NORTH 79°20'02" EAST, A DISTANCE OF 136.10 FEET; THENCE RUN NORTH 52°22'55" EAST, A DISTANCE OF 86.83 FEET; THENCE RUN NORTH 36°24'30" EAST, A DISTANCE OF 105.87 FEET; THENCE RUN NORTH 48°55'55" EAST, A DISTANCE OF 45.49 FEET; THENCE RUN SOUTH 89°56'18" EAST, A DISTANCE OF 151.08 FEET; THENCE RUN NORTH 24°38'40" EAST, A DISTANCE OF 110.35 FEET; THENCE RUN NORTH 46°09'26" EAST, A DISTANCE OF 81.02 FEET; THENCE RUN SOUTH 86°18'52" EAST, A DISTANCE OF 62.24 FEET; THENCE RUN SOUTH 27°38'50" EAST, A DISTANCE OF 68.64 FEET; THENCE RUN SOUTH 41°23'00" EAST, A DISTANCE OF 95.74 FEET; THENCE RUN SOUTH 09°19'22" EAST, A DISTANCE OF 161.00 FEET; THENCE RUN SOUTH 22°58'56" EAST, A DISTANCE OF 78.10 FEET; THENCE RUN SOUTH 41°13'52" WEST, A DISTANCE OF 71.83 FEET; THENCE RUN SOUTH 67°32'49" WEST, A DISTANCE OF 60.90 FEET; THENCE RUN SOUTH 22°37'04" WEST, A DISTANCE OF 125.78 FEET; THENCE RUN SOUTH 05°54'07" WEST, A DISTANCE OF 58.17 FEET; THENCE RUN SOUTH 09°17'29" EAST, A DISTANCE OF 113.07 FEET; THENCE RUN SOUTH 17°42'35" WEST, A DISTANCE OF 84.59 FEET; THENCE RUN SOUTH 54°18'47" EAST, A DISTANCE OF 86.37 FEET; THENCE RUN SOUTH 59°31'01" EAST, A DISTANCE OF 114.87 FEET; THENCE RUN SOUTH 62°38'05" EAST, A DISTANCE OF 134.39 FEET; THENCE RUN SOUTH 39°09'25" EAST, A DISTANCE OF 51.70 FEET; THENCE RUN SOUTH 80°59'23" EAST, A DISTANCE OF 80.02 FEET; THENCE RUN NORTH 35°54'34" EAST, A DISTANCE OF 63.23 FEET; THENCE RUN SOUTH 74°27'55" EAST, A DISTANCE OF 81.89 FEET; THENCE RUN SOUTH 04°00'12" EAST, A DISTANCE OF 73.97 FEET; THENCE RUN SOUTH 80°14'56" EAST, A DISTANCE OF 67.06 FEET; THENCE RUN SOUTH 62°54'57" EAST, A DISTANCE OF 47.02 FEET; THENCE RUN SOUTH 80°58'05" EAST, A DISTANCE OF 47.16 FEET; THENCE RUN NORTH 50°24'47" EAST, A DISTANCE OF 52.77 FEET; THENCE RUN NORTH 16°30'08" WEST, A DISTANCE OF 34.10 FEET; THENCE RUN NORTH 00°36'32" WEST, A DISTANCE OF 52.85 FEET; THENCE RUN SOUTH 40°59'45" EAST, A DISTANCE OF 106.23 FEET; THENCE RUN SOUTH 55°44'00" EAST, A DISTANCE OF 86.62 FEET; THENCE RUN SOUTH 33°10'27" EAST, A DISTANCE OF 83.20 FEET; THENCE RUN SOUTH 55°17'24" EAST, A DISTANCE OF

68.84 FEET; THENCE RUN SOUTH 46°21'25" EAST, A DISTANCE OF 101.01 FEET; THENCE RUN NORTH 74°50'26" EAST, A DISTANCE OF 86.17 FEET; THENCE RUN SOUTH 82°04'41" EAST, A DISTANCE OF 120.38 FEET; THENCE RUN NORTH 58°22'49" EAST, A DISTANCE OF 68.80 FEET; THENCE RUN SOUTH 60°56'38" EAST, A DISTANCE OF 75.22 FEET; THENCE RUN SOUTH 03°14'40" WEST, A DISTANCE OF 76.66 FEET; THENCE RUN SOUTH 50°59'10" WEST, A DISTANCE OF 90.51 FEET; THENCE RUN SOUTH 36°37'10" WEST, A DISTANCE OF 76.43 FEET; THENCE RUN SOUTH 12°29'53" EAST, A DISTANCE OF 471.98 FEET; THENCE RUN SOUTH 24°47'34" EAST, A DISTANCE OF 104.62 FEET; THENCE RUN SOUTH 12°21'53" WEST, A DISTANCE OF 65.63 FEET; THENCE RUN SOUTH 18°03'40" EAST, A DISTANCE OF 67.17 FEET; THENCE RUN SOUTH 25°58'11" EAST, A DISTANCE OF 64.57 FEET; THENCE RUN SOUTH 27°55'06" EAST, A DISTANCE OF 100.44 FEET; THENCE RUN SOUTH 35°22'32" WEST, A DISTANCE OF 59.70 FEET; THENCE RUN SOUTH 13°35'06" EAST, A DISTANCE OF 68.53 FEET; THENCE RUN SOUTH 51°53'59" EAST, A DISTANCE OF 156.93 FEET; THENCE RUN SOUTH 66°50'45" EAST, A DISTANCE OF 64.60 FEET; THENCE RUN SOUTH 48°38'48" WEST, A DISTANCE OF 54.10 FEET; THENCE RUN SOUTH 08°34'50" WEST, A DISTANCE OF 80.78 FEET; THENCE RUN SOUTH 08°53'51" WEST, A DISTANCE OF 102.76 FEET; THENCE RUN SOUTH 13°03'25" WEST, A DISTANCE OF 64.08 FEET; THENCE RUN SOUTH 27°21'03" WEST, A DISTANCE OF 92.67 FEET; THENCE RUN SOUTH 58°32'05" WEST, A DISTANCE OF 39.73 FEET; THENCE RUN SOUTH 05°28'43" WEST, A DISTANCE OF 111.73 FEET; THENCE RUN SOUTH 12°31'44" WEST, A DISTANCE OF 83.93 FEET; THENCE RUN SOUTH 55°17'54" WEST, A DISTANCE OF 62.16 FEET; THENCE RUN NORTH 84°37'02" WEST, A DISTANCE OF 51.91 FEET; THENCE RUN NORTH 88°34'03" WEST, A DISTANCE OF 32.60 FEET; THENCE RUN SOUTH 42°06'52" WEST, A DISTANCE OF 58.01 FEET; THENCE RUN SOUTH 12°33'12" WEST, A DISTANCE OF 37.53 FEET; THENCE RUN SOUTH 20°36'57" WEST, A DISTANCE OF 33.88 FEET; THENCE RUN SOUTH 20°04'52" EAST, A DISTANCE OF 53.52 FEET; THENCE RUN SOUTH 24°42'25" EAST, A DISTANCE OF 74.30 FEET; THENCE RUN SOUTH 30°43'24" EAST, A DISTANCE OF 665.00 FEET; THENCE RUN SOUTH 76°34'14" EAST, A DISTANCE OF 477.21 FEET; THENCE RUN SOUTH 71°58'41" EAST, A DISTANCE OF 165.94 FEET; THENCE RUN SOUTH 54°48'46" EAST, A DISTANCE OF 79.68 FEET; THENCE RUN SOUTH 62°41'15" EAST, A DISTANCE OF 108.65 FEET; THENCE RUN SOUTH 62°55'30" EAST, A DISTANCE OF 667.14 FEET; THENCE RUN SOUTH 60°27'48" EAST, A DISTANCE OF 87.14 FEET; THENCE RUN SOUTH 64°03'50" EAST, A DISTANCE OF 106.68 FEET; THENCE RUN SOUTH 43°54'25" EAST, A DISTANCE OF 79.20 FEET; THENCE RUN SOUTH 72°01'07" EAST, A DISTANCE OF 124.60 FEET; THENCE RUN SOUTH 60°09'14" EAST, A DISTANCE OF 62.29 FEET; THENCE RUN SOUTH 31°27'02" EAST, A DISTANCE OF 86.64 FEET; THENCE RUN SOUTH 63°57'31" EAST, A DISTANCE OF 63.36 FEET; THENCE RUN NORTH 89°40'02" EAST, A DISTANCE OF 61.47 FEET; THENCE RUN SOUTH 25°03'35" EAST, A DISTANCE OF 41.98 FEET; THENCE RUN SOUTH 58°26'41" EAST, A DISTANCE OF 77.10 FEET; THENCE RUN NORTH 64°51'43" EAST, A DISTANCE OF 59.71 FEET; THENCE RUN NORTH 22°27'00" EAST, A DISTANCE OF 133.33 FEET; THENCE RUN NORTH 52°49'57" EAST, A DISTANCE OF 66.67 FEET; THENCE RUN NORTH 35°29'20" EAST, A DISTANCE OF 82.69 FEET; THENCE RUN NORTH 27°10'34" EAST, A DISTANCE OF 56.95 FEET; THENCE RUN SOUTH 79°02'53" EAST, A DISTANCE OF 94.44 FEET; THENCE RUN NORTH 62°59'52" EAST, A DISTANCE OF 87.39 FEET; THENCE RUN SOUTH 55°10'19" EAST, A DISTANCE OF 51.33 FEET; THENCE RUN SOUTH 56°42'06" EAST, A DISTANCE OF 76.72 FEET; THENCE RUN SOUTH 69°38'47" EAST, A DISTANCE OF 98.62 FEET; THENCE RUN SOUTH 33°07'22" EAST, A DISTANCE OF 66.32 FEET;

THENCE RUN SOUTH 12°34'18" EAST, A DISTANCE OF 67.51 FEET; THENCE RUN SOUTH 73°43'09" EAST, A DISTANCE OF 32.57 FEET; THENCE RUN NORTH 88°46'08" EAST, A DISTANCE OF 89.59 FEET; THENCE RUN SOUTH 72°00'24" EAST, A DISTANCE OF 88.54 FEET; THENCE RUN NORTH 82°00'35" EAST, A DISTANCE OF 82.23 FEET; THENCE RUN NORTH 28°08'41" EAST, A DISTANCE OF 77.60 FEET; THENCE RUN SOUTH 79°52'28" EAST, A DISTANCE OF 72.13 FEET; THENCE RUN SOUTH 84°08'18" EAST, A DISTANCE OF 76.52 FEET; THENCE RUN SOUTH 50°04'27" EAST, A DISTANCE OF 116.72 FEET; THENCE RUN SOUTH 18°05'38" EAST, A DISTANCE OF 86.72 FEET; THENCE RUN SOUTH 11°26'26" WEST, A DISTANCE OF 91.89 FEET; THENCE RUN SOUTH 29°04'26" EAST, A DISTANCE OF 89.79 FEET; THENCE RUN SOUTH 09°58'55" EAST, A DISTANCE OF 91.28 FEET; THENCE RUN SOUTH 40°14'22" EAST, A DISTANCE OF 56.45 FEET; THENCE RUN SOUTH 43°10'08" EAST, A DISTANCE OF 86.77 FEET; THENCE RUN SOUTH 30°23'40" EAST, A DISTANCE OF 63.23 FEET; THENCE RUN SOUTH 36°06'06" WEST, A DISTANCE OF 69.17 FEET; THENCE RUN SOUTH 49°24'38" EAST, A DISTANCE OF 39.36 FEET; THENCE RUN NORTH 51°47'53" EAST, A DISTANCE OF 66.55 FEET; THENCE RUN SOUTH 18°39'03" EAST, A DISTANCE OF 66.42 FEET; THENCE RUN SOUTH 13°29'51" EAST, A DISTANCE OF 121.98 FEET; THENCE RUN SOUTH 37°08'09" EAST, A DISTANCE OF 78.28 FEET; THENCE RUN SOUTH 18°59'20" EAST, A DISTANCE OF 85.31 FEET; THENCE RUN SOUTH 29°01'05" WEST, A DISTANCE OF 50.31 FEET; THENCE RUN SOUTH 14°39'12" WEST, A DISTANCE OF 122.19 FEET; THENCE RUN SOUTH 18°44'14" EAST, A DISTANCE OF 78.53 FEET; THENCE RUN SOUTH 53°17'25" EAST, A DISTANCE OF 80.53 FEET; THENCE RUN SOUTH 37°24'41" EAST, A DISTANCE OF 83.16 FEET; THENCE RUN SOUTH 55°25'31" EAST, A DISTANCE OF 71.44 FEET; THENCE RUN NORTH 58°27'23" EAST, A DISTANCE OF 43.35 FEET; THENCE RUN SOUTH 19°10'27" EAST, A DISTANCE OF 37.15 FEET; THENCE RUN SOUTH 63°34'27" WEST, A DISTANCE OF 31.07 FEET; THENCE RUN SOUTH 22°20'25" EAST, A DISTANCE OF 134.31 FEET; THENCE RUN SOUTH 08°26'23" WEST, A DISTANCE OF 67.96 FEET; THENCE RUN SOUTH 22°50'36" EAST, A DISTANCE OF 95.16 FEET; THENCE RUN SOUTH 68°08'39" EAST, A DISTANCE OF 101.39 FEET; THENCE RUN SOUTH 84°06'33" EAST, A DISTANCE OF 143.78 FEET; THENCE RUN SOUTH 53°36'32" EAST, A DISTANCE OF 79.23 FEET; THENCE RUN SOUTH 62°30'27" EAST, A DISTANCE OF 79.89 FEET; THENCE RUN SOUTH 80°26'17" EAST, A DISTANCE OF 103.16 FEET; THENCE RUN SOUTH 50°11'10" EAST, A DISTANCE OF 58.15 FEET; THENCE RUN SOUTH 66°52'59" EAST, A DISTANCE OF 72.77 FEET; THENCE RUN SOUTH 63°53'24" EAST, A DISTANCE OF 143.33 FEET; THENCE RUN SOUTH 83°14'16" EAST, A DISTANCE OF 82.39 FEET; THENCE RUN SOUTH 46°01'21" EAST, A DISTANCE OF 132.57 FEET; THENCE RUN SOUTH 30°59'41" EAST, A DISTANCE OF 81.79 FEET; THENCE RUN NORTH 86°11'27" EAST, A DISTANCE OF 73.17 FEET; THENCE RUN NORTH 62°36'40" EAST, A DISTANCE OF 109.25 FEET; THENCE RUN NORTH 76°42'21" EAST, A DISTANCE OF 117.81 FEET TO A POINT ON THE WEST LINE OF A 79.02 ACRE LEESBURG INTERNATIONAL AIRPORT SEA PLANE MITIGATION AREA; THENCE ALONG SAID SEA PLANE MITIGATION AREA THE FOLLOWING SIXTEEN (16) COURSES AND DISTANCES: 1) THENCE RUN SOUTH 00°30'28" WEST, A DISTANCE OF 58.37 FEET; 2) THENCE RUN NORTH 59°53'32" EAST, A DISTANCE OF 54.81 FEET; 3) THENCE RUN SOUTH 43°52'35" EAST, A DISTANCE OF 38.23 FEET; 4) THENCE RUN SOUTH 75°34'26" EAST, A DISTANCE OF 45.20 FEET; 5) THENCE RUN SOUTH 70°37'50" EAST, A DISTANCE OF 23.34 FEET; 6) THENCE RUN SOUTH 65°59'05" EAST, A DISTANCE OF 142.77 FEET; 7) THENCE RUN SOUTH 71°48'27" EAST, A DISTANCE OF 41.59 FEET; 8) THENCE RUN SOUTH 73°29'01" EAST, A DISTANCE OF 85.77 FEET; 9) THENCE RUN NORTH 83°59'28" EAST, A DISTANCE OF

72.88 FEET; 10) THENCE RUN NORTH 82°39'04" EAST, A DISTANCE OF 75.52 FEET; 11) THENCE RUN NORTH 22°53'15" EAST, A DISTANCE OF 49.24 FEET; 12) THENCE RUN NORTH 42°47'28" EAST, A DISTANCE OF 36.32 FEET; 13) THENCE RUN NORTH 66°51'09" EAST, A DISTANCE OF 48.16 FEET; 14) THENCE RUN NORTH 82°25'46" EAST, A DISTANCE OF 75.22 FEET; 15) THENCE RUN NORTH 82°09'15" EAST, A DISTANCE OF 66.23 FEET; 16) THENCE RUN NORTH 72°05'31" EAST, A DISTANCE OF 32.56 FEET TO A POINT ON THE WEST LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID SEA PLANE MITIGATION AREA, RUN ALONG THE BOUNDARY OF SAID LANDS THE FOLLOWING SIX (6) COURSES AND DISTANCES: 1) THENCE RUN SOUTH 00°30'28" WEST, A DISTANCE OF 107.66 FEET; 2) THENCE RUN SOUTH 89°33'30" EAST, A DISTANCE OF 841.08 FEET; 3) THENCE RUN SOUTH 02°20'16" EAST, A DISTANCE OF 303.39 FEET; 4) THENCE RUN SOUTH 60°11'33" EAST, A DISTANCE OF 535.18 FEET; 5) THENCE RUN SOUTH 00°10'55" WEST, A DISTANCE OF 387.25 FEET; 6) THENCE RUN SOUTH 00°48'18" WEST, A DISTANCE OF 476.88 FEET; THENCE DEPARTING THE BOUNDARY OF SAID LANDS RUN NORTH 89°54'06" WEST, A DISTANCE OF 20.00 FEET; THENCE RUN SOUTH 45°14'29" WEST, A DISTANCE OF 109.76 FEET; THENCE RUN SOUTH 67°29'16" WEST, A DISTANCE OF 420.28 FEET; THENCE RUN SOUTH 18°01'51" EAST, A DISTANCE OF 91.81 FEET TO A POINT OF CURVATURE OF A 628.50 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHEAST WHOSE RADIUS POINT BEARS NORTH 71°57'09" EAST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 58°07'29" AN ARC DISTANCE OF 637.59 FEET; THENCE ALONG A NON-TANGENT LINE RUN NORTH 00°48'18" EAST, A DISTANCE OF 618.09 FEET TO THE BOUNDARY OF AFORESAID LANDS; THENCE RUN SOUTH 88°56'30" EAST, A DISTANCE OF 2,556.25 FEET; THENCE RUN ALONG THE BOUNDARY OF SAID LANDS THE FOLLOWING NINE (9) COURSES AND DISTANCES: 1) THENCE RUN SOUTH 88°56'30" EAST, A DISTANCE OF 2556.25 FEET; 2) THENCE RUN SOUTH 00°49'33" WEST, A DISTANCE OF 5.52 FEET; 3) THENCE RUN SOUTH 43°39'58" WEST, A DISTANCE OF 170.17 FEET; 4) THENCE RUN SOUTH 13°50'45" WEST, A DISTANCE OF 147.54 FEET; 5) THENCE RUN SOUTH 26°56'42" EAST, A DISTANCE OF 135.90 FEET; 6) THENCE RUN SOUTH 41°29'44" EAST, A DISTANCE OF 127.17 FEET; 7) THENCE RUN SOUTH 00°49'33" WEST, A DISTANCE OF 891.81 FEET; 8) THENCE RUN NORTH 88°56'27" WEST, A DISTANCE OF 65.00 FEET; 9) THENCE RUN SOUTH 00°49'33" WEST, A DISTANCE OF 381.39 FEET; THENCE DEPARTING SAID LANDS, RUN NORTH 89°10'27" WEST, A DISTANCE OF 715.86 FEET TO A POINT OF CURVATURE OF A 871.50 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE WEST WHOSE RADIUS POINT BEARS SOUTH 83°15'04" WEST; THENCE RUN SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07°48'27" AN ARC DISTANCE OF 118.75 FEET TO THE POINT OF TANGENCY; THENCE RUN SOUTH 01°03'30" WEST, A DISTANCE OF 117.27 FEET TO A POINT OF CURVATURE OF A 25.01 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHEAST WHOSE RADIUS POINT BEARS SOUTH 88°56'53" EAST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°58'43" AN ARC DISTANCE OF 39.27 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 470 (A 100 FOOT WIDE RIGHT-OF-WAY PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP, SECTION 11670-2601); THENCE DEPARTING SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262, RUN ALONG SAID NORTH AND EAST RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES AND DISTANCES: 1) THENCE RUN NORTH 88°56'30" WEST, A DISTANCE OF 1990.13 FEET TO A POINT OF CURVATURE OF A 1095.82 FOOT RADIUS

CURVE CONCAVE TO THE NORTHEAST; 2) THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $89^{\circ}43'22''$ AN ARC DISTANCE OF 1716.01 FEET TO A POINT OF TANGENCY; 3) THENCE RUN NORTH $00^{\circ}46'52''$ EAST, A DISTANCE OF 378.96 FEET TO A POINT OF CURVATURE OF A 1196.40 FOOT RADIUS CURVE CONCAVE TO THE WEST; 4) THENCE RUN NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $30^{\circ}56'25''$ AN ARC DISTANCE OF 646.07 FEET TO A POINT ON THE SOUTH LINE OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4496, PAGE 70, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID EAST RIGHT OF WAY LINE AND ALONG SAID SOUTH LINE RUN SOUTH $89^{\circ}13'08''$ EAST A DISTANCE OF 120.24 FEET TO THE SOUTHEAST CORNER OF SAID LANDS AND THE EAST LINE OF THE NORTHEAST 1/4 OF AFORESAID SECTION 17; THENCE ALONG SAID EAST LINE RUN NORTH $00^{\circ}46'52''$ EAST A DISTANCE OF 535.00 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 9; THENCE RUN NORTH $00^{\circ}30'28''$ EAST, ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 100.00 FEET TO THE NORTHEAST CORNER OF AFORESAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4496, PAGE 70; THENCE DEPARTING SAID WEST LINE, RUN NORTH $89^{\circ}24'17''$ WEST, ALONG THE NORTH LINE OF SAID LANDS, A DISTANCE OF 807.90 FEET TO THE NORTHWEST CORNER OF SAID LANDS; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH $00^{\circ}30'28''$ WEST, ALONG THE WEST LINE OF SAID LANDS, A DISTANCE OF 99.99 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SAID COUNTY ROAD NO. 470, SAID POINT BEING ON A 1196.40 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE SOUTH WHOSE RADIUS POINT BEARS SOUTH $17^{\circ}12'59''$ WEST; THENCE DEPARTING SAID WEST LINE, RUN WESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES AND DISTANCES: 1) THENCE RUN ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $16^{\circ}37'16''$ AN ARC DISTANCE OF 347.07 FEET TO A POINT OF TANGENCY; 2) THENCE RUN NORTH $89^{\circ}24'17''$ WEST, A DISTANCE OF 1499.57 FEET; 3) THENCE RUN NORTH $89^{\circ}23'48''$ WEST A DISTANCE OF 2,315.45 FEET; 4) THENCE RUN NORTH $84^{\circ}15'10''$ WEST A DISTANCE OF 213.38 FEET TO THE NORTHEASTERLY LINE OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4556, PAGE 1743, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID NORTHERLY RIGHT OF WAY LINE AND ALONG SAID NORTHEASTERLY LINE RUN NORTH $42^{\circ}26'19''$ WEST A DISTANCE OF 1675.88 FEET TO THE MOST NORTHERLY CORNER OF SAID LANDS; THENCE DEPARTING SAID NORTHEASTERLY LINE, RUN SOUTH $47^{\circ}33'41''$ WEST, ALONG THE NORTHWESTERLY LINE OF SAID LANDS, A DISTANCE OF 50.00 FEET; THENCE DEPARTING SAID NORTHWESTERLY LINE, RUN NORTH $42^{\circ}26'19''$ WEST, A DISTANCE OF 513.90 FEET; THENCE RUN NORTH $46^{\circ}33'10''$ EAST, A DISTANCE OF 352.15 FEET TO A POINT OF CURVATURE OF A 871.50 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHEAST WHOSE RADIUS POINT BEARS NORTH $54^{\circ}04'41''$ EAST; THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $11^{\circ}28'31''$ AN ARC DISTANCE OF 174.54 FEET TO A POINT OF REVERSE CURVE OF A 428.50 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $49^{\circ}19'26''$ AN ARC DISTANCE OF 368.88 FEET TO THE POINT OF TANGENCY; THENCE RUN NORTH $73^{\circ}46'14''$ WEST, A DISTANCE OF 258.83 FEET TO A POINT OF CURVATURE OF A 721.50 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST; THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $88^{\circ}34'30''$ AN ARC DISTANCE OF 1,115.38 FEET TO THE POINT OF TANGENCY; THENCE RUN NORTH $14^{\circ}48'16''$ EAST, A DISTANCE OF 163.86 FEET; THENCE RUN NORTH $75^{\circ}11'44''$ WEST, A DISTANCE OF

148.33 FEET; THENCE RUN SOUTH 85°11'48" WEST, A DISTANCE OF 56.53 FEET; THENCE RUN SOUTH 72°49'12" WEST, A DISTANCE OF 176.80 FEET; THENCE RUN SOUTH 79°03'31" WEST, A DISTANCE OF 67.39 FEET; THENCE RUN SOUTH 85°07'14" WEST, A DISTANCE OF 71.61 FEET; THENCE RUN NORTH 05°27'18" WEST, A DISTANCE OF 99.24 FEET TO A POINT OF CURVATURE OF A 567.50 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTH WHOSE RADIUS POINT BEARS NORTH 02°01'13" WEST; THENCE RUN WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 47°43'58" AN ARC DISTANCE OF 472.78 FEET TO THE POINT OF TANGENCY; THENCE RUN NORTH 44°17'15" WEST, A DISTANCE OF 853.08 FEET TO A POINT OF CURVATURE OF A 117.50 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST; THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22°17'10" AN ARC DISTANCE OF 45.70 FEET TO A POINT OF REVERSE CURVE OF A 82.50 FEET FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 20°53'49" AN ARC DISTANCE OF 30.09 FEET TO THE POINT OF TANGENCY; THENCE RUN NORTH 42°53'54" WEST, A DISTANCE OF 82.19 FEET; THENCE RUN NORTH 45°12'18" WEST, A DISTANCE OF 47.48 FEET; THENCE RUN NORTH 42°26'19" WEST, A DISTANCE OF 1,805.23 FEET; THENCE RUN NORTH 48°18'05" WEST, A DISTANCE OF 195.80 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE RUN NORTH 00°45'14" EAST, ALONG SAID WEST LINE, A DISTANCE OF 2166.48 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT A PORTION OF SECTIONS 6 AND 7, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE WEST 1/4 CORNER OF SAID SECTION 6; THENCE RUN SOUTH 00°45'14" WEST, ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 2487.91 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF THE FLORIDA'S TURNPIKE (STATE ROAD NO. 91, A VARIABLE WIDTH RIGHT-OF-WAY PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP, STATE PROJECT NO. 190747-2); THENCE DEPARTING SAID WEST LINE, RUN SOUTH 42°26'19" EAST, ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 2028.71 FEET; THENCE DEPARTING SAID NORTHEASTERLY RIGHT-OF-WAY LINE, RUN NORTH 47°33'41" EAST, A DISTANCE OF 357.40 FEET TO THE POINT OF BEGINNING; THENCE RUN NORTH 41°59'57" WEST, A DISTANCE OF 69.05 FEET; THENCE RUN NORTH 32°40'56" WEST, A DISTANCE OF 90.82 FEET; THENCE RUN NORTH 41°14'47" EAST, A DISTANCE OF 435.16 FEET; THENCE RUN NORTH 07°17'19" EAST, A DISTANCE OF 101.77 FEET; THENCE RUN NORTH 81°26'26" EAST, A DISTANCE OF 107.25 FEET; THENCE RUN NORTH 72°03'02" EAST, A DISTANCE OF 84.28 FEET; THENCE RUN NORTH 63°47'21" EAST, A DISTANCE OF 84.28 FEET; THENCE RUN NORTH 55°31'41" EAST, A DISTANCE OF 84.28 FEET; THENCE RUN NORTH 47°16'36" EAST, A DISTANCE OF 84.28 FEET; THENCE RUN NORTH 42°43'33" EAST, A DISTANCE OF 442.43 FEET; THENCE RUN NORTH 49°53'15" EAST, A DISTANCE OF 61.10 FEET; THENCE RUN NORTH 63°53'58" EAST, A DISTANCE OF 114.22 FEET TO A POINT OF CURVATURE A 2,521.50 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHEAST WHOSE RADIUS POINT BEARS NORTH 60°49'50" EAST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04°34'52" AN ARC DISTANCE OF 201.60 FEET TO A POINT OF REVERSE CURVE OF A 828.50 FOOT RADIUS CURVE CONCAVE TO THE

SOUTHWEST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°50'07" AN ARC DISTANCE OF 243.44 FEET TO THE POINT OF TANGENCY; THENCE RUN SOUTH 16°54'55" EAST, A DISTANCE OF 652.31 FEET TO A POINT OF CURVATURE OF A 1,478.50 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE RUN SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 31°39'01" AN ARC DISTANCE OF 816.72 FEET; THENCE ALONG A NON-TANGENT LINE, RUN NORTH 75°11'44" WEST, A DISTANCE OF 155.52 FEET; THENCE RUN NORTH 85°20'04" WEST, A DISTANCE OF 72.45 FEET; THENCE RUN SOUTH 84°21'24" WEST, A DISTANCE OF 77.28 FEET; THENCE RUN SOUTH 72°54'41" WEST, A DISTANCE OF 191.58 FEET; THENCE RUN SOUTH 79°10'25" WEST, A DISTANCE OF 61.63 FEET; THENCE RUN SOUTH 86°58'11" WEST, A DISTANCE OF 20.04 FEET; THENCE RUN NORTH 89°49'01" WEST, A DISTANCE OF 64.29 FEET; THENCE RUN NORTH 81°41'10" WEST, A DISTANCE OF 59.62 FEET; THENCE RUN NORTH 73°57'37" WEST, A DISTANCE OF 59.62 FEET; THENCE RUN NORTH 66°14'05" WEST, A DISTANCE OF 59.62 FEET; THENCE RUN NORTH 58°30'33" WEST, A DISTANCE OF 59.62 FEET; THENCE RUN NORTH 51°12'19" WEST, A DISTANCE OF 59.88 FEET; THENCE RUN NORTH 44°17'15" WEST, A DISTANCE OF 810.00 FEET TO THE POINT OF BEGINNING.

AND

A PORTION OF SECTION 9, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 9; THENCE RUN SOUTH 89°11'07" EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 2650.14 FEET TO THE SOUTH 1/4 CORNER OF SAID SECTION 9; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 00°45'24" EAST, ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 1340.43 FEET TO A POINT ON A LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262 OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA AND THE POINT OF BEGINNING; THENCE DEPARTING SAID EAST LINE, RUN ALONG THE BOUNDARY OF THE AFORESAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262 THE FOLLOWING FIVE (5) COURSES AND DISTANCES: 1) THENCE RUN NORTH 90°00'00" WEST, A DISTANCE OF 1427.39 FEET; 2) THENCE RUN NORTH 20°12'05" EAST, A DISTANCE OF 896.56 FEET; 3) THENCE RUN SOUTH 89°45'55" EAST, A DISTANCE OF 1510.88 FEET; 4) THENCE RUN SOUTH 00°00'00" EAST, A DISTANCE OF 538.26 FEET; 5) THENCE RUN NORTH 90°00'00" EAST, A DISTANCE OF 1602.12 FEET TO A POINT ON THE EAST LINE OF THE LANDS DESCRIBED AS PARCEL 2 IN OFFICIAL RECORDS BOOK 2070, PAGE 2098, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262, RUN ALONG THE BOUNDARY OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2070, PAGE 2098 THE FOLLOWING TWO (2) COURSES AND DISTANCES: 1) THENCE RUN SOUTH 00°36'49" WEST, A DISTANCE OF 831.10 FEET; 2) THENCE RUN NORTH 88°50'30" WEST, A DISTANCE OF 192.44 FEET TO A POINT ON THE BOUNDARY OF THE AFORESAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262; THENCE DEPARTING SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2070, PAGE 2098, RUN ALONG SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262 THE FOLLOWING FOUR (4) COURSES AND DISTANCES: 1) THENCE RUN NORTH 74°45'27" WEST, A DISTANCE OF 957.72 FEET; 2) THENCE RUN NORTH

90°00'00" WEST, A DISTANCE OF 631.59 FEET; 3) THENCE RUN NORTH 01°16'27" EAST, A DISTANCE OF 278.48 FEET; 4) THENCE RUN NORTH 90°00'00" WEST, A DISTANCE OF 244.47 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT A PORTION OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 9; THENCE RUN SOUTH 89°11'07" EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 2650.14 FEET TO THE SOUTH 1/4 CORNER OF SAID SECTION 9; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 00°45'24" EAST, ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 9, A DISTANCE OF 1246.22 FEET; THENCE DEPARTING SAID WEST LINE RUN SOUTH 89°14'36" EAST, A DISTANCE OF 1600.64 FEET TO THE POINT OF BEGINNING; THENCE RUN NORTH 81°20'38" EAST, A DISTANCE OF 106.31 FEET; THENCE RUN SOUTH 08°40'10" EAST, A DISTANCE OF 119.48 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 50.00 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 55°12'49" WEST, 25.17 FEET TO WHICH A RADIAL LINE BEARS NORTH 20°12'23" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 29°09'37", AN ARC DISTANCE OF 25.45 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 20.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 57°13'50", AN ARC DISTANCE OF 19.98 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 217.50 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 12°27'15", AN ARC DISTANCE OF 47.28 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 20.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 85°55'59", AN ARC DISTANCE OF 30.00 FEET TO THE POINT OF TANGENCY; THENCE NORTH 08°39'26" WEST, A DISTANCE OF 106.20 FEET TO THE POINT OF BEGINNING.

AND

A PORTION OF SECTION 6, TOWNSHIP 21 SOUTH, RANGE 24 EAST AND SECTION 31, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID SECTION 6; THENCE RUN NORTH 0°40'22" EAST, ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 2641.21 FEET TO THE WEST 1/4 CORNER OF SAID SECTION 6; THENCE DEPARTING SAID WEST LINE, RUN NORTH 0°40'23" EAST, ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 2641.21 FEET TO THE NORTHWEST CORNER OF SAID SECTION 6; THENCE DEPARTING SAID WEST LINE, RUN NORTH 0°51'49" EAST, ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 31, A DISTANCE OF 2645.51 FEET TO THE WEST 1/4 CORNER OF SAID SECTION 31; THENCE DEPARTING SAID WEST LINE, RUN NORTH 0°52'48" EAST, ALONG THE WEST LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 31, A DISTANCE OF 1322.56 FEET TO THE

NORTHWEST CORNER OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 31; THENCE DEPARTING SAID WEST LINE, RUN SOUTH 89°12'12" EAST, ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 31, A DISTANCE OF 2647.14 FEET TO THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 31; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH 0°50'27" WEST, ALONG THE EAST LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 31, A DISTANCE OF 1323.15 FEET TO THE CENTER OF SAID SECTION 31; THENCE DEPARTING SAID EAST LINE, RUN SOUTH 89°15'43" EAST, ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31, A DISTANCE OF 1323.75 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH 0°43'08" WEST, ALONG THE EAST LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31, A DISTANCE OF 1323.54 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31; THENCE DEPARTING SAID EAST LINE, RUN NORTH 89°13'10" WEST, ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31, A DISTANCE OF 863.02 FEET TO THE NORTHEAST CORNER OF THE WEST 462 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31; THENCE DEPARTING SAID SOUTH LINE, RUN SOUTH 0°46'34" WEST, ALONG THE EAST LINE OF THE WEST 462 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31, A DISTANCE OF 1322.90 FEET TO THE SOUTHEAST CORNER OF THE WEST 462 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31 AND A POINT ON THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 6; THENCE DEPARTING SAID EAST LINE, RUN SOUTH 89°10'38" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 639.44 FEET TO A POINT ON THE BOUNDARY OF THE PUBLIC LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3573, PAGE 1, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID NORTH LINE, RUN ALONG THE BOUNDARY OF SAID LANDS THE FOLLOWING THREE (3) COURSES AND DISTANCES: (1) THENCE RUN SOUTH 0°49'22" WEST, A DISTANCE OF 518.18 FEET; (2) THENCE RUN SOUTH 89°10'38" EAST, A DISTANCE OF 217.51 FEET; (3) THENCE RUN NORTH 42°32'39" EAST, A DISTANCE OF 694.25 FEET TO A POINT ON THE AFORESAID NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 6; THENCE DEPARTING SAID BOUNDARY, RUN SOUTH 89°10'38" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 215.45 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 48 (A 100.00 FOOT PUBLIC RIGHT-OF-WAY PER FLORIDA STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP, PROJECT NO. 1092), SAID POINT BEING ON A 5724.15 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHWEST WHOSE RADIUS POINT BEARS NORTH 53°26'45" WEST; THENCE DEPARTING SAID NORTH LINE, RUN SOUTHWESTERLY ALONG SAID CURVE AND WESTERLY RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 1°11'29" AN ARC DISTANCE OF 119.03 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID WESTERLY RIGHT-OF-WAY, SOUTH 37°44'44" WEST, A DISTANCE OF 6490.63 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE, RUN NORTH 89°03'26" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 665.09 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT A PORTION OF SECTION 6, TOWNSHIP 21 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 6; THENCE RUN NORTH 89°09'35" WEST, ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 453.05 FEET TO THE POINT OF BEGINNING; THENCE RUN SOUTH 00°36'59" WEST, A DISTANCE OF 235.00 FEET; THENCE RUN NORTH 89°09'35" WEST, A DISTANCE OF 180.00 FEET; THENCE RUN NORTH 00°36'59" EAST, A DISTANCE OF 291.57 FEET; THENCE RUN SOUTH 75°50'19" EAST, A DISTANCE OF 185.15 FEET; THENCE RUN SOUTH 00°36'59" WEST, A DISTANCE OF 13.91 FEET TO THE POINT OF BEGINNING.

AND

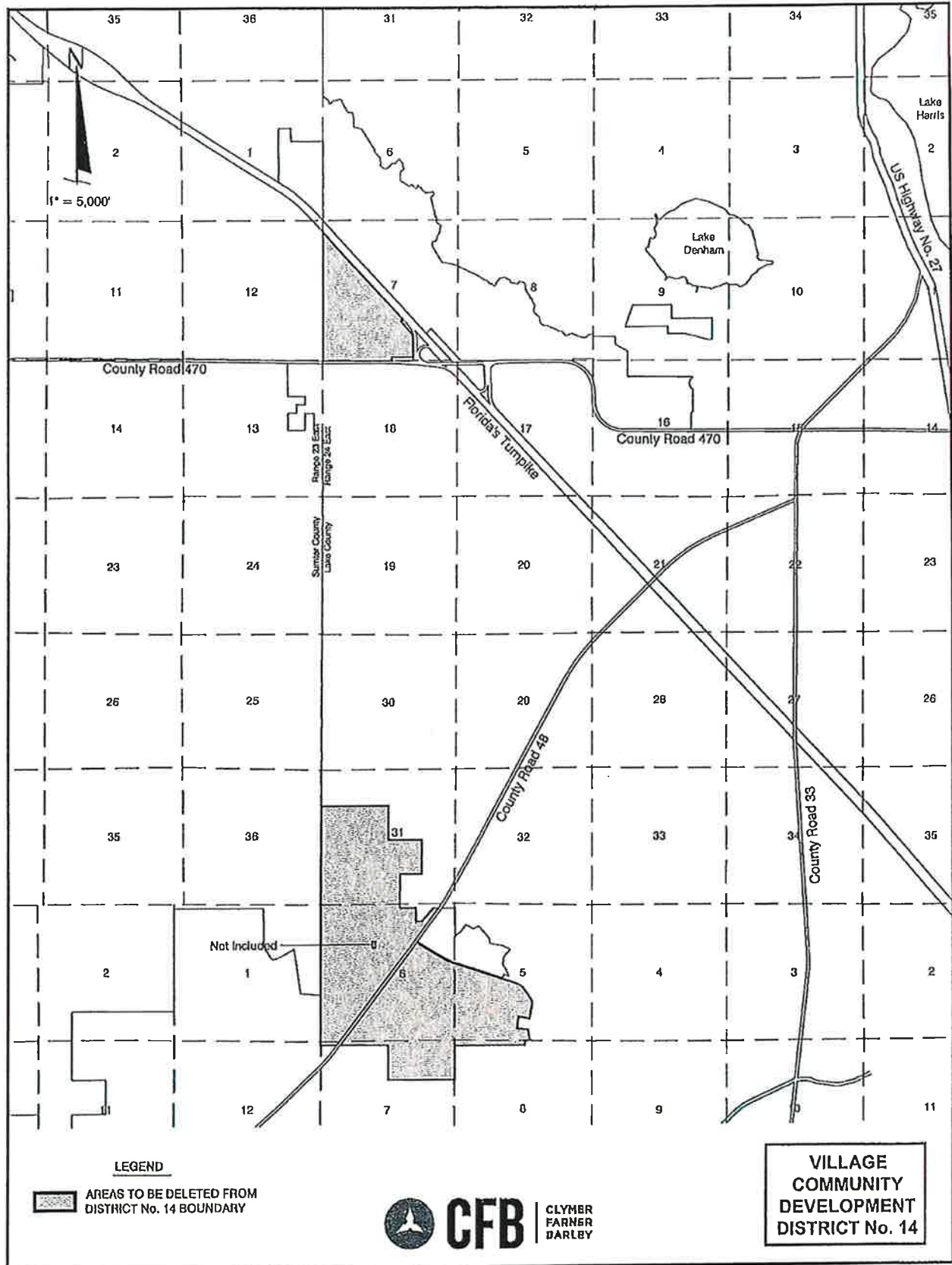
A PORTION OF SECTIONS 5, 6 AND 7, TOWNSHIP 21 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 6; THENCE RUN SOUTH 89°03'26" EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 790.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD NO.48 (A 100.00 FOOT PUBLIC RIGHT-OF-WAY PER FLORIDA STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP, PROJECT NO. 1092) AND THE POINT OF BEGINNING; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 37°44'44" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 4987.44 FEET TO THE CENTERLINE OF NORTH AUSTIN MERRITT ROAD (A 50.00 FOOT PUBLIC RIGHT-OF-WAY, PER OCCUPATION AND MONUMENTATION, AS SHOWN ON A HALL FARNER & ASSOCIATES SURVEY DATED FEBRUARY 5, 2005); THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE, RUN ALONG SAID CENTERLINE THE FOLLOWING SEVEN (7) COURSES AND DISTANCES: (1) THENCE RUN SOUTH 58°59'00" EAST, A DISTANCE OF 1279.33 FEET TO A POINT ON A 1746.98 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHEAST WHOSE RADIUS POINT BEARS NORTH 31°01'40" EAST; (2) THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°07'28" AN ARC DISTANCE OF 400.17 FEET TO A POINT OF NON-TANGENCY; (3) THENCE RUN SOUTH 71°25'50" EAST, A DISTANCE OF 2547.80 FEET TO A POINT OF CURVATURE OF A 664.96 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; (4) THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 35°58'34" AN ARC DISTANCE OF 417.53 FEET TO A POINT OF TANGENCY; (5) THENCE RUN SOUTH 35°27'16" EAST, A DISTANCE OF 424.68 FEET TO A POINT OF CURVATURE OF A 329.60 FOOT RADIUS CURVE CONCAVE TO THE WEST; (6) THENCE RUN SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°48'34" AN ARC DISTANCE OF 263.52 FEET TO A POINT OF TANGENCY; (7) THENCE RUN SOUTH 10°21'18" WEST, A DISTANCE OF 554.86 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE BOUNDARY OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 523, PAGE 828, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID CENTERLINE RUN ALONG SAID EASTERLY EXTENSION, THE BOUNDARY OF SAID LANDS AND THE EASTERLY EXTENSION OF SAID BOUNDARY THE FOLLOWING THREE (3) COURSES AND DISTANCES: (1) THENCE RUN NORTH 80°39'04" WEST, A DISTANCE OF 479.13 FEET; (2) THENCE RUN SOUTH 6°13'16" WEST, A DISTANCE OF 461.15 FEET; (3) THENCE RUN SOUTH 86°49'44" EAST, A DISTANCE OF 459.74 FEET TO AFORESAID CENTERLINE OF NORTH AUSTIN MERRITT ROAD; SAID POINT BEING ON A 1059.17 FOOT RADIUS

NON-TANGENT CURVE CONCAVE TO THE EAST WHOSE RADIUS POINT BEARS SOUTH 87°38'50" EAST; THENCE ALONG SAID CURVE AND CENTERLINE RUN SOUTHERLY THROUGH A CENTRAL ANGLE OF 24°37'50" AN ARC DISTANCE OF 455.32 FEET TO A POINT OF NON-TANGENCY; SAID POINT BEING AN INTERSECTION WITH THE EASTERLY EXTENSION OF THE BOUNDARY LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 5129, PAGE 1486, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID CENTERLINE, RUN ALONG SAID EASTERLY EXTENSION AND THE BOUNDARY OF SAID LANDS THE FOLLOWING TWO (2) COURSES AND DISTANCES: (1) THENCE RUN NORTH 89°23'30" WEST, A DISTANCE OF 243.36 FEET; (2) THENCE RUN SOUTH 0°34'26" WEST, A DISTANCE OF 170.37 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 5; THENCE DEPARTING THE BOUNDARY OF SAID LANDS, RUN NORTH 89°23'24" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 69.69 FEET TO THE SOUTH 1/4 CORNER OF SAID SECTION 5; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 89°30'25" WEST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 5, A DISTANCE OF 2645.41 FEET TO THE NORTHEAST CORNER OF SAID SECTION 7; THENCE DEPARTING SAID SOUTH LINE RUN SOUTH 0°33'51" WEST, ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 7, A DISTANCE OF 1319.74 FEET TO SOUTHEAST CORNER OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 7; THENCE DEPARTING SAID EAST LINE, RUN NORTH 89°09'29" WEST, ALONG THE SOUTH LINE OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 7, A DISTANCE OF 2646.95 FEET TO THE SOUTHWEST CORNER OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 7; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 0°31'07" EAST, ALONG THE WEST LINE OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 7, A DISTANCE OF 1324.42 FEET TO THE SOUTH 1/4 CORNER OF SAID SECTION 7; THENCE DEPARTING SAID WEST LINE, RUN NORTH 89°03'26" WEST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 1867.34 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT RIGHT-OF-WAY FOR AUSTIN MERRITT ROAD.

EXHIBIT 3



NET AREAS TO BE DELETED FROM VILLAGE COMMUNITY DEVELOPMENT DISTRICT No. 14

EXHIBIT 3

**DESCRIPTION OF THE DELETED
VILLAGE COMMUNITY DEVELOPMENT DISTRICT NO. 14
APPROXIMATELY 1,372.1 ACRES**

A PORTION OF SECTION 7, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF AFORESAID SECTION 7; THENCE ALONG THE WEST LINE THEREOF RUN N00°36'58"E, 2,377.49 FEET TO THE WESTERLY RIGHT OF WAY LINE OF FLORIDA'S TURNPIKE; THENCE DEPARTING SAID WEST LINE AND ALONG SAID WESTERLY RIGHT OF WAY LINE RUN S42°26'19"E, 4,618.14 FEET TO THE BOUNDARY LINE OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1719, PAGE 874, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THE FOLLOWING FIVE (5) COURSES BEING ALONG THE BOUNDARY LINE OF SAID LANDS: DEPARTING SAID WESTERLY RIGHT OF WAY LINE RUN S47°33'41"W, 100.00 FEET; THENCE S40°22'13"E, 738.95 FEET; THENCE S00°35'33"W, 850.09 FEET; THENCE N89°24'47"W, 850.00 FEET; THENCE S00°35'13"W, 130.00 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD NO. 470; THE FOLLOWING TWO (2) COURSES BEING ALONG SAID NORTHERLY RIGHT OF WAY LINE: RUN N89°24'47"W, 65.18 FEET; THENCE N89°23'45"W, 2,649.62 FEET TO THE WEST LINE OF THE SOUTHWEST 1/4 OF AFORESAID SECTION 7; THENCE DEPARTING SAID NORTHERLY RIGHT OF WAY LINE AND ALONG SAID WEST LINE RUN N00°36'58"E, 2,604.18 FEET TO THE POINT OF BEGINNING.

AND

A PORTION OF SECTION 6, TOWNSHIP 21 SOUTH, RANGE 24 EAST AND SECTION 31, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID SECTION 6; THENCE RUN NORTH 0°40'22" EAST, ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 2641.21 FEET TO THE WEST 1/4 CORNER OF SAID SECTION 6; THENCE DEPARTING SAID WEST LINE, RUN NORTH 0°40'23" EAST, ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 2641.21 FEET TO THE NORTHWEST CORNER OF SAID SECTION 6; THENCE DEPARTING SAID WEST LINE, RUN NORTH 0°51'49" EAST, ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 31, A DISTANCE OF 2645.51 FEET TO THE WEST 1/4 CORNER OF SAID SECTION 31; THENCE DEPARTING SAID WEST LINE, RUN NORTH 0°52'48" EAST, ALONG THE WEST LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 31, A DISTANCE OF 1322.56 FEET TO THE NORTHWEST CORNER OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 31; THENCE DEPARTING SAID WEST LINE, RUN SOUTH 89°12'12" EAST, ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 31, A DISTANCE OF 2647.14 FEET TO THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 31; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH 0°50'27" WEST, ALONG THE EAST LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 31, A DISTANCE OF 1323.15

FEET TO THE CENTER OF SAID SECTION 31; THENCE DEPARTING SAID EAST LINE, RUN SOUTH $89^{\circ}15'43''$ EAST, ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31, A DISTANCE OF 1323.75 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH $0^{\circ}43'08''$ WEST, ALONG THE EAST LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31, A DISTANCE OF 1323.54 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31; THENCE DEPARTING SAID EAST LINE, RUN NORTH $89^{\circ}13'10''$ WEST, ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31, A DISTANCE OF 863.02 FEET TO THE NORTHEAST CORNER OF THE WEST 462 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31; THENCE DEPARTING SAID SOUTH LINE, RUN SOUTH $0^{\circ}46'34''$ WEST, ALONG THE EAST LINE OF THE WEST 462 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31, A DISTANCE OF 1322.90 FEET TO THE SOUTHEAST CORNER OF THE WEST 462 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31 AND A POINT ON THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 6; THENCE DEPARTING SAID EAST LINE, RUN SOUTH $89^{\circ}10'38''$ EAST, ALONG SAID NORTH LINE, A DISTANCE OF 639.44 FEET TO A POINT ON THE BOUNDARY OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3573, PAGE 1, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID NORTH LINE, RUN ALONG THE BOUNDARY OF SAID LANDS THE FOLLOWING THREE (3) COURSES AND DISTANCES: (1) THENCE RUN SOUTH $0^{\circ}49'22''$ WEST, A DISTANCE OF 518.18 FEET; (2) THENCE RUN SOUTH $89^{\circ}10'38''$ EAST, A DISTANCE OF 217.51 FEET; (3) THENCE RUN NORTH $42^{\circ}32'39''$ EAST, A DISTANCE OF 694.25 FEET TO A POINT ON THE AFORESAID NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 6; THENCE DEPARTING SAID BOUNDARY, RUN SOUTH $89^{\circ}10'38''$ EAST, ALONG SAID NORTH LINE, A DISTANCE OF 215.45 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 48 (A 100.00 FOOT PUBLIC RIGHT-OF-WAY PER FLORIDA STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP, PROJECT NO. 1092), SAID POINT BEING ON A 5724.15 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHWEST WHOSE RADIUS POINT BEARS NORTH $53^{\circ}26'45''$ WEST; THENCE DEPARTING SAID NORTH LINE, RUN SOUTHWESTERLY ALONG SAID CURVE AND WESTERLY RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF $1^{\circ}11'29''$ AN ARC DISTANCE OF 119.03 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID WESTERLY RIGHT-OF-WAY, SOUTH $37^{\circ}44'44''$ WEST, A DISTANCE OF 6490.63 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE, RUN NORTH $89^{\circ}03'26''$ WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 665.09 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT A PORTION OF SECTION 6, TOWNSHIP 21 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 6; THENCE RUN NORTH $89^{\circ}09'35''$ WEST, ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 453.05 FEET TO THE POINT OF BEGINNING; THENCE RUN SOUTH $00^{\circ}36'59''$ WEST, A DISTANCE OF 235.00 FEET; THENCE RUN NORTH $89^{\circ}09'35''$ WEST, A DISTANCE OF 180.00 FEET; THENCE RUN NORTH $00^{\circ}36'59''$ EAST,

A DISTANCE OF 291.57 FEET; THENCE RUN SOUTH 75°50'19" EAST, A DISTANCE OF 185.15 FEET; THENCE RUN SOUTH 00°36'59" WEST, A DISTANCE OF 13.91 FEET TO THE POINT OF BEGINNING.

AND

A PORTION OF SECTIONS 5, 6 AND 7, TOWNSHIP 21 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 6; THENCE RUN SOUTH 89°03'26" EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 790.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD NO.48 (A 100.00 FOOT PUBLIC RIGHT-OF-WAY PER FLORIDA STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP, PROJECT NO. 1092) AND THE POINT OF BEGINNING; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 37°44'44" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 4987.44 FEET TO THE CENTERLINE OF NORTH AUSTIN MERRITT ROAD (A 50.00 FOOT PUBLIC RIGHT-OF-WAY, PER OCCUPATION AND MONUMENTATION, AS SHOWN ON A HALL FARNER & ASSOCIATES SURVEY DATED FEBRUARY 5, 2005); THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE, RUN ALONG SAID CENTERLINE THE FOLLOWING SEVEN (7) COURSES AND DISTANCES: (1) THENCE RUN SOUTH 58°59'00" EAST, A DISTANCE OF 1279.33 FEET TO A POINT ON A 1746.98 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHEAST WHOSE RADIUS POINT BEARS NORTH 31°01'40" EAST; (2) THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°07'28" AN ARC DISTANCE OF 400.17 FEET TO A POINT OF NON-TANGENCY; (3) THENCE RUN SOUTH 71°25'50" EAST, A DISTANCE OF 2547.80 FEET TO A POINT OF CURVATURE OF A 664.96 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; (4) THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 35°58'34" AN ARC DISTANCE OF 417.53 FEET TO A POINT OF TANGENCY; (5) THENCE RUN SOUTH 35°27'16" EAST, A DISTANCE OF 424.68 FEET TO A POINT OF CURVATURE OF A 329.60 FOOT RADIUS CURVE CONCAVE TO THE WEST; (6) THENCE RUN SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°48'34" AN ARC DISTANCE OF 263.52 FEET TO A POINT OF TANGENCY; (7) THENCE RUN SOUTH 10°21'18" WEST, A DISTANCE OF 554.86 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE BOUNDARY OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 523, PAGE 828, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID CENTERLINE RUN ALONG SAID EASTERLY EXTENSION, THE BOUNDARY OF SAID LANDS AND THE EASTERLY EXTENSION OF SAID BOUNDARY THE FOLLOWING THREE (3) COURSES AND DISTANCES: (1) THENCE RUN NORTH 80°39'04" WEST, A DISTANCE OF 479.13 FEET; (2) THENCE RUN SOUTH 6°13'16" WEST, A DISTANCE OF 461.15 FEET; (3) THENCE RUN SOUTH 86°49'44" EAST, A DISTANCE OF 459.74 FEET TO AFORESAID CENTERLINE OF NORTH AUSTIN MERRITT ROAD; SAID POINT BEING ON A 1059.17 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE EAST WHOSE RADIUS POINT BEARS SOUTH 87°38'50" EAST; THENCE ALONG SAID CURVE AND CENTERLINE RUN SOUTHERLY THROUGH A CENTRAL ANGLE OF 24°37'50" AN ARC DISTANCE OF 455.32 FEET TO A POINT OF NON-TANGENCY; SAID POINT BEING AN INTERSECTION WITH THE EASTERLY EXTENSION OF THE BOUNDARY LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 5129, PAGE 1486, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID

CENTERLINE, RUN ALONG SAID EASTERLY EXTENSION AND THE BOUNDARY OF SAID LANDS THE FOLLOWING TWO (2) COURSES AND DISTANCES: (1) THENCE RUN NORTH 89°23'30" WEST, A DISTANCE OF 243.36 FEET; (2) THENCE RUN SOUTH 0°34'26" WEST, A DISTANCE OF 170.37 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 5; THENCE DEPARTING THE BOUNDARY OF SAID LANDS, RUN NORTH 89°23'24" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 69.69 FEET TO THE SOUTH 1/4 CORNER OF SAID SECTION 5; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 89°30'25" WEST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 5, A DISTANCE OF 2645.41 FEET TO THE NORTHEAST CORNER OF SAID SECTION 7; THENCE DEPARTING SAID SOUTH LINE RUN SOUTH 0°33'51" WEST, ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 7, A DISTANCE OF 1319.74 FEET TO SOUTHEAST CORNER OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 7; THENCE DEPARTING SAID EAST LINE, RUN NORTH 89°09'29" WEST, ALONG THE SOUTH LINE OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 7, A DISTANCE OF 2646.95 FEET TO THE SOUTHWEST CORNER OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 7; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 0°31'07" EAST, ALONG THE WEST LINE OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 7, A DISTANCE OF 1324.42 FEET TO THE SOUTH 1/4 CORNER OF SAID SECTION 7; THENCE DEPARTING SAID WEST LINE, RUN NORTH 89°03'26" WEST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 1867.34 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT RIGHT-OF-WAY FOR AUSTIN MERRITT ROAD.

EXHIBIT 4

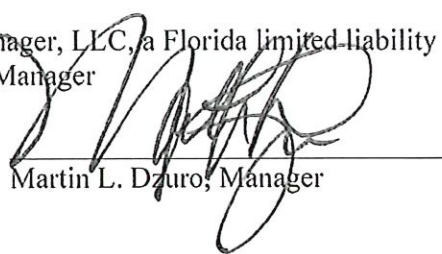
**CONSENT TO AMEND THE BOUNDARY LINE OF
VILLAGE COMMUNITY DEVELOPMENT DISTRICT NO. 14**

The undersigned, being the owner of the property described in Exhibit 3 to the Petition Amend the Boundary Line of Village Community Development District No. 14, hereby consents to the Petition to Amend the Boundary Line of Village Community Development District No. 14, dated the 1st of November, 2023.

THE VILLAGES DEVELOPMENT COMPANY, LLC,
a Florida limited liability company

By: VDC Manager, LLC, a Florida limited liability
company, its Manager

By:


Martin L. Dzuro, Manager

**CONSENT TO AMEND THE BOUNDARY LINE OF
VILLAGE COMMUNITY DEVELOPMENT DISTRICT NO. 14**

The undersigned, being the owner of the property described in Exhibit 3 to the Petition Amend the Boundary Line of Village Community Development District No. 14, hereby consents to the Petition to Amend the Boundary Line of Village Community Development District No. 14, dated the 1st of November, 2023.

BUFFALO HIDE AND CATTLE COMPANY, LLC, a
Florida limited liability company

By: _____

Martin L. Dzuro, Manager

**CONSENT TO AMEND THE BOUNDARY LINE OF
VILLAGE COMMUNITY DEVELOPMENT DISTRICT NO. 14**

The undersigned, being the owner of the property described in Exhibit 3 to the Petition Amend the Boundary Line of Village Community Development District No. 14, hereby consents to the Petition to Amend the Boundary Line of Village Community Development District No. 14, dated the 4 of DEC., 2023.

FL TURNPIKE ASSOCIATES NORTH, LLC, a Florida
limited liability company

By: 
Name: STEPHEN C. SCAGLIONE
Title: MANAGER

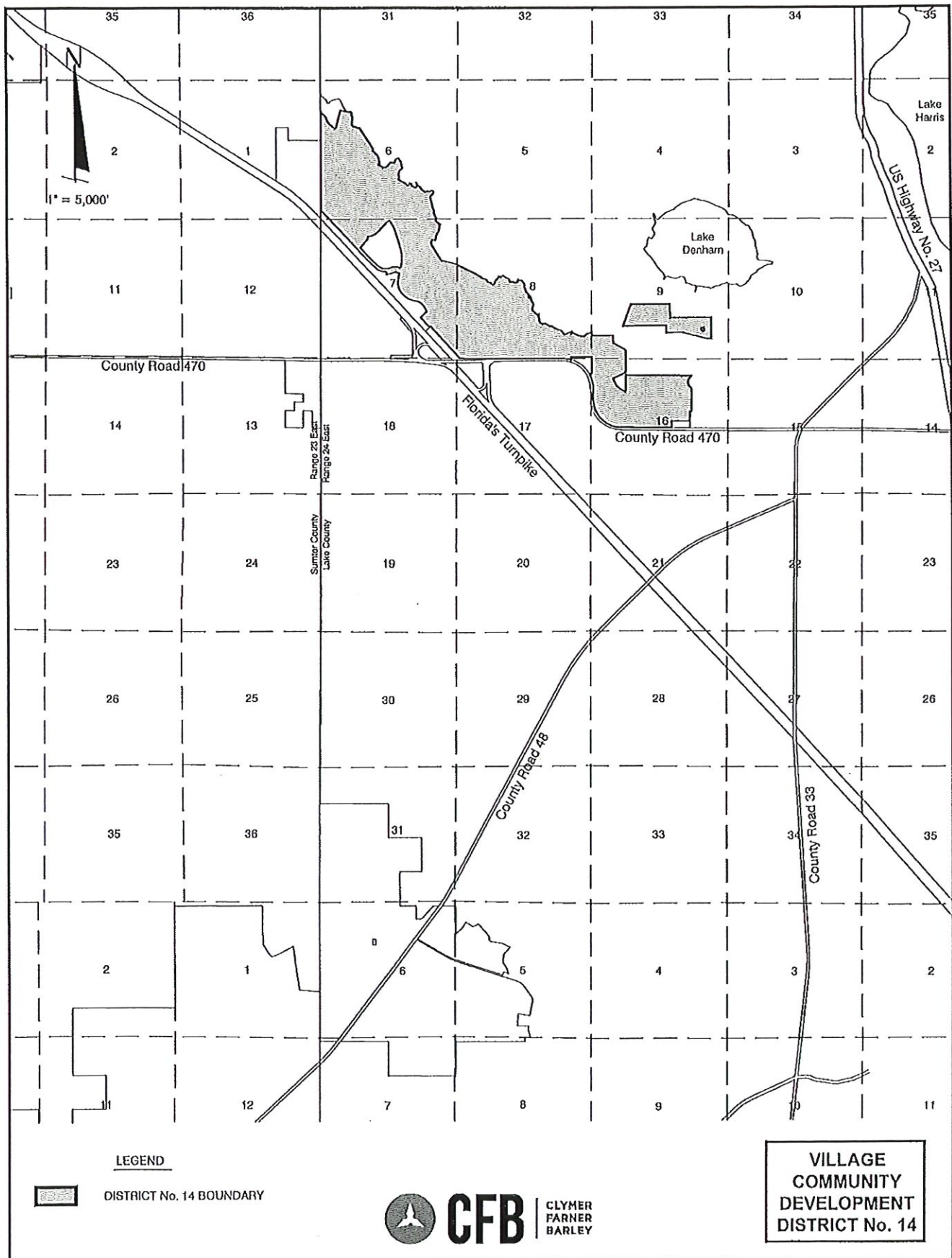
8

EXHIBIT 5

**BOARD OF SUPERVISORS
VILLAGE COMMUNITY DEVELOPMENT DISTRICT NO. 14**

1. Supervisor/Chair – Dale Borrowman
2. Supervisor/Vice Chair – Cody Yoder
3. Supervisor – Zane Ewton
4. Supervisor – Colby Sharp
5. Supervisor – Amanda Isaacs

EXHIBIT 6



AMENDED VILLAGE COMMUNITY DEVELOPMENT DISTRICT No. 14

EXHIBIT "6"

DESCRIPTION OF THE AMENDED VILLAGE COMMUNITY DEVELOPMENT DISTRICT NO. 14 APPROXIMATELY 1,013.1 ACRES

A PORTION OF SECTIONS 6, 7, 8, 9, 16 AND 17, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE WEST 1/4 CORNER OF SAID SECTION 6; THENCE RUN NORTH 00°39'41" EAST, ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 1646.12 FEET TO A POINT OF CURVATURE OF A 533.18 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST WHOSE RADIUS POINT BEARS SOUTH 31°46'39" WEST; THENCE DEPARTING SAID WEST LINE, RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06°10'34" AN ARC DISTANCE OF 57.47 FEET; THENCE ALONG A NON-TANGENT LINE RUN SOUTH 52°02'45" EAST, A DISTANCE OF 47.57 FEET TO A POINT OF CURVATURE OF A 471.50 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 33°47'25" AN ARC DISTANCE OF 278.07 FEET TO A POINT OF REVERSE CURVE OF A 478.50 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 40°38'06" AN ARC DISTANCE OF 339.36 FEET TO A POINT OF REVERSE CURVE OF A 521.50 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°29'45" AN ARC DISTANCE OF 131.94 FEET; THENCE ALONG A RADIAL LINE RUN NORTH 45°36'19" EAST, A DISTANCE OF 38.00 FEET; THENCE RUN NORTH 14°28'59" EAST, A DISTANCE OF 685.20 FEET; THENCE RUN SOUTH 80°46'10" EAST, A DISTANCE OF 345.42 FEET; THENCE RUN SOUTH 82°49'12" EAST, A DISTANCE OF 85.20 FEET; THENCE RUN SOUTH 39°42'02" EAST, A DISTANCE OF 45.75 FEET; THENCE RUN SOUTH 14°23'50" WEST, A DISTANCE OF 70.58 FEET; THENCE RUN SOUTH 29°58'34" EAST, A DISTANCE OF 76.07 FEET; THENCE RUN SOUTH 23°08'46" EAST, A DISTANCE OF 39.04 FEET; THENCE RUN SOUTH 11°00'19" WEST, A DISTANCE OF 95.71 FEET; THENCE RUN SOUTH 09°22'14" WEST, A DISTANCE OF 123.51 FEET; THENCE RUN SOUTH 09°41'56" EAST, A DISTANCE OF 80.26 FEET; THENCE RUN SOUTH 43°34'44" EAST, A DISTANCE OF 98.73 FEET; THENCE RUN NORTH 76°35'25" EAST, A DISTANCE OF 50.82 FEET; THENCE RUN SOUTH 62°33'16" EAST, A DISTANCE OF 86.58 FEET; THENCE RUN SOUTH 64°36'42" EAST, A DISTANCE OF 71.30 FEET; THENCE RUN NORTH 76°42'30" EAST, A DISTANCE OF 44.48 FEET; THENCE RUN SOUTH 32°12'12" EAST, A DISTANCE OF 957.86 FEET; THENCE RUN SOUTH 07°10'01" WEST, A DISTANCE OF 91.08 FEET; THENCE RUN SOUTH 61°21'16" EAST, A DISTANCE OF 47.28 FEET; THENCE RUN SOUTH 40°28'15" EAST, A DISTANCE OF 120.86 FEET; THENCE RUN SOUTH 44°33'11" EAST, A DISTANCE OF 69.24 FEET; THENCE RUN SOUTH 37°26'37" EAST, A DISTANCE OF 89.41 FEET; THENCE RUN SOUTH 07°06'18" EAST, A DISTANCE OF 113.64 FEET; THENCE RUN SOUTH 09°52'34" EAST, A DISTANCE OF 113.85 FEET; THENCE RUN SOUTH 35°28'16" WEST, A DISTANCE OF 89.69 FEET; THENCE RUN SOUTH 64°22'33" EAST, A DISTANCE OF 118.81 FEET; THENCE RUN SOUTH 52°22'56" EAST, A DISTANCE OF 90.58 FEET; THENCE RUN NORTH 79°20'02" EAST, A DISTANCE OF 136.10 FEET;

THENCE RUN NORTH 52°22'55" EAST, A DISTANCE OF 86.83 FEET; THENCE RUN NORTH 36°24'30" EAST, A DISTANCE OF 105.87 FEET; THENCE RUN NORTH 48°55'55" EAST, A DISTANCE OF 45.49 FEET; THENCE RUN SOUTH 89°56'18" EAST, A DISTANCE OF 151.08 FEET; THENCE RUN NORTH 24°38'40" EAST, A DISTANCE OF 110.35 FEET; THENCE RUN NORTH 46°09'26" EAST, A DISTANCE OF 81.02 FEET; THENCE RUN SOUTH 86°18'52" EAST, A DISTANCE OF 62.24 FEET; THENCE RUN SOUTH 27°38'50" EAST, A DISTANCE OF 68.64 FEET; THENCE RUN SOUTH 41°23'00" EAST, A DISTANCE OF 95.74 FEET; THENCE RUN SOUTH 09°19'22" EAST, A DISTANCE OF 161.00 FEET; THENCE RUN SOUTH 22°58'56" EAST, A DISTANCE OF 78.10 FEET; THENCE RUN SOUTH 41°13'52" WEST, A DISTANCE OF 71.83 FEET; THENCE RUN SOUTH 67°32'49" WEST, A DISTANCE OF 60.90 FEET; THENCE RUN SOUTH 22°37'04" WEST, A DISTANCE OF 125.78 FEET; THENCE RUN SOUTH 05°54'07" WEST, A DISTANCE OF 58.17 FEET; THENCE RUN SOUTH 09°17'29" EAST, A DISTANCE OF 113.07 FEET; THENCE RUN SOUTH 17°42'35" WEST, A DISTANCE OF 84.59 FEET; THENCE RUN SOUTH 54°18'47" EAST, A DISTANCE OF 86.37 FEET; THENCE RUN SOUTH 59°31'01" EAST, A DISTANCE OF 114.87 FEET; THENCE RUN SOUTH 62°38'05" EAST, A DISTANCE OF 134.39 FEET; THENCE RUN SOUTH 39°09'25" EAST, A DISTANCE OF 51.70 FEET; THENCE RUN SOUTH 80°59'23" EAST, A DISTANCE OF 80.02 FEET; THENCE RUN NORTH 35°54'34" EAST, A DISTANCE OF 63.23 FEET; THENCE RUN SOUTH 74°27'55" EAST, A DISTANCE OF 81.89 FEET; THENCE RUN SOUTH 04°00'12" EAST, A DISTANCE OF 73.97 FEET; THENCE RUN SOUTH 80°14'56" EAST, A DISTANCE OF 67.06 FEET; THENCE RUN SOUTH 62°54'57" EAST, A DISTANCE OF 47.02 FEET; THENCE RUN SOUTH 80°58'05" EAST, A DISTANCE OF 47.16 FEET; THENCE RUN NORTH 50°24'47" EAST, A DISTANCE OF 52.77 FEET; THENCE RUN NORTH 16°30'08" WEST, A DISTANCE OF 34.10 FEET; THENCE RUN NORTH 00°36'32" WEST, A DISTANCE OF 52.85 FEET; THENCE RUN SOUTH 40°59'45" EAST, A DISTANCE OF 106.23 FEET; THENCE RUN SOUTH 55°44'00" EAST, A DISTANCE OF 86.62 FEET; THENCE RUN SOUTH 33°10'27" EAST, A DISTANCE OF 83.20 FEET; THENCE RUN SOUTH 55°17'24" EAST, A DISTANCE OF 68.84 FEET; THENCE RUN SOUTH 46°21'25" EAST, A DISTANCE OF 101.01 FEET; THENCE RUN NORTH 74°50'26" EAST, A DISTANCE OF 86.17 FEET; THENCE RUN SOUTH 82°04'41" EAST, A DISTANCE OF 120.38 FEET; THENCE RUN NORTH 58°22'49" EAST, A DISTANCE OF 68.80 FEET; THENCE RUN SOUTH 60°56'38" EAST, A DISTANCE OF 75.22 FEET; THENCE RUN SOUTH 03°14'40" WEST, A DISTANCE OF 76.66 FEET; THENCE RUN SOUTH 50°59'10" WEST, A DISTANCE OF 90.51 FEET; THENCE RUN SOUTH 36°37'10" WEST, A DISTANCE OF 76.43 FEET; THENCE RUN SOUTH 12°29'53" EAST, A DISTANCE OF 471.98 FEET; THENCE RUN SOUTH 24°47'34" EAST, A DISTANCE OF 104.62 FEET; THENCE RUN SOUTH 12°21'53" WEST, A DISTANCE OF 65.63 FEET; THENCE RUN SOUTH 18°03'40" EAST, A DISTANCE OF 67.17 FEET; THENCE RUN SOUTH 25°58'11" EAST, A DISTANCE OF 64.57 FEET; THENCE RUN SOUTH 27°55'06" EAST, A DISTANCE OF 100.44 FEET; THENCE RUN SOUTH 35°22'32" WEST, A DISTANCE OF 59.70 FEET; THENCE RUN SOUTH 13°35'06" EAST, A DISTANCE OF 68.53 FEET; THENCE RUN SOUTH 51°53'59" EAST, A DISTANCE OF 156.93 FEET; THENCE RUN SOUTH 66°50'45" EAST, A DISTANCE OF 64.60 FEET; THENCE RUN SOUTH 48°38'48" WEST, A DISTANCE OF 54.10 FEET; THENCE RUN SOUTH 08°34'50" WEST, A DISTANCE OF 80.78 FEET; THENCE RUN SOUTH 08°53'51" WEST, A DISTANCE OF 102.76 FEET; THENCE RUN SOUTH 13°03'25" WEST, A DISTANCE OF 64.08 FEET; THENCE RUN SOUTH 27°21'03" WEST, A DISTANCE OF 92.67 FEET; THENCE RUN SOUTH 58°32'05" WEST, A DISTANCE OF 39.73 FEET; THENCE RUN SOUTH 05°28'43" WEST, A DISTANCE OF 111.73 FEET; THENCE RUN SOUTH 12°31'44" WEST, A DISTANCE OF 83.93 FEET; THENCE RUN

SOUTH 55°17'54" WEST, A DISTANCE OF 62.16 FEET; THENCE RUN NORTH 84°37'02" WEST, A DISTANCE OF 51.91 FEET; THENCE RUN NORTH 88°34'03" WEST, A DISTANCE OF 32.60 FEET; THENCE RUN SOUTH 42°06'52" WEST, A DISTANCE OF 58.01 FEET; THENCE RUN SOUTH 12°33'12" WEST, A DISTANCE OF 37.53 FEET; THENCE RUN SOUTH 20°36'57" WEST, A DISTANCE OF 33.88 FEET; THENCE RUN SOUTH 20°04'52" EAST, A DISTANCE OF 53.52 FEET; THENCE RUN SOUTH 24°42'25" EAST, A DISTANCE OF 74.30 FEET; THENCE RUN SOUTH 30°43'24" EAST, A DISTANCE OF 665.00 FEET; THENCE RUN SOUTH 76°34'14" EAST, A DISTANCE OF 477.21 FEET; THENCE RUN SOUTH 71°58'41" EAST, A DISTANCE OF 165.94 FEET; THENCE RUN SOUTH 54°48'46" EAST, A DISTANCE OF 79.68 FEET; THENCE RUN SOUTH 62°41'15" EAST, A DISTANCE OF 108.65 FEET; THENCE RUN SOUTH 62°55'30" EAST, A DISTANCE OF 667.14 FEET; THENCE RUN SOUTH 60°27'48" EAST, A DISTANCE OF 87.14 FEET; THENCE RUN SOUTH 64°03'50" EAST, A DISTANCE OF 106.68 FEET; THENCE RUN SOUTH 43°54'25" EAST, A DISTANCE OF 79.20 FEET; THENCE RUN SOUTH 72°01'07" EAST, A DISTANCE OF 124.60 FEET; THENCE RUN SOUTH 60°09'14" EAST, A DISTANCE OF 62.29 FEET; THENCE RUN SOUTH 31°27'02" EAST, A DISTANCE OF 86.64 FEET; THENCE RUN SOUTH 63°57'31" EAST, A DISTANCE OF 63.36 FEET; THENCE RUN NORTH 89°40'02" EAST, A DISTANCE OF 61.47 FEET; THENCE RUN SOUTH 25°03'35" EAST, A DISTANCE OF 41.98 FEET; THENCE RUN SOUTH 58°26'41" EAST, A DISTANCE OF 77.10 FEET; THENCE RUN NORTH 64°51'43" EAST, A DISTANCE OF 59.71 FEET; THENCE RUN NORTH 22°27'00" EAST, A DISTANCE OF 133.33 FEET; THENCE RUN NORTH 52°49'57" EAST, A DISTANCE OF 66.67 FEET; THENCE RUN NORTH 35°29'20" EAST, A DISTANCE OF 82.69 FEET; THENCE RUN NORTH 27°10'34" EAST, A DISTANCE OF 56.95 FEET; THENCE RUN SOUTH 79°02'53" EAST, A DISTANCE OF 94.44 FEET; THENCE RUN NORTH 62°59'52" EAST, A DISTANCE OF 87.39 FEET; THENCE RUN SOUTH 55°10'19" EAST, A DISTANCE OF 51.33 FEET; THENCE RUN SOUTH 56°42'06" EAST, A DISTANCE OF 76.72 FEET; THENCE RUN SOUTH 69°38'47" EAST, A DISTANCE OF 98.62 FEET; THENCE RUN SOUTH 33°07'22" EAST, A DISTANCE OF 66.32 FEET; THENCE RUN SOUTH 12°34'18" EAST, A DISTANCE OF 67.51 FEET; THENCE RUN SOUTH 73°43'09" EAST, A DISTANCE OF 32.57 FEET; THENCE RUN NORTH 88°46'08" EAST, A DISTANCE OF 89.59 FEET; THENCE RUN SOUTH 72°00'24" EAST, A DISTANCE OF 88.54 FEET; THENCE RUN NORTH 82°00'35" EAST, A DISTANCE OF 82.23 FEET; THENCE RUN NORTH 28°08'41" EAST, A DISTANCE OF 77.60 FEET; THENCE RUN SOUTH 79°52'28" EAST, A DISTANCE OF 72.13 FEET; THENCE RUN SOUTH 84°08'18" EAST, A DISTANCE OF 76.52 FEET; THENCE RUN SOUTH 50°04'27" EAST, A DISTANCE OF 116.72 FEET; THENCE RUN SOUTH 18°05'38" EAST, A DISTANCE OF 86.72 FEET; THENCE RUN SOUTH 11°26'26" WEST, A DISTANCE OF 91.89 FEET; THENCE RUN SOUTH 29°04'26" EAST, A DISTANCE OF 89.79 FEET; THENCE RUN SOUTH 09°58'55" EAST, A DISTANCE OF 91.28 FEET; THENCE RUN SOUTH 40°14'22" EAST, A DISTANCE OF 56.45 FEET; THENCE RUN SOUTH 43°10'08" EAST, A DISTANCE OF 86.77 FEET; THENCE RUN SOUTH 30°23'40" EAST, A DISTANCE OF 63.23 FEET; THENCE RUN SOUTH 36°06'06" WEST, A DISTANCE OF 69.17 FEET; THENCE RUN SOUTH 49°24'38" EAST, A DISTANCE OF 39.36 FEET; THENCE RUN NORTH 51°47'53" EAST, A DISTANCE OF 66.55 FEET; THENCE RUN SOUTH 18°39'03" EAST, A DISTANCE OF 66.42 FEET; THENCE RUN SOUTH 13°29'51" EAST, A DISTANCE OF 121.98 FEET; THENCE RUN SOUTH 37°08'09" EAST, A DISTANCE OF 78.28 FEET; THENCE RUN SOUTH 18°59'20" EAST, A DISTANCE OF 85.31 FEET; THENCE RUN SOUTH 29°01'05" WEST, A DISTANCE OF 50.31 FEET; THENCE RUN SOUTH 14°39'12" WEST, A DISTANCE OF 122.19 FEET; THENCE RUN SOUTH 18°44'14" EAST, A DISTANCE OF 78.53 FEET; THENCE RUN SOUTH 53°17'25"

EAST, A DISTANCE OF 80.53 FEET; THENCE RUN SOUTH 37°24'41" EAST, A DISTANCE OF 83.16 FEET; THENCE RUN SOUTH 55°25'31" EAST, A DISTANCE OF 71.44 FEET; THENCE RUN NORTH 58°27'23" EAST, A DISTANCE OF 43.35 FEET; THENCE RUN SOUTH 19°10'27" EAST, A DISTANCE OF 37.15 FEET; THENCE RUN SOUTH 63°34'27" WEST, A DISTANCE OF 31.07 FEET; THENCE RUN SOUTH 22°20'25" EAST, A DISTANCE OF 134.31 FEET; THENCE RUN SOUTH 08°26'23" WEST, A DISTANCE OF 67.96 FEET; THENCE RUN SOUTH 22°50'36" EAST, A DISTANCE OF 95.16 FEET; THENCE RUN SOUTH 68°08'39" EAST, A DISTANCE OF 101.39 FEET; THENCE RUN SOUTH 84°06'33" EAST, A DISTANCE OF 143.78 FEET; THENCE RUN SOUTH 53°36'32" EAST, A DISTANCE OF 79.23 FEET; THENCE RUN SOUTH 62°30'27" EAST, A DISTANCE OF 79.89 FEET; THENCE RUN SOUTH 80°26'17" EAST, A DISTANCE OF 103.16 FEET; THENCE RUN SOUTH 50°11'10" EAST, A DISTANCE OF 58.15 FEET; THENCE RUN SOUTH 66°52'59" EAST, A DISTANCE OF 72.77 FEET; THENCE RUN SOUTH 63°53'24" EAST, A DISTANCE OF 143.33 FEET; THENCE RUN SOUTH 83°14'16" EAST, A DISTANCE OF 82.39 FEET; THENCE RUN SOUTH 46°01'21" EAST, A DISTANCE OF 132.57 FEET; THENCE RUN SOUTH 30°59'41" EAST, A DISTANCE OF 81.79 FEET; THENCE RUN NORTH 86°11'27" EAST, A DISTANCE OF 73.17 FEET; THENCE RUN NORTH 62°36'40" EAST, A DISTANCE OF 109.25 FEET; THENCE RUN NORTH 76°42'21" EAST, A DISTANCE OF 117.81 FEET TO A POINT ON THE WEST LINE OF A 79.02 ACRE LEESBURG INTERNATIONAL AIRPORT SEA PLANE MITIGATION AREA; THENCE ALONG SAID SEA PLANE MITIGATION AREA THE FOLLOWING SIXTEEN (16) COURSES AND DISTANCES: 1) THENCE RUN SOUTH 00°30'28" WEST, A DISTANCE OF 58.37 FEET; 2) THENCE RUN NORTH 59°53'32" EAST, A DISTANCE OF 54.81 FEET; 3) THENCE RUN SOUTH 43°52'35" EAST, A DISTANCE OF 38.23 FEET; 4) THENCE RUN SOUTH 75°34'26" EAST, A DISTANCE OF 45.20 FEET; 5) THENCE RUN SOUTH 70°37'50" EAST, A DISTANCE OF 23.34 FEET; 6) THENCE RUN SOUTH 65°59'05" EAST, A DISTANCE OF 142.77 FEET; 7) THENCE RUN SOUTH 71°48'27" EAST, A DISTANCE OF 41.59 FEET; 8) THENCE RUN SOUTH 73°29'01" EAST, A DISTANCE OF 85.77 FEET; 9) THENCE RUN NORTH 83°59'28" EAST, A DISTANCE OF 72.88 FEET; 10) THENCE RUN NORTH 82°39'04" EAST, A DISTANCE OF 75.52 FEET; 11) THENCE RUN NORTH 22°53'15" EAST, A DISTANCE OF 49.24 FEET; 12) THENCE RUN NORTH 42°47'28" EAST, A DISTANCE OF 36.32 FEET; 13) THENCE RUN NORTH 66°51'09" EAST, A DISTANCE OF 48.16 FEET; 14) THENCE RUN NORTH 82°25'46" EAST, A DISTANCE OF 75.22 FEET; 15) THENCE RUN NORTH 82°09'15" EAST, A DISTANCE OF 66.23 FEET; 16) THENCE RUN NORTH 72°05'31" EAST, A DISTANCE OF 32.56 FEET TO A POINT ON THE WEST LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID SEA PLANE MITIGATION AREA, RUN ALONG THE BOUNDARY OF SAID LANDS THE FOLLOWING SIX (6) COURSES AND DISTANCES: 1) THENCE RUN SOUTH 00°30'28" WEST, A DISTANCE OF 107.66 FEET; 2) THENCE RUN SOUTH 89°33'30" EAST, A DISTANCE OF 841.08 FEET; 3) THENCE RUN SOUTH 02°20'16" EAST, A DISTANCE OF 303.39 FEET; 4) THENCE RUN SOUTH 60°11'33" EAST, A DISTANCE OF 535.18 FEET; 5) THENCE RUN SOUTH 00°10'55" WEST, A DISTANCE OF 387.25 FEET; 6) THENCE RUN SOUTH 00°48'18" WEST, A DISTANCE OF 476.88 FEET; THENCE DEPARTING THE BOUNDARY OF SAID LANDS RUN NORTH 89°54'06" WEST, A DISTANCE OF 20.00 FEET; THENCE RUN SOUTH 45°14'29" WEST, A DISTANCE OF 109.76 FEET; THENCE RUN SOUTH 67°29'16" WEST, A DISTANCE OF 420.28 FEET; THENCE RUN SOUTH 18°01'51" EAST, A DISTANCE OF 91.81 FEET TO A POINT OF CURVATURE OF A 628.50 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHEAST WHOSE RADIUS POINT BEARS NORTH 71°57'09" EAST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL

ANGLE OF 58°07'29" AN ARC DISTANCE OF 637.59 FEET; THENCE ALONG A NON-TANGENT LINE RUN NORTH 00°48'18" EAST, A DISTANCE OF 618.09 FEET TO THE BOUNDARY OF AFORESAID LANDS; THENCE RUN SOUTH 88°56'30" EAST, A DISTANCE OF 2,556.25 FEET; THENCE RUN ALONG THE BOUNDARY OF SAID LANDS THE FOLLOWING NINE (9) COURSES AND DISTANCES: 1) THENCE RUN SOUTH 88°56'30" EAST, A DISTANCE OF 2556.25 FEET; 2) THENCE RUN SOUTH 00°49'33" WEST, A DISTANCE OF 5.52 FEET; 3) THENCE RUN SOUTH 43°39'58" WEST, A DISTANCE OF 170.17 FEET; 4) THENCE RUN SOUTH 13°50'45" WEST, A DISTANCE OF 147.54 FEET; 5) THENCE RUN SOUTH 26°56'42" EAST, A DISTANCE OF 135.90 FEET; 6) THENCE RUN SOUTH 41°29'44" EAST, A DISTANCE OF 127.17 FEET; 7) THENCE RUN SOUTH 00°49'33" WEST, A DISTANCE OF 891.81 FEET; 8) THENCE RUN NORTH 88°56'27" WEST, A DISTANCE OF 65.00 FEET; 9) THENCE RUN SOUTH 00°49'33" WEST, A DISTANCE OF 381.39 FEET; THENCE DEPARTING SAID LANDS, RUN NORTH 89°10'27" WEST, A DISTANCE OF 715.86 FEET TO A POINT OF CURVATURE OF A 871.50 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE WEST WHOSE RADIUS POINT BEARS SOUTH 83°15'04" WEST; THENCE RUN SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07°48'27" AN ARC DISTANCE OF 118.75 FEET TO THE POINT OF TANGENCY; THENCE RUN SOUTH 01°03'30" WEST, A DISTANCE OF 117.27 FEET TO A POINT OF CURVATURE OF A 25.01 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHEAST WHOSE RADIUS POINT BEARS SOUTH 88°56'53" EAST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°58'43" AN ARC DISTANCE OF 39.27 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 470 (A 100 FOOT WIDE RIGHT-OF-WAY PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP, SECTION 11670-2601); THENCE DEPARTING SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262, RUN ALONG SAID NORTH AND EAST RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES AND DISTANCES: 1) THENCE RUN NORTH 88°56'30" WEST, A DISTANCE OF 1990.13 FEET TO A POINT OF CURVATURE OF A 1095.82 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST; 2) THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°43'22" AN ARC DISTANCE OF 1716.01 FEET TO A POINT OF TANGENCY; 3) THENCE RUN NORTH 00°46'52" EAST, A DISTANCE OF 378.96 FEET TO A POINT OF CURVATURE OF A 1196.40 FOOT RADIUS CURVE CONCAVE TO THE WEST; 4) THENCE RUN NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30°56'25" AN ARC DISTANCE OF 646.07 FEET TO A POINT ON THE SOUTH LINE OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4496, PAGE 70, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID EAST RIGHT OF WAY LINE AND ALONG SAID SOUTH LINE RUN SOUTH 89°13'08" EAST A DISTANCE OF 120.24 FEET TO THE SOUTHEAST CORNER OF SAID LANDS AND THE EAST LINE OF THE NORTHEAST 1/4 OF AFORESAID SECTION 17; THENCE ALONG SAID EAST LINE RUN NORTH 00°46'52" EAST A DISTANCE OF 535.00 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 9; THENCE RUN NORTH 00°30'28" EAST, ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 100.00 FEET TO THE NORTHEAST CORNER OF AFORESAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4496, PAGE 70; THENCE DEPARTING SAID WEST LINE, RUN NORTH 89°24'17" WEST, ALONG THE NORTH LINE OF SAID LANDS, A DISTANCE OF 807.90 FEET TO THE NORTHWEST CORNER OF SAID LANDS; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH 00°30'28" WEST, ALONG THE WEST LINE OF SAID LANDS, A DISTANCE OF 99.99 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SAID COUNTY ROAD NO. 470, SAID POINT BEING ON A 1196.40 FOOT RADIUS NON-

TANGENT CURVE CONCAVE TO THE SOUTH WHOSE RADIUS POINT BEARS SOUTH 17°12'59" WEST; THENCE DEPARTING SAID WEST LINE, RUN WESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES AND DISTANCES: 1) THENCE RUN ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°37'16" AN ARC DISTANCE OF 347.07 FEET TO A POINT OF TANGENCY; 2) THENCE RUN NORTH 89°24'17" WEST, A DISTANCE OF 1499.57 FEET; 3) THENCE RUN NORTH 89°23'48" WEST A DISTANCE OF 2,315.45 FEET; 4) THENCE RUN NORTH 84°15'10" WEST A DISTANCE OF 213.38 FEET TO THE NORTHEASTERLY LINE OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4556, PAGE 1743, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID NORTHERLY RIGHT OF WAY LINE AND ALONG SAID NORTHEASTERLY LINE RUN NORTH 42°26'19" WEST A DISTANCE OF 1675.88 FEET TO THE MOST NORTHERLY CORNER OF SAID LANDS; THENCE DEPARTING SAID NORTHEASTERLY LINE, RUN SOUTH 47°33'41" WEST, ALONG THE NORTHWESTERLY LINE OF SAID LANDS, A DISTANCE OF 50.00 FEET; THENCE DEPARTING SAID NORTHWESTERLY LINE, RUN NORTH 42°26'19" WEST, A DISTANCE OF 513.90 FEET; THENCE RUN NORTH 46°33'10" EAST, A DISTANCE OF 352.15 FEET TO A POINT OF CURVATURE OF A 871.50 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHEAST WHOSE RADIUS POINT BEARS NORTH 54°04'41" EAST; THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°28'31" AN ARC DISTANCE OF 174.54 FEET TO A POINT OF REVERSE CURVE OF A 428.50 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 49°19'26" AN ARC DISTANCE OF 368.88 FEET TO THE POINT OF TANGENCY; THENCE RUN NORTH 73°46'14" WEST, A DISTANCE OF 258.83 FEET TO A POINT OF CURVATURE OF A 721.50 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST; THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°34'30" AN ARC DISTANCE OF 1,115.38 FEET TO THE POINT OF TANGENCY; THENCE RUN NORTH 14°48'16" EAST, A DISTANCE OF 163.86 FEET; THENCE RUN NORTH 75°11'44" WEST, A DISTANCE OF 148.33 FEET; THENCE RUN SOUTH 85°11'48" WEST, A DISTANCE OF 56.53 FEET; THENCE RUN SOUTH 72°49'12" WEST, A DISTANCE OF 176.80 FEET; THENCE RUN SOUTH 79°03'31" WEST, A DISTANCE OF 67.39 FEET; THENCE RUN SOUTH 85°07'14" WEST, A DISTANCE OF 71.61 FEET; THENCE RUN NORTH 05°27'18" WEST, A DISTANCE OF 99.24 FEET TO A POINT OF CURVATURE OF A 567.50 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTH WHOSE RADIUS POINT BEARS NORTH 02°01'13" WEST; THENCE RUN WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 47°43'58" AN ARC DISTANCE OF 472.78 FEET TO THE POINT OF TANGENCY; THENCE RUN NORTH 44°17'15" WEST, A DISTANCE OF 853.08 FEET TO A POINT OF CURVATURE OF A 117.50 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST; THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22°17'10" AN ARC DISTANCE OF 45.70 FEET TO A POINT OF REVERSE CURVE OF A 82.50 FEET FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 20°53'49" AN ARC DISTANCE OF 30.09 FEET TO THE POINT OF TANGENCY; THENCE RUN NORTH 42°53'54" WEST, A DISTANCE OF 82.19 FEET; THENCE RUN NORTH 45°12'18" WEST, A DISTANCE OF 47.48 FEET; THENCE RUN NORTH 42°26'19" WEST, A DISTANCE OF 1,805.23 FEET; THENCE RUN NORTH 48°18'05" WEST, A DISTANCE OF 195.80 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE RUN NORTH 00°45'14" EAST, ALONG SAID WEST LINE, A DISTANCE OF 2166.48 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT A PORTION OF SECTIONS 6 AND 7, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE WEST 1/4 CORNER OF SAID SECTION 6; THENCE RUN SOUTH 00°45'14" WEST, ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 2487.91 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF THE FLORIDA'S TURNPIKE (STATE ROAD NO. 91, A VARIABLE WIDTH RIGHT-OF-WAY PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP, STATE PROJECT NO. 190747-2); THENCE DEPARTING SAID WEST LINE, RUN SOUTH 42°26'19" EAST, ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 2028.71 FEET; THENCE DEPARTING SAID NORTHEASTERLY RIGHT-OF-WAY LINE, RUN NORTH 47°33'41" EAST, A DISTANCE OF 357.40 FEET TO THE POINT OF BEGINNING; THENCE RUN NORTH 41°59'57" WEST, A DISTANCE OF 69.05 FEET; THENCE RUN NORTH 32°40'56" WEST, A DISTANCE OF 90.82 FEET; THENCE RUN NORTH 41°14'47" EAST, A DISTANCE OF 435.16 FEET; THENCE RUN NORTH 07°17'19" EAST, A DISTANCE OF 101.77 FEET; THENCE RUN NORTH 81°26'26" EAST, A DISTANCE OF 107.25 FEET; THENCE RUN NORTH 72°03'02" EAST, A DISTANCE OF 84.28 FEET; THENCE RUN NORTH 63°47'21" EAST, A DISTANCE OF 84.28 FEET; THENCE RUN NORTH 55°31'41" EAST, A DISTANCE OF 84.28 FEET; THENCE RUN NORTH 47°16'36" EAST, A DISTANCE OF 84.28 FEET; THENCE RUN NORTH 42°43'33" EAST, A DISTANCE OF 442.43 FEET; THENCE RUN NORTH 49°53'15" EAST, A DISTANCE OF 61.10 FEET; THENCE RUN NORTH 63°53'58" EAST, A DISTANCE OF 114.22 FEET TO A POINT OF CURVATURE A 2,521.50 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE NORTHEAST WHOSE RADIUS POINT BEARS NORTH 60°49'50" EAST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04°34'52" AN ARC DISTANCE OF 201.60 FEET TO A POINT OF REVERSE CURVE OF A 828.50 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE RUN SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°50'07" AN ARC DISTANCE OF 243.44 FEET TO THE POINT OF TANGENCY; THENCE RUN SOUTH 16°54'55" EAST, A DISTANCE OF 652.31 FEET TO A POINT OF CURVATURE OF A 1,478.50 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE RUN SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 31°39'01" AN ARC DISTANCE OF 816.72 FEET; THENCE ALONG A NON-TANGENT LINE, RUN NORTH 75°11'44" WEST, A DISTANCE OF 155.52 FEET; THENCE RUN NORTH 85°20'04" WEST, A DISTANCE OF 72.45 FEET; THENCE RUN SOUTH 84°21'24" WEST, A DISTANCE OF 77.28 FEET; THENCE RUN SOUTH 72°54'41" WEST, A DISTANCE OF 191.58 FEET; THENCE RUN SOUTH 79°10'25" WEST, A DISTANCE OF 61.63 FEET; THENCE RUN SOUTH 86°58'11" WEST, A DISTANCE OF 20.04 FEET; THENCE RUN NORTH 89°49'01" WEST, A DISTANCE OF 64.29 FEET; THENCE RUN NORTH 81°41'10" WEST, A DISTANCE OF 59.62 FEET; THENCE RUN NORTH 73°57'37" WEST, A DISTANCE OF 59.62 FEET; THENCE RUN NORTH 66°14'05" WEST, A DISTANCE OF 59.62 FEET; THENCE RUN NORTH 58°30'33" WEST, A DISTANCE OF 59.62 FEET; THENCE RUN NORTH 51°12'19" WEST, A DISTANCE OF 59.88 FEET; THENCE RUN NORTH 44°17'15" WEST, A DISTANCE OF 810.00 FEET TO THE POINT OF BEGINNING.

AND

A PORTION OF SECTION 9, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 9; THENCE RUN SOUTH 89°11'07" EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 2650.14 FEET TO THE SOUTH 1/4 CORNER OF SAID SECTION 9; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 00°45'24" EAST, ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 1340.43 FEET TO A POINT ON A LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262 OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA AND THE POINT OF BEGINNING; THENCE DEPARTING SAID EAST LINE, RUN ALONG THE BOUNDARY OF THE AFORESAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262 THE FOLLOWING FIVE (5) COURSES AND DISTANCES: 1) THENCE RUN NORTH 90°00'00" WEST, A DISTANCE OF 1427.39 FEET; 2) THENCE RUN NORTH 20°12'05" EAST, A DISTANCE OF 896.56 FEET; 3) THENCE RUN SOUTH 89°45'55" EAST, A DISTANCE OF 1510.88 FEET; 4) THENCE RUN SOUTH 00°00'00" EAST, A DISTANCE OF 538.26 FEET; 5) THENCE RUN NORTH 90°00'00" EAST, A DISTANCE OF 1602.12 FEET TO A POINT ON THE EAST LINE OF THE LANDS DESCRIBED AS PARCEL 2 IN OFFICIAL RECORDS BOOK 2070, PAGE 2098, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262, RUN ALONG THE BOUNDARY OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2070, PAGE 2098 THE FOLLOWING TWO (2) COURSES AND DISTANCES: 1) THENCE RUN SOUTH 00°36'49" WEST, A DISTANCE OF 831.10 FEET; 2) THENCE RUN NORTH 88°50'30" WEST, A DISTANCE OF 192.44 FEET TO A POINT ON THE BOUNDARY OF THE AFORESAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262; THENCE DEPARTING SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2070, PAGE 2098, RUN ALONG SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3177, PAGE 262 THE FOLLOWING FOUR (4) COURSES AND DISTANCES: 1) THENCE RUN NORTH 74°45'27" WEST, A DISTANCE OF 957.72 FEET; 2) THENCE RUN NORTH 90°00'00" WEST, A DISTANCE OF 631.59 FEET; 3) THENCE RUN NORTH 01°16'27" EAST, A DISTANCE OF 278.48 FEET; 4) THENCE RUN NORTH 90°00'00" WEST, A DISTANCE OF 244.47 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT A PORTION OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 9; THENCE RUN SOUTH 89°11'07" EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 2650.14 FEET TO THE SOUTH 1/4 CORNER OF SAID SECTION 9; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 00°45'24" EAST, ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 9, A DISTANCE OF 1246.22 FEET; THENCE DEPARTING SAID WEST LINE RUN SOUTH 89°14'36" EAST, A DISTANCE OF 1600.64 FEET TO THE POINT OF BEGINNING; THENCE RUN NORTH 81°20'38" EAST, A DISTANCE OF 106.31 FEET; THENCE RUN SOUTH 08°40'10" EAST, A DISTANCE OF 119.48 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 50.00 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 55°12'49" WEST, 25.17 FEET TO WHICH A RADIAL LINE BEARS NORTH 20°12'23" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 29°09'37", AN ARC

DISTANCE OF 25.45 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 20.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $57^{\circ}13'50''$, AN ARC DISTANCE OF 19.98 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 217.50 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $12^{\circ}27'15''$, AN ARC DISTANCE OF 47.28 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 20.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $85^{\circ}55'59''$, AN ARC DISTANCE OF 30.00 FEET TO THE POINT OF TANGENCY; THENCE NORTH $08^{\circ}39'26''$ WEST, A DISTANCE OF 106.20 FEET TO THE POINT OF BEGINNING.

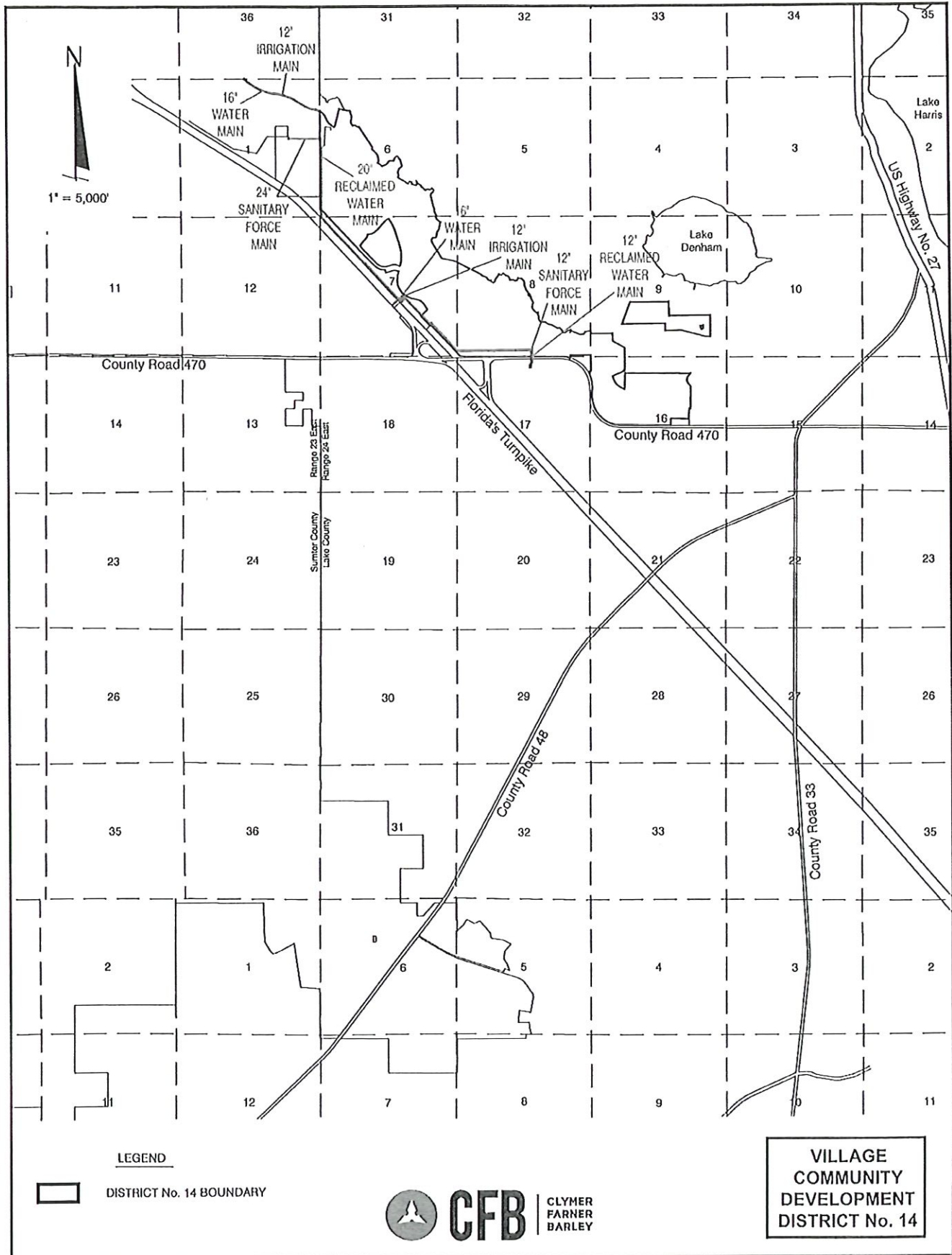
EXHIBIT 7

TIMETABLES AND RELATED COSTS OF THE DISTRICT SERVICES AND FACILITIES VILLAGE COMMUNITY DEVELOPMENT DISTRICT NO. 14

Improvement/Facility	Anticipated Schedule	Costs
Subdivision Infrastructure Roads & Drainage	2021-2024	\$44,077,300
Collector Road Infrastructure Roads & Drainage	2021-2024	\$29,640,656
Multi-Use Trails & Paths, Golf Cart Bridges & Tunnels	2021-2024	\$36,692,068
Boundary Security Buffers/Walls & Fencing in Common Areas	2021-2024	\$32,440,714
Master Earthwork and Stormwater Collection Systems	2021-2024	\$3,999,077
Wetland and Wildlife Mitigation/Protection Measures	2021-2024	\$143,435,666
Project Entry Features	2021-2024	\$1,750,481
TOTAL:		\$299,522,252

Note: This table reflects the same costs and anticipated timetables from the first petition to amend Village Community Development District No. 14. Bonds were issued for these improvements and no additional bonds will be issued for these improvements. The costs are still subject to change throughout the construction process.

EXHIBIT 8



VILLAGE COMMUNITY DEVELOPMENT DISTRICT No. 14

EXHIBIT 9

STATEMENT OF ESTIMATED REGULATORY COSTS AMENDMENT OF VILLAGE COMMUNITY DEVELOPMENT DISTRICT NO. 14

1.0 Introduction

1.1 Purpose and Scope

This statement of estimated regulatory costs (SERC) supports the petition to amend Village Community Development District No. 14 (the "District"). The proposed District will include approximately 1,013.1 acres of land on which roughly 3,234 dwelling units are planned for development. The District will provide infrastructure and community services to this area in the District as described more fully below.

The limitations on the scope and use of this SERC are set out in Section 190.002(2)(d), Florida Statutes ("F.S."), as follows:

"That the process of establishing such a District pursuant to uniform general law shall be fair and based only on factors material to managing and financing the service delivery function of the District, so that any matter concerning permitting or planning of the development is not material or relevant."

1.2 Overview of the Proposed District Village Community Development District No. 14

The District will provide community infrastructure, services, and facilities, along with their operations and maintenance, to the proposed area, located in the City of Leesburg, Lake County, Florida. The amended District will encompass 1,013.1 acres. The District will include roughly 3,234 units with a mix of housing types, designs and models.

1.3 Requirements for Statement of Estimated Regulatory Costs (SERC)

Section 120.541(2), F.S. (2022) defines the elements a SERC must contain (or in this case, City ordinance).

(a) An economic analysis showing whether the rule directly or indirectly:

1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five (5) years after the implementation of the rule;

2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within five years after the implementation of the rule; or
 3. Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within five years after the implementation of the rule.
- (b) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.
 - (c) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues.
 - (d) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.
 - (e) An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined in Section 120.52, F.S. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses.
 - (f) Any additional information that the agency determines may be useful.
 - (g) In the statement or revised statement, whichever applies, a description of any regulatory alternatives submitted under paragraph (1)(a) and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

2.0 An economic analysis showing whether the rule/ordinance directly or indirectly will have an adverse impact on economic growth, job creation, employment, private-sector investment, business competitiveness, or regulatory costs.

Section 120.541(2)(a), F.S., requires an economic analysis showing whether the establishment and subsequent amendment of the District will directly or indirectly have an adverse impact on economic growth, job creation, employment, private-sector investment, business competitiveness, or regulatory costs exceeding \$1 million in the aggregate within five years after the establishment takes place. The answer, based upon numerous other residential community development districts, is that the amendment of the District area will not have an adverse impact on economic growth, job creation, employment, private-sector investment, business competitiveness, or regulatory costs.

The amendment of the District area is likely to increase economic growth, job creation, employment, private-sector investment, and business competitiveness. This is because the District will provide infrastructure improvements within the District's boundaries, allowing for the development of the land within the District. The development is planned to include roughly 3,234 dwelling units. The residents of the District will purchase goods and services. This new demand created by the District's residents will increase economic growth, job creation, employment, private-sector investment, and business competitiveness in the areas surrounding the District.

The District will have the ability to assess the property owners to pay for the installation, operation, and maintenance of its infrastructure improvements. However, such costs will not be in addition to, or unique to, the District. The infrastructure improvements to be funded by the District would be required to support development of the planned residences, regardless of the District's existence. Community development districts, such as Village Community Development District No. 14 can fund their infrastructure improvements with long-term bond financing that typically carries more favorable terms than other sources of funding. Thus, the costs related to the installation of the public infrastructure serving the planned development will not be increased due to the existence of the District.

3.0 A good-faith estimate of the number of individuals and entities likely to be required to comply with the rule/ordinance, together with a general description of the types of individuals likely to be affected by the rule/ordinance.

The landowner of the District plans to develop 3,234 dwelling units within the District. The establishment of the District in 2021 put all residents under the jurisdiction of the proposed District. Prior to the sale of the property within the District, the developer will also be subject to the District's jurisdiction. This amendment will decrease the area that is within the District's jurisdiction.

4.0 Good-faith estimate of the cost to state and local government entities, of implementing and enforcing the proposed ordinance, and any anticipated effect on state and local revenues

4.1 Impact on State and Local Costs

State Government Entities

There will be only modest costs to various Florida ("State") governmental entities due to the formation of the District. The District consists of less than 2,500 acres; therefore, the City of Leesburg (the "City") is the establishing and amending entity, pursuant to Florida Statutes Section 190.005(2). The State will incur no costs in reviewing the petition to amend the District and the State will not be required to hold any public hearings on the matter.

The ongoing costs to various State entities to implement and enforce the amendment of the District relate strictly to the receipt and processing of various reports that the District is required to file annually with the State and its various entities. These annual reports are outlined in the attached Appendix. However, the costs to the State agencies that will receive and process the District's reports will be minimal. The District is only one of many governmental subdivisions required to submit various reports to the State. Additionally, pursuant to Section 189.018, F.S., the District will pay an annual fee to the State Department of Economic Opportunity to offset such processing costs.

City of Leesburg

City staff will process, analyze, and conduct public hearing(s) on the petition to amend the District. These activities will utilize the time of the staff and City Commissioners, however, these costs to the City are likely to be minimal for a number of reasons. First, review of the petition does not include analysis of the development to be served by the District. Second, the petition itself provides most of the information needed for City staff's review. Third, the City currently employs the staff needed to conduct the review of the petition. Fourth, no capital expenditure is required to review the petition. Finally, local governments routinely process similar petitions for land use and zoning changes that are more complex than is the petition to amend a Community Development District.

The annual costs to the City, related to the ongoing operations of the District, are also minimal. The District will be an independent unit of local government. The only annual costs incurred by the City will be the minimal costs of receiving and, to the extent desired, reviewing the various reports that the District is required to provide to the City.

4.2 Impact on State and Local Revenues

Adoption of the proposed ordinance will have no negative impact on State or local revenues. The District is an independent unit of local government. It is designed to provide community facilities and services to serve the development. It has its own sources of revenue. No State or local subsidies are required or expected.

In this regard, it is important to note that the debt obligations incurred by the District to construct its infrastructure, or for any other reason, are not debts of the State, the County, the City, or any unit of local government. By State law, the debts of the District are strictly its own responsibility.

5.0 A good-faith estimate of the transactional costs likely to be incurred by individuals and entities required to comply with the requirements of the rule/ordinance.

Table 2, below, provides an outline of the various facilities and services the District plans to provide. The District plans to fund, own, operate, and maintain certain drainage and stormwater systems, landscaping, and ponds. The District will also plan, construct, and finance some of the community's roadways, along with possibly offsite roadway improvements. The roadways and drainage systems within publicly dedicated rights-of-way will be conveyed to the appropriate general-purpose government for operation and maintenance. The landowner will construct the utilities and other community infrastructure and facilities. The District will be responsible for maintenance of some of these facilities.

Table 2. Facilities and Services

<u>Improvements/Facility</u>	<u>Funded By</u>	<u>O&M By</u>	<u>Ownership</u>
Roads	Landowner/CDD	City	City
Utilities	Landowner	Landowner	Landowner
Amenities	Landowner	Landowner	Landowner
Drainage	CDD	CDD	CDD
Landscape/Lakes	CDD	CDD	CDD

The petitioner issued debt to help cover the costs of the capital improvements and facilities outlined in Table 2. The costs anticipated for these improvements and facilities are shown in Table 3, below. Total costs for the improvements and facilities are approximately \$299,522,252.00. The costs are subject to change as the construction continues. There is no change in the costs from the previous petition to amend the District. No additional debt will be issued to finance the capital improvements and facilities within the District as outlined in this petition. However, if the District is later expanded, additional debt may be issued to finance the capital improvements in the expanded portions of the District.

Table 3. Timetables and Related Costs

<u>Improvement/Facility</u>	<u>Anticipated Schedule</u>	<u>Costs</u>
Subdivision Infrastructure Roads & Drainage	2021-2024	\$44,077,300
Collector Road Infrastructure Roads & Drainage	2021-2024	\$29,640,656
Multi-Use Trails & Paths, Golf Cart Bridges & Tunnels	2021-2024	\$36,692,068
Boundary Security Buffers/Walls & Fencing in Common Areas	2021-2024	\$32,440,714
Master Earthwork and Stormwater Collection Systems	2021-2024	\$3,999,077
Wetland and Wildlife Mitigation/Protection Measures	2021-2024	\$143,435,666

Project Entry Features
TOTAL:

2021-2024

\$1,750,481
\$299,522,252

Prospective future landowners in the District may be required to pay non-ad valorem assessments levied by the District to secure the debt incurred by the District through the bond issuances. In addition to the levy of non-ad valorem assessments for debt service, the District may also impose a non-ad valorem assessment to fund the operations and maintenance of the District and its facilities and services.

It is important to note that the various costs outlined in Table 3 are typical for residential developments of the type contemplated herein. In other words, there is nothing unusual about the District's financing that requires additional infrastructure over and above what would normally be needed. Therefore, these costs are not in addition to normal development costs. Instead, the facilities and services provided by the District are substituting in part for developer-provided infrastructure and facilities. Along these same lines, District-imposed assessments for operations and maintenance costs are similar to what would be charged in any event by a property owner's association common to most master-planned developments.

Real estate markets take into account the District's cost because buyers and renters evaluate all of the costs and benefits associated with various alternative locations. Therefore, market forces preclude developers from marking up the prices of their products beyond what the competition allows. To remain competitive, the operations and maintenance charges must also be in line with the competition.

Furthermore, locating in the District by new residents is completely voluntary. So ultimately, all owners and users of the affected property choose to accept the District's costs because of the benefits that the District provides.

The District is an alternative means to finance necessary community services. District financing is no more expensive, and often less expensive, than the alternatives of a municipal services taxing unit (MSTU), a neighborhood association, City provision (directly or via a dependent special District), or through developer-bank loans.

6.0 An analysis of the impact on small businesses, as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.

There will be no adverse impact on small businesses because of this amendment to the District. If anything, the impact will be positive. This is because the District must competitively bid certain of its contracts. This affords small businesses the opportunity to bid on District work.

The City of Leesburg has an estimated population of 27,000 according to the most recent U.S. Census Bureau (2020) and the population was 20,117 at the 2010 census. Therefore, the City of Leesburg is not considered a small city as defined by Section 120.52 F.S. The

District will provide infrastructure facilities and services to the property located within the District. These facilities and services will help to make this property developable.

Development of the property within the District will increase the value of this property, and consequently, will increase the property taxes that accrue to the City. These increased property taxes, along with other direct and indirect revenues accruing to the City as a result of the development of the land within the District, will offset any new staff, facilities, or equipment the City adds to provide services to the property owners within the District.

7.0 Any additional useful information.

The analysis provided above is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Inputs were received from the developer's engineer and other professionals associated with the developer.

When the City approved the establishment of the District in 2021, the City determined the District was a better option for the property than an MSBU or a special taxing District under Chapter 170 of the Florida Statutes, a dependent special district, or allowing the District to operate merely as a property owner's association. This amendment does not change the purpose of the District, it merely decreases the service area of the District while providing the same capital improvements previously reviewed by the City. The issued debt will remain the responsibility of the District. The District residents will continue to have a focused unit of government under their direct control and the District will continue to be more responsive to resident needs without disrupting other City responsibilities.

APPENDIX

REPORT	STATUE SECTION	DUE DATE
Annual Financial Audit	218.39	Nine months after end of fiscal year
Annual Financial Report (AFR)	218.32	Within 45 days after completion of audit but no later than 9 months after end of fiscal year
Financial Disclosure Form 1	112.3145	By July 1
Public Depositor Report	280.17	By November 30
Proposed Budget	190.008	By June 15
Adopted Budget	190.008	By October 1
Public Meetings Schedule	189.015	Quarterly semiannually or annually
Notice of Bond Issuance	218.38	Within 120 days after delivery
Registered Agent	189.014	30 days after first Board meeting
Notice of Establishment	190.0485	30 days after formation
Establishment Documents	189.016	30 days after adoption
Notice of Public Finance	190.009	After financing

City of Leesburg Lake Front City

Agenda Memorandum

Item No: 6.C.1.

Meeting Date: March 25, 2024

From: Al Minner, (City Manager)

Subject: Resolution of the City Commission of the City of Leesburg, Florida accepting the settlement agreement with Sunnyside Lake Landing Holding, LLC and Cenizo Ventures, LLC; and providing an effective date.

Staff Recommendation:

Staff recommends approval of the settlement agreement.

Analysis:

The settlement agreement ends the dispute with Sunnyside Lake Landing Holdings, LLC based on the recommendation from the Special Magistrate.

Procurement Analysis:

N/A

Options:

N/A

Fiscal Impact:

N/A

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA ACCEPTING THE SETTLEMENT AGREEMENT WITH
SUNNYSIDE LAKE LANDING HOLDING, LLC AND CENIZO VENTURES,
LLC; AND PROVIDING AN EFFECTIVE DATE.**

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

THAT the Mayor and City Clerk are hereby authorized to execute a Settlement Agreement, attached hereto and marked Exhibit "A", with Cenizo Ventures, LLC and Sunnyside Lake Landing Holding, LLC.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held on the 25th day of March 2024.

Mayor

ATTEST:

City Clerk

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”) is made and entered into on this ____ day of February 2024, by and between SUNNYSIDE LAKE LAND HOLDING, LLC, and CENIZO VENTURES, LLC (collectively “Sunnyside Holdings”), and the CITY OF LEESBURG, FLORIDA (“City”).

RECITALS:

WHEREAS, Sunnyside Holdings holds a legal and/or equitable interest in 139± acres of real property with Alternate Key Numbers 1207100, 1207118, 1207185, 1207789, 1207819, and 1704006 (“Property”); and

WHEREAS, in 2004, the City approved the annexation, future land use change, and rezoning of 120± acres of the Property, and designated such land as “Estate Residential” pursuant to the City’s Comprehensive Plan, which authorizes 4.0 dwelling units per gross acre; and

WHEREAS, at the same time, the City approved a Planned Unit Development (“PUD”) on the 120± acres of the Property with 120 dwelling units at a net density of 1.7 dwelling units per net acre and a gross density of 1.0 dwelling unit per acre; and

WHEREAS, due to the 2008 downturn in the real estate market, the 120-acre portion of the Property was not developed in accordance with the 2005 approval; and

WHEREAS, in May 2021, Sunnyside Holdings submitted an updated development proposal for the 120-acre portion of the Property, together with an adjacent 18.5-acre portion of the Property (“Sunnyside PUD”); and

WHEREAS, the Sunnyside PUD proposed developing 155 dwelling units on the 120± acres of the Property and 4 dwelling units on the 18.5± acres of the Property, which equates to a net density of 1.66 dwelling units per acre and a gross density of 1.14 dwelling units per acre; and

WHEREAS, on March 28, 2022, the City Commission held a public hearing on the Sunnyside PUD; and at the conclusion thereof, voted 2-to-2, to deny the annexation and proposed future land use amendment for the 18.5± acres of the Property, thereby reducing the Sunnyside PUD back to 120± acres of the Property and 155 dwelling units (*i.e.*, 1.29 dwelling units per gross acre); and

WHEREAS, notwithstanding the City Planning Staff’s recommendation of approval, the City Commission voted to deny the proposed Sunnyside PUD by a vote of 2-to-2; and

WHEREAS, on April 26, 2022, Sunnyside Holdings filed a Request for Relief with the City pursuant to the Florida Land Use and Environmental Dispute Resolution Act, Section 70.51, *Florida Statutes* (“Special Magistrate Proceeding”), to challenge the City Commission’s denial of the proposed Sunnyside PUD, and also filed a demand for mediation pursuant to Section 163.3181(4), *Florida Statutes*, with respect to the City Commission’s denial of the proposed future land use amendment for the 18.5-acre portion of the Property; and

WHEREAS, on April 27, 2022, Sunnyside Holdings filed a Petition for Writ of Certiorari in the Circuit Court to challenge the City Commission’s denial of the proposed Sunnyside PUD and the requested annexation of the 18.5-acre portion of the Property, said case being styled as *Sunnyside Lake Land Holding, LLC, et al., v. City of Leesburg, Florida*, Fifth Judicial Circuit Court, Case No. 2022-CA-755 (“Certiorari Proceeding”); and

WHEREAS, on August 16, 2022, the City and Sunnyside Holdings participated in mediation as required in the Special Magistrate Proceeding and pursuant to Section 163.3181(4), *Florida Statutes*, but were unable to reach a solution; and

WHEREAS, on July 19, 2023, the Special Magistrate conducted an all-day evidentiary hearing in the Special Magistrate Proceeding; and

WHEREAS, on January 15, 2024, the Special Magistrate issued his Special Magistrate Recommendation, a copy of which is attached hereto as Exhibit “A,” concluding that it would be unreasonable and unfairly burden the use of Sunnyside Holdings’ Property to deny the proposed Sunnyside PUD, as modified during the Special Magistrate Proceeding; and

WHEREAS, the City and Sunnyside Holdings desire to enter into this Agreement for the purpose of resolving the Special Magistrate Proceeding and the Certiorari Proceeding (collectively, the “Litigation”), and are motivated by a desire to avoid the costs, time, and uncertainty associated with litigation and to arrive at a fair and reasonable agreement to resolve their dispute.

NOW, THEREFORE, in consideration of the terms and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Sunnyside Holdings (collectively, the “Parties”) intending to be legally bound, agree as follows:

1. **Recitals.** The above-referenced recitals are true and correct and are hereby incorporated into this Agreement for all purposes.

2. **Terms of Agreement.** In connection with the Parties' mutual execution of this Agreement and the covenants and terms herein, the Parties agree as follows:

- A. The City Commission, by virtue of its approval of this Settlement Agreement and consistent with Section 70.51(21)(a), Florida Statutes, accepts the Special Magistrate Recommendation as submitted and agrees to proceed to implement the Special Magistrate Recommendation by consideration of the modified Sunnyside PUD described therein at a public meeting.
- B. As discussed in the Special Magistrate Recommendation and depicted on Exhibit "B" attached hereto, the Sunnyside PUD shall be modified to have a reduced total of 150 units (*i.e.*, 1.25 dwellings units per gross acre), omit the adjacent 18.5-acre tract, increase the size of certain open space areas or buffers adjacent to the nearest properties with existing residential homes, and increase the distances of homes within the Sunnyside PUD from the nearest existing residential homes in the area. Except as modified herein, the Sunnyside PUD shall also be subject to all the conditions set forth in the Sunnyside Landing Planned Unit Development Conditions August 19, 2021.
- C. The conditions set forth in Paragraph 2.B above shall be incorporated into the proposed Sunnyside PUD ("Revised Sunnyside PUD") for the City Commission's consideration for approval at a public meeting.
- D. Within ten (10) days of the Effective Date of this Agreement, Sunnyside Holdings shall file a Status Report in the Special Magistrate Proceeding and the Certiorari Proceeding advising the Special Magistrate and the Circuit Court of this Agreement and requesting that both proceedings be held in abeyance while the Parties are implementing the terms of this Agreement, *i.e.*, review and approval of the Revised Sunnyside PUD and the expiration of any applicable appeal periods.
- E. Sunnyside Holdings shall execute and file a Notice of Withdrawal in the Special Magistrate Proceeding and a Notice of Voluntary Dismissal with prejudice in the Litigation within five (5) days after the expiration of any applicable appeal periods associated with the City Commission's approval of the Revised Sunnyside PUD consistent with the terms of this Agreement and the Special Magistrate Recommendation. If any third-party appeal or legal challenge is filed against such approval, Sunnyside Holdings shall execute and file a Notice of Withdrawal in the Special Magistrate Proceeding and a Notice of Voluntary Dismissal with prejudice in the Litigation within five (5) days after the approval of said Revised Sunnyside

PUD is finally adjudicated in favor of the City and Sunnyside Holdings consistent with the terms herein.

3. **Scope of Agreement.** The Parties' obligations and rights under this Agreement are expressly made contingent upon the City Commission's approval of this Agreement and the City Commission's approval of the Revised Sunnyside PUD consistent with the conditions set forth in Paragraph 2 of this Agreement. In the event the City Commission does not vote to approve the Revised Sunnyside PUD consistent with the conditions set forth in Paragraph 2 above within thirty (30) days of the Effective Date of this Agreement (unless Sunnyside Holdings agrees to an extension of such time-frame in writing), or in the event any third party appeal or legal challenge against the City Commission's approval of the Revised Sunnyside PUD is not finally adjudicated in favor of the terms agreed to by the City and Sunnyside Holdings, this Agreement shall be null and void and the Parties shall retain all of their rights to continue with the Litigation. No term or condition of this Agreement shall be construed as to proscribe, limit, or affect the ability of the City to enforce its Comprehensive Plan, its Land Development Code, or any other authority granted by law concerning the development and construction of the Property.

4. **Authority.** Each Party represents and warrants, with respect to itself, that the execution and delivery of this Agreement has been authorized by all necessary action of each Party, and that this Agreement constitutes the legal, valid, and binding agreement of each Party, enforceable in accordance with its terms. It is expressly understood and agreed that this Agreement shall not become binding upon the City unless and until the City Commission approves this Agreement at a public meeting, as is required by Florida law.

5. **Governing Law; Venue.** This Agreement shall be construed, interpreted, enforced, and governed in accordance with the laws of the State of Florida. Venue for any action arising out of or related to this Agreement shall be in Lake County, Florida.

6. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the respective successors, heirs, assigns, bankruptcy trustees, representatives, affiliates, officers, directors, partners, members, and joint venturers of the Parties.

7. **Non-Waiver.** Failure by the City or Sunnyside Holdings to insist upon the strict performance of any of the terms, conditions, or provisions of this Agreement shall not be deemed to be a waiver of such terms, conditions, and provisions, and the City and Sunnyside Holdings, notwithstanding such failure, shall have the right hereafter to insist upon the strict performance of any or all such terms and conditions of this Agreement as set forth herein.

8. **Mutual Releases.**

A. Sunnyside Holdings hereby waives and releases, acquits, satisfies, and forever discharges the City, including its elected officials and employees, and any and all affiliates, legal representatives, insurance carriers,

successors, and assigns thereof (collectively, the “City-Related Parties”), from any and all claims, counterclaims, defenses, actions, causes of action, suits, controversies, agreements, promises, and demands whatsoever which Sunnyside Holdings ever had or now has, in law or in equity, for, upon, or by reason of any claim raised or which could have been raised by any Party in the Litigation as of the Effective Date of this Agreement. In addition, and without waiving the generality of the foregoing, Sunnyside covenants with and warrants to the City, including the City-Related Parties, that there exist no claims, counterclaims, defenses, objections, offsets, or claims of offsets against the City, including the City-Related Parties, with regard to any claim raised by any Party in the Litigation that are not included in and covered by this Agreement. The release set forth in this provision does not apply to any rights granted by or arising from this Agreement.

- B. The City hereby waives and releases, acquits, satisfies, and forever discharges Sunnyside Holdings, including its officers, members, directors, shareholders, and employees, and any and all subsidiaries, affiliates, legal representatives, insurance carriers, successors, and assigns thereof (collectively, the “Sunnyside-Related Parties”), from any and all claims, counterclaims, defenses, actions, causes of action, suits, controversies, agreements, promises, and demands whatsoever which the City ever had or now has, in law or in equity, for, upon, or by reason of any claim raised or which could have been raised by any Party in the Litigation as of the Effective Date of this Agreement. In addition, and without waiving the generality of the foregoing, the City covenants with and warrants to Sunnyside Holdings, including the Sunnyside-Related Parties, that there exist no claims, counterclaims, defenses, objections, offsets, or claims of offsets against Sunnyside Holdings, including the Sunnyside-Related Parties, with regard to any claim raised by any party in the Litigation that are not included in and covered by this Agreement. The release set forth in this provision does not apply to any rights granted by or arising from this Agreement.
- C. The releases set forth above shall become effective only upon the City Commission’s approval of this Agreement and the City Commission’s approval of the Revised Sunnyside PUD consistent with the conditions set forth in Paragraph 2 above, and the expiration of any applicable appeal periods associated therewith. If any third-party appeal or legal challenge is filed against such approvals, these releases shall become effective only upon said approvals being finally adjudicated in favor of the terms agreed to by the City and Sunnyside Holdings.

9. **Construction; Headings.** The Parties acknowledge that they participated in the negotiation and drafting of the terms of this Agreement and acknowledge that no provision shall be strictly construed against one party or the other based solely on draftsmanship. The Parties have entered into this Agreement without duress, coercion, or under undue influence of any kind, and are motivated by a desire to avoid the costs and time associated with litigation and to arrive at a fair and reasonable agreement with regard to the Litigation. The Parties acknowledge that they have been represented by counsel in connection with the negotiation of the terms of this Agreement and that they enter into this Agreement freely and voluntarily, and only after consultation with their respective counsel. All descriptive headings in this Agreement are inserted for convenience only, and shall neither affect the construction or interpretation hereof, nor add or subtract from the meaning of the contents of each section.

10. **Interpretation.** This Agreement shall be read and interpreted in such a manner as to give all provisions their ordinary and customary meaning, and all words, terms, and phrases not otherwise specifically defined by a capitalized term or otherwise shall have the same meaning and interpretation as customarily used among lay persons. The terms “hereby,” “hereof,” “herein,” “hereto,” “hereunder,” and any similar terms refer to this Agreement in its entirety and not solely to the particular section or paragraph in which the term is used. All words, terms, and phrases specifically defined by a capitalized term shall apply throughout this Agreement in its entirety and not solely to the section or paragraph in which the term is used. In construing this Agreement, the singular shall be held to include the plural, the plural shall include the singular, and the use of any gender shall include every other and all genders.

11. **Entire Agreement; Amendments.** This Agreement represents the entire understanding and agreement between the Parties with respect to the subject matter hereof. No representations have been made, either express or implied by the Parties, other than those expressly set forth in this Agreement, except with respect to the regulatory approval process for the Revised Sunnyside PUD. This Agreement or any part hereof may not be changed, amended, waived, discharged, or terminated except by an instrument in writing, executed by all Parties.

12. **Enforcement; Remedies.** The Parties shall have all equitable and legal remedies available under Florida law to enforce the terms and conditions of this Agreement, and the terms of this Agreement shall be specifically enforceable in court. In the event of any dispute hereunder or any action to interpret or enforce this Agreement, any provision hereof, or any matter arising herefrom, each Party shall bear its own attorneys’ fees and costs incurred in the matter.

13. **Severability.** If any part of this Agreement is found invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the Parties contained therein are not materially prejudiced and if the intentions of the Parties can continue to be effectuated. To that end, this Agreement is declared severable.

14. **Disclaimer of Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue by reason hereof to, or for the benefit of, any third party not a formal party hereto, other than as expressly stated herein. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any other third person or entity any right, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof, other than as expressly stated herein.

15. **Purpose of this Agreement; Not Establishing Precedent.** By entering into this Agreement, the Parties do not admit any liability whatsoever to the other, or to any other person, arising out of any claims asserted, or that could have been asserted, in the Litigation, and expressly deny any and all such liability. The Parties acknowledge and agree that this Agreement is not intended by any Party to be construed, and shall not be construed, as an admission by any Party of any liability or violation of any law, statute, ordinance, regulation, or other legal duty of any nature whatsoever. Rather, this Agreement is for the compromise of potential and disputed claims, involving both fact and law, and the Parties enter into this Agreement in a spirit of cooperation for the purpose of avoiding further litigation and in recognition of the desire for the speedy and reasonable resolution of the Parties' dispute. The acceptance of proposals for purposes of this Agreement is part of a negotiated settlement affecting many factual and legal issues and is not an endorsement of, and does not establish precedent for, the use of these proposals in any other circumstances.

16. **Attorneys' Fees; Costs.** The Parties expressly agree to bear the fees and costs of their respective counsel, experts, and consultants in the Litigation and in the preparation of this Agreement.

17. **Notices.** All notices and other communications required hereunder shall be in writing and shall be delivered personally, or by registered or certified mail, return receipt requested, postage prepaid, or by Federal Express, or other nationally recognized overnight commercial delivery service, fees prepaid for next day delivery. Such notices shall be deemed to have been received: (i) upon delivery, if personally delivered; (ii) upon the earlier of actual receipt or the third day after mailing, if mailed by registered or certified United States mail, return receipt requested, postage prepaid; and (iii) upon the earlier of actual receipt or the next business day if sent by Federal Express or other nationally recognized overnight commercial delivery service, if fees are prepaid for next day delivery. The addresses for delivery of such notices shall be as follows:

(a) To Sunnyside:

Sunnyside Lake Land Holding, Inc.
c/o Eric Coe
114 Sleepy Hollow Road
Leesburg, Florida 34748

Cenizo Ventures, LLC
c/o Eric Coe
114 Sleepy Hollow Road
Leesburg, Florida 34748

With a copy to:

S. Brent Spain, Esquire
Theriaque & Spain
1809 Edgewater Drive
Orlando, Florida 32804

(b) To the City:

City of Leesburg
c/o City Manager
501 W. Meadow Street
P.O. Box 490630
Leesburg, Florida 34749-0630

With a copy to:

Grant Watson, Esquire
Stone & Gerken, P.A.
4850 N. Highway 19A
Mount Dora, Florida 32757

or to such other address as any party hereto shall from time to time designate to the other party by notice in writing as herein provided.

18. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the Parties and all of which shall constitute one and the same agreement. The Parties further agree that each Party shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this Agreement fully and legally effective, binding, and enforceable as between them and as against third parties.

19. **Effective Date.** This Agreement shall become effective upon the date of execution by the last of the Parties ("Effective Date").

20. **WAIVER OF JURY TRIAL.** THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT TO A JURY TRIAL WITH RESPECT TO ANY CLAIMS ARISING IN CONNECTION WITH THIS AGREEMENT.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in a manner sufficient to bind them as set forth herein.

CITY OF LEESBURG, FLORIDA

By: _____

Name: JIMMY BURRY

Its: Mayor

Date: _____

ATTEST, BY THE CLERK OF THE
CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA:

J. ANDI PURVIS, City Clerk

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF LEESBURG, FLORIDA:

GRANT WATSON, ESQUIRE – City Attorney

WITNESSES

SUNNYSIDE LAKE LAND HOLDING, LLC, a
Florida limited liability company,


Print Name: Lisa Coe

By: 

Its: Manager


Print Name: Karine Roberts

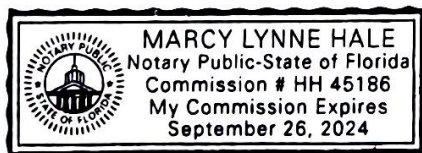
Date: 2-26-24

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of ☐ physical presence
or ☐ online notarization, this 26th day of February 2024, by Eric Coe, as Manager of Sunnyside
Lake Land Holding, LLC, a Florida limited liability company, on behalf of said entity. Said person
☐ is personally known to me or ☐ has produced DL as identification.

(NOTARY SEAL)



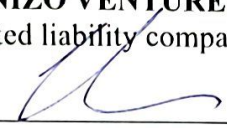

Notary Public, State of Florida
Print Name: Marcy Lynne Hale
My Commission Expires: September 26, 2024

WITNESSES


Print Name: Lisa Coe


Print Name: Larine Roberts

CENIZO VENTURES ^{CL} ~~FLORIDA~~, LLC, a ^{teian, Ee} ~~Florida~~
limited liability company,

By: 

Its: President

Date: 2-26-24

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this 26th day of February 2024, by Eric Coe, as President of Cenizo Ventures Florida, LLC, a Florida limited liability company, on behalf of said entity. Said person [] is personally known to me or [] has produced DL as identification.

(NOTARY SEAL)



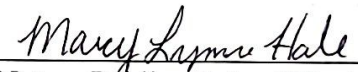

Notary Public, State of Florida
Print Name: Marcy Lynne Hale
My Commission Expires: September 26, 2024

EXHIBIT A

SPECIAL MAGISTRATE RECOMMENDATION

EXHIBIT A

IN AND BEFORE A SPECIAL MAGISTRATE
SUNNYSIDE LANDING/CITY OF LEESBURG
SECTION 70.51 F.S. PROCEEDING

SUNNYSIDE LAKE LANDING HOLDING,
LLC, and CENIZO VENTURES FLORIDA,
LLC,

Petitioners,

v.

CITY OF LEESBURG,

Respondent.

_____ /

Special Magistrate Recommendation

Pursuant to the Florida Land Use and Environmental Dispute Resolution Act, Section 70.51, Florida Statutes (2023), (“Dispute Resolution Act”) and more specifically, Section 70.51(19), Florida Statutes (2023), and after a one day evidentiary hearing held on July 19, 2023, pursuant to Section 70.51(15), Florida Statutes (2023), and a site visit to the property at issue and surrounding areas by the Special Magistrate in the above-captioned special magistrate proceeding, the Special Magistrate enters this Special Magistrate Recommendation (“SM Recommendation”) pursuant to the guidelines set forth in Sections 70.51(18) and (19), Florida Statutes (2023).

EXHIBIT A

STATEMENT OF THE ISSUE

The issue in this special magistrate proceeding is whether the denial of Petitioners Sunnyside Lake Land Holding Company, LLC, and Cenizo Ventures Florida, LLC (“Petitioners”) rezoning application for the Sunnyside Landing Planned Unit Development in Case No. PUD 21-78 (“Sunnyside PUD”) by Respondent City of Leesburg (“City”) (Petitioners and the City are jointly referred to as the “Parties”) was “unreasonable” or “unfairly burdens” the Petitioners’ use of real property pursuant to the Dispute Resolution Act. In making this determination, the Special Magistrate is guided by the criteria listed in Section 70.51(18)(a)-(h) and (19), Florida Statutes (2023).

EXHIBITS & TRANSCRIPT

Exhibits admitted into evidence during the special magistrate hearing are referred to in this SM Recommendation by the exhibit number followed by the appropriate page number – e.g., Pet. Ex. 1 at 5. References to the July 19 hearing transcript are denoted herein as “T.” followed by the appropriate page number – e.g., T. 10.

During the special magistrate evidentiary hearing, the Petitioners introduced pre-marked Exhibits 2, 3, 5A, 5B, 5C, 6A, 6B, 6C, 7, 10C, 10D, 11, 12A, 12B, 13, 14, 17, 19, 21, 21A, 21B, 22, 23, 24, 25, 26, 27, and 27A. The City did not introduce any exhibits, but instead relied upon the Petitioners’ exhibits. Copies of all the exhibits introduced into evidence during the special magistrate evidentiary hearing are on file with the Special Magistrate and are listed on pages 4 and 5 of the hearing transcript and the Parties have copies of the exhibits. On August 2, 2023, the original hearing transcript was filed with the Special Magistrate and a copy was provided to each of the Parties.

EXHIBIT A

ATTENDEES AND RELATED MATTERS

Attorney Brent Spain of Theriaque & Spain represented the Petitioners at the evidentiary hearing and presented the following witnesses: Greg Beliveau, AICP – who was qualified and testified as an expert in land use, comprehensive planning, and urban planning. (Pet. Ex. 7; T. 5).

Attorneys Stephanie Brionez and Mark Brionez of Brionez & Brionez represented the City at the evidentiary hearing and presented one witness: Dan Miller – the City’s Planning Director.

Several members of the public attended the evidentiary hearing and were given the opportunity to testify on the issues relevant to this special magistrate proceeding. No member of the public requested to make any comments or introduce any documents or other exhibits into the record for the Special Magistrate’s consideration. (T. 188).

Additionally, as disclosed at the outset of the July 19 special magistrate hearing, the Special Magistrate on July 18, 2023, conducted a site visit of the subject property and the surrounding area on Sunnyside Drive. (T. 12).

As requested by the Special Magistrate at the end of the special magistrate hearing, Petitioners and the City through their counsel filed Proposed Recommended Orders on October 23, 2023. (Referred to herein individually as “Petitioners PRO” and “City PRO”)

All of the exhibits, testimony presented at the evidentiary hearing, and the Special Magistrate’s site visit provide the necessary basis for this SM Recommendation.

INTRODUCTION AND PREFACE

EXHIBIT A

The Special Magistrate is adopting most of the Petitioners PRO with some changes as part of the SM Recommendation. Most of these are found in the Findings of Facts, Conclusions of Law and Recommendation sections of this SM Recommendation. These sections along with this “Introduction and Preface” section constitute the SM Recommendation.

This “Introduction and Preface” is a brief discussion of some, not all, key factual and legal matters considered by the Special Magistrate in reaching a recommendation in this matter. It addresses the four areas the City asserts were the basis for denial of the Sunnyside PUD. As noted in the City PRO: “The City’s denial (of the Sunnyside PUD) was based upon **non-compliance with the Sunnyside Task Force Study Report (“Sunnyside Task Force Study Report”), poor condition of the roads, citizen/resident complaints, and concerns regarding water supply.**” City PRO, Paragraph (f), Pg. 7 (Emphasis added). This summary will briefly address each of those items in addition to the issue of land use compatibility of the Sunnyside PUD.

A full discussion of these items and other significant facts and law are found in the Findings of Facts and Conclusions of Law sections of this SM Recommendation.

The facts in this special magistrate proceeding are relatively straight forward and found in more detail in the Findings of Facts section in this SM Recommendation. Importantly, there are no significant facts in dispute between the Parties. There are no significant discrepancies between the Findings of Facts of Petitioners PRO and the City PRO although there are some facts in each not mentioned in the other. The core of the dispute between the Parties is the legal significance of those facts. Upon review and analysis, Petitioners are clearly correct on the legal significance of those facts based on established Florida law and as detailed in the Conclusions of Law section in this SM Recommended Order.

A. **Non-Compliance With Sunnyside Task Force Study Report**

EXHIBIT A

This factor was clearly the most important factor cited by the City for the denial of the Sunnyside PUD.

A key factual finding that was undisputed at the Special Magistrate Hearing was noted as follows in the Petitioners PRO:

“Since the adoption of Resolution No. 7158, (Sunnyside Task Force Study Report) it is undisputed that the City has not adopted or incorporated any of the density level recommendations from the Sunnyside Task Force Study Report (Sunnyside Task Force Study Report) into the City’s Comprehensive Plan or the City’s LDC. (T. 39-40, 139, 177). In other words, the City has never formally codified the recommendations of the Sunnyside Task Force Study Report. (T. 115). Additionally, there is no notation or asterisk on the City’s Future Land Use Map indicating that properties within the Sunnyside Study Area are subject to density limitations other than those prescribed for the assigned future land use category. (T. 24-25).” Petitioners PRO, Pg. 9, Paragraph 21.

Not surprising given this present status of the Sunnyside Task Force Study Report is the admission by the City and Petitioners that the critical legal requirements for allowing the Sunnyside PUD to proceed have been met. The City PRO states, and it was undisputed at the Special Magistrate Hearing, that the following is correct: “Although the Land Development Regulations and the City’s Comprehensive Plan would permit the Petitioners’ proposed PUD....” City PRO, Pg. 6, Paragraph (c) (Emphasis added) The Petitioners PRO notes: “In 2021, Petitioners submitted the 2019 Sunnyside PUD application, proposing 159 units on 139 acres for approval. This density was consistent with the City’s Comprehensive Plan and their Land Development Code.” Petitioners PRO Pg.12, Paragraph 29 (Emphasis added) As will be

EXHIBIT A

discussed later in this SM Recommendation, Petitioners now seek even lower density for the Sunnyside PUD.

Also, the City contends it does not need to abide by the Sunnyside Task Force Study Report even though the Petitioners do have to abide by it if the City decides to apply it. The City PRO asserts: “The Sunnyside Report was adopted by the City by resolution in such a way that future City Commissions **could choose to apply it or not, but would not be bound by the requirements.**” City PRO, Pg. 3, Paragraph 7 (Emphasis added) A former Leesburg City attorney has also publicly noted that the Sunnyside Task Force Study Report does not bind the City of Leesburg in any manner. (Pet. Ex. 25 at 5)

No criteria have ever been adopted and/or published by the City to specify when or when it will not apply the Sunnyside Task Force Study Report or when it “would not be bound by the requirements.” And no evidence was presented at the special magistrate hearing as to what criteria are being used to apply the Sunnyside Task Force Study Report. It is not surprising that the City PRO cites no authority, either case law or statutory law, that allows for the discretionary enforcement of the Sunnyside Task Force Study Report that has never been codified.

The City correctly asserts that Petitioners had notice of the Sunnyside Task Force Study Report before submitting the rezoning application for the Sunnyside PUD. The City argues that because Petitioners had “notice”, Petitioners are therefore bound by the Sunnyside Task Force Study Report if the City, at its sole discretion, without any criteria and without any codification of the Sunnyside Task Force Study Report, decided to enforce the recommendations of the Sunnyside Task Force Study Report. No legal authority has been cited by the City and none has been found to support this assertion. There is no land use regulation in Florida, and likely in any state, that is enforceable or valid under such circumstances. Such a scenario is the definition of “unreasonable”

EXHIBIT A

and “arbitrary” and certainly “unfairly burdens’ the use of property. Section 70.51(19)(b), Florida Statutes (2023). See Conclusions of Law section in this SM Recommendation

The mistaken notion of legal enforceability of the Sunnyside Task Force Study Report by simply “notice” of it has no better illustration than the undisputed fact that the City’s Planning Staff, with full “notice” of the Sunnyside Task Force Study Report, recommended approval of an even higher density Sunnyside PUD than the one presently proposed as part of this special magistrate proceeding. And the City’s Planning Director testified that “As a professional planner, I viewed [the Sunnyside PUD] as a project that is consistent with the City of Leesburg comp plan and land development regulations” and reaffirmed that he had applied the City’s “adopted criteria.” (T. 162, 180). The City’s Planning Staff also concluded that this higher density project than the one now proposed was compatible with the surrounding land uses.

Almost without exception at the local government level in Florida, there is no governmental group more familiar with the legal regulatory framework affecting land use than a City’s Planning Staff since the planning staff is tasked as the primary source for information and enforcement of local land use laws and regulations. If the Sunnyside Task Force Study Report determines the outcome, why didn’t the City’s Planning Staff apply it in its recommendation? The fact that the City Planning staff was unaware of the City Commission’s position on the applicability and enforcement of provisions in the Sunnyside Task Force Study Report underscores the “unreasonable”, “arbitrary” and “unfair burden on property” nature of enforcing the Sunnyside Task Force Study Report whenever the City Commission decides to do it. This is the case not only in regard to the Sunnyside PUD, but any development supposedly affected by the Sunnyside Task Force Study Report until the Sunnyside Task Force Study Report is properly added as enforceable provisions to the City’s comprehensive land use plan and land development code, as applicable.

EXHIBIT A

Finally, it is significant that unlike the City, Lake County, the other local government entity affected by the Sunnyside Task Force Study Report, has implemented the Sunnyside Task Force Study Report by appropriate amendments to its comprehensive plan.¹

Details of this item appear later in this SM Recommendation.

B. Citizen/Resident Complaints

Equally as invalid and troublesome is the rationale that some nearby residents (despite notice of the special magistrate hearing and provided an opportunity to do so, no nearby resident or other persons testified or made a presentation at the special magistrate hearing) objected to the Sunnyside PUD. It is extremely salient and valuable to hear members of the public state objections or support for a particular land use matter. Such objections or support, however, must be based on applicable law and relevant facts for a governmental body (or a special magistrate) to consider it in making a decision. For obvious reasons, mere conjecture or unsupported opinion are a dangerous and legally invalid rationale to use to determine the legality of any legal matter and sets a baseless, perilous precedent. As noted, there were no presentations on any issues by neighbors or other individuals at the special magistrate hearing.

Details of this item appear later in this SM Recommendation.

¹ The mistaken belief that the Sunnyside Task Force Study Report carries the same legal status as comprehensive plans or land development codes is shown in the “Recommendation” within the City PRO that the City suggests the special magistrate enter in the SM Recommendation. In part, the City PRO suggest that the Special Magistrate recommend that: “If Petitioners submit a PUD application consistent with the Sunnyside Task Force Report, ... (the special magistrate) recommend that the City approve such application, so long as it is otherwise compliant with all other City Land Development Regulations and Comprehensive Plan.” City PRO. Pg. 8 (Emphasis added) The word “other” suggests that the Sunnyside Task Force Study Report carries the same legal significance as comprehensive plans and land development codes. It does not and no legal authority has been cited to support such treatment.

EXHIBIT A

C. Poor Condition of Roads

Poor conditions of roads impacted by the Sunnyside PUD is another basis cited by the City to deny the Sunnyside PUD. No evidence was presented at the special magistrate hearing that either such impacts would be contrary to applicable law or standards or that such impacts would not be adequately addressed during the normal regulatory approval process for the Sunnyside PUD.

Details of this item appear later in this SM Recommendation.

D. Concerns Regarding the Water Supply

Neither the City PRO nor the Petitioners PRO provided any detail or argument on this item. It does not seem to be a material concern in terms of this special magistrate proceeding and cannot be relied upon to support any type of recommendation.

E. Land Use Compatibility of the Sunnyside PUD

Besides the above four items cited by the City as the reasons for the denial of the Sunnyside PUD, one other item deserves to be addressed, the compatibility of the Sunnyside PUD with surrounding land uses. The Petitioners PRO stated the following that, as correctly noted, was undisputed in the special magistrate hearing:

“It is also undisputed that the City’s Planning Staff reviewed the Sunnyside PUD for compatibility and concluded that “[t]he proposed request for a PUD (Planned Unit Development) zoning is compatible with the current surrounding zoning districts” and “is consistent with the City’s Growth Management Plan, Future Land Use Element, Goal I, Objective 1.6” – i.e., “Land Use Compatibility.” (T. 47-49; Pet. Ex. 5A at 58; Pet. Ex. 3 at I-45). Moreover, on cross-examination during the evidentiary hearing, the City’s Planning Director confirmed that the Sunnyside PUD with 159 units is “compatible” with the surrounding area.

In so doing, the City’s Planning Director confirmed that in his opinion “[t]he parcel is suitable for the proposed use” and that “[t]he proposed use will not alter the character of the surrounding area.” (T. 145-46). Further, when asked whether he had concluded that the proposal is compatible with the surrounding area, the City’s Planning Director confirmed he had:

EXHIBIT A

Q. [I]s it correct to say that you had concluded that the proposal was compatible with the surrounding area?

A. Yes, it is.

Q. And that would be at 159 units?

A. Yes.

(Emphasis added)

The present proposed density for the Sunnyside PUD is lower at 150 units.

The Special Magistrate's site visit to the general area where the Sunnyside PUD is located did not disclose any grounds why the residential nature and density of the Sunnyside PUD (consistent with the Revised Sunnyside PUD Concept Plan that the Petitioners introduced during the evidentiary hearing and subject to all conditions in the prior Staff Report for the Sunnyside PUD) would not be compatible with the surrounding residential land uses. The Special Magistrate has been practicing in the areas of environmental and land use law in Florida for over 48 years.

Details of this item appear later in this SM Recommendation.

FINDINGS OF FACT

Based upon the testimony and evidence introduced during the evidentiary hearing, the Special Magistrate makes the following findings of fact:

A. The Parties

1. The Petitioners are the owners of approximately 139± acres of real property generally located south of U.S. Highway 441 and west and east of Sunnyside Drive in Lake County, Florida ("Property"), as depicted on the maps in the record. (Pet. Ex. 5C at 5). The Petitioners were the parties that filed the application for the Sunnyside PUD. (Pet. Ex. 5A).

EXHIBIT A

2. The City is a Florida municipal corporation and is the entity responsible for reviewing and approving or denying the Sunnyside PUD.

B. The Petitioners' Property

3. The Petitioners' Property consists of two (2) tracts of land. (Pet. Ex. 12A). The first tract consists of approximately 120± acres of land located to the south and west of Sunnyside Drive ("Parent Tract"). (Id.; T. 17). The second tract consists of 18.5± acres of land located to the east of Sunnyside Drive ("Additional Tract"). (Pet. Ex. 12A; T. 27).

4. The current future land use designation of the Parent Tract on the City's Future Land Use Map is "Estate Residential" with the wetland areas designated as "Conservation." (Pet. Ex. 14; T. 24). The current zoning of the Parent Tract on the City's Zoning Map is PUD (Planned Unit Development). (Pet. Ex. 13; T. 22).

5. Pursuant to Objective 1.1.a of the City's Future Land Use Element ("FLU"), the Estate Residential future land use category is "intended for single family detached residences in urbanized areas and some rural communities that have adequate infrastructure and public facilities to support the density of up to four (4) units per acre." (Pet. Ex. 3 at I-34). Similarly, FLU Policy 1.1.1 provides that "[t]he adopted Future Land Use Map shall contain and identify appropriate locations for the following land use categories" and specifies "Estate Density Residential" as "Up to 4 units/gross acre." (Id. at I-38 to I-39). In addition, FLU Policy 1.4.9 provides that "[d]evelopments may be allowed to transfer densities on the site from environmentally sensitive areas to upland areas that are more suitable for development permitted the project goes through the planned unit development process and does not exceed a transfer of density of 1 unit per acre." (Id. at I-43).

EXHIBIT A

6. Section 25-274(b) of the City's Land Development Code ("LDC") provides that the purpose of the PUD zoning district is "to provide for proper private development of infill areas, as well as the comprehensive development of large areas of vacant or substantially vacant land that requires a flexible approach to development." (Pet. Ex. 2 at 4). The PUD zoning district is a standalone zoning district which "establishes the permitted uses, densities and intensities of the site as well as the basic district development standards as part of the rezoning process and the issuance of a development order." (Id.; T. 23).

7. The Additional Tract is in unincorporated Lake County, Florida. The current future land use designation of the Additional Tract on Lake County's Future Land Use Map is "Rural." (Pet. Ex. 14). The current zoning of the Additional Tract on Lake County's Zoning Map is R-1 (Rural Residential). (Pet. Ex. 13).

C. Zoning And Land Use History of The Petitioners' Property

8. In May 2005, the Petitioners' predecessor – William Herlong Jr., Baw Inc. – filed an annexation application with the City for the Parent Tract. (Pet. Ex. 21 at 1, 16). At the same time, the Petitioners' predecessor also filed an application seeking to rezone the Parent Tract from Lake County "Agriculture" to City of Leesburg "Planned Unit Development." (Id. at 1, 33). The proposed PUD consisted of 120 units on the Parent Tract, equating to a gross density of 1.0 dwelling units per acre and a net density of 1.7 dwelling units per acre. (Id. at 55).

9. The City's Planning Staff recommended approval of the annexation and the proposed PUD rezoning. (Id. at 16, 19). The City's Planning Commission held a public hearing on the proposed PUD on July 7, 2005, and, at the conclusion thereof, voted unanimously to approve the proposed PUD. (Id. at 32-34).

EXHIBIT A

10. On December 12, 2005, the City Commission held a public hearing on the annexation. (Id. at 36-37). By a vote of 5-to-0, with no public comment in opposition, the City Commission approved the annexation. (Id. at 36). The City Commission's approval of the annexation of the Parent Tract is memorialized in Ordinance No. 05-123 ("Annexation Ordinance"). (Id. at 38-40). The Annexation Ordinance imposes no restrictions on the development of the Parent Tract.

11. At its meeting on December 12, 2005, the City Commission also held a public hearing on the proposed PUD. (Id. at 51-52). By a vote of 5-to-0, with no public comment in opposition, the City Commission approved the proposed PUD. (Id. at 52). The City Commission's approval of the proposed PUD is memorialized in Ordinance No. 05-124 ("2005 PUD"). (Id. at 53-62; Pet. Ex 23). The 2005 PUD authorized the Parent Tract to be developed with 120 units, which, as previously noted, equates to a gross density of 1.0 dwelling units per acre and a net density of 1.7 dwelling units per acre. (Pet. Ex. 21 at 55).

12. Subsequent to the City Commission's approval of the 2005 PUD, the Petitioners' predecessor filed an application for preliminary subdivision plan approval for the Parent Tract. (Id. at 83). The preliminary subdivision plan was for the development of 120 units on the Parent Tract. (Pet. Ex. 21B).

13. On June 22, 2006, the City's Planning Commission held a public hearing on the proposed preliminary subdivision plan. (Pet. Ex. 21 at 82-83). The City's Planning Staff recommended approval of the proposed preliminary subdivision plan. (Id. at 83). By a vote of 6-to-0, the City's Planning Commission approved the proposed preliminary subdivision plan ("2006 PSP"). (Id.).

EXHIBIT A

14. The Planning Commission's approval of the 2006 PSP is memorialized in a letter from the City's former Planning and Zoning Manager to the project engineer dated July 17, 2006. (Id. at 66). The approval letter does not specify any expiration date for the 2006 PSP. (Id.; T. 156). Additionally, as attested to by the Petitioners' planning expert and the City's Planning Director at the evidentiary hearing in this matter, Section 25-443 of the City's LDC, which governs preliminary subdivision plans, does not impose an expiration date for approved plans. (T. 21, 174; Pet. Ex. 2 at § 25-443).

15. On December 18, 2006, the City Commission held a public hearing on a proposed large-scale comprehensive plan amendment to change the future land use designation of the Parent Tract from Lake County "Urban Expansion" and Lake County "Suburban" to City "Estate Residential" and "Conservation." (Pet. Ex. 21 at 94-95). The City's Planning Staff recommended approval of the proposed comprehensive plan amendment. (Id. at 91). By a vote of 4-to-0, with no public comment in opposition, the City Commission approved the proposed plan amendment. (Id. at 95). The City Commission's approval of the plan amendment is memorialized in Ordinance No. 06-149 ("2006 Plan Amendment"). (Id. at 86-90). The 2006 Plan Amendment does not contain any language restricting the density on the Parent Tract lower than the allowable density in the Estate Residential future land use category – i.e., up to four (4) dwelling units per acre. (T. 152).

16. Notwithstanding the above-referenced approvals and presumably because of the housing market crash in 2008, the Petitioners' predecessor did not construct the development authorized by the 2005 PUD and the 2006 PSP on the Parent Tract. (T. 19). The Petitioners acquired the Parent Tract subsequent to the City's approval of the 2005 PUD, 2006 PSP, and 2006 Plan Amendment.

EXHIBIT A

D. Sunnyside Task Force Study Report

17. In 2003, the City Commission adopted Resolution No. 6983 directing the City's Planning Staff to "begin a study of the development patterns in the Sunnyside area and formulate a plan to guide future annexation and development in the area." (Pet. Ex. 21A at 3). In so doing, the City Commission authorized the formation of a "Task Force" to prepare a study with "recommendations on appropriate levels of density, infrastructure, and transportation design for the Sunnyside area." (Id.). The parties do not dispute that the Petitioners' Property is located within the Sunnyside Study Area.

18. With respect to the issue of density, the Sunnyside Task Force Study Report recommended the following density levels within the Sunnyside Study Area: High (8 du/ac), Medium (3 du/ac), Low (1 du/ac), and Very Low (3 ac/du). (Id. at 6). Pursuant to Figure 4 (Recommended Density Levels) in the Sunnyside Task Force Study Report, the Parent Tract is split between the "Low" and "Very Low" recommended density levels. (Id.; T. 138). The northern portion of the Parent Tract – roughly 60 acres – is located in the "Low (1 du/ac)" recommended density level, and the southern portion – roughly 60 acres – is located in the "Very Low (3 ac/du)" recommended density level. (T. 138). According to the City's Planning Director, if the Sunnyside Task Force Study Report were applied to the Parent Tract, it would authorize a maximum of eighty (80) dwelling units. (T. 138).

19. The Sunnyside Task Force Study Report stated that the recommendations therein would be forwarded to both the Leesburg City Commission and the Lake County Board of County Commissioners for their consideration. (Pet. Ex. 21A at 10).

EXHIBIT A

20. On June 28, 2004, the City Commission approved Resolution No. 7158, thereby purporting to accept the recommendations of the Sunnyside Task Force Study Report and directing City Staff to implement those recommendations in considering any proposed annexation or proposed development within the study area. (Pet. Ex. 22). In so doing, Resolution No. 7158 provided that “development within the study area, over which the City of Leesburg has control, will proceed in accordance with the recommendations set forth in the Sunnyside Task Force Study Report, unless otherwise approved by the City Commission.” (Id.).

21. Since the adoption of Resolution No. 7158, it is undisputed that the City has not adopted or incorporated any of the density level recommendations from the Sunnyside Task Force Study Report into the City’s Comprehensive Plan or the City’s LDC. (T. 39-40, 139, 177). In other words, the City has never formally codified the recommendations of the Sunnyside Task Force Study Report. (T. 115). Additionally, there is no notation or asterisk on the City’s Future Land Use Map indicating that properties within the Sunnyside Study Area are subject to density limitations other than those prescribed for the assigned future land use category. (T. 24-25).

22. Unlike the City, Lake County specifically adopted guidelines into the Lake County Comprehensive Plan pursuant to the Sunnyside Task Force Study Report. (T. 41; Pet. Ex. 17 at 61-62). To establish a density reducing gradient of residential development from U.S. 441 to Lake Harris, Lake County’s Comprehensive Plan authorizes the following future land use categories in the Sunnyside Study Area: Urban Low Density (4 du/ac), Urban Medium Density (7 du/ac), Urban High Density (min. 4 du/ac, max. 12 du/ac), and Rural Transition (1 du/5 ac, 1 du/3 ac, and 1 du/1 ac). (Id. at 20-21, 62; T. 41-42).

E. **The Sunnyside PUD**

EXHIBIT A

23. In 2018, the Petitioners retained Greg Beliveau, AICP, of LPG Urban & Regional Planners, Inc., to assist with development entitlements for the Property. (T. 16). During the application process, the City's Planning Staff advised Mr. Beliveau that the 2005 PUD had expired pursuant to Section 6.F of the Sunnyside Landing Planned Unit Development Conditions ("2005 PD Conditions"). (T. 25).

24. Section 6.F of the 2005 PD Conditions states in its entirety:

Implementation of the project shall substantially commence within 24 months of approval of this Planned Unit Development. In the event, [sic] the conditions of the PUD have not been implemented during the required time period, the PUD shall be scheduled with due notice for reconsideration by the Planning Commission at their [sic] next available regular meeting. The Planning Commission will consider whether to extend the PUD approval or rezone the property to RE-1 (Estate Density Residential) or another appropriate zoning classification less intense than the development permitted by these PUD Conditions.

(Pet. Ex. 23 at § 6.F).

25. According to the City's Planning Director, the City interpreted the above-quoted language to mean that an approved PUD automatically expired after twenty-four (24) months if the project had not substantially commenced – which the City's Planning Director indicated the City viewed as "turning dirt and spending a significant amount of money" or "beginning physical construction." (T. 179). On cross-examination, however, the City's Planning Director admitted that there is no language in Section 6.F of the 2005 PD Conditions stating that the PUD would automatically expire after twenty-four (24) months if physical construction had not started. (T. 149, 179). The City's Planning Director further admitted that the City never took any of the steps specified in Section 6.F of the 2005 PD Conditions to formally rescind or terminate the 2005 PUD.

EXHIBIT A

(T. 149-50). Moreover, when asked by the City's counsel on redirect whether the predecessor owner "was ever noticed of the expiration of the PUD itself," the City's Planning Director stated, "No, I do not think they were ever noticed – I don't think they were ever noticed of any expiration." (T. 184). The City Planner also admitted that he had "no evidence" that the 2006 PSP ever expired. (T. 156).

26. The Petitioners' planning expert and the City's Planning Director both confirmed during the evidentiary hearing that the Parent Tract has continued to be designated PUD on the City's Zoning Map. (T. 22, 137). However, when asked whether the Petitioners "could walk into the building department today and pull a building permit on this property" the City's Planning Director stated, "No, sir." (T. 153). Rather, to do any development on the Parent Tract, the City's Planning Director indicated that the Petitioners would need to obtain a new PUD approval. (Id.).

27. Based upon the City's position that the 2005 PUD had expired and a new development application was needed, the Petitioners filed an application for approval of a new PUD in 2019 – i.e., the Sunnyside PUD. (T. 27). In conjunction with the application for the Sunnyside PUD, the Petitioners also filed applications to annex the Additional Tract and to change the future land use designation of the Additional Tract from Lake County "Rural" to City of Leesburg "Estate Residential." (Pet. Ex. 5A at 1-2, 9-10). The initial 2019 submittal for the Sunnyside PUD proposed more than 200 units but was subsequently reduced to 159 units on 139 acres – equating to a density of 1.14 dwelling units per acre. (T. 28). The City's Planning Staff reviewed the 2019 Sunnyside PUD submittal and recommend approval of the same, concluding the proposal was consistent with the City's Comprehensive Plan and the City's LDC. (Id.).

28. During the review of the 2019 Sunnyside PUD submittal, the applicability of the Sunnyside Task Force Study Report to the project was raised. (T. 29). On this point, the City's

EXHIBIT A

late attorney – Fred Morrison – advised the City’s Planning Commission at its meeting on August 13, 2020, that, “although the study was adopted in 2004, it is not considered binding on future City Commissions.” (Pet. Ex. 25 at 5). Similarly, when the City Commission considered the 2019 Sunnyside PUD submittal at its meeting on December 21, 2020, attorney Morrison advised the City Commission that “[t]his Commission has the authority notwithstanding the Task Force report to approve this if that is the desire of the Commission.” (Pet. Ex. 26 at 15). Ultimately, the City Commission took no formal action on the 2019 Sunnyside PUD submittal. (T. 34).

29. Thereafter, the Petitioners resubmitted for the Sunnyside PUD in 2021. (T. 43-44). Like the 2019 submittal, the 2021 Sunnyside PUD submittal proposed 159 units on 139 acres – equating to a density of 1.14 dwelling units per acre. (T. 45; Pet. Ex. 5B). The City’s Planning Staff recommend approval of the 2021 Sunnyside PUD, concluding the revised proposal was consistent with the City’s Comprehensive Plan and the City’s LDC and compatible with the surrounding area and land uses. (T. 45; Pet. Ex. 5A at 31). The City’s Planning Staff also recommended approval of the proposed annexation and land use change for the Additional Tract. (Pet. Ex. 5A at 1, 13). At no time did the City’s Planning Staff recommend denial upon or otherwise indicate that the proposed Sunnyside PUD was inconsistent with the Sunnyside Task Force Study Report. (T. 143, 147, 162).

30. On March 28, 2022, the City Commission held a public hearing on the 2021 Sunnyside PUD submittal. (Pet. Ex. 19). Notwithstanding the City Planning Staff’s recommendation of approval and the absence of any testimony or evidence in opposition, the City Commission, by a vote of 3-to-1, denied the proposed annexation and land use change of the Additional Tract at the outset of the March 28 public hearing. (Id. at 6-7). As result thereof, the

EXHIBIT A

Additional Tract was removed from the proposed Sunnyside PUD and the number of units was reduced to 155 units on 120 acres – equating to a density of 1.29 units per acre. (T. 112).

31. At the conclusion of the March 28 meeting, the City Commission voted 2-to-2 on the motion to approve the proposed Sunnyside PUD with 155 units on the Parent Tract. (Id.; Pet. Ex. 19 at 22). The acting City Attorney advised the City Commission that “a tie vote is an effective denial.” (Id.).

32. On April 26, 2022, the Petitioners timely filed their Request for Relief with the City. Pursuant to the Dispute Resolution Act, a mediation conference was held on August 16, 2022, between the Petitioners and the City with the undersigned Special Magistrate acting as a mediator to discuss potential negotiated settlement solutions to the issues in this matter. A mediated settlement, however, was not reached. Accordingly, pursuant to the Dispute Resolution Act, the undersigned Special Magistrate conducted the required evidentiary hearing in this matter on July 19, 2023, to gather the information “necessary to understanding” the facts and law applicable to this matter and to be able to develop this Report and Recommendation.²

ANALYSIS AND CONCLUSIONS OF LAW

In their Request for Relief, the Petitioners assert that the City Commission’s denial of the Sunnyside PUD was unreasonable and unfairly burdens the use of the Parent Tract. The evidence and testimony introduced during the public hearing focused on three primary issues: (1) traffic concerns on Sunnyside Drive; (2) compatibility; and (3) the Sunnyside Task Force Study Report. Each of these issues is addressed separately below.

² The City Commission’s denial of the annexation and future land use change of the Additional Tract does not constitute a “development order” for purposes of the Dispute Resolution Act, and, thus, is not part of this Report and Recommendation. See § 70.51(2)(a), Fla. Stat. (2022).

EXHIBIT A

A. **Purpose And Scope Of The Dispute Resolution Act**

The Dispute Resolution Act requires that a special magistrate make the following determination:

[T]he special magistrate shall consider the facts and circumstances set forth in the request for relief and any responses and any other information produced at the hearing in order to determine whether the action by the governmental entity or entities is unreasonable or unfairly burdens the real property.

§ 70.51(17)(b), Fla. Stat. (2022) (emphasis supplied).

The terms “action by the governmental entity,” “unreasonable,” and “unfairly burdens the real property” are not defined in the Dispute Resolution Act. The Dispute Resolution Act intends for a special magistrate to weigh and balance all relevant facts and law involving the action by the governmental entity and the land use at issue and make a decision based upon an “unreasonable” or “unfairly burdens the real property” standard.

This weighing and balancing approach is indicated by the broad array of “circumstances” the Dispute Resolution Act permits a special magistrate to consider pursuant to Section 70.51(18)(a)-(h), Florida Statutes, in making the determination of whether the governmental entity’s action was “unreasonable” or “unfairly burdens” the real property at issue. In this regard, it is important to emphasize that while the facts presented and conclusions reached in the hearings that preceded the special magistrate proceeding may be relevant for a special magistrate to review, the special magistrate proceeding is a de novo process to consider the wide array of matters detailed in the Dispute Resolution Act.

EXHIBIT A

Ultimately, the underlying purpose of the Dispute Resolution Act is to determine whether an owner should be permitted to make use of its property subject to such conditions and limitations which would minimize intrusion or impact upon adjoining or nearby properties – which, in essence, would ensure the compatibility of the proposed use with the surrounding land uses. To that end, Section 70.51(17), Florida Statutes, states:

The object of the hearing is to focus attention on the impact of the governmental action giving rise to the request for relief and to explore alternatives to the development order or enforcement action and other regulatory efforts by the governmental entities in order to recommend relief, when appropriate, to the owner.

(Emphasis supplied).

Lastly, the Florida Legislature has specifically instructed that the Dispute Resolution Act “shall be liberally construed to effect fully its obvious purposes and intent, and governmental entities shall direct all available resources and authorities to effect fully the obvious purposes and intent of this section in resolving disputes.” See *id.* at § 70.51(29). Accordingly, the Special Magistrate interprets and applies the Dispute Resolution Act with that legislative directive in mind. See *Nettles v. State*, 850 So. 2d 487, 493 (Fla. 2003) (noting that legislative intent is the “polestar that guides the Court’s inquiry”).

B. Alternatives To The Sunnyside PUD

At the evidentiary hearing, the Petitioners’ planning expert discussed the Sunnyside Landing Concept Plan dated January 21, 2022, that was submitted as part of the 2021 Sunnyside PUD submittal that the City Commission ultimately denied. (T. 49; Pet. Ex. 5B). The Petitioners, however, also introduced a revised conceptual plan for the proposed Sunnyside PUD during the evidentiary hearing (“Revised Sunnyside PUD Concept Plan”). (T. 69-71; Pet. Ex. 11).

EXHIBIT A

The Revised Sunnyside PUD Concept Plan is appropriate for consideration in this special magistrate proceeding. The Dispute Resolution Act encourages such revisions to an original development proposal and provides that, in determining whether a development order is unreasonable or unfairly burdens the use of the property, a special magistrate may consider “alternative development orders or enforcement action conditions that would achieve the public purpose and allow for reduced restrictions on the use of the property.” See § 70.51(18)(f), Fla. Stat. (2022). In other words, given the land use regulatory concerns of the City and other interested persons, is there some alternative to the original development plan proposed by the Petitioners that satisfies those concerns?

Briefly summarized, the Revised Sunnyside PUD Concept Plan does the following: (1) removes the Additional Tract from the Sunnyside PUD; (2) reduces the number of dwelling units to 150; and (3) increases perimeter buffers and distances to the nearest existing residential uses. (T. 69-75; Pet. Exs. 11, 24). The overall density pursuant to the Revised Sunnyside PUD Concept Plan is 1.25 dwelling units per acre. (T. 71-72).

C. Traffic Concerns Regarding Sunnyside Drive

First, to the extent the City Commission’s denial of the Sunnyside PUD was premised upon traffic concerns or the condition of Sunnyside Drive, the Petitioners maintain that such determination was unreasonable or unfairly burdens the use of the Parent Tract. The Petitioners’ argument is well taken based upon the evidence and testimony presented during the evidentiary hearing.

As part of the Sunnyside PUD application, it is undisputed that the Petitioners submitted a traffic impact study which evaluated the impacts of the proposed development on the surrounding

EXHIBIT A

roadway network, including Sunnyside Drive. (T. 58-60; Pet. Ex. 6C). The traffic impact study, which was based upon a development program of 219 single-family dwelling units, concluded that “the studied roads will have sufficient capacity to accommodate background growth and project traffic in the future condition.” (Pet. Ex. 6C at 1, 12). During the PUD review process, the Petitioners also submitted updated 2021 traffic counts utilizing a revised development program of 159 single-family dwelling units. (T. 59-60; Pet. Ex. 5C at 19-20). The updated 2021 traffic data also showed no deficiencies on the roadway network, including Sunnyside Drive. (T. 60).

The Petitioners’ traffic impact study was reviewed by the City as well as Lake County and the Lake-Sumter Metropolitan Planning Organization. (T. 117). Significantly, neither the City nor the other reviewing entities raised any issue with the Petitioners’ traffic impact study. (Id.).

During the evidentiary hearing, the City’s counsel asked the Petitioners’ planning expert whether the Petitioners’ traffic impact study analyzed the number of accidents on roadways, including Sunnyside Drive. (T. 102-03). According to the Petitioners’ planning expert, traffic engineers are not required to analyze accidents in a traffic impact study. (T. 117). However, even if that were not the case, the City introduced no evidence or testimony during the special magistrate hearing to substantiate any alleged accident history on the surrounding roadway network that would somehow be relevant to this case. It is well settled that speculation and conjecture do not constitute competent substantial evidence pursuant to Florida law. See *Dep’t of Highway Safety & Motor Vehicles v. Trimble*, 821 So. 2d 1084, 1087 (Fla. 1st DCA 2002) (“Surmise, conjecture or speculation have been held not to be substantial evidence” and “findings must be based on something more than mere probabilities, guesses, whims, or caprices.”).

Lastly, the Petitioners offered unrefuted evidence during the evidentiary hearing regarding the current road ratings of Sunnyside Drive. (T.61-67; Pet. Exs. 27, 27A). Such evidence

EXHIBIT A

establishes that Sunnyside Drive is a county road and is designated as a “urban collector,” not a “local road.” (T. 62-63). Further, such evidence establishes that almost all segments of Sunnyside Drive have a sufficient pavement rating. (T. 63). The only segment of Sunnyside Drive that currently does not have a sufficient pavement rating is the segment that fronts the proposed Sunnyside PUD. (T. 64). It is undisputed, however, that the Petitioners would be required to repave this segment of Sunnyside Drive as a condition of the proposed PUD, thereby eliminating such pavement deficiency. (T. 64, 118). In fact, the City’s Planning Director confirmed on cross-examination that the Petitioners would be required to repave this portion of Sunnyside Drive as part of the proposed PUD and, as such, Sunnyside Drive would be adequate to support the anticipated traffic from the proposed development. (T. 145).

In sum, the unrefuted testimony and evidence introduced at the evidentiary hearing, including from the City’s Planning Director, establish that Sunnyside Drive has sufficient capacity to accommodate the anticipated traffic from the Sunnyside PUD and that all segments of Sunnyside Drive will have a sufficient pavement rating following the development of the Sunnyside PUD, as conditioned. Accordingly, to the extent the City Commission’s denial of the Sunnyside PUD was based upon traffic concerns or the perceived condition of Sunnyside Drive, such denial is “unreasonable” or “unfairly burdens” the Petitioners’ use of the Parent Tract pursuant to the Dispute Resolution Act.

D. Compatibility With the Surrounding Area

Next, to the extent the City Commission’s denial of the Sunnyside PUD was premised upon “compatibility” concerns with the surrounding area, the Petitioners maintain that such determination was unreasonable or unfairly burdens the use of the Parent Tract. The Petitioners’

EXHIBIT A

argument is well taken based upon the evidence and testimony presented during the evidentiary hearing.

The term “compatibility” is not defined in the City’s Comprehensive Plan or the City’s LDC. Rather, as attested to by the Petitioners’ planning expert, such term is defined in Section 163.3164(9), Florida Statutes, as follows:

“Compatibility” means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

(Pet. Ex. 10D; T. 81). By definition, “compatibility” does not require that a proposed development result in no negative impacts upon another use. Rather, a project can have some negative impact on another use and still be compatible.

With respect to compatibility, FLU Policy 1.6.5 of the City’s Comprehensive Plan states:

Compatibility. Compatibility with surrounding established neighborhoods shall be considered during the Comprehensive Plan amendment process. This compatibility will include consideration of surrounding housing types, neighborhood stability, transitional uses and scheduled infrastructure improvements, including those planned improvements stated in the city’s 10-Year Water Supply Facilities Work Plan.

(Pet. Ex. 3 at I-46) (emphasis supplied).

As previously discussed, pursuant to the 2006 Plan Amendment, the City changed the future land use designation of the Parent Tract from Lake County “Urban Expansion” and Lake County “Suburban” to City “Estate Residential” and “Conservation.” (Pet. Ex. 21 at 86-90). The

EXHIBIT A

City's Estate Residential future land use designation allows "up to 4 units per gross acre." (Pet. Ex. 3 at I-34). Thus, pursuant to FLU 1.6.5, the City presumably determined that development of "up to 4 units per gross acre" on the Parent Tract is "compatible" with the surrounding area in adopting the 2006 Plan Amendment. (Pet. Ex. 3 at I-46).

Even assuming the City had not already determined that a density of "up to 4 units per gross acre" on the Parent Tract is compatible with the surrounding area, the unrefuted expert testimony establishes that the Sunnyside PUD is compatible with the surrounding area. In this regard, the Petitioners' planning expert testified that he had reviewed the Sunnyside PUD, which involved 159 units, and it was his opinion that the Sunnyside PUD was consistent with the City's Comprehensive Plan and the City's LDC. (T. 28). The Petitioners' planning expert also reiterated that the Sunnyside PUD and the proposed densities were consistent and compatible with existing development in the Sunnyside area.³ (T. 68-69; Pet. Ex. 5C at 24-34).

³ On cross-examination, the City's counsel asked whether the existing, surrounding residential developments that the Petitioners' planning expert examined were located in the City or Lake County. (T. 93-94). The Petitioners' planning expert acknowledged that such developments were in Lake County. (T. 93-94). However, when asked, "[a]s a land use planner in evaluating compatibility, do you just ignore existing developments based on their jurisdictional boundaries?," the Petitioners' planning expert responded:

No, I do not. They exist where they exist, and you can't ignore what jurisdiction they're in because they're existing in proximity to the project. You can't draw a line that says, okay, if these projects are in one jurisdiction, they exist; and if they exist on another jurisdiction, they don't exist. You can't. They exist in – in fact, that's where they are. And, you know, their existence and the type of the development that exists, they're there. That's – that's a fact. They don't disappear. They exist, and the type of developments that exists are facts. . . ."

(T. 119).

EXHIBIT A

It is also undisputed that the City's Planning Staff reviewed the Sunnyside PUD for compatibility and concluded that "[t]he proposed request for a PUD (Planned Unit Development) zoning is compatible with the current surrounding zoning districts" and "is consistent with the City's Growth Management Plan, Future Land Use Element, Goal I, Objective 1.6" – i.e., "Land Use Compatibility." (T. 47-49; Pet. Ex. 5A at 58; Pet. Ex. 3 at I-45). Moreover, on cross-examination during the evidentiary hearing, the City's Planning Director confirmed that the Sunnyside PUD with 159 units is "compatible" with the surrounding area.

In so doing, the City's Planning Director confirmed that in his opinion "[t]he parcel is suitable for the proposed use" and that "[t]he proposed use will not alter the character of the surrounding area." (T. 145-46). Further, when asked whether he had concluded that the proposal is compatible with the surrounding area, the City's Planning Director confirmed he had:

Q. [I]s it correct to say that you had concluded that the proposal was compatible with the surrounding area?

B. Yes, it is.

Q. And that would be at 159 units?

A. Yes.

(T. 161) (emphasis supplied). The City's Planning Director further acknowledged on cross-examination, "As a professional planner, I viewed [the Sunnyside PUD] as a project that is consistent with the City of Leesburg comp plan and land development regulations" and reaffirmed that he had applied the City's "adopted criteria." (T. 162, 180).

EXHIBIT A

Simply put, no evidence or testimony was introduced during the evidentiary hearing that would support a finding that the Sunnyside PUD would create a legitimate compatibility concern regarding any surrounding land uses. Further, as the Petitioners' planning expert detailed during his testimony, the Revised Sunnyside PUD Concept Plan increases perimeter buffers and distances to the nearest existing residential uses, thereby further enhancing compatibility with the surrounding area. (T. 70-77, 80; Pet. Ex. 24).

In this regard, the Petitioners' planning expert explained how the Revised Sunnyside PUD Concept Plan reconfigured or removed lots in order to have the same or fewer residential lots next to properties with existing residential homes than the approved 2006 PSP. (T. 78-79). For example, along the western side of the northern cul-de-sac, the Revised Sunnyside PUD Concept Plan has four (4) lots – the same number as the approved 2006 PSP. (T. 78). Along the northern boundary, the Revised Sunnyside PUD Concept Plan has four (4) lots, whereas the approved 2006 PSP had five (5) lots. (T. 79). Lastly, along the southern boundary, the Revised Sunnyside PUD Concept Plan has four (4) lots, whereas the approved 2006 PSP had six (6) lots. (Id.). Thus, from a strict compatibility standpoint, the Revised Sunnyside PUD Concept Plan is not only an improvement over the 2021 Sunnyside PUD submittal with 159 units – which the City's Planning Staff deemed compatible with the surrounding area – but it is an improvement over the 2006 PSP that the City approved.

In sum, the unrefuted testimony and evidence introduced at the evidentiary hearing, including from the City's Planning Director, establishes that the Sunnyside PUD is compatible with the surrounding area and uses. Accordingly, to the extent the City Commission's denial of the Sunnyside PUD was based upon compatibility concerns, such denial is "unreasonable" or "unfairly burdens" the Petitioners' use of the Parent Tract pursuant to the Dispute Resolution Act.

EXHIBIT A

E. The Sunnyside Task Force Study Report

Lastly, to the extent the City Commission's denial of the Sunnyside PUD was premised upon the Sunnyside Task Force Study Report, the Petitioners maintain that such determination was unreasonable or unfairly burdens the use of the Parent Tract. The Petitioners' argument is well taken based upon the testimony and evidence introduced during the evidentiary hearing, as well as the City's prior land use and zoning approvals for the Parent Tract. Further, as discussed below, the Petitioners' argument is supported by well-established Florida law.

First and foremost, the testimony and historical evidence introduced during the evidentiary hearing establish that the City did not apply the Sunnyside Task Force Study Report to the Parent Tract in approving the 2005 PUD and the 2006 PSP. Indeed, the Petitioners' planning expert and the City's Planning Director both testified that the approved 2005 PUD did not comply with the Sunnyside Task Force Study Report. (T. 112-13, 137). Significantly, the City Commission approved the 2005 PUD in December 2005 more than a year and a half after the City Commission's adoption of Resolution No. 7158, which purported to "accept" the recommendations of the Sunnyside Task Force Study Report. (Pet. Exs. 22 and 23).

Likewise, as previously discussed, the City adopted a future land use map amendment in December 2006 – more than two and a half years after the City Commission's adoption of Resolution No. 7158 – changing the future land use classification of the Parent Tract to Estate Residential, which allows up to four (4) units per acre. (T. 39; Pet. Ex. 21 at 86-90). Notably, the 2006 Plan Amendment contains no language restricting the density on the Parent Tract below the maximum allowable density in the Estate Residential future land use category or otherwise subjecting the Parent Tract to the Sunnyside Study Task Force Report. (T. 152; Pet. Ex. 21 at 86-87).

EXHIBIT A

Additionally, the historical evidence introduced during the evidentiary hearing reflects that the Sunnyside Study Task Force Report was never intended to restrict the density of the Parent Tract below the amount of density otherwise allowed in June 2004. For example, during the Planning Commission on the 2005 PUD, the City's former Director of Planning – Laura McElhanon – explained that “the density in place at the time the Sunnyside report was approved are still valid.” (Pet. Ex. 21 at 33; T. 157-60). At the time of the Sunnyside Task Force Study Report, it is undisputed that the Parent Tract had a future land use designation of Lake County “Urban Expansion” on the northern half, which authorized four (4) dwelling units per acre, and Lake County “Suburban” on the southern half, which allowed up to three (3) dwelling units per acre if certain so-called “timeliness” requirements were met. (T. 42-43, 157-58; Pet. Ex. 21 at 33-34; Pet. Ex. 21A at 5). Thus, it is irrefutable that the “density in place at the time the Sunnyside report was approved” greatly exceeded the density level recommendations in the Sunnyside Task Force Study Report. Indeed, both the Petitioners' planning expert and the City's Planning Director agreed that the density in place on the Parent Tract when the Sunnyside Task Force Study Report was accepted would allow more than the 150 dwelling units proposed on the Revised Sunnyside PUD Concept Plan – which equates to only 1.25 dwelling units per acre. (T. 43, 72, 161).

Based upon the above-referenced testimony and historical evidence, the Special Magistrate finds that the density level recommendations in the Sunnyside Task Force Study Report were never intended to govern or limit the density of the Parent Tract. Consistent with this finding, it bears noting that the City's Planning Staff never recommended denial of the Sunnyside PUD based upon the Sunnyside Task Force Study Report during more than two (2) years and multiple reviews of the project. (T. 143, 147). Moreover, when asked by the City's counsel during the evidentiary

EXHIBIT A

hearing if he believed the City's Planning Staff made a mistake in recommending approval of the Sunnyside PUD, the City's Planning Director replied, "No." (T. 168).

Second, even assuming the Sunnyside Task Force Study Report was intended to apply to development of the Parent Tract, it would be unlawful to apply them because the density level limitations recommended therein are not codified in the City's Comprehensive Plan or the City's LDC, or otherwise delineated on the City's Future Land Use Map. By statute, a local government's comprehensive plan is required to include a future land use element "designating proposed future general distribution, location, and extent of the uses of land for residential uses" and specifying the "general range of density or intensity of use . . . in each existing land use category." See § 163.3177(6)(a), Fla. Stat. (2022). Further, "[t]he proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives." See *id.* at § 163.3177(6)(a)1. Additionally, by statute, "each county and each municipality shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan." See § 163.3202(1), Fla. Stat. (2022).

In the instant case, it is undisputed that the City has not adopted or incorporated any of the density level recommendations from the Sunnyside Task Force Study Report into the City's Comprehensive Plan or the City's LDC. (T. 39-40, 115, 139, 177). Likewise, nothing on the City's Future Land Use Map indicates that property within the Sunnyside Study Area, including the Parent Tract, is subject to any density limitations other than those established for the assigned future land use category. (T. 24-25). The absence of such formal adoption begs the question of how property owners, like the Petitioners, would know or have notice that the density level

EXHIBIT A

recommendations from the Sunnyside Task Force Study Report would or could apply to their property.

Rather than formally codifying the recommendations of the Sunnyside Task Force Study Report, the City purported to accept the recommendations by virtue of Resolution No. 7158. A “resolution,” however, is “an expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.” See § 166.041(1)(b), Fla. Stat. (2022). An “ordinance,” by contrast, is “an official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law.” See *id.* at § 166.041(1)(a).

In broad terms, “an ordinance differs from a resolution in that the latter is often nonbinding in nature.” See Patrick John McGinley, *Florida Municipal Law and Practice* § 3.3 (West 2023 ed.). Moreover, “[a] resolution cannot be substituted for and have the force and effect of an ordinance, nor can a resolution supply initial authority which is required to be vested by ordinance.” *Wallace v. Leahy*, 496 So. 2d 970, 971 (Fla. 3d DCA 1986). In this regard, it bears emphasizing that a comprehensive plan, comprehensive plan amendments, and land development regulations are required to be adopted by ordinance. See, e.g., § 163.3187(11)(a), Fla. Stat. (2022) (“The adoption of a comprehensive plan or plan amendment shall be by ordinance.”).

Given the undisputed fact that the City has never formally codified the recommendations of the Sunnyside Task Force Study Report into the City’s Comprehensive Plan or the City’s LDC, the density level limitations set forth therein are not legally binding and do not apply to the Parent Tract. Rather, the Parent Tract is governed by the maximum allowable density in the Estate Residential future land use category assigned to the property – i.e., “up to four (4) units per acre.”

EXHIBIT A

(Pet. Ex. 3 at I-34). On this point, it deserves emphasis that the late City Attorney similarly opined during the City's review of the Sunnyside PUD that, "although the study was adopted in 2004, it is not considered binding on future City Commissions." (Pet. Ex. 5C at 23).

Third, even assuming the Sunnyside Task Force Study Report was applicable to the Parent Tract or could somehow be viewed as binding, the City Commission's reliance upon the Sunnyside Task Force Study Report as grounds to deny the Sunnyside PUD would be improper under Florida law. Accordingly, on this additional basis, the Special Magistrate concludes that the Sunnyside Task Force Study Report does not govern the use and development of the Parent Tract.

As discussed at the evidentiary hearing, Resolution No. 7158 reads, in pertinent part, that "all further development within the study area, over which the City of Leesburg has control, will proceed in accordance with the recommendations set forth in the Sunnyside Task Force Study Report, unless otherwise approved by the City Commission." (Pet. Ex. 22) (emphasis supplied). Both the Petitioners' planning expert and the City's Planning Director agreed that there are no objective criteria in Resolution No. 7158 for when the Sunnyside Task Force Study Report would or would not apply. (T. 127, 139-40). In fact, when asked on cross-examination "how would a private property owner know what the city commission is going to do?," the City's Planning Director candidly admitted, "They wouldn't." (T. 147). Rather, based upon his conversations with the late City Attorney, the City's Planning Director stated, "it's the city commission's decision to use it or not use it." (T. 176; see also T. 146).

As observed in *City of Homestead v. Schild*, 227 So. 2d 540, 543 (Fla. 3d DCA 1969), "the law of Florida is committed to the doctrine of the requirement that zoning ordinances . . . must be predicated upon legislative standards which can be applied to all cases, rather than to the theory of granting an administrative board or even a legislative body the power to arbitrarily decide each

EXHIBIT A

case entirely within the discretion of the members of the administrative board of legislative body.” See *id.* at 543; see also *Delta Truck Brokers, Inc. v. King*, 142 So. 2d 273, 275 (Fla. 1962) (noting that a zoning code, like other legislation, “cannot delegate to an administrative agency, even one clothed with certain quasi-judicial powers, the unbridled discretion to adjudicate private rights”).

Rather, for regulations which provide decisional authority to pass constitutional muster, they must have objective criteria that the governmental entity must follow when making a decision. See *N. Bay Village v. Blackwell*, 88 So. 2d 524, 526 (Fla. 1956) (“An ordinance whereby the city council delegates to itself the arbitrary and unfettered authority to decide where and how a particular structure shall be built or where located without at the same time setting up reasonable standards which would be applicable alike to all property owners similarly conditioned, cannot be permitted to stand as a valid municipal enactment.”); *City of Miami v. Save Brickell Ave., Inc.*, 426 So.2d 1100, 1104 (Fla. 3d DCA 1983) (“[I]f definite standards are not included in the ordinance, it must be deemed unconstitutional as an invalid delegation of legislative power to an administrative board.”). Consistent with the above-cited authority, Florida courts have steadfastly held that “[a]ny standards, criteria or requirements which are subject to whimsical or capricious application or unbridled discretion will not meet the test of constitutionality.” See *ABC Liquors, Inc. v. City of Ocala*, 366 So. 2d 146, 149 (Fla. 1st DCA 1979).

Here, it is indisputable that Resolution No. 7158 contains no objective criteria or standards to govern when the Sunnyside Task Force Study Report would or would not apply to a particular parcel of land. Rather, the decision of whether the Sunnyside Task Force Study Report will or will not apply to a particular parcel of land is left entirely to the unfettered discretion of the City Commission. Pursuant to Florida law, however, “[t]he granting or withholding of a permit . . . should not depend on the whim or caprice of the permitting authority.” See *Effie, Inc. v. City of*

EXHIBIT A

Ocala, 438 So. 2d 506, 508 (Fla. 5th DCA 1983); see also *Kash N' Karry Food Stores, Inc. v. City of Temple Terrace*, 19 Fla. L. Weekly Supp. 425, 428 (Fla. 13th Cir. Ct. 2012) (“A case by case decision based on the various council members’ view of what constitutes a best use” violates the essential requirements of law and “subjects the application to a whimsical or capricious review which ‘will not meet the test of constitutionality.’”).

To the extent Resolution No. 7158 grants the City Commission unbridled discretion to decide on a case-by-case without any objective criteria whether or not to apply the recommendations of the Sunnyside Task Force Study Report to a particular parcel, the Resolution is contrary to established law and ineffectual. See *Effie, Inc.*, 438 So. 2d at 510 (“Clearly, the opportunity for the exercise of unbridled discretion is present here, and whether so exercised or not, renders the ordinance unconstitutional.”). Simply put, an applicant “has a right to know what the requirements are that he must comply with in order to implement the permitted use,” otherwise “councilmen can act upon whim, caprice or in response to pressures which do not permit of ascertainment or correction.” See *id.* at 509.

Finally, the Special Magistrate also considers the Petitioners’ reasonable expectation when they acquired the Parent Tract to be able to develop the property in accordance with its assigned future land use designation which allows “up to four (4) units per acre.” (Pet. Ex. 3 at I-34). As previously discussed, the unrefuted evidence introduced during the evidentiary hearing establishes that the City did not apply the Sunnyside Task Force Study Report to the Parent Tract when it approved the 2005 PUD or the 2006 PSP. Additionally, the record is devoid of any credible evidence that the 2005 PUD and the 2006 PSP were ever lawfully rescinded or that the City ever provided notice to the Petitioners’ predecessor that such development approvals were deemed “expired.” Moreover, PUDs are not static approvals and are frequently amended based upon

EXHIBIT A

changes in market preferences, new ownership, or increases in the costs of construction. (T. 82-83). Given the significant increase in the costs of construction in recent years and the fact that the developer of the Sunnyside PUD would be required to extend central water and sewer lines to service the Parent Tract as a condition of the PUD, it is not surprising that the Petitioners would seek to modify the prior development approvals to increase the number of units to help offset this cost and make the project more financially viable.⁴

In sum, for the reasons detailed above, the Sunnyside Task Force Study Report does not govern the development of the Parent Tract or otherwise reduce the maximum allowable density on such property. Accordingly, to the extent the City Commission's denial of the Sunnyside PUD was premised upon the Sunnyside Task Force Study Report, such denial is "unreasonable" or "unfairly burdens" the Petitioners' use of the Parent Tract pursuant to the Dispute Resolution Act.

CONCLUSION & RECOMMENDATION

A. Standard For Recommendation

A special magistrate is charged by Section 70.51(19)(b), Florida Statutes (2023) with making a recommendation to the Petitioners and the City. As in the matters to consider, a special magistrate is given broad authority to craft that recommendation:

If the special magistrate finds that the development order or enforcement action, or the development order or enforcement action in combination with the actions or regulations of other governmental entities, is unreasonable or unfairly burdens use of the owner's property, the special magistrate, with the owner's consent to proceed, may recommend one or more alternatives that protect the

⁴ Even the Sunnyside Task Force Study Report acknowledges that, "once density levels drop to less than three (3) units per acre, the cost of extending water and wastewater lines becomes a financial burden." (Pet. Ex. 21A at 7).

EXHIBIT A

public interest served by the development order or enforcement action and regulations at issue but allow for reduced restraints on the use of the owner's real property, including, but not limited to:

1. An adjustment of land development or permit standards or other provisions controlling the development or use of land.
2. Increases or modifications in the density, intensity, or use of areas of development.
3. The transfer of development rights.
4. Land swaps or exchanges.
5. Mitigation, including payments in lieu of onsite mitigation.
6. Location on the least sensitive portion of the property.
7. Conditioning the amount of development or use permitted.
8. A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.
9. Issuance of the development order, a variance, special exception, or other extraordinary relief, including withdrawal of the enforcement action.
10. Purchase of the real property, or an interest therein, by an appropriate governmental entity.

§ 70.51(19)(b), Fla. Stat. (2023) (emphasis supplied).

B. **Recommendation**

1. Based on the totality of the facts and law applicable to this special magistrate proceeding as discussed in this SM Recommendation, the Special Magistrate respectfully recommends that:

A. The City approve the Sunnyside PUD consistent with the Revised Sunnyside PUD Concept Plan that the Petitioners introduced during the evidentiary hearing and subject to all conditions in the prior Staff Report for the Sunnyside PUD. The Revised Sunnyside PUD Concept Plan, which reduces the number of lots to 150, removes the Additional Tract, increases the size of certain open space areas or buffers adjacent to the nearest properties with existing residential

EXHIBIT A

homes, and increases the distances of homes within the Sunnyside PUD from the nearest existing residential homes in the area, is compatible with the surrounding area land uses and complies with the City's Comprehensive Plan and the City's LDC.

B. The City implement, as has Lake County, the portions of the Sunnyside Task Force Study Report that it wants to have applied to future developments by adopting comprehensive plan amendments and land development regulations, as appropriate.

I want to thank the attorneys in this matter as well as City staff for their presentations and cooperation throughout this special magistrate proceeding and the mediation that preceded it. Both sides presented their case in a professional and ethical manner and given the totality of this case, especially the undisputed facts, both sides presented the best possible case for their respective sides.

This Special Magistrate Recommendation was entered and provided to the attorneys for Petitioners and the City by electronic mail on this 15th day of January 2024.

Carlos Alvarez

CARLOS ALVAREZ, ESQUIRE

SPECIAL MAGISTRATE

309 Belmont Road

Tallahassee, Florida 32301

Telephone: (850) 567-7223

Email: alvarezmediations@gmail.com

Florida Bar No. 205214

Sup. Ct. Cert. No. 10435CR

EXHIBIT A

For Petitioners:

S. Brent Spain, Esquire
David A. Theriaque, Esquire
Theriaque & Spain
1809 Edgewater Drive
Orlando, Florida 32804
sbs@theriaquelaw.com
dat@theriaquelaw.com

For Respondent:

Stephanie Brionez, Esquire
Mark Brionez, Esquire
Brionez + Brionez, P.A.
Post Office Box 985
322 W. Burleigh Blvd.
Tavares, Florida 32778
Stephb@bblawfl.com
Markb@bblawfl.com

EXHIBIT B

MODIFIED PUD CONCEPT PLAN

IN AND BEFORE A SPECIAL MAGISTRATE
SUNNYSIDE LANDING/CITY OF LEESBURG
SECTION 70.51 F.S. PROCEEDING

SUNNYSIDE LAKE LANDING HOLDING,
LLC, and CENIZO VENTURES FLORIDA,
LLC,

Petitioners,

v.

CITY OF LEESBURG,

Respondent.

_____ /

Special Magistrate Recommendation

Pursuant to the Florida Land Use and Environmental Dispute Resolution Act, Section 70.51, Florida Statutes (2023), (“Dispute Resolution Act”) and more specifically, Section 70.51(19), Florida Statutes (2023), and after a one day evidentiary hearing held on July 19, 2023, pursuant to Section 70.51(15), Florida Statutes (2023), and a site visit to the property at issue and surrounding areas by the Special Magistrate in the above-captioned special magistrate proceeding, the Special Magistrate enters this Special Magistrate Recommendation (“SM Recommendation”) pursuant to the guidelines set forth in Sections 70.51(18) and (19), Florida Statutes (2023).

STATEMENT OF THE ISSUE

The issue in this special magistrate proceeding is whether the denial of Petitioners Sunnyside Lake Land Holding Company, LLC, and Cenizo Ventures Florida, LLC (“Petitioners”) rezoning application for the Sunnyside Landing Planned Unit Development in Case No. PUD 21-78 (“Sunnyside PUD”) by Respondent City of Leesburg (“City”) (Petitioners and the City are jointly referred to as the “Parties”) was “unreasonable” or “unfairly burdens” the Petitioners’ use of real property pursuant to the Dispute Resolution Act. In making this determination, the Special Magistrate is guided by the criteria listed in Section 70.51(18)(a)-(h) and (19), Florida Statutes (2023).

EXHIBITS & TRANSCRIPT

Exhibits admitted into evidence during the special magistrate hearing are referred to in this SM Recommendation by the exhibit number followed by the appropriate page number – e.g., Pet. Ex. 1 at 5. References to the July 19 hearing transcript are denoted herein as “T.” followed by the appropriate page number – e.g., T. 10.

During the special magistrate evidentiary hearing, the Petitioners introduced pre-marked Exhibits 2, 3, 5A, 5B, 5C, 6A, 6B, 6C, 7, 10C, 10D, 11, 12A, 12B, 13, 14, 17, 19, 21, 21A, 21B, 22, 23, 24, 25, 26, 27, and 27A. The City did not introduce any exhibits, but instead relied upon the Petitioners’ exhibits. Copies of all the exhibits introduced into evidence during the special magistrate evidentiary hearing are on file with the Special Magistrate and are listed on pages 4 and 5 of the hearing transcript and the Parties have copies of the exhibits. On August 2, 2023, the original hearing transcript was filed with the Special Magistrate and a copy was provided to each of the Parties.

ATTENDEES AND RELATED MATTERS

Attorney Brent Spain of Theriaque & Spain represented the Petitioners at the evidentiary hearing and presented the following witnesses: Greg Beliveau, AICP – who was qualified and testified as an expert in land use, comprehensive planning, and urban planning. (Pet. Ex. 7; T. 5).

Attorneys Stephanie Brionez and Mark Brionez of Brionez & Brionez represented the City at the evidentiary hearing and presented one witness: Dan Miller – the City’s Planning Director.

Several members of the public attended the evidentiary hearing and were given the opportunity to testify on the issues relevant to this special magistrate proceeding. No member of the public requested to make any comments or introduce any documents or other exhibits into the record for the Special Magistrate’s consideration. (T. 188).

Additionally, as disclosed at the outset of the July 19 special magistrate hearing, the Special Magistrate on July 18, 2023, conducted a site visit of the subject property and the surrounding area on Sunnyside Drive. (T. 12).

As requested by the Special Magistrate at the end of the special magistrate hearing, Petitioners and the City through their counsel filed Proposed Recommended Orders on October 23, 2023. (Referred to herein individually as “Petitioners PRO” and “City PRO”)

All of the exhibits, testimony presented at the evidentiary hearing, and the Special Magistrate’s site visit provide the necessary basis for this SM Recommendation.

INTRODUCTION AND PREFACE

The Special Magistrate is adopting most of the Petitioners PRO with some changes as part of the SM Recommendation. Most of these are found in the Findings of Facts, Conclusions of Law and Recommendation sections of this SM Recommendation. These sections along with this “Introduction and Preface” section constitute the SM Recommendation.

This “Introduction and Preface” is a brief discussion of some, not all, key factual and legal matters considered by the Special Magistrate in reaching a recommendation in this matter. It addresses the four areas the City asserts were the basis for denial of the Sunnyside PUD. As noted in the City PRO: “The City’s denial (of the Sunnyside PUD) was based upon **non-compliance with the Sunnyside Task Force Study Report (“Sunnyside Task Force Study Report”), poor condition of the roads, citizen/resident complaints, and concerns regarding water supply.**” City PRO, Paragraph (f), Pg. 7 (Emphasis added). This summary will briefly address each of those items in addition to the issue of land use compatibility of the Sunnyside PUD.

A full discussion of these items and other significant facts and law are found in the Findings of Facts and Conclusions of Law sections of this SM Recommendation.

The facts in this special magistrate proceeding are relatively straight forward and found in more detail in the Findings of Facts section in this SM Recommendation. Importantly, there are no significant facts in dispute between the Parties. There are no significant discrepancies between the Findings of Facts of Petitioners PRO and the City PRO although there are some facts in each not mentioned in the other. The core of the dispute between the Parties is the legal significance of those facts. Upon review and analysis, Petitioners are clearly correct on the legal significance of those facts based on established Florida law and as detailed in the Conclusions of Law section in this SM Recommended Order.

A. **Non-Compliance With Sunnyside Task Force Study Report**

This factor was clearly the most important factor cited by the City for the denial of the Sunnyside PUD.

A key factual finding that was undisputed at the Special Magistrate Hearing was noted as follows in the Petitioners PRO:

“Since the adoption of Resolution No. 7158, (Sunnyside Task Force Study Report) it is undisputed that the City has not adopted or incorporated any of the density level recommendations from the Sunnyside Task Force Study Report (Sunnyside Task Force Study Report) into the City’s Comprehensive Plan or the City’s LDC. (T. 39-40, 139, 177). In other words, the City has never formally codified the recommendations of the Sunnyside Task Force Study Report. (T. 115). Additionally, there is no notation or asterisk on the City’s Future Land Use Map indicating that properties within the Sunnyside Study Area are subject to density limitations other than those prescribed for the assigned future land use category. (T. 24-25).” Petitioners PRO, Pg. 9, Paragraph 21.

Not surprising given this present status of the Sunnyside Task Force Study Report is the admission by the City and Petitioners that the critical legal requirements for allowing the Sunnyside PUD to proceed have been met. The City PRO states, and it was undisputed at the Special Magistrate Hearing, that the following is correct: “**Although the Land Development Regulations and the City’s Comprehensive Plan would permit the Petitioners’ proposed PUD....**” City PRO, Pg. 6, Paragraph (c) (Emphasis added) The Petitioners PRO notes: “In 2021, Petitioners submitted the 2019 Sunnyside PUD application, proposing 159 units on 139 acres for approval. **This density was consistent with the City’s Comprehensive Plan and their Land Development Code.**” Petitioners PRO Pg.12, Paragraph 29 (Emphasis added) As will be

discussed later in this SM Recommendation, Petitioners now seek even lower density for the Sunnyside PUD.

Also, the City contends it does not need to abide by the Sunnyside Task Force Study Report even though the Petitioners do have to abide by it if the City decides to apply it. The City PRO asserts: “The Sunnyside Report was adopted by the City by resolution in such a way that future City Commissions **could choose to apply it or not, but would not be bound by the requirements.**” City PRO, Pg. 3, Paragraph 7 (Emphasis added) A former Leesburg City attorney has also publicly noted that the Sunnyside Task Force Study Report does not bind the City of Leesburg in any manner. (Pet. Ex. 25 at 5)

No criteria have ever been adopted and/or published by the City to specify when or when it will not apply the Sunnyside Task Force Study Report or when it “would not be bound by the requirements.” And no evidence was presented at the special magistrate hearing as to what criteria are being used to apply the Sunnyside Task Force Study Report. It is not surprising that the City PRO cites no authority, either case law or statutory law, that allows for the discretionary enforcement of the Sunnyside Task Force Study Report that has never been codified.

The City correctly asserts that Petitioners had notice of the Sunnyside Task Force Study Report before submitting the rezoning application for the Sunnyside PUD. The City argues that because Petitioners had “notice”, Petitioners are therefore bound by the Sunnyside Task Force Study Report if the City, at its sole discretion, without any criteria and without any codification of the Sunnyside Task Force Study Report, decided to enforce the recommendations of the Sunnyside Task Force Study Report. No legal authority has been cited by the City and none has been found to support this assertion. There is no land use regulation in Florida, and likely in any state, that is enforceable or valid under such circumstances. Such a scenario is the definition of “unreasonable”

and “arbitrary” and certainly “unfairly burdens” the use of property. Section 70.51(19)(b), Florida Statutes (2023). See Conclusions of Law section in this SM Recommendation

The mistaken notion of legal enforceability of the Sunnyside Task Force Study Report by simply “notice” of it has no better illustration than the undisputed fact that the City’s Planning Staff, with full “notice” of the Sunnyside Task Force Study Report, recommended approval of an even higher density Sunnyside PUD than the one presently proposed as part of this special magistrate proceeding. And the City’s Planning Director testified that “As a professional planner, I viewed [the Sunnyside PUD] as a project that is consistent with the City of Leesburg comp plan and land development regulations” and reaffirmed that he had applied the City’s “adopted criteria.” (T. 162, 180). The City’s Planning Staff also concluded that this higher density project than the one now proposed was compatible with the surrounding land uses.

Almost without exception at the local government level in Florida, there is no governmental group more familiar with the legal regulatory framework affecting land use than a City’s Planning Staff since the planning staff is tasked as the primary source for information and enforcement of local land use laws and regulations. If the Sunnyside Task Force Study Report determines the outcome, why didn’t the City’s Planning Staff apply it in its recommendation? The fact that the City Planning staff was unaware of the City Commission’s position on the applicability and enforcement of provisions in the Sunnyside Task Force Study Report underscores the “unreasonable”, “arbitrary” and “unfair burden on property” nature of enforcing the Sunnyside Task Force Study Report whenever the City Commission decides to do it. This is the case not only in regard to the Sunnyside PUD, but any development supposedly affected by the Sunnyside Task Force Study Report until the Sunnyside Task Force Study Report is properly added as enforceable provisions to the City’s comprehensive land use plan and land development code, as applicable.

Finally, it is significant that unlike the City, Lake County, the other local government entity affected by the Sunnyside Task Force Study Report, has implemented the Sunnyside Task Force Study Report by appropriate amendments to its comprehensive plan.¹

Details of this item appear later in this SM Recommendation.

B. Citizen/Resident Complaints

Equally as invalid and troublesome is the rationale that some nearby residents (despite notice of the special magistrate hearing and provided an opportunity to do so, no nearby resident or other persons testified or made a presentation at the special magistrate hearing) objected to the Sunnyside PUD. It is extremely salient and valuable to hear members of the public state objections or support for a particular land use matter. Such objections or support, however, must be based on applicable law and relevant facts for a governmental body (or a special magistrate) to consider it in making a decision. For obvious reasons, mere conjecture or unsupported opinion are a dangerous and legally invalid rationale to use to determine the legality of any legal matter and sets a baseless, perilous precedent. As noted, there were no presentations on any issues by neighbors or other individuals at the special magistrate hearing.

Details of this item appear later in this SM Recommendation.

¹ The mistaken belief that the Sunnyside Task Force Study Report carries the same legal status as comprehensive plans or land development codes is shown in the “Recommendation” within the City PRO that the City suggests the special magistrate enter in the SM Recommendation. In part, the City PRO suggest that the Special Magistrate recommend that: “If Petitioners submit a PUD application consistent with the Sunnyside Task Force Report, ... (the special magistrate) recommend that the City approve such application, so long as it is otherwise compliant with all **other** City Land Development Regulations and Comprehensive Plan.” City PRO. Pg. 8 (Emphasis added) The word “other” suggests that the Sunnyside Task Force Study Report carries the same legal significance as comprehensive plans and land development codes. It does not and no legal authority has been cited to support such treatment.

C. **Poor Condition of Roads**

Poor conditions of roads impacted by the Sunnyside PUD is another basis cited by the City to deny the Sunnyside PUD. No evidence was presented at the special magistrate hearing that either such impacts would be contrary to applicable law or standards or that such impacts would not be adequately addressed during the normal regulatory approval process for the Sunnyside PUD.

Details of this item appear later in this SM Recommendation.

D. **Concerns Regarding the Water Supply**

Neither the City PRO nor the Petitioners PRO provided any detail or argument on this item. It does not seem to be a material concern in terms of this special magistrate proceeding and cannot be relied upon to support any type of recommendation.

E. **Land Use Compatibility of the Sunnyside PUD**

Besides the above four items cited by the City as the reasons for the denial of the Sunnyside PUD, one other item deserves to be addressed, the compatibility of the Sunnyside PUD with surrounding land uses. The Petitioners PRO stated the following that, as correctly noted, was undisputed in the special magistrate hearing:

“It is also undisputed that the City’s Planning Staff reviewed the Sunnyside PUD for compatibility and concluded that “[t]he proposed request for a PUD (Planned Unit Development) zoning is compatible with the current surrounding zoning districts” and “is consistent with the City’s Growth Management Plan, Future Land Use Element, Goal I, Objective 1.6” – i.e., “Land Use Compatibility.” (T. 47-49; Pet. Ex. 5A at 58; Pet. Ex. 3 at I-45). Moreover, on cross-examination during the evidentiary hearing, the City’s Planning Director confirmed that the Sunnyside PUD with 159 units is “compatible” with the surrounding area.

In so doing, the City’s Planning Director confirmed that in his opinion “[t]he parcel is suitable for the proposed use” and that “[t]he proposed use will not alter the character of the surrounding area.” (T. 145-46). Further, when asked whether he had concluded that the proposal is compatible with the surrounding area, the City’s Planning Director confirmed he had:

Q. [I]s it correct to say that you had concluded that the proposal was compatible with the surrounding area?

A. Yes, it is.

Q. And that would be at 159 units?

A. Yes.

(Emphasis added)

The present proposed density for the Sunnyside PUD is lower at 150 units.

The Special Magistrate's site visit to the general area where the Sunnyside PUD is located did not disclose any grounds why the residential nature and density of the Sunnyside PUD (consistent with the Revised Sunnyside PUD Concept Plan that the Petitioners introduced during the evidentiary hearing and subject to all conditions in the prior Staff Report for the Sunnyside PUD) would not be compatible with the surrounding residential land uses. The Special Magistrate has been practicing in the areas of environmental and land use law in Florida for over 48 years.

Details of this item appear later in this SM Recommendation.

FINDINGS OF FACT

Based upon the testimony and evidence introduced during the evidentiary hearing, the Special Magistrate makes the following findings of fact:

A. **The Parties**

1. The Petitioners are the owners of approximately 139± acres of real property generally located south of U.S. Highway 441 and west and east of Sunnyside Drive in Lake County, Florida ("Property"), as depicted on the maps in the record. (Pet. Ex. 5C at 5). The Petitioners were the parties that filed the application for the Sunnyside PUD. (Pet. Ex. 5A).

2. The City is a Florida municipal corporation and is the entity responsible for reviewing and approving or denying the Sunnyside PUD.

B. The Petitioners' Property

3. The Petitioners' Property consists of two (2) tracts of land. (Pet. Ex. 12A). The first tract consists of approximately 120± acres of land located to the south and west of Sunnyside Drive ("Parent Tract"). (Id.; T. 17). The second tract consists of 18.5± acres of land located to the east of Sunnyside Drive ("Additional Tract"). (Pet. Ex. 12A; T. 27).

4. The current future land use designation of the Parent Tract on the City's Future Land Use Map is "Estate Residential" with the wetland areas designated as "Conservation." (Pet. Ex. 14; T. 24). The current zoning of the Parent Tract on the City's Zoning Map is PUD (Planned Unit Development). (Pet. Ex. 13; T. 22).

5. Pursuant to Objective 1.1.a of the City's Future Land Use Element ("FLU"), the Estate Residential future land use category is "intended for single family detached residences in urbanized areas and some rural communities that have adequate infrastructure and public facilities to support the density of up to four (4) units per acre." (Pet. Ex. 3 at I-34). Similarly, FLU Policy 1.1.1 provides that "[t]he adopted Future Land Use Map shall contain and identify appropriate locations for the following land use categories" and specifies "Estate Density Residential" as "Up to 4 units/gross acre." (Id. at I-38 to I-39). In addition, FLU Policy 1.4.9 provides that "[d]evelopments may be allowed to transfer densities on the site from environmentally sensitive areas to upland areas that are more suitable for development permitted the project goes through the planned unit development process and does not exceed a transfer of density of 1 unit per acre." (Id. at I-43).

6. Section 25-274(b) of the City's Land Development Code ("LDC") provides that the purpose of the PUD zoning district is "to provide for proper private development of infill areas, as well as the comprehensive development of large areas of vacant or substantially vacant land that requires a flexible approach to development." (Pet. Ex. 2 at 4). The PUD zoning district is a standalone zoning district which "establishes the permitted uses, densities and intensities of the site as well as the basic district development standards as part of the rezoning process and the issuance of a development order." (Id.; T. 23).

7. The Additional Tract is in unincorporated Lake County, Florida. The current future land use designation of the Additional Tract on Lake County's Future Land Use Map is "Rural." (Pet. Ex. 14). The current zoning of the Additional Tract on Lake County's Zoning Map is R-1 (Rural Residential). (Pet. Ex. 13).

C. **Zoning And Land Use History of The Petitioners' Property**

8. In May 2005, the Petitioners' predecessor – William Herlong Jr., Baw Inc. – filed an annexation application with the City for the Parent Tract. (Pet. Ex. 21 at 1, 16). At the same time, the Petitioners' predecessor also filed an application seeking to rezone the Parent Tract from Lake County "Agriculture" to City of Leesburg "Planned Unit Development." (Id. at 1, 33). The proposed PUD consisted of 120 units on the Parent Tract, equating to a gross density of 1.0 dwelling units per acre and a net density of 1.7 dwelling units per acre. (Id. at 55).

9. The City's Planning Staff recommended approval of the annexation and the proposed PUD rezoning. (Id. at 16, 19). The City's Planning Commission held a public hearing on the proposed PUD on July 7, 2005, and, at the conclusion thereof, voted unanimously to approve the proposed PUD. (Id. at 32-34).

10. On December 12, 2005, the City Commission held a public hearing on the annexation. (Id. at 36-37). By a vote of 5-to-0, with no public comment in opposition, the City Commission approved the annexation. (Id. at 36). The City Commission's approval of the annexation of the Parent Tract is memorialized in Ordinance No. 05-123 ("Annexation Ordinance"). (Id. at 38-40). The Annexation Ordinance imposes no restrictions on the development of the Parent Tract.

11. At its meeting on December 12, 2005, the City Commission also held a public hearing on the proposed PUD. (Id. at 51-52). By a vote of 5-to-0, with no public comment in opposition, the City Commission approved the proposed PUD. (Id. at 52). The City Commission's approval of the proposed PUD is memorialized in Ordinance No. 05-124 ("2005 PUD"). (Id. at 53-62; Pet. Ex 23). The 2005 PUD authorized the Parent Tract to be developed with 120 units, which, as previously noted, equates to a gross density of 1.0 dwelling units per acre and a net density of 1.7 dwelling units per acre. (Pet. Ex. 21 at 55).

12. Subsequent to the City Commission's approval of the 2005 PUD, the Petitioners' predecessor filed an application for preliminary subdivision plan approval for the Parent Tract. (Id. at 83). The preliminary subdivision plan was for the development of 120 units on the Parent Tract. (Pet. Ex. 21B).

13. On June 22, 2006, the City's Planning Commission held a public hearing on the proposed preliminary subdivision plan. (Pet. Ex. 21 at 82-83). The City's Planning Staff recommended approval of the proposed preliminary subdivision plan. (Id. at 83). By a vote of 6-to-0, the City's Planning Commission approved the proposed preliminary subdivision plan ("2006 PSP"). (Id.).

14. The Planning Commission's approval of the 2006 PSP is memorialized in a letter from the City's former Planning and Zoning Manager to the project engineer dated July 17, 2006. (Id. at 66). The approval letter does not specify any expiration date for the 2006 PSP. (Id.; T. 156). Additionally, as attested to by the Petitioners' planning expert and the City's Planning Director at the evidentiary hearing in this matter, Section 25-443 of the City's LDC, which governs preliminary subdivision plans, does not impose an expiration date for approved plans. (T. 21, 174; Pet. Ex. 2 at § 25-443).

15. On December 18, 2006, the City Commission held a public hearing on a proposed large-scale comprehensive plan amendment to change the future land use designation of the Parent Tract from Lake County "Urban Expansion" and Lake County "Suburban" to City "Estate Residential" and "Conservation." (Pet. Ex. 21 at 94-95). The City's Planning Staff recommended approval of the proposed comprehensive plan amendment. (Id. at 91). By a vote of 4-to-0, with no public comment in opposition, the City Commission approved the proposed plan amendment. (Id. at 95). The City Commission's approval of the plan amendment is memorialized in Ordinance No. 06-149 ("2006 Plan Amendment"). (Id. at 86-90). The 2006 Plan Amendment does not contain any language restricting the density on the Parent Tract lower than the allowable density in the Estate Residential future land use category – i.e., up to four (4) dwelling units per acre. (T. 152).

16. Notwithstanding the above-referenced approvals and presumably because of the housing market crash in 2008, the Petitioners' predecessor did not construct the development authorized by the 2005 PUD and the 2006 PSP on the Parent Tract. (T. 19). The Petitioners acquired the Parent Tract subsequent to the City's approval of the 2005 PUD, 2006 PSP, and 2006 Plan Amendment.

D. Sunnyside Task Force Study Report

17. In 2003, the City Commission adopted Resolution No. 6983 directing the City's Planning Staff to "begin a study of the development patterns in the Sunnyside area and formulate a plan to guide future annexation and development in the area." (Pet. Ex. 21A at 3). In so doing, the City Commission authorized the formation of a "Task Force" to prepare a study with "recommendations on appropriate levels of density, infrastructure, and transportation design for the Sunnyside area." (Id.). The parties do not dispute that the Petitioners' Property is located within the Sunnyside Study Area.

18. With respect to the issue of density, the Sunnyside Task Force Study Report recommended the following density levels within the Sunnyside Study Area: High (8 du/ac), Medium (3 du/ac), Low (1 du/ac), and Very Low (3 ac/du). (Id. at 6). Pursuant to Figure 4 (Recommended Density Levels) in the Sunnyside Task Force Study Report, the Parent Tract is split between the "Low" and "Very Low" recommended density levels. (Id.; T. 138). The northern portion of the Parent Tract – roughly 60 acres – is located in the "Low (1 du/ac)" recommended density level, and the southern portion – roughly 60 acres – is located in the "Very Low (3 ac/du)" recommended density level. (T. 138). According to the City's Planning Director, if the Sunnyside Task Force Study Report were applied to the Parent Tract, it would authorize a maximum of eighty (80) dwelling units. (T. 138).

19. The Sunnyside Task Force Study Report stated that the recommendations therein would be forwarded to both the Leesburg City Commission and the Lake County Board of County Commissioners for their consideration. (Pet. Ex. 21A at 10).

20. On June 28, 2004, the City Commission approved Resolution No. 7158, thereby purporting to accept the recommendations of the Sunnyside Task Force Study Report and directing City Staff to implement those recommendations in considering any proposed annexation or proposed development within the study area. (Pet. Ex. 22). In so doing, Resolution No. 7158 provided that “development within the study area, over which the City of Leesburg has control, will proceed in accordance with the recommendations set forth in the Sunnyside Task Force Study Report, unless otherwise approved by the City Commission.” (Id.).

21. Since the adoption of Resolution No. 7158, it is undisputed that the City has not adopted or incorporated any of the density level recommendations from the Sunnyside Task Force Study Report into the City’s Comprehensive Plan or the City’s LDC. (T. 39-40, 139, 177). In other words, the City has never formally codified the recommendations of the Sunnyside Task Force Study Report. (T. 115). Additionally, there is no notation or asterisk on the City’s Future Land Use Map indicating that properties within the Sunnyside Study Area are subject to density limitations other than those prescribed for the assigned future land use category. (T. 24-25).

22. Unlike the City, Lake County specifically adopted guidelines into the Lake County Comprehensive Plan pursuant to the Sunnyside Task Force Study Report. (T. 41; Pet. Ex. 17 at 61-62). To establish a density reducing gradient of residential development from U.S. 441 to Lake Harris, Lake County’s Comprehensive Plan authorizes the following future land use categories in the Sunnyside Study Area: Urban Low Density (4 du/ac), Urban Medium Density (7 du/ac), Urban High Density (min. 4 du/ac, max. 12 du/ac), and Rural Transition (1 du/5 ac, 1 du/3 ac, and 1 du/1 ac). (Id. at 20-21, 62; T. 41-42).

E. **The Sunnyside PUD**

23. In 2018, the Petitioners retained Greg Beliveau, AICP, of LPG Urban & Regional Planners, Inc., to assist with development entitlements for the Property. (T. 16). During the application process, the City’s Planning Staff advised Mr. Beliveau that the 2005 PUD had expired pursuant to Section 6.F of the Sunnyside Landing Planned Unit Development Conditions (“2005 PD Conditions”). (T. 25).

24. Section 6.F of the 2005 PD Conditions states in its entirety:

Implementation of the project shall substantially commence within 24 months of approval of this Planned Unit Development. In the event, [sic] the conditions of the PUD have not been implemented during the required time period, the PUD shall be scheduled with due notice for reconsideration by the Planning Commission at their [sic] next available regular meeting. The Planning Commission will consider whether to extend the PUD approval or rezone the property to RE-1 (Estate Density Residential) or another appropriate zoning classification less intense than the development permitted by these PUD Conditions.

(Pet. Ex. 23 at § 6.F).

25. According to the City’s Planning Director, the City interpreted the above-quoted language to mean that an approved PUD automatically expired after twenty-four (24) months if the project had not substantially commenced – which the City’s Planning Director indicated the City viewed as “turning dirt and spending a significant amount of money” or “beginning physical construction.” (T. 179). On cross-examination, however, the City’s Planning Director admitted that there is no language in Section 6.F of the 2005 PD Conditions stating that the PUD would automatically expire after twenty-four (24) months if physical construction had not started. (T. 149, 179). The City’s Planning Director further admitted that the City never took any of the steps specified in Section 6.F of the 2005 PD Conditions to formally rescind or terminate the 2005 PUD.

(T. 149-50). Moreover, when asked by the City's counsel on redirect whether the predecessor owner "was ever noticed of the expiration of the PUD itself," the City's Planning Director stated, "No, I do not think they were ever noticed – I don't think they were ever noticed of any expiration." (T. 184). The City Planner also admitted that he had "no evidence" that the 2006 PSP ever expired. (T. 156).

26. The Petitioners' planning expert and the City's Planning Director both confirmed during the evidentiary hearing that the Parent Tract has continued to be designated PUD on the City's Zoning Map. (T. 22, 137). However, when asked whether the Petitioners "could walk into the building department today and pull a building permit on this property" the City's Planning Director stated, "No, sir." (T. 153). Rather, to do any development on the Parent Tract, the City's Planning Director indicated that the Petitioners would need to obtain a new PUD approval. (Id.).

27. Based upon the City's position that the 2005 PUD had expired and a new development application was needed, the Petitioners filed an application for approval of a new PUD in 2019 – i.e., the Sunnyside PUD. (T. 27). In conjunction with the application for the Sunnyside PUD, the Petitioners also filed applications to annex the Additional Tract and to change the future land use designation of the Additional Tract from Lake County "Rural" to City of Leesburg "Estate Residential." (Pet. Ex. 5A at 1-2, 9-10). The initial 2019 submittal for the Sunnyside PUD proposed more than 200 units but was subsequently reduced to 159 units on 139 acres – equating to a density of 1.14 dwelling units per acre. (T. 28). The City's Planning Staff reviewed the 2019 Sunnyside PUD submittal and recommend approval of the same, concluding the proposal was consistent with the City's Comprehensive Plan and the City's LDC. (Id.).

28. During the review of the 2019 Sunnyside PUD submittal, the applicability of the Sunnyside Task Force Study Report to the project was raised. (T. 29). On this point, the City's

late attorney – Fred Morrison – advised the City’s Planning Commission at its meeting on August 13, 2020, that, “although the study was adopted in 2004, it is not considered binding on future City Commissions.” (Pet. Ex. 25 at 5). Similarly, when the City Commission considered the 2019 Sunnyside PUD submittal at its meeting on December 21, 2020, attorney Morrison advised the City Commission that “[t]his Commission has the authority notwithstanding the Task Force report to approve this if that is the desire of the Commission.” (Pet. Ex. 26 at 15). Ultimately, the City Commission took no formal action on the 2019 Sunnyside PUD submittal. (T. 34).

29. Thereafter, the Petitioners resubmitted for the Sunnyside PUD in 2021. (T. 43-44). Like the 2019 submittal, the 2021 Sunnyside PUD submittal proposed 159 units on 139 acres – equating to a density of 1.14 dwelling units per acre. (T. 45; Pet. Ex. 5B). The City’s Planning Staff recommend approval of the 2021 Sunnyside PUD, concluding the revised proposal was consistent with the City’s Comprehensive Plan and the City’s LDC and compatible with the surrounding area and land uses. (T. 45; Pet. Ex. 5A at 31). The City’s Planning Staff also recommended approval of the proposed annexation and land use change for the Additional Tract. (Pet. Ex. 5A at 1, 13). At no time did the City’s Planning Staff recommend denial upon or otherwise indicate that the proposed Sunnyside PUD was inconsistent with the Sunnyside Task Force Study Report. (T. 143, 147, 162).

30. On March 28, 2022, the City Commission held a public hearing on the 2021 Sunnyside PUD submittal. (Pet. Ex. 19). Notwithstanding the City Planning Staff’s recommendation of approval and the absence of any testimony or evidence in opposition, the City Commission, by a vote of 3-to-1, denied the proposed annexation and land use change of the Additional Tract at the outset of the March 28 public hearing. (Id. at 6-7). As result thereof, the

Additional Tract was removed from the proposed Sunnyside PUD and the number of units was reduced to 155 units on 120 acres – equating to a density of 1.29 units per acre. (T. 112).

31. At the conclusion of the March 28 meeting, the City Commission voted 2-to-2 on the motion to approve the proposed Sunnyside PUD with 155 units on the Parent Tract. (Id.; Pet. Ex. 19 at 22). The acting City Attorney advised the City Commission that “a tie vote is an effective denial.” (Id.).

32. On April 26, 2022, the Petitioners timely filed their Request for Relief with the City. Pursuant to the Dispute Resolution Act, a mediation conference was held on August 16, 2022, between the Petitioners and the City with the undersigned Special Magistrate acting as a mediator to discuss potential negotiated settlement solutions to the issues in this matter. A mediated settlement, however, was not reached. Accordingly, pursuant to the Dispute Resolution Act, the undersigned Special Magistrate conducted the required evidentiary hearing in this matter on July 19, 2023, to gather the information “necessary to understanding” the facts and law applicable to this matter and to be able to develop this Report and Recommendation.²

ANALYSIS AND CONCLUSIONS OF LAW

In their Request for Relief, the Petitioners assert that the City Commission’s denial of the Sunnyside PUD was unreasonable and unfairly burdens the use of the Parent Tract. The evidence and testimony introduced during the public hearing focused on three primary issues: (1) traffic concerns on Sunnyside Drive; (2) compatibility; and (3) the Sunnyside Task Force Study Report. Each of these issues is addressed separately below.

² The City Commission’s denial of the annexation and future land use change of the Additional Tract does not constitute a “development order” for purposes of the Dispute Resolution Act, and, thus, is not part of this Report and Recommendation. *See* § 70.51(2)(a), Fla. Stat. (2022).

A. **Purpose And Scope Of The Dispute Resolution Act**

The Dispute Resolution Act requires that a special magistrate make the following determination:

[T]he special magistrate shall consider the facts and circumstances set forth in the request for relief and any responses and any other information produced at the hearing in order to determine whether the action by the governmental entity or entities is unreasonable or unfairly burdens the real property.

§ 70.51(17)(b), Fla. Stat. (2022) (emphasis supplied).

The terms “action by the governmental entity,” “unreasonable,” and “unfairly burdens the real property” are not defined in the Dispute Resolution Act. The Dispute Resolution Act intends for a special magistrate to weigh and balance all relevant facts and law involving the action by the governmental entity and the land use at issue and make a decision based upon an “unreasonable” or “unfairly burdens the real property” standard.

This weighing and balancing approach is indicated by the broad array of “circumstances” the Dispute Resolution Act permits a special magistrate to consider pursuant to Section 70.51(18)(a)-(h), Florida Statutes, in making the determination of whether the governmental entity’s action was “unreasonable” or “unfairly burdens” the real property at issue. In this regard, it is important to emphasize that while the facts presented and conclusions reached in the hearings that preceded the special magistrate proceeding may be relevant for a special magistrate to review, the special magistrate proceeding is a de novo process to consider the wide array of matters detailed in the Dispute Resolution Act.

Ultimately, the underlying purpose of the Dispute Resolution Act is to determine whether an owner should be permitted to make use of its property subject to such conditions and limitations which would minimize intrusion or impact upon adjoining or nearby properties – which, in essence, would ensure the compatibility of the proposed use with the surrounding land uses. To that end, Section 70.51(17), Florida Statutes, states:

The object of the hearing is to focus attention on the impact of the governmental action giving rise to the request for relief and to explore alternatives to the development order or enforcement action and other regulatory efforts by the governmental entities in order to recommend relief, when appropriate, to the owner.

(Emphasis supplied).

Lastly, the Florida Legislature has specifically instructed that the Dispute Resolution Act “shall be liberally construed to effect fully its obvious purposes and intent, and governmental entities shall direct all available resources and authorities to effect fully the obvious purposes and intent of this section in resolving disputes.” See *id.* at § 70.51(29). Accordingly, the Special Magistrate interprets and applies the Dispute Resolution Act with that legislative directive in mind. See *Nettles v. State*, 850 So. 2d 487, 493 (Fla. 2003) (noting that legislative intent is the “polestar that guides the Court’s inquiry”).

B. Alternatives To The Sunnyside PUD

At the evidentiary hearing, the Petitioners’ planning expert discussed the Sunnyside Landing Concept Plan dated January 21, 2022, that was submitted as part of the 2021 Sunnyside PUD submittal that the City Commission ultimately denied. (T. 49; Pet. Ex. 5B). The Petitioners, however, also introduced a revised conceptual plan for the proposed Sunnyside PUD during the evidentiary hearing (“Revised Sunnyside PUD Concept Plan”). (T. 69-71; Pet. Ex. 11).

The Revised Sunnyside PUD Concept Plan is appropriate for consideration in this special magistrate proceeding. The Dispute Resolution Act encourages such revisions to an original development proposal and provides that, in determining whether a development order is unreasonable or unfairly burdens the use of the property, a special magistrate may consider “alternative development orders or enforcement action conditions that would achieve the public purpose and allow for reduced restrictions on the use of the property.” See § 70.51(18)(f), Fla. Stat. (2022). In other words, given the land use regulatory concerns of the City and other interested persons, is there some alternative to the original development plan proposed by the Petitioners that satisfies those concerns?

Briefly summarized, the Revised Sunnyside PUD Concept Plan does the following: (1) removes the Additional Tract from the Sunnyside PUD; (2) reduces the number of dwelling units to 150; and (3) increases perimeter buffers and distances to the nearest existing residential uses. (T. 69-75; Pet. Exs. 11, 24). The overall density pursuant to the Revised Sunnyside PUD Concept Plan is 1.25 dwelling units per acre. (T. 71-72).

C. **Traffic Concerns Regarding Sunnyside Drive**

First, to the extent the City Commission’s denial of the Sunnyside PUD was premised upon traffic concerns or the condition of Sunnyside Drive, the Petitioners maintain that such determination was unreasonable or unfairly burdens the use of the Parent Tract. The Petitioners’ argument is well taken based upon the evidence and testimony presented during the evidentiary hearing.

As part of the Sunnyside PUD application, it is undisputed that the Petitioners submitted a traffic impact study which evaluated the impacts of the proposed development on the surrounding

roadway network, including Sunnyside Drive. (T. 58-60; Pet. Ex. 6C). The traffic impact study, which was based upon a development program of 219 single-family dwelling units, concluded that “the studied roads will have sufficient capacity to accommodate background growth and project traffic in the future condition.” (Pet. Ex. 6C at 1, 12). During the PUD review process, the Petitioners also submitted updated 2021 traffic counts utilizing a revised development program of 159 single-family dwelling units. (T. 59-60; Pet. Ex. 5C at 19-20). The updated 2021 traffic data also showed no deficiencies on the roadway network, including Sunnyside Drive. (T. 60).

The Petitioners’ traffic impact study was reviewed by the City as well as Lake County and the Lake-Sumter Metropolitan Planning Organization. (T. 117). Significantly, neither the City nor the other reviewing entities raised any issue with the Petitioners’ traffic impact study. (Id.).

During the evidentiary hearing, the City’s counsel asked the Petitioners’ planning expert whether the Petitioners’ traffic impact study analyzed the number of accidents on roadways, including Sunnyside Drive. (T. 102-03). According to the Petitioners’ planning expert, traffic engineers are not required to analyze accidents in a traffic impact study. (T. 117). However, even if that were not the case, the City introduced no evidence or testimony during the special magistrate hearing to substantiate any alleged accident history on the surrounding roadway network that would somehow be relevant to this case. It is well settled that speculation and conjecture do not constitute competent substantial evidence pursuant to Florida law. See *Dep’t of Highway Safety & Motor Vehicles v. Trimble*, 821 So. 2d 1084, 1087 (Fla. 1st DCA 2002) (“Surmise, conjecture or speculation have been held not to be substantial evidence” and “findings must be based on something more than mere probabilities, guesses, whims, or caprices.”).

Lastly, the Petitioners offered unrefuted evidence during the evidentiary hearing regarding the current road ratings of Sunnyside Drive. (T.61-67; Pet. Exs. 27, 27A). Such evidence

establishes that Sunnyside Drive is a county road and is designated as a “urban collector,” not a “local road.” (T. 62-63). Further, such evidence establishes that almost all segments of Sunnyside Drive have a sufficient pavement rating. (T. 63). The only segment of Sunnyside Drive that currently does not have a sufficient pavement rating is the segment that fronts the proposed Sunnyside PUD. (T. 64). It is undisputed, however, that the Petitioners would be required to repave this segment of Sunnyside Drive as a condition of the proposed PUD, thereby eliminating such pavement deficiency. (T. 64, 118). In fact, the City’s Planning Director confirmed on cross-examination that the Petitioners would be required to repave this portion of Sunnyside Drive as part of the proposed PUD and, as such, Sunnyside Drive would be adequate to support the anticipated traffic from the proposed development. (T. 145).

In sum, the unrefuted testimony and evidence introduced at the evidentiary hearing, including from the City’s Planning Director, establish that Sunnyside Drive has sufficient capacity to accommodate the anticipated traffic from the Sunnyside PUD and that all segments of Sunnyside Drive will have a sufficient pavement rating following the development of the Sunnyside PUD, as conditioned. Accordingly, to the extent the City Commission’s denial of the Sunnyside PUD was based upon traffic concerns or the perceived condition of Sunnyside Drive, such denial is “unreasonable” or “unfairly burdens” the Petitioners’ use of the Parent Tract pursuant to the Dispute Resolution Act.

D. Compatibility With the Surrounding Area

Next, to the extent the City Commission’s denial of the Sunnyside PUD was premised upon “compatibility” concerns with the surrounding area, the Petitioners maintain that such determination was unreasonable or unfairly burdens the use of the Parent Tract. The Petitioners’

argument is well taken based upon the evidence and testimony presented during the evidentiary hearing.

The term “compatibility” is not defined in the City’s Comprehensive Plan or the City’s LDC. Rather, as attested to by the Petitioners’ planning expert, such term is defined in Section 163.3164(9), Florida Statutes, as follows:

“Compatibility” means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

(Pet. Ex. 10D; T. 81). By definition, “compatibility” does not require that a proposed development result in no negative impacts upon another use. Rather, a project can have some negative impact on another use and still be compatible.

With respect to compatibility, FLU Policy 1.6.5 of the City’s Comprehensive Plan states:

Compatibility. Compatibility with surrounding established neighborhoods shall be considered during the Comprehensive Plan amendment process. This compatibility will include consideration of surrounding housing types, neighborhood stability, transitional uses and scheduled infrastructure improvements, including those planned improvements stated in the city’s 10-Year Water Supply Facilities Work Plan.

(Pet. Ex. 3 at I-46) (emphasis supplied).

As previously discussed, pursuant to the 2006 Plan Amendment, the City changed the future land use designation of the Parent Tract from Lake County “Urban Expansion” and Lake County “Suburban” to City “Estate Residential” and “Conservation.” (Pet. Ex. 21 at 86-90). The

City's Estate Residential future land use designation allows "up to 4 units per gross acre." (Pet. Ex. 3 at I-34). Thus, pursuant to FLU 1.6.5, the City presumably determined that development of "up to 4 units per gross acre" on the Parent Tract is "compatible" with the surrounding area in adopting the 2006 Plan Amendment. (Pet. Ex. 3 at I-46).

Even assuming the City had not already determined that a density of "up to 4 units per gross acre" on the Parent Tract is compatible with the surrounding area, the unrefuted expert testimony establishes that the Sunnyside PUD is compatible with the surrounding area. In this regard, the Petitioners' planning expert testified that he had reviewed the Sunnyside PUD, which involved 159 units, and it was his opinion that the Sunnyside PUD was consistent with the City's Comprehensive Plan and the City's LDC. (T. 28). The Petitioners' planning expert also reiterated that the Sunnyside PUD and the proposed densities were consistent and compatible with existing development in the Sunnyside area.³ (T. 68-69; Pet. Ex. 5C at 24-34).

³ On cross-examination, the City's counsel asked whether the existing, surrounding residential developments that the Petitioners' planning expert examined were located in the City or Lake County. (T. 93-94). The Petitioners' planning expert acknowledged that such developments were in Lake County. (T. 93-94). However, when asked, "[a]s a land use planner in evaluating compatibility, do you just ignore existing developments based on their jurisdictional boundaries?," the Petitioners' planning expert responded:

No, I do not. They exist where they exist, and you can't ignore what jurisdiction they're in because they're existing in proximity to the project. You can't draw a line that says, okay, if these projects are in one jurisdiction, they exist; and if they exist on another jurisdiction, they don't exist. You can't. They exist in – in fact, that's where they are. And, you know, their existence and the type of the development that exists, they're there. That's – that's a fact. They don't disappear. They exist, and the type of developments that exists are facts. . . ."

(T. 119).

It is also undisputed that the City's Planning Staff reviewed the Sunnyside PUD for compatibility and concluded that "[t]he proposed request for a PUD (Planned Unit Development) zoning is compatible with the current surrounding zoning districts" and "is consistent with the City's Growth Management Plan, Future Land Use Element, Goal I, Objective 1.6" – i.e., "Land Use Compatibility." (T. 47-49; Pet. Ex. 5A at 58; Pet. Ex. 3 at I-45). Moreover, on cross-examination during the evidentiary hearing, the City's Planning Director confirmed that the Sunnyside PUD with 159 units is "compatible" with the surrounding area.

In so doing, the City's Planning Director confirmed that in his opinion "[t]he parcel is suitable for the proposed use" and that "[t]he proposed use will not alter the character of the surrounding area." (T. 145-46). Further, when asked whether he had concluded that the proposal is compatible with the surrounding area, the City's Planning Director confirmed he had:

Q. [I]s it correct to say that you had concluded that the proposal was compatible with the surrounding area?

B. Yes, it is.

Q. And that would be at 159 units?

A. Yes.

(T. 161) (emphasis supplied). The City's Planning Director further acknowledged on cross-examination, "As a professional planner, I viewed [the Sunnyside PUD] as a project that is consistent with the City of Leesburg comp plan and land development regulations" and reaffirmed that he had applied the City's "adopted criteria." (T. 162, 180).

Simply put, no evidence or testimony was introduced during the evidentiary hearing that would support a finding that the Sunnyside PUD would create a legitimate compatibility concern regarding any surrounding land uses. Further, as the Petitioners' planning expert detailed during his testimony, the Revised Sunnyside PUD Concept Plan increases perimeter buffers and distances to the nearest existing residential uses, thereby further enhancing compatibility with the surrounding area. (T. 70-77, 80; Pet. Ex. 24).

In this regard, the Petitioners' planning expert explained how the Revised Sunnyside PUD Concept Plan reconfigured or removed lots in order to have the same or fewer residential lots next to properties with existing residential homes than the approved 2006 PSP. (T. 78-79). For example, along the western side of the northern cul-de-sac, the Revised Sunnyside PUD Concept Plan has four (4) lots – the same number as the approved 2006 PSP. (T. 78). Along the northern boundary, the Revised Sunnyside PUD Concept Plan has four (4) lots, whereas the approved 2006 PSP had five (5) lots. (T. 79). Lastly, along the southern boundary, the Revised Sunnyside PUD Concept Plan has four (4) lots, whereas the approved 2006 PSP had six (6) lots. (Id.). Thus, from a strict compatibility standpoint, the Revised Sunnyside PUD Concept Plan is not only an improvement over the 2021 Sunnyside PUD submittal with 159 units – which the City's Planning Staff deemed compatible with the surrounding area – but it is an improvement over the 2006 PSP that the City approved.

In sum, the unrefuted testimony and evidence introduced at the evidentiary hearing, including from the City's Planning Director, establishes that the Sunnyside PUD is compatible with the surrounding area and uses. Accordingly, to the extent the City Commission's denial of the Sunnyside PUD was based upon compatibility concerns, such denial is "unreasonable" or "unfairly burdens" the Petitioners' use of the Parent Tract pursuant to the Dispute Resolution Act.

E. **The Sunnyside Task Force Study Report**

Lastly, to the extent the City Commission's denial of the Sunnyside PUD was premised upon the Sunnyside Task Force Study Report, the Petitioners maintain that such determination was unreasonable or unfairly burdens the use of the Parent Tract. The Petitioners' argument is well taken based upon the testimony and evidence introduced during the evidentiary hearing, as well as the City's prior land use and zoning approvals for the Parent Tract. Further, as discussed below, the Petitioners' argument is supported by well-established Florida law.

First and foremost, the testimony and historical evidence introduced during the evidentiary hearing establish that the City did not apply the Sunnyside Task Force Study Report to the Parent Tract in approving the 2005 PUD and the 2006 PSP. Indeed, the Petitioners' planning expert and the City's Planning Director both testified that the approved 2005 PUD did not comply with the Sunnyside Task Force Study Report. (T. 112-13, 137). Significantly, the City Commission approved the 2005 PUD in December 2005 more than a year and a half after the City Commission's adoption of Resolution No. 7158, which purported to "accept" the recommendations of the Sunnyside Task Force Study Report. (Pet. Exs. 22 and 23).

Likewise, as previously discussed, the City adopted a future land use map amendment in December 2006 – more than two and a half years after the City Commission's adoption of Resolution No. 7158 – changing the future land use classification of the Parent Tract to Estate Residential, which allows up to four (4) units per acre. (T. 39; Pet. Ex. 21 at 86-90). Notably, the 2006 Plan Amendment contains no language restricting the density on the Parent Tract below the maximum allowable density in the Estate Residential future land use category or otherwise subjecting the Parent Tract to the Sunnyside Study Task Force Report. (T. 152; Pet. Ex. 21 at 86-87).

Additionally, the historical evidence introduced during the evidentiary hearing reflects that the Sunnyside Study Task Force Report was never intended to restrict the density of the Parent Tract below the amount of density otherwise allowed in June 2004. For example, during the Planning Commission on the 2005 PUD, the City's former Director of Planning – Laura McElhanon – explained that “the density in place at the time the Sunnyside report was approved are still valid.” (Pet. Ex. 21 at 33; T. 157-60). At the time of the Sunnyside Task Force Study Report, it is undisputed that the Parent Tract had a future land use designation of Lake County “Urban Expansion” on the northern half, which authorized four (4) dwelling units per acre, and Lake County “Suburban” on the southern half, which allowed up to three (3) dwelling units per acre if certain so-called “timeliness” requirements were met. (T. 42-43, 157-58; Pet. Ex. 21 at 33-34; Pet. Ex. 21A at 5). Thus, it is irrefutable that the “density in place at the time the Sunnyside report was approved” greatly exceeded the density level recommendations in the Sunnyside Task Force Study Report. Indeed, both the Petitioners’ planning expert and the City’s Planning Director agreed that the density in place on the Parent Tract when the Sunnyside Task Force Study Report was accepted would allow more than the 150 dwelling units proposed on the Revised Sunnyside PUD Concept Plan – which equates to only 1.25 dwelling units per acre. (T. 43, 72, 161).

Based upon the above-referenced testimony and historical evidence, the Special Magistrate finds that the density level recommendations in the Sunnyside Task Force Study Report were never intended to govern or limit the density of the Parent Tract. Consistent with this finding, it bears noting that the City’s Planning Staff never recommended denial of the Sunnyside PUD based upon the Sunnyside Task Force Study Report during more than two (2) years and multiple reviews of the project. (T. 143, 147). Moreover, when asked by the City’s counsel during the evidentiary

hearing if he believed the City's Planning Staff made a mistake in recommending approval of the Sunnyside PUD, the City's Planning Director replied, "No." (T. 168).

Second, even assuming the Sunnyside Task Force Study Report was intended to apply to development of the Parent Tract, it would be unlawful to apply them because the density level limitations recommended therein are not codified in the City's Comprehensive Plan or the City's LDC, or otherwise delineated on the City's Future Land Use Map. By statute, a local government's comprehensive plan is required to include a future land use element "designating proposed future general distribution, location, and extent of the uses of land for residential uses" and specifying the "general range of density or intensity of use . . . in each existing land use category." See § 163.3177(6)(a), Fla. Stat. (2022). Further, "[t]he proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives." See *id.* at § 163.3177(6)(a)1. Additionally, by statute, "each county and each municipality shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan." See § 163.3202(1), Fla. Stat. (2022).

In the instant case, it is undisputed that the City has not adopted or incorporated any of the density level recommendations from the Sunnyside Task Force Study Report into the City's Comprehensive Plan or the City's LDC. (T. 39-40, 115, 139, 177). Likewise, nothing on the City's Future Land Use Map indicates that property within the Sunnyside Study Area, including the Parent Tract, is subject to any density limitations other than those established for the assigned future land use category. (T. 24-25). The absence of such formal adoption begs the question of how property owners, like the Petitioners, would know or have notice that the density level

recommendations from the Sunnyside Task Force Study Report would or could apply to their property.

Rather than formally codifying the recommendations of the Sunnyside Task Force Study Report, the City purported to accept the recommendations by virtue of Resolution No. 7158. A “resolution,” however, is “an expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.” See § 166.041(1)(b), Fla. Stat. (2022). An “ordinance,” by contrast, is “an official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law.” See *id.* at § 166.041(1)(a).

In broad terms, “an ordinance differs from a resolution in that the latter is often nonbinding in nature.” See Patrick John McGinley, *Florida Municipal Law and Practice* § 3.3 (West 2023 ed.). Moreover, “[a] resolution cannot be substituted for and have the force and effect of an ordinance, nor can a resolution supply initial authority which is required to be vested by ordinance.” *Wallace v. Leahy*, 496 So. 2d 970, 971 (Fla. 3d DCA 1986). In this regard, it bears emphasizing that a comprehensive plan, comprehensive plan amendments, and land development regulations are required to be adopted by ordinance. See, e.g., § 163.3187(11)(a), Fla. Stat. (2022) (“The adoption of a comprehensive plan or plan amendment shall be by ordinance.”).

Given the undisputed fact that the City has never formally codified the recommendations of the Sunnyside Task Force Study Report into the City’s Comprehensive Plan or the City’s LDC, the density level limitations set forth therein are not legally binding and do not apply to the Parent Tract. Rather, the Parent Tract is governed by the maximum allowable density in the Estate Residential future land use category assigned to the property – i.e., “up to four (4) units per acre.”

(Pet. Ex. 3 at I-34). On this point, it deserves emphasis that the late City Attorney similarly opined during the City’s review of the Sunnyside PUD that, “although the study was adopted in 2004, it is not considered binding on future City Commissions.” (Pet. Ex. 5C at 23).

Third, even assuming the Sunnyside Task Force Study Report was applicable to the Parent Tract or could somehow be viewed as binding, the City Commission’s reliance upon the Sunnyside Task Force Study Report as grounds to deny the Sunnyside PUD would be improper under Florida law. Accordingly, on this additional basis, the Special Magistrate concludes that the Sunnyside Task Force Study Report does not govern the use and development of the Parent Tract.

As discussed at the evidentiary hearing, Resolution No. 7158 reads, in pertinent part, that “all further development within the study area, over which the City of Leesburg has control, will proceed in accordance with the recommendations set forth in the Sunnyside Task Force Study Report, unless otherwise approved by the City Commission.” (Pet. Ex. 22) (emphasis supplied). Both the Petitioners’ planning expert and the City’s Planning Director agreed that there are no objective criteria in Resolution No. 7158 for when the Sunnyside Task Force Study Report would or would not apply. (T. 127, 139-40). In fact, when asked on cross-examination “how would a private property owner know what the city commission is going to do?,” the City’s Planning Director candidly admitted, “They wouldn’t.” (T. 147). Rather, based upon his conversations with the late City Attorney, the City’s Planning Director stated, “it’s the city commission’s decision to use it or not use it.” (T. 176; see also T. 146).

As observed in *City of Homestead v. Schild*, 227 So. 2d 540, 543 (Fla. 3d DCA 1969), “the law of Florida is committed to the doctrine of the requirement that zoning ordinances . . . must be predicated upon legislative standards which can be applied to all cases, rather than to the theory of granting an administrative board or even a legislative body the power to arbitrarily decide each

case entirely within the discretion of the members of the administrative board of legislative body.” See *id.* at 543; see also *Delta Truck Brokers, Inc. v. King*, 142 So. 2d 273, 275 (Fla. 1962) (noting that a zoning code, like other legislation, “cannot delegate to an administrative agency, even one clothed with certain quasi-judicial powers, the unbridled discretion to adjudicate private rights”).

Rather, for regulations which provide decisional authority to pass constitutional muster, they must have objective criteria that the governmental entity must follow when making a decision. See *N. Bay Village v. Blackwell*, 88 So. 2d 524, 526 (Fla. 1956) (“An ordinance whereby the city council delegates to itself the arbitrary and unfettered authority to decide where and how a particular structure shall be built or where located without at the same time setting up reasonable standards which would be applicable alike to all property owners similarly conditioned, cannot be permitted to stand as a valid municipal enactment.”); *City of Miami v. Save Brickell Ave., Inc.*, 426 So.2d 1100, 1104 (Fla. 3d DCA 1983) (“[I]f definite standards are not included in the ordinance, it must be deemed unconstitutional as an invalid delegation of legislative power to an administrative board.”). Consistent with the above-cited authority, Florida courts have steadfastly held that “[a]ny standards, criteria or requirements which are subject to whimsical or capricious application or unbridled discretion will not meet the test of constitutionality.” See *ABC Liquors, Inc. v. City of Ocala*, 366 So. 2d 146, 149 (Fla. 1st DCA 1979).

Here, it is indisputable that Resolution No. 7158 contains no objective criteria or standards to govern when the Sunnyside Task Force Study Report would or would not apply to a particular parcel of land. Rather, the decision of whether the Sunnyside Task Force Study Report will or will not apply to a particular parcel of land is left entirely to the unfettered discretion of the City Commission. Pursuant to Florida law, however, “[t]he granting or withholding of a permit . . . should not depend on the whim or caprice of the permitting authority.” See *Effie, Inc. v. City of*

Ocala, 438 So. 2d 506, 508 (Fla. 5th DCA 1983); see also *Kash N' Karry Food Stores, Inc. v. City of Temple Terrace*, 19 Fla. L. Weekly Supp. 425, 428 (Fla. 13th Cir. Ct. 2012) (“A case by case decision based on the various council members’ view of what constitutes a best use” violates the essential requirements of law and “subjects the application to a whimsical or capricious review which ‘will not meet the test of constitutionality.’”).

To the extent Resolution No. 7158 grants the City Commission unbridled discretion to decide on a case-by-case without any objective criteria whether or not to apply the recommendations of the Sunnyside Task Force Study Report to a particular parcel, the Resolution is contrary to established law and ineffectual. See *Effie, Inc.*, 438 So. 2d at 510 (“Clearly, the opportunity for the exercise of unbridled discretion is present here, and whether so exercised or not, renders the ordinance unconstitutional.”). Simply put, an applicant “has a right to know what the requirements are that he must comply with in order to implement the permitted use,” otherwise “councilmen can act upon whim, caprice or in response to pressures which do not permit of ascertainment or correction.” See *id.* at 509.

Finally, the Special Magistrate also considers the Petitioners’ reasonable expectation when they acquired the Parent Tract to be able to develop the property in accordance with its assigned future land use designation which allows “up to four (4) units per acre.” (Pet. Ex. 3 at I-34). As previously discussed, the unrefuted evidence introduced during the evidentiary hearing establishes that the City did not apply the Sunnyside Task Force Study Report to the Parent Tract when it approved the 2005 PUD or the 2006 PSP. Additionally, the record is devoid of any credible evidence that the 2005 PUD and the 2006 PSP were ever lawfully rescinded or that the City ever provided notice to the Petitioners’ predecessor that such development approvals were deemed “expired.” Moreover, PUDs are not static approvals and are frequently amended based upon

changes in market preferences, new ownership, or increases in the costs of construction. (T. 82-83). Given the significant increase in the costs of construction in recent years and the fact that the developer of the Sunnyside PUD would be required to extend central water and sewer lines to service the Parent Tract as a condition of the PUD, it is not surprising that the Petitioners would seek to modify the prior development approvals to increase the number of units to help offset this cost and make the project more financially viable.⁴

In sum, for the reasons detailed above, the Sunnyside Task Force Study Report does not govern the development of the Parent Tract or otherwise reduce the maximum allowable density on such property. Accordingly, to the extent the City Commission's denial of the Sunnyside PUD was premised upon the Sunnyside Task Force Study Report, such denial is "unreasonable" or "unfairly burdens" the Petitioners' use of the Parent Tract pursuant to the Dispute Resolution Act.

CONCLUSION & RECOMMENDATION

A. Standard For Recommendation

A special magistrate is charged by Section 70.51(19)(b), Florida Statutes (2023) with making a recommendation to the Petitioners and the City. As in the matters to consider, a special magistrate is given broad authority to craft that recommendation:

If the special magistrate finds that the development order or enforcement action, or the development order or enforcement action in combination with the actions or regulations of other governmental entities, is unreasonable or unfairly burdens use of the owner's property, the special magistrate, with the owner's consent to proceed, may recommend one or more alternatives that protect the

⁴ Even the Sunnyside Task Force Study Report acknowledges that, "once density levels drop to less than three (3) units per acre, the cost of extending water and wastewater lines becomes a financial burden." (Pet. Ex. 21A at 7).

public interest served by the development order or enforcement action and regulations at issue but allow for reduced restraints on the use of the owner's real property, including, but not limited to:

1. An adjustment of land development or permit standards or other provisions controlling the development or use of land.
2. Increases or modifications in the density, intensity, or use of areas of development.
3. The transfer of development rights.
4. Land swaps or exchanges.
5. Mitigation, including payments in lieu of onsite mitigation.
6. Location on the least sensitive portion of the property.
7. Conditioning the amount of development or use permitted.
8. A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.
9. Issuance of the development order, a variance, special exception, or other extraordinary relief, including withdrawal of the enforcement action.
10. Purchase of the real property, or an interest therein, by an appropriate governmental entity.

§ 70.51(19)(b), Fla. Stat. (2023) (emphasis supplied).

B. Recommendation

1. Based on the totality of the facts and law applicable to this special magistrate proceeding as discussed in this SM Recommendation, the Special Magistrate respectfully recommends that:

A. The City approve the Sunnyside PUD consistent with the Revised Sunnyside PUD Concept Plan that the Petitioners introduced during the evidentiary hearing and subject to all conditions in the prior Staff Report for the Sunnyside PUD. The Revised Sunnyside PUD Concept Plan, which reduces the number of lots to 150, removes the Additional Tract, increases the size of certain open space areas or buffers adjacent to the nearest properties with existing residential

homes, and increases the distances of homes within the Sunnyside PUD from the nearest existing residential homes in the area, is compatible with the surrounding area land uses and complies with the City's Comprehensive Plan and the City's LDC.

B. The City implement, as has Lake County, the portions of the Sunnyside Task Force Study Report that it wants to have applied to future developments by adopting comprehensive plan amendments and land development regulations, as appropriate.

I want to thank the attorneys in this matter as well as City staff for their presentations and cooperation throughout this special magistrate proceeding and the mediation that preceded it. Both sides presented their case in a professional and ethical manner and given the totality of this case, especially the undisputed facts, both sides presented the best possible case for their respective sides.

This Special Magistrate Recommendation was entered and provided to the attorneys for Petitioners and the City by electronic mail on this 15th day of January 2024.

Carlos Alvarez
CARLOS ALVAREZ, ESQUIRE
SPECIAL MAGISTRATE
309 Belmont Road
Tallahassee, Florida 32301
Telephone: (850) 567-7223
Email: alvarezmediations@gmail.com
Florida Bar No. 205214
Sup. Ct. Cert. No. 10435CR

For Petitioners:

S. Brent Spain, Esquire
David A. Theriaque, Esquire
Theriaque & Spain
1809 Edgewater Drive
Orlando, Florida 32804
sbs@theriaquelaw.com
dat@theriaquelaw.com

For Respondent:

Stephanie Brionez, Esquire
Mark Brionez, Esquire
Brionez + Brionez, P.A.
Post Office Box 985
322 W. Burleigh Blvd.
Tavares, Florida 32778
Stephb@bblawfl.com
Markb@bblawfl.com